

# APPENDIX B

#174

**IN THE SUPREME COURT OF FLORIDA**

CASE NO.: SC22-796

**FIFTH PRESENTMENT OF THE TWENTY-FIRST STATEWIDE  
GRAND JURY**

We have now spent approximately 450 hours in session, and interviewed more than one hundred witnesses, some from as near as Polk County and others from as far away as Mexico, California, Argentina, and Panama. We consulted experts in multiple fields, academics, law enforcement officers past and present, defense attorneys, bureaucrats, intelligence officers, whistleblowers, ranchers, teachers, doctors, journalists, caseworkers, financial analysts, NGO employees, executives, treatment professionals, veterans, immigration judges and lawyers, victims, activists, immigrants, and even criminal defendants; we owe each of them a debt of thanks for giving us their time and attention. We watched hours of video, read stacks of materials now several feet thick, directed investigations and gave every effort to understanding, summarizing, and attempting to answer the questions posed to us by our Supreme Court. This is our fifth report.

The Order empaneling our jury instructs us to focus on those who arrive illegally to our country and thence to our state, those individuals or organizations who assist this enterprise, and certain crimes that might be committed *en route* to or following arrival in Florida. Our mandate is NOT to rewrite federal immigration policy; rather, it is to explore whether there is criminal activity affecting our State, how it is made possible, and what, if anything, might be done by our state leaders to address it.<sup>1</sup>

We felt obligated to investigate sufficiently to determine that we had an accurate picture of the conditions at our nation's southern, northern, and coastal borders which might produce these effects. We learned that, if anything, many Floridians are (just as we were before undertaking this inquiry) almost dangerously naïve and unaware of the true magnitude and malevolence of the illegal immigration

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<sup>1</sup> We will focus on *illegal* immigration, not claims of refugee status, visa admissions, Temporary Protected Status, or other means of entry except to note them in context with the numbers entering or remaining other than lawfully; we also focus on illegal immigration specifically to our country and state, as opposed to generalized worldwide movement.

industry. What we discovered has been at varying times sobering, upsetting, depressing, and the cause of significant outrage.

The short answer is that there are most certainly crimes being committed, including by some of our fellow state residents, which abet transnational and local criminal organizations and individuals in their trafficking of people (including and especially children), criminal actors, fraudulent documents, and drugs into our state, extracting money in return. These crimes are sometimes actually enabled by governmental agencies, policies, and activities; and there are things that can be done about them.

We are also convinced that, because the driving forces are largely federal policies, and political incentives seem to not prioritize solving the problems, it will be up to Florida and other states to help themselves, at least in the short term. We herein propose several ways that might happen.

## A WORD ABOUT RETALIATION

“I am a firm believer in the people. If given the truth, they can be depended upon to meet any national crisis. The great point is to bring them the real facts.”

—Abraham Lincoln

We have met with a number of courageous individuals who provided us with testimony and other evidence despite knowing they would be, and in some cases had already been, targeted for retaliation by their NGO (Non-Government Organization) and/or government agency employer if their cooperation were made public.

While we have kept their identities confidential, they know who they are. We hope they also know they have our gratitude for being willing to meet and share their stories with us, even at personal cost.

We consider it despicable that government agencies such as HHS, ACF, ORR, and DHS, as well as NGOs funded by grants of taxpayer money, would seek to prevent us from gathering information. This is, however, a pattern; last year the HHS Office of Inspector General found that HHS treatment of multiple other whistleblowers “may have risen to the level of whistle-blower chilling.”

We are aware that other witnesses were ordered by bureaucrats and their lawyers not to appear, to refuse to provide some documents or answer some questions, or to withhold information and subject themselves to contempt and jail even in the face of subpoenas issued under the auspices of the Supreme Court of Florida. No one in the public is served by such behavior, and those responsible for actively impeding our investigation should be ashamed.

We are heartened that some defied these directives and appeared anyway. We know the price some of these witnesses have paid. While this obfuscation made it more difficult to gather a full perspective of the situation, these rogue agencies should know we nonetheless found it possible. And since our previous reports have exposed profound ineptitude (at best) or malfeasance in several of those agencies, we now understand why they did not want to be questioned. **Government employees theoretically work for the citizens they serve; some have exemplified that, while some clearly need reminding.**

## I. INFLUX, IN FLUX

To understand the context in which these things are occurring, we sought to learn what policies appeared to be in place which might be described as “root causes” of fluctuations in migration to this country, and whether those policies appear to be deterring, encouraging, or exacerbating the activity we describe herein. Without overtly commenting<sup>2</sup> on the wisdom of particular choices, we believe we have more than enough information to ascertain (a) which policies are currently in effect and (b) what outcomes those policies produce both in countries outside our borders, and within our own country and state.

These are the policies, and these are their effects.

### WHY

It has long been a matter of common sense and national policy that, in the words of one former President:

**“We simply cannot allow people to pour into the United States undetected, undocumented, unchecked, and circumventing the line of people who are waiting patiently, diligently, and lawfully to become aliens in this country.”**

-Barack Obama (2005)

However, in January, 2023, the current President signed and publicly touted the “Declaration of North America,” which referenced several prior announcements and included the following language:

The three countries of North America each made ambitious commitments under the Los Angeles Declaration, including working together to **advance labor mobility** in North America, particularly regarding regular pathways, and have been delivering on these commitments. Since June, Mexico, the United States and Canada have collectively **welcomed record numbers of aliens** and refugees from the Western Hemisphere under **new and expanded labor and humanitarian programs**. Today, we affirm our joint commitment to **safe, orderly, and humane** migration[.]

The “Declaration” reiterates policies set forth previously in a series of four Executive Orders from 2021, EO 10410-10413, the first being titled *Creating a*

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<sup>2</sup> Certainly, we have opinions about the wisdom of some of these policies, informed by our year-long investigation. We do not need to express them all to answer the questions posed to us.

*Comprehensive Regional Framework To Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border.*

These policies are **explicitly designed to encourage people to leave their countries of origin and come the United States for economic benefit**; in short, as will be explained, these executive-branch policies *affirmatively contravene longstanding statutory and Constitutional laws*, as repeatedly interpreted by federal and state courts of every level.

The policies, via the public pronouncements of the Executive branch, including the Secretary of the Department of Homeland Security, place emphasis on “processing efficiency,” with expediency as a goal in itself, in order to:

“Increase processing efficiency” and “streamline processing” to “further facilitate safe and orderly inspection of noncitizens”; and,

“Increase civilian processing personnel” to “perform those functions” and enhance “processing efficiency.”

Efficiency is not synonymous with safety, intelligence, or integrity. It appears to be the current policy’s desired end, rather than its means. ***Rather than discourage or at least reduce*** the magnitude of the current mass relocation movement, the announced policies only seek to “streamline” it and make it “more efficient.”

Others have compounded the effects: for example, the Mayor of New York City addressed the legislature of the Mexican state of Puebla with these words:

We are neighbors. We are familia. ***Mi casa es su casa***. Your struggles are my struggles.

We have received ample evidence and testimony, both expert and eyewitness-- including from some who were born outside this country themselves-- that those in foreign lands share sophisticated communications networks and pay heed to policy announcements such as those listed above. We can hardly blame them for interpreting such statements as an invitation to trek to this country specifically to be “efficiently processed” to “advance their labor mobility.”

## HOW

### A. CAPITALIZATION

Our federal government also speaks with its pocketbook. Once here, many of those claiming asylum (of whom as much as 50% fail to even appear for a hearing; once finally held, almost 90% of those who do appear are found to have no credible claim deserving asylum status)<sup>3</sup> qualify for and receive benefits during their period of residence such as Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance (SNAP), Medicaid, Women, Infants, and Children (WIC) benefits, and public school education (including breakfast and lunch programs). These benefits can be claimed for years, even *after* an alien<sup>4</sup> is ordered removed by the courts. Of course, many primarily come looking for jobs, which generally pay far better than those at home.

The availability of so many benefits seems bound to provoke the response we have seen. According to our law enforcement witnesses at both the state and federal levels, more than 2,400 aliens (not including UAC) have been shipped by the federal government *to just two sections of Florida in the first week of November, 2023*; at that rate, more than 100,000 will have joined our population this calendar year. The States of Illinois and Massachusetts and the cities of Chicago, Washington D.C., and New York have all declared a State of Emergency due to a tiny fraction of this population arriving within their borders; New York City has actually begun giving them plane tickets to a destination of their choice in other parts of the world.

### B. MANIPULATION

*Billions* of dollars of grant funds are disbursed every year by federal agencies to Non-Government Organizations (NGOs)<sup>5</sup>, many of which also receive financial aid from groups affiliated with the United Nations. These monies are not spent accountably. For example, on March 28, 2023, the DHS Inspector General released a report following its audit of funds awarded to FEMA's Emergency Food and Shelter Program, used by NGOs to assist illegal aliens encountered at the southern

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<sup>3</sup> We interviewed former immigration judges, immigration attorneys, academics, and advocates, and reviewed multiple reports; the conclusions were remarkably consistent.

<sup>4</sup> 8 U.S.C. 1101(3), the Immigration and Nationality Act, employs this term throughout, as will we: "The term 'alien' means any person not a citizen or national of the United States."

<sup>5</sup> For example, the UAC program administered by HHS alone doled out \$2.7 billion to NGOs last year (\$15.6 billion since 2008), or more than \$20,000 *per child*. HHS also gave two non-UAC no-bid contracts to a single NGO totaling \$617 million.

border. Of \$12.9 million examined, the NGO awardees were unable to account to the DHSOIG for \$7.4 million (58%). Nonetheless, FEMA's Shelter and Services Program (SSP) for NGOs sent another \$77 million, bringing the total to around \$291 million this year alone. We also heard from witnesses and examined annual reports from some of these NGOs, learning that in some cases more than 70% of their funds were spent on salaries (with many executives making several hundred thousand dollars annually) and "expenses" unrelated to actual alien service.

The DHS Secretary also recently requested **an additional \$1.4 billion to do more of the same**:

We are taking steps to ***speed work authorizations*** for those who are eligible. The supplemental request includes ... An additional \$1.4 billion in SSP [Shelter and Services Program] grants to local governments and ***non-profits*** for temporary food, shelter, and other services for recently arrived aliens.

The river of accountability-free money has absolutely polluted the entire process.

Given the breadth of our mandate, we focused on transnational criminal organizations and illegal immigration (detailed further at other sections of this report); we discovered, however, that there are also "legal" organizations who appear to be misusing federal contract monies and their "nonprofit" status **in order to abet the process, and likely the actors, responsible for the illegal activity we are describing**. In fact, several **NGOs actively obstructed our investigation**, refusing to provide subpoenaed information and refusing to answer some direct questions (supposedly under orders from the federal government, in the person of the Agency for Children and Families, a subsidiary of the Department of Health and Human Services)<sup>6</sup>. They (or at least the multiple lawyers they hired, whose correspondence we reviewed) know the law regarding our jury's term of service; they know that even if we sought to have them held in contempt, they could delay final court action until

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<sup>6</sup> We at least have company. The Chair of the House Committee on Homeland Security wrote to DHS on August 21, 2023:

As outlined in my August 3 letter, over the course of several months, the Committee made numerous attempts to accommodate the Department's production of the documents and information at issue. The requests from the April 27 letter, however, remain unsatisfied and are now 102 days delinquent with no definitive timeline for production. Most recently, when the Committee offered another telephone meeting to secure a production schedule, the Department ignored the Committee's offer and instead has continued to cast doubt on any definitive timeline for future production. This demonstrated approach to indefinitely protract production necessitates the enclosed subpoena.



our term expires, successfully “running out the clock.”<sup>7</sup> **We recommend that our leaders consider the formation of another Statewide Grand Jury solely to investigate their questionable activities** within Florida and their operations outside our borders which result in the use of taxpayer and donor funds to break, and help others to break, both federal and state laws.

These NGOs do not truly or exclusively operate as humanitarians. They do not spend federal grant money to convince alien populations **not** to risk a life-threatening odyssey. Rather, they magnify the magnetic illusion of economic prosperity at the end of a migratory trek. They provide cash cards, cell phones, and transport vehicles and what amount to safari-style guide maps through portions of jungle and across deadly terrain, **increasing** the number of individuals who thus elect to make the journey and enabling Transnational Criminal Organizations to amass fabulous wealth and a bottomless pool of victims in the process. As far back as 2017, DHS and the Rand Corporation found that up to two thirds of aliens from the Northern Triangle hired smugglers to get to our borders, profiting smuggling organizations well over \$2 billion just from these countries. Those numbers have jumped astronomically with the advance of time and increased population flow.

### C. DEPRIVATION

We received eyewitness testimony from individuals who live in Panama and others who have made this very journey recently and they recounted the conditions we report herein: the interminable trudge across unforgiving jungle mountains, the tiny boats and crowded buses, the endless caravans of people from all parts of the planet, the Mexican train referred to as “The Beast,” and every gory detail of the inhumane conditions; one was even struck by disease and kidnapped by an armed gang in Mexico just prior to reaching the U.S. border. CNN described a portion of the level of unrelenting misery involved in this journey:

Masked robbers and rapists. Exhaustion, snakebites, broken ankles. Murder and hunger. Having to choose who to help and who to leave behind.

Almost 250,000 people made the crossing in 2022, fueled by economic and humanitarian disasters – nearly double the figures from the year before, and

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<sup>7</sup> Likewise, we will not identify these groups here by name. If we were to do so, Florida law gives them the right to ask the courts to conceal this entire report (and the right to appeal any adverse decision), and thereby delay its release—and we have no doubt they would exercise this right. We may instead identify them in a separate report. If the publication of that report is delayed, readers will know how, why, and who is responsible.

20 times the annual average from 2010 to 2020. Early data for 2023 shows six times as many made the trek from January to March, 87,390 compared to 13,791 last year, a record, according to Panamanian authorities.

Along the way, it became evident that the cartel overseeing the route is making millions off a highly organized smuggling business, pushing as many people as possible through what amounts to a hole in the fence for migrants moving north, the distant American dream their only lodestar.

But many are naïve to what lies ahead. They've been told that the days of trekking are few and easy, and they can pack light. But money, not prayer, will decide who will survive the journey. This cash has made an already omnipotent cartel even more powerful. This seems to be a no-go area for the Colombian government.

Migrants at the Acandí Seco camp are given pink wristbands – like those handed out in a nightclub – denoting their right to walk here. ... People are the new commodity for cartels, perhaps preferable to drugs. These human packages move themselves. Rivals do not try to steal them. Each migrant pays at least \$400 for access to the jungle passage and absorbs all the risks themselves. According to CNN's calculations, the smuggling trade earns the cartel tens of millions of dollars annually....

The volume of children is staggering. Some are carried, others dragged by the hand. The 66-mile route through the Darién Gap is a minefield of lethal snakes, slimy rock, and erratic riverbeds, that challenges most adults, leaving many exhausted, dehydrated, sick, injured, or worse....

Yet the number of children is growing. A record 40,438 crossed last year, Panamanian migration data shows. UNICEF reported late last year that half of them were under five, and around 900 were unaccompanied. In January and February of this year, Panama recorded 9,683 minors crossing, a seven-fold increase compared to the same period in 2022. In March, the number hit 7,200.

The main, older route, via a crossing called Las Texas, had become littered with discarded clothes, tents, refuse and even corpses....

Wilson, aged about five, he has been separated from his parents. They gave him to a porter to carry, who raced ahead. Wilson shakes his head emphatically when asked if he is going to the US. "To Miami," he says. "Dad is going to build a swimming pool."...

Jose barks chilling advice: “Take care of your children! A friend or anyone could take your child and sell their organs. Don’t give them over to a stranger.”...

Around 2,200 Chinese citizens made the trek in January and February this year – more than in all of 2022, according to Panamanian government data....

Like many here, Natalia says she was told the walk would be a lot shorter – only two hours’ descent ahead, she says. The scale of the deceit has begun to emerge, and the ground is about to literally turn on them. Jean-Pierre was told the whole walk would last 48 hours. “Right now, I don’t have enough food,” he says. Natalia, who has been reunited with her daughter, Anna, says she was told the descent to the boats from the summit would last only two days. It will be at least three. “No, your daughter can walk, this is easy,” she says she was told by a Colombian guide. “But it’s not... since then, all I do is pay and pay,” she sobs. She and Anna are unable to move forward and are running short on food....

