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July 8, 2024

The Honorable Alejandro Mayorkas
Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Mayorkas:

The Biden administration’s immigration policies have created a record-breaking crisis at our southern border with more than 7.8 million encounters since 2021, forcing Customs and Border Protection (“CBP”) to divert hundreds of officers from their regular duty stations to the southwest border.¹ The Department of Homeland Security (“DHS”) Office of the Inspector General (“OIG”) recently published a report providing further evidence of the Biden administration’s disastrous handling of border security and blatant disregard for immigration laws. The OIG report found that during an 18-month period, “CBP identified 66,491 inadmissible non-citizens at U.S. airports.”² Disturbingly, at just one undisclosed U.S. international airport, CBP released more than 300 inadmissible aliens—over 150 of whom **never** returned for their removal flights. This security lapse must be fixed so that American airports do not become yet another easily exploited avenue for illegal immigration and terrorism.³

According to a June 12, 2024 report, DHS OIG found that both CBP and Immigration and Customs Enforcement (“ICE”) lack “an effective process for detaining and removing inadmissible travelers” at an undisclosed U.S. international airport.⁴ Inadmissible travelers are aliens who are denied entry into the U.S. by CBP for reasons including, but not limited to, inadequate travel documentation and attempted illegal entry.⁵ Although airlines are responsible for covering the costs of holding and removing inadmissible travelers to their originating

¹ *Southwest Land Border Encounters*, U.S. Customs & Border Protect., <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (7.8 million encounters in 2021-2024 April YTD; respective year totals: 2,035,585; 2,579,026; 2,541,967; 735,187); John Davis, *Border Crisis: CBP’s Response*, U.S. Customs & Border Protect., June 30, 2023, <https://www.cbp.gov/frontline/border-crisis-cbp-s-response>.

² U.S. Dep’t of Homeland Security Office of Inspector General, *CBP and ICE Did Not Have an Effective Process for Detaining and Removing Inadmissible Travelers at an International Airport 3*, OIG-24-30, June 12, 2024, <https://www.oig.dhs.gov/sites/default/files/assets/2024-06/OIG-24-30-Jun24-Redacted.pdf>. At 1.

³ *Id.* at 3.

⁴ U.S. Dep’t of Homeland Security Office of Inspector General, *CBP and ICE Did Not Have an Effective Process for Detaining and Removing Inadmissible Travelers at an International Airport 3*, OIG-24-30, June 12, 2024, <https://www.oig.dhs.gov/sites/default/files/assets/2024-06/OIG-24-30-Jun24-Redacted.pdf>.

⁵ *Understanding the Issue of Inadmissible Passengers (INADs) and Their Impact on Travel*, IATA, <https://www.iata.org/en/publications/newsletters/iata-knowledge-hub/understanding-inads-inadmissible-passengers-and-their-impact-on-travel/>.

location, CBP and ICE retain legal authority to detain these individuals awaiting their removal flights.⁶ When CBP identifies an inadmissible traveler and that alien cannot make a same day removal flight, CBP must contact ICE authorities to request overnight detention.⁷ When ICE denies a detention request, CBP can pay “officers overtime to detain the inadmissible traveler” overnight at the airport, transfer the individual to another airport, or release the alien onto U.S. soil while awaiting their removal flight.⁸

Between 2021 and 2023, CBP reportedly “released at least 383 inadmissible travelers” into the U.S. from this undisclosed U.S. international airport with verbal instructions to return to the airport for their removal flights.⁹ At least 168 of the 383 inadmissible travelers released failed to return for their removal flights.¹⁰ The report also found that CBP failed to follow required procedures for 77 of the at least 168 inadmissible travelers who failed to show up for their removal flight.¹¹ According to the OIG report, if an inadmissible traveler does not return for their removal flight, “CBP issues a notice to appear in immigration court (NTA).”¹² However, for the 77 inadmissible travelers identified by OIG as having failed to return for their removal flights, CBP did not issue the required NTA.¹³ CBP reportedly failed to issue these NTAs because it lacked an “effective process to track which inadmissible travelers failed to return for their removal flights,” and because it failed to staff enough agents “responsible for issuing NTAs.”¹⁴

