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September 11, 2021

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, DC 20510

The Honorable Gary Peters
Committee on Homeland Security &
Governmental Affairs, Chairman

The Honorable Rob Portman
Committee on Homeland Security &
Governmental Affairs, Ranking Member

Dear Majority Leader Schumer, Minority Leader McConnell, Senator Peters, and Senator Portman,

I am writing to you today in consideration of your oversight role for the Department of Homeland Security (DHS). I served as a U.S. Border Patrol (USBP) agent and federal law enforcement agent for over 29 years. I served under five different presidential administrations. I began my career in 1992. I competitively progressed through the ranks and earned key leadership roles to include Deputy Executive Director of U.S Customs and Border Protection (CBP), Office of Anti-terrorism; Director of CBP, Office of Incident Management and Operations Coordination; Patrol Agent in Charge, Brown Field Station; Chief Patrol Agent, El Centro Sector; and, Chief Patrol Agent, San Diego Sector. Ultimately, I earned the rank of Chief, USBP in February 2020. I served as President Biden's Chief of USBP for the first 7 months of his presidency until I chose to retire on August 14, 2021. I can assure you that for my entire career, I worked diligently to secure our international borders as a nonpartisan civil servant. I respectfully ask that you consider this as you reflect on the concerns outlined below.

The position of Chief, USBP is a career civil service position and not a political appointment. As Chief, I was the most senior official responsible for border security between the ports of entry. I witnessed the unprecedented seismic shift in border security and immigration policy that was initiated on January 20, 2021. I believe this policy shift and the associated public statements created the current border crisis. Of greater concern, I also witnessed a lack of any meaningful effort to secure our borders. Contrary to the current rhetoric, this is not simply another illegal immigration surge. This is a national security threat.

Today, on the 20th anniversary of the horrific 9-11 terrorist attack, as I reflect on the significant border security advances that we had made, I am sickened by the avoidable and rapid disintegration of what was arguably the most effective border security in our Nation's history. Common sense border security recommendations from experienced career professionals are being ignored and stymied by inexperienced political appointees. The Biden administration's team at DHS is laser-focused on expediting the flow of migrants into the U.S. and downplaying the significant vulnerability this creates for terrorists, narcotics smugglers, human traffickers, and even hostile nations to gain access to our homeland.

In my professional assessment, the U.S. Border Patrol is rapidly losing the situational awareness required to know who and what is entering our Homeland. The ability of USBP to detect and interdict those that want to evade apprehension is being degraded daily. Low level, unsophisticated and uneducated smugglers are illegally crossing the border and increasingly evading apprehension daily. To think that well-resourced terrorist networks, criminal organization, and hostile nations are not doing the same is naive. The current situation is unsustainable and must be mitigated.

The experienced civil service staff within CBP, ICE and DHS have provided multiple options to reduce the illegal entries and reestablish some semblance of border security through proven programs and consequences, yet every recommendation has been summarily rejected. Secretary Mayorkas is choosing to ignore the sound recommendations of career government leadership despite his own admissions that he agrees with them. Of grave concern, is the fact that the Secretary and other political appointees within DHS have provided factually incorrect information to Congressional Representatives and to the American public. Furthermore, they have directed USBP personnel to allow otherwise ineligible aliens to remain in the U.S. inconsistent with the CDC Title 42 Order, established legal processes and law. The professional staff within DHS is left perplexed, wondering who is really in charge and what the objective is.

As a direct result of these decisions, control of our borders has disintegrated overnight. While the sheer volume of aliens is overwhelming, it is critical that policy makers understand that these mass incursions are not simply an immigration issue. These illegal entries are being scripted and controlled by Plaza Bosses that work directly for the transnational criminal organizations (TCO) to create controllable gaps in border security. These gaps are then exploited to easily smuggle contraband, criminals, or even potential terrorists into the U.S. at will. Even when USBP detects the illegal entry, agents are spread so thin that they often lack the capability to make a timely interdiction. It is important to remember that the border is not the destination, but only a transit point en route to cities and towns throughout the United States.

This is not hyperbole. I urge you to request detailed information from DHS/CBP on the number of individuals with Terrorist Screening Database (TSDB) alerts that USBP has arrested this fiscal year. To ensure that you are not misled, please specifically ask for comparative data from previous years broken

down by method of apprehension/encounter and immigration status at the time of the encounter. I believe you will find this data troubling. The current DHS leadership will no doubt attempt to downplay these numbers. I would like to remind you that 9-11 was carried out by 19 terrorists and that countless terrorist attacks around the world have been carried out by a single person.

