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Policy Brief: What Does Effective Border Management Look Like?

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To improve the management of border migration, the U.S. government must modernize immigration processing and adopt an inter-agency approach that addresses not only the U.S. southern border but the immigration system as a whole. The American Immigration Lawyers Association (AILA) offers the following recommendations designed to increase the efficiency and capacity of border processing while still maintaining the nation's commitments to asylum, a fair system, and access to counsel. Lopsided proposals that block, expel and detain asylum seekers but do not tackle these systemic challenges are not real solutions at all and will only fuel chaos at the border.

Modernize border processing to ensure efficient and meaningful access to asylum and due process.

- **Improve infrastructure and increase staffing at ports of entry (POEs)** to accommodate more asylum seekers and increase processing. CBP's Office of Field Operations (OFO) should be resourced to maintain sufficient well-trained staff, more lanes at POEs, and increased operating hours to ensure timely processing of vehicular and pedestrian traffic for local residents, visitors, merchants, and migrants.
- **Expand and strengthen USCIS asylum corps** and ensure that well-trained USCIS asylum officers perform asylum screenings in a trauma-informed manner at all stages of the interview process.
- **Halt the "Circumvention of Lawful Pathways" regulation.** AILA has determined this rule will prevent meaningful access to asylum to people who arrive at the U.S.-Mexico border and amounts to an asylum transit ban. The rule provides some safeguards, but they will not sufficiently protect access to asylum and other forms of humanitarian relief. AILA provided extensive [public comment](#) and urges the Biden administration to rescind the rule.
- **Establish an Office of Migrant Protection** to coordinate the multi-agency, rapid scale-up of screening and protection capacity at high-volume areas on the southern border. This new office should establish short-term reception centers in the United States to improve processing. The reception centers should guarantee meaningful screening for asylum and full access to legal counsel. Nonprofits that provide legal orientations and social service support should have access to noncitizens without limitations.
- **Target smuggling operations** that place already vulnerable migrants in even greater danger. Smugglers rely on social networks to spread disinformation and lure migrants. These networks need to be interrupted, and prosecuted.

Use an "all of government approach" to leverage multiple agencies, improve efficiency, and alleviate pressure on the southern border.

- **Establish uniform policies, centralized systems, and appropriate information sharing between Customs and Border Protection (CBP), Immigration and Customs Enforcement (ICE), U.S. Citizenship and Immigration Services (USCIS), and the Executive Office for Immigration Review (EOIR).** For example, to improve tracking of a person's immigration case from apprehension to the immigration court proceedings, agencies should centralize and digitize address changes and simplify access to a noncitizen's immigration record. Uniform policies and

centralized systems will enhance communication and data sharing, which will in turn, reduce backlogs, avoid delays, and increase efficiency and fairness.

- ***Focus DOJ and EOIR resources on ensuring that timely, accurate information about removal proceedings is easily accessible*** to noncitizens in removal proceedings. Congress should increase funding for Legal Orientation Programs (LOP) and legal representation pilot programs. EOIR must reform notice procedures and dedicate significant resources to providing accurate and timely information on hearing dates and times. EOIR should also increase support staff to ensure received motions are timely filed, noncitizens and respondents are able to contact court staff, and court staff can quickly update information in systems.
- ***Reduce government expenditures on costly and inhumane detention by expanding community-based case management programs.*** Immigration detention is an enormous and overused government [expense](#) costing taxpayers \$148.62/day per migrant – or a total of \$3 billion dollars each year. In contrast, case management costs one tenth the price of detention. Case management and other alternatives to detention give ICE more flexibility to release people from detention while still monitoring and tracking their status through conditions, such as in-person check-ins.
- ***Provide receiving communities with the resources they need to support new arrivals.*** Border communities and cities and towns in the interior of America are stepping up and welcoming newcomers. Receiving communities, both municipalities and local service organizations, need federal support with these critical efforts.

Expand and improve legal channels to the United States for those seeking work, safety and family unity.

- ***Reinforce and expand humanitarian parole and other innovative programs.*** Parole programs, such as the recent initiative protecting Afghans, Ukrainians, Cubans, Haitians, Venezuelans and Nicaraguans, allow for nimble responses to shifting regional migration patterns. These programs should not replace vital access to asylum at the southern border.
- ***Eliminate the visa backlog for both employment and family green cards*** by recapturing several hundred thousand unused immigrant visas. Visa backlogs put more pressure on the border by limiting the option and value of legal immigration. Families and business should not need to wait decades for a loved one or critical employee to immigrate.
- ***Reduce case processing times at USCIS and DOS*** by leveraging technology to streamline processing, adequately funding both agencies, and ensuring sufficient staffing. These resources would allow legal processing to be a viable option and reduce pressure at the border.
- ***Continue to expand and support the U.S. refugee program,*** especially within the Western Hemisphere, to ensure the U.S. government can adequately respond to global displacement. The administration's recent announcement of the goal to double the number of refugees from the Western Hemisphere is a welcome start.
- ***Ensure the success of the private refugee sponsorship program, Welcome Corps,*** that encourages private citizens to sponsor refugees from countries in conflict. DOS should be adequately funded to ensure this program can be successful and enable the United States to nimbly respond to migration pressures.
- ***Expand nonimmigrant employment programs*** such as H-2A and H-2B that will simultaneously address our economic needs and seasonal migration.

- **Ensure that the Department of Labor (DOL) foreign labor certification process**, including prevailing wage determinations, are designed to nimbly meet our economic demands, while protecting all workers.
- **Bolster programs that protect workers from employment abuse.** The U.S. economy relies heavily on foreign workers, including people who are undocumented. More efforts are needed to ensure safe conditions and the protection of labor rights like the recent DHS and DOL deferred action program.

Ensure agencies and communities involved have adequate resources to meet the task at hand.

- **Adequately fund USCIS and DOS to ensure sufficient hiring of asylum officers and to address the existing backlog** caused by the COVID emergency and the mismanagement under the prior administration.
- **Adequately fund CBP OFO to ensure that POEs can handle increased processing.**
- **Use technology to establish virtual check-in appointments with ICE** for noncitizens who are in removal proceedings to ease physical space constraints and staff limitations and make compliance easier.
- **Adequately fund the new Regional Processing Centers in Guatemala, Colombia and other countries.** Created jointly with DHS and DOS, this effort has potential to help alleviate pressure at the southern border through in-country screening.
- **Ensure nonprofit organizations and local governments in receiving communities have adequate, stable funding by switching to grant-based funding programs.** Nonprofits and local governments both in our border communities and in the interior currently provide vital services that support the government’s efforts to maintain stability and security. The vital FEMA Emergency Food and Shelter humanitarian grant program could be further improved by shifting to a grant-based funding model that would provide stability to local partners.

Decrease migration pressures through investment and partnership with other nations.

- **Build on coordination with our regional partners to navigate the changing migration patterns of the Western Hemisphere**, including consulting with the International Organization on Migration (IOM) and United Nations High Commissioner for Refugees (UNHCR). The focus of coordinated efforts should be on humanitarian programs, including those that support economic development and political stability to reduce regional migration pressures, and not involve the use or funding of the detention and removal programs of other countries.
 - Work with regional partners to ensure that all displaced migrants are properly screened for protections under international law as well as opportunities for status.
 - The United States should not undercut our asylum laws by signing onto bilateral arrangements that prevent people from leaving third countries where they do not have access to resettlement options or may be subjected to persecution or violence.