



Immigration REPORT

Under Mayorkas' Restrictions, ICE Agents Now Average One Arrest Every Two Months

The Border Crisis has been the dominant immigration story since Joe Biden was sworn in on January 20th, 2021. However, the elimination of effective border enforcement tells only part of the story of the administration's efforts to gut any meaningful control of illegal immigration.

In May, the Washington Post reported that Immigration and Customs Enforcement (ICE) officers are averaging just one arrest every two months. ICE is responsible for the enforcement of immigration laws in the interior of the country. With 6,000 agents deployed around the country, ICE is now on pace to arrest just 36,000 deportable aliens on an annual basis.

At the same time, the number of people being deported has slowed to a trickle. In April, ICE removed just 2,962 people – the lowest figure for any month on record. There are currently 1.2 million illegal aliens with final orders of deportation pending.

The Department of Homeland Security (DHS) vaguely explained the sharp decline in arrests and removals saying, "ICE has concentrated its limited law enforcement resources on threats to national security, border security, and public safety." Under the rubric of "prioritization," DHS is effectively defying a court order barring the Biden administration from carrying

out a presidential order to halt all deportations for at least the first 100 days of his administration.

Under directives issued by DHS Secretary Alejandro Mayorkas, every arrest carried out by ICE agents in the field must be run up the chain of command for approval. Even arrests of criminal aliens in the custody of state and local law enforcement must be approved by senior level bureaucrats. These intentional efforts to stymie any meaningful enforcement of U.S. immigration laws are among the reasons that FAIR has called for the resignation or removal of Mayorkas as DHS secretary.

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Mayorkas' Restrictions

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The shackles placed on ICE agents are a clear message to migrants and to illegal aliens already here that our laws will not be enforced, says Ron Vitiello, who was acting director of ICE under President Trump. “That’s part of a signal being sent — that immigration enforcement isn’t a priority for this team. The odds of being arrested just for being in the country illegally were always extremely low, and now they’ve basically ruled it out by policy,” stated Vitiello.

The growing body of evidence that DHS is willfully undermining the laws it is tasked with enforcing is fueling a FAIR-led effort to oust Mayorkas from his post. In May, FAIR charged that the secretary was defying his oath of office “to defend and secure our country.” In June, FAIR led a rally in the border community of Sierra Vista, Arizona, demanding Mayorkas’ removal. The rally was attended by sheriffs from around the country and citizens’ groups concerned about increasing immigration lawlessness. (FAIR will report details of this border rally in subsequent editions of the newsletter.)

While responsibility for the evisceration of border and immigration enforcement ultimately rests with President Biden, Mayorkas has been a key player in both this administration and the Obama administration in shaping and directing these damaging policies. ■

