

# IMMIGRATION REPORT



## FAIR at the Border: As Title 42 Came to an End, FAIR was There to Provide Firsthand Accounts of the Chaos

In the days leading up to the termination of Title 42 on May 11, FAIR sent a team to the border to gather and record information about what was transpiring and report to the American public. Title 42 is a public health provision that was invoked in 2020 at the onset of the COVID pandemic. The provision allowed Customs and Border Patrol (CBP) to promptly expel migrants who illegally crossed the border.

With the end of the COVID public health emergency also came an end to the use of Title 42. Having already defied statutory requirements to secure our borders, Joe Biden canceled other policies that deter illegal aliens from entering the country. Title 42 was the last mechanism in place allowing for the prompt removal of those who do enter. Predictably, the response to the cancellation of Title 42 saw an even greater surge of illegal migration, with more than 10,000 illegal aliens crossing the border every day during the week leading to May 11.

With a few notable exceptions, the so-called

mainstream media largely ignored the raging border crisis, covering it only when there were allegations (nearly all false) of the mistreatment of migrants. Against that backdrop, FAIR sent three senior staffers to El Paso, Texas – the highest traffic area for illegal migration – to provide timely and accurate information about what was happening.

Here's what we saw and documented:

**The Border Patrol was opening gates in the border wall and allowing large groups of migrants to enter.** Over the course of three days along the border near El Paso, we observed the execution of Biden administration policies to allow migrants to enter under the president's expansive use of parole authority, rather than have them cross the Rio Grande. This phenomenon is consistent with the administration's efforts to remove the bad optics of people coming across the river illegally and have them come through gates in the border security wall.

# FAIR at the Border

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*Migrants entering through Gate 42 in El Paso as Border Patrol escorts them through*

On several occasions, we witnessed motorcades of buses and vans arrive at designated gates in the border wall. Using a camera-equipped drone, we were able to see hundreds of people on the other side of the fence – lines that stretched for as much as a quarter mile – poised to enter the United States. Once the transportation was in place, the gates opened and migrants filed into the buses and vans to be taken to a processing center and released on parole. We also witnessed the presence of some of the 1,500 troops that President Biden dispatched to the border. It was quickly evident that the role of the federal troops was not to prevent illegal aliens from entering, but rather to assist in transporting and processing them.

Most of the migrants who were allowed to enter through the gates will not have a court date to press their claims for asylum for many years to come – some, well into the 2030s. It is reasonable to believe that what we saw near El Paso was being replicated at many other points along the U.S.-Mexico border.

## **A significant section of downtown El Paso has been turned into a migrant encampment.**

After being released from CBP custody, the next stop for many migrants is the Sacred Heart Church in downtown El Paso. With limited space inside the church, large groups sleep on the sidewalks and alleyways near the church in makeshift tents, and in unsanitary conditions, while they await transportation to their final destination in the United States. A charter bus depot, less than a block from the church, is the primary means by which the migrants move out of town. However, the number of migrants far exceeds the availability of buses, and so many migrants wait for days, even weeks, for a space to open up.



*Unsanitary conditions of migrants living on streets in downtown El Paso*

The “asylum seekers” we observed were overwhelmingly young, working-age men, in their teens and twenties, and disproportionately Venezuelan nationals. The migrants we spoke with were nearly all clutching their prized packet of documents handed to them during the processing procedure they went

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*Young man holding his “Welcome to the United States” packet*

through upon entering the country. These “Welcome to the United States” packets included a Notice to Appear in court at some future date, and paperwork to demonstrate that they had been paroled into the country. Given the small number of women and families with children, it is a reasonable assumption that most were economic migrants taking advantage of our asylum policies.

**How FAIR disseminated the information we gathered.** The purpose of going to the border was

to provide valuable information to the American public that many major news outlets were ignoring. During our time in El Paso, FAIR appeared on 34 talk radio shows around the country detailing what we witnessed. We also conducted three national and international television interviews.

FAIR also utilized our far-reaching social media platforms. Videos that were quickly edited and prepared for air were posted on YouTube, Facebook, Twitter, Instagram and other platforms. These videos received hundreds of thousands of views and were widely shared by social media users.

As a 501(c)(3) public interest organization, FAIR’s primary mission is to educate the American public about immigration matters. Our presence at the border gathering information, and our ability to reach millions of Americans with that information, is how FAIR helps shape public opinion on immigration policy matters.

