



NEW DATA REVEAL WORSENING MAGNITUDE OF THE BIDEN BORDER CRISIS AND LACK OF INTERIOR IMMIGRATION ENFORCEMENT

Interim Staff Report of the
Committee on the Judiciary
and
Subcommittee on Immigration Integrity, Security, and Enforcement
U.S. House of Representatives



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EXECUTIVE SUMMARY

Three years into the Biden Administration, the crisis at the southwest border is worse than ever. U.S. Customs and Border Protection (CBP) encountered a record-breaking 269,735 illegal aliens along the southwest border in September 2023, shattering the previous record of 252,315 encounters in December 2022.¹ Although official figures are not yet known, the September 2023 record reportedly stood for just three months—December 2023 saw more than 302,000 illegal alien encounters along the southwest border.² With such a large and seemingly unending influx of illegal aliens into the United States, Americans would be right to conclude that the border crisis is not a side effect, but instead a goal, of the Biden Administration’s radical open-borders immigration policies.

Far from disincentivizing the flood of illegal immigration by detaining and removing illegal aliens, President Joe Biden and Department of Homeland Security (DHS) Secretary Alejandro Mayorkas continue to release illegal aliens into U.S. communities *en masse*. In fact, in early December 2023, DHS officials admitted that “an average of 5,000 illegal aliens are currently being released into the U.S. each day at the border.”³ Even Secretary Mayorkas has acknowledged the high rate of releases, telling Border Patrol “that the current rate of release for illegal immigrants apprehended at the southern border is ‘above 85 [percent].’”⁴

Under Chairman Jim Jordan and Subcommittee Chairman Tom McClintock, the Committee on the Judiciary and its Subcommittee on Immigration Integrity, Security, and Enforcement continue robust oversight of the Biden Administration’s border and immigration crisis. Both public and nonpublic information provided to the Committee reveals the worsening state of the southwest border:

- Since January 20, 2021, the Biden Administration has released into the United States more than 3.3 million illegal aliens.⁵ In a January 2024 interview, Secretary Mayorkas

¹ U.S. Customs and Border Prot., *Sw. Land Border Encounters*, U.S. DEP’T OF HOMELAND SEC. (last accessed Jan. 12, 2024), <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

² Griff Jenkins (@GriffJenkins), X (Jan. 1, 2024, 8:31 AM), <https://twitter.com/GriffJenkins/status/1741814459608236363>.

³ Adam Shaw & Bill Melugin, *5,000 illegal immigrants released every day into US, admin officials privately tell lawmakers*, FOX NEWS (Dec. 9, 2023, 3:08 PM), <https://www.foxnews.com/politics/5000-illegal-immigrants-released-every-day-us-admin-officials-privately-tell-lawmakers>.

⁴ Adam Shaw, Bill Melugin, & Griff Jenkins, *Mayorkas tells Border Patrol agents that ‘above 85%’ of illegal immigrants released into US: sources*, FOX NEWS (Jan. 8, 2024, 4:53 PM), <https://www.foxnews.com/politics/mayorkas-tells-border-patrol-agents-illegal-immigrants-released-into-us-sources>.

⁵ See H. Comm. on the Judiciary, Rep. on The Biden Border Crisis: How the Biden Admin. Opened the Sw. Border and Abandoned Interior Immigr. Enf’t, at App’x 1 (Oct. 9, 2023) (“DHS released at least 2,148,738 illegal aliens into the United States” through March 2023) [hereinafter Interim Staff Report]; U.S. Customs and Border Prot., *CBP Releases Nov. 2023 Monthly Update*, U.S. DEP’T OF HOMELAND SEC. (Dec. 22, 2023) (“297,000 Cubans, Haitians, Nicaraguans, and Venezuelans [] were granted parole under the parole processes [through Nov. 2023]” [hereinafter Nov. 2023 Monthly Update]; U.S. Customs and Border Prot., *Custody and Transfer Statistics FY 2023*, U.S. DEP’T OF HOMELAND SEC. (last accessed Jan. 12, 2024), <https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics> (reporting that, between April 2023 and September 2023, 507,873 illegal aliens were released with a notice to appear or paroled); Bill Melugin (@BillMelugin), X (Dec. 22, 2023, 12:07 PM), <https://twitter.com/BillMelugin/status/1738244827475775910> (In FY 2024 thus far, “Border Patrol has released more than 386,500 illegal aliens”). Under the Biden Administration, at least 3,340,111 illegal aliens have been

admitted as much, stating that the Biden Administration has released “more than a million” illegal aliens each year.⁶

