

RHETORIC vs REALITY

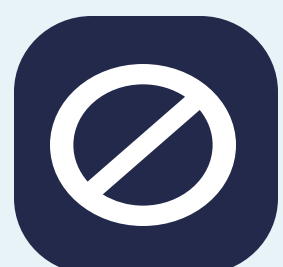
Biden's First Year Scorecard

One year into the Biden administration, Detention Watch Network (DWN) is deeply disappointed by President Biden's betrayal of his campaign promises to reduce reliance on immigration detention and bring fairness to the immigration system. Instead, he has continued to expand the deadly and inhumane Immigration and Customs Enforcement (ICE) detention system. After years of unflagging and courageous organizing and advocacy by our communities, last year we celebrated the end of contracts at two ICE jails and an end to detaining families at the three family detention centers. However, the administration has failed to make bold or lasting change and has undermined its own progress by increasing the number of people detained during a pandemic; pursuing new and expanded detention contracts, including with private prison companies; investing in punitive networks of mass surveillance as "alternatives to detention;" encouraging the growth of police-ICE collaboration; and embracing Trump era policies that severely limit access to asylum at the border.

As we head into Biden's second year, DWN [continues to demand](#) that the administration take steps to end the use of immigration detention by:



Releasing people from detention and halting transfers within the ICE system and from jails and prisons



Shutting down detention centers, ending detention contracts and immediately stopping all efforts to expand the system



Shrinking the pipeline to detention, including by ending police-ICE collaboration and restoring access to asylum at the border without the use of detention



Ending the use of invasive compulsory surveillance (ATD) programs in favor of opt-in community support



Keeping families together and permanently ending family detention through formal means



Cutting funding to ICE and CBP in the President's Fiscal Year 2023 proposed budget



DETENTION
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Biden's First Year Scorecard

DWN Demand

Release people from immigration detention as the COVID-19 pandemic rages on, as recommended by public health experts

Reality: FAILED

The Biden administration [failed to release people from immigration detention and reduce detention numbers](#). Instead, as the COVID-19 pandemic continues and contrary to recommendations by public health experts and even [court orders](#) to release people, the number of people in ICE detention has [skyrocketed](#) from [a 20 year low at the start of the administration](#). As detention numbers rose, the administration also actively *opposed* attempts to provide COVID-19 protections to detained immigrants, disregarding the safety of detained individuals and guidance by public health experts. In August 2021, the Administration [appealed a federal court order in *Fraihat v. ICE* requiring ICE to vaccinate medically vulnerable people in its custody](#). This order followed multiple previous court orders in *Fraihat* criticizing ICE for systemic failures in their response to the pandemic. Most recently, the administration also argued before the Supreme Court in favor of [denying the right to a bond hearing](#) for certain people held in ICE detention for longer than six months.

Biden's Rhetoric

[President Biden promised](#) to “[e]nd prolonged detention” and “[e]nd for-profit detention centers” in pursuit of a “fair and humane immigration system” that “preserve[s] the dignity of immigrant families, refugees, and asylum-seekers.” More broadly, President Biden also committed to [address the COVID-19 pandemic](#) by listening to public health experts and protecting those most vulnerable to the virus.

DWN Demand

Halt transfers between ICE facilities and from federal, state, and local jails and prisons to prevent the spread of COVID

Reality: FAILED

The Biden administration **failed** to prevent the spread of COVID-19 by halting transfers. [Health experts warned](#) of the risk of spreading COVID-19 through [transfers between prisons and jails](#), but the administration [has continued transfers throughout the system](#), including after the [contract cancellations and closures](#) of Irwin County Detention Center in Georgia and Bristol County Detention Center in Massachusetts. Similarly, when counties terminated jail contracts with ICE, ICE [transferred](#) immigrants to other facilities instead of releasing them. These transfers run contrary to public health recommendations and undermine the goal of [closing detention facilities to protect immigrants from abuse and continued incarceration](#).

Biden's Rhetoric

President Biden committed to [address the COVID-19 pandemic](#) by listening to public health experts and protecting those most vulnerable to the virus.

Biden's First Year Scorecard

DWN Demand

Cut funding for immigration detention, in particular reducing the detention budget by at least 75 percent

Reality: FAILED

The Biden administration **failed** to significantly reduce the federal detention budget and [reinvest in communities](#) and instead [submitted a budget request in May 2021](#) for \$8.4 billion for ICE and \$16.3 billion for CBP. This included funding for ICE to detain 30,000 adults in ICE detention centers – double the number of people who were detained when he took office. The budget also included funding to hold 2,500 family members in “short-term” ICE processing centers and requested increased funds for interior enforcement programs. Immigrant, BIPOC, and working class communities cannot be safe, particularly during a pandemic, when the government continues to support and fund immigration enforcement, deportation, and detention.

