



The Takeaway

Policy Briefs from the Mosbacher Institute for
Trade, Economics, and Public Policy

Humanitarian Crisis on the Southwest Border

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There is a humanitarian crisis at the Southwest Border of the United States, and we do not have the system, laws, or infrastructure in place to address it. Thus, we are failing to protect children and adequately serve legitimate families seeking refuge. As a country we must find a way to put the “human” back into humanitarian because families are knocking on our door and we are not answering.

CHANGING IMMIGRATION TRENDS

The number of illegal aliens apprehended at the Southwest Border hit record highs at the turn of the century with 1,643,679 apprehended in 2000.¹ Apprehensions have largely been on the decline ever since (see Figure 1). In 2018 the number of total apprehensions at the Southwest Border was 396,579, a decrease of 75.87% compared to the total in 2000.²

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WHAT'S THE TAKEAWAY?

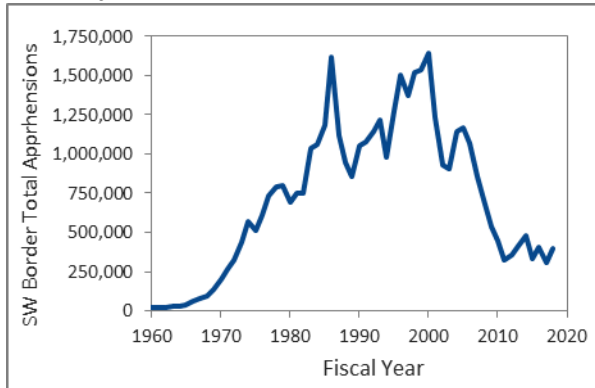
US border policies and laws have not kept up with changing immigration patterns.

That failure has created a humanitarian crisis at the Southwest Border.

The US Congress must pass critical, long overdue, immigration reform.

Congress will not act without public support—so contact your representatives today.

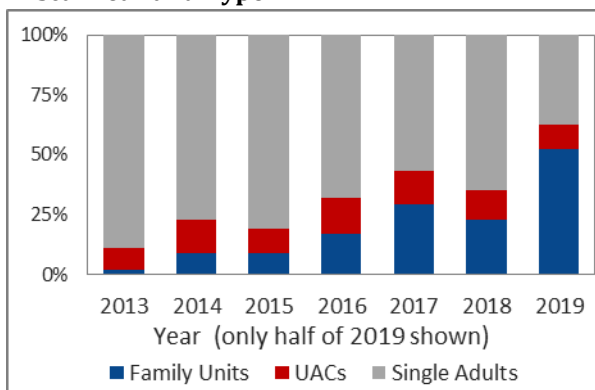
Figure 1: Total Southwest Border Apprehensions by Fiscal Year



Source: US Customs and Border Protection, Dept. of Homeland Security

Due to economic instability and increased violence in Central and South America, recent immigration trends at the Southwest Border have shifted. Historically a majority of aliens apprehended at the border were single adults and, prior to 2015, minors apprehended at the border were mostly unaccompanied alien minors, or UACs. Family unit border crossings previously represented a very small percentage of total apprehensions, but in recent years the number of family units apprehended at the border has continually risen.³ As shown in Figure 2, in Fiscal Year 2013 family units comprised less

Figure 2: Southwest Border Apprehensions by Fiscal Year and Type



Source: US Customs and Border Protection, Dept. of Homeland Security

than two percent of apprehensions, but in the first half of Fiscal Year 2019 families have comprised fifty-three percent of total apprehensions—totaling more than 136,150 family units and surpassing the total number of families apprehended in Fiscal Year 2018.⁴ This is an unprecedented number of families, and for the first time in recent history a majority of those apprehended at the border are not from Mexico.⁵ Instead, they are predominantly from the Northern Triangle—Guatemala, Honduras, and El Salvador.⁶

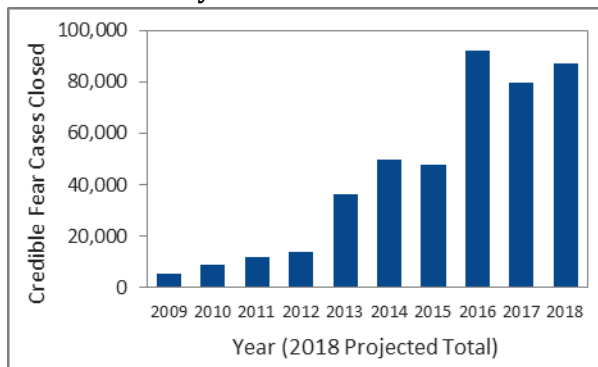
CREDIBLE FEAR

Along with the increase of family units coming to the Southwest Border, the number of credible fear claims has significantly risen in recent years as shown in Figure 3. Credible fear claims are made when aliens claim fear of persecution or torture if they return to their home country. Any alien who demonstrates credible fear is referred to an immigration judge and moved from expedited removal to standard removal proceedings.⁷ During standard removal proceedings, the Department of Homeland Security (DHS) is permitted, but not required, to detain these aliens until the outcome of their proceedings is reached. According to US law, DHS is allowed to release a subject into the United States during these proceedings whether they entered through a legal port of entry or attempted a surreptitious crossing.⁸ This policy is commonly referred to as “catch and release.”

