



Testimony of
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Associate Director of Immigration Studies
at
The Cato Institute
Before
The House Committee on Oversight and Accountability
Subcommittee on National Security, the Border, and Foreign Affairs
April 16, 2024
RE: How the Border Crisis Impacts Public Safety

Chairman Grothman, Ranking Member Garcia, and distinguished members of the subcommittee, thank you for the opportunity to testify.

My name is David Bier. I am the Director of Immigration Studies at the Cato Institute, a nonpartisan public policy research organization here in Washington, D.C.

For nearly half a century, the Cato Institute has produced original research showing that a freer, more orderly, and more lawful immigration system makes the United States a wealthier, freer, and safer place to live. Our view is inspired by America's founding principles: in a free society, people, whatever their background, ancestry, or birthplace, are directed toward activities that benefit mankind.

Although it is easy to find examples of people who cause problems, people are, on the whole, assets to a free country. Indeed, the late-great economist Julian Simon called people the ultimate resource because it is only our creativity and work ethic that turn natural resources into human resources. Never has immigration been more important to this process than today—our labor force would be declining without immigrants, and we have 9 million open jobs. Economically productive people produce goods and services that improve the lives of Americans in countless ways. They also make for safer and more secure communities.¹

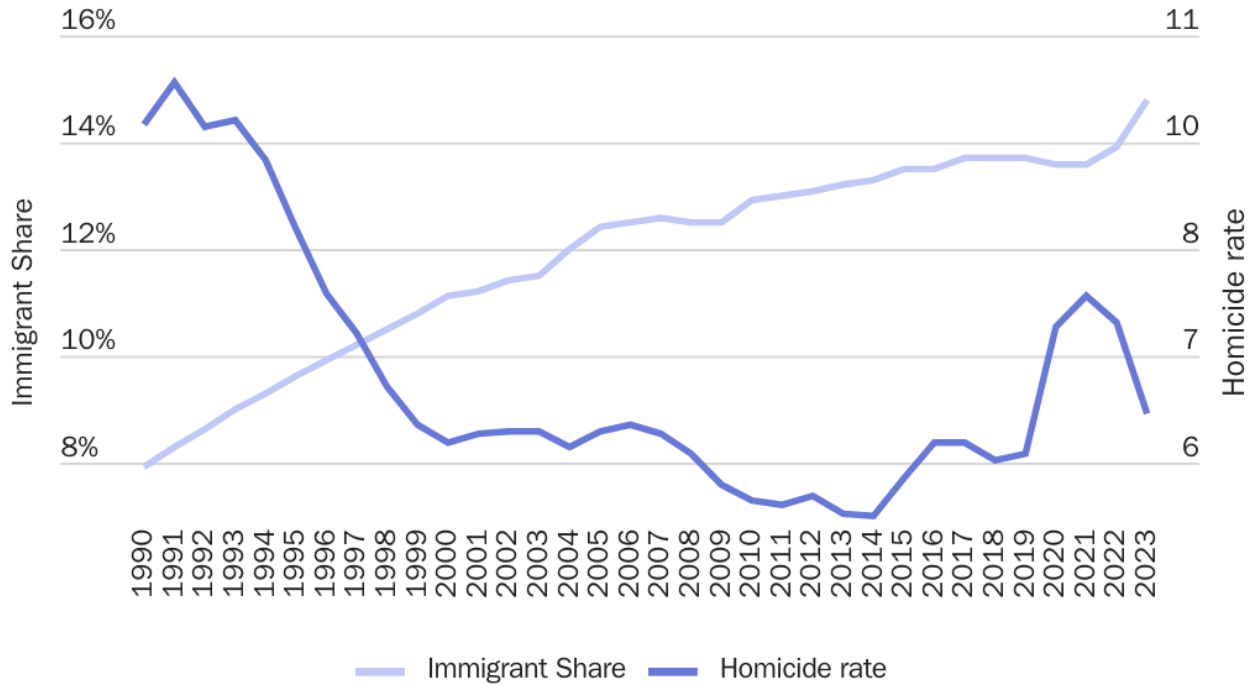
Immigration reduces crime.

