

BEFORE THE STATE BOARD OF ELECTIONS SITTING AS THE STATE OFFICERS  
ELECTORAL BOARD FOR THE HEARING AND PASSING UPON OF OBJECTIONS  
TO THE CERTIFICATES OF NOMINATION AND NOMINATION PAPERS OF  
CANDIDATES FOR THE DEMOCRAT NOMINATION FOR THE OFFICE OF  
PRESIDENT OF THE UNITED STATES TO BE VOTED UPON AT THE MARCH 19,  
2024 GENERAL PRIMARY ELECTION

Shane Bouvet, Timothy Conrad, Terry  
Newsome, Peggy Hubbard

Petitioners-Objectors,

V.

Case No.

Joseph R Biden, Jr.,

Respondent-Candidate.

OBJECTORS' PETITION

Petitioners-Objectors Shane Bouvet, Terry Newsome, Peggy Hubbard, and Timothy Conrad ("Objectors") hereby file this Objectors' Petition pursuant to Article 10 of the Election Code and 10 ILCS 5/10-8 challenging the legal and factual sufficiency of the nomination papers of Respondent-Candidate Joseph R. Biden, Jr. ("Candidate" or "Biden") as a candidate for the Democrat Nomination for the Office of the President of the United States, and in support of their Petition state the following:

**OBJECTORS' NAME, ADDRESS, LEGAL VOTER STATUS, INTEREST, AND RELIEF REQUESTED**

Objector Shane Bouvet resides at [REDACTED] and is a duly qualified, legal, and registered voter at this same address within the State of Illinois.

Objector Terry Newsome resides at [REDACTED] and is a duly qualified, legal, and registered voter at this same address within the State of Illinois.

Objector Peggy Hubbard resides at [REDACTED] and is a duly qualified, legal, and registered voter at this same address within the State of Illinois.

Objector Timothy Conrad resides at [REDACTED], and is a duly qualified, registered and legal voter at this same address within the State of Illinois

The Objectors' interest in filing this objection is that of citizens and voters desirous of seeing to it that the election laws of Illinois are properly complied with and that only duly qualified candidates for the Democrat Nomination for the Office of the President of the United States shall appear on the ballot for the General Primary Election on March 19, 2024.

Objectors request the following: (a) a hearing on the objection set forth herein; (b) a determination that the Nomination Papers of Candidate are legally and factually insufficient; and (c) a decision that the name of Candidate "Joseph R. Biden, Jr." shall not be printed on the official ballot as a candidate for the Democrat Nomination for the Office of the President of the United States for the March 19, 2024 General Primary or the November 5, 2024 General Election.

## NATURE OF OBJECTION

No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

U.S. Const. amend. XIV, § 3.

Candidate's nomination papers are not valid because when he swore in his Statement of Candidacy that he is "qualified" for the office of the presidency as required by 10 ILCS 5/7-10, he did so falsely. Biden cannot satisfy the eligibility requirements for the Office of the President of the United States established in Section 3 of the Fourteenth Amendment of the U.S. Constitution.

Under Section 3 of the Fourteenth Amendment to the U.S. Constitution, known as the Aid or Comfort Disqualification Clause, "No person shall ... hold any office, civil or military, under the United States, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."

As set forth below, after having sworn an oath to support the Constitution of the United States,<sup>1</sup> Biden has given aid or comfort to the enemies thereof and is therefore disqualified from public office under Section 3 of the Fourteenth Amendment.

On December 19, 2023, the Colorado Supreme Court decided, in the only judicial interpretation of

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<sup>1</sup> Mr. Biden was first elected to the United States Senate in 1972, elected six additional times, and elected as Vice-President of the United States in 2008 and 2012. Following each of those elections he swore an oath to support the Constitution of the United States.

Amendment XIV, Sec. 3 held that: "Congress does not need to pass implementing legislation for Section Three's disqualification provision to attach, and Section Three is, in that sense, self-executing", and "Section Three encompasses the office of the Presidency and someone who has taken an oath as President." *See Anderson v. Griswold*, \_ P.3d \_, 2023 CO 63, 2023 WL 8770111 (Colo. Dec. 19, 2023).

"The oath to support the Constitution is the test. The idea being that one who had taken an oath to support the Constitution and violated it, ought to be excluded from taking it again, until relieved by Congress." *Worthy v. Barrett*, 63 N.C. 199, 204 (1869). Persons who are disqualified by Section 3 are thus ineligible to hold the presidency, just like those who fail to meet the age, residency, or natural-born citizenship requirements of Article II, Section 1 of the Constitution, or those who have already served two terms, as provided by the Twenty-Second Amendment.

Since January 29, 2021, Candidate Biden has engaged in an ongoing series of actions that have provided aid or comfort to the enemies of the United States, including violations of not only his 2021 presidential oath, but also the series of oaths that he took as Senator and Vice-President.

Judicial interpretation of "aid and comfort" has arisen in the context of cases of treason against the United States. Treason is the only crime identified in the Constitution:

*"Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort."* US Const., Art, III, Sec. 3, Cl. 1

In *Cramer v. United States*, 325 U.S. 1 (1945), the Supreme Court favorably cited English definitions of "aid and comfort" as ". . . an act which strengthens or tends to strengthen the enemies" and "an act which weakens or tends to weaken the power . . . of the country to resist or to attack the enemies . . . is . . . giving of aid and comfort." *Id.* 325 US at 29-30.

Two years later, the Supreme Court for the first time sustained a conviction for treason in *Haupt v. United States*, 330 U.S. 631 (1947). Of note in this case was that the defendant had provided

assistance to his son. He had sheltered his son, helped him find work and acquire a car. His son had been convicted by a military tribunal as a German saboteur. *Ex Parte Quirin*, 317 U.S. 1 (1942)

Defendant Haupt asserted that everything he did for his son were things any father would do. Justice Jackson’s response for the Court to this argument was: “No matter whether young Haupt's mission was benign or traitorous, known or unknown to defendant, these acts were aid and comfort to him.” *Haupt*, 330 U.S. at 635–36. Even actions that appear outwardly benign can be aid and comfort to enemies of the United States.

Exhibit A, BIDEN ADMINISTRATION ACTIONS THAT HAVE UNDERMINED BORDER SECURITY AND ENCOURAGED ILLEGAL IMMIGRATION, outlines 64 distinct actions that have provided aid or comfort to the enemies of the United States.

Modern authority agrees that no evidence or authority suggests that a prior criminal conviction whether under 18 U.S.C. § 2383 (insurrection) or any other statute-was ever considered necessary to trigger Section 3 of the Fourteenth Amendment. *Griswold*, 2023 WL 8770111, at \*23

As discussed further in this objection, Candidate Biden, through his words and actions, after swearing an oath as United States Senator and an officer of the United States to support the Constitution, gave aid and comfort to its enemies, as defined by Section 3 of the Fourteenth Amendment. He is disqualified from holding the presidency or any other office under the United States unless and until Congress provides him relief, which it has not done.

### ***AUTHORITY AND DUTY OF BOARD TO HEAR OBJECTION***

The Electoral Board's authority and mandatory statutory duty indisputably includes determinations

of whether candidates meet the eligibility requirements for their office. As dictated by the Illinois Election Code, "[t]he electoral board *shall* take up the question as to whether or not the certificate of nomination or nomination papers or petitions are in proper form, and whether or not they were filed within the time and under the conditions required by law, ... and in general *shall* decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained. " 10 ILCS 5/10-10 (emphasis added).

Under the Illinois Election Code, presidential primary candidates, like candidates for other offices, must include with their nomination papers a statement of candidacy that, among other things, states that the candidate "is qualified for the office specified." 10 ILCS 5/7-10. The Election Code specifies candidate qualifications, as do the constitutions of the State of Illinois and the United States. See, e.g., *Goodman v. Ward*, 241 Ill. 2d 398,407 (2011) (holding electoral board erred in denying objection and striking candidate's name from ballot where candidate falsely stated he was "qualified" for office despite not meeting eligibility requirements set forth in Illinois Constitution); U.S. Const. Art. II, § 1, cl. 5 (specifying age, residency, and citizenship qualifications for Office of President); U.S. Const. Amend. XXII, § I (forbidding the election of a person to the office of President more than twice); U.S. Const. Amend. XIV § 3 (requiring disqualification of candidates for public office who took an oath to uphold the Constitution and then engaged in or supported insurrection against the United States or gave aid or comfort to enemies of the United States).

The Illinois Supreme Court in *Goodman* directed that objections based on constitutionally-specified qualifications must be evaluated, including objections that a candidate has improperly sworn

that they meet constitutional qualifications for the office for which they seek candidacy. *Goodman*, 241 Ill. 2d at 409-10 ("The statutory requirements governing statements of candidacy and oaths are mandatory . . . . If a candidate's statement of candidacy does not substantially comply with the statute, the candidate is not entitled to have his or her name appear on the primary ballot").

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Decisions of other Illinois courts track *Goodman* and recognize that electoral boards must apply constitutional criteria governing ballot placement. See *Harned v. Evanston Mun. Officers Electoral Bd.*, 2020 IL App (1st) 200314, ("While petitioner is correct that electoral boards do not have authority to declare statutes unconstitutional, they are required to decide, in the first instance, if a proposed referendum is permitted by law, even where constitutional provisions are implicated"); *Zurekv. Peterson*, 2015 IL App (1st) 150456, (unpublished) (recognizing that while "the Board does not have the authority to declare a statute unconstitutional [, this] does not mean that the Board had no authority to consider the constitutionally-based challenges" and that to determine whether the referendum "was valid and whether the objections should be sustained or overruled, the Board was required to determine if the referendum was authorized by a statute or the constitution").

Consistent with these decisions, Illinois electoral boards have frequently evaluated objections based on constitutional candidacy requirements. See, e.g., *Freeman v. Obama*, No. 12 SOB GP 103 (Feb. 2, 2012) (evaluating objection that candidate did not meet qualifications for office of President of the United States set out in Article II, Section 1 of the U.S. Constitution); *Jackson v. Obama*, No. 12 SOEB GP 104 (Feb. 2, 2012) (same); *Graham v. Rubio*, No. 16 SOEB GP 528 (February 1, 2016) (State Officers Electoral Board determining eligibility based on whether facts presented about candidate established he met natural born citizen requirement of U.S. Constitution); *Graham v. Rubio*, No. 16 SOEB GP 528 (Hearing Officer Findings and Recommendations, adopted by the Electoral Board, determining that the Electoral Board was acting within the scope of its authority in reviewing the adequacy of the Candidate's Statement of Candidacy and evaluating whether it was "invalid because the Candidate is not legally qualified to hold the office of President" based on criteria in the U.S. Constitution); see also *Socialist Workers Party of Illinois v. Ogilvie*, 357 F. Supp. 109, 113 (N.D. Ill. 1972) (approving Electoral Board's decision not to place presidential candidate who did not meet constitutional age qualification on ballot and denying motion for preliminary injunction to enjoin decision).

Article II, Section 1, Clause 5 of the U.S. Constitution requires the President to be a natural-born citizen, at least thirty-five years of age, and a resident of the United States for at least fourteen years. Section 1 of the Twenty-Second Amendment provides that no person can be elected President more than twice. Section 3 of the Fourteenth Amendment disqualifies from public office any individual who has taken an oath to support the U.S. Constitution and then engages in insurrection or rebellion against the United States, or gives aid or comfort to enemies of the United States. Objections to a candidate's inclusion on the primary ballot which ask the Electoral Board to apply



these constitutional requirements, fall directly within the Electoral Board's jurisdiction and mandatory duties.

The Board's evaluation of this objection to the Candidate's constitutional eligibility criteria follows the Election Code and the Illinois Supreme Court's direction in *Goodman* that the board must evaluate a candidate's statement of candidacy that they are "qualified" for the office at the time the nomination papers are filed because "statutory requirements governing statements of candidacy and oaths are mandatory." 241 Ill. 2d at 409-10; see also *Delgado v. Bd. of Election Comm'rs of City of Chicago*, 224 Ill. 2d 481, 485-86 (2007) (differentiating the impermissible action of an electoral board's "question[ing] its validity" of underlying legal prerequisites from the required action of an electoral board applying a constitutional provision).

To do so, the Electoral Board has the ability, and indeed the clear obligation, when necessary to evaluate evidence and resolve complex factual issues. The Board is obligated to "decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained". 10 ILCS 5/10-10.

To fulfill that responsibility, the Board "shall have the power to administer oaths and to subpoena and examine witnesses" and to require "the production of such books, papers, records, and documents as may be evidence of any matter under inquiry ...." *Id.* Electoral boards and their hearing officers indeed utilize this power to hear and evaluate the credibility of high volumes of witness testimony and documentary evidence in an expedited manner whenever necessary to fulfill their mandate. See, e.g., *Raila v. Cook Cnty. Officers Electoral Bd*, 2018 IL App (1st) 180400-U, ¶¶ 17-27 (unpublished) ("the hearing officer heard testimony from over 25 witnesses and the parties introduced over 150 documents and a short video clip" and "issued a 68-page written recommendation that contained his summary of the testimony and documentary evidence"); *Muldrow v.*

Barron, 2021 IL App (1st) 210248, (electoral board properly made factual finding of widespread fraud based on determinations as to the credibility of witnesses' testimony).

This Objection asks the Electoral Board to fulfill its obligation to enforce candidate qualification requirements spelled out in the U.S. Constitution, a task for which it has both the authority and duty to undertake. 10 ILCS 5/10-10; Goodman, 241 Ill. 2d at 409-10.

### **STATEMENT OF FACTS**

The facts set out below clearly show that the Candidate cannot meet the eligibility requirements and is disqualified for office pursuant to Section 3 of the Fourteenth Amendment because he: (1) was an officer of the United States; (2) took an oath to support the Constitution of the United States, and (3) gave aid or comfort to enemies of the United States.

#### **BIDEN TOOK AN OATH TO SUPPORT THE UNITED STATES CONSTITUTION**

##### **WITHIN THE MEANING OF AMENDMENT XIV, SEC. 3**

Joseph R. Biden was first elected to the United States Senate in 1972. He was subsequently reelected in 1978, 1984, 1990, 1996, 2002 and 2008. Following each of those elections he took the following oath:

*“I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.”* <https://www.senate.gov/about/origins-foundations/senate-and-constitution/oath-of-office.htm>

In 2008 and 2012 he was elected Vice-President, and the prescribed oath for that office is the same as for a United States Senator and Biden took that oath twice.

The language of Amendment XIV, sec. 3 covers persons “who, having previously taken an oath, as a member of Congress ... to support the Constitution of the United States...”

The oath taken by Biden as United States Senator (member of Congress) and Vice-President (who is also President of the Senate) clearly brings him under the coverage of Section 3.

Though Biden took another oath on January 20, 2021, it was the presidential oath prescribed by the Constitution in Article II. That oath is as follows:

*"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."*

The presidential oath does not include the “support the Constitution” language of Section 3, but the prior nine oaths Biden took do contain the specific language referred to in Section 3. He is a person covered by that section.

### **FAILURE TO ENFORCE THE LAWS OF THE UNITED STATES**

Beginning January 20, 2021, Joseph Biden has intentionally declined to enforce laws of the United States, particularly in relation to the security of our country’s border. Exhibit A, **BIDEN ADMINISTRATION ACTIONS THAT HAVE UNDERMINED BORDER SECURITY AND ENCOURAGED ILLEGAL IMMIGRATION**, outlines 64 distinct actions taken by, at the direction, or with the approval of Biden. These actions have provided aid or comfort to the enemies of the United States, the disqualifying criterion found in Sec. 3.

Among the 64 actions listed are active, intentional acts contrary to the laws of the United States, and not discretionary policy choices including but not limited to:

- Illegal diversion of funds allocated for border wall
- Flouting court orders declaring DACA illegal
- Illegally declared a moratorium on deportations

- Contrary to law, creating unauthorized alternatives to removal
- Illegally exempted Unaccompanied Alien Children from Title 42
- Illegally instituted Central American Minors Program contrary to federal statute governing family based immigration procedures
- Following the Catch and Release protocol contrary to congressional mandate that illegal aliens “shall be detained”
- Cancellation of wall construction by Dept. of Defense as authorized by Congress
- Release of over 150,000 aliens without a Notice to Appear in court contrary to law
- Issuance of a memorandum that states “the fact an individual is a removable [alien] should [not be the sole] basis of an enforcement action”, contrary to law
- Suspended large-scale worksite enforcement, a key tool to deter the hiring and employment of illegal aliens, intentionally not enforcing the law
- Created a program that included alternatives to detention (ATD) plus parole, resulting in “catch and release” for hundreds of thousands of aliens into the U.S. interior after they were encountered at the border (338,000 aliens were released in Fiscal Year 2022 alone) contrary to law
- Expanded unlawful parole programs to include individuals from Colombia, El Salvador, Guatemala, and Honduras
- Allow Immigration Judges to administratively close or dismiss removal proceedings without any action (something not permitted by statute), resulting in no decision denying asylum.

The United States House of Representatives has begun an impeachment investigation regarding Department of Homeland Security Secretary Alexander Mayorkas. Secretary Mayorkas serves at the pleasure of Joseph Biden and the actions of Mayorkas are directly attributable to Biden as his agent.

Under Article II of the Constitution, the President is responsible for the execution and enforcement of laws created by Congress. Fifteen executive departments—each led by an appointed member of the President’s Cabinet—carry out the day-to-day administration of the Federal Government as directed by the President. <https://trumpwhitehouse.archives.gov/about-the-white-house/the-executive-branch/>

The Secure Fence Act of 2006 (Public Law 109–367) requires the Secretary of Homeland Security to take all actions “necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States [.]”. The Act defines “operational control” as the “prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.”

During the Trump Administration, the Department of Homeland Security constructed approximately 450 miles of new and replacement border wall system; an additional 285 miles were either under construction or in the pre-construction phase at the end of the Trump Administration in January 2021. Under Secretary Mayorkas’s direction, the Department of Homeland Security terminated contracts for additional border wall construction despite funds being appropriated by Congress for this purpose. The Secretary’s action, as the agent of Joseph Biden, has left key portions of the southern border unsecure and cost American taxpayers billions of dollars.

Secretary Mayorkas reinstated the catch and release policies of the Obama/Biden administration and has even released inadmissible aliens into the interior of the United States without issuing the aliens notices to appear for immigration proceedings. The Biden Administration is relying on the

aliens to report on their own volition to U.S. Immigration and Customs Enforcement offices to be placed into removal proceedings, a practice that violates the law and defies logic and common sense. Department of Homeland Security data show that over 80 percent of these released illegal aliens are failing to report to a U.S. Immigration and Customs Enforcement field office.

On May 13, 2021, Secretary Mayorkas admitted during testimony before the Senate Committee on Homeland Security and Governmental Affairs that U.S. Customs and Border Protection was releasing inadmissible aliens, whom the Department of Homeland Security is legally required to detain, into the interior of the United States. This was an admission that the Biden Department of Homeland Security is violating the law.

Secretary Mayorkas terminated the Migrant Protection Protocols, which provided a lawful pathway to process claims and served as a deterrent to illegal immigration and aliens making fraudulent asylum claims.

Secretary Mayorkas has even refused to tell aliens not to attempt to enter the United States illegally. During a White House press briefing on March 1, 2021, Secretary Mayorkas stated, “We are not saying, ‘Don’t come’.”

As a result of the Biden Administration’s actions, the border and the country are less secure today than when the Administration took office on January 20, 2021. U.S. Customs and Border Protection encounters have increased each month since January, 2021. Since February 2021, more than 800,000 aliens have been encountered by U.S. Customs and Border Protection personnel at the southwest land border. This number does not include the increasing number of “got aways”, aliens who have evaded Border Patrol apprehension, of which there have been estimated to be approximately 1,000 per day.

In addition to illegal aliens, Biden Administration actions have led to a significant increase in illegal drug smuggling across the southern border and encouraged aliens to enter the United States

illegally, instead of taking actions to maintain operational control of the border. These actions have subverted the will of Congress and the core tenants of the Constitution.

In furtherance of the impeachment investigation of Secretary Mayorkas, the Committee on Homeland Security has issued a series of reports.

Attached as Exhibit B is CAUSES, COSTS, AND CONSEQUENCES, the committee's preliminary report which outlines in great detail the lawless actions of the Biden Administration when it comes to US Border Security.

Attached as Exhibit C, EMBOLDENED CARTELS, CRIMINALS, AND AMERICA'S ENEMIES which provides great detail in how Joseph R. Biden has given aid or comfort to enemies of the United States.

Continuing the pattern of lawlessness, recently [released video footage](#) reveals that Biden's DHS is continuing to mass release border crossers and illegal aliens directly into the U.S. interior. The footage shows "a large number of single adult illegal immigrants," being released onto buses in Brownsville, Texas.

The footage comes as new data unveiled that Biden, in the first 10 months of 2021, helped [fly nearly 45,000](#) border crossers and illegal aliens into the U.S. on domestic commercial flights — allowing them to bypass, contrary to existing laws and regulations, standard photo ID requirements that Americans legally must follow. This is in addition to the more than [half a million](#) illegal aliens that were released into the U.S. interior in all of last year.

Throughout the last year, the orders successfully freed into the U.S. illegal aliens accused and convicted of [child sex crimes](#), [armed robbery](#), drunk driving, burglary, [cocaine trafficking](#), grand theft auto, heroin trafficking, credit card fraud, money laundering, and other crimes.

<https://www.breitbart.com/politics/2022/01/25/angel-families-dhs-chief-mayorkas-biden-criminally-aiding-illegal-aliens>

## **ENEMIES OF THE UNITED STATES**

What or who are enemies of the United States? Some legal definitions and candidates:

\*Cornell Law School: any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States {SOURCE 50 USC 2204(2)}

18 USC Section 2381: a person who feels hatred for, fosters harmful designs against, or engages in antagonistic activities against another.

Thus, to sell to, or provide arms or munitions of war, or military stores, or supplies, including food, clothing, etc., for the use of the enemy, is within the penalty of the statute. And to hire, sell, or furnish boats, railroad cars, or other means of transportation, or to advance money, or obtain credits, for the use and support of a hostile army is treasonable. It is equally clear that the communication of intelligence to the enemy by letter, telegraph, or otherwise, relating to the strength, movements, or position of the army, is an act of treason. These acts, thus briefly noted, show unequivocally an adherence to the enemy, and an unlawful purpose of giving him aid and comfort.

\*Dictionary.com: a person who is actively opposed or hostile to someone or something

\*Merriam-Webster (p 260): One that tries to hurt or overthrow or that seeks the failure of another

\*Bible- one who feels or behaves in a hostile manner

List of enemies of the United States:

China (non-ally), Iran (non-ally), North Korea (non-ally), Iraq, Libya, Somalia, Pakistan, Russia, and Afghanistan (2021 withdrawal), Yemen, Venezuela, Belarus, and Mexico-Cartel {source: worldpopulationreview.com}

## **AID OR COMFORT AND SPECIFIC ENEMIES**

### **CHINA**

Unprotected border and non-existent border enforcement has fostered a relationship between China and Mexican drug cartels, including Sinoloa and The Jalisco New Generation Cartel also



known as CJNG.

China's Role in the Illicit Fentanyl Business: China is the principal source country of illicit fentanyl and fentanyl-related compounds in the U.S., according to U.S. Customs and Border Protection. Fentanyl analogs and precursor chemicals used to make fentanyl are illicitly manufactured in Chinese labs and then sold on the Darknet and shipped in bulk to the U.S. and Mexico.

<https://www.cbp.gov/newsroom/national-media-release/dhs-doubles-down-cbp-efforts-continue-combat-fentanyl-and-synthetic>

China has been accused of weaponizing and capitalizing on the fentanyl crisis in the U.S. as the supplier of chemicals to the Mexican cartels and as the money launderers for these transnational criminal organizations. Chinese nationals are increasingly involved in illicit fentanyl operations in Mexico. The Zheng DTO (Drug Trafficking Organization), colloquially known as “Los Zheng,” operates through multiple shell companies that seemingly offer legitimate services such as chemical labs, veterinary care, computers, and retail. Mexican intelligence officials have described the Zheng cartel as having the largest presence in Mexico for trafficking fentanyl and methamphetamines. The Zheng cartel has developed extensive relationships with suppliers in China, can easily import goods from China into Mexico, and has cultivated relationships on both sides of the U.S.-Mexico border and with both the Sinaloa and Jalisco cartels. In 2018, the U.S. Attorney's Office in Cleveland indicted two Zheng cartel leaders on 43 counts of manufacturing and shipping fentanyl analogues and 250 other drugs to 37 states and 25 countries. This Chinese cartel appears to serve as an intermediary between chemical suppliers in China and cartels in Mexico.

Source: Homeland.house.gov

### **SINOLOA CARTEL**

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border and with both the Sinaloa and Jalisco cartels. In 2018, the U.S. Attorney's Office in Cleveland indicted two Zheng cartel leaders on 43 counts of manufacturing and shipping fentanyl analogues and 250 other drugs to 37 states and 25 countries. This Chinese cartel appears to serve as an intermediary between chemical suppliers in China and cartels in Mexico including Sinoloa.

Source: Homeland.house.gov

### **MS 13 Gang**

The Southwest border is wide open. The evidence is clear: more than 5.5 million encounters; more than 1.5 million known gotaways since FY21; nearly 380,000 encounters of unaccompanied minors; and a record number of fentanyl poisonings in the United States, largely driven by drugs flooding across the Southwest border.

Transnational gangs like MS-13, whose motto is "kill, rape, control," are also taking advantage. A senior Border Patrol agent has said that gang members "attempt to evade arrest by exploiting the influx of migrants attempting to enter our country." These gangs work closely with the cartels to support operations on both sides of the border.

According to ICE, 40 percent of MS-13 members they arrest arrived in the United States as unaccompanied alien children. MS-13 also forces women and girls into sex trafficking to make money for the gang. Cartels have made a record amount of money over the last two years. In 2021 alone, the cartels made an estimated \$13 billion just from human trafficking and smuggling.

Given the lack of enforcement and actual invitation from the Biden Administration it is simple for gang members, drug dealers and other enemies of the United States to melt into the torrent of illegal immigrants. Nearly 1.4 million migrants were released into the interior in Fiscal Year 2023, with over 900,000 released by the Border Patrol alone. 850,000 visitors overstayed their visas and remained in the country illegally in 2022. 600,000 aliens were estimated to have entered the coun-

try illegally without apprehension and blended into the underground workforce that employers exploit as there is no requirement to use the free E-Verify online system to verify work authorization. Estimated 2.85 mm ILLEGAL ALIENS in FY 2022 surged into the United States. Source: <https://www.numbersusa.com/resources/immigration-numbers/>

The open borders intentionally operated by Joseph Biden clearly aid the countries enemies. Even the most benign immigrant entrant begins a presence in the country by breaking the law.

### **MS-13 Gang Information (During Joe Biden's Presidency)**

**Brief Description:** Mara Salvatrucha (MS-13) was formed by Salvadoran immigrants that came to the United States as veterans of the civil war in El Salvador. Many of its members were trained in guerilla warfare and the use of military weapons. The gang is well-organized and is heavily involved in lucrative illegal enterprises, being notorious for its use of violence to achieve its objectives. According to website <https://www.ojp.gov/ncjrs/virtual-library/abstracts/ms-13-gang-profile> The gang originally was composed of Salvadoran nationals but now includes people associated with the Northern Triangle countries in Central America, including El Salvador, Guatemala, and Honduras. The FBI released a threat assessment 15 years ago as MS-13 began expanding in Northeastern and Mid-Atlantic states. (<https://www.abcactionnews.com/news/local-news/i-team-investigates/ms-13-described-as-one-of-the-worlds-most-dangerous-gangs>)

MS-13 is a largely urban phenomenon that has cells operating primarily on two continents. MS-13 has between 50,000 and 70,000 members concentrated in urban areas in Central America or locations outside this region where there is a large Central-American diaspora. Although the gang is still largely urban, it has spread into more rural areas, most notably in Long Island and North Carolina and increasingly California. (<https://www.ojp.gov/ncjrs/virtual-library/abstracts/ms13-americas-major-findings>) "Deadly consequences were on display May 23 (2023) when the House Judiciary Committee heard about the murder of 20-year-old Kayla Hamilton."

Former Border Patrol Chief Rodney Scott, who served under President Donald Trump and then Biden until August 2021, testified that the Biden administration is “laser-focused on expediting the processing and flow of migrants into the US” and “refused to accept the significant vulnerability this creates.” New York Post article Killer MS-13 gangsters are being bused into our communities as "minors" <https://nypost.com/2023/06/06/killer-ms-13-gangsters-are-being-bused-into-our-communities-as-minors/>

A twice-deported gang member wanted in El Salvador in connection with three murders was recently sent back to his home country. Noe David Alvarez Escamilla, 24, was flown from Alexandria, Louisiana to the Monseñor Óscar Arnulfo Romero International Airport in San Salvador... <https://www.foxnews.com/us/us-deports-illegal-immigrant-3-murders-el-salvador-third-time>

Numbers below reflect FY2021 - FY2024, apprehensions by gang affiliation:

*Fiscal Year 2024 runs October 1, 2023 - September 30, 2024.*

**Gang MS-13:** 2021 - 113 Apprehensions; 2022 - 312 Apprehensions; 2023 - 178 Apprehensions; <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>

In the United States, there are around 10,000 MS-13 members who operate in 40 states. The strongholds are Los Angeles, New York, and the Washington D.C. area. From the book MS-13 *the Making of America's Most Notorious Gang*, author Steven Dudley, Publisher Hanover Square Press 2020. 352 Pages, Reviewer Jonathan D. Rosen March 2022. <https://clcjbooks.rutgers.edu/books/ms-13-the-making-of-americas-most-notorious-gang/>

According to <https://www.pewresearch.org/short-reads/2023/11/16/what-we-know-about-unauthorized-immigrants-living-in-the-us/> 2021 - 800,000 unauthorized immigrants from El Salvador live in the U.S.

## **Other Data from El Salvador**

Biden announced first-time Temporary Protected Status (TPS) designations for Afghanistan, Cameroon, Ethiopia, and Ukraine in response to conflicts in those countries. Migrants from TPS-designated countries can apply to reside legally in the United States for up to eighteen months, during which time they are eligible for employment and travel authorization and protected from deportation, though they are not granted permanent residency or citizenship. Sixteen countries currently have TPS designations and approximately 355,000 migrants have had their applications approved, though extensions and new designations made in 2021 and 2022 mean 176,540 additional individuals could be eligible. (<https://www.cfr.org/article/ten-graphics-explain-us-struggle-migrant-flows-2022>)

## **Where Do TPS Beneficiaries Come From?**

Of the sixteen countries that have TPS designations, El Salvador, home of MS-13 has the most.

Sources: Congressional Research Service; U.S. Department of Homeland Security; Pew Research Center. PS holders Estimated eligible under 2021 and 2022 designations El Salvador (194K) - The location of Gang M-13 194K Afghanistan 73K Ukraine 60K Honduras 59K Haiti 43K Venezuela 40K Ethiopia 27K Cameroon 12K Nepal 9K Syria Nicaragua Sudan Myanmar Yemen Somalia South Sudan

## **IRAN – HOME OF “TERRORIST ORGANIZATIONS IDENTIFIED BY US”**

Iran is clearly an enemy of the United States. The chant “Death to America” expresses the enmity with clarity.

US imposed sanctions against Iran because of Iranian nuclear program and Iran support of Hezbollah, Hamas and Palestine Islamic Jihad. (Heritage Foundation, National Expert – James Carafano)

The United States has imposed restrictions on activities with Iran under various legal authorities

since 1979, following the seizure of the U.S. Embassy in Tehran.

The Department of State's Office of Economic Sanctions Policy and Implementation is responsible for enforcing and implementing a number of U.S. sanctions programs that restrict access to the United States for companies that engage in certain commercial activities in Iran. (State Dept.) Islamic Revolutionary Guard Corps (2019) designated a "Foreign Terrorist Organization" whose recruits are barred from US (under President Trump). The Islamic Guard claimed responsibility for the strike on 3/13/22 on Erbil. Iran also backed the Houthi fighters in Yemen.

US Attorney Stewart Baker (served under President GW Bush as Security Assistant to Secretary of Policy: In regard to Biden's changes in 2021: "revoking travel ban" and "reopening US Borders to dangerous individuals" from Iran.

US House Foreign Affairs Committee Lead Republican Michael McCaul: "Iran's status as an enemy of Washington makes the vetting process for Iranian visa applicants very difficult if not impossible".

Biden REPEALED President Trump's travel ban on Iran and 12 other nations within hours of Jan 20, 2021 swearing in as President.

Biden granted 46 VISAS to Iranians in January 2021.

Steve Daines – Montana US Senator: Since the fiscal October through August -151 illegal aliens or "terrorists" let into the US were on the FBI "terror watch list" for being a terrorist or affiliated w/someone who was." They were encountered between the ports of entry. Another 76 more were encountered at the ports of entry and that did not include the "gotaways".

Under Trump (Heritage Foundation), during four years, 11 people on the Terrorist Watch list entered the US. In September 2023 alone, under the Biden Administration there were 18 terrorists that entered the US.

The United States at the direction of Joseph Biden, gave \$6 Billion to Iran as part of deal to free

DETAINED Americans in Iran.

As stated by US Representative Bryan Steil, addressing the administration: “As you are aware, on September 11, 2023, your administration notified Congress that the United States issued a sanctions waiver license around August 9, 2023, to allow \$6 billion in Iranian assets held in South Korea to be released to Iran. Nearly two months after Hamas’s banker, Iran, received billions of dollars, Hamas launched a massive, unprovoked war on Israel. Arguing that these two events are unrelated strains credulity.

The more credible explanation is that the Biden release of \$6 billion to Iran provided Iran with the assets to fund the terror attacks of October 7, 2023 resulting in the largest one day loss of Jewish life since World War II.

“The Biden administration on has continued to allow the Iranian regime to evade US sanctions by allowing them to move large amounts of sanctioned crude oil to countries like China with no repercussions. According to the US energy Information Administration, after the US re-imposed sanctions on Iran’s crude oil, their exports dropped from 2.5 million barrels per day to an average of 400,000 barrels per day.

“During your tenure, Iran’s oil exports have recovered to pre sanction levels. According to the Wall Street Journal, Iranian crude oil production has hit 3 million barrels per day. This means Iran has earned between \$81 billion to \$90.7 billion in oil revenues. If our sanctions are not enforced, we will give Iran more revenue to fund the regime’s destabilizing activities.”

Source: <https://steil.house.gov/media/press-releases/steil-demands-president-biden-enforce-financial-sanctions-on-iran>

Iranian Mission to UN: Iranian prisoners released in exchange – all convicted of sending prohibited equipment or confidential information to Iran.

Under Biden (2021) – Iran Kaveh Afrasiabi charged “failing to register as a foreign agent acting

on behalf of Iran.” -entered the US.

Iran under Biden (2021) arming Russia in support of its invasion of Ukraine – supplying large quantities of drones – bomb civilian targets.

In 2021, (Western Journal) 11 Iranians entered US illegally near San Luis, Arizona adding to the total of 14. In 2020, there were 8 Iranians entered the US illegally.

Lora Ries - Director of Heritage’s Border Security Immigration Center – Heritage Foundation – Team Biden Let Iran Infiltrate Nuclear Deal (Heritage Foundation)

1. Democrats’ Iran policy has been shaped by a foreign influence campaign – the Iran Experts Initiative (IEI) waged from within Iran itself.
2. The Biden Administration must take immediate action to mitigate the egregious breach of American national security.
3. The nuclear negotiation with Iranian regime was an elaborate parlor game.

Congress must demand a full accounting of the IEI’s insidious infiltration campaign as revealed by recent reporting. They should start in 2014, when a group of U.S.-Iranian and EU-Iranian citizens began to publish and promote narratives on social media favorable to the Iranian regime’s position on the Joint Comprehensive Plan of Action (JCPOA). Orchestrated by then-Iranian president Hassan Rouhani, along with his Minister of Foreign Affairs Javad Zarif and Islamic Revolutionary Guard Corps officer Mostafa Zahrani, these IEI operatives didn't stop there.

Congress must also get answers about the way that IEI analysts—such as Ali Vaez, Dina Esfandiary, and Ariane Tabatabai— cultivated influence with Rob Malley, the head of the International Crisis Group (ICG). That was a key allied group supporting the Obama/Biden administration’s approach to the Joint Comprehensive Plan of Action (JCPOA).

In fact, the ICG worked so closely with the Obama/Biden administration that Malley joined the Obama/Biden National Security Council to support the nuclear negotiations before returning to



ICG in 2017, and then became Biden's special envoy for Iran at the State Department in 2021 for the new round of negotiations

*“The administration has thus far refused to commit to submit a new Iran deal to the Senate for ratification as a treaty, as per its constitutional obligation, or for review under statutory requirements that passed on a bipartisan basis in response to the 2015 deal. Additionally, despite earlier promises to the contrary, the administration has failed to adequately consult with Congress.”*

Another example of illegal actions by Biden providing aid or comfort to enemies of the country and affirmatively ignoring the constitutional requirement to obtain consent from the United States Senate. Biden has been actively providing aid or comfort to Iran, not only as president but also during his time as vice-president under Barack Obama and failing to provide for the faithful execution of the law.

### **AMERICAN VICTIMS OF THE BIDEN BORDER INVASION<sup>2</sup>**

When American citizens are victims of criminal noncitizens, it is a comfort to the enemies of the United States. The 14<sup>th</sup> Amendment, Sec. 3 disqualification refers to “aid *or comfort*”. The following statistics of the border patrol provide a great deal of comfort to the enemies of the United States. The charts below demonstrate that from 2017 to 2020, during the Trump Administration's vigorous enforcement of border security consistent with US law, arrests of criminal noncitizens **decreased** each year to a low of 2,438 in 2020. Since Joseph Biden assumed office and set a course of refusing to enforce American law, each year arrests of noncitizen criminals increased to the point that 2023 was a 600% increase over 2020 in such arrests. The pattern is the same for each individual crime category. <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics>

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<sup>2</sup> Senator Roger Marshall (R-KS) has introduced to the Senate a resolution defining the result of the policies of Joseph Biden as an invasion. Senator Marshall's resolution is attached as Exhibit D. Biden does not simply give aid or comfort to the enemies of the United States, his actions have in fact facilitated an invasion.

**Criminal Noncitizen Statistics**

The following is a summary of U.S. Border Patrol enforcement actions related to arrests of criminal noncitizens for Fiscal Years 2017 - 2024.

Records checks of available law enforcement databases following the apprehension of an individual may reveal a history of criminal conviction(s). That conviction information is recorded in a U.S. Customs and Border Protection database, from which the data below is derived.

**Arrests of Individuals with Criminal Convictions**

The term “criminal noncitizens” refers to individuals who have been convicted of one or more crimes, whether in the United States or abroad, prior to interdiction by the U.S. Border Patrol; it does not include convictions for conduct that is not deemed criminal by the United States. Arrests of criminal noncitizens are a subset of total apprehensions by U.S. Border Patrol.

	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24YTD
<b>U.S. Border Patrol Criminal Noncitizen Arrests</b>	8,531	6,698	4,269	2,438	10,763	12,028	15,267	3,104

*Fiscal Year 2024 runs October 1, 2023- September 30, 2024.*

**Total Criminal Convictions by Type**

This table organizes nationwide convictions of criminal noncitizens by type of criminal conduct. Because some criminal noncitizens may be convicted of multiple criminal offenses, total convictions listed below exceed the total arrests noted in the table above.

	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24YTD
<b>Assault, Battery, Domestic</b>	692	524	299	208	1,178	1,142	1,254	188

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>FY22</b>	<b>FY23</b>	<b>FY24YTD</b>
<b>Violence</b>								
<b>Burglary, Robbery, Larceny, Theft, Fraud</b>	595	347	184	143	825	896	864	131
<b>Driving Under the Influence</b>	1,596	1,113	614	364	1,629	1,614	2,493	490
<b>Homicide, Manslaughter</b>	3	3	2	3	60	62	29	6
<b>Illegal Drug Possession, Trafficking</b>	1,249	871	449	386	2,138	2,239	2,055	308
<b>Illegal Entry, Re-Entry</b>	4,502	3,920	2,663	1,261	6,160	6,797	8,790	1,954
<b>Illegal Weapons Possession, Transport, Trafficking</b>	173	106	66	49	336	309	307	48
<b>Sexual Offenses</b>	137	80	58	156	488	365	284	36
<b>Other<sup>1</sup></b>	1,851	1,364	814	580	2,691	2,891	3,286	590

*Fiscal Year 2024 runs October 1, 2023- September 30, 2024.*

\* The FY total displays the total CES apprehensions but does not equal the sum of data by category because the same apprehension can have multiple NCIC Charges that are included in multiple categories.

<sup>1</sup> “Other” includes any conviction not included in the categories above.

Source: United States Customs and Border Patrol

## **Individual Stories of Human Tragedy Visited Upon American Citizens**

While the statistics speak of the great numbers and increased criminal activity resulting from the actions of Joseph Biden, behind the numbers are real people. The following stories are people who have lost loved ones to crimes or suffered permanent disabilities at the hands of illegal aliens. These stories originate from the time of Obama/Biden administration.

### **Tierra Stansberry**

My name is Chris Stansberry. Tierra Stansberry is my daughter. On June 13, 2016 Tierra was murdered by an illegal alien. Johnny Sanchez set 2 fires to the place where Tierra was at. Not only did he murder my daughter that night but along with her murder he murdered 4 others and attempted to kill 2 more.

On November 8, 2018 Tierra has been granted justice when the jury ruled on 5 counts of murder, 2 counts attempted murder and numerous counts of arson. All jury members found him GUILTY of his cruel and heinous crimes.

My daughter would still be here and alive if our immigration laws had been followed. He has been deported three times prior to this happening and just three days prior to his malicious crimes he was in police custody.

My daughter will forever be remembered for who she is. She's goofy and knows how to have a good time, she's kind hearted and full of love. She would do anything for anyone. Tierra is deeply missed by her loving family and if you think that illegals don't affect you or that this could never happen to you or your family please rethink that possibility. That is the same thought process that I had and due to this I had to bury my daughter. With more illegals coming here day after day the possibility of this happening again to any family is greater than ever.

## **Supervisory Special FBI Agent Carlos Wolff**

My husband, Carlos Wolff, was a Supervisory Special FBI Agent. Carlos was born in Venezuela and came to the United States - legally - with his parents, when he was 8 years old. He joined the FBI as a Special Agent when he was 25, and dedicated his 11 years at the FBI to protecting America. Carlos' life ended at 36 when he was hit by an illegal alien—on December 8, 2017. Carlos had been in a single vehicle accident and was stopped on the side of 270 in Montgomery County. Deputy Chief Fire Marshall Sander Cohen had stopped behind Carlos to help him. As Carlos and Sander were waiting on the shoulder for help to arrive, Roberto Garza Palacios hit and killed them. Palacios had overstayed his visa since 2009, and was wanted by ICE in 2015 AND in August of 2017 — just 3 months before hit and killed Carlos and Sander — due to his lengthy offense record, which included two DUIs, two counts of endangerment of life, property and person, malicious destruction of property, and possession of cocaine. However, Montgomery County, MD refused to hand Palacios over to ICE because of their sanctuary policies. Instead, Montgomery County elected officials believed it was preferable to shelter someone who was in our - my - community illegally, rather than doing what they should have done to keep my community safe. Palacios was then fined \$280 for hitting Carlos and Sander, was out free, on a \$15,000 bail, paid for by CASA de Maryland! Considering Palacios' record, he should have been deported in 2017 when ICE requested him from Montgomery County, MD! But Montgomery County politicians consider his prior record “minor offenses”. Too minor to worry about paying attention to, in order to deport someone who is here illegally? Until they end an innocent person's life. And even then they released him back into the community! Our families are going through so much pain and heartache. Carlos and Sander were individuals who were loved by so many.

## **Hailey King**

Hailey King was my daughter; she was also a mother, friend and hard worker with dreams of joining the Navy. On November 6, 2016, shortly before her 19th birthday, she became a victim of a hit and run homicide by an illegal alien. She was on her way home on a scooter driven by her friend David. They were one block from home when Sergio Larios - Rodriguez who was driving 70 mph in a 35 mph zone, hit their scooter from behind. Hailey was killed and David left permanently disabled. Hailey, who was the passenger, took the brunt of the impact, and never saw what was happening to her.

Sergio Larios - Rodriguez then dragged the scooter and David, who was trapped under his truck for over 2,000 feet until David's legs were torn off and his body finally released. Rodriguez then hid the truck with the scooter still trapped underneath it and walked away covertly hiding himself for over 48 hours. He never tried to help Hailey or David; leaving them both for dead on a main thoroughfare in Fayetteville, Arkansas. Hailey survived for six hours on a life support system. I was able to say good bye to my precious daughter. I promised to seek justice and to raise her daughter to know her mother. David survived but is now in a wheelchair.

Initially, there were no charges assigned to Rodriguez but after hard work and with the help of nonprofit organizations and legislators he faces charges including the death of Hailey and battery on David. Rodriguez came into the United States as an illegal immigrant and was able to live and work here until I started the journey to judicial justice. I am determined to work on public policy changes to better protect the legal citizens of our country. An illegal alien's actions have impacted generations of our family and left a little girl without her mother.

## **Sgt. Brandon Mendoza**

My son, Sgt. Brandon Mendoza of the Mesa, AZ police department was killed on May 12, 2014, in a violent head-on collision on his way home from work. He was killed by a repeat illegal criminal

who had driven over 35 miles the wrong way on four different freeways before slamming head-on into my son's vehicle on a blind curved transition ramp. This illegal alien was high on meth and blood alcohol over 3X the legal limit. Brandon was a fun loving, incredible man/son/brother/uncle/grandson along with being an amazing police officer who took pride in his job and creating a stronger community. My fight has always been about honoring my son and also about getting our politicians on board with the fight to uphold immigration laws and to put Americans first.

Source: <https://www.angelfamilies.org/stories/>

### **BIDEN GAVE "AID OR COMFORT" TO THE ENEMIES OF THE UNITED STATES**

In addition to disqualifying persons who violate their oath by engaging in insurrection or rebellion, Section 3 disqualifies persons who give "aid or comfort to enemies of" the United States. As used in Section 3, "enemies" applies to domestic, as well as foreign enemies of the Constitution. The concept of a "domestic" enemy became part of American constitutional thinking no later than 1862, when Congress enacted the Ironclad Oath to "support and defend the Constitution of the United States, against all *enemies, foreign and domestic.*" Act of July 2, 1862, Ch. 128, 12 Stat. 502 (emphases added).

This objection to the nomination papers of Candidate Biden details his provision of "aid or comfort" to the following enemies of the United States: China, Iran, Sinoloa Drug Cartel, the international gang MS-13 through intentional acts in violation of the laws of the United States.

The exhibits further illustrate Biden's actions and open-borders policies have empowered and emboldened some of the most vicious, ruthless, and savage individuals and groups in the world. Whether it is transnational criminal organizations (TCOs) like the cartels and human smuggling organizations in the Western Hemisphere, potential national security threats from countries who sponsor terrorism, or those coming from major state adversaries like China and Russia, the wide-open Southwest border has given America's enemies all over the globe an opportunity to infiltrate

the homeland—an opportunity too good to pass up. This objection barely scratched the surface of the United States that Joseph Biden has aided or comforted. *See* Exhibit B, page 3 et seq.

In addition to the body of the objection, the Exhibits are an integral element of this objection that lay out the violations of law, the intentional support of our enemies, “aid or comfort” provided and the harm done to the American people and our Republic.

By his conduct described herein, beginning before January 20, 2021, and continuing to the present time, Biden has given aid and comfort to enemies of the Constitution and the United States by, among other things, failing to enforce the laws of the United States, allowing entry of enemy agents illegally into the country including tens of thousands of military age men, and abandoning assets of the United States to the possession of our enemies.

#### **BIDEN IS DISQUALIFIED FROM PUBLIC OFFICE.**

Biden is disqualified from holding "any office, civil or military, under the United States" and Congress has not removed this disability from Biden. The presidency of the United States is an "office ... under the United States" within the meaning of Section 3 of the Fourteenth Amendment.

Consequently, Joseph Biden is disqualified from, and ineligible to hold, the office of President of the United States. Accordingly, his nomination papers are invalid under Illinois law because when Biden swore that he is "qualified" for the presidential office, as required by 10 ILCS 5/7-10, he did so falsely.

WHEREFORE, Objectors request the following: (a) a hearing on the objection set forth herein; (b) a determination that the Nomination Papers of Candidate are legally and factually insufficient; and (c) a decision that the name of Candidate "Joseph R. Biden, Jr." shall not be printed on the official ballot as a candidate for the Democrat Nomination for the Office of the President of the United States for the March 19, 2024 General Primary Election or the November 5, 2024 General Election.



**SUBMITTED BY:**

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**Shane Bouvet**

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**Peggy Hubbard**

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**Timothy Conrad**

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**Terry Newsome**

# Exhibit A



## SPEAKER OF THE HOUSE MIKE JOHNSON

### BIDEN ADMINISTRATION ACTIONS THAT HAVE UNDERMINED BORDER SECURITY AND ENCOURAGED ILLEGAL IMMIGRATION

	DATE	ACTION	SOURCE LINKS	NUMBERS
1	Jan 20, 2021	President Biden terminated the National Emergency at the Southwest border (Proclamation 9844), thereby halting emergency construction of a border wall.	See <a href="#">here</a> and <a href="#">here</a> .	CBP/OFO Total Encounters: 92,746  Children: 6,047
2	Jan 20, 2021	President Biden issued an <a href="#">Executive Order</a> (EO) further entrenching the unlawful Deferred Action for Childhood Arrivals (DACA) program. With his action, President Biden directed the Secretary of Homeland Security, in consultation with the Attorney General, “to preserve and fortify DACA”, signaling to illegal aliens that his Administration supports amnesty and that illegal aliens need not fear coming to the U.S. or worry about immigration enforcement.	See <a href="#">here</a> .	Fentanyl Seized: 945 pounds
3	Jan 20, 2021	President Biden unveiled the U.S. Citizenship Act, which would provide amnesty to millions of illegal aliens in the U.S., demonstrating intent to reward illegal border crossers with a path to citizenship.	See <a href="#">here</a> .	

4	Jan 20, 2021	President Biden revoked Trump-era Executive Order that was designed to ensure there was meaningful enforcement of U.S. immigration laws.	See <a href="#">here</a> .	
5	Jan 20, 2021	The Administration issued an Executive action ending limitations and restrictions against immigration from certain countries associated with terrorism.	See <a href="#">here</a> .	
6	Jan 20, 2021	The Biden Administration announced a 100-day moratorium on deportations and immigration enforcement, effectively providing amnesty to criminal and other removable aliens and sending the signal the Biden Administration would not enforce the law. The Administration also announced interim immigration enforcement guidelines that signaled to illegal aliens that they do not have to worry about the possibility of deportation.	See <a href="#">here</a> and <a href="#">here</a> .	
7	Feb 1, 2021	The Department of Homeland Security (DHS) implemented Acting Secretary Pekoske's policy requiring a new "process [that] shall provide for assessments of alternatives to removal including, but not limited to, staying or reopening cases, alternative forms of detention, custodial detention, whether to grant temporary deferred action, or other appropriate action."	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 115,559</p> <p>Children: 9,611</p> <p>Fentanyl Seized: 797 pounds</p>

8	Feb 2, 2021	President Biden issued Executive Order (EO) 14010 and began processing asylum claims at the border. In the EO, the President also signaled an end to the Migrant Protection Protocols (which is known as “Remain in Mexico” or “MPP”) while making other statements signaling an open border.	See <a href="#">here</a> .
9	Feb 6, 2021	Secretary of State Antony Blinken suspended, and began termination procedures, for the Trump Administration’s Asylum Cooperative Agreements with El Salvador, Guatemala, and Honduras. These agreements ensured aliens seeking asylum could do so in countries closer to their home country and in countries other than the United States.	See <a href="#">here</a> and <a href="#">here</a> .
10	Feb 2021	The Biden Administration voluntarily stopped applying Title 42 expulsions to children across the board, setting off a major wave of unaccompanied alien children, family units, and illegal aliens generally heading to the U.S. border.	See <a href="#">here</a> .
11	Feb 17, 2021	The Centers for Disease Control and Prevention (CDC) exempted unaccompanied alien children (UAC) from Title 42 expulsion requirements, thereby encouraging UACs to come to the U.S. and parents to pay cartels to smuggle their children to the U.S. border.	See <a href="#">here</a> and <a href="#">here</a> .
12	Feb 25, 2021	The Biden Administration sped up releases of UACs.	See <a href="#">here</a> .

13	Mar 2, 2021	According to news reports, the Biden Administration lost track of 20,000 unaccompanied alien children and President Biden was briefed on the need to expand detention to hold an additional 20,000 children who had illegally crossed the border.	See <a href="#">here</a> and <a href="#">here</a> .	CBP/OFO Total Encounters: 192,025  Children: 19,115  Fentanyl Seized: 652 pounds
14	Mar 5, 2021	Faced with overwhelming numbers of UACs in federal custody, the CDC ignored its normal facilities guidance regarding COVID-19 and notifies “facilities caring for migrant children that they can open back up to pre-Covid-19 levels, acknowledging ‘extraordinary circumstances.’”	See <a href="#">here</a> and <a href="#">here</a> .	
15	Mar 10, 2021	Biden Administration <a href="#">announced</a> reinstatement of the Central American Minors (CAM) program, an Obama-era parole program that allowed citizens and aliens—including illegal aliens—to bypass the family-based immigration laws adopted by Congress and sponsor family members El Salvador, Guatemala, and Honduras to come to the United States.	See <a href="#">here</a> .	
16	Mar 16, 2021	DHS Secretary Mayorkas delivered remarks effectively explaining the border is open for illegal immigration by stating DHS’s focus would be on “processing” illegal aliens—in other words catch-and-release and the creation of new “lawful pathways.”	See <a href="#">here</a> .	

17	Mar 20, 2021	DHS began issuing illegal alien border crossers a Notice to Report (NTR) to U.S. Immigration and Customs Enforcement, as opposed to the standard Notice to Appear (NTA) in U.S. immigration court. The NTR policy allows illegal aliens to simply be released into the U.S. and relies on them to self-report to ICE at a later date.	See <a href="#">here</a> .	
18	Mar 30, 2021	Office of Refugee Resettlement (ORR) took drastic actions to expand detention space to house unaccompanied alien children in so-called "Influx Care Facilities", often using unlicensed facilities that lacked child welfare experience. In March, April, and May of 2021, ORR expanded capacity to house another 23,849, including 10,000 at Fort Bliss. DHS was also holding children for a longer period than allowed by law (between 30 and 40 days) and, because the flow of UACs across the border outpaced Health and Human Services' (HHS) ability to vet adults who can care for the children.	See <a href="#">here</a> .	
19	Mar 31, 2021	The Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR) issued guidance rolling back requirements for background checks on adults in the household of a UAC sponsor.	See <a href="#">here</a> , <a href="#">here</a> and <a href="#">here</a> .	

20	Apr 30, 2021	The Biden Administration canceled further wall construction which was being led by the Department of Defense (DOD).	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 196,190</p> <p>Children: 17,264</p> <p>Fentanyl Seized: 886 pounds</p>
21	June 15, 2021	The Biden Administration <a href="#">announced</a> expansion of the Central American Minors (CAM) program to broaden the list of illegal aliens who can sponsor family members through the program, including illegal aliens who claim asylum.	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 207,823</p> <p>Children: 15,479</p> <p>Fentanyl Seized: 1100 pounds</p>
22	June 16, 2021	Attorney General Merrick Garland rescinded the Trump-era decision <i>In Matter of L-E-A-</i> , thereby expanding asylum eligibility to allow nuclear or immediate familial relationships to be treated as a “particular social group.”	See <a href="#">here</a> . See also <a href="#">here</a> .	
23	June 16, 2021	Attorney General Merrick Garland rescinded the Trump-era decision in <i>Matter of A-B I</i> and <i>A-B II</i> , thereby expanding asylum eligibility to include gender and domestic relationships as certain social groups, reverting to policy under in <i>Matter of A-R-C-G</i> .	See <a href="#">here</a> .	

24	July 2021	The United States Border Patrol (USBP or BP) released at least 50,000 aliens without giving them a “Notice to Appear” (a court date), instead advising them to self-report to ICE on their own. Unsurprisingly, 87% of aliens fail to report.	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 233,919</p> <p>Children: 19,438</p> <p>Fentanyl Seized: 837 pounds</p>
25	Aug 5, 2021	The USBP authorized the use of parole plus alternatives to detention (ATD) in the Del Rio Border Sector.	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 231,243</p> <p>Children: 19,609</p> <p>Fentanyl Seized: 1100 pounds</p>
26	Aug 17, 2021	DHS announced an expansion of alternatives to detention (effectively reinstating and expanding catch and release) and announced the expansion of taxpayer-funded services to illegal aliens in removal proceedings.	See <a href="#">here</a> .	
27	Aug 31, 2021	The Biden administration released over 100,000 aliens into the United States between March 21, 2021 and August 31, 2021, without giving these aliens a “Notice to Appear”, instead advising them to self-report to ICE on their own. Of those, nearly 50% of them did not check-in with ICE within the 60-day deadline.	See <a href="#">here</a> .	



28	Sep 24, 2021	<p>The Administration falsely accused Border Patrol agents on horseback in Del Rio, Texas of whipping aliens at the border. President Biden condemned the agents, saying the aliens had been “strapped” and vowed “consequences.” Vice President Harris piled on the false allegations, comparing them to oppression and slavery. In fact, DHS Secretary Mayorkas knew the claim was false and even though the agents were exonerated in July 2022, the Administration proposed punishment for the agents.</p>	See <a href="#">here</a> , <a href="#">here</a> and <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 213,622</p> <p>Children: 15,194</p> <p>Fentanyl Seized: 737 pounds</p>
29	Sep 30, 2021	<p>DHS Secretary Mayorkas issued a memorandum that states “the fact an individual is a removable [alien] should [not be the sole] basis of an enforcement action”, effectively using prosecutorial discretion to give deportable aliens a pass to stay in the United States, thereby granting a form of amnesty to many illegal aliens.</p>	See <a href="#">here</a> .	
30	Fiscal Year 2021	<p>Throughout Fiscal Year 2021, the Biden Administration distributed more than \$300 million in federal law enforcement grants to Sanctuary Cities under SCAAP, Byrne, and COPS programs (amounting to 43% of total awards going to sanctuary cities), financially rewarding cities whose policies encourage illegal immigration.</p>	See <a href="#">here</a> .	
31	Oct 8, 2021	<p>DHS canceled another group of border wall contracts led by DHS related to the Laredo and Rio Grande Valley Border Sectors.</p>	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 187,136</p> <p>Children:</p>

32	Oct 12, 2021	DHS effectively suspended large-scale worksite enforcement, a key tool to deter the hiring and employment of illegal aliens.	See <a href="#">here</a> and <a href="#">here</a> .	13,256  Fentanyl Seized: 1100 pounds
33	Oct 27, 2021	DHS Secretary Mayorkas issued a memorandum prohibiting enforcement of immigration laws in certain areas including schools, healthcare facilities, recreational areas, social service and emergency facilities, ceremonial locations (such as funerals and civil ceremonies) as well as at demonstrations and rallies.	See <a href="#">here</a> .	
34	Oct 29, 2021	DHS Secretary Mayorkas terminated the Migrant Protection Protocols (known as “MPP” or “Remain in Mexico”).	See <a href="#">here</a> .	
35	Nov 2021	The Biden Administration formally created a program that included alternatives to detention (ATD) plus parole, resulting in “catch and release” for hundreds of thousands of aliens into the U.S. interior after they were encountered at the border (338,000 aliens were released in Fiscal Year 2022 alone) under this program.	See <a href="#">here</a> .	CBP/OFO Total Encounters: 198,553  Children: 14,435  Fentanyl Seized: 1100 pounds
36	Dec 17, 2021	Immigrations and Customs Enforcement (ICE) repurposed three detention centers previously used for family detention, thus encouraging greater illegal immigration of family units.	See <a href="#">here</a> .	CBP/OFO Total Encounters: 205,691  Children: 12,363  Fentanyl Seized: 549 pounds

37	Jan 2022	Between July 2021 and January 2022, the United States admitted more than 79,000 Afghan evacuees as part of Operation Allies Welcome after the Biden State Department and Department of Defense botched the nation's withdraw from Afghanistan. The DHS OIG determined that DHS failed to fully vet the evacuees. Failure to vet refugees, signaled that the Administration might also apply lax vetting to asylum seekers, further encouraging asylum abuse.	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 186,808</p> <p>Children: 9,171</p> <p>Fentanyl Seized: 862 pounds</p>
38	Apr 1, 2022	The Biden Administration announced intent to end Title 42. Federal District Court Judge from Louisiana temporarily blocks the action.	See <a href="#">here</a> . See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 262,109</p> <p>Children: 12,691</p>
39	Apr 3, 2022	ICE Principal Legal Advisor issued memorandum promoting termination of cases in immigration court and directing ICE Office of the Principal Legal Advisor (OPLA) trial attorneys to comb through their cases to determine whether aliens would be considered a "priority" for removal under the Biden "enforcement priorities."	See <a href="#">here</a> .	<p>Fentanyl Seized: 1300 pounds</p>
40	Sep 9, 2022	The Biden Administration reversed Trump-era public charge rule, allowing aliens who are likely to become a burden to taxpayers to receive immigration benefits – such as a visa, admission, or adjustment of status.	See <a href="#">here</a> and <a href="#">here</a> .	<p>CBP/OFO Total Encounters for: 272,338</p> <p>Children: 12,508</p> <p>Fentanyl Seized: 1900 pounds</p>

	Fiscal Year 2022	U.S. Customs and Border Protection (CBP) encounters involving alien children in Fiscal Year 2022 reached a record high 158,865 total encounters (this includes both accompanied and unaccompanied children, 96.2% of whom were unaccompanied).	See <a href="#">here</a> .	
41	Oct 31, 2022	DHS finalized a rule to “fortify DACA”, which declares DACA recipients as “lawfully present” and grants them employment documents despite ongoing litigation.	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 284,624</p> <p>Children: 13,756</p> <p>Fentanyl Seized: 2900 pounds</p>
42	Dec 13, 2022	The Biden Department of Justice (DOJ) <a href="#">sued</a> the State of Arizona in order to force Arizona to remove shipping containers placed to close gaps in the border wall.	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 302,392</p> <p>Children: 13,030</p> <p>Fentanyl Seized: 2400 pounds</p>
43	Jan 2023	CBP changed CBP One app to allow border crossers to schedule online appointments, expanding the number of aliens allowed into the United States.	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 209,151</p> <p>Children: 10,059</p> <p>Fentanyl Seized: 1400 pounds</p>

44	Jan 6, 2023	The Biden Administration began abusing statutory parole authority under INA 212(d)(5) by creating a categorical parole program for nationals of Cuba, Haiti, Nicaragua, and Venezuela. Parole was intended by Congress to be used sparingly and only on a “case by case” basis, yet DHS continues to create and administer categorical parole programs to allow hundreds of thousands of illegal aliens to classes of aliens.	See <a href="#">here</a> .	
45	Feb 25, 2023	<i>The New York Times</i> reported data showing the Biden Department of HHS has lost track of 85,000 alien children over the prior two years. NYT exposes details of minor children working in factories in the United States.	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 213,911</p> <p>Children: 11,629</p> <p>Fentanyl Seized: 2300 pounds</p>
46	Mar 2023	ICE continued to ignore the need for deportations, allowing criminal aliens to stay in the U.S. ICE’s non-detained docket grew to an estimated 5.3 million aliens, including 407,983 criminal aliens. Meanwhile, ICE arrests in Fiscal Year 2022 fell by 69% compared to Fiscal Year 2018 and arrests of convicted criminals fell 65% (to 36,322 in Fiscal Year 2022 from 105,140 in Fiscal Year 2018).	See <a href="#">here</a> .	<p>CBP/OFO Total Encounters: 259,471</p> <p>Children: 13,178</p> <p>Fentanyl Seized: 2900 pounds</p>
47	Mar 25, 2023	Despite record numbers of illegal aliens arriving at the southern border, the Biden Administration proposed cutting detention beds by 25 percent as part of its Fiscal Year 2024 <a href="#">budget request</a> .	See <a href="#">here</a> .	

48	Mar 28, 2023	DHS Inspector General (IG), citing lax oversight, issued a report that identified misuse and fraud of federal emergency funds, resulting in up to \$110 million in funds appropriated in the American Rescue Plan and other legislation being awarded to pay for services to illegal aliens and not Americans suffering due to COVID.	See <a href="#">here</a> .	
49	Apr 13, 2023	The Biden Administration announced DACA recipients would be eligible for Obamacare benefits and Medicaid, giving taxpayer-funded healthcare to illegal aliens.	See <a href="#">here</a> .	CBP/OFO Total Encounters: 276,036  Children: 12,214
50	Apr 27, 2023	The State Department and DHS announced plans to end Title 42, expand CBP One app, and create additional unlawful categorical parole programs for aliens from El Salvador, Guatemala, Honduras and Colombia. The program violates the law and allows aliens to enter before they receive a green card and without a visa.	See <a href="#">here</a> and <a href="#">here</a> .	Fentanyl Seized: 3200 pounds
51	Apr 30, 2023	The Biden Administration circulated guidance that waters down the vetting process for Chinese illegal aliens, requiring that interviews used to question a Chinese illegal alien consist of five basic questions. The media reported that Chinese illegal aliens “quickly adapted” to the new CBP guidelines and were “coached” to give “stories that are identical.”	See <a href="#">here</a> .	

52	May 5, 2023	CBP expanded appointment capability of the CBP One App. Through Nov. 2023, nearly 360,000 appointments had been scheduled on the app (43,000 in November alone). The CBP One app continues to be vulnerable to exploitation by the cartels.	See <a href="#">here</a> , <a href="#">here</a> and <a href="#">here</a> .	CBP/OFO Total Encounters: 275,166  Children: 10,525  Fentanyl Seized: 2700 pounds
53	May 11, 2023	The Biden Administration terminated use of Title 42 policy expulsion authority.	See <a href="#">here</a> .	
54	May 31, 2023	The Biden Administration ended the DNA testing program used to verify that adults who crossed the border with a child and claimed to be related to that child, are in fact related. Ending the program promotes not only illegal immigration, but also child exploitation and trafficking.	See <a href="#">here</a> and <a href="#">here</a> .	
55	July 7, 2023	The Biden Administration expanded unlawful parole programs to include individuals from Colombia, El Salvador, Guatemala, and Honduras.	See <a href="#">here</a> .	CBP/OFO Total Encounters: 245,154  Children: 11,236
56	July 24, 2023	The Biden Department of Justice sued the State of Texas to remove newly placed floating barriers in the Rio Grande River.	See <a href="#">here</a> .	Fentanyl Seized: 1800 pounds

57	Aug 10, 2023	The Biden Administration Office of Management and Budget requested nearly \$14 billion in emergency funding that perpetuates the Biden Administration's open borders policies. For example, \$600 million was requested for FEMA's Shelter and Services program, which provided airfare and hotels to illegal aliens. This is on top of the \$363.8 spent by the program in Fiscal Year 2023.	See <a href="#">here</a> (page 47). See <a href="#">here</a> .	CBP/OFO Total Encounters: 304,073  Children: 14,922  Fentanyl Seized: 1800 pounds
58	Aug 29, 2023	ICE scrambled after releasing into the U.S. more than a dozen Uzbek nationals with ties to an ISIS smuggler.	See <a href="#">here</a> .	
59	Aug 2023	DHS rebranded "Alternatives to Detention" as "Release and Reporting Management," effectively using ICE to provide social services to aliens instead of allowing ICE to function as a law enforcement agency.	See <a href="#">here</a> .	
	Fiscal Year 2023	CBP encountered over 3.2 million aliens in FY2023, including nearly 2.5 million at the Southwest border. In the same timeframe of Fiscal Year 2023, ICE only removed 142,580 from the United States.	See <a href="#">here</a> and <a href="#">here</a> .	



	Fiscal Year 2023	CBP and Office of Field Operations (OFO) reported seizing 549,000 pounds of illicit drugs during Fiscal Year 2023, including 27,000 pounds of fentanyl – enough to kill every American 18 times. The Fiscal Year 2023 numbers represent an increase in fentanyl seizures from 14,700 pounds in Fiscal Year 2022, 11,200 pounds in Fiscal Year 2021, and 4,800 pounds in Fiscal Year 2020.	See <a href="#">here</a> and <a href="#">here</a> . See <a href="#">here</a> and <a href="#">here</a> .	
	Sep 2023	CBP recorded nearly 270,000 illegal alien encounters at our Southwest border in September, the highest number ever recorded in a single month.	See <a href="#">here</a> .	CBP/OFO Total Encounters: 341,392  Children: 14,346
60	Sep 8, 2023	The Biden Administration promulgated a proposed rule to reverse Trump-era policy and allow Immigration Judges to administratively close or dismiss removal proceedings without any action (something not allowed by statute), resulting in no decision denying asylum.	See <a href="#">here</a> and <a href="#">here</a> .	Fentanyl Seized: 1500 pounds
61	Oct 4, 2023	The Biden Administration <a href="#">issued</a> new rules on UACs that fails to prevent the release of illegal alien children to strangers, fails to facilitate age determinations, and fails to collect immigration information on sponsors. All of this will encourage trafficking of children, including by the cartels.	See <a href="#">here</a> .	CBP/OFO Total Encounters: 309,137  Children: 12,103  Fentanyl Seized: 1700 pounds

62	Dec 21, 2023	Biden Administration <a href="#">announced</a> the creation of a new “juvenile” docket within immigration courts which is so expansive, it gives specialized treatment to 18, 19, and 20 year-old illegal aliens who should be deported through the expedited removal process.	See <a href="#">here</a> .	CBP/OFO Total Encounters for Dec:  Children:  Fentanyl Seized:
63	Dec 28, 2023	Following a trip to Mexico by Secretary of State Blinken and DHS Secretary Mayorkas, the Mexican government reported that their discussions focused on “regularizing” status – i.e., amnesty – for “Hispanic migrants who have been undocumented... and DACA beneficiaries.”	See <a href="#">here</a> .	DATA NOT YET AVAILABLE
	Dec 29, 2023	According to media reporting, CBP recorded more than 300,000 illegal alien encounters at our southern border in December, the highest number ever recorded in a single month.	See <a href="#">here</a> , <a href="#">here</a> and <a href="#">here</a> .	
64	Jan 3, 2024	The Biden Administration sued the State of Texas for enforcing a recently enacted Texas <a href="#">state law</a> that allows Texas judges and magistrates to order illegal aliens to return to the foreign nation from which they entered.	See <a href="#">here</a> .	

**SOURCES FOR NUMBER COLUMN:**

<https://www.cbp.gov/newsroom/stats/nationwide-encounters>

<https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>

# Exhibit B

## CAUSES, COSTS, AND CONSEQUENCES:

WHY SECRETARY MAYORKAS MUST BE  
INVESTIGATED FOR HIS BORDER CRISIS

COMMITTEE ON HOMELAND SECURITY  
MAJORITY REPORT





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Source: U.S. Border Patrol



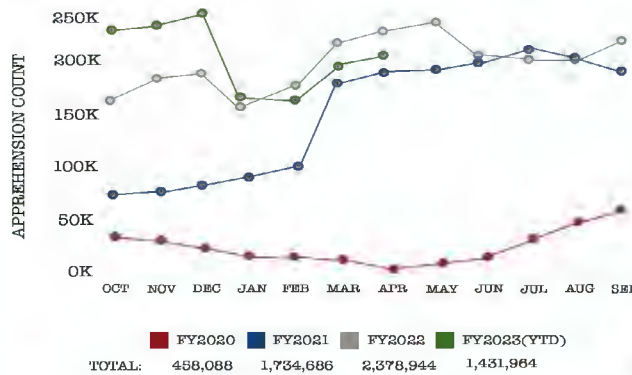
# EXECUTIVE SUMMARY

For more than two years, the country has witnessed a national security, humanitarian, and public safety disaster at the Southwest border. Every day, Americans across the nation are feeling the devastating consequences of this crisis in new and tangible ways.

The flood of illegal aliens across America’s sovereign borders has been unprecedented. Since the Biden administration took office, Customs and Border Protection (CBP) has reported more than 5.2 million apprehensions at the Southwest border alone<sup>1</sup>, a number which grows to more than 6.1 million when factoring in apprehensions at America’s Northern and maritime borders.<sup>2</sup>

In Biden and Mayorkas’ first full month in office, CBP averaged well over 3,000 apprehensions per day at the Southwest border, totaling 101,099 for the month—and that was the low-water mark.<sup>3</sup>

CBP FY SOUTHWEST BORDER APPREHENSIONS BY MONTH



Source: CBP Border Encounter Data

Since March 2021, CBP has recorded no fewer than 154,000 apprehensions at the Southwest border in any given month.<sup>4</sup> From March to December 2022, CBP recorded more than 200,000 apprehensions per month. Never in CBP history had the agency recorded so many apprehensions in consecutive months.

These massive numbers have pulled Border Patrol agents off their frontline mission of securing the border and enforcing America’s immigration laws, to instead process and release the record number of illegal aliens surging across the border every day.

Transnational criminal organizations (TCOs), like the Mexican drug cartels, have been enriched and empowered by record profits from drug trafficking and human smuggling, funneling those blood-bought dollars into expanding their fearsome, military-grade arsenals that have allowed them to challenge and intimidate the Mexican government.

1 “Southwest Land Border Encounters,” U.S. Customs and Border Protection Newsroom, May 17, 2023, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

2 “CBP Enforcement Statistics Fiscal Year 2023,” U.S. Customs and Border Protection Newsroom, May 17, 2023, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

3 U.S. Customs and Border Protection Newsroom, supra note 1.

4 Ibid.



## EXECUTIVE SUMMARY

Fentanyl, the cartels' current narcotic of choice, is pouring across the increasingly porous border and into American communities, ruining lives and shattering families at an unprecedented rate. Meanwhile, as crime spikes in American cities, more than 1.5 million known gotaways have evaded apprehension by the Border Patrol since January 2021 and are now at large in the United States.<sup>5</sup> Among those who have evaded apprehension have doubtless been an unknown number of gang members, violent criminals, and other potential national security threats whose malicious intentions we may not even yet know or realize.

A record number of migrants have been found dead on U.S. soil in the last two years. CBP personnel in both the Border Patrol and Air & Marine Operations (AMO) have been putting their lives on the line at an exponentially higher rate than in years past, conducting an ever-increasing number of rescue operations along our borders.

An untold number of men, women, and children have become victims of sexual assault, violent theft, and other degradation and abuse along the journey through Central and South America to the Southwest border, and increasingly, the Northern border, as well. The sheer number of individuals crossing illegally has overwhelmed Border Patrol agents, leading to rampant overcrowding of holding facilities and stretching resources past the breaking point.



Source: Pool photo from Dario Lopez-Mills (AP)

The human cost, both to American citizens and those journeying to the border, has been incalculable.

Increasingly, Americans are also suffering from the strain of the financial costs imposed by this mass illegal immigration.

The border crisis has had an unprecedented and devastating effect on American states, cities, and small towns, particularly the schools, businesses, hospitals, law enforcement agencies, and other public service providers who have limited resources to deal with this massive influx of illegal aliens.

Simultaneously, as cities and states shoulder more costs required to handle this historic burden, many of the illegal aliens released into American communities are consuming far more in taxpayer-funded benefits than they are ever giving back.

New York City alone, for example, projects to have spent more than \$4 billion by next year on benefits for illegal aliens since they first began arriving in waves from the Southwest border.<sup>6</sup>

<sup>5</sup> Patrick Hauf, "1.5 Million 'gotaways' at the border under the Biden Administration: Report," Fox News, May 16, 2023, <https://www.foxnews.com/politics/million-gotaways-border-biden-administration-report>.

<sup>6</sup> Bernadette Hogan and Emily Crane, "Mayor Eric Adams Says Biden's Migrant Crisis Has 'destroyed' NYC," The New York Post, April 21, 2023, <https://nypost.com/2023/04/21/mayor-eric-adams-says-bidens-migrant->



## EXECUTIVE SUMMARY

The truth is simple—the border crisis has turned every state into a border state, every town into a border town. The consequences of this crisis impact every American, regardless of race, gender, or socioeconomic status. It does not spare those of a particular political ideology. As this preliminary report will show, it affects us all.

The most egregious aspect of this crisis, however, is that it has been intentional from the start. Joe Biden ran a campaign on providing amnesty to millions of illegal aliens and promising to end the policies that had brought illegal immigration to a four-decade low.<sup>7</sup>

On Sept. 12, 2019, during a Democratic presidential debate, then-candidate Biden even encouraged individuals from around the world to “surge” to the border and file asylum claims, despite the Department of Justice data showing clearly that only around 10-15 percent of those filing such claims ever receive asylum:<sup>8</sup>



### **The Biden Administration’s Track Record on Border Security**

Biden and leading officials in his administration, particularly Department of Homeland Security (DHS) Secretary Alejandro Mayorkas, have certainly followed through on these promises.

Biden, Mayorkas, and other open-borders advocates in the administration quickly terminated, suspended, or rolled back numerous effective border-security policies,<sup>9</sup> despite repeated warnings from experienced border security professionals during the presidential transition period of the crisis that would ensue if they did so.<sup>10</sup>

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[crisis-has-destroyed-nyc/](#).

7 Lora Ries, “President Trump and Joe Biden: Comparing Immigration Policies,” The Heritage Foundation, October 21, 2020, <https://www.heritage.org/immigration/report/president-trump-and-joe-biden-comparing-immigration-policies>.

8 “Credible Fear and Asylum Process: Fiscal Year (FY) 2008 – FY 2019,” Department of Justice Executive Office for Immigration Review, <https://www.justice.gov/eoir/file/1216991/download>.

9 “Data Visualization: Biden Administration’s Border Catastrophe—A Policy Tracker,” The Heritage Foundation, June 25, 2021, <https://datavisualizations.heritage.org/immigration/biden-administrations-border-catastrophe-a-policy-tracker/>.

10 Elissa Salamy, “Biden Administration Was Warned on Potential of Border Crisis, Says Mark Morgan,” WPDE, March 23, 2021, <https://wpde.com/news/nation-world/biden-administration-was-warned-on-poten->





# EXECUTIVE SUMMARY

The crisis that followed was swift, predictable, and catastrophic.

Since then, the Biden administration has implemented a host of policies that have opened our borders wide and signaled to those who cross illegally that they will likely be released into the interior of the country without consequences for breaking our laws.

## **Effective Policies Ended**

**Remain in Mexico (Migrant Protection Protocols/MPP):** The Biden administration quickly moved to suspend the Remain in Mexico Program (MPP),<sup>11</sup> a critical tool that substantially reduced the filing of fraudulent asylum claims at the Southwest border following the 2019 crisis. For more than a year, the Biden administration fought numerous legal battles to dismantle the policy, ultimately prevailing at the Supreme Court in June 2022.<sup>12</sup>

**Border Wall Construction:** Walls work. The border wall system is a critical component in maintaining order and security at the Southwest border. A CBP press release in October 2020 states plainly, “The results speak for themselves: illegal drug, border crossings, and human smuggling activities have decreased in areas where barriers are deployed. ... [T]he border wall is forcing drug smugglers to where we are best prepared to catch them—our ports of entry.”<sup>13</sup>

Upon taking office, however, Biden ordered a halt to construction of new border wall,<sup>14</sup> and prohibited the use of funds already authorized and allocated by Congress for that very purpose.

**Asylum Cooperative Agreements:** The Trump administration also negotiated asylum cooperative agreements (ACAs) with El Salvador, Guatemala, and Honduras.<sup>15</sup>

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[tial-of-border-crisis-says-mark-morgan.](#)

11 “DHS Statement on the Suspension of New Enrollments in the Migrant Protection Protocols Program,” U.S. Department of Homeland Security, January 20, 2021, <https://www.dhs.gov/news/2021/01/20/dhs-statement-suspension-new-enrollments-migrant-protection-protocols-program>.

12 Amy Howe, “Divided Court Allows Biden to End Trump’s ‘Remain in Mexico’ Asylum Policy,” SCOTUSblog, June 30, 2022, <https://www.scotusblog.com/2022/06/divided-court-allows-biden-to-end-trumps-remain-in-mexico-asylum-policy/>.

13 “The Border Wall System Is Deployed, Effective, and Disrupting Criminals and Smugglers,” U.S. Department of Homeland Security, October 29, 2020, <https://www.dhs.gov/news/2020/10/29/border-wall-system-deployed-effective-and-disrupting-criminals-and-smugglers>.

14 “Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction,” The White House, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

15 “Fact Sheet: DHS Agreements with Guatemala, Honduras, and El Salvador,” U.S. Department of Homeland Security, [https://www.dhs.gov/sites/default/files/publications/19\\_1028\\_opa\\_factsheet-northern-central-america-agreements\\_v2.pdf](https://www.dhs.gov/sites/default/files/publications/19_1028_opa_factsheet-northern-central-america-agreements_v2.pdf).



## EXECUTIVE SUMMARY

These agreements served a number of important functions, including recognizing these nations as essentially “safe third country” options to which the United States could return individuals who had arrived at the Southwest border seeking relief, but who had not applied for asylum when passing through those countries on the journey to the Southwest border.

The agreements also made it clear that these individuals should claim asylum in the other countries party to the agreements, not the U.S. The Biden administration suspended these commonsense agreements on Feb. 6, 2021, and later terminated them.<sup>16</sup>

**Title 42:** In 2020, the Trump administration responded to the COVID-19 pandemic by invoking the Center for Disease Control and Prevention’s (CDC) Title 42 public health authority. Under Title 42, CBP could process illegal aliens without asylum screening and immediately expel them back to Mexico through the closest port of entry. This was a vital authority, not only allowing Border Patrol agents to rapidly expel those who had no legal claim to enter the U.S., but to protect agents and American citizens throughout the country from the spread of COVID-19.

Mayorkas’ DHS failed to fully and effectively utilize this authority. In February 2023, for example, just 33 percent (70,470) of those apprehended were expelled under Title 42.<sup>17</sup> The Biden administration ended Title 42 on May 11, 2023.

In the days leading up to May 11, thousands of illegal aliens gathered just across the Southwest border waiting to flood across once Title 42 ended.<sup>18</sup> Total apprehensions in April jumped to more than 275,000, with the vast majority occurring at the Southwest border.<sup>19</sup> Border Patrol recorded multiple consecutive days of more than 10,000 apprehensions in the days before Title 42 expired.<sup>20</sup> As the cartels temporarily pull back to assess the fallout of Title 42’s end, daily apprehensions have fallen from such highs, but are still at crisis levels of more than 3,700 per day, according to DHS.<sup>21</sup>

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16 Anthony J. Blinken, “Suspending and Terminating the Asylum Cooperative Agreements with the Governments El Salvador, Guatemala, and Honduras,” U.S. Department of State Office of the Spokesperson, February 6, 2021, <https://www.state.gov/suspending-and-terminating-the-asylum-cooperative-agreements-with-the-governments-el-salvador-guatemala-and-honduras/>.

17 “Nationwide Encounters,” U.S. Customs and Border Protection Newsroom, May 17, 2023, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

18 MaryAnn Martinez, “Up to 40,000 Migrants Amass at Border as End of Title 42 Nears,” The New York Post, April 13, 2023, <https://nypost.com/2023/04/13/up-to-40000-migrants-amass-at-border-as-end-of-title-42-nears/>.

19 U.S. Customs and Border Protection Newsroom, *supra* note 17.

20 Adam Shaw and Bill Melugin, “Border Patrol Encounters 10,000 Migrants for Third Day in a Row as Numbers Swell before Title 42 Drops,” Fox News, May 11, 2023, <https://www.foxnews.com/politics/border-patrol-encounters-10000-migrants-third-day-numbers-swell-before-title-42-drops>.

21 Anna Giaritelli, “Biden Administration Touts 70% Decline in Illegal Immigration since Ending Title 42,” The Washington Examiner, June 6, 2023, <https://www.washingtonexaminer.com/policy/immigration/biden-administration-decline-illegal-immigration-since-title-42-end>.



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In a briefing provided to members of the House Committee on Homeland Security, Border Patrol Chief Raul Ortiz told members he “fully expect[s]” apprehensions to soon rise back to the 6,500-7,000 per day that had become the norm.

National Border Patrol Council Pres. Brandon Judd wrote in December 2022, when Title 42 was previously on the chopping block, that once the authority ends, “there will be almost no agents left to patrol our Southwest border with Mexico. The cartels will gain complete control.”<sup>22</sup>

***Ending Abuse of Parole Programs:*** In 2017, Pres. Donald Trump signed an executive order ending the abuse of parole, and reiterating that parole was only to be used on a case-by-case basis for humanitarian purposes, in accordance with the law.<sup>23</sup> The Biden administration revoked this order on Feb. 2, 2021.<sup>24</sup> By law, parole should only be offered on a case-by-case basis when there is significant public benefit or urgent humanitarian need to do so, and only for temporary admittance into the country.

***Cracking Down on Sanctuary Cities:*** The Trump administration issued an order in 2017 that prohibited federal grant money from being awarded to jurisdictions that refuse to cooperate with Immigration and Customs Enforcement (ICE) to remove criminal aliens, otherwise known as “sanctuary cities.”<sup>25</sup> The Biden administration canceled the order on Jan. 20, 2021.<sup>26</sup>

***Rolling Back DACA:*** The Trump administration attempted to rescind the Deferred Action for Childhood Arrivals (DACA) amnesty program, but was only partially successful, as the courts required the administration to continue processing renewals. The administration did not adjudicate new DACA requests, however. In a Jan. 20, 2021 executive order, Biden ordered DHS to “preserve and fortify” DACA.<sup>27</sup>

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22 Brandon Judd, “Once Title 42 Expires Mexican Drug Cartels Will Gain Complete Control of Our Southwest Border,” Fox News, December 20, 2022, <https://www.foxnews.com/opinion/title-42-mexican-drug-cartels-gain-complete-control-border-southwest-border>

23 “Border Security and Immigration Enforcement Improvements,” Executive Office of the President, January 30, 2017, <https://www.federalregister.gov/documents/2017/01/30/2017-02095/border-security-and-immigration-enforcement-improvements>.

24 “Executive Order on Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border,” The White House, February 2, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing/>.

25 “Enhancing Public Safety in the Interior of the United States,” Executive Office of the President, January 30, 2017, <https://www.federalregister.gov/documents/2017/01/30/2017-02102/enhancing-public-safety-in-the-interior-of-the-united-states>.

26 “Executive Order on the Revision of Civil Immigration Enforcement Policies and Priorities,” The White House, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-the-revision-of-civil-immigration-enforcement-policies-and-priorities/>.

27 “Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA),” The White House, January



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## **Open-Borders Policies Implemented:**

***Mass Release of Illegal Aliens Under “Catch and Release”:*** In short, the Biden administration’s policy is one of “catch and release”. Under this policy, CBP has released at least 2.02 million illegal aliens into the country,<sup>28</sup> while recording another 1.5 million known gotaways.

The actual number is almost certainly hundreds of thousands higher, given the lack of release data reported by ICE and CBP’s Office of Field Operations (OFO) after June 30, 2022. This means *at least* 3.5 million illegal aliens are newly in the United States on Biden and Mayorkas’ watch—almost certainly to stay, given the Biden administration’s lax policy on deportations.

This removal of consequences for millions of illegal border crossers, coupled with benefits like work authorization and transportation to the city of their choice upon release, has only encouraged more to make the journey to the border.

***Restrictive ICE Guidance:*** One of the administration’s first acts under Biden’s leadership was to issue new guidance to ICE which severely restricted agents’ ability to pursue, detain, and deport illegal aliens. Upon confirmation, Mayorkas carried out and later supplemented this guidance.

Under new guidance issued in February 2021, DHS made it clear that only select groups of illegal aliens were to be targets for arrest and removal. A September 2021 Mayorkas memo detailed even more radical instructions for deportations, including Mayorkas’ instruction that “the fact an individual is a removable noncitizen therefore should not alone be the basis of an enforcement action against them.”<sup>29</sup> Fortunately, the U.S. District Court for the Southern District of Texas vacated the September memorandum.<sup>30</sup>

However, the initial restrictive guidance remains in effect, and illegal aliens know that if they are released into the interior, ICE almost certainly cannot and will not deport them. This has created a seemingly insurmountable problem for ICE, as well. With the release of literally millions of illegal aliens into the interior, it is unlikely ICE will ever have the logistical ability to remove them.

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20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/preserving-and-fortifying-deferred-action-for-childhood-arrivals-daca/>.

28 Andrew Arthur, “Biden’s Released at Least 2,020,522 Southwest Border Migrants,” The Center for Immigration Studies, April 17, 2023, <https://cis.org/Arthur/Bidens-Released-Least-2020522-Southwest-Border-Migrants>.

29 Alejandro Mayorkas, “Guidelines for the Enforcement of Civil Immigration Law,” U.S. Department of Homeland Security, September 30, 2021, <https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf>.

30 “MEMORANDUM OPINION AND ORDER,” The State of Texas and the State of Louisiana v. Alejandro Mayorkas, Troy Miller, Tae Johnson, and Tracy Renaud, Civil Action No. 6:21-CV-00016, (U.S. District Court Southern District of Texas Victoria Division, 2022), [https://storage.courtlistener.com/recap/gov.uscourts.txsd.1821703/gov.uscourts.txsd.1821703.240.0\\_1.pdf](https://storage.courtlistener.com/recap/gov.uscourts.txsd.1821703/gov.uscourts.txsd.1821703.240.0_1.pdf).



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Consider that in Fiscal Year (FY)2019, ICE deported more than 267,000 illegal aliens<sup>31</sup>—however, this total is a drop in the bucket compared to the total number of illegal aliens released into the interior by Mayorkas.

Joe Biden’s 100-day moratorium on deportations, issued at the start of his administration and subsequently blocked by a federal judge,<sup>32</sup> also should have been a clear warning about interior enforcement under his and Mayorkas’ leadership.

***Abuse of CBP One App:*** In January 2023, DHS announced the expanded use of the CBP One mobile app for aliens to make appointments at a port of entry to file asylum claims.<sup>33</sup> In practice, however, this expanded use had actually been underway for several months prior.<sup>34</sup>

Aliens who would otherwise have no legitimate claim to enter the United States can now schedule an appointment at a port of entry to claim asylum, and promptly be released into the interior to await resolution of their claim.

According to recent reports, in the first few months of the new policy, more than 99 percent of individuals who sought a humanitarian exemption from Title 42 requirements had their request granted.<sup>35</sup> As of mid-April, more than 75,000 applications had been completed or scheduled through Apr. 25, 2023.<sup>36</sup> And the number of those being admitted via the program is projected to increase. A CBS News report from May 31, 2023, quoted DHS officials saying the department plans to admit nearly 40,000 aliens per month via the app.<sup>37</sup>

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31 “U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report,” U.S. Immigration and Customs Enforcement, <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>.

32 Nomaan Merchant, “Judge Bars Biden from Enforcing 100-Day Deportation Ban,” AP News, January 26, 2021, <https://apnews.com/article/joe-biden-immigration-texas-barack-obama-51688033e490d50867e52ef-9c8ec574f>.

33 “Remarks by President Biden on Border Security and Enforcement,” The White House, January 5, 2023, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/01/05/remarks-by-president-biden-on-border-security-and-enforcement/>.

34 Todd Bensman, “Legalizing Border Crossing for All: The Next Stage of Biden’s Migration Crisis,” The Center for Immigration Studies, November 21, 2022, <https://cis.org/Bensman/Legalizing-Border-Crossing-All-Next-Stage-Bidens-Migration-Crisis>.

35 Adam Shaw, “Over 99% of Migrants Who Have Sought Title 42 Exception via CBP One App Were Approved,” Fox News, April 14, 2023, <https://www.foxnews.com/politics/99-percent-migrants-sought-title-42-exception-cbp-one-app-approved>.

36 Ibid.

37 Camilo Montoya-Galvez, “U.S. Plans to Admit Nearly 40,000 Asylum-Seekers per Month through Mobile App,” CBS News, May 31, 2023, <https://www.cbsnews.com/news/asylum-seekers-cbp-one-mobile-app-u-s-plans-admit-nearly-40000-monthly/>.



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***Empowering a Vast NGO Network to Facilitate Illegal Immigration:*** DHS has also worked closely with a vast network of non-governmental organizations (NGOs), particularly those located at the border, to help spread illegal aliens across the country. These groups receive hundreds of millions of taxpayer dollars to provide services to illegal aliens once they are released by CBP, including food, lodging, and transportation to the destination of their choice.<sup>38</sup>

To avoid the embarrassing optics of overcrowded facilities, these illegal aliens have been released to the NGOs since the early days of the crisis in 2021, who have provided logistical support CBP cannot.

The Government Accountability Office (GAO) leaves no doubt about this collaboration, per a report issued Apr. 19, 2023. In the study, the GAO notes, “When releasing these noncitizens into the U.S., DHS components such as CBP and U.S. Immigration and Customs Enforcement (ICE) may coordinate with nonprofit organizations (nonprofits) that provide services such as food, shelter, and transportation,” further finding that the Federal Emergency Management Agency (FEMA) gives money to these NGOs to provide services to illegal aliens.<sup>39</sup>

The report also leaves no room for doubt that federal funds provided to these groups, particularly under the Emergency Food and Shelter Program-Humanitarian Relief (ESFP-H), go to purchasing services for illegal aliens.

FEMA has been given hundreds of millions of new taxpayer dollars to continue handing out to these groups,<sup>40</sup> money that is potentially being misused on a grand scale, according to a recent DHS Office of the Inspector General (OIG) report.<sup>41</sup>

***Under the Cover of Darkness—Illegal Alien Flights:*** DHS has also been caught sending illegal aliens throughout the country on charter and commercial flights, often under the cover of night.

Perhaps the most notorious example of DHS’ efforts to ferry illegal aliens throughout the country on these flights was in Westchester County, New York, where at least 2,000 minors were flown without coordination with local officials between June-October 2021.<sup>42</sup>

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38 Andrew Arthur, “Massive Spending Bill Includes \$785 Million to Feed, House, and Transport Migrants,” The Center for Immigration Studies, December 30, 2022, <https://cis.org/Arthur/Massive-Spending-Bill-Includes-785-Million-Feed-House-and-Transport-Migrants>.

39 “Southwest Border: DHS Coordinates with and Funds Nonprofits Serving Noncitizens,” U.S. Government Accountability Office, April 19, 2023, <https://www.gao.gov/assets/gao-23-106147.pdf>.

40 Ibid.

41 Adam Shaw, “DHS OIG Finds Millions in American Rescue Plan Funds Misused by NGOs, Given to ‘got-away’ Illegal Immigrants,” Fox News, March 31, 2023, <https://www.foxnews.com/politics/dhs-oig-finds-millions-american-rescue-plan-funds-misused-ngos-given-gotaway-illegal-immigrants>.

42 Miranda Devine, et al., “Biden Secretly Flying Underage Migrants into NY in Dead of Night,” The New York Post, October 18, 2021, <https://nypost.com/2021/10/18/biden-secretly-flying-underage-migrants-into-ny-in-dead-of-night/>.



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Following the arrival of one such night flight, contractors getting off the plane refused to say who they were working with when questioned by airport security personnel. One told staff, “You want to try and be as down-low as possible. A lot of this is just down-low stuff that we don’t tell people because what we don’t want to do is attract attention. We don’t want the media. Like we don’t even know where we’re going when they tell us.”<sup>43</sup> The flights were suspended following public outcry, but the Biden administration restarted them in the spring of 2022.<sup>44</sup>

Illegal aliens have also been documented boarding commercial flights, carrying packets indicating they don’t speak English and may need help transiting to their destinations.<sup>45</sup>

***Releasing Illegal Aliens Outside Proper Procedure:*** Since early 2021, hundreds of thousands of illegal aliens have been released into the interior in such a way that DHS cannot possibly track them, hold them accountable for missing a court date, or ultimately remove them. One report found that out of more than 100,000 individuals released by Border Patrol just between March 21-Aug. 31, 2021, with a Notice to Appear (NTA) in court, more than 47,000 failed to show up.<sup>46</sup>

In the early months of the crisis, more than 50,000 illegal aliens were released without court dates at all, and only 13 percent had reported to ICE as instructed.<sup>47</sup> Two years later, NBC reported that since March 2021, approximately 600,000 illegal aliens had been released into the interior without court dates.<sup>48</sup>

The crisis has backlogged the system so badly that some aliens may have to wait as long as a decade, until 2033, for a court date.<sup>49</sup>

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43 Miranda Devine, “Leaked Video Reveals Joe Biden’s ‘hush Hush’ Migrant Invasion,” The New York Post, January 26, 2022, <https://nypost.com/2022/01/26/leaked-video-reveals-joe-bidens-hush-hush-migrant-invasion/>.

44 Christopher Sadowski, et al., “Biden Administration Resumes Migrant Flights to Airport Outside NYC,” The New York Post, April 15, 2022, <https://nypost.com/2022/04/15/biden-administration-resumes-migrant-flights-to-airport-outside-nyc/>.

45 Fred Lucas, “Biden Border Policy Lets Illegal Immigrants Fly American Without ID,” The Daily Signal, April 30, 2021, <https://www.dailysignal.com/2021/04/30/exclusive-illegal-immigrants-fly-american-courtesy-of-biden-border-policy/>.

46 Anna Giaritelli, “47,705 Migrants Released with Instructions to Report to ICE Have Gone Missing under Biden,” The Washington Examiner, January 11, 2022, <https://www.washingtonexaminer.com/news/47-705-migrants-released-with-instructions-to-report-to-ice-have-gone-missing-under-biden>.

47 Stef Kight, “50,000 Migrants Released; Few Report to ICE,” Axios, July 27, 2021, <https://www.axios.com/2021/07/27/migrant-release-no-court-date-ice-dhs-immigration>.

48 Julia Ainsley, “Nearly 600,000 Migrants Released inside U.S. since 2021 with No Court Date,” NBC News, February 3, 2023, <https://www.nbcnews.com/politics/immigration/nearly-600000-migrants-crossed-border-released-inside-us-rcna68687>.

49 Steven Nelson, “NYC ICE ‘Mostly Booked’ Through 2033 for Migrants Needing Court Dates,” The New York Post, April 18, 2023, <https://nypost.com/2023/04/18/nyc-ice-mostly-booked-through-2033-for-migrants-needing-court-dates/>.



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## **Summary Conclusion and Findings**

The ending of effective border security policies, and their replacement with policies of mass catch-and-release and removal of consequences for illegal entry, has created the worst border crisis in American history.

As commander-in-chief, Biden's culpability is clear. However, Congress has a duty to examine and investigate Mayorkas' role in this crisis, as well. As the top cabinet official charged with defending and securing the homeland, Mayorkas has a responsibility to the American people to uphold his oath of office, and to protect and defend the homeland.

The chaos and carnage at the border, and that which has been sparked in communities across this country by the crisis, has led congressional leaders to demand Mayorkas resign.

On Nov. 22, 2022, then-incoming Speaker of the House Kevin McCarthy, R-Calif., told Mayorkas to resign over his handling of the border or face the full weight of congressional oversight.

"If Secretary Mayorkas does not resign, House Republicans will investigate every order, every action, and every failure to determine whether we can begin an impeachment inquiry," he declared at a press conference in El Paso, Texas.<sup>50</sup>

The purpose of the House Committee on Homeland Security's investigation is not to determine whether Mayorkas has done a good job as secretary—he clearly has not.

Rather, this investigation is focused on determining whether Mayorkas has violated his oath, failed to carry out his constitutional obligations to the homeland, and been derelict in his duty, and thus deserving of greater accountability. The American people deserve the answers to these questions, and through this investigation, Congress will provide them.

This preliminary report provides the Committee's initial assessment of the causes, costs, and consequences of the ongoing border crisis.

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<sup>50</sup> Lisa Mascaro, "GOP's McCarthy Threatens to Impeach Mayorkas over Border," AP News, November 22, 2022, <https://apnews.com/article/biden-kevin-mccarthy-impeachments-alejandro-mayorkas-border-security-5b2a8fa00a8cc724922b89c328fe6609>.





# EXECUTIVE SUMMARY

## **Preliminary Findings**

In its initial investigation into the border security policies of the Biden administration, this Committee has reached the following preliminary conclusions:

- That the Biden administration, at the direction of the president and his most senior officials, terminated, suspended, or rolled back numerous border-security policies that had brought illegal immigration to historic lows;
- That, in addition to the policies terminated by the Biden administration, those implemented at the direction and under the leadership of both Biden and Mayorkas have proven directly responsible for the historic border crisis still ongoing today;
- That the agenda of the Biden administration under Biden and Mayorkas' leadership effectively amounts to a policy of open borders, resulting in a catastrophic loss of human life and dignity, record fiscal costs to the federal and state governments, and unprecedented profits for the TCOs operating in Mexico and the United States; and
- That Secretary Mayorkas, as the head of DHS, bears particular responsibility for the devastating crisis that has unfolded and expanded on his watch and due to his policies.



Source: U.S. Border Patrol



## BORDER CRISIS BY THE NUMBERS

- Under the Biden administration, apprehensions at the Southwest border have exceeded 5.2 million, with total nationwide apprehensions totaling more than 6.1 million.<sup>51</sup>
- CBP has also recorded more than 1.5 million known gotaways during that time, bringing total apprehensions plus known gotaways to more than 7.6 million in just two years.<sup>52</sup>
- Since Oct. 1, 2020, CBP has recorded more than 92,000 arrests of individuals with criminal convictions or those with outstanding warrants.<sup>53</sup>
- Border Patrol arrests of criminal illegal aliens have exploded, as well.<sup>54</sup>
  - In FY22, Border Patrol arrested illegal aliens with a combined 62 convictions for homicide and manslaughter, up from just three in FY20.
  - Convictions for sexual offenses among aliens arrested in FY20 totaled 156, increasing to 488 in FY21 and 365 in FY22.
  - The number of convictions for theft hit 896 in FY22, up from 143 in FY20.
- Through April, CBP has seized more than 17,000 pounds of fentanyl along the Southwest border in FY23,<sup>55</sup> including more than 1,500 pounds between ports of entry (POEs).<sup>56</sup>
- The chaos at the Southwest border has fueled historic profits for the cartels. In 2021, human trafficking alone generated as much as \$13 billion in cartel revenue.<sup>57</sup>
- Since the beginning of FY21, 212 individuals on the Terrorist Screening Data Set (TSDS) have been apprehended between POEs at the Southwest and Northern borders. By contrast, Border Patrol apprehended just 14 illegal aliens on the TSDS from FY17-20.<sup>58</sup>

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51 U.S. Customs and Border Protection Newsroom, *supra* note 2.

52 “Chairmen Green, Comer, Jordan Investigate Biden Admin’s Handling of Suspected Terrorists Crossing U.S.-Mexico Border,” Majority Committee on Homeland Security, May 19, 2023, <https://homeland.house.gov/chairmen-green-comer-jordan-investigate-biden-admins-handling-of-suspected-terrorists-crossing-u-s-mexico-border/>.

53 U.S. Customs and Border Protection Newsroom, *supra* note 2.

54 “Criminal Noncitizen Statistics Fiscal Year 2023,” U.S. Customs and Border Protection Newsroom, April 14, 2023, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/criminal-noncitizen-statistics>.

55 U.S. Customs and Border Protection Newsroom, *supra* note 2.

56 “Full Committee Field Hearing: ‘Failure By Design: Examining Secretary Mayorkas’ Border Crisis,” Homeland Security Committee Events, YouTube video, 1:34:23, March 15, 2023, Full Committee Field Hearing: “Failure By Design: Examining Secretary Mayorkas’ Border Crisis”.

57 Miriam Jordan, “Smuggling Migrants at the Border Now a Billion-Dollar Business,” *The New York Times*, July 25, 2022, <https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html>.

58 U.S. Customs and Border Protection Newsroom, *supra* note 2.



## BORDER CRISIS BY THE NUMBERS

- Per CBP, individuals from more than 160 countries have been apprehended crossing the border illegally, including aliens from countries on the State Sponsors of Terrorism list.<sup>59</sup>
- The number of Chinese nationals illegally crossing has skyrocketed. Apprehensions along the Southwest border jumped from 450 in FY21 to 9,854 in the first seven months of FY23. Chinese nationals are increasingly crossing the Northern border illegally, also.<sup>60</sup>
- In FY22, Mayorkas established a target to deport 91,500 criminal illegal aliens—down from 151,000 in FY20. ICE ultimately only removed 38,447 convicted criminal aliens. ICE’s FY24 budget justification initially set a target of a mere 29,389,<sup>61</sup> a number that has since been replaced with “TBD” in the budget document.<sup>62</sup>
- From March 2021-January 2023, nearly 600,000 illegal aliens were released without court dates.<sup>63</sup>



Source: U.S. Border Patrol

<sup>59</sup> Robert Sherman, “Migrants from More than 160 Countries Encountered at Border,” NewsNation, October 6, 2022, <https://www.newsnationnow.com/us-news/immigration/migrants-from-more-than-160-countries-encountered-at-border/>.

