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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

December 03, 2021

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

Dear Secretary Mayorkas:

I am writing to express my concern with reported U.S. Immigration and Enforcement (ICE) Fiscal Year 2021 enforcement statistics and potential plans to restructure ICE Enforcement and Removal Operations (ERO) personnel. As you know, the over 8,500 ICE ERO professionals are responsible for enforcing our country's immigration laws and keeping our communities safe from those who are unlawfully present.

The Washington Post recently reported that in Fiscal Year 2021 immigration arrests in the interior of the U.S. fell to their lowest level in more than a decade and were less than half of the average of administrative arrests from FY 2017 through FY 2019.¹ This substantial decline in arrests reflects Biden administration policy changes that deemphasize enforcement at a time when the United States is experiencing an unacceptable number of migrants evading apprehension at the southwest border and a growing backlog of individuals with final orders of removal.

In addition to these concerning enforcement statistics, we understand the Department may be considering converting ICE ERO officers from their GS-1801 series to the GS-1811 (criminal investigator) series. As ICE ERO officers are primarily responsible for enforcing civil immigration violations, this conversion could further diminish enforcement operations and the capability of the Department to enforce our immigration laws. These conversions would create significant funding liabilities to DHS for training costs, salary increases, and the creation of additional administrative and positions that will detract from ICE ERO's core mission.

As you are aware, Section 513 of Public Law 116-260, the Consolidated Appropriations Act for FY2021, prohibits reallocation of functions among the officers of the Department or any alteration of organizational units without congressional authorization. Any proposal to alter ICE ERO functions should be done in coordination with Congress for full and open consideration of

¹ Miroff, Nick, *Immigration arrests fell to lowest level in more than a decade during fiscal 2021, ICE data shows*, *Washington Post*, October 25, 2021, https://www.washingtonpost.com/national/ice-arrests-biden-trump/2021/10/25/f33130b8-35b5-11ec-9a5d-93a89c74e76d_story.html.

the implications, to include the status of employees with bargaining rights and any potential impact on employee pay and benefits.

I respectfully request a briefing regarding the Department's analysis of the need to convert ERO officers to criminal investigators.

Thank you for your prompt attention to this matter. I stand ready to work with you to secure our border and restore the rule of law when it comes to immigration and border security.

Sincerely,

A handwritten signature in blue ink that reads "Rob Portman". The signature is written in a cursive style and is contained within a thin black rectangular border.

Rob Portman
Ranking Member