- Of the nearly 6 million illegal alien encounters from January 20, 2021, through September 30, 2023, at least 3,095,577 illegal aliens had no confirmed departure from the United States as of September 30, 2023.⁷ That is an increase of 631,153 illegal aliens in just the six months between March 31, 2023, and September 30, 2023,⁸ and does not include any releases from record-high encounters in the period from October through December 2023 or the more than 1.7 million known “gotaways” who entered the United States under Biden’s watch.⁹ According to press reports, so far in fiscal year 2024, which began on October 1, 2023, “Border Patrol has released more than 386,500 illegal aliens.”¹⁰
- There are at least 617,607 aliens on Immigration and Customs Enforcement’s (ICE) non-detained docket who have criminal convictions or pending criminal charges.¹¹ That means that more than half a million criminal aliens are in U.S. communities, free to reoffend and victimize more Americans. At the same time, in fiscal year 2023, the Biden Administration removed nearly 60 percent fewer criminal aliens with criminal convictions and criminal charges than in fiscal year 2019.¹²

The Committee and Subcommittee will continue their oversight of the Biden Administration’s open-border agenda. This interim staff report builds off of the previous reports issued by the Committee and Subcommittee highlighting dangerous consequences of the Biden Administration’s immigration policies. With new data, this report provides an update on the magnitude of the failures of President Biden’s policies at the border and underscores how his Administration has dismantled interior immigration enforcement to allow illegal aliens to remain in the country. In doing so, the report helps to inform additional legislative reforms and lays out the urgent need for the Senate to pass—and President Biden to sign into law—H.R. 2, the Secure the Border Act of 2023. In light of the unprecedented crisis at the border, the American people deserve serious reforms to fix the Biden Administration’s immigration catastrophe.

released into the United States.

⁶ Charles Creitz, *Mayorkas punts on impeachment question, faults Congress amid border crisis*, FOX NEWS (Jan. 4, 2024, 8:17 PM), <https://www.foxnews.com/media/mayorkas-punts-impeachment-question-faults-congress-amid-border-crisis>.

⁷ Standard Lifecycle Table (Jan. 20, 2021, through Sept. 30, 2023) provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

⁸ Compare *id.*, with Interim Staff Report, *supra* note 5, at 1.

⁹ Casey Harper, *Border crisis creates national security threat for U.S., observers say*, THE CENTER SQUARE (Aug. 7, 2023, 7:54 AM), <https://www.msn.com/en-us/news/us/border-crisis-creates-national-security-threat-for-us-observers-say/ar-AA1eU7So>.

¹⁰ Bill Melugin (@BillMelugin_), X (Dec. 22, 2023, 12:07 PM), https://twitter.com/BillMelugin_/status/1738244827475775910.

¹¹ HJC Getbacks Document provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

¹² See U.S. Immigr. and Customs Enf’t, *ICE Annual Report, Fiscal Year 2023*, U.S. DEP’T OF HOMELAND SEC. at 27 (Dec. 29, 2023), <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf> [hereinafter FY 2023 ICE Annual Report].

CONTINUED CHAOS AT THE SOUTHWEST BORDER

On October 9, 2023, the Committee on the Judiciary released an interim staff report, “The Biden Border Crisis: New Data and Testimony Show How the Biden Administration Opened the Southwest Border and Abandoned Interior Enforcement.”¹³ The report revealed how, in the first 26 months of the Biden Administration, “DHS released at least 2,148,738 illegal aliens into the United States.”¹⁴ The Committee also reported how ICE officers had been forced to abandon interior immigration enforcement to process the flood of illegal aliens arriving in the country every day.¹⁵ The report’s findings were based on data from the beginning of the Biden Administration through March 2023.¹⁶

Since the report’s release in October 2023, the Committee has obtained new data, including previously nonpublic information through September 30, 2023, that reveal the continued jaw-dropping magnitude of the Biden border crisis. Among the data obtained by the Committee:

- Of the nearly 6 million illegal alien encounters from January 20, 2021, through September 30, 2023, at least 3,095,577 illegal aliens had no confirmed departure from the United States as of September 30, 2023.¹⁷ That figure is an increase of 631,153 illegal aliens in just the six months between March 31, 2023, and September 30, 2023,¹⁸ and it does not include any releases from record-high encounters between October and December 2023 or the more than 1.7 million known “gotaways” who entered the United States under President Biden’s watch.¹⁹ Additionally, news reports indicate that “Border Patrol has released more than 386,500 illegal aliens” in less than three months of Fiscal Year 2024.²⁰

¹³ See Interim Staff Report, *supra* note 5.

¹⁴ *Id.* at App’x 1.

¹⁵ *Id.* at 2, 12-15.

¹⁶ See *id.* at 1-2.

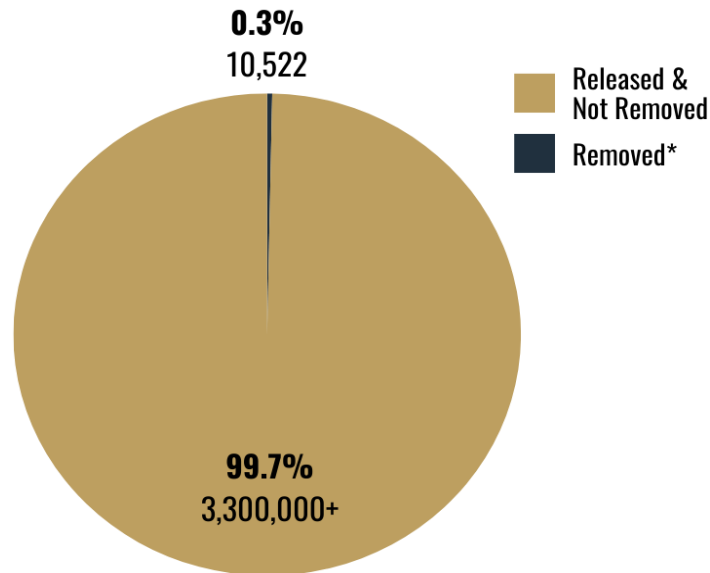
¹⁷ Standard Lifecycle Table (Jan. 20, 2021, through Sept. 30, 2023) provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

¹⁸ Compare *id.*, with Interim Staff Report at 1.

¹⁹ Harper, *supra* note 9.

²⁰ Bill Melugin (@BillMelugin_), X (Dec. 22, 2023, 12:07 PM), https://twitter.com/BillMelugin_/status/1738244827475775910.

Releases v. Removals Under the Biden Administration



*After being placed in immigration court removal proceedings (January 20, 2021 - September 30, 2023)

- Between January 20, 2021, and September 30, 2023, the Biden Administration removed from the United States only 10,522 illegal aliens who were encountered at the southwest border and who were placed in removal proceedings before an immigration judge during that time.²¹ In other words, of the at least 3.3 million illegal aliens released into the United States since January 20, 2021, the Biden Administration failed to remove, through immigration court removal proceedings, roughly 99.7 percent of those illegal aliens.²² That percentage remains unchanged from previous data,²³ despite DHS’s repeated claims that it is removing aliens²⁴ and Secretary Mayorkas’s assertions that he and DHS were “making it very clear that our border is not open, that crossing irregularly is against the law, and that those who are not eligible for relief will be quickly returned.”²⁵
- The Biden Administration’s total removals of illegal aliens encountered during that same period were just 6 percent of the number of illegal aliens with no confirmed departure from the United States as of September 30, 2023.²⁶

²¹ Standard Lifecycle Table (Jan. 20, 2021, through Sept. 30, 2023) provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

