



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** House Committee on Natural Resources Republican Members  
**From:** Subcommittee on Oversight and Investigations staff,  
Michelle Lane ([Michelle.Lane@mail.house.gov](mailto:Michelle.Lane@mail.house.gov))  
**Date:** September 27, 2023  
**Subject:** Oversight Hearing on *“Destroying America’s Best Idea: Examining the Biden Administration’s Use of National Park Service Lands for Migrant Camps”*

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The House Committee on Natural Resources will hold an oversight hearing titled *“Destroying America’s Best Idea: Examining the Biden Administration’s Use of National Park Service Lands for Migrant Camps”* on **Wednesday, September 27, 2023, at 10:15 a.m. EDT in 1324 Longworth House Office Building.**

Member offices are requested to notify Cross Thompson ([Cross.Thompson@mail.house.gov](mailto:Cross.Thompson@mail.house.gov)) by 4:30 p.m. on Monday, September 25, 2023, if their Member intends to participate in the hearing.

**I. KEY MESSAGES**

- President Biden’s immigration policies have led to an unprecedented crisis at the border.
- Biden’s border crisis has spread like the plague to communities across the nation due to his administration’s failure to secure the border, while at the same time unilaterally pursuing immigration policies that undermine America’s national sovereignty and security.
- President Biden is placing America’s best idea—our national parks— at risk due to an out-of-control border policy that he refuses to address. He is doing this while also undermining the National Park Service’s Organic Act and the National Environmental Protection Act (NEPA), commonly referred to as America’s “bedrock” environmental law by Democrats.
- All Americans should agree that national parks—some of our most treasured spaces for recreation, history, and family time outdoors—are not the appropriate landscapes for building migrant camps.
- House Republicans are advocating for policies that would restrict the flow of migrants crossing our southern border, reduce the abuse of the asylum process, and ensure that

America’s national parks remain intact for the use and enjoyment of current and future generations.

## II. WITNESSES

### PANEL I [*invited, will not appear*]

- **The Hon. Charles “Chuck” F. Sams, III**, Director, National Park Service, U.S. Department of the Interior, Washington, DC
- **Mr. Robert Anderson**, Solicitor, U.S. Department of the Interior, Washington, DC
- **Ms. Joan Mooney**, Principal Deputy Assistant Secretary—Policy, Management and Budget, U.S. Department of the Interior, Washington, DC

### PANEL II

- **The Hon. Joann Ariola**, New York City Council Member (R-District 32), Ozone Park, NY
- **The Hon. Jaime Williams**, Assemblymember (D-59<sup>th</sup> District), New York State Assembly, Brooklyn, NY
- **Mr. Kenneth Spencer**, Chairman, United States Park Police Fraternal Order of Police, Washington, DC
- **Ms. Eleanor Acer**, Senior Director, Refugee Protection, Human Rights First, New York, NY (minority witness)

## III. BACKGROUND

Abuse of the asylum process, failed border policies enacted by the Biden administration, and local “right to shelter” laws, have made New York City (NYC) and other “sanctuary cities” across America havens for foreign migrants. Although not actually a legal term, sanctuary cities are typically communities that enact policies that “discourage local law enforcement from reporting the immigration status of individuals unless it involves the investigation of a serious crime.”<sup>1</sup> The Biden administration’s failed policies recently led New York City Mayor Eric Adams, a Democrat, to declare that the migrant crisis “will destroy New York City.”<sup>2</sup> In an attempt to assuage the crisis, and despite local opposition, the State of New York and NYC colluded with the Department of the Interior (DOI) to sign a lease repurposing lands within the boundary of Brooklyn’s Gateway National Recreation Area, a unit of the National Park System, for camps housing thousands of undocumented migrants.<sup>3</sup>

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<sup>1</sup> *What are Sanctuary Cities and Why Do They Exist?*, LUTHERAN IMMIGRATION SERVICES (July 12, 2021), <https://www.lirs.org/what-are-sanctuary-cities-why-do-they-exist/>.

<sup>2</sup> Emma G. Fitzsimmons, *In Escalation, Adams Says Migrant Crisis ‘Will Destroy New York City’*, N.Y. TIMES (Sep. 7, 2023), <https://www.nytimes.com/2023/09/07/nyregion/adams-migrants-destroy-nyc.html>.

<sup>3</sup> National Park Service, *Lease Between U.S. Dep’t of the Interior, National Park Service and the City of New York for the Premises known as Portions of Floyd Bennett Field, in the Jamaica Bay Unit of Gateway National Recreation Area*, DEP’T OF THE INTERIOR (Sep. 15, 2023), <https://www.nps.gov/aboutus/foia/upload/FINAL-Lease-Floyd-Bennet-Field-09-15-2023-2.pdf>.

## A. Overview of U.S. Immigration Law and the Asylum Process

*“Illegal aliens have exploited asylum loopholes at an alarming rate...many know it will give them an opportunity to stay in our country, even if they do not actually have a valid claim to asylum... Most of these claims are not meritorious—in fact nine out of ten asylum claims are not granted by a federal immigration judge. However, by the time a judge has ordered them removed from the United States, many have vanished.”*<sup>4</sup> – Secretary Kirstjen M. Nielsen, U.S. Department of Homeland Security (2017-2019)

U.S. immigration policy is governed largely by the Immigration and Nationality Act (INA), which was first codified in 1952.<sup>5</sup> INA, as originally enacted, did not contain any language on asylum.<sup>6</sup> However, subsequent amendments and revisions added asylum provisions to INA.<sup>7</sup> Under current law and regulations (outside a few limited exceptions), aliens who arrive in the United States, or are already in the United States may apply for asylum. Moreover, aliens may apply for asylum status regardless of their immigration status and even if they are only over the border by a few feet.<sup>8</sup> Migrant asylum-seekers who reach U.S. soil by crossing a border have a process centered on the immigration courts. Even if they are subject to fast-track deportation, migrant asylum-seekers can initiate an asylum claim to fight the removal. The average migrant asylum-seeker waits four years for a hearing and even longer for a final decision.<sup>9</sup>

In recent years, illegal aliens have exploited loopholes in America’s asylum process at an alarming rate to enter America and stay in this country. In short, migrants will claim asylum, even if they are attempting to immigrate for economic or other reasons, enter America, and then stay here while their case works through the years-long immigration court process.<sup>10</sup> Even if their asylum application is denied, migrants often evade deportation and stay in the country illegally.

