

United States Senate

WASHINGTON, DC 20510

June 20, 2024

COMMITTEES

ENERGY AND NATURAL RESOURCES

FOREIGN RELATIONS

SELECT COMMITTEE ON ETHICS

SELECT COMMITTEE ON INTELLIGENCE

SMALL BUSINESS AND ENTREPRENEURSHIP

Troy Miller
Acting Commissioner
Customs and Border Protection
1300 Pennsylvania Ave., NW
Washington, DC 20229

Patrick Lechleitner
Acting Director
Immigration and Customs Enforcement
500 12th St SW #5600,
Washington, DC 20024

Dear Acting Commissioner Miller and Acting Director Lechleitner,

We write with increasing concern regarding the unprecedented crisis at our southern border. Approximately 9.6 million individuals have illegally entered the United States since October 2021.¹ Given the increasing threats the United States faces from foreign adversaries, including China, Russia, and Iran, it is a national security imperative that our borders are sealed against illegal immigrants. There is no doubt that foreign individuals who wish to do harm to American citizens are using our open border to illegally enter the United States. In fiscal year (FY) 2023 alone, 736 individuals with matches to the terror watchlist were encountered at land border ports of entry and between ports of entry.²

As reported by NBC News on April 11, 2024,³ Mohammad Kharwin was apprehended by Customs and Border Protection (CBP) in March 2023 while illegally crossing the U.S. southwestern border. Upon his capture, CBP agents suspected he may be on the terror watchlist, but officials lacked corroborating information. Kharwin was then released into the United States and referred him to Immigration Customs Enforcement's Alternatives to Detention program without notifying ICE of his potential ties to terrorism. Not until February 2024, almost a full year later, did the Federal Bureau of Investigation (FBI) notify ICE of Kharwin's background, at which point ICE arrested Kharwin in San Antonio, Texas. Kharwin was held in jail until his trial in March 2024, where ICE prosecutors failed to indicate to the immigration judge the national security risks posed by Kharwin. Because this vital information was withheld, Kharwin was released with a \$12,000 bond and the ability to apply for asylum, receive work authorization, and travel freely within the United States. On April 17, 2024, NBC News reported that although Kharwin had been referred to and enrolled in the Alternatives to Detention program on March 12, 2023, he was removed from the program on March 28, 2023.⁴ This is entirely unacceptable.

This is not a one-time occurrence. It has been well-documented that illegal immigrants who matched to the terror watchlist have been apprehended at the border.⁵ On June 28, 2023, the Department of Homeland Security Inspector General published a report that examined these

¹ <https://www.cbp.gov/newsroom/stats/nationwide-encounters>

² <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>

³ <https://www.nbcnews.com/investigations/man-terror-watchlist-remains-us-released-border-patrol-rcna147192>

⁴ <https://www.nbcnews.com/news/investigations/man-terrorist-watchlist-was-dropped-program-monitors-migrants-rcna148205>

⁵ <https://www.nytimes.com/2023/11/15/us/politics/immigration-terrorism-watch-list.html>

same failures of information-sharing among CBP, Transportation Security Administration (TSA), ICE and the FBI that led to an illegal immigrant with an inconclusive match to the terror watchlist released into the interior of the United States for weeks before his apprehension.⁶

It is evident that the agencies responsible for securing our nation's southern border have failed to effectively communicate with and notify each other of terrorists that pose threats to American citizens illegally entering the country. The flow of illegal immigration has surged under the Biden administration, allowing these criminals and terrorists to slip through the cracks of our immigration system. Not only are these individuals breaking American laws by crossing the border illegally, but they also pose a significant national security risk.

The systemic lack of information-sharing ties the hands of agency immigration enforcement officials on the frontlines. These officials work tirelessly to apprehend illegal immigrants daily, but they should not be handcuffed by agency leadership.

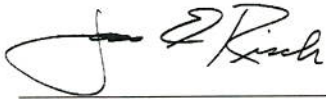
Considering this data and reporting, we request your offices provide responses to the following questions within 30 days.

1. What is the current protocol for resolving an inconclusive match to the terror watchlist?
2. Can you provide an explanation for why an illegal immigrant was released into the interior of the United States despite an inconclusive match through national security databases instead of detained until the results were corroborated?
3. If, as has been reported⁷, CBP had a suspicion the individual was on the terror watchlist, why was that suspicion and the inconclusive results not shared with ICE?
4. Can you describe the current information-sharing process between CBP, ICE, FBI, and U.S. Citizenship and Immigration Services (USCIS) regarding matches to the terror watchlist?
5. What resources does your department need to ensure streamlined information-sharing processes to prevent the release of individuals on the terror watchlist into the United States?
6. What criteria does the department use to determine which illegal immigrants get dropped from the Alternatives to Detention program?
7. Why was Kharwin removed from the Alternatives to Detention program following his appearance in court despite having another court date scheduled for 2025?
8. What is the average length of time an illegal immigrant spends in the Alternatives to Detention program?
9. What progress has been made on the recommendations of the DHS Inspector General in his June 28, 2023 report, titled *CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest*?
10. What guidance do you provide, and what discretion do you give, to CBP teams, with respect to their ability to slow or pause migrant processing when their resources are overwhelmed at ports of entry?

⁶ <https://www.oig.dhs.gov/sites/default/files/assets/2023-07/OIG-23-31-Jun23-Redacted.pdf>

⁷ <https://www.nbcnews.com/investigations/man-terror-watchlist-remains-us-released-border-patrol-rcna147192>

Sincerely,



James E. Risch
United States Senator



Mike Crapo
United States Senator



Steve Daines
United States Senator



Cindy Hyde-Smith
United States Senator



Pete Ricketts
United States Senator



M. Michael Rounds
United States Senator



Tim Scott
United States Senator



Dan Sullivan
United States Senator



John Thune
United States Senator



JD Vance
United States Senator