



April 5, 2022

By Email

House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

House Committee on Homeland Security
310 Cannon House Office Building
Washington, D.C. 20515

House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

House Committee on Energy & Commerce
2125 Rayburn House Office Building
Washington, DC 20515

Office of the Inspector General
U.S. Department of Health & Human Services
330 Independence Ave, SW
Washington, D.C. 20201

Senate Committee on Homeland Security
and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Senate Committee on Health,
Education, Labor, and Pensions
428 Senate Dirksen Office Building,
Washington, DC 20510

Office of Special Counsel
1730 M Street, NW #218
Washington, DC 20036

Re: Ongoing Whistleblower Concerns about Unaccompanied Immigrant Children at Emergency Intake Sites

To Whom It May Concern:

We, Government Accountability Project, represent numerous federal employees who are whistleblowers. From July through September 2021, we filed three protected public disclosures to Congress, the Department of Health and Human Services Office of Inspector General (HHS-OIG) and the Office of Special Counsel (OSC). The disclosures reveal gross mismanagement, chaos and substandard conditions at the Fort Bliss Emergency Intake Site (EIS) in Texas and other EISs, managed by HHS's Office of Refugee Resettlement (ORR), that endangered the health and safety of the thousands of unaccompanied children (UC).¹

We provide this letter because we are concerned that HHS has not adequately addressed the concerns our clients identified months ago. While it appears that there are currently fewer children held at the EISs, it is not clear whether HHS has made changes to remedy the serious issues our clients raised concerning children's welfare. As discussed further below, it appears that history is likely to repeat itself in that growing numbers of unaccompanied children will come into HHS

¹ Our disclosures were filed on: (i) July 7, 2021, available at <https://whistleblower.org/wp-content/uploads/2021/07/070721-Fort-Bliss-Whistleblowers-Disclosure.pdf>; (ii) July 28, 2021, available at <https://whistleblower.org/wp-content/uploads/2021/07/072821-2nd-Fort-Bliss-Whistleblower-Disclosure-FINAL.pdf>; and (iii) September 8, 2021, available at <https://whistleblower.org/wp-content/uploads/2021/09/2021-09-08-Govt-Accountability-Project-Third-Disclosure-on-Ft-Bliss-EIS-Exhibits.pdf>.

custody in ensuing weeks.² If so, the numbers will, again, overwhelm HHS—potentially causing chaos and harming still more children. We also provide here additional information about the conditions at Fort Bliss last year from our client, Kaitlin Hess.

We accordingly urge you to investigate further and assess whether there has been significant progress.

Recap and Effect of Disclosures to Date

Our clients' disclosures detail many adverse conditions suffered by thousands of children held at the Fort Bliss and other EISs in 2021.³ The whistleblowers, all career federal employees, who were detailed to the Fort Bliss EIS between April and July 2021, shared disturbing reports of what they observed during their service, some of which included:

- Children held for weeks without basic needs such as clean underwear or bedding and without case management meetings to facilitate their release from HHS custody;
- Contractors with no experience or expertise in childcare regularly threatening children with deportation;⁴
- Insufficient, and with rare exception, wholly unqualified mental health staff incapable of attending to children with demonstrable mental health needs;
- An unsafe environment for children including harmful noise levels, 24 hour lighting in sleeping areas, and sleeping arrangements that impeded supervision;
- A culture of secrecy lacking any method to address numerous concerns in which bullying, rioting, and sexual harassment of children went unaddressed.

² Axios, "Scoop: Biden officials fear 'mass migration event' if COVID policies end," (March 17, 2022), available at <https://www.axios.com/biden-border-mexico-migrants-title-42-a91b6441-2197-463f-ab1f-2435824a9566.html>; [Washington Post](https://www.washingtonpost.com/national-security/2022/03/29/border-pandemic-title-42-immigration/), "Biden officials bracing for unprecedented strains at Mexico border if pandemic restrictions lifted," (March 29, 2022), available at <https://www.washingtonpost.com/national-security/2022/03/29/border-pandemic-title-42-immigration/>.

³ BuzzFeed, "Immigrant Children Were Burned With Scalding Water and Threatened at an Emergency Shelter, A Whistleblower Said," (Sept. 8, 2021), available at <https://www.buzzfeednews.com/article/adolfoflores/fort-bliss-immigrant-children-shelter-whistleblower>; Houston Chronicle, "Whistleblower complaint outlines mismanagement, abuse at Texas shelters for migrant kids," (Sept. 9, 2021), available at <https://www.houstonchronicle.com/news/houston-texas/immigration/article/Whistleblower-outlines-mismanagement-and-abuse-at-16444752.php>.

⁴ Our clients repeatedly shared concerns about the gross mismanagement and chaos with EIS management and the problematic use of private contractors to provide care to the children despite their lack of relevant experience. Last year, HHS contracted with at least three private contractors to run EISs: Servpro, a "fire and water cleanup and restoration" business, Rapid Deployment, Inc., a company with expertise responding to conflicts and disasters, and Chenega Corporation, which provides base operations assistance.

The disclosures have shined much needed light on this terrible situation.⁵ They have been widely reported,⁶ and have produced many calls for change.⁷ Congressional offices have been especially interested. At the same time, it is concerning that it took the courage of our clients speaking out for these terrible conditions to be brought to light. If improvements have been made at the EISs, HHS should transparently detail the nature and extent of such improvements – especially since the agency is once again soliciting federal employees to serve as volunteers at EISs and other locations.

Current Situation and Concerning Trends

During the first half of 2021, the number of unaccompanied immigrant children crossing into the United States reached unprecedented levels – over 550 per day, 17,000 minors per month.⁸ In response, the Biden administration opened EISs to warehouse – ostensibly temporarily -- thousands of unaccompanied immigrant children.⁹

⁵ In August 2021, lawyers representing immigrant children in U.S. custody filed a motion to enforce the 1997 *Flores* Settlement Agreement, which governs the safety and welfare of immigrant children in U.S. custody and which the government is legally required to follow, based on the terrible conditions at the Fort Bliss and other EISs. *Flores v. Garland*, No. CV 85-4544-DMG-AGRx (C.D. CA.), ECF 1161 (Motion to Enforce Settlement Re Emergency Intake Sites) (filed August 9, 2021), available <https://youthlaw.org/wp-content/uploads/1997/05/Flores-v.-Garland-Pls-Motion-to-Enforce-8.9.2021.pdf>. The pleadings referenced the whistleblowers' disclosures and were supported further by declarations from more than a dozen children in custody detailing their traumatic experiences (the motion has not yet been resolved). *Id.*

⁶ See, e.g., NBC News, "Whistleblowers allege poor care for migrant kids by contractor specializing in disaster cleanup," *NBC News* (July 7, 2021), available at <https://www.nbcnews.com/politics/immigration/whistleblowers-allege-poor-care-migrant-kids-contractor-specializing-disaster-cleanup-n1273124>; CBS News, "Migrant children in U.S. tent camp faced depression and filthy conditions, whistleblowers say," (July 28, 2021), available at <https://www.cbsnews.com/news/immigration-fort-bliss-migrant-children-whistleblower-complaint/>; BuzzFeed, "Immigrant Children Were Burned With Scalding Water and Threatened at an Emergency Shelter, A Whistleblower Said," *Buzzfeed* (September 8, 2021), available at <https://www.buzzfeednews.com/article/adolfoflores/fort-bliss-immigrant-children-shelter-whistleblower>; Houston Chronicle, "Whistleblower complaint outlines mismanagement, abuse at Texas shelters for migrant kids," *Houston Chronicle* (Sept. 9, 2021), available at <https://www.houstonchronicle.com/news/houston-texas/immigration/article/Whistleblower-outlines-mismanagement-and-abuse-at-16444752.php>.

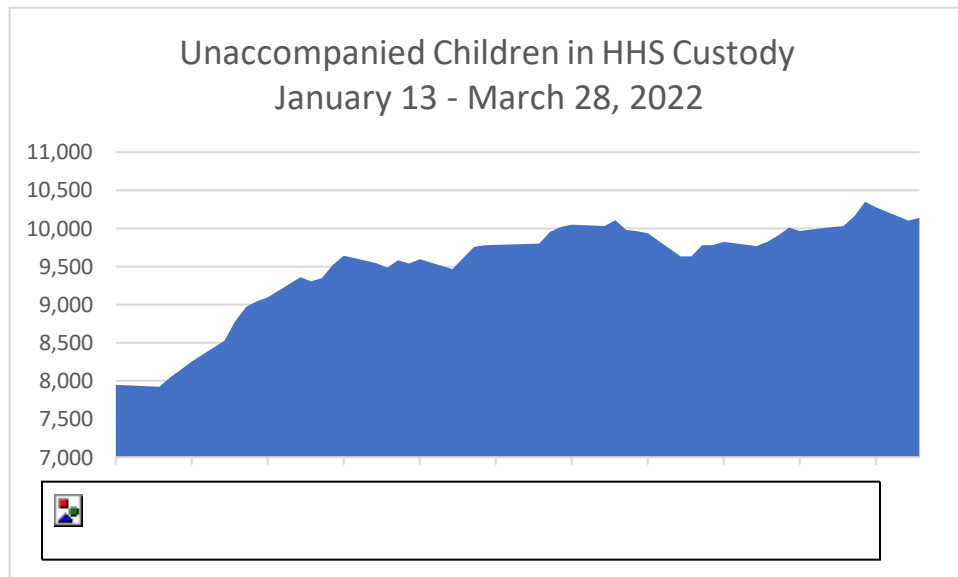
⁷ See, e.g., Welcome With Dignity, "Abuses at Fort Bliss Confirm Children Seeking asylum Don't Belong in Detention," (July 8, 2021), available at <https://www.amnestyusa.org/press-releases/abuses-at-fort-bliss-confirm-children-seeking-asylum-dont-belong-in-detention/>; EarthJustice, Letter Demanding Closure of the Fort Bliss Army Base Emergency Intake Site (July 15, 2021), available at https://earthjustice.org/sites/default/files/files/2021_07_15_-_letter_demanding_closure_of_the_fort_bliss_army_base_emergency_intake_site.pdf.

⁸ Washington Post, "Migrant Teens and Children Have Challenged Three Administrations, but Biden Faces Rush with No Precedent," (March 22, 2021), available at <https://www.washingtonpost.com/nation/2021/03/22/unaccompanied-minors-immigration-obama-trump-biden/>.

⁹ El Paso Times, "The Oil Worker Lodge-Turned-Shelter in Pecos, Texas, Is Among 15 'Emergency Intake Sites' the Biden Administration Is Using to House Migrant Children," (April 23, 2021), available at <https://www.elpasotimes.com/in-depth/news/2021/04/23/unaccompanied-migrant-children-shelter-pecos-texas-oil-camp-biden-administration/4810041001/>.

Since that time, the number of children in HHS custody has decreased overall,¹⁰ but there are indications that more children may soon be in custody at the EISs soon. Reportedly as of early January 2022, the number of children in custody at the Fort Bliss and Pecos EISs, the only two EISs then open, was low; they together housed fewer than 900 children yet have total capacity for 4,500.¹¹

Healthdata.gov data shows that a total of 22,557 children were in HHS custody on April 29, 2021 -- last-year's high.¹² The total fell to a low of 7,924 on January 17, 2022.¹³ Since then the numbers have rapidly increased by more than 2,200, as reflected in the following chart:¹⁴



Source: Healthdata.gov

Based on prior years' experience and recent policy changes affecting immigration, we expect the number of children in HHS custody to grow substantially higher through the spring. Moreover, the numbers will likely be much greater as the Centers for Disease Control rescinded its public health order under Title 42, effective May 23, 2022; the Biden administration is making

¹⁰ As of March 28, 2022, there are approximately 10,140 UC in HHS custody. HealthData.gov, "HHS Unaccompanied Children Program," available at <https://healthdata.gov/National/HHS-Unaccompanied-Children-Program/ehpz-xc9n> (last visited March 30, 2022).

¹¹ El Paso News, "Two West Texas Shelters for Unaccompanied Minors Remain Open as Number of Migrant Children Declines," (January 11, 2022), available at <https://www.elpasotimes.com/story/news/2022/01/11/migrant-children-still-housed-emergency-shelters-el-paso-pecos/9157540002/>.

¹² HealthData.gov, Unaccompanied Children Program, available at <https://healthdata.gov/National/Unaccompanied-Children-Program/mtih-xxbi> (last visited March 30, 2022).

¹³ Id.

¹⁴ Id.

preparations for increased numbers of asylum seekers at the border.¹⁵ As the numbers increase, the Biden administration will likely turn again to the EISs for space.

