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## United States Senate

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

September 17, 2021

Troy A. Miller  
Acting Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue N.W.  
Washington, D.C. 20004

Dear Acting Commissioner Miller:

I write to request information regarding the Federal Aviation Administration's (FAA) issuance of a two-week temporary flight restriction (TFR) in the area surrounding the U.S.-Mexico border in Del Rio, Texas. The issuance of this TFR has grounded drones used by news organizations to obtain footage of the crisis at the southwest border. Any government stifling of First Amendment activities is unacceptable.

The media has been using drones to cover the crisis at the border for months.<sup>1</sup> In August, reporters used drones to cover thousands of migrants held by Border Patrol under the Anzalduas Bridge in Mission, Texas.<sup>2</sup> Drone footage captured a group of runners climb the fence and escape into the United States while Border Patrol agents processed family units a few thousand feet away.<sup>3</sup> Drone footage was also used to report on human smuggling operations from the Gulf Cartel in the Rio Grande Valley in June.<sup>4</sup>

On September 16, 2021, a reporter with *Fox News* reported on a surge of migrants massing at the U.S. border in Del Rio, Texas. The reporter flew a drone to obtain footage of thousands of migrants under a bridge waiting to be processed by Customs and Border Protection (CBP) officers.<sup>5</sup> The disturbing images illustrate the gravity of the immigration crisis at our southwest border. As of the evening of September 16, 2021, there were over 10,000 migrants encamped under the Del Rio International Bridge.<sup>6</sup>

At 6:18 PM (ET) on September 16, 2021, FAA issued a two-week TFR grounding the *Fox News* and other drones for two weeks. The FAA cites "special security reasons" as the impetus for the TFR. The TFR states that the U.S. government may "take security action that

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<sup>1</sup> @BillFOXLA, Twitter (Sept. 16, 2021, 8:12), <https://twitter.com/BillFOXLA/status/1438657101052747780>.

<sup>2</sup> @BillFOXLA, Twitter (Aug. 1, 2021, 5:56), <https://twitter.com/BillFOXLA/status/1421952928106139649>.

<sup>3</sup> @BillFOXLA, Twitter (Aug. 1, 2021, 11:14), <https://twitter.com/BillFOXLA/status/1421851950484762626>.

<sup>4</sup> @BillFOXLA, Twitter (June 15, 2021, 7:33), <https://twitter.com/BillFOXLA/status/1404945102007590912>.

<sup>5</sup> @BillFOXLA, Twitter (Sept. 16, 2021, 9:03), <https://twitter.com/BillFOXLA/status/1438488795398250500>;  
@BillFOXLA, Twitter (Sept. 16, 2021, 11:41), <https://twitter.com/BillFOXLA/status/1438528534318833664>.

<sup>6</sup> Ted Cruz (@tedcruz), Twitter (Sept. 16, 2021, 9:40) <https://twitter.com/tedcruz/status/1438679280154812418>.

results in the interference, disruption, seizure, damaging, or destruction of unmanned [aircraft] deemed to pose a credible safety or security threat..."<sup>7</sup>

FAA issued the following statement when asked why it issued the TFR. "The Border Patrol requested the temporary flight restriction due to drones interfering with law enforcement flights on the border. As with any temporary flight restriction, media is able to call the FAA to make requests to operate in the area."<sup>8</sup> It is unclear how drones flown by news organizations interfered with law enforcement flights on the border.

Drones have been a vital tool for news media to tell the complete story of the unmitigated crisis at the border. Border apprehensions have averaged more than 6,700 per day in July and August. Border Patrol sectors across the country are overwhelmed with the volume of migrants crossing our border.<sup>9</sup> The American public have a right to know the crisis that is happening on our borders and the suppression of the media's ability to tell that story is deeply troubling.

In order to help better understand the issuance of the TFR, I respectfully request the following information and material:

1. Please explain the "special security reason" for CBP's request to FAA to issue the TFR over Del Rio, Texas.
2. Please explain how the operation of drones by news outlets in Del Rio, Texas on September 16, 2021 interfered with law enforcement operations at the border.
3. How many drones were in the air in Del Rio, Texas when FAA issued the TFR?
4. Please provide the request CBP sent to FAA for the issuance of the TFR in Del Rio, Texas.

Please provide this information as soon as possible, but no later than 5:00 PM on September 22, 2021. Thank you for your attention to this important matter.

Sincerely,



Ron Johnson  
Ranking Member  
Permanent Subcommittee on Investigations

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<sup>7</sup> Federal Aviation Administration, Notice to Airmen (NOTAM): Temporary flight restrictions for Special Security Reasons, Sept. 16, 2021, available at [https://tfr.faa.gov/save\\_pages/detail\\_1\\_9857.html](https://tfr.faa.gov/save_pages/detail_1_9857.html).

<sup>8</sup> Samuel Chamberlain, FAA grounds Fox News drones near where thousands of migrants are sheltering under a bridge, *New York Post*, Sept. 17, 2021, available at <https://nypost.com/2021/09/17/faa-grounds-fox-news-drones-in-texas-near-sheltering-migrants/>.

<sup>9</sup> @NBPC2366DelRio, Twitter (Sept. 16, 2021, 3:34), <https://twitter.com/NBPC2366DelRio/status/1438587060659662849>.