

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-4606**

**MEMORANDUM**

**To: Kamala Harris, Vice President of the United States**  
**From: U.S. Congressman Chip Roy, Texas**  
**Date: June 9, 2021**  
**Re: United States Southwest Border Update**

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As you know, the southwest border of the United States, particularly the Texas-Mexico border along the Rio Grande Valley, is seeing cartel-facilitated traffic of human beings and narcotics at dangerous and unprecedented levels. As you also know, the situation for Americans and migrants has particularly worsened since the beginning of 2021.

It is my understanding that you were tapped, over 75 days ago, by President Biden as “Border Czar” on March 25, 2021 to solve the border crisis. It is not solved.

Given that it is quite solvable, I can only surmise that you do not have the information necessary to do so, given 1) your Constitutional duty, along with the President, to “take care that the laws are faithfully executed,”<sup>1</sup> and 2) your oath taken upon entering office as Vice President in which you affirm you will “support and defend the Constitution of the United States against all enemies, foreign, and domestic.”<sup>2</sup>

To understand the crisis, you must familiarize yourself with the southern border of the United States. Thus far, despite the availability of a direct flight via taxpayer provided aircraft, you have not taken a single trip to the southern border.<sup>3</sup> While you just traveled to Guatemala and Mexico City, you have not visited in person with Americans, American business owners, American ranchers, American law enforcement, or even the endangered migrants directly impacted at our southern border.<sup>4</sup>

Therefore, as someone who has visited the border repeatedly and communicates on a daily basis with Texans and many of those impacted, I offer you three solutions. First, I have enclosed both an outline of the actual state of the border, and a few very simple solutions that would immediately address the crisis and set us on a path to a sane, safe, and secure southern border. Second, you have a standing invitation to come to Texas to see for yourself the crisis you and President Biden have created. Third, I maintain my offer to meet with you anywhere, anytime, to discuss and debate this issue.

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<sup>1</sup> [https://constitution.congress.gov/browse/essay/artII\\_S3\\_1\\_3\\_1/](https://constitution.congress.gov/browse/essay/artII_S3_1_3_1/)

<sup>2</sup> [https://www.inaugural.senate.gov/vice-presidents-swearing-in-ceremony/#:~:text=I%20do%20solemnly%20swear%20\(or,that%20I%20will%20well%20and](https://www.inaugural.senate.gov/vice-presidents-swearing-in-ceremony/#:~:text=I%20do%20solemnly%20swear%20(or,that%20I%20will%20well%20and) “I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: So help me God.”

<sup>3</sup> <https://www.foxnews.com/politics/kamala-harris-no-press-conference-border-crisis>

<sup>4</sup> <https://www.cbsnews.com/news/kamala-harris-first-international-trip-mexico-guatemala/>

## **STATE OF THE BORDER**

As you should be aware, apprehensions are one metric that informs us of the flow across our border but leaves us estimating those who “got away.” While May numbers are being finalized – we have a good basis to believe that we will see another 170,000+ apprehensions. These apprehensions would bring the 2021 calendar year total to over 700,000 illegal immigrants apprehended in the first five months of 2021.<sup>5</sup> We know that in April alone, 178,622 people were apprehended at the southern border - a record high and more than the months prior this year - demonstrating an acceleration of the crisis.

To put this in context, one year ago 17,106 apprehensions were made in April – we are seeing an increase of over 900% year over year. We are on pace for over 1.5 million apprehensions this year. In 2019 when the border was in a similar crisis, total yearly apprehensions were 977,509. Many who illegally migrate are dangerous criminals with nefarious intent seeking to enter the U.S. For example, last month Border Patrol agents in the Del Rio sector arrested 10 convicted sexual offenders shortly after illegally crossing the border.<sup>6</sup> Soon after this arrest, in the Rio Grande Valley Sector, Border Patrol agents arrested a Mara-Salvatrucha (MS-13) gang member, along with multiple migrants previously convicted of sexual crimes involving children.<sup>7</sup>

On top of increased apprehensions, we are also seeing increased traffic of dangerous narcotics, profiting the cartels and fueling the drug crisis in America. Most illegal drugs and narcotics in the U.S. enter at the southern border.<sup>8</sup> From just February to March seizures of Methamphetamine – heavily linked to the opioid crisis – jumped 91%, cocaine seizures increased 26%, and heroin increased 22%.<sup>9</sup> Most concerning, we have seen more fentanyl seized thus far in 2021 than in all of 2020.<sup>10</sup>

