



April 7, 2021

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STOP-0655

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RE: FOIA Request to U.S. Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP), U.S. Immigration & Customs Enforcement (ICE), and U.S. Citizenship & Immigration Services (USCIS), Regarding Records of Handling of the Border Crisis, Related Threats or Crime, the Cancellation or Postponement of Operation Talon, and the Arrest of Persons on the FBI's Terrorism Watch List

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Dear Ms. Parker Dupree, CBP FOIA Officer, ICE FOIA Officer, and USCIS FOIA Officer:

This letter is a request (“Request”) in accordance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, and the corresponding department/agency implementing regulations.

The Request is made by the American Center for Law and Justice (“ACLJ”)¹ on behalf of itself and over 242,000 of its members. The ACLJ respectfully seeks expedited processing and a waiver of fees related to this Request as set forth in an accompanying memorandum.

To summarize, this Request seeks any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by U.S. Department of Homeland Security (“DHS”) Secretary Alejandro Mayorkas, his aides, staff, agents or representatives, or any CBP, ICE, or USCIS official, pertaining to: (1) The administration’s insistence that the present migrant surge at the southern border is a “challenge” and not a “crisis”; (2) what actions are being taken to protect unaccompanied minors and women from trafficking and/or exploitation; (3) what actions are being taken to stem and discourage the flow of migrants and unaccompanied minors; (4) what actions are being taken to protect Americans from crime, terror, drugs, trafficking or border crossers who are on the terror watch list and records that show the actual numbers of migrants in custody, the actual number of unaccompanied minors, the number of migrants released without a court date, the migrants with a criminal record, the originating country of the migrants and the number apprehended on the terror watch list; (5) DHS employees or DHS components being instructed not to talk to the press about the “challenge” on the Border at all and to avoid calling it a crisis; (6) the number of migrants with COVID, including records showing what number of COVID positive migrants have been released into the United States, with a breakdown by those released without and with a court date, what is being done to track these COVID positive migrants, the detention facilities who have experienced an outbreak, and what steps are being taken to reduce the rate of infection inside the detention facilities; and, (7) any warnings by CBP or DHS staff that an overly rapid repeal of the Trump Administration’s policies could lead to a surge in unaccompanied minors or migrants.

Background

Pursuant to DHS FOIA regulation 6 C.F.R. §5.3(b), this Background addresses “the date, title or name, author, recipient, and subject matter of the record[s]” requested, to the extent known.

The Biden Administration’s insistence that the present migrant surge at the southern border is a “challenge” and not a “crisis”

The Biden Administration has continuously refused to call the current border situation a “crisis.” For example, ABCNews captioned a story with: **The White House press secretary slips up,**

¹The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

calls border migrant surge a 'crisis'.² The sub-caption of the same story is even more descriptive: *Jen Psaki referred to "the crisis on the border" after resisting calls to do so.*³ The story continues:

For weeks, Biden administration officials have scrupulously avoided using the word "crisis" to describe the migrant surge on the southern border.

But White House press secretary Jen Psaki did exactly that during a press briefing Thursday. . . . "When you were talking about how to go about diplomatic negotiations between the United States and Mexico, you said 'crisis on the border' the reporter said." "Challenges on the border," Psaki quickly tried to correct him, denying she intended to convey any change in the administration's official view.⁴

Democratic Senator Joe Manchin has contradicted the Administration's view and said that "the situation at the border is a 'crisis,' going further than the White House."⁵

Records discussing and showing what actions are being taken to protect unaccompanied minors and women from trafficking and/or exploitation

According to the State Department:

In the United States, individuals vulnerable to human trafficking include unaccompanied foreign national children without lawful immigration status; individuals seeking asylum; migrant laborers, including undocumented workers and participants in visa programs for temporary workers; foreign national domestic workers in diplomatic households; persons with limited English proficiency

Human trafficking occurs when a trafficker uses force, fraud, or coercion to compel another person to work or engage in a commercial sex act, and does not require crossing a border. By contrast, migrant smugglers engage in the crime of bringing people across international borders through deliberate evasion of immigration laws. While these are distinct crimes, individuals who are smuggled may become vulnerable to and victims of human trafficking.⁶

² Sarah Kolinovsky, *White House Press Secretary Slips Up, Calls Border Migrant Surge a "Crisis"*, ABC NEWS (Mar. 18, 2021), <https://abcnews.go.com/Politics/white-house-press-secretary-slips-calls-border-migrant/story?id=76540202>.

