

United States Senate

Washington, DC 20510

March 11, 2022

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
245 Murray Lane, S.W.
Washington D.C. 20528

Secretary Mayorkas,

We write to you today regarding the alarming increase in violent crimes committed by illegal aliens that continues to impact millions of Americans. In September 2021, you issued new guidance—“Guidance for Enforcement of Civil Immigration Law”—to Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS).¹ In that guidance document, you stated that “[t]he fact an individual is a removable noncitizen . . . should not alone be the basis of an enforcement action.”² You instructed border officials to prioritize enforcement action against noncitizens “who are a threat to our national security, public safety, and border security.”³ However, you asserted that there is no bright-line rule, such as past criminal convictions, that officers may use to determine which individuals may pose a public safety threat, and therefore hold priority for enforcement action.⁴ This misguided policy deprioritizes the removal of dangerous criminal aliens—individuals who have been convicted of one or more crimes, whether in the United States or abroad, and has resulted in further unnecessary victimization of American citizens.

The result has been predictable: By signaling that you will not enforce immigration laws, you have invited unprecedented increases in illegal border crossings. In 2021, CBP recorded over 2 million migrant encounters.⁵ According to CBP arrest data, the agency has arrested 2,424 criminal aliens so far in FY 2022.⁶ Although it is only March, this number is just 14 arrests shy of the total number of arrests in all of FY 2020.⁷ These individuals have been convicted of murder, rape, assault, robbery, weapons possession, and drug possession among other crimes.⁸ Your directive sends the

¹Sec. Alejandro Mayorkas, *Guidelines for the Enforcement of Civil Immigration Law*, U.S. DEP’T HOMELAND SECURITY (September 30, 2021) <https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf>.

² *Id.* at 2.

³ *Id.* at 3.

⁴ *Id.* at 4.

⁵ Alex J. Rouhandeh, *Over 2M Migrants Came to the Border in 2021, 565K More Than the Past Two Years Combined*, NEWSWEEK (Jan. 25, 2022) <https://www.newsweek.com/over-2m-migrants-came-border-2021-565k-more-past-two-years-combined-1672691#:~:text=That%20takes%20the%20total%20to%20over%202%20million,years%20by%20over%20565%2C000%2C%20according%20to%20CBP%20data>.

⁶ *Criminal Noncitizen Statistics Fiscal Year 2022*, U.S. CUST. & BORDER PROT. (2022) <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics>.

⁷ *Id.*

⁸ *Id.*

unfortunate message that violating our country's immigration laws is not a serious crime and will not result in any adverse civil legal actions.

Illegal aliens have been convicted or suspected of the commission of far too many recent tragedies, including:

Homicides

- In January 2022, an illegal alien repeatedly fired gunshots through the windshield of Harris County, Texas Constable Corporal Charles Galloway at a traffic stop, killing him. The suspect, Jose Oscar Rosales, is a citizen of El Salvador who had previously entered the country illegally. At the time of the capital murder, Rosales had again illegally entered the United States.⁹
- In Tulare County, California, Jose Omar Bello Reyes and two accomplices were involved in the shooting death of a 58-year-old man, whose body was found in a Terra Bella orchard. The suspect, an illegal alien, also faces felony drug and gun charges and was released on bail in September 2021.¹⁰
- In December 2021, Carlos Eduardo Gomez Rios, an illegal alien, killed his roommate by stabbing him in the neck after an altercation in LaGrange, Georgia. The suspect had previously been deported in 2016 and had reentered the country illegally.¹¹
- In September 2021, Freddy Remigio Mendieta Pando, an illegal alien from Ecuador, was charged with first-degree murder in Montgomery County, Pennsylvania for the stabbing death of 23-year-old Karina Torres. Pando, who was the victim's ex-boyfriend, had previously been charged with domestic abuse and was subject to a protective order filed by the victim. Despite being in the country illegally and having a pending criminal charge for the domestic abuse, Pando was not held in pretrial custody.¹²

Rapes, Assaults, and Robberies

- In December 2021, Victor Chitay, a 37-year-old illegal alien from Guatemala, was arrested for raping a pre-teen on multiple occasions in Bergen County, New Jersey. The suspect was charged with three counts of first-degree aggravated sexual assault, one count of

⁹ Danielle Wallace, *Suspect charged in Texas corporal's shooting death entered US illegally: ICE*, FoxNews (Jan. 27, 2022), <https://www.foxnews.com/us/texas-corporal-shooting-death-suspect-illegal-entry-mexico>.

¹⁰ Christian Galeno, Student, activist who read poem criticizing ICE wanted in Tulare homicide, KGET (Nov. 1, 2021), <https://www.kget.com/news/crime-watch/bc-student-who-read-poem-criticizing-ice-now-wanted-in-tulare-homicide/>.

¹¹ Leonard Hall, *Suspect in custody following deadly stabbing in LaGrange*, WTVM (Dec. 27, 2021) [Suspect in custody following deadly stabbing in LaGrange \(wtvm.com\)](https://www.wtvm.com/news/suspect-in-custody-following-deadly-stabbing-in-la-grange).

¹² John Binder, *Illegal Alien Charged with Murdering Woman Who Reported Him for Abuse*, BREITBART (Sept. 25, 2021) <https://www.breitbart.com/politics/2021/09/25/illegal-alien-charged-with-murdering-woman-who-reported-him-for-abuse/>.

second-degree sexual assault by contact, and one count of second-degree endangering the welfare of a child.¹³

- In June 2021, Bruno Sanches De Jesus, an illegal alien who violated his visa extension, raped an 18-year-old woman on a ferry between Martha's Vineyard and Woods Hole Massachusetts.¹⁴
- In December 2021, Fernando Herrera, an illegal alien, was arrested in Escambia County, Florida, for striking a woman who tried to break up an ongoing altercation and for picking up and dropping a child on the ground. He was also charged with cocaine possession at the time of his arrest.¹⁵
- In August 2021, Audain Perez-Vasquez, a previously deported illegal alien, was charged with assaulting a Florida Highway Patrol officer. The illegal alien crashed his vehicle on the side of the highway, assaulted the officer who approached the wreck to help, and fled into the woods—even attempting to steal a golf cart from a residential property—before being apprehended.¹⁶
- In February 2022, four illegal aliens—Jorge Aldari-Mencia, Rommel Zair Banegas-Villela, Ever Alexander Robles-Cordova, and Didier Javier Guardad-Cardenas—were arrested and charged for armed robbery and home invasions in Baton Rouge, Louisiana.¹⁷
- In August 2021, Pedro Ambriz, an illegal alien from Mexico, was arrested in Gallatin, Tennessee for raping an underage girl. Prior to his arrest, the suspect had already been deported twice after facing charges for drugs and domestic assault as well as an allegation of child molestation.¹⁸
- In March 2021, Juan Jimenez-Salas, a previously-deported illegal alien, was killed in Texas during a traffic stop when he pulled out a gun and pointed it at Texas police officers.

¹³ John Binder, *Sanctuary State New Jersey: Illegal Alien Charged with Raping Pre-Teen*, BREITBART (Dec. 3, 2021) <https://www.breitbart.com/politics/2021/12/03/sanctuary-state-new-jersey-illegal-alien-charged-with-raping-pre-teen/>.

¹⁴ Joe Dwinell, *Martha's Vineyard ferry rape suspect is an illegal immigrant: sheriff*, BOSTON HERALD (June 9, 2021) <https://www.bostonherald.com/2021/06/09/marthas-vineyard-ferry-rape-suspect-is-an-illegal-immigrant-sheriff/>.

¹⁵ Kai Davis, *Undocumented immigrant in Escambia County arrested for striking woman, child abuse*, WEAR-TV (December 13, 2021) <https://weartv.com/news/local/undocumented-immigrant-in-escambia-county-arrested-for-striking-woman-child-abuse>.

¹⁶ John Binder, *Previously Deported Illegal Alien Accused of Assaulting Florida Officer*, BREITBART (Aug. 19, 2021) <https://www.breitbart.com/politics/2021/08/19/previously-deported-illegal-alien-accused-of-assaulting-florida-officer/>.

¹⁷ Stacie Richard, *Louisiana Attorney General's office arrest four armed robbery suspects*, WGNO (Feb. 8, 2022), <https://wgno.com/news/louisiana/louisiana-attorney-generals-office-arrest-four-armed-robbery-suspects/>.

¹⁸ Bob Price, *Twice deported sex offender charged with child rape in Tennessee*, BREITBART (Aug. 19, 2021), <https://www.breitbart.com/border/2021/08/19/twice-deported-sex-offender-charged-with-child-rape-in-tennessee/amp/>.

Jimenez-Salas, 46, was an armed fugitive wanted for eleven felony counts, including the rape of two young Arkansas girls under age 10 in late 2020.¹⁹

Driving Under the Influence

- In December 2021, Jarol Leiva-Navarro, an illegal alien from Honduras, killed 32-year-old Colby Brice Compton in a fatal drunk driving crash in Springfield, Missouri. Leiva-Navarro was driving 110 miles per hour when he hit Compton, who was turning left at an intersection.²⁰
- Days before Christmas 2021, Jose Javier Reyes-Escobar, an illegal alien, caused a three-car fatal crash on Johns Island, South Carolina, when his car sideswiped a sedan traveling in the opposite direction before hitting a second car head-on. Reyes-Escobar had a blood-alcohol content of 0.335 percent—more than four times the legal limit in South Carolina—at the time of the crash. As a result, seven victims were hospitalized, including one 76-year-old woman who died, and another woman who was placed in a medically induced coma after the crash fractured her neck.²¹
- In October 2021, Ernesto Lopez Morales, an illegal alien from Guatemala, caused a fatal car crash in Polk County, Florida that killed a 5-year-old girl. Morales was speeding on a state road without his headlights on at night and rear-ended the victims' car. He then fled from the scene. Morales later admitted to drinking six 32-ounce beers before leaving his home to purchase more alcohol, which led to the accident, and then fleeing because he did not have insurance or a driver's license.²²
- In August 2021, Aaron Santiso, a previously deported illegal alien from Mexico, killed a 3-year-old on her tricycle in a hit-and-run in Flat Rock, North Carolina. Santiso was driving under the influence and struck the victim in the cul-de-sac of her neighborhood.²³
- In May 2021, Cecilio Eliut Camacho Montoya, an illegal alien from Mexico, caused a fatal crash in Ada County, Idaho. Montoya, who was driving with a blood-alcohol content of

¹⁹ Dom Calicchio, *Illegal immigrant from Mexico wanted for raping 2 young girls is killed by Texas cop: report* The suspect had previously been deported from the U.S. after similar charges, authorities said, FOX NEWS (Mar. 20, 2021), <https://www.foxnews.com/us/illegal-immigrant-from-mexico-wanted-for-raping-2-young-girls-is-killed-by-texas-cop-report>.

²⁰ John Binder, *Illegal alien charged with killing Missouri man weeks before Christmas*, BREITBART (Jan. 2, 2022), <https://www.breitbart.com/politics/2022/01/02/illegal-alien-charged-with-killing-missouri-man-weeks-before-christmas/>.

²¹ Jocelyn Grzeszczak, *Judge denies man bail in fatal 3-vehicle crash, citing flight concerns*, THE POST & COURIER (Dec. 22, 2021), https://www.postandcourier.com/news/judge-denies-man-bail-in-fatal-3-vehicle-crash-citing-flight-concerns/article_2620e49c-6373-11ec-a050-d7171b3a8e14.html.

²² *Polk sheriff: Guatemalan man, in U.S. illegally, killed 5-year-old in DUI crash*, FOX13 (Oct. 25, 2021), <https://www.fox13news.com/news/polk-sheriff-guatemalan-man-in-u-s-illegally-killed-5-year-old-in-dui-crash>.

²³ John Binder, *Previously deported illegal alien accused of killing 3-year-old girl riding her tricycle*, BREITBART (Sept. 1, 2021), <https://www.breitbart.com/politics/2021/09/01/previously-deported-illegal-alien-accused-of-killing-3-year-old-girl-riding-her-tricycle/>.