Biden's Rhetoric

In his “[Plan to Build Back Better](#),” President Biden committed to helping communities rebuild from the COVID-19 pandemic and pursuing government policies that advance racial equity. He also promised in his [campaign plan for immigration](#) that he was committed to ending for-profit detention.

DWN Demand

End family detention and release families together

Reality: TAKEN STEPS

The Biden administration has **taken steps** to end family detention. [As of December 2021](#), the administration stopped detaining families at the three family detention centers in the country – Berks County Family Residential Center in Pennsylvania, [South Texas Family Residential Center in Dilley, Texas](#), and [Karnes County Staging Center in Karnes City, Texas](#). However, the administration has failed to make an official policy announcement ending family detention and earlier in the year ICE expanded family detention to include expensive contracts for [detaining families under ICE custody in hotels](#) and investment in [ICE's surveillance programming](#). The administration has increasingly subjected families to “[digital prisons](#)”: burdensome and punitive digital surveillance and remote tracking technology including ankle monitoring and traceable cell phones.

Additionally, although the Berks, Dilley, and Karnes family detention centers will no longer detain families for ICE, ICE did not terminate these long-standing contracts for the facilities. Instead, [following cues from the Obama administration, it converted the contract with Berks County to detain adult women](#) and began detaining single adults at Karnes and Dilley.

Biden's Rhetoric

[During his presidential campaign](#), Biden tweeted that “[c]hildren should be released from ICE detention with their parents immediately.” In March 2021, DHS Secretary Alejandro Mayorkas agreed that “a detention center is not where a family belongs.” Shortly after, the Biden administration said in a court filing that it would be ending the practice of holding migrant parents and children who are seeking asylum in detention.

Biden's First Year Scorecard

DWN Demand

Terminate contracts with private prison corporations and state and local governments, which together make up the vast majority of ICE detention, without replacing these facilities with ICE Service Processing Centers

Reality: FAILED

The Biden administration **failed** to make significant progress in terminating ICE contracts and instead moved in the opposite direction. [Biden's Executive Order aiming to end private detention excluded facilities used by DHS to detain immigrants](#), and during Biden's first year ICE has opened *more* private detention facilities. As of September 2021, 79% of people detained each day in ICE custody are detained in private detention facilities.

While the administration [terminated two ICE detention contracts in May](#) – for Irwin County Detention Center in Georgia and Bristol County Detention Center in Massachusetts – it did so only after years of advocacy by local groups, demands for freedom by detained individuals, and, in the case of Irwin, [a DHS Office of Inspector General complaint](#) filed by Georgia-based groups that included horrific reports of medical abuse and forced gynecological procedures from detained women and a whistleblower nurse.

Additionally, the Biden administration has since expanded ICE detention capacity by [signing new contracts](#), renewing existing contracts, and continuing to pursue expansion of the immigration detention system. In the past several months alone, ICE decided to convert Berks County Family Residential Center to an all-women detention facility and reopened Moshannon Valley Correctional Center in Pennsylvania, a former Bureau of Prisons (BOP) jail that closed because of the Biden administration's own efforts to end private prisons, as a privately run ICE detention facility. ICE also negotiated extensions for existing contracts with private detention centers, including [CoreCivic's Elizabeth Detention Center in New Jersey](#), [GEO Group's Broward Transitional Center in Florida](#), and [Management & Training Corp.'s Otero County Processing Center in New Mexico](#).

The administration has also continued to support litigation against state laws banning contracts for ICE detention, including against AB 32 in California. AB 32, a law banning all for-profit, private detention in the state, has yet to be enforced in California because of the legal challenges brought shortly after its passage by GEO Group in conjunction with the DOJ under the Trump administration. Disappointingly, [the Biden administration continued this lawsuit](#).

Biden's Rhetoric

President Biden promised to end [for-profit immigration detention centers](#). He stated that ["the federal government should not use private facilities for any detention, including detention of undocumented immigrants,"](#) and his [policy platforms](#) tied funding decisions for new grants to the elimination of all forms of for-profit incarceration.

Biden's First Year Scorecard

DWN Demand

Halt all ICE detention expansion efforts, including any ongoing contract negotiations and future expansion

Biden's Rhetoric

[President Biden vowed](#) to end prolonged detention, end for-profit immigration detention centers, and invest in community-based alternatives to detention.

Reality: FAILED

The Biden administration **failed** to halt expansion efforts and instead has extended existing detention contracts, signed new contracts, and solicited proposals from private prison corporations for [former DOJ \(BOP and United States Marshals Service \(USMS\) facilities](#) whose contracts ended under President Biden's Executive Order. In September 2021, ICE reopened [Moshannon Valley Correctional Center](#) in Pennsylvania, a former BOP jail, as a privately run ICE detention center. Reports suggest that private prison company giant CoreCivic is considering contracts with ICE and local governments to take over expiring USMS contracts at [West Tennessee Detention Facility and the Leavenworth Detention Center in Kansas](#). ICE is also considering the expansion of the [El Paso Service Processing Center in Texas](#) and [Folkston ICE Processing Center](#).

DWN Demand

Reduce the pipeline into detention, including ending existing ICE-police collaboration programs and cutting funding for ICE agents

Biden's Rhetoric

President Biden pledged to aggressively limit use of the 287(g) program and [terminate all 287\(g\) agreements made by the Trump Administration](#).

Reality: FAILED

The Biden administration **failed** to make significant progress towards ending ICE-police collaboration. While the number of interior arrests has decreased, in large part due to state legislation, the pipeline to detention has expanded overall, with [the majority of people in detention now coming through border apprehensions](#). In May 2021, [DHS ended one 287\(g\) agreement with Bristol County, MA](#), but as of November 2021, ICE still maintained 142 agreements across the country. President Biden's promise to end 287(g) agreements from the Trump Administration remains unfulfilled, and his budget request for Fiscal Year 2022 actually [encouraged "continued expansion" of the 287\(g\) program](#).

The Biden administration further issued [enforcement priorities in September 2021](#) that continue to provide immigration officials with broad discretion to take enforcement action with [categorical exclusion of noncitizens](#), including those considered a "threat to public safety," "border security," and "national security."

Biden's DOJ is also currently appealing a federal court order out of Nevada that held that a section of federal law that makes it a felony to reenter the United States after being deported is discriminatory and unconstitutional. In [USA v. Gustavo Carrillo-Lopez](#), the Biden Administration is fighting for the ability to increase this pipeline to criminal punishment and the incarceration of immigrants.

Biden's First Year Scorecard

DWN Demand

Invest in legal representation or community-based support programs for those that need it, without relying on punitive mass surveillance

Reality: FAILED

The Biden administration **failed** to [invest in increased access to counsel for all people in immigration proceedings or in opt-in community-based support programs](#). Instead, it has continued to rely heavily on punitive mass surveillance and incarceration, [increasing the number of people enrolled in ICE's surveillance programming by over 50,000](#) while also massively increasing the number of people in detention. While Biden's budget request in May 2021 included [\\$441 million for "alternatives-to-detention" programs](#), it made no commitment to ensuring those programs follow well-documented best practices of community-based support. ICE continues to monitor [hundreds of thousands of immigrants](#) using scheduled check-ins, unannounced home visits, and electronic monitoring, including ankle monitoring, GPS tracking, and voice and facial recognition.

Biden's Rhetoric

President Biden promised to [invest in "alternatives to detention"](#) for migrants, specifically nonprofit case management programs, including those supported by faith-based organizations. He acknowledged that community-based programs are "highly effective" and "far less expensive and punitive than detaining families."

DWN Demand

Restore access to asylum at the border without the use of detention

Reality: FAILED

The Biden administration **failed** to restore access to asylum at the border or end the "Remain in Mexico" program and has embraced other harmful border policies, including Title 42. Despite suspending enrollments in Migrant Protection Protocols (also known as MPP and the "Remain in Mexico" program) on President Biden's first day of office and terminating the policy in June 2021, the administration announced in December 2021 that [it would begin to reinstate the Trump-era border policy](#), forcing asylum seekers to stay in Mexico to await their asylum hearings. President Biden has not only restarted MPP, but he has also expanded the dangerous program to include Haitian nationals.

Biden's Rhetoric

President Biden made numerous commitments on the campaign trail and in his first few months in office to [overturn the Trump's administration's racist and dangerous immigration policies](#), including specifically those restricting access to asylum at the border. He [tweeted in March 2020](#) that "Donald Trump's 'Remain in Mexico' policy is dangerous, inhumane and goes against everything we stand for as a nation of immigrants. My administration will end it."

The Biden administration also adopted and, in December 2021, [extended, Title 42 expulsions at the border](#), a Trump-era order to rapidly expel thousands of immigrants without giving them a chance to apply to asylum. Title 42 manipulates public health policy to circumvent U.S. refugee laws. Public health and legal experts have condemned the practice, but the Biden administration continues to stand by it, even [appealing a federal judge's ruling blocking the use of Title 42](#). As a result of the appeal in *Huisha-Huisha v. Mayorkas*, the D.C. Circuit Court granted a stay of the district court's injunction and allowed the administration to continue expelling asylum seekers.

Title 42 and MPP effectively cut off all avenues to seek asylum at the border. Instead of ending these policies and adopting policies to humanely and safely assist immigrants [without expanding the use of detention](#), the Biden administration has done the complete opposite.