CBP was not the only DHS component the OIG report identified as contributing to this glaring security lapse. The OIG report found that ICE leadership reportedly instructed officers on multiple occasions to “deny CBP overnight detention requests before removal flights because of staffing and bed space limitations.”¹⁵ ICE leadership reportedly based this instruction on the additional “time-consuming” paperwork and medical screening that is required to detain inadmissible travelers overnight.¹⁶ Further, although the local jail that houses ICE’s detention center for this airport is equipped with 540 beds, the report found that ICE only has access to about 80 of those beds.¹⁷ When bed space requests were denied, CBP “could not consistently detain inadmissible travelers overnight at the airport” because they did not “have an overnight shift or sufficient overtime hours” to ensure regular overnight detention.¹⁸ Transfer to another

⁶ *See Id.*

⁷ U.S. Dep’t of Homeland Security Office of Inspector General, CBP and ICE Did Not Have an Effective Process for Detaining and Removing Inadmissible Travelers at an International Airport 2, OIG-24-30, June 12, 2024, <https://www.oig.dhs.gov/sites/default/files/assets/2024-06/OIG-24-30-Jun24-Redacted.pdf>.

⁸ *Id.*

⁹ *Id.* at 3.

¹⁰ *Id.*

¹¹ *Id.* at 2.

¹² *Id.*

¹³ *Id.* at 3.

¹⁴ *Id.*

¹⁵ *Id.* at 3.

¹⁶ *Id.*

¹⁷ *Id.* at 4.

¹⁸ *Id.*

international airport was found to be unreliable, as it required coordinating with the airlines and agents at the receiving CBP field office.¹⁹

The DHS OIG report provides a troubling analysis of one aspect of the Biden administration's failure to protect and secure our border. In order to better understand the threat posed by this administration's inability to detain and remove inadmissible travelers, please provide the following information by July 22, 2024:²⁰

1. All records²¹ referring or relating to the 77 inadmissible travelers identified in the June 12, 2024 OIG report, including, but not limited to:
 - a. The current status of these individuals;
 - b. What efforts DHS has taken to locate and remove the 77 individuals; and
 - c. Any alien file associated with each of the 77 individuals.
2. The number of inadmissible travelers per airport per year since FY 2021, including:
 - a. The total number of inadmissible travelers identified;
 - b. The total number of inadmissible travelers who were released while waiting for a removal flight;
 - c. The total number of inadmissible travelers who did not return for their removal flights;
 - d. The total number of inadmissible travelers who were not issued an NTA; and
 - e. The total number of inadmissible travelers who claimed.
3. The number of CBP officers assigned to each U.S. airport for each year since FY 2021 including:
 - a. The total number of CBP officers assigned to each U.S. airport;
 - b. The total dollar amount spent on overtime by CBP at each U.S. airport for each year since FY 2021; and
 - c. The number of CBP officer vacancies at each U.S. airport.
4. All records referring or relating to CBP coordination with airlines to transfer inadmissible travelers to secondary airports and to book inadmissible travelers on return flights.
5. All records referring or relating to CBP's use of NTAs for inadmissible travelers who fail to show up for a return flight, including but not limited to, all communications regarding inadmissible travelers who failed to show up for a return flight that were not issued NTAs.

¹⁹ *Id.*

²⁰ Unless otherwise stated, the period of time covered by this request shall be January 1, 2021 to present.

²¹ "Records" include any written, recorded, or graphic material of any kind, including letters, memoranda, reports, notes, electronic data (emails, email attachments, and any other electronically-created or stored information), calendar entries, inter-office communications, meeting minutes, phone/voice mail or recordings/records of verbal communications, and drafts (whether or not they resulted in final documents).

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6. The numbers of ICE agents that are able to process inadmissible travelers per airport since FY 2021, including the number of vacant positions.
7. All records referring or relating to the lack of available beds to house inadmissible travelers, including but not limited, all records referring or relating to the decision by ICE leadership to deny CBP request for overnight detention of inadmissible travelers.

Sincerely,



Ron Johnson
Ranking Member
Permanent Subcommittee on Investigations

cc: The Honorable Richard Blumenthal
Chairman
Permanent Subcommittee on Investigations

The Honorable Joseph Cuffari
Inspector General
Department of Homeland Security