

United States Senate
WASHINGTON, DC 20510

September 3, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security

Dear Secretary Mayorkas:

I've conducted oversight related to unaccompanied alien children (UCs) for the last decade, during administrations of both parties, as Chairman of the Senate Finance Committee and Senate Judiciary Committee, and now as Ranking Member of the Senate Budget Committee.¹ I'm deeply alarmed by the August 19, 2024, Department of Homeland Security Office of Inspector General (DHS OIG) report which outlined DHS's failure to locate and protect unaccompanied children.² These failures must not continue, and the children who have been placed in these vulnerable positions must be protected.

The Department of Health and Human Services (HHS) has primary responsibility for the care of UCs while they await removal proceedings. Based on the DHS OIG report, the vast majority of the UCs transferred from DHS to the custody of HHS' Office of Refugee Resettlement (ORR) since Fiscal Year (FY) 2019 were transferred during the Biden-Harris administration, due to the massive surge of UCs at the southern border. According to the OIG's numbers, nearly 366,000 of the 448,820 UCs placed in ORR custody since FY 2019 were placed from FY 2021 to FY 2023, a direct result of this administration's open border policies.³ I've repeatedly expressed concern that at least 85,000 UCs were lost by the Biden-Harris administration as of early last year, with HHS unable to establish contact after their placement with sponsors.⁴ In a recent roundtable I hosted to highlight congressional oversight on this matter, an expert witness outlined how children are brought to the U.S. by cartels and then placed in homes in the U.S., where they're exploited for sex or labor.⁵ We don't know the full

¹ See, e.g., Press Release, Grassley, Hatch, Coburn Press for GAO study on The Office of Refugee Resettlement Efforts With Unaccompanied Minors (October 10, 2014), <https://www.grassley.senate.gov/news/news-releases/grassley-hatch-coburn-press-gao-study-office-refugee-resettlement-efforts>; Press Release, Obama Administration Allegedly Releasing Unaccompanied Minors Into Criminals' Custody (November 24, 2015), <https://www.grassley.senate.gov/news/news-releases/obama-administration-allegedly-releasing-unaccompanied-minors-criminals-custody>; Prepared Statement, Grassley Statement on the MS-13 Gang Problem, Its Nexus to Illegal Immigration and Federal Efforts to End the Threat (June 21, 2017), <https://www.grassley.senate.gov/news/news-releases/grassley-statement-ms-13-gang-problem-its-nexus-illegal-immigration-and-federal>; Press Release, Grassley, Wyden Release Investigation on Misconduct and Abuse at Federally-Funded Facilities Caring for Unaccompanied Migrant Children (October 28, 2021), <https://www.grassley.senate.gov/news/news-releases/grassley-wyden-release-investigation-on-misconduct-and-abuse-at-federally-funded-facilities-caring-for-unaccompanied-migrant-children>.

² U.S. Dep't of Homeland Security, Office of Inspector General, *Final Management Alert, Management Alert – ICE Cannot Monitor All Unaccompanied Migrant Children Released from DHS and U.S. Department of Health and Human Services' Custody*, OIG-24-46 (August 19, 2024), <https://www.oig.dhs.gov/sites/default/files/assets/2024-08/OIG-24-46-Aug24.pdf>.

³ *Id.* at 2.

⁴ See, e.g., Senator Grassley, Opening Remarks, Senate Roundtable, *The Exploitation Crisis: How the U.S. Government is Failing to Protect Migrant Children from Trafficking and Abuse* (July 9, 2024), <https://www.grassley.senate.gov/news/remarks/grassley-delivers-opening-remarks-at-roundtable-on-abuse-of-unaccompanied-migrant-children>.

⁵ Testimony of Dr. Jarrod Sadulski at Senate Roundtable, *How the U.S. Gov't is Failing to Protect Migrant Children from Trafficking and Abuse* (July 9, 2024), <https://www.youtube.com/watch?v=dUgUbKQTJew>.

scale of child exploitation through the ORR placement program, because HHS loses track of so many children, and the Biden-Harris administration has consistently withheld data from Congress.⁶ Moreover, this administration terminated a Trump administration memorandum of agreement (MOA) from 2018 that provided for robust information sharing between HHS and DHS, making DHS's job of investigating trafficking and locating children all the more difficult.⁷ As a result, the apparent lack of communication between DHS and HHS is a big part of the serious problems highlighted by the DHS OIG report.

The DHS OIG report also makes clear that DHS's role in the UC crisis is worse than previously known, and certainly worse than DHS has told Congress. The numbers don't lie. According to this shocking report, DHS is unable to account for many of the migrant children it's responsible for placing in removal proceedings. According to the OIG, over 32,000 children who were issued notices to appear (NTAs) failed to appear for immigration proceedings from FY 2019 to FY 2023. Further, Immigration and Customs Enforcement (ICE) failed to issue NTAs to a staggering 291,000 children in those years.⁸ This is roughly 65 percent of the total of 448,820 UCs transferred from DHS custody during that time period.⁹

As the Inspector General noted, by not issuing these NTAs, "ICE limits its chances of having contact with UCs when they are released from HHS custody, which reduces opportunities to verify their safety. Without an ability to monitor the location and status of UCs, ICE has no assurance UCs are safe from trafficking, exploitation, or forced labor."¹⁰

Just this year, my review of HHS ORR contractor records showed significant evidence of likely trafficking and exploitation.¹¹ As a result, in January, I referred information obtained from these legally-protected whistleblower disclosures to DHS and FBI.¹² ORR's lax vetting has placed migrant children in grave danger of exploitation and abuse and makes locating these children after placement difficult, something I fear hinders the work of DHS as well.¹³ I won't tire in my commitment to protect these children and bring about needed reforms to ensure they aren't placed in the hands of traffickers and those seeking to exploit them.

⁶ See, e.g., U.S. Senate Comm. on Homeland Security and Governmental Affairs, Minority Staff Report, *Federal Care of Unaccompanied Children: Minors Remain Vulnerable to Trafficking and Abuse* (December 2022) at 35 et seq., [https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/Federal%20Care%20of%20Unaccompanied%20Alien%20Children%20Report%20\(FINAL\).pdf](https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/Federal%20Care%20of%20Unaccompanied%20Alien%20Children%20Report%20(FINAL).pdf); see also, letter from Sen. Charles E. Grassley, Ranking Member, Senate Comm. on the Budget, to the Hon. Xavier Becerra, Secretary, Dep't of Health and Human Svcs. and Ms. Robin Dunn Marcos, Director, Office of Refugee Resettlement (July 26, 2024) (UAC data request unanswered by HHS after more than two months), <https://www.grassley.senate.gov/imo/media/doc/grassley-to-hhs-uac-data-request.pdf>.

⁷ See Testimony of Steven Wager, Acting Assistant Secretary, Admin. For Children and Families, U.S. Dep't of Health and Human Svcs., before the Permanent Subcommittee on Investigations, Senate Comm. on Homeland Security and Governmental Affairs, *Oversight of HHS and DHS Efforts to Protect Unaccompanied Alien Children from Human Trafficking and Abuse* (April 26, 2018) (noting the importance of the 2018 MOA, which "[gave DHS] the opportunity to share with [HHS] information about the sponsors and their suitability"), <https://www.govinfo.gov/content/pkg/CHRG-115shrg36157/html/CHRG-115shrg36157.htm>; U.S. Dep't of Homeland Security, *HHS and DHS Joint Statement on Termination of 2018 Agreement* (March 12, 2021), <https://www.dhs.gov/news/2021/03/12/hhs-and-dhs-joint-statement-termination-2018-agreement>.

⁸ OIG Report, *supra* n. 2 at 4 (even though the number of UCs DHS placed in ORR custody is broken down by fiscal year in the OIG report, numbers corresponding to failures to appear and failure to issue NTAs are not reported annually, and are instead cumulative for that time period).

⁹ *Id.* at 2.

¹⁰ *Id.* at 1.

¹¹ Press Release, *Grassley Alerts DHS, FBI to Evidence of Human Trafficking; Calls for Immediate Action to Locate & Rescue Migrant Children* (January 24, 2024), <https://www.grassley.senate.gov/news/news-releases/grassley-alerts-dhs-fbi-to-evidence-of-human-trafficking-calls-for-immediate-action-to-locate-and-rescue-migrant-children>.

¹² *Id.*

¹³ See, e.g., 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>; see also OIG Report, *supra* n. 2 at 3 (noting the Office of Principal Legal Advisor (OPLA) explained "attempts to identify a UC's current location should include external coordination with HHS and updating its case management system.")

So that Congress can conduct thorough and independent oversight of the growing UC crisis caused by the Biden-Harris administration, please answer the following questions and produce the requested records no later than September 17, 2024:¹⁴

1. How many of the more than 323,000 UCs referenced in the OIG report who either failed to report for scheduled immigration proceedings or weren't served with notices to appear (NTAs), lack current location or address information?
2. The OIG report outlines DHS's failure to notify HHS when UCs fail to appear for scheduled immigration proceedings, but doesn't note whether HHS failed to share information with DHS that may have contributed to the inability to locate UCs and issue notices to appear.¹⁵ Has HHS provided up to date information on the UCs listed in the OIG report, including the more than 32,000 who failed to appear for immigration proceedings, and the 291,000 whom DHS failed to issue NTAs? If not, why not? If so, when and how is that information shared?
3. Why has DHS not shared full information on UCs failing to appear for immigration proceedings with HHS? Is DHS satisfied that when it does share this information, HHS is fully cooperating to ensure DHS has up to date information on children and sponsors, and any other relevant information in HHS records?
4. How many UCs could not be located or issued an NTA because address information received from HHS was insufficient or inaccurate?
 - a. What other reasons were behind ICE's failure to issue NTAs to so many children?
 - b. Of the more than 291,000 UCs who didn't receive NTAs, how many did ICE have last known addresses for and attempt to serve an NTA, but the child no longer was at the address when service was attempted? How many did ICE not attempt to serve at all because it lacked location information?
5. The OIG report pointed to ICE's failure to follow guidelines set by the Office of Principal Legal Advisor (OPLA), and its own failure to issue guidance to officers in the field.¹⁶ The OIG noted only one in ten ICE Enforcement and Removal Operations (ERO) field offices attempted to locate UCs when they failed to appear in immigration court. Why have field offices not been trying to locate these UCs, and what steps are being taken to ensure UCs are located when they fail to appear?
6. How many of the 32,000 UCs who failed to appear and 291,000 children whom DHS didn't issue NTAs does DHS have reason to believe may be gang affiliated? In your answer, note which gangs are at issue.

¹⁴ "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).

¹⁵ OIG Report, *supra* n. 2 at 4.

¹⁶ *Id.* at 3-4.

7. The OIG report notes ICE didn't intervene where a woman told ICE agents a UC was in an inappropriate relationship with her husband.¹⁷ What steps did ICE take in this and similar circumstances to make sure children in direct danger were helped, and why does ICE believe it has no authority to intervene to protect children in this kind of situation?

I look forward to your prompt reply to this inquiry. If you have any questions, please contact James Layne on my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Budget

cc: The Hon. Joseph V. Cuffari
Inspector General
Department of Homeland Security

¹⁷ *Id.* at 6. ("According to OPLA officials, ICE ERO has no authority over UCs beyond managing their immigration cases. Therefore, even if ICE were to identify UCs in unsafe conditions, the agency has limited authority to respond. ICE personnel at two field offices affirmed this and explained they had identified UCs in unsafe conditions but were unable to intervene. One ICE officer expressed concern with not being able to take action in a case involving a UC whose sponsor claimed the UC was in an inappropriate relationship with her husband.")