

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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March 4, 2021

The Honorable Zoe Lofgren
Chair
Subcommittee on Immigration and Citizenship
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chair Lofgren:

We write to request that you schedule a hearing of the Subcommittee on Immigration and Citizenship to examine the Biden Administration's response to the sharp increase of unaccompanied alien children (UAC) arriving at the southern U.S. border. Proper oversight requires that Subcommittee Members have the opportunity to hear directly from Department of Homeland Security (DHS) and Department of Health and Human Services (HHS) officials, and to question them about the escalating crisis and whether they have plans to stop the surge.

U.S. Customs and Border Protection (CBP) encounters of aliens along the southern border now total over 365,000 just since October 1, including over 26,000 UACs.¹ According to news reports, U.S. border agents apprehended more than 1,500 migrant youths just last week and 300 more were taken into custody on Sunday.² As of February 25, HHS was at 92 percent capacity for housing of UACs, receiving on average 337 UACs every day for the prior seven days from border enforcement entities.³

The number of UAC encounters shows no signs of decreasing—a fact the Biden Administration has acknowledged by opening one of the same influx facilities that the Trump Administration used, by keeping other facilities on ready status, and by requesting that other federal agencies provide a list of facilities that could potentially be used to house UACs.⁴ Just last week, the White House Press Secretary acknowledged that the Biden Administration is so overrun by UACs that it has held UACs at CBP facilities for “four days, five days or longer,”

¹ U.S. Customs and Border Protection, *FY Southwest Land Border Encounters by Month*, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>, and preliminary data provided by the U.S. Department of Homeland Security.

² Camilo Montoya-Galvez, *U.S. Shelters for Migrant Children Near Maximum Capacity as Border Crossings Increase*, CBS NEWS (Feb. 22, 2021) <https://www.cbsnews.com/news/u-s-shelters-for-migrant-children-near-maximum-capacity-as-border-crossings-increase/>.

³ Information Provided to Congressional Staff by U.S. Dep't of Health and Human Services (Feb. 25, 2021).

⁴ *Id.*

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which is longer than the statutory 72-hour limitation.⁵ According to an *Axios* report, CBP is expecting “a peak of 13,000 unaccompanied children crossing the border in May.”⁶

At the same time, the Biden Administration has repealed Trump Administration programs and policies that helped to address the rising tide of illegal immigration, including UACs. The Biden Administration’s actions incentivize more UACs to travel to the border. For instance, the Biden Administration refuses to apply Title 42 expulsion authority to UACs, despite a federal court allowing its use;⁷ instead, the Administration simply lets UACs enter the U.S. Additionally, the Biden Administration stopped enrolling aliens in the Migrant Protection Protocols (MPP), the program that acted as a disincentive for fraudulent asylum claims because it required aliens to remain in Mexico while their cases are pending in U.S. immigration court.⁸ Instead, the Biden Administration is in the process of paroling all aliens with active MPP cases into the U.S.

Last Congress, the Committee and Subcommittee held several hearings “to hold the Administration accountable for its failure to effectively manage the humanitarian crisis at the border and its continued mistreatment of children”⁹ Your silence on this issue in the last five weeks unfortunately suggests that you do not plan to hold the Biden Administration to the same standard to which you held the Trump Administration.

We request that you schedule a hearing to ensure Subcommittee Members have the opportunity to hear from, and question, Biden Administration officials about their response to the growing immigration crisis on the southern border. Thank you for your prompt attention to this matter.

Sincerely,



Tom McClintock
Ranking Member
Subcommittee on Immigration
and Citizenship



Jim Jordan
Ranking Member

⁵ Jen Psaki, Press Sec’y, White House, Press Briefing by Press Secretary Jen Psaki, Deputy Director of National Economic Council Sameera Fazili, and Senior Director for International Economics and Competitiveness Peter Harrell (Feb. 24, 2021) <https://www.whitehouse.gov/briefing-room/press-briefings/2021/02/24/press-briefing-by-press-secretary-jen-psaki-deputy-director-of-the-national-economic-council-sameera-fazili-and-senior-director-for-international-economics-and-competitiveness-peter-harrell/>.

⁶ Stef W. Kight, *Scoop: Border Officials Project 13,000 Child Migrants in May*, AXIOS (Feb. 26, 2021), <https://www.axios.com/biden-migrant-children-border-dcc5df38-b9cd-4053-bee4-3642c4c215bf.html>.

⁷ Notice of Temporary Exception From Expulsion of Unaccompanied Noncitizen Children Encountered in the United States Pending Forthcoming Public Health Determination 86 Fed. Reg. 9942, (Feb. 17, 2021).

⁸ Jose Luis Gonzalez, *‘The nightmare is over’: Optimism in Mexico as Biden rolls back Trump’s immigration policies*, REUTERS (Jan 21, 2021), <https://www.reuters.com/article/us-usa-immigration-mexico-biden-idUSKBN29Q2T9>.

⁹ Oversight of Family Separation and U.S. Customs and Border Protection Short-Term Custody Under the Trump Administration Before the H. Comm. on the Judiciary, 116th Cong. (Jul. 25, 2019) (statement of U.S. Rep. Zoe Lofgren) <https://judiciary.house.gov/calendar/eventsingle.aspx?EventID=2254>.

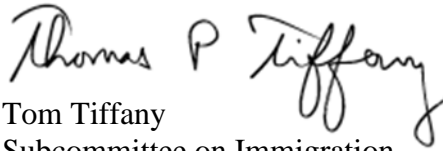
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Ken Buck
Subcommittee on Immigration
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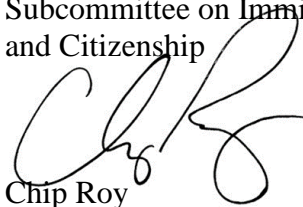
Tom Tiffany
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Victoria Spartz
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