

Congress of the United States
Washington, DC 20515

March 8, 2021

The Honorable Alejandro Mayorkas
Office of the Secretary
Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Mayorkas:

We write to request information on the enforcement status of 42 U.S.C. § 265 implemented by President Trump on March 21, 2020. This authority instructs Customs and Border Protection (CBP) to prioritize the health of Americans by rejecting the entry of any non-citizen or person without legal documentation in order to contain the spread of the Coronavirus during the public health emergency. President Biden has not rescinded this authority; it remains enforceable.

Accordingly, any adult or family unit encountered at a port of entry or apprehended between ports of entry without proper documentation must be immediately returned to Mexico or their home country. The only exception is Unaccompanied Alien Children (UAC) who are transferred to the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS).

If CBP enforces Title 42 as instructed, there should be no individuals without proper documentation released into the United States. Data for the month of February show that CBP encountered over 78,000 individuals attempting to enter the United States without authorization. Of these, over 62,000 were single adults. There are reports that at least 100 migrants who tested positive for Coronavirus virus have been released into the United States.

Historical precedent indicates illegal border crossings may increase to over 100,000 per month this spring. Due to the continued need for social distancing, CBP, Immigration and Customs Enforcement (ICE), and ORR facilities will quickly reach capacity. Even with efforts to social distance, reporting states that migrants are already being held in crowded spaces while being processed. Coupled with the lack of Coronavirus testing along the southern border, this is a guaranteed super spreader event. At the very least, all individuals encountered along our southern border must be tested for Coronavirus and provided with personal protective equipment. This will help identify those most at risk and protect our officials on the frontline of this crisis as well as American communities.

Recent actions by the Biden Administration have contributed to the ongoing, and worsening, border crisis. President Biden is ending the Migrant Protection Protocols, reprioritizing ICE removals, unequally enforcing Title 42, and has halted border wall

construction. These actions are putting Americans at risk just as we are emerging from the worst of the Coronavirus pandemic.

We ask that you answer the following questions:

1. Why is the Biden Administration not enforcing the one authority that remains in place to protect the border, Title 42?
2. Are all non-UACs without proper documentation being returned to Mexico or their home countries? If not, why not?
3. Under what criteria are some adults and family units being allowed to enter the United States? How many?
4. Are any non-Americans encountered at ports of entry or apprehended between ports of entry being tested for Coronavirus? If so, how many? What is the protocol when an undocumented individual tests positive?
5. What resources does CBP require to fully enforce Title 42?

We appreciate your prompt response to these questions.

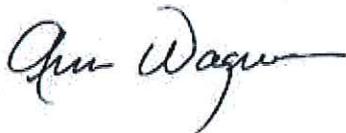
Sincerely,



Michael C. Burgess, M.D.
Member of Congress



Brian Babin, D.D.S.
Member of Congress



Ann Wagner
Member of Congress



Louie Gohmert
Member of Congress



Lance Gooden
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Diana Harshbarger
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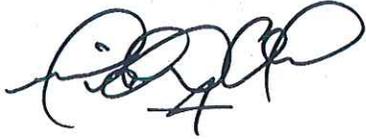
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