

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

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<https://oversight.house.gov>

November 21, 2022

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

Dear Secretary Mayorkas:

Committee Republicans are continuing to investigate how Biden Administration policies have created the worst border crisis in American history. In Fiscal Year 2022, there were record-shattering levels of illegal immigration, migrant deaths, suspected terrorist encounters, and trafficking of deadly narcotics like fentanyl. Despite requesting documents and communications from the Department of Homeland Security (DHS) and component agencies like U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), in most cases the Biden Administration has failed to provide those materials. As we look to the 118th Congress, Committee Republicans intend to continue prioritizing this investigation. It is important for the American people, and their elected lawmakers, to understand the role Biden Administration policies have played in fueling the border crisis, the impact of emergency measures required to respond to the resulting catastrophe, and what the Administration's plan is, if any, to reverse course and resolve the situation. We therefore reiterate our previous 18 requests for documents and information.

During the 117th Congress, we requested documents and communications from DHS and its component agencies regarding the Biden Administration's policies that exacerbated longstanding challenges with securing the border and enforcing our nation's immigration laws. We requested documents related to stopping construction of a barrier system along the southwest border,¹ increasing illegal immigration and possible health and safety risks,² implementation of

¹ Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Feb. 4, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/02/DHS-letter-re-border-wall-020421.pdf>.

² Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Feb. 19, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/02/Letter-to-Mayorkas-re-Border-Crisis-021921.pdf>; Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Mar. 10, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/03/Follow-up-Letter-to-Mayorkas-re-Border-Crisis.pdf>; Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Apr. 19, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/04/Letter-to-Mayorkas-re-Wall-and-Border-Crisis-4th-letter1.pdf>; Letter from Steve Scalise, Ranking Member, H. Comm. on Oversight & Reform, Select Subcomm. On the Coronavirus Crisis to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Apr. 20, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/04/Letter-to-DHS.pdf>.

the CDC's Title 42 order prohibiting the entry of certain aliens into the U.S.,³ releases of illegal border crossers into the interior of the U.S.,⁴ increasing apprehensions of suspected terrorists,⁵ negative workforce impacts of the crisis on U.S. Border Patrol agents,⁶ the degradation of interior enforcement by ICE,⁷ and the propriety of sole source contracts to respond to the border emergency.⁸ DHS's responses to these requests—which sought documents and communications—frequently, if at all, came in the form of short correspondence summarizing the Administration's actions or perspective on a particular issue. On the rare occasion when documents were provided, they were frequently publicly available, entirely unresponsive, or underinclusive.

The Biden Administration's talking point—wholly divorced from reality—that it is working to create a “safe, orderly, and humane” immigration system⁹ is rhetoric so out-of-touch

³ Letter from Jim Jordan, Ranking Member, H. Comm. on the Judiciary, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (May 25, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/05/05-25-21-Jordan-Katko-Comer-to-Mayorkas-re-Title-42-Exemption-Criteria.pdf>; Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Apr. 5, 2022), available at <https://republicans-oversight.house.gov/wp-content/uploads/2022/04/Letter-to-Secretary-Mayorkas-re-Title-42-plans.pdf>.

⁴ Letter from Michael Cloud, Ranking Member, Subcomm. On Economic & Consumer Policy, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Jul. 20, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/07/Letter-to-Mayorkas-from-Rep.-Cloud-re-flights-072021.pdf>; Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Apr. 27, 2022), available at <https://republicans-oversight.house.gov/wp-content/uploads/2022/04/Letter-to-DHS-re-MPP-reimplementation19.pdf>; Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Jul. 19, 2022), available at <https://republicans-oversight.house.gov/wp-content/uploads/2022/07/Letter-to-DHS-re-NGO-Transportation-07192022.pdf>.

⁵ Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Mar. 22, 2022), available at <https://republicans-oversight.house.gov/wp-content/uploads/2022/03/Letter-to-Secretary-Mayorkas-re-Terrorist-Entry-03-22-2022.pdf>.

⁶ Letter from Jody Hice, Ranking Member, Subcomm. On Government Operations to Troy Miller, Senior Official Performing the Duties of the Commissioner, U.S. Customs and Border Protection (Apr. 26, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/04/Hice-Letter-to-CBP-re-Workforce-and-Staffing-during-Crisis.pdf>.

