United States Senate
WASHINGTON, DC 20510

July 6, 2016

The Honorable Jeh Johnson
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

The Honorable Sylvia Matthews Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, Southwest
Washington, D.C. 20201

The Honorable Loretta Lynch
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Secretary Johnson, Secretary Burwell, and Attorney General Lynch:

We write to express our opposition to the evaluation by the Office of Refugee Resettlement (ORR) of two outlying airfields at Naval Air Station Whiting Field as a potential location to house purportedly unaccompanied illegal alien juveniles, and to express our concerns about this Administration's handling of the increasing number crossing our southern border.

Just two years ago, President Obama sent a letter to Congress outlining his plans to handle the surge at our southern border. Two years later, it is clear that President Obama's plans for handling the situation have failed.

According to U.S. Customs and Border Protection, 38,566 illegal alien juveniles have been apprehended through May – a 69 percent increase over last year, and a number surpassed only by the record number apprehended in FY 2014. Since the beginning of FY 2014, 147,077 have been apprehended, yet only a small fraction have been removed from the United States.

Transporting some of these juveniles more than 900 miles away from our southern border to the State of Alabama, instead of expeditiously and humanely sending them back to their homes, will only make the situation worse. It rewards illegal conduct, and arguably renders the United States complicit in criminal conspiracies to violate our immigration laws.

According to the Government Accountability Office, between January 7, 2014, and April 17, 2015, ORR released illegal alien juveniles from its custody to a parent in 60 percent of all cases, an aunt or uncle in 13 percent, a sibling in 12 percent, an "other relative" in 3 percent, a first cousin in 2 percent, and a grandparent in 1 percent of all cases. Thus, in roughly 91 percent of all cases, these juveniles are eventually released to the custody of a family member located in the United States.

However, this Administration has failed to take any enforcement action against these family members – most of whom had some role to play in the juveniles' illegal entry into the United States. And many of those family members are present in the United States unlawfully. The Administration continues to prevent the use of any of a number of commonsense tools to protect the integrity of our immigration system and the sovereignty of this nation.

Moreover, the need for additional housing facilities is far from clear. Indeed, there seems to be some confusion on the part of the Administration as to whom the special processing procedures in the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA) apply. Indeed, under a plain reading of the Act, many of the illegal alien juveniles apprehended could be expeditiously and humanely sent back to their homes – because they do not meet the definition of an "unaccompanied alien child." Pursuant to the TVPRA, an "unaccompanied alien child" who is apprehended by the Department of Homeland Security must be transferred to the custody of the Department of Health and Human Services, which is then responsible for their care and custody. However, the TVPRA defines an "unaccompanied alien child" by cross-referencing section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. § 279(g)), which defines an "unaccompanied alien child" as an individual who has no lawful immigration status in the United States, who is under 18, and with respect to whom "there is *no parent or legal guardian* in the United States," or "*no parent or legal guardian* in the United States is available to provide care and physical custody." (emphasis added).

While it is unclear how many non-parent family members are legal guardians, in at least 60 percent of these cases there *is* a parent in the United States who can provide care and physical custody of the juveniles – meaning that arguably, they should have never been placed into ORR custody, never should have been released to the custody of their parents, and could have been expeditiously and humanely sent back home.

Strong leadership and a commitment to the faithful execution of the laws on the books would convey a clear message to the world that if you come to the United States illegally, you will be removed. Rather than improve the current situation, Administration policies have only made the situation worse, raising several questions:

1. It is common knowledge that many of the family members to whose custody these juveniles are released – so-called "sponsors" – paid substantial sums of money to smuggle them to the United States. Section 274 of the Immigration and Nationality Act (INA), 8 U.S.C. § 1324 provides for the criminal prosecution of anyone who "encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law," anyone who "engages in any conspiracy" to do so, or anyone who "aids or abets the commission" of such acts. Accordingly:
   a. How many "sponsors" have been prosecuted for violations of 8 U.S.C. § 1324?
   b. How many "sponsors" have been convicted for violating 8 U.S.C. § 1324?

2. Section 212(a)(6)(E)(i) of the INA , 8 U.S.C. § 1182(a)(6)(E)(i), renders inadmissible any "alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law." For those "sponsors" previously admitted to the United States, section 237(a)(1)(E)(i), 8 U.S.C. § 1227(a)(1)(E)(i) renders removable those "who (prior to the date of entry, at the time of any entry, or within 5 years of the date of any entry) knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law." Accordingly:
   a. How many "sponsors" have been served with a Notice to Appear and placed into removal proceedings under section 240 of the INA?
   b. How many have been charged under section 212(a)(6)(E)(i)? How many have received an order of removal based on such a charge? How many have been removed?
   c. How many have been charged under section 237(a)(1)(E)(i)? How many have received an order of removal based on such a charge? How many have been removed?

3. Please provide a breakdown of releases of illegal alien juveniles to sponsors, by relationship type, and by fiscal year, since FY 2009 as of the date of your reply to this letter.

4. Please provide the number of illegal alien juveniles removed from the United States in FY 2016 as of the date of your reply to this letter.

5. Please provide, broken down by fiscal year, the amount of money spent by ORR on providing services to illegal alien juveniles.

6. Please provide, broken down by fiscal year, the amount of money spent on transferring illegal alien juveniles from the border to facilities in the interior of the United States.

7. How much does it cost for ORR to provide care for one illegal alien juvenile, for one day? How many days does the average illegal alien juvenile stay in the custody of ORR?

8. Please provide, broken down by fiscal year, the funding, including all associated travel costs, ORR has spent on site assessments for semi-permanent and permanent shelter locations.

Thank you for your consideration of these questions. Please feel free to contact our staffs should you have any questions.

Very truly yours,

Jeff Sessions
United States Senator

Richard Shelby
United States Senator

cc: Robert Carey, Director
Office of Refugee Resettlement