

## Congressional Transcript

### House Energy and Commerce Subcommittee on Oversight and Investigations Hearing on Family Separation Policy

Thursday, February 7, 2019

DEGETTE:

Committee will come to order. Good morning. This is the first hearing of the Oversight and Investigations Subcommittee of Energy and Commerce for the 116th Congress. I want to start out by thanking all of the new members of the Oversight Subcommittee which has a grand tradition in this in this Congress and I also want to thank our brand-new ranking member Congressman Guthrie for joining us today.

This committee has a long history of bipartisan work on many, many issues affecting this country and I know we are going to work together to do true bipartisan oversight. I look forward to working with everyone on the subcommittee on bipartisan investigations and finding solutions to ultimately improve our government. Mr. Guthrie, I'd like to yield to you for a minute if you'd like to make any brief remarks.

GUTHRIE:

Opening statement or just (INAUDIBLE)?

DEGETTE:

No, no, no. Just to say--

GUTHRIE:

Thank you very much for being here and I want to congratulate you on your being the chair and using the gavel. Heard you've got a good start to it so it's good to have you here. It is--it is we've always worked or I wasn't on this subcommittee before but my understanding is it's always tried to work where they can on a bipartisanship basis and you are one of my good friends here in Congress and so I look forward to the opportunity to work with you--

DEGETTE:

Thank you.

GUTHRIE:

--and work together at the committee.

DEGETTE:

Thanks, Mr. Guthrie. So today the Subcommittee on Oversight and Investigations is holding a hearing entitled Examining the Failures of the Trump Administration's Inhumane Family Separation Policy. The purpose of today's hearing is to examine the Department of Health and Human Services response to the administration's zero-tolerance policy, efforts to reunite--reunify children separated from parents as well as the health and well-being of those children. The Chair now recognizes herself for the purposes of an opening statement.

Today we take a look at the Trump administration's ill-conceived and frankly shameful family separation policy that led to thousands of children being separated from their parents at the border. It's been now nearly a year since this cruel policy was put in place and we still have many unanswered questions. To be clear, what happened to these children should never happen in this country.

On behalf of the American people, we are here today to understand exactly what happened, why it happened and what needs to be done to make sure that--be done to make sure that it never happens again. We also want to know the extent of the harm that the separations may have caused these children and families.

When we talk about family separations it's important to keep in mind that these are real kids. These are real families who were forcibly torn apart and they were kept apart by our government. Because of a policy put in place by this administration, unnecessary long-term harm may have been inflicted on thousands of children. We know from decades of research that childhood trauma such as family separations can have serious and long-standing consequences for children.

This research demonstrates that the toxic stress that comes from separating a child from their parents can cause irreversible harm to children. It can literally disrupt their brains and other biological systems.

We also know that separating kids from their parents can cause a host of other long-term mental and physical health problems. As noted by the American Psychological Association quote these problems can include severe psychological distress including PTSD, sleep disturbances, withdrawal, substance use, aggressive behavior and decline in educational achievement. The longer the parent and child are separated the more severe some of these symptoms may become. Like many members of Congress, I visited some of the facilities where the separated children were being housed. It was heartbreaking. I'll never forget what I saw that day. I'll never forget the looks in the mothers' eyes when they told me that they had no idea where their children were. I'll never forget the children who had no idea where their mom or dad were. All I could think of when I was standing there was as a nation, we are so much better than that and that's why we are here today.

Part of the failure of this administration's tragic separation policy was not only its cruelty but its incompetent implementation. For example despite the fact that the Office of Refugee Resettlement known as ORR would be responsible for caring for a huge influx of separated children the Government Accountability Office found that key officials within the agency were apparently given no advanced knowledge of the now infamous April 2018 Zero Tolerance Memo which led

to thousands of separations and therefore, they didn't plan for the sudden influx that was about to come.

And as O--and as a result, ORR tasked with a challenging mission suddenly found itself inundated with thousands of forcibly separated children with no place to accommodate them at all. By the summer of 2018 things got even worse.

After a federal judge ordered that thousands of children be unified with their parents the Department of Health and Human Services was forced to pull together over 100 staff to manually pour through the thousands of case files and endless databases to try to identify which children and parents had been separated. It says this nobody ever discussed how reunifications would happen before this plan was launched and it probably didn't happen.

In addition to this emergency HHS team, the administration also sought the help of NGOs like the ACLU and KIND to locate families that had been separated including parents that had already been deported without their children. Then the HHS Office of Inspector General released a new report last month that found that thousands more children may have been separated from their parents than previously reported in an influx that began in early 2017 before the administration's zero tolerance policy was announced.

Now while I understand this family separation policy didn't originate at HHS that doesn't relieve the department from having to answer some key questions. For example, we need to know what role HHS leaders played in formulating this policy, whether they made any effort to stop it and whether they raised any concerns about the harm it would do to the children who were separated.

There is no evidence that HHS leaders ever tried to stop this abhorrent policy. As the agency dedicated to health and welfare of children, we need to know why. One arc could argue that it was HHS's duty to stop this harmful policy and some wonder how much longer this would have gone on if it weren't for the action of many NGOs that became active on this matter including some who will testify today.

We want to know exactly how many kids this administration has separated from their families and we need to know what is being done to reunify each and every one of these families. Commander White, I want to say to you I've got enormous respect for the mission of ORR and for you.

I think the facilities around the country are dedicated to serving vulnerable children and they are trying to provide high-quality care. I know our ORR has a difficult mission and the many charitable organizations that work with ORR to take care of unaccompanied children do important work. But you are going to hear some harsh comments today and I'm sorry that Secretary Azar is passing the buck to you when we asked him to be right here in your seat today.

The bottom line is the administration's policy of separating children from their parents at the border and the chaos it unleashed has left scars that will never heal. We need to know how this policy was created and we need to know what--what you plan to do about it.

We are a nation of immigrants, we are a nation that offers care to the needy and we are a nation of compassionate people. We are not a nation that rips families apart and we need to stop this for once and for all and get these kids back with their parents.

At this time the chair will recognize the Ranking Member of the subcommittee Mr. Guthrie for purposes of an opening statement.

GUTHRIE:

Thank you, Chair DeGette, for holding this. And again congratulations on being chair of Oversight Investigations. As you know this committee has a history of working to gather on important investigations and often on a bipartisan basis and I am sure we will find areas where we can do that as we move forward.

But as we begin the hearing on family separation policy at the border, I want to be clear I support strong enforcement of our nation's borders but I do not support separating children from their parents. Between the violences--violence they face in their home country and on their harrowing journeys to the U.S. these children face severely traumatic experiences even before arriving here and under no circumstances should we add to that trauma by separating them from their parents.

This committee's oversight over the care and treatment of unoccupied alien children by the Department of Health and Human Services as well as the sponsorship process for unaccompanied children extends back to 2014 with the first major influx of children and family units coming across our southern border.

This overwhelmed the previous administration and resulted in children being placed with traffickers within the United States. Because of the work done by this committee and others, reforms were made to the Office of Refugee Resettlement program including improving the medical care available to children while in HHS care and custody.

In June following reports that the administration had adopted a zero tolerance policy for immigrants entering the U.S. and was separating children from their parents all of the Republican members of this committee sent a letter to HHS expressing our belief that children should not be arbitrarily separated from their parents and that all children in HHS care should be properly cared for. We agree with the majority that there are questions for the administration regarding the creation and implementation of zero tolerance policy.

Though I would point out that the Justice and Homeland Security departments are best positioned to speak directly to the policy itself. As noted by the extensive oversight this committee has conducted over five years we deeply care about the health and well-being of these children and that is why we invited HHS to be here today to testify on the first panel regarding the agency's role in caring for affected children.

Commander Jonathan White is a career civil servant and long experience working with unaccompanied children in the Office of Refugee Resettlement. After the announcement of the zero tolerance policy and subsequent ruling from a federal district court judge ordering the

reunification of children's of separated from their parents HHS officials including Commander White worked tirelessly to reunify the children that were separated from their parents all while they continue to care for and work on placement of thousands of traditional unaccompanied children through the standard sponsor process.

While we have important questions for HHS with respect to the challenges and ramifications of a policy that was created by the Department of Justice and implemented by Department of Homeland Security, I want to underscore that HHS did not separate a single child. Their sole role and responsibility was to care for the children while they were in their custody and work to reunify children with the parents from whom they were separated.

If that was not possible due to a risk of the child's safety or the wishes of the parent for their child to remain in the United States HHS worked to place the child with the most appropriate sponsor. Without the other departments here we simply cannot have a full conversation about the creation of, planning for and implementation of the zero tolerance initiative with the witness before us today.

We also invited Bethany Christian Services to testify on the second panel. Bethany is a sub grantee that provides direct care for unaccompanied children in HHS custody. They also care for 108 children who were separated as a result of the zero tolerance policy. Because of their role in caring for unaccompanied children Bethany has practical insight into the care for both traditional unaccompanied children and those who were separated and can speak to the trauma these children have injured in home country, on their journey to the U.S. as well as the effects of zero tolerance policy.

I thank our witnesses were being here today and being part of this important discussion and I yield to the chair.

DEGETTE:

The gentleman yields back. The chair will now recognize the chairman of the full committee, Mr. Pallone, for five minutes for purposes of an opening statement.

PALLONE:

Thank you, thank you, Madame Chair and thank you for being our chair because I know about how effective you've been as the ranking member and will be even more effective in this position.

The committee today is finally holding the Trump administration accountable for one of his worst failures. Yesterday Mark 10 months as the Trump administration's cruel family separation policy was put into action. We all heard the horror stories of how children were ripped away from their parents and have seen the unforgettable images of crying children standing alone, and mothers unable to be with their children. These images and stories were devastating and 10 months later we still do not know how fully this all happened.

We do not have a full understanding of how this policy was created within the administration, who provided input and what kind of planning took place. Most importantly it will take years for us to know what long-term consequences these actions will have on the thousands of children and families affected by this policy. These children and families are the ones we should keep in mind today because most of us cannot imagine what they have gone through.

Now the failures of the Trump administration's family separation policy were twofold. First, the policy itself was a failure because it was inhumane on a fundamental level. As we will hear from the child welfare experts on the second panel family separation can never be done humanely. There are decades of research demonstrating that parental protection is critical for child development and that forced separations have debilitating effects and long-term consequences. This includes posttraumatic stress, depression, aggression, and long-term psychological and mental health problems and these problems particularly affect young children.

Now to be clear it appears the Trump administration policy was created by the Departments of Justice and Homeland Security however we still don't know what role if any HHS leaders played in its creation. Since HHS is task with caring for these children and ensuring their health and welfare where HHS leaders consulted when this policy was being considered? We need to know the answer to that question.

The second failure of the policy was its execution. Even after the Trump administration decided to intentionally enforce forcibly separate children from their families it was implemented with incompetence and confusion. The independent watchdogs on our first panel will testify about how the administration did not plan for this policy and frankly, it showed.

GAO found that the agency had no procedures for reunifying families and had to make processes up on the spot often with chaotic results. In some cases, the ORR shelter caring for the children only learned a child had been separated if the child told them.

Now I'm speaking from somewhat personal experience in all of this because on Father's Day many of us myself and some of the New York Delegation went to the Elizabeth Detention Center which was a detention center near my district in New Jersey that was for fathers. It was only for men.

We met with four fathers on that day, took us two or three hours to get in because they didn't want to let us. It was one of those contracted private facilities and when we finally met with them no one knew where the kids were, right? In other words, I talked to the guards, I talked to the people in charge of the facility.

They had--the fathers had no communications with their kids. They didn't know where the kids were. They had no processes and the people in charge admitted there was no procedure for them to communicate with their kids or tell them where their kids were and they were all separated in the middle of the night by surprise. They didn't even know that it was going to happen.

But the worst thing of all and I don't know if we are going to get into this today was that the fathers in many cases were being accused of being abusive and I felt that it was, that the people in charge were convinced that just because they had brought their daughters or their sons most of the case it

was daughters over the border meant that they were somehow bad people that were trafficking or they were abusing their kids just because they have brought them over the border.

And so that's one of my concerns today and I don't know if it's going to be answered here today but we need to get to the bottom of it. Does this family separation policy continue because when someone comes over the border, I'll use a father with his daughter but we can use others that it is just automatically assumed that somehow, they are bad and they should be separated?

Because separation because you think that somehow the parent is not doing a good job that just can't be done willie nillie as if it's okay because they're a bad person because they brought the kid in because then you have all of these negative consequences from the separation that inured just because someone has made that decision. So I'm very concerned about what's happening now, not just what happened in these particular cases at the time of the zero tolerance policy.

Now finally Madame Chair I have to note that the HHS witness today is not the person we asked to be here. I respect Commander White and the work that he has done in response to this crisis and our aim here today is not to tarnish ORR or the career staff who dedicated themselves to their mission of serving children but I personally invited Secretary Azar to be here today because this committee has questions that only he can answer and I'm disappointed he declined our request to testify.

However, I can announce that Secretary Azar has committed to coming before this committee in the coming weeks on the president's budget. This will provide us an opportunity to ask questions about the role he played in the creation and implementation of the family separation policy. Thank you, Madame Chair.

DEGETTE:

The chair will now recognize the Ranking Member of the full committee, Mr. Walden for five minutes for the purposes of an opening statement.

WALDEN:

Thank you, Madame Chair and congratulations on becoming chair of this very important subcommittee. I have enjoyed working with you over the years on this subcommittee when we were both involved in it directly and I know you'll do a great job. I'm glad you're doing this hearing.

Since 2014 the committee has conducted a rigorous oversight of issues related to unaccompanied alien children and the system put in place to care for these children by the Department of Health and Human Services Office of Refugee and Resettlement.

In 2014 it was the first major influx of unaccompanied alien children and family units crossing into the United States. As a result of this committee's oversight then improvements were made to the UAC program but questions remain and we have more work to do.

The immigration issue is complex and one that Congress and the country have been grappling with for decades. While I support strong enforcement of our nation's borders, I want to make something very clear I support keeping families together. Last summer I voted to ban family separation and I strongly believe that children should not be separated from their parents period.

That's why I and every Republican on this committee sent a letter to HHS last June expressing our belief that children should not be separated from their parents. In addition, our letter sought information from HHS to ensure that children who are in ORR's custody whether they crossed the border as unaccompanied alien children or because they crossed the border with a family member or subsequently separated are properly cared for while they are in ORR's care. So I'd like to ask the chair's for unanimous consent that the June letter be entered into the hearing record.

DEGETTE:

Without objection.

WALDEN:

It's also why I lead a bipartisan delegation of this committee down to McAllen, Texas in July to visit and tour part of the Southwest border, a port of entry, a central processing facility operated by the U.S. Customs and Border Protection and U.S. immigration and customs enforcement detention facility and an ORR shelter. It's also why committee staff who have since visited an additional 5 Office of Refugee Resettlement facilities including the temporary influx ORR shelter in Tornillo, Texas that has since closed.

I'd also like to ask for unanimous consent Madame Chair that a memo drafted by the Republican staff about the facilities our bipartisan delegation visited last July be entered into the record.

DEGETTE:

Without objection.

WALDEN:

While the committee has conducted oversight over the UAC program and ORR facilities over the past five years it is critical to today's hearing to acknowledge that the Office of Refugee Resettlement and the role that it plays in caring for UACs is a vital but small part of our overall immigration process. ORR's and HHS's responsibility is to care for the children that have been transferred to their custody from the U.S. Department of Homeland Security and then work to reunify or that and placed children with a safe and appropriate sponsor.

The children who are separated from their parents, those separations happen because of immigration enforcement decisions made by the Department of Justice and carried out by the Department of Homeland Security. The majority stated objective is to assess HHS's preparation, response to the zero tolerance policy in its efforts to reunify children with their families.



Given HHS's role in caring for and reunifying the children that were separated as well as their role in caring for traditional unaccompanied alien children we felt it was important to invite them to testify as one of our minority witnesses for the first panel. Commander White, we are glad you are here. We greatly appreciate all of the witnesses and the work that you are all doing. We appreciate you appearing before us today.

With that said in order to adequately examine the zero tolerance policy that led to family separations, it's critical that the Department of Justice and the Department of Homeland Security also be part of this conversation. With that, I would yield to the gentleman from Texas, Dr. Burgess (INAUDIBLE).

BURGESS:

Thank you, Mr. Chairman. I think it's important for contextual purposes for us to at least acknowledge that the United States accepts over 1.1 million people per year into the country on a legal basis, has done so for as long as I have been in Congress which is over 15 years and that number has actually increased in the first two years of the Trump administration. This makes the United States the most welcoming country to immigrants of all of the countries in the world.

In 2012 President Obama announced the deferred action for childhood arrivals. Shortly after that the word in the street that Central American countries was if you can get to the border you will and arrive in--across the border, you can get a slip of paper called a 'permiso' and you will be allowed to stay and ultimately the president will give you amnesty.

That brought the onslaught 2013, 2014. I first became aware of this problem in 2014. I didn't even know the Office of Refugee Resettlement existed before 2014. But I have made multiple trips down there and let me just say this subcommittee has a history of oversight that has benefited the people who are in the custody of ORR.

No doctor was on the staff before this subcommittee, this subcommittee had a briefing from the department. This committee is responsible for the mental health checks the children get in these facilities and this committee is responsible for the fact that children were given an opportunity for follow-up after they leave the facility and are placed with a family. I was horrified when I went down there that the children were just sent off to wherever, whoever identified themselves as a family member. In a different hearing and a different committee, we learned that children are sometimes trafficked by family members. So this subcommittee has a significant history of improving things for the children who are placed under the custody of ORR. Commander White, thank you for being here today. I yield back.

DEGETTE:

The gentleman yields back. I ask unanimous consent that members' written opening statements be made part of the record. Without objection, they will be entered into the record. I ask unanimous consent that Energy and Commerce members not on the Subcommittee on Oversight and Investigations of which we have many joining us today and I welcome you, be permitted to participate in today's hearing. Without objection so ordered.

I now would like to introduce panel one of our witnesses for today's hearing. Ms. Kathryn Larin who is the director of Education Workforce and Income Security for the General Accounting Office; Ms. Rebecca Gambler, director of Homeland Security and Justice Government Accountability Office; Ms. Ann Maxwell, assistant inspector general for Evaluation and Inspections Office of Inspector General Department of Health and Human Services and Commander Jonathan White, United States Public Health Service Commission Corps, U.S. Department of Health and Human Services.

Thanks to all of you for appearing before the subcommittee today. Now I'm sure you are aware the committee is holding an investigative hearing and when doing so has the practice on taking testimony under oath. Does anyone have any objections to testifying under oath? Let the record reflect the witnesses have responded no. The chair then advises you that under the rules of the House and the roles of the committee you are entitled to be accompanied by counsel. Do you desire to be accompanied by counsel during your testimony today? Let the record reflect the witnesses have responded no.

If you would please rise and raise your right hand so that you may be sworn in. Do you swear that the testimony that you are about to give is the truth, the whole truth and nothing but the truth? You may be seated. Let the record reflect that the witnesses have now responded affirmatively and you are now under oath and subject to the penalties--

DUNCAN:

Madame Chairman?

DEGETTE:

--set forth in Title 18 section 1001 of the United States. For what purpose does the gentleman from South Carolina seek recognition?

DUNCAN:

I believe the oath was incorrect and incomplete.

DEGETTE:

This is the--this is oath we use and is the oath were going to use today. It's now time for members to have the opportunity to ask questions and I will recognize myself for five minutes.

So--so let me just start I have very limited time so I'd appreciate a yes or no answer to any of the questions. Ms. Maxwell let me start with you. OIG recently concluded that thousands of additional--oh, wait. Opening--what?

Oh, opening statements from the witnesses. Sorry, this is my first time so everybody has to bear with me. Ms. Larin let's have a five-minute opening statement from you.

LARIN:

Chair DeGette, Ranking Member Guthrie, and members of the subcommittee Ms. Gambler and I appreciate the opportunity to be here today to discuss efforts of the Departments of Health and Human Services and Homeland Security to plan for and respond to family separations that occurred during the spring of 2018 at the Southwest border.

According to officials, the increased separations resulted from a memo issued by the attorney general on April 6, 2018, regarding criminal prosecutions of immigration-related offenses known as zero tolerance. On June 26, a federal judge ordered the government to reunify certain separated families. Today my testimony will cover three key issues.

First, I will discuss planning efforts by HHS and DHS related to the April 2018 memo. According to HHS and DHS officials, we interviewed the departments did not plan for family separations or for an increase in the number of children transferred to HHS because they were not aware of the memo until its public release.

However, HHS officials also told us that in the year prior to the April 2018 memo they saw a 10-fold increase in the number of children known to have been separated from their parents. Two things likely contributed to the increase. A memo issued by the Attorney General in April 2017 prioritized enforcement of certain immigration-related offenses and an initiative in the El Paso Border Patrol sector increased criminal prosecution of such offenses including of parents who arrived with minor children.

In November 2017 HHS officials told us they asked DHS officials about the increase in child separations and was told there was no official policy of separating families. When separations continued HHS's Office of Refugee Resettlement considered planning for continued increases in separated children but were advised by HHS leadership not to engage in such planning given that DHS did not have a policy of separating families.

Second, I will discuss systems for indicating children were separated from parents. At the time of the attorney general's April 2018 memo, there was no single database with reliable information on family separations. Data systems maintained by Customs and Border Protection and by the Office of Refugee Resettlement did not include a designated field to indicate a child had been separated from a parent.

Both HHS and DHS updated their data systems by the summer of 2018 but at least initially there were indications that data was not consistently being shared between the agencies. It's too soon to know whether these data system changes when fully implemented will consistently indicate when children have been separated or will help with reunifications.

Further, these changes do not address broader coordination issues that we identified in our prior work.

We recommended that the agencies improve the process for referring and transferring custody of children from DHS to HHS. That recommendation has not yet been fully addressed.

Third, I will briefly summarize federal actions to reunify families in response to the June court order. First, to create a list of children covered by the court reunification order, HHS and DHS officials told us that they deployed an interagency task team to identify and locate children and parents. HHS manually reviewed about 12,000 electronic case files of children in its care. Once HHS had identified eligible children, the process of reunifying them with parents evolved over time based on multiple court hearings and orders, which presented challenges for HHS staff who were facilitating reunifications.

For example, HHS started by using DNA testing to determine parentage for young children, but on July 10 the court approved the use of DNA testing only when necessary to verify a legitimate concern about parentage or to meet a reunification deadline. Similarly, the process for determining whether the parent is fit or proved sense of danger also evolved over time based on court orders.

Finally, procedures for physical reunification varied depending on whether parents were in the custody of ICE or had been released. This concludes my statement. I'm happy to answer any questions you might have.

DEGETTE:

Thank you Ms. Larin. Ms. Gambler, I understand you are here to support Ms. Larin's testimony and you won't have an opening statement.

GAMBLER:

That's correct.

DEGETTE:

Ms. Maxwell, you are recognized for five minutes.

MAXWELL:

Good morning, Chair DeGette, Ranking Member Guthrie, and other distinguished members of the subcommittee. Thank you for inviting me to discuss OIG's review of the number of children impacted by his family separations. Our review provides three key insights about what is known and not known about children who are separated from their parents by immigration agents and referred refer to the department of health and human services for care.

Generally speaking, HHS provides these children with temporary shelter and care before releasing them to sponsors in the U.S. to await their immigration hearings. Our first insight is that more children over a longer period of time were separated than is commonly understood. The public discussion regarding the number of separated children has largely been tightly focused around the Ms. L v. ICE class action lawsuit that requires the government to reunify certain separated children.

Specifically, the case covers children separated from their parents that were still in HHS care on the date of the court order, June 26, 2018. The required reporting on these children as a matter of public record and, as such, the 2737 children covered by the case became the de facto count of separated children. But if you widen that focus for a more comprehensive view, as we did in the study, you see these children only represent a subset. Exactly how many more children are separated is unknown.

This is because there is no integrated data system that reliably tracks children who are separated by Department of Homeland Security and then referred to HHS for care. Now, based on informal records, HHS officials estimated it potentially received and released thousands of separated children prior to the June 2018 court order. The separated children were part of a significant increase in the number of separated children that started approximately a year or so before the court order.

Prior to this increase, HHS staff reported that receiving separated children was quite rare and the increase strained its ability to place these often very young children and shelters equipped to address their needs. The second point is that the government struggled to identify which children in his care were covered by the court order.

To respond to the court's reunification order, the government, led by HHS, had to first engage in an extensive labor-intensive effort to identify children who had been chilled separated by their parents from their parents. This included analyzing more than 60 data sets and manually reviewing 12,000 case files. And even with these extensive efforts, HHS later identified additional separated children that were covered by the court's reunification order. This again speaks to the challenges of accounting for separated children in the absence of reliable data about their circumstances. In this case, it also impacted timely reunification.

The third important item to note is that HHS continues to receive separated children. At this point, separation should only be occurring where there are concerns for a child's safety, as has historically been done. However, DHS immigration agents provided HHS with limited information about the reasons for the separations. For example, the most common reason DHS reported these more recent separations is the parent's criminal history. But HHS didn't receive specifics about the criminal history and these specifics are important because, from a child welfare perspective, not all criminal history rises to a level that would imperil a child's safety or preclude release back to their parents.

In conclusion, limited information about separations means we cannot account for the full impact of family separations on children. Further, the limited data about recent such operations impedes HHS's ability to put children's needs at the center of its decision-making. In response to these challenges, HHS has taken several steps to improve its monitoring of separated children. However, it's not yet clear whether these children's will be sufficient as monitoring systems are only as good as information put into them.

