

# **Exhibit 1**



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heritage.org

**SENT VIA: FOIA STAR**

July 22, 2022

Director of Public Affairs  
Office of Public Affairs  
Department of Justice  
950 Pennsylvania Avenue N.W.  
Washington, D.C. 20530

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Department of Justice (“DOJ”), 28 CFR Part 16, I respectfully request the following records (or records containing the following information):

1. All records of the DOJ’s examination of the Incident.
2. All records relating to the DOJ’s examination of the Incident
3. All records relating to the prosecutorial declination by the United States Attorney’s Office for the Western District of Texas on March 11, 2022, noted in Department of Homeland Security U.S. Customs and Border Protection Office of Professional Responsibility, *Report of Investigation, No. 202112280*, 2 (Apr. 17, 2022) (“OPR Report”).
4. All records related to the DHS Office of Inspector General’s declination to investigate the Incident.
5. All records related to the OPR Report.
6. All communications with DHS relating to the Incident.
7. All communications with the Office of the President or the Executive Office of the President relating to the Incident.
8. All records notating, memorializing, or summarizing a communication, or a portion thereof, responsive to specifications 5–7.



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Please limit the search for this request from September 19, 2021 to present.

“The Incident” means: Allegations made against or about United States Customs and Border Protection agents “whipping” or otherwise engaging migrants attempting to cross into the United States in or near the Rio Grande River near Del Rio, Texas during the migrants’ encounter with CBP agents on September 19, 2021 and any governmental response and investigation thereto including any subsequent official proceeding arising therefrom.

The terms “pertaining to,” “referring,” “relating,” or “concerning” with respect to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

The term “record” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (emails), MMS or SMS text messages, instant messages, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), contracts, cables, telexes, notations of any type of conversation, telephone call, voicemail, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electronic records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. This includes any messages sent or received on personal phones.



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The term “communication” means each manner or means of disclosure or exchange of information (in the form of facts, ideas, inquiries, or otherwise), regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, e-mail (desktop or mobile device), text message, MMS or SMS message, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), regular mail, telexes, releases, or otherwise. “Communications with,” “communications from,” and “communications between” means any communication involving the related parties, regardless of whether other persons were involved in the communication, and includes, but is not limited to, communications where one party is cc’d or bcc’d, both parties are cc’d or bcc’d, or some combination thereof.

“Communications with,” “communications from,” and “communications between” means any communication involving the related parties, regardless of whether other persons were involved in the communication, and includes, but is not limited to, communications where one party is cc’d or bcc’d, both parties are cc’d or bcc’d, or some combination thereof.

The term “examination” refers to any record that, in whole or in part, is used as part of a process of investigating, evaluating, or in any way reviewing someone or something to learn about its condition or to discover facts.

The terms “and” and “or” should be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The terms “all,” “any,” and “each” should each be construed as encompassing any and all. The singular includes the plural number, and vice versa. The present tense includes the past and vice versa. The masculine includes the feminine and neuter genders.

This request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.

In the interest of expediency and to minimize the research and/or duplication burden on your staff, please send records electronically if possible. If this is not possible, please notify me before sending to the mailing address listed below. If access



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to this request will take longer than seven (20) business days, please let me know when I might receive records or be able to inspect the requested records. Please produce responsive documents as soon as they become available. In all cases, please communicate with me at the below email address.

Please comply fully with 5 U.S.C. § 552 (b). Accordingly, without limitation to the foregoing, if any portion of this request is denied for any reason, please provide written notice of the records or portions of records that are being withheld and cite each specific exemption of the Freedom of Information Act on which the agency relies. Moreover, to the extent that responsive records may be withheld in part produce all reasonably segregable portions of those records. Additionally, please provide all responsive documents even if they are redacted in full.

### **Fee Waiver Request**

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) nonprofit, Heritage Foundation does not have a commercial purpose and the release of the information requested is not in Heritage Foundation's commercial interest. Heritage Foundation's mission is to formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. Heritage Foundation uses the information requested and analyzes it in order to educate the public through social media,<sup>1</sup> broadcast media<sup>2</sup> (traditional and nontraditional) and press releases.<sup>3</sup> The requested information is in the public interest<sup>4</sup>.

Because this is a request by a member of the news media for information of public interest, made in my capacity as an author for the Daily Signal<sup>5</sup> (a major news outlet<sup>6</sup>), I actively gather information of potential interest to our Daily Signal

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<sup>1</sup> Heritage Foundation. [@ Heritage] (Accessed: 2022, February 18). 626.8K Followers Twitter. <https://twitter.com/Heritage>

<sup>2</sup> Fox News. (Accessed: 2022, February 18). Heritage Foundation launches Conservative Oversight Project aimed at 'exposing' Biden admin, leftist policies. <https://www.foxnews.com/politics/heritage-conservative-oversight-project-biden-admin-leftist-policies>

<sup>3</sup> Heritage Foundation. (Accessed: 2022, February 18). Press. <https://www.heritage.org/press> .

<sup>4</sup> Reuters. (Accessed: 2022, July 8). Court upholds block on U.S. immigration enforcement priorities. <https://www.reuters.com/legal/government/court-upholds-block-us-immigration-enforcement-priorities-2022-07-07/>

<sup>5</sup>Daily Signal. (Accessed: 2022, February 18). Mike Howell. <https://www.dailysignal.com/author/mike-howell/>

<sup>6</sup>Daily Signal. [DailySignal] (Accessed: 2022, February 18). 73.7K Followers Twitter. <https://twitter.com/DailySignal>



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audience, and I use my editorial skills to turn raw materials into a distinct work, and I distribute that work to our Daily Signal audience through podcasts<sup>7</sup> or articles. I request that you waive all applicable fees associated with this request.

If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$50. Please send me a detailed and itemized explanation of those charges.

### **Request for Expedited Processing:**

Pursuant to 28 C.F.R. 16.5(e)(1)(iv), I request expedited processing for this request. I certify the following statement of facts in support of expedited processing to be true and correct pursuant to 28 C.F.R. § 16.5(e)(3).

### **Background:**

The following Appendices (and publicly available records cited therein) are expressly incorporated and made part of this request.

- Appendix A: United States Department of Homeland Security, U.S. Customs and Border Protection Office of Professional Responsibility, *Report of Investigation, No. 202112280*, <https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/202112280-cbp-closing-report-public-redacted-final.pdf>.
- Appendix B: Complaint, *Heritage Found. & Mike Howell v. U.S. Dep't of Homeland Sec.*, No. 1:22-cv-1770 (June 21, 2022) (ECF No. 1).
- Appendix C is a of collection pertinent transcripts of network news television broadcasts, national newspaper articles, and press releases dating from after June 21, 2022.
- Appendix D is a CPB Press Release dated July 8, 2022, *found at* <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-findings-investigation-horse-patrol-activity-del-rio>.
- Appendix E is a DHS Press Release dated November 16, 2021, <https://www.dhs.gov/news/2021/11/16/dhs-update-regarding-investigation-horse-patrol-activity-del-rio-texas-september-19>.

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<sup>7</sup>Apple. (Accessed: 2022, March 4). The Daily Signal Podcast. <https://podcasts.apple.com/us/podcast/the-daily-signal-podcast/id1313611947>



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### **Expedited Processing is Warranted under 28 C.F.R. § 16.5(e)(1)(iv).**

1. This provision provides that expedited processing shall be granted for: “A matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.”

Courts have held that the DOJ Regulation requires the requester to show: (1) that the request involves a “matter of widespread and exceptional media interest” (28 C.F.R. § 16.5(e)(1)(iv)); and (2) that the matter is one “in which there exists possible questions about the integrity of the government that affect public confidence” (*id.*). See *Edmonds v. FBI*, No. 2-cv-1294 (ESH), 2002 WL 32539613, \*3 (D.D.C. Dec. 3, 2002). It is not necessary to show “prejudice or a matter of current exigency to the American public.” *Id.*

First, the DOJ Regulation requires showing that the matter about which questions of integrity have been raised is subject to widespread national media attention. See *Am. Oversight v. DOJ*, 292 F.Supp.3d 501, 507–508 (D.D.C. 2018) (denying motion for expedited processing because general media interest in Solicitor General’s nomination is insufficient to show media interest in possible ethics questions concerning the nomination). There need not be a showing that the disclosure would shed considerable light on agency operations; only that there is “exceptional” and “widespread” media interest. See *CREW v. DOJ*, 870 F.Supp.2d 70, 81 (D.D.C. 2012), *rev’d on other grounds*, 746 F.3d 1082 (D.C. Cir. 2014). While the media interest need be “widespread” and “exceptional” it need not be overwhelming. See *ACLU*, 321 F.Supp.2d at 31–32 (rejecting DOJ’s position that requester’s citation to what the court described as “only a handful of articles” was insufficient to show “widespread and exceptional media interest” because those articles “were published in a variety of publications and repeatedly reference the ongoing national discussion about the Patriot Act and Section 215” (second quotation added)); *Edmonds*, 2002 WL 32539613, at \*3 (numerous national newspaper and network television broadcasts concerning whistleblower’s allegations of security lapses in FBI translator program met test).<sup>8</sup>

Second, the DOJ Regulation requires showing that “there exists *possible* questions about the government’s integrity that affect public confidence.” *CREW v.*

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<sup>8</sup> See also 28 C.F.R. § 16.5(e)(3) (“The existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an ‘urgency to inform’ the public on the topic.”).



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*DOJ*, 436 F.Supp.3d 354, 361 (D.D.C. 2020) (*quoting* 28 C.F.R. § 16.5(e)(1)(4)) (emphasis by Court).<sup>9</sup> Importantly, it does not “require the requester to prove wrongdoing by the government in order to obtain documents on an expedited basis. *Id.* at 362. “The primary way to determine whether such possible questions exist is by examining the state of public coverage of the matter at issue, and whether that coverage surfaces possible ethics issues so potentially significant as to reduce public confidence in governmental institutions.” *Am. Oversight v. DOJ*, 292 F.Supp.3d 501, 508 (D.D.C. 2018). This is not an extraordinarily high bar. *See, e.g.*, *CREW*, 436 F.Supp.3d at 361 (complaint sufficient to survive a motion to dismiss where it alleged Attorney General’s action regarding disclosure of Mueller Report “supported an inference that at best, the Attorney General undertook to frame the public discussion on his own terms, and at worst that he distorted the truth”); *ACLU v. DOJ*, 321 F.Supp.2d 24, 32 (D.D.C. 2004) (allegations in press that Section 215 of the Patriot Act may be unconstitutional and reports that Members of Congress have alleged abuses of Section 215 “implicate[] government integrity” and hence are sufficient to meet test); *Edmonds*, 2002 WL 32539613, at \*3–4 (test met where plaintiff alleged security lapses in FBI translators program, national news covered the issue, and two Senators expressed concern regarding “the significant security issues raised by plaintiff’s allegations and the integrity of the FBI”).<sup>10</sup>

**2.** As is detailed in Appendices B and C, the Incident has been a subject of intense coverage by the national broadcast and print media since the day it occurred. While that media coverage has ebbed and flowed (as virtually any story in the national media does) national coverage of the issue has never ceased. *See generally*

<sup>9</sup> To be sure, this standard does not require expedition of any questions concerning government integrity. *See, e.g., White v. DOJ*, 16 F.4th 539, 544 (7th Cir. 2021) (test not met in case where records sought to cast doubt on requestors’ criminal conviction where requestor claimed he was subject to an elaborate government sting operation).

<sup>10</sup> DOJ has granted expedition under the DOJ Regulation in a number of circumstances. *See, e.g., CREW v. DOJ*, 870 F.Supp.2d 70, 81 n. 14 (D.D.C. 2012) (expedition granted to request seeking records on FBI’s closed investigation of Congressman DeLay for misconduct which did not result in charges, but received considerable media attention (subsequent history omitted)); *CREW v. DOJ*, 820 F.Supp.2d 39, 42, 46 (D.D.C. 2011) (expedition granted to request seeking information concerning possible deletion of Office of Legal Counsel emails where the possible deletion was flagged as a hindrance in an internal investigation, covered in the media, and was the subject of Congressional concerns); *Elec. Frontier Found. v. DOJ*, 565 F.Supp.2d 188, 189–91 (D.D.C. 2008) (expedition granted to request seeking information regarding storage of information obtained by National Security Letters in FBI’s Data Warehouse); *CREW v. DOJ*, No. 05-cv-2078 (EGS), 2006 WL 1518964, \*1 (D.D.C. June 1, 2006) (expedition granted to request concerning government’s decision to seek a reduced penalty in tobacco litigation where government’s decision was subject to intensive news coverage and prompted concern from “several Congressman” which caused a request for an Inspector General investigation of “improper political interference” with the decision).





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App. B; App. C.

This coverage has always included a heavy focus on “possible questions about the government’s integrity that affect public confidence.”

**a.** The coverage was (and is) replete with statements that the Border Patrol Agents involved in the Incident committed “misconduct” and that there were significant failures by DHS. Those with this view were repeatedly reported stating that their confidence in the Administration’s enforcement of immigration laws was shaken by the Incident. *See* App. B ¶¶ 13, 14, 18, 20–22, 24–25, 32–34, 36, 38–42, 46–58. Numerous widely reported official statements from the President down condemned this “misconduct.” *See* App. B ¶¶ 14, 18, 20, 22–24 30, 31–34, 38–42, 46–57. Appendix A makes this hard fact—the Administration has *found* misconduct and a significant failure of function by DHS. What is more, the Administration has determined that because of this misconduct and failure, reform is needed at DHS. *See generally* App. D. The Administration’s *admission* of both misconduct and a need for reform received (and receives) substantial coverage. This coverage revealed (and reveals) that the Incident affected (and affects) public confidence in how the Nation implements immigration law. *See* App. C 001–004, 021–024, 091–092, 094–095, 110, 133–134, 167–168, 177–178, 180–182, 186–188.

**b.** The Administration, from the President on down, has been (and is being) aggressively questioned by national media, Members of Congress, a Governor, and subject matter experts for pronouncing the Border Patrol Agents involved in the Incident guilty before an investigation was conducted. *See* App. B ¶¶ 36, 37, 44 45 59–62, 61 70 74–75, 78, 84–86; App. C 011. Many of these same individuals and entities also aggressively pressed (and press) the view that these Administration pronouncements of guilt left CPB OPR with no choice but to “manufacture” the charges of misconduct leveled in Appendix A.<sup>11</sup> This view received extensive national coverage. *See* App. C 025–027, 043–044, 047–050, 051–053, 054–056, 061–063, 071–074, 078–80, 089–090, 097–098, 112–116, 137–138, 170–171, 173, 175, 177–178, 200–202. These individuals and entities also were (and are) clear they were not making these statements to press a political disagreement with the Administration, but rather they alleged (and allege) an abuse of government power and failure to enforce immigration laws bringing the government and even the United States as a whole into disrepute. *See* App. B ¶¶ 36 37, 44, 59–61, 74–75, 78, 84–86; App. C 043–044, 045, 047–050, 054–056, 061–063, 071–074, 078–80, 106, 112–116, 170–171, 173, 175, 177–178, 200–202. This widely reported view reflects a complete loss of public

<sup>11</sup> To be clear, these individuals and entities did not (and do not) allege misconduct on CPB OPR’s part. Rather, they view CPB OPR as a pawn put in an impossible position due to abuses of power by the President on down.



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confidence in the Administration's enforcement of immigration laws and, at some level, the ability of the Administration to keep the United States free from invasion.

c. On November 16, 2021 DHS issued a press release: *DHS Update Regarding the Investigation of Horse Patrol Activity in Del Rio, Texas* on September 19, 2021. App. E. Part of that release provided a “more detailed overview of the key steps of the investigative and disciplinary processes that govern this kind of matter.” App. E at 1. It explained that the CPB OPR “*may* share its initial findings with the United States Attorney’s Office to alert federal prosecutors of the facts of the case and ensure that administrative actions do not inadvertently compromise any potential criminal investigation.” *Id.* (emphasis added). This is in accord with most agency’s practice. But the OPR Report reveals that the day after the Incident, CPB OPR was “investigating and preparing a case to be presented to the United States Attorney’s Office.” *E.g.*, App. A, Ex. 20, at 1. The fact that *the day after* the Incident, OPR was “preparing” a “case” against Border Patrol Agents for criminal prosecution in and of itself raises “possible questions about the government’s integrity that affect public confidence.” After all, much of the incident was on video and a review of that video reveals nothing resembling a criminal violation by the Border Patrol Agents. One would expect OPR to first conduct a preliminary investigation of the facts and only then if those facts warranted refer the matter to the United States Attorney. But it takes a new—and possibly sinister—dimension when one considers the clear directive from President Biden that the Border Patrol Agents “*will pay*” (App. B ¶ 46 (emphasis added, citation and internal quotation omitted) and the repeated condemnation of the Border Patrol Agent’s conduct by the senior most members of the Administration (*id.* ¶¶ 14, 18, 20, 22–24 30, 31–34, 38–42, 46–57). To be sure, all may have been done by the book. But the relevant point here is that numerous public figures in and out of government and national news organizations felt they had a sufficient basis to allege in broadcast television broadcasts and national print media that at a minimum there is the need to investigate whether this is a case of a political prosecution. *See* App. B ¶¶ 36 37, 44,59–61, 74–75, 78, 84–86; App. C 043–044, 045, 047–050, 054–056, 061–063, 071–074, 078–80, 106, 112–116, 170–171, 173, 175, 177–178, 200–202. Widespread reporting of the view that an investigation is warranted into the Government’s own investigation into the Incident (with all of its national press coverage) is more than enough to show this Request concerns “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.”

Thank you in advance for considering my request. If you have any questions, or feel you need clarification of this request please contact me at [oversightproject@heritage.org](mailto:oversightproject@heritage.org).



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Sincerely,

Mike Howell  
Senior Advisor and Author at The Daily  
Signal  
The Heritage Foundation  
214 Massachusetts Ave, NE  
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# Appendix B

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

HERITAGE FOUNDATION.,	)	
214 Massachusetts Ave. N.E.	)	
Washington, D.C. 20002	)	
	)	
MIKE HOWELL	)	
214 Massachusetts Ave. N.E.	)	
Washington, D.C. 20002	)	
	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	Case No. 1:22-cv-1770
	)	
U.S. DEPARTMENT OF HOMELAND SECURITY	)	
2707 Martin Luther King Jr Ave. S.E.	)	
Washington, D.C. 20528	)	
	)	
<i>Defendant.</i>	)	

**COMPLAINT AND PRAYER FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiffs THE HERITAGE FOUNDATION and MIKE HOWELL (collectively “Heritage”) for their complaint against Defendant DEPARTMENT OF HOMELAND SECURITY (“DHS”) allege on knowledge as to Plaintiffs, and on information and belief as to all other matters, as follows:

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, to compel the production of records related to DHS’s response to, and investigation of, an incident on September 19, 2021, in which Customs and Border Patrol (“CBP”) Agents (the “Border Patrol Agents”) were accused of “whipping” or otherwise improperly engaging migrants they encountered who were attempting to cross into the United States in or near the Rio Grande River near Del Rio (the “Incident”). The Incident was, and continues to be, a

subject of widespread media and high-level governmental attention. There is considerable and vigorous debate in the press, amongst Members of Congress, and between Members of Congress and high-ranking Executive Branch officials concerning the Incident.

2. On one side of the debate, the Administration and its allies in government, the media, and advocacy groups have judged the Border Patrol Agents guilty of egregious misconduct; the President himself has promised they “will pay”; and the Administration and its allies have announced that the Incident reflects inherent cruelty in the current immigration laws and vestiges of the Trump Administration’s immigration policies.<sup>1</sup> On the other side, many have argued that the “whipping” narrative is demonstrably false; the Administration’s pronouncement that the Border Patrol Agents were guilty without an investigation is un-American; and the Incident reflects an on-going campaign against the CBP as part of an “open borders” policy. These disputes directly impact on-going substantive arguments for or against pendant Congressional action, pendant regulatory action, and pendant legal claims.

3. DHS announced an investigation of the Incident on September 20, 2021, promising it would be conducted “with tremendous speed and with tremendous force,” “completed in day and not weeks,” and made public.<sup>2</sup> 274 days later—no such investigation has been released. Former White House Press Secretary Jen Psaki (“Psaki”) has spoken repeatedly of the investigation in the past tense and news outlet have reported it is completed and the Border Patrol Agents are to be administratively punished.

4. Without the release of the information Heritage seeks, the public cannot act as an informed citizenry and exercise their First Amendment rights as to any number of pendant

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<sup>1</sup> See *infra* ¶46.

<sup>2</sup> See *infra* ¶¶ 30, 90..

legislative, pendant regulatory, and pendant legal issues for which the Incident and response thereto is relevant.

5. Perhaps even more fundamentally, without the information Heritage seeks the citizenry cannot judge for *itself* the sustained contest regarding the Incident, and response thereto, amongst its elected representatives. And without that clear line of accountability between the citizens' elected representatives and those representatives' actions, the citizenry is stymied in exercising its most basic function of holding our elected officials accountable. In that state of affairs, our system of government cannot properly function.

6. Plaintiffs have exhausted their administrative remedies and have no recourse but this lawsuit.

### **PARTIES**

7. Plaintiff Heritage Foundation is a Washington, D.C.-based nonpartisan think tank with a national and international reputation whose mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Foundation, *About Heritage*, <https://www.heritage.org/about-heritage/mission> (last visited June 20, 2022). Heritage is a not-for-profit section 501(c)(3) organization which engages in substantial dissemination of information to the public. Heritage operates a national news outlet, *The Daily Signal*. *The Daily Signal* has repeatedly commented on the Administration's response to, and investigation of, the Incident and intends to continue to do so.<sup>3</sup>

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<sup>3</sup> See Erin Dwinell, *After Texas National Guardsman Drowns Saving Illegal Aliens at Border, Biden Administration Shirks Responsibility*, *The Daily Signal* (May 2, 2022); Thomas Homan, *Biden Owes Border Patrol Belated Apology Over Phony Charges of “Whipping”*, *The Daily Signal* (Mar. 24, 2022); Jarrett Stepman, *Biden Administration Maligins Border Patrol*, *The Daily Signal* (Sept. 27, 2021).

8. Plaintiff Mike Howell heads the Heritage Foundation’s Oversight Project and is an author for *The Daily Signal*. The Oversight Project is an initiative aimed at obtaining information via Freedom of Information Act requests and other means in order to best inform the public and Congress for the purposes of Congressional oversight. The requests and analysis of information is informed by Heritage’s deep policy expertise. For example, former Acting Customs and Border Protection Commissioner Mark Morgan and former Acting Immigration and Customs Enforcement Director Tom Homan are Visiting Fellows with The Heritage Foundation and draw on their experience and expertise to analyze information. They also use their broad public engagement to inform the general public.

9. Defendant DHS is a federal agency of the United States within the meaning of 5 U.S.C. § 552(f)(1) whose mission statement is “[w]ith honor and integrity, we will safeguard the American people, our homeland, and our values.” *Department of Homeland Security, About DHS*, <https://www.dhs.gov/mission> (last visited June 20, 2022).

### **JURISDICTION AND VENUE**

10. This Court has jurisdiction pursuant to 5 U.S.C. § 552(a)(4)(B) because this action is brought in the District of Columbia and 28 U.S.C. § 1331 because the resolution of disputes under FOIA presents a federal question.

11. Venue is proper in this Court under 28 U.S.C. § 1391(b) because Defendant DHS’s principal place of business is in the District of Columbia.



## FACTUAL BACKGROUND

### *The Incident: September 19 & 20*

12. On September 19, 2021, horse-mounted Border Patrol Agents encountered Haitian migrants attempting to unlawfully enter the United States around the Rio Grande River near Del Rio.

13. Shortly after the encounter, photos taken by freelance photographer Paul Ratje and a video of the incident began to circulate. Media outlets, starting with *The El Paso Times*, began to run stories that the Border Patrol Agents whipped migrants to prevent them from entering the United States.<sup>4</sup> These photos promptly “went viral.” Jarrett Stepman, *Biden Administration Maligins Border Patrol*, *The Daily Signal* (Sept. 27, 2021). Politicians and television network commentators joined the fray, with Sen Jeff Merkley’s tweet— “Use of whips on refugees? Disturbing and unacceptable. This must end immediately.”—being illustrative of the direction of commentary. @SenJeffMerkley, Twitter (Sept. 20, 2022, 4:46 PM), <https://twitter.com/SenJeffMerkley/status/1440054698531168259>. Psaski weighed in, condemning the Border Patrol Agents’ conduct:

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<sup>4</sup> See, e.g., Martha Pskowski, *Haitian Migrants Face Tough Choices in Del Rio Amid Crackdown at Texas-Mexico Border*, *El Paso Times* (Sept. 19, 2021) (“the agent swung his whip menacingly, charging his horse toward men in the river who were trying to return to the encampment under the international bridge in Del Rio after buying food and water”); *The Readout with Joy Reid*, (MSNBC television broadcast Sept. 20, 2021) (“**Joy Reid:** Should we be looking at the budget of Department of Homeland Security? Because I was not aware that whips which come from the slave era, slavery era, were part of the package that we issue to any sort of law enforcement or government-sanctioned personnel. Were you aware that was being issued to people, that people had that kind of equipment on them that they could use on humans? **Rep. Ilhan Omar:** I was not. And I am quite appalled. When it comes to our immigration policy, for so many years, cruelty has been very much embedded in it. There is obviously systematic racism at play here. We have seen many people come to our border.”); Shawna Chen, *New Photos Show Border Patrol Cracking Down on Haitian Migrants in Del Rio With Whips and Horses*, *Axios* (Sept. 20, 2021); *The Five*, (FOX News television broadcast Sept. 21, 2021) (collecting network video clips).

Photos and videos of the scene, as well as the mass deportations, have led to an intense backlash. The White House press secretary called the images horrific. “Is it the president’s stance or the White House’s stance that whoever these border agents are using what seems to be whips on migrants, that they would be fired, or at least never be able to do that again?” Jen Psaki, White House Press Secretary: “Of course they should never be able to do it again. I don’t know what the circumstances would be. It’s obviously horrific, the footage. I don’t have any more information on it, so let me venture to do that, and we will see if there’s more to convey.”)

*News Hour* (PBS television broadcast Sept. 20, 2021).

14. House Speaker Nancy Pelosi joined in with a statement: “Reports of the mistreatment of Haitian migrants fleeing violence and devastation from natural disasters are deeply troubling, including the inappropriate use of what appear to be whips by Border Patrol officers on horseback to intimidate migrants.” *House Speak Nancy Pelosi Statement on Reports of Mistreatment of Haitian Migrants at the Border* (Sept. 20, 2021).

15. DHS’s initial response from Secretary of Homeland Security Alejandro Mayorkas (“Secretary Mayorkas”) and Chief Border Patrol Agent Raul Ortiz (“Chief Ortiz”) was measured:

**Q:** Images have come out of border patrol agents whipping Haitian immigrants. So, my question to you, do you think that’s a humane way to treat migrants?

**Sec. Mayorkas:** You are assuming facts that have not been determined. To ensure control of the horse long reins are used but we are going to investigate the facts to ensure respond accordingly.

Any mistreatment or abuse of a migrant is unacceptable. We are very troubled by what we have seen.

*The Five* (FOX News television broadcast Sept. 21, 2021) (playing video clip); *see also*, Juan Lozano, et al., *U.S. Official Defend Expulsion of Haitians from Texas Town*, AP Online (Sept. 21, 2021; 03:25:41) (“Both officials said during an afternoon news conference they saw nothing apparently wrong *based on the widely seen photos and video.*” (emphasis added)); Morgan Phillips & Katelyn Caralle, “*Your Journey Will Not Succeed*”, Daily Mail Online (Sept. 20,

2021) (similar); Samuel Chamberlain, *DHS Chief Pushes Back on Claim Whips Used Against Haitian Migrants*, N.Y. Post (Sept. 20, 2021) (similar).

16. Critics of the Administration echoed this narrative. Texas Governor Greg Abbott opined that the whipping narrative was false for the very reason given by Secretary Mayorkas and Chief Ortiz: “[T]hese reports come from people who probably have never ridden a horse before and don’t understand what reins are and the way that you use reins as you are maneuvering a horse.” *The Ingraham Angle* (FOX News television broadcast Sept. 20, 2021).

17. That evening, “[a]mid heavy criticism”, Secretary Mayorkas announced a full internal inquiry into the Incident. John Wagner, *Harris, Mayorkas Say They Were Horrified By Images of Horse-Mounted Border Patrol Agents Confronting Haitian Migrants*, Wash. Post (Sept. 21, 2021).<sup>5</sup>

### ***September 21, 2021***

#### **The Administration**

18. Senior Administration Officials continued to condemn the Border Patrol Agents amidst similarly critical viral coverage by many media outlets. Vice President Kamala Harris (“Vice President Harris”) said the images were “horrible,” and Psaki stated “[President Joseph R. Biden] believes that the footage and photos are horrific. They don’t represent who we are as a country. And he was pleased to see the announcement of an investigation.” Eileen Sullivan & Zolan Kanno-Youngs, *Images of Border Patrols Treatment of Haitian Migrants Prompt Outrage*, N.Y. Times (Oct. 19, 2021) (internal quotation marks omitted).

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<sup>5</sup> See, e.g., Miami Herald Editorial Board, *If You Thought Kids in Cages Looked Bad, President Biden, Then Take a Look at This*, Miami Herald (Sept. 20, 2021) (harshly criticizing the Administration).

19. Psaki also briefed that the White House “hope[d] that investigation happens quickly.” *Press Gaggle by Press Secretary Jen Psaki En Route Washington, D.C.*, at 2 (Sept. 21, 2021).

20. Democratic Congressional leaders continued to join the fray. Senate Majority Leader Chuck Schumer tweeted: “The images of inhumane treatment of Haitian migrants by Border Patrol—including the use of whips—are unacceptable.” @SenSchumer, Twitter (Sept. 21, 2021; 12:40 AM), <https://twitter.com/SenSchumer/status/1440173960478429188>. He also took to the Senate Floor to state in pertinent part: “Images of Haitian migrants being hit with whips and other forms of physical violence is completely unacceptable. This behavior must be addressed, and we must provide accountability. The images turn your stomach. It must be stopped, this kind of violence.” 117 Cong. Rec. S6557, S6558 (Daily Ed. Sept. 21, 2021).<sup>6</sup>

21. Some media outlets began to extend their condemnation of the Border Patrol Agents to a general condemnation of the Administration. *See, e.g., Biden Faces Heat for*

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<sup>6</sup> *See also, e.g., Statement of Rep. Robin Kelly on Reports of Mistreatment of Haitian Migrants at the Border* (Sept. 21, 2021) (“I am outraged to see the photos and videos from our Southern border which appear to show border patrol agents using whips on migrants. This violence is unacceptable. Secretary Mayorkas should ensure that all migrants are being treated with humanity and respect and provide an update to Congress on this situation.”); *Statement of Texas Democrats on the Treatment of Migrants in Del Rio* (Sept. 21, 2021) (“We have seen horrifying images of horse-mounted border enforcement agents using horse reins to whip migrants on the shores of the Rio Grande. This response to migrants is unacceptable.”); *Rep. Brenda Lawrence Statement on Mistreatment of Haitian Migrants at U.S. Southern Border* (Sept. 21, 2021) (“We cannot be silent over the horrific treatment of Haitian migrants in Del Rio. Watching the videos reminded me of our history where Black people, enslaved Africans, were treated like animals. Now, Border Patrol agents are using the rein as a whip, horses to intimidate, and herding Black people like sheep. I’ve been to our southern border, and I’ve never seen anything like this. It’s completely unacceptable. These inhumane actions need to stop immediately. An investigation can come afterward. For crying out loud, they are human beings.”).

*Handling of Migrant Crisis*, Reuters (Sept. 21, 2022); Justin Baragona, “*The View*” Trashes Biden’s Treatment of Haitian Migrants, *The Daily Beast* (Sept. 21, 2021).

22. Secretary Mayorkas appeared on CNN that morning to declare he was “horrified” by the images: “One cannot weaponize a horse to aggressively attack a child. That is unacceptable. That is not what our policies and our training require. Please understand, let me be quite clear that is not acceptable.” Secretary Mayorkas also declared that he looked forward to the “swift[]” completion of the DHS investigation and that the “public needs and deserves to know” the investigation’s results. John Wagner, *Harris, Mayorkas Say They Were Horrified By Images of Horse-Mounted Border Patrol Agents Confronting Haitian Migrants*, *Wash. Post* (Sept. 21, 2021) (internal quotation marks omitted); *New Day*, (CNN television broadcast Sept. 21, 2021). The Associated Press reported this position as a “shift” from Secretary Mayorkas’s position on September 20. Alexandra Jaffe & Ben Fox, *In Shift, DHS Head Says Images from Border “Horrified” Him*, AP (Sept. 21, 2021; 19:08:46).

23. Later in the day, Secretary Mayorkas testified before Congress in pertinent part that:

We commenced an investigation immediately, the Office of Professional Responsibility within the Department of Home Security’s U.S. Customs and Border Protection, number one.

Number two, we alerted the inspector general of the incidents. . . . I was horrified to see the images, and we look forward to learning the facts that are adduced from the investigation.

*Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11: Hearing Before the S. Comm. on Homeland Sec.*, 117th Cong., CQ Transcript, at \*114 (Sept. 21, 2021).

24. During a press gaggle, Psaki was asked whether Secretary Mayorkas had changed his position on the incident:

**Q:** First, with regard to what’s happening at the border with the Haitian border crossers, we initially saw Mayorkas make one statement. And then, last night, that began to evolve. Now he’s meeting with the Vice President. Can you explain the evolution of what’s going on and what the administration hopes to learn?

**Ms. Psaki:** Sure. Well, when the Secretary made comments earlier in the day yesterday, he had not yet seen the photos. As you all remember, they all started to emerge right before I did the briefing yesterday, kind of later in the morning, and he spoke right around that same time. Once he had an opportunity to see the photos, see the video footage—as you saw him say in a statement last night and again this morning, he was horrified. He believes this does not represent who we are as a country and does not represent the positions of the Biden-Harris administration.

*Press Gaggle by Press Secretary Jen Psaki En Route Washington, D.C., at 1 (Sept. 21, 2021).*

25. CNN’s analysis epitomized much of the press coverage as of that evening: [A]ll eyes are on the Biden administration as border patrol agents are aggressively threatening migrants, and their bosses, from President Biden and Vice President Harris, to Homeland Security Secretary Alejandro Mayorkas, say that they are horrified to what they see.” *The Lead* (CNN television broadcast Sept. 21, 2021).<sup>7</sup>

### **Contradictory News Reports**

26. In the face of the foregoing, some articles noted in passing the “whipping” narrative was inaccurate: “Contrary to some reports, the agents in the images were not carrying whips but were seen swinging their horses reins. They did not appear to strike anyone.” John

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<sup>7</sup> See also, e.g., *Today Show* (NBC television broadcast Sept. 21, 2021) (condemning Border Patrol Agents for “whipping” migrants); *All Things Considered*, (NPR broadcast Sept. 21, 2021) (similar); Katelyn Caralle & Morgan Phillips, *Biden Claims He Will Get the Border “Under Control”*, Daily Mail Online (Sept. 21, 2021) (similar); *Early Start* (CNN television broadcast Sept. 21, 2021) (similar); Eliza Relman, *Texas Republican Congressman Says the Border Patrol Agents Filmed Whipping at Haitian Migrants are “Doing God’s Work”*, Business Insider (Sept. 21, 2021) (similar).

Wagner, *Harris, Mayorkas Say They Were Horrified By Images of Horse-Mounted Border Patrol Agents Confronting Haitian Migrants*, Wash. Post (Sept. 21, 2021).

27. The Border Patrol Council (the Border Patrol union) and the National Fraternal Order of Police also spoke out, condemning what they saw as a rush to judgement by the Administration and forcefully stated that there was no “whipping” of migrants, just the use of reins to control a horse. Kaelan Desse, *Border Patrol Union Leader Slams White House and Media for Claims of “Whipping” Migrants*, Wash. Exam’r (Sept. 21, 2021). That evening the President of the Border Patrol Counsel echoed Secretary Mayorkas’ and Chief Ortiz’s initial reactions:

The vast majority of border patrol agents are actually Hispanic. So no, they’re not racist. If you look at all of those images, you have to look at all of the different angles. Not one of those Haitian migrants was hit with one of the rains [sic]. We use those rains [sic] to keep the people away from the horses, to those people. Those horses have stepped on people, they’ve kicked people before. They can injure people. You have to keep them away.

*Ingraham Angle* (FOX News television broadcast Sept. 21, 2021) (statement of Brandon Judd, President of the Border Patrol Council (“Judd”)).

28. Political opponents of the Administration also continued to weigh in. Some reporters on the ground in Texas reported that there was no whipping, merely normal use of split reins via detailed reports on CBP riding equipment and training.<sup>8</sup>

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<sup>8</sup> See, e.g., *Special Report* (FOX News television broadcast Sept. 21, 2021) (“So, the narrative out there right now is that these horseback agents were whipping migrants, and that is just blatantly false. First off, these agents don’t have whips. We have a couple of them behind us right now. Look, we’ll show it to you. What was seen in the photos is they have what are called split reins. They are long, they are used to control the horse. You can see them holding right now. They’ve got a lot of slack to them. So, what—I’ve talked to a lot of these horseback agents, what—when I’ve been on the ground out here, they say they will sometimes spin them like a propeller when they want to surge the horse forward. It’s kind of a signal to the horse that they want it to move forward. If you look at the video or the pictures of this incident down at the river, nobody was whipped. No migrants were whipped. It was just them using the horses as

29. A Democratic Congressman, Representative Henry Cuellar, stated that the images of the Incident seemed to show the use of reins to control a horse, but indicated that if there was an issue it should be investigated and further comment withheld. *Newsroom* (CNN television broadcast Sept. 21, 2021).

*September 22, 2021*

**The Administration**

30. Secretary Mayorkas testified before Congress again. He began his testimony by condemning the images of the Incident:

I do want to address the images that emanated from Del Rio, Texas over the last several days and correctly and necessarily were met with our Nation's horror. Because they do not reflect who we are as a country nor do they reflect who the United States Customs and Border Protection is.

*Worldwide Threats to the Homeland 20 Years After 9/11: Hearing Before H. Comm. on Homeland Sec.*, 117th Cong. 7 (Sept. 22, 2021). He then proceeded to assure the Committee "that we are addressing this with tremendous speed and with tremendous force. I have ordered an investigation to be conducted of the events that are captured in those images." *Id.* Secretary Mayorkas disclosed that he had placed the Border Patrol Agents on administrative duties pending investigation. *Id.* As to the specific timing of the investigation, Secretary Mayorkas testified:

The facts will drive the actions that we take. We ourselves will pull no punches and we need to conduct this investigation thoroughly, but very quickly. It will be completed in days and not weeks. I wanted to assure this committee, and you, Mr. Chairman, and Mr. Ranking Member, of that fact."

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kind of a physical tool to force those people back into the water. But the agents are very frustrated by the narrative out there. But DHS has launched an investigation now. So, we'll see what they come back with.").



*Id.*<sup>9</sup> Reports of Secretary Mayorkas’ testimony emphasized his promise for a quick investigation with public results. *See, e.g.*, Kevin Johnson, *DHS to Speed Inquiry on Treatment of Haitian Migrants*, Abilene Rep.-News (Sept. 23, 2021).

31. The Border Patrol Agents continued to be condemned for “whipping” Haitian migrants in increasingly harsh terms by other members of the Administration.

32. Psaki declared the Border Patrol Agents were guilty of misconduct: “We’ve watched the photos of Haitians gathering under a bridge, many with families, and the horrific video of the CBP officers on horse—on horses using brutal and inappropriate measures against innocent people.” *Press Briefing by Press Secretary Jen Psaki*, at 5 (Sept 22, 2021); *see also id.* (“So, as it relates to those photos and that horrific video, we’re not going to stand for that kind of inhumane treatment.”). She also promised DHS’s investigation into the incident “will be completed by next week—which the Secretary confirmed” and that the White House “want[s] this investigation to be completed rapidly.” *Id.*

33. Vice President Harris’ office released a read out of a call with Secretary Mayorkas (whom by that time the Administration had dispatched again to Del Rio):

[T]he Vice President raised her grave concerns about the mistreatment of Haitian migrants by border patrol agents on horses, and the need of all CBP agents to treat people with dignity, humanely and consistent with our laws and our values. Secretary Mayorkas shared the Vice President’s concern and noted that he looks forward to updating her on the investigation by the Office of Professional Responsibility once it concludes.

*Statement by Senior Advisor and Chief Spokesperson Symone Sanders of the Vice President’s Call with Homeland Security Secretary Alejandro Mayorkas* (Sept. 22, 2022).

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<sup>9</sup> *See also id.* at 39 (“The investigation is going to be all-encompassing. We are not going to cut a single corner or compromise any element of thoroughness. It will be a sweeping investigation.”).

34. On the Hill, Representative Maxine Waters, Chairwomen of the powerful House Financial Services Committee declared that the Border Patrol Agents were guilty not only of “whipping” migrants, but also of trying to take the country back to the days of slavery:

I’m pissed, I’m unhappy, and I’m not just unhappy with the cowboys who were running down Haitians and using their reins to whip them, I’m unhappy with the administration. We are following the Trump policy; he is the one who does not follow the constitution, and would not allow those seeking refuge to be able to petition to get into the country. What the hell are we doing here? What we witnessed takes us back hundreds of years. What we witnessed was worse than what we witnessed in slavery. Cowboys, with their reins again, whipping black people, Haitians, into the water, where they’re scrambling and falling down, when all they’re trying to do is escape from violence in their country. . . . And so yes, we’re here and we’re organized, and we’re saying to the president and everybody else: you gotta stop this madness. And I want to know in the first place who’s paying these cowboys to do this work? They’ve got to be gotten rid of. They’ve got to be stopped. It cannot go on. And so I thank you all of you [journalists] for being here today: write the story. Tell the story about what is going on. And let people know that they’re trying to take us back to slavery days and worse than that. And the children who are unfortunate to be in this situation must be allowed into the United States immediately: not tomorrow, not next week, not next month but immediately.”

(C-SPAN television broadcast Sept. 22, 2021), Congresswoman Anyanna Pressley accused the Border Patrol Agents of “egregious and white supremacist behavior.” Katelyn Caralle, “*It’s Worse than Slavery*”, Daily Mail (Sept. 22, 2021).

35. Much of the media continued to report this “whipping” narrative.<sup>10</sup>

### **A Counter Narrative**

36. Conservative network news outlets reacted with fury to what they saw as clearly erroneous reporting. In their view the video and photos were conclusive there was no whipping.

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<sup>10</sup> See, e.g., Emily Goodin & Nikki Schwab, *The Washington Post Turns on Biden*, The Daily Mail Online (Sept. 22, 2021); Matthew Loh, *Texas Governor Greg Abbott Applauded Border Enforcement for a Miles-long “Steel Barrier” of Vehicles*, The Business Insider (Sept 22, 2021); Ivana Saric, *Texas Gov. Abbott Sends Fleet of Cars to Form “Steel Wall” Along Southern Border*, Axios (Sept. 22, 2021).

*See, e.g., Tucker Carlson Tonight* (FOX News television broadcast Sept. 22, 2022); *The Five* (FOX News television broadcast Sept. 22, 2021).

37. That evening the President and Vice President of the Border Patrol Council again pushed backed on the Administration’s statements. *See, e.g., Rachel Sharp, Furious Mounted Texas Border Agents Deny They are Whipping Migrants and Accuse Biden Administration of Fueling Outrage to Deflect their Failings*, Daily Mail Online (Sept. 22, 2021).

### **September 23, 2021**

#### **The Administration**

38. Psaki continued to pass judgement on the Border Patrol Agents’ conduct while promising swift investigative results. *See Press Briefing by Press Secretary Jen Psaki*, at 5 (Sept. 23, 2021) (“[W]e feel those images are horrible and horrific. There was an investigation the President certainly supports, overseen by the Department of Homeland Security, which he has conveyed will happen quickly.”); *id.* at 11 (“I think Congresswoman Waters and others, as are we, have been horrified by the photos of the Border Patrol officers and that behavior.”); *id.* at 16 (“What I noted earlier before is that we have taken very specific actions as it relates to the horrific photos that we’ve—that are not—we’re not going to stand for in this administration”); *id.* at 23 (“Well, the Secretary of Homeland Security made clear he wants that investigation to be completed by next week. And part of that process will be determining what happens on a personnel level”). Psaki also disclosed that DHS had changed its policy and “would no longer be using horses in Del Rio.” *Id.* at 5.

39. Congressional judgment of guilt continued. The Chairman of the Senate Foreign Relations Committee, Senator Robert Menendez, released a statement:

The inhumane treatment of Haitian migrants at the border is abhorrent and in clear contradiction to the values we strive for as a nation. The cruel images of agents rounding

up black migrants on horseback using reins as whips are appalling and serve as a painful reminder of an ugly about very much pervasive legacy in this country of using fear to justify oppression, discrimination, and outright violence against people of color.

*Statement of Senator Robert Menendez on Treatment of Haitian Migrants at Southern Border*

(Sept. 23, 2021); *see also, e.g., Meet the Press* (MSNBC television broadcast Sept. 23, 2021)

(statement of Rep. Barbara Lee) (“I’m horrified, I know, everyone is horrified, and that just as an

African American woman to see these reins being used as whips, to see these Border Patrol

Officers on horseback doing things to people that is dehumanizing, that shows us that they’re

being treated like animals, and that is just so offensive and disgusting to have taxpayers pay for

this taking place. So let me tell you, we were very clear about what we think should happen, we

were very clear about how horrific this is, and again, the administration understands this, and

they also are very, you know, shattered by what they saw at the border.”); *@This Hour*, (CNN

television broadcast Sept. 23, 2021) (statement of Rep. Joyce Beatty) (“You know, seeing

cowboys on horses with reins whipping people, children, people—black individuals like us. So,

we spoke directly to that, wanting that to be halted immediately, wanted those individuals to be

terminated, wanted to see new legislation.). These opinions were widely covered in the press.

*See, e.g., Inside Politics* (CNN television broadcast Sept. 23, 2021); *New Day* (CNN television

broadcast Sept. 23, 2021); *Hala Gorani Tonight* (CNN television broadcast Sept. 23, 2021).

40. Many of the same Members who stated the Border Patrol Agents were guilty also insisted on a swift investigation:

We’ve asked for a full report. I also talked to the U.S. secretary of Homeland Security and told him we don’t want a long, drawn-out investigation. I’m expecting by the end of this week or Monday when I return to Washington for a full briefing, for the answers from the report, and in the interim, we think those individuals on the horses should be terminated.

*@This Hour* (CNN television broadcast Sept. 23, 2021) (statement of Rep. Joyce Beatty).

41. The Attorneys General from 16 states transmitted a letter to President Biden questioning the Administration's approach to the Haitian migrant crises at Del Rio which included the passage: "Like many Americans, we were grateful to learn that your administration will investigate the tactics of U.S. immigration officials on horseback who were recently filmed and photographed charging at—and apparently attempting to whip—Haitian migrants as they sought to bring food to their families massed under a bridge in Del Rio, Texas." *Letter from the Attorneys General of Illinois, the District of Columbia, Nevada, New York, the U.S. Virgin Islands, California, Connecticut, Iowa, Maine, Massachusetts, Michigan, Minnesota, New Mexico, Oregon, Rhode Island, Vermont, Virginia, and Washington to the Hon. Joseph R. Biden, President of the United States*, at 1 (Sept. 23, 2021).

42. Finally, press outlets continued to report the "whipping narrative." See, e.g., Erin Doherty, *Special Envoy for Haiti Says He's Resigning over Deportation of Migrants and Asylum-Seekers*, Axios (Sept. 23, 2021); Erin Doherty, *DHS Temporarily Suspends Use of Horse Patrol in Del Rio*, Axios (Sept. 23, 2021).

### **Paul Ratje Comes Forward**

43. While this was occurring, Paul Ratje, the photographer who took the viral photos, spoke to local news station KTSM and said: "Some of the Haitian men started running, trying to go around the horses, and that's kind of when the whole thing happened." "I didn't ever see them whip anybody with the thing" he stated as regards the split reins. "He was swinging it. But I didn't actually see him actually take—whip someone with it. That's something that can be misconstrued when you're looking at the picture." Natassia Paloma, *Photographer Behind Controversial Photos Speaks Exclusively to KTSM*, KTSM (Sept. 23,

2021); Carlie Patteson, *Border Patrol Pics Were “Misconstrued” as Whipping Photographer Says*, N.Y. Post (Sept. 24, 2021).

44. Judd continued to push back aggressively against the Administration narrative:

I’ve been patrolling the borders since Clinton was the President and I can tell you personally that the policies that have been in place were by far the best under President Trump, and President Biden completely and totally dismantled all of those policies. And when you look at our border patrol agents, when they are sent down there to do that job, and, by the way, Mayorkas was down on the border and he saw the horses, he knew the horses were out there and now he’s making—doing a 180. But when our agents are out there trying to patrol the border, do their job to the best of their ability, then they’re vilified by the president. You know, we feel like why even go out there and do it, why put on that uniform, why care about the American public? That’s why we do it. We put on that uniform because we care about the American public, we want to go out there and we want to protect them, and Joe Biden is trying to break that down.”)

*Hannity* (FOX News television broadcast Sept. 24, 2022) (statement of Brandon Judd) (“

45. Congressman Cuellar again pushed back on his party’s narratives noting that whips simply were not used and that it is not appropriate to condemn anyone while an investigation is pending.<sup>11</sup>

### ***September 24, 2002***

#### **The President of the United States: The Border Patrol Agents are Guilty and “Will Pay”**

46. That morning the President held a press conference:

**Q:** You said on the campaign trail that you were going to restore the moral standing of the U.S., that you were going to immediately end Trump’s assault on the dignity of the

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<sup>11</sup> *Newsroom* (CNN television broadcast Sept. 23, 2022) (“Well, you know, again, as you know, there is an investigation as to some of the actions that some of the border patrol folks have taken. I certainly have to say this, that I know a lot of border patrol agents, I see them in my church, the kids go to school, they’re good folks. But they’ll investigate this. We cannot paint everybody the same brush. They were not using whips, they were certainly not using lassos. The horse brigades have been there for a long time. We don’t know what the context was, were they running, were they told not to run? And we don’t know what the context is until we find out. And I don’t want to condemn anybody without knowing what the facts are or what the investigation is going to lead in. We certainly want to treat everybody with respect, certainly want to treat everybody with respect.”).

immigrant communities. Given what we saw at the border this week, have you failed in that promise? And this is happening under your watch. Do you take responsibility for the chaos that's unfolding?

**The President:** Of course I take responsibility. I'm President. But it was horrible what—to see, as you saw—to see people treated like they did: horses nearly running them over and people being strapped. It's outrageous. I promise you, those people will pay. They will be—an investigation is underway now, and there will be consequences. There will be consequences. It's an embarrassment. But beyond an embarrassment, it's dangerous; it's wrong. It sends the wrong message around the world. It sends the wrong message at home. It's simply not who we are. Thank you.

*Remarks by President Biden on the COVID-19 Response and the Vaccination Program*, at 4–5 (Sept. 24, 2021). The President did not explain how he had determined guilt and would impose consequences while DHS's investigation was still pending.

47. Later that afternoon, Vice President Harris was interviewed about the Incident:

**Q:** Madam Vice President, we've discussing those disturbing images of US border patrol agents on horseback inhumanely corralling Haitians at the Texas border. And you've been tasked with immigration. How do you explain this?

**The Vice President:** Well, first of all, I've been very clear about the images that you and I both saw of those law enforcement officials on horses. I was outraged by it. It was horrible and deeply troubling. There's been now an investigation that has been conducted, which I fully support, and there needs to be consequences and accountability. Human beings should not be treated that way. And as we all know, it also evoked images of some of the worst moments of our history, where that kind of behavior has been used against the indigenous people of our country, has been used against African-Americans during times of slavery. So I'm glad to know that that Allie Mayorkas, who is the Secretary of the Department of Homeland Security is taking it very seriously.

*The View* (ABC television broadcast Sept. 24, 2021).

48. Shortly thereafter, Secretary Mayorkas spoke at the daily White House Press Briefing. He made three major points relevant here.

49. *First*, the Secretary unequivocally condemned the images:

[H]orrifying images that do not reflect who we are, who we aspire to be, or the integrity and values of our truly heroic personnel in the Department of Homeland Security. The investigation into what occurred has not yet concluded. We know that those images

painfully conjured up the worst elements of our nation’s ongoing battle against systemic racism.

*White House Press Briefing By Press Secretary Jen Psaki and Secretary of Homeland Security Alejandro Mayorkas*, at 2, (Sept. 24, 2021); *accord, id.* at 5 (“First of all, the images, as I expressed earlier—the images horrified us in terms of what they suggest and what they conjure up, in terms of not only our nation’s history, but, unfortunately, the fact that that page of history has not been turned entirely.”).<sup>12</sup>

50. *Second*, Secretary Mayorkas stated he would not prejudge the investigation:

But I will not prejudge the facts. I do not, in any way, want to impair the integrity of the investigative process. We have investigators who are looking at it independently. They will draw their conclusions according to their standard operating procedures, and then the results of that investigation will be determined by the facts that are adduced.

*Id.* at 5.

51. *Third*, Secretary Mayorkas reiterated both his repeated promise of a quick investigation and his commitment to make the results of the investigation public: “The highest levels of the CBP Office of Professional Responsibility are leading the investigation, which will conclude quickly. The results of the investigation I will make public.” *Id.* at 2.

52. The White House Press Corps then asked Secretary Mayorkas several questions pertinent here.

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<sup>12</sup> *See also, id.* at 15 (“**Q:** And one follow-up—the whipping—the whips, the horse whips—**Sec. Mayorkas:** Sir, that is something—that is something that horrified us all. And, you know, this morning, I was on radio, and the interviewer said that it was—it troubled, very profoundly, the Black and the African American community. And I said one thing—, and this should be clear: Those are not the only communities that it horrified. Those are not the only communities that it concerned. Of course, that concern might be most acute, given the history in this country and in other parts of the world. But all of America is horrified to see what those images suggest.”).



53. *First:*

**Q:** Thank you, Mr. Secretary. I know you said you'd be looking into this, but the President was really clear today. He said those Border Patrol agents on horseback seen in those images "will pay." He said, "It's dangerous." He says, "It's wrong." And he said, "There will be consequences." So do you disagree with that?

**Sec. Mayorkas:** Oh—I know the President was echoing the sentiments of the American public in response to the images and what those images suggest, but I want to speak to the fact that this investigation will be based on the facts that the investigators learn, and the results of the investigation will be driven by those facts and nothing less and nothing more.

**Q:** But the President said that they would pay, so you guys are not on the same page on that?

**Sec. Mayorkas:** I think the President was speaking in terms of the horror that he observed from seeing the images and what they suggest.

\* \* \*

**Sec. Mayorkas:** That investigation will have integrity, I can assure you of that.

*Id.* at 9–10.

54. *Second:*

**Q:** Thank you very much. Just to go back, please, to the images of these mounted Border Patrol officers: You said on Saturday—or rather, on the 20th, "To ensure control of the horse, long reins are used." The person who took these photos of the Border Patrol agents says, "I've never seen them whip anyone." So, why is the President out there today talking about people being "strapped"?

**Sec. Mayorkas:** So let me—let me correct the statements in your question, if I may. It was—

**Q:** They're direct quotes.

**Sec. Mayorkas:** No, no—if I may. It was on Friday when I was—actually, it was on Monday, I believe, when I was in Del Rio on the ground and I made the statements without having seen the images. I saw the images on the flight back, and I made the statement that I did with respect to what those images suggested. There—the horses have long reins, and the image in the photograph that we all saw, and that horrified the nation, raised serious questions about what it—let me finish—about what occurred and of—as I stated quite clearly, it conjured up images of what has occurred in the past. Let me—let me finish. There's also a question of how one uses the horse and how one interacts with individuals with the horse. And so I'm going to let the investigation run its course. I'm not going to interfere with that investigation. The facts will be determined by the investigators, and then the results will be driven by the facts that are determined.

**Q:** And just to follow up, please—before the facts are in, is it helpful to your investigation for the President of the United States to use inflammatory language, like people being “strapped”?

**Sec. Mayorkas:** Let me just be very clear and repeat what I’ve said: I am not concerned with respect to the integrity of the investigation. We know how to conduct an investigation with integrity. I served as—12 years as a federal prosecutor. There were a great deal of comments in many of the cases that I handled in the public sphere, and I know how to maintain the integrity of an investigation, and this investigation will have integrity.

*Id.* at 11–12.

55. Later during the press conference, Psaki was pushed to reconcile what press saw as contradictions between the President’s statements that morning and Secretary Mayorkas’ statements earlier in the press conference.

56. *First:*

**Q:** The DHS Secretary several times said he didn’t want to impair the integrity of the investigation to the Border Patrol agents. He said, “I will not prejudge the facts.” Did the President prejudge the facts when he said, “I promise you those people will pay”?

**Ms. Psaki:** I think what you heard from the President is a very human and visceral response to those images, which I think reflects how a lot of people in the country felt when they saw them. There is an investigation the Department of Homeland Security is overseeing. That will determine what the personnel decisions may be, any other policy decisions, and that needs to see itself through. But I think the President wanted to make clear to people who watched those photos, who had understandably emotional responses, that that’s not acceptable to him, even while the investigation is being so—is being—is happening and moving forward. That will determine what the consequences will look like.

*Id.* at 26.

57. *Second:*

**Q:** Is it your view or the White House’s position that what the President said this morning is not legally operative, with respect to consequences, and these people “paying” was simply his personal view and not representative of actions that the government will take?

**Ms. Psaki:** The President was not prejudging the outcome of an investigation either; the President was responding from his heart and responding to seeing horrific photos that we have seen over the last several days.

**Q:** But he is the head of the executive branch; the Constitution vests him with the authority in Article Two. You're saying that what he said will not necessarily be the outcome?

**Ms. Psaki:** Again, there's an investigation that's ongoing. I don't know that anyone saw those photos and didn't have a similar reaction to the President's, and that was what it was a reflection of.

*Id.* at 29–30.

58. Critical press coverage of the Border Patrol Agents continued. For example, *The New York Times* extensively covered the President's remarks and reported "images of agents on horseback chasing, and in some cases using the reins of their horses to strike at running migrants." Michael D. Shear, *Biden Says Border Patrol Agents Who Mistreated Haitians Migrants "Will Pay"*, N.Y. Times (Sept. 24, 2022).<sup>13</sup>

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<sup>13</sup> See also, e.g., *All Things Considered* (NPR broadcast Sept. 24, 2022) ("**Leila Fadel:** The images of asylum-seekers being whipped by U.S. Border Patrol officers on horseback have really become a symbol of this crisis and, for many, evoked images of slavery. That and then the forced return of people to Haiti is being called unacceptable, inhumane. For you, what was it like to see those images? **Edwidge Danticat:** Well, those images were harrowing. They were devastating and frightening, just trying to imagine yourself on the other end of that reign or whip or whatever it was, looking up at the horse and already being in the water. And of course, there's that whole correlation with enslavement and the whips and lashes. But for me, as a Haitian, it also had parallels to images that I have seen of the U.S. occupation of Haiti, of what they used to call, you know, the corvee, with the white Marines who were part of the U.S. occupation on horseback. So there were also, in addition to the historical echoes of this country, historical echoes of our country, of the U.S. occupation between 1915 and 1934.").

### The Other Side

59. Later that day, Judd, on behalf of the Border Patrol Council, attacked the President’s statement both for what Judd viewed as its factual falsity and for its pre-judgement of the Border Patrol Agents:

“Now that the President of the United States has already said they did wrong, how is an investigator supposed to do a true and honest investigation?” he told Fox News. “Because if that investigator finds they did nothing wrong—and they didn’t do anything wrong—but if that investigator finds they didn’t do anything wrong, how is that investigator’s job going to go?”

Judd said Biden’s comments were “completely and totally outrageous” and accused Biden of “playing politics with Border Patrol agents’ lives.”

Judd again backed the agents at the center of the investigation and noted that they were doing the job they were tasked with doing by the same president who was now throwing them under the bus.

“Nobody was struck by a rein, not one person was struck by a rein, not one person was run over by those horses. They used the tactics they were trained to use, to do the job [Biden] sent them out to do—these are executive branch employees,” he said. “He sent them out there to do the job, and now he’s criticizing them because his base wants them to.”

Adam Shaw, et al., *Border Patrol Stunned as Biden Goes to War With His Own Agents Over False “Whipping” Allegations*, FOX News (Sept. 24, 2022) (alteration in original).<sup>14</sup>

60. FOX News reported:

President Biden, the Vice President, outraged today about the picture that we saw of the Border Patrol agents on horseback and the migrants from Haiti. The photographer who took the picture that was in question gave as you quote. “Some of the Haitian men started running, trying to go around the horses.” He, again, took the picture. “I have never seen them whip anyone. He was swinging it, but it can be misconstrued when you’re looking at the picture.” Meantime, Border Patrol agents talking to our people on the ground there in Del Rio, Texas, said would you go to work and do your best knowing that if you do your boss is going to make you pay? I’m dumbfounded and don’t know what to say. They said they were stunned and disappointed by the President’s remarks today.

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<sup>14</sup> See also, e.g., *The Story* (FOX News television broadcast Sept. 24, 2021) (statement of Former Acting Director of Immigration and Customs Enforcement Tom Homan) (making similar points).

*Special Report* (FOX News television broadcast Sept 24, 2022) (statement of Bret Baier).

61. Senator Lindsey Graham was more direct with his criticism of the Administration tweeting: “When President Biden says that Border Patrol agents will pay for doing their job, it is an affront to all those in uniform at the border and is the ultimate blame-shifting.” @LindseyGrahamSC, Twitter (Sept. 24, 2021, 1:03 P.M.), <https://twitter.com/LindseyGrahamSC/status/1441448204105666564>.

62. Former Secretary of State Mike Pompeo<sup>15</sup>, former Republican Member of Congress Trey Gowdy<sup>16</sup>, and former Democratic Member of Congress Harold Ford Jr.<sup>17</sup> all took to FOX News to criticize the Administration for prejudging the case.

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<sup>15</sup> *The Story* (FOX News television broadcast Sept 24, 2022) (“So, the President uses inflammatory language like whipping I, you know, there’s still a lot of questions about precisely what was happening. We should determine what happened, but these, these men and women who are doing this work done, they’re in very difficult conditions, they were doing their jobs, we should make sure that every benefit of the doubt given to them not suggest that we’re just going to go punish them willy-nilly because of a still photograph that we’ve seen, and because the progressive part of the Democratic Party is up in arms in asserting racism. There’s nothing to indicate that this was motely like that, and to talk about this in the same context of slavery. Just it’, it’s, it’s the worst of what the Democrat Progressive Party has become.”).

<sup>16</sup> *Special Report* (FOX News television broadcast Sept. 24, 2022) (“Bret, I don’t know what happened, and I’m in that real small category of people that likes to withhold judgment when I don’t know what happened. I can tell you this—[President Biden] . . . is a lot tougher on cops, Afghani aid workers, and the French than he was on crime last summer. And a lot tougher than he has been on the Chinese. So how about give cops the benefit of the doubt and wait until the investigation is over. That just seems like a reasonable thing to do, doesn’t it?”).

<sup>17</sup> *Special Report* (FOX News television broadcast Sept. 24, 2022) (“Look, I think for a lot of Americans we didn’t know there were horses used at the border. So I think a lot of people are learning about this. I think Trey is right. We have to withhold judgment until we know everything. And context, I think, is important here. I think there is frustration on the part of the administration, continued frustration by not being able to—not being able to articulate and execute on an immigration policy that wins broad support. And I think until they find that we will continue to have episodes like this. But let’s get the facts before we mete out too much judgment here. I will say, as an African American, it did hurt me to see those images, but context answers a lot of things as well.”).

63. Of note in the on-going press coverage, *The New York Times* “corrected” its story issued earlier in the day (*see, supra* ¶58) writing, “[a]n earlier version of this article overstated what is known about the behavior of some Border Patrol agents on horseback. While the agents waived their reins while pushing migrants back into the Rio Grande, The Times has not seen conclusive evidence that migrants were struck with the reins.” Katie Roger & Michael D. Shear, *Biden Condemns Border Patrol Treatment of Haitian Migrants as Expulsions Continue*, N.Y. Times (Sept. 24, 2021).

### **The Balance of September**

64. On September 25, 2021, news outlets continued to address the Incident from both negative and positive perspectives. From a different perspective, noted Law Professor and Constitutional commentator Jonathan Turley opined that President Biden had committed a major error:

It was wrong for Biden to say what he did in promising punishment for agents before any investigation is complete. It sends a message to investigators about the expected conclusions of their work. It also suggests that a finding of no whipping or wrongdoing would contradict the President and would not be supported by the White House. That could present serious career issues for investigators. It is unfair to the agents. It is unfair to the investigators and it undermines the integrity of the investigation.

Jonathan Turley, “*Those People Will Pay*”: *Did Biden Just Prejudice the Border Investigation?*, JonathanTurley.org (Sept. 25, 2021), <https://jonathanturley.org/2021/09/25/those-people-will-pay-did-biden-just-prejudice-the-border-investigation/>. The next day, former Democratic Presidential Candidate and former Congresswoman Tulsi Gabbard condemned President Biden’s remarks. *Watters World* (FOX News television broadcast Sept. 26, 2021) (“You know, he is somebody who has been very outspoken as being against autocrats, autocracies, dictators, but what he essentially did was act as judge, jury, and executioner for these Customs and Border Patrol agents on horseback.”).

65. On September 26, *Axios* deleted a previous tweet and modified a recently published article which accused the Border Patrol Agents of “whipping” migrants. *Axios* explained: “We deleted a previous tweet that referred to Border Patrol agents as whipping at Haitian migrants. The story has been updated to include comments from some journalists on the border who did not see whipping occur.” @axios, Twitter (Sept. 26, 2021, 5:12 PM), <https://twitter.com/axios/status/1442235753744850950>.

66. The same day, the original *El Paso Times* article that helped kick off the viral coverage was amended to read: “Clarification: Our reporting team witnessed at least one agent on horseback swing his reins like a whip. We have updated the story to clarify that fact since it was not an actual whip.” Martha Pskowski, *Haitian Migrants Face Tough Choices in Del Rio Amid Crackdown at Texas-Mexico Border*, *El Paso Times* (Sept. 21, 2021). This “clarification” received considerable press coverage. *See, e.g., Texas Newspaper Updates Viral Border Incident: “It was Not an Actual Whip”*, *Wash. Times* (Sept. 26, 2021).

67. That same day, without commenting on a specific press account, *The Washington Post* wrote “[t]here has been no evidence that agents st[r]uck any of the migrants or used ‘whips’ as some claimed.” Felicia Sonmez & Nick Miroff, *Haitian Migrants are Cleared from the Texas Border*, *Wash. Post* (Sept. 26, 2021). FOX News also summarized what it viewed as issues with some of the reporting on the Incident as follows:

This was the lie that horse riding border patrol agents were whipping the migrants that included mentions why among others *Reuters*, *Politico* and a CNN international correspondent. *The El Paso Times* reported that one agent menacingly swung his reigns [sic] like a whip, charging his horse toward the men in the river, later running a clarification that it was not a whip. These were reigns [sic] used to control the horses. Al Jazeera English reported on the images with this headline. U.S. border patrol uses whips on Haitian migrants. The interpretation later contradicted by its reporter, John Holman, not to mention the photographer who shot the pictures.

*Media Buzz* (FOX News television broadcast Sept. 26, 2021).

68. The next day, September 27, Psaki was asked to comment on *The El Paso*

*Times*' clarification:

**Q:** . . . I'm wondering, you know, the El Paso Times has walked back their claim that border agents were using whips to deter Haitian migrants. This is kind of a controversy; some people are weighing what is a whip versus what is a rein. And the El Paso Times put out a clarification saying, "It was not an actual whip." Does that change anything for the administration, in light of the statements that were made last week?

**Ms. Psaki:** I don't think anyone could look at those photos and think that was appropriate action or behavior or something that should be accepted within our administration. There's an investigation. That's ongoing. We'll let that play out. But our reaction to the photos has not changed.

*White House Press Briefing by Press Secretary Jen Psaki*, at 26 (Sept. 27, 2021).

69. That same day, FOX News reported that "senior administration officials told Fox News that the investigation should produce little more than a suspension of a few days with pay for the agents—and should be a 'non-issue.'" William La Jeunesse & Adam Shaw, *Border Patrol Agents Who Biden Said Would "Pay" Could Get Minimal Punishment, Officials Say*, FOX News (Sept. 27, 2021). An official said of the Border Patrol Agents, "[t]hey did their job." *Id.* (internal quotation marks omitted)

### ***Remainder of 2021***

70. As September turned to October without any news of the DHS investigation being made public, Professor Turley further analyzed President Biden's statements. Jonathan Turley, *Biden's Red Queen Justice: How He Destroyed Both the Investigation and the Reputations of Border Agents*, The Hill (Oct. 2, 2021). He again roundly condemned what he saw as President Biden improperly pre-judging the investigation. Then he opined that the actual statements made about the Border Patrol Agents' conduct by President Biden and others in his Administration may be libelous unless Presidential privilege applied. *Id.*



71. On October 22, Press Secretary Psaki was again questioned on the status of the investigation:

**Q:** Thanks. The DHS Secretary said—I think it’s just about a month ago now—that the investigation into the horseback Border Patrol agents would be completed in days, not weeks. Has the White House received any update on this investigation? Was there any conclusion on whether the Border Patrol agents were whipping migrants?

