

Biden's border dilemma

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Right-wing media have been having a field day with the Biden Administration's migration policies at the southern border.

Certainly, President Biden could have reacted much faster to the influx of immigrants. He could have moved undocumented minors swiftly out of **U.S. Customs and Border Protection (CBP)** holding facilities, into facilities run by the **Department of Health and Human Services**. He could have granted many of these minors the right to live with relatives in the United States.

Biden needs to fulfill his campaign promises. To propose an immigration bill with a pathway to citizenship for undocumented migrants is not enough.

To address the border situation, he should undo all **Title 42** restrictions — more on that in a moment— while adding social workers, nurses, and immigration judges there.

Despite fierce complaints from congressional Democrats and refugee advocacy organizations, the president has refused to raise the ceiling for refugees to 125,000, as he initially promised.

Now is not the time to vacillate. Every day of inaction from the White House is an opportunity for Trump acolytes to spin their bogus narrative representing migrants as criminals who seek to hurt American citizens.

Stephen Miller recently joined **Maria Bartiromo** on Fox News' *Sunday Morning Futures*, advertising his new *America First Legal* nonprofit and explaining his view on the situation at the border.

President Trump's former adviser claimed that under "normal" administrations, detained immigrants would be placed into federal custody for deportation. The Biden administration has halted this procedure in a majority of cases, Miller stated.

He equates detained immigrants with "criminal offenders" and, like most extremists, considers undocumented border crossings a felony rather than a misdemeanor.

On Bartiromo's show, **Miller argued** that "all of those criminal offenders are now being released back into the U.S. population." Ramping up the fear-mongering, he claimed "the result of that is going to be a massive amount of recidivism – innocent people are going to get hurt, innocent people are going to get killed, innocent people are going to suffer irreparable damage as a result of that decision."

Let's be clear: Migrants who enter the country without documents do not automatically turn into killers or other violent offenders who hurt innocent American citizens. That's a fabrication in order to keep xenophobia alive.

Using the same tropes, Florida Gov. **Ron DeSantis slammed** President Biden's handling of the situation at the border on the same show. DeSantis claimed Biden had "dismantled" Trump policies that were designed "to stop the flow of the illegal migrants." Now, "a huge catastrophe at the southern border" will have "reverberations all across the country."

Seeking to unleash old xenophobic fears and prejudices, DeSantis **told** Bartiromo: "When you talk about the issues of releasing convicted criminal aliens into American communities, there's unfortunately going to be additional victims and that is just totally unacceptable."

Along the same lines, *Breitbart reported* the Biden administration plans to continue releasing hundreds of migrant families per day into the United States in coming months.

The website's report is based on a *Washington Examiner* story by **Anna Giaritelli**.

“In the final months of 2020, the number of people who were intercepted at the border hovered around 75,000 per month,” Giaritelli wrote.

“By February (2021), the first full month that President Joe Biden was in office, that monthly number had grown to more than 100,000. In March, the number of families, adults, and single children showing up at the border spiked to 172,000.”

Giaritelli claims these numbers rose because migrants anticipated friendlier asylum policies under the Biden administration. Arguments like this ignore the reality that the humanitarian disaster at the border is largely a consequence of Trump administration policies that escalated inhumane conditions through malice and incompetence.

It seems the right wing of the Republican Party has found a new target, blaming Democrats for inviting the immigrant surge with a permissive, open-borders policy.

Republican Sen. **Tom Cotton** of Arkansas **accused** Biden of announcing that “the United States will not secure our border, and that is a big welcome sign to migrants from across the world.”

Of course, the open border talk is simply nonsense. There has been a large rise in apprehensions at the southern border, including of unaccompanied migrant minors.

TITLE 42

The increase in adult apprehensions is at least partly the result of people repeatedly trying to cross after being expelled under Title 42, the law cited by the Trump administration for closing the border for public-health reasons.

Title 42, enacted on March 20, 2020, was a de facto suspension of the fundamental right to seek asylum in this country.

Section 265 of U.S. Code Title 42 **apparently permits** the director of the **Centers for Disease Control and Prevention** (CDC) to “prohibit ... the introduction” into the United States of individuals when the director believes “there is serious danger of the introduction of (a communicable) disease into the United States.”

The rule allowed customs officers—including Border Patrol agents with U.S. Customs and Border Protection—to implement any such order issued by the CDC.

There has been extensive documentation of Haitian asylum seekers and others expelled to Mexico who do not fit within this category of people who pose a serious danger of infection.

Migrants seeking a better life, and those seeking to apply for asylum, have been turned away and “expelled” back to Mexico or their home countries since March 2020.

Under the cover of COVID-19, Title 42 was the catalyst for the Trump administration to achieve its long-desired goal of closing the border.

As the **American Immigration Council** has shown, these measures have continued under the Biden administration, which has ordered the CBP to carry out hundreds of thousands of expulsions since February 2021.

However, the law has been counterproductive. It actually has *significantly increased* arrests at the border. Under Title 42, individuals expelled to Mexico simply can keep trying to cross the border, in hopes of getting through.

Those repeated attempts — and not a surge of new individuals— account for the spike in arrests, according to the libertarian **Cato Institute** and the liberal **American Immigration Council**.

I want to reiterate: Despite campaign promises to restore U.S. asylum procedures and previously established asylum policies, the Biden administration has maintained Title 42, except for cases involving unaccompanied children.

In the first two full months of President Biden's tenure, U.S. border officials expelled more than 273,000 migrants, including more than 72,000 parents and children traveling as families, according to **CBP statistics**.

For unaccompanied minors, the only option under American law is to let them stay and apply for asylum.

REAL PROBLEMS, FALSE SOLUTION

Unaccompanied minors at the border should be transferred from the CBP's jail-like holding facilities to the Department of Health and Human Services within 72 hours.

Instead, transfers of children to suitable shelters took an average of **122 hours**, according to CNN's **Priscilla Alvarez**.

However, the number of minors in these facilities has dropped by 45 percent in the last month, Alvarez reported.

The narrative fostered by right-wing politicians and former Trump administrators underplays just how predictable the rise in border crossings is. But this has been picked up by mainstream media, including the *Washington Post*.

Three scholars with the **U.S. Immigration Policy Center** at the **University of California at San Diego** analyzed monthly CBP data and found no clear evidence to connect increased border crossings in 2021 with Biden administration policies.

Analyzing border crossing data from 2012 to 2021, **Tom Wong, Gabriel De Roche** and **Jesus Rojas Venzor** argue that the increase fits a seasonal pattern for undocumented immigration. This, combined with a backlog from last year's the Title 42 border closure, explains the present surge, they contend.

The crisis narrative is one we should question. It was created largely by the Trump administration — although some trends, such as the incarceration in “ice boxes” of minors who cross the border without parents, began under President Obama.

Very real problems exist at the border.

However, as **Adam Serwer** points out in *The Atlantic*, we cannot solve the border issue solely through punitive measures. Brute force does not guarantee national security, and a militarized border and harsher border security measures will not stem migration.

Problems at the border are the result of long-standing issues for which the crisis narrative offers only one, false solution: That undocumented crossings and immigration can be prevented by the ruthless application of state violence.