As such, we encourage HHS and DHS to look for opportunities to improve communication and data sharing in the interest of better serving separated children. Thank you for the opportunity to present this information. I'm happy to address any questions that you have.

DEGETTE:

Thank you very much, Ms. Maxwell. And now Commander White for five minutes.

WHITE:

Good morning. Chair DeGette, Ranking Member Guthrie, honored members of the subcommittee, it's my honor to appear on behalf of the Department of Health and Human Services. My name is Jonathan White. I'm a career officer in the United States Public Health Service Commission Corps. I'm a clinical social worker and--and an emergency manager, and I've served in HHS under three administrations.

I'm presently assigned to the office of the Assistant Secretary for Preparedness and Response and I previously served as the deputy director of ORR for the unaccompanied alien children program. And in my testimony today, I do want to discuss aspects of the ORR programs policies and the administration that I have been involved in since February 2016.

In my time at HHS, I have had the privilege of helping to oversee and support the grantees that provide the actual care for children as well as the process of placing children with sponsors and, more recently, I served as the federal health coordinating official, that--that is as the--as the HHS operational lead, for the interagency mission to reunify children who were in ORR care as of June 26, 2018 who are separated from their parents at the border by the U.S. Department of Homeland Security. I am proud of the work of our team on the reunification mission and I'm also proud of the care that's provided every day in the UAC program to children and I will say these are some of the most vulnerable children in our hemisphere.

ORR is responsible for the care and temporary custody of UAC who are referred to our ORR by other federal agencies. ORR does not apprehend migrants at the border, and we do not enforce immigration laws. Those functions are performed by DHS and the U.S. Department of Justice. The Homeland Security Act of 2002 The Trafficking Victims Protection Reauthorization Act of 2008 govern the ORR program as amended, so do certain provisions of the Flores settlement agreement.

As defined by the Homeland Security Act, if a child under the age of 18 with no lawful immigration status is apprehended by another federal agency and there is no parent or legal guardian available in the U.S. to provide care and custody of the child, he or she is considered a UAC and is transferred to ORR for care and custody. And in our shelters, we provide housing, nutrition, routine medical care, mental health services, educational services and recreational activities. These shelters provide the environment that is very much on par with facilities in the child welfare system that housed U.S. citizen children.

The facilities are operated by nonprofit grantees and are licensed to provide care to children by the state licensing authorities of the state where they are housed. The exception is ORR's temporary hard sided influx care facility in Homestead, Florida, which is not required to obtain state licensure because it's located on federally owned property. However, the children the reside at that location generally see the same level of care and services as UAC at a state license facility.

The UAC Bed Program facility--capacity has expanded and contracted over the years, driven by fluctuations in the number of children referred and the average time children remain in ORR care. In response to these fluctuations, we developed processes for bringing both permanent and temporary UAC housing capacity online. In fiscal year 2018, 49,100 children referred to ORR by DHS. In fiscal year 19 through December, we received approximately 13,948 referrals.

The president issued an executive order 13841 on 20 June 2018 and the U.S. District Court for the Southern District of California in *Ms. L v. ICE* issued its preliminary injunction and class certification orders on June 26, 2018. On June 22, the Secretary of HHS directed ASPR to help ORR comply with the president's executive order. And to execute that direction from the secretary, we performed an incident management team, which at its largest, included more than 60 staff working at headquarters and more than 250 field response assets from ACF, from ASPR, from the U.S. Public Health Service Commissioned Corps, and contractors.

Shortly after the *Ms. L* court issued its orders, the secretary directed HHS and our IM team, in particular, to take all reasonable actions to comply. We faced a formidable challenge at the start of this mission. On the one hand, ORR knew the identity and location of every one of the more than 11,800 children in our care on the date and we could access individualized biographical and clinical information regarding any one of those children at any time. But we did not always know which of them were separated.

We received information from DHS regarding any separation of individual child through the ORR portal on an ad hoc basis for using ordinary program operations, but we had never before conducted a forensic data analysis to satisfy the new requirements set forth in the court order so we worked closely with DHS to try to identify all the parents of children in ORR care who potentially met the court's criteria for class membership. This required us to analyze more than 60 sets of aggregated data from CBP and ICE as well as the individualized case management records for children in the portal. And collectively, hundreds of HHS personnel reviewed the case management records for every child in care as of June 26.

We also required every one of the more than 110 residential shelter programs to provide a certified list to us under penalty of perjury of the children in that program's care that they had identified as separated--as potentially separated, and that's what led us to come up with our additional list of 2654 children in ORR care who were potentially separated from a parent at the border by DHS. Going forward, ORR continued to amass new information about the children in ORR care through the case management process and we--and the new information that ORR amassed between July and December 2018 lead us to conclude that 79 of the possible children of potential class members were not in fact separated at the border by DHS and had led us to include that a total of 162 other children were.

It's important to understand that we always knew the location and the status of every child in our care. We did not lose any children at all, but we did have to recategorize some who were separated--potentially separated. We also had to affect the reunification of children, working with close partnership with colleagues in ICE, DOJ, and the Department of State, we first worked to reunify

children with parents in ICE custody, and this was in an unprecedented effort, requiring a novel process, which we had to develop, and which the Ms. L court approved.

Under the compressed schedule required by court order of 15 days for children under the age of 5 and 30 days for children between the ages of 5 and 17, we reunified 1441 children with parents in ICE custody, all of the children of eligible and available Ms. L class members in ICE custody in that timeframe. Absent red flags--.

DEGETTE:

Commander, if you can sum up--if you can sum up your--thank you.

WHITE:

We were tasked with the reunification of all of these children of parents in the Ms. L class where it was safe to do so and, as of this date, there are of the 2816 children that we were able to identify as separated that were in our care in 26 June, only 6, only 6 remain who might potentially reunified. None of those are operationally re-unifiable today. They will need either a change in appearance status or change in the direction from the parent out of the country to the ACLU to affect their reunification. The other children are all either reunified, appropriately discharge, or are in care but won't be reunified. And I'm glad to answer further questions about that. Thank you.

DEGETTE:

Thank you very much, commander It's now--it now is time for members to ask questions and I will recognize myself for 5 minutes. Ms. Maxwell, OIG recently concluded that thousands of additional children, aside from the ones that the Commander has just identified, may have been separated from their parents or guardians beginning in 2017. Is that correct?

MAXWELL:

That's correct.

DEGETTE:

And Ms. Larin, months before the attorney general's April 2018 zero Tolerance Policy Memo was issued, ORR officials saw a tenfold increase in the number of children who were--who were separated from their parents. Is that correct?

LARIN:

That's correct.

DEGETTE:



Now, Ms. Larin, ORR officials told you that a few months prior to the April 2018 zero-tolerance memo, they considered planning for continued increases in separated children, but HHS leaders advised them not to engage in that planning. Is that correct?

LARIN:

That's what we were told.

DEGETTE:

Now also, as part of your audit, did you interview the Secretary of HHS to determine whether he had advanced notice of the AG's April 2018 memo before it was issued?

LARIN:

We did not interview the secretary.

DEGETTE:

You did not interview a secretary. And Ms. Maxwell, do you know whether the secretary was consulted about family separations before the release of the April Zero-Tolerance Memo?

MAXWELL:

Our work looking into the challenges of department faced and re-unifying the children is ongoing, as are interviews with senior HHS officials.

DEGETTE:

So have you interviewed the Secretary Azar about this?

MAXWELL:

We have not.

DEGETTE:

Now, Commander White, do you know whether the secretary was consulted about family separations before the release of the April memo? Yes or no?

WHITE:

I do not know, ma'am.

DEGETTE:

Okay. Now, commander, I think that--that you--you agree that family separations inflicted lasting trauma on thousands of children and families and it also created widespread chaos within HHS as it attempted to reunify the children. Do you know whether the secretary or any senior officials at HHS attempted to reach out to DOJ or DHS prior to the release of the zero-tolerance memo to explain how this policy would impact children and strain ORR's ability to take care of them?

WHITE:

Yes, I do agree that separation--

DEGETTE:

--No, do you--do you know whether they reached out to--to senior officials or the secretary reached out to these other agencies before the order was issued?

WHITE:

I do not know. It is my understanding that the secretary was not aware--

DEGETTE:

--Okay--

WHITE:

--of the memo prior to its release, but I never briefed the secretary on this issue until I--we were assigned to the reunification mission.

DEGETTE:

Okay. Now, HHS's stated mission is to enhance and protect the health and well-being of the people in this country. Under the law, the administration has to consider the best interest of the child when it makes these decisions. Do you believe that the administration's decision to enact a zero-tolerance policy, which resulted in the forcible separation of thousands of kids from their parents, was in the best interest of the children?

WHITE:

I do not believe that separation of children from their parents is in the best interest of the child, but I am--I did not participate in the discussion regarding the policy.

DEGETTE:

Thank you. Now, we still don't know what--what role of Secretary Azar played in the creation of this policy, but--but you personally say you did not consult with him?

WHITE:

I had never met--

DEGETTE:

--Is that correct--

WHITE:

--Secretary Azar until the day that I was assigned to work with reunification.

DEGETTE:

Do you know of anybody--do you know if anybody else consulted with him? Do you know that?

WHITE:

I'm not aware of any communication to Secretary Azar about separation prior to the announcement by the Attorney General.

DEGETTE:

Okay, but do you know that for a fact? Yes or no?

WHITE:

I am not aware of any communications with the secretary about this.

DEGETTE:

Now, you've heard--you've heard both--both the inspector--Office of Inspector General and the GAO testify that--that there was an uptick in the number of children being removed and put into the custody of ORR, even before the April memo. I'm wondering, and it could be up to thousands of children, I'm wondering what ORR is doing right now to identify those children and reunite them with their parents.

WHITE:

ORR does not have visibility or authority over children who have exited its care. We never separate--no one in HHS separated a single child from their parents. We have the ability and have pursued reunification for every child who is in ORR's care, but children who have been discharged to a family member our outside our authority. No one in HHS knows, no one in HHS knows who the children who had been separated from their parents and were for referred to ORR and appropriately discharged to family members sponsors before the 26th of June are or how many they are.

DEGETTE:

Well, that's not my question. But my time is expired, so I know we will be exploring this. I'll--I'll recognize the ranking member for five minutes.

GUTHRIE:

Thank you, Madam Chair. I appreciate very much and, Commander White, before I get started with my questions, I want to note that I understand that zero-tolerance policy was created and implement it by other departments who are not here testifying. So if you're asked a question, or if a question is posed today by me or any members that are better answered by the Department of Justice or Department of Homeland Security, just please let us know.

That said, I would like to ask you some questions about the role HHS plays played in the implementation of zero tolerance policy, if any, and about the ORR program. You just testified that you were not involved in creating the zero-tolerance policy, nor aware that the secretary. Are you aware of anyone else at HHS involved in the planning or preparation for zero-tolerance policy?

WHITE:

So, HHS is not a law enforcement agency. We don't have any authorities or equities in immigration enforcement.

GUTHRIE:

Was anybody involved as--as the planning of this policy, knowing that you may have children come to your care? Was anybody involved in the planning of the implementation of the policy of HHS that you're aware?

WHITE:

I'm not aware of that. We participated, and I have also participated in discussions about the--about potential policy scenarios that would result in separation of children from their parents. However, at no time during the time that I was at ORR, and I was there until March 15 of 2018, were we notified that there would be family separation, that that policy was formal. We observed an increase.

GUTHRIE:

When did you become aware of the policy?

WHITE:

I was aware of the formal policy notification when the attorney general said it on television on April 6th.

GUTHRIE:

You had previously testified that you you are involved in discussions about immigration policy you just talked about that could result in separation of families, as you just said. Could you tell us more about these discussions and--and specifically when did these discussions takes--take place and what concerns did you raise and what were you told in response?

WHITE:

The first meeting that I attended on this topic was on the February 14, 2017, and that meeting was at the Office of the Commissioner of--of Customs and Border Protection. I and a colleague were there for ORR. There were also folks from DOJ's Executive Office of Immigration Review, CBP and ICE present, as well as, I believe, DHS policy. At that time, one policy option for implementation of catch and release that was discussed was referral of minors as part of family units as unaccompanied alien children to ORR. I subsequently shared that with my own leadership and on a number of occasions I and my colleagues made--made recommendations raising concerns, not only about what that would mean for children but also what it would mean for the capacity of the program.

GUTHRIE:

What were you told in response to the--the concerns you raised?

WHITE:

On the occasions that I raised it, I was advised that there was no policy that would result in the separation of children, their parents, and that remained the answer that I received during the--my entire tenure until I left ORR.

GUTHRIE:

Okay. Well, Commander White, as I stated in my opening statement, I do not believe that children should be separated from their parents. In addition, you have previously acknowledged in testimony before the Senate as well as on weekly phone calls you do with congressional members and staff, which we greatly appreciate, that separation of minors from their parents involves a risk of severe psychological trauma and that is important to note that almost all of these children have sustained quite severe traumatic exposures before their journey and on their journey to the US. It's my understanding that ORR has always been a very trauma informed program. Can you elaborate on how ORR has always been a trauma informed program and what that means in practice?

WHITE:

The children that we receive, and I'm speaking now of the vast majority of children in care who are true unaccompanied alien children, the children that we receive, 95 percent of whom come from the 3 Northern Triangle countries of Central America, often have extraordinarily severe

histories of traumatic exposures and adverse childhood experiences. They come from communities that are confronted with severe poverty and food insecurity, as well as severe violence and often they have been victims of violence or extortion by gangs. The--their lifetime exposure to violence and sexual assault is very high. For this reason, the program has always had a trauma informed focus. This includes providing every child with a licensed mental health clinician.

GUTHRIE:

This is--that was my next question, so I have about 25 seconds. So what medical care and health--and mental health care you provide? You just got started on that. Would you just focus on that?

WHITE:

Every minor receives routine and emergent healthcare, including an initial medical evaluation, age-appropriate vaccinations and healthcare. Every child receives individual or group modality mental health services commensurate with their needs.

GUTHRIE:

So in my final five seconds, would you advise the DOJ or DHS to implement the policy of zero tolerance if they had asked?

WHITE:

Neither I nor any career person in ORR whatever have supported such a policy proposal.

GUTHRIE:

Thank you and I yield back.

DEGETTE:

Thank you. The chair now recognizes the chairman of the full committee, Mr. Pallone.

PALLONE:

Thank you and I apologize. I had to go to the other hearing on net neutrality, so I missed a lot of--of your statements. But I wanted to ask Commander White, if I could, I know that when you walk into the HHS headquarters, and of course we went there for a briefing after the zero tolerance policy was put into effect, there's a quote on the wall from former Vice President Hubert Humphrey, who the building is named after, and it--and it says, "The moral test of a government is how that government treats those who are in the dawn of life, the children, the twilight of life, the elderly, and the shadows of life, the sick, the needy, and the handicapped." And today we're focusing on the first part of that quote, how this administration treated those who are at the dawn of life, the children. So Commander White, do you believe that this policy passed of the moral test that Hubert Humphrey spoke of?

WHITE:

I'm really not an expert on such things. I, however, have said previously and will say again that separating children from their parents pose a significant risk of traumatic psychological injury to the child and separations for cause that are necessary to protect the children have always been part of this program. I think the national discussion, including the discussion for legislators, is specifically what are the legitimate criteria for separation.

PALLONE:

You know, and again, this kind of goes back to what I said in my opening statement, which is that I understand that there may be occasions when it's justified, but if you have to weigh an imbalance and say that, you know, you're separating kids and all the terrible things that result from that, I think you had to be really careful not to separate kids whenever possible. And that's, you know why a mention, when I went to the detention center in New Jersey on Father's Day. I just got the impression that, oh, you know, there was no real criteria for deciding even today, you know, when we do this, and it shouldn't just be assumed that somehow the parents are bad because they're taking the kids over the border and, therefore, they should be separated. So that's the concern I have.

But Commander, in March 2017, the then Secretary of Homeland security, John Kelly, publicly stated that DHS was considering separating children from their parents at the border and, at the time, child advocates sounded the alarm on the negative effects separation would have. I understand when you testified before the Senate Judiciary Committee that you personally raise concerns about the policy. What were--I know you said something about this, but could you get specific? What specifically were the concerns you had and--and who did you raise them with, if you could?

WHITE:

The concerns which I expressed were two. First, that this would be inconsistent with our legal requirement to act in the best interest of the child and it would expose children to unnecessary risk of harm. Second, that it would exceed the capacity of the program, issues of bed capacity are very important to ORR because it constitutes our ability to provide a safe and appropriate environment to every child. I should add, I--I emphasize that not only with this would this likely exceed our capacity, but it would particularly exceed our capacity that was specifically licensed for what we call tender age children, which is to say children under the age of 12 and especially children under the age of 5, since those are separate licensed facilities. And a facility that's appropriate for care to a 16-year-old cannot easily flex to provide care to a 4-year-old. I--

PALLONE:

--Did you, or maybe you were going to say who--who you raised these concerns with? That was part of my question.

WHITE:

I raised these concerns within my own--to my own leadership.

PALLONE:

With specifically?

WHITE:

That would be the Director of ORR, Scott Lloyd, the Acting Assistant Secretary of ACF, Steven Wagner and the Counselor to the Secretary for Human Services, Maggie Wynne. These were the superiors who I made recommendations to and identified these concerns to.

PALLONE:

Do you know what any of those people did with--in response to the concerns you raised?

WHITE:

We participated together in modeling and discussions. Additionally, I think it is important to note that Secretary Kelly, to whom you just alluded, then DHS Secretary Kelly subsequently made a public announcement that there would not be separation, and that announcement was referenced in the subsequent communications to me when we revisited this later that there was no separation policy.

PALLONE:

All right. Thank you so much.

DEGETTE:

Thank you. Now recognize the ranking member--no, Dr. Burgess, for five minutes.

BURGESS:

I appreciate the recognition and the advancement in status. I'm not the ranking member of the full committee. However, let's talk just for a moment. The title of this hearing is Examining the Failures of the Trump Administration's Inhumane Family Separation Policy. The difficulty--and Commander White, let me just focus here for a minute--the difficulty was because of the numbers of people and unaccompanied children that were coming across the border through not just the Trump administration. It began in the Obama administration and continued in the Trump administration. Is that a fair statement?

WHITE:



It is absolutely a fair statement that one of the most fundamental challenges we face every day in the UAC program is the number of minors who come in as unaccompanied and the fluctuations in the number of minors who come in as unaccompanied.

BURGESS:

And let's talk about that for just a minute because fluctuations are important. I have made at least nine trips to the--not just the Texas border, other places on the border, primarily the Texas border because it's my home state. I also made a trip to the Northern Triangle countries this August, tried to get a delegation to go. Mr. Pallone had a cruise or something, and he couldn't go with me, but I thought it was important that we understand what is going on here. But this is not the--well again, the fluctuations that you describe, August of 2016 I was down in the Lower Rio Valley Grande--Lower Rio Grande Valley sector, and the numbers of people who were coming across in August 2016 was high. In fact, when I went down to the border with border patrol they, in fact, encountered a group of people about five or six women, some small children, some teenaged boys that had just been left there by coyotes. Hot sun out in the brush, cotton clothing on, flip-flops for shoes. I mean they were no way equipped to handle a trip across the desert to try to--or across the brush country--to try to get to civilization. They were just left there by the traffickers.

And I asked customs border patrol. I said this is a pretty serious situation. Do you encounter this often? All the time. In fact sometimes we bring buses down to the border and 40, 50 people will get on the bus and go off to a processing center. So it was a big deal. Now in May of 2017 I went back down to that same sector on the border, and it was vacant. The holding facility, the processing facility, all, no one there. And what happened that changed this? And they said well the inauguration of President Trump. The word went out that he's going to build a wall, and nobody came.

Well, Secretary Kelly at the time was Homeland Security secretary. He visited just a week or so before I did and had made the statement publicly--it was reported in the papers--that the numbers are down, but if Congress does not fix the problems with the laws that are inconsistent, we can expect this problem to reignite. So Congress must act. And Secretary Kelly was exactly correct. So a year later, then we are facing another influx. But again, it's not the only time in our history that we faced large numbers of people coming into our country where it's become a management problem. An online publication, moments in diplomatic history according to Deputy Secretary of State John Bushnell in April of 1980, the Mariel Boatlift--you may have heard about it--it was a big problem, and the Carter administration had to deal with it. And there were, of course, some difficulties. Cubans landed up and down the Florida Keys and Miami by the thousands, not relatives, not related to people that were there. None had visas. Most had no documents. Republicans started causing problems for President Carter saying you couldn't control your borders.

So here's Secretary Bushnell, Assistant Secretary Bushnell, describing this. I remember sitting in a windowless conference room of the National Security Council with Secretary of State Edmund Muskie, chief of Naval Operations, director of the CIA, head of the Coast Guard, head of the INS, and several other senior officials debating how to stop this flow of Cubans. National Security Advisor Zbigniew Brzezinski, chaired until President Carter came in. There was a long discussion

how the Coast Guard and Navy ships might physically stop the Cuban boats. We asked the admirals how can we do this. It was suggested the boats can be rammed or shot. Wow. That seems even harsher than a zero-tolerance policy, shooting the boats at sea.

But again, you have a vast number of people coming into your country, and you do have--you do have an obligation. The government has an obligation to control that flow. Bill Clinton, when he ran against George Herbert Walker Bush, just derided George Herbert Walker Bush for his blockade of Haitians coming by boat. And Bill Clinton said during the campaign, by golly, if I win this election the Statue of Liberty will again be open for business, and we will not turn those Haitians back at sea. What did President Clinton have to do before he took office? He had to go on Voice of America, tell the Haitians not to come by boat because so many were projected to die at sea on that perilous journey. Bill Clinton started a zero-tolerance policy--

DEGETTE:

The gentleman's time has expired.

BURGESS:

--before he was inaugurated. I yield back my time.

DEGETTE:

Chair now recognizes gentlelady from Illinois, Ms. Schakowsky.

SCHAKOWSKY:

Thank you very much, Congresswoman DeGette, for this hearing. I'm going to try and hold it together because this has been such a traumatic experience for so many Americans watching what has been happening. I've been to the border. I've been to shelters, both in McAllen, Texas, and in Chicago where people are getting very good care. The children are getting good care. But it--can anybody here on this panel challenge this? The United States does not know how many children have been separated from their parents? No one. Does anyone know how many are still separated from their parents? Nobody knows. And now we know that those in ORR custody, that there is no way to know how to divide out those children that have been separated. Is that right, commander?

WHITE:

Ma'am, no, I want to be very clear. Children in ORR custody, children who have been in ORR custody who were in ORR custody on 26 June, we have laboriously worked to identify (INAUDIBLE)--

SCHAKOWSKY:

No, I understand, but--

WHITE:

The challenge is those who exited ORR custody because HHS--

SCHAKOWSKY:

Okay.

WHITE:

--did not receive from DHS any list or any indication of the complete set of separated children.

SCHAKOWSKY:

Thank you.

WHITE:

In partnership with them we worked hard to identify every one of those kids from those who were in care.

SCHAKOWSKY:

Thank you.

WHITE:

Yes ma'am. I just feel like what's been happening is more than irresponsible and sloppy. But I really think that what we're talking about is state-sponsored child abuse, and I would go as far as to say kidnapping of children. Ms. Maxwell, I want to ask you what, if any, criteria has been shared with HHS regarding how determinations are currently made to separate children from their family? And what, if any, process exists for HHS or attorneys for the families to dispute these? My experience when I went to McAllen was a whole courtroom of people, these immigrants coming across, these refugees coming across, were declared guilty of crossing the border illegally. So is that a criteria, they're criminals? How do we know? And Ms. Larin, you mentioned that there has--there was no real criteria of who is then unfit and who should be separated.

MAXWELL:

Yeah. To be clear, there is no federal statute that dictates the circumstances under which families must be separated at the border. That is a discretion made by enforcement, immigration enforcement agents. As it pertains to children who are newly separated, we do note in our report that there is information coming about the cause of the separations, but there lacks a level of specificity to determine whether or not the separations that are currently happening meet the spirit of the preliminary injunction, as well as allow ORR to have the information necessary to care for the children.

SCHAKOWSKY:

Let me ask Ms. Larin, do you want to comment on that, or is that accurate?

GAMBLER:

I'll address it for GAO, if that's okay, ma'am.

SCHAKOWSKY:

Okay.

GAMBLER:

We understand from DHS that under certain circumstances children could be separated from their parents at the border, and those circumstances include things like if the parent is unfit or represents a danger to the child, if they have a criminal history, or if they have a communal disease.

SCHAKOWSKY:

Criminal history. How is that defined, however? Are these people criminals because they cross the border?

GAMBLER:

According to what was laid out in the court order to--for that population to be eligible for reunification the court determined that to be eligible for unification that it would be--and determining fitness--it was if the parent--a consideration of the parent was involved in possible criminal violations, but not including improper entry, misdemeanor improper entry.

SCHAKOWSKY:

Okay. Do we know how many children have been separated from their parents for a reason that was given? Do we have a number?

GAMBLER:

So ma'am, GAO actually has ongoing work right now for the House Homeland Security Committee where we're looking at how the Department of Homeland Security is addressing families that are encountered at the border. We are planning to report out on that work later this year.

