



Addressing Increases in Migration at the Southern Border

This paper is an update of a working paper focused on addressing the increase in arriving asylum seekers during the summer of 2019

Since April 2020, an increasing number of migrants have been encountered at our southern border. One year later, U.S. Customs and Border Protection (CBP) [encountered](#) 178,622 total individuals in April 2021 alone, higher than any month since the early 2000s. Arriving migrants at the border include large numbers of single adults — predominantly from Mexico — as well as asylum seeking families and unaccompanied children (UACs) from Central America and elsewhere.

The situation at the border is not new. The current rise in single adult arrivals is reminiscent of increases in the 2000s and in decades prior. The large numbers of arriving families and children fleeing persecution and instability recalls more recent influxes in 2014 and particularly 2019, when unprecedented numbers of family units from Central America sought asylum and protective status at our border.

While arrival numbers have [leveled off](#) recently, the border remains in the midst of yet another influx that has posed [logistical](#), [humanitarian](#), and [security](#) challenges. For decades, our approach at the border has resulted in reactive, uncoordinated, and ineffective border policy.

The following policy recommendations would create more humane and efficient border processing, refocus on regional approaches that combat trafficking networks and address the root causes of migration, and enact practical border security fixes that address key remaining vulnerabilities. Many of these policies will require congressional action or appropriations. However, the Biden administration can implement several of these recommendations through executive action and the re-allocation of unused or inefficiently allocated funds.

Create more orderly, efficient, and humane border management and asylum processing systems.

Recent periods of increased migration have exposed and exacerbated longstanding problems associated with the processing of asylum seekers and other newly arriving migrants. These include a lack of coordination between CBP and other agencies/NGOs at the border and an understaffed and inefficient asylum adjudication process. The result is a system which routinely fails to provide adequate legal services or detention conditions to new arrivals, *and* one that is so backlogged that it has caused some to voice concerns that the long wait times serve as a pull factor encouraging more irregular migration. The U.S. can respond to these challenges by improving coordination and conditions at the border and streamlining the immigration court system.

1. Adopt procedural reforms to streamline and secure border and asylum processing while also ensuring that arriving migrants are treated humanely and retain access to due process.

- a. Expand capacity at legal ports of entry to handle intake and process asylum claims. Currently, ports of entry remain largely closed to asylum seekers, and migrants who are not permitted to enter (or who must wait weeks or months) at ports of entry. Increasing capacity will allow for orderly asylum processing in an orderly manner at legal ports of entry and disincentivize unlawfully crossing the border between ports of entry.
- b. Co-locate necessary personnel into CBP initial border processing locations. Office of Refugee Resettlement (ORR) staff, Federal Emergency Management Association (FEMA) personnel, case management workers, mental health professionals, and others should be brought under one roof for more efficient processing and provision of key services. Permit relevant NGOs to have access to these processing sites as well, including those capable of conducting oversight and offering legal services and information. This enhanced coordination would make the processing of children, asylum seekers, and others more humane and efficient. It would also allow CBP and Border Patrol to focus on their mission of securing the border.
- c. Permit U.S. Citizenship and Immigration Services (USCIS) asylum officers to see cases through to the end. Because of their expertise and familiarity with a case, they would be able to adjudicate claims more effectively and efficiently.
- d. Create a border court division of the Executive Office for Immigration Review (EOIR). A new, separate immigration court focused on adjudicating cases involving recent entrants at the border would allow for faster resolution of those cases, addressing concerns that long asylum case wait times serve as a pull factor encouraging irregular migration at the border.
- e. Clarify use of and exceptions to rapid border expulsions under the Centers for Disease Control and Prevention (CDC) [rule](#) that permits immediate expulsions at the border (“Title 42”), and create a plan to replace the protocol entirely. The [haphazard use of Title 42](#) has been [exploited by smuggling networks](#) and caused confusion for asylum-seeking families. The protocol has also resulted in withholding due process from asylum seekers and rapid expulsions to dangerous conditions with little to no safety precautions. It has resulted in inflated border crossing numbers, encouraging those who are summarily removed to make multiple attempts to enter the U.S., as the process fails to penalize repeat attempts.
- f. Ensure that agencies integral to the processing of certain migrants are able to operate around the clock, as necessary, in times of influx. Key agencies, including ORR require additional authority, capacity, and funding to process migrants on a similar schedule as Customs and Border Protection (CBP). While CBP must operate around the clock, other federal agencies do not have a similar mandate, which can lead to delays in processing migrants.
- g. Create a plan to respond to future influxes of migrants at the border. Develop metrics based on resource constraints to define periods of significant influx. Relevant metrics may include processing capacity in specific border sectors, the time migrants spend in intake facilities during processing, Border Patrol man-

