



**THE CONSEQUENCES OF THE BIDEN-HARRIS ADMINISTRATION'S  
OPEN-BORDERS POLICIES: THE CASE OF ONE OF THE ILLEGAL  
ALIENS WHO ATTACKED NEW YORK CITY POLICE OFFICERS**

Interim Staff Report of the  
Committee on the Judiciary  
and  
Subcommittee on Immigration Integrity, Security, and Enforcement  
U.S. House of Representatives



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## EXECUTIVE SUMMARY

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In less than four years, the Biden-Harris Administration has released into the United States more than 5.6 million illegal aliens,<sup>1</sup> with another 1.9 million illegal alien “gotaways” escaping into the country during the same time.<sup>2</sup> That chaos at the southwest border, created and incentivized by the radical policies of President Joe Biden and “border czar” Vice President Kamala Harris, has led to insecurity in the interior of the country. Too many of the illegal aliens allowed into the country by the Biden-Harris Administration commit crimes against Americans and other U.S. residents. While the Administration misleadingly claims that illegal aliens are fully screened for criminality at the border,<sup>3</sup> former U.S. Border Patrol Chief Rodney Scott has admitted that the “vetting” process is the equivalent of checking aliens “against a blank sheet of paper.”<sup>4</sup>

Every community in the country suffers from the consequences of the Biden-Harris border crisis and the Biden-Harris Administration’s lack of immigration enforcement. With illegal aliens released by the Biden-Harris Administration committing crimes across the country, every American community has become a border community. In a recent transcribed interview before the Committee, one senior Immigration and Customs Enforcement (ICE) official admitted that instead of arresting illegal aliens who pose public safety threats and national security threats at the border, some ICE officers have been reassigned to tasks that facilitate illegal alien releases into the United States.<sup>5</sup>

The Biden-Harris Administration’s radical policies ensure that criminal illegal aliens can remain in the United States indefinitely, even after they have committed a crime. As the Committee documented in an April 2024 report, ICE has instructed its officers to first consider irrelevant factors such as an illegal alien’s high blood pressure, diabetes, caregiver status, and other “mitigating factors” before ever arresting a criminal alien.<sup>6</sup> Consequently, the Biden-Harris

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<sup>1</sup> Information provided to the H. Comm. on the Judiciary by U.S. Dep’t of Homeland Sec., Table 1: Detention Histories of CBP Encounters, January 20, 2021 – March 31, 2024 (Aug. 16, 2024); U.S. Customs and Border Prot., *Custody and Transfer Statistics FY 2024*, U.S. DEP’T OF HOMELAND SEC. (last accessed Aug. 19, 2024); Camilo Montoya-Galvez, *Biden administration has admitted more than 1 million migrants into U.S. under parole policy Congress is considering restricting*, CBS NEWS (Jan. 22, 2024); *Latest UC Data, Total Monthly Discharges to Individual Sponsors Only*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. (last accessed Mar. 22, 2024); Off. of Refugee Resettlement, *Unaccompanied Children Released to Sponsors by State*, U.S. DEP’T OF HEALTH AND HUMAN SERVS. (last accessed Aug. 19, 2024); U.S. Customs and Border Prot., *CBP Releases July 2024 Monthly Update*, U.S. DEP’T OF HOMELAND SEC. (Aug. 16, 2024); Immigr. and Customs Enf’t, *Daily SWB Placemat*, U.S. DEP’T OF HOMELAND SEC. (May–July 2024) (on file with Comm.); Off. of Homeland Sec. Statistics, *Immigr. Enf’t and Legal Processes Monthly Tables – Apr. 2024*, U.S. DEP’T OF HOMELAND SEC. (last accessed Aug. 19, 2024).

<sup>2</sup> Casey Harper, *Border crisis creates national security threat for U.S., observers say*, WASH. EXAMINER (Aug. 7, 2023); Bill Melugin (@BillMelugin\_), X (June 20, 2024, 10:22 AM).

<sup>3</sup> *Oversight of the Dep’t of Homeland Security: Hearing Before the H. Comm. on the Judiciary*, 118th Cong. (2023) (statement of Alejandro Mayorkas, Sec’y, U.S. Dep’t of Homeland Sec.).

<sup>4</sup> *The Biden Border Crisis: Part III: Hearing Before the Subcomm. on Immigr. Integrity, Security, and Enf’t, of the H. Comm. on the Judiciary*, 118th Cong. 62 (2023) (statement of Rodney Scott).

<sup>5</sup> See H. Comm. on the Judiciary, Interim Staff Rep., *Chauffeur at the Border, Concierge in the Interior: How the Biden Admin. Rewards Illegal Aliens on the Taxpayers’ Dime*, at 7-8 (July 3, 2024) [hereinafter July Interim Staff Rep.].

<sup>6</sup> See H. Comm. on the Judiciary, Interim Staff Rep., *How the Biden Admin.’s Lax Immigr. Enf’t Allows Dangerous Criminal Aliens to Run Free in American Communities*, at 10-13 (Apr. 16, 2024).

Administration is removing from the country far fewer criminal aliens than the Trump Administration. For example, “in fiscal year 2023, ICE removed 41 percent fewer aliens with criminal convictions and criminal charges than in fiscal year 2020—and nearly 60 percent fewer than in fiscal year 2019.”<sup>7</sup> As a result, the number of criminal aliens free in the United States totaled more than 617,000 by December 2023—and is likely growing daily because of the border crisis.<sup>8</sup>

Since February 2023, the Committee has requested information, including alien files (A-files)—DHS records that contain immigration case history about individual aliens—relating to illegal aliens who have committed serious and violent crimes in the United States during the Biden-Harris Administration. In some cases, due to the Administration’s refusal to disclose information about these criminal illegal aliens, the Committee has been forced to issue subpoenas. To date, DHS has provided the Committee with A-files relating to roughly 30 criminal aliens.

The information obtained by the Committee shows in stark terms the real-world consequences of the Biden-Harris Administration’s failure to secure the border and enforce immigration law. Taken as a whole, the Committee’s investigation into the criminal illegal aliens the Biden-Harris Administration has allowed to enter the United States exposes the widespread failure to adequately vet, apprehend, detain, and remove illegal aliens. In some cases, the illegal aliens had committed crimes in their home countries but were nevertheless released from DHS custody. In other cases, the illegal aliens had criminal records or were gang members and were still released into the United States. In all cases, the illegal aliens went on to commit crimes in American communities ranging from murder and robbery to brutal assault.

In 2017, then-Senator Kamala Harris asserted that “an undocumented immigrant is not a criminal”<sup>9</sup> and mocked any plans to remove illegal aliens from the United States.<sup>10</sup> Contrary to the border czar’s claims, many of the illegal aliens allowed to enter the United States under Vice President Harris’s watch are criminals who victimized Americans and terrorized U.S. communities. This interim staff report focuses on the case of just one criminal illegal alien, Yohenny Josue Betancourt-Brito, and highlights how the open-borders policies of the Biden-Harris Administration ensured his release into the United States. According to new, nonpublic information uncovered by the Committee, the Biden-Harris Administration released Betancourt-Brito, an illegal alien from Venezuela, into the United States in May 2023.<sup>11</sup> Less than eight months later, he was arrested for assaulting two police officers in New York City.<sup>12</sup> Despite the arrest, he remained free to reoffend multiple times, allegedly committing larceny in May, July,

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<sup>7</sup> See H. Comm. on the Judiciary, Interim Staff Rep., New Data Reveal Worsening Magnitude of the Biden Border Crisis and Lack of Interior Immigr. Enf’t, at 9 (Jan. 18, 2024).

<sup>8</sup> *Id.* at 9.

<sup>9</sup> Kamala Harris (@KamalaHarris), X (Apr. 21, 2017, 7:38 PM), <https://x.com/KamalaHarris/status/855566507526565888>.

<sup>10</sup> Kamala Harris (@KamalaHarris), X (Apr. 21, 2017, 7:39 PM), <https://x.com/KamalaHarris/status/855566707729027072>.

<sup>11</sup> See *infra* notes 26-29.

<sup>12</sup> See *infra* notes 20-21, 32.

and August 2024.<sup>13</sup> It is unclear whether ICE has ever taken Betancourt-Brito into custody, despite his criminal history.<sup>14</sup>

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<sup>13</sup> *See infra* notes 34-40.

<sup>14</sup> *Id.*

For more than three-and-a-half years, President Joe Biden and “border czar” Vice President Kamala Harris have orchestrated the largest mass release of illegal aliens into the country in American history. Well over 7 million illegal aliens are now in the United States because of the Biden-Harris Administration’s radical immigration policies.<sup>15</sup> The results are all too predictable: cities overwhelmed, public services crushed, and communities shattered by the criminality of some illegal aliens.

Although the Biden-Harris Administration claims that illegal aliens are vetted before being released into the United States, the reality is much more disturbing. As one federal district court judge has observed, the checks that DHS currently performs on illegal aliens encountered at the southwest border should concern every American. As Judge Wetherell explained in 2023:

Although DHS says it is screening arriving aliens . . . to determine if they are a public safety threat, the more persuasive evidence establishes that DHS cannot reliably make that determination. Indeed, according to [the Administration’s] own witnesses, DHS has no way to determine if an alien has a criminal history in his home country unless that country reports the information to the U.S. government or the alien self-reports. Therefore, DHS is mainly only screening aliens at the border to determine if they have previously committed a crime in the United States, and because many of these aliens are coming to the United States for the first time, DHS has no idea whether they have criminal histories or not.<sup>16</sup>

Indeed, the biometric and biographic data of illegal aliens, including that of the millions of illegal aliens who have entered the U.S. during the Biden-Harris Administration, are only vetted against U.S. criminal databases, such as the National Crime Information Center (NCIC), and against INTERPOL information.<sup>17</sup> Immigration authorities do not vet illegal aliens against databases in the aliens’ countries of origin.<sup>18</sup> As a result, if there is derogatory information about an alien in that alien’s home country, the current checks are unlikely to reveal it. As former Border Patrol Chief Rodney Scott testified to the Subcommittee on Immigration Integrity, Security, and Enforcement in 2023, the U.S. government has “very, very minuscule data” available when an alien arrives at the southwest border because “[c]rimes committed by a foreign national outside the U.S. rarely appear in [U.S.] databases.”<sup>19</sup>

The consequences are dire, with illegal aliens committing crimes against Americans at an alarming rate. Since the beginning of the 118th Congress, Chairman Jim Jordan and

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<sup>15</sup> See *supra* notes 1-2.

<sup>16</sup> *Florida v. United States*, 660 F.Supp.3d 1239, 1259 (N.D. Fla. 2023).

<sup>17</sup> *The Biden Border Crisis: Part III: Hearing Before the Subcomm. on Immigr. Integrity, Security, and Enf’t, of the H. Comm. on the Judiciary*, 118th Cong. 62 (2023) (statement of Rodney Scott).

<sup>18</sup> *Id.*

<sup>19</sup> *Terrorist Entry Through the Sw. Border: Hearing Before the Subcomm. on Immigr. Integrity, Security, and Enf’t, of the H. Comm. on the Judiciary*, 118th Cong. 45 (2023) (statement of Rodney Scott).

Subcommittee Chairman Tom McClintock have requested files and information related to dozens of illegal aliens who have committed violent and serious crimes during the Biden-Harris Administration. This report focuses on just one of the millions of illegal aliens released by the Biden-Harris Administration: Yohenny Josue Betancourt-Brito.

***Illegal Alien Yohenny Josue Betancourt-Brito Attacked New York City Police Officers.***

According to press reports, on January 27, 2024, a group of illegal aliens brutally attacked two New York City police officers near a migrant shelter in Times Square.<sup>20</sup> Seven of the attackers were eventually indicted, including Yohenny Josue Betancourt-Brito.<sup>21</sup> Based on these reports, on February 7, 2024, Chairman Jim Jordan and Subcommittee on Immigration Integrity, Security, and Enforcement Chairman Tom McClintock launched an investigation into the attackers and their release into the United States.<sup>22</sup> Specifically, the Committee sent a letter to the Department of Homeland Security requesting all case history information for the aliens, including their alien files (A-files).<sup>23</sup>

DHS failed to produce the documents and, accordingly, on April 11, 2024, the Committee reiterated its outstanding request for the alleged attackers' A-files, among other outstanding requests for A-files.<sup>24</sup> Pursuant to the Committee's follow-up letter, on May 3, 2024, DHS produced Betancourt-Brito's A-file.<sup>25</sup> The additional A-files remain outstanding.

***The Biden-Harris Administration Released Illegal Alien Betancourt-Brito into the United States in 2023.***

The Committee's review of Betancourt-Brito's A-file reveals that the Venezuelan national illegally entered the United States on May 9, 2023, near El Paso, Texas, and was apprehended by Border Patrol.<sup>26</sup> On May 17, 2023, "due to lack of space,"<sup>27</sup> DHS ordered Betancourt-Brito released on his own recognizance with instructions to report to Immigration and Customs Enforcement on June 27, 2023.<sup>28</sup> According to DHS's own data, however, the agency had

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<sup>20</sup> Marcia Kramer et al., *Calls grow to deport migrants who attacked NYPD officers in Times Square*, CBS NEWS (Feb. 1, 2024, 11:50 PM), <https://www.cbsnews.com/newyork/news/nypd-officers-attacked-times-square-migrant-shelter-arrests/>.