³ *Id.*

⁴ *Id.*

⁵ Many Raju, *Top Senate Democrat Sees Little Chance of Passing Biden Plan for Pathway to Citizenship for Millions of Undocumented Immigrants*, CNN POLITICS (Mar. 16, 2021), <https://www.cnn.com/2021/03/15/politics/dick-durbin-immigration-pathway/index.html>.

⁶ *About Human Trafficking*, STATE DEPARTMENT, <https://www.state.gov/humantrafficking-about-human-trafficking/> (last visited Apr. 5, 2021).

It has been reported that:

Criminal cartels that are trafficking families, women, children and single adults over the southern border earned as much as \$14 million a day in February, according to a report on Monday.

“Trafficking is a multibillion-dollar industry,” former Tucson Border Patrol Chief Roy Villareal, who retired in December after 30 years with the agency told Fox News.

“A lot of these vulnerable populations use their life savings. Some are essentially indentured servants and they’re working off this debt for a long period of time. In other cases, some of these migrants are asked to transport narcotics or some form of crime to work off a different part of their debt,” he said.⁷

There are reports of many teenage boys being bused into Dallas by the Administration.⁸ The Mexican press is reporting girls as young as seven attempting to cross alone.⁹

Records showing what actions are being taken to stem and discourage the flow of migrants and unaccompanied minors

The New York Times reports: “CIUDAD JUÁREZ, Mexico — The migrants’ hopes have been drummed up by human smugglers who promise that President Biden’s administration will welcome them.”¹⁰ Senator Manchin has stated: “Whatever message was sent -- it was sure interpreted the wrong way, ... It’s a crisis -- oh it’s a crisis.”¹¹

The people seeking entry at the border are very clear about the message they received:

Migrants from Central America and other nationalities, hoping to cross and request asylum in the U.S., hold banners and shout slogans to U.S. President Joe Biden, at their campsite outside El Chaparral border crossing, in Tijuana, Mexico, Saturday.¹²

⁷ Mark Moore, *US-Mexico Border Traffickers Earned as Much as \$14M a Day Last Month*, N.Y. POST (Mar. 22, 2021), <https://nypost.com/2021/03/22/us-mexico-border-traffickers-earned-as-much-as-14m-a-day-last-month/>.

⁸ Alex Boyer & Stephen Dial, *Gov. Abbott Wants DPS to Investigate if Children Crossing the Border are Victims of Human Trafficking*, FOX4 (Mar. 17, 2021), <https://www.fox4news.com/news/gov-abbott-wants-dps-to-investigate-if-children-crossing-the-border-are-victims-of-human-trafficking>.

⁹ AP, “*Mi Padre Me Dijo que Cruzara Sola*” [*My Father Told Me to Cross Alone*], REFORMA (Mar. 24, 2021), https://www.reforma.com/aplicacioneslibre/preacceso/articulo/default.aspx?__rval=1&urlredirect=https://www.reforma.com/mi-padre-me-dijo-que-cruzara-sola/ar2149568?referer=--7d616165662f3a3a6262623b727a7a7279703b767a783a--.

¹⁰ Maria Abi-Habib, *On Mexico’s Border with U.S., Desperation as Migrant Traffic Piles Up*, N.Y. TIMES (Mar. 14, 2021), <https://www.nytimes.com/2021/03/14/world/americas/mexico-border-biden.html>.

¹¹ Many Raju, *Top Senate Democrat Sees Little Chance of Passing Biden Plan for Pathway to Citizenship for Millions of Undocumented Immigrants*, CNN POLITICS (Mar. 16, 2021), <https://www.cnn.com/2021/03/15/politics/dick-durbin-immigration-pathway/index.html>.

¹² Ariel Zilber & James Gordon, *Biden Administration Prepares to Open ANOTHER Tent Facility in Texas to Cope with 500 New Migrants Expected to Arrive by End of the Week after They Relaxed Border Laws*, DAILY MAIL (Feb.

These statements are not a onetime occurrence. An Honduran immigrant has claimed to CNN that President Biden would give migrants a “100 days” to enter the United States.¹³

Also, “a migrant who traveled from Guatemala with her 10-year-old son tells Raddatz [a journalist] in Juarez, Mexico, that she made the trip now because "Biden promised that we could cross with minors.”¹⁴

Additional statements by migrants that President Biden is why they are migrating have been made to ABC and NBC.¹⁵

Records showing what actions are being taken to protect Americans from crime, terror, drugs, trafficking or border crossers who are on the terror watch list. Also, records that show the actual numbers of migrants in custody, the actual number of unaccompanied minors, the number of migrants released without a court date, the migrants with a criminal record, the originating country of the migrants and the number apprehended on the terror watch list

For Fiscal year 2020:

ICE agents arrested more than 143,000 people in the interior. The most convictions or criminal charges pending against them were for driving under the influence (74,000), followed by drug offenses (67,000). Only 1,900 had been charged or convicted of homicide.

