

Congress of the United States
Washington, DC 20515

Honorable Kevin McAleenan
Acting U.S. Secretary of Homeland Security
Department of Homeland Security
Washington, D.C. 20528

Dear Acting Secretary McAleenan,

From President Trump's inaugural address in January 2017, to the legislative proposal issued from the White House last week, it is plainly clear the President is seeking a solution to both long term immigration issues and the current crisis on our southern border. The Department of Homeland Security (DHS) can and should be doing more to support the President. We strongly urge you to take action.

Recent DHS statistics on the number of arrivals at our southern border are clear proof that what is currently being done, is not enough. Just two weeks ago Carla Provost, Chief of U.S. Border Patrol, testified to the Senate Subcommittee on Border Security and Immigration that, "As of March 31, 2019, 361,087 migrants have been apprehended between the points of entry (POEs) in Fiscal Year (FY) 2019, representing a 108 percent increase over the same time in FY 2018." That is not counting the 109,144 immigrants detained by Customs and Border Protection in April. As you know, the number of border-crossers apprehended in April exceeded 100,000 for the second month in a row. Current projections are that more than 1 million people will have crossed our southern border illegally this year. Our constituents, the American public, are confounded as to why more is not being done by your Department.

As the President continues to show leadership on this issue, we strongly encourage you to exercise the same manner of enthusiasm for fixing this crisis. Included in this letter are proposals that would undoubtedly slow the surge at the border and provide context for long term immigration solutions.

1. Train Border Patrol to conduct credible fear interviews.

As proposed in the Presidential Memorandum of April 29, 2019, the Department of Homeland Security has established a pilot program to train U.S. Border Patrol agents to conduct credible fear interviews. This program should be expanded so every Border Patrol station has resources to conduct interviews before aliens are released and prevent unnecessary release of individuals who do not qualify for asylum.

- a. How many Border Patrol Agents are currently trained to conduct credible fear interviews?

- b. What is the status of current training and how many Border Patrol Agents are in training currently?
- c. What is the anticipated timeline for training all Border Patrol Agents to conduct credible fear interviews?
- d. How many credible fear interviews have been conducted by Border Patrol Agents this fiscal year?
- e. What have been the outcomes of credible fear interviews conducted by Border Patrol Agents?

2. Limit ICE Parole Policy.

ICE policy directive 11002.1 issued December 8, 2009 exploits 8 C.F.R. § 212.5(b), which allows for case-by-case parole of certain aliens whose “continued detention is not in the public interest.” ICE has used this category to release thousands of illegal aliens, many of whom likely do not qualify for asylum. The ICE policy directive should be immediately repealed and 8 C.F.R. § 212.5(b) should be amended to exclude the public interest category.

- a. Have you directed the Acting ICE Director to rescind the current ICE parole policy for aliens determined to have credible fear immediately?
- b. If not, when do you anticipate that order being issued?
- c. If you have already directed the Acting ICE Director to rescind the current parole policy, what is the current status within ICE for rescinding and when is the final action anticipated?

3. Limit Work Authorization.

8 U.S.C. § 208(d) allows for the Attorney General to grant employment authorization to asylum applicants who have waited longer than 180 days for their case to be adjudicated. Statute does not however require employment authorization to be granted. Given that asylum cases are taking years to adjudicate, guaranteed access to employment authorization is serving as a huge pull-factor for migrants, contributing to the current crisis-level numbers. 8 C.F.R. § 1274a.12(c)(8), which **requires** an asylum applicant to apply for employment authorization should be immediately repealed and employment authorization should be granted only to aliens whose asylum applications have been approved.

- a. When can we expect the NPRM for modifying the current regulation?
- b. Given the crisis at the southern border, will DHS consider issuing a regulatory action here as an interim final rule?
- c. Has the NPRM been sent to OMB for final review?
- d. Will you ask for an OMB exemption from Executive Order 13771 to streamline the clearance process?

4. Raise Asylum Fees.

As suggested in the April 29, 2019 Presidential Memorandum, the Department of Justice and the Department of Homeland Security should immediately set a fee structure and impose fees for asylum applications and employment authorization, as allowed under 8 U.S.C. § 1158(d)(3). This would discourage frivolous and fraudulent applications from being filed.

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- d. Will you ask for an OMB exemption from Executive Order 13771 to streamline the clearance process?

5. Promulgate *Flores* Regulation.

DHS and HHS should work to immediately issue final regulations to terminate the *Flores* Settlement Agreement. The regulations must address family detention and undo the damage done by the 9th Circuit, who improperly extended *Flores* to apply to family units. That decision has undermined our ability to detain migrants in accordance with current law and has led to a drastic surge in family units coming across the border. In April 2019, fraud was found in 25% of “family units” apprehended. We must end the exploitation of children along our southern border.

- a. What is the status update on adjudicating public comments received?
- b. When does DHS anticipate publication of the final rule?

6. Negotiate Safe Third Country Agreement with Mexico in USMCA Negotiations.

8 U.S.C. § 1158(a)(2)(A) allows for aliens to be removed to another country in which their life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion if the United States has a “safe third country” agreement with that country. DHS should lobby U.S. Trade Representative Lighthizer to make such an agreement with Mexico a priority in any USMCA negotiations.

- a. What is the current status of negotiations with Mexico concerning a Safe Third Country Agreement?
- b. When was the last meeting between U.S. officials and officials from the Mexican government regarding a Safe Third Country Agreement?


7. Enforce the Migrant Protection Protocols.

Fully implement the Migration Protection Protocol, which would require immigrants from Central America to remain in Mexico while they wait for their immigration hearings.

- a. How many aliens have been required to remain in Mexico pending their asylum application per the policy under the MPP?
- b. What is the number of aliens placed in expedited removal as opposed to MPP in the past month?
- c. What is the anticipated timeline for full implementation of the MPP?

We respectfully request that Department of Homeland Security takes action on these proposals and would appreciate an update on your efforts. We specifically request that you respond to this inquiry by June 6, 2019.

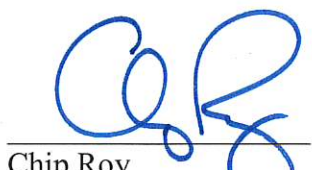
Sincerely,



Michael Cloud
Member of Congress




Andy Biggs
Member of Congress




Chip Roy
Member of Congress



Scott Perry
Member of Congress




Jody Hice
Member of Congress



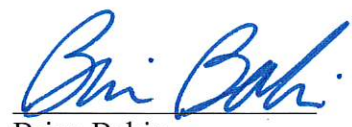
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