

Opening Statement of Sen. Rob Portman
Homeland Security and Governmental Affairs Committee
Nomination of Alejandro Mayorkas to be Secretary,
U.S. Department of Homeland Security
January 19, 2021

Given the homeland security threats we face as a country, including the current increased threat level here in our nation's capital that all of us experienced as we came to the Capitol this morning, having the right person to lead the Department of Homeland Security could not be more important.

This Committee worked to create the Department of Homeland Security following the horrific events of September 11, 2001. At the time, we were mainly concerned with foreign threats coming from outside our country's borders. As we sit here today, with the Capitol complex surrounded by fencing and thousands of members of the National Guard all around us, the threats the Department is being tasked to protect us from are very different.

While foreign threat actors remain a concern, the attack on the Capitol on January 6 was an assault on our democracy itself, in my view. And of course it was a domestic attack. Twenty years ago, such a threat was unimaginable. I think also unimaginable are the new ways foreign actors are breaching and accessing our sensitive government networks. The SolarWinds cybersecurity breach appears to be the first time a foreign actor, likely Russia, has had unfettered access to the daily workings of important federal agencies. This includes, by the way, the Department of Homeland Security, the very agency tasked with keeping the federal government's networks secure.

At the same time, our country still struggles with threats posed by illicit drugs, like fentanyl, which Customs and Border Protection reports has shifted from entering our communities from China through the U.S. Postal Service to increasingly coming across our southern land border. All while our country is gripped by the COVID-19 pandemic that has now infected over 23 million Americans. The economic impact of the pandemic has also increased the risk of vulnerable populations being subject to human trafficking, another DHS focus. And all of us have seen reports of another caravan making its way north from Central America.

Recently, the Department has struggled due to a lack of Senate-confirmed leadership, really since April of 2019. Having the right person at the helm of DHS could not be more important. That person must be a strong leader with the utmost

integrity. Today, we consider Mr. Mayorkas for that post. This is not the first time Mr. Mayorkas has been before this Committee as a nominee. In July 2013, this Committee considered his nomination to be the Deputy Secretary of DHS while he was under investigation by the Inspector General for exerting improper influence in the EB-5 investor visa process in his role as Director of U.S. Citizenship and Immigration Services. As a result, Mr. Mayorkas's nomination was reported out of this Committee on a strict party-line vote with no Republican support. He was later confirmed by the Senate in the same way -- party-line, with no Republican support.

Today, we have the findings of that Inspector General report. And they are concerning. The DHS Inspector General found that in three matters in the EB-5 program:

Mr. Mayorkas communicated with stakeholders on substantive issues, outside of the normal adjudicatory process, and intervened with career USCIS staff in ways that benefited the stakeholders. In each of these three instances, but for Mr. Mayorkas's intervention, the matter would have been decided differently.

Further, the Inspector General found:

The juxtaposition of Mr. Mayorkas's communication with external stakeholders on specific matters outside the normal procedures, coupled with favorable action that deviated from the regulatory scheme designed to ensure fairness and evenhandedness in adjudicating benefits, created an appearance of favoritism and special access.

That's from the IG. The stakeholders who received the benefit of this special access are familiar names: former Senate Majority Leader Harry Reid; Ed Rendell; Terry McAuliffe; and Anthony Rodham. And the projects included financing for a Las Vegas hotel and casino, Hollywood film studios, and an electric car manufacturing company. Equally concerning is the testimony from DHS whistleblowers regarding Mr. Mayorkas's management style. One witness stated that encounters with Mr. Mayorkas were "uncomfortable, aggressive, unusual, and unsettling;" and a high-ranking USCIS official told the IG that employees were afraid to speak up in the meetings because if they had a different view that Mr. Mayorkas would "cut them up, take them apart, or put them in their place."

In fact, the Inspector General noted the number and variety of witnesses that came forward was unusual -- the individuals who raised these concerns were “throughout the ranks of USCIS, in different locations, engaged in different functions, with different experience levels.” Mr. Mayorkas, I know from our conversations, that you strongly disagree with this report.

In preparing for this hearing, I reached out to John Roth, the former DHS Inspector General responsible for the report. It is worth noting that Mr. Roth was nominated by President Obama and confirmed by the Senate unanimously. Mr. Roth told me the report holds up today and he continues to stand behind it.

Mr. Mayorkas, I believe it is important that you are given the opportunity to address the findings of the report, and you will have that opportunity today. As you know, this Committee strongly believes in the importance of the work of the Inspector General community. In fact, members of this Committee -- Senators Peters, Carper, Lankford, Romney, and I -- introduced the *Securing Inspector General Independence Act* last Congress in response to concerning actions taken by the Trump Administration, and I hope this Committee takes up that legislation in this new Congress.

At this hearing, it is also important that we talk about your plans for securing the country from existing threats, as well as those that we haven't yet imagined, should you be confirmed. You and I have had a good conversation about those challenges as well, and I look forward to that dialogue. But, ultimately, I believe this hearing is about ensuring strong, effective, and ethical leadership of the critically important and sprawling Department of Homeland Security, now the third largest agency of the federal government. Leadership is required.