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7 EXAMINING THE FAILURES OF THE TRUMP

8 ADMINISTRATION'S INHUMANE FAMILY SEPARATION POLICY

9 THURSDAY, FEBRUARY 7, 2019

10 House of Representatives,

11 Subcommittee on Oversight and Investigations,

12 Committee on Energy and Commerce,

13 Washington, D.C.

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17 The subcommittee met, pursuant to call, at 10:33 a.m., in

18 Room 2123 Rayburn House Office Building, Hon. Diana DeGette

19 [chairman of the subcommittee] presiding.

20 Members present: Representatives DeGette, Schakowsky,

21 Kennedy, Ruiz, Kuster, Castor, Sarbanes, Tonko, Clarke, Peters,

22 Pallone (ex officio), Guthrie, Burgess, McKinley, Griffith,

23 Brooks, Mullin, Duncan, and Walden (ex officio).

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24 Also present: Representatives Engel, Cardenas, Veasey,
25 Barragan, and Soto.

26 Staff present: Mohammed Aslami, Counsel; Kevin Barstow,
27 Chief Oversight Counsel; Jacquelyn Bolen, Professional Staff;
28 Jesseca Boyer, Professional Staff Member; Jeff Carroll, Staff
29 Director; Waverly Gordon, Deputy Chief Counsel; Tiffany
30 Guarascio, Deputy Staff Director; Zach Kahan, Outreach and Member
31 Service Coordinator; Chris Knauer, Oversight Staff Director;
32 Jourdan Lewis, Policy Analyst; Perry Lusk, GAO Detailee; Kevin
33 McAloon, Professional Staff Member; Joe Orlando, Staff Assistant;
34 Kaitlyn Peel, Digital Director; Tim Robinson, Chief Counsel;
35 Andrew Souvall, Director of Communications, Outreach and Member
36 Services; C.J. Young, Press Secretary; Jennifer Barblan, Minority
37 Chief Counsel, O&I; Mike Bloomquist, Minority Staff Director;
38 Adam Buckalew, Minority Director of Coalitions and Deputy Chief
39 Counsel, Health; Jordan Davis, Minority Senior Advisor; Brittany
40 Havens, Minority Professional Staff, O&I; Samuel Kanusher,
41 Minority Intern, O&I; Peter Kielty, Minority General Counsel;
42 Ryan Long, Minority Deputy Staff Director; Brannon Rains,
43 Minority Staff Assistant; Zack Roday, Minority Communications
44 Director, and Peter Spencer, Minority Senior Professional Staff
45 Member, Environment and Climate Change.

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46 Ms. DeGette. [presiding] The committee will come to
47 order.

48 Good morning. This is the first hearing of the Oversight
49 and Investigations Subcommittee of Energy and Commerce for the
50 116th Congress.

51 I want to start out by thanking all of the new members of
52 the Oversight Subcommittee, which has a grand tradition in this
53 Congress. I also want to thank our brand-new ranking member,
54 Congressman Guthrie, for joining us today. This committee has
55 a long history of bipartisan work on many, many issues affecting
56 this country. I know we are going to work together to do true
57 bipartisan oversight. I look forward to working with everyone
58 on this subcommittee on bipartisan investigations and finding
59 solutions to ultimately improve our government.

60 Mr. Guthrie, I would like to yield to you for a minute, if
61 you would like to make any brief remarks.

62 Mr. Guthrie. Thank you very much for being here.

63 And I want to congratulate you on your being the Chair and
64 using the gavel. You have got a good start to it. So, it is
65 good to have you here.

66 I wasn't on this subcommittee before, but my understanding
67 is it has always tried to work, where they can, on a bipartisanship
68 basis. And you are one of my good friends here in Congress.

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69 And so, I look forward to the opportunity to work with you --

70 Ms. DeGette. Thank you.

71 Mr. Guthrie. -- and work together with the committee.

72 Ms. DeGette. Thanks, Mr. Guthrie.

73 Today the Subcommittee on Oversight and Investigations is
74 holding a hearing entitled, ``Examining the Failures of the Trump
75 Administration's Inhumane Family Separation Policy". The
76 purpose of today's hearing is to examine the Department of Health
77 and Human Services response to the administration's zero
78 tolerance policy, efforts to reunify children separated from
79 parents, as well as the health and well-being of those children.

80 The Chair now recognizes herself for the purposes of an
81 opening statement.

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

89 On behalf of the American people, we are here today to
90 understand exactly what happened, why it happened, and what needs
91 to be done to make sure that it never happens again. We also

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92 want to know the extent of the harm that these separations may
93 have caused these children and families.

94 When we talk about family separations, it is important to
95 keep in mind that these are real kids. These are real families
96 who were forcibly torn apart and they were kept apart by our
97 government. Because of a policy put in place by this
98 administration, unnecessary long-term harm may have been
99 inflicted on thousands of children.

100 We know from decades of research that childhood trauma such
101 as family separations can have serious and longstanding
102 consequences for children. This research demonstrates that the
103 toxic stress that comes from separating a child from their parents
104 can cause irreversible harm to children. It can literally
105 disrupt their brains and other biological systems. We also know
106 that separating kids from their parents can cause a host of other
107 long-term mental and physical health problems.

108 As noted by the American Psychological Association, quote,
109 ``These problems can include severe psychological distress,
110 including PTSD, sleep disturbances, withdrawal, substance use,
111 aggressive behavior, and decline in educational achievement.
112 The longer the parent and child are separated, the more severe
113 some of these symptoms may become."

114 Like many Members of Congress, I visited some of the

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115 facilities where these separated children were being housed.
116 It was heartbreaking. I will never forget what I saw that day.
117 I will never forget the looks in the mothers' eyes when they
118 told me that they had no idea where their children were. I will
119 never forget the children who had no idea where their mom or dad
120 were. All I could think of when I was standing there was, as
121 a nation, we are so much better than that. And that is why we
122 are here today.

123 Part of the failure of this administration's tragic
124 separation policy was not only its cruelty, but its incompetent
125 implementation. For example, despite the fact that the Office
126 of Refugee Resettlement, known as ORR, would be responsible for
127 caring for a huge influx of separated children, the Government
128 Accountability Office found that key officials within the agency
129 were apparently given no advance knowledge of the now infamous
130 April 2018 zero tolerance memo, which led to thousands of
131 separations; and therefore, they didn't plan for the sudden influx
132 that was about to come. As a result, ORR, tasked with a
133 challenging mission, suddenly found itself inundated with
134 thousands of forcibly separated children with no place to
135 accommodate them at all.

136 By the summer of 2018, things got even worse. After a
137 federal judge ordered that thousands of children be unified with

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138 their parents, the Department of Health and Human Services was
139 forced to pull together over 100 staff to manually pour through
140 the thousands of case files and endless databases to try to
141 identify which children and parents had been separated. It is
142 as of nobody ever discussed how reunifications would happen before
143 this plan was launched, and it probably didn't happen.

144 In addition to this emergency HHS team, the administration
145 also sought the help of NGOs, like the ACLU and KIND, to locate
146 families that had been separated, including parents that had
147 already been deported without their children.

148 Then, the HHS Office of Inspector General released a new
149 report last month that found that thousands more children may
150 have been separated from their parents than previously reported
151 in an influx that began in early 2017, before the administration's
152 zero tolerance policy was announced.

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

159 There is no evidence that HHS leaders ever tried to stop this
160 abhorrent policy.

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161 As the agency dedicated to health and welfare of children,
162 we need to know why. One could argue that it was HHS's duty to
163 stop this harmful policy. And some wonder how much longer this
164 would have gone on if it weren't for the action of many NGOs that
165 became active on this matter, including some who will testify
166 today. We want to know exactly how many kids this administration
167 has separated from their families, and we need to know what is
168 being done to reunify each and every one of these families.

169 Commander White, I want to say to you, I have got enormous
170 respect for the mission of ORR and for you. I think the facilities
171 around the country are dedicated to serving vulnerable children,
172 and they are trying to provide high-quality care. I know our
173 ORR has a difficult mission, and the many charitable organizations
174 that work with ORR to take care of unaccompanied children do
175 important work.

176 But you are going to hear some harsh comments today. And
177 I am sorry that Secretary Azar is passing the buck to you, when
178 we asked him to be right here in your seat today. The bottom
179 line is the administration's policy of separating children from
180 their parents at the border, and the chaos it unleashed, has left
181 scars that will never heal. We need to know how this policy was
182 created, and we need to know what you plan to do about it.

183 We are a nation of immigrants. We are a nation that offers

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184 care to the needy, and we are a nation of compassionate people.

185 We are not a nation that rips families apart, and we need to
186 stop this for once and for all and get these kids back with their
187 parents.

188 At this time, the Chair will recognize the ranking member
189 of the subcommittee, Mr. Guthrie, for purposes of an opening
190 statement.

191 Mr. Guthrie. Thank you, Chair DeGette, for holding this
192 hearing. And again, congratulations on being Chair of Oversight
193 and Investigations. As you know, this committee has a history
194 of working together on important investigations, and often on
195 a bipartisan basis. I am sure we will find areas we can do that
196 as we move forward.

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

205 This committee's oversight over the care and treatment of
206 unaccompanied alien children by the Department of Health and Human

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207 Services, as well as the sponsorship process for unaccompanied
208 children, extends back to 2014 with the first major influx of
209 children and family units coming across our southern border.

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

216 In June, following reports that the administration had
217 adopted a zero tolerance policy for immigrants entering the U.S.
218 and was separating children from their parents, all of the
219 Republican members of this committee sent a letter to HHS
220 expressing our belief that children should not be arbitrarily
221 separated from their parents, and that all children in HHS care
222 should be properly cared for.

223 We agree with the majority that there are questions for the
224 administration regarding the creation and implementation of zero
225 tolerance policy. But I would point out that the Justice and
226 Homeland Security Departments are best positioned to speak
227 directly to the policy itself.

228 As noted by the extensive oversight this committee has
229 conducted over five years, we deeply care about the health and

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230 well-being of these children. And that is why we invited HHS
231 to be here today to testify on the first panel regarding the
232 agency's role in caring for affected children.

233 Commander Jonathan White is a career civil servant and has
234 long experience working with unaccompanied children in the Office
235 of Refugee Resettlement. After the announcement of the zero
236 tolerance policy, and subsequent ruling from a federal district
237 court judge ordering the reunification of children separated from
238 their parents, HHS officials, including Commander White, worked
239 tirelessly to reunify the children that were separated from their
240 parents, all while they continued to care for and work on placement
241 of thousands of traditional unaccompanied children through the
242 standard sponsor process.

243 While we have important questions for HHS with respect to
244 the challenges and ramifications of a policy that was created
245 by the Department of Justice and implemented by the Department
246 of Homeland Security, I want to underscore that HHS did not
247 separate a single child. Their sole role and responsibility was
248 to care for the children while they were in their custody and
249 work to reunify children with the parents from whom they were
250 separated. If that was not possible due to a risk of the child's
251 safety or the wishes of the parent for their child to remain in
252 the United States, HHS worked to place the child with the most

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253 appropriate sponsor.

254 Without the other departments here, we simply cannot have
255 a full conversation about the creation of, planning for, and
256 implementation of the zero tolerance initiative with the
257 witnesses before us today.

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

268 I thank our witnesses for being here today and being part
269 of this important discussion.

270 And I yield to the Chair.

271 Ms. DeGette. The gentleman yields back. The Chair will
272 now recognize the chairman of the full committee, Mr. Pallone,
273 for 5 minutes for purposes of an opening statement.

274 The Chairman. Thank you. Thank you, Madam Chair, and thank
275 you for being our Chair because I know about how effective you

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276 have been as the ranking member and will be even more effective
277 in this position.

278 The committee today is finally holding the Trump
279 administration accountable for one of its worse failures.
280 Yesterday marked 10 months since the Trump administration's cruel
281 family separation policy was put into action. We all heard the
282 horror stories of how children were ripped away from their parents
283 and have seen the unforgettable images of crying children standing
284 alone and mothers unable to be with their children. These images
285 and stories were devastating.

286 And 10 months later, we still do not know fully how this
287 all happened. We do not have a full understanding of how this
288 policy was created within the administration, who provided input
289 and what kind of planning took place. Most importantly, it will
290 take years for us to know what long-term consequences these
291 actions will have on the thousands of children and families
292 affected by this policy. These children and families are the
293 ones we should keep in mind today because most of us cannot imagine
294 what they have gone through.

295 Now the failures of the Trump administration's family
296 separation policy were twofold. First, the policy itself was
297 a failure because it was inhumane on a fundamental level. As
298 we will hear from the child welfare experts on the second panel,

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299 family separations can never be done humanely. There are decades
300 of research demonstrating that parental protection is critical
301 for child development and that forced separations have
302 debilitating effects and long-term consequences. This includes
303 post-traumatic stress, depression, aggression, and long-term
304 psychological and mental health problems. And these problems
305 particularly affect young children.

306 Now, to be clear, it appears the Trump administration policy
307 was created by the Departments of Justice and Homeland Security.

308 However, we still don't know what role, if any, HHS leaders played
309 in its creation. Since HHS is tasked with caring for these
310 children and ensuring their health and welfare, were HHS's leaders
311 consulted when this policy was being considered? We need to know
312 the answer to that question.

313 The second failure of the policy was its execution. Even
314 after the Trump administration decided to intentionally and
315 forcibly separate children from their families, it was
316 implemented with incompetence and confusion. The independent
317 watchdogs on our first panel will testify about how the
318 administration did not plan for this policy, and, frankly, it
319 showed. GAO found that the agency had no procedures for
320 reunifying families and had to make processes up on the spot,
321 often with chaotic results. In some cases, the ORR shelter caring

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322 for the children only learned a child had been separated when
323 the child told them.

324 Now I am speaking from somewhat personal experience in all
325 this because, on Father's Day, many of us, myself and some of
326 the New York delegation, went to the Elizabeth Detention Center,
327 which was a detention center near my district in New Jersey that
328 was for fathers. It was only for men. But we met with four
329 fathers on that day. It took us two or three hours to get in
330 because they didn't want to let us in. It was one of those
331 contracted, private facilities.

332 And when we finally met with them, no one knew where the
333 kids were, right? In other words, I talked to the guards. I
334 talked to the people in charge of the facility. The fathers had
335 no communications with their kids. They didn't know where the
336 kids were. They had no processes, and the people in charge
337 admitted there was no procedure for them to communicate with their
338 kids or tell them where their kids were. And they were all
339 separated in the middle of the night by surprise. They didn't
340 even know that it was going to happen.

341 But the worse thing of all -- and I don't know if we are
342 going to get into this today -- was that the fathers in many cases
343 were being accused of being abusive. And I felt that the people
344 in charge were convinced that, just because they had brought their

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345 daughters or their sons -- most of the cases, it was daughters
346 -- over the border meant that they were somehow bad people that
347 were trafficking or they were abusing their kids, just because
348 they had brought them over the border.

349 And so, that is one of my concerns today. I don't know if
350 it is going to be answered here today, but we need to get to the
351 bottom of it. Does this family separation policy continue
352 because, when someone comes over the border -- I will use a father
353 with his daughter, but we can use others -- that it is just
354 automatically assumed that somehow they are bad and they should
355 be separated? Because separation, you think that somehow the
356 parent is not doing a good job. That just can't be done
357 willy-nilly as if it is okay because they are a bad person because
358 they brought their kid in, because then you have all these negative
359 consequences from the separation that inured just because someone
360 has made that decision. And so, I am very concerned about what
361 is happening now, not just what happened in these particular cases
362 at the time of the zero tolerance policy.

363 Now, finally, Madam Chair, I have to note that the HHS witness
364 today is not the person we asked to be here. I respect Commander
365 White and the work he has done in response to this crisis. And
366 our aim here today is not to tarnish ORR or the career staff who
367 dedicated themselves to their mission of serving children. But

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368 I personally invited Secretary Azar to be here today because this
369 committee has questions that only he can answer. And I am
370 disappointed he declined our request to testify. However, I can
371 announce that Secretary Azar has committed to coming before this
372 committee in the coming weeks on the President's budget, and this
373 will provide us an opportunity to ask questions about the role
374 he played in the creation and implementation of the family
375 separation policy.

376 Thank you, Madam Chair.

377 Ms. DeGette. The Chair will now recognize the ranking
378 member of the full committee, Mr. Walden, for 5 minutes for the
379 purposes of an opening statement.

380 Mr. Walden. Thank you, Madam Chair, and congratulations
381 on becoming Chair of this very important subcommittee. I enjoyed
382 working with you over the years on this subcommittee when we were
383 both involved in it directly, and I know you will do a great job.

384 I am glad you are doing this hearing.

385 Since 2014, the committee has conducted rigorous oversight
386 of issues related to unaccompanied alien children and the system
387 put in place to care for these children by the Department of Health
388 and Human Services, Office of Refugee Resettlement. In 2014,
389 it was the first major influx of unaccompanied alien children
390 and family units crossing into the United States. As a result

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391 of this committee's oversight then, improvements were made to
392 the UAC program, but questions remain and we have more work to
393 do.

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

401 That is why I and every Republican on this committee sent
402 a letter to HHS last June expressing our belief that children
403 should not be separated from their parents. In addition, our
404 letter sought information from HHS to ensure that children who
405 are in ORR's custody, whether they cross the border as
406 unaccompanied alien children or because they cross the border
407 with a family member and were subsequently separated, are properly
408 cared for while they are in ORR's care.

409 So, I would like to ask the Chair for unanimous consent that
410 the June letter be entered into the hearing record.

411 Ms. DeGette. Without objection.

412 [The information follows:]

413

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***** COMMITTEE INSERT 1 *****

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415 Mr. Walden. It is also why I led a bipartisan delegation
416 of this committee down to McAllen, Texas in July to visit and
417 tour part of the Southwest border, a port of entry, a central
418 processing facility operated by the U.S. Customs and Border
419 Protection, a U.S. Immigration and Customs Enforcement detention
420 facility, and an ORR shelter. It is also why committee staff
421 has since visited an additional five Office of Refugee
422 Resettlement facilities, including the temporary influx ORR
423 shelter in Tornillo, Texas, that has since closed.

424 I would also like to ask unanimous consent, Madam Chair,
425 that a memo drafted by the Republican staff about the facilities
426 our bipartisan delegation visited last July be entered into the
427 record.

428 Ms. DeGette. Without objection.

429 [The information follows:]

430

431 ***** COMMITTEE INSERT 2 *****

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

441 For the children who are separated from their parents, those
442 separations happen because of immigration enforcement decisions
443 made by the Department of Justice and carried out by the Department
444 of Homeland Security. The majority's stated objective is to
445 assess HHS's preparation and response to the zero tolerance policy
446 and its efforts to reunify children with their families. Given
447 HHS's role in caring for and reunifying the children that were
448 separated, as well as their role in caring for traditional
449 unaccompanied alien children, we felt it was important to invite
450 them to testify as one of our minority witnesses for the first
451 panel.

452 Commander, we are glad you are here.

453 We greatly appreciate all of the witnesses and the work that
454 you all are doing. We appreciate you appearing before us today.

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455 With that said, in order to adequately examine the zero
456 tolerance policy that led to family separations, it is critical
457 that the Department of Justice and the Department of Homeland
458 Security also be part of this conversation.

459 With that, I would yield to the gentleman from Texas, Dr.
460 Burgess, the remaining.

461 Mr. Burgess. Thank you, Mr. Chairman.

462 And I think it is important for contextual purposes for us
463 to at least acknowledge that the United States accepts over 1.1
464 million people per year into the country on a legal basis, has
465 done so for as long as I have been in Congress, which is over
466 15 years, and that number has actually increased in the first
467 two years of the Trump administration. This makes the United
468 States the most welcoming country to immigrants of all the
469 countries in the world.

470 In 2012, President Obama announced the deferred action for
471 childhood arrivals. Shortly after that, the word on the street
472 in Central American countries was that, if you can get to the
473 border and arrive across the border, you can get a slip of paper
474 called a ``permiso" and you will be allowed to stay; and
475 ultimately, the President will give you amnesty. And that
476 brought the onslaught in 2013-2014. I first became aware of this
477 problem in 2014. I didn't even know the Office of Refugee

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478 Settlement existed before 2014, but I have made multiple trips
479 down there.

480 And let me just say, this subcommittee has a history of
481 oversight that has benefitted the people who are in the custody
482 of ORR. No doctor was on the staff before this subcommittee --
483 this subcommittee -- had a briefing from the Department. This
484 committee is responsible for the mental health checks that
485 children get in these facilities, and this committee is
486 responsible for the fact that children are given an opportunity
487 for followup after they leave the facility and are placed with
488 a family.

489 I was horrified when I went down there that the children
490 were just sent off to wherever, whoever identified themselves
491 as a family member. In a different hearing, in a different
492 committee, we learned that children are sometimes trafficked by
493 family members.

494 So, this subcommittee has a significant history of improving
495 things for the children who are placed under the custody of ORR.

496 Commander White, thank you for being here today.

497 I yield back.

498 Ms. DeGette. The gentleman yields back.

499 I ask unanimous consent that members' written opening
500 statements be made part of the record. Without objection, they

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501 will be entered into the record.

502 I ask unanimous consent that Energy and Commerce members
503 not on the Subcommittee on Oversight and Investigations, of which
504 we have many joining us today -- and I welcome you -- be permitted
505 to participate in today's hearing. Without objection, so
506 ordered.

507 I now would like to introduce panel 1 of our witnesses for
508 today's hearing. Ms. Kathryn Larin, who is the Director of
509 Education, Workforce, and Income Security for the General
510 Accounting Office; Ms. Rebecca Gambler, Director of Homeland
511 Security and Justice, Government Accountability Office; Ms. Ann
512 Maxwell, Assistant Inspector General for Evaluation and
513 Inspections, Office of Inspector General, Department of Health
514 and Human Services, and Commander Jonathan White, United States
515 Public Health Service Commissioned Corps, U.S. Department of
516 Health and Human Services.

517 Thanks to all of you for appearing before this subcommittee
518 today.

519 Now I am sure you are aware the committee is holding an
520 investigative hearing, and when doing so, has the practice of
521 taking testimony under oath. Does anyone have any objections
522 to testifying under oath?

523 Let the record reflect the witnesses have responded no.

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524 The Chair then advises you that, under the rules of the House
525 and the rules of the committee, you are entitled to be accompanied
526 by counsel. Do you desire to be accompanied by counsel during
527 your testimony today?

528 Let the record reflect the witnesses have responded no.

529 If you would, please rise and raise your right hand, so that
530 you may be sworn in.

531 [Witnesses sworn.]

532 You may be seated.

533 Let the record reflect that the witnesses have now responded
534 affirmatively, and you are now under oath and subject to the
535 penalties --

536 Mr. Duncan. Madam Chairman?

537 Ms. DeGette. -- set forth in Title 18, Section 1001, of
538 the United States.

539 For what purpose does the gentleman from South Carolina seek
540 recognition?

541 Mr. Duncan. I believe the oath was incorrect and
542 incomplete.

543 Ms. DeGette. This is the oath we use and that is the oath
544 we are going to use today.

545 It is now time for members to have the opportunity to ask
546 questions, and I will recognize myself for 5 minutes. Let me

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547 just start. I have very limited time. So, I would appreciate
548 a yes-or-no answer to any of the questions.

549 Ms. Maxwell, let me start with you. OIG recently concluded
550 that thousands of additional -- oh, opening statements from the
551 witnesses. Sorry, this is my first time. So, everybody has to
552 bear with me.

553 Ms. Larin, let's have a 5-minute opening statement from you.

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554 STATEMENT OF KATHRYN LARIN, DIRECTOR, EDUCATION, WORKFORCE, AND
555 INCOME SECURITY, GOVERNMENT ACCOUNTABILITY OFFICE; REBECCA
556 GAMBLER, DIRECTOR, HOMELAND SECURITY AND JUSTICE, GOVERNMENT
557 ACCOUNTABILITY OFFICE; ANN MAXWELL, ASSISTANT INSPECTOR GENERAL
558 FOR EVALUATION AND INSPECTIONS, OFFICE OF INSPECTOR GENERAL,
559 DEPARTMENT OF HEALTH AND HUMAN SERVICES, AND JONATHAN WHITE,
560 UNITED STATES PUBLIC HEALTH SERVICE COMMISSIONED CORPS, U.S.
561 DEPARTMENT OF HEALTH AND HUMAN SERVICES

562

563 STATEMENT OF KATHRYN LARIN

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

570 According to officials, the increased separations resulted
571 from a memo issued by the Attorney General on April 6, 2018
572 regarding criminal prosecutions of immigration-related offenses,
573 known as zero tolerance. On June 26th, a federal judge ordered
574 the government to reunify certain separated families.

575 Today, my testimony will cover three key issues. First,
576 I will discuss planning efforts by HHS and DHS related to the

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577 April 2018 memo. According to HHS and DHS officials we
578 interviewed, the Departments did not plan for family separations
579 or for an increase in the number of children transferred to HHS
580 because they were not aware of the memo until its public release.

581 However, HHS officials also told us that in the year prior to
582 the April 2018 memo they saw a tenfold increase in the number
583 of children known to have been separated from their parents.

584 Two things likely contributed to the increase. A memo
585 issued by the Attorney General in April 2017 prioritized
586 enforcement of certain immigration-related offenses, and an
587 initiative in the El Paso Border Patrol sector increased criminal
588 prosecution of such offenses, including those parents who arrived
589 with minor children.

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

598 Second, I will discuss systems for indicating children were
599 separated from parents. At the time of the Attorney General's

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600 April 2018 memo, there was no single database with reliable
601 information on family separations. Data systems maintained by
602 Customs and Border Protection and by the Office of Refugee
603 Resettlement did not include a designated field to indicate a
604 child had been separated from a parent. Both HHS and DHS updated
605 their data systems by the summer of 2018, but, at least initially,
606 there were indications that data was not consistently being shared
607 between the agencies.

608 It's too soon to know whether these data system changes,
609 when fully implemented, will consistently indicate when children
610 have been separated or will help with reunifications. Further,
611 these changes do not address broader coordination issues that
612 we identified in our prior work. We recommended that the agencies
613 improve the process for referring and transferring custody of
614 children from DHS to HHS. That recommendation has not yet been
615 fully addressed.

616 Third, I will briefly summarize federal actions to reunify
617 families in response to the June court order. First, to create
618 a list of children covered by the court reunification order, HHS
619 and DHS officials told us that they deployed an interagency task
620 team to identify and locate children and parents. HHS manually
621 reviewed about 12,000 electronic case files of children in its
622 care.

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623 Once HHS had identified eligible children, the process of
624 reunifying them with parents evolved over time, based on multiple
625 court hearings and orders, which presented challenges for HHS
626 staff who were facilitating reunifications. For example, HHS
627 started by using DNA testing to determine parentage for young
628 children. But, on July 10th, the court approved the use of DNA
629 testing only when necessary to verify a legitimate concern about
630 parentage or to meet a reunification deadline. Similarly, the
631 process for determining whether the parent is fit or presents
632 a danger also evolved over time, based on court orders. Finally,
633 procedures for physical reunification varied, depending on
634 whether parents were in the custody of ICE or had been released.

635 This concludes my statement. I'm happy to answer any
636 questions you might have.

637 [The prepared statement of Ms. Larin follows:]

638

639 ***** INSERT 3 *****

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640 Ms. DeGette. Thank you, Ms. Larin.

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

643 Ms. Gambler. Ms. Maxwell, you are recognized for 5 minutes.

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644 STATEMENT OF ANN MAXWELL

645

646 Ms. Maxwell. Good morning, Chair DeGette, Ranking Member
647 Guthrie, and other distinguished members of the subcommittee.

648 Thank you for inviting me to discuss OIG's review of the
649 number of children impacted by family separations. Our review
650 provides three key insights about what is known and not known
651 about children who are separated from their parents by immigration
652 agents and referred to the Department of Health and Human Services
653 for care. Generally speaking, HHS provides these children with
654 temporary shelter and care before releasing them to sponsors in
655 the U.S. to await their immigration hearings.

656 Our first insight is that more children over a longer period
657 of time were separated than is commonly understood. The public
658 discussion regarding the number of separated children has largely
659 been tightly focused around the Ms. L. v. ICE class action lawsuit
660 that requires the government to reunify certain separated
661 children. Specifically, the case covers children separated from
662 their parents that were still in HHS care on the date of the court
663 order, June 26, 2018. The required reporting on these children
664 is a matter of public record and, as such, the 2,737 children
665 covered by the case became the de facto count of separated
666 children.

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667 But, if you widen that focus for a more comprehensive view,
668 as we did in this study, you see these children only represent
669 a subset. Exactly how many more children were separated is
670 unknown. This is because there is no integrated data system that
671 reliably tracks children who are separated by the Department of
672 Homeland Security and, then, referred to HHS for care.

673 Now, based on informal records, HHS officials estimated it
674 potentially received and released thousands of separated children
675 prior to the June 2019 court order. These separated children
676 were part of a significant increase in the number of separated
677 children that started approximately a year or so before the court
678 order. Prior to this increase, HHS staff reported that receiving
679 separated children was quite rare and the increase strained its
680 ability to place these often very young children in shelters
681 equipped to address their needs.

682 The second point is that the government struggled to identify
683 which children in its care were covered by the court order. To
684 respond to the court's reunification order, the government, led
685 by HHS, had to first engage in an extensive, labor-intensive
686 effort to identify children who had been separated from their
687 parents. This included analyzing more than 60 datasets and
688 manually reviewing 12,000 case files. And even with these
689 extensive efforts, HHS later identified additional separated

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690 children that were covered by the court's reunification order.

691 This, again, speaks to the challenges of accounting for separated
692 children in the absence of reliable data about their
693 circumstances. In this case, it also impacted timely
694 reunification.

695 The third important item to note is that HHS continues to
696 receive separated children. At this point, separation should
697 only be occurring where there are concerns for a child's safety,
698 as has historically been done. However, DHS immigration agents
699 provided HHS with limited information about the reasons for these
700 separations. For example, the most common reason DHS reported
701 these more recent separations is a parent's criminal history.

702 But HHS didn't receive specifics about the criminal history,
703 and these specifics are important because, from a child welfare
704 perspective, not all criminal history rises to a level that would
705 imperil a child's safety or preclude release back to their
706 parents.

707 In conclusion, limited information about separations means
708 we cannot account for the full impact of family separations on
709 children. Further, the limited data about recent separations
710 impedes HHS's ability to put children's needs at the center of
711 its decisionmaking.

712 In response to these challenges, HHS has taken several steps

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713 to improve its monitoring of separated children. However, it's
714 not yet clear whether these changes will be sufficient, as
715 monitoring systems are only as good as the information put into
716 them. As such, we encourage HHS and DHS to look for opportunities
717 to improve communication and data sharing in the interest of
718 better serving separated children.

