

United States Senate

Washington, DC 20510

November 16, 2023

The Honorable Alejandro Mayorkas, Secretary
U.S. Department of Homeland Security
245 Murray Lane SW
Washington, D.C. 20528

Dear Secretary Mayorkas,

On October 19th of this year, Sohaib Abuayyash, a twenty-year-old Jordanian man unlawfully in the United States on an expired visa, was arrested in Houston, Texas for violating federal law by unlawfully possessing a firearm. Reports indicate that Mr. Abuayyash had been in direct contact with others who shared a radical mindset, and that he had trained with weapons in preparation for a possible attack. Further, a United States Magistrate Judge, in denying Mr. Abuayyash pretrial release, noted that Mr. Abuayyash “has viewed specific and detailed content posted by radical organizations on the internet including lessons on how to construct bombs or other explosive devices,” and that he supported the killing of individuals of particular religious faiths. The Magistrate Judge also described that “in his communications with another individual about martyrdom, Mr. Abuayyash referenced an event in Houston for members of a particular religious group.” While the specific target, time, and place for the gathering were not immediately clear in the court documents, a law enforcement source reported that this would-be offender was “plotting to attack a Jewish gathering,”¹ after being inspired by the ongoing Israel-Hamas conflict which claimed the lives of at least thirty-one innocent Americans,² and an additional twenty American hostages who remain in captivity.³

Despite the Israel-Hamas conflict taking place abroad, the unanticipated security breach of Israel’s border by a known terrorist organization raises important questions about the security of our own southern border. Specifically, Customs and Border Protection (CBP) data indicates that thousands of “special interest aliens” from countries including those in the Middle East have been arrested at the southern border just over the past twenty-four months.⁴ As you well know, “special interest aliens” are illegal aliens from countries identified by the Department of Homeland Security as

¹ Alisha Ebrahimji et al., *Jordanian arrested in Houston supported killing ‘individuals of particular faiths,’ judge’s order said*, CNN (Nov. 2, 2023), <https://www.cnn.com/2023/11/02/us/sohaib-abuayyash-jordanian-arrested-houston/index.html>

² Press Briefing, *Remarks by President Biden on the October 7th Terrorist Attacks and the Resilience of the State of Israel and its People*, THE WHITE HOUSE (Oct. 18, 2023), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/18/remarks-by-president-biden-on-the-october-7th-terrorist-attacks-and-the-resilience-of-the-state-of-israel-and-its-people-tel-aviv-israel/>

³ Webpage, *What is Known About Israeli Hostages Taken by Hamas*, AMERICAN JEWISH COMMITTEE (Nov. 1, 2023), <https://www.ajc.org/news/what-is-known-about-israeli-hostages-taken-by-hamas>.

⁴ Adam Shaw et al., *Thousands of ‘special interest aliens’ from Middle East countries stopped at southern border since 2021: data*, FOX NEWS (Oct. 10, 2023), <https://www.foxnews.com/politics/thousands-special-interest-aliens-middle-east-countries-stopped-southern-border-2021-data/>

having conditions that promote or protect terrorism or potentially pose some sort of national security threat to the U.S.⁵ Between October 2021 and October 2023, CBP encountered a total of 6,386 nationals from Afghanistan, 3,153 from Egypt, 659 from Iran, and 538 from Syria. Additionally, CBP encountered 13,624 individuals from Uzbekistan, 30,830 from Turkey, 1,613 from Pakistan, 164 from Lebanon, 185 from Jordan, 123 from Iraq, and 15,594 from Mauritania during the same period.⁶

Furthermore, this data reveals that FY 2023 broke the record for encounters on the FBI terror watchlist with 169 individuals encountered between ports of entry at the southern border.⁷ Concerningly, this year's figure alone is greater than the amount of FBI terror watchlist encounters over the previous six years combined.⁸ Your agency, the Department of Homeland Security, even acknowledged the reality of this risk in a recently published threat assessment, warning that "terrorists and criminal actors may exploit the elevated flow and increasingly complex security environment to enter the United States."⁹ The assessment even went as far as conceding that "[i]ndividuals with terrorism connections are interested in using established travel routes and permissive environments to facilitate access to the United States."¹⁰ U.S. Customs and Border Protection officials in San Diego soon corroborated this assessment when they warned in an internal intelligence notice that militants associated with the Israel-Hamas war "may potentially be encountered at the southwest border... [and] individuals inspired by, or reacting to, the current Israel-Hamas conflict may attempt travel to or from the area of hostilities in the Middle East via circuitous transit across the Southwest border."¹¹ And yet, our nation's increasing vulnerability to terrorism is more than mere conjecture. It is a tangible reality that that can no longer be ignored.

Consider, for instance, that in September, Texas Border Patrol agents discovered a backpack containing what appeared to be improvised explosive devices (IEDs). This alarming discovery was not an isolated incident. In May, another makeshift explosive device was uncovered in Arizona, further underscoring the persistent threat at our borders.¹² Equally unsettling is the recent apprehension of a terrorism suspect who managed to evade ICE apprehension in New York City for two weeks after illegally crossing the border in Arizona and subsequently being released into

⁵ DHS Archive, *MYTH/FACT: Known and Suspected Terrorists/Special Interest Aliens*, DEP'T. OF HOMELAND SEC'Y (Jan. 7, 2019), <https://www.dhs.gov/news/2019/01/07/mythfact-known-and-suspected-terroristsspecial-interest-aliens/>

⁶ Shaw, *supra* note 4.

