

# United States Senate

January 6, 2023

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20250

Mr. Troy Miller  
Acting Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229

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

Dear Attorney General Garland, Secretary Mayorkas, and Acting Commissioner Miller:

For years, extralegal paramilitary organizations have engaged in unofficial border missions — reminiscent of Ku Klux Klan border patrols<sup>1</sup> — intended to illegally detain and harass immigrants. These activities undermine legitimate government authority and threaten public safety. Recently, many of these groups have stepped up their efforts, and some are even carrying out their missions in collaboration with, or with approval from, local, state, and federal law enforcement agents, creating an escalating crisis that must be a priority for both the U.S. Department of Homeland Security (DHS) and the U.S. Department of Justice (DOJ). I urge the Biden administration to investigate illegal conduct by paramilitary groups at the border, especially if it included unofficial or unsanctioned collaboration with law enforcement agents, and take appropriate action in response.

Two paramilitary organizations of particular concern are Veterans on Patrol (VOP)<sup>2</sup> and Patriots for America (PFA).<sup>3</sup> Led by individuals with a long history of spreading conspiratorial

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<sup>1</sup> See, e.g., Susy Buchanan and David Holthouse, *The Minuteman Project wasn't the first to organize a vigilante border patrol. That honor belongs to the Ku Klux Klan*, Southern Poverty Law Center (2015), <https://www.splcenter.org/fighting-hate/intelligence-report/2015/franchise>; *Ku Klux Klan Plans Border Patrol to Help Fight Illegal Alien Problem*, N.Y. Times, (Oct. 18, 1977), <https://www.nytimes.com/1977/10/18/archives/ku-klux-klan-plans-border-patrol-to-help-fight-illegal-alien.html>.

<sup>2</sup> *Veterans on Patrol*, Southern Poverty Law Center, <https://www.splcenter.org/fighting-hate/extremist-files/group/veterans-patrol>.

<sup>3</sup> Patriots for America, <https://www.patriotsforamericamilitia.com/what-we-do>.

narratives rooted in white nationalism, and who paint migrants as violent child predators and drug traffickers, VOP and PFA have engaged in a campaign of harassment and intimidation. In a video uploaded to Facebook, one PFA leader is seen questioning adult migrants and unaccompanied children about their journeys to the border,<sup>4</sup> even after they were already in the custody of U.S. Customs and Border Protection (CBP) agents and National Guard troops.<sup>5</sup> Since 2021, VOP has been intercepting unaccompanied minors near the border in Arizona,<sup>6</sup> surveilling U.S.-based sponsors, and in some cases, confronting, or helping others confront, the sponsors at their homes.<sup>7</sup> VOP has also disguised its desert campsites as water stations — meant to mimic those placed by faith-based organizations such as Humane Borders — in order to lure migrants; VOP then turns them over to CBP.<sup>8</sup>

U.S. criminal law prohibits an individual from impersonating “an officer or employee acting under the authority of the United States or any department, agency or officer thereof.”<sup>9</sup> Yet, members of VOP and PFA typically appear in military-style outfits<sup>10</sup> and when they confront and detain migrants at the border, they fail to identify themselves as private citizens.<sup>11</sup> Migrants are left to assume that these vigilantes are legitimate law enforcement officers and comply with their requests. A recorded encounter between PFA and three migrants they detained and turned over to the Kinney County, Texas Sheriff’s Department depicts this type of interaction.<sup>12</sup> The PFA members’ repeated instructions to the migrants to “sit down,” the military-style gear they wore, and their questioning all conveyed to the migrants that the PFA members represented law enforcement and the migrants were not free to leave.<sup>13</sup> The

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<sup>4</sup> Sanuel Hal, Facebook (Apr. 13, 2022),

<https://www.facebook.com/100055371055772/videos/1170946987068758>.

<sup>5</sup> Molly Hennessy-Fike, *Texas border militia stops migrants and shoots video of kids. Rights groups say they’re racist*, L.A. Times (May 13, 2022), <https://www.latimes.com/world-nation/story/2022-05-13/texas-border-militia>.

<sup>6</sup> Melissa del Bosque, *‘Humanitarians’ with Guns*, Border Chron. (Mar. 22, 2022), <https://www.theborderchronicle.com/p/humanitarians-with-guns?s=r>.

<sup>7</sup> Freddy Cruz, *White Nationalists, Jan. 6 Protesters and Qanon: What You Need to Know about Border Vigilantes along the Border*, Southern Poverty Law Center (Dec. 2, 2021), <https://www.splcenter.org/hatewatch/2021/12/02/white-nationalists-jan-6-protesters-and-qanon-what-you-need-know-about-border-vigilantes>.

<sup>8</sup> Freddy Cruz, *Extremists at the Border: How the Far Right Exploits the Migrant Crisis, Targets Humanitarian Organizations and Peddles Nativist Fears*, Southern Poverty Law Center (July 6, 2021), <https://www.splcenter.org/hatewatch/2021/07/06/extremists-border-how-far-right-exploits-migrant-crisis-targets-humanitarian-organizations>.

<sup>9</sup> 18 U.S.C. § 912.