719 Thank you for the opportunity to present this information.
720 I'm happy to address any questions that you have.

721 [The prepared statement of Ms. Maxwell follows:]

722

723 ***** INSERT 4 *****

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724

Ms. DeGette. Thank you very much, Ms. Maxwell.

725

And now, Commander White, for 5 minutes.

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726 STATEMENT OF JONATHAN WHITE

727

728 Mr. White. Good morning. Chair DeGette, Ranking Member
729 Guthrie, honored members of the subcommittee, it's my honor to
730 appear on behalf of the Department of Health and Human Services.

731 My name is Jonathan White. I'm a career officer in the
732 United States Public Health Service Commissioned Corps. I'm a
733 clinical social worker and an emergency manager. And I've served
734 in HHS under three administrations. I'm presently assigned to
735 the Office of the Assistant Secretary for Preparedness and
736 Response, and I previously served as the Deputy Director of ORR
737 for the unaccompanied alien children program.

738 And in my testimony today, I do want to discuss aspects of
739 the ORR program's policies and the administration that I have
740 been involved in since February of 2016. In my time at HHS, I
741 have had the privilege of helping to oversee and support the
742 grantees that provide the actual care for children as well as
743 the process of placing children with sponsors. And more
744 recently, I served as the federal health coordinating official,
745 that is, as the HHS operational lead, for the interagency mission
746 to reunify children who were in ORR care as of June 26th, 2018,
747 who were separated from their parents at the border by the U.S.
748 Department of Homeland Security.

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749 I am proud of the work of our team on the reunification
750 mission, and I'm also proud of the care that's provided every
751 day in the UAC program to children. And I will say, these are
752 some of the most vulnerable children in our hemisphere.

753 ORR is responsible for the care and temporary custody of
754 UAC who are referred to ORR by other federal agencies. ORR does
755 not apprehend migrants at the border, and we do not enforce
756 immigration laws. Those functions are performed by DHS and the
757 U.S. Department of Justice.

758 The Homeland Security Act of 2002 and the Trafficking Victims
759 Protection Reauthorization Act of 2008 govern the ORR program
760 as amended, so do certain provisions of the Flores Settlement
761 Agreement. As defined by the Homeland Security Act, if a child
762 under the age of 18 with no lawful immigration status is
763 apprehended by another federal agency, and there's no parent or
764 legal guardian available in the U.S. to provide care and custody
765 of the child, he or she is considered a UAC and is transferred
766 to ORR for care and custody.

767 And in our shelters, we provide housing, nutrition, routine
768 medical care, mental health services, educational services, and
769 recreational activity. These shelters provide an environment
770 that is very much on par with facilities in the child welfare
771 system that houses U.S. citizen children. The facilities are

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772 operated by nonprofit grantees and are licensed to provide care
773 to children by the state licensing authorities of the state where
774 they're housed.

775 The exception is ORR's temporary hard-sided influx care
776 facility in Homestead, Florida, which is not required to obtain
777 state licensure because it's located on federally-owned property.

778 However, the children who reside at that location generally
779 receive the same level of care and services as UAC at a
780 state-licensed facility.

781 The UAC bed program capacity has expanded and contracted
782 over the years, driven by fluctuations in the number of children
783 referred and the average time children remain in ORR care. To
784 respond to these fluctuations, we developed processes for
785 bringing both permanent and temporary UAC housing capacity
786 online. In fiscal year 2018, 49,100 children were referred to
787 ORR by DHS. In fiscal year '19, through December, we received
788 approximately 13,948 referrals.

789 The President issued Executive Order 13841 on the 20th of
790 June, 2018, and the U.S. District Court for the Southern District
791 of California, in Ms. L. v. ICE, issued its preliminary injunction
792 and class certification orders on June 26, 2018. On June 22nd,
793 the Secretary of HHS directed ASPR to help ORR comply with the
794 President's Executive Order. And to execute that direction from

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795 the Secretary, we formed an incident management team, which at
796 its largest included more than 60 staff working at headquarters
797 and more 250 field response assets from ACF, from ASPR, the U.S.
798 Public Health Service Commissioned Corps, and contractors.

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

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

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818 personnel reviewed the case management records for every child
819 in care as of June 26.

820 We also required every one of the more of 110 residential
821 shelter programs to provide a certified list to us, under penalty
822 of perjury, of the children in that program's care that they had
823 identified as separated, as potentially separated. And that's
824 what led us to come up with our additional list of 2,654 children
825 in ORR care who were potentially separated from a parent at the
826 border by DHS.

827 Going forward, ORR continued to amass new information about
828 the children in ORR care through the case management process.

829 And the new information that ORR amassed between July and
830 December 2018 led us to conclude that 79 of the possible children
831 of potential class members were not, in fact, separated at the
832 border by DHS, and that led us to conclude that a total of 162
833 other children were.

834 It's important to understand that we always knew the location
835 and the status of every child in our care. We did lose any
836 children at all. But we did have to recategorize some who were
837 potentially separated. We also had to effect the reunifications
838 of children.

839 Working with the close partnership with colleagues in ICE,
840 DOJ, and the Department of State, we first worked to reunify

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

844 Under the compressed schedule required by court order of
845 15 days for children under the age of 5 and 30 days for children
846 between the ages of 5 and 17, we reunified 1,441 children with
847 parents in ICE custody, all of the children of eligible and
848 available Ms. L class members in ICE custody in that timeframe.

849 Absent red flags --

850 Ms. DeGette. Commander, if you can sum up?

851 Mr. White. Yes, ma'am.

852 Ms. DeGette. If you can sum up?

853 Mr. White. We were tasked with the reunification of all
854 of the children of parents in the Ms. L class where it was safe
855 to do so. And as of this date, there are, of the 2,816 children
856 that we were able to identify as separated that were in our care
857 on the 26th of June, only six -- only six -- remain who might
858 potentially still be reunified. None of those are operationally
859 reunifiable today. They will need either a change in the parent's
860 status or change in the direction from the parent out of the
861 country through the ACLU to effect their reunification. The
862 other children are all either reunified, appropriately
863 discharged, or are in care but won't be reunified.

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864 I'm glad to answer further questions about that. Thank you,

865 Ma'am.

866 [The prepared statement of Mr. White follows:]

867 ***** INSERT 5 *****

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868 Ms. DeGette. Thank you very much, Commander.

869 It now is time for members to ask questions, and I will
870 recognize myself for 5 minutes.

871 Ms. Maxwell, OIG recently concluded that thousands of
872 additional children, aside from the ones the commander has just
873 identified, may have been separated from their parents or
874 guardians beginning in 2017. Is that correct?

875 Ms. Maxwell. That's correct.

876 Ms. DeGette. And, Ms. Larin, months before the Attorney
877 General's April 2018 zero tolerance policy memo was issued, ORR
878 officials saw a tenfold increase in the number of children who
879 were separated from their parents. Is that correct?

880 Ms. Larin. That's correct.

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

886 Ms. Larin. That's what we were told.

887 Ms. DeGette. Now also, as part of your audit, did you
888 interview the Secretary of HHS to determine whether he had advance
889 notice of the AG's April 2018 memo before it was issued?

890 Ms. Larin. We did not interview the Secretary.

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891 Ms. DeGette. You did not interview the Secretary?

892 And, Ms. Maxwell, do you know whether the Secretary was
893 consulted about family separations before the release of the April
894 zero tolerance memo?

895 Ms. Maxwell. Our work looking into the challenges the
896 Department faced in reunifying the children is ongoing, as are
897 interviews with senior HHS officials.

898 Ms. DeGette. So, have you interviewed Secretary Azar about
899 this?

900 Ms. Maxwell. We have not.

901 Ms. DeGette. Now, Commander White, do you know whether the
902 Secretary was consulted about family separations before the
903 release of the April memo? Yes or no?

904 Mr. White. I do not know, ma'am.

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

913 Mr. White. Yes, I do agree that separation --

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914 Ms. DeGette. No, do you -- yes, do you know whether they
915 reached out to senior officials or the Secretary reached out to
916 these other agencies before the order was issued?

917 Mr. White. I do not know. It's my understanding that the
918 Secretary was not aware of the memo prior to its release.

919 Ms. DeGette. Okay.

920 Mr. White. But I never briefed the Secretary on this issue
921 until we were assigned to the reunification mission.

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

930 Mr. White. I do not believe that separation of children
931 from their parents is in the best interest of the child, but I
932 did not participate in the discussions regarding the policy.

933 Ms. DeGette. Thank you. Thank you.

934 Now we still don't know what role Secretary Azar played in
935 the creation of this policy, but you personally say you did not
936 consult with him? Is that correct?

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937 Mr. White. I had never met Secretary Azar until the day
938 that I was assigned to --

939 Ms. DeGette. Do you know if anybody else consulted with
940 him? Do you know that?

941 Mr. White. I am not aware of any communication to Secretary
942 Azar about separation prior to the announcement by the Attorney
943 General.

944 Ms. DeGette. Okay, but do you know that for a fact? Yes
945 or no?

946 Mr. White. I am not aware of any communications with the
947 Secretary about this.

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

954 Mr. White. ORR does not have visibility or authority over
955 children who have exited its care. We never separate -- no one
956 in HHS separated a single child from their parents. We have the
957 ability and have pursued reunification for every child who is
958 in ORR's care. The children who have been discharged to a family
959 member are outside our authority. No one in HHS knows, no one

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960 in HHS knows who the children who had been separated from their
961 parents and were referred to ORR and appropriately discharged
962 to family member sponsors before the 26th of June are or how many
963 they are.

964 Ms. DeGette. Well, that's not my question. But my time
965 has expired. So, I know we will be exploring this.

966 I will recognize the ranking member for 5 minutes.

967 Mr. Guthrie. Thank you, Madam Chair. I appreciate it very
968 much.

969 And, Commander White, before I get started with my questions,
970 I want to note that I understand that the zero tolerance policy
971 was created and implemented by other departments who are not here
972 testifying. So, if you are asked a question or if a question
973 is posed today by me or any members that is better answered by
974 the Department of Justice or the Department of Homeland Security,
975 please let us know.

976 That said, I would like to ask you some questions about the
977 role HHS played in the implementation of the zero tolerance
978 policy, if any, and about the ORR program. You just testified
979 that you were not involved in creating the zero tolerance policy
980 nor aware whether the Secretary. Are you aware of anyone else
981 at HHS involved in the planning or preparation for the zero
982 tolerance policy?

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

986 Mr. Guthrie. Was anybody involved in the planning of this
987 policy, knowing that you may have children come to your care?

988 Was anybody involved in the planning of the implementation of
989 the policy of HHS that you are aware?

990 Mr. White. I'm not aware of that. We participated and I
991 also participated in discussions about potential policy scenarios
992 that would result in separation of children from their parents.

993 However, at no time during the time that I was at ORR, and I
994 was there until March 15th of 2018, were we notified that there
995 would be family separation, that that policy was formal. We
996 observed an increase.

997 Mr. Guthrie. When did you become aware of the policy?

998 Mr. White. I was aware of the formal policy notification
999 when the Attorney General said it on television on April 6th.

1000 Mr. Guthrie. You have previously testified that you are
1001 involved in discussions about immigration policies that you just
1002 talked about that could result in separation of families, as you
1003 just said. Could you tell us more about these discussions? And
1004 specifically, when did these discussions take place and what
1005 concerns did you raise, and what were you told in response?

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1006 Mr. White. The first meeting that I attended on this topic
1007 on February 14, 2017, and that meeting was at the office of the
1008 Commissioner of Customs and Border Prevention. I and a colleague
1009 were there for ORR. There were also folks from DOJ's Executive
1010 Office of Immigration Review, CBP, and ICE present, as well as,
1011 I believe, DHS policy.

1012 At that time, one policy option for implementation of catch
1013 and release that was discussed was referral of minors as part
1014 of family units as unaccompanied alien children to ORR. I,
1015 subsequently, shared that with my own leadership, and on a number
1016 of occasions I and my colleagues made recommendations raising
1017 concerns not only about what that would mean for children, but
1018 also what it would mean for the capacity of the program.

1019 Mr. Guthrie. What were you told in response, though, to
1020 the concerns you raised?

1021 Mr. White. On the occasions that I raised it, I was advised
1022 that there was no policy that would result in the separation of
1023 children and parents. And that remained the answer that I
1024 received during my entire tenure until I left ORR.

1025 Mr. Guthrie. Okay. Well, Commander White, as I stated in
1026 my opening statement, I do not believe that children should be
1027 separated from their parents. In addition, you have previously
1028 acknowledged in testimony before the Senate, as well as on weekly

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1029 phone calls you do with congressional Members and staff, which
1030 we greatly appreciate, that separation of minors from their
1031 parents involves a risk of severe psychological trauma. And that
1032 is important to note, that almost all of these children have
1033 sustained quite severe traumatic exposures before their journey
1034 and on their journey to the U.S.

1035 It is my understanding that ORR has always been a very
1036 trauma-informed program. Can you elaborate on how ORR has always
1037 been a trauma-informed program and what that means in practice?

1038 Mr. White. The children that we receive -- and I'm speaking
1039 now of the vast majority of children in care who are true
1040 unaccompanied alien children -- the children that we receive,
1041 90 percent of whom come from the three Northern Triangle countries
1042 of Central America, often have extraordinarily severe histories
1043 of traumatic exposures and adverse childhood experiences. They
1044 come from communities that are confronted with severe poverty
1045 and food insecurity, as well as severe violence. And often, they
1046 have been victims of violence or an extortion by gangs. Their
1047 lifetime exposure to violence and sexual assault is very high.

1048 For this reason, the program has always had a trauma-informed
1049 focus. This includes providing every child with a licensed
1050 mental health clinician.

1051 Mr. Guthrie. That was my next question. I have about 25

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1052 seconds. So, what medical care and mental health care do you
1053 provide? Now you just got started on that. Would you just
1054 discuss that?

1055 Mr. White. Every minor receives routine and emergent health
1056 care, including an initial medical evaluation, age-appropriate
1057 vaccinations and health care. Every child receives individual
1058 or group modality mental health services commensurate with their
1059 needs.

1060 Mr. Guthrie. So, in my final 5 seconds, would you have
1061 advised DOJ or DHS to implement the policy of zero tolerance,
1062 if they had asked?

1063 Mr. White. Neither I nor any career person in ORR would
1064 ever have supported such a policy proposal.

1065 Mr. Guthrie. Thank you. And I yield back.

1066 Ms. DeGette. Thank you. The Chair now recognizes the
1067 chairman of the full committee, Mr. Pallone.

1068 The Chairman. Thank you. And I apologize, I had to go to
1069 the other hearing on net neutrality. So, I missed a lot of your
1070 statements.

1071 But I wanted to ask Commander White, if I could, I know that
1072 when you walk into the HHS's headquarters -- and, of course, we
1073 went there for a briefing after the zero tolerance policy was
1074 put in effect -- there is a quote on the wall from former Vice

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1075 President Hubert Humphrey, who the building is named after. And
1076 it says, ``The moral test of a government is how that government
1077 treats those who are in the dawn of life, the children; the
1078 twilight of life, the elderly, and the shadows of life, the sick,
1079 the needy, and the handicapped." And today, we are focusing on
1080 the first part of that quote, how this administration treated
1081 those who are in the dawn of life, the children.

1082 So, Commander White, do you believe that this policy passed
1083 the moral test that Hubert Humphrey spoke of?

1084 Mr. White. I'm really not an expert on such things. I,
1085 however, have said previously, and will say again, that separating
1086 children from their parents poses significant risk of traumatic
1087 psychological injury to the child. And separations for cause
1088 that are necessary to protect children have always been part of
1089 this program. I think the national discussion, including the
1090 discussion for legislators, is specifically, what are the
1091 legitimate criteria for separation?

1092 The Chairman. And again, this kind of goes back to what
1093 I said in my opening statement, which is that I understand that
1094 there may be occasions when it is justified. But if you have
1095 to weigh it in balance and say that you are separating kids and
1096 all the terrible things that result from that, I think you have
1097 to be really careful not to separate kids whenever possible.

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1098 And that is why I mentioned, when I went to the detention
1099 center in New Jersey on Father's Day, I just got the impression
1100 that, oh, you know, there was no real criteria for deciding, even
1101 today, when we do this. And it shouldn't just be assumed that
1102 somehow the parents are bad because they are taking the kids over
1103 the border; and therefore, they should be separated. So, that
1104 is the concern I have.

1105 But, Commander, in March 2017, the then-Secretary of
1106 Homeland Security, John Kelly, publically stated that DHS was
1107 considering separating children from their parents at the border.

1108 And at the time, child advocates sounded the alarm on the negative
1109 effects separation would have. I understand when you testified
1110 before the Senate Judiciary Committee that you personally raised
1111 concerns about the policy. I know you have said something about
1112 this, but could you get specific? What specifically were the
1113 concerns you had and who did you raise them with, if you could?

1114 Mr. White. The concerns which I expressed were two. First,
1115 that this would be inconsistent with our legal requirement to
1116 act in the best interest of the child and would expose children
1117 to unnecessary risk of harm. Second, that it would exceed the
1118 capacity of the program. Issues of bed capacity are very
1119 important to ORR because it constitutes our ability to provide
1120 a safe and appropriate environment to every child.

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1121 I should add, I emphasized that not only would this likely
1122 exceed our capacity, but it would particularly exceed our capacity
1123 that was specifically licensed for what we call tender-aged
1124 children, which is to say children under the age of 12, and
1125 especially children under the age of 5, since those are separate
1126 licensed facilities, and a facility that's appropriate for care
1127 to a 16-year-old cannot easily flex to provide care to a
1128 4-year-old.

1129 The Chairman. Did you say or maybe you were going to say
1130 who you raised these concerns with? That was part of my question.

1131 Mr. White. I raised these concerns within my own, to my
1132 own leadership.

1133 The Chairman. Specifically?

1134 Mr. White. That would be the Director of ORR, Scott Lloyd;
1135 the Acting Assistant Secretary of ACF, Steven Wagner, and the
1136 Counselor to the Secretary for Human Services, Maggie Wynne.
1137 These were the superiors who I made recommendations to and
1138 identified these concerns to.

1139 The Chairman. Do you know what any of those people did in
1140 response to the concerns you raised?

1141 Mr. White. We participated together in modeling and
1142 discussions. Additionally, I think it is important to note that
1143 Secretary Kelly, to whom you just alluded, then-DHS Secretary

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1144 Kelly, subsequently made a public announcement that there would
1145 not be separation, and that announcement was referenced in the
1146 subsequent communications to me when we revisited this later,
1147 that there wasn't a separation policy.

1148 The Chairman. All right. Thank you so much.

1149 Ms. DeGette. Thank you. I now recognize the ranking
1150 member, Dr. Burgess, for 5 minutes.

1151 Mr. Burgess. I appreciate the recognition and the
1152 advancement in status. I am not the ranking member of the full
1153 committee.

1154 However, let's talk just for a moment. The title of this
1155 hearing is "`Examining the Failures of the Trump Administration's
1156 Inhumane Family Separation Policy". The difficulty -- and,
1157 Commander White, let me just focus here for a minute -- the
1158 difficulty was because of the numbers of people and unaccompanied
1159 children that were coming across the border through not just the
1160 Trump administration, the beginning of the Obama administration
1161 and continued to the Trump administration. Is that a fair
1162 statement?

1163 Mr. White. It is absolutely a fair statement that one of
1164 the most fundamental challenges we face every day in the UAC
1165 program is the number of minors who come in as unaccompanied and
1166 the fluctuations in the number of minors who come in as

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1167 unaccompanied.

1168 Mr. Burgess. And let's talk about that for just a minute
1169 because the fluctuations are important. I have made at least
1170 nine trips to not just the Texas border, other places on the
1171 border, primarily the Texas border because it is my home state.

1172 I also made a trip to the Northern Triangle countries this August,
1173 tried to get a delegation to go. Mr. Pallone had a cruise or
1174 something, and he couldn't go with me.

1175 I thought it was important that we understand what is going
1176 on here. The fluctuations that you described, August of 2016,
1177 I was down in the Lower Rio Grande Valley sector, and the numbers
1178 of people who were coming across in August 2016 was high. In
1179 fact, when I went down to the border with the Border Patrol, they,
1180 in fact, encountered a group of people, about five or six women,
1181 some small children, some teenaged boys, that had just been left
1182 there by coyotes. Hot sun, out in the brush, cotton clothing
1183 on, flip-flops for shoes. I mean, they were no way equipped to
1184 handle a trip across the desert or across the brush country to
1185 try to get to civilization. They were just left there by the
1186 traffickers.

1187 And I asked Customs and Border Patrol, I said, ``This is
1188 a pretty serious situation. Do you encounter this often?" ``All
1189 the time. In fact, sometimes we bring buses down to the border,

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1190 and 40-50 people will get on the bus and go off to a processing
1191 center." So, it was a big deal.

1192 Now, in May of 2017, I went back down to that same sector
1193 on the border, and it was vacant. The holding facility, the
1194 processing facility, no one there. ``What happened that changed
1195 this?" And they said, ``Well, the inauguration of President
1196 Trump. The word went out that he's going to build a wall, and
1197 nobody came."

1198 Well, Secretary Kelly at the time was Homeland Security
1199 Secretary. He visited just a week or so before I did and had
1200 made the statement publicly, according to the papers, that the
1201 numbers are down, but if Congress does not fix the problems with
1202 the laws that are inconsistent, we can expect this problem to
1203 reignite. So, Congress must act. And Secretary Kelly was
1204 exactly correct.

1205 So, a year later, and we are facing another influx. But,
1206 again, it is not the only time in our history that we have faced
1207 large numbers of people coming into our country where it has become
1208 a management problem. An online publications, ``Moments in
1209 Diplomatic History," quoting Deputy Secretary of State John
1210 Bushnell in April of 1980, the Mariel boatlift. You may have
1211 heard about it. It was a big problem, and the Carter
1212 administration had to deal with it.

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1213 There were, of course, some difficulties. Humans landed
1214 up and down the Florida Keys, in Miami, by the thousands, not
1215 relatives, not related to people that were there. None had visas.
1216 Most had no documents. Republicans started causing problems
1217 for President Carter saying you couldn't control your borders.

1218 So, here is Secretary Bushnell describing this. ``I
1219 remember sitting in a windowless conference room of the National
1220 Security Council with Secretary of State Edmund Muskie, the Chief
1221 of Naval Operations, the Director of the CIA, head of the Coast
1222 Guard, head of the INS, and several other senior officials,
1223 debating how to stop this flow of Cubans. National Security
1224 Advisor Zbigniew Brzezinski chaired until President Carter came
1225 in. There was a long discussion of how the Coast Guard and Navy
1226 ships might physically stop the Cuban boats. We asked the
1227 admirals, how can we do this? It was suggested the boats could
1228 be rammed or shot." Wow, that seems even harsher than a zero
1229 tolerance policy, shooting the boats at sea. But, again, you
1230 have a vast number of people coming into your country, and you
1231 do have an obligation, the government has an obligation to control
1232 that flow.

1233 Bill Clinton, when he ran against George Herbert Walker Bush,
1234 just derided George Herbert Walker Bush for his blockade of
1235 Haitians coming by boat. And Bill Clinton said during the

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1236 campaign, by golly, if I win this election, the Statue of Liberty
1237 will again be open for business and we will not turn the Haitians
1238 back at sea.

1239 What did President Clinton have to do before he took office?

1240 He had to go on Voice of America, tell the Haitians not to come
1241 by boat because so many were projected to die at sea on that
1242 perilous journey. Bill Clinton started a zero tolerance policy
1243 --

1244 Ms. DeGette. The gentleman's time has expired.

1245 Mr. Burgess. -- before he was inaugurated.

1246 I yield back my time.

1247 Ms. DeGette. The Chair now recognizes the gentlelady from
1248 Illinois, Ms. Schakowsky.

1249 Ms. Schakowsky. Thank you very much, Congressman DeGette,
1250 for this hearing.

1251 I am going to try and hold it together because this has been
1252 such a traumatic experience for so many Americans watching what
1253 has been happening. I have been to the border. I have been to
1254 shelters, both in McAllen, Texas, and in Chicago, where people
1255 are getting very good care. The children are getting good care.

1256 But can anybody here on this panel challenge this? The
1257 United States does not know how many children have been separated
1258 from their parents. No one?

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1259 Does anyone know how many are still separated from their
1260 parents? Nobody knows.

1261 And now we know that those in ORR custody, that there is
1262 no way to know how to divide out those children that have been
1263 separated. Is that right, Commander?

1264 Mr. White. Ma'am, no. I want to be very clear. Children
1265 in ORR custody, children who have been in ORR custody who were
1266 in ORR custody on the 26th of June, we have laboriously worked
1267 to identify them.

1268 Ms. Schakowsky. No, I understand, but you --

1269 Mr. White. The challenge is those who exited ORR custody
1270 because --

1271 Ms. Schakowsky. Okay.

1272 Mr. White. -- HHS did not receive from DHS any list or
1273 any indication of the complete set of separated children.

1274 Ms. Schakowsky. Thank you.

1275 Mr. White. In partnership with them, we worked hard to
1276 identify every one of those kids from those who were in care.

1277 Ms. Schakowsky. Thank you.

1278 Mr. White. Yes, ma'am.

1279 Ms. Schakowsky. I just feel like what has been happening
1280 is more than irresponsible and sloppy. But I really think that
1281 what we are talking about is state-sponsored child abuse, and

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1282 I would go as far as to say kidnapping of children.

1283 Ms. Maxwell, I want to ask you, what, if any, criteria has
1284 been shared with HHS regarding how determinations are currently
1285 made to separate children from their family and what, if any,
1286 process exists for HHS or attorneys for the families to dispute
1287 these?

1288 My experience when I went to McAllen was a whole courtroom
1289 of people, these immigrants coming across, these refugees coming
1290 across, were declared guilty of crossing the border illegally.

1291 So, is that a criteria? They are criminals? How do we know?

1292 And, Ms. Larin, you mentioned that there was no real criteria
1293 of who is, then, unfit and who should be separated.

1294 Ms. Maxwell. Yes, to be clear, there is no federal statute
1295 that dictates the circumstances under which families must be
1296 separated at the border. That is a discretion made by
1297 enforcement, immigration enforcement agents.

1298 As it pertains to children who are newly separated, we do
1299 note in our report that there is information coming about the
1300 cause of the separations, but there lacks a level of specificity
1301 to determine whether or not the separations that are currently
1302 happening meet the spirit of the preliminary injunction, as well
1303 as allow ORR to have the information necessary to care for the
1304 children.

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1305 Ms. Schakowsky. Let me ask, Ms. Larin, do you want to
1306 comment on that or is that accurate?

1307 Ms. Gambler. I'll address that for GAO, if that's okay,
1308 ma'am.

1309 Ms. Schakowsky. Okay.

1310 Ms. Gambler. We understand from DHS that, under certain
1311 circumstances, children could be separated from their parents
1312 at the border, and those circumstances include things like if
1313 the parent is unfit or represents a danger to the child, if they
1314 have a criminal history, or if they have --

1315 Ms. Schakowsky. Criminal history, how is that defined,
1316 however? Are these people criminals because they crossed the
1317 border?

1318 Ms. Gambler. According to what was laid out in the court
1319 order for that population to be eligible for reunification, the
1320 court determined that, to be eligible for unification, that it
1321 would be, in determining fitness, it was if the parent, a
1322 consideration of if the parent was involved in possible criminal
1323 violations, but not including improper entry, misdemeanor
1324 improper entry.

1325 Ms. Schakowsky. Okay. Do we know how many children have
1326 been separated from their parents for a reason that was given?
1327 Do we have a number?

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1328 Ms. Gambler. So, ma'am, GAO actually has ongoing work right
1329 now for the House Homeland Security Committee where we're looking
1330 at how the Department of Homeland Security is addressing families
1331 that are encountered at the border. We are planning to report
1332 out on that work later this year.

1333 Ms. Schakowsky. Okay. I just want to say that my
1334 constituents -- I was hearing from parents, regardless of party,
1335 who were so, and are so, upset at this child separation. A number
1336 of them said this is not rocket science; what about a hospital
1337 bracelet put on a parent with a matching one for a child to identify
1338 them? It is so shocking that we do not know how many. I hope
1339 this hearing can get to some at least knowing what we need to
1340 know.

1341 I yield back.

1342 Ms. DeGette. The gentlelady yields back. The gentleman
1343 from West Virginia, Mr. McKinley, is now recognized.

1344 Mr. McKinley. Thank you, Madam Chairman.

1345 A few quick questions to understand. The media and some
1346 folks here in Congress continue to talk about the children being
1347 put in cages. Commander, I haven't heard anyone talk about that
1348 yet. So, I would like to hear how you react when you hear that
1349 ORR is putting children in cages. How do you react to that?

1350 Mr. White. Well, of course that's false. I mean, this is

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1351 actually -- there are so many things about this issue that are
1352 complex, and this is not one. The images that have been in the
1353 media are actually images of border stations.

1354 But the easiest, I think that the best answer for this is
1355 come and see. Come and see an ORR shelter. And I know that many
1356 Members of Congress have toured them and we have that process.

1357 But ORR shelters are licensed by the state in which they're
1358 housed to be a residential care setting for children. They are
1359 not detention facilities.

1360 Mr. McKinley. Okay.

1361 Mr. White. In many states, they have no locked doors to
1362 the outside because that's not permitted under state law.

1363 Mr. McKinley. Thank you.

1364 Mr. White. We do not put children in cages.

1365 Mr. McKinley. Thank you.

1366 Mr. White. In fact, that's why we do influx sheltering.

1367 It's because, for their mission, appropriate for their mission,
1368 border stations are a detentional holding setting. We don't have
1369 those.

1370 Mr. McKinley. Okay. Thank you, Commander.

1371 I would also try to get a grasp -- I am from West Virginia.

1372 We are not seeing the influx or the problems that some of the
1373 other folks are, but we follow the media. I am trying to get

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1374 an understanding for the American public to understand like, for
1375 the minors, the accompanied minors, what is the age? What would
1376 you say the average age for an accompanied minor would be?

1377 Mr. White. So --

1378 Mr. McKinley. Yes, just a range maybe.

1379 Mr. White. So, unaccompanied alien children can be any age,
1380 although the greatest majority of them are teenagers. Those
1381 minors who were separated, the demographic is younger because,
1382 after all, they were traveling with parents. They have a
1383 different set of needs and a different demographic picture than
1384 true UACs. Most UACs are teenagers. Sometimes we do get much
1385 younger children, typically, who were traveling with like a
1386 teenaged brother or sister.

1387 Mr. McKinley. Commander, if you could, again, just if you
1388 could get back, I would like to understand. I can
1389 compartmentalize it better if you give me an average age. If
1390 you can get back to me on the short answer if the average age
1391 is 8 and a half or the average age for the unaccompanied minor
1392 might be 14, I would just like to know what that is.

