

HEARING ON COMPLIANCE WITH COMMITTEE OVERSIGHT

HEARING BEFORE THE SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY TO OVERSIGHT OF THE COMMITTEE ON THE JUDICIARY U.S. HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTEENTH CONGRESS SECOND SESSION

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HEARING ON COMPLIANCE WITH COMMITTEE OVERSIGHT

Tuesday, May 7, 2024

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY
TO OVERSIGHT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to notice, at 2:37 p.m., in Room 2141, Rayburn House Office Building, the Hon. Ben Cline [Chair of the Subcommittee] presiding.

Present: Representatives Cline, Van Drew, Moran, Lee, Swalwell, and Ivey.

Also present: Representative Massie.

Mr. CLINE. The Subcommittee will come to order.

Without objection, the Chair is authorized to declare a recess at any time.

We welcome everyone to today's hearing on Compliance with Committee Oversight.

I recognize myself for an opening statement.

Today the Subcommittee will continue in its efforts to get answers directly from representatives from the Department of Homeland Security and the Department of Health and Human Services.

We look forward today to engaging with our witnesses to discuss the production that we have received to date and the status of our other outstanding requests, as well as the agencies' compliance with the Committee's subpoenas.

Since the beginning of the Biden Administration, the Committee has made numerous requests for information and documents concerning the operations and actions of the Department of Homeland Security. The Committee has also issued various subpoenas to DHS.

To date, DHS has yet to fully comply with the Committee's subpoenas, as well as certain requests for information and documents.

For example, due to DHS's lack of compliance with our requests, the Committee subpoenaed DHS for immigration information and records known as Alien Files, or A-Files, of criminal aliens allowed entry into the country by DHS.

To date, the responses to these subpoenas have been deficient and overdue. While DHS has produced some of the A-Files the Committee has requested, those produced contain redactions, con-

trary to the subpoena's explicit instructions which require the production of unredacted documents.

The Department has dragged its feet for months before producing these A-Files, while additional A-File requests for even more criminal aliens released into the country by the Biden Administration languish with the Department despite regular followup from the Committee.

DHS has also dragged its feet in producing information responsive to items the Committee has prioritized in its subpoena to DHS about the illegal immigration crisis that occurred in Eagle Pass, Texas, last fall.

As thousands of illegal aliens streamed into the United States, the Nation watched as DHS officials, no doubt ordered to do so by their leadership, cut and removed barriers placed by the State of Texas, helping the illegal aliens to cross.

The Committee has subpoenaed DHS for communications, documents, and other information relating to this incident, including the identification of the DHS official who ordered the concertina wire to be cut and removed, but DHS has stonewalled us every step of the way.

Instead of telling the Committee who at DHS ordered Texas' border structures to be removed, DHS has provided the Committee with just one production, much of which is publicly available, duplicative, nonresponsive, or substantially redacted.

Following the disastrous border chaos that took place in Eagle Pass, Texas, last fall, Secretary Mayorkas visited Border Patrol agents in that area in January of this year. While in Eagle Pass, the Secretary reportedly admitted to the agents that more than 85 percent of illegal aliens encountered at the Southwest border were being released into the country—85 percent.

The Committee subpoenaed DHS for that information as well, but so far DHS has refused to provide it, instead pointing the Committee to outdated public information.

The Committee has also conducted oversight of DHS's lax enforcement of the immigration laws, including through transcribed interviews with ICE officials. During these transcribed interviews, ICE officials could not answer all the Committee's questions.

The Committee issued a subpoena to compel the production of this information, including documents and information relating to aliens who have absconded, aliens on the terrorist watch list arrested by ICE, and the lack of effectiveness of ICE's Alternatives to Detention program. DHS's response has been deficient so far, producing information responsive to merely two of the eight categories listed in the subpoena.

Over a year ago the Committee also issued a subpoena to the Cybersecurity and Infrastructure Security Agency, housed within the DHS, for documents and information in furtherance of its investigation into the nature and extent of the Agency's interaction with technology companies and groups over content moderation.

To date, CISA has only provided the Committee with 2,300 pages. Last week's production from CISA was a mere 75 pages.

On March 20, 2024, the Committee wrote to CISA to note the documents and communications related to CISA's partnership with

the Pennsylvania Election Threats Task Force are responsive to the Committee's subpoena.

Although CISA has committed to producing documents and communications related to its involvement with the Pennsylvania Election Threats Task Force, no documents have been received by the Committee to date. No documents related to CISA's Pennsylvania involvement were included in last week's production.

Additionally, Director Easterly testified before the House Appropriations Committee last week, on April 30th, and provided numerous examples of how often CISA worked with certain parties, including social media companies, regarding elections.

She specifically mentioned 200 instances in which social media companies were alerted of election-related information. The Committee has not received all responsive documents and communications related to these instances.

In addition to subpoenas, the Committee has a number of outstanding requests with the Department. Chief among these is the Committee's request for information relating to the whereabouts of illegal aliens on the terrorist watch list encountered by Customs and Border Protection at the Southwest border.

Since April 2022, then-Ranking Member Jordan has been asking DHS for this information. Although Secretary Mayorkas promised to deliver a response to this question in 2022 and again last summer, DHS has refused to provide the information to the Committee for the past two years, only very recently offering to allow review of the case dispositions but in a classified setting.

We stopped listening to Secretary Mayorkas a long time ago.

Given that information about the custody and disposition of illegal aliens on the terrorist watch list encountered at the border, as frequently reported on by the press, it remains unclear if all this information is truly classified or if DHS and Secretary Mayorkas are just embarrassed to admit the truth.

The American people deserve to know if DHS is releasing these illegal aliens on the terrorist watch list into their communities.

We are also here to hold the Department of Health and Human Services accountable. We've sent numerous letters and issued three subpoenas to the HHS.

Our requests and subpoenas cover a range of topics, including the censorship of free speech online and the failures of the Unaccompanied Alien Children program under the leadership of Secretary Becerra.

Under the Secretary's leadership, longstanding protections for UACs were pared back. As a result, as *The New York Times* has reported, between 2021 and early 2023, the HHS lost contact with at least 85,000 unaccompanied children it released to sponsors—85,000.

Since the Committee's June 2023 transcribed interview with the Office of Refugee Resettlement Director Robin Dunn Marcos, the Committee has sought to understand the up-to-date total number of UACs with which the HHS has lost contact.

To date, the HHS has stonewalled these efforts, and the only information it has provided is skewed data that is not even current, obscuring the true number of UACs with which it has lost contact.

Secretary Becerra's emphasis on the speed, rather than the integrity of UAC placements with sponsors has no doubt played a part in the failures of the UAC program.

The Committee has accordingly expressed its desire to hear from the Secretary as the politically accountable head of the HHS at a hearing before its Subcommittee on Immigration Integrity, Security, and Enforcement.

After declining to make him available on dates that have been offered and delaying the scheduling of his appearance, the Department has finally agreed for the Secretary to testify before the Immigration Subcommittee. We look forward to his appearance.

We also know that the failures of the UAC program have led to UACs being released who have gone on to victimize Americans through heinous criminal acts.

One such UAC that the Biden Administration's the HHS released to a sponsor did just that, brutally assaulting and murdering an innocent 11-year-old girl in Texas in 2023. The Committee has asked the HHS for the case file of the alien charged with this heinous crime, among others.

After the HHS obstructed the Committee's efforts to understand what went wrong in this case and others like it, the Committee issued a subpoena to the HHS for this information.

Despite the subpoena's legal obligations, the HHS has produced heavily redacted copies of these materials and allowed the Committee staff to review a small subset of these materials in-camera with only some of those redactions lifted.

Although no legal principle applies to justify the HHS's refusal to turn over unredacted copies of these case files to the Committee, the HHS has refused, citing its interest in protecting the privacy of a charged murderer.

These hearings play a critical role in assisting the Committee in its oversight obligations, which in turn allows the Committee to examine potential legislative changes within our jurisdiction.

The courts have recognized that Congress' power to conduct oversight is an indispensable component of our Article I authority to legislate. Without the information that the Committee needs from the Administration, we cannot do our jobs for the American people.

I now yield time to the minority Ranking Member for his opening statement.

Mr. SWALWELL. Chair Jordan may believe that everyone on this Committee has amnesia, because for the last 18 months, almost every time we have come into this room, we have been promised evidence of crimes that will impeach President Biden, over and over, noun, verb, impeachment.

President Biden has been subjected to the worst accusations. He and his family have been called the worst, and you've been promised the most as it relates to what's going to be delivered.

I think it's cute, it's adorable that we're having this hearing now on oversight of the border, and we're going to, I guess, go back in time and question whether the vaccine for COVID really worked. That's great.

We're not going to erase what was promised to the American people, because Chair Jordan doesn't have the goods. "We've got the goods. We've got the receipts." I want you to know what you were

promised and what you're now going to be given is something completely different.

So Joe Biden sold out emergency fuel reserves to a Chinese company tied to Hunter Biden. That's an impeachable offense.

Said Judiciary Committee Member Andy Biggs.

President Biden himself may have committed impeachable offenses relating to treason, bribery, or other crimes,

Says Congressman Jodey Arrington.

His actions as Vice President are a blatant crime and an impeachable offense. The tragedy is Washington has known about these crimes for years and done nothing.

