

WEBVTT

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Belle Woods: Alright welcome everyone to today's briefing. This briefing is being recorded

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Belle Woods: today. You'll be hearing from experts with the American Immigration Lawyers Association as they dig deeper into the interim. Final rule announced this week by President Biden

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Belle Woods: some quick housekeeping details. This is an informal briefing. We'll start off with some initial remarks from our speakers, and then the hope is that we'll have plenty of time for questions. You will be able to either raise your hand or put a question in the QA. Or chat box, and if you do raise your hand it will unmute you on your end, so you can ask your question.

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Belle Woods: We do ask that you state your name and your outlet before continuing with your question.

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Belle Woods: So with that I'll turn it over to our moderator, Ayla's executive director, Ben. Johnson, to start us off. Ben.

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Ben Johnson - AILA: Thank you, Bill. Thank you all for being here. We're gonna spend the majority of our time talking about our deep concerns and opposition to the recent announcement from the President regarding the border. But I wanna if I can just step back for a second and set the stage. One of the things that's most frustrating about what's happening

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Ben Johnson - AILA: in and around the border issue is that there are other options available. And and that's resorting to these kinds of tactics is just simply not necessary. So

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Ben Johnson - AILA: it is true we are facing serious challenges at the border, and some aspects of what's happening at the border

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Ben Johnson - AILA: are are unprecedented.

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Ben Johnson - AILA: At least in my lifetime. You know. Incredible. Very large numbers. Very different populations that are coming, and people are for the 1st time. And all of the time that I've been working on this issue are not evading. They're turning themselves in and applying for asylum at the border. So these challenges are serious and they're different. But they are not insurmountable or unsolvable.

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Ben Johnson - AILA: This fatalistic response that we have no other choice but to shut down the border close the gates and close the system. That is a false narrative

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Ben Johnson - AILA: driven by politics, not policy.

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Ben Johnson - AILA: Right now. The biggest challenge we face on immigration is not what's happening at the border. It's what's not happening in Washington, DC,

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00:02:09.789 --> 00:02:11.219

Ben Johnson - AILA: if our government.

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00:02:11.990 --> 00:02:20.510

Ben Johnson - AILA: We're functioning. We could absolutely meet this moment. It would require a change in border strategy. It would require an investment of resources.

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00:02:20.530 --> 00:02:24.709

Ben Johnson - AILA: But solutions to address. What is happening are available to us

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00:02:25.580 --> 00:02:31.850

Ben Johnson - AILA: rather than weaponizing immigration for political partisanship. Congress could pass legislation tomorrow

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00:02:31.890 --> 00:02:36.139

Ben Johnson - AILA: that could have an immediate impact on what's happening at the border

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00:02:36.180 --> 00:02:47.640

Ben Johnson - AILA: first, st and obviously it could provide resources. It could stop starting your the agency, and it could provide resources to increase screening and and allow for faster adjudications. But most importantly.

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00:02:47.990 --> 00:02:51.120

Ben Johnson - AILA: Congress could create legal channels of immigration

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Ben Johnson - AILA: that would give people from the largest sending countries, many of whom are legitimately fleeing persecution. But many others are fleeing dire economic situations giving them an opportunity to come and work legally in the United States, in places that desperately need workers would have an immediate and dramatic impact on what's happening at the border. And

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00:03:13.700 --> 00:03:23.098

Ben Johnson - AILA: and and the demand for that. The hunger for that is broad and bipartisan. Even in ruby red States you have governors and mayors that are begging for

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00:03:23.930 --> 00:03:40.730

Ben Johnson - AILA: an opportunity to put people to work in their communities, Governor of Utah and Indiana are campaigning together to try to get work authorization for the folks that are currently coming and ending up in in their communities. So is the mayor of of Mesa, Arizona.

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Ben Johnson - AILA: Topeka, Kansas, has a choose Topeka campaign that is literally paying people to move to Topeka and work. So there is broad bipartisan need and support for the idea idea of creating legal channels of immigration that would allow people to line up at consulates back home instead of line up at the border for the work they are seeking and the work that we need.

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Ben Johnson - AILA: Unfortunately, in the absence of Congress doing its job, the President is being forced to act unilaterally, to try and implement and replicate the tools and strategies that we need to meet the moment

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00:04:17.910 --> 00:04:31.099

Ben Johnson - AILA: and the White house. I have to be given credit for the fact that over these last 4 years they really have implemented some important tools that do seek to try to replicate the essential elements of success which is

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Ben Johnson - AILA: at a faster more efficient processing and some legal channels of immigration. It has expanded the use of parole authority to provide incentives to use legal pathways. Most notably for the some of the folks fleeing from the failed States, Cuba, Nicaragua, Venezuela.

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00:04:48.330 --> 00:05:16.960

Ben Johnson - AILA: and and that has had a a significant impact in relieving the pressures on on the border. It's created the Cb. One cbp. One app. Now, if we, despite all of its flaws. The idea of leveraging technology to to try to find new avenues for processing people and improve the efficiency of of the operations at at the agency and give people a legal workable channel. That is something that can and should continue to be explored.

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Ben Johnson - AILA: We've engaged with governments in the Western Hemisphere to carry regional commitments and regional strategies. To address this issue.

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00:05:24.620 --> 00:05:43.569

Ben Johnson - AILA: We've launched safe the Administration has launched safe mobility offices to try to screen people outside of the United States. So many other examples of efforts of the Administration to try to replicate the tools and strategies that would be significantly enhanced by Congressional action.

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Ben Johnson - AILA: because ultimately executive authority, although there is significant authority within the executive branch, that authority alone is not going to be enough to meet this moment.

