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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051

<http://oversight.house.gov>

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LAWRENCE J. BRADY
STAFF DIRECTOR

The Honorable Janet Napolitano
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

Dear Madam Secretary:

The Committee on Oversight and Government Reform is investigating allegations from agency insiders that the Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP), one of its largest components, released false and misleading border crossing data. Documents made available by DHS for *in camera* review show irregularities in the numbers of daily arrests reported along the border near Tuscon, Arizona. In fact, the numbers appear to dramatically understate the volume of individuals who cross the border illegally and are neither arrested nor turned back south (“got-aways”). Without an accurate measurement of how many illegal entrants become got-aways, there is no way to assess the safety and security of the southwest border.

On May 4, 2011, in testimony before the Senate Homeland Security and Governmental Affairs Committee, you announced that DHS was developing a new index “to comprehensively measure security along the Southwest border and the quality of life in the region.”¹ Border patrol agents were immediately skeptical. Shawn Moran, a Border Patrol agent in the San Diego sector and vice president of the National Border Patrol Council labor union, doubted that the new index would accurately reflect the number of got-aways. He stated:

Any sort of metric that DHS comes up with I think is – I’m going to be skeptical about from the get go. Until they actually address the problem of the people who get past us and find a real way to measure that, they’re never going to have a real picture of what’s going on, on the border.

* * *

I’ve heard for the 14 years that I’ve been in this organization – in the Border Patrol – that we have 12 million illegal aliens in the country. Well, I don’t think that’s true because I know that there are hundreds of

¹ Secretary Janet Napolitano, Testimony before the S. Comm. on Homeland Security and Gov’t Affairs, May 4, 2011.

thousands getting past us every year, so there's no way that number has remained static.²

Moran added that got-aways are "the most important number to track but that this is least often measured or addressed."³ It appears that Agent Moran's skepticism was well-founded. According to witnesses, in the wake of your May 4, 2011, announcement, CBP leadership altered the method by which got-aways are counted. Documents show that instead of counting got-aways as individuals who CBP could no longer reasonably expect to apprehend, illegal entrants who were not arrested or turned back south were considered outstanding subjects of active pursuit. Individuals and groups of people who crossed the border illegally were passed from shift to shift for days – well beyond the point that CBP lost track of them. Rather than count these individuals as got-aways on daily shift reports, they simply fell off the record entirely.

An analysis of a small sample of shift reports from the Casa Grande border patrol station in Arizona showed that over a one week period in April 2011, at least 82 illegal entrants who were not arrested or turned back south were not reported as got-aways. Put plainly, the border security statistics do not count 82 people who entered the country illegally through Casa Grande between April 16 and April 22, 2011. Casa Grande is one of eight stations in the Tucson Sector, which encompasses almost the entire state of Arizona. Seven of the Tucson Sector's eight stations are responsible for patrolling areas along the border. The Tucson Sector is one of nine Sectors that span the U.S.-Mexico border.

Extrapolated over a full year for the entire U.S.-Mexico border, 82 unreported got-aways in one week at Casa Grande would equate to more than 268,000 people who entered the country illegally and were never counted.⁴

The potential magnitude of the underreporting of got-aways casts doubt on the border security numbers touted by the Department during this Administration. If got-aways are in fact being underreported to that extent, then the data on which you based the conclusion that "the border is safer than it has been in decades" is dangerously flawed.⁵ The American people have a right to know if your assurances about the overall security of the border are unreliable.

So that we may better understand the extent to which got-aways are underreported, please provide all situation reports, operation reports, and shift reports from each of the eight patrol stations in the Tucson Sector created between January 1 and December 31, 2011. Please provide these documents in unredacted form as soon as possible, but by no later than March 15, 2012.

² Penny Starr, *Napolitano Touts New 'Index' to Measure Southwest Border Security but Border Patrol Union Skeptical*, CNSNews.com, May 9, 2011.

³ *Id.*

⁴ The figure (268,632) is derived from the following series of calculations: 82 unreported got-aways in one week at Casa Grande patrol station multiplied by seven, the number of patrol stations in the Tucson Sector along the U.S.-Mexico border. That figure (574) is multiplied by nine to arrive at the total unreported got-aways in one week at all nine Sectors from California to Texas. That figure (5,166) is multiplied by 52 to adjust the weekly total to an annual total.

⁵ Remarks of Secretary Janet Napolitano on "Smart Effective Border Security and Immigration Enforcement," American University, Washington, D.C., Oct. 5, 2011.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Jonathan Skladany or Thomas Alexander of the Committee Staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,



Darrell Issa
Chairman
Committee on Oversight and
Government Reform



Jason Chaffetz
Chairman
Subcommittee on National
Security, Homeland Defense,
and Foreign Operations

cc: The Honorable Elijah Cummings, Ranking Minority Member
Committee on Oversight and Government Reform