



One Hundred Sixteenth Congress  
Committee on Homeland Security  
U.S. House of Representatives  
Washington, DC 20515

September 22, 2020

Chairman Ron Johnson  
Committee on Homeland Security  
& Governmental Affairs  
United States Senate  
340 Dirksen Senate Office Building  
Washington, DC 20510

Ranking Member Gary C. Peters  
Committee on Homeland Security  
& Governmental Affairs  
United States Senate  
340 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Peters:

In advance of your hearing tomorrow to consider the nomination of Chad F. Wolf for Secretary of Homeland Security, I write to share my serious concerns regarding Mr. Wolf's repeated failure to comply with Constitutionally mandated oversight during his tenure as "Acting Secretary of Homeland Security" and to urge you in the strongest possible terms to oppose his nomination.

In a letter dated December 21, 2019, Mr. Wolf wrote to me that he was committed "to be fully cooperative, open and transparent" with the Committee on Homeland Security.<sup>1</sup> Unfortunately, under his tenure, the Department of Homeland Security (DHS) has been anything but cooperative, open, transparent, or responsive. Instead, the Department has repeatedly ignored the Committee's document requests, failed to comply fully with a Committee subpoena for documents, and failed to make Departmental officials available for transcribed interviews with the Committee. Further, just a week ago, Mr. Wolf himself failed to comply with a subpoena issued for his testimony to discuss worldwide threats facing the homeland.

In the absence of the information requested by the Committee, the Committee and indeed the Congress have little insight into the many troubling and apparently improper actions taken by the Department, both during Mr. Wolf's tenure and during that of prior Trump Administration officials. Mr. Wolf's obvious and blatant disregard for Congressional oversight and his repeated

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<sup>1</sup> Letter from Mr. Chad F. Wolf, Department of Homeland Security, to Chairman Bennie G. Thompson and Ranking Member Mike Rogers, Committee on Homeland Security (Dec. 21, 2019).

failure to provide even the most basic information required by the Committee to understand the Department's actions render him unfit for confirmation as Secretary of a Cabinet-level department.

Presented below is a brief overview of just some of the Committee's unanswered requests, as well as detailed information on the Committee's unfulfilled subpoenas.

### **Requests for Documents Regarding Coronavirus Response Have Been Ignored**

The United States faces an unprecedented global pandemic that has now killed more than 200,000 Americans and that will continue to spread until we have an effective vaccine. Recognizing that the pandemic is straining Federal resources, the Committee has sought only the most essential information regarding our nation's response—including state requests for and Federal distributions of personal protective equipment (PPE) and testing supplies—and yet we have received only cursory information and a handful of documents from DHS in reply to our correspondence.

For example, on March 23, 2020, I sent a letter requesting basic information on the supplies and distribution of PPE, including copies of solicitations and contracts for masks and other forms of PPE, medical supplies, and equipment.<sup>2</sup> On April 28, the Committee received a letter from the Administrator of the Federal Emergency Management Agency (FEMA) that conveyed only nine contracts. This letter admitted that these contracts “do not represent the entirety of contracts that FEMA has issued for PPE.”<sup>3</sup> In fact, publicly available databases indicate that FEMA had issued nearly 200 contracts by April 27 that are coded as being related to COVID-19. Many of these contracts would presumably be responsive to the Committee's request.

Separately, the Committee has still not received the documents requested in a letter I sent jointly with Committee on Oversight and Reform Chairwoman Carolyn Maloney, on April 7, 2020, to Administrator Gaynor. This letter sought documents regarding requests from U.S. states, territories, and the District of Columbia for PPE, the distribution by the Federal government of PPE, and the role of Senior Advisor to the President Jared Kushner in FEMA's supply acquisition and distribution processes.<sup>4</sup> We wrote again on May 8 to renew the request that FEMA provide responsive documents by May 12.<sup>5</sup>

### **Numerous Requests for Documents Have Been Ignored**

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<sup>2</sup> Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, to Mr. Chad Wolf, Department of Homeland Security, and Secretary Alex M. Azar, II, Secretary, Department of Health and Human Services (March 23, 2020) (online at <https://homeland.house.gov/imo/media/doc/DHS%20HHS%20PPE%20Letter.pdf>).

<sup>3</sup> Letter from Administrator Peter T. Gaynor, Federal Emergency Management Agency, to Chairman Bennie G. Thompson, Committee on Homeland Security (April 28, 2020).

<sup>4</sup> Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, and Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Administrator Peter T. Gaynor, Federal Emergency Management Agency (April 7, 2020) (online at <https://homeland.house.gov/imo/media/doc/040720%20Joint%20FEMA%20letter%20re%20PPE.pdf>).

