# House Republicans' claim about 'known or suspected terrorists' at the border

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**House Minority Leader Kevin McCarthy (R-Calif.):** *"When we were up at Monument 3, they talked about it, that they are seeing, when they talked about the 100 and 200 people a night, that you saw in their eyes, they talked about, they're on the list. John Katko here, who prosecutes terrorists and others, is the head of Homeland on the Republican side, asked them the question, 'What list are you talking about?' 'Terrorist watch list.' We asked them, 'Which countries are people coming from?' 'Yemen, Iran, Sri Lanka.' That's what's coming across. And they're finding — they even talked about Chinese, as well."*

**— <u>Remarks at the southern border, El Paso</u>, March 15, 2021**

**Katko:** *"It was a stunning revelation, to be honest with you. We were at the edge of where New Mexico, Mexico and Texas meet, and it's called Monument 3. We're sitting up on a bluff, and we're asking the agents that are there on the front lines — and by the way, there is a big gap in the fence there, because they stopped construction — but when I talked, one of them was telling us what they were seeing coming across the border. They saw over 100 people come across in the last few days in that one little sector. And he said, 'Some of them are on the list.' And I said, 'List?' And he said, 'Yeah, the terror watch list.' And I was stunned. And I'd never heard that before. They said they'd seized not just people from Central and South America, but even people from Yemen and places in the Middle East that are terrorism hotbeds."*

**— <u>Interview on "America's Newsroom" on Fox News</u>, March 16**

As midterm elections were approaching in 2018, President Donald Trump and members of his administration falsely claimed that thousands of "known or suspected" terrorists were being caught at the U.S.-Mexico border.

The real number ranges from around three to a dozen per year, according to news reports, official statistics and a whistleblower complaint from a former top official at the Department of Homeland Security.

McCarthy and Katko, the ranking Republican on the House Homeland Security Committee, traveled to El Paso this week and apparently got updated statistics from U.S. border officials, covering the period from October to the present. We were skeptical at first, but the claim seems grounded in fact. Let's take a look.

The Facts

Attempts to cross the southern border without authorization have been surging again in recent months, as they did at several points during the Trump administration. Republicans are seeking

to pressure President Biden on the issue. But there is no indication that any bona fide terrorist has been encountered at any point along the southern border.

The FBI's Terrorist Screening Database, or watch list, includes "individuals known or reasonably suspected to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism." This is often abbreviated as the "known or suspected terrorist" (KST) list.

According to the FBI, a known terrorist is one who has been "arrested, charged by information, indicted for, or convicted of a crime related to terrorism and/or terrorist activities by U.S. Government or foreign government authorities" or "identified as a terrorist or a member of a terrorist organization pursuant to statute, Executive Order, or international legal obligation pursuant to a United Nations Security Council Resolution."

Note that a crime related to terrorism could mean fraud, immigration, firearms, drug, perjury and obstruction of justice offenses, as well as false statements and "general conspiracy charges," according to a 2018 report by the Homeland Security and Justice departments. The crime must bear some link to terrorism for an offender to make the watch list, but it doesn't have to involve violence or material support for a terrorist plot.

A suspected terrorist is "reasonably suspected to be engaging in, has engaged in, or intends to engage in conduct constituting, in preparation for, in aid of, or related to terrorism and/or terrorist activities." Some individuals on the list are derivative contacts — say, a relative of someone with suspected terrorist ties.

Arguing for a border wall, the Trump administration claimed that 3,755 "known or suspected terrorists" were stopped from entering the country in fiscal 2017. The administration never said publicly how many were blocked at the borders with Canada or Mexico, but DHS acknowledged that most of these 3,755 encounters were attempts to enter by air.

However, then-DHS Secretary Kirstjen Nielsen repeated the 3,755 figure several times while arguing for the border wall in 2018. An official pushed back internally and was subjected to retaliation, according to a whistleblower complaint filed last year. The official, Brian Murphy, was the DHS principal deputy undersecretary of intelligence and analysis at the time.

"Mr. Murphy provided Secretary Nielsen with documentation reflecting that the number of documented KSTs crossing the southwest border only consisted of no more than three individuals, not 3,755," the complaint says. "Mr. [Chad] Wolf and Mr. [Miles] Taylor responded by saying Secretary Nielsen should claim the details were classified, state any KST crossing was one too many and deflect away from addressing the significant discrepancy in the data. Mr. Murphy advised Secretary Nielsen that he did not believe that was appropriate, and noted that the few 'known' KSTs who were apprehended were derivative contacts, in so much as they merely had a name or phone number of a person who was known to be in contact with a terrorist. At that point, Mr. Murphy was removed from the meeting by Mr. Wolf."

In 2018, NBC News reported that U.S. officials apprehended "six immigrants at ports of entry on the U.S.-Mexico border in the first half of fiscal year 2018 whose names were on a federal government list of known or suspected terrorists."

For the full fiscal 2018, the total number was closer to 12, CNN reported: "Roughly a dozen individuals who are not U.S. citizens and are on the terror watch list were encountered by federal officials at the U.S. southern border from October 2017 to October 2018, according to an administration official familiar with data from Customs and Border Protection."

However, Axios reported there were six arrests that year: "In fiscal 2018, six people from Yemen and Bangladesh were arrested." (What about the other six? Were they "encountered" but not "arrested"? Does CNN have its numbers wrong? Does Axios?)

Notice a pattern yet? These are very limited disclosures, with only partial details filtering into news reports, some of them conflicting, about an issue with potentially grave implications.

