



Homeland Security

January 30, 2024

The Honorable Mark E. Green
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, D.C. 20510

Dear Chairman Green:

On January 5, 2024, you sent a letter to me requesting that I again appear before the House Homeland Security Committee to provide testimony. I have testified before this Committee seven times. I agreed to testify again and asked to work with your staff to identify a mutually agreeable date. You did not respond to my request, changed course, and instead invited me to submit written testimony. Two days later, you issued a statement representing that every member of the Committee's majority already had rendered their decision. I respectfully submit this letter in response.

The problems with our broken and outdated immigration system are not new. I assumed office in February 2021. Immigration cases concluded that year reportedly had been languishing in court for an average of 1,319 days. In 2010, that average was 347 days. The Department of Justice's Executive Office for Immigration Review reports that at the end of Fiscal Year 2020, there were 1,261,144 cases in the immigration court backlog. In 2017 that number was 656,383. The DHS Office of Immigration Statistics reported that there were approximately 11.4 million undocumented individuals present in the United States in 2018. Our immigration laws last received an overhaul in 1996. Our immigration laws were simply not built for 21st century migration patterns.

In 2019, prior to the onset of COVID and as country conditions in Latin America were on the decline, the number of migrants encountered at our Southwest Border increased almost 100% over the prior year. In this post-COVID period, the challenges at our border have again intensified as the world experiences the greatest displacement of people since World War II and our entire hemisphere is gripped with mass migration brought on by violence, food insecurity, severe poverty, corruption, authoritarian regimes, and the destruction of homes and communities by extreme weather events. These movements are facilitated by human smuggling organizations

that exploit migrants as part of a billion-dollar criminal enterprise. The depth of suffering that migrants are willing to endure speaks to the desperation they feel about their prospects at home.

We need a legislative solution and only Congress can provide it. I have been privileged to join a bipartisan group of United States Senators these past several months to provide technical and operational expertise in support of their efforts to strengthen our country's border security. These efforts would yield significant new enforcement tools and make a substantial difference at our border.

Our law enforcement personnel need additional resources to execute our border security and enforcement strategy, which is why the Administration requested supplemental funding in August and then again in October 2023. That request included the hiring of an additional 1,300 Border Patrol Agents, 1,000 law enforcement officers and the purchase and deployment of over 100 cutting-edge Non-Intrusive Inspection (NII) systems to prevent cartels from moving fentanyl into the country, and 1,600 additional asylum officers to rapidly adjudicate claims for asylum and facilitate timely decisions so that those who are ineligible can be quickly removed and those with valid claims can receive prompt resolution.

Instead, you claim that we have failed to enforce our immigration laws. That is false. We have provided Congress and your Committee hours of testimony, thousands of documents, hundreds of briefings, and much more information that demonstrates quite clearly how we are enforcing the law. The extensive material we have provided informed you that, for example:

- This Administration has removed, returned, or expelled more migrants in three years than the prior Administration did in four years.
- Since May 12, 2023, DHS has removed or returned more than 500,000 individuals, the vast majority of whom crossed the Southwest Border.
- Total removals and returns since mid-May 2023 exceed removals and returns in every full fiscal year since 2015.
- Daily removals and returns are nearly double what they were compared to the pre-pandemic average from 2014 to 2019. The majority of individuals encountered at the Southwest Border throughout this Administration have been removed, returned, or expelled.
- We have significantly increased the number of removal flights within the Western Hemisphere since the end of Title 42, sending over 20 flights per week of individuals who have been rapidly processed and determined to be removable. We continue to repatriate individuals to more than 150 countries.
- Before 2013, the majority of individuals attempting to cross the border entered without being caught. Under this Administration, the estimated annual apprehension rate has averaged 78%, the same average rate of apprehension as in the prior Administration.

- We developed and implemented a regulation that created a presumption of ineligibility for asylum if an individual who crossed the Southwest Border without authorization traveled through another country and failed to meet defined criteria, including the use of lawful pathways made available to them.
- We have been executing an unprecedented and high-impact campaign to disrupt and dismantle the smuggling organizations. More than 14,000 smugglers throughout the region have been arrested and thousands have been prosecuted under federal law.
- We have worked with Mexico to conduct mirrored patrols along the Southwest Border, and we have worked with Mexico and other countries to increase interdictions along the migratory routes, increase repatriation flights, and execute the removal of third-country nationals.
- Last year we secured funding to hire 300 more Border Patrol Agents, the first increase in more than a decade. Last year I was honored to promote Jason Owens, a career Border Patrol Agent, as the new Chief of the United States Border Patrol.

Undoubtedly, we have policy disagreements on the historically divisive issue of immigration. That has been the case between Administrations and Members of Congress for much longer than the past 38 years since the last overhaul of our immigration system. I think it is unconscionable to separate children from their parents as a tool of deterrence. I believe that law enforcement at the border can be tough and humane. It is our responsibility to the American people to work through our differences and try to reach solutions together. The bipartisan group of United States Senators is currently doing just that.

The trafficking and use of illegal drugs are also not new problems for our country. We have been fighting the war against drugs for decades. When I was working to convict drug dealers and traffickers as a federal prosecutor throughout the 1990s – including the prosecution of the largest cocaine money laundering operation in the country at the time – I saw up close the loss and damage wreaked by black tar heroin, methamphetamine, crack cocaine, and other illegal drugs. I was dedicated then, as I am now, to defeating this scourge upon our country.

What I saw for twelve years as a federal prosecutor does not compare to what our country has experienced and what we have been fighting for more than the past seven years. The addictiveness and fatality of synthetic opioids have cost hundreds of thousands of lives and have ravaged communities. The Centers for Disease Control and Prevention (CDC) reports that overdose deaths involving synthetic opioids – primarily fentanyl – began to climb in 2014 and have accelerated since. Provisional data from the CDC reflects 28,659 overdose deaths involving synthetic opioids in 2017, escalating to 56,894 in 2020; 71,143 in 2021; and 74,789 in 2022. Every death from drug overdoses and poisoning is a tragedy.

The battle against fentanyl presents unique challenges because fentanyl is cheap to make, easily concealed, and made with precursor chemicals and materials that have legal uses. We have intensified our efforts against the cartels and developed new strategies in response. In Fiscal Year 2023 our targeted operations seized more than 43,000 pounds of fentanyl, 3,600 pill

presses, and \$16 million in currency. We work closely with partners in other countries. Homeland Security Investigations has established 16 Transnational Criminal Investigative Units (TCIUs) that are successfully supporting investigations and prosecutions abroad. In Fiscal Year 2023, efforts by the Mexico TCIU resulted in more than 59 criminal arrests and the seizure of 64,138 pounds of precursor chemicals.

To better detect smuggling, we are dramatically expanding the use of NII technology at ports of entry, through which more than 90% of fentanyl is smuggled into the United States. We are adding new state-of-the-art NII systems to complement those currently in use across Southwest Border ports of entry, with 72 construction projects underway at 15 ports.

Our strategy has evolved to target not just fentanyl, but also the tools and materials the transnational criminal organizations use to make it. We are interdicting and seizing precursor chemicals, pill press machines, die molds, and pill press parts used in the manufacturing process. We are targeting Chinese pill press and precursor supply chains, Mexican pill press brokers, the Mexican transnational criminal organizations and the domestic traffickers who are producing and moving fentanyl, and the money launderers who help facilitate this illicit trade. Our efforts over the past year have resulted in the seizure of nearly 1 million pounds of fentanyl and methamphetamine precursor chemicals.

Our Department is helping partners in the Western Hemisphere and Asia build their own capacity to combat the smuggling of illicit fentanyl. We recently established a working group for ongoing communication and law enforcement coordination with the People's Republic of China to increase cooperation and information sharing.

We are innovating with the responsible use of artificial intelligence at our ports of entry. This year alone, machine learning models that help CBP Officers determine which suspicious vehicles and passengers to refer to secondary screening have led to 240 seizures, which included thousands of pounds of cocaine, heroin, methamphetamine, and fentanyl. More details about our efforts to combat fentanyl can be found in this recent [DHS fact sheet](#).

There is much more to do in the fight against fentanyl and other synthetic opioids. We must reduce both supply and demand. To accomplish this, we must work together to tackle what we all agree is a horrific problem that poses grave danger to our citizens, our communities, and our nation.

The Chairman and Members of the Committee's majority have harshly criticized the Department's responsiveness to oversight. The allegations are baseless and inaccurate.

