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RANKING MEMBER

ONE HUNDRED NINETEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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September 16, 2026

The Honorable Stephen Descano
Commonwealth's Attorney
Office of the Fairfax County Commonwealth's Attorney
4110 Chain Bridge Road, Suite 114
Fairfax, VA 22030

Dear Mr. Descano:

On January 15 and June 4, 2026, the Committee requested relevant materials regarding your office's preferential treatment of foreign national criminals to ensure that they do not face immigration consequences for their criminality.[1] In response, you have objected to the Committee's requests.[2] As a result, you have failed to provide the Committee with the majority of the responsive documents and information, instead only producing limited materials, including your office's prosecution policies and certain court documents related to a small number of criminal aliens.[3] Accordingly, because of your continued lack of cooperation with the Committee's investigation, compulsory process is necessary.

You have repeatedly asserted that the Committee lacks oversight authority over your office's pro-criminal alien policies that thwart federal immigration law.[4] The Committee has

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[1] *See* Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Steve Descano, Fairfax Cnty. Commw. Att'y (Jan. 15, 2026) [hereinafter Jan. 15 Letter] (on file with Comm.); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Steve Descano, Fairfax Cnty. Commw. Att'y (June 4, 2026) [hereinafter June 4 Letter] (on file with Comm.).

[2] *See* Letter from Steve Descano, Fairfax Cnty. Commw. Att'y, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 2, 2026) [hereinafter July 2 Letter] (on file with Comm.); Letter from Steve Descano, Fairfax Cnty. Commw. Att'y, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary (July 24, 2026) [hereinafter July 24 Letter] (on file with Comm.).

[3] *See* Document Production from Counsel for Steve Descano to H. Comm. on the Judiciary (Sept. 7, 2026) [hereinafter Sept. 7 Document Production] (on file with Comm.); Document Production from Counsel for Steve Descano to H. Comm. on the Judiciary (July 24, 2026) [hereinafter July 24 Document Production] (on file with Comm.); Document Production from Counsel for Steve Descano to H. Comm. on the Judiciary (May 13, 2026) [hereinafter May 13 Document Production] (on file with Comm.); Document Production from Counsel for Steve Descano to H. Comm. on the Judiciary (Feb. 20, 2026) [hereinafter Feb. 20 Document Production (on file with Comm.);

[4] *See id.*; *see also* Letter from Steve Descano, Fairfax Cnty. Commw. Att'y, to Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary at 3 n.15 (Sept. 7, 2026) [hereinafter Sept. 7 Letter] (on file with Comm.).

rejected those assertions, most recently in an August 24 letter.[5] As the Committee explained, the Supreme Court has repeatedly recognized Congress's oversight power as "broad and indispensable,"[6] "encompass[ing] inquiries into the administration of existing laws, studies of proposed laws, and surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them."[7] Your office's lenient treatment of foreign national criminals endangers communities and ensures that criminal aliens escape both criminal and immigration accountability for their actions.[8] The policies clearly intersect with federal interests and implicate Congress's plenary power over immigration.[9]

For months, you have failed to fully comply with the Committee's requests. Despite multiple opportunities—both at a public hearing and in three responses to the Committee's June 4 letter—to clarify your policies and their effects on specific cases, you have refused to do so. Although you have provided your office's written policies, limited immigration-related communications, and certain court documents,[10] you have failed to produce all documents and communications referring or relating to the office's prosecution policies of non-U.S. citizens.[11]

As the Committee emphasized in its August 24 letter, you also have not indicated whether your office considered immigration consequences in the specific cases cited in the Committee's June 4 letter.[12] In your most recent correspondence, you mention the fact that your office "convicted *many* of the defendants identified by the Committee of serious felony offenses," which you claim demonstrates that your office does not shield criminal aliens.[13] Importantly, however, your refusal to identify the cases in which your office considered immigration consequences has continued—even for the limited number of cases specifically and repeatedly identified by the Committee more than three months ago. The Committee explicitly

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[5] *See* Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Steve Descano, Fairfax Cnty. Commw. Att'y (Aug. 24, 2026) [hereinafter Aug. 24 Letter] (on file with Comm.).
[6] Trump v. Mazars USA, LLP, 591 U.S. 848, 862 (2020) (quoting *Watkins v. United States*, 354 U.S. 178, 187 (1957)).
[7] *Id.*
[8] *See, e.g.*, Nick Minock, *Emails show Fairfax police warned prosecutor about suspect in Hybla Valley killing*, ABC 7 NEWS (Mar. 5, 2026, 8:48 AM), https://wjla.com/news/local/illegal-immigrant-with-long-criminal-record-accused-of-killing-woman-in-fairfax-county-abdul-emails-jalloh-stephanie-minter-commonwealths-attorney-steve-descano; Nick Minock, *ICE arrests man accused of assaulting woman after Fairfax Co. cuts plea deal, releases him*, ABC 7 NEWS (Apr. 30, 2025, 9:36 AM), https://katv.com/news/nation-world/virginia-crime-illegal-alien-person-guatemalan-native-wilmer-ramos-giron-violent-offender-arrest-ice-immigration-agents-charged-fairfax-county-stangulation-assault-woman-abduction-steve-descano-plea-deal-trump-administration; Nick Minock, *ICE arrests man charged with child porn previously released by Fairfax County*, ABC 7 NEWS (Apr. 23, 2026, 2:50 PM), https://wjla.com/news/local/ice-arrests-man-charged-with-child-porn-previously-released-by-fairfax-county-sheriff-stacey-kincaid-immigration-and-customs-enforcement; Nick Minock, *2 illegal immigrants get 5 years for murder under Fairfax County plea deal*, ABC 7 NEWS (Apr. 3, 2026, 3:50 PM), https://wjla.com/news/local/illegal-immigrants-5-years-murder-fairfax-county-plea-deal-virginia-commonwealths-attorney-steve-descano-maldin-anibal-guzman-wis-alonso-sorto-portillo-ice-department-of-homeland-security.
[9] *See* Aug. 24 Letter, *supra* note 5.
[10] *See* Sept. 7 Document Production, *supra* note 3; July 24 Document Production, *supra* note 3; May 13 Document Production, *supra* note 3; Feb. 20 Document Production, *supra* note 3.
[11] *See* Jan. 15 Letter, *supra* note 1.
[12] *See* Aug. 24 Letter, *supra* note 5; June 4 Letter, *supra* note 1.
[13] *See* Sept. 7 Letter, *supra* note 4 (emphasis added).

requested that, "[i]f your office did not consider immigration consequences for these cases, please indicate that clearly."[14] At best, you have provided a clear denial for cases involving only four of the 27 criminal aliens identified by the Committee.[15] Given the damaging consequences the individuals' criminality has had on northern Virginia communities, your refusal to deny that your office considered immigration consequences in these matters speaks volumes. Instead of answering the Committee's basic questions, you have resorted to blaming crime victims for your office's repeated lack of prosecution in certain cases.[16]

You also continue to minimize the effects of your office's longstanding policies, which emerged from statements you championed for years on your public campaign website.[17] Although you recently claimed that the promises on the website "were from 2019," *before* you enshrined your pro-illegal alien agenda into the office's written policies in 2020,[18] you ignored the fact that the statements remained on the website for *seven years*. Despite this, you have not identified a single case in which your office considered collateral immigration consequences. Your reluctance to do so is even more surprising given your public testimony that you are "proud of what [your office] ha[s] accomplished."[19]

Your responses also have not identified the number of cases for which your office has moved for the court to enter a *nolle prosequi*.[20] For the first time, in fact, you argued in your September 7 letter that your office's policies "do not even apply to moving to *nolle prosequi* a case due to the defendant's immigration status or to avoid collateral immigration consequences."[21] Instead, you claim the policies "speak to 'negotiating a resolution' to a case, not moving to *nolle prosequi* a case."[22] Surprisingly, you did not make that argument in your public testimony, despite Committee Members' repeated references to your office dropping charges against multiple criminal aliens, or in subsequent letters to the Committee.[23]

A plain reading of your policies suggests that they do *not* solely apply to "negotiating a

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[14] *See* June 4 Letter, *supra* note 1.
[15] *See* Sept. 7 Letter, *supra* note 4; *see also* June 4 Letter, *supra* note 1 (identifying specific criminal aliens).
[16] *See* Sept. 7 Letter, *supra* note 4 (blaming victims and witnesses for the office's failure to prosecute dangerous criminal aliens).
[17] *See* Community: Protecting Immigr. Communities, Steve Descano, http://www.stevedescano.com/community (archived Mar. 10, 2026, at https://web.archive.org/web/20260310203213/http:/www.stevedescano.com/community) ("Wherever possible, Steve will make charging and plea decisions that limit or avoid immigration consequences. Following such a policy will keep our communities united and strong and demonstrate our County's commitment to equal justice for all. If two people commit the same crime, but only one's punishment includes deportation, that's a perversion of justice and not a reflection of the values of Fairfax County.").
[18] *See* Sept. 7 Letter, *supra* note 4.
[19] *See Fairfax Cnty., Va.: The Dangerous Consequences of Sanctuary Policies: Hearing Before the Subcomm. on Immigr. Integrity, Security, and Enf't, H. Comm. on the Judiciary*, 119th Cong. (May 14, 2026) ("I was first elected as Commonwealth's Attorney in 2019 on a promise to adopt smart-on-crime policies that prioritized the prosecution of violent crime. I'm proud of what we have accomplished. Fairfax County is one of the saf[est] large communities anywhere in the country.").
[20] *See* Sept. 7 Letter, *supra* note 4; July 24 Letter, *supra* note 2; July 2 Letter, *supra* note 2.
[21] Sept. 7 Letter, *supra* note 4.
[22] *See id.*
[23] *See, e.g.*, July 2 Letter (arguing that you are unable to provide the information "because the Office does not track the nationality (or immigration status) of the defendants it prosecutes").

resolution," such as plea bargaining, but also to *any* outcome that would avoid immigration consequences, such as moving to a *nolle prosequi*. For example, the policy describes how defense attorneys can "identify[] *a suggested course of conduct* that avoids the identified potential adverse immigration consequence with an accompanying substantive legal analysis."[24] Moving to a *nolle prosequi* is a course of conduct that accomplishes the exact goals stated in your policy: "avoid[ing] collateral immigration consequences."[25] In addition, the documents you provided to the Committee reveal that moving to a *nolle prosequi* is intimately linked to the plea bargaining process, which is clearly contemplated by your office's collateral immigration consequences policy.[26] Put simply, the policy's directive does not limit the scope of a prosecutor's consideration of immigration consequences in the way that you now contend. Your shifting description of the office's collateral immigration consequences policy raises serious concerns about the interpretation and implementation of the office's policy on a day-to-day basis.

Although you continue to claim that your office "does not track the nationality (or immigration status) of the defendants it prosecutes,"[27] you have not cited any actual attempts to obtain the relevant information requested by the Committee. Moreover, your own policy directs defense counsel to provide prosecutors in your office "a written and signed analysis on law firm letterhead" as "a predicate to any discussion or consideration of potential immigration consequences."[28] This requirement suggests that your office is in possession of and can provide responsive material.[29]

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[24] Guidelines for Plea Bargaining, Charging Decisions, and Sentencing, Commonw. Att'y Procedure Memo., at 11 (Dec. 15, 2020), https://www.fairfaxcounty.gov/commonwealthattorney/plea-bargaining-charging-decisions-and-sentencing-policy (emphasis added).

[25] *Id.* at 10.

[26] *See, e.g.*, Sept. 7 Document Production, *supra* note 3, at 684 ("The Commonwealth moved to nolle prosequi the related charges at the preliminary hearing in contemplation of this plea agreement."); *id.* at 874-75 (including, as part of the plea agreement, that "[t]he Commonwealth agreed to nolle prosequi related charges at the preliminary hearing"). Local Virginia case law also supports this basic understanding. *See, e.g.*, *Commonwealth's Att'y of Stafford Cnty. v. Serrano*, 84 Va. App. 571, 580, 914 S.E.2d 635, 639 (2025) ("On February 16, 2023, the defendant in the criminal case entered into a plea agreement with the Office of the Commonwealth's Attorney in which the strangulation and prevention of calling 911 charges were nolle prossed in exchange for him pleading guilty to the assault and battery charge."); *Francis v. Commonwealth*, No. 0389-24-4, 2025 WL 2772901, at *2 (Va. Ct. App. Sept. 30, 2025) ("In January 2019, Francis agreed to plead guilty to that charge in a written plea agreement. In exchange, the Commonwealth agreed to a two-year sentence with all but time served suspended and to nolle prosequi a second count of failing to register."); *Casco v. Commonwealth*, No. 0626-24-4, 2025 WL 1298502, at *2 (Va. Ct. App. May 6, 2025) ("Under the terms of a written agreement, Casco pleaded guilty to two counts of robbery, use of a firearm in the commission of robbery, and attempted carjacking. In return, the Commonwealth agreed to nolle prosequi two counts of abduction and two counts of use of a firearm in the commission of a felony.").

[27] Sept. 7 Letter, *supra* note 4; *see id.* ("With respect to how the Guidelines apply 'in practice,' the Office does not track cases according to the immigration status or category of the defendant, including cases where the Guidelines may have been applied.")

[28] *See* Guidelines for Plea Bargaining, Charging Decisions, and Sentencing, Commonw. Att'y Procedure Memo., *supra* note 24, at 11.

[29] *See id.* If prosecutors have complied with the office's own written policy, there should be a written record that reveals the cases in which non-U.S. citizens requested the consideration of immigration consequences in their cases—and to which prosecutors moved to *nolle prosequi* as a result of such a consideration. Even if your office does not track the nationality of criminal defendants, you have not explained why your office cannot provide the total number of cases for which you moved to *nolle prosequi*, including the associated charges, regardless of

The Committee appreciates your admission that your policies can apply to illegal aliens, not simply legal permanent residents, despite your apparent attempt to suggest otherwise at a public hearing.[30] Although you testified under oath that your immigration policy is "narrow" and was "written with legal permanent residents in mind for minor crimes,"[31] it is now obvious that the policy applies as broadly as the Committee first suspected.

The House of Representatives has authorized the Committee to conduct oversight of "[i]mmigration policy and non-border enforcement," "[c]riminal law enforcement," and "the judiciary and judicial proceedings, civil and criminal."[32] The Committee's oversight on sanctuary jurisdictions and efforts by local officials to thwart the enforcement of federal immigration law advances a legitimate—and important—legislative purpose and is clearly "a subject on which legislation could be had."[33] The Committee has identified potential legislative reforms, including the Shut Down Sanctuary Policies Act of 2026 and other changes to the Immigration and Nationality Act, that it may consider in relation to the issues here and for which it needs the requested information.[34]

Accordingly, the Committee is initiating compulsory process to obtain the documents and material needed to fulfill its oversight and legislative obligations. Please find enclosed a subpoena compelling production of the requested documents by September 25, 2026.

Sincerely,

Jim Jordan
Chairman

cc: The Honorable Jamie Raskin, Ranking Member

Enclosure

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nationality. The first request in the Committee's June 4 letter was not limited to the prosecution of non-U.S. citizens. *See* June 4 Letter, *supra* note 1. You also have not indicated any attempts to obtain the relevant information.

[30] *See Fairfax Cnty., Va.: The Dangerous Consequences of Sanctuary Policies: Hearing Before the Subcomm. on Immigr. Integrity, Security, and Enf't, H. Comm. on the Judiciary*, 119th Cong. (May 14, 2026) (Mr. Descano testifying, "First of all, let me be clear. My policy that we're talking about was written with legal permanent residents in mind for minor crimes.").

[31] *See id.* (Mr. Descano testifying, "But the way that the policy is written, that case should not have fallen under the rubric of this policy. This is a narrow policy[,] and it's meant to be a narrow policy.").

[32] Rules of the House of Representatives, 119th Cong., R. X(l) (2025).

[33] Mazars USA, LLP, 591 U.S. at 863 (internal quotation marks omitted).

[34] *See* Aug. 24 Letter, *supra* note 5.