U.S. officials keep this information closely under wraps. We've yet to see a breakdown, for instance, of how many of these individuals in any year were known terrorists, as opposed to suspected terrorists (a designation that casts a much wider net). Murphy's complaint indicates that all three met the government's definition of a suspected terrorist in 2017.

Making matters more confusing, the State Department in annual reports consistently says terrorist groups are not moving agents through the U.S.-Mexico border.

"There was no credible evidence indicating international terrorist groups established bases in Mexico, worked directly with Mexican drug cartels, or sent operatives via Mexico into the United States," the most recent report, covering 2019, says.

2018: "At the end of 2018, there was no credible evidence indicating international terrorist groups established bases in Mexico, worked directly with Mexican drug cartels, or sent operatives via Mexico into the United States. International supporters and facilitators of terrorist groups such as Hizballah and ISIS are active elsewhere in the Western Hemisphere, and the U.S. southern border remains vulnerable to potential terrorist transit, although terrorist groups are more likely to seek other means of trying to enter the United States."

2017: "At year's end there was no credible evidence indicating that international terrorist groups have established bases in Mexico, worked with Mexican drug cartels, or sent operatives via Mexico into the United States."

2016: "There are no known international terrorist organizations operating in Mexico, no evidence that any terrorist group has targeted U.S. citizens in Mexican territory, and no credible information that any member of a terrorist group has traveled through Mexico to gain access to the United States."

Alex Nowrasteh, an immigration analyst at the libertarian Cato Institute, found in 2018: "A count of real terrorists who have crossed the Mexican border since 2001 and wanted to harm Americans would be very short: it would contain zero names. Three people entered the U.S. illegally through the Mexican border in 1984 and grew up to be terrorists who were convicted of planning an incompetent plot in 2008."

A House Republican aide, speaking on the condition of anonymity, said a Border Patrol agent told Katko that several individuals on the terror watch list had been identified along the southern border recently. When Republicans requested more information, U.S. Customs and Border Protection told them that four individuals on the "known or suspected terrorist" list had been

encountered since October, the aide said. Katko is now seeking a classified briefing to get a fuller picture, the aide said.

One of the individuals, a Serbian man, was encountered in the past month and turned over to U.S. Immigration and Customs Enforcement, the Republican aide said. "We don't have any other details besides that," the aide said. Axios reported that the three others were from Yemen.

Without more details, McCarthy and Katko's claim appears overblown, said Jason M. Blazakis, director of the Center on Terrorism, Extremism, and Counterterrorism at the Middlebury Institute of International Studies.

"Bottom line: Most terrorists are already here — they are American citizens these days," he said, referring to right-wing extremism and the groups that attacked the Capitol on Jan. 6. "They are part of groups like the Proud Boys and the Atomwaffen Division. McCarthy is trying to latch onto a nonissue."

Blazakis added that the term "known or suspected terrorist" has several meanings, encompassing dangerous individuals convicted of violent crimes as well as people who are "simply related to someone who is more dangerous; could be they have a cousin who is friends with a bad actor."

We contacted the White House, DHS and CBP, asking them to confirm or deny Katko's account. Instead, a CBP representative said encounters with known or suspected terrorists were "very uncommon." Here is the agency's statement:

"Our border security efforts are layered and include multiple levels of rigorous screening that allow us to detect and prevent people who pose national security or public safety risks from entering the United States. DHS works with our international partners to share intelligence and other information, including to prevent individuals on the terrorist watch list from entering the United States. CBP adjudicates individuals encountered at and between our ports of entry against several classified and unclassified databases to determine if they pose a threat to national security, consistent with the law. While encounters of known and suspected terrorists at our borders are very uncommon, they underscore the importance of the critical work our agents carry out on a daily basis to vet all individuals encountered at our borders."

DHS Secretary Alejandro Mayorkas is scheduled to testify before the House Homeland Security Committee on Wednesday. Someone should ask him about these encounters when he's under oath.

The Pinocchio Test

The U.S. government's partial and seemingly conflicting disclosures on this issue hardly inspire confidence. Sensitive matters such as this should be explained in clear and specific terms in a public setting, not in a cobweb of confusing leaks to various news outlets.

On one hand, immigration authorities appear to be telling Republican members of Congress that four "known or suspected terrorists" have been encountered at the southern border since October. How many are known and how many suspected? How many are encountered and how many arrested? Where do they all go? Good luck prying those key details out of U.S. officials.

On the other hand, the State Department asserts that there is no "credible evidence indicating international terrorist groups established bases in Mexico, worked directly with Mexican drug

cartels, or sent operatives via Mexico into the United States." That suggests the few people on the list who are caught each year do not actually pose a terrorist threat.

Which is it?

For now, our verdict is pending until U.S. officials shed light on this statistic, explain what they told Republicans and level with the public.

Katko said a Border Patrol agent told him that several people on the terror watch list had been encountered at the U.S.-Mexico border recently. McCarthy repeated Katko's claim. Then, CBP apparently informed the Republicans that four such people had been encountered since October. Their claim may be overblown, but without more details, we're not in a position to issue a rating. We gave immigration officials the opportunity to confirm or deny the Republicans' claims and were told encounters with known or suspected terrorists were "very uncommon."

One final note: We don't know what the Border Patrol agent told Republicans in Texas. However, by Republicans' own admission, McCarthy was wrong to suggest that the individuals on the list came from China, Iran and Sri Lanka. He also mentioned Yemen, which appears to be correct. We're told by a House Republican aide that one individual came from Serbia, a country McCarthy didn't mention. As regular readers know, we do not assign Pinocchios when a politician sets the record straight.