

Immigration Policies Under The Trump Administration

Introduction

Immigration policy has long been the exclusive domain of the federal government. The Executive Branch's sweeping power over immigration and border policies is scattered across a litany of agencies and offices, including the Department of Homeland Security (DHS), the Department of State, and the Department of Justice (DOJ). Within those, DHS houses three of the primary immigration/border offices: Immigration and Customs Enforcement (ICE), the Customs and Border Patrol (CBP), and United States Citizenship and Immigration Services (USCIS). DHS is also the government entity that first and most consistently interacts with migrants and asylum-seekers through activities such as port and border surveillance, border policing and the execution of deportation authorities.

The State Department oversees other aspects of the immigration process, largely governing visa application and approval processes, while the DOJ oversees immigration courts and adjudicates immigration cases.

The Personnel

Donald Trump's main immigration advisors are white supremacists who relied on far-right ideology to devise some of the Trump administration's most vile policies.

Stephen Miller

Stephen Miller was [one of](#) Donald Trump's Senior Advisors for Policy and Trump's White House Director of Speechwriting. One of Trump's closest aides, [Miller](#) has been described as a "catch-all symbol of the racism and malice" of Trump's White House, and a particularly controversial one given his [promotion](#) of explicitly white nationalist books and articles as well as his [close ties](#) to prominent white nationalists like Richard Spencer.

Miller was instrumental in the design of the administration's heinous and cruel [immigration policies](#), which included Title 42 expulsions, family separation, and Donald Trump's Muslim Ban. Miller also famously purged civil servants who he deemed inadequately aligned with his [radical agenda](#). He has been [floated](#) as a potential Attorney General under a second Trump administration.

Gene Hamilton

Gene Hamilton held immigration-related roles in both Trump's DOJ and DHS. At DOJ Hamilton [was](#) the Counselor to the Attorney General Jeff Sessions and Bill Barr from

2017-2021 and Senior Counselor to the Secretary of Homeland Security, Kirstjen Nielsen, at DHS prior to that.

While staffing the Trump administration, [Hamilton](#) “authored the memo that gutted DACA under Trump, was instrumental in ending protected status for immigrants from Sudan and South Sudan, and was a key player in implementing family separation at the United States’ border.” Hamilton also [regularly met](#) with representatives from Southern Poverty Law Center (SPLC)-designated hate groups like CIS and the Espinoza Center while implementing Trump’s anti-immigrant agenda.

The Policies

The U.S. immigration system—from DHS to the DOJ—is predicated on infrastructures of hyper-surveillance, racialized exclusions, and violent mechanisms for the xenophobic policings of migrancy and refugeeism. Under Donald Trump, these infrastructures were wielded and manipulated to inflict harm in an unprecedented manner. The Trump administration detained hundreds of thousands of children, gutted the Deferred Action for Childhood Arrivals (DACA) and other pathways for accessing legal status, routinely abused and mistreated immigrants across the country.

Hallmarks of this cruel agenda, which the Trump White House should be well remembered for, include:

The Border Wall

“Build the wall” became a rallying cry on Donald Trump’s campaign trail before his election in 2016, and still remains a staple of his public appearances. “The wall” of course refers to Trump’s infamous anti-migrant wall intended to be built on the U.S.-Mexico border. As a phrase, it is little more than a [racist dog whistle](#) that shortands [xenophobic conspiracies](#), fostering an environment of [anti-Latino hate](#) in the U.S. that culminated in horrific moments like the [El Paso Walmart](#) shooting in 2019. That massacre saw 23 people murdered by a racist gunman warning of a Latino “[invasion](#)” in the U.S., language that Trump [continues to employ](#).

Of course, Donald Trump also [insisted for years](#) that Mexico was going to pay for the infamous wall, but instead cost American taxpayers upwards of [\\$16 billion](#) to construct less than [500 miles](#) of infrastructure along the nearly [2000 mile](#) border. This construction was and remains devastating for migrants and border communities. A “wall” also wrecks the delicate ecologies of border regions because, as we’ve [explained previously](#),

“border walls generally disrupt animal migration patterns, cause catastrophic flooding, and kill wildlife. The construction of border walls also routinely destroys and desecrates Indigenous sacred

sites and habitat that are protected under the law. Not to mention, border walls are extraordinarily lethal to migrants, cruel to migrants and border communities alike, enormously costly, and an overtly irresponsible use of taxpayer money.”

Deferred Action for Childhood Arrivals (DACA)

In 2017, Donald Trump’s then-Attorney General Jeff Sessions announced an end to Deferred Action for Childhood Arrivals, otherwise known as DACA. DACA offers temporary but renewable relief to undocumented immigrants brought to the U.S. as children, also known as dreamers, to protect them from deportation and enable them to work. Placing the onus on a divided Congress to ultimately save the [enormously popular](#) program, Trump imperiled the safety, lives, and futures of the [800,000 people](#) with work visas and protected status under the program, and tossed them into legal limbo.

