



POLICY BRIEF



POLICIES THAT LED TO THE BIDEN BORDER CRISIS

The Trump Administration implemented numerous immigration policies to secure the border and keep Americans safe. The Biden Administration's dismantling of these policies, lack of enforcement, and open border rhetoric has led to a humanitarian crisis at the southern border. The unprecedented number of illegal immigrants attempting to cross the border will not end unless the Biden Administration works to reverse its actions and change its rhetoric.

- Homeland Security Secretary Alejandro Mayorkas stated, "We are on pace to encounter more individuals on the southwest border than we have in the last 20 years."¹ In March 2021, more than 172,000 immigrants illegally crossed the southwest border, including 18,890 unaccompanied children—a 100 percent increase over February. Unlike the 2014 and 2019 immigration surges of families, in 2021, 82 percent of the illegal crossings are single adults, many in search of work.²
- The flood of immigrants distracts border agents from their national security mission as they provide child-care to thousands of immigrants.³ Meanwhile, drug smugglers have not taken a holiday. In March, border agents were also responsible for seizing over 54,000 pounds of illegal drugs, include 653 pounds of fentanyl—enough to give a lethal dose to 147 million Americans.⁴ Further, cartels are expanding their business model and robbing immigrants of over \$14 million per day for smuggling families, minors, and individuals to the border.⁵

The crisis at the border is largely due to the dismantling of four important policies used by the Trump Administration. These policies must immediately be reinstated to alleviate this crisis.

5 Border Policies that the Biden Administration Has Dismantled:

1. **Constructing a Border Wall:**

- Proper border security is essential to maintaining a legal and orderly system of immigration.⁶ The Trump Administration finished over 452 miles of physical barriers, access roads, lighting, and advanced technologies to secure the Southern border.⁷ However, on January 20, 2021, President Biden signed an executive order ending the emergency declaration at the southern border and halting construction of the border wall.⁸
- By halting border wall construction, President Biden communicated that enforcing immigration law and enhancing national security at the border are meaningless to his administration.

2. **Enforcing Title 42 during a pandemic:**

- The Department of Health and Human Services has the authority through Title 42 of federal law to require a medical examination, including a negative COVID-19 test, for all migrants before being admitted in the United States.⁹ The Trump Administration used this title during the COVID-19 pandemic to limit the spread of the virus at the border and among immigrants.
- The Biden Administration, on the other hand, exempted unaccompanied children from this provision.¹⁰ This change has become a green light for minors crossing the border. In fact, children are unable to take any health precautions in their overcrowded holding facilities. For example, on March 23, 2021, in Donna, Texas, 400 children were held in pods made for 250 children.¹¹

3. **Using Migrant Protection Protocols (MPPs):**

- MPPs were enacted in 2019 to allow certain individuals seeking asylum to wait in Mexico for their immigration proceedings rather than granting free entry into the United States. On January 20, 2021, the Department of Homeland Security (DHS) suspended new enrollment in MPP.¹²

- By ending this policy, the Biden Administration loosened limits on the coyotes' smuggling business and encouraged Central American asylum-seekers to come illegally and dangerously before applying for asylum.¹³ Team Brownsville, a volunteer group that helps migrants seeking asylum, describes how this policy is negatively affecting children and parents: Because asylum-seekers may enter and stay, mothers and children are encouraged to make the treacherous journey to the border and then face the trauma of sending their children on with only a hope of reuniting.¹⁴ Republicans, on the other hand, support creating safe and lawful opportunities for families to seek asylum, including MPPs.

4. Upholding Asylum Cooperative Agreements (ACAs):

- ACAs were formed in 2019 between United States and El Salvador, Honduras, and Guatemala in order to expand asylum capabilities. Under ACAs, the U.S. partners with another country to offer humanitarian aid to asylum-seekers. These agreements allow DHS to use every tool available to provide timely humanitarian aid by sharing the load of asylum-seekers.
- On February 6, 2021, the Department of State cancelled all ACAs. In this move the Biden Administration eliminated an essential tool for aiding asylees and disrupted relationships with countries in the Northern Triangle. Republicans are prepared to use every tool available to help asylees, including ACAs.

