



Congress of the United States
House of Representatives
Washington, DC 20515

July 8, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE
Washington D.C. 20528

Secretary Mayorkas,

As members of the Homeland Security Committee and Oversight and Reform Committee, we are deeply concerned with reports that U.S. Immigration and Customs Enforcement (ICE) is abusing prosecutorial discretion and dismissing tens of thousands of immigration court cases without proper adjudication.¹ The effective pardoning of illegal immigrants en masse is in accordance with neither the writ nor spirit of federal law.

Per media reports, the directive from the Biden administration has been in effect since April 25, 2022. ICE's Principal Legal Advisor Kerry Doyle, in a written memo and virtual meetings, directed federal prosecutors to systematically dismiss cases against illegal immigrants who crossed the border prior to the November 2020 election.² Only illegal immigrants deemed national security and public safety threats or those who crossed illegally after November 1, 2020, would be prosecuted. Between 60,000 and 80,000 cases have been closed as a result of Ms. Doyle's directive, and ICE is on pace to drop proceedings against nearly one million illegal immigrants by mid-2024.

Illegal entry into the United States is a criminal offense. However, as one ICE federal prosecutor stated, the Biden administration's actions equate to "de facto amnesty." The American people deserve assurances that immigration cases are being heard on their merit and not dismissed for convenience or to achieve a political objective.

If this decision is not reversed immediately, it will have drastic effects on those that seek to come to our country legally and to the safety of our communities. We are in the midst of the worst border crisis in our nation's history – on track for well over 2 million apprehensions this fiscal year.³ The Biden administration has taken one action after another to restrict law enforcement and undermine existing immigration laws. The intentional failure to prosecute unauthorized crossings is yet another signal that our borders are open and illegal immigration is encouraged. Ms. Doyle's mandate only further weakens efforts to secure the southern border.

1. https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_guidanceApr2022.pdf
2. <https://www.washingtonexaminer.com/policy/defense-national-security/biden-administration-quietly-erasing-immigration-court-caseload-de-facto-amnesty>
3. <https://www.law.cornell.edu/uscode/text/8/1325#:~:text=8%20U.S.%20Code%20C2%A7%201325%20D%20Improper%20entry%20by%20alien,-U.S.%20Code>
4. <https://www.numbersusa.com/news/usbp-pass-1m-alien-apprehensions-just-halfway-through-fy22>
5. https://trac.syr.edu/phptools/immigration/court_backlog/court_proctime_outcome.php

To that end, we are requesting answers to the following questions and request for documents no later than July 24, 2022:

- Please provide an unredacted copy of Ms. Doyle's memo to ICE prosecutors outlining guidelines for dismissal.
- Who in the Office of General Counsel within the Department of Homeland Security signed off on this policy change?
- Please provide the cost analysis regarding the implementation of this policy.
- As principal legal advisor, what authority does Ms. Doyle have in determining agency policy?
- Was there an inter-agency review process regarding this policy shift? If so, please state which offices were involved?
- Please secure and preserve any and all communications, memos, and calendar details between January 1, 2022, and April 25, 2022, regarding Ms. Doyle and the Office of the Secretary.
- Please provide any and all communications between Ms. Doyle and persons within the Executive Office of the President.

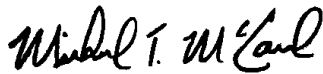
Respectfully,



Clay Higgins,
Member of Congress



John Katko,
Member of Congress



Michael T. McCaul,
Member of Congress



Jody Hice,
Member of Congress



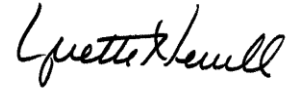
Glenn Grothman,
Member of Congress



Pete Sessions,
Member of Congress



Diana Harshbarger,
Member of Congress



Yvette Harrell,
Member of Congress



Fred Keller,
Member of Congress



Dan Bishop,
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Carlos Gimenez,
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C. Scott Franklin,
Member of Congress



Michael Cloud,
Member of Congress



Michael Guest,
Member of Congress



Peter Meijer,
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Mariannette Miller-Meeks,
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Andrew R. Garbarino,
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