President Biden’s immigration and border policies have only increased the number of migrants that are crossing the border, claiming asylum, exploiting America’s immigration system, and flouting the rule of law.

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<sup>4</sup> Secretary Kirstjen M. Nielsen Announces Historic Action to Confront Illegal Immigration, DEP’T OF HOMELAND SECURITY (Dec. 20, 2018), <https://www.dhs.gov/news/2018/12/20/secretary-nielsen-announces-historic-action-confront-illegal-immigration>.

<sup>5</sup> Immigration and Nationality Act, Pub. L. No. 82-414, ch. 477, (codified, as amended in 8 U.S.C. §§1101 et seq.)

<sup>6</sup> Andorra Bruno, CONG. RESEARCH SERV., R45539, *Immigration: U.S. Asylum Policy* (Feb. 19, 2019), <https://www.crs.gov/Reports/R45539>.

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

<sup>8</sup> Bruno, *supra* note 6.

<sup>9</sup> Muzaffar Chisti et al., *At the Breaking Point: Rethinking the U.S. Immigration Court System*, MIGRATION POLICY INSTITUTE (July 2023), [https://www.migrationpolicy.org/sites/default/files/publications/mpi-courts-report-2023\\_final.pdf](https://www.migrationpolicy.org/sites/default/files/publications/mpi-courts-report-2023_final.pdf).

<sup>10</sup> Secretary Kirstjen M. Nielsen, *supra* note 4.

## B. The Biden Administration's Failed Immigration and Border Policies

President Biden is beholden to far-left advocacy groups that urge Democrats to fight for open borders,<sup>11</sup> decriminalize illegal entry,<sup>12</sup> abolish Immigration and Customs Enforcement (ICE),<sup>13</sup> and abuse executive authority to elevate the rights of illegal immigrants over the rights of American citizens.<sup>14</sup> Indeed, influential liberal groups work with Democrats to promote a “free to move, free to stay” policy platform that will allow open border crossings and non-existent immigration enforcement.<sup>15</sup>

Almost immediately upon taking office, President Biden heeded the far-left's call to action by weakening America's immigration laws and reducing border security. According to the Migration Policy Institute, in his first 100 days in office, President Biden executed more than 94 executive actions on immigration.<sup>16</sup> President Biden's abuse of executive authority to open the border and weaken enforcement of immigration laws include, but are not limited to:

- (1) Stopping the construction of the border wall and selling off the construction materials.<sup>17</sup>
- (2) Attempting to halt deportations for 100 days.<sup>18</sup>
- (3) Suspending new enrollments in Migrant Protection Protocols (MPP, aka the “Remain in Mexico” policy).<sup>19</sup>
- (4) Terminating Asylum Cooperative Agreements (ACAs) with Guatemala, Honduras, and El Salvador.<sup>20</sup>

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<sup>11</sup> Khury Petersen-Smith, *Progressives Should Support Open Borders — With No Apology*, INSTITUTE FOR POLICY STUDIES (Feb. 21, 2019), <https://ips-dc.org/progressives-should-support-open-borders-with-no-apology/>.

<sup>12</sup> Laura Barrón-López, *Progressive groups push 2020 Dems to decriminalize border crossings, defund ICE*, POLITICO (June 25, 2019), <https://www.politico.com/story/2019/06/25/democrats-border-crossings-defund-ice-1382729>.

<sup>13</sup> *What you need to know about the call to abolish ICE*, AMERICAN FRIENDS SERVICE COMMITTEE (Feb. 3, 2021), <https://afsc.org/news/what-you-need-know-about-call-abolish-ice>.

<sup>14</sup> *Why the Democratic Party Must Have a Positive Immigration Message that Works with Voters*, UNITED WE DREAM ACTION (Sep. 13, 2022), <https://unitedwedreamaction.org/2022/09/memo-why-the-democratic-party-must-have-a-positive-immigration-message-that-works-with-voters/>.

<sup>15</sup> Barrón-López, *supra* note 12.

<sup>16</sup> Muzaffar Chishti and Jessica Bolter, *Border Challenges Dominate, But Biden's First 100 Days Mark Notable Under-the-Radar Immigration Accomplishments*, MIGRATION POLICY INSTITUTE (Apr. 26, 2021), <https://www.migrationpolicy.org/article/biden-100-days-immigration-reform-border>.

<sup>17</sup> President Joseph R. Biden Jr., *Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction*, THE WHITE HOUSE (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

<sup>18</sup> Phil Helsel, *DHS to pause some deportations during Biden's first 100 days to review policies*, NBCNEWS (Jan. 20, 2021), <https://www.nbcnews.com/politics/immigration/dhs-pause-some-deportations-during-biden-s-first-100-days-n1255110>.

