

Congress of the United States
Washington, DC 20515

November 3, 2016

The Honorable Jeh Johnson
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Johnson:

We write requesting that you take immediate action and mobilize all available resources of the Department to stop the ongoing surge of illegal immigration at the southwest border, which is overwhelming the Border Patrol and U.S. Immigration and Customs Enforcement (ICE).

Numerous media reports indicate that this surge is a large-scale effort to enter the United States before this year's presidential election. The onslaught of illegal immigration reflects continued efforts by aliens from Central America—El Salvador, Honduras, and Guatemala—to overwhelm our limited resources at the border, which inevitably results in the release of tens of thousands of removable aliens within the United States. In addition, thousands of Haitians and Africans are amassing in the Mexican cities of Tijuana and Mexicali for the purpose of presenting themselves to U.S. Customs and Border Protection officers asserting dubious claims of asylum, which will practically guarantee their entry. This group of “Other Than Mexicans” at the southwest border comprises 70-75 percent of all border crossings.

The numbers are staggering. In Fiscal Year (FY) 2016, the Border Patrol apprehended 408,870 illegal aliens at the southern border, 23 percent more than the preceding fiscal year. Of those apprehended, more than 77,000 were members of so-called “family units,” which represents an increase of 95 percent over FY 2015 figures, and nearly 60,000 were unaccompanied alien minors, which reflects a 49 percent increase over the previous fiscal year. On October 31, the Department of Health and Human Services reported that the daily referrals of unaccompanied illegal alien minors averaged 262 over the last week and approximately 237 in October. By comparison, referrals averaged 148 per day in October of FY 2014, the year of the first surge, and 60 per day in October of FY 2015. As of October 27, 2016, the number of minors in ORR care is approximately 10,700.

ICE is currently detaining more than 40,000 aliens—a record number—with internal predictions indicating that the number could reach 47,000 in the coming months. Without additional funding, ICE likely will release thousands of those detained into the United States, many of whom are criminals, who will abscond and hide from authorities. We have been made aware through media reports and whistleblowers that ICE faces imminent budgetary shortfalls because the border crisis is driving so many additional foreign nationals into ICE detention.

While we applaud the Department's efforts to increase detention capacity in response to this surge, we are keenly aware of the limited resources available to the Department for apprehension and detention of removable aliens, and we want to ensure that you are not again considering the mass-

release of criminals and other aliens who are subject to removal. As such, we expect you to be forthcoming with Congress regarding this critical situation and your proposed efforts to address it.

That is why our respective staffs worked closely with the Department's Office of Legislative Affairs to schedule a bicameral briefing on Tuesday, November 1, to discuss the border surge crisis and the Department's response to it. Subject matter experts within the Department were set to brief our staffs and respond to questions at that time. However, late in the afternoon of October 31, the Department abruptly cancelled the scheduled briefing, citing unspecified scheduling conflicts by some of the experts, and recommended that the briefing occur next week. Efforts by our staffs to have the available experts provide a briefing were rejected. With this pressing issue at hand, it is irresponsible to delay efforts to provide information about the surge as quickly and transparently as possible to Congress.

Finally, it has come to light through information provided to our Committees that the Department may have issued a directive to limit engagement with Congress until immediately before the election. Any such directive, if issued, would be an unacceptable political ploy and a serious infringement of Congress' oversight authority under the Constitution. We fully expect that such a directive, if issued, would be immediately rescinded. Additionally, we expect that the Department will provide a briefing to our staffs on these critical issues this week.

Should you have any questions, please contact Tracy Short at (202) 225-3926, Kathy Nuebel Kovarik at (202) 224-5225, or Gene Hamilton at (202) 224-7572. Thank you for your cooperation.



Bob Goodlatte
Chairman
House Committee on the Judiciary



Charles E. Grassley
Chairman
Senate Committee on the Judiciary



Trey Gowdy
Chairman
Subcommittee on Immigration
and Border Security



Jeff Sessions
Chairman
Subcommittee on Immigration and
the National Interest

cc: Sarah Saldaña, Assistant Secretary
U.S. Immigration and Customs Enforcement

Gil Kerlikowske, Commissioner
U.S. Customs and Border Protection