
CONGRESSIONAL TESTIMONY

Hearing on “**Security Risk: The Unprecedented Surge in Chinese Illegal Immigration**”

Testimony Before

House Committee on Homeland Security / Subcommittee on Oversight, Investigations, and
Accountability

United States House of Representatives

May 16, 2024

Simon R. Hankinson
Senior Research Fellow
Center for Border Security and Immigration
The Heritage Foundation

Chairman Bishop, Ranking Member Ivey, and Members of the Committee, my name is Simon Hankinson. I am a Senior Research Fellow at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Introduction

I spent 23 years as a Foreign Service officer with the Department of State, serving at U.S. diplomatic missions in seven countries. For much of that time, I adjudicated visa cases as a consular officer or supervised others who did. I and my staff conducted interviews, investigated fraud, worked with host country law enforcement, and cooperated with other U.S. agencies to enforce immigration laws of the United States. The mission was clear: facilitate lawful visits, commerce, and immigration while excluding those aliens who were inadmissible under our laws for a variety of reasons. Since January 2021, the Department of State’s consular mission overseas that I worked two decades to support stands in almost total contrast to what we are seeing at the U.S. land borders, where the Biden administration oversees a *de facto* open border.

In May 2022, I retired from the State Department. Over the past two years, I have visited the U.S. border at Malone, New York; McAllen, Eagle Pass, and Del Rio, Texas; Yuma, Arizona; and San Diego, California. In Arizona, Texas, and especially California, I witnessed people from China among the nationals of many countries apprehended by the Border Patrol. In San Diego, I saw several groups of Chinese men released by Border Patrol. Mass release like this of people who entered the country illegally happens nearly every day, multiple times, at multiple locations. This continuous mass release of inadmissible aliens is, at best, a mockery of U.S. immigration law, labor law, and national sovereignty. At worst, it is a national security and community safety risk of

unknown proportions. In addition to Chinese nationals with connections to the Communist Party, People's Liberation Army, and other elements of the Chinese state, it is statistically likely that DHS is releasing aliens who have serious criminal records in China that are unknown to U.S. authorities. Extrapolating from recidivism rates among U.S. violent offenders after release from prison, we can be certain that the mass release of aliens who would never pass a background check will result in preventable crimes committed in the United States in future.ⁱ

Furthermore, while those inadmissible aliens arrested before being released at least have to provide biometric data that will then be permanently assigned to them, even should they attempt to change their identity in future, the "gotaways" who enter the United States without inspection or contact with any official do not even get that weak level of vetting. The Biden administration's continued prioritization of continued flow of illegal migration over securing the border, and DHS's resulting diversion of staff to processing aliens into the country, makes entry without inspection easier than ever.

So far this year, more than 24,000 Chinese nationals have entered the U.S. illegally over the Southwest Land Border.ⁱⁱ It appears nearly all are being released, into an asylum process that will take many years to conclude. At the end of that process, even those Chinese nationals denied asylum and ordered removed are extremely unlikely to be deported. The Chinese government has long been deemed "recalcitrant," which is the term ICE uses for countries that are uncooperative with the U.S. government in accepting their nationals who are ordered removed by U.S. immigration courts. "The Chinese government ... will accept repatriation of Chinese citizens who have been verified to be from mainland China," according to their Embassy in Washington.ⁱⁱⁱ However, they do not interview and document their nationals timely and accurately when requested by ICE, as cooperative countries do (and as the United States does for its own nationals when asked). According to a 2021 Department of Homeland Security (DHS) report, "the PRC has ignored more than 1,300 ICE requests for travel documents since October 2017. Consequently, ICE has been forced to release more than 1,000 PRC nationals from custody, many with convictions for violent or other serious crimes."^{iv}

A "DHS Strategic Action Plan to Counter the Threat Posed by the People's Republic of China," written at the tail end of the Trump administration, claimed that DHS "has and will continue to augment immigration vetting and monitoring, including for student and tourist visas, and will return PRC visa-overstays who continue to undermine visa integrity."^v This has not been the case under the Biden administration. In Fiscal year 2023, Immigration and Customs Enforcement (ICE) deported a total of 288 Chinese back to China.^{vi} As noted in a 2019 DHS Inspector General report, some foreign embassies "do not conduct timely interviews with detainees or notify ICE when additional information is required to facilitate travel, delaying removals."^{vii} ICE maintains a list of "Recalcitrant" countries that do not facilitate the repatriation of their nationals, as well as a list of countries "At Risk of Non-Compliance."^{viii} As of 2020, China was listed as Recalcitrant. In 2016, there were over 20,000 convicted criminal alien Chinese nationals that the United States was not able to remove.^{ix} In 2021, DHS reported that "approximately 40,800 PRC nationals in the United States are subject to final orders of removal."^x However, in November 2023, the New York Times quoted an anonymous Biden administration official as saying that "Of the 1.3 million people in the United States with final orders to be deported, about 100,000 are Chinese."^{xi}

Therefore, by releasing Chinese at the border, the Biden administration is granting them *de facto* immigrant status with no verification of their identity and background. To restore order to the border and close this dangerous loophole, the U.S. needs to re-implement the Migrant Protection Protocols and Asylum Cooperative Agreements with Mexico and Northern Triangle countries so that inadmissible aliens, including Chinese asylum applicants, are not released into the interior pending the decision in their cases. The U.S. should also apply maximum pressure to stop Latin American countries from facilitating Chinese to transit their countries on the way to the U.S. border. For example, Ecuador allows visa-free travel for Chinese nationals, Panama allows facilities to exist that cater exclusively to Chinese migrants, and Mexico does little to impede their progress through its territory to the U.S. border.

