

## Questions for the Record from Mr. Tom McClintock for Chad Wolf

### The Border Crisis: Is the Law Being Faithfully Executed? June 7, 2023

#### Responses from Chad Wolf, Executive Director, Chief Strategy Officer, and Chair of the Center for Homeland Security & Immigration, America First Policy Institute

1. During the hearing, several Democrat members accused you of serving unlawfully during your tenure at the Department of Homeland Security (DHS). What is your response to that accusation?

*Despite legal challenges and accusations regarding the legitimacy of my appointment as the Acting Secretary of the U.S. Department of Homeland Security (DHS), both I and the Trump administration have consistently defended the lawfulness of my appointment as consistent with the Homeland Security Act of 2002, Section 103(g)(2), which vests exclusive authority in the Secretary to determine the Department's order of succession. I continue to maintain that the contrary opinion of the Government Accountability Office (GAO) was based on the reliance of faulty legal logic in their decision-making process.*

2. During the hearing, Rep. Nadler stated that you were the “chief architect of the Unlawful Family Separation policy which literally kidnapped children from their parents.” Is his characterization accurate? Why or why not?

*No, that is an inaccurate characterization. The Department of Homeland Security had no such policy nor was I the architect of any such policy. The policy likely being misrepresented is the zero-tolerance policy initiated by the Department of Justice (DOJ) that mandated the criminal prosecution of all adults illegally crossing the southern border. DHS' primary role was to implement that policy but was not the originator. I want to reiterate, when previously and repeatedly asked about my stance on the zero-tolerance policy, I have consistently stated that I supported President Trump's executive order in June 2018, which expressed support for "family unity."*

3. When others describe your tenure as Acting DHS Secretary as having an inhumane policy on children and minors, how do you respond?

*As the Acting Secretary of the U.S. Department of Homeland Security, my primary responsibility was to ensure the safety and security of the American people. Every policy we implemented related to our southern border was rooted in the rule of law and was aimed at upholding the integrity of our immigration system and the maintenance of border security. It's essential to understand that we were enforcing laws passed by Congress, and our actions were always in line with those laws. It's worth noting that many of the policies that have come under scrutiny, such as the detention of children, were practices that began under previous administrations. There are genuine, significant, and ongoing risks of human trafficking at the border, and our policies were designed to protect minors from potential exploitation. By ensuring that children were genuinely accompanied by family members and not traffickers, we aimed to protect the most vulnerable.*

4. Were you surprised about the recent reports on child labor exploitation of illegal alien minors happening under the Biden Administration? Why or why not?

*No, I was not surprised at all. Unfortunately, the Biden Administration's immediate and systematic dismantling of virtually all effective border control measures that had been put in place by the Trump Administration has fostered an atmosphere conducive to the proliferation of human trafficking and child exploitation. Sadly, these phenomena have been worsened by, and inured to the benefit of, the vicious cartels that capitalize off our porous and insecure southern border. Along with the incoming mass migration of minors, many of whom are often unaccompanied, has come the tragic but predictable increase in exploitation, both labor and otherwise, that has surged in the past few years.*

5. What are some of the Biden Administration's border policies that have harmed children? In particular, what are the policies that led to the loss of 85,000 children?

*The Biden Administration is responsible for the highest levels of trafficking and smuggling alien children to our southern border ever recorded. These failed policies included exempting unaccompanied alien children and family units from Title 42, while that policy was in place. The family unit exemption resulted in the cartels and human traffickers exploiting vulnerable migrant children to form fake families to be allowed into the U.S. and then the child was recycled by being sent back over the border before being repeatedly trafficked or smuggled with other adults. At the border, the Department of Homeland Security ended the practice of DNA testing to confirm the existence of a familial relationship, which fueled more abusive smuggling and trafficking. Once the Department of Homeland Security transferred custody of unaccompanied alien children to the Department of Health and Human Services, that agency began releasing children to unvetted sponsors and also allowed volunteers at their facilities that were not screened. The Biden Administration failed to conduct site visits and has essentially ended interior enforcement. All of these factors contributed to the administration losing contact with 85,000 migrant children, with the number expected to continue to grow unless a new strategy is introduced.*

6. What policies should DHS implement to stop the horrific exploitation of young immigrant children, as described in the *New York Times* article?