We recognize that HHS has reported some improvement. The February 17, 2022 HHS Fact Sheet about the Unaccompanied Children Program states that “[a]t the end of December 2021, the average length of UC care was 30 days. ORR is working to further reduce length of care in ways that do not jeopardize the safety or welfare of the children.”¹⁶ That is better than last year – when some children spent *months* in the EISs. But shorter lengths of stays do not necessarily equate with the mitigation of risk to vulnerable children. We are especially concerned that private contractors with no expertise in caring for children, let alone non-English-speaking children who are likely survivors of trauma, may continue to be responsible for caring for the children in custody at the EISs.

Kaitlin Hess Disclosure

Attached is a disclosure from our client Kaitlin Hess that has not previously been shared publicly. Ms. Hess, an Environmental Protection Agency employee and volunteer, was detailed to the Fort Bliss from May to June last year. Her detailed disclosure is attached as an Exhibit. In brief, it reveals:

- Faulty case management software which resulted in 700 “lost” children waiting for unknown lengths of time without having ever seen a case manager to facilitate their reunification with family;
- Egregious errors in discharge procedures such that some children were listed as having been discharged but who were, in fact, still in HHS custody at the site, while in another instance 100 children waited in one place for discharge for twelve hours;
- Alarming incompetence of contractors who could not complete basic duties without support from federal detailees. Indeed, when a federal manager pulled detailees from completing transport manifests for the next day, contractors could complete no manifests; and
- Numerous safety hazards.

This disclosure further demonstrates the grave conditions that existed at the Fort Bliss EIS in 2021. The information has been provided to HHS-OIG.

To date, we have yet to receive a response from HHS, ORR or HHS-OIG indicating meaningful improvement in response to the concerning disclosures about the conditions at the EISs. As HHS asks federal employees to once again give of their time and expertise to volunteer on detail to support the anticipated influx of unaccompanied children, it is imperative to understand how HHS has remedied the problems our clients have reported.

¹⁵ Center for Disease Control and Prevention, “CDC Public Health Determination and Termination of Title 42 Order,” available at <https://www.cdc.gov/media/releases/2022/s0401-title-42.html> (last visited April 1, 2022); Wall Street Journal, “Biden Administration to Lift Title 42 Border Policy, Officials Say,” (March 30, 2022), available at <https://www.wsj.com/articles/biden-administration-to-lift-title-42-border-policy-officials-say-11648664142>.

¹⁶ HHS Administration for Children and Families, “Unaccompanied Children Program Fact Sheet,” (February 17, 2022), available at <https://www.hhs.gov/sites/default/files/uac-program-fact-sheet.pdf> (last visited March 17, 2022).

Protected Disclosure

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In each of our clients' disclosures, we emphasized the critical need for immediate and meaningful oversight. It is not clear to us if HHS and ORR have learned much if anything from the last year's debacles. We urge you to investigate further and assess whether there has been meaningful progress. The welfare of thousands of children continues to be at stake.

Very truly yours,

/s/

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Attachment: Kaitlin Hess Disclosure

cc: Cindy Huang, Director – HHS Office of Refugee Resettlement

EXHIBIT

Government Accountability Project Whistleblower Disclosure on Behalf of Kaitlin Hess

April 5, 2022

This is a protected whistleblower disclosure submitted by Government Accountability Project on behalf of Kaitlin Hess, a career federal civil servant who served as a volunteer detailee between May to June 2021 at the Fort Bliss Emergency Intake Site (EIS) for unaccompanied migrant children (UC). It concerns legal violations, gross mismanagement, abuses of authority, and substantial and specific dangers to the health and safety of children at the Fort Bliss EIS. The contents of this disclosure have already been provided to the Department of Health & Human Services (HHS) Office of Inspector General (OIG), supplementing three earlier whistleblower disclosures to the Congress, the Office of Special Counsel, and the HHS-OIG submitted on behalf of other federal employees who had also witnessed concerning conditions while detailed to the Fort Bliss and other EISs.¹

Background

Ms. Hess is employed by the Environmental Protection Agency (EPA).² She volunteered and was detailed to work on temporary assignment at the Fort Bliss EIS from May 9, 2021 to the end of June 2021. During her detail, Ms. Hess's job duties included case management support such as visiting the dormitory tents, transporting children from tents to their case managers and back, printing lists of children with whom case managers requested to meet. Other tasks included transporting children undergoing mental duress, often-unsuccessful attempts at soliciting clothing from the clothing tent and bringing children to the discharge tent.

Training and Onboarding

When Ms. Hess started at Fort Bliss, operations and management were scattered and incoherent. There were no organizational charts or clear guidelines for how to report incidents. Ms. Hess and other new detailees were told they were making changes. New structures, to accommodate up to 10,000 unaccompanied children, were being built (at the time of her arrival there were enough tents to accommodate approximately 5,000 children).

Ms. Hess reports that when she walked into one of the tents for the first time, she was shocked at its massive size. It held at least 1,000 unaccompanied children. She and the other detailees were told to

¹ Our three other public disclosures were filed on: (i) July 7, 2021, available at <https://whistleblower.org/wp-content/uploads/2021/07/070721-Fort-Bliss-Whistleblowers-Disclosure.pdf>; (ii) July 28, 2021, available at <https://whistleblower.org/wp-content/uploads/2021/07/072821-2nd-Fort-Bliss-Whistleblower-Disclosure-FINAL.pdf>; and (iii) September 8, 2021, available at <https://whistleblower.org/wp-content/uploads/2021/09/2021-09-08-Govt-Accountability-Project-Third-Disclosure-on-Ft-Bliss-EIS-Exhibits.pdf>.

² For identification purposes only. The views expressed in this disclosure are her own and do not reflect any policy or position of the EPA.

refer to the tents as “dormitories.” The quarantine tents, of which there were at least two, for children with COVID-19 was initially called “Covid City,” but later renamed to “Healing Hill.”

In the first few days of her detail, Ms. Hess and other detailees received neither directions nor assignments. They received a training several days after their arrival about how to respond if a child had COVID-19 and general guidance on how to store the children’s belongings. By the second week of May there were approximately 500-1,000 children per tent, totaling about 5,000 unaccompanied children.

Case Management Failures

Case managers were made up of both federal detailees as well as contractor employees. In theory, the federal detailees were supposed to teach and lead the contractors; however, as more contractors came in, more federal detailees left. There was no process to ensure children’s cases were properly managed and documented, so the detailees took it upon themselves to line the children up to attempt to ascertain who had not yet been seen by a case manager by asking the children individually. This was confusing and problematic as the children were not always aware if they had been seen, by whom, and for what purpose. Moreover, most did not speak English.

“Lost” Children

The lack of a coordinated case management tracking system resulted in hundreds of children languishing at the EIS for weeks. For instance, most mornings, case managers prioritized the children who had not spoken to a case manager in weeks – and in some cases more than 50 days – in addition to the children who had just arrived and yet to see a case manager. In the afternoons the detailees assigned to the case management team would coordinate meetings with children that case managers requested to see. When Ms. Hess and others detailed to the case management team came to the tents to collect children, she reports that they would be quickly approached by a multitude of confused children seeking information and updates on their cases.

Around the end of May, a list of over 700 children who had not yet been seen by a case manager came to light when the system changed from hard copies and print outs to an electronic system. But it was discovered that in order for any information to be saved in the electronic system, an update on the child’s case had to be inputted, even when there had been no substantive update or change. As a work around to this glitch, workers typed entries of “0” into the system, which resulted in the system indicating that children had been seen or given a case update when that was in fact not the case. Case managers were aware that this was happening, and a data team within the case management tent was supposed to be flagging those children whose online files inaccurately showed that they had been seen to. However, there was no systematic follow up and Ms. Hess and other detailees did not know which case managers were supposed to be following up with which children.

When managers from the case management team discovered this massive oversight, they arranged for a list of children who they suspected had not yet met with a case manager, or who had not met with a case manager in a long time. The case management team then tasked Ms. Hess and other detailees assigned to the case management tent to bring all the children on the list to the case management tent at once, which led to a chaotic and disorganized situation. The process was particularly confusing because they did not know which children had been assigned to which case

managers, which required them to track each child down individually, an inefficient and onerous task.

Ms. Hess witnessed other systematic failings in child case management. The case management system was inaccurate. In many instances, the system indicated that the child had been discharged, even though the child was actually still on site. There was an instance in which twins were separated. In another instance, a child was being transferred and when her case manager was confused as to why, she looked in the system and saw she was listed as “pregnant.” After conferring with the child, it was obvious she was not, in fact, pregnant. Frequently a child would be approved to leave the EIS and be released to their family members or sponsor, only for ORR to change the child's status last minute and instead transfer the child to another child detention facility, unnecessarily.

Contractor Abuses

Ms. Hess also observed abusive and improper conduct by contractors. She witnessed instances where contractor case managers informed children that if they were turning 18 years old and therefore "aging out" of ORR custody, that they would be deported. Additionally, there was a universal policy that contractor case managers were to see at least three children a day. According to Ms. Hess, at the beginning of her detail, the case managers were not meeting the requirement of seeing at least three children a day. This was highly problematic as there were thousands of children, many of whom were long past due both to see a case manager, and to be released to their families. Ms. Hess and others heard that contractor employees were sometimes clocking in and doing very little, if any, work, and sometimes even going home after clocking in, but without clocking out.

Discharge and Transport Mismanagement and Abuses

For approximately the first month of her detail at Fort Bliss, Ms. Hess and the case management team shared a tent with the team assigned with organizing the discharge of children ("discharge team"). Children were regularly lied to by staff about their discharge, or release, from the EIS. Specifically, the discharge team told children that they were being released to their family members when they were, in fact, only being transferred to another childcare facility.

The discharge and case management teams had a practice of giving a child processed for discharge a round of applause for being sent home, even in those instances when the child was merely being transferred to another childcare facility, not being released to their family members. Many of the children were crying and visibly traumatized as a result of being told they would be released to family only to learn that they were instead being transferred to a different ORR facility. At one point the discharge team stopped giving rounds of applause when a child was ostensibly being discharged, but then resumed the practice because the clapping was supposedly deemed a "positive thing" even though many of the children grew upset.

Contractor Incompetence

Manifests for transport were completed during the overnight shifts for children to be discharged the following day. The manifests were largely completed by contractor employees. But the contractors frequently did not know what they were doing and needed oversight by federal detailees. To demonstrate the widespread incompetence of the contractors, a second level federal detailee manager

made the decision to pull every federal detailee from completing discharges one night. As the manager suspected, the contractor employees did not know how to complete the transport manifests, and so none of the manifests were completed for the following day.

Outrageous Examples

Ms. Hess observed a federal detailee on the discharge team who was in total panic because approximately 100 children were waiting for at least 12 hours in the discharge tent, unnecessarily. One child urinated on himself while waiting. Ultimately, very few, if any, children were discharged that day, and all were sent back to the tents.

There was another instance where two brothers were inappropriately separated with one brother being put on a bus that departed the EIS, and the other remaining in custody at the EIS. A case manager who discovered this issue, in a panic, reached out directly to the bus driver to have the driver turn around. This was considered out of the stringently enforced chain of command and, as such, resulted in this case manager's termination the following day (though this manager was reportedly reinstated later).

Cleanliness, Outbreaks, Health and Safety Hazards

There was a general lack of clothing, showers, and hygiene at the EIS. That led to many outbreaks of a range of illnesses including COVID-19, strep throat, scabies, lice, influenza, and chicken pox. For instance, 150 boys in Tent 8 became infected with COVID-19 in May, soon after Ms. Hess arrived. Ms. Hess encountered a child crying because he had not taken a shower in days. Children begging, pleading with, and crying to Ms. Hess were regular occurrences. Ms. Hess attempted, unsuccessfully, to get a child, who only had sandals, a pair of sneakers from the clothing tent. She was told by the man running the tent that he could only do that in "emergency situations."

OSHA Complaints and Safety Mismanagement

In general, Ms. Hess and others did not feel they could disclose any of their concerns. There was a generally accepted protocol that everyone ought to keep their heads down and stay quiet.

But Ms. Hess did file two Occupational Safety and Health Administration (OSHA) complaints during her time at the EIS. The first reported that children were walking around in what appeared to be an active construction zone in sandals and no protective gear. The children were wearing sandals next to heavy machinery, there were no protected paths for children to walk to ensure their safety, and no available Personal Protective Equipment (PPE) (hats, boots, vests, etc.) for the children.

Further, there was no site health and safety plan that federal detailees were required to acknowledge or sign, there was no safety briefing provided, and the detailees were not informed whether there was a designated Safety Officer for the site. Ms. Hess filed a second OSHA complaint to share her concerns regarding severe flooding in all the tents and the presence of live and active electrical wires near the water.

* * *

This information further demonstrates gross mismanagement, abuse of authority, and substantial and specific endangerment to public health and safety at the Fort Bliss EIS, compounding the information about the dangerous and chaotic conditions previously disclosed. We urge Congress to ensure that the problems at the Fort Bliss and other EISs that compromised the medical and mental health, safety, and case management needs of unaccompanied children in HHS care have been fully addressed and will not recur in the future.