



January 31, 2023

The Honorable Jim Jordan
Chairman
House Committee on the Judiciary
2142 Rayburn House Building
Washington, D.C. 20515

The Honorable Jerrold Nadler
Ranking Member
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Jordan, Ranking Member Nadler, and Members of the Committee:

The Project On Government Oversight (POGO) respectfully submits this letter for entry into the record for your February 1, 2023, hearing, “The Biden Border Crisis — Part One.”

POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable federal government that safeguards constitutional principles.

The United States, along with many countries in the western hemisphere, is experiencing historically high levels of migration, which presents serious logistical and humanitarian challenges along migration routes and at the U.S.-Mexico border — particularly to the lives of migrants themselves.¹ The U.S. is also facing a very large number of fentanyl overdoses. But while much of this fentanyl *is* coming across the U.S.-Mexico border, the overwhelming majority of the drug is brought in by smugglers moving cargo through ports of entry, not migrants crossing the border between checkpoints.²

None of these problems constitute an “open border,” an “invasion,” or a sinister attempt to change the composition of the U.S. electorate. It is alarming to hear false claims of “invasion” or

¹ Ariel G. Ruiz Soto, “Record-Breaking Migrant Encounters at the U.S.-Mexico Border Overlook the Bigger Story,” Migration Policy Institute, October 2022, accessed January 30, 2023, <https://www.migrationpolicy.org/news/2022-record-migrant-encounters-us-mexico-border>; Mica Rosenberg, Kristina Cooke, and Daniel Trotta, “The Border’s Toll,” Reuters, July 25, 2022, <https://www.reuters.com/investigates/special-report/usa-immigration-border-deaths/>; Russell Contreras, “Border cities again see low violent crime rates,” *Axios*, October 18, 2022, <https://www.axios.com/2022/10/18/crime-fbi-mexico-border-homicides>.

² Nick Miroff et al., “Cause of death: Washington faltered as fentanyl gripped America,” *Washington Post*, December 12, 2022, <https://www.washingtonpost.com/investigations/interactive/2022/dea-fentanyl-failure/>; Joel Rose, “Many Americans falsely think migrants are bringing most of the fentanyl entering the U.S.,” NPR, August 18, 2022, <https://www.npr.org/2022/08/18/1118271910/many-americans-falsely-think-migrants-are-bringing-most-of-the-fentanyl-entering>.

claims of a conspiracy to open the border to “dangerous” foreigners. These claims from media personalities, government officials, and even members of Congress are themselves dangerous: The “replacement theory” echoed in this rhetoric has inspired a growing number of white supremacist terrorist attacks over the last ten years.³

Continuing to close ports of entry to asylum seekers — through Title 42 or other means — and increasing the militarization of the U.S.-Mexico border will do nothing to address the real challenges that border communities face.

Moreover, U.S. Customs and Border Protection’s external challenges should not be an excuse for delaying urgently needed internal reforms. As detailed in the attached report, which POGO published earlier this month, the Border Patrol has a history of broken internal accountability measures, serious problems with workplace culture, and rights violations — both of migrants and long-term U.S. residents and citizens.⁴ The agency also operates under too few legal constraints, with enhanced search and seizure powers in a “border enforcement zone” that is home to nearly two-thirds of the U.S. population.⁵ These powers, and the increasing politicization of the agency’s workforce, are ripe for abuse by a future authoritarian leader unless Congress and the administration put guardrails in place to protect our rights.

Further, as detailed in prior reporting by POGO and confirmed by recent news stories, Customs and Border Protection has serious problems with how it treats its own workforce, particularly with regard to sexual misconduct.⁶ As our leaders in Washington look for ways to increase safety for all of those living along our southern border, it is critical that Congress and the administration not lower hiring standards for an agency already struggling so much with accountability.

³ “How the ‘Great Replacement’ Myth Inspired a Wave of Racist Terrorist Attacks,” *Vice News*, July 11, 2022, <https://www.vice.com/en/article/v7vezb/great-replacement-theory-decade-of-hate>; Will Carless, “‘Replacement theory’ fuels extremists and shooters. Now a top Border Patrol agent is spreading it,” *USA Today*, updated May 15, 2022, <https://www.usatoday.com/story/news/nation/2022/05/06/great-replacement-theory-border-patrol-racist-talking-point/9560233002/>.

⁴ Katherine Hawkins, *The Border Zone Next Door, and Its Out-of-Control Police Force*, Project On Government Oversight, (January 10, 2023), <https://www.pogo.org/report/2023/01/the-border-zone-next-door-and-its-out-of-control-police-force>.

⁵ Carmen Sesin, “Two-thirds of Americans live in a border zone; what are their rights?” *NBC News*, January 26, 2018, <https://www.nbcnews.com/news/latino/two-thirds-americans-live-border-zone-what-are-their-rights-n841141>.

⁶ Adam Zagorin and Nick Schwellenbach, “Protecting the Predators at DHS,” Project On Government Oversight, April 7, 2022, <https://www.pogo.org/investigation/2022/04/protecting-the-predators-at-dhs>; Sarah Turberville and Chris Rickerd, *An Oversight Agenda for Customs and Border Protection: America’s Largest, Least Accountable Law Enforcement Agency*, Project On Government Oversight, (October 12, 2021), <https://www.pogo.org/report/2021/10/an-oversight-agenda-for-customs-and-border-protection-americas-largest-least-accountable-law-enforcement-agency>; Eileen Sullivan, “Top Border Patrol Official Resigned Amid Allegations of Improper Conduct,” *New York Times*, January 21, 2023, <https://www.nytimes.com/2023/01/21/us/politics/top-border-patrol-official-resigned.html>; Tim Steller, “Sex crime arrests too common among Border Patrol agents,” *Tucson.com*, updated June 13, 2022, https://tucson.com/news/local/govt-and-politics/tim-stellers-opinion-sex-crime-arrests-too-common-among-border-patrol-agents/article_87a358b8-aed7-11eb-bded-93600218e338.html.

Customs and Border Protection should not be expanded; it should be reformed to better meet its mission and to protect individual rights.

Thank you for the opportunity to submit this information.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Turberville". The signature is fluid and cursive, with a prominent initial "S".

Sarah Turberville
Director, The Constitution Project
at The Project on Government Oversight