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Ben Johnson - AILA: and unfortunately, under mounting political pressure, the bid Administration, in in the form of of this protocol, in our estimation, is giving into that fatalist

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Ben Johnson - AILA: fatalistic sense that the only solution is to begin to shut down the the border and and close the border.

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00:06:11.604 --> 00:06:15.549

Ben Johnson - AILA: And and we believe, that that while it may

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Ben Johnson - AILA: offer some, it might may temporarily change what's happening at the border ultimately. It's it more likely to make things worse than better. And just as importantly, if not more importantly, along the way, we are violating fundamental principles of fairness and due process and statutory obligations under current law.

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Ben Johnson - AILA: To provide protection for those people that are legitimately fleeing persecution. So it is an incredibly unfortunate development.

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Ben Johnson - AILA: The Administration bears responsibility for for for taking this action. But so, too, does Congress. If we want the dynamics to change.

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Ben Johnson - AILA: Congress must do its job, and the Administration must resist the temptation

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00:07:02.311 --> 00:07:17.518

Ben Johnson - AILA: to violate basic principles of fairness and statutory obligations. So W. That I, I think, is the the right setup, at at least to turn it over to people who know the details of this, who have looked at it, and can talk a little bit about what this pro this proclamation does.

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Ben Johnson - AILA: We have with us from Greg Chan, who is Aila, senior director for government relations. We have Jennifer Ivan. Yes, Whitlock, who is a list policy and practice counsel, and Angela Kelly, who is senior advisor to Aila on these issues, so I will stop there. Greg and I will turn over to you.

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Greg Chen/AILA: Thank you, Ben, and thank you to all the press members who he have here joining us today.

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Greg Chen/AILA: Jen Whitlock and I will be going over the meat of the details for this new policy that's been announced. I hope you've received the Updated Policy brief that we issued yesterday which goes into more detail about the impacts of this new policy. The real

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Greg Chen/AILA: detail is in the interim final rule that came later on Tuesday, after the President of the White House had issued various policy documents based on our review of the language. In the interim final rule, it's almost 200 pages it is our judgment that the new policy will effectively bar

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Greg Chen/AILA: access to asylum for nearly all people seeking protection at our border.

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Greg Chen/AILA: I say that slowly, because that's a significant. That's a huge statement to make about what the Administration is doing here. And we did not make that assessment lightly. We took that very carefully, and looking at the various components and procedures the Administration says it's going to be putting in place. Their argument is going to be. Well. W. There are going to be some mechanisms.

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Greg Chen/AILA: some tools and exceptions to enable people to still gain access. Yes, there will be some who will get it, but it's going to be the extremely few and limited who will still be able to get protection once this rule is in place and in effect, and it has taken effect as of midnight on June the early the morning of June 5.th

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00:09:10.130 --> 00:09:29.440

Greg Chen/AILA: So why are the exceptions and procedures functionally inadequate to continue to provide adequate access for asylum, so that the United States could still comply with us. Asylum law, which is our assessment that it does not. These rules do not comply with us asylum law to guarantee somebody access to asylum

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Greg Chen/AILA: first.st When is this? In effect? So you probably already familiar that, what this new policy does is it will set into motion as is currently in effect, a a new set of restrictions, and those come into effect when the number of people that are being apprehended between ports of entry is at a certain level, and that was set at 2,500. I won't go into all the details of how that functions. But

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Greg Chen/AILA: by statistical analysis, if you look historically, since February of 2021.

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Greg Chen/AILA: The number of days that the apprehensions have exceeded the level that the administration just said has been every day every day since February 2021 has exceeded that number, so if it had been put in place in February 2021, this rule would be in place every day, and so moving forward. Unless those migration figures change with us Southern border. We will see this in effect every day.

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Greg Chen/AILA: Who does it apply to?

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Greg Chen/AILA: Well, it will effectively apply to almost everybody. There are some various limited categories of exceptions which are listed in our brief. It does not apply, for example to unaccompanied children people who have certain vulnerabilities

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Greg Chen/AILA: could be screened in to get protection. We'll talk. Jen will talk later about how that screen works. And, for instance, people who are law from per residence, they won't be have this applied to them. The other major exceptional flag is, people can still come in through Cbp, one

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Greg Chen/AILA: which is not negligible. It's 1,450 entrants can come in per day but that will still by and large be is much smaller than the number that are going to be coming in between ports of entry.

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Greg Chen/AILA: Why is this a categorical exclusion to asylum.

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Greg Chen/AILA: What it does is, it means that if

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Greg Chen/AILA: this restriction is in place as it is in right now, the people who are coming in between ports of entry will not be eligible for asylum

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00:11:33.110 --> 00:11:38.610

Greg Chen/AILA: unless they meet certain specific exceptions. Those are primarily the vulnerabilities

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Greg Chen/AILA: that Jen will be talking about a moment like medical conditions, risk of severe, imminent threat of harm, like rape or torture. But it has to be imminent that risk. But unless you fit into those categories, you will not

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00:11:52.510 --> 00:11:54.490

Greg Chen/AILA: be able to apply for asylum.

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Greg Chen/AILA: and the only opportunity that you could get any protection is, if you

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00:12:02.260 --> 00:12:15.039

Greg Chen/AILA: proactively, as the individual manifest, and these are the words that are used in the rule. If you manifest that you have a fear of some kind that's a fear of persecution or torture, or of trafficking.

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00:12:15.326 --> 00:12:41.069

Greg Chen/AILA: But you have to physically manifest that. And the problem with that standard is that most people who are arriving at the border are not gonna get referred through a screening because they won't know that they need to proactively say they have a fear. Most people haven't even thought about what categories the law functions and let alone to know. Hey, I'm gonna tell

everybody that I'm afraid them be tortured. Who's gonna step into a room of strangers and start talking about that. So that's very unlikely.