## The House Approves the Secure the Border Act, the Most Significant Immigration Legislation in Nearly 30 Years

On May 11, the same day that the Biden administration abandoned Title 42, the House of Representatives approved landmark legislation that would end the crisis at the border, created by the Biden administration’s policies. H.R. 2, the Secure the Border Act of 2023, passed by a vote of 219 to 213, fulfilling a promise made by the House leadership to address the worsening situation at the border.

During the first few months of 2023, Members of Congress, mostly from the House majority, visited the border. They have seen parents carry their children on their backs, young people thirsty and tired as they hike through the sun, and families trying to stick together through debris and rough terrain. Several committees held field hearings in border communities where they

heard testimony from local leaders and residents about the impact that the Biden Border Crisis is having on their lives. Other hearings focused on the impact of the illegal immigration crisis on cities and states all across the country.

FAIR worked actively with key members of Congress, lending expertise as the various committees with oversight of immigration policy crafted bills that were eventually folded into H.R. 2, the bill that ultimately was approved by the House. In the days leading up to the House vote FAIR, along with a broad coalition of public interest organizations, wrote a letter of support urging the congressional leadership to approve the bill.

# Secure the Border Act

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Passage of H.R. 2 could not have been more timely. More than 7 million people have illegally entered the United States since President Biden took office, and things are only likely to get worse now that he has ended Title 42 authority to swiftly expel illegal aliens. Every other mechanism for the prompt removal of illegal migrants was summarily canceled or sabotaged in the first days and weeks of the president's term. Moreover, the Biden administration utterly failed to devise a workable plan to deter or cope with even greater numbers of illegal border-crossers for the aftermath of Title 42, even though they have known for two years that this public health provision would come to an end. In the president's own words, his administration expected that situation at the border would be "chaotic."

Unlike the administration's capitulation to chaos, H.R. 2 provides a forceful response to the crisis that would restore order and integrity to our borders. The Secure the Border Act provides the Department of Homeland Security (DHS) with the manpower, infrastructure and technology it needs, but also includes statutory reforms to deter people from coming here illegally.

Key provisions of H.R. 2 that would:

- Resume construction of the border wall;
- Add thousands more Border Patrol agents, provide them needed resources, and give them bonuses for working night and day to keep our nation safe;

- Provide additional technology at border ports of entry to detect and prevent the entry of narcotics, contraband and illegal migrants;
- Reform our asylum process to deter frivolous claims and prohibit gang members, felons, and drunk drivers from benefiting from our asylum system;
- End catch-and-release by strengthening our ability to detain, remove, and return migrants who are ineligible for asylum to their home country or another safe country;
- Prevent surges of unaccompanied alien children (UAC) in a humanitarian way, ensuring they are screened and processed expeditiously and returned to family members in their home countries. Too often, UACs are being placed in the custody of the criminal organizations that smuggle them into the United States;
- End the DHS Secretary's expansive (ab)use of humanitarian parole, so that broad, category-based parole programs cannot be established to circumvent Congress; and
- Mandate the use of E-Verify for all employers in a responsible, phased-in way.

While passage of H.R. 2 in the House is a huge victory for the effort to secure our borders and restore integrity to our asylum process, it still faces significant hurdles in the Democratic-controlled Senate. Nevertheless, Senate refusal to act on a bill that accomplishes what the vast majority of American voters want to see at the border places the leadership of that chamber in the unenviable position of having to defend the status quo. Many vulnerable Senate Democrats will be on the ballot in 2024, which could turn up the pressure on Senate Majority Leader Chuck Schumer.

Despite the difficulties in that chamber, FAIR will continue to work with allies on Capitol Hill and with citizens around the country to urge the Senate to act on H.R. 2, as the border crisis rages on.

# Plan Blocked to Expand Catch-and-Release

As Title 42 came to an end on May 11, the Biden administration anticipated dramatic increases in illegal border crossings, but had no real plan or interest in preventing or deterring them. Typically, the administration's goal was to manage the unprecedented numbers of illegal migrants and do their best to avoid the bad optics of their border crisis. The plan to manage the increased flows came on the eve of the end of Title 42 in the form of a memo written by Chief of the U.S. Border Patrol Raul Ortiz.

