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

January 26, 2022

Mr. David L. Neal
Director
Executive Office for Immigration Review
Department of Justice
5107 Leesburg Pike
Falls Church, VA 22041

Dear Director Neal:

President Joe Biden's failed immigration policies and lack of leadership during his first year in office has fueled the crisis at the border. Last year alone, the American people saw border apprehensions hit an all-time high of more than 2 million unauthorized migrants and the reported backlog of immigration court cases are nearly 1.6 million.¹ The Department of Homeland Security (DHS) has not been transparent and fully responsive to my requests for data on the ongoing crisis at the southern border. In some cases, DHS admitted it could not provide certain information about this crisis and deferred to your office instead. Accordingly, I write to request information from the Executive Office for Immigration Review (EOIR) regarding its handling of immigration cases.

On October 19, 2021, I copied you on a letter I sent to DHS requesting information on the number of aliens DHS paroled into the United States.² In his January 6, 2022 response, Secretary Mayorkas failed to provide this information. Instead, the Secretary stated that, "parole may be terminated when an immigration officer exercises his or her discretion to do so, by advising the noncitizen in writing, generally though the issuance of [a notice to appear]. **[DHS] defers to [EOIR]** as to whether these noncitizens remain in removal proceedings and where such proceedings are to occur."³

In the limited data that DHS did provide, DHS is apparently unaware of the court locations for roughly 80% of aliens that received a notice to appear (NTA) after receiving a

¹ Julian Resendiz, Migrant encounters top 2 million in calendar year 2021, on pace for repeat in 2022, Border Report, Jan. 24, 2022, <https://www.borderreport.com/hot-topics/immigration/migrant-encounters-top-2-million-in-calendar-year-2021-on-pace-for-repeat-in-2022/>; Priscilla Alvarez, Immigration court backlog nearly equals size of Philadelphia's population, study finds, CNN, Jan. 18, 2022, <https://www.cnn.com/2022/01/18/politics/immigration-court-backlog/index.html>.

² Letter from Sen. Ron Johnson, Ranking Member of Permanent Subcommittee of Investigations, to Alejandro Mayorkas, Secretary, Department of Homeland Security, Oct. 19, 2021. The data I am referencing is enclosed with this letter.

³ Letter from Alejandro Mayorkas, Secretary, Department of Homeland Security, to Sen. Ron Johnson, Ranking Member of Permanent Subcommittee on Investigations, Jan. 6, 2022. (emphasis added).

notice to report (NTR) between March 21, 2021 and December 5, 2021.⁴ Of the 50,683 aliens that were issued NTAs pursuant to an NTR between March 21, 2021 and December 5, 2021, DHS listed 40,348 of the court locations as “unknown” or “pending.”⁵ DHS wrote that it “provid[ed] data on court case locations based on information that is contained in its system of record, but notes that **EOIR should be contacted for official data related to immigration court cases.**”⁶

Therefore, I ask that you provide the following information:

1. Please provide the average length of time it takes to adjudicate an immigration case upon receipt of an NTA:
 - a. when an alien is detained; and
 - b. when an alien is not detained.
2. In calendar year 2021, how many aliens had their parole rescinded? For the aliens that had their parole rescinded how many aliens remain in removal proceedings and where are these cases being heard?
3. DHS data indicates that from March 1, 2021 to August 21, 2021, of the 49,859 aliens that checked in with an Immigration and Customs Enforcement (ICE) field office after receiving an NTR, ICE issued NTAs to only 16,293 of those aliens.⁷ Of the aliens that reported to an ICE field office and did not receive an NTA, are these aliens in removal proceedings? If so, please provide the court locations for those cases.
4. According to the DHS data from March 21, 2021 to December 5, 2021, of the 50,683 aliens that were issued NTAs pursuant to an NTR, 40,348 of the court locations are “unknown” or “pending.”⁸ Please provide the EOIR court locations for those cases.

In addition, I request a staff level briefing regarding EOIR adjudication statistics. Please provide the requested information and schedule the briefing as soon as possible but no later than February 9, 2022. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Ranking Member
Permanent Subcommittee on Investigations

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* (emphasis added).

⁷ *Id.*

⁸ *Id.*

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Enclosure

CC: The Honorable Jon Ossoff
Chairman
Permanent Subcommittee on Investigations