<sup>10</sup> See, e.g., Patriots, *supra* n.3; Tay Wiles, *Conspiracy theories inspire vigilante justice in Tucson*, High Country News (Sept. 12, 2018), <https://www.hcn.org/issues/50.17/politics-conspiracy-theories-inspire-vigilante-justice-in-tucson>.

<sup>11</sup> E.g., *Patriots for America Militia Finds Illegals on Patrol*, Rumble (Jan. 11, 2022), <https://rumble.com/vsed7k-patriots-for-america-militia-finds-illegals-on-patrol.html>.

<sup>12</sup> See *id.*

<sup>13</sup> See *id.*

unobstructed influence and success of these vigilante groups along the border continue to inspire other paramilitary groups to form.<sup>14</sup>

More problematically, some vigilante groups appear to be acting in concert with local, state, and federal law enforcement entities in carrying out problematic or unlawful activities. For more than a year, PFA has been operating in concert with local law enforcement in patrolling the border armed with AR-15-style rifles and detaining, questioning, and intimidating migrants.<sup>15</sup> According to the American Civil Liberties Union in Texas, PFA is “directly collaborating with the Kinney County Sheriff’s Office” and “on at least one occasion they seem to have collaborated with the Texas National Guard as well.”<sup>16</sup> Alarming, there is also evidence of open collaboration with federal agents. In May 2021, a video uploaded to Facebook depicted a Border Patrol agent meeting with VOP members and praising their activities before collecting drone footage from the group.<sup>17</sup>

This behavior, along with CBP’s failure to properly discipline employee members of a Facebook group that threatened migrants and elected officials,<sup>18</sup> could encourage further vigilante activity and violence. In a particularly egregious incident in October 2022, news outlets reported the horrific shooting of a group of migrants stopping for water in Sierra Blanca, south of El Paso, Texas, by two individuals who have since been criminally charged.<sup>19</sup> Absent federal action cracking down on their unauthorized behavior, vigilante groups will continue to operate and weaken the government’s ability to maintain migrant safety, protect human rights, and defend the rule of law at the border.

In order to better understand how DHS, CBP, and DOJ are responding to ongoing paramilitary and vigilante activity at the border, we ask that you provide written answers to the following questions by January 30, 2023:

1. Are DHS, CBP, or DOJ aware of any ongoing activity by paramilitary groups aimed at migrants crossing the U.S.-Mexico border, including but not limited to, activity by VOP and PFA? What actions, if any, have been taken in response?

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<sup>14</sup> Patrick Strickland, *The U.S.-Mexico Border Has Long Been a Magnet for Far-Right Vigilantes*, Time (Feb. 17, 2022), <https://time.com/6141322/border-vigilantes-militias-us-mexico-immigrants/>.

<sup>15</sup> Hennessy-Fike, *supra* n.5.

<sup>16</sup> Letter from ACLU of Texas et al. to U.S. Attorney General Merrick Garland et al. (Feb. 23, 2022), [https://www.aclutx.org/sites/default/files/operation\\_lone\\_star\\_title\\_vi\\_supplemental\\_complaint.pdf](https://www.aclutx.org/sites/default/files/operation_lone_star_title_vi_supplemental_complaint.pdf).

<sup>17</sup> Dsw74News, Facebook (May 24, 2021), <https://www.facebook.com/DSW74/videos/142350517880294/> (6:45-11:30).

<sup>18</sup> Staff Report, U.S. House of Representatives Committee on Oversight and Reform, *Border Patrol Agents in Secret Facebook Group Faced Few Consequences for Misconduct* (Oct. 2021), <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/COR%20CBP%20Facebook%20Group%20Report%20-%20October%202021.pdf>.

<sup>19</sup> Nick Miroff and Maria Sacchetti, *Jail Warden and Brother Charged in Roadside Shooting of Mexican Migrants*, Wash. Post (Oct. 1, 2022), <https://www.washingtonpost.com/immigration/2022/09/29/texas-migrants-shot/>.

2. What data or internal reporting, if any, have DHS, CBP, or DOJ generated on paramilitary groups operating at the border? If no data or internal reporting has been generated, why not?
3. Are DHS, CBP, or DOJ aware of any incidents in which paramilitary groups have obtained sponsor information from unaccompanied minors at the border or confronted sponsors at their homes? If so, what has been done in response?
4. Does CBP maintain any formal or informal policies regarding engagements with or interactions between CBP officials and paramilitary groups along the U.S.-Mexico border?
  - a. What disciplinary action, if any, has been taken against CBP agents collaborating with paramilitary groups to harass and intimidate migrants, including any action against the agent appearing in the May 2021 Facebook video referenced above?
5. Will DHS direct CBP to issue formal guidelines prohibiting agents from actively supporting unauthorized paramilitary organizations and other extremist groups? If not, why?
6. Is judicial accountability for violence and other unlawful activity perpetrated by unauthorized paramilitary groups or their individual members against migrants a DOJ priority?
7. What direction and resources, if any, has DOJ given to federal law enforcement to investigate paramilitary groups' or their individual members' conduct towards to migrants crossing the southern border?
8. Will DOJ ensure that any criminal conduct by paramilitary organizations and their members against migrants at the southern border is prosecuted?

Sincerely,



Edward J. Markey  
United States Senator



Elizabeth Warren  
United States Senator



Cory A. Booker  
United States Senator