**Ms. Psaki:** It’s really under the Homeland Security Department. I can check with them and see what the status is. I know what he said at the time, and I will see if there’s any particular update on that.

**Q:** So is the White House in active communication with the DHS on this? Like, do we know why this has been stalled?

**Ms. Psaki:** Yes, but they’re overseeing the investigation, so we’ll—I would point to them on any update on the status.

*White House Briefing by Press Secretary Jen Psaki, at 29 (Oct. 22, 2021).*

72. On November 16, 2021, DHS released an update on their investigation. DHS’s Office of Professional Responsibility (“OPR”) “refers all allegations of serious misconduct against law enforcement officers to the DHS Office of Inspector General (OIG).” *DHS Update Regarding the Investigation of Horse Patrol Activity in Del Rio, Texas on September 19, 2021*, at 1 (Nov. 16, 2021). OPR did so in the case of the Border Patrol Agents. *Id.* On November 16, DHS revealed that “[t]he OIG declined to investigate.” *Id.*

73. News outlets speculated that the OIG declination was an “indication that the inspector general did not consider the incident to be serious.” Anna Giaritelli, *DHS Inspector General Declined to Investigate Horse-Mounted Border Patrol “Whipping” Accusation*, Wash. Exam’r (Nov. 16, 2021). An individual “familiar with the matter” told *USA Today* “an inquiry would have been launched if the conduct involved allegations of possible criminal activity.” Kevin Johnson & Rebecca Morin, *DHS Inspector General Declines Review of Horse-Mounted Agents in Haitian Migrant Confrontation*, USA Today (Nov. 16, 2021). According to that

source, “[n]o such allegations were included when the case was referred to the inspector general for consideration.” *Id.* FOX News reporter Bill Melugin adverted while reporting on the DHS OIG declination: “Keep in mind back when this happened in September, DHS Secretary Alejandro Mayorkas told the public, this investigation would be completed in days, not weeks. Those were his exact words. That was two months ago, and it’s still not done yet.” *Special Report* (FOX News television broadcast Nov. 16, 2021).

### *Questions in the New Year*

74. As the New Year opened, questions began to be asked about why the investigation into the Border Patrol Agents had not been completed and publicly released. On January 27, 2022, multiple Department of Homeland Security officials told *The Washington Examiner* that the promised report “may never be released” and that the investigation “should have been concluded by now regardless of the outcome.” Anna Giaritelli, *Report on Border Agents “Whipping” Haitian Migrants May Never Appear*, Wash. Exam’r (Jan. 27, 2022) (internal quotation marks omitted). One DHS official stated, “I doubt that the current administration will release this report on the horse patrol incident because it makes the administration look terrible,” and elaborated “[t]hey essentially convicted the mounted agents based upon a lie, which the investigation after 120 days would surely have revealed.” *Id.* (internal quotation marks omitted). That DHS Official went on to state, that his “experience would be that this would have been done within a period of weeks.” *Id.* (internal quotation marks omitted). To that official’s knowledge no Border Patrol Agent had been disciplined from the Incident. *Id.*; see also, *The Five* (FOX News television broadcast Jan. 27, 2022) (statement of Dana Perino) (“Looks like they will never release a report about the migrant [sic] who were

whipped by the horse patrol and border patrol. And again—so, again, a lack of transparency, a lack of a willingness to say we were wrong.”).

75. On January 31, 2022, 7 House Members sent Secretary Mayorkas a letter condemning the Administration for having in their view “smeared” the Border Patrol Agents. *Letter from Hon. Chip Roy et al. to the Hon. Alejandro Mayorkas*, at 1 (Jan 31, 2022). Based on that condemnation and the January 27 *Washington Examiner* report, the letter requested that DHS disclose the “findings of the ‘investigative work’ done by CBP’s OPR on the September 19<sup>th</sup> 2021 incident in Del Rio, Texas.” *Id.* Plaintiffs are unaware of a substantive response by DHS to this letter. This letter was covered by the press. *See, e.g., The Story* (Fox News television broadcast Feb. 1, 2022).

***Press Reports—The Border Patrol Agents Were Cleared of Any Criminal Wrongdoing***

76. On March 29, 2022, *The New York Post* reported that “[t]he Border Patrol agents accused of “whipping” Haitian migrants last September have been cleared of criminal wrongdoing—but remain under an administrative investigation that could cost them their jobs six months after the initial probe began.” Callie Paterson & MaryAnn Martinez, *Border Patrol Agents Accused of “Whipping” Migrants in Legal Clear, Could Still Lose Jobs*, N.Y. Post (Mar. 29, 2022). It also quoted Judd as saying “[t]he [Department of Homeland Security’s] Office of the Inspector General, they had first crack at it[.] . . . They determined there was no criminal activity that was done so they closed out their investigation.” *Id.* (first alteration in original).

77. FOX News reported on April 13, 2022, that it had “learned that officials have cleared the horse man of border patrol agents of wrongdoing after they were accused of whipping migrants in September and placing them on probation.” *Special Report* (FOX News television broadcast Apr. 13, 2022). Martha MacCallum reported similar information several

days later. *The Story* (FOX News television broadcast Apr. 19, 2022) (“And on my way out here, I just want to mention that the Border Patrol agents who were accused of whipping migrants coming across the border, that process has finished, they were not charged with any wrongdoing.”).

### *Senators’ Inquires*

78. On April 6, 2022, 7 Senators wrote to Secretary Mayorkas to “request that [he] . . . disclose the investigative findings of the investigation by U.S. Customs and Border Protection’s Office of Professional Responsibility (OPR) regarding horse patrol activity in Del Rio, TX in September.” *Letter from Hon. Bill Hagerty et al. to Hon. Alejandro Mayorkas*, at 1 (Apr. 6, 2022). Their letter recounted reporting questioning the Administration’s position on the Incident, President Biden’s pre-judgment of the investigation, and asked why an investigation that was promised to be swift with results made public had not been released “more than six months” since the Incident. *Id.* at 1–2. The Letter requested disclosure of any investigative findings, including any reports related thereto, by April 13, 2022.

79. Plaintiffs are not aware of a substantive response to this letter by DHS.

### **Psaki: “There *Was* an Investigation”**

80. At the April 5, 2022, White House Press Briefing Psaki was pressed as to why the Broder Patrol Agents were not yet punished. Her response referred to DHS’s investigation in the past tense:

**Q:** Patrol agents that were seen whipping Haitian migrants were not charged and held accountable for actions. Even the President early on talked about how it was outrageous. How does he—what’s his reaction to that response? And to those who saw this horr—horrific video go viral, and then, at the end of the day, nothing happens; there’s no accountability.

**Ms. Psaki:** Well, there *was* an investigation by the Department of Homeland Security, so I’d have you—point you to them for any further comment on it.

*Press Briefing by Press Secretary Jen Psaki*, at 26 (Apr. 5, 2022) (emphasis added).

81. Two weeks later, Press Secretary Psaki again referred to DHS’s investigation of the Incident in the past tense:

**Q:** We’ve been told that the mounted Border Patrol officers the President accused of whipping migrants have been notified they will not face criminal charges. So, when is the President going to apologize to them?

**Ms. Psaki:** There is a process and an investigation that’s gone to the Department of Homeland Security. I don’t have any update on that.

**Q:** The President said that they were whipping people, which would be a criminal offense. And they’ve been told they’re not going to be criminally charged. So will the President—

**Ms. Psaki:** And there *was* an investigation into that. And I’ll let the Department of Homeland Security announce any conclusion of that investigation.

**Q:** You accused these officers of brutal and inappropriate measures. Now that they’ve been told they will not be criminally charged, will you apologize to them?

**Ms. Psaki:** And, Peter, there *was* an investigation into their behavior, so that investigation is playing out. Whenever there—it’s going to be announced, the Department of Homeland Security will announce that. And then I’m sure we’ll have a comment on it after that.

*Press Briefing by Press Secretary Jen Psaki*, at 13–14 (Apr. 18, 2022) (emphases added).

***The New York Post: The Investigative Report is Done***

82. On April 14 *The New York Post* reported that “The Biden administration has compiled a 500-page report on the investigation into Border Patrol agents accused of ‘whipping’ Haitian migrants last year and could release it any day now.” MaryAnn Martinez, *Border Patrol Agent “Whip” Probe Done, Produced 500-page Report*: *Union*, N.Y. Post (Apr. 14, 2022).

This report was sourced to Judd, who was quoted as saying: “No one knows what’s in the report,” “I don’t know what’s in it. As of yesterday afternoon, the chief of the Border Patrol didn’t know what’s in it.” *Id.* (internal quotation marks omitted).

### Reports the Border Patrol Agents Will be Disciplined

83. On June 14, 2022, FOX News reporter Bill Melugin tweeted the following thread:

BREAKING: Per federal source, DHS is preparing to discipline multiple horseback Border Patrol agents who were accused of “whipping” Haitian migrants in Del Rio last summer. I’m told DHS will imminently allege “administrative violations”, agents will be able to respond @FoxNews

Per federal source, this announcement is expected to come down any day now. It’s unclear what “administrative violations” the BP agents will be accused of, but they are not being accused of any criminal conduct. The horseback unit involved is based out of Carrizo Springs, TX.

It has been nearly 9 months since this incident took place. The agents have been taken off their normal duties and have not been allowed to have contact w/ migrants since. President Biden assured the public at the time that “there will be consequences” for the agents involved.

@BillFOXLA, Twitter (June 14, 2022, 7:04 PM),

<https://twitter.com/BillFOXLA/status/1536846948061401094>; *see also*, Anna Giaritelli, *Border Patrol Agents to be Disciplined for Horseback “Whipping” Incident*, Wash. Exam’r (June 14, 2022) (“senior agency official” confirming earlier FOX News report).

84. Judd harshly condemned these reports, stating:

Because of what the president said, these investigators had no choice but to find some sort of wrongdoing. And we know that they did nothing wrong. We know that it was a powder keg. We know that they were sent there to do a specific job, and they did that job. And now they are coming back to be vilified.

*Special Report* (FOX News television broadcast June 15, 2022).

85. House Republican Leader Kevin McCarthy was even more blunt: “Border patrol agents deserve a president who will support them, not smear them—which is exactly what President Biden did when he promised, without knowing the facts, that agents would ‘pay’ for the false allegations of ‘whipping’ migrants.” Katelyn Caralle & Harriet Alexander,

*EXCLUSIVE: “Border Patrol Deserves a President Who Will Support Them Not Smear Them”*,

Daily Online (June 15, 2022) (internal quotation marks omitted). Leader McCarthy continued, “[i]f reports are accurate,” “the Biden administration is now clearly targeting those same border patrol agents to impose the penalty Biden demanded.” *Id.* (internal quotation marks omitted). Leader McCarthy also noted, “[w]e look forward to reviewing this report we were told would be completed nine months ago.” *Id.* (internal quotation marks omitted).

86. On June 16, 2022, 26 Members of Congress sent Secretary Mayorkas a letter on this reporting: “Reports that Border Patrol agents in Del Rio, Texas, who were falsely charged by the media, the President, and open-borders advocates will be disciplined are extremely troubling because they did nothing wrong.” *Letter from the Hon. Andy Biggs et al. to the Hon. Alejandro Mayorkas*, at 1 (June 16, 2022). That letter condemned what it viewed both as President Biden’s prejudgment of the issues and Secretary Mayorkas’ failure to complete the promised quick investigation. *Id.* It requested a briefing by June 24, 2022.

### **HERITAGE’S FOIA REQUESTS**

87. On March 23, 2022, pursuant to DHS’s “decentralized” FOIA system in which each component processes requests for its records, Heritage transmitted three identical FOIA Requests via PAL to DHS Headquarters, CBP, and DHS Office of Civil Rights and Civil Liberties (“OCR”). FOIA Request 2022-HQFO-00769 (Mar. 22, 2022) (“the HQ Request” or “Heritage’s HQ FOIA Request”); DHS FOIA Request CBP-2022-056926 (Mar. 22, 2022) (“the CPB Request” or “Heritage’s CPB FOIA Request”); OCR Request 2022-CRFO-00090 (Mar. 22,

2022) (“the OCR Request” or “Heritage’s OCR FOIA Request”) (collectively the “Requests”) (Ex. 1).

88. The Requests sought discrete categories of information related to DHS’s response to, and investigation of, what Heritage termed “the September 19, 2021 incident,” which was defined as:

Allegations made against or about United States Customs and Border Protection (CBP) agents “whipping” or otherwise engaging migrants attempting to cross into the United States in or near the Rio Grande River near Del Rio, Texas during the migrants’ encounter with CBP agents on September 19, 2021. Photographs of this encounter were taken by El Paso freelance journalist Paul Ratje.

The Requests at 1. The temporal scope of the Requests was from September 18, 2021 to March 22, 2022. *Id.* The Requests also sought production of records in patrial responses as soon as they became available. *Id.* at 4.

89. The Requests additionally sought a fee waiver based on Heritage’s status as a not-for-profit and the fact that a purpose of the Requests was to allow Heritage to gather information on a matter of public interest for (among other things) use by authors of its publication, *The Daily Signal*, which is a major news outlet. *Id.* at 3–4; *see also, supra* n. 5.

#### ***FOIA Request 2022-HQ-00769***

90. DHS received the HQ Request the same day it was transmitted. DHS Acknowledgement of FOIA Request 2022-HQFO-00769, at 1 (Mar. 31, 2022) (Ex. 2). DHS’s Headquarters FOIA Office transferred portions of the HQ Request to CBP and OCR for direct response. *Id.* at 3. It also granted a fee waiver conditional on sampling random responsive documents. *Id.* at 2–3. Finally, because the HQ Request sought “documents that will require a



thorough and wide-ranging search,” DHS invoked a 10-day extension to make a determination on the HQ Request pursuant to 6 C.F.R. § 5.5(c). *Id.*

91. On June 1, 2022, Heritage wrote to DHS via PAL to convey that Heritage understood the HQ Request could be “voluminous” and therefore Heritage was “requesting monthly partial responses” with the first response requested by “June 1, 2022.” Heritage received no response to this communication.

92. On June 7, 2022, Heritage again wrote via PAL to remind DHS “not to hold records pending completion of review” and that Heritage had requested a rolling production as records became available. Heritage also noted that it was contemplating litigating the HQ Request. *Id.* Heritage received no response to this communication.

93. Taking into account the invocation of a 10-day extension pursuant to 6 C.F.R. § 5.5(c) 30 working days from March 23, 2022 is May 4, 2022.

### ***FOIA Request CPB-2022-056936***

#### **DHS’s Denial**

94. The FOIA Division of the U.S. Customs and Border Patrol (“FOIA Division”) transmitted what appears to be a “form” response to the CBP Request on March 31, 2022. DHS Denial of DHS FOIA CBP-2022-056926 (Mar. 31, 2022) (“Denial”) (Ex. 3). That response stated in pertinent part:

A search of CBP databases produced records responsive to your Freedom of information Act (FOIA) request CBP-2022-056936.

CBP has determined that the responsive records are denied in full, pursuant to Title 5 U.S.C. § 552 and have applied the appropriate exemptions<sup>18</sup>.

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<sup>18</sup> The language “exemptions” was hyperlinked to a DHS document entitled *Definitions of Exemptions Under the Freedom of Information Act (5 U.S.C. § 552)* (Ex. 3-1). The document recited a form list of FOIA Exemptions and contained other general FOIA related information.

Pursuant to DHS Instruction 262-11-004, FOIA Officers at DHS have been instructed to withhold personally identifiable information (PII) and sensitive personally identifiable information (SPII) of DHS personnel unless a determination is made that the disclosure does not raise security or privacy concerns, or if those concerns are outweighed by any public interest in that information. This policy is available online.<sup>19</sup> Under this policy, the names of senior leaders, spokespersons, and political appointees are generally releasable. With respect to this FOIA request, DHS may have applied FOIA Exemption 6 to protect PII of DHS employees, including names and contact information. To the extent that has DHS withheld employee PII within these records, it has been determined that the employee(s) has/have substantial and legitimate privacy interests and that these interests are not outweighed by any public interest in the operations of the Department.

*Id.* at 1.

95. No information accompanied the Denial to explain how the apparent form portions of its language traversed the specifics of the CBP Request.<sup>20</sup>

### **Heritage’s Administrative Appeal**

96. On April 1, 2002, Heritage appealed the Denial both as to the denial in full and the adequacy of search. Heritage Appeal of DHS FOIA CBP-2022-056926, at 1 (Apr. 1, 2022) (“Heritage Appeal”) (Ex. 4).

97. Heritage’s Appeal noted that the Denial—on its face—violated numerous provisions of the applicable DHS FOIA regulations. *Id.* at 3.

98. *First*, the Heritage Appeal noted that DHS Regulations require both that a denial “be signed by a head of the component, or designee” and that any denial include “[t]he name and title or position of the person responsible for the denial.” 6 C.F.R. § 5.6(e). Heritage Appeal at 3. But the Denial’s form language lacked such signature or information. *Id.*

99. *Second*, the Heritage Appeal noted that DHS Regulations require that “[a] brief statement of the reasons for the denial, including any FOIA exemption applied by the component

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<sup>19</sup> The language: “This policy is available online” was hyperlinked to what appears to be *DHS Directives System Instruction Number 262–11-004* (Jan. 15, 2021) (Ex. 3-2).

<sup>20</sup> The Denial did not address Heritage’s fee waiver request for the CBP Request.

in denying the request.” 6 C.F.R. § 5.6(e)(2). Heritage Appeal at 3. But the Denial’s seeming “form” language simply stated “CBP has determined that the responsive records are denied in full, pursuant to Title 5 U.S.C. §552 and have applied the appropriate exemptions,” and that DHS “*may* have applied FOIA Exemption 6.” Denial at 1 (emphasis added).

100. *Third*, the Heritage Appeal noted that DHS regulations require that a denial provide: “[An] ‘estimate of the volume of any records or information withheld, for example, by providing the number of pages of some other reasonable form of estimation. This estimation is not required if the volume is otherwise indicated by deletions. . . .’” Heritage Appeal at 3 (quoting 6 C.F.R. § 5.6(e)(3)). But the Denial simply stated that “[a] search of CBP databases produced records responsive” to the Request and the Request was “denied in full.” Denial at 1.

101. *Fourth*, the Heritage Appeal questioned the adequacy of the search (or existence of a search at all) in light of the boilerplate response which failed to comply with basic procedural DHS FOIA regulations and the lack of any affirmative description of how the putative search was conducted. Heritage Appeal at 3.

### **FOIA Appeal Office’s Remand**

102. The U.S. Customs and Border Patrol FOIA Appeals Office (“Appeals Office”) responded to the Heritage Appeal by letter on April 12, 2022 “remand[ing] . . . [the] case file to FOIA Division for further processing of your request.” Remand of DHS FOIA Request CBP-2022-056936, at 1 (Apr. 12, 2022) (“Remand”) (Ex. 5).<sup>21</sup>

103. The Remand began by disclosing that a review of the internal DHS case file for the CBP Request (the “File”) allowed the Appeals Office to “determine[] that FOIA Division

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<sup>21</sup> DHS FOIA Regulations do not provide for “remand” on appeal. *See* 6 C.F.R. § 5.8. At no time has Heritage received any information from DHS regarding DHS’s process or procedure for FOIA remands other than as set forth herein.

intended to withhold those records pursuant to both Exemptions 6 and Exemption 7A.” *Id.* The Remand did not explain why DHS violated its own regulations by not conveying this basic information to Heritage in the Denial. Nor did the Remand explain why the intended Exemptions were not clear on the face of the File (as one presumes they would have been) such that the Appeals Office had to “determine[]” the intended Exemptions.

104. The Remand then revealed that:

FOIA Division did not conduct a segregability review. Indeed, although FOIA Division contacted the Office of Professional Responsibility (OPR) to obtain records responsive to your request, it relied on OPR’s assertion that the responsive records are part of “open/pending investigations” to conclude that the records should be withheld in full pursuant to the above referenced exemptions. FOIA Division did not collect the records or review them to ensure that the entirety of each record fit within the bounds of the exemptions or determine that “the agency reasonably foresees that disclosure would harm an interest protected by an exemption,” 5 U.S.C. §552(a)(8)(A)(i).

Remand at 2.

105. No explanation was provided for how the FOIA Division admittedly violated and disregard multiple core precepts of both FOIA and DHS Regulations that the FOIA Division presumably applies every day.<sup>22</sup>

106. The Remand did not expressly address Heritage’s appeal of the adequacy of the FOIA Division’s search referring only to a nebulous set of “responsive” records to be “collect[ed]” and “review[ed]” on remand suggesting only that some search was undertaken.

Remand at 2.<sup>23</sup>

107. The operative language of the actual remand provides in pertinent part:

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<sup>22</sup> See 5 U.S.C. § 555(a)(8)(A)(ii) (requiring segregability review); 5 U.S.C. § 552(a)(8)(A)(i) (permitting withholding only where review of records allows a determination that “the agency reasonably foresees that disclosure would harm an interest protected by an exemption”); 6 C.F.R. § 5.6(e) (denials must contain the “name and title or position of the person responsible for the denial”; a “brief statement of reasons for the denial” specifically noting any “FOIA exemption applied”; and “an estimate of the volume of records withheld”).

<sup>23</sup> The Remand did not address Heritage’s fee waiver request.

[W]e are remanding your request to FOIA Division to collect and meaningfully review the records responsive to your request. In doing so, we preserve your administrative appeal rights. . . . Because there were no substantive determinations made related to the records responsive to your request, we have determined that a remand is the most appropriate recourse. FOIA Division is aware of this remand and we note your initial request case file is open.

Remand at 2.

#### **DHS's Failure to Adhere to Statutory Timelines on Remand**

108. The Remand reached the FOIA Division no later than April 12, 2022. *See* Remand at 2 (“FOIA Division is aware of this remand”). DHS previously admitted that FOIA Division is the appropriate component to receive the CBP Request.

109. Subsequent to the Remand, on April 12, 2022, Heritage emailed the Chief of the Appeals Office to transmit an article stating that DHS’s investigation into the Incident had concluded and requested that DHS take appropriate action on potential use of FOIA Exemption 7A. Email from R. Jankowski to S. Suzuki (Apr. 14, 2022, 12:58 EST) (Ex. 6). The Appeals Office responded that the investigation was open as of the date of the Denial, but that the current status was unknown. Email from S. Suzuki to R. Jankowski (Apr. 19, 2022; 09:26 EST).

110. 20 working days from April 12, 2022 is May 10, 2022.

111. At no point has DHS made findings of “unusual circumstances” under 5 U.S.C. § 552(a)(6)(B) regarding the Request.

112. Heritage has not received any communication regarding the Request from DHS since the Remand other than those discussed, *supra* ¶109.

#### ***FOIA Request 2022-CRFO-00090***

113. On June 1, 2022, Heritage wrote to DHS via PAL to convey that Heritage understood the CRO Request could be “voluminous” and therefore Heritage was “requesting monthly partial responses” with the first response requested by “June 1, 2022.”

114. CRO responded on June 15, 2022, stating “[w]e will work on sending you partial responses and do our best to send the first response by June 1, 2022.”

115. CRO informed Heritage on June 5, 2022, that it would make “a production” that week. Email from CRO FOIA to Heritage (June 5, 2022, 1:34 PM EST).

116. On June 9, OCR sent Heritage a document they described as “our response” to Heritage’s OCR Request. Letter Re: 2022-CRFO-00090, at 1 (June 9, 2022) (Ex. 7). OCR produced 57 pages of records in whole or in part. *Id.* at 3. It transferred 502 pages of records to CBP and 14 pages of records to the OIG for processing. *Id.* at 1.

117. On June 9, 2022, Heritage received an email from the FOIA Division at CBP stating that the tracking number of the referral to CBP had changed: “The FOIA referral CBP-2022-090010 has had its Tracking Number changed to CBP-OPA-2022-090010. This is normally due to the referral being transferred to another agency (for example, EPA to Dept. of Commerce) or to a sub-agency to process it.” Email from FOIA Division to Heritage (June 9, 2022, 16:14 EST) (Ex. 8). The referral indicated that OCR sent CBP’s Office of Public Accountability 502 pages of records. *Id.*

**FIRST CLAIM FOR RELIEF**  
**FOIA 2022-HQFO-00769**  
**Violation of FOIA, 5 U.S.C. §552**  
**Failure to Conduct Adequate Searches for Responsive Records**

118. Heritage re-alleges paragraphs 1–117 as if fully set out herein.

119. FOIA requires all doubts to be resolved in favor of disclosure. “Transparency in government operations is a priority of th[e Biden] . . . Administration.” Attorney General, *Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines*, at 4 (Mar. 15, 2022). Secretary Mayorkas has testified that “[o]ne of the

hallmarks . . . of our department is openness and transparency,”<sup>24</sup> and “[w]e pride ourselves on responsiveness.”<sup>25</sup>

120. Heritage properly requested records within the possession, custody, or control of Defendant.

121. Defendant is subject to FOIA and therefore must make reasonable efforts to search for requested records.

122. Defendant has failed to promptly review agency records for the purpose of locating and collecting those records that are responsive to Heritage’s HQ FOIA Request.

123. Defendant’s failure to conduct searches for responsive records violates FOIA and the DHS regulations.

124. Heritage has a statutory right to the information it seeks.

125. Defendant is in violation of FOIA.

126. Heritage is being irreparably harmed by reason of Defendant’s violation of FOIA. Heritage is being denied information to which it is statutorily entitled and that is important to carrying out Heritage’s functions as a non-partisan research and educational institution and publisher of news. Heritage will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

127. Heritage has no adequate remedy at law.

128. Heritage has constructively exhausted its administrative remedies.

**SECOND CLAIM FOR RELIEF**  
**FOIA 2022-HQFO-00769**  
**Violation of FOIA, 5 U.S.C. § 552**

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<sup>24</sup> *Oversight of the Department of Homeland Security: Hearing Before the H. Comm on Jud.*, 117th Cong., CQ Transcript, at \*27 (Apr. 28, 2022).

<sup>25</sup> *A Review of the Fiscal Year 2022 Budget Request for the Department of Homeland Security: Hearing Before the H. Comm. Homeland Security*, 117th Cong. 47 (June 17, 2021).

### **Wrongful Withholding of Non-Exempt Responsive Records**

129. Heritage re-alleges paragraphs 1–128 as if fully set out herein.

130. FOIA requires all doubts to be resolved in favor of disclosure. “Transparency in government operations is a priority of th[e Biden] . . . Administration.” Attorney General, *Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines*, at 4 (Mar. 15, 2022). Secretary Mayorkas has testified that “[o]ne of the hallmarks . . . of our department is openness and transparency,”<sup>26</sup> and “[w]e pride ourselves on responsiveness.”<sup>27</sup>

131. Heritage properly requested records within the possession, custody, or control of Defendant.

132. Defendant is subject to FOIA, and therefore must release to a FOIA requester any non-exempt records and provide a lawful reason for withholding any records.

133. Defendant is wrongfully withholding non-exempt records requested by Heritage by failing to produce any records responsive to Heritage’s HQ FOIA Request.

134. Defendant is wrongfully withholding non-exempt-agency records requested by Heritage by failing to segregate exempt information in otherwise non-exempt records responsive to Heritage’s HQ FOIA Request.

135. Defendant’s failure to provide all non-exempt responsive records violates FOIA and DHS regulations.

136. Heritage has a statutory right to the information it seeks.

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<sup>26</sup> *Oversight of the Department of Homeland Security: Hearing Before the H. Comm on Jud.*, 117th Cong., CQ Transcript, at \*27 (Apr. 28, 2022).

<sup>27</sup> *A Review of the Fiscal Year 2022 Budget Request for the Department of Homeland Security: Hearing Before the H. Comm. Homeland Security*, 117th Cong. 47 (June 17, 2021).



137. Defendant is in violation of FOIA.

138. Heritage is being irreparably harmed by reason of Defendant's violation of FOIA.

Heritage is being denied information to which it is statutorily entitled and that is important to carrying out Heritage's functions as a non-partisan research and educational institution and publisher of news. Heritage will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

139. Heritage has no adequate remedy at law.

140. Plaintiff has constructively exhausted its administrative remedies.

**THIRD CLAIM FOR RELIEF**

**FOIA CBP-2022-056926**

**Violation of FOIA, 5 U.S.C. §552**

**Failure to Conduct Adequate Searches for Responsive Records**

141. Heritage re-alleges paragraphs 1–140 as if fully set out herein.

142. FOIA requires all doubts to be resolved in favor of disclosure. “Transparency in government operations is a priority of th[e Biden] . . . Administration.” Attorney General, *Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines*, at 4 (Mar. 15, 2022). Secretary Mayorkas has testified that “[o]ne of the hallmarks . . . of our department is openness and transparency,”<sup>28</sup> and “[w]e pride ourselves on responsiveness.”<sup>29</sup>

143. Heritage properly requested records within the possession, custody, or control of Defendant.

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<sup>28</sup> *Oversight of the Department of Homeland Security: Hearing Before the H. Comm on Jud.*, 117th Cong., CQ Transcript, at \*27 (Apr. 28, 2022).

<sup>29</sup> *A Review of the Fiscal Year 2022 Budget Request for the Department of Homeland Security: Hearing Before the H. Comm. Homeland Security*, 117th Cong. 47 (June 17, 2021).

144. Defendant is subject to FOIA and therefore must make reasonable efforts to search for requested records.

145. Defendant has failed to promptly review agency records for the purpose of locating and collecting those records that are responsive to Heritage’s CBP FOIA Request.

146. Defendant’s failure to conduct searches for responsive records violates FOIA and the DHS regulations.

147. Heritage has a statutory right to the information it seeks.

148. Defendant is in violation of FOIA.

149. Heritage is being irreparably harmed by reason of Defendant’s violation of FOIA. Heritage is being denied information to which it is statutorily entitled and that is important to carrying out Heritage’s functions as a non-partisan research and educational institution and publisher of news. Heritage will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

150. Heritage has no adequate remedy at law.

151. Heritage has constructively exhausted its administrative remedies.

**FOURTH CLAIM FOR RELIEF**  
**FOIA CBP-2022-056926**  
**Violation of FOIA, 5 U.S.C. § 552**  
**Wrongful Withholding of Non-Exempt Responsive Records**

152. Heritage re-alleges paragraphs 1–151 as if fully set out herein.

153. FOIA requires all doubts to be resolved in favor of disclosure. “Transparency in government operations is a priority of th[e Biden] . . . Administration.” Attorney General, *Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines*, at 4 (Mar. 15, 2002). Secretary Mayorkas has testified that “[o]ne of the

hallmarks . . . of our department is openness and transparency,”<sup>30</sup> and “[w]e pride ourselves on responsiveness.”<sup>31</sup>

154. Heritage properly requested records within the possession, custody, or control of Defendant.

155. Defendant is subject to FOIA, and therefore must release to a FOIA requester any non-exempt records and provide a lawful reason for withholding any records.

156. Defendant is wrongfully withholding non-exempt records requested by Heritage by failing to produce any records responsive to Heritage’s CBP FOIA Request.

157. Defendant is wrongfully withholding non-exempt-agency records requested by Heritage by failing to segregate exempt information in otherwise non-exempt records responsive to Heritage’s CBP FOIA Request.

158. Defendant’s failure to provide all non-exempt responsive records violates FOIA and DHS regulations.

159. Heritage has a statutory right to the information it seeks.

160. Defendant is in violation of FOIA.

161. Heritage is being irreparably harmed by reason of Defendant’s violation of FOIA. Heritage is being denied information to which it is statutorily entitled and that is important to carrying out Heritage’s functions as a non-partisan research and educational institution and publisher of news. Heritage will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

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<sup>30</sup> *Oversight of the Department of Homeland Security: Hearing Before the H. Comm on Jud.*, 117th Cong., CQ Transcript, at \*27 (Apr. 28, 2022).

<sup>31</sup> *A Review of the Fiscal Year 2022 Budget Request for the Department of Homeland Security: Hearing Before the H. Comm. Homeland Security*, 117th Cong. 47 (June 17, 2021).

162. Heritage has no adequate remedy at law.
163. Plaintiff has constructively exhausted its administrative remedies.

**WHEREFORE** as a result of the foregoing, Plaintiff prays that this Court:

- A. Order Defendant to conduct a search or searches reasonably calculated to uncover all records responsive to Heritage's HQ FOIA Request and Heritage's CBP FOIA Request;
- B. Order Defendants to produce, within twenty days of the Court's order, or by such other date as the Court deems appropriate, any and all non-exempt records responsive to Heritage's HQ FOIA Request and Heritage's CBP FOIA Request and indexes justifying the withholding of any responsive records withheld in whole or in part under claim of exemption;
- C. Enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Heritage's HQ FOIA Request and Heritage's CBP FOIA Request;
- D. Retain jurisdiction over this matter as appropriate;
- E. Award Heritage its costs and reasonable attorneys' fees in this action as provided by 5 U.S.C. § 522(a)(4)(E); and
- F. Grant such other and further relief as this Court may deem just and proper.

Dated: June 21, 2022

Respectfully submitted,

/s/ Samuel Everett Dewey  
SAMUEL EVERETT DEWEY  
(No. 99979)  
Chambers of Samuel Everett Dewey, LLC  
Telephone: (703) 261-4194  
Email: samueledewey@sedchambers.com

*Counsel for Plaintiffs*

# EXHIBIT 1



214 Massachusetts Avenue, NE  
Washington, DC 20002  
(202) 546-4400  
heritage.org

**SENT VIA PAL**

March 23, 2022

Department of Homeland Security  
2707 Martin Luther King Jr. AVE SE  
Washington, DC 20528-065

Dear FOIA Officer,

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Department of Homeland Security (DHS), I respectfully request the following records (or records containing the following information):

- Section 1) For purposes of this numbered request and for all that follow the term “the September 19, 2021, incident” means “Allegations made against or about United States Customs and Border Protection (CBP) agents “whipping” or otherwise engaging migrants attempting to cross into the United States in or near the Rio Grande River near Del Rio, Texas during the migrants’ encounter with CBP agents on September 19, 2021. Photographs of this encounter were taken by El Paso freelance journalist Paul Ratje.”
- Section 2) all records depicting or describing the findings of the “investigative work” done by U.S. Customs and Border Protection’s Office of Professional Responsibility on the September 19, 2021 incident as described in Section 1.
- Section 3) all records depicting or describing the conclusions and the analysis of the “investigative work” done by U.S. Customs and Border Protection’s (CPB) Office of Professional Responsibility on “the September 19, 2021 incident” as described in Section 1.
- Section 4) all records of communications between the Office of the Secretary of the Department of Homeland Security and the White House referring to “the September 19, 2021 incident” as described in Section 1.
- Section 5) all records of communications to and from the Office of Public Affairs referring to “the September 19, 2021 incident” as described in Section 1.



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Washington, DC 20002

(202) 546-4400  
heritage.org

- Section 6) all records of communications to and from the and the office of Legislative affairs referring to “the September 19, 2021 incident” as described in Section 1.
- Section 7) all records of communications to and from the office of Civil Rights and Civil Liberties referring to “the September 19, 2021 incident” as described in Section 1.
- Section 8) all records, including emails, texts and other communications to and from the White House staff to the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1.
- Section 9) all records, including emails, texts and other communications from the Secretary of Homeland Security Alejandro Mayorkas or his staff to the Office of the Inspector General mentioning or referring to “the September 19, 2021 incident” as described in Section 1.
- Section 10) all records, including emails, texts and other communications from all records, including emails, texts and other communications from Raul L. Ortiz, Chief, United States Border Patrol or his staff to: the Office of the Inspector General; DHS Civil Rights and Civil Liberties; U.S. Customs and Border Protection’s Office of Professional Responsibility; and the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1.
- Section 11) all records, including emails, texts and other communications from all records, including emails, texts and other communications from Troy A. Miller, Deputy Commissioner (Acting Commissioner) or his staff to: the Office of the Inspector General; DHS Civil Rights and Civil Liberties; U.S. Customs and Border Protection’s Office of Professional Responsibility; and the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1.

Please limit the search from September 18, 2021, through March 22, 2022.

Any communications including all locations likely to contain communications, including correspondence files, appropriate locations on hard drives and shared drives, emails, calendar entries, or invitations, text messages or other direct messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Google Chat, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync and shared messages systems such as Slack or Microsoft Teams.



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This request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.

To the extent that potentially responsive documents contain agency notes or information on internal agency deliberations, I respectfully request that these records be provided with such information redacted. Additionally, if you believe that any potentially responsive records include any personal, commercial, or proprietary information, I respectfully request that these records be provided with such information redacted.

#### Fee Waiver Request

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) nonprofit, Heritage Foundation does not have a commercial purpose and the release of the information requested is not in Heritage Foundation's commercial interest. Heritage Foundation's mission is to formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. Heritage Foundation uses the information requested and analyzes it in order to educate the public through social media,<sup>1</sup> broadcast media<sup>2</sup> (traditional and nontraditional) and press releases.<sup>3</sup> The requested information is in the public interest<sup>4</sup> and has been in the public interest since September 19, 2021.<sup>5</sup>

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<sup>1</sup> Heritage Foundation. [@ Heritage] (2022, February 18). 626.8K Followers Twitter. <https://twitter.com/Heritage>

<sup>2</sup> Fox News. (2022, February 18). Heritage Foundation launches Conservative Oversight Project aimed at 'exposing' Biden admin, leftist policies. <https://www.foxnews.com/politics/heritage-conservative-oversight-project-biden-admin-leftist-policies>

<sup>3</sup> Heritage Foundation. (2022, February 18) Press. <https://www.heritage.org/press> .

<sup>4</sup> Washington Time. (2022, March 22) Border Patrol union fears agents getting railroaded in DHS probe of 'whipping' Haitian migrants. <https://www.washingtontimes.com/news/2022/mar/19/border-patrol-union-fears-agents-getting-railroade/>

<sup>5</sup> Fox News. (2022, March 22) Media peddles narrative horseback Border Patrol agents using 'whips' on Haitian migrants in Del Rio. <https://www.foxnews.com/media/border-patrol-agents-whips-haitian-migrants>





214 Massachusetts Avenue, NE  
Washington, DC 20002  
(202) 546-4400  
heritage.org

Because this is a request by a member of the news media for information of public interest, made in my capacity as an author for the *Daily Signal*<sup>6</sup> (a major news outlet<sup>7</sup>), I actively gather information of potential interest to our Daily Signal Audience, and I use my editorial skills to turn raw materials into a distinct work, and I distribute that work to our Daily Signal audience through podcasts<sup>8</sup> or articles. I request that you waive all applicable fees associated with this request.

If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$50. Please send me a detailed and itemized explanation of those charges.

In the interest of expediency and to minimize the research and/or duplication burden on your staff, please send records electronically if possible. If this is not possible, please notify me before sending to the mailing address listed below. In all cases, please communicate with me at the telephone number or email address below.

If any portion of this request is denied for any reason, please provide written notice of the records or portions of records that are being withheld and cite each specific exemption of the Freedom of Information Act on which the agency relies.

Please provide partial responses when they are ready. Thank you in advance for considering my request. If you have any questions, please contact me at [oversightproject@heritage.org](mailto:oversightproject@heritage.org).

Sincerely,

Mike Howell  
Senior Advisor and Author at *The Daily Signal*  
The Heritage Foundation  
214 Massachusetts Ave

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<sup>6</sup>Daily Signal. (2022, February 18). Mike Howell. <https://www.dailysignal.com/author/mike-howell/>

<sup>7</sup>Daily Signal. [@DailySignal] (2022, February 18). 73.7K Followers Twitter. <https://twitter.com/DailySignal>

<sup>8</sup> Apple. (2022, March 4) The Daily Signal Podcast. <https://podcasts.apple.com/us/podcast/the-daily-signal-podcast/id1313611947>

# EXHIBIT 2



**Homeland  
Security**

*Privacy Office, Mail Stop 0655*

March 31, 2022

**SENT VIA E-MAIL TO: mike.howell@heritage.org**

Michael Howell  
Senior Advisor and Author at Daily Signal  
The Heritage Foundation  
214 Massachusetts Ave NE  
Washington, DC 20002

Re: **2022-HQFO-00769**

Dear Mr. Howell:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated March 23, 2022, and to your request for a waiver of all assessable FOIA fees. Our office received your request on March 23, 2022. Specifically, you requested Section 1) For purposes of this numbered request and for all that follow the term “the September 19, 2021, incident” means “Allegations made against or about United States Customs and Border Protection (CBP) agents “whipping” or otherwise engaging migrants attempting to cross into the United States in or near the Rio Grande River near Del Rio, Texas during the migrants’ encounter with CBP agents on September 19, 2021. Photographs of this encounter were taken by El Paso freelance journalist Paul Ratje.”

Section 2) all records depicting or describing the findings of the “investigative work” done by U.S. Customs and Border Protection’s Office of Professional Responsibility on the September 19, 2021 incident as described in Section 1.

Section 3) all records depicting or describing the conclusions and the analysis of the “investigative work” done by U.S. Customs and Border Protection’s (CPB) Office of Professional Responsibility on “the September 19, 2021 incident” as described in Section 1.

Section 4) all records of communications between the Office of the Secretary of the Department of Homeland Security and the White House referring to “the September 19, 2021 incident” as described in Section 1.

Section 5) all records of communications to and from the Office of Public Affairs referring to “the September 19, 2021 incident” as described in Section 1.

Section 6) all records of communications to and from the and the office of Legislative affairs referring to “the September 19, 2021 incident” as described in Section 1.

Section 7) all records of communications to and from the office of Civil Rights and Civil Liberties referring to “the September 19, 2021 incident” as described in Section 1.

Section 8) all records, including emails, texts and other communications to and from the White House staff to the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning

or referring to “the September 19, 2021 incident” as described in Section 1.

Section 9) all records, including emails, texts and other communications from the Secretary of Homeland Security Alejandro Mayorkas or his staff to the Office of the Inspector General mentioning or referring to “the September 19, 2021 incident” as described in Section 1.

Section 10) all records, including emails, texts and other communications from all records, including emails, texts and other communications from Raul L. Ortiz, Chief, United States Border Patrol or his staff to: the Office of the Inspector General; DHS Civil Rights and Civil Liberties; U.S. Customs and Border Protection’s Office of Professional Responsibility; and the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1.

Section 11) all records, including emails, texts and other communications from all records, including emails, texts and other communications from Troy A. Miller, Deputy Commissioner (Acting Commissioner) or his staff to: the Office of the Inspector General; DHS Civil Rights and Civil Liberties; U.S. Customs and Border Protection’s Office of Professional Responsibility; and the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1.

Please limit the search from September 18, 2021, through March 22, 2022.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Consistent with 6 C.F.R. Part 5 § 5.5(a) of the DHS FOIA regulations, the Department processes FOIA requests according to their order of receipt.

Although DHS’ goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances under 6 C.F.R. Part 5 § 5.5(c). As your request seeks documents that will require a thorough and wide-ranging search, DHS will invoke a 10-day extension for your request pursuant to 6 C.F.R. Part 5 § 5.5(c). If you would like to narrow the scope of your request, please contact our office. We will make every effort to comply with your request in a timely manner.

You have requested a fee waiver. The DHS FOIA regulations at 6 C.F.R. Part 5 § 5.11(k) set forth six factors DHS must evaluate to determine whether the applicable legal standard for a fee waiver has been met: (1) Whether the subject of the requested records concerns “the operations or activities of the government,” (2) Whether the disclosure is “likely to contribute” to an understanding of government operations or activities, (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons, (4) Whether the contribution to public understanding of government operations or activities will be “significant,” (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure, and (6) Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

Upon review of the subject matter of your request, and an evaluation of the six factors identified above, DHS has determined that it will conditionally grant your request for a fee waiver. The fee waiver determination will be based upon a sampling of the responsive documents received from the various DHS program offices as a result of the searches conducted in response to your FOIA request. DHS will, pursuant to DHS FOIA regulations applicable to media requesters, process

the first 100 pages free of charge. If upon review of these documents, DHS determines that the disclosure of the information contained in those documents does not meet the factors permitting DHS to waive the fees, then DHS will at that time either deny your request for a fee waiver entirely, or will allow for a percentage reduction in the amount of the fees corresponding to the amount of relevant material found that meets the factors allowing for a fee waiver. In either case, DHS will promptly notify you of its final decision regarding your request for a fee waiver and provide you with the responsive records as required by applicable law.

In the event that your fee waiver is denied, and you determine that you still want the records, provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS FOIA regulations as they apply to media requesters. As a media requester you will be charged 10 cents per page for duplication; the first 100 pages are free. In the event that your fee waiver is denied, we will construe the submission of your request as an agreement to pay up to \$25.00. This office will contact you before accruing any additional fees.

Please be aware that DHS is decentralized and each DHS component has its own FOIA Officer. As your request seeks records from multiple component offices, certain sections of your request will need to be transferred to the appropriate component offices as outlined below.

Due to the subject matter of sections 2, 3, 10 and 11 of this request, I am transferring these sections to the FOIA Officer for U.S. Customs and Border Protection (CBP), for processing under the FOIA and direct response to you. You may contact CBP's FOIA offices directly at:

CBP  
FOIA Officer  
U.S. Customs and Border Protection  
90 K Street, NE  
FOIA Division  
Washington, DC 20229  
Phone: 202-325-0150  
[CBP Website](#)

Additionally, due to the subject matter of section 7 of your request, I am transferring this section to the FOIA Officer for the Office of Civil Rights and Civil Liberties (CRCL), for processing under the FOIA and direct response to you. You may contact CRCL's FOIA office directly at:

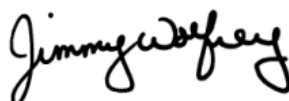
CRCL  
Office for Civil Rights and Civil Liberties, Mail Stop 0190  
ATTN: CRCL FOIA Officer  
Department of Homeland Security  
2707 Martin Luther King Jr. AVE SE  
Washington, DC 20528-065  
E-mail: [crclfoia@hq.dhs.gov](mailto:crclfoia@hq.dhs.gov)

We have queried the appropriate component(s) of DHS for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the analysts in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

Your request has been assigned reference number **2022-HQFO-00769**. Please refer to this identifier in any future correspondence. The status of your FOIA request is now available online and can be accessed at: <https://foiarequest.dhs.gov/app/CheckStatus.aspx>, by using this FOIA request number.

If you have any questions, or would like to discuss this matter, please feel free to contact this office at 1-866-431-0486 or 202-343-1743 or at [foia@hq.dhs.gov](mailto:foia@hq.dhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jimmy Wolfrey". The signature is written in a cursive, flowing style.

Jimmy Wolfrey  
Senior Director, FOIA Operations and Management  
(Acting)

# EXHIBIT 3

Mr. Mike Howell

The Heritage Foundation

214 Massachusetts Ave NE  
Washington, DC, 20002

03/31/2022

Dear Mr. Mike Howell,

A search of CBP databases produced records responsive to your Freedom of Information Act (FOIA) request CBP-2022-056936.

CBP has determined that the responsive records are denied in full, pursuant to Title 5 U.S.C. §552 and have applied the appropriate [exemptions](#).

Pursuant to DHS Instruction 262-11-004, FOIA Officers at DHS have been instructed to withhold personally identifiable information (PII) and sensitive personally identifiable information (SPII) of DHS personnel unless a determination is made that the disclosure does not raise security or privacy concerns, or if those concerns are outweighed by any public interest in that information. [This policy is available online](#). Under this policy, the names of senior leaders, spokespersons, and political appointees are generally releasable. With respect to this FOIA request, DHS may have applied FOIA Exemption 6 to protect PII of DHS employees, including names and contact information. To the extent that has DHS withheld employee PII within these records, it has been determined that the employee(s) has/have substantial and legitimate privacy interests and that these interests are not outweighed by any public interest in the operations of the Department.

This completes the CBP response to your request. You may contact CBP's FOIA Public Liaison, Charlyse Hoskins, by sending an email via your FOIAonline account, mailing a letter to 90 K St, NE MS 1181, Washington DC, 20229 or by calling 202-325-0150. (If you need telecommunication relay service (TRS) assistance to communicate with the CBP FOIA Office and you are in the United States, please dial 711 to obtain TRS assistance and notify the Communications Assistant that you want to contact the CBP FOIA Office at the telephone number (202) 325-0150). The FOIA Public Liaison is able to assist in advising on the requirements for submitting a request, assist with narrowing the scope of a request, assist in reducing delays by advising the requester on the type of records to request, suggesting agency offices that may have responsive records and receive questions or concerns about the agency's FOIA process. Please notate file number CBP-2022-056936 on any future correspondence to CBP related to this request.

If you are not satisfied with the response to this request, you have a right to appeal the final disposition. Should you wish to do so, you must file your appeal within 90 days of the date of this letter following the procedures outlined in the DHS regulations at Title 6 C.F.R. §5.8. Please include as much information as possible to help us understand the grounds for your appeal. You should submit your appeal via FOIAonline by clicking on the "Create Appeal" button that appears when you view your initial request. If you do not have a FOIAline account, you must send your appeal and a copy of this letter to: FOIA Appeals, Policy and Litigation Branch, U.S. Customs and Border Protection, 90 K Street, NE, 10th Floor, Washington, DC 20229-1177. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia). Additional information can be found at the following link [https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia\\_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/definitions-exemptions-foia_0.pdf).

Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. Please note that contacting the CBP FOIA Public Liaison or OGIS **does not** stop the 90-day appeal clock and **is not** a substitute for filing an administrative appeal.

Please notate file number CBP-2022-056936 on any future correspondence to CBP related to this request.



Sincerely,

U.S. Customs and Border Protection

# EXHIBIT 3-1

**Definitions of the Exemptions  
Under the Freedom of Information Act (5 U.S.C. § 552)**

Pursuant to Title 5 U.S.C. § 552 (b), the disclosure requirement of the Freedom of Information Act does not apply to matters that are –

- (1)(A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national security defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order;
- (2) related solely to the internal personnel rules and practices of an agency;
- (3) specifically exempt from disclosure by statute, provided that such statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or, establishes particular criteria for withholding or refers to particular kinds of matters to be withheld;
- (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (5) inter-agency or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege;
- (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (7) records of information compiled for law enforcement purposes, but only to the extent that the production of such records or information
  - (A) could reasonably be expected to interfere with enforcement proceedings,
  - (B) would deprive a person of a right to a fair trial or an impartial adjudication,
  - (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,
  - (D) could reasonably be expected to disclose the identity of a confidential source, including a state, local or foreign agency or authority, or any private institution which furnished information on a confidential basis, and for a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,
  - (E) would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or

prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(F) could reasonably be expected to endanger the life or physical safety of any individual;

- (8) contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions; or
- (9) geological and geophysical information and data, including maps, concerning wells.

#### Information Regarding Government Terrorist Watch List and other Counterterrorism and National Security Concerns

To the extent that your FOIA request can be interpreted as a request for records that may be maintained by CBP regarding whether a particular person is or has ever been listed in the government terrorist watch list or otherwise identified as a counterterrorism or national security concern, please be advised that the U.S. Government, through the FOIA mechanism, neither confirms nor denies whether a particular person is on the terrorist watch list or otherwise identified as a counterterrorism or national security concern. Maintaining the confidentiality of government watch lists and the identification of specific individuals as counterterrorism or national security concern is necessary to achieve the counterterrorism and national security objectives of the U.S. Government. If the U.S. Government routinely revealed this information, terrorists would be able to take actions to avoid detection by government authorities. Thus, pursuant to the FOIA Exemption 7(E), 5 U.S.C. § 552 (b)(7)(E), CBP can neither confirm or deny the existence of certain records which would tend to indicate whether a particular person is or ever was listed on the terrorist watch list or otherwise identified as a counterterrorism or national security concern. If you have questions or seek resolution regarding difficulties that you experienced during travel screening at transportation hubs—like airports and train stations—or during processing at a U.S. border, including watch list issues, problems at ports of entry or situations where you believe that you have been unfairly or incorrectly delayed, denied boarding or identified for additional screening at our nation’s transportation hubs please address these issues to the single point of contact for DHS, the Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP). Additional information regarding DHS TRIP is available at [www.dhs.gov/trip](http://www.dhs.gov/trip). Please note: this is a standard notice being issued in response to every individual who requests through FOIA “all records” on a particular person that may be maintained by the agency, requests for broad categories of records related to individual(s), and FOIA requests related to alleged travel difficulties. This notice should not be taken as an indication that additional records beyond those identified in the agency’s response do or do not exist with respect to your particular request.

#### Administrative Appeal

You have a right to appeal our withholding determination. Should you wish to do so, you must send your appeal and a copy of CBP’s FOIA response letter, within 60 days of the date of the letter, to: U.S. Customs and Border Protection, Office of Regulations and Rulings, FOIA Appeals, Policy and Litigation Branch, 90 K Street, NE, Washington, D.C. 20229, following the

procedures outlined in the Department of Homeland Security regulations at Title 6 C.F.R. § 5.9. Your envelope and letter should be marked “FOIA Appeal.” Copies of the FOIA and DHS regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

#### Judicial Review

In the event that the FOIA Appeals, Policy and Litigation Branch, should (1) fail to issue a determination of your appeal within 20 business days of its receipt (plus 10 additional business days, if you are notified in writing that an extension of time is required and applicable), or (2) deny your appeal, you may obtain judicial review pursuant to Title 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the district in which you (your client) reside(s) or have (has) a principal place of business, or in which the agency records are situated, or in the United States District Court for the District of Columbia.

# **EXHIBIT 3-2**

Department of Homeland Security  
DHS Directives System  
Instruction Number: 262-11-004  
Revision Number: 00  
Issue Date: 01/15/2021

# WITHHOLDING OF PERSONNEL'S PERSONALLY IDENTIFIABLE INFORMATION FROM DISCLOSURE

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## I. Purpose

This Instruction, which implements the Department of Homeland Security (DHS or the Department) Directive 262-11, "Freedom of Information Act Compliance," serves as guidance on the case-by-case analysis performed regarding the application of Freedom of Information Act (FOIA) exemptions to withhold from disclosure the Personally Identifiable Information (PII) of DHS Personnel.

## II. Scope

This Instruction applies throughout DHS and Components. This instruction does not apply to requests for access under the Privacy Act or any authority other than FOIA.

## III. References

- A. Title 5, United States Code (U.S.C.), § 552, "Public Information; Agency Rules, Opinions, Orders, Records, and Proceedings" [The Freedom of Information Act, as amended]
- B. Title 5, U.S.C., § 552a, "Records maintained on individuals" [The Privacy Act of 1974, as amended]
- C. Title 6, Code of Federal Regulations (CFR), Part 5, "Disclosure of Records and Information"
- D. DHS Delegation 13001, "Delegation to the Chief Privacy Officer"
- E. DHS Designation 00-13002, "Designation to the Chief Privacy Officer as the Department's Chief Freedom of Information Act Officer"
- F. DHS Directive 262-11, "Freedom of Information Act Compliance"

G. DHS Instruction 262-11-001 “Freedom of Information Act Compliance on Employee Notification”

## IV. Definitions

A. Agency Spokespeople: DHS employees authorized to speak to the media on behalf of the agency

B. **DHS Employee**: Officer or individual who is or was appointed in the civil service or uniformed servicemembers and engaged in the performance of a federal function under authority of law or an executive act in Headquarters and Components.

C. **DHS Contractor**: An employee or former employee of a company that has, a contract or is a subcontractor under a prime contract with DHS

D. **DHS Personnel**: Includes DHS Employees and DHS Contractors.

E. **Personally identifiable information (PII)**: Any information that permits the identity of an individual to be directly or indirectly inferred, including but not limited to any information that is linked or linkable to that individual such as current and former names, work and personal email addresses, work and home physical addresses, and work and home telephone numbers.

F. **Senior Agency Official: Includes political appointees, Department leaders, and DHS employees at the GS-15 level or higher .**

## V. Responsibilities

A. **Chief FOIA Officer**:

1. Oversees Components’ implementation of this instruction and the disclosure process for withholding DHS Personnel PII.
2. Ensures Component FOIA Officers are notified of their responsibilities regarding the withholding of DHS Personnel PII as part of the disclosure process.

B. **FOIA Officers**:

1. Oversees the responsible official(s) who respond to each FOIA request that contains DHS Personnel PII and ensure that responses comply with this instruction.



## VI. Content and Procedures

A. DHS routinely receives FOIA requests seeking records that may include PII related to DHS personnel.

B. FOIA Officers shall evaluate the release of DHS personnel PII on a case-by-case basis. For each such evaluation, FOIA Officers consider the factors set forth in the *Reporters' Committee* decision, which held that “information that does not directly reveal the operation or activities of the federal government falls outside the ambit of the public interest that the FOIA was enacted to serve.”<sup>1</sup> When processing records under FOIA, FOIA Officers consider whether the disclosure of DHS personnel PII will shed light on how DHS performs its statutory duties and whether the privacy interest of the DHS Personnel outweighs the public interest in that information.<sup>2</sup>

C. FOIA Officers shall consider the personal privacy interests of the DHS Personnel in evaluating whether to withhold DHS Personnel PII. DHS personnel have a substantial and legitimate interest in having their PII protected and withheld because they are associated with a Department that has multiple sensitive law enforcement and intelligence gathering missions.<sup>3</sup> DHS personnel and their family members, such as their spouse and children, are vulnerable to harassment and/or violence from persons who maliciously acquire and disseminate names, duty stations, and other personal data.<sup>4</sup> Given the heightened risk to DHS personnel regardless of their duties or assignments in the Department, DHS personnel have a substantial interest in their PII and the balance leans toward withholding DHS personnel PII unless disclosure would shed light on how DHS performs its statutory duties and such disclosure would outweigh the privacy interest of the DHS Employee or DHS Contractor.<sup>5</sup>

<sup>1</sup> *Dept. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 775 (1989).

<sup>2</sup> 5 U.S.C. § 552(b)(6).

<sup>3</sup> *In Long v. OPM*, 692 F.3d 185, 192 (2d Cir. 2012), the court upheld the withholding of names of employees from sensitive agencies and those in sensitive occupations, and indicated “[i]t is not uncommon to recognize a privacy interest in a federal employee's work status, if the occupation alone could subject the employee to harassment or attack.” Further, “[r]edaction of names goes a long way toward protecting against surveillance and publicity those things that are generally treated as nobody else's business”, *Id.* at 192, “[b]ut a primary reason for the protection afforded by Exemption 6 is to protect individuals' physical safety.” *Id.* at 195.

<sup>4</sup> Civilian federal employees have a legitimate interest in preserving the secrecy of matters that could conceivably subject them to annoyance or harassment in either their official or private lives. *Lesar v. Dep't of Justice*, 636 F.2d 472, 487 (D.C. Cir. 1980).

<sup>5</sup> The fact that federal employees have an identifiable privacy interest in avoiding disclosures of information that could lead to annoyances or harassment, however, does not authorize a blanket exemption for the names of all government employees in all records. *Baez v. Dep't of Justice*, 647 F.2d 1328, 1339 (D.C. Cir. 1980). Nonetheless, since *Long*, courts have routinely upheld agency withholding of employee information by invoking FOIA Exemption 6. See, e.g., *Ctr. For Biological Diversity v. U.S. Army Corps of Eng'gs and U.S. Customs and Border Prot.*, 405 F.Supp.3d 127 (D.D.C 2019); *Milbrand v.*

D. Component FOIA Officers shall withhold Sensitive PII and PII, including name, grade/rank, duty address, official title, and person's pay, of DHS Personnel who are employed by Components of offices with a law enforcement<sup>6</sup> or intelligence<sup>7</sup> mission unless a determination is made that disclosure does not raise security or privacy concerns or if those concerns are outweighed by the public interest in that information.

E. Component FOIA Officers shall withhold DHS Personnel PII unless a determination is made that disclosure does not raise security or privacy concerns or if those concerns are outweighed by the public interest in that information. Disclosures of information that have previously been routinely released to the public by the Department may not raise security or privacy concerns, which may include the names and other limited PII of senior agency officials in certain contexts.

F. Component FOIA Officers shall withhold lists of names and other PII of DHS Personnel currently or recently assigned within a particular Component, organization or office within DHS, unless a determination is made that disclosure does not raise security or privacy concerns or if those concerns are outweighed by the public interest in that information.

G. Component FOIA Officers may release the names, official titles, organizations, and general main phone number and public or general email addresses for agency spokespersons and senior agency officials, unless a determination is made that disclosure raises security or privacy concerns and those concerns outweigh the public interest in that information.

H. Component FOIA Officers may release anonymized or aggregated information regarding salary, bonus, and location, unless a determination is made that disclosure raises security or privacy concerns and those concerns outweigh the public interest in that information. Anonymized or aggregated should not be released if, for example, the small size of the population may permit identification of PII.

I. Component FOIA Officers may release DHS Personnel PII if the person's position or duties require frequent interaction with or direct service to the public,

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*U.S. Dep't of Labor*, No. 17-CV-13237, 2018 WL 3770053 (E.D. Mich. Aug. 9, 2018); *Vietnam Veterans of America Conn. Greater Hartford Chapter 120 v. U.S. Dep't of Homeland Security, U.S. Dep't of Vet. Affairs, and U.S. Dep't of Defense*, 8 F.Supp.3d 188, 230 (D.Conn. 2014).

<sup>6</sup> Law enforcement components include the Federal Law Enforcement Training Centers, the Federal Protective Service, the Office of Inspector General, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, Transportation Security Administration, U.S. Coast Guard, and U.S. Secret Service.

<sup>7</sup> Intelligence components include the Office of Intelligence and Analysis and U.S. Coast Guard.

provided a determination is made that disclosure does not raise security or privacy concerns or if those concerns are outweighed by the public interest in that information.

J. The DHS or Component FOIA Officer, or his or her designee, makes the final determination regarding which DHS Personnel PII is released under the FOIA.

K. The DHS or Component FOIA Officer, or his or her designee, ensures that FOIA response letters explaining the withholding of PII include a clear justification that demonstrates the threat to DHS Personnel privacy is real rather than speculative. Factors to discuss in the response letters include the position held by the relevant DHS Employee/DHS Contractor, the role played by that DHS Employee/DHS Contractor, the substance of the underlying agency action, and the nature of the agency record at issue.

## VII. Questions

Address any questions or concerns regarding this Instructions to the DHS Privacy Office or to the relevant Component, Office, or Directorate FOIA Office.



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Dena Kozanas  
Chief FOIA Officer

1/15/2021

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Date

# **EXHIBIT 4**



214 Massachusetts Avenue, NE  
Washington, DC 20002  
(202) 546-4400  
heritage.org

**SENT VIA FOIAOnline**

April 1, 2022

CBP Appeals Officer  
U.S. Customs and Border Protection  
FOIA Appeals, Policy and Litigation Branch  
90 K Street NE,  
Washington, D.C. 20229

Dear CBP Appeals Officer:

I am appealing the full denial of my Customs and Border Protection's Freedom of Information Act (FOIA) request CBP-2022-056936, dated March 23, 2022, as per the Department of Homeland Security (DHS) and U.S. Customs and Border Protection (CBP) regulations 6 CFR Part 5, and 19 CFR Part 103. Specifically, I am appealing under section §5.8(a)(1) adverse determination denying my request in full, and I am appealing the search because I am questioning the adequacy of the search.

On March 23, 2022, I requested:

Section 1) For purposes of this numbered request and for all that follow the term "the September 19, 2021, incident" means "Allegations made against or about United States Customs and Border Protection (CBP) agents "whipping" or otherwise engaging migrants attempting to cross into the United States in or near the Rio Grande River near Del Rio, Texas during the migrants' encounter with CBP agents on September 19, 2021. Photographs of this encounter were taken by El Paso freelance journalist Paul Ratje."  
Section 2) all records depicting or describing the findings of the "investigative work" done by U.S. Customs and Border Protection's Office of Professional Responsibility on the September 19, 2021 incident as described in Section 1.



214 Massachusetts Avenue, NE  
Washington, DC 20002

(202) 546-4400  
heritage.org

Section 3) all records depicting or describing the conclusions and the analysis of the “investigative work” done by U.S. Customs and Border Protection’s (CPB) Office of Professional Responsibility on “the September 19, 2021 incident” as described in Section 1.

Section 4) all records of communications between the Office of the Secretary of the Department of Homeland Security and the White House referring to “the September 19, 2021 incident” as described in Section 1.

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Section 9) all records, including emails, texts and other communications from the Secretary of Homeland Security Alejandro Mayorkas or his staff to the Office of the Inspector General mentioning or referring to “the September 19, 2021 incident” as described in Section 1.

Section 10) all records, including emails, texts and other communications from all records, including emails, texts and other communications from Raul L. Ortiz, Chief, United States Border Patrol or his staff to: the Office of the Inspector General; DHS Civil Rights and Civil Liberties; U.S. Customs and Border Protection’s Office of Professional Responsibility; and the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1.

Section 11) all records, including emails, texts and other communications from all records, including emails, texts and other communications from Troy A. Miller, Deputy Commissioner (Acting Commissioner) or his staff to: the Office of the Inspector General; DHS Civil Rights and Civil Liberties; U.S. Customs and Border Protection’s Office of Professional Responsibility; and the Secretary of Homeland Security Alejandro



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Washington, DC 20002  
(202) 546-4400  
heritage.org

Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1.

Please limit the search from September 18, 2021, through March 22, 2022.

I am appealing the adverse determination denying my request in full because CBP violated DHS FOIA regulations, specifically, sections §5.6(e), §5.6 (e)(1), §5.6 (e)(2), and §5.6 (e)(3). There was a violation of §5.6(e) because no one signed off on the denial as required per statute. There was a violation of §5.6(e)(1), because there was no name, no title, no position of the person responsible for the denial as required by statute. There was a violation of §5.6(e)(2), because there were no descriptions of the FOIA exemptions applied by CBP in denying the request, even though the statute states there should be a brief statement of the reasons for the denial, including any FOIA exemption applied by CBP in denying the request. There was a violation of §5.6(e)(3), because there was no estimate of the volume of the records withheld, or a statement that it was protected by an applicable exemption as required. Specifically, it states:

... the estimate of the volume of any records or information withheld, for example, by providing the number of pages or some other reasonable form of estimation. This estimation is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption.

I am also appealing this request because I am questioning the adequacy of the search as per §5.8 (a)(1). There was no page count or file size of the search, or a description of where the search was conducted. I believe there was no search regarding this request.

I respectfully request that CBP reassess its response, search for records, and provide responsive records. If any portion of this request is denied for any reason, please provide copies of the records or portions of records that are being withheld and cite each specific exemption of the Freedom of Information Act on which the agency relies.



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Please provide partial responses when they are ready. Thank you in advance for considering my Appeal. If you have any questions, please contact me at [oversightproject@heritage.org](mailto:oversightproject@heritage.org).

Sincerely,

Mike Howell  
Senior Advisor and Author at *The Daily Signal*  
The Heritage Foundation  
214 Massachusetts Ave



# **EXHIBIT 5**

1300 Pennsylvania Avenue, NW  
Washington, DC 20229



**U.S. Customs and  
Border Protection**

OT:RR:RDL:DLJA  
CBP-AP-2022-061230 SS

April 12, 2022

Mike Howell  
The Heritage Foundation  
214 Massachusetts Avenue NE  
Washington, DC 20002

**Re: Freedom of Information Act Request CBP-2022-056936**

Dear Mr. Howell:

This letter responds to the administrative appeal you filed with this office challenging the withholding of all records responsive to the Freedom of Information Act (FOIA) request you submitted to U.S. Customs and Border Protection (CBP) related to “the September 19, 2021, incident.” By this letter, we remand your case file to FOIA Division for further processing of your request.

On March 23, 2022, you requested via FOIAonline eleven (11) “sections” of information related to “the September 19, 2021, incident” which you stated means “[a]llegations made against or about United States Customs and Border Protection (CBP) agents ‘whipping’ or otherwise engaging migrants attempting to cross into the United States in or near the Rio Grande River near Del Rio, Texas during the migrants’ encounter with CBP agents on September 19, 2021.” You asked to limit the search from September 18, 2021, through March 22, 2022.

On March 31, 2022, CBP’s FOIA Division reported that “the responsive records are denied in full” pursuant to DHS Instruction 262-11-004 and FOIA Exemption 6 in order to protect personally identifiable information of CBP personnel. You appealed that determination the next day stating the determination violated DHS FOIA regulations and questioning the adequacy of the search.

In response to your appeal, this office contacted FOIA Division to obtain and review your request’s case file. Upon review, we determined that FOIA Division intended to withhold those records pursuant to both Exemption 6 and Exemption 7A, which protects “records or information compiled for law enforcement purposes” which “could reasonably be expected to interfere with enforcement proceedings.”

Our review additionally indicated that FOIA Division did not conduct a segregability review. Indeed, although FOIA Division contacted the Office of Professional Responsibility (OPR) to obtain records responsive to your request, it relied on OPR's assertion that the responsive records are part of "open/pending investigations" to conclude that the records should be withheld in full pursuant to the above referenced exemptions. FOIA Division did not collect the records or review them to ensure that the entirety of each record fit within the bounds of the exemptions or determine that "the agency reasonably foresees that disclosure would harm an interest protected by an exemption," 5 U.S.C. §552(a)(8)(A)(i).

To resolve the error, we are remanding your request to FOIA Division to collect and meaningfully review the records responsive to your request. In doing so, we preserve your administrative appeal rights. The administrative appeal process is important to agencies and requesters because the appeal process provides an agency with an opportunity to review its initial action taken in response to a request to determine whether corrective steps are necessary. The appeals process allows CBP to correct mistakes made at lower levels and thereby obviates unnecessary judicial review.

Because there were no substantive determinations made related to the records responsive to your request, we have determined that a remand is the most appropriate recourse. FOIA Division is aware of this remand and we note your initial request case file is open.

If you interpret this determination to be a denial of your request, you may challenge it in court. Pursuant to 5 U.S.C. §552(a)(4)(B), you may do so in the U.S. District Court in the district in which you reside or have a principle place of business, or in which the agency records are situated, or in the U.S. District Court for the District of Columbia.

Alternatively, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you wish to contact OGIS, you may email them at [ogis@nara.gov](mailto:ogis@nara.gov) or call 1-877-684-6448.

Sincerely,



Shari Suzuki, Chief  
FOIA Appeals & Policy Branch  
Regulations and Rulings Directorate  
Office of Trade  
U.S. Customs and Border Protection

# **EXHIBIT 6**

**From:** [Jankowski, Roman](#)  
**To:** [SUZUKI, SHARI](#)  
**Subject:** Re: CBP-AP-2022-061230 SS  
**Date:** Tuesday, April 19, 2022 1:54:58 PM

---

Thanks Shari :)

---

**From:** SUZUKI, SHARI [REDACTED]  
**Sent:** Tuesday, April 19, 2022 9:26 AM  
**To:** Jankowski, Roman [REDACTED]  
**Cc:** Howell, Mike [REDACTED]  
**Subject:** RE: CBP-AP-2022-061230 SS

Hi Roman,

It is good to hear from you. I did not know you had joined The Heritage Foundation. Congrats!

I know the investigation was open at the time FOIA Division issued the initial response. I remanded the appeal to them to review the records and make sure there were no segregable portions. I do not know the status of the investigation – but FOIA Division will review the applicability of the exemptions.

Regards,  
Shari

Shari Suzuki, Chief  
FOIA Appeals & Policy Branch  
Regulations & Disclosure Law Division  
Office of Trade  
U.S. Customs & Border Protection

[REDACTED]  
[REDACTED]

---

**From:** Jankowski, Roman [REDACTED]  
**Sent:** Thursday, April 14, 2022 12:58 PM  
**To:** SUZUKI, SHARI [REDACTED]  
**Cc:** Howell, Mike [REDACTED]  
**Subject:** RE: CBP-AP-2022-061230 SS

**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. If you feel this is a suspicious-looking email, please report by using the Report Phish button option.

Good Afternoon Shari Suzuki,

Thank you for reviewing and responding to our FOIA appeal so quickly. Just recently, we have received reports from multiple sources, <https://www.newsbusters.org/blogs/nb/kevin-tober/2022/04/13/nets-ignore-whipping-border-agents-being-cleared-wrongdoing>, that the investigation into the Border Patrol agents has concluded and they have been cleared. If this is true, can you or the FOIA Division please verify with OPR that there is still a pending investigation and let us know either way. I want to make sure everyone has the latest information regarding CBP's ability to use exemption 7A. My goal is to mitigate any substantive FOIA exemption issues at the lowest level possible.

---

Roman Jankowski

*Senior Investigative Counsel, Oversight Project*  
The Heritage Foundation  
214 Massachusetts Avenue, NE  
Washington, DC 20002

  
[heritage.org](https://heritage.org)

# **EXHIBIT 7**



**Homeland  
Security**

June 9, 2022

*Via electronic mail*

Michael Howell  
Senior Advisor and Author at Daily Signal  
214 Massachusetts Ave NE  
Washington, DC 20002

Re: **2022-CRFO-00090**

Dear Michael Howell:

This is our response to your Freedom of Information Act (FOIA) request dated March 23, 2022, to the Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL), seeking, ...records regarding allegations made against or about United States Customs and Border Protection (CBP) agents “whipping” or otherwise engaging migrants attempting to cross into the United States in or near the Rio Grande River near Del Rio, Texas during the migrants’ encounter with CBP agents on September 19, 2021....

The processing of your request identified certain materials that will be released to you. Portions not released are being withheld pursuant to the Freedom of Information Act, 5 U.S.C. § 552. Please refer to the Applicable Exemptions list at the end of this letter that identifies the authority for withholding the exempt material, which is indicated by a mark appearing in the block next to the exemption. An additional enclosure with this letter explains these exemptions in more detail.

Please be advised, 502 pages which have which have DHS Custom and Border Patrol (CBP) equity or originated within CBP for processing and direct response to you. The contact information for CBP’s FOIA Office is as follows:

FOIA Officer  
U.S. Customs and Border Protection  
90 K Street, NE  
FOIA Division  
Washington, DC 20229  
Phone: 202-325-0150  
[CBP Website](#)

Please be advised, 14 pages which have DHS Office of General Inspector (OIG) equity or originated within OIG, were referred to OIG for processing and direct response to you. The contact information for OIG’s FOIA Office is as follows:

FOIA Public Liaison  
DHS-OIG Counsel  
STOP 0305  
245 Murray Lane, SW



Washington, D.C. 20528-0305

Phone: 202-981-6100 | Fax: 202-245-5217 | E-mail: [FOIA.OIG@oig.dhs.gov](mailto:FOIA.OIG@oig.dhs.gov)

Please be advised, four pages which have another DHS Headquarter office equity or originated within another DHS Headquarter office, were referred to the Privacy Office (PRIV) for processing and direct response to you. The contact information for PRIV's FOIA Office is as follows:

Privacy Office, Mail Stop 0655  
Department of Homeland Security  
2707 Martin Luther King Jr. AVE SE  
Washington, DC 20528-065

Phone: 202-343-1743 or 866-431-0486 | Fax: 202-343-4011 | E-mail: [foia@hq.dhs.gov](mailto:foia@hq.dhs.gov)

### Fees

There are no fees associated with processing this request because the fees incurred do not exceed the minimum threshold necessary for charge.

### Administrative Appeal

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Office for Civil Rights and Civil Liberties, Attn: FOIA Appeals, U.S. Department of Homeland Security, 2707 Martin Luther King, Jr. Avenue, SE, Mail Stop 0190, Washington, D.C. 20528-0190, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at [www.dhs.gov/foia](http://www.dhs.gov/foia).

Additionally, you have the right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5796.

If you have any questions pertaining to your request, please feel free to contact our office at [crclfoia@hq.dhs.gov](mailto:crclfoia@hq.dhs.gov).

Sincerely,



Rosemary Law  
CRCL FOIA Officer

Summary:

Number of Pages Released in Full or Part: 57

Number of Pages Referred: 520

**APPLICABLE EXEMPTIONS  
FREEDOM OF INFORMATION ACT**

**Freedom of Information Act (5 U.S.C. 552)**

(b)(1)  (b)(2)  (b)(3)  (b)(4)  (b)(5)  (b)(6)

(b)(7)(A)  (b)(7)(B)  (b)(7)(C)  (b)(7)(D)  (b)(7)(E)  (b)(7)(F)

Enclosures

FREEDOM OF INFORMATION ACT  
SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

Exemptions

**Exemption (b)(1):** Records that contain information that is classified for national security purposes.

**Exemption (b)(2):** Records that are related solely to the internal personnel rules and practices of an agency.

**Exemption (b)(3):** Allows for the withholding of information prohibited from disclosure by another federal statute provided that one of two disjunctive requirements are met: the statute either "(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (A)(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld."

**Exemption (b)(4):** Records that contain trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

**Exemption (b)(5):** Inter- or intra-agency records that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege:

- Deliberative process privilege – Under the deliberative process privilege, disclosure of these records would injure the quality of future agency decisions by discouraging the open and frank policy discussions between subordinates and superiors.
- Attorney work-product privilege – Records prepared by or at the direction of a FinCEN attorney.
- Attorney-client privilege – Records of communications between an attorney and his/her client relating to a matter for which the client has sought legal advice, as well as facts divulged by client to attorney and any opinions given by attorney based on these.

**Exemption (b)(6):** Records that contain identifying information that applies to a particular individual when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." This requires the balancing of the public's right to disclosure against the individual's right to privacy.

**Exemption (b)(7)(A):** Records or information compiled for law enforcement purposes, but only to the extent that production of such law enforcement records or information...could reasonably be expected to interfere with law enforcement proceedings.

**Exemption (b)(7)(C):** Records containing law enforcement information when disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy" based upon the traditional recognition of strong privacy interests ordinarily appropriated in law enforcement records.

**Exemption (b)(7)(E):** Records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

# **EXHIBIT 8**

**From:** [no-reply@foiaonline.gov](mailto:no-reply@foiaonline.gov)  
**To:** [OversightProject](#)  
**Subject:** FOIA Tracking Number Change for referral CBP-2022-090010 (to CBP-OPA-2022-090010)  
**Date:** Thursday, June 9, 2022 4:14:05 PM

---

The FOIA referral CBP-2022-090010 has had its Tracking Number changed to CBP-OPA-2022-090010. This is normally due to the referral being transferred to another agency (for example, EPA to Dept. of Commerce) or to a sub-agency to process it. Additional details for this referral are as follows:

- Old Tracking Number: CBP-2022-090010
- New Tracking Number: CBP-OPA-2022-090010
- Requester Name: Mr. Mike Howell
- Date Submitted: 06/09/2022
- Long Description: (2022-CRFO-00090) 502 pgs. of CBP document was referred for review. Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Department of Homeland Security (DHS), I respectfully request the following records (or records containing the following information): Section 1) For purposes of this numbered request and for all that follow the term “the September 19, 2021, incident” means “Allegations made against or about United States Customs and Border Protection (CBP) agents “whipping” or otherwise engaging migrants attempting to cross into the United States in or near the Rio Grande River near Del Rio, Texas during the migrants’ encounter with CBP agents on September 19, 2021. Photographs of this encounter were taken by El Paso freelance journalist Paul Ratje.” Section 2) all records depicting or describing the findings of the “investigative work” done by U.S. Customs and Border Protection’s Office of Professional Responsibility on the September 19, 2021 incident as described in Section 1. Section 3) all records depicting or describing the conclusions and the analysis of the “investigative work” done by U.S. Customs and Border Protection’s (CPB) Office of Professional Responsibility on “the September 19, 2021 incident” as described in Section 1. Section 4) all records of communications between the Office of the Secretary of the Department of Homeland Security and the White House referring to “the September 19, 2021 incident” as described in Section 1. Section 5) all records of communications to and from the Office of Public Affairs referring to “the September 19, 2021 incident” as described in Section 1. Section 6) all records of communications to and from the and the office of Legislative affairs referring to “the September 19, 2021 incident” as described in Section 1. Section 7) all records of communications to and from the office of Civil Rights and Civil Liberties referring to “the September 19, 2021 incident” as described in Section 1. Section 8) all records, including emails, texts and other communications to and from the White House staff to the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1. Section 9) all records, including emails, texts and other communications from the Secretary of Homeland Security Alejandro Mayorkas or his staff to the Office of the Inspector General mentioning or referring to “the September 19, 2021 incident” as described in Section 1. Section 10) all records, including emails, texts and other communications from all records, including emails, texts and other communications from Raul L. Ortiz, Chief, United States Border Patrol or his staff to: the Office of the Inspector General; DHS Civil Rights and Civil Liberties; U.S. Customs and Border Protection’s Office of Professional Responsibility; and the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or

referring to “the September 19, 2021 incident” as described in Section 1. Section 11) all records, including emails, texts and other communications from all records, including emails, texts and other communications from Troy A. Miller, Deputy Commissioner (Acting Commissioner) or his staff to: the Office of the Inspector General; DHS Civil Rights and Civil Liberties; U.S. Customs and Border Protection’s Office of Professional Responsibility; and the Secretary of Homeland Security Alejandro Mayorkas or his staff mentioning or referring to “the September 19, 2021 incident” as described in Section 1.

# Appendix C

## NewsRoom

7/15/22 Austin Am.-Statesman (Pg. Unavail. Online)  
2022 WLNR 22156481

Austin American-Statesman (TX)  
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July 15, 2022

CBP report: Border agents used unnecessary force with Haitian **migrants**  
No evidence was found that any **migrants** were struck by horse  
reins; however, four CBP agents will face disciplinary actions.

Maria Ramirez Uribe, PolitiFact.com

After many months, Customs and Border Protection released findings from an investigation of a Sep. 19, 2021, incident in which Border Patrol agents on horseback pursued Haitian **migrants** as they crossed the Rio Grande from Ciudad Acuña, Mexico, into Del Rio, Texas. Photos and videos of the incident went viral, drawing national attention.

In a 511-page report, CBP said it found no evidence that any **migrants** were struck by horse reins; however four CBP agents will face disciplinary actions.

One agent was found to have acted unprofessionally and unsafely as he yelled profanities at a **migrant** and dangerously maneuvered his horse around a small child on a slanted concrete ramp.

Other agents used "force or the threat of force to drive the **migrants** back into the Rio Grande River."

The investigation included over 30 interviews with reporters, witnesses and agents along with a review of photos, videos, training materials and documents related to the incident.

More: Texas Gov. Greg Abbott to talk border security after **migrants** found dead in San Antonio

### **What happened on the day of the incident**

Around 15,000 Haitian immigrants had amassed in an encampment under the international bridge by the CBP point of entry in Del Rio, Texas.

At the time, Haiti had endured a presidential assassination, tropical storms and an earthquake. But the Haitians encountered by CBP were largely those who had migrated to South America years before after a 2010 earthquake hit Haiti.

When immigrants reach a U.S. point of entry, CBP agents interview them to determine if they can be let into the country, per immigration law. In this case, CBP gave the Haitian **migrants** in the encampment color-coded tickets to call on them for processing, the report said. Over several days, Border Patrol agents processed, screened and vetted more than 30,000 **migrants** by the international bridge, CBP said.



As the agency worked to process the thousands of **migrants** and food ran low in the encampment, **migrants** were allowed to move back and forth across the Rio Grande to gather food and water for themselves and their families.

The viral photos and videos of the incident were captured as agents, according to the report, tried to prevent **migrants** from traveling from side to side "for approximately 15 minutes" despite that not being the objective of the U.S. Border Patrol that day, CBP said. The agents "used force, or threats of force, to coerce or compel individuals to return to Mexico," instead of processing them in the U.S. as immigration law requires.

Fact check: Did border policy change for adults from April 2020 to April 2022?

At least two agents "used their horses to forcibly block **migrants** from exiting the river and chased **migrants** who had successfully exited the river including grabbing one by the shirt and spinning him around," the report said.

"One agent acted in an unprofessional manner by yelling denigrating and offensive comments regarding the **migrants'** national origin and gender, and that same agent acted in an unsafe manner by forcing his horse around a small child on a slanted concrete ramp, which put the child's safety at risk," the report said.

**The migrants were not threatening the agents, the report said.**

A lapse in communication, control and command led to the "unnecessary use of force against **migrants** who were attempting to reenter the United States with food."

"While one agent stated he was giving the **migrants** a choice of returning to Mexico or being arrested, a second agent could not articulate a reason for his use of force beyond trying to stop them further entering the U.S.," the report said.

There is no evidence that any **migrants** were forced to return to Mexico or denied entry to the U.S.

Following agency rules, CBP's Office of Professional Responsibility, which conducted the investigation, presented its findings to the United States Attorney's Office for the Western District of Texas on Sep. 29, 2021. But the office declined to prosecute the case.

**Border Patrol agents did not strike any migrants**

A large part of the public outcry following the incident centered on freelance journalist Paul Ratje's photo showing a U.S. Border Patrol agent grabbing a **migrant's** shirt as a horse rein swings nearby.

President Joe Biden and Vice President Kamala Harris condemned the incident.

"It was horrible what you saw. To see people treated like they did. Horses nearly running them over and people being strapped. It's outrageous. I promise you, those people will pay," Biden said in a Sep. 24, 2021, press conference.

"An investigation is underway now, and there will be consequences," Biden added.

However, in a press release, CBP said the investigation found "no evidence that any **migrants** were struck by reins."

The horses CBP used had split reins, which riders can twirl to guide the horses' movements. People who saw the image mistook the reins for **whips**. But, **whips** are not part of Border Patrol training, and no agents involved in the incident carried **whips**, said CBP Commissioner Chris Magnus in a July 8, 2022 press conference.

The report did find shortcomings in the use of horse patrol units on that day. The units deployed "did not have appropriate training, supervision and coordination," Magnus said.

After the investigation was published, congressional Republicans, including House Minority Leader Kevin McCarthy, R-Calif., asked Biden and Harris to apologize for their earlier comments.

Biden and Harris have yet to make a statement on the report.

**What comes next**

Magnus said CBP will implement changes to prevent a similar incident from occurring.

"The situation in Del Rio at the time of this incident was chaotic and unprecedented. It's clear from the investigation that decisions were made, and there was a lack of policy and training, which contributed to the incident," Magnus said. "But there is no justification for the actions of some of our personnel, including unprofessional and deeply offensive conduct."

Department of Homeland Security Secretary Alejandro Mayorkas echoed this sentiment on July 8, 2022.

"The misconduct of several individuals does not reflect the brave and distinguished service of the agents of the United States Border Patrol," Mayorkas said in a statement. "The organizational failures of policy, procedures, and training that the investigation identified were a disservice to the agents and the public they serve. CBP must and will do better."

The incident occurred because agents followed a request from the Texas Department of Public Safety after a Border Patrol supervisor cleared the agents to participate in the operation that conflicted with the Border Patrol's operational objectives, CPB said in its statement. Also, the agency said, the Border Patrol supervisor didn't get additional guidance from higher-ups in his chain of command.

Fact-check: Were ICE agents stopping undocumented parents after the Uvalde school shooting?

CBP said it would establish clear command practices for large-scale operations. The agency also said it would prohibit the use of twirling or spinning reins to distance or control crowds and would forbid the deployment of horse patrol units for crowd control without the commissioner's OK.

"We are also reviewing legal training to ensure agents understand their responsibilities and authorities at the border," Magnus said at the press conference.

A disciplinary review board was created to review the investigation. The board proposed disciplinary actions for four agents. Magnus did not specify what disciplinary actions are being taken but mentioned a range of possibilities from reprimand to termination.

Mayorkas said, "While the individual discipline process is underway, CBP is implementing the needed reforms and will continue to do so. This critical work will proceed with the urgency and commitment that the highest ideals of the law enforcement profession and service to country compel, respectful of fundamental civil rights and civil liberties."

**Our Sources**

PolitiFact, What we know about images of Border Patrol and Haitian migrants, Sept. 24, 2021  
Customs and Border Protection, Report of Investigation, July 8, 2022  
Alejandro Mayorkas, Tweet, Sept. 21, 2021  
PolitiFact, Why Haitians are crossing into the U.S. in Texas, and not somewhere closer, Sept. 23, 2021  
Paul Ratje, Tweet, Nov. 1, 2021  
ABC News, Biden blasts Border Patrol on migrant treatment, Sept. 24, 2021  
White House, Remarks by Vice President Harris in press gaggle after meeting on the build back better agenda, Sept. 21, 2021  
White House, Remarks by President Biden on the COVID-19 Response and the Vaccination Program, Sept. 24, 2021  
Kevin McCarthy, Tweet, July 8, 2022  
Department of Homeland Security, Secretary Alejandro Mayorkas statement, July 8, 2022

This article originally appeared on Austin American-Statesman: CBP report: Border agents used unnecessary force with Haitian migrants

---- **Index References** ----

Company: UNITED STATES ATTORNEYS OFFICE FOR THE DISTRICT OF COLUMBIA; CENTRAL PACIFIC FINANCIAL CORP.; U.S. Department of Homeland Security; U.S. Immigration and Customs Enforcement

News Subject: (Crime (1CR87); Criminal Law (1CR79); Emerging Market Countries (1EM65); Immigration & Naturalization (1IM88); Legal (1LE33); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Industry: (Physical Security (1PH53); Press Releases (1PR19); Security (1SE29))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); Mexico (1ME48); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (Customs and Border Protection; United States Border Patrol; Office of Professional Responsibility; Republicans; House Minority; Texas Department of Public Safety; United States Attorney's Office; CPB; Department of Homeland Security; ICE) (Greg Abbott; Haitians; Paul Ratje; Joe Biden; Kamala Harris; Chris Magnus; Kevin McCarthy; Kevin McCarthy; Alejandro Mayorkas)

Keywords: (fact-checking,U.S. Customs and Border Protection,DOT optimized,Visa & Immigration)

Word Count: 1300

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End of Document

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**NewsRoom**

## NewsRoom

7/14/22 FOX: Tucker Carlson Tonight (Pg. Unavail. Online)  
2022 WLNR 21963990

FOX: Tucker Carlson Tonight  
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July 14, 2022

### Economic Indicators Are Getting Even Worse; Rapist In Biden's Abortion Story Concerning A 10-Year-Old Child Is An Illegal Immigrant; Adam Schiff'...

Economic Indicators Are Getting Even Worse; Rapist In Biden's Abortion Story Concerning A 10-Year-Old Child Is An Illegal Immigrant; Adam Schiff's Capitol Hill Power Grab; All Cops And Adults Have Duty To Rush In And Save Kids When They Are Crying For Help

JESSE WATTERS, FOX NEWS CHANNEL HOST: "Jesse, you seem like a busy person? How did you read two books on a weekend?" I didn't. I read two books in a week and then I talked about it after the weekend was over.

That's all for us tonight. DVR the show.

Tucker is up next. Always remember, I am Watters, and this is my world.

TUCKER CARLSON, FOX NEWS CHANNEL HOST: Good evening and welcome to Tucker Carlson tech.

When we say "Good evening," we mean it, and tonight, we want to send a special, as they say on talk radio, shout out to our most loyal and faithful viewers. We love you. We appreciate you.

In fact, we think of you as all little tacos and your children as taquitos and not just tacos and taquitos, but also enchiladas and chalupas and everything else on the Taco Bell menu. That's how we think of you.

So, the good news is America at this stage is getting a lot more amusing. The bad news is it's also getting a little scary.

So today, in the second category, the government announced that inflation has once again set a year-over-year record. But now, we're used to this. If you buy anything, you already knew it was happening. Boy, did you.

But there were parts of today's Labor Department report that were not expected by anyone. In fact, they were bizarre. They seemed to defy the most basic rules of economics, but first, here are the raw numbers. This is from a FOX News report today.

(BEGIN VIDEO CLIP)

CAROLINE SHIVELY, FOX NEWS CHANNEL CORRESPONDENT: Inflation cranked up a whopping 9.1 percent in June, the highest yearly jump since 1981.

The Consumer Price Index, released Wednesday morning, showed the price of necessities far outpacing raises. The price of gas is up almost 60 percent year-over-year. Rent went up 5.6 percent over last June and food at home and dining out, increasing 10.4 percent.

If you break it down to just groceries, the annual jump was 12.2 percent. That includes eggs up 33 percent and butter up 26 percent.

(END VIDEO CLIP)

CARLSON: So, the biggest annual spike in inflation in more than 40 years. That's the headline. But if anything, it understates what's actually going on. The reality of it is worse than that.

During the Carter years, when inflation famously hit 14.6 percent, wages were still going up. As Pew put it in a recent analysis, "During the high inflation years of the 1970s and early 1980s, average wages commonly jumped seven, eight, even nine percent year-over-year" and that makes sense.

There's more money in circulation. It's worth less, but there's more of it. But that is not what is happening right now and that's the weird thing.

According to the Labor Department report today, "Real average hourly earnings decreased 3.6 percent, seasonally adjusted from June 2021 to June 2022. The change in real average hourly earnings, combined with a decrease of 0.9 percent of the average workweek, resulted in a 4.4 percent decrease in real average weekly earnings over this period."

Four point four percent average decrease in earnings. This is what economic disaster looks like.

Americans are making less money at exactly the moment when everything they buy from gas to groceries is more expensive and not just a little more expensive, a lot more expensive. Here's the big picture.

The average American household income this year is about \$87,000.00. Today's inflation numbers means the average household is losing nearly \$8,000.00 a year just from inflation. By the way, that's using the government's cooked numbers, the 9.1 percent inflation number, which is derived from the intentionally deceptive Consumer Price Index (CPI), so the real number is actually higher than that.

Rising inflation with falling wages. This is very bad, and as we said, it's also very weird. How weird? Well, here's one measure of the strangeness. The price of gas is now much cheaper in Mexico than it is in the United States, and that's why so many Californians are now driving across the border to fill their cars.

Now, why is this happening? That does not make sense. Oil price is set on the international market.

But apart from a few outlier websites like ZeroHedge, which not coincidentally the left is always trying to shut down and censor, no one seems to be asking that question.

We do know that gas prices in Mexico are so cheap that the Mexican government is encouraging more Americans to cross the border to refuel their cars.

"Right now," said the President of Mexico this week, "A gallon of regular cost \$4.78 average on your side of the border, while in Mexico, it cost \$3.12." So, you have to ask yourself, if we're paying more for gas because of Putin's price hike, why isn't Mexico paying more for gas because of Putin, too? Why is inflation up when wages are down?

This doesn't make any sense. So, if you want to answer those questions, you really have to look at government spending.

Last month, Mexico's government did not follow the Biden administration's lead in sending the Strategic Petroleum Reserve to China. They did not do that. Instead, here's what Mexico did. They spent \$2 billion in subsidies to keep gas prices lower for consumers.

In other words, the government of Mexico in the middle of a drug war is taking better care of its citizens than Joe Biden is taking care of his citizens and that is shameful, but it doesn't mean Joe Biden is ignoring the needy.

In the very same month, the gas prices shot beyond the reach of people, people aren't taking trips because of gas prices. Joe Biden, in the name of democracy, signed a \$40 billion aid package, not for you or any other American, but for Ukraine and that money, Joe Biden says, is just the beginning. It's part of our unlimited commitment to funding Ukraine's corrupt and authoritarian government. Here's Biden.

(BEGIN VIDEO CLIP)

REPORTER: "For as long as it takes." Does it mean indefinite support from the United States for Ukraine or will there come a time when you have to say to President Zelenskyy that the United States cannot support his country any longer? Thank you.

JOE BIDEN (D), PRESIDENT OF THE UNITED STATES: We are going to support Ukraine as long as it takes. We are going to stick with Ukraine and all of the allies will stick with Ukraine as long as it takes.

REPORTER: The war has pushed prices up. It could go as high as \$200.00 a barrel, some analysts think. How long is it fair to expect American drivers and drivers around the world to pay that premium for this war?

BIDEN: As long as it takes. Russia cannot, in fact, defeat Ukraine and move beyond Ukraine.

(END VIDEO CLIP)

CARLSON: Future generations will look at that tape and many tapes like it with their jaws open. "As long as it takes. Whatever the cost for Ukraine." As the American economy heads toward total destruction, Ukrainians are dying in large numbers, who's winning? Well, Ukrainian oligarchs, they're getting richer, much richer.

Since January of this year, the Biden administration has sent about \$8 billion just in so-called security assistance alone to Ukraine. That would include missile systems, howitzers, ammunition, radar systems, et cetera et cetera.

Now, defense contractors are making a ton from this, and that's why they have lobbied for it so hard, but you have to ask, once we send these weapons to Ukraine, where do they go then? What happens to them? These are sophisticated and deadly weapons systems.

Well, no one knows where they go. No one is keeping track. US officials, Biden administration officials have admitted that to "The Wall Street Journal" and we're quoting: "Once US equipment (material) is handed to the Ukrainian government US officials said they have little direct knowledge of where that material goes. They rely instead on the Ukrainian government for such information. The administration has not agreed to allow American military troops to conduct some oversight into that country."

Huh?

So, you send billions to Ukraine in the middle of a war, and then you don't bother to find out what happens to it? What will happen to these weapons? Well, the Czech Defense Minister knows. He has said these weapons, some of them will be smuggled

out of Ukraine, "It's hard to avoid trafficking or smuggling. We didn't achieve it in the former Yugoslavia and we probably won't avoid it in Ukraine."

This is lunacy. If you wanted to make Eastern Europe dangerous and unstable for generations, ensure that war continues and many more die, this is exactly what you would do. You would treat Ukraine like we treated Afghanistan.

But that's just the beginning of the money we're sending. On top of all of this security assistance; now, the head of USAID, that would be Samantha Power -- she's never left, she's still here, amazingly, after wrecking the world -- she has announced we're sending \$4 billion more to Ukraine to pay off that country's budget deficit.

Wouldn't that be nice if Samantha Power decided to pay off our budget deficit, if anyone decided to help us? But no, no one would ever do that.

So, your tax dollars are now paying the salaries of Ukrainian government bureaucrats. In all, your Congress has approved more than \$50 billion for Ukraine. That includes \$7 billion in food assistance and healthcare (healthcare), along with \$9 billion for economic support, whatever that means. There's also \$2 billion for refugee assistance.

So, just as we did in Iraq and Afghanistan and I don't know, half a dozen other countries, we're sending bales of \$100.00 bills into a war zone and hoping they find the right pockets.

Again, this is nuts. And yet leaders of both parties agree we have to keep doing it, much more of it.

Dozens of Democrats in Congress just signed a letter pushing the administration, as if they needed to be pushed, toward the International Monetary Fund, a total of \$650 billion in new funding because Ukraine.

And on top of all of that, Congressman Adam Kinzinger just proposed an amendment to the National Defense Authorization Act calling for another hundred million for, "Ukrainian military pilots and associated personnel." Kinzinger is the guy who thought the ghost of Kiev was real.

Now all of this is necessary. It's mandatory. We must, according to members of both parties, because we must defend democracy. Now we're not picking on Senator Kevin Cramer of North Dakota, a Republican State, but we want to show you this tape.

He just sat for an interview with Charlie Kirk and explained that we have to send an unlimited amount of money to Ukraine. Why? To "Fight back against communist intrusion for the cause of freedom because Vladimir Putin is evil." Watch.

CHARLIE KIRK, FOUNDER, TURNING POINT U.S.A.: What amount of money is too much to send to Ukraine because we just did \$1.7 billion more? Where is the line because we're up near \$56 billion now?

SEN. KEVIN CRAMER (R-ND): Sure. Well, I don't know that the line is a dollar amount, Charlie. I think each request or each requirement, each demand, each circumstance requires its own discovery, if you will.

I don't think we should do a whole bunch necessarily at one time. I think that we should do smaller tranches just for the purpose of renegotiating, you know, reassessing.

The price of letting Ukraine fall to Russia, to the United States taxpayer and to the cause of liberty, I think is very, very high.

(END VIDEO CLIP)

CARLSON: Yes. Fighting the communist menace. These people never update their talking points.

Senator Cramer invokes the cause of liberty and that's a phrase we strongly support. That's an idea we strongly support. That's why we're in favor of unfettered free speech. That's why we oppose vaccine mandates.

But you have to ask yourself, what does the cause of liberty have to do with Ukraine? Well, very little.

Last February, the Ukrainian government shut down opposition media. Then they arrested the leader of the main opposition party.

Now, President Zelenskyy has decided to combine all television stations in Ukraine into a state-owned propaganda ministry in order to combat "misinformation."

Now, what is that? Well, I'll tell you what, it's not. It's not the profile of a free country. Not even close. The cause of liberty. May those words burn in your mouth. "Oh, but we have to," they tell us," because Putin is worse. He's the worst person in the world." He's a communist, says Senator Cramer, who plans to conquer the globe.

You don't have to like Vladimir Putin to see how absurd this is. Putin is a communist now. Really? How communist is Vladimir Putin? Is Vladimir Putin more or less communist than, say, Sandy Cortez? More or less communist than say Joe Biden's domestic policy team? Is he more committed atheist than they are?

Is Putin throwing Americans in jail for attending political rallies at the Capitol? Is he trying to confiscate the rifles from your bedroom? Is he sterilizing children in the name of trans-liberation? Whatever his many faults, no, Vladimir Putin is not doing any of that.

As for his apparently limitless international ambitions, ask yourself, is Vladimir Putin recolonizing Africa right now? Is Vladimir Putin trying to build military bases in the Caribbean and South America? No, he's not, but another country is. That would be China, Joe Biden's patron.

Putin wants Crimea. He may succeed in getting it, but it is China that is on its way to controlling the world. Here's a graphic we saw today that illustrates the point.

These are the relative sizes of the players in the global economy. The numbers are from the IMF. As you can see, the world is completely dominated by the economic power of China and the United States. As of today, our two economies roughly equal in size, though thanks to COVID, China is quickly pulling ahead.

That is a problem. In fact, that is the biggest problem in the world by far. Nothing comes close because the Chinese Empire will not be like our empire at all.

So, where is Russia in this? How does it fit in? Well, get your reading glasses, because Russia is a footnote. It's not irrelevant, but it's close to irrelevant.

Russia's economy is smaller than Italy's. The Italians, in other words, are in a better position to take over the world than Vladimir Putin is.

This entire conversation is insane. Anyone who takes it seriously is a fool, and anyone who doesn't see the red flags is probably dishonest.

The most dishonest, the most power-hungry people in the United States are the very ones yelling the loudest for a war with Russia. That would be Joe Biden. That would be Nancy Pelosi. That would be Chuck Schumer. That would be Adam Schiff.



These are the people telling you that Vladimir Putin is a war criminal bent on world domination. Why are they saying that? Why are you suggesting Vladimir Putin's going to take over Europe? That's not true, but why are they saying it?

Well, there's a reason, a reason that has precisely nothing to do with saving lives or making Ukraine a better country. Again, red flag, anyone?

And yet somehow Republicans don't see it. They don't seem curious about why the worst people in America are for an endless war with Russia.

In fact, apart from Marjorie Taylor Greene and a few other Republicans in Congress, they are all in. Whatever Joe Biden wants in Ukraine they support.

Here, for example, is Lindsey Graham with his little friend Richard Blumenthal, that would be Connecticut's most famous Vietnam War hero. Here they are together.

(BEGIN VIDEO CLIP)

SEN. RICHARD BLUMENTHAL (D-CT): This picture ought to tell you something about America right now. There's bipartisan support to defeat Putin, to call him out as a pariah and a war criminal.

SEN. LINDSEY GRAHAM (R-SC): When we get back, we're going to try to get the Senate, as a whole, to pass the resolution, hopefully leading the way for the administration to label Russia as a state sponsor of terrorism in the category of Iran, Syria and North Korea.

(END VIDEO CLIP)

CARLSON: Defeat Putin. Will that improve your life? Is it improving the lives of the Ukrainians right now? No, it's not.

And yet every person who has been on the wrong side of every foreign policy decision going back 40 years is on the same page and that, of course, would include John Bolton, the former national security adviser, who by the way just admitted on national television that he has personally engineered coups in foreign countries.

Wait, we're not for democracy? Apparently not. John Bolton isn't. But wasn't democracy the whole point? Were those coups state-sponsored terror? No one's asking. No one's calling John Bolton a war criminal. Instead, here's what they're saying.

(BEGIN VIDEO CLIP)

JIM CRAMER, CNBC NEW HOST: Biden studiously avoids doing the one thing, though, that could really bring down the price of crude. He needs to arm the Ukrainians to the teeth so they can quickly beat Russia and put the war to bed.

Can we make Ukraine safe for agriculture? Sure, but we might have to set up a no-fly zone in the western part of the country, which Biden doesn't want to do. He doesn't want to create a no-fly zone because that's American fighter planes firing at Russian ones and it's a hop, skip and a jump from there, nuclear war. I understand that.

By the way, I think there's a very good argument for that, but a no-fly zone is, while extremely risky, it is the best way to get food inflation under control.

(END VIDEO CLIP)

CARLSON: Wait, what? I tuned in to find out whether I should buy Cisco on the dip and you're a foreign policy expert now? The American economy is in serious trouble. It's heading south faster than anyone anticipated.

But instead, you flip on CNBC and the geniuses are talking about World War III, and they're not the only ones.

So, if you want to know how big this has become, how ominous this is, in the absence of attention from the rest of us, we've kind of slept walked up to this point, you should see this.

This is from the City of New York, our largest city. This is a public service announcement reminding the eight million residents of New York they could soon be nuked.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: So, there's been a nuclear attack. Don't ask me how or why. Just know that the big one has hit. Okay, so what do we do?

Step one: Get inside fast. You, your friends, your family, get inside. Stay inside. Shut all doors and windows.

Have a basement? Head there. If you were outside after the blast, get clean immediately. Remove and bag all outer clothing to keep radioactive dust or ash away from your body.

(END VIDEO CLIP)

CARLSON: What? Now, if you were drinking beer and that came on TV, you'd think maybe she was giving you advice on what to do if your basement floods or if there was a heat wave. Then you get to the part where she says "radioactive dust" and you snap to it. Radioactive dust? You're suggesting that someone might lob a nuclear weapon into our largest city? What?

Why the chirpy tone? What the hell are you talking about?

How do we get so close to nuclear war that the city of New York is telling me to wash the radioactive dust off my pants? This is total lunacy. This is crazy. Why are we doing this? Because Putin's bad and he's going to take over Belgium?

Because nobody has said anything and because the Republican Party has collaborated with the nutcases in the Biden administration, we have reached the point where some chirpy lady on TV is telling you to prepare for the deaths of tens of millions of Americans. Wake up.

CARLSON: To the polling, again in the good news column, looking pretty bad, pretty much across the board for old Joe Biden. But Biden has a response for the haters.

FOX's Trace Gallagher has a story for us tonight. Hey, Trace.

TRACE GALLAGHER, FOX NEWS CHANNEL CORRESPONDENT: Hey, Tucker.

Whether it's accusing border agents of **whipping** Haitian **migrants** or calling White House correspondent stupid SOB, President Biden has a history of getting angry, agitated, and hopping over the facts to get to the politics.

This was at the White House congressional picnic when the President was asked about a majority of Democrats opposed to him running again. The soundbite is 22 seconds, but well worth the watch.

(BEGIN VIDEO CLIP)

QUESTION: Mr. President, what's your message to Democrats who don't want you to run again?

BIDEN: They want me to run.

QUESTION: Two-thirds say they don't.

BIDEN: Read the polls. Read the polls, Jack. You guys are all the same. We've got poll that showed that 92 percent of Democrats if I run would vote for me.

QUESTION: A majority of Democrats say they don't want you to run again in 2024.

BIDEN: No, 92 percent said if I did, they'd vote for me.

(END VIDEO CLIP)

GALLAGHER: Well, they are both talking about the New York Times/Siena College Poll, but the 92 percent number that the President cherry picked is only referring to Democratic support in a hypothetical rematch with Donald Trump.

The reporter there was correct that overall 64 percent of Democrats think somebody else should run in 2024. And it gets worse, 94 percent of Democrats under the age of 30 want a different nominee altogether. And only 13 percent of Americans believe the country is on the right track, Jack -- Tucker.

CARLSON: Trace Gallagher for us. If someone is going to shoot your dog, if he didn't, would you vote for Joe Biden? Ninety-two percent say yes. It's so good.

Thank you for that.

GALLAGHER: You bet.

CARLSON: Well, you've probably heard a lot, if you watch TV, and we don't recommend that until 8:00 PM, but whatever. If you have you've heard a lot about a 10-year-old girl who was raped in Ohio and then supposedly had to flee to Indiana to seek an abortion.

Joe Biden has told that story a lot. Every other media outlet, of course, repeated it. It wasn't true in its details. We are learning the actual truth and it turns out the headline here is someone raped a 10-year-old.

The headline is not, "Oh, she couldn't have an abortion." Someone raped a 10-year-old and now, we know who did, and we'll tell you after the break.

(COMMERCIAL BREAK)

CARLSON: To Joe Biden, other human beings only exist to the extent they can be used for partisan ends, so it shouldn't surprise you that on Friday, he used the story of a 10-year-old rape victim to push for more abortion.

According to Joe Biden, the laws in Ohio forced a 10-year-old rape victim to flee to Indiana to get that abortion, and the White House never vetted the facts of this story.

As the President of the United States, saying things that no one checked, but the facts didn't make any sense. On Monday, for example, the Attorney General of Ohio said there would not be a reason for this child to flee to Ohio in the first place. Watch.

(BEGIN VIDEO CLIP)

DAVE YOST, ATTORNEY GENERAL OF OHIO: Ohio's heartbeat law has a medical emergency exception broader than just the life of the mother.

This young girl if she exists, and if this horrible thing actually happened to her, it breaks my heart to think about it. She did not have to leave Ohio to find treatment.

(END VIDEO CLIP)

CARLSON: So the obvious headline here was not about abortion. It was about the crime committed against a child. Who raped the 10-year-old? That was our first question. Nobody seemed interested at all in learning who this person was, and maybe there was a reason for that.

In fact, there was another moral to the story. Apparently, the rapist was an illegal alien. "The Columbus Dispatch" is reporting tonight that a 27- year-old called Gershon Fuentes has confessed to raping the 10-year-old child on multiple occasions.

Victor Davis Hanson is a Senior Fellow at the Hoover Institution and we're happy to have him join us tonight. Professor, thanks so much for coming on.

So, what do you take from this story?

VICTOR DAVIS HANSON, SENIOR FELLOW, HOOVER INSTITUTION: Well, it's a tragic story, Tucker, but it gets more mysterious every day because apparently, this terrible horrendous act was reported on the 22nd or thereabouts in June, and here we are on July 13th-14th and we're only now learning about who did this.

In other words, this perpetrator apparently was not charged or arraigned. And yet, people knew that he had coerced a young -- maybe at the time, a nine-year-old to be pregnant.

And so the question is why now, at this belated date, are we learning who he was? And maybe, I mean, a naive might say, well, it was because people had questioned the veracity of the story and people for whatever nebulous reasons, didn't want to reveal his identity, until revealing his identity was the only mechanism for substantiating the story in the first place.

But in that time, it seems like a person who had a proclivity to have, you know, coercive sex with minors was still out there and we don't know what he was doing.

He should have been -- as soon as they reported the act, he should have been arraigned immediately. And then the next thing was the Attorney General mentioned the heartbeat law at six weeks, but the abortionist who became the spokesman for the story said, well, the abortion was committed - - was done six weeks and three days.

I mean, can't you -- why was it so close to that day? It was almost as if that you knew about this act. You had an a method inside Ohio if you believe that that was a proper course it would have been legal within six weeks rather than to go over to Indiana and then be told, well, it was six weeks and three days.

All of these details, the reek of a political weaponization of the case, which is tragic, because we have a nine-year-old, I guess, at the time of the act, she was nine and she is being used for political purposes, which is terrible. And then we have this perpetrator, and now we learn that he is here illegally from Guatemala, and he is residing illegally, and no one has -- he was -- the act was reported, and for almost three weeks, he hasn't been charged.

So we don't -- we're going to have to wait for more details, but it's mysterious. It's terrible what's going on.

CARLSON: So it sounds like in this case, as in pretty much every case we've reported on for the past five years, the first version was a lie. Everything is partisan propaganda, and kind of believe nothing at first, maybe that's the takeaway.

HANSON: It reminds me a lot of the **whipping** story that Joe Biden also promulgated about Border Patrols **whipping** people, and we found out only later that it wasn't true at all and then there was desperate efforts to bring in more evidence to sort of incriminate them to save the reputation of the President.

So I think what's happened is that this fellow was finally charged when they needed some substantiation of the story, but they didn't seem -- they seemed reluctant to charge him quicker and almost immediately because they felt the story would be believable and be useful on its own merits.

And then when people questioned it and wanted details, only then did they start releasing the details which caused only more mystery, but the whole thing is, I think it's terrible because it shows you that people are using a 10-year-old and protecting in some cases an illegal alien, if that happened to be true that they deliberately delayed arraighing him until they needed evidence to substantiate this useful story.

It's just terrible.

CARLSON: They don't care about people. They care about power.

Victor Davis Hanson, appreciate you coming on tonight. Thank you.

HANSON: Yes. Thank you.

CARLSON: So in recent years, the US military secretly collected a trove of information about vaccine effectiveness in January 6. Should you be winning a war once in a while? No. They've been collecting information on you.

The US Congress has tried to hide that information from you so no one can ever see it and they're voting on that tomorrow. We've got details after the break.

(COMMERCIAL BREAK)

CARLSON: When ideologues get power, they waste no time. Their aggression has no limits. They change as much as they can as quickly as they can while they have power. That's what's happening right now. That's why it's so hard to keep up with everything that's changing.

Here is a story you probably haven't heard.

Adam Schiff, Congressman from California now proposing an amendment to the National Defense Authorization Act that would hide any information collected by the US Military for using Congressional investigations that include information about Afghanistan, vaccine mandates and January 6th.

Now, why would the US Military be collecting information about January 6th? Huh? Not really their job.

But that would include information about for example, Ray Epps, the mysterious man who urged people to storm the Capitol on January 5th and 6th and has never been indicted. Really?

And just in case you already had suspicions about Ray Epps, you should know there was a glowing profile of him today in "The New York Times. The title of the piece was "How Ray Epps Became the Victim of January 6 Conspiracy Theory." This guy who was on camera repeatedly telling people to storm the Capitol.

A lot of other people who did that are still in jail, but Ray Epps is not, but it's a conspiracy theory.

No one has covered the story more faithfully, more precisely, more doggedly than Julie Kelly. She's the author of "January 6: How the Democrats Used the Capitol Protest to Launch a War on Terror against the Political Right."

Julie Kelly joins us now.

Julie, thanks so much for coming on.

So first, to this amendment to the National Defense Authorization Act. I think the vote is tomorrow by Adam Schiff. What is this exactly?

JULIE KELLY, AUTHOR, "JANUARY 6": Well, you know, since Adam Schiff's name is attached to it, that it's nothing good. It's not like he is a transparency champion for good government. He is a cover up artist for bad government.

So to your point, what this means is that he is trying to stick this into this massive bill that will enable the Department of Defense under Joe Biden to conceal information collected related to really anything that the Defense Department has been involved in especially related to domestic law enforcement, which we know is already unlawful.

So this is very sketchy. I've talked to military experts, including attorneys. They're not sure what this means. But we know since as I said Adam Schiff's name attached to, it can be up to no good except to act and service to cover up things that the American public deserves to know.

CARLSON: The US Military is not allowed to be involved in any way, even in the most minor way involved in domestic politics. Period. Ever. Under no circumstances. So this suggests the US Military under Joe Biden is involved in domestic politics.

KELLY: Well, we also know, Tucker, from reporting by "Newsweek," a bombshell article earlier this year that said that military assets were involved in January 6th even leading up to the events of January 6th. What was the military doing?

They can't collect domestic intelligence. They can't, as you just said, act as local cops or law enforcement. So what were these military assets doing? And we know that the military was fully hostile to Donald Trump, his own military leaders, including Mark Milley were completely hostile to the President at that point.

So this looks like a way to obscure materials, documents, records, communications from any congressional inquiry. It also relates to criminal -- ongoing criminal proceedings, which could relate to January 6 prosecutions.

So it did pass and it is embedded in this in this massive bill. Hopefully, Republicans will do some more digging and ask what this is all about.

CARLSON: They should do something. This is their job. Meanwhile, Ray Epps, the one insurrectionist "The New York Times" likes. We should know about that. Much more than we know.

Julie Kelly, great to see you tonight. Thank you.

KELLY: Thanks, Tucker.

CARLSON: So the massacre at Robb Elementary School in Uvalde, Texas has been used for the pretext to disarm you. But the actual evidence shows malfeasance at a level that staggers the imagination.

Officers loitering in a hallway as children were being killed. Ryan Petty lost his daughter in the Parkland massacre. Then he helped investigate it. He joins us to assess what happened in Uvalde, Texas. That's next.

(COMMERCIAL BREAK)

CARLSON: Of all the bad things going on, the drug epidemic may be among the worst, if not the worst. More than 100,000 Americans died of drug ODs last year. The drugs came from China, mostly moved up with the help of the cartels through Mexico, through our open border.

Fentanyl was the single biggest cause of death. Now, in a lot of cases, particularly with young people, these weren't really ODs. They were poisoning. People ordered pills online. They were in fact fentanyl and killed them. They weren't drug addicts. They just made a mistake.

We wanted to talk to someone who'd seen this happen. Everyone knows someone, it happened to Ed Ternan's son, Charlie. One of the saddest conversations, but most important conversations we've ever had.

We sat down with him for an episode of "Tucker Carlson Today" and we asked him, "What happened to your son, and why?" Here's part of it.

(BEGIN VIDEO CLIP)

ED TERNAN, LOST SON, CHARLIE TO DRUG OVERDOSE: About a month before he was due to graduate, he and his friends decided, you know, we're going to forget what the administration says. We need to be together before our college careers are over. So we're all going back to campus.

And he went back up to see his girlfriend, and went back up to his fraternity house just to spend the last four weeks of his college career with his friends.

And on a random Thursday afternoon, he had a job interview by telephone scheduled. And so when his fraternity brothers came and said, we're all going out to do whatever we do on a spring day, Charlie had to say, "I can't go. I've got this call to make."

So when they left, he asked another friend if there was any Xanax in the house, and the idea was that from what we put together, he said, I'm going to like just stay home, wait for this phone call and play video games, right?

So he and his friend went on Snapchat, because nobody in the house had any Xanax. And we learned that, you know, this generation of young people is, you know, born and around late 90s, early 2000s is the generation that we really began kind of medicating for learning differences and anxiety and so forth.

So they're very accustomed to taking prescription pills, even recreationally and sharing them amongst themselves.

So when nobody in the house had any, Charlie and his friend went on Snapchat, and I found a dealer that had some.

Charlie had a notoriously bad back. He'd had surgery the year before, and he noticed that this dealer who was advertising his wares also said he had Percocet. And Charlie said, I'm going to get a Percocet because my back is hurting.

So apparently, they made that transaction. And about three o'clock in the afternoon, some of Charlie's friends walked by his room and he was doing exactly as he said he was going to do, he was in his bed playing video games and he answered them back and they walked on by.

What we know is that he never made the five o'clock phone call for the job interview, so sometime between five o'clock -- between three o'clock in the afternoon and five o'clock in the evening, Charlie took one pill, which he was told was a Percocet and he put it in his mouth, and the doctor said, it killed him in about 15 minutes, and his friends found him later that evening in his bed game controller in his hand, chin on his chest, dead from fentanyl poisoning.

(END VIDEO CLIP)

CARLSON: Ed Terman, a heartbroken father.

That interview will make you cry, but you should watch it because this is happening to so many families, thousands of families around the country.

So that interview is on "Tucker Carlson Today" tomorrow at 7:00 AM on FOX Nation.

So new video from within Robb Elementary School on that horrible day in Uvalde, Texas show officers standing inside a hallway for roughly an hour. One officer, the show has confirmed as a trained Sheriff's Deputy washes his hands with hand sanitizer while another checks his cell phone.

As this is happening, as they're loitering in the hallway, a lunatic is executing children inside the classroom. Now, we almost always defend police officers on the show, but there is no defending that and there's certainly no defending the political use this tragedy has been put to.

Politicians in Washington are using that killing to seize firearms from law-abiding Americans.

Ryan Petty is a member of the Florida Board of Education. His daughter was murdered in the Parkland shooting. He was part of the Commission that investigated what happened. He joins us tonight.

Mr. Petty, thanks so much for coming on.

You know, you hesitate even to put -- we hesitated even put those pictures on the screen because they're just so awful. But you also think shouldn't the people who stood by while this happened whose duty it was to stop it? Shouldn't they be punished?

RYAN PETTY, MEMBER, FLORIDA BOARD OF EDUCATION: You know, Tucker, I've gotten mixed feelings about this.

CARLSON: Yes, me too.

PETTY: Obviously, I fought for keeping the video of what happened in Parkland private. But boy, seeing this -- seeing the failure seeing, you know, I counted upwards of 19 law enforcement officers in that hallway that day, just waiting and it was



over an hour before finally, they mustered the courage to go have the gunfight that they should have had two minutes in to that unfortunate tragedy.

CARLSON: Exactly. Exactly. I mean, we give cops every benefit of every doubt. You know, they're vital to the functioning of a society. They're underpaid. They're brave.

I mean, you know, can't say enough good things about cops. On the other hand, this is inexcusable. It's cowardice. It should be punished. And why can't we as citizens get a straight answer about what happened?

PETTY: Well, I think the reason we haven't gotten a straight answer is because they knew the truth, and now we're seeing it. But with the release of this video, we're seeing the inaction, we're seeing, unfortunately, the deadly consequences of poor training, perhaps a lack of funding. But certainly, on the part of several of those law enforcement officers, I saw a lack of courage.

Those were kids, elementary school kids, and those gunshots are going off. And every shot is another child being killed and they're standing outside more worried about their cell phones and hand sanitizer than they are protecting those innocent lives in that classroom.

CARLSON: So, maybe the reason it took this long to get the video is this was immediately used by power hungry politicians to increase their power.

PETTY: Well, that happens after each one of these tragedies. It happened after Parkland. And unfortunately, we're seeing it today. The calls for gun control right, the activists and the politicians use these opportunities to again infringe on our rights and law-abiding gun owners' rights to -- they use these tragedies to further their political causes.

And really what they should have done is everybody should have said, Hey, let's slow down. Let's investigate what happened here. Let's understand where the failures were and then let's make policy.

CARLSON: Exactly. Exactly. That's not a partisan point you just made, it's a common sense point and I'm glad that you made it.

Ryan Petty, thank you very much.

PETTY: Thank you, Tucker.

CARLSON: So you'd think after the rest of us learned that Joe Biden had showered with his own daughter, in her words screwing her up for life that he would stop sniffing people's hair, but he hasn't. We can prove it because we've got new video. You feel duty bound to show it to you after the break, so stay tuned.

(COMMERCIAL BREAK)

CARLSON: So we learned recently that Joe Biden's daughter said her dad showered with her as a child and made her sexually compulsive in later life. Then we learned that Biden's family refers to him privately as "Pedo Pete."

Once we learned these things, maybe Joe Biden could stop sniffing children, and if you work for Joe Biden, if you were Susan Rice or Ron Klain, you'd say. "Hey, Mr. President stop sniffing people."

But he continues. Here's video from Sunday sniffing a random girl he met on a bike path.

[VIDEO CLIP PLAYS]

CARLSON: Stop sniffing children, Joe Biden.

Hopefully that's a message that reaches him at some point.

We are out of time. Sean Hannity is next. See you tomorrow.

SEAN HANNITY, FOX NEWS CHANNEL HOST, "HANNITY": Last night, twerking. Now we've got Creepy Joe. I don't know where to start.

CARLSON: Yes. Sorry.

HANNITY: That's two nights in a row.

CARLSON: It's the news.

HANNITY: It's scary. All right, Tucker, thank you.

END

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**NewsRoom**

## NewsRoom

7/14/22 Miami Herald 1310  
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Miami Herald (FL)

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July 14, 2022

### The 44 Percent: statues, investigation of CBP agents in Del Rio & Quinta Brunson

By C. Isaiah Smalls II, Miami Herald

Did you know about the statues in the U.S. Capitol? Here's how they got there.

In 1864, the United States began collecting statues. The idea was simple: states would choose two historical figures to be enshrined in the U.S. Capitol for perpetuity. A section from the provision that created National Statuary Hall offered the following description:

Two deceased persons who have been citizens thereof, and illustrious for their historic renown or for distinguished civic or military services such as each State may deem to be worthy of this national commemoration.

Included in the gallery are sculptures of Chief Standing Bear (Nebraska), Helen Keller (Alabama), Jefferson Davis (Mississippi), Ronald Reagan (California) and many others.

For nearly a century, Confederate Gen. Edmund Kirby Smith represented Florida in the U.S. Capitol. Smith, as U.S. House Speaker Nancy Pelosi put it, was a "little known Confederate general" whose career highlights include graduating from West Point, fighting in the Mexican-American War and against Native Americans on the frontier, being wounded at the First Battle of Bull Run and commanding the Trans-Mississippi Department.

Author Card.jpgC. Isaiah Smalls II author card

And just why was Smith's statue removed? Only after the nationwide backlash following the 2015 slaughter of nine Black worshippers at a church in Charleston, S.C., did Florida legislators decide to take down Smith's statue. It was replaced by one of Mary McLeod Bethune on Wednesday (more on that later) and made history: not one Black person was represented in the hall for most of its existence.

It is here where the words of Simon John, a medieval history expert, becomes relevant. In a 2019 History Today article about the significance of statues, John wrote that although monuments can help teach generations about the past, their meaning can be fluid.

"They are symbolic of the fixed ideas of a specific community regarding its past, as captured at a particular point in time," he added.

John's point raises several questions: what was Florida trying to convey with its Smith statue when the Confederate general's likeness went up in 1922? Why did it stay untouched for roughly 100 years?

#### INSIDE THE 305

MIA\_20220615AD0711WESTGROVEAnthony Witherspoon, a former college basketball player and coach, poses with a signed basketball at the soon-to-open Coconut Grove Sports Hall Of Fame, which he started to honor notable figures from the historically Black but rapidly gentrifying West Grove, where he was born and raised..

West Coconut Grove losing Black heritage. Stalwarts persist to build on 130-year legacy:

As Coconut Grove becomes more and more gentrified, many are still fighting to preserve the historically Black West Grove.

The examples are everywhere: the revitalization of the ACE Theater, a former segregated theater that recently received national historic designation; the Coconut Grove Sports Hall of Fame, a museum dedicated to the athletic accomplishments of natives; and Rebuilding Together Miami-Dade, a nonprofit that provides financial assistance to help locals keep their homes.

"Our goal is to keep people in the community, to keep the old guard here," said Ashley Snow, Rebuilding Together development director.

If you're in need of a little Grove history (I, for one, had no idea that Frank Gore was from the Grove), this story is definitely for you.

#### OUTSIDE THE 305

AFP\_9TR3QH.jpgUn agente de la Patrulla Fronteriza de los Estados Unidos a caballo intenta evitar que un **migrante** haitiano ingrese a un campamento a orillas del Río Grande cerca del Puente Internacional Acuña del Río en Del Río, Texas el 19 de septiembre , 2021. PAUL RATJE / AFP a través de Getty Images)

Four border agents face discipline over 'dangerous' horseback behavior in Del Rio:

About 10 months after images of U.S. Customs and Border Protection agents seemingly using reins to **whip** at Haitian **migrants** in Del Rio, Texas, sparked widespread criticism of American immigration policy, the agency found "no evidence that agents struck any person with horse reins," according to a report released Friday.

The investigation did discover "multiple instances in which Agents acted inappropriately during the incident." Four agents could be reprimanded as part of a disciplinary process that is still underway.

Some Haitian leaders, however, dispute the report's findings, with Haitian Bridge Alliance co-founder Guerline Jozef calling them "one-side."

Jozef told the Miami Herald that until anti-Blackness in the immigration and border enforcement system is addressed, "we will continue to see more systematic abuse of Black **migrants** with impunity, like we saw in Del Río."

"They must prioritize justice for the victims just as much as they've prioritized protections for their own — the perpetrators — and [we] will continue to fight for this justice with our lawsuit," she said.

MIA\_Abortion\_Rally\_MJO\_8.JPGAshley Samuel, center, from downtown Miami, at the Bans Off Our Bodies rally at Ives Estates Park in Miami May 14.

Black female support groups grapple with end of Roe:

Self-care is always important — even more so during difficult times.

A recent Washington Post story detailed the importance of support groups for Black women following the overturning of Roe v. Wade. As The Post's Natachi Onwuamaegbu writes, these groups, which were originally created to fill the void in Black health care, have become even more crucial in a post-Roe world.

In recent years, new and older groups have had to adapt to support their members through moments of national trauma that tend to unevenly affect Black women and their communities. The Dobbs decision is the latest example: Experts say that restricted access to abortion will disproportionately impact Black women, who have a higher rate of abortion than their White counterparts. Reproductive-rights organizations say the reasons for these higher rates are systemic, driven by a lack of access to and effective use of contraceptives.

McLeodBethuneStatue.JPGSpeaker of the House Nancy Pelosi of Calif., second from left, gestures to Sen. Marco Rubio, D-Fla., as Rep. Val Demings, D-Orlando, and Rep. Frederica Wilson, D-Miami., center, react along with members of the Florida Congressional Delegation, during the unveiling of a state statue from Florida of Mary McLeod Bethune, in Statuary Hall, Wednesday, July 13, 2022, at the U.S. Capitol in Washington.

History-making statue of Mary Bethune now stands tall for Florida in U.S. Capitol:

Daughter of enslaved people. Founder of Bethune-Cookman University. Orchestrator of the Black Cabinet.

Mary McLeod Bethune deserves no introduction. Generations to come will now know her name as her 11-foot marble likeness was placed in the U.S. Capitol, making her the first Black person to be enshrined in the collection.

"Our hearts are rejoicing today, seeing our founder and namesake take her rightful place among the most distinguished Americans here in the center of our democracy," Bethune-Cookman Interim President Lawrence Drake II said during the unveiling ceremony.

"No one could have predicted that this daughter of slaves would create a university, found a powerful political organization, advise presidents and inspire generations," Drake continued. "Through her hopeful vision, her hard work, her generous spirit, and her deep, deep faith, she made a lasting and positive mark on our country and the world."

Prior to Bethune, former Confederate Gen. Edmund Kirby Smith and John Gorrie, often credited as the father of air condition, represented Florida. Smith's statue was removed last September.

## HIGH CULTURE

AP22142724568939.jpgQuinta Brunson attends the Disney 2022 Upfront presentation at Basketball City Pier 36 on Tuesday, May 17, 2022, in New York. (Photo by Charles Sykes/Invision/AP)

Quinta Brunson makes Emmy history:

"He. Got. Money."

In just these words, Quinta Brunson became a hit sensation on Vine. Now, she just made Emmy history, becoming the first Black woman to receive three comedy nominations for her critically acclaimed sitcom "Abbott Elementary."

The three nominations — outstanding comedy series, lead actress in a comedy and writing for a comedy series — all by the age of 32 also make Brunson the youngest Black woman to earn comedy acting nominations.

If you haven't watched "Abbott Elementary," go do yourself a favor and catch up. All 13 episodes are available now via Hulu.

Where does "The 44 Percent" name come from? Click here to find out how Miami history influenced the newsletter's title.

--- **Index References** ---

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**NewsRoom**

## NewsRoom

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July 13, 2022

### CBP Finds No Evidence Border Patrol Agents **Whipped** Haitian **Migrants**, But Still Seeks To Discipline Them; Jill Biden Compares Latinos To Tacos; NY...

CBP Finds No Evidence Border Patrol Agents **Whipped** Haitian **Migrants**, But Still Seeks To Discipline Them; Jill Biden Compares Latinos To Tacos; NYC Releases Nuclear Attack; Gutfeld On California Governor Gavin Newsom Running A Re-election Ad In Florida; Gutfeld On Hunter Biden's Payments Disguised As Medical Services

LAURA INGRAHAM, FOX NEWS CHANNEL HOST: Congrats to Juju girl who actually guessed it right. All right. That's it for us tonight. Don't forget, set your DVR. You always stay connected with us. And remember USA-made Freedom Matters gear. Also the Mandate Freedom gear all on Lauraingraham.com. Thanks for watching

GREG GUTFELD, FOX NEWS CHANNEL HOST: All right. Happy Tuesday, America. And I mean all of you, except for "FOX AND FRIENDS." Doocy, I want my bathrobe back and my Luther Vandross CDs. So last week, the Biden administration finally admitted the president was being a total (BLEEP) when he accused Border Patrol agents of **whipping** illegal immigrants. Those were the actual words. Total (BLEEP)

The head of the Border Patrol announcing the results of their absurd months long investigation into an incident that both the Dems and the media use to demonize innocent agents.

(BEGIN VIDEO CLIP)

CHRIS MAGNUS, CBP COMMISSIONER: After an extensive review, the U.S. attorney issued their decision not to prosecute the case.

OPR found no evidence Border Patrol agents involved in this incident struck any person with their rings intentionally or otherwise.

(END VIDEO CLIP)

GUTFELD: Thanks for the heads up, Chris. But we could have told you that on day one, those claims are already debunked by everyone, including the guy who took the damn pictures. What a waste of taxpayer money. And all that cover their asses. But I got two words for you. Instant replay. They use it in sports to clear up a questionable call and this one wasn't even questionable.



Even the **migrant** said, don't you dopes know how horses work? But a second look should have cleared up any confusion immediately like an NFL ref. Upon further review the reins of the officers never made contact with the illegal immigrants. Therefore, there is no unnecessary roughness call. Please reset the clock to 2016.

Oh, yes. But instead the dumbest president in history smeared American citizens who are just doing the job he refused to do while he sat in a pool of his own ignorance, among other fluids.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: To see people treat it like they did, horses nearly running them over, people being strapped, it's outrageous. I promise you, those people will pay.

KAMALA HARRIS, VICE PRESIDENT OF THE UNITED STATES: And as we all know, it also evoke images of some of the worst moments of our history where that kind of behavior has been used against the indigenous people of our country, has been used against African Americans during times of slavery.

ALEJANDRO MAYORKAS, SECRETARY OF HOMELAND SECURITY: So horrifying images that do not reflect who we are, who we aspire to be, or the integrity and values of our truly heroic personnel in the Department of Homeland Security.

JEN PSAKI, WHITE HOUSE PRESS SECRETARY: The horrific video of the CBP officers on horse -- on horses using brutal and inappropriate measures against innocent people.

(END VIDEO CLIP)

GUTFELD: Once again, all of these are (BLEEP) wrong. But more important, none of them apologized or even owned up to it. Of course, Kamala still hasn't apologized for her tweet defending race hoaxer Jussie Smollett and Joe never apologized for the tweet he tried to send from his toaster oven. They're just doing going to assume you're too distracted, panicking you with the latest monkey pox, baboonoroids or chimpazima. Sounds like a good drink.

They think they won't be held accountable. And the sad thing is they're right. And they're laughing at us. You can hear Kamala's cackle, either that or somebody punched a hyena. So they deserve no mercy tonight and here's why. Joe Biden publicly condemned an American without any due process, something no president should ever do. Kamala compared Border Patrol agents to slave owners.

How was that not hate speech? How does that not put a target on their backs? Sorry, lady. If there's anyone with a link to slave owners, it's someone named Kamala Harris. And I'm just quoting her dad. Professor Donald Harris, who wrote "My roots go back within my lifetime to paternal grandmother Miss Chrisy, descendant of Hamilton Brown who is on record as plantation and slave owner of Brown's Town" which is the town of Jamaica.

Who knows if that's true really but if it is that would make Kamala the first V.P. to owe reparations to herself. She could spend the money on a public speaking class. Of course Alejandro Mayorkas is an incompetent clown. The sky looks like he should be assembling Christmas toys in the North Pole. Not being in charge of immigration. Every time I see him I want to pull his ears like that weird rubber doll.

By the way, that doll has a name. It's Panic Pete. Which I guess beats Pato Pete. It's a reference to a different story. Meanwhile, four agents are still to be punished for using bad language and unnecessary force. Something I'm sure Hunter does every time he's with a hooker. Sorry, these guys are Border Patrol agents doing a brutal job, they aren't teachers at a finishing school in Switzerland.

But we see the media and Dems' true colors. No matter the crisis, they only care when they can find an American villain. 50 plus **migrants** perish stacked in the truck. Big deal they say. But can you imagine if that happened at a Trump's watch, the media would have had him pegged as the driver. But today you won't hear Biden say, I promise you those people will pay. Unless he's advising Hunter on how to cut a deal with a gas company. Thank God we have a doctor nearby.

(BEGIN VIDEO CLIP)

JILL BIDEN, FIRST LADY OF THE UNITED STATES: Diversity of this community, as distinct as the bodegas of the Bronx, as beautiful as the blossoms of Miami and as unique as the breakfast tacos here in San Antonio.

(END VIDEO CLIP)

GUTFELD: Looks like -- looks like Joe was rubbing off on the doctor and not in the usual way. You think a real life medical expert would know the difference between people and inanimate things. But I guess once you're married to Joe, it's hard to tell. I wonder Joe, what do you think of Dr. Jill's comments?

(BEGIN VIDEO CLIP)

TOM SHILLUE, FOX NEWS CONTRIBUTOR: Hey, hey, hey. Look, look, leave my wife alone. She's a doctor. All right. She'll get you. Look, she's right. I've been to those Bogatas, the full of breakfast tacos. And, you know, Jill got that from me. That's my nickname for the Hispanic people. I say, hey, come on my little breakfast taco. Let me take a **whip** here. Oh, I got sour cream on my nose. You know, they like it.

They like it. You know, all the minorities like me. I don't care who you are. The Latin X people. The Malcolm X people. They all like me.

(END VIDEO CLIP)

GUTFELD: it's good. It's good to laugh. But the treatment of those agents isn't funny at all. It's positively Orwellian. We're living in 1984. And no wonder Joe loves that year. It's when he turned 60. Now the agents could be suspended for 14 days. So you want a dystopian society? How about one that says you're innocent of a crime but we're going to punish you anyway? Sorry, this is America not a porn flick.

TYRUS, FOX NEWS CONTRIBUTOR: Oh.

GUTFELD: It's like that old line from the head is stolen secret police show me the man and I'll show you the crime. I do that with this guy. But we'd be here till 2040. But all this stuff is happening right now right before your eyes. They're not even hiding it because they know they don't have to. Not with today's emasculated media. If we had a real press, you could not do this. Real journalists would know those were reins on those horses and not **whips** and anyone saying otherwise, was a horse's ass.

UNIDENTIFIED MALE: Period.

GUTFELD: Let's welcome tonight's guest. She's so brainy zombie stalk her. New York Post business reporter Lydia Moynihan. Well, you can't put him in a box. Unlike most of his belongings. Actor, writer and divorced comedian Jamie Lissow. Well, she'll steal your hearts and then your wallet. Fox News Contributor Kat Timpf. And good luck throwing him under the bus. My massive sidekick and the NWA World television champion, Tyrus.