<sup>5</sup> Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, and Chairman Bennie G. Thompson, Committee on Homeland Security, to Administrator Peter T. Gaynor, Federal Emergency Management Agency (May 8, 2020) (online at <https://homeland.house.gov/imo/media/doc/050820%20Joint%20FEMA%20Follow%20up.pdf>).

Despite Mr. Wolf's pledge to be responsive and transparent, during his tenure the Department has ignored numerous Committee requests for documents, including:

### ***Request for Documents Regarding DHS' Interactions with "We Build the Wall"***

On August 24, 2020, the Committee wrote to Mr. Wolf requesting three categories of documents and communications between DHS and "We Build the Wall."<sup>6</sup> As you know, We Build the Wall is an organization founded by Brian Kolfage, Steve Bannon, and others with the stated intent of taking donations from private citizens "to build segments of border wall on private property" along the U.S-Mexico border.<sup>7</sup> The group partnered with Fisher Industries to build border barriers on private property in New Mexico and in Texas in 2019.<sup>8</sup> Mr. Kolfage, Mr. Bannon, and two other associates have been arrested and indicted for allegedly embezzling more than \$1 million in donations made to We Build the Wall.<sup>9</sup> On November 20, 2019, Mr. Wolf praised We Build the Wall's New Mexico project at a press event.<sup>10</sup> The Committee asked that all requested documents be provided by September 6, 2020, but no documents have been provided.

### ***Request for Documents Regarding the Exclusion of New York Residents from Trusted Traveler Programs***

The Committee is conducting an ongoing investigation regarding the facts and circumstances surrounding the assertions made in testimony before the Committee by Mr. Wolf and another senior Departmental official that have proven to be inaccurate and misleading regarding the decision by the Department to exclude the residents of New York from Trusted Traveler programs (TTP) following the enactment by New York of its "Green Light Law."

On July 25, 2020, the Committee wrote to Mr. Wolf to request that the Department make four employees available to complete transcribed interviews no later than September 4, 2020. As none of those individuals have been made available, the Subcommittee on Border Security, Facilitation, and Operations has scheduled a hearing on September 30, 2020, and has requested testimony from each of these four individuals at the hearing. The Committee had also requested four categories of documents and communications to be provided by August 21, 2020.<sup>11</sup> The Department has not yet provided all requested documents and communications.

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<sup>6</sup> Letter to from Chairman Bennie G. Thompson, Committee on Homeland Security, to Mr. Chad Wolf, Department of Homeland Security (Aug. 24, 2020) (online at <https://homeland.house.gov/imo/media/doc/0824%20DHS%20Letter%20re%20We%20Build%20the%20Wall.pdf>).

<sup>7</sup> We Build the Wall, "About Us" webpage and "Our Team" webpages (accessed August 23, 2020) (online at <https://webuildthewall.us/about-us/>; <https://webuildthewall.us/ourteam/>).

<sup>8</sup> The Washington Post, *'He always brings them up': Trump tries to steer border wall deal to North Dakota firm* (May 23, 2019) (online at [https://www.washingtonpost.com/immigration/he-always-brings-them-up-trump-tries-to-steer-border-wall-deal-to-north-dakota-firm/2019/05/23/92d3858c-7b30-11e9-8bb7-0fc796cf2ec0\\_story.html](https://www.washingtonpost.com/immigration/he-always-brings-them-up-trump-tries-to-steer-border-wall-deal-to-north-dakota-firm/2019/05/23/92d3858c-7b30-11e9-8bb7-0fc796cf2ec0_story.html)).

<sup>9</sup> Department of Justice, "Leaders Of 'We Build The Wall' Online Fundraising Campaign Charged With Defrauding Hundreds Of Thousands Of Donors" (August 20, 2020) (online at [www.justice.gov/usao-sdny/pr/leaders-we-build-wall-online-fundraising-campaign-charged-defrauding-hundreds-thousands](http://www.justice.gov/usao-sdny/pr/leaders-we-build-wall-online-fundraising-campaign-charged-defrauding-hundreds-thousands)).

<sup>10</sup> Border Report, *DHS officials welcome privately-built border wall* (Nov. 21, 2019) (online at [www.borderreport.com/news/dhs-officials-welcome-privately-built-border-wall/](http://www.borderreport.com/news/dhs-officials-welcome-privately-built-border-wall/)).

