

# United States Senate

COMMITTEE ON COMMERCE, SCIENCE,  
AND TRANSPORTATION

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WEBSITE: <https://commerce.senate.gov>

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August 27, 2024

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
2707 Martin Luther King Jr. Ave. SE  
Washington, D.C. 20528-0525

Dear Mr. Secretary:

Current Department of Homeland Security (DHS) procedures for screening and vetting aliens traveling through, and living in, U.S. airports have failed. Between fiscal years 2021 and 2023, DHS improperly released at least 383 inadmissible travelers from custody at one U.S. international airport alone.<sup>1</sup> And between March 2023 and April 2024, at least 300 people bypassed the Transportation Security Administration (TSA) and gained access to secure airport areas.<sup>2</sup> Some even made it onto a plane.<sup>3</sup> Meanwhile, the country is under an increased threat environment due, in part, to the Biden-Harris administration's open border policies. As Federal Bureau of Investigation (FBI) Director Christopher Wray recently testified to Congress, he was "hard pressed to think of a time when so many different threats to our public safety and national security were so elevated at once, but that is the case . . . today."<sup>4</sup> And the FBI is specifically "concerned about the terrorism implications from potential targeting of vulnerabilities at the border."<sup>5</sup> DHS, particularly TSA, must explain how it is responding to the serious ways in which the administration's open border policies are undermining airport security and Americans' safety.

DHS is charged with facilitating lawful and safe travel through U.S. airports. Yet the Department and its component agencies are failing at this important responsibility. Within DHS, Customs and Border Protection (CBP) inspects international travelers entering the United States at all

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<sup>1</sup> U.S. DEP'T OF HOMELAND SEC., OFF. OF INSPECTOR GEN., *OIG-24-30, CBP AND ICE DID NOT HAVE AN EFFECTIVE PROCESS FOR DETAINING AND REMOVING INADMISSIBLE TRAVELERS AT AN INTERNATIONAL AIRPORT 1, 3 (2024)* [hereinafter, *OIG-24-30*].

<sup>2</sup> Kathryn Watson & Kathryn Krupnik, *More Than 300 Passengers Tried to Evade Airport Security in the Last Year, TSA Says*, CBS NEWS (Apr. 5, 2024), <https://www.cbsnews.com/news/tsa-airport-security-passengers-evade/>.

<sup>3</sup> *Id.*

<sup>4</sup> *A Review of the President's Fiscal Year 2025 Budget Request for the Federal Bureau of Investigation: Hearing Before the Subcomm. On Commerce, Justice, Science, and Related Agencies of the S. Comm. on Appropriations*, 118th Cong. (June 4, 2024) (testimony of Christopher Wray, Dir. of Fed. Bureau of Investigation).

<sup>5</sup> *Open Hearing: Worldwide Threats: Hearing Before the S. Select Comm. on Intelligence*, 118th Cong. (Mar. 10, 2024) (testimony of Christopher Wray, Dir. of Fed. Bureau of Investigations).

ports of entry, including airports, to determine whether they are admissible into the country.<sup>6</sup> TSA—also within DHS—“oversee[s] the implementation, and ensure the adequacy, of security measures at airports.”<sup>7</sup> For instance, TSA reviews and approves the “airport security programs” that airports are legally required to establish and is allowed “at any time or place, to make any inspections” of airports to determine compliance with these requirements.<sup>8</sup> It is unclear, however, if CBP and TSA are exercising any of these authorities and duties to secure the nation’s airports specifically in response to the threats created by the administration’s open border policies.

Indeed, the administration’s open border policies are weakening airport security in at least three ways. First is the enormous number of improperly vetted aliens *flying into* U.S. airports via parole programs.<sup>9</sup> From October 2022 to April 2024, nearly 435,000 people from Cuba, Haiti, Nicaragua, and Venezuela entered the U.S. through the “CHNV” parole program, which gives illegal aliens from these four countries advanced travel authorization via the CBP One app.<sup>10</sup> According to internal DHS documents, nearly 96 percent of all inadmissible aliens who received an appointment through the CBP One app ended up being released into the U.S.<sup>11</sup>

You have assured the American public that these paroled aliens had “pass[ed] rigorous biometric and biographic national security and public safety screening and vetting.”<sup>12</sup> But a recent DHS Office of Inspector General report found that CBP “could not access all biometric data for complete screening and vetting” of the aliens through the CBP One app.<sup>13</sup> The consequences of insufficient vetting are real: in March, an alien whom the Biden-Harris administration paroled

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<sup>6</sup> OIG-24-30, *supra* note 1 at 1, 3.

<sup>7</sup> 49 U.S.C. § 114(f)(11).

<sup>8</sup> 49 C.F.R. §§ 1542.101(a)(5), 1544.3.

<sup>9</sup> Todd Bensman, *Government Admission: Biden Parole Flights Create Security ‘Vulnerabilities’ at U.S. Airports*, CTR. FOR IMMIGR. STUD. (Mar. 4, 2024), <https://cis.org/Bensman/Government-Admission-Biden-Parole-Flights-Create-Security-Vulnerabilities-US-Airports>.

<sup>10</sup> Fact Sheet, Dep’t of Homeland Sec., *DHS Continues to Strengthen Border Security, Reduce Irregular Migration, and Mobilize International Partnerships* (June 4, 2024), <https://www.dhs.gov/news/2024/06/04/fact-sheet-dhs-continues-strengthen-border-security-reduce-irregular-migration-and>; *see also* *CBP One: An Overview*, AM. IMMIGR. COUNCIL, <https://www.americanimmigrationcouncil.org/research/cbp-one-overview> (June 2, 2023).

<sup>11</sup> Letter from Rep. Mark E. Green, Chairman, H. Comm. on Homeland Sec., to Hon. David Pekoske, Adm’r, Transp. Sec. Admin. (Mar. 20, 2024); *see also* Press Release, H. Comm. on Homeland Sec., *New Documents Obtained by Homeland Majority Detail Shocking Abuse of CBP One App* (Oct. 23, 2023), <https://homeland.house.gov/2023/10/23/new-documents-obtained-by-homeland-majority-detail-shocking-abuse-of-cbp-one-app/>. The time measured was January 12, 2023, to September 30, 2023. *Id.*

<sup>12</sup> Press Release, Dep’t of Homeland Sec., *DHS Continues to Prepare for End of Title 42; Announces New Border Enforcement Measures and Additional Safe and Orderly Processes* (Jan. 5, 2023), <https://www.dhs.gov/news/2023/01/05/dhs-continues-prepare-end-title-42-announces-new-border-enforcement-measures-and>.

<sup>13</sup> U.S. DEP’T OF HOMELAND SEC., OFF. OF INSPECTOR GEN., OIG-24-27, *DHS NEEDS TO IMPROVE ITS SCREENING AND VETTING OF ASYLUM SEEKERS AND NONCITIZENS APPLYING FOR ADMISSION INTO THE UNITED STATES* 5 (2024) [hereinafter, .

under the CHNV program was arrested in Massachusetts for aggravated rape.<sup>14</sup> It is now being reported that DHS has temporarily paused the CHNV program after an internal report revealed large amounts of fraud in sponsor applications.<sup>15</sup> Meanwhile, as these unvetted aliens fly into the country, TSA has deployed a significant number of air marshals—who are supposed to be protecting planes in the sky—to assist CBP with administrative tasks at the southern border, a concern I raised with TSA last October.<sup>16</sup>

Second, the cities *housing* aliens in airports pose security risks. Since June 2023, the cities of Chicago, Boston, and New York have housed hundreds of aliens at airport facilities.<sup>17</sup> While TSA and some of these airports will not say whether they are providing additional security to the areas of the airport where shelter aliens are housed, it is publicly known that at least one airport-residing alien has broken into a secure area. In February, an Ecuadorian living in JFK broke into a secure area of the airport, armed with scissors and a box cutter.<sup>18</sup>

Finally, the number of improperly vetted aliens who have illegally crossed the border increases the likelihood of an attack on or in domestic airports. The Biden administration has released countless illegal aliens into the country's interior without identification.<sup>19</sup> There have been more than eight million illegal alien encounters since President Biden took office,<sup>20</sup> over 1,000 of

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<sup>14</sup> Andrew R. Arthur, *Haitian CHNV Parole Migrant Arrested for Aggravated Rape in Massachusetts*, CTR. FOR IMMIGR. STUD. (Mar. 16, 2024), <https://cis.org/Arthur/Haitian-CHNV-Parole-Migrant-Arrested-Aggravated-Rape-Massachusetts>. The parolee had flown from Haiti to John F. Kennedy Airport. *Id.*

<sup>15</sup> Adam Shaw, *Biden Admin Freezes Controversial Migrant Flight Program after Fraud Revelations*, FOX NEWS (Aug. 2, 2024), <https://www.foxnews.com/politics/biden-admin-freezes-controversial-migrant-flight-program-after-fraud-revelations>.

<sup>16</sup> See Letter from Sen. Ted Cruz, Ranking Member, S. Comm. on Commerce, Science, & Transp., to Hon. David Pekoske, Adm'r, Transp. Sec. Admin. (Oct. 3, 2023) <https://www.commerce.senate.gov/2023/10/with-air-marshals-deployed-to-biden-s-border-disaster-cruz-wants-answers-from-tsa-on-flight-risks>; U.S. DEP'T OF HOMELAND SEC., OFF. OF INSPECTOR GEN., OIG-24-35, TSA COULD NOT ASSESS IMPACT OF FEDERAL AIR MARSHAL SERVICE PERSONNEL DEPLOYED TO SUPPORT SOUTHWEST BORDER SECURITY (REDACTED) (2024).

<sup>17</sup> Oscar Margain, *Migrants Sleep at Logan Airport Admin Calls for More Aid*, NBC BOSTON (Jan. 25, 2024), <https://www.nbcboston.com/news/local/migrants-sleep-at-logan-airport-amid-calls-for-more-aid/3258115/>; Brianna Herlihy, *Illegal Migrants Are Sleeping in Terminals of Boston Airport on 'Daily Basis' as Crisis Overwhelms Shelters*, FOX NEWS (Jan. 25, 2024), <https://www.foxnews.com/us/illegal-migrants-are-sleeping-in-terminals-of-boston-airport-on-daily-basis-as-crisis-overwhelms-shelters>; Bergquam 'More Than Half of the Shuttle Terminal Has Been Taken Over at O'Hare International Airport to House Illegals That Chicago Can't Handle,' CHICAGO CITY WIRE (Jan. 19, 2024), <https://chicagocitywire.com/stories/652915809-bergquam-more-than-half-of-the-shuttle-terminal-has-been-taken-over-at-o-hare-international-airport-to-house-illegals-that-chicago-can-t-handle>.

<sup>18</sup> Thomas Tracy, *Migrant at JFK Airport Shelter Busted for Running into Secure Area: Sources*, DAILY NEWS (Feb. 11, 2024), <https://www.nydailynews.com/2024/02/11/migrant-at-jfk-airport-shelter-busted-for-running-into-secure-area-sources/>.

<sup>19</sup> See, e.g., *Budget Hearing – Fiscal Year 2025 Request for Customs and Border Protection: Hearing Before the H. Comm. on Appropriations*, 118th Cong. (Apr. 30, 2024) (testimony of Troy Miller, Acting Comm'r, Customs and Border Prot.).

<sup>20</sup> *Nationwide Encounters*, CBP, <https://www.cbp.gov/newsroom/stats/nationwide-encounters> (last visited Aug. 27, 2024).

whom were in the Terrorist Screening Data Set.<sup>21</sup> Those figures do not include the more than 1.7 million known gotaways—people who illegally entered the country by evading CBP.<sup>22</sup> This influx is occurring as DHS reports “[t]errorists and [c]riminal actors may exploit the . . . security environment to enter the United States,”<sup>23</sup> and FBI Director Wray warns of a potential coordinated terrorist attack in the U.S. similar to the ISIS-K attacks in Russia.<sup>24</sup> In June, eight people with suspected ISIS ties were arrested in New York City, Los Angeles, and Philadelphia.<sup>25</sup> That month, DHS also disclosed that an ISIS-affiliated group brought 400 illegal aliens—at least 50 of whom have not been located—into the country.<sup>26</sup> Airports remain an attractive target for anyone looking to harm this country and its citizens.<sup>27</sup>

It is important for Congress to review whether DHS is able to ensure airport security and whether legislative reforms are necessary. The Standing Rules of the Senate provide the Committee on Commerce, Science, and Transportation (Committee) jurisdiction over civil aviation and the TSA, including the ability to “review and study” these issues.<sup>28</sup> As the Ranking Member of the Committee, I request you provide the requested documents and written responses to the questions below no later than September 10, 2024, and in accordance with the attached instructions:

1. All documents referring or relating to airport security or threats to security from illegal aliens, sheltering, vetting, or screening of illegal aliens at airports or on aircraft, from January 20, 2021, to the present.
2. All documents and reports, referring or relating to fraud of the CHNV program and sponsor applications, from October 1, 2022, to the present.

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<sup>21</sup> *CBP Enforcement Statistics*, U.S. and Border Protection, CBP, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (last visited Aug. 27, 2024).

<sup>22</sup> Olivia Land, *1.7 Million ‘Gotaways’ Have Sneaked into US Under Biden, More Than in Previous Decade Combined: Border Data*, N.Y. POST (May 16, 2024), <https://nypost.com/2024/05/16/us-news/1-7-million-gotaways-have-sneaked-into-us-under-biden-data/>.

<sup>23</sup> OFF. OF INTEL. AND ANALYSIS, *HOMELAND THREAT ASSESSMENT 12* (2024), [https://www.dhs.gov/sites/default/files/2023-09/23\\_0913\\_ia\\_23-333-ia\\_u\\_homeland-threat-assessment-2024\\_508C\\_V6\\_13Sep23.pdf](https://www.dhs.gov/sites/default/files/2023-09/23_0913_ia_23-333-ia_u_homeland-threat-assessment-2024_508C_V6_13Sep23.pdf).

<sup>24</sup> Testimony of Christopher Wray, *supra* note 3; *see also* Danielle Wallace, *FBI Director Wray Warned of Terror Threat Posed by Open Border Days Before 8 ISIS Suspects Arrested Across US*, FOX NEWS (June 12, 2024), <https://www.foxnews.com/politics/fbi-director-wray-warned-terror-threat-posed-open-border-days-before-8-isis-suspects-arrested-across-us>.

<sup>25</sup> Wallace, *supra* note 24.

<sup>26</sup> Julia Ainsley & Tom Winter, *DHS Identifies Over 400 Migrants Brought to the U.S. by an ISIS-Affiliated Human Smuggling Network*, NBC NEWS (June 25, 2024), <https://www.nbcnews.com/investigations/dhs-identifies-400-migrants-brought-us-isis-linked-human-smuggling-rcna158777>.

<sup>27</sup> Tom Winter & Andrew Blankstein, *Feds Remind U.S. Airports, Airlines They Are Terror Targets*, NBC NEWS (Mar. 22, 2017), <https://www.nbcnews.com/news/us-news/feds-remind-u-s-airports-airlines-they-are-terror-targets-n737416>.

<sup>28</sup> S. Rules XXV(1)(f); XXVI(8)(a)(2).

3. Documents sufficient to show each time TSA was notified by any airport operator or airport security coordinator about illegal aliens sheltering in airport(s), from January 1, 2023, to present.
4. Has TSA received any request to amend an airport security program for an airport that housed or sheltered illegal aliens?
  - a. If so, please identify which airport(s) and provide the request.
  - b. If an airport failed to amend the airport security program and was sheltering illegal aliens in a secure or nonsecure area of the airport, would that airport be in violation of 49 C.F.R. § 1542.101 or any other TSA regulation? Why or why not?
5. Documents sufficient to show and explain each law enforcement response referring or relating to illegal aliens at an airport or an airport facility, from January 1, 2023, to the present for the following airports:
  - a. Boston Logan International Airport;
  - b. Chicago O'Hare International Airport;
  - c. Chicago Midway International Airport; and
  - d. John F. Kennedy International Airport.
6. All reports from airport operators notifying TSA of illegal aliens interfering with civil aviation operations, from January 1, 2023, to the present.
7. Documents reflecting any determination by DHS that illegal aliens sheltering at airports do not interfere with civil aviation operations.
8. All communications, referring or relating to the sheltering or housing of illegal aliens at airports or similar facilities, from January 1, 2023, to the present and between DHS, including any of its components, and one or more of the following:
  - a. City of Chicago;
  - b. Massachusetts Port Authority (Massport);
  - c. The Port Authority of New York and New Jersey; and
  - d. The Federal Aviation Administration.
9. For every airport that sheltered or housed illegal aliens, please answer the following:

- a. Who is responsible for screening illegal aliens upon entry into airports? Please provide any guidance, decision memos, and legal opinion for that determination.
  - b. Did TSA conduct any criminal or security screening including verifying the immigration status of each illegal alien housed at the airport(s)? If so, please describe that process in detail. If not, please provide the guidance or other determination document that explains the reasoning behind that decision.
  - c. What additional resources or staff has TSA acquired or used to account for the increased security risks posed by illegal aliens to airports, from June 1, 2023, to the present?
10. On what date did DHS become aware that it could not access all biometric data for complete screening and vetting of illegal aliens?<sup>29</sup>
11. For each month since October 2022, please provide:
- a. The total number of people who flew into an interior airport as part of the CHNV program;
  - b. The total number of people who flew into an interior airport as part of the CHNV program and were released or admitted into the United States;
  - c. A list of the interior airports into which people flew as part of the CHNV program and, for each airport listed, the number of people who flew into that airport as part of the CHNV program;
  - d. A list of the foreign airports from which people flew into the U.S. as part of the CHNV program and, for each airport listed, the number of people who flew out of the airport into the U.S. as part of the CHNV program.
12. Please describe each action DHS or its components have taken to remove illegal aliens from sheltering at airports, from June 1, 2023, to the present.

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<sup>29</sup> See U.S. DEP'T OF HOMELAND SEC., OFF. OF INSPECTOR GEN. OIG-24-27, DHS NEEDS TO IMPROVE ITS SCREENING AND VETTING OF ASYLUM SEEKERS AND NONCITIZENS APPLYING FOR ADMISSION INTO THE UNITED STATES (2024).

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ted Cruz', is written over a horizontal line.

Ted Cruz  
Ranking Member