



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

June 8, 2021

The Honorable Kyrsten Sinema
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Mark Kelly
United States Senate
Dirksen Senate Office Suite B40B
Washington, D.C. 20510

Dear Senator Sinema and Senator Kelly,

Our office is doing everything it can to protect Arizonans during this rapidly escalating humanitarian and public safety crisis at our southern border. While our nation has faced migrant surges in the past – this is the worst it has been in more than twenty years. The following is a brief update on what our office is doing along with some thoughts for your consideration:

- We are asking the U.S. District Court in Arizona to prevent the U.S. Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) from implementing the Interim Guidance that halts nearly all deportations and arrests. We've obtained internal federal and state records that show there's been a nearly 50 percent drop in interior arrests and deportations under this new policy. Additionally, we've learned through court-ordered discovery that ICE is not picking up individuals from state and county custody after sentences are complete. Instead, Arizona is being forced to release individuals convicted of dangerous crimes at the cost of public safety and Arizona taxpayers. Not only is this policy in direct violation of federal law (8 U.S.C.1231), it also raises serious safety concerns for Arizonans.
- We are leading a coalition of 13 states to intervene in a lawsuit after the Biden administration refused to defend the "Public Charge Rule." This commonsense immigration policy has existed in some form for almost 100 years in our country, and it ensures that our government welfare programs will not be overwhelmed.
- We filed a lawsuit against the federal government for violating the National Environmental Policy Act (NEPA) in its handling of the border crisis. It is estimated that each border crosser leaves approximately 6-8 pounds of trash in the desert, damaging the ecosystem and undermining the natural beauty and resources of our state.

- In April 2019, I personally sent a letter to Governor Ducey urging him to declare an emergency and activate emergency state resources to assist our cities and towns before they reach a breaking point, and I was pleased that he followed that advice.

I believe we must all do even more. In talking with local officials, Border Patrol agents, and members of law enforcement, I have received input about steps that the state and federal government can initiate to solve this crisis. Below are requests for our federal delegation:

- I am requesting additional State Criminal Alien Assistance Program (SCAAP) funds from the federal government. In 2019 alone, Arizona reported costs of \$19,019,255.68 related to the incarceration of certain alien criminals under the federal SCAAP program. Of this, only 7% was reimbursed from the federal government.
- I also urge you to develop and pass an innovative solution like Operation Streamline to help alleviate our overwhelmed immigration system. Operation Streamline started under the Bush Administration and ramped up under the Obama Administration. It brought additional resources like asylum officers to the border. All of the court proceedings (initial appearance, plea, and sentencing) were combined into one day, instead of spread out over months.
- Third, Arizona needs more National Guard troops to complement the efforts of officials to secure the border and enforce our laws and, I ask you to work diligently to secure federal funding for this mission. Governor Ducey activated and deployed 250 men and women to Yuma. This number is a fraction of what is required. After the late riots in Arizona last year, Governor Ducey activated 1,400 troops to protect our malls and businesses. If we can do that, then we should be able to muster at least that amount to defend our border against drug, human, and sex traffickers.
- Require ICE to pick up convicted criminals in the country illegally that have ICE detainers on them, as required by federal law. We've discovered in our lawsuit that ICE is lifting detainers on criminals who have completed their sentences in the state prison. ICE is informing the Arizona Department of Corrections, Rehabilitation and Reentry (ADCRR) it can no longer pick them up because of the Interim Guidance. ADCRR is forced to release them into communities. These individuals are convicted of dangerous offenses such as arson, aggravated DUI, and misconduct involving weapons.

I appreciate your consideration of the above recommendations. Our office stands ready to assist in the days ahead. Please don't hesitate to reach out.

Respectfully,

A handwritten signature in blue ink that reads "Mark Brnovich". The signature is stylized, with the first letters of the first and last names being capitalized and prominent. There is a small dash above the 'i' in "Brnovich".

Mark Brnovich
Arizona Attorney General