### **State of the Border: Coronavirus, Health, and Safety**

But all this traffic not only creates a capacity issue for shelters and Customs and Border Protection (CBP) - over 200 facilities are housing more than 20,000 children at a time - but also issues that impact the health and safety of our society. We have had more than 8,600 CBP employees test positive for COVID-19, and 31 CBP employees have died since the start of the pandemic.<sup>11</sup> As of March, 7.4% of tests given to UACs in the past year turned out to be positive<sup>12</sup>. This is why President Trump was correct to institute Title 42 restrictions. In fact, from October to December of 2020, 184,879 expulsions were made under Title 42 – this was 85% of all encounters. This is compared to the Biden Administration since relaxing Title 42 enforcement: from February to April of 2021, 289,383 expulsions were made under Title 42 – only 64% of all encounters.<sup>13</sup>

Coronavirus is just one example of why enforcing Title 42 is necessary as this authority is to prevent the spread of all communicable diseases such as influenza, measles, and mumps. One example points back to

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<sup>5</sup> <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

<sup>6</sup> <https://www.cbp.gov/newsroom/local-media-release/border-patrol-agents-arrest-10-sex-offenders>

<sup>7</sup> <https://www.cbp.gov/newsroom/local-media-release/rgv-border-patrol-agents-arrest-gang-member-and-two-child-sexual>

<sup>8</sup> <https://apnews.com/article/nm-state-wire-coronavirus-pandemic-health-government-and-politics-e7a610306520baf523785f7699dc3d9e>

<sup>9</sup> <https://whnt.com/border-report/border-agents-arrest-more-criminals-see-spike-in-meth-and-pot-seizures-as-cartels-exploit-migrant-surge/>

<sup>10</sup> <https://abcnews.go.com/Politics/fentanyl-seized-cbp-2021-2020/story?id=77744071>

<sup>11</sup> <https://www.cbp.gov/newsroom/national-media-release/cbp-announces-april-2021-operational-update>

<sup>12</sup> <https://www.axios.com/border-crisis-migrant-children-covid-ae67b4b8-938d-4eb7-8593-f639bdba5b22.html>

<sup>13</sup> <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics/title-8-and-title-42-statistics>

May 2019 when 32 migrants tested positive for influenza in a McAllen, Texas CBP facility after a 16-year-old Guatemalan migrant detained at the facility died of the disease.<sup>14</sup>

### **State of the Border: “Got Aways” & Unknown Individuals**

Apprehensions only provide a part of the picture. The reality is that through April (we don’t have official May estimates yet), sources on the ground estimate roughly 300,000 releases and “got aways.” According to Border Patrol, nearly 1,000 people per day are sneaking into the United States without being identified or taken into custody.<sup>15</sup> This is largely because approximately 40% of Border Patrol agents are pulled off the line dealing with illegal alien families and UACs (which the smugglers use as distraction techniques) leaving large areas of the border unsecure and consuming 60-70% of agents’ time and attention.<sup>16</sup> The obvious problem is that the “got aways” are the worst elements coming in between ports of entry while border patrol is distracted. By releases, we also look to those that the Biden Administration has let go into the interior without a notice to appear in immigration court or without any paperwork at all.<sup>17</sup> Those who receive a notice to appear don’t always show up for their immigration court proceedings either.

This is why interior enforcement is necessary and why Immigration and Customs Enforcement (ICE) should not be abolished. Unfortunately, data shows that in April, after the implementation of the Biden Administration’s immigration enforcement priorities, ICE deportations fell to the lowest monthly level on record.<sup>18</sup> Only 2,962 people were deported in April – this is the first time deportations have fallen below 3,000 and is a 20% decline from March.<sup>19</sup> With more people entering our country illegally, and ICE deporting fewer people, the Biden Administration is clearly asking for a border crisis.

Further, though the majority of the migrants crossing our southern border are from Guatemala, Honduras, or El Salvador, in April alone, 33,000 individuals were encountered at our border from countries outside of Mexico and the Northern Triangle.<sup>20</sup> In February, border patrol agents in just one sector of Arizona arrested a group of 11 Iranian citizens illegally crossing the border.<sup>21</sup> Multiple individuals attempting to cross our border have even been on the terrorist watch list - including multiple apprehensions of individuals from Yemen.<sup>22</sup>

### **State of the Border: Drugs and Illegal Narcotics**

Though human smuggling is lucrative for the multi-billion-dollar cartel enterprise, drugs continue to flow across our border at increased levels. We are seeing increased levels of many narcotics - most alarming is the increase in fentanyl. CBP numbers show more fentanyl seized in the first four months of 2021 than all of 2020 (6,494 lbs vs. 4,776).<sup>23</sup> In fact, 800% more fentanyl seizures occurred in the first four months of