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00:12:41.880 --> 00:12:58.149

Greg Chen/AILA: The way that the government plans to notify people. This is to put up signs, notices. Let's say in facilities that explain that you, if you fall into any of these categories, that you should then proactively tell somebody that you are you have that fear?

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Greg Chen/AILA: This has also been shown. This manifest test has been shown to be highly ineffective. Organizations have done studies of ha! What happens, these situations and people just do not get referred for that screening the center for gender refugee studies. Did a interview almost a hundred families that actually already been sent across the border to Mexico.

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Greg Chen/AILA: More than about almost 3 quarters of those families they interviewed said they had manifested that fear. They had actually said that they knew to do that, but they were never referred by Cup for an interview.

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Greg Chen/AILA: So this manifest is, gonna be very unlikely to help people. And finally, I'll just say that the protection that you be eligible for unless you fit into those very narrow exceptions that Jen will go into. You're not gonna be able to qualify for assign at all

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00:13:50.860 --> 00:13:56.530

Greg Chen/AILA: the remaining kind of protection you get is something called convention against torture or withholding a removal.

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Greg Chen/AILA: Both of those in a quick nutshell are, have a higher standard that you need to qualify, and they're much more limited in the protection that they give if you receive it, meaning you can't help. Family members come in the future, and it's not permanent. It can be revoked.

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Greg Chen/AILA: and for withholding removal. If you leave the country United States, it can. You will lose the status automatically. So those are much less forms of protections that have higher standards. So that is the quick nutshell of how this structural work, and why it is so limited, and why we

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Greg Chen/AILA: made the assessment that most nearly all people will not qualify for asylum or other protection.

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Greg Chen/AILA: The last point I make before I'll pass this over is an access to attorneys

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Greg Chen/AILA: one change that this new policy is putting into place is to say that

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Greg Chen/AILA: you will only have 4 h

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Greg Chen/AILA: to consult with an attorney before they proceed into the process of

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00:14:55.150 --> 00:15:03.019

Greg Chen/AILA: determining whether or not you would even be a little eligible. Now that's assuming even you to say you, you know, raise your hand and pat. It went through the manifest part.

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Greg Chen/AILA: You only get 4 h to find that attorney. That is ludicrous. There is already very few people. I think it's 1% of people going through the Cfi. The credible fear process have attorneys. This will render it next to nil, because, finding an attorney in that limited period of time. Attorneys just are not sitting around waiting for you. People need to have time to consult with an attorney to build it. Go through that process

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Greg Chen/AILA: and that. So I will just put that as a point that that's going to severely erode due process, because attorneys are so critical in this process.

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Greg Chen/AILA: and a passage to Jen Woodlac.

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Jen Ibanez Whitlock, AILA: Thanks, Greg. So what I wanna do with the time that I've got allotted is actually describe the secrettable for your interview for you. I'm hoping that that will help you put these new changes into context and also describe how the rule does change. What's gonna happen inside those credible for your interviews. So the best description I can use is essentially of these interviews is 3 words fast

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Jen Ibanez Whitlock, AILA: detained and without the benefit of counsel. I guess that's more than 3 words there. But these are interviews that are meant to go through a fast process. After all, they are occurring. What is called is is called expedited inter removal. Imagine any other high stakes interview you've ever had, whether it's a job, app application or government clearance and essentially strip away any of the conveniences or norms that you would associate with such a high stakes interview.

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Jen Ibanez Whitlock, AILA: And what this rule does. And I think, what's gonna have the most dramatic impact is that it really takes what is supposed to be a safeguard in this fast process? And makes it even that much harder to find the individuals or for individuals to be able to get protection.

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Jen Ibanez Whitlock, AILA: The interview is meant to be a safeguard against erroneous removal. It's meant to be a safeguard to make sure that we don't violate it. Us asylum law and return someone to danger. But what has is happening under the in interim. Final rule that was announced is that it's making the standards that are going to be applied by the asylum officers to be so high

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Jen Ibanez Whitlock, AILA: that it's our assessment that most people are not going to be able to meet them in part because of the conditions in which they are process. So typically an interview is going to happen. Within days of having been apprehended. Or is this often the case has been mentioned. Somebody has lined up and waited to be processed by Cbp. You've all seen the pictures of people lining up once they've crossed into the Us. Territory to ask for asylum

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Jen Ibanez Whitlock, AILA: detainees typically say that they're disoriented. They may not even know where they are, as in the in the case of ice custody, because, they're being transferred from the border and being sent to facilities all across the United States.

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00:17:46.417 --> 00:18:06.389

Jen Ibanez Whitlock, AILA: Oftentimes not knowing exactly where they physically are. And some individuals are also disoriented because they've been separated from their family, and anyone who has travel with a family unit can know how incredibly destabilizing it could be to not know where your adult daughter, maybe an 18 year old is has been placed, has been sent to. If you, if you've been separated

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00:18:07.075 --> 00:18:36.290

Jen Ibanez Whitlock, AILA: a guard typically calls the individual's name, and they're brought into a location in which they're going to have their interview. These interviews are typically remote. It used to be the case, that asylum officers would travel on details to different facilities, but by and large, as it currently is processed, most of the asylum officers are call calling in, so an individual is placed before a telephone. They may not have even been aware or given much notice, that this was the day, or this was the moment that they're gonna have their credible fear interview.