In his memo to agency personnel, President Biden's handpicked chief instructs overwhelmed Border Patrol officers to begin releasing migrants who cannot be processed and given Notices to Appear (NTAs) in a timely fashion. As per Ortiz's memo, if the number of migrants encountered exceeds the Border Patrol's resources to detain migrants, even for short periods of time, they are to be released without any form of monitoring and instructed to present themselves to an Immigration and Customs Enforcement (ICE) office somewhere in the country within 60 days. The benchmark for triggering these wholesale releases is if Border Patrol arrests 7,000 migrants in a single day. On the day Chief Ortiz issued his directive, more than 11,000 migrants had been arrested.

"Because BP [Border Patrol] personnel and resources are finite, BP must consider whether processing personnel and resources are necessary to process other noncitizens in BP custody or accomplish enforcement actions that are immediately critical to border security for the greater public benefit," the memo states. "If so, the individual may be considered for Parole with Conditions." If Ortiz had a plan to track down and remove migrants who did not report to ICE within 60 days of their release, he did not share it with anyone. Based on previous mass releases of migrants without NTAs or tracking devices it is unlikely that many of them would comply with the "conditions."

Anticipating that many migrants released on "Parole with Conditions" would be heading to Florida, the state immediately filed a lawsuit to prevent the policy from

going into effect. On Friday May 12, U.S. District Court Judge T. Kent Wetherell granted Florida's request for a Temporary Restraining Order (TRO) barring the mass release of illegal migrants. In granting the TRO, Judge Wetherell found that the Ortiz memo was not materially different from a Biden administration catch-and-release policy he struck down in March. In that 109-page ruling, Judge Wetherell found that the administration's policies "were akin to posting a flashing 'Come In, We're Open' sign on the southern border," and that the administration had "effectively turned the Southwest Border into a meaningless line in the sand and little more than a speedbump for aliens flooding into the country."

In issuing the TRO, Judge Wetherell wrote, "What DHS [Department of Homeland Security] cannot do is adopt a functionally identical policy as the one the Court vacated in the Florida decision and then expect a different outcome when that policy is challenged." White House Press Secretary Karine Jean-Pierre responded to the judge's ruling saying, "It's sabotage. That's how it reads to us" – an ironic comment coming from an administration that has openly sabotaged nearly every border and immigration law on the books.

Even as DHS was considering the administration's next legal move, however, they were defying Judge Wetherell's order. In spite of the TRO which was already in effect on Friday May 12, the Border Patrol released nearly 2,600 migrants without NTAs, in addition to some 6,000 who were released in the hours leading up to the end of Title 42.

On May 16, Judge Wetherell followed the TRO up with a preliminary injunction prohibiting DHS from implementing or enforcing the "Parole with Conditions" policy. In that order, Wetherell found that "a preliminary injunction is necessary to prevent irreparable harm to Florida." He concluded by writing that issuing the preliminary injunction was in the public interest and would promote respect for the rule of law.

# The Ripple Effects of the Biden Border Crisis Being Felt Nationwide

President Biden now concedes that the situation at the border is “chaotic,” but neither he nor his Homeland Security Secretary, Alejandro Mayorkas, are prepared to call it a crisis. State and local leaders all across the country are not so reticent, however. From their perspective, the situation qualifies as both chaotic and a full-blown crisis that shows no signs of abating – because Biden and Mayorkas seemingly have no interest in seeing it abate.

In the week leading up to the end of Title 42, the surge of migrants encountered at the border spiked to more than 10,000 a day. These newly arriving migrants quickly joined the millions of others who have entered the country since President Biden took office, settling in communities that are already reeling from the impact of unprecedented migration. The effects of the border crisis are now disrupting life and commerce all across the country.

Airports around the country are being snarled by the unexpected flood of migrants looking to board flights in the border towns through which they enter to their preferred destinations across the country.

- El Paso International Airport has had to bar people without boarding passes from even entering the main terminal to prevent the transportation hub from being turned into a migrant shelter. The airport is only equipped to handle 5,000 passengers per day. The presence of the migrants, in addition to other passengers, simply exceeds the airport’s capacity. Additionally, ticket counters have been inundated by migrants without internet connections looking to buy tickets, or get pricing information about flights. Airlines report that many migrants attempt to pay in cash, but airlines require credit card purchases. The result has been long delays and missed flights for ticketed passengers.

- Valley International Airport, a small regional airport serving Harlingen, Texas, reports that some

migrants attempting to fly out have to wait up to a week for an available seat. While they wait, the migrants sleep in the airport lobby and bathe in the restrooms.

- O’Hare International Airport in Chicago – the nation’s fourth busiest – is being strained by migrants who are stuck at this important transportation hub. You can fly just about anywhere in the United States from O’Hare, which has led strained airports in Texas and Florida to simply hand migrants one-way tickets to Chicago. Many of the migrants then find themselves stuck at O’Hare, where they remain or join the thousands of others who have been sent to Chicago. Local service agencies report receiving 3,000 calls from homeless migrants at O’Hare seeking shelter.

Once migrants arrive at their destinations, caring for and sheltering them has turned communities against each other and disrupted everyday life for residents.

- New York City is running out of luxury hotel space to house migrants – including the iconic Roosevelt Hotel, across the street from Grand Central Terminal. The city began converting public school gyms into migrant shelters. Needless to say, the plan to house unvetted adults in school buildings did not sit well with parents whose children attend those schools. Residents of those communities took to the streets to demand that Mayor Eric Adams open up Gracie Mansion (the city’s official mayoral residence) to accommodate the influx.

- Meanwhile, Mayor Adams was generating resentment and lawsuits from suburban and upstate communities as he attempted to move migrants to neighboring counties. In a sharp rebuke, suburban Rockland County Executive Ed Day told Mayor Adams that his county “is not going to stand idly by as your administration which boasts itself as a sanctuary city diverts busloads of undocumented

individuals to our county.” In another instance, a wedding was disrupted as wedding guests had their hotel rooms canceled.

- Orange County, New York, went to court to halt the relocation of migrants from New York City. A judge issued a temporary restraining order (TRO) blocking the further transportation of migrants to the upstate county. Orange County Executive Steve Neuhaus accused Mayor Adams of acting in bad faith. “New York

City, knowing that the case was under review, tried to flood as many buses up here as possible,” he charged.

Similar disruptions to transportation, education, health care, commerce, affordable housing, and other vital services are playing out all across the country. Nevertheless, the Biden administration remains undeterred in its commitment to maintaining its open border policies.

## New Bill Discourages Illegal Immigrants from Taking Residence in Florida

As sanctuary states and cities plead with Washington to provide them with more resources to deal with the flood of illegal migrants who turn up in their jurisdictions, the Florida Legislature and Gov. Ron DeSantis moved in another direction. During the 2023 legislative session, which ended in May, lawmakers passed a comprehensive bill aimed at discouraging illegal aliens from settling in Florida. Senate Bill 1718 – a bill that was endorsed by FAIR – was signed into law by Gov. DeSantis on May 10, ushering in an approach to dealing with illegal immigration that can be emulated by other states that wish to protect the interests and security of their citizens. The new law systematically eliminates incentives for illegal aliens to take up residence in Florida and gives the state the power to prosecute criminal enterprises that engage in human smuggling and trafficking.

Among the key provisions of SB 1718:

- Mandatory use of E-Verify by all employers with 25 or more employees to check workers’ employment eligibility. Employers that fail to use E-Verify are subject to fines of \$1,000 per day for each violation.
- Suspension of business licenses for companies that knowingly hire illegal aliens.
- Makes it a felony to use fake identification documents to secure employment.
- Combats human smuggling and trafficking by making it a felony to transport five or more illegal aliens, or a single illegal alien minor. Doing so can

result in a fine of up to \$10,000 and 15 years in prison.

- Provides \$12 million to transport illegal aliens who consent to relocation to sanctuary jurisdictions that, by law or by proclamation, welcome illegal aliens.
- Invalidates driver’s licenses issued to illegal aliens by other states.
- Bars local jurisdictions and nongovernmental organizations from issuing identification documents to illegal aliens.
- Requires hospitals to collect data and report healthcare costs for treatment of illegal aliens.

In signing SB 1718 into law, Gov. DeSantis stated, “The Biden Border Crisis has wreaked havoc across the United States and has put Americans in danger. In Florida, we will not stand idly by while the federal government abandons its lawful duties to protect our country. The legislation I signed today gives Florida the most ambitious anti-illegal immigration laws in the country, fighting back against reckless federal government policies and ensuring the Florida taxpayers are not footing the bill for illegal immigration.”

The governor’s sentiments were echoed by State Senator Blaise Ingoglia, the prime sponsor of SB 1718, who also urged other states to follow Florida’s lead. “It was an honor to usher this bill through the process, knowing we are safeguarding Floridians and serving as the model for the nation to combat this crisis created by our very own President,” said Ingoglia.

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You have multiple planned giving options:

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