<sup>21</sup> Antonio Planas, *7 indicted in attack on 2 NYPD officers in Times Square*, NBC NEWS (Feb. 9, 2024, 7:17 PM), <https://www.nbcnews.com/news/us-news/7-indicted-attack-2-nypd-officers-square-rcna138018>.

<sup>22</sup> Letter from Jim Jordan, Chairman, H. Comm. on the Judiciary, to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec. (Feb. 7, 2024) (on file with Comm.).

<sup>23</sup> *Id.*

<sup>24</sup> Letter from Jim Jordan, Chairman, H. Comm. on the Judiciary, to Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec. (Apr. 11, 2024).

<sup>25</sup> Letter from Alejandro Mayorkas, Sec'y, U.S. Dep't of Homeland Sec. to Jim Jordan et al., Chairman, H. Comm. on the Judiciary (May 3, 2024).

<sup>26</sup> Alien File of Yohenny Josue Betancourt-Brito at 6-7, provided to H. Comm. on the Judiciary Staff by U.S. Dep't of Homeland Sec. (on file with Comm.) [hereinafter Betancourt-Brito A-File].

<sup>27</sup> *Id.* at 8.

<sup>28</sup> *Id.* at 1, 6.



capacity to detain Betancourt-Brito when he was released.<sup>29</sup> Betancourt-Brito was scheduled to appear for an immigration court hearing on October 13, 2023, in New York City.<sup>30</sup>

After his release, Betancourt-Brito quickly ignored ICE's instructions. ICE advised Betancourt-Brito not to "associate with known gang members, criminal associates, or be associated with any such activity" and instructed him to not "commit any crimes while on this Order of Release on Recognizance."<sup>31</sup> The order warned that "[a]ny violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted."<sup>32</sup> Just eight months later, however, Betancourt-Brito allegedly joined a mob of other illegal aliens in assaulting two New York City police officers.<sup>33</sup> Two weeks after the assault, according to a news account, "an activist Brooklyn priest posted [Betancourt-Brito's] \$15,000 bail."<sup>34</sup>

**DISPOSITION:**

Subject will be released by an Immigration Officer on Order of Release own Recognizance due to lack of space. Subject was served with ICE Form I-220A, with reporting instructions for the nearest ICE/ERO office in the local commuting area of their intended destination.

*Above: The Biden-Harris Administration released Betancourt-Brito at the southwest border "due to lack of space." Despite his now-extensive criminal history in the United States, it is unclear whether ICE has ever detained him.*

In May 2024, Betancourt-Brito was offered a plea deal by the Manhattan District Attorney's office, led by District Attorney Alvin Bragg, "to serve a year in jail in exchange for pleading guilty to second-degree assault."<sup>35</sup> At the same time Manhattan District Attorney Alvin Bragg's office offered a plea deal to a violent illegal alien, Bragg himself was engaged in lawfare against the Biden-Harris Administration's main political opponent: President Donald J. Trump. As the Committee has highlighted, Bragg has abused his office to target President Trump for political prosecution, using a novel and convoluted legal theory to turn an otherwise misdemeanor record-keeping infraction into dozens of felony counts.<sup>36</sup> Although Bragg

<sup>29</sup> Daily Southwest Border Placemat – Distributed May 18, 2023, provided to Comm. staff by Dep't of Homeland Sec. (May 18, 2023) (on file with Comm.).

<sup>30</sup> Betancourt-Brito A-File, *supra* note 26, at 20.

<sup>31</sup> *Id.* at 3.

<sup>32</sup> *Id.*

<sup>33</sup> Jack Morphet & Steve Janoski, *Migrant suspect in shocking Times Square cop beatdown indicted by NYC grand jury — as other brutes 'roaming free'*, N.Y. POST (Feb. 6, 2024, 5:09 PM), <https://nypost.com/2024/02/06/metro/migrant-in-brutal-cop-beatdown-in-times-square-indicted-by-grand-jury-as-other-brutes-roaming-free/>.

<sup>34</sup> Joe Marino & Jorge Fitz-Gibbon, *'Sanctuary' church puts up \$15K bail to free migrant accused in Times Square police beatdown*, N.Y. POST (Feb. 14, 2024, 6:09 PM), <https://nypost.com/2024/02/14/us-news/sanctuary-church-puts-up-15k-bail-to-free-migrant-accused-in-times-square-police-beatdown/>.

<sup>35</sup> Michael Dorgan, *Migrants in NYPD Times Square attack offered plea deals, including 1 just re-arrested for allegedly stealing*, FOX NEWS (May 15, 2024, 7:44 AM), <https://www.foxnews.com/us/migrants-nypd-times-square-attack-offered-plea-deals-1-just-re-arrested-allegedly-stealing>.

<sup>36</sup> See H. Comm. on the Judiciary & Select Subcomm. on the Weaponization of the Federal Gov't, Interim Staff Rep., *Lawfare: How the Manhattan District Att'y's Off. and a New York State Judge Violated the Constitution and Legal Rights of President Donald J. Trump* (July 9, 2024).

succeeded in returning a guilty verdict from a sympathetic Manhattan jury and a friendly judge, legal experts have called into the question the constitutionality of the proceedings.<sup>37</sup>

*Below: A document in Betancourt-Brito's alien file instructs him to "not commit any crimes." Betancourt-Brito ignored that warning, and it is unclear whether ICE has ever taken him into custody despite his violation of the release conditions.*

Name: <u>BETANCOURT-BRITO, YOHENRY JOSUE</u>	File No.: _____
	Date: <u>May 17, 2023</u>
<input checked="" type="checkbox"/> That you do not associate with known gang members, criminal associates, or be associated with any such activity.	
<input type="checkbox"/> That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.	
<input type="checkbox"/> That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.	
<input type="checkbox"/> That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.	
<input checked="" type="checkbox"/> That you do not commit any crimes while on this Order of Release on Recognizance.	
<input type="checkbox"/> That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.	
<input type="checkbox"/> That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.	
<input checked="" type="checkbox"/> That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.	
<input checked="" type="checkbox"/> That you provide ICE with written responses from the Embassy or Consulate regarding your request.	
<input checked="" type="checkbox"/> Any violation of the above conditions will result in revocation of your employment authorization document.	
<input checked="" type="checkbox"/> Any violation of these conditions may result in you being taken into ICE custody and you being criminally prosecuted.	
<input type="checkbox"/> Other: _____	

Just days before Bragg's office offered Betancourt-Brito a plea deal, however, the alien was arrested yet again "for allegedly trying to steal children's clothing and fragrances from Macy's," as Betancourt-Brito still was not detained by ICE and therefore was free to reoffend.<sup>38</sup> Even then, the judge in the case refused to place him in jail, stating:

I am very tempted right now to put you in jail. I am telling you right now, if I learn you are rearrested for anything at all between now and this case being finished, I will order a warrant and I will place bail so high you will not get out . . . If you jaywalk, if you jump a

<sup>37</sup> *Id.*

<sup>38</sup> See Dorgan, *supra* note 35.



turnstile, if you do anything at all and I have to issue a warrant, you will not see the light of day until this case is over.<sup>39</sup>

Undeterred by the judge's warning, and free to reoffend because ICE did not detain him, in July and August 2024, Betancourt-Brito allegedly stole fragrances and nearly \$1,500 in merchandise from "Sephora makeup stores in Manhattan."<sup>40</sup> After committing his most recent crimes, Betancourt-Brito was "held on \$50,000 cash bond on the Times Square police assault because of the latest arrest."<sup>41</sup> Despite his criminal history, it is unclear whether ICE has ever arrested Betancourt-Brito.

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## CONCLUSION

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The disastrous immigration policies of the Biden-Harris Administration have had real-world consequences for American citizens. The effects of those policies will be felt for years to come, with criminal aliens in American neighborhoods harming families and hurting public safety across the country. New York City police officers were attacked because the Biden-Harris Administration allowed illegal aliens like Betancourt-Brito to enter the country. Tragically, the New York City police officers are not criminal illegal aliens' only victims.

For 15 months, President Biden, Vice President Harris, and Senate Democrats have failed to consider the House-passed H.R. 2, the Secure the Border Act of 2023, despite rapidly deteriorating conditions both at the border and in the interior. To secure America, the Senate must pass, and President Biden must sign into law, H.R. 2. In the meantime, the Committee and Subcommittee will continue to conduct vigorous oversight to inform legislative reforms to address President Biden and Vice President Harris's dangerous immigration policies.

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<sup>39</sup> *Id.*

<sup>40</sup> Louis Casiano, *NYC migrant accused in vicious beating of Times Square cops arrested again after he's bailed out*, FOX NEWS (Aug. 12, 2024, 5:14 PM), <https://www.foxnews.com/us/nyc-migrant-accused-vicious-beating-times-square-cops-arrested-again-after-hes-bailed-out>.

<sup>41</sup> *Id.*