<sup>60</sup> U.S. Customs and Border Protection Newsroom, *supra* note 17.

<sup>61</sup> Kristen Ziccarelli, “Expert Insight: Biden Administration Deprioritizes Criminal Alien Deportation in FY 24 Budget,” America First Policy Institute Center for Homeland Security and Immigration, April 11, 2023, <https://americafirstpolicy.com/latest/print/expert-insight-biden-administration-deprioritizes-criminal-alien-deportation-in-fy24-budget>.

<sup>62</sup> “U.S. Immigration and Customs Enforcement Budget Overview,” U.S. Department of Homeland Security, [https://www.dhs.gov/sites/default/files/2023-03/U.S%20IMMIGRATION%20AND%20CUSTOMS%20ENFORCEMENT\\_Remediated.pdf](https://www.dhs.gov/sites/default/files/2023-03/U.S%20IMMIGRATION%20AND%20CUSTOMS%20ENFORCEMENT_Remediated.pdf).

<sup>63</sup> Ainsley, *supra* note 47.



# CONSEQUENCE 1: CARTELS HAVE TAKEN ADVANTAGE OF AMERICA'S OPEN BORDERS

## ***1. Cartels Now Control the Southwest Border***

The Biden administration's open-borders policies have empowered and emboldened these vicious, ruthless, and savage organizations that pose a massive threat to American safety and security.

The cartels have seized control of the Southwest border and used this control to smuggle record amounts of narcotics and people across, pocketing historic profits in the process.

Since January 2021, millions of individuals have made the journey through Mexico to the Southwest border in hopes of gaining entry into the United States. The cartels have been the natural beneficiaries.

As a June 2022 report from the Senate Foreign Relations Committee points out, the cartels control the migration routes through Mexico, and exert near-complete control on the movement of individuals through the country, particularly at and near the Southwest border.<sup>64</sup> It is essentially impossible to cross without paying them, according to former Border Patrol Chief Rodney Scott.<sup>65</sup>

The New York Times' Miriam Jordan has reported the same finding, writing in July 2022, "Migrant smuggling on the U.S. southern border has evolved over the past 10 years from a scattered network of freelance 'coyotes' into a multi-billion-dollar international business controlled by organized crime, including some of Mexico's most violent drug cartels."<sup>66</sup>

The unmitigated tide of individuals through Mexico has represented a windfall for the cartels, who have successfully smuggled or trafficked millions of illegal aliens across the border, forcing Border Patrol agents to apprehend, transport, and process unprecedented numbers of people rather than conduct their frontline security mission.

Border Patrol Chief Ortiz testified before the House Committee on Homeland Security in March 2023 that DHS did not have operational control of the Southwest border.<sup>67</sup> This loss of operational control to the cartels continues to present a challenge to CBP's security mission and the sovereignty of the United States. This testimony, from a Border Patrol agent with more than 30 years of experience, contradicted Mayorkas' sworn testimony in April 2022 that DHS did have operational control of the border.<sup>68</sup>

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64 "Biden's Border Crisis: Examining Policies That Encourage Illegal Migration," U.S. Senate Committee on Foreign Relations, June 2022, [https://www.risch.senate.gov/public/\\_cache/files/5/0/5082e293-b23d-4726-a581-dc428517a843/9FB8D6A16D2415A013D48761339299C6.bidens-border-crisis.pdf](https://www.risch.senate.gov/public/_cache/files/5/0/5082e293-b23d-4726-a581-dc428517a843/9FB8D6A16D2415A013D48761339299C6.bidens-border-crisis.pdf).

65 Virginia Allen, "Former Border Patrol Chief Explains How Cartels Control Southern Border," The Daily Signal, February 10, 2023, <https://www.dailysignal.com/2023/02/10/no-one-crosses-unlawfully-from-mexico-without-working-with-cartels-former-border-patrol-chief-says/>.

66 Jordan, *supra* note 56.

67 "User Clip: Chief Ortiz Admits No Operational Control Over Border," C-SPAN, March 15, 2023, <https://www.c-span.org/video/?c5062135/user-clip-chief-ortiz-admits-operational-control-border>.

68 "Oversight of the Department of Homeland Security," Congress.gov, April 28, 2022, <http://www.congress.gov/event/117th-congress/house-event/LC69767/text>.



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Law enforcement veterans, local officials, and national security experts agree that the decreased presence of Border Patrol agents and other law enforcement has yielded this control of the United States' sovereign border to the cartels.

Former ICE Acting Director Tom Homan recently told Fox News, "We have lost operational control of our southern border. We no longer control it. The criminal cartels control it. I've talked to several chief patrol agents who told me they have lost operational control of the border. They cannot control the flow coming in."<sup>69</sup>

Former Border Patrol Chief Scott was even more explicit.

"They control the border today. And they control the border today under the Biden administration because of this mass migration to a level that they've never had. And I mean...they don't worry hardly at all about what they're trying to get in because their success rate is so high," he said earlier this year.<sup>70</sup>

Cochise County, Arizona Sheriff Mark Dannels told NewsNation in March 2023 the cartels "have the will, they have the structure, and they're exploiting" the administration's open-borders policies.<sup>71</sup>

Former acting DEA Chief Uttam Dhillon told a Washington, D.C., forum in March 2022, "Mexican cartels basically control our border now."<sup>72</sup>

The agreement is also bipartisan. In May, Arizona Democratic Sen. Kyrsten Sinema said, "The cartels are incredibly well-resourced and they're very strategic, so they're pushing people through different parts of the border at different times with different prices for different purposes, and they're controlling what's happening on the southern border, not the United States government."<sup>73</sup>

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69 "Tom Homan Says Biden Has Lost 'Operational Control' of the Border," Fox News, April 4, 2022, <https://www.foxnews.com/media/tom-homan-title-42-border-biden-lost-control>.

70 Allen, supra note 64.

71 "Ariz. Sheriff: Cartels Have 'Structure' to Control Border," NewsNation Live, YouTube video, 0:00, March 16, 2023, [https://www.youtube.com/watch?v=G\\_7cUnwJIKw](https://www.youtube.com/watch?v=G_7cUnwJIKw).

72 Maggie Hroncich, "Officials Assail Biden Inaction: 'Mexican Cartels Basically Control Our Border Now,'" The Daily Signal, March 15, 2022, <https://www.dailysignal.com/2022/03/15/officials-assail-biden-inaction-mexican-cartels-basically-control-our-border-now/>.

73 Kevin Stone, "Sen. Kyrsten Sinema Blasts Biden Administration over Title 42 End," KTAR News, May 11, 2023, <https://ktar.com/story/5494615/sen-kyrsten-sinema-blasts-biden-administration-over-handling-of-title-42-end/>.



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## ***II. Open Borders Equal Record Profits, Expanded Arsenals for the Cartels***

The sheer volume of people and drugs the cartels are moving across the border has generated profit margins beyond the cartels' wildest dreams. In February 2021 alone, at the outset of the crisis, the Border Patrol estimated the cartels made \$14 million per day smuggling illegal aliens across the border.<sup>74</sup>

Per reporting from the New York Times, the cartels may have made as much as \$13 billion just from human trafficking and smuggling in 2021, a year in which CBP recorded around 1.5 million apprehensions at the Southwest border.

In FY22, this number jumped to 2.37 million, and through April, FY23 is on pace to total more than 2.45 million apprehensions. That's before counting another 1.5 million known gotaways on Biden and Mayorkas' watch, who not only pay the cartels to cross, but often "pay premium rates" to avoid apprehension.<sup>75</sup>

As these numbers continue to rise, so do the cartels' profits. Lucrative drug operations add even more revenue. Estimates are difficult to calculate precisely, but a report published by ICE as far back as 2010 estimated the cartels made nearly \$30 billion on drug trafficking.<sup>76</sup>

That money goes right back to expanding the operations of the cartels who control the routes, to include building out massive paramilitary capabilities. Journalist Todd Bensman, who is also a Texas Department of Public Safety (DPS) veteran, wrote in a recent op-ed that there is "plenty of evidence to suggest" that the cartels have acquired the capability to "outgun" the Mexican government:

"It's impossible to know how much military hardware the revenues from the Biden border crisis have paid for, but the cartels are clearly reinvesting their massive profits. ... These are armies, with highly trained special forces units, supported by professional intelligence operations and run by warlords. I'm not alone in my estimation that Biden's cartel-enriching mass migration crisis poses serious threats to important U.S. national interests, including many that are rarely discussed out loud, such as Mexican trade."<sup>77</sup>

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74 William La Jeunesse, "US-Mexico Border Traffickers Earned as Much as \$14M a Day Last Month: Sources," Fox News, March 22, 2021, <https://www.foxnews.com/politics/us-mexico-border-traffickers-million-february>.

75 Nick Miroff, "Border Officials Say More People Are Sneaking Past Them as Crossings Soar and Agents Are Overwhelmed," The Washington Post, April 2, 2021, [https://www.washingtonpost.com/national/got-aways-border/2021/04/01/14258a1e-9302-11eb-9af7-fd0822ae4398\\_story.html](https://www.washingtonpost.com/national/got-aways-border/2021/04/01/14258a1e-9302-11eb-9af7-fd0822ae4398_story.html).

76 "United States of America-Mexico Bi-National Criminal Proceeds Study," U.S. Immigration and Customs Enforcement, <https://www.ice.gov/doclib/cornerstone/pdf/cps-study.pdf>.

77 Todd Bensman, "Mexico's Cartels Are Getting Rich and Powerful off of Biden's Mass Migration Crisis," The Daily Mail, December 22, 2022, <https://www.dailymail.co.uk/news/article-11563659/Mexicos-cartels-getting-rich-powerful-Bidens-mass-migration-crisis-TODD-BENSMAN.html>.

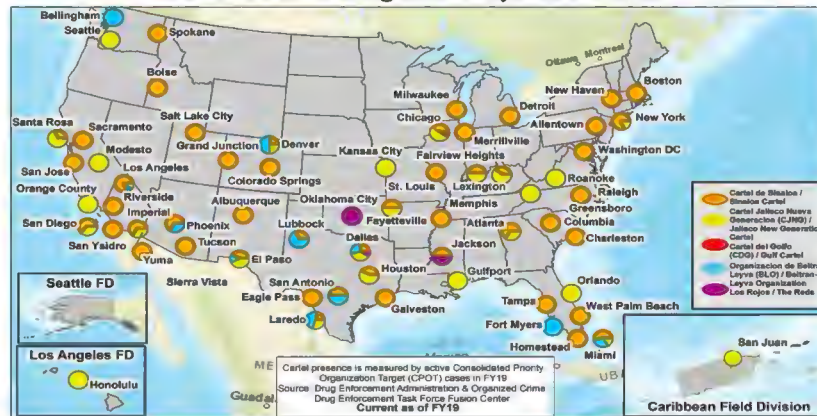


# CONSEQUENCE 1: CARTELS HAVE TAKEN ADVANTAGE OF AMERICA'S OPEN BORDERS

## III. Cartel Operations in the United States

The cartels do not limit their operations to Mexico and the immediate border regions. They have long operated in American cities, and as the Biden border crisis continues to expand, so has the reach and influence of these groups. The Drug Enforcement Administration's (DEA) latest assessment in 2020 found major Mexican cartels are already operating in at least 60 American cities. That activity extends as far south as Miami, and as far north as Bellingham, Washington.<sup>78</sup>

Figure 58. United States: Areas of Influence of Major Mexican Transnational Criminal Organizations by Individual Cartel



Source: Drug Enforcement Administration

**Use of Stash Houses:** Stash houses are homes, apartments, or even hotels rooms used by the cartels to hide large groups of illegal aliens after they have been brought into the country. These groups are kept in squalid, unsanitary, and inhumane conditions before the TCOs are ready to smuggle them onto their next destination in the United States.

The use of stash houses by these organizations has exploded since the Biden border crisis began. In May 2021, in the early days of the crisis, Texas DPS and Border Patrol officials reported a 400-percent increase in the number of illegal aliens rescued from stash houses.<sup>79</sup> Since October 2022, in the El Paso Sector alone, Border Patrol has discovered more than 165 stash houses, containing more than 2,400 individuals.<sup>80</sup>

78 “2020 National Drug Threat Assessment,” U.S. Department of Justice Drug Enforcement Administration, March 2021, [https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment\\_WEB.pdf](https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf).

79 Adolfo Muniz, “Texas DPS Says Human Smugglers Using Color-Coded Wristband System at the U.S.-Mexico Border,” Spectrum News 1, May 15, 2021, <https://spectrumlocalnews.com/tx/south-texas-el-paso/news/2021/05/14/texas-dps-says-human-smugglers-using-color-coded-wristband-system-at-the-u-s--mexico-border->.

80 Chief Raul Ortiz [@USBPChief], “51 Migrants Located in a Single Stash House! US Border Patrol El Paso Sector Human Smuggling Interdiction Teams Have Uncovered over 165 Stash Houses in the Region with over 2,421 Migrants so Far in FY23. Outstanding Work Is Being Done at EPT! @USBPChiefEPT <https://t.co/90AJ6xC7SH>,” Tweet, Twitter, April 28, 2023, <https://twitter.com/USBPChief/status/1652010403734384640>.



## CONSEQUENCE 1: CARTELS HAVE TAKEN ADVANTAGE OF AMERICA'S OPEN BORDERS

For comparison, in 2022, El Paso agents uncovered 232 stash houses.<sup>81</sup> In FY20, Border Patrol uncovered 397 stash houses across all jurisdictions.<sup>82</sup>

The New York Times' Jordan wrote in 2022, "Over the past year, federal agents have raided stash houses holding dozens of migrants on nearly a daily basis."<sup>83</sup>

Since January 2021, CBP and ICE—to say nothing of state and local law enforcement—have had to conduct hundreds of operations to shut down stash houses and break up these criminal enterprises, with CBP's press page alone documenting the routine occurrence of these operations on Mayorkas' watch.<sup>84</sup>

- In May 2023, Border Patrol agents in Santa Teresa, New Mexico, found more than 50 illegal aliens "living in deplorable conditions" in a stash house.<sup>85</sup>
- In April 2023, CBP and Texas DPS conducted operations at two separate stash houses in El Paso, finding more than 140 illegal aliens.<sup>86</sup>
- On March 27, 2023, Texas DPS moved on a stash house in El Paso where 23 illegal aliens were being held. Officials also discovered a shrine to Santa Muerte in the house, the patron saint of the cartels.<sup>87</sup>
- In April 2022, Border Patrol disrupted operations at four stash houses in 24 hours, leading to the apprehension of 53 illegal aliens. The stash houses were part of El Paso apartment complexes and motels.<sup>88</sup>

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81 MaryAnn Martinez, "Border Patrol Waging War on Cartels with Migrant 'Stash House' Busts," The New York Post, April 6, 2023, <https://nypost.com/2023/04/06/border-patrol-waging-war-on-cartels-with-stash-house-busts/>.

82 John Davis, "CBP Fights Human Smuggling and Stash Houses," U.S. Customs and Border Protection Frontline Magazine, last modified June 12, 2023, <https://www.cbp.gov/frontline/cbp-fights-human-smuggling-and-stash-houses>.

83 Jordan, supra note 56

84 "Media Releases." U.S. Customs and Border Protection Newsroom, accessed June 12, 2023, <https://www.cbp.gov/newsroom/media-releases/all>.

85 Dave Burge, "Border Patrol Finds More than 50 Migrants in 'Deplorable Conditions' in Stash House," KTSM 9 News, May 13, 2023, <https://www.ktsm.com/news/border-patrol-finds-more-than-50-migrants-in-deplorable-conditions-in-stash-house/>.

86 Patrick Reilly, "Border Forces Find over 140 Illegal Migrants in Stash House Raids," The New York Post, April 4, 2023, <https://nypost.com/2023/04/04/border-forces-find-over-140-illegals-in-stash-house-raids/>.

87 Louis Casiano, "Texas Illegal Immigrant Stash House Found with Shrine to Cartel 'Santa Muerte' Saint inside," Fox News, March 28, 2023, <https://www.foxnews.com/us/texas-illegal-immigrant-stash-house-shrine-cartel-santa-muerte-saint>.

88 "Four stash houses busted in 24-hours," U.S. Customs and Border Protection Office of Public Affairs, April 8, 2022, <https://www.cbp.gov/newsroom/local-media-release/four-stash-houses-busted-24-hours>





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Stash houses also represent a major humanitarian concern. According to Border Patrol agent Fidel Baca, “So you have criminals inside these homes. A lot of the times they’ve committed serious crimes, crimes against people, crimes of sexual assault, crimes of assault, and they are caretaking for lots of people, people in which we have vulnerable populations. We have children, we have women in these homes, and they are being taken care of by criminals.”<sup>89</sup> The family members of those in the stash houses are often extorted by the smuggling groups for even more money.<sup>90</sup>



Source: U.S. Border Patrol/CBP

According to now-Border Patrol Deputy Chief Matthew Hudak: “They’ll stockpile them for a couple of days in one of these stash houses until they have enough people to put in a tractor-trailer, then lock it with no way for them to escape the brutal South Texas heat. When we open up these containers, and it’s well over 105 degrees with no ventilation, no personal protective equipment, such as masks, no water. It’s tragic.”<sup>91</sup>

The tragedy in San Antonio last summer, where more than 50 people, including 5 minors, died after being trapped in the back of a locked semi-trailer, is devastating proof of how these people are treated like cargo.<sup>92</sup>

**Drone Operations:** Another area in which the cartels have developed and deployed sophisticated new tactics is the use of drones to conduct surveillance and intelligence-gathering operations, as well as to deliver narcotics across the border.

If Border Patrol agents are stretched to the breaking point trying to patrol the border and apprehend illegal aliens and narcotics coming across on the ground, imagine the extra nightmare these drone operations represent.

Texas DPS Lt. Chris Olivarez recently put it this way: “They’re able to scout everything and watch what we are doing, every movement we are making. That’s why it’s a cat and mouse game and we have to try and be one step ahead of them.”<sup>93</sup>

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89 Ariana Parra, “El Paso Sector Border Patrol Tells Community to Keep an Eye out for Stash Houses,” KFOX, April 6, 2023, <https://kfoxtv.com/news/local/el-paso-sector-border-patrol-tells-community-to-keep-an-eye-out-for-stash-houses-report-smuggling>.

90 Mark Krikorian, “The Human Cost of Open-ish Borders,” National Review, March 3, 2021, <https://www.nationalreview.com/corner/the-human-cost-of-open-ish-borders/>.

91 Davis, supra note 82.

92 “Death Toll Rises to 53 after Bodies of Migrants Found in Texas Tractor-Trailer,” CBS News, June 29, 2022, <https://www.cbsnews.com/news/san-antonio-migrants-texas-tractor-trailer-dead-injured/>.

93 Robert Sherman, “For Texas Border Officials, Cartel Drones Are the Latest Headache,” NewsNation, January 19, 2023, <https://www.newsnationnow.com/us-news/immigration/border-coverage/for-texas-border-officials-cartel-drones-are-the-latest-headache/>.



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Border Patrol Agent Gloria Chavez, sector chief of the Border Patrol's Rio Grande Valley Sector, has noted the cartels "have 17 times the number of drones, twice the amount of flight hours and unlimited funding to grow their operations."<sup>94</sup>

During a recent hearing conducted by the House Committee on Homeland Security, Rep. Monica De La Cruz, R-Tex., told the Committee that drone operations just in the Rio Grande Valley Sector posed a massive challenge for Border Patrol—one they are simply unable to fully handle: "The cartel drone detections just right here in the RGV sector in FY22 was 35,000 drone detections. ... Out of the 35,000 drone detections, only 10,000 were intercepted."<sup>95</sup>

*Complex Human Trafficking/Smuggling Operations:* According to DHS and state law enforcement officials, the cartels are also engaged in complex operations to smuggle and traffic illegal aliens across the border into the United States.

One of the ways in which they do so is by using a complex system of wristbands which essentially create an inventory of those who have paid, where individuals are going, which TCO is responsible for smuggling the alien, and other similar logistical information.

Jaeson Jones, a former Texas DPS captain and expert on cartels, told the Center for Immigration Studies (CIS) researchers in early 2021, "What this means is that the cartels and the smuggling organizations have created a process because they are being so overrun with people that, even for them, it's difficult to keep up with who has paid and who hasn't."<sup>96</sup>

These wristbands and the registration process that goes along with them also help the cartels keep track of who maintains outstanding debts to the organization and will be required to work those debts off later once they arrive in the United States.

According to Jones, "If they don't pay their debt then the cartel has the information about where they're going, but more importantly, they have the information on their families in home countries. From there, they can start the threats and hold them accountable through debt bondage, a form of human trafficking. Either pay or we're going to come after your family."<sup>97</sup>

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<sup>94</sup> Ali Bradley and Robert Sherman, "Border Patrol Agent Says Drug Cartels Using Drones," NewsNation, February 8, 2023, <https://www.newsnationnow.com/us-news/immigration/border-coverage/border-agent-cartels-using-drones/>.

<sup>95</sup> "Full Committee Field Hearing: 'Failure By Design: Examining Secretary Mayorkas' Border Crisis," Homeland Security Committee Events, YouTube video, 1:52:14, March 15, 2023, <https://www.youtube.com/live/7Z1ETzh3AUA?feature=share&t=6734>.

<sup>96</sup> Todd Bensman, "Overwhelmed Mexican Alien-Smuggling Cartels Use Wristband System to Bring Order to Business," The Center for Immigration Studies, March 2, 2021, <https://cis.org/Bensman/Overwhelmed-Mexican-AlienSmuggling-Cartels-Use-Wristband-System-Bring-Order-Business>.

<sup>97</sup> Ibid.



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Representative Henry Cuellar, D-Tex., has described another system, in which different color wristbands indicate how many times the alien has attempted to cross the border—“Those with red bands are first-time crossers and those with purple bands are not allowed to try to cross again.”<sup>98</sup>

One expert has said of these operations, “They are organizing the merchandise in ways you could never imagine five or 10 years ago.”<sup>99</sup>

## ***IV. Open Borders Are Empowering Gangs Like MS-13***

Texas DPS Director Steve McGraw said earlier this year that criminal gangs “work to support cartel operations on both sides of the border. They certainly do it, they operate in Mexico and they operate on this side too in terms of stash houses where there’s drugs and people. They extort people on the south of the border and extort them when they get to this side of the border.”<sup>100</sup>

Texas DPS estimates there are more than 100,000 gang members in the Lone Star State, many of whom maintain ties to Mexican drug cartels. Major cartels like the Sinaloa and Gulf cartels are also operating in cities like Chicago, providing drugs that are then sold and distributed by the violent street gangs in those locales.<sup>101</sup>

MS-13 is perhaps the most notorious and dangerous of these gangs. The gang’s motto of “mata, viola, controla” (“kill, rape, control”) is indicative of the group’s operations within the United States. MS-13 gang members have been convicted of crimes that devastate communities, “including extortion, drug distribution, prostitution, robbery, and murder, as well as in more transnational illicit activity such as drug trafficking and human smuggling and trafficking.”<sup>102</sup>

In October 2020, the Department of Justice released a report highlighting its efforts to combat TCOs, including MS-13. In the report, the DOJ noted 74 percent of 749 MS-13 members prosecuted by the department since 2016 were “unlawfully present” in the United States, with officials unable to verify the immigration status of another 15 percent.<sup>103</sup>

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98 Sandra Sanchez. “EXCLUSIVE: Colored Wristbands Help Cartels Track Migrants, Payments for Smuggling Them, Lawmaker Confirms,” *Border Report*, April 15, 2021, <https://www.borderreport.com/immigration/border-crime/exclusive-colored-wristbands-help-cartels-track-migrants-payments-for-smuggling-them-lawmaker-confirms/>.

99 Jordan, *supra* note 56.

100 Cecilia Treviño, “DPS Director Says Mexican Cartels Recruit U.S. Gangs,” *KGNS TV*, March 19, 2023, <https://www.kgns.tv/2023/03/19/dps-director-says-mexican-cartels-recruit-us-gangs/>.

101 Ali Bradley, “Cartels Recruit American Gangs in Smuggling Efforts,” *NewsNation*, March 21, 2023, <https://www.newsnationnow.com/us-news/immigration/border-coverage/cartels-recruit-american-gangs/>.

102 Kristin Finklea, “MS-13 in the United States and Federal Law Enforcement Efforts,” *Congressional Research Service*, August 20, 2018, R45292, <https://sgp.fas.org/crs/homesec/R45292.pdf>.

103 “Department of Justice Releases Report on Its Efforts to Disrupt, Dismantle, and Destroy MS-13,” *Department of Justice Office of Public Affairs*, October 21, 2020, <https://www.justice.gov/opa/pr/department-justice-releases-report-its-efforts-disrupt-dismantle-and-destroy-ms-13>.



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According to report, “The data also show that for decades MS-13 has exploited weaknesses in border enforcement policies...”<sup>104</sup> This was before Biden and Mayorkas implemented their radical open-borders agenda.

The gang continues to try to exploit the porous Southwest border. In August 2021, Border Patrol agents in the Rio Grande Valley Sector arrested four MS-13 gang members across Texas who attempted to illegally enter the United States.<sup>105</sup> In FY22, U.S. Border Patrol agents arrested 312 MS-13 members attempting to sneak into the United States from Mexico.<sup>106</sup>

Officials do not know how many MS-13 members have entered the United States un-apprehended or undetected during this timeframe but given the skyrocketing number of gotaways and the tendency of bad actors like violent criminals and gang members to pay more to enter the country uncaught, it is likely a number that should cause great concern.

Moreover, the historic influx of unaccompanied alien children (UACs) has also likely served to swell the ranks of vicious gangs like MS-13.

The Center for Immigration Studies' Jessica Vaughan told Congress in April 2023 that ICE officials estimate around 40 percent of the MS-13 members they arrest arrived in the United States as UACs.<sup>107</sup> A recent Florida grand jury investigation into the Biden administration's policies reported similar findings, showing that a growing number of gang members are being brought into the U.S. under the guise of being UACs:

“According to the testimony of the Border Patrol's acting chief, even as far back as 2017 it was known that at least 59 UAC had been identified as members of the MS-13 gang. That number has increased significantly; we received testimony that other gangs likewise send members and even have UAC members graduate to adulthood and apply to sponsor other UAC members.”<sup>108</sup>

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104 Ibid.

105 “MS-13 Gang Members Arrested After Illegally Entering the U.S.” U.S. Customs and Border Protection Office of Public Affairs, August 26, 2021, <https://www.cbp.gov/newsroom/local-media-release/ms-13-gang-members-arrested-after-illegally-entering-us>.

106 Anna Giaritelli, “More than 300 MS-13 Gang Members Arrested at Southern Border in Fiscal Year '22,” The Washington Examiner, October 24, 2022, <https://www.washingtonexaminer.com/news/crime/more-than-300-ms-13-members-arrested-fy-22>.

107 “Statement of Jessica M. Vaughan: The Biden Border Crisis: Exploitation of Unaccompanied Alien Children,” U.S. House Judiciary Committee Subcommittee on Immigration Integrity, Security and Enforcement, April 26, 2023, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/vaughan-testimony.pdf>.

108 “THIRD PRESENTMENT OF THE TWENTY-FIRST STATEWIDE GRAND JURY REGARDING UNACCOMPANIED ALIEN CHILDREN (UAC),” SC22-796, Twenty-First Statewide Grand Jury of Florida, (Supreme Court of Florida, March 2023), <https://www.documentcloud.org/documents/23734272-3rd-presentment-of-21st-swj>.



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In late May 2023, five illegal aliens, all of them under the age of 30, were arrested and charged with the murder of 15-year-old Limber Lopez Funez in Frederick, Maryland. Lopez had gone missing in February, and his body was discovered in a Maryland state park in April. All five suspects were found to be MS-13 gang members.<sup>109</sup>

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<sup>109</sup> "5 Immigrants Charged in Murder of Missing 15-Year-Old Frederick Boy," FOX 5 DC, May 31, 2023, <https://www.fox5dc.com/news/5-immigrants-charged-in-murder-of-missing-15-year-old-frederick-boy>.



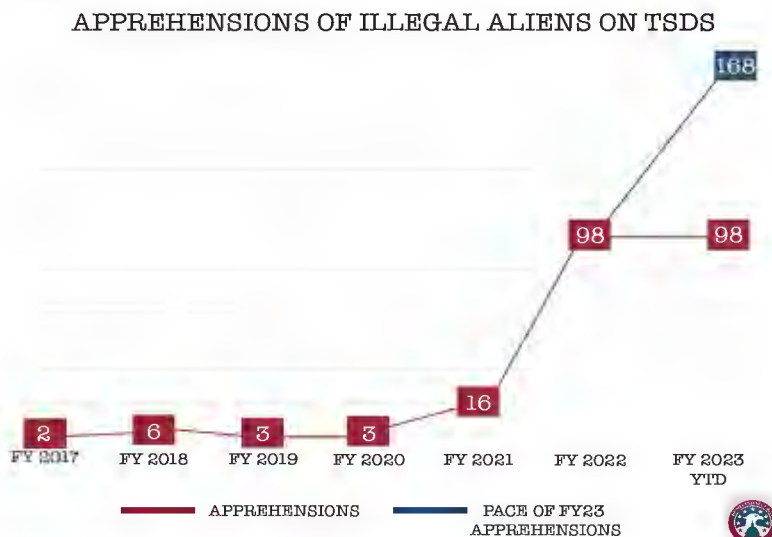
# CONSEQUENCE 2: POTENTIAL NATIONAL SECURITY THREATS POURING ACROSS THE BORDER

## I. Individuals on the Terrorist Screening Dataset Coming Across in Record Numbers

Troublingly, CBP has seen a record number of apprehensions of individuals on the Terrorist Screening Data Set (TSDS). This dataset, also known as the “terror watchlist,” is the “U.S. government’s database that contains sensitive information on terrorist identities.”<sup>110</sup>

During the Trump administration, from FY17–FY20, CBP encountered only 14 individuals at the Southwest and Northern borders who pinged on the TSDS, with most of them attempting to enter through the Southwest border.

In comparison, since FY21, 212 individuals whose names are on the TSDS have been apprehended crossing both borders illegally—all but three at the Southwest border, per CBP numbers.<sup>111</sup> Ninety-six individuals on the TSDS have been apprehended at the Southwest border so far in FY23, nearly matching FY22’s total of 98.



Source: CBP Terrorist Screening Data Set Encounters

## II. Potential National Security Threats Arriving From Other Nations

The historic number of people arriving at the Southwest border are increasingly not just from Mexico or Central America—they are coming from countries beyond the Western Hemisphere, including China and Russia.<sup>112</sup>

Chinese and Russian nationals are of particular concern, given those nations’ status as the United States’ most significant adversaries and the threat they pose to American national security.

<sup>110</sup> U.S. Customs and Border Protection Newsroom, supra note 2.

<sup>111</sup> Ibid.

<sup>112</sup> Sherman, supra note 58.



## CONSEQUENCE 2: POTENTIAL NATIONAL SECURITY THREATS POURING ACROSS THE BORDER

In addition, these countries do not cooperate with the United States when it comes to providing law enforcement-related data on those apprehended illegally crossing the border, including information on criminal histories or terrorism connections. This makes it effectively impossible to truly vet these individuals—if CBP officials even had the time to do so.

Per CBP, the number of Chinese and Russian nationals illegally crossing has skyrocketed in the last two years. From October 2022 through April of this year, Border Patrol has recorded nearly 12,000 apprehensions of Chinese nationals just at the Southwest border. In all of FY20, the number was 1,236. A similar number of Russian nationals have also been apprehended crossing the Southwest border illegally in the same timeframe.<sup>113</sup>

The Border Patrol's Chavez pointed out in March 2023 that apprehensions of Chinese nationals in FY23 had increased more than 900 percent compared to FY22,<sup>114</sup> tweeting that the surge was “creating a strain on our workforce due to the complexities of the language barrier and lengthens the processing.”<sup>115</sup> More than 60,000 Russians could illegally cross the Southwest border in 2023 if the current pace holds.<sup>116</sup>

Despite not being able to adequately vet these individuals from hostile nations, Fox News' Adam Shaw and Bill Melugin reported in February 2023 that Chinese nationals are typically processed for expedited removal, “unless they claim to have a credible fear of persecution if returned to the country—where the Chinese Communist Party holds power.”<sup>117</sup> Consequently, sources told Shaw and Melugin, “many are claiming that fear and are subsequently being released into the U.S. on their own recognizance and with a notice to appear for a court date for their immigration hearings.”<sup>118</sup>

It is simply unknown how many of those released into the interior have sinister intentions.

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113 U.S. Customs and Border Protection Newsroom, *supra* note 17.

114 Sandra Sanchez, “South Texas Sees Surge of Chinese Nationals Crossing Border Illegally, Chief Says,” *Border Report*, March 20, 2023, <https://www.borderreport.com/immigration/south-texas-sees-surge-of-chinese-migrants-crossing-border-illegally-chief-says/>.

115 Chief Patrol Agent Gloria I. Chavez [@USBPChiefRGV], “RGV Continues to Lead the Nation in Chinese Migrant Encounters. In FY23, There Have Been 1,577 Apprehensions-91% Being Single Adults. A 920% Increase Compared to FY22 Creating a Strain on Our Workforce Due to the Complexities of the Language Barrier & Lengthens the Processing. <https://t.co/X9Z4QEbNT3>,” Tweet, Twitter, March 16, 2023, <https://twitter.com/USBPChiefRGV/status/1636489039917219840>.

116 Alexander Panetta, “These Russians Are Fleeing to the U.S. — by Walking from Mexico,” *CBC News*, February 16, 2023, <https://www.cbc.ca/news/russian-migrants-arizona-border-1.6747978>.

117 Adam Shaw and Bill Melugin, “Border Patrol Apprehensions of Chinese Nationals at Southern Border up 800%: Source,” *Fox News*, February 9, 2023, <https://www.foxnews.com/politics/border-patrol-apprehensions-chinese-nationals-southern-border-800-source>.

118 *Ibid.*



## CONSEQUENCE 2: POTENTIAL NATIONAL SECURITY THREATS POURING ACROSS THE BORDER

### ***III. Not So Friendly Skies—Reassigning Air Marshals to Administrative Duty***

The Federal Air Marshals Service (FAMS) has also been impacted by the crisis, with marshals being relocated to the border to assist in understaffed jurisdictions. Per information provided to the House Committee on Homeland Security, air marshals are being placed on three-week rotations, with up to 150 air marshals and seven supervisors at the border at any given time.<sup>119</sup> This has pulled them away from their usual roles ensuring security on flights to instead perform duties unrelated to law enforcement.

According to the Air Marshals Association, the relocation of air marshals has been problematic. The association recently stated in an internal newsletter, “We have had a staggering number of retirements in the last few years. We cannot keep sending a large number of our flying FAMS to the border at the expense of our current mission, while also creating new AVO positions, which currently take more FAMS out of the air without a clearly defined job.”<sup>120</sup>

These deployments represent a potential national security risk. David Londo, president of the Air Marshal National Council, said in November 2022 that pulling marshals from their normal jobs to deal with the border crisis leaves “a gaping hole in our aviation security,” and that deploying them to the border during the holiday season was “irresponsible and dangerous.”<sup>121</sup>

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<sup>119</sup> Information provided to the Committee on April 25, 2023.

<sup>120</sup> “Message from the Ama,” Air Marshal Association, April 22, 2023

<sup>121</sup> Matthew Medsger, “Biden Admin Deploys Air Marshals to Border to Help with Migrants,” The Boston Herald, November 23, 2022, sec. Politics, <https://www.bostonherald.com/2022/11/23/biden-admin-deploys-air-marshals-to-border-to-help-with-migrants/>.





# CONSEQUENCE 3: THE FENTANYL CRISIS AND OPEN BORDERS

## ***I. Fentanyl—An Unprecedented, Deadly, and Growing Crisis***

The United States is consumed by a fentanyl crisis and it is being driven by the fentanyl flowing from Mexico across the Southwest border. Fentanyl poisoning is now the leading cause of death for Americans ages 18-49,<sup>122</sup> and the number of Americans falling victim to this deadly synthetic opioid remains unacceptably high, particularly as the Mexican cartels continue to manufacture the low-cost drug and smuggle it into the United States.<sup>123</sup>

Approximately 107,000 Americans died from drug overdoses in 2021, with more than 70,000 of those caused by fentanyl poisoning, compared to 36,359 fentanyl deaths in 2019.<sup>124</sup> In 2021, more Americans died from fentanyl poisoning than died in auto and gun-related incidents combined.<sup>125</sup> In Texas, fentanyl deaths rose 89 percent from 2020 to 2021.<sup>126</sup>

According to a recent CDC report,<sup>127</sup> the number of drug overdose deaths linked to fentanyl increased by 279 percent between 2016 and 2021,<sup>128</sup> increasing from 5.7 deaths per 100,000 to 21.6 per 100,000 in the same period.<sup>129</sup>

According to CDC data, fentanyl is the leading cause of drug-associated deaths across all age groups, and fentanyl is particularly devastating the young adult population.

The cartels' growing practice of lacing other forms of narcotics, even what look to be prescription drugs, with fentanyl is poisoning even more Americans, because many don't ever know they're ingesting the substance.<sup>130</sup>

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122 Julie Vitkovskaya and Courtney Kan, "Why Is Fentanyl so Dangerous?," The Washington Post, April 10, 2023, sec. National, <https://www.washingtonpost.com/nation/2022/11/03/fentanyl-opioid-epidemic/>.

123 "DEA Intelligence Report: Fentanyl Flow to the United States," DEA Intelligence Program Strategic Intelligence Section, DEA-DCT-DIR-008-20, January 2020, [https://www.dea.gov/sites/default/files/2020-03/DEA\\_GOV\\_DIR-008-20%20Fentanyl%20Flow%20in%20the%20United%20States\\_0.pdf](https://www.dea.gov/sites/default/files/2020-03/DEA_GOV_DIR-008-20%20Fentanyl%20Flow%20in%20the%20United%20States_0.pdf).

124 "Drug Overdose Death Rates," National Institute on Drug Abuse, February 9, 2023, <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates>.

125 "DEA Warns of Increase in Mass-Overdose Events Involving Deadly Fentanyl," U.S. Drug Enforcement Administration Media Relations, April 6, 2022, <https://www.dea.gov/press-releases/2022/04/06/dea-warns-increase-mass-overdose-events-involving-deadly-fentanyl>.

126 "Fentanyl: One Pill Kills," Texas Department of Public Safety Media and Communications Office, February 3, 2023, <https://www.dps.texas.gov/section/media-and-communications-office/fentanyl-one-pill-kills>.

127 Merianne Spencer, et al., "Estimates of Drug Overdose Deaths Involving Fentanyl, Methamphetamine, Cocaine, Heroin, and Oxycodone: United States, 2021," Report No. 27, National Center for Health Statistics, May 3, 2023, <https://www.cdc.gov/nchs/data/vsrr/vsrr027.pdf>.

128 Nicoletta Lanese, "Fentanyl Overdose Death Rates 'more than Tripled' in Recent Years, CDC Report Shows," Live Science, May 3, 2023, <https://www.livescience.com/health/medicine-drugs/fentanyl-overdose-death-rates-more-than-tripled-in-recent-years-cdc-report-shows>.

129 Ibid

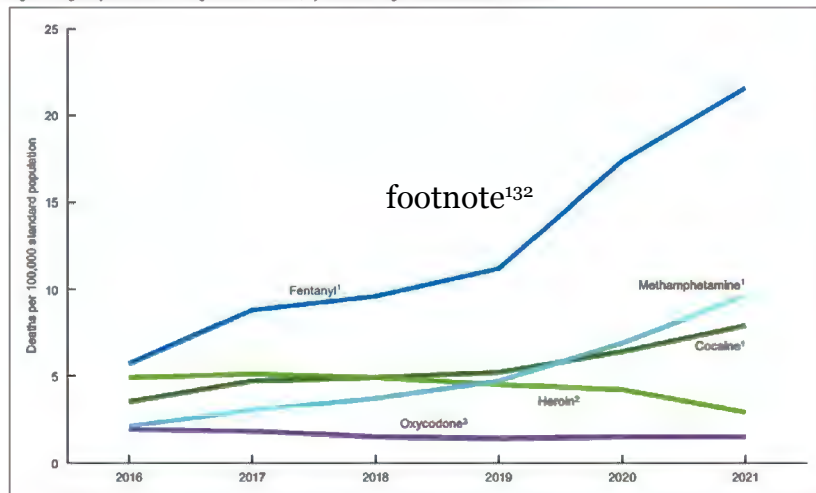
130 Ibid.



# CONSEQUENCE 3: THE FENTANYL CRISIS AND OPEN BORDERS

Indeed, the crisis is so acute that the FDA has taken the step of approving over-the-counter naloxone nasal spray to give Americans more access to life-saving treatment to counter fentanyl poisoning.<sup>131</sup>

Figure 1. Age-adjusted rates of drug overdose deaths, by selected drugs: United States, 2016–2021



Source: CDC Vital Statistics Surveillance Report

CBP’s own data shows that the cartels have attempted to smuggle more fentanyl across the Southwest border than ever before. So far this fiscal year, CBP has seized 17,000 pounds of fentanyl at the Southwest border alone, including a record 3,257 pounds in April, blowing past FY22’s total seizure of 14,100 pounds.<sup>133</sup> Troublingly, law enforcement officials believe they only apprehend about 5-10 percent of the total narcotics coming across.<sup>134</sup>

## II. The Open-Borders Connection to the Fentanyl Crisis

This fentanyl is not just coming across in a vacuum. Mayorkas’ open-borders policies are directly linked to the rising fentanyl crisis ravaging the country. The record seizures at the border, both between the ports and at the ports, indicate increased efforts by the cartels to traffic their product into the United States.

Smuggling between the ports is a particularly critical problem, because there simply is no way to know how much fentanyl is coming across these increasingly unguarded areas, and there are fewer ways to stop it.

131 “FDA Approves First Over-the-Counter Naloxone Nasal Spray,” U.S. Food & Drug Administration Office of the Commissioner, March 29, 2023, <https://www.fda.gov/news-events/press-announcements/fda-approves-first-over-counter-naloxone-nasal-spray>.

132 Spencer et al., supra note 125.

133 “Drug Seizure Statistics FY2023,” U.S. Customs and Border Protection Newsroom, May 17, 2023, <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>.

134 Nick Miroff, “DEA Seized Enough Fentanyl to Kill Every Person in the U.S. in 2022,” The Washington Post, December 21, 2022, sec. National Security, <https://www.washingtonpost.com/national-security/2022/12/20/fentanyl-seizures-2022-dea/>.



## CONSEQUENCE 3: THE FENTANYL CRISIS AND OPEN BORDERS

A South Texas sheriff recently told members of the House Committee on Homeland Security, “We have one of the busiest checkpoints in the southwest corridor. ... A lot of narcotics are coming through between the ports of entry, and I know that because I’ve done operations for 18 years. ... You can’t put a metric on that.”<sup>135</sup>

Early in the days of the crisis, the Border Patrol’s Chavez told NBC News, “For the first time, we’re starting to see these tactics where fentanyl is being smuggled between ports of entry. Cartels are very creative. They find ways to intimidate migrants and find ways to illegally have them transport that narcotic into the United States.”<sup>136</sup> Chavez later noted, “These smuggling organizations (are) already doing drive-throughs through areas where my border barrier is weak or where there is none.”<sup>137</sup>

With fewer Border Patrol agents performing their primary function of securing the border, the cartels have more gaps to exploit. They frequently use sophisticated tactics like pushing one group of illegal aliens across the border in one sector, knowing Border Patrol agents will respond, and then smuggling drugs like fentanyl across in the gaps their initial tactics created.

Former senior Border Patrol officials have confirmed this practice.<sup>138</sup>

### ***III. Young People As Victims of the Fentanyl Crisis***

In the United States, exposure to fentanyl is a crisis for the most innocent among us—children and young people.

Fentanyl poisoning deaths among American teens have risen at an alarming rate due to the proliferation of fentanyl. The synthetic opioid was involved in 884 adolescent deaths in 2021—up from 253 just two years earlier, according to a 2022 report published by the Journal of the American Medical Association.<sup>139</sup>

There were 133 opioid-related deaths among children under three years of age in 2021, according to federal mortality data, up from 67 in 2020 and 51 in 2019.

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135 “Texas Ranchers, Law Enforcement, and State Officials Share the Truth on Mayorkas’ Border Crisis With Homeland Security Republicans,” U.S. House of Representatives Committee on Homeland Security Republicans, March 16, 2023, <https://homeland.house.gov/texas-ranchers-law-enforcement-and-state-officials-share-the-truth-on-mayorkas-border-crisis-with-homeland-security-republicans/>.

136 Gabe Gutierrez and Al Henkel, “Fentanyl Seizures at U.S. Southern Border Rise Dramatically,” NBC News, June 29, 2021, <https://www.nbcnews.com/politics/immigration/fentanyl-seizures-u-s-southern-border-rise-dramatically-n1272676>.

137 Ibid.

138 Rodney Scott, “Letter to Majority Leader Schumer, Minority Leader McConnell, Senator Peters, and Senator Portman,” September 11, 2021, <https://justthenews.com/sites/default/files/2021-09/Honorable%20Rob%20Portman%20US%20Senate%20Security%20Concerns%20-%20Rodney%20Scott.pdf>.

139 Joseph Friedman, et al., “Trends in Drug Overdose Deaths Among US Adolescents, January 2010 to June 2021,” JAMA 327, no. 14 (April 12, 2022): 1398–1400, <https://doi.org/10.1001/jama.2022.2847>.



## CONSEQUENCE 3: THE FENTANYL CRISIS AND OPEN BORDERS

Synthetic opioids, of which fentanyl is the most significant, accounted for most of the fatalities.<sup>140</sup>

Pediatric deaths from fentanyl increased more than 30-fold between 2013 and 2021, according to the Yale School of Medicine.<sup>141</sup> More than 1,500 young people under the age of 20 died from fentanyl poisonings in 2021, more than four times as many than in 2018.<sup>142</sup>

Laboratory testing by the DEA has revealed that six out of 10 fentanyl-laced, fake prescription pills now contain a potentially lethal dose of fentanyl.<sup>143</sup> The emergence of “rainbow fentanyl”—brightly colored pills, powders and blocks made to look like candy—has created an even greater risk for kids.

<sup>144</sup>

The DEA issued an alert in August 2022 about rainbow fentanyl, saying the drug had been seized in 26 states that month.<sup>145</sup> The DEA has warned that this brightly colored fentanyl is used to target and drive addiction in young Americans. This trend appears to be a new method used by the cartels to sell fentanyl-laced narcotics made to look like candy to children and young people.<sup>146</sup>

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140 Arian Campo-Flores and Jon Kamp, “The Youngest Victims of the Fentanyl Crisis,” *The Wall Street Journal*, December 30, 2022, sec. Health, <https://www.wsj.com/articles/children-victims-of-the-fentanyl-crisis-11672412771>

141 “U.S. Child Deaths From Fentanyl Jumped 30-Fold in Just 8 Years,” *U.S. News & World Report and Health Day*, May 8, 2023, <https://www.usnews.com/news/health-news/articles/2023-05-08/u-s-child-deaths-from-fentanyl-jumped-30-fold-in-just-8-years>.

142 Aimee Cunningham, “Fentanyl Deaths Have Spiked among U.S. Children and Teens,” *ScienceNews*, April 28, 2023, <https://www.sciencenews.org/article/fentanyl-deaths-children-teens-opioid>.

143 “One Pill Can Kill,” U.S. Drug Enforcement Administration, accessed June 12, 2023, <https://www.dea.gov/onepill>.

144 “DEA Warns of Brightly-Colored Fentanyl Used to Target Young Americans,” U.S. Drug Enforcement Administration Media Relations, August 30, 2022, <https://www.dea.gov/press-releases/2022/08/30/dea-warns-brightly-colored-fentanyl-used-target-young-americans>.

145 “What Parents Should Know About Fentanyl,” *University Hospitals: The Science of Health*, October 31, 2022, <https://www.uhhospitals.org/blog/articles/2022/10/what-parents-should-know-about-fentanyl>.

146 U.S. Drug Enforcement Administration Media Relations, *supra* note 142.



## CONSEQUENCE 3: THE FENTANYL CRISIS AND OPEN BORDERS

### ***IV. Tragic Cases of Fentanyl Poisoning***

In March 2023, the Lavenir family was staying at a VRBO rental unit in Florida. The family's attorney said 19-month-old Enora Lavenir was sleeping with her older sister in one of the rooms, when her mother, Lydie, found her unresponsive. The Palm Beach County Sheriff's Office and Medical Examiner's Office stated that she had gone into cardiac arrest due to toxic levels of fentanyl in her blood. A previous guest who rented the unit had left fentanyl behind.<sup>147</sup>



19-month-old Enora Lavenir was killed when she was exposed to fentanyl in a Florida VRBO rental unit.

Fifteen-year-old Brandon Dunn was killed by fentanyl in August 2022 after taking a counterfeit Percocet pill that contained four times the lethal dose of fentanyl. Noah's father, Brandon, testified before the House Judiciary Committee in February 2023, asking, "How many pounds of fentanyl are coming across the thousands of miles of sparsely policed or monitored southern border?"<sup>148</sup>

Rick and Erin Rachwal lost their 19-year-old son Logan in 2021 to fentanyl poisoning when he unknowingly took a pill in his dorm room that was laced with fentanyl. The family now runs a charity called "Love, Logan," which seeks to save young people from drug poisoning through education and preparedness.<sup>149</sup>

### ***V. The Economic Cost of the Fentanyl Crisis***

The human cost of the fentanyl crisis is incalculable. The lives lost from the fentanyl flowing across the Southwest border can never be replaced with any amount of money. However, it is important to note the financial costs this crisis has exacted from the American people.

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147 Sooji Nam, "Family Files Lawsuit after 19-Month-Old Daughter Dies from Fentanyl Exposure in Airbnb," WPBF, March 7, 2023, <https://www.wpbf.com/article/florida-wellington-airbnb-vrbo-fentanyl-baby/43238731>.

148 "Testimony of Mr. Brandon Dunn: The Biden Border Crisis: Part I," U.S. House Committee on the Judiciary, February 1, 2023, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/mr.-brandon-dunn-testimony.pdf>.

149 Brittany Kasko, "Wisconsin Parents Lose Son to Fentanyl, Beg Other Families to Know the Truth about the Deadly Drug," Fox News, October 4, 2022, <https://www.foxnews.com/lifestyle/wisconsin-parents-lose-son-fentanyl-beg-families-truth-deadly-drug>.



## CONSEQUENCE 3: THE FENTANYL CRISIS AND OPEN BORDERS

In 2022, Congress' Joint Economic Committee released a report showing that that opioid epidemic cost the country almost \$1.5 trillion in 2020 alone, an increase of more than 35 percent since the last time the cost was measured in 2017.<sup>150</sup> In the intervening years, the crisis has only worsened, meaning the next cost study will likely be even higher.

Health care providers have been hit hard by the rising opioid epidemic, as well. According to an Axios report in January 2023, the treatment of opioid use disorder (OUD) is costing hospitals an astounding \$95+ billion per year, and accounting for almost eight percent of total hospital expenditures.<sup>151</sup> The report specifically names fentanyl as a driver of the crisis in the context of these higher costs.

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<sup>150</sup> “The Economic Toll of the Opioid Crisis Reached Nearly \$1.5 Trillion in 2020,” Joint Economic Committee Democrats, September 28, 2022, [https://www.jec.senate.gov/public/\\_cache/files/67bcd7f-4232-40ea-9263-f033d280c567/jec-cost-of-opioids-issue-brief.pdf](https://www.jec.senate.gov/public/_cache/files/67bcd7f-4232-40ea-9263-f033d280c567/jec-cost-of-opioids-issue-brief.pdf).

<sup>151</sup> Maya Goldman, “How Opioid Misuse Is Costing Health Systems,” Axios, January 24, 2023, <https://www.axios.com/2023/01/24/opioid-abuse-hospital-costs>.



# CONSEQUENCE 4: THE DEVASTATING TOLL ON LAW ENFORCEMENT

## ***I. Plummeting Morale at CBP and ICE***

In early May 2023, the DHS OIG released a report documenting how the record surge of illegal aliens across the border is negatively impacting the psychological health and morale of Border Patrol and ICE personnel.<sup>152</sup>

The specific findings of the report show a number of cracks forming in a DHS workforce suffering greatly from the stresses being placed on it by Biden and Mayorkas' open-borders policies.

The report's topline was sobering:

“Based on interviews and survey responses from 9,311 law enforcement personnel, the details and overtime have negatively impacted the health and morale of law enforcement personnel, who feel overworked and unable to perform their primary law enforcement duties.”<sup>153</sup>

Border Patrol agents spoke frankly with the Washington Examiner's Anna Giaritelli in June 2022, as well, with one agent telling her, “Under Biden, things are the worst they have ever been by far. Agents are calling in all the time. You always hear, ‘It doesn't matter,’ or, ‘What's the point?’ in reference to doing our job. Agents are afraid of ending up on the news for doing their job or getting in trouble for doing their job. There is no morale.”<sup>154</sup>

Another agent bluntly said, “[I]t feels like we're committing a crime by allowing all these people into our country,” rather than promptly removing or detaining those entering illegally.<sup>155</sup>

## ***II. Border Patrol Suicides***

The Border Patrol's Ortiz<sup>156</sup> and National Border Patrol Council Vice Pres. Chris Cabrera recently told Congress that 17 CBP personnel committed suicide in 2022<sup>157</sup>—the highest total in 13 years.<sup>158</sup>

152 “Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale,” U.S. Department of Homeland Security Office of the Inspector General, OIG-23-24, May 3, 2023, <https://www.oig.dhs.gov/sites/default/files/assets/2023-05/OIG-23-24-May23.pdf>.

153 Ibid.

154 Anna Giaritelli, “Border Patrol Cannot See Path Forward under Biden: ‘There Is No Morale,’” The Washington Examiner, June 13, 2022, <https://www.washingtonexaminer.com/policy/defense-national-security/border-patrol-cannot-see-path-forward-under-biden>.

155 Ibid.

156 Virginia Allen, “‘We Are Under Siege,’ Texas Sheriff Says of Border Crisis,” The Daily Signal, March 15, 2023, <https://www.dailysignal.com/2023/03/15/we-are-under-siege-border-county-sheriff-tells-house-republicans-as-democrats-skip-hearing/>.

157 Bethany Blankley, “Border Patrol Union: ‘Failing’ Biden Policies, Hardships Result in 17 Suicides in ‘22,” The Center Square, March 16, 2023, [https://www.thecentersquare.com/national/article\\_7c41f1ba-c428-11ed-b7dd-434d37b140a1.html](https://www.thecentersquare.com/national/article_7c41f1ba-c428-11ed-b7dd-434d37b140a1.html).

158 Mireya Villarreal and Luke Barr, “US border officer suicides at 13-year high: How agency is focusing on ‘culture change,’” ABC News, December 22, 2022, <https://abcnews.go.com/US/us-border-officer-suicides-13-year-high-agency/story?id=95671395>.



## CONSEQUENCE 4: THE DEVASTATING TOLL ON LAW ENFORCEMENT

That includes the death of three Border Patrol agents within three weeks of each other in November 2022.<sup>159</sup> CBP reported another eight suicides in 2020 and 11 in 2021.

CBP started recording suicide statistics in 2007. Between then and the time of this report, the agency had lost at least 152 men and women to suicide. Around 40 of them have been lost in the last two years.<sup>160</sup>

Representative Tony Gonzales, R-Tex., who represents a district home to thousands of CBP personnel, has made clear how the current crisis is impacting them, saying in December, “Work has gotten very difficult on them. I’ve seen it in their faces. I’ve heard it in their voices for months now. It’s almost, ‘How much can a person take?’ And often, they’ve taken a lot before they break.”<sup>161</sup>

The aforementioned May 2023 OIG report found that the immense workload has forced CBP and ICE personnel to miss out on time with their families while subjecting them to additional stressors, with one agent commenting, “[The agency forces] a ridiculous ‘anti-suicide’ app onto our phones which cannot be deleted yet make us leave our homes and live in a hotel where we can’t even eat healthily. This nightmare is forced upon us without a care of our mental or physical health.”<sup>162</sup>

The wife of a long-serving Border Patrol agent confirmed this recently to the House Committee on Homeland Security, saying, “The first year that our men and women spent with this administration created so much PTSD, so much trauma, so much anxiety, so much depression, so much that us at home weren’t trained to handle.”<sup>163</sup>

### **III. Putting Border Patrol and Law Enforcement Officers At Risk**

One of the stressors caused by the increasingly open border is the need for an ever-increasing number of search-and-rescue operations. Border Patrol agents routinely take heroic action to save individuals from dehydration, drowning in the Rio Grande River, and being callously tossed over the border wall by smugglers. Often, these efforts place the agents themselves in peril.

In FY22, CBP conducted 22,522 search-and-rescue operations nationwide, and 13,256 in FY21—the vast majority at the Southwest border.<sup>164</sup> Border Patrol Tucson Sector Chief John Modlin tweeted on May 25, 2023, that in just 72 hours, his agents had performed 60 rescues.<sup>165</sup>

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159 MaryAnn Martinez, “Three Border Patrol Agents Die by Suicide in Three Weeks,” The New York Post, November 30, 2022, <https://nypost.com/2022/11/30/three-border-patrol-agents-die-by-suicide-in-three-weeks/>.

160 Ibid.

161 Ibid.

162 Ibid.

163 U.S. House of Representatives Committee on Homeland Security Republicans, *supra* note 133

164 U.S. Customs and Border Protection Newsroom, *supra* note 108.

165 John R. Modlin [@USBPChiefTCA], “Past 72 Hours... - 1 Agent Assaulted - 1,710 Apprehensions - 18 Criminal Migrants Arrested - 15 Pounds of Methamphetamine - 7 Human Smuggling Events - 1 Firearm We Also Performed 60 Rescues! #HonorFirst <https://t.co/BVFzFtJDV6>,” Tweet, Twitter, May 24, 2023, <https://twitter.com/USBPChiefTCA/status/1661468450508685312>.

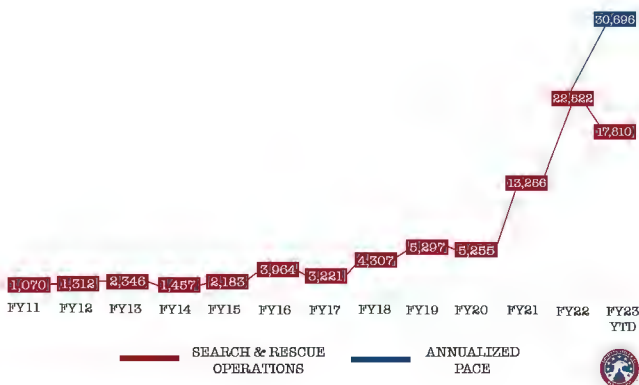




# CONSEQUENCE 4: THE DEVASTATING TOLL ON LAW ENFORCEMENT

By comparison, CBP conducted 5,255 search operations in FY20, and even given the temporary crisis in FY19, CBP’s total was 5,297.<sup>166</sup> A review of CBP data from FY11-FY18 shows that combined search-and-rescue operations from those years totaled 19,860, for an average of 2,482 a year—almost 3,000 fewer operations than CBP conducted just in FY22.<sup>167</sup>

CBP SEARCH & RESCUE BY FISCAL YEAR



Source: CBP Search and Rescue data

These efforts to enforce the law and save lives sometimes end in tragedy. In 2022, Texas National Guardsman Bishop Evans tragically lost his life trying to save two individuals who were drowning in the Rio Grande near Eagle Pass, Texas. He was successful in saving their lives, but a few days after the incident, Texas Rangers determined that both individuals “were involved in illicit transnational narcotics trafficking.”<sup>168</sup>

<sup>166</sup> “CBP Enforcement Statistics Fiscal Year 2020,” U.S. Customs and Border Protection, May 8, 2023, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics-fy2020>.

<sup>167</sup> “Stats and Summaries,” U.S. Customs and Border Protection, accessed on June 12, 2023, <https://www.cbp.gov/newsroom/media-resources/stats>.

<sup>168</sup> Timothy Nerozzi, “Bishop Evans, Texas Soldier Who Died Saving Migrants, to Be Laid to Rest,” Fox News, April 30, 2022, <https://www.foxnews.com/us/bishop-evans-texas-soldier-funeral-died-saving-migrants>.



## CONSEQUENCE 5: OPEN BORDERS OPEN THE DOOR TO CRIMINAL ILLEGAL ALIENS

### ***1. Rising Number of Criminal Illegal Alien Arrests***

Border Patrol apprehensions of illegal aliens previously convicted of crimes have spiked on Biden and Mayorkas' watch.<sup>169</sup> These criminal aliens have the most serious crimes on their records, including homicide, assault, rape, burglary, theft, and weapons trafficking.

From Oct. 1, 2020, to March 2023, around two-and-a-half years, Border Patrol recorded nearly 28,000 arrests of illegal aliens with criminal backgrounds, about 6,000 more total arrests than the previous four fiscal years combined.<sup>170</sup>

According to CBP, illegal aliens apprehended with prior convictions for assault, battery, or domestic violence decreased each year under the Trump administration, to a low of 208 combined convictions among those apprehended in FY20. That number skyrocketed to 1,178 total convictions during Mayorkas' first year in office.

Total convictions for DUI among those apprehended at the border decreased every year under the Trump administration, to a low of 364 in FY20, but drastically increased to 1,629 in FY21. During Pres. Trump's entire term, illegal aliens apprehended by Border Patrol totaled only 11 convictions for homicide and manslaughter among them. Under Mayorkas' leadership, that number jumped to more than 130 in just two years.<sup>171</sup> The numbers for sexual offenses show a similar trend, with FY20's 156 total convictions rising to 488 in FY21 and 365 in FY22.

These are just CBP statistics. They do not encompass data from states like Texas, which through Operation Lone Star has apprehended hundreds of thousands of illegal aliens, and recorded more than 27,000 arrests of criminal illegal aliens itself.<sup>172</sup>

And these are just the criminals that are being caught. Some criminal illegal aliens are even released into the country, because Border Patrol agents simply cannot vet them adequately.

On May 30, 2023, ICE announced the arrest of a Brazilian gang member and convicted murderer in Massachusetts. According to ICE, the alien "has an extensive, violent criminal history," but after being apprehended crossing illegally in Arizona, he was released, "placed into removal proceedings," and given a court date for his immigration case after concealing information on his criminal history from Border Patrol.<sup>173</sup>

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169 "Major Spike in Convicted-Criminal-Alien Encounters by U.S. Border Patrol," The Heritage Foundation, April 19, 2023, <https://datavisualizations.heritage.org/immigration/major-spike-in-convicted-criminal-alien-encounters-by-us-border-patrol>.

170 U.S. Customs and Border Protection Newsroom, supra note 53.

171 Ibid.

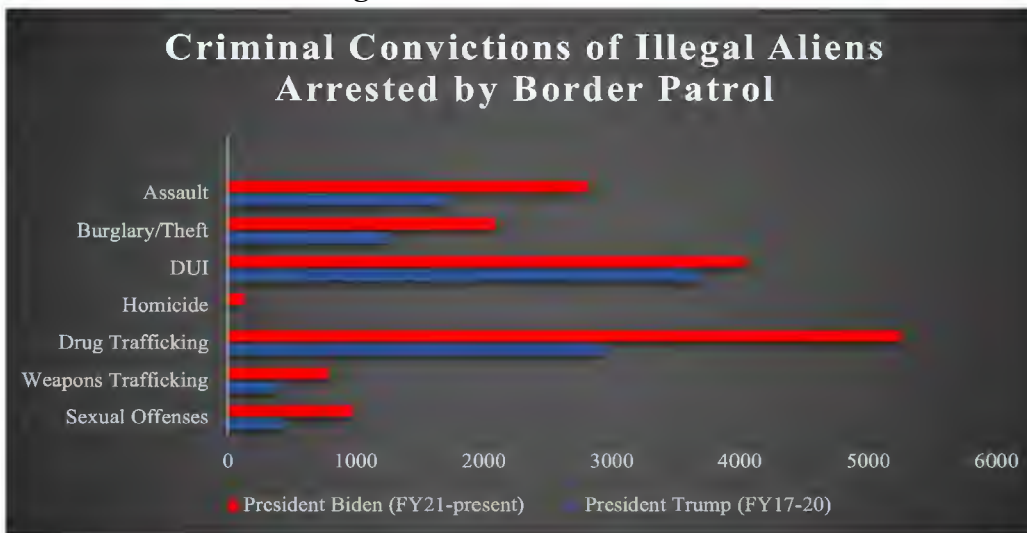
172 "Operation Lone Star Combats Increasing Smuggling Attempts By Cartels," Office of the Texas Governor, April 21, 2023, <https://gov.texas.gov/news/post/operation-lone-star-combats-increasing-smuggling-attempts-by-cartels>.

173 "ERO Boston Arrests Fugitive Gang Member Convicted of Murder in Brazil," U.S. Immigration and Customs Enforcement, May 30, 2023, <https://www.ice.gov/news/releases/ero-boston-arrests-fugitive-gang-mem->



# CONSEQUENCE 5: OPEN BORDERS OPEN THE DOOR TO CRIMINAL ILLEGAL ALIENS

Criminals around the world are flocking to the Southwest border.



Source: U.S. Customs and Border Protection

## **II. Crimes Committed by Illegal Aliens Inside the United States**

No national database exists to track crimes committed by illegal aliens. Many state and local jurisdictions do not record this information either, whether for reasons of resources or political correctness. However, it is instructive to note accounts of crimes committed by illegal aliens to understand the impact on innocent Americans, and to see how these individual crimes fit into the broader context of Mayorkas' open-borders policies and the chaos that the cartels and criminal aliens have created in the wake of those policies.

- On May 16, in Silver Spring, Maryland, just minutes from the nation's capital, Jose Hernandez-Espinal approached two women with a machete, stole their belongings, and raped one of them near a nature trail. He had entered the country as a minor, and eventually been ordered removed. ICE was not notified of his previous release from prison due to Prince George's County's sanctuary city law.<sup>174</sup> After his apprehension, Hernandez-Espinal indicated to law enforcement that he was responsible for raping a 15-year-old a few days prior in the same area.<sup>175</sup>

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[ber-convicted-murder-brazil.](#)

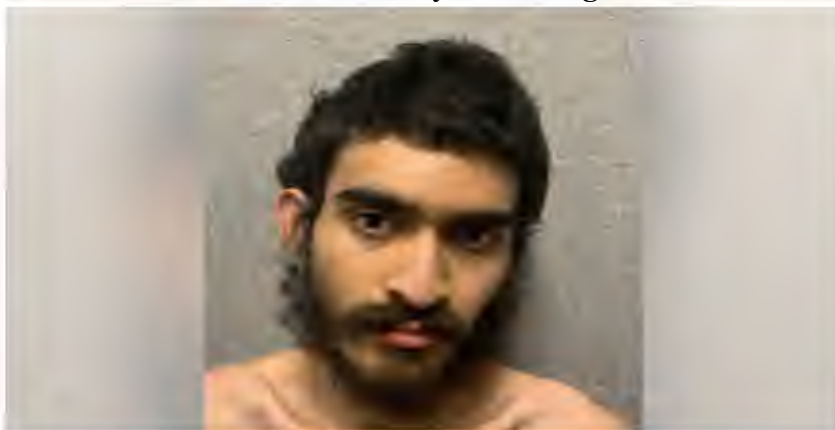
174 Julio Rosas, "Surprise! Illegal Immigrant Accused of Sex Crimes Was Protected by Sanctuary Policies," Townhall, May 22, 2023, <https://townhall.com/tipsheet/juliorosas/2023/05/22/illegal-immigrant-accused-of-sex-crimes-had-lengthy-criminal-record-n2623535>.

175 David Kaplan and Tisha Lewis, "Alleged Silver Spring Trail Rapist Linked to Sex Assault in Prince George's County," FOX 5 DC, May 17, 2023, <https://www.fox5dc.com/news/alleged-silver-spring-trail-rapist-linked-to-sex-assault-in-prince-georges-county>.



## CONSEQUENCE 5: OPEN BORDERS OPEN THE DOOR TO CRIMINAL ILLEGAL ALIENS

- Also in May, Honduran national Grevi Geovani Rivera-Zavala was charged with raping a teenage girl in Prattville, Alabama, in a restaurant bathroom in a completely random attack. He was found to have a criminal record in Honduras when he was apprehended crossing the Texas border illegally in November 2021, but was released by Border Patrol into the interior.<sup>176</sup>
- Also in May, Venezuelan national Elvis Diaz-Betancourt stabbed another Venezuelan outside an emergency shelter in Chicago, so deeply that the victim could see his internal organs. He had been in Chicago for about four months.<sup>177</sup>
- Kayla Hamilton was raped and murdered by a teenage illegal alien in Maryland in July 2022.<sup>178</sup> He was also a member of MS-13 who was caught and released into the interior because he was an unaccompanied minor who arrived at the border without his parents.<sup>179</sup> Kayla's mother, Tammy Nobles, told the House Judiciary Committee in May 2023, "For me this not a political issue, this a safety issue for everyone living in the United States. This could have been anyone's daughter."<sup>180</sup>



20-year-old Jose Hernandez-Espinal is implicated in the rapes of at least two women in the Washington, D.C., area.

176 Marty Roney, "No Bond in Prattville Rape Case against Honduran Man Who Illegally Entered U.S.," *Montgomery Advertiser*, May 15, 2023, <https://www.montgomeryadvertiser.com/story/news/crime/progress/2023/05/15/no-bond-in-prattville-rape-case-where-defendant-is-in-the-country-illegally/70219553007/>.

177 "Migrant Stabbed, Critically Injured Another during a Fight near Downtown Chicago Park: Prosecutors," *CWB Chicago*, May 13, 2023, <https://cwbchicago.com/2023/05/venezuelan-migrant-stabbed-another-during-fight-pritzker-park-chicago-standard-club-shelter.html>.

178 "Teen MS-13 Gang Member Arrested for Murder of Maryland Autistic Woman, 20," *FOX 5 NY*, January 22, 2023, <https://www.fox6now.com/news/kayla-hamilton-maryland-ms-13-murder-autistic-woman>.

179 Stephen Dinan, "Suspect in Killing of 20-Year-Old Autistic Woman Was Newly Released Illegal Immigrant Teen," *The Washington Times*, January 23, 2023, <https://www.washingtontimes.com/news/2023/jan/23/suspect-killing-20-year-old-autistic-woman-was-new/>.

180 Tammy Nobles, "Testimony of Tammy Nobles: Biden Border Crisis: Part III," U.S. House Judiciary Committee Subcommittee on Immigration Integrity, Security, and Enforcement, May 23, 2023, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/nobles-testimony.pdf>



# CONSEQUENCE 5: OPEN BORDERS OPEN THE DOOR TO CRIMINAL ILLEGAL ALIENS

## ***III. Illegal Aliens Making Our Streets Less Safe***

Illegal aliens often bring harm and death to innocent Americans they encounter while fleeing law enforcement, engaging in human and drug smuggling, or simply disregarding the law through behavior such as driving recklessly or under the influence (DUI). Again, the lack of comprehensive data on vehicular homicides involving illegal aliens should not diminish the pain each story represents:

- On May 9, 2023, Polk County sheriff's detectives arrested Elmer Bryan Giron-Canil after he caused a two-car accident near Mulberry, Florida. Four of the occupants in Canil's Ford Expedition were ejected from the vehicle, with one dying at the scene and another later in the hospital.<sup>181</sup>
- On Apr. 8, 2023, in Watford City, North Dakota, 19-year-old Julian Montoya ran over a 6-year-old boy playing on his bicycle in an apartment complex parking lot. Per reports, Montoya made no attempt to stop or swerve in an effort to avoid hitting the boy, Ian Matteo Garcia, with his truck.<sup>182</sup>
- In September 2022, an illegal alien struck and killed Florida sheriff's deputy Mike Hartwick, then fled the scene. According to the sheriff's office, Juan Ariel Molina-Salles entered the country illegally in October 2021 in Eagle Pass, Texas, but was sent back to Mexico and at some point re-entered the country as a getaway.<sup>183</sup>



Source: U.S. Border Patrol

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181 "Guatemalan Man with No Valid Driver's License and Illegally in the Country Arrested during the Willow Oak Double Fatal Crash Investigation," Polk County Sheriff's Office, May 10, 2023, <https://www.polksheriff.org/news-investigations/2023/05/10/guatemalan-man-with-no-valid-driver-s-license-and-illegally-in-the-country-arrested-during-the-willow-oak-double-fatal-crash-investigation>.

182 "Driver Pleads Not Guilty in Death of 6-Year-Old Watford City Boy," The Bismarck Tribune, May 11, 2023, [https://bismarcktribune.com/news/local/accident-and-incident/driver-pleads-not-guilty-in-death-of-6-year-old-watford-city-boy/article\\_846d0566-f031-11ed-9c16-df7b9557efcd.html](https://bismarcktribune.com/news/local/accident-and-incident/driver-pleads-not-guilty-in-death-of-6-year-old-watford-city-boy/article_846d0566-f031-11ed-9c16-df7b9557efcd.html).

183 Patrick Reilly, "Illegal Migrant Driving Front-End Loader Kills Florida Deputy," The New York Post, September 23, 2022, <https://nypost.com/2022/09/23/illegal-migrant-driving-front-end-loader-kills-florida-deputy/>.



## CONSEQUENCE 5: OPEN BORDERS OPEN THE DOOR TO CRIMINAL ILLEGAL ALIENS

### ***IV. Human Smugglers and Cartels Destabilizing Border Communities***

The cartels and human smuggling organizations have turned border states, cities, and towns into arenas of chaos, where law enforcement is being tested like never before, and innocent Americans are caught in the middle.

Between Jan. 1, 2021, and Dec. 31, 2022, Texas Highway Patrol recorded 8,721 traffic stops involving a vehicle suspected of transporting illegal aliens. In the execution of these stops, troopers discovered 39,100 illegal aliens being transported to cities like Houston—a national hub for human trafficking<sup>184</sup>—and San Antonio.<sup>185</sup>

The recent tragedy in Ozona, Texas, in which 71-year-old Maria Tambunga and her 7-year-old granddaughter Emily Tambunga were killed by a Louisiana man who hit them with his truck while smuggling two illegal aliens, brings home the devastation caused by increased human smuggling and trafficking on our streets.<sup>186</sup>

Brad Coe, sheriff of Texas' Kinney County, recently testified under oath before the House Committee on Homeland Security that his deputies arrested 741 human smugglers in 2022, up from 169 in 2021, and that the department was on pace to apprehend more than 900 in 2023. Importantly, he said, “The number of pursuits has increased with the increase in human smuggling arrests. With these increases, the risk of traffic accident and deaths associated to these accidents also increase.”<sup>187</sup>

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184 Marie Jacinto, “Sex Trafficking in Houston: Hidden in Plain Sight,” The University of Houston Downtown, October 12, 2022, <https://news.uhd.edu/sex-trafficking-in-houston-hidden-in-plain-sight/>.

185 Anna Giaritelli, “Border Crisis News: Texas State Troopers Deployed by Abbott Stopped 8,721 Human Smugglers,” The Washington Examiner, April 26, 2023, <https://www.washingtonexaminer.com/policy/immigration/texas-state-troopers-abbott-human-smugglers-border-patrol>.

186 “Community Mourns Loss of Grandmother and Granddaughter Killed in Multiple Vehicle Accident,” The Ozona Stockman, March 14, 2023, <https://www.ozonastockman.com/news-news-alert/community-mourns-loss-grandmother-and-granddaughter-killed-multiple-vehicle>.

187 Sheriff Brad Coe, “Witness Testimony 1,” U.S. House Committee on Homeland Security, March 15, 2023, [https://homeland.house.gov/media/2023/03/03.15.23.Witness\\_Testimony-1.pdf](https://homeland.house.gov/media/2023/03/03.15.23.Witness_Testimony-1.pdf).



# CONSEQUENCE 6: RAMPANT MIGRANT SUFFERING, TRAFFICKING, AND DEATH

## ***I. Migrant Deaths***

Cartels often abandon those who have paid to get to the border in remote and dangerous areas, where severe heat, exposure, and miles of unforgiving desert pose deadly threats. Once they arrive at the border, many are simply dropped over the border wall<sup>188</sup> or abandoned to the elements, with Border Patrol agents or other law enforcement their only hope of rescue.<sup>189</sup>



*Photo by Fernando Llano/AP*

For example, in March 2023, a Border Patrol agent in El Paso sped to the rescue of a one-year-old boy who was dropped off by a smuggler by a section of border wall along the Colorado River, a near-disastrous event that would have cost the child his life if not for the heroic actions of the agent.<sup>190</sup>



### [WATCH: Human Smuggler Abandons Toddler on Banks of Colorado River](#)

Under Mayorkas' leadership, CBP has stopped recording the number of migrants found dead on U.S. soil, but in FY21, the last year for which CBP produced the data, Border Patrol reported 568 dead migrants found at the Southwest border, nearly double the 254 discovered in FY20. In FY22, the number jumped to 853, per reporting from the New York Post.<sup>191</sup>

<sup>188</sup> Amber Stegall, "VIDEO: Smugglers Drop 2 Toddlers over Border Barrier, Rescued by U.S. Border Patrol," KCBD, March 31, 2021, <https://www.kcbd.com/2021/03/31/video-smugglers-drop-toddlers-over-border-barrier-rescued-by-us-border-patrol/>.

<sup>189</sup> Kelli Dugan, "Border Patrol Rescues Infant, Toddler Abandoned by Smugglers in Arizona Desert," KIRO 7 News Seattle, August 27, 2022, <https://www.kiro7.com/news/trending/border-patrol-rescues-infant-toddler-abandoned-by-smugglers-arizona-desert/ZOM4S7GPLFC5TCAMNKAMG5G66U/>.

<sup>190</sup> Fernie Ortiz, "VIDEO: Smuggler Abandons 1-Year-Old Guatemalan Boy along Border River," Border Report, March 24, 2023, <https://www.borderreport.com/immigration/video-smuggler-abandons-1-year-old-guatemalan-boy-on-riverbank-on-border/>.

<sup>191</sup> "CBP Deaths Are the Latest Sign of the Biden Border Disaster," The New York Post, December 8, 2022, <https://nypost.com/2022/12/08/cbp-deaths-are-the-latest-sign-of-the-biden-border-disaster/>.



## CONSEQUENCE 6: RAMPANT MIGRANT SUFFERING, TRAFFICKING, AND DEATH

Since Biden and Mayorkas have opened the borders, agents have revealed anonymously that more than 1,700 migrants have died on U.S. soil while trying to enter the county illegally.<sup>192</sup>

Over the four years prior to FY21, the number of dead migrants found by Border Patrol at the Southwest border did not exceed 300.



*Photo provided by Yuma County Sheriff Leon Wilmot*

### **II. Sexual Abuse and Assault of Migrants**

The Wall Street Journal reported in September 2021 that Doctors Without Border staff operating in Panama, north of the infamous Darien Gap through which South American migrants must travel, had recorded at least 180 cases of rape since opening in May 2021.<sup>193</sup> According to staff, “[T]he true number of victims is likely far higher since many migrants don’t report the attacks for fear of retribution or because they don’t want to slow their journey.”<sup>194</sup>

One woman from Cuba, whose journey north to the border with her family began in South America, told reporters after making it to a camp in Bajo Chiquito, “Even if I make it to the U.S. and live out my American dream, I don’t think I’ll be able to say that crossing the Darién was worth it.”<sup>195</sup>

In 2017, Doctors Without Borders published a report that included a survey of migrants interviewed at a number of its facilities in Mexico. The survey found that 68 percent of those interviewed had been victims of violence upon entering Mexico on their way toward the United States. Approximately one third of the women surveyed said they had been sexually abused during the journey, along with 17 percent of men surveyed.<sup>196</sup>

If this percentage is even close to representative of the broader group of several million individuals who have made their way to the border since Biden and Mayorkas took office, it suggests that hundreds of thousands of men, women, and children have been sexually abused along their journey to the border to take advantage of those policies.

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192 Tom Homan, “Biden’s Latest Border Gambit Opens America’s Doors to Evil Child Smugglers,” Fox News, February 7, 2023, <https://www.foxnews.com/opinion/biden-latest-border-gambit-opens-america-doors-evil-child-smugglers>.

193 Kejal Vyas, “Rapes of U.S.-Bound Migrants Make a Treacherous Route Even More Dangerous,” The Wall Street Journal, September 6, 2021, sec. World, <https://www.wsj.com/articles/rapes-of-u-s-bound-migrants-make-a-treacherous-route-even-more-dangerous-11630956539>.

194 Ibid.

195 Vyas, supra note 189.

196 “FORCED TO FLEE CENTRAL AMERICA’S NORTHERN TRIANGLE: A NEGLECTED HUMANITARIAN CRISIS,” Medecins Sans Frontieres, May 2017, [https://www.doctorswithoutborders.org/sites/default/files/2018-06/msf\\_forced-to-flee-central-americas-northern-triangle.pdf](https://www.doctorswithoutborders.org/sites/default/files/2018-06/msf_forced-to-flee-central-americas-northern-triangle.pdf).





# CONSEQUENCE 6: RAMPANT MIGRANT SUFFERING, TRAFFICKING, AND DEATH

## ***III. Increased Trafficking and Abuse of Unaccompanied Minors***

Given the sheer volume of UACs entering through the Southwest border—approximately 350,000 since Mayorkas took office—tens of thousands of them have been released into the country to sponsors. Many of these minors are not even going to people who can be verified as legitimate family members or guardians.<sup>197</sup>

Two ground-breaking New York Times reports in February<sup>198</sup> and April<sup>199</sup> of this year showed how minors have been repeatedly taken advantage of after being released to “sponsors” in United States.

“Thousands of children have ended up in punishing jobs across the country—working overnight in slaughterhouses, replacing roofs, operating machinery in factories—all in violation of child labor laws ... But all along, there were signs of the explosive growth of this labor force and warnings that the Biden administration ignored or missed, The Times has found.”<sup>200</sup>

Similarly, NBC recently reported on an investigation into a meatpacking plant in Nebraska that was illegally employing alien minors as young as 13, who were “cleaning blood and animal parts off the floor of meatpacking plants by night and going to school by day.”<sup>201</sup>

A Department of Health and Human Services (HHS) whistleblower reported late in 2022 that UACs were being placed with sponsors with known criminal records,<sup>202</sup> later testifying in April 2023 before a House Judiciary Committee subcommittee that the U.S. under Mayorkas’ leadership has become a “middleman” in the human smuggling chain.<sup>203</sup>



197 Twenty-First Statewide Grand Jury of Florida, *supra* note 106.

198 Hannah Dreier and Kirsten Luce, “Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.,” *The New York Times*, February 25, 2023, sec. U.S., <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

199 Hannah Dreier, “As Migrant Children Were Put to Work, U.S. Ignored Warnings,” *The New York Times*, April 17, 2023, sec. U.S., <https://www.nytimes.com/2023/04/17/us/politics/migrant-child-labor-biden.html>.

200 *Ibid.*

201 Julia Ainsley and Laura Strickler, “Feds Expand Probe into Migrant Child Labor in Slaughterhouses,” *NBC News*, March 1, 2023, <https://www.nbcnews.com/politics/feds-expand-probe-migrant-child-labor-slaughterhouses-rcna72930>.

202 Kelly Laco, “HHS ‘Knowingly’ Transferred Migrant Children to Criminals, Sex Traffickers, GOP Senators Charge,” *Fox News*, December 6, 2022, <https://www.foxnews.com/politics/hhs-knowingly-transferred-migrant-children-criminals-sex-traffickers-gop-senators>.

203 Adam Shaw, “Whistleblower Tells Congress That Govt Is Delivering Migrant Children to Human Traffickers,” *Fox News*, April 26, 2023, <https://www.foxnews.com/politics/whistleblower-tells-congress-that-govt-delivering-migrant-children-human-traffickers>.



## CONSEQUENCE 7: THE MASSIVE FINANCIAL COSTS OF MAYORKAS' OPEN BORDERS

Every day, millions of American taxpayer dollars are spent on costs directly associated with illegal immigration. Mass illegal immigration, accelerated by Mayorkas' open-borders policies, now represents a massive cost to the federal government and state governments alike, across a number of fronts.

Some of these costs include things most Americans would never even think to consider. For example, Leon Wilmot, sheriff of Yuma County, Arizona, wrote in his testimony to the House Judiciary Committee earlier this year that the county has had to spend \$70,000 on portable toilets to place in agricultural fields throughout the county to keep illegal aliens from relieving themselves in those fields and contaminating crops.<sup>204</sup> Yuma County supplies 90 percent of leafy greens to the entire United States during the winter months, making preservation and sanitation of crops an issue of national importance.

Kinney County's Sheriff Coe recently told the House Homeland Security Committee that his Texas county, which shares 16 miles of border with Mexico, has seen a large influx of illegal alien foot traffic, with these individuals causing an untold amount of property damage to farms, ranches, and game-hunting operations.<sup>205</sup> Illegal aliens have torn down fences, damaged houses, and left "astronomical" amounts of trash on land owned by ranchers throughout Texas.<sup>206</sup> One rancher told NPR in April 2021, just weeks into the crisis, that he had spent at least \$30,000 repairing damage caused by illegal aliens.<sup>207</sup>

And in a darkly sobering anecdote, a Brooks County, Texas, official said in 2022 that the costs to bury and cremate illegal aliens found dead on U.S. soil "were such an expense that county employees had to take a pay cut to cover the cost."<sup>208</sup>

This section contains just a sampling of the various costs imposed by the border crisis on every state, city, and town in the country.

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204 Leon Wilmot, et al., "The Biden Border Crisis: Part Two," United States House Committee on the Judiciary, February 23, 2023, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/WilmotTestimony.pdf>.

205 Coe, supra note 183.

206 Kaylee Greenlee, "Texas Rancher Says Illegal Immigrants Repeatedly Damage His Property," The Daily Signal, March 11, 2021, <https://www.dailysignal.com/2021/03/11/texas-rancher-says-illegal-immigrants-are-repeatedly-causing-property-damage-and-trashing-his-land/>.

207 John Burnett, "Human Smugglers Bypass Border Patrol, Bedeviling Sheriffs And Ranchers In South Texas," National Public Radio, April 24, 2021, <https://www.npr.org/2021/04/24/990150761/human-smugglers-by-pass-border-patrol-bedeviling-sheriffs-and-ranchers-in-south-t>.

208 Andrew Arthur, "RGV Border Disaster: Demoralized Agents, Angry and Despondent Residents," The Center for Immigration Studies, April 13, 2022, <https://cis.org/Arthur/RGV-Border-Disaster-Demoralized-Agents-Angry-and-Despondent-Residents>.



# CONSEQUENCE 7: THE MASSIVE FINANCIAL COSTS OF MAYORKAS' OPEN BORDERS

Some recent studies found that the total combined costs incurred by illegal aliens could range anywhere from around \$150 billion<sup>209</sup> to more than \$450 billion.<sup>210</sup>

## ***I. Health Care, Particularly Emergency Services, for Illegal Aliens***

Hospital and emergency room care for illegal aliens is one of the most significant expenses. The Emergency Medical Treatment and Labor Act (EMTALA) requires public hospitals to provide emergency medical services to individuals regardless of their ability to pay for those services.<sup>211</sup>

Illegal aliens, most of whom have no form of health insurance, often rely on emergency rooms and services as a source of free or cheap health care. Consequently, this has led to significant costs for hospitals because providers are often not reimbursed for these services.

In a January 2021 filing challenging the Biden administration's deportation moratorium, Texas Attorney General Ken Paxton wrote that his state alone was required to pay anywhere between \$62-90 million per year to cover illegal aliens under its Emergency Medicaid program.<sup>212</sup>

He also pointed out that between 2006-2008, uncompensated costs borne by Texas state hospitals providing care to illegal aliens ranged from \$597 million to \$717 million.<sup>213</sup> That's as much as \$1.03 billion in May 2023 dollars.<sup>214</sup>

Data released by the state of Florida, meanwhile, showed that illegal aliens cost hospitals about \$312 million in FY21, with hospitals only receiving around \$103 million in reimbursements.<sup>215</sup>

Illinois is also facing a massive cost surge in providing care for illegal aliens. According to Politico in May 2023, "A state program that offers health benefits to undocumented adults is ballooning.

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209 "The Fiscal Burden of Illegal Immigration On United States Taxpayers 2023," The Federation for American Immigration Reform, [https://www.fairus.org/sites/default/files/2023-03/Fiscal%20Burden%20of%20Illegal%20Immigration%20on%20American%20Taxpayers%202023%20WEB\\_0.pdf](https://www.fairus.org/sites/default/files/2023-03/Fiscal%20Burden%20of%20Illegal%20Immigration%20on%20American%20Taxpayers%202023%20WEB_0.pdf).

210 Andrew Arthur, "Biden's Border Fiasco Costing Local Taxpayers Billions," The Center for Immigration Studies, May 4, 2023, <https://cis.org/Arthur/Bidens-Border-Fiasco-Costing-Local-Taxpayers-Billions>.

211 "EMERGENCY HEALTH SERVICES FOR UNDOCUMENTED ALIENS," U.S. Centers for Medicare & Medicaid Services, May 09, 2005, <https://www.cms.gov/newsroom/fact-sheets/emergency-health-services-undocumented-aliens>.

212 "EMERGENCY APPLICATION FOR A TEMPORARY RESTRAINING ORDER," State of Texas v. David Pecoske, Troy Miller, Tae Johnson, and Tracy Renaud, Civ. Action No. 6:20-cv-00003, (U.S. District Court, Southern District of Texas Victoria Division, 2021), <https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2021/Press/TRO%20Motion%20FINAL.pdf>.

213 Ibid.

214 "Inflation Calculator," Federal Reserve Bank of Minneapolis, <https://www.minneapolisfed.org/about-us/monetary-policy/inflation-calculator>.

215 "Cost of Services on the Health Care System Executive Order 21-223," State of Florida Agency for Health Care Administration, August 18, 2022, [https://ahca.myflorida.com/content/download/20792/file/Executive\\_Order\\_21-223\\_Update\\_01302023.pdf](https://ahca.myflorida.com/content/download/20792/file/Executive_Order_21-223_Update_01302023.pdf).



# CONSEQUENCE 7: THE MASSIVE FINANCIAL COSTS OF MAYORKAS' OPEN BORDERS

When it was started a few years ago, lawmakers estimated it to run from \$2 million to \$4 million. Now health officials say the state needs more than \$1.1 billion to keep it running,” because the number of aliens using the service was far more than the state planned for.<sup>216</sup>

## ***II. Specific Cases of the Border Crisis Burden Placed on Providers***

Dr. Robert Trenchel, CEO of Yuma Regional Medical Hospital, recently told the House Committee on Homeland Security that the influx of aliens seeking medical services has swelled over the past two years, that most do not have insurance or money to pay for services, and that many arrive suffering from major illnesses or ailments:

“Some migrants come to us with minor ailments but many of them come in with significant disease. We have had migrant patients on dialysis, cardiac catheterization and in need of heart surgery. Many are very sick. They have long-term complications of chronic disease that have not been cared for. Some end up in the ICU for 60 days or more. One of the largest cohorts we have seen are maternity patients who present with little or no prenatal care. These higher risk pregnancies and births result in higher complication rates and longer hospital stays.”<sup>217</sup>

The hospital often provides transportation costs and hotel rooms, as well, and incurred more than \$26 million in unreimbursed medical costs from December 2021 to November 2022 alone.<sup>218</sup>

## ***III. Public School Expenditures***

The number of Limited English Proficiency (LEP) students flooding American school districts is starting to overwhelm public schools. In Fairfax County, Virginia, LEPs made up nearly 20 percent of total enrollment, with the LEP budget increasing \$1.5 million from FY19 to FY20.<sup>219</sup> In Buffalo, New York, the LEP budget increased from \$12.9 million in 2018 to \$20.4 million in 2020.<sup>220</sup> In Indianapolis, the number of “English learners” in the public school system in 2022 had increased by 27,000 from 2016.<sup>221</sup>

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216 Shia Kapos, “The Billion-Dollar Budget Drama,” Politico, May 19, 2023, <https://www.politico.com/news-letters/illinois-playbook/2023/05/19/the-1-1b-state-budget-drama-00097828>.

217 Rebecca Kiessling et al., “Every State is a Border State: Examining Secretary Mayorkas’ Border Crisis,” U.S. House Committee on Homeland Security, 28 February 2023, <https://homeland.house.gov/media/2023/02/2023-02-28-HRG-PressPacket.pdf>.

218 Ibid.

219 “2020 Program Budget,” Fairfax County Public Schools, July 11, 2019, [https://www.fcps.edu/sites/default/files/media/pdf/FY\\_2020\\_Program\\_Budget.pdf](https://www.fcps.edu/sites/default/files/media/pdf/FY_2020_Program_Budget.pdf).

220 “Buffalo Public Schools 2019-2020 Approved Budget,” Buffalo Public Schools, May 15, 2019, <https://www.buffaloschools.org/site/handlers/filedownload.ashx?moduleinstanceid=97&dataid=197087&FileName=2019-20%20Adopted%20Budget.pdf>.

221 Camila Fernandez, “IPS Responds to Increase in English Language Learners,” WISH-TV, March 29, 2022, <https://www.wishtv.com/news/inside-story/ips-responds-to-increase-in-english-language-learners/>.



## CONSEQUENCE 7: THE MASSIVE FINANCIAL COSTS OF MAYORKAS' OPEN BORDERS

Portland, Oregon schools are “scrambling” to place more than 800 new LEP students.<sup>222</sup> And in Rockland County, New York, more than 1,000 children have been added to county school districts.<sup>223</sup> One estimate has found that federal and state public school expenditures for illegal aliens or the U.S.-born children of illegal aliens may be as high as \$75 billion.<sup>224</sup>

### ***IV. Caring for Unaccompanied Minors***

In the early days of the crisis, the Washington Post reported that the Biden administration was spending \$60 million per week to provide care to around “just” 16,000 minors in HHS facilities,<sup>225</sup> not counting the cost of new soft-sided shelters in locations like Donna, Texas. Existing HHS beds quickly filled up, leading the administration to devote substantial resources to “emergency facilities” that could house additional minors. These new facilities often cost more than twice what HHS beds cost, per the Post’s reporting.

In FY22, HHS reported it cost \$8 billion to care for unaccompanied minors, which comes out to \$61,584 per minor, with HHS requesting another \$4.9 billion for FY23.<sup>226</sup>

### ***V. State Law Enforcement Costs***

Several states, most notably Texas, Florida, and Arizona, have devoted substantial resources to respond to the crisis sparked by Mayorkas’ policies, especially given the Biden administration’s refusal to provide relief to these states or change its policies. These efforts have cost the states billions of dollars. States like Texas and Arizona have borne the brunt of this cost, with Texas spending the most—more than \$4 billion as of September 2022.<sup>227</sup> The Lone Star State is preparing to spend another \$4.6 billion in just the next two years to secure its border.<sup>228</sup>

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222 “Across the Nation, Cities Feel Strain of Housing Migrants,” NewsNation, May 23, 2023, <https://www.newsnationnow.com/us-news/immigration/border-coverage/cities-strain-housing-migrants/>.

223 Tesesa Kenny, “Kenny Testimony,” U.S. House Committee on the Judiciary, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/kenny-testimony.pdf>.

224 The Federation for American Immigration Reform, *supra* note 205.

225 Nick Miroff, “Biden Administration Spending \$60 Million per Week to Shelter Unaccompanied Minors,” The Washington Post, April 9, 2021, sec. National, [https://www.washingtonpost.com/national/border-shelters-cost/2021/04/08/c54eec3a-97bd-11eb-8e42-3906c09073f9\\_story.html](https://www.washingtonpost.com/national/border-shelters-cost/2021/04/08/c54eec3a-97bd-11eb-8e42-3906c09073f9_story.html).

226 “Fiscal Year 2023 Budget in Brief,” U.S. Department of Health and Human Services Assistant Secretary for Financial Resources, March 28, 2022, <https://www.hhs.gov/sites/default/files/fy-2023-budget-in-brief.pdf>, 121.

227 Glorie Martinez and Rhonda Fanning, “Texas Has Spent over \$4 Billion on Operation Lone Star. Where Did That Money Come From?,” KERA News, September 15, 2022, <https://www.keranews.org/politics/2022-09-15/texas-has-spent-over-4-billion-on-operation-lone-star-where-did-that-money-come-from>.

228 “Governor Abbott Urges Nation’s Governors To Help Combat Border Crisis,” Office of the Texas Governor, May 16, 2023, <https://gov.texas.gov/news/post/governor-abbott-urges-nations-governors-to-help-combat-border-crisis>.



## CONSEQUENCE 7: THE MASSIVE FINANCIAL COSTS OF MAYORKAS' OPEN BORDERS

States have also stepped up to help secure the Southwest border, at immense cost to themselves. Though dollar figures are not yet available, Florida Gov. Ron DeSantis announced on May 16, 2023, the deployment of substantial resources to Texas, including 101 Florida Highway Patrol troopers, 200 Florida Department of Law Enforcement officers, 800 Florida National Guard soldiers, 17 available unmanned aerial vehicles and support teams, and 10 vessels including airboats, shallow draft vessels, and mid-range vessels.<sup>229</sup> Tennessee, Idaho, and Nebraska have also contributed to the effort,<sup>230</sup> as have Virginia, South Carolina, and South Dakota.<sup>231</sup>

### **VI. Costs of Transporting Illegal Aliens**

In the wake of daily surges of illegal aliens across the border and the limited capacity to handle them, several states—led by Texas, Arizona, and Florida—have had little choice but to transport those aliens out of their states to other locales, particularly sanctuary states and cities. This costs states even more money. Thousands of illegal aliens have been bussed and flown out of these states, and costs have varied depending on the state.<sup>232</sup>

For example, the city of El Paso is now spending up to \$250,000 per day, up from \$55,000 per day, to handle the historic flow of illegal aliens into the city.<sup>233</sup> Over the course of the year, this comes out to more than \$91 million, nearly 20 percent of the city's general fund budget for FY23.<sup>234</sup>

#### **Texas:**

- According to Gov. Greg Abbott, the state has sent more than 12,000 illegal aliens to major cities including Washington D.C., Chicago, Philadelphia, and New York City. As of summer 2022, the state had paid a total of \$12.7 million to Wynne Transportation, the company conducting much of the transportation.<sup>235</sup>

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229 “Governor Ron DeSantis: ‘Florida Is Sending Help to Texas to Secure the Southern Border,’” Office of the Florida Governor, May 16, 2023, <https://www.flgov.com/2023/05/16/governor-ron-desantis-florida-is-sending-help-to-texas-to-secure-the-southern-border/>.

230 Greg Abbott [@GregAbbott\_TX], “Tennessee Joins Idaho, Florida, and Nebraska in Support of Texas’ Historic Border Mission. Thank You, @GovBillLee. Together, We Will Fill the Gaps Biden’s Open Border Policies Created and Keep Americans Safe.,” Tweet, Twitter, May 25, 2023, [https://twitter.com/GregAbbott\\_TX/status/1661856812650446854](https://twitter.com/GregAbbott_TX/status/1661856812650446854).

231 Summer Concepcion, “Four GOP Governors Send National Guard to the Southern Border,” NBC News, May 31, 2023, <https://www.nbcnews.com/politics/immigration/va-gov-glenn-youngkin-sends-national-guard-southern-border-rcna87048>.

232 Priscilla Alvarez, Tatiana Laborde, and Aaron Reichlin-Melnick, “What’s Happening To The Migrants Being Bussed North?,” NPR News, September 26, 2022, sec. 1A, <https://www.npr.org/2022/09/26/1125217441/whats-happening-to-the-migrants-being-bussed-north>.

233 “Migrant Crisis: FAQs,” The City of El Paso, accessed June 12, 2023, <https://www.elpasotexas.gov/migrant-crisis/faqs/>.

234 “El Paso City Budget 2023,” The City of El Paso Office of Management & Budget, August 23, 2022, <https://www.elpasotexas.gov/assets/Documents/CoEP/OMB/FY23-Budget/FY-2023-Budget-Book-FINAL.pdf>.

235 Pooja Salhotra, “Gov. Greg Abbott’s Migrant Busing Program Costs Texas \$12 Million,” The Texas Tribune,



# CONSEQUENCE 7: THE MASSIVE FINANCIAL COSTS OF MAYORKAS' OPEN BORDERS

## Arizona:

- Since May 2022, when Arizona's bus program began, 43 buses have departed from Arizona to Washington, D.C., bringing almost 1,600 illegal aliens to the east coast.
- Each bus trip cost roughly \$83,000, bringing the total to around \$3.5 million.<sup>236</sup>

## Florida:

- State lawmakers allocated \$12 million to the Florida Department of Transportation for illegal alien relocation purposes, which DeSantis made clear would be spent.<sup>237</sup>

Finally, from January-September 2021 alone, the Biden administration also spent at least \$340 million transporting illegal aliens into the interior.<sup>238</sup>

## **VII. Hotel Rooms for Illegal Aliens**

Cities are also spending millions of dollars on housing for illegal aliens that are not being detained or deported. New York City is perhaps the starkest example. Earlier this year, the city signed a \$275 million contract with the Hotel Association of New York City to house just 5,000 illegal aliens—\$55,000 per individual.<sup>239</sup>

New York City budget director Jacques Jaha said in January that the city has already spent more than \$366 million on aid for illegal aliens since 2022.<sup>240</sup> In the city's application to requesting federal reimbursement, Jaha said New York City estimates it will spend \$4.3 billion on shelter and services for illegal aliens by July 2024.<sup>241</sup> Other reports confirm similar figures.<sup>242</sup>

August 31, 2022, <https://www.texastribune.org/2022/08/31/texas-12-million-migrant-busing-program/>.

236 Polo Sandoval and Andy Rose, "Texas Spends More than \$12 Million to Bus Migrants to Washington, DC, and New York," CNN Politics August 31, 2022, <https://www.cnn.com/2022/08/30/politics/texas-migrant-busing-cost-abbott-washington-dc-new-york/index.html>.

237 Douglas Soule, "As Legal Bills Mount, Florida Paid about \$35,000 for Each Migrant in Martha's Vineyard Flights," The Tallahassee Democrat, January 9, 2023, <https://www.tallahassee.com/story/news/politics/2023/01/09/marthas-vineyard-migrant-flight-lawsuit-could-cost-florida-1-million/69782146007/>.

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239 David Lazar, "Mayor Signs \$275 Million Deal with Hotels to House Migrants," Spectrum News NY1, January 15, 2023, <https://www.ny1.com/nyc/all-boroughs/housing/2023/01/15/mayor-signs--275-million-deal-with-hotels-to-house-migrants>.

240 Carl Campanile and Bernadette Hogan, "Ka-Ching! Adams Ink \$275 Million with Hotels to House Migrants," The New York Post, January 13, 2023, <https://nypost.com/2023/01/13/ka-ching-adams-ink-275-million-with-hotels-to-house-migrants/>.

241 Chris Sommerfeldt, "NYC Submits FEMA Application for \$650 Million in Federal Migrant Aid — 4 Days before Deadline," Yahoo News and New York Daily News, April 10, 2023, <https://news.yahoo.com/nyc-submits-fema-application-650-163200271.html>.

242 Bernadette Hogan and Bruce Golding, "Biden Migrant Crisis to Cost NYC \$4.2 Billion," The New York



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The city is even reportedly considering housing illegal aliens at a closed prison facility on Riker's Island,<sup>243</sup> and in mid-May of this year, Mayor Eric Adams declared that nearly half of all hotel rooms in New York City were being occupied by illegal aliens, limiting the ability of the city to generate revenue from tourists using those hotels instead.<sup>244</sup>

- Denver city officials estimate they will spend \$20 million just from January-June 2023 to house illegal aliens.<sup>245</sup>
- Chicago is spending more than \$20 million monthly to “house and support” aliens.<sup>246</sup>
- Through May 2023, Washington, D.C. had spent \$15.1 million to house, feed, and support illegal aliens arriving in the city—with local hotel space being maxed out.<sup>247</sup> Those costs are expected to rise to \$52.5 million by October 2023.<sup>248</sup>

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Post, February 7, 2023, <https://nypost.com/2023/02/07/biden-migrant-crisis-to-cost-nyc-4-2-billion/>.