Says motion to vacillate—I'm sorry—motion to vacate author Marjorie Taylor Greene.

Certainly, impeachable acts have been committed by President Biden.

Says Clay Higgins.

All these are impeachable offenses, and to my Republican colleagues who say, "No, it's not, that's maladministration," they're wrong.

The Rep. Chip Roy.

Paul Gosar says,

Joe Biden obstructs Hunter Biden's cooperation with impeachment inquiry. Speaking of subpoenas, add obstruction of justice to the list of impeachable offenses committed by Joe Biden.

Greg Murphy:

I don't throw around the word "impeachment" lightly. I don't throw around the word "impeachment" lightly. But, in my view, President Biden has committed two major impeachable offenses.

Doug LaMalfa says,

Joe Biden obstructs Hunter Biden's cooperation with impeachment inquiries. Speaking of subpoenas, add obstruction of justice to the list of impeachable offenses committed by Joe Biden.

James Comer, he's got a couple doozies.

Overwhelming evidence shows President Biden lied to the American people about his knowledge of and participation in his family's corrupt international and domestic business schemes.

Then he said—this is the guy who's in cahoots with Chair Jordan to impeach Joe Biden:

I mean, there's no doubt that Joe Biden committed impeachable offenses.

It sounds like there's some doubt. It sounds like there's some doubt. Eighteen months in, and we're now two-plus months from the last hearing they've had on this, they won't declare it dead because they need the smear to perpetuate all the way into the election. They just want a cloud hanging over the former—they just want a cloud hanging over President Biden because they work as a law firm on behalf of the former twice-impeached President Trump.

Every day the House of Representatives has worked as the largest law firm in Washington, DC, on behalf of just one client. They brought all this nonsense into this room promising evidence of impeachment, and they've delivered zero.

Who has actually delivered? The FBI. Because they keep arresting the best witnesses they have for their own work on behalf of Russia and China.

So, they bring these witnesses, they make these allegations, and the FBI says:

Actually, the guy that you're relying on, he's been telling you lies that have been fed by Russia.

Their own Intelligence Committee Chair—this is a Republican—said that,

Most of the claims going on in this building about Russia on their side is Russia propaganda being filtered to them by the Russians.

So, I don't expect you're going to hear the autopsy report on their impeachment investigation, but the President certainly deserves to hear this.

In light of Republicans producing absolutely zero on impeachment, let's just declare from here forward, until they put up some evidence, that Joe Biden has been acquitted of every single MAGA smear. Acquitted. It's over. They're 0-for-impeachment.

They tried to impeach Secretary Mayorkas, and it took a second serve. They tried. Their own side voted against it. They had to bring one of their Members, the poor guy is suffering from cancer, they bring him out of his treatment to come in to deliver the one-vote majority they need to impeach Secretary Mayorkas, and then it goes nowhere in the Senate. It was a second serve impeachment. It's embarrassing.

Now, this hearing today is about the border. We want to help fix the border. In fact, the second-most conservative Member of the Senate, according to the American Conservative Union, is James Lankford of Oklahoma, the second-most conservative Member of the Senate. He has the crazy idea that we should surge resources to the border, put more judges there to adjudicate claims of asylum, give the President the authority to shut down the border if it's being overwhelmed.

The President in good faith engages. Many Democrats, including myself, in good faith engage. Then Donald Trump realizes: Wait, if we solve the border crisis, I can't politicize the border crisis. So, he tells them: "Don't pass that bipartisan legislation."

Senator Lisa Murkowski, a Republican, said,

I'm not giving up. It's not about Trump, and it's not about me. It's about our country.

Senator Todd Young from Indiana said,

I hope no one is trying to take this away for campaign purposes.

Senator Bill Cassidy, a Republican from Louisiana, said,

How does Trump know it's a betrayal if he hasn't read it? I mean, don't be ignorant. Read the bill.

James Lankford, the author of the bill, said,

It's interesting. Republicans four months ago would not give funding for Ukraine, for Israel, and for our Southern border because we demanded changes in policy.

Now, it's interesting, a few months later, when we're finally getting to the end, they're like,

Oh, just kidding. I actually don't want a change in law because it's a Presidential election year.

One side wants the fix. One side wants the fiction. That's entirely what this is about.

So, we'll engage you in this exercise, and you can send your letters about what you'd like to see on the border, but we actually stand ready to get things done.

What you're seeing today is not oversight. It's overkill.

I yield back.

Mr. CLINE. The gentleman yields back.

Without objection, all other opening statements will be included in the record.

Without objection, Mr. Massie will be permitted to participate in today's hearing for the purpose of questioning the witnesses if a Member yields him time for that purpose.

We'll now introduce today's witnesses.

The Honorable Melanie Egorin. Ms. Egorin is the Assistant Secretary for Legislation at the Department of Health and Human Services. She was confirmed by the Senate on December 30, 2021.

The Honorable Zephra Buetow. Ms. Buetow is the Assistant Secretary for the Office of Legislative Affairs at the Department of Homeland Security. She is the Department's primary liaison to Congress.

We welcome our witnesses and thank them for appearing today. We will begin by swearing you in.

Would you please rise and raise your right hand?

Do you swear or affirm under penalty of perjury that the testimony you're about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

Let the record reflect that the witnesses have answered in the affirmative.

Thank you. You may be seated.

Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes.

Ms. Egorin, you may begin.

STATEMENT OF THE HON. MELANIE EGORIN

Ms. EGORIN. Chair Cline, Ranking Member Swalwell, the Members of the Committee, I appreciate this opportunity to testify before you for a second time on behalf of the Department of Health and Human Services. I am Melanie Anne Egorin, the Assistant Secretary for Legislation at the HHS.

Prior to serving as the ASL, I spent more than 15 years working in the Legislative Branch, including on the professional staff of the House Committee on Ways and Means for nearly a decade.

I deeply value the work Congress does and the important role that Congressional oversight plays in our government. It is very important that Congress conducts oversight to improve program integrity and strengthen Federal programs that work to improve our healthcare system, as well as the overall health of the Nation.

The the HHS's mission is to enhance the health and well-being of all Americans. Our 12 operating divisions administer a wide va-

riety of health and human services programs on behalf of the American people and the world. The the HHS provides access to healthcare coverage for more than 100 million people through Medicare, Medicaid, the Children's Health Insurance Program, and the Health Insurance Marketplace.

We also provide vital services to the Indian Health Service, Community Health Centers, and the U.S. Public Health Service.

We protect Americans from health, safety, and security threats, both foreign and domestic, and we oversee safety effectiveness in the quality of foods, drugs, vaccines, and medical devices.

We help provide affordable, high-quality childcare for working families and provide critical early learning and development services to children and families through the Head Start Program. We promote upward economic mobility through programs such as the Low-Income Home Energy Assistance Program, Child Support Services, and Temporary Assistance for Needy Families.

As part of our important work, the HHS regularly interacts with Congress as policymakers develop legislation and respond to Congressional oversight requests.

the HHS remains committed to continuing to work with Congress in good faith. The Office of the Assistant Secretary for Legislation serves as the liaison between the Department and Congress and works to facilitate responses to Congressional oversight.

Given the breadth of the work the HHS does, the Department receives inquiries from virtually every Member and regularly receives oversight requests on any number of topics from multiple Committees in both the House and the Senate.

In the 118th Congress, the Department produced over 50,000 pages of documents in response to oversight requests from a multitude of Congressional Committees. We've responded to hundreds of inquiries. The department officials have participated in transcribed interviews, provided briefings, and testified at oversight hearings, including in front of your Committee.

To respond to a variety of oversight requests, we engage in the accommodation process, seeking to balance Congress' interest consistent with Executive Branch interest, always being mindful of our resource constraints.

We have and will continue to actively engage with this Committee regarding the multiple oversight requests involving different operating divisions in the Department.

To this Committee alone in this Congress, the Department has facilitated four transcribed interviews, provided the Committee more than 14,000 pages of documents, arranged for over 3,600 pages of sensitive records to be reviewed in camera, and provided detailed information regarding the Department's programs.

Additionally, the Department has continued to engage with the Committee on accommodations, addressing followup requests, including those on particularly sensitive information.

We continue to work in good faith on the Committee's oversight requests, including making two document productions just last week.

The the HHS has a demonstrated record of working to address Congressional oversight requests, including the requests of this

Committee, and the HHS is committed to continuing to engage with this Committee and all of Congress in good faith.

I am happy to answer your questions.

[The prepared statement of the Hon. Egorin follows:]

Statement by
Melanie Anne Egorin
Assistant Secretary for Legislation
U.S. Department of Health and Human Services
on
Hearing on Compliance with Committee Oversight
before
Subcommittee on Responsiveness and Accountability to Oversight
Committee on the Judiciary
United States House of Representatives
May 7, 2024

Chairman Cline, Ranking Member Swalwell, and Members of the Committee, I appreciate this opportunity to testify again on the efforts of the Department of Health and Human Services (HHS or Department) to respond to oversight requests from the Committee on the Judiciary (Committee) during the 118th Congress. I am Melanie Anne Egorin, the Assistant Secretary for Legislation at HHS. Prior to coming to HHS, I spent more than 15 years working in Congress and at the Government Accountability Office, including serving on the professional staff of the House Committee on Ways and Means for nearly 10 years. I have a deep appreciation for the important work of Congress and the role that oversight plays in the furtherance of its legislative function. As I noted in testimony for my confirmation to serve as the Assistant Secretary for Legislation, as well as my prior testimony before this Subcommittee, I believe it is vital that we ask questions about current policies and programs so we can improve programmatic integrity, our health care system, and the overall health of the nation.