I also encourage you to ask questions about the surge in USBP personnel assigned to the border in Texas. What national security and public health risks are we knowingly accepting in the areas these agents were pulled from? How many miles of border are now going unpatrolled daily to facilitate expedited processing and ultimately the release of these illegal aliens into the U.S.? What threats are we allowing into the U.S. by continuing to accept over 1000 documented got-a-ways each day? What programs and or IT system developments have been shut down or significantly delayed due to limited resources being redirected to the mass migration crisis? What impact has the current crisis had on the ability of USBP to conduct thorough debriefings of individuals to determine intentions, threat and to document transnational criminal activity?

For context, just prior to my retirement, this fiscal year USBP had encountered over 1,277,094 aliens illegally entering the U.S. and documented over 308,000 known got-a-ways. At 0800hrs on 08/01/21, there were over 18,000 aliens in USBP custody which equated to more than three times USBP's capacity of 5118. Only about 5,100 aliens were fully processed with over 13,000 individuals unprocessed. Over 7,000 aliens had been in custody for over 72 hours. For contrast, on 08/01/2019, USBP had 4,946 in custody. On 08/01/2020, USBP had 408 in Custody. On 02/01/2021, USBP had 2,375 subjects in custody.

In a 24-hour period on 08/01/21, USBP documented over 5,900 encounters of individuals illegal entering the U.S. from 33 different countries. This included over 560 unaccompanied children. Agents also documented over 1100 got-a-ways. Of note, this is at a time when hundreds of miles of border went unpatrolled due to manpower and capability limitations. Despite the above, the CBP Chief Operating Officer continued to assert that USBP agents must simply process aliens faster. Any discussions about consequence to illegal entry or securing the border were immediately stymied.

In addition to the clear national security implications of an uncontrolled border, it is unconscionable that as COVID-19 continues to spread, DHS would choose to voluntary carve out policy exceptions to Title-42 (T42) authority. These carve outs do not appear to comport with any medical assessments that I have read. These policy carve outs are unquestionably placing the lives of CBP personnel, U.S. citizens and the migrants themselves at increased risk. In October 2020, over 91% of total encounters by USBP were processed under T-42 and expelled in an average of 90 minutes. A report I received on August 1, 2021, indicated that nearly 53% were being granted exemptions from T-42 with the majority ultimately being released into the United States. CBP lacks the adequate facilities and resources to conduct Covid testing without significantly increasing the risk to exposure and further degrading border security. Therefore,

any Covid testing is conducted on a voluntary basis by private non-governmental organizations. There is no mandated vaccine prior to release.

Processing an alien that illegally enters the U.S. under T42 authority can be accomplished in approximately ten minutes while avoiding congregate settings where COVID-19 exposure would be increased. Consequently, processing an individual under Title 8 (T-8), to include a Notice to Appear (NTA) takes approximately two hours and is completed inside an enclosed processing center. If the alien will be transferred to ICE, vice released immediately on their own recognizance (OR), the time in custody will increase even further and routinely exceeds 72 hours.

Increased processing time has direct border security implications. For example, processing 500 aliens under T-42, or even with a Notice to Report equates to approximately 93 additional Border Patrol agents remaining on patrol duties when compared to the time required to process an equal number of aliens under T-8 for Notice to Appear/Release on Own Recognizance (NTA/OR). Every agent back on patrol increases situational awareness and reduces the ability of adversaries to further exploit our borders.

The number of encounters/arrests recorded by USBP is only part of the story. As of Aug 1, 2021, USBP agents had responded to and resolved well over 1.805M events. Infrastructure and technology are key components of USBP's strategic plan and staffing model. Unfortunately, DHS has intentionally slow rolled the implementation of Presidential Proclamation 10142 creating significant new vulnerabilities that are getting worse every day. Even though the proclamation directed that all wall construction be paused for 60 days, over seven months has passed with little progress toward any resolution. Border security beyond the physical barrier is also being degraded as political appointees expanded the pause to include technology deployments that were separate from the barrier construction.

Career CBP and USBP personnel have provided multiple in-depth briefings to the Biden administration on each individual project. This included when and who identified the original operational requirement for the barrier. In most cases the requirement originated prior to the Obama administration. As a direct result of these delays USBP has been forced to reduce patrol areas to address gaps in barrier, non-functional gates and grates and inoperable technology. I am extremely confident that the Biden administration to include Secretary Mayorkas are fully aware of the significant operational risk and the monetary costs associated with the construction pause, which at times reportedly exceeded \$5M a day. I was briefed by USBP and CBP personnel with direct knowledge that leadership within the Biden administration openly discussed ways to slow roll any decisions as well as options to do the least action possible to avoid an Impoundment Act violation without doing any construction as required by law. Something as simple as re-connecting shore power to the Calexico Port of Entry to reduce the environmental impact of diesel-powered generators took months simply because the work was being conducted under the border wall contracts. Even connecting electrical power to an existing security gate

