

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States  
House of Representatives

COMMITTEE ON THE JUDICIARY

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January 23, 2024

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> To that end, since June 2023 we have asked HHS for data and information about HHS policies relating to UAC placement, sponsor vetting, and criminal- and gang-affiliated UACs.<sup>2</sup> The response, to date, has been woefully inadequate.

For more than six months, the Committee has asked for your cooperation with a series of requests arising from the Committee's transcribed interview of ORR Director Robin Dunn Marcos.<sup>3</sup> 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.<sup>4</sup> Ms. Dunn Marcos also did not have the data the Committee requested, including, for example, the total number of UACs that ORR has placed in the custody of a known sex offender or the total number of sponsor applications rejected based on the potential sponsor being a convicted murderer.<sup>5</sup> Instead, the HHS attorneys at the interview represented that the Department would provide the Committee with the requested information at a later date.<sup>6</sup>

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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> See, e.g., Transcribed Interview of Robin Dunn Marcos.

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

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

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

<sup>6</sup> See, e.g., *id.* 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.).

In the months since the June 8 interview, the Committee has repeatedly inquired about the status of this requested information.<sup>7</sup>

On September 29, the Department provided a response to the Committee's long-outstanding requests.<sup>8</sup> However, instead of providing the promised information responsive to the Committee's concerns, the Department's response contained a series of generalized statements that partially touched on a small fraction of the Committee's requests.<sup>9</sup> On November 13, the Committee wrote to you once again seeking your voluntary cooperation with our oversight and reiterating these outstanding requests.<sup>10</sup> However, you have produced nothing of substance, refusing to even acknowledge these requests in your November 27 response to the Committee.<sup>11</sup> Your failure to provide the requested materials hinders the Committee's ability to fulfill its constitutional oversight obligations.

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."<sup>12</sup> Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning federal immigration law to inform potential legislative reforms.<sup>13</sup> These potential legislative reforms could include, among other proposals, enhancing the level of scrutiny applied in vetting UACs and potential sponsors and requiring minimum standards relating to the referral of known gang members. To inform such potential reforms, the Committee must first understand the Administration's current application of federal immigration law.

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<sup>7</sup> *Compliance with Committee Oversight: Hearing Before the Subcomm. on Responsiveness and Accountability to Oversight of the H. Comm. on the Judiciary*, 118th Cong. at 30-31 (July 18, 2023); 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); Email from Comm. 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.); Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Xavier Becerra, Sec'y, U.S. Dep't of Health and Human Servs. (Nov. 13, 2023).

<sup>8</sup> Letter from Melanie Egorin, Ass't Sec'y for Legislation, U.S. Dep't of Health and Human Servs., to the Hon. Jim Jordan, Chair, H. Comm. on the Judic. (Sept. 29, 2023).

<sup>9</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>10</sup> Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Xavier Becerra, Sec'y, U.S. Dep't of Health and Human Servs. (Nov. 13, 2023).

<sup>11</sup> Letter from Melanie Egorin, Ass't Sec'y for Legislation, U.S. Dep't of Health and Human Servs., to the Hon. Jim Jordan, Chair, H. Comm. on the Judic. (Nov. 27, 2023).

<sup>12</sup> *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).

<sup>13</sup> Rules of the House of Representatives R. X (2023).

The Honorable Xavier Becerra

January 23, 2024

Page 3

Accordingly, given HHS's inadequate voluntary compliance, please find attached a subpoena for the Committee's requested documents and information.

Sincerely,

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

Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure