

**Written Testimony of Gene P. Hamilton**  
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**Submitted to the House Committee on Foreign Affairs**  
**“The U.S. Border Crisis and the**  
**American Solution to an International Problem”**  
**November 30, 2023**

Thank you, Chairman McCaul, Ranking Member Meeks, and all Members of the Committee for having this important hearing about the national security implications and international consequences of the Biden Administration’s decision to terminate effective immigration and border security policies, including the Migrant Protection Protocols (MPP) and Asylum Cooperative Agreements.

Before I address just *some* of those consequences, we must acknowledge the following fundamental principles. They are principles the American people understand. They are principles the Trump Administration understood. They are principles that most in Congress once embraced, as reflected in the laws they passed. They are principles rooted in common sense. But they are principles that many in Washington and the Biden Administration refuse to admit:

- Every country has the sovereign right and responsibility to control its borders, and the United States is no different.
- The United States is the greatest country in the world, and hundreds of millions—if not billions—of people worldwide would come here if they could. We cannot accommodate even a fraction of everyone who wants to come here.
- Deporting illegal aliens from the United States advances our national sovereignty and is an essential component of our immigration system. Further, doing so accords due respect for those individuals who obey our laws and come through established visa programs.
- For those individuals who do not intend to use our visa system but want to come to the United States anyway, only one thing matters: getting into the interior of the United States.
- Releasing illegal aliens into the interior of the United States results in more illegal aliens attempting to come to the United States.

Those fundamental principles form the framework from which we can begin to understand the extent of the domestic consequences of the Biden Administration’s actions. Those principles are reflected throughout the Immigration and Nationality Act. But they are the antithesis of the fundamental tenets of the Biden

Administration's principles when it comes to immigration and border security, which I can best summarize from observation as follows:

- Anyone who wants to come to the United States should be able to do so, regardless of merit or adherence to our laws or ideals, especially if they have a family member or friend already here.
- The United States is the only place in the world where people can be free from generalized crime and persecution.
- It is better for humanity for the citizens of all countries—particularly in the Western hemisphere—to come to do manual labor and similar jobs in the United States than for those same individuals to build up their own countries.
- The United States can adequately screen and vet the hundreds of thousands of illegal aliens coming across the border every month for crime and national security risks or anti-American ideology.
- Deporting illegal aliens is cruel and should never be done except in the most extreme circumstances.

Each one of those principles is entirely false. But beyond being wrong and worthy of strong repudiation—as they contradict the laws that this body passed—those principles carry outsized national security implications, domestic burdens, and international consequences. We cannot capture the true extent of the long-term effects of the Biden Administration's actions with presently available data. But by all available measures, the extent of this Administration's intentional sabotaging of our immigration system and decimation of our borders can already be described in two words: catastrophic failure.

As reflected in the Biden Administration's publicly available data:

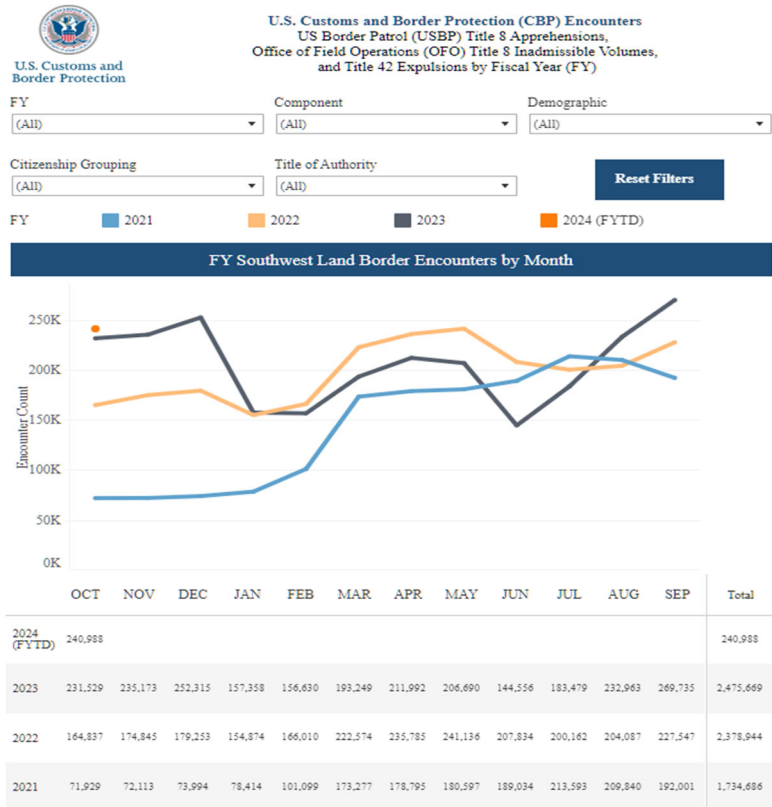
- **Southwest border encounters are at record highs.** Monthly encounters with illegal aliens at the southwest border have not dropped below 100,000 since the Biden Administration's first full month in office and have risen to as high as 269,735 and 240,988 in September and October of this calendar year, respectively.<sup>1</sup> There were 1,734,686 encounters in FY2021, 2,378,944 in FY2022, 2,475,669 in FY2023, and already 240,988 in October, the first month of FY2024.<sup>2</sup> In total, since February 2021, there have been more than 6.5 million encounters at the southwest border.<sup>3</sup>

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<sup>1</sup> *Southwest Land Border Encounters*, U.S. CUSTOMS AND BORDER PROT., <https://tinyurl.com/4u3cfprm> (last modified Nov. 14, 2023).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*



- Yearly encounters with illegal aliens in Family Units have increased each year the Biden Administration has been in office, rising from 479,728 in FY2021, to 560,646 in FY2022, to 821,537 in FY2023, and already 106,290 in the first month of FY2024.<sup>4</sup> In total, there have been over 1.9 million encounters with illegal aliens in Family Units at the southwest border since February 2021.<sup>5</sup>
- Yearly encounters with Unaccompanied Alien Children remain critically high, with 146,925 in FY2021, 152,057 in FY2022, 137,275 in FY2023, and already 11,522 in the first month of FY2024.<sup>6</sup> In total, there have been over 427,000 encounters with Unaccompanied Alien Children at the southwest border since February 2021.<sup>7</sup>
- **The overwhelming majority of illegal aliens encountered at the southwest border are released into the interior of the United States.** Rather than detaining and deporting illegal aliens or using lawful processes like MPP, the Biden Administration is releasing the overwhelming majority of the illegal aliens it encounters at the southwest border into the interior of the

<sup>4</sup> *Id.* (choose the “Demographics” dropdown and select only “FMUA”).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* (choose the “Demographics” dropdown and select only “UC / Single Minors”).

<sup>7</sup> *Id.*

United States. We could analyze data from prior Fiscal Years, and a recent report from the House Committee on the Judiciary determined that as of March 2023, there were at least 2,464,424 illegal aliens that the Biden Administration released still in the United States.<sup>8</sup> But the Department of Homeland Security’s statistics from October of FY2024 are illustrative:

- In October, the U.S. Border Patrol (USBP) apprehended 188,778 illegal aliens.<sup>9</sup> We know that USBP released at least 120,175 of them into the United States (roughly 64%),<sup>10</sup> but in all likelihood, the total number ultimately released was likely much higher than that due to a number of the aliens subjected to Expedited Removal subsequently claiming a credible fear or reasonable fear of persecution.
- In October, the Office of Field Operations (OFO) encountered 52,210 inadmissible aliens at ports of entry along the southwest border.<sup>11</sup> Of those, 47,988 were subjected to a credible fear screening.<sup>12</sup> OFO lists a total of 2,376 aliens who went through that process and were subsequently transferred to some custodial situation, meaning that OFO released into the interior of the United States approximately 45,612 illegal aliens. In other words, out of the 52,210 inadmissible aliens encountered at ports of entry in October, OFO released approximately 87%.
- So, in total—from the 240,988 encounters in October alone—we can determine with reasonable certainty that the Biden Administration released *at least* 165,787 illegal aliens. Again, the actual number is likely higher. Nor does that number include the number of “got-aways” who evaded detection or apprehension, a massive number. Indeed, earlier this year, the House Committee on the Judiciary put that number at 1.7 million since the beginning of the Biden Administration.<sup>13</sup>

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<sup>8</sup> STAFF OF H. COMM. ON THE JUD., SUBCOMM. ON IMMIG. INTEGRITY, SEC., AND ENF’T, 118TH CONG., INTERIM STAFF REPORT: THE BIDEN BORDER CRISIS: NEW DATA AND TESTIMONY SHOW HOW THE BIDEN ADMIN. OPENED THE S. BORDER AND ABANDONED INTERIOR ENF’T (2023), [bit.ly/41ce3a9](https://bit.ly/41ce3a9) [hereinafter HOUSE JUDICIARY COMMITTEE INTERIM STAFF REPORT]; STAFF OF H. COMM. ON HOMELAND SEC., 118TH CONG., INTERIM STAFF REPORT, CAUSES, COSTS, AND CONSEQUENCES: WHY SEC. MAYORKAS MUST BE INVESTIGATED FOR HIS BORDER CRISIS 11, 13 (2023), <https://bit.ly/40V8qNa>.

<sup>9</sup> *Custody and Transfer Statistics*, U.S. CUSTOMS AND BORDER PROT., <https://tinyurl.com/mt4nbn6j>, (click “U.S. Border Patrol Dispositions and Transfers” to expand the section) (last visited Nov. 26, 2023).

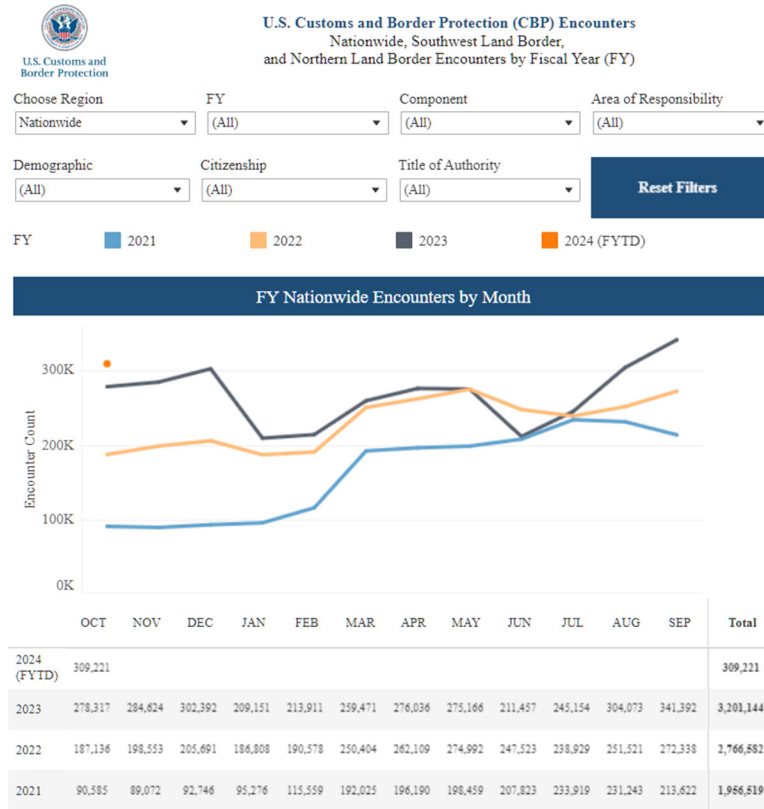
<sup>10</sup> *Id.*

<sup>11</sup> *Custody and Transfer Statistics*, U.S. CUSTOMS AND BORDER PROT., <https://tinyurl.com/mt4nbn6j>, (click “Office of Field Operations – Dispositions and Transfers” to expand the section) (last visited Nov. 26, 2023).

<sup>12</sup> *Id.*

<sup>13</sup> HOUSE JUDICIARY COMMITTEE INTERIM STAFF REPORT at 1.

- Nationwide encounters are at record highs.** The statistics above only tell part of the story, as the Biden Administration’s decimation of our borders also includes the northern border and our interior ports of entry.<sup>14</sup> Total nationwide encounters have increased from 1,956,519 in FY2021, to 2,766,582 in FY2022, to 3,201,144 in FY2023, and already 309,221 in one month of FY2024.<sup>15</sup> In sum, there have been roughly 7.86 million nationwide encounters since February of 2021.<sup>16</sup>



- Increased encounters at the northern border partially explain this total number, but most significantly, the number includes the Biden Administration’s abuse of the parole power in 8 U.S.C. § 1182(d)(5)(A) through programs like the so-called “Processes for Cubans, Haitians, Nicaraguans, and Venezuelans,” which paroles approximately 30,000 aliens into the interior of the United States every month.<sup>17</sup>

<sup>14</sup> *Nationwide Encounters*, U.S. CUSTOMS AND BORDER PROT., <https://tinyurl.com/28js28wp> (last modified Nov. 15, 2023).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Processes for Cubans, Haitians, Nicaraguans, and Venezuelans*, U.S. CITIZENSHIP AND IMMIGR. SERVS., <https://tinyurl.com/2bmk5br8> (last updated Sep. 20, 2023).