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<sup>14</sup> <https://www.outbreakobservatory.org/outbreakthursday-1/7/11/2019/outbreaks-in-migrant-detention-facilities>

<sup>15</sup> [https://www.washingtonpost.com/national/got-aways-border/2021/04/01/14258a1e-9302-11eb-9af7-fd0822ae4398\\_story.html](https://www.washingtonpost.com/national/got-aways-border/2021/04/01/14258a1e-9302-11eb-9af7-fd0822ae4398_story.html)

<sup>16</sup> [https://www.washingtonpost.com/national/migrant-families-border/2021/03/28/355c59a2-8d70-11eb-aff6-4f720ca2d479\\_story.html](https://www.washingtonpost.com/national/migrant-families-border/2021/03/28/355c59a2-8d70-11eb-aff6-4f720ca2d479_story.html)

<sup>17</sup> <https://apnews.com/article/migrants-freed-without-court-notice-paperwork-9ace3e41e0acac7cece17c83a8f7ff>

<sup>18</sup> [https://www.washingtonpost.com/national/biden-ice-deportations-record-low/2021/05/05/522ee35c-adb8-11eb-8109-f8ba1ea2eeab\\_story.html](https://www.washingtonpost.com/national/biden-ice-deportations-record-low/2021/05/05/522ee35c-adb8-11eb-8109-f8ba1ea2eeab_story.html)

<sup>19</sup> Id.

<sup>20</sup> [https://www.axios.com/us-border-immigration-mexico-northern-triangle-5a263f5e-eeef-4e8f-9d8e-6a9dd70ed7dd.html?utm\\_source=twitter&utm\\_medium=social&utm\\_campaign=editorial&utm\\_content=politics-bordercrisis](https://www.axios.com/us-border-immigration-mexico-northern-triangle-5a263f5e-eeef-4e8f-9d8e-6a9dd70ed7dd.html?utm_source=twitter&utm_medium=social&utm_campaign=editorial&utm_content=politics-bordercrisis)

<sup>21</sup> <https://www.cbp.gov/newsroom/local-media-release/yuma-sector-bp-agents-arrest-group-iranians>

<sup>22</sup> <https://www.reuters.com/article/us-usa-border-security/u-s-arrested-two-yemenis-on-terror-watchlist-who-tried-to-cross-border-from-mexico-idUSKBN2BS1XO>

<sup>23</sup> <https://abcnews.go.com/Politics/fentanyl-seized-cbp-2021-2020/story?id=77744071>

2021 than the last four years combined.<sup>24</sup> Only 2 mg of Fentanyl is all that is needed to be lethal - meaning, this is enough to kill almost 3 billion people. It isn't just CBP seeing higher numbers of drug seizures. In just Texas alone after no fentanyl seizures in 2017, 2018, and 2019, Texas Department of Public Safety (DPS) troopers seized 137 grams in the first 5 months of this year.<sup>25</sup>

### **State of the Border: Endangerment of Texans**

Any single one of these facts should be enough to cause alarm for you and the Biden Administration, prompting immediate action to secure our border. This Administration is outright endangering the lives and livelihoods of Americans – particularly in my home state of Texas. Though issues with our border and illegal immigration aren't new, for example the murder of 20 year old Jared Vargas who was brutally murdered by an undocumented immigrant in San Antonio in 2018, the lack of federal support for securing our border and defending the law has decreased since you have become "Border Czar." Our insecure border is endangering our communities. Texans have been killed, migrants have lost their lives, cartels have profited, law enforcement has become overrun and have lost operational control of the border, and Texans are bearing the brunt, financially and otherwise – fixing damages and losing value to their property.

### **Trafficking, and smuggling in Texas**

Trafficking and smuggling attempts are increasing and not just along the border. In Kendall County, Texas - roughly 180 miles from the U.S.-Mexico border a vehicle was stopped for a traffic violation carrying 9 people - two stuffed in the trunk. This vehicle was on the way to a stash house in Houston. Among the passengers was a teenage boy who paid the Cartel del Noreste \$4,000 for transport to where he thought would be a vineyard in California.<sup>26</sup> In San Antonio, an 18-wheeler carrying 80-100 illegal immigrants, according to eyewitnesses was recently identified at a gas station - some 200 odd miles from the border.<sup>27</sup>

### **High speed chases in Texas**

These folks were lucky to run into law enforcement. As the border crisis continues to get worse through the abandonment of the federal government, law enforcement officers in Texas are increasingly unable to do their jobs. They are overrun. Just last week an 18-wheeler stuffed with more than 100 illegal immigrants - including 8 minors (7 unaccompanied) was caught trying to evade a secondary checkpoint in Laredo, Texas, causing Border Patrol agents to chase the truck down.<sup>28</sup> In Del Rio, Texas law enforcement officers have told me they are seeing 20 or more high speed car chases per week. In March, one of these car chases led to the deaths of 8 illegal migrants when two trucks collided head on.<sup>29</sup> This was just a few weeks after a deadly highway crash in your home state of California, when a car drove through an opening in the border fence before being struck by a tractor-trailer, killing 13 people.<sup>30</sup> According to Border Patrol, in McAllen, Texas, smugglers are purposely driving through school zones to avoid being pursued by border patrol agents - putting migrants and young American children living in the border town at risk.<sup>31</sup>

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<sup>24</sup> \ <https://www.kxxv.com/hometown/mclennan-county/how-the-fentanyl-crisis-at-the-mexico-border-affects-central-texas>

<sup>25</sup> <https://www.texastribune.org/2021/05/27/abbott-border-fentanyl/>

<sup>26</sup> <https://www.nationalreview.com/2021/04/drug-cartels-arent-just-a-border-problem/>

<sup>27</sup> <https://news4sanantonio.com/news/local/18-wheeler-truck-filled-with-undocumented-immigrants-investigated>

<sup>28</sup> <https://news4sanantonio.com/news/local/more-than-100-undocumented-immigrants-eight-children-found-stuffed-inside-18-wheeler>

<sup>29</sup> <https://www.elpasotimes.com/story/news/2021/03/17/eight-immigrants-killed-when-pickup-crashes-del-rio-texas/4737252001/>

<sup>30</sup> <https://apnews.com/article/california-car-crash-border-crossing-human-smuggling-ccc55338e3d4370986283555aaa120e7>

<sup>31</sup> <https://www.washingtonexaminer.com/news/migrant-smugglers-driving-through-school-zones-shake-border-patrol>

### *Damaged property and the rancher's burden in Texas*

Landowners along the border are also seeing the impact of this border crisis. One south Texas rancher said he spent roughly \$30,000 repairing breaks in his fences surrounding his property due to illegal crossings from just January to April.<sup>32</sup> One rancher in Carrizo Springs, Texas says chases and “bailouts” - when migrants jump out of a vehicle and run away - have been happening on her property 2-3 times per week consistently since January, often leaving damages on her property.<sup>33</sup> Broken fences are one of the smallest problems with coyotes and smugglers racing through dangerous terrain and barriers - ranchers are increasingly finding dead migrants on their property.

In just the first 4 months of 2021, authorities in just Brooks County, Texas recovered 22 human remains on ranches that are presumed to be migrants smuggled by coyotes - this is compared to 34 migrants found dead in all of 2020, and we haven't even gotten to the heat of the summer months.<sup>34</sup> With the mass influx at the southern border, drug cartels are making billions of dollars per day from desperate migrants, and ranchers are often finding themselves taking care of the very migrants cartels are leaving for dead.<sup>35</sup> One story tells the horrifying situation of a rancher who had a very pregnant woman knock on his daughter-in-law's door. The woman had been left behind by a smuggler - all she had on her was a t-shirt wrapped around her like a skirt. She had been raped in the brush.<sup>36</sup>

### **State of the Border: Endangering Migrants Is Not Compassionate**

In my numerous trips to the southern border, I have visited dozens, if not hundreds, of migrants personally. I do not take dog-and-pony-show trips with DHS – no matter who is President. I drive my truck down to the river, park it there, and I speak in my broken Spanish with these human beings. That is what they are – human beings, not political pawns.

On my last visit to McAllen, Texas I spoke with about 50 migrants until the wee hours of the morning. I spoke to one little 7-year-old girl who was completely alone. No mother, no father, no uncle, no aunt, no brother, no sister – no one but a 12-ish year-old boy who found her halfway through Mexico on the way from Honduras. I spoke with a young man who described “abuse” of women on the journey, and literally every migrant I asked about the cartels used the exact same (trained by cartels) phrasing about their journey.

These migrants who come here are undertaking a dangerous journey at the hands of criminal organizations and violent cartels for profit, and the policies of the United States Government are encouraging it. According to one report from Doctors Without Borders, 68 percent of patients treated at “Médecins Sans Frontières” (MSF) sites reported an incident of violence after crossing the border into Mexico. One-third of the women surveyed, and 17 percent of the men reported “sexual abuse” while in transit.<sup>37</sup>

In almost all cases, the children and migrants that arrive are put through horrendous circumstances on the journey, and have no idea that the realities of many undocumented individuals in the United States are much

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<sup>32</sup> <https://www.npr.org/2021/04/24/990150761/human-smugglers-bypass-border-patrol-bedeaving-sheriffs-and-ranchers-in-south-t>

<sup>33</sup> <https://www.newsweek.com/border-farmers-caught-between-migrant-surge-damage-migrant-labor-shortage-1595272>

<sup>34</sup> Id.

<sup>35</sup> <https://www1.cbn.com/cbnnews/us/2021/may/cartels-cash-in-as-migrants-try-to-outrun-the-law-in-texas-corridor-of-death>

<sup>36</sup> <https://www.theguardian.com/world/ng-interactive/2014/aug/13/-sp-border-crisis-texas-ranchers-brooks-county-smugglers-deaths>

<sup>37</sup> <https://www.doctorswithoutborders.org/what-we-do/news-stories/news/facts-about-humanitarian-crisis-mexico-and-central-america>

more dire than your administration tells them.<sup>38</sup> Cartels and other nefarious actors will even sell and rent kids to make fake families in order to make their way into the U.S.<sup>39</sup> As I’ve noted from anecdotes above, levels of human and sex trafficking in our country are increasing, with cartels trafficking human beings for profit and criminal elements reaching deep into our communities, including suburban America.

Today, the United States Government is placing migrants and Americans in grave danger even though that same government has the power – and the duty – to avoid doing so. Why?

### **A SOLVABLE CRISIS: 6 IMMEDIATE STEPS**

This crisis would be largely, if not entirely preventable if our nation’s leadership would simply choose to put a stop to it. Start by visiting the border, talk to Texans, to Americans, to migrants, to Border Patrol agents, quite literally anyone who is handling the impact of this crisis. Americans and the migrants seeking to come here deserve better – and the solution begins and ends with one simple truth: America must have total operational control of our entire border.

#### **Solution 1: Immediately Enforce Title 42 Pandemic Protocols**

The flow of illegal immigration would stop immediately if 42 U.S. Code § 265 (Title 42) were to be fully utilized again. This Title 42 authority allows for the suspension of entries and imports from designated places to prevent the spread of communicable diseases. This provision of our laws is designed to protect Americans from the possible influx of individuals with communicable diseases, and to be clear, is something we generally can and should enforce regardless of the existence of a global pandemic such as that which the world continues to deal with today.

It is of particular note that South America continues to see increased rates of coronavirus. More than 1 million people have died from COVID-19 in Latin America and the Caribbean, and the COVID-19 rates are accelerating in the region. On average in May, 31% of the COVID-19 deaths in the world were in Latin America and the Caribbean - home to just 8.4% of the global population.<sup>40</sup> The number of deaths has doubled in just five months.<sup>41</sup>

While the Title 42 authority should be used in perpetuity, at a bare minimum, until we take the necessary steps to eliminate some policies that have become “pull factors” for migrants and establish critical infrastructure at our southern border, we should reinstate its full enforcement to close down traffic.<sup>42</sup> Enforcing this Title 42 authority at a time when the world is still battling a global pandemic is the responsible policy of the federal government – and would send the signal to those in the northern triangle and the rest of the world that they should stop undertaking this dangerous journey.

Notably, H.R. 471, the “Protecting Americans from Unnecessary Spread upon Entry from COVID–19 Act of 2021” or the “PAUSE Act of 2021” introduced by Congresswoman Yvette Herrell from New Mexico,

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<sup>38</sup> <https://thehill.com/opinion/immigration/555391-what-happens-to-the-children-biden-welcomes-into-the-country?rl=1>

<sup>39</sup> <https://nypost.com/2021/03/22/mexican-drug-cartels-use-kids-as-decoys-to-smuggle-members-into-us/>

<sup>40</sup> <https://www.reuters.com/world/americas/covid-19-deaths-latin-america-set-surpass-1-mln-outbreak-worsens-2021-05-21/>

<sup>41</sup> <https://www.reuters.com/article/us-health-coronavirus-brazil-tally-idUSKBN293238>

<sup>42</sup> <https://www.law.cornell.edu/uscode/text/42/265>

would require the use of Title 42 authority to suspend entry to the U.S. in order to prevent the spread of communicable disease - I have filed a discharge petition – H.Res. 216 – to discharge H.R. 471 for a vote. This petition is now approaching 100 signatures in Congress – but we should not have to take action to force a vote as ensuring a secure border through which Americans would not be endangered should not be a partisan matter.

## **Solution 2: Immediately reinstate the Migrant Protection Protocols & work with neighboring countries**

As you are aware, in 2019, the Trump Administration implemented the Migrant Protection Protocols (MPP) in part to end the “pull factor” of catch and release – which is the practice of releasing migrants from Border Patrol custody into the interior.<sup>43</sup> Under MPP, migrants arriving on U.S. land from Mexico and who were not admissible would generally be returned to Mexico to await their U.S. immigration court proceedings.

MPP became caught up in politics – and instead of debating how to improve it, it has been tossed aside. That is a mistake. If you believe, as I do, that family units should remain intact, and if you believe, as I do, that we should work with Mexico and NGO’s to ensure that any “camps” in northern Mexico housing migrants who have been returned are safe, then let’s work together to do that. Rather than rescinding the “Remain in Mexico Policy” we should work to prevent the flow of migrants while preventing the enrichment of cartels and endangerment of migrants, our nation, and our neighboring countries.

This policy was working and was making Mexico step up and put skin in the game – which is better for America, better for migrants, better for Mexico, and worse for cartels. The Trump Administration was also right to create Asylum Cooperative Agreements (ACAs) which allowed immigrants seeking international protection to apply for political asylum in neighboring countries.<sup>44</sup> The Biden Administration should immediately restart this opportunity for migrants.

## **Solution 3: Finish building border fencing and infrastructure**

In McAllen, Texas - the busiest migrant border crossing area - the border is wide open. The Rio Grande River sector only has 76 miles of border wall to cover the 320 miles of winding river.<sup>45</sup> This sector was slated to receive another 89 miles of border fencing before the Biden Administration suspended construction. In fact, Congress set aside roughly \$2 billion for this project, and most of the funding is now sitting idle while our border patrol agents work overtime.<sup>46</sup> The Biden Administration could immediately restart this process to help Texans have a secure border.

Again, fencing works. This is relatively non-debatable by anyone with direct knowledge or who studies the border closely. You need look no further than the impact fencing had in Southern California in the mid-1990’s, the clear difference in traffic one sees in McAllen (no fencing) vs. Brownsville (significant fencing and infrastructure), or El Paso, where fencing was put up on a bipartisan basis.

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<sup>43</sup> <https://www.dhs.gov/news/2019/09/23/acting-secretary-mcaleenan-announces-end-widespread-catch-and-release#>

<sup>44</sup> <https://www.motionlaw.com/the-biden-government-suspends-acas-with-northern-triangle-of-central-america/>

<sup>45</sup> <https://www.washingtonexaminer.com/news/migrant-smugglers-driving-through-school-zones-shake-border-patrol>

<sup>46</sup> <https://www.washingtonexaminer.com/news/nearly-2b-sits-in-bank-biden-halt-wall-construction-busiest-region-open>

Once you re-start fence construction, you can work with Congress to get H.R. 1707, the bipartisan, “Border Visibility and Security Act” signed into law to clear barriers to CBP law enforcement being able to carry out their jobs.<sup>47</sup> Carrizo Cane creates one of the largest obstacles for Border Patrol. Sometimes growing as tall as a two-story house, dense stands of cane currently occupy the banks and floodplains of the Rio Grande, hindering law enforcement efforts along the southern border, impeding and concealing the detection of criminal activity and illegal border crossers, and restricting CBP agents’ access to riverbanks. There is no legitimate reason to allow cane to obstruct securing our border.

Cane is not the only visibility obstacle CBP faces - in many places, CBP cannot adequately survey the border area due to a lack of navigable roads. Border Patrol recently voiced that in the Laredo sector of the border, which covers approximately 100 miles along the Rio Grande river, they only have 2 miles of navigable road. Without proper road infrastructure, CBP agents cannot effectively do their job, often having to zigzag on makeshift roads between public and private land, making circuitous detours to get them only a few hundred feet from where they were.

#### **Solution 4: Work with Congress to Fix Loopholes (the actual “root” causes)**

Solving the border crisis permanently requires a secure border controlled and operated by America and an elimination to the “loopholes” in our laws that pull migrants to the border. These loopholes are the current interpretations of and application of 1) our detention policies resulting in “catch and release,” 2) our asylum laws, and 3) our policies involving returning children to their home countries. We can fix each of these in a matter of days with bills that are only a few pages long at most.

First, we must stop the “catch and release” practices that the Biden Administration has once again adopted. The “Remain in Mexico” policy is the quick solution to this issue, but the permanent solution is for us to empower the Department of Homeland Security (DHS) to keep children and parents together in custody while their immigration cases are pending, rather than releasing them – which is the current policy due to a court’s decision. We need to remedy the 1997 “Flores Settlement” and its current interpretation, a solution that even the Obama administration (of which President Biden was part) embraced.<sup>48</sup>

Second, we must fix our asylum policies by having very clear rules, including strong “credible fear” standards. Current law allows any individual physically present in the United States or who arrives in the United States irrespective of status to seek asylum.<sup>49</sup> Those who are apprehended between ports of entry and claim a “credible fear” of persecution in their home countries, may be processed for expedited removal by Border Patrol agents. If credible fear is found, the aliens are placed in removal proceedings and currently can wait in the U.S. for however long those proceedings take.<sup>50</sup> The credible fear standard that leads to “catch and release” is easily abused, and even the United States Citizenship and Immigration Services (USCIS) website lays out just how to do it.<sup>51</sup> Indeed, in my recent visit to the border, we saw crude DHS signs with “Asilo” written on them with an arrow pointing towards processing centers. The United States

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<sup>47</sup> <https://www.congress.gov/bills/117/congress/house-bill/1707?s=1&r=14>

<sup>48</sup> <https://www.justsecurity.org/61144/flores-agreement-trump-administration-withdraws-it/>

<sup>49</sup> [https://www.uscis.gov/sites/default/files/document/presentations/USCIS\\_OLIA\\_March\\_2019\\_Hill\\_Conference\\_Asylum\\_Overview.pdf](https://www.uscis.gov/sites/default/files/document/presentations/USCIS_OLIA_March_2019_Hill_Conference_Asylum_Overview.pdf)

<sup>50</sup> <https://www.cbp.gov/newsroom/stats/sw-border-migration/claims-fear#>

<sup>51</sup> <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/questions-and-answers-credible-fear-screening>



welcomes individuals fleeing persecution, but the asylum standard is weak and needs to be reformed to prevent abuse and another “pull factor.”

Third, we must protect children and prevent mass migrations of Unaccompanied Alien Children (UACs). We must establish new practices to return UACs home quickly and safely and not release minors to individuals in the United States, particularly those not legally present. The law should not treat children differently depending on what their country of origin is - contiguous vs non-contiguous countries. Under *The William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA)*, UACs from noncontiguous countries—as well as UACs from contiguous countries apprehended at the border and determined to be human trafficking victims or to have a fear of returning to their country, are to be transferred to the care and custody of HHS’s Office of Refugee Resettlement (ORR).<sup>52</sup>

The majority of these UACs are males between the ages of 14 and 17, from Guatemala, El Salvador, and Honduras and are processed in accordance with guidelines under TVPRA.<sup>53</sup> In FY20, approximately 72% of all children referred were over 14 years of age, and 68% were boys. In FY20, countries of origin of youth in this program were: Guatemala (46%); El Salvador (14%); Honduras (25%); and others (8%).<sup>54</sup> The current volume of children coming to our border means that we are increasingly releasing them to individuals with no ability to discern if its safe for the children. The TVPRA is not working for its intended purpose and creating arbitrary country of origin exceptions is leading to young migrant rushes at the border.

### **Solution five: Root out and Destroy Cartels**

The changes listed above would without a doubt hurt the expanding influence and profit of cartels, but there is much more to be done to dismantle their hand on our border. Cartels, including the Reynosa/Los Metros faction of the Gulf Cartel, the Jalisco New Generation Cartel, and the Cartel Del Noreste faction of Los Zetas profit off of the weak laws of the United States - taking advantage of vulnerable migrants seeking refuge by CBP. To secure our border, the U.S. can no longer allow cartels to have operational control of our southern border.

As outlined in H.R. 2600, The “Drug Cartel Terrorist Designation Act,” the State Department should immediately use section 219 of the Immigration and Nationality Act (INA) to designate cartels as Foreign Terrorist Organizations (FTOs).<sup>55</sup> An FTO designation opens a wide range of U.S. actions to debilitate the cartels and all who lend support and assistance to them. An FTO designation comes with a variety of sanctions, penalties, and authorities under current law that will allow the government to prosecute or deport every member, associate, and affiliate.

### **Solution six: Immediately enforce our immigration laws within the interior of the United States**

ICE needs to do their job. The agency’s 6,000 officers currently average one arrest every two months – this is an absurdly low arrest rate for an entire agency built upon enforcing U.S. immigration law.<sup>56</sup>

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<sup>52</sup> <https://fas.org/sgp/crs/homesec/R43599.pdf>

<sup>53</sup> <https://www.dhs.gov/news/2017/06/21/written-testimony-cbp-senate-committee-judiciary-hearing-titled-ms-13-problem>

<sup>54</sup> <https://www.hhs.gov/sites/default/files/uac-program-fact-sheet.pdf>

<sup>55</sup> [https://uscode.house.gov/view.xhtml?req=\(title:8%20section:1189%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:8%20section:1189%20edition:prelim))

<sup>56</sup> [https://www.washingtonpost.com/national/ice-street-arrests-immigrants-fall-biden/2021/05/25/58681782-b972-11eb-bb84-6b92dedcd8ed\\_story.html](https://www.washingtonpost.com/national/ice-street-arrests-immigrants-fall-biden/2021/05/25/58681782-b972-11eb-bb84-6b92dedcd8ed_story.html)

According to reports, the Biden Administration has put ICE on such close watch that they cannot effectively do their job. One report indicates “ICE officials frustrated with the changes [of the Biden Administration policies] describe a workplace environment where officers spend time doing paperwork, idling or working out, more fearful of facing reprimand for making an arrest than not making one.”<sup>57</sup>

Currently, ICE is hamstrung by both the harmful rhetoric of Democrats and the lack of enforcement that has led to at least 11 million illegal aliens in the United States. ICE needs more support during this crisis, not less. Though the Biden Administration’s FY2022 budget request does include an “increase” in ICE funding – it is less than one percent over FY2021 levels and wouldn’t even get ICE back to their FY2020 appropriated level.<sup>58</sup> This <1% “increase” for ICE is compared to a 40.8% increase for the Department of Education, 29.4% increase for Department of Commerce, and a 21.6% increase for the Environmental Protection Agency (EPA).<sup>59</sup>

Without the ability for ICE to fulfill its role, we cannot have border security. If the Biden Administration continues to give “get out of jail free cards” to those who illegally cross our border, we will always be providing individuals with a reason to illegally cross the border.

## **IN CONCLUSION**

This memorandum is designed to provide you a roadmap to consider the destruction caused by an unsecured border and to encourage you to take immediate steps to secure the border of the United States of America. You owe it to Texans – and our fellow Americans along the border and throughout our nation – to carry out your constitutional duty to do so.

There is bipartisan agreement on this. For example, the elected-sheriff of Val Verde County, Texas – a county that shares 110 miles of border with Mexico – recently shared that in all of his 42 years there, he has “never seen so many migrants risking their lives to cross the Rio Grande.”<sup>60</sup> This county only has four deputies per shift – three of four deputies recently spent more than half of their workday detaining 54 South Americans, leaving just one deputy to serve the entire county for several hours - taking 75% of law enforcement’s resources to support Border Patrol.<sup>61</sup> Border counties are exhausted and are taking matters into their own hands. McAllen, Texas which typically sees the brunt of weak border security, just elected a Republican to the Mayor’s office on the back of this crisis. There are even increasing calls to “shut down” the border by some Texans, and Governor Abbott also recently had to declare a disaster declaration due to the ongoing crisis.<sup>62</sup>

One final point it is important for you to know. While it is the duty of the US government to secure our border, it is also the Texas border and all elected office holders and leaders in Texas have a duty to protect our communities – which will require us to take all steps necessary to secure the border.

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<sup>57</sup> Id.

<sup>58</sup> [https://www.dhs.gov/sites/default/files/publications/u.s.\\_immigration\\_and\\_customs\\_enforcement.pdf](https://www.dhs.gov/sites/default/files/publications/u.s._immigration_and_customs_enforcement.pdf)

<sup>59</sup> [https://www.whitehouse.gov/wp-content/uploads/2021/05/budget\\_fy22.pdf](https://www.whitehouse.gov/wp-content/uploads/2021/05/budget_fy22.pdf)

<sup>60</sup> <https://www.usatoday.com/story/opinion/voices/2021/04/07/border-crisis-texas-sheriff-4-deputies-patrol-110-miles-column/4837860001/>

<sup>61</sup> Id.

<sup>62</sup> [https://gov.texas.gov/uploads/files/press/DISASTER\\_border\\_security\\_IMAGE\\_05-31-2021.pdf](https://gov.texas.gov/uploads/files/press/DISASTER_border_security_IMAGE_05-31-2021.pdf)