

# **The Consequences of Criminal Aliens on U.S. Communities**

## **Testimony Before House Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement**

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Chairman McClintock, Ranking Member Jayapal, and distinguished members of this subcommittee, thank you for the opportunity to present testimony on the state of immigration enforcement in this country.

I am a retired law enforcement officer with over 23 years of experience at both the legacy Immigration and Naturalization Service (INS) and in senior roles at U.S. Immigration and Customs Enforcement (ICE).

A few years into my career, I was impacted by a case in which an illegal alien with multiple prior convictions crashed into an ice cream shop, killing two adults and a three-year-old child. Every field office, including mine, has countless examples of similar tragedies at the hands of illegal aliens and poor policymaking – that is why I'm here.

Every American – including myself – is concerned about the state of enforcement of our immigration laws by ICE. Current Biden Administration policies are putting our communities at risk and negatively affecting public safety and national security.

In Secretary Mayorkas' *Guidelines for the Enforcement of Civil Immigration Law*, he established all new immigration enforcement priorities for the Department of Homeland Security (DHS). After the issuance of this dangerous policy, and in innumerable public statements in media, testimony before Congress, court filings, etc. the Secretary and his Department indicated the reason for this policy was that ICE had limited resources and as such, had to prioritize cases based on the threat an individual posed, particularly as it came to criminals and the public safety risk they presented. He justified this policy on the false premise that ICE couldn't effectively enforce the immigration laws against criminal aliens and immigration violators alike, as it had done for decades beforehand, even during the Obama administration, which he should've known full well since he was the Deputy Secretary at the time. But regardless, let's compare FY 2021 and 2022 numbers to FY 2018 and FY 2019 (FY 2020 is excluded due to the unique COVID environment).

	FY22	FY21	FY19	FY18	Decline between FY22 and FY18
<b>Overall Civil ICE Arrests</b>	49,396 <sup>1</sup>	74,082	143,099	158,581	(-69%)
<b>Convicted Criminals</b>	36,322	36,300 <sup>2</sup>	92,108	105,140	(-65%)
<b>Homicide Related</b>	1,501	1,506	1,923	2,028	(-26%)
<b>Weapons Offenses</b>	5,554	Not Reported	10,278	11,766	(-53%)
<b>Sexual Offenses/Sex Assault</b>	8,164	3,415 <sup>3</sup>	11,711	12,238	(-33%)
<b>Assaults</b>	21,531	19,549	45,804	50,753	(-58%)
<b>Robbery</b>	2,348	2,717	4,736	5,562	(-50%)
<b>Kidnapping</b>	1,114	1,063	1,833	2,085	(-47%)
<b>Family Offense</b>	2,360	Not Reported	5,435	5,991	(-61%)
<b>Gang Members</b>	Not Reported	Not reported	5,497	5,872	Unknown

Based on these statistics, is there any conclusion that can be drawn by a logical, reasonable person, other than that the real goal of these priorities is to limit immigration enforcement in the interior of the United States, regardless of the risk to public safety and national security that the illegal alien poses? In fact, the entire premise put forth by Secretary Mayorkas is false. The statistics show the exact opposite result that he swore his policies were going to produce. These aren't my words – these are his own statistics! There are fewer arrests and fewer serious criminals being arrested. Plain and simple. And we're into the third year of these policies – if he was really concerned about getting criminals off the street and out of the country, and he's seen two-plus years of the opposite result, wouldn't he change them?

It is also worth noting that there are hundreds of thousands – if not millions – of criminal aliens at large in the United States. President Biden's own FY 2024 Budget Justification clearly stated that there were over 400,000 convicted criminals on the non-detained docket. Why are these criminal aliens not detained and removed? At the same time, funded detention beds remain empty, with average daily populations at record lows (19,461 in FY 2021 and 22,360 in FY 2022). So not only did the agency have the resources to arrest more criminals, but they also had the resources to detain them. Yet they failed to do so and continue to ask for less funding for detention, and no meaningful increase in ERO officers, as evidenced by their FY 2024 Budget Request, which only asks for funding for 25,000 beds – 9,000 fewer than the current total, many of which remain unused.

Furthermore, recidivist rates have shown from prior ICE fiscal year reports that most criminal aliens have additional criminal convictions. In FY 2019, ERO arrested 123,128 people with criminal histories, with these individuals accounting for 489,063 convictions and charges, about 4 crimes per alien. In 2020, the 93,000 criminal aliens who were arrested by ERO with criminal

histories accounted for 374,000 criminal charges and convictions, again, about 4 per alien. And even with the paltry number of arrests made by ERO in 2022 as a result of Mayorkas' disastrous policies, in which only 46,000 aliens with criminal histories were arrested, there were nearly 200,000 convictions and charges between them, and again, the average is about 4 per alien. Just think about that – if the Biden Administration conducted interior enforcement against criminal illegal aliens in the same manner as was always done in prior administrations in which I served – Republican and Democrat alike – there would have been another 90,000 aliens arrested who would've accounted for approximately another 300,000 convictions and charges.

It should go without saying that there are real victims on the end of the crimes – innocent people, many from the same immigrant communities, who are suffering at the hands of criminal aliens who the Biden Administration refuses to enforce the law against. And these are violent, dangerous people, and the victims, if not killed or severely physically injured, have suffered mental anguish from which they may never recover. And many of them are children. How in good conscience can Secretary Mayorkas, who runs the Cabinet agency with the largest number of law enforcement officers in the federal government, create a policy that leads to this kind of victimization and destabilization of our communities?

Speaking of communities, during my time in Colorado as an ICE Field Office Director, I personally witnessed the deterioration of former outstanding relationships with numerous local law enforcement agencies because of the sanctuary policies and the effects of these policies. Nationwide, we are seeing a growing separation between ICE and local law enforcement. The belief that any partnership between ICE and other law enforcement entities breeds distrust in immigrant communities is false. It is imperative that ICE remain an effective enforcer of immigration law by working in collaboration with local law enforcement rather than by itself to ensure public safety and national security. This is nowhere more critical than in the fight against opioids and fentanyl.

Let me give you an example. I worked on a case in which a young male illegally entered the United States and later applied for benefits under the Deferred Action for Childhood Arrivals (DACA) amnesty program in 2014 and was granted status. However, his DACA status was revoked when he failed to apply for renewal in 2016. In 2020, he was dealing drugs, including fentanyl. He gave fentanyl and cocaine to a 16-year-old girl at a party, causing her to overdose and die. He did not call an ambulance as she lay dying and instead went into a back bedroom and raped a 14 yr. old girl who was inebriated from the drugs, he had given her earlier. ICE had filed a detainer on this illegal alien, who had admitted to gang ties in the past after he was arrested on the current drug charges. Still, that detainer was not honored due to the state's sanctuary law.

Throughout much of my federal career, we used a litany of tools to arrest and remove illegal aliens. Prior to the rise of sanctuary policies, detainers were one of the most useful. A detainer is placed on an alien who has been arrested by state or local law enforcement. Instead of releasing the alien back on to the streets, the detainer requires the law enforcement agency to hold the alien so that ICE may make an administrative arrest. States and localities used to more widely honor detainers until new policies were implemented prohibiting the practice. It is still federal law, but local law enforcement simply ignores the request if a sanctuary policy is in place. Detainers are an effective tool to ensure that illegal aliens – often criminals – are securely transferred from

state or local to federal custody. It obviates the need for federal agents to make risky street arrests and begins a more timely and expeditious immigration enforcement strategy. Sanctuary policies like the one in my home state are often aimed at refusals to comply with detainers, and we have seen a severe uptick in states and localities not honoring them. The illegal alien is released back onto the street, which endangers both public and officer safety.

I personally witnessed a case in 2020 in which a detainer was ignored on a criminal alien with assault and burglary charges. This person then violently assaulted and seriously injured a female jogger on the High Line Canal in Aurora, Colorado, on the same day he was released by the local jurisdiction that refused to honor the detainer.

In 2016, I was part of a Heroin Operation called Operation Denver Heroin Crosscheck (ODHC); this three-month operation was designed to target alien heroin trafficking. This operation aimed to apply an organized, systematic approach to locating and arresting ICE fugitive aliens, previously removed aliens, removable criminal aliens, and otherwise dangerous aliens at large who were involved in transnational gangs and heroin trafficking organizations in Denver. The three-month operation began on May 31, 2016, and was supposed to conclude on Sept. 2, 2016. When the Mayor and city council members found out that ICE was working with Denver Police on this operation, Denver Police commanders were told to stop the operation and remove ICE from the building. Denver Police shut down the operation on Jul. 8 after only two weeks. During this period, 54 illegal aliens were arrested for heroin-related crimes. Denver refused to work with ICE claiming that it disrupted their ability to work with the "immigrant" community. This argument is invalid for me as it allows citizens to die from heroin overdoses rather than having local law enforcement and ICE work together to save lives.

Such cooperation can help prevent illegal aliens convicted of criminal activity from victimizing our communities after unlawfully entering the U.S. Instead, sanctuary policies are utilized by the gangs and other criminal aliens who rely on this sanctuary to commit crimes in every U.S. community, including legal immigrant communities. Gang activity by illegal aliens remains a threat, and ICE has tried to manage the problem. In 2015 I included Denver Sheriff's Department Gang Intelligence Deputies on our criminal fugitive task force as part of Project Wildfire, a national operation targeting transnational gangs. Because of the great teamwork, we were able to identify numerous cases and arrest over a dozen gang members with criminal backgrounds throughout Colorado. The state sanctuary policy ended that collaboration between ICE and the Denver Sheriff's Department.

It is also critically important that ICE remains a visible presence to deter future violators of immigration laws. A robust enforcement strategy must be implemented to protect our country, our citizens, and all persons within our borders from the potential risks of criminal illegal aliens. Local jurisdictions must understand how partnering with ICE can benefit their communities. By working together with federal authorities, local police can gain access to federal resources and intelligence that would otherwise be unavailable. This can help them better protect their citizens from dangerous criminals, drug traffickers, and terrorists. Additionally, local jurisdictions can gain access to specialized training and technology that is only available through ICE. These resources can make a big difference in helping local police departments keep their communities safe.

By refusing to cooperate with ICE, sanctuary cities are sending a message that they don't value the lives of citizens over illegal aliens. If we want to keep our communities safe, we must work together. Increased collaboration between law enforcement and ICE would allow us to target dangerous criminal aliens and drug traffickers who are causing harm in our communities. We must ensure that local jurisdictions work with ICE to arrest and remove criminals, drug dealers, and those threatening public safety. This is the only way to ensure our cities remain safe from drugs and crime.

One thing is clear – a new, robust immigration enforcement strategy must be developed to protect our country, citizens, and all persons within our borders from the potential risks of criminal illegal aliens. The first step must be returning to the rule of law and enforcing all immigration laws. ICE must be allowed to act as mandated by the Immigration and Nationality Act (INA). Criminal aliens should be detained and expeditiously removed from the country. ICE should be directed to address the millions of final removal orders that have been issued by Immigration Judges yet ignored for years. Congress must help ICE by invalidating departmental policies that handcuff the agency and prioritize only the worst cases, which allow many other crimes to continue to be committed.

Public safety and national security are far too important and should be the utmost concern of this committee. The continuation of lax enforcement and non-enforcement policies, the increase in sanctuary jurisdictions, and a refusal to truly end a historic border crisis is allowing illegal aliens and drugs to flood into American communities. This has created the perfect breeding ground for criminal aliens and, specifically, gang members, who do not discriminate when looking for their next victim. It is time to act.