I take very seriously my responsibility to cooperate in good faith with Congress's oversight function. I have devoted significant Departmental resources and personal time to this effort. I have testified publicly in 27 Congressional hearings since I became DHS Secretary. Twelve of those hearings were in the House of Representatives, including seven before the House Homeland Security Committee. I have testified more than any other member of the Cabinet.

In every House hearing, I was asked and I answered many questions about immigration and the border. In all but one of those hearings, I was asked and I answered questions about our counter-fentanyl work. The Department has produced thousands of pages of documents, provided countless briefings, and sent dozens of witnesses to appear in hearings and transcribed interviews. We have produced more than 13,000 pages of documents and data in response to this Committee's requests alone. Further information evidencing the Department's response to Congressional oversight is attached.

Whatever proceedings you initiate, however baseless, my responsiveness to oversight requests will not waiver. The Department has been committed to responding and will continue to respond in good faith to Congressional oversight requests.

I will defer a discussion of the Constitutionality of your current effort to the many respected scholars and experts across the political spectrum who already have opined that it is contrary to law. What I will not defer to others is a response to the politically motivated accusations and personal attacks you have made against me.

I have been privileged to serve our country for most of my professional life. I have adhered scrupulously and fervently to the Oath of Office I have taken six times in my public service career.

My reverence for law enforcement was instilled in me by my parents, who brought me to this country to escape the Communist takeover of Cuba and allow me the freedoms and opportunity that our democracy provides. My parents experienced such loss at the fisted hands of authoritarianism that the American law enforcement officer stood as a tangible symbol of safety and the rule of law in our new home. When I was a boy, my mother would have me jump out of the back seat of our family's station wagon, approach a police officer in uniform, extend my hand, and say thank you.

It was because of everything America meant and gave to my family that I was motivated to enter public service. It was because of my admiration and respect for the men and women who wore a badge that I wanted to work with them to enforce our country's laws. In 1989, I was privileged to take the Oath of Office and be sworn-in as an Assistant United States Attorney for the Central District of California.

For the next nearly nine years, I worked with federal, state, and local law enforcement agents and officers in the investigation and prosecution of federal crimes. We seized and forfeited property purchased with proceeds of drug deals, and successfully prosecuted bank robbers; counterfeiters; members of the MS-13, 18th Street, Crips, Bloods, and other street gangs; cocaine, heroin, methamphetamine, and marijuana traffickers; migrant smugglers; illegal border crossers (most often criminals with multiple felonies, deportations, and reentries); fraudulent document manufacturers; illegal telemarketers; and many others. In 1996 I became the Chief of our General Crimes Section, where I trained all new Assistant United States Attorneys in the investigation and prosecution of federal criminal cases and how to try them before a jury. I have represented the United States in a federal courtroom in hundreds of hard-fought criminal cases.

In 1998 I was confirmed to serve as the United States Attorney for the Central District of California. I was the first federal prosecutor in our office's history to be promoted from within to the top leadership position. To have my father at my side as I took the Oath to assume that role was one of the proudest moments of my life.

Over the next three years, I prosecuted cases of national and international significance, enforcing a wide breadth of criminal statutes. I pursued the death penalty against members of the Mexican mafia, brought RICO charges against a Los Angeles street gang, and successfully prosecuted federal cases of money laundering, public corruption, human trafficking, foreign corrupt practices, drug trafficking, securities fraud, violent crime, immigration fraud, organized crime, and much more. A partial list of the recognition I received for my work as an Assistant United States Attorney and as the United States Attorney is attached.

I returned to public service in August 2009, upon my confirmation as the Director of U.S. Citizenship and Immigration Services. I vividly remember taking the Oath and getting to work on a top-to-bottom review of the agency and leading a subsequent realignment to best serve its mission. As a result of that review, I created a new Directorate within the agency – the Fraud Detection and National Security Directorate – to prioritize and more effectively fulfill the fundamental responsibilities of safeguarding our homeland and protecting the integrity of our legal immigration system.

I served as the Director of U.S. Citizenship and Immigration Services for four years, until I was nominated and confirmed by the United States Senate to serve as the Deputy Secretary of Homeland Security. My responsibilities as the Deputy Secretary covered the entire expanse of the Department's work, from going after the drug cartels, building the Department's cybersecurity capabilities, combating illegal immigration, and strengthening the Department's partnerships with state and local law enforcement, to negotiating security agreements with foreign countries, implementing new trade and travel protocols, and advancing our interests in the Arctic.