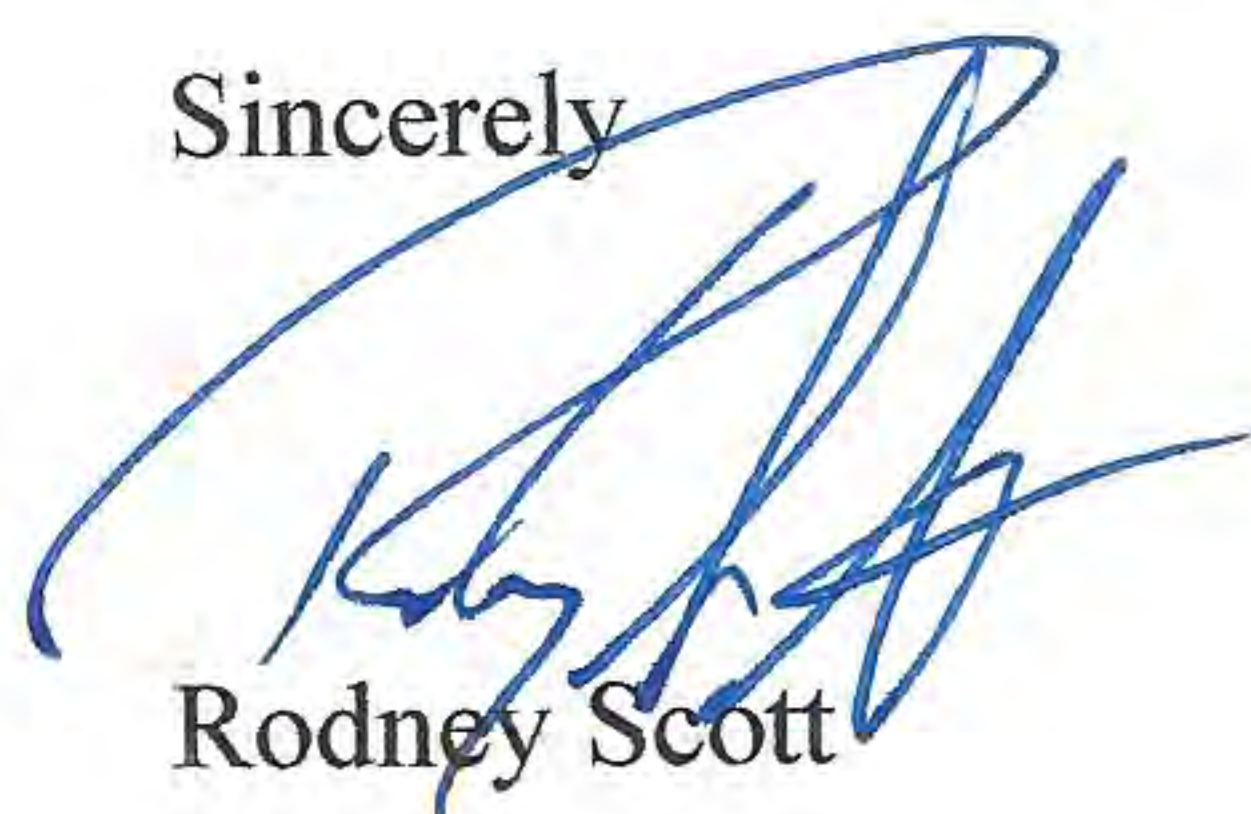
to reduce manpower requirements was unfathomable to the current leadership. I believe this equates to waste, fraud, and abuse.

As I stated upfront, it is my professional assessment that transnational criminal organizations (TCO), and other more dangerous actors are increasingly exploiting identified border security vulnerabilities. The threats are real, and the situation is unsustainable, yet the current administration refuses to take any meaningful action.

It is important to note that I have only addressed issues directly associated with the Border Patrol's mission. As a senior executive leader within CBP, I was also privy to decisions that negatively affected security and legitimate trade and travel operations at our Ports of Entry.

Please ensure that Americans get the border security that we already paid for and deserve. I respectfully request that you exercise your oversight responsibility and convene hearings to ensure that Congress and the American people have access to the truth. To help ensure that accurate information is provided, I am willing to appear and testify under oath as well.

Sincerely

A handwritten signature in blue ink, appearing to read "Rodney Scott", written over a white background.

Rodney Scott

Retired – Chief U.S. Border Patrol

Honor First!

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