

# IMMIGRATION REPORT



## New FAIR Report Examines Unprecedented Abuse of Parole by the Biden Administration

In addition to its well-documented and highly visible open-borders policies, the Biden administration has been quietly abusing its very limited parole authority to let foreign nationals enter the U.S. *en masse*. In a new report, *Immigration Parole: The Executive Branch's Shadow Immigration System*, FAIR's research department reveals that the abuse of this authority under President Biden has become so massive that the number of illegal aliens now being allowed to enter the United States under parole now exceeds the number of people who are admitted to the country through our legal immigration system.

FAIR's report found that during the first two quarters of fiscal year (FY) 2023, 636,601 foreign nationals gained entry to the United States under parole compared with 545,419 who were granted green cards through our legal immigration process. The first half of FY 2023 was no anomaly. During the two-year period between October 2021 and October 2023, the Biden administration paroled in at least 1.8 million individuals, giving them nearly the same benefits as green card holders, while imposing a huge burden on American society at large.

This indiscriminate use of parole also poses a danger to the safety and well-being of the American public. Jose Ibarra, the alleged murderer of Laken Riley, a 22-year-old nursing student in Athens, Georgia, was among the estimated 1.8 million illegal aliens granted parole by the Biden administration between October 2021 and October 2023. The true number of Americans killed or victimized by illegal alien criminals is much higher, but given many news outlets deliberately do not reveal the immigration status of suspects, we can only be sure in cases where the status is known. Parole will no doubt increase the number of times tragedies like the Laken Riley murder occur.

As the report details, Congress first granted the president authority to allow otherwise inadmissible aliens to the U.S. in 1953. This authority came with explicit limitations. The legislative history makes this abundantly clear by emphasizing that the intention was "to parole inadmissible aliens into the United States in emergency cases, such as the case of an alien who requires immediate medical attention before there has been an opportunity for an immigration officer to

# FAIR Parole Report

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inspect him, and in cases where it is strictly in the public interest to have an inadmissible alien present in the United States, such as, for instance, a witness or for purposes of prosecution.” Similarly, Congress made it clear that parolees were to leave the country once the circumstance of their parole had been satisfied. None of those conditions are being met by the Biden administration’s exercise of parole authority.

The Biden administration is not the first to exceed the intended purpose of parole authority. But no previous administration has abused parole power on the massive scale that the Biden administration has. Moreover, foreign nationals who are granted parole are eligible for a host of benefits that other illegal aliens cannot receive. Parolees are eligible for numerous public assistance programs, are granted work authorization, and have the ability to adjust their status to green card holders down the line.

Among the Biden administration’s most egregious (but by no means comprehensive) abuses of parole authority include:

- Creation of the Customs and Border Protection (CBP) One app that allows as many as 40,000 illegal aliens a month to cross at border ports of entry.
- Country specific parole programs for Cubans, Haitians, Nicaraguans and Venezuelans that allow as many as 360,000 inadmissible aliens a year to fly

directly to the United States.

- “Family Reunification Parole” for the above-mentioned nationalities plus citizens of Columbia, El Salvador, Guatemala, Ecuador and Honduras.
- Reinstatement of the Obama-era Central American Minors (CAM) parole program that also includes parole provisions for their parents or guardians.

Abuse of parole has been a tool the Biden administration has employed as a way to make mass illegal immigration less conspicuous. DHS Secretary Alejandro Mayorkas has touted these parole abuses as “new legal pathways” for people to enter the United States. However, there is nothing legal about these pathways. Under our Constitution, only Congress has the authority to create legal pathways for people to enter the United States. Nevertheless, the administration has usurped that authority to implement what amounts to a shadow immigration system that now exceeds in scope the formal legal immigration process.

The full report, *Immigration Parole: The Executive Branch’s Shadow Immigration System*, which includes a full history of the immigration parole program and all of the ways it is now being abused, can be found on FAIR’s website, [www.fairus.org](http://www.fairus.org).

## Immigration REPORT

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## 200,000 Deportation Cases Dismissed Since Biden Took Office Because DHS Failed to File Proper Paperwork in Time

Even as the Senate refuses to act on the articles of impeachment against Homeland Security Secretary Alejandro Mayorkas, the evidence of his dereliction of duty continues to mount. According to data released by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, immigration judges have dismissed some 200,000 deportation cases since the Biden administration came to office because DHS failed to file the required paperwork in time.

In order for deportations to proceed, DHS must file Notices to Appear (NTA) in the courts where the aliens have been ordered to appear. Between 2014 and 2020 – which spanned both the Obama and Trump administrations – fewer than 1 percent of cases were dismissed due to failure to file NTAs. But those numbers exploded once Secretary Mayorkas assumed office, jumping from 6,482 in 2020 (the last full year of the previous administration) to 79,592 in 2022. Under his watch, 8.4 percent of cases have been dismissed. In immigration courts in Miami and Houston more than 50 percent of cases were dismissed because NTAs were not filed.

The TRAC report also revealed that there was little DHS follow-up on the cases that were dismissed.

In only about a quarter of these cases did DHS file new NTAs, and in about 2,000 of those cases the paperwork was once again filed *after the deadline*. In typical fashion of the Mayorkas-run DHS, there is little transparency about why the department has been delinquent in filing so many NTAs. “No information to our knowledge has been publicly released by DHS on why and where these problems occur,” states the TRAC report. “Equally troubling,” the report continues, “is the lack of solid information on what happened to these many immigrants when DHS never rectified its failure by reissuing and filing new NTAs to restart their Court cases.”

Whether the alarming number of cases being dismissed for lack of paperwork is the result of gross incompetence or deliberate sabotage on the part of an administration that has little interest in removing illegal aliens from the United States, what is absolutely clear is that Alejandro Mayorkas is *not* fit to lead DHS. The House has already done its part and impeached him, and this new report underscores the urgency for action on the part of the Senate. As of the printing of this publication, it is expected that the House will send the articles of impeachment against Mayorkas to the Senate on April 10.





## Congress Squanders Another Chance to Address the Border Crisis in the FY 2024 Budget

With half of Fiscal Year 2024 already gone, Congress finally got around to approving a budget that will keep the federal government funded through September 30. With Republicans in control of the House of Representatives, there had been some hope that they would exert their power to force the Biden administration to alter its reckless border and immigration policies.

That was not to be. The budget bill that was approved in late March fell far short of what Republicans promised when it comes to addressing the raging border and illegal immigration crisis that the Biden administration has inflicted on the nation. It included no meaningful policy changes to end the border crisis. Instead, it reinforces the status quo, and continues to prioritize the mass processing and release of illegal aliens into the country over the safety and security of Americans. It essentially funds all of the Biden immigration and border policies that Republicans vowed to end.

Instead of the strong enforcement that had been promised, the FY 2024 Appropriations bill:

- Continues to fund the processing and release of millions of illegal aliens into the United States.

- Allows abuse of our asylum laws to continue unchecked.
- Bankrolls the Biden administration's abuse of parole authority.
- Funnels \$650 million taxpayer dollars to NGOs that aid and encourage mass illegal immigration.
- Provides \$3.9 billion to the State Department for migration and refugee assistance.
- Adds 12,000 Special Immigrant Visas for Afghan nationals.
- Provides \$470 million for Alternatives to Detention, which this administration is attempting to turn into a social services provider instead of a means to electronically monitor illegal aliens and detain those not complying.

The FY 2024 budget bill was Congress' latest squandered opportunity to enact real border security and immigration enforcement provisions by including all, or substantial portions of H.R. 2, the *Secure the Border Act* in the spending measure. H.R. 2 was passed by the House last May, but has been stalled in the Democratic-led Senate. Since then, the Republican-led House has failed numerous times to include the bill in Continuing Resolutions that funded the government

for the first half of the fiscal year, or in a foreign aid package that President Biden has requested.

Even before the FY 2024 budget was finalized, President Biden had already released his proposed \$7.3 trillion budget for FY 2025, which begins on October 1. That proposal, too, offers no substantive immigration policy changes or real border enforcement measures. Instead, the president's request continues to focus on quickly processing and releasing illegal aliens into the country, providing benefits and services to illegal aliens as they

settle around the country, and more money for NGOs.