- **Deportations are statistically non-existent.** At the same time that U.S. Customs and Border Protection (CBP) is releasing millions of illegal aliens into the United States, enforcement actions by U.S. Immigration and Customs Enforcement (ICE) are statistically non-existent. In short, there is no credible threat of deportation for the millions of aliens that the Biden Administration is releasing into the United States.
  - According to ICE’s FY2021 report, ICE removed a minuscule 59,011 illegal aliens from the United States.<sup>18</sup>
  - ICE has not yet released a report for FY2022 or FY2023, but their publicly available statistics show similar results. In FY2022, it was 69,019.<sup>19</sup> And in FY2023, 142,580.<sup>20</sup>
- **The Biden Administration is adding millions of illegal aliens to the population already in the United States.**
  - As described above, according to the House Committee on the Judiciary’s report, of the more than 5 million illegal alien encounters since the start of the Biden Administration, 2,464,424 illegal aliens remained in the United States as of March 31, 2023.<sup>21</sup>
  - Although naturalization and legal immigration rates have increased significantly and account for a portion of the total, the foreign-born population in the United States has exploded by nearly 5 million people under the Biden Administration.<sup>22</sup>

In my opinion, these numbers constitute an unconstitutional abdication of the Executive’s duty to “take care that the laws be faithfully executed”<sup>23</sup>—laws that Congress has passed and that previous Presidents signed. But these numbers only tell part of the story. Indeed:

- Encounters with illegal aliens at the southwest border who are on the Terrorist Screening Dataset have increased from 0 in Fiscal Year 2019 to 169 in Fiscal Year 2023.<sup>24</sup> This does not include those who evaded detection or apprehension.

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<sup>18</sup> U.S. IMMIGR. AND CUSTOMS ENF’T, ICE ANNUAL REPORT FISCAL YEAR 2021 (Mar. 11, 2022), <https://tinyurl.com/5739mvp7>.

<sup>19</sup> ICE Detention Data, FY2022, U.S. IMMIGR. AND CUSTOMS ENF’T, <https://tinyurl.com/yc5pnas9> (choose the “Detention FY22” tab at the bottom and navigate to cell P29).

<sup>20</sup> ICE Detention Data, EOFY2023, U.S. IMMIGR. AND CUSTOMS ENF’T, <https://tinyurl.com/y9ftvhsx> (choose the “Detention FY23” tab at the bottom and navigate to cell P29).

<sup>21</sup> HOUSE JUDICIARY COMMITTEE INTERIM STAFF REPORT at 4.

<sup>22</sup> Steven A. Camarota and Karen Zeigler, *Just-Released Data: Foreign-Born Population Above 46 million in July 2022*, CENTER FOR IMMIGRATION STUDIES (Sep. 22, 2023), <https://tinyurl.com/52waf2ef>.

<sup>23</sup> U.S. Const. art. II, § 3

<sup>24</sup> CBP Enforcement Statistics, U.S. CUSTOMS AND BORDER PROT., <https://tinyurl.com/npawz952> (last modified Nov. 14, 2023).

- Encounters with convicted criminal aliens at the southwest border have increased from 4,269 in Fiscal Year 2019 to 15,267 in Fiscal Year 2023.<sup>25</sup> These do not include the number who evaded detection or apprehension.
- CBP agents conducted 4,920 life-saving search and rescue efforts in Fiscal Year 2019, and 37,323 in Fiscal Year 2023—an incredible 759% increase.<sup>26</sup>
- CBP reported a total of 568 illegal alien deaths at the southern border in Fiscal Year 2021, and has not reported on the number of fatalities annually since then. This number does not include the hundreds of aliens who die or disappear in Central America before reaching the United States border.<sup>27</sup> Nor does it include the nearly 1/3 of illegal alien women who are sexually abused during their journey to the United States.<sup>28</sup>

The United States cannot possibly vet and screen the millions of illegal aliens pouring over our borders and into the United States. Anyone who tells you otherwise is either lying or sincerely believes—wrongly—that the absence of derogatory information in our databases is the equivalent of a determination that an individual will not threaten the safety and security of the American people. It is a practical, factual, and legal impossibility.