Standing on the riverbank, watching others stumble through the water, Carolina, from Venezuela, weeps. “Had I known, I would not have come or let my son come through here,” she says. “This is horrible. You have to live this to realize crossing through this jungle is the worst thing in the world.”... “I regret putting my son through this jungle of hell so much that I have had to cry to let it all out because I risked his life and mine,” she adds, gazing toward the river...

We soon stumble upon a few of them. A corpse wearing a yellow soccer jersey and wristband, his skull exposed. Further up the path, a foot can be seen sticking out from under a tent – a makeshift cross left nearby in hurried memorial. Elsewhere, the body of a woman, her arm cradling her head. [A]necdotal reports suggest that many who die on the route are never found or reported...

Another mile upstream is what appears to be a crime scene. Three bodies lie on the ground, each about 100 yards from each other. The first is a man, face down on the roots of a tree, rotting on a pathway. The other two are women. One is inside a tent, on her back, her legs spread apart. The third is concealed from the other two behind a fallen tree along the riverbank. She lies face down, found by migrants, according to photographs taken three weeks earlier, with

her bra pushed up around her head. There are injuries around her groin and a rope by her body...

A forensic pathologist who studied photographs of the scene at CNN's request and didn't want to be named discussing a sensitive issue, said there were likely signs of a violent death in the case of the one woman with a rope near her body, and the other two bodies – the man and woman – likely, “did not die of natural causes.”...

Jorge, who is on his second bid to cross into the US, where his brother lives in New Jersey. His first attempt ended with deportation back to Venezuela. Both of his journeys have been marred by violence. Just days earlier, further up the old route near the Colombian border, men in ski masks robbed his group...

“When we were coming down Cañas Blancas, three guys came out, hooded, with guns, knives, machetes. They wanted \$100 and those that didn't have it had to stay. They hit me and another guy - they jumped on him and kicked him,” he said, adding the group had to borrow from other walkers to pay the \$100. “That's the story of the Darién. Some of us run with luck. Others with God's will. And those that don't pass, well they stay and that's the way of the jungle...”

And when they finally reach the boats, their ordeal is not over, but extended. Lines curve along the riverbank for each canoe – wooden vessels known as “piraguas” crammed full of migrants each paying \$20 a head. The boats arrive constantly, perhaps six at a time, to cater to the volume of migrants – each making \$300 when full.

“When I got here in the early morning, only four buses left,” Manuel says. Next to him, one of his sons vomits onto the plastic mattress they are all trying to rest on. “The oldest, 5-year-old, has diarrhea, fever and [has been] throwing up since yesterday. Our 1-year-old has heat stroke. All that we want is a bus,” he says.

A pregnant woman adds: “We've been here for nine days. I'll be close to giving birth here. They don't give us answers. They have us working and don't give us a 'yes, it's [time] for you to leave.' In the end, they lie to us.”

Diarrhea, lice, colds – the complaints grow. They point towards the appalling hygiene of the shower blocks, where dirty water just drains onto the ground

outside. The nearby wash basins are worse: no water and human feces on the floor.

“The whole point of surviving the jungle was for an easier way forwards, and now all we are is stuck,” says Manuel. “I was starting to have nightmares. My wife was the strong one. I collapsed.”

Their dream of freedom must wait, for now replaced by servitude to a system designed to make them pay, wait, and risk – each in enough measure to drain their cash slowly from them, and keep them moving forward to the next hurdle.

<https://www.cnn.com/2023/04/15/americas/darien-gap-migrants-colombia-panama-whole-story-cmd-intl/index.html>

We have seen charts and advisory pamphlets showing aliens possible routes of travel (none of which warn, for example, that the territory about to be entered is controlled by violent cartels) handed out by NGOs. We have seen makeshift and expanded “camps” set up as way stations in the middle of places like the Panamanian jungle to help ferry aliens up the Central American peninsula. We have seen the signs on these soft-sided structures advertising the names of these organizations.

We have seen videos showing the squalor of these camps and the treacherous, muddy, disease-infested and flooded conditions through which these people travel. We have seen the virtual destruction of native settlements by erection of NGO way stations which effectively drown the native village in a tsunami of human misery. We have seen the United Nations International Organization for Migration (UN-IOM) branded “rape kits” containing condoms, a whistle, and “morning after pills” funded by the U.S. Department of State, and other items these groups distribute to females, knowing in advance that many of them will be raped along the way; we have been shown the “rape trees” on which cartels and gang members hang their “trophy” lingerie in the deserts of Mexico and Texas. Doctors Without Borders published a recent survey wherein 68% of women, and 17% of men, reported being sexually abused during their trip to this country; testimony before the House Subcommittee on Oversight of DHS in 2021 put that figure at 80%.

We have reviewed videos and photos of fashionably-attired or fully weaponized cartel representatives transacting “business” in these villages, and the massive amounts of trash and debris left behind in what was pristine jungle or choking once-fertile watersheds. We have seen and heard people being robbed,

beaten, raped, maimed and murdered (including being beheaded or doused in gasoline and burned alive); we have viewed gun battles between Panamanian defense forces and the cartels and paramilitary gangs that control virtually every section of the route; we have seen these criminals selling children into bondage and burning dismembered torsos of aliens who literally walked into their trap courtesy of these NGOs. We have seen the bodies literally strewn along a trail “parents” force their children to pass and corpses stacked like cordwood in the backs of sun-baked semitrailers. We have seen airplanes packed full of unaccompanied alien children, fleets of boats brimming with passengers to the point of capsizing heading up muddy reptile-infested rivers and swamps, convoys of buses traversing rutted dirt roads and trains overflowing with travelers stacked on rooftops of railcars, hanging off siderails, or getting their legs chopped off under the wheels. And we have seen “parents” physically force wailing children through barbed concertina wire and across predator- and disease-infested bodies of water, with not just the blessing but the active assistance of NGOs spending billions of federal dollars.

One of the most difficult portions of this route from South America is the Darien Gap, a jungle covering the connection of Central and South America. Panama’s National Immigration Service documented over 400,000 people attempting to traverse this terrain last year, by far the highest number ever recorded. The United Nations Missing Migrants Project reported that in 2022, 1,457 fatalities were confirmed to have occurred along routes to the Americas, marking not only the deadliest year in recent history but terming “the growing death toll a humanitarian emergency of great dimension[.]” Even so, the Project was careful to note that its data likely represented a massive undercount (“due to the great challenges for data collection”), perhaps representing only half the true toll (based on surveys of people actually passing along the routes).

Psychological services are offered by NGOs for those previously refused entry at the U.S. border after failing their credible fear interviews in which psychologists help asylum seekers retrieve “repressed memories of trauma,” so that they could return to the U.S. border for a second attempt. Pamphlets from the UN-IOM and UN High Commissioner on Refugees contain instructions on how to successfully answer asylum-related questions to thus circumvent U.S. law.

#### D. EXPLOITATION

None of this is “safe,” “dignified,” “regular,” or “humanitarian.” It is a massive tragedy, funded with monies from our national treasury, and it is disheartening that much of it could be labeled “Made in U.S.A.” *If these actions occurred within our borders, many of these individuals would be arrested for human trafficking, human smuggling, immigration fraud, child abuse, and manslaughter, to name just a few of the atrocities we have witnessed.* Yet our government and its NGO collaborators do not use these billions of contract-granted funds to *reduce* the massive flow of people or dissuade them from undertaking a trip that will cost many their health and personal safety if not their very lives; the reality is quite the opposite.

#### E. CORRUPTION AND EXTORTION

Besides enriching cartels and TCOs by funding and encouraging this debacle, current U.S. policies have apparently prompted **foreign governments** to also engage in profiteering:

- Government officials in Colombia are selling organized “guided tours” to various points along the most common routes of travel out of their country.
- Nicaragua does not require visas to enter from other countries, and the president of Nicaragua has used 260 charter planes full of aliens from Haiti (approximately 31,000 Haitians and 17,000 Cubans) to charge between \$3,000 and \$5,000 each to permit the aliens to land in Nicaragua and make their way north to the U.S. border. Nicaragua is seeking a loosening of sanctions imposed by the United States in order to reimpose restrictions on this flow, much as Venezuela did last year. The Haitian government canceled the flights.
- HSI conducted a joint human smuggling interdiction operation in 2022 which resulted in the rescue of 77 migrants and the arrests of six employees of the federal migration service for Panama.
- The New York Times reported that in October, the Costa Rican government declared a national emergency and formed a plan with Panama to shuttle migrants from its southern border to its northern one. ...Similar busing programs have also emerged in parts of Honduras and Mexico. The buses in Costa Rica transport an average of 1,600 people per day or more than 11,000 per week. There are some weeks when the total is closer to 14,000.

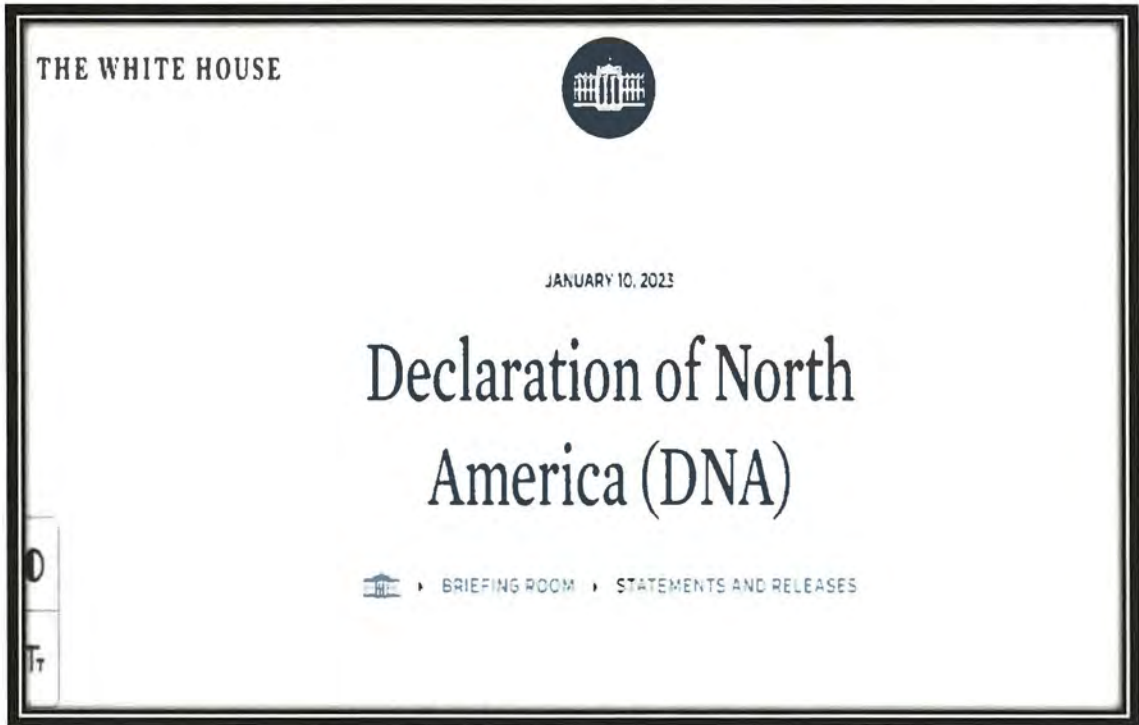
- President Rodrigo Chaves of Costa Rica just visited the White House in August where “The two leaders reaffirmed our commitment to advance the goals outlined in the *Los Angeles Declaration* on Migration and Protection. In support of these efforts and to stabilize flows and offer opportunities to migrants and refugees, *the Department of State is contributing more than \$12 million through international organization partners* in Costa Rica.” ...In Panama, each person must pay \$60 to be bused to Costa Rica’s main terminal. They then must pay another \$30 to board a shuttle that will take them to the Nicaraguan border. The fees are collected by the bus companies, which are licensed by the governments.... A Costa Rican police coordinator told the NY Times, “This migration flow couldn’t be stopped, it can’t be prohibited, but *it can be administered.*” The president of Costa Rica’s chamber of tourism affirmed: “*At least this bus system gets the problem elsewhere rather than keeping it here.*”
- Multiple countries along this route now count as a significant portion of national Gross Domestic Product (GDP) funds wired to them from places in the United States (discussed further below). Mexico, for example, received more than *57 billion dollars* from United States wire transfers last year alone.

We recognize that some of these countries are faced with a Hobson’s choice; they are going to be overrun with travelers who are crashing their borders in a quest to get to the United States. Countries caught in between can either try to resist this flow (none of them have anywhere near the resources and capability to do so by themselves), or make the best of what U.S. policies are forcing upon them.

Thus, foreign governments, with the help of NGOs and the willing participation of agencies of our federal government, are not only turbocharging this process, they are directly profiting from it.



These are the policies.



And these are their effects.



## II. ASYLUM AND PAROLE: THERE'S AN APP FOR THAT

The testimony and evidence we received, from migrant and alien interviews and virtually every single source and witness, was that the overwhelming majority of those arriving at the border to our country who eventually claim to be seeking asylum say they do so because they are pursuing a “better life,” defined as one with economic opportunities not present in their home countries.<sup>8</sup> This is confirmed by examination of the pattern of remittances returned to assist family and friends in home countries, and the massive portions of Gross Domestic Product (GDP) those remittances constitute in the home countries (described below).

And yet, as this country’s highest courts have repeatedly made clear, our laws do not grant asylum for such purposes, which is why, according to public statistics and the sworn testimony of multiple witnesses (immigration defense lawyers, academics and professors, expert witnesses, and law enforcement officials both state and federal) more than 90% of these individuals rightly lose their claims and become court-ordered for deportation:

“[N]either economic hardship nor generalized violence can form the basis for a successful asylum claim. See 8 U.S.C. 1158(b)(1)(B)(i); *Melgar de Torres v. Reno*, 191 F.3d 307, 314 (2d Cir. 1999).

*Lopez-Cabrera v. Garland*, 20-2954-AG, 2021 WL 5105839, at \*2 (2d Cir. Nov. 3, 2021).

“It was clear at the outset ... that [petitioner's] claim for asylum was based solely on economic reasons, and therefore would not merit relief.”

*Freza v. Attorney Gen. United States*, 49 F.4th 293, 300 (3d Cir. 2022).

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<sup>8</sup> There are more than a few, however, who enter for the explicit purpose of committing crimes including human trafficking, drug trafficking, money laundering, gang activity, and terrorism. Border Patrol arrested **172 denizens of the Terror Watchlist (double last year and more than the past six years combined), 598 gang members (178 from MS-13 alone), 998 persons with active warrants and 15,267 known convicted felons (35% more than last year) this past fiscal year alone and seized 27,000 pounds of fentanyl (enough to kill every American 18 times).** Given the ease with which *legal* entry may be made for the purpose of seeking asylum, the nearly 700,000 *known “gotaways”* (those who are seen live or on camera crossing illegally but elude capture) and untold number of *unknown gotaways* can safely be presumed to contain a significant number of persons who have some reason—likely not a beneficent one—for actively avoiding encounters with those who enforce our laws.

“For economic deprivation to constitute persecution, “an asylum applicant must offer some **proof** that he suffered a **deliberate** imposition of substantial economic disadvantage.”

Maldonado-Luna v. Garland, 20-868, 2022 WL 468511, at \*1 (2d Cir. Feb. 16, 2022).

Moreover, as reflected in 8 U.S.C. 1324, which was recently upheld by the United States Supreme Court,<sup>9</sup> anyone who

(iv) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or ...

(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each alien in respect to whom a violation of this paragraph occurs—

(A) be fined in accordance with title 18 or imprisoned not more than one year, or both.

The most recent census data, as well as multiple reports we have reviewed, indicate that close to 1,000,000 individuals currently residing in our state are illegally present in the country, having crossed the international border (via land or sea) at some place other than a designated port of entry.

**It is, in fact, a federal crime to enter our country in such a fashion.** §8 U.S.C. 1325 unequivocally states that

Any alien who (1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) attempts to enter or

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<sup>9</sup> “A federal law prohibits ‘encourag[ing] or induc[ing]’ illegal immigration. 8 U.S.C. § 1324(a)(1)(A)(iv). After concluding that this statute criminalizes immigration advocacy and other protected speech, the Ninth Circuit held it unconstitutionally overbroad under the First Amendment. That was error. Properly interpreted, **this provision forbids only the intentional solicitation or facilitation of certain unlawful acts.** It does not ‘prohibi[t] a substantial amount of protected speech’—let alone enough to justify throwing out the law’s ‘plainly legitimate sweep[.]’” United States v. Hansen, 22-179, 2023 WL 4138994, at \*3 (U.S. June 23, 2023).

obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offense, be fined under title 18 or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, or imprisoned not more than 2 years, or both.

Our Congress and our Courts recognize, and have always recognized, that even comparatively wealthy countries still have limits to their resources and cannot support an infinite number of individuals who simply want to take advantage of superior economic situations. Our executive bureaucracy, however, appears to have lost this thread, and continues to make proclamations and fund organizations which persistently advertise to individuals that they are certain, contrary to our actual laws, to obtain economic benefits if they survive the trip to our border. Accordingly, our immigration courts have a backlog of 2.2 million cases for a mere 659 judges,<sup>10</sup> and the average wait to get a hearing on an asylum claim can exceed five years.

During most of this period, many aliens are permitted to remain inside our borders and will either obtain a work permit (after waiting several months) or work illegally. Most aliens know this; the evidence and testimony we reviewed reflected a common theme of people believing they would do as much work as they could for as long as they could and, if actually deported, they often vowed to return to do it again.<sup>11</sup> Then-USBP Chief Raul Ortiz testified that increases in migration result “when there are no consequences” and migrant populations believe they will be released into the country. He is correct. Moreover, once here, even those determined to have no lawful claim are rarely removed;<sup>12</sup> when it occurs, removal is simply experienced as a cost of doing business.

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<sup>10</sup> We learned recently that DHS has actually adopted a rule to permit asylum decisions to be made by government bureaucratic workers, *not judges*. In these cases, aliens immediately gain access to work privileges and other benefits and are given an expedited decision in a matter of weeks. If the officer grants asylum, the alien is admitted. If the officer does not, the alien gets back in line to await a judge. This entire process seems questionable, as we explain later.

<sup>11</sup> This includes an enterprising cadre of drug dealers from a small village in Honduras, who have essentially completely taken over the narcotics trade in a section of the city of San Francisco and constantly recycle their membership while building extravagant homes in their Honduran village, as documented in a series of excellent articles by the San Francisco Chronicle.

<sup>12</sup>The United States House of Representatives Subcommittee on Immigration Integrity, Security, and Enforcement found in an October 2023 report that 99.7% who entered without a valid claim still remained due to the lack of priority placed on their removal—a fact which, as we previously noted, those in other countries are well aware of.

As explained by a federal court here in Florida,

Under §1225(b)(1)(A), certain arriving aliens, including those who lack proper admission documents, are subject to expedited removal “without further hearing or review.” However, if such an alien indicates an intention to apply for asylum or a fear of persecution, the alien “**shall be detained**” pending a final determination of asylum or credible fear of persecution. See 8 U.S.C. §1225(b)(1)(B)(ii), (b)(1)(B)(iii)(IV) (emphasis added). For all other arriving aliens, unless an immigration official determines that the alien is clearly and beyond a doubt entitled to be admitted, the alien “**shall be detained**” for removal proceedings. See 8 U.S.C. §1225(b)(2)(A) (emphasis added). In 2018, in *Jennings v. Rodriguez*, the Supreme Court held that “**§§1225(b)(1) and (b)(2) mandate detention of aliens throughout the completion of applicable proceedings** and not just until the moment those proceedings begin.” 138 S. Ct. 830, 845 (2018) (emphasis added).

State of Florida v. United States of America, et al., Case No. 3:21-cv-1066-TKW-ZCB (N.D. FL, March 8, 2023)(emphasis added). The Court also found that:

The evidence establishes that in late January or early February of 2021, DHS made a discrete change in detention policy from “release only if there is a compelling reason to” to “release unless there is a compelling reason not to.”

According to 8 C.F.R. 1225 (the Immigration and Nationality Act),

In the case of all other arriving aliens, except those detained under § 235.3(b) or (c) of this chapter and paragraph (b) of this section, those officials listed in paragraph (a) of this section may, after review of the individual case, parole into the United States temporarily in accordance with section 212(d)(5)(A) of the Act, any alien applicant for admission, under such terms and conditions, including those set forth in paragraph (d) of this section, as he or she may deem appropriate. An alien who arrives at a port-of-entry and applies for parole into the United States for the sole purpose of seeking adjustment of status under section 245A of the Act, without benefit of advance authorization as described in paragraph (f) of this section shall be denied parole and detained for removal in accordance with the provisions of § 235.3(b) or (c) of this chapter. An alien seeking to enter the United States for the sole purpose of applying for adjustment of status under section 210 of the Act shall be denied parole and detained for removal under § 235.3(b) or (c) of this chapter, unless

the alien has been recommended for approval of such application for adjustment by a consular officer at an Overseas Processing Office.

This, however, is not happening. “Parole” is, as discussed above, supposedly permitted only upon “review of [each] individual case.” However, current policy applies parole protection to entire classes, nationalities, and groups of aliens *en masse*. As the *Florida v. United States* court found,

The time estimates in the supplemental administrative record confirm that USBP is not conducting meaningful case-by-case analysis before placing releasing [sic] an individual under the Parole+ATD policy. The supplemental administrative record indicates that the “processing time” for issuing a NTA is between 2 to 2.5 hours, whereas Parole+ATD only takes 15 to 30 minutes. ***It is implausible that USBP could meaningfully assess an alien’s individual circumstances in 15 to 30 minutes...*** Another problem with this argument is that the supplemental administrative record does not explain how...CBP officers can make a meaningful determination as to whether the alien is a security risk (as contemplated by the regulation) if ***the alien’s home country does not share its criminal history databases with the United States.***

This latter point applies especially to countries generally viewed as hostile or subject to sanctions (such as China and Iran); several witnesses pointed out the alarming and dramatic increase of such individuals being encountered at our borders during the past fiscal year. Last year’s inflow included **52,000 Chinese, a 1,300% increase from the prior fiscal year.**

When sued over these policies (as has happened in multiple jurisdictions, including Florida), rather than end programs found to be illegal, DHS simply renames the programs, often with an expansion. When Texas won an injunction in federal court to prevent federal agents from cutting barbed wire fencing erected by the State to stop illegal crossings (trespassings onto Texas land) between ports of entry, the federal government employed heavy tractors to instead lift it out of the way so aliens could crawl beneath it. When Arizona deployed barriers of cargo containers to block illegal entry, or Texas installed a buoy system to block dangerous river crossings, the federal government sued to have them removed.

Some 280,000 aliens have been paroled into the United States at the land border ports after scheduling crossing appointments with the “CPB One” mobile

phone app<sup>13</sup> as of August, 2023. **95% of them received parole** into our country. Of that total, only 136,000 came from Cuba, Haiti, Venezuela, and Nicaragua, the countries originally designated for use of this program. More than 100,000 came from one of **93 other countries**. More than 57,000 are Mexican nationals. Mexican citizens almost never qualify for U.S. protections and are rejected for asylum at a rate of 96 percent. Also included are 3,852 Kyrgyzstanis, 1,843 Uzbekistanis, 780 Tajikistanis, and 339 Kazakhstanis, and 29 from Turkmenistan; **among the groups operating in those countries are the Islamic Jihad Union, the Islamic Movement of Uzbekistan, and ISIS-Khorasan.**

Also included were nearly 24,000 Russians, 1,086 Armenians, 888 from Belarus, 244 from Azerbaijan, and dozens from mainland China and Mongolia. Other countries of note were South Africa, Togo, Gabon, Namibia, Guinea-Bissau, Argentina, Chile, Ecuador, Bolivia, Suriname, Guyana, France, Spain, Greece, Poland, Hungary, Canada, the United Kingdom, British Indian Ocean Territory, Iran, Lebanon, Jordan, Egypt, Yemen, Indonesia, Senegal, and Mauritania.

These include many “Special Interest Aliens,” designated not as terrorists themselves but, because they come from nations where terrorist groups are prevalent, are required to be subjected to enhanced screening. **More than 75,000 SIAs** were among those **crossing illegally** between October 2022 and August 2023.

According to data obtained and analyzed by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University,

These numbers are in addition to a **record number of Notices to Appear** to aliens **who were found inadmissible** under U.S. law. Notices to Appear (NTAs), which put immigrants into removal proceedings within the immigration courts, were rarely used at ports of entry until 2021. Unlike Border Patrol, which is responsible for immigration enforcement between ports of entry, the Office of Field Operations (OFO) is a separate agency responsible for processing people **at ports of entry**. OFO issued **280,000 NTAs in the first 10 months of FY 2023**, a significant increase from 95,000 the previous year and up from about 48,000 five years ago in FY 2018.

These are in addition to some **221,000 aliens flown directly** into U.S. airports (through mid-September) under a different parole program. Finally, we learned that

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<sup>13</sup> Parole under this app carries with it immediate eligibility for work permits—the real draw for many.



in many cases, aliens apprehended crossing the border illegally, who upon capture begin to assert a claim for asylum, are being permitted to withdraw that claim (rather than be immediately detained or removed) and apply for a CBP-One appointment, at which their prior illegal entry will not be held against them. The House Committee detailed how:

DHS has given tens of thousands of aliens the option to leave the United States through “voluntary return,” which carries no immigration consequences. In fact, at a May 2023 press conference, Secretary Mayorkas boasted about DHS’s soft-on-illegal-entry approach: We are giving the option to individuals, who are in our custody, the option of voluntarily returning to the country from which they came. Because of the consequence of a removal, people have to understand that under Title 8 of the United States Code, *when one is removed, one faces at least a five-year bar to reentry. And so, we will give people an opportunity to avoid that tougher consequence* by voluntarily returning.

In the first 10 months of fiscal year 2023, there were 75,575 voluntary returns at the southwest border, 23,105 more than the previous eight fiscal years combined. Because aliens do not face immigration consequences through voluntary return, they have myriad opportunities to re-attempt their illegal entries.

As the *Florida v. United States* court found,

Collectively, these actions were akin to posting a flashing “Come In, We’re Open” sign on the southern border.... The Court uses this analogy not only because it is a fair characterization of what Defendants did but also because Defendants elicited testimony and argued at trial that they could not simply hang a “Closed” sign on the border. Moreover, although Defendants’ argument that they could not simply “close” the border to arriving aliens may be technically accurate, it is somewhat disingenuous because 8 U.S.C. §1182(f) specifically authorizes the President to “suspend the entry of all aliens” whenever he finds that their entry would be “detrimental to the interests of the United States.”

That statute “exudes deference,” *Hawaii*, 138 S. Ct. at 2408, and if it is broad enough to authorize the President to “establish a naval blockade that would ... deny illegal Haitian migrants the ability to disembark on our shores,” *Sale v. Haitian Ctrs. Council, Inc.*, 509 U.S. 155, 187 (1993), it would certainly seem to authorize the President to close the border to arriving aliens once it

became apparent that CBP and ICE facilities were not going to be able to handle the “surge” of aliens coming to the border.

## CONCLUSIONS



Those who cross illegally, and those who encourage and enable them to do so, make their very first act on U.S. soil the commission of a crime. Yet federal penalties for these offenses remain rare compared to the frequency of their commission. Even an adverse immigration court determination does not provide consequences; an ERO official acknowledged that with the current rate of removals, ICE would need 20 years to remove the aliens currently on the non-detained docket who have a final order of removal. What results is a system choked with bureaucratic inertia, almost as if by design, and a human tragedy of massive proportions.

Absent the overheated rhetoric from all political angles, the situation truly is not complicated; individuals from other countries are enticed to come to this country, the overwhelming majority with no plausible claim to asylum whatsoever, and serious harm results on both sides of our border as the situation is exploited for crime and profit by cartels, funding by NGOs, and political clout-chasing by others. All the while, we and our fellow taxpayers pick up the tab.

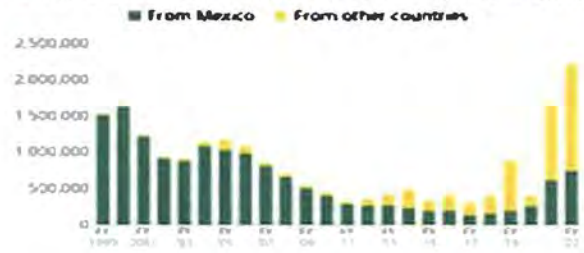
These are the policies.



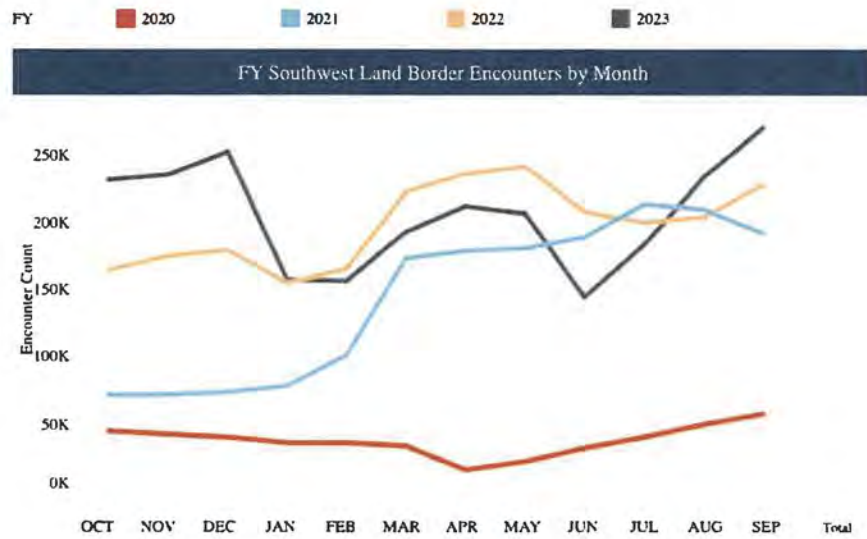
And these are their effects.

### Southern Border Apprehensions at All-Time High

Number of apprehensions of undocumented immigrants at the U.S. Southwestern border by national origin (1999-2022)



Source: ICE/CIS/EOIR, Office of Borderland Statistics. **statista**



### III. HOW MANY

Former Secretary of the Department of Homeland Security (under President Obama), Jeh Johnson, famously said:

I know that one thousand [apprehensions] a day overwhelms the system. I cannot begin to imagine what four thousand looks like, so we are truly in a crisis.

If 1,000 is overwhelming, and 4,000 is a crisis, more than 8,000 a day is nothing short of invasive.

We have been meeting for the entire period of Fiscal Year 2022 (October, 2022 - September, 2023). **During the time we have been convening, more than 3 million aliens are known to have attempted to cross our borders.** Approximately one third (around one million) were refused entry; **more than 900,000 individuals were released into the country** to await court hearings; some 700,000 crossed illegally but “got away” from law enforcement into the country; 140,000 were Unaccompanied Alien Children (most of whom are age 15 and above) released into the country; and more than 400,000 were either flown in directly or transported across the border **specifically to avoid having to be tabulated as “border encounters”** via use of “CBP-One” or other parole programs, some of which have been declared illegal when challenged in federal court by states, including the State of Florida.<sup>14</sup> Finally, there are the “Unknown Gotaways,” those who penetrate one of the many and vast swaths of unprotected borderlands or coastlines without being seen, reported or recorded, or are successfully smuggled in; no figure exists for them, of course, though it seems to us safe to presume the number is at least equal to the “known” cohort (nearly 700,000).<sup>15</sup>

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<sup>14</sup>Per the federal court in Florida v. United States, “Defendants have effectively turned the Southwest Border into a meaningless line in the sand and little more than a speedbump for aliens flooding into the country by prioritizing ‘alternatives to detention’ over actual detention and by releasing more than a million aliens into the country—on ‘parole’ or pursuant to the exercise of ‘prosecutorial discretion’ under a wholly inapplicable statute—without even initiating removal proceedings. ***The evidence further establishes that Florida is harmed by the challenged policies because well over 100,000 aliens have been released into Florida under the policies[.]***”

<sup>15</sup> According to the U.S. Geological Survey (USGS), the length of the International Boundary line of the U.S.-Canadian border, excluding Alaska (which is 1,538 miles by itself), is approximately **3,987 miles**, while the length of the U.S.-Mexican border is estimated at **1,933 miles**. Thirteen U.S. states share international boundaries with Canada and four share an international border with

This is a number roughly equivalent to the population of children born in the country; 3.67 million Americans were born during the matching 12-month period, according to the Census Bureau, and that includes at least 400,000 American citizens born to illegal aliens.

Encounters of *illegal* aliens on the southwest border have surpassed 100,000 for 31 straight months (in fact being nearly triple that in the record-setting month of September alone). Indeed, *those entering the country illegally this year substantially outnumbered those crossing according to our laws*. For the month of September 2023, of the 270,000 aliens encountered at the southern border, nearly 220,000 of those were between ports of entry—*i.e., illegal, and illegal entries for the year as a whole were double those who properly presented at a port of entry*. This does not include more than a million individuals annually who overstay their visas (again, rendering their presence illegal). If they are added to the inflow, two aliens are illegally present in the country for every newborn American.

The inflow included **52,000 Chinese** and 93,000 Indians, 51,000 Filipinos, 19,000 Turks, and 292,000 people from countries such as Angola, Cameroon, and the Congo; 163,000 Haitians, 196,000 Cubans, 103,000 people from Ecuador, and **386,000 Mexicans**. The population included 1.55 million single men, plus 927,000 women and children in family groups.

More than eight million aliens have crossed the borders of the United States since January 2021, the majority *illegally*. This is a population greater than that of thirty-eight states. We also have seen and heard multiple reports from eyewitnesses and media of the “border litter” so prevalent; various forms of consulate documents, certificates, licenses, and all manner of identification from different countries, along with printed CBP-One appointment slips, are found by the gross along the border regions, between ports of entry. The reasons people crossing would abandon such things do not require much speculation, at least not from the experts and Border Patrol personnel we heard from: *some do not want to wait, and do not want to be discovered for who they actually are.*

Yet at the same time, we heard from witnesses who came to the country legally, followed the prescribed process, and became citizens. One in particular we learned was not given a copy of her naturalization certificate at her swearing-in

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Mexico. The “general coastline” of our 50 states totals **12,383 miles**, while detailed coastal maps including such things as coves and inlets come to 88,612 miles (not including the Great Lakes). There are many gaps from which to choose.

ceremony; the Court pronounced her to be a citizen, yet she did not receive one particular document from agents stationed there. She married, had children, bought a business, and owns a home. When she needed the missing document to return to her home country to visit her sick mother, DHS was unable to provide her with a copy because the backlog of cases created by these policies was so extensive. We commend our law enforcement partners for stepping in to assist her; many months and thousands of dollars later, she reported she was finally given the document. We cannot help but view this incident as a microcosm of the priorities expressed by the current policies-- grossly unfair to those who try to follow our laws, and favoring those who flout them.

### INCOMING BUT NOT OUTGOING

Border Patrol was ordered to release **over 900,000** aliens into the U.S. in fiscal year 2023 *after they were apprehended crossing illegally*, including 155,821 releases in September alone. These numbers do not include ICE or ports of entry releases. The border release numbers also do not include approximately 140,000 Unaccompanied Alien Children, or the 238,870 illegal aliens transferred directly to ICE custody.

For context, 900,000 is a population size larger than several US states, including Wyoming, Vermont, Alaska, North Dakota, and South Dakota. The releases include both Notices to Appear<sup>16</sup> and paroles. Between May and September 2023, just 300,000 aliens were removed or deported—fewer than entered in the month of September alone.

The reason for delay in removal includes some sobering statistics relating to our immigration courts, from TRAC:

- The 659 Judges on the Immigration Courts recorded in FY 2023 receiving **1,488,110** new cases. This compares with **669,011** cases that the court completed during this period.
- At the end of September 2023, there were more than two million active cases pending before the Immigration Courts.

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<sup>16</sup> Accurately referred to in a Congressional report as a “Notice to [Dis]appear.”

- **Miami-Dade County, FL**, has the most residents with pending Immigration Court deportation cases (120,271).
- ICE Alternatives to Detention (ATD) programs are currently monitoring **194,632** families and single individuals, 15,000 of them in Miami.

**Fiscal Year 2023**

<u>State</u>	<u>Pending Cases</u>
<u>Entire US</u>	2,097,244
<u>Florida</u>	333,723
<u>Texas</u>	307,756
<u>California</u>	236,136
<u>New York</u>	193,836
<u>New Jersey</u>	119,789
<u>Massachusetts</u>	113,126
<u>Illinois</u>	96,840
<u>North Carolina</u>	74,219
<u>Virginia</u>	74,129
<u>Georgia</u>	72,404
<u>Tennessee</u>	70,504
<u>Maryland</u>	52,641
<u>Pennsylvania</u>	49,896
<u>Louisiana</u>	48,690

We are aware that one of the apparent proposed solutions to the court backlog is to *stop letting only judges handle the claims and instead permit “Asylum Officers”--bureaucrats-- to do so*. According to NBC News earlier this year:

The administration is issuing a new rule Thursday that will allow asylum officers, rather than just immigration court judges, to adjudicate the claims of immigrants seeking asylum...

Under the new rule, if an asylum officer grants protections to an immigrant, the immigrant can remain in the U.S. and bypass immigration courts.... If an

asylum officer decides an immigrant is not eligible for asylum, the case will go to an immigration judge.

Particularly in light of the repeated failure of similar bureaucrats to adequately vet sponsors in HHS' UAC program—*some of whom are these very same illegal border crossers*—as documented extensively in our Third and Fourth Presentments, this proposal offers no solace whatsoever. Several states have filed a challenge to the rule in federal court.

This rule allows asylum officers to grant asylum (*a path to citizenship*) with only a “nonadversarial hearing” where the alien may have an attorney but no one will represent the United States, unlike actual Immigration Court. Decisions allowing asylum cannot be appealed by the United States; decisions averse to the alien simply land him back in front of a judge (minimizing any true backlog reduction). And “asylum officers” have *granted asylum in more than 30 percent of the cases, about twice as often as immigration judges.*

What is more, many of those who should not even reach the “asylum hearing” stage at all are likewise not removed. A Congressional report disclosed that:

Under the Immigration and Nationality Act, certain aliens encountered at the border are subject to expedited removal, in which they are ordered removed from the United States without further review or hearing.

The prohibition on further review, however, does not apply to any alien who indicates an intention to apply for asylum or otherwise expresses a fear of persecution. In those cases, an asylum officer must conduct a credible fear interview to determine whether “there is a significant possibility” that the alien could establish eligibility for asylum.

If an alien fails to show a credible fear, the alien should be removed pursuant to the expedited removal process... [yet] of the more than 2.1 million illegal aliens released by DHS from January 20, 2021, through March 31, 2023, only 197,531 illegal aliens [*approximately 10%*] were placed in expedited removal and *claimed a fear of persecution*, with upward of 2 million aliens being released or placed directly in removal proceedings *without* first having established that they even feared persecution.

Additionally, between January 20, 2021, and March 31, 2023, 25 percent of aliens placed into expedited removal did not claim a fear of persecution. DHS



reported no “confirmed removal or return” for nearly 20,000 of those illegal aliens who did not even claim a fear[.]

The Courts and Border Patrol are not the only agencies removing fewer illegal aliens. Another policy (the “Mayorkas Memo”) mandates that the mere fact that aliens are removable “should not alone be the basis of an enforcement action against them.” ICE officers also have to divert time they could spend apprehending criminals to processing the (less than 50% of) “parolees” showing up at their offices for “Notice to Appear” appointments. Yet even when denied asylum, these individuals are not removed.

Congress found that DHS released **at least 2.1 million** illegal aliens into the United States but only removed 108,102 of those aliens from the country. Between January 20, 2021, and March 31, 2023, the government has removed from the United States only 5,993 illegal aliens who were encountered at the southwest border and who were placed in removal proceedings before an immigration judge during that time. In other words, of the at least 2.1 million aliens released into the United States during that time, 99.7% of the *illegal* aliens have yet to be removed. Congress also noted that of asylum seekers released into the United States from January 20, 2021, through March 31, 2023, only six percent were screened for a claimed fear of persecution.

ICE agents are now prohibited from relying solely on the fact of an alien’s felony conviction to remove him or her, regardless of the seriousness of the underlying crime. Testimony and evidence have shown that ICE **arrests of aliens who are convicted of crimes while in our country have dropped 65%** according to comparisons between ICE arrest figures in 2018 and 2022:

Criminal Convictions	105,140	to	36,322
Pending Criminal Charges	32,977	to	10,074
Removals from USA	95,360	to	28,204

We learned that **there are over 400,000 convicted criminals** on ICE’s “non-detained docket,” meaning they are not in custody while awaiting their immigration court hearing. In 2020, the 93,000 criminal aliens arrested by ERO with criminal histories accounted for 374,000 criminal charges and convictions, ***about 4 per alien***. In 2022, the 46,000 aliens arrested with criminal histories accounted for nearly 200,000 convictions and charges; as one expert noted, ***had this policy not changed,***

*there would have been another 90,000 aliens arrested who collectively have approximately another 300,000 convictions and charges.*

To compound these issues, TRAC found that due to being absolutely overwhelmed,

as of the end of September 2022, Immigration Court judges dismissed a total of 63,586 cases because Department of Homeland Security officials, chiefly Border Patrol agents, are not filing the actual “Notice to Appear” (NTA) with the Immigration Court. Without a filed NTA, the case cannot proceed. This means that *one out of every six Court cases were thrown out* for this reason this past fiscal year.

Where NTA’s are filed, one congressman learned that New York City’s ICE office was giving aliens notices to appear for court in 2033.

#### ICE DETAINERS & MIAMI-DADE COUNTY: THROUGH THE LOOKING GLASS

A routine part of federal immigration enforcement is the issuance of detainer notices by U.S Immigration and Customs Enforcement (ICE). These notices are lodged for noncitizens who have been arrested on criminal charges and who ICE has probable cause to believe are illegally present in the United States. The detainer asks state and local law enforcement agencies to notify ICE before a removable alien is released from their custody and to maintain custody of the alien for a brief period of time (usually no longer than 48 hours) so that ICE can take custody of said alien upon release from that agency’s custody.

The issuance and compliance with these detainer notices are a critical component of the federal government’s obligation to enforce our immigration laws and to ensure public safety. So much so, that ICE’s own website acknowledges that “[w]hen law enforcement agencies fail to honor immigration detainers and release serious criminal offenders onto the streets, it undermines ICE’s ability to protect public safety and carry out its mission.” It is undeniable that the failure to honor ICE detainer notices allows criminal aliens to evade removal proceedings.

As part of our mandate, we investigated county compliance with Florida Statutes § 908.104 requiring local cooperation with federal immigration authorities. The statute also provides a limited avenue by which local state agencies can ignore

and effectively “lift” an ICE detainer. Specifically, Florida Statutes § 908.104(5) allows the lifting of ICE holds for noncitizens who have been cooperating victims or witnesses of a crime, while Florida Statutes § 908.104(8) allows for the lifting of ICE holds for unlawfully present aliens who are a witness or victim of certain enumerated crimes without requiring any proof of cooperation with law enforcement.

During our third session, we heard testimony and received exhibits detailing a process used by inmates in the Miami-Dade County jail to request relief under these two statutory exemptions. Disturbingly, we discovered that this process was being abused and requests to set aside ICE detainers were being granted contrary to the plain meaning of the statute and the intent of the legislature. This “process” was brokered between Miami-Dade County and the local Public Defender’s Office by several immigration activist groups that had sued Miami-Dade County for complying with Florida law and cooperating with federal immigration authorities.

The agreement allowed the submission of unsworn notices indicating that a statement “existed” where the jail inmate claimed that they were a “victim” of a qualifying offense under Florida Statutes § 908.104(8). These “statements” were not challenged by anyone and the county jail did not receive any documentation corroborating these claims. Thus, unproven and dubious claims of victimhood by criminal aliens were submitted and approved allowing Miami-Dade County to disregard and lift ICE holds. Adding insult to injury, every time federal immigration officers reached out to Miami-Dade County and expressed concern over this process, they were met with platitudes and promises of follow-ups that rarely materialized, accomplishing nothing. Our review of subpoenaed records and emails revealed that when federal immigration officials asked the straightforward question of what standard of “evidence” the county used in evaluating these detainer exemption notices, county officials admitted among themselves that they had no way to verify the claims. Yet, this runaway and ill-conceived program soldiered on.

More troubling still was the fact that unsworn exemption notices were being submitted for defendants who not only failed to report being the victim of any crime, but also for crimes that occurred either decades ago or outside of the United States. One defendant claimed to be the victim of a “battery” that allegedly occurred over thirty years ago. These safety valve exemptions were created in the first place to assist local authorities prosecute criminals. Common sense dictates that a “crime” allegedly to have occurred years ago, outside of the United States, and which was

not reported to authorities would be insufficient to exempt a defendant from ICE detention. Sadly, common sense seemed to be in short-supply in Miami-Dade County as it pertained to these exemption notices.

We would also want to point out the problems with the statute listing battery as an enumerated offense that would qualify a noncitizen for relief under Florida Statutes § 908.104(8). In Florida, battery is any physical touch without a person's consent. Under that analysis, a criminal alien arrested for a serious felony offense can seek relief by claiming to be a victim of a simple slap or unwanted pat on the back. Suppose two jail inmates strike up a conversation and decide that each would poke the other. Each defendant would then be able to claim relief as a "victim" of a battery. It doesn't take much time to see the abuses that can ensue.

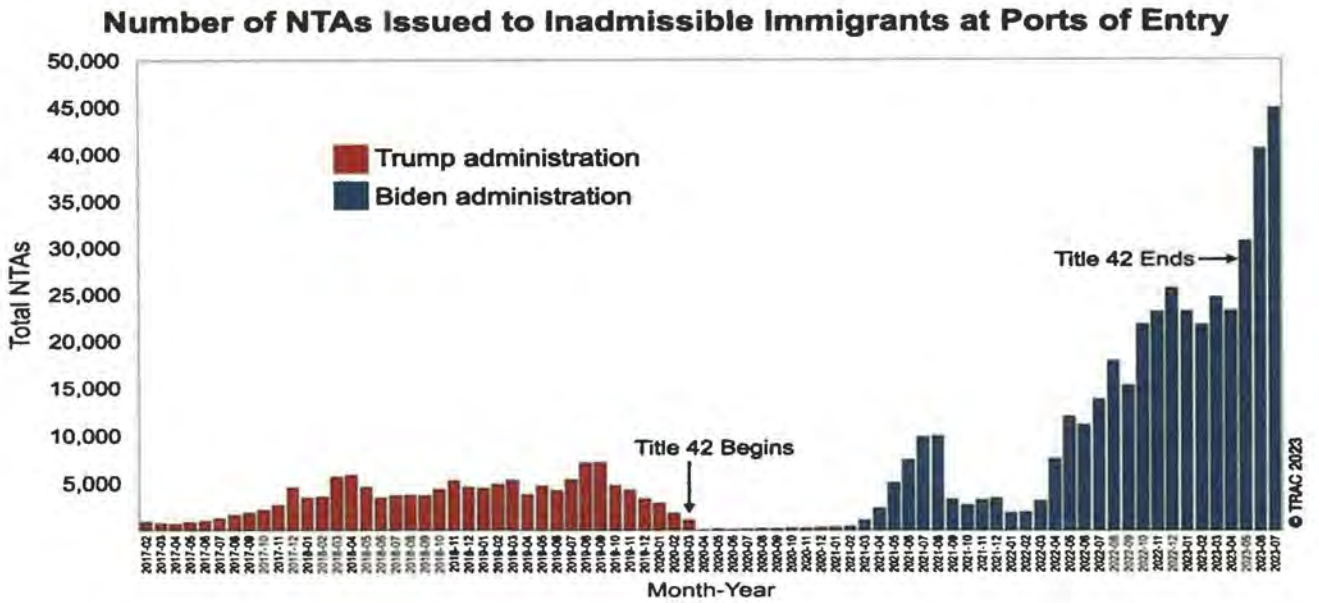
Additionally, all the notices we reviewed claimed relief under Florida Statutes § 908.104(8) rather than Florida Statutes § 908.104(5) which requires evidence of cooperation. The consequence has been that criminal illegal aliens arrested for serious felony offenses, such as sexual battery on a minor, armed carjacking, and aggravated battery have been able to secure release from custody despite ICE requesting a hold for deportation proceedings. In one instance, the county jail lifted the detainer notice for a defendant who claimed to be the victim of the very crime for which he had been arrested. Even if the county did not want to implement a rigorous process commiserate with claims from detained criminal aliens seeking relief from ICE holds, a cursory search of pertinent court dockets would have revealed this duplicity. However, it seems that the process employed by Miami-Dade County can be charitably described as willful blindness.

Some of the exemption notices we reviewed asked the county jail to lift ICE holds for lawfully present aliens even though Florida Statutes § 908.104(8) only applies to unlawfully present aliens. For example, one detained criminal alien sought relief claiming to be the victim of domestic battery. The defendant had entered the United States legally before her arrest. Luckily, the county listened to the objections raised by federal immigration agents and denied relief due to her legal status. However, that is not the end of the story. As it turned out, the defendant was arrested for extortion, falsely reporting a crime, and other related charges after admitting to police that she would enter into consensual relationships with men and then extort them by raising the threat of reporting sexual assault. So, in effect, the defendant was claiming to be the victim of the very lies she peddled for financial gain.

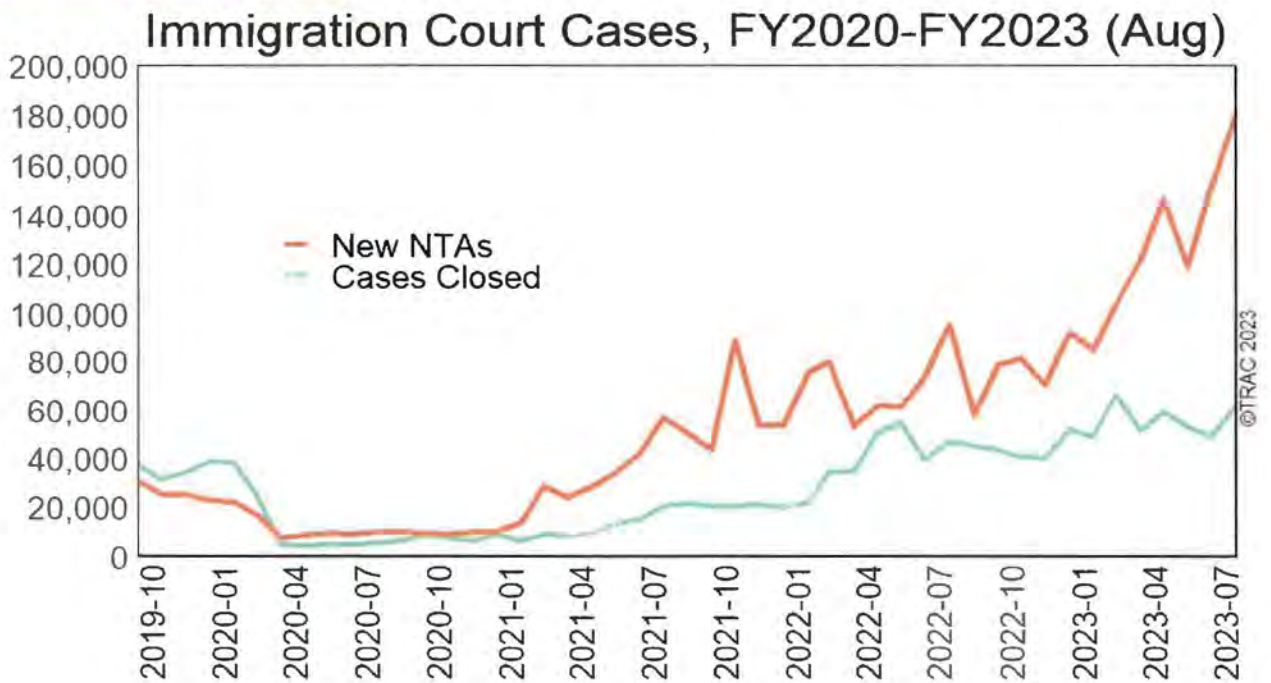
We have learned first-hand that ICE detainers can be the difference between life and death. In 2008, a Cuban national was sentenced to 10 years in prison for Attempted Felony Murder and Armed Robbery with a Deadly Weapon. One would expect that upon the completion of the defendant's prison sentence, he would be prioritized by ICE for immediate deportation. Instead, the defendant was released from prison in 2017 and federal immigration authorities simply "monitored" his whereabouts even when the United States had resumed deportation flights to Cuba. One wonders how federal immigration authorities define "enforcement priorities" if it does not include a violent criminal alien who spent a decade in state prison for attempted murder. Tragically, during the early morning hours of March 24, 2019, the defendant shot in cold blood an unsuspecting acquaintance at the top of a parking garage. Words cannot describe the brutality of what we saw as we watched the video surveillance of this heinous crime. If ICE had requested the state prison to hold this murderer for removal proceedings then his eventual victim would still be alive.

Thankfully and because of our investigation and Second Presentment Report, Miami-Dade County put a halt to this problematic ICE detainer exemption process. Jail inmates seeking relief now have to provide actual evidence to corroborate their claims and certain inmates are ineligible due to their crime of arrest. This is a good start, but more must be done to prevent this kind of abuse from reoccurring. To that end, we strongly urge the legislature to delete Florida Statutes § 908.104(8) in its entirety and Florida Statutes § 908.104(5) must be limited to crimes occurring in the United States and time barred to five years prior to an alien's claim of relief under the statute. Additionally, the Florida Legislature must bar an alien with pending criminal charges for any crime or attempt to commit any crime of violence, felony drug offense involving the sale, manufacturing, distribution, or trafficking in a controlled substance, or felony sexual offense from being eligible for relief under the statute.

These are the policies.



And these are their effects.



## VISA OVERSTAYS AND LOOPHOLES

According to DHS's "Fiscal Year 2022 Entry/Exit Overstay Report":

An overstay is a nonimmigrant who was lawfully admitted to the United States for an authorized period but stayed in the United States beyond their authorized admission period.

At the end of FY 2022, there were 795,167 Suspected In-Country Overstays, which represents 3.42 percent of expected departures[.]

Fiscal Year 2022's visa overstay rate was more than double the rate of recent years. Lest any reader think that such illegal acts amount only to "technical" crimes posing no threat, last month CNN reported that:

Sohaib Abuayyash, 20, who is in the United States on an expired nonimmigrant visa, made "statements to others that support the killing of individuals of particular religious faiths," and "referenced an event in Houston for members of a particular religious group," according to a federal court judge who ordered the man be detained pending trial.

The FBI began investigating Abuayyash in August after agents conducting "open-source research" saw video of him firing multiple firearms, including AR-style rifles, on social media, according to a redacted probable cause affidavit filed on October 19 in the US District Court for the Southern District of Texas.

Abuayyash applied for asylum in the US after his nonimmigrant visa expired in 2019, according to the affidavit. He's authorized to work in the US until August 2025, and is not allowed to "possess or use firearms or ammunition," it states. The affidavit also says Abuayyash "has been in direct contact with others who share a radical mindset, has been conducting physical training, and has trained with weapons to possibly commit an attack."

But in an order of detention pending trial document filed on October 24, US Magistrate Judge Christina A. Bryan wrote that Abuayyash "has viewed specific and detailed content posted by radical organizations on the internet including lessons on how to construct bombs or explosive devices; and that Defendant has made statements to others that support the killing of individuals of particular religious faiths. In his communications with another individual about martyrdom, the Defendant referenced an

event in Houston for members of a particular religious group,” the judge said. Abuayyash was “plotting to attack a Jewish gathering,” a law enforcement source told CNN.

We also learned of what appears to be a more recently-developed scheme to take advantage of a loophole in one of our state statutes: **the “Special Immigrant Juvenile Visa.”** The SIJ visa enables aliens who entered as unaccompanied minors to obtain orders of protection from state family courts based on a claim of abuse, neglect or ***abandonment by one parent***. This order of protection **offers a “green card”** path to citizenship for, as one Congressional witness put it, “tens of thousands of UACs now in the pipeline, many of whom would otherwise be ineligible due to a criminal history, gang involvement, immigration fraud, or simple inability to qualify under the legal immigration system created by Congress.”

In Florida, a Special Immigrant Juvenile Visa is available to a person who has been declared dependent by a juvenile court, who was deemed eligible for long term foster care, and for whom it has been determined that it would not be in their best interest to return to their parents' previous country of nationality or country of last habitual residence, according to Florida Statutes 39.01.

Ordinarily, petitions for a court to make this finding must be filed by the Department of Children and Families. However, more recently there have been a number of cases wherein UACs have had attorneys file them on behalf of the UAC. These petitions seek no services for the child, and do NOT, under any circumstances, want the Department of Children and Families to become involved in supervision or rendering of services (as would ordinarily happen in family court). This makes the process ripe for abuse by gang members (MS-13 membership of many UAC has been well-documented in our Third and Fourth Presentments), “minors” who are not really minors at all but have fooled ORR (we recounted multiple instances of this as well), or those with a criminal record-- ***none of whom would ever otherwise qualify for a permanent resident / green card***--, as well as “sponsors” who coerce UAC into filing the petition so the “sponsor” can further exploit them.

Florida law has a great deal of control over this federal process, unlike many other areas, because SIJ status requires a state-court determination of dependency first. As our Supreme Court wrote in one recent case:

B.R.C.M., an unaccompanied minor from Guatemala, illegally entered the United States at age thirteen and was released by the Office of Refugee Resettlement to his godmother as a sponsor. After his arrival, a private petition



was filed on behalf of B.R.C.M. alleging three grounds for adjudication of dependency under *section 39.01(15), Florida Statutes* which defines a dependent child as a child who is found by the court: “(a) [t]o have been abandoned, abused, or neglected by the child's parent or parents or legal custodians”; “(e) [t]o have no parent or legal custodians capable of providing supervision and care”; or “(f) [t]o be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians.”

In support of a determination of dependency, *the petition asserted that B.R.C.M.'s father abandoned him at birth and never provided him with food, shelter, clothing, and medical care. The petition asserted that B.R.C.M.'s mother abandoned him [in Guatemala] at age four when she disappeared and never contacted him again or provided him with basic necessities. B.R.C.M. then went to live with his grandmother until she was no longer able to care for him because of old age and illness. At age thirteen, fearing he would be forced to join a local gang and having no family to care for him, B.R.C.M. fled Guatemala, travelled through Mexico, and entered the United States in Hidalgo, Texas.*

The petition asserted that B.R.C.M. was placed with his godmother in Miami, Florida, and met his father for the first time after his arrival in the United States. His father has maintained telephone contact with B.R.C.M., but has not provided for the child's basic needs. *[there was no allegation that the godmother (his ORR sponsor) was abandoning, abusing, or neglecting him.]*. The petition was denied after an eight-minute hearing in the circuit court, during which the court made no factual findings.

On appeal, the Third District repeatedly observed that *the child's sole purpose in filing the dependency petition was to facilitate an application for Special Immigrant Juvenile Status (SIJS) and seek lawful permanent residency.* In re B.R.C.M., 182 So.3d at 751. *The district court determined it was “plain on the face of the petition that B.R.C.M. is not ‘truly’ abandoned, abused or neglected within the meaning of Chapter 39...: “The purpose of the dependency laws of this state is to protect and serve children and families in need, not those with a different agenda.”*

Our Supreme Court then ruled that, because Florida’s statute does not actually address this obvious gamesmanship, the courts were without power to deny such petitions:

[W]hen a Florida court is presented with a dependency petition, the court's concern should be whether the allegations made in support of an adjudication of dependency satisfy Florida's statutory grounds for such an adjudication, not whether the [juvenile] hopes to obtain [SIJS].” ... “[I]f a child qualifies for a declaration of dependency under our statutes, the child's motivation to obtain legal residency ... is irrelevant.”

If a child meets the statutory criteria for dependency, the child must be adjudicated accordingly, regardless of the child's motivations for seeking a dependency adjudication.

B.R.C.M. v. Florida Dep't of Children & Families, 42 Fla. L. Weekly S472 (Fla. Apr. 20, 2017).

We reiterate here our recommendation from our Third and Fourth Presentments: ***require any “sponsor” who is not a biological parent or court-ordered legal guardian to submit themselves and the UAC to the family court for such a formal legal determination; failure to do so should be a felony.***

Further, we ask our leaders to ***immediately close this visa loophole by requiring petitions under Chapter 39.01 to either (a) be filed by the Department of Children and Families or (b) require that any minor being deemed dependent be formally placed in custody of the Department.***

#### WHERE TO

In December of 2022, we reviewed a study which disclosed that following geofencing of NGO facilities on both sides of the Southern border during the month of January 2022, more than 30,000 unique mobile devices were detected at these NGO facilities. **The devices were later traced to 431 separate U.S. congressional districts out of a total 435 congressional districts, including a great number in Florida.**

On September 6, 2023, the DHS Office of the Inspector General (OIG) published a report, “DHS Does Not Have Assurance That All Migrants Can be Located Once Released into the United States.” According to that report, “U.S. Border Patrol cannot always obtain and does not always record migrant addresses, and [ICE] does not always validate migrant addresses prior to migrant release into the United States.” We have quoted it before:

80 percent (790,090 of 981,671) of addresses were recorded at least twice during an 18-month period, some of which were provided by families upon release. More than 780 of these addresses were used more than 20 times.... ICE FACILTITIES DHS released 7 families, comprising 12 adults and 17 children, to a single-family 3-bedroom New Jersey home in a 70-day period. Additionally, the OIG found seven addresses that were used more than 500 times each... ICE must be able to locate migrants to enforce immigration laws, including to arrest or remove individuals who are considered potential threats to national security. *The notable percentage of missing, invalid for delivery, or duplicate addresses on file means DHS may not be able to locate migrants following their release into the United States... [w]hen migrants do not check in, ICE . . . cannot easily locate migrants who may be threats to public safety or are scheduled for removal.*

The addresses used included restaurants in New York, bus stations in New Jersey, Illinois, and Georgia, *and a DHS Office in Illinois.*

Moreover, as the *Florida v. United States* court found, as of April 26, 2022, there had been over 226,000 aliens released under “prosecutorial discretion” under the “Notice to Report” and “Parole+ATD policies.” More than 110,000 of those aliens had not been issued NTAs and more than 66,000 were outside the period that they were supposed to have reported to ICE to be issued an NTA. We cannot help but wonder where they might be now; to our knowledge, no agency has followed up to investigate their whereabouts.

According to one ICE ERO officer,

[o]fficers spend their days reviewing migrant cases at their desks and do not feel they are exercising law enforcement authority, for which they were hired and, without a valid address to locate migrants, ICE may only locate migrants after they have been arrested by state or local police for unrelated offenses post-release. Only after the migrant’s arrest would ICE be aware of the migrant’s whereabouts.

By all accounts, more than one million *illegally present* aliens reside in our State. Florida ranks fourth among the states in most nationwide estimates of number of such individuals; Miami is fifth among metropolitan areas.

Those numbers are not decreasing. As previously referenced, more than 2,400 aliens (not including UAC) have been shipped by the federal government *to just two*

*sections of Florida in the past week*; at that rate, more than 120,000 will have joined our population this calendar year. The Florida v. United States court likewise reported that:

DHS provided information in discovery estimating that about 160,000 of the aliens released into the country between January 2021 and July 2022 provided a Florida address or are on the Miami ERO docket, which covers Florida, Puerto Rico, and the Virgin Islands. That number does not account for aliens released after July 2022.

## FORESEEABLE EFFECTS

Some lessons, however traumatic when initially taught, for some reason apparently need to be re-learned:

***It is elemental to border security to know who is coming into the country.***

Today more than 9 million people are in the United States outside the legal immigration system. We must also be able to monitor and respond to entrances between our ports of entry, working with Canada and Mexico as much as possible. There is a growing role for state and local law enforcement agencies. They need more training and work with federal agencies so that they can cooperate more effectively with those federal authorities in identifying terrorist suspects. ***All but one of the 9/11 hijackers acquired some form of U.S. identification document, some by fraud.*** Acquisition of these forms of identification would have assisted them in boarding commercial flights, renting cars, and other necessary activities.

Fraud in identification documents is no longer just a problem of theft. ***At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.***

***The 9/11 commission report***<sup>17</sup>, National Commission on Terrorist Attacks, page 361 (2004). [https://govinfo.library.unt.edu/911/report/911Report\\_Ch12.pdf](https://govinfo.library.unt.edu/911/report/911Report_Ch12.pdf)

We have seen the repeated assurances that all these incoming aliens are “vetted” and screened prior to being released for possible court proceedings. Some simple figures associated with this total render us exceedingly skeptical of these claims. One year consists of **31,536,000 seconds**. Assuming for the moment that Customs and Border Patrol officers are working around-the-clock every day, ***each of the 3.2 million aspiring entrants averages less than 10 seconds to have their entire history checked***, background explored, biometrics examined and interview accomplished (let alone enhanced SIA vetting requirements).

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<sup>17</sup> It is no small irony that the Department of Homeland Security owes its very existence to the recommendations of the 9/11 Commission Report, yet now enacts policies which ignore and directly contravene the actual recommendations the Report contains.

At that rate, even if 500 officers were working at the same time doing nothing but processing these aliens,<sup>18</sup> barely an hour could be devoted to each. The House Committee on Homeland Security heard testimony that:

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<sup>18</sup> They most certainly do *not* have such a luxury of focus. According to its own publication, “**On a Typical Day in Fiscal Year 2022,**” CBP...

- Processed:
  - 868,867 passengers and pedestrians:
    - 263,000 incoming international air passengers and crew
    - 58,549 passengers and crew on arriving ship/boat
    - 547,318 incoming land travelers
  - 91,605 truck, rail, and sea containers
  - 226,589 incoming privately owned vehicles
  - \$9.2 billion worth of imported products
  - 107,000 entries of merchandise at our air, land, and seaports of entry
  - \$306 million in duties, taxes, and other fees, including more than \$287 million in duties
- Conducted:
  - 6,068 enforcement encounters nationwide between the ports of entry (including apprehensions and expulsions)
  - 41 arrests of wanted criminals at U.S. ports of entry
  - 1,152 enforcement encounters nationwide at ports of entry (including inadmissible migrants and expulsions)
- Discovered:
  - 240 pests at U.S. ports of entry and 2,677 materials for quarantine: plant, meat, animal byproduct, and soil
- Seized:
  - 2,895 pounds of drugs
  - \$217,700 illicit currency
  - \$8 million worth of products with Intellectual Property Rights violations
- Intercepted:
  - 8 fraudulent documents
- Employed:
  - 63,843 men and women including:
    - 25,836 CBP officers
    - 2,668 CBP Agriculture Specialists
    - 19,357 Border Patrol agents
    - 569 Air interdiction agents (pilots)
    - 364 Marine interdiction agents
    - 363 Aviation enforcement agents
    - 1,104 Trade personnel
- Deployed:
  - More than 700 canine teams and 101 horse patrols

At the end of FY 2020 (the last year for which staffing statistics are available), there were fewer than 17,000 Border Patrol agents stationed along the 1,954-mile Southwest border.

On paper, that equals out to roughly 8.64 agents per mile, but in reality, agents work shifts of approximately 50 hours per week. That means fewer than 30 percent of those agents are on the line at any given time, reducing staffing down to about 2.57 agents per mile.

Even that figure, however, does not adequately represent the actual number of agents who are “on the line”—that is, actively preventing the illicit entry of drug mules and human traffickers and smugglers—at the border at any given time.

Given what we have learned about the lengthy and detailed requirements for accurately vetting an individual from a national security perspective, as well as the expertise and time required to do so meaningfully<sup>19</sup>, we are not convinced that anything much beyond a smile and a wave could be accomplished in such an amount of time, and we would not choose to gamble the safety of our fellow citizens on the results.

- 
- Flew:
    - 224 hours enforcement missions over the United States
  - Underway (float):
    - Underway 78 float hours of enforcement missions in the United States
  - Conducted operations in:
    - 22 countries with 33 International Affairs employees working abroad
    - 328 ports of entry within 20 field offices
    - 129 Border Patrol stations within 22 sectors, with 35 permanent checkpoints
    - 75 Air and Marine Operations locations, including branches and units, National Air Security Operations Centers, and the Air and Marine Operations Center

<sup>19</sup> We have also extensively documented (in our Third and Fourth Presentments) the fact that HHS agencies like The Office of Refugee Resettlement consider “vetting” (even of persons attempting to obtain a child from them) to consist of telephone interviews, documents provided via WhatsApp, and ***studious avoidance of DNA testing or thorough questions about prior criminal history and gang involvement***. If that standard prevails across DHS and other companion agencies, there can be zero confidence in the vetting process. We refer again to the announced kindred policies by DHS and the State Department regarding obsessive focus on “streamlining processes” and HHS Secretary Becerra’s description of agency priorities: greater efficiency was demanded because “This is not the way you do an assembly line.”

Nearly 100 Syrian and 50 Iranian nationals have been apprehended by the Border Patrol **since the beginning of October 2023**; several reporters and Senators recently also disclosed that explosive devices have been located among incoming population flows. These concerns resonate with examination of just four of many cases brought to light during our sessions. In one case,

On April 17, 2022, Border Patrol apprehended a migrant and family members in Yuma, Arizona, and screened them for national security threats. Based on the information it had, ***FBI's TSC determined the migrant was a possible Terrorist Watchlist match. Border Patrol released the migrant*** on April 19, 2022. On April 21, 2022, at the Palm Springs International Airport, in Palm Springs, California, ***the migrant and the migrant's family members checked in for a flight to Tampa, Florida.***

***During pre-flight screening, the TSC obtained additional information from TSA and confirmed the migrant was a positive Terrorist Watchlist match.***

Border agents “were busy processing an increased flow of migrants” at the time, and “as a result, the Tactical Terrorism Response Team did not receive the NTC’s request and ***did not interview the alien,***” instead releasing him to board a commercial flight from Palm Springs, California, to Tampa, Florida. Pre-check routines confirmed the watch list hit. “An increase in apprehensions, which created pressure to quickly process migrants and decreased the time available to review each file” so when the terrorist suspect was flagged a second time prior to boarding the flight to Tampa, the Transportation Security Administration at the Palm Springs airport ***still let him on the plane.***

Once alerted, ICE asked for the “Alien File” from Border Patrol, but didn’t get the file for eight days, because Border Patrol was unable to sort, box, and ship any more than a thousand files “once or twice a week” from its overwhelmed processing center and was tens of thousands behind.

Finally, when ICE did go to make an arrest, it was delayed because Border Patrol’s ***Alternatives to Detention*** (electronic monitoring) office didn’t open until 7 a.m. and did not share GPS tracking information with ICE.

<https://www.oig.dhs.gov/sites/default/files/assets/2023-07/OIG-23-31-Jun23-Redacted.pdf>

Florida is not alone in bearing the brunt of risks from this overburdened system:



On Oct. 3, U.S. Border Patrol encountered the noncitizen *[crossing illegally]* in the area of Monument Hill near Lukeville, Arizona. Officials processed him and served him a notice to appear as a noncitizen present without admission or parole. The noncitizen was released on his own recognizance and provided with documentation to report to ERO New York City.

On Oct. 10, Homeland Security Investigations agents attached to the FBI's Counter Terrorism Division notified ERO New York City that the noncitizen was wanted in Senegal for terroristic activities.

<https://www.ice.gov/news/releases/ero-new-york-city-arrests-noncitizen-wanted-senegal-terroristic-activities>

And

Enforcement and Removal Operations (ERO) Boston arrested an unlawfully present fugitive convicted of homicide in Venezuela who resided in state-provided housing on Joint Base Cape Cod in Bourne on Oct. 27.

The Venezuelan national, 38, *failed to disclose his previous homicide conviction* to U.S. Border Patrol officials *when they arrested him for unlawfully entering the United States* in Eagle Pass, Texas, on July 31. He was processed and given a notice to appear at ICE offices within 60 days, which he failed to do.

When authorities encountered him at his state-provided housing, the Venezuelan citizen admitted that he had been convicted of homicide and was wanted in Venezuela for violation of his sentencing conditions since 2006.

<https://www.ice.gov/news/releases/ero-boston-arrests-fugitive-convicted-homicide-venezuela-joint-base-cape-cod>

Perhaps most urgently, it also came to light that:

one of CBP's field offices found it necessary, in light of current events, to warn agents that individuals inspired by, or reacting to, the current Israel-Hamas-Hezbollah conflict may attempt travel... across the Southwest Border... Foreign fighters motivated by ideology or mercenary soldiers of fortune may attempt to obfuscate travel to or from the US to or from countries in the Middle East through Mexico.

Complicating this fact, though, was a contemporaneous revelation that **Palestinians (part of the very population about which CBP issued its warning)** are not classified as “Palestinian” when crossing the border; apparently, DHS software does not contain a menu classification for that nationality, meaning that when Palestinians are encountered, they **are often documented as “Israeli”** even if their passports are stamped by the Palestinian Authority.<sup>20</sup>

These are the policies:

**Your A number**

**Notice to Appear**

U.S. Department of Homeland Security

**In removal proceedings under section 240 of the Immigration and Nationality Act:**

Subject ID: [REDACTED]      FINS #: [REDACTED]      IIR No: [REDACTED]  
 DOB: [REDACTED]      Event No: [REDACTED]

Name: [REDACTED]

Reasons: [REDACTED]      currently residing at [REDACTED]  
 (Number, street, city and ZIP code)      (Area code and phone number)

1. You are an alien national.  
 2. You are an alien present in the United States who has not been admitted or paroled.  
 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States.
2. You are a native of HONDURAS and a citizen of HONDURAS.
3. You arrived in the United States at or near [REDACTED], on or about [REDACTED].
4. You were not then admitted or paroled after inspection by an Immigration Officer.

**The immigration court where your hearing will be scheduled**

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provisions of law:

212(a)(5)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

This matter is being processed at an asylum office. You should be fully responsible for demonstrating a fear of persecution or torture.  
 Section 235(b) of the Immigration and Nationality Act.     8 C.F.R. 208.30(a)(2)     8 C.F.R. 235.3(b)(3)(a)

YOU ARE ORDERED to appear before an immigration judge, in the United States Department of Justice, at 570 Executive Center Drive, Suite 400, Charlotte, NC 28211.

**DATE TO BE HEARD:** [REDACTED] (to show why you should not be removed from the United States, please contact the ICE office listed below)

**NICHOLAS E. HUNTER**      ACTING PATROL AGENT IN CHARGE


Date: April 18, 2018

**See reverse for important information**

<sup>20</sup> When questioned about this, a DHS spokesperson stated that this apparent anomaly was actually by design.

And these are their effects:



 **Chief Jason Owens**  
@USBPChief

Over the weekend, USBP arrested 7 hardened criminals trying to enter the U.S.

- 1) w/ homicide conviction
- 2) w/ Assault Against Person & Hit & Run
- 3) Registered Sex Offender
- 4) El Sal Gang Member
- 5) Tren de Aragua Gang Member
- 6) Guatemalan w/ Warrant
- 7) Weapons Trafficker in Peru





#### IV. CARTELS AND CO-OPTED SYSTEMS

The evidence we saw and the witnesses we heard from lead us to the conclusion that what occurs at or near the southern border often eventually makes its way to our state, whether by human movement and behavior, livestock or agriculture transport, or financial transactions. To that end we investigated the involvement of Transnational Criminal Organizations (TCOs) and their spheres of influence, as well as the negative implications their activity has for health, safety, security and law enforcement efforts in our state.

Many sections of Mexico have become *de facto* nation-states, governed not by elected leaders but by well-financed paramilitary groups possessing such equipment as armored vehicles, drone technology, sniper rifles, night vision capability, body armor, shoulder-fired RPGs and heavy machine guns. They have proven capable of taking down at least one Mexican military helicopter. We have seen and heard about armed incursions made by cartel members into American territory. One such group recently had to be physically and militarily evicted from sovereign U.S. soil on Fronton Island in Texas. “Sinaloa,” “CJNG,” “Gulf Cartel,” and “Cartel del Noreste” are currently among the more predominant, though as one group wanes in influence another invariably ascends.

Because of these groups, the U.S. State Department lists the following advisories to anyone considering Mexico as a travel destination:

Country Summary: *Violent crime – such as homicide, kidnapping, carjacking, and robbery – is widespread and common in Mexico.* The U.S. government has limited ability to provide emergency services to U.S. citizens in many areas of Mexico, as travel by U.S. government employees to certain areas is prohibited or restricted. In many states, local emergency services are limited outside the state capital or major cities.

U.S. citizens are advised to adhere to restrictions on U.S. government employee travel. State-specific restrictions are included in the individual state advisories below. ***U.S. government employees may not travel between cities after dark, may not hail taxis on the street, and must rely on dispatched vehicles,*** including app-based services like Uber, and regulated taxi stands. U.S. government employees *should avoid traveling alone*, especially in remote areas. U.S. government employees ***may not drive from the U.S.-Mexico border to or from the interior parts of Mexico, except daytime travel within Baja California and between Nogales and Hermosillo on Mexican***

***Federal Highway 15D, and between Nuevo Laredo and Monterrey on Highway 85D.***

**Do Not Travel To:**

Colima state due to crime and kidnapping.

Guerrero state due to crime.

Michoacan state due to crime and kidnapping.

Sinaloa state due to crime and kidnapping

Tamaulipas state due to crime and kidnapping.

Zacatecas state due to crime and kidnapping.

**Reconsider Travel To:**

Baja California state due to crime and kidnapping.

Chihuahua state due to crime and kidnapping.

Durango state due to crime.

Guanajuato state due to crime and kidnapping.

Jalisco state due to crime and kidnapping.

Morelos state due to crime.

Sonora state due to crime and kidnapping.

**Exercise Increased Caution When Traveling To:**

Aguascalientes state due to crime.

Baja California Sur state due to crime.

Chiapas state due to crime.

Coahuila state due to crime.

Hidalgo state due to crime.

Mexico City due to crime.

Mexico State due to crime.

Nayarit state due to crime.

Nuevo Leon state due to crime and kidnapping.

Oaxaca state due to crime.

Puebla state due to crime and kidnapping.

Queretaro state due to crime.

Quintana Roo state due to crime.

San Luis Potosi state due to crime and kidnapping.

Tabasco state due to crime.

Tlaxcala state due to crime.

Veracruz state due to crime.

Discussion at a 2021 hearing before the House Subcommittee on Oversight (for DHS) sketched out the reach of TCOs as follows:

TCOs are typically either directly connected to the groups that smuggle migrants across borders or will allow the smugglers to pass through the territory they control for a fee, generating millions of dollars a year from the exploitation of those who seek a better life. For many who hope to escape violence by leaving their homes, the journey can prove just as perilous. It is estimated that ***approximately 80 percent*** of women and girls who migrate from the Northern Triangle face sexual violence along the way. Migrants are also highly susceptible to robbery and kidnapping. The same connections that allow TCOs to guarantee passage free from legal hassles, ***also allow them to victimize migrants with impunity...***

Successful TCOs exploit existing logistical chains and financial flows and diversify their portfolios to move multiple illicit items such as drugs, money, counterfeit goods, individuals, and weapons. TCOs conduct their operations without regard for human life and have proven to be highly capable, profitable, powerful, dangerous, elusive, and extremely resilient. In short, ***TCOs pose a significant threat to both National security and to public safety.*** Human smugglers—many with ties to TCOs—engage in the crime of unlawfully bringing people into the United States, or unlawfully transporting and harboring people already in the United States, in deliberate evasion of immigration law. It is estimated that TCOs profit anywhere between \$200 million and \$2.3 billion alone for smuggling migrants from the Northern

Triangle to the Southwest Border. Desperate migrants often pay human smuggling groups thousands of dollars to aid them on their journey. These smugglers and TCOs profit by exploiting people who are seeking a better life...

Human smuggling poses a substantial threat to the homeland by creating conduits that allow contraband and persons seeking to harm the United States to clandestinely enter the country. Smugglers control where and how these illegal migrant border crossings take place, putting human lives at risk to create gaps in border security. While agents are diverted to process large groups or to conduct migrant rescues, TCOs are using these diversions to move illicit narcotics or other contraband elsewhere across the border. These same TCOs, through diversified criminal activities, are responsible for the movement of illicit drugs entering the United States....

Transnational gangs from this region represent another threat to our Nation's safety and security. La Mara Salvatrucha, also known as "MS-13," is a gang operating throughout the United States and Northern Triangle countries. Members and associates of MS-13 are expected to protect the name, reputation, and status of the gang from rival gang members and other persons. MS-13 members require that all individuals show respect and deference to the gang and its membership. To accomplish this, MS-13 members and associates are expected to use any means necessary to force respect from those who show disrespect, including acts of intimidation and violence. HSI-led investigations have linked MS-13 gang members to a variety of organized criminal activity, including drug trafficking, extortion, and homicide. Another significant concern for our country, human smuggling, involves the provision of a service—typically transportation, navigation, or fraudulent documents—to facilitate an individual's unauthorized entry into the United States.

Harsh terrains and travel conditions, combined with the potential detection by law enforcement and the threat of violence posed by cartels controlling territory along smuggling routes across Central America and Mexico, make it difficult for migrants to travel from their home countries and reach our borders without the assistance of human smugglers. Criminal organizations play a major role in facilitating the smuggling of these noncitizens from their home countries and across our borders. **U.S.-bound human smuggling and related criminal activities are estimated by the Homeland Security Operational**



**Analysis Center to produce revenues of between \$2 billion to \$6 billion per year.**

The Executive Associate Director of HSI testified in June 2021 regarding the “new frontier” of human smuggling by the cartels:

Human smuggling involves the provision of a service—typically transportation, navigation, or fraudulent documents—to facilitate an individual’s unauthorized entry into a foreign country. Over the last five years, nationals of El Salvador, Honduras, and Guatemala (referred to as the Northern Triangle countries), and Mexico, who migrate due to violence, poverty, limited economic opportunity, amongst other reasons, have comprised the majority of undocumented noncitizens encountered without authorization along the Southwest Border...

***Criminal organizations step in and to facilitate the illegal smuggling of these noncitizens across our borders.***

**U.S.-bound human smuggling** and related criminal activities are estimated by the Homeland Security Operational Analysis Center to produce revenues of ***\$2 billion to \$6 billion per year***. Human smuggling organizations profit by charging fees for smuggling undocumented noncitizens into and throughout the United States and by collecting transit fees when smugglers and their clients travel through territory controlled by cartels or other TCOs. These groups are almost exclusively financially driven and see humans as just another commodity to be moved across borders.

Human smuggling enterprises and cartels often maintain a symbiotic relationship, both with cartels controlling the major U.S. and foreign drug markets, while smuggling networks control the smuggling flow, otherwise known as “illicit pathways.” **Cartels or other TCOs have traditionally charged a “plaza” or tariff on migrants and human smuggling organizations to transit through their territory or operate in certain border towns. However, since mid-2019, some have taken a more active approach in human smuggling, increasing and diversifying sources of income with an activity they view as low risk.**

While human smuggling may constitute the initial crime facilitating the illicit movement of people, including UCs, to our borders, ***the criminality does not stop there***. In some cases, migrants become victims of human or labor

trafficking – a crime of exploitation that does not require movement – when criminal networks introduce force, fraud, or coercion into smuggling schemes to induce victims into forced labor or commercial sex. If the victim is under age 18, sex trafficking occurs when the victim is induced to perform commercial sex – force, fraud, or coercion is not required. For example, in May, HSI identified and rescued a victim who was forced into labor after entering the United States. The victim entered the United States as a UC and was subsequently forced to work and live in substandard conditions, with minimal remuneration. HSI’s investigations have also demonstrated that *human smuggling often occurs alongside or can be a precursor to other transnational crimes such as gang activity, identity and benefit fraud, money laundering, bulk cash smuggling, narcotics smuggling, arms trafficking, and terrorism and other national security related crime.*

DEA’s Washington D.C. Special Agent in Charge wrote in 2021 that:

We see trafficking of illegal drugs and human trafficking often happen together. Transnational drug traffickers and criminal organizations often look to increase profits and market control through diversification. This means using trafficking routes for drugs, labor, sex, and violence. Transporting people (usually women and children) for sex is just another egregious source of profits for these violent criminals.

*For traffickers, it doesn’t matter which product is being sold -- both drugs and sex are lucrative industries – as long as money is made.* Drug cartels often use trafficked women and children to smuggle drugs across the border, doubling up on the money they can make from them.

*Violent criminals like this see no difference between abusing a woman’s body by forcing her to swallow bags of drugs or by forcing her to have sex with hundreds of men.*

The link we see between human trafficking and opioids in this area, sadly goes both ways. Human traffickers often use drugs as “bait” to recruit people who have a substance use disorder. Or, conversely, traffickers use drugs as a means of control over their victims – to force compliance, harder work, longer hours, or to keep them “drugged out” so they do not attempt escape. Either way, we see these horrific criminals forcing women and even children into addiction by providing them strong and potent drugs as a means of exerting control.

The Assistant HSI Director followed this up in May 2023:

### **Evolution of Transnational Criminal Organizations**

Criminal organizations in the 21st century do not limit themselves to a single criminal enterprise. These criminal organizations have expanded beyond narcotics smuggling and have morphed into **poly-criminal TCOs involved in the associated crimes of weapons trafficking, human trafficking, human smuggling, money laundering, and other crimes....**

For example, the illicit collaboration between Chinese TCOs and Mexican cartels have created a complex criminal ecosystem that is fueling money laundering and narcotics trafficking, specifically illicit fentanyl, operations into and within the United States. Chinese money laundering organizations (MLOs) have developed sophisticated networks in the United States, Mexico, China, and throughout Asia to facilitate money laundering schemes. These organizations utilize their vast global infrastructure to clean illicit proceeds for various criminal organizations, including Mexican cartels. Moreover, as Mexican cartels have taken over fentanyl production and operate on an industrial scale, they are procuring precursor chemicals from China and synthesizing these chemicals in Mexico to produce fentanyl. Mexican cartels then smuggle the fentanyl into the United States in either powder or pill form for distribution....

Chinese criminal organizations also facilitate the trafficking and distribution of illicit fentanyl pills. The most common is fake oxycodone pills, which are made to look identical to prescription oxycodone but are laced with deadly fentanyl. These fake pills are responsible for thousands of overdose fatalities, as the user believes they are taking a real oxycodone pill and unknowingly receives a lethal dose of fentanyl. In order to manufacture these pills, Mexican cartels require industrial pill press equipment to turn powdered fentanyl into pill form. The Mexican cartels are purchasing these pill presses directly from Chinese manufacturers who are producing the equipment specifically for illicit activity.

Moreover, TCOs, particularly those along the Southern Border, have employed a multipronged illicit business model encompassing the importation of narcotics into the United States and ***exportation of illicit firearms and ammunition to Mexico***. ...Firearms smuggled from the United States into Mexico allow the TCOs to continue their deadly operations against our

Mexican law enforcement partners and the local populace. In 2021, the Government of Mexico estimated at least 342,000 U.S.-sourced firearms are illegally smuggled into Mexico every year. Mexico's National Public Security System reported 34,515 intentional homicides with 70 percent involving firearms in 2020. During this period, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) performed traces on 19,762 firearms recovered in Mexico. ATF checks determined at least 67.7 percent were sourced from the United States with over half traced to a retail purchase.

As for specific cartels and their drug activities (conducted in tandem with portions of the People's Republic of China), the Administrator of DEA testified in May 2023 as follows:

### **Mexican Cartels and Drug Trafficking**

The Sinaloa and Jalisco Cartels pose the greatest criminal drug threat the United States has ever faced. These ruthless, violent, criminal organizations have associates, facilitators, and brokers in all 50 states in the United States, as well as in more than 100 countries around the world. The Sinaloa Cartel, the Jalisco Cartel, and their affiliates control the vast majority of the fentanyl global supply chain, from manufacture to distribution. The cartels are buying precursor chemicals in the PRC; transporting the precursor chemicals from the PRC to Mexico; using the precursor chemicals to mass produce fentanyl; using pill presses to process the fentanyl into fake prescription pills; and using cars, trucks, and other routes to transport the drugs from Mexico into the United States for distribution. It costs the cartels as little as 10 cents to produce a fentanyl-laced fake prescription pill that is sold in the United States for as much as \$10 to \$30 per pill. As a result, the cartels make billions of dollars from trafficking fentanyl into the United States.

The business model used by the Sinaloa and Jalisco Cartels is to grow at all costs, no matter how many people die in the process. The cartels are engaging in deliberate, calculated treachery to deceive Americans and drive addiction to achieve higher profits.

### **The Sinaloa Cartel:**

The Sinaloa Cartel, based in the Mexican State of Sinaloa, is one of the oldest drug trafficking organizations in Mexico. The Sinaloa Cartel controls drug trafficking activity in various regions in Mexico, particularly along the Pacific

Coast. Additionally, it maintains the most expansive international footprint of the Mexican cartels. The Sinaloa Cartel exports and distributes wholesale amounts of fentanyl, methamphetamine, heroin, and cocaine in the United States by maintaining distribution hubs in cities that include Phoenix, Los Angeles, Denver, and Chicago. Illicit drugs distributed by the Sinaloa Cartel are primarily smuggled into the United States through crossing points located along Mexico's border with California, Arizona, New Mexico, and Texas. The Sinaloa Cartel reportedly has a presence in 19 of the 32 Mexican states. It has been identified that there are currently more than 26,000 members, associates, facilitators, and brokers affiliated with the Cartel around the world.

### **The Jalisco Cartel:**

The Jalisco Cartel is based in the city of Guadalajara in the Mexican state of Jalisco, and was originally formed as a spin off from the Milenio Cartel, a subordinate to the Sinaloa Cartel. It maintains illicit drug distribution hubs in Los Angeles, Seattle, Charlotte, Chicago, and Atlanta. Internationally, the Jalisco Cartel has a presence and influence through associates, facilitators, and brokers on every continent except Antarctica. The Jalisco Cartel smuggles illicit drugs such as fentanyl, methamphetamine, heroin, and cocaine into the United States by accessing various trafficking corridors along the southwest border including Tijuana, Mexicali, Ciudad Juarez, Matamoros, and Nuevo Laredo. The Jalisco Cartel's rapid expansion of its drug trafficking activities is characterized by the organization's willingness to engage in violent confrontations with Mexican Government security forces and rival cartels. The Jalisco Cartel reportedly has a presence in 21 of the 32 Mexican states. It has been identified that there are currently more than 18,800 members, associates, facilitators, and brokers affiliated with the Cartel around the world.

The PRC and Precursor Chemicals Chemical companies within the PRC produce and sell the majority of precursor chemicals that are used by the Sinaloa and Jalisco Cartels to manufacture fentanyl and methamphetamine. These precursor chemicals from companies within the PRC are the foundation of the fentanyl and methamphetamine that are manufactured and transported from Mexico into the United States, and that are causing tens of thousands of drug-related deaths in our country. Chemical companies within the PRC distribute and sell precursor chemicals that are used in fentanyl and methamphetamine production around the world. Some companies within the

PRC, for example, engage in false cargo labeling and ship chemicals to Mexico without tracking the customers purchasing the chemicals from the PRC and elsewhere. In recent weeks, DEA has had productive engagements with Chinese counterparts in Beijing and Washington, D.C. focused on increasing cooperation between our countries. DEA remains ready to work with the PRC and all willing partners to reduce the flow of precursor chemicals and the deadly synthetic drugs they produce.

### **Chinese Money Laundering Operations and the Cartels:**

The Sinaloa and Jalisco Cartels utilize Chinese Money Laundering Organizations (CMLOs) in the United States and around the world to facilitate laundering drug proceeds. CMLOs use mirror transfers, trade-based money laundering and bulk cash movement to facilitate the exchange of foreign currency. The use of CMLOs by the cartels simplifies the money laundering process and streamlines the purchase of precursor chemicals utilized in manufacturing drugs. These money laundering schemes are designed to remedy two separate issues: (1) the desire of Mexican cartels to repatriate drug proceeds into the Mexican banking system, and (2) wealthy Chinese nationals who are restricted by the PRC's capital flight laws from transferring large sums of money held in Chinese bank accounts for use abroad. To address these issues, CMLOs acquire U.S. dollars held by Mexican cartels as a means to supply their customers in the PRC.

But as noted above, cartels do not confine themselves to mere drug activity. Cartel violence, and their ability to extend their tendrils throughout our country, has increased to the point that situations such as these are sadly routine:

- We heard from one individual who is awaiting a prison sentence for trafficking fentanyl provided to him by a cartel source. While he was willing to plead guilty and face decades in prison, he was afraid to identify his source to law enforcement, because as he flatly put it, they would torture and murder him and his family.
- Cartels have ambushed, shot, and killed American law enforcement and Border Patrol officers (we heard from some firsthand).
- They have fired at officers who were attempting to rescue people in the desert.
- On September 10, 2022, cartels shot seven people, among them American citizens, who drove across the border in nearby Ciudad Miguel Aleman.

- The Mayor of Tijuana lives on a military base and requires armed escorts just to get her hair styled, due to the threats against her because of her anti-cartel actions.
- We have been provided reports of complete road shutdowns by cartel members who forced children off school buses, and have observed infants and small children abandoned by the cartels in the desert as they flee to evade law enforcement.
- We have seen small children dropped from border walls and abandoned to fend for themselves in the Rio Grande courtesy of cartel smugglers.

In two other examples:

ABC news reported in August of 2023 that:

Prosecutors in the western state of Jalisco say they are investigating a video, and relatives of the missing group of young friends told local media that their clothing resembled that worn by the men in the video.

***The most horrifying thing is not just the pair of bound, inert bodies seen lying in the foreground. It is the fact that the youth seen bludgeoning and apparently decapitating another victim appears to be himself the fourth member of the kidnapped group of friends.***

The fifth member of the kidnapped group — young friends who had traveled to attend a festival in the city of Lagos de Moreno in Jalisco state — may be the body police found inside a burned-out car in the area. The young men went missing Friday in an area known for cartel violence, and authorities have mounted a massive search for them.

Luis Méndez Ruiz, the Jalisco state attorney general, said Tuesday that the men seen in the video “could be the five men who are being searched for. This video and the information that was made public on a social media platform is now part of the investigation,” Méndez said. The clothing worn by the men in the video also resembles a photo of them alive, but bound, that was released earlier.

The likelihood that the video was authentic increased further Wednesday, when investigators raided a series of brick and concrete ranch buildings where the brutal scene was apparently taped. They found bloodstains on the floor and shoes scattered about. The video features a text written over the image

that says “Puro MZ,” an apparent reference to El Mayo Zambada, the leader of a faction of the Sinaloa drug cartel.

CBS News reported in September of 2023 that:

*Eleven Mexican former police officers were found guilty on Thursday in the murders of 17 migrants who were shot and burned* near the United States border, prosecutors said. After a trial that lasted more than three months, judge Patricio Lugo Jaramillo ruled there was enough evidence to convict the former police officers.

The killings took place on Jan. 21, 2021 in the community of Santa Anita in Tamaulipas state, close to the border with the United States, where 16 migrants from Guatemala and one from Honduras were headed.

The victims "lost their lives due to gunshot wounds and were subsequently incinerated," the prosecutor's statement read. The charred bodies were found in a truck in the municipality of Camargo, a major smuggling transit point for drugs and migrants. Organized crime groups covet control of stretches of the border because they make money off everything that crosses the border.

Camargo is near the edge of territory historically controlled by the Gulf cartel and in recent years a remnant of the Zetas known as the Northeast cartel has tried to take over. A total of 19 bodies were discovered, including the remains of two Mexicans who, authorities said, were human traffickers who were going to take the migrants to the border.

At least 853 migrants died trying to cross the U.S.-Mexico border unlawfully over a 12-month span in 2021-2022, making fiscal year 2022 the deadliest year for migrants recorded by the U.S. government.

We have seen other videos of cartel activity so graphic and disturbing that we will not describe them further here.

We also received testimony regarding the cartels' ability to “hack” the CBP-One application by using a Virtual Private Network (VPN). At one point, the Mexican government would turn away people attempting to enter the country, unless they had a CBP One appointment. Cartels would penetrate the app and use a VPN to allow users anywhere to “schedule” their appointment, a/k/a their “transit visa through Mexico.” They also exploit it by selling off appointments to aliens seeking



passage, proudly advertising their services on the internet and in migrant camps. As one expert termed it:

[W]hat they did is the smugglers now use a VPN and they – and they tell the VPN that they're in Mexico even though they're in Tajikistan. And then, when they get the appointment, instead of the person flying and cooling his heels in Mexico, he stays in Tajikistan until he gets the appointment, then gets on the plane and heads to Mexico. I mean, in a sense the CBP One app is facilitating the work of smugglers in that sense.

.... It hasn't stemmed the flow of illegal immigration; it's actually helped the cartels through their smuggling operations. They've actually made it easier. So before the cartels had to have a robust operation in the United States as well, and now all they've got to do is drop them off at our front door, at a port of entry, and we take over from there.

The goal, as always, is debt bondage; aliens may be forced as a cost of passage to ferry drugs or other people across the border, distracting law enforcement; in some cases, the distraction is necessary so incoming shipments of firearms, weapons, or bulk cash can be brought south into Mexico. Some end up working simply to pay off the cost of their passage upon threat of the death of their family in their home country or elsewhere; and they will be paying for an interminable period:

So, quickly what the cartels did, they were able to overcome the app and they're able to get anybody anywhere to get online now and get their application to come to a port of entry in the United States. It's equivalent to their Willy Wonka Chocolate Factory ticket. If they have that, it's their transit through a hundred safe third countries. As long as they have that appointment, [Border Patrol is] just stepping aside and letting them come on in, and they're making their way.

... It doesn't matter whether you're going through the Darien Gap. It doesn't matter whether you're traveling through all three Northern Triangle countries or transiting through a couple-of-thousand-mile trek through Mexico. It doesn't matter at the end whether you're going to enter illegally in between the ports of entry or use the CBP One app to come to a port of entry; you're still putting your life in the hands of the cartels. You're still being abused. You're still being exploited. And I promise you, you're having to pay for it every single day.

I mean, you really think the cartels and going to step aside and say, oh, OK, you have your appointment; go ahead, free of charge, go ahead and walk to a port of entry? That's stupid. That's not real life. That's not how that works. So the cartels every single day, it doesn't matter whether a migrant is illegally entering between the ports of entry or they're using the CBP One app, I promise you they're paying for it.

They are no longer merely “drug cartels,” though that market is still quite active. Just this past fiscal year, Border Patrol seized 27,000 pounds of fentanyl and millions of fentanyl pills (**enough to kill every American 18 times**), and in the second week of November 2023, seized a shipment of 304 pounds of fentanyl between ports of entry. Border Patrol estimates it only seizes around 10-15% of the fentanyl actually sent across the border, and the vast majority of what is intercepted is seized at a port of entry.

An even more lucrative market is now firmly under their control, *aided by the aforementioned policies which lure a steady stream of new victims* into the web: human smuggling and trafficking. As we learned from numerous witnesses, and as the House Homeland Security Committee pointed out, nearly all the illegal aliens that cross the southwest border are smuggled over by a Mexican cartel. This is because the cartels have complete operational control over the territory, including many of the points of origin, and can permit or deny passage as they see fit. Aliens are not able to pass from one “turf” to another without paying—some with money, some with debt bondage, some by agreeing to smuggle drugs or other people along with themselves, some with human commodities like their children, and some with their own lives. Most TCOs use a similar system to discriminate among those who have or have not paid the necessary bounty: colored wristbands. We have seen reporting that cartels will kill those who wear one group's band but, mistakenly or otherwise, pay off the wrong cartel for passage. Those aliens who do arrive in our country are sometimes committing criminal acts just to pay the debts incurred, so that TCOs will not harm them or those they left behind in their home countries.

TCOs thus profit from *both* ends of the process. Indeed, we have heard and seen evidence about how TCOs actually *weaponize* these alien flows, directing large numbers to cross between checkpoints in order to compel Border Patrol to pull resources from other areas to deal with them, leaving vast areas unpatrolled through which cartels bring other, more valuable (to them) commodities — high-paying illegal crossers such as terrorists, and large quantities of narcotics one direction,

counter-shipments of weapons, ammunition and money the other. “High-Value Passengers” of course command the highest prices, and there is little doubt about who they are: in just this past fiscal year, Border Patrol arrested **172 denizens of the Terror Watchlist<sup>21</sup> (double last year and more than the past six years combined), 598 gang members (178 from MS-13 alone), 998 persons with active warrants and 15,267 known convicted felons** (35% more than last year).

With smuggling rates for illegal aliens ranging from \$3,000 to \$60,000, Mexican cartels treat humans as profitable cargo (as we were repeatedly told by witnesses, while drugs can only be sold and consumed once, the same is not true for a person—particularly a child). One victim told the New York Times, “You have to pay with your body,” and some are even forced to allow their children to be abused. Eight parents who brought single children over through the Frontera area reported \$9,000 for the cartel to smuggle them up from Honduras. Two parents who brought one child said they paid the cartel \$15,000 for the journey. We are also aware of a child smuggled from Honduras to the border who ultimately arrived in Florida and died here, the investigation of which remains ongoing.

DHS itself has reported to Congress that cartels often require:

alternative forms of payment in exchange for passage, including migrants being required to participate in smuggling controlled substances or other illicit items across the border or to work off debts through criminal activity upon arrival in the United States.

These are sophisticated networks operating in many countries, including our own (as far north as Alaska). Experts, sheriffs, civilians, border law enforcement officers, and others have also described to us:

They utilize a network ... of scouts, they're lookouts. They check on and off just like law enforcement. Anywhere from eight-hour shifts, 10-hour shifts,

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<sup>21</sup>When all U.S. places of entry are added – by land, sea and air – another 564 people on the watchlist were caught, bringing the total to 736. By way of comparison, between fiscal 2017 and 2019, Border Patrol agents apprehended a total of 11 people on the terrorist watchlist. We also note with interest the recent admission, by the Director of the FBI in Congressional testimony, that the recent terrorist attack against Israel and subsequent reactions may “inspire” additional terrorist infiltrations and attacks within our country. Having so many confirmed terror suspects as well as so many SIA’s and persons from countries affiliated with such terrorist threats already [legally or otherwise] within our borders is another result of the policies we described.

12-hour shifts. I've seen them in South Texas as far as 30 miles into the United States. I have seen them in Arizona as far as 70 miles. They leverage two-way handheld encrypted radios, sometimes encrypted apps, and they communicate back to what is known as 'central.'

So what happens is you have these lookouts everywhere. And when what they call the 'gate' is open, the gate meaning a bend in the river or bend at your border, when there is no law enforcement, they surge with whatever commodity it is that they want to push. So, when you're talking, based on the policies, [about] all of these migrants that have come from all over the world, what is happening is the cartel by design will push hundreds of people as you have seen on every news station over the last few years. And the media focuses on that. That causes the surge of local state and federal law enforcement to that location, and they do that by design because it opens up the other gates.

Now if they're going to move a commodity directly linked to a cartel boss, they'll shut down more gates to ensure that commodity makes it in.

And what they do is they contract directly with U.S.-based street gangs and what we call tier one gangs. Those are gangs which impact multiple regions in our country. They work directly with the cartels. Today it is very important to understand your U.S.-based street gangs are working side-by-side, contracting with the cartels. [...] So, when you wonder today why you are being overrun with drugs, it is because the tier one gangs, and U.S.-based street gangs are contracting and working directly with these cartels....

Historically your cartels, Mexican cartels, we call them drug cartels because that's what they were. Today, they are in over 54 countries around the world. This is not a U.S.-Mexico problem ladies and gentlemen. Cartel Jalisco New Generation, we know, is in 48. This will not stop. And now they've transitioned into the final version of human trafficking known as debt bondage, and I am holding it in my hands. This is how emboldened they've become. So, I can't stress to you [enough] that you have to take extreme action to go after these cartels and to truly create relationships with Mexico and the rest of the world in what we call a unified command and treat them as the dark networks that they are.

We have reviewed evidence and questioned experts, whistleblowers<sup>22</sup>, and law enforcement personnel from the level of local deputy and state police officer to Sheriffs in three states and special agents, those with experience in the FBI, CIA, Treasury Department, Secret Service, FDLE, FHP, and even to the very pinnacle of leadership in ICE, Border Patrol, and the Department of Homeland Security regarding the potential hazards posed by individuals either outright smuggled in by these cartels or camouflaged among the flow of inadequately-vetted aliens. ***From the perspective of national security***, the policies we described have created an environment of crisis; there is zero doubt that among the millions casually invited or illegally smuggled in are many individuals with bad intentions who have entered the country without the agencies designed to know, understand, and deal with the threats they represent having any idea who they are, where they are, what their history is, and how to adequately screen or monitor them. What is undeniable is that at least some of them are now in Florida. Even one is too many.

Several experts suggested that the ***cartels be equated with, and designated as, foreign terrorist organizations*** under 8 U.S.C. 1189, to unlock certain additional methods for lawfully combatting them. We realize our State cannot make such a designation, but we recommend that our federal representatives seriously entertain such a measure.

We also believe it would be appropriate for our State leaders to enhance the sentence for a person convicted of a criminal offense who is proven to be a member of a cartel or TCO, much as is the case already with enhanced sentencing for gang membership. ***These are no longer simply thugs with small armies; they are essentially absurdly wealthy mini-countries in a perpetually belligerent posture.***

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<sup>22</sup> We also heard from a Florida attorney, who works as an immigration lawyer and is involved in the immigrant community. He has publicly exposed the presence of some of these criminal actors (including gang members) in our state (which is terrorized by these groups). He also pointed out the fact that they have in some cases been brought to Florida courtesy of federal agencies. For his candor, he has received death threats and online attacks from the criminals and their sycophants. We commend his courage in coming forward.

## DOMESTIC SPILLOVER

When any group of human beings numbering in the millions is considered, there are bound to be those among them who are criminal actors.<sup>23</sup> Immigrants are not an exception. Criminal activity related to these issues is not confined to outside-- or even just inside-- our borders.

DHS' ERO conducts removals of individuals without a lawful basis to remain in the United States. For reference, in fiscal year 2022, ERO *arrested 46,396 noncitizens with criminal histories. This group had 198,498 associated charges and convictions, including 21,531 assault offenses; 8,164 sex and sexual assault offenses; 5,554 weapons offenses; 1,501 homicide-related offenses; and 1,114 kidnapping offenses.*

These numbers show a marked increase from relatively recent history, which was by no means unblemished in this regard. The Government Accountability Office (GAO) occasionally publishes data on "*Criminal Alien Statistics, Incarcerations, Arrests, Convictions, Costs, and Removals*," having most recently done so in 2018. According to that report, which does not measure all alien crime but only a select few states and some federal crimes:

Since there are no reliable data on criminal aliens incarcerated in all state prisons and local jails, we analyzed conviction data from the five state prison systems that had the largest number of State Criminal Alien Assistance Program (SCAAP) criminal alien incarcerations in fiscal year 2015.

The GAO found that from fiscal years 2011 through 2016,

- the criminal alien proportion of the total estimated federal inmate population was 21 percent, or about 39,500 inmates.

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<sup>23</sup> We are aware of arguments attempting to compare the rates of criminal offenses between alien and citizen populations. These arguments appear to proceed from flawed premises to draw faulty conclusions. For starters, a great many alien criminal histories are unknowable, as their countries of origin either keep inaccurate data or do not share it with the United States at all; likewise, most states do not track such data, as we have explained within.

Second, every crime committed by illegally present immigrants with prior criminal histories was avoidable, since if their history was known they should have been removed or denied entry, whereas citizens cannot be blocked from American territory so as to be unavailable to commit crime. As one commentator put it, "The DHS detention and removal process cannot and will not ever prevent a single crime by an American citizen."

- the number of SCAAP criminal alien incarcerations in state prisons and local jails was about 169,300, or 40 percent.
- certain states—including California, which has the highest number of SCAAP criminal aliens—did not report or were unable to report data on the number of noncitizens.
- 62 percent of the SCAAP criminal aliens were arrested/transferred in one of three states—California, Texas, and Florida.
- the approximately 533,000 SCAAP criminal aliens in the state and local study population were arrested/transferred for a total of about 5.5 million offenses, averaging about 10 offenses per SCAAP criminal alien.
- also estimated that the total amount that state prison systems expended totaled about **\$6.7 billion over the 6 years.**

As for immigration offenders, GAO found that:

- **Order of removal or previously removed.** About 55,700, or 77 percent, appeared to have a pending order of removal or were previously removed by ICE with no subsequent record of a legal reentry.
- **In removal proceedings.** About 5,000, or 7 percent, were in removal proceedings at the time of their incarceration, as indicated by ICE’s review of records. In other words, they appeared to have a removal case in process in immigration court.
- **Subject to removal.** About 11,800, or 16 percent, may have been subject to removal at the time of their incarceration, as indicated by ICE’s review of records.
- About 4,700 criminal aliens **did not have a record of admission or a record of other authorized presence** in the United States.

*Federally*, there were 196 terrorism convictions, 72 murders, 123 kidnappings, nearly 3,500 firearm convictions, and 591 sex offenses among the 200,000 federally-convicted alien criminals.

In the few *states* for which data was available,

- **Arizona:** Drug offenses accounted for 47 percent of the more than 6,300 primary offenses for which SCAAP criminal aliens were convicted.
- **California:** Homicide and sex offenses accounted for about 53 percent of the more than 18,600 primary offenses for which SCAAP criminal aliens were convicted.

- **Florida:** *Homicide and sex offenses accounted for 45 percent of the nearly 6,300 primary offenses for which SCAAP criminal aliens were convicted.*
- **New York:** Homicide and sex offenses accounted for 49 percent of the nearly 3,400 primary offenses for which SCAAP criminal aliens were convicted.
- **Texas:** Sex, drug, and assault offenses accounted for 52 percent of the nearly 9,600 primary offenses for which SCAAP criminal aliens were convicted.

Among states, only Texas routinely collects such data at the local level. The Texas Department of Public Safety receives data from local jails through a program that submits fingerprints to the FBI for criminal history and warrant checks, and to DHS, which returns immigration status. According to DHS status indicators, over 419,000 criminal aliens have been booked into local Texas jails between June 1, 2011 and October 31, 2023, of which *over 292,000 were classified as illegal aliens by DHS*. According to their data:

*Between June 1, 2011, and October 31, 2023, these 292,000 illegal aliens were charged with more than 499,000 criminal offenses* which included arrests for 933 homicide charges; 62,624 assault charges; 9,050 burglary charges; 59,090 drug charges; 1,103 kidnapping charges; 24,722 theft charges; 38,989 obstructing police charges; 2,844 robbery charges; 6,320 sexual assault charges; 7,318 sexual offense charges; and 6,052 weapon charges. DPS criminal history records reflect those criminal charges have thus far resulted in over 183,000 convictions including 457 homicide convictions; 22,916 assault convictions; 4,580 burglary convictions; 24,803 drug convictions; 316 kidnapping convictions; 9,520 theft convictions; 15,496 obstructing police convictions; 1,607 robbery convictions; 2,998 sexual assault convictions; 3,364 sexual offense convictions; and 1,997 weapon convictions.

These figures only count individuals who previously had an encounter with DHS that resulted in their fingerprints being entered into the DHS IDENT database. Foreign nationals who enter the country illegally and avoid detection by DHS but are later arrested by local or state law enforcement for a state offense will not have a DHS response in regard to their lawful status and do not appear in these counts.



[Additionally], the Department of Criminal Justice (TDCJ) [Texas prisons] has provided DPS with information on more than 31,000 individuals who were identified by DHS as in the country illegally while they were incarcerated at TDCJ. 10,747 of these individuals were not identified through the PEP program at the time of their arrest.

*We believe Florida should begin tracking this same type of data regarding the immigration status of arrestees, and mandate its reporting to FDLE for retention and publication. We recommend that our leaders adopt a law requiring the Department of Corrections, each County Sheriff, and the Chief of Police of any law enforcement agency in this state to provide such data to FDLE along with the other data they are already sending.*

*Moreover, given the large number of inmates reflected by SCAAP and the Texas DPS data who had been ordered removed but remained to commit more crimes, we recommend that our leaders look into adding a sentencing enhancement provision such as that below which would increase the exposure for those who have been previously deported and return to commit a felony offense in our state.*

921.0024(1)(a) Sentencing multipliers:

Prior Removal/Deportation: If the offender has been previously deported or removed from the United States pursuant to law, the subtotal sentence points are multiplied by 1.5.