

“INTENTIONAL, SELF-
INFLICTED, UNMITIGATED
CHAOS AND LAWLESSNESS”

Current And Former Senior CBP Officials
Speak on the Biden-Harris Border Crisis

*HOUSE COMMITTEE ON HOMELAND SECURITY
MAJORITY REPORT*

SEPTEMBER 18, 2024



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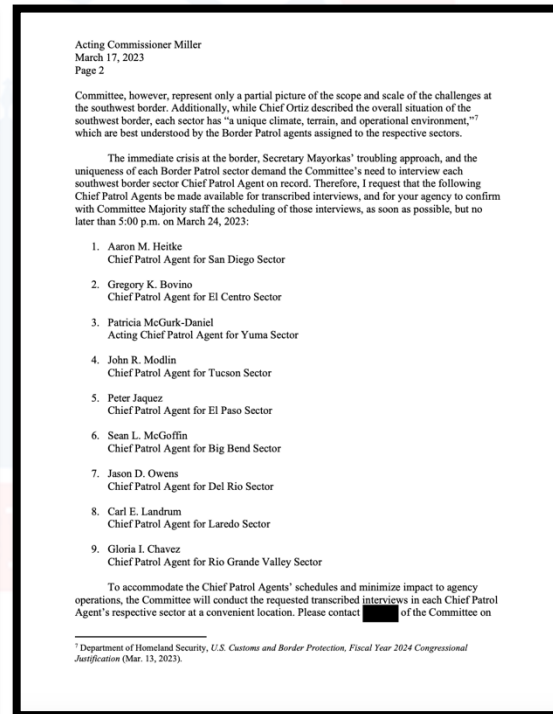
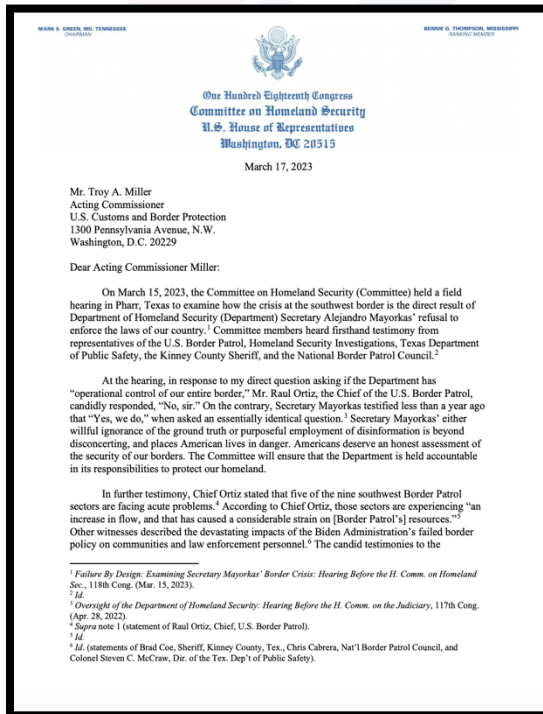


INTRODUCTION

The House Committee on Homeland Security’s Efforts to Gather Testimony from Senior DHS Law Enforcement Officials

On March 17, 2023, House Committee on Homeland Security Chairman Mark Green, MD, R-Tenn., sent a letter to U.S. Customs and Border Protection (CBP) requesting transcribed interviews with nine Southwest border sector chief patrol agents.¹ Chairman Green and House Committee on Oversight and Accountability Chairman James Comer transmitted a joint request for the same interviews on March 31, 2023.²

Between April-September 2023, Committee counsels interviewed U.S. Border Patrol sector chiefs on the record about a myriad of issues connected to the catastrophic crisis at the Southwest border. During these interviews, the sector chiefs provided hours of testimony about conditions at the Southwest border, and specific details about the state of border security under the Biden-Harris administration and Department of Homeland Security (DHS) Secretary Alejandro Mayorkas. This appendix documents some of the most striking testimony these senior Border Patrol leaders shared with Congress.



¹ House Committee on Homeland Security Chairman Mark Green, *Letter to Troy A. Miller, Acting Commissioner, Customs and Border Protection*, March 17, 2023, <https://homeland.house.gov/wp-content/uploads/2023/10/2023-03-17-Green-to-Miller-CBP-re-Sector-Chiefs-Transcribed-Interviews.pdf>.

² House Committee on Homeland Security Chairman Mark Green and House Committee on Oversight and Reform Committee Chairman James Comer, *Letter to Troy A. Miller, Acting Commissioner, Customs and Border Protection*, March 31, 2023, <https://homeland.house.gov/wp-content/uploads/2023/10/2023-03-31-Green-Comer-to-Miller-CBP-re-BP-Sector-Chiefs-Transcribed-Interviews.pdf>.



INTRODUCTION

In January 2024, the Committee also sent letters to Rodney Scott, chief of the Border Patrol from February 2020-August 2021, and Mark Morgan, acting CBP commissioner from July 2019-January 2021, requesting transcribed interviews to seek further insights from these former senior officials on the Biden-Harris Administration's self-inflicted crisis.³ These interviews were conducted on Jan. 22, 2024.

MARK E. GREEN, MD, THOMPSON
Chairman

116th Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

January 10, 2024

VIA ELECTRONIC MAIL
Mr. Rodney S. Scott
Former Chief
U.S. Border Patrol

Dear Mr. Scott:

The Committee on Homeland Security (Committee) is conducting oversight of the Department of Homeland Security's (Department) planning, management, policies, and programs relating to illegal immigration at the Southwest border. The Southwest border and indeed, the entire United States, is in crisis based on Secretary Mayorkas's failed leadership. Since Secretary Mayorkas took office, U.S. Border Patrol encountered over 6.7 million¹ illegal aliens at the Southwest border, including over 35,000 criminals,² over 1,000 gang members,³ and over 207 individuals on the terrorist watchlist.⁴ Moreover, in fiscal years 2022 and 2023 alone, the Department released anywhere from two to three million illegal aliens into the United States.⁵ These numbers are unprecedented and a serious threat to U.S. national security.

Throughout the last year, the Committee conducted investigations into the crisis at the Southwest border. The Committee held hearings with border security experts and crime victims.⁶

¹ *Nationwide Encounters*, U.S. CUSTOMS AND BORDER PROTECTION, <https://www.cbp.gov/newsroom/stati/cbp-enforcement-statistics> (last visited Jan. 9, 2024).
² *CBP Enforcement Statistics*, U.S. CUSTOMS AND BORDER PROTECTION, <https://www.cbp.gov/newsroom/stati/cbp-enforcement-statistics> (last visited Jan. 9, 2024).
³ *U.S. Customs and Border Protection's published statistics on gang encounters are nationwide and not limited to the Southwest border.*
⁴ *See Immigration Enforcement and Legal Processes Monthly Tables*, OFF. OF HOMELAND SEC. STATISTICS, <https://www.dhs.gov/info/immigration/enforcement-and-legal-processes-monthly-tables> (last visited Jan. 9, 2024) (providing that Customs and Border Protection released 2.057 million aliens who entered or attempted to enter the U.S. at the Southwest border). While the Department recently released immigration-related statistics for fiscal year 2022 and 2023, the data is incomplete and unclear. See Andrew Arthur, *DHS's Latest Weekend News Dump Is a Shame*, CENTER FOR IMMIGRATION STUDIES (Jan. 6, 2024), <https://cis.org/Arthur/DHS-Latest-Weekend-News-Dump> <https://cis.org/Arthur/DHS-Latest-Weekend-News-Dump> (noting that the Department failed to include unaccompanied minors, aliens released by Immigration and Customs Enforcement, and aliens released through parole programs, and estimating total releases closer to 3 million).
⁵ See e.g., *Open Borders, Closed Cases: Secretary Mayorkas' Dereliction of Duty on the Border Crisis: Hearing Before the H. Comm. on Homeland Sec.*, 118th Cong. (June 14, 2023), *An Unbearable Price: The Devastating Human Costs of the Biden-Mayorkas Border Crisis: Hearing Before the H. Comm. on Homeland Sec.*, 118th Cong. (Sep. 13, 2023), *The Financial Costs of Mayorkas' Open Border: Hearing Before the H. Comm. on Homeland Sec.*, 118th Cong. (Sep. 20, 2023).

Mr. Scott
January 10, 2024
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conducted transcribed interviews of U.S. Border Patrol Chief Patrol Agents stationed along the Southwest border,⁷ and sent the Department many requests for documents and information.⁸ Despite the Committee's efforts to obtain relevant documents and information from the Department relating to illegal immigration at the Southwest border, the Department continues to obstruct those efforts. The Committee, therefore, is left with many unanswered questions about the unabating crisis at the Southwest border.

Due to the Department's lack of transparency, we are seeking your expertise to help address the Committee's questions specifically related to Secretary Alejandro Mayorkas' handling of the border crisis from January 2021 to present day. Therefore, we request that you contact the Committee on Homeland Security Majority staff at (202) 226-8417 to schedule a transcribed interview as soon as possible, but no later than January 16, 2024.

Per Rule X of the U.S. House of Representatives, the Committee on Homeland Security is the principal committee of jurisdiction for overall homeland security policy and has special oversight of "all Government activities relating to homeland security, including the intersection of all departments and agencies with the Department of Homeland Security."

Thank you for your prompt attention to this matter.

Sincerely,


MARK E. GREEN, M.D.
Chairman

cc: The Honorable Bennie G. Thompson, Ranking Member
Committee on Homeland Security

⁷ See e.g., H. Comm. on Oversight and Accountability and H. Comm. on Homeland Sec., *Transcribed Interview of Chief Patrol Agent Gloria I. Chavez*, U.S. Border Patrol, Dep't of Homeland Sec. (Sept. 26, 2023).
⁸ See e.g., Letter from Hon. Mark Green, Chairman, H. Comm. on Homeland Sec., to Hon. Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec. (Jan. 30, 2023) (requesting documents and information relating to the cancellation of border barrier contracts along the Southwest border).

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Chairman

116th Congress
Committee on Homeland Security
U.S. House of Representatives
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January 10, 2024

VIA ELECTRONIC MAIL
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Former Acting Commissioner
U.S. Customs and Border Protection

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³ See House Committee on Homeland Security Chairman Mark Green, *Letter to Rodney S. Scott, Former Chief, U.S. Border Patrol*, January 10, 2024; and House Committee on Homeland Security Chairman Mark Green, *Letter to Mark A. Morgan, Former Acting Commissioner, Customs and Border Protection*, January 10, 2024.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

UNPRECEDENTED NUMBERS AT THE SOUTHWEST BORDER

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: Well, when you say what is happening, in your view and in your observation, given your three decades of experience in the Border Patrol, has there been a significant rise in these numbers, these encounters, drug seizures, got-aways?

A: Well, I don't have the comparative analysis to look at it, but in my understanding of everything, yes, there has been quite the rise across the board.⁴

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: Okay. So when the numbers of encounters increased by 127 percent from the time you got there in the first three months, you weren't expecting that to happen?

A: I mean, you can't sit there and say, like, there is going to be a surge in this particularized area, because the resources—I mean, the limitations in Big Bend Sector on both sides of the border are so different. There's no communities where people just suddenly show up into this area and say, "Hey, we're going to camp out here for 30 days," and we should know about it. It doesn't transpire in my AOR. They have to be moved there by smugglers deliberately to be able to cross.

And what I was looking at was the numbers being processed—or that were being—traversing through these vulnerable areas and why was it. These were remote areas for both sides of the border.

Q: So in those first three months, would you say that you were unprepared for that large increase in encounters?

A: I wouldn't say we were unprepared.

Q: You weren't expecting it, right?

A: I think we looked at it and said: Okay, what are we going to do? I mean, I wasn't expecting to see the numbers go like that. It never had happened before in the Big Bend Sector.⁵

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Going back, so you're over capacity in these detention spaces. What are the encounter general trends that you've noticed that [sic]. You were at the academy in probably FY '21. But in this last FY, you've seen the trend, I assume. Can you explain a little bit more about what you've observed in terms of encounters at your sector?

⁴ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 30, April 25, 2023.

⁵ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 112-113, April 25, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

A: Sure. So obviously we're very busy, and that seems to be—we're not the exception to the rule. And I can tell you that most of last year I think Del Rio Sector led the Nation day to day in terms of apprehensions. At the end of the fiscal year, we finished off FY '22 with just over 480,000 apprehensions and right around 200,000 known gotaways. That was the first year that we had surpassed the Rio Grande Valley Sector for the most apprehensions in the year.

The year before that, we had about 260,000 apprehensions, so it was a substantial increase from fiscal year '21. In fiscal year '21, it was busier than the previous 9 fiscal years combined for the Del Rio Sector.

So far this year, we're on pace to at least match what last year's numbers were. This year so far, it has been the Rio Grande Valley Sector, El Paso Sector, and Tucson Sector that have been, on a day-to-day basis, busier than we are. That's leading up to May 11th, and we don't know what's going to happen after that.⁶

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: There have always been economic reasons for migrants to come over the southwest border, right?

A: Uh-huh.

Q: And there has always been political instability in some of the central and southern American countries, right?

A: Yes.

Q: Have you, in all of your experience, ever seen the amount of people released as they are right now—released into the United States?

A: The United States? No.⁷

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Could policy decisions affect encounter numbers?

A: I guess an overall policy change—it's possible, yes.

Q: Have encounters increased in the past 2 years?

A: Yes.

Q: Have you ever seen encounters this high at the Southwest border?

⁶ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 20-21, May 5, 2023.

⁷ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 34-35, May 5, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

A: No.⁸

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Okay. Do you agree that the southern border is currently in crisis? And I should clarify this. Before I say “do you agree,” I should have asked you, do you agree with Chief Ortiz, who testified in a deposition that he believes that the southern border is currently in crisis? Do you agree with Chief Ortiz's statement that the southern border is currently in crisis?

A: I'm not familiar with that exact testimony. And I would stick with San Diego as far as—I wouldn't want to speak to the entire southwest border. I have eyes on San Diego each and every day, and we have a lot of challenges in San Diego.

And without—San Diego is very busy, and we have an enormous amount of traffic there. As far as specific the—without going specific to his testimony, because I'm not exactly sure about it, but I would agree that San Diego, specifically, we have a lot of challenges there. And so yes.

Q: What types of challenges?

A: Enormous amounts of migrants coming across. Large groups that come in to give up right now, which takes an enormous amount of our resources.

Q: Well, Chief Ortiz in that same deposition was asked if there was—if he would agree that there was an unprecedented number of aliens illegally entering the United States, and he said yes. Would you agree with that testimony as well?

A: Yes.

Q: Okay. He was also asked that—whether or not, when President Biden was elected, did the number of aliens trying to illegally enter the United States increase or decrease. He stated that it increased. Would you agree with that testimony as well?

A: Yes. Yep. Yeah. I'm sorry. Yes.

Q: He was also asked in that same deposition if the crisis that is currently ongoing at the southern border is making the border less safe for Americans and aliens alike. He answered in the affirmative that, yes, that crisis does make Americans and aliens more unsafe. Would you agree with that testimony?

A: Yes.⁹

⁸ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 163, May 9, 2023.

⁹ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 24-25, May 9, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: In your career with Border Patrol, have you ever seen encounters at this level by number?

A: No.

Q: Have you ever seen releases at this level by number?

A: No.¹⁰

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: And would you say that numbers tend to change with the seasons?

A: So, yes. In Tucson, absolutely, and even in other sectors where I worked, you know, like the holiday season, you know, the December time frame was a time when apprehensions tended to be very low. A lot of people that were crossing the border frequently illegally would cross into the United States, work for most of the year, and then go back into Mexico in December, and then come back in, say, January or February.

Tucson, because of the incredible amount of heat out there, the summer months tend to be very low. What's happening now that is unheard of, you know. I looked at 10 years of data to what the summer months should be, and, you know, so where we're at now in July, you know, should be about—we should have about 17,000 apprehensions in July, you know, given 10 years of data aggregated.

Instead we're at 26,000. So this time of year, the most dangerous time of year, is seeing one of the most significant flows that we've seen.¹¹

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: So based on the data, and in large part the increases over the last few years are pretty significant, is it frustrating for you as the leader of the Tucson Sector when the encounters have kept increasing over a lengthy period of time?

A: So, yes, absolutely. I think, when I look at '18, '19, and '20, those years were about 60,000 people a year, more or less, within a thousand or two in either direction. And then '21 happened—or—yeah, '21 happened, and it jumped to 190,000. So it was three times the previous year, which was absolutely for us shocking in Tucson.

And then, thinking it couldn't go higher, it then went to 250,000 last year, and that did not include the 55,000 that we took from Yuma to help them out and the 170,000 gotaways recorded last year in that as well. And this year we're on pace

¹⁰ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 99, June 1, 2023.

¹¹ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 64-65, July 26, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

to probably hit 300,000. So if that's the case, then we'll be five times what we did just in 2020. So that is significant.

As the leader, yes, it's troublesome, and I would say it is a little demoralizing, because, obviously, I try to do everything I can to support the men and women of Tucson Sector and to, most importantly, obviously, to achieve the securing the border, to keep the border as secure as I can.

And so when we see numbers like this, yes, that is—I don't remember, I'm sorry, the phrasing of the exact question, but the point is, yes, it is demoralizing to me as the leader of Tucson Sector to experience these numbers we're experiencing.¹²

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: In your 27 years of experience with Border Patrol, have you ever seen the number of encounters sustained for this long over the last 3 years?

A: No.¹³

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: And so would you agree that periodic surges or spikes are not unprecedented at the southern border?

A: Certainly not unprecedented to see a surge or spike. The volume that we're seeing recently, in my opinion, in my career when I've seen is what I would consider unprecedented.¹⁴

IMPORTANCE OF CONSEQUENCES TO DETERRING ILLEGAL IMMIGRATION

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: Do you think it's important as a matter of border security policy to maintain detention on individuals throughout the life cycle of their immigration case?

A: For what we are doing, absolutely.¹⁵

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Would you agree that a significant likelihood of release into the United States after a short stay in custody would incentivize someone to try to illegally cross into the United States?

¹² John Modlin, Transcribed Interview with the House Committee on Homeland Security, 101-102, July 26, 2023.

¹³ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 82, September 26, 2023.

¹⁴ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 57, September 28, 2023.

¹⁵ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 128, April 25, 2023.



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A: So what I will tell you is this: I think that if there is no consequence for an action, there's no deterrence for a person to not commit that action.¹⁶

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: If you—being someone on the front lines there, if there were certain policies you could enact that would improve the border security's—border security's—the accomplishment of border security in the Border Patrol's mission, which types of policies would you prefer?

A: Any policy that increases my capacity to deal with the border security mission and ensures a consequence on those that we're trying to take into custody for a violation of law—any policy that promotes those two things, one or both of those things would probably be something that I would be interested in looking at.¹⁷

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Why is it important for the Border Patrol to detain and remove illegal border crossers?

A: There needs to be a consequence to the illegal activity, otherwise it won't stop. And when you look at a population that's coming, the only real consequence that we have is to send them back to their home country.

Detention—there isn't enough detention in our country to detain everybody. And even if there was, it would be short term. Many of these folks come and have traveled for 6 months or a year to get here. A day or two in detention is not a penalty to them. They're more willing to do that. Fines, obviously, are not going to be effective when the individuals have everything they own with them.

And so the only real consequence we have is to send them back to their home country. And if somebody has traveled from wherever for an entire year and you fly them all the way back to their country, it's a significant penalty.

Q: Do you believe these consequences are being employed or deployed, do you suppose? Are people facing these consequences at a rate significant enough to deter them from illegally entering into the United States?

A: Not right now.

Q: Not right now.

A: Not right now.

¹⁶ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 105, May 5, 2023.

¹⁷ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 180, May 5, 2023.



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Q: Was there a time when they were facing these consequences at a rate that was more effective at deterring people from entering the United States illegally?

A: I would say yes. When the numbers were low enough for us to be able to manage and send back more people, yes.

Q: When would that have been in recent times?

A: It's been several years.

Q: Can you give me an approximate year?

A: I would be guessing if I did.

Q: Just give me an estimate, and that's fine.

A: An approximate timeframe going back maybe to 2017, 2018.¹⁸

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: And you talked about—you talked about the importance of consequences.

A: Yes.

Q: So, in making sure that, you know, there are consequences, do you agree that things like increasing detention capacity, increasing the speed of removal of migrants who are deemed not to have a lawful basis to remain, those are all things that are helpful to your mission?

A: Yes.

Q: Increasing removal flights?

A: Yes.

Q: Increasing the consequences for those who are ordered removed from the country?

A: Yes.¹⁹

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Isn't part of the ability to stop someone understanding why they are coming?

A: I think that consequences, providing a consequence is probably the primary way to stop someone from coming.

¹⁸ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 25-26, May 9, 2023.

¹⁹ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 74, May 9, 2023.



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Q: When you say consequences what do you mean?

A: Providing a consequence to someone that illegally enters the country, providing a consequence of some type has a great effect on migration routes and those who seek to come across the border.²⁰

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Sure. I believe you said in the previous hour that criminal consequences or penalties help deter people from crossing the border unlawfully?

A: I said that consequences, whether they be criminal or otherwise, help deter, not just criminal consequences, so, no, I didn't say that.

Q: Fair enough. But consequences in general help deter people from crossing illegally?

A: Yes.²¹

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Is it likely—we talked about detention—that migrants who are detained would not be communicating a similar message to those who are released back home, that I was released into the interior?

A: Yeah. So I think it's significant.²²

FAILURE TO DETAIN ILLEGAL ALIENS CAUSES MORE TO COME (“PULL FACTOR”)

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: Would you agree that there are pull factors bringing people to the United States?

A: I believe there are pull factors.

Q: Do you think that release from detention is a pull factor?

A: I think it can be a pull factor.

Q: And, under this administration, you're familiar with the Border Patrol's use of the notices to report for a period of time?

A: We never did those in Big Bend.

²⁰ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 33, July 12, 2023.

²¹ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 74, July 12, 2023.

²² John Modlin, Transcribed Interview with the House Committee on Homeland Security, 117, July 26, 2023.



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Q: Are you familiar with the fact that Border Patrol used notices to report?

A: I mean, I believe that I have an understanding that there was some type of—I don't know if it was called a notice to report, but I believe there was something being used.

Q: Do you know what the notice to report did?

A: To report to ERO facilities, I'm assuming? I believe? I don't know.

Q: Are you familiar with Border Patrol using parole-plus-ATD as a means of release?

A: I know that it's been authorized to do so, yes.

Q: Do you think that those two policies, allowing the release of illegal aliens into the United States without issuing a notice to appear, could act as a pull factor for people to come across the southwest border?

A: I think it goes back to what I've said before. I mean, if you call home and tell them this is what happened, I think there's a potential for that.²³

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: My colleague earlier asked you briefly about push and pull factors. Would you say that release can be a pull factor for people coming into the United States?

A: Yes.

Q: Do you think that the current rate of release at the southwest border is an active pull factor for people coming into the United States?

A: Yes.²⁴

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: Would you say that public perception of favorable immigration policies would be a pull factor to the United States?

A: If immigration laws were more lax for migrants to be able to more easily enter the United States?

Q: Not the laws necessarily, the policies implementing the laws. If someone perceives that they're going to be released, is that a pull factor?

²³ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 189-190, April 25, 2023.

²⁴ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 97-98, June 1, 2023.



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A: Yes.

Q: Before taking office or right as he took office, President Biden issued a 100-day pause on enforcement and removals. Do you think that's the type of favorable policy that people perceive as a pull factor—that is a pull factor?

A: If there aren't deliverable consequences to entering the country illegally, then there will be a pull factor.²⁵

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: And you mentioned that cartels are exploiting this through their false messaging, through social media, or any messaging to social media that may sometimes turn out to be true. And then you also mentioned that there's an increase in Venezuelan migration because of the failed government there. But none of those could exist if—or it would be harder to have a pull factor if the United States had different views or different approaches on how these migrants were handled, correct?

Because if none of them were released on custody, then they wouldn't be on social media telling their friends and neighbors and family, I got released. I made it here. The social media posts from the cartel, maybe—maybe it wasn't true that it was so safe because I got, you know, abused along the way or whatnot, but I'm here.

That part was true. Is that—is that—

Interjection: What are you actually asking, [Committee staffer]? I mean, that was—do you understand what he's asking?

A: I would say that the more people that are released, the more there is a draw.

[...]

Q: I think we've discussed this already, but I want to hit it again. Does the likelihood of release into the interior of the United States increase the likelihood that individuals will attempt to illegally enter the United States?

A: It increases the likelihood.²⁶

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Do you consider release into the interior to be a pull factor?

A: So I think, most importantly, what I would say, because, again, I think there's

²⁵ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 136-137, June 29, 2023.

²⁶ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 21-22 & 82, June 29, 2023.



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a lot of pull factors, I think optimally, other than the rare occasion where you have someone with a crazy medical condition, everyone should be detained. And that, to me, is the most obvious way to not encourage illegal migration, is everyone's held until they have a hearing.²⁷

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: And under Title 8 before, during, and now, people face consequences for attempting to cross unlawfully, correct?

A: So it depends on—it depends on the demographic. Yes, there's always a consequence of they're being charged with this violation of the Immigration Code. It just—you know, I think it's a definitional thing about a consequence. If—if somebody is served a notice to appear and released into the United States, then, you know, certainly, some people would not see that as a consequence as much as if they were to be served, held in detention and then, you know, go to a hearing, and then either be returned or allowed to stay in the United States.²⁸

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Do you think that perception of favorable policies—of favorable immigration policies in the United States could be a pull factor too?

A: It could be, yes.²⁹

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: What do you consider adequate consequences for illegal entry into the United States?

A: So, you know, in my time—I'm not a policy person. I enforce the policy, the rule of law and such. But, you know, we—in the Border Patrol, for us, it's mostly the consequences that—that bring a balance to illegal immigration, obviously, for entering illegally between those ports of entry.

Any consequence where a person is able to receive a penalty for an illegal act is—will work, will work to—to balance, you know, that—that—that illegal immigration type situation.

I think that, when there's not a consequence, we continue to see some of these surges that we—that we're experiencing here recently.³⁰

²⁷ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 116, July 26, 2023.

²⁸ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 62-63, July 26, 2023.

²⁹ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 100-101, September 26, 2023.

³⁰ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 44, September 26, 2023.



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ILLEGAL ALIENS KNOW THERE ARE NO LONGER CONSEQUENCES

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Is it a relatively recent phenomenon that single adult men are turning themselves in to Border Patrol custody rather than evading apprehension?

A: It's not something that I encountered regularly up until just a couple years ago.

Q: Why are they turning themselves in?

A: I think they believe that they're going to be processed and given a notice to appear so that they can await their immigration hearing in the United States.³¹

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Is there any particular nationality that has been trying to evade arrest that you've noticed more than others?

A: The main nationality that tries to evade arrest is Mexican nationals.

Q: Why is that?

A: Because they know they'll be removed under Title 42 immediately.

Q: So does that imply the people who aren't necessarily evading arrest believe that they will be released and not removed under Title 42 or Title 8?

A: Correct.³²

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: So I want to go back to your—what you were talking about with the bigger groups of aliens, the give-ups, the 200 to 300 groups that you were referring to earlier.

Why do you believe that they're giving themselves up rather than attempting to cross in between POEs?

A: Yes. So they are—they're giving up because they believe they're going to stay in the United States. If not, they would be, like everyone else in Tucson, dressed head to toe in camouflage, running as fast as they could, staying up in the mountains or in the valleys to avoid detection by our system.

³¹ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 90, May 5, 2023.

³² Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 34-35, May 9, 2023.



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Q: And is this a change within the last two and a half years, or between administrations, however—what period of time you want to choose?

A: Yes. So it is certainly a change in Tucson Sector.³³

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Do your agents interview migrants that they encounter about why they have come to the United States?

A: Yes.

Q: Do you know—what are the reasons or most prevalent reasons that people are giving to agents in Yuma Sector about why they’ve come to the United States?

A: So a wide variety, obviously. Some of the more common ones are better pay, better opportunities for the family, to raise a family. Again, the belief that they are going to be released with no consequence is certainly something that many migrants tell our agents.³⁴

MASS RELEASE OF ILLEGAL ALIENS

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Does headquarters ever give you pressure to move people out of detention because you’re over capacity?

A: No.

Q: What kind of feedback do they give you about those numbers?

A: To do our best to keep them down.

Q: And how do you keep those numbers down when it comes to detention?

A: Processing. Making our—putting as many resources that we can into processing to get the people moved quickly.

Q: And by “moved,” you mean released from detention?

A: Yes.³⁵

³³ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 126.

³⁴ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 114, September 28, 2023.

³⁵ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 148, May 9, 2023.



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Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: Were the large number of releases that occurred in recent years, prior to the expiration of Title 42, a more recent phenomenon? Have you ever seen that before?

A: In the past few years, I haven’t seen what we’ve been doing with that in the past few years prior when I was on the southwest border. So we’re talking over 5 years ago.³⁶

Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: Understood. And sorry for the lack of clarity. But following through, would you agree with me that there’s always been a certain portion of the migrants that are released and not detained for a significant period of time?

A: Released into the community?

Q: Yes.

A: I don’t recall that always being the case.³⁷

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Are—we’ll start with single adults. Are they detained before their credible fear interview?

A: So, currently, the credible fear interviews are taking place in Border Patrol custody.

Q: Okay. So those people remain in custody they’re interviewed?

A: And there’s also a program within ERO where they’re transferred to ERO and that is also conducted [in] ERO custody.

Q: Okay. So sometimes, they’re staying within Border Patrol custody for their interview and, sometimes, they’re going to ERO for their interview?

A: Yes. Both are possible.

Q: If they’re found to have positive credible fear, is Border Patrol going to issue an NTA and releasing them?

A: Yes.

³⁶ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 83, June 29, 2023.

³⁷ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 127-128, June 29, 2023.



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Q: For the family unit, are they—in the FERM program, are they also—do they also remain in custody for their credible fear interview?

A: No.³⁸

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Do you know since January—well, if you know, since January 2021, how many people have been released from Border Patrol custody from the Yuma Sector?

A: I don't have an accurate number to be able to give you.

Q: Do you know from your time in Yuma?

A: Somewhere between 65 to 70 percent.

Q: Of encounters?

A: Yes, ma'am.³⁹

PAROLE BEING USED TO QUICKLY RELEASE ILLEGAL ALIENS

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: So, in your sector, what would you say is the percentage of parolees from those you encountered?

A: So last year it was a large percentage. A large portion of them were being given parole and then given that alternative to detention. ATD is what we call it. That's where they're affixed with a device, like an ankle bracelet, or given a cell phone. And ICE would then turn them over to NGOs for them to travel to wherever they were going to go while they await their hearing.

Last year, for us, I would say the vast majority of the migrants that we encountered were processed under that parole pathway. This year it has changed, and the majority of them are going to be given a notice to appear.

Q: When you say vast majority, what does that mean?

A: I would say at least half. And I'll have the general counsel get you the exact numbers if you want them. But it was the majority.⁴⁰

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: And what—what factors did the sector take into consideration to use Parole+ ATD? [sic]

³⁸ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 110, September 28, 2023.

³⁹ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 113, September 28, 2023.

⁴⁰ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 25-26, May 5, 2023.



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A: So, if we were able to determine that the person did not pose a threat and that they—there was no other pathway that would be better for them to be processed under, processing somebody for parole requires about half the time that processing some—that does processing somebody under NTA. So the flow that we were seeing, the capacities that we had, the capacities of our partners down the chain in the system, and what best fit the migrant at the time, those are some of the factors that we used to make that determination.⁴¹

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: San Diego Sector started using parole plus ATD and Border Patrol border-wide started using notices to report because it was taking too long to process people by issuing them NTAs, right?

A: Correct. Correct.

Q: Do you anticipate you're going to run into a situation where it takes too long to process people with NTAs?

A: That's a possibility.⁴²

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: We talked about the Parole Plus ATD program. Do you know how often your agents utilized parole outside of the Parole Plus ATD program to process individuals who've illegally crossed?