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Jen Ibanez Whitlock, AILA: and as Greg mentioned, they may have only had the benefit of a poster or a video. Both things that we've never seen in terms of what is what information is being provided to this individual about the very complicated processes of us asylum law, and they'll be asked to essentially do their interview over the phone with an asylum officer

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Jen Ibanez Whitlock, AILA: the asylum officer is going to ask some things like, Are you in a private setting? Would you like to have an attorney with your consultant? Are you physically well enough to do this interview, but recall, these are remote. These are all by telephone. So the asylum officer can't really do a visual inspection of what's happening. And there are many reports. That demonstrate that oftentimes these are not done in a private setting.

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Jen Ibanez Whitlock, AILA: Sometimes people are actually still recovering from the injuries they sustained, either at the hands of cartels, or through their irregular crossing

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Jen Ibanez Whitlock, AILA: at the conclusion of an interview. Sometimes the individual will know whether or not they've been passed, but oftentimes they do not, and it's not until they are being perhaps placed on a plane that they realize that they have failed their interview. If they didn't know, or if they didn't ask for a review of that case.

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Jen Ibanez Whitlock, AILA: So it's in these settings that the new asylum the new interim final rule is going to require asylum officers to make determinations

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Jen Ibanez Whitlock, AILA: largely based on the testimony of the individual. You know there's this isn't a situation where you're presenting evidence. Even if the individual brought evidence of their claim that's likely been confiscated by Cbp. Or ice prior to being booked in.

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Jen Ibanez Whitlock, AILA: And it's our assessment that these changes can have dramatic changes. In the outcomes. About a year ago the Biden Administration issued the circumvention of waffle pathways rule with the goal, pushing people to use these lawful pathways that then described at the top of the call, instead of coming to the border and crossing irregularly.

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Jen Ibanez Whitlock, AILA: However, if you fail to do that. What that rule did was that you were basically ineligible for asylum, and only eligible for less informs of protection known as withholding a removal and cat.

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00:20:39.360 --> 00:20:52.079

Jen Ibanez Whitlock, AILA: however, even within the clp, as we call it. You could rebut that in in eligibility. But if you didn't, you still were eligible for these lesser forms of relief, withholding of removal or cat.

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Jen Ibanez Whitlock, AILA: What this new rule does is that it adds a layer, an additional layer to disqualify people from eligibility for asylum. Now with the trigger of whether it it doesn't really even matter if you tried to avail yourself of the lawful pathways. The main focus is, was the border closed or not when you crossed to regularly? If it was, and, as Greg has pointed out.

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Jen Ibanez Whitlock, AILA: it would have been every day since the start of this administration you're rendered ineligible for asylum, and

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Jen Ibanez Whitlock, AILA: the additional consequence now is that there's a new standard. So for those less reforms of protection that I just mentioned. The rule creates a a new standard. That there is. The the Rf. Calls the reasonable properties standard. So this one means essentially

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Jen Ibanez Whitlock, AILA: 50%. Chance is the one way to describe it. Whether or not you're even eligible for this lesser form of protection.

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00:21:45.960 --> 00:21:57.390

Jen Ibanez Whitlock, AILA: So one thing that I will be tracking closely about. How this standard is applied in practice is whether or not we see, for example, public guidance about how asylum officers are supposed to apply it.

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00:21:57.742 --> 00:22:20.680

Jen Ibanez Whitlock, AILA: Passage rates of the assign of the credible fear interviews how long people are sitting in custody, and also whether or not these exceptions that Greg mentioned at the top that are baked into the rule are actually genuinely, meaningfully applied. So, for example, in addition to the unaccompanied children and Lprs. Whether people who have a compelling circumstances, such as acute medical emergencies.

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00:22:20.680 --> 00:22:30.329

Jen Ibanez Whitlock, AILA: extreme threat to life or safety, or have been a victim of some fear for our trafficking. If those people are really actually getting screened out and not having this role applied to them.

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00:22:30.370 --> 00:22:42.849

Jen Ibanez Whitlock, AILA: there could be wide variation in what an individual considers an acute medical emergency. And the last thing that we'd want is to tell people you're only gonna get an opportunity to enter if you're basically on death store.

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Jen Ibanez Whitlock, AILA: So with that, I'm gonna pass it over to Angela Kelly to talk a little bit more about some of the things that we would prefer to see, but I hope that's been helpful.

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00:22:52.650 --> 00:23:20.130

Angie Kelley: Thanks so much. Jen, yeah. And I know that we wanna get to questions. And people probably wanna get to lunch if you're on the East coast. So I'm gonna talk fast and wrap us up. I wanna take a step back and really talk about like this is, this is an election year. And what we really need to think about is like, what does the American public want? And that's that those are the the policies that we search, we should pursue. So one, the American public wants solutions not sound or flimsy, policies that are legally questionable and that are gonna end up being litigated

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Angie Kelley: Gallup poll shows that public support is still very high, that legal immigration is a good thing for this country, and when they're asked about border solutions they express a lot of common sense. So Pew found that people support 60 or higher, that we should have more judges that make decisions quickly, and 56% say that we should create more opportunities for people to legally immigrate to this country. So what the public supports is something that is fast, fair, and final.

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Angie Kelley: These are not the policies that we're being that we're seeing being advanced either because Congress isn't acting or because the Administration is grasping at some straws.

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Angie Kelley: Secondly, the American public wants lawmakers to find common ground for solutions not just to stand their ground.

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Angie Kelley: Exhibit A is what you see that Ben pointed at the top of the call.

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Angie Kelley: What is happening locally. So whether it's the Denver mayor being very creative and innovative in getting recently arrived migrants ready to work and pushing the Government to give work authorizations more quickly, or, as Ben pointed out, Topeka, Kansas.

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00:24:26.640 --> 00:24:31.950

Angie Kelley: not a place I would necessarily want to move to, but hey, for \$15,000 if I have work. Authorization

113

00:24:31.980 --> 00:24:34.690

Angie Kelley: could be very attractive to a recently arrived migrant.