hours, and overall costs devoted to migrant processing. Create crisis management, coordination, and funding strategies to respond proactively to periods of influx.

2. Adequately staff relevant agencies to increase processing capacity and carry out the procedural reforms listed above.
 - a. Increase the number of immigration judge teams (including those to staff a new border court division) and USCIS asylum officers to increase immigration court and asylum system capacity and adjudicate asylum claims in a timely manner. Audit immigration courts and asylum systems and respond to any additional staffing needs.
 - b. Hire needed personnel to provide essential services to migrants during processing, including child welfare experts, translators, case managers, and medical professionals. These additional personnel would assist with the processing of migrants at the border or in short-term detention facilities and provide increased access to translation, medical, and legal services.
 - c. Fully staff ORR shelters in order to provide a full range of services to unaccompanied children waiting to be transferred to sponsors. These include security, sanitation, food service, access to clothing, medical care, mental health services, education, recreation, case management, and locating and facilitating release to family members.
 - d. Additional personnel at ports of entry to expand asylum processing. Supplementing existing personnel levels will permit the efficient processing of asylum claims without adversely impacting cross-border trade and travel.
3. Provide additional funding to properly resource agencies taking part in border management and asylum processing, including the carrying out of necessary reforms.
 - a. Fund a significant expansion of capacity to house unaccompanied children at licensed ORR shelters, with a goal of being able to reduce reliance on or phasing out the use of emergency intake sites and other unlicensed temporary facilities.
 - b. Establish a cross-agency fund set aside for future migration influx events, consistent with the plan proposed above.
 - c. Reimburse border communities, faith groups, and other non-governmental organizations for expenditures relating to welcoming vulnerable migrants.

Address root causes of migration and develop a comprehensive regional response.

We cannot respond to increases in migration without recognizing that the problems — and solutions — are not confined to the border. Even small policy changes in Mexico and Guatemala can dramatically impact the number of arrivals at the U.S. border, and push factors in Central America continue to be the key driver of migratory flows. For this reason, we recommend a series of short and long-term regional interventions, including those designed to address the root causes of migration, crack down on smuggling networks, and establish robust systems for protecting vulnerable migrants in-region.

- 1.** Take short term, targeted actions to respond to immediate drivers of migration to the U.S. southern border.
 - a.** Continue to assist with immediate disaster relief to areas in Honduras and Guatemala that remain significantly affected by Hurricanes Eta and Iota.
 - b.** Assist with vaccine distribution to reduce the disproportionate impact of the COVID-19 pandemic — and resulting economic and political instability — in Central America and the Caribbean.
 - c.** Conduct a public information campaign aimed at migrants in key sending communities. This campaign should go beyond telling migrants “do not come” to the U.S. border, and instead work to actively dispel misinformation from smugglers. The campaign also should help migrants understand asylum eligibility and discourage those who lack valid claims for protection from making the dangerous journey to the U.S.
 - d.** Engage diplomatically with Mexico, Guatemala, Honduras, El Salvador, and other countries in the region on information sharing to combat and undermine smuggling and trafficking networks. Partner with the Mexican government on its own interior immigration enforcement and border security priorities to reduce migration flows to the U.S.-Mexico border.
- 2.** Commit to longer term solutions to fundamentally address root causes and create a collaborative, regional framework for responding to migration increases.
 - a.** Deliver targeted aid and relief to Northern Triangle countries of Guatemala, El Salvador, and Honduras, which are the countries of origin of a large proportion of migrants arriving at the U.S. southern border.
 - i.** Work with citizens and local civil society organizations to deliver targeted aid to the three Northern Triangle countries. Relief efforts should be designed to further existing anti-corruption initiatives and improve political legitimacy and economic stability.
 - ii.** Fund programs that would help Northern Triangle countries address gang and drug violence, track and arrest human smugglers, and combat international organized crime. In particular, the community-based crime prevention programs carried out by the U.S. Agency for International Development (USAID) under the [Central American Regional Security Initiative \(CARSI\)](#) have demonstrated effectiveness in reducing violence and strengthening civil society.
 - iii.** Establish educational and agricultural programs in the Northern Triangle to improve education levels and economic conditions, including vocational education related to fishing, forestry, and market gardening. New programs should be consistent with the development and poverty-reduction programs of the [U.S. Strategy for Engagement in Central America](#).

- iv. Increase U.S. funding to the U.N. World Food Program (WFP) to assist efforts addressing food insecurity in the Northern Triangle. By addressing food shortages and a lack of economic opportunities, in areas of Guatemala, Honduras, and El Salvador, particularly in rural areas, the U.S. can help reduce the need to migrate northward.
 - b. Establish additional in-country or near-country processing in the region to permit those in danger to apply for humanitarian protection in the U.S.
 - i. Expand eligibility and processing capacity of the Central American Minors (CAM) program, which allows certain family members of U.S. residents to apply for refugee protections and other protective status from their home countries.
 - ii. Increase U.S. refugee admissions allocated to Central America and the Caribbean in the annual Presidential Determination, and work with UNHCR and local NGOs to build processing capacity and get prospective refugees from the region into the refugee resettlement pipeline.
 - iii. Work with Costa Rica to reinstitute and expand the Protection Transfer Agreement (PTA) and encourage other countries to enter into similar agreements to safely and temporarily house refugees awaiting resettlement. The PTA allows the State Department to pre-screen migrants in their home countries and transfer the most vulnerable to Costa Rica, where they can safely wait while their refugee claim is being processed.
 - c. Assist Mexico, Costa Rica, Panama, Guatemala, and other countries in the region improve their own asylum and humanitarian protection systems.
 - i. Work with regional governments, UNHCR, and other international migration and refugee organizations to advocate for legal protections for internally displaced persons (IDPs) and for the creation of relocation areas/safe zones for IDPs.
 - ii. Provide technical assistance to governments in the region to help them develop more effective asylum processing, including improving adjudication capacity, establishing appeals processes, and ensuring the safety of those seeking asylum.
 - iii. Encourage implementation of national plans developed under the U.N.'s [Comprehensive Regional Framework for Protection and Solutions](#) (known by its Spanish acronym, MIRPS).
 - iv. Assist governments in the region to provide shelter and adequate care to unaccompanied children and other vulnerable migrants.
 - d. Establish additional legal pathways for prospective migrants seeking to come to the U.S. Increasing legal pathways will decrease the number of individuals — particularly single adults — who seek to cross the U.S. southern border without authorization, while filling critical labor needs.

- i. Utilize and expand capacity of seasonal guestworker programs like H-2A and H-2B to bring in needed workers from Northern Triangle countries. The U.S. government should work with U.S. employers to establish safe, informative recruiting networks in Northern Triangle countries to grow these legal pathways. These efforts also should include increasing the H-2B cap and earmarking additional visas for individuals from Northern Triangle countries.
- ii. Consider creating new legal pathways for Mexican and Central American migrants, as well as tools to expedite family-based green card backlogs.

Implement practical and needed border security solutions.