SCHAKOWSKY:

Okay. I just want to say that my constituents--I was hearing from parents regardless of party who were so, and are so upset at this child separation. A number of them said this is not rocket science. What about a hospital bracelet? Put on a parent with a matching one for a child to identify them. It is so shocking that we do not know how many. I hope this hearing can get to some at least knowing what we need to know. I yield back.

DEGETTE:

Gentlelady yields back. The gentleman from West Virginia, Mr. McKinley, is now recognized.

MCKINLEY:

Thank you, Madam Chairman. A few quick questions on it to understand--the media and some folks here in Congress continue to talk about that children are being put in cages. Commander, I haven't heard anyone talk about that yet, so I'd like to hear how you react when you hear that ORR is putting children in cages. How do you react to that?

WHITE:

Well of course that's false. I mean this is actually--there are so many things about this issue that are complex, and this is not one. The images that have been in the media are actually images of border stations. But the easiest--I think that the best answer for this is come and see. Come and see an ORR shelter. And I know that many members of Congress have toured them, and we have that process, but ORR shelters are licensed by the state in which there has to be a residential care setting for children. They are not detention facilities.

MCKINLEY:

Okay.

WHITE:

In many states they have no locked doors to the outside because that's not permitted under state law. We do not put children in cages. In fact, that's why we do influx sheltering is because for their mission, appropriate for their mission, border stations are a detention or holding setting. We don't have those.

MCKINLEY:

Thank you, commander. I'd also try to get a grasp--I'm from West Virginia. We're not seeing the influx or the problems that some of the other folks are, but we follow the media. I'm trying to get an understanding for the American public to understand like the--for the--for the minors, the accompanied minors, what's the age? What would you say the average age for an accompanied minor would be?

WHITE:

So--

MCKINLEY:

Just, yeah, just a range maybe.

WHITE:

So unaccompanied alien children can be any age, although the greatest majority of them are teenagers. Those minors who were separated, the demographic is younger because, after all, they were traveling with parents. They have a different set of needs and a different demographic picture than true UACs. Most UACs are teenagers. Sometimes we do get much younger children typically who were traveling with like a teenaged brother or sister.

MCKINLEY:

Commander, if you could, again, just if you could get back, I'd like to understand--I can compartmentalize it better if you give me an average age. If you can get back to me on the short answer if their average age is eight and a half, or the average age for the unaccompanied minor might be 14. I'd just like to know what that is.

WHITE:

The greatest number for unaccompanied alien children is 16 and 17.

MCKINLEY:

My last question, commander, or whomever would like to answer, there are so many misrepresentations of how--you just heard it here that this is state-sponsored--I don't even want to finish the sentence. I'd like for you to just walk through with me, please. Give me a day in the life, day one, when you first get a child in the--let's just say one of the minors, they come into your presence. Could you walk through what they begin with because I was told one of the first things they do is vaccinate the children to make sure that they're healthy. I'm told that they have access to doctors, that there is a mental health individual that they can be counseled with. Can you walk through what a day is like as compared to what others are talking about, they're put in cages? Give me--just in the remaining time, minute and a half--

WHITE:

Sure.

MCKINLEY:

--first day, first day.

WHITE:

So every child who enters ORR care, part of their first hours in ORR care will include a comprehensive psychosocial assessment and risk assessment to determine their needs. They also go through a process we call IME, which is initial medical evaluation. That's a complete medical workup. And then we begin the process of their age-appropriate vaccinations, which we do to CDC standards. This is all part of every child's first day, along then with the beginning of the process of their know your rights and legal screening process and their orientation to the program they're going to be in.

MCKINLEY:

And mental health? Because mental health, they may have begun to have problems based on what their stand--what life was like back in their village or community, and then they went through the ordeal, the trauma of a lengthy march through Mexico to come up. What kind of mental health treatment are they receiving?

WHITE:

So every minor in ORR care has a licensed clinician, and we have a specified ratio of clinicians to children. Children receive individual and group modality clinical services. Some children are diagnosed as having more significant behavioral health needs and would receive a higher acuity care or be moved to a higher acuity setting consistent with those needs. I actually feel--I'm very proud of the work that we do for the health and safety of children in care.

MCKINLEY:

Thank you very much. I yield back my time.

DEGETTE:

Chair now recognizes the gentleman from California, Dr. Ruiz, for five minutes.

RUIZ:

Thank you very much, Ms. Chairwoman. Let's be very clear. We all know that ORR did not do the separation of children. We know that CBP and ICE separated children. Let's be very clear that it was CBP and ICE that detained children in cages. Let's be very clear with that. This is an outrage. Morally it is a stain in our conscious as individuals, and every mother and every father that love any of their children should feel the compassion and the hurt that these children and their parents went through when this happened. And I understand by the look in your eyes, Commander White, that you understand that. And as healthcare professionals you understand the experience of having to go through and witness that, as well. And yet since it was one of the most intentional, hurtful experiences in our nation's recent history that our federal government has done to any population, this committee held no hearings on the topic while it was ongoing. This committee had no legislation that we marked up except for this resolution of inquiry, and it was not passed with

favorable sentiment to be voted on on the floor. We were simply asking to have a hearing to get questions answered, simply asking for resolution of inquiry that Congress is saying we want more information, and that was denied by this committee in the last cycle. Commander White, do you understand the effects of toxic stress on children?

WHITE:

I have professional training that does indicate the toxic stress. That's an accepted scientific reality. It has consequences both for children's behavioral health and their physical health, and those consequences are frequently lifelong.

RUIZ:

So this problem is not over even after they unify the child with the family, right?

WHITE:

The consequences of separation for many children will be lifelong.

RUIZ:

Yes, in March 2017 the American Academy of Pediatrics published a public policy statement opposing the separation of mothers and children at the border, stating, quote, federal authorities must exercise caution to ensure that the emotional and physical stress children experience as they seek refuge in the United States is not exacerbated by the additional trauma of being separated from their siblings, parents or other relatives and caregivers. You mentioned a tender age, Commander White, children under five or children under 12. In your opinion, were they re-traumatized by our federal government when we separated them from their mothers?

WHITE:

So I've previously testified before the Senate.

RUIZ:

Yes or no, do you feel that they were re-traumatized by being separated from their parents?

WHITE:

Separation of parents is a traumatic event and has the potential for having those psychological consequences. (INAUDIBLE) matter of fact.

RUIZ:

So let's be clear. Is there a nullification of re-traumatized, or is this an additional trauma that adds additional stress and additional harm to a child after they experience the difficulties that they



experienced in their home country, going through the long trek? Did we add additional re-traumatization to that child?

WHITE:

For many children that is a--

RUIZ:

Yes.

WHITE:

(INAUDIBLE) consequence, yes.

RUIZ:

My understanding is yes. So did--when you voiced your concern to your leadership when Ms. Maxwell mentioned that the Department of Health and Human Services knew that there was a surge of family separations, and folks were aware, and they were questioning, did you voice your concern, and did you say these need to--how were you--how were you treated when you voiced your concern?

WHITE:

I received a respectful hearing. I was advised that there was no policy to result in family separation.

RUIZ:

Did you feel like that was a way to tell you don't bring it up any further? This was not official, so don't mention it anymore to anybody else?

WHITE:

No.

RUIZ:

Okay.

WHITE:

That's not how I took it.

RUIZ:

And did you advise that HHS should be--take a little more proactive step to stop these separations?

WHITE:

That is the recommendation I gave to (INAUDIBLE)--

RUIZ:

And did it occur?

WHITE:

That did not, in fact, occur (INAUDIBLE)--

RUIZ:

Okay, in the intake, you said that you, that the--that the ORR did not distinguish which children were separated and which children were not separated, correct?

WHITE:

That's correct because historically (INAUDIBLE)--

RUIZ:

So let me ask you a question. Were you able--was there anything preventing you from asking the question during intake? ORR to say was this child separated from their parent knowing that that was going on?

WHITE:

So that is now part of the intake--

RUIZ:

Yeah, but you were not denied, or you weren't told you can't ask that question, and you failed. The department of ORR failed to ask that question during the intake of the child.

WHITE:

No, we routinely ask and have asked for years circumstances (INAUDIBLE)--

RUIZ:

At that time you said that you were not able to determine if they were separated or not separated. A social worker, a case manager would simply ask, was this child separated to determine a full

history and context to provide the adequate treatment for toxic stress. Did that occur, and were you proud that it did not occur?

WHITE:

We did attempt to identify (INAUDIBLE)--

RUIZ:

Well, earlier--

DEGETTE:

The gentleman's time has expired. We're going to have to--

RUIZ:

Earlier mention you said that you didn't.

WHITE:

No, I actually was very specific. What we did not have is a single comprehensive list because the reality is many children who we have identified as separated, there is nothing in their initial assessment to indicate their separation even when they're asked the question specifically. So that's not an exhaustive list.

RUIZ:

So those questions were asked specifically?

DEGETTE:

The gentleman's--I'm sorry--

WHITE:

Yes, sir.

DEGETTE:

The gentleman's time's expired. The gentlelady from Indiana, Ms. Brooks, is recognized.

BROOKS:

Thank you, Madam Chairwoman DeGette, and to Ranking Member Guthrie, thank you for holding this important hearing today. I'd like to remind the committee that during an important debate over

the passage during the Energy and Commerce Committee debate on Pandemic All Hazards Preparedness Act we did accept an amendment offered by Representative Lujan and Representative Blackburn to require ORR and Department of Home--HHS to provide us weekly reports. And so this committee did, in clarification of my friend, the gentleman Dr. Ruiz, this committee did address that actually during the Pandemic All Hazard Preparedness Act debate, and it was included, and in fact has been voted on by the House, has passed out of the House twice, once in the last Congress, and I'm proud to say that Congresswoman Eshoo and I already have gotten it out of the House once again. And in that bill about pandemic all hazard preparedness, we addressed this issue in requiring the department to provide weekly updates and to provide the department to deal with this issue. And so just I wanted to clarify for the record that our committee did address this. We have actually passed it in the House, although people might not have realized. It was a very important bill having to do with pandemic all hazard preparedness with vaccines and preparedness for public medical emergencies.

I'd also like to share that I, too, have visited not only the border and visited the Brownsville facility and saw, which overwhelmed me, the Southwest Key facility where I saw 1379--I'll never forget that number because it was on the board as I walked in--1379 boys ages 11 to 17. I, like others, saw that they were incredibly well cared for. I was overwhelmed at the numbers of children at that point in time--this was in July of '18--the vast number of unaccompanied children. Some may have been some of those who had been separated and were in the process of being reunited with their families, but I think until I saw that, I was really not--had not the full understanding of the massive numbers that our country has been dealing with since 2014. And the massive numbers of children who were separated from their parents in their home countries, smugglers and coyotes who were paid to bring those children. So these children have been experiencing toxic stress for a very, very long time, including these unaccompanied children, as well as those that we separated. And for the record I, too, was opposed to the separation of families and separation of children. I want to talk very briefly about one of the facilities. And Commander White, can you (INAUDIBLE) there have been media reports that--about the variation of care, the tent city that we saw, Tornillo. It's my understanding that has since closed. Is that correct?

WHITE:

The temporary influx facility, the Tornillo site, has been closed. (INAUDIBLE) necessary.

BROOKS:

And so can you please talk with us? And I think this has to do with the fluctuations, and this has to do with what I would call a crisis that we have been handling, but not handling incredibly well, since 2014. We still have--we have thousands of children still. In December there were about--I have the numbers--about 4000 unaccompanied children that came each month in October, November and December. Do you know what the numbers were in January? How many unaccompanied children do we have?

WHITE:

So I don't have with me monthly numbers, although as a reminder we do provide those to Congress monthly. I can tell you that thus far this fiscal year we've received just under 14,000 referrals, and that last fiscal year we received 49,100 children in care. Over recent years the fluctuation has been between 40,000 to 60,000 children a year that come into the care of ORR.

BROOKS:

And we are at 14,000 now?

WHITE:

Thus far this fiscal year.

BROOKS:

Thus far. And do we have-- do you have any way of predicting what is coming for the next three months?

WHITE:

So we have to use bed capacity modeling to anticipate how many beds we're going to need, but the most honest answer to your question is no one can predict how many kids will cross the river tomorrow.

BROOKS:

And because of that challenge--and my time is up--because of that challenge--and I will be submitting some questions in writing relative to the future planning since we have absolutely no idea how many thousands upon thousands of unaccompanied children in addition to, and god forbid there are any further separations, but the unaccompanied children. Our country has not dealt with this problem yet, and they continue by the thousands. These are children who are coming to our country with no adults. And I yield back.

DEGETTE:

The gentlelady yields back. Gentlelady from New Hampshire, Ms. Kuster, is now recognized.

KUSTER:

Thank you. And like my colleague, Ms. Schakowsky, I'll try to keep it together. I'm a mother. I've been an adoption attorney for 25 years. I'm very, very well-versed in--to quote the commander--and I want to thank you for your courage today, for your honesty and for your compassion. The consequences of separation of children from their parents will be lifelong. I've been to McAllen, Texas. I've been to Brownsville. And I want to be very clear to my colleague, Mr. McKinley. I have seen the cages. I have walked through the cages. I have seen the children crying. I've been with the mothers who had no idea where their children were taken. We were all crying. It was a

group of women, members of Congress, mothers and grandmothers ourselves, weeping in the arms. The guards were weeping. I met two women breastfeeding their babies that were taken by the government of the United States of America, breastfeeding their babies. So, I understand that you did not make that happen, but we are all citizens of the country that made that happen. And with all due respect to my colleague, Ms. Brooks, who is a friend and a colleague, yes, they faced trauma in their home country and we need to do more. Yes, they arrive with trauma at our border and we need to do better and open our arms with compassion. But, we have inflicted additional trauma on each and every one of those children and we need not forget until we get to the bottom of this. And I appreciate all of your professionalism in helping us to do just that.

Now, what I want to focus on is the children who are separated in your jurisdiction, I have great respect for the care that they're receiving, but they are being placed into child placement agencies and they were sent at that time around this country while their parents, mothers and fathers, were sent to deten--detention facilities thousands of miles away. They had no contact. The women that we spoke to couldn't make a phone call. Then, they were charged for the phone call. They had no money.

And I want to focus on the legality. My colleagues are doctors; I'm a lawyer. Help me understand how those children's rights are being protected. And promise me, please, that not a single child has had parental rights terminated against that parent's will on grounds of abandonment or neglect because the United States of America separated that parent.

WHITE:

Let me look at the piece of your question. First of all, ORR has no authority--this Congress has never provided authority to ORR to terminate parental rights. That is not something we do.

KUSTER:

And--

WHITE:

--We also--

KUSTER:

--Sorry to interrupt.

WHITE:

Yes.

KUSTER:

But, can you promise me that there's no agency across this country where ORR has placed a child that has somehow slipped into a state court, a county court and urged the termination of parental rights because this child was, "abandoned at the border"?

WHITE:

So, as it happens, our grantees are prohibited by program regulations from attempting to intervene in--in custodial matters in court. And indeed, in previous years where there have been isolated cases where someone attempted that, we have fought against that. So, I can be very clear about that. We do not allow that.

KUSTER:

Thank you.

WHITE:

I als--but, I need to talk because this is a--I think this is also very important people understand this, about what discharge to a sponsor means because I hear in the media all the time talk about discharge to sponsor like that's some kind of crypto adoption. Sponsors are members of the child's family. Let me give you the exact statistics for the year because it's very important because when we talk about the children who transited ORR care bef--and were discharged to sponsors before the court's order, let's talk about those children in the context of what tha--what that population looks like.

So, we--in 2018, 86 percent of the children in our care were released to an individual sponsor and 42 percent of them went to parents, 47 percent of them went to close relatives. That means an aunt, an uncle, a grandparent, or a sibling. And 11 percent went to a more distant relative, like a cousin or a non-relative that's a family friend generally identified by the parent in home country.

KUSTER:

Commander, I'm sorry to interrupt.

WHITE:

So, that's important.

KUSTER:

My time is up. I agree with you, that's important, and I would far rather have those children in a loving home with a parent, a grandparent, someone who will care for them to then--than to have them separated and placed in an agency. So, I appreciate that. Thank you.

DEGETTE:

Gentlelady's time expired. Gentleman from Virginia, Mr. Griffith, is recognized for five minutes.

GRIFFITH:

I thank our chairman very much and pleased and welcome you to that chair and I look forward to working with you over the next several years in that capacity.

Let me--let me just make it clear that the question earlier was, you know, could somebody slip into a state court as a former practicing attorney in that arena and with a spouse who is a juvenile and domestic relations district judge in the Commonwealth of Virginia. You can't guarantee somebody won't commit a--an improper act, but it would be a fraud on the court to indicate that a child had been abandoned when that child came into this country with a parent. The--the bigger question for all of this is--all those thousands of children--how many did you say it was last fiscal year that came across who were unaccompanied when they came to the border?

WHITE:

So, the total number referred last year was--excuse me--I believe 47,000. I had it in front of me a moment ago. I'm sorry.

GRIFFITH:

I believe you said the average over the last several years have been between 40 and 60. So, 47 would be on track.

WHITE:

Right.

GRIFFITH:

If not exactly accurate, it would be consistent with the averages; is that correct?

WHITE:

That's right. If I take my glasses off, I'll actually be able to give you the number. Yes. Last year in Fiscal Year '18 was 49,100 children. Over the last several years, it has fluctuated between 40,000 and 60,000 children a year.

GRIFFITH:

And when they come across unaccompanied, you all take charge of them, as--as we heard earlier, make sure they get some medical attention, both physical and mental health; is that correct?

WHITE:



Yes. They're referred to us by another federal agency. And only a federal agency can refer. We cannot lawfully take children directly nor can state entities refer them. DHS refers them. We--and then we designate which of our facilities is right for the child and has a bed for that child and DHS brings the child to that facility. That's where we begin to provide services.

GRIFFITH:

And for those un--those who come unaccompanied in the first place, the--the 40 something thousand predominately, you all then try to find some place for them, whether it's with family or--or with an agency--a placement agency; is that correct?

WHITE:

So--so, we are required by TVPRA and the Homeland Security Act to place the child in the least restrictive setting. That means a--that--almost invariably means an individual sponsor that's a--and we work with the family to identify that individual sponsor, but I really want to emphasize this. Children do not go out into sort of state adoption systems. That does not happen. And if we cannot find a family member, if we can't find a sponsor working with the family that can meet the emotional and financial needs of the child and that can survi--can get through our vetting process for child safety, that child remains in ORR care and remain--can remain in ORR care, in some cases, until their 18th birthday.

GRIFFITH:

And it's also a fact that there's lot of children who cross the border that you don't know how many that is because they never--they never are--are placed into any agency's hands at all and they don't come to your referral and they're just in the country; isn't that also true?

WHITE:

Certainly. The majority of apprehended children are children who are part of family units. That's what all of the separated kids were. But, ordinarily, family units are managed by ICE and those children don't come to ORR. Then, there are, of course, also there's some children who enter the country without status and--and they're not apprehended. We don't know--we don't have visibility on them either.

GRIFFITH:

And--and--and as a part of all this, of the 49,000 last year, roughly 2,800 were people who came across with a parent at--or with somebody in the family and then they were separated, of--of which I also was opposed. And you all have placed all, I think you said, but six of those or determined that they can't be placed and are putting them through the standard process--

WHITE:

--So--

GRIFFITH:

--is that correct? Yes or no? I--my time's running out on me.

WHITE:

The 2,816 are the chi--potential children of Ms. L class members.

GRIFFITH:

Okay. And Ms. L's a court case that the court--.

WHITE:

--Right--

GRIFFITH:

--Said that you have to deal with--with these children in an expedited matter and get them back to their parents. I'm going to have to--

WHITE:

--Right--

GRIFFITH:

--Move us along because I am running out of time. You have six cases left, but my understanding is that five of those under the--the Ms. L case, the ACLU is--is playing a role and that five of those have been delayed resolutions because you've been notified by the ACLU--U that there's something going on that they want to take a look at; is that not correct?

WHITE:

So, of the six children who might potentially still be reunified, one has a parent in custody. I don't mean ICE custody.

GRIFFITH:

Okay.

WHITE:

I mean--.

GRIFFITH:

--I need to know--

WHITE:

--Criminal custody.

GRIFFITH:

Are the five being held up by the ACLU?

WHITE:

And the other five--they're not--I would not say they're being held up by the--

GRIFFITH:

--Okay--

WHITE:

--ACLU. I'm saying that we are awaiting an indication from the ACLU what the parent's final decision is regarding the child.

GRIFFITH:

What the parent's decision is regarding the child.

WHITE:

Right.

GRIFFITH:

There's some question whether they want the child? As tragic as that is.

WHITE:

The--the--whether the parent's wish to have the child reunified with them in home country or stay in ORR care. There are five that are--we are awaiting that notification.

GRIFFITH:

And that would create toxic stress, too, if your parent says I don't want you back. The answer's--it's--it answers itself. I yield back.

DEGETTE:

Chair now recognizes gentlelady from Florida, Ms. Castor.

CASTOR:

Thank you, Chairwoman DeGette. I want to associate myself with the remarks of my Democratic colleagues who've expressed outrage over the Trump administration's family separation. And it was entirely frustrating that the republican majority refused to allow us to have a real oversight hearing. And I wanted the public to know what did happen. They--rather than have an oversight hearing, they marched us over to HHS. And so folks understand, that is right next door. And the HHS leadership could have come here, across the street, so that the public could understand and hear questions being asked in front of everyone, but fortunately we've rectified that here today.

Commander White, we--we know that the Trump administration started this routine family separation well before it was announced--formally announced in May of 2018. You have sa--testified here today that you did express concern over family separations. Did you--how did you express that? You said you had conversations. Did you also put it in emails or--or write any memos to that effect?

WHITE:

So, it's important to distinguish two different points in time. First, the discussion of this as a potential policy option that began in February of 2017 and went through spring of 2017.

CASTOR:

Did you write--

WHITE:

--And--

CASTOR:

--any memos before--during that time?

WHITE:

Yes. I produced memos, emails, and I raised it in meetings.

CASTOR:

Okay. And then after the policy was announced in 2018, did you write additional memos and emails--

WHITE:

--So, when--

CASTOR:

--Expressing concern over the possible--

WHITE:

--No, because I was not in ORR at that time. The subsequent period of discussion about this was regarding our informal observation within ORR that we were receiving a number of children who appeared to be separated in much--

CASTOR:

--Did--

WHITE:

--Greater numbers particularly.

CASTOR:

Did anyone at--after the policy was announced in May 2018, did anyone within ORR tell HHS leaders that family separation should be stopped?

WHITE:

So, I was not working in ORR at the time.

CASTOR:

But, do you know of any? Have you seen any memos or emails, any written documentation?

WHITE:

I have not seen memos or emails. The--

CASTOR:

--So, after--

WHITE:

--concerns that I had of--at--about separation were shared by every career member of my team. So, I'm confident that they continued to make that--

CASTOR:

--after the separations began taking place, are you aware of anyone from HHS attempting to tell DOJ or DHS that the separations should be halted?

WHITE:

I'm not aware of that, but that doesn't mean it didn't occur.

CASTOR:

You haven't seen any emails or memorandum from HHS to other agencies along those lines?

WHITE:

No, but I'd like--

CASTOR:

--How about to the president?

WHITE:

I mean, I wouldn't--

CASTOR:

--or, the president's chief of staff?

WHITE:

Yeah, I would not know.

CASTOR:

If HHS leaders didn't know that separations were under consideration, they were willfully blind. If they did know and they didn't speak up, they were complicit in the trauma that was inflicted on the children. And at the very least, when it became clear that separations were taking place, as the top health officials in the country, Secretary Azar and HHS leaders should've put their foot down and stood up for the children.

WHITE:

Secretary Azar--

CASTOR:

--There is little doubt that this administration failed that moral test. This administration failed the children. So, Ms.--Ms. Larin, thank you for the work of the Government Accountability Office here. ORR officials told you that they were not given advance notice of the attorney general's April 2018 Zero Tolerance Memo. It strikes me as inconceivable that the agencies that would be most affected and--and would be responsible for separating children and caring for them were not giving--given any advance notice. Based on your expertise of looking into the operations of numerous government agencies, wouldn't you expect all of the agencies that would be responsible for carrying out the po--this policy to have been part of interagency discussions?

LARIN:

Yeah. One of the key things that we look at when we're assessing agency performance is whether they have appropriate internal controls. And by that, I mean do they have a structure in place to achieve agency (INAUDIBLE).

CASTOR:

Including impact on family separations on the health and well-being of children.

LARIN:

Yeah. A key principle of internal controls is operating on the basis of reliable and accurate information, including information both internal and external to the agency.

CASTOR:

We--we still--and we still don't know if Secretary Azar or Secretary Nielsen were given advance notice of the April 2018 memo. However, if they weren't, once they became aware of the chaos that ensued, the trauma being inflicted on the children, the huge burden on ORR, would it have been reasonable for Secretary Azar to have reached out to DOJ and DHS to at least raise concerns about the harm the policy was causing?

LARIN:

So, GAO has reported on the importance of interagency coordination and that that is key to planning, that they--the involvement of stakeholders--

CASTOR:

--Did you come across any--any memos along the lines I asked Commander White of anyone at--at HHS expressing concern to DHS, DOJ, the president, or the president's chief of staff?

LARIN:

We did not get any evidence that that consultation occurred.

CASTOR:

Did you ask for it?

LARIN:

We asked if there was any consultation--

CASTOR:

--And that--

LARIN:

--And we were told there was none.

DEGETTE:

Gentlelady's, time's expired. Chair now recognizes Mr. Duncan from South Carolina for five minutes.

DUNCAN:

Thank you, Madame Chair. Thanks for allowing us to delve on the issue of children apprehended at the southern border when they cross illegally into this country. The gentlelady from Illinois, Ms. Schakowsky, just asked Commander White from HHS do we know how many kids are currently separated from their parents at the southern border in this country. Let me ask this. Do we know how many children are brought into this country by coyotes and sold into the sex slave market to be violated primarily by men in towns like Chicago or Atlanta? The answer is no, we don't, because we don't know how many people, children or otherwise, cross our Southern border annually. We're investigating today the separation of kids when apprehended at the border and what we as a nation when apprehending unaccompanied or accompanied children illegally entering this country working to assess their situation. Is that a family member they're with? Or is it a coyote, somebody that's wanting to traffic that child?

What is their physical condition? What is their health? A lot of them come with a lot of problems. We need to assess. Do they have immunization? Or, are they bringing something that may affect the children within our communities where they're relocated? That's the absolute appropriate thing to do in this nation, to find out the health of these children before they are turned over to loved ones. That takes a little time. To do DNA test on who they were accompanied with and that child to see is that a family member, to make sure that we're not allowing that child to go with a human trafficker to be sold into sex slave market.



Super Bowl weekend, 169 individuals were arrested in a sex sting operation; 18 victims were freed. I'm wearing this X because today--today is Human Slavery Awareness Day. 40 million people in this world are currently in the slave market or currently enslaved. 70 percent of those are women. And one in four in the world are children. Children. It's right that we're shining light on this issue at the southern border with these children. It's right that our nation is trying to do right by these children, to make sure that they don't end up in the sex slave market or end up in the slave market working for someone in their household. To make sure that they are reunited with family members here or reunited with family members back in their country because let me remind this committee that they have entered this nation illegally. Right or wrong, whether they're sent north by their families from Guatemala, Honduras, El Salvador, or other places to try to hopefully make a better life for that child or whether they're accompanied with a parent coming across the border. Right, wrong, indifferent, whatever the issue is, we as a nation need to make sure that we're doing right by the children.

And so, I want to urge this committee and this congress to not just focus on this issue of children at the border and what HHS and ORR are trying to do because I believe we're trying to do the right thing. And there is--there are laws on the books about what we're supposed to do. But, to also focus on the issue of what is a reality for many children that enter this country and enter the slave market, whether it's the sex trade or others all over the globe, we have the power in this congress to do that. And look, I'm for a border wall because according to a--a DHS special agent, we need to build the wall for the children. This is an article that is dated February--excuse me, January the 29th I'd asked to include in the record, Madame Chair.

It's great that we're focused on this issue, Madame Chairman. It's important that we make sure that our nation is doing right by those that want to come into this country and that we're doing right by American citizens where those that do come into this country are immunized and are healthy and are reunited with loved ones and all that. But, let's focus also on this X and the human trafficking that's going on all over the globe and is a big issue on our Southern border, that we failed as a committee and as a congress to address as part of this issue. And with that, I'll yield back.

DEGETTE:

Without objection, the gentleman's Fox News submission is entered into the record. The chair now recognizes the gentleman from New York, Mr. Tonko, for five minutes.

TONKO:

Thank you, Madame Chair. Later today, we will hear about the chaotic attempts to reunify children with their parents from child welfare experts outside of this administration. We'll hear shocking stories of how children were ripped away from their parents and the effect that this trauma will have on the rest of their lives.

Before we have that dialogue, however, I think it's important to understand from this panel how we got to that place. So, Ms. Larin, the very first line in your report states, and I quote, "The agencies did not plan for the potential increase in the number of children separated from their

parent or legal guardian as a result of the attorney general's April 2018 Zero Tolerance Memo." Is that correct?

LARIN:

That's correct.

TONKO:

Okay. And then further, Ms. Larin, is it also true that CBP and ICE and ORR officials told you that they did not take specific planning steps because they did not have advance notice of the AG's memo and only became aware of it when it was announced publicly?

LARIN:

That's correct.

TONKO:

So, then further, Ms. Larin, did GAO speak with anyone in the secretary's office at HHS about the awareness of the AG memo?

LARIN:

We did not talk to the secretary.

TONKO:

If not, as you're indicating, is it possible that they had some awareness of that situation?

LARIN:

We're not aware of any awareness.

TONKO:

Commander White, last year in front of the Senate Judiciary Committee, you testified that while neither you nor anyone who reported to you had any advanced knowledge of the attorney general's memo, there had been discussions over the previous year about policies that could result in the separation of kids from their family unit. We also know from GAO that ORR considered planning for continued increases in separating--in separated children, but HHS leaders advised them not to engage in such planning. During this time, you were the deputy director of ORR with responsibility for the unaccompanied children's program. Who specifically within HHS leadership told you not to plan for continued increases in separating children?

WHITE:

I received that from Scott Lloyd and from Maggie Wynne, who are respectively, at that time, the director of ORR and the secretary's counselor for human services.

TONKO:

Thank you. And Commander White, given that you previously testified that you never met Secretary Azar prior to the implementation of the family separation policy, is it possible that discussions occurred amongst HHS leaders prior to implementation without your knowledge or awareness?

WHITE:

I couldn't speculate on what occurred without my knowledge.

TONKO:

But, is it possible? I'm not asking you to indicate that it did happen. Is it possible?

WHITE:

Of--of course it's possible, but I wouldn't be the person to ask because I don't know.

TONKO:

Commander White, did you agree with the decision not to plan for continued increases?

WHITE:

It was my hope that the reason that we were not planning it is that that meant that separation would not occur. I experienced relief at that notification, that it would--that separation would not occur.

TONKO:

Now, do you believe ORR would have been better prepared to care for and reunify separated children had it been allowed to plan for continued increases?

WHITE:

We would have been better prepared for the capacity issues. However, to be clear, we were able to successfully reunify thousands of children with their parents because Judge Sabraw and the Southern District of California created a pathway through his orders for us to do that. We could not have affected the reunification of children with their parents in ICE custody absent his providing a way to do that under our steady state authorities.

TONKO:

But, it took hundreds of HHS staff, did it not?

WHITE:

To I--it--it's--it absolutely did.

TONKO:

Well, thank you for your responses. This administration should never have had a family separation policy to begin with, but they made it worse by not even notifying ORR about it, the very agency that would be tasked with caring for these thousands of kids. I just find that totally unacceptable. And as a New Yorker, we're proud of the fact that we border along the bay with the Statute of Liberty and the inscription included therein. You know, give me your tired, your poor, your huddled masses yearning to breathe free, and not including your children looking to be separated from their parents. I find this whole approach so deplorable on behalf of our kids and the trauma that will follow them for their lives.

With that, I yield back, Madame Chair.

DEGETTE:

Gentleman yields back. Gentle--gentleman from Oklahoma, Mr. Mullin, is now recognized for five minutes.

MULLIN:

Thank you, Madame Chair, and thank you, everybody, for being here. Obviously, this is a very emotional topic that people have strong feelings about, which is--they should. I'm a father of five and two of my beautiful kids are adopted and every child deserves a home and a loving parent. And there's just--there's just--there's just not enough homes out there welcoming everybody. Unfortunately, that's what we face. We do that currently right now. In Oklahoma, there's not enough foster parents out there. There's not enough parents that are willing to adopt that's out there. Yet, we have an influx of children coming across our southern border. The question is what do we do with them? How do we do with them? And Ms. Maxwell, HHS OIG issued a issue brief which found in part that thousands of additional children may have been separated from their adult parents by DHS and refer--referred to ORR.

In a context of this report, is it referring to children who may have been separated from a parent or legal guardian only for any specific reason?

MAXWELL:

So, this pers--the perspective we bring with this issue brief is a broader perspective.

MULLIN:

Mm-hmm.

MAXWELL:

And separations could have occurred for a myriad of reasons.

MULLIN:

But, you said thousands more. You said there's possible thousands more. Where'd you come up with that information where you said thousands more?

MAXWELL:

Sure. Thank you for the opportunity to talk a little bit more about that. So, the thousands estimate was provided to us by HHS officials that were running the program and tracking separated children and it relates to a significant increase in the number of separated children that they noted--

MULLIN:

--But, you said--

MAXWELL:

--to us--

MULLIN:

--possible. How would we--how would we not know the exact number? I think Commander White said that you know--I mean, you keep track of every child. Is that not correct as referred to you?

WHITE:

We absolutely do. However, the question as to how many of the children we received to had been appropriately discharged before the judge's order, how many of them were separated, no one in HHS has a definitive list to work from.

MULLIN:

How long has the separation been going on? Not underneath the current policy. How long has separation from an adult or a parent been going on--on the Southern border?

WHITE:

So, let me make one bright line distinction. Separation from parents and legal guardians is legally different from separation from anyone else.

MULLIN:

Well, but, we got to determine if they're actually legally their parent, right?

WHITE:

Correct. Separation--

MULLIN:

--But, how long has that separation been going on--on the Southern border?

WHITE:

Some--some separations have, as I've said elsewhere, have always been part of the program.

MULLIN:

Okay.

WHITE:

We have seen separations for cause.

MULLIN:

So, this was going on during the Obama administration, too.

WHITE:

Separations for cause are distinct from large scale separation.

MULLIN:

Well, but, we still do separation of cause.

WHITE:

Correct.

MULLIN:

There's a large number that's coming in to it. We know it's a \$2.4 billion human trafficking industry now that the cartels are running. So, there's always a cause for us to have concern about anybody coming across the border when we don't know for sure that it's their parent. And we can't just take

the adult's word for it. How long has the separation been going on, though? Was this practice not going on underneath the Obama administration, too?

WHITE:

So, prior to what we saw beginning of July of 2017, separations from parents occurred typically for one of four circumstances. The parent was medically unable--

MULLIN:

--But, yeah, no, I just--

WHITE:

--There were doubts about parent history--

MULLIN:

--It's been going on before, though. That's what I'm trying to get--

WHITE:

--we have seen over the last few months, however, was not going on prior to July of 2017.

MULLIN:

But, the separation--

WHITE:

--However--

MULLIN:

--the concern of the child--

WHITE:

--Correct--

MULLIN:

--Has been going on through the Obama administration, too.

WHITE:

Correct.

MULLIN:

Okay. Now, we--

WHITE:

--And before.

MULLIN:

We talked about this cage that's a detention holding area that--

WHITE:

--Correct.

MULLIN:

We've been talking about this cage. Now, there's a picture floating all around the internet of this cage. That cage is from 2014.

WHITE:

The images that I have seen in the media are mostly from the Nogales Processing Center during the 2014 influx.

MULLIN:

Right. So, 2014. So, that was under the Obama administration, right?

WHITE:

Correct.

MULLIN:

Yeah. Correct.

WHITE:

Yes, I worked that response.

MULLIN:



So--so, my--my colleagues on the other side want to say that this is the Trump separation and the family separation, but the separation was going on prior to this. And all it is is about the safety of the children. Now, if we can't agree on anything, let's not make a political point out of this and start pointing fingers at each other. It's about the children. It's about the children. I know some of you guys have opened your he--homes up to kids, but how many of you actually opened your homes up to kids? Right now, I have six living with me, three are biological.

So, you want to talk about opening your family and talk about the kids, then get off your butt and do it yourself. You want to really be compassionate about it, then open your house up. Oh, wait. Just make a political point. I'm--I'm okay with just sitting here. I'm okay with just saying we need to do something. Well, do more than just say something. Now, there is some colleagues of mine on both sides of the aisle that have been great, that's opened their houses up, but there's few. But, everybody wants to make a political point.

The fact of the matter is at the end of the day, it's about taking care of the kids. And if we can get away from the political rhetoric and just focus on the kids, then we might actually be able to get something done. But, as long as we dig in and point fingers, we're going to be right here two years from now, too. I yield back.

DEGETTE:

Gentleman yields back. Chair now recognizes the gentleman from California, Mr. Peters.

PETERS:

Thank you, Madame Chairman.

DEGETTE:

Five minutes.

PETERS:

So, thank you--thank you, Madame Chairman and thank you to the witnesses. I found your testimony so far to be very forthright and helpful.

I--I will--I'll just say that families coming to the United States seeking refuge and asylum, expected to be met with American welcome and I think in the style that Mr. Mullin might have wanted, but this administration chose to go against decades of immigration policies that kept families together and court rulings that established protections for migrant children. And when we talk about separating kids for cause, it's because it's for cause in those individual circumstances where there's evidence suggested that would be the right thing for the child. It wasn't this wholesale separation that took place under the Trump administration. I think that's what's new and that's what concerns a lot of members of this committee.

As a San Diegan, I know the border is part of our identify and our culture and San Diego and Tijuana are in--inextricably linked. The border we see is an opportunity, not as a threat. And ripping terrified children from their parents' arms is not the policy of neighbors.

We must acknowledge the lasting trauma that these children may face for the rest of their lives. It's horrific to know that our government causes pain and we as a congress have a duty to provide support and resources to assist separated families. I do want to acknowledge that the work of the court system as an institution that's stepped in and made a difference here. Partly because it was the court in my--my home district, Southern District of California, it was Judge Sabraw who I actually practiced law with a--a long time ago and he's one of many federal judges. He happened to be a republican appointee who takes his job of providing justice very seriously in an impartial and non-political way.

Commander White, in a recent court filing, you stated the statistics suggested if a separated child who ORR dis--discharged before June 26, 2018 remains in the United States and he or she, "Probably with their family," considering what we know about the challenges HHS has faced in identifying separated children, what level of confidence do you have that these separated children were placed with their family?

WHITE:

Thank you, sir. So, let me clarify this. While we do not know, because it was never provided to us in HHS, while we do not have a list of every kid who was referred to us as separated, we absolutely do know to whom we have discharged every child who's been in our care. So, when we speak about those children who were separated and referred to us and appropriately discharged before Judge Sabraw's decision on the 26th of June, we can speak with certainty about what happens to children in that process.

So, the answer--and I--I eluded to statistics to earlier--is during that year, 86 percent of children in our care when to an individual sponsor. 90 percent of the time that's to a parent, sister, brother, aunt, uncle, or grandparent. And the remaining 10 to 11 percent of the time, it's to a cousin or a distant relative, or a family friend. So, while I don't know which of the kids were separated, because I haven't been given that list, I do know what happens to children who exit ORR care. And indeed if someone cared to give us that list, we could walk through it. But, that--that is the answer to that question. It's why I said probably they're with family members because that is to whom we discharge the vast majority of children.

PETERS:

And--and in your recent court filing, you stated that you believe ORR would face significant hurdles if it tried to collect information from separated children who were discharged before June 26th.

WHITE:

Yes, sir.

PETERS:

And that you believed that attempting to reunify them with separated parents would present, "Grave child welfare concerns." Can you belie--can you explain why you think that that would be a--a grave concern?

WHITE:

Yes, sir. I think it's helpful if you look at the--at the whole paragraph in the declaration. So, here's where I--what I said about grave child welfare concerns. And what I said was that in--in--is that in some instances, the sponsor, that family member might not wish to have the child or the child might not wish to come back into federal custody so we could go through this legal process. And in--since in ORR, there is no capacity to go and take children into custody. What would that actually look like? And I really want this understood. What that would actually look like is ICE agents or other federal law enforcement going into an immigrant family's home to ta--forcibly remove that child and put them back in federal custody.

So, yes, I believe that has a very significant risk of re-traumatizing a child who's already been traumatized in many cases by separation. And I stand behind the truth of what I said in that declaration.

PETERS:

But, you would--

WHITE:

--It's not how it's appeared in the papers, but that's what I said.

PETERS:

But, you do agree that we should try to determine where the children went, who they're separated from, make sure their parents and guardians know where they are.

WHITE:

I think we are eager to comply as we have thus far with whatever Judge Sabraw determines that we need to do. And I think it's very important that people know the full story. But, I want to be clear, we will not have at our disposal the same tools to identify children in care nor will have the same capacity for children who are no longer in care. It's just a completely different ballgame.

PETERS:

Right. Thank you. I yield back.

DEGETTE:

Chair now recognizes the--the gentleman from Massachusetts, who I'm delighted to say will serve as vice chair of the subcommittee--

KENNEDY:

--Thank you--

DEGETTE:

--for the 116th Congress, Mr. Kennedy, for five minutes.

KENNEDY:

Thank you, Madame Chair. I want to thank our witnesses here for your testimony and for your service to our--our country. A couple of points right off the bat. One, I think if I'm hearing everybody correctly, and Commander White, you indicated that there was a policy put in place on a memo signed by the attorney general of the United States of America that directly impacted individuals who would be or should be in your care and you didn't know about it until it was announced on television. And when asked, you--it was denied that that policy existed; is that right?

WHITE:

So, my questions about separation preceded the policy announcement based on observations that we were seeing above what we would expect to see in terms of the ordinary separations for cause.

KENNEDY:

So, second point, my colleagues have pointed out how good a job a number of agencies are--are doing on the border and trying to address this among other concerns, which they've gone to great lengths to explain that this is being well addressed and well taken care of, which I--I do hope that the lawyers from the White House are looking at that as they contemplate an emergency declaration for immigration--for potential immigration moves depending on what happens next week.

Third, commander, you had mentioned that a number of folks raised concerns about what was taking place, but that that didn't change. Why--do you have any idea why your concerns weren't heeded?

WHITE:

I elevated to my leadership, my immediate leadership my concerns that separations were occurring and that if we saw larger scale separations, it would exceed our capacity. And additionally, that separating children from family units was inconsistent with the best interest of child.

KENNEDY:

Understood, sir. And I apologize to cut you off. You've been forthcoming. I just don't have that much time. You never got additional--but, you elevated those concerns and were you ever told why they weren't going to do anything about it?

WHITE:

I was told that family separation wasn't going to happen.

KENNEDY:

Okay.

WHITE:

And I have no reason to doubt the veracity of their statements. I think--I--I think that's what the people who told me that also believed.

KENNEDY:

I appreciate that. There is testimony that's coming on the second panel that indicates that children are still being separated from their parents at the border. And while these reasons for separation aren't often clear, it's evident that separations are occurring at elevated levels compared to past years. Ms. Abbott, I believe, will testify to those words.

Ms. Maxwell, you testified to the fact that ORR has continued to receive children who've been separated from a parent or guardian. Do you know whether those separations are still at an elevated level?

MAXWELL:

Indeed. The separations that have occurred after the preliminary injunction are at about twice the level as they were in late 2016. It's still significantly less than the peak that we saw in summer of 2017, but the average is a little less than 1 percent.

KENNEDY:

And commander, do you have any concern that those separations are coming for anything other than good cause, given the four strict limited categories of good cause that you enumerated earlier?

WHITE:

So, we strive to identify the reasons for separations. That is part of the information that we've added to the portal. But, I--but--but, to answer your question, congressman, there is no

specification in law from you all on congress about the permissible grounds for separating a child from a parent. And I would submit that if you--if you want to see that, that's on y'all.

KENNEDY:

I appreciate that, sir. Moving from the children to the facilities. I visited a--a number of them as well. I want to ask specifically, though, about some reports that have come to my attention that the Trump administration is working to house detained children on land that was owned--or is owned by the Department of Defense that is not currently being used because it is contaminated with toxic chemicals, including lead, arsenic, mercury, PFAs, and perchloric. Even for an administration that seems to go out of its way to treat immigrants as less, this seems a new low. We know that children are vulnerable for toxic waste and that even low levels of exposure can result in permanent health damage, as if, given the testimony we've heard, these kids have not--already gone through enough.

So, Mr. White, can you detail for the committee any discussions that HHS, ORR has had with DOD regarding the use of the land that might contain toxic chemicals?

WHITE:

Thank you. So, I actually got your letter yesterday and you eluded to two military installations. Let me be clear. One of them is a military installation we did use in 2016 to shelter 8,800 children. That's Fort Bliss. As a reminder, Fort Bliss is one and a half times the land area of the State of Rhode Island.

KENNEDY:

Right.

WHITE:

We do not--I--I really want to be as clear as I can be about this. We do not set up temporary influx shelters on sites that pose an environmental health risk to children. In fact, we have ruled out sites in the past specifically on that basis that were otherwise suitable. We vet hundreds of potential sites that sister agencies identify. The sites that you identify in your letters are ones that had already been precluded by HHS. We'd already ruled them out before we even go to the environmental assessment because there were other things that made them unsuitable.

KENNEDY:

And sir, just briefly because I'm running out of time here. I--I appreciate that--that feedback. A facility in Homestead, Florida was not required to obtain state li--state licensure because it's located on federally owned property. That begs the question as to whether recent efforts to identify more federal property to house these children is an effort to circumvent some of those state licensing requirements. Do you have any knowledge as to any effort to do so?

WHITE:

So, I have worked on every single influx sheltering mission in the history of this program and I'll tell you some things about that. I would love it if they were stated licensed. The life of every career person and every ORR official who works on that would get tons easier. But, the reality is, it's not that there--that we get around licensure. It's they're--they're licensure exempt. We are not appropriated with enough funds to maintain a steady capacity that accounts for the real surges we see. So, there are times when we must use temporary influx facilities because the alternative is border stations. And we've heard conversations today about why border stations, although they are absolutely suitable for law enforcement, are not suitable for child welfare.

I am very proud of the work that I have done and my colleagues have done on influx shelters and the way that we maintain program standards under an incredibly difficult time, situations with fluctuations--

DEGETTE:

--Gentleman's time--

WHITE:

--in numbers of children we get--

DEGETTE:

--has expired.

KENNEDY:

I appreciate that, sir.

DEGETTE:

Gentlelady from California, Ms. Barragan, is recognized for five minutes.

BARRAGAN:

Thank you, Madame Chair. And thank you all for being here today and commander, for some of your responses. I actually have visited an ORR facility down in San Diego with several of my colleagues. I--so, one of my colleagues on the other side of the aisle asked what's a day in the like--you know, what is it like a day in the life. And let me tell you, when I went to go visit this facility and talking to some of my colleagues that have visited other facilities, what we saw were children, children who were very quiet. Children who were not playing and happy and interactive like kids should be. And what we saw was the impact of trauma that was happening. Kids that were crying for their parents. Kids that wanted to be with their parent.

And I heard an official say, oh, the kids have it really good here. They got a bed. They can play. And I ju--and they said--one of them even said they have it better than my own kids do at home and I was shocked. Well, your kids at home get to be with you. And to indicate and to just even say that a child has it well off here when they're separated from their family I think just shows just a complete ignorance of the trauma that is felt by these kids. And we have heard report after report kids being reunited with their parents, feeling like they were abandoned by them. Not recognizing them. Not wanting to go back to them I think is so critical.

Now, I've introduced a bill, a mental health bill, to making sure that we provide ongoing medical treatment for kids even after they have left these facilities because I don't think they're getting that care and this trauma goes on for a very long time.

Now, I was--one of my questions was going to be about where can a member of congress actually find the standard that's--that's being used to say that a parent is unfit and should be separated from their child. But, what I think I just heard from you say is there is no place a member could look because there is no standard. And that's upon us in congress to do; is that correct?

WHITE:

So, it is a question for DHS the criteria that they use to effect separations for a cause. But, to be clear, there is nothing in law which either precludes arbitrary separation or defines the terms for separations neither is there anything in law that gives us in the ORR program the authority to say that child is not separated after all and refuse a placement.

BARRAGAN:

And equally speaking, there is no process for a parent to actually say, well, that's not true or to appeal a finding that they should be separated from their child; is that correct?

WHITE:

So, there is no process.

BARRAGAN:

Okay. Thank you. You know, one of the other mind-boggling parts of this whole aspect on this separation has been on how difficult it has been for the administration to reunite families and the lack of a tracking system. I think--I read the--the January 17, 2019 HHS OIG report and my--from my reading of it, it says--the report is still not clear that ORR, HHS, and DHS can track separated families across agencies even today. Is that true, Ms. Maxwell?

MAXWELL:

Yes. Both agencies have stated they've made improvements to their tracking systems. We do have ongoing concerns about the quality of the data being input into those systems. As I mentioned, current separations or information about them is being sent to ORR, but not always the level of



specificity and sometimes even limited information as to the reason of separation. For example, while most of them are separated and the indication is for criminal history, we did note that some separations were--the reason given was immigration offense only and some reasons were just given as other.

So, given that lack of transparency about the reasons for current separations, we made a referral to the DHS OIG to look into this because we think the quality of the information in those system is--is critical as having those systems.

BARRAGAN:

So, what--Ms. Larin, maybe you can also chime in here on what do you--what--what needs to happen so that we can make sure that we're--these data systems have the proper information sharing and that vulnerabilities could be addressed?

LARIN:

As I mentioned in my testimony, both agencies have made changes to their systems--

BARRAGAN:

--Mm-hmm--

LARIN:

--Prior to the court order. Neither one of them had a way to consistently indicate whether a child had been separated. Now, each of them have a checkbox. But, initially, it was not clear that data was consistently being shared between the agencies. So, we have not assessed since then whether the--the systems are working to identify every child who's been separated.

BARRAGAN:

Okay. And then commander, when my colleague from Oklahoma was asking the question about how long separations have been going on, I think you tried to at least explain that they were not going on like this prior to the zero tolerance policy. Would that be accurate?

WHITE:

There have always been separations for cause throughout the history of the program.

BARRAGAN:

I--

WHITE:

--That is different--

BARRAGAN:

--Commander, I--I--

WHITE:

--From the whole separation.

BARRAGAN:

I'm already over my time. There's been a change, hasn't there been?

WHITE:

There has been a change. That's why we're talking.