1393 Mr. White. The greatest number of unaccompanied alien
1394 children is 16 and 17.

1395 Mr. McKinley. My last question, Commander, or whomever
1396 would like to answer, there are so many misrepresentations about

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1397 -- you just heard it here that this is state-sponsored -- I don't
1398 even want to finish the sentence. I would like for you to just
1399 walk through with me, please, give me a day in the life -- day
1400 one, when you first get a child, let's just say one of the minors,
1401 that they come into your presence. Could you walk through what
1402 they begin with?

1403 Because I was told one of the first things they do is
1404 vaccinate the children to make sure that they are healthy. I
1405 am told that they have access to doctors, that there's a mental
1406 health individual that they can be counseled with. Can you walk
1407 through what a day is like as compared to what others are talking
1408 about; they're put in cages? Give me, just in the remaining time,
1409 a minute and a half --

1410 Mr. White. Sure. So, every --

1411 Mr. McKinley. What is an average day, first day?

1412 Mr. White. So, every child who enters ORR care, part of
1413 their first hours in ORR care will include a comprehensive
1414 psychosocial assessment and risk assessment to determine their
1415 needs. They also go through a process we call IME, which is
1416 initial medical evaluation. That's a complete medical workup.
1417 And then, we begin the process of their age-appropriate
1418 vaccinations, which we do to CDC standards. This is all part
1419 of every child's first day, along, then, with the beginning of

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1420 the process of their know your rights and legal screening process
1421 and their orientation to the program they're going to be in.

1422 Mr. McKinley. And mental health, because mental healthy,
1423 they may have begun to have problems based on what life was like
1424 back in their village or community. And then, they went through
1425 the ordeal, the trauma of a lengthy march through Mexico to come
1426 up. What kind of mental health treatment are they receiving?

1427 Mr. White. So, every minor in ORR care has a licensed
1428 clinician, and we have a specified ratio of clinicians to
1429 children. Children receive individual and group modality
1430 clinical services. Some children are diagnosed as having more
1431 significant behavioral health needs and would receive a higher
1432 acuity care or be moved to a higher acuity setting consistent
1433 with those needs. I actually feel, I am very proud of the work
1434 that we do for the health and safety of children in care.

1435 Mr. McKinley. Thank you very much. I yield back my time.

1436 Ms. DeGette. The Chair now recognizes the gentleman from
1437 California, Dr. Ruiz, 5 minutes.

1438 Mr. Ruiz. Thank you very much, Chairwoman.

1439 Let's be very clear. We all know that ORR did not do the
1440 separation of children. We know that CBP and ICE separated
1441 children. Let's be very clear that it was CBP and ICE that
1442 detained children in cages. Let's be very clear with that.

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1443 This is an outrage. Morally, it is a stain in our conscience
1444 as individuals, and every mother and every father that loved any
1445 of their children should feel the compassion and the hurt that
1446 these children and their parents went through when this happened.

1447 And I understand by the look in your eyes, Commander White,
1448 that you understand that. And as healthcare professionals, you
1449 understand the experience of having to go through and witness
1450 that as well.

1451 And yet, since it was one of the most intentional, hurtful
1452 experiences in our nation's recent history that our federal
1453 government has done to any population, this committee held no
1454 hearings on the topic while it was ongoing. This committee had
1455 no legislation that we marked up except for this resolution of
1456 inquiry, and it was not passed with favorable sentiment to be
1457 voted on on the Floor. We were simply asking to have a hearing
1458 to get questions answered; simply asking for a resolution of
1459 inquiry that Congress is saying we want more information, and
1460 that was denied by this committee in the last cycle.

1461 Commander White, do you understand the effects of toxic
1462 stress on children?

1463 Mr. White. I have professional training that does indicate
1464 that toxic stress -- that's an accepted scientific reality --
1465 has consequences, both for children's behavioral health and their

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1466 physical health, and those consequences are frequently lifelong.

1467 Mr. Ruiz. So, this problem is not over, even after they
1468 unify the child with the family, right?

1469 Mr. White. The consequences of separation for many children
1470 will be lifelong.

1471 Mr. Ruiz. Yes. In March 2017, the American Academy of
1472 Pediatrics published a public policy statement opposing the
1473 separation of mothers and children at the border, stating, quote,
1474 ``Federal authorities must exercise caution to ensure that the
1475 emotional and physical stress children experience as they seek
1476 refuge in the United States is not exacerbated by the additional
1477 trauma of being separated from their siblings, parents, or other
1478 relatives and caregivers."

1479 You mentioned a tender age, Commander White, children under
1480 5 or children under 12. In your opinion, were they re-traumatized
1481 by our federal government when we separated them from their
1482 mothers?

1483 Mr. White. So, I've previously testified before the Senate
1484 --

1485 Mr. Ruiz. Yes or no, do you feel that they were
1486 re-traumatized by being separated from their parents?

1487 Mr. White. Separation of parents is a traumatic event and
1488 has the potential for having those psychological consequences,

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1489 as a matter of fact.

1490 Mr. Ruiz. So, let's be clear. Is there a nullification
1491 of re-traumatized or is this an additional trauma that adds
1492 additional stress and additional harm to a child after they
1493 experience the difficulties that they experienced in their home
1494 country, going through the long trek? Did we add additional
1495 re-traumatization to that child?

1496 Mr. White. For many children, that is --

1497 Mr. Ruiz. Yes.

1498 Mr. White. -- consequence, yes.

1499 Mr. Ruiz. My understanding is yes.

1500 So, when you voiced your concern to your leadership, when
1501 Ms. Maxwell mentioned that you, that the Department of Health
1502 and Human Services knew that there was a surge of family
1503 separations, and folks were aware and they were questioning, did
1504 you voice your concern and did you say these need to -- how were
1505 you treated when you voiced your concern?

1506 Mr. White. I received a respectful hearing. I was advised
1507 that there was no policy to result in family --

1508 Mr. Ruiz. Did you feel like that was a way to tell you don't
1509 bring it up any further; this was not official, so don't mention
1510 it anymore to anybody else?

1511 Mr. White. No.

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1512 Mr. Ruiz. Okay.

1513 Mr. White. That was not how I took it.

1514 Mr. Ruiz. And did you advise that HHS should take a little
1515 more proactive step to stop these separations?

1516 Mr. White. That is the recommendation I give to anybody

1517 --

1518 Mr. Ruiz. And did it occur?

1519 Mr. White. It did not, in fact, occur, but --

1520 Mr. Ruiz. Okay. In the intake, you said that you, that
1521 the ORR did not distinguish which children were separated and
1522 which children were not separated, correct?

1523 Mr. White. That's correct because, historically --

1524 Mr. Ruiz. So, let me ask you a question. Were you able,
1525 was there anything preventing you from asking the question during
1526 the intake, ORR to say, ``Was this child separated from their
1527 parent?``, knowing that that was going on?

1528 Mr. White. So, that is now part of intake --

1529 Mr. Ruiz. Yes, but you were not denied or you weren't told,
1530 ``You can't ask that question." And you failed, the Department
1531 of ORR failed to ask that question during the intake of the child.

1532 Mr. White. No, we routinely ask and have asked for years.

1533 Mr. Ruiz. At that time, you said that you were not able
1534 to determine if they were separated or not separated. A social

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1535 worker, a case manager would simply ask, ``Was this child
1536 separated?" to determine a full history and context to provide
1537 the adequate treatment for toxic stress. Did that occur? And
1538 were you proud that it did not occur?

1539 Mr. White. We did attempt to identify for the --

1540 Mr. Ruiz. Well, earlier mentioning --

1541 Ms. DeGette. The gentleman's time has expired. We are
1542 going to have to --

1543 Mr. Ruiz. -- you said that you didn't.

1544 Mr. White. No, I actually was very specific. What we did
1545 not have is a single comprehensive list because the reality is
1546 many children who we have identified as separated, there is
1547 nothing in their initial assessment to indicate their separation,
1548 even when they're asked a question specifically. So, that's not
1549 an exhaustive list.

1550 Mr. Ruiz. So, those questions --

1551 Ms. DeGette. The gentleman's -- I'm sorry --

1552 Mr. Ruiz. -- were asked specifically?

1553 Mr. White. Yes, sir.

1554 Ms. DeGette. The gentleman's time has expired. The
1555 gentlelady from Indiana, Ms. Brooks, is recognized.

1556 Mrs. Brooks. Thank you, Madam Chairwoman DeGette, and to
1557 Ranking Member Guthrie. Thank you for holding this important

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1558 hearing today.

1559 I would like to remind the committee that during an important
1560 debate over the passage, during the Energy and Commerce Committee
1561 debate on the Pandemic and All-Hazards Preparedness Act, we did
1562 accept an amendment offered by Representative Lujan and
1563 Representative Blackburn, to require ORR and the Department of
1564 HHS to provide us weekly reports. And so, this committee did,
1565 in clarification of my friend, the gentleman, Dr. Ruiz, this
1566 committee did address that, actually, during the Pandemic and
1567 All-Hazards Preparedness Act debate. And it was included and,
1568 in fact, has been voted on by the House, has passed out of the
1569 House twice, once in the last Congress, and I am proud to say
1570 that Congresswoman Eshoo and I already have gotten it out of the
1571 House once again.

1572 And in that bill about pandemic and all-hazard preparedness,
1573 we addressed this issue in requiring the Department to provide
1574 weekly updates and to provide the Department to deal with this
1575 issue. And so, just I wanted to clarify for the record that our
1576 committee did address this. We have actually passed it in the
1577 House, although people might not have realized. It was a very
1578 important bill having to do with pandemic and all-hazard
1579 preparedness with vaccines and preparedness for public medical
1580 emergencies.

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1581 I would also like to share that I, too, have visited not
1582 only the border and visited the Brownsville facility and saw,
1583 which overwhelmed me, the Southwest Key facility, where I saw
1584 1379 -- I will never forget that number because it was on the
1585 board as I walked in -- 1379 boys, ages 11 to 17. I, like others,
1586 saw that they were incredibly well cared for.

1587 I was overwhelmed at the numbers of children at that point
1588 in time -- this was in July of 2018 -- the vast number of
1589 unaccompanied children. Some may have been some of those who
1590 had been separated and were in the process of being reunited with
1591 their families. But I think, until I saw that, I really had not
1592 the full understanding of the massive numbers that our country
1593 has been dealing with since 2014, and the massive numbers of
1594 children who were separated from their parents in their home
1595 countries, smugglers and coyotes who were paid to bring those
1596 children. So, these children have been experiencing toxic stress
1597 for a very, very long time, including these unaccompanied
1598 children, as well as those that we separated. And for the record,
1599 I, too, was opposed to the separation of families and separation
1600 of children.

1601 I want to talk very briefly about one of the facilities.
1602 And, Commander White, there have been media reports about the
1603 variation of care, the tent city that we saw, Tornillo. It is

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1604 my understanding it has since closed. Is that correct?

1605 Mr. White. The temporary influx facility, the Tornillo site
1606 has been closed. It's no longer necessary.

1607 Mrs. Brooks. And so, can you please talk with us, and I
1608 think this has to do with the fluctuations. And this has to do
1609 with what I would call a crisis that we have been handling, but
1610 not handling incredibly well since 2014. We still have thousands
1611 of children. In December, there were about -- I have the numbers
1612 -- about 4,000 unaccompanied children that came each month in
1613 October, November, and December. Do you know what the numbers
1614 were in January? How many unaccompanied children do we have?

1615 Mr. White. I don't have with me monthly numbers, although,
1616 as a reminder, we do provide those to Congress monthly. I can
1617 tell you that, thus far this fiscal year, we've received just
1618 under 14,000 referrals, and that last fiscal year we received
1619 49,100 children in care. Over recent years, the fluctuation has
1620 been between 40,000 to 60,000 children a year that come into the
1621 care of ORR.

1622 Mrs. Brooks. And we are at 14,000 now?

1623 Mr. White. Thus far this fiscal year.

1624 Mrs. Brooks. Thus far? And do you have any way of
1625 predicting what is coming for the next three months?

1626 Mr. White. So, we have to use bed capacity modeling to

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1627 anticipate how many beds we're going to need. But the most honest
1628 answer to your question is no one can predict how many kids will
1629 cross the river tomorrow.

1630 Mrs. Brooks. And because of that challenge -- and my time
1631 is up -- because of that challenge, I will be submitting some
1632 questions in writing relative to the future planning. Since
1633 we have absolutely no idea how many thousands upon thousands of
1634 unaccompanied children in addition to -- and God forbid there
1635 are any further separations -- but the unaccompanied children,
1636 our country has not dealt with this problem yet. And they
1637 continue by the thousands, and these are children who are coming
1638 to our country with no adults.

1639 And I yield back.

1640 Ms. DeGette. The gentlelady yields back. The gentlelady
1641 from New Hampshire, Ms. Kuster, is now recognized.

1642 Ms. Kuster. Thank you.

1643 Like my colleague, Ms. Schakowsky, I will try to keep it
1644 together. I am a mother. I have been an adoption attorney for
1645 25 years. I am very, very well versed, to quote the commander,
1646 and I want to thank you for your courage today, for your honesty,
1647 and for your compassion.

1648 The consequences of separation of children from their
1649 parents will be lifelong. I have been to McAllen, Texas. I have

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1650 been to Brownsville. And I want to be very clear to my colleague,
1651 Mr. McKinley. I have seen the cages. I have walked through the
1652 cages. I have seen the children crying. I have been with the
1653 mothers who had no idea where their children were taken. We were
1654 all crying. It was a group of women, Members of Congress, mothers
1655 and grandmothers ourselves, weeping in the arms. The guards were
1656 weeping. I met two women breastfeeding their babies that were
1657 taken by the government of the United States of America,
1658 breastfeeding their babies.

1659 So, I understand that you did not make that happen, but we
1660 are all citizens of the country that made that happen. And with
1661 all due respect to my colleague, Ms. Brooks, who is a friend and
1662 a colleague, yes, they faced trauma in their home country, and
1663 we need to do more. Yes, they arrive with trauma at our border,
1664 and we need to do better and open our arms with compassion. But
1665 we have inflicted additional trauma on each and every one of those
1666 children, and we need not forget until we get to the bottom of
1667 this. And I appreciate all of your professionalism in helping
1668 us to do just that.

1669 Now what I want to focus on is the children who are separated
1670 in your jurisdiction. I have great respect for the care that
1671 they are receiving. But they are being placed into child
1672 placement agencies, and they were sent at that time around this

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1673 country, while their parents, mothers and fathers, were sent to
1674 detention facilities thousands of miles away. They had no
1675 contact. The women that we spoke to couldn't make a phone call.

1676 Then, they were charged for the phone call. They had no money.

1677 And I want to focus on the legality. My colleagues are
1678 doctors; I am a lawyer. Help me understand how those children's
1679 rights are being protected, and promise me, please, that not a
1680 single child has had parental rights terminated against that
1681 parent's will on grounds of abandonment or neglect, because the
1682 United States of America separated that parent.

1683 Mr. White. Let me look at the pieces of your question.
1684 First of all, ORR has no authority, this Congress has never
1685 provided authority to ORR to terminate parental rights. That
1686 is not something we do. We also --

1687 Ms. Kuster. Sorry to interrupt.

1688 Mr. White. Yes?

1689 Ms. Kuster. But can you promise me that there's no agency
1690 across this country where ORR has placed a child that has somehow
1691 slipped into a state court, a county court, and urged the
1692 termination of parental rights because this child was, quote,
1693 ``abandoned at the border"?

1694 Mr. White. So, as it happens, our grantees are prohibited
1695 by program regulations from attempting to intervene in custodial

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1696 matters in court. And indeed, in previous years where there have
1697 been isolated cases where someone attempted that, we have fought
1698 against that. So, I can be very clear about that. We do not
1699 allow that.

1700 But I need to talk, because I think this is also very
1701 important that people understand this, about what discharge to
1702 a sponsor means. Because I hear in the media all the time talk
1703 about discharge to sponsor, like that's some kind of crypto
1704 adoption. Sponsors are members of the child's family
1705 overwhelmingly.

1706 Let me give you the exact statistics for the year because
1707 it's very important. Because when we talk about the children
1708 who transited ORR care and were discharged to sponsors before
1709 the court's order, let's talk about those children in the context
1710 of what that population looks like.

1711 So, in 2018, 86 percent of the children in our care were
1712 released to an individual sponsor, and 42 percent of them went
1713 to parents, 47 percent of them went to close relatives. That
1714 means an aunt, an uncle, a grandparent, or a sibling. And 11
1715 percent went to a more distant relative, like a cousin, or a
1716 non-relative that's a family friend generally identified by the
1717 parent in home country.

1718 Ms. Kuster. Commander, I am sorry to interrupt.

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1719 Mr. White. And that's important.

1720 Ms. Kuster. My time is up. I agree with you that is
1721 important, and I would far rather have those children in a loving
1722 home with a parent, a grandparent, someone who will care for them,
1723 than to have them separated and placed in an agency. So, I
1724 appreciate that.

1725 Ms. DeGette. The gentlelady's time has expired. The
1726 gentleman from Virginia, Mr. Griffith, is recognized for 5
1727 minutes.

1728 Mr. Griffith. I thank our chairman very much, and am pleased
1729 to welcome you to that chair, and look forward to working with
1730 you over the next several years in that capacity.

1731 Let me just make it clear that the question earlier was could
1732 somebody slip into a state court. As a former practicing attorney
1733 in that arena, and with a spouse who is a juvenile and domestic
1734 relations district judge in the Commonwealth of Virginia, you
1735 can't guarantee somebody won't commit an improper act, but it
1736 would be a fraud on the court to indicate that a child had been
1737 abandoned when that child came into this country with a parent.

1738 But the bigger question for all of this is all those thousands
1739 of children. How many did you say it was last fiscal year that
1740 came across who were unaccompanied when they came to the border?

1741 Mr. White. So, the total number referred last year was --

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1742 excuse me -- I believe 47,000. I had it in front of me a moment
1743 ago. I'm sorry.

1744 Mr. Griffith. I believe you said the average over the last
1745 several years had been between 40 and 60. So, 47 would be on
1746 track.

1747 Mr. White. Right.

1748 Mr. Griffith. If not exactly accurate, it would be
1749 consistent with the average, is that correct?

1750 Mr. White. Right. If I take my glasses off, I should be
1751 able to give you the number. Yes, last year, in fiscal year '18,
1752 it was 49,100 children. Over the last several years, it has
1753 fluctuated between 40,000 and 60,000 children a year.

1754 Mr. Griffith. And when they come across unaccompanied, you
1755 all take charge of them, as we heard earlier, make sure they get
1756 some medical attention, both physical and mental health, is that
1757 correct?

1758 Mr. White. Yes, they're referred to us by another federal
1759 agency, and only a federal agency can refer. We cannot lawfully
1760 take children directly, nor can state entities refer them. DHS
1761 refers them. And then, we designate which of our facilities is
1762 right for the child and has a bed for that child. And DHS brings
1763 the child to that facility. That's where we begin to provide
1764 services.

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1765 Mr. Griffith. And for those who come unaccompanied in the
1766 first place, the 40,000-some predominantly, you all, then, try
1767 to find someplace for them, whether it's with family or with an
1768 agency, a placement agency, is that correct?

1769 Mr. White. So, we are required by TVPRA and the Homeland
1770 Security Act to place the child in the least restrictive setting.

1771 That means, almost invariably means, an individual sponsor, and
1772 we work with the family to identify that individual sponsor.

1773 But I really want to emphasize this. Children do not go out into
1774 the state adoption systems. That does not happen. And if we
1775 cannot find a family member, if we can't find a sponsor, working
1776 with the family, that can meet the emotional and financial needs
1777 of the child, and that can get through our vetting process for
1778 child safety, that child remains in ORR care, and can remain in
1779 ORR care in some cases until their 18th birthday.

1780 Mr. Griffith. And it's also a fact that there's lots of
1781 children who cross the border that you don't how many that is
1782 because they never are placed into any agency's hands at all and
1783 they don't come to your referral, and they're just in the country?

1784 Isn't that also true?

1785 Mr. White. Certainly. The majority of apprehended
1786 children are children who are a part of family units. That's
1787 what all of the separated kids were. But, ordinarily, family

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1788 units are managed by ICE and the children don't come to ORR.
1789 Then, of course, also, there's some children who enter the country
1790 without status and they're not apprehended. We don't know, we
1791 don't have this ability on any of them.

1792 Mr. Griffith. And as a part of all this, of the 49,000 last
1793 year, roughly 2800 were people who came across with a parent or
1794 with somebody in the family, and then, they were separated, of
1795 which I also was opposed. And you all have placed all, I think
1796 you said, but six of those or determined that they can't be placed
1797 and are putting them through the standard process? Is that
1798 correct, yes or no? My time is running out on me.

1799 Mr. White. The 2,816 are the potential children of Ms. L
1800 class members.

1801 Mr. Griffith. Okay. And Ms. L is a court case that the
1802 court said that you have to deal with these children in an
1803 expedited manner and get them back to their parents.

1804 Mr. White. Right.

1805 Mr. Griffith. I am going to have to move this along because
1806 I am running out of time.

1807 You have six cases left, but my understanding is that five
1808 of those, under the Ms. L case, the ACLU is playing a role, and
1809 that five of those have been delayed resolutions because you have
1810 been notified by the ACLU that there is something going on that

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1811 they want to take a look at. Is that not correct?

1812 Mr. White. So, of the six children who might potentially
1813 still be reunified, one has a parent in custody. I don't mean
1814 ICE custody. I mean criminal custody.

1815 Mr. Griffith. Okay. I need to know, are the five being
1816 held up the ACLU?

1817 Mr. White. And the other five, I would not say they're being
1818 held up by the ACLU.

1819 Mr. Griffith. Okay.

1820 Mr. White. I'm saying that we are awaiting an indication
1821 from the ACLU what the parent's final decision is regarding the
1822 child.

1823 Mr. Griffith. What the parent's decision is regarding the
1824 child?

1825 Mr. White. Right.

1826 Mr. Griffith. There's some question whether they want the
1827 child, as tragic as that is?

1828 Mr. White. Whether the parents wish to have the child
1829 reunified within, then, home country or stay in ORR care. There
1830 are five that we are awaiting that notification.

1831 Mr. Griffith. And that would create toxic stress, too, if
1832 your parent says, ``I don't want you back."? The answer is, it
1833 answers itself.

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1834 I yield back.

1835 Ms. DeGette. The Chair now recognizes the gentlelady from
1836 Florida, Ms. Castor.

1837 Ms. Castor. Thank you, Chairwoman DeGette.

1838 I want to associate myself with the remarks of my Democratic
1839 colleagues who have expressed outrage over the Trump
1840 administration's family separation. And it was entirely
1841 frustrating that the Republican majority refused to allow us to
1842 have a real oversight hearing. And I want the public to know
1843 what did happen. Rather than have an oversight hearing, they
1844 marched us over to HHS. And so folks understand, that is right
1845 next door. And the HHS leadership could have come here across
1846 the street, so that the public could understand and hear questions
1847 being asked in front of everyone. But, fortunately, we have
1848 rectified that here today.

1849 Commander White, we know that the Trump administration
1850 started this routine family separation well before it was
1851 announced, formally announced, in May of 2018. You have
1852 testified here today that you did express concern over family
1853 separations. How did you express that? You said you had
1854 conversations. Did you also put it in emails or write any memos
1855 to that effect?

1856 Mr. White. It's important to distinguish two different

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1857 points in time. First, the discussion of this as a potential
1858 policy option, that began in February of 2017 and went through
1859 spring of 2017.

1860 Ms. Castor. Did you write any memos before, during that
1861 time?

1862 Mr. White. Yes, I produced memos, emails, and I raised it
1863 in meetings.

1864 Ms. Castor. Okay. And then, after the policy was announced
1865 in 2018, did you write additional memos and emails expressing
1866 concern over the --

1867 Mr. White. No, because I was not in ORR at that time. The
1868 subsequent period of discussion about this was regarding our
1869 informal observation within ORR that we were receiving a number
1870 of children who appeared to be separated in much greater numbers
1871 than --

1872 Ms. Castor. Did anyone, after the policy was announced in
1873 May 2018, did anyone within ORR tell HHS leaders that family
1874 separations should be stopped?

1875 Mr. White. I was not working in ORR at the time.

1876 Ms. Castor. But do you know of any? Have you seen any memos
1877 or emails, any written documentation?

1878 Mr. White. I have not seen memos or emails. The concerns
1879 that I had about separation were shared by every career member

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1880 of my team. So, I'm confident that they continued to make those

1881 --

1882 Ms. Castor. After the separations began taking place, are
1883 you aware of anyone from HHS attempting to tell DOJ or DHS that
1884 the separations should be halted?

1885 Mr. White. I'm not aware of that, but that doesn't mean
1886 it didn't occur.

1887 Ms. Castor. You haven't seen any emails or memorandum from
1888 HHS to other agencies along those lines?

1889 Mr. White. No, but I'd --

1890 Ms. Castor. How about to the President? Or the President's
1891 Chief of Staff.

1892 Mr. White. Yes, I would not know.

1893 Ms. Castor. If HHS leaders didn't know that separations
1894 were under consideration, they were willfully blind. If they
1895 did know and they didn't speak up, they were complicit in the
1896 trauma that was inflicted on the children. And at the very least,
1897 when it became clear that separations were taking place, as the
1898 top health officials in the country, Secretary Azar and HHS
1899 leaders should have put their foot down and stood up for the
1900 children.

1901 Mr. White. Secretary Azar --

1902 Ms. Castor. There is little doubt that this is

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1903 administration failed that moral test. This administration
1904 failed the children.

1905 So, Ms. Larin, thank you for the work of the Government
1906 Accountability Office here.

1907 ORR officials told you that they were not given advance
1908 notice of the Attorney General's April 2018 zero tolerance memo.

1909 It strikes me as inconceivable that the agencies that would be
1910 most affected and would be responsible for separating children
1911 and caring for them were not given any advance notice.

1912 Based on your expertise of looking into the operations of
1913 numerous government agencies, wouldn't you expect all of the
1914 agencies that would be responsible for carrying out this policy
1915 to have been part of interagency discussions?

1916 Ms. Larin. Yes. One of the key things that we look at when
1917 we're assessing agency performance is whether they have
1918 appropriate internal controls. And by that, I mean, do they have
1919 a structure in place to achieve agency objectives?

1920 Ms. Castor. Including impact of family separations on the
1921 health and well-being of children?

1922 Ms. Larin. A key principle of internal controls is
1923 operating on the basis of reliable and accurate information,
1924 including information both internal and external to the agency.

1925 Ms. Castor. And we still don't know if Secretary Azar or

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1926 Secretary Nielsen were given advance notice of the April 2018
1927 memo. However, if they weren't, once they became aware of the
1928 chaos that ensued, the trauma being inflicted on the children,
1929 the huge burden on ORR, would it have been reasonable for Secretary
1930 Azar to have reached out to DOJ and DHS to at least raise concerns
1931 about the harm the policy was causing?

1932 Ms. Larin. So, GAO has reported on the importance of
1933 interagency coordination, and that that is key to planning, the
1934 involvement of stakeholders --

1935 Ms. Castor. Did you come across any memos along the lines
1936 I asked Commander White of anyone at HHS expressing concern to
1937 DHS, DOJ, the President, or the President's Chief of Staff?

1938 Ms. Larin. We did not get any evidence that that
1939 consultation occurred.

1940 Ms. Castor. Did you ask for it then?

1941 Ms. Larin. We asked if there was any consultation, and we
1942 were told there was none.

1943 Ms. DeGette. The gentlelady's time has expired. The Chair
1944 now recognizes Mr. Duncan from South Carolina for 5 minutes.

1945 Mr. Duncan. Thank you, Madam Chair. Thanks for allowing
1946 us to delve into the issue of children apprehended at the southern
1947 border when they cross illegally into this country.

1948 The gentlelady from Illinois, Ms. Schakowsky, just asked

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1949 Commander White from HHS, ``Do we know how many kids are currently
1950 separated from their parents at the southern border in this
1951 country?" Let me ask this: do we know how many children were
1952 brought into this country by coyotes and sold into the sex slave
1953 market to be violated primarily by men in towns like Chicago or
1954 Atlanta? The answer is, no, we don't. Because we don't know
1955 how many people, children or otherwise, cross our southern border
1956 annually.

1957 We are investigating today the separation of kids when
1958 apprehended at the border and what we, as a nation, when
1959 apprehending unaccompanied or accompanied children illegally
1960 entering this country, working to assess their situation -- is
1961 that a family member they are with or is it a coyote, somebody
1962 that is wanting to traffic that child? What is their physical
1963 condition? What is their health? A lot of them come with a lot
1964 of problems. We need to assess, do they have immunization or
1965 are they bringing in something that may affect the children within
1966 our communities where they are relocated? That is the absolute
1967 appropriate thing to do in this nation, to find out the health
1968 of these children before they are turned over to loved ones.

1969 That takes a little time to do DNA tests on who they were
1970 accompanied with and that child to see is that a family member,
1971 to make sure that we are not allowing that child to go with a

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1972 human trafficker to be sold into the sex slave market. Super
1973 Bowl weekend, 169 individuals were arrested in a sex sting
1974 operation. Eighteen victims were freed.

1975 I am wearing this ``X" because today is Human Slavery
1976 Awareness Day. Forty million people in this world are currently
1977 in the slave market, are currently enslaved. Seventy percent
1978 of those are women, and 1 in 4 in the world are children --
1979 children. It is right that we are shining light on this issue
1980 at the southern border of these children. It is right that our
1981 nation is trying to do right by these children, to make sure that
1982 they don't end up in the sex slave market or end up in the slave
1983 market working for someone in their household, to make sure that
1984 they are reunited with family members here or reunited with family
1985 members back in their country.

1986 Because let me remind this committee that they have entered
1987 this nation illegally. Right or wrong, whether they are sent
1988 north by their families from Guatemala, Honduras, El Salvador,
1989 or other places, to try to, hopefully, make a better life for
1990 that child, or whether they are accompanied with a parent coming
1991 across the border, right, wrong, indifferent, whatever the issue
1992 is, we, as a nation, need to make sure that we are doing right
1993 by the children.

1994 And so, I want to urge this committee and this Congress to

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1995 not just focus on this issue of children at the border and what
1996 HHS and ORR are trying to do, because I believe you are trying
1997 to do the right thing. And there are laws on the books about
1998 what we are supposed to do. But to also focus on the issue of
1999 what is a reality for many children that enter this country and
2000 enter the slave market, whether it is the sex trade or others,
2001 all over the globe, we have the power in this Congress to do that.

2002 And, look, I am for a border wall because, according to a
2003 DHS special agent, we need to build the wall for the children.

2004 This is an article that is dated February -- excuse me -- January
2005 the 29th that I would ask to include in the record, Madam Chair.