While it is disappointing that Congress failed to address the illegal immigration crisis in the FY 2024 budget bill, FAIR will continue to press for real enforcement language in the upcoming FY 2025 budget process. That debate will occur as we approach the 2024 elections, when politicians tend to pay the most attention to what is on Americans' minds. What is on the top of Americans' list of concerns is immigration and border policy, according to a February Gallup poll.

## Speaking Before Congress, President Biden Blames Everyone but Himself for the Illegal Immigration Crisis

As President Biden addressed Congress and the nation in his State of the Union address on March 7, polls showed that American voters cited the border crisis and illegal immigration as their top issue of concern. The polls also show that a majority of Americans disapprove of his handling of immigration and the border.

After three years of insisting that our borders are secure, and refusing to even acknowledge that we have an illegal immigration crisis that is undermining the security and vital interests of the American people, the White House has come to recognize that it is a political liability for the president. However, rather than offering concrete proposals to fix the problems, President Biden used the address to shirk responsibility, blame Congress and promote legislation that would simply make mass illegal immigration a little more orderly.

"In November, my team began serious negotiations with a bipartisan group of Senators," President Biden stated, neglecting to mention that at that point there had already been, including "gotaways," some 10 million illegal border crossings under his watch. He then went on to claim falsely, "The result was a bipartisan bill with

the toughest set of border security reforms we've ever seen in this country." Only four Republican senators supported a procedural vote that would have been necessary to bring the bill to the floor. And not only wasn't it the "toughest" border security bill, it hardly qualified as border security at all.

Even though President Biden has had all the authority he needs to secure our borders – or even shut them down entirely – since precisely at noon on January 20, 2021, he continued to insist that he is powerless to act unless Congress approves the bill that failed in the Senate. "It would also give me as President new emergency authority to temporarily shut down the border when the number of migrants at the border is overwhelming," he said.

The president also continued to promote mass amnesty as a solution to the illegal immigration crisis his administration has created. He used the address to call on Congress to pass a mass amnesty proposal he laid out on his first day in office. That bill, the *U.S. Citizenship Act*, would provide a pathway to citizenship for millions of illegal aliens, import thousands more

# Biden Blame Game

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foreign workers, and contains no meaningful provisions to secure our borders.

Not surprisingly, absent from President Biden's speech was any mention of H.R. 2, the *Secure the Border Act*, which was passed by the House last year. Among

its many provisions, that bill, which is stalled in the Democratic-led Senate, does address large-scale asylum and parole abuse, ends catch-and-release policies, cracks down on state and local sanctuary policies, and requires completion of the border wall.

## TOP 10 REASONS TO OPPOSE THE SENATE BORDER BILL

### *Why the Lankford-Murphy-Sinema Bill Will Not Solve the Border Crisis*

1. The primary reason we have a crisis on our southern border is because the Biden administration is releasing illegal aliens instead of detaining and removing them. Yet, the Senate border bill **does not restrict the government's ability to release illegal aliens** into the interior of the U.S. Under the Senate bill, it's business as usual.
2. The Senate border bill does **nothing to limit the abuse of humanitarian parole**. Parole is one of the main tools the Biden administration has used to release illegal aliens into the U.S., and indeed, even to fly them in from Cuba, Haiti, Nicaragua, and Venezuela.
3. The Senate border bill creates a new asylum system under which any alien **merely claiming** asylum **must be released before they are ever screened by an asylum officer** to determine whether their claim is credible. It is nothing more than a new catch-and-release program that will spark a historic rush on our southern border, encourage even more asylum fraud, and allow millions of unvetted aliens to settle into communities nationwide.
4. The Senate border bill promises speedy asylum screenings, but that's a facade. The language only requires that initial screenings be held within 90 days **"to the greatest extent practicable."** Thus, there is no legal requirement that asylum screenings take place quickly and nothing that will hold the Department of Homeland Security accountable.
5. Under the Senate bill, if the government is unable to conduct an asylum screening within 90 days, the government **must give the alien a work permit anyway**, whether their claim is credible or not. This allows illegal aliens to abscond with exactly what they wanted: the ability to live and work in the U.S.
6. Although the Senate border bill creates an expulsion authority for illegal aliens apprehended at the border, the provision only becomes mandatory after a staggering amount of illegal immigration has already taken place: **5,000 illegal border crossers per day over seven days** (or 8,500 illegal aliens crossing in one day).
7. The new expulsion authority is riddled with exceptions. The expulsion authority does not apply to asylum-seekers and parolees at the ports of entry, and it does not apply to any group of persons the government feels should be exempted **"based on the totality of the circumstances."**
8. Worst of all, under the Senate bill, the expulsion authority may only be used for a **limited number of days each year** and **expires in three years**, leaving the American people in the same situation we are now.
9. The Senate proposal requires the Department of Homeland Security to process a minimum of 1,400 inadmissible aliens per day along the southwest border, **even when the expulsion authority is triggered**. Clearly, the Senate authors knew that their bill would not stop the flow of illegal migrants across the border.
10. The Senate border deal spends more taxpayer dollars to subsidize illegal immigration by appropriating **\$1.4 billion** to the Shelter and Services Program (SSP), which awards grants to **NGOs and sanctuary cities that facilitate illegal immigration**. This is in addition to the hundreds of millions spent for the State Department to provide "migrant assistance" and "economic assistance" to Central American countries.