0.22, drove a semi-truck through a red light, fatally striking motorist Connor Holcomb, ejecting him from his vehicle.²⁴

Moreover, the new priorities at DHS have resulted in convicted criminal aliens returning to communities after the conclusion of their sentences without ICE deportation. For example, in Florida, ICE has refused to place detainers on criminal aliens convicted of crimes such as burglary, cocaine trafficking, grand theft auto, heroin trafficking, credit card fraud, money laundering, and other crimes, allowing such aliens to reenter the community.²⁵ Similar lack of deportation enforcement is occurring in Arizona.²⁶ Both Florida and Arizona's Attorneys General have filed suits against DHS, as has Texas.²⁷ Although ICE places detainers on convicted criminal aliens, your new policy could mean those detainers are lifted or left to expire. Indeed, this occurred in Houston, Texas, where Heriberto Fuerte-Padilla, an illegal alien, struck and killed a teenager while intoxicated. Although DHS initially placed a detainer on Fuerte-Padilla, it later cancelled the detainer due to the agency's shifted priorities under your leadership.²⁸

Although the guidance you issued is allegedly targeted at enforcement actions against the most dangerous illegal aliens in our country, it is clear that the agencies under your purview lack the capacity to identify security risks because of the sheer volume of illegal crossings that your policies have encouraged. You yourself have admitted that the border is "worse now than, frankly, [it] has been in at least 20 years, if not ever."²⁹ Under your leadership, the humanitarian crisis at our Southern border has spilled over into a crime wave impacting public safety for communities all across this nation. Strong enforcement of our nation's immigration laws will act as a deterrent and help prevent additional tragic crimes in the future.

We urge you to reconsider the direction you are leading these agencies in and to immediately rescind your September 2021 guidance. In addition, we request that you respond to the following questions as soon as possible, and no later than March 25, 2022.

1. How many illegal aliens encountered by CBP, ICE, or other DHS enforcement actions since January 2021 have criminal convictions for the following types of criminal activity?
 - a. Murder or homicide

²⁴ John Binder, *Illegal alien charged with killing 22-year-old Connor Holcomb in Idaho*, BREITBART (May 29, 2021), <https://www.breitbart.com/politics/2021/05/29/illegal-alien-charged-with-killing-22-year-old-connor-holcomb-in-idaho/>.

²⁵ John Binder, *Lawsuit: Biden's 'Sanctuary County' Policy Freeing Illegal Alien Convicts into American Communities*, BREITBART (Mar. 16, 2021), <https://www.breitbart.com/politics/2021/03/16/lawsuit-bidens-sanctuary-country-policy-freeing-illegal-alien-convicts-into-american-communities/>.

²⁶ John Binder, *Biden 'Sanctuary Country' Orders Releasing Illegal Alien Armed Robbers, Drunk Drivers Into U.S.*, BREITBART (May 10, 2021), <https://www.breitbart.com/politics/2021/05/10/biden-sanctuary-country-orders-releasing-illegal-alien-armed-robbers-drunk-drivers-into-u-s/>.

²⁷ Stephen Dinan, *DHS cancels deportation request for hit-and-run killer*, WASHINGTON TIMES (Jan. 30, 2022), <https://www.washingtontimes.com/news/2022/jan/30/dhs-cancels-deportation-request-hit-and-run-killer/>.

²⁸ *Id.*

²⁹ John Sexton, *Leaked audio: Sec. Mayorkas says border situation is the worst it has been in 20 years 'if not ever'*, HOTAIR (January 27, 2022) <https://hotair.com/john-s-2/2022/01/27/leaked-audio-sec-mayorkas-says-border-situation-is-the-worst-it-has-been-in-20-years-if-not-ever-n444549>.

- b. Rape or aggravated sexual assault
 - c. Assault or battery
 - d. Child abuse or child pornography
 - e. Driving under the influence
 - f. Human trafficking
 - g. Drug trafficking
 - h. Domestic violence or domestic abuse
2. How many illegal aliens which have been issued a Notice to Appear or a Notice to Report since January 2021 have subsequently been charged with the following types of crimes in a United States state, territory, or tribal land?
- a. Murder or homicide
 - b. Rape or aggravated sexual assault
 - c. Assault or battery
 - d. Child abuse or child pornography
 - e. Driving under the influence
 - f. Human trafficking
 - g. Drug trafficking
 - h. Domestic violence or domestic abuse
3. Of the number of illegal aliens identified as having been charged with a crime in response to question 2(a)-(h), please identify how many were subject to an ICE detainer.
4. Of the number of illegal aliens identified as having been charged with a crime in response to question 2(a)-(h), please identify how many were removed or deported under Title 8.
5. This letter laid out sixteen examples of violent crimes committed by illegal aliens in the United States since the start of the Biden administration. Please identify whether the following individual aliens are or were considered by DHS as a priority for removal under your September 30, 2021 guidance:
- a. Jose Oscar Rosales
 - b. Jose Omar Bello Reyes
 - c. Carlos Eduardo Gomez Rios
 - d. Freddy Remigio Mendieta Pando
 - e. Victor Chitay
 - f. Bruno Sanches De Jesus
 - g. Fernando Herrera
 - h. Audain Perez-Vasquez
 - i. Jorge Aldari-Mencia
 - j. Rommel Zair Banegas-Villela
 - k. Ever Alexander Robles-Cardova
 - l. Didier Javier Guardad-Cardenas
 - m. Pedro Ambriz

- n. Juan Jimenez-Salas
- o. Jarol Leiva-Navarro
- p. Jose Javier Reyes-Escobar
- q. Ernesto Lopez Morales
- r. Aaron Santiso
- s. Cecilio Eliut Camacho Montoya

6. For each of the individuals identified in question 5(a)-(s), please identify whether the individuals are currently or have previously been subject to an ICE detainer. For any individual who is not or has not been subject to an ICE detainer in relation to these crimes, please identify if the individual is otherwise in federal, state, or local law enforcement custody. Please explain DHS's reasoning for not initiating an ICE detainer in these cases.

Sincerely,



Ted Cruz
United States Senator



Marsha Blackburn
United States Senator



John Boozman
United States Senator



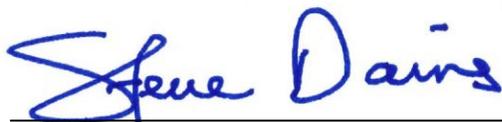
Mike Braun
United States Senator



Mike Crapo
United States Senator



Tom Cotton
United States Senator



Steve Daines
United States Senator



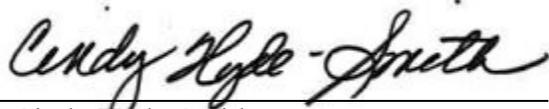
Lindsey O. Graham
United States Senator



Bill Hagerty
United States Senator



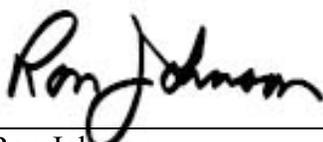
John Hoeven
United States Senator



Cindy Hyde-Smith
United States Senator



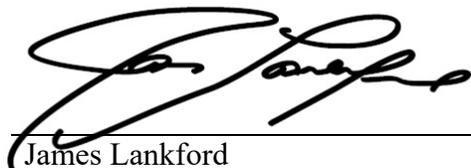
James M. Inhofe
United States Senator



Ron Johnson
United States Senator



John Kennedy
United States Senator



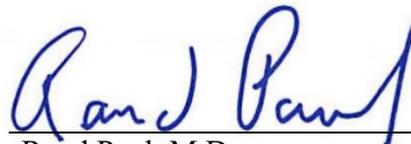
James Lankford
United States Senator



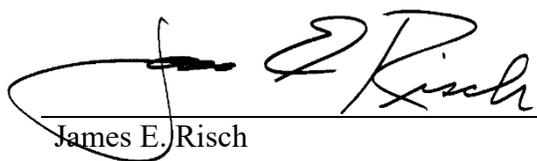
Mike Lee
United States Senator



Cynthia M. Lummis
United States Senator



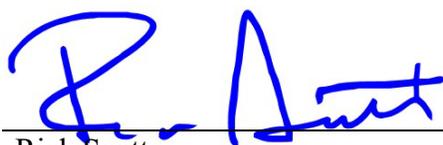
Rand Paul, M.D.
United States Senator



James E. Risch
United States Senator



Marco Rubio
United States Senator



Rick Scott
United States Senator



Todd Young
United States Senator