2006 It is great that we are focused on this issue, Madam Chairman.

2007 It is important that we make sure that our nation is doing right
2008 by those that want to come into this country, and that we are
2009 doing right by American citizens, where those that do come into
2010 this country are immunized and are healthy and are reunited with
2011 loved ones, and all that. But let's focus also on this ``X" and
2012 the human trafficking that is going on all over the globe and
2013 is a big issue on our southern border, that we failed as a committee
2014 and as a Congress to address as part of this issue.

2015 And with that, I will yield back.

2016 Ms. DeGette. Without objection, the gentleman's Fox News
2017 submission is entered into the record.

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2018 [The information follows:]

2019

2020 ***** COMMITTEE INSERT 6 *****

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2021 Ms. DeGette. The Chair now recognizes the gentleman from
2022 New York, Mr. Tonko, for 5 minutes.

2023 Mr. Tonko. Thank you, Madam Chair.

2024 Later today, we will hear about the chaotic attempts to
2025 reunify children with their parents from child welfare experts
2026 outside of this administration. We will hear shocking stories
2027 of how children were ripped away from their parents and the effect
2028 that this trauma will have on the rest of their lives.

2029 Before we have that dialog, however, I think it is important
2030 to understand from this panel how we got to that place. So, Ms.
2031 Larin, the very first line in your report states, and I quote,
2032 ``The agencies did not plan for the potential increase in the
2033 number of children separated from their parent or legal guardian
2034 as a result of the Attorney General's April 2018 zero tolerance
2035 memo." Is that correct?

2036 Ms. Larin. That's correct.

2037 Mr. Tonko. Okay. And then, further, Ms. Larin, is it also
2038 true that CBP and ICE and ORR officials told you that they did
2039 not take specific planning steps because they did not have an
2040 advance notice of the AG's memo and only became aware of it when
2041 it was announced publicly?

2042 Ms. Larin. That's correct.

2043 Mr. Tonko. So, then, further, Ms. Larin, did GAO speak with

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2044 anyone in the Secretary's office at HHS about the awareness of
2045 the AG memo?

2046 Ms. Larin. We did not talk to the Secretary.

2047 Mr. Tonko. If not, as you are indicating, is it possible
2048 that they had some awareness of that situation?

2049 Ms. Larin. We're not aware of any awareness.

2050 Mr. Tonko. Commander White, last year in front of the Senate
2051 Judiciary Committee, you testified that, while neither you nor
2052 anyone who reported to you had any advance knowledge of the
2053 Attorney General's memo, they had been in discussions over the
2054 previous year about policies that could result in a separation
2055 of kids from their family unit. We also know from GAO that ORR
2056 considered planning for continued increases in separated
2057 children, but HHS leaders advised them not to engage in such
2058 planning. During this time, you were the Deputy Director of ORR
2059 with responsibility for the unaccompanied children's program.

2060 Who specifically within HHS leadership told you not to plan for
2061 continued increases in separating children?

2062 Mr. White. I received that from Scott Lloyd and from Maggie
2063 Wynne, who were, respectively, at that time the Director of ORR
2064 and the Secretary's Counselor for Human Services.

2065 Mr. Tonko. Thank you. And, Commander White, given that
2066 you previously testified that you never met Secretary Azar prior

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2067 to the implementation of the family separation policy, is it
2068 possible that discussions occurred amongst HHS leaders prior to
2069 implementation without your knowledge or awareness?

2070 Mr. White. I couldn't speculate on what occurred without
2071 my knowledge.

2072 Mr. Tonko. But is it possible? I'm not asking you to
2073 indicate that it did happen. Is it possible?

2074 Mr. White. Of course it's possible, but I wouldn't be the
2075 person to ask because I don't know.

2076 Mr. Tonko. Commander White, did you agree with the decision
2077 not to plan for continued increases?

2078 Mr. White. It was my hope that the reason that we were not
2079 planning it is that that meant that separation would not occur.

2080 I experienced relief at that notification that separation would
2081 not occur.

2082 Mr. Tonko. Do you believe ORR would have been better
2083 prepared to care for and reunify separated children had it been
2084 allowed to plan for continued increases?

2085 Mr. White. We would have been better prepared for the
2086 capacity issues. However, to be clear, we were able to
2087 successfully reunify thousands of children with their parents
2088 because Judge Sabraw in the Southern District of California
2089 created a pathway through his orders for us to do that. We could

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2090 not have effected the reunification of children with their parents
2091 in ICE custody, absent his providing a way to do that, under our
2092 steady-state authorities.

2093 Mr. Tonko. But it took hundreds of HHS staff, did it not?

2094 Mr. White. Well, it absolutely did.

2095 Mr. Tonko. Well, thank you for your responses.

2096 This administration should never have had a family
2097 separation policy to begin with, but they made it worse by not
2098 even notifying ORR about it, the very agency that would be tasked
2099 with caring for these thousands of kids. I just find that totally
2100 unacceptable. And as a New Yorker, we are proud of the fact that
2101 we border along the bay with the Statue of Liberty and the
2102 inscription included therein: ``Give me your tired, your poor,
2103 your huddled masses yearning to breathe free," and not including
2104 your children looking to be separated from their parents. I find
2105 this whole approach so deplorable on behalf of our kids and the
2106 trauma that will follow them for their lives.

2107 With that, I yield back, Madam Chair.

2108 Ms. DeGette. The gentleman yields back. The gentleman
2109 from Oklahoma, Mr. Mullin, is now recognized for 5 minutes.

2110 Mr. Mullin. Thank you, Madam Chair. And thank you,
2111 everybody, for being here.

2112 Obviously, this is a very emotional topic that people have

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2113 strong feelings about, which we should. I am a father of five,
2114 and two of my beautiful kids are adopted. And every child
2115 deserves a home and a loving parent. And there is just not enough
2116 homes out there welcoming everybody. Unfortunately, that is what
2117 we face.

2118 We do that currently right now. In Oklahoma, there is not
2119 enough foster parents out there. There is not enough parents
2120 that are willing to adopt that is out there. Yet, we have an
2121 influx of children coming across our southern border. The
2122 question is, what do we do with them? How do we do it?

2123 Ms. Maxwell, HHS OIG issued an issue brief which found, in
2124 part, that thousands of additional children may have been
2125 separated from their adult parents by DHS and referred to ORR.

2126 In the context of this report, is it referring to children who
2127 may have been separated from a parent or legal guardian only for
2128 any specific reason?

2129 Ms. Maxwell. So, with respect to the agreement, this issue
2130 brief is a broader perspective, and separations could have
2131 occurred for a myriad of reasons.

2132 Mr. Mullin. But you said thousands more. You said there
2133 is possible thousands more. Where did you come up with that
2134 information where you said thousands more?

2135 Ms. Maxwell. Sure. Thank you for the opportunity to talk

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2136 a little bit more about that. So, the thousands estimate was
2137 provided to us by HHS officials that were running the program
2138 and tracking separated children. And it relates to a significant
2139 increase in the number of separated children that they noted --

2140 Mr. Mullin. But you said "possible". How would we not
2141 know the exact number? I think Commander White said that you
2142 know, I mean you keep track of every child, is that not correct,
2143 that is referred to you?

2144 Mr. White. We absolutely do. However, the question as to
2145 how many of the children we received who had been appropriately
2146 discharged before the judge's order, how many of them were
2147 separated, no one in HHS has a definitive list to work from.

2148 Mr. Mullin. How long has this separation been going on?
2149 Not underneath the current policy, how long has separation from
2150 an adult or a parent been going on on the southern border?

2151 Mr. White. So, let me make one bright-line distinction.
2152 Separation from parents and legal guardians is legally different
2153 from separation from anyone else.

2154 Mr. Mullin. Well, but we have got to determine if they are
2155 actually legally their parent, right?

2156 Mr. White. Correct. Separation --

2157 Mr. Mullin. But how long has that separation been going
2158 on on the southern border?

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2159 Mr. White. Some separations have, as I've said elsewhere,
2160 have always been part of the program.

2161 Mr. Mullin. Okay.

2162 Mr. White. We have separations for cause.

2163 Mr. Mullin. So, this was going on during the Obama
2164 administration, too?

2165 Mr. White. Separations for cause are distinct from
2166 large-scale separation --

2167 Mr. Mullin. Well, but we still do separation of cause.

2168 Mr. White. Correct.

2169 Mr. Mullin. There is a large number that is coming into
2170 it. We know it is a \$2.4 billion human trafficking industry now
2171 that the cartels are running. So, there is always a cause for
2172 us to have concern about anybody coming across the border when
2173 we don't know for sure that it is their parent. And we can't
2174 just take the adult's word for it. How long has this separation
2175 been going on, though? Was this practice not going on underneath
2176 the Obama administration, too?

2177 Mr. White. So, prior to what we saw beginning in July of
2178 2017, separations from parents occurred typically for one of four
2179 circumstances. The parent was medically unable; there were
2180 doubts about parent --

2181 Mr. Mullin. But, no, just it's been going on before, though?

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2182 That is what I am trying to get --

2183 Mr. White. What we have seen over the last few months,
2184 however, was not going on prior to July of 2017. However --

2185 Mr. Mullin. But the separation for the concern of the child
2186 has been going on through the Obama administration, too?

2187 Mr. White. Correct.

2188 Mr. Mullin. Okay.

2189 Mr. White. And before.

2190 Mr. Mullin. Now we have talked about this cage that is a
2191 detention holding area that --

2192 Mr. White. Correct.

2193 Mr. Mullin. We have been talking about this cage. Now
2194 there is a picture floating all around the internet of this cage.
2195 That cage is from 2014.

2196 Mr. White. The images that I have seen in the media are
2197 mostly from the Nogales processing center during the 2014 --

2198 Mr. Mullin. Right. So, 2014. So, that was under the Obama
2199 administration, right?

2200 Mr. White. Correct.

2201 Mr. Mullin. Yes, correct.

2202 Mr. White. Yes, I worked --

2203 Mr. Mullin. So, my colleagues on the other side want to
2204 say that this is the Trump separation, the family separation,

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2205 but the separation was going on prior to this. And all it is
2206 is about the safety of the children. Now, if we can't agree on
2207 anything, let's not make a political point out of this and start
2208 pointing fingers at each other. It is about the children. It
2209 is about the children.

2210 I know some of you guys have opened your homes up to kids,
2211 but how many of you have actually opened your homes to kids?
2212 Right now, I have six living with me. Three are biological.
2213 So, you want to talk about opening your family and talk about
2214 the kids? Then, get off your butt and do it yourself. Do you
2215 want to really be compassionate about it? Then, open your house
2216 up. Oh, wait, just make a political point. "I am okay with
2217 just sitting here. I am okay with just saying we need to do
2218 something." Well, do more than just say something. Now there
2219 is some colleagues of mine on both sides of the aisle that have
2220 been great, that have opened their houses up, but there is few.
2221 But everybody wants to make a political point.

2222 The fact of the matter is, at the end of the day, it is about
2223 taking care of the kids. And if we can get away from the political
2224 rhetoric and just focus on the kids, then we might actually be
2225 able to get something done. But, as long as we dig in and point
2226 fingers, we are going to be right here two years from now, too.

2227 I yield back.

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2228 Ms. DeGette. The gentleman yields back. The Chair now
2229 recognizes the gentleman from California, Mr. Peters, 5 minutes.

2230 Mr. Peters. Thank you, Madam Chairman. Thank you. Thank
2231 you, Madam Chairman.

2232 And thank you to the witnesses. I have found your testimony
2233 so far to be very forthright and helpful.

2234 I will just say that families coming to the United States
2235 seeking refuge and asylum are expected to be met with American
2236 welcome, and I think, in the style that Mr. Mullin might have
2237 wanted, but this administration chose to go against decades of
2238 immigration policies that kept families together and court
2239 rulings that establish protections for migrant children. And
2240 when we talk about separating kids for cause, it is because it
2241 is for cause in those individual circumstances where the evidence
2242 suggests that that would be the right thing for the child. It
2243 wasn't this wholesale separation that took place under the Trump
2244 administration. I think that is what is new and that is what
2245 concerns a lot of members of this committee.

2246 As a San Diegan, I know the border is part of our identity
2247 and our culture, and San Diego and Tijuana are inextricably
2248 linked. The border we see as an opportunity, not as a threat.

2249 And ripping terrified children from their parents' arms is not
2250 the policy of neighbors.

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2251 We must acknowledge the lasting trauma that these children
2252 may face for the rest of their lives. It is horrific to know
2253 that our government causes pain, and we, as a Congress, have a
2254 duty to provide support and resources to assist separated
2255 families.

2256 I do want to acknowledge the work of the court system as
2257 an institution that has stepped in and made a difference here,
2258 partly because it was the court in my home district, the Southern
2259 District of California. It was Judge Sabraw, who I actually
2260 practiced law with a long time ago. And he is one of many federal
2261 judges. He happened to be a Republican appointee who takes his
2262 job of providing justice very seriously in an impartial and
2263 nonpolitical way.

2264 Commander White, in a recent court filing, you stated the
2265 statistics suggest that, if a separated child who ORR discharged
2266 before June 26th, 2018, remains in the United States, then he
2267 or she is, quote, ``probably with their family". In considering
2268 what we know about the challenges HHS has faced in identifying
2269 separated children, what level of confidence do you have that
2270 these separated children were placed with their family?

2271 Mr. White. Thank you, sir. So, let me clarify this. While
2272 we do not know because it was never provided to us in HHS, while
2273 we do not have a list of every kid who was referred to us as

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2274 separated, we absolutely do know to whom we have discharged every
2275 child who's been in our care. So, when we speak about those
2276 children who were separated and referred to us and appropriately
2277 discharged before Judge Sabraw's decision on the 26th of June,
2278 we can speak with certainty about what happens to children in
2279 that process.

2280 So, the answer is -- and I alluded to the statistics earlier
2281 -- is, during that year, 86 percent of children in our care went
2282 to an individual sponsor. Ninety percent of the time that's to
2283 a parent, sister, brother, aunt, uncle, or grandparent, and the
2284 remaining 10 to 11 percent of the time, it's a to a cousin or
2285 their distant relative or a family friend. So, while I don't
2286 know which of the kids were separated, because I haven't been
2287 given that list, I do know what happens to children who exit ORR
2288 care. And indeed, if someone cared to give us that list, we could
2289 walk through it. But that is the answer to that question. That's
2290 why I said probably they're with family members, because that
2291 is to whom we discharge the vast majority of children.

2292 Mr. Peters. And in your recent court filing, you stated
2293 that you believed ORR would face significant hurdles if it tried
2294 to collect information from separated children who were
2295 discharged before June 25th.

2296 Mr. White. Yes, sir.

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2297 Mr. Peters. And that you believe that attempting to reunify
2298 them with separated parents would present, quote, ``grave child
2299 welfare concerns". Can you explain why you think that that would
2300 be a grave concern?

2301 Mr. White. Yes, sir. I think it's helpful if you look at
2302 the whole paragraph in the declaration. So, here's what I said
2303 about grave child welfare concerns. And what I said was that,
2304 is that, in some instances, the sponsor, that family member, might
2305 not wish to have the child, or the child might not wish to come
2306 back into federal custody, so we could go through this legal
2307 process.

2308 And since in ORR there is no capacity to go and take children
2309 into custody, what would that actually look like? And I really
2310 want this understood. What that would actually look like is ICE
2311 agents or other federal law enforcement going into an immigrant
2312 family's home to forcibly remove that child and put them back
2313 in federal custody.

2314 So, yes, I believe that has a very significant risk of
2315 re-traumatizing a child who's already been traumatized in many
2316 cases by separation, and I stand behind the truth of what I said
2317 in that declaration.

2318 Mr. Peters. But you agree --

2319 Mr. White. That's not how it's appeared in the papers, but

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2320 that's what I said.

2321 Mr. Peters. But you do agree that we should try to determine
2322 where children went, who they are separated from, make sure their
2323 parents and guardians know where they are?

2324 Mr. White. I think we are eager to comply, as we have thus
2325 far, with whatever Judge Sabraw determines that we need to do.
2326 And I think it's very important that people know the full story.
2327 But I want to be clear, we will not have at our disposal the
2328 same tools to identify children in care, nor will we have the
2329 same capacity for children who are no longer in care. It's just
2330 a completely different ball game.

2331 Mr. Peters. All right. Thank you.

2332 I yield back.

2333 Ms. DeGette. The Chair now recognizes the gentleman from
2334 Massachusetts, who I am delighted to say will serve as the Vice
2335 Chair of this subcommittee for the 116th Congress, Mr. Kennedy,
2336 for 5 minutes.

2337 Mr. Kennedy. Well, thank you, Madam Chair.

2338 I want to thank our witnesses here for your testimony and
2339 for your service to our country.

2340 A couple of points, right off the bat. One, I think if I
2341 am hearing everybody correctly, Commander White, you indicated
2342 that there was a policy put in place on a memo signed by the

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2343 Attorney General of the United States of America that directly
2344 impacted individuals would be or should be in your care, and you
2345 didn't know about it until it was announced on television. And
2346 when asked, it was denied that that policy existed. Is that
2347 right?

2348 Mr. White. So, my questions about separation preceded the
2349 policy announced, based on observations that we were seeing above
2350 what we would expect to see in terms of the ordinary separations
2351 for cause.

2352 Mr. Kennedy. So, the second point, my colleagues have
2353 pointed out how good a job a number of agencies are doing on the
2354 border and trying to address this and a number of other concerns,
2355 which they have gone to great lengths to explain that this is
2356 being well addressed and well taken care of, which I do hope that
2357 the lawyers from the White House are looking at that, as they
2358 contemplate an emergency declaration for immigration, for
2359 potential immigration moves, depending on what happens next week.

2360 Third, Commander, you had mentioned a number of folks who
2361 raised concerns about what was taken place, but that that didn't
2362 change. Do you have any idea why your concerns weren't heeded?

2363 Mr. White. I elevated to my leadership, my immediate
2364 leadership, my concerns that separations were occurring, and that
2365 if we saw larger-scale separations, it would exceed our capacity;

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2366 and additionally, that separating children from family units was
2367 inconsistent with the best interest of the child.

2368 Mr. Kennedy. Understood, sir, and I apologize to cut you
2369 off. You have been forthcoming. I just don't have that much
2370 time.

2371 You never got additional -- but you well entered those
2372 concerns, and were you ever told why they weren't going to do
2373 anything about it?

2374 Mr. White. I was told that family separation wasn't going
2375 to happen. And I have no reason to doubt the veracity of their
2376 statements. I think that's what the people who told me that also
2377 believed.

2378 Mr. Kennedy. I appreciate that.

2379 There is testimony that is coming on the second panel that
2380 indicates that children are still being separated from their
2381 parents at the border. And while these reasons for separation
2382 are not often clear, it is evident that separations are occurring
2383 at elevated levels compared to past years. Ms. Abbott I believe
2384 will testify to those words.

2385 Ms. Maxwell, you testified to the fact that ORR has continued
2386 to receive children who have been separated from a parent or
2387 guardian. Do you know whether those separations are still at
2388 an elevated level?

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2389 Ms. Maxwell. Indeed, the separations that have occurred
2390 after the preliminary injunction are about twice the level as
2391 they were in late 2016. It's still significantly less than the
2392 peak that we saw in the summer of 2017, but the average is a little
2393 less than 1 percent.

2394 Mr. Kennedy. And, Commander, do you have any concern that
2395 those separations are coming for anything other than good cause,
2396 given the four strict limited categories of good cause that you
2397 enumerated earlier?

2398 Mr. White. So, we strive to identify the reasons for
2399 separations. That is part of the information that we've added
2400 to the portal. But, to answer your question, Congressman, there
2401 is no specification in law from you all in Congress about the
2402 permissible grounds for separating a child from a parent. And
2403 I would submit that, if you want to see that, that's on you all.

2404 Mr. Kennedy. I appreciate that, sir.

2405 Moving from the children to the facilities, I visited a
2406 number of them as well. I want to ask specifically, though, about
2407 some reports that have come to my attention that the Trump
2408 administration is working to house detained children on land that
2409 was owned or is owned by the Department of Defense that is not
2410 currently being used because it is contaminated with toxic
2411 chemicals, including lead, arsenic, mercury, PFAS, and

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2412 perchlorate. Even for an administration that seems to go out
2413 of its way to treat immigrants as less, this seems a new low.
2414 We know that children are vulnerable for toxic waste and that
2415 even low levels of exposure can result in permanent health damage,
2416 as if, given the testimony that we've heard, these kids have not
2417 already gone through enough.

2418 So, Mr. White, can you detail for the committee any
2419 discussions that HHS or ORR has had with DoD regarding the use
2420 of the land that might contain toxic chemicals?

2421 Mr. White. Thank you. We actually got your letter
2422 yesterday, and you allude to two military installations. Let
2423 me be clear. One of them is a military installation we did use
2424 in 2016 to shelter 8800 children. That's Fort Bliss. As a
2425 reminder, Fort Bliss is one and a half times the land area of
2426 the State of Rhode Island.

2427 We do not -- I really want to be as clear as I can be about
2428 this -- we do not set up temporary influx shelters on sites that
2429 pose an environmental health risk to children. In fact, we have
2430 ruled out sites in the past specifically on that basis that were
2431 otherwise suitable. We vet hundreds of potential sites that
2432 sister agencies identify. The sites that you identify in your
2433 letters are ones that had already been precluded by HHS. We had
2434 already ruled them out before we even got to the environmental

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2435 health assessment because there were other things that made them
2436 unsuitable.

2437 Mr. Kennedy. And, sir, just briefly, because I am running
2438 out of time here. I appreciate that feedback.

2439 A facility in Homestead, Florida was not required to obtain
2440 state licensure because it is located on federally-owned
2441 property. That begs a question as to whether recent efforts to
2442 identify more federal property to house these children is in an
2443 effort to circumvent some of those state licensing requirements.

2444 Do you have any knowledge as to any effort to do so?

2445 Mr. White. So, I have worked on every single influx
2446 sheltering mission in the history of this program. And I'll tell
2447 you something that goes back. I would love it if they were
2448 state-licensed. The life of every career person and every ORR
2449 official who works on that would get tons easier. But the reality
2450 is, it's not that we get around licensure. It's they're
2451 licensure-exempt.

2452 We are not appropriated with enough funds to maintain a
2453 steady capacity that accounts for the real surges we see. So,
2454 there are times when we must use temporary influx facilities
2455 because the alternative is border stations, and we've heard
2456 conversations today about why border stations, although they are
2457 absolutely suitable for law enforcement, are not suitable for

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2458 child welfare.

2459 I am very proud of the work that I have done and my colleagues
2460 have done in influx shelters and the way that we maintain program
2461 standards under incredibly difficult time situations with
2462 fluctuations in the numbers of children we get.

2463 Ms. DeGette. The gentleman's time has expired.

2464 Mr. Kennedy. I appreciate it, sir. Thank you.

2465 Ms. DeGette. The gentlelady from California, Ms. Barragan,
2466 is recognized for 5 minutes.

2467 Ms. Barragan. Thank you, Madam Chair.

2468 And thank you all for being here today and, Commander, for
2469 some of your responses.

2470 I actually have visited an ORR facility down in San Diego
2471 with several of my colleagues. So, ne of my colleagues on the
2472 other side of the aisle asked, what's a day in the life, you know,
2473 what is it like, a day in the life? And let me tell you, when
2474 I went to go visit this facility, and talking to some of my other
2475 colleagues that have visited other facilities, what we saw were
2476 children, children who were very quiet, children who were not
2477 playing and happy and interactive like kids should be. And what
2478 we saw was the impact of trauma that was happening, kids that
2479 were crying for their parents, kids that wanted to be with their
2480 parent.

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2481 And I heard an official say, ``Oh, the kids have it really
2482 good here. They've got a bed. They can play." And one of them
2483 even said, ``They have it better than my own kids do at home."

2484 And I was shocked. Well, your kids at home get to be with you.

2485 And to indicate and to just even say that a child has it well
2486 off here, when they are separated from their family, I think just
2487 shows just a complete ignorance of the trauma that is felt by
2488 these kids.

2489 And we have heard report after report of kids being reunited
2490 with their parents, feeling like they were abandoned by them,
2491 not recognizing them, not wanting to go back to them. I think
2492 it is so critical.

2493 Now I have introduced a bill, a mental health bill, to making
2494 sure that we provide ongoing medical treatment for kids, even
2495 after they have left these facilities, because I don't think they
2496 are getting that care. And this trauma goes on for a very long
2497 time.

2498 Now one of my questions was going to be about where can a
2499 Member of Congress actually find a standard that is being used
2500 to say that a parent is unfit and should be separated from their
2501 child. But what I think I have just heard you say is, there is
2502 no place a Member could look because there is no standard, and
2503 that is upon us in Congress to do. Is that correct?

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2504 Mr. White. So, it is a question for DHS, the criteria that
2505 they use to effect separations for cause. But, to be clear, there
2506 is nothing in law which either precludes arbitrary separation
2507 or defines the terms for separations. Neither is there anything
2508 in law that gives us in the ORR program the authority to say that
2509 child is not separated after all and refuse a placement.

2510 Ms. Barragan. And equally speaking, there is no process
2511 for a parent to actually say, "Well, that's not true," or to
2512 appeal a finding that they should be separated from their child.
2513 Is that correct?

2514 Mr. White. So, there is no process.

2515 Ms. Barragan. Okay. Thank you.

2516 One of the other mind-boggling parts of this whole aspect
2517 on this separation has been on how difficult it has been for the
2518 administration to reunite families and the lack of a tracking
2519 system. I read the January 17th, 2019 HHS OIG report. And from
2520 my reading of it, it says -- the report is still not clear that
2521 ORR, HHS, and DHS can track separated families across agencies
2522 even today. Is that true, Ms. Maxwell?

2523 Ms. Maxwell. Yes. Both agencies have stated they've made
2524 improvements to their tracking systems. We do have ongoing
2525 concerns with the quality of the data being input into those
2526 systems. As I mentioned, current separations, information about

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2527 them is being sent to ORR, but not always at the level of
2528 specificity and sometimes even limited information as to the
2529 reason of the separation. For example, while most of them are
2530 separated and the indication is for criminal history, we did note
2531 that some separations were, the reason given was immigration
2532 offense only. And some reasons were just given as ``other".

2533 So, given that lack of transparency about the reasons for
2534 current separations, we made a referral to the DHS OIG to look
2535 into this, because we think the quality of the information in
2536 those systems is as critical as having those systems.

2537 Ms. Barragan. So, Ms. Larin, maybe you can also chime in
2538 here. What needs to happen so that we can make sure that these
2539 data systems have the proper information-sharing and that
2540 vulnerabilities could be addressed?

2541 Ms. Larin. As I mentioned in my testimony, both agencies
2542 have made changes to their systems. Prior to the court order,
2543 neither one of them had a way to consistently indicate whether
2544 a child had been separated. Now each of them have a checkbox.

2545 But, initially, it was not clear that data was consistently being
2546 shared between the agencies. So, we have not assessed since then
2547 whether the systems are working to identify every child who's
2548 been separated.

2549 Ms. Barragan. Okay. And then, Commander, when my

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2550 colleague from Oklahoma was asking the question about how long
2551 separations have been going on, I think you tried to at least
2552 explain that they were not going on like this prior to the zero
2553 tolerance policy. Would that be accurate?

2554 Mr. White. There have always been separations for cause
2555 throughout the history of the program. That is different from
2556 wholesale separation.

2557 Ms. Barragan. Commander, I am already over my time. There
2558 has been a change, hasn't there been?

2559 Mr. White. There has been a change. That's why we're
2560 talking.

2561 Ms. Barragan. Yes. So, just so everybody knows, I sit on
2562 Homeland Security as well. Secretary Nielsen came in, said there
2563 was no separation policy. She's lied before. But, then, of
2564 course, she starts mincing words, and when you really find out
2565 what is happening, it is they started prosecuting parents and
2566 that resulted in the separation of children. So, it is this
2567 administration's zero tolerance policy; it is this administration
2568 that started this from happening, was trying to hide it. And
2569 now Congress is trying to make sure we provide that oversight,
2570 and we will continue to do so.

2571 I yield back.

2572 Ms. DeGette. The gentlelady yields back. The gentleman

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2573 from Florida, Mr. Soto, is recognized for 5 minutes.

2574 Mr. Soto. Thank you, Madam Chairwoman.

2575 So, as far as I could tell the timeline, we saw a Draconian
2576 immigrant family separation order come down without prior
2577 planning, coordination, or advice, from the White House, leading
2578 to absolute chaos. And for that, I am sympathetic to those of
2579 you who had to implement that because you weren't given any advice
2580 on that.

2581 And we saw a population of separated children skyrocket.

2582 My colleague, Mr. Kennedy, mentioned the Homestead facility that
2583 I had the unfortunate honor of having to go to, after being blocked
2584 initially from being able to go. And there at the Homestead
2585 facility, the second largest that we had, 1,179 teenagers were
2586 at this facility made for 500. And that was the first clear point
2587 for me that there was no preparation for this, much to do with
2588 the fact that the White House didn't give anybody advance notice
2589 and just threw it out there.

2590 The bottleneaking of these kids was caused by several
2591 policies like zero tolerance, but another one was the
2592 fingerprinting of entire adult members in the household that was
2593 an HHS decision in the Tornillo influx care facility and in other
2594 facilities.

2595 Commander White, did HHS implement the extra vetting process

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2596 in 2018 to include all members of the household, in addition to
2597 parents or potential sponsors? Yes or no, because we will go
2598 into --

2599 Mr. White. I apologize. Could you say -- I had a hard --
2600 I didn't actually hear you. I'm sorry.

2601 Mr. Soto. Did HHS implement extra vetting processes in June
2602 2018 to include all members of the household, in addition to the
2603 parents or potential sponsors?

2604 Mr. White. We expanded our biometric background check in
2605 2018, and subsequently, we had a change in operational policy
2606 to waive some of those requirements again. We have been
2607 iteratively changing our review process in response to oversight
2608 from Congress, as well as our own lessons learned, since 2014.

2609 Mr. Soto. And, Commander, we will get into some of those
2610 things. Did HHS consider this new policy would affect the
2611 increase of the number of children under ORR's care and whether
2612 you all had the resources to meet those needs at that time when
2613 you implemented that additional fingerprinting?

2614 Mr. White. The two main variables that drive the number
2615 of kids in care at anytime are the number referred each day on
2616 average and the number discharged each day on average. So, among
2617 the variables that we looked at in modeling scenarios was a
2618 continued decline in discharge rate that did occur.

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2619 Mr. Soto. And then, we saw later HHS announce that it would
2620 no longer require the additional vetting, determining, quote,
2621 ``Additional steps required to fingerprint all household members
2622 has had an impact on timely release of UAC without demonstrating
2623 benefit to the safety of children after they're released from
2624 ORR care." And we saw HHS Assistant Secretary Johnson state that,
2625 adding anything to the protection or safety for these kids through
2626 the extra vetting was accomplished without those means.

2627 Going into sort of our next question, within a month of the
2628 actual vetting policy reversal, the last of the children held
2629 at the Tornillo influx care facility were gone. Did HHS conduct
2630 an analysis of this fingerprinting policy prior to or after its
2631 implementation?

2632 Mr. White. So, both. So, the right way of understanding
2633 this is that we iteratively are constantly looking at our release
2634 processes for safe and timely discharge. And I want to be clear
2635 with you, Congressman. Safe discharge and timely discharge have
2636 some friction between them.

2637 Mr. Soto. Sure.

2638 Mr. White. The safer you make a review process for a
2639 sponsor, the longer the average length of care. Our motivations
2640 were to increase child safety. That particular operational
2641 change, after we were able to see how it rolled out in practice,

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2642 it burdened discharge rate more than it benefitted safety, and
2643 that is why Assistant Secretary Johnson made the announcement
2644 that she did. We continue to strive, and will continue to strive,
2645 to make changes as we need to, to find the optimal ratio between
2646 safety and timeliness in discharge.

2647 Mr. Soto. So, given the fact that it caused more of a delay
2648 than actually kept children safe, and led to more mushrooming
2649 of the population, you all determined ultimately it wasn't in
2650 the best interest of the child to do that?

2651 Mr. White. That's right. All of our decisions in the ORR
2652 program must be guided by the best interest of the child, but
2653 they're also bounded by the appropriated resources we receive.

2654 Mr. Soto. Thank you.

2655 Ms. DeGette. The gentleman yields back. I have extended
2656 the courtesy to the ranking member for an additional round of
2657 questioning.

2658 Mr. Guthrie. Thank you very much.

2659 And, Commander, it was mentioned that you had unaccompanied
2660 children at Fort Bliss, ORR had at Fort Bliss. I understand Fort
2661 Bliss is a massive place. I am sure you didn't put them in the
2662 parts of Fort Bliss that they don't belong. But you also said
2663 that was 2016?

2664 Mr. White. Correct. We --

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2665 Mr. Guthrie. I want you to verify that was 2016.

2666 Mr. White. We operated a temporary influx shelter in 2015
2667 at the Dona Ana Range Complex on Fort Bliss. We sheltered nearly
2668 9,000 children there. And because of that, we were also able
2669 to safely evacuate children out of the path of a hurricane from
2670 Florida and to prevent a backup in the border stations. I am
2671 proud of what we did at Fort Bliss. I'm proud of what we did
2672 over two administrations in every one of our influx missions.

2673 Mr. Guthrie. Okay. And that was previous to President
2674 Trump's administration?

2675 Mr. White. Yes, sir.

2676 Mr. Guthrie. I just want to ask this question, and then,
2677 I will finish up because I know we have got another panel coming.

2678 But just kind of putting where we are now is where I am getting
2679 at. So, has ORR's accounting and tracking of children, separated
2680 children, changed since the zero tolerance policy? Are you
2681 receiving the proper information from DHS to properly have the
2682 information you need about children that are separated, not
2683 unaccompanied, but separated for cause? And if not, what can
2684 Congress do -- or, overall, let me finish -- what can Congress
2685 do to make your job more effective?

2686 Mr. White. So, we have added, we have added -- essentially,
2687 it's a box in the referral, the electronic referral system, that

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2688 DHS personnel use and CBP personnel use to refer a child into
2689 ORR care, for the referring agency to indicate if this child has
2690 been separated and, if so, the circumstances of the separation,
2691 right. So, that is an improvement we've made electronically.

2692 We, additionally, have added more robust procedures in our
2693 own intakes process to identify and notify up if there are minors
2694 that the program that's providing care to the child believes are
2695 separated, so that we can more comprehensively track them.

2696 In terms of what Congress can do, it is reasonable to believe
2697 that, if there was clear legislative guidance about when a child
2698 may be separated from a parent, that would ease the work of both
2699 Departments, both our colleagues at DHS who are striving honorably
2700 to execute their requirements and us. Additionally, many
2701 problems would be prevented if ORR shared with DHS the power to
2702 determine who is unaccompanied. As a reminder, we accept all
2703 the children who are referred to us. A lot of things might be
2704 different if that power were equally shared between the two
2705 agencies. That's what Congress could do.

2706 Mr. Guthrie. Thank you. I appreciate it.

2707 Mr. White. That is only my opinion.

2708 Mr. Guthrie. I appreciate that.

2709 And I yield back.

2710 Ms. DeGette. Thank you. And Mr. Cardenas from California

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2711 has come in. So, I will recognize him for 5 minutes.

2712 Mr. Cardenas. Thank you very much, Madam Chairwoman, and
2713 thank you for giving us, the legislative body, an opportunity
2714 to shed some light in full view of the American people and the
2715 world on how to get down to the bottom of what has been going
2716 on with the -- I personally consider it an atrocity that any
2717 country would wholesale take action, intended action, of
2718 separating babies/children from their parents.

2719 I haven't heard of anybody in the psychological field that
2720 has said anything other than that is probably the worst thing
2721 that a person, that a society or any individual can do to a young
2722 brain, is to give them that experience of that trauma. I have
2723 not heard any of them say anything other than that trauma lasts
2724 a lifetime. Not only does it have a mental effect on that human
2725 being for a lifetime, it actually translates into negative
2726 physical effects as well.

2727 So, that having been said, it is alarming to me that earlier,
2728 I think it was you, Commander White, was quoted as making a
2729 statement along the lines that perhaps you are not even going
2730 to be able to reunite all of the children in custody today with
2731 their appropriate parents. My point on that is, if, in fact,
2732 that is what you were willing to admit, I thank you for that
2733 admission because, until that moment, we were given stories from

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2734 the administration and from various departments that everything
2735 is going to be okay at the end of day; it is not that bad; all
2736 the children are going to be just fine. And nothing could be
2737 further from the truth. No offense. Once a child has been
2738 traumatized like that, it is never going to be just fine after
2739 that fact.

2740 I just want to remind us that the ability of not being able
2741 to return every single child to their rightful families
2742 eventually, and for us to do anything less than everything that
2743 we can do to make that right with that child and their family,
2744 anything less than that would be like we are treating them like
2745 sweaters left behind in a lost and found. These are human beings.

2746 They might not be American human beings, but they are human
2747 beings.

2748 With that, I would like to ask some questions. Commander
2749 White, with the reports of children crying themselves to sleep
2750 at the ORR facilities, did HHS provide any advice or training
2751 to CBP on how to minimize trauma for these separated family
2752 members, particularly the children?

2753 Mr. White. So, that's something we'd have to get back to
2754 you on. I do not know if there was any interagency discussion.

2755 HHS is a big agency. I did not myself provide any technical
2756 assistance to an interagency, but that is a question we'd need

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2757 to get back to you on.

2758 Mr. Cardenas. Okay. If you can provide that to the
2759 committee, that would be very important for us to know the answer.

2760 And again, Commander White, I am not here to beat you up.
2761 I am actually here to compliment you because everything that
2762 I have heard about your comments, I have been pretty darn
2763 forthright and just straightforward with trying to paint a
2764 truthful picture about what happened and what has been going on.

2765 I apologize, I am having a hard time even asking some of
2766 these questions because it is just so startling that in the
2767 greatest country in the world we actually participated in this,
2768 in separating thousands upon thousands of children.

2769 But at what point in time was your Department made aware
2770 that there was going to be an increase, a drastic increase, an
2771 influx of children that would have to end up in your custody?

2772 Mr. White. I am not aware of any HHS -- I have no personal
2773 knowledge of any HHS person being advised of ZTP, zero tolerance
2774 policy, prior to its public announcement.

2775 Mr. Cardenas. Because my time is short, thank you.

2776 Did you personally inquire or did you discuss with any of
2777 your colleagues at your level, above or below, if they were
2778 inquiring to ask if anybody else has heard, or at least --

2779 Mr. White. Because --

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2780 Mr. Cardenas. Maybe they were inquiring, but they weren't
2781 getting any answers?

2782 Mr. White. Because in many interagency meetings it was
2783 clear to me that there were, that the possibility existed that
2784 separation was going to happen, indeed, that preparation for that
2785 policy possibility was underway, as I've testified previously,
2786 I did elevate those concerns to my own immediate leadership.

2787 Mr. Cardenas. But, as far as you know, no direct answers
2788 were given, based on the question I just asked earlier?

2789 Mr. White. Again, to my knowledge, no one in HHS knew the
2790 zero tolerance policy. I have never heard an HHS person say to
2791 me, ``Yes, I knew the zero tolerance policy was going to happen."''

2792 Mr. Cardenas. Thank you for your frankness, Commander
2793 White.

2794 Thank you, Madam Chair.

2795 Ms. DeGette. The Chair now recognizes the gentleman from
2796 Maryland, Mr. Sarbanes, for 5 minutes.

2797 Mr. Sarbanes. Thank you, Madam Chair. Thanks for the
2798 hearing.

2799 Thanks to our panelists.

2800 Ms. Larin, your inquiry in terms of the GAO's review of all
2801 this, was that confined to looking at what was happening in ORR
2802 or was it broader than that, looking at the other agencies and

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2803 how they touched this issue of the zero tolerance policy?

2804 Ms. Larin. We looked at planning both by HHS and by DHS.

2805 Mr. Sarbanes. DHS? Good.

2806 Ms. Larin. Or the lack of planning.

2807 Mr. Sarbanes. Okay. So, I was fascinated when you gave
2808 your initial testimony because you seemed to be describing a
2809 situation in which the official policy of the administration was
2810 that there would be no family separation, but the unofficial
2811 policy, going back to 2017, was that there would be a family
2812 separation, which obviously puts the professionals who are trying
2813 to do their job well in an incredibly difficult position. They
2814 sit in meetings having to interpret coded language or winks and
2815 nods, as in our official policy is not to separate families, but,
2816 in effect, on the down-low this is what we are really up to.
2817 Terribly disrespectful of people who are trying to do the right
2818 thing, as I believe, Commander White, you have indicated you were
2819 trying to do at every step along the way, and having to tolerate
2820 the kind of atmospheric conditions that seemed to be happening
2821 in these meetings and gatherings, where you are trying to pull
2822 information to allow you to do the right thing.

2823 So, Ms. Larin, I would just like you to expand a little bit
2824 on that disconnect. I mean, I have seen the Trump administration
2825 issue kind of shoot-from-the-hip policy directives that get

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2826 carried on cable television before people in the agencies that
2827 have to own those directives even know about it through a
2828 combination of incompetence sometimes or other motivations. But
2829 this is an interesting case because this is one where the powers
2830 that be seemed to know what they were up to, and they were saying
2831 officially, ``We're not doing any of that stuff. There's no zero
2832 tolerance policy. There's no policy of separating families."
2833 But, actually, that is what we are doing.

2834 Describe that disconnect to me because you touched on it
2835 in your initial comments, and I think it is very telling as to
2836 the difficult position that so many people, just trying to do
2837 their job and trying to protect the interests of these families
2838 and children, were placed in as a result.

2839 Ms. Larin. So, I noted in my testimony that there was an
2840 increase in separated children, children who were separated from
2841 their parents, between 2016 and 2017. And we were told that there
2842 were two different policies that potentially led to that increase.

2843 One of those was a memo by the Attorney General that was issued
2844 in April 2017, so a year before the April 2018 memo, that
2845 prioritized enforcement of certain immigration-related offenses.

2846 And there was also an initiative that was specific to the El
2847 Paso Border Patrol sector, which, again, increased referrals and
2848 prosecutions of immigration-related offenses, including parents

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2849 of minor children, and that likely resulted in separations. So,
2850 there were policies that were being implemented that could have
2851 led to that increase.

2852 Mr. Sarbanes. What is interesting about that is it almost
2853 sounds like the administration was finding ways to test this out
2854 before they moved into a more official posture on it. One would
2855 have thought, based on some of the ripple effects, that those
2856 more localized or targeted deployment of this policy would have
2857 demonstrated that they would have come back realizing that that
2858 was a terrible direction in which to go. But, apparently, the
2859 lesson they drew from it was that they should expand the policy
2860 more broadly, with the disastrous and tragic impacts that it has
2861 had for these children.

2862 And I yield back.

2863 Ms. DeGette. The gentleman yields back.

2864 I just have a couple of final questions for the panel.

2865 Commander, I think you had said, for the children separated
2866 before the April order, that it would be very difficult for HHS
2867 to now figure out where those kids went because most of them were
2868 released into custody, into their parents or whoever, right?
2869 Is that right?

2870 Mr. White. The important timeframe is not when they were
2871 separated. It's whether they had already been discharged from

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2872 ORR by the 26th of June. When we looked at the direction of the
2873 court in Ms. L, every child, every single child who was in care
2874 -- I mean, there was no start date.

2875 Ms. DeGette. Right. Okay.

2876 Mr. White. The earliest separation of any kid on that list
2877 was separated in 2014. We went back as far as they went.

2878 Ms. DeGette. But the court order said you had to identify
2879 children after the time of the order. Is that right?

2880 Mr. White. There was no start date from when they were
2881 separated. What mattered for the order was whether they were
2882 in care on or after the 26th of June.

2883 Ms. DeGette. I see. So, what you are saying today is --
2884 and you painted this Draconian picture of if ICE went back into
2885 these homes and took these kids. I don't think anybody is
2886 suggesting that that is what we should do. But, if we were going
2887 to identify what Ms. Maxwell talked about, the potential thousands
2888 of kids who might have been separated -- we don't know -- it would
2889 probably take another court order to do that because of the
2890 interagency operations. Is that what you are saying today?

2891 Mr. White. I'm saying that I don't believe that we're
2892 capacitated to do -- from July of 2017 until the court date, more
2893 than 47,000 children moved out of our door.

2894 Ms. DeGette. Right. Yes, but --

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2895 Mr. White. The best way to get that would be to pose this
2896 question to the Department of Homeland Security because, as a
2897 reminder, HHS separated zero children.

2898 Ms. DeGette. Right. I understand.

2899 Mr. White. We weren't there when it happened.

2900 Ms. DeGette. Believe you me, I understand that. But,
2901 however -- and you don't really have to answer this -- but HHS
2902 said they couldn't identify those children before, and the court
2903 said to do it. So, we are going to hear from our next panel about
2904 what they want to do, but this is what we are concerned about,
2905 is these thousands of kids that the IG has identified that may
2906 or may not be with family members now. So, we will have to explore
2907 this further.

2908 There is one other thing. You had mentioned to
2909 Congresswoman Castor a memo that you wrote in 2017. Is that
2910 right?

2911 Mr. White. I apologize, the Castor memo?

2912 Ms. DeGette. No, you had told Ms. Castor you wrote a memo
2913 in 2017 to your supervisors.

2914 Mr. White. Yes, I wrote at least multiple memos.

2915 Ms. DeGette. Okay. So, this is really more a message for
2916 your Department, and not for you. But, on January 18th, 2019,
2917 Mr. Pallone and I sent a letter to the Secretary asking for a

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2918 number of documents. That would have been included in those
2919 documents. While we have received some documents in this
2920 committee, we did not receive that document or many other relevant
2921 documents. And so, I am asking you to please communicate to the
2922 Department that they do need to comply with this document request.

2923 And I would ask unanimous consent to put our January 18th
2924 letter into the record. Without objection, so ordered.

2925 [The information follows:]

2926

2927 ***** COMMITTEE INSERT 7 *****

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2928 Mr. White. And I know HHS is going to fully honor your
2929 request, and I've talked to folks. They're working very hard
2930 on going through that number of documents.

2931 Ms. DeGette. Okay.

2932 Mr. White. That will happen.

2933 Ms. DeGette. And the last thing I will say is we really
2934 do value the efforts that you have made, but we intend to continue
2935 this investigation because many of the questions the members have
2936 asked are questions you can't answer because these conversations
2937 took place above you.

2938 And I also want to thank all of the other witnesses for
2939 participating in this hearing and for your thorough
2940 investigations.

2941 Members will submit questions for the record. And I ask
2942 that the witnesses respond promptly to the questions. And
2943 with that, the subcommittee will dismiss panel 1.

2944 After the next panel has been set, we will invite them to
2945 the table.

2946 [Recess.]

2947 Ms. DeGette. The Chair will announce, because people have
2948 asked, we are expecting a series of votes between 1:30 and two
2949 o'clock. And so, we are going to start with testimony from the
2950 second panel, and then, we will break when we go for votes. So

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2951 that if people need to use the restroom or grab a quick bite,
2952 they can do that. And then, we will reconvene 15 minutes after
2953 the vote ends.

2954 I would now like to introduce our second panel. I don't
2955 know where Mr. Gelernt is. He is on his way.

2956 Mr. Lee Gelernt, who is the Deputy Director of the
2957 Immigrants' Rights Project of the American Civil Liberties Union,
2958 will be joining us.

2959 Ms. Jennifer Podkul, who is the Senior Director of Policy
2960 and Advocacy of Kids in Need of Defense.

2961 Welcome, Mr. Gelernt.

2962 Dr. Julie Linton, who is the Co-Chair of Immigrant Health
2963 Special Interest Group of the American Academy of Pediatrics.

2964 Dr. Cristina Muniz de la Pena, who is the Terra Firma Mental
2965 Health Director of the Center for Child Health and Resiliency,
2966 who is here on behalf of the American Psychological Society.

2967 Dr. Jack Shonkoff, Professor of Child Health and Development
2968 and Professor of Pediatrics, of Harvard Medical School.

2969 And Ms. Dona Abbott, the Vice President of Refugee and
2970 Immigrant Services of Bethany Christian Services.

2971 Ms. Abbott, I am sorry we don't have a name tag yet for you,
2972 but we are printing one off. This is the glitches when you have
2973 your first committee hearing of the year.

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2974 I know all the witnesses are aware we are holding an
2975 investigative hearing, and when doing so, we have the practice
2976 of taking testimony under oath. Does anyone have any objections
2977 to testifying under oath?

2978 Let the record reflect that the witnesses have responded
2979 no.

2980 The Chair advises you, then, that under the rules of the
2981 House and rules of the committee, you are entitled to be
2982 accompanied by counsel. Do you desire to be accompanied by
2983 counsel during your testimony today?

2984 Let the record reflect that the witnesses have responded
2985 no.

2986 If you would, then, please rise and raise your right hand,
2987 so that you may be sworn in.

2988 [Witnesses sworn.]

2989 Please be seated.

2990 Let the record reflect that the witnesses have responded
2991 affirmatively, and you are now under oath and subject to the
2992 penalties set forth in Title 18, Section 1001, of the Criminal
2993 Code.

2994 The Chair will now recognize the witnesses for a 5-minute
2995 summary of their written statement.

2996 There is a microphone and series of lights in front of you.

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2997 It turns yellow when you have a minute left and red to indicate
2998 your time has come to an end.'

2999 Mr. Gelernt, you are now recognized for 5 minutes, and thank
3000 you for being with us.

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3001 STATEMENT OF LEE GELERNT, DEPUTY DIRECTOR, IMMIGRANTS' RIGHTS
3002 PROJECT, AMERICAN CIVIL LIBERTIES UNION; JENNIFER PODKUL, SENIOR
3003 DIRECTOR OF POLICY AND ADVOCACY, KIDS IN NEED OF DEFENSE; JULIE
3004 M. LINTON, CO-CHAIR, IMMIGRANT HEALTH SPECIAL INTEREST GROUP,
3005 AMERICAN ACADEMY OF PEDIATRICS; CRISTINA MUNIZ DE LA PENA, TERRA
3006 FIRMA MENTAL HEALTH DIRECTOR, CENTER FOR CHILD HEALTH AND
3007 RESILIENCY, ON BEHALF OF THE AMERICAN PSYCHOLOGICAL SOCIETY; JACK
3008 P. SHONKOFF, PROFESSOR OF CHILD HEALTH AND DEVELOPMENT AND
3009 PROFESSOR OF PEDIATRICS, HARVARD MEDICAL SCHOOL, HARVARD T.H.
3010 CHAN SCHOOL OF PUBLIC HEALTH, HARVARD GRADUATE SCHOOL OF
3011 EDUCATION, AND DIRECTOR, CENTER ON DEVELOPING CHILD AT HARVARD
3012 UNIVERSITY, AND DONA ABBOTT, VICE PRESIDENT OF REFUGEE AND
3013 IMMIGRANT SERVICES, BETHANY CHRISTIAN SERVICES

3014

3015 STATEMENT OF LEE GELERNT

3016 Mr. Gelernt. Thank you, Chair DeGette, Ranking Member
3017 Guthrie, and the rest of the members. I apologize I was late.

3018 I am the lead ACLU lawyer in the family separation lawsuit.
3019 So, I'm going to talk a little bit from that background, talk
3020 a little about the lawsuit, where we are, what I think needs to
3021 happen.

3022 I've been working at the ACLU for more than 25 years doing
3023 civil rights work in the immigration area. And I feel confident

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3024 in saying that the family separation practice is the worst thing
3025 I have seen in my 25-plus years. No other administration has
3026 done anything like this family separation policy. I think the
3027 prior panel made it clear that it was very limited in the past,
3028 it was for cause. It was not this widespread systemic family
3029 separation. And I think, worse still, family separations are
3030 still occurring, as the prior panel mentioned.

3031 We filed our lawsuit in March of 2018, and this is before
3032 zero tolerance policy. And at that point, we alleged, based on
3033 talking to lots of people all over the country, that there were
3034 hundreds of separations. By the time I stood up in court in the
3035 beginning of May, the media had recorded roughly 700 separations.

3036 I think it now is clear that there may have been many more, but
3037 this is even before the zero tolerance policy.

3038 And when the court ruled on June 26th, the government
3039 reported that there were 2700 separations. Those 2700 are not,
3040 obviously, the whole story, as this committee has talked about
3041 previously with the prior panel. The government's response now
3042 to the HHS report doesn't dispute that there may have been
3043 thousands more kids separated and released from ORR before the
3044 June 26th date of the court's order.

3045 What I find remarkable is that HHS is saying it may not be
3046 worthwhile and just too hard to actually try and find where all

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3047 these children are and where the parents are; and that it is
3048 remarkable that HHS is saying it may be in the child's best
3049 interest not to do so.

3050 And Commander White mentioned that it would not be great
3051 for ICE to now be showing up at all these children's houses.
3052 And I'd like to talk about this more, hopefully during the
3053 questions, but we see no reason why that would have to be how
3054 it would be done. The information could be provided to social
3055 workers, to us, just as it has in the past, and we could find
3056 out what the family wants to do. But to say in the United States
3057 it's not worth finding children the government separated seems
3058 to us to be an untenable position.

3059 At a minimum, I think we need to find out the full scope
3060 of the problem. And I think that the government really needs
3061 to participate in that process. I think one of the things that
3062 the committee knows is that there were roughly 400 parents that
3063 we know of who were deported without their kids, and at one point
3064 the government stood up in court and said, well, if the ACLU wants
3065 to find those parents, let them find them. Ultimately, Judge
3066 Sabraw put his foot down and said, no, the government has to help
3067 the ACLU. But I think going forward, that's a lot of time and
3068 resources. We're happy to do it, but we certainly need the
3069 participation of HHS to help us and for the rest of the agencies.

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3070 Let me just sort of conclude by stating five points that
3071 I think are critical going forward.

3072 First, as I said, we think the committee should ensure that
3073 HHS accounts for these thousands of kids talked about in the report
3074 to see how many there are, where they are, and what needs to happen.

3075 The second point is that we think it's critical going forward
3076 that there be proper procedures put in place and proper processes
3077 going forward, so separations do not occur based solely on a
3078 unilateral determination by an untrained CBP officer at the
3079 border.

3080 Third, in the extremely limited situation where separations
3081 do occur going forward, it's absolutely critical, as the prior
3082 panel pointed out, to have an integrated database that allows
3083 tracking quickly. And Judge Sabraw was shocked, truthfully,
3084 about how bad the tracking system was. He called the separations
3085 brutal and offensive, but, then, on top of that, he said he was
3086 really startled by the lack of any kind of tracking system. And
3087 I don't think one is in place at this point.

3088 Fourth, there were many parents deported without their
3089 children who were misled or coerced into giving up their own asylum
3090 rights. We believe that those parents, if they have legitimate
3091 asylum claims and were coerced or misled into leaving without
3092 their children, ought to be given a fair opportunity to have an

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3093 asylum hearing. And some of those parents got on the plane, were
3094 told their children will be on the plane with them, only to have
3095 the plane take off, and now they're stuck in Central America and
3096 their children are here.

3097 Finally, we believe strongly that funds should be allocated
3098 for the families that were separated to assist them with obtaining
3099 medical and other types of assistance. As was pointed out in
3100 the prior panel, and I think is going to be strongly reinforced
3101 by the doctors on the panel, these children are suffering real
3102 trauma and harm, and they need assistance.

3103 I'd just conclude by saying, when I met with one of our
3104 plaintiffs, the mother who had had a 4- and 10-year-old child
3105 taken from her for months, and what she said when they came back
3106 was that the 4-year-old still asks her, ``Are they going to come
3107 and take me away again in the middle of the night?" And I think
3108 that's what's going on with these children. Any sense of
3109 stability has been shattered, and without real medical
3110 assistance, I think it's going to be very difficult for them to
3111 recover.

3112 I'll stop there. Thank you.

3113 [The prepared statement of Mr. Gelernt follows:]

3114

3115 ***** INSERT 8 *****

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3116 Ms. DeGette. Thank you, Mr. Gelernt.

3117 Ms. Podkul?

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3118 STATEMENT OF JENNIFER PODKUL

3119

3120 Ms. Podkul. Thank you, Chairwoman DeGette, Ranking Member
3121 Guthrie, and members of the subcommittee.

3122 I'm very grateful for your invitation today. I'm here to
3123 represent Kids in Need of Defense, a national organization
3124 dedicated to promoting the rights of child migrants and ensuring
3125 every child has access to high-quality legal representation.

3126 Traditionally, KIND has only represented children who arrive
3127 in the United States unaccompanied, meaning without a parent or
3128 a legal guardian. However, last summer during the family
3129 separation crisis, we expanded our services to serve the separated
3130 children and families.

3131 The majority of children that we serve come from El Salvador,
3132 Guatemala, and Honduras. These children have fled their
3133 countries out of a desperate need for protection. Extreme
3134 violence and threats to their lives and safety leave them with
3135 no choice but to flee. Children are telling us that they're
3136 embarking on what they know will be a dangerous journey. As one
3137 11-year-old told me who I interviewed, he said, ``If I stayed
3138 in my country, I would die. If I took the journey, I might die.
3139 So, I had to take the chance."

3140 Because of these levels of fear and desperation, any policies

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3141 designed to deter future asylum seekers from asking for protection
3142 will be unsuccessful. You can't deter away a refugee crisis.

3143 Unfortunately, what we saw this administration do last
3144 summer was an attempt at deterrence, but in the most cruel way
3145 imaginable. Once the systematic separations began taking place,
3146 KIND sent emergency teams of lawyers to serve these families.
3147 Their stories were heartbreaking.

3148 There is an 8-year-old boy who's separated from his father
3149 and he was put on an airplane to an ORR facility over 2,000 miles
3150 away. The DOJ officer told him he would see his father when he
3151 got there. That was not true.

3152 There is a 7-year-old who is highly traumatized by being
3153 separated from her father. And when the KIND attorneys went to
3154 go meet with her in a shelter, they could not even begin to discuss
3155 her legal case. She couldn't even answer questions. She was
3156 just sobbing during that entire meeting.

3157 There is a mother who is separated from all four of her
3158 children. And when she was finally waiting the return of her
3159 youngest, she was given the wrong baby.

3160 Our attorneys heard several hundreds of these kinds of
3161 stories. We were serving younger children than we had ever
3162 before. As attorneys, we're obligated to represent a client's
3163 express wishes. Yet, some of these children couldn't even talk.

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3164 While some of the children have legal claims that are
3165 distinct from their parents, many children's cases are dependent
3166 on their parents' claim. But because there is no system in place
3167 to track the separated children and their parents, our attorneys
3168 didn't even know which children had been separated, let alone
3169 how to find the parents.

3170 We must demand accountability for what happened last summer,
3171 but we must also focus on the separations that are continuing
3172 to take place and address the systematic shortcomings that are
3173 still harming children. Although the law allows DHS to separate
3174 a child from their parent if there is ever a risk to the child's
3175 safety, there are no standards for how that decision should be
3176 made. In order to reduce unnecessary traumas, we need to have
3177 answers to these six questions:

3178 One, who is doing the screening to evaluate the rare instance
3179 in which a child should be separated?

3180 Two, what specialized training does that screener have to
3181 make a decision with such grave consequences?

3182 Three, what standards are they using to make that decision?

3183 Four, who reviews that decision?

3184 Five, how can a decision be challenged if there's a concern
3185 that the separation was not necessary?

3186 And six, what tracking systems are in place to ensure

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3187 communication and future reunification in the event that a
3188 separation must occur?

3189 We need answers to these questions immediately. Congress
3190 gave the care and custody of unaccompanied to Health and Human
3191 Services because of their expertise in child welfare issues.

3192 HHS should help DHS develop standards for screening and make sure
3193 that a trained child welfare professional is doing that screening
3194 to ensure that it only happens when it's absolutely necessary.

3195 When DHS sends a child to HHS, HHS must demand that DHS provide
3196 complete information about that child, and then, HHS must always
3197 provide that information to the child's attorney or advocate.

3198 What happened to children under the family separation policy
3199 must never happen again. Intentionally harming children is not
3200 who we are as a country, and we must act now to ensure that we
3201 are protecting any child that comes to us asking for help.

3202 Thank you, and I'm happy to answer any questions.

3203 [The prepared statement of Ms. Podkul follows:]

3204

3205 ***** INSERT 9 *****

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3206

Ms. DeGette. Thank you.

3207

Dr. Linton, you are recognized for 5 minutes.

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3208 STATEMENT OF JULIE M. LINTON

3209

3210 Dr. Linton. Chairwoman DeGette, Ranking Member Guthrie,
3211 and members of the Energy and Commerce Committee, thank you for
3212 the opportunity to speak here today.

3213 I'm Dr. Julie Linton, a practicing pediatrician in
3214 Greenville, South Carolina, where my clinical work is focused
3215 on the care of children in immigrant families. I'm the Co-Chair
3216 of the American Academy of Pediatrics Immigrant Health Special
3217 Interest Group. On behalf of the American Academy of Pediatrics,
3218 or the AAP, and our 67,000 members, thank you for holding today's
3219 hearing.

3220 The AAP is nonpartisan and pro-children. Pediatricians
3221 care about the health and well-being of children, all children,
3222 no matter where they or their parent was born. As pediatricians,
3223 we know that children do best when they are together with their
3224 families. After reading media reports in March of 2017 that the
3225 Department of Homeland Security, or DHS, was considering a policy
3226 that would separate immigrant mothers from their children upon
3227 arriving at the U.S. border, we immediately spoke out against
3228 this proposed policy.

3229 We, subsequently, wrote to DHS six times to urge the agency
3230 to reject such a policy. The AAP also issued roughly half a dozen

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3231 statements about why family separation devastates the most basic
3232 human relationship we know, that of parent and child. The AAP
3233 has repeatedly said that separating children from their parents
3234 contradicts everything we stand for as pediatricians, protecting
3235 and promoting children's health.

3236 Today, I will underscore the health effects of separation,
3237 both what we know from the scientific literature and what I know
3238 for caring for patients. Prolonged exposure to highly stressful
3239 situations, known as toxic stress, can disrupt a child's brain
3240 architecture and adversely impact short- and long-term health.

3241 A critical role of a parent or known caregiver is to buffer this
3242 stress. Separation from a parent robs children of that buffer.

3243 Separated children can face immediate health problems,
3244 including physical symptoms like headaches and abdominal pain;
3245 changes in bodily functions such as eating, sleeping, and
3246 toileting; behavioral problems like anger, irritability, and
3247 aggression, and difficulty with learning and memory. Children
3248 who have been separated may also experience feelings of mistrust
3249 and bereavement, guilt, or shame. In the long term, children
3250 who have been separated may be susceptible to chronic conditions
3251 such as depression, post traumatic stress disorder, diabetes,
3252 or heart disease.

3253 I have seen the impact of family separation with my own eyes.

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3254 In June of 2018, I cared for an 8-year-old boy that I will never
3255 forget. This boy and his pregnant mother fled violence and direct
3256 personal threats in Central America. Realizing that the zero
3257 tolerance policy was at that time in effect, I specifically and
3258 gently asked the boy and his mother if they had been separated
3259 at the border. With my question, a chilling silence arose. They
3260 both became tearful and their angst was palpable. The boy shook
3261 and his mother shuttered whispering, ``Seven days." For seven
3262 days, this boy and his pregnant mother did not know about the
3263 other's location or safety.

3264 This separation was shorter than many children harmed by
3265 the zero tolerance policy, but he still suffered the consequences.

3266 He could no longer sleep through the night. He had trouble being
3267 away from his mother for even a short period of time. And his
3268 mother reported he was a shell of his previous self.

3269 Children are not little adults. To untrained eyes, they
3270 can appear quite healthy, even when their systems begin to shut
3271 down. Tragically, this was the case for Jakelin and Felipe while
3272 in the custody of Customs and Border Protection in December.

3273 We urge our federal agencies to apply a child-focused lens
3274 when considering policies that could have an impact on child
3275 health. The AAP remains committed to working with federal
3276 agencies to offer our expertise as medical providers for children

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3277 in order to protect and promote child well-being.

3278 Additionally, children should not be placed in unlicensed
3279 facilities, whether they are run by HHS or DHS. The findings
3280 of the HHS Office of Inspector General about Tornillo and family
3281 separation are troubling. We urge all relevant federal agencies
3282 to address these findings.

3283 It is critical that all reunified children receive
3284 appropriate medical care in the community to help them recover
3285 from the traumatic experience of separation from their families.

3286 Children and families who have faced trauma, with
3287 trauma-informed approaches and community support, can begin to
3288 heal. As a pediatrician, I know that, first and foremost, we
3289 must treat all immigrant children and families seeking safety
3290 in the U.S. with dignity, compassion, and respect.

3291 Thank you.

3292 [The prepared statement of Dr. Linton follows:]

3293

3294 ***** INSERT 10 *****

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3295

Ms. DeGette. Thank you, Doctor.

3296

Now, Dr. Muniz de la Pena, recognized for 5 minutes.

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3297 STATEMENT OF CRISTINA MUNIZ DE LA PENA

3298

3299 Ms. Muniz de la Pena. Thank you for the opportunity to share
3300 my thoughts before the subcommittee related to the adverse health
3301 impact of family separation at the border.

3302 I'm Cristina Muniz de la Pena, licensed psychologist and
3303 Director of Mental Health Services at Terra Firma Immigrant Youth
3304 Clinic in New York City. I'm speaking today, also, on behalf
3305 of the American Psychological Association, or the APA.

3306 Terra Firma is a program designed to serve unaccompanied
3307 immigrant children and families since 2013. Over the past six
3308 months, however, Terra Firma has received increased requests for
3309 mental health services from foster care agencies and immigration
3310 attorneys caring for these children, as well as from the parents
3311 themselves who had been reunited with their children and are still
3312 struggling with the aftermath.

3313 My thoughts are drawn both from kids' examples from my
3314 therapeutic work with these children and from research findings.

3315 The traumatic impact of the separation of children in the border
3316 involves at least two different types of trauma. One is the acute
3317 trauma of the insensitive manner the separations were performed,
3318 and the other is the trauma from the length of the separation.

3319 The level of impact of these vary depending on crucial factors,

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3320 such as the child's age and gender, developmental level, the level
3321 of harshness of the separation, the level of the -- the length
3322 of the separation, the degree to which the child had communication
3323 with the parent during the separation, and the degree to which
3324 the child was informed and predictability was offered during the
3325 separation.

3326 Ample research tells us that unwanted and unexpected
3327 separation from parents may have severe consequences in a child's
3328 developmental processes and psychosocial functioning. When
3329 separated from their parents, high levels of anxiety and distress
3330 occur which impair the developmental trajectories in otherwise
3331 healthy children. The following two examples illustrates some
3332 of the adverse circumstances and outcomes of parent-child
3333 separations:

3334 The youngest child seen in our program was a 2-year-old
3335 Honduran boy who had been separated from his mother while asleep
3336 and was kept away from her for two months. The mother had been
3337 told to leave the detention cell, and when she asked to wake her
3338 son up to take him with her, the officers told her to not bother
3339 because she was going to be right back. After two months of
3340 helpless wait, the mother was reunited with her son in New York.
3341 She came to our program asking for help, concerned about the
3342 3-year-old, the then-3-year-old son and anxiety of separation

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3343 and persistence of hypervigilance. During the sessions, the boy
3344 clung to his mother with fearful demeanor and had great difficulty
3345 relaxing and letting go to initiate the normal exploring behavior
3346 of a child his age.

3347 Another 4-year-old Salvadorian boy I evaluated, who appeared
3348 highly pleasant, engaged, and animated at first, would suddenly
3349 turn quiet, stare off, and become emotionally flat following each
3350 question about his father and the separation. During these
3351 episodes, the child appeared to struggle to return his attention
3352 to the present moment and reengage in conversation and play.
3353 These are clear symptoms of disassociation from the trauma of
3354 being snatched from his father without any explanation or
3355 opportunity to say goodbye.

3356 Research shows that the longer parents and children are
3357 separated, the greater the reported symptoms of anxiety and
3358 depression. According to the APA's Presidential Task Force on
3359 Immigration, sustained parental separation also predicts ongoing
3360 difficulty trusting adults and institutions, as well as reduced
3361 educational attainment.

3362 Attachment is the emotional bond that typically forms
3363 between infant and caregiver. In lay terms, attachment, love,
3364 and protection from a parent is to a child's mental health what
3365 water, oxygen, and food are for physical health. It is the means

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3366 by which helpless infants get their primary needs met. It is
3367 also the needed platform of safety and comfort that allows for
3368 a child to explore, learn, and develop.

3369 As an example, the mother of the 2-year-old described earlier
3370 expressed feelings of profound anxiety and depression because
3371 she was terrified of connecting emotionally with her son, then
3372 being detailed, causing him a second trauma of separation. As
3373 a result, she found herself keeping her emotional distance to
3374 protect her child from a second trauma of separation. And
3375 therefore, she was unable to provide the emotional safety and
3376 nurturing necessary for her son to feel safe, venture into the
3377 world, and develop.

3378 In sum, from my observations and well-documented research
3379 findings, attachment with a main caretaker must be protected and
3380 preserved. Meaningful access to trauma-informed mental health
3381 care is critical to ensure that both adult and child survivors
3382 of separation trauma heal.

3383 I would urge this committee to consider the serious mental
3384 health impact of parent-child separation on both children and
3385 parents, and put an end to the practice of family separation and
3386 help to ensure that immigrant children and their parents reunite
3387 and receive needed mental health care.

3388 Chairwoman, I would ask that the letter that the APA wrote

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3389 to the President in June about family separation be included in
3390 the record.

3391 And I will be pleased to answer any questions. Thank you.

3392 [The prepared statement of Ms. Muniz de la Pena follows:]

3393

3394 ***** INSERT 11 *****

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3395

Ms. DeGette. Thank you.

3396

Now, Ms. Abbott, I am pleased to recognize you for 5 minutes.

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3397 STATEMENT OF DONA ABBOTT

3398

3399 Ms. Abbott. Chair DeGette, Ranking Member Guthrie, and
3400 members of the subcommittee, thank you for this opportunity to
3401 appear before the committee today, so that I may share the impact
3402 that family separation had on the children Bethany serves and
3403 to propose solutions, so that we, as a nation, may better care
3404 for children and their families who are seeking refuge. My hope
3405 is that the protection and care of children evokes a bipartisan
3406 response.

3407 Bethany partners with the Office of Refuge Resettlement as
3408 well as Lutheran Immigration and Refugee Services and the U.S.
3409 Conference of Catholic Bishops to meet the need of unaccompanied
3410 children. These children have fled from dictators, gang
3411 violence, sex and labor trafficking, starvation, and countries
3412 with the highest murder rates in the world. ORR does a good job
3413 of ensuring that children in transitional foster care have access
3414 to the services they need, including a safe temporary foster home,
3415 education, medical care, case management, mental health services,
3416 legal screening, and post-release services.

3417 As soon as children enter our care, we immediately begin
3418 the process of locating their families. Since 2013, Bethany has
3419 directly reunified more than 2,000 unaccompanied children with

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3420 sponsors. Our mission always has been, and always will be, to
3421 quickly and safely reunify children with their families.

3422 During the implementation of the family separation policy,
3423 Bethany provided care for 108 separated children. Bethany staff
3424 worked diligently to identify the location of their parents and,
3425 jointly with their parents, develop a reunification plan for every
3426 separated child in our care, as we do with every unaccompanied
3427 child in our care.

3428 Sadly, some children are still be separated from parents
3429 and caregivers at the border. While the reasons for continued
3430 separations are not often clear and continue to be concerning,
3431 it is never okay to take children from their families for the
3432 purpose of immigration enforcement. Children should never be
3433 used as a deterrent, leverage, or bait.

3434 Many more children could be better protected by giving ORR
3435 authority at the border. Under current law, CBP has 72 hours
3436 to determine if a child is fleeing to the United States as an
3437 unaccompanied child, with a parent or known guardian, or being
3438 trafficked. CBP is a law enforcement agency, and their agents
3439 are not trained in child welfare best practices. ORR social
3440 workers with a background in child protection could facilitate
3441 quick, adequate investigations and assist in making decisions
3442 about the appropriateness of separation.

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3443 I would also like to address a major barrier to reunifying
3444 children with families. In May 2018, the Department of Homeland
3445 Security and HHS announced a Memorandum of Agreement mandating
3446 continuous information-sharing on unaccompanied children,
3447 including their sponsors. We are no longer able to reassure a
3448 sponsor that claiming their children won't lead to their arrest
3449 and potential deportation to a country that they've fled to escape
3450 violence and persecution. Sponsors are being forced to choose
3451 between the safety of their households and their children, a
3452 decision no parent should ever be forced to make. The MOA should
3453 be rescinded.

3454 As I was preparing this testimony, I was reminded of two
3455 sisters, 15 and 11, who were raised by their grandmother in
3456 Guatemala. Their mom lived in the U.S. and regularly sent money
3457 back home, so the girls could be fed, clothed, and go to school.

3458 It wasn't long before gang members started visiting their home
3459 and demanding protection money. The price for their protection
3460 eventually surpassed their ability to pay. Gang members beat
3461 grandma in front of the girls and promised to return for the girls
3462 if payment was not made in full. The girls fled. Bethany and
3463 ORR helped these girls find safety, and then, eventually, their
3464 mother. Young girls should not have to live in fear of being
3465 raped and prostituted, especially when people in this great

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website as soon as it is available.

3466 country can do something to help them.

3467 Like these two girls, every unaccompanied child is made in
3468 the image of God. Each of them mattered deeply to Him, and each
3469 of them should matter to us.

3470 Thank you.

3471 [The prepared statement of Ms. Abbott follows:]

3472

3473 ***** INSERT 12 *****

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may be inaccurate, incomplete, or misattributed to the speaker. A link
to the final, official transcript will be posted on the Committee's
website as soon as it is available.

3474 Ms. DeGette. Thank you so much, Ms. Abbott.

3475 And batting cleanup, Dr. Shonkoff, thank you so much for

3476 joining us. You are recognized for 5 minutes.

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3477 STATEMENT OF JACK P. SHONKOFF

3478

3479 Dr. Shonkoff. Chair DeGette, Ranking Member Guthrie,
3480 members of the subcommittee, I want to thank you, also, for myself
3481 for the opportunity to be here with you today.

3482 My name is Jack Shonkoff. I am Professor of Child Health
3483 and Development at the Harvard Chan School of Public Health and
3484 the Graduate School of Education, and Professor of Pediatrics
3485 at Harvard Medical School. And I direct the Center on the
3486 Developing Child at Harvard University. I'm a trained -- I'm
3487 a pediatrician by training, and my work is focused on early life
3488 influences on learning, behavior, and health.

3489 I took the liberty -- I promise I will not exceed my time
3490 -- but I cut two paragraphs out of my prepared remarks because
3491 they've been said by everybody who has spoken here this morning.

3492 So, what I want to do is take a chance on using this opportunity
3493 to give you a deeper understanding of what the term toxic stress
3494 means. It's been mentioned a great deal. I'm going to give you
3495 a deeper understanding of that. And my testimony is based on
3496 strong scientific consensus from decades of scientific research.

3497 This is not about a single study, but it's the consensus of the
3498 scientific community.

3499 Sudden forcibly separation of children from their parents

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3500 is deeply traumatic for both the child and the parent. But, above
3501 and beyond the distress we see on the outside, this triggers a
3502 massive biological stress response inside the child which remains
3503 activated until the parent returns and provides some sense of
3504 comfort.

3505 Without exaggeration, there are literally thousands of
3506 studies that have converged on the following two simple, basic,
3507 core scientific concepts. No. 1, a strong foundation for healthy
3508 development in young children requires a stable, responsive, and
3509 supportive relationship with at least one parent or primary
3510 caregiver. And the second concept is that high and persistent
3511 levels of stress activation, known as toxic stress, can disrupt
3512 the architecture of the developing brain and other biological
3513 systems, which I will say a little bit about in a moment, with
3514 serious negative impacts on learning, behavior, and lifelong
3515 physical and mental health, not just mental health.

3516 So, early experiences are literally built into our brains
3517 and our bodies from the beginning. Stable and responsive
3518 relationships promote healthy brain development, they establish
3519 well-functioning immune and metabolic systems and cardiovascular
3520 systems, and they strengthen the building blocks of resilience.

3521 If these relationships are disrupted, young children are hit
3522 by the double whammy of a brain that is deprived of the positive

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3523 stimulation it needs and is assaulted by a stress response that
3524 disrupts its developing circuits.

3525 When any of us feels threatened, our bodies' stress responses
3526 are activated. Heart rate and blood pressure go up. Stress
3527 hormone levels are elevated. Blood sugar arises, and
3528 inflammatory responses are mobilized. This is the
3529 fight-or-flight response, and every one of us knows what it feels
3530 like physically to be optimally stressed-out. And I want to
3531 repeat that. The toxic stress response is what everybody here
3532 understands. When you are most stressed, you know what you feel
3533 physically. We all know what that feels like.

3534 This response is automatic and it's essential for survival.
3535 It is built into our biology, but it is designed to go back to
3536 normal when the threat is over. And if the sense of danger
3537 continues, the ongoing activation of the stress response system
3538 shifts from being protective and allowing us to deal with threat
3539 to becoming disruptive and outright damaging over time.

3540 For example, persistently elevated stress hormones can
3541 disrupt brain circuits that affect memory, the ability to focus
3542 attention, and regulate behavior. Excessive inflammation and
3543 metabolic responses to stress in childhood increase the risk of
3544 heart disease, diabetes, hypertension, stroke, various forms of
3545 cancer, as well as depression and a vulnerability to addictions

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3546 in the adult years.

3547 A number of people have alluded to this. It's not magic.
3548 We are opening up this black box. We are beginning to understand
3549 what is it about all of this constant stress that makes you more
3550 at risk for heart disease decades later. It's because the
3551 underlying biology is what is happening to these ensuring systems.

3552 Unlike positive or tolerable stress, which can build
3553 resilience, extensive, prolonged toxic stress has lifelong
3554 consequences. So, what I want to do is conclude by sharing with
3555 you how these scientific principles that I've just described
3556 provide a powerful framework for understanding the damage caused
3557 by the current family separation policy.

3558 All children who are abruptly separated from familiar
3559 caregivers at the border experienced overwhelming stress. Will
3560 some survive without significant problems? The answer is yes.
3561 Will many be seriously impaired for the rest of their lives?
3562 The answer, again, is yes.

3563 The biology of adversity suggests three factors that
3564 influence who is at greatest risk. The first is age. Younger
3565 children are the most vulnerable because their brain circuitry
3566 and other biological systems are relatively underdeveloped, and
3567 they are the most dependent on adult caregivers.

3568 The second is previous harm from adversity. Many people

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3569 have alluded to this. The pile-up of stress on children who are
3570 already compromised shifts the odds against them even further.
3571 Intentionally withholding the most powerful healing
3572 intervention we could possibly offer, the care of their parents
3573 when children are in danger, goes against everything that science
3574 tells us -- everything.

3575 The third reason for variation in outcomes is the duration
3576 of separation, and that's the part that I want to leave you with.

3577 Toxic stress is a ticking clock, and prolonged separation
3578 inflicts increasingly greater harm as each week goes by. From
3579 a scientific perspective, the initial separation and the lack
3580 of rapid unification are both highly indefensible. Forcibly
3581 separating children from their parents is like setting a house
3582 on fire, and prolonging that separation is like blocking the first
3583 responders from doing their job.

3584 Thank you very much for the opportunity.

3585 [The prepared statement of Dr. Shonkoff follows:]

3586

3587 ***** INSERT 13 *****

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3588 Ms. DeGette. Thank you very much, Doctor. Thank you.

3589 On popular demand, we are going to recess the committee until
3590 the conclusion of this series of votes that we are about to have
3591 on the Floor.

3592 I would ask the witnesses to stay close because we will
3593 reconvene immediately after the conclusion of the last vote.

3594 Thank you.

3595 The committee is in recess.

3596 [Recess.]

3597 Ms. DeGette. The committee will come to order.

3598 And the Chair will recognize herself for 5 minutes for
3599 questioning.

3600 Mr. Gelernt, I wanted to start with you because I wanted
3601 to ask you about this point that Commander White made about the
3602 court ordering the reunification of the families. And what he
3603 said is that, because of the different agencies that are involved
3604 in that process, it really took a court order to get them operating
3605 together, which seems kind of ridiculous to me, but that is what
3606 he said. So, I am wondering what the ACLU is planning to do in
3607 the pending lawsuit about the new reports that we have that there
3608 may have been thousands of children separated even before the
3609 April order. And what processes are you guys going to undertake?

3610 Mr. Gelernt. Right. Thank you for that question because

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3611 I think that is a critical point.

3612 And I want to be absolutely clear. It's the government's
3613 position that the court did not require reunification of the
3614 children who were released from ORR before June 26. Our position
3615 is that the court was including those children. So, we have a
3616 motion now before the court to clarify that those children who
3617 were released, separated and released, before June 26 are part
3618 of the class; the government has an obligation to find them and
3619 reunite them. So, we will be in court on February 21st where
3620 the court will hear that motion. And so, what we will ask the
3621 court is to clarify that those children are part of this class
3622 and, then, to come up with a plan to reunify those children.

3623 I would emphasize, though -- and I think this is a point
3624 the Chair made before -- there is, we believe there is a legal
3625 obligation, and we will try to clarify that on February 21st,
3626 but we see no reason why the government should need a court order
3627 to do the right thing here and try and reunify those kids.

3628 And to a point I think the Chair made and a few others made
3629 from the last panel, we do not believe that it's either ICE goes
3630 into all these households and gets the children or nothing is
3631 done. We believe it can be done by the government giving the
3632 NGOs information about the parents and children, and that we
3633 contact them. That's what the court has ordered in the past,

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3634 and that works perfectly well.

3635 Ms. DeGette. So, if it is in the best interest of the child,
3636 then that is what the agency will do?

3637 Mr. Gelernt. Exactly. We would contact the parent. We
3638 would contact the child welfare agency. We'd contact the child's
3639 lawyer. And we'd say, ``What's the situation with this family?
3640 What do they want to do?" There's no reason why ICE needs to
3641 go in. And that's worked perfectly well in the past, and that
3642 could work for these thousands of children going forward.

3643 Ms. DeGette. Thank you.

3644 Dr. Linton, in your testimony you state that there is
3645 overwhelming research confirming irreparable harm caused to the
3646 children by separating them from their family, and that the trauma
3647 by forced separations leads to a host of health challenges. Is
3648 that correct?

3649 Dr. Linton. Yes, Congresswoman, that's correct.

3650 Ms. DeGette. And, Dr. Muniz de la Pena, based on your own
3651 observations, you have found that when children are separated
3652 from their parents, high levels of anxiety and distress occur
3653 which can impair the development trajectory of otherwise healthy
3654 children. And that includes intense fear, helplessness, and
3655 vulnerability. Is that also correct?

3656 Ms. Muniz de la Pena. That's correct.

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3657 Ms. DeGette. And, Dr. Linton, do put a fine point on it,
3658 as I think you testified, separations lead to toxic stress. And
3659 Dr. Shonkoff testified that that actually disrupts the child's
3660 brain architecture and affects short- and long-term health. Dr.
3661 Linton, is that correct?

3662 Dr. Linton. Yes.

3663 Ms. DeGette. And, Dr. Shonkoff?

3664 Dr. Shonkoff. Yes.

3665 Ms. DeGette. Yes?

3666 So, I just want to pivot for a second to figure out how we
3667 can prevent something like this from ever happening because, as
3668 we heard, kids are still being separated from their parents at
3669 the border. And sometimes in limited circumstances separations
3670 are appropriate to protect the child, but it is still being
3671 elevated.

3672 And so, Ms. Podkul, I wanted to ask you -- you said, according
3673 to your observation, the separation decisions are still made,
3674 being made arbitrarily. And so, I want to ask you, what do you
3675 think we should do in order to ensure that the separations are
3676 only happening in the very limited situation where there is a
3677 genuine reason to believe that the parent is unfit or presents
3678 a danger to the child?

3679 Ms. Podkul. I think there needs to be clear guidelines about

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3680 when separations are appropriate, and I think we need to ensure
3681 that child welfare professionals are making those decisions.
3682 Right now, those decisions are being made by Customs and Border
3683 Protection officials, and not somebody with specialized training.

3684 Ms. DeGette. And do you believe we can put systems in place
3685 to track these kids, so that DHS is providing ORR with sufficient
3686 information so the families can be reunited?

3687 Ms. Podkul. Absolutely. I don't think that's going to be
3688 hard to do.

3689 Ms. DeGette. Thank you. Thank you.

3690 I yield to Mr. Guthrie.

3691 Mr. Guthrie. Thank you very much. I appreciate that.

3692 Thank you to you all for being here today.

3693 And I have a couple of questions directed to Ms. Abbott.

3694 Bethany Christian Services has spent more than 20 years caring
3695 for and helping unaccompanied children reunify with their family
3696 in the United States. Can you please describe how this process
3697 has changed over the past 20 years?

3698 Ms. Abbott. We always have provided care to unaccompanied
3699 children, children who come to the United States without a parent
3700 or an adult to provide care for that. What had changed over the
3701 last year is seeing children separated from their parents.
3702 Foster care is meant to provide care when the parents aren't

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3703 available to provide care or cannot provide healthy care for a
3704 child. We were seeing children who are healthily attached to
3705 their family -- their family was providing good care -- being
3706 separated.

3707 Mr. Guthrie. How many that were separated not for cause
3708 other than illegal entry, the zero tolerance, how many children
3709 under zero tolerance did you care for?

3710 Ms. Abbott. A hundred and eight.

3711 Mr. Guthrie. A hundred and eight? And they are all
3712 reunified?

3713 Ms. Abbott. They have all been reunified as of September
3714 24.

3715 Mr. Guthrie. What kind of difficult thing did you find in
3716 reunifying? What was the hardest thing to do in reunified?

3717 Ms. Abbott. I think it's the information that's available.
3718 Because we've had a long history of finding family for children
3719 who've been separated, we have staff well trained at figuring
3720 out how to track down parents. So, sometimes the information
3721 would come that was just inadequate information or parents would
3722 be moved from one detention facility to another.

3723 Mr. Guthrie. Because Captain White testified that they now
3724 have are they separated and what is the issue, I mean, why they
3725 were separated.

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3726 Ms. Abbott. Yes.

3727 Mr. Guthrie. Has that been helpful?

3728 Ms. Podkul. It's been helpful because we can identify that
3729 a child has been separated, but sometimes it doesn't give enough
3730 explanation. So, it says illegal, you know, they've been charged
3731 with criminal history or maybe even in their own country with
3732 abuse or neglect. We don't know what that means until a child
3733 comes into care, we have a chance to communicate with the parent
3734 and the child to figure out whether it raised to the level that
3735 a separation should have occurred.

3736 Mr. Guthrie. Okay. How many organizations like yours are
3737 helping refugee children?

3738 Ms. Abbott. We work with the United States Catholic
3739 Conference a bit, USCCB, and LIRS, in providing care --

3740 Mr. Guthrie. There's several? Many doing it?

3741 Ms. Abbott. Yes.

3742 Mr. Guthrie. Did your organization work with any federal
3743 agencies such as HHS or DHS when trying to create these
3744 unifications, reunification plans?

3745 Ms. Abbott. Yes, not directly, only through USCCB and LIRS.
3746 But we were, we do have a federal field specialist onsite --

3747 Mr. Guthrie. Okay.

3748 Ms. Abbott. -- who is directly contracted with the Office

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3749 of Refugee Resettlement and advises us on all of our reunification
3750 findings.

3751 Mr. Guthrie. Okay. There have been reports in the media
3752 that separations may still be occurring for zero tolerance.

3753 Ms. Abbott. Yes.

3754 Mr. Guthrie. Has Bethany Christian Services continued to
3755 see any cases for children who are separated from a parent or
3756 legal guardian without cause other than illegal entry or zero
3757 tolerance?

3758 Ms. Abbott. I hate to say, after 40 years of working in
3759 this field, that I'd have been naive not to have realized that
3760 our government would separate children purposefully. So, after
3761 zero tolerance occurred, an alert went out to our staff saying,
3762 you need to inform leadership the minute we see any referrals
3763 in children who have been separated. So, in the last three
3764 months, we received 12 referrals on children separated from a
3765 parent.

3766 Mr. Guthrie. Were they separated for cause or for --

3767 Ms. Abbott. Well, the cause is usually a criminal history
3768 or inaccurate reporting at the border, not proof of the
3769 relationship. So, sometimes families in crisis don't always tell
3770 the whole truth about the situation. And so, the officer on the
3771 spot is trying to make a decision as to whether this child belongs

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3772 to the family or not.

3773 Mr. Guthrie. Okay. Thank you.

3774 I have just a few minutes. I won't take all my time. But
3775 I just want to comment.

3776 I know there is a lot of stress in the immigration system
3777 today. I can specifically speak to families in my community of
3778 Bowling Green, wonderful families who are from El Salvador, came
3779 in 2001 under TPS. And they are extended, they don't know from
3780 year -- I don't know exactly what their window is, but it is getting
3781 short on them. But it has continued to be extended. They have
3782 been there for 18 years, and they are still not sure what their
3783 next, what is going to happen after a few months. I think it
3784 is another year.

3785 Their children are U.S. citizens. Their children speak
3786 English as a first language. As a matter of fact, I was talking
3787 to one the other day and used a double negative. And I said,
3788 well, the problem isn't whether they are going to speak English,
3789 but whether they will speak it ``good" or ``well". So, that is
3790 kind of a joke. English teachers like that one.

3791 And they just don't know, and you see that with DACA children
3792 and the opportunity to fix -- and it seems like kind of the
3793 frustration when we have -- this policy was bad. I didn't support
3794 it. We shouldn't have done it that way. But if you look at the

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3795 concerns with DACA, the concerns with TPS, whatever, the
3796 administration is enforcing the law as we wrote it, not
3797 necessarily us sitting here, but as Congress has written the law,
3798 particularly TPS and those such of things as that. And the
3799 President has offered, he said in last year's State of the Union
3800 that he was for a path to citizenship for DACA. He said that.
3801 He brought up TPS just a few weeks ago and said that, once the
3802 government is open again, we will discuss these things and they
3803 will be on the table. And so, I really hope that this never
3804 happens again, but I do hope that we, as a committee, as a Congress,
3805 not necessarily in this committee, but this Congress will look
3806 at all of the issues that are going on in the immigration system
3807 and take care, do the right thing.

3808 I know my constituents -- oh, I am sorry, I ran out of time?
3809 -- I know my constituents say secure the border and we can deal
3810 with these other issues, and I hope we do.

3811 I am sorry, I wasn't looking at the clock.

3812 Ms. DeGette. Dr. Ruiz, for 5 minutes.

3813 Mr. Ruiz. Thank you.

3814 This hearing has been very good for the human soul. It holds
3815 a mirror to our conscience as a nation and as individuals. And
3816 it has been very difficult to take. Personally, my heart swells.
3817 As a father, just to imagine that I was separated from my child

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3818 brings me to tears. And it is hard. I'm emotionally drained.

3819 And I just can't imagine what the children and the parents went
3820 through and what they felt.

3821 As a physician, we have the Hippocratic Oath, "First do
3822 no harm". And I believe that should be a guiding principle for
3823 our federal government as well.

3824 You see, talking about the cases of real people humanizes
3825 this story. And oftentimes, that affects our conscience, and
3826 oftentimes, perhaps it could create a sense of not allowing that
3827 to affect us as human beings. It is easy, then, to turn to
3828 dehumanizing the individual, so that you feel guilt-free perhaps
3829 or don't allow it to enter your conscience. And I see a lot of
3830 that going on. But separating families is dehumanizing, not only
3831 for those that have been separated, but also for the separators,
3832 because it will affect them and their conscience as well.

3833 We have talked about, I have heard some statements that,
3834 well, they already had toxic stress in their home countries,
3835 almost implying that, well, they are kind of damaged goods, like
3836 we didn't cause any more harm to them.

3837 So, Dr. Muniz de la Pena, is there additional harm, additive
3838 harm to an individual when you separate them from their parent?

3839 Is there any difference that we did versus what they felt in
3840 their home countries?

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3841 Ms. Muniz de la Pena. There's no doubt about it. If you
3842 think about physical harm, it is the same concept. If you have
3843 someone physically injured and you continue to injure that person,
3844 they will have more injury.

3845 Mr. Ruiz. It is compounding. It is additive.

3846 Ms. Muniz de la Pena. Of course.

3847 Mr. Ruiz. And the other thing is, back home, when they are
3848 threatened or being raped or they were going to be killed, and
3849 whatnot, or extreme poverty, or other stimuli for toxic stress,
3850 at least they have their parents to help them cope. When you
3851 separate that parent, then you are leaving that child completely
3852 vulnerable with nobody to hold them and to comfort them.

3853 Dr. Linton, what are the long-term effects years from now
3854 that they are going to experience?

3855 Dr. Linton. Well, what we know about toxic stress -- and
3856 certainly Dr. Shonkoff can describe the large body of science
3857 -- but what we understand is that serious prolonged stress, in
3858 the absence of a buffer, places children at risk not for just
3859 those short-term effects that I discussed in my opening statement,
3860 but also long-term effects, including depression, substance use,
3861 diabetes, and heart disease. And that really stems from the
3862 biology of having stress hormones coursing through the body
3863 without any control and the damage it does to the body.

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3864 Mr. Ruiz. It rewires the brain to a point -- and this is
3865 the part that gets me -- to the point where they won't be able
3866 to interpret love. They won't be able to feel that comfort of
3867 trust with anybody in any relationship. They will have
3868 difficulty feeling intimacy that many of us have the luxury of
3869 feeling with our spouses and the vulnerabilities.

3870 Dr. Shonkoff, welcome. I am a Harvard Medical School
3871 graduate. Thank you for being here.

3872 And I wanted to ask you, what is the treatment? What do
3873 we do now? What should ORR be doing to mitigate and lessen those
3874 symptoms that they are going to face for their lifetime?

3875 You need to turn on your microphone.

3876 Dr. Shonkoff. As you know, there is a prevention question.
3877 There is a treatment question. There is kind of a long-term
3878 outcome question. In this case, it is all the same.

3879 In fact, this committee has responsibility for so much in
3880 the healthcare domain. All of the health problems of adulthood,
3881 the expensive ones, have their origins early on.

3882 Mr. Ruiz. So, what do we need to do to mitigate and to help
3883 these children now?

3884 Dr. Shonkoff. We need to provide kind of a stable,
3885 nurturing, responsive environment in which predictable
3886 relationships help protect children from excessive stress

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3887 activation. That affects every part of their developing system.

3888 Mr. Ruiz. If I may, just a quick thing. There were reports
3889 that babies weren't, that people weren't allowed to hold babies
3890 when they are crying and have their fit. What happens to the
3891 physiology of that child, of that baby, that is not held, that
3892 was left alone without being cuddled by another human being?

3893 Dr. Shonkoff. It is a critically important question
3894 because, in fact, what's happening is that, biologically, that
3895 baby is responding to what is essentially a life-threatening
3896 situation, not being taken care of, because babies are so
3897 helpless.

3898 And I think the misconception is we say, well, none of us
3899 remember things that we had experienced when we were babies --

3900 Mr. Ruiz. We do.

3901 Dr. Shonkoff. -- and babies don't really understand what's
3902 going on anyway. But the reality is it may not be a conscious
3903 memory, but the body doesn't forget. The body is affected. The
3904 body is affected biologically. And that's why, statistically,
3905 these children in those circumstances are already more at risk
3906 for problems later on. So, it's the invisible part. It's what's
3907 going inside the body that we're understanding more and more now.

3908 But when we look at young children and we say, well, they're
3909 either crying and they seem upset or they seem better and they're

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3910 not acting out, we don't see what's going on inside. And that's
3911 what 21st century science is telling us, about how to address
3912 what is essentially a common-sense moral issue --

3913 Ms. DeGette. Thank you.

3914 Dr. Shonkoff. -- which is how important these issues are.

3915 Ms. DeGette. The gentleman's time has expired.

3916 Mr. Ruiz. Thank you.

3917 Ms. DeGette. The gentleman from Oregon.

3918 Mr. Walden. Thank you, Madam Chair.

3919 And I want to thank all our panel here today. We've got
3920 a couple of hearings going on simultaneously. So, some of us
3921 had to go back and forth. But I appreciate the concern you are
3922 all showing for these children.

3923 I don't know anybody up here that supported the separation
3924 policy, certainly not me. And we want to do the best for these
3925 kids.

3926 Ms. Abbott, Bethany Christian Services has been a subgrantee
3927 for ORR for some time, right?

3928 Ms. Abbott. Yes.

3929 Mr. Walden. How long?

3930 Ms. Abbott. We have been, we have worked with ORR since
3931 '75.

3932 Mr. Walden. 1975?

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3933 Ms. Abbott. With refugee children fleeing Southeast Asia,
3934 and then, have worked with the unaccompanied children since ORR
3935 took responsibility for those children.

3936 Mr. Walden. Walk me through, because you are there on the
3937 ground. How many children do you deal with at any given time?

3938 Ms. Abbott. Right now, we have the capacity to have about
3939 99 children in foster care. We don't offer large shelter
3940 settings. We do really believe that a family setting is best
3941 --

3942 Mr. Walden. Sure.

3943 Ms. Abbott. -- for an unaccompanied child.

3944 Mr. Walden. Yes.

3945 Ms. Abbott. So, at any one time, we could have 99 children
3946 in care. And we are expanding our foster care capacity into three
3947 other states, so that we can continue to meet the need of truly
3948 unaccompanied children --

3949 Mr. Walden. Yes.

3950 Ms. Abbott. -- who need a family setting.

3951 Mr. Walden. I figure is somewhere around 11,000 children
3952 right now are in the ORR system. It varies, I know, because it
3953 is a daily intake and a daily --

3954 Ms. Abbott. Exit.

3955 Mr. Walden. Yes. And ORR is kind of in the middle, right?

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3956 Ms. Abbott. Yes.

3957 Mr. Walden. I mean, they just have -- the Border Patrol
3958 turns over these people, these kids, to ORR. They take care of
3959 them and give them --

3960 Ms. Abbott. Find sponsors and assure that the release is
3961 to a safe caring adult.

3962 Mr. Walden. And that is something I think you have heard
3963 all of us talk about as well, because there were mistakes made
3964 by the government in the past in some instances, right, of turning
3965 kids over to people we thought were their responsible parent or
3966 guardian, or something? It turned out they ended up in really
3967 bad environments, right? Have you seen that?

3968 Ms. Abbott. Not at Bethany, but I have heard --

3969 Mr. Walden. Right.

3970 Ms. Abbott. -- and been involved in consulting in some
3971 situations where that has happened. We try hard to do home
3972 studies, background checks on the families, and so forth, and
3973 the children and get information from parents. We can contact
3974 parents back in country of origin, if they other parent is there.

3975 Mr. Walden. Right.

3976 Ms. Abbott. Often, many of the reunifications you've heard
3977 about is with another parent that's already here. One parent
3978 was coming with other children to join that parent.

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3979 Mr. Walden. I know when I toured, led the delegation to
3980 Texas, and we went through one of the facilities and met with
3981 the kids and all, to a certain extent -- obviously, we respected
3982 their privacy -- it seemed like they had access, we were told
3983 at least they had access to call their parents or loved ones back
3984 in their home country, as well as to be in regular contact with
3985 whoever they might be going to be placed with here in the U.S.

3986 Is that --

3987 Ms. Abbott. That is correct, and ORR policy mandates that
3988 we provide that service.

3989 Mr. Walden. And my understanding is, what we saw, again,
3990 at this facility was they had access, basically, to 24/7 medical
3991 care as well as routine mental health services in the facility.

3992 Is that your experience as well?

3993 Ms. Abbott. Yes, at least with our transitional foster care
3994 program and our small shelter program that we have in Grand Rapids
3995 and Maryland, that's been our experience.

3996 Mr. Walden. Okay. I was just thinking back to, literally
3997 thinking of the facility and the doctors and, then, the mental
3998 health services, and the phones they could access.

3999 When you are with these kids, what do they tell you? I mean,
4000 unlike the rest of us, you are actually there, you and your folks.

4001 I mean, some of you may be doing this work, too. So, I am not

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4002 trying to say that. What do these kids tell you, what stories?

4003 Ms. Abbott. The stories are much like the story I told about
4004 the two girls. Their stories are as compelling as any refugee
4005 story I've heard. Like I say, I've been working with refugee
4006 kids for 40 years, and their stories about victimization, their
4007 fears --

4008 Mr. Walden. On the way up?

4009 Ms. Abbott. Well, in their own country.

4010 Mr. Walden. In their own country or on the way up.

4011 Ms. Abbott. It forces them to flee to begin with, yes.

4012 Mr. Walden. Okay.

4013 Ms. Abbott. The idea of the gangs that are out of control,
4014 governments either unable or too corrupt to intervene to protect
4015 their citizens.

4016 Mr. Walden. So, we were told when we were there in the
4017 bipartisan delegation that, for some of these people, it is
4018 literally the first time they have felt this safe and cared for
4019 since they left their home country, because of the kind of
4020 victimization you were talking about in the home country or the
4021 horrific things we have all read about on the journey north.
4022 Is that what your experience is?

4023 Ms. Abbott. Yes. I believe that a lot of people who come
4024 here as refugees or asylum seekers are looking just for that.

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4025 They want safety.

4026 Mr. Walden. Yes.

4027 Ms. Abbott. They want all the things that we all want.

4028 Mr. Walden. So, in conclusion -- I know my time is about
4029 out -- it feels to me like we have a humanitarian crisis or a
4030 problem at the border. Is that your take, too?

4031 Ms. Abbott. Yes, yes. I tend to refer to those at our
4032 border as refugees --

4033 Mr. Walden. Yes.

4034 Ms. Abbott. -- rather than migrants, because I think
4035 people think, when they think migrants, that people have a choice.

4036 Mr. Walden. Or they are going back and forth?

4037 Ms. Abbott. Yes.

4038 Mr. Walden. Yes.

4039 Ms. Abbott. But the majority of children we're seeing
4040 coming from the border right now are truly -- again, we get
4041 well-founded explanation of fear of persecution.

4042 Mr. Walden. Thank you, Madam Chair, for your courtesy in
4043 extending extra time.

4044 Ms. DeGette. The gentlelady from New Hampshire is
4045 recognized for 5 minutes.

4046 Ms. Kuster. Thank you.

4047 And thank you to the panel and for your expertise.

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4048 I want to go back to the scene of being inside. We were,
4049 again, in Brownsville and in McAllen, Texas, with the families.

4050 I want to get at, do you have a professional opinion -- and we
4051 will continue with Ms. Abbott -- whether those children would
4052 be better off with their parent?

4053 Ms. Abbott. A child is always better off with their parent.

4054 Ms. Kuster. Right.

4055 Ms. Abbott. And if a parent and a child has to be separated,
4056 there needs to be a reason, that the child's safety, whether it's
4057 physical or emotional, is threatened.

4058 Ms. Kuster. And again, I would just say from my own
4059 experience, 25 years in the child welfare and child protection
4060 legal world of adoption, that, in fact, our laws are very, very
4061 strict of what it would take to terminate parental rights, and
4062 particularly to terminate parental rights against the will rather
4063 than in a consensual way.

4064 So, I want to go back, if I could, to Mr. Gelernt and Ms.
4065 Podkul, about the process, because I know that you are going back
4066 into court. I want to understand what we could be doing
4067 differently, from all of the witnesses, to protect these children
4068 and to make sure this decision is not being made in an arbitrary,
4069 or perhaps even capricious, way.

4070 And I think there was a reference made to separation being

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4071 used as a technique or a tactic of immigration, which, by the
4072 way, the Trump administration didn't hide that. I mean, they
4073 spoke openly that this was going to be used as a threat. ``We
4074 will take your children if you come into our country. We will
4075 take your children." That is the moral failure.

4076 Internationally, we lost moral authority in the League of nations,
4077 in the world of nations. I certainly feel that way.

4078 What could this committee, what could we in Congress be doing
4079 differently? And would it be to have well-trained people under
4080 contract with ORR who understand child welfare, who understand
4081 the psychology?

4082 And you talked about the acute nature of the separation and
4083 the length of the separation, and the circumstances. Let me tell
4084 you, the women I met, just briefly, the circumstances were that
4085 they were told they had to go to court; they had to go to a court
4086 hearing, and they were not allowed to bring the children into
4087 the courtroom. And the children were taken by our government
4088 while they were in the courtroom. And I mentioned two mothers
4089 breastfeeding, breastfeeding infants that were stolen by our
4090 country.

4091 So, how could we change? Could we have social workers at
4092 that initial moment to sort this out?

4093 And then, because my time is short and I want to give you

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4094 time, why can't we have a hospital band? Why can't we have a
4095 number that the parent and the child has? How, in this day and
4096 age, has our country lost track of these children and these
4097 parents?

4098 Mr. Gelernt. Yes, so taking your last question first,
4099 there's no question we could have an integrated database and a
4100 tracking system. And the judge in our case is very concerned
4101 that there wasn't one and he has asked that we work with the
4102 government to come up with one. And if he's not satisfied, he
4103 is going to add to it.

4104 But I think this committee and Congress certainly can do
4105 oversight of that, and they could implement something even better,
4106 if they decide to do that.

4107 In terms of going forward, we're absolutely seeing
4108 separations, and we don't know what standards CBP is applying.
4109 They certainly are not using experts in child welfare to do it.
4110 So, there have to be very clear standards. There has to be
4111 someone who's trained in child welfare to do it. And there has
4112 to be a way where the information flows to the parent and the
4113 people taking care of the child to say, wait, we need to contest
4114 that. So, there has to be processes to contest it.

4115 Ms. Kuster. Do the children have any kind of legal advice?
4116 Do they have access to an attorney to --

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4117 Mr. Gelernt. Not all of them, unfortunately. But, even
4118 the ones that are getting legal advice, what we're hearing --
4119 and I've been getting texts all morning saying: make sure the
4120 committee understands that, even if we are with them, we're not
4121 always being told that they were separated from a parent in the
4122 U.S. The child is just being dumped on us. And so, we don't
4123 actually know what the situation is.

4124 So, that information has to be told to the people taking
4125 care of the child, so they can look for the parent and get to
4126 the bottom. But we are seeing separations for the most minor
4127 crimes or even allegations, and we are very concerned that these,
4128 although they are being called "for-cause separations," there's
4129 really no basis for them.

4130 Ms. Kuster. And I just have to close because my time is
4131 up.

4132 The capricious nature of this, one of the mothers, finally
4133 -- finally -- after months, by the way, not days, not weeks,
4134 months, was able to get through on a telephone to her child, and
4135 her 4-year-old child refused to come on the phone to speak to
4136 her because the child had been told that she abandoned the child
4137 at the border.

4138 Ms. DeGette. The gentlelady's time has expired. The
4139 gentleman from Virginia, Mr. Griffith.

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4140 Mr. Griffith. Thank you, Madam Chair, and I look forward
4141 to working with the gentlelady in regard to a number of items.

4142 It is interesting that we just had a bill today -- and I
4143 am not sure, I haven't sorted it all out yet; it was voice voted
4144 -- where we cut advocates or defenders in the juvenile courts,
4145 we cut them out of getting some grant money. I am sorting it
4146 all out, and I was going to vote ``present" if it had come up
4147 for a recorded vote. Because, if you were watching the first
4148 panel, my wife is a juvenile judge, and they cut that money as
4149 well. And so, I wanted to check on that.

4150 Ms. Abbott, you all had 108 children. Can you tell me how
4151 long it took you all to get them back -- what the shortest and
4152 longest was -- back with their parents?

4153 Ms. Abbott. I don't have that information.

4154 Mr. Griffith. Roughly, do you have any ideas? I won't hold
4155 you to it exactly.

4156 Ms. Abbott. Okay. Roughly, 54 days.

4157 Mr. Griffith. About 54 days?

4158 Ms. Abbott. It's our average.

4159 Mr. Griffith. Okay.

4160 Ms. Abbott. But I can't tell you the, yes, the earliest
4161 and the rest. Because we're used to reunifying children all the
4162 time, even before we were aware that there was going to be a new

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4163 policy, we were already in the process of reunifying children.

4164 Even when they've been separated, we have been talking to parents
4165 in detention centers and identifying other relatives if the parent
4166 didn't want the child to remain in foster care.

4167 I think one of the things we have to emphasize is that we
4168 need to talk with parents. Parents have a right to make decisions
4169 about their children and how to keep their children safe and where
4170 their children belong. Many families may choose to have their
4171 children stay with a relative in the United States than be
4172 reunified with them in country because it's so unsafe for the
4173 children to reunified, a tough decision for a parent to make,
4174 but one we need to respect.

4175 Mr. Griffith. And I don't know the answer. I am just
4176 looking for answers. Mr. Gelernt, I asked earlier -- there,
4177 apparently, are five kids that the ACLU has said, hold up a minute,
4178 as a part of the court action, that had not yet been reunified
4179 with their parents, of the six that are still out of that first
4180 grouping remaining. And I was wondering if you could enlighten
4181 us as to the what the complications were, what the problems were.

4182 I understand some of them might be out of country; the parent
4183 my be out of country. And just wondering if you could enlighten
4184 us as to what that process is and why we are holding up on five
4185 of those.

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4186 Mr. Gelernt. Right. Yes, Congressman. I think it may
4187 actually be down to three now, but I'm going to double-check that.

4188 Mr. Griffith. Okay.

4189 Mr. Gelernt. And I could let the committee know.

4190 It's certainly not us holding it up. It's respecting the
4191 parents' wishes. I think they were particularly complicated
4192 cases where the child may have been in danger coming back. The
4193 parent was having trouble understanding what the child's rights
4194 would be in the U.S. I think one parent was difficult to find.

4195 So, for those complicated reasons, we're giving the parent a
4196 little more time to make the choice.

4197 And it's an agonizing choice, just to pick up on my
4198 co-panelist. When I was in Guatemala talking to these families,
4199 you would have a father saying, well, look, my life is basically
4200 over. And this was someone in his forties. "The gangs may kill
4201 me, but I can't bring my child back here. It's just too
4202 dangerous." And to see the agony on the face of these parents.

4203 And so, I think no one should be under the mistaken belief that
4204 these parents don't want their children. It's they are making
4205 what is a classic choice for many vulnerable immigrants, that
4206 they are just going to have to leave their children in the U.S.

4207 And so, for these three parents, there are certain
4208 complications where, for privacy reasons, I can't get into.

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4209 Mr. Griffith. Yes, sir.

4210 Mr. Gelernt. And so, we are just giving them a little more
4211 time to respect their wishes.

4212 Mr. Griffith. And I understand that, but I would, then,
4213 turn to Dr. Shonkoff's testimony. Doctor, the child may not
4214 understand that. The child is not likely to understand that if
4215 they're a particularly young age, are they?

4216 Dr. Shonkoff. Well, it depends on what you mean by
4217 ``understand". You're absolutely right.

4218 Mr. Griffith. Okay. Yes.

4219 Dr. Shonkoff. You're absolutely -- children don't
4220 understand that, but --

4221 Mr. Griffith. And I think you testified earlier that they
4222 don't know what is going on, and even if the parent has made this
4223 decision, for all reasons that we might agree with, it still
4224 creates the problems that you were talking about with toxic stress
4225 for the child, particularly if they are -- I mean, if they are
4226 17, maybe not -- but if they are 4 or 5, 6, 7, even 9 or 10, they
4227 don't understand all that, do they?

4228 Dr. Shonkoff. Well, what's wonderful about your question,
4229 Congressman, is that for young children the forcible separation
4230 from a parent in our child welfare system, even in circumstances
4231 where the child is in danger, is seen as threatening and upsetting

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4232 for the child. No young child sees the separation as a relief,
4233 even in tough circumstances. And so, that's the problem. We
4234 have to think through the mind of what does this look like for
4235 the child, not just the adult.

4236 Mr. Griffith. I appreciate it. I appreciate all of your
4237 testimony today, and we are going to try to make sure that this
4238 doesn't happen again. And even where there are cases where there
4239 are justified reasons -- I think you said, Ms. Abbott, you had
4240 about 12 or so that had been referred because there was a belief
4241 -- we need to try to make it minimal. And if there is a legitimate
4242 reason for the separation because the person is a really bad actor
4243 who is the parent who came with them, we need to make sure that
4244 we're taking action to get them into a secure situation where
4245 they have got somebody who creates that safe space that you talked
4246 about, Dr. Shonkoff.

4247 And I yield back.

4248 Ms. DeGette. Thank you.

4249 The gentlelady from Illinois.

4250 Ms. Schakowsky. Thank you so much.

4251 I know we are mainly talking about the effects on children
4252 of this separation, but I wanted to ask about the issue of
4253 essentially our country making decisions, and it seems rather
4254 quickly that these are made, on who is a fit parent. And so,

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4255 if someone could just describe to me -- my understanding of our
4256 domestic child welfare system, ending parental rights is really
4257 a big deal and is a very prescribed process for that to happen.
4258 So, I don't know if anybody wants to -- I don't want to go too
4259 long on it, but it has to be done over time, right?

4260 Ms. Muniz de la Pena. Normally, if there's not an imminent
4261 threat, like the kid has a physical injury visible, the child
4262 remains in the home, and they activate an investigative process
4263 where social workers go to the home and interview the children
4264 separately from the parents. And they visit the family every
4265 week or every other week to continue an ongoing supervision
4266 process to see if the indicators of possible abuse or neglect
4267 are real. And that, it takes a lot for, in my experience in New
4268 York State, it takes a lot to take the children from the home.

4269 Ms. Schakowsky. So, I am assuming that the premise behind
4270 that is that it is best to try and keep a child with the parent.

4271 There is a bias toward, because it is so important to keep a
4272 child with a parent. So, my understanding here is that criminal
4273 behavior can be a reason for someone being taken away from a
4274 parent. Now does that always, regardless of what it is, make
4275 that parent -- I mean, how do they decide what is a reason to
4276 take the parent away? I don't know if there is, you know --

4277 Dr. Shonkoff. I think, especially when you talk about young

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4278 children, young children don't exist outside of a relationship
4279 with a caring adult. They can't survive. So that, in any of
4280 these circumstances where we consider the possibility of an
4281 alternative arrangement, it's a developmental and psychological
4282 emergency to kind of preserve for the child a protective
4283 relationship. It starts in the family, and if in some
4284 circumstances it's deemed unsafe, it's still a relationship
4285 emergency to determine what happens next, as opposed to feeling
4286 like removing the child is somehow an answer. Young children
4287 cannot exist without a caring relationship.

4288 Ms. Schakowsky. So, yes, go ahead.

4289 Ms. Podkul. If I may, I think your question is very astute,
4290 because what you're saying is, it's not only do we have no
4291 standards and no child welfare professionals making the decision
4292 in that moment, there's no followup so a parent or child could
4293 ever challenge that, if that was the wrong decision. So, there's
4294 two points where we're failing these families, at the point of
4295 separation and, also, we're not giving them an opportunity to
4296 have that reviewed and challenged, in case it was an erroneous
4297 decision.

4298 Ms. Schakowsky. Go ahead. But, before that, let me make
4299 sure that I put on the record, I am not saying that we want to
4300 keep children in unsafe situations. And if someone is a child

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4301 abuser or posing as a parent and really it's a trafficker of some
4302 sort, obviously, we have to deal with that.

4303 But go ahead.

4304 Mr. Gelernt. Right. I think what you just said there is
4305 the key. It's a criminal conviction under state child welfare
4306 laws does not mean you would separate from parent. It has to
4307 be the type of criminal history that suggests the parent is a
4308 real danger to the child,

4309 And what's happening now is, the government is separating
4310 for very minor crimes, nonviolent crime, crimes that happened
4311 decades ago, that would never under our domestic laws allow for
4312 the separation of parent and child. It has to be where the parent
4313 is either unfit or presents a danger to the child. That has to
4314 be the standard. That's the standard the court laid out.

4315 And I think what some of my co-panelists were suggesting
4316 is one role for this committee is to flesh that standard out,
4317 so there is really clear guidance for whoever is doing the
4318 separations. And hopefully, that's someone who knows about child
4319 welfare.

4320 Ms. Schakowsky. I want to tell a really quick story. When
4321 we were down at the border, we saw a woman who was inconsolable
4322 in a cage. And she was crying because she came in with her
4323 7-year-old granddaughter. That granddaughter was taken away,

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4324 redefined as an unaccompanied minor, 7 years old, because we
4325 didn't recognize a grandparent. There was no paper saying she
4326 was the legal guardian. But, clearly, they could have seen the
4327 relationship, I am sure.

4328 So, is there something we should do about definition of what
4329 a family is? Whoever?

4330 Dr. Shonkoff. So many of these are moral issues. From a
4331 scientific point of view, a child's brain is not asking about
4332 the genetic relationship between --

4333 Ms. Schakowsky. She had raised that child, by the way.

4334 Dr. Shonkoff. Yes. What a child's brain needs is a
4335 responsive, consistently responsive person, and it doesn't have
4336 to be someone you're related to, but it has to be the person who
4337 is the important adult caring for you. Grandparents --

4338 Ms. DeGette. The gentlelady's time has expired.

4339 Ms. Schakowsky. Thank you. Thank you. I yield back.

4340 Ms. DeGette. The gentlelady from Indiana.

4341 Mrs. Brooks. Thank you, Madam Chair.

4342 Each of you have so much background and expertise in various
4343 aspects of this really horrible situation we've been dealing with
4344 now for many, many years. And I would love to actually hear from
4345 each of you in my 5 minutes because we all want to fix -- we all
4346 want a better system. We all want a system that does not include

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4347 separating families who are legitimate family members.

4348 And so, we don't have a terrific system. We don't have
4349 standards. We don't have procedures. I am hearing from all of
4350 you that we just have been lacking this for years and years.

4351 So, I would love for each of you, very briefly, to just share,
4352 if you could fix one thing -- and you all have very different
4353 expertise -- if you could do one thing that helps not only the
4354 separation issue, but also my continued concern for the
4355 unaccompanied children as they are going into all of our
4356 communities.

4357 And Bethany I understand is opening or has just opened a
4358 facility in Indianapolis. So, I welcome you. I look forward
4359 to visiting. I haven't had the opportunity to do that yet.

4360 What should we be doing? And very quickly, I mean, and I
4361 know all have said -- and I respect -- I am a lawyer. I have
4362 been in these courts, and I have talked to my juvenile judge.

4363 And she is seeing some of these children coming into the courts.
4364 But, yet, we have no idea where they are around the country or
4365 even maybe how to help them.

4366 So, very quickly, Mr. Gelernt?

4367 Mr. Gelernt. I think other people will probably talk about
4368 the standards and processes going forward. I think one thing
4369 this committee should think about is, for the kids who were

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4370 separated and were subjected to this kind of trauma, as the doctors
4371 have pointed out, that really may be permanent, what this
4372 committee can do to get them potentially some medical health.

4373 Because I think there's no way that these children and these
4374 young parents are going to be able to cope without professional
4375 help.

4376 Mrs. Brooks. Thank you.

4377 Ms. Podkul?

4378 Ms. Podkul. I think we need to make sure that we are not
4379 being wasteful with our resources in trying to deter away a refugee
4380 situation. I think what we need to do is dedicate our attention
4381 and resources to getting the bottom of every person's story and
4382 finding out who needs protection here in the United States. And
4383 the best way to do that is make sure we have an efficient court
4384 process and that people are represented throughout that process.

4385 Mrs. Brooks. And have more trained professionals figuring
4386 out who is in a dangerous versus in a family situation?

4387 Ms. Podkul. Exactly. Exactly.

4388 Mrs. Brooks. Do we use DNA testing, swabs? Do we use that?

4389 Ms. Podkul. Yes. Well, I think what we can --

4390 Mrs. Brooks. To figure out if they are actual family
4391 members?

4392 Ms. Podkul. Well, a lot of family members are coming with

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4393 appropriate documentation to show family relationships. So, I
4394 think what we need to do is have a specially trained cohort of
4395 professionals who know what are all the tools that can be used,
4396 and then, let the families decide what they want to do in terms
4397 of moving forward.

4398 Mrs. Brooks. Thank you.

4399 Dr. Linton?

4400 Dr. Linton. And, Representative Brooks, you mentioned the
4401 needs in the community. And I would, as a pediatrician who is
4402 on the ground in my community, I would say that every child who
4403 is coming to our country in search of safe haven, including those
4404 who have been separated, really does need access to comprehensive
4405 medical care and mental health services where, in partnership
4406 with our legal colleagues, we can ensure that their stories are
4407 told and they have access to legal counsel, to education, and
4408 to health services that allow them to stay healthy as they proceed
4409 through their immigration cases.

4410 Mrs. Brooks. And so, expansion of legal/medical
4411 partnerships? But we have got to know where the children are.

4412 Dr. Linton. Yes.

4413 Mrs. Brooks. We have to know where they are.

4414 Yes, Doctor?

4415 Ms. Muniz de la Pena. I want to say that I think we do have

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4416 the guidelines and best practices. In the child welfare
4417 agencies, we have the guidelines of how to separate children and
4418 how do we reunify when there was risk. They are being practiced
4419 in every state. So, we could adopt those guidelines in the
4420 immigration context and bring those professionals to really
4421 counsel people there on the ground.

4422 And then, in the community, I also work with the children
4423 that are released in the community. I agree with you that they
4424 need ongoing mental health and medical services, integrated care.

4425 And I would add that one of the biggest barriers is that
4426 these children are released to the community, and most states
4427 don't have health insurance. So, they face great barriers to
4428 access basic medical and mental health services. So, that's a
4429 big issue.

4430 Mrs. Brooks. Thank you. Thank you.

4431 Ms. Abbott?

4432 Ms. Abbott. I would suggest that an expansion of the
4433 post-reunification services, those are services that follow a
4434 child after they're reunified with a family. It would help make
4435 referrals to community professionals, look for where health care
4436 could be provided, and identify whatever the needs are that that
4437 family and child has. Right now, ORR does not have enough to
4438 resources to assure every child and family gets that service.

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4439 Mrs. Brooks. Thank you.

4440 In my 10 seconds, Dr. Shonkoff?

4441 Dr. Shonkoff. So, I would say the urgency is the passage
4442 of time, in a sense that the crisis, as much as it is a crisis
4443 of plan of separation, the urgent emergency is the amount of time
4444 it takes to reunite the child with family, because the increase
4445 in damage is real.

4446 Mrs. Brooks. Thank you all. Thank you all for your work.

4447 I yield back.

4448 Ms. DeGette. Thank you.

4449 The gentlelady from Florida, Ms. Castor.

4450 Ms. Castor. Thank you, Madam Chair.

4451 And thank you to all the witnesses for what you have done
4452 to help children, especially in the midst of this inhumane family
4453 separation policy.

