

ONE HUNDRED EIGHTEENTH CONGRESS

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON THE JUDICIARY

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August 8, 2023

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

Dear Secretary Mayorkas:

We write to reiterate the Committee's outstanding requests for data and information that you could or would not provide during your testimony on July 26, 2023. Despite the Committee specifically and repeatedly notifying you in advance of the topics and data it hoped to discuss during your testimony, and asking that you come prepared to discuss those topics and data, you chose to arrive at the hearing wholly unprepared to answer the Committee's questions. Your knowing refusal to have answers to the Committee's questions shows your contempt for the constitutional oversight process and your disrespect for the American people we serve.

On July 11, 2023, we wrote you to confirm your testimony before the Committee and previewing certain topics and specific data we expected to discuss. The Committee does not typically provide such a preview, but we did so in this case in light of your prior inability to answer specific questions before the Committee and to ensure we had a fruitful discussion. In particular, among other topics, the Committee asked that you be prepared to discuss the following:

- All policies and data related to Customs and Border Protection (CBP) encounters, "gotaways," paroles, and releases at the southwest border since January 20, 2021;
- All policies and data regarding Immigration and Customs Enforcement (ICE) arrests, removals, releases, and detention since January 20, 2021; and
- All policies and data regarding the Department of Homeland Security's (DHS) adjudication of immigration benefits since January 20, 2021.<sup>1</sup>

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<sup>1</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec. (July 11, 2023).

In additional effort to ensure Members could effectively carry out oversight of the Department, on July 20, 2023, in advance of the hearing, the Committee requested specific data pertaining to border encounters and releases.<sup>2</sup> The Committee asked the Department to provide the following:

1. Since January 20, 2021, the total number of inadmissible aliens who have been encountered by CBP along the southwest border (a) who were released into the United States, and (b) who have remained in DHS detention and have not been released. The Committee requested you provide this data broken out by the disposition of each category of released alien, whether such alien was issued a Notice to Report, Notice to Appear, Parole, or any other disposition;
2. The number and percentage of those aliens in question 1 who claimed a fear of persecution for purposes of asylum and received a fear determination;
3. The number and percentage of those aliens in question 2 who received a negative fear determination;
4. The number and percentage of those aliens in question 3 who have been removed from the U.S.;
5. The number and percentage of those aliens in question 2 who received a positive fear determination;
6. The number and percentage of those aliens in question 5 who have been placed in removal proceedings;
7. The number and percentage of those aliens in question 6 whose claims have been adjudicated on the merits;
8. The number and percentage of those aliens in question 7 who have received a final order of removal; and
9. The number and percentage of those aliens in question 8 who have been removed from the U.S.<sup>3</sup>

The Department notified us it would provide the requested data “as soon as we are able.”<sup>4</sup> We wrote to you again on July 25, 2023, the day before the hearing, to reiterate these requests for basic data and to ensure you were well-prepared to discuss the relevant topics during your

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<sup>2</sup> Email from Committee staff to Zephrañie Buetow, Assistant Secretary, Office of Legislative Affairs, U.S. Dep’t of Homeland Security (July 20, 2023, 4:55 PM EST) (on file with the Comm.).

<sup>3</sup> Email from Comm. staff to Zephrañie Buetow, Assistant Secretary, Office of Legislative Affairs, U.S. Dep’t of Homeland Security (July 20, 2023, 4:55 PM EST) (on file with the Comm.).

<sup>4</sup> Email from Aimee Collins-Mandeville, Director of House Affairs, Office of Legislative Affairs, U.S. Dep’t of Homeland Security, to Committee staff (July 21, 2023, 4:05 PM EST) (on file with Committee).

testimony.<sup>5</sup> Despite our repeated attempts to ensure that your testimony would be informative and beneficial, you appeared before the Committee unprepared and unable or unwilling to provide the specific data we requested. The American people deserve better.

### **Illegal alien removals**

Since January 20, 2021, over 5.6 million illegal aliens have been encountered at the southwest border,<sup>6</sup> not including the more than 1.5 million “gotaways” who have evaded Border Patrol.<sup>7</sup> At the hearing, Representative Gaetz asked you how many of the aliens who have entered since the beginning of the Biden Administration have had their claims adjudicated on the merits, received a final order of removal, and been removed by ICE.<sup>8</sup> You could not provide the answer.<sup>9</sup> When pressed again for the same data, you eventually told Chairman Jordan that the number of those removals is over 1,000, but you declined to provide a definitive number.<sup>10</sup> You also committed to providing the requested data “as promptly as possible.”<sup>11</sup> Therefore, we reiterate our request for this data.<sup>12</sup>

### **Status of arrested alien smugglers**

According to your written testimony, the Department conducted a “campaign” that resulted in “the arrest of nearly 14,000 smugglers.”<sup>13</sup> Chairman Jordan requested the case status of those 14,000 smugglers. Specifically, he asked, “Have they been indicted, taken to trial? Found guilty? Are they in prison somewhere? What’s the status?”<sup>14</sup> You replied, “Very pleased to provide that data to you.”<sup>15</sup> Chairman Jordan then asked, “Have you arrested any of them

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<sup>5</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec. (July 25, 2023).