BARRAGAN:

Yeah. So, just so everybody knows, I sit on Homeland Security as well. Secretary Nielsen came in, said there was no separation policy. She's lied before. But, then of course, she starts mincing words and when you really find out what's happening is they started prosecuting parents and that resulted in the separation of children. So, it's this administration's zero tolerance policy. It's this administration that is starting--that started this from happening. Was trying to hide it and how--now, congress is trying to make sure we provide that oversight and we'll continue to do so. I yield back.

DEGETTE:

Gentleman yields--gentlelady yields back. Gentleman from Florida, Mr. Soto's recognized for five minutes.

SOTO:

Thank you, Madame Chairman. So, as far as I could tell the timeline, we saw a draconian immigrant family separation order come down without prior planning, coordination, or advice from the White House leading to absolute chaos. And for that, I'm sympathetic to those of you who had to implement that because you weren't given any advice on that.

And we saw a population of separated children skyrocket. My colleague, Mr. Kennedy, mentioned the Homestead facility that I had the unfortunate honor of having to go to after being blocked initially from being able to go. And there at the Homestead facility, the second largest that we had, 100--1,179 teenagers were at this facility made for 500. And that was the first clear point for me that there was no preparation for this much to do with the fact that the White House didn't give anybody advance notice and just threw it out there.

The bottlenecking of these kids was caused by several policies, like zero tolerance, but another one was the fin--fingerprinting of entire adult members in the household. That was an HHS decision in the Tornillo Influx Care Facility and in other facilities.

Commander White, did HHS implement the extra vetting process in 2018 to include all members of the household in addition to parents or potential sponsors? Ye--yes or no because we'll go--

WHITE:

--I'm so--I--I'll apolo--could you say--I had a hard--I didn't actually hear you. I'm sorry.

SOTO:

Did HHS implement extra vetting processes in 2000--June 2018 to include all members of the household in addition to the parents or potential sponsors?

WHITE:

We expanded our biometric background check in 2018. And subsequently, we had a change in operational policy to waive some of those requirements again. We have been iteratively changing our review process in response to oversight from congress as well as our own lessons learned--

SOTO:

--And--

WHITE:

--Since 2014.

SOTO:

And Commander, we'll get into some of those things. Did HHS consider this new policy would affect the increase of the number of children under ORR's care on whether you all had the resources to meet those needs at that time when you implemented that additional fingerprinting?

WHITE:

The two main variables that drive the number of kids in care at any time are the number referred each day on average and the number discharged each day on average. So, among the variables that we looked in modeling scenarios was a continued decline in discharge rate that did occur.

SOTO:

And then we saw later HHS announce that it would no longer require additional vetting determining, quote "additional steps required to fingerprint all households." This had an impact on timely release of UAC without demonstrating benefit to the safety of children after their release from ORR care. And we saw HHS Assistant Secretary Johnson state that adding anything to the protection or safety for these kids through the extra vetting was accomplished on--without those means.

Going into sort of our next question, within a month of the extra vetting policy reversal, the last of the children held at the Tornillo Influx Care Facility were gone. Did HHS conduct an analysis of this fingerprinting policy prior to or after its implementation?

WHITE:

So, both. So, the--the right way of understanding this is that we iteratively are constantly looking at our release processes for safe and timely discharge. And I want to be very clear with you, congressman. Safe discharge and timely discharge have--have some friction between them.

SOTO:

Sure.

WHITE:

The safer you make a review process for a sponsor, the longer the average length of care. Our motivations were to increase child safety. That poli--that particular operational change after we were able to see how it rolled out in practice, it burdened discharge rate more than it benefited safety and that is why Assistant Secretary Johnson made the announcement that she did. We continued to strive and will continue to strive to make changes as we need to to find the optimal ratio between safety and timeliness in discharge.

SOTO:

So, given the fact that it caused more of a delay than actually kept children safe and led to more mushrooming of the population, you all determined ultimately it wasn't in the best interest of the child to--to do that.

WHITE:

That's right. All of our decisions in the ORR program must be guided by the best interest of the child, but they're also bounded by the appropriated resources we receive.

SOTO:

Thank you.

DEGETTE:

Gentleman yields back. I--I've extended the courtesy to the ranking member for additional round of questioning.

GUTHRIE:

Hey, thank you very much. And Com--Commander White, it was mentioned you--they had--you had unaccompanied children at Fort Bliss--ORR had at Fort Bliss. I understand Fort Bliss is a massive bliss. I'm sure you didn't put them in the parts of Fort Bliss that they don't belong. But, you also said that was 2016.

WHITE:

Correct. We--

GUTHRIE:

--I want you to verify that was 2016.

WHITE:

We--we operated a temporary influx shelter in 2016 at the Dona Ana Range Complex on Fort Bliss and we sheltered nearly 9,000 children there. And because of that, we were also able to safely evacuate children out of the path of a hurricane from Florida and to prevent a backup in border stations. I am proud of what we did at Fort Bliss. I'm proud of what we did over two administrations in every one of our influx missions.

GUTHRIE:

Okay. And that was--that was previous to President Trump's administration.

WHITE:

Sure.

GUTHRIE:

I just want to ask this question and then I'll--I'll finish up because I know we got another panel coming. But, just kind of putting where we are now is where I'm going to get at. So, has ORR's accounting and tracking of children changed--separated children changed since the zero tolerance policy? Are you receiving the proper information from DHS to properly have the information you need about children that are separated? Not unaccompanied, but separated for cause. And if not, what can congress do--or overall, let me finish--what can congress do to make your job more effective--make your job more effective?

WHITE:

So, we've added--we've added--essentially it's a box in the referral--the electronic referral system that DHS personnel use--CBP personnel use to refer a child into ORR care for the referring agency to indicate if this child has been separated. And if so, the circumstances of the separation, right? So, that is a--an improvement we've made electronically. We additionally have added more robust procedures in our own intake's process to identify and notify up if there are minors that the program that's providing care to the child believes they're separated so that we can more comprehensively track them.

In terms of what congress can do, it is reasonable to believe that if there was clear legislative guidance about when a child may be separated from a parent, that would ease the work of both departments. Both our colleagues at DHS who are striving honorably to execute their requirements and us. Additionally, many problems would be prevented if ORR shared with DHS the power to determine who is unaccompanied. As a reminder, we accept all the children who are referred to us. A lot of things might be different if that power were equally shared between the two agencies. That's what congress could do for us.

GUTHRIE:

Thank you. I appreciate that.

WHITE:

And that's only my opinion.

GUTHRIE:

I appreciate that. I yield back.

DEGETTE:

Thank you. And--and Mr. Cardenas from California has come in. So, I'll recognize him for five minutes.

CARDENAS:

Thank you very much, Madame Chairwoman and thank you for giving us, the legislative body, an opportunity to shed some light in full view of the American people and the world on how to get down to the bottom of what's been going on with the--I personally consider it an atrocity that any country would wholesale take action--intended action of separating babies, children from their parents. I--I haven't heard of anybody in the psychological field that has said anything other than that is probably the worst thing that a person--that a--a society or any individual could do to a young brain is to give them that experience of that trauma. I have not heard any of them say anything other than that trauma lasts a lifetime. Not only does it have a mental effect on that human being for a lifetime, it actually translates into negative physical effects as well.

So, that having been said, it's alarming to me that--earlier--I think it was you, Commander White, was quoted as making a statement along the lines that perhaps you're not even going to be able to reunite all of the children in custody today with their appropriate parents. My point on that is if in fact that's what you were willing to admit, I thank you for that admission because until that moment, we were given stories from the administration and various departments that everything's going to be okay at the end of the day. It's not that bad. All the children are going to be just fine. And nothing could be further from the truth. No offense, once a child has been traumatized like that, it's never going to be just fine after that fact.

I just want to remind us that--that the ability of not being able to return every single child to their rightful families eventually and for us to--to do anything less than everything that we can do to make that right with that child and their family, we--anything less than that would be like we're trying them like sweaters left behind in a lost and found. And these are human beings. They might not be American human beings, but they're human beings.

With that, I'd--I'd like to ask some questions. Commander White, with the reports of children crying themselves to sleep at the ORR facilities, did HHS provide any advice or training to CBP on how to minimize trauma to sep--for the separated family members, particularly the children?

WHITE:

So, that's something we'd have to get back to you on. I do not know if there was an interagency discussion. HHS is a big agency. I did not myself provide any technical assistance to an interagency, but that is a question we'd need to get back to you on.

CARDENAS:

Okay. If you can provide that to the committee, that would be very important for us to know the answer. And--and again, Commander White, I--I'm--I'm not here to--to beat you up. I'm actually here to compliment you because everything that I've heard about your comments have been pretty darn forthright and--and just--just straightforward with--with trying to paint a truthful picture about what happened and what's been going on.

I apologize. I'm--I'm having a hard time even asking some of these questions because it--it is just so startling that in the greatest country in the world we actually participate in this in separating thousands upon thousands of children. But, at what point in time was your department made aware that there was going to be an increase--a drastic increase in influx of children that would have to end up in your custody?

WHITE:

I am not aware of any HHS--I have no personal knowledge of any HHS person being advised of ZTP, zero tolerance policy, prior to its public announcement.

CARDENAS:

So, because my time is short, thank you. Did you personally inquire or did--or did you discuss with any of your colleagues at your level above or below that if they were inquiring to ask if anybody else has heard? Or--or at least--.

WHITE:

--Because--.

CARDENAS:

--Maybe--maybe they--they were inquiring, but they weren't getting any answers. What--?

WHITE:

--Because I--because of many interagency meetings, I was--it was clear to me that there were--that the possibility existed that separation was going to happen. Indeed, that preparation for that policy possibility was underway. As I've testified previously, I did elevate those concerns to my own immediate leadership.

CARDENAS:

But as far as you know, no--no direct answers were given based on the question I just asked earlier.

WHITE:

I'm--again, to my knowledge, no one in HHS knew the zero tolerance policy. I have never heard a HHS person say to me yes, I knew the zero tolerance policy was going to happen.

CARDENAS:

Thank you for your frankness, Commander White. Thank you, Madame Chair.

DEGETTE:

Chair now recognizes gentleman from Maryland, Mr. Sarbanes for five minutes.

SARBANES:

Thank you, Madame Chair. Thanks for the hearing. Thanks to our panelists. Ms. Larin, your inquiry in terms of the GAO's review of all this, was that confined to looking at what was happening in ORR? Or was it more--was it broader than that, looking at the other agencies and how they touched this issue of the zero tolerance policy?

LARIN:

We looked at planning both by HHS and by DHS.



SARBANES:

DHS. Good.

LARIN:

Or lack of planning. Yeah.

SARBANES:

Okay. So, I was fascinated when you gave your initial testimony because you seem to be describing a situation in which the official policy of the administration was that there would be no family separation, but the unofficial policy, going back to 2017, was that there would be a family separation, which obviously puts the professionals who are trying to do their job well in an incredibly difficult position. They sit in meetings having to interpret coded language or winks and nods as in our official policy is not to separate families, but in effect on the down low, this is what we're really up to.

Terribly disrespectful of people who are trying to do the right thing, as I believe Commander White, you've indicated you were trying to do at every step along the way. And having to--to tolerate the--the kind of atmospheric conditions that seem to be happening in these meetings and gatherings where you're trying to pull information to allow you to do the right thing.

So, Ms. Larin, I would just like you to expand a little bit on that disconnect. I mean, I've seen the Trump administration issue kind of shoot from the hip policy directives that get carried on cable television before people in the--in the--in the agencies that have to own those directives even know about it through a combination of incompetence sometimes or other motivations. But, this is an interesting case because this is one where every--the powers that be seem to know what they were up to and they were saying officially, we're not doing any of that stuff. There's no zero tolerance policy. There's no policy of separating families. But, actually, that's what we're doing.

Describe that disconnect to me because you--you touched on it in your initial comments. And I think it's very telling as to the difficult position that so many people just trying to do their job and trying to protect the interest of these families and children were placed in as a result.

LARIN:

So, I noted in my testimony that there was an increase in separated children, children who were separated from their parents between 2016 and 2017. And we were told that there were two different policies that potentially led to that increase. One of those was a memo by the attorney general that was issued in April 2017. So, a year before the April 2018 memo that prioritized enforcement of certain immigration related offenses. And there was also an initiative that was specific to the El Paso border patrol sector, which, again, increased referrals and prosecutions of immigrated--immigration related offenses, including of parents of minor children and that likely resulted in separation.

So, there were policies that were being implemented that could have led to that increase.

SARBANES:

What's interesting about that is it almost sounds like the administration was finding ways to test this out before they moved into a more official posture on it. One would've thought, based on some of the ripple effects, that those more localized were targeted deployment of this policy would've demonstrated that they would've come back realizing that that was a terrible direction in which to go. But, apparently, the lesson they drew from it was that they should expand the policy more broadly with the disastrous and tragic impacts that it's had for these children. And I yield back.

DEGETTE:

Gentleman yields back. I just have a couple of final questions for the panel. Co--Commander, I--I think you had said for the--the children separated before the April order that it would be very difficult for HHS to now figure out where those kids went because most of them were released into custody as--and to--and to their parents or whoever, ri--is that right?

WHITE:

The--the important timeframe is not when they were separated. It's whether they had already been discharged from ORR by the 26th of June. When we looked at--at the--at the direction of the court of Ms. L, every child--every single child who was in care, we--there was no start date. The earliest--

DEGETTE:

--Right. Okay--.

WHITE:

--Separation of any kid on that list--.

DEGETTE:

--But, the--.

WHITE:

--Was separated in 2014. That's how--we went back as far as they went.

DEGETTE:

But--but the court order said you had to identify children after the time of the order; is that right?

WHITE:

There was no start date from when they were separated. What mattered for the order was whether they were in care on or after the 26th--.

DEGETTE:

--I see--.

WHITE:

--Of June.

DEGETTE:

So, what you're saying today is to be--you know, and--and--and you painted this draconian picture of if ICE went back in to these homes and took these kids, I don't think anybody's suggesting that that's what we should do. But, if we were going to identify what Ms. Maxwell talked about, the potential thousands of kids who might have been separated we don't know, it would probably take another court order to do that because of the interagency operations. Is that what you're saying today?

WHITE:

I'm saying that I don't believe that we're capacitated to look--but, from July of 2017 until the court date, more than 47,000 children came--.

DEGETTE:

--Right--.

WHITE:

--Out of our door.

DEGETTE:

Yeah, but--but-.

WHITE:

--The best way to get that would be to pose this question to the Department of Homeland Security because, as a reminder, HHS separated zero children.

DEGETTE:

Right. I understand that.

WHITE:

We weren't there when it happened.

DEGETTE:

Believe you me, I understand that. But--but, however--and--and you don't really have to answer this, but--but HHS said they couldn't--couldn't identify those children before and the court said to do it. So--so, we--we're going to hear from our next panel about what they want to do, but this is what we're concerned about is these thousands of kids that the IG has identified that may or may not be with family members now. So, you know, we'll--we'll--we'll have to explore this further.

WHITE:

Right.

DEGETTE:

There's one other thing. You had mentioned to Congresswoman Castor a memo that you wrote in 2--2017; is that right?

WHITE:

I apologize. The--the Castor memo?

DEGETTE:

No, you wrote--you had told Ms. Castor you wrote a memo in 2017 to your supervisors.

WHITE:

Yes.

DEGETTE:

Okay.

WHITE:

I wrote--.

DEGETTE:

--So--.

WHITE:

--At least--.

DEGETTE:

--So--.

WHITE:

--I have multiple memos.

DEGETTE:

So, this is really more of a message for your department and not for you, but on January 18, 2019, Mr. Pallone and I sent a letter to the secretary asking for a number of documents. That would have been included in those documents. While we have received some documents in this committee, we did not receive that document or many other relevant documents. And so, I'm just--I'm asking you to please communicate to the department that they do need to comply with this document request. And I would ask unanimous consent to put our January 18th letter into the--into the record without objection. So ordered.

WHITE:

And I know HHS is going to fully honor your--your request. And I've talked both--they're working very hard on going through that number of documents.

DEGETTE:

Okay. And--.

WHITE:

--That will happen.

DEGETTE:

And--and the last thing I'll say is we really--we really do value the efforts that you have made, but we intend to continue this investigation because many of the questions the members have asked are questions you can't answer because they took--they--these conversations took--took part--took place above you. And I also want to thank all the other witnesses for participating in this hearing and for your thorough investigations.

Members will submit re--re--questions for the record and I ask that the witnesses respond promptly to the questions. And with that, the subcommittee will dismiss panel one. After the next pan--af-- after the next panel's been set, we'll invite them--them to the table.

(RECESS)

The chair will--will announce--because people have asked--the--we're expecting a series of votes between 1:30 and 2:00. And so, we're going to start with testimony from the second panel and then we'll break when we go for votes so that if people need to use the restroom or grab a quick bite, they can do that. And then we'll reconvene 15 minutes after the vote ends.

So, I'd now like to introduce our second panel. I don't know where Mr. Gelernt is. He's on his way. Mr. Lee Gelernt, who's the deputy director of the Immigrants' Right Proj--Rights Project of the American Civil Liberties Union will be joining us. Ms. Jennifer Podkul, who's the senior director of policy and advocacy of Kids In Need of Defense. Welcome, Mr. Gelernt. Dr. Julie Linton, who is the

(LAUGHTER)

co-chair of Immigrant Health Special Interest Group of the American Academy of Pediatrics. Dr. Cristina Muniz De La Pena, who is the Terra Firma Mental Health Director of the Center for Child Health and Resiliency, who's here on behalf of the American Psychology Society. Dr.--Dr. Jack Shonkoff, Pr--Professor of Child Health and Development and Professor of Pediatrics of Harvard Medical School. And Ms. Dona Abbott, the Vice President of Refugee and Immigrant Services of Bethany Christian Service. Ms. Abbott, I'm sorry we don't have a name tag yet for you, but we are printing one off.

(LAUGHTER)

This is the glitches when you have your first committee hearing of the year.

I--I know all the witnesses are aware we're holding an investigative hearing and when in do--when doing so, we have the practice of taking testimony under oath. Does anyone have any objections to testifying under oath? Let the record reflect that the witnesses have responded no. The chair advises you then that under the rules of the House and rules of the committee, you are entitled to be accompanied by counsel. Do you desire to be accompanied by counsel during your testimony today? Let the record reflect that the witnesses have responded no.

If you would then, please rai--rise and raise your right hand so that you may be sworn in. Do you swear that the testimony that you're about to give is the truth, the whole truth, and nothing but the truth? Please be seated. Let the record reflect that the witnesses have responded affirmatively and you are now under oath and subject to the penalty set forth in Title 18, Section 1001 of the Criminal Code.

The chair will now recognize the witnesses for a five minute summary of their written statement. There's a microphone and series of lights in front of you. It turns yellow when you have a minute left and red to indicate your time has come to an end.

Mr. Gelernt, you're now recognized for five minutes and thank you for being with us.

GELERNT:

Thank you, Chair DeGette, Ranking Member Guthrie, and the rest of the members. I apologize I was late. I am the lead ACLU lawyer in the family separation lawsuits. I'm going to talk a little bit from that background. Talk a little about the lawsuit, where we are, what I think needs to happen.

I've been working at the ACLU for more than 25 years doing civil rights work in the immigration area. And I feel confident in saying that the family separation practice is the worst thing I have seen in my 25 plus years. No other administration has done anything like this family separation policy. I think the prior panel made it clear that it was very limited in the past, it was for cause, it was not this widespread systemic family separation. And I think worst still, family separations are still occurring. And as that, the prior panel mentioned.

We filed our lawsuit in March of 2018 and this is before zero tolerance policy. And at that point, we alleged based on talking to lots of people over the country that there were hundreds of separations. By the time I stood up in court in the beginning of May, the media had reported roughly 700 separations. I think it now is clear that there may have been many more, but this is even before zero tolerance policy. And when the court ruled on June 26th, the government reported that there were 2,700 separations.

Those 2,700 are not obviously the whole story, as this committee has--has talked about previously with the prior panel. The government's response now to the HHS report doesn't dispute that there may have been thousands more kids separated and released from ORR before the June 26 date of the court's order.

There--I--what I find remarkable is that HHS is saying it may not be worthwhile and just too hard to actually try and find where all these children are and where the parents are. And that it's remarkable that there--that HHS is saying it may be in the child's best interest not to do so. And Commander White mentioned that it would not be great for ICE to now be showing up at all these children's houses. We--I--and I'd like to talk about this more hopefully during the questions, but we see no reason why that would have to be how it would be done. The information could be provided to social workers, to us just as it has in the past, and we could find out what the family wants to do. But, to say in the United States it's not worth finding children the government separated seems to us to be an untenable position.

I--you know, at a minimum, I think we need to find out the full scope of the problem. You know, and--and I think that the government really needs to participate in that process. I think one of the things that the committee knows is that there were roughly 400 parents that we know of who were deported without their kids. And at one point, the government stood up in court and said, well, if the ACLU wants to find those parents, let them find them. And ultimately, Judge Sabraw put his

foot down and said no, the government has to help the ACLU. But, I think going forward, you know, that's a lot of time and resources. We're happy to do it, but we certainly need the participation of HHS to--to help us and for the rest of the agencies.

Let me just sort of conclude by five--with sort of--stating five points that I think are critical going forward. Excuse me.

First, we--you know, as I said, we think the committee should ensure that HH--HHS accounts for these thousands of kids talked about in the report to see how many there are, where they are, and what needs to happen. The second point is we think it's critical going forward that there be proper procedures put in place and proper processes going forward so separations do not occur based solely on a unilateral determination by an untrained CBP officer at the border.

Third, in the extremely limited situation where separations do occur going forward, it's absolutely critical, as the prior panel pointed out, to have an integrated database that allows tracking quickly. And Judge Sabraw was shocked, truthfully, that--how bad the tracking system was. He--you know, he called the separations brutal and offensive, but then on top of that, he said--he--he--he was really startled by the lack of any kind of tracking system. And I don't think one is in place at this point.

Fourth, there were many parents deported without their children who were misled or coerced into giving up their own asylum rights. We believe that those parents, if they have legitimate asylum claims and were coerced or misled into leaving without their children, ought to be given a fair opportunity to have an asylum hearing. I mean, some of those parents got on the plane, were told their children will be on the plane with them, only to have the plane take off. And now, they're stuck in Central America and their children are here.

Finally, we believe strongly that funds should be allocated for the families that were separated to assist them with obtaining medical and other types of assistance. I--you know, as was pointed out in the prior panel and I think it's going to be strongly reinforced by the doctors on the panel, these children are suffering real trauma and harm and they need assistance. You know, as--as--just conclude by saying as--when I met with one of our plaintiffs and--the mother who had had a four and 10 year old child taken from her for months, you know, when she said when they came back was the four year old still asks her are they going to come and take me away again in the middle of the night. And I think that's what's--that's what's going on with these children. Any--any sense of, you know, stability has been shattered and without real medical assistance, I think it's going to be very difficult for them to recover.

So, I'll stop there. Thank you.

DEGETTE:

Thank you, Mr. Gelernt. Ms. Podkul.

PODKUL:



Thank you, Chairwoman DeGette, Ranking Member Guthrie, and members of the subcommittee. I'm very grateful for your invitation today. I'm here to represent Kids In Need Of Defense, a national organization dedicated to promoting the rights of child migrants and ensuring every child has access to high quality legal representation.

Traditionally, KIND has only represented children who arrive in the United States unaccompanied, meaning without a parent or legal guardian. However, last summer, during the family separation crisis, we expanded our services to serve the separated children and families. The majority of children that we serve come from El Salvador, Guatemala, and Honduras. These children have fled their countries out of a desperate need for protection. Extreme violence and threats to their lives and safety leave them with no choice but to flee. Children are telling us that they're embarking on what they know will be a dangerous journey. As one 11 year old told me who I interviewed, he said, if I stayed in my country, I would die. If I took the journey, I might die. So, I had to take the chance.

Because of these levels of fear and desperation, any policies designed to deter future asylum seekers from asking protection will be unsuccessful. You can't deter away a refugee crisis.

Unfortunately, what we saw this administration do last summer was an attempt at deterrence, but in the most cruel way imaginable. Once the systematic separations began taking place, KIND sent emergency teams of lawyers to serve these families. Their stories were heart breaking. There's an eight year old boy who was separated from his father and he was put on an airplane to an ORR facility over 2,000 miles away. The DHS office--officer told him he would see his father when he got there. That was not true.

There was a seven year old who was highly traumatized by being separated from her father. And when the KIND attorneys went to go meet with her in the shelter, they could not even begin to discuss her legal case. She couldn't even answer questions. She was just sobbing during that entire meeting. There was a mother who was separated from all four of our children. And when she was finally waiting the return of her youngest, she was given the wrong baby.

Our attorneys heard several hundreds of these kind of stories. We were serving younger children than we had ever before. As attorneys, we're obligated to represent a client's express wishes, yet some of these children couldn't even talk. While some of the children have legal claims that are distinct from their parents, many children's cases are dependent on their parent's claim. But, because there was no system in place to track the separated children and their parents, our attorneys didn't even know which children had been separated, let alone how to find the parents.

We must demand accountability for what happened last summer, but we must also focus on the separations that are continuing to take place and address the systematic shortcomings that are still harming children. Although the law allows DHS to separate a child from their parent if there's ever a risk to the child's safety, there are no standards for how that decision should be made.