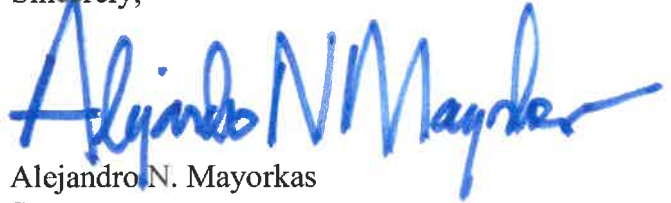
For my service as the Deputy Secretary of Homeland Security, I was awarded the Distinguished Service Award, the Department's highest civilian honor; the Distinguished Public Service Award, the United States Coast Guard's highest civilian honor; and recognition and awards from law enforcement agencies across the Department and the federal government.

On February 2, 2021, I took the Oath for the sixth time in my public service career and was sworn-in as the Secretary of Homeland Security. I am now in my 22nd year of service to our country. I no longer introduce and argue evidence in a federal courtroom to persuade the jury to convict a dangerous criminal, but the mission to which I remain devoted is the same: to safeguard the American people.

I assure you that your false accusations do not rattle me and do not divert me from the law enforcement and broader public service mission to which I have devoted most of my career and to which I remain devoted. The privilege of working alongside the 260,000 men and women who serve in the Department of Homeland Security – the privilege of working with incredibly

talented and dedicated people on behalf of the United States of America – is the greatest thing one can do.

Sincerely,

A handwritten signature in blue ink that reads "Alejandro N. Mayorkas". The signature is fluid and cursive, with a long horizontal stroke at the end.

Alejandro N. Mayorkas
Secretary

cc: The Honorable Bennie G. Thompson, Ranking Member
Committee on Homeland Security



**Homeland
Security**

January 29, 2024

The Honorable Mark E. Green
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington D.C. 20510

Dear Chairman Green:

Thank you for your January 17, 2024, letter regarding oversight requests to the Department of Homeland Security (DHS or the Department) by the Committee on Homeland Security. I am responding on behalf of the Department.

DHS works in good faith to provide the Committee with the information it needs to conduct its legitimate oversight and legislative objectives. This is accomplished through many forms of communication. For example, since the start of the Biden administration, the Department has provided 90 witnesses for 56 Committee hearings, including 27 appearances by the Secretary, more than any other member of the President's Cabinet. The Department has also produced more than 25,000 pages of documents in response to over 1,400 Congressional letters, including more than 13,000 pages to this Committee, during this Congress alone. Additionally, the Department has provided nearly 20 employees for transcribed interviews. It has done so while answering to more than 70 committees and subcommittees of jurisdiction, including this Committee.

The Department strives to respond to oversight requests, but it is constrained by the content of the requests themselves, as well as limited internal resources. For example, the Committee makes many requests for classified information, records that require interagency review, and datasets drawing information from multiple DHS offices and agencies. DHS must respond with information that is accurate and with appropriate security and privacy safeguards. This requires careful prioritization of limited departmental resources. As such, in several instances, the Department has asked the Committee to prioritize requests and narrow their scope in ways that would more accurately target the information sought. That is exactly the sort of accommodation process envisioned by our Constitution and the courts that interpret it.¹ Rather

¹ See *United States v. American Tel. Tel. Co.*, 567 F.2d 121 (D.C. Cir. 1977) (“Negotiation between the two branches should thus be viewed as a dynamic process affirmatively furthering the constitutional scheme.”); *Trump v. Mazars U.S., LLP*, 140 S. Ct. 2019, 207 L. Ed. 2d 951 (2020) (Negotiations between the branches should ensure that a request is “no broader than reasonably necessary to support Congress’s legislative objective.”)

than engaging in the accommodations process, the Committee has chosen to issue new requests with a pace, volume, and deadlines it knows are not reasonable. Moreover, the Committee continues to knowingly reiterate requests that DHS is unable to fulfill, such as requests for documents belonging to other agencies, requests for which there are no responsive records, and those which the Department is prohibited by law or policy from providing due to ongoing investigations. DHS has consistently identified these requests and complied with them to the extent permissible by any reasonable standard.