<sup>19</sup> *President Biden's Executive Actions on Immigration*, CENTER FOR MIGRATION STUDIES (Feb. 2, 2021); <https://cmsny.com/biden-immigration-executive-actions/>; Associated Press, *Biden administration ends Trump-era 'Remain in Mexico' policy*, PBS (Aug. 9, 2022), <https://www.pbs.org/newshour/politics/biden-administration-ends-trump-era-remain-in-mexico-policy>.

<sup>20</sup> Anthony J. Blinken, *Suspending and Terminating the Asylum Cooperative Agreements with the Governments El Salvador, Guatemala, and Honduras*, DEP'T OF STATE (Feb. 6, 2021), <https://www.state.gov/suspending-and-terminating-the-asylum-cooperative-agreements-with-the-governments-el-salvador-guatemala-and-honduras/>.

(5) Ending Prompt Asylum Case Review (PACR) for non-Mexicans, and Humanitarian Asylum Review Program (HARP), for Mexicans.<sup>21</sup>

President Biden has continued to institute open border policies throughout his tenure. Furthermore, President Biden’s open border policies occurred despite the fact that, according to the Migrant Policy Institute, the “U.S. immigration courts—and the nation’s immigration enforcement system they support—face an unprecedented crisis”<sup>22</sup> with a backlog of almost 2 million cases.<sup>23</sup> Biden’s disastrous border policies have made it worse and, by the end of 2022, almost 800,000 new asylum cases were awaiting adjudication in the immigration courts.<sup>24</sup> Yet, in 2022, immigration courts nationwide granted asylum in only 23,311 cases, while more than 26,000 were denied.<sup>25</sup> Thus, while immigration courts processed less than 50,000 cases in 2022, they received approximately 708,000 new cases—160,000 more than any previous year.<sup>26</sup>

The dramatic rise in border encounters and asylum seekers did not result in President Biden changing course. In fact, President Biden doubled down on open border policies and made abuse of the asylum process easier.

Most notably, in May 2023, Biden ended Title 42, a Trump era restriction that allowed U.S. officials to turn away migrants at the border.<sup>27</sup> Under President Biden, migrants claiming asylum are now allowed to enter the United States, apply for asylum, and remain in the United States while the asylum request moves through the multi-year immigrant court process. President Biden’s revocation of Title 42 led Governor Kathy Hochul of New York State to issue her own executive order to prepare for a deluge of migrants—i.e., self-proclaimed asylum seekers—flooding NYC and the State.<sup>28</sup>

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<sup>21</sup> EXEC. ORDER NO. 13817, 86 F.R. 8267 (Feb. 2, 2021) <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing/> (directing the Secretary of Homeland Security to cease implementing the “Prompt Asylum Case Review” program.)

<sup>22</sup> Muzaffar Chisti et al., *At the Breaking Point: Rethinking the U.S. Immigration Court System*, MIGRATION POLICY INSTITUTE (July 2023), [https://www.migrationpolicy.org/sites/default/files/publications/mpi-courts-report-2023\\_final.pdf](https://www.migrationpolicy.org/sites/default/files/publications/mpi-courts-report-2023_final.pdf).

<sup>23</sup> *Id.*

<sup>24</sup> Julia Preston, *The Real Origins of the Border Crisis*, FOREIGN AFFAIRS (July 20, 2023), <https://www.foreignaffairs.com/united-states/origins-immigration-border-crisis-asylum-biden>.

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

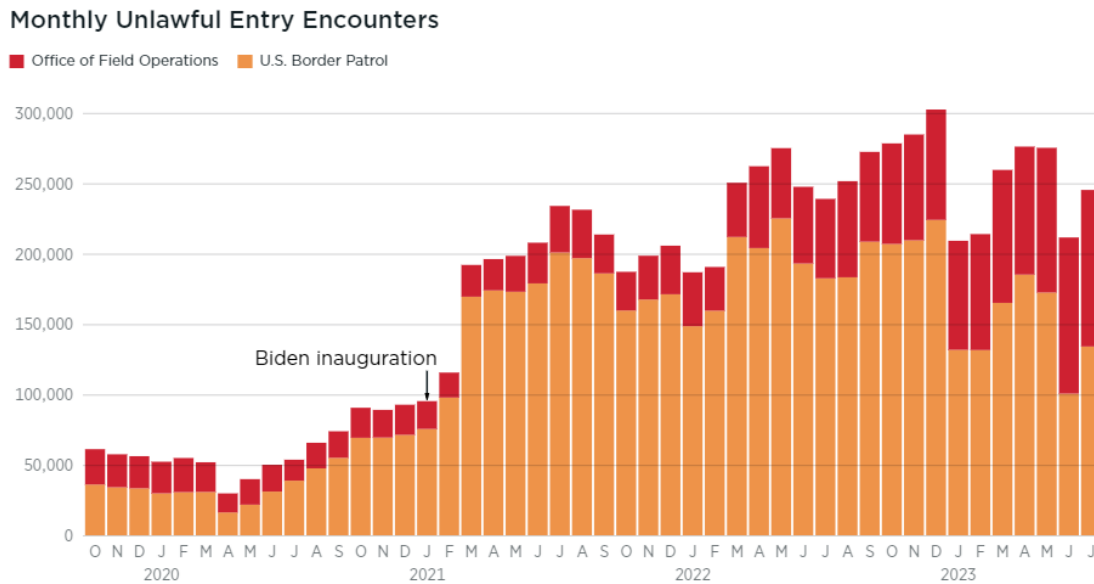
<sup>26</sup> *Id.*

<sup>27</sup> Colleen Long, *Title 42 has ended. Here’s what it did, and how US immigration policy is changing*, AP NEWS (May 12, 2023), <https://apnews.com/article/immigration-biden-border-title-42-mexico-asylum-be4e0b15b27adb9bede87b9bbefb798d>.

