

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

January 4, 2024

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

The Committee on the Judiciary continues to conduct oversight of the Biden Administration's enforcement of federal immigration law. As part of this oversight, since the beginning of the Biden Administration, we have requested numerous documents and other material from the Department of Justice. To date, however, the Department has failed to comply in full with the Committee's requests.

On January 17, 2023, we wrote to you to renew our outstanding requests from the 117th Congress, which included requests for documents and communications relating to the termination of immigration judges and proposed settlement agreements with illegal aliens.¹ Nearly one year later, those requests remain outstanding. Moreover, on September 1, 2023, following months of the Department's repeated failures to provide information requested by Committee staff, we asked for additional information about the Executive Office for Immigration Review's (EOIR) procedures and operations.² Most recently, on November 6, 2023, we requested information about the Biden Administration's proposed settlement agreement with illegal alien families.³

In multiple emails with the Department and in phone calls on September 21, November 17, and November 28, Committee staff reiterated the Committee's outstanding requests.⁴ To date, the Department has failed to provide information fully responsive to those requests. Instead, the Department's long-delayed responses have contained only a small subset of data and

¹ Letter from Jim Jordan, Chairman, H. Comm. on the Judiciary, to Merrick Garland, Att'y Gen., U.S. Dep't of Just. (Jan. 17, 2023).

² Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Merrick Garland, Att'y Gen., U.S. Dep't of Just. (Sept. 1, 2023).

³ Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Merrick Garland, Att'y Gen., U.S. Dep't of Just. (Nov. 6, 2023).

⁴ See, e.g., Emails from Comm. staff, H. Comm. on the Judiciary, to Dep't of Just. (on file with Comm.).

explanations in response to the Committee's September 1 and November 2 letters.⁵ The Department's responses are deficient and fail to fully respond to the Committee's requests, including requests related to the termination of immigration judges, documents related to litigation involving illegal alien family units, and communications with immigration advocacy groups.

In addition to the outstanding requests for documents and other information, the Committee also has requested transcribed interviews with EOIR officials, including a transcribed interview with Michael Tennyson, Chief of EOIR's Planning, Analysis, and Statistics Division,⁶ along with five additional EOIR officials.⁷ To date, the EOIR officials and the Department have failed to schedule the transcribed interviews.

Instead of providing the requested information and scheduling the transcribed interviews, the Department offered a bipartisan staff-level briefing with four EOIR officials on December 13, 2023.⁸ As an accommodation to the Department, Committee staff accepted that briefing but reiterated that such a briefing did not obviate the Committee's requests for transcribed interviews, documents, communications, and information.⁹ At the December 13 briefing, the Department could not respond to many of the Committee's questions,¹⁰ refused to schedule the requested transcribed interviews, declined to provide a timeline on when it planned to produce the requested materials, and did not produce the majority of the documents, communications, and information as repeatedly requested by the Committee since 2021.

The Department's continued refusal to provide basic information and produce the requested documents and communications prevents the Committee from fulfilling its constitutional oversight obligations. The Committee requires these materials to advance its oversight of federal immigration law and to inform potential legislative reforms. Accordingly, please provide the documents and schedule the transcribed interviews as requested in the Committee's January 17, September 1, November 2, and November 6, 2023, letters—attached for your convenience—as soon as possible, but no later than 5:00 p.m. on January 18, 2024. Please be advised that the Committee may be forced to resort to compulsory process if these requests remain outstanding.

⁵ See Letters from Carlos Felipe Uriarte, Assistant Att'y Gen., to Jim Jordan, Chairman, H. Comm. on the Judiciary (Nov. 2, Dec. 4, and Dec. 12, 2023).

⁶ Letter from Jim Jordan et al., Chairman, H. Comm. on the Judiciary, to Merrick Garland, Att'y Gen., U.S. Dep't of Just. (Sept. 1, 2023).

⁷ Letters from Jim Jordan, Chairman, H. Comm. on the Judiciary, to EOIR Officials (Nov. 2, 2023).

⁸ Phone call between Comm. staff, H. Comm. on the Judiciary, and Dep't of Just. (Nov. 28, 2023); see Emails from Comm. staff, H. Comm. on the Judiciary, to Dep't of Just. (Nov. 29 and Dec. 4, 2023) (on file with Comm.).

⁹ On December 12, 2023, just 15 hours before the scheduled briefing, the Department provided the Committee a partial response to the September 1 letter. See Letter from Carlos Felipe Uriarte, Assistant Att'y Gen., to Jim Jordan, Chairman, H. Comm. on the Judiciary (Dec. 12, 2023).

¹⁰ At times, in fact, EOIR officials seemed surprised by some of the Committee's questions, even though the Committee requested the information months ago. EOIR officials could not recall when they first learned of the Committee's letters.

The Honorable Merrick B. Garland

January 4, 2024

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Thank you for your prompt attention to this matter.

Sincerely,

Handwritten signature of Jim Jordan in blue ink.

Jim Jordan
Chairman

Handwritten signature of Tom McClintock in blue ink.

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

Handwritten signature of Ben Cline in blue ink.

Ben Cline
Chairman
Subcommittee on Responsiveness and
Accountability to Oversight

cc: The Honorable Jerrold L. Nadler, Ranking Member

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

The Honorable Eric Swalwell, Ranking Member, Subcommittee on Responsiveness and
Accountability to Oversight

Enclosures

Congress of the United States

Washington, DC 20515

January 17, 2023

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

Since the beginning of the Biden Administration, we have made several requests for information and documents concerning the operations and actions of the Department of Justice. These requests remain outstanding. As we begin the 118th Congress, we write again to reiterate our outstanding requests and ask that you immediately comply in full.

The Department has been on notice about our oversight requests—and aware that the requests are outstanding—for months. For your convenience in promptly complying with our requests, we itemized our outstanding requests in letters dated October 11, 2022, October 28, 2022, and November 2, 2022. Subsequently, again for your convenience, we notified you once more about these outstanding requests in a letter dated November 18, 2022. A copy of this most recent letter, with its enclosures, is enclosed.

To date, the Department has not complied with our long-outstanding requests for information and documents. This stonewalling must stop. Accordingly, for the final time, we reiterate our outstanding requests—itemized in our letter dated November 18, 2022, and its enclosures, and incorporated herein—and ask that you provide this material immediately. The Committee is prepared to resort to compulsory process, if necessary, to obtain this material.