The Southern border has never been more secure, in part because of significant investment in physical barriers and personnel in the past two decades. Congress has increased Border Patrol's budget 445% since FY 2000, and the number of agents stationed at the border has nearly doubled in the same period. The Trump administration also spent over \$13 billion for the construction of border barriers, adding to hundreds of miles of walling previously constructed by the Obama and George W. Bush administrations. Despite these investments, vulnerabilities persist, including at ports of entry and with regards to the continued use of obsolete technology in many border sectors. We recommend that the U.S. re-allocate existing funds towards modernized, targeted solutions that address these key remaining vulnerabilities.

1. Focus resources on enhancing security and building up infrastructure at ports of entry, where most hard drugs are smuggled across the border.
 - a. Invest in the CBP Office of Field Operations (OFO), which oversees the flow of commerce and immigrants at all 328 ports of entry in the nation. CBP OFO currently has a staffing shortage of 2,700 officers for ports of entry, representing a border security vulnerability.
 - b. Improve and modernize infrastructure at land ports of entry on the border, including by investing in advanced screening technology. Most ports of entry are also not built to securely and efficiently process the volume of cross-border trade and traffic that pass through each day. CBP is currently only able to inspect [18%](#) of vehicles that come into the U.S., and millions of dollars are lost because of long wait times. Implementing modern screening technology and expanding physical capacity would address these problems and improve security.
 - c. Improve biometric and/or biographic entry-exit tracking at ports of entry. CBP has struggled to track entry and exit data – including biographic data – for individuals who are entering and leaving the U.S. at land ports along the U.S. southern border. Expanding data sharing arrangements with Mexico – as well as technological improvements and investments – can help resolve these issues.
2. Continue investing in effective technological border security improvements and work to address key implementation issues to improve CBP's operational control of the border. Technology typically costs less than constructing physical barriers, is less intrusive, and serves as a better force multiplier.

- a. Complete planned overhaul of obsolete surveillance technologies and systems at the border. Since 2017, CBP has [implemented](#) just 28% of planned surveillance and subterranean technology solutions. Phase out use of outdated systems still in use by many sectors.
 - b. Fund additional technological enhancements along the U.S. southern border, including radar surveillance systems, Vehicle Dismount Exploitation Radars (VADER), tunneling detection technology, and unmanned cameras and aerial vehicles.
 - c. Fund additional self-powered, satellite-connected rescue beacons in remote border areas, which have been used by Border Patrol to rescue migrants in distress.
 - d. Develop a formal process to assess the cost-effectiveness of new technology. CBP currently does not have an adequate process in place to determine whether expensive “smart border” technologies are contributing to a more safe and secure border.
3. Improve allocation, training, and equipment of Border Patrol agents.
 - a. Allow Border Patrol agents to focus on securing the border by handing off migrant processing duties to other agencies or trained case management personnel. During periods of significant influx, rather than responding to security threats, border agents can spend as much as [60%](#) of their time processing, transporting, and managing migrants that were already encountered and are being held in facilities.
 - b. Provide flexible overtime and mental health resources to CBP personnel at the border. Provide incentives for CBP personnel to receive EMT and paramedic training.
 - c. Invest in the use of body-worn camera technology at CBP. Evidence indicates that body-worn cameras lead to [88%](#) fewer complaints against agents and fewer assaults, benefitting both the public and CBP personnel.
 4. Adopt an evidenced-based, sector-by-sector approach to border security.
 - a. Invest in solutions that are tailored to meet the specific problems or vulnerabilities that each border sector faces. For example, an effective policy for border sectors in the Rio Grande Valley is to eradicate the invasive and non-native Carrizo cane and salt cedar plants that block the view of Border Patrol agents.
 - b. Fund upgraded or additional physical barriers in areas of need, including filling needed gaps and directing construction to address structural integrity concerns along existing border barriers. Additional physical barriers should not be a focus where sufficient barriers already exist or where technology and personnel are a superior and less costly option to exert operational control over the border.

- c. Rely on evidenced-backed reports and audits from federal agencies and oversight committees to make investments in border security. Act on recommendations included in the upcoming DHS Technology Needs Analysis commissioned by the [Southwest Border Security Technology Improvement Act of 2020](#).