

Congress of the United States

Washington, DC 20515

March 24, 2023

Mr. Troy A. Miller
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, N.W.
Washington, DC 20229

Dear Acting Commissioner Miller:

We write to you regarding the apparent attempt by U.S. Customs and Border Protection (CBP) to use an unprecedented process to discipline agents from the U.S. Border Patrol's Del Rio Horse Patrol Unit. We expect your cooperation with our oversight.

Nearly 30,000 illegal aliens, mostly from Haiti, crossed into the United States in Del Rio, Texas during the month of September 2021.¹ At one point, nearly 15,000 of those aliens camped under the Del Rio International Bridge, completely overwhelming the Border Patrol and local resources.² Between from September 18 and 20, the illegal aliens created a massive humanitarian crisis for the community, putting both the aliens and Border Patrol agents at risk of harm.³

At the peak of the crisis on September 19, three members of the Border Patrol's Del Rio Horse Patrol Unit were patrolling the southwest border while illegal aliens were crossing the Rio Grande River into the United States. An out-of-context video of the agents' actions later surfaced, suggesting that the aliens were abusing their authority.

President Biden wrongfully accused the agents using their horse reins to whip aliens, vowing: "I promise you, those people will pay. There will be an investigation, underway now, and there will be consequences. There will be consequences."⁴ Vice President Kamala Harris also publicly vilified the Border Patrol agents, falsely claiming that they were engaged in tactics similar to those "used against African Americans during times of slavery."⁵ Secretary of Homeland Security Alejandro Mayorkas wrongfully accused the agents of violence and racism,

¹ Bill Chappell, *Haitian Migrants Have Now Been Cleared From Del Rio Border Camp, U.S. Says*, NPR (Sept. 24, 2021), <https://www.npr.org/2021/09/24/1040446618/biden-border-agents-horses-haiti-migrants-dangerous-wrong>.

² *Id.*

³ Edgar Sandoval and James Dobbins, *In Texas Border Town, Residents Feel Impact of Migrant Crisis*, NEW YORK TIMES (Sept. 20, 2021), <https://www.nytimes.com/2021/09/20/us/delrio-texas-migrants-crisis.html>.

⁴ Shannon Pettypiece, *Biden Says Officials Seen Chasing Haitians on Horseback 'will pay'*, NBC News (Sept. 24, 2021), <https://www.nbcnews.com/politics/white-house/biden-says-officials-seen-chasing-haitians-horseback-will-pay-n1280032>.

⁵ Cameron Jenkins, *Harris Says Images of Border Patrol on Horseback Evoked 'times of slavery'*, THE HILL (Sept. 25, 2021), <https://thehill.com/homenews/administration/573914-harris-says-images-of-border-patrol-on-horseback-evokes-times-of/>.

stating that the images “painfully conjured up the worst elements of our nation’s ongoing battle against systemic racism.”⁶

Under this intense pressure from the White House and the Secretary of Homeland Security, CBP initiated an investigation into the incident and released its report on July 8, 2022.⁷ The report concluded “[t]here is no evidence that [Border Patrol agents] involved in this incident struck, intentionally or otherwise, any migrant with their reins.”⁸ The report did conclude that one Border Patrol agent “acted in an unprofessional manner by yelling comments related to a migrant’s national origin and sex.”⁹ While CBP’s investigation has been completed for nine months, the Department of Homeland Security has yet to announce any closure of the incident in response to the findings.

We understand that rather than have a Border Patrol supervisor, sector chief, or even the Chief of Border Patrol decide on what disciplinary action, if any, is appropriate under these circumstances, CBP may instead select a senior executive with no Border Patrol or law enforcement experience. We are concerned that if CBP pursues this course, it will result in an uninformed and potentially unfair disciplinary decision. We can only conclude that CBP is considering an official without Border Patrol or law enforcement experience as a decision maker to protect the agent’s political accountable superiors—the President, the Vice President, and the Secretary of Homeland Security—for their inaccurate and defamatory statements.

If CBP decides to pursue this unprecedented process for Border Patrol agent discipline, we may be forced to examine the unusual nature of these disciplinary proceedings and whether the disciplinary decision was made based on proper considerations. We look forward to your prompt response to this matter.

Sincerely,



Jim Jordan
Chairman
Committee on the Judiciary



James Comer
Chairman
Committee on Oversight and Accountability



Mark Green
Chairman
Committee on Homeland Security

⁶ Bill Melugin and Adam Shaw, *Mayorkas alerted that no Haitian migrants were ‘whipped’ hours before WH press conference*, FOXNEWS (Oct. 12, 2022, 9:25 AM), <https://www.foxnews.com/politics/mayorkas-alerted-haitian-migrants-whipped-hours-wh-press-conference>.

⁷ See DEPT. OF HOMELAND SEC., U.S. CUSTOMS AND BORDER PROT., OFF. OF PROF. RESP., REP. OF INVEST. 202112280 (2022), <https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/202112280-cbp-closing-report-public-redacted-final.pdf>.

⁸ *Id.* at 5.

⁹ *Id.*

Mr. Troy A. Miller

March 24, 2023

Page 3

cc: The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Bennie Thompson, Ranking Member
Committee on Homeland Security