

# Texas plan to deport migrants violates federal authority

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Texas Governor Greg Abbott's July 7 executive order clearing state authorities to return apprehended migrants to the US-Mexico border has raised alarms among immigration lawyers and advocates, who say the order raises a number of legal questions.

Abbott's directive grants the Texas National Guard and Department of Public Safety (DPS) the authority to arrest migrants suspected of illegally crossing the border or committing "other violations of federal law." It also empowers state officials to return apprehended migrants to ports of entry—stopping just short of using state resources to expel migrants from the country, as far-right forces have increasingly called for in recent months.

The order came two days after former Trump officials and right-wing officials in sparsely populated counties in South Texas called on Abbott to declare that Texas is facing an "invasion" and invoke emergency powers reserved for war to directly deport migrants.

Texas lawmakers have utilized the death of dozens of migrants found in a truck trailer in San Antonio last month to justify a further crackdown on immigration. An hour before the bodies were discovered in his district, Texas Republican Rep. Tony Gonzales tweeted that immigration was "incentivizing lawlessness and creating absolute chaos at our southern border."

Abbott directly blamed Biden for the deaths, tweeting: "They are a result of his deadly open border policies. They show the deadly consequences of his refusal to enforce the law."

Although Texas has implemented numerous reactionary anti-immigrant laws and programs in the past, Abbott's most recent order is the most extreme move yet, signaling an open defiance of the federal government's authority to enforce immigration law.

The American Civil Liberties Union of Texas said in

a statement that the order is "vicious and unlawful," and "recklessly fans the flames of hate in our state."

According to Doris Meissner, a senior fellow at the Migration Policy Institute, Texas officials transporting migrants to the border raises questions of whether those authorities are attempting to enforce immigration law, a long-standing federal responsibility.

"In terms of transporting, that's exactly the question I'd have," Meissner told the *Texas Tribune*. "Where would be the authority [come from] for state officials to transport people they suspect of being in violation of immigration law and having just recently crossed without arresting them for some reason? Were they to do that, I think that raises pretty basic civil rights violation questions."

Aaron Reichlin-Melnik, policy director for the American Immigration Council, said Abbott's order is in direct violation of the 2012 Supreme Court ruling in *Arizona v. United States*, in which the high court determined that state authorities can enforce immigration law only if they've been permitted by the federal government.

"Gov. Abbott is inviting a lawsuit from the Biden administration just as the Arizona legislature did over a decade ago... which led to the Supreme Court laying out that the federal government alone has authority to do immigration enforcement," he said.

Texas state authorities are already under federal investigation for Operation Lone Star, Abbott's program authorizing state troopers and other authorities to arrest migrants for state crimes such as trespassing. Through Operation Lone Star, Abbott has deployed some 10,000 DPS officers and soldiers from the Texas National Guard to the border. Under the program, Texas has arrested thousands of migrants, holding them indefinitely in the state's criminal justice system.

Beyond questions about its legality, Abbott's order omits details on when and how state officials will implement their new authority to arrest immigrants suspected of violating federal immigration or criminal laws. Representatives of the Texas National Guard and the Department of Public Safety refuse to say which groups of migrants they will apprehend and when they will start the arrests.

The Democratic Party has not outlined any policies or initiatives to combat Texas officials' flagrant violation of federal law. The White House has only responded by defending its own reactionary policies at the border. A White House press release declared that Biden was focused on "real policy solutions" to "actually secure our border," and bragged that Biden has secured record-breaking funding for the Department of Homeland Security, the parent agency of Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP).

The militarization of the border is the result of long-standing bipartisan policies. In the 1990s, President Bill Clinton, with the support of Democrats and Republicans, enacted programs like "Operation Gatekeeper" and "Operation Hold-the-Line," the aim of which was to force migrants, as a "deterrence," to cross in uninhabitable desert regions.

This operation was expanded under the George W. Bush administration and subsequent presidencies. In 2006, Congress approved the Secure Fences Act, facilitating the construction of hundreds of miles of border barriers and further militarizing the border. In 2010, Barack Obama, who would become known as the "deporter-in-chief," deployed a fleet of drones to the border and 1,500 additional National Guard soldiers to block or arrest immigrants.

The Biden administration has kept a Trump-era pandemic-related ban on asylum applicants and maintained Trump's "Remain In Mexico" policy. Last week, Biden approved the continuation of Trump's border wall despite having campaigned on a promise not to build "one more inch of wall."

The horrific realities migrants face at the border exposes the hypocritical and fraudulent claims of US imperialism to be fighting for democracy in its proxy war against Russia in Ukraine. Both capitalist parties are united in their attacks on the democratic rights of the poorest and most vulnerable sections of the

population. The protection of basic democratic rights, including the rights of immigrants, requires the socialist transformation of society.



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