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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

November 15, 2021

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. S.E.
Washington, D.C. 20528-0525

Dear Secretary Mayorkas:

I write today to request clarification regarding your answers to our exchange during the Senate Committee on Homeland Security and Governmental Affairs (HSGAC) hearing on September 21, 2021, entitled: “Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11.” During that hearing, I asked you: “Are we actually pursuing those individuals [who have been processed with a Notice to Report]?” You testified under oath “those individuals, we do consider to be a priority of law enforcement, Senator.”¹

It has come to my attention that U.S. Immigration and Customs Enforcement (ICE), the component of the U.S. Department of Homeland Security (DHS) that is responsible for enforcing immigration law in the interior of the United States, has begun a new initiative known as Operation Horizon. Under Operation Horizon, ICE is working to serve Notices to Appear in immigration court to over 78,000 migrants who have illegally crossed the border, were processed with Notices to Report to ICE, but did not follow the instructions of their release and report to ICE.² We have discussed my concerns about this catch-and-release policy multiple times in HSGAC hearings, and you have previously testified that DHS considers individuals who do not report to be “an enforcement priority of ours.”

The reporting around Operation Horizon included three leaked documents that ICE is issuing to each migrant. One of those documents reads: “Don’t worry if you are past the 60-day deadline to report from the time you entered the United States. Come in so you can help ensure the best outcome for your case.” Another document reads: “Unless you have committed a serious crime, or the government thinks you may be a risk to the United States, YOU WILL NOT [emphasis in the original document] be taken into custody during the appointment.”³

¹ “*Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11.*” Hearing before the S. Comm. on Homeland Sec. and Gov’t Affairs, 117th Cong. (Sept. 21, 2021) (statement of Sec’y. Alejandro Mayorkas, Witness, Sec’y. of Homeland Sec.; and statement of Sen. James Lankford, Member, S. Comm. on Homeland Sec.).

² U.S. to send deportation case notices to 78,000 migrants who were not fully processed.” Camilo Montoya-Galvez, *CBS News*. November 8, 2021: <https://www.cbsnews.com/news/u-s-to-send-deportation-case-notices-to-78000-migrants-who-were-not-fully-processed/>.

³ See Camilo Montoya-Galvez (@camiloreports), Twitter (Nov. 9, 2021, 11:45 AM): <https://twitter.com/camiloreports/status/1458113630940147715/>.

In light of your testimony to our committee, I request your answers to the following questions:

1. Are individuals who have been issued a Notice to Report or processed with parole and alternatives to detention (also known as “Parole Plus” or “Notice to Report Plus”) and who fail to follow the instructions and report to ICE within 60 days an actual enforcement priority as outlined in your September 30, 2021 guidance?
2. If these individuals are an enforcement priority, why is ICE, a component of DHS that carries out the Department’s civil immigration enforcement priorities, telling migrants who have not reported in 60 days “YOU WILL NOT be taken into custody” and “Don’t worry if you are past the 60-day deadline”?
3. If these individuals are not an enforcement priority for ICE or DHS, please clarify the testimony you provided to the Committee that “those who have failed to report, that would qualify as an enforcement priority of ours.”
4. How many migrants who have received a Notice to Report or have been processed with parole and alternatives to detention have been detained, arrested, or deported since the Notice to Report process was instituted in March 2021?

Please provide your responses to these questions by no later than COB, December 1, 2021.

In God We Trust,

A handwritten signature in black ink, appearing to read "James Lankford". The signature is fluid and cursive, with a large initial "J" and "L".

James Lankford
Ranking Member
Subcommittee on Government Operations
and Border Management