



**Testimony of**

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**Before**

**Committee on Homeland Security's**

**Subcommittees on Border Security and Enforcement and**

**United States House of Representatives**

**July 26, 2023**

**RE: "The Real Cost of an Open Border: How Americans are Paying the  
Price"**

Chairmen Higgins and Pfluger, Ranking Members Correa and Magaziner, and distinguished members of both subcommittees, thank you for the opportunity to testify.

My name is David Bier. I am the Associate Director of Immigration Studies at the Cato Institute, a nonpartisan public policy research organization in Washington, D.C. As a policy advisor for a former member of the House, I am honored to be invited to speak with you today about the costs of America's flawed immigration system.

For nearly half a century, the Cato Institute has produced original immigration research showing that a freer, more orderly, and more lawful immigration system benefits Americans. People are the ultimate resource. In a free country, immigrants can contribute to their new homes, making the United States a better, bigger, and more prosperous place.

But legal immigration is so restrictive that the system punishes Americans who want to associate, contract, and trade with people from around the world. Americans lose out on the social and economic capital immigrants bring. Our system separates friends and relatives, deprives U.S. consumers of the goods and services that immigrants would provide, and denies our towns and cities entrepreneurs and small business owners. This system has caused chaos at the border, harming Americans and immigrants alike.

### **U.S. policy makes legal immigration impossible for nearly all.**

The U.S. immigration system does not facilitate lawful migration. It obstructs it. The primary legal framework dates back to 1924; its last significant update was in 1990. But the system is not just outdated—it fundamentally ignores the needs of the U.S. economy and society. The thousands of pages of regulations and statutes, the arbitrary Soviet-style caps, the restrictive categories, and the ineptitude in processing applications have created an impenetrable legal wall to legal immigration.

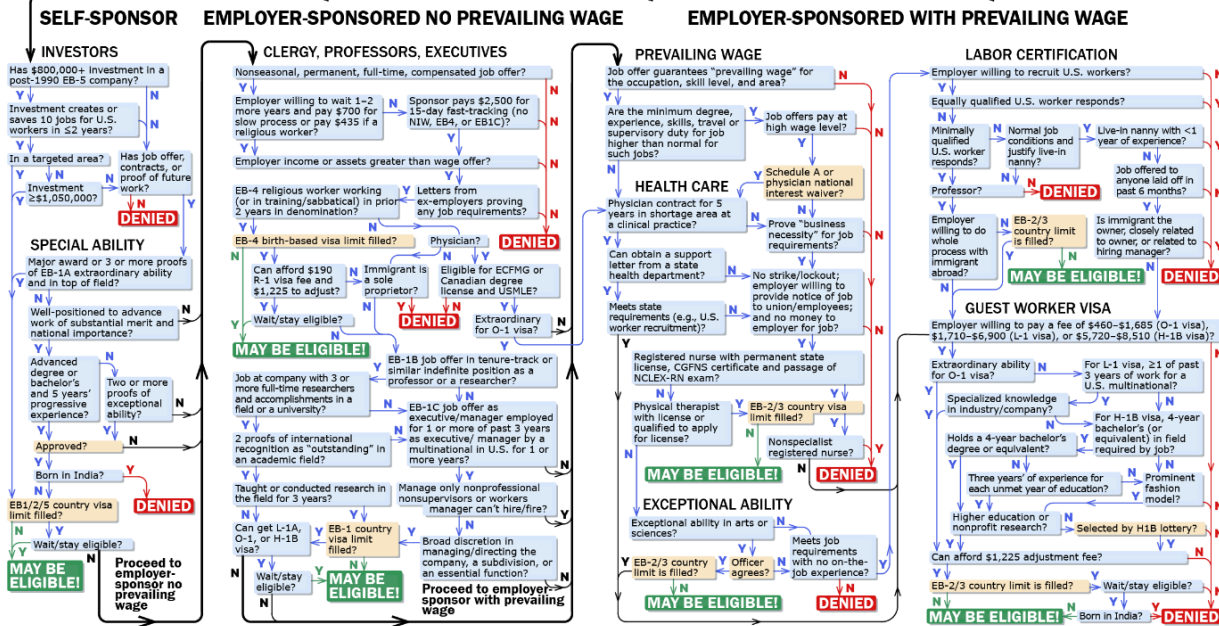
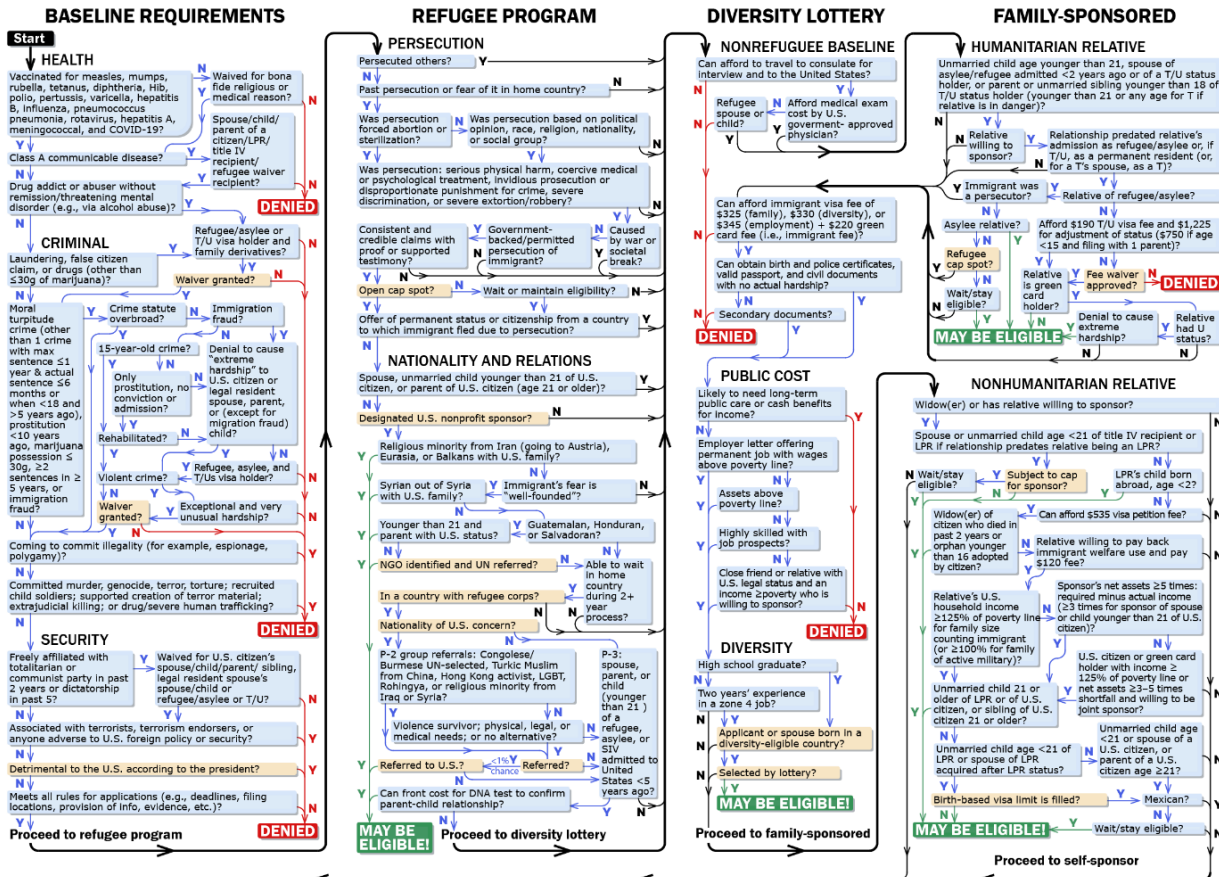
To briefly review the four available permanent immigration options:

1. **The Refugee Program:** The population of displaced people reached 100 million last year, and the United States accepted barely 25,000 through its refugee program—0.1 percent.<sup>1</sup>
2. **Family-sponsored:** The capped family-sponsored system has a backlog of 7 million, and 1.6 million immigrants currently waiting will be dead before they can receive a green card.<sup>2</sup>
3. **Employer-sponsored:** Employer-sponsored green cards have a backlog of over 1.4 million, and they are virtually impossible to obtain for those without very high wage offers.<sup>3</sup>
4. **Diversity Lottery:** The diversity green card lottery offers entrants just a 0.2 percent chance of receiving a green card.<sup>4</sup>

The figure on the next page details the legal requirements to immigrate to the United States in a flow chart. Many aspiring Americans are excluded in each complicated section until nearly everyone loses their chance to immigrate.

# United States legal requirements for permanent immigrants, applicants from abroad

Legal immigration to the U.S. for immigrants seeking permanent residence with no prior U.S. immigration history and no U.S. government association (starting the process in 2022).



## Legend



## Sources

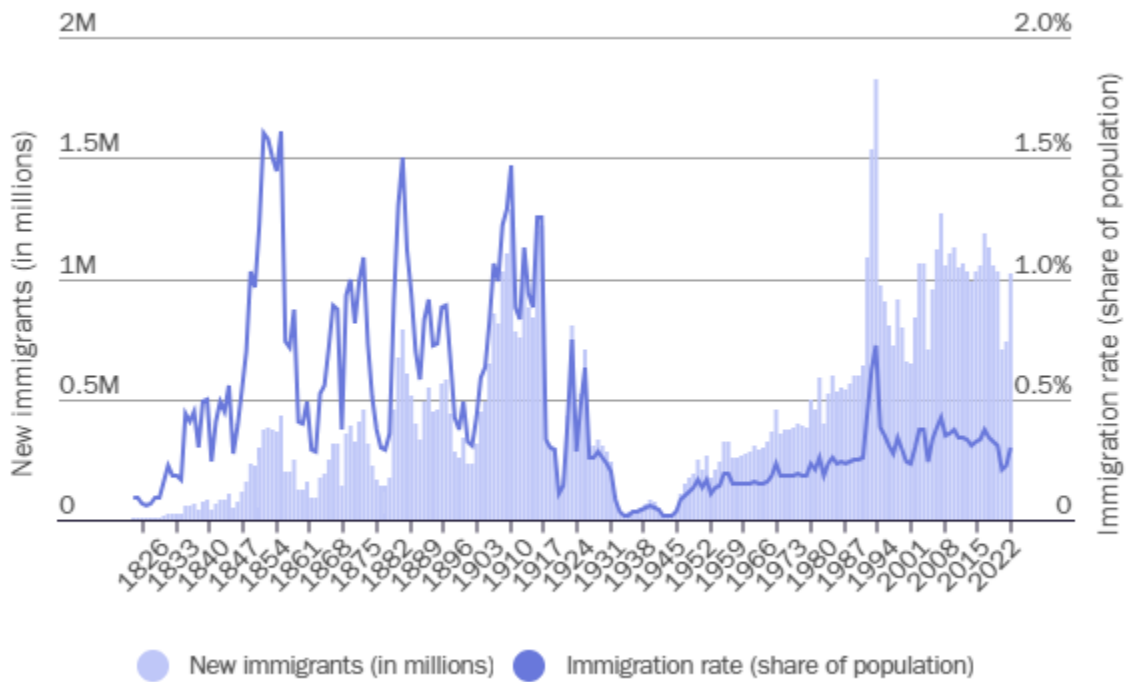
8 U.S.C. § 1182, 1151-57, 1184 (2022); 8 C.F.R. § 204.5 (2022); 20 C.F.R. § 656 (2022); and "Immigrant Visas," Foreign Affairs Manual, U.S. Department of State, 9 FAM 500.

## Notes

Notes: LPR means legal permanent resident. IV recipient means immigrant visa recipient. This figure was excerpted from David J. Bier, "Why Legal Immigration Is Nearly Impossible: U.S. Legal Immigration Rules Explained," Cato Institute Policy Analysis no. 950, June 13, 2023

This legal system is restrictive from the perspective of the demand for green cards by immigrants and their American sponsors, and it is also restrictive compared to America’s history. From 1848 to 1914, the annual number of people receiving green cards hit one percent of the U.S. population 22 times. It has never happened since the Immigration Act of 1924, and only once has it even hit half that rate, when Congress waived the caps on behalf of 3 million illegal immigrants in the Immigration Reform and Control Act of 1986. One percent of the U.S. population today would be nearly 3.4 million people.<sup>5</sup> The number of green card recipients in 2022 was just 1 million.<sup>6</sup>

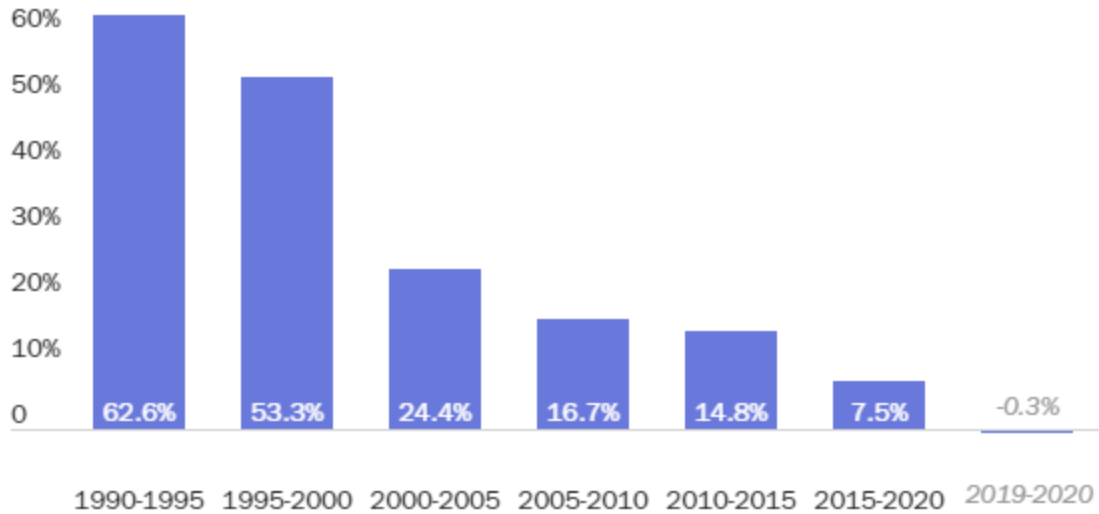
**Immigrants becoming legal permanent residents, 1820–2022**



Source: Department of Homeland Security, “Yearbook of Immigration Statistics,” 2022.