A: I can't give you an exact number, but it was—it was quite a bit, yes.

Q: It was quite a bit? In RGV or in Laredo?

A: I'm only speaking for Laredo. RGV, I mean, yeah, when I was there, we used it. I can't give you an exact number, though.⁴³

PRIORITY ON RELEASING ILLEGAL ALIENS QUICKLY WITH NOTICES TO APPEAR

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Okay. So because you're not part of that pilot program, you're also not utilizing expedited removal. Is that what you're saying?

A: Not generally. We do have that. It's always available. But it tends to not be an expedient pathway compared to even the NTAs. So we would prefer to use the NTA.

⁴¹ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 155-156, May 5, 2023.

⁴² Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 99-100, May 9, 2023.

⁴³ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 123, June 1, 2023.



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Q: So the decision of whether to use expedited removal or NTA right now is based on efficiency?

A: In part, yes.

Q: And so do you think then when Title 42 expires and there's a potential for increase in migrants, the priority will be processing efficiency rather than expedited removal?

A: The priority is always going to be whatever we can do to get back to the border security mission. And so if we are not able to move 2,000 people that we're catching a day through our system, we have 2,000 more coming the next day.

That can lead to overcrowding. That can lead to collapsing down operations more. It creates a safety concern in those processing centers just for the migrants, for our men and women. And so the efficiency of the process has to be a factor.⁴⁴

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Would you say that the majority of individuals encountered are released with a notice to appear on their recognizance from Border Patrol custody in San Diego Sector currently, or is it less than the majority?

A: Right now, I would say it was the majority.⁴⁵

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: So, in fiscal year 2022, most were being released on their own recognizance via NTAs?

A: Most were.

Q: Is it likely—we talked about detention—that migrants who are detained would not be communicating a similar message to those who are released back home, that I was released into the interior?

A: Yeah. So I think it's significant.⁴⁶

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: When you started in 1995, what was the demographic at that time?

A: It was Mexican nationals.

⁴⁴ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 96-97, May 5, 2023.

⁴⁵ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 38, May 9, 2023.

⁴⁶ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 117, July 26, 2023.



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Q: What was the major—what was the predominant disposition for those illegal border crossers?

A: That was voluntary returns to Mexico.

Q: Today, what is the predominant disposition?

A: For RGV?

Q: Yeah.

A: It would be Venezuelans, followed by Central Americans, and then Mexico.

Q: Right. So that demographic, what's their disposition? What's the end result?

A: It would be, currently, either a removal—an ER, expedited removal, or a notice to appear, OR, and/or a voluntary withdrawal.

Q: Out of those three, which is the most used?

A: For the most part, it's notice to appear, OR.⁴⁷

NEW PHENOMENON OF ILLEGAL ALIENS TURNING THEMSELVES IN, NOT EVADING ARREST

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Would you say the majority of individuals encountered by Border Patrol agents in the Del Rio Sector are voluntarily turning themselves in to Border Patrol agents upon encounter or are they actively trying to evade apprehension?

A: So last year, I would say that predominantly they were turning themselves in. If you followed the news, you saw that we had a lot of what we call large groups. Large groups are at least a hundred individuals crossing the river at the same time. And sometimes those large groups got in excess of 500 people in the Del Rio Sector.

They would cross. They would find the nearest Border Patrol agent or they would just wait for us to arrive so that we could begin the intake and processing. When that happens, that's a massive logistical lift to begin intake and actually transport those individuals to a processing center. It forces us to collapse our operations, our border security operations, down even further to address what's right there in front of us.

⁴⁷ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 49-50, September 26, 2023.



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Remembering that everything is controlled by the transnational criminal organizations and the smugglers, who do you think is causing that? They are there causing those groups to cross. Why? Because they are going to take advantage of that where they can.⁴⁸

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: It wasn't always, like—well, it wasn't always that people turned themselves in, right?

A: No. There's—for the majority of my career, I was chasing people that had crossed the border illegally. The phenomenon of having folks turn themselves in, it's happened, but not at the levels that I have been seeing in the last couple years.⁴⁹

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: What would you say is the proportion of individuals encountered by your agents in the San Diego Sector who are turning themselves in to Border Patrol agents as opposed to trying to evade arrest?

A: Right now, the vast majority are giv[ing] up in the desert.

Q: So they're not fleeing from agents. They're staying put and turning themselves in—

A: Correct.⁵⁰

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: And what limits their ability to do that work [the national security mission], again?

A: The enormous amount of people that they're dealing with. So the enormous amount of migrants, say, a group of 500 that give up. So 10 agents are going to be transporting them, processing them, making sure that they're fed and showered and all of that. And so they're not in the field patrolling the border.

Q: And it's accurate—is it accurate to say that the enormous amount of people that are doing the give-ups, that is a more recent phenomenon?

A: Yes.⁵¹

⁴⁸ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 51-52, May 5, 2023.

⁴⁹ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 129, May 5, 2023.

⁵⁰ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 36-37, May 9, 2023.

⁵¹ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 84, May 9, 2023.



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Chief Patrol Agent Anthony Good, El Paso Sector (June 29, 2023)

Q: Did you see large groups that were giving themselves up like you do in El Paso today back when you served in Laredo in 2018 or in the Tucson Sector prior to that?

A: No.⁵²

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Do you know the reason why the smuggling organizations would use less task saturation? Is it a function of more turn-ins? Or what would explain that trend?

A: So, yes. Because we're having such large give-up groups, it's not uncommon now to see a group of 200 to 300 people giving themselves up, and they're doing it in some of the most remote areas.

So just like task saturating our agents in the field, it pulls a lot of resources to that area, especially these populations that are in very remote areas, in the heat that they're in out there.

So, of course, the humanitarian side of the mission kicks in, and we go out there and sort of triage those groups, figure out who is most vulnerable, and get them out of those areas.

But this is, if you haven't seen, it's difficult sometimes I think to recognize, but it can be hours where they're at from the nearest road. So we have to go off road to get to them and take them out one van at a time or vanfuls at a time.

So it really pulls all the resources to those areas where the give-up groups are at.

Q: How frequently are you seeing these large groups of over a hundred people? Is that a daily occurrence? A weekly occurrence?

A: Daily and often multiple times a day.⁵³

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Of the trend you're currently seeing, do the majority of individuals turn themselves in to Border Patrol after illegally crossing, or are you seeing individuals attempt to evade apprehension?

A: Currently, we're seeing a lot of family units turning themselves in to our Border Patrol agents.⁵⁴

⁵² Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 16, June 29, 2023.

⁵³ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 15-16, July 26, 2023.

⁵⁴ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 14, September 26, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

ILLEGAL ALIENS COMMUNICATE THEIR EXPERIENCES UPON MAKING THE JOURNEY AND BEING RELEASED

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: From your observations, just generally speaking, although none of your roles and responsibilities necessarily include policy, just from your personal experience and firsthand observations, what can we attribute these increasing numbers toward?

A: So I think the traffic comes to Del Rio Sector in large part because of the message that is transmitted among the migrant population.

When you have folks that make the trip and they come across, they're in communication with the folks that are back in their home country or their families who may also be thinking about making that journey.

And if they perceive it to be safer or more expedient, they give recommendations. And they do that by phone. They do that on social media outlets.⁵⁵

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Okay. So when these ATD numbers are greater, do you believe that those numbers or that knowledge also gets fed into that population of migrants who might want to cross illegally?

And you had mentioned that there is a lot of communication in between migrants who then say maybe the journey is safer than it really is, or maybe it's not as perilous, or maybe I'll be paroled and it won't be a big deal?

A: So I believe that the migrants communicate the entirety of their experience to their friends and family back home, and that would include what their experience was with whatever processing pathway they were put into.

[...]

So I don't know if they're seeing ATD numbers. I hope they're not privy to that information. But I can tell you that, yeah, if the general perception is that it's easy, that would logically prompt somebody to be more inclined to make that decision.⁵⁶

⁵⁵ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 21-22, May 5, 2023.

⁵⁶ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 27-28, May 5, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Chief, if I may follow up, when you were asked—you just mentioned that when certain demographics see that they'll be released, they notify people that they'll be released. What demographics are you referring to?

A: A good example is family groups. So family groups, when we see individuals that come across, and they have—it's a family of five, for example, and they—it's much more difficult to find detention or housing for a family group.

So—all right. So, for an example, they're released on their own recognizance. Individuals come up and see that. And, if they were single adults, we do see people rent a family. So they will find somebody with children, and they will pay to take those children with them when they come to the border and say that they're their children so that they're more likely to be released.⁵⁷

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: If a cartel tells people—migrants—that it's going to be really easy to get here and you'll be released into the United States, and that person comes, and it was really hard to get here, but they were still released into the United States, in your experience, does that person call back to family or community members and let them know how it went?

A: Yes.

Q: So, even if the cartel is lying about how hard it is to get here, if the person is ultimately released, isn't that only partly misinformation?

A: I'm not sure exactly which part.

Q: That's okay.

So if—if it was all a lie. If the cartels said it's going to be really easy to get here and you're going to be released, and a migrant came, and it was a terrible journey, and they got rejected and they got removed to go home, they would tell their family: Don't do it—right—because it was hard, because it was all a lie; it was hard, and we took our son home. Right?

A: Right.

Q: But, if only part of it was untrue, so they said "it's easy, you'll get in, it was a really hard journey, but I got in," people still might make that journey, right?

A: Right.

⁵⁷ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 46-47, May 9, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

Q: So, if it was all misinformation, why are people still coming?

A: It goes back to both sides. But as long as they make it into the United States, that's their ultimate goal. And so, if they've been traveling for a year, they've risked their lives more than once, not just at the border. And so that is their ultimate goal. So it's all worthwhile if they make it here.⁵⁸

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: So, regardless of what the cartel tells them about the journey or the path of gold, if these people are released, they're still going to come, right?

A: Yes.

Q: How else do they find out about information? It's not just the cartel, right? Does their family—strike that. Family that's already come, do they call back?

A: Yes.

Q: And they find out from friends and other people who have crossed?

A: Yes.

Q: And some people and wait in Mexico to see if the people they were with are successful before they cross?

A: Yes.

Q: Do you think that that has a large influence on whether a person decides to cross into the United States?

A: Yes.⁵⁹

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: And that would not be any false messaging or misinformation by the cartels if they were to spread and promulgate messages that, hey, people get released after they're in custody and they'll be able to remain in the United States. Is that a fair statement?

A: Many times it's not just the smugglers doing that, right. If—if somebody's released, then that person that was released will get on social media and say, Hey, look at me, I've been released. And then that creates a draw specifically to that area. So if it happens in El Paso and they post that on social media, that will create a draw to El Paso, same for any other sector.

⁵⁸ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 151-152, May 9, 2023.

⁵⁹ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 97, June 1, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

Q: Okay. We'll get to more about the statistics later. But is it fair to say that if someone were to be released from custody, especially in a short period of time or whatever their experience may have been, that they might call their friends or family back home and say, Hey, this has been my experience and it was relatively painless?

A: Whether it's a call or a social media post, yes, that occurs.⁶⁰

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: And referring back to the interviews, what are you hearing now in post interviews?

A: So now it's a combination of things. There is still some of the change in administration stuff, the policy and law change, that perception that people have. And some of it is, we're fleeing violence, we're fleeing for economic reasons, or we've heard that we'll be welcomed here or there.

And I should say too my experience is also that the way that information is disseminated now is incredibly different.

When I started my career, immigration flows took months to change, and now it seemingly can change overnight because people are live streaming themselves crossing the border. They're sending it back to—their families are seeing it. People in the area they come from see it.⁶¹

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: You also mentioned the role of social media, of information. You mentioned that illegal border crossers FaceTime family abroad.

Do you have any insight into what they're communicating abroad?

A: No. I really don't know what it is they're communicating. But what I do know is that there's certainly—again, there's not the air of mystery to the border that there used to be, because people can leave their country and then, however long it takes them, a couple weeks, to get here, and then they're inside the United States, and then they're in Kansas City, or they're, wherever their destination is, they're there, and they're in communication with their families.

Q: So the assumption is that they got released?

A: The assumption is, yes, they're somewhere in the United States.⁶²

⁶⁰ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 20-21, June 29, 2023.

⁶¹ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 30-31, July 26, 2023.

⁶² John Modlin, Transcribed Interview with the House Committee on Homeland Security, 115-116, July 26, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: What are some pull factors that would bring someone to the United States?

A: It would be families that are already in the United States pulling their relatives, you know, encouraging their relatives to come out. It would be companies or organizations that are hiring these individuals in the United States that others have told them: Hey, you can get a job here type thing. I think it's the feedback that people that are here already provide them to encourage them to come.

Q: What kind of feedback do you think people provide that would encourage others to come?

A: Job, opportunities, housing, better quality of life type conversation.

Q: What about potential for release into the United States?

A: Possibly. I'm not 100 percent sure, but that is possibly a conversation that takes place as well.⁶³

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: When you say word travels, whose word? Among who?

A: So among the migrants themselves, among the smuggling outfits. I mean, social media is widely used.

There was Tiktok [sic] videos being produced, you know, that was documenting journeys how to cross.

Particularly into Yuma Sector, it was showing them firsthand accounts of which trails to take, where the border wall ended, which gap to exploit, you know, where to stay, all of those things.

So smart phones are everywhere, you know, and so word travels extremely fast among migrants. It travels fast among the transnational criminal organizations, local smugglers, and the cartel.

Q: Have you seen that social media content that shows things like routes and where to cross?

A: Yes.

Q: Where do you find that?

⁶³ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 100, September 26, 2023.



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A: Tiktok [sic]. Any of these social media accounts have those things. Again, I'm not personally involved in the exploitation of it, but our intel [sic] units frequently find those things. Again, they elevate them with the field information report up to the intelligence units up at Headquarters.⁶⁴

OPERATIONAL IMPACTS OF HISTORIC BORDER CROSSINGS

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: And how many encounters, if you know, did Big Bend have that month?

A: 5,050.

Q: And when you have 5,050 encounters, what does that look like in terms of strain on resources in the sector?

A: Well, I mean, the resources where we're at, the difficulties, I think the real problem is looking at the where the majority of these entries were and then looking at the resources that were available. So we had to make changes there to make sure that we could adequately deal with that particular area, and we did so.

I think if you're talking about strained resources, a lot of it has to do with the amount of people that are actually available in the area. We had to change our tactics. We had to be—we had to take advantage of the terrain and have operational advantage where we didn't have it in the past.

It is very rough terrain, and agents would oftentimes—they would find an entry and they would track that entry out to wherever it was. And then if it was in the mountains, it would take more people to actually go and make sure that everybody got out safely and then returned back to the station.⁶⁵

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Is it easier or harder to maintain operational advantage or operational control during times where migrant flow is high?

A: It's more difficult.⁶⁶

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: If there's more individuals crossing illegally in between ports of entry at the Laredo Sector, does that make it more difficult for your agents to apprehend as many people as possible?

⁶⁴ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 31-32, September 28, 2023.

⁶⁵ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 32, April 25, 2023.

⁶⁶ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 177, May 5, 2023.



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A: Well, they're apprehending—if they're apprehending people, a large amount of people between the ports of entry, does that mean that they can't get somebody else, is that what you're asking me? I'm sorry.

Q: If more agents are arresting—are arresting more people and then bringing them back to the Border Patrol station for processing—

A: Oh, okay.

Q: —before they get out into the field, does that impact their ability to—

A: It can, yes.⁶⁷

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: In August of 2022, encounter numbers were at almost 30,000. By September, the encounters went up to 50,000. Do you know what impacts that had on operations in El Paso?

A: Like I mentioned before, it draws manpower from the field. It puts a strain on resources, such as transportation to transport from the field to processing. We require more support from other sectors to help us out with manpower, as well as virtual processing.⁶⁸

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: Does the risk profile for Border Patrol agents increase with increasing flow of illegal immigration in between the ports of entry?

A: Yes.

Q: And how so?

A: There's limited manpower dealing with large groups. We've got less agents in the field because agents are processing in the processing centers. And then, with the less agents in the field, they're dealing with more people. And people with bad intentions can be mixed into those large groups. That can be overwhelming to any law enforcement official that could be in one of those crowds.⁶⁹

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Has the trend of seeing large groups existed throughout your career in Border Patrol, or is that a more recent phenomenon?

⁶⁷ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 37-38, June 1, 2023.

⁶⁸ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 32, June 29, 2023.

⁶⁹ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 74, June 29, 2023.



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A: I've seen large groups throughout my career. However, over the past couple of years, I've seen more larger groups.⁷⁰

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: So when—I guess the point of my question is, when there are miles—even when you're fully staffed, there are miles that are unpatrolled by agents, right, so you don't have one agent per mile.

A: Correct, correct.

Q: When there's a surge and you have to take a bunch of agents off the line, does that leave many more miles wide open on the border without patrol?

A: It does leave vulnerability for us, because agents are being pulled away from primary patrol duties to come access a certain situation.⁷¹

AGENTS STUCK PROCESSING ILLEGAL ALIENS INSTEAD OF PERFORMING THEIR BORDER SECURITY MISSION

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: Okay. And just one more question. You said that you've got around 17 percent of agents that are processing. Is that accurate?

A: About 16 percent.

Q: Sixteen percent.

You said that most agents would rather be out in the field doing encounters.

A: The majority, not all of them. Some of them like it. But the majority want to be out doing standard Border Patrol work in the field.

Q: Have you heard anything from agents in other sectors that are doing more processing than you guys are in Big Bend complaining about doing processing as opposed to more traditional law enforcement?

A: Well, I mean, I hear stuff from our agents when they come back, that they've said that there's a lot of people that are stuck processing for a long time.⁷²

⁷⁰ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 89, July 12, 2023.

⁷¹ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 101, September 26, 2023.

⁷² Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 209, April 25, 2023.



PART 1: FIRST-HAND ACCOUNTS OF THE CRISIS FROM BORDER PATROL SECTOR CHIEFS

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Thank you. And then another sector chief informed us that Border Patrol agents really want to be in the field and doing that job. Would you agree with that statement?

A: I would agree with that, yes.⁷³

Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: How many daily Border Patrol agents are assigned to the processing center?

A: It’s about 12 percent of our Border Patrol agent workforce currently.

Q: Are they assigned per shift or is somebody just assigned to the processing center?

A: There are times when we detail on a daily basis. Currently, we have a detail that’s a longer term detail at the soft-sided facility, hard- and soft-sided facility.

Q: Okay. So generally speaking, at any point in time, it’s about 12 percent of the workforce that’s—

A: Since I’ve been there, yes.

Q: Okay. And so that’s 12 percent of about 2,000?

A: Yes.

Q: And you mentioned that other—

A: Twelve percent of the Border Patrol agents. So that’s about—because when I say 2,029, or whatever that number was, 2,000-plus agents, right, that includes managers and other positions that aren’t a Border Patrol agent, field—

Q: Line agent?

A: —line agent. And so that number is a little over 1,600. So 12 percent of that number.

Q: Of 1,600.

And then you mentioned that other details from other agencies typically help with processing and transportation. So they’re working within those processing centers too?

⁷³ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 67, May 5, 2023.



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A: Yes.⁷⁴

Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: Can you speak to or give us a sense of what percentage of the Border Patrol workforce in your sector is dedicated to processing activities currently?

A: Currently, around 12 percent of the Border Patrol field agents.

Q: Okay. And is it fair to say that processing, care and custody, those kinds of activities, have always been a part of a Border Patrol agent’s job to one extent or another, since you’ve been in Border Patrol?

A: Since I’ve been in Border Patrol, not on the scale that we see now, but processing has been a function that Border Patrol agents have performed.⁷⁵

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Did that surge have an impact on operations in El Centro?

A: Yes.

Q: In what way?

A: Any time there is a surge of individuals processing care, feeding and care of those individuals takes Border Patrol agents away from their primary job of preventing bad people and bad things from coming across the border.

Q: And is that what you experienced in 2021, that agents were taken away from the border to do processing?

A: Yes.⁷⁶

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Thank you. And then, you know, briefly you’ve talked about processing coordinators in your testimony in February as well as today. About what percentage of your Border Patrol agents are dedicated to processing activities?

A: So most recently when I looked at it, it was about 38 percent of the—the Border Patrol staff in Tucson is—is doing processing/detention stuff. I think when I testified in February, it was more about 20 percent or so.

Q: Okay. And just to be clear, Border Patrol staff, do you mean agents?

⁷⁴ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 86-87, June 29, 2023.

⁷⁵ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 105-106, June 29, 2023.

⁷⁶ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 28-29, July 12, 2023.



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A: Yes. Agents, yeah.⁷⁷

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: And I'm guessing that also puts a strain and causes morale issues as well being in that type of situation so frequently. Is that fair?

A: So I think it's sort of a double-sided thing.

So I believe for the people that are doing the rescues, the majority of the rescues, like BORSTAR, those are all volunteers. I would suspect if you were to talk to BORSTAR agents, they would tell you they live for that. They live to go out and rescue people and potentially risk their lives doing that.

I think that the challenge is when agents are performing duties that they don't feel are part of the border security mission, that's where it becomes potentially a morale issue.

I believe most agents would say that the humanitarian part, when it comes to a rescue like that, like an emergency rescue, they absolutely would say they're patrolling the border, that's happening on the border, that's my responsibility to deal with.

It's the other stuff, the detention stuff, the care and feeding, that sort of thing, that agents generally have the feelings about that is detrimental to morale.⁷⁸

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Chief, other chief patrol agents have stated to this committee that, in their respective opinions, their agents prefer operating in the field as opposed to processing individuals. Would you agree with that statement?

A: Yes, I would agree that, you know, that the overwhelming majority of agents want to be out in the field. That's why they became Border Patrol agents.⁷⁹

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Do you know what kind of impact, or was it a similar impact just on logistics that that surge had on RGV?

A: So, when we have the surges, it's pretty typical. The logistics, the personnel, the impacts are very similar. The one thing I think that we are doing quite well in RGV right now is that we're still maintaining a semblance of enforcement assignments for our agents. It's between 52 to 64 percent that we try to keep our agents on the front line doing patrol work versus the processing and nonenforcement details.

⁷⁷ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 65, July 26, 2023.

⁷⁸ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 108, July 26, 2023.

⁷⁹ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 133, July 26, 2023.



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But surges, when they happen, logistically, they absorb—they absorb resources, right? So it's pretty similar with one to the other.

Q: So more agents that are doing processing, less front line during those surges?

A: For the most part.

Q: What kind of impact does that have on agents' morale?

A: It has a significant impact. I think agents, for the most part, want to be on patrol. They want to do the mission of border security. To us, it's a concern everything that happens between those ports of entry.⁸⁰

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: What kind of difference did you experience in the Yuma Sector from the El Centro Sector?

A: Yuma Sector had a significantly higher daily encounter rate. Obviously, El Centro did not have a centralized processing center, you know, like the soft-sided facilities.

So Yuma did, and so they had capacity issues almost every day. They were overwhelmed with transportation duties. They were overwhelmed with processing duties. There was multiple support requests to get detailed personnel in there to assist with that. A large percentage of the Border Patrol agents were pulled off of their line functions and performing administrative or processing duties rather than performing that frontline law enforcement mission.⁸¹

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: I'm going to move on to some of the encounter trends that you see in Yuma.

In January 2021, Yuma was experiencing about 1,624 encounters a month, and just one year later, Yuma had well over 20,000 monthly encounters. Do you know—I know that you didn't get to Yuma until August 2022, but do you know what kind of impact that had on operations in Yuma? Were you briefed on that?

A: Yes. I was fairly aware of the impact and, again, there's duties that have to be performed, and when you have that type of volume, which is overwhelming for any law enforcement agency, it has an impact to operations because operations have to be shifted into a humanitarian-type mission in order to protect vulnerable populations, in order to perform transport duties, in order to complete that processing to ensure that overcrowding capacity issues are kept at a minimum.

⁸⁰ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 33, September 26, 2023.

⁸¹ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 18, September 28, 2023.



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So operations will suffer. Operation will be impacted. They will be lessened in order to do that other humanitarian mission.⁸²

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: And about what percentage of the Border Patrol agents in the Yuma Sector are dedicated to processing or are on the front lines?

A: So currently assigned to the CPC, mainly doing the processing duties and other functions that are just required inside the CPC, about 20 percent of my manpower is assigned to the CPC. It's an absolutely massive facility.⁸³

AGENTS DIVERTED FROM OTHER SECTORS TO PROCESS ILLEGAL ALIENS

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Did you get agents detailed into your sector to help with or have you had other agents from other sectors detailed to you to help?

A: Yes. So we had people detailed in, and we call that TDY, temporary duty. So they're being detailed away from their permanent station. And that, of course, comes at the expense of what they're supposed to be doing at their station.

Q: Have you gotten anyone from the northern border?

A: We did.

Q: How many do you think you got from the northern border?

A: It varied from month to month. But I think at our highest, maybe 75 at a time.⁸⁴

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Did you have to receive people from other sectors to process them?

A: Yes.

Q: Which sectors?

A: Yuma Sector, El Paso Sector, and Rio Grande Valley Sector.⁸⁵

⁸² Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 28, September 28, 2023.

⁸³ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 66-67, September 28, 2023.

⁸⁴ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 45, May 5, 2023.

⁸⁵ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 30, May 9, 2023.



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Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Does removing agents from other sectors to detail them to Tucson, does that increase the likelihood of gotaways in other sectors?

A: So what I can tell you is about 6 months maybe to a year ago we were sending about 50 agents at a time out to I believe Del Rio, between Del Rio and RGV, and certainly that affected our level of border security. So I would assume it would have the same impact to other sectors.

Q: And is that a concern to you?

A: Yes, absolutely.⁸⁶

CHECKPOINTS BEING SHUT DOWN

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Throughout 2021, encounters fluctuated—and into 2022—between about 12,000 to where it hit its peak in July of 2022 to about 16,000.

How did your sector handle those fluctuations?

A: We focused on the actual border, the land border. So San Diego Sector has 60 miles of land border and then 900-plus miles of coastline and then our checkpoints and interior operations. We pulled resources out of—off of the maritime side and then the checkpoint side and focused on the actual physical land border.

Q: What kind of impact did it have operationally to have to focus resources away from checkpoints and the water?

A: We don't see what's going on in those areas nearly as much and it lessens our impact on particularly those that—the reason our checkpoints are there is to arrest what we miss on the border at further into the interior. And so we're not able to do that.

Q: So what kind of things could you be missing?

A: Individuals that made it past us at the border, and then narcotics that made it past as well.⁸⁷

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: We mentioned before that your sector has four interior checkpoints. Do your agents routinely seize narcotics and interdict illegal immigrants at those checkpoints?

⁸⁶ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 104, July 26, 2023.

⁸⁷ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 28-29, May 9, 2023.



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A: Yes.

Q: Has there been any impact on operations of those checkpoints given the high flow of illegal immigration over the last 2 years since you've been in San Diego Sector?

A: Yes.

Q: What has that impact been?

A: The checkpoints and the interior payment operation have been very, very sporadic.

Q: Are you concerned that operations at those checkpoints may again become sporadic when the CDC's order under Title 42 expires?

A: They're already shut down.

Q: So your checkpoints are currently shut down, the interior checkpoints?

A: Yes.

Q: So that means agents are not screening individuals for immigration status or narcotics or other criminal activity at those checkpoints currently?

A: Correct.⁸⁸

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: Do you operate interior checkpoints in the El Paso Sector?

A: Yes.

Q: Do you know approximately how many interior checkpoints you have operational in the El Paso Sector?

A: Six checkpoints that are permanent checkpoints. We also have tactical checkpoints that we'll put up from time to time.

Q: Those tactical checkpoints are in response to intelligence being received or migration trends or other factors?

A: If we see an increase of smuggling loads, reckless driving, those kinds of things, we'll put up additional checkpoints to try to make the community more safe.

⁸⁸ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 114-115, May 9, 2023.



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Q: Has the increase in illegal migration over the last few years impacted the ability to keep those checkpoints operational?

A: It makes it more challenging, yes.⁸⁹

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Do the surges have an impact on your ability to keep those checkpoints operational?

A: Yes.

Q: Is that impact a staffing impact, or what is the impact of the surges on the checkpoints?

A: Yes, it's a staffing impact.

Q: Is the staffing impact because agents that would be manning the checkpoint are needed for other duties, such as care processing of illegal aliens, or what is the impact of the surges?

A: Yes, that is the impact.

Q: Since you've been in the El Centro Sector since April of 2020, has there ever been a time when you've had to shut down one of your permanent checkpoints?

A: Yes.⁹⁰

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: You mentioned you have three interior checkpoints in the Yuma Sector; is that accurate?

A: Yes, sir.

Q: Are those checkpoints useful in encountering additional narcotics or illegal entrants who may have made it past Border Patrol in the first instance when they cross the border?

A: Yes, they are.

Q: To your knowledge, was there ever an impact on the operations of those interior checkpoints given the increase of flow over the last few years you witnessed in Yuma?

⁸⁹ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 76-77, June 29, 2023.

⁹⁰ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 92-93, July 12, 2023.



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A: Yes, sir. For the majority of Fiscal Year '22 and even really up until May of this year, our checkpoints were down.

Q: All three of them?

A: Yes, sir.

Q: And what impact does that have on the enforcement posture of the entire sector when those checkpoints go down?

A: So it opens up the freedom of movement. It's pretty common for—you'll hear it a lot in law enforcement. For any criminal organization to be successful, they require freedom of movement, and that is key to being able—whether it's moving people or moving dangerous narcotics, weapons, cash, whatever it is. Any time that's impeded, it has an impact.

[...]

Q: When those checkpoints were down, were they down because the Yuma Sector needed the agents that would otherwise be staffing those checkpoints for process, patrolling, other duties?

A: Yes, sir.⁹¹

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Do you know what the trends that you're currently seeing in narcotic interceptions are?

A: Narcotics are—the interdictions are up in Yuma Sector. Yuma Sector is not a well-known narcotic corridor. Again, it's mostly a human smuggling-type corridor. Those are clearly defined with the cartels, but fentanyl is up. Cocaine is up. Heroin is up.

Again, a lot of that is, again, because the checkpoints are now up and fully operational, and so it doesn't mean that we're catching everything. It doesn't mean that there's not things that aren't getting away from us, but the increase that you see this FY compared to the previous FY is largely in part because the checkpoints are now fully operational.

⁹¹ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 47-48, September 28, 2023.



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Q: Does that indicate that because those checkpoints were not operational previously that there may have been a lot of narcotics that were making it into the interior of the country?

A: Yes, sir. It's certainly possible.⁹²

IMPACT OF OPEN BORDERS ON GOTAWAYS, SECURITY THREATS, AND NARCOTICS

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Would you say the majority of individuals encountered by Border Patrol agents in the Del Rio Sector are voluntarily turning themselves in to Border Patrol agents upon encounter or are they actively trying to evade apprehension?

A: So last year, I would say that predominantly they were turning themselves in.

[...]

A: Again, I go back to that is the major concern for us, is the border security mission. And our true adversary, the smugglers, while we're tied up with this humanitarian effort, what are they doing around the bend that we can't be there to respond to? Is that where they're crossing dangerous narcotics? Is that where they're crossing convicted felons? That is what keeps us up at night.⁹³

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Can the getaway numbers be attributed to the increased flow at the Southwest border?

A: So, by virtue of the fact that I don't have as many agents out on patrol because they're addressing that flow, then it can provoke the getaway numbers to be higher because we're not out there. If we were out there, it stands reason we might be able to apprehend more of them.

At the same time, because we're not out there and as great a number, we might be missing some of the gotaways and not know as many as are actually getting away.⁹⁴

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Does the high flow that the Del Rio Sector is currently experiencing have an impact on Border Patrol's ability to reduce the number of known got-aways coming into the sector?

A: Absolutely.

⁹² Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 48-49, September 28, 2023.

⁹³ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 51-52, May 5, 2023.

⁹⁴ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 126, May 5, 2023.



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Q: And in what ways?

A: As I said before, if my men and women are stuck in a humanitarian effort of processing these folks, they cannot be in two places at once. They cannot be out on patrol. And where I need them out on patrol is to not only account for those got-aways but to reduce them, where possible.

Everything revolves, as I said before, around having those men and women on the ground doing the job.⁹⁵

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Do you know how the got-away trends in San Diego have fluctuated since you first came on board?

A: They've continued to rise.

Q: And what factors do you attribute that rise to?

A: Increased traffic on the border itself.⁹⁶

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: So if you look at January, the encounter—January '23, the top row, the encounter numbers were about 30,000. And then by March they had risen to 40,000; by April, 42,000.

Do you know what drove that 2-month jump?

A: I do not.

Q: Did Border Patrol feel the impact of that large jump?

A: Yes.

Q: And in what ways did it impact operations?

A: When you have larger influxes such as this, it takes more agents to assist in processing, not only for the processing of the migrants but the welfare and care of the migrants, the security of those facilities.

So that—that is a draw of manpower from the field, which is where we'll see an increase in things like got-aways, what we call when migrants evade us and we don't make the encounter or apprehension.⁹⁷

⁹⁵ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 55-56, May 5, 2023.

⁹⁶ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 41, May 9, 2023.

⁹⁷ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 30-31, June 29, 2023.



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Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: Given the migrant surges that have been experienced in recent years, does that have an impact on Border Patrol’s ability to reduce the number of known got-aways in the El Paso Sector in terms of diverting resources or some other factor?

A: As we’re spread thin doing other functions and have less agents available to make interdictions, that increases the likelihood of got-aways.⁹⁸

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: In responding to those large groups, you mentioned the transportation difficulties and them being in remote areas. Is there an operational impact to agents being able to prevent those who are seeking to evade apprehension?

A: Yes. So once we’re aware of one of those large groups and where they’re at and the conditions that they’re in, then the primary goal becomes the humanitarian mission of, of course, apprehending them, but also making sure that they’re not out there in the heat. We try to get them out as soon as possible. So then the border security mission suffers at that point.⁹⁹

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Do your agents also encounter individuals who have sought to evade detection?

A: We do. Mostly, at times, it’s single adults.

Q: Do your agents encounter individuals in the field who have prior criminal convictions or outstanding warrants?

A: They do. Our agents encounter that.

Q: What types of crimes or allegations are you seeing?

A: So there’s a variety that are encountered. Many times it’s gang Members. Other times, there are criminal records of sex offenders, homicide, burglaries, et cetera.¹⁰⁰

POTENTIAL THREATS POSED BY KNOWN GOTAWAYS

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: What tactics do the human smuggling organizations use to enhance an individual’s ability to evade detection?

⁹⁸ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 43, June 29, 2023.

⁹⁹ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 16, July 26, 2023.

¹⁰⁰ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 15, September 26, 2023.



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A: In Big Bend Sector we see people in camouflage, camouflage backpacks. We see some of that. Walking at night. What they're looking at in our AOR as far as our technology, what they do know, how to evade that, and then what we do to counter that. They use vehicles, hidden compartments in vehicles.¹⁰¹

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Are you concerned that individuals who are evading apprehension entirely could present an elevated risk of a public safety threat, such as a criminal—prior criminal history or a prior removal history?

A: So here's my concern. If a person is willing to put themselves into harm's way crossing through very remote, very dangerous conditions to evade capture, you have to ask yourself why. What makes them willing to take that risk? That's of concern to me.

What's also of concern to me is I don't know who that individual is. I don't know where they came from. I don't know what their intention is. I don't know what they brought with them. That unknown represents a risk, a threat. It's of great concern to anybody that wears this uniform.

Q: Are you aware of whether the transnational criminal organizations are charging a premium to individuals to guarantee or increase the likelihood that they will be able to evade apprehension by Border Patrol agents?

A: It wouldn't surprise me. They look at their operations like a business venture. And so do they have tiers for what they charge? That wouldn't surprise me at all.

We already know that they charge based on where the person comes from and what their situation is. So they very easily could do what you're saying.¹⁰²

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Are you concerned that the gotaway population in the Del Rio Sector could include serious criminals or individuals who might be terrorists?

A: So that's the concern of just the gotaways in general. As I said before, you don't know who they are, where they come from, what their intent is, what they're bringing with them. And it could range from very minimal to very severe. We just don't know. And so, because of that, of course it's a concern.¹⁰³

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Okay. Do the transnational criminal organizations charge extra for individuals who are seeking to evade apprehension entirely, if you know?

¹⁰¹ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 133-134, April 25, 2023.

¹⁰² Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 56-57, May 5, 2023.

¹⁰³ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 125, May 5, 2023.



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A: Yes. From what we have gathered from people, depending—it costs more to go through an area that has a better chance of getting away.

Q: Are you concerned about the public safety risk that could be presented by an individual who is paying that premium to evade Border Patrol in terms of prior criminal history, of removal history—

A: Yes.

Q: —or other factors?

A: Yes.¹⁰⁴

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: You testified earlier that there were approximately 66,000 known got-aways since October 1st of this previous calendar year. Is that correct?

A: Correct.

Q: Are you concerned that the got-away population in San Diego could also include individuals who have derogatory information related to terrorism?

A: Yes.

Q: Are you concerned that the public safety risk presented by individuals who evade detection by Border Patrol in the San Diego Sector could increase when the CDC order under Title 42 expires?

A: Yes.¹⁰⁵

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: You mentioned that increased encounter numbers affect agents' ability to police the border and to capture those who seek to evade apprehension entirely—gotaways—correct?

A: Yes.

Q: Have gotaways increased in the past 2 years?

A: Yes.

Q: Are gotaways potentially dangerous from a public safety standpoint?

¹⁰⁴ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 40-41, May 9, 2023.

¹⁰⁵ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 116, May 9, 2023.



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A: Yes.¹⁰⁶

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: Are you concerned that the got-away population could potentially include serious criminals or people with ties to terrorism?

A: Yes.¹⁰⁷

Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: Are you concerned that individuals who are more likely to evade apprehension, then [sic] turn themselves in to Border Patrol, may have a criminal history or some other derogatory information that could lead to a public safety risk?

A: Yes.

Q: Has Border Patrol in the El Paso Sector, do they routinely encounter individuals with prior criminal histories?

A: Yes.

Q: Do these criminal histories relate to crimes involving public safety concerns?

A: Yes.

Q: Do your agents in the El Paso Sector encounter individuals who have derogatory information related to terrorism?

A: Yes.¹⁰⁸

Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: But why do you think it’s important—it’s an important aim to prevent all unlawful entries, including entries by terrorists and other unlawful aliens?

A: We want to protect the country. So anyone that evades apprehension from us, we don’t know what their intent is or what they’re capable of.¹⁰⁹

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Do got-aways concern you from a national security standpoint?

A: Yes.

¹⁰⁶ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 163, May 9, 2023.

¹⁰⁷ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 50, June 1, 2023.

¹⁰⁸ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 43-44, June 29, 2023.

¹⁰⁹ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 141, June 29, 2023.



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Q: And why is that?

A: Any got-away or any illegal alien for that matter presents a threat to national security or a threat to the taxpayer of the United States. We see that time and again, whether it's planes crashing into buildings, or whether it's, you know, the vast amount of American citizens that die each year at the hands of illegal aliens.

[...]

And so when you ask me if it concerns me, it concerns me not about a got-away, but about anyone coming into the United States illegally and being—and remaining here illegally in the United States, because, you know, when you—when you look at a parent and they're worried about a closed casket for their kid, it takes on a different—a different perspective, so, yes.¹¹⁰

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Do you have any national security concerns with the influence and the power that the cartels have on the border?

A: So my national security concerns come in with just related to the smuggling, the people that are getting away from us, sort of the unknowns out there.

When we make an arrest, we can then vet that person and find out, if they have a criminal history, if there are national security concerns. Of course, anyone that we don't apprehend is of a concern to me.¹¹¹

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Are gotaways a public safety concern?

A: So I think gotaways are a public safety concern, but, as we discussed, I believe we discussed earlier also potentially a national security concern as well.

Q: Is it possible that some of these gotaways have ties to the cartels?

A: Yes. Certainly they could.¹¹²

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Given that you encounter individuals with prior criminal histories, prior removal histories, potential terrorist concerns, does the gotaway population concern you from a national security standpoint?

A: Of course. I think it concerns every Border Patrol agent. Our focus and our

¹¹⁰ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 54-56, July 12, 2023.

¹¹¹ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 27-28, July 26, 2023.

¹¹² John Modlin, Transcribed Interview with the House Committee on Homeland Security, 113, July 26, 2023.



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mission is to secure the border between those ports of entry. So, for any Border Patrol agent, it is a concern.¹¹³

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: You mentioned earlier some of the crimes of individuals who had been encountered by Border Patrol. I believe some of them were fairly serious.

Does it concern you that there could be individuals getting away from Border Patrol in the Yuma Sector who may have serious criminal histories or other public safety concerns?

A: So as I stated earlier, border security, national security, those are always concerns of mine. That is our job. That is our daily function. So I'm always concerned about that.¹¹⁴

CARTEL CONTROL AT THE SOUTHWEST BORDER

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: So the individual people who are arrested for attempting to smuggle drugs, are they working for the cartels?

A: Everything that I—that I'm aware of, yes.¹¹⁵

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Okay. And then the majority of illicit drug smugglers operating in your sector, are they working for the cartels?

A: Everybody that is bringing illicit traffic across the border in some form or fashion is connected to or working for the larger cartels.¹¹⁶

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Would it be difficult if an individual in Mexico wanted to cross illegally in the San Diego Sector for them to do that without the assistance of a human smuggling organization or transnational criminal organization?

A: Yes. It would be difficult and dangerous.

Q: And why is that?

¹¹³ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 15-16, September 26, 2023.

¹¹⁴ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 44, September 28, 2023.

¹¹⁵ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 68, April 25, 2023.

¹¹⁶ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 141, May 5, 2023.



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A: The organizations that own those lanes get paid for every thing and person that crosses in that area. So they are afforded a payment for everything that goes through, and they don't want to lose that payment. And so we have run into individuals who have been robbed or beaten when they've tried to make it through without contacting one of the people in charge of that area.

Q: Do you know how much an individual would pay a transnational criminal organization to be smuggled into the United States in the San Diego Sector?

A: Yes. We have ballpark numbers.

Q: What are those numbers?

A: It varies. And I think the easiest—it's a business model that they use.

So on land, right now, to cross on our 60 miles of land border, on average it costs about \$8,000 per person. It's between 8,000 and 12,000 depending on. On the water, it's generally between \$12,000 and \$20,000 per person.

They also use different ways to manage. So if they have a large group of 200 or 300 people, sometimes they will only have to pay \$400 or \$500 per person because it's quicker and it's easier for them to move those folks in places.

And we have individuals as well that they don't necessarily have direct contact to the smuggling organizations. So they may show up from wherever country they came to Tijuana and talk to people to get a cab ride up to the border and be told, you're going to cross here. For that cab ride, maybe it will cost \$500 or \$600. But it's all part of the organizations that are moving people.

Q: So the organizations, the smuggling organizations, control those cab rides as well?

A: Yes.¹¹⁷

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: I just wanted to return to human smuggling, which we talked a little bit about last hour. I just wanted to know or clarify, are all of the human smugglers who are moving migrants into your sector, are they all affiliated with or working with cartels?

A: Yes.

Q: Do you know which cartels?

¹¹⁷ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 39-40, May 9, 2023.



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A: It—it changes. We—the two main ones in our area have historically been the Sinaloa Cartel and CJNG. Those are the two main ones.¹¹⁸

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: What you’ve observed in the San Diego Sector I believe you explained as the cartels control the area in Mexico south of the border, and they control who comes into the United States. Is that right?

A: Yes.

Q: Through smuggling?

A: Yes.

Q: So, earlier, when you were talking about—and I heard you talking about, you know, people giving themselves up in the desert, about rent-a-family schemes, things along those nature, is it fair to assume that the cartels are involved in kind of planning and orchestrating those?

A: Yes, yes.

Q: And so I assume that—you know, you talked about the challenges of your job in the San Diego Sector, and I understand that a lot of the challenges come from addressing these cartel strategies and responding to the cartel. Is that right?

A: Yes.¹¹⁹

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Okay. Are you familiar, Chief, with the term “theater of engagement” as it evolved after Vietnam?

A: I’m familiar with the term, yes.

Q: So, just to share, theater of engagement is a term that evolved since Vietnam wherein the sovereign border between nations would no longer define our engagement. If we had conflict as a Nation, we would secure the theater of engagement.

And, in that definition, our border territories on both sides of the border—which, again, you could put one foot in Mexico and the other foot in the United States. But the theater of engagement is larger than the border, is it not?

A: Yes.

¹¹⁸ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 67, May 9, 2023.

¹¹⁹ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 72-73, May 9, 2023.



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Q: So the Americans that live on the sovereign territory of the United States that live within that theater of engagement where the cartels control the Mexican side of the border and they're in the midst of that theater of engagement, and they do not respect our laws on our territory—in fact, their design is to defeat our laws on our territory—the Americans living on American soil, are they not living in the theater of engagement there?

A: Yes, they are.

Q: So are American lives and families impacted by the cartels' control of the Mexican territory on our southern border?

A: Yes.

[...]

Q: How do you explain 5 million crossings and a million gotaways in 2 years, then? How do you explain the fentanyl crossings and 107,000 Americans dead in 2021 and 108,000 in 2022? If we're controlling the theater of engagement, how are we losing like that?

A: There are parts that we don't control.¹²⁰

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: The Northeastern Cartel you earlier described as particularly violent—

A: Uh-huh.

Q: —would you say that they're also particularly cruel to the migrants?

A: I would.

Q: What kind of tactics do they use in their smuggling process?

A: For starters, if you go down the river without their permission—every section of river has a boss that owns that particular part of the river. If you go down there without their permission, they can either beat you or hit you with, like, a paddle, and they've been known to shoot people, you name it. That's how they—they rule through intimidation, so that's a very common practice.

The other day, we had two people wash up to our shores, and they had no identification on them, but we're thinking they were migrants that went down there without permission. One of them had his head halfway blown off, and the other one was shot between the eyes.

¹²⁰ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 144-146, May 9, 2023.



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Q: Do you often come across migrants that have experienced assaults, essentially, by the cartel?

A: Yes.

Q: And you learn that through interviewing the migrants?

A: Yes.¹²¹

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: Does the cartel in Mexico control the smuggling business in Laredo Sector?

A: Yes.

Q: And which cartel was that, the—

A: Noreste.

Q: —Noreste Cartel?

A: The Northeast.

Q: Do you ever get individuals who cross on their own without the assistance of the human smugglers that are controlled by the cartels, or is that uncommon?

A: It's uncommon.

Q: Would there be consequences for someone who failed to contract the services of a human smuggler?

A: Yes.

Q: So the cartels would not like it if they did that on their own?

A: Correct.¹²²

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: And they use the photos, the Gulf Cartel?

A: Well, they all use photos. They all use photos to keep track of the people they're smuggling.¹²³

¹²¹ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 99-100, June 1, 2023.

¹²² Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 33-34, June 1, 2023.

¹²³ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 102, June 1, 2023.



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Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Do you ever get individuals who cross on their own without the assistance of a transnational criminal organization, or is that uncommon?

A: It's uncommon.

Q: And would there be consequences by the transnational criminal organization for someone that tried to cross on their own without paying the money?

A: In my experience, there would be consequences.¹²⁴

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: Do they charge a premium for individuals seeking to evade apprehension versus those who intend to turn themselves in to Border Patrol?

A: Typically, yes.

Q: Do transnational criminal organizations in Mexico control the smuggling routes into the El Paso Sector?

A: South of the border?

Q: Yes, sir.

A: Yes.

Q: And if an individual who intends to cross illegally in between ports of entry in the El Paso Sector wanted to do that without contracting the smugglers, would there be consequences for doing that?

A: Yeah, the transnational criminal organizations would apply a consequence to an individual that tried to cross without going through them.¹²⁵

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: And turning briefly to human smugglings, you said earlier that cartels are responsible for the majority of human smuggling that you see in your sector. Is that correct?

A: So—yeah. So if someone's being smuggled, they're using a criminal organization. So what's interesting about the border certainly that has changed significantly, when I started—you know, when I started in '95, people could just get to the border and cross on their own.

¹²⁴ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 51-52, July 12, 2023.

¹²⁵ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 40, June 29, 2023.



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You know, now nobody crosses without paying the cartels. So the cartels, you know, determine when people cross, you know, how many people cross at a time, all of that. It's all—it's all controlled by them.¹²⁶

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: So we might have hit on this already, but is it fair to say that all individuals who illegally cross the southwest border must go through the cartels?

A: At least in the Tucson Sector, absolutely everyone does. No one does without. We have experienced when people try to, and we've seen them beaten for trying to cross without paying the fees.¹²⁷

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: Do you know which transnational criminal organizations operate the smuggling routes in the Tucson Sector?

A: Yeah. So all of them are controlled by the Sinaloa cartel.¹²⁸

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: I have a couple follow-ups, if you don't mind.

I think you mentioned very early on that those who used to cross in other sectors are now crossing in Tucson. Did I get that correct?

[...]

A: My feeling about—which I think is maybe the larger part of the question—about why it's happening, not so much in Tucson, but for me I think the more important question is, why is it happening in our west desert and not, say, through Nogales, which would be a very—a more—a safer place to push people through, would be an area where there is structure on the other side, where it would be easier for smugglers to pick them up from there because there's paved roads, it's not hours from the closest road, is because the recognition that when these groups are out there, especially in our farthest west desert, the vast majority of our resources then have to go out and deal with that situation, which leaves the border more vulnerable in other places. That, obviously, is more advantageous to the smuggling organizations.¹²⁹

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Okay. So my question is—I'll preface the question with the CHNV parole program started in 2023. The CBP One app has been utilized in 2023.

¹²⁶ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 60, July 26, 2023.

¹²⁷ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 111, July 26, 2023.

¹²⁸ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 22, July 26, 2023.

¹²⁹ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 124-126, July 26, 2023.



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My question to you is, in 2023, in your experience, are cartels still part of the illegal immigration process?

A: So the cartels have not stopped being in the illegal immigration process, period.

Q: Are the cartels currently profiting from the illegal immigration process?

A: They are.¹³⁰

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: What are the TCOs in Mexico that are operating in the south Yuma Sector?

A: So it's all Sinaloa Cartel. There's different factions. Some of the smaller local gangs, there one in particular that we've been dealing with for many years called the Wonder Boys, the Chapitos, the Mayos, the Rusos. You know, there's the new generation. They're all subsets of the Sinaloa Cartel, but nothing happens without the approval of the Sinaloa Cartel.

Q: So in your experience, an individual who wanted to cross illegally would not do so without first contracting with someone affiliated with the TCOs?

A: That's correct.

Q: If they tried to cross on their own, would there be consequences for that?

A: It's certainly possible, yes.¹³¹

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: And are all of the illicit smugglers that you interdict, are they all working for cartels?

A: To the best of my knowledge, yes.

Q: And that's the same for human smugglers?

A: Yes.¹³²

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Do the cartels use drones in the area?

A: Yes.

¹³⁰ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 42, September 26, 2023.

¹³¹ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 41-42, September 28, 2023.

¹³² Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 56, September 28, 2023.



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Q: And what do their drones do? Is it to drop off drugs or guns? Is it to spy on your operations?

A: So I have seen multiple, you know, utilizations of them. Primarily, it is a surveillance tool so that they can determine where agents are, what they're doing, but I've also seen drones used to smuggle and drop off narcotics as well.

Q: And what other strategies do the cartels use?

A: I don't think there's any limit and so we could talk all day about smuggling strategies, but any and all means are possible. I have seen people with scuba gear, you know, trying to come up with river. We've seen, of course, vehicles utilized with predesignated pickup spots, remote foot traffic, you know, like I said, the open bombing ranges. So they will walk through live fire ranges because they know we can't patrol in those areas.

Again, the utilization of the stash house, you know, is very common. Again, they're looking for that opportunity to move out of the area, trying to hope a checkpoint goes down or that there's not as many DPS patrolling the highway during that time. So there's really no limit to the techniques and tactics that smugglers will do, and they absolutely have no regard for human life while they're doing it.¹³³

CARTELS STRATEGICALLY USE BORDER CROSSINGS TO DISTRACT AND OVERWHELM BORDER PATROL AGENTS

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: You also mentioned that you had seen—I believe you said you saw an increase in large groups crossing and turning themselves in to Border Patrol over the last few years.

A: Yes.

Q: Is that correct?

A: Yes.

Q: Why would smuggling organizations cross such large groups of individuals? Is that a tactic that they're using, or is there some other explanation?

A: Both. It is a tactic. So they will send in large groups, 200 or 300 people, to an area, knowing that it's going to take us an enormous amount of resources to bring those folks all out of the border area. And so they'll use that to drain our resources in areas so that they can get other things through in other places.

¹³³ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 98-99, September 28, 2023.



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Q: And when you say “resources,” are you referring to agents and transportation? And what resources are consumed in responding to these large groups?

A: Yes. Agents, transportation, and—it’s the number of agents that are actually available to be on patrol on the line itself.¹³⁴

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: And so that’s perfect and leads into my next question. So you see the cartel kind of understanding and watching the Border Patrol, and if they are taking off or there’s a surge in other areas, that’s when they kind of come in through that area and start moving people or drugs?

A: That is correct. We’ve seen that traditionally as well as in RGC and in McAllen and Weslaco. So we know those tactics that they utilize when we have high activity of migrants coming across.¹³⁵

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: And I think you mentioned this with the drugs, but cartels do intentionally put aliens in peril to either save the drugs, save other smuggling operations of humans, you know, to make sure that they get—is that correct?

A: That’s correct. They use different tactics with using migrants, whether it’s a human smuggling load at a checkpoint and then agents being tied up with a human smuggling load. Then the next types of loads coming through could be narcotics. So we know those tactics so we try to prepare as we can to be able to interdict those. The same situation at the border, obviously when you have a surge, all attention goes to the surge to be able to place people in processing. So then other areas become vulnerable as such.¹³⁶

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Do you know where the majority of the got-aways are coming [into] the Yuma Sector? Are there particular vulnerable areas?

A: So, again, we see them—there’s potential everywhere. We’ve seen got-away groups, again, when you look out the Imperial Sand Dunes. It’s in very close proximity to Interstate 8. So it’s very common.

[...]

A: So it’s very difficult to round up anyone who get through, but some of those mass coordinated events can be as many as two or three hundred people at one time coming over the border walls, overwhelming agents.

¹³⁴ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 38-39, May 9, 2023.

¹³⁵ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 107, September 26, 2023.

¹³⁶ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 113, September 26, 2023.



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Q: These mass coordinated events and the coordination of load vehicles and other smuggling activity in the sector, is that being coordinated by transnational criminal organizations in Mexico?

A: Yes.¹³⁷

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Do you know where the majority of the got-aways are coming [into] the Yuma Sector? Are there particular vulnerable areas?

[...]

A: So that area is exploited a lot. The river corridor where, again, a vast majority of them are give-up groups in that area, we do still have load vehicles that come in. It's all about a timing issue to where we're heavily scouted every day. They know how many patrolmen we have out in the certain areas. Once a patrolman passes through a certain spot, especially during shift change, it is very common they will bring a vehicle in. Most of the time, it's a pickup truck or a van or high-capacity transport vehicle. The group will exploit one of the gaps. They'll run and load into the vehicle as quick as possible and the vehicle just tries to beat us out of the area before we can get behind them and attempt a vehicle stop or even a vehicle immobilization technique.¹³⁸

CARTEL ABUSE OF ILLEGAL ALIENS

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: Can you expand on what this anti-smuggling campaign is doing?

A: Well, simply, we're trying to identify more people that are being smuggled and engage in greater populations of prosecutions. You know, as I've said many times and in here as well—you know what I mean?—these people are treated poorly by those who choose to exploit them, take their money, their life savings oftentimes, and, you know, try to bring them into the country.¹³⁹

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: You mentioned they use trains. I saw a report that there was a recent—I don't know if "disaster" is the right word—but tragedy on a train. Could you speak to that?

A: So unfortunately—and that happened in the Del Rio Sector, too, if it's the same one you're talking about.

The smugglers will lock the migrants inside these transport cars, and so they

¹³⁷ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 41, September 28, 2023.

¹³⁸ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 39-40, September 28, 2023.

¹³⁹ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 154, April 25, 2023.



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can't get out. And there's no air-conditioning. Very little—only food and water that they take with them. And these rail systems run through, again, very remote areas, and they may be locked in there for days in very extreme temperatures and bad conditions.

[...]

It's a monument to the callousness of these smugglers. They would not put themselves or their family in that situation, yet, without hesitation, they put the migrants there.¹⁴⁰

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Is it an active tactic also to put migrants in peril, put them in situations where Border Patrol has to come rescue them?

A: 100 percent. We have seen that time and time again. We have seen where they will abandon the migrants. And the migrants call 911 when they have a phone, and they're calling us. And they know that we're going to be the ones—we're the only ones out there.

They do that for a reason. They don't care about the lives of the migrants, they don't care if they live or die, only the impact that that call has so that they can do who knows what.

Q: Do you think that that's a tactic across the southwest border, or do you think it's very specific to Del Rio?

A: No, I believe it's used anywhere and everywhere they can get away with it.

[...]

And the migrants are treated like cattle and sold from one group to the other. And where you used to see the groups, the smuggling organizations concentrate on either human smuggling or narcotics, now they cross the lines.¹⁴¹

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: What about any misinterpretation of U.S. laws? Have you ever gotten a sense that, while cartels may lie to potential customers, do you believe that migrants who are making this cross or ones who communicate with each other to encourage others to do some more crossings might have a misunderstanding of our U.S. laws?

¹⁴⁰ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 127-128, May 5, 2023.

¹⁴¹ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 58-59, May 5, 2023.



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A: I think the smugglers and the transnational criminal organizations, they—make no mistake about it, that is our adversary. That is the ones that we are faced against every single day. And the migrants themselves are looked upon as simply a product to make money off of in terms of how the smugglers see it.¹⁴²

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Have you noticed any other abuses by smugglers or cartel members on migrants beyond the bandits?

A: We see trafficking. We see, unfortunately, a large amount of assaults. And this is—it's not just within Mexico, but it's on the entire journey.

It's very common that female migrants are raped during the process. It's also very difficult to be able to get them to talk. Most of them believe it's just part of the payment as they go up. It's unfortunately very regular within the population.¹⁴³

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: What about the river rescues, have those increased?

A: They do, especially after a good hard rain where the river rises a little bit. And—

Q: Are those rescues a result of circumstances or do the transnational criminal organizations ever put migrants in peril intentionally as a tactic to divert resources?

A: Both.

Q: You've seen both—

A: I've seen both.

Q: —in the Laredo Sector?

A: Yeah.

Q: Do those rescues put agents at risk of harm?

A: Yes.¹⁴⁴

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: In your experience in El Paso, do the smuggling organizations ever put migrants in peril intentionally as a diversion tactic?

¹⁴² Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 22, May 5, 2023.

¹⁴³ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 156, May 9, 2023.

¹⁴⁴ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 40, June 1, 2023.



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A: Yes.

Q: And then Border Patrol agents are then responsible for rescuing those migrants, correct?

A: Yes.

Q: Do you know whether the number of rescues performed by Border Patrol agents in El Paso, do you know what those trends are? Have they been increasing or decreasing over the years?

A: They've been increasing over the years for rescues.

Q: What types of rescues do Border Patrol agents perform in El Paso?

A: There's not a lot of water in El Paso; however, there are seasons when we have large currents in waterways. And so smugglers will tell them to swim across, the migrant to swim across, but the actual design of the canal is to suck debris through, and so there's this large current that kind of sucks people in. And so there's water rescues there where people are drowning from that.

Smugglers will have people climb up a ladder on the south side, and then they'll pull the ladder away, and sometimes you're talking about 30-foot fence, sometimes 18-foot fence, and then they'll make them scale down on their own because they're stuck up on top of the fence.

And then they'll—smugglers will take groups of migrants through the desert, and temperatures are extremely hot in the area, in the desert. And if the migrant can't keep up with the smuggler, then the smuggler just leaves them behind. And so there's rescues there. There's also deaths there if we can't get there soon enough to make a rescue.

There is also—we talked about load vehicles. Some of those are people that are put into trunks of vehicles, that are put into the back of box trucks, hidden compartments, those kinds of things. And when you compile that with the extreme heat or vehicle accidents, many times we've rescued people from those situations.

Q: And you mentioned that deaths have also resulted as a result of these smuggling tactics.

A: Yes.¹⁴⁵

¹⁴⁵ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 71-72, June 29, 2023.



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Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Right. They're trafficked across the board but into servitude bondage debt. What does that look like within the United States? Are they being trafficked into any forms of modern day slavery?

A: It could be. I think there's a lot of different areas that they could be trafficked into, whether it's sex workers, slavery. You know, I think there's a lot of different things that it's possible they could be trafficked into.¹⁴⁶

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: And because of that, they often—they cross, and then as you've said, the journey is not easy and they are in peril. But would you agree that the cartels have a financial incentive to get them across no matter what?

A: Yeah, so—yeah, so the cartels are agnostic as far as, you know, what it is they're crossing, whether it's people or narcotics or, you know, weapons or money. It's just—to them, it's just a commodity. They have no concern for the safety.¹⁴⁷

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: What about rescues, what are the trends that you're seeing currently in—with regard to Border Patrol agents having to rescue individuals who are in peril?

A: So agents are every day out there on patrol and, for the most part, are, you know, encountering a lot of these migrants that are, especially with the weather, dehydrated. They are found in remote areas, different ranches out there. And they're rescuing people every day.

When it comes to either families or single adults, just this morning I was informed of a 2-month-old infant that was abandoned at the border and rescued by agents this morning in the Rio Grande City Station. So rescues are happening every day by our agents.

Q: Do those rescues ever put agents in harm's way?

A: It does. Our agents constantly are risking their own lives to save other human lives. And I'm very, very proud of the actions that they do every day, but it is a concern and a risk because they're in areas that are very remote, and many times their own life is at peril.¹⁴⁸

¹⁴⁶ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 128, July 12, 2023.

¹⁴⁷ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 61, July 26, 2023.

¹⁴⁸ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 19-20, September 26, 2023.



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Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Do you know of aliens that ever go into debt to pay for the cartel to come into the United States?

A: I have heard from different debriefs from our intelligence agents that many of the migrants that do hire human smugglers at times haven't even paid their debt yet until they get find a job in the United States to pay that debt. I have heard that from different briefs.¹⁴⁹

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: And how do the cartels treat aliens when they smuggle them?

A: As a commodity, a number.¹⁵⁰

CARTEL USE OF “FAKE FAMILIES” TO SMUGGLE ILLEGAL ALIENS, INCLUDING UNACCOMPANIED CHILDREN

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: You were talking earlier or you mentioned earlier about fake families and how your agents were able to break up a—was it the Brazilian immigrants that were creating fake families? Why would immigrants do that?

A: An immigrant would or an individual would typically attach themselves to a family group because it makes it easier to claim asylum and/or credible fear if it's a family group.

Q: What's easier about the claim?

A: I believe it's easier for them to claim asylum. They believe it furthers their asylum claim if they're with a family. And we don't break families up under a lot of circumstances. So that whole family could potentially make entry into the United States.

Q: Being in a family doesn't impact to ability to claim asylum; anyone can say “I'm afraid to go back,” but being in a family does increase the odds of being released into the United States, right?

A: It could.

Q: How are your agents able to figure out whether families are not legitimate?

¹⁴⁹ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 109, September 26, 2023.

¹⁵⁰ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 99, September 28, 2023.



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A: They use a—several different techniques and tactics. There’s agent observations are key in that initial detection of fake family groups. Agents interact and deal with thousands and thousands and thousands of illegal—of individuals crossing the border illegally. So they’re attuned to something that might be off, something that might be different. And, with the Brazilians, that’s exactly what happened. I believe the initial case, some of the children were acting very strangely around the male who was—who ended up not being their father.

So they started looking at that, and then uncovering it through those agent observations. And then, after that, you would have interviews of the children, of all individuals present in the group, whether it was the fake father or mother, and then perhaps other interview techniques of other individuals that may have made the journey with them.

Also, take a look at crossing histories. You know, did the individual—you know, was he—he or she, were they expelled under title 42 [sic], and if they were, were they expelled with anyone else, or were they expelled individually, and then they came back with a family; how did that happen? So a lot of agent observations that are born of the experience of a Border Patrol security professional.¹⁵¹

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: And these low apprehension figures in your sector since you’ve been there, what would you say has caused those low apprehension figures?

[...]

A: Brazilians, another prime example. That same agent, a real bright bulb, smart individual, actually figured out that individuals from Brazil were, at some point, in that smuggling route, whether it was Brazil or maybe on the way up to this country, were attaching themselves to families, especially kids, and figured out that something wasn’t quite right with someone that’s attached to kids that’s not really their father. Probably some bad intentions going on there.

So approximately 60 of those fake family groups from Brazil were ferreted out by this one agent. The Brazilians didn’t seem to want to come to El Centro Sector because that’s a consequence.¹⁵²

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: Okay. Do the cartels ever encourage individuals to create fake family units in order to be released into the United States?

A: We saw that in RGV a little bit.

Q: What happens with that?

¹⁵¹ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 123-125, July 12, 2023.

¹⁵² Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 84-85, July 12, 2023.



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A: Usually our agents are pretty good at picking them out. You can tell when there's not a connection there between the parents and the children, so-called children, right? So our agents are usually pretty good about picking that up.

Q: How do they do that? Through interviews?

A: Interviews, just constant interviews, and seeing how they're—you can just tell by the way the child reacts to the person that is claiming to be their parents.

Q: Do you think, with the surges that RGV experienced, some of those observations or investigations fell through the cracks when it came to, like, rent-a-family?

A: Safe assumption to say that, yes.¹⁵³

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Do you have concern that with the surges, particularly right now with the large surges in family units, that any of this familial verification may slip through the cracks because everybody is processing so quickly?

A: There's always a concern that families aren't forthcoming with truthful information. There's also a concern that at times they may not—we may not be able to verify exactly the identity of that person. I want to say we take a—we take our time to interview people.

However, I mean, there's always—especially in busy times, there's always a concern that not everyone is accurately interviewed, or we may not get to identify that that person is legitimately a family or not.¹⁵⁴

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: What is the average age of the unaccompanied children that you're seeing?

A: They span the entire spectrum. So we see them under a year all the way up to 16, 17.

Q: The children that are a year or a much younger age, how are they getting there?

A: Generally, when you're talking about toddlers and infant-size, generally, they're coming up with a nonrelative or—generally coming up with a nonrelative or they're coming up with, as I mentioned before, a rental family. And so, if we do find out that this is not their—these are not their patients, then we can't turn them back over to them, and they become an unaccompanied child.¹⁵⁵

¹⁵³ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 103, June 1, 2023.

¹⁵⁴ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 36, September 26, 2023.

¹⁵⁵ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 158-159, May 9, 2023.



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Border Patrol Unable to Verify Ages of Unaccompanied Children

Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: How do agents confirm the age of the unaccompanied children?

A: Typically, through interview. They can be—if it’s in question, it can be brought to medical to see if there’s a way to determine. Many of the migrant children that we encounter do not have any kind of documentation with them that would prove their age.

Q: Do you think that’s on purpose?

A: Yes.

Q: What purpose does that serve?

A: Especially when they’re in their teenage years, somebody that could be 19 could try to say he’s 17 or something like that to evade potential consequences or return.¹⁵⁶

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: How do you verify the age of an unaccompanied child?

A: We take their word for it. I mean—yeah. Yeah, we take their word for it. And if they have documentation. A lot of them have information written on their arms or their clothing, like, a number to call. So we’ll call that number, and it’s usually a parent or somebody.¹⁵⁷

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: How do agents in Yuma verify the age of an unaccompanied child?

A: So if they have any kind legal paperwork, we’re able to do that; otherwise, it’s through an interview, which the child may be able to disclose how old they are, the date of birth, any other vital documentation. If they claim to be 14 and older, then we’re able to fingerprint them and so we’re able to verify it through FINs or any other system that we use. Mostly, it’s upon the word of the migrant. Other times, it’s pinned to their chest.

Q: Pinned to their chest?

A: Yes.

Q: With the address and telephone number?

¹⁵⁶ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 100, June 29, 2023.

¹⁵⁷ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 104-105, June 1, 2023.



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A: With a note that says who they are, when they were born, what number to call, who their sponsor is, who their parents are. Yeah.¹⁵⁸

Concerns Over Addresses Being Provided by Illegal Aliens

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: What about verifying information that the immigrant has provided? For instance, before someone is released and they give an address, what kind of processes are in place for verifying information like an address?

A: So the agents have a few minutes, right, to verify information. And a lot of times the migrant will provide an address for the record, and that's the information we take. Whether agents have time to be calling these locations to verify if it is a valid address, I don't have that level of specificity whether it happens or not. But I assure you it's—in the busy world of a central processing center, 100 percent of the time they are not verifying these addresses. There's an address that's provided; address is inputted; and then they move on to the next step.¹⁵⁹

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: So the DHS office [sic] of Inspector General recently released a report that says—the title is “DHS does not have assurance that all migrants can be located once released into the United States.” And essentially they did an audit of the A files and found that there were, about 18 percent of the files that they audited, the addresses were either missing or unverified. And so there was no way for DHS to essentially find these people once released into the United States.

Does it concern you that agents don't have the time or the agent to verify addresses of immigrants that have been released into the United States?

A: It concerns me that we don't—we're not able to capture detailed information as needed because of the busy pace of a central processing center. I will tell you many times the migrants themselves, as we all know, provide false information. So then the manpower is not available to have a unit just specifically to verify all addresses—well, is it a true address; is it not a true address—to that detail. So, yeah, it is concerning to me.¹⁶⁰

Illegal Aliens Coming from All Over the World

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Since 2022 into this year—end of fiscal year 2022, beginning of calendar year 2023—numbers in San Diego—encounter numbers in San Diego have consistently been increasing.

¹⁵⁸ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 115, September 28, 2023.

¹⁵⁹ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 89, September 26, 2023.

¹⁶⁰ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 90-91, September 26, 2023.



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Based on your training, knowledge, and experience, what do you think that reason is? Or what is the cause for that?

A: We've been trying to figure that out. The demographic has changed from mostly folks coming from Mexico and then the Northern Triangle: Honduras, El Salvador, and Guatemala. And it's changed in the last 6 months, 8 months or so to mostly Eastern European and folks from North and Central Africa.¹⁶¹

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Okay. Do you have any concern with the change in demographic and the countries that they're coming from?

A: Yes.

Q: What kind of concern do you have?

A: Why they're coming. The ability to impact a consequence. In many of the cases, we don't have the ability to send people back to many of those countries. So there's not a consequence that we could implement that would slow that traffic down.

[...]

Q: Do entries from these countries cause you any sort of concern regarding national security?

A: We have seen a rise in the number of TSDS hits, which is individuals that have a record of potential terrorist ties. And in the last 2 years we've continued to see significantly more.

Q: And is that about the same timeframe that you've seen an increase in these other demographics?

A: Yes.¹⁶²

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: So just in your Tucson Sector currently, YTD FY '23, there has been nearly 20,000 Indian nationals apprehended versus just over 1,100 in all of FY '22. Does that sound correct to you?

A: That does sound correct.

Q: Does that concern you?

¹⁶¹ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 30-31, May 9, 2023.

¹⁶² Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 32-33, May 9, 2023.



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A: So, yes. And what concerns me is the change in the demographics. We talked earlier about—and it was probably what I was referring to in the February hearing, is that Tucson was very unique because it was predominantly single adult Mexican males.

Now we're in these large—especially in these large groups that we're seeing, we're seeing people from nontraditional countries. So we're seeing quite an uptick in Mauritians. We're seeing Senegal a lot, in recent days a lot of people from Senegal. India, absolutely.

So there's a lot of, again, so nontraditional migrants that we're not used to dealing with in that area.¹⁶³

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: What other demographics require additional interviews?

A: So any migrant that comes from a special interest country is a mandatory interview.

Q: So what are those special interest countries?

A: So there's—for Yuma Sector specifically, we've encountered migrants from 21 different special interest countries. Our top five are Russia, Uzbekistan, Bangladesh, Nigeria, and Egypt and, of course, obviously, there's some other ones in there, Afghanistan, Iran, Iraq, Thailand, some other places like that. Martinia [sic—Mauritania] is another one.¹⁶⁴

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Now, I think you just said what you're dealing with every day. Can you kind of talk about that a little bit?

A: So, again, these are for Yuma Sector history highs from Fiscal Year '22 into Fiscal Year '23 and so, again, other countries that we're seeing that we haven't typically seen—we've encountered people from 113 different countries just in Yuma Sector, and so that's something that most agents weren't typically prepared for.¹⁶⁵

Border Crisis Impact on Border Communities

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: What are some of the primary concerns of individuals within the El Centro Sector as it relates to illegal immigration?

¹⁶³ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 100, July 26, 2023.

¹⁶⁴ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 34, September 28, 2023.

¹⁶⁵ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 90, September 28, 2023.



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A: I outlined one scenario already. A lot of the local towns, Calexico, El Centro, Imperial, Brawley, Holtville, and many other towns are concerned about violence in those communities, whether it's gang violence or violence inspired by some type of immigration situation. And those individuals do seek out the Border Patrol's help to mitigate many of those situations. That also includes narcotics and any other crime, as well, but specifically things that we have the jurisdiction or authority to mitigate and they don't.¹⁶⁶

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: You mentioned way—many hours ago that one of the factors that differentiates San Diego from other sectors is that it's a very urban environment.

What kind of impact has the increased number of migrants over the last 2 years had on the local communities in the San Diego Sector?

A: It's hard to judge the—I have a lot more calls from the local mayors, local city councils, about concern on the numbers. And more calls—obviously, Southern California has a homeless issue. So there's a lot of attention put there. And so none of the folks there want additional people on the streets to add to that problem. So it has an impact.

Q: Has it impacted any of the local health facilities? Any hospitals?

A: Yes.

Q: In what way?

A: The cost of medical treatment that is not reimbursed.¹⁶⁷

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: What are the biggest concerns that members of your community have regarding the increased flow in illegal immigration?

A: Congestion downtown with migrants in those areas. We've seen an increase during the times that there were large numbers of migrants downtown in El Paso, that there was additional trash, that there was additional prostitution that was going on, that there was just an increased heightened concern for safety in the downtown area. But as well as even in schools and in people's yards and those kinds of things where migrants would be coming through, it creates an unsafe situation for the community and their families.

Q: Any property damage?

¹⁶⁶ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 100-101, July 12, 2023.

¹⁶⁷ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 153-154, May 9, 2023.



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A: There has been with vehicle accidents, as well as vandalizing. Those types of crimes.

Q: And you mentioned schools. What effect does the increased flow have on schools?

A: In the smaller border communities along the immediate border, migrants will be running through and try to blend in with people in those campuses, as well as just the overall congestion of migrant activity in those areas.¹⁶⁸

Impacts To First Responders and Health Care Systems

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: You talked about community effects, and I just wanted to ask a quick question on this. You talked about inadmissible illegal border crossers coming across and then using 911 because they were tired of waiting for you guys to come get them. That's a social service. Right?

That's something the public uses, 911. Have you noticed in your AOR in Yuma that other public services, like hospitals, have been impacted by or affected by this?

A: So I know the Yuma Regional Medical Center—again, we have major hospital in Yuma, and so that is very busy. Any time we encounter migrants that require medical treatment, certainly, we're never going to deny treatment for somebody. If the recommendation by medical personnel is that this person needs to seek additional medical treatment, we're going to take them to the hospital. Sometimes that could be several people, and so that would impact, say, emergency room triage capability, possible bed space, you know, throughout the hospital, but it's a very busy hospital and there's only one. So any time Border Patrol takes people there, it could impact some of the local services.¹⁶⁹

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Do illegal aliens effect community resources in El Centro and across the country? Hospitals? Schools?

A: Yes.

Q: In what ways?

¹⁶⁸ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 80-81, June 29, 2023.

¹⁶⁹ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 118-119, September 28, 2023.



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A: When we talk about hospitals, I believe that a lot of the individuals that cross the border illegally and end up having to go to the hospital, those hospitals oftentimes bear the burden of some of—of those costs. In talking with hospital administrators in the Imperial Valley, specifically the El Centro Regional Medical Center they are concerned about what happens and the costs associated with illegal immigration, and what can be done to stop it.¹⁷⁰

Environmental Impact of Mass Illegal Immigration

Chief Patrol Agent Sean McGoffin, Big Bend Sector (April 25, 2023)

Q: What about garbage? Because there's been a lot of stories in the news, especially—and you've served in Arizona—where along the border, especially on these lay-up spots where the smugglers use, there's a lot of garbage that accumulates in the borderlands causing pretty significant environmental damage.

Is that something you're familiar with in Big Bend Sector as well?

A: Yes, in Big Bend we see areas where a lot of trash is left as a result of those being smuggled or when they're passing through areas and things are getting heavy they start to discard stuff.

The ranchers oftentimes will identify those areas and make sure that we're aware of them because they don't want them doing that on their property. And if we're in that area, I think they're hoping it will dissuade them from traversing through that same area.

Q: It really is a shame. I mean, we know that there is that human cost to open borders or lack of border security or increased encounters and illegal crossings, but there's also an environmental impact on that. I'm confirming that you see that on the Big Bend Sector, as well.

A: I do.¹⁷¹

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: What other impacts do—on the local community does the high number of migrants have? For instance, is there property damage? Economic issues? Are the hospitals being overrun? Or what kind of other local community impacts are there?

A: So one of the things that we're seeing with our landowner partners at the ranches, their complaints are the environmental impacts of the massive amounts of clothing and trash that are left behind by the flow that we're seeing. The damage that gets done to the riverbanks with the landings. We're talking about hundreds of people coming across. It does leave a mark.

¹⁷⁰ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 103, July 12, 2023.

¹⁷¹ Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 213-214, April 25, 2023.



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[...]

Q: Who does the cleanup when there's all these environmental issues? The trash in the riverbanks. Who's doing that cleanup?

A: Well, at least to some extent, we do. We'll go out there and help the landowners where we can clean up the trash. A lot of times, the landowners themselves may contract. In some cases, the municipalities will help out. But it's an ongoing effort. It's something that, as part of our partnership and collaboration with the landowners, we try and help out where we can.¹⁷²

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: What are your environmental concerns as it relates to illegal border crossings?

A: Sure. My environmental concerns as they relate to illegal border crossings are both at the border, and then in the interior of the United States as well. We'll take a look at the border there. As the Border Patrol enforces immigration laws there on the border, oftentimes we do so in protected lands, Federal lands, wilderness areas, and many other lands that have a public benefit, are part of our national interests.

As we know, the environment is now part of our national interests, very important to Americans. The conservation efforts that we spent, oh, a hundred years developing, very important to Americans. So, as we enforce laws in some of those Federal lands or protected sites, sites such as we have there in the El Centro Sector, Native American heritage sites and things like that, I do see personally damage, litter, erosion. There are vehicle incursions back when they had vehicle incursions, and then vehicle incursions from the north that come down to pick those individuals up that do destroy a lot of our environmental resources.

[...]

...[W]hat happens at the border affects ma-and-pa American [sic]. That also includes the environment.¹⁷³

Dramatic Increase in High-Risk Rescue Operations

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

A: But I think when I'm talking about a rescue in Tucson Sector, these are incredibly dangerous rescues. These are people that are up in the mountains, often maybe that have fallen. They may have a compound fracture.

¹⁷² Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 120-122, May 5, 2023.

¹⁷³ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 101-102, July 12, 2023.



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To get to them and to rescue them I have to have agents in the back of a helicopter that can rope out of the helicopter as the helicopter is up against the side of a mountain. You can imagine it's dangerous for the flight crew. It's dangerous for the agents that are repelling down.

And then to get to the migrant and render aid and often put them in a—put them in a—I'm forgetting the name of the object, but whatever it is that holds them. And then often the agent will attach themselves to that sort of cage—not cage, but whatever they're in, kind of that sled that they're in—and provide aid as they're air-lifted out of there.

Or it could be an agent hiking 5,000 or 6,000 feet into the mountains to carry someone down on their back out of the mountain.

So incredibly dangerous for the men and women of Tucson Sector and dangerous for the migrants and dangerous for the air crews.

Those rescues are significantly up.¹⁷⁴

The Border Wall System Works

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: You mentioned before that the San Diego Sector has more coverage from the border barrier system than other sectors.

How does the border barrier system assist your agents in securing the border in the San Diego Sector?

A: It slows down the people as they come across, and so we have more time to respond and actually make an apprehension.

It also moves people—it's more difficult to cross through the barriers, and so they move to other areas where the barrier isn't where we can focus resources.

Part of the barriers as well is all-weather roads, so we have better and faster access to those areas.

Q: Are there areas of the San Diego Sector where the border barrier system would be beneficial to install for your agents?

A: Yes.¹⁷⁵

¹⁷⁴ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 19-20, July 26, 2023.

¹⁷⁵ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 42-43, May 9, 2023.



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Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: In the course of all your long experience serving in the Border Patrol, have you witnessed changes in policy that, in your opinion, have materially reduced the level of illegal immigration across the border?

A: In the Gatekeeper early on in my career—

Q: That was during the Clinton administration, I heard one of the questioners from the minority staff refer to that, Gatekeeper?

A: Yes.

Q: Was that correct, it was in the Clinton administration?

A: Yes.

Q: And what did it do?

A: It put up barrier in San Diego Sector, it was the first actual barrier that went up in San Diego Sector, and put more agents and resources on—in between San Diego and Tijuana to stop the masses that were coming at the time.

Q: Did it have the effect of doing that?

A: It did.¹⁷⁶

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Are there areas that are problems for got-aways where a border barrier system would be helpful were it to be installed?

A: Yes.¹⁷⁷

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Is it the policy of this current administration to construct border—barrier wall systems?

A: I don't know if it's the policy specifically.

Q: Have they halted—are you familiar with construction contracts in the San Diego Sector that existed to create a -- further your barrier system?

A: I'm familiar with the initial project to put the barrier in within San Diego.

¹⁷⁶ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 108-109, May 9, 2023.

¹⁷⁷ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 117, May 9, 2023.



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Q: How many miles would that have added?

A: I think it was a total of 37 or 38.

Q: And how many miles were completed?

A: I believe about 18?

Q: So when did they stop constructing that?

A: That was stopped in January of 2021.

Q: I believe it's January 19th, 2021.

A: There you go.

Q: The day before the inauguration of President Joe Biden.

Would you say that if that construction continued, that would help mitigate the entry of people crossing into the interior of the United States illegally in the San Diego Sector?

A: More barrier on our border would help us out.¹⁷⁸

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: Do you think that—obviously, we agree that infrastructure is important and it's not just about manpower—but do you think that a border barrier system helps you in your work?

A: So any kind of infrastructure—and we'll talk about the barrier right now as an example—used in the right way in the right location is a force multiplier. There are other areas where I would prefer other types of force multipliers.

But a physical barrier generally for us is most helpful in areas where we have what we call short vanishing points. And that is where an individual can approach, cross the border, and disappear quickly. That physical barrier extends the amount of time that I and my team have to respond to and interdict, and it increases the certainty of arrest.

In areas where that's true, a physical barrier is very helpful. In areas where that's not—out in the middle of the desert, for example—then I would probably tell you that I would prefer to have better technology and response capabilities.

¹⁷⁸ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 119-120, May 9, 2023.



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Q: I'm not asking you where the short vanishing points are, but I am asking you, where there are short vanishing points, are there barrier wall systems?

A: No.

Q: Not at all?

A: In some places, but not all.

Q: In some places, okay. So right now, approximately how many miles of border wall is in the Del Rio Sector?

A: Is it two? Two.

Q: About 2 miles?

A: Uh-huh.

Q: Okay. So on January 19th, 2021, there was supposed to be more constructed. Are you familiar with that?

A: I am.

Q: However, only 0.4 miles were completed. Does that impede or help your work as a Border Patrol agent—

A: Does—

Q: —to defend the border?

A: Does what?

Q: Only having that 0.4 miles of barrier system?

A: I mean, I guess the additional 0.4 is helpful to a point. But are there areas where I could use more physical barrier? Sure.

Q: So it would be helpful if the remaining portions of the original contracted 4 miles would be constructed?

A: Yes.¹⁷⁹

¹⁷⁹ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 87-88, May 5, 2023.



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Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: I have a quick follow-up on the border barrier.

So the contracts that were in place that were stopped January 19th, 2021, that also included not just a wall but also infrastructure to go along with the wall, correct?

A: Yes.

Q: Would that infrastructure also have been helpful to you?

A: So I think that's a great point. When we, the Border Patrol, would talk about wall, it was everything that came with that. That was the infrastructure. That was the better communications, the better detection capability.

All those things, as I've said before, are force multipliers to my men and women that are out on patrol, and not having them is not helpful to us.

Q: And those projects were also stopped, the infrastructure projects were stopped in January 2021, right?

A: Yes.¹⁸⁰

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Chief, does El Centro have border barrier system in the sector?

A: The El Centro Sector has border wall in the El Centro Sector.

Q: Do you know approximately how many miles of border wall you have in sector?

A: The El Centro Sector has approximately 60 miles of border wall.

Q: So there's some areas where there is no border wall?

A: Yes.

Q: Are there areas where you think it would be beneficial to install border wall where there is not currently border wall?

A: Yes.

Q: What benefits does the border wall give to agents in the field?

¹⁸⁰ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 91, May 5, 2023.



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A: When I started in the El Centro Sector in 1996, there was no border wall. In many of those areas now, where there is border wall, we see very little vehicular incursions across the desert between the ports of entry, and a decrease in pedestrian crossings at the border, especially where the 33 foot wall exists.

So because of my experience in seeing both that area in El Centro without and now with the border wall, I believe that the border wall gives the agents a tool—a tool—and an advantage when working with the border in El Centro Sector.¹⁸¹

Chief Patrol Agent Gregory Bovino, El Centro Sector (July 12, 2023)

Q: Do you have a lot of vehicular incursions in your sector?

A: No.

Q: No?

Do you have some vehicular incursions in your sector?

A: I have very few—I mean, there are very few vehicular incursions in our sector.

Q: Do you know why that is? Is that a function of terrain and border wall, or are there other factors that are contributing?

A: Yes, sir. It was, like I explained a bit earlier, when I started in El Centro Sector in 1996, there was a line in the sand basically, if even that, and vehicles and conveyances could cross that border almost at will anytime, anyplace.

But with the erection of the border wall, especially the 33-foot border wall, I've seen approximately five or less vehicle incursions. That's approximate.¹⁸²

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: I want to circle back to my colleague's questioning about the border wall barrier system.

You mentioned you have a barrier system in Tucson, correct?

A: We do.

Q: Do you believe that it's a helpful resource for Border Patrol?

A: So I do believe that. My belief is that very strongly that what I've seen in my career is that we always need that combination of things. You've probably heard me talk quite a bit about technology, infrastructure, and personnel.

¹⁸¹ Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 87-88, July 12, 2023.

¹⁸² Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 91-92, July 12, 2023.



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And so nothing by itself works. The personnel by itself, there will never be enough of us to do this. A border wall system by itself won't work. The technology, you have to have hands—somebody put hands on somebody.

So it is a combination of all those things, but the border wall system certainly works.

Q: So is it accurate to say, as chief, that you would prefer the Tucson Sector to have the border barrier system rather than not to have it?

A: Yes. Where we've designated that we needed it, absolutely.

Q: And does a border wall barrier system help deter aliens from crossing between ports of entry?

A: So the deterrence is, I think, difficult to measure. I don't know that I could say that definitively.

But what I can say is that it certainly gives us the advantage by having a system. It certainly impedes people. It can be used to canalize people to certain areas, to get them to areas where it's easier for us to deal with them—or keep them, more importantly probably, keep them away from areas that are more difficult for us to deal with them.¹⁸³

Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: Do you have border barrier system in the El Paso Sector?

A: Yes.

Q: And does the presence of border barrier system in certain areas in the El Paso Sector enhance your ability to achieve your border security mission?

A: Yes.

Q: Are there areas without border barrier system where you think it would be beneficial to install in the El Paso Sector?

A: Yes.¹⁸⁴

Chief Patrol Agent Anthony “Scott” Good, El Paso Sector (June 29, 2023)

Q: And you mentioned that increased infrastructure, as well. Would that include border barriers?

¹⁸³ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 98-99, July 26, 2023.

¹⁸⁴ Anthony “Scott” Good, Transcribed Interview with the House Committee on Homeland Security, 41, June 29, 2023.



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A: It would.

Q: And what is the current state of border barriers in El Paso Sector? Are they all complete?

A: No.

Q: How much of it is not, is incomplete?

A: We have a lot of old fencing that's made of mesh, and it's easily cut. And so smugglers are consistently cutting that and—and it's difficult for us to maintain that barrier because it hasn't been updated since it's very old. Currently we have 167 miles of border barrier, and that's not enough for the 264 miles of border that we have.

Q: Are there any border barrier system materials that are still laying there in your sector, unused, from the canceled contracts?

A: I'm aware of two sites, one near Fabens, one near—and one in New Mexico. There might be more, but I'm aware of two sites for that.

Q: Can you describe what kind of materials are left on the ground?

A: I haven't been on the site. But just driving around near it, it's large sections of steel.¹⁸⁵

Chief Patrol Agent Joel Martinez, Laredo Sector (June 1, 2023)

Q: Was there a border barrier system in RGV when you were stationed there?

A: Yes.

Q: Was it helpful to Border Patrol agents in achieving their mission of border security?

A: It helped.¹⁸⁶

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: Does Yuma have any border wall?

A: Yes.

Q: Do you know how many miles?

¹⁸⁵ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 142-143, June 29, 2023.

¹⁸⁶ Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 36, June 1, 2023.



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A: 140.

Q: Is that helpful?

A: Very.

Q: In 2022, Secretary Mayorkas said that the gaps in the border wall in Yuma would be filled. Do you know if the gaps that were left in the wall have been filled?

A: So not all of them. So, again, to, I think, further clarify, with 140 miles of barrier, right at a hundred miles of that is primary and then 40 miles of that is secondary. You know, again, in those very populous areas, there is a primary and there is a secondary barrier.

Out of all of that, there are 14 gaps that we have in Yuma and those are exploited almost daily, you know, as a vulnerability in our infrastructure.¹⁸⁷

Deputy Chief Patrol Agent Dustin Caudle, Yuma Sector (September 28, 2023)

Q: In a broader sense, if all of these gaps were filled, what kind of impact would that have on patrol operations?

A: So it allows me to concentrate the manpower on a daily assignment more accurately, and that is the whole intent of the border wall system. So it's not just the infrastructure. It's a combination of that infrastructure, that technology that allows me to put manpower in areas where there's more activity, something that we commonly refer to as vanishing time.

When you're in a very urban area, vanishing time is very low, seconds to sometimes minutes. The further out you go into, some of the remote desert areas, vanishing time could be hours to even days, and that allows more time for agents to respond and resolve whatever kind of activity was detected out in those areas, but any time you have—if all of the gaps were completely filled, we would be able to—again, be able to move manpower and resources and assets much more easily than just having a known vulnerability. If the door is open, it's typically utilized.

Q: I know that you weren't in Yuma when it happened, but do you know if any of the border barrier projects that have been started under the last administrative in Yuma were stopped under this administration?

A: So, I mean, other than the entire border barrier project being stopped—

Q: Right, but were there projects occurring in Yuma at the time of the stop of the—

¹⁸⁷ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 23-24, September 28, 2023.



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A: Yes. There's various stages, you know, for, like I said, not only the actual infrastructure, but the lighting system, the Linear Ground Detection system, the Pelco camera system. All of those things were meant to be part of the border wall system and all of those projects were stopped and are in various stages of completion even today.

Q: As far as you know, are any of those projects scheduled to be resumed?

A: Not that I'm aware of.¹⁸⁸

New Role of NGOs In Facilitating the Border Crisis

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: So the fiscal year 2023 omnibus provided [\$]800 million for this program, and it is designated for the CBP Shelter and Services Program. There's a little bit still being used by Emergency Food and Shelter Program until CBP's program is stood up.

Could you talk a bit about the role that NGOs play and whether they're important in your sector for Border Patrol to do its job?

A: Right. The role that they play is they take the individuals once we release them. And so, once we have processed them, you know, we have to release them.

Obviously, we can't—so, depending on what situation they're in, whether they have financial means or sponsors or family in the United States, those folks have a place to go.

The folks that don't are just in downtown San Diego. And so the NGOs take them in, set them up with—potentially in hotel rooms, legal advice, contact information, that sort of thing.

[...]

Q: And is it fair to say that Border Patrol partners with these organizations and works closely to coordinate those releases?

A: Yes.¹⁸⁹

Chief Patrol Agent Aaron Heitke, San Diego Sector (May 9, 2023)

Q: Okay. I also wanted to talk about the nongovernmental organizations that are at the border. I know the Democratic colleagues asked about that earlier.

That is also a more recent phenomenon. Is that correct?

¹⁸⁸ Dustin Caudle, Transcribed Interview with the House Committee on Homeland Security, 26-27, September 28, 2023.

¹⁸⁹ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 64-65, May 9, 2023.



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A: Yes.

Q: When did they start showing up?

A: I started dealing with the nongovernmental organizations as soon as I arrived in San Diego. The difference between Grand Forks Sector and San Diego Sector is significant, just because of the amount of traffic in those areas and the amount of people that we deal with.

The specific turnovers to the nongovernmental organizations really—I dealt with them the whole time I was in San Diego but dealt with them much more. As we started to release more and more people into the community, the more and more we dealt with them.

Q: When you say released people into the community, can you clarify what that means?

A: Yes. Those that are not going to be removed or detained, that are going to be released into the country.¹⁹⁰

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: But you are aware as sector chief in your sector what happens in generally the trends of the encounters that you turn over to ICE ERO.

A: Most of them go to the NGOs, and the NGOs will facilitate the migrants' travel plans to wherever that's going to be while they await [sic] for their immigration hearing.¹⁹¹

Chief Patrol Agent Jason Owens, Del Rio Sector (May 5, 2023)

Q: So, in your sector, what would you say is the percentage of parolees from those you encountered?

A: So last year it was a large percentage. A large portion of them were being given parole and then given that alternative to detention. ATD is what we call it. That's where they're affixed with a device, like an ankle bracelet, or given a cell phone. And ICE would then turn them over to NGOs for them to travel to wherever they were going to go while they await their hearing.¹⁹²

Chief Patrol Agent John Modlin, Tucson Sector (July 26, 2023)

Q: And how involved are they? How do they assist the aliens? Is it with transportation, care, et cetera?

¹⁹⁰ Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 84-86, May 9, 2023.

¹⁹¹ Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 24-25, May 5, 2023.

¹⁹² Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 25-26, May 5, 2023.



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A: So my understanding is for the migrants that are—once they're released from our custody, they would provide them with potentially transportation up to the Phoenix area, help them make travel arrangements, things like that.

The local one, the Casa Alitas, I think tries very hard not to overnight people there because of just the difficulties with the cost and personnel, but mostly it's to help them with their onward movement.

Q: Do you personally meet with these NGOs?

A: Yes.

Q: And how often do you meet with them?

A: So, broadly, I meet with all the NGOs, or at least all the ones that would like to participate, at least quarterly at our sector headquarters. I'm in contact with the IRC. There's weekly telephone calls or VTCs with them, with a whole bunch of stakeholders on those calls. And as the LFC, I'm in contact with quite a few of the NGOs as well.

Q: Do you have staff that are in contact with them more frequently than you are?

A: Yeah. So the staff is in contact with them every day, especially with Casa Alitas, the local one.¹⁹³

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: And when someone is released with an NTA on their recognizance, how is that release conducted? Where does the release take place?

A: Typically, family units are released to NGOs, where single adults have typically, recently, since I've been there in El Paso, have been released to the county. And the county, El Paso County, has a system of assisting migrants who can find their sponsor as well as—with the amount of money that they have for them to be able to pay their own way to their location.

Q: When you say the county assists them, does the county provide transportation, to your knowledge?

A: They only coordinate transportation from El Paso out, to my knowledge.¹⁹⁴

Chief Patrol Agent Anthony "Scott" Good, El Paso Sector (June 29, 2023)

Q: So you had mentioned that you served on the southwest border earlier in your career. Were NGOs prevalent back then, as well?

¹⁹³ John Modlin, Transcribed Interview with the House Committee on Homeland Security, 91, July 26, 2023.

¹⁹⁴ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 73, June 29, 2023.



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A: No.

Q: When would you say NGOs appeared to become prevalent on the southwest border?

A: I don't know when they started being prevalent, but I didn't have experience working with NGOs until I got to El Paso.

Q: Does that mean that NGOs were not around in the Grand Forks Sector?

A: That's correct.¹⁹⁵

Chief Patrol Agent Gloria Chavez, Rio Grande Valley Sector (September 26, 2023)

Q: Great. And I wanted to circle back to the NGOs that you say you worked with after processing, do you know which NGOs those are?

A: In RGV, we work primarily with Catholic Charities in McAllen. We also work with the Ozanam Center in Brownsville, and they have an Office of Emergency Management in Brownsville. It's also a partner that we work with as well that assists us. And there's a few others, but those are my primary. I really do think that Catholic Charities in McAllen absorbs most of the NTAOR migrants that are facing that type of disposition.¹⁹⁶

¹⁹⁵ Anthony "Scott" Good, Transcribed Interview with the House Committee on Homeland Security, 1403, June 29, 2023.

¹⁹⁶ Gloria Chavez, Transcribed Interview with the House Committee on Homeland Security, 123-124, September 26, 2023.



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Transcribed Interview with Mark Morgan, Former CBP Acting Commissioner

Note: For clarity, transcripts have been minimally edited to correct basic grammatical and syntactical errors in the original transcriptions provided to the Committee.

Prepared Opening Statement: The premise of how the Biden administration and Secretary Mayorkas describes the intentional, self-inflicted, unmitigated chaos and lawlessness at our Nation's borders is intentionally misleading. It's framed simply as a, quote, "immigration issue," and they talk in terms of needing, quote, "immigration reform."

Through all of the rhetoric, false narratives, and lies the clear and distinct lines between legal and illegal immigration have been intentionally blurred. The impact on our capacity to secure our borders and protect our safety and national security all but dismissed. The exponential expansion of human suffering at the hands of the ruthless cartels all but ignored. Lost in this knowing, willful, and misleading narrative is the truth. Our Nation's compassion has been hijacked for political gain and the pursuit of misguided ideology. The reality of what's happening at our borders and its impact to our Nation hidden from the American people.

It's an orchestrated effort to cover up and deflect how they obliterated effective policies, made a mockery of the rule of law, and cast aside not only enumerated duties contained within the Constitution, but its founding principles. They have force-fed the premise that illegal immigration is a justified exception to the rule of law. They call us anti-immigrant or racist if we support policies that serve to deter or apply consequences to those who have violated the law by intentionally—by the intentional act of illegally entering into our sovereign land. They want the American people to forego common sense and believe that illegal immigration has no downside or the negative impact to our country or ability to secure our border is nothing more than a partisan myth. It's a dangerous, perverse, and deadly lie which Secretary Mayorkas has willfully perpetrated upon the American people for the past 3 years.

From day one, the Biden administration immediately began to dismantle the network of tools, authorities, and policies we had in place. It was an intentional effort to take the most secure border we had ever achieved in modern history and intentionally unsecure it. Proven and effective border security strategies were abandoned and replaced with enhanced welcoming strategies. Any semblance of enforcement, deterrence, and consequences fell by the wayside. The predictable result was a crushing volume of illegal immigration from 180 different countries. Border security personnel became overwhelmed, forced off the front lines of our Nation's borders, away from their enforcement and national security duties as they were relegated to performing the duties of a Federal travel agency, ceding large areas of operational control to the hands of the cartels. Enabling them to increase their success rate of drugs, criminals, and potential national security threats pouring into the country. It's simple math. Fewer



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agents and officers on the line results in an increased volume of bad things and bad people getting through.

The one constant for the past 3 years is the man who has served as the administration's chief architect of their catastrophic open border policies, Secretary Mayorkas, a man who [has unabashedly] and defiantly transformed his position from a bipartisan protector of our Nation's homeland to nothing more than a front man to peddle disinformation and lies on behalf of the administration.

Secretary Mayorkas continues to opine our borders are closed. With more than 8 million total nationwide encounters and nearly 1.8 million known got-aways in the past 36 months, there is no objectionably rational, intellectually honest person who would continue to assert such a claim, let alone the Secretary of the Department of Homeland Security. He uses his position's influence to alter the facts, downplay the severity of the crisis, and convince the American people everything is under control. He knows it's a lie.

He has provided intentional false testimony while under oath when being questioned by congressional members. When confronted with the statutory meaning of operational control contained within the [2006] Secure Fence Act, which clearly defines the term in part as, quote, "the prevention of all unlawful entries in the United States, including entries by terrorists and narcotics," Secretary Mayorkas affirmed he, in fact, had operational control of our borders. At the very moment the question was asked, Secretary Mayorkas knew CBP had confirmed the detection of hundreds of thousands of known got-aways; that among the got-aways are untold numbers of criminal aliens, including rapists, pedophiles, murderers, and gang members; as well as potential national security threats. He knows that for every pound of narcotics seized, potentially tenfold gets by us, killing more than 100,000 Americans in a 12-month period. Even when his own chief of the United States Border Patrol admitted under oath we, in fact, did not have operational control of our borders, Secretary Mayorkas continued his regularly scheduled Sunday talk show circuit and claimed our borders were secure. And he did so to intentionally mislead the American people.

He's eroded the public's trust in our government as he's refused to enforce the laws enacted by Congress and shown contempt for our Nation's judicial branch. He has willfully violated mandatory screening, removal, and detention requirements; openly, unabashedly bragged about how his policies prevent an alien's illegal status to be used as the basis for removal; enacted mass parole operations in contradiction of the statute's clear intent; and used the umbrella of organizational priorities to forbid agencies from fulfilling their statutory enforcement mandates. All of these actions were implemented by the stroke of Secretary Mayorkas' pen.

Secretary Mayorkas continues to push a massive disinformation campaign regarding the realities of human suffering and tragedies thrust upon those who have heard his call to action to come. As the numbers of illegal migration continues to expand, so do the number of young women, children being sexually assaulted, those being forced into a life of trafficking, and those who have died.



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In the past 36 months, approximately 2,000 dead migrants have been discovered along our border by CBP. This doesn't include those who died in Mexico or the Darien Gap along the dangerous trek to our borders. 400,000 unaccompanied minors have made the decision to self-separate from their families, many experiencing unimaginable acts of violence on the journey. Yet Mayorkas tells us in his response that he has developed a safe, orderly, and humane system, a lie intent to distort and cover up the horrific brutality endured by the very migrants his policies have encouraged to put themselves in harm's way. As long as the cartels exist and our own weak ambiguous policy provides them with the opportunity for exploitation, there will be no humanity.

Secretary Mayorkas ignored our warnings, dismissed career border security experts, abandoned his oath, lied to the American people and Congress, cast aside the rule of law and the Constitution, and betrayed the public's trust in our system of government. His legacy will be one of deception, misinformation, and [as] the man who oversaw the worst border security crisis in our lifetime. Through incompetence or driven by ideology is of no moment.

We agree impeachment was not designed to settle political scores or policy differences. It's reserved for holding public officials accountable when they violate the law, abuse the power of the office, abandon their oath, and are dishonest with the American people and Congress. Secretary Mayorkas is a proven liar who has repeatedly refused to enforce the law and intentionally unleashed a wave of death and suffering while jeopardizing every aspect of our country's safety, health, and national security.

The American people deserve a Secretary of Homeland Security that will be beholden to the oath of office, the rule of law, and the Constitution, rather than a self-serving political agenda or personal ideology. How many more Americans and migrants have to die before we say enough is enough?¹⁹⁷

The Biden Campaign Made Clear They Wanted to End Effective Policies, Reward Illegal Immigration

Q: Great. So moving on to that transition between the Trump to Biden administration, did you learn in that time period of any policies that President Biden or Secretary Mayorkas intended to implement related to border security and immigration enforcement?

A: Yes. And it actually started during the 2020 campaign and before. It's public knowledge and public information—I mean, there were several things that were said by multiple candidates, but specifically Candidate Biden, during the 2020 election.

¹⁹⁷ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 8-14, January 22, 2024.



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Now, I'll mention just a few. And this doesn't incorporate all of them, but this came from President—Candidate Biden himself. When I become President, quote, I will not build one more foot of wall. It was called immoral and ineffective. Although I want to—I think it's important to note that the [2006] Secure Fence Act, which in part mandated that wall be built, in fact, it ended up leading to 634 miles of wall being built, then-Senator Biden voted for that act. I just want to put that out there.

But then during the campaign, he also said that he was going to immediately end the Migrant Protection Protocol, commonly referred to as the Remain in Mexico, called it dangerous and, quote, “inhumane.”

There was a very—I refer to it as an infamous Democratic Presidential debate when the question was asked to all the candidates, Would they support healthcare with respect to illegal aliens? And the candidates, including then-Candidate Biden, almost threw their arms out of their socket. They couldn't—trying to be the first one to raise their hand, unanimously saying that they would, in fact, provide healthcare to illegal aliens.

During that campaign, there was numerous promises that he would find a pathway for amnesty for those living in the country illegally, really focused on the expansion of DACA as well. And, of course, they openly talked about ending Title 42.

That's just, I think, a small subset that clearly indicated that any—the network of tools and authorities that we had developed—the effective network of tools and authorities we developed under President Trump, that Candidate Biden was hellbent on making sure that anything that we had implemented under President Trump that he was going to destroy and dismantle, and he made it very clear during the campaign.¹⁹⁸

Biden Campaign and Transition Team Members Were Warned Repeatedly About Consequences of Open-Borders Policies

Q: Now, given your law enforcement and border security and immigration expertise, were you or any other of your colleagues that also are in those fields provided a meaningful opportunity to provide input on those areas to either incoming Secretary Mayorkas or immediately Secretary Mayorkas at the time?

¹⁹⁸ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 17-19, January 22, 2024.



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A: Yes, yes. In fact, I'll even go back. I believe it was in October of 2020 when the campaign—obviously, by then Biden was the nominee for the Democratic Party. I was at the border and there was a press gaggle that was there. And there were some questions being asked, and they asked a very similar question. They just asked about, hey, you know, because then-Candidate Biden had been saying all those issues that he was going to do that I just enumerated, and I was asked, What do you think the results are going to be? And I had to be very careful, because as a government employee, I have to comply with the Hatch Act, right. So I clearly said—and I remember this because I believe exactly what I said in October of 2020 has happened. I said that if any Presidential candidate on either side, Republican or Democrat, enacts the policies that Candidate Biden said he's going to enact if he becomes President, it will cause a catastrophic chaos and lawlessness on our border. In fact, the reason why I remember distinctly, I actually used the word “invasion.” And I think that's exactly what's happened.

You look now in the past 36 months, 8 million total nationwide encounters, near 1.8 million known got-aways, yeah, I think we're clearly in a definition of invasion.

But then after that, what happens is—and you guys know this well—whenever there's a transition in administrations, the incoming administration sets forth a transition team, right. And so the Biden administration was no different. It followed the standard procedures. It's a very formal process. They request meetings, you know, from—at the department level, at the component level. It's a very formal—in fact, who's going to be there, what's going to be presenting? There's questions that are produced ahead of time, and there's written responses, and then there's also in-person briefings.

And that transition was no different than transitions I've been in before. Again, I've served in this government for 40 years, six administrations, both Republican and Democrat.

So as the commissioner of CBP, I don't personally participate in those briefings but subordinate leaders do. And so, of course, I directed, you know, full cooperation with that. We would have discussions on what was going to be presented. And, of course, for me, I wanted to make sure that what was going to be presented to the transition team was those network of tools, authorities, and policies that we had implemented, what they were, why we did that, and just how effective they were. And the team did just that.

What I would receive is back-briefs from those transition briefings from the principals that were involved. And I believe we probably—within the Department of Homeland Security, I believe somewhere in excess of 200 briefings were presented to the Presidential Biden transition team. And the overwhelming majority of those briefings were specifically on border security.¹⁹⁹

¹⁹⁹ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 19-21, January 22, 2024.



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The Biden Transition Was Warned That Ending Migrant Protection Protocols (MPP) Would Mean Mass Catch-and-Release

Q: Yeah. And so you mentioned that at first you were, I guess, pleased that you thought that they were going to be very receptive to understanding that the MPP was going to be very successful. But in June 2021, Secretary Mayorkas issued his first memo terminating MPP.

And I guess for me I would like to understand, what do you think happened or why do you think that—if you had a positive view in the beginning of their receptiveness, so all this information that was provided by experts, nonpartisan, career government experts with statistics and data and analysis, why they would go ahead and do that?

A: So you—I'm glad I just wrote this down. I should have mentioned this before, and I'm glad you said this. I think this is a very important element of those transition briefings. They were provided by career law enforcement personnel. I mean, there's a reason why political appointees are kind of, you know, intentionally not leading that, right, for obvious reasons. These briefings and the data provided was done by experienced career personnel.

In fact, the chief of the Border Patrol at the time, Rodney Scott—I believe he had somewhere in excess of 26, 27 years in the United States Border Patrol—participated in several of those briefings, just to give you the caliber of people that were in the briefings.

Here's why I say this. Because, again, of the—and there were a lot. We probably don't have time to talk about all of them, all the network of tools, authorities, and policies we had in place. But I often said that the Migrant Protection Protocol was probably single-handedly the most effective policy that we enacted because it targeted one of the key incentives. And that was release, right. We've all heard the terminology “catch and release.”

That was a big problem. Because we know that as long as—if an individual illegally enters our border and then after being encountered or after being apprehended they're released in the United States, that acts as a magnet. That's one of the most powerful incentives we have. And we saw that.

Up until 2019, May of 2019, when we had, you know, a considerable number of illegal aliens come to our border, mostly families and unaccompanied minors, clearly, we had to do something to de incentivize. We had to end catch and release.



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And so the Migrant Protection Protocol allowed us, under section 235(b)(2)(C), it allowed us to—those individuals that came to our border that claimed asylum, we could have them wait in a contiguous country, Mexico, while they are going through their immigration proceedings.

And there's two important key aspects to that. One, that enabled us to effectively end catch and release. We de incentivized one of the most powerful incentives for someone to come and illegally enter our border, and that is being released into the United States. The Migrant Protection Protocol de incentivized and cut off that incentive. We effectively ended catch and release.

And this is very important. We made that crystal clear to the Biden transition team. We told them that if you end the Migrant Protection Protocol, you will then effectively be reinstating catch and release, and that will sound like a beacon out to the entire world that now is the time to come. And the transition team was told that. They were showed data that supported that.

As the commissioner, I was out there publicly saying that again and again as much as I could. I was screaming it from the mountaintop. If you end policies like the Migrant Protection Protocol, that you will cause a degree of chaos at the border that will pale in comparison of anything that we've seen in history. And that's exactly what's happened.²⁰⁰

Policies Like MPP That Ended Catch-and-Release Served as a Vital Deterrent

Q: But to be very clear, when this section, the 235, was used and utilized by previous administrations, in your expertise and your 40 years in government, was it effective?

A: Yes. And a couple of things happened. Again, it's all about the release part of catch and release, right. And that happens—it can be prevented in two ways, right. You can either use a program like the Migrant Protection Protocol, where you remove them to a contiguous country while they're waiting for their asylum process to go through in the United States, so effectively you're not releasing them into the United States, and/or you can comply with the law that requires mandatory detention. And so the issue there is, again, they're not being released.

And so under the Trump administration when I was the commissioner, we applied that multilayered strategy to actually de incentivize—again, one of the strong incentives is that we utilize both the 235 provisions to remove people to contiguous country while waiting for their process and detain those in the United States while they are going through their asylum process. Both of those strategies together effectively is what ended catch and release.

²⁰⁰ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 23-26, January 22, 2024.



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And we also provided them the data. So by February of 2020, for example, we had reduced illegal immigration by 85 percent, 85 percent.

And one real quick—so MPP is an example too. So they used to say, Well, Commissioner, you've only enrolled about 60,000 or so in the Migrant Protection Protocol, so how effective is it? And I would smile, and I would say, Extremely effective. Because the message we sent was you're not going to be released, so 500,000 less came. It did exactly as it was intended.

One of the essential aspects is, well, of the Migrant Protection Protocol and complying with the detention mandate of 235 is it also acts as a strong deterrence, right. They don't come. If they know they're not going to be released, they're not going to come. Instead of our borders being the first line of defense, we should have a system of policies that pushes our borders out. And so our borders should really be our last line of defense, and that's exactly the strategy that we implemented under the Trump administration, and the Biden administration on day one started to dismantle that strategy.

Q: So you have a very clear—rooted in your expertise in border security—clear view that section 235 helps protect our border?

A: 100—

Q: Is Secretary Mayorkas utilizing these statutes?

A: No. One, it absolutely does assist us to secure our border and reduce illegal immigration. And the second part of your question, no, Secretary Mayorkas is not enforcing the law with respect to either one of those.²⁰¹

The Asylum Cooperative Agreements Had a Major Deterrent Effect

Q: Are you aware that of the three asylum cooperative agreements with Guatemala, Honduras, and El Salvador, the ones in Honduras and El Salvador were never implemented?

A: What I'm also aware of is on day one, Secretary Mayorkas ended the ACAs. So again, we're here about Secretary Mayorkas. And the ACAs we had with Guatemala was an extremely effective tool. It was an extremely effective messaging tool which went to a significant part of our multi-layered strategy, and on the front end of it being deterrence. So the ACAs that we had with Guatemala was extremely effective.

²⁰¹ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 27-29, January 22, 2024.



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And part of that strategy was the ACAs were a rolling star[t]. We would start with Guatemala, get that up and running, make sure that we work out all the challenges and issues with them, and then roll that out to the other countries. So all three Northern Triangle countries had, in fact, signed ACAs. And Guatemala, again, we were well under way with its implementation, and it was widely successful in my opinion. And, again, on day one, Secretary Mayorkas was part of ending all three of those asylum cooperative agreements.

Q: Are you aware of approximately how many people were sent to Guatemala under ICA?

A: I can't recall. I get asked this question a lot, though. I also get asked this question with respect to the Migrant Protection Protocol. In fact, I remember one time a reporter was asking me, thinking they were going to make a really good point. They said, well, Commissioner, you've only enrolled about 60,000 illegal aliens in the Migrant Protection Protocol. That seems like a drop in the bucket. Yeah so it was widely successful.

And so the numbers aren't—I don't recall the numbers being significantly high of those that we enrolled in the ACA with Guatemala. And I think that it shows two things: One, it shows that we were very [intentional] and methodical on how we implemented it, and we are not going to overburden Guatemala. That we are going to make sure that they have adequate resources to be able to be effectually implement it in an effective manner.

[...]

But here's what's really important about both of those programs. Again, it goes to the deterrence. It's not just about how many were enrolling in the program, it's the message that we sent. Again, through the ACAs and the Migrant Protection Protocol, we sent an incredible message to the entire world: You're not going to be released. It's not happening.

Catch and release is done. We removed the largest incentive for illegal immigration that was present, and [...] at the end of the day, what happened, is we told the world, you're not going to be released.

So what happened? I don't know, 500, 600,000 less came. So it's not just about how many we enrolled in the program, it's about the impact on deterrence that we had. And from that perspective, both of those programs were widely successful in the deterrence element.²⁰²

²⁰² Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 80-82, January 22, 2024.



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Trump Administration Policies Reduced Illegal Immigration Substantially Before the COVID-19 Pandemic

Q: So when we started talking about the ACAs, you mentioned that most of the deterrence at the end of your time was people being removed under Title 42. Is that correct?

A: No, oh, no. No. So that's false. By February of 2020, because of the network of tools and authorities we had in place, because of the ACAs, and the Migrant Protection Protocol, again, the programs the Secretary Mayorkas ended, is that we had reduced illegal immigration by 85 percent February of 2020. We didn't institute Title 42 until March. So we had already been widely successful.

And that's what I mean. I feel like you are insinuating that Title 42 is what led to the deterrence, and that's simply not true. It was the ACA and the MPP as well as a whole host of authorities and policies that we had in place, including the wall also acts as a huge deterrent. I can't tell you how many illegal aliens who we interviewed, and they walked up to the 30-foot tall wall with a 5-foot [...] and said, yeah, I'm not even trying it.

And so it was that multi-layered strategy of both resources and policies that we had in place that again by February of 2020 prior to implementation of Title 42, we were likely successful in deterring or reducing the flow of illegal immigration. And every single one of the things I just mentioned Secretary Mayorkas assisted in ending.²⁰³

The Biden-Harris Administration Did Not Just End Title 42—It Gutted It

Q: Understood. The majority of people who are being removed from the border at the time, was that under Title 42 or Title 18?

A: Title 42.

Q: Okay.

A: Which by the way Secretary Mayorkas from day one has argued to end and, in fact, did end. And from day one, Secretary Mayorkas, because, again, that's what this deposition is about. Secretary Mayorkas saw it go back. Title 42 immediately he carved out demographics from the implementation of Title 42. Immediately, he started carving out for unaccompanied minors. And it was unfathomable to me.

I wish you would have pulled up quotes from my thousand media hits at that time when I was talking about, where we knew the majority of unaccompanied minors coming to the border are 15 to 17.

²⁰³ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 83, January 22, 2024.



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And every medical opinion, including Dr. Fauci said that a 17 year old can carry COVID just as easily as an adult. But Secretary Mayorkas on day one started a carveout for unaccompanied minors and allowing them in as an exception to Title 42. On what planet did that make sense? I was outraged. This Secretary was intentionally and knowingly jeopardizing the public health of this entire country by immediately informing a carveout for unaccompanied minors that can carry COVID just as well as an adult.

And then, he started to do the same intermittently for families.

[...]

So, look, at the end of the day, all's I know is that Secretary Mayorkas on day one implemented a carveout for unaccompanied minors, intermittently did it for families, and actively fought to end Title 42. And they were eventually successful. And when Title 42 ended under Secretary Mayorkas' support and direction, illegal immigration continued to exponentially increase and, in my opinion, continued to jeopardize the public health of this country.²⁰⁴

The Biden-Harris Administration Has Created Every Incentive Possible to Encourage Illegal Immigration

Q: Okay. And I know in your opening statement you mentioned a lot of things that I would call pull factors. And can you—you mentioned about then-Candidate Biden for President, his campaign stumps about offering healthcare to illegal aliens or ending Title 42 and DACA.

Can you describe some of the pull factors that you see are created under Secretary Mayorkas' Homeland Security Department and some of the actions that he has done that you believe are pull factors or contributing to pull factors?

A: Yes. I think there are five elements that anyone wanting to come to the United States want. They want to be able to illegally enter the border and be released. They want to be free from deportation. They want to be able to work in the United States illegally, send money home, and bring family members here.

Under this administration, all five of those things are happening. Those are the five incentives. And you notice one thing that's not in there? Citizenship. Right now, those coming to our country today, if you say, We're going to give you these five things but you'll never have citizenship, they will say, No problem. I'm good.

And that's exactly what's happening. That's—the Biden administration has unleashed what—I call them incentives or pull factors, right. Those are the five things they want, and this administration has given them all five.

²⁰⁴ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 84-85 & 86-87, January 22, 2024.



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So who wouldn't come, right? And you've got to remember, the overwhelming majority of those, this administration—Secretary Mayorkas knows they are economic migrants. He knows for a fact that the overwhelming majority, the data shows that they're economic migrants and they do not qualify for valid asylum. Yet he is still refusing to enforce the law. He's incentivizing by giving all five of those things. And he's doing that by not enforcing the law. And then he opines why—he wonders why we've had the highest degree of illegal immigration in our Nation's history, by the way, since we've been keeping data since 1924.²⁰⁵

DHS Has Become a Mass-Processing Enterprise Instead of a Law Enforcement Agency

Q: Based on your experience under Secretary Mayorkas, is the U.S. Border Patrol effectively utilizing expedited removal?

A: No. In fact, there's a recent report—and I can't remember where the report came—that said that they're only using expedited removal in 13 percent of the cases of which they could. In fact, last week I believe it was, Secretary Mayorkas admitted he's releasing approximately 85 percent of those coming to the borders, whether they come to the POE or illegally in between the POEs.

In December alone, they were averaging releasing between 5,000 to 6,000 aliens being released in the U.S. every day, and that's just along the southwest border.

The former chief of the Border Patrol under congressional testimony said that their law enforcement and national security mission has effectively been transformed to that of one of a processing enterprise. All of the data, the reports, everything I'm learning from those that are on the front lines and those that are leading those on the front lines is that the mandate is clear, process—apprehend, process, and release as fast as humanly possible.²⁰⁶

The Biden-Harris Administration Refuses to Use Detention as Congress Requires

Q: So you said, I quote, “So I do not think it is reasonable to say that every single individual that is here illegally would ICE be able to detain? No, I do not think that is realistic.”

A: Okay. So actually I'll answer that. To the best of my recollection, because that was, what, almost 5 years ago, right? That's why I asked you for you to reread it to me. So to detain everyone here illegally, that's just not those coming across. That's everyone that is here in a country illegally.

²⁰⁵ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 35-36, January 22, 2024.

²⁰⁶ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 34-35, January 22, 2024.



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So there's millions and millions of individuals that are here illegally. So for us to think that we can detain millions and millions at the same time, no. That's not realistic. But that's not what's happening right now under the Biden administration at the direction of Secretary Mayorkas.

And the past 3 years, they have through congressional language at Secretary Mayorkas' request, he has consistently year after year requested less funding for detention. He has reduced the detention beds available.

When I was acting ICE director for a short period of time, we had 55,000 detention beds, I believe. That number now is around 30,000. And even the detention beds that are available, Secretary Mayorkas is not fully [utilizing] them. There are actually open detention beds that taxpayers are funding for that Secretary Mayorkas is not using.

So you can't actually actively create a crisis, and then say, hey, it's not our fault. And so that's actually what's happening right now. And I'll go back—and part of that again, I'll go back to that—when those that are entering illegally now, that's what we have to do. We have to stop the bleeding now.

And DHS, Secretary Mayorkas own DHS says that when you detain individuals that have illegally entered, not everyone is here illegally, but when you detain those that are currently illegally entering now, that they have removed 97 percent of the time.

And when you do not, when you release them, whether it's ATD or otherwise, 82 percent do not get removed because they flee apprehension.²⁰⁷

The Biden-Harris Administration's Use of Parole at the Southwest Border Is Unlawful—And They Know It

Q: So we interviewed—the committee interviewed nine chief Border Patrol agents, the ones along the southwest border. And we were told in their testimony that they were told to grant parole to large groups when detention was over capacity.

Based on your understanding of the statute, is being over detention capacity an appropriate reason to—

A: No.

Q: Okay. On the same interviews, the chief Border Patrol agents told us and testified to this committee in transcribed interviews that they were told to grant parole to large groups based simply on demographics, country of origin, or family units.

²⁰⁷ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 61-62, January 22, 2024.



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Based on your understanding of the statute, are demographics alone an appropriate reason to grant parole?

A: No.

Q: Okay. So, again, these are things that were told to these chief Border Patrol agents under this administration under Secretary Mayorkas.

So as far as you are aware, was Secretary Mayorkas ever briefed on these consequences of mass parole?

A: Absolutely. Keep in mind, Secretary Mayorkas used to be the deputy secretary of DHS under the Obama administration. He was the deputy to Secretary Jeh Johnson. At the time, I was chief of the United States Border Patrol. So there is, without any hesitancy from me, that this man knows this law and he knows what he's doing is [unlawful].²⁰⁸

The Law Sets Very Strict Limits on Granting of Parole

Q: What type of situations, based on your understanding, warrant a release from mandatory detention on parole?

A: It's pretty straightforward. I can give you a couple of clear examples on both sides. So, again, you read the statute. There's actually three elements to it, and they're all three very important. The first one, though, that sometimes gets lost is case by case. That's literally what the framers of the parole statute intended for that to be. So that's the first thing.

The second thing, so let's take significant public benefit. It would be, like, we want to bring somebody in that's going to be a material witness in a, you know, significant, large-scale criminal investigation. When I was the FBI Special Agent in Charge of El Paso Division, I remember distinctly it was extremely challenging to work with ICE to get authorization. In fact, we had somebody that we wanted that was a witness living in Mexico to come across to do just that. It was difficult.

There's a couple of aspects to this that also I think sometimes get lost is it's also meant to be temporary. It's not meant to be permanent. In fact, then there's an additional responsibility to the entity asking for this individual to be paroled in. There comes with it an inherent responsibility to track and know where that individual is with respect to that.

The second part of it, the humanitarian need, is, you know, someone may be in the need of acute medical intervention that's not available in their homeland. But, again, those are supposed to be determined on a case-by-case basis.²⁰⁹

²⁰⁸ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 31-32, January 22, 2024.

²⁰⁹ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 30-31, January 22, 2024.



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Categorical Mass-Parole Programs Are Also Unlawful

Q: So he's also created—Secretary Mayorkas has created categorical parole programs making parole available to certain demographics, as we discussed, and he prefers—that categoric[al] parole for certain demographics that he prefers before those people even arrive at the ports of entry.

And based on your understanding, are these programs an appropriate use of discretionary parole?

A: Absolutely not. And I can give you—I know you want to do a lightning, but I can give you a couple examples.

Q: Please.

A: So, you know, Operation Allies Welcome, so that was really the first large scale. 73,000 Afghan evacuees in the wake of the chaotic abandonment of Afghanistan. Rather than relocating to a safe third country or avail himself of many more options, again, he did this *en masse* use of parole.

The second thing was Uniting for Ukraine. Over 100,000 came. Again, *en masse* paroles. You said before, demographics or your country of origin is not a case by case. It's not authorized by law.

And then what we called the CHNV, Cuba, Haiti, Nicaragua, and Venezuela. He systematically then started applying *en masse* parole to those countries, and that was about 30—I believe he authorized up to 30,000 per month. So in a 12-month period, that would equate to 360,000 aliens that he would unlawfully use parole; again, not applying the three-step process of case-by-case basis, for significant public benefit, or urgent humanitarian reason.²¹⁰

The Trump Administration Worked to End Abuse of Parole

Q: Mr. Morgan, I just wanted to note also my colleagues mentioned a single parole program that may or may not have been in existence during the Trump administration and may or may not be in existence today. I just want to note for the record that Executive Order 13767 issued by President Trump on 2017 said, among many other things, “It is the policy of the executive branch to end the abuse of parole and asylum provisions currently used to prevent the lawful removal of removable aliens. Additionally, the Secretary of Homeland Security shall immediately take all appropriate action to ensure that the parole and asylum provisions of Federal immigration law are not illegally exploited to prevent the removal of otherwise removable aliens.”

²¹⁰ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 32-33, January 22, 2024.



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A: And so I appreciate you bringing that up as well. And so that—you know, it helps me—think about it this way. When I was commissioner, that was clear to me, right. That was the intent, the goal, and the strategy of the Department of Homeland Security, as well as the White House, was to ensure that we were not using parole inconsistent with what the statute requires.²¹¹

Border Patrol Agents Are Completely Unable to Adequately Screen and Vet Illegal Aliens

Q: I want to switch gears a little bit and talk to you about the national security implications of the border under Secretary Mayorkas.

Secretary Mayorkas ensures us that every alien that DHS encounters is screened and vetted, including the Afghans that you discussed in the Operation Allies Welcome that was talked about earlier today.

What are the limits of the screening and vetting that Border Patrol does on these individuals that are brought over?

A: Yes, I really appreciate that question because I think that's one of the many lies that Secretary Mayorkas perpetrates on the American people that is extremely frustrating for me. If you think about it for a second, I would say you don't have to be a border security expert to realize that that's just an unadulterated lie.

We receive people—we've encountered people from 180 different countries in the past 36 months. Many of these countries we have zero diplomatic relationships with. Many of these countries we know sponsor, facilitate, and harbor terrorism.

Let me just give you an example. Cuba, for example, do you really think when we encounter a Cuban national, military age, single, adult male that we're working with Cuba to get his biographical information from the government of Cuba? Do you think Cuba is working with us diligently to let us know whether he was just recently released from prison or he's a known murderer or a gang member? Of course not. It's not happening. It's a lie.

Every time Secretary Mayorkas says that these individuals we're encountering are vetted, it's a lie. Here's the base that happens. We do a database check against U.S. database checks and specifically NCIC for wants and warrants. That's generally the extent of what we can do before we're releasing them. And even those countries that we have diplomatic relationships with—let's take Guatemala. Our diplomatic relations are okay with Guatemala, but their ability, their database, their systems are woefully inadequate.

²¹¹ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 91-92, January 22, 2024.



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Even when they want to, they don't have the capacity to actually provide us the detailed biographical data that we would need on the individual. Yet this administration continues to catch and release them and lie to the American people that they're being vetted.

I'll give you another example. Lebanon. We have encountered people—I mean, it's so frustrating. Russia Syria, Yemen, Afghanistan, Russia, Lebanon, the list goes on and on, right. Do you think that if we encounter, which we do, a single adult Lebanese male of military age, do you think that during the interview we say, Hold on a second. Let's reach out to the Lebanese government, and we just want to make sure that you're—I don't know—not a member of Hezbollah. Just stand by. I mean, do you think the Lebanese government is going to just go, Oh, no, no. That individual, he's a known Hezbollah member. You should not allow—no. That doesn't happen. It's a lie.

And that's what's so frustrating. I mean, talk about impeachment of Secretary Mayorkas. Just the fact that he continues to mislead and lie to Congress and the American people on that action alone should be enough to impeach this man. He knows every single time that he says, We're vetting them, he knows he's intentionally omitting a material fact, which is the same thing as a lie, which that fact is.

We have no capacity to 100 percent vet the individuals that we're encountering and releasing in the United States.

And one last thing, the Afghan refugees that we allowed in the OIG report actually countered Secretary Mayorkas. When he said they were being vetted, the OIG report said that, in fact, was not happening.²¹²

There Is No Way for Border Patrol Agents to Conduct Adequate Interviews with Illegal Aliens

Q: On top of the screening and vetting, the chief Border Patrol agents we interviewed told us that as a backstop agents also have the opportunity to interview individuals to find out some of their background.

Under Secretary Mayorkas, are Border Patrol officials able to conduct meaningful interviews?

A: Absolutely not. This is a critically important question. This is one that the former chief of Border Patrol, Rodney Scott, really hits constantly, and he's spot on on this. Right now, again, as former Chief Raul Ortiz said in congressional testimony, he says that the law enforcement and national security mission of Border Patrol has been transformed to one of being a processing enterprise, quote, "processing enterprise." I believe Secretary Mayorkas has used that processing enterprise as well again and again.

²¹² Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 92-95, January 22, 2024.



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From all the data and information that I see, the mandate is clear: Process and release as fast as possible. Facilities are dangerously overcrowded. They're focused on what we call TIC, time in custody. They just want to process and get the illegal aliens out of their custody, release in the United States as fast as possible.

And, of course, when that happens, things don't get done. And one of the things that do not get done is a thorough, extensive interview of every single illegal alien that comes by.

And I'll give you just one example. What we saw previously—and it's out there on the record—is fake families, right. That's where an individual will buy, rent a child to form a fake family because, again, we have really bad laws. And the Flores Settlement Agreement says, again, that if you're family, they can't detain you, so they're released in the United States. And when Secretary Mayorkas ended the Migrant Protection Protocol, they reinstated the catch and release for families.

And so there is no doubt in my mind that there are fake families, that minors are being bought, rented, sold to form fake families, and they're entering this country every single day. But this administration, they stopped the robust effort that we have, whether it's rapid DNA or through interviews, to determine and identify fake families. In fact, I would say the majority—the information that I was briefed was the majority of the fake families we identified was just done through good, old-fashion investigative interviews that were done to form that.

In addition to that, we also get—through those interviews, we can identify criminals, gang members, murderers, rapists, pedophiles that will not show up on an NCIC warrant check in the United States because they committed those crimes in their home country. Those are not being done to the degree that they should, and that's why, again, we say that currently this policy by Secretary Mayorkas is jeopardizing our Nation's safety and national security.²¹³

The Lack of Adequate Screening and Vetting Has Major National Security Implications

Q: This may seem obvious now, but based on our limitations on screening and vetting, what kind of impact does that have on our national security?

A: Yeah. No, it's enough—it should be obvious, but, unfortunately, it's not because a lot of American people are being misled. Think about this. So right now—because, in large part, Secretary Mayorkas' policies and his lack of enforcing law and abusing his power and his oath and et cetera as we've discussed is that we've had 1.8 million known got-aways, close to that, in the last 36 months, 1.8, 180 different countries.

²¹³ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 98-100, January 22, 2024.



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Many of those countries we know sponsor, harbor, and facilitate terrorism. And we know that illegal aliens that come from those countries—we call them SIAs, Special Interest Aliens. In the past 36 months, we have encountered tens of thousands of individuals that we call Special Interest Aliens again that come from countries that sponsor, harbor, and facilitate terrorism.

Yet when we encounter them, we have no capacity to actually verify whether they are, in fact, a known—a threat to the United States because they fall outside the terrorist screening database. And just because an individual is not in the terrorist screening database doesn't mean they're not a terrorist. It just means they haven't dipped their toe in the water enough to get on our intelligence radar.

And so not only have we apprehended, encountered tens of thousands of Special Interest Aliens that we have no derogatory information but we know came from those countries. But as well as that, we've encountered at an unprecedented level—I think the number [is] now in excess of some 400 illegal aliens, those that have illegally entered. That doesn't even mention those on the terrorist screening database or ports of entry, both the southern and northern border, but over 400 that illegally enter.

Now go back to the 1.8 million known got-aways. It's not a matter of if a potential national security threat enters our country. In my expert opinion, it's already here. It's just common sense. If we have 1.8 million known got-aways, we've encountered tens of thousands of Special Interest Aliens, we've encountered over 400 aliens on the FBI's terrorist screening database, which means we have specific derogatory information on that individual's involvement in terrorist activities or themselves as a known or suspected terrorist, yeah, it's a national security threat.²¹⁴

Secretary Mayorkas Continues to Ignore the Rising Number of Apprehensions of Individuals on the Terrorist Watchlist

Q: On its publicly available data website, CBP notes that the amount of encounters in the terrorist screening data set only account for about, in recent years, .0081 percent of all encounters.

Does that percentage reflect a low terrorist threat level?

A: I hear that too. And, look, it's so frustrating. How many terrorists does it take to pull off the largest terrorist attack on our homeland soil in our Nation's history, right? So no. I mean, look at the terrorist attacks. Look at the marathon bombing in Boston. How many terrorists did it take there? Two.

²¹⁴ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 95-97, January 22, 2024.



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So, no, the percentage of those coming across is an absurd comment to make by this administration and Secretary Mayorkas. And he governs what goes into that system, right. He's the Secretary. So he knows the information—or he should be held accountable for that information, and he's actually trying to downplay the significance of the national security threat.

What he should be saying is over 400 illegal aliens on the FBI's terrorist screening database and untold numbers of Special Interest Aliens coming to our border represents a clear and present national security danger, and we have to reverse course on our policies. You don't hear that from him.²¹⁵

Mayorkas Is Fully Aware of These Threats, But Downplays Them

Q: When CBP leadership and intel learn about the national security issues and evaluate all of these national security issues, do they brief the Secretary on those issues?

A: Constantly, constantly. I mean, when I was there and when he was deputy secretary, I'd see there could be no difference. You get a daily intelligence report, a daily.

And not only that, think about congressional testimony from the FBI director, from the United States intelligence community. I think the last testimony of the FBI director when he was asked about the national security threat, he said it's the highest it's been in years. And he says he sees red blinking lights every single day.

The FBI, our intelligence community, and components within DHS have all said that what's happening at our border and the exploitation and the flow of illegal immigration absolutely poses a national security threat to this country. They're all on record. Yet this Secretary tells the American people that our borders are secure and there's nothing to see here.²¹⁶

Secretary Mayorkas Lied to Congress When He Claimed to Have Operational Control of the Border

Q: So I guess that's kind of one of the issues that this Congress has pointed out consistently about Secretary Mayorkas. It's about his truthfulness. And in your opening statement, you mentioned—you use a word that he's—the term “false testimony,” I believe, multiple times and, again, with the word “intentional.”

So I want to ask you something about some of the statements that Secretary Mayorkas has said. And given your expertise in this arena, I want to hear your take. But to start, what does it mean for you to have a secure southwest border?

²¹⁵ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 97, January 22, 2024.

²¹⁶ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 97-98, January 22, 2024.



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A: So I think that you have to go back to the law and the definition, right. And so I think that the [2006] Secure Fence Act really is the kind of defining statutory term. It's really the first time—it's the only statute that really defines what a secure border is. And through that they define operational control, right. And they defined operational control, the Secretary shall, right, prevent the entry of all illegal aliens, terrorists, contraband, et cetera. And so the [2006] Secure Fence Act is very clear that is the litmus test.

Now, whether you think that is aspirational or not, whether you think that's obtainable or not, as the commissioner, for example, or the Secretary, your personal beliefs are irrelevant. That's the law. And that's why, even under the Trump administration, we've chosen our words very carefully. We've said we achieved the most secure border we've ever had. Was it 100 percent secure? No, but we were trying.

Q: Okay. And I guess I'll save my Democratic colleagues this portion of their questions because I'm sure they'll ask. Has any Cabinet or has any administration ever achieved operational control under the Secure Fence Act?

A: No.

Q: Okay. But as you mentioned, it's aspirational. And how many Secretaries have we had since the passage of the Secure Fence Act?

A: Several.

Q: Several. I think we've already had about seven, right?

A: Yep, that sounds right.

Q: Not including the acting. We're not sure exactly how to count them.

A: Yeah, it's hard to add that up.

Q: But during that time, did any of those Secretaries—and you were working in that field the whole time—have they ever claimed they had operational control?

A: No. And nobody ever—not only no, but no Secretary did I ever hear chastise the [2006] Secure Fence Act as being aspirational, as being unattainable, right. It was aspirational for a reason. It came after 9/11, the worst terrorist attack this country has ever seen against our homeland. So, hell yeah, a lot was aspirational. Good. It needed to be, because that should be our goal. Our goal should be to achieve operational control as it's defined, meaning that not a single illegal alien comes in, not a single drug comes in, not a single terrorist comes in. Aspirational or not, they did a damn good job. It should be aspirational, because that should be our goal to protect this country.



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Yet this Secretary, he views that—because he sees it as aspirational, he views that as a mere advisory opinion, right. He can reformat. His definition—and I’m paraphrasing. I believe he said this under oath—was that his definition of a secure border is maximizing the limited resources he has to the maximum benefit.

Q: And I think his redefining of that term is an interesting tact because he doesn’t make laws.

A: Correct.

Q: But the other portion of this to us is, again, maybe to other Secretaries, his predecessors, never complained about that law. They just tried to do their best that they can to achieve that law or effectuate that law. For him, you’re—the difference is that he has breached our trust by testifying under oath that he has satisfied that law when it’s clear the evidence has not?

A: Absolute—I completely agree. It’s twofold, right. One, he’s—I’ll go a step further. It’s not just misinformation. He’s lying. In my opinion, in my expert opinion, he has lied to Congress and he’s lied to the American people. And then when he got caught in the lie, he tries to rewrite the [2006] Secure Fence Act’s definition of operational control. Secretary doesn’t have that authority, right. First of all, he abandoned his oath to the American people by lying to Congress and them, and then he’s also abusing his authority by rewriting congressional law.

I mean, during congressional testimony, when he was asked—and I still remember it. I think the first time it was Representative Chip Roy. He had the [2006] Secure Fence Act blown up on big sheets of cardboard, and he had the definition, and he read the definition to Secretary Mayorkas, which said, You shall prevent the entry of all illegal aliens. Secretary Mayorkas quickly said, Yes, we have operational control. The border is secure.

At that time, at that moment, he knew that hundreds and hundreds of thousands of illegal aliens that we call known got-aways had made their way—evaded apprehension and made it into the border. I mean, it’s a blatant lie.²¹⁷

The Biden-Harris Administration Lied About the Fake “Whipping” Scandal

Q: So we think that there is a breach of trust here to Congress in official testimony. There’s also been a breach of trust in many other ways; one to, we believe, the morale of the workforce at DHS. In particular, in 2021 in Del Rio Sector, there was an alleged whipping of migrants from Border Patrol on horseback.

²¹⁷ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 39-43, January 22, 2024.



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Are you familiar with that news story or cycle?

A: Unfortunately, I'm very familiar with that, yes.

Q: So in the immediate aftermath of the accusations, President Biden and Secretary Mayorkas, they implied that Border Patrol agents had done something wrong. They said that they were going to be punished, they were going to get reviewed. And then later we found out—the whole world knew—that Secretary Mayorkas had been told that the whipping action never happened and it wasn't whipping. It was—I guess some of the journalistic photographic interpretation's there as well in play.

But you were the commissioner of Customs and Border Protection. What do you think was the effect on the morale of the Border Patrol agents, not just the ones who are obviously being accused of wrongdoing wrongfully, but also the entirety of the Border Patrol?

A: Just when I think morale couldn't go lower, it did because of that incident. And I think it's very important to highlight that The Heritage Foundation through a FOIA request found out that about 2 hours before Secretary Mayorkas went to the White House press briefing room and addressed the entire Nation about this incident, it was clear that it was a lie. Yet he went out in the White House press briefing room and continued to [peddle] the lie and the false narrative that these agents had, in fact, whipped the illegal aliens. And he knew it was a lie.

I've been there at the White House press briefing room. I've given press conferences to the entire Nation. And with that—and I'm a pretty confident guy. But when you do that, the enormity of that, when you're standing there in the White House press briefing room, it's hard. And why? Because you know that every word that you're saying is going out to the entire United States of America.

With that comes an immense responsibility to be honest, truthful, factual, accurate. Secretary Mayorkas violated every one of those principles. He not only used his influence as the Secretary of DHS but also the White House bully pulpit to [perpetuate] a lie to the very men and women that he oversees.

So to say that it had a devastating impact to the morale across the United States Border Patrol would be an understatement. It's why the first time in history—no other Secretary, however many Secretaries we've had—during a muster when he was down on the border, there was a Border Patrol agent that actually turned his back on the Secretary. That's never happened in the history of the United States Border Patrol.²¹⁸

²¹⁸ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 43-45, January 22, 2024.



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The Biden-Harris Administration's Lies About Migrant Deaths Are Unacceptable

Q: Well, likewise. The other week, there was a story about three migrants who drowned in the Rio Grande. And they were trying to cross near the Eagle Pass, Eagle Pass, Texas. And the administration and DHS, they initially claimed that Texas authorities refused to allow border patrol agents access to save these migrants. And later it was confirmed that Texas authorities were very cooperative, and that migrants had actually drowned on the Mexican side of the river, right?

So just curious with again, why would Secretary Mayorkas and his Department have an incentive to mislead the public on that? Why would they spread that misinformation or disinformation?

A: Because it is clear they're trying to distract from their own culpability and creating the worst border security disaster in our lifetime. Our entire border is riddled with lawlessness and chaos. And they're clearly trying to distract from their own accountability with that.

And keep in mind—so and I want to make very clear, any human being that dies is one too many. But what I find so hypocritical of this administration and specifically Secretary Mayorkas—not only did he allow that lie to continue—and where is he? If I was the Secretary, [...] I would be correcting that, right. I would be making sure the American people knew the truth. But guess also what he doesn't say in the past 36 months? While he's trying to blame Texas for this one single death—and, again, one is too many—in the past 36 months, CBP, they've encountered almost 2,000 dead migrants at the border. Have you ever heard Secretary Mayorkas talk about that? I haven't.

And that doesn't include the dead migrants in Mexico that we'll never know about, or the dead migrants that died in the Darién Gap making the journey. Because Secretary Mayorkas' policies told them, if you get to our border, it's worth it. Risk everything. Risk your life. Risk your safety. Risk your well-being. Because my policies promise you that if you get to our border, you're going to be released.

Q: That's right.

A: But you never hear him mention or take an accountability for that.²¹⁹

²¹⁹ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 46-47, January 22, 2024.



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Secretary Mayorkas Is Lying When He Says Illegal Aliens Are Being Promptly Removed

Q: And at the same time, we've heard Secretary Mayorkas say multiple—on multiple occasions that all apprehended aliens that have no legal basis to remain in the United States are swiftly removed. Based on your knowledge of border and your interior enforcement, is that true?

A: Absolutely false. In fact, we'll go a step further. His new terminology, I think he's come up the last past year is everyone coming across is put in enforcement removal proceedings. Right? Again, this is an intentional effort by the Secretary to mislead the American people. It sounds really good, right? When you say enforcement removal proceedings. Right? You think, oh, wait, what we are actually enforcing the law. They're actually being removed.

That's a lie. He's releasing them. And we know, we know. In fact, I have the data that says that when—and this is [DHS'] own reporting that shows that when illegal aliens who are detained, 97 percent of them are removed when they're detained.

And when they're not detained, 82 percent end up remaining in the United States. So this Secretary knows, right, that he's misleading the American people, [he's] releasing them in the United States knowing that 82 percent of them will never be [removed]. And he also knows that they're economic migrants.²²⁰

The Vast Majority of Illegal Aliens Do Not Qualify for Asylum, But Secretary Mayorkas Encourages False Claims

Q: So I guess the way that you create these [pull] factors can impact people's lives. The language one uses can impact people's lives in many different ways as we've discussed. Have you ever heard of Secretary Mayorkas referring to all of those coming to the border as asylees?

A: Yes.

Q: Are they asylees?

A: No. This is another very important question that shows his intentional efforts to violate the law. Again, I'll go back. This is a man who served, you know, in the Department of Justice for a very long time. This is a man that served as the deputy Secretary of DHS.

He knows that the overwhelming majority of migrants coming to our borders are economic migrants, meaning they do not qualify for asylum, meaning they are not asylum seekers. They are economic migrants.

²²⁰ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 48-49, January 22, 2024.



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And the data, year after year, decade after decade shows that's the case. Yet, he intentionally creates policies that allows and provides those incentives for people that he knows are not asylum seekers, yet, he still refers to them as asylum seekers, knowing full well that the overwhelming majority are economic migrants.²²¹

[...]

A: Economic conditions are not a valid asylum claim. We never talk about that. Secretary Mayorkas lied to the American people again and again because he's not honest. Those conditions existed. They still exist in many countries throughout the United States.

You could say the same thing about Washington, D.C., Chicago, and Los Angeles about general violence that's going. Those are not a valid asylum claim. The valid asylum claim is that you specifically, personally are the victim of state-sponsored persecution because of your involvement in the protected class.

General violence from your home country or economic downturn is not a valid asylum claim, and Secretary Mayorkas knows it. And he knows the overwhelming majority of those coming are economic migrants and do not qualify for asylum, but yet he's reinstated catch and release, and that is why they're coming.²²²

The Border Crisis Is About “Illegal Immigration,” Not the “Immigration System”

Q: And then we'll come back to some other things that I would like to discuss in this second round. But is there anything else? I mean, you shared a lot so far, but is there anything else in your expertise and in your professional background as the Commissioner of CBP and all of your decades called of service in law enforcement and border security, is there anything else that you think that the committee needs to know, for the record, in regards to Secretary Mayorkas' handling of the border?

[...]

A: And then the other thing that I would say is that—and that's where I started off in my statement—is that what open border advocates, what this administration, what Secretary Mayorkas has tried to do is lie to the American people and provide them with a false narrative that what's happening in our borders is about immigration. It's not. It's about illegal immigration. Those are two separate things. But what this administration has tried to do, what Secretary Mayorkas has tried to do is erase the term “illegal.” You can see [he] doesn't apply the law. The law, when it comes to illegal immigration is very clear.

²²¹ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 47-48, January 22, 2024.

²²² Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 65-66, January 22, 2024.



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The mandates are very clear. He re”uses’to enforce the law. He refuses to apply any strategy of deterrence or consequence to those that are illegally entering. I want to make it very clear, I support legal immigration, but these are two separate things. And one other thing I want to make very clear is that then also push the false narrative, but illegal immigration has no downside. There is no negative impact to our country with respect to illegal immigration. It’s a lie. Illegal immigration. And especially when you have millions. In December, 300 and—I think it’s going to be close to 340,000 total nationwide encounters. There’s Jeh Johnson, the former Secretary under a Democrat-led White House, said that a thousand a day is a bad day.

A couple thousand over that, our system is overwhelmed. We are so far past that right now. And so what happens is, when you have the throw of illegal immigration, when is a violation of rule of law, it’s a violation of INA, up to a year in prison, and a thousand-dollar fine, there are zero consequences.

If you illegally enter our country, nothing happens. The vast majority are released in the United States. In fact, they’re rewarded after they’re released. And so what happens is that the limited resources that we have on the front lines of our nations, they’re pulled off the front lines. They’re pulled away from the law enforcement and the national security mission. They’re relegated to really becoming a Federal travel agency to facilitate the catch and release policies of Secretary Mayorkas.

And when that happens, when they’re no longer there, the border goes wide open, un-patrolled, un-manned. Over the past 3 years, we have literally handed large areas of operational control for the cartels for them to exploit. And what happens when they do that? Drugs, criminals, and national security threats are pouring in every single day.

Almost 1.8 million known gotaways. Untold numbers of murderers, rapists, pedophiles, aggravated felons, and gang members are entering our country every single day. Untold numbers of national security threats. It’s not a matter in and when a national security threat enters our country, they’re already here.

I mean, I can give you an example. We actually have an organization in the United States called AVIAC, American Citizens Who Are Victims of Illegal Aliens. We actually have an organization in the country that came together because their family members died at the hand of illegal aliens.

So I think it is important to understand that we are talking about illegal immigration, not legal immigration. I don’t know of a single colleague of mine that is for strong border security that isn’t for stronger legal immigration. But this is about illegal immigration.



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And illegal immigration is not a victimless crime. It drives our border to be less secure and allows the cartels to exploit that to push drugs, criminals, and national security threats into our country.²²³

H.R. 2, the “Secure the Border Act,” Would Force the Biden-Harris Administration to Secure the Border, End the Crisis

A: What I will say, though, is again within the scope is yes, H.R. 2, the Border Security Act, the strongest piece of border security legislation that’s ever been passed in any chamber in the United States Congress, in my opinion, in the history of our country was passed in the House of Representatives. And it went over to the Senate side where the Democrats have sat on it refused to push it forward.

So there has been a substantial piece of border security legislation that’s been passed that would force Secretary Mayorkas to actually end his abuses of authority and make him actually uphold his oath to not only his position as Secretary, but the Constitution of the United States.

It would force the Secretary to stop unlawful use of mass parole; stop force—end catch and release; stop—at least stop the bleeding of the lawlessness, chaos at our border.

[...]

Q: Is it your view that legislation could be helpful to secure the border?

A: I think H.R. 2 sets out a pathway that will reverse course in that open border disastrous policies set forth by Secretary Mayorkas. That has created an unprecedented level of chaos and lawlessness on our borders to force him to reverse course on those policies, to force him to actually enforce the law and stop abusing his power. If there is a piece of legislation that passed that does that, yes, it will be effective to secure our borders.²²⁴

More Resources Will Not Solve the Fundamental Problems Created by Open-Borders Policies

Q: Okay. All right. So I’d like to read a few comments you made on the April 19th hearing for the Senate Committee on Homeland Security and Government Affairs. If you do not wish to answer a question afterwards, please tell us you do not wish to answer the question.

First, quote, “Unequivocally, we need more technology. We need more technology at the ports. We need more technology in between the ports. Absolutely.”

²²³ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 49-53, January 22, 2024.

²²⁴ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 75 & 77-78, January 22, 2024.



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Second quote, “The technology that we need, there is a whole list of technology we need. We need fixed and mobile surveillance. We need better surveillance. We need updated surveillance. We need a capability to have that surveillance be interconnected from sector to sector. The list goes on and on. You can use more drones. All this stuff that has been talked about, right, all that technology is absolutely needed. Hands down at the ports and in between the ports.”

Next quote, “You still need some barrier equipment not sea to shining sea. There is not an expert on the border who will tell you that this is what you need. You need more personnel.” End quote.

The next quote is, “We need technology and a lot of it. We need personnel where it makes sense. It makes sense in between the ports and at the ports.” And then last quote, “We must continue to invest in border security, including additional infrastructure, technology, and personnel where it makes sense.”

Is it still your view today that more personnel and more technology is helpful for border security?

A: Yes, absolutely, 100 percent. Every one of those quotes you read to me were true and accurate then, and they remain true and accurate now. But here’s what’s very important.

It’s not a one or the other proposition. Right. What we utilize—and here’s what’s frustrating for me, and I appreciate legal counsel here, whenever you do—I’ve given multiple congressional hearings, I’ve have done multiple op-eds, I have done thousands of interviews, and when you pluck one statement out of, you know, a four-hour hearing, you lose a lot of context. Because I’m almost sure—and I’d have to read the transcript—but in that I went on to say, though, and I talked about multi-layered strategy.

A multi-layered strategy that actually really began under the Clinton administration in full, and has being used by the United States Border Patrol ever since. And the multi-layer strategy is infrastructure, technology, and personnel. Absolutely hands down.

Anywhere along our southern border or northern border or coastal border where we can lay down that multi-layer strategy of infrastructure, technology, and personnel, every single of major success improves. And that’s absolutely true then, and it is absolutely true now.

But here’s the issue. It is not one or the other. It doesn’t mean that if you have all the technology, but if you have weak, ambiguous policies that acts as incentives, and beacon of light for the entire world to come, that technology means nothing. That technology will just help you better observe as you catch and release. And that’s what we have under Secretary Mayorkas.



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Not only that, on day one, this Secretary has said again and again in congressional testimony, in public on the Sunday talk show, that that multi-layer strategy that you quoted that I said multiple times in congressional hearings, which, oh, by the way, I was not challenged then. But every single word from Secretary Mayorkas since then has been to dismantle that tried and true proven multi-layered strategy. He said again and again that walls are ineffective. That we don't need walls. It's a lie.

There is not a single Border Patrol agent that says that walls are not a part of the multi-layered strategy of infrastructure, technology, and personnel. I've also said in congressional testimony and otherwise, the U.S. Border Patrol agents, if you had to choose between like an access road or a physical wall, a lot of them would choose that access road. But I also said if you give the complete context under the Trump administration, they didn't have to when I was Commissioner because we gave all of that to them. That strategy included all of that.

We didn't pick and choose elements of that proven multi-layered strategy of infrastructure, technology, and personnel. But at the end of the day, I've also said since then, if you went into other congressional testimony, the thousands of media interviews that I have done, what I have also said is you can put a hundred thousand Border Patrol agents on the border, but if your policies force their agents to catch and release, you will not have security, you will just incentivize more illegal immigration, which is exactly what's going on under Secretary Mayorkas.

So you could have a wall from sea to shining sea, even though it's not needed, but you could have that. But if you open up the gates of the wall and allow illegal aliens to come in, it's worthless. If you continue to release illegal aliens, all the infrastructure that you have, all the technology is worthless. You could have been the best fixed and mobile technology out there. You could see illegal aliens coming for 20 miles. But when they get to the border, if you release them into the United States, that technology is useless.²²⁵

Excuses for the Crisis, Like Climate Change, Are Simply Unserious

Q: Well, Secretary Mayorkas also made some statements about push factors too. And one of the push factors he's put out there as why the number of illegal immigrants are coming to our southwest border is climate change.

Do you think climate change is driving illegal immigration to our southwest border?

²²⁵ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 69-73, January 22, 2024.



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A: You know, every time that question gets asked, I really—I have to try hard not to laugh out loud. It’s absurd. It’s just patently absurd. And I think the majority of American people, those that are intellectually honest, know that that’s an absurd statement.

And let me give you an example—and I think this applies to just about every one of the, quote, push factors—is that the moment that President Biden took over and Secretary Mayorkas took over from this position, did the climate change? Where did the climate change, right? If you look at the Northern Triangle countries and the countries where the majority of illegal aliens are coming from, I promise you the climate didn’t change on the first day that President Biden took oath of office.

But what he did was—and Secretary Mayorkas assisted him greatly—was to dismantle every effective tool and authority we had in place, and he systematically started to refuse to enforce the law. And he sent a message to the entire world that now is the time to come. That’s what happened. So climate, no, has nothing to do with any of the push factors.²²⁶

Secretary Mayorkas Never Blamed Climate Change for Illegal Immigration Prior to 2021

Q: And notwithstanding your views on climate change—

A: Right.

Q: —because that’s not why we’re here today—

A: Right.

Q: —but what was the first year that you worked in the Federal Government in the border security space?

A: 2000—I would say—well, I would actually say probably—that’s—I would actually have to say I’d probably have to go back to 2005 when I was in the FBI and I was supervising an MS-13 Hispanic gang task force. That was really where I first started learning about border security and the impact to our countries.

Q: Climate change, again, notwithstanding anyone’s views on climate change—

A: Correct.

Q: —has been a topic of discussion in this town and the country or globally for more than two decades.

A: Correct.

²²⁶ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 36-37, January 22, 2024.



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Q: During your time when you were working in the border security space, even two decades ago when you first started in that area, did anyone ever say that climate change is clearly pushing illegal immigration? Because illegal immigration was going on back then too.

A: Right, right. So that's a great question. I've actually never looked at it in that way before.

Q: So it never occurred to you because it wasn't a topic of discussion?

A: Great point. No, I agree. In fact, I'll go back to when I was chief of the United States Border Patrol under then-Deputy Secretary Mayorkas never mentioned climate change, never.

Q: So Secretary Mayorkas did not care about climate change when he was deputy secretary?

A: Never mentioned it, never mentioned it.

Q: He wasn't concerned about climate change for that—the current flux of illegal immigration, the countries from which they were coming?

A: I'm comfortable to say that, because the deputy secretary, if he was concerned about something, he said it. It was never mentioned, not a single meeting.

Q: Well, it's very curious why all of a sudden that's become a push factor now.

A: And, again, I think your point is important. Regardless where anybody stands on climate change, look at the facts. So the day that President Biden took over, in the first 12 months where we had 1.9 million total nationwide encounters, the most in our Nation's history, the climate changed in 12 months in these countries? It doesn't make sense. It's absurd.²²⁷

Morgan Regular Communicates with Active DHS Law Enforcement, Some Who Fear Retaliation

Q: And for the current employees that you—or current people who work in ICE or CBP fields, can you describe some of their types of positions? You don't have to name them.

²²⁷ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 37-39, January 22, 2024.



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A: Yeah, yeah. So I want to be a little cautious because I do have a sincere concern that this administration, should they find out that I am talking to current employees, that there would be some form of retaliation. So I do want to be very general in that. But I'm comfortable saying that, yes, so I talk to both retired personnel in the Federal Government as well as those that are still serving actively in CBP and United States Border Patrol. And it covers the gamut, you know, from line agents to those that hold supervisory positions. In fact, there's probably a couple of individuals that I talk to almost on a daily basis with respect to this.²²⁸

The Biden-Harris Administration Has a Responsibility to Follow the Law—And Must Be Held Accountable

Q: Okay. Do you believe that if Secretary Mayorkas were to be impeached the President could choose someone or would choose someone who was fully on board with his own policies and likely to follow the President's directives?

A: Again, I've been there, and I'm telling you right now what the American people deserve from a public official, especially the Cabinet level or component level, I don't give a crap what the President's directives are. There's no directive that's acceptable for any Cabinet level official, component level leader to violate the law. There is no presidential strategy that makes that acceptable. And as a Cabinet level official or component official, you have a fiduciary duty to your oath, to the Constitution, to every citizen of this country to stand up and say, No, that is blatantly an unlawful order.

And what you're asking me to do will create chaos and lawlessness at our border and jeopardize every aspect of our Nation's safety, health, and national security.

The American people deserve a Secretary of Homeland Security that puts his or her fiduciary duties to do just that, to protect our homeland above any presidential political agenda or ideology. Secretary Mayorkas has abdicated that oath and abdicated that responsibility.

He has willfully and intentionally carried out orders and policies at the end of his pen that have added to the lawlessness and chaos at our border.

So, yeah, so if Secretary Mayorkas is impeached, which he should be, can he bring in somebody else that is going to agree with his general policies and guidelines? Sure, of course. That's the way the process works. But I hope Congress will do a better job to make sure that the new Secretary, though, will not violate the law and erode the public's trust and the United States Government and cause lawlessness and chaos at our border, jeopardizing our safety and national security in doing so.

²²⁸ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 16-17, January 22, 2024.



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And the last thing I'll say, the American people, they deserve for our public officials to be held accountable. I don't give a crap who gets replaced at the end. That's down the road. We can have that discussion. Congress can do their job during congressional confirmation process.

But the American people, they need to see public officials who do everything that Secretary Mayorkas has done to violate the law, abuse his authority, abdicate his constitutional responsibility, the American people need to see our political leaders hold those people accountable, and that's exactly what's being done right now.²²⁹

Transcribed Interview with Rodney Scott, Former Border Patrol Chief

Prepared Opening Statement: As stated, my name is Rodney Scott. I served more than 29 years as a U.S. Border Patrol agent. I had the honor of serving as the Chief for the United States Border Patrol within Customs and Border Protection from February 2nd, 2020, to August 14th, 2021. My tenure as Chief spanned both Presidential administrations of Donald Trump, as well as Joe Biden. And I honorably retired on August 14th, 2021. As the Chief, I was the highest ranking official within U.S. Border Patrol responsible for executing the missions at the Department of Homeland Security, Customs and Border Protection, and U.S. Border Patrol. The U.S. Border Patrol is the primary Federal law enforcement organization responsible for preventing the entry of terrorists and their weapons and preventing the illicit trafficking of people and contraband between ports of entry. And as Chief, I was responsible for all administration and operations of Border Patrol, including the development and implementation of nationwide policies. Previous congressional testimony of several witnesses to include myself [has] clearly established that the Biden administration[,] to include the official transition teams and Secretary Mayorkas, were advised by career border security experts that removing physical and policy obstacles intended to deter illegal immigration would result in a loss of control of our international borders. Secretary Mayorkas chose to ignore these stark warnings and implemented a series of decisions that directly resulted in the massive illegal immigration and the associated crime, death, and general chaos that we are experiencing today.

This is not a policy debate as Secretary Mayorkas and his defenders would lead you to believe. Policy is simply how law is enforced. The decisions made by Secretary Mayorkas have been informed and intentional decisions with the stated objective of finding ways to allow more aliens into the U.S. I assert that Secretary Mayorkas and his subordinate political appointees have and continue to intentionally conspire to undermine the security of the American people, as well as the letter and the intent of congressionally enacted U.S. law.

²²⁹ Mark Morgan, Transcribed Interview with the House Committee on Homeland Security, 111-112, January 22, 2024.



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I assert that critical decisions made by Secretary Mayorkas were affected with full knowledge and intentional disregard for the law, including the legal requirement of 8 U.S.C. 1103(a)(5), which states in part that the Secretary shall have the power and duty to control and guard the boundaries and borders of United States against illegal entry of aliens, as well as a total disregard for public law, 109-367, which is commonly referred to as the Secure [Fence] Act of [2006], which mandates that the Secretary take all actions that the Secretary deems necessary and appropriate to achieve and maintain operational control over the entire international land and the maritime borders of the United States.

Controlling who and what enters our national home is a critical aspect of national security. Secretary Mayorkas accepted this responsibility when he accepted this position and swore an oath to uphold the duties of the Office of the Secretary of Homeland Security.

In direct contradiction to these legal requirements, I assert that Secretary Mayorkas made critical decisions with the full knowledge that his decisions would result in a significant influx of illegal aliens entering the U.S. in violation of 8 U.S.C. 1325.

Furthermore, that this influx would result in a significant degradation of border security, which would directly increase national risk to illegal entry of significant number of aliens to transnational criminal schemes that include child trafficking, narcotics smuggling, as well as the infiltration by terrorists and adversary nation state actors.

During my professional conversations and interactions with Secretary Mayorkas while I was still Chief, he made it very clear that he fully understood that decreasing deterrence and consequences for illegal entry, and increasing the release of aliens that had entered the U.S. illegally, with unquestionably result in an increase in illegal immigration to the U.S., that in his words at that time, would be unsustainable.

Beyond a general understanding, though, I recall several specific incidences that support my assertions. The first was during the conference call that the Secretary Mayorkas held with DHS leadership following his confirmation. The second was a face-to-face conversation that we had in El Paso, Texas, just before the two of us met with a group of local law enforcement leaders. The third was during a virtual meeting about border wall construction projects, and the presidentially mandated 60-day policy and assessment.

In addition to our general question conversation about the operational benefits associated with the technology-enhanced physical border wall, border barrier, the Impoundment Act of 1974 was specifically addressed, acknowledged. Subordinate politically appointed staff in the meeting basically told Secretary Mayorkas they would find a way to work around that.

Additionally, Secretary Mayorkas repeatedly stated that on national television that they have a plan or acting on a plan, and that their plan will be successful. This adding evidence that his decisions are informed and intentional.



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I assert that Secretary Mayorkas has knowingly and intentionally misled Congress and the American people by providing blatantly false information and by providing select data points while intentionally omitting critical interrelated data points.

For example, in March 2021, after receiving countless data reports that documented an increasing number of illegal aliens and a rapidly increased number of known gotaways, Secretary Mayorkas appeared on several Sunday news programs and unequivocally stated that the border was closed and that the border was secure. On the next day, I asked Lise Clavel, the CBP chief of staff, who, at the time, was my primary conduit to communicate with Secretary Mayorkas, what that extremely inaccurate statement was based on. She responded that they thought I would like hearing him say that. I informed her that the statement was not accurate, and that it needed to be corrected. Despite the fact and overwhelming evidence to the contrary, Secretary Mayorkas continues to mislead America and state that our border is secure.

In testimony to Congress, Secretary Mayorkas stated that he was not aware of a cartel-smuggling tactic, whereby they used illegal immigrants to overwhelmingly distract law enforcement so they can smuggle other aliens or narcotics in more easily.

Even though this tactic is commonly known, I had provided the Secretary with a written explanation of how the cartels used this specific tactic to shape border—to shape the border and facilitate the smuggling of higher threat people and goods. This explanation was provided via government email while I was still serving as Chief of the Border Patrol.

Again, in 2021, Secretary Mayorkas stated publicly that undocumented noncitizens were being tested for COVID-19 and vaccinated prior to release, when, in fact, that was not occurring. Furthermore, the Federal Government had no authority or mechanism for ensuring that it did even occur. Many aliens were being transported to nongovernmental organizations that could offer these services after the alien was released. However, these NGOs lacked any authority to mandate a COVID-19 test or vaccine, nor could they force the alien to even enter their facility. By law, once an alien is processed and released from DHS custody, they're basically free to go anywhere that they wish. Secretary Mayorkas omitted this critical information.

Again, in 2021, I was granted listen-only access to a conference call hosted by Assistant Secretary David Shahoulian. Assistant Secretary Shahoulian reported directly to Secretary Mayorkas. During this call, Assistant Secretary Shahoulian informed Congressman Tony Gonzales of Texas that all the aliens being released in the area that the Congressman represented were being COVID tested, and/or being released only in the alternatives to detention program, which included ankle-bracelet tracking. This was not true. I instructed the chief patrol agent in the sector being discussed to make sure that the Congressman was properly informed.



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I assert that Secretary Mayorkas knowingly put Americans at risk when he violated the CDC, the disease—I'm sorry, the Center for Disease Control directive that instructed CBP to expel appropriate aliens under Title 42 authority when he ordered CBP to exempt unaccompanied minors without any medical justification.

Based on my experience, knowledge, and previous briefings from CDC, I believe that this decision was arbitrary and lacked any factual or evidentiary basis. Furthermore, based on previous briefings provided by CDC, as well as exposure modeling conducted by CBP, I believe that this arbitrary decision, compounded by public statements made by the Secretary, significantly increased the risk introducing COVID-19 into the U.S. population.

This arbitrary decision questionably placed CBP and Health and Human Services personnel, as well as the unaccompanied alien children themselves, at an increased risk of spreading or contracting COVID-19.

Under Secretary Mayorkas' direction, I watched border security gains that were made over three decades vanish, and the safety of our border security and our Nation collapse. With each border security- and immigration-related decision that Secretary Mayorkas implemented, the volume of illegal aliens has increased, overwhelmed Border Patrol, and effectively transferred control of our Southwest border to the Mexican drug cartels. I look forward to your questions.²³⁰

The Biden-Harris Administration Spent Time and Resources Scheming Up Ways Not to Build Border Wall That Was Already Paid For

Q: What about the virtual meeting about the border barrier. Can you explain a little bit more about that conversation.

A: Sure. So I'll have to back up again for that. So the last witness—actually I'll give a little bit credit for this. When President Biden won the election, we knew that that's a new Presidential administration, so we started preparing even before the transition teams came through. So the wall was always a really critical, political fire bed, if you will. Based on that, we knew we were going to have to answer a bunch of questions. So we built a database, if you will. We staffed, we tasked border security to basically build out an easy-to-navigate database that would show where the requirements for every single one of the border wall projects came through, where was it today? Like any—we basically, we call it red-teaming. We got they guys together and basically said what questions, if you haven't been involved in this would you want, would you ask? And we tried to build this database to answer all those questions in advance.

²³⁰ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 8-14, January 22, 2024.



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This was before the Presidential transition actually took place, just so we would have that the information ready for them and try to take some of the politics out of it and be able to show that these were Border Patrol requirements, this is what it's based on, this is the value added. And then it even got into the construction phases. This is where it is in the construction phase. This is appropriated funds. This is the DOD emergency funds, and lined the whole thing out so any decisionmaker, no matter what position they were coming from, would, to the best of our ability, have every piece of information they knew. So as you know, Presidential transition takes place, executive order comes out to do the 60-day, quote, unquote, "evaluation," which involved a pause of the border wall construction. We've got a lot of contractors that basically had contracts that we were happy to pay. So time was of the essence.

So basically, we had that all set up, and this was one of the briefings that were giving the Secretary on here's this whole database. You can go through it any time you want, but we are walking through these different projects. Because it is also as you remember, or I think you remember, that executive order had carveouts. So it had a 60-day mandate for the entire, like, wall projects, but it also said the Secretary had very specific authority for anything that was life, safety, or he deemed urgent. That we can continue working on those projects.

So this was one of those first briefings—I know it wasn't the first one, but one of them were we were lining out. Here are the projects that we say are life safety. And the most of the stuff that I was saying was life safety at the time, for example, was El Paso sector, literally had a section of wall that was standing up with some braces. But we were getting complaints from the community because when it was windy, it would just start shifting. It was a 30-foot high wall there. It had no concrete or anything. And we weren't allowed to do anything with that.

So it was projects like that. We were briefing him on going through the entire process. He actually—I've noted, it's kind of funny. I wasn't originally supposed to be in this meeting. Staff kept removing me from the invitation to the meeting, even. And then luckily the acting commissioner of Customs and Border Protection invited me to a meeting anyway. So we're at Ronald Reagan building, but it's on a big VTC screen. We were walking through—let me answer your question real quick then—sorry I'm dragging it out.

Secretary Mayorkas actually called me out, and asked me, Hey, so these projects we're talking about, how does that affect operations? Is this important? Is this not important? And I actually took that as a pretty good sign. And I explained, Yeah, they're very important. This is where the requirements came from. This is the life safety issues. But there was some people that were adamant, no wall was going to be built whatsoever. But then we talked about—and this is the important part—we talked about funding.



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So the DOD projects—and this was part of the briefing. This is why we broke them out. That was emergency funding that the President could pull, to my understanding. I'm not a lawyer. I'm not a appropriations expert. But my understanding was [the] President pulled it from other places, he could put it back. But there were significant projects that were congressionally appropriated by law.

Those under the Impoundment Act, the executive branch was mandated to keep pushing forward. That was briefed out. That's the reason we explained all this. When we were briefing that out, it was acknowledged. It was a Border Patrol staff named Ntina Cooper that was briefing out and explaining the aspects of the Impoundment Control Act, and these projects fall under that. And basically—I don't remember who the political appointee was, because there was some people on the screen. There's some people in the room. Basically was like, Yeah, yeah, we'll work around that. We'll find just a tiny thing we can do to make it look like we're doing something when we're not. That's why I allege the conspiracy part of it.

But now, we literally have an administration that is intentionally, like, having a workgroup meeting to figure out how to get around a law. I had never experienced that in my 30-year career. There was always different policy aspects on how you implement a law, but I had never been on a team that was literally trying to figure out how to circumvent the law.

Q: Why do you think the staff was trying to take you off that meeting invitation?

A: Because probably the same reason I basically had a target on my head from day one. I have always just advocated for border security. And when asked—I was told this later, by the way—when asked does the border wall work, I answered it very honestly from strictly a border patroller's perspective. And I said, Yes, it works. We're the ones who designed it. We've been proving this out over like 30 years. The last administration just pushed it harder than anybody else had ever done before. But every administration before had supported it and done it.

But I was seen as a wall supporter. Therefore, my opinion was not really wanted on what wall project should we or should we not have because my argument was if you go down into that database, one of the very foundational pieces of it is what was the requirement? And there was never any President, there was never any political person, it was always a Border Patrol Chief that did an assessment that said I need a barrier in this area because of this. I don't think they wanted that info.²³¹

²³¹ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 27-32, January 22, 2024.



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Secretary Mayorkas Knew That His Actions Would Unleash Chaos

Q: So suffice it to say, is it accurate that based upon your firsthand observations and your conversations, direct conversations with Secretary Mayorkas, that Secretary Mayorkas knew and had knowledge that his actions would result in weaker enforcement at the border?

A: Unquestionably, yes.

[...]

Q: So do you believe then, therefore, that he knew his actions, or his decisions, would bolster what we call pull factors?

A: Yes.²³²

Morale Quickly Tanked Under the Biden-Harris Administration Because Agents Felt Betrayed

Q: So in those 5 months, it's fair to say that a lot of the Border Patrol agents, actually their morale may have declined?

A: Correct. Dramatically. Especially if the leadership positions, they really knew what was going on.

Q: Do you think that as the leader of Border Patrol, do you think a lot of agents felt betrayed by Mayorkas; like their trust was betrayed by him?

A: So, I know for a fact that they believed and felt like it was being betrayed. Because as Chief of the Border Patrol, [...] I had to run all of the administration functions. I had to run all the operations. But people forget, I also had a leadership team that was sitting on the wall, or sitting behind the TV screen, or whatever, in a lot of these calls, and they would hear the same thing. I would have to pump them up and try to give them hope, and keep their morale going, because that's a trickle effect all the way down to the agents. The agents aren't going to see the impacts of these policies for a few days or weeks or months.

I was spending countless hours trying to keep senior leadership from just retiring early, trying to remind them that, Hey, our job is to educate; to give them the information so that all decisions are informed; you can't control a decision; we've dealt with bad decisions before. That was day in and day out, even at the national level, not just the field level. And the morale was tanked.²³³

²³² Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 32, January 22, 2024.

²³³ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 24-25, January 22, 2024.



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The Del Rio “Whipping” Scandal Was a Blow to Morale

Q: Are you familiar with the incident in 2021 where Border Patrol agents were accused of whipping Haitian migrants in the Del Rio sector?

A: Yes.

Q: In the immediate aftermath of the accusations, both President Biden and Secretary Mayorkas implied that the Border Patrol agents had done something wrong. We later found out that Secretary Mayorkas made those public statements after having been told that the whipping never actually occurred.

Are you familiar with, based on your conversations with any line agents or people in the field, what that lie had—what kind of impact it had on morale?

A: Yes. So there was two phases. Just general, in morale, it was definitely a kick in the teeth. But even worse than what you saw on national television, all of those agents that were there and had any allegation against them got removed from their enforcement duties and got put on what we call administrative duties. The entire Border Patrol knew that immediately.

So, while they’re still, quote/unquote, “employed,” that is a—it’s very demoralizing to the agents, and, in most cases, it affects their overtime pay.

So they basically were being disciplined for about a year as this thing drug out, even though it was made very, very clear very quickly, from what I understand, even from the photographer, that what was being alleged didn’t take place.²³⁴

Political Appointees in the Biden-Harris Administration Were Not Serious About Security, Silenced DHS Law Enforcement

Q: Was Secretary Mayorkas able to put an end to that type of behavior or support that type of behavior?

A: Yes, he would be the tone setter. So they all report directly to him. And then he used them, or they used their own position to insulate the Secretary a little bit. So there were very few meetings face to face with Secretary Mayorkas. A lot of it was through—and again, in their defense, a little bit of it was COVID, but everybody else was still having BTCs, direct engagement.

The Secretary said he was going to have all this direct engagement. Let me back up again, a perfect example. The first conference call he said that week he was going to go to the border. He was going to meet with people at the border. He was also going to meet with us, and he wanted this to be a team effort. None of that ever happened.

²³⁴ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 54-55, January 22, 2024.



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And then, we're hearing the same thing. The chief of staff came in, and she basically said, hey, my kids are in a private school. I can't go to the border because if I do I'll have to pull them out of private school for 2 weeks. So no one would actually go to the border. Then we would have these conversations with the political staff. And then we were banned from having any conversation about enforcement or anything about deterrence. We're not allowed to talk about slowing down the flow or deterrence. I believe that is likely getting his feedback, but it goes beyond that. Again, one of the edicts, and then you can take this back to emails from Lise Clavel to the staff of the CBP, and Blas Neto. The Secretary himself was having high-level conversations about an ongoing lawsuit that ACLU was the lead-in with UACs being exempt from Title 42. But instead of having staff or something, like my understanding was the Secretary was having those conversations and debates himself late at night. And then we would just get told the next day what we were doing.²³⁵

This Crisis Exploded Under the Biden-Harris Administration

Q: When did that start?

A: It's always been a challenge. And I'm not going to—again, total transparency: They've always used these techniques. But to the level it is today started when President Biden put executive orders—well, they started to shift when President Biden won. And I think everybody kind of saw people showing up with T-shirts and stuff, and we started seeing the increased flow on the border. But it was after January 21st, 2021, when all these policies went in place, catch-and-release was reestablished—really, when MPP went down, we saw a complete flow, because that was one of the last tools we had.

This was the first administration I ever saw go backwards. I think that's the biggest difference. Every other administration, those challenges existed; I'm not telling anybody they didn't. But we were getting more and more secure at the border. We were making the border more and more secure every day. We were taking away the cartels' ability to freely move things, and we were driving up their cost of business. But since January 2021, we went completely the opposite direction—completely the opposite direction.²³⁶

The Perverse Incentives of Mass Catch-and-Release Encourage More People to Come Illegally

Q: So I think it's been implied, but can you make the logical step for us on how Secretary Mayorkas's actions or inactions are contributing to the fact that cartels are able to overwhelm Border Patrol and smuggle drugs, people, and weapons into the United States?

A: Sure.

²³⁵ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 35-37, January 22, 2024.

²³⁶ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 95-96, January 22, 2024.



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So, again, total transparency: Understanding that that's a tactic that's been used since the beginning of time, probably, in many different administrations, everything else, it's about the volume and the impact.

So what this all comes down to—and it's never this simple, but what it all comes down to is catch-and-release.

And, again, I'll back up to the Obama administration. There were significant conversations then; everybody acknowledged we have to end catch-and-release. Because that's the draw.

So any criminal, if they think they're just going to get released—again, I use horrible analogies, but think about your neighborhood. If the law enforcement said, "Speed limits are still intact, traffic laws are still intact, we're going to stop you but we're not going to give you any ticket, there's no consequence whatsoever, we're just going to stop you and remind you that they exist," how would that work in Washington, D.C., how would that work in your neighborhoods, if all of a sudden people were like, "Well, I don't care anymore, I'll drive as fast as I want, I might get stopped, nothing's going to happen"? That's basically the equivalent of catch-and-release.

So, when there's a consequence and people know that there's a high probability if they get caught they're going to get sent back to their country, they reevaluate the entire process. But when you create and then now amplify to a level we have never experienced in this country catch-and-release, no matter what you say, meaning if you're political or, say, you're the President of the United States, it's irrelevant. Because human nature—this has nothing to do with cartels now. Human nature is, when you get to your destination—say you're an illegal alien, you're coming into the U.S. Your human nature is to call home and just check in with your family and let them know what happened. And that message spreads like wildfire. That used to take a letter, which would take weeks. Now it's a WhatsApp, it's a text message, or it's a phone call.

So that has created this domino effect, where every single person released, almost without exception, calls home and, just really not—no[t] nefarious—tells their friends and family, "Yeah, I used that smuggler, I got stopped and I got released, or we just went around, but my point now is I'm in Chicago. Oh, and, by the way, if you got caught, they took me to this other facility just a little ways away from the Border Patrol station, and they gave me new clothes, they fed me, they let me take a shower, and then they gave me a plane ticket to where I wanted to go, no charge."



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That marketing the cartel is exploiting, not to mention the NGOs are exploiting, not to mention just the word of mouth is exploiting. That creates another wave. And, literally, now—used to be the cartel had to, like, recruit people. Now, they're just standing there with a catcher's mitt, and they're just guiding all these illegal aliens coming to them as willing conspirators or victims; you call them what you want. But basically they're being used to shape that border so they can bring anything they want into this country anytime they want.

That is a huge threat—I don't care where you sit on the political spectrum—we should not accept. Immigration is causing that border security thing, but this is a national security border security thing. This is not simply about immigration.²³⁷

It Was Very Clear the Biden-Harris Administration Was Working to Circumvent Immigration Law

Q: So were these similar—you mentioned earlier about the border wall meetings, try to circumvent the law almost with some of these meetings about parole and later on, not bringing people in, were there more conversations that struck you as trying to circumvent legal requirements as opposed to following the law?

A: That is exactly how I felt. And I'll qualify feeling because I am not an attorney. But the issues that we raised, for example, when they were talking about the parole and people and others, that definition feels like it fits the refugee program better than it does anything else, because they're not in the U.S. The asylum, for example. If you're going to parole in somebody knowingly that is already here, and claim—traditionally, it's somebody that shows up at the port of entry and gets a medical issue, or it's somebody that we need their testimony, or we need them to show us something for intel value or how to take out a bigger smuggler, this was nothing like that. This was like preplanning.

I'm, like, this feels like it's circumventing the entire refugee program of the United States. Like, you're undermining the intent of Congress. Those are policy decisions, Chief Scott. You don't have anything to do with that. You're here to do your operations or whatever, but we weren't allowed to chime in. But no, it felt very much like I spent 30 years of my career, and this is how I don't want to speak for them—but this is what was conveyed to me by a lot of my staff. They spent their entire career finding out how to—working on how to slow down the flow, secure the border. Not because it was negative to anybody, but just so that as a country, we wouldn't be able to pick and choose. We would know who was coming into our country consistent with Federal law. And then now, we were being basically told, like, How can we find loopholes, How can we find workarounds so that we don't have border security so that more people can actually come in and stay? And that was the tone the entire time that I was Chief under the Biden administration.²³⁸

²³⁷ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 89-92, January 22, 2024.

²³⁸ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 41-42, January 22, 2024.



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The Biden-Harris Administration Explicitly Pushed to Expand Parole and Other Means of Catch-and-Release

Q: I just have one brief follow-up on my colleague's questions. You mentioned a little bit, but the political appointees and their ideas, you said that they were pushing open borders. What kind of specific changes or policies were they suggesting as far as open borders is concerned?

A: So early on, there was a push to look at ways that we could expand parole. And my experience on parole was very much the legal perspective. It has to be individual case-by-case determination. There has to be a benefit to the government or an immediate humanitarian need. So we would explain that out. And they were like, That's not what we're talking about. I need you to look at ways that we can use—we can use parole to allow people to come to the United States.

[...]

So their reason for wanting the parole expanded dramatically was so that the shelter and the NGOs could actually help these people without—give them money, give them plane tickets, all things you're seeing done today, legally; because if they were to stay under an NTR, it would have been illegal to help that person get any farther into the United States. But that's—that's a long-winded answer, but expanding that parole was one of the big issues.

The other Issue was basically looking at—they didn't talk about the CBP One app specifically when I was still Chief. I think it was behind the scenes a little bit. They talked about ways to basically identify people farther out, and then bring them in through these illegal pathways that weren't—and we briefed out, like where in the INA does it say you can do that? Like if you're actually going out recruiting people to come to the border without documents, that's actually a violation of 8 U.S.C. 1324.

We are having these conversations, but it fell on deaf ears. Their focus was basically find a way to bring more people into the country. And there was never any conversation whatsoever about America, protect America, impact America. Those were not allowed.²³⁹

MPP Was an Effective Policy, But the Biden-Harris Administration Tried to Kill It

Q: In that same statute under 235(b)2(c), you have touched on this authority talking about MPP, but instead of detaining applicants for admission at the border, immigration officials can also return them to a contiguous country, for our purposes, Mexico. Are you familiar with that part of the statute?

²³⁹ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 37-38 & 40-41, January 22, 2024.



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A: Yes.

Q: And DHS was—or Border Patrol was utilizing that part of the statute to implement MPP, right?

A: That's correct.

Q: And you testified earlier that that was an effective plan for border security using MPP?

A: That was an effective tool we were using that combined with other tools was dramatically reducing the cross border illegal flow, yes.

Q: And based on your work under Secretary Mayorkas and your understanding of his current policy, is Border Patrol utilizing the statute now?

A: Yes, but not effectively in any way, shape, or form. Once the courts—they terminated. They wanted to terminate. That's public record. They stated that many times. Once the courts ordered it reinstated, they changed the policies and programs and created a bunch of carveouts. My understanding, I could be exaggerating, but as one Chief told me, it's like an 80-page document of exceptions now. And that basically killed the program. So they're using it from a very, very technical standpoint. But they're not effectively using it.

And I would argue that backs up our earlier conversation about intent, on how I get around having to deal with the courts? How do I get around dealing with the law said, as opposed to actually trying to secure the border as required by law.²⁴⁰

The Biden-Harris Administration's Use of Parole Is Not Consistent with the Law

Q: Based on our—we interviewed Chief patrol agents of all the sectors along the Southwest border. And based on our interviews, we know they were told to grant parole to large groups when detention was over capacity. Based on your understanding of the parole statute or parole exemption, is being over detention capacity an appropriate reason to use parole?

A: No.

Q: Based on those same interviews with Chief Patrol agents, they told us that they were supposed to grant parole to large groups based simply on that group's demographics, such as a country of origin, or whether they're one family unit. Based on your understanding, is your demographics alone an appropriate reason to grant parole?

A: No, it violates the case-by-case individual requirement.

²⁴⁰ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 44-45, January 22, 2024.



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Q: As far as you know, has Secretary Mayorkas—well, strike that.

Secretary Mayorkas also created the categorical parole programs, making parole available to certain demographics that he prefers. Before those people even arrive at the ports of entry which you talked about, the 136olitical are trying to figure out a way to offer parole to people outside of the country. But based on your understanding of the statute as you explained, do you believe now that those programs are appropriate use of the discretionary parole?

A: I don't believe that they're proper use of the discretionary parole, no.²⁴¹

DHS Is Not Using Expedited Removal Nearly Enough

Q: Based on your experience under Secretary Mayorkas and your knowledge of what his policies are now, is Border Patrol effectively utilizing expedited removal?

A: No.²⁴²

The Biden-Harris Administration Is Not Trying to Detain All Illegal Aliens

Q: Under INA Section 235(b)2(a), immigration officials must obtain all applicants for admission at the border either in between or at the port of the entry. I will read you, specifically, the language. In general, subject to my exceptions, in the case of an alien who's [an] applicant for admission, an examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt, entitled to be admitted, the alien shall be detained for proceeding under Section 240. Are you familiar with that statute?

A: I am familiar with it.

Q: Based on your work under Secretary Mayorkas and your understanding of Secretary Mayorkas' current policies, is DHS even attempting to detain all applicants at the border?

A: No.²⁴³

²⁴¹ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 45-46, January 22, 2024.

²⁴² Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 47, January 22, 2024.

²⁴³ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 43, January 22, 2024.



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The Biden-Harris Administration Shut Down Notices to Report Because NTRs Did Not Give Illegal Aliens Protection from Removal

A: One of the flashpoints was, early on, you might remember a new term in the Border Patrol under this administration called the “notice to report.” That did not—total transparency again—that did not come from administration staff. That came from career government personnel. But I’ll get to the parole piece in a minute. What happened was I was on a border trip down to south Texas, and I had agents basically challenging me saying that the flow has gotten so bad that we’re not out in the field anymore. We’re stuck inside process. And there’s only one or two of us out in the field at a time, maybe three.

But then another group comes across because the cartel scripts it to overwhelm us. And then we hear fully automatic weapons fire going off to our left or right. And we know that they’re smuggling drugs over here. What are you going to do, Chief, to get more agents out in the field? Well, I’m having conversations just to try to slow down the flow at the national level. Those are all being shut off. The Biden administration had already decided that family groups and UACs, people that need these certain demographics, they are going to get released. We were not going to detain them. They are going to be released. It takes about an hour to 2 hours per individual to process them. So we basically came up with a system that was used years and years and years ago when there was only about 1,000 more patrol agents. We called notice to report.

And basically, we told the agents prioritizing the safety of the security of the United States, Trump’s immigration processing. We can come back and get immigration processing anytime once you deem someone’s not a threat. If so, we put out a memo that if when these criteria take place, basically it means agents are being overwhelmed. We’re losing the security of the border. They were allowed to not do the immigration processing on this very tight select group of people. And they would give them a notice to report. We ran their fingerprints. We documented the interaction. But we didn’t set them up for a court date or anything else. We just told them to go to report to an ICE office. That’s the notice to report.

This administration freaked out over that, but for the wrong reasons. It wasn’t anything to do about border security, because we were maintaining the border security. I was told—I believe it was by Lise Clavel, that they got serious pushback from NGOs because these people were no longer legalized. That was a big difference.

Under the notice-to-report program, the Border Patrol did not give them any documents or anything to make them legal. So if and when at any point in time the Border Patrol was not overwhelmed, we could actually still arrest them, process them, and then deport them, if the administration would let us do it.



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This administration wanted them paroled in so that they could then get benefits, and because—and I didn't think about it at the time—they were already planning on giving additional funding to the nongovernmental organizations to help with shelter and services. But if those nongovernmental organizations provided any shelter and services assistance to an illegal alien, that's a felony.²⁴⁴

Border Patrol Agents Cannot Adequately Screen and Vet Illegal Aliens—And Secretary Mayorkas Knows It

Q: Secretary Mayorkas also said that he ensures that every alien that DHS encounters is screened and vetted, including the Afghans brought over during the evacuation and those applying for parole under one of his parole programs.

What are the limits of this screening and vetting process?

A: It's extremely limited. And this is another area I'm very critical of the Secretary, not because of the letter of the law of what he says but what he omits. And my training as a law enforcement agent is, omitting critical, important facts is basically the same as lying.

The Secretary knows that when U.S. Border Patrol agents run those records checks, or ICE or anybody else, on foreign nationals, primarily it is only checking—well, it is only checking U.S. databases really, but it's primarily only criminal offenses that have happened in the U.S.