<sup>6</sup> U.S. Customs and Border Protection, *Southwest Land Border Encounters*, DEP’T OF HOMELAND SECURITY (last accessed July 26, 2023), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

<sup>7</sup> Neil Munro, *Border Patrol Chief: 1.5 million ‘gotaway’ migrants during Biden’s term*, BREITBART (Mar. 15, 2023), <https://www.breitbart.com/politics/2023/03/15/border-patrol-chief-1-5-million-gotaway-migrants-during-bidens-term/>.

<sup>8</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Rep. Matt Gaetz, Member, H. Comm. on the Judiciary).

<sup>9</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Email from Comm. staff to Zephraanie Buetow, Assistant Sec’y, Office of Legislative Affairs, U.S. Dep’t of Homeland Security (July 20, 2023, 4:55 EST) (on file with Committee); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec. (July 25, 2023).

<sup>13</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (written testimony of Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security).

<sup>14</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary).

<sup>15</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security).

multiple times?”<sup>16</sup> You responded, “Congressman, I’ll provide that information for you.”<sup>17</sup> Pursuant to that exchange, please provide the case status of each of the “nearly 14,000” smugglers you noted in your testimony and whether any (and if so, how many) of those have been arrested more than once by the Department since January 20, 2021.

### **Status of illegal aliens on the terrorist watchlist encountered at the southern border**

The Department was created in the wake of the September 11, 2001, terrorist attacks on the World Trade Center.<sup>18</sup> Accordingly, chief among its responsibilities is “resolutely protect[ing] Americans from terrorism and other homeland security threats.”<sup>19</sup> Despite this duty, when asked about the status of the record number of aliens on the terrorist watchlist who have been encountered since President Biden took office, you were unable to answer the question, instead offering up a general assertion that “individuals that present a national security or public safety threat are detained and are a priority for removal.”<sup>20</sup> Chairman Jordan pressed you on this point, noting, “That’s not what the Inspector General said. He said CBP released a migrant on the terrorist watchlist and ICE faced information sharing challenges planning and conducting the arrest.”<sup>21</sup> Chairman Jordan then asked, “Do you disagree with [Inspector General] Cuffari?”<sup>22</sup> You said, “We respectfully do.”<sup>23</sup>

Your response at the hearing was wholly inadequate, especially because the Committee had requested the same information during your last appearance on April 28, 2022,<sup>24</sup> and had reiterated multiple times, including on May 2, 2022, October 28, 2022, November 18, 2022, and January 18, 2023.<sup>25</sup> Additionally, on May 16, 2023, Committee staff met with Department officials to discuss outstanding Committee document requests since the beginning of the Biden Administration and to receive an update on those requests, including the status of aliens on the

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<sup>16</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary).

<sup>17</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security).

<sup>18</sup> *Homeland Security Enterprise*, U.S. DEP’T OF HOMELAND SECURITY, <https://www.dhs.gov/topics/homeland-security-enterprise>.

<sup>19</sup> *Mission*, U.S. DEP’T OF HOMELAND SECURITY, <https://www.dhs.gov/mission>.

<sup>20</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security).

<sup>21</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary).

<sup>22</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary).

<sup>23</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security).

<sup>24</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2022) (statement of Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary).

<sup>25</sup> Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec. (May 2, 2022); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec. (Oct. 28, 2022); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec. (Nov. 18, 2022); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec. (Jan. 18, 2023).

terrorist watchlist encountered at the border. Further, when asked about this topic during a hearing of the Subcommittee on Responsiveness and Accountability to Oversight on June 22, 2023, the Department's Assistant Secretary committed to providing an update regarding the timeline for the request that same day.<sup>26</sup> She has failed to live up to her commitment. To date, the Department has provided no information responsive to the request.

Accordingly, we renew our request for information about each alien encountered on the terrorist watchlist since January 20, 2021, including, for each alien, whether such aliens were detained, removed, or merely released into the interior at any point, and whether such aliens were prosecuted or incarcerated. Moreover, please explain why you disagree with the Inspector General determination that "CBP Released a Migrant on the Terrorist Watchlist and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest."<sup>27</sup>

### **Authority for immigration parole categories**

Regarding your profusive use of immigration parole, you testified that you "define categories of individuals who can access" parole.<sup>28</sup> Representative Bishop then cited the statutory parole authority under section 212(d)(5) of the Immigration and Nationality Act, which requires that parole be prescribed "only on a case-by-case basis" and makes no mention of categories.<sup>29</sup> Representative Bishop asked, "What is the source of authority that allows you to define categories or classes" of parolees.<sup>30</sup> You refused to respond directly to the question and instead indicated that "we exercise that parole authority on a case-by-case basis."<sup>31</sup> Please provide the source of the authority that you claim allows you to define classes and categories of parolees.

### **Mis-, Dis-, and Malinformation team status**

Representative Johnson asked you whether the Cybersecurity and Infrastructure Security Agency's (CISA) "Mis-, Dis-, and Malinformation" (MDM) subcommittee still existed.<sup>32</sup> You

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<sup>26</sup> *Compliance with Committee Oversight: Hearing Before the Subcomm. On Responsiveness and Accountability of the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Zephrañe Buetow, Ass't Sec'y for Legislative Affairs, Dep't of Homeland Security) (Ms. Buetow committed to provide an update to the Committee imminently, saying, "I can get right back to your staff today actually with, you know, more of a timeline.").

<sup>27</sup> INSPECTOR GENERAL, DEP'T. OF HOMELAND SECURITY, OIG-23-31, CBP RELEASED A MIGRANT ON A TERRORIST WATCHLIST, AND ICE FACED INFORMATION SHARING CHALLENGES PLANNING AND CONDUCTING THE ARREST (2023).

<sup>28</sup> *Oversight of the Dep't of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec'y, Dep't of Homeland Security).

<sup>29</sup> *Oversight of the Dep't of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Rep. Dan Bishop, Member, H. Comm. on the Judiciary).

<sup>30</sup> *Id.*

<sup>31</sup> *Oversight of the Dep't of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec'y, Dep't of Homeland Security).

<sup>32</sup> *Oversight of the Dep't of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Rep. Mike Johnson, Member, H. Comm. on the Judiciary).

said, “I would have to get back with you on that.”<sup>33</sup> It is troubling that you seemingly did not know whether or not the MDM subcommittee, a part of the agency that you lead and that is aimed at undermining Americans’ First Amendment free speech rights, currently exists. Please confirm the existence or nonexistence of CISA’s MDM subcommittee.

### **Criminal alien information**

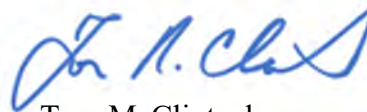
Finally, Representative Moore mentioned the case of a 29-year-old illegal alien from Honduras who was charged with assaulting a teenage girl in Prattville, Alabama.<sup>34</sup> The alien reportedly entered the United States in November 2021 in Texas, using a fake name, and was “allowed into the country” despite his criminal history.<sup>35</sup> You stated that you were “very sorry, of course, to learn of the tragedy that occurred.”<sup>36</sup> On May 24, 2023, however, the Committee requested that individual’s alien file (A-file) and “[i]nformation regarding the time, date, and place of any and all of the alien’s entries into the United States.”<sup>37</sup> Despite this request letter—and repeated attempts by the Committee to receive information about the alien—you stated you were surprised to learn of the horrific crime occurring in Rep. Moore’s district. Now that you have been reminded of this crime, we ask that you provide the Committee with the information first requested more than two months ago.<sup>38</sup>

The Committee requires this information to advance its oversight and inform potential legislative reforms concerning the Department. Please provide the information requested above as soon as possible, but no later than 5:00 p.m. on August 22, 2023.

Sincerely,



Jim Jordan  
Chairman



Tom McClintock  
Chairman  
Subcommittee on Immigration Integrity,  
Security, and Enforcement

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<sup>33</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security).

<sup>34</sup> John Binder, *Illegal alien, charged with raping teen girl, released into U.S. by Biden’s DHS*, BREITBART (May 16, 2023), <https://www.breitbart.com/politics/2023/05/16/illegal-alien-charged-with-raping-teen-girl-released-into-u-s-by-bidens-dhs/>.

<sup>35</sup> WSFA News Staff, *Suspect in U.S. illegally held without bond after Prattville rape*, WSAF NEWS (May 16, 2023), <https://www.wsfa.com/2023/05/16/illegal-immigrant-be-held-without-bond-after-prattville-rape/>.

<sup>36</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security).

<sup>37</sup> Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Alejandro Mayorkas, Sec’y, Dep’t of Homeland Security (May 24, 2023).

<sup>38</sup> *Id.*

The Honorable Alejandro Mayorkas

August 8, 2023

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cc: The Honorable Jerrold Nadler, Ranking Member

The Honorable Pramila Jayapal, Ranking Member, Subcommittee on Immigration  
Integrity, Security, and Enforcement