Though DACA’s end was ultimately [overturned and reversed](#) by the Supreme Court in 2020, it created senseless chaos and instability for hundreds of thousands of people subject to the former President’s [racist and cruel](#) whims. DACA, of course, also only survived due to a 5-4 vote on a Supreme Court on which Ruth Bader Ginsburg had not yet been replaced by Amy Coney Barrett. Trump’s other two appointees did, however, vote to end DACA, and it remains possible Barrett would as well.

Title 42

In 2020, Donald Trump invoked a little-known statute in the Public Health Service Act of 1944 which dictates that where there is significant risk relating to the spread of communicable disease the U.S. Surgeon General (or, now, the Director of the CDC) can [bar](#) “the introduction of persons and property from such countries or places” for as long as the action is deemed [“necessary.”](#)

In March of 2020, during the beginning of the global COVID-19 pandemic, Trump’s CDC Director Robert Redfield (at the behest of then-Vice President Mike Pence) triggered the law to entirely shut down the land borders with Canada and Mexico. Redfield did so [over the objections](#) of CDC scientists who argued that the move would do little to stop or slow COVID’s spread in the U.S., a fact later [echoed](#) by the nation’s top-infectious disease expert, Dr. Anthony Fauci.

Trump’s defense of Title 42 in the name of public health also rang hollow [given that](#) he routinely contradicted actual public health experts in his handling of the country’s pandemic response, spread baseless and racist [conspiracies](#) about COVID, and even told Americans from a White House briefing room to [“inject bleach”](#) to combat the disease. In truth, the Trump administration had been looking to exercise Title 42 authorities as far back as [2018](#) in order to [enforce](#) “the notoriously racist, xenophobic,

and arguably unconstitutional” law. [Ultimately](#), Title 42’s “effect was devastating on asylum seekers and clearly did nothing to protect the public from COVID.”

Muslim Ban

In 2015, prior to his first term in office, Donald Trump [called for](#) a “complete and total shutdown” on Muslims entering the United States. In 2017, during his first year in office, Trump signed a series of executive orders banning people from [six Muslim-majority countries](#) (Chad, Iran, Libya, Somalia, Syria and Yemen) from entering the U.S. for 90 days and indefinitely banned [Syrian refugees](#) from U.S. borders. He also shut down the U.S. refugee resettlement program for a 120-day period, and [indicated](#) that “when this restarts the US will slash the maximum number of refugees it will receive from 110,000 to 50,000.” The ban [triggered mass protests](#) at airports across the country and was rightly criticized by politicians and leaders from [around the world](#) for being “divisive, illegal, insulting and discriminatory,” amongst other things.

Ultimately, that version of the ban was rejected by the courts for being unconstitutional, so Trump introduced a new “watered down” version that excluded citizens of Iraq from the list of countries impacted, [and](#) “barred foreign nationals from Iran, Libya, Somalia, Sudan, Syria and Yemen from entering the United States for 90 days and all refugees for 120 days” while also narrowing the definition of “close-ties” to U.S. legal residents and citizens for the purpose of immigration. This version was [also rejected](#) by the courts on the basis of a clearly unconstitutional anti-Muslim bias.

In late 2017, Donald Trump tried a third time to establish a ban. This time [impacting](#) Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela and Yemen, this iteration notably included two non-Muslim majority countries (North Korea and Venezuela) and [contained](#) country-specific travel restrictions that were to be phased in. In 2018, this version of the travel ban was [upheld](#) by the Supreme Court. In 2020, Trump [further expanded](#) the ban to an additional four Muslim-majority countries in Africa, including Nigeria, Sudan, Tanzania and Eritrea, and maintained a standing ban on travel from Libya and Somalia. Civil rights groups in the U.S. and across the world immediately [decried](#) the move as obscenely racist and plainly unconstitutional.

The ban, in all of its many iterations, sowed chaos for millions of people fleeing violence, seeking reunification with their families, and more. The racist drivel [peddled by](#) the White House (and later, the Supreme Court) in attempting to justify the bans led reported hate crimes against Muslims, Sikhs, South Asians, Hindu, Arab, and Middle Eastern people to go up a drastic and devastating [45 percent](#) in 2017 alone. It has been shown to have an [overwhelming impact](#) on the mental and physical health of Arabic-speaking refugees in the U.S., and cut the amount of Muslim refugees by more than [91 percent](#).

Remain in Mexico

In 2019, Donald Trump upended decades of U.S. and international asylum law and policy by instituting a new asylum system requiring refugees and asylum seekers to wait in Mexico while their asylum claims were processed by U.S. border authorities. The policy, known colloquially as “[remain in Mexico](#),” was in blatant violation of U.S. and international refugee law which bars the United States [from](#) “returning asylum seekers to persecution or torture.” The policy also placed intense restrictions on an individuals’ eligibility for making asylum claims, and forced migrants to navigate confusing self-disclosure systems with almost no guidance, information, or support.