⁷ CBP Newsroom, *CBP Enforcement Statistics Fiscal Year 2023*, CUSTOMS AND BORDER PROTECTION, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (last accessed Nov. 7, 2023).

⁸ *Id.*

⁹ Adam Shaw, *DHS warns Mexican-produced drugs like fentanyl likely to kill more Americans than any other threat*, FOX NEWS (Sept. 14, 2023), <https://www.foxnews.com/politics/dhs-warns-mexican-produced-drugs-fentanyl-likely-kill-more-americans-than-other-threat/>

¹⁰ *Id.*

¹¹ Quinn Owen and Luke Barr, *Hamas militants 'may potentially' try crossing southern border, US officials warn*, ABC NEWS (Oct. 23, 2023), <https://abcnews.go.com/Politics/hamas-militants-potentially-crossing-southern-border-us-officials/story?id=104236095>

¹² Zaid Jilani and Ali Bradley, *Explosive devices are being found at the border*, NEWSNATION (Nov. 1, 2023), <https://www.newsnationnow.com/us-news/immigration/explosive-devices-border/>

the U.S. Regrettably, it was not until a week after his release that federal authorities discovered his former association with “terroristic activities” in Senegal.¹³

Worse yet, 1.7 million “gotaways” have illegally entered the United States during the Biden administration.¹⁴ This figure demonstrates that cartels have learned that they can “flood” the border with illegal aliens and, while those aliens are processed by Border Patrol agents, cross into our country uninhibited. Further, because your Department essentially turned our border security system into a public turnstile, the only persons who would seek to evade border law enforcement are those with serious criminal records, those actively engaged in criminal activity (such as smuggling fentanyl), or terror agents seeking to surreptitiously enter the United States. Importantly, these 1.7 million “gotaways” are only those that the Border Patrol knows to have crossed our borders, and does not include the potentially millions more that have slipped into our country unnoticed while Border Patrol was occupied processing illegal aliens. As evidenced by the IEDs and the increasing frequency of encounters with special interest aliens at the border, the present situation is obviously untenable and represents a grave security risk to our nation.

FBI Director Wray admitted as much when he stated, “the terrorism threat has been elevated throughout 2023, but the ongoing war in the Middle East has raised the threat of an attack against Americans in the United States to a whole other level.”¹⁵ In light of this unequivocal statement, IEDs found at the border, and increasing encounters with Hamas-inspired terrorism suspects, we ask that you reply to the following questions by December 7, 2023:

1. How many of the 172 illegal aliens encountered in FY2023, and confirmed to be on the FBI terror watchlist, are known to be affiliated with Hamas, Hezbollah, or ISIS?
2. How is DHS planning to address the concerning trend of “gotaways” at the southern border, and what measures are being put in place to enhance detection and apprehension of individuals who may have evaded Border Patrol agents?
3. How many of the 1.7 million “gotaways” that entered the United States since President Biden took office are estimated to be terrorists?

¹³ Adam Shaw, *ICE arrests African illegal immigrant, wanted in Senegal for terrorist offenses, who was released into US*, NEW YORK POST (Nov. 3, 2023), <https://nypost.com/2023/11/03/news/ice-arrests-african-illegal-immigrant-wanted-in-senegal-for-terrorist-offenses-who-was-released-into-us/>

¹⁴ Andrew R. Arthur, *Blockbuster House Report Reveals How Badly Biden’s Broken Our Immigration System*, CENTER FOR IMMIGRATION STUDIES (Oct. 10, 2023), <https://cis.org/Arthur/Blockbuster-House-Report-Reveals-How-Badly-Bidens-Broken-Our-Immigration-System>; see also House Judiciary Committee, *The Biden Border Crisis: New Data And Testimony Show How the Biden Administration Opened the Southwest Border and Abandoned Interior Enforcement*, U.S. HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE (Oct. 9, 2023), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-10-09-New-Data-and-Testimony.pdf>

¹⁵ Press Release, *Director Wray’s Opening Statement to the Senate Committee on Homeland Security and Governmental Affairs*, FEDERAL BUREAU OF INVESTIGATION (Oct. 31, 2023), <https://www.fbi.gov/news/speeches/director-wrays-opening-statement-to-the-senate-committee-on-homeland-security-and-governmental-affairs>

4. In light of the potential threat of terrorist “sleeper agents,” what measures are being taken to enhance the vetting process for illegal aliens seeking entry into the United States, especially those originating from regions of concern such as war-torn countries in the Middle East?
5. What specific efforts are DHS making to identify and dismantle any existing sleeper cells currently residing on U.S. soil, and what proactive measures are being taken to prevent their establishment in the first place?
6. What measures are DHS considering to enhance information-sharing and cooperation with foreign governments to obtain necessary background data and records for effective screening at the border?
7. What steps are DHS taking to develop a more robust screening process that accounts for potential gaps in data, ensuring that individuals from special interest countries are thoroughly vetted before entering the United States?
8. Given the limitations in identifying individuals from these countries through traditional fingerprint checks, are there any plans to implement alternative biometric verification methods to fingerprinting that could provide more accurate and reliable information about their identities and backgrounds?

Your failure to secure the southern border undoubtedly makes our nation less safe. It is imperative that you reverse this reckless course and ramp up interior enforcement of federal immigration law.

We urgently await your response.

Sincerely,



Ted Cruz
Ranking Member, Subcommittee on the Constitution
U.S. Senate Committee on the Judiciary



John Cornyn
Ranking Member, Subcommittee on Immigration and Border Security
U.S. Senate Committee on the Judiciary