The rapid increase in the immigrant population in the 1990s and 2000s—legal and illegal—coincided with a rapid decline in violent crime in the United States. The homicide rate halved from 1990 to 2010, while the immigrant share of the population nearly doubled. In many U.S. cities, the increase was even more significant. The homicide rate remained low until the summer of 2020. The rate has fallen since peaking in the second half of 2020, while the immigrant population started to grow again for the first time in four years. Early indications show that 2024 will continue the downward trend in homicides.²

Immigration contributed to the great crime decline. Cities with larger increases in immigrants saw bigger declines in crime in the 1990s.³ New York City, for instance, saw its homicide rate fall 69 percent from 1990 to 2010.⁴ More than a dozen studies have confirmed this negative association between immigration and crime.⁵ Research on more recent periods has also found an association between higher levels of immigration and lower homicide rates.⁶ If immigration is “an invasion,” it would be the first to cause fewer deaths.

Figure 1

US homicide rate and immigrant share of the U.S. population



Sources: WONDER: Wide-ranging Online Data for Epidemiologic Research,” Centers for Disease Control and Prevention; “American Community Survey,” US Census Bureau, 2004-2022; Current Population Survey, ASEC, US Census Bureau, 2023; US Census Bureau, Decennial Census, 1990 and 2000, interdecadal years interpolated.

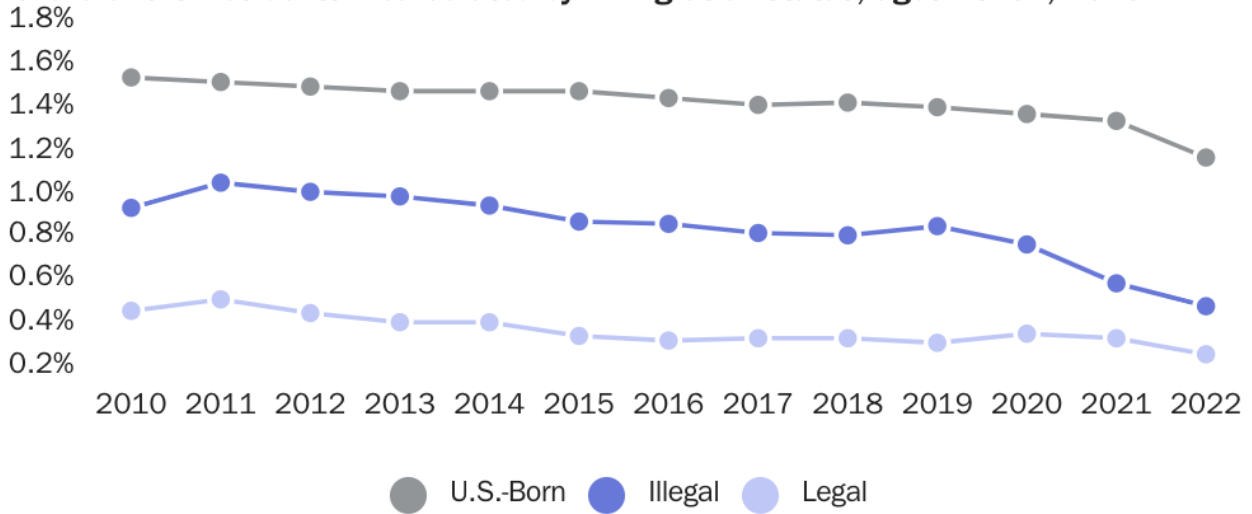
Immigrants commit fewer crimes.

Immigration is associated with lower crime rates. One potential causal pathway is that immigrants simply commit fewer crimes per capita than the U.S.-born population, which mechanically lowers the crime rate. We must measure rates of criminality indirectly through people who law enforcement arrests and incarcerates. According to data from the Census Bureau’s American Community Survey (ACS), immigrants were 68 percent less likely to end up in the criminal justice system and behind bars in 2022 (Figure 2).

Legal immigrants had an incarceration rate about one quarter that of the U.S.-born population in 2022. Illegal immigrants were about half as likely to be incarcerated, and they have had a lower incarceration rate every year from 2010 to 2022, even though they may be locked up solely for lacking legal status. The share of illegal immigrants incarcerated for any reason declined by 45 percent from 2010 to 2022, and it fell 41 percent since 2019. The ACS likely overstates the illegal immigrant incarceration because it can directly collect precise estimates of the prisoner population, while relying on more indirect methods to approximate the illegal immigrant population outside of prisons.⁷

Figure 2

Share of U.S. residents incarcerated by immigration status, ages 18–54, 2010-22

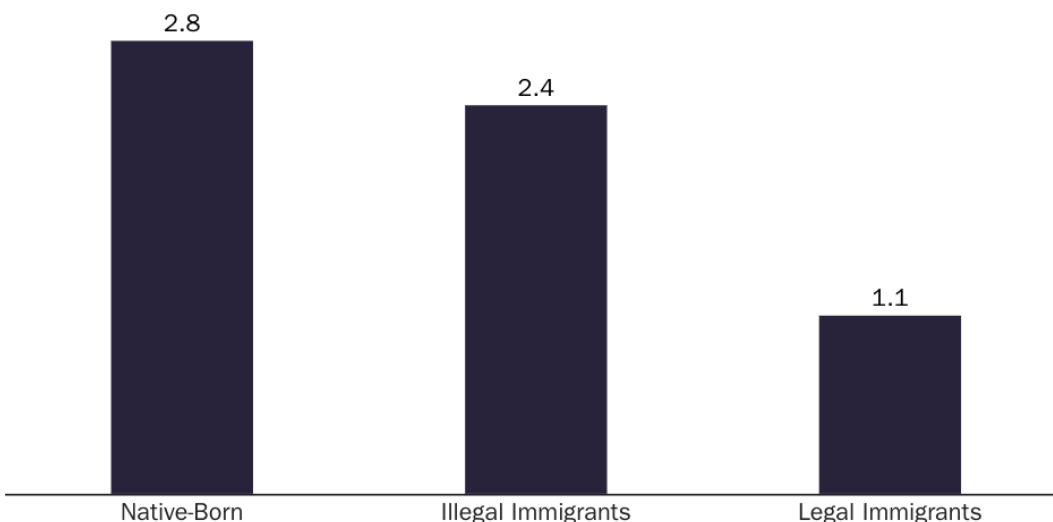


Source: American Community Survey, 1-Year Estimates, 2021 analysis by Landgrave, Michelangelo, and Alex Nowrasteh. "Illegal Immigrant Incarceration Rates, 2010–2022: Demographics and Policy Implications," Cato Institute, 2024, Forthcoming.

Nearly all violent and property crimes are prosecuted at the state or local level, and only Texas records the citizenship status of people arrested and convicted in the state, as reported to it by the Department of Homeland Security (DHS). Texas data show that illegal immigrants are 15 percent less likely to be convicted of homicides.⁸ Immigrants also do not appear to be better at evading arrest after committing homicides. Statistical tests confirm that clearance rates are no lower in areas with more immigrants.⁹

Figure 3

Texas homicide conviction rates by immigration status, per 100,000 residents in each subpopulation, 2015



Sources: Author's analysis of Texas Department of Public Safety data and the American Community Survey.

A variety of other datasets and surveys confirm the findings that criminality is lower among immigrants, including among young immigrants and children.¹⁰ DACA applicants are about 85 percent less likely than the general public to be arrested.¹¹ By contrast, about 30 percent of Americans have been arrested,¹² and about 5 percent will be imprisoned for a crime.¹³

Immigrants' lower crime rate has been considered a surprising "paradox" because immigrants have various demographic characteristics that correlate with higher crime rates.¹⁴ They have lower levels of education, lower incomes, younger ages, and locate in urban areas. But immigrants also have a variety of characteristics that make them less likely to commit crimes, including higher rates of fertility, marriage, employment, business creation, and church attendance.¹⁵

Because immigrants commit fewer crimes, they lower the crime rate. When Americans victimize immigrants in their communities, the mere presence of immigrants can prevent an American from becoming a victim. For instance, an Afghan immigrant was killed during a botched carjacking in D.C. last year.¹⁶ There is every reason to believe that had the immigrant not been there, an American would have been killed instead.

Immigrants can directly stop crimes.

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.¹⁷ Training more police officers is a proven way to reduce crime,¹⁸ yet many cities are finding it difficult to fill open jobs. In Tulsa, Oklahoma, for instance, there are 160 officer jobs unfilled.¹⁹ 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.²⁰

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 why its crime rate fell.²¹

There are numerous 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.²² Another immigrant lost his life stopping a rape in Virginia.²³ A video filmed on a Dominican immigrant's phone was the basis of a homicide conviction in South Carolina.²⁴ A Colombian immigrant in Miami in 2015 drove his van between an officer and an active shooter, saving the officer's life.²⁵ 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 in his community.²⁶ 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.²⁷ Another in New Mexico chased down a child abductor, returning a 6-year-old girl to her parents.²⁸ It is not even uncommon. About 100,000 unauthorized immigrants have obtained legal status through their cooperation with law enforcement over the last decade,²⁹ and local agencies have about 355,000 requests pending for unauthorized immigrants to receive legal status based on their cooperation with them right now.³⁰

Immigrants revitalize neighborhoods.

