

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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March 22, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Mayorkas:

We write to conduct oversight over the Department of Homeland Security's (DHS) apprehensions of foreign nationals with terrorist ties at the southern border and possible efforts within the Biden Administration to shield this information from the public. It is no secret that terrorists and other bad actors attempt to exploit weaknesses in border security and vetting to enter the United States.¹ Reporting indicates that multiple individuals with terrorist ties have been recently apprehended after illegally crossing the border, and that such encounters may be increasing. The American people deserve to know whether President Biden's weak border policies are allowing terrorists to enter our homeland.

Individuals apprehended by DHS personnel after illegally crossing the border are processed for biometric and biographic information, which is then cross-referenced against various law enforcement databases for derogatory information, including the Terrorist Screening Database (TSDB).² Individuals listed with derogatory information within the TSDB could have ties to terrorist activities or even be Known or Suspected Terrorists (KST).³ Public reporting indicates that at least several potential terrorists were apprehended by U.S. Border Patrol personnel after illegally crossing the border last year.⁴ And it is likely that the numbers of terrorists apprehended is much higher than publicly known. Former Border Patrol Chief Rodney

¹ *The 9/11 Commission Report: final report of the National Commission on Terrorist Attacks upon the United States*, (July 22, 2004) at pg. 384, available at <https://govinfo.library.unt.edu/911/report/911Report.pdf>.

² See U.S. Department of Homeland Security, *Privacy Impact Assessment Update for the Watchlist Service* (May 5, 2016), available at <https://www.dhs.gov/sites/default/files/publications/privacy-pia-027-E-uscis-wlsfdnsds-may2016.pdf>.

³ *Id.*

⁴ See e.g. Ainsley, Julia, *CBP stopped two men on terrorism watchlist at border, says such incidents are rare*, NBC NEWS, (Apr. 6, 2021); Giaritelli, Anna, *Border Patrol stops suspected terrorist from Saudi Arabia in Arizona*, WASH. EXAMINER (Dec. 20, 2021).

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Scott stated, prior to his departure, the Border Patrol was encountering “TSDBs at a level we have never seen before. That’s a real threat.”⁵

Yet the Biden Administration’s DHS refuses to publicly release statistics on the individuals it apprehends who have derogatory information in the TSDB, labeling such information—including the mere count of those apprehended—“law enforcement sensitive.”⁶ The American people deserve to know this information and the realities of the security situation we face at our broken borders, especially where terrorists attempt to gain entry to our country.

In calendar year 2021 alone, there were 2,019,945 apprehensions of illegal border crossers by U.S. Border Patrol.⁷ This historic level of apprehensions has overwhelmed Border Patrol personnel, who are diverted from securing the border by the need to process and care for thousands of migrants per day. Cartels and smugglers have taken advantage of the lawlessness to bring contraband and higher value criminal aliens without detection into the U.S. Estimates are that—in addition to the thousands of migrants apprehended by Border Patrol every day—over a thousand aliens per day are entering the country and avoiding apprehension altogether, continuing their journey into the interior of the country without background checks.⁸ These individuals could include terrorists.

To assist Republicans on the Committee on Oversight and Reform and Committee on Homeland Security conduct oversight over DHS’s response to terrorist entries and its rationale for keeping information about those entries from the public, please provide the following documents and information, no later than April 5, 2022:

1. Documents sufficient to show the total numbers of aliens apprehended by U.S. Border Patrol after illegally crossing the border in between the ports of entry who were found to have derogatory information in the TSDB upon processing disaggregated by Fiscal Years 2016, 2017, 2018, 2019, 2020, 2021, and Fiscal Year 2022 to the present;
2. Documents sufficient to show the countries of origin for the aliens identified by the response to request 1;
3. Documents sufficient to show the disposition of all removal proceedings initiated with respect to aliens identified in response to request 1, whether the government effectuated

⁵ Giaritelli, Anna, *Suspected terrorists crossing border ‘at a level we have never seen before,’ outgoing Broder Patrol chief says*, WASH. EXAMINER (Aug. 16, 2021).

⁶ See Letter from Alejandro N. Mayorkas, Secretary, U.S. Department of Homeland Security to the Honorable John Katko, Ranking Member, Committee on Homeland Security (Sep. 15, 2021), *on file with committee staff*.

⁷ U.S. Department of Homeland Security, U.S. Customs and Border Protection, *Southwest Land Border Encounters*, available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last accessed February 22, 2022, sort by Component, U.S. Border Patrol).

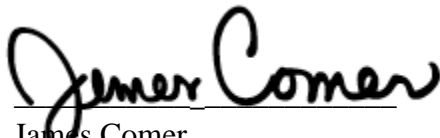
⁸ Miroff, Nick, *Border officials say more people are sneaking past them as crossings soar and agents are overwhelmed*, WASH. POST (Apr. 2, 2021).

any final orders of removal issued in those cases, and the detention status if the alien remains in pending removal proceedings;

4. If any part of the information provided in response to request 1 (regarding the total number of aliens apprehended and found to have derogatory information in the TSDB by Fiscal Year) is labeled “Law Enforcement Sensitive,” “For Official Use Only” or some other designation preventing its release to the public, please provide a detailed explanation justifying the use of that designation with as much specificity as possible;
5. Provide all documents and communications related to the use of the label “Law Enforcement Sensitive,” “For Official Use Only” or some other designation preventing its release to the public of information related to request 1 above;
6. All policies and guidance documents indicating when particular information should be labeled as “Law Enforcement Sensitive” or “For Official Use Only” by DHS personnel; and
7. All data from Fiscal Year 2016 to the present analyzing or estimating the number of “gotaways,” or individuals who illegally crossed the border but evaded apprehension by Border Patrol agents.

Thank you for your consideration of this important issue. To make arrangements to deliver documents or ask any related follow-up questions, please contact Committee on Oversight and Reform Republican Staff at (202) 225-5074. The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer
Ranking Member
Committee on Oversight & Reform



John Katko
Ranking Member
Committee on Homeland Security

cc: The Honorable Carolyn B. Maloney, Chairwoman
Committee on Oversight & Reform

The Honorable Bennie G. Thompson, Chairman
Committee on Homeland Security