



One Hundred Sixteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

December 4, 2020

Mr. Mark A. Morgan
Senior Official Performing the Duties of the Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW
Washington, D.C. 20229

Dear Mr. Morgan:

As you know, on July 17, 2020¹ and again on October 30, 2020,² the Committee wrote to you seeking documents pertaining to the death of Border Patrol Agent Johan Mordan, as well as the review of the circumstances surrounding Agent Mordan's death by the Office of Professional Responsibility (OPR) at Customs and Border Protection (CBP). The Committee's letter of October 30 also describes the handful of documents provided by CBP in response to our letter of July 17, and explains how all of the documents, including documents discussing only the weather, were labeled "Law Enforcement Sensitive." The Committee has not received the courtesy of a reply to its letter of October 30, and no documents have been produced in response to that letter. The Committee is deeply troubled by CBP's continuing and inexplicable failure to provide all requested documents regarding the basic facts and circumstances surrounding a Border Patrol Agent's death.

In addition, the Committee has been made aware of profoundly troubling allegations that a CBP employee may have been the victim of prohibited personnel practices—including ongoing retaliation—for making protected communications, including disclosing an in-flight incident involving a senior leader of Air and Marine Operations (AMO). The Committee is concerned that these prohibited practices may have impeded an air station's operations and may have even endangered human health and safety.

The Committee renews the request it previously made for documents sufficient to show where the [REDACTED] air unit ("the unit") assets flew each day and agencies for which the assets undertook missions from January 1, 2019, through the present, as well as documents sufficient to

¹ Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, to Senior Official Performing the Duties of Commissioner Mark A. Morgan, U.S. Customs and Border Protection (July 17, 2020).

² Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, to Senior Official Performing the Duties of Commissioner Mark A. Morgan, U.S. Customs and Border Protection (Oct. 30, 2020) (online at <https://homeland.house.gov/imo/media/doc/Mordan%20Letter%202.pdf>).

show all air assets that have been assigned from elsewhere to operate within the unit's area of responsibility during that same time period.

In addition, the Committee requests to receive the following:

1. All documents referring or relating to the unauthorized entry by an AMO aircraft into restricted airspace R-5115 in April 2019, including all documents referring or relating to any investigation of this incident by CBP and/or by any outside entity;
2. All documents referring or relating to any type of personnel action proposed and/or taken against the supervisor of the unit from April 1, 2019, through the present;
3. The assignment from April 1, 2019, to the present to the unit of aircraft and vehicles, as well as the removal from the unit of aircraft and vehicles during that same time period, including the make, model, and age of each aircraft and each vehicle assigned to or removed from the unit;
4. All correspondence in any form sent by the Director of the El Paso Air Branch to any recipient, whether inside CBP or outside CBP, referring or relating to the unit and/or the supervisor of the unit, as well as all correspondence in any form received by the Director of the El Paso Air Branch referring or relating to the unit or its supervisor from April 1, 2019 through the present;
5. All documents from April 1, 2019, through the present referring or relating to any form of internal review conducted by CBP or OPR in which the idling or sidelining of the unit was alleged or examined; and
6. All documents from April 1, 2019, through the present referring or relating to any discussion regarding the possible closure of the unit, including but not limited to any documents referring or relating to any proposal or recommendation made by any CBP personnel to close the unit or to reduce or alter its operations or missions in any way.

All documents responsive to the requests enumerated in this letter should be produced to the Committee no later than December 28, 2020. Thank you for your attention to these urgent matters.

Sincerely,



BENNIE G. THOMPSON
Chairman