Immigrants also lower crime indirectly. One important mechanism is by 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.³¹ 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,³² and immigration is associated with fewer vacancies.³³ Research by economist Jacob Vigdor has shown that immigrants seek out areas where real estate prices are low or falling, which prevents community decay.³⁴ 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.³⁵ This pattern has been observed in New York, Chicago, Los Angeles, and other cities.³⁶

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,³⁷ and they make up a disproportionate 28 percent of brick-and-mortar “main street” businesses nationwide.³⁸ In many major metropolitan areas, immigrants account for about half of all main street businesses.

This point is worth reemphasizing: immigrants have just as much of a stake in safe communities as Americans. When immigrants do commit crimes, their victims are usually other immigrants.³⁹ 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.

Immigration enforcement primarily targets non-threats.

Immigration enforcement agencies should focus on identifying, detaining, and removing noncitizen criminals. Although immigrants create safer communities on average, some

immigrants commit crimes and cause problems, and prioritizing enforcement against this group would enhance the beneficial effects of immigration on crime. Unfortunately, the limited immigration enforcement resources are overwhelmingly devoted to dealing with immigrants coming to the United States for peaceful purposes.

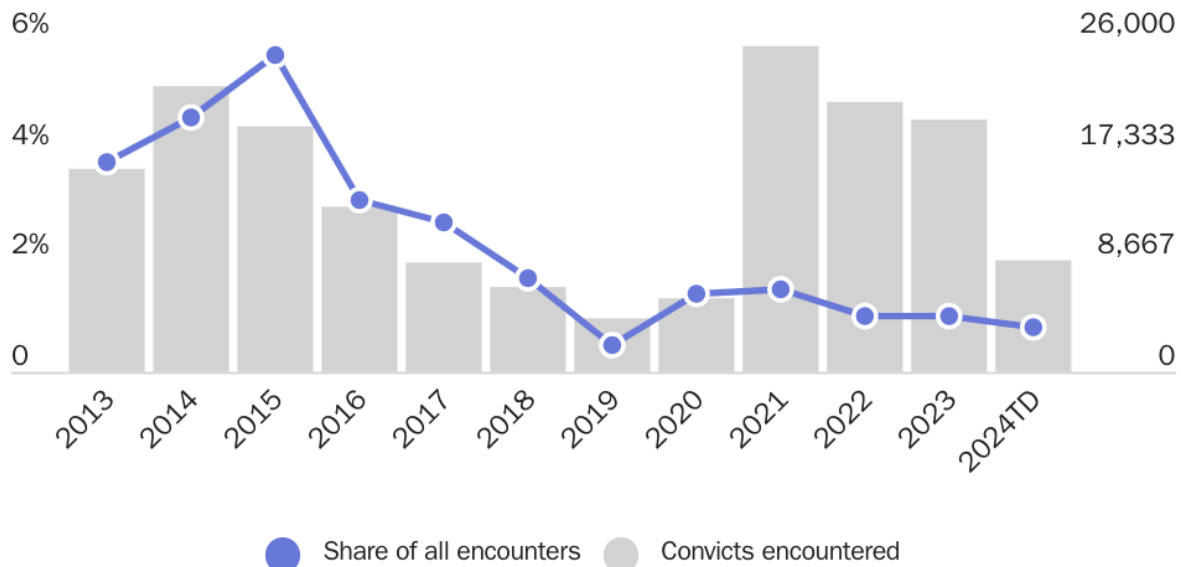
In 2024, only 23 percent of Immigration and Customs Enforcement (ICE) detainees had a criminal conviction,⁴⁰ and the same percentage of removals had a criminal conviction. Only 11 percent of returns were felons.⁴¹

In 2024, Border Patrol has found that more than 99 percent of its encounters had no criminal convictions of any kind in the United States or abroad.⁴² Of the criminals, most were convicted of illegal entry, while fewer than 12 percent had convictions for violent or property crimes. Policymakers should focus on diverting the noncriminal flows into lawful ways to enter the United States, so that Border Patrol is freed up to surveil the border for proper threats.

Generally, the percentage of Border Patrol arrests with criminals and suspected gang members has declined since it began keeping statistics, as seen in Figures 4 and 5. The absolute number of gang encounters has also fallen. Suspected gang members represented just 0.02 percent of total encounters so far in fiscal year 2024.

Figure 4

Convicted criminals encountered by Border Patrol, share and total
FY 2015–2024 (Feb)



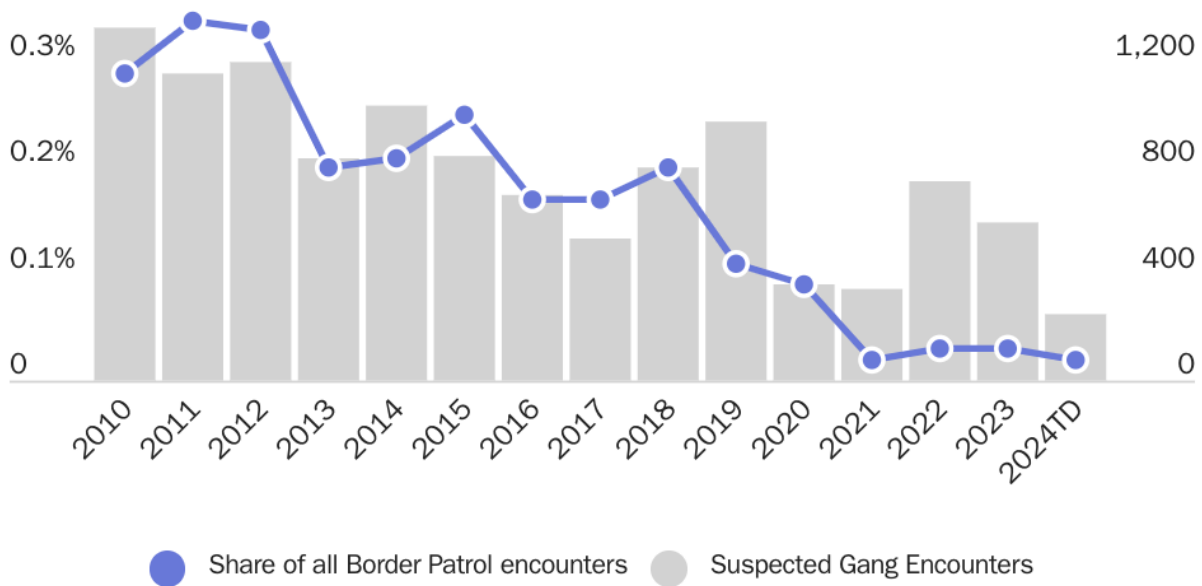
Sources: Customs and Border Protection, "Criminal Alien Statistics FY2017,"; CBP, "CBP Enforcement Statistics Fiscal Year 2024," 2024. (2024 as of June 30); CBP FOIA.

Note: the data on CBP's website is incomplete because they do not include Title 42 encounters.

Figure 5

Border Patrol encounters with suspected gang members

FY 2010–2024 (Feb)

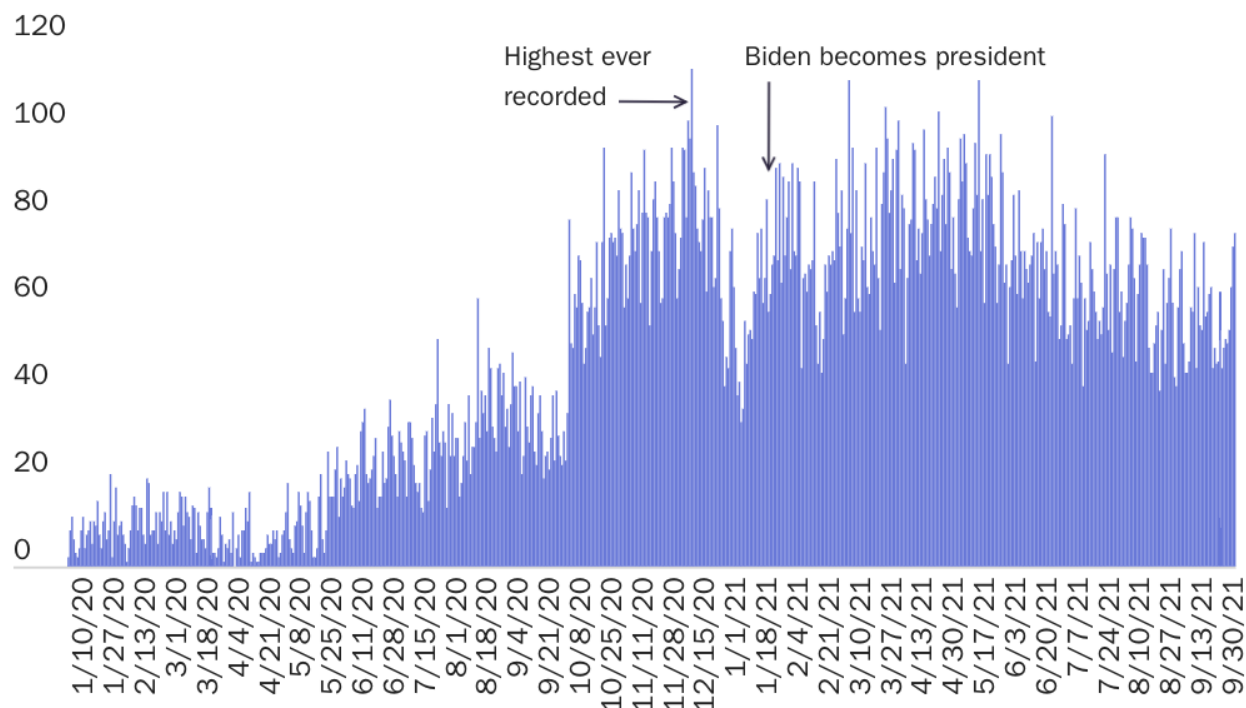


Sources: Customs and Border Protection, "Criminal Alien Statistics FY2017,"; CBP, "CBP Enforcement Statistics Fiscal Year 2024," 2024. (2023 as of Feb 29); CBP FOIA

Anti-immigrant policies don't increase security.

The absolute number of Border Patrol encounters with criminals has risen since fiscal year 2020. As Figure 6 shows, the number of criminal encounters spiked from April to December 2020 with December 7, 2020 representing the all-time record number of daily arrests of criminals by Border Patrol. This occurred after the Trump administration banned asylum and instituted Title 42 expulsions to Mexico. This suggests that criminals were not deterred by Title 42 expulsions.

Figure 6
Convicted criminals encountered by Border Patrol, daily, Title 42 and Title 8
 January 1, 2020–September 30, 2021



Sources: Customs and Border Protection, Freedom of Information Act request, August 8, 2022, August 3, 2022.

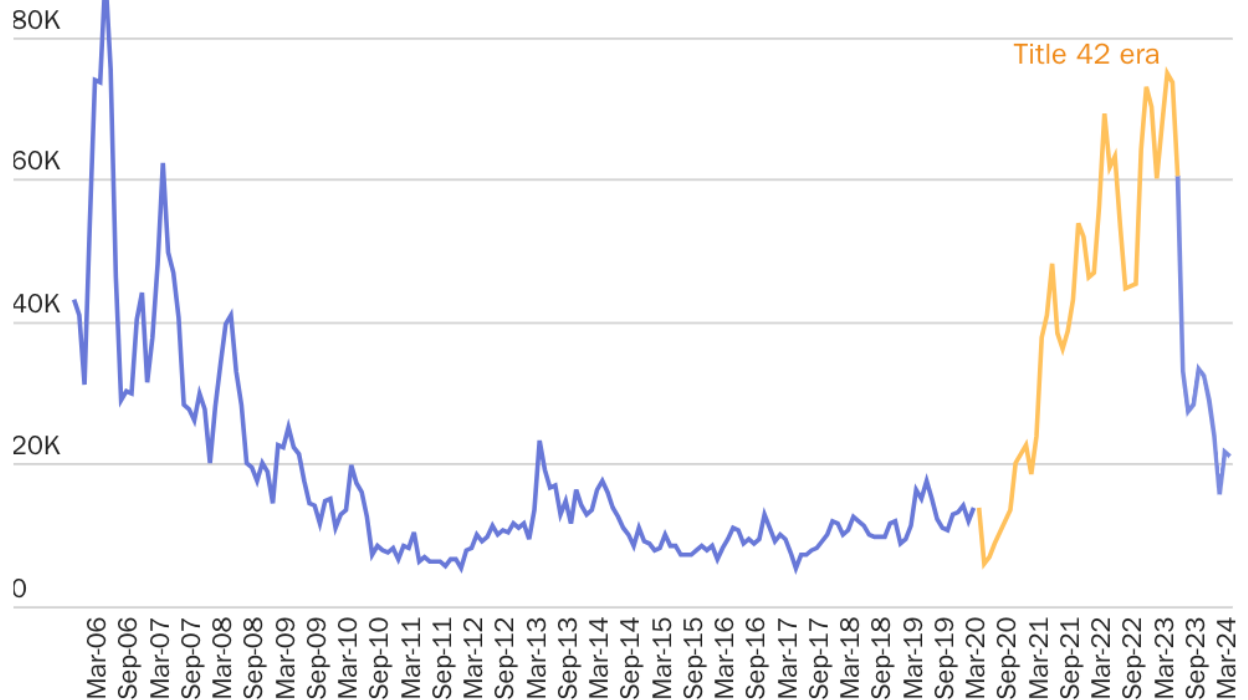
Title 42 was also a failure at stopping evasions of Border Patrol, which it calls “gotaways.” When Title 42 was instituted, gotaways quickly escalated to the highest totals in over a decade by December 2020. They continued to rise to near-record levels before Title 42 ended. After Title 42 ended, gotaways fell from a high of 73,463 in April 2023 just before Title 42 ended to about 21,758 in February 2024—a decline of 70 percent (Figure 7). Ending Title 42 appears to have been the biggest single benefit to border security in its history.

The gotaway rate—or share of crossings that evade—has been under 15 percent since August 2023, the longest stretch on record.⁴³ The Cato Institute predicted this decline in evasions in its amicus brief to the Supreme Court in the Title 42 case.⁴⁴ Gotaways fell even though arrests have remained high, implying that many people are now turning themselves in to be screened by Border Patrol and request asylum who otherwise would have crossed illegally. This is a positive development because it means Border Patrol agents in the field can focus on tracking down criminals.

Figure 7

Ending expulsions cut successful evasions of Border Patrol

Border Patrol known "gotaways," Oct. 2005-Mar. 2024



Sources: Customs and Border Protection, Cato Institute, Freedom of Information Act request; Townhall via CBP sources (Jan. 2021 to August 2021) DHS Inspector General, [May 3, 2023 \(FY 2021 total\)](#); Center Square via CBP sources available here (FY 2022; Dec. 2022, Jan. 2023, Feb. 2023, Mar. 2023, Apr. 2023, May 2023, June 2023, July 2023, Aug. 2023, Sept. 2023); and Fox News via CBP sources (Oct. 2022, Nov. 2022, Dec. 2022; Oct. 2023); Griff Jenkins, Fox News (Oct. 2023, Nov. 2023, Dec. 2023, January 2024); Border Patrol chief, [Feb. 2024](#); Ali Bradley, [News Nations, Mar. 2023](#).

Note: The FY 2022 total was distributed monthly based on the number of single adult arrests from Mexico. Monthly totals for October 2023 to January 2023 were constructed using daily averages across periods that crossed months.

Border Patrol has reported an increase in encounters whose information matches information in the Terrorism Screening Dataset.⁴⁵ There were 172 such encounters in 2023, 0.008 percent of Border Patrol encounters.⁴⁶ According to nonpublic data obtained by the media, 93 percent of the terrorist database hits were for Colombians in 2022.⁴⁷ Although policy should continue to exclude these people, FARC is a now-disbanded domestic insurgency group that has never attacked the United States.⁴⁸

The evidentiary bar for inclusion in this dataset is so low that it is impossible to conclude much from encounters with people on this list. CBP says that the data include people indirectly associated with terror groups.⁴⁹ 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 last year.⁵⁰ Even when people included in the terrorism database make it into the United States, as has reportedly happened multiple times, they have not carried out any attacks.⁵¹

Unlike Border Patrol, CBP ports of entry officers encounter thousands of people on the terrorist watch list every year.⁵² It is telling that none of these encounters have produced any convictions for a plot to attack the United States.⁵³ In fact, over the last four decades, not a single American has died in a terrorist attack carried out by a person who entered the country illegally.⁵⁴ The threat of terrorism is not a reason to eliminate asylum, and the entities that need more resources to deal with terror suspects are mainly ports of entry.

CBP turned down prosecuting serious criminals to separate families.