114

00:24:35.330 --> 00:24:36.470

Angie Kelley: Thirdly.

115

00:24:36.660 --> 00:24:38.389

Angie Kelley: the American public

116

00:24:38.490 --> 00:24:44.550

Angie Kelley: hasn't forgotten that we have a longstanding population that is deeply rooted in this country.

117

00:24:44.820 --> 00:25:07.409

Angie Kelley: That is settled. These are folks that are married to us citizens. And so when I heard the President say in his speech about the border policy, that in the coming days or weeks that we would

see something that is more fair and just I hope it is that population that he's talking about. Because and I see Michelle Hackman is on on the call, and it's a Wall Street journal poll that found

118

00:25:07.410 --> 00:25:21.039

Angie Kelley: that when you test, what is the public support? 74% wanna path to citizenship for people who've been here for a long time because there are neighbors, because there is American as as I am, and others on this call. But for a piece of paper.

119

00:25:21.640 --> 00:25:25.810

Angie Kelley: in contrast, as we think about what what might happen in November.

120

00:25:26.300 --> 00:25:41.460

Angie Kelley: and what other policies are being talked about of deporting those 11 million people, of slamming the door at the border, of ensuring that people don't get to come and make this country the greatest country. So it's been I think that's what we should be worried about. I'll kick it back to you, Ben.

121

00:25:43.490 --> 00:25:50.389

Ben Johnson - AILA: Thank you, Angie. I think, Bell, you're gonna give some instructions on people asking questions, although I bet they already know how to do that.

122

00:25:50.390 --> 00:26:13.199

Belle Woods: Yeah, absolutely. If folks wanna ask a question, feel free to raise your hand or enter the question in the chat box. If that's more comfortable for you again. We'd really appreciate it. If you do. Verbally express your question that you put your name and your outlet out there, so we can make sure to note those. I think I see Rebecca Santana from Ap as first.st Here Ben Rebecca.

123

00:26:13.620 --> 00:26:33.630

Rebecca Santana: Thank you so much. And thank you for having this. I had one question for Greg, and then just a broader question for for all of you, Greg, you had mentioned the signage that people are supposed to be able to see. Can you describe that a little bit more like where it's supposed to be and what it's telling people a. And then I think just broadly for all of you like.

124

00:26:34.084 --> 00:26:59.509

Rebecca Santana: I guess I'm still struggling with the the Clp role from last year was a very high bar, presumed people to be ineligible for asylum. So if you can drill down into really where the specifics where this interim final rule is different from that cause. It sounds like, obviously, you think it's very significant. I'm just kind of trying to make sure. I understand exactly where it's different and where it's much harsher.

125

00:27:00.590 --> 00:27:10.170

Greg Chen/AILA: I can take a stab at those, especially your your signage question. So the interim final rule says there'll be general notice given that people need to manifest.

126

00:27:10.170 --> 00:27:31.560

Greg Chen/AILA: not totally clear what that means. We assume that's gonna be done by the agencies promulgating memos to their field. We've been told that we're not gonna get those publicly issued we did see, however, posted. And we've now put it on our website an ice memo that went out to the field. I think it was also dated June 4, th which basically said, You know.

127

00:27:31.680 --> 00:27:33.930

Greg Chen/AILA: I used detention facilities

128

00:27:34.365 --> 00:27:57.740

Greg Chen/AILA: which is not the same Acp, but ice tension facilities. They're gonna be putting notices up in the facilities. And they went through a kind of a list of the different types of information, including language that should be translated into but essentially, if you qual, if you have any of these kinds of vulnerabilities you should. There? Then raise your hand, or go talk to somebody and tell them that's the way to manifest.

129

00:27:58.013 --> 00:28:09.789

Greg Chen/AILA: That you have this kind of a fear. So that's basically we've heard about the signage. It's on our website. If you want to see the details of what? How ice kind of describes it the on the

130

00:28:09.860 --> 00:28:26.040

Greg Chen/AILA: other part that you asked about. You know that. See the Clp circumvention of legal pathways rule the way you described it. Sorry, lawful pathways rule as you described it already presume that most people would not be eligible for asylum that is accurate, and, for example.

131

00:28:26.080 --> 00:28:45.159

Greg Chen/AILA: in the 1st 5 months that the circumvention of waffle pathways rule went into effect, basically may, 5 months after May of last year, the number of people that actually ended up getting 1st of all screened, and then found that they could even be eligible for a son was only 13.

132

00:28:45.770 --> 00:29:08.470

Greg Chen/AILA: So this is the preliminary screening that was set up under the clp rule. And the people that got screened. And then we're found. Okay, now, you can actually apply for asylum. That was only 13. And the people that basically qualified for that 13% were the people that fell into the specific vulnerability type exceptions that we're talking about. In in those categories.

133

00:29:08.813 --> 00:29:16.359

Greg Chen/AILA: There's data out there that's filed by Dhs into the courts. We reference it in our in our policy. Brief

134

00:29:16.945 --> 00:29:17.530

Greg Chen/AILA: the

135

00:29:17.530 --> 00:29:27.629

Greg Chen/AILA: contrast point to make of that is that this is supposed to be a preliminary screening. It's not supposed to be the final asylum determination by an immigration judge. And, in fact.

136

00:29:27.630 --> 00:29:42.450

Greg Chen/AILA: statistics show that 55% of people who get past a credible fear screening this is before the Clp rule went into effect. 55% who went through credible fear screening, and then went before the immigration judge received a grant of asylum.

137

00:29:42.450 --> 00:29:58.229

Greg Chen/AILA: So they've actually turned the standard on his head by making it harder at the preliminary screening level than when you're in front of the immigration judge. Now your question was, Well, how is this changing it? Well, what it's doing? You know. The main point is that this will be in effect for everybody

138

00:29:58.260 --> 00:30:16.810

Greg Chen/AILA: during the time that it's in effect. So it's it's it's currently in effect. So it's everybody who crosses between a port of entry is, gonna have it applied to them. And also people who go to the port of entry and don't have a Cv. One app. They're not gonna have an exception, either. They're gonna also have this applied to them. So the

139

00:30:16.830 --> 00:30:40.700

Greg Chen/AILA: rules gonna apply much more extensively. And as Jen mentioned, it's gonna have a higher legal standard of reasonable possibility which is going to raise the bar for more people. But the I think most significant thing, PE Rebecca to mention is that you have to proactively manifest. There will not be individual screenings done for people as is currently a process that is, that

140

00:30:40.976 --> 00:30:51.479

Greg Chen/AILA: the agencies tried to do, even though they don't have as much capability. But there will be no pretense of doing the screenings. Now you have to manifest, and very few people get it under that standard.

141

00:30:54.700 --> 00:31:19.507

Ben Johnson - AILA: I I do think it is safe to say, though, that there is a lot of uncertainty about how these things, how these these programs clp, and this new population will overlap in implementation. And you know, if they ever get to the moment where the the this proclamation is managed to to be released and the and the border reopened. You know how people will be processed. How, you know. Cases

142

00:31:20.080 --> 00:31:41.209

Ben Johnson - AILA: will, you know are are impacted that arrived at the border during the closure versus when it might reopen. So a lot of questions and concern, and we will be doing a ton of monitoring of, you know, for however long this this policy is operational, we're going to be continuing to monitor how that happens.

143

00:31:46.910 --> 00:31:51.599

Belle Woods: Any other questions. If you wanna raise your hand or put your question in the chat?

144

00:31:58.240 --> 00:32:02.139

Belle Woods: Looks like Ellen Gilmer from Bloomberg has raised her hand. Ellen.

145

00:32:07.120 --> 00:32:08.230

Belle Woods: let me

146

00:32:09.290 --> 00:32:11.720

Belle Woods: see if I can get Alan unmuted.

147

00:32:17.110 --> 00:32:19.150

Belle Woods: Can you try to unmute yourself, Ellen.

148

00:32:25.920 --> 00:32:29.839

Belle Woods: or perhaps put your question in the chat? If we aren't able to get you unmuted.

149

00:32:36.590 --> 00:32:37.400

Belle Woods: Okay.

150

00:32:37.913 --> 00:32:42.159

Belle Woods: can you speak to what you expect to see in the courts? Is her question.

151

00:32:45.635 --> 00:32:48.994

Ben Johnson - AILA: Well, I will offer that. I mean, I think, based on

152

00:32:49.950 --> 00:32:56.180

Ben Johnson - AILA: previous decisions making clear that the exercise of 212 f authority

153

00:32:56.180 --> 00:33:20.549

Ben Johnson - AILA: doesn't pro allow for the executive office to completely eradicate other statutory rights and opportunities that are provided in other areas of the law, namely, the asylum process. So this is during the Trump administration courts make clear that this can't completely eradicate the statutory right to asylum. You know what will happen in the current political environment with regard to a particular judge's decision.

154

00:33:20.550 --> 00:33:44.029

Ben Johnson - AILA: You know whether that current legal theory or that that precedent will be overturned. You know, anything is possible in when it comes to immigration. But our assessment is that based on previous decisions and the fact that as Greg and and Jen have pointed out that that few, if any, legal channels of immigration or legal channels of asylum remain open.

155

00:33:44.030 --> 00:33:50.890

Ben Johnson - AILA: then courts should find this to be an unauthorized exercise of 212 F. Authority.

156

00:33:55.700 --> 00:34:00.530

Belle Woods: Thank you, Ben. Looks like Quinn Owen from ABC. News has raised his hand. Quinn.

157

00:34:00.630 --> 00:34:02.160

Belle Woods: want to go ahead and unmute yourself.

158

00:34:04.080 --> 00:34:13.860

Quinn Owen: Yeah, thank you. I had a similar question about how the legal challenges might play out. I'm I'm could you kind of explain, like

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00:34:14.260 --> 00:34:16.989

Quinn Owen: what that might look like, how a case

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00:34:17.080 --> 00:34:18.540

Quinn Owen: could come together.

161

00:34:19.870 --> 00:34:22.270

Quinn Owen: Are you aware of any

162

00:34:23.284 --> 00:34:31.350

Quinn Owen: lawsuits that are coming together? And any any insight you could have into into how quickly this could be stopped.

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00:34:31.929 --> 00:34:36.599

Ben Johnson - AILA: Well, I think legal learned has made it clear that the Aclu is intending to.

164

00:34:36.951 --> 00:34:49.719

Ben Johnson - AILA: you know, to to to fight this right out of the gate and you know, pursue same or similar litigation a as it sought under the trump administration. And you know I don't. I don't want to exceed

165

00:34:50.389 --> 00:34:53.389

Ben Johnson - AILA: the limits of my Federal court

166

00:34:53.774 --> 00:35:08.719

Ben Johnson - AILA: expertise here. But I I mean, I think initially, there'll be a challenge that on its face. This law is, you know, improper and impermissible, you know, E, even if that doesn't work. I think that at the end of the day that and as applied challenge that

167

00:35:09.121 --> 00:35:30.019

Ben Johnson - AILA: either the failure to provide adequate notice. The the fact that there aren't resources to adequately provide Cbp one access or those kinds of things that a a as it is implemented the the policy would, you know, fail the standard of of providing for you know.