# Legal Battle Over Texas Law Could Provide States a Blueprint for Protecting Themselves

Texas has borne the brunt of the illegal immigration crisis touched off by the Biden administration's de facto open-borders policies. Millions of illegal aliens have streamed across the state's 1,254-mile border with Mexico, imposing enormous burdens, disrupting the lives of Texans and endangering the security of communities across the state.

In the face of obstinate refusal on the part of the Biden administration to secure the border and deter mass illegal immigration, Texas began taking steps on its own to address the crisis. Texas has erected its own barrier at the Rio Grande River to make it more difficult for illegal aliens to enter the state, and in December Gov. Greg Abbott signed SB 4 into law. Among other things, SB 4 gives Texas officials the authority to arrest, detain and prosecute people for entering illegally.

Demonstrating, once again, that not only does the Biden administration refuse to secure our borders and enforce our immigration laws, but it also opposes anyone else attempting to do so. The Department of Justice (DOJ) immediately filed a lawsuit to prevent Texas from implementing SB 4. "The United States brings this action to preserve its exclusive authority under federal law to regulate the entry and removal of noncitizens," the lawsuit contended, even though the administration has steadfastly refused to exercise those authorities.

The DOJ lawsuit has had more twists and turns than a roller coaster, with a federal judge, the Fifth Circuit Court of Appeals and the U.S. Supreme Court all involved in determining whether the law can go into effect, while the courts determine if SB 4 is constitutional. (As of completion of this edition of the FAIR newsletter, SB 4 was being blocked from being implemented by the Fifth Circuit, even after the Supreme Court said it could earlier that same day.) FAIR's legal affiliate, the

Immigration Reform Law Institute (IRLI), filed a brief in the Fifth Circuit arguing that Texas' efforts to protect its people against mass illegal immigration is indeed constitutional.

Even before SB 4 took effect, the steps taken by Texas to deter illegal immigration were having a positive effect on the state. As FAIR documented during a visit to the Eagle Pass and Del Rio sectors of the U.S.-Mexico border in early February, illegal entries in those areas had declined considerably from the record-setting pace of last fall. Texas' efforts have included erection of physical barriers such as placing shipping containers topped with razor wire along the banks of the Rio Grande and even building its own border wall. The declines in illegal entries in Texas, however, have been largely offset by increases in illegal entries in Arizona and California, where state officials are making little or no effort to deter illegal aliens from entering.

Other states are following the legal battle over SB 4 closely, as is FAIR's State and Local Engagement Department, which works with state legislators around the country. Eight states have already introduced bills that are substantially similar to Texas' SB 4. The bills in Kansas, Louisiana, Missouri, and Oklahoma have been introduced and are awaiting action in the Legislatures. In Iowa, the legislature passed a bill similar to Texas' SB 4 on March 19 and it is expected to be signed into law by Gov. Kim Reynolds. While Arizona's legislature approved a similar bill, it was vetoed by Gov. Katie Hobbs in early March. Lastly, in both Mississippi and West Virginia, legislation similar to Texas' SB 4 has already failed.



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