

Congress of the United States

Washington, DC 20515

May 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, the Committee on the Judiciary, and the Committee on Homeland Security are investigating how the Department of Homeland Security (DHS) is handling the elevated national security risk presented by an increasing number of aliens with terrorist ties illegally crossing the southwest border into the United States. Since President Biden took office and began reversing policies deterring illegal border crossings, the United States has faced historic levels of illegal immigration.¹ The number of individuals with derogatory information in terrorist screening databases illegally crossing the southwest border has also skyrocketed.² The Committees seek documents and information, including the alien files (A-files) of those apprehended on the southwest border with terrorist ties, to understand the extent of the national security risk presented by potential terrorist infiltration and to determine whether DHS ensures detention and removal in all such cases.

Aliens who are apprehended after crossing illegally in between ports of entry should have their biometric and biographic information cross-referenced against various law enforcement databases for derogatory information, including information contained in the Terrorist Screening Database (TSDB).³ The TSDB contains derogatory information about individuals with ties to terrorist activities and Known or Suspected Terrorists (KST).⁴ According to DHS data, the number of aliens with derogatory information in the TSDB has risen rapidly in recent years. So far in Fiscal Year 2023, U.S. Border Patrol (USBP) has already encountered 80 individuals with derogatory information in the TSDB, in addition to the 98 individuals encountered in Fiscal Year 2022, and 15 encountered in Fiscal Year 2021.⁵ These figures compare to only three such aliens

¹ Newsroom, *Southwest Land Border Encounters*, U.S. CUSTOMS AND BORDER PROTECTION, available at <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (accessed April 28, 2023).

² Newsroom, *CBP Enforcement Statistics Fiscal Year 2023: Terrorist Screening Data Set Encounters*, U.S. CUSTOMS AND BORDER PROTECTION, available at <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (accessed April 28, 2023).

³ See *Privacy Impact Assessment Update for the Watchlist Service*, U.S. DEP'T OF HOMELAND SECURITY (May 5, 2016) ("The [DHS] receives a copy of the [TSDB], the U.S. Government's consolidated database maintained by the Department of Justice (DOJ) Federal Bureau of Investigation (FBI) Terrorist Screening Center (TSC), to facilitate DHS mission-related functions, such as counterterrorism, law enforcement, border security, and inspection activities.").

⁴ *Id.*

⁵ *Supra*, n.2.

apprehended in Fiscal Year 2020, 0 in Fiscal Year 2019, 6 in Fiscal Year 2018, and 2 in Fiscal Year 2017.⁶

At the same time, over 1.5 million illegal alien “gotaways” have successfully crossed the border undetected during the Biden-Harris Administration.⁷ These “known gotaways” do not provide biometric or biographic information to USBP agents and continue their journey into the interior of the country without background checks against law enforcement databases. Terrorists and other bad actors will attempt to exploit weaknesses in border security and vetting procedures to infiltrate the United States.⁸ We fear these known gotaways could also include illegal aliens with terrorist ties.

DHS has previously indicated in congressional correspondence that illegal aliens “with terrorism related records who are encountered at the border, after entering the country without inspection, are detained and removed.”⁹ However, public facing information on a U.S. Customs and Border Protection (CBP) website now states that “[Terrorist Screening Data Set] watchlisted individuals encountered by [USBP] after entering the country without inspection *may* be detained and removed, *to the extent possible* under CBP policy, or turned over to another government agency for subsequent detention or law enforcement action, as appropriate” (emphasis added).¹⁰ It is unclear the extent to which actual legal impediments exist to prevent detention and removal of aliens with terrorist ties, as opposed to impediments imposed by the Biden Administration’s misguided policies.

To assist the Committees in conducting oversight of DHS’s handling of the risk presented by aliens with terrorist ties, please provide the following documents and information, covering the period January 20, 2021 to the present unless otherwise indicated, as soon as possible but not later than June 2, 2023:

1. A complete and current copy of the alien file of any alien encountered by USBP agents after January 19, 2021, on the southwest border between ports of entry, with records within the TSDB at the time of their encounter;
2. All Forms I-213, Record of Deportable/Inadmissible Alien pertaining to each alien identified in response to request 1;
3. All documents and communications related to the detention history of each alien identified in response to request 1, including but not limited to all records and related annotations related to detention or custody status for each alien identified in response

⁶ *Id.*

⁷ Neil Munro, *Border Patrol Chief: 1.5 million ‘gotaway’ migrants during Biden’s term*, BREITBART (Mar. 15, 2023), available at <https://www.breitbart.com/politics/2023/03/15/border-patrol-chief-1-5-million-gotaway-migrants-during-bidens-term/>.

⁸ See *The 9/11 Commission Report: final report of the National Commission on Terrorist Attacks upon the United States*, (July 22, 2004) at pg. 383-84.

⁹ See Letter from Alice Lugo, Assistant Secretary for Legislative Affairs, Dep’t of Homeland Security to James Comer, Ranking Member, Committee on Oversight and Reform (Oct. 13, 2022).

¹⁰ *Supra*, n.2.

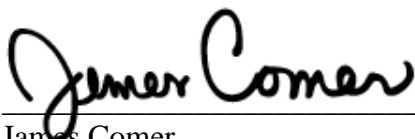
to request 1 contained within the Enforcement Integrated Database or ENFORCE Alien Removal Module;

4. All documents and communications related to the present custody status of each alien identified in response to request 1 whose removal from the United States has not yet been effectuated;
5. All documents and communications related to the disposition of removal proceedings initiated with respect to each alien identified in response to request 1, including but not limited to documentation indicating whether DHS effectuated any final orders of removal issued in those cases;
6. All documents and communications containing any analysis or estimate of the number of “gotaways” or other individuals who illegally entered the U.S. in between ports of entry without inspection;
7. All documents and communications containing any reference to a specific national security risk presented by “gotaways” with terrorist ties;
8. All documents and communications containing any analysis or warning of a heightened national security risk presented by “gotaways” with terrorist ties.

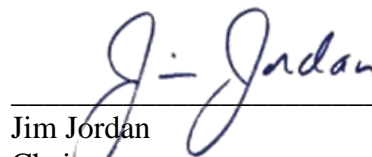
To arrange for the delivery of responsive documents or ask any related follow-up questions, please contact Committee on Oversight and Accountability Staff at (202) 225-5074, Committee on the Judiciary Staff at (202) 225-6906, and Committee on Homeland Security staff at (202) 226-8417. Attached are instructions for producing the documents and information to the Committees.

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. The Judiciary Committee is authorized to conduct oversight of federal immigration law pursuant to the House Rule X. The Committee on Homeland Security is the principal committee of jurisdiction for overall homeland security policy, and has special oversight functions of “all Government activities relating to homeland security, including the interaction of all departments and agencies within the Department of Homeland Security” under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer
Chairman
Committee on Oversight and Accountability



Jim Jordan
Chairman
Committee on the Judiciary

The Honorable Alejandro Mayorkas

May 19, 2023

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Mark Green

Chairman

Committee on Homeland Security

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

The Honorable Jerrold L. Nadler, Ranking Member
Committee on the Judiciary

The Honorable Bennie Thompson, Ranking Member
Committee on Homeland Security