Record Number of Chinese Nationals Illegally Entering the U.S. by Land

According to U.S. law, DHS is supposed to detain all inadmissible aliens who enter the country illegally between ports of entry. Illegal immigrants detained pending removal proceedings have a high chance of being deported, while those released are likely to remain indefinitely, according to the multiple DHS reports.^{xii} At various times in the past, DHS has responded to surges in the number of illegal aliens encountered at the border by releasing them on their own recognizance, having placed them in removal proceedings under U.S. immigration law.^{xiii} Since January 2021, this tactic has become the strategic norm and has reached epic proportions. President Biden has added to the mass release policy by using the limited parole power in the Immigration and Nationality Act at an unprecedented scale and not for intended purposes.^{xiv}

The last month of the Trump administration, January 2021, saw just 17 Chinese encountered at the Southwest border between ports of entry (POEs). In January 2024, three years into the Biden administration, Border Patrol encountered 3,700 Chinese – 200 hundred times as many.

In FY 2021, DHS had **23,471** total encounters with Chinese, and only 342 of them between POEs.

In FY 2022, DHS had **27,756** total encounters with Chinese, 1,987 of which were between POEs.

In FY 2023, DHS had **52,700** total encounters with Chinese, 24,125 of which were between POEs.

In Fiscal Year 2024 as of March 31st, the Department of Homeland Security encountered 41,970 total inadmissible Chinese nationals at our borders. 24,296 of these were encounters by the Border Patrol between Ports of Entry (POEs), and 3,004 were encounters at POEs by Customs and Border Protection.^{xv}

On just one day in April 2024 (April 24th) the Border Patrol encountered 206 Chinese nationals crossing into just the San Diego sector of the Southwest border.^{xvi} San Diego sector has seen explosive growth in Chinese illegally arriving by foot. In FY 2021, the Border Patrol had only 75 encounters with Chinese nationals all year in San Diego sector. That rose to 942 in FY 2022, 10,520 in FY 2023, and they are up to 23,890 in FY 2024 so far.^{xvii} DHS has even granted appointments to Chinese, supposedly located in Mexico, under their CBP One application for them to apply for parole after being allowed to fly into the U.S. or present themselves at a Port of Entry. Between January 2023 and September 30, 2023, Chinese nationals made 36 appointments on CBP One, of which 32 were granted parole.^{xviii}

In March 2024, I visited the California border in San Diego, Jacumba Hot Springs, Otay Mesa, and Imperial Beach. I spent a morning watching two unmarked buses chartered by the Border Patrol dropping off aliens at San Diego’s Iris Avenue bus and tram stop. Single adult illegal immigrants in San Diego are released at several spots after minimal screening and assisted by NGOs, family, and friends to move further into the United States. At Iris Avenue, I saw a row of Toyota Priuses driven by Chinese men looking for compatriots to solicit. The licensed cabdrivers I spoke to—who were legal immigrants from El Salvador, Somalia, and Ecuador—told me the Chinese drivers were operating illegal taxis.^{xix} There were Chinese nationals, of apparently recent arrival, selling cigarettes, internet connections, and other services to their compatriots arriving off Border Patrol buses.

The Border Patrol’s San Diego sector is attractive to Chinese illegal crossers for several reasons. One is that the U.S. city of 1.4 million people directly extends to the border, with the Mexican city of Tijuana literally built up to the border wall (where it exists) in many places. There is no desert like in Arizona, or river as in Texas, to present even a small natural obstacle. In addition, San Diego’s public transit, the county’s network of non-governmental organizations, and the sanctuary policies of California all facilitate easy entry and dispersal.^{xx} Given the many gaps in the border wall, and daily breaches of the wall by alien smugglers in Mexico, there is no real impediment to the mass movement of people into the United States in this sector. Furthermore, in the words of former Border Patrol chief Rodney Scott, “there’s no real response from the federal government of the United States to slow it down. There hasn’t been since 2021.”^{xxi}

Why Chinese Come Illegally to the U.S. Border

Push Factors: Economic and Political Drivers

A recent Wilson Center article by Joshua Peng attributes the reasons Chinese leave China, often with the intent of remaining in another country via an asylum claim, to “fears of President Xi Jinping’s authoritarian rule and the experience of draconian zero-COVID policies” and “skepticism of the Chinese economy and fears of eventually being cast into poverty.”^{xxii} A change to the Chinese constitution in 2018 allowed Xi Jinping a third presidential term, removed time limits on his staying in power, and strengthened his control as China’s leader.^{xxiii} After 2020, China’s zero-COVID policy forced testing, vaccines, and lockdowns, enforced by surveillance state and sometimes violence.^{xxiv} However, whatever the individual motivations for leaving, it should be noted that absent political persecution by the government of the applicant himself, none of the above reasons would qualify an applicant for asylum in the United States.

Most reports agree that the majority of Chinese entering the U.S. illegally by land are economic migrants seeking employment.^{xxv} Like millions of other people from all over the world, Chinese nationals use asylum claims with no basis or merit as a method to enter, remain, and work in the United States.^{xxvi}

Pull Factors: Unprecedented Ease To Travel, Enter, Stay, Work in the U.S.

U.S. Policy Change From Deter, Detain, and Deport to Process, Parole, and Punt

The Biden Administration claims that today’s mass immigration is the result of unprecedented geopolitical and environmental circumstances.^{xxvii} Their solution is, first, to use foreign aid and assistance programs to reduce the “root causes” of immigration in Latin America and then, while waiting for results, to replace the traditional border control model of deterrence, detention, and deportation of illegal crossers and allowing them to apply for asylum protection thereafter. The Biden policy is to “significantly expand lawful pathways for protection, and facilitate the safe, orderly, and humane processing of migrants.”^{xxviii} The result has been predictable: The easier it appears to be to enter the U.S. and be allowed to remain and work, the more people come. DHS has reported over 150,000 people at the border every month attempting to enter the U.S. illegally since January 2021.^{xxix}

The Biden Administration’s “root causes” approach has not reduced illegal immigration flows as allegedly intended. Neither has its “Comprehensive Plan to Manage the Border After Title 42.”^{xxx} The intention of the Rule was to expedite the removal of those who were less likely to qualify for asylum and who had not taken advantage of the Administration’s new parole programs using the CBP One application. However, as was widely predicted from the beginning, the Rule’s wide exceptions, including for families and certain nationalities, have made it nearly useless. Even with the new Rule’s demonstrable failure to reduce the flow of inadmissible aliens crossing the border, the Administration’s default position remained to let in as many aliens as could be processed and nominally put them into the backlogged asylum system. In most cases, illegal border crossers are released without any way to track them or ensure that they attended scheduled court appearances.^{xxxi}

In addition to this “catch and release” standard, the Administration has redirected tens of thousands of illegal aliens whom the Border Patrol would have “encountered”—that is, administratively arrested—crossing between ports of entry by inventing and expanding programs to allow inadmissible aliens to enter the United States on immigration parole.^{xxxii} They are paroled on the premise that they are refugees fleeing persecution who will apply for asylum rather than economic migrants. The Administration has provided mass, class-wide parole programs for nationals of Afghanistan, Cuba, Haiti, Nicaragua, and Venezuela and additional “family reunification” parole for beneficiaries of immediate relative immigrant visa petitions from Colombia, Cuba, El Salvador, Guatemala, Haiti, or Honduras and their immediate family members.^{xxxiii} Over 50,000 more otherwise inadmissible aliens are now being welcomed every month into the country at air and land entry points by inspectors with the U.S. Customs and Border Protection Office of Field Operations.

The White House continues to maintain that mass release at the border and invented “lawful pathways” using parole are necessary “unless Congress comes together in a bipartisan way to address our broken immigration and asylum system.”^{xxxiv} However, what they appear to mean by “broken” is that the current laws do not admit the number of people they want, and by “address” they seek a mass amnesty for those living here illegally, which would inspire millions more to enter illegally in the hope of benefiting in the future.

Rising Chinese Influence in Latin America

Rising Chinese wealth, expanding networks of professional smugglers, and complicit Latin American governments have facilitated Chinese travel to the United States land border. China has been investing in development, commercial, transportation, military, and space projects throughout Latin America. Since 2005, China loaned more than \$140 billion to Latin American countries

including Argentina, Brazil, Ecuador, and Venezuela. Eleven countries in Latin America -Argentina, Bolivia, Chile, Costa Rica, Cuba, Ecuador, El Salvador, Panama, Peru, Uruguay, and Venezuela - have signed onto China's Belt and Road Initiative (BRI), a worldwide transportation network financed and often built by China.^{xxxv} The Chinese government has close ties with socialist and leftist governments across Latin America - in particular, economic giant Brazil, close U.S. neighbor Cuba, and oil-rich Venezuela.

Easier Travel to Latin America and the U.S.

Under the Biden administration, Chinese nationals, like people from 180 other countries, come in increasing numbers simply because they can. Worldwide awareness of our open border, spread by family, friends, and alien smuggling criminals using social media, is the real "root cause" of the mass rush to the border since January 2021, according to journalists who have spoken with prospective illegal immigrants to the U.S. from many countries along the Panama–Mexico route.^{xxxvi}

Chinese do not need a visa to fly to Ecuador, which has become a major entry point for them into Latin America. On May 17, Air China will begin direct flights from Beijing to Havana, with a stopover in Madrid, to increase tourism according to the official announcement.^{xxxvii} From Ecuador, many Chinese migrants headed for the U.S. cross through Colombia, the Darién Gap, and through Central America to Mexico and the U.S. border. According to Peng, "over 15,500 Chinese migrants were counted in Panama after traversing ... the Darién Gap" in the first nine months of 2023, which is 40 times the number that took this route in 2021.^{xxxviii} U.S. visitors to the Darién Gap report camps and infrastructure exclusively catering to Chinese illegal migrants. Author Brett Weinstein described "a kind of hostility" from Chinese migrants when he attempted to ask them about their journey, saying they "seemed interested in deliberately misleading us as to their origin and purpose."^{xxxix} Voice of America interviews of Chinese who had crossed the Gap indicated economic motives as paramount in their decision to leave China and trek to the U.S. border.^{xl} There are reports that others pay extra to bypass the Darién Gap by taking sea transport from Ecuador further north.^{xli}

According to Peng, "Chinese migrants typically spend between \$5,000 and \$7,000 for self-guided trips, and up to \$35,000 for the aid of smugglers, three times what Latin American migrants typically pay."^{xlii} Migrants pay smugglers for package deals. Meanwhile, Chinese social media informs them of the logistics, including how to give themselves up to U.S. Border Patrol once they have entered the U.S.^{xliii} According to the Asia Society, the social media app Douyin (the Chinese version of TikTok, also owned by parent company ByteDance) recently banned the word "zouxian" ("walk the line") from search results. That term, and others, is a euphemism for illegal migration out of China including into the United States. According to analyst Lynette Ong of the Center for Chinese Analysis, "Douyin's censorship was likely the result of pressure from Chinese authorities embarrassed by the magnitude of the exodus" of Chinese who use Douyin to guide them on their journey to Latin America and north to the U.S. border.^{xliv}

Chinese Immigration After 1965

It was difficult for Chinese to enter the U.S. until the Immigration Act of 1965, which began the modern era of mass immigration into the United States. The majority of immigrants to the U.S. now come now from Latin America, Asia, and Africa rather than Europe as in the previous three centuries. In 1993, some Chinese were prepared to pay up to \$30,000 each for passage by sea and

even to be smuggled in shipping containers.^{xlv} The flows from China have ebbed and flowed over the years, corresponding to the risk-reward calculation of spending thousands of dollars on alien smuggling services compared to the chance of being allowed into the United States to work and live indefinitely.

Chinese nationals have been able to find black market, illegal employment for generations in the U.S. informal service industries, particularly in the bigger cities' "Chinatowns." Today, there are also opportunities in rural areas, where Chinese investors and criminal syndicates are "systematically buying land. In 2021, Chinese owners held 384,000 acres in the U.S., according to the Department of Agriculture, amounting to 1% of land held by foreigners.^{xlvi} According to a report by Brian Burack of the Heritage Foundation, "national security threats stemming from Chinese purchases of U.S. land and real estate are growing."^{xlvii} Burack writes that "the totality of Chinese-owned real estate is unknown, and under current law, is unknowable," adding that Chinese-owned agricultural land has "increased rapidly in recent years" and that Chinese "were the top foreign buyers of U.S. commercial real estate" in 2020.^{xlviii} Large holdings of land are owned by shell companies and cutouts that can obscure the real holder's Chinese origin.^{xlix} Chinese individuals and entities have also purchased or attempted to buy land close to U.S. military installations in several states.¹

Indentured labor to pay off alien smuggling fees has been common in Chinese, and other, illegal migration for decades. There have been recent reports of marijuana farms in rural America run by Chinese criminal groups, who appear to employ Chinese nationals with questionable immigration status, including one from Maine in March 2024.^{li} While the stories of abuse or exploitation told by Chinese laborers in these Chinese-owned farms, factories, and other businesses may be true, they may also be convenient ways for the worker-"victims" to further their asylum claims or apply for visas reserved for victims of crime.

While China was poor, emigration to the U.S. was largely a one-way street. Today, China's enormous economic growth provides more opportunities for the PRC to influence U.S. politics through its diaspora. To cite one example, the National Review recently reported on Chinese-American John Chan's "constellation of nonprofit organizations and businesses" which, along with his connections with the Chinese government and New York state politicians, he reportedly uses to advocate for positions favored by the People's Republic of China.^{lii}

Who Are They? Identifying and Vetting Chinese Legal and Illegal Immigrants

"Vetting" in Consular Visa Operations

Twenty-five years ago on the visa line in New Delhi, I would interview at least 150 visa applicants a day and enter my decision into a computerized non-immigrant visa (NIV) system. With reference to the Immigration and Nationality Act (INA), my job was to decide whether each applicant qualified for a visa. After 9/11, the State Department used to tell adjudicating officers that "every visa decision is a national security decision." If an applicant did not qualify under the law, we did not issue a visa. The most common reason for denial was under INA s.214(b), which in brief requires every alien to prove to the consular officer that he is going to the U.S. for the purpose stated, and that he has a home outside the U.S. to which he intended to return. There are also many reasons a person can be ineligible from getting a visa under the INA, mostly under s.212, including

criminal offences, public health concerns, and previous immigration violations. This personal consular interview is the first line of “vetting” for foreign visa applicants.

The second line of vetting is through automatic checks of U.S. databases containing holdings from across government agencies. Names, dates of birth, and other facts are run through the Consular Lookout and Support System (CLASS) maintained by the State Department’s Bureau of Consular Affairs. This system pulls data from federal agencies that in turn have data from state and local law enforcement, such that if a foreigner has a criminal or other adverse history in the United States, they are likely to be flagged for further review before a visa is issued. Visa applicants must also provide photographs and all 10 fingerprints (if available). These are confirmed by embassy or consular staff and the interviewing consular officer and then run through facial recognition and fingerprint databases to see if there are any matches. Adverse results are addressed by the interviewing or adjudicating consular officer before they make a decision.

It is quite common to find applicants with false names and dates of birth, even with legitimately issued foreign passports, because their other identities can be compared to bio-data databases. Fingerprints don’t change, and facial recognition is always improving. Although visa applicants do not have to supply criminal records clearances from their national police agency, which is a requirement for immigrant visas, they are required to attest on a signed form that they have no criminal record and no other ineligibility. Embassies and consulates have local and American staff trained in anti-fraud measures. Consular staff know local languages, accents, customs, news, and other country-specific factors that can help prevent applicants from lying successfully in their visa applications. Larger embassies host various federal agencies, including elements of DHS and other federal law enforcement, who have local contacts with their counterparts through whom they can investigate cases of concern.

Unfortunately, the Biden administration appears unwilling to support the State Department’s foreign efforts by investigating and prosecuting visa fraud in national security cases. Even before the Biden administration canceled the Justice Department’s China initiative in 2022, apparently on the grounds that it was racially biased,^{liii} it began dropping fraud charges^{liv} against alleged Chinese military personnel accused of falsifying visa applications.^{lv} It appears that the Justice Department’s National Security Division has not prosecuted any new China-related visa fraud cases since February, 2021, even though multiple visa fraud cases begun by the Trump administration resulted in convictions.^{lvi}

Still, although vetting of foreign visa applicants is by no means foolproof, it is multi-layered and frequently results in visa refusals based on adverse information that would not have been discovered had the person simply arrived illegally, with no identity documents, at the U.S. border.

Vetting by DHS at the Border

After 2021, most “national security decisions” of who gets into our country are no longer made by American officers. Under President Biden’s border policies, what was a privilege has become a right. The U.S. has outsourced the decision on who gets in at the border to foreign nationals based on who simply shows up in person, or who applies to enter the U.S. and ask for parole using CBP One. We still have a visa system overseas, but this expensive official “front door” competes with a wide-open back door at the southern border, where DHS releases most of them into

the interior after minimal processing. There are no fees, no forms, and no way to routinely verify a given name, age, and identity. Worst of all, there are no criminal background checks in the person's home country or anywhere they pass through. DHS mostly takes an individual's given information on trust. While the majority of those arriving illegally are economic migrants who will claim asylum to be allowed to remain and work, "There is a realistic probability that some Chinese nationals illegally crossing the US-Mexico border have ties to Chinese intelligence, using US border vulnerabilities for espionage," according to private intelligence analyst Grey Dynamics.^{lvii}

In January 2024, the Daily Caller reported that the Biden administration has "drastically simplified the vetting process for Chinese illegal immigrants" started in April of 2023, based on a source at U.S. Customs and Border Protection (CBP).^{lviii} According to information obtained by the Daily Caller, CBP agents including Border Patrol were instructed to reduce the number of standard questions asked of inadmissible Chinese from 40 to five. This approach is in line with the Biden Administration's overall policy of processing in as many inadmissible aliens as possible, prioritizing maximum flow over vetting. A former government official told the Daily Caller that Chinese arrested at the border are well coached on how to answer these questions, so as to be released soonest. From my own experience with visa interviews and investigating consular fraud in several countries, I know that alien smugglers include training on how to answer interview questions from American officials in their package deals. Such training is designed to avoid further investigation into the inadmissible alien's background, while maximizing chances for a successful, if fraudulent, asylum claim.

Like the "Security and Background Information" questions on the DS-160 visa application,^{lix} the questions asked by CBP interviewers of inadmissible aliens at the border are intended to find out whether they have a criminal record; any connections to the military, government, or political parties; and other information useful to determine whether they pose a security threat before they are released. Answering 'yes' to any of the security questions would lead to further enquiry and detention pending the results. As the email obtained by the Daily Caller reads, "If there is a Yes to any of the above [security questions] they are then referred and transported to [redacted] for an in-depth interview by Tactical Terrorism Response Team."

But whether 40 questions or 5, the process essentially relies on an illegal alien at the border telling the truth for his criminal past, membership in a totalitarian party, or terrorist affiliations to be discoverable, absent U.S. records on that individual. CBP says their "multilayered border security efforts include various screening and vetting processes that work to detect and prevent individuals who pose national security or public safety risks from entering the United States."^{lx} In fact, they have very limited means of verifying identify documents, statements, and any other information proffered by Chinese inadmissible aliens at the border before releasing them. China is hardly helpful in this regard, unless they have their own reasons for wanting a particular individual detained or returned to China. China routinely ignores U.S. requests for verification of nationality of even dangerous criminals. According to the State Department's Country Report on Human Rights Practices for 2022, "corruption remained rampant" in China.^{lxi} The Department's 2023 Report removed that phrase for some reason but did report that "in general very few details were made public regarding the process by which CCP and government officials were investigated for corruption."^{lxii} In addition, according to the human rights NGO Safeguard Defenders, China's "criminal justice data continues to be culled from official reports and the main database," their research indicating that more than "85,000 verdicts from criminal judgments spanning 2013 to 2020

[were] removed” in the last year.^{lxiii} China’s reluctance to publish, much less share, information about corrupt officials and criminals makes it very unlikely that CBP’s vetting, however “multilayered,” does much good at discovering the true backgrounds of inadmissible aliens before they are released.

Acting CBP Commissioner Troy Miller admitted the obvious in testimony before the House Appropriations Committee on May 4 that DHS releases people without confirming ID.^{lxiv} When asked by Rep. Andy Harris (R-MD) “So, we’re not admitting people into the interior who don’t have identification?” Miller responded that “we could release somebody with a notice to appear (NTA).” A Notice to Appear is a letter given to an alien by the Border Patrol or other agents of the DHS informing the subject that under section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA) “you are an alien present in the United States without being admitted or paroled, or who arrived at any time or place other than as designated by the Attorney General,” and ordering the subject to appear before an immigration judge^{lxv} at a specified time and place.^{lxvi} This hearing begins immigration proceedings to remove them from the United States for being here illegally. The initial hearing might be many months, or even years, in the future.

In practice, then, most aliens caught illegally crossing the U.S. border and released with a Notice to Appear are released for an indefinite time, to go where they want in the country, with no way for ICE to know their true location or easily find them if needed. In the meantime, only a small minority of released aliens are under any kind of monitoring under Immigration and Customs Enforcement’s Alternatives to Detention (ATD) program.^{lxvii} There are more than 6 million aliens on ICE’s Non-Detained Docket (NDD), meaning aliens in immigration proceedings such as deportation or asylum claims. As of April 20, 2024, ICE was monitoring only 184,318 of this population using ATD.^{lxviii} As of April 2023, only 2% of the aliens monitored under ATD were tracked with GPS monitors worn by the alien, with more than 91% tracked using methods that required the alien to actively participate by using a smart phone facial recognition application or calling a dedicated phone number.^{lxix}

When I visited San Diego in March 2024, I witnessed the release of dozens of aliens from at least 15 countries. From my observations, GPS tracking devices, in the form of anklets, were being worn by people from Eastern Europe and Central Asia (Chechnya, Russia, Kazakhstan) but not Africa, China, India, or Latin America. I have also personally inspected several NTAs given to aliens released at the border in Arizona, California, and Texas. On these, the locations for the alien’s scheduled immigration hearing may be nowhere near the alien’s intended destination in the United States. For example, one Indian released in San Diego in March 2024 told me he was going to live with his uncle in Indiana, but he had a court date in May 2024 in Van Nuys, California, which is 2,085 miles away. Without a drivers’ license or any identification documents, it is difficult to see how he and other aliens will be able to make the journey of hundreds of miles to attend all of the hearings in their removal proceedings.

In March 2023, I visited a gap in the unfinished border wall near the Morelos Dam in Yuma. President Biden ordered all work on the wall to stop shortly after taking office. The Morelos Gap is one of many places in Arizona where the border is, for most intents and purposes, wide open. People of unknown identity from anywhere in the world can simply walk up and come in. Under Secretary of Homeland Security Mayorkas, the illegal arrivals are met by the Border Patrol or whatever DHS

elements are available and channeled into a system that is designed to get them into the interior of the United States as fast as possible. Diverting DHS staff, including Border Patrol, from regular duty to providing administrative and social services leaves the border less guarded than usual, allowing even more illegal drugs, people, and goods into the country.

At 3:00 a.m., I witnessed more than 100 people walking or running through the Gap to join a long line to be “processed.” I spoke to or saw people from Cameroon, China, Cuba, the Dominican Republic, Ecuador, Georgia, India, and Russia. When asked, the people in line told me they were here to look for work and opportunity. They get in with no application, no fee, no criminal background check, and none of the other inconveniences of having to qualify for a visa as our law requires before asking to be admitted into the United States.

Conclusion

Despite what the Biden administration wishes the American public to believe, there is no serious “vetting” of populations released at the U.S. border under Title 8 removal proceedings, nor of those allowed in under parole programs, much less the “gotaways” who enter without inspection. Unless a foreign national released or paroled has an existing record from previous time spent in the United States or a foreign record held by U.S. agencies for some other reason, DHS has no routine way of checking anyone’s background for criminal records, terrorist affiliation, membership in a hostile foreign government agency, or other concern. DHS also has no way to confirm the name, date of birth, or any other information proffered by an applicant unless that person has been encountered by a U.S. law enforcement agency before. With up to 10 million people released or allowed to illegally enter the United States since January 2021, there is a considerable potential risk of espionage, crime or other hostile action from some individuals in this population.

The solution to the problem of growing illegal immigration is the same from the Biden administration on the U.S. political Left as it is for the Libertarians at the other extreme – eliminate illegal immigration by re-defining it as legal through so-called “lawful pathways” like parole; expanding Temporary Protected Status, Prosecutorial Discretion, Deferred Enforcement, and other tricks to avoid carrying out the intent of U.S. immigration law; releasing illegal aliens into interminable, theoretical “removal” proceedings under Title 8; and increasing the overall number of temporary and permanent visas for workers and students. But even were it politically acceptable to do, no amount of U.S. expansion would ever meet the demand given the population, economy, and politics of China.

Whatever the upper limits on overall numbers, the U.S. will at some point need to police its borders and remove those who are ineligible to enter or remain here under the law. Most importantly, those who are deliberately paroled or released must be identified, and their backgrounds vetted, more seriously than at present. The nationals of all countries present risks of criminal pasts and thus predictable rates of recidivism. But nationals of countries hostile to U.S. interests like China, Iran, Russia, and others, require extra scrutiny.

The Heritage Foundation is a public policy, research, and educational organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code. It is privately supported and receives

no funds from any government at any level, nor does it perform any government or other contract work.

The Heritage Foundation is the most broadly supported think tank in the United States. During 2023, it had hundreds of thousands of individual, foundation, and corporate supporters representing every state in the U.S. Its 2023 operating income came from the following sources:

Individuals 82%

Foundations 14%

Corporations 1%

Program revenue and other income 3%

The top five corporate givers provided The Heritage Foundation with 1% of its 2023 income. The Heritage Foundation's books are audited annually by the national accounting firm of RSM US, LLP.

Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed are their own and do not reflect an institutional position of The Heritage Foundation or its board of trustees.

ⁱ Simon Hankinson, Lora Ries, and Matthew Kuckelman, Backgrounder: "Biden's Open Borders and Non-Enforcement Mean Americans Play "Recidivist Roulette" with Criminal Aliens," The Heritage Foundation, May 7, 2024, <https://www.heritage.org/immigration/report/bidens-open-borders-and-non-enforcement-mean-americans-play-recidivist-roulette>

ⁱⁱ U.S. Department of Homeland Security, U.S. Customs and Border Protection, "Nationwide Encounters," <https://www.cbp.gov/newsroom/stats/nationwide-encounters>, (accessed May 10, 2024).

ⁱⁱⁱ David Noriega and Julia Ainsley, "U.S. and China in high-level talks to deport more Chinese nationals, Mayorkas says," NBC News, April 5, 2024, <https://www.nbcnews.com/investigations/us-china-high-level-talks-deport-chinese-nationals-mayorkas-says-rcna146590>.

^{iv} Department of Homeland Security, "DHS Strategic Action Plan to Counter the Threat Posed by the People's Republic of China," January 12, 2021, https://www.dhs.gov/sites/default/files/publications/21_0112_plyc_dhs-china-sap.pdf

^v DHS Strategic Action Plan to Counter the Threat Posed by the People's Republic of China

^{vi} Immigration and Customs Enforcement, Annual Report, Fiscal Year 2023, Published December 29, 2023, <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2023.pdf>

^{vii} Department of Homeland Security, Office of the Inspector General, "ICE Faces Barriers in Timely Repatriation of Detained Aliens," OIG-19-28, March 11, 2019, <https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-28-Mar19.pdf>

^{viii} Congressional Research Service, "Immigration: "Recalcitrant" Countries and the Use of Visa Sanctions to Encourage Cooperation with Alien Removals," July 10, 2020, <https://crsreports.congress.gov/product/pdf/IF/IF11025>

^{ix} Author's personal knowledge at the time.

^x DHS Strategic Action Plan to Counter the Threat Posed by the People's Republic of China

^{xi} Eileen Sullivan, "Growing Numbers of Chinese Migrants Are Crossing the Southern Border," New York Times, November 24, 2023, <https://www.nytimes.com/2023/11/24/us/politics/china-migrants-us-border.html>.

^{xii} Nadwa Mossaad, Sean Leong, Ryan Baugh, and Marc Rosenblum, "Fiscal Year 2021 Enforcement Lifecycle Report," U.S. Department of Homeland Security, Office of Immigration Statistics, November 2022, p. 13, https://www.dhs.gov/sites/default/files/2022-12/2022_1114_plyc_enforcement_lifecycle_report_fy2021.pdf (accessed October 16, 2023).

^{xiii} Title 8 U.S. Code, Aliens and Nationality, <https://uscode.house.gov/browse/&edition=prelim> (accessed October 16, 2023).

^{xiv} *Texas et al v. Biden*, Case 6:23-cv-00007, United States District Court, Southern District of Texas, Victoria Division, Filed January 24, 2023.

-
- ^{xv} U.S. Department of Homeland Security, U.S. Customs and Border Protection, “Nationwide Encounters,” <https://www.cbp.gov/newsroom/stats/nationwide-encounters>, (accessed May 10, 2024).
- ^{xvi} Adam Shaw, “Border Patrol sector stops hundreds of Chinese illegal immigrants in just two days as numbers soar,” Fox News, May 3, 2024, <https://www.foxnews.com/politics/border-patrol-sector-stops-hundreds-chinese-illegal-immigrants-just-two-days-numbers-soar>, (accessed May 10, 2024).
- ^{xvii} CBP, Nationwide Encounters
- ^{xviii} U.S. House of Representatives, Committee on Homeland Security, News Release, October 23, 2023, <https://homeland.house.gov/2023/10/23/new-documents-obtained-by-homeland-majority-detail-shocking-abuse-of-cbp-one-app/>
- ^{xix} Simon Hankinson, “My Look Inside Biden’s Illegal Immigrant Catch-and-Release Crazy,” The Daily Signal, April 08, 2024, <https://www.dailysignal.com/2024/04/08/my-look-inside-bidens-illegal-immigrant-catch-release-craziness-borderline/> (accessed May 10, 2024).
- ^{xx} Virginia Allen, “6 Reasons Chinese Nationals Are Illegally Crossing California’s Southern Border,” The Daily Signal, April 28, 2024, <https://www.dailysignal.com/2024/04/28/6-reasons-chinese-nationals-illegally-crossing-californias-southern-border/>, (accessed May 10, 2024).
- ^{xxi} Allen, Ibid.
- ^{xxii} Joshua Peng, “Through the Darién Gap: A New Path for Chinese Asylum Seekers to the United States,” The Wilson Center, March 20, 2024, <https://www.wilsoncenter.org/article/through-darien-gap-new-path-chinese-asylum-seekers-united-states#:~:text=Over%2015%2C500%20Chinese%20migrants%20were,40%20times%20that%20of%202021>
- ^{xxiii} Chris Buckley and Steven Lee Myers, “China’s Legislature Blesses Xi’s Indefinite Rule. It Was 2,958 to 2,” New York Times, March 11, 2024, <https://www.nytimes.com/2018/03/11/world/asia/china-xi-constitution-term-limits.html> (accessed May 10, 2024).
- ^{xxiv} Peng, Ibid.
- ^{xxv} Interview by Alexandra Hernandez with unnamed Chinese man in Jacumba, CA, February 21, 2024, posted by Bill Melugin, on X (Twitter), <https://x.com/BillMelugin/status/1760372298547343498>
- ^{xxvi} Lora Ries, “Congress must put an end to Biden’s ‘come one, come all’ immigration fiasco,” Miami Herald, September 7, 2022, <https://www.miamiherald.com/opinion/op-ed/article265096264.html> (accessed May 10, 2024)
- ^{xxvii} “Los Angeles Declaration on Migration and Protection,” The White House, June 10, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/> (accessed October 16, 2023).
- ^{xxviii} Department of Homeland Security, “Fact Sheet: U.S. Government Announces Sweeping New Actions to Manage Regional Migration,” April 27, 2024, <https://www.dhs.gov/news/2023/04/27/fact-sheet-us-government-announces-sweeping-new-actions-manage-regional-migration>.
- ^{xxix} U.S. Department of Homeland Security, U.S. Customs and Border Protection, “Nationwide Encounters,” <https://www.cbp.gov/newsroom/stats/nationwide-encounters>, (accessed May 10, 2024).
- ^{xxx} “Fact Sheet: Biden–Harris Administration Announces New Border Enforcement Actions,” The White House, January 5, 2023, <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/> (accessed October 16, 2023).
- ^{xxxi} Simon Hankinson, “‘Alternatives to Detention’ for Illegal Aliens: Effective with Mandatory Tracking for Entire Process,” Heritage Foundation *Backgrounder* No. 3767, May 12, 2023, https://www.heritage.org/sites/default/files/2023-05/BG3767_0.pdf.
- ^{xxxii} U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, “Processes for Cubans, Haitians, Nicaraguans, and Venezuelans,” last reviewed/updated September 20, 2023, <https://www.uscis.gov/CHNV> (accessed October 16, 2023).
- ^{xxxiii} U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services, “Family Reunification Parole Processes,” last reviewed/updated October 3, 2023, <https://www.uscis.gov/FRP> (accessed October 16, 2023).
- ^{xxxiv} Press release, “Border Encounters Remain Low as Biden-Harris Administration’s Comprehensive Plan to Manage the Border After Title 42 in Effect,” U.S. Department of Homeland Security, June 6, 2023, <https://www.dhs.gov/news/2023/06/06/border-encounters-remain-low-biden-harris-administrations-comprehensive-plan-manage#:~:text=Until%20and%20unless%20Congress%20comes,in%20migration%20at%20our%20border> (accessed October 16, 2023).
- ^{xxxv} John Polga-Hecimovich, “China’s evolving economic footprint in Latin America,” Geopolitical Intelligence Services AG, November 22, 2022, <https://www.gisreportsonline.com/r/chinas-economic-power-grows-in-latin-america/>
-

^{xxxvi} Todd Bensman, *Overrun: How Joe Biden Unleashed the Greatest Border Crisis in U.S. History* (Nashville: Bombardier Books, 2023).

^{xxxvii} “Air China will start direct Beijing-Havana flights on May 17,” *Prensa Latina*, April 12, 2024, <https://www.plenglish.com/news/2024/04/12/air-china-will-start-direct-beijing-havana-flights-on-may-17/>.

^{xxxviii} Peng, *Ibid*.

^{xxxix} Neil Oliver, “Darién Gap difficulty, Mass migration through one of 'the most IMPENETRABLE jungles in the world,” *GB News*, February 2024, <https://www.youtube.com/watch?v=Pp6ZfoHqkCo>

^{xl} Adrianna Zhang, “For Some Chinese Migrants, Few Options in Xi's China,” *VOA*, February 29, 2024, <https://www.voanews.com/a/for-some-chinese-migrants-few-options-in-xi-s-china-/7508948.html>

^{xli} Eric Szeto, “In search for freedom, Chinese migrants increasingly risk it all by braving the Darien Gap,” *CTV News*, <https://www.ctvnews.ca/w5/in-search-for-freedom-chinese-migrants-increasingly-risk-it-all-by-braving-the-darien-gap-1.6809429#:~:text=The%20boat%20ride%20would%20allow,of%20robberies%20and%20sexual%20assaults.>

^{xlii} Peng, *Ibid*

^{xliii} Author’s conversation with Michael Cunningham, Research Fellow, The Heritage Foundation

^{xliv} Lynette Ong, “Douyin Censors Migrant Searches,” *Asia Society Policy Institute, China 5 Newsletter*, May 10, 2024

^{xlv} Morning Edition, “Finding An Anchor For A Life Set Adrift By A Shipwreck,” *National Public Radio*, June 7, 2024, <https://www.npr.org/2013/06/07/189222117/finding-an-anchor-for-a-life-set-adrift-by-a-shipwreck>

^{xlvi} Allen, *Ibid*.

^{xlvii} Brian Burack, “China’s Land Grab: The Sale of U.S. Real Estate to Foreign Adversaries Threatens National Security,” *The Heritage Foundation*, May 9, 2024, <https://www.heritage.org/asia/report/chinas-land-grab-the-sale-us-real-estate-foreign-adversaries-threatens-national>.

^{xlviii} Burack, *Ibid*.

^{xlix} Burack, *Ibid*.

^l Mike Heuer, “Chinese ownership of U.S. farmland, locations raise concerns,” *UPI*, February 8, 2024, https://www.upi.com/Top_News/US/2024/02/08/foreign-investment-farmland-china/6631706895056/#:~:text=For%20example%2C%20a%20Chinese%20company,Guard%20training%20facility%20in%20Grayling (accessed May 10, 2024).

^{li} Donovan Lynch, “As police crack down on illegal marijuana grows, Chinese workers present grim reality behind closed doors,” *NewsCenter Maine*, March 19, 2024, <https://www.newscentermaine.com/article/news/crime/illegal-marijuana-grows-chinese-workers-maine-court-documents-investigation/97-ae363572-3d17-479a-bc90-5ea509eaccfc> (accessed May 10, 2024).

^{lii} Jimmy Quinn, “New Player in Chinese Communist Influence Body Has Extensive NYC Political Ties,” *National Review*, May 10, 2024, <https://www.nationalreview.com/2024/05/new-player-in-chinese-communist-influence-body-has-extensive-nyc-political-ties/>

^{liii} U.S. Department of Justice, Remarks by Assistant Attorney General Matthew Olsen on Countering Nation-State Threats, Wednesday, February 23, 2022, <https://www.justice.gov/opa/speech/assistant-attorney-general-matthew-olsen-delivers-remarks-countering-nation-state-threats>

^{liv} Jane Lee, “U.S. dials back probe of Chinese scientists on visa fraud charges,” *Reuters*, July 23, 2021, <https://www.reuters.com/world/us/us-seeks-dismiss-charges-visa-fraud-cases-chinese-researchers-2021-07-23/>

^{lv} U.S. Department of Justice, Office of Public Affairs, Press Release, “Researchers Charged with Visa Fraud After Lying About Their Work for China’s People’s Liberation Army,” Thursday, July 23, 2020, <https://www.justice.gov/opa/pr/researchers-charged-visa-fraud-after-lying-about-their-work-china-s-people-s-liberation-army>

^{lvi} U.S. Department of Justice, Office of Public Affairs, Press Release, “Chinese Government Employee Convicted of Participating in Conspiracy to Defraud the United States and Fraudulently Obtain U.S. Visas,” Wednesday, March 23, 2022, <https://www.justice.gov/opa/pr/chinese-government-employee-convicted-participating-conspiracy-defraud-united-states-and>

^{lvii} Betselot Dejene, “Chinese Espionage Threat at the US-Mexico Border,” *Grey Dynamics*, May 11, 2024, <https://greydynamics.com/chinese-espionage-threat-at-the-us-mexico-border/>

^{lviii} Philip Lenczycki, “Biden Admin Watered Down Vetting Process For Chinese Illegal Immigrants, Email Shows,” *The Daily Caller*, January 2, 2024, https://dailycaller.com/2024/01/02/biden-admin-cbp-chinese-illegal-migrants/?utm_medium=push&utm_source=daily_caller&utm_campaign=push

^{lix} U.S. Department of State, Bureau of Consular Affairs, “Online Nonimmigrant Visa Application DS-160,” p.68, https://travel.state.gov/content/dam/visas/PDF-other/DS-160-Example_11-19-2020.pdf

^{lx} Philip Lenczycki, *Daily Caller*.

^{lxi} U.S. Department of State, 2022 Country Reports on Human Rights Practices, “China (Includes Hong Kong, Macau, and Tibet),” Section 4, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/china/>

^{lxiii} U.S. Department of State, 2023 Country Reports on Human Rights Practices, “China (Includes Hong Kong, Macau, and Tibet),” Section 4, <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/china/>

^{lxiii} Safeguard Defenders, “Prosecutions abandoned, conviction rate record high, and more on China’s judiciary 2022,” <https://safeguarddefenders.com/en/blog/prosecutions-abandoned-conviction-rate-record-high-and-more-china-s-judiciary-2022>, (accessed May 13, 2024).

^{lxiv} Heritage Foundation, Twitter, <https://x.com/Heritage/status/1786828427573477815>, May 4, 2024

^{lxv} Immigration judges are administrative judges working for the Department of Justice’s Executive Office for Immigration Review, see <https://www.justice.gov/eoir>.

^{lxvi} Simon Hankinson, “My Look Inside Biden’s Illegal Immigrant Catch-and-Release Craziness,” The Daily Signal, April 08, 2024, <https://www.dailysignal.com/2024/04/08/my-look-inside-bidens-illegal-immigrant-catch-release-craziness-borderline/> (accessed May 10, 2024).

^{lxvii} Simon Hankinson, “Alternatives to Detention’ for Illegal Aliens: Effective with Mandatory Tracking for Entire Process,” Heritage Foundation Backgrounder No. 3767, May 12, 2023, https://www.heritage.org/sites/default/files/2023-05/BG3767_0.pdf

^{lxviii} TRAC Immigration, “Immigration Detention Quick Facts, <https://trac.syr.edu/immigration/quickfacts/>, (accessed May 10, 2024).

^{lxix} Hankinson, “Alternatives to Detention”