In addition, in our letter of November 18, 2022, we provided you with a preliminary list of Department employees from whom we require testimony to advance our oversight. We asked that you direct your staff to begin scheduling dates for the Committee to receive this testimony. Here too, the Department has ignored our requests. Please know the Committee will not be hesitant to compel testimony from Department employees if necessary.

The Judiciary Committee is authorized to conduct oversight of the Justice Department pursuant to the Rules of the House of Representatives.¹

¹ Rules of the U.S. House of Representatives, R. X (2023).

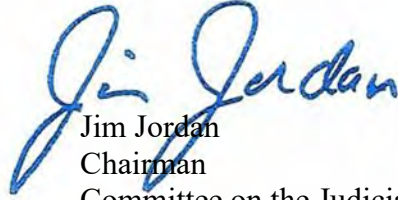
The Honorable Merrick B. Garland

January 17, 2023

Page 2

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is stylized with a large "J" and a cursive "Jordan".

Jim Jordan
Chairman
Committee on the Judiciary

cc: The Honorable Jerrold L. Nadler, Ranking Member, Committee on the Judiciary

Enclosures

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November 18, 2022

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

As we prepare for the 118th Congress, we write again to obtain your voluntary compliance with the outstanding requests for documents and information necessary for our oversight. We appreciate your prompt attention to these outstanding matters.

Over the past twenty-one months, we have made several requests for information and documents concerning the operations and actions of the Department of Justice. We reiterated and itemized these requests in our recent letters of October 11, 2022, October 28, 2022, and November 2, 2022, which are enclosed for your convenience. To date, you have ignored these requests, or you have failed to respond sufficiently. Please be aware that if our requests remain outstanding at the beginning of the 118th Congress, the Committee may be forced to resort to compulsory process to obtain the material we require.

In addition, to advance our oversight, we require prompt testimony from Justice Department employees. We expect your unfettered cooperation in arranging for the Committee to receive testimony from Justice Department employees. As an initial matter, we anticipate requiring testimony, either in hearings or transcribed interviews, from the following employees early in the 118th Congress:

1. Attorney General Merrick B. Garland;
2. Deputy Attorney General Lisa Monaco;
3. Associate Attorney General Vanita Gupta;
4. Assistant Attorney General for the Criminal Division General Kenneth A. Polite, Jr.;
5. Assistant Attorney General for the National Security Division Matthew G. Olsen;
6. Assistant Attorney General for the Civil Rights Division Kristen Clarke;
7. Assistant Attorney General for the Antitrust Division Jonathan Kanter;
8. Brian Boynton, Principal Deputy Assistant Attorney General for the Civil Division;
9. Jacqueline C. Romero, U.S. Attorney for the Eastern District of Pennsylvania;

10. Mark H. Wildasin, U.S. Attorney for the Middle District of Tennessee;
11. Matthew M. Graves, U.S. Attorney for the District of Columbia;
12. Mark A. Totten, U.S. Attorney for the Western District of Michigan;
13. Susan Hennessey, Senior Counsel, National Security Division;
14. Margy O'Herron, Office of the Deputy Attorney General; and
15. David Neal, Executive Office for Immigration Review.

To avoid any unnecessary delay in receiving the testimony of these employees, we ask that you direct your staff to work with Committee staff now on scheduling these events. Please be advised that this testimony is in addition to periodic hearings we anticipate convening, if necessary, with Assistant Attorney General for the Office of Legislative Affairs Carlos Uriarte concerning the status of outstanding requests for documents and testimony.

The congressional oversight power, rooted in Article I of the Constitution, is “broad and indispensable.”¹ This authority “encompasses inquiries into the administration of existing laws, studies of proposed law, and surveys of defects in our societal, economic, or political system for the purpose of enabling the Congress to remedy them.”² The Judiciary Committee is authorized to conduct oversight of the Justice Department pursuant to the Rules of the House of Representatives.³

Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Ranking Member



Steve Chabot
Member of Congress



Louie Gohmert
Member of Congress

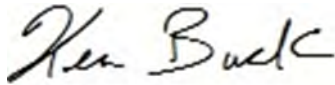


Darrell Issa
Ranking Member
Subcommittee on Courts, Intellectual
Property, and the Internet

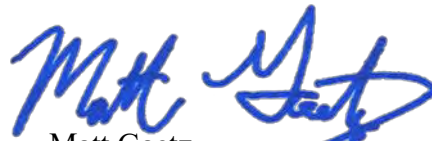
¹ See, e.g., *Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (citing *Watkins v. United States*, 354 U.S. 178, 187, 215 (1957)) (internal quotation marks and citations omitted).

² *Id.*

³ Rules of the U.S. House of Representatives, R. X (2021).



Ken Buck
Ranking Member
Subcommittee on Antitrust, Commercial
and Administrative Law



Matt Gaetz
Member of Congress



Mike Johnson
Ranking Member
Subcommittee on the Constitution,
Civil Rights and Civil Liberties



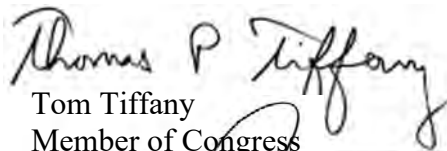
Andy Biggs
Ranking Member
Subcommittee on Crime, Terrorism
and Homeland Security



Tom McClintock
Ranking Member
Subcommittee on Immigration
and Citizenship



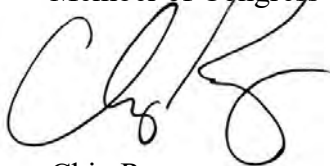
W. Gregory Steube
Member of Congress



Tom Tiffany
Member of Congress



Thomas Massie
Member of Congress



Chip Roy
Member of Congress



Dan Bishop
Member of Congress



Michelle Fischbach
Member of Congress



Victoria Spartz
Member of Congress

The Honorable Merrick B. Garland

November 18, 2022

Page 4



Scott Fitzgerald
Member of Congress



Cliff Bentz
Member of Congress



Burgess Owens
Member of Congress

cc: The Honorable Jerrold L. Nadler
Chairman

Enclosures

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October 11, 2022

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

We are investigating the Biden Administration's misuse of federal criminal and counterterrorism resources to target concerned parents at school board meetings. We know from whistleblowers and publicly available information that the Biden White House colluded with the National School Boards Association to manufacture a pretext for the use of federal law-enforcement authorities against parents, which you operationalized via a memorandum dated October 4, 2021. The American people, however, deserve much more accountability and transparency.