Why didn't Jill, Tyrus, good to see you by the way and I love the hat.

TYRUS: A man of a lot of hats around here since I've changed it up.

GUTFELD: Yes. It's a nice hat.

TYRUS: Yes.

GUTFELD: It's a really nice hat.

TYRUS: Thank you. You can't have it, it's too big for you.

GUTFELD: I could --

TYRUS: It will be a boat for you.

GUTFELD: Yes. I could turn it upside down and go snowboarding.

TYRUS: Yes. That's kind of what I just -- all right.

GUTFELD: Or sliding would have been a better.

TYRUS: Or boating like I said before you went there, but it's cool. You were hot. You'll do your thing.

GUTFELD: You know, I didn't hear it. Anyway. Bodegas, have you been to a Bodegas?

TYRUS: No. No, but I have been to speeches by out of touch old white women before and -- you know what I think, this is the result -- I'm going to take a little bit of heat off of the administration. This is what happens when you don't have a good transition of power. I think what happened was -- is like I think the Trump administration played some pranks on him. I think they took all the cords for the Xerox machines and left with him.

So, nobody reads anything. They all just wing it. And this is -- the entire administration has been winging it. They don't know what really happened at the border because no one watched the video.

GUTFELD: Right.

TYRUS: They just told each other about it. So, whenever they talk, they don't know the truth. They just -- and then Biden gets up there. And bless his little heart. He couldn't get horses out.

GUTFELD: Yes.

TYRUS: He was like, you're going to ride this -- port Mr. Ed, great show. Love it. Like that's literally because nobody -- because the administration took the chords. And I think you should have played the rest of her speech because it wasn't -- she just didn't call Latin Americans breakfast tacos. Like she kept going. She was like, and all my African-American ribs and my -- and my white bags of oatmeal.

And, you know, were all favorite fattening food. None of us are anything excited. Like, no one got to be celery or something healthy. We're all like --

(CROSSTALK)

GUTFELD: What would I be?

TYRUS: You want what would you be?

GUTFELD: Yes. If I were a food.

TYRUS: If you were a food?

GUTFELD: Yes.

TYRUS: You'd be a pomegranate.

GUTFELD: Will I?

TYRUS: It's little. It's tiny. And as soon as it gets close your mouth, you want to spit it out.

GUTFELD: That was pretty quick. Pretty quick.

JAMIE LISSOW, COMEDIAN: Wear a lot of hats.

GUTFELD: Yes. You do wear a lot of hats. You know, Jamie, it's good to see. You look fit.

LISSOW: Good to see you. It's good (INAUDIBLE) Tyrus said that an egg roll caught me off on the way here.

GUTFELD: No, he deserves it.

TYRUS: He deserves it.

GUTFELD: He deserves it. I don't care that --

TYRUS: How did you get divorced again?

LISSOW: This was fun, right?

GUTFELD: Yes, yes.

LISSOW: This was a really fun speech by Jill.

GUTFELD: Yes.

LISSOW: Who are their speech writers? Each other? What are they doing? Is it -- is it true? I mean, do you think she mispronounce it because of being out of touch? Like we all go to Boda (ph). Is it because things are delivered and -- I wish she had gone on and on though like, man and we went to the Bodega. We -- and then we went home and Joe mute the law wanda, and I did the law hand dry. Like I don't think they do regular people stuff.

They didn't know what to say. But how weird is it that they just pretended the video is different than it was?

GUTFELD: Yes. Incredible.

LISSOW: Like we could -- we could see -- I always feel bad when I see like a policeman on a horse. I always wonder, does that mean like you did something wrong? Do you know -- like if you're a really good cop like, oh, here's a car and a gun. And then if you're not that good to like, oh, here's a horse in the **whip**. And if you really stuck there like here's a bicycle and a flashlight. OK? Put all your stuff in the basket.

GUTFELD: I would -- I would take the desk job over the horse job.

LISSOW: Right.

GUTFELD: In a second.

LISSOW: Yes.

GUTFELD: Because you know, desk doesn't like, you know, drop a big load (BLEEP)

LISSOW: Yes.

TYRUS: So you weren't supposed to make any jokes about that, Gutfeld.

GUTFELD: Yes. But, you know, they didn't -- they didn't catch me. There's usually -- there's an alarm system about poop jokes now. And I float -- I'm right under the radar. Lydia, you are a reporter. Let's start with that.

LYDIA MOYNIHAN, NEW YORK POST BUSINESS REPORTER: I like to think of myself as such. Yes.

GUTFELD: Yes. So, in your line of business, you would issue a correction. Why can't any of these people admit they were wrong and issue their own humanitarian correction if they will?

MOYNIHAN: Have they ever admitted they're wrong? I mean, I think this is peak 2022 that somebody's cancelled, not for something that they did. But for something that fits someone else's agenda. And I think it's pretty clear the agenda is that Joe Biden is not doing well with Hispanic voters. He thought this was the perfect situation to frame himself as the savior. And the facts didn't line up.

But, you know, that was then and this is now and we've moved on. I think my favorite thing from this whole saga though, is the National Association for Hispanic Journalists. Issued a statement condemning job Is marks and they ended it with we are not tacos.

GUTFELD: Yes.

MOYNIHAN: There you have it. We are not tacos.

GUTFELD: But, Kat, What if I identify it as a taco?

KAT TIMPF, FOX NEWS CONTRIBUTOR: You probably will.

GUTFELD: I will. I have a hard shell. But inside there's so many spicy ingredients.

TIMPF: All right.

GUTFELD: A lot of beef.

TIMPF: All right. All right. No that little Bogota blossom breakfast taco mashup was one of like the deranges attempts at a compliment I've ever heard. And like most of the ones that I get begin with. if I were 50 years younger like, you're not so you probably shouldn't type those next seven paragraphs. But -- does your wife know you're on here? But it also proves that in reality, the Bidens are not as woke as they pretend that they are.

And they just latch on to certain buzzwords. They were like, oh, this is called Latinx inclusion, but there's an X for the S. Perfect. I'm going to go there and say that I love all my little tacos. Like, if they actually were paying attention to these things and not just listening to what other people are telling them to say and do then there would not have been this very strange -- I don't know error. I don't know what they were trying to do. So I'll just say strange thing.

GUTFELD: Yes, you -- I do think that anytime you try to kowtow to diversity it's embarrassing, because you're pointing -- you're actually doing exactly the opposite of what you're supposed to do. You go, yes, I see you're different. You're not supposed to do that. You're not supposed to say that. Oh, I get it. You're different. That's why it doesn't work. It makes everybody uncomfortable. All right, we got to move on. Up next put up your dukes because here come the nukes.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Only in New York.

Stop spreading the news. We're all going to die.

UNIDENTIFIED MALE: Oh my god.

(END VIDEO CLIP)

GUTFELD: So how do you survive a nuclear blast in the city that already smells like ass? True. New Yorkers are worried about crime, disease and inflation can now add nuclear radiation. Your city's emergency management department produced a PSA or PSA on how to survive a nuclear bomb. Which is exactly what I was worried about as a naked man was fondling himself in front of me on the R Train. Actually, I was praying for a nuclear bomb. Roll it, Ricardo.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: So there's been a nuclear attack. Don't ask me how or why. Just know that the big one has hit. OK? So, what do we do? There are three important steps that I want you to remember.

(END VIDEO CLIP)

GUTFELD: Don't ask me how or why. Well, that's convenience. No backstory on why we got nukes? I'll make up my own. Biden thought he was pressing the button for the nurse. Oh. But please tell me the steps lady dressed like Steve Jobs.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: Step one. Get inside fast. You, your friends, your family, get inside. And no, staying in the car is not an option. You need to get into a building and move away from the windows. Step two. Stay inside. Shut all doors and windows. Have the basement? Head there. If you don't have one, get as far into the middle of the building as possible.

(END VIDEO CLIP)

GUTFELD: So -- wow. Staying in cars is not an option. What will comedians like Jamie do? And that's where he lives. Or divorce comics that is. But what if you're outside after the blast?

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: If you were outside after the blast, get clean immediately. Remove and bag all out our clothing to keep radioactive dust or ash away from your body. Step three. Stay tuned. Follow media for more information. Don't forget to sign up for Notify NYC for official alerts and updates. And don't go outside until officials say it's safe. All right? You've got this.

(END VIDEO CLIP)

GUTFELD: You got this? Sorry, honey. This is a nuclear war, not a Pilates class. And remove and bag all outer clothing? That's what we do after we visit Kat's office. So why is New York giving instructions now about a nuclear blast? Maybe Mayor Adams is finally serious about getting criminals off the streets. There are syringe-filled sidewalks and insane asylum subway and the only people getting arrested are those defending themselves from attackers.

Maybe the city's strategy is to get us all inside and then blow everything up. Which I'm against. But I do wish the city would put out a PSA to help us cope with the real problems.

(BEGIN VIDEO CLIP)

GENE NELSON, FOX NEWS CONTRIBUTOR: So your city has been taken over by progressives. It's important for you to understand your life is about to get a lot worse, but there are steps that you can take to stay safe. Step one. Get inside. Progressive crime policies mean your streets are about to become violent drug fueled homeless nightmares. Step two. Watch out for human excrement. It's going to be everywhere.

Poor city planning, urban decay and lack of law enforcement means public streets are now public bathrooms. Step Three. Stay tuned to the media. The media know what's best for your family, the media are better than you. Also don't get too attached to your wallet. You're going to lose a lot of them. You've got this.

UNIDENTIFIED MALE: And my phone too.

(END VIDEO CLIP)

GUTFELD: Lydia, as a New Yorker, do you find this helpful at all? This nuclear war prep video?

MOYNIHAN: I could use a PSA for how not to get pushed in front of a train.

GUTFELD: Yes.

MOYNIHAN: That might be helpful. No, my theory on this. There are 325,000 New York City employees. And I think they have to do something to justify the tax payer dollars.

GUTFELD: Right.

(CROSSTALK)

MOYNIHAN: And this is very reminiscent to me of -- if you remember, in COVID, the city released a guideline for how to have safe sex while wearing an N95 mask.

GUTFELD: Right. That was great.

MOYNIHAN: This is very much in the genre of things that if people had better things to be doing, they wouldn't be doing.

GUTFELD: Yes. And the --

(CROSSTALK)

TIMPF: I disagree. I think the bomb is coming.

GUTFELD: Yes. But you know, it's talked about -- I mean, the whole thing about telling you to wear that N93 masks during sex, you have to put it over the other mask.

MOYNIHAN: Yes. There's a lot of protection that they wanted people to have.

TIMPF: You don't have to answer that.

TYRUS: And the red ball gets in the way. Can't hear the safe word. A lot of confusion.

GUTFELD: Oh my god. Kat.

MOYNIHAN: Oh my god.

TIMPF: Yes.

GUTFELD: Do you find this helpful?

TIMPF: No. Because I feel like if I'm in the midst of a nuclear bomb attack, I'm not going to remember like the video.

GUTFELD: Yes.

TIMPF: And -- or anything. I'm going to run around screaming. I'm going to be somebody else's problem. That's, you know, just like I'm in any crisis.

GUTFELD: Yes, exactly.

TIMPF: Yes.

GUTFELD: I'm not -- I'm not -- I mean, I want to be the walking dead. I don't want to be somebody protecting people from the walking dead.

TIMPF: Well, I just won't be able to. And again, the fact that they start with don't ask me how, don't ask me why, I want -- whenever -- I want to ask why I can't ask why.



GUTFELD: Yes. Jamie, they just gave us another reason to leave the city. Right? It's like -- think about this. What did -- the subliminal thing is, we only bombed big cities anyway. So it's like, here's another reason to get the hell out of New York and go to Austin or go to Nashville. There -- this is basically a video telling you to leave.

LISSOW: It is like we need more stuff like to scare us. Do we need more stuff? I feel like the next video that just be like boo. You know what though? I'm so glad I saw this PSA because I memorize all the steps. Because my old plan if there was a nuclear attack, it was just going to be to be vaporized.

GUTFELD: Yes.

TIMPF: Yes.

LISSOW: I'm going to do this instead.

MOYNIHAN: Maybe this is their attempt to finally get rid of all the cockroaches.

GUTFELD: That's true. But they'll definitely live. The cockroaches will win. MOYNIHAN: Yes.

LISSOW: You know, I did like -- I like step through there. Like wash all your clothes. I like that they just assumed that (BLEEP) my pants

TIMPF: Yes. But everyone will also do step four, right? Where you check the mirror and see if it made you ugly.

GUTFELD: That's where you got to embrace this.

(CROSSTALK)

TIMPF: I would do.

GUTFELD: That's it. You got to embrace like, if you're (INAUDIBLE) your hideous. It's like, OK, 'm a zombie.

TIMPF: Yes. Then I'm going back outside.

GUTFELD: I'm going back outside. Pillage. Finally I get the pillage. Tyrus, what did you -- you were like, couldn't hold it together.

TYRUS: Because I apparently saw a different video than you guys. Everything I heard was, you got about 15 minutes, whoever is close to you get inside have some fun. You don't even got to do it the car anymore. You do it on the roof. And as soon as you get done, find someone else and get inside again. Like get in as many as you can. And don't - they're not going to ask --

GUTFELD: I did not hear that.

TYRUS: They're not going to ask how or why. We got 15 minutes. So, let's all just get weird. Let's just go out. Let's -- that's why I took it. So, don't ask, don't tell because we're not going to be around anyway. So, you know.

GUTFELD: Yes, yes. And if you -- and then you have to stop. Oh, but if you survive, then you have to start the whole race all over again.

TIMPF: Well, we got a good start before the 15th. Those few in because that's it.

GUTFELD: Oh, what a romantic --

(CROSSTALK)

TYRUS: Recycling. Go out where you went in.

GUTFELD: Yes. Up next. Gavin Newsom gives Florida flack while crime has Californians under attack.

(COMMERCIAL BREAK)

GUTFELD: Gavin Newsom insults the Sunshine State. But things in Cali, not so great. True, that slicked back sap says Florida isn't free, but as Californians can't wait to flee. California governor and red-kin conditioner model, Gavin Newsom, is running a re-election ad in Florida urging people to move to his state because he's stupid. But also, in the Sunshine State, freedom is under attack.

(BEGIN VIDEO CLIP)

GOV. GAVIN NEWSOM (D-CA): Let's talk about what's going on in America. Freedom, it's under attack in your state. Your Republican leaders, they're banning books, making it harder to vote, restricting speech in classrooms, even criminalizing women and doctors. I urge all of you living in Florida to join the fight or join us in California.

(END VIDEO CLIP)

GUTFELD: Of course, that ad has more inaccuracies than Jamie Lissow's guide to matrimony. So, freedom is under attack in Florida, but in California, Olympians are under attack. Saturday, volleyball player, Kim Glass, was almost blinded by a homeless loon who threw a metal pipe at her face. She talked about it on Instagram --

(BEGIN VIDEO CLIP)

KIM GLASS, OLYMPIC ATHLETE: I was in downtown L.A. and I had a lunch. As I was leaving lunch, I was outside and I was saying goodbye to a friend and this homeless man ran up. He had something in his hand before I knew it. A big metal bolt, pipe hit me right here, here. I just -- it happened so fast.

(END VIDEO CLIP)

GUTFELD: Now, that's really horrible. And we wish him a fast recovery. Still, for L.A. that's shocking and that it was a metal pipe and not a crack pipe. Speaking of crack pipes, from S.F., a video showing school kids getting off a bus and walking right into an open drug hellhole.

Hunter Biden, Hunter Biden is watching it on a loop to find girlfriends. The children had to be escorted off the bus and walk safely past homeless people and drug addicts living in squalor. Or as they call it in San Fran, a meeting of the teachers' union. That's a joke. Kat, this guy has got some major stones to do that while his, his state's falling apart, right?

TIMPF: I guess but I don't think he's the kind of guy who has any self-awareness at all. I think he's doing a great job. He's like, I just almost lost my job. I didn't actually lose my job. And I don't know, he's definitely, I think he's going to run for president. So, that's I think he's doing this.

GUTFELD: Really.

TIMPF: Yes, and it's -- I don't think it's going to go well, because I mean, like, he made like, places illegal for years.

GUTFELD: Yes. Yes.

TIMPF: Like, he outlawed places.

GUTFELD: Yes.

TIMPF: But he, except for him.

GUTFELD: Yes.

TIMPF: He could go into places.

GUTFELD: He poured sand into a skateboard.

TIMPF: Yes.

GUTFELD: I mean, what kind of freak does that stuff?

TIMPF: That guy.

GUTFELD: That guy. Jamie, I saw your face when the kids were walking by the junkies and you were thinking, God, why do these junkies have to put up with all those brats?

JAMIE LISSOW, COMEDIAN: You know, what's a little weird about the video?

GUTFELD: Yes.

LISSOW: I feel like if the bus pulled up like a little bit further, it would have been fine. There's like enough room to not do that.

GUTFELD: That is true.

LISSOW: Did you see that?

GUTFELD: Yes.

LISSOW: I feel bad, I feel bad for these --

GUTFELD: Go ahead.

LISSOW: I just feel bad for the -- I really feel bad for these kids. I have kids this age. It's, it's, it's sad man, and like what we had to go through. When I was a kid, the worst thing kids would make fun -- oh, step on a crack. Break your mother's back. And here step on a crack, hey, you stepped on that guy's crack.

Am I crazy or is the Gavin thing just, it's just, you said it, it's just insane that he would run? Why would he run, unless I'm missing something? Why would he run as in Florida? It would be like being on a dating app. And it was just your ex-girlfriends. You know, I mean?

GUTFELD: Yes.

LISSOW: Like, I can't think of a worse investment except for like a lap dance.

GUTFELD: Tyrus, what are your thoughts?

TYRUS, FOX NEWS CONTRIBUTOR: You know, again, I keep watching different stuff, mainly because I wear a lot of hats, I don't know. But I feel like he was looking for someone to blame on.

GUTFELD: Yes.

TYRUS: Let's get the Floridians over here, and then blame them for everything, you know, come out and be like everything was great, then all these Floridians showed up. And we've got homeless everywhere and crimes everywhere. So, go back, get out.

GUTFELD: Yes.

TYRUS: And I'll clean up this city, we just got to get rid of the Floridians. All those successful people who gave up their dreams and freedoms -- and he was saying how horrible it was but he was playing patriotic music in the background. So, I didn't know whether to start singing the pledge allegiance to the flag or be like wait, they're criminalizing women but in a happy way? He literally was saying all these things to happy music.

GUTFELD: He was trying to do a parody and he (BLEEP) up.

TYRUS: Well, he just -- it's Newsom.

GUTFELD: Last word, Lydia, what do you say?

LYDIA MOYNIHAN, NEW YORK POST BUSINESS REPORTER: You know, I think we need to go back to basics. I feel like Gavin Newsom is focused on teaching sex in schools and critical race theory. And you can't even walk down the street in San Francisco or L.A. or New York without feeling unsafe. I literally got spat on the other day walking home from work.

GUTFELD: Was it Kilmeade? He does that. He hates the color yellow.

MOYNIHAN: Oh, God. OK.

GUTFELD: No, if you were -- it's a common thing that a lot --

MOYNIHAN: Yes, but look, and I told people and most people are, oh, I'm sorry that happened to you. But there's sort of this resignation in our society like, yes, well, that's New York in 2022. What are you going to do about it?

GUTFELD: Yes, exactly. That's part, but that's part of what makes this city so great right? Masturbating junkies.

MOYNIHAN: Maybe one of those 325,000 New York City employees could figure out how to address that issue.

GUTFELD: Yes.

MOYNIHAN: I think we need to get back to basics.

GUTFELD: Yes, don't hold your breath, young lady. Mainly because it's not healthy.

Coming up, will the media ever question hunters love for the oldest professional?

(COMMERCIAL BREAK)

GUTFELD: Will Hunter's happy ending lead to charges pending? It appears the smartest guy, Joe, knows was disguising payments to hoes, which means it's time for --

ANNOUNCER: "THAT'S OUR HUNTER."

GUTFELD: He really deserves it. So, it was Papa Joe, the financial solution for Hunter's love of prostitution. Hunter Biden may face prostitution charges for allegedly transporting escorts across state lines with payments disguised as being from medical services. According to a suspicious activity report obtained by The Daily Mail, medical services. I got to hand it to him.

You could argue that persuasively in court and thank you, Hunter, this story has me reviewing my health plan. He apparently spent more than 30- grand on hookers over four months and another woman reportedly received nearly 300 grand with no clear legitimate economic purpose during the same time period. Interesting. I wonder if her safe word was Burisma.

It's not clear whether President Joe funded any of this or if the money just came from Hunter's legitimate business dealings. That had nothing to do with dad's position as a powerful politician and I'm sure no hard drugs were ever on-board Air Force One or Two. And if this sarcasm gets any thicker, you could mistake it for Hunter's little black book of whores. You know, Jamie, if this were any of us, we'd be behind bars. This guy --

LISSOW: Yes.

GUTFELD: --gets like every break. I'm jealous is what I'm saying.

LISSOW: Yes, I agree. There's no like, there, he recorded everything.

GUTFELD: Yes.

LISSOW: Like there's pictures and recordings of everything. And it was 30 - - did you see it was 30, I don't know anything. I've never -- you know, I don't know anything about like prostitutes legitimately. I don't really know. But I, I read that he did for \$30,000 he got the girlfriend experience.

GUTFELD: Yes.

LISSOW: And the only experience I ever had with a prostitute, I do not recommend, I got the wife experience. It's totally different. This lady just bought a \$12,000 cash from Pottery Barn on my credit card and told me I ruined her life.

GUTFELD: It's funny because it's true in Jamie's life. Tyrus.

TYRUS: You got to remember that safe word, man. You got to just know where to pull the cord on that one. I did -- so prostitution is illegal no matter what. But if you take them across state lines, well, that's a horse of a different color. No offense any horses in the audience. He's the last guy to try to bring back the man act.

GUTFELD: Yes.

TYRUS: Taking women, white women, across the state line? For the girlfriend experience. Nice. That's what we're calling it now. But then, you know, the \$300,000 one though. What was she --

GUTFELD: She's probably -- I think she might be the pimp-tress, right?

TYRUS: I think pimp is non-binary. I think it's just pimp. Yes, I don't think there's ever been a female pimp who's been like it, whoa, whoa, whoa, whoa, whoa.

GUTFELD: Yes.

TYRUS: Madam, pimp-tress. Caveman. Cave person.

LISSOW: I feel like if your kids' allowance is like \$10,000 a week, he's probably getting whores. Yes.

GUTFELD: That's true.

TYRUS: Yes.

GUTFELD: He's definitely graduated from baseball cards.

TYRUS: Yes.

GUTFELD: You know, Lydia, I feel like we're all getting like, jaded by what he call it by just by --

MOYNIHAN: Life?

GUTFELD: Like, like, by him. Like, we're not actually doing what he's doing. But he's made me jaded. Because I keep hearing everything. And I go, wow, OK. Oh, wow. Oh, yes, I guess so. I mean, I saw him in a pool doing things himself.

MOYNIHAN: OK, what's so wild is just how brazen it's like. I still feel guilty that freshman year in high school, I let somebody copy my answers for homework. And I'm paranoid about that. And he's actively archiving everything that he's doing. It's not just that he's doing illegal drugs, doing things with prostitutes.

He's taking photos of them. He's sending wires. He's doing all of these things that make it so traceable. It's almost like he's asking to be caught. And he's so arrogant, that he either knows he won't be caught, or that no one's going to have the hutzpah to go after him.

GUTFELD: Yes, I think that, I think it's all of those things.

MOYNIHAN: He's literally creating a time capsule.

GUTFELD: Yes, of every --

MOYNIHAN: Of illicit activity.

GUTFELD: It's like a living memoir. He's got a living memoir. This is going to be a great mini-series and you don't even have to cast the actors. The other thing, Kat, that he has that most of us don't have, he has no shame. He's incapable of embarrassment. I, that's almost a superpower to, to never be embarrassed.

TIMPF: I just can't believe you let people copy your answers.

MOYNIHAN: Wow!

TYRUS: Thank you, Kat.

MOYNIHAN: Wow.

TIMPF: Don't, don't bring these types of degenerates on this family show.

GUTFELD: I know.

TIMPF: I don't like to associate with people who have done horrific things.

MOYNIHAN: And it still keeps me up at night, OK.

TYRUS: And it should, young lady.

TIMPF: Look, everyone's got a hobby. Hunter's is expensive. You know, I mean, like prostitution is illegal, but I don't think it should be it's just like a business transaction. So, I hope you know everyone had a nice time and got home safe.

GUTFELD: Yes. Yes, that's true. But it's a -- hobby should not be expensive to the other people around you, and that's what's happening.

TIMPF: I'm glad it's not my problem.

GUTFELD: Well, no -- it's America's problems.

TIMPF: Other things are. I'm more concerned about like the potential corruption and what he wants to do this time with his penis and his nostril, go ahead.

GUTFELD: Yes, here's the deal. It's going to have, when we have the hearings after we, we -- as in America -- takes back the house, we're going to have some fun hearings. Up next, a new worry too hot your thoughts being enslaved by robots.

(COMMERCIAL BREAK)

ANNOUNCER: "A STORY IN FIVE WORDS."

GUTFELD: We're short on time, here's the story in five words: Greg was right all along. Tyrus, I said this, I said this new survey finds that robots are predicted to rule the world by the 2060s and humans only role will be to entertain or work for the robots, who said that first? Me.

TYRUS: Is there a clip?

GUTFELD: No. Yes. Go laugh. All right, your 30 seconds is almost up.

TYRUS: Listen.

GUTFELD: I know.

TYRUS: The way things are going right now, they're going to you know the Green New Deal and how they're going to move everything over to windmills and stuff. So, the robots will be good in the summertime but come winter we'll get it back.

GUTFELD: That's so true. Kat, are you looking forward to this as much as I am? I want to be enslaved by robots. I want to be a very bad boy.

TIMPF: You plan to live until 2060?

GUTFELD: You know, I carving --

TIMPF: I don't plan to live until 2060.

GUTFELD: I'm carving my brain out --

TYRUS: Oh, he'll be here.

GUTFELD: -- like presses body fluids. I'm going to be alive floating around in a little, little bucket. Like a little bucket.

TIMPF: Oh, cool. I'll come see you all the time.

GUTFELD: Yes. Is that your answer? Because we can move on.

TIMPF: It's survey -- it says, this is people think robots might rule the world by 2060. How is this a story?

GUTFELD: Are you questioning my story choice?

TIMPF: Yes.

GUTFELD: You know, that's it. I don't know what that's it. I don't but that is it. But that's it. Congratulations. Lydia, thoughts?

MOYNIHAN: I don't think humans are doing a very good job, so maybe robots would actually be better.

GUTFELD: Oh, definitely.

MOYNIHAN: And if they're sort of the ruling class, that might mean that we can just go to the beach and live our best lives. I'm, I am manifesting very benevolent kind robots who let us live our best lives.

GUTFELD: They have no emotions, they will do, they will put a guy to death for murder, right? They won't like, oh, you know, he's got good behavior. No, the computers, the algorithms, they'll all be objective right, Jamie?

LISSOW: Yes, I'm so scared. I do feel like someday, I think the TV will sit on the couch and watch us. But it's already happening. It's already happening. The machines are taking over like this girl friend of mine bought a vibrator a year ago I haven't heard from her.

GUTFELD: That truly is the girlfriend experience. Don't go away, we'll be right back.

(COMMERCIAL BREAK)



GUTFELD: We are out of time. Thanks to Lydia Moynihan, Jamie Lissow, Kat Timpf, Tyrus, our studio audience. "FOX NEWS @ NIGHT" with Evil Shannon Bream is next. I'm Greg Gutfeld and I love you America.

END

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---- Index References ----

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News Subject: (Business Management (1BU42); Family Social Issues (1FA81); Health, Education & Welfare (1HE31); Sales & Marketing (1MA51); Social Issues (1SO05); Social Welfare (1SO83))

Industry: (Advertising (1AD82); Advertising & Public Relations (1AD83); Celebrities (1CE65); Entertainment (1EN08); Television Advertising (1TE28))

Region: (Americas (1AM92); Asia (1AS61); California (1CA98); Florida (1FL79); New York (1NE72); North America (1NO39); Southern Asia (1SO52); U.S. Mid-Atlantic Region (1MI18); U.S. Southeast Region (1SO88); U.S. West Region (1WE46); USA (1US73))

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**NewsRoom**

## NewsRoom

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2022 WLNR 21839098

Greensboro News & Record (NC)  
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July 13, 2022

Section: Life

### Biden **whiplashes** border patrol

Cal Thomas Tribune Content Agency

Only in America, it seems, can border patrol agents be cleared of breaking any laws but still be punished, while those entering the country illegally mostly escape punishment.

President Biden, then-press secretary Jen Psaki and Secretary of Homeland Security Alejandro Mayorkas, all rushed to judgment when they saw a video of Texas Border Patrol agents last September herding Haitians attempting to enter the country without authorization. Biden had threatened the agents, saying they would "pay" for their actions. They have paid in lost time on the job, the smearing of their character and probably an end to their careers. It is the administration that should pay. One hopes the agents will find a lawyer who sues it for slander.

In a 511-page report (only the government requires so many words to explain the obvious), Customs and Border Protection said the agents did not **whip** the **migrants**, who managed to get across the border anyway, but added they are still guilty of "unprofessional conduct," including using "unnecessary force on Haitians." Apparently, some of the agents used bad language while trying to turn the people back. Shocking, I know. Were they supposed to say: "Would you pretty please turn around and go back to your country?"

Texas Attorney General Ken Paxton has joined other Republicans in calling on President Biden and others to apologize to the four agents they falsely accused. Good luck with that. Being a high government official means never having to say you're sorry. Paxton said instead of being punished, the agents "should be rewarded."

Texas Gov. Greg Abbott is trying to do the job the Biden administration has so far refused to do by sending **migrants** who cross into his state back to an established crossing point where they can be processed. The administration opposes the move and is suing Texas to try and stop it. Yes, I understand that immigration is the constitutional responsibility of the federal government, but what's a governor to do when his state is being overrun by **migrants**, some of whom they say are destroying private property and committing other crimes, including rape and murder?

In Richmond, Va., two men in the country illegally were arrested prior to what authorities say was a plot to conduct an act of terrorism on July 4. Someone heard something and said something, preventing what might have been a tragedy had the men been able to proceed with their alleged plot. One of the men reportedly had been deported twice before.

If Republicans achieve a majority in the House and Senate in the November election, their top priority must be securing the border and restoring a legal process for those seeking to enter the country. President Biden is likely to veto any legislation passed by Republicans to achieve that goal, but if there are enough Republicans in Congress his veto can be overridden.

It isn't just those breaking our laws to get here that are a continuing problem, but also the large amounts of the deadly drug fentanyl coming in. Fentanyl now ranks No. 1 on the list of biggest killers of 18- to 45 year-olds in the United States. And it is about the number of desperate people promised a better life by the cartels and human traffickers who have died on their dangerous journey.

All the administration has said is "Don't come," which is like telling a child not to raid the cookie jar. Secretary Mayorkas has repeatedly made the ludicrous claim that the border is closed. He should be impeached for lying and not enforcing the law, or maybe bring back the ancient **whiplash** form of punishment and apply it to high government officials (just kidding).

Readers may email Cal Thomas at [tcaeditors@tribpub.com](mailto:tcaeditors@tribpub.com).

--- **Index References** ---

Company: TEXAS BORDER GAS CO

News Subject: (Crime (1CR87); Government (1GO80); Immigration & Naturalization (1IM88); Legislation (1LE97); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05); U.S. Legislation (1US12))

Industry: (Healthcare (1HE06); Healthcare Regulatory (1HE04); U.S. National Healthcare Reform (1US09))

Region: (Americas (1AM92); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

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**NewsRoom**

## NewsRoom

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2022 WLNR 21834940

Lake County News-Sun (Waukegan, IL)

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July 13, 2022

Section: News

### Talk of the County

#### Editor's note

Talk of the County is a reader-generated column of opinions. If you see something you disagree with or think is incorrect, please tell us. Call us at 312-222-4554 or email [talkofthecounty@tribpub.com](mailto:talkofthecounty@tribpub.com).

#### Half-mast

I see Biden lowered our flags to half-mast for the recent mass shooting in Highland Park. Why not leave them lowered always for the innocent people killed on a daily basis?

#### I want that money back

For all you Republicans calling in and crying about the money being spent on the Jan. 6 committee: I want the trillion (with a T) and a half that you Republicans stole from the working man back in 2018. I want that money back.

#### Goodbye, Democrats

Justice Kavanaugh has been constantly harassed by the Democrats. Attorney General Garland has done nothing to stop it. President Biden criticized the border agents for **whipping migrants** at the border. The border agents were found innocent of the charges. President Biden did not apologize for his stupid actions. Stacey Abrams is for defunding the police, yet she has paid \$450,000 for her own security. Now, 88% of Americans disapprove of President Biden's policies. Goodbye to the Democratic Party.

#### Who said?

Who said Waukegan fireworks are illegal? Not the police department.

#### Stay out government

You know, I'm sick of hearing about this abortion stuff. The government should have stayed out of it. It was fine. I believe that a woman should have the right to do what they want with their own body as long as they don't get rid of the baby before

the time when it's considered a human life. If that's something they want to do beforehand, that should be up to them. But, taxpayers should not have to pay for it.

Bad character

It all comes down to character. We know Trump lied and cheated on things big and small - unfaithful to his wives, willing to ruin our electoral process to stay in power and threw anyone no longer useful under the bus, etc. That's what I call bad character, and I will not vote for anyone who thinks supporting a bad character is good for our country.

Keep them on cable

I'm absolutely on your side of the "Price is right" contributor. Any hearings should always be on cable news channels, not the broadcast networks. The hearings are important, but need to stay in their own space.

---- **Index References** ----

News Subject: (Abortion (1AB77); Government (1GO80); Health & Family (1HE30); Health & Wellness (1HE60); Political Parties (1PO73); Public Affairs (1PU31); Social Issues (1SO05))

Industry: (Contraception (1CO66); Healthcare (1HE06); Healthcare Practice Specialties (1HE49); Women's Health (1WO30))

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Other Indexing: (Republicans; Democrats; Democratic Party) (Biden; Justice Kavanaugh; Garland; President Biden; Stacey Abrams; Americans; Trump)

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**NewsRoom**

## NewsRoom

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July 12, 2022

Biden's Canned Hunt: The Punishment of the Border  
Agents is about protecting a President, not **Migrants**

jonathanturley

Jul 12, 2022

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border custom

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Screenshot

Below is my column in The Hill on the punishment of four mounted Border Patrol agents in Texas and what it says about us as a country. What is particularly crushing is not just that this can occur but that it was predicted almost a year ago.

Here is the column:

President Eisenhower once said that "The search for a scapegoat is the easiest of all hunting expeditions." When it comes to subordinates, that can become a virtual canned hunt for a president. Worse yet, presidents often use other subordinates to pull the trigger.

That is what happened this week when President Biden bagged four Border Patrol agents in one of the most cowardly canned hunts in political history.

After almost a year of investigation, the Biden administration announced the agents would be punished even though investigators found no evidence that they **whipped migrants**, as Biden and many other politicians and pundits insisted. Since the president declared — before an investigation had begun — that the agents would have to be punished, the agents had to be found guilty of something. So, they were reprimanded for "unprofessional conduct," "working in an unsafe manner" and "derogatory language."

Make no mistake: This is not about protecting **migrants**. It is about protecting a president.

The verdict on these agents was decided ten months ago, after the media went into a frenzy over a false story accusing mounted officers of **whipping** undocumented **migrants** near Del Rio, Texas, on Sept. 19.

A photographer captured the scene, which showed agents using bridle reins to guide their skittish horses. The entire videotape clearly shows the agents using the reins on their mounts, not on the **migrants**. Not only did the photographer quickly deny seeing any officers **whip migrants**, the videotape clearly refuted that allegation. However, for many in politics and the media it did not matter because it played into a racial-justice claim of the "**whipping** (of) Haitian asylum seekers."

House Speaker Nancy Pelosi (D-Calif.) condemned "the inappropriate use of what appear to be **whips** by Border Patrol officers on horseback to intimidate **migrants**." Senate Majority Leader Chuck Schumer (D-N.Y.) decried "images of inhumane treatment of Haitian **migrants** by Border Patrol — including the use of **whips**." Vice President Kamala Harris emoted on "The View" about how the brutality "invoked images of some of the worst moments of our history, where that kind of behavior has been used against the Indigenous people of our country, it has been used against African Americans during times of slavery." Reps. Maxine Waters (D-Calif.) and Ayanna Pressley (D-Mass.) described the incident as "worse than what we witnessed in slavery" and "white supremacist behavior."

President Biden rushed to express his own revulsion and rage, too: "It was horrible what — to see, as you saw — to see people treated like they did: horses nearly running them over and people being strapped. It's outrageous. I promise you, those people will pay."

At the time, some of us objected that the president had, once again, declared the guilt of accused persons without evidence or investigation. The possible innocence of these officers simply did not matter to the president or to many in the press.

Despite being tasked with an investigation, Department of Homeland Security Secretary Alejandro Mayorkas joined the condemnations of the agents, saying that their conduct "defies all of the values that we seek to instill in our people." He then promised swift justice with an investigation that would take "days, not weeks" — yet the investigation dragged on for months.

The reason was obvious. Within hours, the issue was no longer whether the agents **whipped migrants**. The issue was that the president wrongly claimed they **whipped the migrants** and would be punished.

Even some in the media admitted that the story was false, but President Biden never apologized for his false accusation. The innocence of the agents simply did not matter.

In a column last year, I explained what was likely to happen. First, the administration would bury the investigation "to wait for public attention to wane." Then it would issue a long-delayed report and protect the president "by changing the question. For example, what began as an investigation into whether agents used reins to **whip migrants** might be converted into a long investigation into the use of horses in crowd control operations."

And that is precisely what has happened. After almost a year, the agents will face relatively light punishment — two weeks without pay — for such transgressions as speaking in a threatening matter or managing a horse too close to a child.

This small detachment of mounted border officers was ordered to the river's edge to prevent a huge body of **migrants** from crossing. In previous legal cases, I have deposed mounted officers involved in crowd-control operations. Since horses are commonly used to control crowds, such moments are routine. That does not excuse threatening language or careless maneuvers — but such instances generally result in verbal reprimands at the scene or, occasionally, formal discipline within weeks of the operation. They do not involve multi-agency efforts and almost a year of investigation.

Moreover, these circumstances were known within days of the Del Rio incident. Yet the Biden administration waited until a Friday afternoon ten months later to release its findings. Notably, at no point did it clear the agents of allegations of being racists who **whipped** black **migrants**, despite that fact that Customs and Border Protection Commissioner Chris Magnus said there was "no evidence Border Patrol agents involved in this incident struck anyone with their reins intentionally or otherwise."

From beginning to end, these agents have been treated as props for the president and his administration. They were first used as embodiments of alleged systemic racism in law enforcement; they were then used as scapegoats to fulfill the president's promise that "those people will pay."

Most Americans would be appalled by this treatment, but few have seen the full story. It is doubtful they will, either, because much of the media was complicit with the president in the original false story and may be reluctant to fully correct the record now.

At the start of his administration, President Biden proclaimed that "the most difficult but important step [for a free nation] is burying the legacy of tyranny" and ensuring "a government and institutions that abide by the rule of law . Every country faces challenges to the rule of law, including my own." What few of us expected was that Biden himself would become one of those most persistent challenges.

Jonathan Turley is the Shapiro Professor of Public Interest Law at George Washington University. Follow him on [Twitter@JonathanTurley](https://twitter.com/JonathanTurley) .

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---- **Index References** ----

Company: NEWSTEX, LLC; GEORGE WASHINGTON UNIVERSITY (THE); BORDER BANCSHARES, INC.; U.S. Department of Homeland Security

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Region: (Americas (1AM92); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

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**NewsRoom**

## NewsRoom

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New York Post  
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July 10, 2022

Section: News

Say you're sorry, Joe Tex AG on 'whip' flub

Mary Kay Linge and Isabel Vincent

Texas Attorney General Ken Paxton is demanding the Biden administration apologize for falsely accusing four mounted Border Patrol agents of **whipping** Haitian **migrants** at the southern border with Mexico last year.

"There's no doubt this was political," Paxton told Fox News on Friday, joining other Republicans in demanding a mea culpa from the president.

"And it's really unfortunate that these border agents who've given their lives to securing our border and defending Americans [sic]. And here they are being punished; they should be rewarded," he added.

A 511-page report released by the US Customs and Border Protection Office of Personal Responsibility this week found that the **whipping** allegations were false and cleared the agents.

The inquiry was sparked after images emerged of agents on horseback in Del Rio, Texas, holding back Haitian **migrants** in September, and President Biden accused them of wrongdoing.

"To see people treated like they did . . . people being strapped, it's outrageous," the president said at the time before vowing: "I promise you, those people will pay."

Meanwhile, it emerged that the federal government expects a record surge of up to 161,000 unaccompanied minors to flood the US-Mexico border this year, according to a leaked report.

"DHS projections call for approximately 148,000 and 161,000 [unaccompanied children] referrals to [Health and Human Services Office of Refugee Resettlement] this year," according to an Interior Department projection obtained by the Washington Examiner.

The report, dated January 2022, warned of "monthly projections exceeding those seen in FY 2021" — when a record-shattering 147,000 **migrant** children entered the US alone, without a parent or family member.

US Customs and Border Patrol agents picked up more than 101,000 unaccompanied minors between October 2021 and May of this year, according to agency tallies — with four months still to go in the fiscal year ending September 30.

The month-by-month totals in six out of those eight months have far exceeded the record numbers seen in the previous year.

--- **Index References** ---

Company: U.S. Customs and Border Protection,; DHEHAN STAINLESS PIPE Co., Ltd.; FOX NEWS NETWORK, LLC; Washington Examiner

News Subject: (Crime (1CR87); Immigration & Naturalization (1IM88); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Industry: (Security (1SE29); Security Agencies (1SE35))

Region: (Americas (1AM92); Latin America (1LA15); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (Republicans; US Customs and Border Protection Office of Personal Responsibility; Health and Human Services Office of Refugee Resettlement; Interior Department; US Customs and Border Patrol; DHS; Fox News; Washington Examiner) (Joe Tex; Ken Paxton; Americans; President Biden)

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**NewsRoom**

## NewsRoom

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AP Alerts  
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July 9, 2022

### Another Day, Another Batch Of Biden Blunders; Biden Signs Executive Order On Abortion Amid Growing Pressure From Far-Left Voices - Part 2

Gregg Jarrett, Charlie Hurt, Sara Carter, Leo Terrell, David Webb

xfdx FOX-HANNITY-01

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Head: Another Day, Another Batch Of Biden Blunders; Biden Signs Executive Order On Abortion Amid Growing Pressure From Far-Left Voices - Part 2

Sect: News; Domestic

Byline: Gregg Jarrett, Charlie Hurt, Sara Carter, Leo Terrell, David Webb

Guest: Mike Lee, Lauren Boebert, Alan Dershowitz, Ted Budd, Karol

Markowicz, Rick Perry, Ken Paxton, Andy Biggs

Spec: Joe Biden; Congress; Government; Politics; Economy; Policies;

Democratic Party; Abortion

PERRY: Gregg, tapping the strategic petroleum reserve it's there for a natural disaster or a national defense issue. It's not there to play economics with, and the idea that that you can -- it's not that much. I mean, we're talking a relatively small amount in the ground scheme of things from the standpoint of refining.

What he should be doing is sending the message to the country -- to the oil and gas industry, listen, we're not going to overregulate you. We're not going to overtax you. Send the message to the refining industry that we're going to do what we can to be able to use American energy.

If you care about the future, you've got to be for American fossil fuels.

JARRETT: Secretary Perry, thank you so much.

Coming up straight ahead, despite being cleared of all wrongdoing for the fake **migrant whipping** incident, Biden's CBP still wants to punish the Border Agents involved. Ken Paxton joins us to explain.

Plus, Andy Biggs, Sara Carter reacts.

Stay with us.

(COMMERCIAL BREAK)

JARRETT: Now, tonight, another example of the media mob's hate hysteria and outright hoaxes, because remember last year when Border Agents were accused of **whipping** Haitian **migrants** down in Del Rio, Texas. Well, yet again, facts in reality got in the way of a far left narrative because Joe Biden's own CBP commissioner admitted today no agents were carrying **whips** and no **migrants** were attacked. Watch.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: OPR investigators determined that the agents involved in the Del Rio activity were not carrying **whips**. OPR found no evidence Border Control agents involved in this incident struck any person with their reins intentionally or otherwise.

(END VIDEO CLIP)

JARRETT: But get this, despite the agents being cleared of wrongdoing that Biden DHS reportedly still wants some form of discipline for, you know, minor infractions like using strong language -- well, ask yourself, why does this administration keep going out of its way to demonize law enforcement while continuing to make it harder and harder for border authorities to simply do their jobs?

Here now to answer that and much more, Texas Attorney General Ken Paxton.

Attorney General, how does this make any sense?

KEN PAXTON (R), TEXAS ATTORNEY GENERAL: No, look, you'll remember that Joe Biden, Nancy Pelosi, Chuck Schumer came out criticizing about these **whips**, how they were going to be punished. And here we are, almost a year later, it's a year to do this investigation, they actually found just the opposite. They did not use **whips**.

Then, of course, because Joe Biden and the others suggested punishment, they had to go investigate something else and as you said, very vague charges and to me ridiculous. These people have done more to protect America than Joe Biden or any of these senators, congressmen.

JARRETT: Yeah and here's the president on national television immediately after this incident and we see on videotapes, they're not **whipping** people. They're using the reins to control their horses, but he convicts them in the court of public opinion demanding and promising that they're going to pay for what they did.

So, you know, isn't this a case where you know, God forbid, we let the facts in the evidence get in the way of a good story?

PAXTON: Yeah, there's no doubt this was political and it's really unfortunate for these border agents who have given their lives to securing our border and defending Americans. And here they are being punished?

They should be rewarded. They should be taken care of. Instead, their careers may be ruined and they've been humiliated in front of the entire American public.

And I just think it's really wrong. I would expect, instead Joe Biden, and some of these political leaders should come out and actually apologize to these guys for what they've been through.

JARRETT: Yeah, I agree wholeheartedly.

Ken Paxton, thanks for being with us.

Now, the Biden open borders agenda is aiding and abetting lawlessness all the while emboldening drug cartels, human traffickers and smugglers. This is a self-inflicted crisis, folks, all caused by the policies of Joe Biden.

Here now for reaction, Congressman Andy Biggs and FOX News contributor Sara Carter.

How desperate is the situation at the border, Congressman Biggs? You know, in the period of time Joe Biden's been president, 3 million illegals have crossed into the United States, a quarter of a million just last month.

REP. ANDY BIGGS (R-AZ): Yeah, Gregg, it is really unprecedented and if you -- if you think about it, how many millions will have gotten into this country illegally by the time Joe Biden leaves office. Just down there last weekend, it is amazing. They're coming across in big groups whether it's in Yuma, Del Rio, Rio Grande Valley, other places along the border. It's a steady flow.

And you know what? We don't know who we don't -- who we're not getting. So you've got terrorists that are coming to this country, drug trafficking coming in, you've got criminal gang members coming in, and this administration is basically telling ICE and CBP, hey, you can't enforce the law. And so, it's putting this country at a national security risk as much as anything else. I can even imagine.

JARRETT: And, you know, Sarah you have spent so much time down at the border. One of the real problems is what's being brought across along with illegals -- thousands of weapons, hundreds of millions of lethal doses of fentanyl. FOX is reporting today that just the other day, 1,200 pounds of fentanyl were seized and I think I heard this right, enough to kill 270 million people.

What's going on there?

SARA CARTER, FOX NEWS CONTRIBUTOR: That's right, Gregg. And I think this is part of the story that is not getting out to the American people sufficiently enough. That border is a national security risk for all of us. It's not only a humanitarian crisis for the people that are coming across. Not only has the Biden administration undermine the authority of our Border Patrol agents, our Immigration and Customs Enforcement officers, our DEA, our CIA, our U.S. Northern Command.

But we're watching fentanyl pour across our border in droves, killing Americans. You know, the Chinese government is also supplying the precursor chemicals into Mexico. The Mexican drug cartels are creating and making the fentanyl in Mexico and then it's being shipped here to the United States in counterfeit pills.

These pills look exactly like Percocet. They look exactly like OxyContin. I've talked about this on my podcast. They are out on the streets and they are killing our young people -- people as well as adults who think these are pills that are coming from the pharmacies. You know, I've had people tell me, this is irregular warfare in the United States. But yet we have a president -- a president that sits back an administration that sits back and intentionally makes this border chaos happen.

So you have to ask yourself, it's no wonder that Texas DPS, Governor Gregg Abbott, you know, Ken Paxton, the attorney general, the state of Arizona with Andy Biggs, that they are defending themselves and defending the American people when the federal government has failed to do its only job, it's only real job and that is to protect us.

JARRETT: It is such an important topic. I wish we had more time.

I want to say thanks to Andy Biggs, Sara Carter. Please come back.

Coming up next, Ron DeSantis hitting back at Gavin Newsom as the California governor tries to lure Floridians to his state. We'll bring you the latest as David Webb and Leo Terrell joined us wit reactions.

Stick around.

(COMMERCIAL BREAK)

JARRETT: Now, after failing far left Governor Gavin Newsom made a major ad buy in the state of Florida earlier this month to attack the Florida governor, DeSantis today fired back with these remarks. Watch.

(BEGIN VIDEO CLIP)

GOV. RON DESANTIS (R), FLORIDA: Well, look, I'm like this everyone wants to talk about me and Florida. I mean, like I'm just sitting here little old me doing my job.

(APPLAUSE)

I can just tell you this. I was born and raised in this state and until the last few years, I rarely if ever saw a California license plate in the state of Florida. You now see a lot of them. I can tell you, if you go to California, you ain't seeing very many Florida license plates.

(END VIDEO CLIP)

JARRETT: Here now for reaction, FOX News contributors David Webb and Leo Terrell.

Leo, I'm here in Los Angeles at the moment and I can attest to the fact that people don't feel safe. I mean, crime is rampant. Homelessness grows unabated. Government does nothing about it.

And Newsom wants people to come to California. To use a psychiatric term, that's nuts.

LEO TERRELL, FOX NEWS CONTRIBUTOR: Yeah, and, Gregg, I'm in California as well and it's not going to happen. Look, this is a mismatch. This is a heavyweight fight. DeSantis is the heavyweight, Newsom is a flyweight.

California is a disaster. Besides the gas prices, the homelessness, the crime, the poor schools, the \$20 billion of unemployment fraud, this state is a disaster.

And what Governor Newsom is trying to do is distract from his disaster. Let me give you a fact -- we lost a congressional seat in California because DeSantis is right, people left California. Guess what? Florida gained a congressional seat.

So what Gavin Newsom is trying to do, don't forget, he was one -- he was -- he was being recalled last year. He's trying to distract from the disaster in this tax burden, very poor economic state and it's not a match. It's not even close.

Florida is a state that is up and coming. California is a disaster.

JARRETT: You know, I watched the ad buy again, David, you know, Newsom says, freedom is under attack in Florida. No, it's not. Freedom is flourishing in Florida, freedom is under attack here in California by the criminals who rule the streets and the government doing nothing. That's backwards, isn't it?

DAVID WEBB, FOX NEWS CONTRIBUTOR: Well, it sure is and, by the way, guys, I'm in Miami where the streets are nice and safe, where the weather is beautiful, where look at me, I'm a happy man in a beautiful state, and so many other Americans coming here not just from California.

The out migration was pre-COVID from California when you look at Census Bureau figures. Growing here in Florida where people are literally bidding on homes sight unseen, condos, apartments.

Now, look, housing market issues aside, people are moving for tax purposes, businesses, new technology.

And I want to say this to Gavin Newsom: thank you for adding to the company bottom line because that \$105,000 goes into the kitty and it left California like the people are doing.

Serious point here, unfortunately, for so many of my friends, so many good people in California, they're stuck with the Gavin Newsoms. They're no longer stuck with Chesa Boudin, thank God. Maybe San Francisco has a chance --

(CROSSTALK)

WEBB: -- Gavin should spend less time with the French laundry and more time doing his political laundry.

JARRETT: Leo, I got 30 seconds left, Leo. But the other part of the equation is the high taxes here that support the Democratic agenda. It's choking the economic life out of people. No wonder they're fleeing.

TERRELL: You're absolutely right, Gregg. I'm telling you right now, California is a poorly run state. It's a blue state poorly run. Florida and Texas or red states efficiently run and that's the major difference and Gavin Newsom had to admit that.

JARRETT: All right. Thank you both.

More on this special edition of HANNITY after the break.

(COMMERCIAL BREAK)

JARRETT: And welcome back to the special edition of HANNITY. Unfortunately, that's all the time we have left for this evening. Thank you sincerely for joining us.



Don't forget, you can listen to my podcast, "The Brief." You can read my columns at thegreggjarrett.com. And this fall, I'll be out with a brand-new book titled "Trial of the Century."

Have a great weekend, everyone. Sean is back on Monday.

Laura is next.

END

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**NewsRoom**

## NewsRoom

7/9/22 AP Alerts 05:37:56

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July 9, 2022

Biden Admin Can't Do Anything Right; Powell Missed Inflation, But Keeps  
His Gig; We All Know How Wrong Fauci Is; We Could Use A New Press

xfdfx JESSE-WATTERS-PRIMETI-01

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Date: July 8, 2022

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Keeps His Gig; We All Know How Wrong Fauci Is; We Could Use A New Press  
Secretary; Border Is A Dumpster Fire Under Mayorkas; Elon Musk Terminates  
Twitter Deal; President Biden Brings His Son Hunter Biden To The White  
House Event To Try To Tell People That He Is Doing Great White There's Been  
Tons Of Controversy Associated With Hunter; New Yorkers Have Reacted To The  
Case Filed Against A Store Owner, Jose Alba, Who Just Defended Himself From  
An Ex-Convict; Mark McCloskey Who Is Running For Senate In Missouri Says  
That Soros Funded D.A.'s Like Alvin Bragg Are Putting The Lives Of  
Constituents At Risk By Not Prosecuting Criminals - Part 1

Sect: News; Domestic

Byline: Jesse Watters, Miranda Devine, Raymond Arroyo and Jackie

DeAngelis

Guest: Sarah Palin, Clay Travis, Mark McCloskey

Spec: Vladimir Putin; Afghanistan; Delta; Omicron; Anthony Fauci;

Secretary Mayorkas; Border Patrol; Kamala Harris; Democrats; Kabul; Joe

Biden; Democratic Party; Jussie Smollett; George Costanza; Congress; Donald

Trump; Elon Musk; Twitter; Hunter Biden; Jill Biden; Politics; Families;

Business; Energy; China; Hunter Biden; Crime; New York; Alvin Bragg;

Violence; Police; Justice; Safety

MIKE EMANUEL, FOX NEWS HOST: Check your local listings or 2 p.m. Eastern here on Fox News. Thanks for inviting us into your home tonight. That's it for this Special Report. I'm Mike Emanuel in Washington. Thank you for watching. JESSE WATTERS PRIMETIME is next. Jesse.

JESSE WATTERS, FOX NEWS HOST: Thanks so much, Mike. Have you ever been caught in a lie before? As a kid, maybe you broke something in your bedroom.

(VIDEO PLAYING)

WATTERS: You made a mistake, but you don't want to get in trouble. So, you could try to lie your way out of it. Tell a little fid (ph), lamp broke on its own, maybe the dog did it. You just don't want to face the consequences. As a kid, you can kind of get away with it. But, as an adult, you need to take the heat.

(VIDEO PLAYING)

WATTERS: But, today, we have a president who can't own up to anything. And, no matter how many times he blows it, nobody ever pays a price. Gas prices keep breaking records. That's Putin's fault. There is no baby formula. Come on, man. He is not a mind reader. They botched Afghanistan. We left hundreds behind enemy lines, marines died, billions of weapons left there. But, no one in the administration was fired. Blinken, Austin, Milley, they're all still there. Jerome Powell flooded our economy with funny money, missed inflation. Did Biden cut him loose? No. He rehired him as Fed Chair.

The administration didn't see Delta or Omicron waves coming, was short on testing. Fauci is still hanging around. Is the doctor still in quarantine, by the way? COVID must really be doing a number on him. And, how is it that the French lady still has a job?

(BEGIN VIDEO CLIP)

KARINE JEAN-PIERRE, PRESS SECRETARY, WHITE HOUSE: So, the board has never convened. It - so, that's - it never convened, and the board is - yes, the board is pausing in the sense that it will not convene.

(END VIDEO CLIP)

WATTERS: The worse you are at your job, the more job security you have in the Biden administration. Nobody fails up like the Secretary of Homeland Security, though. There has never been more illegal border crossings under any administration in American history as there have been under this president. How the hell does Secretary Mayorkas still come to work and collect the paycheck at this point? Even Mayorkas can't believe he hasn't been given a pink slip. The only people in the Biden administration actually doing their jobs well were these Border Patrol agents on horseback.

Back in September, a shantytown of Haitians, 30,000 strong, formed under a bridge in Del Rio, Texas, think about that, it's enough people to fill Fenway Park, were crammed under a bridge in Texas September, itching to break through the border. It was a humanitarian crisis caused by Biden's broken border policies. And, of course, Border Patrol had to go in and clean up Joe's mess. In the process of doing their actual job, something the rest of this White House knows nothing about, pictures circulated online or them containing the situation. Since they were on horseback, naturally, they had the reins of their horses in their hands. It didn't take long for the left wing media to hatch a hoax, falsely accusing them of **whipping** Haitians.

(BEGIN VIDEO CLIP)

BRIAN WILLIAMS, HOST, "THE 11TH HOUR": There is more outrage tonight after disturbing images showed Border Patrol agents on horseback swinging what appeared to be horse reins.

BORIS SANCHEZ, CNN ANCHOR AND CORRESPONDENT: The images we saw from Del Rio are painful to watch.

ALIX DESULME, CHAIRMAN, NATIONAL HAITIAN AMERICAN ELECTED OFFICIALS NETWORK: It's painful, disgusting, I mean, outrage.

UNIDENTIFIED FEMALE: Outrage over these images showing desperate **migrants**.

JONATHAN LEMIRE, MSNBC HOST, "WAY TOO EARLY": Really shocking footage that obviously horrified.

UNIDENTIFIED MALE: Those searing images linger on.

UNIDENTIFIED MALE: They certainly do.

(END VIDEO CLIP)

WATTERS: The administration, as cunning as they are dumb, ran with the hooks, and attacked their own employees. Due process be damned. Kamala Harris said this reminded her of slavery because everything reminds her of slavery.

(BEGIN VIDEO CLIP)

KAMALA HARRIS, 49TH U.S. VICE PRESIDENT: --needs to be consequence and accountability. It also evoked images of some of the worst moments of our history, where that kind of behavior has been used against the indigenous peoples of our country, has been used against African Americans during times of slavery.

(END VIDEO CLIP)

WATTERS: The images reminded Mayorkas of slavery too. What are the chances?

(BEGIN VIDEO CLIP)

ALEJANDRO MAYORKAS, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY: -- using - us in terms of what they suggest and what they conjure up, in terms of not only our nation's history, but, unfortunately, the fact that that page of history has not been turned entirely.

(END VIDEO CLIP)

WATTERS: Noticed how this has nothing to do with slavery at all? But, Democrats see this and think of slavery. I didn't see this and think of slavery. Did you? The party that fought a civil war to keep their slaves, still to this day see slavery everywhere, like a Rorschach test. They all need to see shrinks. And, Joe Biden, who isn't embarrassed by Hunter, his approval ratings, or the dreadful scenes at the Kabul airport, finally found something to be embarrassed by.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT, UNITED STATES OF AMERICA: But, it was horrible to see - as you saw, to see people treated like they did, horses nearly running them over and people being strapped. It's outrageous. I promise you, those people will pay. There will be an investigation underway now and there will be consequences. There will be consequences. It's an embarrassment. It's beyond an embarrassment.

(END VIDEO CLIP)

WATTERS: Biden is embarrassed when Border Patrol agents do their job and secure the border. And, these agents will pay for doing their job. Nobody does their job well in the Biden administration, and gets away with it. There will be consequences. So, today, nearly 10 months after the incident, we get the results of their little internal investigation.

(BEGIN VIDEO CLIP)

CHRIS MAGNUS, COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION: OPR investigators determined that the agents involved in the Del Rio activity were not carrying **whips**. After a careful review and analysis of videos, photos and eyewitness accounts, this included an interview with a photographer on the scene and other members of the media, OPR found no evidence Border Patrol agents involved in this incident struck any person with their reins, intentionally or otherwise.

(END VIDEO CLIP)

WATTERS: Great. So, the video proves it. Our Border Patrol did nothing wrong, didn't **whip** anybody. They kept order and secured the border. Case closed. Do you think our president and his administration would handle this like adults and apologize for slandering the agents and move on? That's where you're wrong. Instead, they decided to punish the agents anyway.

(BEGIN VIDEO CLIP)

MAGNUS: As a result of these findings, the board proposed specific disciplinary actions for four of the CBP personnel involved. I am not going to be discussing specifics of the disciplinary proposals today.

(END VIDEO CLIP)

WATTERS: Punishment for what? You just said they didn't **whip** anybody. What's going on? Well, what Fox is hearing from federal sources is it punishment will be two weeks of unpaid suspension, simply for doing their job. But, wait. They didn't **whip** or strike anybody. So, what are they being punished for?

(BEGIN VIDEO CLIP)

MAGNUS: One agent acted in an unprofessional manner by yelling, denigrating and offensive comments regarding a **migrant's** national origin and gender. This same agent acted in an unsafe manner by forcing his horse to narrowly maneuver around a small child on a slanted concrete ramp. Several mounted agents used force or the threat of force to drive **migrants** back into the Rio Grande River.

(END VIDEO CLIP)

WATTERS: This is like getting pulled over by the cops, but they have nothing to charge you with. So, they write you a ticket for your windows being too tinted. They're being punished so the Biden administration can save face. And, what did they even say that was so offensive? Well, according to our own Fox reporter in the room, it was "Hey, you use your women. This is why your countries bleep. You use your women for this." That's it. One agent tried to shame the illegals out of crossing by using his words instead of his **whip**, which he didn't have, rode his horse near a kid. What was he supposed to be doing, social distancing? And, you're not allowed to curse if you're a federal employee. Well, I got news for you, Joe.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT, UNITED STATES OF AMERICA: What a stupid son of a bitch.

(END VIDEO CLIP)

WATTERS: And, if Biden knew anything about law enforcement, he would know the importance of mounted patrols. That's desert terrain out there, full of rocks, uneven surfaces and rivers. You can't just roll a Jeep out there. You need a horse. And, it's not just at the border. Mounted horse patrols are used to keep order in big cities all across the country, New York, Chicago, Dallas.

So, why were these poor agents punished? Is it because this administration is obsessed with race? They don't want to give any impression to their base that they're actually defending the border, to a white man protecting the border from a black **migrant**, just won't fly. They don't like the optics. The race and the horse makes the Democratic Party feel guilty and embarrassed. But, what they're really ashamed by is it they were the party of slavery and they're taking that out on the innocent Border Patrol agents. So, they seized on a hoax to punish the good guys, just like they did with Jussie Smollett. At this point, it seems like Biden is taking his cues from one of America's great philosophers, George Costanza.

(VIDEO PLAYING)

WATTERS: Sarah Palin is running for Congress in Alaska, and she joins me now. We were joking around here with Costanza. But, it's not funny, governor. I mean, these guys are not going to get paid for two weeks. They've been smeared by the President of the United States, the Vice President, the mainstream media, and they're never going to get their reputations back. What would you like to say to them right now?

SARAH PALIN (R), ALASKA CONGRESSIONAL CANDIDATE: I'd like to say something to Congress, because we have an equal branch of government, equal to the power in this administration, this administration that is purposefully trying to destroy America, this administration that is lying, doing whatever it can to fundamentally transform America. I've said this before, Jesse, you only fundamentally transform something for which you have to stain. You want to destroy the thing, and then recreate it into something completely different. That's the definition of fundamental transformation, and we were promised this was going to happen. So, we're not surprised.

However, Congress, why aren't they doing something about this usurping of the equal branches of government power? Why don't they call some BS press conference, some big hoopla, Congressman, and explain to the people what is going on, and do something about this in terms of proposing solutions? Yes. They are back. They are talking about the problems, talking

about the problems. I'm tired of talking about the problems. It's Congress. That equal branch of government needs to start providing solutions to the people. Why don't they get out there and talk about, even this incident, a proven lie, 10 months of an investigation to prove that those weren't **whips** that the course writers were carrying? No, I put this on Congress, because, I've given up on the administration.

WATTERS: Yes, well, Congress is on vacation. They get a lot of vacation. So, maybe they weren't near any cameras or microphones. We are hearing word that former President Donald Trump is going to be paying a little visit to Alaska, your neck of the woods. What's going to be going on up there, governor?

PALIN: He is, and this is really cool. He'll be in Alaska in less than 24 hours because he cares, and he understands Alaska's importance to the United States of America, how we can secure the rest of the U.S. by tapping into our domestic supplies of energy, oil, gas, minerals. He said relying on the dirty dangerous sources of energy that this failed administration under Biden is trying to force us to live with. So, it's really great that Trump is going to be here. And, it's so important for Alaskans to understand that this congressional race, it's bigger than just the largest state in the union. This is about the future of America, and about stopping what it is that the - oh, Biden, the Biden administration, it's (Technical Difficulty) in their destruction.

WATTERS: Yes. I mean, if you get into Congress, we expect some Alaskan oil to flow so we can get these prices down because people are getting crushed right now. That's the only solution. Sarah Palin, thank you so much for joining JESSE WATTERS PRIMETIME. Have a great weekend,--

PALIN: Thank you.

WATTERS: --and enjoy--

PALIN: Thank you.

WATTERS: --the company of the former--

PALIN: You bet.

WATTERS: --president. Big news up ahead, Elon Musk dropping his bid to buy Twitter. So, what does that mean for you? Right back.

(COMMERCIAL BREAK)

WATTERS: Fox News alert, Elon Musk is terminating the deal to buy Twitter, this coming from the SEC earlier today. According to Musk, Twitter was not being fully transparent on the number of spam accounts on the site. He pulled out of the \$44 billion agreement, and Twitter is now pursuing legal action against Musk. Clay Travis is the Founder of 'OutKick', and co-host of the "Clay Travis and Buck Sexton Show". So, what does this mean for the average American, Clay?

CLAY TRAVIS, FOUNDER, 'OUTKICK', AND CO-HOST, "CLAY TRAVIS & BUCK SEXTON SHOW": I can't resist the joke. This has to be the first time Elon Musk has ever pulled out of anything, when you really break down this deal.

WATTERS: Nine kids.

TRAVIS: He has got nine kids for those of you out there who can't keep up with the humor there. Look, I think what's going to end up happening, I'm looking right now, the stock price is down around \$2 in the after-hours trading, which suggests what I think is the most likely outcome here, Jesse, which is Elon Musk and Twitter are going to engage in a protracted legal battle before they end up coming to an agreement on, if I were predicting, a purchase price somewhere less than \$44 billion.

Musk can argue that he is getting some sort of compensation for what he believes are misattributed numbers of users on the Twitter platform. Twitter can still get a better value than they would if Musk were allowed to completely walk away, and their stock was returned to the open market. It likely would fall into the 20s near around half of what Elon Musk is willing to purchase for. So, based on the way the stock market is reacting here in the after-hours to this news, I think there is going to be some sort of negotiated settlement. It may take a long time.

Practical impact here, if it doesn't end up happening, Jesse, is Elon Musk can really be destructive to the overall Twitter brand and business, because unlike you and me and the vast majority of people who use Twitter, he has got the engineers and data analysts to be able to review what you basically call the firehose of data that they relinquished to him to allow him to try to determine how many of the accounts on this platform are real, how many are fake, how many of them are spam bots versus actual real people.

And so, to me, if Elon Musk ever publishes the data that he may have uncovered as a part of this investigation, that could be unbelievably crippling to the overall impact of Twitter. Remember, only 20 percent of Americans, even based on Twitter's own numbers, are on Twitter, and only one in every 50 people ever bothers to actually send a tweet. We're talking about two percent, roughly, of the American public. It's not as big as you would think that it might be.

WATTERS: I understand. I have my assistant send my tweet. So, I'm right there with him. Clay Travis, that's actually a good report. I'm glad you think we're going to salvage this thing because we did Musk at the helm of the company. The country needs him.

TRAVIS: I hope so. I think it would be big for a right wing and conservative thought and content neutral platforms. We need it.

WATTERS: Thanks, Clay.

TRAVIS: Thank you.

WATTERS: Find out what Hunter Biden really thinks if his stepmom, Dr. Jill, let's just say not very nice. And, we bring you more on the big guy's sale of our strategic oil reserves to a Hunter-linked Chinese company.

(COMMERCIAL BREAK)

WATTERS: Here at PRIMETIME, we are a very observant bunch. And this week, we noticed a very interesting trend. For months, Hunter Biden was a ghost. You couldn't find him anywhere. Maybe, he was holed up in his swanky Malibu mansion or selling his art in New York. But, one thing is for certain. He is still the hell away from Washington. But, all of a sudden, Hunter has been everywhere. He has been making the White House his own personal Chateau Marmont, making some very public appearances with the big guy.

