

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
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October 28, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
301 7th Street S.W.
Washington, DC 20528

Dear Secretary Mayorkas:

We are investigating the Biden Administration's callous disregard for the safety and security of our southern border, and your willful failure to enforce U.S. immigration law. The Biden-Harris campaign promised to do away with the Trump Administration's successful immigration policies, open the borders, and grant mass amnesty to illegal aliens. As a result, the southern border has been in chaos since the first hours that President Biden took office, and an unprecedented surge of aliens has poured across the border.

Since President Biden took office, U.S. Customs and Border Protection (CBP) has encountered over 3.6 million illegal aliens along the southern border.¹ Nearly 1.3 million of those aliens have been released into the interior by the Department of Homeland Security.² Meanwhile, during that same time, nearly a million illegal alien "gotaways" have successfully crossed the border undetected.³ During fiscal year 2022, at least 78 aliens on the Terrorist Screening Database were encountered by Border Patrol along the southwest border. That figure is 63 more than fiscal year 2021 and is seven times more than the number encountered during fiscal years 2017 to 2020 combined.⁴ Press reports also indicate that "nearly 750 migrants have

¹ U.S. Customs and Border Protection, Southwest Land Border Encounters, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

² *Texas v. Biden*, Case No: 2:21-cv-00067-Z (N.D. Texas) (Brief For America First Legal Foundation As Amicus Curiae In Support of Respondents, Defendants' Monthly Report For Mar. 2022, Defendants' Monthly Report For April 2022, Defendants' Monthly Report For May 2022, Defendants' Monthly Report For June 2022); MPP Reimplementation Report, July 2022, MPP Reimplementation Report, Aug. 2022, provided to Committee Staff by U.S. Dep't. of Homeland Security.

³ Adam Shaw, Bill Melugin, *Migrant Encounters at Southern Border Hit New Record in May, as Numbers Keep Rising*, FOXNEWS (Jun. 16, 2022) <https://www.foxnews.com/politics/migrant-encounters-southern-border-record-may>.

⁴ U.S. Customs and Border Protection, CBP Enforcement Statistics Fiscal Year 2022, Terrorist Screening Database Encounters, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

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died at the southern border this fiscal year.”⁵ This record number is over 200 more deaths than the number for last fiscal year.⁶

Committee Republicans intend to continue our oversight of the causes and consequences of the unprecedented Biden border crisis into the 118th Congress. This oversight includes examining the abdication of your duty to secure our borders, your failure to enforce federal immigration laws, and your dereliction in protecting Americans from the serious and detrimental consequences of the illegal immigration that you and the Biden Administration have caused. The American people deserve full transparency and accountability to understand the severity of the crisis along the border and exactly how it got to this point.

Since your confirmation, Committee Republicans have written you several letters in an attempt to get that information. For the overwhelming majority of these letters, you have not provided responses that have satisfied our concerns or produced the requested documents or information. Committee Republicans will continue to pursue these matters, including into the 118th Congress if necessary. Accordingly, we reiterate our outstanding requests, which are itemized in the attached appendix and incorporated herein, and ask that you, as the custodian of all Departmental records, produce the entirety of the requested material as soon as possible but no later than November 11, 2022.

Furthermore, this letter serves as a formal request to preserve all existing and future records and materials in your possession relating to the topics addressed in this letter. You should construe this preservation notice as an instruction to take all reasonable steps to prevent the destruction or alteration, whether intentionally or negligently, of all documents, communications, and other information, including electronic information and metadata, that are or may be responsive to this congressional inquiry. This instruction includes all electronic messages sent using your official and personal accounts or devices, including records created using text messages, phone-based message applications, or encryption software.

Sincerely,



Jim Jordan
Ranking Member



Tom McClintock
Ranking Member
Subcommittee on Immigration and
Citizenship

cc: The Honorable Jerrold L. Nadler, Chairman
The Honorable Zoe Lofgren, Chair, Subcommittee on Immigration and Citizenship

Enclosure

⁵ Priscilla Alvarez, *First on CNN: A Record Number of Migrants Have Died Crossing the US-Mexico Border*, CNN (Sept. 7, 2022) <https://www.cnn.com/2022/09/07/politics/us-mexico-border-crossing-deaths/index.html>.

⁶ *Id.*

Appendix: Outstanding Immigration-Related Documents and Information Requests to the Department of Homeland Security

March 30, 2021:

1. All documents and communications, including but not limited to, memoranda, charts, graphs, power point presentations, notes, calendar invitations, and other material, referring or relating to meetings between DHS and the Biden transition team about immigration policy.
2. All documents and communications created, generated, or used in meetings between DHS and the Biden transition team about immigration policy.

May 25, 2021:

1. The NGOs with which DHS has worked and is working to identify aliens for potential exemption from Title 42 public health authority expulsion.⁷

August 2, 2021:

1. The total number of positive COVID-19 cases of aliens encountered by CBP on the southern border and who tested positive after being turned over to a nongovernmental organization since January 20, 2021.

May 2, 2022:

1. The status and disposition of each case in which an illegal alien on the terrorist watchlist was encountered by the Border Patrol at the Southwest Border and subsequently released in the United States.
2. How many ICE agents and officers are needed to deport the 1.2 million aliens who remain in the United States despite having been ordered removed by an immigration judge?
3. What does the Department intend to do to identify and remove criminal aliens who are among the 836,000 aliens you have released into the interior of the United States?
4. The the number of the 836,000 illegal aliens the Department released into each state and the District of Columbia.

⁷ U.S. Dep't of Homeland Security, Office of Public Affairs, DHS Improves Process for Humanitarian Exceptions to Title 42 (May 12, 2021).