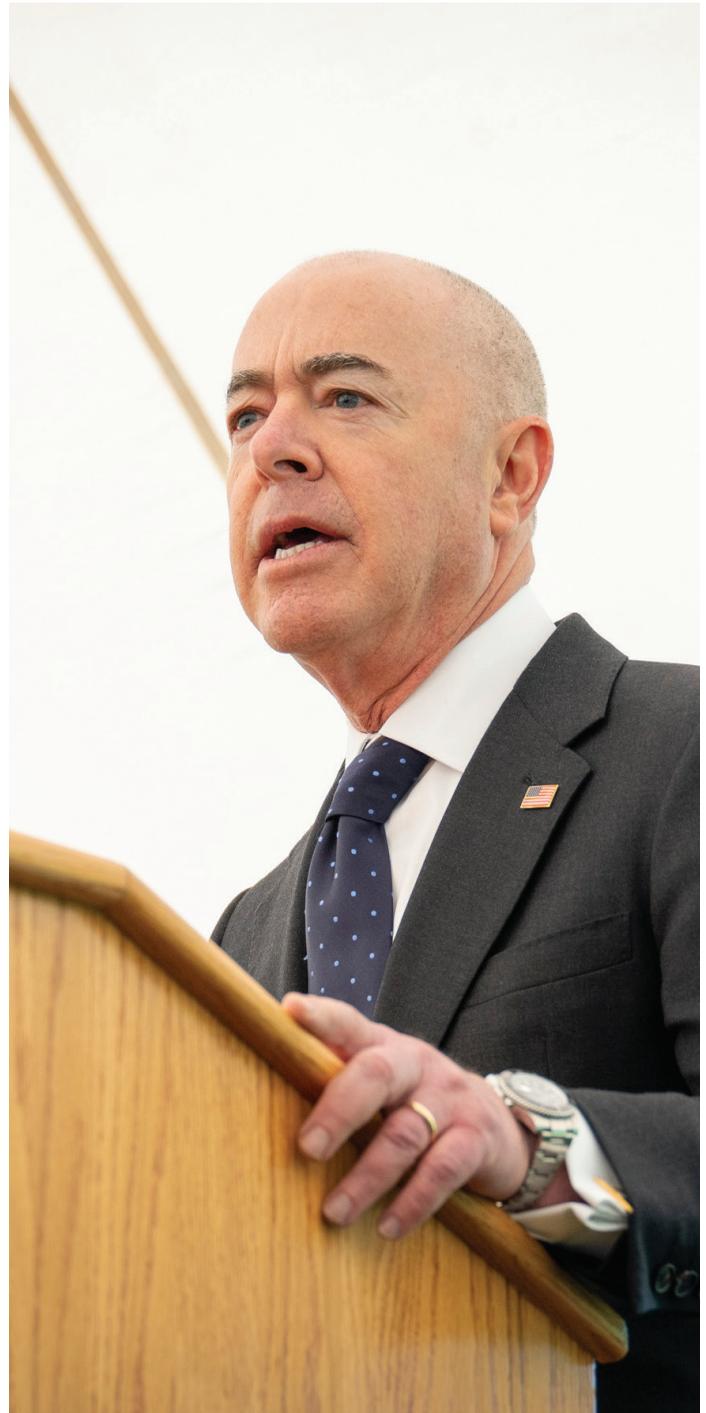


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Biden Scraps “Remain in Mexico” Policy, Unilaterally Surrendering the Most Effective Deterrent to Illegal Migration

On the eve of Vice President Kamala Harris’ trip to Guatemala and Mexico, a visit designed to convince the American public that the administration is trying to address the border crisis, the Department of Homeland Security (DHS) announced that the U.S. was officially withdrawing from the Migrant Protection Protocols (MPP). The MPP, also known as the “Remain in Mexico” policy, was implemented by the Trump administration in response to the 2019 border crisis.

Under the MPP, migrants seeking asylum in the United States were required to wait in Mexico until an initial hearing on their claims could be scheduled to determine whether there was a legitimate claim to pursue. The MPP discouraged people with fraudulent asylum claims from showing up at the border, knowing that they would not be allowed to enter the United



Image Credit: Flickr | The White House

States where, in most cases, they simply disappeared. Not surprisingly, with the incentive to defraud our political asylum system removed, the numbers of migrants attempting to enter the United States illegally plummeted after the MPP was implemented.

In one of his first acts as president, Joe Biden suspended the MPP. The immediate result was the unprecedented surge of migration the country is now dealing with. Nevertheless, in early June, the Biden

administration unilaterally opted to permanently scrap this agreement with Mexico, thereby surrendering the most effective policy available to curtail mass illegal immigration.

The MPP, also known as the “Remain in Mexico” policy, was implemented by the Trump administration in response to the 2019 border crisis.

The official withdrawal from the MPP by the U.S. confirms that the border crisis is not a result of ineptitude on the part of the administration, or the consequence of misplaced compassion on the part of the Biden administration. Rather, border chaos is the policy of the Biden administration. What is becoming clearer by the day is that the goal of the administration is to create “facts on the ground” – millions of new migrants on top of the nearly 15 million illegal aliens already here – and to overwhelm the system to a point where it will be difficult for any subsequent administration to undo the damage.

At the same time that DHS announced the official termination of MPP, the department also hinted broadly that Title 42 authority to summarily remove illegal border crossers in response to the COVID pandemic may also be on the chopping block. Title 42 is a 1940s provision invoked by the Trump administration to protect public health during the pandemic. Under Title 42, DHS returned 62.5 percent of the people apprehended at the border in April immediately to Mexico – or about 110,000 people.

As of completion of this edition of the FAIR newsletter, no final determination had been made about Title 42, despite the emergence of new and deadlier strains of COVID around the globe. ■

The Only Thing More Disastrous than the Biden-Harris Immigration Policy was Harris' Attempt to Defend It

More than two months after Vice President Kamala Harris was tapped by President Biden to address the crisis at our southern border (which the administration still refuses to acknowledge as a crisis), she made her first public effort to solve the problem that she and the president created. In early June, the vice president paid a visit to Guatemala and Mexico. It could not have gone worse.

The White House billed her trip south of the border as the first salvo in the administration's efforts to address the "root causes" of migration: the poverty, corruption and violence that grips the primary sending countries south of our border. In reality, the trip was a smokescreen to obscure the reality that chaos along our border is the administration's policy in pursuit of its ideological goal of open borders and unlimited immigration. By Harris' own admission, ending poverty, corruption and violence in the sending countries is a long-term proposition at best, and a transparent effort to deflect attention away from the administration's own disastrous border and immigration policies.



Image Credit: Flickr | The White House

Upon her arrival in Guatemala, Vice President Harris was greeted by citizens holding signs reading, 'Kamala Go Home,' 'Kamala Mind Your Own Business,' and 'We Reject Your 860 Million Dollar Bribe to Our Corrupt Politicians.' Her reception from President Alejandro Giammattei wasn't much warmer. The Guatemalan leader placed the blame for the border crisis, and the human misery it is causing, squarely on the messages the Biden administration has been sending and the policies it has been implementing.

"Well, humanitarian messages were used here by the coyotes in a distorted manner because what they said over there was that they will promote family reunification. So the coyotes came and took the children and the teenagers to the United States and the borders were full, not only with people from Guatemala, but with a lot of people from all over," Giammattei stated. Far from addressing the "root causes," Giammattei implied, the Biden administration is exacerbating them by enriching the violent criminal cartels that run the human smuggling operations.

But then things got even worse for Harris. She sat down for a face-to-face interview with NBC News anchor Lester Holt. In keeping with the national news media's kid gloves treatment of the Biden White House, Holt pitched her softball questions, failing to press her on whether the administration had any plan to deal with the immediate crisis, or even how realistic it was to think they could solve the myriad problems of other countries.

But her biggest whiff came on the question of when she or Biden plan to visit the border. After repeatedly insisting that she has already been to the border (but not as vice president or since she had been put in charge of managing this crisis), Harris flippantly responded, "And I haven't been to Europe. And I mean, I don't understand the point that you're making." The answer was so tone deaf that, according to CNN, even

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Immigration Policy

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people in the White House were “perplexed” by the response.

As she moved on to Mexico, the next stop on her “root causes” tour, the reception was not much better. She arrived just after national elections in Mexico that were marred by unprecedented violence that included the murder of 88 political candidates during the

campaign. President Andrés Manuel López Obrador has criticized the Biden administration for immigration policies that contribute to the strengthening of the criminal cartels responsible for the increasing violence in his country – concerns that we expressed directly to the vice president during her visit.

In the end, Vice President Harris’ first public effort to convince either the American public, or foreign governments that the administration has a viable plan to deal with the migration crisis – or that they even want to end it – failed miserably. ■

Supreme Court is Unanimous on Two Key Immigration Cases

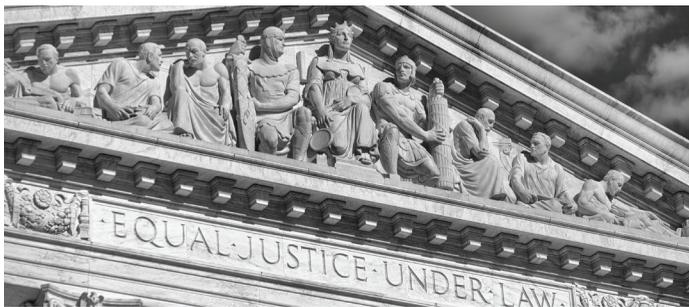


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Unanimous rulings by the U.S. Supreme Court are exceedingly rare these days. But twice, in June, the high court handed down 9-0 decisions giving the government clear leeway to remove aliens who are in violation of our laws.

In the case of *Sanchez v. Mayorkas*, the Court was unanimous in its decision that illegal aliens who have benefited from protections granted under Temporary Protected Status (TPS) have not gained legal status in the United States and therefore cannot use that status to obtain a green card and eventual citizenship.

The Court noted that TPS is simply a temporary deferral of deportation, and does not in any way constitute a lawful means of residency in the United States. “Section 1255 generally requires a lawful admission before a person can obtain LPR (Legal Permanent Resident) status,” the decision, written by Justice Elena Kagan, an Obama appointee, noted. “Sanchez was not lawfully admitted, and his TPS does

not alter that fact. He therefore cannot become a permanent resident of this country.” FAIR’s legal affiliate, the Immigration Reform Law Institute (IRLI), filed a friend-of-the-court brief, laying out many of the legal arguments that were ultimately adopted by all nine justices.

While the Supreme Court ruling makes it clear that TPS does not confer legal status on those who benefit from the designation, the problem remains that once granted, the status is routinely renewed long beyond the emergency situations that triggered TPS. These routine renewals have been granted by both Republican and Democratic administrations and, given the anti-enforcement stance of the Biden administration, current beneficiaries are not likely to be sent home.