It started on July 4. Hunter was spotted in D.C., hopping off Marine Juan with his dad after spending the weekend together at Camp David. And, they spent the day watching the fireworks. What a nice wholesome activity for a nice wholesome family. I wonder if things were awkward though between Hunter and the First Lady, because back in 2018, it turns out Hunter had some beef with Dr. Jill when she was trying to get him to go to rehab.

According to texts uncovered by the son from the Laptop from Hell, Hunter texted sketchy Uncle Jim all the mean things he said in an argument with Jill, which included telling herself, telling her to go eff (ph) herself, calling her a vindictive moron and saying even at his drunkest, he is still smarter than she is. And, he gets very drunk. He also texted his brother's widow, "eff my step mother for always being as much of a selfish silly entitled seaward as you.



Well, that's strong words on her. You need to be as nice to your family as you are to your escorts. But, it looks like Jill and Hunter may have patched things up, because just yesterday, Hunter popped up again. There he was at the White House Medal of Freedom ceremony. His dad even shouted him out, not once but twice.

(BEGIN VIDEO CLIP)

BIDEN: And, by the way, my son Hunter and daughter-in-law are here. His daughter is a great high school athlete. My dad, Hunter's grandfather, said he is expressive.

(END VIDEO CLIP)

WATTERS: Look at him, front row, greeting guests, lot of care in the world. He was making sure he could be seen, just acting like everything is normal. Don't look like you're under investigation, man. Just be cool. The question is why now?

Why is Joe thrusting Hunter back into the spotlight after protecting him for the last 18 months? We have a theory. Joe is sending a message to the prosecutor's back in Delaware, don't you dare touch my boy. I know you are hot on his trail but he is a Biden, damn it. So, you better go easy on him.

This is calculated. This is all by design. He is normalizing Hunter so people get used to seeing him as the son of a president and not a crack-smoking bribe taking money laundering laptop losing escort monger. Joe is trying to remind everybody this is my favorite son. The smartest guy I know and don't you forget it. But here's the thing. Hunter still has a lot to answer for.

(BEGIN VIDEO CLIP)

CATHERINE HERRIDGE, SENIOR INVESTIGATIVE CORRESPONDENT, CBS NEWS: The U.S. attorney in Delaware has been probing a number of issues. They include tax fraud, tax evasion, money laundering, as well as whether Hunter, James Biden and their business associates complied with foreign lobbying laws.

What I can also tell you based on our reporting is that there is a lot of noise and static in the system. Based on my experience, that can be an indicator of conversations and discussions between the two parties on whether they can reach some kind of plea agreement.

(END VIDEO CLIP)

WATTERS: PRIMETIME is hearing that a deal may be imminent. It must be a good one after all Hunter only gets sweetheart deals. I wonder if he would ever agree to do any jail time. I wouldn't bet on it.

No matter what happens, this is a huge P.R. nightmare for the White House. Bad optics. And you know they don't like bad optics. It could explain why Kate Bedingfield, the White House communication director is leaving. Would you want to stick around to answer for the first son being charged with money laundering? I don't think so.

It's a big mess to clean up like the more than 150 flags placed on financial transactions made by Hunter and Joe's brother Jim. Janet Yellen is doing her best to stop these flags from becoming public. But who knows how long she can keep it going?

And somebody has got to answer for a shady oil deal between the Biden administration and Chinese energy company that happens to be linked to Hunter Biden. Back in April, Biden sold nearly a million barrels of oil from our strategic reserve to a Chinese state-owned company UNIPEC also known as SINOPEC.

And wouldn't you know it that oil ended up going to China instead of lowering the price of gas here at home. The French woman was asked about it today but she didn't really know what she was talking about.

(BEGIN VIDEO CLIP)

UNKNOWN: Was the administration aware that some of that oil could end up going overseas?

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: So, when it comes to the oil, it is something that oil companies decide what -- we cannot control what oil companies do with their oil, and so I would ask -- you should ask the oil companies about where they are sending the oil they purchase and why. That is not something that we can answer from here.

(END VIDEO CLIP)

WATTERS: ExxonMobil didn't give the oil to the Chinese company. Biden's administration gave the oil to the Chinese company. She is so clueless. Here's a bright idea, French lady. Don't sell oil to the Chinese companies if you don't want the oil going to China. But they did, didn't they?

Here's the thing. Hunter's fingerprints are all over this deal. Hunter did a lot of deals with the Chinese and he was tied to the oil company and got a nice cut of the Chinese action years ago. He is no oil expert. He is not economist. He was there to do a job. Help broker deals and peddle influence in Washington with his dad.

And now that Chinese are getting a delay to return on their investment it looks like Hunter is finally a man of his word.

Miranda Devine is the "Laptop from Hell" author and a Fox News contributor. So how badly does this oil deal stink, Miranda?

MIRANDA DEVINE, FOX NEWS CONTRIBUTOR: Well, I guess it's just another pile-on from the laptop. You know, we see the way that Joe Biden and his administration have gone soft on China, whether it be, you know, diverting a million barrels from the Strategic Petroleum Reserve to SINOPEC. Whether it be lifting tariffs on solar panels or whether it's unwinding, disbanding the Trump era China initiative, which was a national security measure to try and stop the Chinese thieving our intellectual property.

All of that is inexplicable unless you think that Joe Biden is compromised with China. Even if you didn't know all these dirty dealings of Hunter and Jim Biden to do with China and the millions of dollars that came flooding into their bank accounts. You would suspect that something was not right.

And now that we have all this incriminating evidence, it really is a national security problem and it's not good enough for the White House press corps to just accept these empty assurances or being fobbed off by the White House press secretary, whoever it is, whether it's Jen Psaki, she was just as bad as Jean-Pierre.

And so, I think that we need to really step up the pressure on the Bidens, because you can see the shameless, bloodless hutzpah of Joe Biden to put his son Hunter Biden front and center at that White House ceremony the other day.

They don't care. They are laughing at the American public. They think they've got away with it. Obviously, they are happy with whatever plea deal that they have come to or are coming to with the Delaware U.S. attorney, the grand jury down there, really serious charges against Hunter Biden. Other people have gone to jail for them. But obviously, the White House, obviously Joe Biden doesn't care.

WATTERS: All right. Miranda Devine, I think you are right on it. And I'm expecting a sweetheart deal. And the country is not going to tolerate that. Thanks for joining us.

DEVINE No problem. Thanks, Jesse.

WATTERS: A New York man is charged with murder after fatally fighting off his attacker. You can't even protect yourself anymore. We ask New Yorkers about that.

(BEGIN VIDEO CLIP)

UNKNOWN: You don't know what's going to happen to you. And if you defend yourself, you get charged for murder. So, it's like, what should you do? Let somebody hurt you?

(END VIDEO CLIP)

(COMMERCIAL BREAK)

WATTERS: Jose Alba was a convenience store clerk. One day he went to work and some woman came in. She had a knife. She wanted chips. She left. The next thing you know her boyfriend comes in, violent ex-con, starts shoving the clerk into the wall, threatening him, grabbing him, putting his hands all over him.

The guy is like half his age. He felt threatened. What did he do? He grabbed a knife, he defended himself, and he stabbed the ex-convict, the ex-convict is now dead.

What do you see on that video? Well, I see self-defense but that's not what the Soros funded Manhattan district attorney saw. Alvin Bragg saw that video and charged the bodega owner with murder. Threw him in jail, bail was like a quarter million dollars. You can't post that.

So, there is a huge brouhaha in New York. The New York Post blew it up. Bragg felt pressure. He drops the bail to about, what, 25 grand? Something like that. So now the bodega owner is out. But he is still facing a murder charge for defending himself.

We decided to go hit the streets in the Bronx do ask people how they feel now if they are going to get punished for defending themselves.

(BEGIN VIDEO CLIP)

UNKNOWN: Did you know Jose Alba?

UNKNOWN: Yes. He used to come by the store once in a while. I'm in the supermarket right behind me and he was a nice guy.

UNKNOWN: Do you think that what happened here last week, do you think he was acting in self-defense?

UNKNOWN: Definitely. A 100 percent.

UNKNOWN: From what I saw, yes.

UNKNOWN: What are you going to do? Let him kill you?

UNKNOWN: Yes.

UNKNOWN: You are going to defend yourself, so.

UNKNOWN: Do you think the clerk here was acting in self-defense?

UNKNOWN: Absolutely. It is. It is self-defense.

UNKNOWN: He is defending his life. It makes no sense. I don't agree with that. I think that he was defending his self and if hadn't defended himself he probably would have been dead.

--- Index References ---

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## NewsRoom

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July 9, 2022

Texas AG Ken Paxton tells Biden to APOLOGIZE to four border agents he falsely accused of **whipping migrants** after they were cleared and warns the 'p...

Elizabeth Elkind Paul Farrell For Dailymail.Com

Texas AG Ken Paxton tells Biden to APOLOGIZE to four border agents he falsely accused of **whipping migrants** after they were cleared and warns the 'political' stunt has 'ruined their careers'

Texas Attorney General Ken Paxton has joined other Republicans in calling for prominent Democrats , including the president, to apologize to four border patrol agents who were cleared of **whipping migrants**.

Four border agents were accused of **whipping** Haitian **migrants** while on horseback at the southern border in September 2021 Biden previously insisted the agents would 'pay' for their actions near the border Customs and Border Protection released their 500-page report on Friday proving that the **whipping** did not take place In an appearance on Fox News, Texas AG Ken Paxton called on Biden and other Democrats to apologize to the cleared border agents House Minority Leader Kevin McCarthy accused the president of making it harder for border agents to do their work

In September 2021, four border patrol agents were falsely accused of **whipping** a group of Haitian **migrants** at the southern border.

A 500-page report released by the Customs and Border Protection this week found that the narrative surrounding the **whipping** allegations that were perpetuated by the White House was false.

During an appearance on 'Hannity' on Friday, Paxton said: 'There's no doubt this was political. And it's really unfortunate for these border agents who've given their lives to securing our border and defending Americans.'

The attorney general continued: 'And here they are being punished, they should be rewarded. They should be taken care of. Instead, their careers may be ruined, and they've been humiliated in front of the entire American public.'

Paxton told Greg Jarrett, who was standing in for Sean Hannity: 'And I just think it's really wrong. I would expect instead that Joe Biden and some of these political leaders should come out and actually apologize to these guys for what they've been through.'

The images of agents on the banks of the Rio Grande in Del Rio, Texas , sparked a humanitarian outcry and a strong response from Biden calling for the officers to 'pay' for their treatment of Haitians.

On Facebook, House Minority leader Kevin McCarthy also called for Democrats to apologize.

McCarthy said in a statement: 'Our brave Border Patrol agents work to secure our border every day despite the fact that President Biden makes their mission more difficult and more dangerous because of his unconscionable support for a wide-open southern border.'

He continued: 'Their reputation was smeared by President Biden, Vice President Harris, and their allies in the media - and they should all apologize to these Border Patrol agents.'

The statement went on: 'These agents were cleared of criminal wrongdoing months ago, but instead of admitting they were wrong, the Biden administration is doubling down on baselessly attacking these agents to perpetuate their open-border agenda.'

'Rather than disparage the men and women tasked with protecting our border, President Biden should give them the tools they need and deserve to secure our southern border once and for all.'

Texas Republican Congressman Tony Gonzalez also weighed in saying: 'I will not stand for a politicized narrative against our Border Patrol agents. Instead of pursuing political games, it is critical this Administration focuses on the most important task at hand- securing our southern border.'

A 500-page report released by Customs and Border Protection on Friday said the agents acted unprofessionally, unsafely and used unnecessary force - but concluded they did not strike the **migrants** with their reins.

The results of the investigation came as the U.S. still grapples with a surge in **migrants** across the border and reports of law enforcement morale declining.

CBP Commissioner Chris Magnus said the disciplinary investigation is still ongoing but would not release details of any action taken. He also didn't identify the employees involved.

The report outlined the agents' 'unprofessional or dangerous behavior' toward Haitians, including yelling profanity and insults related to a **migrant's** national origin.

It also said agents used unnecessary force against **migrants** attempting to reenter the United States with food.

It found one agent on horseback grabbed a man and spun him around.

According to the report, one agent 'acted in an unsafe manner by pursuing the individual he had yelled at along the river's edge, forcing his horse to narrowly maneuver around a small child.'

The incident originated, the report found, when Texas' Department of Public Security (DPS) officials also on the scene asked for assistance from Border Patrol. A lack of clear command lead the agents to inappropriately follow DPS instructions to prevent **migrants** from crossing the river back into the United States.

'The report showed there were failures to make good decisions at multiple levels of the organization,' Magnus said in a statement on Friday.

'Failures to maintain command and control over Horse Patrol Units, lack of appropriate policies and training, and the overall chaotic nature of the situation at Del Rio at the time contributed to the incident.'

Republican Rep. Chip Roy of Texas said Friday that the report is proof that Homeland Security Secretary Alejandro Mayorkas 'doesn't deserve to lead' his department.

'Today we learned what we knew all along - the accused Border Patrol Agents in Del Rio did nothing wrong,' Roy said in a statement to the press.

'But this administration can't miss a chance to destroy the morale of our overrun, hardworking Border Patrol for political gain, and it issued disciplinary action anyway to finish off one of the most despicable displays of leadership seen from any cabinet Secretary.'

**Migrants** were frequently crossing into Mexico to bring back food and supplies that were scarce in the makeshift encampment under a bridge.

Initial reports said the **migrants** were being **'whipped'** - but the claim was quickly debunked.

It was later clarified that the agents were swirling their long reins, to control the horses, and were not actually raising the leather straps to beat the **migrants**.

Up to 15,000 **migrants** set up camp under and around the Del Rio International Bridge, using a dam area to cross between the Mexico and US side of the border.

The camp's squalid and bare conditions prompted outrage from Republican lawmakers and progressive activist groups alike.

About 8,000 were rapidly expelled in the weeks that followed under a COVID-era order known as Title 42.

In November the Department of Homeland Security (DHS) declined to press criminal charges against the officers.

Mayorkas said in September that the investigation would be completed in 'days, not weeks'.

But since then the Border Patrol's Office of Personnel Responsibility has been reviewing photographs and interviewing witnesses and agents.

On Thursday, Republican Governor Greg Abbott said he had authorized the Texas National Guard and state authorities to 'apprehend' **migrants** and transport them to the border with Mexico.

White House press secretary Karine Jean-Pierre said the apprehension of **migrants** is a federal issue and accused Abbott of meddling.

Magnus said in an earlier statement that the 'hateful images' on the 'deeply offensive' coins angered him and distracted from the essential work of the Border Patrol.

---- **Index References** ----

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July 9, 2022

### Pro-Choice Activist Disrupt Kavanaugh Dinner; Progressives Demand More From Biden On Abortion Rights; Large **Migrant** Groups Pour Through Texas Bor...

Pro-Choice Activist Disrupt Kavanaugh Dinner; Progressives Demand More From Biden On Abortion Rights; Large **Migrant** Groups Pour Through Texas Border; CBP Commissioner Border Agents Did Not **Whip Migrants**; Twitter Board Plans Legal Action To Force Musk Merger; Many Adults try To embrace Inner Child During Summer; Biden Touts Economic Plan As Inflation Outpaces Wages; Impact Of recent Rulings On Faith In The Public Sphere; Poll: Forty-Two Percent Of Americans Report Struggling Financially

SHANNON BREAM, FOX NEWS CHANNEL HOST: Hello, and welcome to FOX NEWS @ NIGHT. I'm Shannon Bream in Washington.

Breaking tonight, protest, pro-choice protesters targeting conservative Supreme Court justices not just outside their homes but now also tracking them down at restaurants. Justice Brett Kavanaugh forced to slip out the back door of a steakhouse right here in the nation's capital, as one left wing activist group offers money to people who provide intel on the whereabouts of conservative justices. All while the White House continues to say it supports peaceful protests.

Plus, the Biden administration admitting that border agents did not **whip** patient **migrants** in Texas last year and that they were falsely accused. So, why, then are those agents still being punished in connection with that incident that went viral?

And Elon Musk says, he's out there longer wants to make that \$44 billion deal to buy Twitter but the social media giant says, not so fast. But we start tonight with a threat to conservative justices as pro-choice protesters grow bolder, and President Biden moves to expand abortion access. White House Correspondent Kevin Corke is tracking it all for us tonight. Good evening, Kevin.

KEVIN CORKE, FOX NEWS CHANNEL HOST: Evening, Shannon. It is fairly safe to say that if former President Donald Trump accused the Supreme Court of being partisan, that would have been gale force winds of criticism emanating from the U.S. media, including accusations of undermining norms and threatening democracy and Democratic institutions all with righteous fervor. However, when President Biden did as much today, well, frankly, it was crickets hardly a peep out there. But critics argued that doesn't mean what he said was any less damning or damaging.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: So, what we're witnessing wasn't a constitutional judgment, it was an exercise in raw political power.

CORKE: President Biden today just as he did earlier this month, taking aim at the U.S. Supreme Court, accusing the justices of being partisan in the wake of their decision to send the abortion debate back to the States. Biden's comments came as he signed an executive order aimed at preserving access to abortion services, though, it's admittedly limited in scope.

BIDEN: Let me be clear. While I wish it had not come to this, this is the fastest route available. I'm just stating a basic fundamental notion. The fastest way to restore Roe, Roe is to pass a national law codifying Roe, which I will sign immediately upon its passage on my desk.

CORKE: While the President also threatened to veto any legislation coming from Capitol Hill that would federally ban or restrict abortion services, pro-choice advocates continued to push the White House to do even more and increasingly aggressive posture that extends to pro-choice protesters, who earlier this week, targeted Supreme Court Justice Brett Kavanaugh at a Washington D.C. steak house, forcing him to slip out the back door. The group had received an online tip that the conservative justice was enjoying dinner at Morton's and subsequently descended upon the restaurant.

In a statement, Morton's said the justice and other patrons were, "unduly harassed by unruly protesters while eating dinner." This as FBI Director Christopher Wray acknowledged today that the bureau has seen an increase in attacks on pro-life businesses. Since the high court's ruling throwing out Roe.

CHRISTOPHER WRAY, FBI DIRECTOR: We have seen a number of attacks against faith-based organizations, pregnancy resource centers, that sort of thing. And we are aggressively investigating.

(END VIDEO CLIP)

CORKE: Now, as Shannon mentioned briefly at the top, an online group has been out there offering money to service industry workers here in the nation's capital for information on any conservative justice, who might stop by a restaurant or other business.

The White House, for its part, continues to struggle to criticize these actions, despite being an obvious violation of federal law repeating its mantra, which is that: "as long as it's, it's peaceful, it's pretty much OK. We'll see if that changes as they continue to ramp up pressure on the justices in places that you would think they would otherwise be free to enjoy themselves. Shannon.

BREAM: Yes, it doesn't seem like they're moving backwards on becoming more peaceful following these decisions. Seems like it's going in the other direction. And so, a lot of questions about why the DOJ has not gotten involved in those protests at the individual homes. We'll keep tracking it. We know you will, too, Kevin. Thank you.

CORKE: You bet. See you soon.

BREAM: I'll see you in just a minute. All right two weeks after the Supreme Court's landmark reversal of Roe v. Wade, President Biden is feeling the pressure from his progressive base to do more to expand abortion rights even after Friday's executive order as dozens of U.S. companies including Amazon, Apple and CVS Health are vowing to cover travel expenses for their employees who have to travel out of state for abortions. Let's discuss all these developments with Washington Times Legal Affairs Reporter, Attorney Alex Swoyer; and Concerned Women of America CEO Penny Nance. Welcome back to both of you.

PENNY NANCE, CONCERNED WOMEN OF AMERICA CEO: Great to be on.

ALEX SWOYER, WASHINGTON TIMES LEGAL AFFAIRS REPORTER: Hey, Shannon.

BREAM: All right. So, I want to play a play a little something that the President said today about this issue, what he's doing on this executive order and how the ballot box is where it will really matter. Here's what he said:

(BEGIN VIDEO CLIP)

BIDEN: The court has made clear, it will not protect the rights of women, period, period. The court now, now protect, practically dares the women of America to go to the ballot box and restore the very rights they've just taken away.

(END VIDEO CLIP)

BREAM: So, Penny, they say this is going to be a rallying cry for Democrats this fall. And that this ruling, the overreach they say by the Supreme Court is actually gifts to the left. What do you say?

NANCE: Well, he also said that, that women have it in our control to decide what happens next on this, and he's right about that. He doesn't realize that we did decide. We went to the ballot and voted for Donald Trump, who appointed three Supreme Court justices. And so, we now have the Democratic process, which is what Concerned Women for America has been working for, for -- since our inception in 1979.

Our ladies walked the halls of Congress, they went to their state legislatures, they pray, they came to marches, the march for life. And, and they've been active at this point. They've been volunteering at Pregnancy Care Center, some of the very ones that have been fire bombed by the left? And so, yes, welcome to our world, abortion, leftist. You have to go and make your case now on a state-by-state basis.

And we know by the polling that over 70 percent of Americans believe that there should be limits on abortion. Americans don't want to be in line with North Korea, in Vietnam that allow abortions up to birth. So, yes, this has to happen where they share their view, we share our view. It's going to be heavy lifting in states like California, New York and Washington, D.C., but we have about 18 states now that are pro-life. And we're spreading the message and we're offering great alternatives for women.

BREAM: Yes, and this is going to be a patchwork across the states that people will have to decide, as you said, to lobby their state legislatures, their governors and their elections are very much going to matter at the state level. Politico described it this way today with the President signed, it says: "He directed his health department to expand access to abortion pills, beef up enforcement of Obamacare is birth control coverage mandate and stand up an army of pro-bono lawyers to help defend people criminally charged for seeking or providing the procedure."

Alex, couple of things there. I haven't read any of the state laws that say the woman seeking the procedure is going to face any kind of criminal charges is going after the doctors or those that help them as far as the state laws I reviewed. But also, there's this debate over abortion pills, whether they will be, it'll be legal to mail them or order them into states that have otherwise banned abortions. Your take the legal side of this conversation.

SWOYER: Yes, I definitely think the abortion pill is going to be the next legal front that we're seeing fought out in the courts. There's already lawsuits with that as a focus. So, what we have now is the president and his executive order, saying that he wants to increase access to the abortion pill, we had his Attorney General come out right after the Dobbs ruling and tout the abortion drug through the FDA and its approval.

And it used to be that it had to be prescribed in person, now it can be done via telemedicine and mailed. So, that's what I believe the administration is looking to do. If we see that come forward with the HHS Secretary, I predict a group of red states maybe led by Mississippi, maybe Texas come forward and say, hey, it's up to us under Dobbs to be able to restrict abortion laws in our states.

And if they want to restrict the use of the abortion pill, they're going to say we have the authority to do that. So, it's really going to be a battle between if the federal law and this administration with what it's pointing to under the FDA regulation, trumps what states can do.

BREAM: Yes, and we know the Dobbs is just the beginning. It's launched so many other legal battles already. I mean, within 24 hours of the decision and many more that you all talk about will sort of domino from that. I want to talk about this group today that came from organizations, abortion rights groups, civil rights groups, they wrote to the President and they said that abortion acts -- social justice issues, voter -- policing abuse, criminal -- inequity, housing inequity, LGBT -- immigration crisis. I mean, really, their argument is that people --

NANCE: It's just a huge -- in fact today -- minority neighborhoods. Again, it's right in line. You cannot help one group of people by urging them to kill their children. We have to give them -- alongside them, and help them. These well intentioned, supposedly well-intentioned corporations who like -- women. If they really --help them with opportunities. Help them have time off, paid time off with their babies, and adoption services. So, if they're going to start giving out money for travel for abortion for the left, I would strongly suggest that there are women in their very companies that are deeply in need of the help.

BREAM: Well, and very quickly, there is a group down in Texas it's, it's a insurance company, I believe. It's a small Texas firm called Buffer Insurance. It has announced, according to The Washington Examiner, that it will pay medical costs for employees who have their babies instead of seeking an out of state abortion. They've gone further to offer to pay costs for families who want to adopt children as well. Um, quick final word from you, Alex.

SWOYER: Yes, that's interesting news. Of course, I think the employer plans and the legality there that different employers could face potential liability issues and states that are looking to ban abortion with their coverage plans. I've talked to some lawyers on both sides of the aisle and they do say states like Texas and Oklahoma that have that aiding and abetting language in their, their civil laws. Employers could be brought to court just like we're talking about suing an abortion provider for performing an abortion. And Texas, for example, passed that six-week heartbeat detection. The same could be for employers that are paying for that that abortion to take place. They could be held civilly liable.

BREAM: All right, we will track all the legal developments as they will not end anytime soon. Alex and Penny, thank you both for your time.

NANCE: Thank you.

BREAM: So, the Biden administration is admitting that Texas border patrol agents were falsely accused of **whipping** Haitian **migrants** last year. But they're still proposing that four agents involved to be disciplined in connection with this incident that went viral. Correspondent Bill Melugin reports tonight from Eagle Pass, Texas.

(BEGIN VIDEO CLIP)

BILL MELUGIN, FOX NEWS CHANNEL CORRESPONDENT: CBP Commissioner Chris Magnus announcing today that after a nearly 10-month investigation, the agency found no evidence supporting the false narrative that Haitian **migrants** were **whipped** by horseback Border Patrol agents in Del Rio last summer.

CHRIS MAGNUS, U.S. CUSTOMS AND BORDER PROTECTION: OPR found no evidence for the patrol agents involved in this incident struck any person with their reins intentionally or otherwise.

MELUGIN: But CBP says they are sending discipline proposals to four of those horseback agents, despite them being previously cleared of criminal wrongdoing. CBP is now accusing them of unprofessional conduct and working in an unsafe manner, including using derogatory language and using the threat of force to drive **migrants** back into the Rio Grande. Multiple federal sources telling Fox News, their proposed discipline includes unpaid suspensions of up to 14 days. Days after that initial incident and before an investigation could play out. President Biden falsely accused the agents and promised consequences.

BIDEN: People being strapped. It's outrageous. I promise you those people will pay.

MELUGIN: Commissioner Magnus claim today those comments put no pressure on investigators.

MAGNUS: I have a high confidence in their work, and I don't believe there's been any issues with outside influence.

MELUGIN: In the meantime, massive numbers of **migrants** continue spilling across the Texas border. Today, we witnessed this group of more than 100 **migrants** crossing illegally into Eagle Pass. Late yesterday afternoon, we saw another group of 200 crossing illegally also in Eagle Pass. Almost all of them, single adult men. And on Wednesday, Fox News witnessed this single massive group of 536 **migrants** crossing illegally into Eagle Pass. Border Patrol in Del Rio sector reported it was the biggest group they've encountered.

And on top of all of this, Mexican authorities announced yesterday what they say is the biggest fentanyl bust in history claiming to have seized more than a half ton, more than 1200 pounds of fentanyl in a warehouse in the northern city of Culiacan. That is enough lethal doses to potentially kill up to 270 million people. Shannon.

(END VIDEO CLIP)

BREAM: Bill Melugin, thank you so much. So, let's get the latest reaction to these developments on our southern border including reports that the Biden administration plans to investigate Texas Governor Greg Abbott or his administration over his plans to protect the Texas state border. Let's talk to the former acting Deputy Secretary of Homeland Security, Ken Cuccinelli. Welcome back to the show.

KEN CUCCINELLI, FORMER ACTING DEPUTY SECRETARY OF HOMELAND SECURITY: Good to be with you, Shannon.

BREAM: OK, all kinds of interesting strategies and plans going on down there in the southern border of, for the especially for Texas there. The Washington Post talks about this. They say that Governor Abbott is testing the Feds by urging Texas troopers to return **migrants** to the border. Their tag, it says, "The order appears to be unconstitutional, legal experts said, and may have little practical impact on Abbott's, Abbott's ongoing, expensive and controversial border security initiative, Operation Lone Star. That's just one of the efforts that they're tackling and trying down there at the southern border. But critics say, not legal, much of what they're doing. What's your take?"

CUCCINELLI: Well, certainly it is legal. There's plenty of Texas legal basis to, for them to operate on. They've been doing that. For a year and a half. I will say operation Lone Star, as busy as it has kept them, hasn't changed the numbers. This week, Governor Abbott issued an executive order that he was going to be delivering illegal border crossers to the ports of entry. That means he's going to be delivering them to the border patrol, Customs Border Protection.

And of course, they're processing them and releasing them in the United States. What, what we really need to see the border governors do and Governor Abbott is of course, the most likely is declare an invasion, which they've all used the word, but to legally formally declare it under their constitutional power under Article I and return them back into Mexico, not to the border, but across the border.

And don't let them come in until those contemplating coming up to our country illegally. No, they can't get in and stay in, they will keep coming. On the other hand, on the other side of the governmental ledger, you've got the federal government that's already trying to intimidate frankly, the Abbott team under just operation Lone Star without taking this additional step before they do that. And they don't really have any good legal basis to do that.

We just saw, you know, you saw Bill Melugin's report, of course, on the so-called **whipping** of **migrants**, and what we all know, everybody knows it right up to the President himself, that even the complaints about these agents that they settled on,

were completely cooked up to cover President Biden's statement that you all just showed where he promised they would pay, they would be punished. And there's too much politics on the federal side. But we are getting some enforcement on the state side. It's not enough yet, but it is a step in the right direction.

BREAM: To that point, here is what the White House Press Secretary Karine Jean-Pierre said today about the state's trying to take this stuff into their own hands. Here's what she said.

(BEGIN VIDEO CLIP)

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: So, I'll say this, the immigration enforcement is a federal authority, and states should not be mandating it, meddling in it. That is just especially Governor tech, the Texas Governor Abbott, who has a track record of causing chaos and confusion at the border.

(END VIDEO CLIP)

BREAM: And I got to tell you, it made me think back to a case I covered with the Supreme Court 10 years ago when Arizona had passed its own state laws. And the Supreme Court said that most of that Arizona couldn't do. I'll read a little bit from Justice Kennedy's opinion. He said, "The national government has significant power to regulate immigration. Arizona may have understandable frustrations with the problems caused by illegal immigration while that process continues with the state may not pursue policies that undermine federal law." So, a quick final thought from you on how this comes together, how something actually gets done at the border between you know, the states and Feds now at each other's throats.

CUCCINELLI: So, we, when I was attorney general, I was a co-plaintiff in that case. Well, a supporter of Arizona in that case, and this is -- what you and I are talking about here. The constitutional power of the state of Texas, to put people back into Mexico is to respond to an invasion. That's the word used in the Constitution when actually invaded. It is not immigration law.

It's a completely separate source of authority and the Constitution trumps even immigration statutes, which is what the Arizona v. U.S. case was about. And that's a little hard for some people to understand because it's all happening in the same place, namely at the border, but it's completely different sources of legal authority. And Governor Abbott is perfectly well within his rights to declare an invasion and use his state authorities, state officials, law enforcement and military to move people back across the border.

BREAM: And we will leave it to the White House in Texas to battle that out. Ken Cuccinelli, thanks for dropping in.

CUCCINELLI: Good to be with you, Shannon. You have a good weekend.

BREAM: You too. All right, hours after confirming that a recently father twins with a senior executive at one of his companies, Elon Musk is trying to bail on his tumultuous \$44 billion bid to buy Twitter. The Tesla CEO sent a letter to the tech giants board saying he is terminating the acquisition because he believes Twitter has breached portions of the deal. Twitter says, not so fast. Correspondent Christina Coleman has the latest tonight from Los Angeles. Good evening, Christina.

(BEGIN VIDEO CLIP)

CHRISTINA COLEMAN, FOX NEWS CHANNEL CORRESPONDENT: Hi, Shannon. Elon Musk attorneys alleged that Twitter's public disclosures regarding its number of daily active users are either false or materially misleading. They say, Musk needs accurate information on this to engage in transition planning for the business. In an SEC filing Friday, they said, "Twitter has not complied with its contractual obligations.

For nearly two months, Mr. Musk has sought the data and information necessary to make an independent assessment of the prevalence of fake or spam accounts on Twitter's platform. They go on to say, Twitter has failed or refused to provide this information. Sometimes Twitter has ignored Mr. Musk requests. Sometimes it has rejected them for reasons that appear to be unjustified. And sometimes it is claimed to comply while giving Mr. Musk incomplete or unusable information." Twitter is taking a hit. Friday shares for Twitter fell to \$36.81 well below the \$54.20 that Musk offered to pay.

The social media giant could push for the \$1 billion breakup fee agreed upon under these conditions, but it looks like Twitter is ready for a legal fight. Bret Taylor, the chair of Twitter's board tweeted, "The Twitter board is committed to closing the transaction on the price and terms agreed upon with Mr. Musk and plans to pursue legal action to enforce the merger agreement. We are confident we will prevail." And there's a lot of speculation over how Musk will respond.

DAN IVES, WEDBUSH MANAGING DIRECTOR: But I believe right now it's more than a one in three chance that he looks to walk, fight Twitter and chords. And look, if Twitter is a standalone company, that's a sub \$30.00 stock. And that's why right now, I think this is a game of shorter high stakes poker between Musk and the Twitter board.

COLEMAN: Twitter has maintained that its spam accounts make up less than five percent of its active user base per quarter. But Elon Musk contends that number is four times higher, claiming that fake accounts make up about 20 percent of the platform's users. We'll see where the potential legal battle over this feud goes from here. Shannon.

(END VIDEO CLIP)

BREAM: We will. Christina, thank you so much. All right, declaring that illegal votes should make everyone question the legitimacy of election results, the Wisconsin Supreme Court ruled Friday that unmanned drop boxes used during those anxious early months of the coronavirus pandemic are, they say, illegal. The four-to-three decision means residents in the battleground state of Wisconsin must either vote in person, drop off their ballot to a municipal clerk or drop it in an actual U.S. mailbox.

Coming up, a marathon runner finishes the, makes it to the finish line. But look what was waiting, just the beginning of a whole new adventure for her and him. And we'll tell you why these sheep are being transported through the skies. The day's best federal videos are next.

(COMMERCIAL BREAK)

BREAM: First up in tonight's viral videos. Take a look at this, a cargo trailer packed with 40,000 pounds of potato chips catching fire in Central Florida. Trailer was not attached to a truck, you know, to be hauled at the time, but you can see, firefighters had to climb on top of the trailer hosing it down as massive amounts of colorful chip bags just poured right out. Thankfully, no one was hurt. The cause of the fire is still unknown.

And the baby version of anything, is just plain cute. Check out these humble penguin chicks and video shared by the Chester Zoo in England, zookeepers there naming all nine of them after their favorite fruits including plums, papayas, berries, peaches, cherries, rhubarb, banana, among others. The zoo says this species of penguin is the most at risk of extinction. Super cute.

And now this, bighorn sheep from Nevada look like they're taking part in an extreme sport, but actually, they're being relocated to Utah where they will be safe from predators and help grow the Bighorn population. It's all part of an operation by the Utah Division of Wildlife which is relocating 30 of these sheep where they say the animals will have more hospitable living conditions.

And a pilot traveling from Florida with his father-in-law forced to make an emergency landing on a North Carolina highway, after the engine in his single-engine plane began to fail. His GoPro captured the whole thing on video. The pilot, a former Marine was able to maneuver through power lines and vehicle traffic to get safely to the ground. He credits his former military service



for giving him a clear objective to save their lives, the lives of everyone on the ground and do as little damage as possible. Imagine if you're a driver you see that coming up. Nicely done.

All right. An Instagram user miles with Maddie got a big surprise at the finish line of the Buffalo marathon recently. She posted this video to her social media page showing her, now fiance, down on one knee popping the question after 26.2 miles. She called it the best runner's high she's ever felt. Congrats on the marathon and to both of you new fiance's.

All right. If you've got any viral videos to share, hit us up @ShannonBream or @FoxNewsnights on social media.

All right. It's time Kevin Corke is back as we kick off another the weekend. And apparently, Kevin, there's something about summer that makes all of us grownups want to feel like little kids again.\

CORKE: Yes, it's totally true. I mean, let's face it. I know you're like that. I know I'm like that, probably a lot of people out there. There's actually a survey. I got to tell you about this for National Ice Cream month. It's actually celebrated annually in July. And it found that more than half, 55% of Americans surveyed say they do many of the summer activities, Shannon, that they used to do when they were kids in order to bring back that feeling of childhood. And you know who you are out there.

Now in case you're wondering what kind of activities we're talking about, Kevin? Well, 39 percent say they like to eat ice cream to feel like a kid again. How about 45 percent said, you know what gets me going? Playing outside. What about playing catch anybody? How about 43 percent say going on family vacations. Now in my case, of course, that meant driving across the country and a Buick Skylark with really, really bouncy seats, but you know, I like that being with the family. Thirty-five percent say spending days by the pool. No sunscreen back in the day though. We were just out there, didn't even think about it. And 35 percent say riding bikes.

So there are actually a couple more I want to throw you out -- at you, Shannon, one is playing water balloon fight. That's a lot of fun. Makes you feel like a kid. And another one that people really said that they love to do is they love to just get outside and catch like least come lightning bugs, you know.

BREAM: Yes, exactly.

CORKE: Do you that when you're a kid?

BREAM: Exactly. Absolutely. And it makes me feel like summer as soon as I start seeing them twinkling around the trees.

CORKE: Yes.

BREAM: Definitely the pools and the beach getting outside, grown up in Florida, big there. But you know what else I do, Kevin, that I love in the summertime is I -- we read all the time for work. We're always studying and reading and things are happening. We read a lot of serious stuff and heavy stuff.

But during the summer, I -- for whatever reason, I love to read fiction. And I remember when I was out of school, you know, my mom was a teacher and encouraged me to read all summer long. So I tried to read fun stuff in the summer. What about you?

CORKE: Oh, I love to read, but I'm such a car fanatic that I'm always like reading like car magazines, car websites. I want to talk about cars, I run into people who are like, hey, let's talk about your car or, hey, how'd you get that shine? So I like to read stuff like that. It relaxes me. That and gardening, as you know, I'm a big gardener, so that's probably my leisure reading during the summer.

BREAM: Yes. And listen, Kevin, I did not miss that you said July is ice cream month, so don't think we won't be doing a segment on that before July is over.

CORKE: Better believe it. And by the way, I hope I didn't sound too country saying lightning bugs, but that's what we call them.

BREAM: Fireflies, lightning bugs, whatever, we love them, either way. OK. We're going to talk good news in just a few.

CORKE: See you in a few, my friend.

BREAM: Thank you, Kevin.

All right. Coming up, wages are going up, that's great news. But so as inflation by a lot more as four in 10. Americans say they are struggling to maintain just their status quo, but the White House says the economy is in record good shape. So we'll break down the facts, next.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: It is noteworthy that the percentage of women who registered to vote and cast a ballot is consistently higher than the percentage of the men who do so, end of quote. Repeat the line. Women are not without electoral and/or political or -- maybe precise, not and/or, or political power.

(END VIDEO CLIP)

BREAM: Fresh fodder for President Biden's critics tonight after he ran into some teleprompter problems. We've all been there, while talking about Friday's executive order on expanding abortion access.

Let's bring in tonight's Bream team, also Dream Team, panel to discuss. Former New York State Senator, David Carlucci, and Project 21 co-chair, Horace Cooper. Welcome back to both of you.

The President also --

HORACE COOPER, CO-FOUNDER, PROJECT 21: Good evening.

BREAM: -- talked about the economy and said he's got it moving in the right direction. Here's a bit of what he said on that front.

(BEGIN VIDEO CLIP)

BIDEN: Today's economic news confirms the fact that my economic plan is moving this country in a better direction. The unemployment rate is near historic low of 3.6 percent. Private sector jobs are at a record high, gas prices still way too high had fallen out 25 days in a row.

(END VIDEO CLIP)

BREAM: So, Horace, it's been a rough patch for this administration and the economy. But the President pointed numbers today he say -- he says are pointing us in the right direction.

COOPER: Well, that's absolutely wrong. The American people disagree. The American people have been saying now almost 45 days in a row. When asked how unhappy are you about your present economic situation, about the job that the President is doing, about America, even our patriotism, the American people are saying, in circumstance after circumstance, that this president's poor stewardship of our economy, of our nation, of our national security is something that they do not like, they do not embrace. And there is a day of reckoning coming for this president's party, and it's precisely because he refuses to change course.

BREAM: Well, let's look at this. Monmouth polling has had some numbers, very tough for the White House to try to digest this week. They say more Americans are struggling, inflation and gas prices top family concerns. They say more than four in 10 Americans, 42 percent say they are struggling to remain where they are financially. The number of people who say they're struggling has increased by 18 points since last year, 24 percent now 42 percent.

With that increase being fairly across the board when examining key demographic groups, including income, race, and partisanship, David, that sounds like a tough hill for the White House to climb at this moment.

DAVID CARLUCCI, FORMER NEW YORK STATE SENATOR: Look, I can appreciate the sentiment from the American people, inflation has been rising, gas prices are rising, interest rates are going up. But when we compare that to the rest of the world with inflation going up in India, in New Zealand, and the entire E.U. at a higher rate than the United States. President Biden is right, his plan is working. When you have the dollar at the strongest it's been in decades, when you have the job market that we have. That's just going bonkers.

Look, Ronald Reagan said it well, a recession is when your neighbor loses your job or loses their job. A depression is when you lose their job. Well, that's not happening right now because the American employers cannot keep up and they are hiring whenever -- and as fast as they can. So when the job market is doing well, those are the real trends that matter.

BREAM: Well, but let's look at one of those trends --

COOPER: The job market is --

BREAM: -- because this is inflation versus wages, because wages are up and average hourly wages up 5.1 percent. But at the same time, inflation 8.6 percent. So, Horace, even if people can find jobs, their wages aren't keeping up with the outpacing of things like milk and gas and rent.

COOPER: There is absolutely too much month left after the paycheck ends for too many American households. And that's not an accident. It's the actual poor policies of this President and the American people -- the problem here is it isn't having to be this way. And it wasn't always this way. People are able to just look back three summers ago, and see that life was far different than the way that it is.

Go to the grocery store. The common items that most people would have been assuming they'd be able to get, they're not able to get. I like Fairlife whole milk. I have to go to three, four stores just to find it. That's Joe Biden. That's not a booming economy. That's not a growing economy. That's the life that many, many Americans are experiencing.

BREAM: All right. David, quick, final word to you.

CARLUCCI: Look. Yes, Joe Biden is responding to the challenges of our time in a global economy. These are not unique to the American consumer. The reality is that we right now are the envy of most nations around the world. With the job market going bonkers, with the dollar being the strongest it's been in decades, the fact that these commodity prices that we're talking about are start -- starting to come down. This is the reality. And we've got to look at those trends.

Of course, it's easy to say, oh, wow, inflation is high, we're heading towards a recession. But the reality is we have to look at the real economic indicators. And the truth is Joe Biden is using the very few tools available to fight inflation and he's doing it as best as he can and it's actually working.

BREAM: OK. Well, we'll see. The Atlanta Fed and its predictions about where we are with respect to a recession. We'll know in days whether the actual data itself gives us that answer. David and Horace, thank you very much.

COOPER: Thank you.

CARLUCCI: Thank you.

BREAM: First up in tonight's crime crisis Roundup. A pregnant woman in the Bronx, beaten in broad daylight with a tool. She told ABC News in New York that when she wouldn't let another driver into her lane, he followed her. When she got out of her car, he says -- she says he attacked her with a screwdriver at the hospital. She found out she was three months pregnant. She miscarried a week later.

A group of teenagers attacking a 73-year-old, James Lambert, in Philadelphia, it's caught on video, you can see striking him in the head several times with a traffic cone, knocking him to the ground and he later died of these injuries. So police want you to take a look. They are still looking for all seven teenage suspects who were captured in this video.

And in New York, an eatery, trashed by three women upset with the restaurant. They threw objects, they tore down barriers, they climbed on counters and for good measure they just twerk (PH). The massive tantrum was reportedly started when the women did not want to pay extra for dipping sauce. They have been arrested and are facing numerous charges.

A wild car chase across the Carolinas as a man traded cars three times, switching out a stolen pickup truck for a gold Corolla which he drove wildly including up on a sidewalk for some time and into oncoming traffic before speeding through an intersection and smashing headfirst into a white sedan. He then got out of his wrecked car, dashed up the highway through traffic to the disabled vehicle he hit trying to pull the driver out and, you know, get in himself despite the fact that there was a deployed airbag apparently as you can see there. He gave up then went on to steal a black SUV instead and continued fleeing police in that car at high speeds. He eventually sped through another intersection T-boning a pickup truck and finally, well, he surrendered to police not much to do after fleeing for two hours. As you would imagine he is facing a slew of charges.

Tributes pouring in tonight from around the world on our top story last night. Former Japanese Prime Minister, Shinzo Abe, assassinated while stumping for another candidate. Abe was Japan's longest serving Prime Minister and his tenure overlapped three U.S. presidents. President Biden calling him a champion of the friendship between the U.S. and Japan.

A local news agency captured the moment that a gunman opened fire.

(BEGIN VIDEO CLIP)

(GUNSHOTS)

(END VIDEO CLIP)

BREAM: Police apprehended a 41-year-old suspect seconds later. He shot Abe with what appears to be a homemade gun, skirting Japan's very strict gun laws. Medics airlifted Abe to the hospital but he succumbed to his injuries shortly after that. Shinzo Abe was 67 years old.

(COMMERCIAL BREAK)

BREAM: The controversy over the proper and legal separation of church and state rages on tonight in the wake of the Supreme Court's decision last month that religious education institutions can't be excluded from public tuition assistance programs.

Chief religion correspondent, Lauren Green, takes a look at that tonight. Good evening, Lauren.

LAUREN GREEN, FOX NEWS CHIEF RELIGION CORRESPONDENT: Good evening, Shannon. The Supreme Court's latest rulings on religious freedom, education, and public funding, have some experts saying that the boundaries between church and state have been made less clear, not more.

(BEGIN VIDEO CLIP)

MICHAEL HELFAND, PEPPERDINE UNIVERSITY LAW PROFESSOR: I think what we're looking at is a universe that is governed by really one word, neutrality.\

GREEN: That's essentially the undercurrent of the Supreme Court's latest ruling on religion in the public square. It's cited with Coach Joe Kennedy saying his first amendment rights were violated when his Washington State School District fired him for postgame prayers with students.

Before that, in Carson versus Makin, the court ruled the state of Maine could not withhold student aid funding just because parents chose a religious school for their children. It violated the Free Exercise Clause of the First Amendment.

NICOLE GARNETT, UNIVERSITY OF NOTRE DAME LAW: The question really runs deep into the kind of debates about how much choice and what kinds of choice we should have in the United States.

GREEN: Saying despite the high court rulings, the Church State issue hasn't been settled because of a fine line between what constitutes government coercion and neutrality.

HELFAND: You know, there's subtle forms of coercion, there are informal ways in which religion can both provide opportunities but also create some problems. I have a feeling that we're going to see a lot of litigation over what does the word coercion mean when it comes to public schools.

GREEN: A big concern is how classrooms are becoming battlegrounds for court cases, especially when teachers try to play lawyer.

GARNETT: Teachers made mistakes about endorsement and candy canes and whether or not you're allowed to write that God is your idol in a -- in a report. That one little girl was allowed wasn't allowed to write that God was her idol. But she was allowed to substitute Michael Jackson.

(END VIDEOTAPE)

GREEN: The future of religion versus public education hangs on whether the court can more strongly define when government can step in, and when it needs to be hands off. Shannon.

BREAM: Lauren Greene, thank you so much.

And some good news before we say goodnight. A scuba diver in Austin, Texas able to recover a woman's wedding ring along with two family rings she inherited from her grandmother and aunt. It was all at the bottom of Lake Travis. Rachel Bolton lost the

valuables that he tucked him into her husband's wallet, but desperate to retrieve treasured family heirlooms. She enlisted local scuba diver, Robert Weiss, to help out he located the jewelry in mere minutes. And, Kevin, we love a happy ending to the story.

All right. Kevin, I couldn't hear you, but we'll talk again on Monday. That's it from Washington.

(COMMERCIAL BREAK)

END

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**NewsRoom**

## NewsRoom

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Section: Us World

### Texas AG demands Biden apologize to border agents over **'whipping'** claim

Jenny Goldsberry, Washington Examiner

Texas Attorney General Ken Paxton has demanded an apology from President Joe Biden for perpetuating the story of Border Patrol agents **whipping** Haitian **migrants** in 2021.

"I just think it's really wrong," Paxton said Friday of the White House's characterization of the story. "I would expect instead that Joe Biden and some of these political leaders should come out and actually apologize to these guys for what they've been through."

"There's no doubt this was political. And it's really unfortunate for these border agents who've given their lives to securing our border and defending Americans," Paxton said. "And here they are being punished, they should be rewarded. They should be taken care of. Instead, their careers may be ruined, and they've been humiliated in front of the entire American public."

#### FOUR BORDER PATROL AGENTS BEING DISCIPLINED FOR 'DEEPLY OFFENSIVE CONDUCT' IN HORSE **WHIPPING** INCIDENT

House Minority Leader Rep. Kevin McCarthy (R-CA) similarly demanded an apology in a Facebook post.

"These agents were cleared of criminal wrongdoing months ago, but instead of admitting they were wrong, the Biden administration is doubling down on baselessly attacking these agents to perpetuate their open-border agenda," McCarthy wrote. "Their reputation was smeared by President Biden, Vice President Harris, and their allies in the media - and they should all apologize to these Border Patrol agents."

A report from Customs and Border Protection did reveal instances of verbal abuse, force, and threat of force between agents but no violent use of their reins.

"There is no evidence that BPAs involved in this incident struck, intentionally or otherwise, any **migrant** with their reins," the report read. "The horses involved in this incident were equipped with split reins which can be twirled by the rider to guide the horse's movements. One BPA involved in this incident also reported twirling these split reins as a distancing tactic."

[CLICK HERE TO READ MORE FROM THE WASHINGTON EXAMINER](#)



The four agents involved will receive some yet-to-be-seen discipline for acting "in an unprofessional manner," per the report.

Original Location: Texas AG demands Biden apologize to border agents over **'whipping'** claim

Washington Examiner Videos

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Section: News

### Border agents on horseback used unnecessary force, inquiry finds

Benjamin Wermund, Washington Bureau

WASHINGTON -- Border Patrol agents chasing down Haitian **migrants** on horseback in Del Rio last year were acting at the request of the Texas Department of Public Safety -- not taking orders from the federal chain of command -- as they used what a U.S. Customs and Border Protection investigation released Friday deemed unnecessary force to drive asylum seekers back into the Rio Grande.

One of the agents used his horse to "narrowly maneuver" around a small child, standing on a slanted concrete ramp near the river's edge, as he chased down one Haitian **migrant**, yelling denigrating comments, including: "Hey! You use your women? This is why your country's s---, you use your women for this."

But the investigation found no evidence that agents struck any people with their reins, "intentionally or otherwise." One of the agents, however, reported "twirling" the reins toward a person as a "distancing tactic."

The reins could be seen flying around fleeing **migrants** in widely circulated photographs that sparked outrage at the time, as many believed they were being **whipped**.

"It was horrible what you see, what you saw -- to see people treated like they did, with horses nearly running them over and people being strapped," President Joe Biden said at the time. "It's outrageous. I promise you, those people will pay."

CBP Commissioner Chris Magnus said Friday that the agents involved face disciplinary action, but he would not offer details on what that may involve, saying the process is ongoing and the agents involved still have the opportunity to challenge the charges against them.

"The situation in Del Rio at the time of this incident, it was chaotic and unprecedented," Magnus said at a news conference announcing the findings. "There is no justification for the actions of some of our personnel, including unprofessional and deeply offensive conduct."

Magnus said the agents on horseback "carried out an operation at the request of Texas DPS that directly conflicted with Border Patrol operational objectives."

A DPS spokesperson said the department is reviewing the findings and declined to comment further.

In the 511-page investigative report, unnamed DPS officials denied requesting assistance from Border Patrol agents or ordering them to do anything.

A DPS sergeant who was on the scene denied asking for help from the Border Patrol but told investigators that he thought the agents' hands were tied and "expressed concern" that they were told to let the asylum seekers enter the country.

The sergeant added that "if DPS had operational authority to make arrests, every **migrant** would have gone to jail using any force necessary to do so," the report says.

The Border Patrol's mounted agents had been deployed on "short notice" the day before the incident, and the Border Patrol had not established "adequate command and control mechanisms" with other agencies, including DPS, the report says.

Border Patrol agents told investigators that DPS officials requested help in clearing the boat ramp where Haitian **migrants** were crossing into the United States, according to the report. One agent told investigators that they "assumed TXDPS had made the necessary notifications as they were the lead in the action being taken."

The report concluded that the agents carried out the operation at the request of DPS "as a result of a lack of command, control and communications." The report says they did so with authorization from their supervisor, who was unable to obtain additional guidance from higher in the federal chain of command at the time of the request.

Magnus said the confusion at the scene is indicative of the often chaotic situation on the border, where agents have worked to handle an unprecedented flow of **migrants** who have crossed into the U.S. over the last several months.

They have done so as Gov. Greg Abbott has sent state troopers and National Guard members to the border as part of his Operation Lone Star border security initiative. Abbott stepped up that effort Thursday when he authorized state law enforcement to return **migrants** suspected of entering the country illegally to ports of entry.

Magnus said Abbott's order threatens to make the situation even more difficult as CBP works to make clear to Border Patrol agents that they take orders from federal officials, not from DPS.

"It should be clear that while we work with various state officials and state organizations like Texas DPS, our personnel take their direction from our leadership, from their supervisors," Magnus said. "When that doesn't happen, it just causes confusion, it leads to all kinds of problems, including safety problems for everyone involved."

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--- Index References ---

Company: PT Indofood CBP Sukses Makmur Tbk; U.S. Customs and Border Protection;; TEXAS DPS CREDIT UNION; NATIONAL GUARD CORP; BORDER BANCSHARES, INC.

News Subject: (Crime (1CR87); Criminal Law (1CR79); Global Politics (1GL73); Immigration & Naturalization (1IM88); Legal (1LE33); Military Conflicts (1MI68); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05); Top World News (1WO62); World Conflicts (1WO07))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (Texas Department of Public Safety; TXDPS; CBP; U.S. Customs and Border Protection; Texas DPS; National Guard; Border Patrol) (Joe Biden; Chris Magnus; Greg Abbott)

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**NewsRoom**

## NewsRoom

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Los Angeles Times  
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July 9, 2022

Section: Main News

### 'Unnecessary force' at border, report finds Discipline possible for four agents involved in confronting Haitian immigrants in Texas.

Hamed Aleaziz

Border Patrol agents on horseback used "unnecessary force" when they confronted a crowd of Haitian **migrants** in Texas in September, according to a report released Friday.

The dramatic confrontation, with mounted agents towering over **migrants** while trying to block them from crossing the Rio Grande into the U.S., was part of a "chaotic" situation, and agency leaders were partly to blame, Customs and Border Protection Commissioner Chris Magnus said at a press conference.

But, Magnus added, "there is no justification for the actions of some of our personnel, including unprofessional and deeply offensive conduct."

One agent said to a **migrant**, "Hey! You use your women? This is why your country's s--, you use your women for this," according to the report by the agency's Office of Professional Responsibility.

The agent then "acted in an unsafe manner," pursuing that same **migrant** along the river's edge and "forcing his horse to narrowly maneuver around a small child on a slanted concrete ramp," the report said.

Two agents used their horses to block **migrants** from climbing to shore from the Rio Grande, according to the report. They chased those who emerged from the river, "including grabbing one [man] by the shirt and spinning him around," the report said.

Four agents involved in the Sept. 19 incident have been referred for proposed discipline, but the results of that process have not been finalized, senior Customs and Border Protection officials said.

Media coverage, including an AFP photograph showing an agent on horseback leaning over and grabbing a Haitian man by the shirt while a rein dangled, had raised questions about whether agents **whipped migrants**.

The investigation found no evidence that agents "struck, intentionally or otherwise, any **migrant** with their reins." Magnus said that the agents were not carrying **whips**.

The incident led to widespread outrage, prompting President Biden to criticize the response of the agents.

Driven by natural disasters, poverty and political unrest, around 15,000 Haitian **migrants** were gathered under a bridge in Del Rio, Texas.

Many had tickets that gave them a place in line for processing by border agents. Because of the extreme heat and lack of amenities, agents allowed the **migrants** to cross the river to get food and water on the Mexican side, then cross back, the report said.

That afternoon, Texas Department of Public Safety officers were trying to disperse the crowd of **migrants** and keep them from crossing into the U.S., according to the report. They asked the mounted Border Patrol agents for help.

The Border Patrol was legally required to "inspect" the **migrants**, who were already in U.S. territory once they got halfway across the Rio Grande, the report said. The agency's mission that day was not to block the **migrants** from going back and forth across the river, according to the report.

"At the time the agents used or threatened to use force, the **migrants** were not threatening" the agents, the report said.

"Instead, they were attempting to enter or return to the United States, some carrying tickets previously issued by the [U.S. Border Patrol] and many with food for their families."

Department of Homeland Secretary Alejandro N. Mayorkas said in a statement Friday that the agency must do better.

"The misconduct of several individuals does not reflect the brave and distinguished service of the Agents of the United States Border Patrol," Mayorkas said. "The organizational failures of policy, procedures, and training that the investigation identified were a disservice to the Agents and the public they serve."

Mayorkas said that the Border Patrol is implementing "needed" reforms.

PHOTO: A BORDER PATROL agent on horseback tries to stop a Haitian **migrant** from climbing to the U.S. side of the Rio Grande last September.

PHOTOGRAPHER: Paul Ratje AFP/Getty Images

---- **Index References** ----

Company: GETTY IMAGES, INC.; U.S. Department of Homeland Security

News Subject: (Crime (1CR87); Criminal Law (1CR79); Immigration & Naturalization (1IM88); Legal (1LE33); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Industry: (Physical Security (1PH53); Security (1SE29))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (United States Border Patrol; Customs and Border Protection; Office of Professional Responsibility; AFP; Texas Department of Public Safety; Getty Images; Department of Homeland) (Chris Magnus; Alejandro N. Mayorkas; Paul Ratje)

Keywords: (TEXAS); (RIO GRANDE); (BORDER PATROL (U.S.)); (HORSES); (HAITIANS); (IMMIGRANTS); (INVESTIGATIONS); (DISCIPLINE)

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**NewsRoom**

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Section: News

BORDER CRISIS BP agents face a lashing No **whips** used, but penalties still eyed

CALLIE PATTESON, SAMUEL CHAMBERLAIN and MARYANN MARTINEZ

The Biden administration admitted on Friday that Border Patrol agents were falsely accused of "**whipping**" Haitian **migrants** in Texas last year — but still referred four agents for discipline over the encounter.

In a 511-page report, Customs and Border Protection's Office of Professional Responsibility said it found "no evidence that [Border Patrol agents] involved in this incident struck, intentionally or otherwise, any **migrant** with their reins."

It was a far cry from the immediate aftermath of the Sept. 19 encounter, when President Biden publicly repeated liberal activists' bogus claims that the mounted agents had deployed their reins to **whip** the fleeing **migrants** near an encampment on the banks of the Rio Grande in Del Rio.

"To see people treated like they did . . . people being strapped — it's outrageous," Biden had said, vowing, "I promise you, those people will pay."

Vice President Kamala Harris had piled on, saying the widely shared images and video of the agents' actions reminded her of "times of slavery."

But on Friday, CBP Commissioner Chris Magnus emphasized that "**whips** are not part of Border Patrol training or equipment."

"Likewise, OPR investigators determined that the agents involved in the Del Rio activity were not carrying **whips**," he said.

Still, rather than apologize for the false accusation, Biden pressed CBP to find something on the agents.

Border Patrol union chief Brandon Judd accused the White House of carrying out a "political hit job" on the agents, who face punishment ranging from a letter of reprimand to firing.

"Unfortunately, the president made this the spectacle it's become," Judd told The Post in a text message prior to the report's release. "If he would have just kept his mouth shut and let the process play out like it should have instead of passing judgment before the facts were in, we wouldn't be discussing this right now."



CBP did not identify those singled out for discipline. Judd said the union would fight any sanction "until all avenues are exhausted."

"We are interested in a complete exoneration and not necessarily a political spectacle," he said.

The report was released more than nine months after Homeland Security Secretary Alejandro Mayorkas promised that an investigation into the incident would take "days, not weeks."

"I'm not happy about the length of time" the probe took, Magnus told reporters Friday.

'Offensive conduct'

While the investigation cleared the agents of the most sensational allegation, it found that they had used "unnecessary" force against the **migrants**.

One agent was also found to have used "denigrating and inappropriate language and to have maneuvered his horse unsafely."

"It's clear from the investigation that decisions made by some of the agency's leadership, and the lack of appropriate policies and training all contributed to the incident," Magnus said. "But there is no justification for the actions of some of our personnel, including unprofessional and deeply offensive conduct."

According to the investigation, the Border Patrol mounted unit was asked by the Texas Department of Public Safety to help prevent Haitian **migrants** who had left the massive encampment near the Acuna Del Rio International Bridge from returning with food. CBP said the request "directly contravened [Border Patrol] operational objectives."

Agents joined Texas authorities with the permission of their supervisor who was unable to get guidance from higher up the Border Patrol chain of command, the report said. Communication occurred on a radio channel that wasn't recorded, further complicating the investigation.

During the confrontation, the report said, one agent taunted a **migrant**, saying, "Hey! You use your women? This is why your country's s- -t, you use your women for this."

The report also found agents "used force or the threat of force to drive **migrants** back . . . despite the fact they were well within the territorial boundary of the United States" and posed no threat.

Up to 15,000 Haitian **migrants** had crossed from Mexico into the United States and were concentrated in the encampment under Del Rio's international bridge by Sept. 19. The camp was cleared within days of the incident as the outcry mounted.

Additional reporting by Snejana Farberov and Wires

---- **Index References** ----

Company: Post Holdings, Inc.; HOMELAND SECURITY CORPORATION; BORDER BANCSHARES, INC.

News Subject: (Crime (1CR87); Criminal Law (1CR79); Immigration & Naturalization (1IM88); Legal (1LE33); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Industry: (Security (1SE29); Security Agencies (1SE35))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (Customs and Border Protection; Office of Professional Responsibility; White House; Texas Department of Public Safety; The Post; Homeland Security; Border Patrol) (Biden; Kamala Harris; Chris Magnus; Brandon Judd; Alejandro Mayorkas; Snejana Farberov)

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**NewsRoom**

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Sentinel-Record, The (Hot Springs, AR)  
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July 9, 2022

Section: Extra

### Border Patrol faulted for use of force

WASHINGTON - U.S. Border Patrol agents on horseback engaged in "unnecessary use of force" against nonthreatening Haitian immigrants but didn't **whip** any with their reins "intentionally or otherwise," according to a federal investigation of chaotic scenes along the Texas-Mexico border last fall that sparked widespread condemnation.

In a report released Friday, Customs and Border Protection blamed a "lack of command control and communication" for mounted agents using their horses to block and move **migrants** during an influx of Haitians arriving at the border near Del Rio.

Video and photos of the incident made it appear agents were **whipping** Haitians, which caused outrage among advocacy groups and civil rights leaders. The Biden administration promised a full investigation after many in the president's own party objected that such tactics with racial overtones were the kinds of policies the U.S. was supposed to be moving away from after years of hardline immigration tactics.

Four Border Patrol employees - who have been on administrative duty since the investigation began months ago - have been recommended for disciplinary action, according to senior agency officials.

#### ---- Index References ----

Company: U S BORDER OF ALPHARETTA L P

News Subject: (Crime (1CR87); Immigration & Naturalization (1IM88); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15))

Language: EN

Other Indexing: (Customs and Border Protection; Biden administration; U.S. Border Patrol) (Haitians)

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## NewsRoom

## NewsRoom

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St. Paul Pioneer Press (MN)  
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July 9, 2022

Section: Main

### Border agents used 'unnecessary' force

#### WASHINGTON

- U.S. Border Patrol agents on horseback engaged in "unnecessary use of force" against non-threatening Haitian immigrants but didn't **whip** any with their reins "intentionally or otherwise," according to a federal investigation of chaotic scenes along the Texas-Mexico border last fall that sparked widespread condemnation.

In a 511-page report released Friday, Customs and Border Protection blamed a "lack of command control and communication" for mounted agents using their horses to forcibly block and move **migrants** during an influx of Haitians arriving last September to the U.S. border outside Del Rio, Texas.

Video and photos of the incident made it appear agents were **whipping** Haitians, which caused outrage among advocacy groups and civil rights leaders. The Biden administration promised a full investigation after many in the president's own party objected that such tactics with racial overtones were the kinds of policies the U.S. was supposed to be moving away from after years of hardline immigration tactics under President Donald Trump.

#### 'Sopranos' actor Sirico dies at 79

LOS ANGELES -- Tony Sirico, who played the impeccably groomed mobster Paulie Walnuts in "The Sopranos" and brought his tough-guy swagger to films including "Goodfellas," died Friday. He was 79.

Sirico died at an assisted living facility in Fort Lauderdale, Florida, said his manager, Bob McGowen. There was no immediate information on the cause of death.

A statement from Sirico's family confirmed the death of Gennaro Anthony "Tony" Sirico "with great sadness, but with incredible pride, love and a whole lot of fond memories."

Sirico was unconcerned about being cast in a string of bad guy roles, McGowan said, most prominently that of Peter Paul "Paulie Walnuts" Gualtieri in the 1999-2007 run of the acclaimed HBO drama starring James Gandolfini as mob boss Tony Soprano.

"He didn't mind playing a mob guy, but he wouldn't play an informant," or as Sirico put it, a "snitch," McGowan said.

#### 'F Troop' favorite Storch dies at 99

LOS ANGELES -- Larry Storch, the rubber-faced comic whose long career in theater, movies and television was capped by his "F Troop" role as zany Cpl. Agarn in the 1960s spoof of Western frontier TV shows, died Friday. Storch was 99.

Storch died of natural causes

Friday in his New York apartment, according to his manager, Matt Beckoff.

Although "F Troop" lasted only two seasons on ABC, from 1965 to 1967, it became a cult favorite in reruns. Its devoted fans could recite almost all of the adventures of the incredibly incompetent soldiers of Fort Courage and the members of the nearby Native American tribe who only pretended to be at war.

As Agarn, Storch was the wild-eyed partner and protege of Forrest Tucker's wily Sgt. O'Rourke, who often schemed with Frank DeKova's Chief Wild Eagle to fleece unsuspecting visitors.

Ex-Detroit mayor facing new probe

DETROIT -- Federal prosecutors opened an investigation Thursday in an effort to force former Detroit Mayor Kwame Kilpatrick to pay restitution to taxpayers amid questions about whether he had started paying \$1.7 million debt to the city and Internal Revenue Service.

The move comes 18 months after then-President Donald Trump commuted Kilpatrick's 28-year sentence for orchestrating a racketeering conspiracy out of Detroit City Hall. Kilpatrick's conduct since being freed has raised questions about his rehabilitation, finances and whether he had started paying restitution stemming from his federal conviction and assorted crimes.

Kilpatrick, 52, has generated attention in recent weeks, asking the public to donate money so he can buy a home in Florida and selling copies of his new book for \$19.99 yet has not made a payment in nine years toward the more than \$800,000 in restitution he owes Detroit taxpayers.

Canada hit by internet outages

TORONTO -- An outage at Rogers, one of Canada's largest telecommunications companies, caused significant internet, cable and cellphone disruptions, mostly in Ontario and Quebec, the country's most populous provinces.

The outage has affected emergency services and some police services, including law enforcement agencies in Toronto and Ottawa, which were warning that some Rogers customers may not be able to connect to 911 calls. Banking services and internet access are also affected.

"We know how important it is for our customers to stay connected," the company said in a statement Friday morning, several hours after the outage began. "We are aware of issues currently affecting our networks and our teams are fully engaged to resolve the issue as soon as possible."

The company has tens of millions of customers across Canada and about 23,000 employees.

Court limits access to Trump records

WASHINGTON -- A federal appeals court on Friday narrowed the range of documents House Democrats are entitled to in their years-long investigation of Donald Trump's finances.

The decision from the federal appeals court in Washington almost certainly won't be the last word in the legal fight that began in 2019, when Trump was president and Democrats newly in charge of the House of Representatives subpoenaed a wealth of records from Trump's accounting firm, Mazars USA.

A federal judge in Washington already had ruled that lawmakers were entitled to review a more limited set of records than they initially wanted.

Report: Vital wild species at risk

RIO DE JANEIRO -- Every day billions of people depend on wild flora and fauna to obtain food, medicine and energy. But a new United Nations-backed report says that overexploitation, climate change, pollution and deforestation are pushing one million species towards extinction.

The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services - or IPBES - report said Friday that unless humankind improves the sustainable use of nature, the Earth is on its way to losing 12% of its wild tree species, over a thousand wild mammal species and almost 450 species of sharks and rays, among other irreparable harm.

Humans use about 50,000 wild species routinely and 1 out of 5 people of the world's 7.9 billion population depend on those species for food and income, the report said. 1 in 3 people rely on fuel wood for cooking, the number even higher in Africa.

Wildfire endangers Yosemite sequoias

YOSEMITE NATIONAL PARK, Calif. -- The largest grove of giant sequoias in Yosemite National Park was closed Friday as a wildfire burning through dense forest became the latest in recent years to threaten the world's largest trees.

A team was being sent to the Mariposa Grove to wrap some of the massive trunks in fire-resistant foil to protect them as the blaze burned out of control, said Nancy Phillippe, a Yosemite fire information spokesperson.