168

00:35:30.019 --> 00:35:33.569

Ben Johnson - AILA: for not foreclosing all avenues of asylum.

169

00:35:33.908 --> 00:35:55.919

Ben Johnson - AILA: So that's what I would expect. You know, dual track litigation litigation on the front end, on on its face. But then, depending on the outcome of that you know other opportunities to say that as it is being applied it constitutes an it's an unconstitutional or impermissible violation of due process rights. I I will say that

170

00:35:55.959 --> 00:36:22.895

Ben Johnson - AILA: the the 4 h to find an attorney I mean not only just, is personally and pervasially offensive to the realities on the ground, but that seems to me to be the kind of situation where you've put a a fig leaf up as some sort of a due process protection and but is completely out of touch with the realities. What happens, you know, to folks that have, you know, recently

171

00:36:23.639 --> 00:36:24.849

Ben Johnson - AILA: found there, you know.

172

00:36:24.879 --> 00:36:36.279

Ben Johnson - AILA: struggled through the dairy and gap, and they got 4 h to find an attorney consult with attorney and get an advice for an attorney about their case. That that's a that's a that's ridiculous.

173

00:36:38.840 --> 00:36:52.749

Belle Woods: There's a similar question from Maria Sachetti of the Washington Post. Along same similar lines. Do you have any idea how many people might have been turned back under this new policy. And are you planning to sue to block the policy? And if not, please say why.

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00:36:53.930 --> 00:36:57.599

Ben Johnson - AILA: Leave others to answer that 1st part of that question in terms of the suit.

175

00:36:58.225 --> 00:37:17.590

Ben Johnson - AILA: You know we'll certainly we'll be talking to, you know, our our colleagues at the American Immigration Council. They have been, you know, then, an incredible litigation team have

worked on issues with the Actu and sub issues you know. On these kinds of issues. So yeah, I think we will be

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00:37:17.990 --> 00:37:26.369

Ben Johnson - AILA: active thought partners and supporters of of litigation on this in terms of how many people might have already been

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00:37:26.825 --> 00:37:31.094

Ben Johnson - AILA: excluded. I don't have that number, Jen, ang Angie Greg. Any sense of that.

178

00:37:31.400 --> 00:37:33.100

Greg Chen/AILA: Zoom, Maria! Oh, go ahead, Jim!

179

00:37:33.460 --> 00:37:48.729

Jen Ibanez Whitlock, AILA: I know. Tuesday they had 4,300 and encounters, so that's not to say that all those people would have been excluded. But just to give you a sense, I think that's how I am trying to figure out. You know, the in the sort of the numbers impact is how many people every day we're going to be saying

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00:37:48.860 --> 00:38:00.399

Jen Ibanez Whitlock, AILA: you can't even access asylum. Obviously, that's over capturing the actual number of people who maybe would have been eligible for asylum, but but for this interim final rule, and I could be allowed to apply.

181

00:38:05.500 --> 00:38:10.870

Belle Woods: Alright. Thank you so much. It looks like Julia Preston has raised her hand. Julia, you wanna go ahead and unmute.

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00:38:18.930 --> 00:38:19.859

Julia Preston: That do it.

183

00:38:20.280 --> 00:38:20.990

Belle Woods: Yes.

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00:38:20.990 --> 00:38:21.900

Julia Preston: So.

185

00:38:23.450 --> 00:38:33.469

Julia Preston: The. This is a transparent effort by the Administration to bring down the numbers of people who are crossing in between the ports of entry.

186

00:38:33.660 --> 00:38:39.220

Julia Preston: It fits into their overall strategy of trying to drive people

187

00:38:39.380 --> 00:38:42.030

Julia Preston: to get into the legal.

188

00:38:43.270 --> 00:38:46.139

Julia Preston: although fragile, lawful pathways

189

00:38:46.150 --> 00:38:49.729

Julia Preston: at the ports of entry, particularly by Cbp one.

190

00:38:49.990 --> 00:38:51.040

Julia Preston: So

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00:38:51.580 --> 00:39:00.230

Julia Preston: the level that would accelerate or that would allow the this rule to be lifted

192

00:39:00.390 --> 00:39:06.529

Julia Preston: is when you get down to 1,500, an average daily of 1,500 people, which would be

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00:39:06.580 --> 00:39:09.440

Julia Preston: more than 10,000 people in a week.

194

00:39:09.770 --> 00:39:15.439

Julia Preston: and 40,000 encounters at the in between the ports of entry.

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00:39:17.190 --> 00:39:18.730

Julia Preston: in a month.

196

00:39:19.180 --> 00:39:26.910

Julia Preston: So you're looking at if you wanted to take that out to an annual figure over 300,000 people. So my question is

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00:39:27.500 --> 00:39:39.230

Julia Preston: given the fact that we have 3 million cases backed up in the immigration courts that Aila cannot possibly provide attorneys to all the people who need them.

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00:39:39.930 --> 00:39:49.409

Julia Preston: that the Mayor of Denver, the Mayor of Boston, the Mayor of New York, the Governor of Massachusetts, came out yesterday and said, this is great. We're so glad

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00:39:49.430 --> 00:39:51.800

Julia Preston: that the Administration did this.

200

00:39:54.340 --> 00:39:56.100

Julia Preston: is there a number?

201

00:39:56.120 --> 00:40:00.569

Julia Preston: Is there? Can you foresee a circumstance in which you might

202

00:40:01.750 --> 00:40:07.360

Julia Preston: agree with a policy that seeks to pro to discourage people from

203

00:40:07.470 --> 00:40:10.980

Julia Preston: making the incredibly dangerous trip to the border.

