

United States Senate
WASHINGTON, DC 20510

October 12, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services

Dear Secretary Becerra:

Children who have crossed our border illegally still rely upon our government for protection. This responsibility falls primarily upon the Department of Health and Human Services and its Office of Refugee Resettlement (ORR), which is tasked with finding and adequately vetting suitable individuals to sponsor Unaccompanied Alien children (UAC) as they await removal proceedings.¹ The Biden administration has failed these children at every step. Due to a poor legal framework for dealing with UACs,² lax border enforcement that invites migrants to make the dangerous journey to the southern border, and poor vetting procedures by ORR, thousands of migrant children are in grave danger of human trafficking, exploitation, and abuse. I wrote to you last December expressing concern at the reports that HHS had prioritized speed over the safe processing of UACs.³ After nearly a year and repeated inquiries by my staff, you have continually failed to respond to my letter, which shows a lack of priority for congressional oversight and disregard for this critical issue. And since I reached out, the situation apparently has gotten even worse.

Due to President Biden's open-border policies, there has been a surge to an average of 13,199 apprehensions of UACs a month during this administration, a jaw-dropping 333% increase from numbers reported in the Trump administration.⁴ And even beyond the grave threat

¹ 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)).

² Letter, Senator Charles E. Grassley, Ranking Member, Senate Comm. on the Judiciary, and Rep. Jim Jordan, Ranking Member, House Comm. on the Judiciary, to President Joseph R. Biden (April 15, 2021) (discussing the difference in treatment of UACs from contiguous and non-contiguous countries under the Trafficking Victims Protection Reauthorization Act of 2008), https://www.grassley.senate.gov/imo/media/doc/grassley_jordan_to_biden_-_tvpra.pdf.

³ Letter, Senator Charles E. Grassley, Ranking Member, Comm. on the Judiciary, to the Hon. Xavier Becerra, Secretary, Dep't of Health and Human Services (December 12, 2022), https://www.grassley.senate.gov/imo/media/doc/grassley_to_deptofhealthandhumanservicesuacplacements.pdf.

⁴ Federation for American Immigration Reform, How Misguided Policy Attracts Unaccompanied Alien Children to the Southern Border (April 3, 2023), <https://www.fairus.org/legislation/federal-legislation/border-security/how-misguided-policy-attracts-unaccompanied-alien>; see also, *Fla. v. United States*, No. 3:21-CV-1066-TKW-ZCB, 2023 WL 2399883, at *7 (N.D. Fla. Mar. 8, 2023) (Judge Kent Wetherell, II determined that the Biden administration's, "position that the crisis at the border is not largely of their own making because of their more lenient detention policies is divorced from reality and belied by the evidence. Indeed, the more persuasive evidence

these massive numbers of migrants represent to our national sovereignty, there are scores of threats to the well-being of these children. Experts estimate that 60 percent of Latin American children who attempt to cross the U.S. southern border have been “caught by the cartels and are being abused in child pornography or for drug trafficking.”⁵ Many of these children become victims of modern-day slavery. As of last year, smuggling had become a \$13 billion business, up from \$500 million in 2018.⁶ Smugglers at the border even place wrist bands on migrants, to mark “that they belong to them.”⁷

And these dangers continue when these children are in the United States. A whistleblower from the Council of the Inspectors General on Integrity and Efficiency, who volunteered for HHS to assist with processing UACs, last year described HHS’s placement of children with human traffickers and other criminals. When she raised concerns with ORR’s placement of migrant children with sponsors that she believed may be trafficking UACs, she says an HHS official told her, “we only get sued if we keep kids in care too long. We don’t get sued by traffickers.”⁸ When journalists followed up at physical addresses provided by the whistleblower, they spoke to a young migrant female who had been “pimped” to men by her sponsor. This whistleblower says she was retaliated against for raising these red flags, and that HHS took measures to make sure she, “could no longer research the cases.”⁹ This kind of story is repeated daily in the U.S., with drug cartels using trafficking victims not only to profit from sexual abuse, but also to “double[] up on the money they can make” from victims by using them also to smuggle drugs across the border.¹⁰

And yet the Biden administration is determined to rapidly release UACs from custody at the expense of proper vetting. In 2022, the Biden administration released over 18,000 unaccompanied minors to nonfamily sponsors, with hundreds of these children released to nonfamily sponsors who were already hosting three or more UACs, raising questions of whether

establishes that [the administration] effectively incentivized what they call ‘irregular migration’ that has been ongoing since early 2021 by establishing policies and practices that all-but-guaranteed that the vast majority of aliens arriving at the Southwest Border who were not excluded under the Title 42 Order would not be detained and would instead be quickly released into the country where they would be allowed to stay (often for five years or more) while their asylum claims were processed or their removal proceedings ran their course.”).

