



THE IMPEACHMENT PROCEEDINGS OF DHS SECRETARY ALEJANDRO MAYORKAS FACT SHEET 5: THE ARTICLES OF IMPEACHMENT

CHAIRMAN MARK E. GREEN, MD

BACKGROUND:

The House Committee on Homeland Security has released its articles of impeachment against DHS Secretary Alejandro Mayorkas. These articles follow a nearly year-long comprehensive five-phased investigation into the causes, costs, and consequences of the unprecedented border crisis, and the initiation of impeachment proceedings earlier this year. They show that Secretary Mayorkas has committed high crimes and misdemeanors by refusing to comply with the laws passed by Congress and breaching the public trust. Read the articles [here](#).

ARTICLE I: WILLFUL AND SYSTEMIC REFUSAL TO COMPLY WITH THE LAW:

- Secretary Mayorkas has violated his oath to support and defend the Constitution of the United States by willfully and systemically refusing to comply with federal immigration laws and acting in a manner subversive of the rule of law.
- Despite clear evidence that his willful and systemic refusal to comply with the law has led to unprecedented levels of illegal immigration, the fentanyl crisis, cartel control at the Southwest border, and debilitating human and financial costs, Secretary Mayorkas has implemented a catch-and-release-scheme, violating detention requirements and misusing parole authority.

KEY STATUTORY OFFENSES:

- **Detention:** Secretary Mayorkas has willfully refused to comply with numerous detention requirements spelled out by the Immigration and Nationality Act (INA). He has instead implemented a mass catch-and-release scheme, whereby apprehended aliens are released, without effective mechanisms to ensure appearances before an immigration court.
 - § 235(b)(2)(A) requires that all applicants for admission who are “not clearly and beyond a doubt entitled to be admitted...shall be detained for a [removal] proceeding...”
 - § 235(b)(1)(B)(ii) requires that aliens placed into expedited removal proceedings and determined to have a credible fear of persecution still be detained “for further consideration of the application for asylum.”
 - § 235(b)(1)(B)(iii)(IV) requires that an alien who is placed into expedited removal proceedings and determined not to have a credible fear of persecution “shall be detained... until removed.”
 - § 236(c) of the INA requires that an alien who is inadmissible or deportable on certain criminal and terrorism-related grounds “shall [be] take[n] into custody.”
 - In 2021, Secretary Mayorkas authored enforcement guidelines instructing ICE officials that the “fact an individual is a removable noncitizen...should not alone be the basis of an enforcement action against them” and that DHS “personnel should not rely on the fact of conviction...alone,” even with respect to removable aliens.
 - In *Texas v. United States*, the Fifth Circuit Court of Appeals concluded that this guidance had “every indication of being ‘a general policy that is so extreme as to amount to an abdication of . . . statutory responsibilities’” and that its “replacement of Congress’s statutory mandates” was “plainly outside the bounds of the power conferred by the INA.”
 - § 241(a)(2) of the INA requires that an alien ordered removed “shall [be] detain[ed]” during “the removal period.”
 - § 236(a) of the INA permits, in certain circumstances, the arrest of aliens on an administrative arrest warrant. Secretary Mayorkas used this statute to release aliens arrested without a warrant who are subject to mandatory detention.



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- It is vital to note that these violations are not simply matters of “prosecutorial discretion.” Secretary Mayorkas has crossed the line from discretion to suspension of the law. Congress has set policy priorities and Secretary Mayorkas is ignoring them for his own priorities.
- **Parole:** Secretary Mayorkas has also willfully misused parole authority laid out in § 212(d)(5)(A) of the INA that permits parole to be granted “only on a case-by-case basis,” temporarily, and “for urgent humanitarian reasons or significant public benefit.”
 - He has paroled aliens en masse into the country, despite the U.S. Fifth Circuit Court of Appeals concluding in *Texas v. Biden*, “parol[ing] every alien [DHS] cannot detain is the opposite of the ‘case-by-case basis’ determinations required by law” and “DHS’s pretended power to parole aliens while ignoring the limitations Congress imposed on the parole power [is] not nonenforcement; it’s misenforcement, suspension of the INA, or both.”
 - Secretary Mayorkas has created, re-opened, or expanded a series of categorical parole programs never authorized by Congress for foreign nationals, enabling hundreds of thousands of inadmissible aliens to enter the United States without authorization.

ARTICLE II: BREACH OF PUBLIC TRUST:

- Secretary Mayorkas has breached the public trust by violating his oath to well and faithfully discharge the duties of his office and his statutory duty to control and guard the border of the United States. Secretary Mayorkas willfully failed to replace the enforcement initiatives he had abandoned with viable alternatives that would enable DHS to control and guard the border.
- He has also breached the trust of Congress and the American people by knowingly making false statements about the results of his willful and systemic refusal to comply with the law.
- Finally, Secretary Mayorkas has obstructed the Committee’s work on vital oversight investigations, even necessitating the issuance of still unsatisfied subpoenas.

SUMMARY MESSAGING:

- These articles are the product of a thorough, fair, and comprehensive investigation into the causes, costs, and consequences of the unprecedented border crisis. The evidence shows that Secretary Mayorkas’ lawless behavior warrants impeachment.
- Secretary Mayorkas has willfully and systemically refused to follow the laws passed by Congress, and he has violated the separation of powers and acted with deliberate indifference to the clear evidence of lawlessness at the border and in the interior.
- Secretary Mayorkas has breached the public trust by knowingly making false statements to Congress and the American people on numerous occasions.
- Secretary Mayorkas has demonstrated that he will remain a threat to national and border security, to the American people’s health and safety, and the Constitution if allowed to remain in office.
- The result of the Secretary’s failure to fulfill his oath of office has been a border crisis that is unprecedented in American history—a crisis that has cost the lives of thousands of his fellow Americans.
- Having exhausted all other options to hold him accountable, it is unmistakably clear to the American people that Congress must exercise its constitutional duty and impeach Secretary Mayorkas.