204

00:40:11.570 --> 00:40:14.140

Julia Preston: putting themselves in the hands of smugglers

205

00:40:14.990 --> 00:40:16.240

Julia Preston: and

206

00:40:17.690 --> 00:40:25.010

Julia Preston: by this kind of deterrence policy. Is there any policy at the border that you would accept

207

00:40:25.310 --> 00:40:34.139

Julia Preston: or agree with to meet the goals that that that transparently. The Biden Administration is trying to meet, which is just to get these numbers down.

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00:40:35.770 --> 00:40:38.180

Ben Johnson - AILA: Yeah, listen. We have been

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00:40:38.770 --> 00:40:50.920

Ben Johnson - AILA: working very hard with in a lot of different areas to provide solutions. Or we have many, you know, documents and and forms in in different forms of

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00:40:51.633 --> 00:41:15.379

Ben Johnson - AILA: proposals, sensible, workable solutions that would address this the these challenges simple things like coordinated release to these cities rather than the the randed, haphazard way they're arriving unexpectedly in these cities could help to alleviate some of the chaos that's happening there overall, though in turn, and we and we are equally you're deeply committed to the idea of

211

00:41:15.440 --> 00:41:32.579

Ben Johnson - AILA: disincentivizing folks from coming through, you know, in journeying through very very dangerous places in the hands of very, very dangerous people. What we know from experience, though, is the idea that we are going to be able to stand up

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00:41:32.630 --> 00:41:34.470

Ben Johnson - AILA: harsh punishments.

213

00:41:35.041 --> 00:41:45.420

Ben Johnson - AILA: A. A. And and deter people who are fleeing horrible violence and horrible economic conditions. Deterrence as a strategy has been dramatically overrated.

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00:41:45.430 --> 00:41:50.669

Ben Johnson - AILA: we believe, and the evidence of the experience of the bite administration shows that

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00:41:50.770 --> 00:41:53.620

Ben Johnson - AILA: other alternatives is the answer.

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00:41:54.850 --> 00:42:16.930

Ben Johnson - AILA: that providing legal pathways to immigration opportunities for for families, close family members to unite what we did with. The Central American. My minors program. Those kinds of things that understand the nature of the pressure that's driving people to the country and providing alternatives to

217

00:42:16.930 --> 00:42:33.909

Ben Johnson - AILA: dangerous journeys in the hands of incredibly dangerous people. We are all for that we definitely have bright lines setting up systems that deny people a full opportunity to be heard when the consequences are as high as they are in asylum is unacceptable.

218

00:42:33.910 --> 00:42:57.790

Ben Johnson - AILA: but we have the resources to provide people meaningful, fair, and efficient ways to to screen these cases and determine who's eligible and who's not? The barrier is the refusal of Congress to provide funding, and that is not a reason for us to abandon fundamental principles of due process. So we're gonna continue to push Congress to do its job. We're gonna continue to push the Administration and Congress

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00:42:57.790 --> 00:43:13.209

Ben Johnson - AILA: to look beyond the border. Look at regional solutions, look at investments in countries abroad that might change the conditions that they're fleeing from, that might provide them opportunities to apply from home for the work that they are seeking, and that we need. So

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00:43:13.210 --> 00:43:22.370

Ben Johnson - AILA: I I. We are open to all kinds of suggestions, but we have very clear bright lines in what is acceptable and permissible under law and in accordance with our values.

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00:43:25.730 --> 00:43:27.090

Julia Preston: Thank you. Man, yeah.

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00:43:27.700 --> 00:43:28.250

Julia Preston: go ahead.

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00:43:28.250 --> 00:43:35.369

Greg Chen/AILA: If I could just build upon Ben's really kind of thoughtful response. There you have to add to this concern about Congress not acting

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00:43:36.140 --> 00:43:50.600

Greg Chen/AILA: the there are solutions, and Aila has put forth a number of proposals for how this could be done. The fact that Congress is not willing to come together and pass either legislation or to fund the agencies adequately, is making it

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00:43:50.600 --> 00:44:09.850

Greg Chen/AILA: impossible to have smart solutions get out there, and so the administration is left with breadcrumbs of how to implement things, including not having enough, you know, personnel and resources to implement various smarter policies. And I'll just point out, as Ben was mentioning. You know the need for more legal pathways. There is a striking

226

00:44:10.282 --> 00:44:34.910

Greg Chen/AILA: contrast now to what many governors are saying across the country. Take even Republican governors, like the Utah governor and the Indiana governor that pro have partnered to say, we need more foreign workers to come to the United States. They want those kinds of expansions of visa, but the Congress won't pass it, and at the same time you have con so many members of Congress, simply saying, we have to crack down on the border well, the fact that our immigration policy is not matching the needs of the country

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00:44:34.910 --> 00:44:43.559

Greg Chen/AILA: is is a huge problem. And we really need Congress to get around that that those solutions will help with the border. And so it has to be a combination of those.

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00:44:46.130 --> 00:44:47.570

Julia Preston: Okay. Great. Thank you.

229

00:44:51.800 --> 00:44:56.379

Belle Woods: If you have any further questions, please feel free to raise your hand or drop them in the chat.

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00:45:02.000 --> 00:45:06.030

Belle Woods: Ben, do you want to go ahead and wrap up. If there are no few further questions.

231

00:45:06.330 --> 00:45:24.010

Ben Johnson - AILA: Well, I've done my soliloquy apparently so. thank everybody participating. And for the ail staff, Angie there and for for putting this together. We're available for questions. Afterwards. So please reach out. Is that what I needed to say, Bill?

232

00:45:24.690 --> 00:45:27.070

Belle Woods: Sounded great. Thank you so much. Everyone.

233

00:45:27.070 --> 00:45:27.700

Ben Johnson - AILA: Alright!