Immigration policy is also restrictive compared to our peer nations. The United States went from accounting for the majority of the increase in the world immigrant population in the 1990s to accounting for just 7.5 percent of it from 2015 to 2020.<sup>7</sup> This happened both because more immigrants went to other countries and because fewer immigrants went to the United States.

**Share of the Increase In Immigrants worldwide from Increase In Immigrants In the U.S.  
1990-2020**



[Download data](#)

**Source:** United Nations Population Division, "International migrant stock 2019," August 2019; "International Migrant Stock 2020," December 2020.

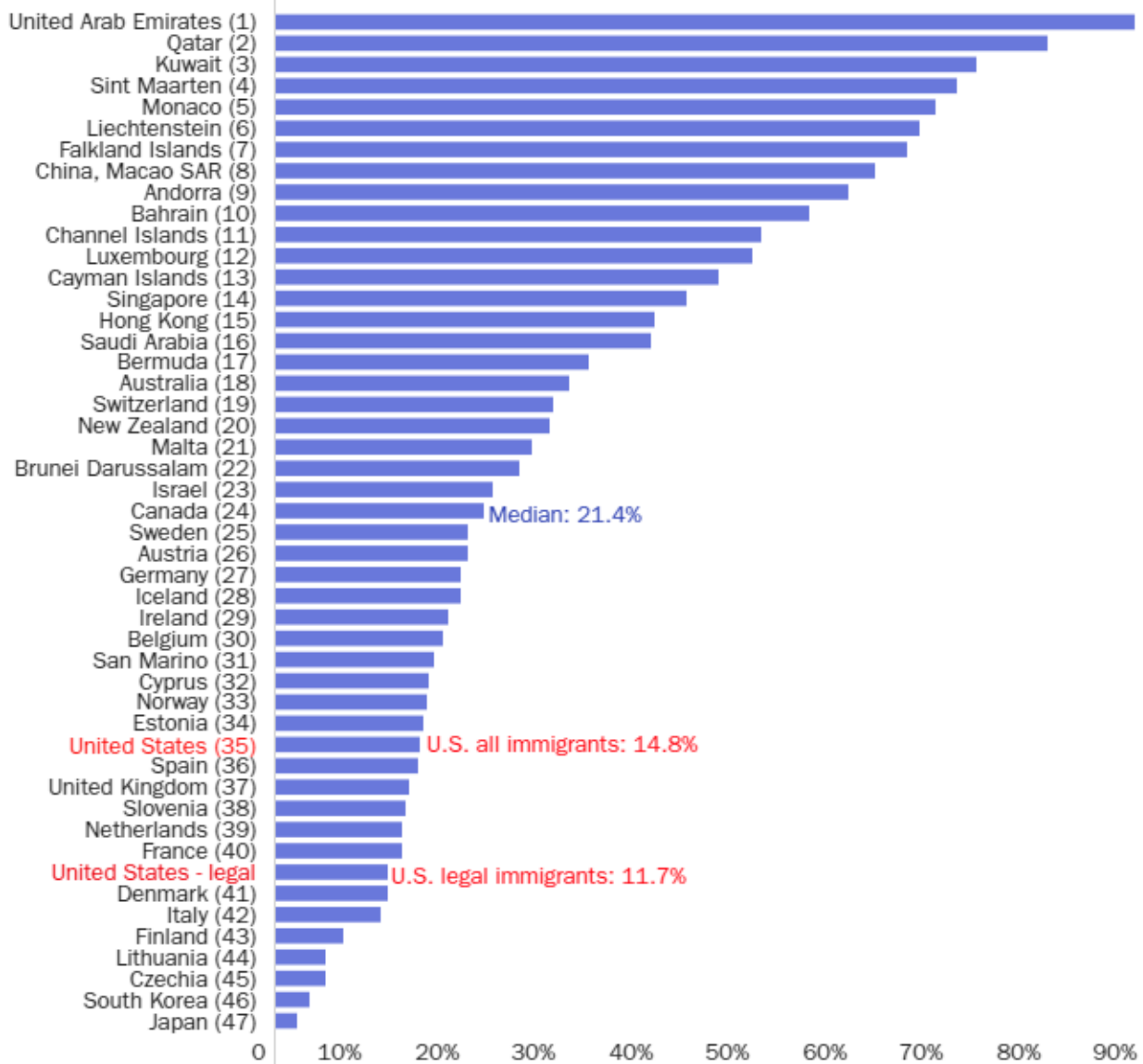
**Note:** Share is calculated by dividing the net increase in U.S. immigrant population by the net increase in the world immigrant population. Unlike the U.S. Census surveys, "immigrants" includes all foreign-born residents regardless of their citizenship status at birth to provide for a uniform international comparison.

Less than 15 percent of the U.S. population was born outside the United States. This ranks 56<sup>th</sup> highest in the world.<sup>8</sup> It ranks in the bottom third of wealthy countries, and the gaps are massive. To catch up to Canada (21.4 percent), nearly 30 million immigrants would have to arrive this year. To reach the immigrant share in Australia (30.3 percent), the number grows to 76.4 million. To hit Hong Kong's percentage (39.2 percent), it would have to exceed 140 million. These totals are unfathomable, but they illustrate how much flexibility the United States has to change its immigration policy and remain well within the norms for the wealthy world.

The United States also ranks 57<sup>th</sup> globally for refugees and asylum seekers per capita.<sup>9</sup> Other countries are taking staggering numbers of refugees and asylum seekers: 3.8 million in Turkey, 3.4 million in Iran, 2.3 million in Germany, and 1 million in Poland. For context, Poland has a population about a tenth of the size of the United States. Seven percent of Jordan and 15 percent of Lebanon are now refugees or asylum seekers.

### U.S. foreign-born share ranks in the bottom third of wealthy countries

Foreign-born share of population in countries with at least GDP per capita of \$35,000, 2020



Sources: United Nations Population Division, "International migrant stock," 2019; United Nations, "World Population Prospects," 2019; United Nations Statistics Division, "Per capita GDP at current prices," 2019; World Bank, "GDP per capita," 2020; Central Intelligence Agency, "CIA World Factbook," 2021.

Note: The UN data include foreign-born people who received citizenship at birth through their parents to allow for cross-country comparisons with different citizenship rules. Also included are people born in the overseas territories of Denmark, the UK, France, the Netherlands, New Zealand and the U.S. (e.g., Puerto Rico). These people were excluded in this analysis because they are not considered "born abroad" for purposes of the home country. These overseas territories were also not treated as separate countries except in cases where immigrants from the parent country are not considered citizens of the overseas territory, such as in the Netherlands' and most UK territories.

The subcommittees will focus on the harms that stem from this unnecessarily restrictive system, and every member should agree that the choice to keep the gates to America shut is the genesis of so much unnecessary suffering for immigrants and Americans alike. But this inquiry should not end with a tally of death and destruction. It should see this broken system as an incredible opportunity. Few countries in the world have the ability on a whim

to inject new energy and growth into our economy and society. America is the most powerful and wonderful country on Earth; immigrants can help keep it that way.

### **Bad border policies strain communities along the border**

This restrictive legal immigration system is the cause of illegal immigration. When the law says that the only way to enter is to enter illegally, people will follow that message. Forcing migration into illegal channels has seriously affected immigrants and American communities, particularly along the border.

Since at least the Border Patrol's 1994 Strategic Plan, Border Patrol has intentionally driven cross-border traffic out of urban areas and into more rural areas where crossing is more hazardous.<sup>10</sup> Following this shift, the Government Accountability Office (GAO) found that "the strategy has increased deaths from exposure to either heat or cold."<sup>11</sup> As a result of this deliberate and ongoing strategy, more people cross into rural areas where they trespass on farmland. The added dangers also mean more migrants are injured or ill, placing strain on rural hospitals.

The border walls have greatly exacerbated the risks. The Mexican government has found that border walls or fences were responsible for 80 percent of injuries by border-crossing Mexicans returned by the United States last year.<sup>12</sup> In 2021, trauma surgeons in California were overwhelmed with hundreds of wall-related injuries, which increased by 460 percent following the wall construction.<sup>13</sup>

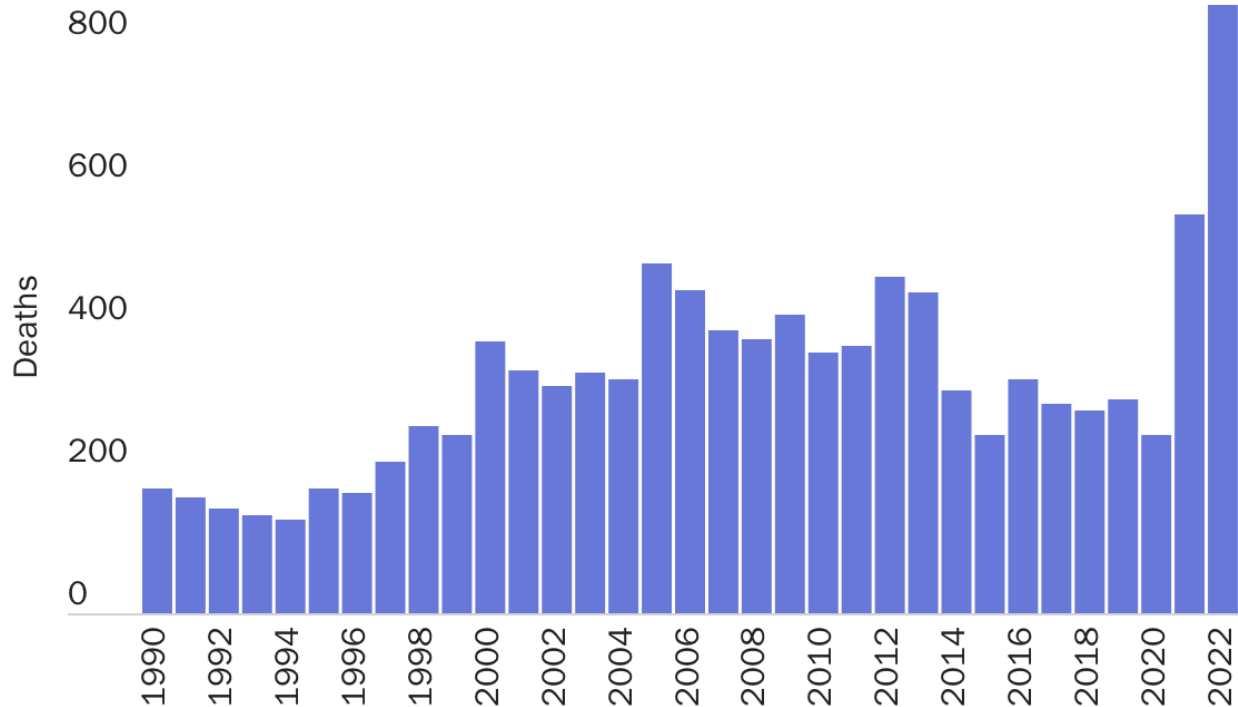
The last administration constructed a wall so high that rather than merely increasing the risk of capture for immigrants, it significantly increased the risk of death. The 30-foot height was reportedly based on field tests to determine the height at which the average person would become disoriented and stop climbing.<sup>14</sup> But even lower fences are a danger. A pregnant woman died from falling from an 18-foot fence in 2020.<sup>15</sup> Some of those injured have been in Yuma, Arizona, including two men who died in 2020 and 2021.<sup>16</sup> In 2018, two teenage girls also suffered life-threatening injuries after falling from the Yuma fence.<sup>17</sup>

At least 31 deaths have occurred from fence falls from 2019 to 2023.<sup>18</sup> But by pushing immigrants out into even more remote areas, the wall can also indirectly cause more deaths. A total of 853 immigrants died crossing the border in 2022—the most on record.<sup>19</sup> This topped the prior record of 560 deaths in 2021.<sup>20</sup> About 60 deaths in 2022 were in Yuma County, Arizona.<sup>21</sup> In 2022, Border Patrol reported that it rescued 22,014 people in serious physical distress, fourfold the number in 2019.<sup>22</sup>

Since 1990, when the first fences were built in San Diego, Border Patrol has recorded almost 11,000 deaths,<sup>23</sup> and independent auditing of its count by the Government Accountability Office has found that Border Patrol systematically undercounts migrant deaths, excluding—for instance—half the migrant deaths in Tucson, Arizona, which are tracked by local authorities.<sup>24</sup>

## Deaths of migrants recorded by Border Patrol

1990-2022



Sources: Customs and Border Protection, "Border Rescues and Mortality Data," 2022; Border Patrol, "Southwest Border Deaths By Fiscal Year," 2022; Camilo Montoya-Galvez, "[At least 853 migrants died crossing the U.S.-Mexico border in past 12 months — a record high](#)," CBS News, 2022.

The inability to board lawful transportation options to the U.S. border creates treacherous conditions for travelers. The combination of homelessness and governmental indifference toward crimes against migrants in Mexico has created the ideal environment for predation. Abductions of migrants number in the tens of thousands annually, according to Mexico's National Human Rights Commission.<sup>25</sup> Rapes of migrant women in Mexico are common, underreported, and rarely investigated.<sup>26</sup> All these factors mean that many migrants cross in need of urgent medical attention, and Border Patrol policies force them to cross in areas with the fewest resources.

It is not just taxing for local hospitals. The Border Patrol's 1994 Strategic Plan treated rural areas' lack of transportation infrastructure as a reason to push traffic there.<sup>27</sup> But when Border Patrol releases asylum seekers in small towns along the border, it can take days for them to get a bus to their final destinations. The lack of buses led to a backup of migrants with nowhere to live and forced Yuma's mayor to declare a state of emergency.<sup>28</sup> If immigrants could enter legally, they could arrange transportation in advance, travel directly to their final destinations, and fix this issue.



The mere fact that a person entered illegally means that Border Patrol must take them into custody for processing. When capacity is reached, they unexpectedly release migrants onto the streets—often at night with no warning and no transportation lined up.<sup>29</sup> These types of releases have occurred under every administration.<sup>30</sup> Sometimes, pregnant women or nursing mothers are forced to sleep on the streets.<sup>31</sup> These are all avoidable problems if legal migration pathways were available.

Another problem is of greater importance to localities: the inability of people to work legally after their release from Border Patrol custody.<sup>32</sup> Although asylum seekers are eligible to receive employment authorization documents six months after applying for asylum, this process can often take much longer, given the time it takes to prepare an asylum application and process the employment authorization request.<sup>33</sup> The mayor of New York City has labeled this one of the most urgent immigration issues facing his city.<sup>34</sup> Research has found that banning asylum seekers from working has negative employment effects long after the ban is lifted.<sup>35</sup> Lacking the right to work, asylum seekers must often either work illegally or depend on charity or city services.

### **Restricting asylum is not a solution.**

Title 42 and restrictions on applying for asylum also create additional health hazards for migrants. Returning migrants to Mexico has created a flow of migrants more in need of medical attention because the policy alerts criminals in Mexico to the fact that they may have U.S. connections. When they recross the border, these victims often need health care. Human Rights First has tracked over 13,000 publicly reported incidents of murder, torture, kidnapping, rape, and other violent attacks on migrants and asylum seekers who returned to Mexico in the last two years alone.<sup>36</sup>

Migrants who seek asylum generally turn themselves into Border Patrol, avoiding more dangerous crossings in remote areas and making themselves easier to process. Evasion leads to more deaths and injuries in remote areas. Also, smugglers (usually U.S. citizens) sometimes drive recklessly to avoid Border Patrol and risk the lives of the passengers and bystanders, leading to more hospital trips.<sup>37</sup> At least 93 people have died during Border Patrol pursuits since 2010.<sup>38</sup>

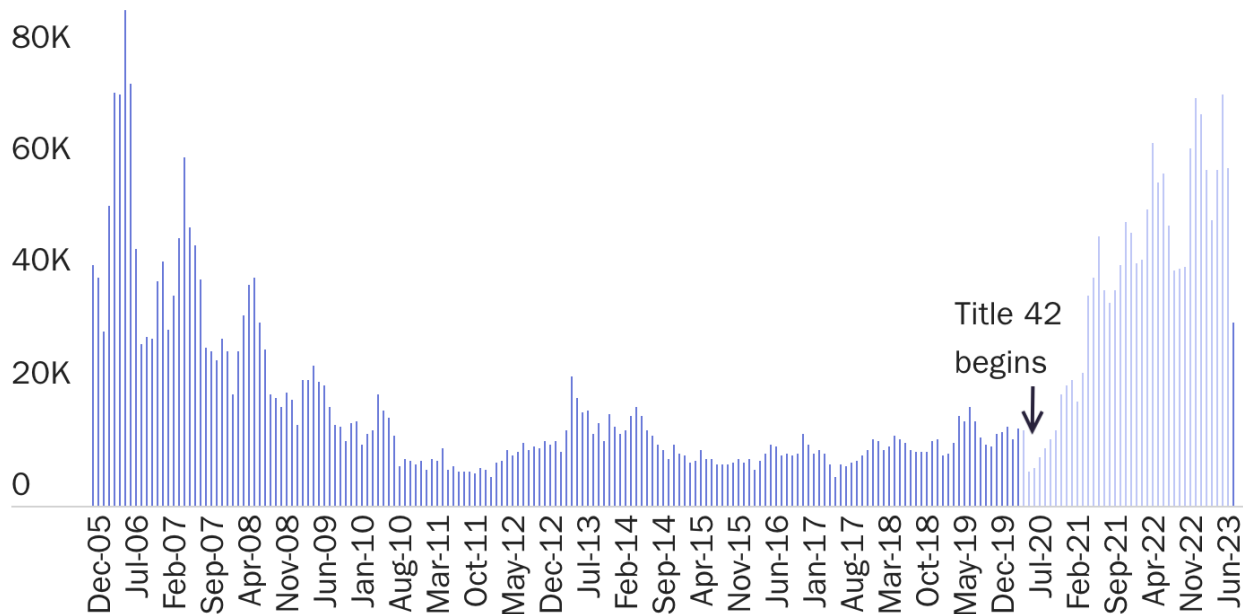
The number of chases doubled from 150 in 2021 to 300 in 2022, and deaths during pursuits increased from 2 in 2019 to 14 in 2021 and 22 in 2022.<sup>39</sup> From 2015 to 2018, there were about 11 injuries for every death resulting from Border Patrol chases, implying that hundreds of people have been injured across the border in the last two years in this way.<sup>40</sup> Smugglers also abandon migrants in deserts, where they may need to be airlifted to hospitals.<sup>41</sup>

Anti-asylum policies are not just bad for the safety of immigrants and residents—they are also bad for security. Since Border Patrol initiated the Title 42 policy that banned asylum for most crossers, evasion almost immediately exploded. The number of gotaways—detected successful crossings—grew fourfold from 2019 to 2022. The country has seen

more crossings, arrests, illicit entries, and less security under the anti-asylum policy of the last three years. Title 42 ended in May 2023, and although asylum is still restricted between ports of entry, gotaways fell 55 percent from April to June 2023 as more people entered through ports of entry.<sup>42</sup>

### Title 42 has led to more successful illegal crossings

Border Patrol known "gotaways," Oct. 2005-June 2023



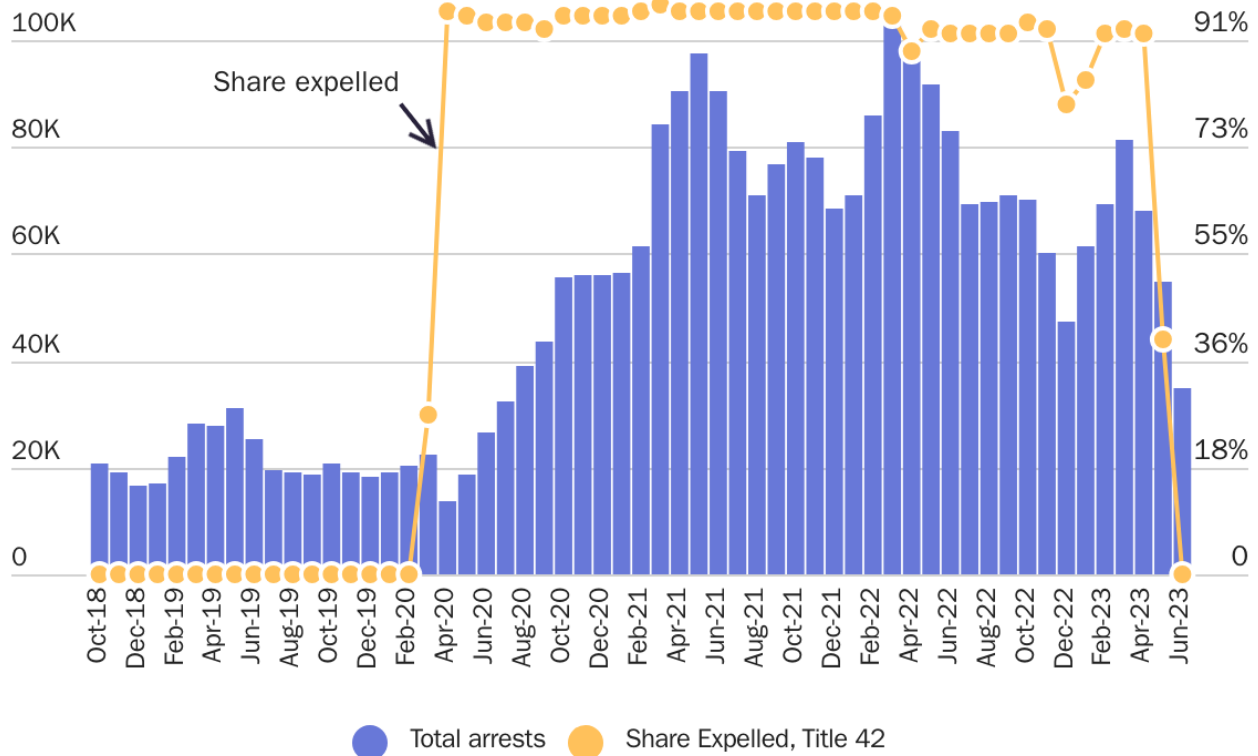
Sources: Cato Institute, Customs and Border Protection via Freedom of Information Act request; Fox News, Dec. 2022; Fox News, Oct. 2022; Fox News, Jan. 2023 (annual data for 2022 interpolated to individual months based on single adult apprehensions); February to June 2023 via Bethany Blankey, Center Square.

A major reason for the increased evasions is that when someone is returned to Mexico—and not processed for asylum or returned to their home country—they have little choice but to attempt to reenter illegally. The recidivism or re-encounter rate started to spike under the Remain in Mexico policy, which sent people back to wait for hearings. That policy had a re-encounter rate of 33 percent (as of June 2021), and the only reason it wasn't higher is because the program was canceled.<sup>43</sup> Under Title 42, the situation deteriorated further, with a 1-year re-encounter rate exceeding 50 percent in 2021<sup>44</sup>

This is not due to insufficient enforcement of Title 42. Title 42 encouraged more crossings. Encounters of the demographic group most targeted under Title 42—single adults from the Northern Triangle and Mexico—had increased fourfold, even though they have been expelled more than 90 percent of the time. The number of southwest border arrests by single adults from the four targeted countries declined by 57 percent in June 2023.<sup>45</sup> This accounted for two-thirds of the decline in border arrests in June 2023, much steeper than the 22-percent decline for all other groups.

## Did Title 42 deter single adults from the Northern Triangle and Mexico?

Single adults from the Northern Triangle and Mexico, share expelled, Oct. 2018-Oct. 2022



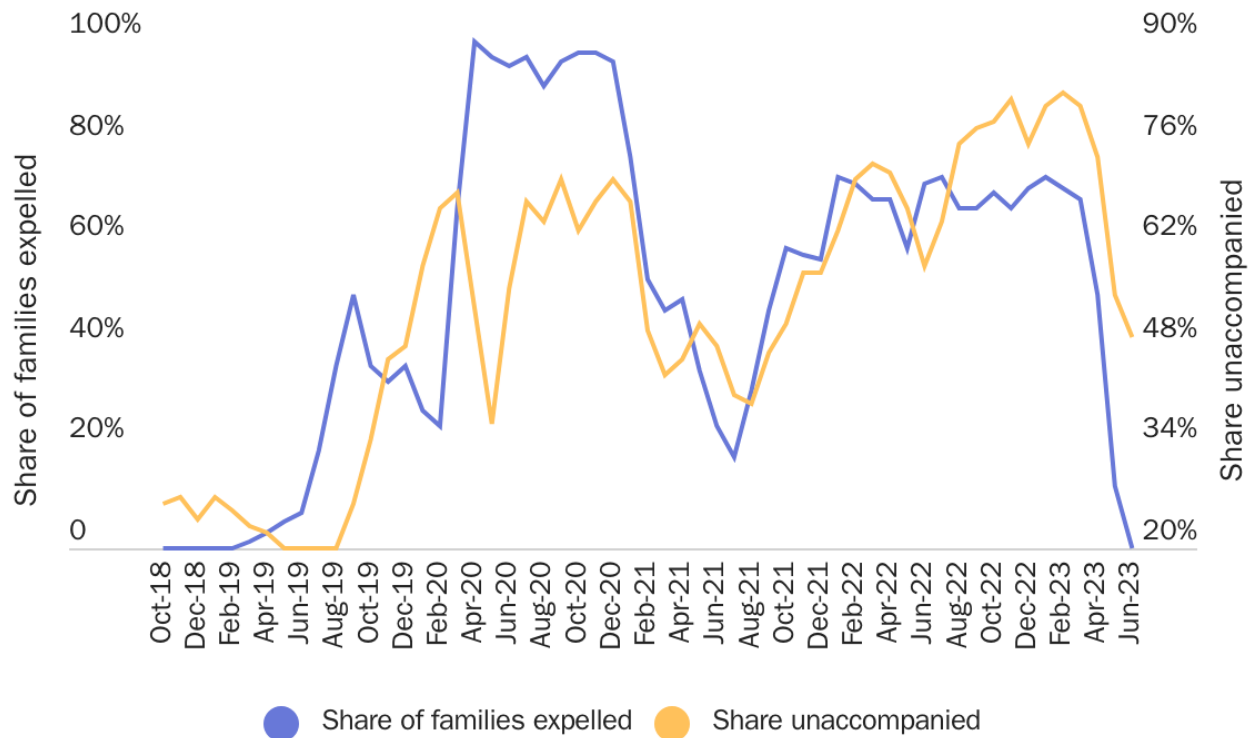
Sources: Customs and Border Protection, "Nationwide Encounters," 2022.  
 Notes: "Single adults" = adults traveling without their children. "N. Triangle" = Honduras, El Salvador, and Guatemala.

Title 42 and its sibling, the Migrant Protection Protocols (“Remain in Mexico”), also had the unintended consequence of causing more children from Central America to cross the border alone. Under both policies, if children crossed with their families, the parents and children had a high probability of being returned to Mexico. By contrast, unaccompanied children were—except for a short-lived period when Title 42 was first in effect—exempt from return to Mexico under both policies.<sup>46</sup>

This discrimination against families meant that parents felt compelled to allow their children to enter alone.<sup>47</sup> The chart below shows the share of Central American families with children expelled to Mexico and the share of children coming unaccompanied. In the 31 months when a majority of Central American families were expelled to Mexico, 30 of those months saw a majority of Central American children enter without their parents. The causal relationship is clear: closing asylum to families creates an incentive to send children without their parents. After Title 42 ended, a majority of Central American children came with their parents for the first time in 20 months.

## Share of Central American minors without parents and share of families sent to Mexico

Border Patrol arrests, Apr. 2018-June. 2023



[Download data](#)

Sources: CBP, "Southwest Border Encounters," 2023; TRAC, MPP, 2023.

Note: Expelled=Title 42 or MPP placement in Mexico. Accompanied children based on the annual ratio of parents to children in family units in 2019. Central American = El Salvador, Guatemala, and Honduras

### Immigrants are not driving the fentanyl crisis.

The subcommittees are right to pay particular attention to the scourge of fentanyl overdoses. But immigrants are not the cause. Fentanyl trafficking is funded by fentanyl consumers, and nearly 99 percent of the users are U.S. citizens.<sup>48</sup> It is not surprising that research has shown that “increases in immigration are associated with significantly lower homicide and lower overdose death rates overall and across substance type.”<sup>49</sup>

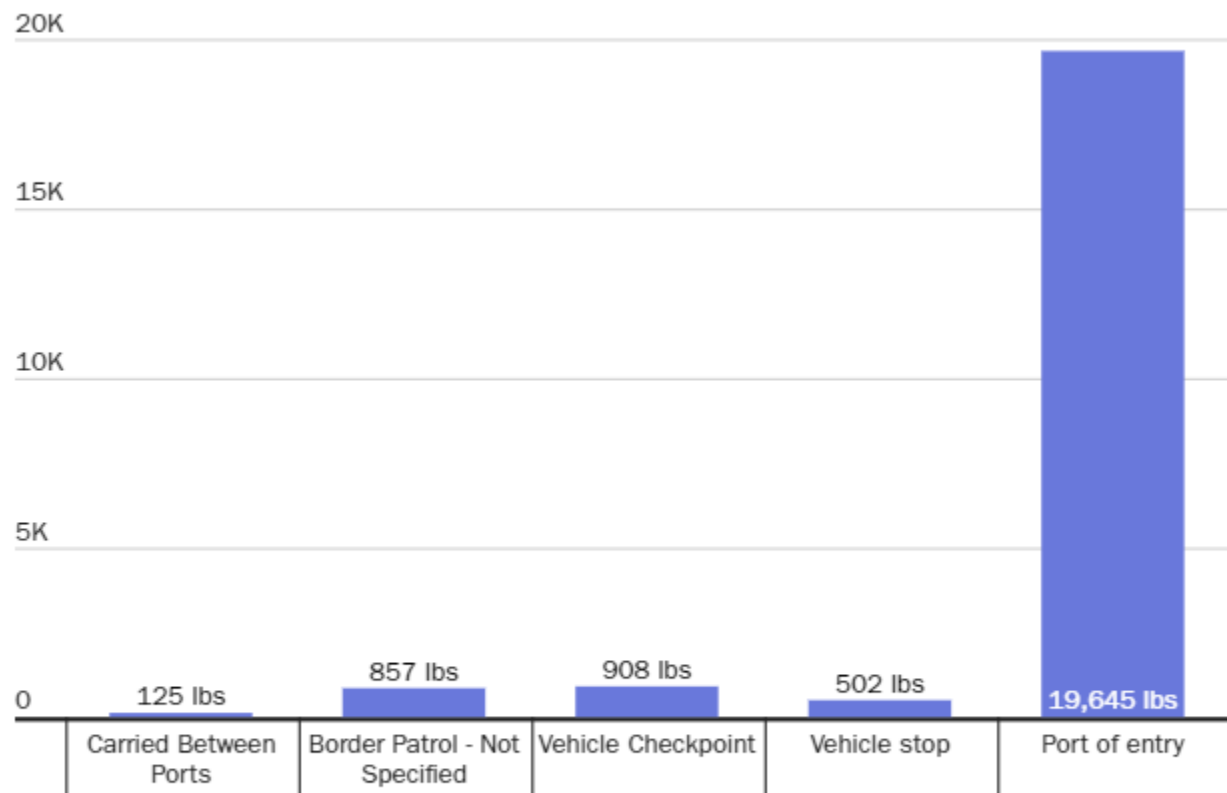
U.S. citizens are also the primary smugglers of fentanyl. In 2021, they made up 86 percent of convicted fentanyl traffickers.<sup>50</sup> Cartels employ U.S. citizen traffickers because smuggling is significantly easier at ports of entry than between them, and U.S. citizens have legal access to the United States and are subject to less scrutiny at ports of entry.

For this reason, from fiscal year 2019 to June 2023, 93 percent of fentanyl seizures by Customs and Border Protection (CBP) have occurred at ports of entry or vehicle checkpoints, not along illegal migration routes.<sup>51</sup> The graph below displays the available data on seizure locations for fiscal year 2023. About 96 percent was seized from vehicles at

checkpoints, traffic stops, or ports of entry, while one-half of a percent was seized on people carrying the drug over the border. Another 4 percent was not reported.

### Customs and Border Protection Fentanyl Seizures by Type

Southwest Border, Fiscal Year 2023 (as of June 2023)



Sources: Customs and Border Protection, "CBP Enforcement Statistics Fiscal Year 2023," February 10, 2023; CBP, "Drug Seizure Statistics FY2023," February 8, 2023; CBP, "Border Patrol Seizes \$4 Million in Narcotics in One Day," January 27, 2023; CBP, "Border Patrol Agents Seize Over \$500,000 Worth of Fentanyl," October 19, 2022; CBP, "Del Rio Sector Agents Seize over \$100,000 in Mixed Narcotics," October 24, 2022; Chief Agent Gloria I. Chavez, Twitter, November 15, 2022; John Modlin, U.S. Border Patrol Chief TCA, Twitter, November 21, 2022; CBP, "Media Releases," 2023.

Although CBP’s data obviously does not include the fentanyl that escapes their detection—both at ports and between them—CBP’s seizures provide a sample to estimate the rate at which people who evade detection are carrying fentanyl. As of June 2023, Border Patrol had arrested about 9,000 people for every single event where fentanyl was seized at a location away from vehicle checkpoints. The people who are crossing between ports of entry are primarily seeking safety and opportunity, not seeking to smuggle fentanyl.

CBP has not estimated the quantity of fentanyl successfully smuggled through ports of entry, but for several years, it has calculated the probability of seizure of cocaine at ports of entry. In 2020, CBP estimated that it seized just 2 percent of the cocaine entering the country at ports.<sup>52</sup> Given its potency, significant amounts of fentanyl are even easier to conceal than cocaine. By contrast, CBP estimates that it interdicts a majority of the people

crossing the border illegally.<sup>53</sup> Thus, it is more than 90 percent easier to enter the country legally with hard drugs than cross the border illegally with them.

Border Patrol also does not seize more fentanyl when arrests fall. Notably, despite a 42 percent drop in arrests in January, Border Patrol seized almost no fentanyl (just 4 pounds) outside of vehicle stops and checkpoints, the same amount as the prior month.<sup>54</sup> In June 2023, arrests again fell 42 percent, and the amount of fentanyl seized by Border Patrol outside of checkpoints went down 67 percent.<sup>55</sup>

Qualitative assessments based on law enforcement intelligence also indicate that trafficking organizations understand that hard drugs are more easily smuggled through ports. The Drug Enforcement Administration's (DEA) National Drug Threat Assessment for 2021 has said that drug traffickers "exploit major highway routes for transportation, and the most common method employed involves smuggling illicit drugs through U.S. POEs in passenger vehicles with concealed compartments or commingled with legitimate goods on tractor-trailers."<sup>56</sup> DEA testified that its investigations have found that "the vast majority of fentanyl is coming in the ports of entry."<sup>57</sup> CBP and other agencies have made similar assessments.<sup>58</sup> It is precisely because these ports of entry are both scarce and incredibly valuable that cartels war for control over them.<sup>59</sup>

The reasons for the ease at which drugs enter through ports are multifaceted. Only as much as 17 percent of commercial trucks and 2 percent of passenger vehicles are scanned for any drugs.<sup>60</sup> CBP reports of drug interdiction arrests indicate that it is most often the driver's behavior that tips off agents to conduct a search, meaning that interdiction is dependent on a factor almost entirely outside of the agency's control.<sup>61</sup> The motivation for traffickers to innovate to evade detection is much stronger than the motivation to innovate to detect drugs crossing, which results in increasingly sophisticated smuggling techniques that quickly defeat interdiction efforts.

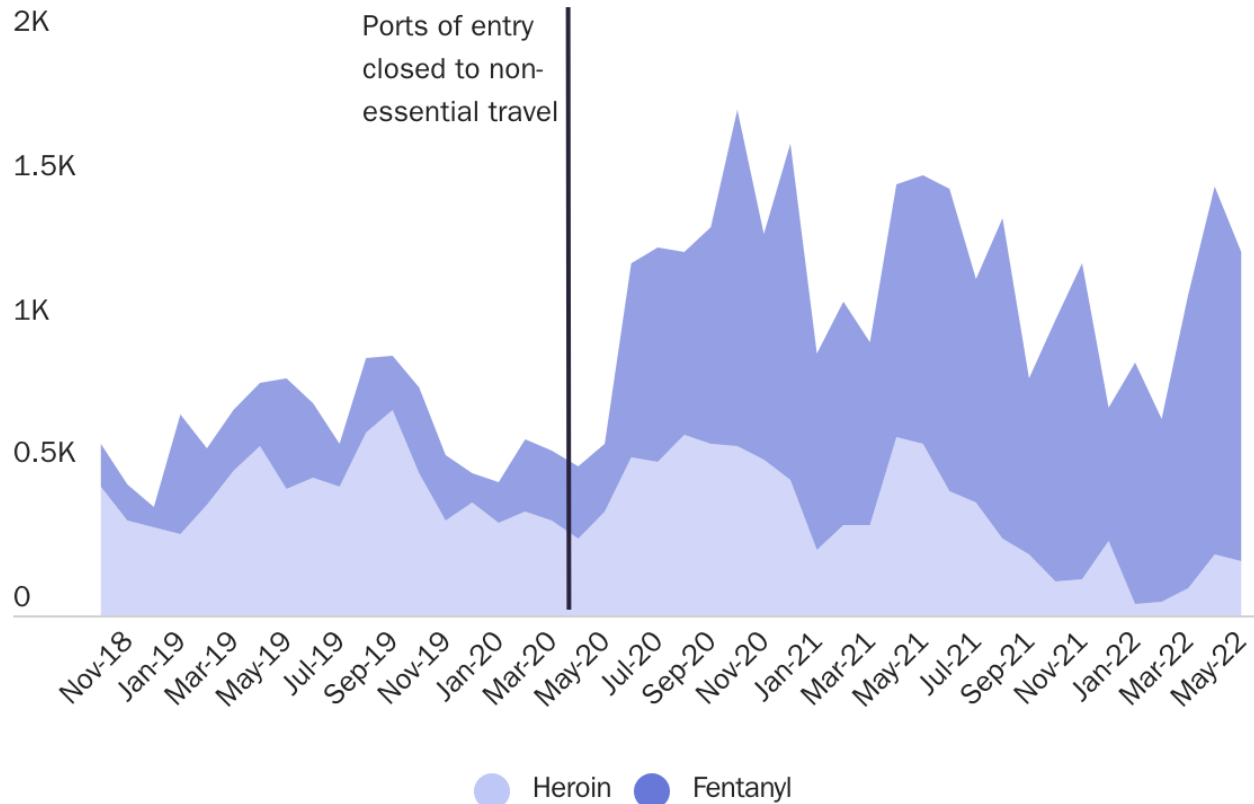
Even when a drug is easier to detect, the massive difference between the cost of production abroad and its value in the United States means that trafficking organizations can respond to greater interdiction simply by increasing production and smuggling more. From 2003 to 2009, for instance, Border Patrol more than doubled its staffing and built hundreds of miles of fences. As a result, Border Patrol marijuana seizures doubled, but cartels simply smuggled more to compensate, and the effort made no difference to the availability of Mexican marijuana in the United States.<sup>62</sup> In fact, the effort backfired. During Border Patrol's hiring surge, the potency of marijuana increased by 37 percent.<sup>63</sup>

Fentanyl trafficking itself developed as a border-evasion measure to supply the market for heroin and other opioids. It initially had little natural demand because the fentanyl experience is so fundamentally different from heroin.<sup>64</sup> Fentanyl has the advantage of being 50 times more powerful than heroin, which means that the same weight can supply 50 times as many consumers. This creates a massive economic incentive for smugglers to prefer it to heroin.

Despite fentanyl’s built-in economic advantage, it took the massive restriction on imports and travel during the pandemic—particularly the U.S. policy of limiting travel with Mexico—to force U.S.-Mexico border traffickers to shift from heroin to fentanyl. Within two months of the pandemic, fentanyl seizures overtook heroin by weight, and by the time the restrictions were lifted, fentanyl accounted for over 90 percent of the seizures.

**Fentanyl smuggling became more prevalent after most legal travel was banned**

Heroin and fentanyl seizures (lbs) at southwest ports of entry, Oct 2018-Jan 2023



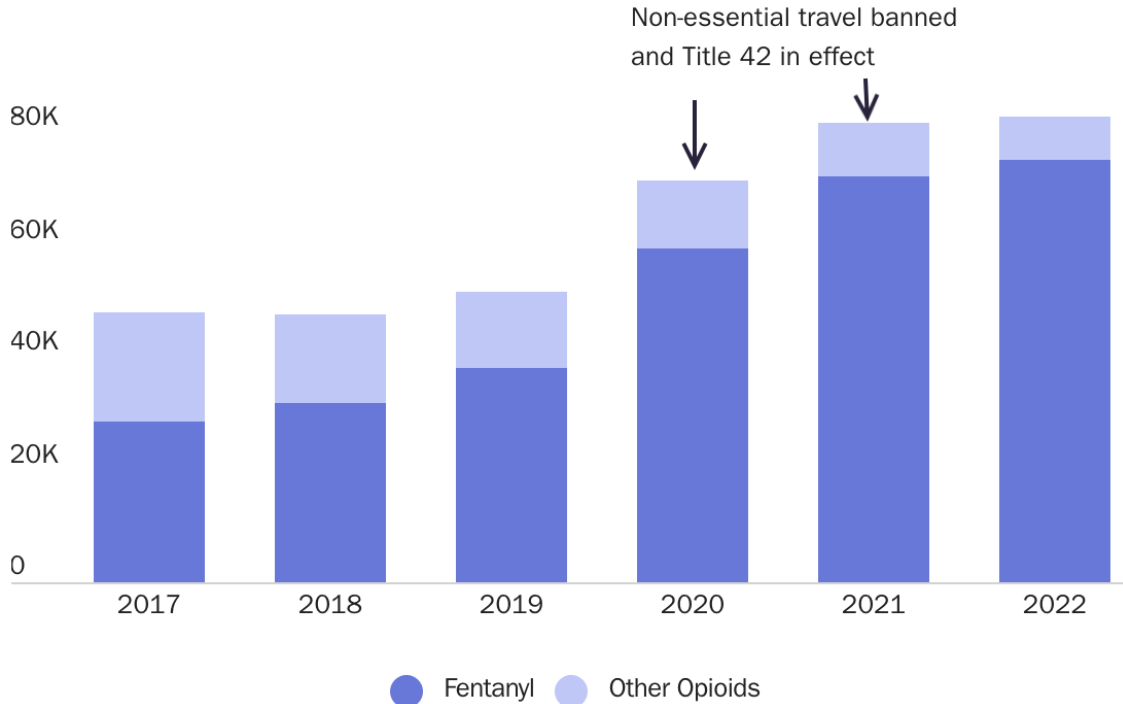
Sources: Customs and Border Protection, "Drug Seizure Statistics," 2022.

Tragically, the shift toward fentanyl and away from heroin caused a spike in fentanyl deaths. From 2019 to 2021, fentanyl deaths nearly doubled as trade and travel were restricted with Mexico. Unfortunately, additional efforts to restrict the trade in fentanyl will likewise backfire. There are already synthetic opioids many times more powerful than fentanyl that cartels could switch to if fentanyl trafficking becomes more difficult. For instance, the Tennessee Department of Health reported a fourfold increase in deaths in 2021 from Nitazenes—synthetic opioids 10 to 20 times more potent than fentanyl.<sup>65</sup>

This process of enforcement increasing the potency of prohibited items is called the “Iron Law of Prohibition.” It occurred under Alcohol Prohibition when liquor dominated wine and beer, and it has repeatedly played out under drug prohibition: crack cocaine as a substitute for powdered cocaine, heroin as a substitute for prescription drugs, and fentanyl

as a substitute for heroin. To stop drug deaths, policymakers must focus on demand, not supply.

### Deaths from fentanyl and other opioids, 2017-2022



Sources: "Provisional Drug Overdose Death Counts," Centers for Disease Control and Prevention, 2023.

Note: 12-month periods before each January.

The drug war and restrictive border policies have failed people with addictions and their families. Government should stop criminalizing drug users, which pushes them away from services that could help them, and Congress should legalize overdose prevention sites, places where people can intervene to reverse an overdose.<sup>66</sup> States should allow users to protect themselves against overdoses by legalizing fentanyl test strips, which most states criminalize as "drug paraphernalia."<sup>67</sup> Physicians should be empowered to treat addiction by weaning addicts off these potent drugs and by issuing at-home prescriptions for methadone.<sup>68</sup> These are all ideas that have worked in other countries to reduce deaths.<sup>69</sup>

Restricting immigration also has another side benefit for smugglers: they can charge immigrants to cross illegally into the United States.<sup>70</sup> Two migrants in Tijuana were stoned to death, and another was shot for failing to pay a fee in February.<sup>71</sup> Migrant smuggling has now become a \$13 billion industry.<sup>72</sup> The United States could immediately remove this profit from the cartels by creating legal ways to enter the country.

### Immigration creates wealth for immigrants and Americans.

Immigration benefits immigrants and Americans. In their home countries, immigrants usually lack the freedom to achieve their full potential. Immigrants want little more than to participate in the freedom that the U.S. Constitution offers to improve their lives. For many



nations, a majority of their people who live above the poverty line (by developed world standards) live in the United States.<sup>73</sup> They achieve this higher standard of living not through theft or welfare but through hard work.

Why do immigrants command higher wages in the United States than in their home countries? Because the United States has free institutions that create incentives for work and investment that empower workers to be more productive. In other words, immigrants produce more and better goods and services here than in their home countries. It is easy to understand why. Here, American capitalism incentivizes investment in technology that increases the productivity of workers, while socialism, corruption, and crime make those investments impossible in many countries. The result is that U.S. immigrants commonly command wages that are between two to fifteen times the wages in their home countries for doing the exact same work.<sup>74</sup>

Of course, higher incomes are not the only motivating factor for migration, but these massive wage differentials make stopping immigration a fool's errand. The benefits are simply so great that desperate people will continue to put their lives on the line to achieve the freedom and opportunity that they lack at home. But the fact that so many people from around the world are willing to uproot their lives and join us—to contribute to our nation and to make our lives better—is the most profound opportunity for the United States. A better legal immigration system would harness this massive potential to fulfill the needs of an America on the verge of demographic decline.

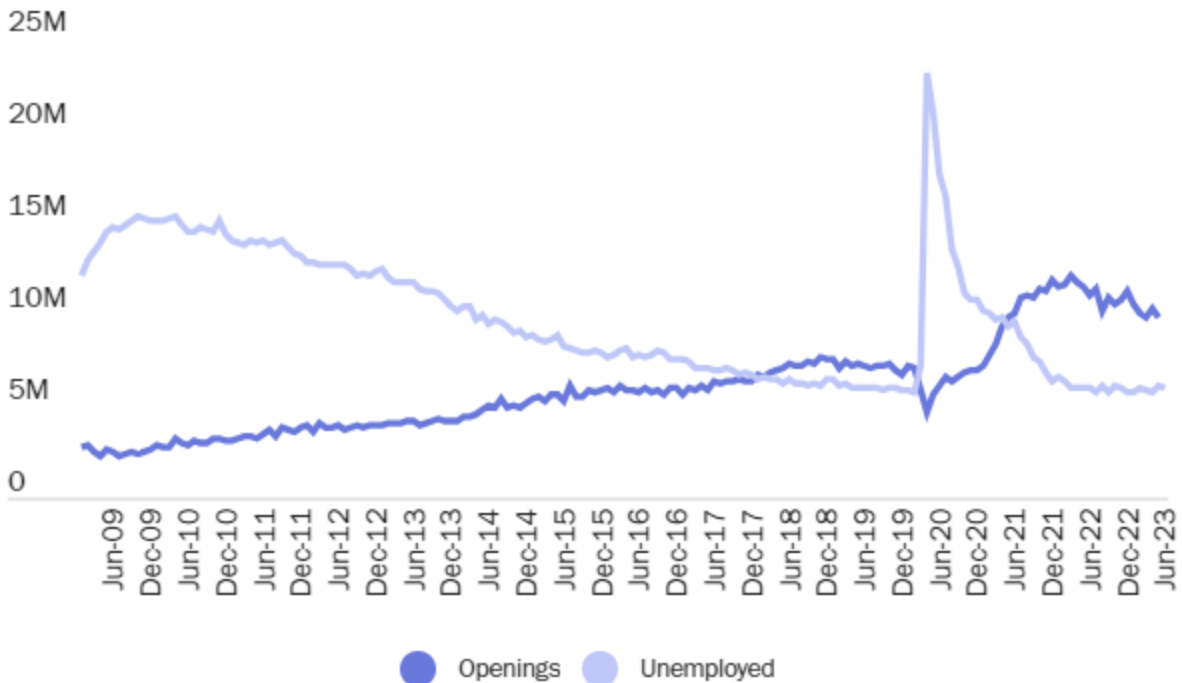
### **America benefits from immigration.**

Immigrants can succeed in the United States precisely because the country needs workers. Immigrants are more likely to work than U.S.-born citizens overall and at every education level—a difference that grows significantly among the least skilled—and about 97 percent of immigrants who looked for jobs in 2022 found them.<sup>75</sup> This should not be surprising, given that the United States is currently experiencing an unprecedented labor shortage.

From January 2021 to May 2023, the United States averaged 10.5 million job openings per month. Every single month after January 2021 had more job openings than any month before it, back to the start of the job openings data series in the year 2000.<sup>76</sup> The average number of job openings during this period was double the number of job openings before 2021.<sup>77</sup> Filling these jobs over the last two and a half years would have increased U.S. Gross Domestic Product cumulatively by about \$2 trillion.<sup>78</sup> As of May 2023, the number of open jobs exceeded the number of unemployed workers by nearly 4 million.

## Job openings and unemployed persons

January 2009-July 2023



Sources: U.S. Bureau of Labor Statistics, Unemployment Level [UNEMPLOY]; U.S. Bureau of Labor Statistics, Job Openings: Total Nonfarm [JTSJOL], June 2023.

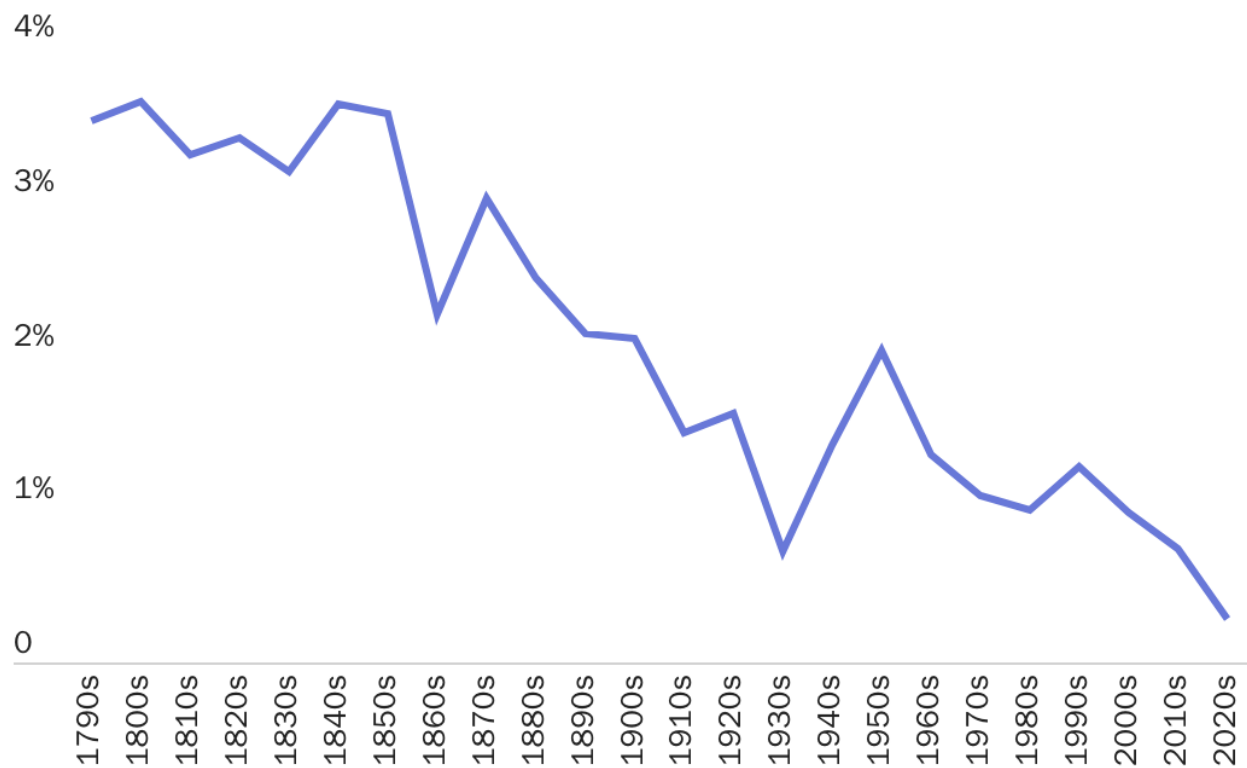
The immigrant population increased, according to Census Bureau's Current Population Survey, by approximately 2.7 million from January 2021 to June 2023.<sup>79</sup> These immigrants found jobs in a wide variety of industries—everything from landscaping and construction to computer programming and management. Immigrant workers were key to helping propel the recovery. They were also helpful in bringing down inflation.

This effect on inflation comes not through lowering wages but through increasing production. The purpose of the economy is to produce goods and services that fulfill the needs of U.S. consumers. Staffing shortages that closed stores, kept trucks off the road and prevented ships from being unloaded were critical components of inflation in 2021 and 2022. Immigrants allow more goods and services to reach consumers, which brings down prices in real terms.

Going forward, the United States is facing a severe population challenge, which will cause demand for foreign workers to increase. The U.S. population is growing slower than at any point in its history. In 2022, international migration already accounted for 80 percent of the meager 0.4 percent population growth.<sup>80</sup> Without immigration, the U.S. population will start to decline. Already in 2022, about half of all the counties in the United States saw declining populations. Over the next two decades, the U.S. working-age population will decline without new immigrant workers.<sup>81</sup>

## Annual average U.S. population growth by decade

1790–2022



Sources: U.S. Census Bureau, Decennial Censuses, 1790–2020; "Vintage 2022," 2023.

### America needs workers across the skill spectrum.

With a slowing population, the country is also growing older.<sup>82</sup> This will suppress labor force participation among the U.S. population and create a need for more workers in industries related to elder care. With nearly a million new jobs, home health aides are projected to see the largest increase in employment of any single occupational category, according to the Bureau of Labor Statistics (BLS).<sup>83</sup> This example highlights how job growth will not just be concentrated among the highest-skilled positions but will be broadly available. In fact, the BLS predicts that most jobs created this decade will not require a college degree.

Of course, if these jobs fail to materialize, it would likely be because the government intervened to stop U.S. employers from hiring immigrants. That would be devastating for American families that desperately need help. Shockingly, despite record demand, the number of employees in skilled nursing care facilities has declined from 1.7 million to 1.4 million from 2011 to 2023.<sup>84</sup>

Many nursing homes are closing because they cannot properly staff their operations—particularly in rural areas. In Minnesota alone, 45 facilities have closed.<sup>85</sup> Another 60 have closed in Texas.<sup>86</sup> The Good Samaritan Society facility in Postville, Iowa, closed in

September 2022.<sup>87</sup> At open facilities, huge numbers of beds remain empty, with the vacancies nationwide reaching 32 percent.<sup>88</sup> An analysis of nursing homes by researchers from Harvard, MIT, and Rochester showed that “increased immigration significantly raises the staffing levels of nursing homes in the U.S., particularly in full-time positions,” which results in better patient outcomes.<sup>89</sup> The National Council of the State Boards of Nursing has found that 800,000 nurses plan to leave the labor force by 2027.<sup>90</sup> Meanwhile, nurses are crossing the border illegally, and one died in 2021.<sup>91</sup>

One reason why Americans are having fewer children is the cost of childcare. The cost of childcare not only directly reduces the growth in the future labor force but also indirectly reduces the growth in the labor force by driving mothers to drop out of the labor force. A majority of mothers with young children are not looking for jobs solely because of childcare or family responsibilities.<sup>92</sup> A staffing crisis has caused massive wait lists for care in states across the country. In Pennsylvania, 7,000 open positions have led to 32,500 kids waiting for care.<sup>93</sup> It’s worse in Michigan, where nearly 54,000 kids are waiting.<sup>94</sup>

Researchers Delia Furtado and Heinrich Hock have found that low-skilled immigrants have “substantially reduced” the costs of having a child.<sup>95</sup> Patricia Cortés and José Tessada similarly find, “low-skilled immigration increases average hours of market work and the probability of working long hours of women at the top quartile of the wage distribution.”<sup>96</sup>

New home construction—a critical component in family formation—has also suffered from too few workers. Construction employment has reached record highs, while the construction unemployment rate is at near-record lows. Construction industry wages are now higher than the average wage for workers generally.<sup>97</sup> The number of job openings has repeatedly set records for the industry.<sup>98</sup> Yet thanks to too few workers, it now takes about eight months to build a new home, which is up from 4 to 6 months before the pandemic.<sup>99</sup> One home builder in Florida estimated in 2023 that supply chain issues and the labor shortage were adding 20 percent to the cost of a new home in his area.<sup>100</sup>

The United States is also facing critical shortages of skilled workers. For physicians per capita, America ranks far behind Germany, Sweden, Australia, and Switzerland, and it has half the number of physicians per capita as Austria—effectively a difference of nearly 1 million physicians.<sup>101</sup> In rural areas, the shortages are dire. A study in the journal *Health Affairs* has shown that rural patients are far more likely to die because they lack the number of specialists to treat them effectively.<sup>102</sup> This situation would be even worse if not for immigrants, who account for a quarter of all U.S. physicians.<sup>103</sup>

Skilled science, technology, engineering, and math workers are also in short supply. A major project—funded in part by U.S. taxpayers—to build a new microchip manufacturing facility in Arizona is already being delayed because of a shortage of skilled workers.<sup>104</sup> McKinsey estimates that chip manufacturers will be short 390,000 engineers and skilled technicians by 2030, leading to more production setting up offshore.<sup>105</sup> But the U.S. immigration system is so broken that engineers from Venezuela were entering through the border in 2021.<sup>106</sup>

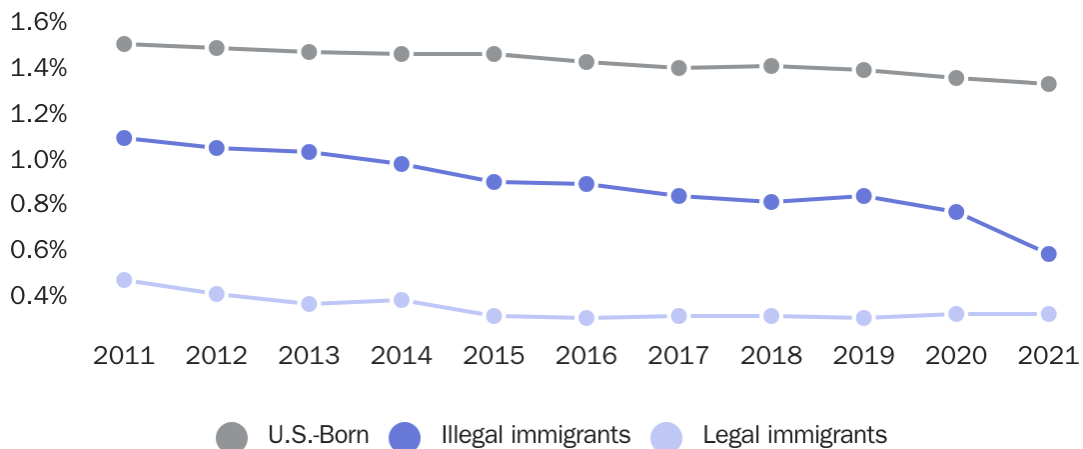
Because immigrants are working, immigrants also improve government finances. Immigrants contributed \$736 billion in state, local, and federal taxes in 2018—\$220 billion more than they received in government benefits, including cash assistance, entitlements, and public education.<sup>107</sup> Even undocumented immigrants are paying nearly \$12 billion in taxes every year.<sup>108</sup> These contributions do not consider any complementarities between U.S. workers and immigrants, such as when immigrants allow U.S. workers to earn higher wages or work longer hours. The Social Security Administration Trustees Report emphasizes that immigration improves the Social Security outlook,<sup>109</sup> but the number of workers that it projects will be paying into Social Security in 2065 is still 70 million below the level needed to keep revenues in line with expenditures.<sup>110</sup>

The Congressional Budget Office (CBO) found in 2013 that comprehensive immigration reform would have “a net savings of about \$175 billion over the 2014–2023” and “would decrease federal budget deficits by about \$700 billion (or 0.2 percent of total output) over the 2024–2033 period.” The CBO stated that there would be about another \$300 billion in savings from the indirect economic effects of more immigration.<sup>111</sup> The United States could already be enjoying these benefits had the bill become law.

### Immigrants make American communities safer.

Immigrants contribute to the safety and security of American communities in numerous ways. First, they directly lower the crime rate by committing fewer crimes. According to data from the Census Bureau’s American Community Survey, immigrants have been much less likely to end up in the criminal justice system and behind bars for the entirety of the last decade (Graph).<sup>112</sup> This is true, even for immigrants in the country illegally, despite thousands of those immigrants being incarcerated solely for immigration offenses that U.S. citizens cannot commit. The share of illegal immigrants incarcerated has even declined by 44 percent from 2011 to 2021.

**Share of U.S. residents incarcerated by immigration status, ages 18–54, 2011–21**



**Source:** American Community Survey, 1-Year Estimates, 2021 analysis by Landgrave, Michelangelo, and Alex Nowrasteh. “Illegal Immigrant Incarceration Rates, 2010–2021: Demographics and Policy Implications.” Forthcoming.

The lower crime rates create safer communities for Americans to live in. During the 1990s, when the immigrant population grew faster than at any time in over a century, crime fell rapidly across the country.<sup>113</sup> Immigrant-dense cities saw crime fall further and faster than elsewhere in the country during that time.<sup>114</sup>

Immigrants also directly affect the crime rate through their participation in or cooperation with law enforcement. There were over 80,000 immigrants serving as detectives and police officers in 2021 and about 350,000 immigrants in protective service roles, including corrections officers, bailiffs, private security, firefighters, and other similar positions.<sup>115</sup> Training more police officers is a proven way to reduce crime,<sup>116</sup> yet many cities are finding it difficult to fill open jobs. In Tulsa, Oklahoma, for instance, there are 160 officer jobs unfilled.<sup>117</sup> In 2015, Nashville Police Chief Steve Anderson convinced legislators in Tennessee to open police recruitment to noncitizens with military service to help address the shortage, and other departments are opening to immigrants as well.<sup>118</sup>

Even if they don't or can't serve directly, immigrants aid law enforcement through cooperation with authorities. Immigrants to New Jersey helped turn around South Paterson, an area once beset by crime and corruption. The Paterson police commissioner pointed to the willingness of immigrant business owners to work with police as one major reason for its lower crime rate.<sup>119</sup>

There are countless examples of immigrants helping law enforcement to stop criminals or prevent crimes. Two foreign students stopped a sexual assault at Stanford, testifying against the rapist at trial.<sup>120</sup> Another immigrant lost his life stopping a rape in Virginia.<sup>121</sup> A video filmed on a Dominican immigrant's phone was the basis of a homicide conviction in South Carolina.<sup>122</sup> A Colombian immigrant in Miami drove his van between an officer and an active shooter, saving the officer's life.<sup>123</sup> A major source of funding for local police comes from the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. Byrne was a New York City officer killed guarding a Guyanese immigrant who had repeatedly reported criminal activity by U.S. citizens in his community.<sup>124</sup> The immigrant then again risked his life to testify against Byrne's killers.

Immigrants without legal status also can help stop crimes. An unauthorized immigrant acting as a convenience store nightwatchman stopped a burglary in Texas.<sup>125</sup> Another in New Mexico chased down a child abductor, returning a 6-year-old girl to her parents.<sup>126</sup> It is not even uncommon. About 100,000 immigrants have obtained legal status through their cooperation with law enforcement over the last decade,<sup>127</sup> and local agencies have more than 315,000 requests pending for unauthorized immigrants to receive legal status based on their cooperation with them right now.<sup>128</sup>

Immigrants also lower crime indirectly. One important mechanism is economically revitalizing neighborhoods. Based on data from the Census Bureau's Current Population Survey, immigrants increase state and local tax revenues by over \$250 billion per year—52 percent higher than the benefits that they receive and a net fiscal contribution of tens of

billions annually.<sup>129</sup> Tax revenue from new arrivals allows cities to expand police forces, clean up streets, and make other improvements that lower crime.

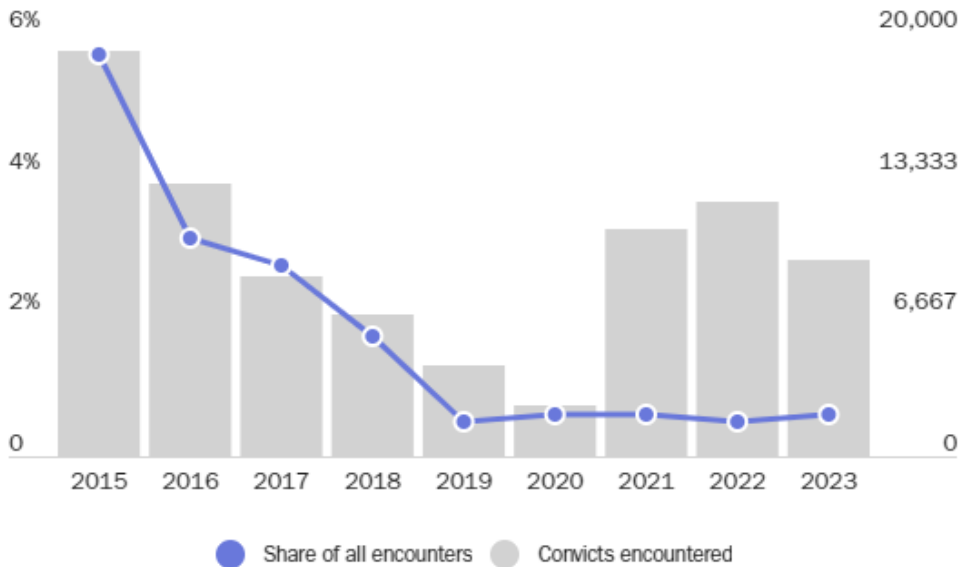
Research published in the *Journal of Criminal Justice* has shown that just filling abandoned buildings makes residents less likely to commit crimes,<sup>130</sup> and immigration is associated with fewer vacancies.<sup>131</sup> Research by economist Jacob Vigdor has shown that immigrants seek out areas where real estate prices are low or falling, which prevents community decline.<sup>132</sup> Over the last two decades, refugees and asylum seekers went into the lower-cost and higher-crime West Side of Buffalo, for example. They took over vacant lots and businesses, and crime fell there by 70 percent.<sup>133</sup> This pattern has been observed in New York, Chicago, Los Angeles, and other cities.<sup>134</sup>

Immigrants also bring more businesses to these areas as both consumers and entrepreneurs. Immigrants are 80 percent more likely to start businesses than the U.S.-born population,<sup>135</sup> and they make up a disproportionate 28 percent of brick-and-mortar “main street” businesses nationwide.<sup>136</sup> In many major metropolitan areas, immigrants account for about half of all main street businesses. Immigrants own astounding shares of small businesses in New York City: 90 percent of dry cleaning and laundry services, 84 of grocery stores, 75 percent of child daycares, and 69 percent of restaurants.<sup>137</sup>

Legal pathways, including asylum, would allow Border Patrol to focus on true threats to Americans, but these threats should not be exaggerated. In FY 2023, as of June, 9,244 convicts were encountered.<sup>138</sup> Of the convictions listed, the most common were convictions for illegal entry and reentry with 5,332. As a percentage of total encounters, convicts have declined by 89 percent from nearly 6 percent of encounters in FY 2015 to 0.6 percent in FY 2023.

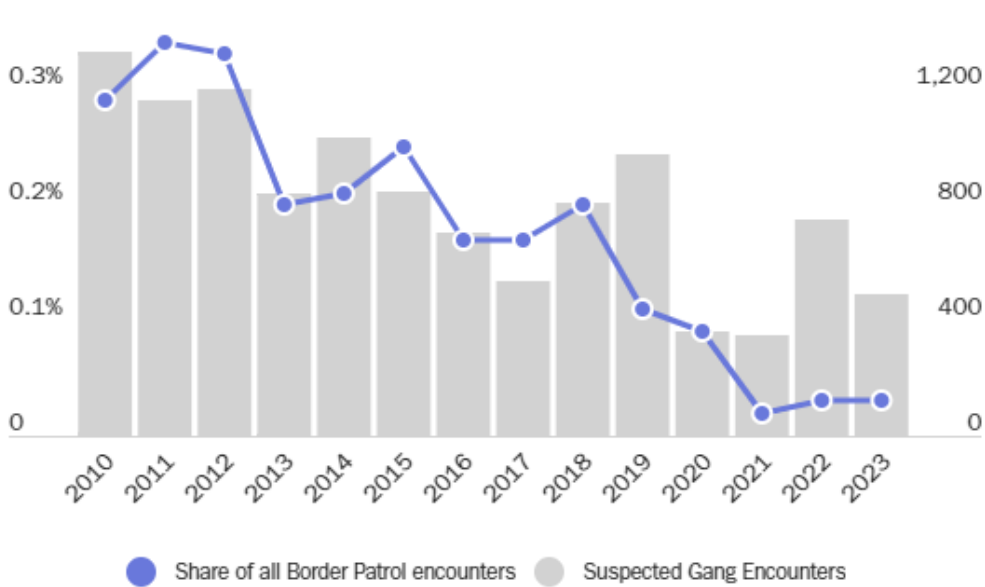
Encounters with suspected gang members have seen a similar decline. The 493 suspected gang members encountered in FY 2023 represented 0.03 percent of encounters, which was 90 percent below its 2011 peak of 0.34 percent of encounters. In absolute terms, the number of gang encounters fell from 1,203 in 2012 to 751 in 2022.<sup>139</sup> In 2023, there was one suspected gang encounter for every 3,097 non-gang encounters.

**Convicted criminals encountered by Border Patrol, share and total**  
 FY 2015–2023 (June)



Sources: Customs and Border Protection, "Criminal Alien Statistics FY2017,."; CBP, "CBP Enforcement Statistics Fiscal Year 2023," 2023. (2023 as of June 30)

**Border Patrol encounters with suspected gang members**  
 FY 2010–2023 (June)



Sources: Customs and Border Protection, "Criminal Alien Statistics FY2017,."; CBP, "CBP Enforcement Statistics Fiscal Year 2023," 2023. (2023 as of June 30)

CBP has reported a dramatic increase in encounters whose information appears on the Terrorism Screening Dataset.<sup>140</sup> There were 98 such encounters in 2022. According to nonpublic data obtained by the media, 93 percent of the terrorist database hits were for Colombians.<sup>141</sup> The evidentiary bar for inclusion in this dataset is so low that it is impossible to conclude much from this statistic. CBP even says that the data include people



supposedly associated with terrorist groups or activities.<sup>142</sup> As importantly, matches can occur based on biographic information like a person's name and date of birth, leading to numerous false positives. One false positive was reported in the media just this month.<sup>143</sup>

Unlike Border Patrol, CBP ports of entry officers encounter thousands of people on the terrorist watch list every year.<sup>144</sup> It is telling that none of these encounters have produced any convictions for a plot to attack the United States.<sup>145</sup> In fact, over the last four decades, not a single American has died or been injured in a terrorist attack carried out by a person who entered the country illegally, and no one who crossed the southwest border has carried out a terrorist attack in the United States.<sup>146</sup> The threat of terrorism is not a reason to eliminate asylum, and the entities that need more resources to deal with terror suspects are ports of entry, not Border Patrol stations.

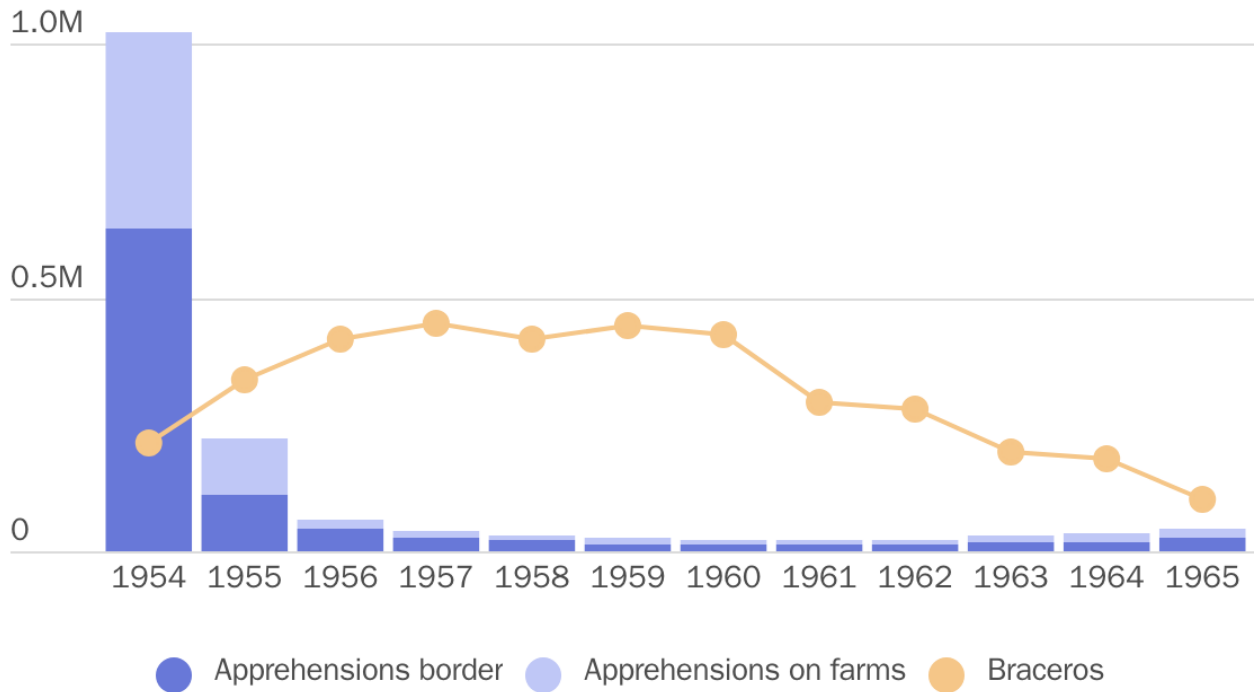
Immigrants have just as much of a stake in safe communities as Americans. When immigrants do commit crimes, their victims are usually other immigrants.<sup>147</sup> If we want to root out the bad apples, we should want to create policies that make it easier for immigrants to cooperate with law enforcement. That means providing a path to citizenship for law-abiding immigrants and assuring that future immigrants have a lawful way to enter and reside in this country.

### **Illegal immigration is a policy choice.**

Creating legal pathways for immigrants to live and work in the United States can restore Border Patrol's mission to one of national security, not managing peaceful migration. Legal pathways can dramatically reduce illegal immigration and related problems. Here are six examples:

1. The Bracero guest worker program from 1954 to 1965 was expanded to direct Mexican farm workers to enter the United States legally. The program reduced border apprehensions by more than the number of Braceros admitted legally because workers were willing to wait to come legally.<sup>148</sup>

**Braceros first replaced many arrests, and even after braceros were cut, arrests remained low**

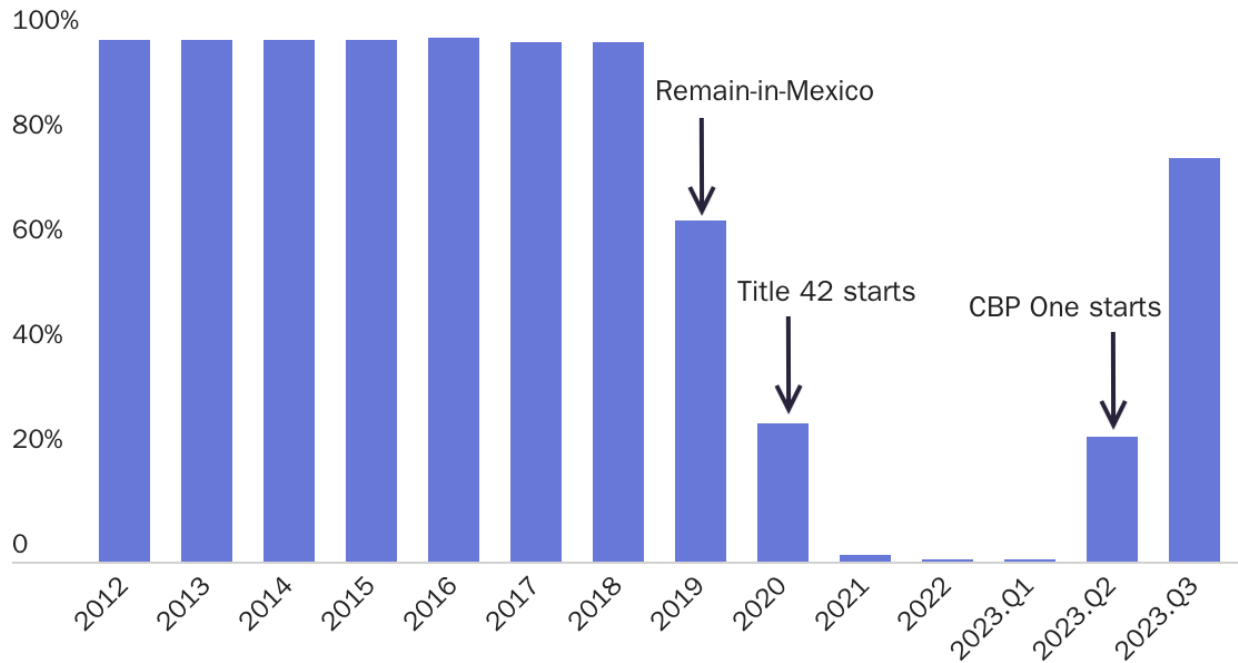


Sources: U.S. Department of State, “Annual Reports of the Visa Office,” 1966–1996; U.S. Department of State, “Nonimmigrant Visa Statistics,” 2022; and Congressional Research Service, *Temporary Worker Programs: Background and Issues* (Washington: Government Printing Office, 1980).

Note: “Apprehensions on farms” include all apprehensions of immigrants already working in the United States.

2. Wet Foot, Dry Foot, as applied at U.S.-Mexico land ports of entry from 1995 to 2017, allowed tens of thousands of Cubans to enter the country legally with a status known as humanitarian parole, and the U.S.-Mexico border had almost no issue with Cubans crossing the border illegally. Remain-in-Mexico and Title 42 ended this policy, creating a massive Cuban illegal immigration problem.<sup>149</sup> However, after implementing the CBP One scheduling app (discussed further below) in January 2021, the situation reversed itself. In June 2023, 87 percent of Cubans at the southwest border entered legally. When combined with the parole sponsorship program (discussed further below), over 90 percent of Cubans entered legally in June 2023.

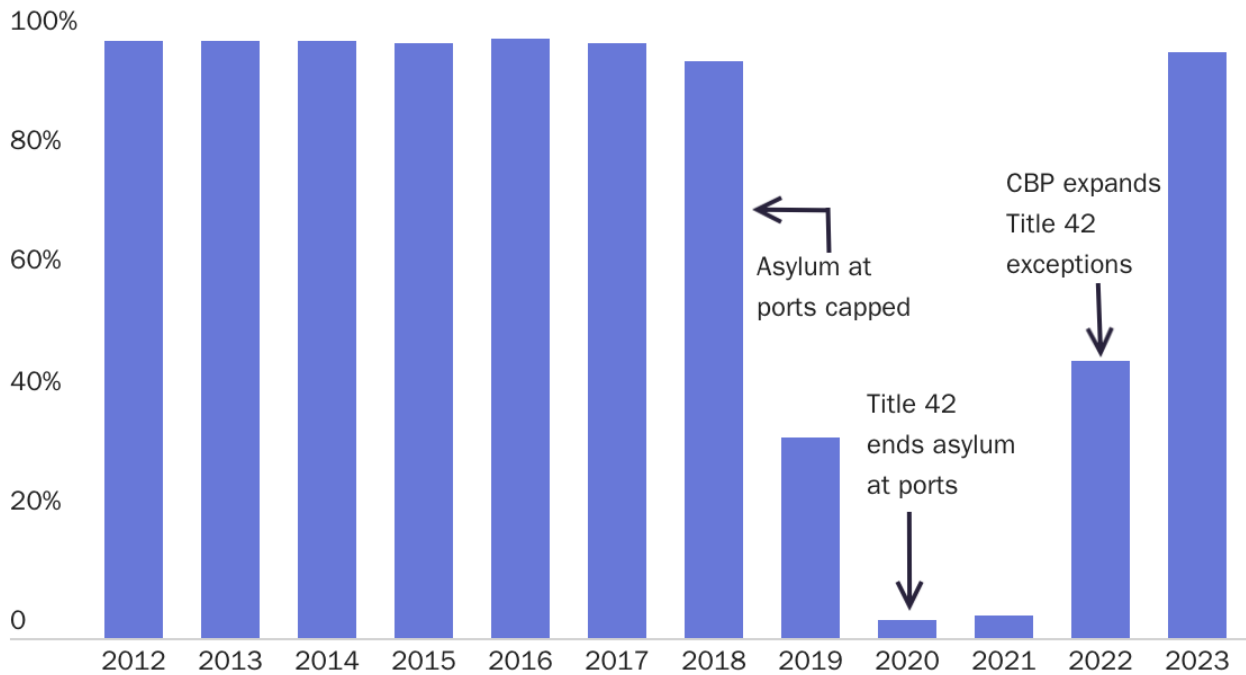
### Legal Share of Undocumented Cubans Processed at the U.S.-Mexico Border



Source: Customs and Border Protection, "Nationwide Encounters", 2023; CBP, "Southwest Border Inadmissibles by Field Office," 2017-2019; CBP, FOIA, 2019.

- Following the Earthquake in 2010, the United States stopped deporting Haitians, and U.S.-Mexico land ports of entry stopped detaining Haitians requesting asylum. Instead, it let them enter legally into the United States. As a result, from 2010 to 2016, nearly all Haitians entered the country legally. In late-2016, CBP reversed the non-detention and non-removal policy, and in 2018, it covertly capped asylum requests at ports of entry, causing more to cross illegally. Title 42 ended all asylum at ports of entry, and nearly all Haitians entered illegally, culminating in the disaster in Del Rio when Haitians were trapped in a detention camp without food for weeks.<sup>150</sup> In early 2022, CBP began processing Title 42 exception requests at ports of entry, and Haitians resumed entering the country legally as they had before. In 2023, 98 percent of those Haitians processed at the U.S.-Mexico border entered legally.

### Legal Share of Undocumented Haitians Processed at the U.S.-Mexico Border

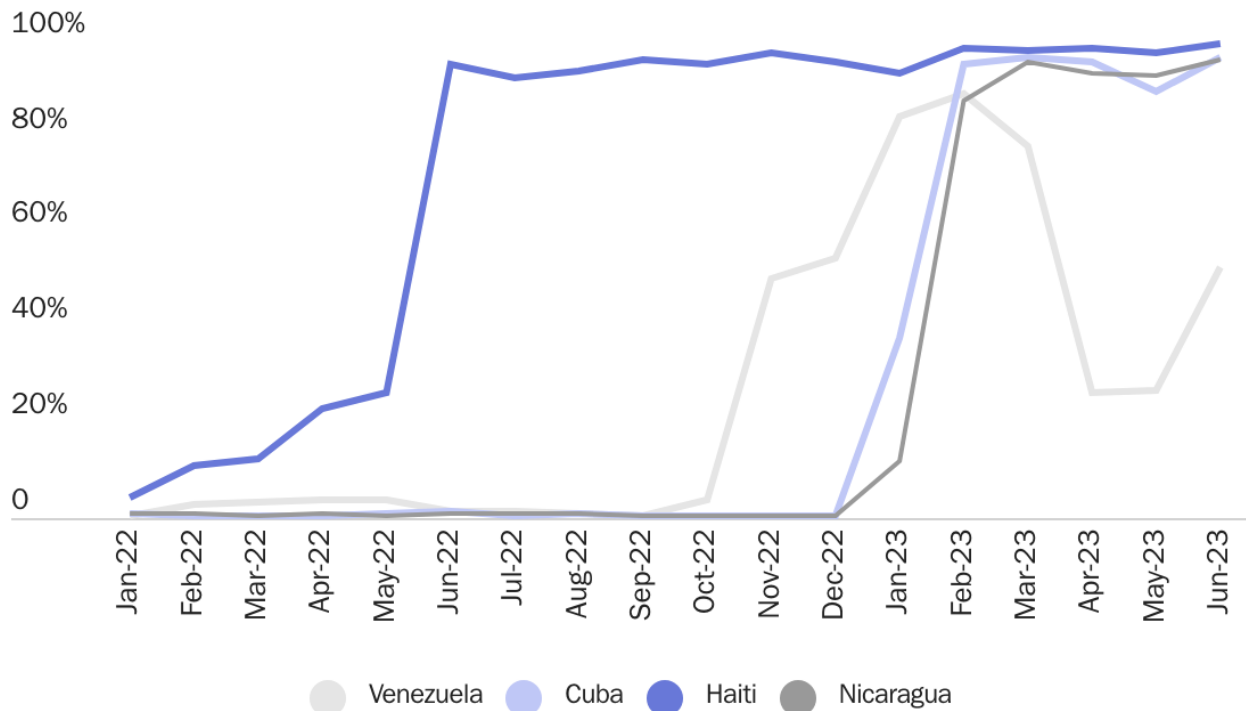


Source: Customs and Border Protection, "Nationwide Encounters", 2022; CBP, "Southwest Border Inadmissibles by Field Office," 2017-2019.

4. Following the Russian invasion of Ukraine, Ukrainians began to show up at the U.S.-Mexico border by the tens of thousands. CBP granted them exceptions to the Title 42 policy and let them into the country legally. In May, it improved on this policy by creating the Uniting for Ukraine parole program, which has already allowed over 117,000 Ukrainians to fly directly to the United States if they lined up a U.S. financial sponsor.<sup>151</sup> This policy reduced the flow of Ukrainians to the U.S.-Mexico border by over 90 percent.
5. The administration recently created new parole programs modeled on the Uniting for Ukraine program for Venezuelans in October 2022 and Nicaraguans, Cubans, and Haitians in January 2022. These programs have also diverted many immigrants away from illegal immigration. Reuters reported in mid-January that Cubans “previously flocking to Nicaragua to head overland had largely changed strategies, many opting instead to try their luck with the parole program.”<sup>152</sup> Simultaneously, it implemented the CBP One app, allowing people to schedule appointments at southwest ports of entry to enter legally.<sup>153</sup> The combination of these different programs has led to huge increases in the percentage of people entering legally from the four countries.

### Legal share of CBP encounters, citizens of nations with parole programs

January 2022-June 2023

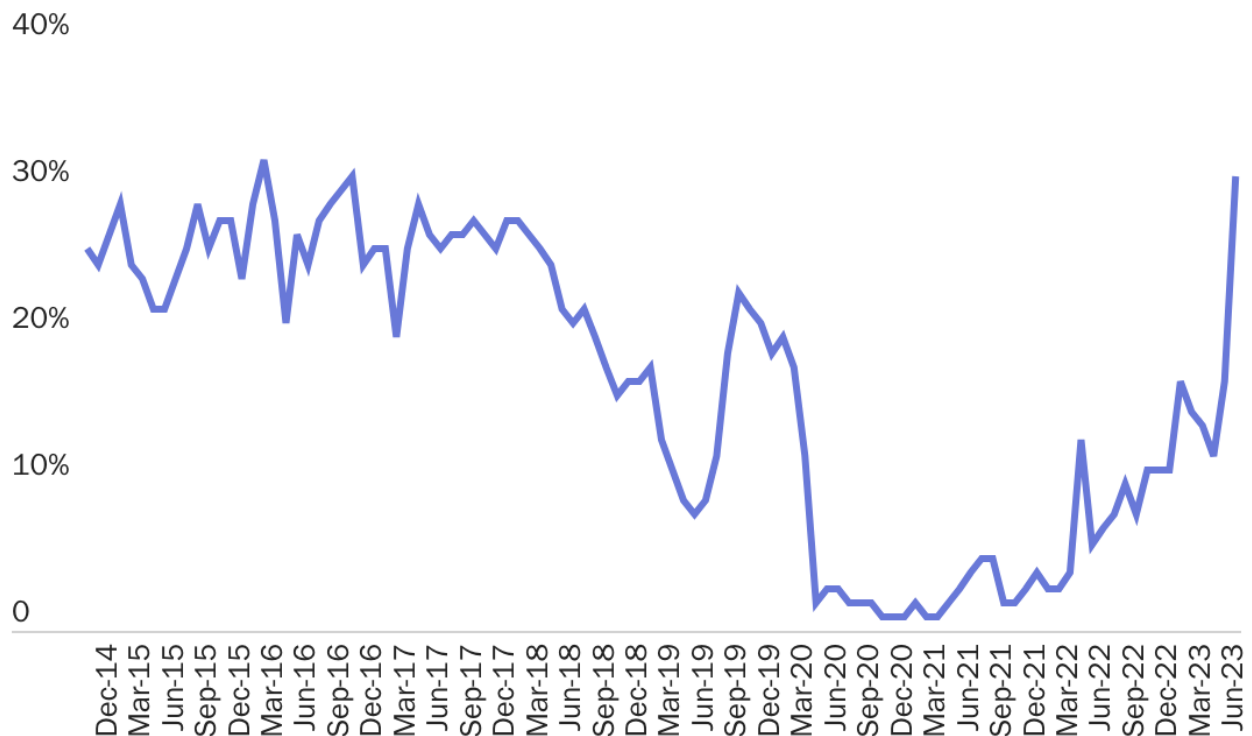


Sources: Customs and Border Protection, "Nationwide Encounters," 2023

6. In January 2023, CBP also rolled out its CBP One phone app that allows people to schedule appointments at ports of entry. CBP has capped the number of Title 42 exceptions, but it has helped reduce the number of illegal crossings because people are willing to wait for an appointment rather than cross illegally.<sup>154</sup> CBP should open more asylum appointments at ports of entry to reduce violations of the law. Since CBP One was implemented, the share of southwest CBP encounters at legal crossing points has increased from 11 percent to 31 percent—matching the highs before President Trump came into office. Obviously, there is still much more to do, and the administration could help build on this progress by removing the cap on appointments.

## Share of southwest CBP encounters at ports of entry

October 2014-June 2023



Sources: Customs and Border Protection, "Nationwide Encounters," 2023; CBP, FOIA, 2019.

Although these particular recent programs are discretionary, every administration has the mandate to process people seeking asylum under sections 208 and 235 of the Immigration and Nationality Act at or between ports of entry. Section 208 states in the relevant part:

Any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien's status, may apply for asylum . . .

Section 235 states in the relevant part:

If an immigration officer determines that an alien . . . who is arriving in the United States . . . is inadmissible . . . and the alien indicates either an intention to apply for asylum under section 208 of this title or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer . . .

The administration is subject to a court order that bans it from preventing someone from seeking asylum at the ports of entry.<sup>155</sup> Thus, the administration must create programs that enable it to meet asylum law requirements. Still, even without these clear mandates, the administration should use every legal tool to create humane and orderly processing for

immigrants to reduce illegal immigration. The parole authority has been used 126 times by nearly every administration since its creation in 1952.<sup>156</sup>

Illegal immigration is a choice that policymakers select when they restrict lawful ways to enter the United States. Congress should work with the administration to expand on these successful initiatives to eliminate illegal immigration and help address the needs of communities across this country.

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