



One Hundred Seventeenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

October 4, 2021

President Joseph R. Biden Jr.
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear President Biden,

The dire situation along the southwest border is a crisis that has spun out of control. As you know, U.S. Customs and Border Protection (CBP) encountered 208,887 migrants along the southern border in August—a 317% increase compared to August 2020.¹ August was also the 6th straight month with more than 170,000 encounters.² Just this week, Secretary Mayorkas discussed with senior government officials whether the Department of Homeland Security (DHS) was prepared for a potential of 350,000 to 400,000 migrants crossing the border in October if Title-42 restrictions are lifted.³ Yet, your Administration still refuses to call it what it is: a national security and humanitarian crisis.

We are also concerned by reports that in just the last three weeks, two senior career officials have come forward stating that your Administration is ignoring recommendations to mitigate the border crisis. Former Chief of the U.S. Border Patrol Rodney Scott wrote in a letter to Senate and House leadership that civil service staff within CBP, Immigration and Customs Enforcement (ICE), and DHS have provided multiple options to your Administration on border security but that “every recommendation has been summarily rejected.”⁴ Moreover, former Special Envoy for Haiti Daniel Foote wrote, “My recommendations have been ignored and dismissed,” regarding the Biden Administration’s policy approach to repatriating Haitian nationals back to Haiti from the U.S. Border.⁵

Recently, Secretary Mayorkas testified before both the Senate Homeland Security and Governmental Affairs Committee and the House Committee on Homeland Security. Throughout his testimony, he consistently stated that he believes America’s borders are closed and “the

¹ CBP Releases August 2021 Operational Update, accessed at <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-august-2021-operational-update>

² Southwest Land Border Encounters, accessed at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

³ U.S. officials think massive surge at southern border possible if Covid restriction is lifted Thursday, accessed at <https://www.nbcnews.com/politics/immigration/u-s-officials-think-massive-surge-southern-border-possible-if-n1280378>

⁴ Former Border Patrol chief warns agency losing ability to know ‘who and what is entering,’ accessed at <https://www.foxnews.com/politics/former-border-patrol-chief-warns-agency-losing-ability-to-know-who-and-what-is-entering>

⁵ Read: Resignation letter from U.S. special envoy for Haiti, Daniel Foote, accessed at <https://www.washingtonpost.com/context/read-resignation-letter-from-u-s-special-envoy-for-haiti-daniel-foote/3136ae0e-96e5-448e-9d12-0e0cabfb3c0b/>

border is secure.”⁶ But, the facts don’t lie. The border is neither closed nor is it secure. How can one say the border is closed when over the past eight months, CBP has surpassed numerous records for the number of migrants illegally crossing the border? Why is your Administration trying to deceive the American people that the border is secure?

Because of the public health emergency, the Centers for Disease Control and Prevention (CDC) implemented the Title-42 order to protect Americans during the ongoing pandemic. In October 2020, over 90% of total encounters by Border Patrol agents were processed under Title-42 and expelled.⁷ However, the latest data from CBP shows that over 50% of migrants are now eligible for an exemption to Title-42 and are not expelled.⁸ While there is still a public health emergency in the United States, why is DHS not following CDC guidelines and recommendations? And how can DHS say the agency is expelling “a substantial share of families” when that number is below 19%?⁹

Additionally, on September 18th, there were nearly 15,000 migrants who had flooded across the border to Del Rio, Texas, waiting to be processed by CBP. One day after Fox News released drone footage of thousands of migrants waiting to be processed at the Del Rio International Bridge, your Administration’s Federal Aviation Administration (FAA) placed a two-week ban on drones in the area. Fox News has confirmed the previous use of such drones along the southern border for months without issue.¹⁰ This brings into question the Administration’s intentions and timing around efforts to restrict the usage of drones.

Despite these restrictions, Americans have seen heartbreaking images in the media portraying the shocking breakdown in border security and management under your Administration. CBP did their best to rush water, food, and medical supplies to these individuals, but there were simply too many migrants. The system is completely overwhelmed.

CBP is on track to encounter more migrants this fiscal year than any year on record.¹¹ Both CBP and the U.S. Coast Guard have seen an overall upward trend in the past eight months, and it does not appear there will be a significant decrease anytime soon. At the same time, over 600,000 illegal border crossers have been released into the interior of the United States under catch-and-release policies since your Administration took office in January.¹² Secretary Mayorkas has admitted behind closed doors that this crisis is unsustainable.¹³ Why does your Administration refuse to publicly acknowledge the crisis we have at the southwest border?

⁶ Worldwide Threats to the Homeland: 20 Years After 9/11, accessed at <https://homeland.house.gov/activities/hearings/worldwide-threats-to-the-homeland-20-years-after-9/11>; Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11, accessed at <https://www.hsgac.senate.gov/hearings/threats-to-the-homeland-evaluating-the-landscape-20-years-after-9/11>

⁷ Southwest Land Border Encounters, accessed at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

⁸ *Id.*

⁹ Southwest Land Border Encounters, accessed at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

¹⁰ Fox News cleared to fly after Biden FAA temporarily bans drones over bridge packed with illegal immigrants, accessed at <https://www.foxnews.com/politics/bidens-faa-places-temporary-ban-on-drones-flying-over-bridge-packed-with-illegal-immigrants>

¹¹ United States Border Patrol, accessed at https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Monthly%20Apprehensions%20-%28FY%202000%20-%20FY%202019%29_1.pdf

¹² Brandon Judd: Rewarding migrants for illegally crossing our borders means they will keep coming, accessed at <https://www.foxnews.com/opinion/del-rio-migrants-illegally-crossing-borders-brandon-judd>

¹³ Mayorkas says border crisis ‘unsustainable’ and ‘we’re going to lose’ in leaked audio, accessed at <https://www.foxnews.com/politics/mayorkas-leaked-audio-border>

Not only have there been over 1.5 million illegal crossings along the southwest border so far this fiscal year, but the numbers are even more disturbing when examining further details. With one month remaining, 9,728 individuals with criminal convictions have been arrested in FY2021 attempting to illegally cross the border, compared with just 2,438 in FY2020.¹⁴ Recently-departed Border Patrol Chief Rodney Scott has publicly said that the United States Border Patrol is seeing known or suspected terrorists cross the borders “at a level we have never seen before.”¹⁵ Why is your Administration refusing to be transparent with the American public about the number of known or suspected terrorists that have crossed the border this year?

Who else is crossing our border while frontline Border Patrol agents are stretched beyond their capacity? This fiscal year, CBP has encountered over 480,000 individuals from countries other than Mexico and the Northern Triangle—more than double the number encountered in FY2020.¹⁶ How many Special Interest Aliens who potentially pose a national security risk to the United States have illegally entered the United States?

In August, a federal judge ruled that your Administration must restart processing individuals under the Remain in Mexico policy. DHS has stated that it will “comply with the order in good faith,” but there has been little information provided to the Committee on the progress of restarting the program.¹⁷ We are extremely disappointed to learn that your Administration intends to terminate the Migrant Protection Protocols (MPP) in the coming weeks.

Yet, another concerning trend is the ballooning number of got-a-ways who are seen by U.S. authorities, but get away without being encountered due to the lack of CBP personnel and resources. This fiscal year, there have been over 308,000 known got-a-ways and that doesn’t take into account how many more have successfully crossed the border without detection.¹⁸ How can your Administration consider the border secure when there have been over 308,000 documented cases of got-a-ways?

In addition, the record volume of drugs that CBP has been seizing is gravely concerning. Components of CBP—the Office of Field Operations, the U.S. Border Patrol, and Air and Marine Operations—have seized more fentanyl, cocaine, methamphetamine, and marijuana this fiscal year than in FY2020.¹⁹ During this fiscal year, CBP has seized over twice as much fentanyl than in FY2020 and nearly four times as much as in FY2019.²⁰ The 10,469 pounds of fentanyl seized this year is enough to kill 2.37 billion people or the entire American population seven times over. How many more drugs are Drug Trafficking Organizations and Transnational Criminal Organizations successfully getting across American land, air, and sea borders undetected?

¹⁴ Criminal Noncitizen Statistics Fiscal Year 2021, accessed at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics>

¹⁵ Suspected terrorists crossing border 'at a level we have never seen before,' outgoing Border Patrol chief says, accessed at <https://www.washingtonexaminer.com/news/border-patrol-chief-suspected-terrorists-coming-across-southern-border>

¹⁶ Nationwide Encounters, accessed at <https://www.cbp.gov/newsroom/stats/nationwide-encounters>

¹⁷ DHS Statement on Supreme Court Decision on MPP, accessed at <https://www.dhs.gov/news/2021/08/24/dhs-statement-supreme-court-decision-mpp>

¹⁸ Former Border Patrol chief warns agency losing ability to know 'who and what is entering,' accessed at

<https://www.foxnews.com/politics/former-border-patrol-chief-warns-agency-losing-ability-to-know-who-and-what-is-entering>

¹⁹ Air and Marine Operations Statistics 2021, accessed at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/air-and-marine-operations-statistics-fiscal-year-2021>; Drug Seizure Statistics, accessed at <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>

²⁰*Id.*

Mr. President, it is time to admit that the Trump Administration's border policies such as deploying the border wall and MPP worked. It is time to admit that there is a crisis at the southern border and that the men and women of the United States Border Patrol are overwhelmed. It is time for your Administration to take appropriate steps to prevent a recurrence of what we witnessed in Del Rio, Texas. We demand transparency from your Administration on behalf of the American people.

The minority Members of the Committee on Homeland Security want to work together with your Administration on these critical homeland security issues; however, in order to productively work together, your Administration needs to be more open and more forthcoming with the Committee.

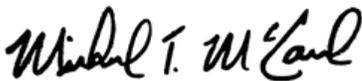
Sincerely,



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Ranking Member



MICHAEL GUEST
Vice Ranking Member



MICHAEL T. MCCAUL
Member of Congress



CLAY HIGGINS
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cc:

The Honorable Alejandro Mayorkas
Secretary, U.S. Department of Homeland Security