

BORDER SECURITY

Mr. LANKFORD. Mr. President, many Americans may not know and many in this Senate Chamber may not know that this week we actually passed a milestone on immigration in the United States. This week, less than 3 years into President Biden's term, we have now had more people illegally cross the border in the less than 3 years under the Biden administration than we had under the 8 years of the Obama administration and the 4 years of the Trump administration.

If you count both terms of the Obama administration and the Trump administration, that was 6 million people who illegally crossed the border. Under this President, in less than 3 years—not 12, in less than 3—we have now had more than 6 million people illegally cross the border.

We had a hearing this week with DHS folks to be able to talk about what in the world is going on. We met not with the policymakers because the policymakers won't meet with us; we met with the folks who are on the line to say: What is the process; how are things actually working; what steps are actually taken; and then what happens from here.

I also had the opportunity to be able to look at some of the budget issues and other things that are coming up, which I will explain later, but I wanted to be able to walk through where we really are right now and what is really happening at the border because since the expiration of title 42, in the days that followed that in May, the administration announced: Look, the numbers are dramatically down. And for a month, the numbers were down some, but then they popped right back up, so much so that the Washington Post last week had a headline that read the highest number of illegal family crossings in the history of the country was in August of this year.

Most folks turned away. They heard the administration say: Look, the numbers went down, and so they looked away from what is happening at the border, but our numbers are at the highest ever. And the complication of how they are actually being treated is the highest ever.

So let me walk you through some of the things that came up in the hearing that I want to be able to walk through on this because when you cross the board illegally at this point, there are lots of options there, and the options are designed by the Department of Homeland Security and by the White House not to deter people from crossing the border but to facilitate a more rapid crossing. So there are multiple processes that have been set up that are entirely new.

Let me give you one. If you come to a port of entry, you can now, before you get to a port of entry on the southern border, actually check in ahead of time to make your process of checking in faster. It is an app that you can get on your phone called the CBP One app.

If you download that app, you fill out the form where you are from, then when you get to the border, you will be expedited through the process at the port of entry and released into the country. If you are one of those folks who have filled out the app and have gone through, you will be quickly screened. According to the testimony that we heard yesterday, 90 percent of those folks are released almost immediately into the country, and within 30 days they have a work permit.

Now, these are not folks who have applied for a visa. These are not the folks who have gone through the H-1B or H-2B or any of those processes. These are not folks who have actually gone through the formal process of getting a work permit. These are folks who have come from all over the world, have filled out an app right before they came across the border, and then they were facilitated right into the country.

If you think these are folks who are coming in from Guatemala, Honduras, and Mexico, more than 150 countries have crossed the border this year. And I will walk through some of those numbers in just a moment.

One option that you have to be quickly expedited into the country without seeking prior approval is just to fill out the app ahead of time and then your paperwork is done and you are across the border even faster when you get here.

The second option is you actually don't fill out the form. You just show up at the port of entry and say: I didn't fill it out ahead of time. The response at that point is: It will take you a little bit longer to process—several hours more time to be able to go through and fill the things out. You will still be released. You will still be given what is called parole into the country. You will still be given a work permit within 30 days to be in the country, not because you applied for a work permit early or went through the legal process, not because you are any of the tens of thousands of people all over the world who want to work in the United States so they legally approach the issue; these are folks who just crossed at a port of entry, either filling it out ahead of time or just filling it out when you get there, quickly expedited, unlimited numbers.

Third group. The third group are the folks who actually come between the ports of entry. These are the folks who didn't cross. These are folks who came through the open desert or swam across the river in the Rio Grande. These are the folks who crossed, got into the country. Some of them bolted and ran from Border Patrol. Some of them turned themselves in. It just kind of depends on where they are. These individuals—not between the ports of entry, haven't done anything ahead of time—they are treated much more different. These individuals are actually picked up between the ports of entry, taken to a Border Patrol station where they process their paperwork. They fill

out all the information, and then they release them into the country.

But the consequence is because they didn't come in a port of entry, it is going to take them 2 months to get a work permit—2 months—not 1 month.

So let me review. If you come in at a port of entry, no matter who you are and no matter where you are from, they will check and see if you are on a terror watch list, and if you are not on the terror watch list, then they are just going to allow you in.

They will set up a court hearing. Whether you cross between the ports of entry or whether you cross at the port of entry, they will set up a court hearing for you to be able to plead for asylum or to be able to ask for your parole extension or whatever that may be or what they call a change of status.