⁵ Heather Robinson, How Biden’s border policies will increase sex trafficking of children to the US (April 17, 2021) (citing Teresa Ulloa Ziaurriz, director of the Latin American branch of the Coalition Against Trafficking International), <https://nypost.com/2021/04/17/how-bidens-border-policy-will-increase-child-sex-trafficking-to-us/>.

⁶ Miriam Jordan, Smuggling Migrants at the Border Now a Billion-Dollar Business, New York Times (July 25, 2022), <https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html>.

⁷ *Id.*

⁸ Project Veritas, U.S. Dep’t of Health & Human Services Whistleblower Reveals ‘Tax Dollars’ Spent to ‘Put Migrant Children in the Hands of Criminals’ (November 29, 2022), <https://www.projectveritas.com/news/u-s-department-of-health-and-human-services-whistleblower-reveals-tax>.

⁹ *Id.*

¹⁰ Jarod Forget, Special Agent in Charge, Washington, D.C. Division, U.S. Drug Enforcement Agency, Violent drug organizations use human trafficking to expand profits (January 28, 2021), <https://www.dea.gov/stories/2021/2021-01/2021-01-28/violent-drug-organizations-use-human-trafficking-expand-profits>.

children in this group may be victims of further trafficking, abuse, or child labor.¹¹ This year, a Florida grand jury found that:

ORR actively discouraged its employees, including case managers and those tasked with conducting sponsor verifications, UAC interviews and post-release followup, and fingerprint and background checks, from questioning the process even internally; some were transferred, some terminated, some threatened, and some smeared simply for not processing the UAC as quickly as possible. One was fired for reporting a case of suspected human trafficking (of over 100 UAC shipped off to a single house in Texas) to a government hotline because her ORR superiors refused to investigate the matter.¹²

And to make matters worse, HHS has lost contact with over 85,000 children placed by ORR with sponsors.¹³ While I am aware that HHS does not maintain legal custody of these children after they are placed with a sponsor, losing contact with this many children raises additional serious questions about whether sponsors for these children received the proper scrutiny and instruction.

It appears that your own directives to expedite the release of UACs from HHS custody may also have contributed to this crisis. You compared the processing of these children by HHS to that of an assembly line in one of Henry Ford's factories.¹⁴ Mr. Secretary, it should go without saying that children are not vehicles on Henry Ford's assembly line. The cartels treat these children like mere property, but this country should not. No matter how adults have failed them and flaunted our laws, these children are not to blame for those failures, and we must do everything we can to ensure their safety. The safety of children and full vetting of sponsors must take priority over speed. Simply put, HHS's conduct is beyond unacceptable.

It is important that HHS provide Congress with sufficient information so that we may conduct thorough and independent oversight of ORR, its vetting process, and the disastrous effect it's had on innocent children. Accordingly, I reiterate the unanswered information requests in my December letter, and request HHS provide full responses to the following additional requests no later than October 26, 2023:

¹¹ Laura Strickler and Julia Ainsley, Report finds more than 340 migrant kids were sent to live with nonrelatives who sponsored other children, NBC News (June 2, 2023), <https://www.nbcnews.com/politics/immigration/advocates-hhs-questions-unaccompanied-migrants-child-labor-rcna87326>.

¹² Third Presentment of the Twenty-First Statewide Grand Jury Regarding Unaccompanied Alien Children (UAC), Case No.: SC22-796, In the Supreme Court of Florida (March 29, 2023), <https://acis-api.flcourts.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/651d8f68-f322-4cd0-831f-74dc9b0d77a8/docketentrydocuments/8437d6e2-1c46-4575-bd21-47de83302c61>.

¹³ Hannah Dreier, Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S., New York Times (February 25, 2023), <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