4454 Mr. Gelernt, the ACLU is engaged in ongoing litigation to
4455 reunify the children who were separated from their parents as
4456 a result of the family separation policy. So, I'm going to ask
4457 this of you, but if any of the other witnesses have answers, I
4458 would like to hear those, too.

4459 Earlier today on the first panel, Director Gambler from the
4460 Government Accountability Office, who oversees the Homeland
4461 Security and Justice Departments, responded to a line of questions

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4462 that the action taken by a parent or guardian in properly entering
4463 the U.S. with a minor is not a factor in deciding whether a child
4464 should be separated from that parent or guardian. Is my
4465 characterization of Director Gambler's response consistent with
4466 your understanding of the test for separation that immigration
4467 officials or judges have been applying before and under the zero
4468 tolerance policy?

4469 Mr. Gelernt. What we saw was that people were separated
4470 for entering illegally until the court said, no more of that;
4471 that can't happen. But we believe it may still be happening.

4472 But one of the other things I think that's tricky is that,
4473 although they may say it's not the basis for separation, they
4474 put the parent in jail for 48 hours, and then, they say, well,
4475 the child can't come to jail, so we're going to separate. So,
4476 it's sort of they know what's going to happen, and then, they
4477 say, well, you don't want the child going to jail. And we say,
4478 well, what about giving the child back after the 48 hours when
4479 the parent is released?

4480 And that's really what the court got its hands around, is
4481 parents were not getting their children back for eight-nine
4482 months. And so, I think you're right to characterize it. It's
4483 very much a factor of we're going to prosecute this mother, put
4484 her in jail for 48 hours, because it's just a misdemeanor, and

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4485 then, we're not going to give the child back. And the judge said
4486 it cannot be a factor, but it very much was a factor, and we think
4487 it may still be a factor.

4488 Ms. Castor. Thank you.

4489 How many parents or guardians separated from their children
4490 in percentage terms have been previously charged, detained, or
4491 arrested for improper entry into the United States?

4492 Mr. Gelernt. That's a very good question, and we've been
4493 trying to figure that out and have not been able to get statistics
4494 on it. And I don't know that the government keeps track of it.

4495 So, I think we are trying to interview people and get some sense
4496 of it, but it's very difficult. But by no means was everyone
4497 who was separated someone who went and crossed between ports of
4498 entry. Our main plaintiff, Ms. L, went to a port of entry, applied
4499 legally, and was still separated from her child. And there were
4500 many people like that. So, the narrative that "Oh, we won't
4501 take your child if you go to a port of entry and apply legally."
4502 is simply not true.

4503 Ms. Castor. Could a prior case that has been brought against
4504 a parent or guardian for attempting to cross the border or enter
4505 the U.S. improperly be used as a factor in determining whether
4506 to separate that parent or guardian from their child?

4507 Mr. Gelernt. We don't believe so, and we don't believe that

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4508 the court is allowing that. So, if we see that -- the problem
4509 is we're not getting full information, and I don't think the
4510 providers on the ground are getting full information. But we
4511 will go back to court anytime we see that because we think the
4512 court made it clear that that's not a basis for separation,
4513 because, then, you would be separating lots of asylum seekers
4514 where they're not presenting a danger to their child.

4515 Ms. Castor. As we heard on the previous panel as well,
4516 several ongoing and unresolved issues between HHS and DHS have
4517 impaired efforts to reunify children with their parents and may
4518 have resulted in additional separations even after the family
4519 separation policy supposedly ended. Incomplete data, failure
4520 to share information collected between Departments.

4521 Ms. Podkul, I would like to start with you. Why is it
4522 important to ensure that the data about children's separation
4523 status be tracked and shared with HHS?

4524 Ms. Podkul. There's so many reasons.

4525 Ms. Castor. So many?

4526 Ms. Podkul. But I would say just looking at the child's
4527 legal case, oftentimes, it's going to be the parent who has the
4528 information about why the family fled the country in the first
4529 place. The adult is often the one that's going to hold the
4530 documents that would be used to prove a case.

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4531 So, if our attorneys are representing a child, they're going
4532 to have incomplete information and the child won't be able to
4533 make their case about why they need protection. So, it's
4534 incredibly important not only for reunification purposes, but
4535 for our government to find out what is the story with this child
4536 and does this child need protection here in the United States.

4537 Ms. Castor. Were you surprised by the January 2019 OIG
4538 report about ORR, that they are still having problems? The ORR
4539 systems are still not where they need to be to properly track
4540 potentially separated children?

4541 Ms. Podkul. Unfortunately, it was not. I can tell you,
4542 just a few weeks ago, a colleague reported that she was
4543 interviewing a child, and the only way she found out that that
4544 child had been separated from a parent was through her own
4545 interview with the child. She was never notified through the
4546 official files, a file for the child. She was never notified
4547 by the ORR case worker. It was only because she interviewed the
4548 child and specifically asked him that she found out that he had
4549 been separated.

4550 Ms. Castor. There is so much more to do.

4551 Thank you very much. I yield back.

4552 Ms. DeGette. The gentleman from South Carolina is
4553 recognized.

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4554 Mr. Duncan. Thank you, Madam Chairman.

4555 Let me remind the committee that it's Shine a Light on Slavery
4556 Day today. Forty million people around the globe are enslaved.
4557 Seventy percent are women. One in four are children.

4558 I want to thank the panelists. It is obvious that your heart
4559 is in the right place, that you care about children, and you want
4560 to do what is best for them.

4561 I actually supported money for the Northern Triangle
4562 countries when we had the unaccompanied children issue back during
4563 the Obama administration. I had a conversation with President
4564 Obama at the Summit of the Americas in Panama, where I told him
4565 I probably supported more money than he was asking for to deal
4566 with the problem down there, to try to stop the flow of
4567 unaccompanied children. It is hard to believe that parents would
4568 send their children north unaccompanied that way.

4569 To shift gears just a little bit, on Monday, McAllen agents
4570 working near Hidalgo, Texas, arrested eight illegal aliens
4571 shortly after they entered the U.S. When they did the background
4572 check, a Mexican man's records checked that he had been arrested
4573 in Cobb County, Georgia for child molestation. Later that night,
4574 agents from the Rio Grande City, working near Roma, Texas,
4575 arrested a Honduran mule. Records checks indicated that he had
4576 been arrested and convicted in North Carolina for indecent

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4577 liberties with a child.

4578 Tuesday morning, Arlington agents working near Progressa,
4579 Texas, arrested 16 illegal aliens after making their illegal entry
4580 into the United States. Record checks for a Honduran man revealed
4581 he is a member of MS-13, a gang with a criminal history that
4582 included aggravated assault with a deadly weapon, kidnapping,
4583 false imprisonment, State of Florida. The Border Patrol is
4584 processing these subjects.

4585 And that is a real issue. People are coming into this
4586 country, and they are all not children. They are all not with
4587 their parents. We have a situation at our border.

4588 But I am hearing today things like toxic distress and
4589 traumatic life experiences. So, let's talk about some of those.

4590 How about the traumatic life experience of having your loved
4591 one murdered by an illegal alien, like Kate Steinle or Brian Terry,
4592 or the David family, or countless other Angel Moms and Angel Dads
4593 who will never hold their children in their arms again because
4594 of violent illegal aliens?

4595 How about the traumatic life experience of having your
4596 neighborhood taken over by MS-13? Having your school terrorized
4597 by illegal alien gangs? American children raped, beaten, and
4598 murdered by MS-13 thugs? The President mentioned one in New York
4599 on the subway, the first subway murder in I don't know how many

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4600 years there by MS-13 gang members. That is toxic distress for
4601 American families that they face every day because of illegal
4602 immigration.

4603 So, we are not here today to talk about asylum reform or
4604 changing the Flores Settlement or building the wall or mandatory
4605 E-Verify. We are not talking today about illegal immigration
4606 magnets that created the incentives for illegal families to do
4607 the stupid things that endanger their kids by traveling thousands
4608 of miles across a desert to come in the country that they may
4609 or may not get asylum or citizenship from.

4610 We are not talking about the drug trafficking of the metham,
4611 the fentanyl, and the cocaine, and the marijuana that is pouring
4612 across our southern border. We are not talking about the sex
4613 trafficking today and human trafficking in general that happens
4614 along our southern border. We are not talking today about
4615 sanctuary city policies. We are not talking about the murder
4616 of American citizens on American soil by illegal immigrant thugs.

4617 We are not here to discuss how to end the crisis at our border
4618 by strengthening American security. No, we are here playing
4619 politics to muddy this President and the laws that are on the
4620 books that require what is going on.

4621 Now I mentioned earlier today, when children are apprehended
4622 at the border, either alone or with someone, we need to make sure

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4623 that that person they are with is a relative or a parent. So,
4624 get that child away from maybe a potentially dangerous situation.

4625 I just mentioned some, child trafficking, human trafficking,
4626 sex trafficking that affects children. Let's separate that child
4627 and make sure that that person is who they say they are, that
4628 there is a DNA test, make sure that that child who has just traveled
4629 thousands of miles is healthy.

4630 They don't all get the inoculations that we get and give
4631 to our children here in this country. So, there is a potential
4632 that they have the diseases that we have beat back in this country
4633 that they could be bringing in and exposing American children
4634 when they are relocated in our communities. That is important,
4635 to make sure that that child is healthy and he gets the
4636 vaccinations that is needed.

4637 And then, we will figure out if that person that he came
4638 with is a parent or, if he is alone, maybe there is somebody in
4639 the country that will take care of that child. That takes a little
4640 bit of time. You can't do it overnight, and many times you can't
4641 do it in 72 hours.

4642 And so, when I talk to the Office of Refugee Resettlement
4643 and I talk to the folks at HHS, they are doing the best they can
4644 to make sure that those kids have a comfortable, safe environment
4645 to live in while we are figuring all this out, places to kick

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4646 a soccer ball and interact with other kids while we are figuring
4647 this out, because heaven forbid we release a child into the country
4648 that ends up in Atlanta, Georgia during the Super Bowl, providing
4649 a service because they are a sex slave in this country. It is
4650 hard for me to fathom that we even have that going on in this
4651 country.

4652 But it is Shine a Light on Slavery Day, and it is going on
4653 around the world, and we can put an end to it.

4654 And with that, I yield back.

4655 Ms. DeGette. The gentlelady from New York is recognized
4656 for 5 minutes.

4657 Ms. Clarke. I thank you, Madam Chair, and I thank the
4658 ranking member.

4659 I thank our experts for being here and sharing with us their
4660 observations and the work that they are doing.

4661 My colleague, I know, was not trying to make us believe that
4662 he is in favor of innocent individuals having their children
4663 orphaned by a broken process that was established under this
4664 administration.

4665 And so, I just want to focus-in once again on why we are
4666 here. There are innocent families who have been separated at
4667 the border, and an incompetent administration that did not take
4668 into account all of the steps that need to be in place to accept

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4669 individuals into our nation as refugees along with their children.

4670 I wanted to ask a couple of questions. Dr. Muniz de la Pena,
4671 I understand that your clinic has also provided services to
4672 children who have been affected by this policy. Could you
4673 describe some of your firsthand experiences in working with these
4674 children and their families?

4675 Ms. Muniz de la Pena. One of the first experiences that
4676 was different from the general unaccompanied immigrant children
4677 population that we see is that it was younger ages. And so, the
4678 trauma, how it showed up, the stress was very different; from
4679 a 7-year-old who was sobbing from the minute she was in the room
4680 and I started asking questions, and couldn't talk the entire
4681 session and hung onto me because that's all she could do; from
4682 the child I described earlier with disassociation symptoms, so
4683 he couldn't even be present to answer the questions about that,
4684 but he was able to answer any questions about what sports he played
4685 or what toys he liked. A teenager who was depressed and feeling
4686 hopeless and helpless that nothing else was going to change in
4687 her life, because that's what trauma does to you. When terrifying
4688 experiences happen to you that you don't have control over, you
4689 might generalize that to any experience in your life and any figure
4690 of power in your life.

4691 Ms. Clarke. And how would you say that these experiences

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4692 have impacted the mental health of the children that came through
4693 your clinic, both now and in the long term?

4694 Ms. Muniz de la Pena. In the short term, you see a lot of
4695 symptoms of acute stress, so a lot of anxiety. I have a way of
4696 describing this. Children and humans in general, we tend to
4697 internalize this stress or externalize it. When we internalize
4698 it, we become depressed, we become anxious. There's low
4699 self-esteem, fear. When you externalize it, you are the kind
4700 of person that acts out, that becomes loud, that has impulsivity.
4701 So, you see that in the children in the short term.

4702 In the long term, the way that you relate to people is
4703 affected, the way that you feel about yourself, the way you feel
4704 about the world, the beliefs you have and perceptions and
4705 expectations you have about others, the way you are able to love
4706 your family, your own children in the future, your partner. So,
4707 it affects the basic elements of your life experience.

4708 Ms. Clarke. Very well.

4709 Dr. Linton, you mentioned in your testimony that you have
4710 served patients who were separated from a parent as a result of
4711 this policy. And your description of the boy and his mother who
4712 were separated for over a week is heartbreaking. One shudders
4713 to think how many children had to go through these experiences.

4714 But, Dr. Linton, from a clinical perspective, how were these

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4715 children affected by the experience of being separated?

4716 Dr. Linton. Well, I think we can use the framework again
4717 of toxic stress to think about that, both the impact on the short
4718 term and, then, the impact on the long-term health. I think
4719 what's broader here and what's different about this particular
4720 set of children is that this is really government-sanctioned child
4721 endangerment. So, rather than the experiences that a child had
4722 in country of origin that left the family with no choice but to
4723 flee, upon arriving on our border, rather than providing a
4724 response that was characterized by dignity, compassion, and
4725 respect, we've re-traumatized the child and re-initiated the
4726 process of toxic stress, compounding that stress, as Dr. Ruiz
4727 mentioned, and furthering that stress, such that we have a much
4728 more serious risk of both short-term impact and long-term impact.

4729 I saw with that child, who had only been separated for a
4730 mere seven days, a serious physiologic reaction right in front
4731 of my eyes. And I can only imagine what that looks like, and
4732 I have seen what it looks like when it's much more prolonged.

4733 Ms. Clarke. Well, let me thank all of you. And I want to,
4734 in particular, thank you at the ACLU for taking on a role and
4735 responsibility that really wasn't necessarily part of your
4736 mission, but has become a part of your mission. Our nation is
4737 reeling from the realization of what the United States Government

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4738 under this particular administration has done. And I really
4739 believe in the end we are going to have to start restitution.

4740 So, I hope that the ACLU will look into ways and work with this
4741 Congress to look at what restitution could look like for these
4742 families, because there is no way that this crime against humanity
4743 should go just the way that it has.

4744 Mr. Gelernt. Thank you, Congressman, and we absolutely
4745 will.

4746 Ms. Clarke. I yield back.

4747 Ms. DeGette. The gentleman from Texas, Mr. Burgess, is
4748 recognized.

4749 Mr. Burgess. Thank you, Madam Chair.

4750 And thanks to our witnesses, our panel, for staying with
4751 us. This has been a long day, an important day, an informative
4752 day.

4753 Let me just be sure that I am clear on a couple of items.

4754 First, Mr. Gelernt, as we have heard throughout the course of
4755 this long day, the problem on the border during the Trump
4756 administration, but may have actually predated the Trump
4757 administration. So, I remember going down in 2014, 2013. I
4758 think in the height of the surge of unaccompanied immigrant
4759 children in 2014 I remember a Customs and Border Patrol individual
4760 giving me a figure of we pick up 1300 a day, we process 1300 a

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4761 day; we have got 90 beds. So, that was a problem.

4762 And ORR, subsequently, has said -- one thing Mr. Duncan
4763 referenced, some of the appropriations that were done during the
4764 Obama administration. So, got more resources down there, but,
4765 still, it was a big problem to have to manage.

4766 At that point, children were being held at a reclaimed
4767 barracks in San Antonio at the Air Force Base there. Was ACLU
4768 involved in any of those cases?

4769 Mr. Gelernt. Well, Congressman, I would like to distinguish
4770 between two types of unaccompanied children. The first I think
4771 is what you are talking about, which are kids who were genuinely
4772 unaccompanied, coming here without a parent. And they need some
4773 place to go. I think that presents one issue.

4774 But what we're talking about here that's different than prior
4775 administrations is children being rendered unaccompanied, taken
4776 from their parents.

4777 Mr. Burgess. And let's stay with that concept for a minute.
4778 Because, in 2014, the child comes and is unaccompanied. Yes,
4779 it's Lackland Air Force Base. If the have a parent with them,
4780 the procedure, if I remember correctly, particularly down in south
4781 Texas, was they got dropped off at the parking lot at Sacred Heart
4782 Church in McAllen. And a volunteer at the church would provide
4783 a bus ticket and off they would go. They had a Notice to Appear.

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4784 And I referenced the term ``permiso". That was how it was
4785 referred to locally back in home country.

4786 So, that was part of the problem as well because folks were
4787 just going into communities without really a lot of control, and
4788 no one knew who they were, where they were showing up.

4789 The pediatricians on the panel can tell us that there are
4790 some public health implications to that. 2014 saw one of the
4791 largest outbreaks of Enterovirus D68 that had ever been seen in
4792 this country. I am not saying it was a result of the surge of
4793 unaccompanied alien children and their family units, but
4794 certainly the timeline, it was August of 2014 when that occurred.

4795 Dr. Linton, you talked about you had a child that had recorded
4796 a seven-day separation, is that correct? In general, were the
4797 separations longer or shorter than that? You gave that one as
4798 an example.

4799 Dr. Linton. Yes. So, the majority of the separations were
4800 much longer. And as the Chair of the American Academy of
4801 Pediatrics Immigrant Health Special Interest Group, I have the
4802 privilege of connecting with pediatricians across the country
4803 who have cared for children who've been separated --

4804 Mr. Burgess. Let's stick with ones you, yourself, directly
4805 administered to.

4806 Dr. Linton. So, I've seen children separated from anywhere

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4807 from several days to several months.

4808 Mr. Burgess. And my understanding from information you
4809 provided to the staff, that there was a three-month separation?

4810 Dr. Linton. Yes, I did see a three-month separation.

4811 Mr. Burgess. Do you remember when that was?

4812 Dr. Linton. Yes. It was in a previous administration.
4813 And what I would add to that would be that what I learned from
4814 that was seeing the horrible short- and long-term effects of
4815 health that made me attune to what I may see in a future separation,
4816 which was, then, reported by pediatricians across the country.

4817 Mr. Burgess. So, that occurred before the unenlightened
4818 Trump administration came to power. So, that was 2015 or 2016?

4819 Dr. Linton. That separation was an example of one of the
4820 specific separations that may have occurred prior to systematic
4821 government-sanctioned separation for merely crossing a border.

4822 Mr. Burgess. But what were the circumstances of that
4823 separation?

4824 Dr. Linton. I'm not privy to discuss the separation, but
4825 the mother was not reported to --

4826 Mr. Burgess. Well, I think it would be important, Madam
4827 Chairwoman, if there is some way you can provide in a public forum
4828 that --

4829 Dr. Linton. I think I can share that this woman was

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4830 victimized by a gang and had fled as a result of that, and was,
4831 subsequently, accused of violence, which she had not, in fact,
4832 willingly been part of. She was forced by --

4833 Mr. Burgess. See, I do agree with Mr. Duncan, and he said
4834 that he had requested from the Obama administration to perhaps
4835 consider additional funding for countries in Central America,
4836 and I don't disagree with that. I did travel down there this
4837 summer. Yes, there is a problem with violence, but the violence
4838 is begotten by corruption of their governments. I guess the big
4839 news this morning is there's a new President in El Salvador.

4840 Ms. DeGette. The gentleman's time has expired.

4841 Mr. Burgess. And he sounds to be a reformer. I encourage
4842 this administration to make the inroads and outreach to that new
4843 administration in El Salvador. We are not going to solve this
4844 problem --

4845 Ms. DeGette. The gentleman's time has expired.

4846 Mr. Burgess. -- on the southern border. It is going to
4847 have to be solved farther upstream.

4848 Ms. DeGette. The Chair recognizes --

4849 Mr. Burgess. Thank you. I yield back.

4850 Ms. DeGette. The Chair recognizes the chairman of the full
4851 committee, Mr. Pallone.

4852 The Chairman. Thank you, Madam Chair.

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4853 Some in the administration claim the family separation
4854 policy is over, the crisis is past, and we should move on. But,
4855 even if the administration has cleaned up their act, which remains
4856 unclear based on what we heard today, the children who were ripped
4857 from their families still suffer enormous physical and
4858 psychological consequences long after being reunited with their
4859 loved ones.

4860 So, I just want to dive a bit deeper into the research that
4861 has been conducted on these impacts. I think it is safe to say
4862 that forcibly separating a child from their parent would disrupt
4863 that relationship and would substantially impact the stability
4864 and predictability of that child's environment, and this could
4865 cause immense damage to the child's development that would only
4866 compound the longer the disruption occurred.

4867 So, let me just ask some questions in this regard. Dr.
4868 Shonkoff, what made the policy of forced separation uniquely
4869 damaging to the children affected by it?

4870 Dr. Shonkoff. That's a really good question. Uniquely
4871 damaging is that it was government-ordered separation
4872 arbitrarily. Beyond that, it's not unique at all. I mean, this
4873 is not a new phenomenon for us to understand what the consequences
4874 are for children to be separated from their parents. And we know
4875 a lot about how to minimize the trauma and how to meet the needs.

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4876 But I think the only thing in my mind that was unique was that
4877 I have no memory of the government ever ordering kind of arbitrary
4878 separation of children from parents.

4879 The Chairman. And, Dr. Linton, is there anything you would
4880 add about what the research shows regarding the unique harms
4881 caused by the forced separation policy?

4882 Dr. Linton. I think I would add that, again, we're
4883 re-traumatizing children who have already fled violence and are
4884 seeking safety. And then, doing that in a systematic way is much
4885 different than doing that on a case-by-case basis under the
4886 provision of child welfare standards where you're concerned for
4887 the safety of the child at the hand of a parent, and you have
4888 the supervision of a competent family court making that
4889 determination.

4890 The Chairman. Let me go back to Dr. Shonkoff. Is there
4891 any way to design a policy of forced separation that would not
4892 be harmful to children?

4893 Dr. Shonkoff. Any abrupt separation is traumatic for a
4894 child. The question of whether it's harmful depends upon what
4895 is prompting the need for separation. So, I think the message
4896 here is really clear from any perspective. It is that separating
4897 children from their parents should have a very high threshold
4898 for being done. And when it's done, for whatever reason, it

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4899 immediately creates an urgent situation of how do we protect the
4900 child from the effects of the separation.

4901 The Chairman. I am going to go back to Dr. Linton again.

4902 In your professional opinion, is there any research that shows
4903 that a policy of forced separation is good for children?

4904 Dr. Linton. There's no evidence at anytime a separation
4905 from a parent is good for children.

4906 The Chairman. Well, let's say if the government had
4907 consulted you on a family separation policy. What would you have
4908 told them?

4909 Dr. Linton. I would have told them that separation of a
4910 parent and a child should never occur unless there are concerns
4911 for the safety of that child at the hand of a parent, and a
4912 competent family court makes that determination with the best
4913 interest of the child at hand.

4914 The Chairman. And, Dr. Muniz, can I ask you to comment on
4915 that, too, the same thing?

4916 Ms. Muniz de la Pena. Yes. I think that we have systems
4917 in place already in each state to investigate cases where there
4918 is indications of child abuse or neglect. And so, that can inform
4919 the process in which we separate those children. But it takes
4920 a lot legally for a court to take away a child from a parent.

4921 It doesn't happen immediately without signs of immediate harm,

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4922 physical, especially physical. So, I think we have already
4923 systems that we could use.

4924 The Chairman. I appreciate all this. I mean, I know I sound
4925 like a broken record, Madam Chair. And I know that HHS is not
4926 in charge of the separation. They are not the agency that orders
4927 the separation and when people are separated.

4928 But I just think that, when I weigh these things, and even
4929 today, based on the advocates in my district that I talk to, they
4930 are very concerned about the fact that, even today, that sometimes
4931 -- I don't know how often -- children are separated from their
4932 parents at the border because there is this sort of innate concern
4933 that they shouldn't be taking the kids off to the border and there
4934 is something wrong with the parents that do that.

4935 I experienced that, too, as I said earlier, when I went to
4936 visit the fathers that I visited in New Jersey on Father's Day,
4937 that there was this sort of notion by the people that were watching
4938 them that, just because they brought the kids over the border,
4939 that they are bad parents. And it seems to me that, even if you
4940 believe that, which I don't, the harm that is done by separating
4941 them is so much worse than if they were kept with the parent.

4942 And so, I think what Dr. Linton said is true, that unless
4943 you have -- what did you say? You said that you actually would
4944 want to see it litigated in court before it was done, that this

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4945 parent was abusive or this parent, you know, it was something
4946 harmful to the child. And I agree with you.

4947 Thank you, Madam Chair.

4948 Ms. DeGette. Thank you very much, Mr. Chairman.

4949 The Chair now recognizes the gentleman from Florida, Mr.
4950 Soto, 5 minutes.

4951 Mr. Soto. Thank you, Madam Chair.

4952 And I spoke a little bit before about my experience at the
4953 Homestead facility in south Florida in our home state. And that
4954 was after being blocked from getting to go the first time, where
4955 we saw 1,179 teenagers, primarily from Honduras,
4956 Nicaragua, El Salvador, there. Many of them were there because
4957 of the family separation policy.

4958 And this idea that it is an act of negligence by a parent
4959 or somehow this is de facto proof that a parent was doing something
4960 bad for their kid is just totally false. When you look at,
4961 unfortunately, the war-torn countries down there and the drug
4962 cartels, this is an act of love. I mean, I don't think anybody
4963 can deny that this is a loving parent who doesn't want their kids
4964 condemned to death or being conscripted in drug cartels.

4965 We saw a surge of folks in the Homestead facility, among
4966 many others, when the family separation policy happened. We also
4967 saw a bottlenecking of them afterwards due to certain policies.

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4968 One of those that both created this bottleneck and weaponized
4969 HHS was the announcement of a formalized Memorandum of Agreement
4970 to share information, including immigration status, of potential
4971 child sponsors. I have seen many folks who have raised serious
4972 concerns about this, the idea of using information obtained from
4973 detained immigrant children to try to deport their parents. It
4974 risks weaponizing ORR into becoming an immigration enforcement
4975 arm of DHS. A hundred and seventy such people were deported by
4976 ICE as a result of that information-sharing.

4977 First, Ms. Podkul, KIND stated last June that the proposed
4978 information collection under the MOA will, quote, ``alter
4979 longstanding practice and frustrate the ability of the ORR to
4980 place children in the least restrictive setting in their best
4981 interest".

4982 Ms. Podkul, how does the MOA interfere with ORR's ability
4983 to act in the child's best interest?

4984 Ms. Podkul. Sure. When Congress gave the responsibility
4985 of unaccompanied children to ORR, what they did is they separated
4986 who was going to be doing the immigration enforcement -- that
4987 was going to go to DHS -- and then, the care and custody of children
4988 would be a completely different arm of government. And the goal
4989 was that agency could prioritize child welfare. And then, we
4990 had a whole other department and agencies who were responsible

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4991 for immigration enforcement.

4992 Up until the MOA, ORR was never using information they were
4993 gathering. That was never intended to go to ICE for immigration
4994 enforcement purposes. What ORR was doing is they were finding
4995 the best possible person who was willing to care for the child,
4996 at no cost to the government, while that child goes through their
4997 court process.

4998 Mr. Soto. Thank you.

4999 Mr. Gelernt, in Secretary Nielsen's and Secretary Azar's
5000 last November letter, the ACLU joined 111 national organizations
5001 urging the reversal. Could you describe any firsthand examples
5002 of the chilling effect on potential sponsors and how that impacts
5003 children and families?

5004 Mr. Gelernt. Yes. I think what we're seeing is families
5005 being scared to come and sponsor children. We feel like they're
5006 being deterred from coming forward.

5007 Also, some of the procedures that have been put in place,
5008 the delays in fingerprinting, fingerprinting everyone in the
5009 household, some of these changes we think are creating real delays
5010 in getting children out. And so that detention centers are
5011 filling up unnecessarily.

5012 Mr. Soto. Thank you.

5013 And, Dr. Muniz de la Pena, what would the impacts be on a

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5014 child faced with the possibility that they might put family
5015 members at risk for arrest or deportation by naming them?

5016 Ms. Muniz de la Pena. Well, there is already research about
5017 the impact that the fear of the deportation of your caretaker
5018 does for children, and it is similar to what has been discussed
5019 in terms of toxic stress. Because just the fear of losing your
5020 caretaker can create that fear of harm to your well-being. So,
5021 I think that the harm is obvious.

5022 Mr. Soto. And, Dr. Linton, are there potential compounding
5023 effects of both the possible extended separation due to this MOA
5024 and the related guilt/responsibility placed on these children?

5025 Dr. Linton. Yes. I think we've heard today from our panel
5026 that prolonged separation increases the risk of both the short-
5027 and long-term effects of that stress response on the developing
5028 brain and the developing body of children who have been
5029 systematically separated.

5030 Mr. Soto. Thank you.

5031 And I just want to end by saying, you know, this is a legal
5032 act, coming to this nation seeking asylum. This isn't even an
5033 unlawful entry. And there's a humane way of doing this. Unless
5034 there is cause, then we should be using ankle bracelets and letting
5035 kids go to the best caretaker they have and let the immigration
5036 process sort itself out, rather than this separation to try to

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5037 deter in the most inhuman way that the greatest nation in the
5038 world could possibly do. And it doesn't serve as an effective
5039 deterrent in the process.

5040 And with that, I yield back.

5041 Ms. DeGette. I thank the gentleman for yielding.

5042 With unanimous consent, we will enter the letter offered
5043 by Dr. Muniz de la Pena from the American Psychological
5044 Association into the record.

5045 [The information follows:]

5046

5047 ***** COMMITTEE INSERT 14 *****

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5048 Ms. DeGette. And I really want to thank all the witnesses
5049 for coming today. This was the first hearing this committee has
5050 had on the unaccompanied minors and the family separation, and
5051 it has been a very important hearing. I appreciate you sticking
5052 with us for the whole day.

5053 And I want to let you and, also, the previous panel know
5054 that the investigation continues. We are still waiting for
5055 documents from HHS about how far up this policy went. And we
5056 are also still looking at what the policies are. And so, we can
5057 expect more action.

5058 I remind members that, pursuant to committee rules, they
5059 have 10 business days to submit additional questions for the
5060 record to be answered by witnesses who have appeared before the
5061 subcommittee. And I ask that the witnesses agree to respond
5062 promptly to such questions, should you receive any.

5063 Ms. DeGette. With that, the subcommittee is adjourned.

5064 [Whereupon, at 4:32 p.m., the subcommittee was adjourned.]