Let's review some of the court hearing dates here to be able to walk through where we are. If you come between the port of entry and you ask for asylum as soon as you cross the border and you are caught somewhere in the desert and you say: I want to plead asylum. I have fear and had to leave my country, they will line up a hearing after you are released into the country. Let's say you want to go to New York City. You can go anywhere you want to. You say: I want to go New York City, and that is where I want to land. Over 100,000 people recently have asked to go to New York City. So they transfer you to go to New York City.

Right now, they will set up the next hearing date for you. Let me look at the list here. The next hearing date for you to get a hearing on your asylum claim and your notice to appear is in October of 2032—October of 2032. That is the next open hearing date that they have available.

So let me run this past you. Right now, on our southern border as of this exact instant, some people are checking in, and they are getting parole. Within 30 days, they are released to be able to get into the country with a work permit. They are traveling anywhere they want to in the country. We have no background for these individuals, and they are told to check into a hearing 9 years from now.

Anybody want to guess how many folks are going to show up at that hearing 9 years from now?

I mentioned before, many of these individuals are not from Central America. In fact, just this year—just this year—we have had 15,000 people who have illegally crossed the border, many in the open desert area, from China.

When I talk to the folks from the Oklahoma Bureau of Narcotics at home, they tell me most of the criminal organizations that are growing illegal marijuana and facilitating drug trafficking in my State are Chinese nationals who have illegally crossed the border. They are partnering with Mexican cartels and Chinese criminal organizations to be able to do business and drug trafficking in my State. Those folks crossed between ports of entry,

were checked in at a Border Patrol station, were waved into my country, and are now running criminal operations in my State—15,000 Chinese nationals just this year.

We are right at 10,000 citizens of Mauritania who have illegally crossed our border this year, whom we know of. Bonus points for anyone in this room who can point out Mauritania without looking it up on a map right now. There are 10,000 who have come in. By the way, Mauritania is a fast-growing area in West Africa, and al-Qaida is quickly accelerating in that area. We had 10,000 individuals who are from Mauritania come into our country just this year across the southern border. We have exactly no criminal information exchanged with Mauritania. We have no idea of these individuals—if they have committed crimes in their own country or why they left. We have no information about them.

With this area that is, literally, a hotbed for al-Qaida, we have facilitated, through this process set up by the White House, 10,000 individuals into our country. Media reported this week that an ISIS affiliate has been working with cartels in Mexico to facilitate citizens of Uzbekistan into our country across the border from Mexico. Those individuals have crossed into our country and, under this process, were released, and we currently don't know where they are.

Now, can someone explain to me why an ISIS affiliate is working with Uzbekistan citizens to be able to traffic them across our southern border into the United States, and under the current policies of this administration, they are being released into the country unsupervised?

Yesterday, at the hearing, I asked several simple questions, because I have heard over and over again of some individuals who are being released into the country who are given what is an alternative to detention. That is a phone—it is not really a phone. It is a device—a GPS device—that is able to track their whereabouts. That sounds great to say we have got some sort of tracking device on these individuals who are released into the country except, when I do a follow-up question to say, “How long are they awaiting their hearings?” and the answer is “somewhere between 5 and 10 years” awaiting the hearing. How long do they have the tracking device? The answer is “130 days.” They are tracked for the first 130 days. Then they turn that in. And after that, we have no idea where they are, and we have no idea what they are doing. But we gave them work permits, and we released them into the country, and they are anywhere they want to go at this point.

Interestingly enough, if you are an individual right now anywhere in the world and you want to work in the greatest country in the world—that is the United States—and you have got a family member here—or whatever it may be—who can line up a job for you

here and you are going to apply for one of our work visas, if you want to go through the process to apply for one of our work visas, it will take you months to years to get it or you could just cross the border in the desert, cross the river, enter at a port of entry, or maybe even fill out a form ahead of time, and you will have unlimited work permits immediately. Within 30 to 60 days, you will be given that, and you can land anywhere you want to in the United States—unchecked, unfettered, no background check, no criminal history for any individual.

Listen, I am a huge proponent of legal immigration. Our Nation was built on legal immigration. It is one of the moments that I love as a U.S. Senator, and that is to go to naturalization ceremonies and be a part of watching individuals literally raise their right hands, denounce the countries they were born in, and become citizens of the United States. It is an absolutely beautiful experience to be able to watch literally new Americans be born right in front of you.

As I traveled around my State in August, not a single person said to me—not one—that they were opposed to legal immigration, but I had person after person of all political perspectives—right, left, center—who said to me, this makes them nervous. Six million people in less than 3 years of which we know almost nothing about are currently in our country, going anywhere they want to, and doing whatever they want to because this administration is not focused on deterring people from coming into the country illegally; it is focused on speeding up the process of people coming into the country illegally.

This needs to stop. This body has to have a serious conversation about defining “asylum” because this administration is abusing the word “asylum.” They are making it mean something no one has ever made it mean. We need to clarify what the word “asylum” means so this administration can't abuse that “asylum” definition, and no future administration can do that.

We need to increase the number of legal visas that we have as a nation so that people who want to come work can come work in this great country and can be a part of our economy, but we will know who they are, and we will know that they have been vetted. It is very different than this process.

May I remind you—and people in this room know—that many of the folks who cross the border show up with no paperwork at all—at all. In fact, it is very common for a Chinese citizen, when they show up, to show up with a photocopy of a passport, not the actual passport. They show up with a photocopy of the passport and say: This is me. And we have no idea if that is actually their passport photo, their details, or how that photocopy has been doctored.

Other folks show up with no birth certificates, no passports, no ID of any

type. They just say a name, and they say a country. And they have been told by the Department of Homeland Security to just write down the new name, to write down the country they tell you, to process them into the country, and hand them this new ID, and they can travel anywhere in the country they want to go.

We have lost our mind. That is not what it is supposed to be like to do immigration in the United States.

So what do we need to do about it?

We need to fix the definition of “asylum.” I need colleagues on both sides of the aisle to actually talk to this administration and say: Why is the Democratic Party becoming the party of illegal activity? This needs to be fixed so that we are back to being a party about legal activity, not celebrating what is illegal.

The third thing is we have got to fix a budget request. In the next few weeks, we are going to be dealing with a continuing resolution that will extend the budget to make sure the government stays open. I don't like government shutdowns. In fact, I have a nonpartisan bill that many Members of this body are on right now that ends government shutdowns. Government shutdowns do not help us as a nation. So I want to see an end to government shutdowns even if that is a threat hanging out there. There is a practical, nonpartisan way to do that; and Democrats, Republicans, and Independents are all on that bill right now. I will talk about that sometime next week.

But there has been a request from the White House in the meantime to say: Extend this. Also, add this little piece giving us flexibility on border funding. I want to just read this to you. It is the request that the White House has made for the border.

They made this request. They want flexibility for operations and support in this and any other act so that they can use funds at community-based residential facilities—which they don't define—to provide services and support to refugees, asylum seekers, or other migrants, including the provision of medical care, treatment, legal orientation, programming, access to counsel, educational services, repatriation planning, counseling, referrals for social services, and other “related” programs.

What does this mean?

What they are asking is to be able to take DHS funds currently used right now and, for the first time ever, be able to give legal counsel to every person who crosses the border.

They also want to give housing to every person who crosses the border—that is, community-based residential facilities. They want to be able to provide housing and to provide medical care for every person who crosses the border. Now, we already provide emergency medical care—we are a humanitarian nation—but this is open-ended to whatever it may be. It is open-ended

for housing. It is open-ended for medical care. It is open-ended for educational care, and it is open-ended for legal counsel.

This is a huge shift this administration is looking for. They are not only looking for a way to facilitate more people to come in; they are looking for flexibility to take DHS dollars, which were allocated to prevent people from illegally crossing the border—to actually use those, instead, to help those who have illegally crossed the border have housing, long-term medical care, long-term educational issues, additional legal expenses—on and on and on. This is entirely new. This is not one just to slip into a bill. This is a huge change.

I am not opposed to immigration. I am opposed to illegal crossings, and I am opposed to whatever it takes to move people fast across the border to get into the interior of the country. It is not what we are supposed to do. For national security reasons, for the state of our economy, let's do immigration right. Let's honor what we have been as a nation and continue to welcome people from all over the world, but let's do it the legal way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

MILITARY PROMOTIONS

Mr. LEE. Mr. President, the American people are sharply divided on some issues. One of those issues is abortion. One group of people has a different idea about when human life begins and is worth protecting. It needs to be protected under law. It is difficult to reconcile the views of those who are in sharp contrast with each other given that one group thinks that human life begins earlier—much earlier—than the other group.

As difficult as it can be to reconcile those competing viewpoints where Americans are so sharply divided, there is an issue related to abortion on which Americans are overwhelmingly and refreshingly united; that is, because both sides tend to recognize that a number of Americans are uncomfortable with abortion to the extent that we are, Americans overwhelmingly agree, with a vast supermajority being in agreement, that the Federal Government should not use U.S. taxpayer funds for abortions.

To that end, Congress has passed laws providing just that. One specific law deals specifically with the U.S. Department of Defense. Codified in 10 U.S.C., section 1093, the statute, which has been on the books for decades, says that you may not use Department of Defense funding or facilities for abortions.

Well, late last year, a rumor started circulating to the effect that the U.S. Department of Defense was considering adopting policies that would fund abortion travels, specifically allowing military personnel seeking abortions in a

neighboring State or in a different State than where they were living or stationed to receive 3 weeks of paid leave time and compensated travel—air travel or otherwise—lodging accommodations, a per diem, et cetera, specifically to have an abortion.

My friend and colleague, the distinguished senior Senator from the State of Alabama, Senator TUBERVILLE, was concerned about this. In his sitting on the Armed Services Committee in the Senate, which he does, he visited with Defense Secretary Lloyd Austin and expressed his concerns about this rumored policy.

He said: You shouldn't do this. This is inconsistent with the spirit, if not also the letter, of 10 U.S.C., section 1093. If you do this, there will be consequences, including, among other things, that I, Senator TUBERVILLE, will be forced into a position in which I will delay the confirmations of flag officer military promotions.

Regrettably, a couple of months later, Secretary Austin, in completely ignoring Federal law, in completely ignoring what Senator TUBERVILLE had told him, proceeded with the policy anyway. By so doing, he made a decision to openly flout Federal law. The sole purpose of this policy is to try to find an all-too-cute, way-too-tricky route around what Federal law requires, flatly inconsistent with the spirit, if not also the letter, of the Federal law.

Since then, there has been debate on this on the Senate floor. Words have been exchanged. People have strong views about this approach. But make no mistake, all Senator TUBERVILLE is doing is saying that in the past, I, along with every other Senator, typically moved Heaven and Earth to expedite the confirmation of these military promotions to allow them to occur quickly. Most of them are not controversial.

That is the norm, but these things require unanimous consent. And there is something about unanimous consent: It requires, as the name implies, actual unanimity, meaning any one Senator can raise an objection that makes expedited confirmation not possible. This doesn't stop the confirmation; all it does is require additional steps to be taken. It takes more time.

Yesterday, we had a statement—a statement that was unfortunate, a statement that brings me to the Senate floor today—a statement made by Secretary Carlos Del Toro, the Secretary of the U.S. Navy. Secretary Del Toro, with whom I have worked on other matters in the past and for whom I have had great respect, made a very unfortunate and inappropriate statement. Here is what he said:

I would have never imagined that one of our own senators would actually be aiding and abetting communists and other autocratic regimes around the world.

This statement, to be clear, was talking only about Senator TUBERVILLE saying: In light of this policy, which I

believe is incompatible with Federal law, I am not going to facilitate the expedited confirmation of the nominees in question.

That is all he said. Yet, for that, he was accused by the Secretary of the U.S. Navy of “aiding and abetting communists and other autocratic regimes around the world.” This is strange. This is unacceptable. And this body should emphatically, unambiguously reject the ad hominem attack against Senator TUBERVILLE by Secretary Del Toro.

Look, I get it. Sometimes passions are inflamed. Sometimes people feel really strongly about things. I hope and expect Secretary Del Toro will see the error of this and retract and apologize for this statement because he has essentially accused a Member of our body, a distinguished friend to the United States, to the people of Alabama, and to me personally, of treason, of directly jeopardizing the security of the United States and putting it at risk by aiding and abetting communist and other autocratic regimes around the world.

Personal attacks against Members of Congress or other people based on policy views, policy disagreements—here, procedural, strategic disagreements—certainly violate the high standard of decorum that has long been honored and is typically held and exhibited by the leadership of the U.S. Armed Forces.

Look, there are important things to consider when you evaluate this policy, this policy designed to flout Federal law.

We have three branches of government. One branch, where we work, makes the law. The executive branch, where the Pentagon exists and the White House exists and all the executive branch Agencies exist—they are there to enforce the law. Then you have the judicial branch across the street, headed by the Supreme Court, which interprets the law when people disagree as to the law's meaning. We are the only branch that gets to make the law.

The very, very first operative provision, the first clause of the first section of the first article of the Constitution—Article I, Section 1, Clause 1—makes clear that “all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives.”

Article I, Section 7 makes clear—even clearer—how this works. You cannot make a Federal law without passing the same legislation through the House and through the Senate—identical language—and then submitting that to the President—presenting it, as we say—for signature, veto, or acquiescence.

If you don't follow the formula of Article I, Section 7, you have not made a Federal law. Once a Federal law is made, it cannot be changed or unmade