HHS's mission is to enhance the health and well-being of all Americans. We accomplish this mission every day by providing for effective health and human services and by fostering sound, sustained scientific advances that underly medicine, public health, and social services. Our 12 operating divisions include nine agencies in the U.S. Public Health Service and three human services agencies. Collectively, these divisions administer a wide variety of health and human services programs. From providing access to health care coverage to more than 100 million people through Medicare, Medicaid, the Children's Health Insurance Program, and the Health Insurance Marketplace, and services provided through the Indian Health Service, Community Health Centers, and the U.S. Public Health Service, to working to protect Americans from health, safety, and security threats both foreign and domestic, and overseeing the safety, effectiveness, and quality of foods, drugs, vaccines, and medical devices, HHS programs touch the lives of all Americans.

Addressing Congress's Oversight Requests

As part of its critical mission to enhance and protect the health and well-being of all Americans, HHS regularly interacts with Congress and responds to congressional oversight requests. HHS recognizes and appreciates the importance of congressional oversight and is committed to continuing to work with Congress in good faith to address its informational needs while balancing the institutional interests of the Department and the Executive Branch. Given the breadth of the programs administered by the Department, we receive inquiries from virtually every Member's office and regularly receive a variety of oversight requests from numerous committees in both the House and Senate. During the 118th Congress alone, the Department has sent hundreds of responses to congressional inquiries from a multitude of committees, produced more than 50,000 pages of documents in response to oversight requests, and responded to numerous other congressional letters and requests for information and assistance. Department officials also have testified at multiple oversight hearings, participated in multiple transcribed interviews, and provided frequent briefings for committee staff in connection with various inquiries.

In responding to the substantial volume of congressional oversight requests this Congress, we engage in the constitutionally mandated accommodation process, seeking to respond to Congress's legitimate efforts to seek information in aid of its legislative function in a manner consistent with Executive Branch interests, while being cognizant of resource constraints. We receive many broad and complex oversight requests that may involve multiple components of the Department. Such requests require appropriate time and attention to allow us to provide accurate information. At times, committees also have requested particularly sensitive information, including information implicating market sensitivities, ongoing law enforcement investigations, personal health information (PHI), and personally identifiable information (PII). In situations like these, we have pursued accommodations that balance the committee's interests with our obligation to safeguard certain information. In all cases, we work hard to respond to Congress's oversight requests about the Department's policies and programs.

The Committee's Oversight Requests

With respect to the subject of today's hearing, during the 118th Congress, the Department has been actively engaging with the Committee regarding its multiple oversight requests regarding multiple operating divisions within the Department. To date this Congress, these efforts include participating in two transcribed interviews, providing the Committee more than 14,000 pages of documents, arranging for 3,600 pages of sensitive records to be reviewed *in camera*, and providing detailed information regarding the Department's programs through various briefings and formal correspondence. This demonstrated record of compliance and consistent good faith engagement notwithstanding, the Committee has repeatedly and unnecessarily resorted to

compulsory process in connection with requests the Department was already working to accommodate.

In particular, throughout the last year, the Department has committed substantial resources to accommodating the Committee's requests regarding the Unaccompanied Children (UC) Program administered by the Office of Refugee Resettlement (ORR) of the Administration for Children and Families. At all stages, the Department has worked in good faith to provide the Committee with responsive documents and information and has provided detailed responses to each of the Committee's letters on this matter in advance of the requested deadlines. Most recently, on February 16, 2024, the Department sent the Committee a detailed letter and document production, addressing the Committee's significant number of questions regarding the UC Program. Prior to submitting that response, and before the Committee sought to compel a response through a subpoena, the Department and the Committee had been in consistent communication and Department staff had relayed that a response was imminent.

The Department has likewise sought to accommodate the Committee's request for the full ORR case files of certain unaccompanied children placed in ORR care. By their nature, such files reveal highly personal information regarding individual children, including a significant volume of PII, medical records, and other PHI gathered in the course of their care. As we have communicated, consistent with directives from both Congress and the courts, the Department has implemented policies to ensure the privacy and safety of unaccompanied children by maintaining the confidentiality of such information.

Nonetheless, as an extraordinary accommodation, the Department has made more than 3,600 pages of responsive documents available to the Committee throughout the Congress. Specifically, after the Department voluntarily made the requested case file materials available to the Committee, the Department remained in consistent communication with the Committee regarding potential additional accommodations. As a further extraordinary accommodation, the Department thereafter produced more than 2,400 pages of sensitive case files to the Committee. In so doing, the Department substantially complied with a subpoena issued by the Committee for documents already made available to the Committee, in advance of the deadline set out by the Committee. Finally, following further discussions with your staff regarding redactions applied in these materials to protect the privacy of children placed in ORR care, the Department made more than 50 pages of these materials available to the Committee with more limited redactions.

The Department has continued to engage on this matter even after the Committee has refused to acknowledge the Department's obligations with respect to the confidentiality of ORR case file materials or otherwise abide by the parameters of the Department's good faith accommodations to the Committee. Most notably, after Committee staff attempted to photograph non-public case files made available to the Committee, the Committee publicized sensitive information regarding

a minor placed in ORR care in a staff report with no prior notice to the Department, in flagrant disregard of the Department's express expectations in making these materials available to the Committee. Despite these deeply unfortunate circumstances, the Department is committed to continuing to work in good faith to provide the Committee with information regarding the UC Program in a manner consistent with Executive Branch interests while safeguarding the privacy interests of children in ORR's care and custody.

Additionally, as you are aware, last year, the Committee sent a letter to the Centers for Disease Control and Prevention (CDC), as well as several other HHS divisions, that included a series of broad requests for documents largely regarding certain interactions with companies or other third-party groups. Shortly thereafter, even as the Department began responding voluntarily to the Committee's requests, the Committee issued a subpoena to the CDC. Since that time, the Department has continued to make regular, rolling productions to the Committee—to date, producing over 10,000 pages of responsive documents on this matter alone.

Finally, the Committee – including its members – have requested information from CDC and the Food and Drug Administration pertaining to a variety of COVID-19 related matters. The Department has provided the Committee with responsive information and documents in these matters and has made an employee available for a transcribed interview. The Department continues to work in good faith with the Committee on these matters.

As we have consistently informed Committee staff, we intend to continue cooperating with the Committee's requests, consistent with the accommodation process.

Conclusion

As I believe my testimony today reflects, HHS has a demonstrated record of working diligently to address a broad range of oversight requests from this Committee and other oversight bodies. We look forward to continuing to work with this Committee and others to respond to oversight requests in a timely manner consistent with the accommodation process, while upholding the institutional interests of the Department.

Mr. CLINE. Thank you.
Ms. BUETOW.

STATEMENT OF THE HON. ZEPHRANIE BUETOW

Ms. BUETOW. Chair Cline, Ranking Member Swalwell, and distinguished Members of the Subcommittee. I'm honored to appear before you here today. My name is Zephranie Buetow, and I serve as Assistant Secretary for Legislative Affairs at the Department of Homeland Security, or DHS.

I last appeared before this Committee on June 22, 2023. Since that time the Department has continued to work tirelessly to respond to the oversight requests from this Committee, as well as the over 70 Congressional Committees and Subcommittees that have jurisdiction over DHS. Congressional oversight is an important priority for both the Department and our democracy. Congressional requests for data and documents have significantly increased during the 118th Congress, particularly since January 2024. In the past four months, DHS has received 33 letters from this Committee alone, including requests for 27 sets of immigration records and three subpoenas.

By comparison, the Committee requested 20 sets of immigration records and issued two subpoenas in the entirety of 2023.

We are making great efforts to meet the increased oversight requests from Congress with our existing resources.

One of the challenges the Department faces is balancing legitimate oversight interests of Congress with the Department's law enforcement and national security responsibilities, as well as the Executive Branch confidentiality interests.

DHS is the second-largest Cabinet agency, with eight primary operational components and multiple other mission and support components. It is not uncommon for Congressional requests to span multiple components and offices.

Individual offices often use unique and incompatible data systems, requiring extensive consultation, collaboration, and verification to ensure the accuracy, completeness, and data integrity.

Fortunately, DHS has made significant strides in this area. For example, in November 2023, the Department launched the Office of Homeland Security Statistics, or OHSS.

OHSS coordinates the collection, validation, and reporting of key data. This includes the monthly Immigration Enforcement and Legal Processes Report, which captures 10 years of encounter data for the Southwest border.

DHS has also made significant progress in reporting component-level statistics. As of January 2024, U.S. Immigration and Customs Enforcement began publishing enforcement data on a public-facing dashboard. Now, these dashboards are sortable by date, country of citizenship, area of responsibility, and other filters.

Although collecting and validating data remains a time-consuming process, DHS has nonetheless achieved an unprecedented level of data transparency.

We remain committed to providing Congress with objective, timely, and authoritative statistical data on a consistent and predictable basis.