FAMILY UNIT POLICY OPTIONS

The Flores Agreement,⁹ which was settled in 1997 and expanded in 2016, currently mandates the release of all minors held by immi-

Figure 3: Credible Fear Cases Closed in the United States by Fiscal Year



Source: US Customs and Border Protection, Dept. of Homeland Security

gration. The Trump Administration maintains that under this agreement they have two feasible options in regard to family units who cross the border and demonstrate a credible fear of persecution—they can release the family unit together into the United States or separate the family units by detaining the adults and releasing the children.

Detaining adults can occur in a few ways. The “zero tolerance policy” briefly enforced by the Trump Administration in 2018 aimed at curbing the number of aliens released into the United States. The policy accomplished this by criminally charging all adults who were detained by immigration. However, under this policy children of family units apprehended received unaccompanied alien minor status and, therefore, were separated from their parents and put into the custody of the Office of Refugee Resettlement. Another policy option is that adults can be detained in civil immigration detention without criminal charges being brought against them. In this scenario children are released to other guardians or sponsors. Past separations of children from their families have rightly resulted in major public opinion backlash exacerbated by the difficulty in re-

uniting families later. Lastly, previous administrations, prior to the 2016 expansion of Flores, have detained families together. However, it is unclear that such facilities could satisfy the current terms of the Flores Agreement.

Due to these constraints, the only viable option, while the Flores Agreement is in place, is to release family units into the United States for the duration of their immigration proceedings. However, this policy can, and has, allowed for the exploitation of children. Family unit legitimacy at the border is difficult, and at times impossible, to determine. This has allowed adults to use non-legitimate children to gain entry into the United States—children who may be sold, taken, trafficked, or abused. Unfortunately, allowing children to become valuable currency for those wishing to exploit current US immigration policy is not just a possibility but a reality at the border.¹⁰

THE CRISIS IS REAL

It is no secret that Congress has failed to pass critical and long-overdue immigration reform. The Administration has framed the crisis as an invasion of the homeland,¹¹ but the facts simply do not support that claim. As families continue to flee their homes and credible fear claims rise, the Trump Administration and the country have barely recognized the crisis at the Southwest Border for what it actually is—a humanitarian crisis.

This is not a crisis of numbers, but a crisis of who those numbers represent—families. It is a social welfare crisis that is being met with security enforcement solutions. Families, that while seeking refuge in our home,

are met with a system that simply has no place for them and an Administration that aspires to build a wall against them.

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While there is no simple fix to this crisis, the answers do not lie in the White House or in a courtroom. The answers lie in the hands of the US Congress, the entity that represents the interests of the American people. Yet, Congress has not acted to create necessary laws and place resources where they are desperately needed. Immigration reform will not happen until the country sees the families at our door for who they are—people in crisis. The power lies in the hands of the American public, but the question is, will they answer?

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ABOUT THE MOSBACHER INSTITUTE

The Mosbacher Institute was founded in 2009 to honor Robert A. Mosbacher, Secretary of Commerce from 1989-1992 and key architect of the North American Free Trade Agreement. Through our three core programs—Integration of Global Markets, Energy in a Global Economy, and Governance and Public Services—our objective is to advance the design of policies for tomorrow’s challenges.

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Notes:

- ¹ Total Illegal Alien Apprehensions By Month (2018). US Border and Customs Protections, Department of Homeland Security (USBCP). <https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/bp-total-monthly-apps-sector-area-fy2018.pdf>
- ² Southwest Border Migration FY 2019. (2019). USCBP. <https://www.cbp.gov/newsroom/stats/sw-border-migration>
- ³ Stats and Summaries. USCBP <https://www.cbp.gov/newsroom/media-resources/stats>
- ⁴ Southwest Border Migration FY2018 & FY2019. USCBP
- ⁵ CBP Releases Fiscal Year 2019 Southwest Border Migration Stats. (2019). USBCP. <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-fiscal-year-2019-southwest-border-migration-stats>
- ⁶ U.S. Border Patrol Apprehensions From Mexico and Other Than Mexico (FY 2000 - FY 2018). (2019). USBCP: https://www.cbp.gov/sites/default/files/assets/documents/2019-Mar/BP_Total_Apps_Mexico_OTM_FY2000-FY2018_REV.pdf
- ⁷ Questions & Answers: Credible Fear Screening. (2009). <https://www.uscis.gov/humanitarian/refugees-asylum/asylum/questions-answers-credible-fear-screening>
- ⁸ 8 U.S.C. § 1226(a) and 8 U.S.C. § 1225(b)
- ⁹ Peck, S. H., & Harrington, B. (2018). The “Flores Settlement” and Alien Families Apprehended at the U.S. Border: Frequently Asked Questions. <https://fas.org/sgp/crs/homsec/R45297.pdf>
- ¹⁰ Unaccompanied Alien Children and Family Units Are Flooding the Border Because of Catch and Release Loopholes. (2018). <https://www.dhs.gov/news/2018/02/15/unaccompanied-alien-children-and-family-units-are-flooding-border-because-catch-and>
- ¹¹ Trump, D. (2019, March 15). Remarks by President Trump on the National Security and Humanitarian Crisis on our Southern Border. <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-national-security-humanitarian-crisis-southern-border-2/>



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