Convictions or criminal charges of the aliens arrested also included 1,800 homicide-related crimes, 1,600 kidnappings, 37,000 assaults, and 10,000 sex crimes, according to ICE data. Further, ICE announced that in FY 2020 they had successfully deported 185,884 immigrants. Of those, 4,276 were known or suspected gang members, 675 of whom are believed to be members of the brutal gang MS-13. It was also reported that 31 were known or suspected terrorists.¹⁶

28, 2021), <https://www.dailymail.co.uk/news/article-9309275/Bidens-relaxation-immigration-laws-means-border-officials-prepare-open-tent-facility.html>.

¹³ Zachary Evans, *Honduran Migrant Travelling to U.S. Claims Biden is “Going to Help All of Us”*, YAHOO! NEWS (Jan. 18, 2021), <https://news.yahoo.com/honduran-migrant-traveling-u-claims-220124686.html>.

¹⁴ Stephen Sorace, *Migrant Says He Came to US Border Because Biden was Elected, Would not Have Tried to Cross under Trump*, FOX NEWS (Mar. 21, 2021), <https://www.foxnews.com/politics/migrant-border-crossing-biden-elected-not-trump>.

¹⁵ Nicholas Fondacaro, *“Letting My Hopes Up”: Illegal Immigrants Tell ABC & NBC Biden is Why They’re Here*, MRCNEWSBUSTERS (Mar. 21, 2021), <https://www.newsbusters.org/blogs/nb/nicholas-fondacaro/2021/03/21/letting-my-hopes-illegal-immigrants-tell-abc-nbc-biden-why>.

¹⁶ Raymond Lahoud, *Illegal Immigrants Arrested in FY 2020 Had Average of Four Criminal Convictions or Charges Each, ICE Says*, NAT. L. REV. (Jan. 7, 2021), <https://www.natlawreview.com/article/illegal-immigrants-arrested-fy-2020-had-average-four-criminal-convictions-or-charges>.

Despite the statistics above, migrants are being released from custody without a court date, and the number is growing.¹⁷

Furthermore:

US border authorities have posted online a terrifying gallery of illegal immigrants they recently busted crossing in from Mexico — including suspected pedophiles, rapists and murderers.

The parade of at least 10 hardened criminals comes amid a southern border crisis that has been blamed on the Biden administration's eased policies.¹⁸

Rep. John Katko (R-N.Y.), who serves on the Homeland Security Committee, has stated:

People they've caught in the last few days over there in sector three or monument three have been on the terror watch list. Individuals that they have on the watch list for terrorism are now starting to exploit the southern border.¹⁹

This January, unaccompanied minors increased to 5,700 from 4,855 in December.²⁰ These numbers are increasing. “More than 16,000 migrant children are currently in U.S. custody, with 5,000 of those in the hands of Border Patrol, which is encountering about 530 unaccompanied minors every day.”²¹

Records Regarding Cancellation or Postponement of Operation Talon

According to a report, “Biden’s administration recently cancelled Operation Talon, a Trump administration program aimed at removing convicted sex offenders living in the United States illegally.”²² According to Reuters, “The Department of Homeland Security (DHS) told Reuters

¹⁷ Quinn Owen & Benjamin Siegel, *Migrants Released from Rio Grande Valley Without Court Dates*, ABC NEWS (Mar. 24, 2021), <https://abcnews.go.com/Politics/migrants-released-rio-grande-valley-court-dates/story?id=76642838>.

¹⁸ Gabrielle Fonrouge & Kate Sheehy, *Border Agent Shares Photos of Suspected Criminals Crossing Into US*, N.Y. POST (MAR. 22, 2021), <https://nypost.com/2021/03/22/border-patrol-agent-shares-photos-of-criminals-crossing-into-us/>.

¹⁹ Melanie Arter, *Rep. John Katko: People on the Terror Watch List Caught Coming Across the Border in Last Few Days*, CNS NEWS (Mar. 15, 2021), <https://cnsnews.com/article/washington/melanie-arter/rep-john-katko-people-terror-watch-list-caught-coming-across>.

²⁰ Ariel Zilber & James Gordon, *Biden Administration Prepares to Open ANOTHER Tent Facility in Texas to Cope with 500 New Migrants Expected to Arrive by End of the Week after They Relaxed Border Laws*, DAILY MAIL (Feb. 28, 2021), <https://www.dailymail.co.uk/news/article-9309275/Bidens-relaxation-immigration-laws-means-border-officials-prepare-open-tent-facility.html>.

²¹ Manuel Bojorquez, *Biden Administration to Open Emergency Shelters with More Than 16,000 Migrant Children in U.S. Custody*, CBS EVENING NEWS (Mar. 24, 2021), <https://www.cbsnews.com/news/immigration-migrant-children-emergency-shelters/>.

²² Human Events Staff, *Biden cancels Trump's "Operation Talon" Program that Targeted Sex Offenders Living in U.S. Illegally*, HUMAN EVENTS (Feb. 26, 2021), <https://humanevents.com/2021/02/26/biden-cancels-trumps-operation-talon-program-that-targeted-sex-offenders-living-in-u-s-illegally/>.

the operation was not canceled but postponed, and the logistical decision to do so was made by ICE operators, not the president.”²³

Any records of or about DHS employees or their departments being instructed not to talk to the press about the “challenge” on the Border at all and to avoid calling it a crisis.

According to President Biden: “Our entire administration will always be honest and transparent with the good news and the bad. We’ll level with you when we make a mistake. We’ll straight up say what happened.”²⁴ In light of this statement, records discussing the restriction to CBP agents and others to not talk about the border situation are particularly relevant.

According to NBC, the restriction on what the CBP may or may not say was passed down verbally.²⁵ Though some officials have spoken out anyway,²⁶ the restriction has had an effect:

Exclusive photos from inside a U.S. Customs and Border Protection temporary overflow facility in Donna, Texas, reveal the crowded, makeshift conditions at the border as the government’s longer-term child shelters and family detention centers fill up

Because the Biden Administration has restricted media coverage at housing facilities, images like these offer a rare window into conditions.²⁷

Records showing the number of migrants with COVID, including records showing what number of COVID positive migrants have been released into the United States, with a breakdown by those released without and with a court date, what is being done to track these COVID positive migrants, the detention facilities who have experienced an outbreak, and what steps are being taken to reduce the rate of infection inside the detention facilities.

²³ Reuters Staff, *Fact Check: Decision to postpone Operation Talon was made by ICE and not Biden administration, DHS says*, REUTERS (Mar. 1, 2021), <https://www.reuters.com/article/uk-factcheck-operation-talon/fact-check-decision-to-postpone-operation-talon-was-made-by-ice-and-not-biden-administration-dhs-says-idUSKCN2AT3KS>.

²⁴ Joe Concha, *There's a Five-alarm Crisis On the Border — and Team Biden Imposes a Media Blackout*, THE HILL (Mar. 21, 2021), <https://thehill.com/opinion/immigration/544225-theres-a-five-alarm-crisis-on-the-border-and-team-biden-imposes-a-media?rl=1#.YFib3V4Y5ys.twitter>.

²⁵ Julia Ainsley, *Biden Administration Limits What Border Patrol Can Share with Media About Migrant Surge at Border*, NBC NEWS (Mar. 17, 2021), <https://www.nbcnews.com/politics/immigration/biden-administration-limits-what-border-patrol-can-share-media-about-n1261133>.

²⁶ *Id.*

²⁷ Stef W. Kight, *Scoop: Inside a Crowded Border Patrol Tent in Donna, Texas*, AXIOS (Mar. 22, 2021), <https://www.axios.com/photos-overcrowded-border-patrol-migrant-tents-0525a96b-0dc8-473f-b59c-38b0b3e52760.html>.

According to reports:

Each of eight “pods” in the so-called soft-sided facility has a 260-person occupancy, said Rep. Henry Cuellar (D-Texas), who provided the photos to Axios to raise awareness about the situation. But as of Sunday, he said, one pod held more than 400 unaccompanied male minors.²⁸

Approximately one hundred COVID positive migrants have been released into the United States.²⁹ The Midland, TX, holding facility has reportedly suffered a COVID outbreak among the migrants.³⁰

Records about any warning by CBP or DHS staff that overly rapid repeal of Trump Administration policies could lead to a surge in unaccompanied minors

A news report states:

Senior Customs and Border Protection (CBP) officials briefed the Biden transition team during the transition period on the potential risks of lifting former President Donald Trump’s policies and said it could lead to a surge in unaccompanied migrant minors, one current and two former Department of Homeland Security (DHS) officials told the Post.