I understand that today's hearing is focused on our responses to this Committee's oversight requests. The Department always attempts to cooperate with the Committee's requests voluntarily and in good faith, consistent with the accommodations process.

Since the start of this Congress, the Committee has issued five subpoenas to the Department for documents and data. In each case DHS staff was already actively engaged with the Committee staff in the accommodations discussions prior to the issuance of the subpoena. In most cases, the Department had already made significant productions and expressed the intent to make subsequent rolling productions.

The Department remains committed to cooperating with the Committee's legitimate efforts to seek information and will do so in a manner that safeguards the sensitive law enforcement and national security interests at the heart of our mission and consistent with our obligation to protect the Executive Branch's recognized right to confidentiality.

We thank you for your partnership and service to the American people, and I look forward to your questions.

[The prepared statement of the Hon. Buetow follows:]



TESTIMONY OF

Zephrañie Buetow
Assistant Secretary for the Office of Legislative Affairs
U.S. Department of Homeland Security

For a Hearing

BEFORE

United States House of Representatives
Committee on Judiciary
Subcommittee on Responsiveness and Accountability to Oversight

ON

“Compliance with Committee Oversight”

May 7, 2024
Washington, D.C.

Chairman Cline, Ranking Member Swalwell, and distinguished Members of the Subcommittee:

I am honored to appear again before you today. I am Zephrañie Buetow and I have served as the Assistant Secretary for Legislative Affairs at the Department of Homeland Security – or DHS – since February 2023. I last appeared before this Committee on June 22, 2023, and since that time, our department has continued to work tirelessly to respond to oversight requests from this Committee, as well as the over 70 Congressional Committees and subcommittees that have jurisdiction over DHS. Congressional oversight is an important priority for both our department and our democracy.

The volume and pace of Congressional oversight has increased since the beginning of the 118th Congress. With roughly eight months remaining in the 118th Congress, DHS has already testified in 86 hearings with 128 Department witnesses, and participated in over 3,300 briefings and other non-hearing engagements.

The number of requests for documents and data from this Committee has also increased during the 118th Congress, and since January 2024 in particular. In the past four months, DHS has received 33 letters from this Committee, including requests for 27 sets of immigration records, and three subpoenas. By comparison, the Committee requested 20 sets of immigration records and issued two subpoenas in all of 2023. We are making great efforts to meet the increased oversight requests from Congress with our existing resources.

As I noted during my last appearance, one of the challenges the Department faces is balancing the legitimate oversight interests of Congress with the Department's law enforcement and national security responsibilities and the Executive Branch's confidentiality interests. Much of the information sought by Congress is sensitive law enforcement or national security material, which is subject to time intensive reviews. Furthermore, this information is often owned by other agencies and thus requires interagency review. Some requests also pertain to pending litigation or criminal proceedings where producing documents could jeopardize the integrity and fairness of these legal proceedings. As a result of all these factors, information requested may not always be available within the desired timetable or with the granular detail requested.

These dynamics are compounded by the size and organization of the Department. DHS is the second largest cabinet agency, with eight primary operational components, and multiple other important mission and support components. It is not uncommon for congressional requests, particularly those dealing with immigration, to span multiple components and offices.

These challenges are especially acute with respect to quantitative data, including immigration enforcement data. Quantitative information is housed across DHS components which often use unique and incompatible data systems, requiring extensive consultation,

collaboration, and verification to ensure accuracy, completeness, and data integrity. Fortunately, DHS has made significant strides in this area. For example, in November 2023 the Department launched the Office of Homeland Security Statistics (OHSS) to coordinate the collection, validation, and reporting of key data. This includes the monthly OHSS Immigration Enforcement and Legal Processes Report, which includes 10 years of encounter data for the Southwest border. DHS has also made significant progress in reporting component-level statistics. As of January 2024, U.S. Immigrations and Customs Enforcement (ICE) began publishing enforcement data in dashboards sortable by date, country of citizenship, area of responsibility, and other filters. Although collecting and validating data remains a time-consuming process, DHS has nonetheless achieved an unprecedented level of data transparency. We remain committed to providing Congress with objective, timely, and authoritative statistical data on a consistent and predictable basis.

I understand that this hearing is focused on our responses to this Committee's oversight requests. Since the beginning of the 118th Congress, the Committee has sent over 45 document request letters to the Department and its components. The Department always attempts to respond to the Committee's requests voluntarily, in good faith, and in a timely manner, consistent with the accommodation process. To date, the Department has produced to the Committee approximately 9,000 pages of documents responsive to the letters received during this Congress and provided multiple substantive written responses. We continue to review potentially responsive records and will produce additional records, as appropriate, as they become available. Additionally, DHS has provided witnesses for fourteen voluntary transcribed interviews with the Committee, with another scheduled for later this month.

I would like to recognize that the Committee has issued five subpoenas to the Department for documents and data. These subpoenas were entirely unwarranted. In each case, our staff was already actively engaged with Committee staff in accommodations discussions prior to the issuance of the subpoena—and in most cases, the Department had already made significant productions and expressed the intent to make subsequent rolling productions. The Department has consistently sought to engage in the accommodations process in order to comply with Congressional oversight while balancing the constitutional and legal obligations of the Executive Branch and numerous challenges I have described, including the time required to gather and process material, the need for interagency coordination, and our own internal reviews.

We remain committed to cooperating with the Committee's legitimate efforts to seek information. We do so in a manner that safeguards the sensitive law enforcement and national security interests at the heart of our mission, and consistent with our obligation to protect the Executive Branch's well recognized confidentiality interests. We look forward to continued engagement with the Committee. We thank you for your partnership in service to the American people and look forward to answering your questions.

Mr. CLINE. Thank you, Ms. Buetow.

We'll now proceed under the five-minute rule with questions. I recognize myself for five minutes.

Ms. Buetow, since the beginning of the 118th Congress, the Committee has sought information regarding criminal illegal aliens allowed entry into the United States. These requests languished with DHS for months, despite the Committee staff following up with DHS regularly.

As a result, the Committee ultimately subpoenaed DHS for these materials on December 8, 2023. Of the 14 A-Files DHS is compelled by the subpoena to produce, only 11 have been provided.

Despite the Committee's subpoena production deadline lapsing on January 8, 2024, DHS has failed to produce the remaining A-Files, citing the, quote, "corruption," of the documents as an excuse to Committee staff in April 2024.

When did DHS begin the process of responding to the Committee's June 9th, July 31st, and September 14th requests?

Ms. BUETOW. Thank you for your question, Mr. Chair.

With respect to the A-Files, the Department responds to each Congressional request we receive. Whether it's a document production, a letter, *etc.*, the Department always responds.

With respect to the A-Files, in particular, they don't all live in the same place. So, it is a time-consuming process, whether it's a file that lives with CBP versus ICE, *etc.*

So, at the time that we would have received the initial request, that would have begun the process of working with the components to identify where information resides, and some of these files are incredibly large, so that is a time-consuming process.

Mr. CLINE. You're stating that you began the process when you received the initial request?

Ms. BUETOW. Anytime we receive a request, that is when we begin the accommodations process, plus the identification process, which I think is slightly different.

Mr. CLINE. Because my kids like to wait until the last minute to do their homework.

Can you State with absolute certainty that it was before the Committee's December 8, 2023, subpoena?

Ms. BUETOW. Yes.

Mr. CLINE. Has the Department compiled the remaining A-Files that are due to the Committee?

Ms. BUETOW. So, I would like to first thank your staff. We have been in constant communication with regard to the A-Files, and we've begun the process of prioritizing some of these files.

Some of the files are incredibly large. Some of them are smaller. So, we have, I believe, as recently as this week continued to push some of the ones that were more of a manageable size, and we will continue to do so.

Mr. CLINE. So, you're still pulling relevant documents?

Ms. BUETOW. Yes.

Mr. CLINE. Can you commit to producing the remaining A-Files by May 17th?

Ms. BUETOW. Mr. Chair, it would be irresponsible for me to commit to a date when I cannot identify each particular file, and where

each particular document is. What I can commit to is aggressively working with our team to be responsive to the Committee's request.

Mr. CLINE. So, you can't give me a date today?

Ms. BUETOW. I don't believe that—recognizing that I'm under oath, I would love to say that the 17th would be a date certain, but I don't think that would be appropriate.

Mr. CLINE. If I said June 17th, or would you like to confirm that you can't give me a date today?

Ms. BUETOW. Chair Cline, I can commit to you that we will aggressively work toward getting those files as soon as possible. My understanding is we have worked through a process of triaging, which I think would help facilitate faster movement on the remaining files.

Mr. CLINE. OK.

In one A-File produced to the Committee, an annotation was included that reads, "Consultation with the White House," right there.

Did the White House play any role in DHS's clearance process of this production?

Ms. BUETOW. I don't believe so, Congressman, but I would have to verify.

Mr. CLINE. OK. Can you explain the annotation?

Ms. BUETOW. I cannot, and I'd be happy to take that back and get clarity on what that is.

Mr. CLINE. Thank you. We would like to get that clarification immediately if possible. During this administration—

Mr. IVEY. Mr. Chair, is there, like, a Bates stamp number on the document there or something? I'd like to see the document as well.

Mr. CLINE. It's in our possession. We'll make sure that we circulate that. It's been provided by the witness to us and so we have that.