243 Chris Sommerfeldt and Graham Rayman, “NYC Seriously Mulls Housing Migrants in Shuttered Jail on Rikers Island,” New York Daily News, May 17, 2023, <https://www.nydailynews.com/new-york/nyc-crime/ny-rikers-island-migrants-closed-jail-mayor-adams-20230517-m5yhriyoffdwtbzlrln63upxrq-story.html>.

244 “NYC Migrant Crisis: Roosevelt Hotel in Midtown Manhattan Begins Welcoming Migrants,” ABC7 New York, May 19, 2023, <https://abc7ny.com/nyc-migrants-hotels-gyms/13268663/>.

245 Zachary Rogers, “Housing Migrants Will Cost Denver up to \$20 Million in Just Six Months, Officials Estimate,” KTUL, April 7, 2023, <https://ktul.com/news/nation-world/housing-migrants-will-cost-denver-up-to-20-million-in-just-six-months-officials-estimate-mexico-border-biden-administration-illegal-immigrants>.

246 Diane Pathieu, “City Seeks More Federal Funding to Manage Migrant Influx as Some Sleep in Chicago Police Stations,” ABC7 Chicago, April 28, 2023, <https://abc7chicago.com/chicago-migrants-immigrants-border-migrant/13191997/>.

247 Antonio Olivo and Michael Brice-Saddler, “Migrants Find No Space in Crowded Hotels Leased by D.C., Council Members Say,” The Washington Post, May 3, 2023, <https://www.washingtonpost.com/dc-md-va/2023/05/02/migrants-dc-hotels-buses-closed/>.

248 Cuneyt Dil, “D.C. struggles to help migrants amid influx,” Axios, May 15, 2023, <https://www.axios.com/local/washington-dc/2023/05/15/dc-struggles-to-help-migrants>





## CONCLUSION

There is undeniably a catastrophic crisis raging at our Southwest border, a crisis that has been raging for more than two years. The American people are suffering, not just in border states, but in communities all across this country, as the consequences of an unprecedented crisis impact Americans of all walks of life.

These costs and consequences are unacceptable, especially when they are the result of a crisis that was predictable and preventable. Indeed, many experienced men and women with long careers in law enforcement and national security warned the Biden administration against exactly this kind of policy agenda.

Those responsible for the policies that have brought us here must be investigated, and that is a duty this Committee is going to fully and faithfully execute. We will report our findings to the American people as obtain them, and will ultimately deliver final recommendations to Congress on next steps.

In closing, the American people must understand that this is not about politics. It is not about disagreements over policy. It is about law and order, and the safety of the American people.

This is about right and wrong, and whether a cabinet secretary has followed the law, upheld his oath, and been faithful to the public trust. These are questions we have a duty and responsibility to answer.



Exhibit C

DHS SECRETARY

ALEJANDRO MAYORKAS

HAS EMBOLDENED CARTELS,  
CRIMINALS, AND AMERICA'S  
ENEMIES

PHASE 2 INTERIM REPORT

COMMITTEE ON  
HOMELAND SECURITY  
MAJORITY REPORT

SEPTEMBER 7, 2023



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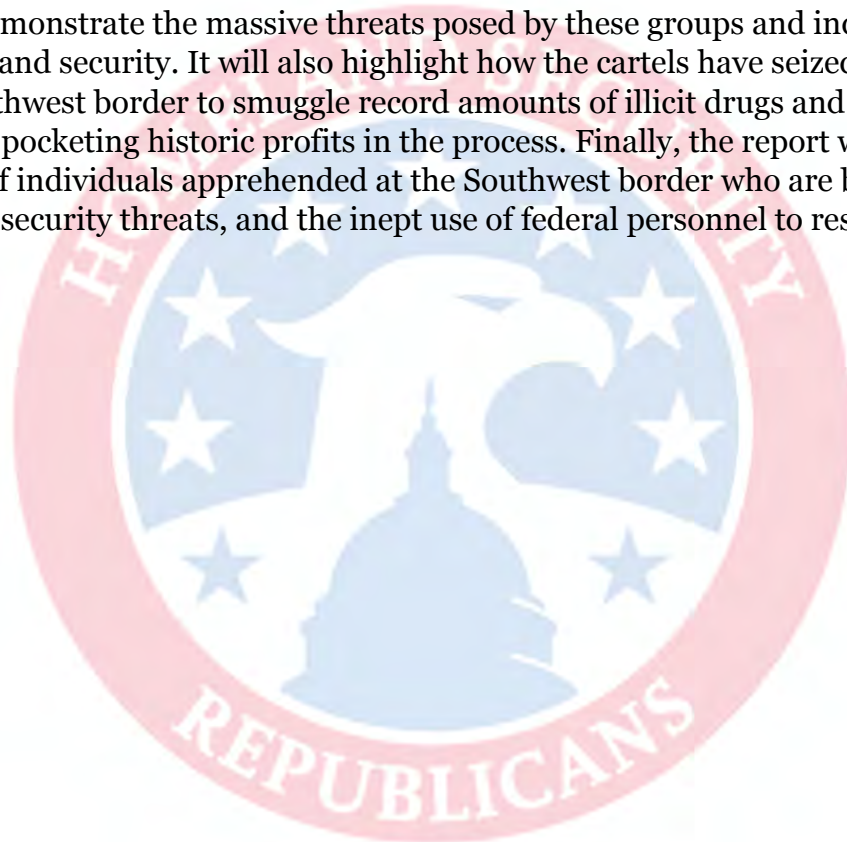


# INTRODUCTION

## **Introduction: Mayorkas Has Empowered the Worst Actors Around the Globe**

Department of Homeland Security (DHS) Secretary Alejandro Mayorkas' open-borders policies have empowered and emboldened some of the most vicious, ruthless, and savage individuals and groups in the world. Whether it is transnational criminal organizations (TCOs) like the cartels and human smuggling organizations in the Western Hemisphere, potential national security threats from countries who sponsor terrorism, or those coming from major state adversaries like China and Russia, the wide-open Southwest border has given America's enemies all over the globe an opportunity to infiltrate the homeland—an opportunity too good to pass up.

This report will demonstrate the massive threats posed by these groups and individuals to Americans' safety and security. It will also highlight how the cartels have seized unprecedented control of the Southwest border to smuggle record amounts of illicit drugs and illegal aliens into the United States, pocketing historic profits in the process. Finally, the report will document the historic increase of individuals apprehended at the Southwest border who are being flagged as potential national security threats, and the inept use of federal personnel to respond to the crisis.





# SECTION 1: HOW CARTELS ARE TAKING ADVANTAGE OF OPEN-BORDERS POLICIES

## **Section 1: How Cartels Are Taking Advantage of Open-Borders Policies**

### **Understanding the Cartels**

The cartels are the most vicious, evil organizations in the Western Hemisphere,<sup>1</sup> with operations that include a number of illicit activities—drug trafficking, human smuggling, and human trafficking chief among them. According to one senior official with the Drug Enforcement Administration (DEA), they are “ruthless and violent global criminal enterprises, with members, associates, facilitators and brokers in all 50 states and in at least 100 countries throughout the world. The cartels use treachery and deceit to drive addiction and deaths in our country.”<sup>2</sup>

Moreover, the DEA’s 2020 National Drug Threat Assessment highlights the cartels’ connection to “independent drug trafficking organizations” and “transnational gangs, U.S.-based street gangs, prison gangs, and Asian money laundering organizations (MLOs).”<sup>3</sup> These groups employ brutal violence to exert their influence in Mexico. For example, in August 2023, members of the Jalisco Nueva Generación Cartel (CJNG) lured, abducted, and later beheaded five young men in the Mexican state of Jalisco after the men reportedly refused to be recruited into the cartel’s ranks.<sup>4</sup>

These groups maintain substantial control in Mexico, with the two largest and most powerful cartels—Sinaloa and CJNG—actively operating in the majority of Mexico’s 32 states.<sup>5</sup> The cartels are the leading suppliers of drugs to the United States,<sup>6</sup> with Sinaloa and CJNG responsible for most of the illicit fentanyl entering the country.<sup>7</sup>

Americans must understand the sheer control these organizations exert over the flow of illegal aliens and illicit drugs across the Southwest border, and how they profit from it all. The cartels control smuggling routes throughout Mexico and exert near-complete control on the movement of individuals through that country, particularly at and near the Southwest border.<sup>8</sup>

Before the cartels increased their control of the Southwest border, aliens could often cross by themselves to complete their journey to the United States. Now, it is nearly impossible to cross without paying some sort of price to the cartels. Former Border Patrol Chief Rodney Scott

<sup>1</sup> “Cuccinelli: Cartels are the most evil, vicious people in western hemisphere,” *Fox Business*, YouTube video, April 1, 2021, <https://www.youtube.com/watch?v=sidPMxP4GtU>.

<sup>2</sup> “Protecting the U.S. Homeland: Fighting the Flow of Fentanyl from the Southwest Border,” *Homeland Security Committee Events*, YouTube video, 50:06, July 12, 2023, <https://www.youtube.com/live/L0EurNtLz0M?feature=share&t=3006>.

<sup>3</sup> U.S. Department of Justice, Drug Enforcement Administration, *2020 National Drug Threat Assessment*, DEA-DCT-DIR-008-21, March 2021, 69, [https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment\\_WEB.pdf](https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf).

<sup>4</sup> Lawrence Richard, Five students beat, murdered by Mexican cartel in horrifically graphic video were lured by job offer: report,” *Fox News*, August 18, 2023, <https://www.foxnews.com/world/five-students-beat-murdered-mexican-cartel-horrifically-graphic-video-lured-job-offer-report>.

<sup>5</sup> U.S. Department of Justice, Drug Enforcement Administration, *2020 National Drug Threat Assessment*, DEA-DCT-DIR-008-21, March 2021, 70-71, [https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment\\_WEB.pdf](https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf).

<sup>6</sup> “Mexico’s Long War: Drugs, Crime, and the Cartels,” *The Council on Foreign Relations*, September 7, 2022, <https://www.cfr.org/backgrounder/mexicos-long-war-drugs-crime-and-cartels>.

<sup>7</sup> Katie Cooper, “Briefing on the Senate Foreign Relations Committee Countering Illicit Fentanyl Trafficking Hearing,” *The Wilson Center*, February 24, 2023, <https://www.wilsoncenter.org/article/briefing-senate-foreign-relations-committee-countering-illicit-fentanyl-trafficking-hearing#:~:text=Both%20cartels%20in%20Mexico%20are,coming%20into%20the%20United%20States>.

<sup>8</sup> See U.S. Congress, Senate, Committee on Foreign Relations, Minority, *Biden’s Border Crisis: Examining Policies That Encourage Illegal Migration*, 117th Cong., 2nd sess., June 2022, 28-29, [https://www.risch.senate.gov/public/\\_cache/files/5/0/5082e293-b23d-4726-a581-dc428517a843/9FB8D6A16D2415A013D48761339299C6.bidens-border-crisis.pdf](https://www.risch.senate.gov/public/_cache/files/5/0/5082e293-b23d-4726-a581-dc428517a843/9FB8D6A16D2415A013D48761339299C6.bidens-border-crisis.pdf); and Josh Jones, “Cartels and Their Cruelty Are the Crisis at the Border,” *Texas Public Policy Foundation*, March 15, 2021, <https://www.texaspolicy.com/cartels-and-their-cruelty-are-the-crisis-at-the-border/>.



# SECTION 1: HOW CARTELS ARE TAKING ADVANTAGE OF OPEN-BORDERS POLICIES

answered affirmatively when asked by one media outlet in February 2023 if “every single person” crossing illegally has had “some sort of contact with the cartels,” further explaining, “That hasn’t always been that way, by the way.”<sup>9</sup> Before smugglers controlled the Rio Grande River, some individuals crossed back and forth daily, according to Timothy Tubbs, a retired agent with Immigration and Customs Enforcement’s (ICE) Homeland Security Investigations (HSI).<sup>10</sup>

The New York Times’ Miriam Jordan put it succinctly in a July 2022 report, writing, “Migrant smuggling on the U.S. southern border has evolved over the past 10 years from a scattered network of freelance ‘coyotes’ into a multi-billion-dollar international business controlled by organized crime, including some of Mexico’s most violent drug cartels.”<sup>11</sup>

Now, almost anyone who crosses the Southwest border, including at ports of entry, has done so only because they have first paid a cartel, or agreed, knowingly or not, to enter into months or years of debt to the organization upon arriving in the United States. Jason Owens, then-chief patrol agent for the Del Rio Sector, told the House Committee on Homeland Security in May 2023 that the criminal organizations “keep a death grip on anything that comes across the border illicitly, because they want their cut. They want their money, and so they’re going to do things to dissuade individuals from doing what you’re saying, crossing on their own—to include violent tactics against them.”<sup>12</sup> In his February 2023 testimony before the House Committee on Oversight and Reform, John Modlin, chief patrol agent for the Tucson Sector, said, “What I see in Tucson Sector, in my experience, is that no one crosses the border in Tucson Sector without going through the cartels.”<sup>13</sup> He later told the House Committee on Homeland Security in July 2023, “[N]ow nobody crosses without paying the cartels. ... It’s all controlled by them.”<sup>14</sup>

The money these organizations have made has only increased their influence and command over the Southwest border. Former Customs and Border Protection (CBP) Acting Commissioner Mark Morgan pointed out in early 2022 that every individual who crosses the border illegally “paid the cartels. That illegal immigration is fueling and financing the cartels’ criminal operations. It’s making them stronger. And it’s also enabling their criminal schemes in other areas, including drugs, to expand.”<sup>15</sup>

## **Cartels Now Control the Southwest Border**

Numerous law enforcement veterans, local officials, and national security experts agree that the cartels have seized an unprecedented level of control at the Southwest border. This control

<sup>9</sup> Virginia Allen, “Former Border Patrol Chief Opens Up About the Horrifying Power Cartels Wield Around the Rio Grande,” *The Daily Signal*, February 10, 2023, <https://www.dailysignal.com/2023/02/10/no-one-crosses-unlawfully-from-mexico-without-working-with-cartels-former-border-patrol-chief-says/>.

<sup>10</sup> Miriam Jordan, “Smuggling Migrants at the Border Now a Billion-Dollar Business,” *The New York Times*, July 25, 2022, <https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html>.

<sup>11</sup> Ibid.

<sup>12</sup> Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 53-54, May 5, 2023.

<sup>13</sup> “On The Front Lines of the Border Crisis: A Hearing with Chief Patrol Agents,” *House Oversight and Accountability Committee*, YouTube video, 36:24, February 7, 2023, <https://oversight.house.gov/hearing/on-the-front-lines-of-the-border-crisis-a-hearing-with-chief-patrol-agents/>.

<sup>14</sup> John Modlin, Transcribed Interview with the House Committee on Homeland Security, 64, July 26, 2023.

<sup>15</sup> Maggie Hroncich, “Officials Assail Biden Inaction: ‘Mexican Cartels Basically Control Our Border Now,’” *The Daily Signal*, March 15, 2022, <https://www.dailysignal.com/2022/03/15/officials-assail-biden-inaction-mexican-cartels-basically-control-our-border-now/>.



# SECTION 1: HOW CARTELS ARE TAKING ADVANTAGE OF OPEN-BORDERS POLICIES

represents a significant challenge to CBP's national security mission, the safety of American communities, and the sovereignty of the United States.

Most notably, in a March 2023 hearing held by the House Committee on Homeland Security, then-Border Patrol Chief Raul Ortiz contradicted Mayorkas' prior claims that DHS has operational control of the Southwest border.<sup>16</sup> During the hearing, Ortiz testified to Chairman Mark Green, R-Tenn., that DHS did not have operational control of the border,<sup>17</sup> and that five of the Border Patrol's nine sectors along the Southwest border were under tremendous strain.<sup>18</sup>

During a July 2023 hearing, the House Committee on Homeland Security's Border Security and Enforcement Subcommittee Chairman Rep. Clay Higgins, R-La., asked witnesses if the cartels have gained "unprecedented access and networking within the United States of America." Derek Maltz, former special agent in charge of the DEA's Special Operations Division, and Jaeson Jones, a former captain in the Texas Department of Public Safety's (DPS) Intelligence and Counterterrorism Division, with years of experience in combatting the cartels, answered in the affirmative.<sup>19</sup> They further confirmed that cartel control increased "incredibly" during Mayorkas' tenure, with Maltz later testifying the cartels "have total control."<sup>20</sup>

Former Border Patrol Chief Scott stated in February 2023, "[The cartels] control the border today. And they control the border today under the Biden administration because of this mass migration to a level that they've never had. And I mean...they don't worry hardly at all about what they're trying to get in because their success rate is so high."<sup>21</sup>

Border correspondent Ali Bradley reported in February of this year that, based on Border Patrol assessments, the "cartels are controlling operations at the southern border as they force migrants across the Rio Grande at gunpoint and hold asylum seekers in stash houses...The cartel sees what is happening on the U.S. side and takes advantage of the lack of resources, pushing people and drugs through the holes while Border Patrol is busy processing..."<sup>22</sup> Bradley further explained that Border Patrol officials believe the cartels "are always one step ahead" of law enforcement.<sup>23</sup>

Other officials have echoed this conclusion. Former DEA Acting Administrator Uttam Dhillon told a forum in Washington, D.C., in March 2022, "Mexican cartels basically control our border now."<sup>24</sup> Morgan and former DHS Acting Deputy Chief of Staff Lora Ries released a statement in September 2022 agreeing with this assessment, stating, "The drug cartels now have operational

<sup>16</sup> U.S. Congress, House of Representatives, Committee on the Judiciary, *Oversight of the Department of Homeland Security*, 117th Cong., 2nd sess., April 28, 2022, 119-120, <https://www.congress.gov/117/chr/CHRG-117hrg49702/CHRG-117hrg49702.pdf>.

<sup>17</sup> "User Clip: Chief Ortiz Admits No Operational Control over Border," *C-SPAN video*, March 15, 2023, <https://www.c-span.org/video/?c5062135/user-clip-chief-ortiz-admits-operational-control-border>.

<sup>18</sup> Anna Giaritelli, "Biden Border Chief in Hot Seat over Whether US-Mexico Boundary Is Secure," *The Washington Examiner*, March 15, 2023, <https://www.washingtonexaminer.com/policy/immigration/border-chief-hot-seat-texas-gop-hearing-mexico>.

<sup>19</sup> "Biden and Mayorkas' Open Border: Advancing Cartel Crime in America," *Homeland Security Committee Events*, YouTube video, 1:21:01, July 19, 2023, <https://www.youtube.com/live/kva0HOb1TUG?feature=share&t=4861>.

<sup>20</sup> *Ibid.*, 1:34:18.

<sup>21</sup> Virginia Allen, "Former Border Patrol Chief Opens Up About the Horrifying Power Cartels Wield Around the Rio Grande," *The Daily Signal*, February 10, 2023, <https://www.dailysignal.com/2023/02/10/no-one-crosses-unlawfully-from-mexico-without-working-with-cartels-former-border-patrol-chief-says/>.

<sup>22</sup> Ali Bradley, "Cartels Controlling Migrant Activity at Southern Border," *NewsNation*, February 6, 2023, <https://www.newsnationnow.com/us-news/immigration/border-coverage/cartels-migrant-activity-southern-border/>.

<sup>23</sup> *Ibid.*

<sup>24</sup> Maggie Hroncich, "Officials Assail Biden Inaction: 'Mexican Cartels Basically Control Our Border Now,'" *The Daily Signal*, March 15, 2022, <https://www.dailysignal.com/2022/03/15/officials-assail-biden-inaction-mexican-cartels-basically-control-our-border-now/>.



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control of our southern border,”<sup>25</sup> while Jonathan Lines, supervisor of Yuma County, Arizona, recently described the cartels as a major threat to communities like his—“Unless this situation changes and we take back control from the cartels, for the trafficking coming across our border, it will only get worse.”<sup>26</sup>



Law enforcement officials released photos in August 2023 of a group of suspected cartel gunmen armed with rifles and body armor caught on camera crossing illegally into Texas in the Rio Grande Valley region. In June 2023, the Border Patrol’s chief patrol agent for the Laredo Sector told the House Committee on Homeland Security that agents frequently encounter armed human smugglers in his sector.<sup>27</sup> Lieutenant Chris Olivarez of Texas DPS said in August 2023 that incursions by armed cartel operatives have become “a more common occurrence.”<sup>28</sup> (Source: Fox News)

The assessment of cartel control at the Southwest border is bipartisan. Independent Arizona Sen. Kyrsten Sinema said in May 2023, in the context of the Biden administration’s ending of the Centers for Disease Control and Prevention’s (CDC) Title 42 public health order, “The cartels are incredibly well-resourced and they’re very strategic, so they’re pushing people through different parts of the border at different times with different prices for different purposes, and they’re controlling what’s happening on the southern border, not the United States government.”<sup>29</sup>

<sup>25</sup> “Heritage Border Experts on Texas Designating Cartels as Terrorist Organizations: States Should Follow Texas’ Lead on Border Security,” *The Heritage Foundation*, September 22, 2022, <https://www.heritage.org/press/heritage-border-experts-texas-designating-cartels-terrorist-organizations-states-should>.

<sup>26</sup> Megan Myers, “Border under control of cartels, not the US, Yuma residents say as gangs rake in billions off human smuggling,” *Fox News*, January 18, 2023, <https://www.foxnews.com/us/border-control-cartels-us-yuma-residents-say-gangs-rake-billions-human-smuggling>.

<sup>27</sup> Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 122, June 1, 2023.

<sup>28</sup> Ali Bradley [@AliBradleyTV], “I talked with @TxDPS @LtChrisOlivarez after two CDN cartel members were apprehended in Texas — He tells me cartel operatives are breaching our southern border on a daily basis— Saying state and federal partnerships are crucial in preventing those individuals from getting into our communities.” Tweet, *Twitter*, August 16, 2023, <https://twitter.com/AliBradleyTV/status/1691981814225944640>.

<sup>29</sup> Kevin Stone, “Sen. Kyrsten Sinema blasts Biden administration over handling of Title 42 end,” *KTAR News*, May 11, 2023, <https://ktar.com/story/5494615/sen-kyrsten-sinema-blasts-biden-administration-over-handling-of-title-42-end/>.





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This malign presence is not just confined to the Southwest border. As one West Texas sheriff put it during a recent roundtable with the House Committee on Homeland Security, “As far north as we are from the border—the cartels are here. They’re everywhere.”<sup>30</sup>

The American people agree with the judgment of these law enforcement and national security professionals. According to a poll released in September 2022, 61 percent of registered voters believe the cartels possess more control of the Southwest border than the federal government.<sup>31</sup>

## ***How the Cartels Seized Control of the Southwest Border***

Multiple factors have enabled the cartels’ unprecedented seizure of control at the Southwest border—and they can all be traced back to President Joe Biden and Mayorkas’ open-borders policies.

First, Mayorkas and Biden’s reversal of the effective border security policies of the previous administration, as well as the host of policies they have subsequently implemented, have encouraged millions of individuals to make the journey to the Southwest border in hopes of being released into the United States. The Committee’s Phase 1 interim report on Mayorkas’ dereliction of duty presented substantial evidence of the consequences of these policies in explicit detail.<sup>32</sup>

The massive increase in the number of people now traveling up through Mexico on their way to the Southwest border represents a historic business opportunity for the cartels, as each person is someone off whom they can profit.

Second, the unmitigated tide of individuals flooding across the Southwest border under Mayorkas’ policies has forced Border Patrol agents to focus their efforts on processing, transporting, and releasing unprecedented numbers of illegal aliens, rather than patrolling the border.<sup>33</sup>

This has left broad stretches of the border open to exploitation by the cartels, who not only take advantage of areas where agents are no longer present, but often send across groups of aliens in places where agents are in order to tie up Border Patrol resources. While those agents are responding, the cartels will then push drugs or other groups of aliens across in another location.<sup>34</sup> This process—“flooding the zones,” as one expert has called it<sup>35</sup>—has been repeated day in and day out ever since Mayorkas implemented his open-borders policies, a fact confirmed by senior Border Patrol officials.

<sup>30</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, Majority, *Texas Ranchers, Law Enforcement, and State Officials Share the Truth on Mayorkas’ Border Crisis With Homeland Security Republicans*, 118th Cong., 1st sess., March 16, 2023, <https://homeland.house.gov/texas-ranchers-law-enforcement-and-state-officials-share-the-truth-on-mayorkas-border-crisis-with-homeland-security-republicans/>.

<sup>31</sup> Diana Glebova, “Majority of Americans Think Cartels Control Border More than U.S. Government: Poll,” *National Review*, September 22, 2022, <https://www.nationalreview.com/news/majority-of-americans-think-cartels-control-border-more-than-u-s-government-poll/>.

<sup>32</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, Majority, *DHS Secretary Alejandro Mayorkas’ Dereliction of Duty, Phase 1 Interim Report*, 118th Cong., 1st sess., July 19, 2023, <https://homeland.house.gov/wp-content/uploads/2023/07/Phase-One-Report.pdf>.

<sup>33</sup> “Full Committee Field Hearing: ‘Failure By Design: Examining Secretary Mayorkas’ Border Crisis,’” *Homeland Security Committee Events*, YouTube video, 2:46:10 March 15, 2023, <https://www.youtube.com/watch?v=7Z1ETzh3AUA&t=9960s>.

<sup>34</sup> “On The Front Lines of the Border Crisis: A Hearing with Chief Patrol Agents,” *House Oversight and Accountability Committee*, YouTube video, 29:30, February 7, 2023, <https://oversight.house.gov/hearing/on-the-front-lines-of-the-border-crisis-a-hearing-with-chief-patrol-agents/>.

<sup>35</sup> “Biden and Mayorkas’ Open Border: Advancing Cartel Crime in America,” *Homeland Security Committee Events*, YouTube video, 2:14:29, July 19, 2023, <https://www.youtube.com/live/kva0HOb1TUg?feature=share&t=8069>.



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Gregory Bovino, then-chief patrol agent for the El Centro Sector, confirmed this tactic to the House Committee on Homeland Security in July 2023, stating, “So, what in fact happens, there is a large group [that] comes across or a group comes across, gives up to Border Patrol agents, and, as Border Patrol agents are busy dealing with that group that had given up, the gotaways come around the periphery.”<sup>36</sup> In May 2023, two other chief patrol agents confirmed the cartels’ use of this tactic in interviews with Committee staff.<sup>37</sup>

Local law enforcement officials have documented this tactic, as well. According to Sheriff Leon Wilmot in Yuma County, Arizona:

“So, what the cartels do is they tie up Border Patrol resources by sending across large groups of ‘give ups’ ... so they can actually funnel in those that are smuggling narcotics. And they are actually dropping off certain groups out 30 miles away from civilization and having them call 911, so that ties up our resources, and that’s why we’re seeing such a large amount of fentanyl throughout the whole of the U.S. We’ve never seen it this bad. Human life is nothing to them. It’s a commodity...”<sup>38</sup>

## **Open Borders Equal Record Profits and Expanded Arsenals for the Cartels**

The sheer volume of people and drugs the cartels are moving across the border has generated historic profit margins for these criminal organizations. Indeed, the cartels are no longer just “drug cartels,” as human smuggling and trafficking have become central to their business model.<sup>39</sup> Per the New York Times, the cartels may have made as much as \$13 billion just from human smuggling in 2021,<sup>40</sup> a year in which CBP recorded around 1.5 million encounters at the Southwest border.<sup>41</sup>

In Fiscal Year (FY)22, encounters jumped to 2.37 million, and through July 2023, CBP was on pace to record a similar number in FY23.<sup>42</sup> In an interview with House Committee on Homeland Security staff in May 2023, Owens said that his sector intelligence unit ascertained the cartels were making more than \$30 million per week from human smuggling just in the Del Rio Sector alone, for a total of around \$1.5 billion a year.<sup>43</sup>

Also to be factored into the cartels’ balance sheet are the historic number of known gotaways—at least 1.5 million since FY21,<sup>44</sup> among whom are often previous deportees and individuals with

<sup>36</sup> Gregory Bovino, Transcribed Interview with the House Committee on Homeland Security, 174, July 12, 2023.

<sup>37</sup> See Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 51-52, May 5, 2023; and Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 40-41, May 9, 2023.

<sup>38</sup> America’s Newsroom [@AmericaNewsroom], “CARTEL CRISIS: How Mexican Cartels Are Exploiting Biden’s Open Border Policy @BillHemmer – Reporting Live from Yuma, AZ – Is Joined by Two County Officials Who Claim the Border Is Under Control of the Cartels, Not the US. ‘We Have Never Seen It This Bad.’” Tweet, *Twitter*, February 14, 2023, <https://twitter.com/AmericaNewsroom/status/1625511036227842048>.

<sup>39</sup> Miriam Jordan, “Smuggling Migrants at the Border Now a Billion-Dollar Business,” *The New York Times*, July 25, 2022, <https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html>.

<sup>40</sup> *Ibid.*

<sup>41</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *Southwest Land Border Encounters*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

<sup>42</sup> *Ibid.*

<sup>43</sup> Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 52, May 5, 2023.

<sup>44</sup> MaryAnn Martinez, “1.5M ‘gotaways’ have slipped into the US under Biden — three times as many as during 3 years of Trump,” *New York Post*, May 15, 2023, <https://nypost.com/2023/05/15/1-5m-gotaways-have-slipped-into-the-us-under-biden-three-times-as-many-as-during-3-years-of-trump/>.



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criminal records who “pay premium rates” to avoid apprehension.<sup>45</sup> Aaron Heitke, then-chief patrol agent for the San Diego Sector, confirmed this to the House Committee on Homeland Security in May 2023, saying, “From what we have gathered from people...it costs more to go through an area that has a better chance of getting away.”<sup>46</sup>

Then-Border Patrol Chief Ortiz told the Committee in March 2023 that the true number of gotaways—known and undetected—could be 20 percent higher than the reported 1.5 million.<sup>47</sup> These numbers are truly historic. Through August 2023, the Border Patrol had recorded approximately 590,000 known gotaways in FY23, putting the agency on pace to record more than 640,000 gotaways this fiscal year.<sup>48</sup> In FY22, known gotaways totaled around 599,000, and more than 389,000 in FY21.<sup>49</sup>

All three totals far exceed annual known gotaways from the 10 years prior to the Biden administration. In fact, the number of gotaways in just the El Paso Sector in the first nine months of FY23—166,344<sup>50</sup>—exceeded total known gotaways across all nine Border Patrol sectors every year between FY10-20 except one, as the DHS numbers below show.

**Table 2b.**

**USBP Detected Got Aways between POEs by Border, FY 2010 to 2020**

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Coastal Border	351	682	610	577	594	681	572	533	496	935	926
Northern Border	16	39	21	35	53	43	41	67	239	441	289
Southwest Border	117,232	85,505	104,474	171,051	161,424	190,771	106,000	100,694	120,544	150,000	131,513
<b>Nationwide Total</b>	<b>155,599</b>	<b>86,226</b>	<b>105,105</b>	<b>171,663</b>	<b>162,071</b>	<b>101,495</b>	<b>106,643</b>	<b>104,294</b>	<b>128,679</b>	<b>151,466</b>	<b>136,808</b>

Note: Data for 2013-2020 as of end of year dates; data for 2010-2012 as of July 30, 2021 (end of year data snapshots only began as of 2013).  
Source: USBP.

*The number of known gotaways has exploded on Mayorkas’ watch, averaging well over 500,000 per year, and dwarfing known gotaway numbers from recent years. (Source: DHS 2021 Border Security Metrics Report)*

Further, the approximate 1.5 million known gotaways from FY21-23 exceeds those from FY10-20 combined (1.29 million), according to the department’s 2021 Border Security Metrics Report.<sup>51</sup> Even in 2019, with the short-lived spike in illegal crossings, known gotaways remained relatively stable compared to historic trends.<sup>52</sup>

<sup>45</sup> Nick Miroff, “Border Officials Say More People Are Sneaking Past Them as Crossings Soar and Agents Are Overwhelmed,” *The Washington Post*, April 2, 2021, [https://www.washingtonpost.com/national/got-aways-border/2021/04/01/14258a1e-9302-11eb-9af7-fd0822ae4398\\_story.html](https://www.washingtonpost.com/national/got-aways-border/2021/04/01/14258a1e-9302-11eb-9af7-fd0822ae4398_story.html).

<sup>46</sup> Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 43, May 9, 2023.

<sup>47</sup> “Full Committee Field Hearing: ‘Failure By Design: Examining Secretary Mayorkas’ Border Crisis,’” *Homeland Security Committee Events*, YouTube video, 1:08:17, March 15, 2023, <https://www.youtube.com/live/7Z1ETzh3AUA?feature=share&t=4089>.

<sup>48</sup> Bob Price and Randy Clark, “SOURCE: 590K Migrant Got-Aways This Year — Exceeds Last Year Same Period,” *Breitbart*, September 1, 2023, <https://www.breitbart.com/border/2023/09/01/source-590k-migrant-got-aways-this-year-exceeds-last-year-same-period/>.

<sup>49</sup> MaryAnn Martinez and Stephanie Pagonas, “530K Illegal Migrants Sneaked into US Since October: CBP,” *New York Post*, May 10, 2023, <https://nypost.com/2023/05/10/530k-illegal-migrants-have-border-agents-since-start-of-2023/>.

<sup>50</sup> Anthony Scott Good, Transcribed Interview with the House Committee on Homeland Security, 73-74, June 29, 2023.

<sup>51</sup> U.S. Department of Homeland Security, *Department of Homeland Security Border Security Metrics Report: 2021*, April 27, 2022, 16, [https://www.dhs.gov/sites/default/files/2022-06/2022\\_0427\\_plcy\\_border\\_security\\_metrics\\_report\\_FY2021\\_%282020\\_data%29.pdf](https://www.dhs.gov/sites/default/files/2022-06/2022_0427_plcy_border_security_metrics_report_FY2021_%282020_data%29.pdf).

<sup>52</sup> *Ibid.*



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*Texas DPS arrested 14 illegal aliens dressed in camouflage attempting to evade apprehension in April 2023. They would have entered as gotaways if not for the efforts of law enforcement. (Source: Texas DPS)*

The massive increase in gotaways is just more fuel on the fire of the cartels' profits. Ultimately, as the number of illegal aliens—gotaways or not—being smuggled or trafficked across the border continues to rise, so do the cartels' profits.

In 2018, then-DHS Secretary Kirstjen Nielsen estimated the cartels made at least \$500 million annually from human smuggling.<sup>53</sup> In August 2021, John Condon, HSI acting assistant director of international operations, told Congress the number had risen to somewhere between \$2-\$6 billion, and potentially more.<sup>54</sup> In February 2021 alone, the Border Patrol estimated the cartels made \$14 million per day smuggling illegal aliens across the border.<sup>55</sup>

Crossing the border illegally is an expensive proposition. In 2021, Newsweek reported Border Patrol sources saying that Mexicans could expect to pay several hundred to several thousand dollars, while Central Americans could pay between \$8,000-\$10,000, and those from South American nations could pay upwards of \$15,000.<sup>56</sup> Another 2021 report, this one from CNN, found that illegal aliens from Guatemala, Honduras, and El Salvador paid smugglers an average of \$7,500 to make it to the border.<sup>57</sup> Additionally, press reports quoting individuals making the

<sup>53</sup> Stephen Dinan, "Kirstjen Nielsen: Cartels Make \$500 Million a Year from Smuggling Illegals into U.S.," *The Washington Times*, May 15, 2018, <https://www.washingtontimes.com/news/2018/may/15/kirstjen-nielsen-cartels-make-500-million-year-smu/>.

<sup>54</sup> Stephen Dinan, "DHS: Cartels Earn up to \$6 Billion a Year from Smuggling Migrants," *The Washington Times*, August 4, 2021, <https://www.washingtontimes.com/news/2021/aug/4/dhs-cartels-earn-6-billion-year-smuggling-illegal-/>.

<sup>55</sup> William La Jeunesse, "US-Mexico Border Traffickers Earned as Much as \$14M a Day Last Month: Sources," *Fox News*, March 22, 2021, <https://www.foxnews.com/politics/us-mexico-border-traffickers-million-february>.

<sup>56</sup> Alex Rouhandeh, "Human Smugglers Charging Up To \$15,000 Per Person for U.S. Border Crossing," *Newsweek*, June 3, 2021, <https://www.newsweek.com/human-smugglers-charging-15000-per-person-us-border-crossing-1597043>.

<sup>57</sup> Catherine Shoichet, "Central American Migrants Paid \$2.2 Billion Trying to Reach the US," *CNN*, November 24, 2021, <https://www.cnn.com/2021/11/24/us/central-american-migration-costs/index.html>.



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journey show many make various payments to different groups along the way in order to traverse particular sections of the route, or simply to pay off robbers or gangs.<sup>58</sup>

It is also instructive to note the higher fees the cartels charge individuals from nations like China. One report found that three Chinese nationals who entered in February 2023 each paid \$35,000.<sup>59</sup> Texas officials say the \$35,000 number for Chinese nationals is a baseline and may go as high as \$50,000.<sup>60</sup> The Border Patrol's Joel Martinez, then-acting chief patrol agent for the Laredo Sector, told the House Committee on Homeland Security in June 2023 that he had heard reports of Chinese nationals being charged \$60,000 by the cartels.<sup>61</sup>

The math gives Americans a sense of the potential scope of cartel profits under Mayorkas' policies. If every Chinese national apprehended illegally crossing the Southwest border in FY23—the Border Patrol recorded 17,678 apprehensions of Chinese nationals through July 2023<sup>62</sup>—paid the cartels \$50,000 to cross the border, that would represent roughly \$880 million in revenue. At \$35,000 per Chinese national, the total would be around \$618 million. Of course, 17,678 apprehensions are a mere drop in the bucket compared to almost 5.8 million Southwest border encounters recorded since Mayorkas took office and the more-than 1.5 million known gotaways, making total cartel profits a troubling figure to imagine. As Jones said in July 2021, “I can without any doubt tell you that the profits they are making today are like nothing we have seen prior. This is a major revenue stream.”<sup>63</sup>

Contrary to Mayorkas' assertions,<sup>64</sup> his new policy that allows otherwise inadmissible aliens to request an appointment at an official port of entry via the CBP One mobile app is failing to stem the record profits flowing to the cartels. This is because individuals must still pay to get through Mexico to the Southwest border, whether they choose to cross between the ports of entry, or make use of Mayorkas' parole pathway at a port of entry. According to Jessica Vaughan, director of policy studies at the Center for Immigration Studies (CIS), in her testimony before the House Committee on Homeland Security on July 19, 2023:

“Biden officials have claimed that that CBP One policy is a great success because the illegal migrants no longer have to do business with the cartels. We should be skeptical of this claim. First of all, CBP One can only be used from locations in northern Mexico and the migrants still have to get there, and for most, that still means paying a cartel-approved

<sup>58</sup> Nick Paton Walsh, et. al., “On one of the world’s most dangerous migrant routes, a cartel makes millions off the American dream,” *CNN*, April 17, 2023, <https://www.cnn.com/2023/04/15/americas/darien-gap-migrants-colombia-panama-whole-story-cmd-intl/index.html>.

<sup>59</sup> Adam Shaw and Bill Melugin, “Border Patrol Apprehensions of Chinese Nationals at Southern Border up 800%: Source,” *Fox News*, February 9, 2023, <https://www.foxnews.com/politics/border-patrol-apprehensions-chinese-nationals-southern-border-800-source>.

<sup>60</sup> State of Texas, Office of the Texas Governor, Greg Abbott, *Operation Lone Star Turns Back Over 30,000 Illegal Immigrants*, March 24, 2023, <https://gov.texas.gov/news/post/operation-lone-star-turns-back-over-30000-illegal-immigrants>.

<sup>61</sup> Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 36, June 1, 2023.

<sup>62</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *Nationwide Encounters*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

<sup>63</sup> Karol Suárez, “Cartels reap growing profits in the smuggling of migrants across the US-Mexico border,” *Louisville Courier Journal*, July 1, 2021, <https://www.courier-journal.com/story/news/investigations/2021/07/01/mexican-cartels-fuel-immigration-crisis-at-us-border/5290082001/>.

<sup>64</sup> “Oversight of the U.S. Department of Homeland Security,” *House Judiciary GOP*, YouTube video, 1:58:02, July 26, 2023 <https://www.youtube.com/live/cAhJdIQy1IA?feature=share&t=7082>.



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smuggler, and the CBP One appointment itself turns out to be yet another opportunity for them to extort the migrants.”<sup>65</sup>

Subsequent reporting demonstrates that the cartels are continuing to rake in record profits. According to media analysis of the data:

“Secretary Alejandro Mayorkas has characterized the decline as a blow to the smuggling cartels that control the market. Yet those who make the attempt are paying more, according to The Washington Times’ database of smuggling cases, which tracks payments in near-real time and which suggests that the cartels aren’t taking as big of a hit as Mr. Mayorkas would like.”<sup>66</sup>

The Times noted, “A Mexican crossing into the Laredo area of Texas is paying an average of \$9,500, up from about \$7,400 earlier this year, before the end of the Title 42 border pandemic expulsion policy in May. A Mexican sneaking into Arizona is paying an average of nearly \$10,000, up from about \$9,300.”<sup>67</sup>

And, of course, as reported by the Washington Examiner in August 2023, the cartels have hijacked the app through the use of virtual private networks (VPN) to help aliens from all over the globe request appointments through the app, getting around the requirement that an individual be in northern Mexico before submitting such a request. Indeed, cartels are now offering this as a paid service, meaning they are actually using DHS’ own policies and procedures to expand their profit margins.<sup>68</sup>

Lucrative drug operations add even more revenue. A report published by ICE as far back as 2010 estimated cartels made nearly \$30 billion on drug trafficking,<sup>69</sup> though more recent comprehensive estimates are hard to come by. With the massive increase in the production of fentanyl and the favorable profit margin it provides,<sup>70</sup> one can only imagine the cartels’ revenues from trafficking illicit drugs today.

And many of those dollars go right back to expanding the cartels’ operations, including building up their massive paramilitary capabilities. Journalist Todd Bensman, who is also a former member of Texas DPS’ Intelligence and Counterterrorism Division, wrote in a recent op-ed that there is “plenty of evidence to suggest” the cartels have acquired the capability to “outgun” the Mexican government:

<sup>65</sup> “Biden and Mayorkas’ Open Border: Advancing Cartel Crime in America,” *Homeland Security Committee Events*, YouTube video, 37:22, July 19, 2023, <https://www.youtube.com/live/kva0HOb1Tug?feature=share&t=2242>.

<sup>66</sup> Stephen Dinan, “Smuggling cartels raking in cash despite lower border numbers,” *The Washington Times*, July 30, 2023, <https://www.washingtontimes.com/news/2023/jul/30/smuggling-cartels-still-raking-cash-despite-lower-/>.

<sup>67</sup> Ibid.

<sup>68</sup> Anna Giaritelli, “Mexican cartels exploit US government’s CBP One app,” *The Washington Examiner*, August 4, 2023, <https://www.washingtonexaminer.com/policy/immigration/mexican-cartels-exploit-cbp-one-app>.

<sup>69</sup> U.S. Department of Homeland Security, Office of Counternarcotics Enforcement and U.S. Immigration and Customs Enforcement, Government of Mexico, Secretaría de Hacienda y Crédito Público and Unidad De Inteligencia Financiera (UIF), *United States of America-Mexico Bi-National Criminal Proceeds Study*, June 2010, 2, <https://www.ice.gov/doclib/cornerstone/pdf/cps-study.pdf>.

<sup>70</sup> U.S. Congress, Senate, Committee on Appropriations, Subcommittee on Commerce, Justice, Science, and Related Agencies, *Prepared Testimony of the U.S. Department of Justice, Anne Milgram, Administrator, Drug Enforcement Administration for A Review of the President’s Fiscal Year 2024 Funding Requests for the Federal Bureau of Investigation and for the U.S. Drug Enforcement Administration*, 118th Cong., 1st sess., May 10, 2023, 5, [https://www.appropriations.senate.gov/imo/media/doc/Administrator\\_written%20statement\\_Senate%20CJS%20hearing.pdf](https://www.appropriations.senate.gov/imo/media/doc/Administrator_written%20statement_Senate%20CJS%20hearing.pdf).



## SECTION 1: HOW CARTELS ARE TAKING ADVANTAGE OF OPEN-BORDERS POLICIES

“It’s impossible to know how much military hardware the revenues from the Biden border crisis have paid for, but the cartels are clearly reinvesting their massive profits. ... These are armies, with highly trained special forces units, supported by professional intelligence operations and run by warlords...I’m not alone in my estimation that Biden’s cartel-enriching mass migration crisis poses serious threats to important U.S. national interests, including many that are rarely discussed out loud, such as Mexican trade.”<sup>71</sup>

Bensman also highlighted several recent seizures by the American and Mexican governments of military assets the cartels acquired or attempted to acquire. The sheer firepower wielded by these organizations is staggering:

“In March 2022, inside four houses controlled by a faction of the Sinaloa Cartel in the northern State of Sonora, the Mexican army recovered 2.8 million rounds of ammunition, 89 hand grenades, 20 machine guns, six .50 caliber sniper rifles, more than 150 handguns and automatic rifles, and bulletproof vests.

“In May 2022, U.S. authorities broke up a Cartel del Noreste scheme to buy \$500,000 worth of machine guns, grenades, and rocket-propelled launchers to be smuggled south from the U.S. into Mexico.

“An August 2022 report showed that the state of Tamaulipas seized 257 shop-built armored ‘narco-tanks’ from the cartels in recent years, so-called ‘monsters’ made of semis, SUVs, or pickup trucks encased in thick steel with machine-gun ports. Video shows well-kitted masked cartel soldiers filling them.”<sup>72</sup>

The cartels have even made use of advanced submarines, known as “narco-submarines,” to traffic drugs into the United States. According to one report, “The technology has progressed in recent years and has become a significant force in the international drug trade.”<sup>73</sup> In May 2023, one prominent Colombian TCO operative—the “Prince of Semi-Submersibles”—was sentenced to more than 20 years in prison for smuggling thousands of pounds of drugs into the United States via these submarines.<sup>74</sup> According to federal prosecutors, the organization “primarily sent vessels such as self-propelled semi-submersible vessels to Guatemala, where the cocaine was then smuggled over the Guatemala/Mexican border and then into the United States.”<sup>75</sup>

<sup>71</sup> Todd Bensman, “Biden’s border crisis is fueling growing cartel armies - now armed to the teeth and rivaling Mexico’s military, warns TODD BENSMAN... so why is no one talking about this threat to American interests?,” *The Daily Mail*, December 22, 2022, <https://www.dailymail.co.uk/news/article-11563659/Mexicos-cartels-getting-rich-powerful-Bidens-mass-migration-crisis-TODD-BENSMAN.html>.

<sup>72</sup> Ibid.

<sup>73</sup> Michael James, “Colombian ‘Prince of Submersibles’ gets 20 years for smuggling kilos of coke into US with narco-submarines,” *USA Today*, May 8, 2023, <https://www.usatoday.com/story/news/nation/2023/05/08/colombian-drug-lord-gets-20-years-for-smuggling-coke-into-us-via-narco-subs/70197761007/>.

<sup>74</sup> Ibid.

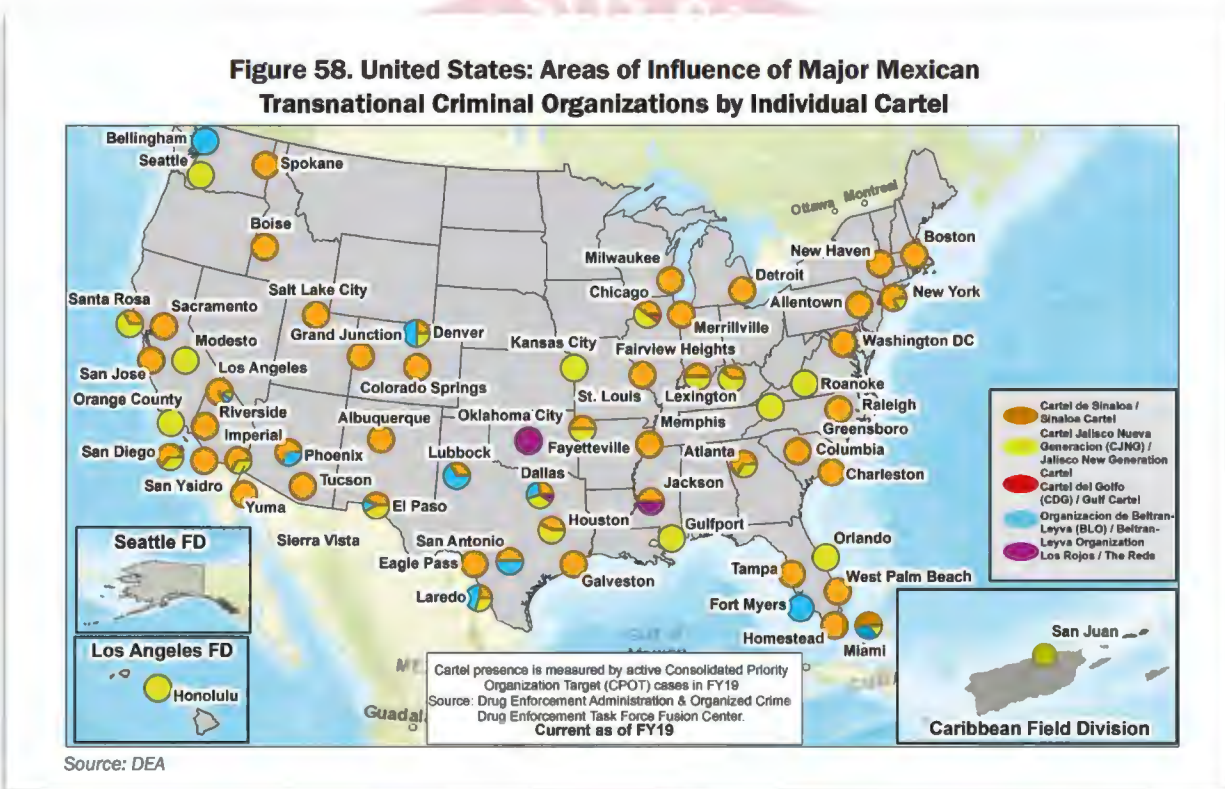
<sup>75</sup> U.S. Department of Justice, U.S. Attorney’s Office, Middle District of Florida, *Colombia’s “Prince Of Semi-Submersibles” Sentenced To Over 20 Years In Federal Prison For Smuggling Thousands Of Kilograms Of Cocaine*, May 8, 2023, <https://www.justice.gov/usao-mdfl/pr/colombias-prince-semi-submersibles-sentenced-over-20-years-federal-prison-smuggling>.



## SECTION 2: THE CARTEL-CRIME NEXUS AT THE BORDER AND IN THE UNITED STATES

### Section 2: The Cartel-Crime Nexus at the Border and in the United States

These criminal operations are not limited simply to Mexico and border states, however. Indeed, the cartels are increasingly active in communities across the United States. As Mayorkas and Biden’s border crisis has continued to expand, so has the reach and influence of these groups. The DEA’s most recent assessment in FY19 showed major Mexican cartels already operating in at least 60 American cities.<sup>76</sup> Since the publication of that assessment, “the cartels have expanded to all 50 states, battling for control of the nation, coast to coast.”<sup>77</sup> This section of the report will detail the innovative tactics being used by the cartels on Mayorkas’ watch, and the criminal activity in which they are engaged in American communities.



### **The Inhumane and Destabilizing Tactics of the Cartels**

***Debt Bondage and Coercion—A Horrific New Phenomenon:*** Increasingly, vulnerable individuals coming to the border are not just being forced to pay one-time fees, which perhaps constitute their entire life savings, in order to enter the United States. In many cases, they are being further

<sup>76</sup> U.S. Department of Justice, Drug Enforcement Administration, *2020 National Drug Threat Assessment*, DEA-DCT-DIR-008-21, March 2021, 69, [https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment WEB.pdf](https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment%20WEB.pdf).

<sup>77</sup> “NewsNation exclusive: Deadly drug cartels in America | CUOMO,” *NewsNation*, February 6, 2023, <https://www.newsnationnow.com/video/newsnation-exclusive-deadly-drug-cartels-in-america-cuomo/8367575/>.





## SECTION 2: THE CARTEL-CRIME NEXUS AT THE BORDER AND IN THE UNITED STATES

exploited and forced to serve the cartels and smuggling organizations—a phenomenon known as “debt bondage.”

In its 2021 Border Security Metrics report, DHS documented an increase in “alternative forms of payment in exchange for passage, including migrants being required to participate in smuggling controlled substances or other illicit items across the border or to work off debts upon arrival in the United States, as well as reports of harsh negotiations concerning payment plans with family members.”<sup>78</sup> In other words, they pay their debt by facilitating and committing crimes against Americans inside the United States.

In July 2023, the San Francisco Chronicle corroborated this finding as part of an in-depth investigation into the city’s drug trade. The report included interviews with numerous dealers who had arrived from other countries and were now selling drugs supplied by the cartels. According to the Chronicle, one dealer “said the migrants’ desperation makes them easy targets for exploitation by coyotes:”

“They offer to take you to the United States and help you find a job,’ the man said in an interview from jail. ‘They tell you that once you work you can pay them back for the help they gave you. But once you are in their hands they start trying to figure out who your family is, who your parents are. Later, the threats start. They put you out there selling drugs.’

“The coyotes, he said, ‘put you under threat because you owe them money and you have to pay them. There are people who pay them, but they don’t succeed in getting out because once you are benefiting them, they don’t want to set you free. They always want you to be working.’”<sup>79</sup>

In a heartbreaking February 2023 report, the New York Times detailed the plight of unaccompanied alien children (UACs) brought across the border illegally and who now reside in the United States.<sup>80</sup> The next phase of this investigation will cover in unflinching detail the horrors many of these minors continue to experience daily. In this context, however, Americans must understand that in addition to the horrific exploitation and abuse to which many of these minors have been subjected, many are trapped in a system of debt bondage from which they may never escape. Per the Times, “Far from home, many of these children are under intense pressure to earn money. They send cash back to their families while often being in debt to their sponsors for smuggling fees, rent and living expenses.”<sup>81</sup>

<sup>78</sup> U.S. Department of Homeland Security, *Department of Homeland Security Border Security Metrics Report: 2021*, April 27, 2022, 63, [https://www.dhs.gov/sites/default/files/2022-06/2022\\_0427\\_plcy\\_border\\_security\\_metrics\\_report\\_FY2021\\_%282020\\_data%29.pdf](https://www.dhs.gov/sites/default/files/2022-06/2022_0427_plcy_border_security_metrics_report_FY2021_%282020_data%29.pdf).

<sup>79</sup> Megan Cassidy and Gabrielle Lurie, “This Is How San Francisco’s Open-Air Drug Dealers Work,” *San Francisco Chronicle*, July 10, 2023, <https://www.sfchronicle.com/projects/2023/san-francisco-drug-trade-how-dealers-work/>.

<sup>80</sup> Hannah Dreier, “Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.,” *New York Times*, February 25, 2023, <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

<sup>81</sup> *Ibid.*



## SECTION 2: THE CARTEL-CRIME NEXUS AT THE BORDER AND IN THE UNITED STATES

Just consider the experience of one Guatemalan teenager sent by his parents to the United States to find work:

“Nery Cutzal was 13 when he met his sponsor over Facebook Messenger. Once Nery arrived in Florida, he discovered that he owed more than \$4,000 and had to find his own place to live. His sponsor sent him threatening text messages and kept a running list of new debts: \$140 for filling out HHS paperwork; \$240 for clothes from Walmart; \$45 for a taco dinner.

“Don’t mess with me,’ the sponsor wrote. ‘You don’t mean anything to me.’

“Nery began working until 3 a.m. most nights at a trendy Mexican restaurant near Palm Beach to make the payments. ‘He said I would be able to go to school and he would take care of me, but it was all lies,’ Nery said.”<sup>82</sup>

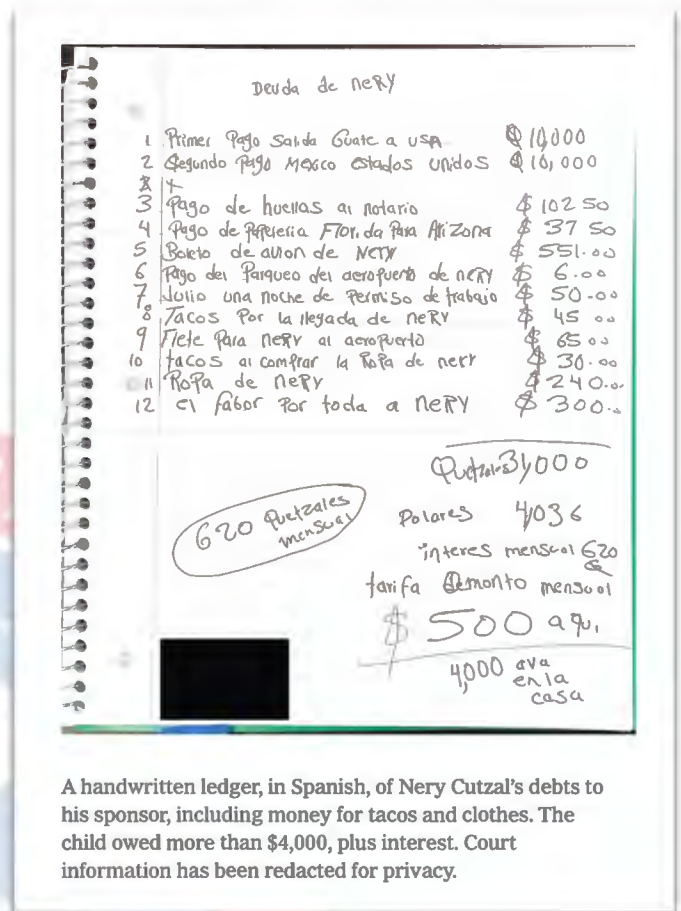
Another teenager told the Times, “I still have to pay back my debt, so I still have to work.”<sup>83</sup>

The Border Patrol’s Owens highlighted this practice in May 2023, telling Committee staff that individuals can “find themselves indentured and paying off that debt for years to come, doing unspeakable things.”<sup>84</sup>

Jones, the former Texas DPS captain, has said, “If they don’t pay their debt then the cartel has the information about where they’re going, but more importantly, they have the information on their families in home countries. From there, they can start the threats and hold them accountable through debt bondage, a form of human trafficking. Either pay or we’re going to come after your family.”<sup>85</sup>

He further explained how the debt-bondage system works in his July 2023 testimony before the House Committee on Homeland Security:

“The Gulf Cartel specifically has a saying and that is that ‘people are the gift that keep giving,’ because they can make them move the commodity...but we have seen that on the border, where they’re now making migrants carry narcotics. We have seen where they then



A handwritten ledger, in Spanish, of Nery Cutzal's debts to his sponsor, including money for tacos and clothes. The child owed more than \$4,000, plus interest. Court information has been redacted for privacy.

(Source: New York Times)

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 142-143, May 5, 2023.

<sup>85</sup> Todd Bensman, “Overwhelmed Mexican Alien-Smuggling Cartels Use Wristband System to Bring Order to Business,” *Center for Immigration Studies*, March 2, 2021, <https://cis.org/Bensman/Overwhelmed-Mexican-AlienSmuggling-Cartels-Use-Wristband-System-Bring-Order-Business>.



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exploit them. We've seen where other migrants are now being used to transport migrants themselves because you can truly make this commodity do what you want it to do. And what these really represent, that's the most important here to understand, is this is a process, because just as Border Patrol was being absolutely overwhelmed with these people, so were the cartels.

“And the Gulf had to come up with a process that worked and you're seeing it in my hand. There's a number on each of these [wristbands] ... That number goes into a database.”<sup>86</sup>



*“And now [the cartels] have transitioned into the final version of human trafficking known as ‘debt bondage’ and I am holding it in my hands. This is it. This is how emboldened they’ve become.” — Former Texas DPS Capt. Jaeson Jones testifies before the House Committee on Homeland Security, July 19, 2023, about the Mexican cartels’ sophisticated new system of inventorying, trafficking, and enslaving hundreds of thousands of individuals.*

According to testimony submitted to the Committee by Sheriff Bill Waybourn of Tarrant County, Texas, on July 19, 2023, smugglers and traffickers are even exploiting the state's criminal justice system to further advance their illicit objectives, in particular trapping vulnerable women in forced servitude:

“These traffickers also capitalize on the vulnerable inmate population by identifying females who are incarcerated and bond them out of jail for the strict purpose of sex trafficking. They will also force uncooperative females, sometimes those who were smuggled over the border, to engage in petty criminal activity to ensure they are arrested

<sup>86</sup> “Biden and Mayorkas’ Open Border: Advancing Cartel Crime in America,” *Homeland Security Committee Events*, YouTube video, 2:03:07, July 19, 2023, <https://www.youtube.com/live/kva0HOb1TUg?feature=share&t=7387>.



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and jailed. These criminal organizations are using the jail system—a taxpayer funded public safety system—to both capitalize on their victims and identify new ones.”<sup>87</sup>

Texas DPS has reported a similar phenomenon, stating that smugglers often pick up individuals from stash houses and attempt to transport them to other destinations throughout the state, where some are “forced into debt bondage and work off the debt through forced labor and sex trafficking.”<sup>88</sup>

Vaughan, in her July 2023 testimony before the House Committee on Homeland Security, also noted this new reality for many people who make the journey, stating:

“Some people pay a discounted fee and give up their children for the smugglers to use to give to other single adults. Others agree, or are forced, to be drug mules. A large number just make a down payment on the smuggling fee that’s paid off in fear-driven forced labor, debt bondage arrangements that are difficult for them to escape from.”<sup>89</sup>

In July 2023, nearly 60 victims of human trafficking were rescued from an illicit marijuana facility in central California.<sup>90</sup> According to one report, “The victims arrived several days earlier, smuggled across the southern border ‘with the promise that they would have a good-paying job and a place to stay’...They were found living in ‘horrible’ conditions, forced to process marijuana ‘to pay back the individuals that brought them across the border,’” per law enforcement.<sup>91</sup>

The cartels’ mass use of debt bondage, and the complex systems devised to make it a reality, are a unique consequence of Mayorkas’ open-borders policies. The following exchange between New York Rep. Andrew Garbarino, and the Texas DPS veteran Jones in July 2023 should sober every American:

*Garbarino:* “You talked about how you’ve seen this before, but lower numbers. With these higher numbers and the amount of people, is this relatively a new phenomenon under Secretary Mayorkas?”

*Jones:* “It is. Now the smuggling of people has always been there, but the adjustment from smuggling into the trafficking through debt bondage because due to the sheer numbers, they thought to themselves, ‘My God, we can make so much money and we can do it for the long run.’ This is the game-changer. When you think of human trafficking, most people think of commercial sex. That’s one piece of it. Don’t forget you have forced labor, and this is your final form, debt bondage, and now it’s nationwide.”<sup>92</sup>

<sup>87</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, *Prepared Testimony of Sheriff Bill Waybourn for Biden and Mayorkas’ Open Border: Advancing Cartel Crime in America*, 118th Cong., 1st sess., July 19, 2023, <https://homeland.house.gov/wp-content/uploads/2023/07/Written-testimony-SIGNED3.pdf>.

<sup>88</sup> State of Texas, Office of the Texas Governor, *Operation Lone Star Combats Increasing Smuggling Attempts By Cartels*, April 21, 2023, <https://gov.texas.gov/news/post/operation-lone-star-combats-increasing-smuggling-attempts-by-cartels>.

<sup>89</sup> “Biden and Mayorkas’ Open Border: Advancing Cartel Crime in America,” *Homeland Security Committee Events*, YouTube video, 38:24, July 19, 2023, <https://www.youtube.com/live/kva0HOb1TUg?feature=share&t=2304>.

<sup>90</sup> Aliza Chasan, “Dozens of suspected human trafficking victims found processing black market marijuana in California,” *CBS News*, July 27, 2023, <https://www.cbsnews.com/news/dozens-human-trafficking-victims-processing-black-market-marijuana-operation-merced-california/>.

<sup>91</sup> *Ibid.*

<sup>92</sup> “Biden and Mayorkas’ Open Border: Advancing Cartel Crime in America,” *Homeland Security Committee Events*, YouTube video, 2:05:02, July 19, 2023, <https://www.youtube.com/live/kva0HOb1TUg?feature=share&t=7502>.



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**Complex Human Trafficking/Smuggling Operations:** One of the ways in which some of the cartels execute their mass trafficking operation and enslave people in debt bondage is by using a complex system of wristbands. These wristbands help create an inventory of those who will owe the cartels upon arriving in the United States, where individuals are going, which group is responsible for smuggling the alien, and other logistical information.

The office of Rep. Henry Cuellar, D-Tex., has confirmed this type of system, in which different color wristbands indicate how many times the alien has attempted to cross the border, and whether they will be allowed to try again—“Those with red bands are first-time crossers and those with purple bands are not allowed to try to cross again.”<sup>93</sup> One expert on smuggling has observed that the cartels “are organizing the merchandise in ways you could never imagine five or 10 years ago.”<sup>94</sup> The Border Patrol’s Owens told the House Committee on Homeland Security these organizations use these wristbands “as a way to categorize them, basically treating them like cattle.”<sup>95</sup>

Incredibly, Mayorkas claimed ignorance of these wristbands when questioned by Texas Sen. Ted Cruz in a March 2023 Senate Judiciary hearing. When shown pictures of the bracelets worn by illegal aliens, as well as one in Cruz’s hand, Mayorkas testified he did not know what they were.<sup>96</sup>



### **WATCH: Mayorkas Confesses Ignorance About Cartel Human Trafficking Operations**

In response to this surprising admission by the secretary, National Border Patrol Council (NBPC) Vice President Art Del Cueto told Fox Business, “A Google search would have gotten him the

<sup>93</sup> Sandra Sanchez, “EXCLUSIVE: Colored Wristbands Help Cartels Track Migrants, Payments for Smuggling Them, Lawmaker Confirms,” *Border Report*, April 15, 2021, <https://www.borderreport.com/immigration/border-crime/exclusive-colored-wristbands-help-cartels-track-migrants-payments-for-smuggling-them-lawmaker-confirms/>.

<sup>94</sup> Miriam Jordan, “Smuggling Migrants at the Border Now a Billion-Dollar Business,” *New York Times*, July 25, 2022, <https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html>.

<sup>95</sup> Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 148, May 5, 2023.

<sup>96</sup> “Secretary Mayorkas Testifies at Homeland Security Oversight Hearing,” *C-SPAN video*, 2:10:05, March 28, 2023, <https://www.c-span.org/video/?526938-1/secretary-mayorkas-testifies-homeland-security-oversight-hearing>.



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### SECTION 2: THE CARTEL-CRIME NEXUS AT THE BORDER AND IN THE UNITED STATES

(Source: U.S. Border Patrol)

answer. It's been reported many times. ... It baffles me for the Secretary of Homeland Security to say he has no idea what they're for."<sup>97</sup>

**Stash Houses:** "Just imagine 60 people in an enclosed space with no electricity, running water, or food," from which they "can't escape because often they are locked in," said Laredo Sector Border Patrol agent Kenneth Kroupa in 2020.<sup>98</sup> Such images offer just a glimpse into the network of stash houses the cartels and smugglers use to facilitate the trafficking and smuggling of illegal aliens throughout the country.

The cartels use homes, apartments, or even hotel rooms as stash houses to hide large groups of illegal aliens after they have been smuggled into the country and prior to transporting them to their next destination. CBP officials describe these sites as often being filthy buildings with no water, food, or electricity, where smugglers pack illegal aliens until they can be distributed around the country, with air conditioning "unheard of," despite temperatures often in excess of 100 degrees.<sup>99</sup> Illegal aliens are often locked in these houses, unable to leave. Garbage often accumulates inside, as putting the trash generated by dozens of people out for collection could attract unwanted attention.<sup>100</sup>

These stash houses represent a public health nightmare, as the cramped and unsanitary conditions facilitate the transmission of diseases like COVID-19 and tuberculosis, particularly among populations coming from countries with minimal public health infrastructure or lower vaccination rates for diseases largely eradicated in the United States.<sup>101</sup>

The use of stash houses has exploded on Mayorkas' watch. In May 2021, in the early days of the crisis, Texas DPS and Border Patrol officials reported a 400-percent increase in the number of illegal aliens rescued from stash houses.<sup>102</sup> From October 2022 to April 2023 in just the El Paso

<sup>97</sup> "Mayorkas' cartel wristband ignorance is 'baffling': Art Del Cueto," *Fox Business*, Fox Business video, 01:01, March 29, 2023, <https://www.foxbusiness.com/video/6323600529112>.

<sup>98</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Frontline Magazine, *Stashed Away: CBP Fights Human Smuggling and Disease by Shutting Down Filthy Stash Houses*, by John Davis, October 22, 2020, <https://www.cbp.gov/frontline/cbp-fights-human-smuggling-and-stash-houses>.

<sup>99</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Frontline Magazine, *Stashed Away: CBP Fights Human Smuggling and Disease by Shutting Down Filthy Stash Houses*, by John Davis, October 22, 2020, <https://www.cbp.gov/frontline/cbp-fights-human-smuggling-and-stash-houses>.

<sup>100</sup> MaryAnn Martinez, "Border Patrol Waging War on Cartels with Migrant 'Stash House' Busts," *New York Post*, April 6, 2023, <https://nypost.com/2023/04/06/border-patrol-waging-war-on-cartels-with-stash-house-busts/>.

<sup>101</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Frontline Magazine, *Stashed Away: CBP Fights Human Smuggling and Disease by Shutting Down Filthy Stash Houses*, by John Davis, October 22, 2020, <https://www.cbp.gov/frontline/cbp-fights-human-smuggling-and-stash-houses>.

<sup>102</sup> Adolfo Muniz, "Texas DPS Says Human Smugglers Using Color-Coded Wristband System at the U.S.-Mexico Border," *Spectrum News 1*, May 15, 2021, <https://spectrumlocalnews.com/tx/south-texas-el-paso/news/2021/05/14/texas-dps-says-human-smugglers-using-color-coded-wristband-system-at-the-u-s--mexico-border->.



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Sector, Border Patrol agents discovered more than 165 stash houses, containing more than 2,400 individuals.<sup>103</sup>

By comparison, in 2022, El Paso agents uncovered 232 stash houses.<sup>104</sup> In FY20, Border Patrol uncovered 397 stash houses across all nine sectors.<sup>105</sup> According to the New York Times in 2022, “Over the past year, federal agents have raided stash houses holding dozens of migrants on nearly a daily basis.”<sup>106</sup>

Since January 2021, CBP and ICE have conducted hundreds of operations to shut down stash houses and break up these criminal enterprises, with CBP’s press page alone documenting the routine occurrence of these operations on Mayorkas’ watch.<sup>107</sup>

- In a one-week period in July 2023, Border Patrol agents in the El Paso Sector discovered six stash houses holding 52 illegal aliens.<sup>108</sup>
- In May 2023, Border Patrol agents in Santa Teresa, New Mexico, found more than 50 illegal aliens “living in deplorable conditions” in a stash house.<sup>109</sup>
- In April 2023, CBP and Texas DPS conducted operations at two separate stash houses in El Paso, finding more than 140 illegal aliens.<sup>110</sup>
- On March 27, 2023, Texas DPS moved on an El Paso stash house holding 23 illegal aliens. The house contained a shrine to Santa Muerte, the patron saint of the cartels.<sup>111</sup>
- On March 3, 2023, the Border Patrol announced operations involving four stash houses in the El Paso Sector, rescuing 171 illegal aliens in the process.<sup>112</sup>
- In September 2022, HSI agents uncovered a stash house in Albuquerque, New Mexico, holding 29 illegal aliens, drugs, and a firearm.<sup>113</sup>

<sup>103</sup> Chief Raul Ortiz [@USBPChief], “51 Migrants Located in a Single Stash House! US Border Patrol El Paso Sector Human Smuggling Interdiction Teams Have Uncovered over 165 Stash Houses in the Region with over 2,421 Migrants so Far in FY23. Outstanding Work Is Being Done at EPT! @USBPChiefEPT,” Tweet, *Twitter*, April 28, 2023, <https://twitter.com/USBPChief/status/1652010403734384640>.

<sup>104</sup> MaryAnn Martinez, “Border Patrol Waging War on Cartels with Migrant ‘Stash House’ Busts,” *New York Post*, April 6, 2023, <https://nypost.com/2023/04/06/border-patrol-waging-war-on-cartels-with-stash-house-busts/>.

<sup>105</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, *Frontline Magazine, Stashed Away: CBP Fights Human Smuggling and Disease by Shutting Down Filthy Stash Houses*, by John Davis, October 22, 2020, <https://www.cbp.gov/frontline/cbp-fights-human-smuggling-and-stash-houses>.

<sup>106</sup> Miriam Jordan, “Smuggling Migrants at the Border Now a Billion-Dollar Business,” *The New York Times*, July 25, 2022, <https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html>.

<sup>107</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *Media Releases*, accessed on July 19, 2023, [https://www.cbp.gov/newsroom/media-releases/all?field\\_date\\_release\\_value\\_op=between&field\\_date\\_release\\_value%5Bvalue%5D=&field\\_date\\_release\\_value%5Bmin%5D=2021-01-20&field\\_date\\_release\\_value%5Bmax%5D=2023-04-14&field\\_newsroom\\_type\\_target\\_id\\_1=All&combine=stash+house](https://www.cbp.gov/newsroom/media-releases/all?field_date_release_value_op=between&field_date_release_value%5Bvalue%5D=&field_date_release_value%5Bmin%5D=2021-01-20&field_date_release_value%5Bmax%5D=2023-04-14&field_newsroom_type_target_id_1=All&combine=stash+house).

<sup>108</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, El Paso Sector, *El Paso Sector weekly recap*, July 19, 2023, <https://www.cbp.gov/newsroom/local-media-release/el-paso-sector-weekly-recap>.

<sup>109</sup> Dave Burge, “Border Patrol Finds More than 50 Migrants in ‘Deplorable Conditions’ in Stash House,” *KTSM 9 News*, May 15, 2023, <https://www.ksm.com/news/border-patrol-finds-more-than-50-migrants-in-deplorable-conditions-in-stash-house/>.

<sup>110</sup> Patrick Reilly, “Border Forces Find over 140 Illegal Migrants in Stash House Raids,” *New York Post*, April 4, 2023, <https://nypost.com/2023/04/04/border-forces-find-over-140-illegals-in-stash-house-raids/>.

<sup>111</sup> Louis Casiano, “Texas Illegal Immigrant Stash House Found with Shrine to Cartel ‘Santa Muerte’ Saint Inside,” *Fox News*, March 28, 2023, <https://www.foxnews.com/us/texas-illegal-immigrant-stash-house-shrine-cartel-santa-muerte-saint>.

<sup>112</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, El Paso Sector, *Agents intercept smuggled migrants from multiple local stash houses*, March 3, 2023, <https://www.cbp.gov/newsroom/local-media-release/agents-intercept-smuggled-migrants-multiple-local-stash-houses>.

<sup>113</sup> Matthew Reisen, “Twenty-Nine Migrants Found in Alleged Cartel Stash House,” *Albuquerque Journal*, October 18, 2022, [https://www.abqjournal.com/news/local/twenty-nine-migrants-found-in-alleged-cartel-stash-house/article\\_79a37fa1-d515-5ec6-afed-ed819ccaa1b1.html](https://www.abqjournal.com/news/local/twenty-nine-migrants-found-in-alleged-cartel-stash-house/article_79a37fa1-d515-5ec6-afed-ed819ccaa1b1.html).



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- In September 2022, CBP announced Border Patrol agents and members of Texas DPS had rescued 21 illegal aliens from a stash house in Laredo, seizing more than 160 pounds of illicit drugs in the process.<sup>114</sup>
- In August 2022, Border Patrol agents and local law enforcement rescued 28 illegal aliens from a stash house in Edinburg, Texas, after a woman called 911 and told operators she was being held against her will.<sup>115</sup>
- In April 2022, the Border Patrol disrupted operations at four stash houses in 24 hours, leading to the apprehension of 53 illegal aliens. The stash houses were part of El Paso apartment complexes and motels.<sup>116</sup>

Stash houses are not limited to border towns, but are used throughout the country wherever the cartels need to store illegal aliens. For example, in July 2022, ICE busted multiple stash houses in Washington, D.C.<sup>117</sup> More than 70 illegal aliens were found in the operation, including 13 minors.<sup>118</sup>

These stash houses also represent a major humanitarian concern. According to Border Patrol agent Fidel Baca, “So you have criminals inside these homes, a lot of the times they’ve committed serious crimes, crimes against people, crimes of sexual assault, crimes of assault, and they are caretaking for lots of people... We have children, we have women in these homes, and they are being taken care of by criminals.”<sup>119</sup>



(Source: CBP)

Per the Border Patrol’s Martinez during a transcribed interview with the House Committee on Homeland Security in June 2023, when it comes to how long individuals are held in these locations, “It could be hours, it could be days, it could be weeks. It depends on when the coast is clear, when the cartel believes the coast is clear for them to travel up north or further their travel.”<sup>120</sup> When the cartels decide to move, many of these people are crammed into tractor-trailers, train cars, or other

<sup>114</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, Laredo Sector, *Laredo Sector Border Patrol agents shut down stash house and seize narcotics*, September 7, 2022, <https://www.cbp.gov/newsroom/local-media-release/laredo-sector-border-patrol-agents-shut-down-stash-house-and-seize>.

<sup>115</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, Rio Grande Valley Sector, *Migrant Credited with Saving Herself and 27 Others from Stash House*, August 16, 2022, <https://www.cbp.gov/newsroom/local-media-release/migrant-credited-saving-herself-and-27-others-stash-house>.

<sup>116</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, El Paso Sector, *Four stash houses busted in 24-hours*, April 8, 2022, <https://www.cbp.gov/newsroom/local-media-release/four-stash-houses-busted-24-hours>.

<sup>117</sup> Quinn Owen, “73 Migrants -- Including 13 Kids -- Found in D.C. ‘Stash Houses,’ Official Says; Smuggling Suspected,” *ABC News*, July 28, 2022, <https://abcnews.go.com/US/73-migrants-including-13-kids-found-dc-stash/story?id=87565679>.

<sup>118</sup> Ibid.

<sup>119</sup> Ariana Parra, “El Paso Sector Border Patrol Tells Community to Keep an Eye out for Stash Houses,” *KFOX 14*, April 6, 2023, <https://kfoxtv.com/news/local/el-paso-sector-border-patrol-tells-community-to-keep-an-eye-out-for-stash-houses-report-smuggling>.

<sup>120</sup> Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 105, June 1, 2023.



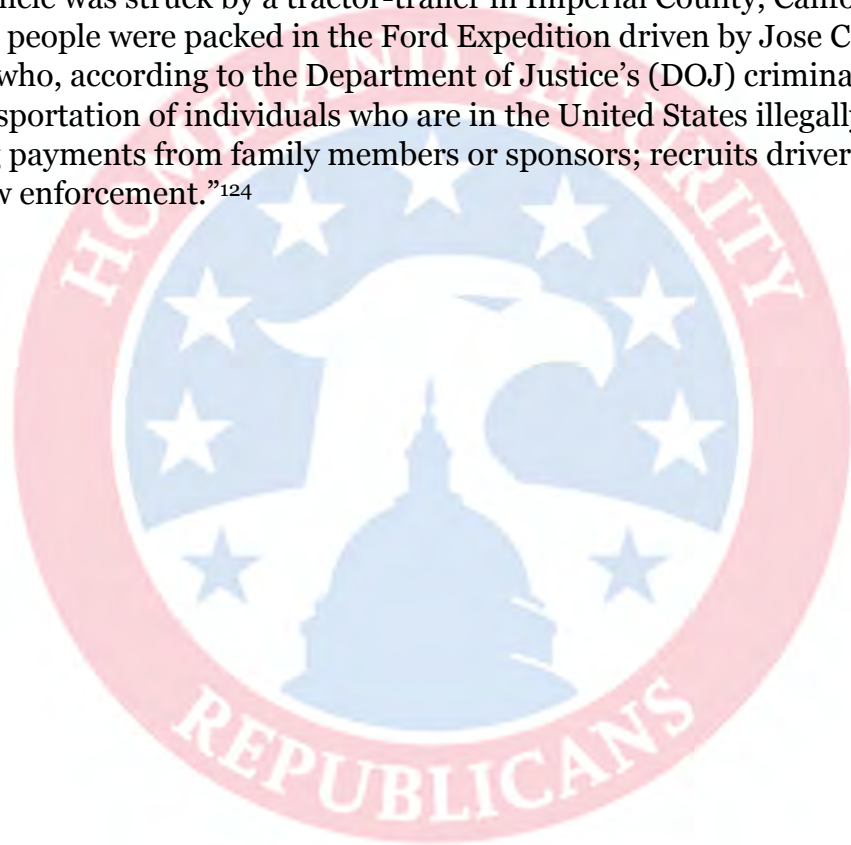


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vehicles to be transported elsewhere in the United States.

Now-Border Patrol Deputy Chief Matthew Hudak has said, “They’ll stockpile them for a couple of days in one of these stash houses until they have enough people to put in a tractor-trailer, then lock it with no way for them to escape the brutal South Texas heat. When we open up these containers, and it’s well over 105 degrees with no ventilation...no water. It’s tragic.”<sup>121</sup> Americans need look no further than the horror uncovered in San Antonio last summer, when more than 50 individuals died after being smuggled in the back of a locked tractor-trailer, for devastating proof of how the cartels treat these people like cargo.<sup>122</sup>

In another devastating example, 13 Mexicans and Guatemalans were killed in March 2021, when their transport vehicle was struck by a tractor-trailer in Imperial County, California.<sup>123</sup> At the time of the accident, 25 people were packed in the Ford Expedition driven by Jose Cruz Noguez, a Mexican national who, according to the Department of Justice’s (DOJ) criminal complaint, “oversees the transportation of individuals who are in the United States illegally to stash houses; collects smuggling payments from family members or sponsors; recruits drivers; and scouts for the presence of law enforcement.”<sup>124</sup>



<sup>121</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Frontline Magazine, *Stashed Away: CBP Fights Human Smuggling and Disease by Shutting Down Filthy Stash Houses*, by John Davis, October 22, 2020, <https://www.cbp.gov/frontline/cbp-fights-human-smuggling-and-stash-houses>.

<sup>122</sup> “Death Toll Rises to 53 after Bodies of Migrants Found in Texas Tractor-Trailer,” *CBS News*, June 29, 2022, <https://www.cbsnews.com/news/san-antonio-migrants-texas-tractor-trailer-dead-injured/>.

<sup>123</sup> Doha Madani, “Man Charged with Smuggling Migrants after California Crash That Killed 13 People,” *NBC News*, March 31, 2021, <https://www.nbcnews.com/news/latino/man-charged-smuggling-migrants-after-california-crash-killed-13-people-n1262642>.

<sup>124</sup> U.S. Department of Justice, U.S. Attorney’s Office, Southern District of California, *Man Charged with Organizing Smuggling Event that Led to Deaths of 13 Mexican and Guatemalan Nationals*, March 30, 2021, <https://www.justice.gov/usao-sdca/pr/man-charged-organizing-smuggling-event-led-deaths-13-mexican-and-guatemalan-nationals>.



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*More than a dozen people were killed in early March 2021 when the overpacked SUV they were being smuggled in was hit by a tractor-trailer in California. (Source: Gregory Bull/AP)*

The cartels' casual disregard for human life is manifestly apparent. According to Martinez:

“I mean, they consider you a commodity, not a human being, and they will stop at nothing to make money. So, you being a commodity, it doesn’t matter if something happens to you. So, they’re gonna lock you in an 18-wheeler; they’re gonna walk you through the brush, and if you fall behind because you sprain your ankle, they’re gonna leave you behind to find your own way home. They have no regard for human life.”<sup>125</sup>

Stash houses also function as prisons for an increasing number of illegal aliens, as more and more are being held for ransom after being brought into the United States. In July 2022, the Federal Bureau of Investigation (FBI) announced that since February 2022, the agency—along with the Border Patrol and other law enforcement—had “rescued 88 victims from kidnapping for ransom incidents and continue to see an increase in extortion crimes directly affecting undocumented immigrants who have paid human smugglers to bring them across the United States-Mexico border.”<sup>126</sup> According to Jeffrey Downey, FBI special agent in charge in El Paso, the FBI documented no instances of such extortion in 2021.<sup>127</sup>

“They have already paid upfront to cross the border. And then once they get here, they are assaulted and held in life-threatening situations,” Downey told the New York Post last year. In his

<sup>125</sup> Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 122-123, June 1, 2023.

<sup>126</sup> U.S. Department of Justice, Federal Bureau of Investigation, El Paso Field Office, *FBI El Paso, US Border Patrol, and the El Paso Police Department Rescue Victims Held in Another Kidnapping for Ransom Incident*, July 8, 2022, <https://www.fbi.gov/contact-us/field-offices/elpaso/news/press-releases/fbi-el-paso-us-border-patrol-and-the-el-paso-police-department-rescue-victims-held-in-another-kidnapping-for-ransom-incident>.

<sup>127</sup> Isabel Vincent, “Cartels Hold Migrants for \$10K Ransom after Crossing US Border,” *New York Post*, July 13, 2022, <https://nypost.com/2022/07/13/cartels-hold-migrants-for-10k-ransom-after-crossing-us-border/>.



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experience, individuals' families are forced to pay between \$3,000-\$10,000 on top of the thousands of dollars that have already been paid by the aliens themselves to enter the country.<sup>128</sup> Another immigration expert has said that family members of those being held in stash houses are often extorted by the smuggling groups for even more money.<sup>129</sup> In another report, the Post noted, "Migrants who are taken captive by cartel members have their cell phones taken away and have been dismembered if their families or friends in their home countries in the U.S. are unable to pay a ransom."<sup>130</sup>

Border Patrol agent Oscar Joanicot has made clear the stakes involved with these stash houses—"I don't care who you are, when you walk in and see something like [a stash house], especially when there's children involved, your heart goes out to them. ... [The smugglers'] commodity is people. They don't care if someone dies. They just go and find another person waiting to come across."<sup>131</sup>

**Drone Operations and Surveillance:** The cartels have also developed and deployed sophisticated tactics in their use of drones to conduct surveillance and intelligence-gathering operations, as well as deliver drugs across the border. According to the DEA's 2020 National Drug Threat Assessment, "Mexican TCOs also exploit various aerial methods to transport illicit drugs across the Southwest border. These methods include the use of ultralight aircraft and unmanned aerial systems (drones) to conduct airdrops."<sup>132</sup> Per testimony from DHS officials in 2022, "use of drones for illicit cross-border activity is not only wide-spread, but also organized and an integrated element of TCO operations."<sup>133</sup>

If Border Patrol agents are stretched to the breaking point trying to secure the border and apprehend illegal aliens and illicit drugs coming across on the ground, imagine the extra nightmare that expanded cartel drone operations represent.

Lieutenant Chris Olivarez of Texas DPS recently described the dire situation—"They're able to scout everything and watch what we are doing, every movement we are making. That's why it's a cat and mouse game and we have to try and be one step ahead of them."<sup>134</sup> NBPC President Brandon Judd has echoed Olivarez's assessment, saying, "They'll use drones to scout our positions, where our Border Patrol agents are, how can they facilitate the drug trade. They'll also use the drones to actually fly into United States land and they'll carry small packages with drugs."<sup>135</sup>

<sup>128</sup> Ibid.

<sup>129</sup> Mark Krikorian, "The Human Cost of Open-ish Borders," *National Review*, March 3, 2021, <https://www.nationalreview.com/corner/the-human-cost-of-open-ish-borders/>.

<sup>130</sup> MaryAnn Martinez, "Migrants' Fingers, Ears Cut off If They Can't Pay Cartels: Report," *New York Post*, May 22, 2023, <https://nypost.com/2023/05/22/migrants-fingers-ears-cut-off-if-they-cant-pay-cartels-report/>.

<sup>131</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Frontline Magazine, *Stashed Away: CBP Fights Human Smuggling and Disease by Shutting Down Filthy Stash Houses*, by John Davis, October 22, 2020, <https://www.cbp.gov/frontline/cbp-fights-human-smuggling-and-stash-houses>.

<sup>132</sup> U.S. Department of Justice, Drug Enforcement Administration, *2020 National Drug Threat Assessment*, DEA-DCT-DIR-008-21, 73, March 2021, [https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment\\_WEB.pdf](https://www.dea.gov/sites/default/files/2021-02/DIR-008-21%202020%20National%20Drug%20Threat%20Assessment_WEB.pdf).

<sup>133</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, Subcommittee on Oversight, Management, and Accountability, and Subcommittee on Transportation and Maritime Security, *Assessing the Department of Homeland Security's Efforts to Counter Unmanned Aircraft Systems*, 117th Cong., 2nd sess., March 31, 2022, 22, <https://www.congress.gov/117/chr/CHRG-117/jhrg47767/CHRG-117/jhrg47767.pdf>.

<sup>134</sup> Robert Sherman, "For Texas border officials, cartel drones are the latest headache," *NewsNation*, January 19, 2023, <https://www.newsnationnow.com/us-news/immigration/border-coverage/for-texas-border-officials-cartel-drones-are-the-latest-headache/>.

<sup>135</sup> Ibid.



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According to Gloria Chavez, chief patrol agent for the Border Patrol's Rio Grande Valley Sector, the cartels "have 17 times the number of drones, twice the amount of flight hours and unlimited funding to grow their operations."<sup>136</sup> In a June 2023 interview with the House Committee on Homeland Security, the Border Patrol's Martinez confirmed that the cartels were using drones to track agents' movements and patterns in order to assist their smuggling operations.<sup>137</sup>

One Border Patrol agent told the press in July 2023, two months after the expiration of Title 42, that these operations were still ongoing. According to the agent, "We don't have operational control of the border," and the cartels are "using drones to bypass our movements, including sensor locations. They know where we are at all times. They know how to get around us."<sup>138</sup>

During a recent hearing conducted by the Committee, Texas Rep. Monica De La Cruz said that drone operations just in the Rio Grande Valley Sector had skyrocketed, posing a potentially insurmountable challenge for Border Patrol: "The cartel drone detections just right here in the RGV Sector in FY22 was 35,000 drone detections. ... Out of the 35,000 drone detections, only 10,000 were intercepted."<sup>139</sup> One Texas sheriff recently told Congress that just three Texas counties observed almost 2,000 drone incursions in a 31-day period earlier this year.<sup>140</sup>

The cost-benefit analysis also weighs heavily in favor of the cartels' expansive use of drones. James Mandryck, deputy assistant commissioner of CBP's Office of Intelligence, testified to the Committee in July 2023 that for the cost of perhaps \$1,000 per drone, the cartels could smuggle around \$1 million worth of fentanyl into the country per flight and run "continuous" flights throughout the day.<sup>141</sup>

The cartels also employ a vast human intelligence network in support of their operations. El Paso Sector Chief Patrol Agent Anthony "Scott" Good told the House Committee on Homeland Security in June 2023 that the cartels use the agency's own checkpoints against them. When asked whether cartel-employed scouts "know about situations where Border Patrol is vulnerable, like when you have to shut down checkpoint[s] because of decompression or weather extremity," he responded, "Yes. People, scouts, will frequently drive through the checkpoints to see if they're open or not, yes."<sup>142</sup>

### **The Cartel Connection to Crime at the Border and in Our Communities**

The crime and chaos caused by TCOs has been exacerbated by Mayorkas' policies. According to the American Sheriff Alliance—a national coalition of several major sheriffs' associations—these

<sup>136</sup> Ali Bradley and Robert Sherman, "Border agent describes how cartels are using drones," *NewsNation*, February 9, 2023, <https://www.newsnationnow.com/us-news/immigration/border-coverage/border-agent-cartels-using-drones/>.

<sup>137</sup> Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 120, June 1, 2023.

<sup>138</sup> Bethany Blankley, "Border Patrol agents: June southwest border apprehension data is a 'shell game,'" *The Center Square*, July 11, 2023, [https://www.thecentersquare.com/national/article\\_d6ece71e-2049-11ee-8d58-130f9e1cd70e.html](https://www.thecentersquare.com/national/article_d6ece71e-2049-11ee-8d58-130f9e1cd70e.html).

<sup>139</sup> "Full Committee Field Hearing: 'Failure By Design: Examining Secretary Mayorkas' Border Crisis,'" *Homeland Security Committee Events*, YouTube video, 1:52:49, March 15, 2023, <https://www.youtube.com/live/7Z1ETzh3AUA?feature=share&t=6734>.

<sup>140</sup> Anna Giaritelli, "Texas sheriff tells Congress nearly 2,000 Mexican drug cartel drones are swarming US skies," *The Washington Examiner*, February 15, 2023, <https://www.washingtonexaminer.com/policy/immigration/texas-sheriff-drones-border-mexico-congress>.

<sup>141</sup> "Protecting the U.S. Homeland: Fighting the Flow of Fentanyl from the Southwest Border," *Homeland Security Committee Events*, YouTube video, 1:52:00, July 12, 2023, <https://www.youtube.com/live/L0EurNtLz0M?feature=share&t=6716>.

<sup>142</sup> Anthony Scott Good, Transcribed Interview with the House Committee on Homeland Security, 142, June 29, 2023.



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groups “are directly responsible for the increases in deaths, human trafficking, sex trafficking, and unprecedented violence occurring in cities and counties across our nation.”<sup>143</sup>

Sheriff Eddie Guerra of Hidalgo County, Texas, who is also chairman of the Southwestern Border Sheriffs’ Coalition, said in a February 2023 press release that the crisis “is a public safety and public health issue. It’s not just the violence and drugs, it’s the sexual assaults, human trafficking, enslavement, and fear and terror that are destroying neighborhoods here in the United States.”<sup>144</sup>

*Drug Trafficking:* The illicit drug trade in American cities is booming on Biden and Mayorkas’ watch. According to Michelle Cook, sheriff of Clay County, Florida, in 2022, “I will tell you that the open borders are a problem. We are seeing a significant amount of drugs making its way to Clay County because of open borders, and that is definitely something that concerns me as a Sheriff.”<sup>145</sup>

The cartels have grown so bold that the illegal alien dealer networks they supply have taken over the drug trade in major American cities. In California, “Honduran migrants have taken over San Francisco’s drug market with the aid and blessing of Mexican cartels,” where “they have squeezed competition out through their highly-coordinated organization and sheer numbers...”<sup>146</sup>



Per the San Francisco Chronicle’s investigation, the cartels are behind the rise of this vast network:

“The cartels hire runners to ferry their product from Mexico to Southern California; from there it’s transported up the West Coast with local operatives close to the cartels working

<sup>143</sup> “Nation’s Sheriffs Call for the Eradication of Drug Cartels, Starting with the Sinaloa and Jalisco New Generation Cartels,” *The American Sheriff Alliance*, February 9, 2023, [https://www.sheriffs.org/AmericanSheriffAlliance\\_Feb092023](https://www.sheriffs.org/AmericanSheriffAlliance_Feb092023).

<sup>144</sup> Ibid.

<sup>145</sup> “Clay County sheriff blames ‘open borders’ following arrest, seizure of 26 pounds of meth,” *First Coast News*, February 8, 2022, <https://www.firstcoastnews.com/article/news/crime/clay-county-sheriff-blames-open-borders-following-arrest-seizure-of-26-pounds-of-meth/77-8b4d1e4e-3d6f-44e0-9391-46b298f039a1>.

<sup>146</sup> Stephanie Pagones, “Honduran migrants working for Mexican cartels brazenly took over San Francisco’s drug market thanks to lax policies,” *New York Post*, July 10, 2023, <https://nypost.com/2023/07/10/honduran-migrants-mexican-cartels-overtaking-san-francisco/>.



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out the details. These operatives often own a few properties in the East Bay, which can serve as stash houses and rental units for street dealers, according to court records and police interviews.

“These operatives are the highest-ranking members of the Bay Area network and are the middlemen in this global operation. The operatives are known to their underlings as ‘the machine,’ according to two sources.

“Drugs will typically flow through the machine to either a lower-level distributor or directly to a dealer.

“Shipments are often sent by car to distributors who live primarily in Oakland and are from Honduras.”<sup>147</sup>

Mayor London Breed said the massive and complex network “conduct[s] business like they’re going to a job.”<sup>148</sup> One dealer told Chronicle reporters that the city’s streets are “oversaturated with migrant Honduran teens,” while another, a man in his mid-20s, told them, “I’m going to be honest, I came here to sell drugs,” and that he has been arrested four times since 2022.<sup>149</sup>

Tom Wolf, founder of Pacific Alliance for Prevention and Recovery and a recovering addict himself, told one media outlet in March 2023 that San Francisco had “become the epicenter of the overdose crisis in the United States,” and that authorities needed to “take these organized drug dealers down because they are cartel-fueled, organized drug dealers that are operating on our streets.”<sup>150</sup>

Meanwhile, the cartels’ drug-smuggling operations are gaining momentum in Texas, as well. According to Tarrant County’s Waybourn, the county recorded “a 1000% increase in the amount of drugs seized in a two-year span. In 2020, we seized \$3 million worth of drugs. In 2022, it was \$35 million.”<sup>151</sup> Along with this increase in drugs flooding the Dallas-Fort Worth area came a massive increase in the number of fentanyl poisonings, increasing from 10 between 2018-2019 to 113 between 2020-2021.<sup>152</sup>

This deadly phenomenon is not just limited to border states, however. States and towns hundreds of miles from the Southwest border are feeling the consequences of increased cartel activity.

Per NewsNation’s Robert Sherman, “Once limited to cities along the southern border, the influence of Mexican drug cartels has spread to smaller American towns across the country, including several in the state of Montana.”<sup>153</sup> Montana Attorney General Austin Knudsen told the

<sup>147</sup> Megan Cassidy and Gabrielle Lurie, “This Is How San Francisco’s Open-Air Drug Dealers Work,” *San Francisco Chronicle*, July 10, 2023, <https://www.sfchronicle.com/projects/2023/san-francisco-drug-trade-how-dealers-work/>.

<sup>148</sup> *Ibid.*

<sup>149</sup> *Ibid.*

<sup>150</sup> Bailee Hill, “San Francisco activist warns city has become ‘epicenter’ of ‘cartel-fueled’ drug crisis as overdoses soar,” *Fox News*, March 21, 2023, <https://www.foxnews.com/media/san-francisco-activist-warns-city-become-epicenter-cartel-fueled-drug-crisis-overdoses-soar>.

<sup>151</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, *Prepared Testimony of Sheriff Bill Waybourn for Biden and Mayorkas’ Open Border: Advancing Cartel Crime in America*, 118th Cong., 1st sess., July 19, 2023, <https://homeland.house.gov/wp-content/uploads/2023/07/Written-testimony-SIGNED3.pdf>.

<sup>152</sup> *Ibid.*

<sup>153</sup> Robert Sherman, “Mexican drug cartels arrive in Big Sky Country,” *NewsNation*, February 7, 2023, <https://www.newsnationnow.com/cuomo-show/mexican-cartels-montana/>.



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outlet last year, “We have specific intelligence that primarily two drug cartels based out of Mexico are operating here in Montana on a very large scale,”<sup>154</sup> and that he assesses the likelihood of drugs on Montana streets being linked to the cartels at “100 percent,” saying, “Within 20 or 30 miles of where you purchased that, there is very likely a Mexican drug cartel member or an associate involved with that drug trade.”<sup>155</sup> In December 2022, the DOJ announced that it had secured 22 convictions of individuals in Montana involved in a “large-scale drug trafficking organization that had ties to the Sinaloa Cartel,” with three of those 22 directly connected to the cartel.<sup>156</sup>

A sheriff in Oregon recently told the press, “When you hear about the drug cartels and the amounts of drugs coming across the border, you start thinking those are big city problems. But if you have drugs in your community, and I don’t think there is any community that can say they don’t have any, it is coming from the drug cartels.”<sup>157</sup>

### Mexican drug cartels arrive in Big Sky Country



In May 2023, the DEA announced dozens of arrests and the seizure of 1.3 million fentanyl pills in Kansas, Missouri, and southern Illinois following a year-long operation, “Operation Last Mile,” which targeted “operatives, associates and distributors affiliated with the Sinaloa and Jalisco cartels — the two drug cartels based in Mexico responsible for the ‘vast majority’ of the fentanyl

<sup>154</sup> Ibid.

<sup>155</sup> “NewsNation exclusive: Deadly drug cartels in America | CUOMO,” *NewsNation*, February 6, 2023, <https://www.newsnationnow.com/video/newsnation-exclusive-deadly-drug-cartels-in-america-cuomo/8367575/>.

<sup>156</sup> U.S. Department of Justice, U.S. Attorney’s Office, District of Montana, *Investigation dismantles Butte drug trafficking organization with ties to the Sinaloa Cartel*, December 15, 2022, <https://www.justice.gov/usao-mt/pr/investigation-dismantles-butte-drug-trafficking-organization-ties-sinaloa-cartel>.

<sup>157</sup> Beth Warren, A cartel flooded an Oregon town with drugs. Here’s how authorities nabbed the ringleader,” *Louisville Courier Journal*, March 9, 2023, <https://www.usatoday.com/in-depth/news/nation/2023/03/09/el-menchos-mexican-cartel-cjng-supplied-drugs-to-portland-oregon/11418543002/>.



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and methamphetamine that is killing Americans.”<sup>158</sup> Per one report, “The operation showed that the cartels use violent local street gangs and criminal groups and people across the U.S. to flood American communities with ‘huge’ amounts of fentanyl and methamphetamine, which drives addiction and violence and kills Americans.”<sup>159</sup>

The operation resulted in the seizure of nearly 193 million lethal doses of fentanyl across the country,<sup>160</sup> with the agency’s efforts also highlighting the cartels’ relationships with gangs and dealers in states far from the border, like Kentucky,<sup>161</sup> Nebraska,<sup>162</sup> and Colorado.<sup>163</sup> According to another recent report, more than 300 people in the United States have been charged or arrested for criminal activity directly linked to the Mexican cartels since January 2022.<sup>164</sup>

The cartels are primarily motivated by profit margins, but law enforcement officials have noted more sinister elements within the cartels’ trafficking of record amounts of fentanyl into the United States. According to Waybourn, “TCSO intelligence collection shows that Mexican cartels have weaponized drugs with the intent to harm Texas residents and destabilize our communities. In fact, cartel members have before expressed to our team that ‘they will send whatever kills the gringo [Americans, irrespective of race].’”<sup>165</sup>

Similarly, when asked by Rep. Josh Brecheen, R-Okla., during a July 2023 hearing if law enforcement had observed a “revenge element” in the cartels’ operations, DEA Principal Deputy Administrator George Papadopoulos testified:

“We have evidence in some of the previous cases I mentioned where the cartels knew that there was deadly fentanyl. The amount of fentanyl that they were sending to the U.S. was deadly because they tested it on human beings in Mexico and they still sent it anyway...[We]’ve seen pills with less than a milligram of fentanyl all the way up to eight milligrams of fentanyl. The average dose is 2.4 milligrams, and two milligrams is considered a potentially deadly dose.”<sup>166</sup>

Mayorkas’ new CBP One app scheme also presents an opportunity for the cartels to push more illicit drugs across the Southwest border. One recent press report noted, “Frontline employees being pulled from normal inspection duties are reducing the number of labor hours dedicated to finding hidden narcotics, according to a source within Customs and Border Protection,” and that

<sup>158</sup> Angela Mulka, “Yearlong DEA operation targets cartel associates distributing drugs across US,” *The Alton Telegraph*, May 8, 2023, <https://www.thetelegraph.com/news/article/dea-st-louis-division-operation-long-mile-18085840.php>.

<sup>159</sup> *Ibid.*

<sup>160</sup> U.S. Department of Justice, Drug Enforcement Administration, *DEA Operation Last Mile Tracks Down Sinaloa and Jalisco Cartel Associates Operating within the United States*, May 8, 2023, <https://www.dea.gov/press-releases/2023/05/08/dea-operation-last-mile-tracks-down-sinaloa-and-jalisco-cartel-5>.

<sup>161</sup> Mark Vanderhoff, “DEA targets link between Mexican cartels, Louisville gangs,” *WLKY*, May 8, 2023, <https://www.wlky.com/article/dea-mexican-cartels-louisville-gangs-drugs/43829200>.

<sup>162</sup> “DEA arrests 87 cartel-connected suspects in Nebraska, Iowa and surrounding states,” *KMTV-3*, May 8, 2023, <https://www.3newsnow.com/news/local-news/dea-arrests-87-cartel-connected-suspects-in-nebraska-iowa-and-surrounding-states>.

<sup>163</sup> Ashley Eberhardt, “Year-long DEA operation seizes almost 900K fentanyl doses,” *Fox 21 News*, May 9, 2023, <https://www.fox21news.com/news/state/year-long-dea-operation-seizes-almost-900k-fentanyl-doses/>.

<sup>164</sup> Steve Joachim and Andrew Dorn, “Interactive map: Tracking cartel arrests across the country,” *KTla5 News*, February 16, 2023, <https://ktla.com/news/interactive-map-tracking-cartel-arrests-across-the-country/>.

<sup>165</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, *Prepared Testimony of Sheriff Bill Waybourn for Biden and Mayorkas’ Open Border: Advancing Cartel Crime in America*, 118th Cong., 1st sess., July 19, 2023, <https://homeland.house.gov/wp-content/uploads/2023/07/Written-testimony-SIGNED3.pdf>.

<sup>166</sup> “Protecting the U.S. Homeland: Fighting the Flow of Fentanyl from the Southwest Border,” *Homeland Security Committee Events*, YouTube video, 1:12:38, July 12, 2023, <https://www.youtube.com/live/L0EurNtLz0M?feature=share&t=4358>.





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per this source, “One worry is by redirecting personnel from inspections to asylum processing we are missing the deadliest drug we have seen in modern times, fentanyl.”<sup>167</sup>

The source explained that those entering the country via the new CBP One app “require hours of administrative processing that is converting some frontline CBP Officers into asylum petition clerks.”<sup>168</sup>

Ultimately, “even here in the heartland of America, cartels are taking lives from our communities,” said Michael Davis, special agent in charge of the DEA’s St. Louis Division, in May 2023.<sup>169</sup> Unfortunately, even as these vital federal agencies work tirelessly to protect Americans from the scourge of fentanyl and other drugs, the cartels are relentlessly flooding more of these illicit substances across the Southwest border. Under Mayorkas and Biden’s policies, no community is safe from the expanding reach of the cartels and the drugs they are trafficking.

**Violence:** Cartel and gang violence continues to be a growing problem in the United States. Though it is less prevalent than in Mexico, direct cartel violence is well documented in the United States.

In January 2023, six people, including a six-month-old baby and her teenage mother, were shot dead in a house in the city of Goshen, California. Tulare County Sheriff Mike Boudreaux left no ambiguity about who was responsible, saying, “I think it’s specifically connected to the cartel. The level of violence ... this was not your run-of-the-mill low-end gang member.”<sup>170</sup> Boudreaux also said of the young mother murdered protecting her child, “I know for a fact this young lady was running for her life. And I know for a fact that there was no reason to kill her—but they did.”<sup>171</sup> His assessment of the cartel presence in California was sobering: “I can tell you, the cartels are here. We have a very unsecure border right now—there’s a lot of back and forth when it comes to the cartels and free movement up and down the state and across the border.”<sup>172</sup>

Charles Marino, a former DHS senior law enforcement advisor, recently said, “My expert opinion is that we’re going to see an increase in cartel violence within the United States in all of its forms.”<sup>173</sup> Authorities in Texas have also been raising the alarm about cartel violence. In November 2021, Texas law enforcement reported that Mexican cartels were murdering victims and dumping their bodies on the American side of the border, with the Texas Rangers investigating a range of cartel activities linked to the dead bodies.<sup>174</sup> On Oct. 26, 2021, authorities found a woman who had been raped and tortured before she was killed. Texas DPS’ Olivarez said

<sup>167</sup> Randy Clark, “Exclusive: Official Says Biden’s CBP One Program Benefits Drug Cartels,” *Breitbart*, June 18, 2023,

<https://www.breitbart.com/border/2023/06/18/exclusive-official-says-bidens-cbp-one-program-benefits-drug-cartels/>.

<sup>168</sup> *Ibid.*

<sup>169</sup> U.S. Department of Justice, Drug Enforcement Administration, *DEA Operation Last Mile Tracks Down Sinaloa and Jalisco Cartel Associates Operating within the United States*, May 8, 2023, <https://www.dea.gov/press-releases/2023/05/08/dea-operation-last-mile-tracks-down-sinaloa-and-jalisco-cartel-5>.

<sup>170</sup> Kanishka Singh, “Six dead in California home shooting, including 6-month-old baby and her mother,” *Reuters*, January 17, 2023,

<https://www.reuters.com/world/us/six-people-dead-california-home-shooting-including-six-month-old-baby-2023-01-16/>.

<sup>171</sup> Lee Brown, “Cartels are here”: California sheriff rips border crisis as details emerge on massacre of 6,” *New York Post*, January 19, 2023,

<https://nypost.com/2023/01/19/california-sheriff-rips-border-crisis-as-details-emerge-on-massacre-of-6/>.

<sup>172</sup> *Ibid.*

<sup>173</sup> Andrew Dorn, “Are Mexican cartels carrying out more violence on US soil?,” *NewsNation*, January 20, 2023, <https://www.newsnationnow.com/crime/are-mexican-cartels-carrying-out-more-violence-on-us-soil/>.

<sup>174</sup> Emily Crane, “Texas authorities claim Mexican cartels murdering people on US soil,” *New York Post*, November 12, 2021,

<https://nypost.com/2021/11/12/texas-authorities-claim-mexican-cartels-murdering-people-on-us-soil/>.



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that cartels are “professional” and “very methodical” in their murderous actions, and that the cartels come to the United States to kill people and then cross back over the border. He pointed out that these murders send a message to rival cartels.<sup>175</sup>

Drugs coming from Mexico and beyond are being sold by the cartels to transnational and American gangs, who effectively function as the cartels’ distribution network, and who then engage in their own turf wars on the streets of American cities, leading to even further carnage and devastation. DEA Administrator Anne Milgram has stated, “The Sinaloa and Jalisco Cartels use multi-city distribution networks, violent local street gangs, and individual dealers across the United States to flood American communities with fentanyl and methamphetamine, drive addiction, fuel violence, and kill Americans.”<sup>176</sup> The Virginia Department of Criminal Justice Services has also reported collaboration between the cartels and street gangs, noting, “Mexican Cartels have continued their strategic relationship with traditional street gangs operating in the United States.”<sup>177</sup> One expert has noted how cartel violence often “will be subcontracted to local street gangs, prison gangs, and local actors,” while others have reported, “[D]rug disputes that ultimately stem from cartel activities may be attributed to domestic street gangs instead.”<sup>178</sup>

These gangs are also involved in other avenues of violence, including manufacturing illicit, privately made firearms. In January 2023, for example, following an eight-month investigation, the DOJ charged nine members of the Latin Kings gang in New Jersey with not just conspiracy to distribute substances like fentanyl, but also with “manufacturing untraceable gun parts that could be used to convert weapons for automatic firing.”<sup>179</sup>

In addition to the drug-related violence, senior Border Patrol officials have also acknowledged that cartel and gang violence targeting illegal aliens themselves has been happening more frequently inside the United States. During a May 2023 interview with the House Committee on Homeland Security, the Border Patrol’s Heitke said:

“[W]e have seen considerably more bandit activity on our side, as well. ... It’s individuals coming up from Mexico and robbing the migrants as they’re moving through. And it’s a combination of the individual smugglers wanting to make a little extra money. They’ll have—it’s coordinated. So, they’re working together.

“But one of the foot guides, for example, will leave for a little while. They’ll leave the group and say, ‘I’ll be back in a little bit.’ Two more individuals will come up and rob them and leave, and then the smuggler will come back and move them on. It’s just a way of earning extra money and preying on the remote areas with minimal law enforcement on either side

<sup>175</sup> Ibid.

<sup>176</sup> U.S. Department of Justice, Drug Enforcement Administration, *DEA Operation Last Mile Tracks Down Sinaloa and Jalisco Cartel Associates Operating within the United States*, May 8, 2023, <https://www.dea.gov/press-releases/2023/05/08/dea-operation-last-mile-tracks-down-sinaloa-and-jalisco-cartel-5>.

<sup>177</sup> State of Virginia, Department of Criminal Justice Services, *Mexican Drug Cartels*, March 2023, <https://www.dcms.virginia.gov/training-events/mexican-drug-cartels>.

<sup>178</sup> Andrew Dorn, “Are Mexican cartels carrying out more violence on US soil?,” *NewsNation*, January 20, 2023, <https://www.newsnationnow.com/crime/are-mexican-cartels-carrying-out-more-violence-on-us-soil/>.

<sup>179</sup> U.S. Department of Justice, United States Attorney’s Office for the District of New Jersey, *Nine Men Charged with Roles in Gang-Led Drug and Gun Trafficking Network*, January 5, 2023, <https://www.justice.gov/usao-nj/pr/nine-men-charged-roles-gang-led-drug-and-gun-trafficking-network>.



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of the border. And most of the migrants have everything they own with them, so they're easy targets."<sup>180</sup>

***Human Trafficking:*** These groups do not simply smuggle illegal aliens across the Southwest border—they are now engaged in transnational human trafficking operations worth billions of dollars.<sup>181</sup> Senior DHS officials have noted the cartels' shift away from simply drug trafficking to the insidious practice of human smuggling and trafficking. Blas Nuñez-Neto, DHS assistant secretary for border and immigration policy, said on July 20, 2023:

“We see migrants now routinely paying smuggling organizations what are vast sums of money for them—often more than \$10,000 to \$15,000—to facilitate their journey to the border. This is so lucrative, in fact, that we are now seeing the drug cartels increasingly becoming a key player in not just collecting taxes for people who transit through their territory, which is what we saw historically, but actually moving people and becoming deeply involved in human smuggling, not just in Mexico, but throughout the region, including, you know, in Colombia and the Darien region.”<sup>182</sup>

In testimony before the House Judiciary Committee in April 2023, CIS' Vaughan emphasized that the resurgence of the violent gang MS-13 in the Washington, D.C.-metro area “has brought an increase in cases of brutal sex trafficking in the area. The gang preys on young teenage girls who run away from shelters, foster care, or broken homes.”<sup>183</sup> Other organizations have noted how MS-13 uses this trafficking to fund other aspects of its operations:

“MS-13 preys on the vulnerability of the unaccompanied minors; some have previously suffered sexual abuse either in their home country or during the trip north; others lack a community and do not speak English. Members of MS-13 seek out the vulnerable young girls using violence and other coercive tactics to intimidate the girl into having sex for money to help financially support the gang.”<sup>184</sup>

Guerra further described in March 2021 how the cartels use sex trafficking to enhance their profit margins, explaining that for family units looking to illegally enter the United States, “If you can't afford it, and you have that little 15, 16-year-old child with you, well, guess what? Well, you're gonna go to Houston. And that little girl is gonna go to work in sex trafficking and that little girl is going to pay off all your debt. That's happening.”<sup>185</sup>

<sup>180</sup> Aaron Heitke, Transcribed Interview with the House Committee on Homeland Security, 166, May 9, 2023.

<sup>181</sup> Human trafficking and human smuggling are two different crimes. Human trafficking is a crime committed against another person that does not necessarily require transportation or physical movement of that individual. For example, a victim of human trafficking may be coerced into forced labor at a marijuana grow farm. In contrast, human smuggling is a crime committed in violation of a country's immigration laws and requires the illegal transportation of a person across an international border.

<sup>182</sup> “Straining under the Backlog: Fixing a U.S. Immigration Court System in Crisis,” *Migration Policy Institute*, YouTube video, 26:27, July 20, 2023, <https://www.youtube.com/live/sA1fuW96GNo?feature=share&t=1587>.

<sup>183</sup> U.S. Congress, House of Representatives, Judiciary Committee, Subcommittee on Immigration Integrity, Security and Enforcement, *Prepared Testimony of Jessica M. Vaughan for The Biden Border Crisis: Exploitation of Unaccompanied Alien Children*, 118th Cong., 1st sess., April 26, 2023, 6, <https://judiciary.house.gov/sites/evo-subsites/rep-publicans-judiciary.house.gov/files/evo-media-document/vaughan-testimony.pdf>.

<sup>184</sup> “The Connection between the Mara Salvatrucha and Human Trafficking,” *Human Trafficking Search*, August 24, 2017, <https://humantraffickingsearch.org/the-connection-between-the-mara-salvatrucha-and-human-trafficking/>.

<sup>185</sup> Gabrielle Fonrouge, “Texas sheriff in charge of US-Mexico border says it's ‘basically open,’ blames Biden,” *New York Post*, March 18, 2021, <https://nypost.com/2021/03/18/texas-sheriff-at-us-mexico-border-says-its-basically-open/>.



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And these groups continue to deploy creative methods in their effort to evade law enforcement. On June 14, 2023, the Border Patrol's Good tweeted that Border Patrol agents and Texas DPS officers had broken up a human smuggling operation involving three vehicles and 26 aliens. Two of the vehicles being used by the smuggling groups were sprinter vans made to resemble FedEx delivery trucks.<sup>186</sup>

***Organized Retail Theft:*** According to a July 2023 press report, the cartels have expanded their operations into mass-retail theft, “targeting big-box stores, luxury retail brands, and small businesses, then selling the stolen goods online and laundering the profits through Chinese brokers.”<sup>187</sup> Per the Washington Examiner, the cartels “that have facilitated the greatest-ever human smuggling operation across the U.S.-Mexico border over the past two years and simultaneously caused the fentanyl epidemic in America now have a hand in organized retail crime.”<sup>188</sup>

According to HSI, “Organized retail theft results in \$125.7 billion in lost economic activity each year as criminals use e-commerce platforms to resell stolen merchandise.”<sup>189</sup> And now the cartels have extended their operations into this multi-billion-dollar, illicit business. HSI also revealed in a June 2022 press release, “Recent investigations have also identified organized retail crime schemes exploiting undocumented migrants forced to steal goods to pay back ‘coyotes’ who smuggle them across international borders.”<sup>190</sup>

### RETAIL

## Mexican drug cartels are behind the surge in retail thefts

*The cartels have expanded their operations into mass-retail theft to increase their profit margins. (Source: Washington Examiner report)*

***Disorder in Border Towns:*** In March 2023, four Americans were attacked by members of the Gulf Cartel in the Mexican border state of Tamaulipas, with two of them, Shaeed Woodard and Zindell Brown, fatally wounded in the incident.<sup>191</sup> The group had traveled to Tamaulipas from South Carolina in order for one member, LaTavia Washington, to receive a medical procedure.

<sup>186</sup> Anthony “Scott” Good [@USBPChiefEPT], “Express Consequence Delivery! #SantaTeresa Station Anti-Smuggling Unit Agents along with @TxDPSWest Intercepted a Smuggling Scheme Involving 26 Smuggled Migrants. Of the 3 Vehicles Involved, 2 Were Cloned FedEx Vans. The Smugglers Will Face Charges! @cbp,” Tweet, *Twitter*, June 14, 2023, <https://twitter.com/USBPChiefEPT/status/1669116247093686272>.

<sup>187</sup> Anna Giaritelli, “Mexican drug cartels are behind the surge in retail thefts,” *The Washington Examiner*, July 24, 2023, <https://www.washingtonexaminer.com/news/business/mexican-drug-cartels-behind-surge-in-retail-thefts>.

<sup>188</sup> *Ibid.*

<sup>189</sup> U.S. Department of Homeland Security, U.S. Customs and Immigration Enforcement, Newsroom, *HSI New Orleans launches multistate Organized Retail Crime Alliance*, July 19, 2023, <https://www.ice.gov/news/releases/hsi-new-orleans-launches-multistate-organized-retail-crime-alliance>.

<sup>190</sup> U.S. Department of Homeland Security, U.S. Customs and Immigration Enforcement, Newsroom, *HSI, ACAMS take aim at organized retail crime*, June 1, 2022, <https://www.ice.gov/news/releases/hsi-acams-take-aim-organized-retail-crime>.

<sup>191</sup> Noe Torres, Sarah Morland and Dave Graham, “Five men arrested in Mexico over killings of Americans,” *Reuters*, March 10, 2023, <https://www.reuters.com/world/americas/five-people-mexico-held-over-killings-americans-state-prosecutor-2023-03-10/>.



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Officials believe the group was fired upon and then abducted because the cartel believed they were part of a rival Haitian smuggling group.<sup>192</sup>

Peter Yachmetz, a former hostage negotiator for the FBI, said following the events in Tamaulipas, “The big takeout is the border is wide open, and drug cartels are operating and controlling the border. Do not go through any of these border crossings. It is a known ‘Do Not Travel’ zone.”<sup>193</sup> In fact, Tamaulipas’ official “Do Not Travel” designation from the State Department puts it on par with nations like Afghanistan and Syria.<sup>194</sup>

The incident underscored just how unstable the cartels have made the region, on both sides of the border. That same month, shocking video emerged of hundreds of illegal aliens rushing across the Paso Del Norte International Bridge connecting El Paso with Ciudad Juarez, Mexico, “posing a potential threat to make a mass entry” into the United States, according to CBP.<sup>195</sup>

Texas DPS’ Olivarez later said that this was the result of cartel efforts to distract and undermine law enforcement: “As it is, Border Patrol is overwhelmed, they’re tied up in processing. So, they want to expose more vulnerable gaps along the border, so they can bring across criminals, fugitives or drugs, whatever the case may be.”<sup>196</sup>



### **WATCH: Hundreds of People Storm Bridge Leading to El Paso**

In August 2022, four Mexican border cities—Tijuana, Mexicali, Rosarito and Ensenada—erupted in violence when gang members targeted civilians and demolished stores and cars to send a

<sup>192</sup> Josh Campbell et al., “Cartel suspected of American kidnappings issues apology letter,” *CNN*, March 10, 2023, <https://www.cnn.com/2023/03/09/us/mexico-matamoras-americans-kidnapped-thursday/index.html>.

<sup>193</sup> Antonio Planas, “Mexico kidnapping was ‘difficult to prevent’ despite known dangers in border regions,” *NBC News*, March 7, 2023, <https://www.nbcnews.com/news/us-news/mexico-kidnapping-danger-border-region-rcna73888>.

<sup>194</sup> U.S. Department of State, Bureau of Consular Affairs, *Travel Advisories*, accessed on July 19, 2023, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories.html/>.

<sup>195</sup> “Agents stop crowd at Texas border crossing amid asylum woes,” *The Associated Press*, March 13, 2023, <https://apnews.com/article/migrants-bridge-el-paso-mexico-customs-d414138040bb78229d3cfb6fc1793b05>.

<sup>196</sup> Elizabeth Heckman, “Mexican cartels’ social media misinformation blamed for rush of migrants to Texas border bridge,” *Fox News*, March 14, 2023, <https://www.foxnews.com/media/mexican-cartels-social-media-misinformation-blamed-rush-migrants-texas-border-bridge>. Full quote in the second embedded video in the article.



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message to authorities cracking down on the gangs.<sup>197</sup> Tijuana is a prime corridor for drug-trafficking, with various groups, including CJNG and Sinaloa, battling for control of the city.<sup>198</sup> Around the same time, 600 Mexican troops were sent to Juarez to combat cartel activity, shutting down many schools in the area.<sup>199</sup>

CONFLICTS | MEXICO

### Mexico: Gang violence erupts in US border cities

08/13/2022

The US consulate in Tijuana told employees to "shelter in place" amid deadly violence which reportedly included gang members shooting at bystanders and starting fires.

*11 people were killed in a wave of violence instigated by gangs in cities along the Southwest border in August 2022. (Source: Deutsche Welle)*

In the Mexican state of Chihuahua, meanwhile, the murder rate is surging due to "cartel infighting for control of migrant smuggling."<sup>200</sup> Per Chihuahua Attorney General Cesar Jauregui, "It is clear to us what is going on. Criminal groups are having disputes and there is an increase in homicides related to people-trafficking. They are disputing control (of territory) and that has led to people being murdered for being involved in people-trafficking."<sup>201</sup> Most of these murders are taking place in Juarez, just across the border from El Paso.<sup>202</sup>

The city of Laredo, Texas, was put on edge in March 2022, after the Mexican border city of Nuevo Laredo was rocked by violence following the arrest of a cartel leader.<sup>203</sup> Two international bridges into Mexico were closed as a precaution, and law enforcement was put on alert, in another example of how cartel and gang violence impacts Americans even when it occurs on the other side of the border.<sup>204</sup>

### **The Connection Between the Cartels, Gangs, and Open Borders**

"MS-13, other gang members exploit migrant wave to cross into U.S.," reads one headline from May 2021.<sup>205</sup> Unfortunately, this reporting is altogether accurate. It is not just the cartels who

<sup>197</sup> "Mexico: Gang violence erupts in US border cities," *Deutsche Welle*, August 13, 2022, <https://www.dw.com/en/mexico-gang-violence-erupts-in-us-border-cities/a-62800685>.

<sup>198</sup> *Ibid.*

<sup>199</sup> *Ibid.*

<sup>200</sup> Julian Resendiz, "Murders up as cartels fight for control of migrant smuggling in Chihuahua," *Border Report*, April 12, 2023, <https://www.borderreport.com/immigration/border-crime/murders-up-as-cartels-fight-for-control-of-migrant-smuggling-in-chihuahua/>.

<sup>201</sup> *Ibid.*

<sup>202</sup> *Ibid.*

<sup>203</sup> Sandra Sanchez, "Nuevo Laredo violence shakes sister city of Laredo, Texas, after cartel leader 'The Egg' arrested," *Border Report*, March 17, 2022, <https://www.borderreport.com/immigration/border-crime/nuevo-laredo-violence-shakes-sister-city-of-laredo-texas-after-cartel-leader-the-egg-arrested/>.

<sup>204</sup> *Ibid.*

<sup>205</sup> Isabel Vincent, "MS-13, other gang members exploit migrant wave to cross into US," *New York Post*, May 1, 2021, <https://nypost.com/2021/05/01/ms-13-other-gang-members-exploit-migrant-wave-to-cross-into-us/>.



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have taken advantage of Mayorkas' open-borders policies—so have the transnational gangs seeking to expand their operations and influence. These gangs are responsible for human trafficking, drug smuggling, and criminal violence.

On April 30, 2021, the Border Patrol's Hudak tweeted that gang members “attempt to evade arrest by exploiting the influx of migrants attempting to enter our country.”<sup>206</sup> CBP statistics show that the main gangs Border Patrol encounters include MS-13, Paisas, 18<sup>th</sup> Street, Sureños (Sur-13), and the Latin Kings.<sup>207</sup>

These gangs work closely with the cartels. Texas DPS Director Steve McGraw said earlier this year that the gangs “work to support cartel operations on both sides of the border. They certainly do it, they operate in Mexico and they operate on this side too in terms of stash houses where there's drugs and people. They extort people on the south of the border and extort them when they get to this side of the border.”<sup>208</sup> Per ICE, “Transnational criminal gangs account for a large percentage of narcotics trafficking in communities throughout the United States.”<sup>209</sup>

According to Texas DPS veteran Jones in his July 2023 testimony before the House Committee on Homeland Security:

The cartels “contract directly with U.S.-based street gangs and what we call Tier-1 gangs. Those are gangs which impact multiple regions in our country. They work directly with the cartels, and today it is very important to understand, your U.S.-based street gangs are working side by side contracting with the cartels. ... So, when you wonder today why you are being overrun with drugs, it is because the Tier-1 gangs and U.S.-based street gangs are contracting and working directly with these cartels...”<sup>210</sup>

Per one report, “Cartels have been doubling down on their efforts, including recruiting American street gangs to act as distribution centers in major urban areas...Cartel recruitment efforts are ramping up in the U.S. as they wrangle members of notoriously violent American gangs like the Bloods, the Crips and the Aryan Brotherhood to work both sides of the border.”<sup>211</sup>

Texas DPS estimates there are more than 100,000 gang members in the Lone Star State, many of whom are connected to Mexican cartels.<sup>212</sup> In California, the Mexican Mafia maintains

<sup>206</sup> Laredo Sector Border Patrol [@USBPChiefLRT], “5 Gang Members in 7 Days! #Laredo Sector #USBP Agents Arrested a Total of 5 Gang Members in the Last Week, Including an #ms13 & Two 18th Street Gang Members. They Attempt to Evade Arrest by Exploiting the Influx of Migrants Attempting to Enter Our Country. #bordersecurity,” Tweet, *Twitter*, April 30, 2021, <https://twitter.com/USBPChiefLRT/status/1388123097568403468>.

<sup>207</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *CBP Enforcement Statistics Fiscal Year 2023*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

<sup>208</sup> Cecilia Treviño, “DPS Director Says Mexican Cartels Recruit U.S. Gangs,” *KGNS TV*, March 19, 2023, <https://www.kgns.tv/2023/03/19/dps-director-says-mexican-cartels-recruit-us-gangs/>.

<sup>209</sup> U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *Combating Gangs*, August 4, 2022, <https://www.ice.gov/features/gangs>.

<sup>210</sup> “Biden and Mayorkas' Open Border: Advancing Cartel Crime in America,” *Homeland Security Committee Events*, YouTube video, 59:42, July 19, 2023, <https://www.youtube.com/live/kva0HOblTUg?feature=share&t=3582>.

<sup>211</sup> Ali Bradley, “Cartels Recruit American Gangs in Smuggling Efforts,” *NewsNation*, March 21, 2023, <https://www.newsnationnow.com/us-news/immigration/border-coverage/cartels-recruit-american-gangs/>.

<sup>212</sup> *Ibid.*



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documented ties to cartels.<sup>213</sup> The Sinaloa and Gulf cartels are operating in cities like Chicago, providing drugs that are then sold and distributed by the violent street gangs in those locales.<sup>214</sup>

However, despite the carnage being inflicted by these groups, the number of illegal alien gang members being removed from the United States has decreased under Mayorkas' leadership. In FY19, ICE removed 5,497 known or suspected gang members, compared to just 2,667 in FY22.<sup>215</sup>

### **MS-13—The World's Most Violent Gang Thrives on Mayorkas' Watch**

MS-13 is perhaps the most notorious of the transnational gangs operating in the United States, and has been designated a transnational criminal organization by the U.S. government.<sup>216</sup> The gang's motto of "mata, viola, controla" ("kill, rape, control") accurately describes the group's activity within the United States.

MS-13 "has a reputation for particularly violent criminal activity."<sup>217</sup> Its members regularly commit crimes like "extortion, drug distribution, prostitution, robbery, and murder, as well as in more transnational illicit activity such as drug trafficking and human smuggling and trafficking. While some of the illegal activities help support the gang's criminal finances, others facilitate the maintenance of territory as well as gang brand and unity."<sup>218</sup> The gang also plagues Central American communities in the United States by extorting businesses, providing drugs to addicts, recruiting members of the community into its ranks, and inciting violence.<sup>219</sup>

For example, in February 2023, 15-year-old Limber Lopez Funez from Frederick, Maryland, went missing.<sup>220</sup> Two months later, his body was discovered in a Maryland state park. In May, five illegal aliens under the age of 30 were arrested and charged with Lopez Funez's murder. All five suspects were found to be MS-13 gang members.<sup>221</sup>

Additionally, many MS-13 members present in the United States are here illegally, with the gang historically taking advantage of "weaknesses in border enforcement policies."<sup>222</sup> In October 2020, the DOJ under the Trump administration released a report highlighting its efforts to combat TCOs, including MS-13. In the report, the DOJ noted 74 percent of 749 MS-13 members

<sup>213</sup> Ibid.

<sup>214</sup> Ibid.

<sup>215</sup> See U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *U.S. Immigration and Customs Enforcement Fiscal Year 2019 Enforcement and Removal Operations Report*, 22, <https://www.ice.gov/sites/default/files/documents/Document/2019/eroReportFY2019.pdf>; and U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *ICE Annual Report Fiscal Year 2022*, December 30, 2022, 24, <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2022.pdf>.

<sup>216</sup> U.S. Department of the Treasury, *Treasury Sanctions Latin American Criminal Organization*, October 11, 2012, <https://home.treasury.gov/news/press-releases/tg1733>.

<sup>217</sup> U.S. Library of Congress, Congressional Research Service, *MS-13 in the United States and Federal Law Enforcement Efforts*, by Kristin Finklea, R45292, August 20, 2018, 6, <https://sgp.fas.org/crs/homsec/R45292.pdf>.

<sup>218</sup> Ibid.

<sup>219</sup> U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *Combating Gangs*, August 4, 2022, <https://www.ice.gov/features/gangs>.

<sup>220</sup> "15-year-old from Frederick missing for days," *FOX 5 DC*, March 2, 2023, <https://www.fox5dc.com/news/15-year-old-from-frederick-missing-for-days>.

<sup>221</sup> "5 Immigrants Charged in Murder of Missing 15-Year-Old Frederick Boy," *FOX 5 DC*, May 31, 2023, <https://www.fox5dc.com/news/5-immigrants-charged-in-murder-of-missing-15-year-old-frederick-boy>.

<sup>222</sup> U.S. Department of Justice, Office of Public Affairs, *Department of Justice Releases Report on its Efforts to Disrupt, Dismantle, and Destroy MS-13*, October 21, 2020, <https://www.justice.gov/opa/pr/department-justice-releases-report-its-efforts-disrupt-dismantle-and-destroy-ms-13>.





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prosecuted by the department since 2016 were “unlawfully present” in the United States, with another 15 percent unable to have their immigration status verified.<sup>223</sup>

The gang continues to try to exploit the porous Southwest border. In FY22, agents arrested more than 300 MS-13 members attempting to sneak into the United States.<sup>224</sup> Through July 2023, the Border Patrol had apprehended another 156 members of the gang.<sup>225</sup> On Aug. 16, 2023, Border Patrol Chief Jason Owens tweeted that Border Patrol agents in both Laredo and Miami had recently arrested “violent gang members,” with one MS-13 member assaulting and injuring two agents in the Miami incident.<sup>226</sup>

In May 2023, ICE officials in New York conducted operations over a three-day period targeting “over a dozen individuals who have reentered the United States unlawfully—some of whom are connected to the MS-13 gang,” and per one press report, “Officials told NewsNation that many of the people they’re arresting this week gain entry through the southern border.”<sup>227</sup>

Officials do not know how many MS-13 members have entered the United States un-apprehended or undetected since Mayorkas took office. However, given the skyrocketing number of gotaways and the tendency of bad actors like violent criminals and gang members to pay more to enter the country without being caught, it is potentially a number that should cause great concern.<sup>228</sup>

Recent events demonstrate why Americans should be concerned about MS-13 members among the historic number of gotaways. In August 2023, ICE arrested MS-13 gang member Juan Carlos



<sup>223</sup> Ibid.

<sup>224</sup> Anna Giaritelli, “More than 300 MS-13 Gang Members Arrested at Southern Border in Fiscal Year ’22,” *The Washington Examiner*, October 24, 2022, <https://www.washingtonexaminer.com/news/crime/more-than-300-ms-13-members-arrested-fy-22>.

<sup>225</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *CBP Enforcement Statistics Fiscal Year 2023*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.

<sup>226</sup> Chief Jason Owens [@USBPChief], “8/14: USBP agents in Laredo & Miami arrested violent gang members. During the arrest in Miami, an MS-13 gang member assaulted & injured two of our agents. That subject is now in custody & facing prosecution for Reentry & for Assault on a Federal Officer, both felonies.” Tweet, *Twitter*, August 16, 2023, <https://twitter.com/USBPChief/status/1691797407753781421>.

<sup>227</sup> Dray Clark and Ava Pittman, “New York ICE operation targets wanted illegal migrants,” *NewsNation*, May 5, 2023, <https://www.newsnationnow.com/crime/new-york-ice-operation-targets-wanted-illegal-migrants/>.

<sup>228</sup> Bethany Blankley, “Arrests of noncitizens with criminal convictions at border at record highs,” *The Center Square*, August 3, 2023, <https://www.washingtonexaminer.com/news/arrests-of-noncitizens-with-criminal-convictions-at-border-at-record-highs>. Former CBP Acting Commissioner Morgan quoted: “It’s common sense. There have been more than 1.7 million total gotaways in the past 29 months. The number of [murderers], rapists, pedophiles, aggravated felons, and gang members among the gotaways who now call the U.S. home is staggering and should terrify us all.” Multiple Border Patrol chief patrol agents also told the Committee in transcribed interviews that they were concerned about threats to public safety entering through the Southwest border as gotaways.



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Portillo in Alabama.<sup>229</sup> At the time of his apprehension, Portillo was on El Salvador’s “100 Most Wanted” list for a variety of heinous crimes, including aggravated kidnapping, attempted aggravated homicide, and aggravated homicide.<sup>230</sup> He had previously been apprehended and subsequently removed from the United States after crossing illegally near Hidalgo, Texas, in December 2022, but later reentered the country on an unknown date in an unknown location—in other words, as a getaway.<sup>231</sup>

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**ERO New Orleans arrests gang member on El Salvador’s 100 Most Wanted list**

The historic influx of UACs is another area in which Mayorkas’ policies have uniquely benefitted the gang, and almost certainly served to swell its ranks. Between May 2017 and March 2018, for example, ICE conducted an ongoing enforcement effort called “Operation Matador.”<sup>232</sup> During the course of the operation, ICE arrested 475 gang members and affiliates, including 274 members of MS-13—99 of those 274 had entered the country as UACs.<sup>233</sup>

During a law enforcement roundtable hosted at the White House in 2018, Angel Melendez, HSI special agent in charge for New York, said that ICE routinely finds that 30 percent of MS-13 members they arrest came into the country as UACs.<sup>234</sup> Melendez also provided analysis that demonstrates the UAC pipeline MS-13 can exploit today at far greater scale.

He pointed out that in FY17, 40,810 UACs were referred by DHS to the Department of Health and Human Services’ (HHS) Office of Refugee Resettlement (ORR) to be resettled in the United States with sponsors, and that of this population, 21,881 were from Northern Triangle countries, male, and the right age for gang recruitment (13-17).<sup>235</sup> Melendez also briefed that MS-13 was “looking at these 21,000 unaccompanied alien children that came into the states as potential recruits to continue to fill in their ranks.”<sup>236</sup>

By comparison, in FY21 and FY22, DHS referred approximately 250,000 UACs to HHS for placement, and in FY22, 72 percent of all UACs referred were over 14 years old, and 64 percent

<sup>229</sup> U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Newsroom, *ERO New Orleans arrests gang member on El Salvador’s 100 Most Wanted list*, August 14, 2023, <https://www.ice.gov/news/releases/ero-new-orleans-arrests-gang-member-el-salvadors-100-most-wanted-list>.

<sup>230</sup> Ibid.

<sup>231</sup> Ibid.

<sup>232</sup> U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, *Joint Operation nets 24 transnational gang members, 475 total arrests under Operation Matador*, March 29, 2018, <https://www.ice.gov/news/releases/joint-operation-nets-24-transnational-gang-members-475-total-arrests-under-operation>.

<sup>233</sup> Ibid.

<sup>234</sup> “WATCH: President Trump holds law enforcement roundtable on MS-13 at the White House,” *PBS NewsHour*, YouTube video, 18:54, February 6, 2018, <https://www.youtube.com/watch?v=IVYeA9ognyU&t=1134s>.

<sup>235</sup> See “WATCH: President Trump holds law enforcement roundtable on MS-13 at the White House,” *PBS NewsHour*, YouTube video, 17:52, February 6, 2018, <https://youtu.be/IVYeA9ognyU?t=1072>; and U.S. Department of Health & Human Services, Administration for Children & Families, Press Office, *Fact Sheet: Unaccompanied Children (UC) Program*, July 5, 2023, <https://www.hhs.gov/sites/default/files/uac-program-fact-sheet.pdf>.

<sup>236</sup> “WATCH: President Trump holds law enforcement roundtable on MS-13 at the White House,” *PBS NewsHour*, YouTube video, 18:14, February 6, 2018, <https://www.youtube.com/watch?v=IVYeA9ognyU&t=1093s>.



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were male.<sup>237</sup> Simple math makes clear that Mayorkas and the Biden administration’s policies have almost certainly brought a flood of new potential recruits right to MS-13’s doorstep.

A recent grand jury investigation in Florida into the Biden administration’s irresponsible handling of the flood of UACs across the border found that a growing number of gang members are being brought into the United States under the guise of being UACs:

“According to the testimony of the Border Patrol’s acting chief, even as far back as 2017 it was known that at least 59 UAC had been identified as members of the MS-13 gang. That number has increased significantly; we received testimony that other gangs likewise send members and even have UAC members graduate to adulthood and apply to sponsor other UAC members. Entire separate facilities were required at some ORR shelters to house those UAC who were flashing gang signs, engaging in fights, and making threats due to gang affiliation.”<sup>238</sup>



<sup>237</sup> U.S. Department of Health & Human Services, Administration for Children & Families, Press Office, *Fact Sheet: Unaccompanied Children (UC) Program*, July 5, 2023, <https://www.hhs.gov/sites/default/files/uac-program-fact-sheet.pdf>.

<sup>238</sup> State of Florida Supreme Court, *Twenty-First Statewide Grand Jury Regarding Unaccompanied Alien Children, Third Presentment*, No. SC22-796, March 29, 2023, 15, <https://www.documentcloud.org/documents/23734272-3rd-presentment-of-21st-swgi>.



## SECTION 3: THE SURGE OF NATIONAL SECURITY THREATS ACROSS THE BORDER

### **Section 3: The Surge of National Security Threats Across the Border**

The Biden-Mayorkas border crisis represents an unmitigated national security threat. It is well documented that cartels, human smugglers, and violent gangs have taken full advantage of Mayorkas and Biden’s open-borders policies in pursuit of their malicious ambitions—but they are not the only ones.

Individuals from more than 160 countries have been encountered by Border Patrol agents since January 2021,<sup>239</sup> including individuals from countries that sponsor terrorism or are major U.S. adversaries. According to DHS’ Nuñez-Neto, an “enormous proportion” of the individuals CBP now encounters are not from Mexico or the Northern Triangle at all, in stark contrast to the majority of encounters in previous years.<sup>240</sup> John Modlin, Tucson Sector’s chief patrol agent, told Committee staff in July 2023, “This flow of nontraditional migrants was what [the Yuma Sector] was dealing with a year ago—a lot of Chinese, a lot of...nontraditional migrants. Not Mexico, not Northern Triangle, just the rest of the world, basically. Now we are seeing that [in Tucson Sector]. It’s not uncommon for one of these large groups to be made up of 12 to 15 different nationalities.”<sup>241</sup>

### **Individuals on the Terror Watchlist Coming Across in Record Numbers**

Perhaps most troubling is that an increasing number of those coming across the Southwest border represent potential national security threats. Since FY21, the Border Patrol has recorded a historic number of apprehensions of individuals who appear on the Terrorist Screening Data Set (TSDS) since the start of FY21. The TSDS, also known as the “terror watchlist,” is the “U.S. government’s database that contains sensitive information on terrorist identities.”<sup>242</sup> The TSDS originally provided information on known or suspected terrorists, but now includes information about individuals who represent a potential threat to the United States.

<sup>239</sup> Robert Sherman, “Migrants From More Than 160 Countries Encountered At Border,” *NewsNation*, October 6, 2022, <https://www.newsnationnow.com/us-news/immigration/migrants-from-more-than-160-countries-encountered-at-border/>.

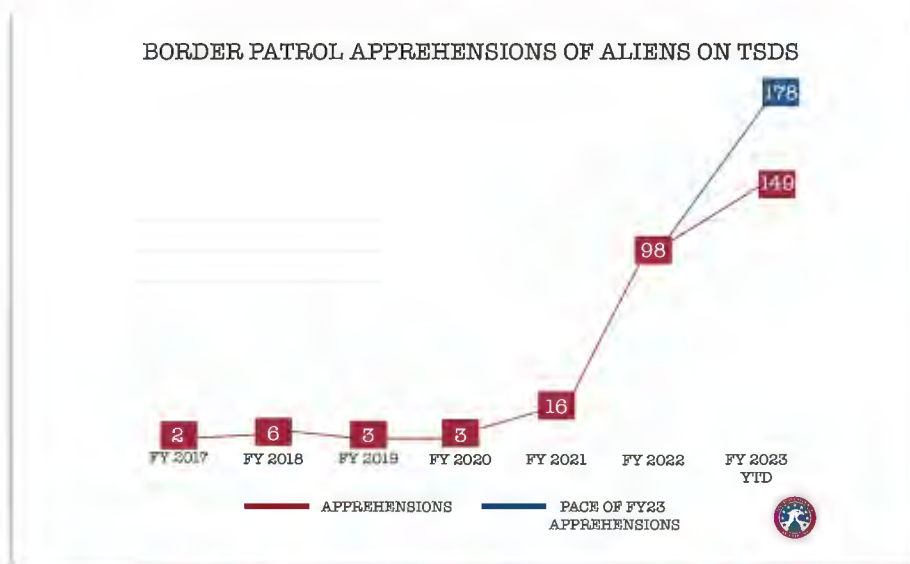
<sup>240</sup> “Straining under the Backlog: Fixing a U.S. Immigration Court System in Crisis,” *Migration Policy Institute*, YouTube video, 56:04, July 20, 2023, <https://www.youtube.com/live/sA1fuW96GNo?feature=share&t=3364>.

<sup>241</sup> John Modlin, Transcribed Interview with the House Committee on Homeland Security, 133, July 26, 2023.

<sup>242</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *CBP Enforcement Statistics Fiscal Year 2023*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>.



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(Source: CBP TSDS Encounters data)

From FY17–FY20, between ports of entry along the Southwest and northern borders, the Border Patrol apprehended just 14 individuals whose names were on the TSDS, with most of them attempting to enter through the Southwest border.<sup>243</sup> In comparison, 263 individuals whose names appear on the TSDS have been apprehended since FY21—259 of them along the Southwest border.<sup>244</sup> More than half of these individuals (146) have been apprehended at the Southwest border this fiscal year alone, far surpassing the previous record of 98 set in FY22.<sup>245</sup>

Shortly after the Title 42 public health order expired, CBP reported multiple apprehensions of individuals on the TSDS, including an Afghan national apprehended near San Diego,<sup>246</sup> a Pakistani national near Ajo Station, Arizona,<sup>247</sup> and five more individuals caught in the Tucson Sector.<sup>248</sup>

This historic number of TSDS apprehensions represent just the individuals Border Patrol agents have been able to catch. It is unknown how many additional national security threats have been among the approximately 1.5 million known gotaways that have evaded Border Patrol altogether. Richard Wiles, sheriff of El Paso County, has said the open border “is ripe for terrorists and criminals to simply walk across our border and do harm to our citizens.”<sup>249</sup> When asked if he was concerned about the public safety implications of the gotaways in his sector, Sean McGoffin, chief

<sup>243</sup> Ibid.

<sup>244</sup> Ibid.

<sup>245</sup> Ibid.

<sup>246</sup> Danielle Dawson, “Afghan on terror watch list reportedly arrested near San Diego border,” *Fox 5 San Diego*, May 15, 2023, <https://fox5sandiego.com/news/end-of-title-42/afghan-on-terror-watch-list-reportedly-arrested-near-san-diego-border/>.

<sup>247</sup> Anna Giaritelli, “Pakistani illegal immigrant on FBI terror list arrested at border day after Title 42 ended,” *The Washington Examiner*, May 15, 2023, <https://www.washingtonexaminer.com/policy/defense-national-security/pakistani-illegal-immigrant-fbi-terror-list-arrested-border>.

<sup>248</sup> Randy Clark and Bob Price, “EXCLUSIVE: Five Migrants on Terror Watch List Arrested near AZ Border Post-Title 42,” *Breitbart News*, May 14, 2023, <https://www.breitbart.com/border/2023/05/14/exclusive-five-migrants-on-terror-watch-list-arrested-near-az-border-post-title-42/>.

<sup>249</sup> Jamel Valencia, “El Paso County Sheriff sounds alarm over Border Patrol overwhelmed due to migrants,” *CBS 4 El Paso*, September 15, 2022, <https://cbs4local.com/richard-wiles>.



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patrol agent for the Big Bend Sector, told the House Committee on Homeland Security in April 2023, “Absolutely. I don’t think anybody in law enforcement wouldn’t be.”<sup>250</sup>

The Border Patrol’s Owens told Committee staff during a May 2023 interview that he was “absolutely” concerned that the high flow of illegal aliens through the Del Rio Sector was impeding his agents’ ability to reduce the number of gotaways:

“[I]f my men and women are stuck in a humanitarian effort of processing these folks, they cannot be in two places at once. They cannot be out on patrol. And where I need them out on patrol is to not only account for those gotaways but to reduce them, where possible. Everything revolves, as I said before, around having those men and women on the ground doing the job. ... I need them out doing the job that they were hired to do. And where they’re doing something else, they cannot be there.”<sup>251</sup>

“Anytime somebody chooses to evade capture, as I said before, you have to ask yourself why, and is that individual a cause of greater concern? What do they have to hide that they’re willing to go through such lengths to try and evade capture? Those are the ones that—especially if they are among the gotaways—that keep us up at night,” he later added.<sup>252</sup>

Finally, as former ICE Acting Director Tom Homan has pointed out, it is reasonable to assume that potential national security threats are among the gotaways entering the country, because they do not want to be apprehended by the Border Patrol. He told Fox News in March 2023:

“After 9/11, we created all these databases so if you want to come to the United States, get a plane ticket or a visa, you gotta go through all this vetting through various databases. Why would any terrorist put themselves in a position to be vetted through these databases when you can simply get to Mexico, cross the Southwest border like 1.3 million others did, and not get arrested?”<sup>253</sup>

Some individuals have already tried to take advantage of the open border to commit acts of terrorism, including Shihab Ahmed Shihab Shihab. Shihab came to the United States on a non-immigrant visa, but was charged with planning to smuggle terrorists into the country through the open Southwest border in an attempt to assassinate former President George W. Bush.<sup>254</sup>

Individuals on the TSDS have also been released into the United States after being apprehended. In April 2022, a Colombian man named Isnardo Garcia-Amado was released into the interior with a GPS monitoring device via the Alternatives to Detention (ATD) program.<sup>255</sup> Three days

<sup>250</sup> Sean McGoffin, Transcribed Interview with the House Committee on Homeland Security, 39, April 25, 2023.

<sup>251</sup> Jason Owens, Transcribed Interview with the House Committee on Homeland Security, 56, May 5, 2023.

<sup>252</sup> *Ibid.*, 128.

<sup>253</sup> “Tom Homan: The southern border ‘scares the hell out of me,’” *Fox News*, Fox News video, 01:35, March 20, 2023, <https://www.foxnews.com/video/6322980718112>.

<sup>254</sup> U.S. Department of Justice, U.S. Attorney’s Office for the Southern District of Ohio, *Ohio man charged with aiding and abetting plot to murder former President*, May 24, 2022, <https://www.justice.gov/usao-sdoh/pr/ohio-man-charged-aiding-and-abetting-plot-murder-former-president>.

<sup>255</sup> Adam Sabes and Bill Melugin, “Border Patrol released suspected terrorist who crossed into U.S. illegally, ICE took weeks to rearrest him,” *Fox News*, May 23, 2022, <https://www.foxnews.com/us/border-patrol-released-suspected-terrorist-ice-rearrest-weeks>.



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after his release, the FBI flagged his name as a hit on the terror watchlist, but ICE did not rearrest him until almost two weeks later. He had traveled from Arizona to Florida in that time.<sup>256</sup>

In June 2023, the DHS Office of the Inspector General (OIG) released a shocking report showing that in April 2022, CBP officials had released an illegal alien who was ultimately found to have been on the terror watchlist.<sup>257</sup> On April 17, 2022, the alien was apprehended with family members in Yuma, Arizona. He was initially determined to be an “inconclusive Terrorist Watchlist match” based on data provided by CBP to the FBI, and subsequently released April 19. Two days later, when the alien and his family attempted to fly from California to Tampa, Florida, the FBI received more information from TSA showing the alien was actually on the terror watchlist. Two weeks later, ICE arrested the alien.<sup>258</sup>

According to the OIG, “CBP apprehended and subsequently released a migrant without providing information requested by the [Terrorist Screening Center] that would have confirmed they were a positive match with the Terrorist Watchlist.”<sup>259</sup> This potential terrorist was released before proper vetting was completed because, according to Border Patrol agents at the Yuma centralized processing center, “the Yuma CPC was over capacity following an increase in apprehensions, which created pressure to quickly process migrants and decreased the time available to review each file.”<sup>260</sup>

It is deeply troubling that individuals on the terror watchlist are being released before they have been fully vetted simply because CBP officials feel pressured to release them. Ultimately, it is Mayorkas’ policies that are to blame, as record numbers of illegal aliens continue to flow across the Southwest border in response to his mass “catch-and-release” policies.

Additionally, one recent report makes clear that those connected to terror groups have been able to take advantage of a Southwest border increasingly left vulnerable by Mayorkas’ policies. On Aug. 29, 2023, CNN reported that a large group of Uzbek nationals were smuggled across the Southwest border earlier in 2023 by a smuggling network that contained at least one individual “with ties to ISIS.”<sup>261</sup> At the time of CNN’s report, federal law enforcement had not yet located all these individuals who had illegally crossed into the United States, and more than 15 of those who had been apprehended were “still under scrutiny by the FBI as possible criminal threats.”<sup>262</sup>

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<sup>256</sup> Ibid.

<sup>257</sup> U.S. Department of Homeland Security, Office of the Inspector General, *CBP Released a Migrant on a Terrorist Watchlist, and ICE Faced Information Sharing Challenges Planning and Conducting the Arrest (REDACTED)*, OIG-23-31, June 28, 2023, 3, <https://www.oig.dhs.gov/sites/default/files/assets/2023-07/OIG-23-31-Jun23-Redacted.pdf>.

<sup>258</sup> Ibid.

<sup>259</sup> Ibid., p. 9.

<sup>260</sup> Ibid., p. 12.

<sup>261</sup> Katie Bo Lillis, et. al., “Exclusive: Smuggler with ties to ISIS helped migrants enter US from Mexico, raising alarm bells across government,” *CNN*, August 29, 2023, <https://www.cnn.com/2023/08/29/politics/migrants-us-southern-border-smuggler-isis-ties/index.html>.

<sup>262</sup> Ibid.



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Perhaps these examples demonstrate why the Laredo Sector's Martinez, in the context of national security, told the House Committee on Homeland Security, "every apprehension worries me," because agents "never know...who we'll run into. One minute we're dealing with a child and the next we're dealing with an adult. We don't know what their intentions

are."<sup>263</sup> Mayorkas has lost control of the border, and created an environment in which nefarious individuals with the intention of doing Americans harm can enter the country at will.

### **Potential National Security Threats Arriving from Other Nations**

It is not just potential terrorists that are flooding across the border, however. Waves of individuals from adversarial countries like China and Russia continue to flow across, as well. Then-Border Patrol Chief Ortiz tweeted on June 9, 2023, that from FY22 to FY23, Border Patrol agents had recorded surges of illegal aliens from China and Afghanistan in excess of 1,000 percent.<sup>264</sup>

The number of Chinese and Russian nationals crossing illegally has skyrocketed in the last two years. This fiscal year alone, the Border Patrol has recorded 17,678 apprehensions of Chinese nationals just at the Southwest border.<sup>265</sup> In all of FY20, that number was 1,236, just 323 in FY21, and 1,970 in FY22.<sup>266</sup> In the same timeframe, the Border Patrol has also apprehended more than 7,000 Russians illegally crossing the Southwest border, compared to 24 in FY20, 509 in FY21, and 5,197 in FY22.<sup>267</sup>

The surge in apprehensions of Chinese nationals at the Southwest border has placed a substantial strain on CBP officials. The Border Patrol's Chavez said in March 2023 that apprehensions of Chinese nationals in FY23 in the Rio Grande Valley Sector had increased more than 900 percent compared to FY22.<sup>268</sup> She tweeted that the surge was "creating a strain on our workforce due to the complexities of the language barrier & lengthens the processing."<sup>269</sup> Through July 2023, Border Patrol apprehensions of Chinese nationals along the Southwest border exceeded FY22



<sup>263</sup> Joel Martinez, Transcribed Interview with the House Committee on Homeland Security, 27-28, June 1, 2023.

<sup>264</sup> Chief Jason Owens [@USBPChief], "We Have Seen an Increase of over 1000% from Some Countries. While We Work Diligently to Repatriate Migrants from These Countries, We Still Have Challenges with Countries' Governments to Get Working Programs in Place to Repatriate All Those We Apprehend.," Tweet, *Twitter*, June 9, 2023, <https://twitter.com/USBPChief/status/1667215420984573960>.

<sup>265</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *Nationwide Encounters*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

<sup>266</sup> *Ibid.*

<sup>267</sup> *Ibid.*

<sup>268</sup> Sandra Sanchez, "South Texas Sees Surge of Chinese Nationals Crossing Border Illegally, Chief Says," *Border Report*, March 20, 2023, <https://www.borderreport.com/immigration/south-texas-sees-surge-of-chinese-migrants-crossing-border-illegally-chief-says/>.

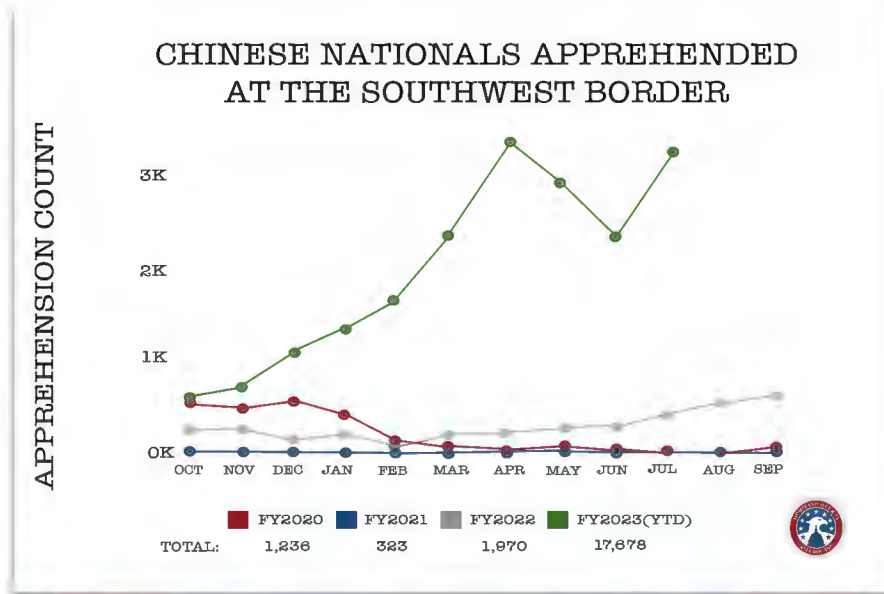
<sup>269</sup> Chief Patrol Agent Gloria I. Chavez [@USBPChiefRGV], "RGV Continues to Lead the Nation in Chinese Migrant Encounters. In FY23, There Have Been 1,577 Apprehensions-91% Being Single Adults. A 920% Increase Compared to FY22 Creating a Strain on Our Workforce Due to the Complexities of the Language Barrier & Lengthens the Processing.," Tweet, *Twitter*, March 16, 2023, <https://twitter.com/USBPChiefRGV/status/1636489039917219840>.





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apprehensions of the same demographic by almost 800 percent—the overwhelming majority of them single adults.<sup>270</sup>



(Source: CBP Nationwide Encounters data)

Chinese and Russian nationals are of particular concern, given those nations’ status as the United States’ most significant adversaries and the threat they pose to America’s national security. Fox News’ Adam Shaw and Bill Melugin reported in February 2023 that Chinese nationals are typically processed for expedited removal, “unless they claim to have a credible fear of persecution if returned to the country—where the Chinese Communist Party holds power.”<sup>271</sup> Consequently, sources told Shaw and Melugin, “many are claiming that fear and are subsequently being released into the U.S. on their own recognizance and with a notice to appear for a court date for their immigration hearings.”<sup>272</sup>

It is possible that many of these individuals are fleeing the authoritarian, repressive regimes in their home countries. Some of them may even qualify for asylum, unlike the vast majority of those who are crossing illegally for economic reasons or to flee general violence in their home countries.<sup>273</sup> Notably, however, Chief Patrol Agent Good told the House Committee on Homeland Security in June 2023 that based on his observations, the “typical reason” given by Chinese nationals for entering illegally was “the same as most of the migrants—for work or a better life.”<sup>274</sup>

<sup>270</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *Nationwide Encounters*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

<sup>271</sup> Adam Shaw and Bill Melugin, “Border Patrol Apprehensions of Chinese Nationals at Southern Border up 800%: Source,” *Fox News*, February 9, 2023, <https://www.foxnews.com/politics/border-patrol-apprehensions-chinese-nationals-southern-border-800-source>.

<sup>272</sup> *Ibid.*

<sup>273</sup> Members of the House Committee on Homeland Security were given a bipartisan classified briefing on July 27, 2023, by multiple CBP officials. In this briefing, officials stated that some of the Chinese nationals apprehended illegally crossing the border presented they were fleeing from oppression by the Chinese Communist Party, or taking advantage of relaxed COVID-19 restrictions.

<sup>274</sup> Anthony Scott Good, Transcribed Interview with the House Committee on Homeland Security, 37, June 29, 2023.

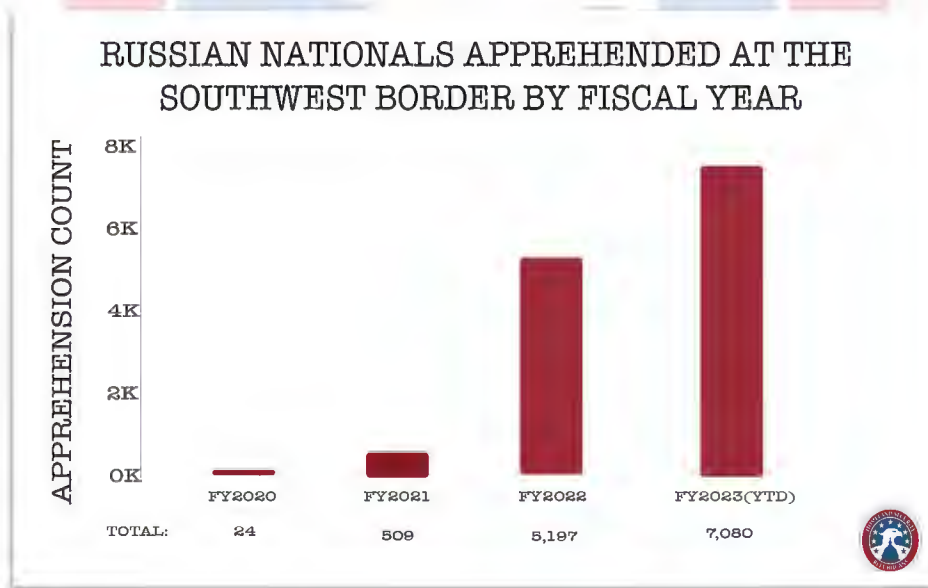


## SECTION 3: THE SURGE OF NATIONAL SECURITY THREATS ACROSS THE BORDER

The threat to national security lies not just in the fact that these individuals are crossing illegally to begin with, putting undue strain on Border Patrol agents, but that CBP and other federal agencies simply do not have the ability to properly screen them before they are released into the interior. As the crisis continues, and agents are forced to continue rapidly processing and releasing those they encounter, the possibility of bad actors from these countries being released into American communities will only increase.

It is simply unknown how many of those released into the interior have sinister intentions. What is known, however, is that some unquestionably do. In an astounding revelation on June 14, 2023, House Homeland Security Committee Chairman Green revealed that senior Border Patrol sources had confirmed that some of the Chinese nationals apprehended in recent months at the Southwest border “have ties to the Chinese Communist Party (CCP) and the People’s Liberation Army (PLA).”<sup>275</sup>

Russia has been suspected of using similar tactics on the borders of European nations for its own ends, smuggling operatives in amongst the flow of migrants between these states. A 2021 Newsweek report noted, “NATO allies on its Baltic front lines fear that Russia and Belarus are exploiting the flow of thousands of migrants into the European Union (EU)—perhaps even as cover for their agents—to infiltrate and destabilize Western democracies, and threaten exiled dissidents.”<sup>276</sup>



(Source: CBP Nationwide Encounters data)

<sup>275</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, *Chairman Green: “Alejandro Mayorkas Has Been Derelict in His Duty as the United States Secretary of Homeland Security.”* 118th Cong., 1st sess., June 14, 2023, <https://homeland.house.gov/2023/06/14/chairman-green-alejandro-mayorkas-has-been-derelict-in-his-duty-as-the-united-states-secretary-of-homeland-security/>.

<sup>276</sup> David Brennan, “NATO Allies Fear Russia, Belarus Using Migrant Chaos to Destabilize Europe, Hide Agents.” *Newsweek*, October 19, 2021, <https://www.newsweek.com/nato-allies-fear-russia-belarus-migrant-chaos-hide-agents-destabilize-europe-1640303>.



## SECTION 3: THE SURGE OF NATIONAL SECURITY THREATS ACROSS THE BORDER

Moscow, however, is not the only American adversary using migration flows for its own sinister purposes. In the Western Hemisphere, Venezuela has done the same thing. During a June 2023 hearing held by the House Homeland Security Committee’s Subcommittee on Counterterrorism, Law Enforcement, and Intelligence, Christopher Hernandez-Roy of the Center for Strategic and International Studies (CSIS) testified that Venezuela had been known to embed spies in the flow of individuals into neighboring Colombia to “harass and persecute” those opposed to the Maduro regime. Such conduct, he said, raises questions about what other U.S. adversaries are doing to take advantage of the porous Southwest border:

“Thus, a U.S. adversary has taken advantage of this human wave to conceal the entry of spies into a traditional U.S. ally. This begs the question of what more sophisticated U.S. adversaries like China and Russia might be doing to take advantage of the historic migration flows across the U.S. southern border.”<sup>277</sup>

During the same hearing, Elaine Dezenski, former DHS acting assistant secretary for policy, was asked whether policymakers should assume China is taking advantage of the porous Southwest border. She responded, “I think we should assume that any vulnerabilities at our southern border are open for authoritarian influence of many kinds. I think that’s a safe assumption. If the gaps are there, then those who are working against us are going to use them to their advantage.”<sup>278</sup>

According to Dezenski, finding the national security risks among the millions of illegal aliens crossing the border is a “needle in the haystack problem” and that the United States has “an identity management problem at the border” that is only “going to become more and more difficult.”<sup>279</sup>

<sup>277</sup> “Countering Threats Posed by Nation-State Actors in Latin America to U.S. Homeland Security,” *Homeland Security Committee Events*, YouTube video, 31:40, June 21, 2023, <https://www.youtube.com/live/riLhJhoIkk?feature=share&t=1892>.

<sup>278</sup> “Countering Threats Posed by Nation-State Actors in Latin America to U.S. Homeland Security,” *Homeland Security Committee Events*, YouTube video, 44:08, June 21, 2023, <https://www.youtube.com/live/riLhJhoIkk?feature=share&t=1892>.

<sup>279</sup> “Countering Threats Posed by Nation-State Actors in Latin America to U.S. Homeland Security,” *Homeland Security Committee Events*, YouTube video, 52:31, June 21, 2023, <https://www.youtube.com/live/riLhJhoIkk?feature=share&t=3139>.



# SECTION 4: IRRESPONSIBLE USE OF FEDERAL LAW ENFORCEMENT PERSONNEL

## **Section 4: Irresponsible Use of Federal Law Enforcement Personnel**

The massive influx of illegal aliens on Mayorkas' watch has put a tremendous strain on CBP personnel and resources. As a result, federal law enforcement personnel from around the country have been diverted from their vital responsibilities in order to support operations on the Southwest border—often in simple administrative capacities.

### **Redeploying Border Patrol Agents from the Northern Border**

One of DHS' more controversial personnel shifts has been the deployment of Border Patrol agents from the northern border to the Southwest border. According to CBP, between October 2020-April 2023, thousands of Border Patrol agents and CBP officers were temporarily relocated from the northern border to the Southwest border.<sup>280</sup> Deployments of CBP officials, in particular, increased substantially from FY22 to FY23,<sup>281</sup> likely to further enable CBP to more rapidly process and release illegal aliens into the United States. In 2022, per a DHS spokesperson, “at the peak of deployments, 464 [Border Patrol] agents were deployed from northern border sectors.”<sup>282</sup>

It should be noted that the Committee was provided the specific numbers of deployments for each agency, by year, but was prohibited from publishing them in this report by an arbitrary ‘For Official Use Only’ marking on the data.

After DHS confirmed the personnel policy in early 2022, Texas Rep. Cuellar criticized the policy, saying, “It’s almost like bringing people so they can be more efficient in allowing the migrants to come into the United States... It’s ‘how do we move the migrants faster from the border out into the interior?’”<sup>283</sup>

In FY20, the number of Border Patrol agents assigned to the northern border totaled around 2,000, while around 17,000 were serving on the Southwest border.<sup>284</sup> The Border Patrol's Good, who previously served in the Grand Forks Sector along the northern border, told the House Committee on Homeland Security in June 2023 that sending agents to the Southwest border, and even having them help with processing remotely, had an impact on operations at the northern border:

“Like I said before, we only have 200 agents for over 800 miles of border in the Grand Forks Sector. So, sending sometimes up to 30 agents...required us to have less shifts. So, if a station had two shifts for a 24-hour period, they were reduced to one shift. And there was a station that had three shifts, a 24/7 operation, that reduced to two shifts. And we were

<sup>280</sup> Information provided by CBP to the House Committee on Homeland Security, April 19, 2023.

<sup>281</sup> Ibid.

<sup>282</sup> Virginia Allen, “Illegal Immigrants Are Now Using the Northern Border, Too,” *The Daily Signal*, February 20, 2023, <https://www.dailysignal.com/2023/02/20/its-not-just-southern-border-anymore-northern-border-also-faces-explosion-of-illegal-immigration/>.

<sup>283</sup> Tyler Olson, “Biden admin moving officers from northern US to southern border for Title 42 migrant surge, Cuellar says,” *Fox News*, April 21, 2022, <https://www.foxnews.com/politics/henry-cuellar-border-officers-northern-border-southern-title-42>.

<sup>284</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, U.S. Border Patrol, *Sector Profile - Fiscal Year 2020*, August 2021, <https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Fiscal%20Year%202020%20Sector%20Profile%20%28508%29.pdf>.



## SECTION 4: IRRESPONSIBLE USE OF FEDERAL LAW ENFORCEMENT PERSONNEL

successful by leveraging our Stone Garden partners, local law enforcement in those areas to assist us. However, there were less agents in the field doing border security missions in the Grand Forks Sector.”<sup>285</sup>

In May 2023, the DHS OIG released a report on the operations being conducted at various CBP facilities it had inspected along the northern border.<sup>286</sup> In speaking with Border Patrol personnel in the course of this investigation, the OIG found that the deployment of agents to the Southwest border had a substantial operational impact:

“Swanton sector Border Patrol officials also said the details affected enforcement on the northern border. For example, boat patrols on the St. Lawrence River were curtailed, as was participation in joint law enforcement task forces operating on the northern border. When agents needed to take emergency leave due to illness, some shifts were not staffed or were understaffed. Officials said as a result of the details, the Swanton sector Border Patrol was less effective at disrupting cross-border smuggling and assisting with criminal cases.”<sup>287</sup>

Even as more Border Patrol agents and resources have been shifted to the Southwest border, illegal crossings at the northern border have surged. Total northern border encounters have jumped in the past two years. In FY21, CBP recorded 27,180 total encounters of inadmissible aliens at or between northern ports of entry. That jumped to 109,535 in FY22, and through July of FY23, stood at 150,743 encounters.<sup>288</sup> As noted by one independent analysis of the figures in February 2023, “the number of ‘other than Canadian’ nationals deemed inadmissible at the northern border ports jumped sixfold between FY 2021 and FY 2022 — from around 10,250 to nearly 67,000,” with around 10 percent coming from China.<sup>289</sup>

<sup>285</sup> Anthony Scott Good, Transcribed Interview with the House Committee on Homeland Security, 35-36, June 29, 2023.

<sup>286</sup> U.S. Department of Homeland Security, Office of the Inspector General, *CBP Facilities in Vermont and New York Generally Met TEDS Standards, but Details to the Southwest Border Affected Morale, Recruitment, and Operations*, OIG-23-27, May 23, 2023, <https://www.oig.dhs.gov/sites/default/files/assets/2023-05/OIG-23-27-May23.pdf>.

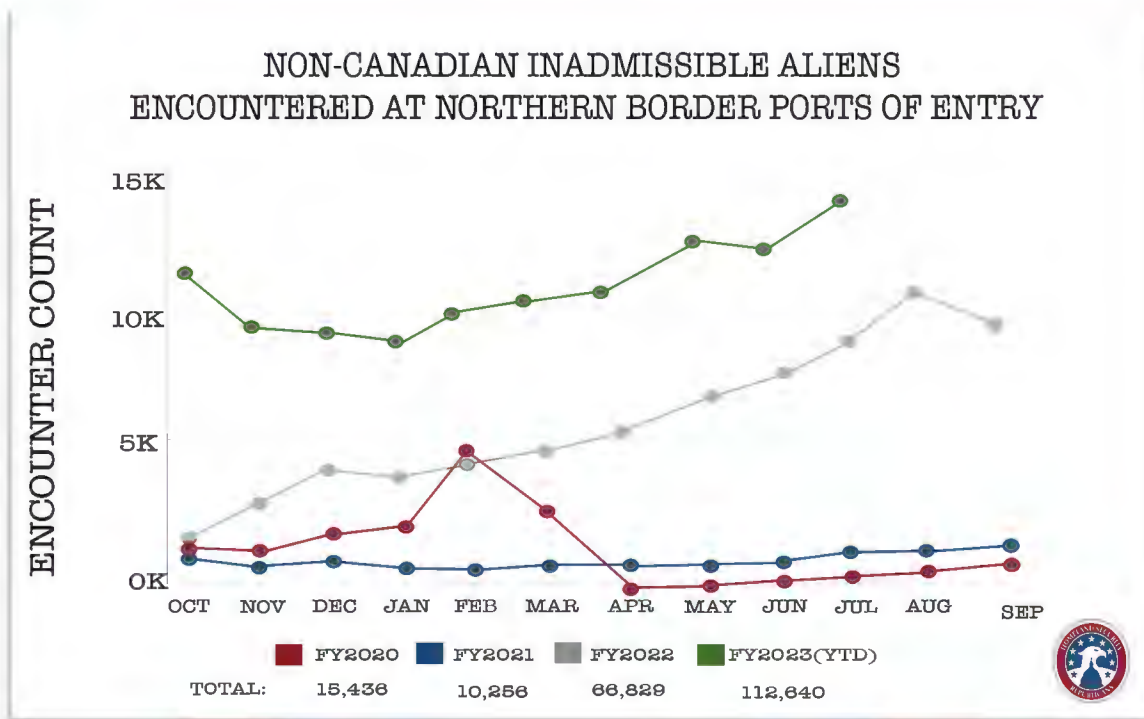
<sup>287</sup> *Ibid.*, 12.

<sup>288</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *Nationwide Encounters*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

<sup>289</sup> Andrew Arthur, “Migrant Surge — At the Northern Border,” *Center for Immigration Studies*, February 23, 2023, <https://cis.org/Arthur/Migrant-Surge-Northern-Border>.



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(Source: CBP Nationwide Encounters data)

Meanwhile, the number of Border Patrol apprehensions between northern border ports of entry this fiscal year (7,633) has already more than tripled FY22’s total (2,238), which in turn more than doubled FY21 (916).<sup>290</sup> North Carolina Rep. Dan Bishop, chairman of the House Committee on Homeland Security’s Subcommittee on Oversight, Investigations, and Accountability, said in March 2023:

The northern border “is now a hot spot for illegal alien crossings, including individuals on the terrorist watchlist, organized criminal activity, and illicit drug smuggling. Illegal alien encounters are up more than 800 percent from last fiscal year in the Swanton Sector alone. The Biden administration has encouraged and facilitated this lawlessness and left our northern Border Patrol agents without the means to accomplish their mission and defend our porous border.”<sup>291</sup>

According to Border Patrol agents in the Swanton Sector in June 2023, illegal crossings between October 2022-May 2023 exceeded total crossings from the past six years combined.<sup>292</sup> By September, that number had increased even more, with Robert Garcia, chief patrol agent for the

<sup>290</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Newsroom, *Nationwide Encounters*, August 18, 2023, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>.

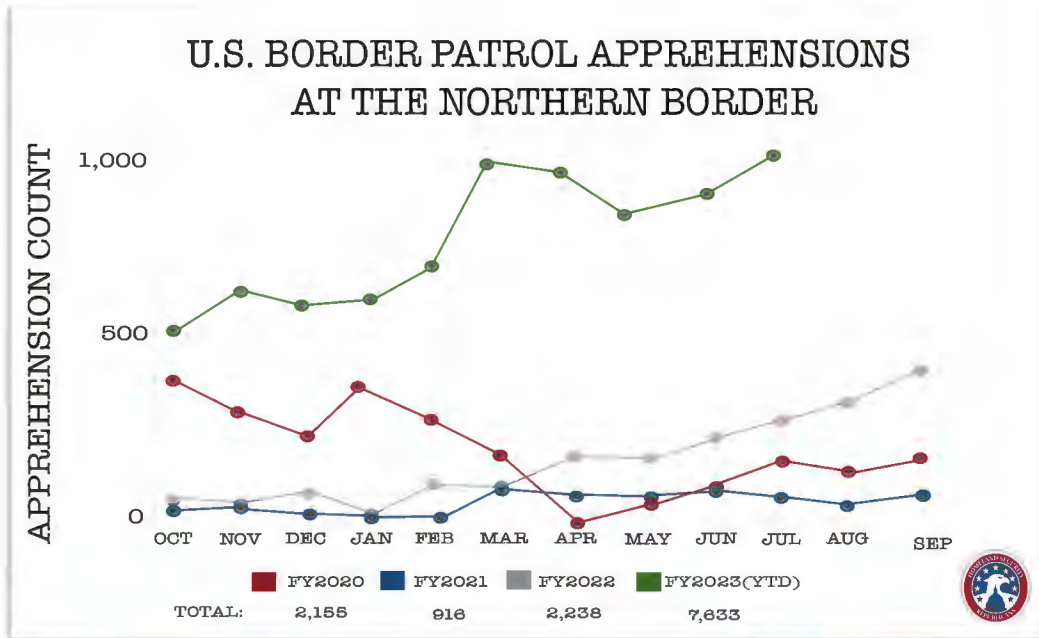
<sup>291</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, *Bishop Announces Subcommittee Hearing on Northern Border Crisis*, 118th Cong., 1st sess., March 23, 2023, <https://homeland.house.gov/media-advisory-bishop-announces-subcommittee-hearing-on-northern-border-crisis/>.

<sup>292</sup> Jennie Taer, “Agents in One Area of the Northern Border Saw More Migrants Cross Illegally in Eight Months Than Last Six Years,” *The Daily Caller*, June 21, 2023, <https://dailycaller.com/2023/06/21/agents-northern-border-migrants-cross-illegally-eight-months-last-six-years/>.



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sector, tweeting that apprehensions had exceeded 6,100 individuals from 76 different countries through August of FY23—more than the previous 10 years combined.<sup>293</sup>



(Source: CBP Nationwide Encounters data)

The NBPC’s Judd pointed out in congressional testimony in March 2023 that given Canada’s more-lax visa policies, individuals from hostile nations like China can more easily enter Canada and then illegally cross the United States’ northern border.<sup>294</sup> Other officials have confirmed similar findings.<sup>295</sup>

The northern border’s extreme elements can also be just as perilous as those at the Southwest border. In January 2022, Canadian police found an Indian family, including two young children, frozen to death near the U.S.-Canada border. Authorities believe the family perished attempting to cross.<sup>296</sup>

<sup>293</sup> Chief Patrol Agent Robert Garcia [@USBPChiefSWB], “Over 6,100 apprehensions from 76 different countries in just 11 months, surpassing the last 10 years combined. Swanton Sector Agents are resolute and determined to hold the line across our 295 miles of border in northeastern New York, Vermont & New Hampshire.” Tweet, *Twitter*, September 6, 2023, <https://twitter.com/USBPChiefSWB/status/1699368978932449444>.

<sup>294</sup> U.S. Congress, House of Representatives, Committee on Homeland Security, Subcommittee on Oversight, Investigations, and Accountability, *Prepared Testimony of Brandon Judd on Behalf of the National Border Patrol Council for Biden’s Growing Border Crisis: Death, Drugs, and Disorder on the Northern Border*, 118th Cong., 1st sess., March 28, 2023, 41-42, <https://homeland.house.gov/wp-content/uploads/2023/07/2023-03-28-OIA-HRG-Testimony-Arthur-combined.pdf>.

<sup>295</sup> Jennie Taer, “Illegal Migrant Encounters Surge Roughly 36% At Northern Border,” *The Daily Caller*, August 18, 2023, <https://dailycaller.com/2023/08/18/illegal-migrant-encounters-surge-roughly-36-at-northern-border/>.

<sup>296</sup> Samantha Fischer, Danny Spewak, and David Griswold, “Canadian police identify family found frozen to death near U.S.-Canada border,” *KARE 11*, January 27, 2022, <https://www.kare11.com/article/news/crime/canadian-police-identify-patel-family-found-frozen-to-death-near-us-canada-border/89-a68abf47-ab14-47b7-84a2-8a2647813b7b>.



## SECTION 4: IRRESPONSIBLE USE OF FEDERAL LAW ENFORCEMENT PERSONNEL

Finally, in an embarrassing turn of events demonstrating Mayorkas' reactionary approach to dealing with the border crisis, DHS has responded to the growing crisis at the *northern border* by deploying agents from the *Southwest border* to handle the influx there.<sup>297</sup>

### **Not-So-Friendly Skies—Reassigning Air Marshals to Administrative Duty**

The Federal Air Marshals Service (FAMS) has also been impacted by the crisis, as marshals have been pulled away from their roles ensuring security on flights to instead perform duties at the Southwest border unrelated to law enforcement. The House Committee on Homeland Security received information in spring 2023 that air marshals are being placed on three-week rotations, with up to several dozen air marshals and multiple supervisors at the border at any given time.<sup>298</sup> In mid-2021, the marshals service requested volunteers for shifts at the Southwest border, but after few individuals volunteered to be taken away from their law enforcement duties, the deployments were made mandatory.<sup>299</sup>

According to the Air Marshals Association, the forced deployment of air marshals has put immense strain on the workforce as a whole, since many marshals are retiring. The association recently stated in an internal newsletter, “We have had a staggering number of retirements in the last few years. We cannot keep sending a large number of our flying FAMS to the border at the expense of our current mission, while also creating new AVO positions, which currently take more FAMS out of the air without a clearly defined job.”<sup>300</sup>

These deployments also represent a national security risk. Per one 2022 press report, these involuntary deployments to the Southwest border “would strip 99% of commercial flights from federal protection as people take to the skies during the busiest time of the year for air travel,” leaving “just 1-in-100 U.S. flights with federal agents on board, one-eighth of its normal coverage.”<sup>301</sup> The National Association of Police Organizations (NAPO) released a statement in November 2022 highlighting similar concerns with the policy:

“During these deployments, air marshals are not using their law enforcement skills to help secure the border, but are tasked with non-law enforcement jobs, including janitorial duties. The Federal Air Marshal Service is understaffed and covering the fewest number of flights since before September 11, 2001. We strongly question the decision by the Department of Homeland Security to divert much-needed aviation security to the southern border especially as we enter the busiest travel season of the year, particularly as a Federal emergency has not been declared at the border. The jobs air marshals are being asked to

<sup>297</sup> Julia Ainsley and Didi Martinez, “U.S. transfers Border Patrol agents to northern border as migrant crossings from Canada rise,” *NBC News*, March 6, 2023, <https://www.nbcnews.com/politics/immigration/us-transfers-border-patrol-agents-canada-border-migrant-crossings-rena73623>.

<sup>298</sup> Information provided to the Committee by Transportation Security Administration Legislative Affairs, May 4, 2023.

<sup>299</sup> See Anna Giaritelli, “US air marshals plot 'mutiny' against Biden plan to leave flights unprotected,” *The Washington Examiner*, November 30, 2022, <https://www.washingtonexaminer.com/restoring-america/fairness-justice/us-air-marshals-plot-mutiny-against-biden>; and Matthew Medsger, “Biden admin deploys Air Marshals to border to help with migrants,” *The Boston Herald*, November 23, 2022, <https://www.bostonherald.com/2022/11/23/biden-admin-deploys-air-marshals-to-border-to-help-with-migrants/>.

<sup>300</sup> “April Membership Update: Message from the AMA,” *Air Marshal Association*, email newsletter, April 22, 2023.

<sup>301</sup> Anna Giaritelli, “US air marshals plot 'mutiny' against Biden plan to leave flights unprotected,” *The Washington Examiner*, November 30, 2022, <https://www.washingtonexaminer.com/restoring-america/fairness-justice/us-air-marshals-plot-mutiny-against-biden>.





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do at the border are well below their skill level and a waste of important resources. Further, it puts an incredible strain on an already stressed workforce.”<sup>302</sup>

### ***Diverting HSI Away from Federal Investigations***

In addition, based on data provided to the Committee, as many as 120 HSI agents have been diverted from working on border security efforts, many of them being pulled away from their jobs doing casework on crimes like child trafficking.<sup>303</sup> In August 2023, the Biden administration announced it was sending 140 more HSI agents to the Southwest border, prompting one source to say, “You’re using skilled and trained special agents who are trained in criminal investigations and law enforcement tactics to guard people and to hand out food to individuals and help with processing.”<sup>304</sup>

The HSI source further told the press:

“So, when you pull an agent from an active investigation, and you put them somewhere else for 30 days, that affects that agent’s ability to continue working in that case. And for HSI a lot of times, we have just one agent in that case. We don’t have multiple agents assigned to it. So, someone else can’t pick up that slack once somebody has to go down there. So, your case just gets put on standstill, put on pause, but the criminal activity doesn’t. That continues.”

“So, you’re not able to continue with the activity going on in that investigation, which includes terrorism cases, human trafficking cases, violent organized crime cases and child exploitation cases. We’re already understaffed as an agency, and pulling us down to the border — it makes us almost a critical level of understaffed.”<sup>305</sup>

On a similar note, the Border Patrol’s Good told Committee staff in June 2023 that law enforcement detailees are typically “put where the need is, which is usually processing and transportation,” and that these professionals could be placed in administrative functions because that was the area of need.<sup>306</sup>

Senior DHS officials confirmed these functions in official memos, as well. In an April 2023 memorandum of agreement (MOA) signed by the heads of both ICE and CBP, the agencies stipulated that HSI detailees to the Southwest border would be assigned primarily to administrative functions, including “hospital watch,” “entry control,” and “welfare checks.”<sup>307</sup>

<sup>302</sup> “NAPO Opposes Forced Deployment of Federal Air Marshals to Southern Border,” *National Association of Police Organizations*, November 8, 2022, <https://www.napo.org/washington-report/latest-news-updates/napo-opposes-forced-deployment-federal-air-marshals-southern-border/>.

<sup>303</sup> Internal correspondence provided to House Committee on Homeland Security.

<sup>304</sup> Adam Shaw, “Biden administration sending surge of ICE special agents to border amid increase in migrant numbers,” *Fox News*, August 3, 2023, <https://www.foxnews.com/politics/biden-admin-surg-ing-ice-special-agents-border-amid-increase-migrant-numbers>.

<sup>305</sup> *Ibid.*

<sup>306</sup> Anthony Scott Good, Transcribed Interview with the House Committee on Homeland Security, 83, June 29, 2023.

<sup>307</sup> April 2023 CBP-ICE Memorandum of Agreement provided to the House Committee on Homeland Security.



# SECTION 4: IRRESPONSIBLE USE OF FEDERAL LAW ENFORCEMENT PERSONNEL

MEMORANDUM OF AGREEMENT  
BETWEEN  
U.S. CUSTOMS AND BORDER PROTECTION

AND

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

TO PROVIDE ASSISTANCE TO U.S. BORDER PATROL  
ON THE SOUTHWEST BORDER

**1. PARTIES:**

The parties to this Memorandum of Agreement (MOA) are the U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) (collectively, "the Parties"), both of which are components of the U.S. Department of Homeland Security (DHS).

**2. AUTHORITIES:**

The authorities for CBP and ICE to enter into this Agreement are:

(A) 5 U.S.C. § 3341 and 5 C.F.R. § 300.301, which authorize details of personnel within an Executive agency for 120-day periods; and,

(B) 31 U.S.C §§ 1535-1536.

**3. BACKGROUND:**

The Nation is experiencing a surge in irregular migration along the Southwest Border. The unprecedented volume of Noncitizen Migrants (NCMs) currently apprehended and in U.S. Border Patrol (USBP) custody along the Southwest Border requires immediate action to protect the life and safety of federal personnel and noncitizens in CBP custody. To support its mission, CBP is seeking federal employees from DHS Components and other federal agencies to be placed on reimbursable detail to assist in critical support functions.

**4. PURPOSE:**

The purpose of this MOA is to document approval of, and terms and conditions for, the reimbursable detail of ICE, Homeland Security Investigations (HSI) Special Agents to CBP in support of the border security and humanitarian mission along the Southwest Border. This MOA addresses the relationships between operational (i.e., daily) control and administrative and management control of the detailees.



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### 5. DUTIES:

Detailees will not be assigned responsibilities that exceed their current pay band. Non-supervisory personnel will not be asked to perform supervisory responsibilities while on detail to include but not limited to, monitoring, assigning, and directing work or work assignments of co-workers. No temporary promotions will be afforded during the detail assignments. Individual detailees, at the discretion of CBP, will be assigned to non-supervisory duties in one of the following categories:

- a. **Hospital Watch** – Escort and transportation of NCMs to local health providers and hospitals, security detail for the duration of the NCM's hospital care, and transportation back to the USBP station or Office of Field Operations (OFO) facility once medically deemed fit for travel.
- b. **Transportation** – Escort and transportation of NCMs from the point of apprehension to processing; from a port of entry to holding or processing; between Border Patrol Sector facilities or from Border Patrol Sector facilities to U.S. Immigration and Customs Enforcement (ICE) custody, the U.S. Department of Health and Human Services (HHS), or other entities with jurisdiction over post-processing custody, or point of release, as appropriate.
- c. **Law Enforcement Searches** – Performing searches of NCMs in CBP custody in accordance with CBP Transportation, Escort, Detention, and Search (TEDS) standards, including immediate pat downs of individuals in custody before they board for transport, placing or removing handcuffs or restraint devices on individuals in custody, if necessary, during transport, and responsibility and oversight of NCMs' personal property, documents, and medications during transportation.
- d. **Entry Control** – Aiding with authorizing access to CBP owned or managed facilities and/or grounds at the vehicle entry/exit-control points.
- e. **Security at CBP Facilities** – Staffing holding areas at CBP facilities, including soft-sided detention facilities, and providing walking escort of NCMs, pedestrian access control, security for housing units, processing pods, and roving patrols on CBP owned/managed grounds.
- f. **Welfare Checks** – Physically observing NCMs in holding areas and assessing safety and well-being while pending processing or transportation. These checks are required every 15 minutes and are required during the period that any person is in CBP custody.

*An April 2023 memorandum of agreement shows that HSI agents are being required to perform administrative functions at the Southwest border.*



## SECTION 4: IRRESPONSIBLE USE OF FEDERAL LAW ENFORCEMENT PERSONNEL

### ***DHS Requesting Volunteers from Federal Workforce***

The Biden administration has also repeatedly solicited volunteers from other federal departments, even those not connected to border security, asking for assistance. In March 2021, the administration sent a request for volunteers to help process UACs as part of an HHS detail.<sup>308</sup> A year later, DHS leadership sent a department-wide request asking for more volunteers to assist CBP with the “large numbers” of illegal aliens flooding across the border.<sup>309</sup> Even more recently, in the summer of 2023, DHS sent an internal memo calling for volunteers to assist CBP, looking for “general support and data entry volunteers to perform non-law enforcement and logistics tasks to help our CBP colleagues at the Southwest border.”<sup>310</sup>



<sup>308</sup> Eric Katz, “Biden Asks Feds Across Government to Volunteer to Assist at the Border,” *Government Executive*, March 26, 2021, <https://www.govexec.com/workforce/2021/03/biden-asks-feds-across-government-volunteer-assist-border/172953/>.

<sup>309</sup> Adam Shaw, “DHS puts out call for employees to volunteer at southern border amid ‘large numbers’ of migrants,” *Fox News*, March 17, 2022, <https://www.foxnews.com/politics/dhs-call-employees-volunteer-border-large-numbers-migrants>.

<sup>310</sup> Adam Shaw, “DHS calls for more agency volunteers to help process migrants at southern border,” *Fox News*, August 5, 2023, <https://www.foxnews.com/politics/dhs-agency-volunteers-help-process-migrants-southern-border>.



## CONCLUSION

### **Conclusion: Mayorkas Has Ceded Control of the Southwest Border to Cartels, National Security Threats**

In the early days of the crisis, Texas Rep. Chip Roy and Nicole Bishop, criminal district attorney for Kendall County, Texas, explained that the crisis sparked by Mayorkas' policies at the Southwest border has not only overwhelmed federal and state law enforcement, but has empowered the cartels:

“And with interior enforcement overrun, cartels are proving they are in control of this crisis. They are profiting handsomely as a result...This is no longer just a border problem; it's a problem for the whole country. There are dangerous people doing horrible things to human beings for profit further and further away from our border and closer and closer to where most of us live. Cartel smugglers are becoming increasingly armed and increasingly emboldened as they expand their operations on U.S. soil.”<sup>311</sup>

This conclusion is inescapable. The evidence overwhelmingly demonstrates three incontrovertible facts about cartel operations at the Southwest border and in American communities across the nation.

First, the cartels have seized unprecedented control of the Southwest border. The testimony of experienced border security and law enforcement professionals, to say nothing of the sheer number of illegal aliens and illicit drugs being moved across the border every day, together demonstrate that the cartels now possess a historic level of control at the Southwest border. Despite their heroic efforts, the men and women of federal, state, and local law enforcement have been overwhelmed by the onslaught, and are only able to mitigate some of the consequences of that control.

Second, the cartels have seized control as a result of the open-borders policies of Mayorkas and the Biden administration. These groups have seized on the millions of people streaming through Mexico to the Southwest border to take advantage of Mayorkas' radical “catch and release” policies, confident in the knowledge that if they gain entrance into the United States, they will never be sent home. The cartels have capitalized on this eagerness, and devised insidious new ways to take advantage of vulnerable populations to ensure an effectively endless stream of revenue.

Third, cartel control of the Southwest border has led to dire consequences for Americans and aliens alike. The cartels' operations at the border and in communities across the country have meant more crime, more families ripped apart by addiction, and more vulnerable people exploited and abused. The massive increase in the frequency of these tragedies finds its root in Mayorkas' willful opening of America's borders. Meanwhile, the cartels continue to smuggle an unknown number of potential national security threats across the border, some of whom are simply released into the interior.

<sup>311</sup> Nicole Bishop and Chip Roy, “Drug Cartels Aren't Just a Border Problem,” *National Review*, April 26, 2021, <https://www.nationalreview.com/2021/04/drug-cartels-arent-just-a-border-problem/>.



## CONCLUSION

It is, therefore, this Committee's conclusion that Mayorkas and Biden's policies have emboldened and enriched the cartels, ceded control of America's sovereign Southwest border to these organizations, and jeopardized the safety and security of individuals and communities across this country in the process.

As Sheriff Mark Dannels of Cochise County, Arizona, stated in written testimony to the House Judiciary Committee in February of this year:

"By allowing our border security mission and immigration laws to be discretionary, these Criminal Cartels continue to be the true winners, their exploitation of mankind is simply "Modern Day Slavery"; allowing thousands of pounds of illicit drugs into our country that continue to erode the core-values of families, schools, and subsequently killing Americans on an average of 270 every day is completely unacceptable at any level. ... Our voice of reason has been buried during what I call an intellectual avoidance by this Administration, and yes, members of [the] U.S. Congress."<sup>312</sup>

The facts are indeed clear—the cartels have been the greatest winners from Mayorkas and Biden's open-borders policies. In his testimony before the House Judiciary Committee on July 26, 2023, Mayorkas brazenly claimed that his policies had "weakened" the cartels.<sup>313</sup> That claim does not withstand even cursory scrutiny.

The next phase of this Committee's investigation will focus in even greater depth on the various human costs of Mayorkas' radical agenda, many of them stemming from the unprecedented control cartels now exercise over the United States' sovereign Southwest border.



(Source: Al Drago/Bloomberg via Getty Images)

<sup>312</sup> U.S. Congress, House of Representatives, Committee on the Judiciary, *Prepared Testimony of Sheriff Mark Dannels for The Biden Border Crisis: Part I*, 118th Cong., 1st sess., February 1, 2023, 3, <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/the-honorable-mark-dannels-testimony.pdf>.

<sup>313</sup> "Oversight of the U.S. Department of Homeland Security," *House Judiciary GOP*, YouTube video, 2:24:22, July 26, 2023, <https://www.youtube.com/live/cAhJdIQy1IA?feature=share&t=8662>,

# Exhibit D

118<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**S. RES.** \_\_\_\_\_

To express the sense of the Senate regarding the constitutional right of State Governors to repel the dangerous ongoing invasion across the United States southern border.

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IN THE SENATE OF THE UNITED STATES

Mr. MARSHALL submitted the following resolution; which was referred to the Committee on \_\_\_\_\_

## RESOLUTION

To express the sense of the Senate regarding the constitutional right of State Governors to repel the dangerous ongoing invasion across the United States southern border.

Whereas, during a 2019 Democratic presidential primary debate, President Biden called for “all those people seeking asylum” to “immediately surge to the border”;

Whereas, during a 2019 Democratic presidential primary debate, President Biden raised his hand when candidates were asked if their health plans will provide coverage for illegal immigrants;

Whereas, during a 2020 Democratic presidential primary debate, President Biden pledged support for “sanctuary cities” when he stated that illegal immigrants arrested by

local police should not be turned over to Federal immigration authorities;

Whereas, on January 20, 2021, one of President Biden's first actions as President was sending proposed legislation, the U.S. Citizenship Act, to Congress, which would provide a path to citizenship for an estimated 10,000,000 to 12,000,000 illegal immigrants who are currently residing in the United States;

Whereas, on January 20, 2021, President Biden also issued a "Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction", which halted construction of physical barriers along the international border between the United States and Mexico, and he later terminated existing border wall construction contracts and failed to obligate more than \$1,000,000,000 that Congress had lawfully appropriated for border wall construction;

Whereas, on January 20, 2021, President Biden also halted enrollments in the Migrant Protection Protocols policy, which is also known as the "remain in Mexico" program;

Whereas on February 6, 2021, U.S. Secretary of State Antony Blinken suspended and terminated the Asylum Cooperative Agreements with the Governments of El Salvador, of Guatemala, and of Honduras;

Whereas in March 2022, the Department of Homeland Security began implementing the interim final rule titled "Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers"✘ which authorizes U.S. Citizenship and Immigration Services to consider



the asylum applications of individuals subject to expedited removal and violates the law enacted by Congress that requires asylum seekers to offer evidence to persuade a judge in an immigration court;

Whereas in August 2022, the Department of Homeland Security terminated the Migrant Protection Protocols (commonly known as the Remain in Mexico policy), which required aliens with pending asylum claims to wait in Mexico.

Whereas, during fiscal year 2021, U.S. Immigration and Customs Enforcement executed 59,000 deportations, which represents the lowest number of deportations since fiscal year 2008, and fewer than  $\frac{1}{3}$  as many deportations as the number of people who were deported during fiscal year 2020, and is significantly lower than the 226,000 to 410,000 removals that occurred every fiscal year since 2008;

Whereas, during fiscal year 2021, U.S. Immigration and Customs Enforcement—

(1) arrested 48 percent fewer convicted criminals than had been arrested during the prior fiscal year;

(2) deported 63 percent fewer criminals than had been deported in the prior fiscal year; and

(3) issued 56 percent fewer “detainer requests” to local authorities than had been issued in the prior fiscal year;

Whereas, during fiscal year 2021, U.S. Customs and Border Protection made more than 1,700,000 arrests of illegal immigrants along the international border between the United States and Mexico, which was the highest level ever recorded until more than 2,300,000 illegal immi-

grants were arrested along such border during fiscal year 2022;

Whereas, on April 1, 2022, President Biden announced the termination of a public health policy used to expel potentially infected illegal immigrants during the COVID-19 pandemic (commonly known as “title 42”);

Whereas, on September 30, 2021, Department of Homeland Security Secretary Alejandro Mayorkas issued a memorandum titled “Guidelines for the Enforcement of Civil Immigration Law”, which stated that an alien’s illegal status in the United States should not be the sole basis of an enforcement action and prioritized for apprehension and removal aliens who are a threat to national security, public safety, or border security;

Whereas, on October 12, 2021, Secretary Mayorkas issued a memorandum titled “Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual”, which included Department-wide guidance to cease mass worksite operations, among other instructions;

Whereas, on October 27, 2021, Secretary Mayorkas issued a memorandum titled “Guidelines for Enforcement Actions in or Near Protected Areas”, which listed numerous protected areas where the enforcement of Federal immigration law should not occur;

Whereas, in May 2022, U.S. Customs and Border Protection arrested 239,416 illegal immigrants along the international border between the United States and Mexico, which is the highest number of arrests ever recorded in a single month;

Whereas President Biden's fiscal year 2023 budget request aims to shift the Department of Homeland Security's border management away from enforcement and toward "effectively managing irregular migration along the Southwest border";

Whereas in November 2022, Texas Governor Greg Abbott—

(1) declared a state of invasion at the southern border; and

(2) increased security at the border to protect the state of Texas by invoking—

(A) section 10 of Article I of the Constitution of the United States; and

(B) the invasion clauses in the Texas Constitution;

Whereas in March 2023, at a hearing of the Committee on Homeland Security of the House of Representatives, U.S. Border Patrol Chief Raul Ortiz told lawmakers that the Department of Homeland Security did not have operational control of the border;

Whereas in March 2023, at a hearing of the Committee on the Judiciary of the Senate, Secretary of Homeland Security Alejandro Mayorkas stated that he does not use the statutory definition of operational control under section 2(b) of the Secure Fence Act of 2006 (Public Law 109-367; 8 U.S.C. 1701 note) when asked if the Department of Homeland Security had operational control of the border;

Whereas on January 6, 2023, the Biden Administration abused its parole authority under section 212(d)(5) of the Immigration Nationality Act (8 U.S.C. 1182(d)(5)) to create a new parole program for nationals of Cuba, Haiti, Nicaragua, and Venezuela;

Whereas on April 27, 2023, the Biden Administration further abused its parole authority by creating a new family reunification parole process, which grants parole to entire categories of aliens rather than granting parole on a case-by-case basis, as required under such section 212(d)(5);

Whereas the Biden Administration created a parole with conditions policy authorizing U.S. Border Patrol agents to release aliens through parole before they are given a Notice to Appear or entered into removal proceedings;

Whereas the Biden Administration has expanded the use of the CBP One app, allowing tens of thousands of aliens to enter the United States unlawfully to hide the mass immigration surge following the termination of the order of suspension issued by the Director of the Centers for Disease Control and Prevention under section 362 of the Public Health Service Act (42 U.S.C. 265) as a result of the public health emergency relating to the COVID-19 pandemic (commonly known as the “title 42 order”);

Whereas drug cartels are receiving an estimated \$13,000,000,000 each year from their human smuggling operations across the southern border of the United States, which represents an enormous increase from the estimated \$500,000,000 the drug cartels received in 2018 from such operations;

Whereas in March 2023, according to the non-detained docket, an estimated 5,290,000 illegal aliens were at large in the United States, including 407,983 criminal aliens;

Whereas the estimated fiscal burden of illegal immigration on taxpayers in fiscal year 2023 is estimated to be \$150,700,000,000, which is a massive increase from the

estimated fiscal burden of \$116,000,000,000 during fiscal year 2017. Tax payments by illegal aliens are equal to approximately 1/6 of the costs incurred by government entities in the United States on their behalf;

Whereas during fiscal year 2022, total Federal justice enforcement expenditures as a result of illegal immigration were \$25,100,000,000 and total Federal welfare program expenditures for illegal aliens were \$11,600,000,000;

Whereas in April 2023, the Biden Administration proposed a plan to expand healthcare access for aliens granted deferred action pursuant to the final rule submitted by the Department of Homeland Security titled “Deferred Action for Childhood Arrivals” (87 Fed. Reg. 53152 (August 30, 2022)), further encouraging illegal aliens to enter the United States;

Whereas on May 3 2023, the Office of the Inspector General of the Department of Homeland Security issued a report titled “Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees’ Health and Morale”;

Whereas in June 2023, the Committee on Homeland Security of the House of Representatives opened an investigation into Secretary of Homeland Security Mayorkas for dereliction of duty;

Whereas in June 2023, an estimated 16,800,000 illegal aliens resided in the United States, which represents an increase of an estimated 16 percent during the first 2 years of the Biden presidency;

Whereas on June 30, 2023, U.S. Customs and Border Protection announced the expansion of available CBP One appointments to 1,450 per day;

Whereas U.S. Customs and Border Protection has apprehended illegal immigrants from Mexico, Guatemala, El Salvador, Nicaragua, Cuba, Haiti, Brazil, other Central and Latin American nations, Turkey, India, Russia, and other nations outside of the Western Hemisphere;

Whereas U.S. Customs and Border Patrol has apprehended 50 people since October 1, 2021 along the international border between the United States and Mexico who are listed on the Federal Bureau of Investigations' terrorist screening database;

Whereas, U.S. Customs and Border Protection arrested more than 10,800 illegal aliens during fiscal year 2023 who have been convicted of 1 or more crimes in the United States or abroad, including—

- (1) 225 convicted sexual criminals;
- (2) 24 who were convicted of homicide or manslaughter;
- (3) 232 who were convicted of illegal weapons possession, transport, or trafficking;
- (4) 644 who were convicted of burglary, robbery, larceny, theft, or fraud; and
- (5) 924 who were convicted of assault, battery, or domestic violence;

Whereas, during fiscal year 2022, U.S. Customs and Border Protection seized—

- (1) 14,599 pounds of fentanyl;
- (2) 1,871 pounds of heroin;
- (3) 175,410 pounds of methamphetamine;
- (4) 70,293 pounds of cocaine; and
- (5) 13,755 pounds of ketamine;

Whereas, provisional data from the National Center for Health Statistics of the Centers for Disease Control and

Prevention estimates that there were 107,622 drug overdose deaths in the United States during 2021, an increase of nearly 15 percent from the estimated 93,655 deaths in 2020, with overdose deaths involving opioids increasing from an estimated 70,029 in 2020 to an estimated 80,816 in 2021, and overdose deaths from synthetic opioids (primarily fentanyl), psychostimulants (such as methamphetamine), and cocaine also increasing during 2021.

Whereas clause 1 of section 10 of article I of the United States Constitution states, in part, “No State shall, without the Consent of Congress . . . engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.”;

Whereas section 4 of article IV of the United States Constitution states, in part, “The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion”;

Whereas, in the context of known security concerns due to a lack of proper vetting processes and systems, and in conjunction with how the mass unlawful movement of people across the border of the United States directly empowers and enriches cartels and transnational gangs, the totality of such activity constitutes an invasion;

Whereas, on October 26, 2021, Arizona State Representative Jake Hoffman sent a letter to Arizona Attorney General Mark Brnovich requesting a formal legal opinion determining whether President Biden has violated his obligations to protect Arizona from invasion under section 4 of article IV of the United States Constitution; and

Whereas, on February 7, 2022, Arizona Attorney General Mark Brnovich issued a formal legal opinion, which states, in part—

(1) “The on-the-ground violence and lawlessness at Arizona’s border caused by cartels and gangs is extensive, well-documented, and persistent. It can satisfy the definition of ‘actually invaded’ and ‘invasion’ under the U.S. Constitution.”; and

(2) “Arizona retains the independent authority under the State Self-Defense Clause to defend itself when actually invaded.”: Now, therefore, be it

1       *Resolved*, That the Senate finds that—

2               (1) President Biden’s dereliction of duty and  
3 failure to take care that the laws be faithfully exe-  
4 cuted at our southern border has directly put the  
5 citizens of all 50 States in danger and has resulted  
6 in loss of life;

7               (2) the violent activity and smuggling of drugs,  
8 humans, guns, and other illicit goods carried out by  
9 drug cartels and transnational criminal organiza-  
10 tions, and the crossing of the international border  
11 between legal ports of entry by significant numbers  
12 of individuals contrary to the laws of the United  
13 States, meet the definitions of—

14               (A) “actually invaded” under clause 3 of  
15 section 10 of article I of the United States Con-  
16 stitution; and



1                   (B) “invasion” under section 4 of article  
2                   IV of the United States Constitution; and  
3                   (3) Governors of all 50 States possess the au-  
4                   thority and power as Commander-in-Chief of their  
5                   respective States to repel the invasion described in  
6                   paragraph (2).