

October 5, 2022

Secretary Alejandro Mayorkas  
U.S. Department of Homeland Security  
3801 Nebraska Ave N.W.  
Washington, D.C. 20016

Dear Secretary Mayorkas:

Your failure to faithfully enforce this nation's immigration laws and willful blindness to the very real humanitarian crisis at our southern border amounts to a gross dereliction of duty and a violation of your oath of office. Historically high levels of illegal immigration and illicit drug trafficking demonstrate that our southern border is open for every kind of public health and national security threat imaginable. Despite the heroic efforts by the men and women of Border Patrol, who operate with very little support from Washington, D.C., you have failed to achieve any semblance of operational control of the southern border. We have grave concerns about what this failure means for both national security and the health and safety of American citizens. These failures cannot go unaddressed, and your actions cannot be unaccounted for. The American people deserve better.

The conclusion that you have been derelict in your duties is supported by data from your own department. Since you assumed office as the Secretary of the Department of Homeland Security (DHS) 19 months ago, there have been over 4.4 million illegal crossings, including over 3.5 million apprehensions by U.S. Customs and Border Protection (CBP)<sup>1</sup> and at least 900,000 gotaways, who evaded apprehension.<sup>2</sup>

These astronomically high numbers are due in no small part to the political decision to rescind a number of President Trump's policies that were stemming the flow of illegal aliens and illicit drugs across the southern border. Withdrawing the Remain in Mexico policy, ending Title 42 expulsions, terminating border wall construction contracts, and countless other decisions, coupled with your own lax border policies, act as "pull" factors that have encouraged millions of aliens to undertake the dangerous journey to the U.S.-Mexico border.

As a result of these political decisions, the United States has seen historic all-time highs of illegal crossings along our southern border, including:

- 2,150,639 illegal alien encounters by CBP on the southern border in fiscal year 2022, the most ever in a single year.<sup>3</sup>

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<sup>1</sup> U.S. Customs and Border Protection, *Southwest Land Border Encounters*, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

<sup>2</sup> Tommy Pigott, *Over 900,000 Gotaways*, REPUBLICAN NATIONAL COMMITTEE (Oct.2, 2022), <https://gop.com/rapid-response/over-900000-gotaways/>.

<sup>3</sup> U.S. Customs and Border Protection, *Southwest Land Border Encounters*, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

- 1,734,686 encounters in fiscal year 2021, the second-most ever in a single year.
- 241,166 encounters in May 2022 alone, the most ever encounters in a single month.
- 235,706 encounters in April 2022 alone, the second-most ever encounters in a single month.

These record-high numbers stand in stark contrast to the levels of illegal immigration this country saw under President Trump:

- 279% increase in encounters with illegal aliens by CBP along the southern border from fiscal year 2020 to fiscal year 2021.
- 437% increase in encounters from the same point in fiscal year 2020 to fiscal year 2022 year-to-date.
- 528% increase from June 2020 to June 2022.
- 930% increase—nearly tenfold—from May 2020 to May 2022.

This deluge of illegal immigration shows no signs of stopping, or even slowing down. Border Patrol agents are currently logging 8,000 illegal alien encounters every day.<sup>4</sup> These numbers are stretching the Border Patrol to its operational limits, with many agents being pulled from enforcement duties in order to provide caretaking to the ever-growing stream of aliens.

Further, our open southern border inflicts incredible harm on American citizens by worsening the opioid epidemic ravaging the United States. Fentanyl, which has become the leading cause of death of Americans ages 18 to 45,<sup>5</sup> is streaming across our southern border:

- 12,861 pounds of fentanyl seized by CBP in fiscal year 2022, a 219% increase over the same point in fiscal year 2020.<sup>6</sup>
- 2,287 pounds seized just last month, enough to kill over 500 million people.<sup>7</sup>
- 5,133 pounds seized in just the last three months, more than was seized in all of fiscal year 2020 and more than twice as much as in all of fiscal year 2019.

We are grateful that CBP has prevented thousands of pounds of illicit drugs from entering the United States, but this almost certainly represents a small fraction of the drugs successfully trafficked across the southern border.

The fentanyl-fueled opioid epidemic killed 108,000 Americans last year.<sup>8</sup> This chilling figure is directly attributable to Mexican cartels who, working in concert with Chinese suppliers, are

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<sup>4</sup> Joseph Simonson, *Highest Number in U.S. History: Border Patrol Logs 8,000 Migrants Entering US Each Day*, WASH. FREE BEACON (Sept. 15, 2022), <https://freebeacon.com/biden-administration/highest-number-in-us-history-border-patrol-logs-8000-migrants-entering-us-each-day/>.

<sup>5</sup> Families Against Fentanyl, *Fentanyl By Age: Report*, <https://www.familiesagainstoffentanyl.org/research/byage>.

<sup>6</sup> U.S. Customs and Border Protection, *Drug Seizure Statistics*, <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>.

<sup>7</sup> U.S. Drug Enforcement Administration, *Facts About Fentanyl*, <https://www.dea.gov/resources/facts-about-fentanyl>.

<sup>8</sup> Centers for Disease Control and Prevention, National Center for Health Statistics, *Provision Drug Overdose Death Counts*, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>.

taking advantage of our porous southern border.<sup>9</sup> Drug cartels produce bulk amounts of fentanyl in Mexico, using the Chinese-supplied ingredients, and smuggle the drug across the U.S.-Mexico border. This amounts to a multi-billion dollar business for transnational criminal organizations, who then launder the money out of the United States and back into China.<sup>10</sup> This lucrative illicit enterprise continues to thrive—while Americans die—all because DHS has ceded control of our southern border to the cartels for political gain.

The chaos at the southern border also presents a prime opportunity for terrorists to enter the United States undetected. Border Patrol has apprehended at least 78 individuals on the Terrorist Screening Database between ports of entry thus far in fiscal year 2022.<sup>11</sup> That is more than twice as many apprehended in the past five fiscal years combined.

This uptick in known and suspected terrorists attempting to enter the United States should come as no surprise following our disastrous withdrawal from Afghanistan. We know that the return of the Taliban to power in Afghanistan has created a safe-haven for al-Qaeda. Terrorists likely have noticed that our southern border is unsecured and are seeking to take advantage of it, if they haven't already. With over 900,000 gotaways under you and President Biden to date, it is a near certainty that terrorists have already entered the United States undetected, taking advantage of the lenient border policies you have put into place. It is only a matter of time until we will see an attack on American soil from such terrorists.

The southern border crisis not only causes harm for Americans, it has also led to an ongoing humanitarian crisis for aliens. Nearly 750 aliens have died at the southern border so far this fiscal year, 200 more than last year and nearly three times as many as in fiscal year 2020.<sup>12</sup> There have been more deaths on the southern border this year than in any other year on record, surpassing the previous record—also set by you and President Biden—in fiscal year 2021, when 557 deaths were recorded.

The stories of pain and suffering at the southern border are heartbreaking and gut-wrenching. In August, smugglers abandoned a 4-month-old and an 18-month-old in the Sonoran Desert to die.<sup>13</sup> Border Patrol was able to save their lives, but not everyone is so lucky. In one day just this month, 13 aliens drowned attempting to cross the Rio Grande River.<sup>14</sup> Only a week prior to that incident, two children, ages 3 and 5, drowned while attempting to cross the Rio Grande with

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<sup>9</sup> Jon Kamp, José de Córdoba & Julie Wernau, *How Two Mexican Drug Cartels Came to Dominate America's Fentanyl Supply*, WALL ST. J. (Aug. 30, 2022), <https://www.wsj.com/articles/mexico-drug-cartels-fentanyl-overdose-sinaloa-jalisco-11661866903>.

<sup>10</sup> Anna Giaritelli, *Chinese Money Launderers Team Up with Mexican Cartels to Profit Billions from US Fentanyl Crisis*, WASH. EXAMINER (July 13, 2021), <https://www.washingtonexaminer.com/news/chinese-money-launderers-mexican-drug-cartels-fentanyl-crisis>.

<sup>11</sup> U.S. Customs and Border Protection, *CBP Enforcement Statistics Fiscal Year 2022*, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

<sup>12</sup> Priscilla Alvarez, *A Record Number of Migrants Have Died Crossing the US-Mexico Border*, CNN (Sept. 7 2022), <https://www.cnn.com/2022/09/07/politics/us-mexico-border-crossing-deaths/index.html>.

<sup>13</sup> John R. Modlin (@USBPChiefTCA), TWITTER (Aug. 26, 2022, 7:53 PM), <https://twitter.com/USBPChiefTCA/status/1563313718456332290?s=20&t=irtiecpRdRY5cTB7bfYuHQ>.

<sup>14</sup> Greg Norman, *13 Migrants Now Confirmed Dead Following Rio Grande Crossing at Texas Border*, FOX NEWS (Sept. 5, 2022), <https://www.foxnews.com/us/thirteen-migrants-now-confirmed-dead-following-rio-grande-crossing-texas-border>.

their parents.<sup>15</sup> In another incident this summer, 51 lives were lost when smugglers abandoned a tractor-trailer that was transporting nearly 70 aliens.<sup>16</sup> Even those who survive the journey are routinely subjected to violence and degradation, including rape and sexual assault of women and children by smugglers.