⁷ Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Tae Johnson, Acting Director, U.S. Immigration and Customs Enforcement (Feb. 17, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/02/Letter-to-ICE-re-Enforcement-Priorities-Memorandum1.pdf>; Letter from Andy Biggs, Member of Congress, et. al. to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Security (Oct. 26, 2021), available at <https://republicans-oversight.house.gov/wp-content/uploads/2021/10/Letter-to-Mayorkas-re-Final-ICE-guidelines-FINAL1.pdf>; Letter from Michael Cloud, Ranking Member, Subcomm. On Economic & Consumer Policy, et. al. to Tae Johnson, Acting Director, U.S. Immigration and Customs Enforcement (Jan. 12, 2022), available at <https://republicans-oversight.house.gov/wp-content/uploads/2022/01/Letter-to-ICE-re-Final-Enforcement-Priorities-Memo-Rep-Cloud-011222.pdf>; Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Tae Johnson, Acting Director, U.S. Immigration and Customs Enforcement (Jul. 29, 2022), available at <https://republicans-oversight.house.gov/wp-content/uploads/2022/07/ICE-ID-Cards-Letter-07292022.pdf>.

⁸ Letter from James Comer, Ranking Member, H. Comm. on Oversight & Reform, et. al. to Tae Johnson, Acting Director, U.S. Immigration and Customs Enforcement (May 4, 2022), available at <https://republicans-oversight.house.gov/wp-content/uploads/2022/05/Letter-to-ICE-re-Endeavors-Contract-and-IG-Report-on-Waste-05042022.pdf>.

⁹ See Memorandum for Interested Parties from Alejandro N. Mayorkas, Secretary, Dep't of Homeland Security re: *DHS Plan for Southwest Border Security and Preparedness* (Apr. 26, 2022) (“Under the Biden-Harris

that its repetition only raises additional concerns. The current state of the southern border is dangerous, chaotic, and inhumane as smugglers continue to profit from the Biden Administration's self-inflicted crisis. The Biden border policies have put America on a path to destruction with fentanyl flowing across the border and becoming a leading cause of death among Americans. Committee Republicans in the 118th Congress will continue to conduct oversight of the humanitarian and national security catastrophe created by the Biden Administration's policies.

The American people deserve to know what has caused the unprecedented surge at the border and the lax interior enforcement. DHS and its component agencies possess information critical to this investigation. We look forward to working with your office to deliver the documents and communications we requested in our prior letters. Please provide the documents and information in the custody and control of DHS or its component agencies requested in our prior correspondence, and prioritize the following requests for production, covering the time period January 20, 2021 to the present, as soon as possible but no later than December 5, 2022:

1. All documents and communications containing any numerical accounting of illegal border crossers released from DHS custody on or after January 20, 2021 into the interior of the United States;
2. All documents and communications regarding any plan within DHS to secure operational control of the southern border, reduce illegal border crossings, reduce the number of gotaways, increase the seizure rate of dangerous drugs like fentanyl, and/or reduce the risk of terrorist entries;
3. All documents and communications related to the decision to terminate the Migrant Protection Protocols (MPP) program, including all documents and communications with any entity or individual within or outside of the U.S. Government;
4. All documents and communications referring to or containing any analysis of the effect of historic numbers of illegal border crossings on retention rates, staffing, recruitment, and morale among U.S. Border Patrol agents;
5. All documents and communications regarding the use of non-governmental organizations in facilitating releases of recent illegal border crossers from DHS custody, including those related to the use of federal taxpayer funds provided to nongovernmental organizations which facilitate the release of recent illegal border crossers from DHS custody;

The Honorable Alejandro Mayorkas

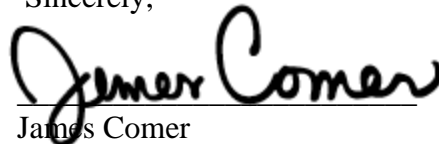
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6. All documents and communications from DHS employees to ICE employees referencing or interpreting the September 30, 2021 memorandum entitled “Guidelines for the Enforcement of Civil Immigration Law;”
7. All documents and communications containing any analysis conducted by ICE or any other DHS component regarding the impact that the September 30, 2021 memorandum entitled “Guidelines for the Enforcement of Civil Immigration Law” will or did have on interior enforcement operations and removal proceedings;
8. All documents and communications containing any analysis of the factors contributing to historically low interior enforcement actions and resulting removals by ICE.

To schedule the delivery of responsive 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,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a horizontal line underneath the name.

James Comer

Ranking Member

Committee on Oversight and Reform

cc: The Honorable Carolyn Maloney, Chairwoman
Committee on Oversight and Reform