Mr. IVEY. I would like to see it all.

Mr. CLINE. Sure, sure.

During this Administration, did the White House ever play any role in DHS's clearance process for any materials requested by the Committee?

Ms. BUETOW. Congressman, as I stated in my opening statement, we work very hard to cooperate with the Committee and work through the accommodations process while also balancing the Executive Branch's confidentiality interests. So, I think we are in constant communication across agencies with the White House as the Executive Branch. With respect to any one particular file or request, I wouldn't be in a position to answer that today.

Mr. CLINE. Well, generally then, did the White House ever play any role? You're telling me the answer is yes?

Ms. BUETOW. I think as a general matter the Office of Legislative Affairs works with the Office of General Counsel and any individual components, and it does not—I would say in my tenure, standard practice, that if there's a production that's being requested, it goes much further than the Department itself.

Mr. CLINE. OK. So, I'll take that as a yes.

Mr. Swalwell is recognized for five minutes.

Mr. SWALWELL. In the Department of “You Can’t Make This Up,” the Chair of the whole Committee is approaching 700 days being out of compliance of a subpoena that was issued to him.

He was a witness to one of the greatest crimes that has ever occurred in America, the attack on the Capitol on January 6th, spoke to the President at the time, multiple times, was asked by a bipartisan Committee investigating that crime where hundreds of people have pleaded guilty. Not were found guilty. On their own pleaded guilty. Others were found guilty.

The Chair was asked to cooperate and tell the bipartisan investigators what he knew. We’re approaching 700 days in where he refuses to do that.

So, the fact that you are here, you are doing more than the Chair of the whole Committee is willing to do. You’re willing to answer questions and engage in a helpful dialog.

Would you agree, Secretary Buetow, that if the Republican majority would just prioritize for you what they needed that would be more helpful than just sending scattershot subpoena requests?

Ms. BUETOW. Thank you, Ranking Member Swalwell.

I think it is always helpful when we are able to triage and prioritize requests, particularly when an individual letter may request 10 different things that may live in 10 different places within the Department. They do tend to start piling up.

Mr. SWALWELL. Secretary Egorin, would you agree it is more helpful when you prioritize rather than hit send with a scattershot list of requests?

Ms. EGORIN. Ranking Member Swalwell, it is always helpful to understand the priorities of the Committee. It is also helpful for us to be able to share back expectation settings based on those priorities.

Mr. SWALWELL. I know you’re trying to do that.

I’m just going to go out on a limb here. I think they may be trying to draw the foul.

I think the approach here is to over request, to overkill on their search for documents and put you in an impossible position where you can’t comply and they’re unwilling to prioritize what they want, and then they bring you here and, again, now it’s the foul.

You can’t keep up with the overwhelming requests of nonsense that’s coming from them, and they won’t prioritize, and then they want to try and dirty up the Administration and say: Well, they’re not complying, they have something to hide.

Actually, Secretary Buetow, from the requests that you have received, is it true 87 letters have come from just this Committee?

Ms. BUETOW. Ranking Member Swalwell, that’s correct.

Mr. SWALWELL. In response to those letters, the Department of Homeland Security has participated in 10 transcribed interviews? Is that right?

Ms. BUETOW. Yes, sir.

Mr. SWALWELL. There are two additional interviews scheduled for the future. Is that right?

Ms. BUETOW. That’s correct.

Mr. SWALWELL. Can you confirm that the records for individuals on the Terrorist Screening Dataset have been made available to this Committee’s staff for nearly 300 cases?

Ms. BUETOW. We have done a camera review and briefings on that subject matter. I know that this is an ongoing conversation, but I believe that number is accurate.

Mr. SWALWELL. Secretary Egorin, despite the majority's unwillingness to prioritize what they want, is it true that you've provided the Committee with more than 12,000 pages of documents in response to the requests?

Ms. EGORIN. Congressman, we have provided 1,400 pages in production, as well as an additional almost 4,000 pages of in camera review.

I would also like to emphasize, in your terms of prioritization, the other thing is we have received inquiries from 17 different Committees, both in the House and Senate. So, when we talk about prioritization, it's prioritizing for this Committee, but it's also understanding the larger context of oversight within the 118th Congress.

Mr. SWALWELL. Thank you.

I yield back.

Mr. CLINE. The gentleman from New Jersey is recognized for five minutes.

Mr. VAN DREW. Thank you, Mr. Chair. Thank you for having this hearing.

Ranking Member Swalwell, man, he's good at it. You've got to admit, right, he is really, really smooth.

So, we're going to look at the shiny object over here. We're going to look about—we're going to talk about Clay Higgins, Chair Jordan, James Comer, and Marjorie Taylor Greene. We're going to talk about impeachment. We're going to talk about January 6th.

I'm not going to do that. I'm not going to talk about the Department of Justice going into traditional Roman Catholic churches. I'm not going to talk about our Department of Justice going into school boards. I'm not going to speak about the Russian collusion hoax and how it was untrue, and the FBI was actually the one that colluded. I'm not going to speak about Biden's FBI Director saying how dangerous things are here, his own Director of the FBI, because of all the undocumented illegal individuals coming across. I'm not going to speak about Mayorkas, who has knowingly, purposely—you want to talk about why he was impeached? That's why he was impeached, because he's allowed this to happen. I'm not going to speak about Joe Biden's meetings with Russian oligarchs. I'm not going to speak about his meetings with Burisma and his son's business or the Department of Justice working with President Biden and others to try to get a real big sweetheart deal that no other American would ever get for his son.

No. Let's stick to what it's about, let's talk what this is about, because they want to pull us somewhere else.

Let's be clear, when agencies delay or fail to comply with Congressional subpoenas, they're obstructing our ability to legislate and address the issues affecting the citizens we serve, period.

That's the purpose of this Committee. That's why the Chair wisely called this meeting, because we want to know what's going on, because we represent the people of the United States of America.

When they fail to turn it over, and especially the documents relating to the Southern border, they're delaying our ability to iden-

tify the many disasters that could occur and, quite frankly, the disasters that have been created by this administration.

So, let me talk about something.

Ms. Buetow, thank you for being here.

I'd like to specifically revisit a meeting on January 8, 2024. Secretary Mayorkas in a private meeting with Border Patrol—you know about it—admitted that more than 85 percent of illegal aliens encountered at the Southwest border were being released into the country. That's a fact.

Following the statements, the Committee requested data about this alarming admittance by our own Secretary. We requested it. We should get it. The American people should know. We wanted to know what's going on.

Typical fashion, DHS refused to comply with these requests, and the Committee was forced to issue a subpoena on April 17, 2024. That's why we do subpoenas. It's unfortunate.

Your Department has assured us that it is committed to giving Congress timely, objective, and precise data on immigration enforcement. Earlier today your staff communicated with our Committee that it will be sending a production to the Committee today.

So, I want to know, if it had it for weeks, it told the Committee initially that we had to wait for six months, why did it change now from weeks and why do we have to wait to six months? Why are they available now and they wouldn't have been available before?

Ms. BUETOW. With respect to the 85 percent comment, I believe the Department has spoken about that issue, as has the Secretary.

With respect to the request for information on that topic, my understanding is DHS staff and the Committee staff have been in conversations about producing what was requested in the subpoena, and we will continue to work through the accommodations process to get it.

Mr. VAN DREW. Thank you for your answer, Ms. Buetow.

Yes, but initially we were told six months, and the answer is on 85 percent. That's such an egregious statement to make, this is just not sufficient, and that's why we actually put forward a subpoena to get the real information.

By the way—and this is something that I don't, tangentially, I don't have enough time to talk about—Chair Jordan, I think it was two years ago, asked where the individuals who are on the terror watch list, who are they, where are they, what are they about, and what do we know about them. We still haven't gotten that information.

So, let's understand it. Let's not look at the shiny object. Let's look at the real world here. People on the terror watch list are in this country. We don't know where they are or who they are. We subpoenaed the information two years ago. We still don't have it. Why?

Ms. BUETOW. With respect to the TSDS, I understand that there's a great deal of interest in this.

Mr. VAN DREW. No kidding.

Ms. BUETOW. DHS is a user of the information that is on that list. We are not the owner of that information. We have been in constant communication with staff, and we will continue to do so.

Mr. VAN DREW. See, that's gobbledygook, no offense to you. I respect you. I'm glad that you're here.

Any Americans that are watching this—and I don't how many are, to be honest with you—they don't want to hear that answer. They want to hear the answer that I want: Where are they? What are they doing? Are we safe? That's the real deal, and we're not getting the real deal.

I yield back.

Mr. CLINE. The gentleman yields back.

The gentleman from Maryland is recognized.

Mr. IVEY. Thank you, Mr. Chair.

I'm kind of frustrated with this, I must say. The irony here is that they're going after you for not producing things for X number of months.

The last time we had a hearing like this was November 30th, and I asked the Majority explicitly for the email exchanges that go between majority staff and whatever department they're making these requests for.

The reason I requested that was because we come back here over and over again, and they make these allegations about refusal to comply, and I want to see that. Because whenever we actually have conversations in the hearing room, that's not the case.

You talk about rolling productions, which of course makes sense, and of course that's the way it works in court as well, especially given the volume of data requests that have been made, the thousands of them.

This notebook here, this is just one that we compiled. This is just from the Committee for your two agencies, this whole book. That doesn't even count—I'm on Homeland Security as well. We've got the same volume of document requests coming for you over there too.

By the way, when the Chair said we can't do our jobs, I mean, my reaction was kind of this. Homeland Security wasn't trying to do its job. It was trying to do this fake impeachment of Mayorkas.

Fortunately, it went over to the Senate and got the back of the hand, which is what it deserved, because it was a sham impeachment, it was totally unconstitutional, *ect*.

I'm at the point now with these that maybe they just need to go to court. Maybe we just have to have a third party, like a judge, take a look at these and say, "You know what? The government's response is reasonable."

You need to make priorities, Republican Committee leaders. If you're going to make this many data requests spread out over, like, what is it, 70 Committees and Subcommittees, you have to prioritize.

Some of the requests for the data is just overbroad on its face, all documents and communications between DHS on its components referring to or relating to Secretary Mayorkas' statement about the 85 percent, and this is sent back to 2021.

That's a broad data request. We can make something narrower than that. Presumably the reason you would have these email communications would be to narrow that down if the Committee is acting in good faith and trying to do that.

I do want those emails. I want to see those.

With respect to what's coming next week, I guess, this is the next step on this, Department of Justice. This Committee has sent subpoenas to live criminal prosecutions, ongoing investigations. They brought up prosecutors here in the middle of those criminal investigations, which is something I have never seen before. I first came to this Committee in 1987 as a staffer.

Completely over the line. You don't want to interfere with a criminal prosecution. Because there they are complaining about the inability to go after Hunter Biden, and then they're going to drag in the prosecutors who are leading those prosecutions in the middle of the investigation? That doesn't make any sense.

Next week, I guess what it'll be, they're talking about contempt proceedings against the Attorney General. I think you should take it to court.

Now, that's a sad statement, I feel, because I'm on the House Judiciary Committee. I'm a Member of the House of Representatives. I'd like to preserve our priorities and our authority. It looks like it's at the point now where it just really has to be challenged, and we'll need judges, and Appellate Court judges as well, to make decisions on what makes sense and what doesn't.

I've got to finish up with Mr. Swalwell's comments with respect to Chair Jordan. It's not just Chair Jordan. Former Speaker—actually former Congressman—Mr. McCarthy also ignored the subpoenas that were issued by the House of Representatives, and the Select Committee. What was that, two years-plus now? Mr. Perry, Mr. Biggs, same thing.

So, the irony of them sitting here and basically accusing you all ignoring subpoenas or data requests or whatever, when we have these four Republican Members who completely stonewalled them and made no efforts to produce anything, I think is unfortunate.

So, the last time we had this, this was Hunter Biden, and I actually made a proposal to reach a compromise on that, which ended up being accepted by Mr. Biden's attorneys and the Committee. I don't think I'm going to do that again when we come to this next week or whatever the next time is where we do these.

My suggestion to the Administration is just litigate it, force them to go to court, and let's hash it out then. Or you can do the same strategy that they did, which is to drag your feet and wait until the next election and hope that you're in the majority after that, and then you can just ignore the subpoenas without consequence.

So, with that, I yield back.

I apologize for you continuing being dragged up here for these reasons.

Mr. CLINE. The gentleman apologizes.

The gentleman from Texas.

Mr. MORAN. Thank you, Mr. Chair.

Secretary Buetow, I'd like to direct my questions and comments to you if you don't mind. I want to talk about Eagle Pass and the document production request as relates to Eagle Pass.

Of course, in September 2023, while thousands of illegal aliens flooded into Eagle Pass, Texas, shutting down lawful commerce across the bridges, DHS cut and removed concertina wire and fencing installed as a deterrent by the State of Texas, an action that helped actually the aliens cross illegally.

Accordingly, the Committee requested information from DHS and followed up on these requests on numerous occasions, ultimately sending a subpoena to DHS for this information.

In response, DHS did produce 1,083 pages, 714 of which, I will note, were comprised of publicly available materials, largely public court documents.

Setting aside that in particular, I want to talk about that production request, and I want to make reference to something Mr. Ivey just said.

He wanted us to prioritize. So I'm just going to put on the record, as it relates to that February 29th subpoena to DHS, items 1, 2, 3, and 9 are the priority.

Also, if we're talking about—if we're going to get into some arguments about being overly broad or not overly broad, let me just point out one. This is item number 3: "Documents sufficient to show the identification of the individuals who made the decision to cut the concertina wire."

I can assure you that is a very narrow request. Ironically, we haven't seen any documents that would actually give us the information about who made the decision to cut that concertina wire.

So, let's talk about the request that you did produce or the documents you did produce.

Out of 1,083 pages, when you search the term "gotaways," when we're talking about a request that wants to know what was going on with the gotaways, only one document even referenced the term "gotaway," one page out of 1,083 pages that was actually provided to the Committee.

That seems like it probably is not the full scale of the documents that we're looking for to understand the full scale of how many gotaways have crossed over that you know of in DHS or that you assess in DHS.

When can the Committee expect to receive documents and communications relating to the total number of known and unknown gotaways as noted in the ninth category of the Committee's February 29th subpoena?

Ms. BUETOW. Thank you, Congressman, for your question. It's good to see you again.

I would say it is indeed very helpful when we have prioritization of what is top of mind for Members when they make these requests. So, identifying 1, 2, 3, and 9 is incredibly helpful.

As you know, we've made two productions to date with respect to the specific subpoena. I'm happy to work with my staff to kind of drill down on the things that are most front of mind for you.

Mr. MORAN. Front of mind on this question is about gotaways. So, when can we expect documents on the gotaways?

Ms. BUETOW. Specific, as you well know, we work across our components. I would be cautious not to put a date on it, but I can assure you this week we'll followup and get the balling rolling, narrowing down the scope of the particular ask here.

Mr. MORAN. Prior to today and your commitment to do that in the following days, what action is actually going on or has gone on in the past couple weeks to try to identify documents related to gotaways?

Ms. BUETOW. So, I think with any of these productions, not just specific to gotaways, but when we have a request from The Hill, we take every action to identify information that would be responsive and that we can share.

As I noted in my opening statement, in each of the instances where subpoenas have been issued, we were already engaging in the accommodations process with the Committee to identify this information and continue a rolling production to get it in the hands of the Members.

Mr. MORAN. All right. Let's shift to identification of the person who made the decision to cut the concertina wire.

Would you agree with me that the request I read is not overly broad? Just to identify, it doesn't say all documents. It just says documents sufficient to show the identification of the individual who made the decision to cut the concertina wire. That could just be one document. We just need to know who made the decision.

Would you agree with me that indeed that is a narrow request?

Ms. BUETOW. Congressman, your framing of the question was quite narrow and direct. I also think that in the scope of this particular issue, as I'm sure you're tracking, there have been litigious issues, there's the Executive Branch issues. So, I don't want to give an overly broad response here, but what you're asking, as it's framed, is not overly broad at all.

Mr. MORAN. When can you commit to producing that information to identify the person that made the decision to cut the concertina wire?

By the way, I want to go back and say, I read into the record the four priority categories. The staff had already told you guys that. You know that. They'd already communicated those four specific requests as the priority requests. I'm just reaffirming that today.

When can we expect to know the identity of the person that said cut the concertina wire?

Ms. BUETOW. I understand that our staff have been in clear communication on this issue. I'm happy to continue engaging in that accommodations process.

I do not know if there is a document that actually exists that has someone's name on a piece of paper. I understand and hear you loud and clear, Congressman.

Mr. MORAN. I yield back.

Mr. CLINE. The gentleman yields back.

The gentlelady from Florida is recognized.

Mr. IVEY. Mr. Chair, if I could ask. The communication—

Mr. CLINE. Point of parliamentary inquiry?

Mr. IVEY. Yes. Well, it's actually just a request to the Full Committee.

The discussion about the communications between staff and majority with respect to the four priorities, if that was done in writing, I would request the document.

Mr. CLINE. Well, the gentleman's request is not at this time. If you want to let your staff know and we'll have staff have a conversation about that.

Mr. IVEY. We should probably do it in writing at this point. So, we'll make a written request to the Subcommittee Chair and the Full Committee Chair.

Mr. CLINE. Thank you.

The gentlelady from Florida is recognized for five minutes.

Ms. LEE. Good afternoon, Secretary Buetow. Thank you for joining us here again this afternoon.

I have some questions that I would like to ask that are specifically related to CISA and CISA's role in elections.

Specifically, CISA coordinated in some instances with social media companies about elections-related information, and our Committee is interested in investigating that role and that involvement of CISA in information that was posted or removed from social media during the elections process.

To date, the Committee has received 2,300 pages of documents responsive to the April 28, 2023, subpoena. The production at this point is still incomplete.

I know you have shared with other Members of the Committee who've inquired so far limitations on your ability to give a specific date. Nonetheless, I'd like to hear from you about the status of that review and production and any timeline you can give us on when you think these documents may be available.

Ms. BUETOW. Congresswoman, good to see you again as well.

As you noted, we have produced over 2,000—I believe the number is closer to 2,500 documents with relation to this request. We've also provided transcribed interviews with CISA employees.

There's a lot of material that exists, and as we identify information, we are continuing to make rolling productions.

