

Congress of the United States
Washington, DC 20510

November 13, 2019

Acting Commissioner Mark Morgan
Customs and Border Protection (CBP)
1300 Pennsylvania Ave. NW
Washington, DC 20229

Dear Acting Commissioner Morgan,

We write to you regarding the U.S. Border Patrol's activities in northern New England, including the continued usage of temporary checkpoints along highways.

We are aware that the Border Patrol has continued the usage of temporary highway checkpoints in northern New England over the past year. For example, Border Patrol conducted a June checkpoint along I-93 near Woodstock, NH that news reports indicate resulted in no arrests but caused severe traffic problems during the beginning of Laconia Motorcycle Week in New Hampshire. Border Patrol also conducted a September checkpoint along I-89 in Lebanon that produced traffic congestion, both on and off the interstate. In Vermont, Border Patrol conducted four checkpoints since last summer in South Hero, which resulted in approximately 4,200 stopped cars but only one arrest – for a visa overstay. We are also aware that Border Patrol continues to utilize other mechanisms, including directed roving patrols, throughout our states.

Ensuring that we maintain effective security along our Northern border is a top priority, and we continue to work to secure needed investments in border security operations and technology. We also recognize the difficult job CBP personnel face in enforcing our nation's immigration laws, which are in desperate need of reform. Given our current challenges, our border protection resources must be used strategically and effectively. We have a number of questions regarding the agency's policies and processes for the implementation of these activities, with a particular focus on temporary highway checkpoints and the consideration of community and economic impact.

We previously wrote to this agency on this topic on August 23, 2018, and we are appreciative of former-Commissioner McAleenan's response dated October 16, 2018. We look forward to a similarly thorough response to the following questions.

1. The letter we received from former-Commissioner McAleenan in October 2018 states that there were zero checkpoints conducted in northern New England from 2013-2016, six and seven respectively conducted in New Hampshire and Maine in 2017-2018 and zero conducted in Vermont from 2013-2018.
 - a. Why did Border Patrol begin doing checkpoints in New Hampshire and Maine in 2017 and Vermont in 2019? What specifically changed from previous years?
 - b. How many directed roving border patrols were conducted in each state during the same time period?

2. We appreciate the numerical data provided in the October 2018 response and are requesting updated information from the past year.
 - a. How many checkpoints have been conducted in New Hampshire, in Maine and in Vermont since October 16, 2018? How many directed roving border patrols?
 - b. How many arrests resulted from each of those checkpoints? How many from each directed roving border patrol?
 - c. How many of these arrests were of individuals who had recently illegally entered the country via our Northern border? How many were of individuals departing the country via our Northern border?
 - d. How many of these arrests were of individuals who had overstayed visas?

3. We continue to be concerned about the harmful economic impact of Border Patrol checkpoints on local communities. In the October 2018 response, it is stated that “a comprehensive range of information” is considered in the determination of whether and where to utilize a highway checkpoint.
 - a. Which factors specifically are considered?
 - b. What is the decision making process for when a particular checkpoint is deemed necessary?
 - c. How does CBP evaluate in which location to establish a temporary checkpoint?
 - d. How does the agency consider the economic impact, including negative impacts on tourism, in the decision of whether and where to operate a temporary checkpoint?
 - e. What is the agency’s policy for the notification of local law enforcement?

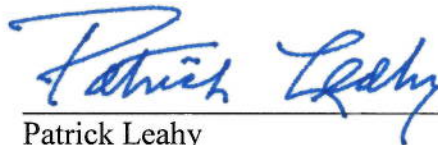
4. We are concerned about potentially inconsistent evidentiary standards and the lack of a clear and consistent CBP process applied to individuals passing through temporary highway checkpoints. We have heard from individuals who were simply required to verbally provide information related to their citizenship or immigration status and from others who were instead required to provide extremely specific documentation.
 - a. How does CBP determine which individuals can answer verbally and which individuals must provide documentation?
 - b. During a directed roving patrol, what is CBP’s process for determining whether to interact with a particular individual? What factors are used in that determination?
 - c. What percentage of individuals questioned by CBP at a highway checkpoint are required to provide documentation?
 - d. Which documents does CBP accept as proof of citizenship or legal immigration status?
 - e. What is CBP’s policy for individuals affirmatively stating citizenship or legal immigration status but not carrying documentation?
 - f. Under what circumstances does CBP issue citations for failure to carry immigration documents?
 - g. What is the process for an individual to appeal such a citation?

Thank you for your prompt attention to these questions.

Sincerely,



Jeanne Shaheen
United States Senator



Patrick Leahy
United States Senator




Margaret Wood Hassan
United States Senator



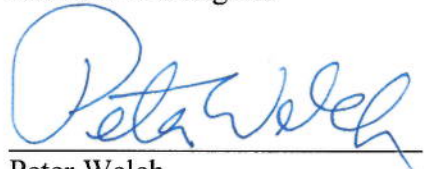
Bernard Sanders
United States Senator



Ann McLane Kuster
Member of Congress



Chris Pappas
Member of Congress



Peter Welch
Member of Congress



Chellie Pingree
Member of Congress