



Homeland Security

September 29, 2021

The Honorable Bennie G. Thompson
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Thompson,

Thank you for your September 24, 2021 letter. Your letter addresses two extremely important issues: the treatment of Haitian nationals who were encountered in Del Rio, Texas, and the Department of Homeland Security's use of force policies and training for our law enforcement personnel.

The equitable and humane treatment of every individual is a core principle of our Department. It defines how we execute our mission.

Throughout the past two weeks, our Department rapidly mobilized a whole-of-government response to ensure the safety and well-being of arriving migrants and the surrounding community in Del Rio. We devoted significant resources to improve the conditions migrants experienced under and around the Del Rio International Bridge while they awaited U.S. Customs and Border Protection processing. This included the provision of meals, hygiene care kits, diapers, baby formula, and medical support through close collaboration between government and private sector organizations. The Department relied on our federal partners to quickly transport migrants away from the area surrounding the bridge to other facilities of ours for safety, further processing, and additional care.

In compliance with the Centers for Disease Control and Prevention's Title 42 Order, which was extended on August 2, 2021, eligible individuals encountered in Del Rio were expelled to their country of origin or nationality in compliance with DHS procedures across the southwest border. As you know, Title 42 is a public health authority and not an immigration policy; its continued use is dictated and governed by the CDC's analysis of relevant public health factors. As such, our Department will continue to assist in the enforcement of the CDC's Title 42 authority until such time as the CDC Director rescinds the Order or we are otherwise ordered to do so.

In response to the profoundly troubling images from Del Rio, CBP is investigating the specific events and conducting a review of the use of horse patrols more broadly. CBP's Office of

Professional Responsibility (OPR) is conducting a thorough, objective, and independent investigation of the events. We will not pre-judge the facts of the case prior to the conclusion of the investigation. As we await the outcome, I pledge full transparency and a fact-based accounting.

With respect to the Department's use of force policies, over the past several months we have taken several steps to reevaluate our use of force and law enforcement training policies. This includes measures to ensure the policies protect the privacy and civil rights and civil liberties of every individual. As I describe below, these steps include our formation of the Law Enforcement Coordination Council – the Department's first unified law enforcement coordination body – to ensure more fair, equitable, and impartial policing. These initiatives build on the Department's longstanding commitment to continuously evaluate and improve its law enforcement-related practices and policies to ensure they are consistent with the law, align with best practices, and protect inalienable rights.

This month, the Department launched the Law Enforcement Coordination Council (LECC) to comprehensively assess a broad range of law enforcement matters, including those related policies and training. The LECC, which will be chaired by me, will include the leadership of every DHS law enforcement Component. It will also include DHS headquarters offices with advisory and oversight roles, including the Office for Civil Rights and Civil Liberties (CRCL), Privacy Office, and Office of the General Counsel. The LECC will evaluate and respond to emerging law enforcement challenges and opportunities, comprehensively assess potential policy changes, facilitate information sharing, and promote best practices. Prior to the formation of the LECC, which will have its inaugural meeting next month, there had been no single forum within the Department for coordinating Department-wide law enforcement-related matters.

The LECC will form two sub-committees in short order and additional sub-committees as needed. The first subcommittee will undertake a review of Department-wide and Component-specific use of force policies – including those that govern de-escalation tactics, the use of chemical agents such as tear gas, and less-than-lethal munitions – to ensure our law enforcement officers and agents continue to execute their mission appropriately and lawfully, including in a way that takes into account health and safety, and is mindful of sensitive locations. The second subcommittee will undertake a review of law enforcement training techniques and curricula, as described further below, adhering to a set of key principles that include a rigorous protection of civil rights and civil liberties and respect for privacy, a data-driven focus on preventing implicit bias, the promotion of standards that prohibit profiling and enhance de-escalation techniques, policies that support mental health, and strategies to increase trusted community engagement.

As you know, the Department's Federal Law Enforcement Training Centers (FLETC) delivers high quality law enforcement training for our personnel and our federal, state, local, tribal, territorial, campus, and international law enforcement partners. The LECC will build on FLETC's excellent work and, through its relevant subcommittee, undertake the following actions:

- (1) conduct a top-to-bottom review of current law enforcement training policies and procedures regarding privacy, civil rights and civil liberties, and community policing practices across our Department and in FLETC curricula. The review will capture already-existing trainings and identify potential gaps, including key principles identified in the 21st Century Policing Task Force Report;
- (2) identify and review related training programs that other organizations currently offer to federal, state, local, tribal, territorial, campus, and international law enforcement partners, to identify best practices that incorporate the principles identified above;
- (3) develop and implement a plan to update FLETC and other DHS Components' basic and advanced training curricula, in alignment with the principles identified above, to ensure that the more than 90 federal law enforcement organizations who participate in FLETC programs benefit from this improved training;
- (4) develop training tools and resources, in accordance with the principles identified above, for state, local, tribal, territorial, campus, and international partners; and,
- (5) engage with community-based organizations and law enforcement partners at every level of government in the development of these new training tools and resources.

CBP recently completed a comprehensive review of its use of force policy, which resulted in the implementation of a new policy in January 2021. The new policy allows proportional use of justified force, while prioritizing respect for human life and the safety of the diverse communities CBP serves. CBP's use of force policies and procedures are frequently evaluated to ensure they align with best practices and are consistent with the law. CBP's updated policies will fall within the scope of the LECC-led Department-wide use of force review.

You expressed concerns about CBP's U.S. Border Patrol Academy. The Border Patrol Academy has made transformational improvements, including by updating its training for new officers and agents. The Academy's updated curriculum is aligned with recommendations from the Police Executive Review Forum and our Department's Office of the Inspector General. CBP is preparing to submit its updated curriculum for full Federal Law Enforcement Training Accreditation (FLETA) accreditation review. The LETTF will include this updated curriculum in the scope of its review. The LETTF will also review initial and ongoing trainings, and the accreditation status of our Components' curricula and training programs.

Law enforcement personnel protect and serve communities across our country, at great personal risk, in furtherance of their noble work. The Department of Homeland Security is committed to ensuring its law enforcement personnel and our partners have the training and tools to execute their mission while protecting civil rights and civil liberties and privacy rights. We look forward to continuing to work closely with our partners, including Congress, to implement this critical mandate.

Thank you for your letter and for your continued support of the Department of Homeland Security. Should you have additional questions or would like to discuss this topic further, please do not hesitate to contact me or have a member of your staff contact Alice Lugo, Assistant Secretary, DHS Office of Legislative Affairs, at (202) 447-5890.

Sincerely,

A handwritten signature in blue ink that reads "Alejandro N. Mayorkas". The signature is stylized and cursive.

Alejandro N. Mayorkas