I would think that the Committee would appreciate continued productions of materials as opposed to productions that are not full, some, accurate, and complete. We will continue to work toward that end.

Ms. LEE. In particular, we heard mention earlier about Director Easterly's testimony in front of the Appropriations Committee last week.

Director Easterly specifically mentioned 200 occurrences where an elections official had flagged information for CISA and that was passed along to social media companies. So, documents and communications related to these 200 incidents specifically would be responsive to existing subpoenas.

Are you aware of the progress on that particular request and the timeline when we might receive those documents?

Ms. BUETOW. So, I understand that this is a reference to testimony this week or last week, and I'm happy to take that back and look at that testimony and see what we can get in your hands in that.

Ms. LEE. One particular thing that we are interested in; on March 20, 2024, the Committee wrote to CISA to request documents related to CISA's partnership with the Pennsylvania Election Threats Task Force. These documents are responsive, again, to the April 28, 2023, subpoena.

We received responsive documents May 6, 2024, the day before this hearing, 140 pages of responsive documents, but half of those

were publicly available in a report by the University of Pittsburgh's Institute for Cyber Law.

So, one question we have is when CISA started to compile documents related to the Pennsylvania Election Threats Task Force in response to the Committee's subpoena.

Ms. BUETOW. As I have stated, the Department always responds to incoming document requests and letters.

As I sit here today, I cannot say on January X they began their process. I do understand that they are continuing to look to have a response imminently with regard to this.

Ms. LEE. That is one that I know we would be interested in you going back and actually trying to identify that timeline for us, because it was a longstanding request and a clearly identifiable set of documents.

One other concern we had related to those documents, in particular, is the heavy amount of redactions in what we did receive. We can see here an example of one of those documents that came back to us heavily redacted, which of course hinders our ability to understand or analyze the contents and relevance of the information contained in those documents that are produced to us.

Do you know who within CISA is responsible for reviewing and making decisions about what information is redacted in documents that are produced?

Ms. BUETOW. So, any time there is a request for documents or data, redactions are made in individual components. Typically, it would be my assumption that they're working with their Office of General Counsel or Legal Counsel, whatever the relevant scoping is. So, you would imagine our intel components would be looking for intel information and that would guide what is redacted.

I don't believe, as across the Department, there's ever just a single individual. It is always a cooperative process for identifying redactions.

Ms. LEE. Mr. Chair, I yield back.

Mr. CLINE. I thank the gentlelady.

All right. We're going to proceed with a second round. I recognized myself for five minutes.

Assistant Secretary Egorin, on April 5th, the HHS provided a response to inquiry about—stating that in calendar year 2021–2023, the HHS made contact with either an unaccompanied child, sponsor, or both in 308,833 households. the HHS noted that in 66,622 households the HHS was unable to contact with both the sponsor and the UAC.

However, not included in the HHS's production was the number of safety and well-being calls in which the HHS was unable to make contact with the UAC themselves. As *The New York Times* previously reported in February 2023, the HHS was unable to contact through safety and well-being calls 85,000 UACs. More than a year later, that number is likely far higher today.

Will you commit to provide information about when we're going to receive—by the end of the week—the total number of UACs with whom you have lost contact?

Ms. EGORIN. Congressman, I want to first reiterate our commitment to making sure that when children are placed with a sponsor that they have services available to them.

Unfortunately, as you saw in our President's budget proposal, we are limited in our statutory authorities as well as our funding for post-release services.

What I can commit to you today is to come back to you with an estimate and to continue to work with your staff regarding when we can have information available.

Mr. CLINE. The information that the HHS provided on April 5th, was not current through 2024 and only captured calendar years 2021–2023.

Will you also commit to providing this information through the present date as the subpoena compels you to?

Ms. EGORIN. Congressman, we will continue to work with your staff and can see what data is available and continue to work through an accommodation process.

Mr. CLINE. All right. Well, let's shift a little to criminal aliens' case files.

In response to the Committee's February 20, 2024, subpoena that compelled the production of case file materials for several criminal alien UACs that were released from the HHS custody during the Biden Administration, the HHS has produced 2,476 pages.

However, the materials produced were replete with redactions even though the case file materials are not classified or subject to any applicable privilege.

Would you agree?

Ms. EGORIN. Congressman, we've made over 3,600 pages available for in camera review, and we at the Department take our obligation to protect these children's personal health and personal identifiable information seriously.

Mr. CLINE. Why did the HHS provide the Committee with case files that contained redactions when those redactions were not contained in the case files Committee staff initially viewed in camera?

Ms. EGORIN. Congressman, as we discussed when I was before the Committee the last time, we will continue to make sure that we work through individual redactions, and my understanding is we have worked with your team to lift specific redactions and prioritize specific pages.

In terms of the differences, it had to do with how the accommodation process and how the Committee staff had released information previously without letting us know that this information—that did have sensitive information—would be released publicly.

Mr. CLINE. Will you provide the Committee the documents governing the HHS redactions and how they're applied?

Ms. EGORIN. Congressman, redactions are applied to protect the personal identifiable and personal health information. We are happy to continue to have conversations around specific redactions.

Mr. CLINE. Do you have guidance? Do you have guidelines for redactions?

Ms. EGORIN. Congressman, we provide—

Mr. CLINE. Yes or no?

Ms. EGORIN. Congressman, we continue to—

Mr. CLINE. I'd like a yes or no on that one.

Ms. EGORIN. Congressman—

Mr. CLINE. Do you have internal guidelines on redactions?

Ms. EGORIN. Congressman, we look at the individual material and redact to make sure that we are protecting personal health information and personally identifiable information of the children in our care.

Mr. CLINE. Where does that come from? Does that come from guidelines, or does that come from something you've made up yourself?

Ms. EGORIN. Congressman, as you know, there is a constellation of factors that can be used to identify any individual. We are all at risk of that.

So, we look at documents to make sure that—

Mr. CLINE. You do understand Congress is not under the Privacy Act, correct?

Ms. EGORIN. Congressman, we take our obligations for personal health information and personal identifiable information very seriously.

Mr. CLINE. Well, apparently not serious enough to follow a subpoena from Congress. Now, I'm going to—

Ms. EGORIN. Congressman, it is my understanding of the subpoena that we have been incredibly responsive. We have answered followup questions, and we have—

Mr. CLINE. You know that's not accurate.

I'm going to yield to the gentleman from California—oh, OK, the gentleman from Maryland for five minutes, Mr. Ivey.

Mr. IVEY. Just so I'm clear on that conversation, is this about juveniles?

Mr. CLINE. Yes.

Mr. IVEY. OK. I had thought that juvenile information was protected and not made publicly available, but we'll set that to the side for the moment. I appreciate the fact that you're offering to have the communications ongoing.

I wanted to go to the CISA discussion that's come up, because, again, in Homeland Security we've spent a lot of time on this issue. This Committee has as well. For example, they did a deposition of Ms. Nina Jankowicz, a like four-hour deposition here, and others on these issues.

I wanted to ask—actually, I don't want to ask. I'm going to say this.

The CISA mission with respect to protecting elections from challenges that we've seen, and we've discussed this at Homeland Security, and this is publicly available information, but the United States in 2024 is facing clear efforts by China, Russia, Iran, and other groups and countries to interfere in our elections.

One of the things that CISA is trying to do is to find ways to protect the election integrity, whether it's at the State level or the Federal level as well. Part of the way that they do that is to work with State legislatures, State Secretaries of State, and also, in some instances, social media platforms.

So, the hearing we did, we've done several of these in Homeland Security, and maybe these are some of the thousands of documents that you've produced, but I've seen them already as well as part of those hearings.

Those are communications between frequently—on occasion it's somebody in the Federal Government—but, frequently it's between

people in the social media platforms, Microsoft or whoever. In many instances they're State Secretaries of State or State officials who have a question about misinformation or false information. For example, poll X is closed right now when actually it isn't.

They want to make sure that that misinformation is taken down so that the electoral process isn't undermined and people who have the right to vote don't have that taken away from them by this kind of election interference effort.

I actually saw Republican efforts when they identified misinformation with respect to polls. I think one of the instances they had, and I had an email about this and made it part of the record in Homeland Security, they called the social media platform themselves and said correct that information and take it down so people and voters, don't get the wrong information.

So, what I saw of it was that it was bipartisan, at least on the ground. It's morphed into something different here in Congress, at least with respect to the House Republican leadership and some of the ways they've tried to approach this and turn it into something where it's an effort to steal the elections or something along those lines. It might've been in the Committee next door where they argued these were First Amendment violations.

It's important for the American people to know that we have adversaries out there who are trying to undermine American democracy, and the 2024 election is at risk, frankly, by some of these foreign agents that are trying to find ways to undermine it. I really want to commend CISA and the Department for trying to find ways to attack that.

I don't want to attack the private sector people, some of the social media platforms who've been participating and trying to work with the government, State or Federal, or any other actors who want to try and protect elections as well, and recognize that social media platforms, in some instances, have been used by some of these foreign adversaries to spread misinformation and disinformation in an effort to undermine our democracy. That's not just for elections; that's other scenarios, too.

So, I want to thank you for the work that you're doing.

I also wanted to just, before I run out of time here, raise my concern about this Committee's attacks on government employees, Federal Government employees in particular, who are really just trying to do their jobs.

