

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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January 19, 2023

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

Dear Secretary Mayorkas:

The Committee on Oversight and Accountability is continuing to investigate the Biden Administration's creation of and failure to resolve the worst border crisis in American history.¹ The United States' immigration system should be "safe, orderly, and humane." It is not. The American people deserve answers about the Department of Homeland Security's (DHS) role in undermining Customs and Border Protection agents' efforts to secure the southern border. The Committee requests documents and information to understand DHS's policies, the costs of the emergency measures needed to respond to the worsening crisis, and the national security risks created by these policies.

President Biden waited until there was a Republican majority in the House of Representatives to finally visit the border.² The visit, however, comes long after DHS's rollback of deterrent-focused policies³ that were working to reduce the number of illegal border crossings. This rollback continues to undermine law enforcement's ability to work toward operational control over the southern border and cedes power to human smuggling organizations and cartel criminals that have made billions of dollars over the last two years.⁴

As the border crisis worsens, DHS and the Biden Administration continue to implement failed policies.⁵ For example, DHS is dramatically expanding unlawful abuse of the parole

¹ See Nick Miroff, *U.S. arrests along Mexico border top 2 million a year for first time*, WASH. POST (Sept. 19, 2022).

² See Jarret Renshaw & Andrea Shalal, *Biden heads to Mexican border in bid to show progress on immigration*, REUTERS (Jan. 8, 2023).

³ See DHS Statement on the Suspension of New Enrollments in the Migrant Protection Protocols Program (Jan. 20, 2021), available at <https://www.dhs.gov/news/2021/01/20/dhs-statement-suspension-new-enrollments-migrant-protection-protocols-program>; Memorandum from Acting Secretary David Pekoske to Troy Miller, et. al., *Review of and Interim Revision to Civil Immigration Enforcement and Removal Policies and Priorities* (Jan. 20, 2021), available at https://www.dhs.gov/sites/default/files/publications/21_0120_enforcement-memo_signed.pdf.

⁴ Miriam Jordan, *Smuggling Migrants at the Border Now a Billion-Dollar Business*, N.Y. TIMES (Jul. 25, 2022).

⁵ See Eileen Sullivan, *Biden Administration Has Admitted One Million Migrants to Await Hearings*, N.Y. TIMES (Sept. 6, 2022).

process to bring in 30,000 additional foreign nationals per month.⁶ Instead of working to resolve the situation, the Biden Administration is lying to the American people that the border is secure⁷—despite thousands of illegal aliens and massive quantities of deadly fentanyl evading apprehension every day—and persisting in its ultimate goal to enact a massive amnesty for millions of illegal aliens.⁸

Fiscal Year 2022 set records for encounters of illegal border crossers,⁹ migrant deaths,¹⁰ apprehensions of suspected terrorists,¹¹ and seizures of deadly fentanyl¹² at the southern border. The first three months of Fiscal Year 2023 continued to trend in the wrong direction, with over 600,000 apprehensions, the vast majority of which – 430,000 – were released into the United States. In addition, there were 240,000 known gotaways who evaded apprehension entirely during this period.¹³ Massive quantities of fentanyl make it past law enforcement officials who are overwhelmed with apprehending and processing large groups of migrants. Cartels leverage this chaotic situation to their advantage, overwhelming Border Patrol agents with large groups of migrants, allowing them to successfully cross dangerous narcotics. The resulting misery and death are catastrophic. The U.S. Drug Enforcement Administration reports that Mexican cartels are responsible for 107,622 fatal drug poisonings just last year, with sixty-seven percent of those deaths resulting from fentanyl use.¹⁴

The American people and their elected representatives must know DHS's role in the humanitarian and national security crisis along the U.S. southern border. The Committee requests the following documents and information, covering the time period January 20, 2021 to the present, as soon as possible but no later than February 2, 2023:

⁶ See Fact Sheet: Biden-Harris Administration Announces New Border Enforcement Actions, THE WHITE HOUSE (Jan. 5, 2023), available at <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/>.

⁷ See Douglas Murray, *With Martha's Vineyard Meltdown, Maybe Dems Will FINALLY Understand Illegal Immigration Problems.*, N.Y. POST, (Sept. 15, 2022); Hayden Sparks, *Vice President Harris Calls Southern Border 'Secure' Under Biden Administration*, THE TEXAN (Sept. 15, 2022).

⁸ Letter from Bryn McDonough, Acting Assistant Secretary for Legislative Affairs, Dept. of Homeland Security to James Comer, Ranking Member, H. Comm. On Oversight & Reform (Dec. 30, 2022) (“Understanding that this is an urgent problem that only Congress can fix, President Biden sent the *U.S. Citizenship Act of 2021* to Congress on January 20, 2021, his first day in office.”)

⁹ Newsroom, Southwest Land Border Encounters, U.S. Customs and Border Protection (accessed Jan. 1, 2023) available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

¹⁰ Griff Jenkins, Bill Melugin & Timothy H.J. Nerozzi, *Record 856 migrants die at southern border in fiscal year 2022: CBP*, FOX NEWS (Oct. 22, 2022).

¹¹ Newsroom, CBP Enforcement Statistics Fiscal Year 2022, U.S. Customs and Border Protection (accessed Jan. 1, 2023), available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

¹² Newsroom, Drug Seizure Statistics, U.S. Customs and Border Protection (accessed Jan. 1, 2023), available at <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>.

¹³ Griff Jenkins (@GriffJenkins), Twitter (Dec. 29, 2022 at 8:44am), available at <https://twitter.com/GriffJenkins/status/1608458935807377410>.

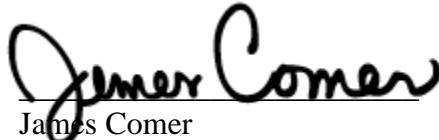
¹⁴ Letter from Joshua R. Lipman, Chief, Office of Congressional Affairs, Drug Enforcement Administration, Dept. of Justice to James Comer, Ranking Member, H. Comm. On Oversight & Reform (Dec. 29, 2022).

1. All documents and communications containing any numerical accounting of illegal border crossers released from U.S. Department of Homeland Security (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;
6. All documents and communications from DHS employees to U.S. Immigration and Customs Enforcement (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 Accountability Majority Staff at (202) 225-5074. The Committee on Oversight and Accountability 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.

The Honorable Alejandro Mayorkas
January 19, 2023
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Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a large, looping initial "J".

James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability