

Congress of the United States
House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Phone (202) 225-4400
<https://coronavirus.house.gov>

April 20, 2021

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

Dear Secretary Mayorkas:

Even if border czar, Vice President Kamala Harris, will not admit it—there is a humanitarian, public health, and national security crisis at the southern border. In fact, the Biden Administration is failing to protect Americans by allowing those crossing the southern border to violate current public health guidance. Under oath, Dr. Anthony Fauci, Chief Medical Advisor to President Joe Biden, testified that the Biden Administration is openly violating U.S. Centers for Disease Control and Prevention (CDC) guidance.¹ We write to ask for your assurances that the Biden Administration will follow all applicable public health guidances at the southern border and stop placing American lives in danger.

SOCIAL DISTANCING AND MASKS

The current CDC guidance for American citizens is unambiguous—everyone should wear masks and social distance, regardless of vaccination status.² Specifically, CDC guidance states, “[e]veryone [two] years and older should wear masks in public” and “[s]tay at least [six] feet (about [two] arm lengths) from other people.”³ Additionally, CDC guidance states, “[a] mask is NOT a substitute for social distancing. Masks should still be worn in addition to staying at least [six] feet apart, especially when indoors...”⁴ This guidance is unambiguous.

¹ *Reaching the Light at the End of the Tunnel: A Science-Driven Approach to Swiftly and Safely Ending the Pandemic: Hearing Before the Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform*, 117th (Apr. 15, 2021) (statement by Dr. Anthony Fauci, Chief Medical Advisor, President Biden).

² *See generally How to Protect Yourself & Others*, U.S. CENTS. FOR DISEASE CONTROL & PREVENTION (last updated Mar. 8, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>.

³ *Id.*

⁴ *Guidance for Wearing Masks*, U.S. CENTS. FOR DISEASE CONTROL & PREVENTION (last updated Apr. 6, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html> (*emphasis in original*).

Unfortunately, the Biden Administration is violating this guidance by refusing to enforce American immigration laws leading to overcrowded facilities and a severe threat to the health of the surrounding American communities.

On April 15, 2021, Dr. Fauci testified—under oath—that President Biden’s housing of migrants is violating CDC guidance regarding social distancing and mask wearing. Dr. Fauci said this violation was a “major concern.”⁵ Further, Dr. Fauci said:⁶

Whip Scalise: Dr. Fauci, does this [housing of illegal immigrants] look like social distancing to you that [the CDC] require[s] when you talk about six feet?

Dr. Fauci: No.

Whip Scalise: So, in these cells, as you just said, they’re violating the very guidance that you tell Americans to follow... You can see all of these young children who are next to each other six inches apart, many without masks, by the way, does that follow [CDC] guidance that you’ve issued?

Dr. Fauci: No.

Whip Scalise: [The Biden Administration is] violating every guidance that Americans are required to follow... Do you think this should get fixed? And [should illegal immigrants] start following the same rules that you and I have to follow?

Dr. Fauci: I mean, obviously, everyone would like to see the situation fixed.

INTERNATIONAL TRAVEL

For more than one year, international travel has been seriously limited because of the COVID-19 pandemic. Since the delivery of a safe and effective vaccine by Operation Warp Speed, more and more Americans have begun to travel again—revitalizing tourism and bringing a much-needed economic boost to hard hit communities.

Current CDC guidance for international travel states that Americans should “delay international travel until [they] are fully vaccinated.”⁷ However, the CDC recommends “avoiding

⁵ Statement by Dr. Anthony Fauci, *supra* note 1.

⁶ *Id.*

⁷ *International Travel During COVID-19*, U.S. CENTS. FOR DISEASE CONTROL & PREVENTION (last updated Apr. 2, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/travelers/international-travel-during-covid19.html>.

all travel” to and from some countries—including Mexico, Guatemala, Honduras, and El Salvador.⁸ Each of these countries has a significantly lower rate of vaccination and higher rate of COVID-19 spread than the U.S.⁹ The CDC states, “[a]ll air passengers coming to the United States, including U.S. citizens and fully vaccinated people, are required to have a negative COVID-19 test result no more than 3 days before travel...”¹⁰ These rules are not being enforced against illegal immigrants traveling to the U.S. from those very same countries.

In the month of March alone, U.S. Customs and Border Protection (CBP) apprehended 172,331 illegal immigrants.¹¹ The Biden Administration is not testing migrants at CBP facilities prior to releasing them to then fly or travel by bus to cities across the U.S.¹² According to *Newsweek*, “[t]here currently is no system in place to track if migrants have been tested after they leave...CBP custody.”¹³ While American citizens are “*required*” to have a negative COVID-19 test prior to traveling to the U.S., illegal immigrants are not. This is a new level of hypocrisy from the Biden Administration.

On July 31, 2020, Dr. Fauci testified that travel restrictions save lives, yet the Biden Administration is allowing near unfettered migration from COVID-19 hot-spots.¹⁴ Further, on April 15, 2021, the Director of the CDC, Dr. Rochelle Walensky, testified that all travelers from

⁸ *COVID-19 in Mexico*, U.S. CENTS. FOR DISEASE CONTROL & PREVENTION (last reviewed Apr. 2, 2021), <https://wwwnc.cdc.gov/travel/notices/covid-4/coronavirus-mexico>; *COVID-19 in Honduras*, U.S. CENTS. FOR DISEASE CONTROL & PREVENTION (last reviewed Apr. 2, 2021), <https://wwwnc.cdc.gov/travel/notices/covid-4/coronavirus-honduras>; *COVID-19 in El Salvador*, U.S. CENTS. FOR DISEASE CONTROL & PREVENTION (last reviewed Apr. 2, 2021), <https://wwwnc.cdc.gov/travel/notices/covid-3/coronavirus-el-salvador>; *COVID-19 in Guatemala*, U.S. CENTS. FOR DISEASE CONTROL & PREVENTION (last reviewed Apr. 2, 2021), <https://wwwnc.cdc.gov/travel/notices/covid-4/coronavirus-guatemala>.

⁹ (1) United States: 24 percent fully vaccinated and 8 percent positivity rate; (2) Mexico: 2.6 percent fully vaccinated and 39 percent positivity rate; (3) Guatemala: less than 0.1 percent fully vaccinated and 18 percent positivity rate; (4) Honduras: less than 0.1 percent fully vaccinated and unknown positivity rate; and (5) El Salvador: unknown percentage fully vaccinated and unknown positivity rate. *Tracking Coronavirus Vaccinations Around the World*, N.Y. TIMES (last updated Apr. 17, 2021), <https://www.nytimes.com/interactive/2021/world/covid-vaccinations-tracker.html>; *Share of total COVID-19 tests that were positive*, OUR WORLD IN DATA (last updated Apr. 15, 2021), <https://ourworldindata.org/grapher/covid-19-positive-rate-bar?country=VNM~TWN~NZL~AUS~ZAF~KOR~EST~~IND~ISL~TUN~CAN~ARG~JPN~PHL~ITA~~IDN~USA~GBR>.

¹⁰ *COVID-19 in Mexico*, *supra* note 8 (*emphasis in original*).

¹¹ *Southwest Land Border Encounters*, U.S. CUSTOMS & BORDER PROTECTION (last updated Apr. 3, 2021), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

¹² Julia Ainsley, et. al., *CBP not testing migrant children for Covid at border stations, though many test positive after transfer*, NBC NEWS (Mar. 25, 2021), <https://www.nbcnews.com/politics/immigration/cbp-not-testing-migrant-children-covid-border-stations-though-many-n1262059>.

¹³ Giella, *supra* note 12.

¹⁴ *The Urgent Need for a National Plan to Contain the Coronavirus: Hearing Before the Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform*, 116th (July 31, 2021) (statement by Dr. Anthony Fauci, Director, Nat’l Institute of Allergy and Infectious Diseases).