5. Deterring Illegal Border Crossings:

- The Trump Administration used policies prohibiting illegal border crossing and a clear message condemning illegal immigration in order to discourage illegal immigrants from making the dangerous journey to the border. He implemented the "Safe Third Country" rule which encouraged immigrants to apply for asylum in the first safe country they arrived in, rather than trekking through multiple countries to the United States.¹⁵
- However, the Biden Administration has reversed this message. The Biden Administration set the stage for amnesty on his first day in office. On January 20, 2021, President Biden sent a bill to Congress, the U.S. Citizenship Act of 2021. This bill would give amnesty to millions of immigrants regardless of if they came legally. It would also give permanent work authorization to minors of H-1B visa holders and remove the requirement for immigrants to claim asylum within one year of arrival in the United States.¹⁶ By proposing this bill, President Biden promised illegal immigrants that they would become a citizen for free if they can get into the United States.

¹ "Statement by Homeland Security Secretary Alejandro N. Mayorkas Regarding the Situation at the Southwest Border." U.S. Department of Homeland Security. March 16, 2021. <https://www.dhs.gov/news/2021/03/16/statement-homeland-security-secretary-alejandro-n-mayorkas-regarding-situation>

² Juan Montes and Alicia A. Caldwell. "Men Looking for Work Drive Surge in Illegal Crossings at the U.S. Border." *Wall Street Journal*. March 24, 2021 https://www.wsj.com/articles/men-looking-for-work-drive-migrant-surge-at-the-u-s-border-11616624482?st=cmgrtz4z4yhm40w&reflink=article_gmail_share

³ Paul Bedard "Photos: Agents pulled from border to feed, diaper illegal immigrants." *Washington Examiner*. March 23, 2021. <https://www.washingtonexaminer.com/washington-secrets/photos-agents-pulled-from-border-to-feed-diaper-illegal-immigrants>

⁴ "Drug Seizure Statistics." U.S. Customs and Border Protection. <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics> and calculated by RPC staff using <https://oxfordtreatment.com/substance-abuse/fentanyl/lethal-dose/>

⁵ William La Jeunesse. "US-Mexico border traffickers earned as much as \$14M a day last month: sources" *Fox News*. March 22, 2021. <https://www.foxnews.com/politics/us-mexico-border-traffickers-million-february>

⁶ "Securing America's Southwest Border." Republican Policy Committee. <https://republicanpolicy.house.gov/sites/republicanpolicy.house.gov/files/documents/15%20-%20Secure%20America%27s%20Southwest%20Border.pdf>

⁷ "Biden Administration's Border Catastrophe—A Policy Tracker." *Heritage Foundation*. March 15, 2021. <https://www.heritage.org/data-visualizations/immigration/biden-administrations-border-catastrophe-a-policy-tracker/?www>

⁸ "Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction." White House. January 20, 2021. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>

⁹ "Laws and Regulations for the Medical Examination of Aliens." Centers for Disease Control and Prevention. <https://www.cdc.gov/immigrantrefugeehealth/laws-regulations.html>

¹⁰ Jillian Kay Melchior. "Biden's Border Crisis, Up Close." *Wall Street Journal*. March 29, 2021. https://www.wsj.com/articles/bidens-border-crisis-up-close-11617057522?mod=hp_opin_pos_1

¹¹ Scott Neuman. "CBP Defends Conditions At Border Detention Centers Amid Upsurge In Migrants." *National Public Radio*. March 23, 2021. <https://www.npr.org/2021/03/23/980290448/cbp-defends-conditions-at-border-detention-centers-amid-upsurge-in-migrants>

¹² "Migrant Protection Protocols." U.S. Department of Homeland Security. <https://www.dhs.gov/migrant-protection-protocols>

¹³ Michael Barone. “Biden’s Open Border Immigration Policy--Why?” American Enterprise Institute. March 11, 2021. <https://www.aei.org/op-eds/bidens-open-borders-immigration-policy-why/>

¹⁴ Jillian Kay Melchior. “Biden’s Border Crisis, Up Close.” *Wall Street Journal*. March 29, 2021. https://www.wsj.com/articles/bidens-border-crisis-up-close-11617057522?mod=hp_opin_pos_1

¹⁵ Ries, Lora. “President Trump and Joe Biden: Comparing Immigration Policies.” *Heritage Foundation*. <https://www.heritage.org/immigration/report/president-trump-and-joe-biden-comparing-immigration-policies>

¹⁶ “Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His commitment to Modernize our Immigration System.” White House. January 20, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/>