Ms. Jankowicz was one of the worst examples of that. She ended up having to hire security to protect her from people who were making threats, some of them fed by people in the House of Representatives on the Republican side as we sit here now.

That's not the way this should work. It really isn't. People who are just trying to do their jobs, work for Uncle Sam and do the right thing to make America better, safer, and stronger don't deserve to be attacked in that way.

So, I see my time has expired. Again, I hope that we can find a bipartisan way to stop attacking you for these issues and protect our elections from some of our foreign adversaries who are actually trying to undermine them as we speak.

With that, I yield back.

Mr. CLINE. I'd just inquire, the gentleman is not suggesting that anyone on this Subcommittee is attacking government employees by inquiring about the status of subpoena replies?

Mr. IVEY. Not this Subcommittee at this moment, but in the transcripts that this Subcommittee and this Committee will not release publicly, that's absolutely the case.

That's also absolutely been the case in social media statements that have been made, whether it's on X or Twitter or whatever. I don't want to name people because then we get into that issue.

Yes, Nina Jankowicz was personally attacked by Members of this Committee.

Mr. CLINE. Full Committee? Is that what you're suggesting?

Mr. IVEY. Yes. Yes, absolutely.

Mr. CLINE. All right.

Mr. IVEY. Absolutely. I can share the information with you whenever you'd like, and we made it part of the record actually during her deposition here and when she testified in Homeland Security. So, it's not a secret. I'm happy to share it.

Mr. CLINE. I appreciate the gentleman. The Subcommittee controls what it can.

The gentlelady from Florida is recognized.

Ms. LEE. Mr. Chair, I yield my time to the gentleman from Kentucky.

Mr. CLINE. The gentleman from Kentucky is recognized for five minutes.

Mr. MASSIE. I thank the gentlelady from Florida.

Assistant Secretary Egorin, there are some documents that we have been trying to get hold of for years and you all are withholding them, and I'm going to give you the story behind that and demand that you deliver them.

So, in December 2020, the CDC produced an MMWR—that's one of their newsletters, kind of their version of an academic paper—characterizing the Pfizer trials of the vaccine, of the BioNTech vaccine, and the FDA had summarized the Pfizer trials.

When the CDC's MMWR, they said that the vaccine was 92 percent efficacious for those who had already had COVID, I was struck by this claim because—well, first, I was interested because I had already had COVID and I was wondering whether to take the vaccine or not. I had studied the Pfizer data, the top-line data and the FDA characterization of it.

You know what? The problem with the CDC's claim is it was completely inaccurate. The trials didn't prove that at all. The trials weren't designed to prove that.

So, I called up the CDC, and I recorded the phone call, and they said,

We'll get the top scientist on the line with you and we'll find out what the deal is here.

They got their top scientist on the line. She said,

Wow, you found a mistake in our paper. I can't believe this was in there. We will fix this. We're going to call you Eagle Eye Massie over here at the CDC.

I said,

OK, that's great. Appreciate you fixing this, because there is no data to support this.

So, a month goes by, and on January 2021, I call up and I look at their website—lo and behold, nothing has been fixed.

I then started contacting people at the CDC and they were very averse to fixing it, the misstatement. This began a saga. Just three minutes—or three hours into the Biden Administration was one of these phone calls when the coverup started to begin.

They were conflicted. They wanted everybody to take the vaccine. They didn't have data that showed it would help anybody who had already had the COVID infection, but they didn't want to change this.

So, I made lots of calls, recorded them all. They admitted to me that they were wrong and said they would fix it. They eventually changed it, but they never fixed it. OK.

So, then a FOIA request went to CDC, and they produced over 1,000 pages, most of it redacted like this. The FOIA request was every conversation about Congressman Massie at CDC. It produced over 1,000 pages. Imagine that. They were mostly redacted. They didn't want to say what they were saying about the truth that I was giving to them.

So, then I've been trying for years, and I tried in October, and I tried in December 2023, to get these unredacted emails. Well, right before this hearing, lo and behold, you produced some unredacted emails.

Here's the problem: You left out dozens of them, dozens of the emails that were responsive to the request. It was not by accident. These aren't minor oversights.

Like, here are the kind of redactions. The whole entire email is redacted. The subject is, "The call from Rep. Thomas Massie." I mean, these are the kind of redactions. Look at this. Entire pages redacted.

My question is, when are you going to produce these? Why are you not producing these? Why are you even—why are you pretending that these emails don't exist? Some of them are in my inbox. Some of them are to me. They're not in your production. Why?

Ms. EGORIN. Congressman, I want to thank you for acknowledging the production that my team did last week to you. If there are specific documents that are not included and you can identify them, I am happy to continue to work with you and with the Committee staff for productions.

That production, as with all the requests before this Committee, have not stopped. We are happy to continue to work. We are happy to continue producing documents on a rolling basis or if there's specific requests for specific documents.

Mr. MASSIE. Did you think this one was responsive? The subject is,

Call with Rep. Massie.

Anne Tatum (ph), Christina Serna, and, a month ago, Dr. Amanda Cohn and I had a call with Rep. Thomas Massie of Kentucky regarding concern about language in an MMWR from December 13th that was inaccurate. Redacted, redacted, redacted. He called again yesterday and is raising concerns about the issue, including on Twitter. Redacted, redacted, redacted, redacted. I wanted to let you know in case you hear any more about it—

redacted, redacted, redacted—but wanted you to be aware this issue is continuing. Dr. Schuchat spoke with Rep. Massie today—redacted, redacted, redacted. Let me know if you have any additional questions [inaudible].

Why did you think this is not responsive to my request?

Ms. EGORIN. Congressman, I'm not saying this was or was not responsive. We did a production last week. We did not say that our productions were finished.

I'm happy, if there are specific other documents, if there are specific things that you have that you would like us to produce, if you would like us to continue to work, we are happy to continue the accommodation.

Mr. MASSIE. I've told you specifically what it is. We're four years into this. We gave you the list of things to give us. We said the things that were responsive to the FOIA request. You conspicuously left out the most relevant emails.

We're out of time. You are out of time. We are tired of this. It's not incompetence. It's insolence.

I yield back.

Mr. CLINE. The gentleman yields back.

The gentleman from California is recognized for five minutes.

Mr. SWALWELL. I guess we're talking about COVID again. That's all right. I'm old enough to remember when the former President, President Trump, wrote out,

Looks like a third rate grandstander named Thomas Massie, a Congressman from, unfortunately, a truly GREAT State, Kentucky, wants to vote against the new Save Our Workers bill in Congress.

That was a COVID bill that we were considering. That was four years ago, and my colleague from Kentucky is still on this COVID kick.

I want to set the record straight.

Secretary Egorin, is the COVID vaccine safe and effective?

Ms. EGORIN. Thank you for the question.

The COVID vaccine is safe and effective. Thanks to the COVID vaccine and the efforts and funding that we did get for the vaccine, we were able to reopen the economy.

Mr. SWALWELL. How cooperative has the HHS been regarding this particular line of inquiry from Mr. Massie? How many witnesses have been brought in for transcribed interviews?

Ms. EGORIN. Congressman, across the requests related to COVID vaccines we have facilitated three transcribed interviews, including one just last month. We have made four productions across multiple of the divisions in the Department.

Mr. SWALWELL. Can you just lay out broadly how many people are dedicated to responding to requests from Congress? Is this the only Committee that is sending you requests?

Ms. EGORIN. Congressman, as I said in my testimony, the HHS is committed to being responsive to Congress. It's not just oversight requests; it's requests for technical assistance on the legislation that policymakers are drafting; it is providing witnesses for hearings, including senior officials, to talk about the President's budget request; it's providing policy briefings and updates on legislation.

So, the responsiveness to Congress is both oversight, but the larger legislative mission of Congress.

It's across the Department. It's not just in the Assistant Secretary of Legislation. It is in each of the operating divisions. We currently, just in terms of oversight, have 150 oversight request letters from 17 different Committees.

As I said, this is one part of what we do to be responsive. We are very happy to continue to work with Congress as they develop policy and have additional requests.

Mr. SWALWELL. What are the dangers of Congressman Kennedy—I'm sorry, Congressman Massie's fear-mongering against a safe and effective vaccine that saves lives against a virus that killed over a million Americans?

Ms. EGORIN. Congressman, as the Secretary has said, as our senior leaders and public health officials have said, the vaccine for COVID is safe and effective. It reduces hospitalization. It reduces risk of death.

Because of the investments that we were able to make in providing free vaccines during the Biden-Harris Administration, we were able to reopen the economy, reopen schools, be able to celebrate holidays.

Mr. SWALWELL. Go to church?

Ms. EGORIN. Go to church, gather. All of that is very much a reflection of our ability to, as not just COVID vaccines but all vaccines, help improve the public health of the country.

Mr. SWALWELL. Yield back.

Mr. CLINE. All right. That concludes today's hearing.

Before we adjourn, I'm going to ask unanimous consent to enter into the record an article from *Breitbart* entitled, "Jayapal Lectures GOP for Exposing Murder Case Details, Then Reveals Minor MS-13 Suspect's Name."

Without objection, so ordered.

Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

I thank our witnesses.

Without objection, the hearing is adjourned.

[Whereupon, at 4:04 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on Responsiveness and Accountability to Oversight can be found at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=117256>.