<sup>11</sup> Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, and Chairwoman Kathleen Rice, Subcommittee on Border Security, Facilitation, and Operations, to Mr. Chad Wolf, Department of Homeland Security (July 25, 2020) (online at <https://homeland.house.gov/imo/media/doc/DHS%20Wolf%20Letter.pdf>).

### ***Request for Documents Regarding Secret Service Expenditures at Trump-owned Properties***

On January 15, 2020, the Committee wrote to Secret Service Director James Murray to request that the Secret Service produce, by February 3, 2020, data on expenses incurred to support the travel of President Trump and his family during his time in office.<sup>12</sup> After repeated unanswered inquiries on the status of the Department's review of the data, on August 19, 2020, I wrote to Mr. Wolf urging that he release the documents by September 2, 2020. However, the Committee has not received any documents in response to this request.<sup>13</sup>

### **Failure to Comply with Committee Subpoena for Documents Regarding Child Deaths**

On January 4, 2019, I wrote to then-Secretary Kirstjen M. Nielsen to request that the Department produce by January 18, 2019, among other documents, the following:

Any document, record, memo, correspondence, or other communication related to the care and treatment of children in CBP custody from November 1, 2018, to the present, including documents related to the deaths of Jakelin Caal Maquin and Felipe Alonzo-Gomez.<sup>14</sup>

On November 20, 2019, following the Department's failure to produce all documents requested in my letter of January 4, 2019, the Committee issued a narrowly tailored subpoena requiring the production by noon on December 11, 2019 of, among other documents, the following:

Any document, record and/or communication related to the care and treatment of children in the U.S. Customs and Border Protection custody from November 1, 2018 to January 4, 2019, including those related to the deaths of Jakelin Caal Maquin and Felipe Alonzo Gomez.<sup>15</sup>

As already discussed, on December 21, 2019, Mr. Wolf responded to the Committee by assuring us that he was committed "to be fully cooperative, open and transparent" with us.<sup>16</sup> However, the Department has still failed to provide all documents responsive to the Committee's subpoena. Further, a production provided by the Department on March 2, 2020—just one day before Mr. Wolf's last appearance before the Committee on March 3, 2020—was so heavily redacted that it was essentially incomprehensible.

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<sup>12</sup> Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, to Director James M. Murray, United States Secret Service (Jan. 15, 2020) (online at <https://homeland.house.gov/imo/media/doc/SecretServiceCostRequest.pdf>).

<sup>13</sup> Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, to Mr. Chad Wolf, Department of Homeland Security (Aug. 19, 2020).

<sup>14</sup> Letter from Chairman Bennie G. Thompson, Committee on Homeland Security, to Secretary Kirstjen M. Nielsen, Department of Homeland Security (Jan. 4, 2019).

<sup>15</sup> Letter and Accompanying Schedule and Subpoena Instructions, from Chairman Bennie G. Thompson, Committee on Homeland Security, to Mr. Chad F. Wolf, Department of Homeland Security (Nov. 20, 2019).

<sup>16</sup> Letter from Mr. Chad F. Wolf, Department of Homeland Security, to Chairman Bennie G. Thompson and Ranking Member Mike Rogers, Committee on Homeland Security (Dec. 21, 2019).

### **Mr. Wolf Failed to Comply with Subpoena for His Testimony**

Earlier this month, I issued a subpoena for Mr. Wolf's testimony at the Committee on Homeland Security's annual worldwide threats hearing after he reneged on his commitment to testify.<sup>17</sup> It is the long-standing practice of the Committee to convene this hearing, meant to inform Members about global terrorism threats to the homeland. Past Secretaries of Homeland Security, regardless of political party affiliation, have regularly participated in this hearing. The Committee also hoped to question Mr. Wolf about many of the outstanding document requests enumerated in this letter. Regrettably, in an unprecedented rejection of the Committee's legitimate oversight, Mr. Wolf defied the Committee's subpoena and failed to appear at the hearing.

While DHS argued Mr. Wolf could not testify due to his pending nomination, there is no legal prohibition that would have barred his participation. Indeed, others have testified before Congress despite pending nominations.

Mr. Wolf's numerous failures to comply with Congressional oversight set a troubling precedent and should not be rewarded by confirmation to a Cabinet-level position. I therefore urge you and all Members of the Senate Committee on Homeland Security and Governmental Affairs to oppose Mr. Wolf's nomination for Secretary of Homeland Security. Thank you for your consideration.

Sincerely,



Bennie G. Thompson  
Chairman

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<sup>17</sup> Subpoena from Chairman Bennie G. Thompson, Committee on Homeland Security, to Mr. Chad F. Wolf, Department of Homeland Security (Sept. 11, 2019).