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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

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LILA HARPER HELMS, MAJORITY STAFF DIRECTOR
BRAD GRANTZ, REPUBLICAN STAFF DIRECTOR

December 20, 2023

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, D.C. 20528-0525

Dear Mr. Secretary:

I write today concerned that the Transportation Security Administration (TSA) is adapting screening procedures in a manner that helps illegal aliens to board airplanes but poses a grave risk to national security. While Americans must present an acceptable form of identification to fly, or at least have their identities confirmed,¹ TSA is permitting illegal aliens without ID to opt for an alternate identity verification process utilizing the U.S. Customs and Border Protection (CBP) “CBP One” app. The Department of Homeland Security’s (DHS) process effectively takes illegal aliens at their word on their names and dates of birth, potentially allowing terrorists, cartel members, and other criminals to assume new identities, obtain DHS-issued fake IDs, and fly out of U.S. airports. In effect, TSA is applying one standard for verifying the identities of American citizens, and another, weaker standard for “verifying” the identities of illegal aliens. This is alarming.

The CBP One app allows an alien traveling to the U.S. to submit biometric and biographic information—including a live facial photograph, name, and date of birth—to CBP in advance of arrival at certain ports of entry.² Once the alien arrives at the port of entry, if he does not have a passport or other way to prove his identity, CBP will routinely parole the person into the U.S. under the self-provided name and date of birth. One of many problems with this process is that other agencies like TSA and Immigrations and Customs Enforcement (ICE) later rely on the unverified CBP One data as if it were verified. For example, if the paroled alien later tries to fly out of a U.S. airport, TSA may use his unverified name and date of birth in CBP One to verify his identity, even though the person may in fact be a terrorist or other criminal traveling under a fake identity. Similarly, ICE may use that CBP One data to issue an official identity card to the alien under the self-provided name and date of birth. The result is DHS may be facilitating

¹ *Acceptable Identification at the TSA Checkpoint*, TRANSPORTATION SECURITY ADMINISTRATION (last visited Dec. 20, 2023), <https://www.tsa.gov/travel/security-screening/identification>.

² *CBP One™ Mobile Application Traveler User Guide*, U.S. CUSTOMS AND BORDER PROTECTION (May 11, 2023), [https://www.cbp.gov/sites/default/files/assets/documents/2023-May/CBP One - User Guide - Traveler Land Submit Advance Information - English.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2023-May/CBP%20One%20-%20User%20Guide%20-%20Traveler%20Land%20Submit%20Advance%20Information%20-%20English.pdf).

criminals obtaining false identities and allowing them to board planes under those fictitious identities. Meanwhile, American citizens must typically present a passport or official government ID to prove their identities and board a plane.

DHS expanded its use of CBP One in May following the expiration of Title 42, which had provided for the expulsion of illegal aliens.³ Foreign nationals in Mexico on the way to the United States to purportedly seek asylum are encouraged to use the app to submit identifying information and preschedule an appointment to appear at a port of entry.⁴ There, they likely will be granted temporary parole, allowing them entry into the United States despite the overwhelming majority having established no legal right to remain.⁵ The CBP One process is supposed to cut out the cartels, digitize documentation, and facilitate biometric screening amidst a massive inflow of illegal aliens.

The reality, however, is much different: the CBP One process masks the Biden administration's border crisis, ushers unvetted aliens into the country, and enriches the cartels.⁶ After aliens arrive for an appointment at a recognized port of entry, Border Patrol will ask them a series of biographical questions, fingerprint them, and photograph them. But Border Patrol has limited ability to verify identities, especially now that the Biden administration has ended all DNA testing at the border.⁷ Agents can still check terrorist watchlists,⁸ but these do not hold sufficient data to verify the identities of all known terrorists, let alone all aliens. More than 95 percent of illegal aliens who schedule appointments through CBP One are paroled,⁹ and thus allowed into the U.S. at a time when border patrol is encountering more of those terrorists we *can* identify

³ *Fact Sheet: Update on DHS Planning for Southwest Border Security Measures as the Title 42 Public Health Order Ends*, DEP'T OF HOMELAND SECURITY (May 1, 2023), <https://www.dhs.gov/news/2023/05/01/fact-sheet-update-dhs-planning-southwest-border-security-measures-title-42-public> ("CBP One will expand appointments available in anticipation of the return to Title 8 processing.").

