

United States Senate

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

February 25, 2025

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

Mr. Tom Homan
Border Czar
The White House
1600 Pennsylvania Ave. N.W.
Washington, D.C. 20500

Dear Secretary Noem and Mr. Homan,

I write today to request that you take action to address the population of aliens who were released with a “Notice to Report,” “Parole+Alternatives to Detention,” and “Parole with Conditions” under the Biden Administration. The Government Accountability Office (GAO) found significant coordination issues in the administration of these Department of Homeland Security (DHS) programs, and a Federal judge set aside these programs as unlawful.¹ While these programs are no longer in operation, over 800,000 aliens were caught and released under these programs during the Biden Administration. As of January 29, 2025, roughly 445,000 of the more than 800,000 aliens released under these programs have not yet received a Notice to Appear (NTA) in immigration court, the first step in the deportation process.² Many of the aliens released under these pathways have received minimal vetting and have not complied with the terms of their release. Accordingly, I ask that you prioritize the vetting of and removal of inadmissible aliens who were released under this program.

In March 2021, U.S. Customs and Border Protection (CBP) instituted a new policy called “Notices to Report” to address overcrowding in its facilities at the border. Under this policy, CBP would release illegal aliens who crossed the border and ask them to call a 1-800 number to report themselves to U.S. Immigration and Customs Enforcement (ICE) for processing. Oversight I led found that CBP did not communicate this new policy to ICE whatsoever, and ICE had to pull resources away from its important interior enforcement mission to figure out this new policy and process the illegal aliens who were subject to this policy for release.³

As I and my staff looked at this program, we discovered that CBP collected limited biometrics and performed minimal security checks before releasing an illegal alien under this program. It took months for CBP and ICE to develop a process to track and monitor illegal aliens who were released. GAO reported that ICE had significant difficulties in validating the addresses that aliens processed through this pathway provided to the government, noting that “many of the addresses [...] were often incomplete or invalid.”⁴ GAO noted that many of the aliens

¹ See Govt. Accountability Office, “SOUTHWEST BORDER: Challenges and Efforts Implementing New Processes for Noncitizen Families,” GAO-22-105456, (Sept. 2022). See also: See OPINION AND ORDER, *Florida v. United States*, N.D.Fla, Case No. 3:21-cv-1066 (Mar. 8, 2023).

² U.S. Imm. and Customs Enforcement, “Southwest Border Daily Placemat,” (Jan. 29, 2025).

³ Sen. James Lankford and Sen. John Cornyn, Letter to the Hon. Gene L. Dodaro, Comptroller Gen. of the United States (August 23, 2021).

⁴ *Supra* note 1, p. 18.

who sought to comply with the terms of their release were turned away from ICE due to capacity constraints at field offices and were instead instructed to return for processing at a later date.⁵

To address the concerns around ICE's inability to process these aliens at its field offices, ICE rolled out a website that aliens could use to check-in with ICE and comply with the terms of their release. ICE also began mailing NTAs to the aliens who had not complied with the terms of their release. In subsequent oversight, I found that ICE did not have geo-fencing enabled on the check-in website – this means that an alien who traveled to Nebraska could tell ICE that they went to Miami, and ICE would have no way of knowing where the alien was actually located. ICE also informed my staff that the mailed-out NTAs were not sent via certified mail, which means that there was no signature requirement to confirm receipt. ICE also informed my staff that they were not tracking returned mail from aliens who provided ICE with illegitimate addresses. We do not know how effective ICE's mail-out NTAs have been, and any mistake made by ICE in mailing out these documents could result in an immigration judge allowing an otherwise inadmissible alien to remain in the United States.⁶

By the time the courts stepped in, CBP had caught and released 810,281 aliens who unlawfully crossed the border under this pathway. ICE reported to my staff on January 29, 2025 that, of the roughly 810,000 aliens released under this pathway⁷:

- 531,425 aliens complied with instructions and checked in with ICE within 60 days of release;
- 180,920 aliens violated the terms of their release and reported to ICE after 60 days of release;
- 97,935 aliens violated the terms of their release and did not report to ICE whatsoever.

While 531,425 aliens who were processed under this program reported to ICE within 60 days, only 354,896 aliens have been served a Notice to Appear in immigration court and began the removal process. ICE has not reported whether the remaining nearly 200,000 aliens have continued to check-in with ICE and abide by the terms of their release, or whether they have since absconded. ICE informed my staff that they will remove an alien's ankle bracelet and reduce the intensity of the alien's supervision after the initial 60-day check-in; however, ICE has yet to notify Congress on whether the population that has checked in but has not yet been served a Notice to Appear in immigration court has complied with the terms of their release.

ICE reported that some aliens released under these programs who have "checked in" and made an appointment will have to wait nearly 10 years to receive their initial charging documents and commence the removal process. For example, aliens whose final destination was New York City will need to wait until November 2034 to have their initial removal proceedings commenced and could, then, wait another 8 years as their case moves their way through the backlog facing the immigration courts.⁸

I included this program in my annual *Federal Fumbles* report due to the Biden Administration's abject mismanagement of this program.⁹ I have also regularly sought answers to how ICE will clean up the mess of this program and ensure that any alien who does not have a lawful basis to remain in the United States is

⁵ *Supra* note 1, p. 34.

⁶ Government Accountability Office Briefing to Subcommittee on Govt. Operations and Border Mgmt. Minority on May 25, 2022 and U.S. Imm. and Customs Enforcement Briefing to Authorizing Committees of Cong. on Jan. 12, 2023 and Mar. 9, 2023.

⁷ *Supra* note 2.

⁸ U.S. Imm. and Customs Enforcement, "Monthly FOAS Capacity," (Nov. 12, 2024).

⁹ See Senator James Lankford, "Federal Fumbles: A Playbook for DOGE," (Feb. 20, 2025), p. 17, *available at*: <https://www.lankford.senate.gov/news/press-releases/lankford-releases-latest-federal-fumbles-as-playbook-for-doge/>.

removed. Given ICE's unwillingness to provide basic answers about this program and the continued delays in addressing this population, I ask that you prioritize this population as you work toward fully enforcing immigration law in the interior of the United States. I am concerned that the Biden Administration's operation of these programs has resulted in hundreds of thousands of aliens absconding after receiving minimal vetting.

In addition to including this population in your enforcement efforts, I ask the following questions:

1. Of the 810,281 aliens released under these pathways, how many have been served a Notice to Appear in-person?
2. Of the 810,281 aliens released under these pathways, how many have been served a Notice to Appear by mail?
3. Of the 810,281 aliens released under these pathways, how many have committed a criminal offense since release?

For each alien who has committed a criminal offense, please provide the NCIC code affiliated with each charge.

4. The parole for many of the aliens released under these pathways has likely expired. Of the aliens who were released through these pathways, how many:
 - a. Were paroled a second or subsequent time?
 - b. Did not receive parole a second or subsequent time?
5. What is your plan for addressing this population in the Administration's enforcement efforts?

Thank you for your attention to this matter. I look forward to receiving your response by not later than March 11, 2025.

In God We Trust,



James Lankford
Chairman
Subcommittee on Border Management, Federal Workforce,
and Regulatory Affairs