

**Congress of the United States**  
**Washington, DC 20515**

December 1, 2017

Eric Hargan  
Acting Secretary  
U.S. Department of Health and Human Services  
200 Independence Ave SW  
Washington, DC 20201

Dear Acting Secretary Hargan:

As Members of Congress, we are gravely concerned about the treatment of young, undocumented women under the control of the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services (HHS). These young women are being systematically denied access to their rights in violation of the Constitution. The recent case of Jane Doe litigated in *Garza v. Hargan*, has highlighted the extreme lengths to which this administration will go to deny a young woman her constitutional right to access an abortion. While Jane Doe's rights were finally honored, we know that last month there were more than 40 unaccompanied pregnant minors in ORR custody. We fear there are many more Jane Does being denied their rights by ORR and, in particular, by ORR Director Scott Lloyd.

Despite your repeated claims to the press, the case of Jane Doe had nothing to do with enforcing the Hyde Amendment, which restricts federal funding for abortion.<sup>1</sup> Jane Doe secured private funds and private transportation to access care.<sup>2</sup> Rather, the case, and others like it, was a matter of constitutional rights and the rule of law, both of which your agency has routinely ignored in its myopic crusade against abortion.

The Constitution guarantees women the right to access abortion and prohibits the government from putting an undue burden on that right. Despite this clear-cut constitutional protection, you and your office have wielded an arbitrary veto over young women's decisions to have abortions, including victims of rape. In Jane Doe's case, ORR held her hostage; the agency barred her from leaving her shelter to access care, a clear violation of her Fifth Amendment rights, because it disagreed with her health care choice to have an abortion.

That action, and the arguments the government offered to defend them in court, fly in the face of the rule of law. You claimed the government had "strong and constitutionally legitimate interests in promoting childbirth," an argument that reads more like an excerpt from *The Handmaid's Tale* instead of a valid legal claim.<sup>3</sup>

For more than a century, courts have held that constitutional protections extend to anyone living in this country, including Jane Doe and others like her, regardless of immigration status. Your argument that

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<sup>1</sup> North, Anna. "A detained 17-year-old immigrant wants an abortion. The government went to court to stop her." Vox.com, October 24, 2017. <https://www.vox.com/identities/2017/10/19/16500166/texas-abortion-teenager-undocumented-immigration> (North)

<sup>2</sup> Complaint for Injunctive Relief and Damages at 9, *Garza v. Hargan*, No. 1:17-cv-02122. (D.D.C. 2017) (*Garza* Complaint)

<sup>3</sup> Emergency Motion for Stay Pending Appeal as 12, *Garza v. Hargan*, No. 17-5236 (D.C.C 2017) (*Garza* Motion).

somehow Jane Doe has lost these protections because she seeks an abortion is absurd and has no basis in law. That claim is not only untrue but may create a dangerous precedent that women in this country only maintain their constitutional rights when it complies with the administration's political beliefs. We were relieved to see the D.C. Circuit Court of Appeals stand up for the rights of Jane Doe.

But we know Jane Doe is not alone, and we fear that many other young women's rights are being denied by Director Lloyd and ORR. We have heard deeply concerning reports that HHS now enforces an unconstitutional policy of systematically counseling young women against accessing abortion.<sup>4</sup> Young women are being forced to visit so-called "crisis pregnancy centers" where they are coerced into revealing their health and sexual history to strangers, often required to undergo invasive and medically unnecessary sonograms, and proselytized by religiously-affiliated counselors.<sup>5</sup> The government has forced women to inform their families or sponsors of their pregnancies and choice to have an abortion, and even gone so far as to call women's family members themselves.<sup>6</sup> These actions are a clear violation of these women's First and Fifth Amendment rights.

These grave violations are part of a new, systematic policy of denying women access to abortion at any cost. We have heard that Scott Lloyd himself and other senior HHS officials have personally visited and counseled young women against abortion, threatened punitive action against any shelter that allowed a woman to access abortion, and denied women who request an abortion access to their attorneys.<sup>7</sup> Further, your agency requested that shelters and grantees provide "immediate and continuing information" to Director Lloyd about detained young women seeking abortion. Your agency has even gone so far as to interfere in a medical abortion by sending a young woman to the emergency room after she had begun her course of treatment.<sup>8</sup> If these reports are accurate, this policy represents a gross abuse of power. Intimidating and threatening young women over whom you have complete physical and legal control is abusive behavior that goes far beyond any authority granted to you by the federal government and violates your obligation to uphold the Constitution.

We demand that Director Lloyd immediately cease this policy of intimidation and coercion and comply with the rule of law. Allow young women currently in your custody to access the health care they need, including abortion. Stop denying these women their constitutional rights.


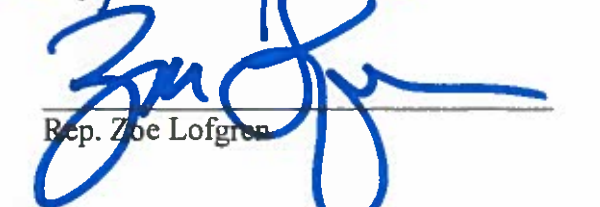
Sincerely,



Rep. Diana DeGette



Rep. Jerrold Nadler

Rep. Louise M. Slaughter

Rep. Zoe Lofgren

<sup>4</sup> Rayasam, Renuka. "Trump official halts abortion among pregnant teens." *Politico*. October 16, 2017.  
<http://www.politico.com/story/2017/10/16/undocumented-pregnant-girl-trump-abortion-texas-243844>

<sup>5</sup> Garza Complaint at p 10

<sup>6</sup> Rayasam

<sup>7</sup> Ibid

<sup>8</sup> Garza Complaint at p 9

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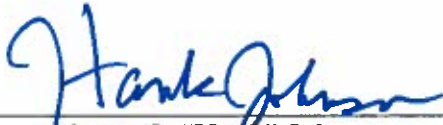
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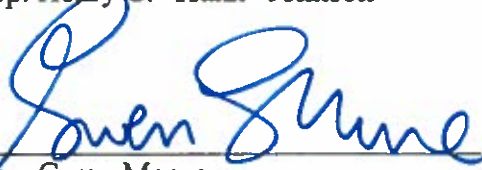
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