In a second significant ruling, *Barr v. Ming Dai*, the Supreme Court unanimously overturned a ruling by the Ninth Circuit Court of Appeals that an alien’s testimony in his removal proceedings was presumptively credible and true, unless the immigration judge had explicitly found that it was not. Unsubstantiated claims by aliens facing removal that they would be persecuted if returned to the homelands are obviously self-serving, and the Court unanimously agreed that such claims do not have to be taken at face value. Again, IRLI laid out the legal arguments for why the burden of proof rests with the deportable alien, not with the government. ■

Border Crisis Worsened in May, and the Worst May Be Yet to Come

Each month since Joe Biden became president in January has seen increasing numbers of migrants illegally crossing our southern border. May continued this disturbing trend, as the Border Patrol apprehended 180,034 people entering along the southern border – the highest total recorded for any month in more than 20 years. The May 2021 apprehension numbers represent a 700 percent increase over May 2020, when the Border Patrol nabbed 23,237 at the southern border.

The apprehension figures, of course, represent only the people who were caught entering the country. The number of “got-aways” obviously cannot be tallied, but it is safe to assume that those figures would be equally as alarming. As Border Patrol manpower and resources are tied up with processing ever-increasing numbers of people who are apprehended at the border, and caring for unprecedented numbers of unaccompanied children, large sections of unsecured border (because the Biden administration has halted construction of the border wall) are easily exploited by untold numbers of people who enter and disappear into our country.

As dismal as the border situation has been throughout the spring, it may get a whole lot worse in the coming months. The last remaining tool available to the Border Patrol to limit illegal migration may soon be gone. The Biden administration has hinted broadly that Title 42 authority to return apprehended migrants across the border is on the chopping block and may soon be revoked.

Title 42 was invoked by former President Trump in response to the COVID pandemic, allowing for the prompt removal of illegal entrants. Nearly two-thirds of illegal migrants – mostly single adults – have been removed under Title 42 during the spring border surge. If the Biden administration carried through on its plan to cancel Title 42 authority, in spite of the emergence of new and deadlier strains of the COVID virus, there will be nothing left to deter illegal migration.

Of the 180,034 people apprehended at the southern border in May:

- 67%, or 121,082, were single adults. This figure represents a steady shift in the migrant flow away from family units and unaccompanied minors, to economic migrants in search of jobs in the U.S.
- 22%, or 40,067 were from countries other than Mexico and Central America. In January, migrants from outside the region represented only 9,671 border apprehensions. This growing component of the illegal immigration flow indicates that the Biden open border policy is attracting migrants from all across the globe.
- 14,158 unaccompanied children (UAC) were apprehended in May, a decline from the 17,148 UAC who were apprehended in April – although still historically high numbers. As of mid-June, some 20,000 children and teens remained in federal custody.
- 38% of those apprehended in May had been stopped by the Border Patrol during the previous 12 months, indicating that the Biden border policies encourage people to keep trying until they get in.

News from our State and Local Operations



MARYLAND

In an important victory for Marylanders and common sense, Gov. Larry Hogan (R) vetoed two bills passed by the state legislature that would make Maryland a sanctuary state. The first, HB 23, requires state and local agencies and contractors to deny federal agencies access to “personal information” and facial recognition searches for the purpose of immigration enforcement unless they have been provided with a judicial warrant or other court order. According to the Maryland Department of Transportation, the bill would have harmed security at the state’s sea and airports.

The second bill, HB 16, the “Dignity Not Detention Act,” was initially solely a ban on immigration detention contracts. However, on the last day of the legislative session, it was amended with language from the proposed “Trust Act” making Maryland a sanctuary state if the legislature overrides the veto. The legislation would bar all inquiries by state officials about immigration status and ban all private detention facilities.

The Legislature will still have an opportunity to override the governor’s vetoes, but it would require a special session of the Legislature, or would have to wait for the next session which begins in January 2022.

NEW JERSEY

Like Maryland, New Jersey lawmakers want to bar private immigration detention facilities from the state. SB 3361 and its companion bill, AB 5207, not only prohibit new detention contracts, but bans extending or renewing current ones, which would eventually end all of them statewide. Only two such facilities remain in the Garden State. The bills were approved by committees in their respective houses. However, SB 3361 was referred to a second committee which must approve it before it receives a final vote. Indicative of the fact that these bills are not popular with the public, it would not be surprising for the legislature to wait until after elections in November (when Gov. Phil Murphy faces reelection) and then pass the bills in the lame duck session, a common practice with controversial bills in the Garden State.

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