The men and women of Border Patrol are confronted with the reality of seemingly endless human suffering and record-high illegal immigration every day, leading to record-low morale.<sup>17</sup> The strain caused by unprecedented numbers of encounters has meant that resources are often diverted from patrolling and enforcement operations, to processing and transporting apprehended illegal aliens. The sheer number of aliens needing to be processed is also leading to loss of quality control. A recent DHS Inspector General report indicates that agents cannot create and maintain alien files (A-files) properly because DHS has instructed them to cut corners to reduce processing times.<sup>18</sup>

Members of Congress in both the Senate and the House have sent countless letters to DHS trying to understand why this crisis has gone on unaddressed for over a year-and-a-half. However, it is clear from recent public statements that neither you nor the Biden administration in which you serve truly understand the scope of this crisis or even acknowledge its existence. You have stated multiple times that “the border is secure” even as the crisis rages on.<sup>19</sup> Vice President Harris apparently shares this same delusion.<sup>20</sup> Perhaps if she or President Biden would visit the southern border and actually see the unending surge of illegal immigration, illicit drugs and human suffering, the White House would feel differently. As things stand now, however, the administration is exhibiting a complete disconnect from reality, with the White House Press Secretary stating earlier this month “It’s not just that people are walking across the border.”<sup>21</sup>

The White House is, of course, wrong; that is precisely what is happening. Indeed, it is happening more than 8,000 times every single day. Far from taking steps to address this crisis and secure the southern border, you have allowed the situation to worsen and pursued policies

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<sup>15</sup> Anna Giaritelli, *Two Children Ages 3 and 5 Die in Separate Border Drownings on Same Day*, WASH. EXAMINER (Aug. 24, 2022), <https://www.washingtonexaminer.com/policy/immigration/two-children-ages-3-and-5-die-in-separate-border-drownings-on-same-day>.

<sup>16</sup> Molly Hennessy-Fiske, Kate Linthicum & Hamed Aleaziz, *‘We Are in Mourning’: 51 Migrants Die After a Stifling Tractor-Trailer is Abandoned in Texas*, L.A. TIMES (June 28, 2022), <https://www.latimes.com/world-nation/story/2022-06-28/migrants-killed-tractor-trailer-smuggling-texas>.

<sup>17</sup> Anna Giaritelli, *Border Patrol Cannot See Path Forward Under Biden: ‘There Is No Morale’*, WASH. EXAMINER (June 13, 2022), <https://www.washingtonexaminer.com/policy/defense-national-security/border-patrol-cannot-see-path-forward-under-biden>.

<sup>18</sup> OFFICE OF INSPECTOR GENERAL, U.S. DEP’T OF HOMELAND SECURITY, *OIG-22-71, U.S. BORDER PATROL SCREENED MIGRANTS AT THE SOUTHWEST BORDER BUT COULD STRENGTHEN PROCESSES* (2022), <https://www.oig.dhs.gov/sites/default/files/assets/2022-09/OIG-22-71-Sep22.pdf>.

<sup>19</sup> Luke Barr, *DHS Head to Migrants: ‘The Message is Quite Clear, Do Not Come*, ABC NEWS (Mar. 21, 2021), <https://abcnews.go.com/Politics/dhs-head-migrants-message-clear/story?id=76580731>; The Aspen Institute, *Fireside Chat with Secretary Alejandro N. Mayorkas*, YOUTUBE (July 19, 2022), <https://youtu.be/fXnO7dGANeo>; GOP War Room, *DHS Secretary Mayorkas Claims He Has ‘Operational Control’ of the Border Despite 600,000 ‘Gotaways’*, YOUTUBE (Apr. 28, 2022), [https://www.youtube.com/watch?v=1c\\_MZVP\\_Dys](https://www.youtube.com/watch?v=1c_MZVP_Dys).

<sup>20</sup> Emily Crane, *Kamala Harris Insists Border ‘Secure’ as Illegal Migrants Set to Pass 2M*, N.Y. POST (Sept. 12, 2022), <https://nypost.com/2022/09/12/kamala-harris-says-us-border-is-secure-as-migrant-crossings-surge/>.

<sup>21</sup> Mark Moore, *Don’t Believe Your Eyes: WH Claims Migrants Are Not Just ‘Walking’ Across Border*, N.Y. POST (Aug. 29, 2022), <https://nypost.com/2022/08/29/white-house-claims-migrants-not-walking-across-border/>.

that have greatly exacerbated the problem while continuing to insist that “the border is secure.” This is gross dereliction of duty and, if not corrected swiftly, could provide grounds for impeachment. We fully expect that in a few months’ time a Republican-led Congress will hold you to account for your willful negligence regarding the security of the southern border and the safety of the American people. We ask that you provide a full accounting of what DHS will do to achieve operational control of the southern border, as it is required to do by law, and stop the flow of illegal aliens and illicit drugs into the United States. Lives are depending on it.

Sincerely,



Lindsey O. Graham  
United States Senator



Ted Cruz  
United States Senator