In order to reduce unnecessary traumas, we need to have answers to these six questions. One, who is doing the screening to evaluate the rare instance in which a child should be separated? Two, what specialized training does that screener have to make a decision with such grave

consequences? Three, what standards are they using to make that decision? Four, who reviews that decision? Five, how can a decision be challenged if there's a concern that the separation was not necessary? And six, what tracking systems are in place to ensure communication and future reunification in the event that a separation must occur? We need answers to these questions immediately.

Congress gave the care and custody of unaccompanied children to Health and Human Services because of their expertise in child welfare issues. HHS should help DHS develop standards for screening and make sure that a child--that a trained child welfare professional is doing that screening to ensure that it only happens when it's absolutely necessary. When DHS sends a child to HHS, HHS must demand that DHS provide complete information about that child and then HHS must always provide that information to the child's attorney or advocate.

What happened to children under the family separation policy must never happen again. Intentionally harming children is not who we are as a country and we must act now to ensure that we are protecting any child that comes to us asking for help. Thank you, and I'm happy to answer any questions.

DEGETTE:

Thank you. Dr. Linton, you're recognized for five minutes.

LINTON:

Chairwomen DeGette, Ranking member Guthrie, and members of the energy and commerce committee thank you for the opportunity to speak here today. I'm Dr. Julie Linton, a practicing pediatrician in Greenville South Carolina where my clinical work is focused on the care of children and immigrant families. I'm the co-chair of the American Academy of Pediatrics Immigrant Health Special Interest Group. On behalf of the American Academy of Pediatrics or the AAP and our sixty-seven thousand members, thank you for holding today's hearing.

The AAP is non-partisan and pro-children. Pediatricians care about the health and well-being of children--all children -- no matter where they or their parent was born. As pediatricians, we know that children do best when they are together with their families. After reading media reports in March of 2017, that the Department of Homeland Security or DHS was considering a policy that would separate immigrant mothers from their children upon arriving at the U.S. border, we immediately spoke out against this proposed policy. We subsequently wrote to DHS six times to urge the agency to reject such a policy. The AAP also issued roughly half a dozen statements about why family separation devastates the most basic human relationship we know. That of parent and child. The AAP has repeatedly said that separating children from their parents contradicts everything we stand for as pediatricians, protecting and promoting children's health.

Today I will underscore the health effects of separation with what we know from the scientific literature and what I know for caring for patients. Prolonged exposure to highly stressful situations, known as toxic stress, can disrupt a child's brain architecture and adversely impact short and long-term health. A critical role of a parent or known caregiver is to buffer this stress. Separation from

a parent robs children of that buffer. Separated children can face immediate health problems including physical symptoms like headaches and abdominal pain, changes in bodily functions, such as eating, sleeping, and toileting -- behavioral problems like anger, irritability, and aggression, and difficulty with learning and memory. Children who have been separated may also experience feelings of mistrust, embarrassment, guilt, or shame. In the long-term children who have been separated may be susceptible to chronic conditions such as depression, post-traumatic stress disorder, diabetes, or heart disease.

I have seen the impact of family separation with my own eyes. In June of 2018, I cared for an eight-year-old boy that I will never forget. This boy and his pregnant mother fled violence and direct personal threats in Central America. Realizing that the zero-tolerance policy was at that time in effect I specifically and gently asked the boy and his mother if they had been separated at the border. With my question, a chilling silence arose. They both became tearful, and their angst was palpable. The boy shook, and his mother shuddered, whispering seven days. For seven days this boy and his pregnant mother did not know about the other's location or safety. This separation was shorter than many children harmed by the zero-tolerance policy, but he still suffered the consequences. He could no longer sleep through the night. He had trouble being away from his mother for even a short period of time, and his mother reported he was a shell of his previous self.

Children are not little adults. To untrained eyes, they can appear quite healthy even when their systems begin to shut down. Tragically this was the case for Jacqueline (SP) and Philippe (SP) while in the custody of customs and border protection in December. We urge our federal agencies to apply a child-focused lens when considering policies that could have an impact on child health.

The AAP remains committed to working with federal agencies to offer our expertise as medical providers for children in order to protect and promote child well-being. Additionally, children should not be placed in unlicensed facilities whether they are run by HHS or DHS. The findings of the HHS Office of Inspector General about Cornell (SP) and family separation are troubling. We urge all relevant federal agencies to address these findings.

It is critical that all reunified children receive appropriate medical care in the community to help them recover from the traumatic experience of separation from their families. Children and families who have faced trauma, with trauma-informed approaches and community support can begin to heal. As a pediatrician, I know that first and foremost we must treat all immigrant children and families seeking safe-haven in the U.S. with dignity, compassion, and respect.

Thank you.

DEGETTE:

Thank you, Dr. Linton. Dr. Muniz de la Pena recognized for five minutes.

MUNIZ DE LA PENA:

Thank you for the opportunity to share my thoughts before the subcommittee related to the adverse health impact of family separation at the border.

I'm Christina Muniz de la Pena, licensed psychologist, and director of mental health services at Terra Firma Immigrants Youth Clinic in New York City. I'm speaking also today on behalf of the American Psychology Class Association or the APA. Terra Firma is a program designed to serve and unaccompanied immigrant children and families since 2013. Over the past six months, however, Terra Firma has received increased requests for mental health services from foster care agencies and immigrant--immigration attorneys caring for these children, as well as from the parents themselves who had been reunited with their children and are still struggling with the aftermath. My thoughts are drawn both from case examples from the therapeutic work with these children and from research findings.

The traumatic impact of the separation children--of children at--in the border involves at least two different types of trauma. One is the acute trauma or the insensitive manner the separations were performed, and the other is the trauma from the length of the separation. The level of impact of these vary depending on crucial factors. Such as the child's age and gender, developmental level, the level of harshness of the separation, the level of--the length of the separation, the degree to which the child had communication with the parent during the separation, and the degree to which the child was informed--and predictability was offered during the separation.

Ample research tells us that unwanted and unexpected separation from parents may have severe consequences in a child's developmental processes and psychosocial functioning. When separated from their parents' high levels of anxiety and distress occur which impair the developmental trajectories in otherwise healthy children.

The following two examples illustrate some of the adverse circumstances and outcomes of parent-child separations. The youngest child in our program was a two-year-old Honduran boy who had been separated from his mother while asleep and was kept away from her for two months. The mother had been told to leave the detention cell, and when she asked to wake her son up to take him with her, the officers told her to not bother because she was going to be right back. After two months of helpless wait, the mother was reunited with her son in New York. She came to our program asking for help concerned about the three-year-old--the then three-year-old sons' anxiety of separations and persistence hypervigilance. During the sessions, the boy clung to his mother with fearful demeanor and had great difficulty relaxing and letting go to initiate the normal exploring behavior of a child his age.

Another four-year-old, a Salvadorian boy I evaluated who appeared highly pleasant, engaged, and animated at first would suddenly turn quiet, stare off, and become emotionally flat following each question about his father and the separation. During these episodes, the child appeared to struggle to return his attention to the present moment and reengage in conversation and play. These are clear symptoms of dissociation. From the trauma of being snatched from his father without any explanation or opportunity to say goodbye. Research shows that the longer parents and children are separated the greater this reported symptom of anxiety and depression.

According to the APA's Presidential Task Force on Immigration sustained parental separation also predicts--predicts ongoing difficulty trusting adults in institutions as well as reduced educational attainment. Attachment is the emotional bond that typically forms between infant and caregiver.

In lay terms attachment, love and protection from a parent is to a child's mental health what water, oxygen, and food are for physical health. It is the means by which helpless infants get their primary needs met. It is also the needed platform of safety and comfort that allows for a child to explore learn and develop.

As an example, the mother of the two-year-old described earlier, expressed feelings of profound anxiety and depression because she was terrified of connecting emotionally with her son then being detained causing him a second trauma of separation. As a result, she found herself keeping her emotional distance to protect her child from a second trauma of separation. And therefore, she was unable to provide the emotional, safety, and nurturing necessary for her son to feel safe, venture into the world, and develop.

In sum from my observations and well-documented research findings attachment with the main caretaker must be protected and preserved. Meaningful access to trauma-informed mental health care is critical to ensure that both adult and child survivors of separation trauma heal. I would urge this committee to consider the serious mental health impact of parent-child separation on both children and parents and put an end to the practice of family separation and help to ensure that immigrant children and their parents reunite and received needed mental health care. Chairwoman, I would ask that the letter that the APA wrote to the President in June about family separation be included in the record and I would be pleased to answer any questions.

Thank you.

DEGETTE:

Thank you. Now, Ms. Abbott, I'm pleased to recognize you for five minutes.

ABBOTT:

Chair DeGette, Ranking member Guthrie, and members of the subcommittee thank you for this opportunity to appear before the committee today so that I may share the impact that family separation had on the children Bethany serves and propose solutions so that we as a nation may better care for children and their families who are seeking refuge.

My hope is that the protection and care of children evokes a bi-partisan response. Bethany partners with the Office of Refugee Resettlement as well as Lutheran Immigration and Refugee Services and the U.S. Conference of Catholic Bishops to meet the need of unaccompanied children. These children have fled from dictators, gang violence, sex, and labor trafficking, starvation, and countries with the highest murder rates in the world.

ORR does a good job of ensuring that children in transitional foster care have access to services they need including a safe temporary foster home, education, medical care, case management, mental health services, legal screening, and post-release services. As soon as children enter our care, we immediately begin the process of locating their families.

Since 2013, Bethany has directly reunified more than two thousand unaccompanied children with sponsors. Our mission always has been and always will be to quickly and safely reunify children with their families. During the implementation of the family separation policy, Bethany provided care for one hundred and eight separated children. Bethany's staff worked diligently to identify the location of their parents and jointly with their parents develop a reunification plan for every separated child in our care as we do with every unaccompanied child in our care.

Sadly, some children are still being separated from parents and caregivers at the border. While the reasons for continued separations are not often clear and continue to be concerning it is never okay to take children from their families for the purpose of immigration enforcement. Children should never be used as a deterrent, leverage, or bait. Many more children could be better protected by giving ORR authority at the border.

Under current law, CBP has seventy-two hours to determine if a child is fleeing to the United States as an unaccompanied child, with a parent, or known guardian, or being trafficked. CBP is a law enforcement agency, and their agents are not trained in child welfare best practices. ORR social workers with a background in child protection could facilitate quick adequate investigations and assist in making decisions about the appropriateness about separation.

I would also like to address a major barrier to reunifying with families. In May 2018, the Department of Homeland Security and HHS announced a memorandum of agreement mandating continuous information sharing on unaccompanied children including their sponsors. We are no longer able to reassure a sponsor that claiming their children won't lead to their arrest and potential deportation to a country that they fled to escape violence and persecution. Sponsors are being forced to choose between the safety of their households and their children. A decision no parent should ever be forced to make. The MOA should be rescinded.

As I was preparing this testimony, I was reminded of two sisters, fifteen and eleven, who were raised by their grandmother in Guatemala. Their mom lived in the U.S. and regularly sent money back home, so the girls could be fed clothed, and go to school. It wasn't long before gang members started visiting their home and demanding protection money. The price for their protection eventually surpassed their ability to pay. Gang members beat grandma in front of the girls and promised to return for the girls if payment was not made in full. The girls fled. Bethany and ORR helped these girls find safety and then eventually their mother. Young girls should not have to live in fear of being raped and prostituted especially when people in this great country can do something to help them. Like these two girls, every unaccompanied child is made in the image of God. Each of them mattered deeply to him, and each of them should matter to us.

Thank you.

DEGETTE:

Thank you so much, Ms. Abbott. And adding clean up Dr. Shonkoff, thank you so much for joining us. You're recognized for five minutes.

SHONKOFF:

Chair DeGette, Ranking member Guthrie, members of the subcommittee--I want to thank you also for myself for the opportunity to be here with you today.

My name is Jack Shonkoff. I'm a professor of child health and development at the Harvard Chan School of Public Health, and the Graduate School of Education, and Professor of Pediatrics at Harvard Medical School, and I direct the Center on the Developing Child at Harvard University. I'm a trained--I'm a pediatrician by training, and my work is focused on early life influences on learning, behavior, and health.

I took the liberty--I promise I will not exceed my time. --But I cut two paragraphs out of my prepared remarks because they've been said by everybody who has spoken here this morning. So what I want to do is take a chance on using this opportunity give you a deeper understanding of what the term toxic stress means. It's been mentioned a great deal. I'm going to give you a deeper understanding of that, and my testimony is based on strong scientific consensus from decades of scientific research. This is not about a single study, but it's the consensus of the scientific community.

Sudden forcible separation from their parents is deeply traumatic for both the child and the parent. But above and beyond the stress we see on the outside this triggers a massive biological stress response inside the child, which remains activated until the parents return and provides some sense of comfort. That exaggeration there are literally thousands of studies that have converged on the following two simple basic core scientific concepts. Number one a strong foundation for healthy development in young children requires a stable, responsive and supportive relationship with at least one parent or primary caregiver. The second concept is that high and persistent levels of stress activation, which is known as toxic stress, can disrupt the architecture of the developing brain and other biological systems--which I will say a little bit about in a moment. With serious negative impacts on learning, behavior, and life long physical and mental health. Not just mental health.

So early experiences are literally built into our brains and our bodies from the beginning. Stable and responsive relationships promote healthy brain development, they establish well functioning immune and metabolic systems and cardiovascular systems and they strengthen the building blocks of resilience. If these relationships are disrupted young children hit by the double whammy of a brain that is deprived of the positive stimulation it needs and is assaulted by a stress response that disrupts its developing circuits.

When any of us feels threatened our body's stress responses are activated. Heart rate and blood pressure go up. Stress hormone levels are elevated. Blood sugar rises, and inflammatory responses are mobilized. This is the fight or flight response. And every one of us knows what it feels like physically to be optimally stressed out. And I want to repeat that--The toxic stress response is what everybody here understands when you are most stressed you know what you feel physically. We all know what that feels. This response is automatic, and it's essential for survival. It is built into our biology, but it is designed to go back to normal when the threat is over. And if the sense of danger continues the ongoing activation of the stress response system shifts from being protective and allowing us to deal with threat to becoming disruptive and outright damaging over time.

For example, persistently elevated stress hormones can disrupt brain circuits that affect memory, the ability to focus attention and regulate behavior. Excessive inflammation in metabolic responses to stress in childhood increase the risk of heart disease, diabetes, hypertension, stroke, various forms of cancer, as well as depression, and a vulnerability to addictions in the adult years. A number of people have eluded to this. It's not magic. We are opening up this black box. We are beginning to understand what is it about all of this constant stress that makes you more at risk for heart disease decades later? It's because the underlying biology is what is happening to these maturing systems.

Unlike positive or tolerable stress which can build resilience, excessive, prolonged toxic stress has lifelong consequences. So, what I want to do is conclude by sharing with you how these scientific principles that I've just described provide a powerful framework for understanding the damage caused by the current family separation policy.

All children who are abruptly separated from familiar caregivers at the border experienced overwhelming stress. Will some survive without significant problems? The answer is yes. Will many be seriously impaired for the rest of their lives? The answer again is yes.

The biology of adversity suggests three factors that influence who is at greatest risk. The first is age. Younger children are the most vulnerable because their brain circuitry and other biological systems are relatively underdeveloped, and they are the most dependent on adult caregivers.

The second is previous harm from adversity. Many people have eluded to this -- the pile-up of stress on children who are already compromised shifts the odds against them even further. Intentionally withholding the most powerful healing intervention, we could possibly offer the care of their parents when children are in danger goes against everything that science tells us-- everything.

The third reason for variation in outcomes is the duration of separation, and that's the part that I want to leave you with. Toxic stress is a ticking clock, and prolonged separation inflicts increasingly greater harm as each week goes by. From a scientific perspective, the initial separation and the lack of rapid unification are both highly indefensible. Forcibly separating children from their parents is like setting a house on fire and prolonging that separation is like blocking the first responders from doing their job.

Thank you very much for the opportunity to speak.

DEGETTE:

Thank you very much, doctor. Thank you. On popular demand, we're going to recess the committee until the conclusion of this series of votes that we're about to have on the floor but ask the witnesses to stay close because we will reconvene immediately after the conclusion of the last vote. Thank you. Committee is in recess.

(RECESS)



DEGETTE:

We will come to order. The chair will recognize herself for five minutes for questioning. Mr. Gelernt, I wanted to start with you. Because I wanted to ask you about this point that--that Commander White made about--about the court ordering the reunification of the families. And--and what I wanted to a--and what he--what he said is that, because of the different agencies that are involved in that process, it really took a court order to--to get them operating together; which, seems kind of ridiculous to me but--but that's what he said.

So, I'm wondering what the ACLU's planning to do in the pending lawsuit about the new reports that we have, that there may have been thousands of children separated, even before the April order and what--what processes are you guys going to undertake?

GELERNT:

Right, thank you for that question cause I think that is a critical point. And--and I wanna be absolutely clear. It's the government's position that the court did not require reunification of the children who were released from ORR before June 26th. Our position is that the court was including those children. So, we have a motion now before the court to clarify that those children who were released--separated and released before June 26th are part of the class. The government has an obligation to find them and reunite them, so we will be in court on February 21st where the court will hear that motion.

And so, what we will ask the court is to--to clarify that those children are part of this class and then to come up with a plan to reunify those children. You know, I would emphasize though--and I think this is a point the Chair made before--is, there is--we believe there is a legal obligation we will try to clarify that on February 21st, but we see no reason why the government should need a court order to do the right thing here and try and reunify those kids.

And to a point I think the Chair made and a few others made, on the last panel we do not believe that it's either ICE goes into all these households and gets the children or nothing is done. We believe it can be done by the government giving the NGOs information about the parents and children, and that we contact them. That's what the court has ordered in the past and that works perfectly well.

DEGETTE:

So, if it's in the best interest of the child then they--then that's what the agency will do? That's right.

GELERNT:

Exactly. We would contact the parent, we would contact the child welfare agency would contact the child's lawyer and we'd say, what's the situation with this family? What do they want to do? There's no reason why ICE needs to go in. And that's worked perfectly well in the past and that could work for these--these thousands of children going forward.

DEGETTER:

Thank you. Dr. Linton, in your testimony you state that there's overwhelming research confirming irreparable harm caused to children by separating them from their family and that the trauma by force s--separations leads to a host of health--health challenges. Is that correct?

LINTON:

(INAUDIBLE)

DEGETTE:

And Dr. Muniz De La Pena, based on your own observations, you found that when children are separated from their parents, high levels of anxiety and distress occur, which can impair the development trajectory of otherwise healthy children. And that includes intense fear, helplessness, and vulnerability. Is that also correct?

MUNIZ DE LA PENA:

That's correct.

DEGETTE:

And Dr. Linton, to put a fine point on it--as I think you testified, separations lead to toxic stress and Dr. Shonkoff testified that that actually disrupts a child's brain architecture and effects short and long-term health. Dr. Linton, is that correct?

LINTON:

(INAUDIBLE)

DEGETTE:

And Dr. Shonkoff? Yes. So--so, I just want to pivot for a second to figure out how we can prevent something like this from ever happening. Before, cause as we heard, kids are still being separated from their parents at the border, and sometimes--sometimes in limited circumstances, separations are appropriate to protect the child, but it's still being elevated. And so, Ms. Podkul, I wanted to ask you--you said, according to your observation, the separation decisions are still made--being made arbitrarily. And so, I want to ask you, what do you think we should do in order to ensure that the separations are only happening in the very limited situation where there's a genuine reason to believe a parent's unfit or presents a danger to the child?

PODKUL:

I think there need to be clear guidelines about when separations are appropriate. And I think we need to ensure that child welfare professionals are making those decisions. Right now, those decisions are being made by customs and border protection officials, and not somebody with specialized training.

DEGETTE:

And do you believe we can put systems in place to track these kids so that DHS is providing ORR with sufficient information so the families can be reunited?

PODKUL:

Absolutely, I don't think that's gonna be hard to do.

DEGETTE:

Thank you. Thank you, I yield to Mr. Guthrie.

GUTHRIE:

Thank you very much, I appreciate that. And thanks to you all for being here today. And I have a couple of questions directed at Ms. Abbott. Bethany Christian Services has spent more than 20 years caring for and helping unaccompanied children reunify with their family in the United States. Can you please describe how this process has changed over the past 20 years?

ABBOTT:

We've--we always have provided care to unaccompanied children. Children who come to the United States without a parent or an adult to provide care for them. What had changed over the last year is seeing children separated from their parents. Foster care is meant to provide care when the parents aren't available to provide care or cannot provide healthy care for a child. We were seeing children who are healthily attached to their family--their family was providing good care, being separated.

GUTHRIE:

And many that were separated not for cause other than illegal entry--how many--the zero tolerance--how many children with--under zero tolerance did you care for?

ABBOTT:

108.

GUTHRIE:

108. And they're all reunified?

ABBOTT:

They have all been reunified as of September 24th.

GUTHRIE:

What kind of difficult thing did you find in reuni--what was the hardest thing to do in reunifying?

ABBOTT:

I think it's the information that's available. Because we've had a long history of finding family for children who've been separated, we have staff well-trained at figuring out how to track down parents. So, sometimes the information would come that was in--just inadequate information, or parents would be moved from one detention facility to another.

GUTHRIE:

So, the information that's--cause I--Captain White testified that they now have a--are they separate? And what's the issue? And why were they separated?

ABBOTT:

Yeah.

GUTHRIE:

Has that--has been helpful?

ABBOTT:

It's been helpful because we can identify that a child has been separated, but sometimes it doesn't give enough explanation. So, it says illegal--you know, the child--they've been charged with a criminal history or maybe even--even in their own country with abuse or neglect. We don't know what that means. Until a child comes into care, we have a chance to communicate with the parent and the child to figure out whether it rates to the level a separation should have occurred.

GUTHRIE:

Okay. How many organizations like yours are helping refugee children?

ABBOTT:

We work with United States CAFFA Conference a bit, USCCB, and LIRS in providing care--

GUTHRIE:

--so, several--many, many doing it.

ABBOTT:

Yeah.

GUTHRIE:

Did you--did your organization work with any federal agencies, such as HHS or DHS when trying to create these unification--reunification plans?

ABBOTT:

Not--yeah, not directly, only through USCCB and LIRS. But we were--we do have a federal field specialist on site who--

GUTHRIE:

--okay--

ABBOTT:

--is directly contracted with the Office of Refugee Resettlement and advises us on all of our reunification planning.

GUTHRIE:

Okay. There have been reports in the media that separations may still be occurring for zero tolerance--has Bethany Christian Services continued to see any cases for children who are separated from a parent or legal guardian without cause other than illegal entry or zero tolerance?

ABBOTT:

Yeah. I hate to say after 40 years of working in this field that I'd--that I'd have been that naive not to have realized that our government would separate children purposefully, so after zero tolerance occurred, alert went out to our staff saying you need to inform leadership the minute we see any referrals on children who have been separated. So, in the last three months we received 12 referrals on children separated from a parent.

GUTHRIE:

Were they separated for cause or for--you don't know why?

ABBOTT:

Well, the cause is usually a criminal history or inaccurate reporting at the border, not proof of the--you know--of the relationship. So, sometimes families in a crisis don't always tell the whole truth about the situation. And so, the officer--you know--on the spot is trying to make a decision as to whether this child belongs to the family or not.

GUTHRIE:

Okay, thank you and--so, I have just a few minutes, so I'll take up all my time--but I just wanna comment--you know there's a lot of stress in the immigration system today. I can specifically speak to families for--in my community of Bowling Green--wonderful families who are from El Salvador came in 2001 under TPS and they're extended--they don't know from year--I don't know exactly what their window is, but it's getting short on them. But it's continuing to be extended. They've been there for 18 years and they're still not sure what their next--what's gonna happen after a few months, I think it's another year.

Their children are U.S. citizens. Their children speak English as a first language. Matter of fact, I was talking to one the other day and he used a double negative and I said, well the problem isn't whether they're gonna speak English, whether they'll speak it good or well--so, that's kind of a joke if you get English teachers like that one.

But they--and they just don't know. And you see that with DACA children, and opportunity to fix--and--and it seems like, kind of the frustration when we have this--this policy was bad. I didn't support it, shouldn't have done it that way. But if you look at concerns with DACA, concerns with TPS, whatever, the Administration is forcing the law as we wrote it. Not necessarily us sitting here, but as Congress has--has written the law, particularly TPS and those such a things as that. And the President has offered--he said--he said last year's State of the Union that he was for a (INAUDIBLE) for DACA, he said that.

He brought up TPS just a few weeks ago and said that once the government's open again as--as we will discuss these things and they'll be on the table. And so, I really hope that this never happens again. But I do hope that we, as a Committee--as a Congress, not this--not necessarily in this Committee, but this Congress--will look at all of the issues that are going on in the--in the immigration system and take care--do the right thing.

I think--I know my constituents--oh, I'm sorry. I ran out of time. I know, I was just gonna say, secure the border and we can deal with these other issues like we do. I'm sorry, I quit looking at the clock.

(LAUGHTER)

DEGETTE:

Dr. Ruiz, for five minutes.

RUIZ:

Thank you. This hearing has been very good for the human soul. It holds a mirror to our conscious as a nation and as individuals. And it's been very difficult to take. Personally, my heart swells as a father, just to imagine that I was separated from my child brings me to tears. And it's hard. I'm emotionally drained. And I just can't imagine what the children and the parents went through and what they felt.

You know, and as a physician, we have the principle to first do no harm. And I believe that should be a guiding principle for our federal government as well. You see, talking about the cases of real people humanizes this story.

And oftentimes, that affects our conscious and oftentimes, perhaps, it could create a sense of not allowing that to affect us as human beings. It's easy then to turn to dehumanizing the individual so that you feel guilt-free, perhaps, or don't allow it to enter your conscious and I see a lot of that going on. But separating families is dehumanizing, not only for those that have been separated, but also for the separators because it will affect them and their conscious as well.

You know, we talked about--I've heard some--some statements that, "Well, they are had toxic stress in their home countries," almost implying that, "Well, they're kind of, you know, damaged goods, like we--we didn't cause any more harm to them."

So Dr. Muniz de la Pena, is there additional harm, additive harm to an individual when you separate them from their parents? Is there any difference that we did versus what they felt in their home countries?

MUNIZ DE LA PENA:

There's no doubt about--about it. If you think about physical harm, it's the same concept. If you have someone physically injured, and you continue to injure that person, they will have more injury--

RUIZ:

--It's compounding, it's additive.

MUNIZ DE LA PENA:

Of course.

RUIZ:

And the other thing is back home, you know, when--when they're threatened or being raped, or they were going to be killed, and--and whatnot, or extreme poverty, or other--other stimuli for toxic stress, at least they have their parents to help them cope. When you separate that parent, then you're leaving that child completely vulnerable with nobody to hold them and to comfort them.

Dr. Linton, what are the long-term effects years from now that they're going to experience?

LINTON:

Well, what we know about toxic stress, and certainly Dr. Shonkoff can describe the large body of science, but what we understand is that serious, prolonged stress in the absence of a buffer places children at risk, not for just for those short-term effects that I discussed in my opening statement, but also long-term effects, including depression, substance use, diabetes, and heart disease. And that really stems from the biology of having stress hormones coursing through the body without any control and the damage it does to the body.

RUIZ:

Well, it rewires the brain to a point, and this is the part that gets me, to the point where they won't be able to interpret love, they won't be able to feel that comfort of trust with anybody in any relationship. They will have difficulty feeling intimacy that many of us have the luxury of feeling with our spouses and that vulnerabilities.

Dr. Shonkoff, welcome. I'm a Harvard Medical School graduate. Thank you for being here. And I wanted to ask you, what--what's the treatment? What--what would we do now? What should ORR be doing to mitigate and lessen those symptoms that they're going to face for--for their lifetime? Your--you need to turn on your mic.

SHONKOFF:

As you know, there's a prevention question. There's a treatment question. There's a kind of a long-term outcome question. In this case, it's all the same. In fact, this committee has responsibility for so much in the healthcare domain. All of the health problems of adults, of the extensive ones, have their origins (INAUDIBLE)--

RUIZ:

--So what do we need to do to mitigate and to help these children now?

SHONKOFF:

We need to provide a kind of a stable, nurturing, responsive, environment in which predictable relationships help protect children from excessive stress activation that affects everything part of their developing system.

RUIZ:

If--if I may, just a quick thing. There were reports that babies weren't--that people weren't allowed to hold babies and when they're crying, and they have their fit. What happens to the physiology of that child, of that baby that's not held that was left alone without being cuddled by another human being?



SHONKOFF:

It's critically important question because in fact, what's happening is that biologically that baby is responding to what is essentially a life-threatening situation of not being taken care of because babies are so helpless. And I think the misconception is we say, "Well, no one--none of us remember things that we experienced when we were raised--

RUIZ:

--We do.--

SHONKOFF:

--and babies don't really understand what's going on anyway. But the reality is, it may not be a conscious memory, but the body doesn't forget, the body is affected, the body is affected biologically. And that's why statistically, these children--children in those circumstances are already more at risk for problems later on. So it's--it's the invisible part. It's what going on--what's going on inside the body that we're under understanding more and more now. But when we look at young children, and we say, "Well, they're crying and they seem upset, or they seem better, and they're not acting out," We don't see what's going on inside. And that's--that's what 21st century science is--is telling us, about how to address what is essentially a common sense moral issue.

DEGETTE:

--Thank you.--

SHONKOFF:

--which is how important (INAUDIBLE).

DEGETTE:

--The gentleman's time has expired.

RUIZ:

Thank you.

DEGETTE:

The gentleman from Oregon.

WALDEN:

Thank you, Madam Chair. And I want to thank all our--our panel here today. We've had a couple of hearings going on simultaneously so some of us had to go back and forth. But I appreciate the

concern you're all showing for these children. I don't know anybody up here at support at the separation policy, certainly not me. And we want to do the best for these kids.

Miss Abbott, Bethany Christian Services has been a sub-grantee for ORR some time, right?

ABBOTT:

Yes.

WALDEN:

How long?

ABBOTT:

We have been--we've worked with ORR since 75--

WALDEN:

--1975.--

ABBOTT:

--with refugee children fleeing Southeast Asia.

WALDEN:

--Wow.--

ABBOTT:

And then have worked with the unaccompanied children since ORR took responsibility for those children.

WALDEN:

And walk me through, because you're there on the ground, how--how many children do you deal with at a given time?

ABBOTT:

Right now we have the capacity to have about 99 children in foster care. We don't--we don't offer large shelter settings. We do really believe that a family setting is best--

WALDEN:

--Sure.--

ABBOTT:

--for an unaccompanied child. So at any one time, we could have 99 children in care. And we are expanding our foster care capacity into three other states so that we can continue to meet the need of truly unaccompanied children who need a family setting.

WALDEN:

And I believe the figure is somewhere around 11,000 children right now are in the ORR system.

ABBOTT:

Yes.

WALDEN:

It varies, I know because it's a daily intake and a daily--

ABBOTT:

--Exit.--

WALDEN:

Yeah. And ORR's kind of in the middle.

ABBOTT:

Yes.

WALDEN:

Right. I mean, they just have--the border patrol turns over these--these people, these kids, to ORR, they take care of them and--and--and give them--

ABBOTT:

--Find sponsors, and yeah, assure that the release is to a safe, caring adult.

WALDEN:

And that's something I think you've heard all of us talk about as well, because there were mistakes made by the government in the past and in some instances, right, of turning kids over to people we

thought were they're responsible parent or guardian or something and it turned out they ended up in--in really bad environments, right? Have you seen that?

ABBOTT:

Not at Bethany, but I have heard--

WALDEN:

--Right.--

ABBOTT:

--and been involved in consulting in some situations where that has happened. We try hard to do home studies, background checks, on the families and so forth. And the children--and--you know, get information from parents. We can contact parents back in country of origin if the other parent is there. Often, in many of the reunification you've heard about is with another parent that's already here. If one parent was coming with other children to join that parent.

WALDEN:

I know when--when I toured the--the--led the delegation to--to Texas and we went through one of the facilities and met with the kids and--and all, to a certain extent, obviously, we respected their privacy, it--it seemed like they had access, we were told at least, they had access to call their--their parents or--or loved ones back in their home country, as well as be in regular contact with whoever they might be going to be placed with here in the U.S. Is that--?

ABBOTT:

That is correct and ORR policy mandates that we--we provide that service.

WALDEN:

And--and my understanding is what we saw, again, at this facility, was they had access, basically to 24/7 medical care, as well as routine mental health services in the facility. Is that your experience as well?

ABBOTT:

Yes, at least with our Transitional Foster Care Program, and our Small Shelter Program that we have in Grand Rapids and Maryland, that's been our experience.

WALDEN:

Okay. I--I was just thinking back to, literally thinking of the facility, and the doctors, and then the mental health services, and the phones, they could--they could access. And what--what--when

you're with these kids what--what did they tell you? I mean, unlike the rest of us, you're actually there, you and your folks, on--I mean, some of you may be doing this work, too, so I'm--I'm--I'm not trying to say that. What do these kids tell you? What stories?

ABBOTT:

The stories are much like the story I told about the two girls. Their stories are as compelling as any refugee story I've heard. Like I said, I've been working with refugee kids for 40 years and their stories about victimization, their fears--

WALDEN:

--On the way up?

ABBOTT:

On the way--well, in their own country that forces them--

WALDEN:

--In their own country or on the way up.--

ABBOTT:

--to flee to begin with. Yes.--

WALDEN:

--I see.--

ABBOTT:

--The idea of the gangs that are out of control, governments either in--unable or too corrupt to intervene to protect their citizens.

WALDEN:

So we--we were told that, when we were there in the bipartisan delegation, that for some of these people it is literally the first time they felt safe and cared for since they left their home country because the kind of victimization you were talking about in the home country, or the horrific things we've all read about in the journey north. Is that what your experience is?

ABBOTT:

Yes, I believe that a lot of people who come here as refugees or asylum seekers are looking just for that, they want safety, they want all the things that we all want.

WALDEN:

So in--in conclusion, I know my time's about out, it feels to me like we have a humanitarian crisis or a problem at the border, is that your take, too?

ABBOTT:

Yes. Yes. I--I tend to refer to those at our border as refugees--

WALDEN:

--Yeah.--

ABBOTT:

--rather than migrants because I think people think when they think migrants that people have a choice--

WALDEN:

--Or they're going back and forth.

ABBOTT:

Yeah.

WALDEN:

Yeah.

ABBOTT:

But the majority of children we're seeing coming from the border right now are truly--can make a well founded explanation of fear of persecution.

WALDEN:

Thank you, Madam Chair, for--for your courtesy in extending my time.

DEGETTE:

The gentlelady from New Hampshire's recognize for five minutes.

KUSTER:

Thank you. And thank you to the panel and for your area expertise.

I want to go back to the scene of being inside. We were, again, in Brownsville and in McAllen, Texas with the families. I want to get at do you have a professional opinion, and we'll continue with Miss Abbott, whether those children would be better off with their parent?

ABBOTT:

A child's always better off with their parent.

KUSTER:

Great.

ABBOTT:

And--and if a parent and a child has to be separated there needs to be a reason that the child's safety, whether it's physical or emotional, is--is threatened.

KUSTER:

And again, I would just say from my own experience, 25 years in the child welfare and child protection legal world of adoption, that in fact, our laws are very, very strict of what it would take to terminate parental rights, and particularly to terminate parental rights against the will rather than in a consensual way.

So I want to go back, if I could, to Mr. Gelernt and Miss Podkul, about the process because I know that you're going--going back into court, and I want to understand what we could be doing differently, from all of the witnesses, to protect these children and to make sure this decision is not being made in an arbitrary or perhaps even capricious way. And I think there was a reference made to separation being used as a technique or a tactic of immigration, which by the way, the Trump administration didn't hide that. I mean, they--they spoke openly that this was going to be used as a threat, "We will take your children if you come into our country. We will take your children," that's the moral failure internationally. We lost moral authority in the League of Nations and the world of nations. I certainly feel that way. What could this committee, what could we in Congress be doing differently? And it--would it be to have well trained people under contract with ORR who understand child welfare, who understand the psychology?

And you talked about the acute nature of the separation and the length of the separation and the circumstances. Let me tell you, the women I met, just briefly, the circumstances were that they were told they had to go to court, they had to go to a court hearing and they were not allowed to bring the children into the courtroom. And the children were taken by our government while they were in the courtroom. And I mentioned two mother's breastfeeding, breastfeeding infants that were stolen by our country.

So how could we change? Could we have social workers at that initial moment to sort this out? And then because my time is short, and I want to give you time, why can't we have a hospital ban? Why can't we have a number that the parent and the child has? How, in this day and age, has our country lost track of these children and these parents?

GELERNT:

Yeah, so taking your--your last question first, there's no question we could have an integrated database and a tracking system. And the judge in our case is very concerned that there wasn't one and he has asked that we work with the government to come up with one and if he's not satisfied, he is going to add to it. But I think this committee and Congress can certainly, can do oversight of that and they could implement something even better if they decide to do that.

In terms of going forward, we're absolutely seeing separations. And we don't know what standard CBP is applying. They certainly are not using experts in child welfare to do it. So there have to be very clear standards. There has to be someone who's trained in child welfare to do it. And there has to be a way where the information flows to the parent and the people take care of the child to say, "Wait, we need to contest that." So there have to be processes to contest it. And--

KUSTER:

And do the children have any kind of legal advice? Do they have access to an attorney to--?

GELERNT:

--Not all of them, unfortunately, but even the ones that are getting legal advice, what we're hearing, and I've been getting texts all morning saying, "Make sure the committee understands that even if we are with them we're not always being told that they were separated from a parent in the U.S., the child's just being dumped on us and so we don't actually know what the situation is." So that information has to be told to the people taking care of the child so they can look for the parent and get to the bottom. But we're seeing separations for the most minor crimes or even allegations and we are very concerned that these, although they're being called for cause separations, there's really no basis for them.

KUSTER:

And I just have to close because my time is up. The capricious nature of this, one of the mothers finally, finally, after months by the way, not days, not weeks, months was able to get through on a telephone to her child and her 4-year-old child refuse to come on the phone to speak to her because the child had been told that she abandon the child at the border.

DEGETTE:

The gentlelady's time has expired. The gentleman from Virginia, Mr.--Mr. Griffith.

GRIFFITH:



Thank you, Madam Chair, and I look forward to working with the gentlelady in regard to a number of items. It's interesting that we just had a bill today, and I'm not sure, I haven't sorted it all out yet, it was voice voted, where we cut advocates or defenders in the juvenile courts, we cut them out of getting some grant money. I'm sorting it all out and I was going to vote present if it did come up for a recorded vote. Because if you were watching the first panel, my wife is a juvenile judge and they cut that money as well. And so I wanted to check on that.

Ms. Abbott, you all had 108 children. Can you tell me how long it took you all to--to get them back, what the shortest and longest was, back with their parents?

ABBOTT:

I--I don't have that information.

GRIFFITH:

Roughly, do you have any ideas?--

ABBOTT:

--Roughly--

GRIFFITH:

--I won't hold you to exactly.

ABBOTT:

Okay. Roughly 54 days--

GRIFFITH:

--About 54 days somewhere--

ABBOTT:

--Is our average.

GRIFFITH:

--Okay.--

ABBOTT:

--But I can't tell you the--yeah, the earliest in the fastest. Because we're used to reunifying children all the time, even before we were aware that there was going to be a new policy, we were already in the process of unifying children. Even when they had been separated we had been talking to parents in detention centers and identifying other relatives if the parent didn't want the child to remain in foster care.

I think one of the things we have to emphasize is that we need to talk with parents. Parents have a right to make decisions about their children on how to keep their children safe and where their children belong. Many families may choose to have their children's stay with a relative in the United States then be reunified with them in country because it's so unsafe for the children to be reunified, a tough decision for a parent domain, but when we need to respect.

GRIFFITH:

And--and that--and I don't know the answer, I'm just looking for answers. Mr. Gelernt, I asked earlier, there apparently are--are five kids that the ACLU has said, "Hold up a minute, as a part of the court action," that have not yet been reunified with their parents of the six that are still of that first grouping remaining. And I was wondering if you could enlighten us as to what the applications were, what the problems were? I understand some of them might be out of country, the parent may be out of country. And just wondering if you could enlighten us as to what that processes and why we're--why we're holding up on five of those kids?

GELERNT:

Right. Yes, Congress, I think it may actually be down to three now. But I'm going to double check that and--

GRIFFITH:

--Okay.--

GELERNT:

--and I could let the committee know. You know, it's certainly not us holding it up, it's respecting the parents wishes. They were particularly complicated cases where the child may have been in danger coming back, the parent was having trouble understanding what the child's rights would be in the U.S. I think one parent was difficult to find. So for those complicated reasons, we're giving the parent a little more time to make the choice.

But and it's an agonizing choice, just to pick up on my co-panelist, when I was in Guatemala talking to these families, you would have a father saying, "Well, look, my life is basically over." And this was someone in his 40s, "The gangs may kill me, but I can't bring my child back here. It's just too dangerous." And to see the agony on the face of these parents and so I think no one should be under the mistaken belief that these parents don't want their children. It's--they are making what is a classic choice for many vulnerable immigrants, that they're just going to have to

leave their children in the U.S. And so for these three parents there are certain complications where for--for privacy reasons I can't get in to--

GRIFFITH:

--Yes, sir.--

GELERNT:

--and so we are just giving them a little more time to respect their wishes.

GRIFFITH:

And I understand that, but I would then turn to Dr. Shonkoff's testimony. Doctor, the child may not understand that. The child is not likely to understand that if they're of a particularly young age, are they?

SHONKOFF:

Well, it depends on what you mean by understand, you're absolutely right. You're absolutely--

GRIFFITH:

--Yeah, I mean--

SHONKOFF:

--children don't understand that. But--

GRIFFITH:

--I think testified just about earlier that they don't know what's going on and even if the parent has made this decision, for all reasons that we might agree with, it still creates the problems that you were talking about with toxic stress for the child, particularly if they're if they're--I mean, if they're 17, maybe not, but if they're, you know, 4, 5, 6, 7, even nine or 10, they don't understand all of that, do they?

SHONKOFF:

Well, what's wonderful about your question, Congressman, is that for young children forcible separation from a parent in child welfare system, even in circumstances where the child is in danger, is seen as threatening and upsetting for the child. No--no young child sees the separation as a relief, even in tough circumstances. And so that's the problem, we--we have to think through the mind of what does this look like for the child, not just the adult?

GRIFFITH:

I appreciate it. I appreciate all--all of your testimony today. And we're going to try to, you know, make sure that this doesn't happen again and--and where--even where there are cases where they're justified reasons, I think you said, Miss Abbott, you had about 12 or so that had been referred because there was a belief.

We need to try to make it minimal and if there is a legitimate reason for the separation, because the person is a really bad actor, who is the parent who came with them, we need to make sure that we're taking action to get them into a secure situation where they've got somebody who creates that safe space that you talked about, Dr. Shonkoff. And I yield back.

DEGETTE:

Thank you. The gentlelady from Illinois,

SCHAKOWSKY:

Thank you so much.

I--I know we're mainly talking about the effects on children of this--this separation, but I wanted to ask about the issue of, essentially, our country making decisions, and it seems rather quickly that these are made, on who is a fit parent. And so if someone could just describe to me-- My understanding of our domestic child welfare system, that ending parental rights is really a big deal and is a very prescribed process for that to--to happen. So I don't know if anybody wants to--I don't want to go too long on it, but it has to be done over time, right?

MUNIZ DE LA PENA:

Normally, if there's not an immediate threat, like the kid has a physical injury visible, the child remains in the home and they activate the--an investigative process where social workers go to the home and interview the children separately from the parents. And they visit the family every week or every other week to continue an ongoing supervision process to see the indicators of possible abuse or neglect are real. And that--it takes a lot for the, in my experience in New York State, it takes a lot to take the children from the home.

SCHAKOWSKY:

So I'm assuming that the premise behind that is that it is best to try and keep a child with the--the--the parent. There's a bias toward because they're--it's so important to keep a child with a--a parent. So my understanding here is that criminal behavior can be a reason for someone being taken away from a parent. Now, does that always, regardless of what it is, make that parent--I mean, how--how did they decide what is a reason to take a parent away? I don't know if there's what else.

SHONKOFF:

Yeah, I think especially when we talk about young children, young children don't exist outside of a relationship with a caring adult, they can't survive. So that in any of these circumstances where we consider the possibility of an alternative arrangement, it's--it's an--it's--it's a developmental and psychological emergency to kind of preserve for the child a protective relationship, it starts in the family. And if, in some circumstances, it's deemed unsafe, it's still a relationship emergency to determine what happens next, as opposed to feeling like removing the child is somehow an answer. Young children cannot exist without a caring relationship.

SCHAKOWSKY:

So, yes, go ahead.

PODKUL:

If I may, I think your question is astute too, because what you're saying is, it's not only do we have no standards, and no child welfare professionals making the decision in that moment, there is no follow-up so a parent or child could ever challenge that if that was the wrong decision. So there's two points where we're failing these families, at the point of separation, and also, we're not giving them an opportunity to have that reviewed and challenged in case it was an erroneous decision.

SCHAKOWSKY:

Yeah, go ahead, but before that, let me make sure that I put on the record, I am not saying that we want to keep children in unsafe situations. And if someone is a--is a child abuser, or posing as a parent, and really, it's a trafficker of some sort, obviously, we have to deal with that. But--but go ahead.

GELERNT:

Right. I think what you just said there is the key. It's a criminal conviction under state child welfare laws to not mean you would separate a parent. It has to be the type of criminal history that suggests the parent is a real danger to the child. And what's happening now is the government is separating for very minor crimes, nonviolent crimes, crimes that happened decades ago, that would never under our domestic laws allow for the separation of parent and child. It has to be where the parent is either unfit or presents a danger to the child. That has to be the standard. That's the standard the court laid out. And I think what some of my co-panelists were suggesting is one role for this committee is to flesh that standard out so there's really clear guidance for whoever is doing the separations and hopefully, that's someone who knows about child welfare.

SCHAKOWSKY:

I want to tell a really quick story. When we were down at the border we--we--we saw a woman who was inconsolable in the--in a cage and she was crying because she came in with her with--her 7-year-old granddaughter, that granddaughter was taken away redefined as an unaccompanied minor, 7-years-old, because we didn't recognize a grandparent. And there--there was no paper

saying she was the legal guardian, but clearly, they could have seen the relationship, I'm sure. So is there something we should do about definition of what a family is?

SHONKOFF:

Again, so many of these are--are moral issues. From a scientific point of view, a child's brain is not asking about the genetic relationship between herself and--

SCHAKOWSKY:

--She had raised that child, by the way,

SHONKOFF:

Yes. What--what a--what a child's brain needs is a responsive--consistently responsive person and it doesn't have to be someone you're related to but it has to be the person who is the important adult caring for you in--

DEGETTE:

The gentlelady's time has expired.

SCHAKOWSKY:

Thank you. I yield back.

DEGETTE:

The gentlelady from Indiana.

BROOKS:

Thank you, Madam Chair.

Each of you have so much background and expertise in various aspects of this really horrible situation we've been dealing with now for many, many years. And I would love to actually hear from each of you in my five minutes because we all want to--we all want to fix--we all want a better system. We all want--and a system that does not include separating families who are legitimate family members. And so we don't have a--we don't have a terrific system. We don't have standards. We don't have procedures. I'm hearing from all of you that we just have been lacking this for years and years.

So I'd love for each of you, very briefly, to just share if you can fix one thing, and you all have very different expertise, if you could do one thing that helps not only the--the separation issue, but also my continued concern for the unaccompanied children as they're going into all of our communities.

And that Bethany I understand is opening--or has just opened a facility in Indianapolis. So I welcome you. I look forward to visiting. I haven't had the opportunity to do that yet. What should we be doing? And very quickly, I mean, and I know you all have--and I respect--I'm a lawyer. I've been in these courts, and I--I've talked to my juvenile judge and she's seeing some of these children coming into the courts, but yet we aren't even--we have no idea where they are around the country, or even maybe how to help them. So very quickly, Mr. Gelernt?

GELERNT:

I'm sorry. I think other people will probably talk about standards and processes going forward. I think one thing this committee should think about is for the kids who were separated and were subjected to this kind of trauma, as the doctors have pointed out, that really may be permanent, what this committee can do to get them potentially some medical help. Because I--I think there's no way that these children and these young parents are going to be able to cope without professional help.

BROOKS:

Thank you. Miss Podkul.

PODKUL:

I think we need to make sure that we are not being wasteful with our resources and trying to deter away a refugee situation. I think what we need to do is dedicate our attention and resources to getting to the bottom of every person's story and finding out who needs protection here in the United States. And the best way to do that is to make sure we have an efficient court process and that people are represented throughout that process.

BROOKS:

And have more trained professionals figuring out who is in a dangerous situation versus in a family situation.

PODKUL:

Exactly.

BROOKS:

Do we use DNA testing swabs, do we use that?

PODKUL:

Yeah, well, I think what we can--

BROOKS:

--To figure out if they're--if they're actually family members?

PODKUL:

Well, a lot of family members are coming with the appropriate documentation to show family relationships. So I think what we need to do is have a specially trained cohort of professionals who know what are all the tools that can be used and then let the families decide what they want to do in terms of moving forward.

BROOKS:

Thank you. Dr. Linton.

LINTON:

And Representative Brooks, you mentioned the needs in the community and I would, as a pediatrician who is on the ground in my community, I would say that every child who is coming to our country in search of safe even, including those who have been separated, really does need access to comprehensive medical care and mental health services. Where in partnership with our legal colleagues, we can ensure that their stories are told and they have access to legal counsel, to education, and to health services that allow them to stay healthy as they proceed through their immigration cases.

BROOKS:

And so expansion of legal/medical partnerships, but we've got to know where the children are.

LINTON:

Yes.

BROOKS:

We have to know where they are. Yes, Doctor.

MUNIZ DE LA PENA:

I want to say that I think we do have the guidelines and--and best practices. In the child welfare agencies, we have the guidelines of how to separate children and how do you reunify when there was some risk that are being practiced in every state. So we could adapt those guidelines in the immigration context and bring those professionals to really counsel that people there in the ground. And then in the community, I also work with the children that are released in the community. I agree with you that they need ongoing mental health and medical services, integrated care.



And I would add that one of the biggest barriers is that these children are released to the community and most states don't have health insurance, so they--they face grade barriers to access basic medical and mental health services--

BROOKS:

--Thank you.--

MUNIZ DE LA PENA:

--so that's a big issue. Thank you, Miss Abbott.

ABBOTT:

I would--I would suggest that an expansion of the post reunification services. Those was our services that follow a child after they're reunified with a family that would help make referrals to community professionals, look for where healthcare could be provided, and identify whatever the needs are that that family and child has. Right now ORR does not have enough resources to assure every child and family gets that service.

BROOKS:

Thank you. With my 10 seconds, Dr. Shonkoff.

SHONKOFF:

So I would say the urgency is the passage of time, in a sense that the crisis, as much as it is a crisis at the time of separation, the urgent emergency is the amount of time it takes to reunite the child and family because the increasing damage is real.

BROOKS:

Thank you all. Thank you all for your work. I yield back.

DEGETTE:

Thank you. The gentlelady from Florida, Miss Castor.

CASTOR:

Thank you, Madam Chair. And thank you to all the witnesses for what you've done to

help children, especially in the midst of this inhumane family separation policy.

Mr. Gelernt, the ACLU is engaged in ongoing litigation to reunify the children who were separated from their parents as a result of the family separation policy. So I'm going to ask this of you, but

if any of the other witnesses have answers I'd like to hear those, too. Earlier today on the first panel, Director Gambler, from the Government Accountability Office, who oversees Homeland Security and Justice Department's, responded to a line of questions that the action taken by a parent or guardian improperly entering the U.S. with a minor is not a factor into deciding whether a child should be separated from that parent or guardian. Is my characterization of Director Gambler's response consistent with your understanding of the test for separation that immigration officials or judges have been applying before and under the zero tolerance policy?

GELERNT:

What we saw was that people were separated for entering illegally until the court said no more that that can happen. But we believe it may still be happening. But one of the other things I think that's tricky is that although they may say it's not the basis for separation, they put the parent in jail for 48 hours. And then they say, "Well, the child can't come to jail. So we're going to separate." So it's sort of they know what's going to happen. And then they say, "Well, you don't want the child going to jail." And we say, "Well, what about giving the child back after the 48 hours when the parent is released?"

That's really what the court got his hands around, is parents were not going getting their children back for eight, nine months. And so I think you're right to characterize it's very much a factor of we're going to prosecute this mother, put her in jail for 48 hours, because it's just a misdemeanor, and then we're not going to give the child back. And the judge said, "It cannot be a factor," but it very much was a factor and we think it may still be a factor.

CASTOR:

Thank you. How many parents or guardians separated from their children in percentage terms have been previously charged, detained or arrested for improper entry into the United States?

GELERNT:

You know what? That's a very good question and we've been trying to figure that out and have not been able to get statistics on it. And I don't know that the government keeps track of it so I think we're trying to interview people and get some sense of it but it's very difficult. But--but by no means was everyone who was separated someone who went and crossed between ports of entry. Our main plaintive, Marcel, went to a port of entry, applied legal and was still separated from her child and there were many people like that. So the narrative that, "Oh, we won't take your child if you go to a port of entry and apply legally," is simply not true.

CASTOR:

Could a prior case has been brought against a parent or guardian for attempting to cross the border or enter the U.S. improperly be used as a factor in determining whether to separate that parent or guardian from their child?

GELERNT:

We don't believe so And we don't believe that the court is allowing that. So if we see that and what the problem is we're not getting full information and I don't think the providers on the ground are getting full information. But we will go back to court anytime we see that because we think the court made it clear that that's not a basis for separation because then you would be separating lots of asylum seekers where they're not presenting a danger to their child.

CASTOR:

As we heard on the previous panel as well, several ongoing and unresolved issues between HHS and DHS have--have impaired efforts to reunify children with their parents and may have resulted in additional separations even after the family separation policy supposedly ended, incomplete data, failure to share information collected between departments.

Miss Podkul, I'd like to start with you. Why is it important ensure that the data about a children separation status be tracked and shared with HHS?

PODKUL:

There's so many reasons. But I would say, just looking at the child's legal case, you know, oftentimes it's going to be the parent who has the information about why the family fled the country in the first place, the adult is often the one that's going to hold the documents that would be used to prove a case. So if our attorneys are representing a child they're not going to have incomplete information and the child won't be able to make their case about why they need protection. So it's incredibly important, not only for reunification purposes but for our government to find out what is the story with this child and does this child need protection here in the United States?

CASTOR:

Were you surprised by the January 2019 OIG report about ORR, that they're still having problems, the ORR systems are still not where they need to be to properly track potentially separated children?

PODKUL:

Unfortunately, I was not. I can tell you just a few weeks ago, a colleague reported that she was interviewing a child and the only way she found out that that child had been separated from a parent was through her own interview with the child. She was never notified through the official files, a file for the child. She was never notified by the ORR caseworker. It was only because she interviewed the child and specifically asked him that she found out that he had been separated.

CASTOR:

There's so much more to do. Thank you very much. I yield back.

DEGETTE:

The gentleman from South Carolina's recognized.

DUNCAN:

Thank you, Madam Chairman. Let me run the remind the committee that it's, to Shine a Light on Slavery Day, today 40 million people around the globe are in enslaved, 70 percent are women, one in four children.

I want to thank the panelists. It's obvious that your heart's in the right place, that you care about children and you want to do what's best for them.

I actually supported money for the Northern Triangle countries when we had the unaccompanied children issue. Back during the Obama administration, had a conversation with President Obama at the Summit of the Americas in Panama, where I told him I probably supported more money than he was asking for to deal with the problem down there to try to stop the flow of unaccompanied children. It's hard to believe that parents would send their children north unaccompanied that way.

To shift gears just a little bit, on Monday McAllen agents working near Hildago, Texas arrested eight illegal aliens shortly after you enter the U.S. When they did the background check on a Mexican man's records check that he had been arrested in Cobb County Georgia for child molestation. Later that night, agents from the Rio Grande City working near Roma, Texas arrested a Honduran male. Records checks indicated that he had been arrested and convicted in North Carolina for indecent liberties with a child. Tuesday morning, Harlington agents working near Progresso, Texas arrested 16 illegal aliens after making their illegal entry in the United States. Record checks for a Honduran male revealed he's a member of the MS-13 gang, with a criminal history that includes aggravated assault with a deadly weapon, kidnapping, false imprisonment in the State of Florida. Border Patrol is processing these subjects.

That's a real issue, people are coming into this country and they're all not children, they're all not with their parents. We have a--a situation at our border. But I'm hearing today things like toxic distress and traumatic life experiences. So let's talk about some of those. How about the traumatic life experience of having your loved one murdered by an illegal alien, like Kate Steinly, or Brian Terry, or the David family, or countless other Angel Moms and Angel Dads who will never hold their children in their arms again because of violent illegal aliens? How about the traumatic life experience of having your neighborhood taken over by Ms-13? Having your school terrorized by illegal alien gangs?

American children are raped, beaten, and murdered by MS-13 thugs. The President mentioned one in New York on the subway, first subway murder in I don't know how many years . They were by MS-13 gang members. That's toxic distress for American families and they face every day because of illegal immigration.

So we're not here today to talk about a solemn reform or changing the Flores Settlement, or building the wall, or mandatory E-Verify. We're not talking today about illegal immigration magnets that created the incentives for illegal families to do the stupid things that endanger their

kids by traveling thousands of miles across a desert to come in a country that they may or may not get asylum or citizenship from. We're not talking about the drug trafficking of the Meth, and the Fentanyl, and Cocaine, and the Marijuana that's pouring across our southern border. We're not talking about the sex trafficking today and human trafficking in general, that happens along our Southern Border. We're not talking today about Sanctuary City policies. We're not talking about the murder of American citizens on American soil by illegal immigrant thugs. We're not here to discuss how to end the crisis at our border by strengthen the American Security, no, we're here playing politics to muddy this President and the laws that are on the books that require what's going on.

Now, I mentioned earlier today, when children are apprehended at the border, either alone or with someone, we need to make sure that that person they're with is a relative or a parent. So get that child away from maybe a potentially dangerous situation, I just mentioned some mention some, child trafficking, human trafficking, sex trafficking, that affects children. Let's separate that child, make sure that that person is who they say they are, that there's a DNA test, make sure that that child who's just traveled thousands of miles is healthy.

They don't all get the inoculations that we get and give to our children here in this country so there's a potential that they have the diseases that we have beat back in this country that they could be bringing in and exposing American children when they're relocated in our communities. That's important to make sure that that child's healthy and he gets the vaccinations as needed. And then we'll figure out if that person that he came with is a parent or if he's alone or maybe there's somebody in the country that will take care of that child. That takes a little bit of time. You can't do it overnight. And you--many times you can't do in 72 hours.

And so when I talked to the Office of Refugee Resettlement and I talked to the folks at HHS, they're doing the best they can to make sure that those kids have a comfortable, safe environment to live in while we're figuring all this out. Places to kick a soccer ball and interact with other kids while we're figuring this out. Because heaven forbid, we release a child into the country that ends up in Atlanta, Georgia during the Super Bowl providing a service because they're a sex slave in this country. It's hard for me to fathom that we even have that going on in this country.

But it's Shine the Light Slavery Day and it's going on around the world and we can put it into it. With that, I yield back.

DEGETTE:

The gentlelady from New York is recognized for five minutes.

CLARKE:

I thank you, Madam Chair. Thank the Ranking Member. I thank our experts for being here and sharing with us their observations and the work that they're doing. My colleague, I know, was not trying to make us believe that he is in favor of innocent individuals having their children's--their children orphaned by a broken process that was established under this administration. And so I just want to focus in once again on why we're here. They're innocent families who have been

separated at the border and an incompetent administration that did not take into account all of the steps that need to be in place to accept individuals into our nation as refugees along with their children. And wanted to ask a couple of questions.

Dr. Muniz de la Pena, I understand that your clinic has also provided services to children who have been affected by this policy. Could you describe some of your first hand experiences and working with these children and their families?

MUNIZ DE LA PENA:

One of the first experiences that was different from the general and accompanied immigrant children population that we see is that it was younger ages. And so the trauma that how he showed up, the stress was very different, from a 7-year-old who was sobbing from the minute she was in the room and I started asking question and couldn't talk the entire session and hung onto me because that's all she could do, from the child I described earlier with dissociation symptoms. So he couldn't even be present to answer the questions about that. But he was able to answer any questions about what sports he played, or what toys he liked.

A teenager who was depressed and feeling hopeless and helpless, that nothing else was going to change in her life. Because that's what trauma does to you when terrifying experiences happened to you that you don't have control over you might generalize that to any experience in your life, in any figure of power in your life.

CLARKE:

And how would you say that these experiences have impacted the mental health of the children that came through your clinic, both now and in the long-term?

MUNIZ DE LA PENA:

In the short-term, you see a lot of symptoms of acute stress so a lot of anxiety. I have a way of describing this, children and humans in general, we tend to internalize the stress or externalize it. When we internalize it we become depressed, we become anxious, low self-esteem, fear when you externalize it you're the kind of person that acts out, that becomes loud, that has impulsivity so you see that in the children in the short-term.

In the long-term, you're the way that you relate to people is affected, the way that you feel about yourself, the way you feel about the world, the beliefs you have in perceptions and expectations you have about others, the way you're able to love your family, your own children in the future, your--your partner, so it affects in the basic elements of your life experience.

CLARKE:

Very well. Dr. Linton, you mentioned in your testimony that you've served patients who were separated from a parent as a result of this policy. And your description of the boy and his mother, who was separated for over a week is heartbreaking. One shudders to think how many children had

to go through these experiences. But Dr. Linton, from a clinical perspective, how were these children affected by the experience of being separated?

LINTON:

Well, I think we can use the framework again, of toxic stress, to think about that both on the--the impact on the short-term and then the impact on the long-term health. I think what's brought her here and what's different about this particular set of children, is that this is really government sanctioned child endangerment. So rather than the experiences that a child had in country of origin that left the family with no choice but to flee, upon arriving on our border rather than providing a response that was characterized by dignity, compassion, and respect, we've re-traumatized the child and re-initiated the process of toxic stress, compounding that stress, as Dr. Ruiz mentioned, and furthering that stress, such that we have a much more serious risk of both short-term impact and long-term impact.

I saw with that child, who had only been separated for a mere seven days, a serious physiological reaction right in front of my eyes. And I can only imagine what that looks like and I have seen what it looks like when it's much more prolonged.

CLARKE:

Well, let me thank all of you. And I want to, in particular, thank you at--at the ACLU for taking on a role and responsibility that--that really wasn't necessarily part of your mission but has become a part of your mission. Our--our nation is reeling from the realization of what the United States government under this particular administration has done. And I really believe in the end we're going to have to start talking restitution. So I hope that the ACLU will look into ways and work with this--work with this Congress to look at what restitution could look like for these families because there's no way that this crime against humanity should go just the way that it has.

GELERT:

Thank you, Congressman and we absolutely will.

CLARKE:

I yield back.

DEGETTE:

The gentleman from Texas.

CLARKE:

Oh, I'm sorry.

DEGETTE:

The gentleman from Texas, Mr. Burgess, is recognized.

BURGESS:

Thank you, Madam Chair. And thanks to our witnesses, our panel, for staying with us. This has been a--a long day, an important, an informative day.

Let me just be sure that I'm clear on a couple of items. First, Mr. Gelernt, as we've heard throughout the course of this long day, a problem on the border during the Trump administration, but it may have actually predated the Trump administration. So I remember going down in 2014, 2013, I think, in the height of the surge of accompanied immigrant children, in 2014, I remember a custom Border Patrol individual given me a figure of, "We pick up 1,300 a day We process 1,300 a day. We've got 90 beds," so that was a problem. And while ours, subsequently, has with, I think Mr. Young can reference some of the appropriations that were done during the Obama administration. So more got more was down there, but still, it was a big problem to--to--to have to manage.

At that point, the children were being held at a reclaimed barracks at--in San Antonio at the Air Force Base there. Was ACLU involved in--in any of those cases?

GELERNT:

Well, Congressman, I would like to distinguish between two types of unaccompanied children. The first I think is what you're talking about, which are kids who are genuinely accompanied, who come here without a parent, and they need some place to go. And I think that presents one issue, but what we're talking about here that's different than prior administrations is children being rendered unaccompanied, taken from their parents. Right.

BURGESS:

Let's--let's stay with that concept for a minute because in 2014, the child comes and is unaccompanied, he (INAUDIBLE) Lachlan Air Force Base, if they have a parent with the procedure if I remember correctly, particularly down in South Texas, was they got dropped off at the parking lot at Sacred Heart Church in McAllen and a volunteer at the church would provide a bus ticket, and off they'd go. They had a notice to appear, and I reference the term permiso, that was how it was referred to locally back in the home country.

So that was part of the problem as well because folks were just going into communities without really a lot of control and no one knew who they were, where they were showing up, and pediatricians on the panel can tell us that there are some public health implications to that. 2014 saw one of the largest outbreaks of Enterovirus D68 that's never been seen in this country. I'm not saying it was a result of the surge of accompanied alien children and family units, but certainly, the timeline, it was August of--August of 2014 when that occurred.



Dr. Linton, you talked about you had a child that had a--recorded a seven day separation, is that correct? In general, were the separations longer or shorter than that? You gave that one as an example.

LINTON:

Yeah, so the majority of the separations were much longer. And as the Chair of the American Academy of Pediatrics Immigrant Health Special Interest Group, I have the privilege of connecting with pediatricians across the country who have cared for children who've been separated.

BURGESS:

Let's stick with ones you--you yourself directly--directly administered to.

LINTON:

So I've seen children separated from anywhere from several days to several months.

BURGESS:

Now, my understanding from information you've provided the staff that there was a three month separation?

LINTON:

Yes, I did see a three month separation.

BURGESS:

You remember when that was?

LINTON:

Yes, it was in a previous administration, and what I would add to that would be that what I learned from that was seeing the horrible short and long-term effects of health that made me attuned to what I may see in a future separation, which was then reported by pediatricians across the country.

BURGESS:

So that occurred before the unenlightened Trump administration came to power so that was 2015 or 2016?

LINTON:

That separation was an example of one of the specific separations that may have occurred prior to systematic government sanctioned separation for merely crossing a border.

BURGESS:

But what were the circumstances of that separation?

LINTON:

I'm not privy to discuss the separation but the--the mother was not reported--

BURGESS:

--Well, I think it would be important, Madam Chairwoman, if there's some way you can provide in a public forum--

LINTON:

Yes. I think I can share that this woman was victimized by a gang and had fled as a result of that and was subsequently accused of violence which he had not, in fact, willingly been part of, she was forced.

BURGESS:

See, I do agree with Mr. Duncan, and he said that he'd requested from the Obama administration to perhaps consider additional funding for countries in Central America. I don't disagree with that. I did travel the other this summer. Yes, there is a problem with violence, but the violence is begotten by corruption of their governments. I guess the big news this morning is there's a new President in El Salvador and he sounds to be a reformer. I encourage this administration to make the inroads and outreach to that new administration in El Salvador. We are not going to solve this problem on the Southern border. It is going to have to be solved farther upstream.

Thank you and I yield back.

DEGETTE:

The Chair recognizes--the Chair recognizes the Chairman of the full committee, Mr. Pallone.

PALLONE:

Thank you, Madam Chair.

Some of the administration claim the family separation policy's over, the crisis has passed and we should move on. But even if the administration has cleaned up their act, which remains I'm clear based on what we heard today, that children who were ripped from their families still suffer enormous physical and psychological consequences long after being reunited with their loved ones. So I just want to dive a bit deeper into the research that has been conducted on these impacts. I think it's safe to say that forcibly separating a child from their parent would disrupt that

relationship and will substantially impact the stability and predictability of that child's environment. And this could cause immense damage to the child's development that would only compound the longer the disruption occurred. So let me just ask some questions in this regard.

Dr. Shonkoff, what made the policy of forced separation uniquely damaging to the children affected by it?

SHONKOFF:

That's a really good question. Uniquely damaging is that it was government order separation arbitrarily, beyond that, it's not unique at all. I mean, this is not a new phenomenon for us to understand what the consequences are for children to be separated from their parents. And we know a lot about how to minimize the trauma and how to meet the needs. But I think the only thing in my mind that was unique was that I--I have no memory of the government ever ordering that kind of arbitrary separation of children from parents.

PALLONE:

And Dr. Linton, is there anything you'd add about what the research shows regarding the unique harms caused by the for separation policy?

LINTON:

I think I would add that, again, we're really traumatizing children who have already fled violence and are seeking safety. And in doing that in a systematic way is much different than doing that on a case-by-case basis under the provision of child welfare standards, where you're concerned for the safety of the child at the hand of a parent and you have the supervision of a competent family court making that determination.

PALLONE:

Let me go back to Dr. Shonkoff, is there any way to design a policy of forced separation that would not be harmful to children?

SHONKOFF:

Any abrupt separation traumatic for a child. The question of whether it's harmful depends upon what is prompting the need for separation. So I--I--I think the message here is really clear from any perspective is that separating children from their parents should have a very high threshold for being done and when it's done for whatever reason it immediately creates an urgent situation of how do we protect the child from the effects of the separation?

PALLONE:

All right. I'm going to go back to Dr. Linton again. In your professional opinion, is there any research that shows that a policy of forced separation is good for children?

LINTON:

There's no evidence that any time of separation from a parent is good for children.

PALLONE:

Well, if--let's say if the government had consulted you on a family separation policy, what would you have told them?

LINTON:

I would have told them that separation of a parent and a child should never occur unless there are concerns for the safety of that child at the hand of a parent and a competent Family Court makes that determination with the best interest of the child at hand.

PALLONE:

And Dr. Minoz, can I ask you to comment on that too, the same thing?

MUNIZ DE LA PENA:

Yeah, I think that we have systems in place already in each state to investigate cases where there's indications of child abuse or neglect and so that can inform the process in which we separate those children. But it takes a lot for, legally, for a court to take away a child from a parent. It doesn't happen immediately without signs of immediate harm, physical, especially physical, so I think we have already systems that we could use.

PALLONE:

I appreciate all this. I mean, I know I sound like a broken record, Madam Chair, but you know, and I know that HHS, you know, is not in charge of the separation that's, you know, not--they're--they're not the agency that orders the separation and when people are separated. But, you know, I just think that when I weigh these things, and even today, you know, based on the advocates in my district that I talk to, they're very concerned about the fact that even today that, you know, sometimes, I don't know how often, children are separated from their parents at the border because there's this sort of innate concern that, you know, they shouldn't be taking the kids off to the border and there's something wrong with parents that do that.

And, you know, I--I experienced that too, as I said earlier, when I went to visit the fathers that I visited in New Jersey on Father's Day, that there was this sort of notion of the people that were watching them that, you know, just because they brought the kids over the border that they're bad parents. And it seems to me that even if you--even if you believe that, which I don't, you know, that the--the harm that's done by separating them is so much worse than if they were kept with the--the parent.

And so I--I think what Dr. Linton said is true, that unless you have, what did you say, you said that you'd actually would want to see it litigated in court before it was done, that these--this parent was abusive, or this parent, you know, was doing something harmful to the child, and I agree with you, Thank you, Madam Chair.

DEGETTE:

Thank you very much, Mr. Chairman.

The Chair now recognized the gentleman from Florida, Mr. Soto, for five minutes.

SOTO:

Thank you, Madam Chair.

And I spoke a little bit before about my experience at the Homestead facility in South Florida, in our home state, and that was after being blocked from getting to go the first time where we saw 1,179 teenagers, primarily from Honduras, Nicaragua, El Salvador, there. Many of them were there because of the family separation policy and this idea that it's an act of negligence by a parent or somehow this is de facto proof that a--a parent was doing something bad for their kid is just totally false. When you look at, unfortunately, the war tone--war torn countries down there and the drug cartels, this is an act of love. I mean, I don't think anybody can deny that this is a loving parent who doesn't want their kids condemned to death, or being conscripted in drug cartels.

We saw a surge of folks in the Homestead facility, among many others, when the family separation policy happened. We also saw a bottlenecking of them afterwards due to certain policies. One of those at both created this bottleneck and weaponized HHS was the announcement of a formalized memorandum of agreement to share information, including immigration status, of potential child sponsors. I've seen many folks have raised serious concerns about this, the idea of using information obtained from detained immigrant children to try to deport their parents risks weaponizing ORR into becoming an immigration enforcement arm of DHS. One hundred and seventy such people were deported by ICE as a result of that information sharing. First, Miss Podkul, kind stated last June, that the proposed information collection under the MOA will, "alter longstanding practice and frustrate the ability of the ORR to place children in the least restrictive setting in their best interest."

Miss Podkul, how does the MOA interfere with ORR's ability to act in the child's best interest?

PODKUL:

Sure. When Congress gave the responsibility of unaccompanied children to ORR, what they did is they separated who is going to be doing the immigration enforcement, that was going to go to DHS, and then the care and custody of children would be a completely different arm of government. And the goal was that agency could prioritize child welfare and then we had a whole other department and agencies who were responsible for immigration enforcement. Up until the MOA, ORR was never using information they were gathering. That was never intended to go to

ICE for immigration enforcement purposes. What ORR was doing, is they were finding the best possible person who was willing to care for the child, at no cost to the government, while that child goes through their court process.

SOTO:

Thank you.

Mr. Gelernt, in Secretary Nielsen and Secretary Azar's last November letter, the ACLU joined 111 national organizations urging the reversal. Could you describe any firsthand examples of the chilling effect on potential sponsors and how that impacts children and families?

GELENRT:

Yeah, I think what we're seeing is families being scared to come and sponsor children. We--we feel like they're being deterred from coming forward. We also, some of the procedures that have been put in place, the delays and fingerprinting, fingerprinting everyone in the household, some of these changes, we think, are creating real delays in getting children out and so that the detention centers are filling up unnecessarily.

SOTO:

Thank you, and Dr. Muniz de la Pena, what would the impacts be on a child faced with the possibility that they must put family members at risk for arrest or deportation by naming them?

MUNIZ DE LA PENA:

Well, there--there is already research about the--the impact that the fear of the deportation of your caretakers does for children and it's similar to what has been discussed in terms of toxic stress. Because just the fear of losing your caretaker can create that fear of harm to your--to your wealth me so I think that the harm is obvious.

SOTO:

And Dr. Linton, are their potential compounding effects of both the possible extended separation due to this MOA and the related guilt, responsibility, placed on these children?

LINTON:

Yes, I think we've heard today from our panel that prolonged separation increases the risk of both the short and long-term effects of that stress response on the developing brain and the developing body of children who've been systematically separated.

SORO:

Thank you.

And I just want to end by saying, you know, this is a legal act coming to this nation, seeking asylum. This isn't even an unlawful entry. There's a humane way of doing this. Unless there's cause then we should be using ankle bracelets and letting kids go to the best caretaker they have and let the immigration process sort itself out, rather than this separation to try to deter in the most inhuman way that the greatest nation in the world could possibly do and it doesn't even serve as an effective deterrent in the process. And with that, I yield back.

DEGETTE:

Thank you, gentlemen, for yielding.

I will--with--with unanimous consent, we will enter the letter offered by Dr. Muniz de la Pena, from the American Psychological Association into the record.

And I--I really want to thank all the witnesses for coming today. This was the first hearing this committee has had on the unaccompanied minors and the family separation, and it's been a very important hearing. I appreciate you sticking with us for the whole day. And I want to let you and also the previous panel all know that the investigation continues. We're still waiting for documents from HHS about how far up this policy went and we're also still looking at--at what the policies are and so--so we can expect more action.

I remind members that pursuant to committee rules, they have 10 business days to submit additional questions for the record to be answered by witnesses who have appeared before the subcommittee and I asked that the witnesses agree to respond promptly to such questions should you receive any.

With that, the subcommittee is adjourned.