

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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March 7, 2024

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

Dear Secretary Becerra:

The Committee on the Judiciary and the Subcommittee on Immigration Integrity, Security, and Enforcement have been conducting oversight¹ of the Department of Health and Human Services (HHS), including its Office of Refugee Resettlement's (ORR) care and placement of unaccompanied alien children (UAC) referred by U.S. Customs and Border Protection (CBP).² The volume of illegal aliens, including UACs, encountered along the southwest border continues at a staggering pace under the Biden Administration.³ Since January 20, 2021, CBP has encountered nearly 7.3 million illegal aliens along the southwest border, nearly half a million of which have been UACs.⁴ According to news reports from last year, HHS ORR has lost contact with at least 85,000 of these children⁵—if not far more.

¹ See e.g. Jim Jordan et al., Chairman, H. Comm. on the Judic. to Xavier Becerra, Sec'y, U.S. Dep't of Health and Human Servs. (Feb. 27, 2023); *The Biden Border Crisis: Exploitation of Unaccompanied Alien Children: Hearing Before the Subcomm. on Immigr. Integrity, Security, & Enf't of the H. Comm. on the Judiciary*, 118th Cong. (Apr. 26, 2023); *The Biden Border Crisis: Part III: Hearing Before the Subcomm. on Immigr. Integrity, Security, & Enf't of the H. Comm. on the Judiciary*, 118th Cong. (May 23, 2023); Letter from Jim Jordan et al., Chairman, H. Comm. on the Judic., to Xavier Becerra, Sec'y, U.S. Dep't of Health and Human Servs. (June 23, 2023); Letter from Jim Jordan et al., Chairman, H. Comm. on the Judic., to Xavier Becerra, Sec'y, U.S. Dep't of Health and Human Servs. (July 18, 2023); Letter from Jim Jordan et al., Chairman, H. Comm. on the Judic., to Xavier Becerra, Sec'y, U.S. Dep't of Health and Human Servs. (Aug. 17, 2023); Letter from Jim Jordan et al., Chairman, H. Comm. on the Judic., to Xavier Becerra, Sec'y, U.S. Dep't of Health and Human Servs. (Aug. 29, 2023); Letter from Jim Jordan et al., Chairman, H. Comm. on the Judic., to Xavier Becerra, Sec'y, U.S. Dep't of Health and Human Servs. (Nov. 13, 2023).

² William Wilberforce Trafficking Victims Prot. Reauthorization Act of 2008, Pub. L. No. 110-457 § 235, 112 Stat. 5044, 5077 (2008) (8 U.S.C. § 1232(b)(1)).

³ U.S. Customs and Border Prot., *Sw. Land Border Encounters*, U.S. DEP'T OF HOMELAND SEC. (last accessed Feb. 27, 2024).

⁴ *Id.*

⁵ Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, N. Y. TIMES (Feb. 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

Under your leadership, HHS ORR has “par[ed] back protections that had been in place for years[,] including some background checks and reviews of children’s files.”⁶ The failure to adequately screen sponsors pre-placement and monitor UACs post-placement has resulted in the exploitation of UACs, including UACs working in dangerous jobs that children are legally prohibited from doing.⁷ According to the HHS Office of the Inspector General (OIG), these policies have resulted in the failure of HHS to conduct required safety checks, including even sex offender address and name checks.⁸ As the Committee and Subcommittee’s oversight has shown, HHS ORR’s failures have led to the release of UACs who go on to commit egregious crimes against Americans.⁹

On February 25, 2023, press reports revealed private comments you made in July 2022, in which you likened HHS ORR’s responsibility to safely place UACs with vetted sponsors to an “assembly line.”¹⁰ Comparing UACs to automobiles, you said: “If Henry Ford had seen this in his plants, he would have never become famous and rich. This is not the way you do an assembly line.”¹¹ On March 9, 2023, more of your private comments became public.¹² You seemingly expressed a desire to avoid Congressional oversight of HHS ORR’s UAC failures, saying:

Every time we have to go to the Hill and explain why we’re spending so much money, when most people are struggling to spend a little bit of money for their kids on a daily basis, we try to explain how we’re spending more than \$1,000 a day on kids who may not even have a legal right to be here? Not me.¹³

As HHS has noted to the Committee and Subcommittee on many occasions, “[HHS] ORR’s custodial responsibilities end when a child is discharged.”¹⁴ In light of this admission, it is troubling that you seem to place such emphasis on the speed of UAC releases rather than on the integrity of these placements. As we have seen, HHS ORR’s failure to ensure UACs are in appropriate placements and adequately vet sponsors harms not only the UACs, but also American citizens.

As the most senior HHS official with oversight responsibilities for the vetting and

⁶ *Id.*

⁷ *Id.*

⁸ See INSPECTOR GENERAL, DEP’T. OF HEALTH AND HUMAN SERVS., OEI-07-21-00250, GAPS IN SPONSOR SCREENING AND FOLLOWUP RAISE SAFETY CONCERNS FOR UNACCOMPANIED CHILDREN at 2 (2024).

⁹ See, e.g., H. Comm. on the Judiciary, Interim Staff Rep., *The Murder of Kayla Hamilton: A Case for Immigr. Enf’t, and Border Security* (May 23, 2023); *The Biden Border Crisis: Part III: Hearing Before the Subcomm. on Immigr. Integrity, Security, & Enf’t of the H. Comm. on the Judiciary*, 118th Cong. (May 23, 2023).

¹⁰ Dreier, *supra* note 4.

¹¹ *Id.*

¹² Sabrina Tavernise, *A New Child Labor Crisis in America*, *The Daily, N. Y. TIMES* (Mar. 9, 2023), <https://www.nytimes.com/2023/03/09/podcasts/the-daily/migrant-child-labor-america.html>.

¹³ *Id.*

¹⁴ See, e.g., 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 Judic. (Feb. 16, 2024).

placement of UACs, we require testimony from you.¹⁵ For that reason, on February 16, 2024, Committee staff reached out to HHS staff to inquire about your availability for a Subcommittee hearing in March 2024.¹⁶ HHS staff notified the Committee that you were not available on the selected date.¹⁷ However, when the Committee followed up to inquire about your availability for a future date of your convenience, HHS staff asserted that you were not the “appropriate” witness for the Subcommittee and indicated you would not be willing to testify.¹⁸

In support of its assertion that you are not the “appropriate” witness for the Subcommittee, HHS staff reasoned that the hearing “would be with a subject matter-specific subcommittee and focus on a specific program office.”¹⁹ HHS staff distinguished from your testimony at an oversight subcommittee hearing²⁰ of another House standing committee examining the same topic based upon that committee’s “status as the Department’s authorizing committee.”²¹ HHS’s assertion is unpersuasive. This assertion is unsupported by any constitutional or statutory authority—or indeed any valid authority—because there is none. Indeed, contrary to HHS’s assertion, the Rules of the House of Representatives authorize the Committee to conduct oversight of federal immigration policy and procedures,²² and the Committee’s rules empower the Subcommittee in particular to conduct oversight of immigration, border security, and “other appropriate matters.”²³

HHS may not determine which witnesses are “appropriate” for purposes of the Committee and Subcommittee’s Constitutional oversight. The Subcommittee is leading this oversight of HHS ORR’s care and placement of UACs and it must hear directly from you, as the politically accountable head of the Department, to explain your comments about UAC vetting and to describe what specific efforts you are taking to force ORR to address its egregious failures. Accordingly, we write to respectfully request your testimony at a hearing before the Subcommittee on Immigration Integrity, Security, and Enforcement of the Committee on the Judiciary titled, “Oversight of the Department of Health and Human Services’ Office of Refugee Resettlement,” on May 22, 2024, at 10:00 a.m. in room 2141 of the Rayburn House Office

¹⁵ As a part of our oversight, the Subcommittee has already received the testimony of the ORR Director and the Acting Ass’t Sec’y of the Admin. for Child. & Fams. *See* Transcribed Interview of Ms. Robin Dunn Marcos (June 8, 2023) (on file with Comm.); Refugee Consultation (Sept. 27, 2023).

¹⁶ E-mail from Comm. staff, H. Comm. on the Judic., to Off. of Ass. Sec’y for Legis., U.S. Dep’t of Health and Human Servs. (Feb. 16, 2024) (on file with Comm.).

¹⁷ E-mail from Off. of Ass. Sec’y for Legis., U.S. Dep’t of Health and Human Servs., to Comm. staff, H. Comm. on the Judic. (Feb. 20, 2024) (on file with Comm.).

¹⁸ E-mail from Off. of Ass. Sec’y for Legis., U.S. Dep’t of Health and Human Servs., to Comm. staff, H. Comm. on the Judic. (Feb. 22, 2024) (on file with Comm.); E-mail from Off. of Ass. Sec’y for Legis., U.S. Dep’t of Health and Human Servs., to Comm. staff, H. Comm. on the Judic. (Feb. 29, 2024) (on file with Comm.).

¹⁹ E-mail from Off. of Ass. Sec’y for Legis., U.S. Dep’t of Health and Human Servs., to Comm. staff, H. Comm. on the Judic. (Feb. 29, 2024) (on file with Comm.).

²⁰ *Stopping the Exploitation of Migrant Children: Oversight of HHS’ Office of Refugee Resettlement: Hearing Before the Subcomm. on Oversight & Investigations, of the H. Comm. on Energy & Commerce*, 118th Cong. (July 26, 2023).

²¹ E-mail from Off. of Ass. Sec’y for Legis., U.S. Dep’t of Health and Human Servs., to Comm. staff, H. Comm. on the Judic. (Feb. 29, 2024) (on file with Comm.).

²² Rules of the U.S. House of Representatives, 118th Cong., R. X (2023).

²³ Rules of the H. Comm. on the Judic., 118th Cong., R. VI (2023).

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Please ask your staff to confirm your appearance before the Committee as soon as possible, but no later than 5:00 p.m. on March 21, 2024. If you have any questions, please contact Committee staff at (202) 225-6906. 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