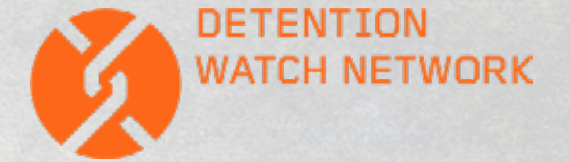


BIDEN | 3 YEAR PROGRESS REPORT



INTRODUCTION

For many in the immigrant justice movement, the inauguration of President Joe Biden in 2021 signaled a moment of hope and possibility after four years of a Trump administration that was defined by its cruelty to migrants. Though Biden started his presidential term by [rolling back a number of Trump's cruel immigration policies](#) (while [dragging his feet](#) on others) and implementing some modest interior enforcement reforms, over the course of three years his administration has moved increasingly right on these issues.

Under the Biden administration, Immigration and Customs Enforcement (ICE) detention has returned to pre-pandemic levels and surveillance has skyrocketed. Customs and Border Protection (CBP) has experimented with [open air detention](#) of migrants along the [border](#). During the same time the administration opened or expanded detention centers and refused to close facilities even at the recommendation of Biden's own government. At

every opportunity Biden has made clear his intent to keep the border inaccessible and to criminally prosecute, detain, surveil, and deport more people.

In recent negotiations for a supplemental funding package, Biden clarified that he sees migrant lives as expendable bargaining chips, and that he is much closer to the previous administration on immigration policy than he indicated on the campaign trail. In these negotiations, he willingly offered to curtail his parole authority and [declared that he would shut down the border "right now."](#) Not only has he broken promises, but the President has moved to the right and dug his heels into a cruel deterrence and punishment approach to migration that [simply does not work](#).

Following Congress's failure to pass the negotiated supplemental funding package, reports indicate that Biden may issue [executive orders](#) or regulations that

would try to achieve some of the policy goals negotiated for that bill, including making it harder for asylum seekers to pass the first stage of the asylum process, and arbitrarily turning away many asylum seekers at the border before even making it to that first stage. In a recent trip to the border, Biden shockingly [invited Trump to join him](#) in lobbying congress to pass the failed supplemental bill and he did so again during his fourth State of the Union address in March. Finally, in March Biden signed into law a Fiscal Year 2024 appropriations bill, negotiated through backdoor meetings with Republican leadership, that increased ICE detention and surveillance funding to levels not seen in the agency's history, enough to detain an average daily population (ADP) of nearly 42,000 people.

Rather than making progress towards keeping his promise of a more humane immigration system, on the whole, the President has not only regressed on all of

our policy demands but has increasingly conceded ground to the most extreme anti-immigrant corners of government and society, and in the process, has moved the starting point for future negotiations further to the right. If the President continues down this path it will cement his legacy of [co-signing a rightwing agenda](#) on migration. Biden has failed to live up to his promises. We demand that the President immediately reverse course and advance a pro-immigrant vision that upholds the dignity of all people.



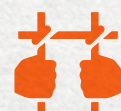
BIDEN COSIGNS A RIGHT WING AGENDA

For the last three years, Detention Watch Network (DWN) has demanded that the Biden administration depart from this country's decades long deterrence approach that relies on inhumane and unnecessary detention.

Rather than fighting back against this immoral path, Biden continues to bargain with immigrant lives and cosign the far-right's cruel, anti-immigrant agenda.

At the start of Biden's fourth year in office we evaluate his dangerous shift and urgently call on him to reverse course.

DWN CONTINUES TO DEMAND BIDEN TAKE THE FOLLOWING ACTIONS DURING HIS FOURTH YEAR IN OFFICE:



DEMAND 1

Release people from immigration detention and halt transfers within the ICE system and from jails and prisons



DEMAND 2

Stop all detention expansion efforts, shut down detention centers, and end contracts



DEMAND 3

Shrink the pipeline into detention by ending police-ICE collaboration, halting migrant prosecutions, and restoring access to asylum at the border without the use of detention



DEMAND 4

End the use of invasive, compulsory ICE surveillance programs



DEMAND 5

Keep families together by ending deterrence-based immigration policies and permanently end family detention and surveillance through formal policymaking



DEMAND 6

Cut funding to ICE and CBP in the President's Fiscal Year 2025 proposed budget and final appropriations bill and instead invest in communities

DEMAND 1

Release people from detention and halt transfers within the ICE system and from jails and prisons



BIDEN IS FAILING

For the last three years, the Biden administration failed to reduce the number of people in immigration detention through releases and has failed to halt transfers. Instead, for a third year in a row, ICE detention [numbers climbed](#) to a height of nearly 40,000 by November 2023 [where they have remained](#). That is nearly triple the number of people in detention compared to the lowest point during the Covid-19 pandemic in February of 2021 when the number of people in detention fell to [just over 13,000](#) people. The average length of stay for people in detention has also increased over the last year as has the use of [solitary confinement](#). During Biden's first three

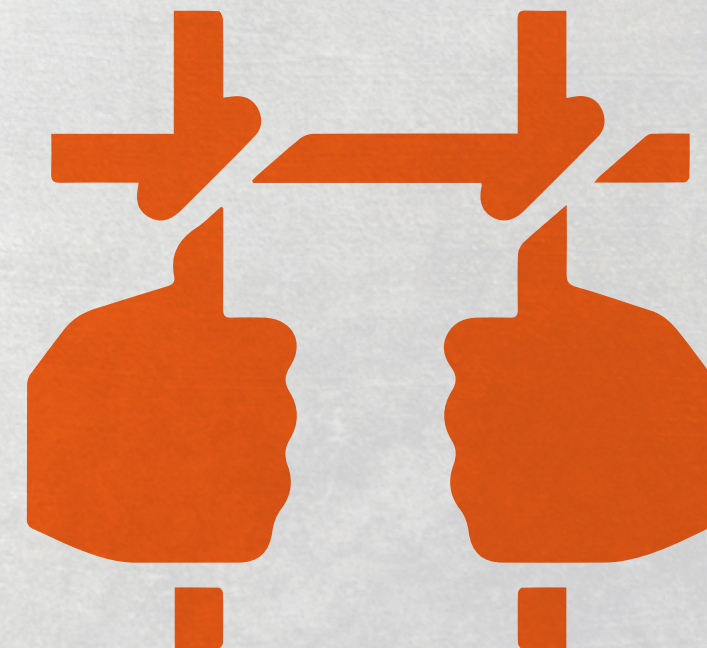
years in office, at least 16 people have died in ICE custody, [including two people in December 2023](#), Frankline Okpu and Carlos Juan Francisco, and two more people so far in 2024, Ousmane Ba and [Charles Leo Daniel](#).

At facilities that the administration previously marked for reduction or where the government's own inspectors determined that no one should be detained, the Biden administration not only failed to release people but instead increased the number of people detained in those facilities. For example, in 2022, the administration announced it would reduce the ICE detention population and

capacity at the [Winn Correctional Center](#) in Louisiana, but the number of people detained there has been steadily climbing and today the facility is operating over the contractually guaranteed minimum while conditions remain dire.

Similarly, ICE has continued to detain an increasing number of people at the Tarrant County Detention Facility despite a [damning report](#) from the DHS Office of Inspector General (OIG) urging that ICE stop detaining people there. ICE's failure to follow the OIG's recommendation ultimately resulted in the [tragic death of Kelsey Vial by suicide](#). Since then ICE has drastically increased

the number of people it detains at Tarrant (at times up to 500 people, near the contractually guaranteed minimum) while [conditions remain unchanged](#).



DEMAND 2

Stop all expansion efforts, shut down detention centers, and end contracts, including by not renewing contracts that are set to expire in 2023



BIDEN IS FAILING

In Biden's first two years in office, ICE ended several detention contracts and reduced usage of other facilities, including facilities from DWN's [First Ten to Communities Not Cages](#) list. These community wins include the termination of ICE detention contracts for [Irwin County Jail](#), [Bristol County Jail](#), [Etowah County Jail](#), [Berks County Detention Center](#) and [Yuba County Jail](#). This year as DWN's [Communities Not Cages](#) campaign marks five years, we celebrate these hard-fought wins as we continue to hold the Biden administration accountable.

Despite these wins, in addition to several others resulting from local or state level advocacy, ICE maintained overall detention capacity by expanding or opening

new detention centers, like the [Moshannon Valley Detention Center](#) in Pennsylvania. This private prison was previously a Bureau of Prisons facilities until that contract was forced to end under Biden's [executive order](#) on private prisons. Despite promises on the campaign trail and in [his early days in office](#), this executive order did not include ICE detention. While the executive order should be seen as a decarceration movement win, the exclusion of ICE detention by Biden opened the door to the [carceral carousel, allowing facilities like Moshannon to be converted to ICE detention centers.](#)

In 2023, Biden's third year in office, he failed to end any ICE detention contracts, missing the opportunity to end [12 contracts set to expire](#) that year. Eleven

of these facilities continue to be in use. ICE has pulled out of one facility (Okmulgee County Jail) due to [inhumane conditions](#) but has refused to officially cancel the contract. In addition, the administration failed to end contracts for all but two facilities (Berks and Yuba) listed in an [internal review that called for the closure of at least nine facilities.](#)

Biden has repeatedly refused to shut down facilities with records of abuse, including Winn and Torrance as noted earlier, as well as the [Farmville Detention Center](#) in Virginia, [Adelanto Detention Facility](#), in California, and [Elizabeth Contract Detention Facility](#) in New Jersey. Biden picked up where the Trump administration left off by supporting lawsuits initiated by private prison

companies to resist state legislation designed to limit ICE detention in California and New Jersey.



DEMAND 3

Shrink the pipeline into detention by ending police-ICE collaboration, halting migrant prosecutions, and restoring access to asylum at the border without the use of detention



**BIDEN IS
FAILING**

Much of the growth in detention is a result of Biden's increasingly hard-line posture on border and asylum. In the first year of the Biden administration, Vice President Kamala Harris told migrants "[do not come](#)", and since then Biden has repeatedly announced his intent to [ramp up border enforcement and increase detention](#). As a result, the main pipeline into detention has continued to be through arrests of recent arrivals at the border.

In a long overdue move, the Biden administration finally ended Title 42 in 2023, but only after implementing [several new policies](#) aimed at reducing access to the border, including creating some legal pathways for people from certain countries, increasing deportation

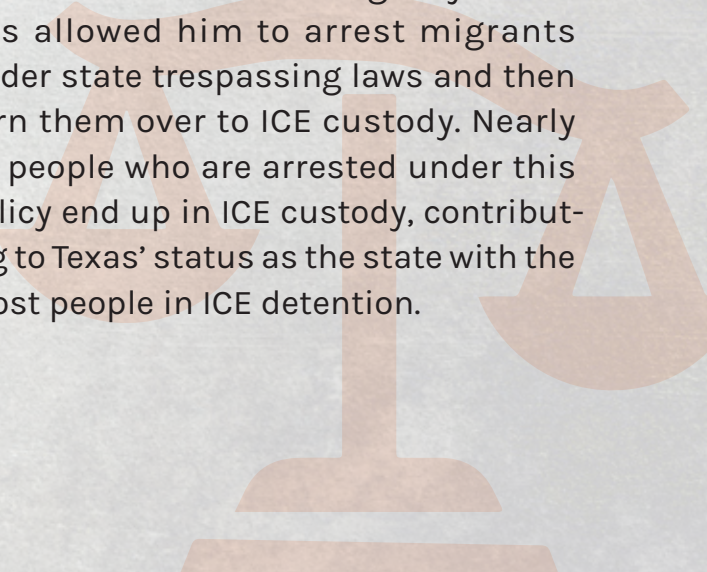
flights, and requiring use of the glitchy CBP One phone application. These new policies made it nearly impossible for most people to access protection at the border, implemented penalties for those who are unable to access the new pathways or technologies, and increased militarization at the border and throughout migration paths in the Americas.

Overall [interior enforcement](#) has not reached the levels of previous administrations (thanks to intense pressure from the movement and the implementation of [sanctuary policies](#)). In January 2023, following a strategic advocacy campaign from community members, the Biden administration announced new protections for [workers facing workplace abuse](#).

However, Biden has failed to take significant steps to disentangle local criminal law enforcement from immigration enforcement. Despite [long-standing calls from advocates and human rights experts](#) to end these programs, most [crim-imm policies](#) remain in place, including the Criminal Apprehension Program which funnels people from state and local prisons to ICE detention, and [287g which deputizes police to assist ICE](#) in immigration enforcement at local jails.

Additionally, the Biden administration has failed to adequately intervene in Texas Governor Abbott's violent rampage against migrants, and as a result [other states](#) are starting to follow suit. While the Biden administration stepped in to

prevent Abbott from maintaining life threatening [buoys](#) and [razor wire](#) along the border, for the past three years under this administration, ICE has cooperated with Abbott's draconian [Operation Lone Star](#) which funnels people into the immigration detention and deportation pipeline. Under this policy, Abbott has declared a state of emergency which has allowed him to arrest migrants under state trespassing laws and then turn them over to ICE custody. Nearly all people who are arrested under this policy end up in ICE custody, contributing to Texas' status as the state with the most people in ICE detention.



DEMAND 4

End the use of invasive, compulsory ICE ATD programs

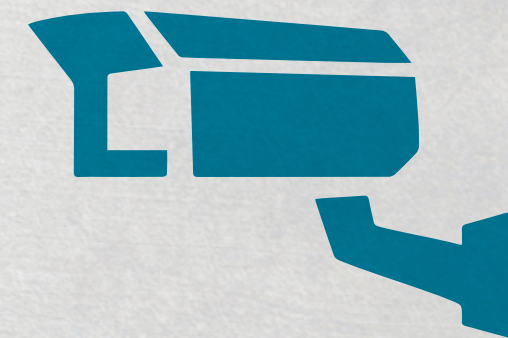
Consistent with [historical trends](#), as detention numbers have gone up over the last three years, the number of people enrolled in ICE's so-called alternatives to detention (ATD) program (the Intensive Appearance Assistance Program or ISAP) has [skyrocketed](#). While the number of people enrolled in the program dropped in 2023, numbers remain [historically high](#) and ICE plans on [surveilling more and more people](#). Over the last year, ICE has put more people on GPS tracking, including ankle shackles, than the previous year.

For the past three years, the Biden administration has experimented with different forms of surveillance,

including increasing the use of the SmartLINK phone application, subjecting people to [home confinement](#), and piloting a GPS-tracking enabled smart-watch. One of these new programs is the [Family Expedited Removal Management Program](#) (FERM). Through this program, ICE requires all families arriving at the border to submit at least one adult to GPS tracking through an ankle shackle and includes a house arrest component which requires families to be confined to their homes at night.



**BIDEN IS
FAILING**



DEMAND 5

Keep families together by ending deterrence-based immigration policies and permanently end family detention through formal policymaking

In his first year in office, Biden ended use of the three remaining ICE family detention centers (though two of these facilities continue to detain adults). However, the administration failed to adopt a formal policy ending the practice of family detention, leaving the door open for this practice to return. Biden regressed on this issue as he considered [bringing back family detention](#) in 2023, despite his condemnation of the previous administration for using family detention, and the [long-documented harms of the practice](#). Additionally, CBP has continued to detain families throughout processing, resulting last year in the death of at least one child, 8 year old [Anadith Danay Reyes Alvarez](#).

While advocates have been successful in pushing back against a potential return of family detention, the administration has pivoted to new methods of controlling the movements of migrant families. As noted above, in 2023 as a part of the policies Biden rolled out to replace Title 42, the administration established the FERM program which requires that all families recently arriving at the border be enrolled in GPS tracking and home confinement.



**BIDEN IS
FAILING**



DEMAND 6

Cut funding to ICE and CBP in the President's Fiscal Year 2024 proposed budget and final appropriations bill and instead invest in communities



**BIDEN IS
FAILING**

In his first two budget proposals, Biden included reductions in ICE detention funding. However, the first two spending bills passed by Congress kept detention funding consistent for an average daily detention population (ADP) of 34,000 people while increasing funding for ICE surveillance. For this current fiscal year 2024, his initial request proposed a reduction in detention capacity to maintain an ADP of 25,000 people but included a "contingency" fund that would have allowed ICE to grow that capacity and ultimately maintain an ADP of up to 34,000 people. He backtracked even further in the final FY24 bill, negotiating with Republican leadership to pass historic enforcement funding levels, including the highest appropriation for custody operations in ICE's history funding an ADP of 41,500.

Biden made clear his intentions to increase detention numbers outside of regular appropriations as well, including through supplemental requests. In August 2023, Biden submitted an initial [supplemental funding request](#) which included nearly \$1 billion in unrestricted money for enforcement, including to fund so called "community-based residential centers" (family detention by another name), increased surveillance, and rapid deportations.

With his August funding request unfulfilled, in October 2023 the [President again requested more money](#) from Congress which included \$4.5 billion for CBP and \$2.5 billion for ICE, and would fund an additional 1,000 border patrol agents, drastically increase detention capacity, and further militarize migration routes. The request also included

\$14 billion to fund the Israeli government's [unfolding genocide](#) in Gaza as well as military funding for Ukraine and Taiwan. Republicans immediately demanded that the bill include harmful immigration policy provisions like those in [House Resolution 2](#). As negotiations continued, Biden publicly agreed to [concede on several policy issues](#) to get the supplemental funding bill passed, signaling to Congress his openness to ramp up detention and enforcement. The [final negotiated deal](#) included several restrictionist policy provisions: a new border expulsion policy, heightened asylum standards that would make it nearly impossible for most people to obtain protection in the US, and more detention and deportation. It would have also provided Biden with more than what he initially asked for, \$118 billion including billions in additional funding to

ICE and what would have been the largest appropriation for detention and surveillance funding in ICE's history. Fortunately, it has not been approved by Congress thus far, but remains an ongoing threat.

Most recently, for his fourth budget proposal for Fiscal Year 2025 (FY25) released in March of 2024, Biden requested more money than last year for both ICE and CBP. The proposal requested a detention capacity of 34,000 and again included a contingency fund that would allow ICE to add more capacity throughout the year. In addition to this nearly \$26 billion dollar request for ICE and CBP for FY25, the President again asked Congress to consider the supplemental funding request he made in October 2023, which would infuse the two agencies with another \$7.9 billion.



DETENTION
WATCH NETWORK

Please contact policy@detentionwatchnetwork.org
with any questions or to get more involved