⁴ *DHS Scheduling System for Safe, Orderly and Humane Border Processing Goes Live on CBP One™ App*, DEP'T OF HOMELAND SECURITY (Jan. 12, 2023), <https://www.dhs.gov/news/2023/01/12/dhs-scheduling-system-safe-orderly-and-humane-border-processing-goes-live-cbp-onetm>; *Fact Sheet: Using CBP One™ to Schedule an Appointment*, U.S. CUSTOMS AND BORDER PROTECTION (Jan. 12, 2023), https://www.cbp.gov/sites/default/files/assets/documents/2023-Jan/CBP_One_Fact_Sheet_English_3.pdf.

⁵ See THE BIDEN BORDER CRISIS: NEW DATA AND TESTIMONY SHOW HOW THE BIDEN ADMINISTRATION OPENED THE SOUTHWEST BOARD AND ABANDONED INTERIOR ENFORCEMENT, H. COMM. ON JUDICIARY (Oct. 9, 2023), <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-10-09-New-Data-and-Testimony.pdf>.

⁶ Megan Myers, *Cartels Bank Billions Off Biden's Border Crisis, Lead Migrants Through 'A Big Graveyard' to US*, FOX NEWS (Aug. 4, 2023), <https://www.foxnews.com/us/how-cartels-banking-billions-off-bidens-border-crisis-migrants-lead-big-graveyard-us>.

⁷ U.S. Customs and Border Patrol Memorandum, End of Contract for Deoxyribonucleic Acid (DNA) Testing for Suspected Family Unit Fraud (May 19, 2023), https://justthenews.com/sites/default/files/2023-05/LEAKED_MEMO_Redacted.pdf.

⁸ Such as CBP's Automated Targeting System/Unified Passenger system (ATS-UPAX).

⁹ *What They Are Saying on Shocking New CBP One App Documents Obtained by Homeland Republicans Showing Mayorkas' "Smokescreen for the Mass Release of Individuals,"* H. COMM. ON HOMELAND SECURITY (Oct. 25, 2023), <https://homeland.house.gov/2023/10/25/what-they-are-saying-on-shocking-new-cbp-one-app-documents-obtained-by-homeland-republicans-showing-mayorkas-smokescreen-for-the-mass-release-of-individuals/>.

than ever before.¹⁰ Meanwhile, cartels are reportedly using VPNs and other workarounds to mask aliens' locations and evade CBP One's geofencing restrictions, enabling them to sell prescheduled CBP appointments to illegal aliens for \$3,000–\$50,000 each.¹¹

When TSA later uses CBP One data to verify an illegal alien's identity at an airport security checkpoint, the agency is merely comparing a live photograph or live answers to what the alien provided or told Border Patrol at the port of entry. They are not reviewing authenticated identity documents from an alien's home country.

Worse yet, with the introduction of ICE's Secure Docket Card, the agency appears to be formalizing these last-resort vetting measures into a physical, DHS-issued fake ID for illegal aliens.¹² TSA does not currently accept the ICE Secure Docket Cards as an acceptable form of identification. But it says it may use the cards to ascertain an alien's A-number, which is in turn linked to DHS-issued forms on the CBP One app that the TSA *does* accept as ID—including, inexplicably, outstanding arrest warrants.¹³

Meanwhile, TSA holds Americans to a more rigorous standard, generally requiring an authenticated ID and in all cases confirming identity before allowing such travelers to proceed through security screening. While illegal aliens get “verified” through the CBP One app for free, American citizens must pay for their governmental IDs at the state DMV, the U.S. Department of State, or elsewhere.

TSA has said it is “responsible for ensuring that all systems and programs, including those provided by private companies, meet requisite standards and will take necessary steps to ensure security needs are met.”¹⁴ This is how the agency justified its decision to begin 100 percent ID verification for air travelers enrolled in CLEAR, a commercial Registered Traveler Program.¹⁵ TSA said such measures were necessary because “accurate and reliable verification of passenger identity is foundational to aviation security and effective screening by TSA.”¹⁶ But when it

¹⁰ Adam Shaw et al., *Border Patrol Stops Record Number of People on Terror Watch List at Southern Border*, FOX NEWS (Oct. 21, 2023), <https://www.foxnews.com/politics/border-patrol-stop-record-number-people-terror-watchlist-southern-border>.

¹¹ Anna Giaritelli, *Mexican Cartels Exploit US Government's CBP One App*, WASH. EXAMINER (Aug. 4, 2023), <https://www.washingtonexaminer.com/policy/immigration/mexican-cartels-exploit-cbp-one-app>.

¹² Adam Shaw, *Leaked Images Show Biden Admin's Planned ICE ID Card for Illegal Immigrants*, FOX NEWS (Sept. 21, 2023), <https://www.foxnews.com/politics/leaked-images-show-biden-admins-planned-ice-id-card-illegal-immigrants>.

¹³ Adam Shaw, *TSA Chief Says 'Under 1,000' Illegal Immigrants Have Been Allowed to Board Planes with Warrants As ID*, FOX NEWS (Jul. 21, 2022), <https://www.foxnews.com/politics/tsa-chief-says-1000-illegal-immigrants-allowed-board-planes-warrants-id>.

¹⁴ Lori Aratani, *TSA Slows Push to Require Additional ID Checks for Some Travelers*, WASH. POST (Aug. 10, 2023), <https://www.washingtonpost.com/transportation/2023/08/10/tsa-clear-enhanced-id-checks/>.

¹⁵ *Id.*

¹⁶ *Id.*

comes to illegal aliens and governmental systems like CBP One, TSA's commitment to relying on only accurate and reliable data appears to go out the window.

It is important for Congress to review TSA's identity verification procedures as it considers legislation such as the Strengthening Enforcement to Curtail Unlawful, Risky Entrance to Flights Act of 2023 (SECURE Flights Act).¹⁷ The Standing Rules of the Senate provide the Committee on Commerce, Science, and Transportation jurisdiction over civil aviation and the TSA, including the ability to "review and study" these issues "on a continuing basis."¹⁸ Accordingly, please provide the documents requested below and written responses to the questions below no later than January 10, 2023, and in accordance with the attached instructions:

1. What other forms of "acceptable alternate identification" has TSA identified in coordination with its DHS counterparts?¹⁹
 - a. What are the "special circumstances" under which such alternative identification may be used?
 - b. What "acceptable alternate identification" may be used at TSA checkpoints by aliens without an acceptable form of identification?
2. Do TSA's acceptable identification policies impose a disparate cost burden on American citizens relative to illegal immigrants?
3. Of the 2,907,378 passengers screened by TSA on November 26, 2023:²⁰
 - a. How many went through an alternate identity verification process via the CBP One app?
 - b. How many went through a credential authentication technology (CAT) equipped identity verification checkpoint and of those how many opted out of the CAT?
4. Detail all known uses of ICE Secure Docket Cards by entities within and outside DHS.

¹⁷ S.918, 118th Cong. (2023).

¹⁸ S. Rules XXV(1)(f); XXVI(8)(a)(2).

¹⁹ *Acceptable Identification*, *supra* note 1.

²⁰ Sam Sweeney & Emily Shapiro, *Thanksgiving Travel: TSA Breaks Record for Highest Number of Daily Passengers*, ABC NEWS (Nov. 27, 2023), <https://abcnews.go.com/US/thanksgiving-travel-tsa-breaks-record-highest-number-daily/story?id=105178080>.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ted Cruz', is written over a horizontal line.

Ted Cruz
Ranking Member