On a limited basis, we will get information from, like, INTERPOL or we'll have a connectivity to another nation, but we don't have direct plug-ins to other nations' criminal databases. And many of the nations these people are coming from, we know for a fact, don't even have good criminal database records systems to pull from.

And, a lot of times, we have no idea even who the person is. So the fingerprints, that's valid, but they can make up any name they want.

In the perfect world, if an agent has any suspicion, then that agent has the ability to work through the State Department or the consulate's office, go to that country, ask a bunch of more questions. But when you're handling over a thousand arrests a day, let alone 10,000, the agents don't have time to do any of that.

This has all been briefed to the Secretary. He knows that vetting is a joke. It's literally a check-the-box. It's only people that have been in the U.S., committed a crime, and either left on their own or been deported. And we have no idea what any of these people did anywhere else in the world.

²⁴⁴ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 38-40, January 22, 2024.



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And with a very, very, very limited, rudimentary knowledge of how trafficking organizations work, you can go get false documents to create any new name you want before you cross the border. That's why most, not all—again, common knowledge—a lot of the aliens ditch all their identity documents before they cross the border. Right at the border, they'll get rid of them so they can create whatever identity they want the minute they cross, and it's harder to actually identify what country they're really from.

Q: So—

A: The Secretary knows all of that.

Q: So, when the Secretary and his Department has claimed that every alien that's encountered is screened and vetted, one could argue that they have been, but, based on your testimony today, in a practical sense, it's not a very meaningful interview. And—

A: In a technical sense, it's accurate, but people have to understand it's being bounced off of an empty database.

Q: Okay.

A: It's not meaningful.²⁴⁵

Secretary Mayorkas Knows Current Screening Is Inadequate

Q: Does the Secretary know that these interviews cannot be meaningful, the way that they're conducted?

A: Yes.

Q: Does the Secretary know, in your view, that these consequences exist for us not knowing?

A: From my view, yes. And if you look at just his professional experience on his own published bio, that he was a U.S. attorney, he prosecuted criminal cases, and then he actually was in DHS for years—he was the Deputy before he was the Secretary—there's no way you could convince me that he doesn't fully understand all this.

Q: Okay.

A: You'd have to be so incompetent. And he's not incompetent. He is not a dumb person.²⁴⁶

²⁴⁵ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 50-53, January 22, 2024.

²⁴⁶ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 53, January 22, 2024.



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There Are Major National Security Consequences to the Lack of Screening and Vetting

Q: So, because it's not meaningful, what are the consequences of that?

A: The consequences are, a significant portion of the people that are being released into the United States today by this administration, we don't really know who they are. We have no idea what their intent is. They haven't gone through a thorough interview because we simply don't have time. We don't know what risk they pose to the country.²⁴⁷

Rising Apprehensions of Chinese Nationals Are Incredibly Disturbing

Q: Between fiscal '21 and fiscal '23, CBP encounters of Chinese nationals has increased over 5,000 percent, from 450 in '21 to over 24,000 in '23. The vast majority of those encounters are single adults.

Do those numbers cause you any concern for national security?

A: They cause me a significant concern for national security.

Q: Why?

A: The numbers only tell part of the story. So, from 30 years of experience in the Border Patrol, there's a few things that take place.

One is, especially as Chief now, when you understand the implications of dominoes, anytime that the Border Patrol starts arresting people that don't speak Spanish, strictly from a functional standpoint, it significantly increases the amount of time agents have to spend with that individual, because we have to go get AT&T translator services. The time it takes to get that person on the phone, say something, have the translator translate it into their language, that means that agent is off the line longer.

To simply process somebody that speaks Spanish—because Border Patrol agents are taught to speak Spanish—on average, it's about an hour—and that's not even transport time—that it takes an agent to process a normal immigration case, say, for 240 or something like that, like a proceeding, NTA. That agent's out of the field for that entire—like, an hour, per person.

²⁴⁷ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 53, January 22, 2024.



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So, when you see those numbers of people that don't speak English, all of a sudden that worries me a lot. Because I know the cartel, again, based on my experience, the cartel knows all of this, and they systematically script the amount of people and the types of people that cross the border to wipe out law enforcement resources so that they can bring in whatever it is that they want in the second wave.

The other reason It concerns me greatly, as you come up through the Border Patrol, not exactly like DOD but a little bit, you get exposed to all kinds of different intelligence and you get exposed to different training.

So, first and foremost—and I'm not going to get into all this, but—when DHS was formed, I got pulled out of Border Patrol. I was still a Border Patrol agent, but I got assigned to work anti-terrorism issues and national security issues for about 5 years, working with every three-letter agency. I was in the Pentagon a lot; I was out at NCTC a lot. And it opened my eyes to a lot of border security threats that are not the traditional immigration threats you hear in the media.

On top of that, I've been, just as Chief—actually, just before I became Chief, I went through the military's CAPSTONE program. And, again, I can't get into all that. A lot of those are classified briefings. But that whole program is meant to train one-star generals, basically people who become flag officers, in the worldwide threats and what the U.S. Government can kind of bring to bear to help address those threats. And a big focus was about the Chinese threat and about the strategic plan China has worldwide, about the Belt and Road Initiative, and really what a threat China is to the United States, regardless of how much we smile and share technology, willingly or not.

So all of that, combined—just simply the operational impacts of non-English-speaking, and the fact that I know that we now have a nation-state threat, and I am seeing massive numbers of what we would refer to as fighting-age males coming across by themselves, leveraging this border chaos—worries me tremendously.

And then what else worries me is, because of all of that, we're leaving hundreds and hundreds of miles of border open right now and still documenting almost 1.8 million illegal entries that got away.

So all that, combined, worries me greatly. That's why I keep my very first letter to both sides of the Congress when I retired, saying, hey, not specific to the Chinese, but there are some serious threats here that are not economic migration that we need to take seriously.²⁴⁸

²⁴⁸ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 78-80, January 22, 2024.



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Illegal Aliens Coming from Hostile Countries Are Cause for Concern

Q: Along those same lines, last week, the House Judiciary Committee released a staff report with a lot of statistics about border crossers. And some of the countries that they listed that CBP had encountered aliens from were Turkiye, Egypt, Pakistan, Kyrgyzstan, Iran, Syria, Iraq, and Yemen.

Do you have similar kind of national security concerns as to—similar to what you’ve just expressed?

A: Yeah, very, very similar to what I expressed.

And names of certain countries, whether we like it or not, bring up additional levels of concern based on their past, based on their history, whether they support terrorism, whether they do or don’t like America, what their general population is. Yeah, it worries me. It worries me greatly.

And along with all the other operational issues I talked to you about, the less that specific language—and we forget, too, dialect—is used, the harder it is to find a translator, the longer it keeps agents out of the field, and, just as meaningful, the interview is a joke. So, when you’re using an AT&T operator to try to interview somebody, you don’t have the same body language that an investigator is trained to be able to detect deception.

Plus, now the agents are completely overwhelmed; they don’t really have the time anyway to do anything except the basic. So we don’t have—and China would be the same—we don’t have good information from these countries about their criminal records.

And, then, even if we did, we’re naive to think that we know who hates America and is trying to come here to do us harm and who is really, truly trying to, you know, come across for economic reasons or whatever else.

That’s all mixed in there.

But, right now, we’re not doing anything. They’re just pouring across, and they’re being released, because we can’t get rid of them quickly.²⁴⁹

Potential National Security Threats Are Pouring Across the Border

Q: According to the CBP publicly available statistics, at the southwest border in fiscal ’23, they encountered 169 people in the terrorist screening data set in between ports of entry and 80 at the ports of entry.

²⁴⁹ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 80-82, January 22, 2024.



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How likely is it that those are the only terrorist-related migrants that are coming across our border?

A: Anybody that thinks those are the only terrorist-related migrants coming across our border is I, for some of the reasons that I just stated.

And I'm going to have to go professional experience. This is my opinion, but it's not just made up. This is my opinion based on all of my time during anti-terrorism issues and my time as a Border Patrol agent.

After 9/11, we—the threat on 9/11—sorry, I'm backing up a little bit. The threat on 9/11 was ports of entry. So we really ramped up at the ports of entry and have continued to really tighten down, share information, make sure, if you come to a port and you lay your hands on a scanner, that if the U.S. Government—anyone in the U.S. Government has information on you that you're a threat, it's going to get to the CBP officers. That didn't necessarily take place before 9/11.

But as I was sitting in all those meetings and briefings, there was also a realization—and it was very spoken; I'm sure there's documentation everywhere for this—that as we made it harder to exploit the loopholes to come into the country legally, the threats to our country, both terrorist and criminal, would move in between the ports of entry, and that the terrorist organizations, just like the cartels, would move to identify what we commonly refer to as “clean skins.” They would even recruit and, like, foster people that didn't have a criminal record so that they could get in and do harm.

So how I look at the border is all based on that experience, all that training that I got, all that stuff I got exposed to.

And then now I'm watching—and I also know how the cartels work. They push some group across to begin with. They don't care if they get caught or not. You usually get about three tries. But—so that they can get the second group across.

And it varies. So sometimes that first group that gets caught, they don't necessarily know they're sacrificial lambs, and if they get away, no one cares. But the cartel focuses on a few things. They focus on the person that they're giving the third opportunity to come across for the same amount, because that's simply business. If your people that you're smuggling don't make it in, no one else comes to hire you. So they always make sure that on the third attempt that person is in a second wave and they're going to get away.

But anybody willing to show up to the plate initially that even thinks that the U.S. Government might have information that they're a threat to the U.S. is going to pay more to be in the second wave. Those are the got-aways. That worries me even more.²⁵⁰

²⁵⁰ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 82-84, January 22, 2024.



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It Only Takes a Small Number of Bad Actors to Do Significant Damage to Our Country

Q: On its website, the same website with the publicly available statistics, CBP notes that TSDS encounters only account for about .0081 percent of all encounters.

Does that percentage reflect a low terrorist threat level?

A: It only took 19 people to carry off 9/11. It would've been 20, but one very alert customs guy caught one coming through Florida. Nineteen.²⁵¹

The Criminal Cartels Have Unprecedented Control at the Southwest Border

Q: I want to talk a little bit about the cartels. Other than simply making more money by crossing more people over the border, what other advantages do transnational criminal organizations and cartels gain from moving massive numbers of people across the border?

A: Complete ability to pick and choose what comes into the United States.

And let me explain that. Again, from my experience, making money off of illegal immigration and even the massive illegal immigration that is happening today is secondary. That is not their primary function. That is not what they built their business model off. They built their business model and they sustain it off of narcotics smuggling and other higher-threat stuff that makes lots of money. They want to make a lot of money fast.

People cause problems. And there's a lot of experience with this too. People talk; narcotics don't. That's why San Diego, for example, traditionally, the really expensive, sophisticated tunnels were used for narcotics, not people.

But what this administra- —but what the cartels have always done—and, again, don't give them more credit than they deserve, but give them credit. Go back to junior high, and kids trying to rip off a local store for candy did the same exact technique. They would have one or two kids distract the shop owner while the other kids grabbed something off the shelf and ran.

²⁵¹ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 84, January 22, 2024.



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The cartel have used illegal aliens for that. They'll push a group of illegal aliens across, knowing where the Border Patrol agents are, because they monitor the border all day. Every day, they monitor our stations. They'll predict what will the response be from Border Patrol, and they'll try to make sure they push over enough to basically get Border Patrol completely overwhelmed, leaving miles and miles of border—sometimes just a mile, sometimes hundreds of miles, depending on what they want—wide open so they can smuggle through any commodity that they want.

That's the real threat.

And I'll challenge you, just to put it into perspective, think about it from—put yourself in a migrant's shoes for just a minute. If you were literally trying to come to the United States and you wanted to claim asylum, why would you trek through a super-super-remote part of Mexico that's heavily, heavily controlled by the cartel, like just south of Arizona, out towards Ajo, and go to a very remote part of the desert in Arizona, where it's super-hot, there's no water, there's nothing, it's going to take an agent about 2 hours to drive you back to a processing facility? Why would you do that on your own?

They don't do that on their own. They do that because the cartel has controlled it, because they know that wipes out more Border Patrol resources so they can bring the fentanyl, the cocaine, the heroin, and the people that paid more to get away in the second wave, minimizing their operational risk to interdiction.

That is happening right now as we speak at a level that I never saw my entire career, because these massive numbers of illegal aliens give them an endless flow of distractions.²⁵²

Q: Would you say that cartels control the southwest border?

A: Cartels control the southwest border 100 percent right now.

Q: And I think you just explained, but the cartels and gangs within the United States coordinate with the cartels at the border?

A: Correct. And that's such a—like, I think you know what I meant, but just for the context of this conversation, when I say the cartels control the southwest border right now, there's a couple things that I've heard the current administration say that are misleading.

²⁵² Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 84-87, January 22, 2024.



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They talk about the ports of entry and then they talk about in between the ports of entry like there's some, like, hard line between the two and they're completely different. We acknowledged as a country that that was all interrelated when we created DHS and we put Customs and Border Protection in place to have a unified border agency, because the cartels are the same. The same cartels smuggle through the ports of entry as in between the ports of entry. They'll exploit any vulnerability they can possibly exploit.

And I just want to make sure—the next piece. At the ports, they give me loads and they try to distract officers. They've always done that as well. But now we're giving them all these additional people with the CBP One app that takes a minimum of 2 hours it takes a CBP officer off of enforcement duties. You add one more gimme load (ph) from the cartel, that wipes out our enforcement at a port of entry.

So, when I talk about the cartels exploiting picking and choosing what's coming into the country, it's easier in between, but they're doing it at the ports of entry as well.

In between the ports of entry, they pay scouts, locals; they have their own technology. We've found complete repeater sites with solar panels and stuff on them so they can communicate.

But they are literally watching what the agents do every single day. They have people that watch our stations, count how many vehicles leave. They have people at the airports that watch when our planes take off so they know where we're at. And then now they have this endless flow of human beings to use as distraction so that they can shape and then basically force a response from Federal law enforcement and then bring in anything they want.

So that's why I adamantly argue that we have given cartels complete and total control to pick who and what comes into our country. It's insane.²⁵³

Q: Do you believe that the cartels control territory in the United States where your Border Patrol agents operate?

A: At times, yes, I do. I believe the cartel controls who and what enters the United States. And by definition of that process, because they are allowed—or because they currently have the capability to shape Border Patrol operations, they do end up controlling space in the United States.

²⁵³ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 93-95, January 22, 2024.



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Because they push across a large group of illegal aliens or sometimes even a small load of some kind of narcotics to draw law enforcement to a certain area. That, by definition, pulls them out of another area. And that's where they bring whatever their higher commodity threat is into the United States.

I understand what the chiefs are trying to say, and I don't want to go against any of them, but there's empirical evidence of this as well. There were cases in Arizona where there were shoot-outs with cartel members over 100 miles inside of the United States. They systematically create those gaps where there's no law enforcement. And, by definition, when there is no law enforcement in that area and they're physically in the United States, they are controlling that area.²⁵⁴

The Cartels Are Openly Operating in the United States

Q: Are there cartel operations within the United States?

A: Very much so. Yes. Every major city—because think about where narcotics are sold. Nothing stays at the border. It transits the border.

So, originally, a lot of times, it was gang affiliates or whatever else, but we'd be naive to think that the Mexican drug cartels are only in Mexico. That's the head of the snake, if you will, but they have—or the octopus; call it whatever you want—they have tentacles all throughout the United States.

The Biden-Harris Administration Has Stopped Effective Law Enforcement Efforts Against the Cartels

Q: And when you were Chief of the Border Patrol, did cartels at times, as you said, sometimes control territory in the United States?

A: Yes, they did. But the difference was, we were constantly trying to shrink their ability to do that. And there was a strategy in place that included multiple levels, to include—the border wall was part of that. Deep-dive interviews were part of that. We built an entire new database, that when you do interviews, we could document the context of those interviews so we could systematically identify who the cartel members were, which factions posed a higher risk.

And, unfortunately, all that has stopped now. None of that is taking place because of this mass illegal immigration and they shut down the border wall.²⁵⁵

²⁵⁴ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 100, January 22, 2024.

²⁵⁵ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 101-102, January 22, 2024.



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The Crisis Has Forced DHS to Shut Down Effective Interior Checkpoints

Q: With this overwhelming of the Border Patrol, we've been told by chief patrol agents that a lot of checkpoints within the interior but still close to the border have had to be closed down so that those agents can go help with processing.

What kind of impact does closing those checkpoints have on stopping the flow of people and drugs and weapons into the United States?

A: It's a huge impact. And, again, there's empirical evidence for this. People can argue it, but—early in my career—actually, shortly after DHS, I worked on a whole study with GAO on this, where we were looking at the effectiveness of the Border Patrol checkpoints for two reasons.

One, the Border Patrol checkpoint concept, if you will—and it's a very unique authority. The Supreme Court has upheld that you can stop, only for immigration purposes—it's one of the only authorities the Border Patrol has. It's only immigration; it's not all border security. You can stop every car on a highway as long as it meets some specific criteria. You don't need any suspicion or anything. And it's all about preventing the illegal entry of aliens into the United States.

Well, why would do we that? Because the border is so wide-open, one of the criteria is you're looking at chokepoints, because people want to get into a vehicle and go north as quickly as possible.

San Diego sector is a good example. Back in the early '90s, when the border was what we thought then was chaotic but nothing compared to like it is today, the Clinton administration came in and basically said, we need to, like, tighten up the border, we need to reestablish law and order on the border—and, again, that was the Clinton administration—we in San Diego experimented with shutting down the traffic checkpoints and pulling those agents down to the border to see if we could literally just seal the border without this secondary level of enforcement. And that's really what—it's called “enforcement in depth,” if you will.

Shutting down those checkpoints and reassigning the agents to the line really did nothing. But backing them off and taking away the ability for the smugglers and the illegal aliens to quickly get into a vehicle and get into the United States dramatically made an impact, with fewer personnel, to seal whatever that area was.

And each checkpoint is slightly different, depending on the terrain, but I'll give you Arizona—and this is one of the ones they're complaining about now—I'll give you Arizona for example.



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From Nogales, Arizona, to Tucson, there's really only—there's one highway, Interstate 19. And there's a checkpoint right on that highway. And it's probably about 25 miles, maybe about 30 miles north of the border. But you've got to look at the terrain around it.

The border of Arizona starts going northwest right at Nogales. It's not direct north—I'm sorry—yeah, northwest. It's not direct east-west. So all the canyons—if you just were a smuggler or alien, all the canyons lead right back to that highway. So people could go 30 miles from Nogales, get in a canyon, and then really kind of come back within, like, 10, 15 miles just north of Nogales, close to the highway, get in a vehicle, without that checkpoint there.

When that checkpoint is up, it makes every single one of the agents on the line more effective. You're able to control a much broader area with significantly less resources.

Because the other way to think about it is, like—and this is another horrible example, but think about any venue—think about a county fair, where you have a security fence and you have entrance gates and you have, say, some cops or security guards there. If that was the only security whatsoever, there was no security inside at all, people would just make a mad dash and get in, right?

So the checkpoints prevent people from being able to do that, and enforcing depth prevents people from being able to do that.²⁵⁶

Secretary Mayorkas Lies When He Says the Border Is Secure— And Has Forced Agents to Spread the Lie

Q: Mr. Scott, what does it mean for you to have the southwest border be secure?

A: To me—so it's a vague definition, but, to me, security starts with knowledge. So—and I've been consistent that, to have any definition of operational security, it implies that you know what is crossing the border, so that requires the actual ability or capability. So that, as Chief, that's what we were building towards.

I've never at any time in my career, nor did I ever hear anyone in my career prior to Secretary Mayorkas, make a statement that the border is secure. Every statement I've ever said is, the border was getting more and more secure, because Border Patrol had an operational strategy that's been refined over years—but I was still implementing it when I was there—that we were building out technology, personnel, and infrastructure so that we would, first and foremost, have a high level of confidence that we knew what was crossing the border and then could make informed decisions about responding.

²⁵⁶ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 87-89, January 22, 2024.



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So, at the lowest level, I believe that is what a secure border is, is [...] having a high level of confidence that we know what's crossing the border and we can make informed decisions about responding.

The high end of a secure border would be basically the Secure Fence Act, that nothing crosses. That's like saying there's never going to be any crime anywhere, so I just think that's an unrealistic metric, if you will. But it's a great aspirational goal. And it should be the aspirational goal. But, just like any city, you work towards having a manageable level of activity.

Q: And you mentioned when my colleague asked you earlier, in your previous positions and even currently now, you have an operational understanding of different immigration-related laws and border-security-related laws, the Secure Fence Act included, I assume. Is—

A: Yes.

Q: —that correct?

A: Yes.

Q: So Secretary Mayorkas has said that we have operational control as defined under the Secure Fence Act. Is that an accurate statement?

A: That is a completely inaccurate statement.

Q: Okay. Are you familiar that he has said that before?

A: Yes. I saw him say that in Congress.

Q: Okay.

So, in your opinion, outside of the definition of the Secure Fence Act, is the border secure under Secretary Mayorkas?

A: No.

Q: Okay.

So it's not secure in your testimony under your general understanding of what is secure or not. It's not secure under the operational—you don't have operational control under the Secure Fence Act. But he has repeated multiple times that—are you familiar that he has repeated multiple times that we have operational control under the Secure Fence Act and that the border is secure generally?

A: Not only am I familiar—yes, I am familiar—but, going back to my earlier testimony, the first time he said that on the Sunday talk shows caught me so off guard I brought it up to the chief of staff the next day.



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Because they also wanted Border Patrol personnel to say that. Like, whatever the Secretary says, those kind of become your talking points. And I made it very clear that under my command no Border Patrol agent, no chief in the field would ever say the border was secure, because it's not true. When it is true, we'll say it. But I had that conversation with Lise Clavel and pushed that up. And—but the Secretary—and, again, she was my direct conduit to the Secretary—he continues to say that the border is secure; he just changes the definition of it all the time.

Q: Is it your testimony that Secretary Mayorkas and his front office were trying to compel your Border Patrol agents to promulgate a lie?

A: Yes.²⁵⁷

It Is a Lie to Claim Illegal Aliens Are Being Swiftly Removed

Q: Now, Secretary Mayorkas has also said that all apprehended aliens who have no legal basis to remain in the United States are swiftly removed.

Based on your knowledge of the border and interior enforcement, is that true?

A: No.²⁵⁸

Most Illegal Aliens Do Not Qualify for Asylum, But That's How Secretary Mayorkas Represents Them

Q: And Secretary Mayorkas also often refers to those coming to our southwest border as “asylees.” Are these individuals actually asylees, every individual?

A: I agree, that's another intentional misrepresentation of the truth.

There are a significant number of people that come to the southwest border now and, after being coached by either NGOs or the cartels themselves—even a smaller fraction, literally they come up with it on their own—will try to claim asylum or claim fear.

However, if you—and I would refer you back to CBP's statistics, because they're just facts and evidence and you could get real numbers of this. The vast majority of the people that are being released today don't even make a clear claim. There's just—they use the excuse that there's no detention capacity and that you can't—if they're not from Mexico, you can't get them back immediately. They end up getting released.

So the asylees, if you will—or, even if you believe that they were credible claims, which most of them are not, that is still a small portion of the total illegal aliens crossing the border. They're not all asylum seekers.²⁵⁹

²⁵⁷ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 47-50, January 22, 2024.

²⁵⁸ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 50, January 22, 2024.

²⁵⁹ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 54, January 22, 2024.



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There Is a Major Difference Between Border Security and Immigration That the Left Wants to Confuse

Q: I have just a couple questions about some of the consequences of what's going on at the border. I want to start with some national security issues.

I guess, first, generally, is immigration policy the same as border security?

A: No.

Q: How are they different?

A: So they're confused quite often.

Border security is simply knowing and being able to control who and what enters our country and, in the context of the United States' border security, consistent with law. So Border Patrol, Customs and Border Protection, none of them make it up, right? You just look at the congressionally enacted laws. But the foundation of all immigration law and all customs law is the ability to actually enforce that law by being able to control who and what comes into the country.

So, basically, they're interrelated, but the border security is simply the control. The immigration law, immigration policy is the "who is allowed" once you actually can control it, and then the customs laws is the "what you allow in." But all that is irrelevant without a baseline ability to control it, and that's border security.²⁶⁰

Secretary Mayorkas Is Listening to the Open-Border Advocates, Not Law Enforcement

Q: My last question for you, and sorry to jump around here again, but something you said earlier kind of struck me about your interactions with Secretary Mayorkas, or his interaction with other law enforcement officials. It sounds to me—and please correct me if I'm wrong—but based on what you were saying, it seems like you would accept input, but that input would really go nowhere. And that input would come out somewhere for him to say things that you had mentioned, I think your words were, what people wanted to hear.

²⁶⁰ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 77-78, January 22, 2024.



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But then you would see an action that's completely different. Where do you think, then, he was actually getting information to make those decisions? It wasn't that he could hear law enforcement officials say, Please don't do this, because that will increase the bad consequences for us. This will make the border more porous, or it will help surge illegal immigration. He was not thinking hopefully. Well, because Mr. Scott said that, I will do the exact opposite. He must have gotten it from somewhere. I know you said you were cut out of some meetings, or they tried to keep you out of meetings. But what is your assumption? You were there the whole time, and you've been through so many different Presidential administrations. Where would he get this information? Where would he inform his policy that he did choose to enact?

A: So I don't want to speculate, so I'll give some perspective. I can't say where he gets all of this information. However, in interacting with the political appointees that they were brought in, people like Dave Shahoulian, people like Lise Clavel, who was the chief of staff, people like Blas Neto, who was part of the transition team, and then came in as a policy advisor. I believe them, and they all advocated for open border, increase—reduce the deterrence, increase the amount of people coming into the United States. And especially Lise Clavel, because as chief of staff, she was managing the public messaging of CBP. They refused to let us speak publicly about any threats associated with the border, any criminal threats or anything like that.

I believe that is actually documented in an email between Deputy Chief Raul Ortiz and Lise Clavel as well, before a press conference that we were trying to do when I was still the Chief.²⁶¹

[...]

So I believe the guidance he was getting was beyond just the political appointees we had, and he was being influenced by other organizations who advocated for open borders, to be quite honest.

Q: And these other organizations that advocate for open borders or include—

A: NGOs. We commonly refer to them as nongovernmental organizations, yes. And then in this specific conversation about allowing more people into the U.S. that wouldn't normally be allowed in was an agreement with ACLU because they were involved in one of the lawsuits against DHS at the time.²⁶²

²⁶¹ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 34-35, January 22, 2024.

²⁶² Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 37, January 22, 2024.



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The Biden-Harris Administration Would Not Let Law Enforcement Talk About Gotaways

A: He wouldn't even let us talk about known got-aways. We talked earlier about the ones we're vetting, but the Border Patrol saw, like, 1.8 million people cross the border and could not respond to them. But what we do know about them is, they didn't wait to get caught. They paid extra to be in the second wave. They paid the cartel to let them be in the second wave of people after Border Patrol was overwhelmed so that they could make it into the United States without putting their fingerprints on a scanner.

Secretary Mayorkas knows that. Have you ever heard him talk about that in Congress and what we're doing about it?

That was my number-one priority I used to give the agents all the time. We may not know everything, but we need to be smart about how we respond. And if we know that there's a higher threat to our right or left, we need to figure out how to take out that higher threat, because our job is to protect America. Those conversations don't take place anymore.²⁶³

Secretary Mayorkas Has Violated the Oath He Swore to the Constitution

Q: And you think that's a breach of his duties?

A: It's a direct breach of his duties. He swore an oath—when I started, he swore an oath to do everything he could to protect the borders of the United States. That's the foundational bottom line of his role as Secretary of Homeland Security. He's not even doing that.

He's literally, at the least, allowing and, at the most, encouraging his staff to have meetings of how to work around the law, how to get around immigration law, how to get around appropriations law, and don't build what Congress paid for.

They literally had a meeting—if we drag this out long enough, we'll just—pardon my language, but this was the term they used—we'll just piss the money away slowly, so, then, if another administration comes in, there won't be any money left to do the wall anyway.

Those are the types of conversations that were taking place when I was Chief. Somebody has to be guiding that. Or the other theory is, it's just a complete different world view than anybody that I've ever dealt with before. So it's either guidance from above or a complete different world view.

²⁶³ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 59-60, January 22, 2024.

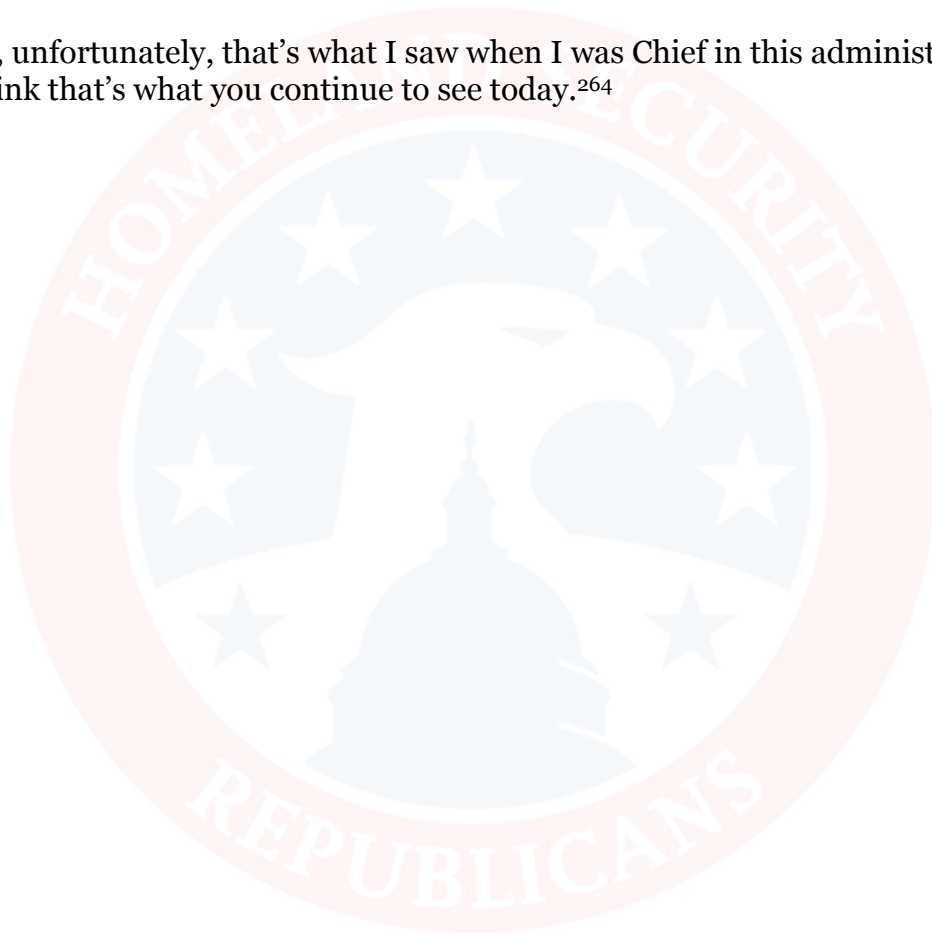


PART 2: ACCOUNTS OF THE CRISIS FROM FORMER CBP, BORDER PATROL CHIEFS

Q: Is it fair to say, though, in order to effectuate that different perspective or world view, from whoever the guidance is coming, there has to be some sort of willful and systemic disregard for the laws in place? Because the laws in place, hopefully, help effectuate better border security.

A: Correct. And, again, I'm not the constitutional lawyer, but, whether you like them or not, the laws in place were put in place by our constitutional government because of how the government works. They were voted on, and they were passed. And just because you don't like them doesn't mean you get to circumvent them. That's how other banana republics work, not the United States.

But, unfortunately, that's what I saw when I was Chief in this administration, and I think that's what you continue to see today.²⁶⁴



²⁶⁴ Rodney Scott, Transcribed Interview with the House Committee on Homeland Security, 57-59, January 22, 2024.