

Congress of the United States
House of Representatives
Washington, DC 20515-3102

March 2, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
Washington, DC 20528

Dear Secretary Mayorkas,

I write to express my grave concern about recent U.S. Customs and Border Protection (CBP) actions that are the direct result of your policy decisions. Specifically, I am concerned about the release of aliens into my community without COVID-19 testing as well as inadequate criminal and security background checks of aliens in their country of origin or country of transit.

As our nation continues to deal with the COVID-19 pandemic, our state is still largely locked down, our schools are shuttered, and many of our businesses have been closed due to orders from state and local officials. In many areas along the border, CBP has restarted catch and release in the midst of this unprecedented pandemic. This is completely illogical, especially while American citizens continue to live under such restrictions.

According to numerous media reports, the Department of Homeland Security (DHS) is releasing thousands of aliens into the United States without COVID-19 tests where Title 42 has been abrogated for what appear to be political reasons. Brandon Judd, the president of the National Border Patrol Council, has stated that U.S. Border Patrol does not test illegal aliens released by the agency.¹ According to Yuma County, Arizona Sheriff Leon Wilmot, DHS's catch and release policy is endangering his border community. He writes "there is currently no protocol for testing any of these people for the Covid-19 [sic] virus ... Nor is there any support being offered by the federal government to house, feed, medically treat or transport these immigrants."² DHS apparently is relying on local non-governmental organizations (NGOs) to test aliens and quarantine them. This is unacceptable as an alien, once released, has no obligation to remain in the care of an NGO or submit to a COVID-19 test. This says nothing of places where NGOs are unable to provide such testing. This creates a clear and present danger to our border communities and national security.

Additionally, I remain concerned that during a February 16, 2021 DHS and Department of State staff call on the Biden administration's decision to allow reentry of those removed under the Migrant Protection Protocols (MPP), the administration admitted aliens are being admitted to

¹ Tucker Carlson, "Under Biden, you need a negative COVID test to enter U.S. – unless you're an illegal alien," Fox News, Feb 8, 2021, <https://www.foxnews.com/opinion/tucker-carlson-illegal-immigrants-release-no-covid-test-operation-talon>.

² Ibid.

the United States without security and criminal background checks that are comprehensive and current in the country of origin and countries of transit. This is a critical safeguard as background checks in the United States would likely not expose a criminal record of an illegal alien that has never entered the country before. The State Department admitted on the call with staff that they did not conduct any type of background checks on aliens in MPP. While DHS indicated they run a suite of background checks in their databases within the United States, they also stated they do minimal checks outside the country and shared they do not have access to many nations' criminal background check systems. Adding additional challenges, many of those foreign records are not digitized and endemic corruption and failed government systems make many of those systems useless.

For example, on May 22, 2018, a 38-year-old Honduran man, Jose Manuel Cruz Rivera, with a homicide arrest warrant in Honduras entered the United States illegally in the Rio Grande Valley Sector.³ CBP released Cruz Rivera from custody on May 27, 2018.⁴ He was given a notice to appear before an immigration judge. At the time of his release, U.S. Border Patrol was not aware Cruz Rivera had an outstanding murder warrant in Honduras. This indicates a grave failure of DHS's background checks. According to news reports, DHS released Cruz Rivera from custody again until he was finally detained. Lawyers for Cruz Rivera claimed the homicide warrant was no longer valid. This was untrue, and yet again this alleged murderer was released by DHS and an immigration judge.⁵

Another alarming example is a 2018 Immigration and Customs Enforcement (ICE) Operation named Operation Matador, during which numerous MS-13 members from El Salvador were arrested. Among them were members who had admitted to committing murder in their country of origin as well as an El Salvador national with an arrest warrant and Interpol Red Notice for the murder of a law enforcement officer in El Salvador.⁶

What is clear is that DHS's background and security checks are woefully inadequate to assure Americans' safety. Further, these policies increase public health risk to our communities, especially during the ongoing COVID-19 pandemic.

Therefore, I ask:

- What percentage of aliens entering the United States are being tested for COVID-19?
 - If not 100 percent, what is the public health rationale for allowing potentially infected aliens into the country?

³ Chairman Ron Johnson, Letter to CBP Commissioner Kevin McAleenan, August 3, 2018, <https://www.hsgac.senate.gov/imo/media/doc/2018-08-3%20RHJ%20to%20CBP%20re%20Honduran%20Alien.pdf>.

⁴ Ibid.

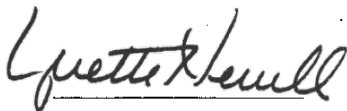
⁵ Eric Rasmussen and Jason Solowski, 25 Investigates: Honduran murder suspect enters US illegally, moves to Mass., Nov. 12, 2018, <https://www.boston25news.com/news/25-investigates-honduran-murder-suspect-enters-us-illegally-moves-to-mass/868702410/>.

⁶ Immigration and Customs Enforcement, "Joint Operation nets 24 transnational gang members 475 total arrests under Operation Matador, March 29, 2018, <https://www.ice.gov/news/releases/joint-operation-nets-24-transnational-gang-members-475-total-arrests-under-operation>.

- If not 100 percent, what plans does DHS have in place to immediately increase testing? Where in the U.S. will such tests be pulled from and what communities will not have these tests?
 - If not 100 percent, what steps is DHS taking to prevent the spread of COVID-19 from these released aliens?
 - If not 100 percent, which populations are you testing and which ones are you not? What is the rationale for this?
- How many infected aliens do you estimate are being released on a weekly basis into the interior of the United States?
 - What is the onward transmission rate estimate?
 - How many hospitals will be impacted by this and what are the costs associated with this increased demand?
- Are you coordinating with local governments and communities to mitigate the public health risks associated with untested aliens entering their cities and towns? Are you providing them financial assistance for the health services required for care of COVID-positive aliens?
- Is it true DHS does not have the ability to conduct current and comprehensive background checks in the country of origin and countries of transit for illegal aliens who have been released by your department? If so, what steps is DHS taking to increase criminal and security background check capacity? If not, please provide further explanation of the apparent lapses in criminal and security background checks, including those examples noted above.
- Does DHS have access to all local criminal and security records of Mexico and the Northern Triangle Countries? If so, are those being fully vetted for each alien released by your Department? If not, what coordination is underway with these international governments to gain access to these records?

Please provide your answers in writing by March 15, 2021.

Sincerely,



Yvette Herrell
Member of Congress