Mexico, Guatemala, Honduras, and El Salvador should have a negative COVID-19 test prior to entering the U.S. by air.¹⁵ Dr. Walensky said:¹⁶

Whip Scalise: Should everybody that comes into the United States follow [the CDC's international travel] guidance, not just U.S. citizens but everybody coming into the U.S.?

Dr. Walensky: The CDC guidance by air is guidance not just coming from Mexico, its air travel from all over the globe.

Whip Scalise: Guatemala for example?

Dr. Walensky: It's all over the globe.

Whip Scalise: El Salvador should follow this guidance?

Dr. Walensky: It's all over the globe.

Whip Scalise: If somebody came from [Mexico, Guatemala, Honduras, or El Salvador]...and then got on an airplane without a COVID test, does that violate CDC guidance?

Dr. Walensky: This is guidance, it is not law, but those are the recommendations we made.

Whip Scalise: No, it doesn't say recommendation; it says, all are 'required.' That's not a recommendation, Dr. Walensky...Is there an exemption for people who come here illegally to this guidance?

Dr. Walensky: Everybody coming into the U.S. by air is supposed to have a [negative COVID-19] test one to three days before coming.

CONCLUSION

Dr. Fauci agrees—the public health crisis at the border must be fixed. As a nation we are placing burdensome public health restrictions on American citizens while those who enter our country illegally are permitted to flow into American towns and cities without any such

¹⁵ Despite most migrants entering the U.S. by foot, COVID-19 does not distinguish by mode of travel. Also, migrants, after entering the U.S. by foot are then released untested to fly into the U.S. Statement by Dr. Rochelle Walensky, Director, U.S. Cents. For Disease Control & Prevention), *supra* note 1.

¹⁶ *Id.*

restrictions. This is jeopardizing the health of Americans and threatens to prolong the COVID-19 pandemic. It appears that that the Biden Administration is exempting illegal immigrants from the very rules that American citizens are forced to follow.

It is imperative, we inform the governors and local officials of this impending crisis. We respectfully request a staff level briefing on the issues outlined above by April 27, 2021. Additionally, please provide the following documents and information before May 4, 2021:

1. A written assurance that the U.S. Department of Homeland Security (DHS) will test every individual (including family units and children) for COVID-19 prior to release.
2. A written assurance that DHS will require all migrants to wear masks while in federal custody.
3. Any plans or policies related to the Administration's efforts to comply with social distancing and capacity levels in DHS facilities.
4. The number of migrants released from CBP custody classified by:
 - a. Released to U.S. Department of Health and Human Services;
 - b. Released to Immigration and Customs Enforcement;
 - c. Released on their own recognizance;
 - d. Expelled under Title 42; or
 - e. Removed under Title 8.
5. For all migrants in category (c) above:
 - a. Where the migrant was released (i.e. no longer in DHS custody);
 - b. Whether or not the migrant was tested at release; and
 - c. The migrant's final destination.

The briefing may be conducted remotely for convenience and safety issues. To schedule the briefing or ask any follow-up or related questions, please contact Committee on Oversight and Reform Republican staff at (202) 225-5074.

The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. Further, the Select Subcommittee on the Coronavirus Crisis is empowered to investigate the "preparedness for and response to the coronavirus crisis, including...containment, mitigation, and surveillance activities."¹⁷ Thank you in advance for your cooperation with this inquiry.

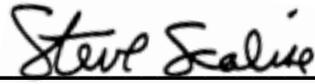
¹⁷ H. Res. 935 § 3(a)(4) (2020).

The Honorable Alejandro Mayorkas

April 20, 2021

Page 6

Sincerely,

A handwritten signature in black ink that reads "Steve Scalise". The signature is written in a cursive style and is positioned above a solid horizontal line.

Steve J. Scalise

Ranking Member

Select Subcommittee on the Coronavirus Crisis

cc: The Honorable Kamala Harris
Vice President of the United States

The Honorable James E. Clyburn, Chairman
Select Subcommittee on the Coronavirus Crisis