<sup>28</sup> Governor’s Press Office, *As Title 42 Expires, Governor Hochul Issues Executive Order Providing State And Municipalities With Greater Flexibility to Support Expected Arrivals of Asylum Seekers in New York*, NEW YORK STATE (May 9, 2023), <https://www.governor.ny.gov/news/title-42-expires-governor-hochul-issues-executive-order-providing-state-and-municipalities> (“Governor Kathy Hochul today issued an Executive Order to help provide aid to asylum seekers expected to arrive in New York as federal Title 42 immigration policy is set to expire”)

### C. Border Crossings and Unlawful Encounters have Skyrocketed During Biden’s Administration

Since President Biden took office, there have been more than 6 million illegal crossings of the Southern border of the United States.<sup>29</sup> In July 2023 alone, there were 183,503 illegal immigrants encountered at the Southern border, a 27 percent increase from June.<sup>30</sup> For context, in 2020, the final year of the Trump administration, approximately 458,088 land border encounters were registered by U.S. Customs and Border Protection, as compared to 2,378,944 in 2022, and 1,973,092 through July of 2023 under the Biden administration.<sup>31</sup> Shortly after President Biden’s inauguration, the U.S. experienced a surge in illegal border crossings and unlawful entry encounters, with the situation only deteriorating over the course of his presidency.



Source: U.S. Customs And Border Protection.<sup>32</sup>

<sup>29</sup> *Southwest Land Border Encounters*, U.S. CUSTOMS AND BORDER PROTECTION, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters> (last visited Sep. 15, 2023).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Nationwide Encounters*, U.S. CUSTOMS AND BORDER PROTECTION, <https://www.cbp.gov/newsroom/stats/nationwide-encounters>; John W. Fleming et al., *Illegal Alien Encounters Surge and Shift Under Biden*, THE HERITAGE FOUNDATION (Aug. 24, 2023) [https://datavisualizations.heritage.org/immigration/illegal-alien-encounters-surge-and-shift-under-biden/?\\_ga=2.164200826.430168804.1695140709-738822808.1693920571&\\_gl=1\\*jymxr\\*\\_ga\\*NzM4ODIyODA4LjE2OTM5MjA1NzE.\\*\\_ga\\_W14BT6YQ87\\*MTY5NTE0MDcwOC4xMi4wLjE2OTUxNDA3MDguNjAuMC4w](https://datavisualizations.heritage.org/immigration/illegal-alien-encounters-surge-and-shift-under-biden/?_ga=2.164200826.430168804.1695140709-738822808.1693920571&_gl=1*jymxr*_ga*NzM4ODIyODA4LjE2OTM5MjA1NzE.*_ga_W14BT6YQ87*MTY5NTE0MDcwOC4xMi4wLjE2OTUxNDA3MDguNjAuMC4w) (showing how Illegal alien encounters recorded by the U.S. Border Patrol, which occur *between* ports of entry, and inadmissible alien encounters recorded by the Office of Field Operations, which occur *at* ports of entry, have surged since President Biden).

Biden's open border policies have significant public safety and national security implications. Cartels see a business opportunity in America's broken border policies and are now making \$13 billion a year smuggling illegal immigrants into the United States.<sup>33</sup> In August 2023, a person with ties to ISIS was discovered smuggling migrants into the United States from Mexico.<sup>34</sup> In just the first ten months of fiscal year 2023 (FY23), 146 people whose names appear on the terrorist watchlist were stopped trying to cross the Southern border, an all-time record.<sup>35</sup>

#### **D. The Biden Administration's Failed Immigration Policies will "Destroy" New York City**

*"This issue will destroy New York City. ... All of us are going to be impacted by this. I said it last year when we had 15,000, and I'm telling you now at 110,000. The city we knew, we're about to lose."*<sup>36</sup> – Eric Adams (D), Mayor of NYC

The rise in illegal border crossings and asylum seekers have caused several governors of border states overwhelmed by illegal aliens to bus or fly migrants to self-identified "sanctuary cities" across the United States, including NYC.<sup>37</sup> Leftwing nonprofits and non-governmental organizations have exacerbated the crisis by actively helping process and transport tens of thousands of illegal aliens across America.<sup>38</sup>

According to NBC News, over 104,000 migrants have arrived in NYC since the spring of 2022.<sup>39</sup> The situation in NYC has reached a boiling point in the past month as Eric Adams, the

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<sup>33</sup> Miriam Jordan, *Smuggling Migrants at the Border Now a Billion-Dollar Business*, N.Y. TIMES (July 25, 2022), [https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html?utm\\_source=118th+Members%2C+Chiefs%2C+And+Comms+Directors&utm\\_campaign=e54ac6b351-EMAIL\\_CAMPAIGN\\_2019\\_02\\_04\\_09\\_01\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_3985f74780-e54ac6b351-147614274](https://www.nytimes.com/2022/07/25/us/migrant-smuggling-evolution.html?utm_source=118th+Members%2C+Chiefs%2C+And+Comms+Directors&utm_campaign=e54ac6b351-EMAIL_CAMPAIGN_2019_02_04_09_01_COPY_01&utm_medium=email&utm_term=0_3985f74780-e54ac6b351-147614274).

<sup>34</sup> Katie Bo Lillis et al., *Smuggler with ties to ISIS helped migrants enter US from Mexico, raising alarm bells across government*, CNN (Aug. 30, 2023), <https://www.cnn.com/2023/08/29/politics/migrants-us-southern-border-smuggler-isis-ties/index.html>.

<sup>35</sup> *CBP Enforcement Statistics Fiscal Year 2023*, U.S. CUSTOMS AND BORDER PROTECTION, [https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics?utm\\_source=118th+Members%2C+Chiefs%2C+And+Comms+Directors&utm\\_campaign=e54ac6b351-EMAIL\\_CAMPAIGN\\_2019\\_02\\_04\\_09\\_01\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_3985f74780-e54ac6b351-147614274](https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics?utm_source=118th+Members%2C+Chiefs%2C+And+Comms+Directors&utm_campaign=e54ac6b351-EMAIL_CAMPAIGN_2019_02_04_09_01_COPY_01&utm_medium=email&utm_term=0_3985f74780-e54ac6b351-147614274) (last visited Sep. 15, 2023).

<sup>36</sup> Jeff Coltin, *Adams: Cost of migrants 'will destroy New York City'*, POLITICO (Sep. 7, 2023), <https://www.politico.com/news/2023/09/07/eric-adams-migrants-new-york-city-00114437>; Joe Anuta, *Adams no longer Biden surrogate after blasting White House on migrants*, POLITICO (May 10, 2023), <https://www.politico.com/news/2023/05/10/eric-adams-biden-white-house-migrants-00096277>.

<sup>37</sup> Rick Jervis, *Texas, Arizona bus migrants to U.S. cities, and now Chicago. Here's what could happen next*, USA TODAY (Sep. 2, 2022), <https://www.usatoday.com/story/news/nation/2022/09/02/texas-arizona-busing-migrants-to-other-us-cities/7949381001/>.

<sup>38</sup> *Tracking Movement of Illegal Aliens From NGOs to the U.S. Interior*, THE HERITAGE FOUNDATION (Dec. 5, 2022), <https://www.heritage.org/the-oversight-project/securing-americas-borders/tracking-movement-illegal-aliens-ngos-the-us>.

<sup>39</sup> Austin Cope, *Over 100,000 migrants have arrived in NYC. Here's what life is like for two of them*, NBC NEWS (Sep. 1, 2023), <https://www.nbcnews.com/news/latino/two-migrants-describe-arrival-life-nyc-city-shelters-thousands-rcna102845>.

self-proclaimed “progressive mayor” of NYC, declared that the Biden-induced migration policies will “destroy the City.”<sup>40</sup>

### *New York City and “Right to Shelter”*

For four decades, NYC has enforced a “right to shelter” law, which requires all persons, regardless of their legal status, to be provided city-sponsored food and shelter.<sup>41</sup> Although the cost and complexity of the right to shelter law has been challenged and debated for years, the recent influx of migrants has escalated tension on the issue to a national scale.<sup>42</sup> In response, the State of New York and NYC have asked the Biden administration to (a) declare a federal disaster related to the migration issue and (b) provide additional federal funds to support the cost of housing migrants in NYC. In addition to requesting, but not receiving, a federal disaster declaration in May, New York Governor Kathy Hochul declared a state of emergency for the State of New York in response to the end of Title 42 and the increased number of migrant arrivals.<sup>43</sup> On September 24th, she extended the emergency order through October 23, 2023.<sup>44</sup>

Recent estimates project NYC’s cost to house illegal migrants may soar to an astounding \$12 billion over the next 3 years.<sup>45</sup>

### *Local Impacts on the Ground in the NYC Area*

As of June 2023, NYC designated a total of 206 migrant shelters, with additional facilities expected to open on a continuing basis.<sup>46</sup> The migrant shelter facilities are typically located in private hotels, schools, churches, or similar buildings that have been leased by NYC, with additional funding provided by the State of New York. In May of 2023, NYC also reached an agreement to reopen the historic Roosevelt Hotel in Manhattan, which was closed since 2020 as a result of reduced tourism due to COVID-19 restrictions,<sup>47</sup> as the primary processing facility for all incoming migrants arriving into the City.<sup>48</sup> Since opening in May, reports detail how

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<sup>40</sup> Geoff Bennett et al., *New York Mayor Eric Adams discusses migrant crisis he says will ‘destroy’ the city*, PBS (Sep. 8, 2023), <https://www.pbs.org/newshour/show/new-york-mayor-eric-adams-discusses-migrant-crisis-he-says-will-destroy-the-city>.

<sup>41</sup> Sarah Holder and Kriston Capps, *What Ending ‘Right to Shelter’ Could Mean for New York City’s Homeless Population*, BLOOMBERG (June 2, 2023), <https://www.bloomberg.com/news/articles/2023-06-02/new-york-city-s-right-to-shelter-mandate-for-homelessness-faces-new-test>.

<sup>42</sup> *Id.*

<sup>43</sup> Dennis Yusko, *Hochul extends order declaring state of emergency for migrant situation*, SPECTRUM NEWS (Aug. 25, 2023), <https://spectrumlocalnews.com/nys/central-ny/news/2023/08/25/hochul-extends-order-declaring-state-of-emergency>.

<sup>44</sup> Executive Order Number 28.5, Signed by Governor Kathy Hochul, September 24, 2023, <https://www.governor.ny.gov/executive-order/no-285-declaring-disaster-emergency-state-new-york>

<sup>45</sup> Fitzsimmons, *supra* note 2.

<sup>46</sup> Sanya Mansoor, *Without Work Opportunities, Migrants in NYC Stuck in Overcrowded Temporary Housing*, TIME (Aug. 30, 2023), <https://time.com/6309481/nyc-migrants-temporary-housing-work-permits/>.

<sup>47</sup> Simret Aklilu, *New York’s Roosevelt Hotel to close after nearly 100 years due to the coronavirus pandemic*, CNN (Oct. 11, 2020), <https://www.cnn.com/travel/article/roosevelt-hotel-new-york-closing-trnd/index.html>.

<sup>48</sup> Henry Rosoff, *NYC opens migrant housing, processing center at Roosevelt Hotel*, PIX11 (May 19, 2023), <https://pix11.com/news/local-news/nyc-opens-migrant-housing-processing-center-at-roosevelt-hotel/>.



migrants sleep on the streets around the Roosevelt Hotel shelter as they await processing for permanent placement in shelters.<sup>49</sup>

By August of 2023, NYC estimates that over 100,000 migrants have arrived in the city over the last year, and approximately 60,000, including families and children, remain in the care of the NYC shelter system, greatly straining its resources.<sup>50</sup> In response to the issue, Governor Hochul negotiated with the Biden administration to lease federal-owned land in NYC to house migrants.<sup>51</sup>

## E. Gateway National Recreation Area Lease

As a larger part of the effort to house illegal migrants, the State of New York and NYC asked the Department of the Interior (DOI) to establish “temporary” housing for 2,000, and potentially more, migrants at Gateway National Recreation Area (NRA), a unit of the National Park System managed by the National Park Service (NPS).<sup>52</sup> Despite the White House citing “operational and legal issues,”<sup>53</sup> the State of New York and NYC pushed forward, urging the White House and DOI to negotiate a lease with the NPS for the purpose of building housing for at least 2,500 migrants at Gateway NRA.<sup>54</sup> The lease was finalized on September 15, 2023.<sup>55</sup>

### *Gateway NRA Background*

Gateway NRA was created by Congress in 1972 with the “dream of bringing a National Park experience to the New York metropolitan area.”<sup>56</sup> The park is comprised of three distinct units—Jamaica Bay, Sandy Hook, and Staten Island—and crosses multiple boroughs in New

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<sup>49</sup> Arnold Davick, *With Roosevelt Hotel at capacity, dozens of migrants sleep outside*, SPECTRUM NEWS (Aug. 1, 2023), <https://ny1.com/nyc/all-boroughs/news/2023/08/01/with-roosevelt-hotel-at-capacity--dozens-of-migrants-sleep-outside>.

<sup>50</sup> Aubrey Gelpieryn, *As many as 1,000 migrants arrive in New York City each day. One challenge is keeping them fed*, CBS NEWS (Aug. 16, 2023), <https://www.cbsnews.com/news/new-york-city-migrants-hunger/>.

<sup>51</sup> Camilo Montoya-Galvez, *Federal officials tell New York City to improve its handling of migrant crisis, raise questions about local response*, CBS News (Aug. 29, 2023), <https://www.cbsnews.com/news/federal-officials-new-york-city-handling-migrant-crisis-raise/>.

<sup>52</sup> Nolan Hicks & Jesse O’Neill, *2,500 migrants to get a home at Brooklyn’s Floyd Bennett Field, \$20M to find jobs: Hochul*, NEW YORK POST (Aug. 21, 2023), <https://nypost.com/2023/08/21/migrants-get-a-home-at-brooklyns-floyd-bennett-field-20m-to-find-jobs-hochul/>.

<sup>53</sup> Bernadette Hogan et al., *Biden officials refuse to sign off on NYC military site for migrants — despite Hochul’s personal pitch, sources say*, NEW YORK POST (Aug. 13, 2023), <https://nypost.com/2023/08/13/biden-bigs-refuse-to-sign-off-on-nyc-military-site-for-migrants-leaving-hochul-red-faced-sources/>.

<sup>54</sup> *Id.*

<sup>55</sup> Lease, *supra* note 3.

<sup>56</sup> Gateway National Recreation Area, *Marking 50 Years as a National Recreation Area*, NATIONAL PARK SERVICE <https://www.nps.gov/gate/marking-50-years-as-a-national-recreation-area.htm> (last visited Sep. 21, 2023).



**Source:** Lease Between U.S. Dep’t of the Interior, National Park Service and the City of New York for the Premises known as Portions of Floyd Bennett Field, in the Jamaica Bay Unit of Gateway National Recreation Area.

degrade the resources at the park unit, as well as reduce the availability for cultural and recreational opportunities for visitors, and likely increase NPS maintenance needs in future years.

York as well as into the State of New Jersey.<sup>57</sup> The park includes numerous opportunities for recreation, including, but not limited to, beaches, kayaking, and community gardens.<sup>58</sup>

In FY22, Gateway NRA reported over 8.7 million recreational visits on 20,445.66 acres of land.<sup>59</sup> For the same year, they had a park-based full-time equivalent (FTE) staff of 208 employees, with an FY23 enacted budget of \$28,813,000.<sup>60</sup> Notably, Gateway NRA is a beneficiary of Great American Outdoors Act (GAOA) FY23 funds. Specifically, the water, wastewater, and stormwater utility systems at Fort Wadsworth and the electrical systems at Sandy Hook will be rehabilitated with these GAOA funds.<sup>61</sup> In addition, the FY24 Legacy Restoration Fund list includes the rehabilitation of Hangers 3 and 4 at Floyd Bennett Field, at a cost of over \$25 million, as proposed projects.<sup>62</sup> Given the current staff levels across Gateway NRA, combined with the massive federal investment in existing and proposed GAOA projects, utilizing the space for migrant encampments would likely further

<sup>57</sup> Gateway National Recreation Area, *Maps*, NATIONAL PARK SERVICE <https://www.nps.gov/gate/playourvisit/maps.htm> (last visited Sep. 21, 2023).

<sup>58</sup> *Id.*

<sup>59</sup> National Park Service, *Budget Justifications and Performance Information*, U.S. DEP’T OF THE INTERIOR (Fiscal Year 2024), <https://www.doi.gov/sites/doi.gov/files/fy2024-nps-greenbook.pdf-508.pdf>.

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

### *Lease Details*

On September 15, 2023, the National Park Service finalized a twelve-month lease agreement with NYC for portions of the Floyd Bennett Field Section of the Jamaica Bay Unit of Gateway National Recreation Area. Specifically, the lease allows NYC to utilize a portion of a historic runway and additional adjacent campgrounds to construct migrant camps and necessary administrative outbuildings for a period of one year, with the ability to extend for an additional year. In return, the NPS will receive monthly rent (\$20,805,000 for the year) as well as management and oversight rent (\$7,000,000 for the year).<sup>63</sup> In addition, NPS will require NYC to complete several deferred maintenance projects on the park site following the removal of the migrant camp.<sup>64</sup>

### **F. Problems, Local Opposition, and Legal Issues for the Floyd Bennett Field Lease**

In response to local opposition to the construction of the migrant camp at Floyd Bennett Field, on September 19, 2023, a bipartisan group filed a lawsuit to stop the project from moving forward.<sup>65</sup> The site at Floyd Bennett Field is heavily used for recreational purposes, including a community garden, kayaking, fishing, a sports complex, campgrounds, and even a U.S. Naval Sea Cadets Program.<sup>66</sup> The plaintiffs and local community are concerned with the lease given the high community use of the facility, lack of green spaces in New York, and the prospect of housing thousands of undocumented male migrants next to a park used by children.

#### *Concerns and Problems with the Lease*

America's system of National Parks are often referred to as America's "best idea," and NPS manages 424 individual units of the National Park System covering more than 85 million acres of federal land across the United States, including all 50 states, the District of Columbia, and multiple territories.<sup>67</sup> NPS's mission is to "preserve unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education, and inspiration of this and future generations."<sup>68</sup> More specifically, with reference to the Jamaica Bay Unit of Gateway National Recreation Area, the Secretary is directed by Congress to:

Administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources, fish, and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose.<sup>69</sup>

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<sup>63</sup> Lease, *supra* note 3.

<sup>64</sup> *Id.*

<sup>65</sup> Ethan Stark-Miller, *Cadre of mostly GOP pols, local leaders file suit to block Floyd Bennett Field migrant shelter*, AM NEW YORK (Sep. 19, 2023), <https://www.amny.com/politics/cadre-of-mostly-gop-pols-local-leaders-file-suit-to-block-floyd-bennett-field-migrant-shelter/>.

<sup>66</sup> Gateway National Recreation Area, *Floyd Bennett Field*, NATIONAL PARK SERVICE <https://www.nps.gov/gate/learn/historyculture/floyd-bennett-field.htm> (last visited Sep. 21, 2023).

<sup>67</sup> *About Us*, NATIONAL PARK SERVICE, <https://www.nps.gov/aboutus/index.htm> (last visited Sep. 21, 2023).

<sup>68</sup> *Id.*

<sup>69</sup> 16 U.S.C. 460cc-2(a).

In addition to their enabling legislation, national park units are typically governed by general management plans (GMPs). Gateway NRA's GMP was last updated in 2014. At that time, park leadership specifically addressed the Jamaica Bay Unit, on which the Floyd Bennett Field is located. Goals for the Jamaica Bay Unit include establishing a recreation destination for water-based activities, providing opportunities for youth and families to experience nature, and restoring wetland and coastal habitats.<sup>70</sup> The Staten Island Unit, which includes Fort Wadsworth, speaks to improved trailheads, picnic areas, camping facilities, and historic sites, all of which will "create more recreation opportunities."<sup>71</sup> The GMP specifically references maintaining habitats and cultural resources, while focusing on improving recreational opportunities for the area. The GMP does not contemplate migrant housing, but it does declare that:

The park continues to provide a limited number of housing units for employees in all three units. Non-NPS housing in the New York area is some of the most expensive in the United States. Recruitment and retention of employees is hindered by the high cost of housing and other living expenses."<sup>72</sup>

While each year the NPS asks for an increase in its budget to address employee housing issues, it appears that proposals by the Biden administration to use these NRAs for housing illegal immigrants may displace employees of NPS.

In the documents included with the lease for the migrant camp at Floyd Bennett Field, NPS included a "Decision Memorandum and Environmental Review to Support Emergency Activities for Temporary Housing of Migrants" that where NPS outlined its justifications for using emergency procedures under NEPA for the lease.<sup>73</sup> Under standard procedures, NPS would have had to undertake a formal NEPA analysis, which can take several months or even years. During an official site visit, officials confirmed that this action would not fit within a categorical exclusion, meaning a lengthy environmental assessment or environmental impact statement would need to be completed. Notably, the memorandum cites not only the "need to respond to a humanitarian crisis caused by tens of thousands of migrants entering New York City (City) and exceeding the City's capacity for shelter," but also that the Council on Environmental Quality (CEQ), has "concurred that there is an emergency situation that can appropriately be addressed through DOI NEPA emergency procedures."<sup>74</sup>

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<sup>70</sup> National Park Service, *Gateway National Recreation Area: General Management Plan and Environmental Impact Statement, Record of Decision*, U.S. DEP'T OF THE INTERIOR (June 11, 2014), [https://www.nps.gov/gate/learn/management/upload/GATE\\_GMP\\_ROD\\_JUNE2014-2.pdf](https://www.nps.gov/gate/learn/management/upload/GATE_GMP_ROD_JUNE2014-2.pdf).

<sup>71</sup> *Id.*

<sup>72</sup> National Park Service, *Gateway National Recreation Area – Final General Management Plan/Environmental Impact Statement, Chapter 3: Affected Environment*, U.S. DEP'T OF THE INTERIOR (Apr. 2014), [https://www.nps.gov/gate/learn/management/upload/GATE\\_Final\\_GMP-EIS\\_Chapter\\_3\\_Affected\\_Environment\\_April\\_2014-1.pdf](https://www.nps.gov/gate/learn/management/upload/GATE_Final_GMP-EIS_Chapter_3_Affected_Environment_April_2014-1.pdf).

<sup>73</sup> National Park Service, *Decision Memorandum and Environmental Review to Support Emergency Activities for Temporary Housing of Migrants*, DEP'T OF THE INTERIOR (Sep. 11, 2023), [https://www.nps.gov/aboutus/foia/upload/For-PDAS\\_PMB-signature-GATE-Alternative-Arrangements-09-11-2023.pdf](https://www.nps.gov/aboutus/foia/upload/For-PDAS_PMB-signature-GATE-Alternative-Arrangements-09-11-2023.pdf).

<sup>74</sup> *Id.*

DOI emergency procedures refer to 43 CFR 46.150.<sup>75</sup> The Responsible Official, in this case, the Director of the National Park Service, has determined that an emergency exists, but is, under the code, only allowed to “take those actions necessary to control the immediate impacts of the emergency that are urgently needed to mitigate harm to life, property, or important natural, cultural, or historic resources.”<sup>76</sup> It is unclear how placing a migrant camp for 2,000, and potentially more, single men in a highly visited national park will mitigate a humanitarian crisis (as declared by the State of New York), rather than further exacerbate the problem by creating additional conflicts in the community, along with harming the natural and cultural resources of the park. Further, this action raised additional serious questions about CEQ’s consistency in applying NEPA regulations. The Biden administration’s CEQ has consistently and methodically elongated timelines for projects to increase American energy independence or reduce the threat of catastrophic wildfires. The agency is now questionably allowing NPS to use emergency authorities when NPS has not even clearly demonstrated that the “emergency” they are attempting to address is impacting NPS land or property.

### **G. Recent Committee Action**

On Friday, September 15, 2023, Chairman Westerman led an oversight letter to DOI Secretary Haaland and NPS Director Sams regarding the Biden administration’s plan to house migrants at Floyd Bennett Field at Gateway National Recreation Area.<sup>77</sup> The letter seeks a variety of documents from DOI, NPS, the Executive Office of the President, and the Office of Management of Budget to aid the Oversight and Investigations Subcommittee in determining the process through which the Biden administration negotiated the lease with NYC, as well as the length to which they may have failed to communicate with impacted stakeholders, including those in the impacted neighborhoods.

On Monday, September 18, Chairman Bruce Westerman, along with Oversight and Investigations Subcommittee Chair Paul Gosar and Rep. Nicole Malliotakis, toured impacted sites in the NYC area.<sup>78</sup> Chair Westerman and Rep. Gosar first visited the Roosevelt Hotel processing center, where they were asked to leave the premises, despite asking for a tour through official channels in advance of their visit. With the limited scope of the processing center they were able to observe, members and staff noted U.S. Army Reserve soldiers on duty, as well as women, men, and small children freely passing in and out from the shelter. Through a window, the team noted a large group of individuals sleeping on chairs.

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<sup>75</sup> 43 CFR § 46.150, <https://www.law.cornell.edu/cfr/text/43/46.150>.

<sup>76</sup> *Id.*

<sup>77</sup> Letter from Bruce Westerman, Chairman H. Comm. on Natural Resources, et al., to Deb Haaland, Secretary of Dep’t of the Interior, and Charles F. Sams, III, Director of National Park Service (Sep. 15, 2023), [https://naturalresources.house.gov/uploadedfiles/hnr\\_letter\\_to\\_doi\\_nps\\_on\\_migrant\\_shelters.pdf](https://naturalresources.house.gov/uploadedfiles/hnr_letter_to_doi_nps_on_migrant_shelters.pdf).

<sup>78</sup> Press release, *Westerman Visits NYC Migrant Processing Center, Condemns National Park Land*, H. COMM. ON NATURAL RESOURCES (Septe. 18, 2023), <https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=414852>.

Following the stop at the Roosevelt Hotel, members and staff proceeded to Floyd Bennett Field and Fort Wadsworth at Gateway NRA. During this stop, members and staff were joined by local officials, NPS Superintendent Nersesian, NPS Deputy Director for Operations Frank Lands, and Henry Jackson, Chief Operating Officer, NYC Emergency Management. The NPS and NYC Emergency Management team briefed members on the current situation on the ground at Floyd Bennett Field, including the expected timeline for construction of tents, potential impacts of migrant camps on the park and local community, as well as future environmental work that may be completed moving forward. Local elected officials questioned NPS and NYC emergency management about the process and lack of public engagement, concerns for public safety, potential park closures due to migrants, and cost for local taxpayers moving forward.



Chairman Westerman and Oversight and Investigations Subcommittee Chairman Gosar are denied access to the Roosevelt Hotel Processing Center.

**Source:** House Committee on Natural Resources

#### **IV. CONCLUSION**

President Biden’s immigration policies have led to an unprecedented crisis at the border, but it hasn’t stopped there. Biden’s border crisis has spread like the plague to communities across the country due to the Biden administration’s failure to secure the border and deliberate policies that undermine America’s national sovereignty. As a result, America’s best idea—our national parks—is at risk by an out-of-control border policy that the Biden administration refuses to address. In response, House Republicans are advocating for policies that would work to restrict the flow of migrants crossing our southern border, reduce the abuse of the asylum process, and allow those who seek to emigrate to the U.S. to do so legally. Regardless of your beliefs on immigration policy, all Americans should agree that national parks—some of our most treasured spaces for recreation, history, and family time outdoors—are not the appropriate landscapes for building migrant camps.