Since October 2021, we have sent over 100 letters to Departmental components requesting documents and information regarding the Biden Administration's misuse of law-enforcement resources.¹ To date, the Department has responded to these requests with only two half-page letters, and has not produced any of the requested documents or information. These letters do not sufficiently respond to our reasonable requests or alleviate our concerns.

¹ See Letter from Rep. Mike Johnson et al, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (Oct. 13, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (Oct. 25, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Mr. E. Bryan Wilson et al, Acting U.S. Atty, District of Alaska (Nov. 1, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Mr. Mark Lesko, Acting Assistant Atty Gen., Nat'l Sec. Division, U.S. Dep't of Justice (Nov. 2, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Hon. Christopher Wray, Dir., Fed. Bureau of Investigation (Nov. 3, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (Nov. 16, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Christopher Wray, Dir., Fed. Bureau of Investigation (Nov. 18, 2021); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Christopher Wray, Dir., Fed. Bureau of Investigation (Feb. 10, 2022); Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (May 11, 2021); Letter from Rep. Jim Jordan et al, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (Jun. 14, 2022).

The Honorable Merrick B. Garland

October 11, 2022

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Parents voicing their concerns at school board meetings are not domestic terrorists. Yet, your anti-parent directive remains in effect, and as a result, the threat of federal law enforcement continues to chill the First Amendment rights of American parents. We intend to continue to pursue this serious misuse of federal law-enforcement resources. We reiterate our requests, which are itemized in the attached appendix and incorporated herein, and ask that you, as the custodian of all Departmental records, produce the entirety of the requested material as soon as possible but no later than October 25, 2022.

Furthermore, this letter serves as a formal request to preserve all existing and future records and materials in your possession relating to the topics addressed in this letter. You should construe this preservation notice as an instruction to take all reasonable steps to prevent the destruction or alteration, whether intentionally or negligently, of all documents, communications, and other information, including electronic information and metadata, that are or may be responsive to this congressional inquiry. This instruction includes all electronic messages sent using your official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.

A handwritten signature in blue ink that reads "Jim Jordan". The signature is fluid and cursive, with the first name "Jim" and last name "Jordan" clearly distinguishable.

Jim Jordan
Ranking Member

Sincerely,

A handwritten signature in blue ink that reads "Mike Johnson". The signature is fluid and cursive, with the first name "Mike" and last name "Johnson" clearly distinguishable.

Mike Johnson
Ranking Member
Subcommittee on the Constitution,
Civil Rights and Civil Liberties

cc: The Honorable Jerrold L. Nadler
Chairman

Enclosure

Appendix: Document Requests to Departmental Components

Attorney General Merrick Garland

May 11, 2022:

1. All documents and materials identified in our letters to Departmental components dated November 1, 2021, November 2, 2021, November 3, 2021, and November 18, 2021, immediately; and

June 14, 2022:

1. All documents and communications between Mary Wall, Senior Policy Advisor to the President, and any Department of Justice employees referring or relating to the National School Boards Association's letter dated September 29, 2021; the Attorney General's memorandum dated October 4, 2021; or alleged threats or violence at school board meetings; and
2. All documents and communications between Department of Justice employees and National School Boards Association staff, officers, and/or executive board members, including but not limited to the communications sent or received by Anthony Coley, Senior Advisor to the Attorney General, and Alivia Roberts, Special Assistant to the Director of Public Affairs.

February 28, 2022:

1. All documents requested from various Departmental components regarding the Department's misuse of federal counterterrorism resources to target parents.

FBI Director Christopher Wray

November 3, 2021:

1. All documents and communications referring or relating to convening meeting(s) with U.S. Attorneys' Offices in accordance with the Attorney General's October 4, 2021 memorandum, the establishment of the Department's task force, or the FBI's role as a member of the task force;
2. All agendas, minutes, and notes created or relied upon by FBI employees referring or relating to meeting(s) in each judicial district in accordance with the Attorney General's October 4, 2021 memorandum or the FBI's role as a member of the task force;
3. Please explain whether you consider the Attorney General's October 4, 2021 memorandum to be lawful and whether you intend to direct FBI agents and employees to enforce the Attorney General's directives;

4. Please explain whether you have issued any internal guidance to FBI field offices or special agents in charge referring or relating to the Attorney General's October 4, 2021 memorandum;
5. Please explain the FBI's role in convening meetings as directed by the Attorney General's October 4, 2021 memorandum;
6. Please explain the FBI's role in the Department's task force, including what federal statutes the FBI intends to use in investigating concerned parents at school board meetings;
7. Please identify by name, title, and field office each FBI employee involved in the meeting(s) and task force referenced in the Attorney General's October 4, 2021 memorandum;
8. Please identify all federal, state, local, Tribal, and territorial organizations invited to or that have attended the meetings convened in accordance with the October 4, 2021 memorandum;
9. Please provide all recommendations, both formal and informal, and any meeting minutes produced at the meeting(s) in accordance with the Attorney General's October 4, 2021 memorandum; and
10. Please provide all recommendations, both formal and informal, that the FBI has made to the Department's task force.

November 18, 2021:

1. Provide the number of parents who have been tagged by FBI with the EDUOFFICIALS threat tag;
2. All documents and communications referring or relating to the EDUOFFICIALS threat tag;
3. All documents and communications referring or relating to investigations identified and labeled with the EDUOFFICIALS threat tag; and
4. All documents and communications referring or relating to FBI investigations of school board threats sent or received by the following individuals:
 - a. Carlton L. Peebles, Deputy Assistant Director, Criminal Investigative Division;
 - b. Jay Greenberg, Deputy Assistant Director, Criminal Investigative Division;

- c. Calvin A. Shivers, Assistant Director, Criminal Division;
- d. Brian M. Cohen, Criminal Division;
- e. Timothy R. Langan Jr., Assistant Director, Counterterrorism Division; and
- f. Kevin Vorndran, Deputy Assistant Director, Counterterrorism Division.

February 10, 2022:

1. All documents and materials requested in the November 3 and November 18, 2021 letters.

All 93 U.S. Attorneys' Offices

November 1, 2021:

1. All documents and communications referring or relating to convening meeting(s) in your judicial district in accordance with the Attorney General's October 4, 2021 memorandum;
2. All agendas, minutes, and notes created or relied upon by U.S. Attorney's Office employees referring or relating to meeting(s) in your judicial district in accordance with the Attorney General's October 4, 2021 memorandum;
3. Please explain when meeting(s) in your judicial district in accordance with the Attorney General's October 4, 2021 memorandum have occurred or will occur;
4. Please identify by name and title of all U.S. Attorney's Office employees involved in the meeting(s) in your judicial district in accordance with the Attorney General's October 4, 2021 memorandum ;
5. Please identify all federal, state, local, Tribal, and territorial organizations invited to or that have attended the meetings convened in your judicial district in accordance with the October 4, 2021 memorandum; and
6. Please provide all recommendations, both formal and informal, and any meeting minutes produced at the meeting(s) in your judicial district in accordance with the Attorney General's October 4, 2021 memorandum.

Assistant Attorney General of the National Security Division

November 2, 2021:

1. All documents and communications referring or relating to the establishment of the Department's task force and the National Security Division's role as a member of the task force;
2. All documents and communications between employees of the Department of Justice and U.S. intelligence agencies referring or relating to alleged threats posed by concerned parents at local school board meetings, the NSBA's letter dated September 29, 2021, or the Attorney General's memo dated October 4, 2021;
3. All agendas, minutes, and notes created by or relied upon by National Security Division employees referring or relating to the Department's task force;
4. Please explain the National Security Division's role in the Department's task force, including what federal statutes within the Division's jurisdiction it intends to use in investigating concerned parents at school board meetings;
5. Please identify by name and title all National Security Division employees involved in the Department's task force; and
6. Please provide all recommendations, both formal and informal, that the National Security Division has made to the Department's task force.

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October 28, 2022

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

We are investigating the Biden Administration's callous disregard for the safety and security of our southern border, including the Justice Department's abuse of U.S. immigration law and policy to advance the Biden Administration's political interests. Since your confirmation we have written to you requesting information about the Administration's use of federal taxpayer dollars to pay settlements to illegal aliens who violated U.S. law, and your purge of immigration judges appointed by former President Trump for political reasons. Our letters have gone unanswered. The American people deserve better than to be ignored by an Administration intent on undermining the rule of law and erasing our national borders.

Committee Republicans will continue to pursue these matters, including into the 118th Congress if necessary. Accordingly, we reiterate our outstanding requests, which are itemized in the attached appendix and incorporated herein, and ask that you, as the custodian of all Departmental records, produce the entirety of the requested material as soon as possible but no later than November 11, 2022.

Furthermore, this letter serves as a formal request to preserve all existing and future records and materials in your possession relating to the topics addressed in this letter. You should construe this preservation notice as an instruction to take all reasonable steps to prevent the destruction or alteration, whether intentionally or negligently, of all documents, communications, and other information, including electronic information and metadata, that are or may be responsive to this congressional inquiry. This instruction includes all electronic messages sent using your official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.



Jim Jordan
Ranking Member

Sincerely,



Tom McClintock
Ranking Member
Subcommittee on Immigration and
Citizenship

The Honorable Merrick B. Garland

October 28, 2022

Page 2

cc: The Honorable Jerrold L. Nadler
Chairman

Enclosure

**Appendix: Outstanding Immigration-Related Documents and Information Requests to the
Department of Justice**

November 5, 2021:

1. All documents and communications referring or relating to the decision(s) to make payments to illegal aliens encountered at the southern border in 2017 and 2018, including the authorization of any payments, between or among Attorney General Merrick Garland, Deputy Attorney General Lisa Monaco, Principal Deputy Assistant Attorney General Brian Boynton, or Director of the Office of Immigration Litigation William Peachey.
2. All documents and communications referring or relating to the decision(s) to make payments to illegal aliens encountered at the southern border in 2017 and 2018 between or among employees of the Department of Justice and employees of the Executive Office of the President.
3. All documents and communications referring or relating to the decision(s) to make payments to illegal aliens encountered at the southern border in 2017 and 2018 between or among employees of the Department of Justice and employees of the Department of Homeland Security.
4. All documents and communications referring or relating to the decision(s) to make payments to illegal aliens encountered at the southern border in 2017 and 2018 between or among employees of the Department of Justice and employees of the Department of Health and Human Services.
5. Is the Department considering payments to alien parents or legal guardians whose child was removed from their custody after a determination by U.S. Customs and Border Protection that the parent or legal guardian presented a danger to the child?
6. Is the Department considering payments to alien parents or legal guardians whose child was removed from their custody after a determination by U.S. Customs and Border Protection that the parent or legal guardian had a conviction for an offense relating to child abuse or neglect?
7. Is the Department considering payments to alien parents or legal guardians whose child was removed from their custody after a determination by U.S. Customs and Border Protection that the parent or legal guardian had a conviction for an offense relating to sexual abuse of a minor?
8. Is the Department considering payments for aliens who do not meet the requirements of the class certified in the *Ms. L. v. U.S. Immigration and Customs Enforcement*, et. al litigation?

9. Is the Department considering payments to alien parents or legal guardians who, after being provided the chance to take their child with them when returning to their home country, chose instead to leave their child in U.S. government custody or in the care and custody of another individual inside the United States?
10. Out of what fund(s) will the payments to aliens be paid?
11. For how many aliens who are outside the United States is the Department considering payments pursuant to the litigation described above?
12. For how many aliens inside the United States is the Department considering payments pursuant to the litigation described above?

July 20, 2022:

1. The number of immigration judges whose employment was terminated during or at the end of their probationary period between January 20, 2021, and the present.
2. The number of immigration judges who resigned during or at the end of their probationary period between January 20, 2021, and the present.
3. The number of immigration judges whose employment was terminated during or at the end of their probationary period, each fiscal year for FY 2007 through to-date FY 2022.
4. The termination letter provided to each immigration judge whose employment was terminated during or at the end of their probationary period between January 20, 2021, and the present.
5. The termination letter provided to each immigration judge whose employment was terminated during or at the end of their probationary period between October 1, 2006, and January 20, 2021.
6. All documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, sent or received by the following individuals:
 - a. Attorney General Merrick Garland;
 - b. Deputy Attorney General Lisa Monaco;
 - c. Principal Deputy Assistant Attorney General Brian Boynton;
 - d. Director of the Executive Office for Immigration Review David Neal;
 - e. Deputy Director of Executive Office for Immigration Review Mary Cheng;
 - f. Chief Immigration Judge Tracy Short;
 - g. Principal Deputy Chief Immigration Judge Daniel Weiss;

- h. Senior Counsel to the Deputy Attorney General Margy O'Herron;
 - i. Assistant Chief Immigration Judge Rebecca Walters;
 - j. Assistant Chief Immigration Judge David Cheng; and
 - k. Former Acting Deputy Director of the Executive Office for Immigration Review Charles Adkins-Blanch.
- 7. All documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, sent or received by the then-Assistant Chief Immigration Judge for the immigration court at which the terminated immigration judge worked.
- 8. All documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, between or among Department employees and immigration-related non-governmental groups, including but not limited to the American Immigration Lawyers Association, the Capital Area Immigrants' Rights (CAIR) Coalition, Ayuda, and the Immigration and Human Rights Clinic at the University of the District of Columbia.
- 9. All documents and communications referring or relating to the decision(s) to terminate the employment of each immigration judge whose employment was terminated during or at the end of their probationary period, between January 20, 2021, and the present, between or among Department employees and any private bar immigration attorney, immigration law professor (full-time or adjunct), immigration author, and immigration blogger.

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951
judiciary.house.gov

November 2, 2022

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

We are conducting oversight of the Department of Justice's operations and actions concerning various matters. As a part of this oversight, Committee Republicans have sent letters to Departmental components requesting documents and information on several issues,¹ including but not limited to the Department's targeting of journalists with Project Veritas, the shuttering of the Department's China Initiative, the Department's one-sided enforcement of the FACE Act, and the Department's unprecedented raid on President Trump's residence. Our requests to you or your subordinates remain outstanding.

The American people deserve transparency and accountability from our most senior law-enforcement official in the executive branch. Committee Republicans intend to continue to examine these matters, including into the 118th Congress if necessary. We reiterate our requests, which are itemized in the attached appendix and incorporated herein, and ask that you, as the custodian of all Department records, produce the entirety of the requested material as soon as possible but no later than November 16, 2022.

Furthermore, this letter serves as a formal request to preserve all existing and future

¹ Letter from Rep. Jim Jordan, *et al.*, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (June 8, 2021); Letter from Rep. Jim Jordan, *et al.*, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (Nov. 18, 2021); Letter from Rep. Jim Jordan, *et al.*, Ranking Member, H. Comm. on the Judiciary, to Hon. Matthew G. Olsen, Assistant Atty Gen., U.S. Dep't of Justice (Feb. 17, 2022); Letter from Rep. Andy Biggs, *et al.*, Ranking Member, Subcomm. on Crime, Terrorism, and Homeland Security of the H. Comm. on the Judiciary, to Hon. Matthew G. Olsen, Assistant Atty Gen., U.S. Dep't of Justice (Mar. 30, 2022); Letter from Rep. Jim Jordan, *et al.*, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (Apr. 27, 2022); Letter from Rep. Jim Jordan, *et al.*, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (June 23, 2022); Letter from Rep. Jim Jordan, *et al.*, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice (Aug. 15, 2022); Letter from Rep. Jim Jordan, *et al.*, Ranking Member, H. Comm. on the Judiciary, to Hon. Jacqueline C. Romero, Atty Gen., U.S. Atty, U.S. Dep't of Justice, Eastern District of PA (Oct. 7, 2022).

The Honorable Merrick B. Garland

November 2, 2022

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records and materials in your possession relating to the topics addressed in this letter. You should construe this preservation notice as an instruction to take all reasonable steps to prevent the destruction or alteration, whether intentionally or negligently, of all documents, communications, and other information, including electronic information and metadata, that are or may be responsive to this congressional inquiry. This instruction includes all electronic messages sent using your official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is fluid and cursive, with the first name "Jim" and last name "Jordan" clearly distinguishable.

Jim Jordan
Ranking Member

cc: The Honorable Jerrold L. Nadler
Chairman

Enclosure

Appendix: Outstanding Oversight Requests

June 8, 2021

1. Explain the Justice Department's current efforts to identify and prosecute individuals involved in the assaults of Mr. Andy Ngo and other journalists in violation of federal statutes securing their civil rights; and
2. Explain how the Justice Department, in coordination with other relevant federal and state law enforcement agencies, is working to prevent individuals from engaging in violence and intimidation designed to impair the free exercise and enjoyment of rights and privileges that Mr. Andy Ngo and other journalists possess under the Constitution and laws of the United States.

November 18, 2021

3. Explain when and how the FBI became aware of the diary purportedly belonging to President Biden's daughter and describe when and why it opened an investigation into the matter;
4. Provide copies of the search warrants, affidavits, and all other supporting documents related to the FBI's search of residences of James O'Keefe and other current or former journalists or employees of Project Veritas;
5. Explain the factual and legal predicate for the FBI to conduct raids at the homes of James O'Keefe and other current or former journalists or employees of Project Veritas;
6. Describe the process the Department followed when obtaining subpoenas for the FBI to obtain information from, or records of, James O'Keefe and other current or former journalists or employees of Project Veritas, including whether you and/or any other Department officials approved the decision to obtain such subpoenas;
7. Explain what steps, if any, the Department has taken or will take to investigate the leaking of Project Veritas' information to the *New York Times*; and
8. Explain whether any official or employee of the Executive Office of the President communicated with the Department and/or the FBI about investigating or searching the residences of James O'Keefe and other current or former employees of Project Veritas.

February 17, 2022

1. All documents and communications referring or relating to the creation of the Department of Justice's new domestic terrorism unit within the Counterterrorism Section of the National Security Division;

2. All documents and communications between or among officials or employees of the Executive Office of the President and the Department or National Security Division about the creation of the new domestic terrorism office within the Counterterrorism Section of the National Security Division;
3. An explanation as to why you decided to establish a new domestic terrorism office within the Counterterrorism Section of the National Security Division, in contravention of prior advice of career Department of Justice officials;
4. An explanation as to whether you or your staff consulted with the Department's career lawyers in the Counterterrorism Section or elsewhere in the Department prior to the establishment of this new office. If so, provide all recommendations and advice, both formal and informal, that was made to the National Security Division about the newly-formed office;
5. An explanation whether the resources and personnel of this new domestic terrorism office is being used or will be used to target concerned parents at local school board meetings;
6. Quantify the number of personnel assigned to the newly-formed domestic terrorism office within the Counterterrorism Section of the National Security Division; and
7. Quantify the number of active domestic terrorism investigations, including by type of case, for the period of January 1, 2021, to the present.

March 30, 2022:

1. All documents and communications referring or relating to the decision to end the Department's China Initiative, to include an unredacted copy of the Department's three-month internal review initiated by you in November 2021;
2. An explanation as to whether you or your staff consulted with the Department's career lawyers or other personnel in the Department prior to the decision to end the Department's China Initiative. If so, provide all recommendations and advice, both formal and informal, that was provided to you or your staff; and
3. An accounting of the Department's resources dedicated to combating national security threats posed by the People's Republic of China.

April 27, 2022:

1. Preserve all records relating to the Department's disciplinary and personnel actions against Deputy U.S. Marshals who defended federal property in Portland, Oregon from far-left rioters in the summer of 2020.

June 23, 2022:

1. All documents and communications between or among the Department of Justice and the Executive Office of the President referring or relating to the harassment and intimidation campaign outside justices' homes; and
2. All documents and communications between or among employees of the Department of Justice referring or relating to the harassment and intimidation campaign outside justices' homes, including those sent or received by employees of the United States Attorney's Office for the District of Maryland and the United States Attorney's Office for the Eastern District of Virginia.

August 15, 2022:

1. All documents and communications referring or relating to the execution of a search warrant on President Trump's residence;
2. All documents and communications referring or relating to the decision to seek a search warrant for President Trump's residence;
3. All documents and communications referring or relating to the use of confidential human source(s) in connection with the search of President Trump's residence;
4. All documents and communications between or among the Department of Justice, Federal Bureau of Investigation, or the Executive Office of the President about a search of President Trump's residence;
5. All documents and communications between or among the Department of Justice, Federal Bureau of Investigation, or the United States Secret Service about a search of President Trump's residence; and
6. All documents and communications between or among the Department of Justice, the Federal Bureau of Investigation, or the National Archives and Records Administration about a potential search of President Trump's residence.

October 7, 2022:

1. All documents and communications between the U.S. Attorney's Office for the Eastern District of Pennsylvania and other components of the Department of Justice referring or

relating to enforcement of the Freedom of Access to Clinic Entrances Act between May 2, 2022, and present;

2. All documents and communications between the U.S. Attorney's Office for the Eastern District of Pennsylvania, the Department of Justice, or the Executive Office of the President referring or relating to the Department's Reproductive Rights Task Force;
3. All documents and communications between the U.S. Attorney's Office for the Eastern District of Pennsylvania and the Department of Justice referring or relating to investigations of attacks on pregnancy resource centers between May 2, 2022, and the present;
4. All documents and communications referring or relating to the attack on the HOPE Pregnancy Center in Philadelphia, Pennsylvania, that occurred on June 10, 2022; and
5. All documents and communications between the U.S. Attorney's Office for the Eastern District of Pennsylvania and the Federal Bureau of Investigation referring or relating to the arrest of Mark Houck.

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September 1, 2023

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

The Committee on the Judiciary is conducting oversight of the Biden Administration's implementation of immigration authorities. As a part of this oversight, we require basic data and information from the Department of Justice's Executive Office for Immigration Review (EOIR). We expect your cooperation with our inquiry.

Since the beginning of the 118th Congress, the Committee has sought basic data from the Department relating to its implementation of relevant immigration authorities. On January 11, 2023, Committee staff requested information from the Department about how EOIR handles certain venue and jurisdictional questions.¹ After nearly a month went by with no response, on February 2, 2023, Committee staff reiterated this request.² On February 7, 2023, the Department acknowledged that it was working on a response.³ On February 17, 2023, after another week and a half with no response, the Committee again reiterated our initial request and inquired further about EOIR's procedures and operations, including requesting additional data and reports.⁴

On February 23, 2023, the Department provided an insufficient, single-paragraph response to the January 11, 2023 request, but did not provide any response to the Committee's other requests.⁵ On February 27 and February 28, 2023, Committee staff reiterated the outstanding requests.⁶ The Department did not provide the data or information. On June 12, 2023, Committee staff requested additional case data.⁷ After the Department yet again failed to respond to the Committee's requests, Committee staff followed up with the Department on June

¹ Email from H. Comm. on the Judiciary staff to Dep't of Justice (Jan. 11, 2023).

² Email from H. Comm. on the Judiciary staff to Dep't of Justice (Feb. 2, 2023).

³ Email from Dep't of Justice to H. Comm. on the Judiciary staff (Feb. 7, 2023).

⁴ Email from H. Comm. on the Judiciary staff to Dep't of Justice (Feb. 17, 2023).

⁵ Email from Dep't of Justice to H. Comm. on the Judiciary staff (Feb. 23, 2023).

⁶ Emails from H. Comm. on the Judiciary staff to Dep't of Justice (Feb. 27, 28, 2023).

⁷ Email from Dep't of Justice to H. Comm. on the Judiciary staff (June 12, 2023).

15, 26, and 30, 2023; July 17, 20, and 31, 2023; and August 7 and 16, 2023.⁸ The Department has provided no response.