*There are a number of Trump Administration policies that the Biden Administration ended that, if in place, would have prevented the mass exploitation of alien children as described by the *New York Times*. For starters, the Department of Homeland Security should immediately resume the Migrant Protection Protocols to prevent fraudulent family units from being allowed into the U.S. Additionally, the Department of Homeland Security must resume DNA testing at the border to quickly identify alien children who are victims of trafficking and smuggling. While the Trafficking Victims Protection Reauthorization Act, unfortunately, prevents the quick return of unaccompanied alien*

*children from non-contiguous countries, the Department of Homeland Security should partner with the Department of Health and Human Services to identify everyone living in the household before an unaccompanied alien child is handed over to a sponsor and conduct house visits to ensure the child is not being further exploited. Additionally, the Department of Homeland Security must resume worksite enforcement operations to detect scenarios where vulnerable migrant children are subjected to work bondage in order to pay for the smuggling or trafficking debts.*

7. Just 8 months into this fiscal year, 98 terrorists on the FBI's watchlist have been apprehended at the border – the same amount apprehended in all 12 months of fiscal year 2022. How are terrorists exploiting the open southwest border?

*The Biden Administration's failed border strategy has created a humanitarian and security crisis at the southern border. Terrorists and other bad actors understand the vulnerabilities of the southern border and clearly view that as the easiest method for entering our country. Department of Homeland Security personnel are overwhelmed by the historic volume of illegal aliens crossing the border unlawfully or showing up at a port of entry without a visa. The Biden Administration's decision to try to manage the crisis by processing illegal aliens as quickly as possible has resulted in most of the Border Patrol agents being pulled off the line to conduct these non-enforcement measures. This provides openings for terrorists and other bad actors to unlawfully enter the U.S. undetected and make it into American communities.*

8. How has the number of encounters with individuals on the terror watch list changed from the Trump Administration to the Biden Administration?
  - a. Do you think the reported encounters with aliens on the terror watchlist accurately convey the true number of terrorists and other bad actors crossing the border?

*The number of aliens on the terror watch list apprehended at the southern border undercount the reality. Those apprehended are just the ones who did not realize the federal government had their information in our databases. Of concern from a national security standpoint is the unknown number of aliens on the terror watch list from the nearly 2 million gotaways who have made it into American communities undetected during the Biden Administration. It has never been easier for illegal aliens to surrender to Department of Homeland Security personnel and be allowed into the country so those who take steps to avoid agents are clear national security and public safety threats.*

- b. Why do you think there has been a significant spike in the number of such encounters?

*The failed border policies of the Biden Administration has made it easier than ever before for terrorists and other bad actors to enter the country through the*

*southern border. Only 15 total aliens on the terror watch list were apprehended during the entirety of President Trump's term because of his administration's commitment to border security and enforcing U.S. immigration law.*

- c. How difficult do you believe it would be for a terrorist to enter the United States undetected under the Biden Administration?

*The fact that there are already around 2 million known gotaways, plus an untold number who were completely undetected, shows that it is incredibly easy for terrorists and other bad actors to make it into the United States. The border is not secure and there is a high likelihood that national security and public safety threats have already made it into American communities.*

- d. Do you believe it is easier for a terrorist to enter undetected today than it was three years ago? Why or why not?

*It has never been easier for terrorists, bad actors, and economic migrants to make it into the U.S. because of the failed border policies of the Biden Administration. As previously mentioned, there were only 15 total aliens on the terror watchlist apprehended during the Trump Administration because of the commitment to secure the border and enforce U.S. immigration law inside the country. Terrorists, cartels, and human traffickers are exploiting the predictability of the Biden Administration's border policies and the homeland is less safe because of it.*

- e. What are the national security implications if the border crisis continues?

*A subset of the illegal alien population are terrorists, gang members, cartel members, and other bad actors. An exposed border allows these nefarious characters to enter the country which jeopardizes national security. Homeland security is national security and the Biden Administration's failed policies make American communities less safe and susceptible to a potential terrorist attack.*

- f. Why should every American care about the increasing number of terrorists encountered at the southwest border?