The president’s transition team understood the potential risks and acknowledged multiple issues that could emerge as a result of repealing Trump-era policies, DHS officials told the Post.³¹

Records about CBP removing a press release about the arrest of two illegal aliens on the FBI’s Terrorism Watch List and No-Fly List

According to a recent report by the *Federalist*:

U.S. Customs and Border Protection will not answer why a press release outlining the arrest of two Yemeni illegal aliens who appeared on both the FBI’s Terrorism Watch List and No-Fly List was removed from its website on Tuesday.

²⁸ *Id.*

²⁹ Mark Moore, *108 Illegal Immigrants in Texas Who Tested Positive for COVID Reportedly Released*, N.Y. POST (Mar. 3, 2021), <https://nypost.com/2021/03/03/migrants-in-texas-who-tested-positive-for-COVID-reportedly-released/>.

³⁰ *Texas Gov. Abbott Reports COVID Outbreak, No “Usable Running Water” at Migrant Holding Facility*, FOX NEWS (Mar. 19, 2021), <https://www.foxnews.com/politics/greg-abbott-texas-migrant-holding-facility-covid-midland>.

³¹ Kaylee Greenlee, *Biden Team Ignored Warnings from Career Immigration Officials That Their Actions Could Cause A Border Crisis*, DAILY CALLER (Mar. 24, 2021), <https://dailycaller.com/2021/03/24/joe-biden-donald-trump-chad-wolf-customs-and-border-protection/>.

In the now-archived announcement, CBP explained that agents apprehended two men near Calexico, California, between the end of January and the end of March, a period during which illegal border crossings soared to record-setting numbers. The announcement detailing both incidents, including the discovery of a cellular phone sim card in one of the migrant's shoes, however, was quietly exchanged, without explanation, with a link to a page denying access to members of the public on Tuesday. Searches for the original release on the CBP website also did not yield any recent results.³²

In March, CBP told Newsweek that,

[e]ncounters with terrorists at U.S. borders are “very uncommon,” according to a statement released Wednesday from U.S. Customs and Border Protection (CBP).

“Our border security efforts are layered and include multiple levels of rigorous screening that allow us to detect and prevent people who pose national security or public safety risks from entering the United States,” CBP said in the statement provided to Newsweek.³³

Indeed, when the ACLJ attempts to access the CBP press release at <https://www.cbp.gov/newsroom/local-media-release/two-yemeni-men-arrested-border-patrol-identified-fbi-s-terrorism-0>, the message “Access Denied” appears.

Records Requested

For purposes of this Request, the term “record” is “any information” that qualifies under 5 U.S.C. § 552(f), and includes, but is not limited to, the original or any full, complete and unedited copy of any log, chart, list, memorandum, note, correspondence, writing of any kind, policy, procedure, guideline, agenda, handout, report, transcript, set of minutes or notes, video, photo, audio recordings, or other material. The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government or private account or server, consistent with the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the

³² Jordan Davidson, *CBP Won't Say Why Its Press Release On Arrest Of Two Yemeni Terror-Watch Illegals Was Scrubbed*, THE FEDERALIST (April 6, 2021), <https://thefederalist.com/2021/04/06/cbp-wont-say-why-its-press-release-on-arrest-of-two-yemeni-terror-watch-illegals-was-scrubbed/>.

³³ Nicole Fallert, *Border Patrol Says Encounters With Terrorists at Borders Are Uncommon, Despite Claims*, NEWSWEEK (Mar. 17, 2021), <https://www.newsweek.com/border-patrol-says-encounters-terrorists-borders-are-uncommon-despite-claims-1576812>.

simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

For purposes of this Request, the term “briefing” includes, but is not limited to, any in-person meeting, teleconference, electronic communication, or other means of gathering or communicating by which information was conveyed to one or more person.

For purposes of this Request, the term “DHS official” includes, but is not limited to, any person who is (1) employed by or on behalf of the U.S. Department of Homeland Security in any capacity; (2) contracted for services by or on behalf of the U.S. Department of Homeland Security in any capacity; or (3) appointed by the President of the United States to serve in any capacity at the U.S. Department of Homeland Security; all without regard to the component or office in which that person serves (*e.g.*, CBP, ICE, USCIS, etc.). **Further, it includes any alias or pseudonym name or electronic communication account any such official might use.**

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is November 4, 2020, to the date this Request is processed.

Pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, ACLJ hereby requests that the U.S. Department of Homeland Security produce the following within twenty (20) business days:

1. **Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by, Secretary Alejandro Mayorkas, his aides, staff, representative or agents, or acting predecessor, or any CBP, ICE, or USCIS official, referencing or regarding in any way the subject matter of the Biden Administration’s instruction, insistence or preference, that the present migrant surge at the southern border is a “challenge” and not a “crisis,” or otherwise how to identify or describe the border situation described in the Background section above,** including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

2. **Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by, Secretary Alejandro Mayorkas, his aides, staff, representative or agents, or acting predecessor, or any CBP, ICE, or USCIS official, referencing or regarding in any way the subject matter of:**

- (1) what actions are being taken to protect unaccompanied minors and women from trafficking and/or exploitation;**
- (2) what actions are being taken to stem and discourage the flow of migrants and unaccompanied minors;**

- (3) what actions are being taken to protect Americans from crime, terror, drugs, trafficking or border crossers who are on the terror watch list; and,**
- (4) records that show the actual numbers of migrants in custody, the actual number of unaccompanied minors, the number of migrants released without a court date, the migrants with a criminal record, the originating country of the migrants and the number apprehended on the terror watch list;**

including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

3. Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by, Secretary Alejandro Mayorkas, his aides, staff, representative or agents, or acting predecessor, or any CBP, ICE, or USCIS official, referencing or regarding in any way the subject matter of DHS employees or DHS components being instructed not to talk to the press about any border issue addressed in the Background section above, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

4. Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by, Secretary Alejandro Mayorkas, his aides, staff, representative or agents, or acting predecessor, or any CBP, ICE, or USCIS official, referencing or regarding in any way the subject matter of the number of migrants with COVID, including records showing what number of COVID positive migrants have been released into the United States, with a breakdown by those released without and with a court date, what is being done to track these COVID positive migrants, the detention facilities who have experienced an outbreak, and what steps are being taken to reduce the rate of infection inside the detention facilities, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

5. **Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by, Secretary Alejandro Mayorkas, his aides, staff, representative or agents, and acting predecessor, or any CBP, ICE, or USCIS official, referencing or regarding in any way the subject matter of any warnings by CBP, ICE, USCIS or other DHS staff that an overly rapid repeal or reversal of Trump Administration policies could lead to a surge in unaccompanied minors or migrants,** including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

6. **Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by, Secretary Alejandro Mayorkas, his aides, staff, representative or agents, or acting predecessor, or any CBP, ICE, or USCIS official, referencing or regarding in any way the subject matter of cancellation or postponement of Operation Talon,** including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

7. **Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by, Secretary Alejandro Mayorkas, his aides, staff, representative or agents, or acting predecessor, referencing or regarding in any way the subject matter of CBP's April 5, 2021, press release regarding the arrest of two aliens on the FBI's terror watch list and no-fly list, and the removal of that press release,** including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

8. **Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by any CBP, ICE, or USCIS official, referencing or regarding in any way the subject matter of CBP's April 5, 2021, press**

release regarding the arrest of two aliens on the FBI's terror watch list and no-fly list, and the removal of that press release, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

9. **Any and all records, communications or briefings sent from, prepared by, sent to, received by, reviewed by, or in any way communicated to or by, Secretary Alejandro Mayorkas, his aides, staff, representative or agents, or acting predecessor, or any CBP, ICE, or USCIS official, referencing or regarding in any way the subject matter of arrest or detention of any person at the U.S. Border who is on any government terror-related or no-fly watch list**, including but not limited to any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

CONCLUSION

If this Request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Moreover, as explained in an accompanying memorandum, the ACLJ is entitled to expedited processing of this Request as well as a waiver of all fees associated with it. The ACLJ reserves the right to appeal a decision to withhold any information sought by this request and/or to deny the separate application for expedited processing and waiver of fees.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Benjamin P. Sisney, Senior Litigation Counsel
John A. Monaghan, Senior Litigation Counsel
American Center for Law and Justice

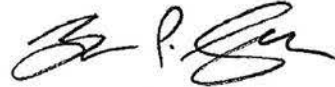


I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

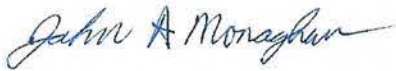
Respectfully submitted,



Jordan Sekulow
Executive Director



Benjamin P. Sisney
Senior Litigation Counsel



John A. Monaghan
Senior Litigation Counsel