Despite the Committee's repeated requests, to date, the Department has not provided any substantive responses to the majority of our requests for data and information. Accordingly, we write to reiterate our outstanding requests, which are noted below:

1. A breakdown of the decisions mentioned in the "other" and "other rate" categories in certain EOIR reports on adjudication statistics, such as footnote two in EOIR's reports on Asylum Decision Rates⁹ and Asylum Decision and Filing Rates in Cases Originating with a Credible Fear Claim¹⁰ and footnote three in EOIR's report on Asylum Decision Rates by Nationality.¹¹
 - a. Specifically, provide a separate breakdown (by both total number and percentage) of the cases that were (1) abandoned, (2) not adjudicated, (3) withdrawn, and (4) other for overall asylum decision rates, asylum decision and filing rates in cases originating with a credible fear claim, and asylum decision rates by nationality.
 - b. Please provide an explanation of what cases qualify as "other" in the footnotes described above, including a breakdown (by number and percentage) of the "other" cases for the categories mentioned above.
2. All data from the immigration judge performance dashboard from January 20, 2021, until the present.
3. All reports and data on the number of "dark courtrooms" from January 20, 2021, until the present.
4. All data about the current number of EOIR's outstanding Freedom of Information Act (FOIA) requests and processing of those requests, including, but not limited to:
 - a. The average completion time for a FOIA request, and
 - b. The number of completed FOIA requests from January 20, 2021, until the present.
5. All data about current EOIR workload and case rates, including, but not limited to:

⁸ Emails from H. Comm. on the Judiciary staff to Dep't of Justice.

⁹ Executive Office for Immigration Review, Adjudication Statistics: Asylum Decision Rates (last accessed Aug. 17, 2023), <https://www.justice.gov/eoir/page/file/1248491/download>.

¹⁰ Executive Office for Immigration Review, Adjudication Statistics: Asylum Decision and Filing Rates in Cases Originating with a Credible Fear Claim (last accessed Aug. 17, 2023), <https://www.justice.gov/eoir/page/file/1062976/download>.

¹¹ Executive Office for Immigration Review, Adjudication Statistics: Asylum Decision Rates by Nationality (last accessed Aug. 17, 2023), <https://www.justice.gov/eoir/page/file/1107366/download>.

- a. EOIR employee telework and remote work participation rates,
- b. The number of available EOIR courtrooms and the usage of at-home hearing equipment for immigration judges,
- c. Data on the number of immigration judges conducting hearings outside an EOIR courtroom,
- d. Monthly court reports from January 2021 until the present, and
- e. EOIR adjournment codes.

In addition, please produce the following material for the period January 20, 2021, to the present:

6. All documents and communications referring or relating to plans to use additional immigration judges and other EOIR employees to conduct credible fear reviews, including, but not limited to, the mandatory detailing of EOIR employees for such reviews.
7. All documents and communications sent to assistant chief immigration judges, immigration judges, judicial law clerks, and/or attorney advisors referring or relating to choice of law, venue, and jurisdiction.
8. All documents and communications referring or relating to televideo hearings, internet hearings—alternate location, internet hearings—court, and telephonic hearings.
9. All documents and communications referring or relating to required trainings for EOIR employees, including judicial law clerks, attorney advisors, immigration judges, and assistant chief immigration judges.
10. All documents and communications referring or relating to the Key Performance Indicators and Key Performance Indicators Report.
11. The number of cases (broken down by category) administratively closed, dismissed, or terminated, including a breakdown of cases dismissed or terminated in circumstances other than when the Department of Homeland Security could not sustain its burden to establish removability.

Finally, as the Chief of EOIR's Planning, Analysis, and Statistics Division, Michael Tennyson has information that is relevant and necessary to our oversight of the Executive Branch's enforcement of federal immigration law. Accordingly, we request that you make Mr. Tennyson available for a transcribed interview with the Committee.

The Honorable Merrick B. Garland

September 1, 2023

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Please produce all requested documents and data and contact Committee staff to schedule Mr. Tennyson's transcribed interview as soon as possible but no later than 5:00 pm on September 15, 2023.

The Judiciary Committee is authorized to conduct oversight of federal immigration law pursuant to the Rules of the House of Representatives.¹² If you have any questions, please contact Committee staff at (202) 225-6906. If Mr. Tennyson is represented by private counsel, please ask his attorney to contact Committee staff on his behalf.

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

¹² Rules of the U.S. House of Representatives, R. X (2023).

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November 2, 2023

Mr. David M. McConnell
Director
Office of Immigration Litigation, Appellate Section
Department of Justice
Washington, D.C. 20530

Dear Director McConnell:

The Committee on the Judiciary is conducting oversight of the Biden Administration's enforcement of federal immigration authorities. As a part of this oversight, we require information from the Department of Justice's Office of Immigration Litigation (OIL), Appellate Section. We are concerned that OIL's Appellate Section is failing to litigate cases by utilizing non-statutory paths like judicial administrative closure in the U.S. Court of Appeals for the Ninth Circuit and the so-called *Jacobson* remand tool in the U.S. Court of Appeals for the Second Circuit. These procedures allow illegal aliens to stay in the United States indefinitely and only worsen the border crisis by incentivizing additional illegal aliens to travel to and remain in the country.

On June 12, 2023, Committee staff requested information about the number of cases that OIL's Appellate Section declines to litigate in the federal courts of appeals.¹ On June 15, June 26, and June 30, 2023, Committee staff reiterated those requests.² After a July 3, 2023, phone call between Committee staff and the Department, the Department provided an inadequate, partial explanation about certain aspects of the Committee's request.³ Since then, Committee staff has followed up with the Department five times—on July 17, 20, and 31; and August 7 and 16.⁴ To date, the Department has failed to provide sufficient information that is fully responsive to the Committee's requests.

Accordingly, we write to reiterate our initial requests and ask that you please provide the following material for the period January 20, 2021, to the present:

¹ Email from H. Comm. on the Judiciary staff to Dep't of Justice (June 12, 2023).

² Emails from H. Comm. on the Judiciary staff to Dep't of Justice (June 15, 26, 30, 2023).

³ Email from Dep't of Justice to H. Comm on the Judiciary staff (July 3, 2023).

⁴ Emails from H. Comm. on the Judiciary staff to Dep't of Justice.

1. A numerical breakdown of the cases that OIL's Appellate Section agreed to resolve through judicial administrative closure, *Jacobson* remand, or dismissal without prejudice, including the number of cases in each category for which an attorney already had filed a brief.
2. The number of remands to the Board of Immigration Appeals, including a numerical breakdown by remand category.
3. All documents and communications referring or relating to the criteria used to determine whether a case is amenable to judicial administrative closure, *Jacobson* remand, or dismissal without prejudice, including how OIL's Appellate Section defines "non-priority cases."
4. All documents and communications referring or relating to efforts by OIL's Appellate Section to expand the use of judicial administrative closure (or similar status) in additional federal courts of appeals beyond the Second and Ninth Circuits.
5. All documents and communications referring or relating to stakeholders' meetings between OIL's Appellate Section and immigration advocacy groups.
6. All documents and communications referring or relating to required trainings for trial attorneys and assistant directors in OIL's Appellate Section.

Please provide this material as soon as possible but no later than 5:00 p.m. on November 16, 2023.

The Supreme Court has recognized that Congress has a "broad and indispensable" power to conduct oversight, which "encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them."⁵ 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, including the work conducted within OIL's Appellate Section, to inform potential legislative reforms.⁶

⁵ See, e.g., *Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).

⁶ Rules of the U.S. House of Representatives, R. X (2023).

Mr. David M. McConnell

November 2, 2023


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If you have any questions, please ask your staff to 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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November 6, 2023

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Garland:

The Committee on the Judiciary is conducting oversight of the Biden Administration's enforcement of federal immigration authorities. As the Committee has uncovered, of the 5 million illegal alien border encounters from the beginning of the Biden Administration through the end of March 2023, nearly 2.5 million illegal aliens had no confirmed departure from the United States.¹ Meanwhile, between October 2021 and July 2023, the Administration has released into the country more than 1.1 million family unit individuals, with upward of 200,000 transferred to the custody of Immigration and Customs Enforcement for potential release into the United States.²

Despite these unprecedented numbers, the Administration continues policies that will only worsen the border crisis. For example, on October 16, 2023, the Department of Justice announced that the United States had reached a settlement in *Ms. L. v. U.S. Immigration and Customs Enforcement*, a class action lawsuit involving family units who illegally crossed the southwest border during the Trump Administration.³ Under the proposed settlement, certain illegal aliens can receive a grab-bag of U.S. taxpayer-funded services, including behavioral health services, medical assistance, temporary housing support, legal services, and expedited processing—all because in 2018 the U.S. government prosecuted, under the existing criminal

¹ See H. Comm. on Judiciary, Report on The Biden Border Crisis: How the Biden Administration Opened the Southwest Border and Abandoned Interior Immigr. Enf't (Oct. 9, 2023), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-10-09-New-Data-and-Testimony.pdf>.

² *Id.* at 4.

³ U.S. Government Reaches Settlement in Class Action Family Separation Case Seeking Injunctive Relief, U.S. DEP'T OF JUSTICE (Oct. 16, 2023), <https://www.justice.gov/opa/pr/us-government-reaches-settlement-class-action-family-separation-case-seeking-injunctive>.

code enacted by Congress, illegal aliens for illegally entering the United States with their children.⁴

As if the Department's stipulation is not egregious enough, the settlement also allows an illegal alien to escape criminal prosecution for illegally crossing the border solely because the alien is traveling with a child.⁵ Because that legally dubious prohibition in the settlement lasts for eight years, it prevents future administrations from taking definitive steps to control the border.⁶ Such a provision also ensures that cartels can exploit yet another dangerous loophole to continue their criminal smuggling and trafficking enterprises. In fact, knowing the Biden Administration refuses to detain family units, cartels already separate minors from their parents and have cartel members pose as the minors' relatives to ensure quick entry into the United States.⁷ The settlement will no doubt have a similar effect, with both children and the American people left to suffer because of the perverse incentives of President Biden's failed border policies.

Accordingly, to assist the Committee with its continued oversight of federal immigration policy and procedures, we ask that you provide the following documents and information:

1. All documents and communications referring or relating to the decision(s) to provide social services to illegal aliens and limit prosecution of certain illegal aliens between or among employees of the Department.
2. All documents and communications referring or relating to the decision(s) to provide social services to illegal aliens and limit prosecution of certain illegal aliens between or among the Department of Justice and the American Civil Liberties Union and any other immigration advocacy groups.
3. All documents and communications referring or relating to the decision(s) to provide social services to illegal aliens and limit prosecution of certain illegal aliens between or among employees of the Department of Justice and employees of the Executive Office of the President.

⁴ See Fact Sheet: Overview of Proposed Ms. L Settlement Agreement, U.S. DEP'T OF JUSTICE (Oct. 16, 2023), <https://www.justice.gov/media/1319521/dl?inline>; see *Ms. L v. U.S. Immigration and Customs Enf't*, No. 3:18-cv-00428-DMS-AHG (S.D. Cal.), Doc. 711-1, <https://www.justice.gov/media/1319516/dl?inline> [hereinafter Settlement Agreement].

⁵ See Settlement Agreement at 27 (“[Customs and Border Protection] will not refer an adult for prosecution solely under 8 U.S.C. § 1325(a) if the adult is traveling with a minor, is the minor's parent or Legal Guardian, and is the only parent or Legal Guardian traveling with the child[.]”).

⁶ See Settlement Agreement at 3; see also Rebecca Santana & Elliot Spagat, *Settlement over Trump family separations at the border limits future separations for 8 years*, ASSOCIATED PRESS (Oct. 16, 2023, 1:43 PM), <https://apnews.com/article/separated-children-trump-biden-border-immigration-f9a73685d0ddbcda86e5b69997f5f7dd>.

⁷ See Gabrielle Fonrouge, *Mexican drug cartels using kids as decoys in to smuggle its members into US: sheriff*, N.Y. POST (Mar. 22, 2021, 12:01 PM), <https://nypost.com/2021/03/22/mexican-drug-cartels-use-kids-as-decoys-to-smuggle-members-into-us/>.


4. All documents and communications referring or relating to the decision(s) to provide social services to illegal aliens and limit prosecution of certain illegal aliens between or among employees of Executive Branch agencies, including, but not limited to, employees of the Department of Justice, the Department of Homeland Security, the Department of Health and Human Services, and the Department of Housing and Urban Development.
5. All documents and communications referring or relating to estimates of the total cost of the settlement, including a final cost estimate and a breakdown of the funds and programs used to provide social services to the settlement class and qualifying additional family members.
6. Whether the Department is considering, or has considered, payments to class members as part of this settlement or any related settlements.
7. An explanation of the legal basis for limiting future administrations from pursuing criminal charges against illegal aliens, including all documents and communications with the Department of Justice Office of Legal Counsel referring or relating to that basis.

Please provide this information as soon as possible, but no later than 5:00 p.m. on November 20, 2023. 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.⁸ 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

⁸ Rules of the U.S. House of Representatives, R. X (2023).