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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <https://commerce.senate.gov>

January 26, 2024

The Honorable Brandon Johnson
Mayor
City of Chicago
121 N. LaSalle Street
Chicago, IL 60602

Dear Mayor Johnson:

As members of the U.S. Senate Committee on Commerce, Science, and Transportation (Committee), we write regarding the housing of illegal aliens¹ at Chicago's O'Hare International Airport (O'Hare). Since at least June of 2023, the city of Chicago has been housing illegal aliens at the Bus and Shuttle Center area of Terminal 1.² More recently, the city has expanded this footprint to accommodate the housing of even more illegal aliens, relocating courtesy shuttle pick-ups for actual travelers to an entirely different terminal.³ According to public reporting, the city of Chicago is now utilizing Midway International Airport to house illegal aliens, too.⁴

Over the last 75-plus years, the federal government has invested hundreds of billions of dollars in the development of a robust, nationwide public-use airport system to facilitate the "growth of aviation and the requirements of interstate commerce . . . and the national defense."⁵ As the Federal Aviation Administration (FAA) states, there are several obligations that come with receiving this federal assistance, but the "[m]ost important is that the airport and its facilities

¹ As used in this letter, the term "illegal alien" means an alien, as defined in §101 of the Immigration and Nationality Act (INA), who has not been admitted as that term is defined in such section.

² Sophia Tareen & Melissa Perez Winder. "*Hundreds of Migrants Live Inside O'Hare Airport as Chicago Grapples with How to House Them.*" Fox32Chicago. October 2, 2023. Available at <https://www.fox32chicago.com/news/migrants-ohare-airport>.

³ "O'Hare Courtesy Shuttles Moving to Terminal 2 starting Feb. 1." Chicago Department of Aviation. January 4, 2024. Available at <https://www.chicago.gov/city/en/depts/doa/provdrs/dbata/news/2024/january/01042024.html>; "Bergquam: 'More Than Half of the Shuttle Terminal Has Been Taken Over at O'Hare International Airport to House Illegals That Chicago Can't Handle.'" Chicago City Wire. January 19, 2024. Available at <https://chicagocitywire.com/stories/652915809-bergquam-more-than-half-of-the-shuttle-terminal-has-been-taken-over-at-o-hare-international-airport-to-house-illegals-that-chicago-can-t-handle>.

⁴ Sophia Tareen & Melissa Perez Winder. "*Chicago is Keeping Hundreds of Migrants at Airports while Waiting on Shelters and Tents.*" AP News. October 1, 2023. Available at <https://apnews.com/article/migrants-immigration-airports-asylum-chicago-1399cc2447f89fdd3ed7b650ca84bbf5>.

⁵ Airport and Airway Improvement Act of 1982 (PL 97-248).

must be available for public use as an airport.”⁶ Repurposing airport facilities and infrastructure to house illegal aliens not only degrades taxpayers’ investment in the national airport system but, at least in the case of O’Hare, as federally-funded airport facilities are withdrawn from public access and use, it violates the requirement that these federally funded facilities “be available for public use *as an airport*.”⁷ No rational person would define an airport as a facility that houses illegal aliens.

Since 1985, Chicago has publicly flouted federal law as a self-declared “sanctuary city.”⁸ In recent years, despite waning public support, city leaders such as former mayor Lori Lightfoot doubled down on the sanctuary city status, rescinding a 2012 exception for public safety.⁹ The decision to remain a sanctuary city has proven contentious for Chicago. According to a poll of Chicagoans conducted early last year, “most” Chicagoans would prefer to end the sanctuary city status—including an “overwhelming” majority of minority voters.¹⁰ In December of 2023, the City Council even went so far as to vote down adding a referendum to Chicago’s 2024 ballot on its sanctuary city status—an outcome you publicly celebrated, describing the proposed ballot measure as “irresponsible and negligent.”¹¹

You have consistently promoted Chicago’s status as a sanctuary city, insisting that “Chicago must lead with and live by the promise to be a sanctuary city,” all while working overtime to avoid making good on such platitudes.¹² Just recently, you characterized the sending of illegal aliens to Chicago as “sow[ing] seeds of chaos,” implied Texas Governor Greg Abbott is motivated by racial animus and that his voluntary transportation program for illegal aliens to sanctuary cities is “attacking . . . cities that are being led by black leaders or leaders of color,” and demanded the federal government and the American taxpayer pick up the bill for Chicago’s decision to flout federal law.¹³

⁶ “AC 150/5190-8, Minimum Standards for Commercial Aeronautical Activities.” Federal Aviation Administration. December 7, 2023. Available at https://www.faa.gov/documentLibrary/media/Advisory_Circular/AC-150-5190-8-minimum-standards.pdf.

