

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
MINORITY (202) 225-5074
<https://oversight.house.gov>

February 19, 2021

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

Dear Secretary Mayorkas:

We write today to express our grave concern about the humanitarian crisis on the southern border, where unaccompanied alien children (UACs) and family units continue to arrive in extremely high numbers. The Biden Administration's policies limiting immigration enforcement and weakening border security, coupled with its proposal to grant amnesty to illegal immigrants, are signaling to the world that our immigration laws can be violated with little, if any, consequence. We are particularly concerned that the Biden Administration's actions could soon lead to a health crisis at the border and surrounding communities, causing widespread COVID-19 infections and fatalities.

The numbers of UACs and family units arriving at the southwest border decreased from its peak in Fiscal Year 2019 through Fiscal Year 2020.¹ This reduction is due to a combination of health and safety reforms implemented by the prior administration, including limiting gatherings of migrants in federal facilities through enrollments in the Migrant Protection Protocols (MPP) and the use of Title 42 expulsion authority, as advised by the scientists at the U.S. Centers for Disease Control and Prevention (CDC).² However, the U.S. Department of Homeland Security (DHS) halted enrollments in MPP immediately after President Biden took office,³ and recent developments in Mexican law are causing difficulties in continuing to utilize Title 42 authorities with respect to family units. In addition to his reckless policies and executive actions, President Biden's rhetoric relating to amnesty for millions of illegal aliens and gutting

¹ *Southwest Border Migration*, DEP'T. OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, available at [https://www.cbp.gov/newsroom/stats/sw-border-migration-YTDNovember#:~:text=In%20Fiscal%20Year%20\(FY\)%202021,entry%20on%20our%20Southwest%20Border](https://www.cbp.gov/newsroom/stats/sw-border-migration-YTDNovember#:~:text=In%20Fiscal%20Year%20(FY)%202021,entry%20on%20our%20Southwest%20Border) (last accessed Feb. 5, 2021).

² See *Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists*, U.S. DEP'T OF HEALTH AND HUMAN SERVICES, CTRS. FOR DISEASE CONTROL & PREVENTION (Oct. 13, 2020), available at <https://www.cdc.gov/coronavirus/downloads/10.13.2020-CDC-Order-Prohibiting-Introduction-of-Persons-FINAL-ALL-CLEAR-encrypted.pdf>

³ 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>.

interior enforcement priorities⁴ is leading to a perfect storm on the southwest border. Without a radically different approach, a health, security, and humanitarian crisis is inevitable.

A November federal court injunction⁵ prevented Title 42 expulsion authority from being utilized with respect to UACs, leading to a dramatic uptick in the number of UACs arriving at the southern border.⁶ U.S. Customs and Border Protection (CBP) is currently facing over 1,500 apprehensions of UACs per week.⁷ Though the injunction has been stayed,⁸ the Biden Administration did not resume Title 42 expulsions of newly arrived UACs and instead carved out a temporary exception for UACs.⁹ The administration has already announced the reopening of an influx facility at Carrizo Springs, Texas to deal with the increasing numbers of UACs.¹⁰

Developments in Mexican law have reduced the U.S. government's ability to expel some family units with younger children.¹¹ This has led to increased numbers of family units arriving at the southwest border.¹² To prevent overcrowding and ensure children do not spend more than 72 hours in custody, border personnel are forced to quickly process those family units under Title 8, issue them Notices to Appear in immigration court, and release them into the interior without any quarantine or COVID-19 testing.¹³

⁴ See 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

⁵ *P.J.E.S. v. Wolf*, No. 20-2245 (D.D.C. Nov. 18, 2020), available at <https://www.aclu.org/legal-document/ruling-pjes-v-wolf>.

⁶ See Email from Dana L. Vander Veen, Congressional Liaison Specialist, U.S. Customs and Border Protection to Congressional Staff, January 22, 2020, *on file with committee staff*. (“It is notable that UAC encounters have more than doubled over the past two weeks to levels that exceed those experienced prior to the holidays.”)

⁷ See Email from Dana L. Vander Veen, Congressional Liaison Specialist, U.S. Customs and Border Protection to Congressional Staff, February 2, 2020, *on file with committee staff*. (1644 UAC’s booked out between 1/17/2021 and 1/23/2021).

⁸ See Order Granting Motion for Stay Pending Appeal, *P.J.E.S. v. Pekoske*, 20-5357 (D.C. Cir. Jan. 29, 2021) available at <https://www.aclu.org/legal-document/dc-appeals-court-stay-order>.

⁹ See *Notice of Temporary Exception from Expulsion of Unaccompanied Noncitizen Children Encountered in the United States Pending Forthcoming Public Health Determination*, U.S. DEP’T OF HEALTH AND HUMAN SERVICES, CTRS. FOR DISEASE CONTROL & PREVENTION (Feb. 11, 2020), available at <https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDCPauseNotice-ExceptfromExpulsion.pdf>

¹⁰ Knight, Stef W., *Biden’s brewing child migrant crisis*, AXIOS NEWS (Feb. 2, 2021), available at <https://www.axios.com/border-migrant-child-crisis-biden-coronavirus-8bce4ec4-a881-4974-abdb-404c39b1030f.html>.

¹¹ La Jeunesse, William, *Biden administration’s CBP revives ‘catch and release’ policy at border amid COVID concerns*, FOX NEWS (Feb. 5, 2021) available at <https://www.foxnews.com/politics/biden-administrations-cbp-revives-catch-and-release-policy-at-border-amid-covid-concerns>.

¹² See Email from Dana L. Vander Veen, Congressional Liaison Specialist, U.S. Customs and Border Protection to Congressional Staff, February 9, 2020, *on file with committee staff*. (“We wish to draw your attention to the dramatic increase in family unit apprehensions – more than quadrupling in just the past two weeks.”).

¹³ La Jeunesse, William, *Biden administration’s CBP revives ‘catch and release’ policy at border amid COVID concerns*, FOX NEWS (Feb. 5, 2021) available at <https://www.foxnews.com/politics/biden-administrations-cbp-revives-catch-and-release-policy-at-border-amid-covid-concerns>.

The increasing number of UACs and family units illegally crossing the border will soon overwhelm border facilities in the middle of a global pandemic, forcing CBP officials to resort to widespread, rapid catch and release of unlawfully present individuals and families into the interior of the country. This surge also has the capability to cause a COVID-19 outbreak at ports of entry and other CBP facilities, which threatens the health of CBP personnel and could result in the temporary closures of ports of entry. Such closures would greatly impact commerce and hamper the United States' economic recovery. The increase in illegal immigration at the southern border presents a risk not only to Border Patrol agents apprehending migrants who illegally cross the border, but also to those communities into which those individuals will relocate—likely leading to widespread COVID-19 infection and fatalities.

To assist us in understanding the administration's plan to prevent the impending catastrophe on the border, please provide documents, communications, and information sufficient to answer the following questions no later than March 5, 2021:

1. What is the administration's plan, if any, to reduce illegal border crossings by UACs and Family Units (FAMU) along the southwest border?
2. What is the administration doing to prevent the spread of COVID-19 in custodial facilities along the southwest border, to protect CBP personnel from exposure to COVID-19, and to prevent the introduction of COVID-19 into border communities and the interior of the United States upon release of an alien from CBP custody?
3. Please provide statistics on apprehensions of illegal border crossers on the southwest border for the period of October 1, 2020 through the present, disaggregated by whether the individual apprehended was designated as a UAC, FAMU, or single adult, as well as the various countries of origin and case disposition.
4. What steps, if any, are being taken by U.S. Immigration and Customs Enforcement to increase bedspace capacity at Family Residential Centers to ensure that family units are held in custody together throughout any immigration proceedings instead of being released into the interior of the country?
5. What steps, if any, are being taken to expedite immigration proceedings for UACs and family units that cross the border illegally, and does the DHS intend to prioritize the removal of those UACs and family units who are ultimately ordered removed?
6. What steps, if any, is the administration taking to address this crisis with the Mexican government, including whether the administration has asked the Mexican government to continue facilitating Title 42 expulsions?

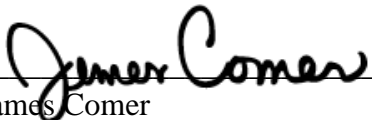
Secretary Mayorkas

February 19, 2021

Page 4 of 5

Thank you for your consideration of this important issue. To make arrangements to deliver documents or ask any related follow-up questions, please contact Committee on Oversight and Reform Republican Staff at (202) 225-5074. The Committee on Oversight and Reform 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.

Sincerely,



James Comer
Ranking Member
Committee on Oversight and Reform



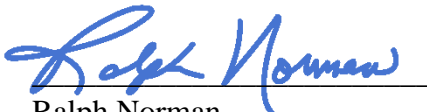
Jody Hice
Ranking Member
Subcommittee on Government
Operations



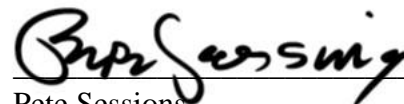
Glenn S. Grothman
Ranking Member
Subcommittee on National Security



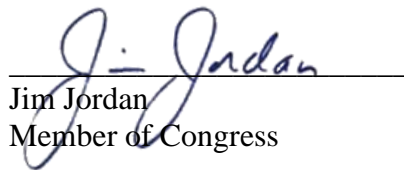
Michael Cloud
Ranking Member
Subcommittee on Economic and
Consumer Policy



Ralph Norman
Ranking Member
Subcommittee on Environment



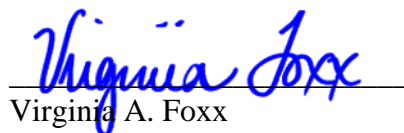
Pete Sessions
Ranking Member
Subcommittee on Civil Rights and
Civil Liberties



Jim Jordan
Member of Congress



Paul A. Gosar, D.D.S.
Member of Congress



Virginia A. Foxx
Member of Congress

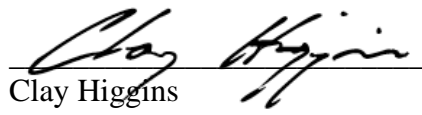


Bob Gibbs
Member of Congress

Secretary Mayorkas

February 19, 2021

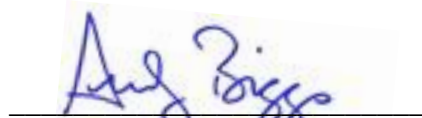
Page 5 of 5



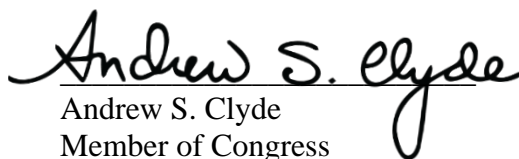
Clay Higgins
Member of Congress



Fred Keller
Member of Congress



Andy Biggs
Member of Congress



Andrew S. Clyde
Member of Congress



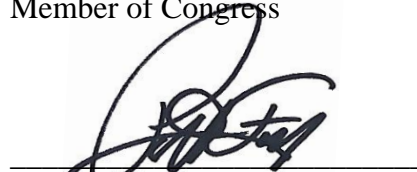
Nancy Mace
Member of Congress



Scott Franklin
Member of Congress



Jake LaTurner
Member of Congress



Pat Fallon
Member of Congress



Yvette Herrell
Member of Congress

cc: The Honorable Gerald E. Connolly, Chairman
Subcommittee on Government Operations

The Honorable Stephen F. Lynch, Chairman
Subcommittee on National Security

The Honorable Raja Krishnamoorthi, Chairman
Subcommittee on Economic and Consumer Policy

The Honorable Ro Khanna
Subcommittee on Environment

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties