

United States Senate

WASHINGTON, DC 20510

VIA ELECTRONIC TRANSMISSION

February 3, 2022

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Mayorkas:

We write today regarding the movement of dangerous illegal immigrants from the border for release into law-abiding American communities. In light of the public reporting around “midnight flights” of illegal immigrants, we request a full accounting of your Department’s activities so that we can understand the scope of this challenge. We are concerned that the use of these midnight flights by Immigration and Customs Enforcement (ICE) is intended to obfuscate the Administration’s failure to secure our borders and protect hardworking, law-abiding Americans.

It is clear that the Biden Administration’s border crisis continues to overwhelm our ability to enforce our nation’s immigration laws. According to recent reports, ICE has been releasing large numbers of dangerous single adult illegal immigrants into our American communities.¹ After being processed en masse at makeshift border facilities, these criminal illegal immigrants are being loaded onto planes and shuttled across the country for release.²

It is deeply troubling to learn, according to an ICE source, that at a time when millions of Americans are struggling with inflation, their hard-earned taxpayer dollars are being used to transport illegal immigrants across the country, including dangerous criminal aliens.³ The release of those with criminal records is particularly concerning, as this is a direct threat to public safety. This appears to contradict the guidance you issued in September 2021, where you stated that a “noncitizen who poses a current threat to public safety, typically because of serious criminal conduct, is a priority for apprehension and removal.”⁴

We are alarmed by the reports of mass release of criminal illegal immigrants into our communities under the cover of darkness. The American people deserve answers to why their

¹ Bill Melugin and Adam Shaw, “Fox News footage shows mass release of single adult migrants into US,” *Fox News*, January 25, 2022, <https://www.foxnews.com/politics/texas-footage-single-adult-migrants-released-us>.

² Bill Melugin and Adam Shaw, “ICE agents forced to coordinate travel for illegal immigrants, some with criminal records: source,” *Fox News*, January 27, 2022, <https://www.foxnews.com/politics/ice-removal-operations-turned-into-unofficial-travel-coordination-agency-source-says>.

³ *Id.*

⁴ Secretary Alejandro Mayorkas, “Guidelines for the Enforcement of Civil Immigration Law,” September 30, 2021, <https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf>.

taxpayer dollars are being used to fly illegal immigrants across the country to be released into our backyards. Public safety and national security are on the line.

During the Biden Administration, a crisis has raged on our southern border. President Biden's decision to dismantle effective border policies and to promise amnesty for millions of illegal immigrants has led to record breaking encounters at our southern border. Since President Biden took office, Customs and Border Protection (CBP) has had nearly 2 million encounters with illegal immigrants at our southern border. This includes dangerous, criminal aliens who are a threat to public safety and who have no business being released into our country.

According to CBP data, the agency arrested 10,763 illegal immigrants with criminal convictions in fiscal year 2021.⁵ This is a **341 percent increase** over fiscal year 2020. This includes arrests of those convicted of violent crime, murder, drug trafficking, sexual assault, and DWI's. While these individuals were thankfully arrested by our brave Border Patrol agents, we are concerned about the "got aways" who avoided capture and remain at large in our communities.

These reports of illegal immigrants being released into the country are also perplexing due to the fact that the Supreme Court directed the Biden Administration to reinstate the Remain in Mexico policy started under the previous administration.⁶ Under this policy, illegal immigrants are required to wait in Mexico while their asylum claims are adjudicated rather than being released into the United States.

The Biden Administration has fought this sensible policy tooth and nail, most recently by again issuing agency action to repeal the policy. Despite reinstating the policy as the law requires, reports of mass releases of illegal immigrants raise questions about whether the Biden Administration is taking its legal obligations seriously. By not fully implementing the Remain in Mexico policy, the Biden Administration is putting at the risk border security and public safety.

You were quoted in May 2021 as saying:

I really am focused on [ICE] becoming a premier national security and law enforcement agency . . . I really want to elevate all of the other work [ICE] does and also ensure that its civil immigration work is well-focused in the service of the national security and public safety mission.⁷

We want to take you at your word that you and President Biden are working in good faith to secure our nation's borders and enforce our immigration laws. To help us understand the Biden Administration's actions and the Department's plans for securing public safety, we request that you respond to the following questions no later than March 4, 2022:

⁵ U.S. Customs and Border Protection, "Criminal Noncitizen Statistics Fiscal Year 2022," accessed January 29, 2022, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics>.

⁶ Mark Sherman, "Supreme Court orders 'Remain in Mexico' policy reinstated," *AP News*, August 24, 2021, <https://apnews.com/article/mexico-courts-immigration-us-supreme-court-a3fe33081fa2909c17e8c08a2c37f818>.

⁷ Nick Miroff and Maria Sacchetti, "Biden administration reins in street-level enforcement by ICE as officials try to refocus agency mission," *The Washington Post*, May 25, 2021, https://www.washingtonpost.com/national/ice-street-arrests-immigrants-fall-biden/2021/05/25/58681782-b972-11eb-bb84-6b92dedcd8ed_story.html.

- (1) Since January 20, 2022, how many illegal immigrants have been released into the United States?
- (2) What factors does ICE consider in its “case by case” determination to relocate an illegal immigrant?
- (3) What is the Department’s success rate in reconnecting with illegal immigrants awaiting adjudication?
- (4) Of those released into the United States, how many had a criminal conviction of any kind? Please be specific about the numbers of those with convictions related to assault, driving while intoxicated, and any violent crimes.
- (5) How many flights have been used to transport illegal immigrants within the country since January 20, 2022?
- (6) What has been the cost to the American taxpayer for these midnight flights?
- (7) Please provide a list of the cities which the Biden Administration has flown illegal immigrants to, and how many have been released into each city.
- (8) In which cities has the Biden Administration set up detention centers from which illegal immigrants are being released into our communities?
- (9) What steps has the Biden Administration taken to reinstate the Remain in Mexico policy?
- (10) How many individuals are currently enrolled in the Migrant Protection Protocols?
- (11) How many individuals who were enrolled in the Migrant Protection Protocols have been released into the United States while their asylum claims are being adjudicated?
- (12) Is the Department and its component agencies notifying local authorities about the release of illegal immigrants into their communities? If so, how much information is being provided? If not, what is your justification for hiding this information from the affected communities?
- (13) In light of the mass release of illegal immigrants, what steps are DHS and ICE taking to protect public safety and national security?
- (14) What are the monthly numbers of “got aways” at our southern border during FY2021? Of those who got away in FY21, what is the estimated number of criminal aliens who would have been arrested if caught crossing the border?

The crisis at our southern border is increasingly becoming a crisis in our communities due to the Administration’s immigration failures. We ask that you respond as quickly as possible to this inquiry so that Congress and the American people can understand the scope of the crisis consuming our border and communities.

Sincerely,



Thom Tillis
United States Senator



Kevin Cramer
United States Senator

Jerry Moran

Jerry Moran
United States Senator

Mike Braun

Mike Braun
United States Senator

Roger F. Wicker

Roger F. Wicker
United States Senator

Cindy Hyde-Smith

Cindy Hyde-Smith
United States Senator

Shelley Moore Capito

Shelley Moore Capito
United States Senator

Marsha Blackburn

Marsha Blackburn
United States Senator

John Hoeven

John Hoeven
United States Senator

Todd Young

Todd Young
United States Senator

Ted Cruz

Ted Cruz
United States Senator

John Boozman

John Boozman
United States Senator

Steve Daines

Steve Daines
United States Senator