²² *See id.*

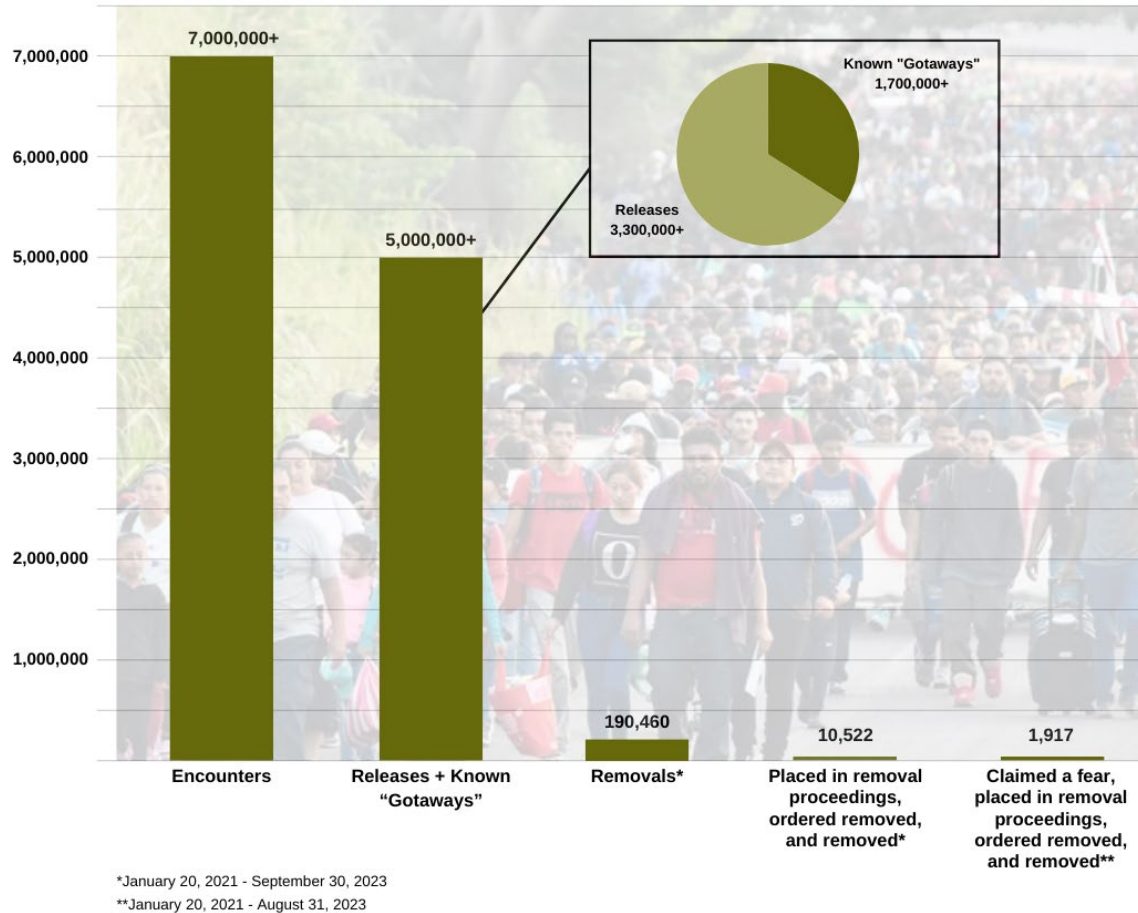
²³ *Compare id.*, with Interim Staff Report at 7.

²⁴ *See, e.g.*, U.S. Immigr. and Customs Enf’t (@ICEgov), X (Aug. 11, 2023, 4:17 PM), <https://twitter.com/ICEgov/status/1690095177145122816>.

²⁵ *Secretary Mayorkas Remarks at a Media Availability Outlining Planning and Operations Ahead of the Lifting of the Title 42 Public Health Order*, U.S. DEP’T OF HOMELAND SEC. (May 10, 2023), <https://www.dhs.gov/news/2023/05/10/secretary-mayorkas-remarks-media-availability-outlining-planning-and-operations>.

²⁶ *See* Standard Lifecycle Table (Jan. 20, 2021, through Sept. 30, 2023) provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

Outcomes of Illegal Aliens Encountered at the Southwest Border Under the Biden Administration



- As of August 31, 2023, more than 88 percent of aliens who established a fear of persecution at the southwest border and had their cases sent to an immigration court remained in immigration court proceedings or had not even had their case started by the Biden Administration.²⁷
- Of the 5.6 million illegal alien encounters from January 20, 2021, through August 31, 2023, DHS processed for expedited removal, in which aliens can be screened for asylum eligibility, only 379,951 illegal aliens.²⁸ In other words, DHS placed only 6.8 percent of illegal aliens encountered at the southwest border into proceedings to even be screened for asylum eligibility.²⁹
- Of the aliens screened who were not found to have a credible fear of persecution, roughly 40 percent were not removed and remained in the United States as of August 31, 2023.³⁰

²⁷ December ERCF Table Jan. 2021 – Aug. 2023 provided to H. Comm. on the Judiciary staff (Dec. 4, 2023) (on file with Comm.).

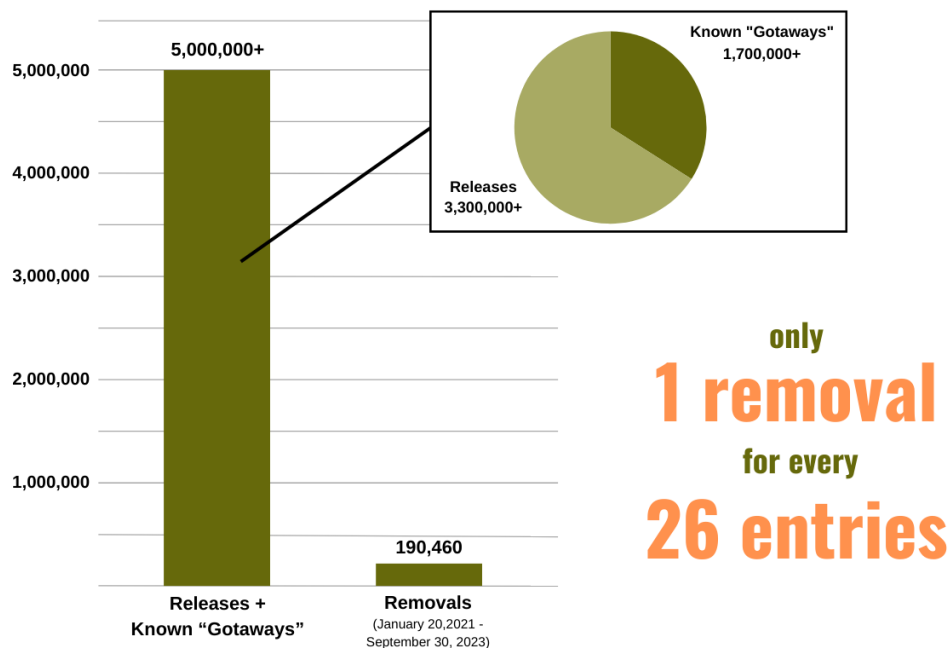
²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

- Of the aliens who were processed for expedited removal and who did not even attempt to make a claim for asylum, the Biden Administration cannot confirm removal or return from the United States for 28 percent of them.³¹
- Of the illegal aliens who were found to have a credible fear of persecution at the border and whose cases were referred to an immigration judge, DHS had removed only 1.32 percent, or 1,917, of those aliens as of August 31, 2023.³²
- As of August 31, 2023, DHS had removed only 2 percent of aliens who failed to appear at their immigration court hearings after successfully establishing a fear of persecution at the border.³³ Ninety-eight percent of those illegal aliens remained in the United States at the end of August 2023.³⁴
- With more than 3.3 million illegal alien releases and at least 1.7 million known “gotaways” during the Biden Administration, more than 5 million illegal aliens have entered the United States since January 20, 2021.³⁵ That compares to a mere 190,460 *total* removals of illegal aliens encountered at the southwest border as of September 30, 2023—or one removal for roughly every 26 entries into the United States.³⁶

Releases and Removals During the Biden Administration



³¹ *Id.*

³² *Id.*

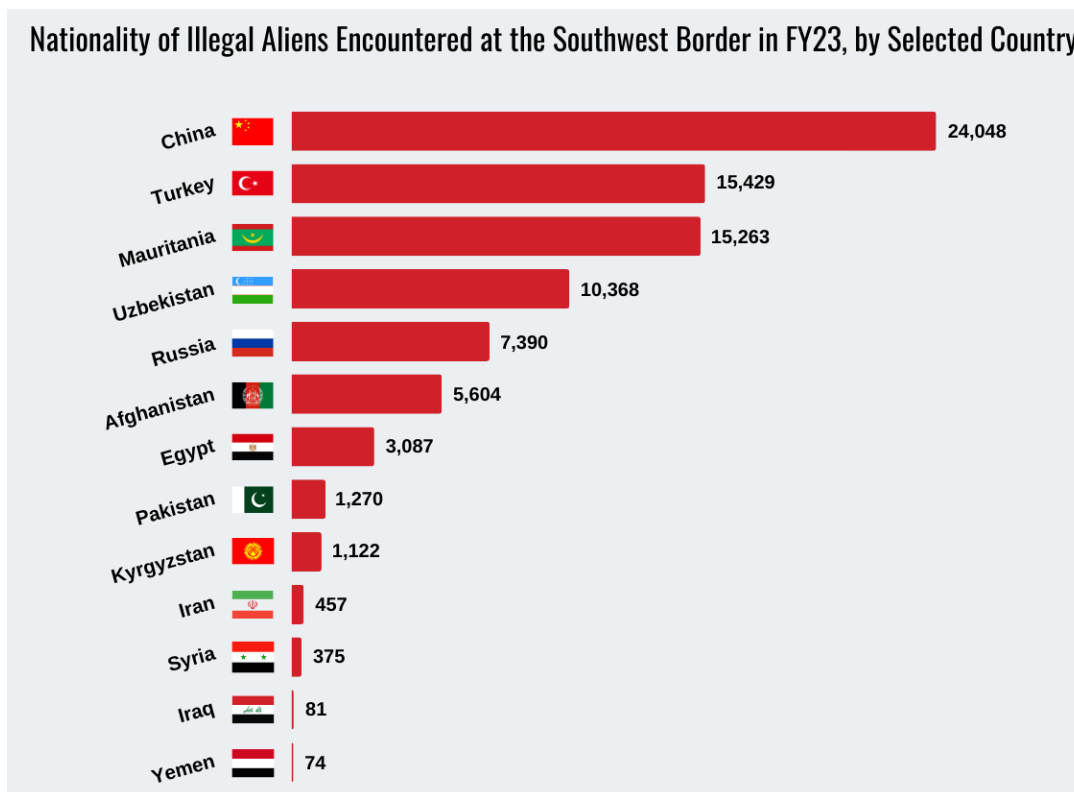
³³ *Id.*

³⁴ *Id.*

³⁵ See Interim Staff Report, *supra* note 5.

³⁶ See Standard Lifecycle Table (Jan. 20, 2021, through Sept. 30, 2023) provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

People from all over the planet are taking advantage of the turmoil at the southwest border. In fiscal year 2023, Border Patrol encountered illegal aliens from roughly 170 countries, including 24,048 from China; 15,429 from Turkey; 15,263 from Mauritania; 10,368 from Uzbekistan; 7,390 from Russia; 5,604 from Afghanistan; 3,087 from Egypt; 1,270 from Pakistan; 1,122 from Kyrgyzstan; 457 from Iran; 375 from Syria; 81 from Iraq; and 74 from Yemen.³⁷



CAUGHT, RELEASED, & NEVER REMOVED

Against that backdrop of historic numbers of illegal alien encounters and releases, ICE has admitted to removing far fewer illegal aliens, including criminal aliens, from the United States, compared to during the Trump Administration.³⁸ This decreasing interior enforcement comes as ICE's non-detained docket swelled to a record of nearly 6.2 million illegal aliens at the end of last fiscal year.³⁹ As of December 10, 2023, Miami's non-detained docket approached 1 million illegal aliens, with New York City at 617,517 and Atlanta, Los Angeles, and Chicago all approaching half a million aliens on their non-detained dockets.⁴⁰

³⁷ U.S. Customs and Border Prot. (CBP) Enf't Actions – Sw. Border (SBO) provided to H. Comm. on the Judiciary staff (Dec. 8, 2023) (on file with Comm.).

³⁸ See FY 2023 ICE Annual Report, *supra* note 12, at 26-27.

³⁹ *Id.* at 18.

⁴⁰ HJC Getbacks Document provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

In its Fiscal Year 2023 Annual Report, ICE reported that it removed 23 percent fewer illegal aliens than in fiscal year 2020 and roughly 47 percent fewer than in fiscal year 2019.⁴¹

ICE also continues its failure to remove illegal aliens with final orders of removal. As of

December 10, 2023, there were 1,323,264 illegal aliens with final orders of removal who remained in the United States.⁴² The ICE area of responsibility with the most aliens with final orders of removal was Miami, with 155,764 such aliens, followed by Los Angeles with 136,205; New York City, with 123,825; Atlanta, with 95,345; and Houston, with 92,823.⁴³

FY23 removals in comparison:



23% fewer than FY20



47% fewer than FY19

In the October 2023 interim staff report, the Committee quoted ICE officials who acknowledged their officers were arresting and removing fewer criminal aliens because of the Biden border crisis.⁴⁴ ICE itself reported that during fiscal year 2023, nearly a fifth of its Enforcement and Removal Operations workforce, which normally would be tasked with apprehending and removing aliens, was deployed “to support [border-related] efforts,” which included “case processing and ground and air transportation for [illegal aliens] who [were] initially apprehended by [CBP].”⁴⁵ The consequences of that distracted focus are reflected in ICE’s own data, which show that, in fiscal year 2023, ICE removed 41 percent fewer aliens with criminal convictions and criminal charges than in fiscal year 2020—and nearly 60 percent fewer than in fiscal year 2019.⁴⁶

A comparison of administrative arrests by criminal charge or conviction category further highlights the differences in immigration enforcement between the Trump and Biden Administrations.⁴⁷ In fiscal year 2018, the Trump Administration arrested aliens responsible for 76,585 dangerous drug offenses compared to 40,698 under the Biden Administration in fiscal year 2023.⁴⁸ For assault offenses, the Trump Administration arrested aliens with 50,753 criminal charges and convictions in fiscal year 2018, with only 33,209 in fiscal year 2023.⁴⁹ For sex offenses, the number of was 6,888 in 2018 but 5,746 in 2023.⁵⁰ Across the board, in categories

⁴¹ See FY 2023 ICE Annual Report, *supra* note 12, at 26.

⁴² See HJC Getbacks Document provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

⁴³ *Id.*

⁴⁴ See Interim Staff Report, *supra* note 5, at 10-11.

⁴⁵ See FY 2023 ICE Annual Report, *supra* note 12, at 9.

⁴⁶ *Id.* at 27.

⁴⁷ Compare U.S. Immigr. and Customs Enf’t, *Fiscal Year 2018 ICE Enf’t and Removal Operations Report*, U.S.

DEP’T OF HOMELAND SEC. at 4, <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFY2018Report.pdf> (last accessed Jan. 12, 2024) [hereinafter FY 2018 ICE ERO Report], with FY 2023 ICE Annual Report, *supra* note 12, at 14-15.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

ranging from murder to kidnapping to weapons offenses, the Trump Administration in 2018 arrested far more criminal aliens than the Biden Administration in 2023.⁵¹

Meanwhile, additional data obtained by the Committee show that there are at least 617,607 aliens on ICE’s non-detained docket who have criminal convictions or pending criminal charges.⁵² Those are aliens who remain *non-detained* in the

617,607

**non-detained aliens with
criminal convictions or
pending charges**

United States, free to reoffend. The Miami area has the highest number of criminal aliens, with 69,153 aliens with criminal convictions or pending criminal charges.⁵³ The Los Angeles area has 54,564 criminal aliens, with New York City and Atlanta following close behind with 50,190 and 48,253 criminal aliens, respectively.⁵⁴

CONCLUSION

As these new data show, chaos reigns at the southwest border with record-high illegal alien encounters and releases. The data show too that the Biden Administration has refused to enforce immigration laws in the interior of the country, with far fewer removals of criminal aliens who are otherwise left on American streets and allowed to reoffend. In passing the Secure the Border Act of 2023 on May 11, 2023, the U.S. House of Representatives acted eight months ago to secure the border and restore order to America’s immigration system. The Senate and President Biden must now follow suit to safeguard the American people and end the chaos of the last three years. It is beyond time for Democrats in the Senate and the Administration to act aggressively to end the Biden border crisis.

⁵¹ Compare FY 2018 ICE ERO Report, *supra* note 47, at 4, with FY 2023 ICE Annual Report, *supra* note 12, at 14-15.

⁵² HJC Getbacks Document provided to H. Comm. on the Judiciary staff (Jan. 2, 2024) (on file with Comm.).

⁵³ *Id.*

⁵⁴ *Id.*