Ultimately, the policy saw the United States place hundreds (and sometimes thousands) of asylum-seekers a day in programs with long wait times and virtually no support, which then [functionally stranded](#) asylum seekers, including young children, in vulnerable positions rife with the potential for extortion, exploitation, kidnapping, sexual abuse, and more.

Overall, “Remain in Mexico” [dramatically](#) “compounded existing failings in US immigration courts, including a lack of access to counsel, barriers to legal representation, lack of transparency in immigration proceedings, and limited legal protections for asylum seekers.” As was intended, the policy devastated the U.S. asylum system, and in its first two years of implementation, saw [70,000 people](#) denied access to protections and sent back to Mexico, in what was routinely described by immigration advocates [as](#) “cruel and racist.”

Family Separation

In 2017, Trump’s Department of Justice [announced](#) that it had implemented a “zero-tolerance” policy for undocumented immigration into the country. Under the policy, all migrants—including asylum-seekers—who crossed the border without legal status were to be detained and referred for criminal prosecution to the DOJ. Children under the age of 18 [were separated](#) from their families, sent to the jurisdiction of the Department of Health and Human Services (HHS), and scattered throughout more than 100 Office of Refugee Resettlement (ORR) shelters across the country. The move was [globally condemned](#) as cruel, senseless, inhumane, dehumanizing, and torturous, and the policy [continued to](#) “wreak havoc and inflict suffering” in the final days and months of the Trump presidency.

Ultimately, at least [5000 children](#) were separated from their families under the Trump administration, and [hundreds](#) of those children were infants and toddlers under the age of five. The consequences for these families remain devastating and traumatic, given that seemingly no one in DHS, DOJ, or HHS had [any plan](#) or any comprehensive infrastructure to reunite families following the forced separation. Indeed, the federal government forcibly deported [hundreds of parents](#) while still holding their children sometimes hundreds of miles away, many of whom still remain in the U.S. today.

The logistical burden of reunification, one that the federal government has almost entirely absconded, is [particularly difficult](#) for the advocates working to actualize it for the children stolen from their families at ages too young to articulate their names or other identifying features.

Kids in Cages

Perhaps what Donald Trump's unfathomably cruel tenure dictating the White House's immigration policy is best remembered for is the rampant imprisonment of undocumented children in functional juvenile prisons/detention centers. During the Trump years, the federal government detained almost [500,000 children](#), which [sparked widespread](#) shock, anger, and disgust for Trump's policy of keeping "kids in cages."

Though these juvenile prisons were [built by](#) the Obama administration, Trump scaled up the [mass detention](#) of children at the border to an unprecedented level. It also routinely broke federal law, as it regularly imprisoned hundreds of thousands of children for significantly longer than the [72-hour limit](#) set by legislation and the courts. The [conditions in the centers](#) were cruel and horrible, with DHS' own internal watchdog describing detention centers' [inability to offer](#) children even a change of clothes or hot meals, intense overcrowding, entrapment in cells for impermissible amounts of time, and deeply [unsafe and unsanitary](#) conditions.

The imprisonment of kids [created lasting traumas](#) for them, which did and will continue to have [devastating](#) psychological impacts and endanger children's physical wellbeing. In all, the policy was [extraordinarily](#) violent, deeply cruel, inhumane, illegal, and dangerous, and one of the worst legacies of the Trump administration on the immigration system as a whole.

Biden's Borrowed Border Playbook

The Trump administration's record on immigration was horrifying. It was unprecedentedly cruel, overtly racist and incredibly violent, especially in its dehumanization and demonization of vulnerable people.

Unfortunately, much of it has continued under Biden.

Despite promising on the campaign trail a radical reversal on the depraved injustices of Donald Trump's immigration policies, Joe Biden has instead elected to continue many of them. During his tenure in office Biden has expedited the construction of Donald Trump's [border wall](#), [defended and expanded](#) the use of Title 42 for expediting deportations, continued to separate families [at the border](#), and continued to detain children in CBP facilities in [unsafe](#) conditions.

Of course, just this year, Biden has also declared his intent to [shut down](#) asylum, and to institute new policies that migrants who don't immediately evince "[credible fear](#)" in their asylum claims will be deported within days or hours. Biden's turn on the border seems to be an attempt to triangulate immigration advocates and the Republican Party on migrants, asylum, and immigration writ large.

It's a stupid playbook, and one that we've seen before. It has only ever succeeded in pushing policy agendas [ever rightward](#), and emboldens Republicans themselves to push national policy and politics to evermore inhumane depths.

Trump's second term, likewise, [promises](#) even more horrific immigration policies than that of his first, including the use of mass deportations, the elimination of multiple visa categories, the gutting of the asylum system, and more.

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