*Every state is a border state because what happens at the southern border does not stay at the southern border. Terrorists and other bad actors realize it has never been easier to enter our country and the ones being apprehended are just the ones who did not realize the U.S. government had their information on file. The gotaway population is extremely worrisome and there is a real risk of terrorists and other bad actors already being in American communities.*

9. The border encounter numbers do not include known gotaways – 1.5 million over the course of the entire Biden Administration. Who are these “gotaways” and what threat do they pose to the nation?

*See responses to 8.*

10. What changed between the Trump and Biden Administrations that caused the current crisis?

*The policies of the Biden Administration are directly responsible for the ongoing humanitarian and security crisis at the southern border. The current administration inherited the most secure border of my lifetime thanks to a number of successful policies put in place by the Trump Administration including: Remain in Mexico, the Asylum Cooperative Agreements, restoring expedited removal to the fullest extent authorized by Congress, maximizing ICE detention capacity, exceeding deportation targets, and many others. The Biden Administration undid all of these policies and has handed operational control of the southern border to the Mexican drug cartels. The current administration has no deterrent policies and instead tries to manage the crisis by processing illegal aliens quickly into American communities.*

11. Are there any policies or programs that the Biden Administration has implemented that you would consider illegal?

*As described in greater detail in my written testimony, there are several policies and programs that Biden Administration’s Department of Homeland Security has implemented that are illegal. The courts have also agreed that the 100 day deportation freeze and several of the categorical parole programs violate the immigration laws passed by Congress.*

12. In general, have the statutory detention requirements changed since the time that you were Acting DHS Secretary? *No.*

- a. Have the DHS detention policies changed since the time you were Acting DHS Secretary?

*The Biden Administration has exempted nearly all illegal aliens from detention, including ignoring the statutory requirement that aliens in expedited removal be detained or required to wait in Mexico until the conclusion of their immigration court proceedings.*

- b. How have the DHS detention policies changed and what is the effect of those changes?

*See response to 12.a. Additionally, the Biden Administration has repeatedly sent a budget request to Congress to fund fewer detention beds and they are failing to use all of the beds currently available. As a result, most illegal aliens are released*

*into American communities which fuels the additional trafficking and smuggling of more illegal aliens.*

13. In general, have the statutory parole requirements changed since the time that you were Acting DHS Secretary? *No.*

a. Have the DHS parole policies changed since the time you were Acting DHS Secretary?

*Secretary Mayorkas is unlawfully paroling hundreds of thousands of inadmissible aliens into the U.S. in a categorical manner instead of the case-by-case requirement under the law. Additionally, the reasons given for these unlawful categorical parole programs fail to meet the statutory requirements of being for urgent humanitarian resources or significant public benefit under section 212(d)(5) of the Immigration and Nationality Act.*

b. How have the DHS parole policies changed and what is the effect of those changes?

*See response to 13.a. The unlawful use of parole means that hundreds of thousands of illegal aliens are being allowed into the U.S., are not put into removal proceedings, are immediately eligible for a work permit, and have virtually no threat of being removed. Additionally, as a parolee these illegal aliens will subsequently become eligible for unemployment payments, welfare, and other taxpayer-funded benefits. The cartels understand this and use these benefits to facilitate further trafficking and smuggling of inadmissible aliens through the various parole programs.*

14. In general, have the statutory grounds of inadmissibility and removability changed since the time that you were Acting Secretary? *No.*

a. Have the DHS policies surrounding removal changed since the time you were Acting DHS Secretary?

*Secretary Mayorkas has declared that being in the U.S. unlawfully is not grounds for removal. He has also issued enforcement priorities that exempt nearly all illegal aliens from the threat of removal.*

b. How have the DHS policies surrounding removal changed and what is the effect of those changes?

*See response to 14.a. The Biden Administration is removing the lowest number of illegal aliens in modern history despite the failed border policies that have allowed millions of illegal aliens into the U.S. The negligible threat of removal is a significant pull factor for economic migrants and fuels the continued trafficking and smuggling of vulnerable migrants.*