



THE IMPEACHMENT PROCEEDINGS OF DHS SECRETARY ALEJANDRO MAYORKAS

FACT SHEET 2: SECRETARY MAYORKAS' REFUSAL TO ENFORCE THE LAW & FULFILL HIS OATH OF OFFICE

CHAIRMAN MARK E. GREEN, MD

BACKGROUND:

Secretary Mayorkas has abused his authority by repeatedly disregarding multiple laws passed by Congress—laws he swore an oath to uphold. These laws cover everything from requirements to detain and remove those who enter the country illegally, to clear limitations on paroling inadmissible aliens into the country. He has even defied a federal court order. Mayorkas has also told numerous falsehoods to both the American people and to Congress. This document lays out some of the most egregious examples of his misconduct and pertinent facts.

UNLAWFUL USE OF MASS PAROLE:

- Under section 212 of the Immigration and Nationality Act (INA), parole may only be granted on a case-by-case and temporary basis, for urgent humanitarian reason or significant public benefit.
- From Jan. 20, 2021–November 2023, DHS recorded at least 1.5 million paroles due to the Southwest border crisis—more people than the population of New Hampshire.
- In its 2021 ruling in *Texas v. Biden*, [the Fifth Circuit Court of Appeals wrote](#) that Mayorkas' mass-parole of illegal aliens “is the opposite of the ‘case-by-case basis’ determinations required by law” and that Mayorkas violated “Congress’s statutory commands” in the parole statute.
- Mayorkas created/oversaw a host of mass-parole programs—paroles at the border via Parole + ATD, Parole with Conditions, etc.; nationality-based parole programs like CHNV; and more.
- Mayorkas claimed [multiple times](#) before the House Judiciary Committee in July 2023 that his use of mass parole was consistent with the law and past precedent. However, Doris Meissner, former INS commissioner under President Bill Clinton, has said of mass parole under Mayorkas' leadership, [“At this scale, in this time period, it is unprecedented.”](#)
- Laredo Sector Chief Patrol Agent Joel Martinez's told the House Committee on Homeland Security in June 2023 that the use of mass parole is unprecedented—“Basically, the parole, *before we used it recently*, was used only in extreme humanitarian—and I think I said it before—humanitarian instances, right? Like, if a child was sick, had to go to the hospital, we'd parole the parent in or something like that. But that was very rare. It wasn't, like, an everyday thing.”

ABUSE OF CBP ONE APP:

- Encounters of inadmissible aliens at official ports of entry are also overwhelming the system, not just illegal crossings along the Southwest border.
- In FY20, [nationwide encounters](#) at ports of entry totaled 241,763, an average of about 20,146 per month. In FY23, [total encounters at the ports exceeded 1.1 million](#), more than 94,000 encounters per month—a 370% increase—[with more than 235,000 just in the first two months of FY24](#).
- This is partly due to mass-parole schemes Mayorkas has devised to release into the interior individuals who would otherwise have no lawful basis to enter the country—including improper use of the CBP One mobile app.
- In October 2023, after months of resistance from DHS and a subpoena threat, [the Committee obtained documents](#) that show 278,431 appointments were scheduled via the app from Jan. 12–Sept. 30, 2023, and that roughly 96% of these (266,000+) resulted in parole into the United States with a court date via a Notice to Appear (NTA). By November, the number of appointments had grown to roughly 360,000.



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REFUSING TO DETAIN ILLEGAL ALIENS AS REQUIRED BY LAW::

- The statutory responsibility to detain inadmissible aliens as articulated in section 235 of the INA is clear and comprehensive.
- According to federal judge Kent Wetherell in his ruling [striking down Mayorkas' Parole + ATD policy](#), "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.'"
- The numbers reflect the poor policy. When factoring in releases via parole, NTAs, and Notices to Report (NTRs), Mayorkas oversaw the release of well over three million inadmissible aliens into the United States, along with more than 1.8 million known gotaways that have evaded short-staffed agents on the line unable to apprehend and detain them.
- In FY13, under Pres. Barack Obama, [91% of single adults and family units were detained in whole or in part while their cases were adjudicated](#), including 82% detained from start to finish. However, in FY21, just 10% were detained for the duration of their case, 26% were released from detention at some point during their case, and nearly two-thirds were never detained at all.
- Jason Owens, now Border Patrol chief, told the Committee in May 2023, "there are more people probably that are being released on their own recognizance to await their immigration hearing than I have seen in my career." Dustin Caudle, deputy chief patrol agent for the Yuma Sector, said that between [65 to 70% of encounters](#) in his sector since January 2021 were released.
- Senior agents also described how mass release was a major incentive for illegal aliens to cross. [Owens told the Committee](#) that single adult males were turning themselves in to Border Patrol agents rather than attempting to evade because they believed "they're going to be processed and given a notice to appear so that they can await their immigration hearing in the United States." Anthony "Scott" Good of the El Paso Sector told the Committee last year, "[the more people that are released, the more there is a draw.](#)"
- When asked by Committee staff if he believed "it's important as a matter of border security policy to maintain detention on individuals throughout the lifecycle of their immigration case," Sean McGoffin, chief patrol agent for the Border Patrol's Big Bend Sector, said in April 2023, "[For what we are doing, absolutely.](#)"
- Even some Democrats understand this. Texas Rep. Henry Cuellar recently told MSNBC, "[If you don't detain people, if you don't send people back, then the border becomes a speedbump.](#)"

FAILING TO REMOVE ILLEGAL ALIENS:

- In contravention of provisions of the INA which require their removal, Mayorkas severely limited the ability of ICE officials to detain and remove inadmissible aliens.
- In his [September 2021 enforcement priorities memo](#), Mayorkas said, "The fact an individual is a removable [alien] therefore should not alone be the basis of an enforcement action against them."
- In FY22, ICE conducted a mere [72,177 removals](#), and [59,011 in FY21](#). By comparison, in FY20, in the midst of the COVID-19 pandemic, [ICE removed 185,884 illegal aliens](#), while in FY19, [these exceeded 267,000](#). ICE recorded only [142,580 removals in FY23](#), still below the Trump-era low in FY20, during a year when CBP recorded more than 3.2 million total encounters.
- The number of removals of illegal alien gang members has decreased under his leadership. [In FY19, ICE removed 5,497](#) known or suspected gang members, but just [3,406 in FY23](#).



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- When asked during a May 2023 interview with the Committee whether the consequence of removal was being applied “at a rate significant enough to deter” illegal immigration, Aaron Heitke, then-chief patrol agent for the San Diego Sector, twice said, “Not right now.”
- Mayorkas hides behind “prosecutorial discretion” as an excuse, but the courts do not afford him such an excuse.
 - Wetherell: Discretion “must be exercised within the confines established by Congress.”
 - Federal judge Scott Tipton: “Using the words ‘discretion’ and ‘prioritization,’ the Executive Branch claims the authority to suspend statutory mandates. The law does not sanction this approach.”

IGNORING COURT ORDER TO REIMPLEMENT REMAIN IN MEXICO PROGRAM:

- In August 2021, the U.S. District Court for the Northern District of Texas ordered Mayorkas to reimplement Remain in Mexico “in good faith” until litigation over the policy was resolved.
- Despite this order, the Border Patrol enrolled zero aliens in the program in September or October 2021. Just 16 were enrolled in November 2021 and 96 in December 2021. Statistics provided by CBP show that enrollments in MPP as a percentage of total encounters from October 2021-August 2022, when MPP officially ended, were a mere one-quarter of one percent.
- Meanwhile, the Border Patrol released more than 33,000 illegal aliens on Parole + ATD between October-December 2021 alone, compared to just 112 aliens enrolled in MPP in the same period.
- As noted by Joseph Edlow, former acting director of USCIS, DHS “made it clear that the secretary had every intention to fight that decision from the court, and to take measures to end MPP in other ways. So, it was really never an actual attempt to reinstate it.”

LIES TO CONGRESS AND THE AMERICAN PEOPLE:

- “*The border is secure*”—Mayorkas has repeatedly espoused this falsehood, even telling the Committee under oath in September 2021 the border “is no less secure than it was previously.”
- *Operational control*—Mayorkas told the House Judiciary Committee in April 2022 that he possessed operational control of the Southwest border in accordance with the definition established by the Secure Fence Act, only to later claim he does not use that definition. Multiple chief patrol agents also told the Committee they do not have such control in their sectors.
- *Cutting out the cartels*—Mayorkas told the Judiciary Committee in July 2023 that the CBP One app cut the cartels out of the smuggling process. Mayorkas’ testimony is inaccurate because the cartels control the land routes through Mexico to the Southwest border, and it is virtually impossible to cross the border into the United States without first paying them. Further, just days later, reports revealed the cartels were abusing the app to make more money off of smuggling!
- *Mass parole is consistent with law and precedent*—This claim, made during his July 2023 House Judiciary testimony, ignores that unprecedented numbers of individuals are paroled into the interior, and that such mass parole is inconsistent with the law.
- *Accusing mounted Border Patrol agents of whipping migrants*—Despite being warned in a Sept. 24, 2021, email that an eyewitness reported no whipping of Haitian migrants in Del Rio, Mayorkas went to the White House podium hours later and lied to the American people by advancing the narrative that whipping had occurred, slandering the agents and comparing their behavior to “the worst elements of our nation’s ongoing battle against systemic racism.”