More than 500 mature sequoias were threatened but there were no reports of severe damage to any named trees, such as the 3,000-year-old Grizzly Giant.

The cause of the fire was under investigation and the rest of the park remained open as nearly 300 firefighters tried to control the flames with the help of two water-dropping helicopters and an air tanker dumping flame retardant, Phillippe said.

--- From news services

---- **Index References** ----

Company: The House of Peoples' Representatives of The Federal Democratic Republic of Ethiopia; Internal Revenue Service; The House of Representatives Committee on Foreign Affairs; ABC BANKING CORPORATION LTD; UNITED NATIONS SECURITIES ASSOCIATION; YOSEMITE SOFTWARE SOLUTIONS; HBO Services B.V.; MAZARS USA LLP; ROGERS CORPORATION; U S BORDER OF ALPHARETTA L P

News Subject: (Crime (1CR87); Immigration & Naturalization (1IM88); Natural Disasters (1NA67); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05); Wildfires (1WI18))

Industry: (Entertainment (1EN08); TV (1TV19); TV Programming (1TV26))

Region: (Americas (1AM92); California (1CA98); Canada (1CA33); Caribbean (1CA06); Florida (1FL79); Haiti (1HA10); Latin America (1LA15); Michigan (1MI45); North America (1NO39); Ontario (1ON96); Texas (1TE14); U.S. Midwest Region (1MI19); U.S. Southeast Region (1SO88); U.S. Southwest Region (1SO89); U.S. West Region (1WE46); USA (1US73))

Language: EN

Other Indexing: (Customs and Border Protection; Biden administration; Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services; IPBES; House Democrats; Internal Revenue Service; House of Representatives; ABC; United Nations; Yosemite; HBO; Mazars USA; Rogers; U.S. Border Patrol) (Haitians; President Donald Trump; Donald John Trump; Gennaro Anthony "Tony" Sirico "; Paulie Walnuts; Bob McGowen; Peter Paul "Paulie Walnuts" Gualtieri; James Gandolfini; Tony Soprano; Larry Storch; Cpl. Agarn; Matt Beckoff; Forrest Tucker; Sgt.; O'Rourke; Frank DeKova; Kwame Kilpatrick; Kwame M Kilpatrick; Donald Trump; Donald John Trump; Nancy Phillipe)

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**NewsRoom**



## NewsRoom

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Targeted News Service (US)  
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July 9, 2022

### Rep. Roy on Mayorkas' 'Disgraceful' Treatment of Wrongly Maligned USBP Mounted Agents

WASHINGTON, July 9 -- Rep. Chip Roy, R-Texas, issued the following statement on July 8, 2022:

\* \* \*

"Secretary Mayorkas has proven he is willing to put the depraved media's narrative ahead of the truth. He doesn't deserve to lead the good men and women of Border Patrol who sacrifice every day for our country's security and should be impeached.

"For 10 months DHS hasn't even been willing to answer basic questions about the 'whipping' incident last September. I even sent letters as recently as January and June and never received any substantive answers.

"But today we learned what we knew all along -- the accused Border Patrol Agents in Del Rio did nothing wrong. There was never any criminal activity for the DHS IG to look into, and CBP's own investigation found no evidence any migrants were whipped or struck by agents.

"But this administration can't miss a chance to destroy the morale of our overrun, hardworking Border Patrol for political gain, and it issued disciplinary action anyway to finish off one of the most despicable displays of leadership seen from any cabinet Secretary."

\* \* \*

Original text here: <https://roy.house.gov/media/press-releases/rep-roy-mayorkas-disgraceful-treatment-wrongly-maligned-usbp-mounted-agents> MSTRUCK-7885885 MSTRUCK

#### ---- Index References ----

Company: PT Indofood CBP Sukses Makmur Tbk; BORDER BANCSHARES, INC.

News Subject: (Crime (ICR87); Immigration & Naturalization (IIM88); Smuggling & Illegal Trade (ISM35); Social Issues (ISO05))

Language: EN

Other Indexing: (DHS IG; CBP; Border Patrol) (Chip Roy; Mayorkas'; Mayorkas) (WASHINGTON)

Word Count: 204

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**NewsRoom**

## NewsRoom

7/8/22 Associated Press (AP) Newswires 18:26:20

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July 8, 2022

### Report finds 'unnecessary' force by agents at Rio Grande

WILL WEISSERT, Associated Press

WASHINGTON

WASHINGTON (AP) — U.S. Border Patrol agents on horseback engaged in "unnecessary use of force" against non-threatening Haitian immigrants but didn't **whip** any with their reins "intentionally or otherwise," according to a federal investigation of chaotic scenes along the Texas-Mexico border last fall that sparked widespread condemnation.

In a 511-page report released Friday, Customs and Border Protection blamed a "lack of command control and communication" for mounted agents using their horses to forcibly block and move **migrants** during an influx of Haitians arriving last September to the U.S. border outside Del Rio, Texas.

Video and photos of the incident made it appear agents were **whipping** Haitians, which caused outrage among advocacy groups and civil rights leaders. The Biden administration promised a full investigation after many in the president's own party objected that such tactics with racial overtones were the kinds of policies the U.S. was supposed to be moving away from after years of hardline immigration tactics under President Donald Trump.

As part of the investigation, four Border Patrol employees — all of whom have been placed on administrative duty since the investigation began months ago — have been recommended for disciplinary action which will come separately, according to senior CBP officials who briefed journalists before the report's release.

By September 19, 2021, around 15,000 Haitian **migrants** had crossed from Mexico into the United States and were concentrated in an encampment underneath the international bridge. But the encampment was fully cleared within days after the incident, as the outcry mounted.

Federal investigators said no **migrant** was struck with a **whip**, forced to return to Mexico or denied entry into the U.S. during the 15 minutes that they were forcibly blocked and moved by mounted agents. One agent yelled inappropriate comments about a **migrant's** national origin including, "You use your women" while also narrowly missing a child walking nearby while pursuing a **migrant**.

The use of force drove **migrants** back into the Rio Grande, despite their having been well within U.S. territory and not presenting threats in any way, according to the senior CBP officials.

Investigators said they did not speak to Haitian **migrants** while preparing the investigation but used statements and court documents that some provided as part of lawsuits they filed against U.S. authorities.

The report said the incident began after authorities from a state agency also working in the area, the Texas Department of Public Safety, requested help from federal authorities. That conclusion follows Republican Texas Gov. Greg Abbott this week authorizing state forces to apprehend **migrants** and return them to the U.S.-Mexico border — raising questions about his state's enforcement powers as top GOP leaders have slammed the Biden administration for failing to curb the rising number of crossings.

Agents acted with the permission of their supervisor who was unable to get guidance from higher up the Border Patrol chain of command, the report said. Communication occurred on a radio channel that wasn't recorded, further complicating investigation into the incident.

---- **Index References** ----

Company: U S BORDER OF ALPHARETTA L P

News Subject: (Crime (1CR87); Emerging Market Countries (1EM65); Global Politics (1GL73); Immigration & Naturalization (1IM88); Military Conflicts (1MI68); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05); Top World News (1WO62); World Conflicts (1WO07))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); Mexico (1ME48); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (Customs and Border Protection; Biden administration; Texas Department of Public Safety; Republican; GOP; U.S. Border Patrol) (Haitians; President Donald Trump; Donald John Trump; Greg Abbott)

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**NewsRoom**

## NewsRoom

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2022 WLNR 21412157

Axios  
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July 8, 2022

### Government report: Agents on horseback used force, did not strike Haitians with reins

Stef W. Kight

Jul 08, 2022

Border Patrol agents on horseback acted unprofessionally, unsafely and used unnecessary force toward Haitian **migrants** last September, but did not strike them with horse reins, according to a 500-page report released by the Department of Homeland Security and Customs and Border Protection on Friday.

Why it matters: Images and videos of border agents on horses chasing and grabbing Haitian **migrants** near the Rio Grande River went viral and sparked national outrage.

Multiple outlets, including Axios, initially published stories based on images and reporting that suggested agents had used reins to **whip** at **migrants**. President Biden at a Sept. 24th news conference said that "it was horrible what - to see, as you saw - to see people treated like they did: horses nearly running them over and people being strapped. It's outrageous." The investigation took months longer than initially anticipated. It included more than 30 interviews with eyewitnesses, including a journalist who took photos of the event.

Zoom in: The report found one border agent on horseback yelled offensive comments at **migrants** - including using profanity - and narrowly missed a **migrant** child while chasing someone across a boat ramp. It also found:

An agent shouted, "You use your women? This is why your country's shit, you use your women for this," as was captured in videos posted online. Agents used force or the threat of force multiple times to drive back **migrants** into the water, despite the fact they were already in the U.S., had not threatened the agents and many were bringing food for their families at the camp. But the report found no evidence agents struck **migrants** with split reins used for horses. It also found no evidence any of the **migrants** were ultimately forced back to Mexico.

What they're saying: "Failures to maintain command and control over Horse Patrol Units, lack of appropriate policies and training, and the overall chaotic nature of the situation at Del Rio at the time contributed to the incident," CBP Commissioner Chris Magnus said in a statement.

"We have already begun making changes to address agency shortcomings identified in the report," he continued.

The big picture: The investigation determined that the Texas' Department of Public Safety - not CBP - asked for horse patrol units to help them disperse a crowd of **migrants** in and near the water and block **migrants** from crossing on Sept. 19.

CBP said the Border Patrol actually had decided to allow **migrants** to cross to get water, food and other necessities to take back with them and at no point in the day made a decision to stop **migrants** from freely crossing the river there. But due to miscommunication and poor coordination that's what happened for the roughly 15 minutes widely documented in videos and photographs. A senior CBP official emphasized to reporters the vast logistical and humanitarian challenges the situation presented at the time, when roughly 15,000 **migrants** - mostly Haitians - had gathered under a bridge in Del Rio to form a makeshift camp.

What's next: Four agents have been placed on administrative duties since the incident, and the process for deciding further disciplinary measures is ongoing, according to a senior official who declined to provide more details.

The DHS's Inspector General and U.S. Attorney's Office for the Western District of Texas declined to take up the investigation, leaving it to the Office of Professional Responsibility (OPR).

---- **Index References** ----

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**NewsRoom**

## NewsRoom

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July 8, 2022

### The Head Of The CBP Announces The Result Of Their Investigation About The Agents Who Allegedly **Whip Migrants** At The Border, That They Were Not Ac...

The Head Of The CBP Announces The Result Of Their Investigation About The Agents Who Allegedly **Whip Migrants** At The Border, That They Were Not Actually **Whipping** Them With Their Reins; The Biden Administration Along With Their Allies In The Media Have Smeared Border Patrol Agents Despite Not Knowing What Exactly Happened At The Border; President Biden Turn His Anger To Republicans And The Supreme Court's Extreme Decision After His Own party Criticized Him Of Being Weak And Rudderless; Liberal Leaders Say That Self-Defense Is A Crime As They Refer To What A New York Business Owner Did After He Defended Himself Against A Criminal; Self-Defense Isn't A Crime: D.A. Under Fire For Charging Clerk Who Defended Himself; Elon Musk Terminates Deal To Buy Twitter

SEN. JOHN BARRASSO (R-WY): The president echoes.

CHARLES PAYNE, FOX BUSINESS HOST: Sir, sorry to interrupt, but we're almost out of time. Senator Barrasso, thank you very much and always a pleasure. And again, that is all the time we have. So, make sure you catch me weekdays on Fox Business Making Money, and don't forget, Cavuto Live tomorrow. We got in the house Homeland Security committee Ranking Member John Katko. And Neil --

JEANINE PIRRO, FOX NEWS HOST: Hello, everyone. I'm Judge Jeanine Pirro along with Jessica Tarlov, Joey Jones, Katie Pavlich and Greg Gutfeld. It's 5 o'clock in New York City and this is THE FIVE.

The Biden administration finally admitting the president flat out lied when he accused border patrol agents of **whipping migrants**. The head of the border patrol announcing the results of a months-long investigation into the incident where Democrats and the media claimed that agents were striking illegal border crossers.

(BEGIN VIDEO CLIP)

CHRIS MAGNUS, COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION: After an extensive review, the U.S. attorney issued their decision not to prosecute the case. OPR found no evidence for the border patrol agents involved in this incident that struck any person with their reins intentionally or otherwise.

(END VIDEO CLIP)

PIRRO: The false claims that the border agents **whipping migrants** was quickly debunked but remember, that didn't stop the Biden administration from smearing the border patrol on horseback who were just doing their job.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES OF AMERICA: To see people treated like they did, horses barely running over people being strapped, it's outrageous. I promise you, those people will pay.

KAMALA HARRIS, VICE PRESIDENT OF THE UNITED STATES OF AMERICA: And as we all know, it also invokes images of some of the worst moments of our history where that kind of behavior has been used against the indigenous people of our country, has been used against African Americans during times of slavery.

ALEJANDRO MAYORKAS, U.S. DEPARTMENT OF HOMELAND SECURITY SECRETARY: I saw horrifying images that do not reflect who we are, who we aspire to be, or the integrity and values of a truly heroic personal in the Department of Homeland Security.

JEN PSAKI, FORMER WHITE HOUSE PRESS SECRETARY: The horrific video of the CBP officers on horse -- on horses using brutal and inappropriate measures against innocent people.

(END VIDEO CLIP)

PIRRO: The four agents aren't out of the woods just yet. They are being referred for punishment for using offensive language and unnecessary force. The agents could be suspended for up to 14 days. Unfortunately, border patrol is not the only ones being attacked by the Biden administration.

The White House White House is accusing Texas Governor Greg Abbott of causing chaos over his moves to send illegal immigrants back to where they came from.

(BEGIN VIDEO CLIP)

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: I will say this, the immigration enforcement is a federal authority, and state should not be mandating it or meddling in it. That is just especially governor, Texas governor Abbott who has a track record of causing chaos and confusion at the border. But again, this is an immigration force -- enforcement is a federal authority.

(END VIDEO CLIP)

PIRRO: Jessica, I'm going to start with you. The fact is that the president didn't just lie here, but you had the most powerful man in the country, the most powerful woman in the country, the vice president, you had Maxine Waters and the rest of them, you've got them prejudging a situation, creating a false narrative while these powerful people and they were just wrong.

I mean, should they be in these positions making these judgments, given the fact that they didn't even know what the facts were at that time?

JESSICA TARLOV, FOX NEWS CONTRIBUTOR: I'm certainly not willing to say that Joe Biden shouldn't be president because he got this wrong or Kamala Harris --

(CROSSTALK)

JOHNNY JOEY JONES, FOX NEWS CO-HOST: It's out of reason --



PIRRO: Well, it's really simple, this one.

TARLOV: Well, he should backtrack and he should say that he was wrong. And they have a 511-page report than they can refer to. And they did find that there were failures at, quote, "multiple levels of the agency, lack of training, dangerous behavior, et cetera." That's something that CBP has to deal with.

But when you publicly demonize someone or an organization or an institution, it does damage the morale within that institution, obviously and to those that support them. And this was something that even Democrats who are representing constituencies along the border were saying that, you know, this is actually how it is supposed to be.

I'm not someone that typically rides a horse and I did not know that that's what was supposed to be going on. You should eat crow on this particular one and say, we were wrong about this. These are the reforms that need to happen to make sure we don't have this dangerous behavior again, and then move on.

PIRRO: Isn't it their job, Joey, the border patrol to make sure that things at the border go smoothly and to not let there be chaos at the border and I'm not even addressing the issue of --

(CROSSTALK)

JONES: Let me tell you something. We've heard a lot about this myth, 40 something years in the government that has callous hands or the intellect of the men on that horse. And that's what -- that's really the heart of this problem.

Is that, there is the American people, and then there is the elite class that get to think they govern them. I mean, to think you can stand there and accuse them of the most egregious intent in the world to be racist and trying to **whip** people when they are trying to enforce a policy that this administration ideologically stands fundamentally against.

Think about this. We have an entire agency of government whose mandate is to enforce the border and control the border and they have people in the White House that are fundamentally and ideologically against that notion.

So, what do they do? They use them as a scapegoat, they demonize them and then they look for any little technicality. They said that they are going to punish them because they use offensive language. Now don't you think if that were a racial slur that's exactly what they say they did? So they probably said something like, get the hell back.

PIRRO: Yes.

JONES: And because they yelled at them and raise their voice --

(CROSSTALK)

TARLOV: Well, there are -- there are quotes in that report of what they did say.

JONES: And I believe Richard Fowler was on today, trying to say that the people on horseback are wrong because we have some standing agreement or policy to let specifically to people of Haiti into this country. We do at the border checkpoint.

PIRRO: Yes.

JONES: So, they can get on a horse and push those people towards the border at that point all day long. And that's what they are trying to do and there are some places that only a horse can go. So, when Americans and they watch that, and they see those men and or women on horseback, they go, wow, those are people who won't do anything with callous hands to protect this country.

And they see a man in the White House who can't get the sentence out of his mouth and accuse them of things. And they say, yes, that person is unfit to be president.

PIRRO: Well, not only he is unfit, Katie. I mean, if he can see something literally on a videotape and make a judgment, a prejudicial judgement, what the hell is he doing on the world stage with leaders who are playing him like a fiddle?

KATIE PAVLICH, FOX NEWS CO-HOST: Yes, he's turning on the very agents whose mission it is to protect the American people to secure the border and to protect the economic prosperity of the United States of America. That's the mission of border patrol.

And this is a perfect example of the problem of the suits versus the boots. They are punishing and they're already punished these guys because they took them off the front line. They've sat them out of desk. They took the horse patrol unit off of that part of the border --

PIRRO: Yes.

PAVLICH: -- and making it easier for the cartel and criminal elements to operate. And they were doing their job. They are trying to protect the American people from illegal immigrants. It doesn't matter where they are from, they are illegal immigrants coming across the border illegally without permission.

And we don't know who these people are. They don't have any vetting. They have no paperwork. We don't know who they are. there's been tons of criminals who have come across the border. They just simply did their job.

And so, for Joe Biden to get up and say immediately that they were guilty that they would be punished even and then today, you have Customs and Border Protection come out and say, there is no evidence they did anything wrong. And that they are still going to be punished is the very definition of a political witch hunt, it's an abuse of power and I hope these agents have some kind of recourse at some point.

And for Secretary Mayorkas from the beginning who said they weren't **whipping** anybody. They don't even have reins, he defended them initially until he got a phone call from the White House to save President Joe Biden's ego and his pride because he lied about what happened and continue that narrative for the sake of the people who are pushing it. It's despicable and disgusting and exactly what's wrong with their border policy in general.

PIRRO: You know, Greg, when you think about it the idea of going after border patrol, who they put at the border on horses, who they say protect the American people, and then they want to punish them when we've got how many pounds of fentanyl that are coming into this country on any given day killing Americans left and right? And they are worried about this situation? And they are not even checking for the fentanyl?

GREG GUTFELD, FOX NEWS CO-HOST: If you want a definition of a truly dystopian universe, it's when the authority tells you that you've done nothing wrong, but you are still getting punished. I mean, it is the old- line, show me the person and I'll show you the crime.

JONES: Yes.

GUTFELD: That's exactly what this is. You can't find it. I mean, this is - - this would make (Inaudible) proud, this is, you know, right up there with two plus two equals five in Orwell's 1984. It's like, yes, we found nothing wrong but you will be sentenced to five years of hard labor.

JONES: It's (Inaudible) the court.

GUTFELD: What? No, it is -- that's the thing that I think should disgust everybody in terms of offensive language. The real offensive language was comparing border patrol to slave owners to calling -- and calling all of these -- they use this language; this is dramatic language. It's horrific, it's brutal, they will pay.

And it's like -- it's like that rash, hyper dramatic tweet you put out that gets all the attention and then when it turns out you are dead wrong, the correction is just a little mouse squeak. And nobody or the New York Times putting it on page b35 so no one finds it.

This story is important for a lot of reasons. It's part of the pattern among the Democrats and the media not to care about an issue until there's an American villain to amplify. So, there was a lot of bad stuff going on at the border.

PIRRO: Right.

GUTFELD: You bring up fentanyl. There was a lot of chaos, suffering, coyotes, rape, but there is no story without an American Darth Vader. Do you know -- do you remember how desperate we were on the show to get people to cover the border? And then all of a sudden, it was like --

PAVLICH: Right.

GUTFELD: -- the spigot got turn -- the spigot that was turned off got turned on --

PIRRO: Full force.

GUTFELD: -- full force and then it was like around the clock and it was incredible. And it was another colluded enterprise of media and the Democratic Party to create a hoax. And this is why people have lost trust in the media. They have lost trust in the government. They have seen the fine people hoax, the drinking bleach hoax, this hoax, the Russian collusion hoax.

They see the Democrats and the media in bed together and they can't trust them. And then, they amplify the story and they bury others. So, what -- we talked about the Hunter Biden stuff being buried, but let's not forget 50 plus **migrants** died in a truck driven by a meth head.

JONES: Yes.

GUTFELD: That story got what, a half an hour?

JONES: Yes.

GUTFELD: Think about that. Biden cared more about vilifying a single individual than the 55 or 56 people that died in that truck.

PIRRO: And several thereafter.

GUTFELD: Right.

PIRRO: All right. Straight ahead, a desperate Joe Biden trying to pivot and smear Republicans after being called out by members of his own party.

(COMMERCIAL BREAK)

JONES: It's been a brutal week for President Biden, the commander-in-chief taking incoming from his own party who are accusing him of being rudderless and too weak to take on Republicans. Biden responding to the criticism by laying into the Supreme Court and GOP lawmakers over abortion before signing an executive order.

(BEGIN VIDEO CLIP)

BIDEN: We cannot allow an out-of-control Supreme Court working in conjunction with extremist elements of the Republican Party to take away freedoms and our personal autonomy. The choice we face as a nation between the mainstream and the extreme, between moving forward and moving backwards.

Let's be clear about something from the very start. This was not a decision driven by the Constitution. Let me say it again. This was not a decision driven by the Constitution. And despite with those justices and the majority said, this was not a decision driven by history. For God's sakes, there is an election in November. Vote, vote, vote, vote!

(END VIDEO CLIP)

PIRRO: Wow.

JONES: Biden appears desperate to pivot away from the economy, but 88 percent of Americans think the country is headed in the wrong direction. But that didn't stop the president from boasting about the so-called historic progress he is making.

(BEGIN VIDEO CLIP)

BIDEN: We already had more jobs in my first year as president than any president in the history. We still have more jobs in the past three months than any administration in nearly 40 years. Now look, I know times are tough and prices are too high, families are facing the cost-of-living crunch. But today's economic news confirms the fact that my economic plan is moving this country in a better direction.

(END VIDEO CLIP)

PIRRO: No.

JONES: Yes. OK, sure. Judge, was this decision about the Constitution or was it not?

PIRRO: What is he talking about this decision wasn't driven by the Constitution? First of all, the Supreme Court in the Dobbs case said the Constitution is not, does not protect abortion. They didn't say it was constitutional. They didn't say it was unconstitutional. They were agnostic.

They said it goes to the states. They said there was nothing in the Constitution where it's implicitly protected, all right? And so, what Joe Biden did today was he issued an executive order, which doesn't change a darn thing. He did it because he was late when they leaked that Supreme Court decision, the Dobbs decision, he had five weeks or six weeks, whatever it was to decide what he was going to do when they came out with the official decision.

He did nothing. The left went crazy. So, he decided he is going to come out today and he is going to issue an executive order on protecting access to reproductive health care services. The thing says basically nothing. He basically says, you know, I'm going to have my director of Health and Human Services tell me what's going on in the states.

Great. You couldn't get an abortion law passed in Congress. You tried to do that. You couldn't get it done and you talk about democracy. Now, let the states decide whether or not they want to have an abortion. So, an abortion law or decide they don't want to have an abortion law.

And it was very clear, the Supreme Court, it was very clear they said this isn't going to affect Obergefell, then it's not going to affect contraceptives. And it's not going to affect privacy as it relates to Griswold, et cetera, et cetera.

So, you know, everybody needs to calm down. All they did was take it out of the constitutional protection.

JONES: Jessica, the Mississippi law from the governor was on Fox explaining it. That is 100 percent pivoted towards medical practices. It's not -- it's not punitive towards people. If you practice medicine and you perform an abortion in say Mississippi, you will lose your medical license.

And so, is it honest for Democrats to go around saying, basically, you're kind of scaring people into saying they are going to be tracking your cell phones and looking at your purchase history? I mean, is there any evidence that that's the plan for most of these states?

TARLOV: Well, there was law that was too extreme for Ted Cruz which is saying a lot in Texas, which actually was encouraging people to become vigilantes. To actually report people down to Uber drivers driving women to abortion clinics or to get health care services somewhere that does provide abortions when you can't possibly know what's going on inside that door.

Now, to say that the Supreme Court was being agnostic in taking it back to the states is totally untrue because they know as well as the rest of us do, that over 25 states, 25, 26 states actually have laws on the books or will be passing trigger laws. That mean that women's rights to reproductive health care will be severely restricted everything from, you know, six-week heart beat fails, personhood bills up to, you know, bans it whatever the time.

Then you have on the ectopic pregnancy front, and Greg and I were talking about this in the green room. Yes, people didn't talk about ectopic pregnancies and the treatment for it before because it wasn't an issue before. But now if you look at --

(CROSSTALK)

GUTFELD: Don't add an issue.

TARLOV: -- it is an issue. If you look at what's going on in states like Missouri --

(CROSSTALK)

GUTFELD: They are grabbing straws.

TARLOV: It is! Grabbing straws. One person who is denied medical care for an ectopic pregnancy makes the entire point of this move.

JONES: OK.

TARLOV: If the woman dies from --

GUTFELD: It's going to happen.

TARLOV: It is going to happen.

JONES: OK.

TARLOV: Because you have to call somebody. If you are a doctor you have to get permission to treat someone for something that happens, quite rarely actually when you look at -- sorry, quite frequently when you look at the statistics for it, that is a major sin of this ruling but leaving this up to states.

PIRRO: I have to respond --

(CROSSTALK)

GUTFELD: I wouldn't bring up sin when we're talking about abortion.

PIRRO: Yes. I have to respond. You said it was untrue that the court was agnostic. It is true. The court said it is not protected by the Constitution, explicitly or implicitly.

GUTFELD: Yes.

PIRRO: They did not say it is constitutional. They did not say it is unconstitutional. They said it is up to the people, period, end of the story.

JONES: Katie, if this -- if this result of Roe versus Wade, I mean, we're not going to get to it, but Kavanaugh was harassed out of Morton's steakhouse, they can't change his decision. I mean I don't know why they are still going after him.

(CROSSTALK)

PIRRO: The fact that the left does.

JONES: The Supreme Court did an entire series of decision that put everything back to the state legislatures or Congress and said, do your job. I mean, that's the option Democrats have, right? They can flip Houses in the states. If this is truly as unpopular as they say and it is egregious as they say it is, people have all the power.

PAVLICH: Well, first, it's really hard to talk -- to listen to Joe Biden talk about bodily autonomy when he tried to use OSHA to force every worker in America to get a vaccine that they didn't want. So, he has no credibility when it comes to that. But also, this is obviously become just a political issue for them. They are hoping that they can get their base up for the midterms because midterms are base elections.

He continues to be the most unpopular president polled since the beginning of polling. He has nowhere to go in terms of changing his policies. And he thinks that the only way to get out of it apparently is to yell at the camera and to accuse the Supreme Court of being too close to Republicans.

But little do people know that there are progressives, including progressive law professors at Yale University, for example, who do not believe that Roe versus Wade is protected under the Constitution that it should have been returned to the states to make their own abortion laws. And that the fight between the pro-choice side, pro-abortion side, and the pro-life side can happen at the local level.

So clearly, they are trying to use this to their benefit because it's the only thing they have and we'll see how it plays out when it comes into November.

JONES: Yes.

PAVLICH: But I think voters are going to have a very hard time listening to Joe Biden say vote for more Democrats when they are fully in charge of Washington, D.C. and didn't make this a dire of an issue as they are trying to make it now.

JONES: Greg, last word, we talked about Jane's Revenge, we saw Kavanaugh just got harassed in a restaurant. Are we going to continue to see political violence on behalf of abortion?

GUTFELD: I think so because I think what President Biden just did there was he attack an institution.

JONES: Yes.

GUTFELD: I mean, he is egging on an insurrection. He is telling you that the Supreme Court is out of line and they're doing something very wrong and very immoral and very un-American. .

JONES: Well, to Schumer.

GUTFELD: I mean, he's, yes. He's basically telling you, it's fair game. If any judge is injured or anything, it's on him because he is basically telling people to go there and attack --

(CROSSTALK)

JONES: Well --

TARLOV: Wait --

PIRRO: Be more forceful.

JONES: Let's hope that doesn't happen.

GUTFELD: Yes.

JONES: All right, we got to go.

GUTFELD: Wait, wait, wait, I'm not done yet. It seems like to me like the White House only responds to the loudest, screechiest blue checkers on Twitter. They are like, this show is, it should be -- we talk about inflation, we talk about crime, we talk about the border, but what upsets the -- those are things that our viewers care about.

JONES: Yes.

GUTFELD: These are things that people talk about around the kitchen table. Roe v. Wade, this thing upsets people like Debra Messing and Bette Midler so the White House better do something about that.

JONES: Yes.

GUTFELD: This is the problem. They say cannot respond to the American people. They can only respond to the loudest voices on Twitter. Now I'm done.

JONES: All right.

GUTFELD: Thanks.

JONES: Up next, liberal city prosecutors making self-defense of crime. This is crazy. The latest on the store clerk being charged with murder for defending himself.

(COMMERCIAL BREAK)

TARLOV: Liberal leaders being accused of making self-defense a crime. New York City store worker Jose Alba is back home after his bail is lowered but still facing a murder charge, video showing the altercation with Alba stabbing a man after being confronted behind the counter and shoved him to a wall.

Crime is up overall in the city and the NYPD commissioner thinks repeated offenders could be to blame.

(BEGIN VIDEO CLIP)

KEECHANT SEWELL, NYPD POLICE COMMISSIONER: We do see a number of people that are being rearrested for the same offenses over and over again. Grand larceny in many instances, they are either car thefts. But we also have shoplifting, of multiple shoplifting and that's basically that will turn into a robbery if it escalates into a robbery. And we are seeing the same people over and over again.

(END VIDEO CLIP)

TARLOV: The spotlight on Jose Alba's case putting pressure on liberal leaders to act. New York City Mayor Adams blaming extreme ideologies for the public safety crisis.

(BEGIN VIDEO CLIP)

MAYOR ERIC ADAMS (D-NY): There are two battle that are happening in our country in our city right now. You have the far right that states give everyone a gun no matter what. You have to follow the states everyone that uses a gun should not be held accountable. These two groups are not the majority of Americans. And they have actually held our country and our city hostage. These two groups don't realize they're co-conspirators to the public safety crisis that we're facing in our city and country.

(END VIDEO CLIP)

JESSICA TARLOV, FOX NEWS CHANNEL CONTRIBUTOR: So, Judge, I'm going to go to you first on this. In terms of the case, Jose Alvarez case, the bodega worker, what do you think his odds are winning this as a self defense case?

JEANINE PIRRO, FOX NEWS CHANNEL HOST: Good to excellent.

TARLOV: Great.

PIRRO: Good to excellent. In fact, I think if they put it in the grand jury, the grand jury may say there isn't probable cause for an indictment in this case. Look, what you've got is a gang-banging career criminals, several state prison who comes in. His girlfriend tried to use a debit card that didn't work. She calls her boyfriend. He comes in and starts yelling, jumps over the counter, knocks the owner over. The owner is a -- you know, doesn't have a record. And then pushes them, and then he picks him up, and then he pushes him again.



And when he pulls them to take them out of there, that's when the guy who runs a bodega grabs a knife to defend himself. He doesn't know where he's going at that point. And the unfortunate part of all this is, look, you've got a guy who was confronted with a gun here, the bodega owner several months earlier, so he knows that, you know, people come in and come in seriously/

But I got to say one more thing before you move on. I'll be very quick. I got to tell you, the more I hear on this guy, Adams, the less I like the guy.

JOEY JONES, FOX NEWS CHANNEL CONTRIBUTOR: Absolutely.

PIRRO: OK. What is this? You know, we've got co-conspirators. If anybody is a co-conspirator, you are. The reason that the mayor is a co-conspirator here -- he's blaming it on the left and he's blaming it on the right. It's your fault. It's your city. You're a cop. You knew when you ran, you promised that you were going to take care of gun crimes and murders and you haven't done a damn thing.

You won't go after Governor Hochul who's running for office and cashless bail, get her to repeat it -- repeal it. You won't do it with the Heastie or with Andrea Stewart-Cousins in Albany. You ought to go to every homicide in his city and set hold a sign up and say because of cashless bail, this murder happened. And I won't go on.

TARLOV: Joey, I heard you got enthusiastic while the judge was speaking.

JONES: Yes, two things here. Number one, the gruesomeness of being stabbed to death could be prevented with a gun. That's a much more humane way to defend yourself, all right. That's number one. Number two, if the gun laws weren't so ridiculous that a shop owner in a --in a city prone to violence can't have one, a shotgun to defend themselves easily, brandishing that shotgun might have had that dude turn around and run the other way. And so, it's a deterrent in a lot of ways.

The fact is, you're going to see more of this because people are not going to put up with lawlessness. They're not going to be put up with having their own lives threatened for simply running a business. They're not going to put up with a group -- a class of Americans who think they can impose their will on what they perceive to be the weak because there's no consequence.

And how many people need to needlessly die at knifepoint before DAs start prosecuting people, putting them in jail for smaller crimes. I mean, who could have saved that man's life? Whoever led him out of jail could have saved his life by keeping him in jail. He wouldn't have been on the streets to perform the next act of violence, because obviously slapping someone in the hands saying, you know what, you've had rough breaks in life, you shouldn't be put in this position, we're going to let you back out, that didn't work. That didn't prevent crime.

But it will get you killed if you walk into a shop -- into a bodega and threaten somebody's life. That'll get you killed.

TARLOV: Well, Greg, something that we've been talking about is the kind of dull moment about, yes, these are people who you're returning to the streets. And that's what the commissioner was acknowledging there. And I'd love your thoughts on that and also the point that it was actually the public that got this guy out on bail, because there was such public outcry in defense of Jose Alba that they lowered the bail to a reasonable amount that he could actually get himself out of there. So, do you see more of a role for people like us in making sure that justice is served?

GREG GUTFELD, FOX NEWS CHANNEL HOST: You know, as much as I despise Jesse Watters, he makes sick to my stomach. The fact that he gets to take Friday's off because his back hurts, when what he's -- what is he doing? He's sitting -- while we're here yelling and screaming, he's off having a margarita.

But yesterday, you know, he was the one that said that -- you know, he said, so I got to give him credit that like, we have to stay on this and get this guy out. And I think a lot of people watch -- you know, we're the number one show in history, I believe,

of all television shows. You might want to fact-check that, but I do believe that we are the number one show in history. And he said that -- you know, he said --

PIRRO: History?

GUTFELD: -- we have to keep -- we have to keep on this -- keep on this, and lo and behold, you have it on the New York Post. But this is -- think about this. This is a thing that in an -- in an alternative universe, it will infuriate you. What if there was no tape?

PIRRO: Exactly.

GUTFELD: This -- they would have taken the stabbed suspect. He would be a martyr, there would be a mural, there would be a march, there would be riots, and the bodega worker would be portrayed as a monster.

PIRRO: As a racist and a monster.

GUTFELD: Yes. But thankfully, this is what -- I mean, I'm like, I'm not -- I am now so pro-surveillance body cam, put it everywhere, because if you didn't see this, you know exactly the kind of narrative. You know what happened? Biden would have spoke out against this bodega guy. He would have said, that bodega guy, he's got to pay. Look what he did to this innocent, this poor -- he was just getting his life back together, and he gets stabbed by a monster.

TARLOV: Katie, I love to hear thoughts before --

KATIE PAVLICH, FOX NEWS CHANNEL CONTRIBUTOR: The idea that there was bail at all for Jose Alba is atrocious, given the kind of criminals they lead out with no bail. And the fact that he's being charged at all in the situation when there is video is absolutely ridiculous, and it will make his life much harder in the future.

You know, most people, especially people working in crime-ridden areas like New York City, would rather be judged by 12 than carried by six.

JONES: Yes.

PAVLICH: And it's a lot easier to do that when you live in an area where you're allowed to defend yourself with a firearm. And so, for Mayor Adams just come out in support of this bodega worker, good thing, but he has done nothing to offer any kind of deterrence to these criminals who aren't afraid of the system. They're not afraid of the cops. They're not afraid of the prosecutors, obviously, because they're running back through the system as the police officer was saying. So, the only thing they're going to be afraid of is self-defense.

And the mayor of New York City is preventing people from being allowed to defend their own lives from people who walk in and know that there'll be no consequences for them because the mayor and everybody else are on the side not of the bodega workers trying to make an honest living, but the criminals in the city who are running the show.

GUTFELD: They do overcharge on potato chips though. Let's be clear.

TARLOV: Well, no, they deserve it. Stay right there. We have breaking news about Elon Musk's Twitter deal next.

GUTFELD: Six bucks for like --

(COMMERCIAL BREAK)

PAVLICH: Fox news alert, Elon Musk has officially terminated his \$44 billion deal to buy Twitter. Musk reportedly saying Twitter has dramatically misrepresented the number of spam accounts on the site, and that Twitter did not provide him with relevant business information he requested.

So, Jessica, you thought this was a big troll from the beginning. Have you been vindicated?

TARLOV: I hope so. I think so. I hope you guys agree as well. Overall, it seems like no one wants Twitter and that Elon Musk, you know, wanted to get into the conversation about this. He probably as at one point wanted it. But then when he saw what happened at Tesla on the other side, he was like, well, this is actually a lot more valuable than owning the public square as it were.

This waiving due diligence and then not getting the information that you wanted when you waive the diligence in the first place rings a little hollow to me, and I think he's just had, you know, several weeks, months now of bad press, and it's just going to skulk away from all of this and go back to building rockets and cool cars.

PAVLICH: So, Greg, are the people at Twitter headquarters crying for joy today, instead of in sadness like they did the first time.

GUTFELD: Not really. Think of -- the reason why Musk is the richest person on earth is he finds more than one way to win. Do you know what I mean? So, if he buys Twitter, he wins. If he doesn't buy Twitter, he still won because he did a number of things. He exposed some of the hugest fallacies about this -- about Twitter being fair, or Twitter being free.

He's an engineer. He went in he kicked the tires, he looked under the hood, and he let everybody else take a look at it at the same time. So, you got it -- he basically -- he was a bull in a China shop, but he was an engineer in a China shop and he showed what's in there and what's broken. So, I think you know what? I don't know. I'm kind of sad, because it would have been fun. But at the same time, I learned a lot, you know. I hope we can still be friends.

PAVLICH: So, Judge, the market is closed right now. But do you think that this will tank Twitter's stock on Monday?

PIRRO: Yes, yes, I really do. And you know, I'm disappointed like Greg. I really am. I like the idea of someone coming in and talking about free speech and telling people you know, you're not going to have a crying room anymore, and someone who was pro First Amendment, you know, and but -- you know, we knew I think a month ago well -- I think more than a month ago that there was an issue as to the bots and the spam and all that stuff. Was it -- is it greater than five percent. And that appear that Twitter was not willing to identify or give him the information that he needed.

And so, you know, as Greg said, the analogy, he looked under the hood. Well, I don't know if they allowed him to really look under the hood. So, the question is, is he being sanctioned now? Does he lose money? Was there a penalty in there, an automatic one if he doesn't go forward? So, why are you showing me that stuff, Greg?

GUTFELD: These are the questions for "FAN MAIL."

PAVLICH: OK, Joey, your thoughts about --

(CROSSTALK)

PAVLICH: Is Twitter really worth anything is the question.

JONES: Don't put your faith -- don't put your faith in anyone, not a billionaire, not a politician. People don't come in and just save the day like that. The big thing for me that always smelled fishy about this is that he cozied up to Jack.

PAVLICH: Yes.

JONES: And like, even the rhetoric coming from Jack. So, it's like, did he had -- did he think he had some inside information and he thought it was calculated, and now that's not going to work? I don't know. That's all speculation.

PAVLICH: Well --

GUTFELD: She throwing things at me.

PAVLICH: I would ask Greg Gutfeld over here.

GUTFELD: She's throwing stuff at me.

PAVLICH: All right, don't go anywhere. "FAN MAIL FRIDAY" is up next.

(COMMERCIAL BREAK)

GUTFELD: What is this?

GUTFELD: Oh, it's Twin Peaks.

TARLOV: "FAN MAIL FRIDAY."

GUTFELD: And it's "FAN MAIL FRIDAY." First question from Maurice. My friends call me Maurice. What's that from? Because he speaks with the --

JONES: Steve Miller.

GUTFELD: -- something --

PAVLICH: No, I had no idea what you're talking about.

GUTFELD: Something of love?

PAVLICH: No idea.

GUTFELD: They call me -- if you came with a warning tag, what would it say? All right, Judge.

PIRRO: Her bark is worse than her bite.

TARLOV: That's a good one for her.

PIRRO: That is good one.

GUTFELD: I would say your bite is worse, but we won't get into that.

PIRRO: Yes? No, we're not.

GUTFELD: Don't do it. Tarlov, warning tag.

TARLOV: Something like, may hurt your ears, may make your ears bleed. I hear a lot about how bad my voice is and my Millennial vocal fry.

JONES: You got -- you got to get up --

GUTFELD: It is the vocal. You have a -- you have an intense vocal fry? I don't find -- I find it -- I find it fine. I don't see it as a problem.

PIRRO: You asked the questions. Let her give the answer.

TARLOV: Did you hear that?

GUTFELD: I'm just trying to make her feel better, Judge.

PIRRO: OK.

GUTFELD: Joey?

TARLOV: I don't (INAUDIBLE).

JONES: Top heavy.

GUTFELD: Top heavy. Oh, my God.

PIRRO: That's good.

GUTFELD: Some contents might have moved during the shipping.

PAVLICH: Yes, that's good. Mine I guess it'd be look sweet but is spicy.

TARLOV: That's a good one.

PIRRO: How about you.

GUTFELD: I appear smaller in mirrors.

(CROSSTALK)

PIRRO: Let it go. Let it go. Next question.

GUTFELD: When it's out in a little mirror --

TARLOV: Objects may appear --

PAVLICH: Larger than they actually are.

GUTFELD: OK, this fun from Big Wayne.

PIRRO: Hey, Wayne.

GUTFELD: Call me Big Wayne. Do you remember your first day at Fox, Katie?

PAVLICH: I do. I was on Red Eye with Greg Gutfeld.

GUTFELD: That's right.

PAVLICH: The doll from townhall.

GUTFELD: Yes, that's right. What about you, Joey?

JONES: Yes, I was living in DC and got asked to come on to talk about Kyle Carpenter getting the Medal of Honor. I recovered with him. And President Obama had to give a speech saying remember those JV team ISIS who actually have to go to war with them? They're like, hey, do you want to talk about this? And I thought, oh, what the hell, I'll never do this again.

GUTFELD: Jessica?

PAVLICH: Here you are.

TARLOV: I was, if I'm remembering correctly, on "AMERICA'S NEWSROOM," and we were talking about a workplace violence terrorism case I think in 2015. And I went -- it was great. I mean, it was terrible but like the segment was --

GUTFELD: I remember seeing the human side of the first day. Like what did you wear, are you nervous?

TARLOV: There's a lot about that where I was like, please no, I don't want serious hair and makeup and then after a year, I was like, oh my God, I need a ton of hair and makeup.

GUTFELD: I didn't know -- anyway, Judge.

PIRRO: I don't remember but I'm pretty sure I was -- I was the DA and I came in to talk about crime or something. I wasn't working here. I mean the I came with my -- with the guys.

GUTFELD: All I remember is I was completely ignorant of everything. So, like when I -- like, I didn't know how anything worked, teleprompters and all that stuff. So, whenever something --

JONES: It's how I feel today.

GUTFELD: Yes -- no, but it's like nobody -- but nobody tells you anything. You just show up and you have to do it. And it's like -- I was like -- my first day, two weeks later, they -- I was hosting Red Eye. I had no idea what I was doing.

TARLOV: But people are so nice about it which was great, and genuinely want to help you.

JONES: This is the kind (INAUDIBLE)

PIRRO: What's the next question?

GUTFELD: The next question was what always felt like a luxury when you were little? Real quick.

PIRRO: Candy.

TARLOV: Yes, candy.

JONES: Coca-Cola and the (INAUDIBLE)

PAVLICH: T.V.

GUTFELD: Quarters. Remember when you got a quarter?

PAVLICH: Quarter?

GUTFELD: When somebody give you a quarter?

PIRRO: Like in a lemonade stand?

GUTFELD: Because it's huge. That was five candy bars when I was young in the early 30s.

PIRRO: Yes.

GUTFELD: "ONE MORE THING" is up next. I'm scratchy.

(COMMERCIAL BREAK)

PIRRO: It's time now for "ONE MORE THING." And I go first. So, next Monday is a very important day. Next Monday is the birthday of THE FIVE. It turns 11 years old, and so it's the biggest day of the year for us. So, that's right, and that's right, that's right.

GUTFELD: There you go.

PIRRO: No, I'm not done yet. What I want and what we want is we want you to post a video, OK, I'm having a rough. I was throwing papers --

TARLOV: She ripped her own sheet.

PIRRO: I was throwing papers at Greg and I ripped up my notes. So, post a video, not just a comment, because we want to see you and your beautiful faces with the hashtag THE FIVE turns 11. Hashtag THE FIVE turns 11. And tell us what you love about the show. Like, you may love me. I don't know.

JONES: Absolutely.

PIRRO: Your video might be featured -- excuse me, I'm talking. Your video might be featured on THE FIVE on our 11th birthday, which is when, Greg?

GUTFELD: It's Monday.

PIRRO: OK, so you go next.

GUTFELD: Yes. It means we finally get to drink. That's when I started.

PIRRO: Hurry up.

GUTFELD: Tonight, Kayleigh McEnany, Michael Loftus, Kat Timpf, Tyrus. We are kicking some serious rear end at 11:00 p.m. So, please watch. Let's do this.

(BEGIN VIDEO CLIP)

GUTFELD: Animals are great. Animals are great. Animals are great.

(END VIDEO CLIP)

GUTFELD: They're awesome. I'm not a big fan of raccoons. They kind of freak me out at night when they stared at you with their little beanie red eyes. But check out this sucker. They know how to get food. And this guy -- I mean, like to understand, you know, just like getting to the bird feeder and everything.

PAVLICH: Wow.

GUTFELD: I mean, look at that. That's a pretty smart raccoon.

PIRRO: That is.

GUTFELD: You know what I'm saying?

PIRRO: Yes.

GUTFELD: You can make a nice smart hat too, wouldn't it?

PAVLICH: It would. That's nice.

GUTFELD: All right, I'll shut up.

PIRRO: That Davy Crockett. OK, Jessica, your next.

TARLOV: Great. So, yesterday, I retired FDNY firefighter finally got to meet the man who helped save his life with a bone marrow donation. Sal Parisi survive 9/11 and retired after 27 years on the job. Nine years later, he was diagnosed with leukemia. He was surprised to find out Stephen Dawkins, a man living in Rugby, England would be a perfect match for a donation. Parisi got to thank his donor for giving him a second chance at life at an emotional ceremony in Brooklyn.

PIRRO: Well, that is so wonderful.

TARLOV: Isn't that awesome?

GUTFELD: Have you been to Rugby, England?

TARLOV: I have it.

GUTFELD: It's weird, isn't it? It's a weird town.

TARLOV: A lot of it is weird.



PIRRO: Excuse me. Katie, you're next.

GUTFELD: We can have conversation, you know.

PIRRO: No, we can't. We don't have that much time.

GUTFELD: We have much time, Judge. Shut up.

PIRRO: I want everyone to get their time. Katie, hit it.

PAVLICH: OK, so, if you get married, this is definitely not how you want things to start. There's a wedding party that was headed to their West Michigan wedding reception when suddenly their limousine caught on fire on the freeway. Izzy and Brandon Kiel just left their ceremony when the engine in their Hummer limo -- fancy --

GUTFELD: They deserve it.

PAVLICH: Started overheating. Everyone made it out safely, thank God. No injuries, but they celebrate on the side of the road until they can get to their next destination. So, they had a good time regardless of the circumstance. And it's my birthday on Sunday.

PIRRO: Oh, happy birthday.

PAVLICH: That's why I'm doing this video.

PIRRO: OK.

JONES: All right.

PIRRO: What are you doing?

PAVLICH: I'm actually going to a birthday party for myself and for Morgan Ortigas, my friend who is my birthday twin.

PIRRO: Oh, very nice. All right, Joey, hit it.

GUTFELD: Sharing a birthday.

JONES: OK, so last weekend, racers from around the globe gathered to compete for the lawnmower racing championships. These aren't regular lawn mowers. These are blades removed lawn mowers. It's pretty cool to see. But most importantly, let's move on. I bought a lawn mower yesterday. All right, that's my son on my old lawn mower. And as the video moves forward, we might get to it. I bought a brand new lawnmower. I bought a lot more with tiger stripes on it. I bought a lawn mower that cost more than the first three vehicles I bought in my life.

PIRRO: Where is it?

PAVLICH: That's it?

JONES: That's -- look at -- look at that.

GUTFELD: How big is your lawn?

JONES: Look at that thing. That is huge.

GUTFELD: How big is your lawn?

PAVLICH: Do you have a name for it?

JONES: It can mow grass at 30 miles an hour.

PIRRO: Wow. A lot of grass. All right, well, that's -- I was only kidding. That's it for us. Have a great weekend. We'll see you back here on Monday.

END

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Steve Miller; Steve P. Miller; Big Wayne; Kyle Carpenter; President Obama; T.V.; Aslam T V; Kayleigh McEnany; Michael Loftus; Mike Loftus; Kat Timpf; Tyrus; Davy Crockett; Sal Parisi; Stephen Dawkins; Izzy; Brandon Kiel; Morgan Ortigas)

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**NewsRoom**

## NewsRoom

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July 8, 2022

Border Patrol Agents Did Not **Whip** Del Rio **Migrants**, Report Finds  
Several mounted agents behaved inappropriately during a surge of Haitian  
asylum seekers, but Customs and Border Protection determined no agents str...

Nicholas Reimann, Forbes Staff

Several mounted agents behaved inappropriately during a surge of Haitian asylum seekers, but Customs and Border Protection determined no agents struck **migrants** with their reins.

A group of horse-mounted Border Patrol agents responding to a surge of Haitian **migrants** in Del Rio, Texas, last year behaved inappropriately but did not strike any of the **migrants** with their reins, according to Customs and Border Protection, which released a final report Friday over the September confrontation that prompted national outrage.

### **Topline**

A Border Patrol agent on horseback encounters Haitian **migrants** on the banks of the Rio Grande near the Acuna Del Rio International Bridge in Del Rio, Texas, on September 19, 2021. (Photo by PAUL RATJE/AFP via Getty Images)

AFP via Getty Images

### **Key Facts**

The 511-page report found "no evidence" any of the **migrants** were denied entry to the U.S. during the encounter with agents on September 19.

Widely circulated images last year appeared to show agents charging their horses and swinging their reins at Haitian **migrants**, which many criticized as a form of brutality akin to slavery—President Joe Biden claimed after the incident that agents "strapped" **migrants** and demanded disciplinary actions.

CBP Commissioner Chris Magnus said Friday that four agents have been referred to a discipline review board over their actions on September 19, but he did not say what potential penalties they may face.

The investigation determined at least one agent yelled "denigrating comments" at a **migrant** entering the U.S., while another unsafely maneuvered his horse near a child and several more attempted to force **migrants** into the Rio Grande River.

CBP noted the situation was "chaotic" and went "well beyond" the usual scope of Border Patrol agents' work.

Confusion was rampant among the Border Patrol, with a lack of clear command that at one point led to agents adhering to a request from the Texas Department of Public Safety that "directly conflicted" with Border Patrol objectives, according to the report.

**Crucial Quote**

"The report showed there were failures to make good decisions at multiple levels of the organization," Magnus said.

**Big Number**

More than 30,000. That's how many **migrants** flooded into the U.S. during a brief period in mid-September, according to CBP.

**Key Background**

Many of the **migrants** lived in deplorable conditions in a makeshift camp underneath a Del Rio bridge as U.S. authorities struggled to deal with the influx of people, largely Haitian asylum seekers who had traveled from South America. Biden faced intense criticism from both the political right and left during the surge, with Republicans like Texas Gov. Greg Abbott blasting his administration for not taking a tougher approach to discourage migration and progressives demanding more be done to take care of the **migrants**. The U.S. responded by ramping up deportations, leading to the camp being cleared out in a matter of days. Daniel Foote, who was U.S. special envoy to Haiti, resigned over the decision to deport the **migrants**, which he called "inhumane."

**Further Reading**

In Photos: Haitian **Migrant** Camp Cleared, But White House Still Dealing With Furor Caused By Shocking Images Of Border Chaos (Forbes)

U.S. Special Envoy To Haiti Resigns Over 'Inhumane' Treatment Of Haitian **Migrants** (Forbes)

'Our Borders Are Not Open': U.S. Ramping Up Deportations To End Haitian **Migrant** Crisis (Forbes)

---- **Index References** ----

Company: GETTY IMAGES, INC.; BORDER BANCSHARES, INC.

News Subject: (Crime (1CR87); Criminal Law (1CR79); Floods (1FL85); Immigration & Naturalization (1IM88); Legal (1LE33); Natural Disasters (1NA67); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

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**NewsRoom**

## NewsRoom

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July 8, 2022

### President Joe Biden Signs Executive Order On Abortion Access; Del Rio Investigation Reveals No **Migrants Whipped**; Couple Arrested For Child Neglec...

President Joe Biden Signs Executive Order On Abortion Access; Del Rio Investigation Reveals No **Migrants Whipped**; Couple Arrested For Child Neglect After Baby Overdoses On Fentanyl; Elon Musk Terminates \$44 Billion Twitter Deal; Former Japanese Prime Minister Shinzo Abe Assassinated; FBI Director Meets With British Intelligence Officials; Biden Speaks With Sister Of American Detained In Russia; Former Secretary Of State Henry Kissinger Interviewed On His New Book About Leadership And Current State Of International Relations; Some Criticize Charge Of Second-Degree Murder For New York City Store Clerk; June Jobs Report Indicates U.S. Added 372,000 Jobs With Unemployment Remaining At 3.6 Percent; President Biden Signs Executive Order Regarding Abortion

JEANINE PIRRO, FOX NEWS CHANNEL LEGAL ANALYST: Where is it?

KATIE PAVLICH FOX NEWS CHANNEL CONTRIBUTOR: That's it?

JOEY JONES, FOX NEWS CHANNEL CONTRIBUTOR: That's it. Look at that.

GREG GUTFELD, FOX NEWS CHANNEL HOST: How big is your lawn?

JONES: That is huge.

JESSICA TARLOV, FOX NEWS CHANNEL CONTRIBUTOR: Do you have a name for it?

JONES: It can mow grass at 30 miles an hour.

PIRRO: Wow, a lot of grass. All right. Well, that's it for us. Have a great weekend. We'll see you back here on Monday. Send your hashtag --

MIKE EMANUEL, FOX NEWS CHANNEL CHIEF CONGRESSIONAL CORRESPONDENT: Good evening welcome to Washington. I'm Mike Emanuel in for Bret Baier.

Breaking tonight, Elon Musk says he's terminating his \$44 billion Twitter buyout deal accusing the company of not complying with its contractual obligations. We will have a full report on that in moments.

But first, to our top story. The June jobs report beat expectations showing the U.S. added 372,000 jobs last month and the unemployment rate remained unchanged at 3.6 percent.

But the new report also shows rising costs, wiping out average hourly earnings, all while businesses try to fill remaining positions.

Also today, President Biden signed an executive order on abortion access. Following criticism within his own party. He's not doing enough to protect reproductive rights.

White House correspondent Peter Doocy is following it all tonight from the North Lawn. Good evening, Peter.

PETER DOOCY, FOX NEWS CHANNEL CORRESPONDENT (on camera): Good evening, Mike. President Biden's team poured over today's jobs report and filled up part of his speech with some numbers they think prove that things are going well and the president deserves credit.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: My economic plan is moving this country in a better direction.

DOOCY (voice over): The big reason the president thinks that an unemployment rate low and steady at 3.6 percent.

BIDEN: Our private sector has now recovered all of the jobs lost during the pandemic and added jobs on top of that.

DOOCY: But more than 11 million jobs remain unfilled as hundreds of thousands have decided to stop looking.

DOUGLAS HOLTZ-EAKIN, PRESIDENT, AMERICAN ACTION FORUM: The labor force participation rate dropped another two tenths percent, the labor force fell by 300,000 people, fewer people are out there to be available to work.

DOOCY: And inflation remains near a 40-year high outpacing wage growth.

REP. NICOLE MALLIOTAKIS (R-NY): The problem is is that every single day Americans are hurting when they're either putting gas in their tanks, when they're trying to put food on their table, when they're trying to pay their rent or pay their energy bills.

DOOCY: The most urgent issue for the president today, access to abortions and he's describing the Supreme Court and elected Republicans as extreme.

BIDEN: Remember the choice we face as a nation between the mainstream and the extreme, extreme Republican state legislators and Republican extremists in the Congress. I can't think of anything as much more extreme.

DOOCY: The president is especially angry at states that don't allow exceptions for rape or incest. Citing a news report about a girl from Ohio.

BIDEN: 10 years old. 10 years old, raped, six weeks pregnant. Already traumatized was forced to travel to another state.

DOOCY: Activists are upset at Supreme Court justices too, including a group that gathered at a steak house where Brett Kavanaugh was having dinner last night. Kavanaugh had to leave through a rear exit and the White House says that's OK.

KARINE JEAN-PIERRE, DEPUTY PRESS SECRETARY: We condemn intimidation. We condemn any violence. And we've been very clear that is -- it is a clear -- it is a clear definition of what violence is and what intimidation is. Peaceful protest, people should be allowed to be -- to be able to do that.

DOOCY: In a restaurant?

JEAN-PIERRE: If it's outside of a restaurant if it's peaceful, for sure.

(END VIDEO CLIP)

DOOCY (on camera): Officials here are also once again refusing to waive abortion rights protesters away from justices homes and that puts them at odds with the marshal of the Supreme Court who just last week wrote letters to the governors of Virginia and Maryland asking them to enforce laws already on the books that prohibit picketing outside private homes of Supreme Court justices, Mike.

EMANUEL: Peter Doocy starting us off live in the North Lawn. Peter, many thanks.

Stocks are mixed today, the Dow lost 46, the S&P 500 fell three, NASDAQ added 14.

For the week, the Dow gained three quarters of a percent. The S&P 500 was up nearly two percent, NASDAQ added 4-1/2 percent.

Former White House counsel to President Trump Pat Cipollone was on Capitol Hill today for a closed door interview with the January 6th Capitol riot committee. Cipollone was in the West Wing on the day of the attack as well as for key meetings in the weeks after the election.

Members were expected to ask the attorney about what he witnessed in the final days of the Trump administration when the former president and his allies allegedly tried to overturn the election.

The army says roughly 40,000 National Guardsmen and 22,000 reservists refusing to get vaccinated against COVID-19 will be barred from their duties, effectively cutting their pay and benefits.

Secretary of Defense Lloyd Austin warned members of such consequences back in November, Fox News could not immediately reach the army for comment.

The Biden administration is admitting that Texas Border Patrol Agents were falsely accused of **whipping** Haitian **migrants** last year, but are still referring for agents for discipline in connection with the viral incident.

Correspondent Bill Melugin has details tonight from Eagle Pass.

(BEGIN VIDEO CLIP)

BILL MELUGIN, FOX NEWS CHANNEL CORRESPONDENT (voice over): CBP Commissioner Chris Magnus announcing today that after a nearly 10 month investigation, the agency found no evidence supporting the false narrative that Haitian **migrants** were **whipped** by horseback Border Patrol Agents in Del Rio last summer.

CHRIS MAGNUS, COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION: OPR found no evidence for Patrol Agents involved in this incident struck any person with their reins intentionally or otherwise.



MELUGIN: But CBP says they are sending discipline proposals to four of those horseback agents, despite them being previously cleared of criminal wrongdoing.

CBP is now accusing them of unprofessional conduct and working in an unsafe manner, including using derogatory language and using the threat of force to drive **migrants** back into the Rio Grande.

Multiple federal sources telling Fox News, their proposed discipline includes unpaid suspensions of up to 14 days.

Days after that initial incident and before an investigation could play out, President Biden falsely accused the agents and promised consequences.

BIDEN: People being strapped, it's outrageous. I promise you, those people will pay.

MELUGIN: Commissioner Magnus claims today those comments put no pressure on investigators.

MAGNUS: I have a high confidence in their work. And I don't believe there's been any issues with outside influence.

MELUGIN: In the meantime, massive numbers of **migrants** continue spilling across the Texas border. Today, we witnessed this group of more than 100 **migrants** crossing illegally into Eagle Pass.

Late yesterday afternoon, we saw another group of 200 crossing illegally also in Eagle Pass. Almost all of them single adult men.

And on Wednesday, Fox News witness this single massive group of 536 **migrants** crossing illegally into Eagle Pass. Border Patrol in Del Rio sector reported it was the biggest group they've encountered.

(END VIDEO CLIP)

MELUGIN (on camera): And Mike on top of all of this, Mexican authorities announced yesterday what they say is the biggest fentanyl seizure in history. They say they seized more than 1,200 pounds, more than a half ton of fentanyl at a warehouse in the northern city of Culiacan. That's enough lethal doses of the drug to potentially kill up to 270 million people. We'll send it back to you.

EMANUEL: Staggering number. Bill Melugin live in Eagle Pass tonight. Bill, thanks very much.

Tonight, we continue our series on the poisoning of America with an absolutely appalling story. A Florida couple behind bars tonight after their 9-month-old daughter ingested fentanyl.

Correspondent Phil Keating is in Miami with the story.

(BEGIN VIDEO CLIP)

PHIL KEATING, FOX NEWS CHANNEL CORRESPONDENT (voice over): According to the DEA, it only takes a tiny amount of fentanyl to kill you, just two milligrams. It's often added to cocaine Adderall and Xanax. That's what admittedly happened to Alexis Burnette and her boyfriend Saige Freese, who told Jacksonville, Florida investigators that he had crushed and snorted Xanax the night before, which had been mixed with fentanyl.

Somehow, that got into the body of their 9-month-old baby girl who had to be rushed to a children's hospital after she stopped breathing and her lips turned blue. A urine test of both parents also revealed fentanyl in their systems. The baby survived.

CASEY DESANTIS, FLORIDA FIRST LADY: Really tragic circumstances that we have to be here.

KEATING: Florida First Lady Casey DeSantis held a roundtable Thursday in Gadsden County near Tallahassee with the state Surgeon General and the Department of Children and Families about the fentanyl crisis. Nine people in that county overdosed and died from fentanyl over the Fourth of July weekend.

DESANTIS: Fentanyl overdose now is the leading cause of death in the United States for 18 to 45-year-olds. This stuff is being manufactured in China and it's pouring across the border.

KEATING: More than 100,000 Americans overdosed and died over a recent 12 month period according to a bipartisan congressional commission on synthetic opioid trafficking. Its report says the drug is smuggled across the southern border where agents report an increase in seizures hidden in vehicles, packages and on persons.

Arkansas Republican Tom Cotton and Maryland Democrat David Trone added a letter stating the overdose crisis in the United States claims more lives each year than firearm, suicide, homicide or motor vehicle crashes. This is one of our most pressing national security, law enforcement and public health challenges.

(END VIDEO CLIP)

KEATING (on camera): The Congressional Commission recommends that the director of the Office of National Drug Control Policy be elevated to that of a cabinet level position.

Meanwhile, that Jacksonville couple now facing felony, child neglect charges and the bond for each of them is \$100,000, Mike.

EMANUEL: Phil Keating live in Miami tonight. Phil, thanks very much.

Breaking tonight, Elon Musk's tumultuous \$44 billion bid to buy Twitter's on the verge of collapse after the Tesla CEO sent a letter to Twitter's board saying he is terminating the acquisition.

Fox Business Correspondent Kelly O'Grady has the breaking details tonight from Los Angeles. Good evening, Kelly.

KELLY O'GRADY, FOX BUSINESS NETWORK CORRESPONDENT (on camera): Good evening, Mike. Yes, well, Elon Musk is officially trying to pull out of this agreement to purchase Twitter. Just now in an SEC filing, Musk team claiming he is backing out of the deal because Twitter is in material breach of the agreement, and has made false and misleading statements during negotiations.

Now, this comes after months of dramatic swings, but it all boils down to a question regarding the number of spam bots on the platform.

Now, the reason bots are so important is that Musk has made it clear he intends to grow the company's revenue, and that rests on having real active users.

In the SEC filing, Musk's lawyers arguing "For nearly two months, Mr. Musk has sought the data and information necessary to make an independent assessment of the prevalence of fake or spam accounts on Twitter's platform. Twitter has failed or refused to provide this information."

Now, the big question is can he legally do this? Right? There is a billion dollar breakup fee associated with terminating the agreement. However, Musk waived his right to poke under the hood to close that merger faster.

If he has cause however to break the deal. If he can prove Twitter intentionally misrepresented its user base, he could do something.

Now, in that same file and claiming "While this analysis remains ongoing, all indications suggest that several of Twitter's public disclosures regarding its daily active users are either false or materially misleading."

Now, we don't have the proof that Musk team has yet but the filing states that Musk's independent verification finds that Twitter has been miscounting via a number of ways, including counting accounts that the company knew were suspended.

And Mike, this also may be an attempt to negotiate a lower price. The price closed 32 percent below Musk's offer price and he has used major threats like this before to negotiate things in the past.

Now, we have reached out to Twitter for comment, but have yet to hear back. This is developing but expect Twitter to not go down without a fight.

And actually, just moments ago, the Twitter board tweeting out they will be pursuing legal action to close this deal at that agreed upon price.

So, Mike, lots happening here on a Friday.

EMANUEL: We will track it. Kelly O'Grady live from L.A. Kelly, thanks very much.

Up next, we'll speak with FBI Director Christopher Wray on how the U.S. is combating international threats.

First, Beyond our Borders tonight. Secretary of State Anthony Blinken is challenging G20 countries to hold Russia accountable for its actions in Ukraine.

At a meeting with G20 Foreign Ministers today, Blinken stressed the need to move a global food plan forward adding Russia is trying to undermine multilateral institutions that the United States seeks to strengthen.

And this is a live look at Jerusalem. One of the big stories there tonight, more than a dozen endangered sea turtles that were rescued after suffering major injuries in the Mediterranean scuttled their way over a beach in Israel after months of medical care.

After they were cleaned, measured and weighed, scientists glued satellite tags to the shells of several individuals so they can continue studying their behavior in the wild.

Just some of the other stories Beyond our Borders tonight, we'll be right back.

(COMMERCIAL BREAK)

EMANUEL: President Biden, paying his respects at the Japanese Embassy today, following the stunning assassination of former Japanese Prime Minister Shinzo Abe. Abe was the country's longest serving leader.

Five years ago, he spoke with Bret Baier about security and economic ties between the U.S. and Japan, right here on SPECIAL REPORT.

(BEGIN VIDEO CLIP)

SHINZO ABE, PRIME MINISTER OF JAPAN (through translator): The Japan and U.S. alliance is the cornerstone for peace and stability here in the Asia- Pacific region. And naturally, the leaders have to be able to have a relationship of trust and confidence.

BAIER (on camera): Where do you see the future of U.S.-Japan on the economy?

ABE: It is very important to have that dialogue and trade between our two countries. But what would be very important wouldn't be within this region for Japan and the U.S. together, to build free and fair economic and investment rules.

(END VIDEO CLIP)

EMANUEL: As tributes pour in honoring the late leader, we are learning more tonight about how a man in the country with some of the strictest gun laws in the world was able to pull off the assassination plot.

Here is correspondent Alex Hogan.

ALEX HOGAN, FOX NEWS CHANNEL CORRESPONDENT (voice-over): The assassination of Japan's longest serving prime minister shocking the world.

Friday, 67-year-old Shinzo Abe, unknowingly shared his final words at a parliamentary election campaign in the western part of the country, before a lone gunman fired twice.

Medics airlifted the conservative figure to the hospital despite drastic emergency attempts like massive blood transfusions, it simply wasn't enough.

(BEGIN VIDEO CLIP)

DR. HIDETADA FUKUSHIMA, PROFESSOR OF EMERGENCY MEDICINE, NARA MEDICAL UNIVERSITY HOSPITAL (through translator): We tried to resuscitate him at the emergency center, but unfortunately he passed away.

HOGAN: Police say the 41-year-old suspect used a 15-inch handmade gun. The former Japanese Navy veteran now in custody, reportedly told police he wanted to kill Abe but it wasn't about politics.

The shooting even more shocking because Japan has some of the strictest gun laws in the world and has one of the lowest rates of gun violence.

Current Prime Minister Fumio Kishida, emotionally calling it a despicable barbaric act, as leaders around the world echoed the tragedy.

ANTONY BLINKEN, UNITED STATES SECRETARY OF STATE: The United States -- Prime Minister Abe was an extraordinary partner. And someone who was clearly was great leader for, and --

HOGAN: President Joe Biden calling of a champion of the friendship between the U.S. and Japan. The late leader's political career also spanned the Bush, Obama, and Trump presidencies.

The prominent and sometimes divisive figure won six national elections, focusing his career on revitalizing the economy, and setting it on the world stage, boosting military spending as well as bolstering security alliances with the U.S.

(END VIDEO CLIP)

HOGAN (on camera): The influential figure came from a family of them His father was a foreign minister, his grandfather and great uncle were prime ministers as well.

Following in their footsteps, he became Japan's youngest prime minister at the age of 52. Mike.

EMANUEL: Alex Hogan live in London tonight. Alex, thanks a lot.

FBI director Christopher Wray is raising serious concerns tonight about the Chinese government and its efforts to impact everyday Americans.

Correspondent David Spunt caught up with the FBI Director today in London where he's meeting with top British intelligence officials.

(BEGIN VIDEOTAPE)

CHRISTOPHER WRAY, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION: We're going to follow the facts and the law as we have consistently and will continue to.

DAVID SPUNT, FOX NEWS CHANNEL CORRESPONDENT (on camera): FBI Director Christopher Wray, with a warning to everyday Americans, be on high alert when it comes to the Chinese government.

WRAY: The Chinese government's attempts to steal our innovation, our intellectual property affects American jobs.

SPUNT: Wray is in London this week and sat down with Fox News following multiple days of meetings with top British intelligence officials, including the head of MI5, the agency in charge of protecting the British homeland.

KEN MCCALLUM, DIRECTOR GENERAL MI5: We have no problem with the Chinese people, there is so much to admire there. The U.K.-Chinese diaspora makes a very positive contribution to U.K. life. But we do need to send a clear signal about the activities of the Chinese Communist Party.

SPUNT: In the U.S. the Department of Justice recently ended the China Initiative, a program aimed at combating Chinese espionage, following pressure from groups who called it racially insensitive.

SPUNT: Was that a mistake to get rid of that program?

WRAY: We are not going to engage in profiling by ethnicity or national origin. And we haven't, and we're going to work jointly with universities. In many cases, that's one of the most effective ways to prevent stealing of research.

SPUNT: The threats don't stop with the Chinese government. Wray says there are increasing political and financial influence campaigns waged separately by Iran and Russia. But domestic problems await the director when he lands back in Washington, D.C.

Including a 30 percent uptick in homicides. The FBI is still on the ground in Highland Park, Illinois, where a 21-year-old suspect opened fire on a crowd, killing seven at an Independence Day Parade.

WRAY: Everybody in this country needs to take a deep breath. And remember, what the First Amendment protects and express themselves in that way. And if you engage in federal crimes, the FBI is going to investigate.

SPUNT: Wray also says one of his domestic priorities is investigating an uptick in attacks and threats on pro-life businesses, following the Supreme Court ruling overturning Roe v. Wade.

WRAY: There is a right way under our First Amendment to express yourself, and violence and destruction of property is not it. And that's what the rule of law is all about. And we have seen a number of attacks against faith-based organizations, pregnancy resource centers.

(END VIDEO CLIP)

SPUNT: Mike, both men are calling on social media companies to step it up when it comes to working with law enforcement to root out bad actors.

Also, this year, 2022 marks 80 years since the FBI first set up shop in London.

Mike, back to you.

EMANUEL: David Spunt live in London tonight. David, many thanks.

EMANUEL (voice-over): Up next, former Secretary of State Henry Kissinger on the war on Ukraine. Plus, the importance of strong leadership and learning from the past in the face of international turmoil.

(COMMERCIAL BREAK)

EMANUEL (on camera): The White House says President Biden called Elizabeth Whelan today. She is the sister of Paul Whelan, who has been wrongfully detained by Russia since 2018.

Officials say President Biden reaffirmed that he is committed to bringing Paul home as soon as possible. The news comes following some criticism that President Biden contacted the wife of detained American WNBA player, Brittney Griner before contacting the Whelan family.

Whelan's sister previously said, the family had requested a conversation with Mr. Biden four months.

We're taking a fresh look at war and global conflicts from an old school perspective tonight.

My colleague, Bret Baier speaks with a former secretary of state and national security expert about international affairs and how impactful leadership shapes them.

BAIER: Thank you, Mike. We are pleased to bring in former secretary of state, Nobel Prize winner, scholar, national security expert, Dr. Henry Kissinger. His latest book, "Leadership, Six Studies in World Strategy." Dr. Kissinger, it's great to see you.

HENRY KISSINGER, FORMER SECRETARY OF STATE: Good to be with you.

BAIER: I want to talk about your book specifically, but I would love to get your thoughts on the world today while we have you here. And specifically, what's happening in Ukraine and Russia. How do you see that tonight?

KISSINGER: Russia has taken about 15 percent of the territory of Ukraine and the line for the moment is militarily stabilized. And it looks a little bit like World War I type situation in which both sides are spending part of the summer reinforcing their position. We have added advanced American weapons. The Russians are undoubtedly reinforcing their ground forces. So we may be seeing two offensives going on simultaneously.

If Russia is defeated, there is a danger of escalation. But from any point of view of America, Russia cannot keep the territory it has conquered in this offensive, without shaking the foundations of NATO. So it's a battle which we should not -- we cannot afford to lose.

BAIER: And how do you think it ends?

KISSINGER: Well, right now it looks like a stalemate, but that's because both sides seem to be rearming for the battle. But it will occur, I would think, no later than August. And then big decisions will have to be made.

BAIER: Your book is called leadership, and in it you say that axes of leadership. Leaders think and act at the intersection of two axes. The first between the past and the future. The second between the abiding values and aspirations of those they lead. And you've done six studies in world strategy where you look at different leaders. And there are different ways of dealing with this. Tell us about this book and the premise behind it.

KISSINGER: I thought if I took six leaders that I've had an opportunity to observe and who made a big difference in their impact on their societies, it would be easier to understand what the essential component of leadership is, which is to move from the world that is familiar, the past and the present, into a world one has not yet experienced. And for that one needs vision and courage and some faith.

BAIER: The leaders all deal in different ways in the studies, humility, will, equilibrium, transcendence, excellence in conviction. Anwar Sadat, the strategy of transcendence. "Anwar Sadat is best known for the peace treaty with Israel that he brought to Egypt. His ultimate design, however, was not a peace treaty, great though that achievement was, but a historic modification in Egypt's pattern of being and a new order in the Middle East as a contribution to peace in the world."

KISSINGER: When it came to peacemaking, he went beyond the normal diplomatic discussions, and he tried to find principles that applied to all sides, and that each of the countries could embrace. One of his symbolic gestures was a visit to Jerusalem in which he visited a country that had not been recognized by any of the neighbors and in which the neighbors were very reluctant to engage in any dialogue. And he went to Jerusalem. And he said, I don't want to solve the following problems, and listed all the problems. He said I want to get a new vision in which the two sides never think of each other as enemies, and in which no mothers have to worry about the future of their sons. That was a heroic gesture.

BAIER: Last thing, Dr. Kissinger. If you had a piece of advice for President Biden now, looking at the world that he is looking at and we're all looking at, what would it be?

KISSINGER: I would say the world now is as fragmented as it has ever been. Every part of the world is in contact with every other part of the world. There are now means of communication that were inconceivable 30 years ago. And there are capability of weapons which make even nuclear weapons look outdated because they have married the scale of weapons to a certain automaticity in the use of these weapons in which the weapons themselves can decide to some extent what the targets are. The problem of diplomacy and the problem of war has a dimension that has never existed before. So the great challenge is to be militarily secure but also diplomatically so flexible that one recognizes the scope of what we are facing and visionary enough to put it forward.

BAIER: Dr. Kissinger thank you for your time. The book is called "Leadership, Six Studies in World Strategy." Thank you very much for coming on.

KISSINGER: Thank you for asking me. Good to see you.

BAIER: Mike, we will send it back to you.

EMANUEL: Bret, thanks.

Up next, we're learning more about the fate of a store clerk charged with murder after defending himself against an unprovoked attack. We will bring you to New York.

(COMMERCIAL BREAK)

EMANUEL: The mayor of Uvalde, Texas, is strongly refuting a report that came out this week alleging police officers missed multiple opportunities to slow a gunman who killed 21 at Robb Elementary School in May. Mayor Don McLaughlin says the report does not give a complete and accurate account of what happened. Rebuffing claims an officer saw the shooter prior to entering the building. He also says no Uvalde police officers had any opportunity to take a shot at the gunman.

Tonight, we follow up on a story we brought you last night involving a New York City store clerk charged with murder after stabbing and killing an attacker reportedly in self-defense. He is out of jail tonight after a judge agreed to lower his bail. The charge is receiving widespread criticism including from Democratic New York City Mayor Eric Adams. Correspondent David Lee Miller is in New York with the latest.

(BEGIN VIDEO TAPE)

DAVID LEE MILLER, FOX NEWS CORRESPONDENT: Jose Alba is home for now. The 61-year-old convenience store clerk said nothing to reporters Thursday night as he entered his New York City apartment building. Alba is charged with second-degree murder. If convicted, he faces up to 25 years in prison. Supporters say he is a victim of the misguided policies of controversial progressive Manhattan District Attorney Alvin Bragg.

Security camera video obtained by the "New York Post," shows 34-year-old Austin Simon confront Alba following an earlier dispute Alba had with Simon's girlfriend. As seen on the video, Simon appears to instigate the conflict, shoving Alba. A court document says Simon, quote, "attempted to steer the defendant out of the area behind the counter but the defendant picked up a kitchen knife and stabbed Simon in the neck and chest at least five times." Alba was arrested and held at New York's Rikers Island jail, unable to pay \$250,000 bail.

Following growing outrage about the case, a judge Thursday reduced the bail to \$50,000. Alba's family put up \$5,000, and his employer agreed to pay the remainder if Alba flees. Prosecutor who initially sought half-a-million dollars bail fearing that Alba would not return from a previously planned trip from the Dominican Republic, agreed to the bail reduction citing new restrictions. Alba had to surrender his passport, agree not to leave New York City, and will be monitored electronically.

A growing chorus of New Yorkers say Alba acted in self-defense. On Thursday former cop and the city's Democrat Mayor Eric Adams visited the store.

MAYOR ERIC ADAMS, (D) NEW YORK CITY: As I saw it from the video, I saw a worker here inside this store following the law. And he should not have been approached in the manner that he was approached.

(END VIDEO TAPE)

MILLER (on camera): A GoFundMe page that raised money for Alba has been taken down and donations returned. The site says its terms of service do not allow fundraising for a legal defense of a violent crime. Another fundraising platform GiveSendGo, has agreed to help raise money. Alba's next court date is July 20th. Mike?

EMANUEL: David Lee Miller in New York City tonight. David Lee, thanks a lot.



Up next, the Friday lightning round, the Biden economy, the president's executive order on abortion, plus Winners and Losers.

First, here is what some of our FOX affiliates around the country are covering tonight. FOX 10 in Phoenix where every parent in Arizona can now take public money sent to the K through 12 public school system and use it to pay for their children's private school tuition or other education costs. Arizona Governor Doug Ducey signed the massive expansion of the state's private school voucher system yesterday.

FOX 35 in Orlando where a police officer is on leave tonight after investigators say he drove drunk in his patrol car. A driver called police on the officer telling officials he was driving his patrol car recklessly. Officer Oscar Mayorga reportedly gave a breath sample nearly five times the legal limit.

And this is a live look at north Sioux Falls from KPTH. One of the stories there tonight, in a former goldmine a mile underground, scientists are searching for dark matter. Dark matter is a hypothetical form of matter thought to account for approximately 85 percent of the matter in the universe. So far, no discovery has been made. The search continues.

That's tonight's live look outside the beltway from SPECIAL REPORT. We'll be right back.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

JARED BERNSTEIN, COUNCIL OF ECONOMIC ADVISERS: I think if you want to talk about recession nervousness, you should look at today's jobs report. Numbers like this are just very much inconsistent with any kind of a recession call.

MARTIN WALSH, LABOR SECRETARY: Well, we have -- we're not denying that we have work to do on inflation.

JOE BIDEN, PRESIDENT OF THE UNITED STATES: I know times are tough, prices are too high, families are facing the cost of living crunch. But today's economic news confirms the fact that my economic plan is moving this country in a better direction.

(END VIDEO CLIP)

EMANUEL: Let's look at the numbers. The June jobs report, 372,000 jobs added. Unemployment staying steady at 3.6 percent. Wages are up 5.1 percent, but not even close to keeping up with inflation.

With that let's bring in our panel, Ben Domenech, editor of TheTransom.com and host of "The Ben Domenech Podcast" on FOX News Radio, Leslie Marshall, Democratic strategist, and Jeff Mason, White House correspondent for Reuters. Since you are on the North Lawn, Jeff, let's start with you. The state of the American economy four months ahead of midterm Election Day?

JEFF MASON, WHITE HOUSE CORRESPONDENT, "REUTERS": Well, Mike, the labor market is strong, and that's certainly something that they emphasized today from the White House and from the administration. But as the president said in the clip that you played, that doesn't mean they don't think there is work to do.

As we have discussed before, inflation is obviously very high, and Americans are feeling that. But the advantage, I guess, of the labor market being strong is if there is a recession, it could mean that it would be a mild one. On the other hand, it could also -- will likely mean that the Fed will have a pretty hefty rate hike coming up. So, there are pros and cons to that, but at least they see some glimmers of hope here today.

EMANUEL: Leslie, you are outside the beltway. What's the feels in terms of the American economy on the west coast?

LESLIE MARSHALL, DEMOCRATIC STRATEGIST: Well, not just on the west coast and not just here on the left side of things with my party. People like seeing gas prices come down as they have been for days now. People like seeing unemployment low and staying steady. And people like seeing job creation and jobs report better than it's been. I'm hoping that's going to transcend to higher approval rating for the president, because all the American people see is doom and gloom in the headlines, especially when it comes to the words "recession" or "inflation." That still scares them. We are not out of the scary waters yet. But this is definitely good news, and I say that as a pessimist.

EMANUEL: Ben, solid jobs number, but inflation is pretty brutal. Your thoughts?

BEN DOMENECH, FOX NEWS CONTRIBUTOR: I think that there is very little hope for the Democratic coalition to change the narrative as people look at the situation around the country. There's much more reason to be pessimistic in this moment than there is to be optimistic about the direction of the economy, and I don't think that you are going to see any of that change in time to further Democratic hopes in November.

EMANUEL: Also today, the president signing an executive order on abortion. He vented his frustration with the Supreme Court. Let's play.

(BEGIN VIDEO CLIP)

JOE BIDEN, (D) PRESIDENT OF THE UNITED STATES: The truth is today's Supreme Court majority that is playing fast and loose with the facts. I'm asking the Justice Department that, much like they did in the civil rights era, to do something, do everything in their power to protect these women seeking to invoke their rights.

(END VIDEO CLIP)

EMANUEL: Jeff, is that just frustration from the president since he really doesn't have control over the Supreme Court?

MASON: Yes. I think there is a lot of frustration there, because of what you just said, Mike, and broadly because he can't actually do that much with executive orders on the issue of abortion. He issued the one that you were just referring to. It does a few things. It seeks to protect access to abortions and to contraception for women, but the truth is he doesn't have that much authority to do that. That authority is now with the states.

EMANUEL: Leslie, there have been calls by the left for the president to do something on abortion rights. Is it enough?

MARSHALL: Well, it's not enough, but he doesn't have the power to do enough or to do more. Certainly, this is going to appease some, but it is not enough. It's very scary when you heard Kevin McCarthy yesterday touching upon a federal ban, which we think Republican will do if they get the House, the Senate, and the White House, not in the midterms but in the general election. And, of course, there is a concern about Republicans trying to limit the ability for women to travel interstate. Even though that's currently protected, that could always be changed. Roe v. Wade was protected and there since 1973.

The president is doing the best that he can. What the American people need to do if they don't like this decision is get out and vote in November and vote for people that want to protect a woman's reproductive rights.

EMANUEL: Ben, what about that? Does that energize Democrats in it November's midterm elections?

DOMENECH: Unfortunately, virtually anybody on the Democratic side who is going to be energized by this type of rhetoric was already going to be voting anyway. This is not a situation where you're going to see some kind of explosive turn around for them. And a big part of that has to do with the, frankly, extreme position that the Democratic Party occupies on this issue.

When you are talking about a nine-month spread, when you are talking about this sort of level of support for abortion, including taxpayer funding, that's something that just has not been a major popular point for them for some time now.

And I think that Joe Biden and his party are running right into the teeth of that because it turns out that Roe v. Wade, despite being framed as something settled and popular and the like and a lot of the media framing and polls over the years, has not turned out to be that popular and will not turn out, from my perspective, to be something that changes the dynamic headed into the midterms.

EMANUEL: All right, there will be plenty more debate about this issue going into the fall. But now it's time for a moment in the show our viewers look forward to, Winners and Losers. Jeff, why don't you lead us off.

MASON: All right, for winners for the week, I pick John McCain, the late senator, and the other people yesterday who received the Medal of Freedom from President Biden and a very emotional and touching ceremony. And for loser of the week Elon Musk and very possibly the shareholders of Twitter after he said tonight that he was pulling out of his deal to buy that social media company.

EMANUEL: All right, Leslie, your turn.

MARSHALL: I'm going to go loser first. Marjorie Taylor Greene for once again being insensitive to victims and victims' families when she is alluding to the Highland Park shooting as being a false flag. And winners, well, I'm going to say my state and the governor of my state Gavin Newsom is going to make insulin affordable to those who need it.

EMANUEL: All right, Ben, bring us home.

DOMENECH: Boris Johnson is my loser for the week. Really a disappointment in terms of his tenure as prime minister, though it is rather ridiculous, as McCauley (ph) told us to see the British people go through a moralistic fit now in the end.

And then my winner for the week is actually Flo Rida and the folks at FOX & FRIENDS this morning put on an incredible performance and included a wonderful image of Steve Doocy dancing along to this. It was just a good, enjoyable way to end what has been a tough week.

Panel, thanks so much. Have a beautiful weekend.

It's Friday, and that means it's time for "Notable Quotables."

(BEGIN VIDEO CLIP)

BIDEN: Nothing guaranteed about our way of life. We have to fight for it, defend it, and earn it.

UNIDENTIFIED MALE: If you're angry today, I'm here to tell you, be angry. I'm furious.

UNIDENTIFIED MALE: Trying to figure out the best way to shield your children from bullets with your own body is not really a thought process I would wish upon anybody.

BIDEN: The court has made clear it will not protect the rights of women.

UNIDENTIFIED MALE: There is this sense that things are kind of out of control and he's not in command.

UNIDENTIFIED FEMALE: To say that this president has not shown urgency is just false.

BORIS JOHNSON, U.K. PRIME MINISTER: How sad I am to be giving up the best job in the world, but them's the breaks.

UNIDENTIFIED FEMALE: The 140 days have passed since my wife has been able to speak to me.

UNIDENTIFIED FEMALE: DEA has interdicted fentanyl, counterfeit pills in every single U.S. state and territory. It's everywhere.

PETE BUTTIGIEG, TRANSPORTATION SECRETARY: When it comes to these sky-high gas prices, drivers are mad about it. I'm mad about it. The president is mad about it. Oil company executives are thrilled.

UNIDENTIFIED MALE: It's not like there is some group chat with 150,000 gas station owners on it.

UNIDENTIFIED MALE: We are going and begging Saudi Arabia for oil while we are exporting our own oil around the world.

BIDEN: We see an extraordinary, extraordinary group of Americans up here on this stage.

(END VIDEO CLIP)

EMANUEL: Another action-packed week in American politics.

Monday on SPECIAL REPORT, the CEO of one of the largest semiconductor manufacturers in the world joins to us discuss the worldwide push for more microchips.

Join me this weekend for FOX NEWS SUNDAY. We have a stacked lineup. My exclusive guests will be Transportation Secretary Pete Buttigieg, Senate Majority **Whip**, Illinois Democratic Senator Dick Durbin, and Senate Republican Conference Chair Wyoming Senator John Barrasso. Check your local listings, or 2:00 p.m. eastern on FOX News.

Thanks for inviting us into your home tonight. That's it for this SPECIAL REPORT. I'm Mike Emanuel in Washington. Thank you for watching. "JESSE WATTERS PRIMETIME" is next. Jesse?

END

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### Biden Approval At New Low Four Months Before Midterms; Discipline Proposed For Four Horse Patrol Agents; Econ Plan Moving U.S. In Better Directio...

Biden Approval At New Low Four Months Before Midterms; Discipline Proposed For Four Horse Patrol Agents; Econ Plan Moving U.S. In Better Direction; Biden Approval At New Low Four Months Before Midterms; Biden: Vote To Reclaim Rights From SCOTUS; Virginia Residents On Overturning Roe V. Wade

TRACE GALLAGHER, FOX NEWS HOST: Well, good afternoon, everybody. I'm Trace Gallagher in for Martha MacCallum. Today marks four months until Election Day and President Biden is racing to turn things around for his party in the face of plummeting approval, high inflation, and record levels of **migrants** at our southern border.

Ari Fleischer, Leo Terrell, and Juan Williams are here. But first to the story breaking moments ago for Border Patrol agents now facing possible punishment for how they handled a huge group of **migrants** in Texas last year. The head of Customs and Border Protection says its investigation found the horse patrol agents are not carrying **whips** and there is no evidence they hit anyone with their reins.

But he says, some of them acted in an unprofessional and unsafe manner. Texas Congressman Pat Fallon is standing by first to the National Correspondent Bill Melugin, he's live at the border in Eagle Pass, Texas. Bill, good afternoon.

BILL MELUGIN, FOX NEWS CORRESPONDENT: Trace, good afternoon to you. It has now been nearly 10 months since this incident first took place in Del Rio last September. And finally, CBP held a press conference today to announce the findings of their investigation. And as you just mentioned, they just threw cold water on the false narrative that started last year, accusing these horseback agents of **whipping** Haitian **migrants**.

CBP announcing today they found no evidence whatsoever that any Haitian **migrants** were **whipped** or struck by these horseback Border Patrol agents. However, they are proposing discipline for four of the agents who are there that day accusing them of administrative violations including working in an unsafe manner and unprofessional conduct. Specifically, they say one horseback agent was using derogatory language towards a **migrant** and maneuvered his horse in an unsafe way near a child. They say several other agents use the threat of force to turn **migrants** back into the Rio Grande.

But again, there was no evidence of any **whipping**. I am told by multiple federal sources that these agents received their proposed disciplinary actions yesterday, and they include unpaid suspensions of up to 14 days. But again, the highlight from this presser, that false narrative, there was no **whipping** of any kind. Take a listen to what CBP Commissioner Chris Magnus had to say earlier.

(BEGIN VIDEO CLIP)

CHRIS MAGNUS, CBP COMMISSIONER: OPR found no evidence for the patrol agents involved in this incident struck any person with their reins, intentionally or otherwise.

(END VIDEO CLIP)

MELUGIN: And Trace, remember, it's important to point out how quickly the false narrative frenzy took off last year in the immediate hours and days after this incident. You had President Biden himself coming out and saying these agents were strapping people and he promised, "these people will pay there will be consequences." You had Maxine Waters saying the images were worse than what we saw during slavery. You had other White House officials saying the images were horrifying, including Secretary Mayorkas.

The President was right that, you know these men are going to face consequences. It's just not going to be for **whipping**, which he falsely accused them. What's happening is CBP is targeting these men for potential discipline for administrative violations, work conduct, rather than these false allegations of **whipping**. I am told by the Border Patrol Union: they are going to defend these men vigorously. And they will have a chance to fight back against these allegations if they'd like to. We'll send it back to you.

GALLAGHER: And you're right. This was a false narrative by the most powerful man in government. Bill Melugin live for us down at the border. Bill, thank you. Let's bring in Texas Republican Congressman Pat Fallon, who's on the House Armed Services Committee. Congressman, thank you so much for coming on here. I just want to refresh everybody's memory and go back 10 months if I can and play and this is what the administration said at the time. Watch.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: It's outrageous. I promise you, those people will pay.

JEN PSAKI, FORMER WHITE HOUSE PRESS SECRETARY: This has been an incredibly heart wrenching issue.

KAMALA HARRIS, VICE PRESIDENT OF THE UNITED STATES: I was outraged by it. It was horrible and, and deeply troubling.

(END VIDEO CLIP)

GALLAGHER: And in a private letter, four border patrol chiefs former: David Aguilar, Michael Fisher, Rodney Scott, Ron Vitello, wrote the following quoting here, "We collectively believe and point out that the statements made by the President and Vice President predictively prejudice the desired outcome of the investigation and may therefore influence the case, stating outright that there will be consequences presumes the results of an investigation." Bottom line is Congressman, these men were not given due process at all.

REP. PAT FALLON (R-TX): Trace, I think these liberal city slickers don't know the difference between a **whip** and reins, clearly. They don't know how to control a horse or control their mouths because they were just throwing out in, you know, word vomiting, things that were patently untrue. And what Joe Biden did -- I mean, these, these men, he's the chief executive, these men work for him. Instead of showing strong leadership, he has shown abject cowardice. And now, he's doubling down on it, and it disgusts me.

GALLAGHER: Yes, and it's amazing because the administration now saying the agents, OK, they didn't **whip** anybody, OK. They didn't really break any, any violent new rules, but they use poor judgment. And there was some unsafe conduct and the

Arizona Congressman Andy Biggs nailed it. He said the following quoting here, securing the border can now lead to a poor judgment charge? This is outrageous. The Biden administration is deliberately sabotaging our borders, your thoughts?

FALLON: Well, yes, you know who's showing poor judgment? Joe Biden. Because Trace, let's look at the tail of the tape here. There have been 2.6 million illegal border crossings under Joe Biden's watch and 700,000 known got away. So, that's 3.3 million. That we know of. That, that is, it's just be, it's beyond words. And we've had 107,000 American deaths to opioid overdoses just last year; 80,000 of them, fentanyl overdoses. The worst month we've ever had for vis-a-vis border crossings was in May, 239,000, which is 930 percent worse than the last day that President Trump was in office. So, it's literally 10 times worse than it was when we had a real leader in the White House.

GALLAGHER: Yes, I mean, over the past six years, Congressman, we have heard the term flipped around so many times, witch hunt, witch hunt this, witch hunt. You look at this case against these agents. I mean, this is the very definition of a political witch hunt. And they, they, they literally condemned these people before they ever had a chance to defend themselves and give their side of the story.

FALLON: Trace, these, these agents did nothing wrong. In fact, these agents are heroic. If they just, you know, let them do their jobs and enforce the laws that are on the books. We wouldn't have this border. It's not even a crisis anymore. It's a border catastrophe. And the American people deserve to know the truth. I mean, a million pounds of drugs have been seized on the border under Joe Biden's watch. That's 7,000 pounds of fentanyl, which is enough to kill every American man, woman and child 10 times over. That's what's going on. And Joe Biden has let the drug cartels control the southern border and not our federal government.

GALLAGHER: And when you hear Secretary Mayorkas say again and again that the border is closed, and they are warning people to stay away. What do you think?

FALLON: Well, he said under oath and said, Dr. Gupta, Biden's a National Drug Policy Czar, they both said that the border and they have operational control of the border, and the border is secure. And then, Mayorkas was caught on a hot mic saying that, you know, it's, it's chaos. So, which is it? Mr. Secretary, I'm thinking about the need for impeachment. We need to impeach the Homeland Security Director because he has shown a gross dereliction of duty and he's not doing the job that he was hired to do.

GALLAGHER: Congressman Pat Fallon, great to have you on, Sir. Thank you for coming.

FALLON: Thanks, Trace. God bless.

GALLAGHER: Well, for months, four months, four, the number four, that's how long President Biden has to bounce back from plummeting approval as his party seeks to hang on to slim majorities in the House and the Senate. Can it be done? Ari Fleischer, Leo Terrell and Juan Williams will debate it. They're all here next.

(COMMERCIAL BREAK)

GALLAGHER: Quick calendar check now, the midterm elections are four months from today. That's four months for President Biden and the Democrats to try to bounce back in the polls if they want to hang on to the House and the Senate. The President's approval rating hitting a new low of 36 percent this week, that's in a Monmouth University survey. That's down almost 20 points since he took office. Ari Fleischer, Leo Terrell, and Juan Williams are all standing by first to the White House Correspondent Peter Doocy, he's live for us in D.C. Peter, good afternoon.

PETER DOOCY, FOX NEWS WHITE HOUSE CORRESPONDENT: Good afternoon, Trace, and President Biden is saying today he deserves credit for any and all good economic news.



(BEGIN VIDEO CLIP)

BIDEN: Today's economic news confirms the fact that my economic plan is moving this country in a better direction.

(END VIDEO CLIP)

DOOCY: His Press Secretary Karine Jean-Pierre goes further claiming that right now the U.S. is in a stronger economic position than any other time in U.S. history. But at the same time, top U.S. officials admit there are issues with inflation. And they don't know if anything they've done is helping yet.

(BEGIN VIDEO CLIP)

MARTY WALSH, LABOR SECRETARY: I think new numbers will come out next week, we'll see. What we've been able to do, the President is making some moves here to, to bring inflationary pressures down. But yet we still living within a pandemic time and, and we still have what's going -- this, this situation in Ukraine with Putin's war in Ukraine, which is still driving prices up all across the globe.

(END VIDEO CLIP)

DOOCY: That said, no plans to do anything differently here at the White House.

(BEGIN VIDEO CLIP)

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: We have a plan. Here's the thing, we have a plan. Republicans do not have a plan. What they want to do is take away rights from the American people.

(END VIDEO CLIP)

DOOCY: And point number one on that plan she was talking about is to trust the Fed, just let them raise rates and raise rates as they see fit to hopefully head off a recession. Trace.

GALLAGHER: Peter Doocy live for us in the White House. Peter, thank you. Let's bring in our panel: Ari Fleischer, former White House Press Secretary, Fox News Contributor and the author of the new book, "Suppression, Deceptions, Snobbery and Bias: Why the Press Gets So Much Wrong and Just Does Not Care" out July 12th.

Leo Terrell, Constitutional Lawyer and Civil Rights Attorney and a Fox News Contributor. And Juan Williams, Fox News Political Analyst. Gentlemen, thank you for all coming on. Juan, you first, you'd like to put a nice happy face on things, sometimes.

I want to put these approval numbers up. We showed them earlier. But this is the overall, 36 percent. Right?

GALLAGHER (voice-over): That's the overall from Monmouth. Look at the 18 to 34-year olds, 28 percent approval. Juan, the wheels are coming off, and he's got four months to put them back on.

JUAN WILLIAMS, FOX NEWS POLITICAL ANALYST: Well, time is short. Yes, I think that's absolutely true. But it's also true that we've seen some big changes recently.

One, the economic numbers that we just heard about from Peter were pretty good today. We'll see where it goes. We don't know.

But we certainly have seen that the generic polling in terms of preference, Republican Democrat in the congressional races coming up in the midterms have been narrowing. And suddenly, it's close, even some cases, the preferences now for Democrats, why? Because of the abortion decision, the guns and all the violence.

I think some people feel as Biden has been putting out the case that you have a lot of MAGA extremists out there. Republican Party is the radical party and you want to protect against that kind of thing. It's having impact on swinging voters.

GALLAGHER: Yes.

WILLIAMS: So, it's not a referendum on Biden, per se, so much as it is a comparison to the Republican Party. And where it's going with so many still locked into the big steal and Trump.

GALLAGHER: I don't know, I think, Ari might disagree with that. Ari, I mean, I listened to Peter Doocy's live shot there. And he's talking about, you know, the White House press secretary saying that this is the best economic position we've been in, in history.

And Joe Biden wants to take credit for the good economic news. And of course, blame Putin for the bad economic news. When your approval ratings are anemic as they are, Ari, there has to be a change in strategy.

ARI FLEISCHER, FOX NEWS CONTRIBUTOR (on camera): Well, and I want to give credit to Juan. I think he would make a superb Joe Biden, White House press secretary.

Look, Trace, here is the problem that the president has. In my lifetime, there have been five major wave elections, you had the Reagan Revolution of 1980. You had the Gingrich Revolution of 1994. You had the Bush-Iraq repudiation of 2006.

And then you had the Obama repudiation number one, in 2010, and then a massive Obama repudiation of 2014, number two.

The thing about all five, and we're heading into a similar cycle, this time, it will be another repudiation election.

The thing about each of them is no one saw how big they would actually be. All the indications that took place showed there was going to be a massive election, but each of them turned out to be more massive.

And they are unlike what Juan said, they are repudiation of the sitting president, particularly in the first term of a midterm cycle. It's not a referendum. It's about Joe Biden.

GALLAGHER: And you talking about refuting the president here.

Leo, this is important, because this is Americans who say they are struggling. Right? 42 percent of Americans now say they are financially struggling. That is up 20 points, 20 points from where we were a year ago. That is a significant number. And you have the president, the White House coming out, boasting about the economy, and the president saying he wants to take credit for the good news, and not the bad. This is a big number for them.

LEO TERRELL, FOX NEWS CONTRIBUTOR (on camera): This is a horrible number for them. And you know what? We have to be honest with the viewers. Let's be as clear as possible. America has given up on Joe Biden. He talked about the employment numbers? What's the purpose of the employment numbers when inflation exceeds any wage increase?

I live in California, look at the gasoline prices, inflation is real. Trace, you got a lot of charts, what's the most important issue for Americans? Inflation is the number one driving force.

GALLAGHER: Yes.

TERRELL: Not the abortion card. And then, for the White House press secretary, to go on national T.V. And I'm just going to be as clear as possible. She lied. This is not the best economic situation in our American's history.

And for her to say that is disingenuous. The American public realize that the Biden administration is not being honest. Today, he had a dog and pony show regarding abortion rights. He did nothing. I'm a lawyer. I know what he said.

(CROSSTALK)

GALLAGHER: Yes.

TERRELL: Absolutely, nothing to expand abortion rights.

The last point. That is going to be a tsunami on the midterm. And the Republicans are to win the House, record this. And the only thing we need to know is a date when Joe Biden gives his LBJ statement: I will not accept nor run for the -- for a second term. He's going to have --

(CROSSTALK)

GALLAGHER: Yes, and it's amazing, Juan, because you're talking about the economy. And if you put that aside, you just kind of look at the totality of what's happened over the 18 months. And you look at the border, and you look at Afghanistan, and you look at like Leo was saying, the gas prices outside the door, a lot of mistakes have happened in 18 months, Juan.

WILLIAMS: Yes, I don't think there's any question. I mean, you know. Look, we've been through the virus and we've certainly been through the aggression that we've seen from Russia. You know, it just piles up. There's a lot going on, and I think picking up on what Ari and Leo are saying, there is a lot of discontent if you look at the numbers on, you know, people who think the country is headed in the wrong direction, it's out the roof.

GALLAGHER: But the thing is, I'm not sure that again, this is going to be a pure referendum, on Biden or on the discontent people have because things can change. And things are -- people are upset about the abortion ruling, people are upset about the easy access to guns and all the shootings.

And when Biden comes out and says, hey, I'm trying my best. I'm working at this, but look at the extremism on the other side. It's clearly having some impacts.

So, we can focus on Biden --

(CROSSTALK)

TERRELL: Oh, no, I don't know.

GALLAGHER: Ari, go ahead.

WILLIAMS: But I think, we may be missing something here.

GALLAGHER: Go ahead, Ari.

FLEISCHER: Excellent. Yes, we've been hearing that extreme argument for decades. And it really never works. It's just the Democrats go to case. Now, on unemployment and the numbers today, those numbers were good for the nation, which means they were good for the president.

WILLIAMS: Yes.

FLEISCHER: But the problem is, is yesterday's issue, which is of course, why Joe Biden is dwelling on it.

TERRELL: Right.

FLEISCHER: It is not what the future is about. It's not what the next election is about. The next election is about cost of living, pocketbook issues. And unemployment, is kind of like the French general fighting the Germans at the marginal line. It's yesterday's war.

GALLAGHER: Such a history lesson from you, Ari. 15 seconds to wrap us up here, Leo.

TERRELL: Just very clear a little, this is going to be an issue about inflation and high prices.

American people are suffering. The Democrats have abandoned, Trace, the middle class. they are the party of the elite. And that is what the people are going to respond. They are hurting and they're going to see it at the polls in November.

GALLAGHER: \$7 a gallon outside the door, Leo. \$7 for gasoline in California.

(CROSSTALK)

TERRELL: Yes.

GALLAGHER: And people say, well, a gasoline price is \$5 a gallon. Not in Cali, they are \$7. \$6.50, \$6.25, \$7 a gallon. And you see him on every street corner, and that leaves a little bit of something in your imagination.

Gentlemen, thank you all for coming on. We appreciate it.

TERRELL: Thank you.

WILLIAMS: Good to see you, Trace.

GALLAGHER: Also was -- Leo just mentioned, President Biden pushing the issue of abortion to drive Democrats to the polls in November. Rachel Campos-Duffy and former Secretary of State Mike Pompeo when THE STORY continues.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: Well, for God's sake, there's an election November. Vote, vote, vote, vote.

(END VIDEO CLIP)

GALLAGHER: President Biden calling on Americans to use the ballot box to fight back after the Supreme Court overturned Roe v. Wade. He signed an executive order to protect access to abortion, but he says the best way to do that and to protect other rights is to keep Democrats in control of Congress.

Let's bring in "FOX AND FRIENDS WEEKEND" co-host Rachel Campos-Duffy. Rachel, always great to see you. So, I was listening to Professor Jonathan Turley last hour, kind of really explaining that this executive order doesn't really change anything. It doesn't do much of anything.

But boy, in his speech, President Biden went after the Supreme Court like five or six different times. I mean, he wants this to become an election war.

RACHEL CAMPOS-DUFFY, FOX NEWS HOST: Oh, of course, he does. And you know, listen, it's not going to do anything. Jonathan Turley is right, they are trying to make hay of this. You know, there are executive orders that would make a difference, and really reveal the priorities of this president -- this president that he's not doing that.

He could reverse his Keystone pipeline, he could -- you know, by the way, he could also send a state department to help with, you know, negotiate a settlement with Ukraine and Russia, so we could get our food supply, you know, stable. But he is not doing that.

They believe that they can do this through politics. They think abortion politics is good politics. And Trace, I really think it's not so cut and dry. It will energize the left. That's true. It could even bring in some moderate suburban white women, who maybe were on the fence. That could happen.

But beware the rise of the Latina mom, you're seeing these elections in South Texas, and in Florida, and in other very important states. If you want to make abortion the issue, you will remind Hispanics, who are right now really mad at you because of inflation and the economy more than any other demographic.

(CROSSTALK)

GALLAGHER: Yes.

CAMPOS-DUFFY: You will give them yet another reason to vote against you. And this is the most important swing vote. And ironically, it is Hispanic women, not men who are leading the charge right now.

GALLAGHER: But the left wants you to forget all about Mayra Flores down in Texas. I mean, that's kind of a thing. Right? Yes, you know, that's a -- that's a one off, right? Well, maybe not. Maybe not.

You know, it's interesting, because you talk about other ways to go after abortion. And now, you have Democrats talking about, you know, listen, repealing the Hyde Amendment, which really bans federal dollars, most federal dollars from abortion, and that's kind of the -- that's kind of where they are going, right? They want to go after some of these things.

And not only do they want to, you know, like repeal the Hyde Amendment. And want to go after these religious organizations and make sure that federal dollars are used to force them to abide by these abortion mandates.

CAMPOS-DUFFY: The Hyde Amendment is wildly popular. Nobody thinks our tax dollars should be going to pay for this. So, I don't think that this will be a popular move on their part.

And look, they have not been shy about going after -- I mean, they're -- they've had Molotov cocktails thrown at pro-life offices. And they're saying nothing even still as threats against our Supreme Court.

Justices continue, and they continue to try and erode the credibility of the court, which I don't think the American people want. It just exposes how radical they are.

And Joe Biden looks like such a hypocrite, especially when we consider that he campaigned with rosary beads, and you know, takes every opportunity he can to you know, tout his Catholicism.

GALLAGHER: Yes.

CAMPOS-DUFFY: No one's buying it. And I think it's very -- it's very damaging.

GALLAGHER: I wanted to play this sound bite. These are Virginia women on the decision to overturn Roe v. Wade. It's interesting, and I'll get your final thoughts afterwards. Watch.

CAMPOS-DUFFY: Sure.

(BEGIN VIDEO CLIP)

UNIDENTIFIED FEMALE: I think a woman has every right to choose her own body of what she needs to do. And if they can't afford to have children, then, you know, let's put it on the Republican step, and let them raise them.

UNIDENTIFIED FEMALE: It's not a decision that should be taken lightly, but it should be on the table for people that absolutely need it. We're going to have a lot of unwanted children -- a lot of unwanted children. So, I hope the government is ready to take care of that.

(END VIDEO CLIP)

GALLAGHER: You know, it's interesting because you hear about this Rachel, and really, you look at these polls, and the majority of Americans, the majority of Americans want some limits on abortion.

CAMPOS-DUFFY: Yes, they absolutely do. And I just fundamentally disagree with the women in your video. And I wonder if that video would be the same if you went into perhaps Hispanic neighborhoods. Even Black neighborhoods, though has -- Black women have disproportionate numbers of abortion. They still don't believe in abortion, and neither do Hispanic women at massive numbers. So I disagree with that.

If you pull women, 80% of women who have had an abortion say they would not have had that abortion had they had support and love. And that is -- they're not clamoring for abortion, they're clamoring for support under a very difficult and stressful time. And I do think that there are organizations, Trace, not just private nonprofits, but there are also states like Pennsylvania who funds organization called Real Alternatives, government-funded health for women in crisis, that needs to step up. Because, you know, just because, you know, Roe versus Wade was overturned. We're not going to end on, you know, pregnancies that are, you know, unplanned.

So we just need to help women make these decisions and know that they don't have to choose between their baby and their dreams, their life and their baby, and their baby can be part of that. And that's what most women want.

GALLAGHER: Rachel Campos-Duffy, we'll see you bright and early tomorrow morning on "Fox and Friends Weekend."

CAMPOS-DUFFY: You sure will.

GALLAGHER: Thank you for coming on.

CAMPOS-DUFFY: Thank you, Trace.

GALLAGHER: Well, a big step forward for parents in one state who now have more power over what their children are taught. Have you heard about this?

(BEGIN VIDEO CLIP)

DONALD TRUMP, FORMER PRESIDENT OF UNITED STATES: For school choice, which really is the civil rights of all time in this country.

(END VIDEO CLIP)

(COMMERCIAL BREAK)

GALLAGHER: Well, a "monumental" moment for parents in Arizona who can now receive thousands of dollars to cover education costs for their children in what has been called the most expensive school choice program in the country, under Republican Governor Doug Ducey. The senior national correspondent William La Jeunesse is in studio with us here. William, big deal.

WILLIAM LA JEUNESSE, FOX NEWS SENIOR NATIONAL CORRESPONDENT: Yes. So this is an option that parents have never had, regardless of income or where they live. All 1.1 million students in Arizona K through 12 are eligible for a voucher worth about \$7,000 a year, which makes them eligible for almost every parochial school and about 1,000 to 2,000 hours short of every private school education. Governor Doug Ducey who signed the bill yesterday calls it a win for parents and the Republican Party.

(BEGIN VIDEO CLIP)

DOUG DUCEY (R), ARIZONA GOVERNOR: I believe if the Republican Party will embrace this nationally, we can become the parent's party and being on the side of the parents is a good place to be.

LA JEUNESSE: About 25% of Arizona students already attend charter schools, this expands school choice. It also represents a cost savings to taxpayers, about \$7,000 for a voucher, about 11,000 hours on average at a public school.

MATT BEIENBURG, GOLDWATER INSTITUTE: It's the state saying we're going to maximize the opportunities that kids have, regardless of whether they choose a district school, a charter school or now through the ESA program, one of those other learning opportunities.

LA JEUNESSE: Teacher unions oppose the program saying it offers a subsidy to families that do not need it, and they fear the competition will damage public schools. Opponents plan to challenge the universal vouchers by putting the issue to voters who defeated a similar program four years ago.

KRISTIN ROBERTS, TEACHER: And this defunding of public education is not just hurting the kids in these schools, it's hurting our whole community.

(END VIDEO CLIP)

LA JEUNESSE: So unknown is how many students are actually going to use the voucher since they're not available until the school year already begins about October. But undoubtedly, Trace, this is Republican victory and other states will be watching.

GALLAGHER: Yes. And a lot of parents are watching this see where it goes as well. William, thank you. Let's bring in Rebecca Friedrichs, founder for Kids and Country. She's also a former California public school teacher and the lead plaintiff in 2016 Supreme Court case against the state teachers unions. Rebecca, thank you for coming on.

This really is a very bold statement that public schools no longer have a monopoly on public financing.

REBECCA FRIEDRICHS, FOUNDER, KIDS AND COUNTRY: This is a great day. It's so thrilling to learn that 1.1 million children and their families will now benefit from education savings accounts in Arizona. But I'd like to let people know what's equally exciting, is this is great for teachers too. This is no small victory because for too long, students and their teachers have been trapped in failing schools run by the K12 cartel, also known as so called teacher unions.

These unions have intentionally demoralized good teachers and destabilized educational excellence, literally in a brazen attempt to usurp our republic. So Arizona now has a chance to restore its schools and its liberties. And I hope the rest of the nation follows it.

GALLAGHER: They really becomes like an issue of unions versus parents here. But what I worry about, well, you made a good point during the break, I worry about the fact that do we have enough schools? It's tough to just put together some of these charter schools and other schools, do we have enough schools? The private schools have waiting lists. People want to just flee the public schools. Do we have the resources to be able to take care of some of these students who want to opt out?

FRIEDRICHS: Oh, I think so for sure now that the money can come directly to the parents, there's no stopping us. For years, we've tried to start charter schools and we've been blocked by the local school boards that are run by this the teacher unions. So now that the flow of money is there and people will be freed, including teachers.

Teachers can start pods, one room schoolhouses. They can help with homeschooling. I mean, this freeze everybody. We absolutely can have enough schools and get the job done and do it far better than the government schools.

GALLAGHER: Been talking about litigation, this is certainly going to draw litigation, right? They're going to fight back against this. The teachers unions have a lot of money. They can tie this thing up in the courts. And I wonder if there's enough when you talk about parents versus unions, is there enough momentum to really bring this to other states and make this a national movement?

FRIEDRICHS: Yes. I think the one part of all the COVID nonsense is parents are finally awake, and teachers are finally awake too because the teacher unions wouldn't protect them from being forced to be jabbed or -- and the teacher unions had backroom deals with the CDC to keep the schools closed. Teachers wanted to be in school with the kids.

So people are awake, the timing is perfect. The unions are going to pitch a major temper tantrum. They have all kinds of money. But guess what, quit paying them teachers you don't have to anymore. Let's quit giving them money and let's fight back. Let's win this for the kids and for the country. And, you know, the teachers unions, it's time for them to leave our schools.

GALLAGHER: You talk about the teachers unions and temper tantrum. And they came out today saying that this is going to damage public schools by taking money away from public schools. A lot of people think you know what, this might actually help public schools by instead of fighting this, spending millions and tens of millions of dollars fighting this, put that money back into the schools, put it into the poor schools to make them better.



FRIEDRICHS: Absolutely. This will absolutely help the public schools. I want to tell you something. I was a teacher union representative. I was on the inside because I wanted to change things from the inside. Those are very corrupt people. And I'm going to tell you, they're liars. This will not harm the public schools. The teacher unions are harming the public schools. They're also harming teachers.

So the sooner that we can move forward without them in the way and we can do what's right for kids and what's right for teachers, the better we're all going to do. I'm sure they'll litigate it but let's stand up together and fight these bullies.

GALLAGHER: Yes, it is a big deal. Rebecca, thank you for coming on. We appreciate it.

FRIEDRICHS: Thank you.

GALLAGHER: Well, former Secretary of State Mike Pompeo standing by, excuse me, to react to Fox News' sit down with FBI director Christopher Wray next.

(BEGIN VIDEO CLIP)

CHRISTOPHER WRAY, FBI DIRECTOR: Americans should be concerned because the Chinese government's attempts to steal our innovation, our intellectual property, affects American jobs. We're talking about American jobs, American consumers being directly affected.

(END VIDEO CLIP)

(COMMERCIAL BREAK)

GALLAGHER: While stunned outraged, deeply saddened, reaction pouring in from world leaders after former Japanese Prime Minister Shinzo Abe was shot and killed while giving a campaign speech ahead of the country's parliament elections on Sunday. Police say the suspected shooter used a handmade gun and investigators discovered several other homemade weapons in his home. Fox Business correspondent Susan Li with the breaking details on this. Susan, good afternoon.

SUSAN LI, FOX BUSINESS CORRESPONDENT: The 41-year-old suspect was a former member of the Navy, and just a warning to our viewers that what we're about to show you could be considered disturbing. And the suspect told police that he killed Japan's longest serving Prime Minister Shinzo Abe over his ties to a certain group. One national newspaper says it was tied to religion. Japan's national broadcaster, the NHK, reporting that the suspect confirmed he did not kill our Abe over political beliefs. Now, the assassination is shocking in Japan where gun violence is extremely rare, only one of firearm death in the entire country of 127 million reported in all of last year.

Now, it's also shocking that a towering political figure like Shinzo Abe was targeted, longest serving post-war leader, nine years in office over two stents, remember for his bold progressive policies to revitalize the economy dubbed Abenomics, and security was also forefront for Abe, courting a stronger alliance with the US. Remember that he was the first world leader to meet with Donald Trump after his 2016 election win, and Abe even tried to change Japan's pacifist constitution to counter what he saw as a rising Chinese threat. He also raised tensions in the Asia Pacific with his visits to the controversial Yasukuni Shrine, which honored some war criminals from World War II.

Now for the US, Abe was seen as a reliable Pacific partner for numerous presidents. President Biden was just at the Japanese Embassy last hour, this and the book of condolence. Flags will be flown at half staff in his honor. And I had the chance to interview Abe in the Asia Pacific in the past decade. And to give you a sense of his exactly nature, he understood English very well. They still did the interview through a translator because he said he wanted his message to get across perfectly and precisely. Trace?

GALLAGHER: Make sense. Susan Li live for us in New York. Susan, thank you. Well, China is the biggest long term threat to the US economic and national security, that from FBI director Christopher Wray, who just sat down with Fox News. Former Secretary of State Mike Pompeo is standing by, first to correspondent David Spunt. He's live in London where he talked with the FBI director. David, good afternoon.

DAVID SPUNT, FOX NEWS CORRESPONDENT: Trace, good afternoon to you. This happened a few hours ago behind me here at the US Embassy in London, United Kingdom. I spoke not only with Director Wray but also MI5 Director General Ken McCallum about several international threads coming from China, Russia, Iran, North Korea, a whole host. But, Trace, the conversation multiple times kept coming back to China.

Director Wray and Director General McCallum agree that China seems to be a growing threat to the United States, across the world. Both men say it's picking up its game, China, when it comes to manipulating people that live in the West. The Department of Justice earlier this year, Trace, disbanded what was called the China Initiative. This is the DOJ in the United States, an agency set up just a few years ago by the government to combat Chinese espionage primarily through the education system in the United States.

(BEGIN VIDEO CLIP)

SPUNT: Was that a mistake to get rid of that program?

WRAY: We're going to follow the facts and the law wherever they lead. We are not going to engage in profiling by ethnicity or national origin, and we haven't. And we're going to work jointly with universities in many cases, that's one of the most effective ways to prevent stealing of research which is in the hands of our universities.

SPUNT: So Wray says that his work has not changed with the China initiative. Meanwhile, the director of MI5 in this interview today told me and called out to unnamed social media companies, Trace, for not helping combat some of the espionage from places like China and Russia. Listen here.

(BEGIN VIDEO CLIP)

KEN MCCALLUM, MI5 DIRECTOR GENERAL: The social media companies still need to move further on issues like lawful access on end to end encryption, things which risk preventing organizations like ours from being able to keep our communities safe. We believe in strong encryption but we also need to keep our communities safe.

(END VIDEO CLIP)

SPUNT: When Director Wray lands back in Washington, DC and goes back to work at the FBI headquarters, he has a lot of issues on his plate, including a serious crime problem in the United States. He said violent crimes with guns up 30% than it was a year ago. The director also made some news, Trace, with Fox News today by saying that there's been an increase in attacks on pro-life establishments, pro-life businesses since the Supreme Court overturn Roe v. Wade. More on our interview coming up tonight on "Special Report," 6:00 Eastern.

GALLAGHER: Right. David, nicely done. David Spunt live for us in London. David, thank you.

Let's bring in Mike Pompeo, former Secretary of State and CIA director, now a Fox News contributor. Mr. Secretary, thank you for coming on. Your reaction to the assassination of Shinzo Abe, what does this mean diplomatically?

MIKE POMPEO, FOX NEWS CONTRIBUTOR: Well, Trace, thanks for having me on. First of all, I'm praying for Prime Minister Abe's family and all of the people of Japan. This is a horrific assassination. And it has not only personal implications for folks who knew Prime Minister Abe but for all of us. I spend an awful lot of time with him. There was not a moment when he didn't put Japan first, and America right there alongside. He knew that that relationship mattered, that confronting the Chinese Communist Party was the challenge for the next century. And he was working to build out throughout the Pacific, built out a set of arrangements that would have both provided security for Japan, but also for the people of the United States of America.

We will miss him. He had not left the playing field. He was out campaigning when he was assassinated, working to continue to deliver good outcomes for the people of Japan. We'll have to build with the current prime minister and continue to work developing that relationship. I hope we will follow the path the Prime Minister Abe would have wanted us to.

GALLAGHER: You talking about him recognizing the threat from China. He was also a fierce opponent of Article 9 of the Japanese Constitution, which of course forbids them from having a formal military and using force to settle international disputes. Was he right -- when you see what's happening with China now, was he right, sir?

POMPEO: Oh, 1,000%. In fact, Japan had slept on this for too long. They had allowed the Chinese Communist Party to rise when they should have been beginning to build up their capabilities to defend their island chain, to defend the Pacific, but the part that they live in the South Pacific as well. Now, he had this square on and he was making the case to his people, to the people of Japan that this wasn't an international challenge. This was a challenge that mattered to them in their home cities in Japan in a way that was inarguable.

A very powerful political figure, and one who had the security regime right for his own country.

GALLAGHER: Kind of switching a little bit, Director Wray saying that he believes China is threatened, number one. You know, the President has said that if in fact China goes after Taiwan, that we would be obligated to defend Taiwan. But there is not a general who has laid out a cohesive and absolutely perfect plan for us to do that. Do you see us being able to do that easily?

POMPEO: Oh, goodness. There's no perfect plan but there's a lot of work that can be done, Trace. And we began it during my time as Secretary of State. We began to build up both the diplomatic and strategic understandings, the economic ways to push back against the Chinese Communist Party. And then what Director Wray was really referring to, and I was thrilled to hear him say this, is something that we said since at least in May of '20, which was the Chinese Communist Party is inside the gates. We closed the Chinese Consulate in Houston, Texas because they were spying on American universities.

Welcome to the fight. This is important. They are in our universities, they're all across our businesses, they own too many assets here in the United States. This is not a foreign issue. This is an issue that affects American jobs, American intellectual property in deep and important ways. And I was very heartened to see Director Wray speak about it so plainly and clearly today.

GALLAGHER: You talk about 2020 going back, and the warning signs were ringing, you know. When you go back to 2017, and I was at the 75th anniversary of the Pearl Harbor attack, talk to then Admiral Harry Harris, Admiral Harry Harris who was then in charge of Pacific CENTCOM. And he said, listen, we cannot allow China to build out the southern islands as military bases in the South China Sea, and yet we have. Is that a mistake strategically?

POMPEO: Yes. It's a mistake. It's something we've got to go fix and certainly protect against going forward. Admiral Harris was my ambassador to the Republic of Korea during my time as Secretary of State. He continued that effort we understood as did INDOPACOM Command and the Pacific Command. We understood the challenges to the South China Sea, that the Chinese Communist Party was presenting, and we knew we had to get it right both there and at home. And if we did both of those things, we could convince, we could convince the people of China, the good people of China, as Director Wray said, this is not about ethnicity. This is about a Communist Party leadership and Xi Jinping, that is intent on global hegemony. We have a responsibility the American people to protect them from it.

GALLAGHER: By the way, China responds by saying US is threat number 1. Ten seconds left, sir.

POMPEO: We threatened no one. We're looking for capacity to do exactly what Prime Minister Abe was speaking about. We want freedom, we want opportunity for everyone. We want that for the Chinese people too.

GALLAGHER: Secretary Pompeo, thank you for coming on, sir. We appreciate it.

POMPEO: Trace, thank you.

GALLAGHER: More of "The Story" after this.

(COMMERCIAL BREAK)

GALLAGHER: Well, that is "The Story" of Friday, July 8, 2022. But as always, "The Story" goes on. I'm Trace Gallagher in Los Angeles. Martha, we'll see you back here Monday at 3:00. "Your World" right now.

END

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**NewsRoom**

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July 8, 2022

### Four border agents face discipline over 'dangerous' horseback behavior in Del Rio

By Michael Wilner, Syra Ortiz-Blanes and Jacqueline Charles, Miami Herald

Investigators found "no evidence" that Border Patrol agents on horseback used their reins to strike or **whip** Haitian **migrants** crossing the U.S.-Mexico border in Texas last September, according to an internal review at U.S. Customs and Border Protection published Friday.

The final report scrutinized the behavior of Border Patrol horse units last year at the Texan town of Del Rio, where they were deployed as thousands of **migrants**, mostly Haitian, tried to cross the border through the Rio Grande.

The review did find that several agents acted "inappropriately" during the high-profile incident. Four agents could be disciplined over their roles in the event, although the department said in a statement that the disciplinary process is still underway and that proposed actions are "pre-decisional."

"The misconduct of several individuals does not reflect the brave and distinguished service of the Agents of the United States Border Patrol," Department of Homeland Security Secretary Alejandro Mayorkas said in a statement. "The organizational failures of policy, procedures, and training that the investigation identified were a disservice to the agents and the public they serve. CBP must and will do better."

The agency will not suspend its horse patrols, whose use Haitian activists and immigrant advocates condemned during the crisis at the border last year. But the agency did say Friday it was evaluating its horse patrol unit policies.

"Corrective actions include ... reviewing and revising horse patrol procedures and training. That includes prohibiting the use of twirling or spinning reins as a distancing or crowd control technique," said U.S. Customs and Border Protection Commissioner Chris Magnus at a press conference announcing the findings.

The incident led to outcry across the country as images emerged from Del Rio of white Border Patrol agents, mounted on horses, appearing to use their reins to control the movement of Haitian **migrants** seeking to get into the U.S. to ask for asylum. One of the photographs that triggered debate was a photo of an agent on horseback looming over a Haitian **migrant** crossing with plastic bags of food. The **migrant** has since been identified as Mirard Joseph. Expelled back to Haiti, Joseph is suing the U.S. government, accusing it of abuse, denial of due process and inhumane treatment.

While the report found that "there were failures at multiple levels of the agency" during the episode, "the investigation found no evidence that agents struck any person with horse reins."

"The investigative findings show that the agency failed to appropriately task, supervise, and exercise command and control over the Horse Patrol Units in Del Rio," the report concluded. "Several Border Patrol agents used force or the threat of force to attempt to drive **migrants** back into the Rio Grande River towards the U.S.-Mexico border, though there is no evidence that any **migrants** were forced to return to Mexico or denied entry to the United States."

The Office of Professional Responsibility at the Department of Homeland Security "found multiple instances in which Agents acted inappropriately during the incident, including one Border Patrol Agent who was found to have used denigrating and inappropriate language and to have maneuvered his horse unsafely near a child," the report added.

Magnus told reporters that Homeland Security had examined photo, video and agency documents, as well as collected testimony from eyewitnesses, journalists, and CBP personnel and leadership. Investigators were not able to find the **migrants** involved due to the "challenging nature of the scene," he added, although details from a lawsuit that **migrants** filed against the agency were used for the review.

Magnus recognized that "not everyone's going to like all the findings" of the review made public, but defended the investigation as "comprehensive and fair" at the Friday press conference.

Guerline Jozef, co-founder of the Haitian Bridge Alliance, described the report's findings as "one-sided" and said they lacked "any credibility." Her organization is part of the class-action lawsuit that Mirard and other Haitian asylum seekers are involved in against the Biden administration over the treatment of Haitian **migrants** at Del Rio.

She told the Miami Herald that their legal team had repeatedly offered to put the Office of Professional Responsibility in touch with victims and witnesses from the Del Rio incident.

"Only to be ghosted," she said.

Jozef told the Miami Herald that until anti-Blackness in the immigration and border enforcement system is addressed, "we will continue to see more systematic abuse of Black **migrants** with impunity, like we saw in Del Río."

"They must prioritize justice for the victims just as much as they've prioritized protections for their own — the perpetrators — and [we] will continue to fight for this justice with our lawsuit," she said.

Haitian community activist Marleine Bastien, who runs the Miami-based Family Action Network Movement, said hopefully those who were victimized will see justice. She said her organization is reiterating its demand for the **migrants**, quickly expelled to Haiti, to be brought back to the U.S.

"They suffered irreparable harm when they were victimized and treated like animals in front of the whole world. They should have never been deported to Haiti! It is about time to right this wrong," she said.

Bastien also did not agree totally with the findings.

"These horrific images of them being chased and **whipped** will be forever etched in people's minds," she said. "I beg to differ. They were victimized."

You can read the report [here](#).

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News Subject: (Crime (1CR87); Criminal Law (1CR79); Emerging Market Countries (1EM65); Immigration & Naturalization (1IM88); Legal (1LE33); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Industry: (Homeland Security (1HO11); Security (1SE29))

Region: (Americas (1AM92); Caribbean (1CA06); Florida (1FL79); Haiti (1HA10); Latin America (1LA15); Mexico (1ME48); North America (1NO39); Texas (1TE14); U.S. Southeast Region (1SO88); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (United States Border Patrol; Office of Professional Responsibility at the Department of Homeland Security; Horse Patrol Units; Haitian Bridge Alliance; Biden administration; Family Action Network Movement; Miami Herald; CBP; U.S. government; U.S. Customs and Border Protection) (Alejandro Mayorkas; Chris Magnus; Mirard Joseph; Guerline Jozef; Marleine Bastien)

Word Count: 913

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**NewsRoom**



## NewsRoom

7/8/22 NPR All Things Considered (Pg. Unavail. Online)  
2022 WLNR 21461529

NPR All Things Considered  
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July 8, 2022

Border agents used 'unnecessary' force on Haitian **migrants**, investigation finds

Joel Rose

All Things Considered

AILSAS CHANG: Border Patrol agents on horseback who confronted Haitian **migrants** in Del Rio, Texas, last year used, quote, "unnecessary force." That is the conclusion of a long-awaited investigation released today by U.S. Customs and Border Protection. Four Border Patrol agents are facing possible discipline over the incident, and joining us now with more details is NPR's Joel Rose, who covers immigration. Hi, Joel.

JOEL ROSE: Hi, Ailsa.

AILSAS CHANG: OK. So I remember these images where we saw, like, Border Patrol agents on horseback chasing Haitian **migrants**. It sparked all kinds of outrage last year. Can you just remind us what was happening at the time?

JOEL ROSE: Sure. This was back in September of last year. Tens of thousands of **migrants**, mostly from Haiti, arrived very quickly in Del Rio, Texas, crowded into an enormous makeshift camp under an international bridge there. And that's when Border Patrol agents on horseback were photographed chasing **migrants** who were trying to return to this camp after buying supplies on the Mexican side of the river. And to many, it looked like the agents were using **whips** on the **migrants**, though current and former immigration officials say those were in fact the horses' reins. Administration officials promised an investigation would be completed within, quote, "days, not weeks."

AILSAS CHANG: Well, it's been almost nine months since then. What did this investigation find?

JOEL ROSE: First off, it found no evidence that the agents struck, intentionally or otherwise, any **migrant** with their reins. The report says this was a chaotic situation and that there were problems with command and control that led to this, quote, "unnecessary use of force." Investigators say the horse patrol unit was carrying out an operation at the request of the Texas Department of Public Safety, trying to push these **migrants** back towards the Rio Grande River, which was at odds with the objectives of Border Patrol leaders, who wanted the **migrants** to come back to the camp with food and water. But that said, the investigation does not totally exonerate these individual agents, either. It accuses one agent in particular of using language denigrating a **migrant's** national origin and also getting too close to a **migrant** child with his horse. Here's CBP Commissioner Chris Magnus at a press conference today.

CHRIS MAGNUS: There is no justification for the actions of some of our personnel, including unprofessional and deeply offensive conduct.

JOEL ROSE: Magnus said that four Border Patrol agents in total will face possible discipline, but he declined to go into details because that part of the process is still playing out.

AILSA CHANG: OK, so what's been the initial reaction to all of this?

JOEL ROSE: Well, the union representing Border Patrol officers has been saying for months that these agents did nothing wrong but that investigators basically had no choice but to punish them for something because of the strong initial reaction from the White House and President Biden, who called the images, quote, "outrageous" and said those people will pay. Supporters of the Border Patrol are pointing out today that the U.S. attorney declined to press any criminal charges, and they see this report as an attempt to justify, you know, what they consider a hasty rush to judgment.

AILSA CHANG: Well, just to step back for a moment, Joel, we should say that this report is coming at a time when state leaders in Texas have been escalating their fight with the Biden administration over illegal immigration. And I'm just curious. Did Chris Magnus at CBP have anything to say about that context?

JOEL ROSE: Yeah. He was asked about an executive order that was signed yesterday by Texas Governor Greg Abbott that directs state troopers and National Guardsmen to apprehend **migrants** who have crossed the border unlawfully and return them to ports of entry at the border. Normally, immigration is a federal matter, but Abbott says this is necessary because the Biden administration has failed to protect his state from a, quote, "invasion." Immigrant advocates say it's ridiculous to compare **migrants** fleeing from poverty and violence to an invading army. And Chris Magnus says the administration is trying to build a safe immigration system, but when a state like Texas takes unilateral action, it makes it harder to do that.

AILSA CHANG: That is NPR's Joel Rose. Thanks so much, Joel.

JOEL ROSE: You're welcome.

--- Index References ---

Company: PT Indofood CBP Sukses Makmur Tbk; U.S. Customs and Border Protection.; AILSA INVESTMENT TRUST; NPR FINANCE LTD.; BORDER BANCSHARES, INC.

News Subject: (Crime (1CR87); Criminal Law (1CR79); Global Politics (1GL73); Immigration & Naturalization (1IM88); Legal (1LE33); Military Conflicts (1MI68); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05); Top World News (1WO62); World Conflicts (1WO07))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (Texas Department of Public Safety; White House; CBP; U.S. Customs and Border Protection; AILSA; NPR; Border Patrol) (Joel Rose; JOEL ROSE; AILSA CHANG; Chris Magnus; CHRIS MAGNUS; Biden; Greg Abbott)

Keywords: Chris Magnus

Word Count: 738

## NewsRoom

## NewsRoom

7/8/22 States News Serv. 20:35:16

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July 8, 2022

### REP. ARRINGTON RESPONDS TO THE BIDEN ADMINISTRATION'S FALSE SLANDER OF CUSTOMS AND BORDER PATROL AGENTS

WASHINGTON, D.C.

The following information was released by the office of Texas Rep. Jodey Arrington:

Representative Jodey Arrington (TX-19) today issued a statement following the announcement of Customs and Border Protection finding no evidence of the Biden Administration's false claims of Border Patrol agents **whipping Haitian migrants** at the southern border.

"Shame on the Biden Administration for falsely accusing these border agents on horseback of wrongdoing and prejudicing the public by their rhetoric when they were simply carrying out their duty to secure our border," said Arrington . "The American people respect our law enforcement officers for protecting our sovereignty and citizens, but they are sick and tired of the abject failure by President Biden and Secretary Mayorkas to uphold their sacred duty, enforce our laws, and put the security of our citizens first."

#### ---- Index References ----

News Subject: (Crime (ICR87); Immigration & Naturalization (IIM88); Smuggling & Illegal Trade (ISM35); Social Issues (ISO05))

Language: EN

Other Indexing: (REP. ARRINGTON; BIDEN ADMINISTRATION; FALSE SLANDER OF CUSTOMS AND BORDER PATROL AGENTS; Customs and Border Protection) (Jodey Arrington; Biden; Mayorkas)

Word Count: 135

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## NewsRoom

## NewsRoom

7/8/22 Targeted News Serv. (U.S.) 00:00:00

Targeted News Service (US)  
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July 8, 2022

### Heritage Foundation: Critics Blast 'Politicized Investigation,' Punishment of Mounted Border Patrol Agents

WASHINGTON, July 8 (TNSreact) -- The Heritage Foundation issued the following news release:

Mark Morgan, former acting CBP commissioner and Heritage visiting fellow, and Tom Homan, former acting ICE director and Heritage visiting fellow, released the following statements Friday in response to the Department of Homeland Security announcing punishments for mounted Border Patrol agents falsely accused of "whipping" migrants illegally crossing the border last fall.

Heritage's Oversight Project recently filed suit against the department for documents related to the politicized investigation into the agents.

Morgan: "From the start, these agents have been smeared, lied about, and vilified by nearly everyone on the left, from trolls on social media all the way to the president of the United States at the White House podium. Never mind that the facts clearly showed that no agent had 'whipped anyone,' or that video was immediately available to set the record straight. These men have had their careers ruined, their reputations tarnished, and even their families threatened because the mob came after them--and the Biden administration was all too willing to oblige.

"Instead of standing up for his agents, Secretary Mayorkas threw them under the bus. I expect DHS documents will show proof of what has been clear all along--this was a politicized investigation meant to distract Americans from Biden and Mayorkas' disaster at the border, caused by their open-borders policies. Unless Mayorkas' next words about this matter are to explicitly correct the record, stand up for his agents, and apologize to them, nothing else he says will matter."

Homan: "Joe Biden and his administration have consistently thrown law enforcement under the bus, and this time is no different. They continue to prove that you are innocent until proven guilty--unless you wear a badge. As someone with more than 35 years' experience in securing our border and enforcing our immigration laws, I have never seen an administration so committed to un-securing our border and undermining the men and women of our Border Patrol, ICE, and other immigration enforcement agencies. Instead of admitting their open-borders strategy is failing, killing Americans, and undermining our national security, this administration continues to double down and look for anyone else to blame to distract from their failures--including Border Patrols agents acting in their lawful capacity to secure the border.

"This president and this administration are an embarrassment. We should be doing everything we can to support these agents, and the mission to which they've dedicated their careers. It's time for Congress to also step up and hold the Biden administration accountable. That means impeaching Secretary Mayorkas on day one of the next Congress, and making meaningful oversight a reality."

\* \* \*

Original text here: <https://www.heritage.org/press/mark-morgan-tom-homan-blast-politicized-investigation-punishment-mounted-border-patrol-agents> MSTRUCK-7886394 MSTRUCK

---- **Index References** ----

Company: PT Indofood CBP Sukses Makmur Tbk; HERITAGE FOUNDATION (THE); BORDER BANCSHARES, INC.; U.S. Department of Homeland Security; U.S. Immigration and Customs Enforcement

News Subject: (Crime (1CR87); Criminal Law (1CR79); Immigration & Naturalization (1IM88); Legal (1LE33); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Industry: (Homeland Security (1HO11); Security (1SE29))

Language: EN

Other Indexing: (TNSreact; Congress; CBP; Heritage Foundation; Border Patrol; Border Patrols; Department of Homeland Security; ICE) (Mark Morgan; Tom Homan; Joe Biden; Mayorkas; Americans; Mayorkas') (WASHINGTON)

Word Count: 468

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**NewsRoom**

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2022 WLNR 21408898

Tribune-Review (PA)  
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July 8, 2022

### Report finds 'unnecessary' force by agents at Rio Grande

Associated Press

U.S. Border Patrol agents on horseback engaged in "unnecessary use of force" against non-threatening Haitian immigrants but didn't **whip** any with their reins "intentionally or otherwise," according to a federal investigation of chaotic scenes along the Texas-Mexico border last fall that sparked widespread condemnation.

In a 511-page report released Friday, Customs and Border Protection blamed a "lack of command control and communication" for mounted agents using their horses to forcibly block and move **migrants** during an influx of Haitians arriving last September at the U.S. border outside Del Rio, Texas.

"We're gonna learn from this incident and we'll find a way to do better," CBP Commissioner Chris Magnus said during a news conference announcing the report. "Not everyone's going to like all the findings but the investigation was comprehensive and fair."

Video and photos of the incident made it appear agents were **whipping** Haitians, which caused outrage among advocacy groups and civil rights leaders. The Biden administration promised a full investigation after many in the president's own party objected that such tactics with racial overtones were the kinds of policies the U.S. was supposed to be moving away from after years of hardline immigration tactics under President Donald Trump.

A former police chief, Magnus took over the nation's largest law enforcement agency in December and is being watched closely for shepherding the ongoing investigation. Homeland Security Secretary Alejandro Mayorkas said in a statement Friday that "the organizational failures of policy, procedures, and training that the investigation identified were a disservice to the agents and the public they serve."

Last fall, Biden called images of what occurred "horrible" and "outrageous."

"I promise you, those people will pay," the president said then. "There is an investigation underway right now and there will be consequences."

Asked if the politically charged environment marred the investigation, Magnus said "it was inevitable, certainly not surprising, that there was going to be a reaction to that from the community, from those in the media from elected officials, from different advocacy groups."

But he said he instructed investigators "that all of these things were to be put aside, to be disregarded."



"I was counting on them to do a fair, through, comprehensive investigation with no attention to this outside influence," Magnus said.

By September 19, 2021, around 15,000 Haitian **migrants** had crossed from Mexico into the United States and were concentrated in an encampment underneath the international bridge.

Magnus said the investigation began the day after the incident and included testimony from more than 30 people, among them witnesses and journalists. Investigators said they were unable to locate Haitian **migrants** involved to get their accounts -- but used statements and court documents that some provided as part of lawsuits they filed against U.S. authorities.

Magnus said four Border Patrol personnel have been recommended for disciplinary action for their conduct, though he declined to discuss exactly what each had done to warrant possible punishment, or elaborate on what sanctions they could face. That comes after prosecutors in April declined to pursue criminal charges, he said.

Disciplinary actions are separate from Friday's findings and won't be announced until later. All four CBP officials have been on administrative duty since the investigation began, according to senior agency officials who briefed reporters before Friday's report was released.

Mark Morgan, a former acting CBP commissioner under Trump, dismissed the entire investigation as politically motivated since no Haitians were actually **whipped**.

"From the start, these agents have been smeared, lied about, and vilified by nearly everyone on the left," Morgan said in a statement.

Federal investigators said no **migrant** was struck with a **whip**, forced to return to Mexico or denied entry into the U.S. during the approximately 15 minutes that they were forcibly blocked and moved by mounted agents. One agent yelled inappropriate comments about a **migrant's** national origin including, "You use your women" while also narrowly missing crashing his horse into a child walking nearby while pursuing a **migrant**.

Agents acted with the permission of their supervisor, who was unable to get guidance from higher up the Border Patrol chain of command, the report said. Communication occurred on a radio channel that wasn't recorded, further complicating investigation into the incident.

The use of force drove **migrants** back into the Rio Grande, despite their having been well within U.S. territory and not presenting threats -- which was counter to CBP's mission, the report found.

It also said the incident began after authorities from a state agency also working in the area at the time, the Texas Department of Public Safety, requested help from federal authorities.

That conclusion follows Republican Texas Gov. Greg Abbott this week authorizing state forces to apprehend **migrants** and return them to the U.S.-Mexico border -- raising questions about his state's enforcement powers as top GOP leaders have slammed the Biden administration for failing to curb the rising number of crossings.

Magnus said Friday that his agency has "a shared interest with Texas" in "maintaining a safe, orderly, humane immigration process," and that federal officials "stand ready to work with Texas to achieve these goals."

"But the challenge is, when any state, such as Texas, takes unilateral action, that just makes it harder for us to do this," he added.

--- Index References ---

Company: HOMELAND SECURITY CORPORATION; U S BORDER OF ALPHARETTA L P

News Subject: (Bankruptcies (1BA08); Business Management (1BU42); Corporate Events (1CR05); Crime (1CR87); Criminal Law (1CR79); Emerging Market Countries (1EM65); Immigration & Naturalization (1IM88); Legal (1LE33); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); Mexico (1ME48); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (Customs and Border Protection; Texas Department of Public Safety; Republican; GOP; Biden administration; Homeland Security; U.S. Border Patrol) (Haitians; Chris Magnus; President Donald Trump; Donald John Trump; Alejandro Mayorkas; Biden; Mark Morgan; Mark Edward James Morgan; Greg Abbott)

Word Count: 877

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**NewsRoom**

## NewsRoom

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USA Today (USA)  
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July 8, 2022

Border Patrol proposes disciplinary action for horse-mounted agents who clashed with Haitians  
Nearly 15,000 Haitians had gathered in Del Rio, Texas, to seek asylum  
in the U.S. Border agents on horseback confronted them as they crossed.

Rick Jervis and Rebecca Morin, USA TODAY

The U.S. Border Patrol is proposing disciplinary action for several agents who confronted Haitian **migrants** while on horseback on the Texas-Mexico border last year.

U.S. Customs and Border Protection Commissioner Chris Magnus, which oversees Border Patrol, would not reveal what the disciplinary action may be, citing privacy concerns for its agents. But he stressed that some of the actions by the agents on horseback and verbal epithets yelled by at least one agent led to the recommendations and were result of a 10-month investigation into the incident.

The disciplinary process is ongoing and the agency's Office of Professional Responsibility will finalize the recommendations, which the agents could later appeal, he said.

"There is no room in our agency for discrimination or intolerance," Magnus said at a press conference Friday. "CBP is dedicated to ensuring the fair and just treatment of all people."

Images of Border Patrol agents on horseback in September repelling Haitian families as they waded across the Rio Grande into the United States circulated through newscasts and social media sites, sparking a sharp backlash against the agency.

Immigrant rights and civil rights groups protested the clashes. In Miami, 200 Haitian-Americans protesting outside the U.S. Citizenship and Immigration Services field office forced road closures.

At the time, Homeland Security Secretary Alejandro Mayorkas ordered an investigation into the incident. Mayorkas in a statement Friday said CBP is implementing the needed reforms after the investigation that will "proceed with the urgency and commitment."

"The misconduct of several individuals does not reflect the brave and distinguished service of the agents of the United States Border Patrol," Mayorkas said in the statement. "The organizational failures of policy, procedures and training that the investigation identified were a disservice to the agents and the public they serve. CBP must and will do better."

CBP investigators interviewed more than 30 eye-witnesses, including news media members at the scene, as well as Border Patrol agents and officials to compile the 500-page report, Magnus said.

"The primary goal of this investigation was to establish the facts of what happened," he said. "It was thorough and independent. And despite any comments or criticisms - not everyone's gonna like all the findings - but the investigation was comprehensive and fair."

Following a devastating earthquake in 2010, thousands of Haitians emigrated to South America to find work in Brazil and other countries. But as the COVID-19 pandemic and other economic forces dried up many of those prospects, thousands of Haitians began the long trek north in hopes of finding jobs in the United States.

In July 2021, mercenaries also assassinated Haitian President Jovenel Moïse, adding to the country's instability and propelling more Haitians to seek opportunities outside the island nation. Many of them funneled into Ciudad Acuña, Mexico, and crossed the Rio Grande into Del Rio, Texas, to seek asylum in the United States.

By September, nearly 15,000 Haitians had gathered in a makeshift encampment on the riverbanks in Del Rio. Border officials attempted to expel the **migrants** under Title 42, a Trump administration policy that removed **migrants** without processing them to prevent the spread of the coronavirus. But since they were Haitian, U.S. agents couldn't simply return them to Mexico and had to instead place them on flights back to Haiti.

This took several days of processing and, as the encampment ran out of food, many of the Haitians wandered back across the border to buy food and other provisions in Mexico. On their return to the United States, they were confronted by the horse-mounted Border Patrol agents, said Adam Isacson, of the Washington Office on Latin America, a U.S.-based research and advocacy organization.

The confrontation — captured in still and video images by news photographers and immigrant advocates — was just one in a long list of complaints against Border Patrol that includes physical and verbal abuse against **migrants**, as well as rape and shootings, Isacson said.

His group has documented 273 cases of Border Patrol abuses since 2020. But often occurring in remote border regions or at night, those incidents are almost never documented, he said.

"Almost every day there's someone who gets beaten or their papers taken away by Border Patrol," Isacson said. "What's rare for Border Patrol is that it's caught on camera."

A key part of the investigation was to determine whether the horse-mounted agents used their reins as **whips** to strike the **migrants**. In some images, it appeared as if agents were twirling their horses' reins in a threatening fashion.

Magnus said investigators found no evidence that agents struck **migrants** with their reins "intentionally or otherwise." One agent, he said, acted in an unprofessional manner by yelling inappropriate slurs at the **migrants**. He also said no **migrants** were forced back to Mexico or denied entry into the United States as a result of the horse-mounted confrontations.

The U.S. Attorney's Office declined to file charges in the case, meaning criminal charges do not seem likely.

The Texas Department of Public Safety, whose troopers have been deployed to help secure the border, also played a prominent role in the investigation. Texas troopers had blocked off a popular unauthorized border crossing over a dam, forcing the **migrants** to cross the river, according to the report. Then, on Sept. 18, members of the state agency asked the Border Patrol's horse-mounted unit on the scene for help in preventing the Haitian **migrants** from crossing into Del Rio, sparking the confrontations, the report said.

"Horse patrol unit personnel carried out an operation at the request of the Texas Department of Public Safety that directly conflicted with Border Patrol operational objectives," Magnus said.

DPS' involvement in Del Rio underscores Texas' ongoing, controversial efforts to secure the U.S.-Mexico border, a task delegated to federal agencies. On Thursday, Gov. Greg Abbott authorized the National Guard and state police to return apprehended **migrants** to the border, setting up a potential clash with the federal government over the authority to enforce immigration law.

"We stand ready to work with Texas to achieve these goals but the challenge is when any state, such as Texas, takes unilateral action it just makes it harder for us to do this," Magnus said.

The Del Rio confrontations occurred as **migrant** encounters at the U.S.-Mexico border hit historic highs. Last fiscal year, which ended in September, border officials encountered 1.72 million **migrants** at the Southwest border, a two-decade high.

Immigration advocates have been critical over the Biden administration's treatment of **migrants**, especially Haitian **migrants**, who have been consistently expelled on flights back to their home country.

As Border Patrol scrambled to detain and process waves of asylum-seekers, the system became overwhelmed, said Tony Payan, director of the Center for the United States and Mexico at Rice University's Baker Institute for Public Policy in Houston.

Payan said the agents in question should be held accountable but the incident was also a revealing look at the dysfunction of the U.S. immigration system along the border.

"The system is broken," he said. "I don't exonerate the agency but it's an agency overwhelmed by policy failure."

Follow Jarvis and Morin on Twitter: [@MrRJervis](#), [@RebeccaMorin\\_](#).

This article originally appeared on USA TODAY: [Border Patrol proposes disciplinary action for horse-mounted agents who clashed with Haitians](#)

#### ---- Index References ----

Company: U.S. Virgin Islands Office of Attorney General; PT Indofood CBP Sukses Makmur Tbk; DPS RESOURCES BERHAD; US Citizenship and Immigration Services; HOMELAND SECURITY CORPORATION; RICE UNIVERSITY; WASHINGTON OFFICE PARTNERS L P; NATIONAL GUARD CORP

News Subject: (Crime (1CR87); Criminal Law (1CR79); Emerging Market Countries (1EM65); Immigration & Naturalization (1IM88); Legal (1LE33); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); Mexico (1ME48); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (United States Border Patrol; Office of Professional Responsibility; Texas Department of Public Safety; Biden administration; Center for the United States and Mexico; Baker Institute for Public Policy; Twitter; U.S. Attorney's Office; CBP; DPS; U.S. Citizenship and Immigration Services; Homeland Security; Rice University; Washington Office; National Guard)

(Haitians; Chris Magnus; Alejandro Mayorkas; Jovenel Moïse; Trump; Adam Isacson; Greg Abbott; Tony Payan; Jervis; Morin; @MrRJervis; @RebeccaMorin\_)

Keywords: (Haitians,Joe Biden,Border Patrol and Security,USCIS,People & Society,Public Safety)

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**NewsRoom**

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July 8, 2022

Border Patrol Used 'Unnecessary Force' on Haitian **Migrants**, Investigation Finds  
AFP via GettyBorder Patrol agents did not "**whip**" Haitian **migrants** in a  
viral incident that sparked outrage last September, but they did use "unnece...

Josh Fiallo

AFP via GettyBorder Patrol agents did not "**whip**" Haitian **migrants** in a viral incident that sparked outrage last September, but they did use "unnecessary force" while corralling the group, an internal report released Friday said. The report, which totaled 511 pages, said an investigation found "no evidence" that agents on horseback struck **migrants** with reins while patrolling the border near Del Rio, Texas. That finding contradicts what many-including President Joe Biden-believed at the time of the incident, which sent field agents to administrative duty and sparked an internal investigation. "It's horrible, what you saw. To see people like they did, with horses, running them over, people being strapped, it's outrageous," Biden said last September. "Those people will pay." While there was no **whipping**, the report doesn't exactly clear the agents involved-or their supervisors-of wrongdoing. Instead, the U.S. Customs and Border Patrol said in a statement that "failures at multiple levels of the agency, a lack of appropriate policies and training, and unprofessional and dangerous behavior by several individual agents" were uncovered during the investigation. Border Patrol singled out one agent for using "derogatory and vulgar" language while also putting a child at risk with the horse he was mounted on. "Hey! This is why your country's shit. You use your women for this," the agent, who was not identified, was heard yelling in one viral video captured by Al Jazeera. Friday's report said Border Patrol agents were not briefed on the agency's objectives when they decided to help Texas officials maintain an influx of Haitian **migrants** crossing into the state last September. Several of the **migrants** involved in the viral incident had already crossed the border into the U.S. and were issued tickets by Border Patrol that indicated they were awaiting processing, the report said. The Haitians were given permission to buy food and supplies for their families in Mexico, the report said, and the group in the viral incident was simply returning with provisions when mounted agents swarmed them, which explains why so many were holding bags of food as they were corralled. 1235368965 United States Border Patrol agents on horseback look on as Haitian **migrants** sit on the river bank near an encampment on the banks of the Rio Grande near the Acuna Del Rio International Bridge in Del Rio, Texas on September 19, 2021 AFP via Getty The report said these agents "used force or the threat of force to drive **migrants** back into the Rio Grande River despite the fact they were well within the territorial boundary of the United States." During a news conference Friday, Customs and Border Patrol Commissioner Chris Magnus said his agency has convened a review panel to determine disciplinary measures against four agents, but he declined to give specifics on what sort of punishment they could face. "Not everyone's going to like all the findings, but the investigation was comprehensive and fair," Magnus said. Read more at The Daily Beast.

---- Index References ----

Company: U.S. Customs and Border Protection.; GETTY COPPER INC.; Invest bank PSC

News Subject: (Crime (1CR87); Criminal Law (1CR79); Global Politics (1GL73); Immigration & Naturalization (1IM88); Legal (1LE33); Military Conflicts (1MI68); Police (1PO98); Smuggling & Illegal Trade (1SM35); Social Issues (1SO05); Top World News (1WO62); World Conflicts (1WO07))

Region: (Americas (1AM92); Caribbean (1CA06); Haiti (1HA10); Latin America (1LA15); North America (1NO39); Texas (1TE14); U.S. Southwest Region (1SO89); USA (1US73))

Language: EN

Other Indexing: (AFP; GettyBorder Patrol; United States Border Patrol; U.S. Customs and Border Patrol; Getty; Al Jazeera.Friday) (Joe Biden; Haitians; Chris Magnus)

Word Count: 491

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**NewsRoom**



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July 8, 2022

Section: /national-security

### Border Patrol agents did not strike Del Rio migrants, report finds

Nick Miroff

The Border Patrol agents on horseback who confronted Haitian families last September along the riverbanks in Del Rio, Tex., did not strike migrants with their reins but used "unnecessary" force and lacked proper guidance from supervisors, according to a long-anticipated internal report released Friday.

Widely circulated images of the incident along the Rio Grande showed U.S. agents swinging reins and screaming obscenities while briefly trying to block families bringing food to a sprawling, chaotic camp where 15,000 migrants arrived requesting entry to the United States.

Photos and video of the confrontation brought angry condemnation from President Biden and Democrats who said agents had whipped the migrants, likening the scene to the brutal imagery of American slavery. Biden said the migrants had been "strapped" and punishment would be meted out following a swift inquiry.

After nearly nine months, the Office of Professional Responsibility at U.S. Customs and Border Protection, which functions as the agency's internal affairs division, determined in a 511-page report that no migrants were struck or denied their legal right to seek asylum in the United States. But the report found that agents used unnecessary force and their decision to assist Texas state troopers' attempting to block the migrants was in conflict with the Border Patrol's objectives.

The internal report found "failures at multiple levels of the agency, a lack of appropriate policies and training, and unprofessional and dangerous behavior by several individual agents," CBP said in a statement.

Federal prosecutors who reviewed the incident announced in March that they would not bring criminal charges. The internal report issued Friday did not make specific recommendations for punishment.

Its findings have been sent to a CBP disciplinary review board, and a senior agency official will determine what sanctions, if any, will fall upon the agents, according to CBP officials who briefed reporters on Friday. The agents were reassigned to administrative duties after the incident.

Biden condemned the agents last year amid public outcry at the scene of horses charging at families and small children running out of the way.

"It's horrible, what you saw. To see people like they did, with horses, running them over, people being strapped, it's outrageous," Biden said at the time. "Those people will pay," he said, referring to the agents. "There is an investigation underway right now, and there will be consequences."

Vice President Harris echoed those comments in an appearance on ABC's "The View," saying the scenes "evoked images of some of the worst moments of our history, where that kind of behavior has been used against the indigenous people of our country, has been used against African Americans during times of slavery."

Video footage did not show anyone being struck, but some agents acted in ways that were not in line with official conduct. In one instance captured by Al Jazeera and widely circulated on social media, an agent confronted a man whose family was carrying goods, shouting: "Hey! This is why your country's shit! You use your women for this!"

The agent who used "derogatory and vulgar" language also put a child's safety at risk with his horse, the report found.

CBP Commissioner Chris Magnus told reporters that the statements from Biden and Harris did not prejudice the outcome of the investigation. "I don't believe there's been any issues with outside influence," said Magnus, who said he told investigators to disregard "anything they heard outside of their own work."

The incident occurred during a moment of significant strain for the Border Patrol. Over the course of several weeks, thousands of **migrants**, mostly from Haiti, forded the Rio Grande, camping under a border bridge and building makeshift shelters out of brush.

As water in the camp ran low, **migrants** and vendors began crossing back and forth to Mexico for supplies, which the Border Patrol allowed.

**Migrants** arriving to the camp were issued colored paper tickets to indicate when they had arrived, and the families crossing back and forth to Mexico for supplies were attempting to show the agents on horseback their tickets as they crossed.

Texas Gov. Greg Abbott (R), a fierce critic of Biden's immigration policies, had directed Department of Public Safety troopers to block off a different crossing point along the river by parking their vehicles in a tight formation he called a "steel wall."

Border Patrol officials agreed with that decision, because the crossing point — across a spillway with dangerous currents — has been the site of drownings, officials said.

On Sept. 19, as **migrants** bathing in the Rio Grande attempted to reenter from Mexico at a boat ramp area, Texas state troopers attempted to block them. The Border Patrol agents on horseback had been told to assist the state troopers, and when they sought guidance from a supervisor, they were told to help, the report found.

That was not, in fact, what Border Patrol supervisors wanted, having determined that the agency couldn't adequately supply the camp and that **migrants** should be temporarily allowed to cross back and forth to Mexico for provisions, according to the report.

The horse patrol agents gave "inconsistent answers" to investigators' questions about whether the aggressive manner in which they swung their reins was in keeping with CBP training, the report found. They also gave uneven responses to questions about their preparation for crowd control events and operations, it said.

CBP officials who briefed reporters on the findings said many other agents in Del Rio performed their duties admirably under extreme duress.

"There is no justification for the actions of some of our personnel, including unprofessional and deeply offensive conduct," Magnus said. "Unfortunately this incident overshadowed our agents' incredible humanitarian and law enforcement efforts in Del Rio last September."

The Del Rio crisis ended after the Biden administration began flying many of the **migrants** from the camp back to Haiti under the government's pandemic-linked Title 42 public health policy.

Some asylum seekers were released into the United States, but thousands of others crossed back to Mexico to avoid swift deportation to their devastated homeland.

The Sept. 19 confrontation along the riverbanks occurred on what officials described as the most challenging day of the episode, when crowds were largest, supplies low and tensions high.

The CBP disciplinary review board has proposed sanctions for four agents, according to the statement. Potential punishments for the agents could range from unpaid suspensions to a less severe "letter of reprimand" noting the improper conduct, according to former CBP officials familiar with the agency's disciplinary process.

Rep. John Katko (R-N.Y.), the ranking GOP member of the House Homeland Security Committee, blasted the report's findings and blamed Biden for the incident.

"This report is nothing more than a desperate attempt by the Biden administration to justify their initial knee jerk rush to judgment that these Border Patrol agents were guilty of misconduct," Katko said in a statement.

"Thus, they set out on a mission to save face and make an example out of these Border Patrol agents, who were only attempting to manage the untenable humanitarian and security crisis President Biden handed down to them," he said.

On Friday, the Border Patrol union posted statements on Twitter denouncing the Biden administration for "rank hypocrisy" and calling the president, vice president and Secretary of Homeland Security Alejandro Mayorkas "liars."

The union's top official did not respond to a request for comment but is expected to challenge any proposed disciplinary measures for the agents.

**--- Index References ---**

Company: PT Indofood CBP Sukses Makmur Tbk; ABC BANKING CORPORATION LTD; Al Jazeera Steel Products Co SAOG; DEPARTMENT OF PUBLIC SAFETY; BORDER BANCSHARES, INC.

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**NewsRoom**

## NewsRoom

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July 8, 2022

Elon Musk's Twitter Deal in Doubt?; Texas Border Surge; Interview With  
Sen. John Barrasso (R-WY); Inflation Continues; Strong U.S. Jobs Report; F...

Elon Musk's Twitter Deal in Doubt?; Texas Border Surge; Interview With Sen. John Barrasso (R-WY); Inflation Continues;  
Strong U.S. Jobs Report; Former Japanese Prime Minister Assassinated

CHARLES PAYNE, FOX NEWS ANCHOR: Do the Dutch have it right? The Dutch poised to make working from home a  
legal right. Could it happen here? We're going to explore that in just a moment.

But, first, this: the economy cranking out 372,000 jobs in June. That's much better than expected. But will the strong showing  
mean an even bigger rate hike by the Fed just as inflation continues to eat away at wage gains?

Welcome, everyone. I'm Charles Payne, in for Neil Cavuto. And this is "Your World."

To Peter Doocy on how the White House is responding -- Peter.

PETER DOOCY, FOX NEWS WHITE HOUSE CORRESPONDENT: And, Charles, White House officials admit there are  
some problems with inflation, but they see those as a very, very small part of an otherwise very, very good economy.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: Today's economic news confirms the fact that my economic plan is  
moving this country in a better direction.

(END VIDEO CLIP)

DOOCY: The reason the president says that as he sees a low unemployment rate as above all, as top above all.

But, right now, wages are not rising as fast as prices on pretty much everything else, which Republicans say they see as a  
blinking red light.

(BEGIN VIDEO CLIP)

REP. NICOLE MALLIOTAKIS (R-NY): The problem is, is that every single day, Americans are hurting when they're either putting gas in their tanks, when they're trying to put food on their table, when they're trying to pay their rent or pay their energy bills.

(END VIDEO CLIP)

DOOCY: All of these things are out of the president's control, though. And so White House officials say those are the only things they believe is hindering their economic agenda.

(BEGIN VIDEO CLIP)

KARINE JEAN-PIERRE, WHITE HOUSE PRESS SECRETARY: Now, remember, this price increase is due to Putin's tax hikes -- Putin's war, brutal war on Ukraine, and that's why we have seen the increase of gas prices.

That's why we have seen the increase of food.

(END VIDEO CLIP)

DOOCY: So they're still talking about the negative impacts of the war in Ukraine, even though the press secretary says -- and I will read this just so that I make sure I get the quote exactly right -- We are stronger economically than we have been in history -- Charles.

PAYNE: Wow. That's a bold statement. Peter, thank you very much.

So, as we mentioned, wage gains, they're having trouble keeping up with inflation. In fact, average hourly earnings were up 5.1 percent in June from a year ago, but that compares to the latest inflation number, which is up 8.6 percent.

Brandon Arnold is the executive vice president at the National Taxpayers Union.

Brandon, let me start with the one thing that the politicians like to talk about when it's lower, and that's the unemployment rate. It's a farce. It really is a farce. I hate that we use it. I hate that we in the media pick up on it. It is the worst metric out there.

I will give you an example why; 353,000 people left the labor force last month; 353,000 left. That's why the number is where it is right now. That's not exactly a booming economy, is it?

BRANDON ARNOLD, EXECUTIVE VICE PRESIDENT, NATIONAL TAXPAYERS UNION: No, and that's exactly right.

We see a labor force participation rate in the low 60s. That's very, very low. Some of that is due to demographic shifts. Some of that is certainly due to spending programs that have been created during the pandemic that have effectively kept people out of the work force, because it's paid them not to work.

We need to get people back into the work force. That is a more reliable predictor of the health of this economy, which I think is actually on pretty shaky territory, despite what the president says.

PAYNE: It's ironic about what you say, because I interview these big Wall Street folks every single day. And many of them brag about the fact they say as much as \$2.5 trillion in excess savings.

I never heard of excess savings. But, nevertheless, it's all that stimmy money out there. Some of it's still sloshing around. But isn't the irony is that that's what really sparked this inflation thing? And your purchasing power gets less every single day.

ARNOLD: Yes, that's absolutely right.

I mean, the stimulus package that they passed at the beginning of last year put \$2 trillion into the economy when the Fed was already flooding the economy with dollars. That ramped up demand for goods at a rate that was just unprecedented at a time when we're facing these supply chain constraints.

That's why we have 8.6 percent inflation right now. And that's why, despite strong wage growth, 5.1 wage growth, that's very strong wage growth, people are feeling left behind because they're losing purchasing power. They're losing the ability to buy stuff that they were accustomed to affording just a few months ago that's now out of reach for them.

PAYNE: So, on top of all of this, we have got the Federal Reserve, which its job is -- their goal is actually to make our wealth effect go backwards, to the take money out of our pockets, to make us less prosperous.

I mean, that's really tough, when there are some signs that parts of this economy have already begun to slow. So what do you make of that?

ARNOLD: Yes, we absolutely need to see action from the Fed that would rein in some of the excessive dollars they have pumped into the economy.

We are going to see a Federal Funds Rate increase later this month. I think you can put that in the books, especially with these job numbers that suggest the economy is doing a little bit better than most people thought. I still think we're in recession territory here. We had negative economic growth in the first quarter this year. Preliminary data from the Atlanta Fed suggests that we might have had negative growth in the second quarter. We will see later this month if that's true or not.

But I think we need to proceed with a great deal of caution here. And by no means should Congress began contemplating a \$1 trillion tax increase. That's just absolutely ludicrous.

PAYNE: You just read my mind. We're four months out from the midterms. And you know there's going to be some sort of Hail Mary from this administration. And it will include tax hikes, we heard a little bit of that today, on the rich, pay their fair share, but also pumping more money into the economy where I just said -- the experts say there's almost \$3 trillion extra already.

What would that do. If they were to somehow get even more money into this economy, what would that do with this inflation picture?

ARNOLD: Well, we're seeing that at the state level, to some extent, we're seeing stimulus packages passed in California and a dozen other states.

And that's the exact wrong prescription, because what it's doing is pushing more consumer demand. It's putting upward pressure on prices, when we need prices to fall, obviously. And some of the strategies that we're hearing from this Democrats -- the Democrats on Capitol Hill are really, really concerning that tax people until they're poor, and then they can't afford to buy stuff, and that will bring down inflation.

That's just an absolutely backwards mentality that's really, really unfair to Americans, especially people in the working class that are barely getting by in this economy.

PAYNE: So, bottom line, before I let you go, we're in for a tough ride, bottom line?

ARNOLD: No doubt about it. We're in for a very rocky ride. And I wish we had a better, steadier hand at the tiller right now. But, unfortunately, I don't think this president is pointing us in the right direction. And this Democratic Congress, they're not much better.

PAYNE: It's so crazy. We came into last year so ready to erupt, pick up where we left off February 2020. Did not have to be this way.

Brandon, thank you so much. Really appreciate it.

ARNOLD: Thanks, Charles.

PAYNE: All right, so the question, of course, is what the impact is going to be on the upcoming midterm elections.

Let's ask GOP pollster Lee Carter.

Lee, better-than-expected numbers, and, of course, you get the usual media outlets like Axios saying, what recession, Politico saying, what recession? And if anybody were able to the answer, they say, the recession that's been bogging me down for the last few months.

How far will this go toward easing some of the political pain that the president's under?

LEE CARTER, REPUBLICAN POLLSTER: It's going to go nowhere.

There was polling that came out this morning that was talking about, what do Americans -- what are Americans most concerned about?; 77 percent say the economy. Only 10 percent say jobs, right? Jobs is not part of this equation. What is part of what they mean when they're talking about the economy is two things.

Number one, its inflation. And, number two, it's personal finances; 44 percent of Americans are saying that they have felt the impact on their personal finances in the last month. But, I mean, in the last four weeks, almost half of Americans are saying they have had a direct impact on their savings, on their wallet, on their look at the future.

Jobs is not going to change that, because people feel fine about jobs. We have -- anyone feels like they could get a job if they wanted to.

PAYNE: Sure.

CARTER: That's not the issue. The issue is, right now, two-thirds of Americans are having problems paying their bills.

No matter what the jobs numbers say, no matter what the White House says right now, the American people are smart. They're saying, this is not what my experience is. When 10 percent of Americans are talking about, they're having trouble paying for groceries and having to adapt their grocery shopping list, when you have 30 percent of Americans talking about how gas and energy prices are making them make changes in their financial plans and decisions, we have got a real problem.

And it's not going to be changed by a jobs number that looks a little bit better, and that -- and, still, we have got -- we have got salaries that aren't keeping pace with the inflation that we're all feeling at home.

PAYNE: Right.



And we get the next inflation read on Wednesday. The estimate is, that's going to be 8.8 percent. So we might actually see a 9 percent inflation, which would shatter the last 50, 60 years.

When the White House tries to divert from all of the things that you just talked about, always bragging about how great they're doing, always bragging about their record, the greatest economy ever, that kind of nonsense, does it hurt them?

Do you see any evidence in the polls that people are also insulted, because that's adding sort of insult to injury?

CARTER: Yes, I think nothing kills trust faster than a contradiction.

So if you go out there and say, look, your experience is false, it's not true, the economy's never been stronger, and your personal experience is that you're struggling more than you have in a long time, and you have less hope than you ever have, you feel like that administration is completely out of touch.

I mean, most Americans are saying -- I mean, 77 percent of Americans -- this is across Republican, Democrat independents -- are saying, we have got to do something to address the economy, and what is our number one issue right now. And this White House is saying, the economy is fine. It's never been stronger.

That gap is going to make us feel like they're completely out of touch.

PAYNE: Right.

CARTER: And they're going to look elsewhere for solutions.

PAYNE: Don't believe your lying eyes when you're in the grocery line cashier.

Hey, Lee, earlier today, President Biden signed an executive order on abortion rights, and seems to be trying to make this an issue for November. Take a listen.

(BEGIN VIDEO CLIP)

JOE BIDEN, PRESIDENT OF THE UNITED STATES: For God's sake, there's an election in November. Vote, vote, vote, vote.

(END VIDEO CLIP)

PAYNE: How's that coming over?

CARTER: Well, look, I mean, abortion is undoubtedly becoming a more important issue; 24 percent of Americans are now putting this in a top five issue. And that's up 14 points just since December.

So this change of in Roe vs. Wade has certainly activated a number of voters. But it isn't more important to the American people right now than the economy. The economy is still the number one issue. That's a winning issue for Republicans. I'm not sure if people are going to make the decision saying that a woman's right to choose is more important than it is to have the economy up and running and the future of our country and for our children.

PAYNE: Yes.

CARTER: Now, it's a tough call because there's a lot of women who are out there who are very, very important voters.

We looked at the 2020 election and said this was decided by suburban women voters. If those women are going to start to say look, it's not just about abortion, actually, what they're feeling is, two-thirds of women are now saying: I actually feel threatened about my rights as a woman.

And it's not just about abortion. It's much, much more. That could actually impact the election unfavorably for Republicans and favorably for Democrats.

PAYNE: Right.

CARTER: But I'm just not sure that it's going to be enough. It's going to have -- if you look at the numbers right now, it's not suggesting that's going to be enough to make a difference for Democrats.

PAYNE: It looks, though, that that's the path that the president's going to go down.

And for anybody looking for economic help, I guess that means it won't be coming.

Lee, always appreciate it.

CARTER: Thank you.

PAYNE: And, folks, on that note, I want to ask you. Don't forget, I have got a special, "Inflation in America," July 26. It is all happening on "Making Money" on FOX Business 2:00 p.m. Eastern time. It's the hangover edition. So send your questions to [investedinyou@FOX.com](mailto:investedinyou@FOX.com).

So, what is the White House saying after a top Democrat ripped into the president's trip to Saudi Arabia to beg for oil, even though the administration begs to differ? We will get the latest.

Plus, you will get reaction from Republican Senator John Barrasso right later on this hour.

Also, should working from home be a legal right? One nation is about to make that happen. Can it happen here too?

(COMMERCIAL BREAK)

PAYNE: Well, it sounds like the Dutch want to ditch that morning commute. The Netherlands is poised to make working from home a legal right.

FOX Business' Jackie DeAngelis has the details -- Jackie.

JACKIE DEANGELIS, FOX BUSINESS CORRESPONDENT: Good afternoon to you, Charles.

Well, life has changed in so many ways after the pandemic. And one of those is that continued trend for people to want to work at home. In the U.S., companies are struggling to get people back into the office. Some lines of work have eliminated it. Some businesses are using it as a perk to attract top talent.

But in the Netherlands, Parliament has approved legislation to make working from home a legal right. So, this is definitely first, but it still needs to pass the Senate over there. Now, currently, Dutch employers can reject a request to work at home without offering a reason or explanation.

The new laws would force employers not only to consider the request, but then give a reason if they decide to deny that request. Indeed, working from home, or WFH, as it's commonly abbreviated in text messages now, is popular in our country.

An April ADP survey found two-thirds of respondents said, if they had to return to the office full time, they would find a new job. And there are many other issues to consider as well, commute time and cost, in some cities, crime and safety of public transportation big issue, like here in New York City.

Others say they just enjoy the flexibility, and that is a huge perk for them. The majority of Dutch workers are in agreement. A recent poll showed that 70 percent of those in the financial business and government sectors, they wanted some sort of a hybrid model. Only 10 percent said they preferred full-time office work. And only 20 percent said they preferred being at home the entire week.

Now, the big question for employers, of course, is productivity. When we work at home, are we producing the same work product? And the jury's still out on that one, Charles.

PAYNE: Yes.

Well, I have a small business. For me, the jury is not out.

DEANGELIS: Right.

(LAUGHTER)

PAYNE: We got to get back to the office.

(LAUGHTER)

DEANGELIS: Fair enough.

PAYNE: Jackie, thank you so much. I appreciate it.

Hey, so should the U.S. be going Dutch?

FOX News legal analyst Mercedes Colwin is with us, along with Kingsview Asset Management's Scott Martin.

Scott, I want to pick up on the productivity thing. In America, the last labor productivity report we had was down 7.3 percent. Now, there's a lot of variables in there. But you hear folks from Elon Musk to Jamie Dimon all saying, we need people to collaborate face to face.

I think this would put employers at a serious disadvantage. Your thoughts?

SCOTT MARTIN, FOX BUSINESS CONTRIBUTOR: It does, Charles.

And you're right about the productivity numbers. They are ugly. And what a coincidence. That kind of goes in line with a lot more folks working from home over that time period, huh? So, just data, just statistics.

But I think Jackie pointed out some interesting things. I was shocked to hear that they actually do work in Europe.

(LAUGHTER)

MARTIN: That's a new one for me. But let's say it does spill over to the United States.

We hire a lot of folks every year, Charles, and I will tell you, man, a lot of folks that we have the requirement for the job, whether it's the trading and the operations compliance at our firm, we require those folks to be in the office.

And a lot of folks -- I mean, look at the JOLTS survey, by the way, the Job Openings and Labor Turnover Survey -- try to say that three times fast -- 11.3 three million jobs are out there for folks to take. But similar to what we have been trying to hiring -- trying to hire this year, Charles, these folks don't want to come into the office.

PAYNE: Right.

MARTIN: Or they want to work two days from home, then three, then four. And it keeps accelerating, and get full benefits and full salaries.

So, as Elon Musk pointed out, we want to require, at least on our firm, folks to be in the office for a minimum amount of hours or give up some of the benefits or the salary if they want to stay home.

PAYNE: Mercedes, the legalities of this, could the nation even force -- would this even be legal?

MERCEDES COLWIN, FOX NEWS LEGAL ANALYST: Well, it could be?

I mean, we saw that we have regulations that a lot of corporations were concerned about during the COVID. And, obviously, we're still in the COVID phase.

But when you look at some of the regulation that's come down, yes, they can make those types of laws. But, frankly, it's not necessary. I mean, we saw a lot of overreach by some of the regulation that came down during the last couple of years.

So there are mandates that can come forward and regulate this type of hiring and firing and whatnot. But, at the end of the day, if the employees want to work from home, guess what? They can choose other places to work. Employers have to make the decision whether that talented candidate who wants to work from home can actually work in their offices without this government oversight and regulation.

I think it's kind of ridiculous. It's self-regulating. The corporations can do it on their own without needing government to really have a say in it.

PAYNE: Right. Right.

I mean, that right now, that's the way it is. But there's a big push in this country, to sort of follow what Scott was saying, the sort of European model and things like that. And if they did try this, though, I mean, would there be a good challenge?

What I worry about, for instance, the American Psychiatric Association...

COLWIN: Sure.

PAYNE: ... did a big survey earlier this year. And over half the folks complained about some sort of mental issues associated with having worked from home, loneliness, isolation, those kinds of things.

COLWIN: Sure.

PAYNE: I can see people trying to sue their employer over something -- a decision that they made.

COLWIN: And they can. I mean, that's a great point, because, Charles, they can sue under the Americans With Disabilities Act and say, I need to work from home, and for these following reasons.

They can sue under the local anti-discrimination laws. There are so many laws already on the books that can regulate working from home. It's not necessary to then clutter the courts again with other rules and regulations, and encumbering corporations that either can self-regulate, because they want that talented candidate, or, two, would be subject to discrimination laws that already exist if any of those decisions are being challenged in court.

So I can't imagine a universe that we would see these types of regulations coming to the United States. But, then again, things have been so different in the last couple of years.

PAYNE: Right.

COLWIN: Who knows what the future will hold.

PAYNE: You know, also these last couple of years, Scott, we saw where the stock market has sort of been a proxy for the all of this.

A year ago, all of those work-from-home stocks went through the roof, right, the Pelotons of the world, the Zooms of the world, the DocuSigns of the world. All of a sudden, they're crashing big time. Is the stock market at least saying, hey, what everyone was saying was going to be the new normal maybe won't be the new normal?

MARTIN: Yes, it was a little bit of a chase that was on, Charles.

But you're right. I mean, people still are staying home, which is interesting vis-a-vis those stocks. And those stocks are still in the tank.

So it's an interesting aspect. I like what Mercedes said, though. It should be a self-regulating -- like, the free market will figure it out. But that's one of the reasons, guys, that we have so much trouble filling these jobs. A lot of these folks out there that are the job seekers don't want to do the things that the employers want them to do with respect to coming to the office.

I'm curious what Hunter Biden's companies are going to do, though. Let's see what their move is. And then maybe we can follow that.

PAYNE: Of course, Mercedes, in New York, you look at things like subway use is still under 50 percent. Meanwhile, I think everybody goes to the office down in Miami. Everyone's moving down there.

So I guess it might have something to do with where you are, right? And, listen, there's some other issues that kind of influence whether we want to go to work or not. And, in New York City, I think it might be crime and just the hassle of trying to get to the office.

Mercedes?

COLWIN: Oh, what? I'm sorry. You're talking to me, Charles.

PAYNE: Yes.

COLWIN: Yes.

I mean, look, there is obviously a lot of challenges when it comes to certain jurisdictions around the country. But New York City, for one, has its own built-in challenges.

PAYNE: Yes.

COLWIN: And I think commuting is one. Traffic is crazy, as you know.

I'm sure all of us travel -- who travel into the city on a daily basis are dealing with overwhelming traffic. And the rising crime is a real issue.

PAYNE: Yes.

COLWIN: As an employer myself, I -- we employ a lot of people in New York City.

MARTIN: Gas prices too.

PAYNE: Yes. Yes.

COLWIN: It's a big -- it's a great point, Scott. These gas prices, \$6-plus out here, trying to get into the city.

PAYNE: There's a lot of things. But you know what?

COLWIN: So, all of that combined, there's a lot of challenges.

PAYNE: I came back to the office early because I missed my colleagues.

Thank you both very much. Appreciate it.

COLWIN: Yes.

MARTIN: And we missed you.

(LAUGHTER)

PAYNE: All right.

All right, so it's the first full day after Texas Governor Greg Abbott's order to round up and return **migrants** to the border. How's it going? Bill Melugin will show us.

Also, Border Patrol Union Chief Brandon Judd on that agency's findings onto the horseback investigation.

And find out what drove this brazen attack at a New York restaurant. You will not believe it.

(COMMERCIAL BREAK)

PAYNE: Forget about road rage. How about restaurant wage -- rage?

Find out what took these customers over the edge and why over-the-top incidents like this continue to pop up. It's mind-boggling.

And we're back in 60 seconds.

(COMMERCIAL BREAK)

PAYNE: The chaotic moment as a gunman is taken down after he shot and killed former Japanese Prime Minister Shinzo Abe. The 41-year-old man in custody, with questions swirling about how and why this happened.

To Alex Hogan in London with the latest details -- Alex.

ALEX HOGAN, FOX NEWS CORRESPONDENT: Hi, Charles.

The former Prime Minister of Japan Shinzo Abe has been assassinated. He was the longest-serving prime minister in Japan. And now world leaders around the globe are speaking out, voicing their solidarity with Japan. U.S. President Joe Biden said that he was deeply saddened to hear the news and outraged before stopping at the Japanese Embassy in Washington today.

The president also highlighted the strong relationship between the U.S. and Japan, which was bolstered under Abe's administration. Former German Chancellor Angela Merkel called the attack a cowardly and vile assassination. Ukrainian President Volodymyr Zelenskyy tweeted his deepest condolences to the family.

Here in London, Queen Elizabeth II saying in part: "I have fond memories of meeting Mr. Abe and his wife during their visit to the United Kingdom in 2016. His love for Japan and desire to forge ever closer bonds with the United Kingdom were clear."

Gunfire broke out earlier today in the western part of Japan during Abe's speech at a parliamentary election campaign. Bullets striking the prominent politician twice, in the back and in the neck. Doctors at the hospital were unable to resuscitate him. Police arrested the 41-year-old suspect, who is a former Japanese Navy veteran.

Now, worth keeping in mind, Japan has extremely strict gun laws and it has made it one of the safest nations in the world, with hardly ever any gun violence. That being said, this man, according to police, made this weapon at home. It was a double-barreled 15-inch musket-like weapon, a similar weapon that they found in his residence when they later searched his home - - Charles.

PAYNE: Alex, thank you very much.

Switching gears now to the crisis at our border and a key report from the Customs and Border Patrol on agents who were accused of **whipping migrants** in Del Rio, Texas. We're going to actually talk to Border Union President Brandon Judd in just a moment.

But, first, I'm going to go to Bill Melugin in Eagle Pass, Texas, with the very latest -- Bill.

BILL MELUGIN, FOX NEWS CORRESPONDENT: Yes, Charles, good evening to you.

So, it's basically been 10 months now since this investigation was first launched into these false narrative allegations that Haitian **migrants** were **whipped** by horseback agents in Del Rio last summer. And just a couple of hours ago, CBP finally held a press release -- a press conference -- excuse me -- and released the results of their investigation.

And they confirmed they found no evidence whatsoever that any Haitian **migrants** were **whipped** or struck by these horseback agents. However, they did announce they're going to be disciplining four of these horseback agents for administrative violations.

Specifically, they're accusing these agents of working in an unsafe manner, as well as unprofessional work conduct. They highlighted -- highlighted some specifics, accusing one agent of using derogatory language and maneuvering his horse around a small child in a dangerous way.

They also accused several other agents of using -- quote -- "threat of force" to drive **migrants** back into the river. But, again, the highlight, they say there was no evidence that anybody was **whipped**.

I am told by multiple federal sources discipline proposals were sent to the agents yesterday, and those discipline proposals include up to 14 days of unpaid suspension. Take a listen to what the CBP commissioner had to say earlier today.

(BEGIN VIDEO CLIP)

CHRIS MAGNUS, COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION: OPR found no evidence Border Patrol agents involved in this incident struck any person with their reins, intentionally or otherwise.

(END VIDEO CLIP)

MELUGIN: And I'm told by multiple sources that these agents will have a chance to fight back against these allegations and respond to them. It's just not going to be automatic suspensions. They will have a chance to address these allegations and give their side of the story.

It's also important to point out a lot of the media, a lot of politicians and the president himself pushed this false narrative in the first hours and days after this incident last year. CBP confirming today that narrative was false, nobody was **whipped**. We will send it back to you.

PAYNE: Thanks, Bill.

I want to get right to National Border Patrol Council President Brandon Judd.

Brandon, a lot to get in to. First, though, this report from CBP on the agents being cleared of -- quote -- "**whipping migrants**." And just to remind the audience, and Bill alluded to it, at the time, President Biden said: "It was horrible to see, to treat people like they did, horses, nearly running them over, people being strapped, it's outrageous. I promise you, those people will pay."

At the time, even the photographer said that wasn't true. But that was the narrative the White House went with.

BRANDON JUDD, PRESIDENT, NATIONAL BORDER PATROL COUNCIL: Yes, Charles, and people can make mistakes. Even President Biden can make mistakes, and it can be excusable if he comes back and he clarifies that mistake.

If he would have come back and he would have apologized to those agents for making a false accusation before all the evidence was out, that would be one thing. But this president refuses to take any responsibility for anything that he does, including false statements that ruin agents' careers.

These agents had been on administrative duty for the past 10 months. Their careers are basically over. And they were ruined because the president of the United States failed to let an investigation take place. He failed to listen to all the evidence. He only pandered to open border activists. And that's why these agents are now suffering.

PAYNE: Yes, Brandon, also, I got to be honest with you. It hurt me as a black man, because every time President Biden opens his mouth, he's telling black Americans that no one likes you, that you're under threat, that government officials are out to harm you and hurt you.



If you're a little black kid watching TV, and you listen to the president, you think these people are chasing you down and hitting you with the **whip**. And they deliberately do this. It's much more than the border. They deliberately stoke fear. And they divide us as a nation.

And it's the absolute most despicable thing possible for the person in the White House to do. So, do you expect an apology?

JUDD: No. No, he's not going to apologize.

And what makes it very difficult about that, it makes it nearly impossible for me and my fellow agents to put on uniforms and go out and do the job. We know that we're going to be scrutinized. We know that we have that target on our back. We know that anything that we do that the president doesn't like, we're going to be in trouble for.

These people that did the investigation, they are executive branch employees. They fall directly under the president. The president ruined those three agents' lives, my three agents' lives. He ruined those agents' lives. He could have ruined the investigators' lives if they didn't find that they did something wrong.

When you listen to Commissioner Magnus say that he has confidence in the investigation, of course he's going to say that. He's a political appointee. If he wouldn't say that, the president could remove him. The president could have ensured that those OPR investigators, if they didn't find some sort of wrongdoing, he could ensure that their careers would have been ruined as well.

PAYNE: I got less than a minute to go.

But let me ask you before I let you go about Governor Abbott's order, this new order to return **migrants**. How's that working out? Do you think that's the right move?

JUDD: It is the right move. It's up to the governor to decide what he can do under his authority.

The courts have to step in and tell him that he can't. But he has to develop a plan and program first and decide for himself whether or not it's legal. I'm glad that he's stepping up. I'm glad that he's doing what is necessary to secure the border that the White House isn't doing. Good for him.

PAYNE: Brandon, a lot of folks, though, do appreciate the work you and your men do. You should know that. Thank you very much. Appreciate it.

JUDD: Thank you, Charles. Appreciate it.

PAYNE: All right, folks, new video to the newsroom showing customers attacking restaurant employees, and you will not believe what started it.

(COMMERCIAL BREAK)

PAYNE: Well, this video has just gone viral coming into our newsroom today, an unbelievable, brazen attack by a group of customers at a Bel-Fries restaurant in New York City.

And it reportedly all started when these women found out that there would be a charge for extra dipping sauce. The co-owner of the eatery is quoted as saying his employees are now fearful for their lives.

So what is it going to take to stop incidents like this?

Let's ask former New York City police officer Joe Gamaldi.

Joe, it's -- I mean, it's -- I see these videos almost every single day just floating around on social media. You wonder if people do them in part to be in social media, but it's certainly out of hand, isn't it?

JOE GAMALDI, FORMER NYPD OFFICER: Yes, absolutely.

I mean, this incident is just a stark reminder of the culture of lawlessness that is gripping this country. I mean, take these three young ladies. And I hesitate to call them ladies, based on the behavior that we saw in that video, Charles.

But they're jumping all over the counters. They're assaulting employees, all because they had to pay \$1.25 extra for sauce. Sorry, ladies, inflation impacts sauce prices too. But to make matters worse, we get the idiots in the background cheering them on and videoing.

But this is what happens when people know that they will not be held accountable for their actions, thanks to woke DAs like Alvin Bragg in Manhattan. These criminals know that they're going to get a P.R. bomb when they just pinkie promise to show up to court. Their charges are going to get dismissed, or they're not even going to have to show up to court on their court date.

I mean, it's a complete joke. And it just continues to perpetuate this lawlessness we're seeing. And you know what it really says? For the politicians that support this crap, they're telling victims, we don't give a damn about you. And they're telling businesses, we don't care if you can't keep your doors open. We don't care if your business needs to look like a military installation just to operate, because, in the end, it's the woke agenda over people. And it's disgusting.

PAYNE: Yes, the large businesses are picking up and leaving, and the small ones are struggling to stay afloat.

And, of course, this week in New York City, we're reminded in just how far this kind of stuff can go with the incident in a bodega that resulted in the death of a young man by a bodega worker, who most people feel from watching the video was defending himself.

I mean, so, something like that, could that be a clarion call? Could that jar the folks in charge who, for some reason, have bought into this idea that the direction they're going in is fair and right? And it actually puts us all in danger.

GAMALDI: Yes, I don't think that's going to wake them up at all.

I mean, Alvin Bragg is charging this bodega owner for defending himself from someone who was choking him. And he charged him with murder. The only thing that is going to wake these folks up is holding them accountable at the ballot box. Put their ass on the unemployment line. They did it out in San Francisco to Chesa Boudin. They're trying to do the same the George Gascon.

That is the only thing they respond to. And I'm telling you, Charles, the current path we are on is not sustainable. Violent crime is up 40 percent in New York. Seattle, murders are up 55 percent, Portland, 21 percent, in New Orleans 36 percent.

We are seeing crime and disorder everywhere. It's not sustainable if we want a civilized society.

PAYNE: But, at the end of the day, society itself is going to have to rise up. And I think they will.

Joe, thank you very much. Appreciate it.

GAMALDI: Thank you.

PAYNE: All right, folks, Twitter shares falling even further.

Is this is -- that Elon Musk deal really falling apart, Kelly?

KELLY O'GRADY, FOX BUSINESS CORRESPONDENT: Yes, the Twitter takeover roller coaster continues, Charles.

Is Elon Musk buying it? Is he not? We will have the latest for you coming up.

(COMMERCIAL BREAK)

PAYNE: Hashtag, no deal. Shares of Twitter dropping 5 percent today amid swirling reports that Elon Musk's bid for the company is in real trouble.

To Kelly O'Grady with the very latest -- Kelly.

O'GRADY: Hey. Good to see you, Charles.

Well, Elon Musk's Twitter bid has been on hold for quite some time already over this question of spambots. Now, after completing their own evaluation, the tech titan's team reportedly can verify its claim that fake accounts make up less than 5 percent of users.

Now, sources in the banking world telling me we can expect potentially drastic action from Musk's team. And the stock reflected that turbulence, closing 5 percent down and trading today, as you said, and 32 percent lower than the deal price.

It appears, though, Twitter is trying to get out in front of that. Sources inside the company telling me management is spooked and yesterday reportedly highlighting that their team removes more than a million spam accounts each day.

Elon Musk sharing his skepticism, though. In response to a user asking how many new real accounts it adds per day, he tweeted: "That is indeed the real question."

Now, another indication the deal is cooling is that those working with Musk have allegedly stopped negotiating with him investors for further financing commitments.

Now, zooming out for a second, I mean, this deal has been a roller coaster. Musk makes dramatic movements or threats, and then Twitter breaks. This could be a negotiating tactic to get a lower price with the tech sell-off we have been seeing in the market. Some say reneging is also a possibility.

(BEGIN VIDEO CLIP)

DAN IVES, WEDBUSH SECURITIES: I believe, right now, there's more than a one in three chance that he looks to walk, fight Twitter in court.

And, look, if Twitter is a stand-alone company, that's a sub-\$30 stock. And that's why, right now, I think this is a game of sort of high-stakes poker between Musk and the Twitter board, backs against the wall.

(END VIDEO CLIP)

O'GRADY: Now, if Musk does try to walk, he likely faces a messy court battle.

We don't know yet what his team found. But he does have cause to break the deal if he can prove Twitter intentionally misrepresented its user base. And, Charles, that would certainly help Tesla stock, which is in fact up today.

PAYNE: All right. Hey, thank you so much, Kelly.

Hey, talk about a kick in the gas. Now a top Democrat is slamming President Biden for his upcoming trip to Saudi Arabia, as we try and deal with these high gas prices.

GOP Senator John Barrasso is here on that next.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

BIDEN: Gas prices, still way too high, have fallen now 25 days in a row. We still have a lot of work to do.

(END VIDEO CLIP)

PAYNE: President Biden saying there's still work to be done on gas prices, this as he prepares to travel to Saudi Arabia next week.

He says he won't press the Saudis directly on oil production, but California Democrat Ro Khanna isn't buying it.

(BEGIN VIDEO CLIP)

REP. RO KHANNA (D-CA): Look at the irony. We're going and begging Saudi Arabia for oil while we're exporting our own oil around the world.

I mean, it makes no sense. And the Saudis are going to play us. I don't -- I have no confidence that the Saudis are going to do something that's actually going to bring prices down in this country.

(END VIDEO CLIP)

PAYNE: Wyoming Senator and Republican Conference Chair John Barrasso joins me now to discuss.

I will say this, Senator. He might get the Saudis to make some sort of promise that he will bring back, President Biden will bring back as a political victory, but we know, to -- and I got to give Ro Khanna props.

I mean, golly, he will tell you straight sometimes, won't he? But it does feel like one of these things, you just scratch your head, like, why? I mean, this is the pariah country that he's going to, and, all of a sudden, and he's not going to ask for oil?

SEN. JOHN BARRASSO (R-WY): If you want to bring down the cost of energy in America, you have to open up the production of energy in America. It's as simple as that.

And, instead, Joe Biden goes genuflecting in front of dictators. He's going to Iran, Venezuela, and now, next week, Saudi Arabia, when we have the energy in the United States. The president turns to gimmicks like release from the Strategic Petroleum Reserve, which is now down to a level the lowest it's been in 40 years. That's for emergencies, Charles.

He wants to do this gas tax holiday. Look, we have the energy here. People understand that prices are high because Joe Biden has been strangling American energy production since his first day in office, when he killed the Keystone XL pipeline.

So people are furious with this president, and this president and his party are going to pay a very high price come November.

PAYNE: Right.

Well, President Biden -- candidate Biden campaign on killing the oil industry. He said it proudly. He said it with force. He said it with conviction. And that's why it was probably the first act that he did in his first day in office.

But what do you make now of the sort of blame game? It's gone all over. It's been Putin. It's been this. It's been that. But over the last -- over this past weekend, he took aim at small ma and pa gasoline station owners. These folks barely make a living. And they make their profits on soda and cigarettes.

BARRASSO: Yes, it's astonishing, Charles.

The president, I understand he wants to wash his hands clean of all of this, but he cannot, because his fingerprints are all over the high cost of energy in America today. He's not just killed Keystone. He's stopped the construction of pipelines, other places, the infrastructure, the oil and gas permits to explore for energy.

The American people know that, when Joe Biden came in office, gasoline was about \$2.39 a gallon. Today, it's twice that. He has tried to blame everybody. I have been driving all over the state of Wyoming, over 1,000 miles this past week, Charles, invite people to come. Yellowstone National Park is wide open. Best way in is through Wyoming.

People are furious, though, about the high prices of gas. And Joe Biden is the reason behind it. People get it. That's why his poll numbers are so low. This upcoming election is going to be inflation, inflation, inflation, groceries, gas.

No matter what Joe Biden wants to say about it, the American people see through the blame game.

PAYNE: Right.

BARRASSO: They blame him, rightly so.

PAYNE: Yes, I went to the gas station over the weekend. And, admittedly, I have got a big truck, a big pickup truck. And so my bill was 183 bucks.

I did ask the woman who worked there, because, in Jersey, they have to pump your gas. She said people are upset at her. But she's like, don't blame me. Blame Biden.

On this note, though, because, again, there is -- there is within the political -- the Republican -- the Democratic Party a wing that wants this to happen, that wants us to deal with this sort of pain and maybe Brian Deese sort of alluded to that recently, when he said this is all part of a plan to get to the sort of liberal world order.

Do you think that was a trial balloon? Do you think they will start to come straight with America and say, listen, we need you to go through this pain, so you do the right thing and get on green energy?

BARRASSO: You know, I believe that the Democrats like high energy prices, because they want people to buy electric cars.

They don't kind of understand where electricity comes from, where the energy comes from.

(LAUGHTER)

BARRASSO: They do seem to be doing that. You saw the cost of electric cars is way up, along with inflation.

So you have the thing that's happening in Congress now. The Democrats, Charles, amazingly, are trying to resuscitate the Green New Deal.

PAYNE: Oh, boy.

BARRASSO: They want to do reconciliation.

PAYNE: Yes.

BARRASSO: They want to, believe it or not, raise taxes on the energy producers of America.

What's that going to do to pain at the pump? It's going to make it even worse. That's the mind-set of this liberal, liberal, liberal, radical group that are controlling the Democrat Party.

PAYNE: Suicidal.

BARRASSO: And the president follows them.

PAYNE: Economic suicide, sir.

I'm sorry to interrupt, but we're almost out of time.

Senator Barrasso, thank you very much. Always a pleasure.

Again, that is all the time we have. But make sure you catch me weekdays, FOX Business, "Making Money."

And don't forget, "Cavuto Live," tomorrow, we have got House Homeland Security Committee Ranking Member John Katko.

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6/23/22 U.S. Cong. News (Pg. Unavail. Online)  
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U.S. Congressional News  
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June 23, 2022

Section: U.S. House of Representatives Documents

Rep. Roy again demands DHS release report on border  
patrol agents they accused of **'whipping migrants'**  
Rep. Chip Roy (R-TX) News Release

WASHINGTON--On Wednesday, Rep. Chip Roy (TX-21), joined by 11 of his House Republican colleagues, pushed DHS Secretary Mayorkas to release information on the department's apparently "politically motivated" allegations against U.S Border Patrol Agents.

Last September, Mayorkas and other Biden Administration officials alleged that several border patrol agents **"whipped"** Haitian **migrants** in the Del Rio sector of the southern border, allowing these rumors to spread before a proper investigation. DHS is now reportedly preparing to discipline multiple agents accused of **whippingmigrants**.

"Over 9 months after the September incident in Del Rio, the American people and Members of Congress still do not have a clear understanding of the incident and what truly happened - seemingly by design from your Department," the letter reads. "Reports of disciplinary action are extremely concerning and look to be more politically motivated than legitimate for cause of wrongdoing."

Rep. Roy points out that DHS has so far not publicized any report on the incident, despite requests from Members of Congress. In February, Rep. Roy and six other representatives asked for the immediate public disclosure of DHS' findings, to no avail.

"Your lack of clear leadership allowed a rumor to fester about the CBP agents you were appointed to lead," Rep. Roy's letter concludes. "We request that you not only publicly release any investigative report of the matter, but that you provide Members of Congress with a briefing on the investigation and proposed disciplinary action by July 6, 2022."

Full text of the letter can be found below and at the link here <http://roy.house.gov/sites/evo-subsites/roy.house.gov/files/evo-media-document/Mayorkas%20CBP%20disciplinary%20action%20letter%2006.22.22%20%281%29.pdf>.

Dear Secretary Mayorkas,

Last September, U.S. Border Patrol Agents were purported to have **"whipped"** Haitian **migrants** at the U.S. southern border in the Del Rio sector. This allegation was promoted and spread by multiple members of the Biden Administration, including yourself when you said you were "horrified by what [you] saw." Though you also said you would "let the investigation run its



course," you -the leader of the Department of Homeland Security (DHS)-passed judgment on the good men and women of Customs and Border Protection (CBP) before letting an investigation run its course.

In fact, your Department confused the official record and stoked the political fires surrounding the incident by once stating that the DHS Office of the Inspector General (OIG) "declined to investigate" the allegations about the CBP agents, though there was never any criminal conduct for OIG to investigate. Your lack of clear leadership allowed a rumor to fester about the CBP agents you were appointed to lead. This investigation became further entrenched in confusion when it was reported in January That the "investigative work" the Custom and Border Protections' (CBP) Office of Professional Responsibility (OPR)was conducting on the incident may never appear. At that time, Members of Congress Wrote to you requesting that you make that report immediately public -this has yet to happen.

And today, there are now reports that DHS is preparing to discipline multiple horseback Border Patrol agents who were accused of **whippingmigrants**, alleging "administrative violations." Over 9 Months after the September incident in Del Rio, the American people and Members of Congress still do not have a clear understanding of the incident and what truly happened -seemingly by design from your Department. Reports of disciplinary action are extremely concerning and look to be more politically motivated than legitimate for cause of wrongdoing.

We request that you not only publicly release any investigative report of the matter, but that you provide Members of Congress with a briefing on the investigation and proposed disciplinary action by July 6,2022. In this, we request that you also respond to the below questions in writing by the briefing date.

1. Is there an ongoing investigation of the CBP agents involved in the Del Rio "**whipping**" incident in September 2021?
  1. Is there, or was there ever a criminal investigation of these CBP agents?
    1. If so, was any criminal allegation referred to the Office of Inspector General?
  2. Is there, or was there ever an administrative investigation of the CBP agents involved in the Del Rio "**whipping**" incident in September 2021?
    2. Who specifically has been charged with conducting the investigation?
      1. Which office and Department of DHS are they employed by?
    3. Did this investigation conform with any collective bargaining agreement?
      1. If so, did the collective bargaining agreement impact the investigation itself?
    4. What, if any, disciplinary action has been imposed by the deciding official?
      1. If any disciplinary action has been proposed by the proposing official, did the agents involved receive a review of the proposal?
      2. If any disciplinary action has been decided by the deciding official, were the agents involved given the opportunity to appeal?
      3. If disciplinary action has been proposed or imposed, what wrongdoing or specific violations of the agents involved led to the disciplinary action? We Look forward to receiving your response

Sincerely,

Chip Roy

Member of Congress

Scott Perry

Member of Congress

Andy Biggs

Member of Congress

Warren Davidson

Member of Congress

Lauren Boebert

Member of Congress

Ralph Norman

Member of Congress

Dan Bishop

Member of Congress

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Member of Congress

Bob Good

Member of Congress

Jody Hice

Member of Congress

Read this original document at: <https://roy.house.gov/media/press-releases/rep-roy-again-demands-dhs-release-report-border-patrol-agents-they-accused>

---- **Index References** ----

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June 21, 2022

Section: Us World

### DHS sued over border horsemen 'falsely accused' of **whipping**

Paul Bedard, Washington Examiner

A new and aggressive legal arm of the Heritage Foundation is demanding that the Homeland Security Department cough up long-hidden details of its investigation into mounted border agents falsely accused of **whipping** Haitian immigrants in September.

As DHS considers punishing the horsemen, Heritage's "Oversight Project" on Tuesday shared its plans with Secrets and said it was filing a Freedom of Information Act lawsuit in the U.S. District Court for the District of Columbia for "all documents related to the Department of Homeland Security's politicized investigation into mounted Border Patrol agents near Del Rio, Texas."

The Border Patrol has been promising to release its report on the episode, but so far, little has come out.

The harassment charges were made against the mounted agents after photos went viral of what appeared to be **whipping** of Haitian **migrants** with the reins of the horses.

The photographer later said that when the **migrants** started to run, the agents followed. In turning their horses, the loose reins appeared to be hitting the **migrants** but weren't, said the photographer.

"Some of the Haitian men started running, trying to go around the horses, and that's kind of when the whole thing happened," Paul Ratije told KTSM News. "I didn't ever see them **whip** anybody, with the thing. ... He was swinging it. But I didn't see him actually take - **whip** someone with it. That's something that can be misconstrued when you're looking at the picture."

Still, top officials from President Joe Biden down condemned the "**whipping**," even before they knew what the photos showed.

Heritage suggested the attacks were meant to politicize the situation as the administration was opening the border to a record number of crossings.

Mark Morgan, former acting commissioner of Customs and Border Protection and a Heritage visiting fellow, said in a statement, "Before the investigation even began, the facts were hijacked by a false narrative and the agents vilified. Although the lie about these agents was debunked almost immediately, it didn't stop the media and politicians from continuing to recklessly speculate and comment on the incident, including President Biden decrying 'they will pay.'"

"This is a simple lawsuit. DHS owes us documents, and they are refusing to turn them over. It's been obvious from the jump that the so-called 'investigation' was politicized by this administration. Their unwillingness to turn over documents only confirms those suspicions," added Mike Howell, head of the Oversight Project.

Original Location: DHS sued over border horsemen 'falsely accused' of **whipping**

Washington Examiner Videos

--- **Index References** ---

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