

Congress of the United States

Washington, DC 20515

September XX, 2024

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Secretary Mayorkas:

The ongoing crisis at the southern border raises serious concerns about the Department of Homeland Security's (DHS) ability to provide proper oversight and accountability for unaccompanied alien children (UAC). Since President Biden took office, U.S. Customs and Border Patrol agencies have encountered 473,145 UACs at the southwest border.¹ Recently, an alarming report by the DHS Office of Inspector General (OIG) confirmed that Immigration and Customs Enforcement (ICE) is failing to fulfill various mandatory safety checks necessary to protect the safety and well-being of unaccompanied migrant children. If the Biden Administration is intent on keeping our nation's borders open to potential human traffickers, cartels, and other criminals, then DHS, in coordination with the Department of Health and Human Services (HHS), is directly responsible for ensuring unaccompanied children are not lost, trafficked, or abused.

Amid the worst border invasion in our nation's history, it was reported in July 2023 that the Office of Refugee Resettlement (ORR) within HHS lost contact with more than 85,000 children in sponsor care.² Now, DHS OIG has reported more than 291,000 UACs unaccounted for under the Biden Administration because they failed to receive an ICE Notice to Appear (NTA).³ According to the OIG's report, "U(A)Cs who do not appear for court are considered at higher risk for trafficking, exploitation, or forced labor."⁴ This failure by both DHS and HHS to ensure the safety of UACs residing in the U.S. is a direct consequence of the Biden Administration's negligence in securing the southwest border.

The collaboration and coordination between ICE and ORR are pivotal in the care and placement of UACs who enter the United States. When UACs are apprehended by ICE, the agency is responsible for ensuring their immediate safety and initial processing. ICE officers conduct health screenings and gather essential information before transferring the children to ORR, which typically occurs within 72 hours of their apprehension. ORR then takes over the responsibility for

¹ "Southwest Land Border Encounters," U.S. Customs and Border Protection, Department of Homeland Security, February 13, 2024, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

² "Hearing Wrap Up: ORR Director Fails to Answer Questions About 85,000 Lost Unaccompanied Alien Children, Flawed Vetting of Sponsors, and More," Committee on Oversight and Accountability, U.S. House of Representatives, April 18, 2023, <https://oversight.house.gov/release/hearing-wrap-up-orr-director-fails-to-answer-questions-about-85000-lost-unaccompanied-alien-children-flawed-vetting-of-sponsors-and-more%ef%bf%bc/>.

³ "Management Alert - ICE Cannot Monitor All Unaccompanied Migrant Children Released from DHS and U.S. Department of Health and Human Services' Custody," U.S. Department of Homeland Security Office of Inspector General, August 19, 2024. <https://www.oig.dhs.gov/sites/default/files/assets/2024-08/OIG-24-46-Aug24.pdf>.

⁴ Id.

the children once they leave ICE custody. ORR's stated responsibilities are to ensure UACs are placed in appropriate care settings, such as in certified foster homes, shelters, or other child-appropriate facilities, while awaiting immigration proceedings. ORR retains custody of a UAC until they are released to the care of a sponsor, transferred to foster care, or turn 18 years old. The care and placement of migrant children is supposed to be a seamless transition between government agencies to maintain the well-being of the child during a challenging and vulnerable time in their lives. However, to reiterate, both ORR and ICE have lost contact with tens of thousands of UACs during this process. The Biden Administration's lackluster policies, ignorance, and direct failure to act have created a broken system that exposes UACs to human traffickers and smugglers.

Human trafficking has swollen into a multibillion-dollar industry further enabled by the current administration's lax border policies. Drug cartels, human traffickers, and smugglers are further incentivized by the policies of this administration to use UACs to easily slip across the border undetected.⁵ Nearly 12% of forced labor victims are children, half of whom are in commercial sexual exploitation.⁶ Both DHS and HHS are vital to the protection of UACs through the vetting and proper oversight of their immigration cases, court proceedings, and placement with sponsors. Their failure to carry out these requirements raises serious safety concerns.

The DHS OIG report observed that despite ICE's limited authority over UACs beyond managing their immigration cases, its failure to issue NTAs has a direct correlation with UACs at risk of trafficking and exploitation. By not issuing NTAs to all UACs, the chance of ICE having contact with a UAC once they are released from HHS custody is even lower. It is critical that ICE remedies its practices and procedures regarding information sharing with HHS, the timely release of NTAs, and increased oversight of immigration case statuses.

My office has previously sent several oversight letters to HHS regarding this administration's failures endangering UACs. We now request your response to the following questions to understand the coordination between DHS and HHS and the scope of ICE's role in the critical issue at hand:

1. In the DHS OIG final management report, it was found that ICE did not always alert HHS when UACs did not appear for immigration hearings. In turn, HHS personnel cannot determine if UACs need wellness checks or are at risk of being trafficked.
 - a. Why is ICE not currently required to share this information with HHS?
 - b. How often and effectively is information regarding the well-being and/or case status of a UAC shared between ICE and ORR?
 - c. What measures are in place to ensure the accuracy and timeliness of this information exchanged between agencies?

⁵ One former border agent recounted witnessing traffickers "providing" children to unrelated adults at the border, only for the adults to return those children to the traffickers after reaching their destination within the U.S. Heather Robinson, "How Biden's Border Policies Will Increase Sex Trafficking of Children to US," New York Post, April 17, 2021, <https://nypost.com/2021/04/17/how-bidens-border-policy-will-increase-child-sex-trafficking-to-us/>.

⁶ "Forced Labour, Modern Slavery and Human Trafficking," International Labour Organization, United Nations, September 2022, <https://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>.

- d. Please elaborate on how this process of information sharing will be evaluated and remedied following OIG's recommendations.
2. How often do ICE and ORR hold coordination meetings regarding the care of unaccompanied children? What communication channels are used for daily updates and emergency notifications between the two agencies?
3. According to DHS OIG, as of May 2024, ICE has not served NTAs on more than 291,000 UACs. What are ICE and/or other departments currently doing to account for these children?
4. How does ICE track and audit the issuance of NTAs to ensure that all unaccompanied children are accounted for? What accountability measures are in place when failures occur?
5. Currently, ICE has limited authority to respond when a UAC is identified in unsafe conditions. Please describe the process ICE uses to notify local authorities, HHS, or other parties when ICE cannot respond to a UAC in an at-risk environment.
6. If a UAC fails to appear in court, ICE Enforcement and Removal Operations (ERO) has no formal process for locating the UAC or notifying HHS.
 - a. Why has ICE ERO never documented this process in a formal policy or guidance document?
 - b. Without a formal policy, how does ICE follow up on UACs who did not appear in court? Please describe the coordination with HHS ORR and the UAC's sponsor.
 - c. Of the more than 32,000 UACs that failed to appear for their immigration court hearings between FYs 2019-2023, how many of these cases did ICE follow up on? Please describe the role that ORR plays in contacting the UAC's sponsor.

The Biden Administration and Democrats in Congress have neither accepted responsibility nor taken accountability for failing to close our southern border. This has encouraged a record number of criminal aliens to use migrant children as a "free pass" to cross our border. Needless to say, to ensure that children at our southern border are safely processed, they should be provided with NTAs and placed with properly vetted sponsors, at minimum. The Biden Administration and its responsible departments must also provide more transparency into their policies and ensure proper enforcement of procedures surrounding UACs. We expect your full attention to this important matter and look forward to your prompt reply.

Sincerely,

Lance Gooden
Member of Congress

Cc: Secretary Becerra, Department of Health and Human Services