Despite these obstacles, DHS has provided substantial cooperation and accommodation with the Committee, including:

- In response to a Committee letter dated January 30, 2023, the Department provided a narrative response on June 15, 2023, and produced two sets of documents on March 17 and June 15, 2023, totaling more than 600 pages.
- In response to a Committee letter dated January 31, 2023, the Department responded with a letter on March 1, 2023, in which it committed to making rolling productions. The Department has lived up to that commitment making productions on March 1, April 4, August 30, and November 20, 2023, totaling more than 2,100 pages of responsive documents.
- In response to a Committee letter dated May 10, 2023, the United States Coast Guard provided a classified briefing on October 1, 2023. In addition to that briefing, on October 31, 2023, the Department provided a written response accompanied by more than 1,000 pages of responsive documents.
- In response to a Committee letter dated May 10, 2023, the Department produced more than 850 pages of responsive records with a written response on November 1, 2023.
- In response to a Committee request dated May 19, 2023, the Department has been working closely with the Federal Bureau of Investigation (FBI), which owns relevant information, to provide responses. On September 11, 2023, the Department submitted a written response that included an offer for a classified briefing. The Department has since provided multiple opportunities in a classified setting for the review of 750 pages of responsive records and continues to work with its interagency partners to produce additional records for the Committee's review.
- In response to a Committee request dated June 15, 2023, in addition to a written response dated October 5, 2023, the Department produced two sets of responsive documents on October 5 and December 20, 2023, totaling more than 900 pages.
- In response to a Committee letter dated September 27, 2023, the Department responded on November 3, 2023, with a letter clarifying the Department's role and indicating that the questions posed would be best answered by other federal agencies.

- In response to a Committee letter dated December 11, 2023, on December 15, 2023, the Department offered to answer the Committee's questions in a briefing. Committee staff postponed initial plans for this briefing and have since been unresponsive to multiple attempts to reschedule.
- The Department continues to make rolling productions responsive to the Committee's two subpoenas. To date, the Department has produced more than 6,000 pages of records in response to those requests, and the Department continues to search for and review additional records.

This is by no means intended to be an exhaustive line-by-line response to the Committee's letter. It is provided, however, to demonstrate the Department's good faith compliance with oversight requests from the Committee. Furthermore, your letter erroneously includes several requests to which you allege you have not received a response, when in fact material has already been produced. The Department will gladly direct your staff to those productions at a time that is convenient for them.

The Department continues to identify and review records responsive to the Committee's requests and to prioritize based on compulsory processes, conversations with Committee staff, and dates of requests. DHS staff remains willing and available to work with Committee staff on these priorities, with the recognition that staff capacity may have to be reallocated from other Committee requests, and that responses are subject to the limits described above.

Thank you again for your letter. Should you wish to discuss this or any homeland security issue, please contact the DHS Office of Legislative Affairs, (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read 'Zephra Buetow', with a stylized flourish at the end.

Zephra Buetow
Assistant Secretary for Legislative Affairs

Partial List of Recognition as Assistant United States Attorney and United States Attorney

Special Achievement Award
United States Department of Justice
September 1991

- Given by United States Attorney General William Barr for sustained superior performance of duty as an Assistant United States Attorney

Special Commendation
U.S. Drug Enforcement Agency

- Recognition of outstanding prosecution work

Special Commendation
Federal Bureau of Investigation
February 1997

- Given by Director Louis J. Freeh for outstanding prosecution work in support of the FBI

Outstanding Service Award
Federal Bureau of Investigation

- Recognition of outstanding contribution and dedication in the prosecution of the cocaine money laundering case *United States v. Wanis Koyomejian et al.*

Recognition for Outstanding Prosecution Work
United States Customs Service, U.S. Department of Treasury
April 2001

Recognition for Outstanding Prosecution Work
United States Secret Service, U.S. Department of Treasury
April 2001

Recognition for Outstanding Prosecution Work
Bureau of Alcohol, Tobacco & Firearms
April 2001

Chief Postal Inspector's Award
June 2001

- Highest award bestowed by the United States Postal Inspector. Given in recognition of the prosecution of Buford O. Furrow, Jr. (sentenced to life in prison without the possibility of parole for the murder of a postal employee and the shooting rampage at a Jewish community center).