Aside from the incredibly harmful consequences this situation creates for the American people in terms of increased crime, the loss of innocent life, increased competition for jobs, decreased wages, higher housing costs, and overcrowding of schools and medical systems, the naivete it takes to believe that our adversaries have not and will not take advantage of these gaping security vulnerabilities seems unfathomable to the average American. Of course, our adversaries will continue to take advantage of other paths using traditional espionage methods or other malfeasance, such as using false identities and other exploitations of our visa system. But the level of cartoonish buffoonery the Biden Administration must assume about the intentions and capabilities of our adversaries is unfortunately not only wrong, but I fear will be proven catastrophically so in the not-too-distant future.

Further, the Biden Administration’s knowing abandonment of border management tools that work—such as MPP, which Congress authorized explicitly in 8 U.S.C. §

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Nationwide Encounters*, U.S. CUSTOMS AND BORDER PROT., <https://tinyurl.com/28js28wp> (last modified Nov. 15, 2023) (under the heading “U.S. Border Patrol and Office of Field Operations Encounters by Area of Responsibility and Component” choose the “Choose Region” dropdown and select only “Southwest Land Border”); *US-Mexico Border World’s Deadliest Migration Land Route*, INTERNATIONAL ORGANIZATION FOR MIGRATION (Sept. 12, 2023), <https://tinyurl.com/2hntz6>.

<sup>28</sup> *Forced to Flee Central America’s Northern Triangle: A Neglected Humanitarian Crisis*, DOCTORS WITHOUT BORDERS (May 11, 2017), <https://tinyurl.com/arrmrjb5>.

1225(b)(2)(c)—exacerbates existing international problems that create increasing regional and global instability. So long as the young people and prime working-age populations of countries believe that they can illegally enter and be released into the United States and work—with or without formal employment authorization—they will attempt to do so. Consequently, they will not be in their home countries to create businesses, create economic and political stability, and improve conditions in their home countries. Instead, their home countries can and will increasingly rely on predatory lending and investment from China for economic development, which further bolsters authoritarian governments and destabilizes local populations.<sup>29</sup> This perpetuates an endless cycle of economic and political failure that nefarious state and non-state actors can and will exploit.

The Biden Administration knows that using tools like MPP, Asylum Cooperative Agreements,<sup>30</sup> Expedited Removal,<sup>31</sup> visa sanctions on countries that refuse to take back their nationals,<sup>32</sup> detention of aliens apprehended at the border while they await the outcome of their immigration court proceedings,<sup>33</sup> and other effective uses of the tools that Congress has provided would end the crisis at the border relatively quickly. But the Biden Administration does not desire an end to this self-created crisis, as doing so would not only discredit the radical ideological worldview of some of its most committed political appointees and outside allies, but it would also prematurely end the pressure campaign it has been attempting to use to force this Congress to pass yet another amnesty.

The situation is dire. The consequences are significant. The only question is what we do about it. I urge the Members of this Committee to reject any attempts to fund policies that facilitate the continued mass catch-and-release of illegal aliens into the United States and to reject the Biden Administration’s cynical use of this situation to create political pressure on this body.

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<sup>29</sup> See, e.g., Diana Roy, *China’s Growing Influence in Latin America*, COUNCIL ON FOREIGN RELS. (last updated June 15, 2023), <https://tinyurl.com/5bryhx6p> (outlining the rapid growth of trade, investment, and military engagement between the People’s Republic of China and countries in Latin America and the Caribbean, which undercuts local industries, sets debt traps, fosters economic dependency, harms the environment, displaces indigenous communities, props up authoritarian regimes, and poses national security risks).

<sup>30</sup> 8 U.S.C. § 1158(a)(2)(A).

<sup>31</sup> 8 U.S.C. § 1225(a)–(b).

<sup>32</sup> 8 U.S.C. § 1253(d).

<sup>33</sup> 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV).