A COMMITMENT

TO SECURE THE BORDER

A FRAMEWORK BY TEXANS FOR TEXAS

More than 4 million individuals have been encountered at our southern border since President Biden took office. The Biden Administration has released between 1-2 million of these individuals into the interior – not including approximately 1 million known "gotaways" since the start of FY21. At least 98 people on the terrorist screening database were apprehended in FY22. Further, more than 24,000 lbs. of fentanyl have been seized since President Biden took office.

Texans are in imminent danger, and Texas leadership is right to use all powers under their authority to defend Texas' border and its citizens. Taxpayers in Texas are spending more than $3 billion on border security operations. Texans are being pummeled by a nearly two-yearlong border surge – left to defend their lives and their property against violent criminals and murderous cartels. Fentanyl is killing tens of thousands of Americans and cartel-fueled crime is surging across the country. Customs and Border Protection agents and officers are strapped and hamstrung – rendered incapable of fulfilling their duties.

House Republicans have made a Commitment to America to secure the southern border as part of our priority to create a "nation that is safe." This is consistent with the American Security Task Force. As Members of Congress representing Texans and the southern border we commit to the same and offer these solutions to fulfill the goals of the Commitment to America.

We will not stand by while the Biden Administration knowingly pushes disastrous policies with complete disregard for what our state and country are enduring. We commit to paying Texas back for border operations and damages. We commit to forcing the administration to enforce our current laws, and to leverage the power of the purse to ensure that it does. And we commit to immediately shifting policy to bring much needed security to our state and country.

We commit to securing our southern border, and this is our framework to do just that.

A COMMITMENT

Complete Physical Border Infrastructure

1. Finish the border wall system
2. Ensure CBP can recruit and retain CBP agents and officers
3. Build navigable roads
4. Clear the Carrizo cane

Fix Border Enforcement Policies

1. Require DHS to turn-away all individuals at the border that cannot be detained for the pendency of their proceedings, including by using programs consistent with Migrant Protection Protocols (MPP)
2. Defund all NGO's, entities, and programs actively encouraging the violation of our border security & related laws
3. End "Catch & Release" policies by closing the "loopholes"
   a. Fix the Trafficking Victims Protection Reauthorization Act (TVPRA)
   b. Fix the Flores Settlement
4. Reform asylum and credible fear policies to end fraud and limit asylum to those with actual fear of persecution

Enforce our Laws in the Interior

1. End the loopholes DHS uses to release individuals into the interior illegally
   a. End the abuse of prosecutorial discretion and abuse of parole authority
   b. End other alternatives to detention
2. Let ICE do their job - in accordance with existing law - to remove individuals not legally present in the U.S.
3. Increase enforcement and penalties for criminal aliens and visa overstayers and remove violators of our laws

Target Cartels & Criminal Organizations

1. Designate cartels as terrorist or terrorist-equivalent organizations
2. Strengthen penalties for human trafficking and smuggling
3. Strengthen penalties for drug trafficking and smuggling, specifically for fentanyl

TO SECURE THE BORDER

Complete Physical Border Infrastructure

Finish the border wall system

Today, more than 600 miles of the border is still unfenced in Texas. Fencing works. For example, over a 12-year period from 1992 to 2004, apprehensions in the San Diego sector declined by 76% by the building of border fencing.

Many contracts have already been awarded to help fill this gap. For example, in September 2020, multiple contracts were awarded for roughly 40 miles of border wall in the Laredo sector. The Rio Grande sector (which only has 76 miles of border wall to cover 320 miles of river) was slated to receive 89 miles of border fencing before the Biden Administration suspended construction.

> *"As a veteran Border Patrol agent, I know firsthand that a secure border with the big beautiful wall the president is building is the* ***only humane and permanent solution*** *to the crisis at the border."*
> *- Brandon Judd, NBPC President*

Further, the State of Texas has put resources toward building necessary infrastructure including fencing along the southern border and should be reimbursed for filling the gaps left by the federal government.

But, it's not simply a wall that needs to be built, CBP needs a working border wall system complete with reliable technology and enough personnel to maintain operational control.

Ensure CBP can retain and recruit agents and officers

Among other factors, the historically low morale of CBP is leading career agents and officers to resign or retire early, and CBP is increasingly having challenges with recruiting the agents needed.

Many - of the already scarce - agents are spending more time processing individuals instead of patrolling the border. It is crucial CBP has the authorities and resources necessary to fully staff with the personnel needed to patrol the field.

Complete Physical Border Infrastructure

Build navigable roads

Much of the southern border has NO navigable roads - leaving CBP to use 4-wheel drive, travel on foot, and navigate private gates and city barriers in a complex web. In Laredo, it's been estimated agents only have roughly 7 miles of improved road.

