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United States Senate

COMMITTEE ON ARMED SERVICES

WASHINGTON, DC 20510-6050

JOHN P. KEAST, MAJORITY STAFF DIRECTOR
ELIZABETH L. KING, MINORITY STAFF DIRECTOR

April 23, 2025

Dear Mr. Stebbins:

Recent public reporting raises issues about the propriety and legality of a March 30th military flight from Guantanamo Bay to El Salvador transporting 17 foreign nationals, including seven Venezuelan nationals to El Salvador. In particular, the transport of the Venezuelan nationals raises enforcement concerns under various immigration laws and policy, including the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., the regulations implementing the INA, Federal law and policy concerning the transport of migrants to third countries under the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), and compliance with recent judicial orders concerning deportations under that Act. Most concerning, however, from the perspective of the Department of Defense (DOD) and the proper use of DOD personnel, we understand that there were no personnel from the Department of Homeland Security on this flight, meaning that military personnel maintained both custody and control of the migrants, contrary to longstanding DOD policy and practice.

According to government information, the Administration relied on "counter-terrorism" authorities rather than law enforcement authorities to conduct this deportation. We are unaware of which counter-terrorism authorities, if any, would authorize these flights.

Accordingly, we ask that you conduct an inquiry into, and provide us an assessment of, the following:

1. The facts and circumstances surrounding the above referenced flight(s), including:
 - a. The approval authority for this flight, and any subsequent approvals through the military chain of command authorizing the flight(s), including, but not limited to, members of the Office of the Secretary of Defense (OSD), and the Commanders and staff of U.S. Northern Command, U.S. Southern Command, U.S. Transportation Command, Joint Task Force Southern Guard, Joint Task Force Guantanamo Bay.
 - b. A copy of the legal review conducted by any party identified in section 1.a. opining on the legal authority to execute the flight(s), including, but not limited to, the OSD Office of General Counsel, and the Staff Judge Advocates of U.S. Northern Command, U.S. Southern Command, U.S. Transportation Command, Joint Task Force Southern Guard, Joint Task Force Guantanamo Bay.
 - c. Identification of the legal authorities under which the flight(s) were executed.

- d. Identification of which parties identified in sections 1.a. and 1.b. had knowledge of the flight(s) prior to them transpiring.
 - e. Identification of which DOD elements, aircraft, and personnel participated in those flights.
- 2. Whether this flight complied with Federal law and policy, including but not limited to, the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., the regulations implementing the INA, and Federal law and policy concerning the transport of migrants to third countries under the *Illegal Immigration Reform and Immigrant Responsibility Act* (IIRIRA).
- 3. DOD's adherence to law and policies concerning DOD support to civil authorities and conduct of law enforcement activities, including, but not limited to:
 - a. Section 1385 of Title 18, U.S. Code (Posse Comitatus Act)
 - b. Section 275 of Title 10, U.S. Code (Restriction on direct participation by military personnel)
 - c. DOD Directive 3025.18 (defense support of civil authorities)
 - d. DOD Instruction 3025.21 (defense support of civilian law enforcement agencies)
- 4. DOD's reliance on "counter-terrorism" authorities to unilaterally conduct this flight, an enumeration of those policies, and an assessment of whether DOD's reliance on those authorities is appropriate and consistent with law and policy.
- 5. Any other matter you determine in the course of your review to be relevant to the proper application of law and policy to these circumstances.

Sincerely,



Jack Reed
Ranking Member