¹⁴ *Id.*

1. For sponsors who claim to be a relative or parent of the child, what evidence does ORR require the sponsor to provide to establish this familial relationship, and what safeguards are in place to assure false claims of family relationship are not made?
 - a. Please provide data for what percentage of potential sponsors have been determined to have made a false claim of family relationship, and describe what steps were taken in those instances to punish the potential sponsors and help the children.
2. On March 31, 2021, ORR issued Field Guidance #11, which ended background check requirements for category 2 sponsors, who have been determined to be immediate relatives, in most instances.¹⁵
 - a. Why did HHS end these background check requirements?
 - b. What assessments has HHS conducted to determine whether these changes endangered children or led to their placement with unsafe sponsors? Please provide all data and analysis compiled by HHS on this topic, as well as all records documenting the reasons this change was made.¹⁶
3. Please provide in detail all policies HHS has in place to ensure the safe handling of children by government contractors, including temporary housing for UACs and transferring children to sponsors. In responding to this request, name what steps HHS takes to ensure children are able to report instances of abuse by federal contractors and are informed of the processes in place to safely file those reports.
 - a. In responding to this request, please also provide data for reports of abuse at any UAC housing facility since January 1, 2022, broken down by facility;
 - b. Provide the costs for each federal contract.
4. Please describe in detail all processes ORR has to follow up with UACs after placement with sponsors, and provide data broken into the following categories for sponsors placed by ORR since January 1, 2022 (divided by month):
 - a. The total number and percentage of 30-day wellness check calls made;
 - b. The total number and percentage of wellness check calls answered and not answered, in absolute numbers and as a percentage of total unique calls attempted;
 - c. If the number of unique calls attempted is less than the total number UACs placed with sponsors in a given month, an explanation for the discrepancy;
 - d. Provide a copy of HHS's written policies and procedures detailing steps taken if wellness check calls are unanswered and contact cannot be made with sponsors after the first attempt; and

¹⁵ Dep't of Health and Human Services, Admin. for Children and Families, Office of Refugee Resettlement, Field Guidance #11, Temporary Waivers of Background Check Requirements for Category 2 Adult Household Members and Adult Caregivers (March 31, 2021), <https://www.acf.hhs.gov/sites/default/files/documents/orr/FG-11%20Temporary%20Waiver%20of%20Background%20Check%20Requirements%202021%2003%2031.pdf>.

¹⁶ "Records" include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (e-mails, email attachments, and any other electronically-created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether or not they resulted in final documents).

- e. Provide all records related to all actions HHS has taken to re-establish contact with sponsors for the estimated 85,000 UACs referenced in this letter.
5. In an October 6, 2023, “Fact Sheet” released by ORR, the claim was made that, “[a]s a part of the placement process, potential sponsors must undergo a criminal public records check, and in most cases, a sex offender registry check. When there is a safety concern for release to a related sponsor or when considering release to an unrelated sponsor, ORR also conducts background checks on adult household members and individuals identified in a potential sponsor’s care plan.”¹⁷
- a. Please describe any exceptions to sponsors being required to undergo criminal public records checks, and the numbers of sponsors who have not undergone such background checks as a percentage of total sponsors;
 - b. Please describe what cases do not require a sex offender registry check, and the reasons for this omission, as well as documentation of any changes in procedure made since 2021;
 - c. Please describe and provide all written policies for how ORR determines whether or not there is a “safety concern” about a related sponsor and the total number of identified household members who have not been subject to a background check, broken down by year since this policy was changed;
 - d. For background check results, provide a numerical breakdown of all hits within the criminal and sex offender category;
 - e. Does HHS take any steps to determine if a sponsor is connected to a cartel? If so, please describe those steps to include interaction with other government agencies and database searches;
 - f. How many potential sponsors have been identified as connected to cartels? Has HHS ever placed a UAC with a sponsor connected to a cartel? If so, when and how many times?; and
 - g. Please provide your written policies concerning release of UACs to unrelated sponsors.
6. Provide all records documenting any instructions you have made to ORR or any other person or component within HHS requesting they expedite processing of UACs, and all records documenting any concerns expressed about those instructions.
7. According to a report by the New York Times earlier this year, citing “five people familiar with the call,” you told Ms. Cindy Huang, then ORR Director, that, “if she could not increase the number of discharges [of UACs], [you] would find someone who could,” and that you “made a similar threat to her successor.”¹⁸ Are these reports true? If so, why did you issue these instructions, and what specific steps did you order to prevent the increased processing pace from endangering the safety of UACs?

¹⁷ Dep’t of Health and Human Services, Administration for Children & Families, Office of Refugee Resettlement, ORR Influx Care Facilities for Unaccompanied Children Fact Sheet (October 6, 2023), <https://www.acf.hhs.gov/sites/default/files/documents/orr/icf-uc-fact-sheet.pdf>.

¹⁸ New York Times, *supra* n. 13.

8. Provide a list of all employees who were transferred, terminated, or threatened with any adverse action after expressing any feedback concerning the ORR vetting process or concerns about any aspect of ORRs placement of UACs.
 - a. Provide the name and personnel file for the employee referenced in the Florida grand jury report, who was “fired for reporting a case of suspected human trafficking (of over 100 UAC shipped off to a single house in Texas) to a government hotline because her ORR superiors refused to investigate the matter.” When responding to this request, include all records related to the underlying matter, the names of the HHS supervisors the employee reported the matter to, and all records related to their response to these reports.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

cc: The Honorable Christi A. Grimm
Inspector General
Department of Health and Human Services