The roads that CBP does use are often in poor condition, require maintenance, and must be avoided. For example, in Del Rio heavy rain can easily damage the roads. The poor road conditions increase response times and limit access. For example, agents are forced to detour 80 miles to reach the same endpoint when the roads cannot be accessed.

Additionally, it is imperative that CBP has operative and functional vehicles to depend on in order to navigate the southern border's terrain effectively, as well as state of the art radio and communication capabilities to ensure operational effectiveness and agent safety.

Clear the Carrizo cane

Further, we must clear the cane. Carrizo cane grows thick and as high as two stories, making visibility for law enforcement along the Rio Grande almost impossible. Cartels also exploit the cane and make tunnels to move traffic.

In 2017, the acting chief patrol agent for CBP's Del Rio sector, said his team is sometimes ambushed as they enter the cane in pursuit of a suspect. "The danger in a physical altercation escalates when you're entangled in an environment like that." There is little to no downside to clearing the cane.

In fact, in 2016, an environmental assessment on the Rio Grande Basin concluded no significant impact to managing the growth of cane along the border.

Fix Border Enforcement Policies

Require DHS to turn-away all individuals at the border that cannot be detained for the pendency of their proceedings, including by using programs consistent with Migrant Protection Protocols (MPP)

If the Secretary cannot detain individuals claiming asylum (per current statute) and the individual cannot be placed in a program consistent with the "Remain in Mexico Policy," they should be turned away. The default policy when CBP is overwhelmed should never be release.

Just like the use of Title 42 during the COVID-19 pandemic, individuals who do not have a lawful right to enter the U.S. should be turned away.

DHS should also work with the DOJ to quickly review claims for asylum - including by doing so directly at the southern border.

Defund all NGO's, entities, and programs actively encouraging the violation of our border security & related laws

We should audit the activities of non-profits and foreign entities that promote dangerous and illegal activities, including those funded through the United Nations or otherwise, and we should defund and prosecute those organizations.

Chris Cabrera, chief of the National Border Patrol Council in South Texas said he believes the NGOs are crossing purposes with BP – "Most definitely...And they should not be allowed to, but our government allows it. And that's a problem. And it's one reason morale is so low."

For Example, the UN's International Organization for Migration hands out debit cards to U.S.-bound families in Reynosa every two weeks ($800 a month for a family of four).

Hundreds of NGOs, receive at least **hundreds of millions in federal grants** each year to assist individuals in the journey to cross the border and to further assist individuals after they are released into the interior

Fix Border Enforcement Policies

End “Catch & Release” policies by closing the “loopholes”

Fix the Trafficking Victims Protection Reauthorization Act (TVPRA)

The William Wilberforce Trafficking Victims Reauthorization Protection Act (TVPRA) set forth special rules for Unaccompanied Alien Children (UACs) from contiguous countries (i.e., Mexico and Canada), requiring that they be screened for evidence of human trafficking within 48 hours of apprehension. UACs determined not to be human trafficking victims or not to have a fear of returning to their country are to be immediately returned to their country.

TVPRA mandated that 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 - be transferred to the care and custody of Health and Human Service's (HHS) Office of Refugee Resettlement (ORR).

The TVPRA requires the Secretary of HHS to place UACs in the “least restrictive setting” that is in their best physical and emotional interest - a parent or relative for an indefinite period. This standard allows HHS to place children with designated sponsors that are also illegally in the United States. The law only refers to checking the sponsors' legal status, not acting upon it. The perception by ORR is that regardless of legal status, placing the children with a parent is the preferred solution.

We should amend the TVPRA to require that UACs from non-contiguous countries are treated the same as UACs from contiguous countries, so they can be safely and promptly returned to their home country rather than being released to individuals illegally present in the U.S., and ironically becoming victims of trafficking.

Fix the Flores Settlement

The current court interpretation of a 1997 settlement agreement in *Reno v. Flores*, requires that all minors in immigration detention — whether or not accompanied by their parent or legal guardian — cannot be detained for more than 20 days, even if their immigration proceedings take longer than that.

This creates a perverse incentive for adults to bring children knowing they will ALL be released. This settlement puts children at increased risk to the evils of coyotes and traffickers.

Fix Border Enforcement Policies

Reform the asylum process to end fraud and limit asylum to those with actual fear of persecution

The asylum process – though critical to those who are actually fleeing persecution – is being widely abused. A majority claiming asylum are ineligible for relief under the law – yet thousands of individuals claim fear or request asylum only to be released into the U.S. "pending adjudication" of their claim. The USCIS official website even lays out how to abuse this.

It's not a secret our asylum system can be easily abused - 520,000 Southwest Border encounters resulted in fear claims between 2014 and 2019, 15% of all Southwest Border encounters during this period. But the number of encounters resulting in a fear claim increased from 60,000 in 2014 (10 percent of encounters in 2014) to 108,000 in 2018 (21 percent of encounters in 2018).

According to the 2020 DHS Lifecycle Report, **just 8.1% of individuals received approval to remain in the U.S.** from 2014-2019 (out of 3.5 million encounters), and roughly 1.7 million people had no confirmed departure.

Further, 30% of fear claims between 2014 and 2019 occurred after individuals were released from CBP into ICE custody. About 92% of fear claims during this period were credible fear claims by individuals subject to expedited removal.

There are numerous ways of reforming our asylum process to allow for those with legitimate asylum claims to seek asylum while preventing the exploitation and abuse we often see. These policies range from closing loopholes in our system to carrying out safe-third-country agreements and working with other countries to ensure our border isn't exploited by bad actors.

Enforce our Laws in the Interior

End the loopholes DHS uses to release individuals into the interior illegally

End the abuse of prosecutorial discretion and abuse of parole authority

We must end the abuse of prosecutorial discretion by DHS and the abuse of parole authority which DHS has used to release tens of thousands of individuals into the interior per month. For example, during May 2022, DHS reported that the total number of applicants paroled into the United States was 68,527. For the month of April 2022, DHS reported that the total number of applicants paroled into the United States was 91,250.

The Biden Administration has also blatantly abused parole authority by creating programs specific to certain countries - notably Ukraine and Venezuela - allowing individuals into the U.S. "en masse." These "categorical parole" programs are a clear abuse of what is supposed to be a "case-by-case" parole authority created by Congress.

End other alternatives to detention

The Biden Administration has released over 1 million individuals into the interior – not including the over 200,000 UACs or roughly 1 million known "gotaways." In May alone, DHS released 95,318 people (roughly 40% of all encounters). In April, DHS released 117,989 (over 50% of encounters).

These releases provide a "pull-factor" that give reason for even more people to illegally cross our borders. And the more people that cross, the more that get past border patrol. This poses a big issue since the people working to evade border patrol are likely the most concerning. We don't know who these people are or where they go, but we do know, in these last two fiscal years, more than 22,000 arrests have been made for convictions including rape, pedophilia, gang membership, and murder (at least 122 murder convictions.) Further, CBP agents and officers have encountered at least 298 terrorists at the Southern Border since since FY21.

Criminals are undoubtedly getting through. We know that from 2011-2020 more than 260,000 criminals illegally present in Texas committed more than 442,000 crimes, including charges of 820 homicides, 5,600 sexual assault, and 6,800 sexual offenses.

Enforce our Laws in the Interior

Let ICE do their job - in accordance with existing law - to remove individuals not legally present in the U.S.

ICE should enforce our laws no matter if someone is "just" here illegally. One of ICE's jobs is to deport removable aliens from the United States - they should be empowered to do that. In September 2021, DHS issued new guidelines for ICE, focusing the agency on only removing individuals that pose a "threat." But guidance such as this just provides reason for more people to illegally cross our borders, because they won't be removed if they do.

ICE should do it's job and remove "removable" individuals from the interior. FY21 had the lowest removal numbers in the agency's history. ICE recorded only 59,011 deportations, compared to 185,884 in FY20, and ICE's Enforcement and Removal Operations (ERO) made about 74,082 administrative arrests during FY21, down from 104,000 during FY20 and an average of 148,000 annually from FY17 through FY19.

Increase enforcement and penalties for criminal aliens and visa-overstayers and remove violators of our laws

This includes, aggressively removing visa overstayers, and establishing a modern entry-exit system at land ports-of-entry to align with progress made at air and seaports. Visa overstayers cannot go unaddressed - even folks admitted legally to the U.S. can pose a threat. For example, some of the 19 hijackers carrying out the September 11th attacks were visa overstayers.

Target Cartels & Criminal Organizations

Designate cartels as terrorist or terrorist-equivalent organizations

A Foreign Terrorist Organizations (FTOs) designation or the equivalent would offer a variety of sanctions, penalties, and authorities that would allow the government to prosecute or deport every member, associate, and affiliate.

The United States must also demand the Government of Mexico works to eliminate the power of the cartels in Mexico, including the grip they have on the human smuggling and trafficking pipeline, and the drugs they send over our border.

Strengthen penalties for human trafficking and smuggling

Human trafficking organizations make over $150 billion per year in profits. The top two states for reports of human trafficking activity are border states - California and Texas.

The average sentence length for alien smuggling offenders in 2018 was just 16 months, and for minor sex traffickers (avoiding a life sentence), the average sentence is just 162.79 months – barely over the mandatory minimum.

Strengthen penalties for drug trafficking and smuggling, specifically for fentanyl

We must enhance criminal penalties for drug trafficking – especially for Fentanyl.

The average sentence for Fentanyl traffickers has actually decreased in recent years. In 2018, the average sentence was 74 months.

In 2020, the average sentence was just 61 months – this is less than that of Methamphetamine (95), Crack Cocaine (74), Powder Cocaine (66) and Heroin (66).

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