

United States Senate

February 25, 2022

The Honorable Alejandro N. Mayorkas
Secretary
Department of Homeland Security
3801 Nebraska Avenue, N.W.
Washington, D.C. 20016

Secretary Mayorkas:

I write to today regarding the delay in releasing the U.S. Immigration and Customs Enforcement (“ICE”) Fiscal Year (“FY”) 2021 Annual Enforcement and Removal Operations Report. For the past decade, the Department of Homeland Security (“DHS”) has released this annual report near the end of the calendar year. This typical practice has resulted in these reports being published within three months of the end of the fiscal year, which ends on September 30 every year. In the past ten years, each annual report has been released by the end of the calendar year: 2020 (released December 23), 2019 (released December 10), 2018 (released December 13), 2017 (released December 4), 2016 (released December 5), 2015 (released December 22), 2014 (released December 19), 2013 (released December 18), 2012 (released December 20), and 2011 (released October 17).¹ This year marks the first time that the Biden administration bears the responsibility of preparing and releasing this report. It is also the first time in a decade that the report has not been released by the end of the calendar year.

The data that has been released from this administration paint a bleak picture of the state of our Southern border. According to the U.S. Customs & Border Protection (“CBP”), more than two million unauthorized migrants crossed the Southern border during the calendar year.¹ These numbers do not include the got-aways—illegal aliens who crossed without being stopped by law enforcement or who did not self-report to law enforcement. At the same time that illegal crossings have skyrocketed, the administration has reduced its enforcement of immigration laws. ICE data indicate this administration’s arrest rates for immigration violations has fallen to its lowest levels in more than a decade.²

Under DHS’s leadership, these agencies have delayed and denied transparency to the American public. The failure to release the FY 2021 ICE Enforcement and Removal Operations Report is unacceptable. It hampers the ability of Congress to accurately conduct oversight of a lawless administration that has simply refused to enforce laws enacted by Congress that it dislikes. The

¹ *Southwest Land Border Encounters*, U.S. CUSTOMS & BORDER PROTECTION (2022), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

² *Fiscal Year 2021 Detention Statistics*, U.S. IMMIGRATION & CUST. ENFORCEMENT (2022) <https://www.ice.gov/doclib/detention/FY21-detentionstats.xlsx>; Nick Miroff and Maria Sacchetti, *Immigration arrests fell to lowest level in more than a decade during fiscal 2021, ICE data shows* (Oct. 26, 2021).

delay raises serious concerns about DHS's transparency during the worst border crisis this county has seen in decades.

The timing and continued delay is also suspect. It seems that DHS and ICE are more concerned with avoiding damaging headlines and unflattering news cycles than with carrying out their obligations—that is shameful, and the American people deserve better from their government.

I request your full and complete responses to the following requests by **March 5, 2022**.

1. Please enclose a copy of the Fiscal Year 2021 ICE Enforcement and Removal Operations Report.
2. Please explain the severe delay in publication of this report. Be specific.
3. Have you received any directive from the White House to delay release of the annual ICE report to after President Biden's State of the Union address?
4. All of the circumstances suggest that DHS intentionally delayed the publication of this report. Did you or any staff member at DHS or ICE communicate either give or receive a directive to delay the publication of the report? Please provide a copy of all relevant and responsive communications in connection with this inquiry.

Thank you for your attention to this pressing matter.

Sincerely,



Ted Cruz
Member, Senate Judiciary Committee

ⁱ *Enforcement and Removal Operations Report Fiscal Year 2020*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 23, 2020) <https://www.ice.gov/doclib/news/library/reports/annual-report/eroReportFY2020.pdf>; *Enforcement and Removal Operations Report Fiscal Year 2019*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 10, 2019) <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>; *Enforcement and Removal Operations Report Fiscal Year 2018*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 13, 2018) <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFY2018Report.pdf>; *Enforcement and Removal Operations Report Fiscal Year 2017*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 4, 2017) <https://www.ice.gov/sites/default/files/documents/Report/2017/iceEndOfYearFY2017.pdf>; *Enforcement and Removal Operations Report Fiscal Year 2016*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 5, 2016) <https://www.ice.gov/sites/default/files/documents/Report/2016/removal-stats-2016.pdf>; *Enforcement and Removal Operations Report Fiscal Year 2015*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 22, 2015) <https://www.ice.gov/sites/default/files/documents/Report/2016/fy2015removalStats.pdf>; *Enforcement and Removal Operations Report Fiscal Year 2014*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 19, 2014)

<https://www.ice.gov/doclib/about/offices/ero/pdf/2014-ice-immigration-removals.pdf>; *Enforcement and Removal Operations Report Fiscal Year 2013*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 18, 2013)

<https://www.ice.gov/doclib/about/offices/ero/pdf/2013-ice-immigration-removals.pdf>; *Enforcement and Removal Operations Report Fiscal Year 2012*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Dec. 20, 2012)

<https://www.ice.gov/news/releases/fy-2012-ice-announces-year-end-removal-numbers-highlights-focus-key-priorities-and>; *Enforcement and Removal Operations Report Fiscal Year 2011*, U.S. IMMIGRATION & CUST. ENFORCEMENT (Oct. 17, 2011) <https://www.ice.gov/news/releases/fy-2011-ice-announces-year-end-removal-numbers-highlights-focus-key-priorities>.