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Trump admin has all but stopped reuniting detained migrant children with their families

By Mark Betancourt | California Newsroom
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Detained immigrant children line up in the cafeteria at a temporary home for immigrant women and children detained at the border in Karnes City, Texas.
(Eric Gay / AP)

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The Trump administration has virtually stopped releasing undocumented children in federal custody to their parents and other relatives. That's according to data obtained by the California Newsroom, immigration attorneys around the country and officials inside the Office of Refugee Resettlement (ORR), the agency tasked with caring for those children.

The Administration for Children and Families, which oversees ORR, said via email that earlier this year, it put in place "enhanced vetting policies" for adults who will care for the children after their release. The goal, it said, was to better protect children from harm. But it said the office "has not issued a moratorium" on releases to those adults.

However, sources with knowledge of the office's directives contradict that claim, saying ORR leadership began issuing verbal orders to staff in early November to stop releasing kids to their relatives until further notice.

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Who are the children stuck in federal custody?

These are kids without legal immigration status — from toddlers to teenagers — who were apprehended crossing the border without a parent or legal guardian or were separated from them during arrests by Immigration and Customs Enforcement. The children are then handed over to ORR, which usually places them at shelters it oversees around the country. There are about 2,400 kids in ORR custody right now.

Here in California, there are about 30 shelters with more than 300 kids altogether.

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Most of these children came to the U.S. to join their parents or other family members, whom immigration officials call sponsors. ORR must vet those adults before the kids can be released to them.

Attorneys say many of these kids are fleeing violence, persecution or abuse in their home countries, and they plan to apply for an immigration status that protects them from being deported back to those situations.

What's happening to them now?

According to eight officials at ORR, who asked not to be named because they fear losing their jobs, the government largely stopped releasing children to sponsors in early November, even those who had cleared the vetting process.

Eight immigration attorneys across the country — in San Francisco, Los Angeles, Houston, Miami, Charlotte and Washington, D.C. — said that since early November, they have not been able to get kids with cleared sponsors out of ORR custody in most cases, even after sending letters to ORR demanding they be released and threatening litigation. The attorneys said the government has not explained why it won't let the kids go.

According to recent ORR data obtained by the California Newsroom, the government released about four children per day to sponsors throughout the month of October, before releases were all but stopped. That's a little over 100 children for the month.

Over the past month and a half, ORR has released just four kids *total* to sponsors, according to the data.

It's unclear why the four were released and no other children were.

“ORR continues to discharge children to vetted sponsors when all statutory and safety requirements are fully met and when release is assessed to be appropriate given the child's individual needs and circumstances,” the Administration for Children and Families told the California Newsroom. “Each case is evaluated individually, and decisions are made based on child welfare best practices.”

But three ORR officials with knowledge of the office's release process told the California Newsroom that in early November, agency leadership ordered a hold on releasing children to sponsors until further notice, even if the sponsors have been cleared to receive them.

The sources said the order was not put in writing, but issued verbally to field officers across the country who are charged with signing off on releases.

"Many cases are absolutely ready to go, but because releases aren't being allowed, they are in limbo," said a field officer who received the order.

Neha Desai, who leads the National Center for Youth Law's work on behalf of immigrant children, pushed back on the agency's explanation for the stalled releases, citing research that shows prolonged detention is detrimental to children's health.

"There are currently many children in custody who are very predictably experiencing a severe mental health decline," she said. "The premise that kids are necessarily safer while in government custody than they are in the homes of their families is fundamentally flawed."

Marion "Mickey" Donovan-Kaloust, legal services director at Immigrant Defenders Law Center in L.A., said that, whatever the reason for the vanishingly few sponsor releases, it's taking a toll on kids.

"Children are very tearful, expressing difficulty sleeping," she said. "No one can tell them, 'Well, just wait a little longer, only this step is missing.' We have no idea why they're still detained."

Has this ever happened before?

Child welfare experts inside and outside ORR who work with migrant children told the California Newsroom they've never seen reunifications at a virtual standstill, the way they have since early November.

Starting this spring, the Trump administration began adding new vetting requirements for sponsors — for example, all adult members of a household have to be fingerprinted, and sponsors claiming to be related to the child must take DNA tests.

"Earlier this year ORR enhanced its sponsor vetting policies — since the previous administration's policies prioritized speed over safety and put children in danger — to address common categories of sponsor fraud and to establish clear protocols for detecting, documenting, and preventing criminals from exploiting children," the Administration for Children and Families said.

The requirements added earlier this year ground vetting to a crawl.

“Across the board, we are seeing prolonged detention and extreme delays in the reunification process,” said Alexa Sendukas, an attorney at the Galveston-Houston Immigration Representation Project.

Kids who would have spent only a few weeks in ORR custody are now stuck there for months, advocates said. Prior to November, they were at least trickling out of custody on a daily basis, according to the ORR data.

ACF did not specify whether yet another vetting process has been put in place since early November.

What are advocates doing about it?

In addition to sending letters to ORR demanding the government release children in its care, attorneys also are preparing to file habeas corpus petitions — in other words, they’ll be asking federal courts to force the government to release kids based on the claim that it has no legal reason to detain them.

Many of those attorneys now are having to learn the mechanics of a habeas petition, which, until recently, has rarely been necessary for children.

“Habeas is really starting to feel like the only way to help a child get to their family,” Donovan-Kaloust said.

Why isn’t the administration releasing kids now?

Sources within ORR said the office’s leadership is keeping a tight lid on why reunifications have been halted, and when or whether they will return to previous levels.

Attorneys have said that an increasing number of children are deciding that waiting to be released to their sponsors isn’t worth it. Instead, they’re choosing to get out of U.S. custody by leaving the country.

Scott Bassett, managing attorney for the children’s program at Amica Center for Immigrant Rights in Washington, D.C., said the delay in getting kids released has turned ORR shelters into “pressure cookers.” In addition to expanding the vetting requirements for sponsors, Bassett listed off the other ways the Trump administration has twisted the screws on unaccompanied minors: fining them thousands of dollars for entering the U.S. without authorization, arresting family members who come to claim them and offering them money to leave the country.

Now, attorneys have to tell children there’s no way to know how long they could be in federal custody.

“That’s definitely contributing to these decisions to take voluntary departure,” Bassett said.

During a recent visit to an ORR shelter, Bassett said he was wrapping up a know-your-rights training when a teenage girl raised her hand and asked a simple question: “Why do they keep doing this to us?”

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