

ONE HUNDRED EIGHTEENTH CONGRESS

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

November 13, 2023

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
330 C St. S.W.  
Washington, DC 20201

Dear Secretary Becerra:

The Committee on the Judiciary continues to conduct oversight of the Biden Administration's enforcement of federal immigration law. This oversight includes the examination of the Office of Refugee Resettlement (ORR), a component of the Department of Health and Human Services (HHS), which is charged with the care and placement of unaccompanied alien children (UAC) encountered at the border.<sup>1</sup> We have previously written both you and ORR Director Robin Dunn Marcos for documents and information necessary for our oversight. To date, both HHS and ORR have failed to comply in full with our requests. If HHS does not substantially comply with these outstanding requests promptly, the Committee will have no choice but to pursue compulsory process.

**I. The Committee's Outstanding Requests for Criminal Illegal Alien Case Files.**

The Committee has requested HHS case files for several alleged criminal aliens who were previously in ORR custody as UACs. The vast majority of these requests remain outstanding, and HHS's stated reasons for declining to produce the requested material are unpersuasive. HHS's refusal to cooperate with our oversight hinders the Committee's ability to inform legislative reforms to address the Biden Administration-created border crisis and remedy the mismanagement in UAC placement.<sup>2</sup>

On June 9, 2023, the Committee requested any case file materials held by HHS ORR for Alexis Alfredo Ayala Lopez, Jose Roberto Ramos Lopez, Ismael Lopez Lopez, Elmer Bladimir Reyes Reyes, and Ismael Ivan Rivera Canales, all of whom were arrested for the murder of a 15-

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<sup>1</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 235, 112 Stat. 5044, 5077 (2008) (8 U.S.C. § 1232(b)(1)).

<sup>2</sup> Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, N.Y. TIMES (Feb. 28, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

year-old in Frederick, Maryland.<sup>3</sup> The deadline to produce those materials lapsed on June 23, more than four months ago.<sup>4</sup> Rather than provide the requested materials, HHS wrote that it was “assessing” the request and that it “intend[ed] to provide a more detailed response . . . soon.”<sup>5</sup> Committee staff followed up with HHS on September 7 but has not received the requested materials.<sup>6</sup>

On August 17, 2023, the Committee requested the case file for Jose Roberto Hernandez-Espinal, a Salvadoran national who entered the country illegally as a UAC.<sup>7</sup> Press reports indicate that Maryland police arrested the alien for “threaten[ing two women] with a machete and demand[ing] their phones,” before assaulting one of the women and stealing her jewelry.<sup>8</sup> Days prior, Hernandez-Espinal had allegedly assaulted a 15-year-old girl in the same Maryland park.<sup>9</sup> The Committee asked that ORR produce the case file by August 31, more than two months ago. Committee staff followed up with HHS on September 6,<sup>10</sup> and HHS has declined to provide an update or produce the requested materials.<sup>11</sup>

On August 29, 2023, the Committee requested the case file for Juan Carlos Garcia-Rodriguez, a Guatemalan national who entered the U.S. illegally as a UAC in January 2023.<sup>12</sup> Garcia-Rodriguez was arrested for the brutal assault and murder of an 11-year-old girl in the suburbs of Houston, Texas.<sup>13</sup> The deadline for this request lapsed on September 12. Committee staff followed up with HHS on September 13; however, to date, HHS has failed to produce the case file.<sup>14</sup>

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<sup>3</sup> Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Xavier Becerra, Sec’y, U.S. Dep’t of Health and Human Servs. (June 23, 2023).

<sup>4</sup> *Id.*

<sup>5</sup> Letter from Melanie Egorin, Acting Ass. Sec’y for Legislation, U.S. Dep’t of Health and Human Servs., to Jim Jordan et al., Chairman, H. Comm. on the Judiciary (June 9, 2023).

<sup>6</sup> Email from Comm. staff, H. Comm. on the Judiciary, to Office of Legislative Affairs, U.S. Dep’t of Health and Human Servs. (Sept. 7, 2023) (on file with Comm.).

<sup>7</sup> Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Xavier Becerra, Sec’y, U.S. Dep’t of Health and Human Servs. (Aug. 17, 2023).

<sup>8</sup> Fox 5 Digital Team, *Suspect in Silver Spring trail rape case is in US illegally: ICE*, FOX 5 DC (May 19, 2023, 2:07 PM), <https://www.fox5dc.com/news/suspect-in-silver-spring-trail-rape-case-is-in-us-illegally-ice>.

<sup>9</sup> David Kaplan & Tisha Lewis, *Alleged Silver Spring trail rapist linked to sex assault in Prince George’s County*, FOX 5 DC (May 18, 2023, 5:13 PM), <https://www.fox5dc.com/news/alleged-silver-spring-trail-rape-linked-to-sex-assault-in-prince-georges-county>.

