

**The Department of Homeland Security's Response to
Representative Andy Biggs' May 19, 2021 Letter**

1. How many aliens who were released from CBP custody without receiving an NTA have reported to ICE?

In March 2021, U.S. Border Patrol began issuing Notices to Report (NTRs), a significantly faster mechanism for processing noncitizens, particularly when used for family units. Before this practice was replaced by parole plus Alternatives to Detention, NTRs were used for certain noncitizens following initial processing and collection of biometric and biographic information. The use of this processing pathway enabled U.S. Border Patrol to relieve overcrowding in congregate settings, thus better protecting both the workforce and noncitizens in its custody. Those released with NTRs were directed to report to U.S. Immigration and Customs Enforcement (ICE) for further processing, including for the issuance of a Notice to Appear (NTA), as appropriate.

From March 21, 2021 through January 10, 2022, U.S. Customs and Border Protection (CBP) released a total of 164,584 noncitizens from custody via prosecutorial discretion. Of this total, 94,036 noncitizens were released with an NTR, and 70,548 were released with Parole Plus Alternatives to Detention (Parole+ATD). Of the 164,584 released noncitizens, 110,176 have checked in at an ICE field office, while 20,055 others were still within their compliance window as of January 10, 2022.

2. How many of those aliens have received an NTA?

Between March 21, 2021 through January 10, 2022, ICE issued 62,099 charging documents to noncitizens who reported to an ICE field office .

3. You stated that “Individuals who do not appear are a priority of ours for apprehension in the service of border security.”

To determine whether a noncitizen is a priority for apprehension and removal, an individualized assessment of the case must be made. On September 30, 2021, Secretary Mayorkas issued *Guidelines for the Enforcement of Civil Immigration Law*, which took effect on November 29, 2021. This guidance directs CBP and ICE personnel to focus limited enforcement and removal resources on cases that present threats to national security, public safety, and border security. In determining whether to pursue an enforcement action, ICE officers and agents are required to consider the totality of circumstances, including mitigating and aggravating factors.

4. How many aliens who have not reported to ICE have been arrested by ICE?

When ICE has information on a noncitizen's whereabouts via CBP's Unified Immigration Portal, ICE is able to take appropriate follow-up action in cases where an individual does not comply with an NTR (subject to ICE Enforcement and Removal Operations [ERO] resources and the Department's enforcement priorities and resources).

Noncitizens who fail to report to an ICE field office receive a charging document via the mail to initiate removal proceedings. Failure to appear for an immigration court hearing may result in an *in absentia* removal order and, depending on the circumstances of the case, render an individual a priority for apprehension and removal. In addition, individuals placed on an ATD program who did not comply with instructions to report to an ICE field office may be placed on a higher level of supervision or be required to check in with ICE more frequently. Each case is handled individually, and compliance with reporting dates is only one factor ICE ERO officers review when determining what level of supervision is appropriate for a case.

5. How many of those aliens have been removed from the country?

At this time, ICE ERO is unable to statistically track the number of noncitizens released by CBP with a charging document or instructions to check-in with ICE who have been removed from the United States.

6. Will you commit to using every resource and legal authority available to you to remove all the aliens who do not report to ICE as quickly as possible?

ICE is committed to enforcing immigration laws humanely, effectively, and in accordance with the prioritization of those individuals who pose a threat to national security, public safety, and border security.