

# United States Senate

WASHINGTON, DC 20510

March 02, 2020

Mr. Matthew T. Albence  
Acting Director  
U.S. Immigration and Customs Enforcement  
500 12th Street, S.W.  
Washington, D.C. 20536

Dear Acting Director Albence:

We write to request information about how U.S. Immigration and Customs Enforcement (ICE) receives and utilizes data compiled about unaccompanied migrant children (UAC) while in the custody of the Office of Refugee and Resettlement (ORR). We are deeply disturbed by the allegations that confidential information disclosed by children to mental health professionals is distorted and used against these children to pursue deportation or prolonged detention.

In February 2020, the Washington Post reported that ORR shares confidential information obtained through private sessions between UACs and their therapists to ICE officials. It appears that this information is then used by ICE and U.S. Department of Justice (DOJ) officials during asylum proceedings and court filings arguing against asylum.

We are concerned that such practices inhibit ORR from providing the best possible care for the migrant children in their custody. Children must be able to openly share their experiences with their therapists and care providers, without the fear that what they disclose will later influence their asylum applications. The manipulative practice of sharing confidential clinical notes discourages these children from confiding in their therapists and care providers to get the help they need. The American Psychological Association similarly voiced its concerns, stating that this information sharing violates several “broadly accepted mental health ethical privacy and disclosure standards” and “impedes the delivery of effective treatment of children who have experienced trauma.”

Trump administration officials recently claimed that this practice has been addressed and resolved by ORR, but we have seen no evidence of this. To help us better understand how and why ICE obtains confidential data regarding unaccompanied migrant children, please answer the following questions by March 20, 2020.

1. Does ICE request clinical notes and significant incident reports (SIRs) from ORR about UACs? If so, under what circumstances does ICE request this information?

2. When UACs attain 18 years of age and no longer qualify for services provided by ORR, what steps does your agency take to transfer these young adults into your agency's custody?
  - a. What information does ICE obtain from ORR during the transfer process?
  - b. Does this include UAC case files, including clinical notes?
  - c. Are SIRs about each UAC compiled and obtained, in addition to the initial notification ICE may have already received through the ICE/HSI Tip Line?
3. When ICE receives SIRs, what steps are taken to keep these records safe and confidential?
  - a. Does ICE share this information with other agencies or non-governmental entities?
  - b. Does ICE retain this data, and if so, for how long?
4. How does ICE utilize data obtained through the hotline or through the SIRs, including clinical notes, in any ongoing court proceedings?
5. Did the April 2018 Memorandum of Agreement among ORR, ICE, and Customs and Border Protection to share information about UACs change the way information obtained by care providers and therapists is shared among these agencies? If so, please describe the policy changes implemented by ICE.

We thank you for looking into this serious matter and await your prompt response.

Sincerely,



Ron Wyden  
United States Senator



Elizabeth Warren  
United States Senator