

June 21, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Secretary Mayorkas:

We write regarding recent reports regarding corrective action currently being considered against United States Border Patrol agents following incidents that occurred in Del Rio, Texas last September. We are concerned that public comments made by the President and Vice President as well as political pressure may unduly influence the outcome of what should be an impartial and objective process. We ask that you and the deciding official ensure a fair and impartial review of the facts as U.S. Customs and Border Protection (CBP) moves through this process.

As former homeland security executives, we understand the difficult and complex contemplation and appropriate decisions that are necessary once a thorough and impartial investigation has been conducted. When merited, disciplinary and other corrective actions are important tools to deter future misconduct and provide for a more effective and professional operator adhering to the high standards of conduct and professionalism. The Department of Homeland Security (DHS) and CBP must be accountable and transparent to the public. Maintaining the public trust demands that all allegations of misconduct are investigated thoroughly and impartially.

In September 2021, Border Patrol agents in the Del Rio Sector encountered an unprecedented surge of migrants illegally entering the United States, mostly from Haiti. Over 30,000 Haitian migrants crossed the Rio Grande River into Del Rio in a matter of days unlike any other time in our nation's history. CBP had not then and has still not developed a mechanism for processing that many people in a single event, nor has Congress appropriated the necessary resources, tools and authorities to effectively manage such a situation. Effectively, and in addition to doing what was possible to deter and stem the large numbers of illegal entrants, the mission of safety and security of such a large number of migrants needing to be processed into our immigration system fell to the CBP agents and officers. Additionally, DHS was challenged in communicating regularly with the public regarding the incident as it evolved, generating increasing uncertainty regarding the operational reality on the ground as it developed.

During that time, photos were taken of Border Patrol agents on horseback near the Rio Grande River in Del Rio, Texas. Shortly thereafter, on September 24, the President, during a press briefing responding to a specific question and reacting to the photos, stated, "Of course I take responsibility. I'm President. But it was horrible what — to see, as you saw — to see people treated like they did: horses nearly running them over

and people being strapped. It's outrageous. I promise you, those people will pay. They will be — an investigation is underway now, and there will be consequences. There will be consequences. It's an embarrassment. But beyond an embarrassment, it's dangerous; it's wrong. It sends the wrong message around the world. It sends the wrong message at home. It's simply not who we are.”¹ The Vice President on an appearance on *The View* on September 25, likened the photos to slavery stating that, “[h]uman beings should not be treated that way. It also invoked images of some of the worst moments of our history, where that kind of behavior has been used against the Indigenous people of our country, it has been used against African Americans during times of slavery.”²

Earlier that week, the photographer who took the photos told a local news station that, I've never seen them whip anyone. He was swinging it, but it can be misconstrued when you're looking at the picture.”³

We do not condone misconduct of any kind. Every agent and representative of our government should be held to the highest standards of law enforcement and professionalism regardless of the circumstances. However, due process is paramount to ensure against frivolous claims or undue influence on the process from political, partisan or unaffiliated interest groups. Impartiality is critical to the sanctity of the process to ensure that all parties receive closure. We collectively believe and point out that the statements made by the President and Vice President predictively prejudged the desired outcome of the investigation and may therefore influence the case. Stating outright that there will be consequences presumes the result of an investigation.

We would be remiss if we did not note that there continues to be a lack of any comprehensive, fully integrated plan to secure the border. Specifically, DHS has yet to put in place a consistent, national efficiency in deterrence and the processing and transfer of individuals taken into custody. Regardless of the administration, the execution of effective and lawful policy demands Congressional engagement to address the legal framework and appropriate the necessary resources. To date, in spite of the growing and unprecedented number of encounters, no effort has been made to engage Congress. The lack of action has resulted in a 'perfect storm' for Border Patrol Agents who are now being required to fulfill critical border security and humanitarian missions without the tools to be successful in those missions.

¹ Transcript. “Remarks by President Biden on the COVID-19 Response and the Vaccination Program,” [White House](https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/24/remarks-by-president-biden-on-the-covid-19-response-and-the-vaccination-program-8/), September 24, 2021, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/09/24/remarks-by-president-biden-on-the-covid-19-response-and-the-vaccination-program-8/>.

² “VP Kamala Harris Talks Haitian Migrants, Afghanistan, Abortion and More On “The View” | The View,” [YouTube/The View](https://www.youtube.com/watch?v=71lOzx6mWqE&t=116s), September 24, 2021, <https://www.youtube.com/watch?v=71lOzx6mWqE&t=116s>.

³ Paloma, Natassia. “Photographer behind controversial photos speaks exclusively to KTSM,” [KTSM](https://www.ktasm.com/local/el-paso-news/photographer-behind-controversial-photos-speaks-exclusively-to-ktasm/), September 23, 2021, <https://www.ktasm.com/local/el-paso-news/photographer-behind-controversial-photos-speaks-exclusively-to-ktasm/>.

We ask that you ensure that political, partisan, and special interest group influence play no role in the outcome of this proceeding.

Sincerely,

Mr. Ronald Vitiello
Fmr. Chief, United States Border Patrol, CBP
Fmr. Director of Immigrations and Customs Enforcement

Mr. David Aguilar
Fmr. Acting Commissioner, CBP
Fmr. Deputy Commissioner, CBP
Fmr. Chief, United States Border Patrol, CBP

Mr. Rodney Scott
Fmr. Chief, United States Border Patrol, CBP

Mr. Michael Fisher
Fmr. Chief, United States Border Patrol, CBP

Mr. Robert Harris
Fmr. Chief Patrol Agent, United States Border Patrol, CBP

Mr. Anthony Porvaznik
Fmr. Chief Patrol Agent, United States Border Patrol, CBP

Mr. Paul Beeson
Fmr. Chief Patrol Agent, United States Border Patrol, CBP

Mr. Jesse Shaw
Fmr. Chief Patrol Agent, United States Border Patrol, CBP

Mr. John C. Pfeifer
Fmr. Chief Patrol Agent, United States Border Patrol, CBP