⁷ *Id.* (emphasis added).

⁸ *Executive Order 85-1.* Office of the Mayor Harold Washington. City of Chicago. March 7, 1985. Available at: https://chicityclerk.s3.us-west-2.amazonaws.com/s3fs-public/reports/Executive%20Order%201985-85-1_0.pdf.

⁹ “What Does It Mean That Chicago Is a Sanctuary City? Here’s What to Know.” WTTW News. October 20, 2023. Available at <https://news.wttw.com/2023/10/20/what-does-it-mean-chicago-sanctuary-city-here-s-what-know>.

¹⁰ “Most Chicagoans prefer to end ‘sanctuary city’ status.” ABC7 Chicago. October 6, 2023. Available at <https://abc7chicago.com/sanctuary-cities-in-illinois-chicago-migrants-city-m3-strategies/13872569/>.

¹¹ “Chicago City Council sanctuary city referendum roundly defeated.” ABC7 News Chicago. December 14, 2023. Available at <https://abc7chicago.com/migrants-in-chicago-city-council-meeting-sanctuary-mayor-brandon-johnson/14181793/>.

¹² Johnson, Brandon. “Brandon4Chicago.” “Chicago must lead with and live by the promise to be a sanctuary city. Longtime Chicagoans don’t have to lose for new arrivals to gain — there’s enough space at the table for all of us to sit and eat. Immigrants are welcome here.” X. March 10, 2023. Available at <https://twitter.com/Brandon4Chicago/status/1634356474926321664>.

¹³ “Chicago Mayor Accuses Texas Governor of Sowing ‘Seeds of Chaos’ After Migrant Plane Lands Overnight.” The Messenger. December 31, 2023. Available at <https://themessenger.com/politics/chicago-mayor-brandon-johnson-texas-governor-seeds-of-chaos-migrant-plane-lands-overnight>.

Your decision to house illegal aliens at O'Hare is even more curious considering Chicago has been in a contentious months-long dispute with tenants United Airlines and American Airlines regarding the future of a new terminal more than \$1.5 billion over budget. As the *Chicago Tribune* noted in an editorial last year, at O'Hare the cost per enplaned passenger (CPE)—essentially a measure of how expensive it is for an airline to use an airport—was nearly \$26 even *before* the new terminal project. By comparison, the CPEs at Dallas-Fort Worth and Charlotte were roughly \$12 and \$4, respectively.¹⁴ It should be no surprise then that airlines are questioning your city's ability to support this “global terminal” project, given that it is already over budget before construction has started and, instead of finding agreement on a path forward for the new terminal, Chicago continues to convert its existing terminal and ancillary facilities into housing for illegal aliens.¹⁵ The city has previously stated the \$12 billion project—originally estimated to cost \$8.7 billion—will be funded by airline taxes and landing fees.¹⁶ In the context of the ongoing contract dispute, your efforts to blame everyone but President Biden for the tens of thousands of illegal aliens coming to Chicago, and your demand for billions of dollars from American taxpayers, some may wonder whether your “openly anti-capitalist administration,” as the *Chicago Tribune* put it,¹⁷ is trying to squeeze more money out of United and American as you struggle to offset the costs of being a sanctuary city.

The Standing Rules of the Senate provide the Committee the authority to “review and study, on a continuing basis” matters related to transportation including aviation.¹⁸ In our capacity as members of the Committee, we are committed to robust oversight of the U.S. aviation system,

johnson-migrants-texas-chaos; “Johnson: Texas Governor Is Sending Illegals to Chicago Because He Is Black.” Chicago City Wire. January 8, 2024. Available at <https://chicagocitywire.com/stories/653575088-johnson-texas-governor-is-sending-illegals-to-chicago-because-he-is-black>; “Mayor Brandon Johnson in D.C. to Push for \$5B in Federal Funding for Migrants.” CBS News. November 2, 2023. Available at

<https://www.cbsnews.com/chicago/news/chicago-mayor-in-d-c-in-push-for-federal-funding-amid-migrant-crisis/>.

¹⁴ “Editorial: When It Comes to Chicago’s Vital O’Hare Airport, United and American Airlines Hold the Cards.” Chicago Tribune Editorial Board. December 1, 2023. Available at <https://www.chicagotribune.com/opinion/editorials/ct-editorial-ord-chicago-ohare-global-gateway-american-united-airlines-20231201-pdiugr6eczd4djmwcjto36tcgi-story.html>.

¹⁵ “American, United Want Out of Deal to Modernize Chicago O’Hare.” View From the Wing. December 2, 2023. Available at <https://viewfromthewing.com/american-united-want-out-of-deal-to-modernize-chicago-ohare/>.

¹⁶ “As O’Hare Expansion Price Tag Climbs, Airport’s Two Biggest Carriers Want Project Scaled Back – or Grounded.” Chicago Sun-Times. November 28, 2023. Available at <https://chicago.suntimes.com/city-hall/2023/11/28/23979601/ohare-expansion-united-american-airlines-global-international-terminal-gates-flights-chicago>.

¹⁷ “Editorial: Whatever United Airlines Is Planning, Chicago Has to Take Charge Now.” Chicago Tribune Editorial Board. January 8, 2024. Available at <https://www.chicagotribune.com/opinion/editorials/ct-editorial-united-airlines-headquarters-chicago-20240108-ucbzqltjfrb2rbvzsyt3ijrf54-story.html>.

¹⁸ S. Rules XXV(1)(f), XXVI(8)(a)(2).

which includes airports receiving federal funding. As such, please provide written responses to the questions below no later than February 9, 2024:

1. Regarding housing or otherwise locating illegal aliens¹⁹ at O'Hare:
 - a. How many are located or being housed at Terminal 1 and the Bus and Shuttle Center, as of the date of this letter?
 - b. Has O'Hare assessed the maximum number that can be housed in these areas before creating a safety or fire hazard? If so, how many?
 - c. What is the cost per day and total cost to date?
 - d. Is the Bus and Shuttle Center at Terminal 1 the only location on the city's airport grounds where they are housed or otherwise located? If not, please provide the location and number at each other location.
 - e. Has it reduced capacity of O'Hare's Terminal 1 or any other part of the airport, in any way?
2. Regarding housing or otherwise locating illegal aliens at Midway:
 - a. How many are located or being housed at Midway as of the date of this letter?
 - b. Has Midway assessed the maximum number that can be housed in these areas before creating a safety or fire hazard? If so, how many?
 - c. What is the cost per day and total cost to date?
 - d. Where are they housed or otherwise located at Midway? Please include the number at each location.
 - e. Has it reduced capacity at the airport in any way?
3. Regarding the sources of funds to pay for costs related to housing or otherwise locating illegal aliens at O'Hare and Midway:
 - a. Has O'Hare or Midway used any airport revenue, concessionaire revenue, landing fees, airline taxes, or other aeronautical or non-aeronautical revenue stream to pay those costs? Please describe each funding source with specificity.

¹⁹ See n. 1, *supra*.

- a. What specific Chicago or Illinois agency or department is paying the costs?
 - b. Has the City of Chicago passed on any of those costs to air carriers?
 - c. Have any taxpayer funds been used directly or indirectly to pay the costs?
 - d. For the construction or maintenance of either Terminal 1 or the Bus and Shuttle Center, were any Passenger Facility Charge (PFC) funds used? If so, please provide a dollar amount.
 - e. Have any PFC funds been used to service debt that was incurred to build or maintain Terminal 1 or the Bus and Shuttle Center?
 - f. Has the city or the airport taken on any new debt since June of 2023 in order to pay those costs? If so, does the city intend to use PFC funds to service this debt?
4. Has the city asked for or received any waivers from the FAA to allow for the housing of illegal aliens at O'Hare or Midway?
 5. Did the city or the airport consult with TSA, including on matters of aviation safety and security, before turning the airport facilities into illegal alien housing?
 6. Since the city began housing illegal aliens at O'Hare and Midway, have there been any incidents involving illegal aliens where a law enforcement response was necessary? If so, how many incidents, what were the circumstances of the incidents, and what were the resulting criminal charges if any?

The crisis of illegal immigration brought on by the Biden administration is not just untenable, it is inhumane. Rather than advocating for border communities alone to shoulder the burden, we encourage you to use the authorities at your disposal to advocate for border and transportation security, the enforcement of immigration laws, and consider reversing the illegal immigrant magnet that is Chicago's misguided sanctuary city policy.

Thank you for your attention to this matter.

Sincerely,



Ted Cruz
United States Senator



JD Vance
United States Senator

The Honorable Brandon Johnson

January 26, 2024

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Todd Young
United States Senator



Marsha Blackburn
United States Senator



Dan Sullivan
United States Senator



Ted Budd
United States Senator



Cynthia Lummis
United States Senator