

# **Biden Administration Is Cooking The Books On Illegal Immigrant Arrests**

The Biden administration has delayed for months an annual illegal immigration report that contains crucial statistics about this key national security issue, as the U.S. border crisis keeps breaking records since Joe Biden took the presidential office.

The Biden administration has published [some](#) immigration enforcement statistics in its “ICE Fiscal Year 2021 Annual Report.” This was recently required by Congress and is largely a narrative-driven report that provides a topical look at all parts of U.S. Immigration and Customs Enforcement (ICE), from customs operations to personnel hiring and oversight processes.

It is significantly different from the detailed immigration enforcement-focused report called the “ICE Enforcement and Removal Operations Report” that the agency has published by the end of every calendar year for at least the last decade — with the exception of last year. As of this writing, the Biden administration has without explanation yet to publish this very important report, leading some to conclude that the data contained therein is a damning indictment of the administration’s enforcement policies. (Here’s the [fiscal year 2020 version](#)).

The recently released report does not include the many charts and tables that make up the missing enforcement report, effectively preventing Congress, the media, and the public from analyzing the effects of the Biden administration’s controversial guidelines that have severely limited the ability of ICE officers to enforce immigration law. Instead, the report includes only a handful of numbers and percentages, and messaging that is difficult to verify. Perhaps most troubling is that the Biden administration decided to develop a largely meaningless metric that is meant to trick people into thinking the Biden administration is taking public safety more seriously than the Trump administration.

In the new report they claim that ICE “arrested 12,025 individuals with aggravated felony convictions—nearly double the 6,815 arrested the previous fiscal year” and “ICE removed an average of 937 aggravated

felons per month — the highest level ever recorded since ICE began collecting detailed criminality data." One ICE officer I spoke with calls this "a complete manipulation of the data" and many ICE officers share that sentiment, including an officer [interviewed](#) by the Washington Times, who said, "I can tell you definitively there were more aggravated felony arrests in 2020."

The Biden administration's attempt to put a positive spin on its dangerous enforcement guidelines through this unreliable data is more troubling than most realize.

## **Misleading on Aggravated Felony Reporting**

For purposes of immigration, Congress defines a number of crimes as "aggravated felonies," such as murder, rape, and drug trafficking, but also considers a crime to fit in this category if it is "a crime of violence" or a "theft offense or burglary offense" for which the term of imprisonment is at least one year. The list is detailed and how states define and punish crimes creates some complexity in the law. Aliens convicted of aggravated felonies face a number of consequences including swift deportation, ineligibility for asylum, and a bar from lawfully re-entering the United States.

Over the past year, as confirmed by ICE officers who [spoke](#) with the Center for Immigration Studies, the Biden administration has repeatedly directed ICE field offices to mark arrests as "aggravated felon arrests" at every opportunity, where applicable. The program ICE officers use to create a system of record for managing cases allows for the entry of large amounts of information, ranging from basic information like name, birth date, and nationality to more complex information like criminal and immigration history. As with any system, too much information can be

problematic (either for efficiency or legal reasons, for example) and officers generally put as much information as is sufficient for carrying out their responsibilities, which is, generally, either the removal or release of a foreign national.

One bit of information officers can add to the system when arresting an alien is whether the alien is an aggravated felon. Historically, ICE officers have generally not been keeping track of this metric because it has been largely irrelevant as to whether an alien is deportable, and because it can be difficult to determine whether criminal acts in an alien's record count as an aggravated felony.

As inferred by ICE officials on the media call announcing the new report, the same criminal act committed by two people in two different jurisdictions may or may not make the person an aggravated felon due to the laws of each state and different rulings in circuit courts, for example. Until the past year, ICE officers have not been pressured to figure out whether an alien fits the definition of "aggravated felon" and, as a result, this information has not been tracked in any meaningful sense.

## **Politicizing Data**

What the public has not been told is that the numbers appear higher in FY2021 due to the Biden administration repeatedly demanding that officers make it a priority to determine whether an alien should be labeled an aggravated felon and then record that determination into the system. In the past, some officers have clicked the "aggravated felon" button, but since there was no pressure to make this determination — which usually would require an officer to locate an ICE attorney and have them run a legal analysis — many officers did not bother to make

it. There was generally no need for this under the Trump administration because ICE officers were allowed to deport an illegal alien for violating immigration laws, felon or not, as intended by Congress.

Not only has the Biden administration been pressuring ICE officers to record whether aliens fit the definition of an aggravated felon, the ICE unit responsible for putting together the latest report has been proactively reaching out to ICE field offices and requesting that they take a second look at certain cases and retroactively flag them as "aggravated felon" cases in the system, where possible. This was not done in previous years, but the administration nevertheless decided to compare its new FY2021 data to data from FY2020 when officers were not being pressured to keep a record on apparent aggravated felon cases. This is a scandalous effort by the Biden administration to politicize law enforcement data in an attempt to mislead the American people about the true effects of its policies.

## **Other Data Shows Drop in Enforcement**

Notably, the recent report includes the number of "offenses associated with" the illegal aliens arrested last year. Among the population of criminal aliens arrested in FY2021, the following crimes were on their records: 1,506 homicide-related offenses; 3,415 sexual assaults; 19,549 assaults; 2,717 robberies; and 1,063 kidnappings.

About four months of that fiscal year were under the Trump administration, so it's possible many of these arrests occurred before the Biden administration's guidelines were issued. Either way, those numbers are much lower than what occurred under FY2020, which saw the following crimes on records of aliens arrested: 1,837 homicide offenses; 4,385 sexual assaults; 37,247 assaults; 3,816 robberies; and

1,637 kidnappings.

Similarly, according to data on ICE's webpage regarding the cooperative program 287(g), whereby sheriffs identify criminal aliens in their jails and assist with the transfer to ICE custody, ICE took in [fewer criminals](#) through the program in FY2021 than it did in FY2020. Arrests of aliens through 287(g) convicted of assault were down 57 percent. For weapons offenses it was down 52 percent, arrests of aliens convicted for dangerous drugs were down 49 percent, arrests of aliens convicted for homicide were down 43 percent, and arrests of aliens for sex offense convictions were down 29 percent.

Some of these criminal acts would seem to fit the criteria of an aggravated felony, but with the Biden administration claiming an increase in arrests of aggravated felons, and the data showing arrests in these categories down, something doesn't add up. The discrepancy can be explained by the Biden administration's misleading use of inconsistently labeled and unreliable aggravated felony data. The Center for Immigration Studies recently obtained [additional ICE data](#) that further supports the conclusion that the Biden administration is [manipulating](#) the data.

Bottom line, the definition of aggravated felon is inconsistent across the country, it has not been consistently recorded in ICE's systems, and consequently the metric has never been considered accurate or meaningful enough to be included in prior ICE reports. On top of this, even the crime data that ICE *has* reported is an admission that our communities are more dangerous because of the administration's bad policies. The Biden administration has created a misleading narrative out of thin air and is hopeful that the public, and the courts, will not notice they've cooked the books.

The Biden administration must be forced to release the data from the ICE Enforcement and Removal Operations Report so an honest evaluation of its policies can be conducted.

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