<sup>10</sup> Email from Comm. staff, H. Comm. on the Judiciary, to Office of Legislative Affairs, U.S. Dep’t of Health and Human Servs. (Sept. 6, 2023) (on file with Comm.).

<sup>11</sup> Email from Office of Legislative Affairs, U.S. Dep’t of Health and Human Servs. to Comm. staff, H. Comm. on the Judiciary (Sept. 8, 2023) (on file with Comm.).

<sup>12</sup> Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Xavier Becerra, Sec’y, U.S. Dep’t of Health and Human Servs. (Aug. 29, 2023).

<sup>13</sup> The Associated Press, *Suspect arrested in killing of 11-year-old Texas girl whose body was left under bed*, 13 ACTION NEWS WTVG (August 20, 2023), <https://www.13abc.com/2023/08/20/suspect-arrested-killing-11-year-old-texas-girl-whose-body-was-left-under-bed/>.

<sup>14</sup> Email from Comm. staff, H. Comm. on the Judiciary, to Office of Legislative Affairs, U.S. Dep’t of Health and Human Servs. (Sept. 13, 2023) (on file with Comm.).

On September 28, 2023, more than three months since our initial request for case file information, HHS ORR wrote to the Committee, citing its “deep [] concern” for the privacy of criminal aliens who have left HHS ORR’s custody.<sup>15</sup> In its response, HHS cited a variety of excuses to deny the Committee any of the requested material. Among other excuses, HHS objected to the Committee’s prior use of UAC case file information to inform Members during a Subcommittee hearing about the murder of Kayla Hamilton by a UAC released into the country during the Biden Administration.<sup>16</sup>

As a foundational matter, HHS cannot limit or control how Congress uses oversight information to inform potential legislative reforms, and the Supreme Court has been clear that Congress’s power to legislate includes the authority to acquire information to inform such legislation.<sup>17</sup> In addition, federal law is clear that the Committee may possess this material pursuant to the Privacy Act.<sup>18</sup> In this particular case, the Committee agreed—as an extraordinary accommodation to HHS—that we would review the case file of Kayla Hamilton’s murderer initially *in camera*, without ever waiving our right to possess the material or to use the information as necessary.<sup>19</sup> As such, HHS’s objection here is more rooted in embarrassment that the Biden Administration’s open-border policies led to the murder of an American citizen than any real concern about the UAC’s privacy.

In addition, contrary to HHS’s misleading assertions, the Committee sought to protect the identity of the UAC from public release. The report issued by the Committee about Kayla Hamilton’s murder, and the Administration’s failure to prevent it, did not disclose the UAC’s name or otherwise provide any indication of his identity.<sup>20</sup> It was the Committee’s Minority—not the Majority, as HHS alleges—that “demonstrated a lack of care”<sup>21</sup> by disclosing the UAC’s name in material submitted for the hearing record.<sup>22</sup> Indeed, the Committee Majority remedied

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<sup>15</sup> Letter from Melanie Egorin, Acting Ass. Sec’y for Legislation, U.S. Dep’t of Health and Human Servs., to Jim Jordan et al., Chairman, H. Comm. on the Judiciary (Sept. 28, 2023).

<sup>16</sup> Letter from Melanie Egorin, Acting Ass. Sec’y for Legislation, U.S. Dep’t of Health and Human Servs., to Jim Jordan et al., Chairman, H. Comm. on the Judiciary (Sept. 28, 2023).

<sup>17</sup> See *Watkins v. U.S.*, 354 U.S. 178 (1957).

<sup>18</sup> 5 U.S.C. § 552a(b)(9) (“No agency shall disclose any record which is contained in a system of records...except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless the disclosure would be . . . to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee.”).

<sup>19</sup> Telephone call from Comm. staff, H. Comm. on the Judiciary, to Office of Legislative Affairs, U.S. Dep’t of Health and Human Servs. (Mar. 13, 2023) (on file with Comm.); See also Email from Comm. staff, H. Comm. on the Judiciary, to Office of Legislative Affairs, U.S. Dep’t of Health and Human Servs. (May 22, 2023, 5:05 PM) (on file with Comm.).

<sup>20</sup> H. Comm. on the Judiciary, Rep. on The Murder of Kayla Hamilton: A Case for Immigr. Enf’t and Border Security (May 23, 2023), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-05-23-the-murder-of-kayla-hamilton-a-case-study-for-immigration-enforcement-and-border-security.pdf>.

<sup>21</sup> Letter from Melanie Egorin, Acting Ass. Sec’y for Legislation, U.S. Dep’t of Health and Human Servs., to Jim Jordan et al., Chairman, H. Comm. on the Judiciary (Sept. 28, 2023).

<sup>22</sup> Ashley Oliver, *Jayapal Lectures GOP For Exposing Murder Case Details, Then Reveals Minor MS-13 Suspect’s Name*, BREITBART (May 23, 2023), <https://www.breitbart.com/immigration/2023/05/23/jayapal-lectures-gop-for-revealing-murder-case-details-then-exposes-minor-ms-13-suspects-name/>. Immigration Integrity, Security, and

the Minority's error by replacing the document submitted for the record by the Minority with a version appropriately redacted to not disclose the alien's identity.<sup>23</sup>

HHS also asserts that the Committee lacks a legitimate legislative purpose to obtain or possess the case file information requested and suggests, baselessly, that it is "unclear how access to individual case files" would inform the Committee's oversight and legislative obligations because "individual case files are intended to document the care received by a particular unaccompanied child" and "do not include more generalized information or data that would ordinarily be relied upon to inform broader legislative objectives."<sup>24</sup> This assertion is untethered to relevant legal authorities. The Supreme Court has explained that the congressional power of inquiry is "broad" and "indispensable."<sup>25</sup> The Court elaborated that "Congress may conduct inquiries into the administration of existing laws, studies of proposed laws, and . . . surveys of defects in our social, economic or political system for the purposes of enabling Congress to remedy them."<sup>26</sup> The Committee's oversight of HHS's enforcement of immigration law and the placement of UACs falls squarely within the Committee's jurisdiction and are certainly "subject[s] on which legislation could be had."<sup>27</sup>

There can be no serious dispute that the Committee's examination of HHS's UAC case files would allow the Committee to examine HHS's mismanagement of UAC placement—which has resulted in some such UACs being released and committing heinous criminal acts against Americans.<sup>28</sup> This oversight could result in legislative reforms to fix the deficiency in current law. These potential legislative reforms may include reforming HHS ORR's placement process, including to ensure criminal aliens are held in secure placements, rather than being released to a sponsor, or to enhance the level of scrutiny ORR applies in vetting UACs and potential sponsors before UACs are released.

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Enforcement Subcomm. Ranking Member Jayapal (WA-D) introduced into the official Congressional record email correspondence between HHS OLA and Majority Comm. staff, apparently leaked to the Minority by HHS OLA, revealing the name of the alien charged with the murder of Kayla Hamilton.

<sup>23</sup> *Id.*

<sup>24</sup> Letter from Melanie Egorin, Acting Ass. Sec'y for Legislation, U.S. Dep't of Health and Human Servs., to Jim Jordan et al., Chairman, H. Comm. on the Judiciary (Sept. 28, 2023).

<sup>25</sup> *Watkins v. U.S.*, 354 U.S. 178, 181 (1957).

<sup>26</sup> *Id.* at 187.

<sup>27</sup> See, e.g., *Trump v. Mazars LLP*, No. 19-715 at 12 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).

<sup>28</sup> See H. Comm. on the Judiciary, Rep. on The Murder of Kayla Hamilton: A Case for Immigr. Enf't and Border Security (May 23, 2023); see also FOX 5 Digital Team, *5 immigrants charged in murder of missing 15-year-old Frederick boy*, FOX 5 DC (May 31, 2023, 11:59 AM), <https://www.fox5dc.com/news/5-immigrants-charged-in-murder-of-missing-15-year-old-frederick-boy>; Sierra Fox, *Woman robbed, sexually assaulted on Silver Spring hiking trail*, FOX 5 DC (May 17, 2023, 8:32 AM), <https://www.fox5dc.com/news/woman-robbed-sexually-assaulted-on-silver-spring-hiking-trail>; see Andrea Vacchiano, *Maryland teen rape suspect is illegal immigration from El Salvador: ICE*, FOX NEWS (May 20, 2023, 4:21 PM), <https://www.foxnews.com/us/maryland-teen-rape-suspect-is-illegal-immigrant-el-salvador-ice>; The Associated Press, *Suspect arrested in killing of 11-year-old Texas girl whose body was left under bed*, 13 ACTION NEWS WTVG (August 20, 2023), <https://www.13abc.com/2023/08/20/suspect-arrested-killing-11-year-old-texas-girl-whose-body-was-left-under-bed/>.

## **II. The Committee's Outstanding Requests for Information About UAC Placement, Sponsor Vetting, and Criminal and Gang-Affiliated UACs.**

In addition to the outstanding case file requests, HHS has failed to comply in full with the Committee's requests for other information related to the Administration's treatment of UACs, including information relating to UAC placement, sponsor vetting, and criminal and gang-affiliated UACs.

On June 8, 2023, the Committee conducted a transcribed interview of ORR Director Dunn Marcos. During the interview, Ms. Dunn Marcos was unable to answer many of the Committee's questions, such as whether ORR has a policy to refer known gang members to the Department of Justice. Ms. Dunn Marcos also did not have the data the Committee requested, including, for example, the total number of UACs that ORR had transferred to a known sex offender, or the total number of sponsor applications rejected based on a murder conviction. Instead, the HHS attorneys at the interview represented that they would provide the Committee with the requested information at a date following the interview.<sup>29</sup>

In the months since the June 8 interview, the Committee has repeatedly inquired about the status of this requested information. On July 18, 2023, in testimony before the Committee's Subcommittee on Responsiveness and Accountability to Oversight, HHS's Assistant Secretary for Legislation promised to "have [HHS] staff work with [Committee] staff and provide an update."<sup>30</sup> The Committee received no such update immediately following the Subcommittee hearing. Accordingly, on July 31, 2023, the Committee reiterated the outstanding requests in a letter to ORR.<sup>31</sup> Committee staff followed up again about the status of the requested information on August 11, August 21, and August 28.<sup>32</sup>

Finally, on September 29, 2023, HHS responded to the Committee's long-outstanding inquiries. However, rather than providing particularized information responsive to the Committee's requests, ORR's response largely consisted of a series of generalized statements that failed to sufficiently address the Committee's concerns.<sup>33</sup> As one example, rather than providing responsive information to the Committee's inquiry about whether ORR has a policy to

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<sup>29</sup> See, e.g., Transcribed Interview of Robin Dunn Marcos at 20-22 (on file with Comm.) (In reply to a question posed by Rep. Andy Biggs (R-AZ), agency counsel indicated she would relay that request, "[Y]es. Chairman, we'll take that back . . ."); see also Transcribed Interview with Ms. Robin Dunn Marcos at 30, 35, 91 (on file with Comm.).

<sup>30</sup> *Compliance with Committee Oversight: Hearing Before the Subcomm. on Responsiveness and Accountability to Oversight of the H. Comm. on the Judiciary*, 118th Cong. (July 18, 2023) (statement of Melanie Egorin, Assistant Sec. for Legislation, U.S. Dep't of Health and Human Servs.).

<sup>31</sup> Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Robin Dunn Marcos, Director, Office of Refugee Resettlement, U.S. Dep't of Health and Human Servs (July 31, 2023).

<sup>32</sup> Email from Committee staff, H. Comm. on the Judiciary, to Office of Legislative Affairs, U.S. Dep't of Health and Human Servs. (Aug. 11, 2023) (on file with Committee); Email from Committee staff, H. Comm. on the Judiciary, to Office of Legislative Affairs, U.S. Dep't of Health and Human Servs. (Aug. 21, 2023) (on file with Comm.); Email from Committee staff, H. Comm. on the Judiciary, to Office of Legislative Affairs, U.S. Dep't of Health and Human Servs. (Aug. 28, 2023) (on file with Comm.).

<sup>33</sup> Letter from Melanie Egorin, Acting Ass. Sec'y for Legislation, U.S. Dep't of Health and Human Servs., to Jim Jordan et al., Chairman, H. Comm. on the Judiciary (Sept. 29, 2023).

refer known gang members to the Department of Justice, HHS ORR merely stated, “In the event an unaccompanied [alien] child is assessed by ORR to be a danger to themselves or others, have a criminal history or require close supervision ORR may place the child in a restrictive facility.”<sup>34</sup> Such a statement fails to resemble anything close to a response to the Committee’s inquiry, which entailed whether HHS ORR has a referral policy in place, and, if so, what such policy entails specifically.<sup>35</sup>

HHS similarly declined to provide information responsive to a number of straightforward requests for data and information, including a list of secure and staff secure facilities, a list of the non-government organizations with which HHS contracts, and the number of care providers and case managers it employs, among many other requests.<sup>36</sup> Indeed, of the 32 requests for information and specific data, HHS provided information responsive to fewer than three of the Committee’s requests.<sup>37</sup> Accordingly, the Committee considers the remaining requests open and outstanding, nearly five months following the Committee’s transcribed interview of Ms. Robin Dunn Marcos.

\* \* \*

HHS’s refusal to provide basic information pursuant to the Committee’s requests is wholly unacceptable and appears to be a part of a concerted effort to obstruct congressional oversight into ORR’s deficiencies.<sup>38</sup> As noted above, the Committee requires these materials and information to advance its oversight of federal immigration law and to inform potential legislative reforms. Accordingly, please provide all documents and information requested in the Committee’s June 9, July 31, August 17, and August 29 letters—attached and incorporated herein—as soon as possible, but no later than 5:00 p.m. on November 27, 2023. Please be advised that the Committee may be forced to resort to compulsory process if these requests remain outstanding.

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<sup>34</sup> *Id.*

<sup>35</sup> Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Robin Dunn Marcos, Director, Office of Refugee Resettlement, U.S. Dep’t of Health and Human Servs (July 31, 2023).

<sup>36</sup> Letter from Melanie Egorin, Acting Ass. Sec’y for Legislation, U.S. Dep’t of Health and Human Servs., to Jim Jordan et al., Chairman, H. Comm. on the Judiciary (Sept. 29, 2023).

<sup>37</sup> *Id.* In its September 29, 2023, correspondence, HHS failed to provide complete answers to the Committee’s 32 distinct requests, instead merely providing an answer to request 6, request 11, and a partial response to request 14(a).

<sup>38</sup> See Sen. Comm. on Finance Rep at 6-7, *supra* note 17; See also *Oversight of the Office of Refugee Resettlement's Unaccompanied Alien Children Program: Hearing Before the Subcomm. on National Security, the Border, and Foreign Affairs, before the H. Comm. on Oversight and Accountability*, 118th Cong. (2023) (statement of Rep. LaTurner).

The Honorable Xavier Becerra

November 13, 2023

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Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan".

Jim Jordan  
Chairman

A handwritten signature in blue ink that reads "Tom McClintock".

Tom McClintock  
Chairman  
Subcommittee on Immigration  
Integrity, Security, and Enforcement

cc: The Honorable Jerrold L. Nadler, Ranking Member

The Honorable Pramila Jayapal, Ranking Member, Subcommittee on Immigration  
Integrity, Security, and Enforcement

Enclosures

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

June 9, 2023

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue S.W.  
Washington, DC 20201

Dear Secretary Becerra:

The Office of Refugee Resettlement (ORR) within the Department of Health and Human Service (HHS) is charged with the care and placement of unaccompanied alien children referred by U.S. Customs and Border Protection (CBP).<sup>1</sup> On May 31, 2023, police in Frederick, Maryland, announced the arrests of five illegal aliens for the murder of 15-year-old Limber Lopez Funez, whose body was discovered in the Gambrill State Park area on April 24, 2023.<sup>2</sup> The police identified the men charged with first-degree murder as Alexis Alfredo Ayala Lopez, Jose Roberto Ramos Lopez, Ismael Lopez Lopez, Elmer Bladimir Reyes Reyes, and Ismael Ivan Rivera Canales.<sup>3</sup>

The Biden Administration's open-borders policies have created vulnerabilities that criminal aliens and gang members exploit to the detriment of American citizens. Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary is authorized to conduct oversight of federal immigration policy and procedures.<sup>4</sup> As the Committee continues to conduct oversight of the Biden Administration's enforcement of federal immigration laws, we ask that you please provide the following materials for any of the above aliens who may have entered the United States as unaccompanied alien children:

1. All case history information, including but not limited to the aliens' case files, family reunification packets, materials provided to HHS ORR by federal agencies such as CBP

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<sup>1</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 235, 112 Stat. 5044, 5077 (2008) (8 U.S.C. § 1232(b)(1)).

<sup>2</sup> *FPD Charges 5 Suspects in Death of Missing 15-Year-Old*, CITY OF FREDERICK (May 31, 2023), <https://www.cityoffrederickmd.gov/CivicAlerts.aspx?AID=7298>; see FOX 5 Digital Team, *5 immigrants charged in murder of missing 15-year-old Frederick boy*, FOX 5 DC (May 31, 2023, 11:59 AM), <https://www.fox5dc.com/news/5-immigrants-charged-in-murder-of-missing-15-year-old-frederick-boy>.

<sup>3</sup> *Id.*

<sup>4</sup> Rules of the U.S. House of Representatives, R. X (2023).



The Honorable Xavier Becerra

June 9, 2023

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upon the aliens' referrals, and any information provided to HHS ORR pursuant to its request for information from the referring agency.

2. A detailed description of, and related documents regarding, what steps HHS took to establish and verify the aliens' ages.

Please provide this information as soon as possible, but no later than 5:00 p.m. on June 23, 2023.

If you have any questions, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan  
Chairman



Tom McClintock  
Chairman  
Subcommittee on Immigration  
Integrity, Security, and Enforcement

cc: The Honorable Jerrold L. Nadler  
Ranking Member

The Honorable Pramila Jayapal  
Ranking Member  
Subcommittee on Immigration Integrity, Security, and Enforcement

ONE HUNDRED EIGHTEENTH CONGRESS

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

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July 31, 2023

Ms. Robin Dunn Marcos  
Director  
Office of Refugee Resettlement  
Department of Health and Human Services  
330 C Street S.W.  
Washington, DC 20201

Dear Ms. Dunn Marcos:

The Committee on the Judiciary continues to conduct oversight of the Biden Administration's enforcement of federal immigration law. This oversight includes the Committee's examination of the Department of Health and Human Services' (HHS) Office of Refugee Resettlement (ORR), which is charged with the care and placement of unaccompanied alien children (UAC) referred by U.S. Customs and Border Protection (CBP).<sup>1</sup> The Committee is authorized to conduct oversight of federal immigration law pursuant to the Rules of the House of Representatives.<sup>2</sup>

On June 8, 2023, you appeared before the Committee for a transcribed interview in furtherance of the Committee's oversight. During that transcribed interview, you were unable to answer many of the Committee's questions and requests for data. Instead, HHS attorneys represented to the Committee on multiple occasions that it would provide the Committee with the requested information following the interview.<sup>3</sup> It now has been over a month since your transcribed interview and, to date, the Committee has received no update from HHS on the status of the requests or any data or information responsive to our requests during the transcribed interview. On July 18, 2023, in a hearing before the Committee's Subcommittee on Responsiveness and Accountability to Oversight, Melanie Egorin, HHS' Assistant Secretary for Legislation, committed to "have [HHS] staff work with [Committee] staff and provide an

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<sup>1</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 235, 112 Stat. 5044, 5077 (2008) (8 U.S.C. § 1232(b)(1)).

<sup>2</sup> Rules of the U.S. House of Representatives, R. X (2023).

<sup>3</sup> See, e.g., Transcribed Interview with Ms. Robin Dunn Marcos at 20-22 (on file with Committee) (In reply to a question posed by Rep. Andy Biggs (R-AZ), agency counsel indicated she would relay that request, "[Y]es. Chairman, we'll take that back . . ."); see also Transcribed Interview with Ms. Robin Dunn Marcos at 30, 35, 91 (on file with Committee).

Ms. Robin Dunn Marcos

July 31, 2023

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update.”<sup>4</sup> Accordingly, we write to reiterate those outstanding requests, itemized in the enclosure to this letter. Please provide this information as soon as possible, but no later than 5:00 p.m. on August 14, 2023.

If you have any questions, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

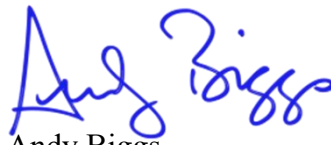
Sincerely,



Jim Jordan  
Chairman



Tom McClintock  
Chairman  
Subcommittee on Immigration Integrity,  
Security, and Enforcement



Andy Biggs  
Chairman  
Subcommittee on Crime  
and Federal Government Surveillance

cc The Honorable Jerrold Nadler, Ranking Member

The Honorable Pramila Jayapal, Ranking Member, Subcommittee on Immigration Integrity, Security, and Enforcement

The Honorable Sheila Jackson Lee, Ranking Member, Subcommittee on Crime and Federal Government Surveillance

Enclosure

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<sup>4</sup> *Compliance with Committee Oversight: Hearing Before the Subcomm. on Responsiveness and Accountability to Oversight of the H. Comm. on the Judiciary*, 118th Cong. (July 18, 2023) (statement of Melanie Egorin, Assistant Sec. for Legislation, U.S. Dep’t of Health and Human Servs.).

**Outstanding Requests for Information and Data from Ms. Dunn Marcos's Transcribed Interview**

1. Does HHS ORR have a policy regarding referrals to the Department of Justice for UACs who are suspected gang members? If so, please provide such policy.
2. List the secure facilities in which ORR is currently placing UACs who have been determined to pose a danger to themselves or others or who have been charged with a crime, along with the number of UACs currently in each facility.
3. List the staff-secure facilities.
4. Provide the number of care providers and case managers employed by HHS ORR.
5. List the nonprofit private sector firms with whom HHS ORR contracts and the caseload average of each of those care providers and case managers.
6. Provide the number of UACs that HHS ORR has taken into custody from January 21, 2021, to the present date.
7. Provide the number of UACs for whom HHS ORR has utilized processes and procedures (such as birth certificate verification with the consulate, medical exams, and speaking with the sponsor and/or UAC) to confirm the UAC's age from January 21, 2021, to the present date.
8. Provide the number of serious incident reports (SIRs) produced by all ORR-funded facilities from January 21, 2021, to the present date. In addition, please break out the data to reflect:
  - a. The number of SIRs reporting sexual assault or sexual conduct for such time period;
  - b. The number of SIRs reporting violence for such time period;
  - c. The number of SIRs reporting drug use or distribution during such period; and
  - d. The number of SIRs reporting confirmed or suspected gang activity during such period.
9. Provide the number of SIRs involving either (1) a federal employee and a UAC or (2) a contractor and a UAC from January 21, 2021, to the present date.
10. Provide the number of sponsor applicants who provided false information in their applications from January 21, 2021, to the present date.

11. Provide a percentage of UACs who are placed with a relative.
12. Provide the number of cases in which a DNA test was used to verify a sponsor's familial relationship from January 21, 2021, to the present date.
13. Provide the number of sponsor applications processed by ORR from January 21, 2021, to the present date.
14. For the period beginning on January 21, 2021, to the present date, please provide:
  - a. The number of rejected or denied sponsor applications.
  - b. The number of withdrawn applications, including the withdrawal rate.
  - c. The number of sponsor applications approved for applicants who acknowledged a prior criminal conviction.
  - d. The number of applications rejected based on a murder conviction.
  - e. The number of applications approved despite a murder conviction.
  - f. The number of sponsor applications rejected or denied based on a child abuse or child neglect conviction.
  - g. The number of sponsor applications approved despite a child abuse or child neglect conviction.
  - h. The number of sponsor applications rejected based on a domestic violence conviction.
  - i. The number of sponsor applications approved despite a domestic violence conviction.
  - j. The number of sponsor applications rejected based on a child pornography conviction.
  - k. The number of sponsor applications approved despite a child pornography conviction.
  - l. The number of sponsor applications approved for applicants who acknowledged a prior sex-related criminal offense or sex offender status.
  - m. The number of sponsor applications HHS ORR approved for applicants with knowledge that there was another individual in the home where the UAC would live who had a prior sex-related criminal offense and is a registered sex offender.

15. Since January 21, 2021, how often (both numerically and by percentage) has HHS ORR been able to communicate with one or both parents regarding the UAC?
16. Since January 21, 2021, provide the number of UACs that ORR has been unable to contact after the last response.

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

August 17, 2023

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
330 C St. SW  
Washington, D.C. 20201

Dear Secretary Becerra:

On May 16, 2023, police in Montgomery County, Maryland, arrested Jose Roberto Hernandez-Espinal, a 20-year-old illegal alien from El Salvador, for assaulting a woman and robbing her friend at a park.<sup>1</sup> Press reports indicate that Hernandez-Espinal, who entered the United States during the Obama-Biden Administration, approached two women as they ate lunch in the park, “threatened them with a machete[,] and demanded their phones.”<sup>2</sup> Hernandez-Espinal then forced one of the women to a secluded area in the park, assaulted her, and stole her jewelry.<sup>3</sup> In addition, according to reports, Hernandez-Espinal assaulted a 15-year-old girl at the same park just days earlier.<sup>4</sup>

The Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS) is charged with the care and placement of unaccompanied alien children referred by Customs and Border Protection (CBP).<sup>5</sup> According to press reports, Hernandez-Espinal

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<sup>1</sup> Sierra Fox, *Woman robbed, sexually assaulted on Silver Spring hiking trail*, FOX 5 DC (May 17, 2023, 8:32 AM), <https://www.fox5dc.com/news/woman-robbed-sexually-assaulted-on-silver-spring-hiking-trail>; see Andrea Vacchiano, *Maryland teen rape suspect is illegal immigration from El Salvador: ICE*, FOX NEWS (May 20, 2023, 4:21 PM), <https://www.foxnews.com/us/maryland-teen-rape-suspect-is-illegal-immigrant-el-salvador-ice>.

<sup>2</sup> Fox 5 Digital Team, *Suspect in Silver Spring trail rape case is in US illegally: ICE*, FOX 5 DC (May 19, 2023, 2:07 PM), <https://www.fox5dc.com/news/suspect-in-silver-spring-trail-rape-case-is-in-us-illegally-ice>.

<sup>3</sup> *Id.*

<sup>4</sup> David Kaplan & Tisha Lewis, *Alleged Silver Spring trail rapist linked to sex assault in Prince George’s County*, FOX 5 DC (May 18, 2023, 5:13 PM), <https://www.fox5dc.com/news/alleged-silver-spring-trail-rapist-linked-to-sex-assault-in-prince-georges-county>.

<sup>5</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 235, 112 Stat. 5044, 5077 (2008) (8 U.S.C. § 1232(b)(1)).

The Honorable Xavier Becerra

August 17, 2023

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originally “entered the United States in May 2013 through Brownsville, Texas[,] without inspection.”<sup>6</sup> Hernandez-Espinal would have been roughly 10 years old in May 2013.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary is authorized to conduct oversight of federal immigration policy and procedures.<sup>7</sup> To assist the Committee with its continued oversight of federal immigration policy and procedures, we ask that you please provide the following materials regarding Jose Roberto Hernandez-Espinal:

1. All case history information, including but not limited to the alien’s case file(s), family reunification packet, materials provided to HHS ORR by federal agencies such as CBP upon the alien’s referral, and any information provided to HHS ORR pursuant to its request for information from the referring agency.

Please provide this information as soon as possible, but no later than 5:00 p.m. on August 31, 2023. If you have any questions, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan  
Chairman



Tom McClintock  
Chairman  
Subcommittee on Immigration  
Integrity, Security, and Enforcement

cc: The Honorable Jerrold L. Nadler, Ranking Member

The Honorable Pramila Jayapal, Ranking Member, Subcommittee on Immigration  
Integrity, Security, and Enforcement

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<sup>6</sup> Elia Griffin, *ICE requests detainer for man charged with sexual assault, robbery on Silver Spring trail*, MoCo 360 (May 26, 2023), <https://moco360.media/2023/05/26/ice-requests-detainer-for-man-charged-with-sexual-assault-robbery-on-silver-spring-trail/>.

<sup>7</sup> Rules of the U.S. House of Representatives, R. X (2023).



ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

August 29, 2023

The Honorable Xavier Becerra  
Secretary  
U.S. Department of Health and Human Services  
330 C St. S.W.  
Washington, DC 20201

Dear Secretary Becerra:

On August 19, 2023, police in Shreveport, Louisiana, arrested Juan Carlos Garcia-Rodriguez, an illegal alien from Guatemala, in connection with the murder of an 11-year-old girl in Pasadena, Texas.<sup>1</sup> According to reports, just weeks after her 11th birthday, the victim was found brutally assaulted and murdered in the apartment she shared with her father.<sup>2</sup> Garcia-Rodriguez is expected to be charged with capital murder upon his extradition to Texas.<sup>3</sup>

The details of this crime are horrendous. Shortly after leaving for work the morning of Saturday, August 12, 2023, the victim's father received a message from his daughter that someone was knocking at the door.<sup>4</sup> He cautioned her not to open it.<sup>5</sup> After receiving no reply to several subsequent messages, the father called on nearby family members to check on his daughter.<sup>6</sup> When they arrived, there was no sign of her.<sup>7</sup> The father later found "his daughter's body wrapped in a trash bag and stuffed in a laundry basket that was put beneath her bed."<sup>8</sup> According to the Harris County Medical Examiner, the victim "died from asphyxia caused by strangulation as well as blunt force trauma to the head and neck."<sup>9</sup>

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<sup>1</sup> The Associated Press, *Suspect arrested in killing of 11-year-old Texas girl whose body was left under bed*, 13 ACTION NEWS WTVG (August 20, 2023), <https://www.13abc.com/2023/08/20/suspect-arrested-killing-11-year-old-texas-girl-whose-body-was-left-under-bed/>.

<sup>2</sup> Jaime E. Galvan & Chloe Alexander, *Person of interest named in killing, sexual assault of 11-year-old Pasadena girl*, KHOU 11 (Aug. 18, 2023), <https://www.khou.com/article/news/crime/girl-killed-in-pasadena-tx-person-of-interest/285-f3ae43b2-f446-4e8f-bb7d-f662bdb1c08e>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Adam Zuvanich, *Pasadena police looking for leads after 11-year-old girl found murdered inside her apartment*, HOUSTON PUBLIC MEDIA (Aug. 16, 2023),

According to press reports, in January 2023, Garcia-Rodriguez, the alleged perpetrator, was encountered by Border Patrol after entering the U.S. illegally in El Paso.<sup>10</sup> A 17-year-old at the time, Garcia-Rodriguez was referred to the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS).<sup>11</sup> He was subsequently released from HHS ORR custody and placed with a sponsor in Louisiana.<sup>12</sup>

HHS ORR is charged with the care and placement of unaccompanied alien children referred by Customs and Border Protection (CBP).<sup>13</sup> Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary is authorized to conduct oversight of federal immigration policy and procedures.<sup>14</sup> To assist the Committee with its continued oversight of federal immigration policy and procedures, we ask that you please provide the following materials regarding Juan Carlos Garcia-Rodriguez:


1. All case history information, including but not limited to the alien's case file(s), family reunification packet, materials provided to HHS ORR by federal agencies such as CBP upon the alien's referral, and any information provided to HHS ORR pursuant to its request for information from the referring agency.

Please provide this information as soon as possible, but no later than 5:00 p.m. on September 12, 2023. If you have any questions, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan  
Chairman



Tom McClintock  
Chairman  
Subcommittee on Immigration  
Integrity, Security, and Enforcement

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<https://www.houstonpublicmedia.org/articles/news/local/2023/08/16/459673/pasadena-murder-maria-gonzalez-11-year-old-girl-dead-inside-apartment/>.

<sup>10</sup> Ali Bradley (@AliBradleyTV), TWITTER (August 18, 2023, 11:15 AM), [https://twitter.com/AliBradleyTV/status/1692571031192453380?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet](https://twitter.com/AliBradleyTV/status/1692571031192453380?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet).

<sup>11</sup> Ali Bradley (@AliBradleyTV), TWITTER (August 18, 2023, 11:15 AM), [https://twitter.com/AliBradleyTV/status/1692571031192453380?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet](https://twitter.com/AliBradleyTV/status/1692571031192453380?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet).

<sup>12</sup> Lileana Pearson & Shannon Ryan, *18-year-old arrested after confessing to Pasadena 11-year-old's murder; sexual assault sources say*, KTRK ABC13 (August 19, 2023), <https://abc13.com/texas-girl-killed-child-murder-sex-assault-11-year-old-hidden-under-bed/13671948/>.

<sup>13</sup> William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 § 235, 112 Stat. 5044, 5077 (2008) (8 U.S.C. § 1232(b)(1)).

<sup>14</sup> Rules of the U.S. House of Representatives, R. X (2023).

The Honorable Xavier Becerra

August 29, 2023

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cc: The Honorable Jerrold L. Nadler, Ranking Member

The Honorable Pramila Jayapal, Ranking Member, Subcommittee on Immigration  
Integrity, Security, and Enforcement