The Real Problem at the Southern Border

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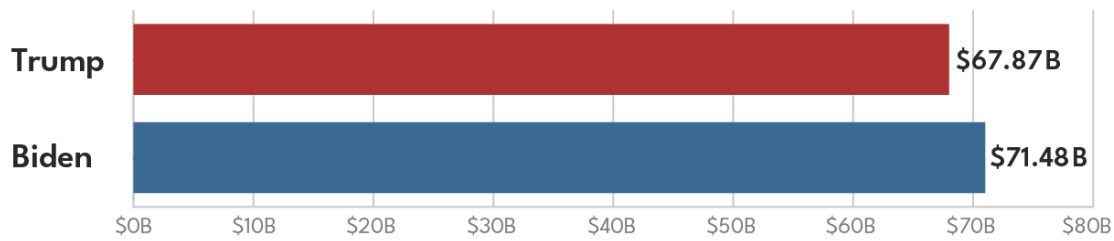Fellow, Social Policy & Politics
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Political consensus is rare, but Democrats and Republicans agree that our southern border is overwhelmed. This consensus should fuel bipartisan solutions, but Republicans have made clear their desire to use the border as a political talking point rather than fixing it. If we are serious about reducing the strain on our overwhelmed immigration system, we must distinguish between fact and fiction, ignore political grandstanding, and work to fix the challenges with immediacy. This memo will dispel the common misperception of an open southern border and identify the actual problem we need to solve to restore order at the border.

The Open Border Myth

Undoubtedly our southern border is overwhelmed with a record number of migrants coming each day. To fix our inundated system, we must first be clear on what the issue is not. The most common fiction spread by Republicans is that we have a wide-open southern border, and President Biden is to blame. The facts paint a different picture.

Department of Homeland Security's (DHS) Customs and Border Protection (CBP) is the chief agency tasked with securing our borders at and between ports of entry. Under President Biden, CBP has seen a dramatic increase in its funding. President Trump allocated a total of $67.87 billion for CBP across the four years of his presidency. President Biden has allocated a total of $71.48 billion, meaning that Biden has increased border funding by over three and a half billion dollars. [1] Increasing funding for border security is clearly not an open-border policy.
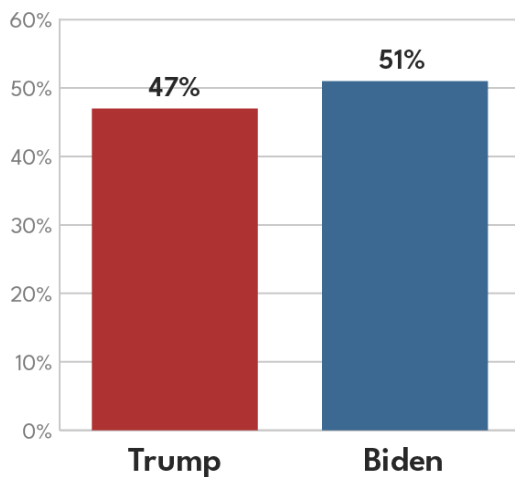
Total CBP Funding Request

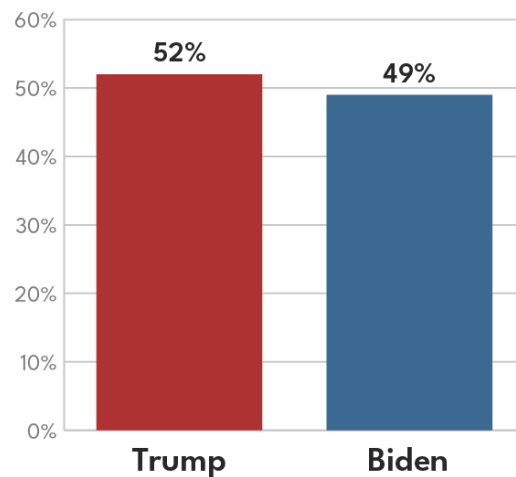|	
Trump	$67.87B
Biden	$71.48B

Source: Author's calculations based on CBP data.

President Biden's CBP has used this funding effectively to handle the influx of border crossers. A recent analysis by the Cato Institute, a libertarian think tank, compared processing of unauthorized border crossers during the last two years of the Trump administration with the first two years of the Biden administration. Cato found that Biden's DHS has deported more illegal border crossers than Trump's DHS both in terms of total numbers and the rate of removal. The analysis also found that migrants arrested crossing the border were *more* likely to be released into the US under Trump than Biden.

Illegal Crossers Expelled

Trump 47%
Biden 51%

Illegal Crossers Released into US

Trump 52%
Biden 49%

Source: Bier, David J. "New Data Show Migrants Were More Likely to Be Released by Trump Than Biden." Cato At Liberty, Cato Institute, 02 Nov. 2023, https://www.cato.org/blog/new-data-show-mi-grants-were-more-likely-be-released-trump-biden#:~:text=Under%20Biden%2C%20DHS%20made%20over,Biden%20DHS%20removed%20a%20majority. Accessed 13 Feb. 2024.
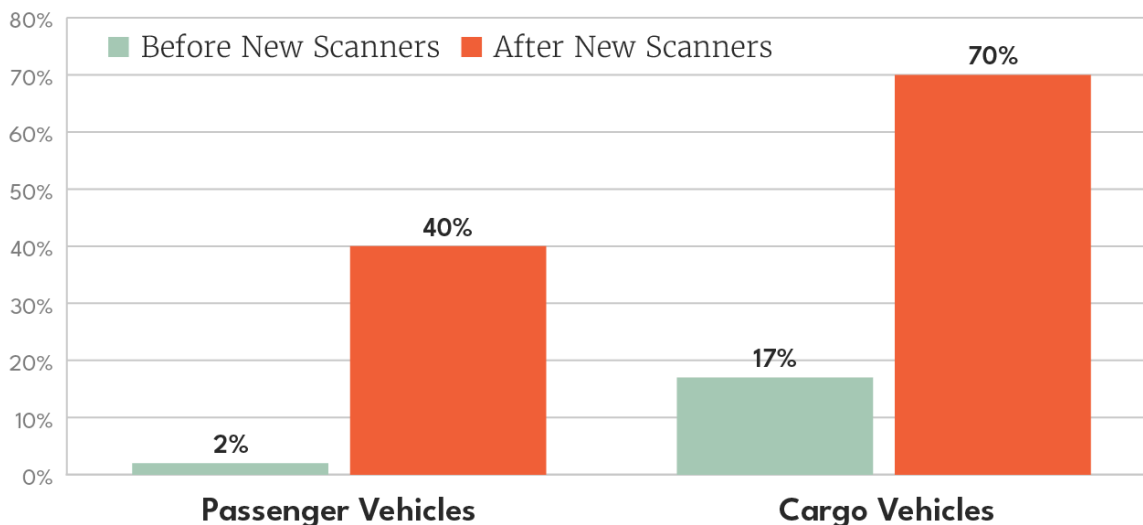
CBP has also used this funding to implement new technologies. In 2024 alone, over $1 billion has been directed for the modernization of border facilities, technology, and assets. CBP has created a network of surveillance towers allowing agents to track border crossers day and night. The towers detect any movement within miles of the border, allowing agents to detect incoming drugs or weapons well in advance. CBP has also used these funds to add additional surveillance aircrafts to sweep over border regions. Many of these vehicles now operate autonomously, saving agents time in managing thousands of miles of border.

These technological improvements mean a safer border for our country. CBP can now scan six times as much cargo entering the country each day. In real terms, CBP has gone from inspecting 2% of passenger vehicles and 17% of cargo vehicles to 40% of passenger vehicles and 70% of cargo vehicles. Consequently, we

have increased our fentanyl seizures at the border from an average of 3,077 pounds per year under President Trump to 17,633 pounds per year under President Biden. [2] More fentanyl intercepted at the border means less fentanyl in our country.

Biden Administration Increases Scanning Capacity at Border Crossings

Before New Scanners **After New Scanners**

Passenger Vehicles: 2% (Before), 40% (After)
Cargo Vehicles: 17% (Before), 70% (After)

Source: Miroff, Nick. "U.S. deploys powerful scanners at border to fight fentanyl smuggling." The Washington Post, 9 Mar 2023. https://www.washingtonpost.com/nation/2023/03/09/united-states-arizona-border-fentanyl/. Accessed 3 Apr 2023.

Those who claim that President Biden has created open border policies must contend with these facts. Our southern border is simply not wide open. CBP is better funded and better equipped under President Biden than at any time in American history. With these increased resources, CBP is capturing more fentanyl and deporting more illegal border crossers today than ever before.

The Real Problem at the Border

When Republicans claim that President Biden created an open border, they are fundamentally misdiagnosing the problem. The challenge we face at the southern border is a combination of record migration from Latin America coupled with an overwhelmed processing system here in the US. The reality is that more people than ever are showing up at our borders and claiming a right to asylum, and it is taking longer than ever to process their cases.

Latin America is experiencing record levels of economic and political turmoil. In the last thirteen years, no region in the world has seen a greater increase in migration than Latin America and the Caribbean. Venezuela's GDP recently shrank by two-thirds and the government has clamped down on freedom of the press and independence of the judiciary. As a result, an average of 2,000 Venezuelans are leaving the country each day, making it the second largest refugee crisis in the world. Cuba and Nicaragua are also experiencing collapsing economies, brutal political repression, and environmental disasters that have driven hundreds of thousands to the US in search of a better life.

So long as Latin Americans are experiencing record levels of instability, they will continue to seek a better life at our shores. No increase in funding, technology, or physical barrier will change these global migratory patterns. What we can change is our asylum system to ensure a fast, fair, and final process for all migrants.

Our current asylum system is overburdened and mired in complexity. Immigration law in the United States is determined by Congress, but comprehensive reform has not been passed in decades. Instead, presidents of both parties have issued executive orders and guidance to agencies as a means of amending the immigration system despite congressional inaction. Unfortunately, this means that with each change in administration, there is a change in our immigration policy that directly impacts the asylum process. The result is an ever-growing web of competing executive orders and agency guidelines causing bureaucratic burden and needless complexity.

This intricate mosaic of immigration policy coupled with historic instability in Latin America has given us the disorder we see at our southern border. Migrants are showing up in record numbers, and it is taking longer than ever to adjudicate each case. Those seeking asylum are faced with an average wait time of 4.3 years to have their cases heard, ballooning up to 6 years in some states. And the Immigration Court backlog has grown from 2 million in November of 2022 to 3 million in November of 2023.

How We Fix It

A backlog this extensive is unacceptable. It is unfair to migrants fleeing persecution that they must wait over four years before knowing if they will be forced to return home. It is also unfair to the judges and asylum officers who must assess millions of asylum claims under immense pressure and a tight timetable. Bringing a fast, fair, and final process to the adjudication of these asylum claims requires three key changes:

- Surging resources to hire additional immigration judges, asylum officers, and support staff.

- Increasing the number of lawful immigration pathways to reduce asylum applications.

- More closely aligning the initial asylum interview standard with the one used in making a final determination of each case.

Hiring more judges, asylum officers, and support staff to evaluate claims is a no-brainer. With a backlog of 3 million immigration cases, the average caseload per judge has jumped from 1,850 in 2016 to 4,500 in 2023. We need all-hands-on-deck to reduce the backlog and expedite asylum processing, and increasing staffing is the logical first step.

Equally important is expanding legal pathways for immigration into the US. We already offer special parole programs, humanitarian pathways, and family/employment-based visas, but our caps for these programs have not been updated since the 1990s. Artificially low limits on these alternative immigration pathways directly contribute to the bottleneck at our border. If we had more legal avenues, migrants could come in an orderly way, fly into the country to a place where they have family connections and support, and immediately integrate into communities.

We must also reduce the gap between the number of migrants who are granted entry to the country in their initial asylum interview and the number who are once their case is fully heard. When migrants arrive at our border and seek asylum, they must pass an interview establishing fear of persecution or torture in their home country. Once established, they are given a court date (at this point) many years in the future where a judge will definitively evaluate their asylum claim. This final evaluation uses a more stringent standard then the initial interview. As a result, 59% of asylum seekers are granted entry in their initial interview, but only half of this 59% ultimately gain asylum status once their case is decided. If we better align the initial interview standard with the final adjudication standard, we will dramatically reduce extraneous cases in our system and avoid a situation where people are granted entry only to be told they can't stay years later.

Taken together, these three reforms would relieve pressure at our border. With more resources, more pathways, and a higher screening standard, we would dramatically expedite the processing of cases and cut our court backlog. Migrants deserve to have their asylum claims heard, and these reforms ensure we can do so in an orderly and efficient manner.

Conclusion

When Republicans claim we have an open border, they are offering a superficial explanation for a complicated problem. The real cause of the disorder at our border is a combination of record discord in Latin America and an overburdened processing system here in the US. Fixing this problem will undoubtedly be a challenge, and to do so will require us to look past simple explanations and focus on the reality at the border. Weaponizing the issue as Republicans have only further divides the electorate and distracts us from serious solutions.

Our southern border is better funded and more technologically advanced than ever. But to handle the influx of migrants we must hire additional immigration court staff, expand pathways for visas, and raise the initial asylum standard. Only then will we be able to bring order to our border.

TOPICS

IMMIGRATION   95

ENDNOTES

1. "DHS Budget-In-Brief." Department of Homeland Security, FY 2017-2024, https://www.dhs.gov/dhs-budget. Accessed 15 Feb. 2024.

2. "DHS Budget-In-Brief." Department of Homeland Security, FY 2018-2022, https://www.dhs.gov/dhs-budget. Accessed 15 Feb. 2024; "U.S. Customs and Border Protection Drug Seizures." U.S. Customs and Border Protection, FY 2023, https://www.cbp.gov/newsroom/stats/drug-seizure-statistics. Accessed 15 Feb. 2024.