Since 2021, Immigration and Customs Enforcement (ICE) has issued guidance that prioritized the detention and removal of criminals and other public safety threats. Unprioritized enforcement looks like the disastrous child separation policy when Border Patrol began to intentionally target parents traveling with children for misdemeanor prosecution for illegal entry in the spring of 2018.

Border Patrol officials separated children from their parents and pretended that the law required this outcome. Yet, they only ever prosecuted 32 percent of crossers at most, allowing numerous adults without children to avoid prosecution to prioritize locking up parents.⁵⁵ They deliberately targeted children. The courts found this policy of targeting children to be unconstitutional.⁵⁶ Worse still, U.S. attorneys reported that “sex offenders were released” to make room for prosecuting parents with children.⁵⁷ The Department of Justice Office of Inspector General explained:

When we asked the AUSA about this issue, he explained that the Border Patrol’s intake processing was overloaded and there was insufficient “capacity to identify and screen the most serious offenders out because they were so pressed to do the [illegal entry cases].” In interviews with the OIG, multiple SDTX officials, including U.S. Attorney Patrick, raised similar concerns about the Border Patrol not identifying criminal histories after apprehension.⁵⁸

Because DHS had no way to track separated children, it had no ability to reunite them with their parents after prosecution.⁵⁹ It wasted enormous resources undertaking the tedious process of identifying separated family units under court order. As it separated families for crossing illegally, it blocked asylum-seeking families from entering legally, imposing more work on the entire agency.⁶⁰ The policy also failed its goal of ending the release of asylum-seeking families into the United States.⁶¹

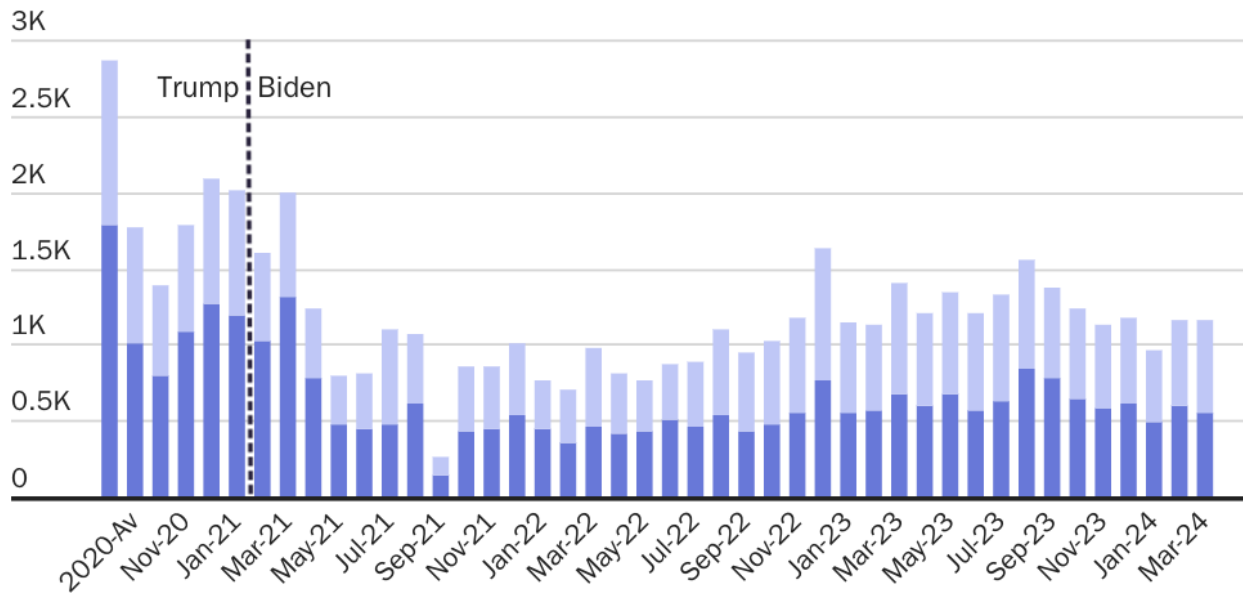
ICE released more criminals in 2019 and 2020.

Of course, immigration agencies end up releasing people with criminal histories because they lack the capacity to detain everyone that they would ideally like to detain and because Congress prioritizes the detention of low risk, noncriminal detainees who have recently crossed the border. Figure 8 shows that ICE has reduced the number of releases of people convicted of or charged with crimes since ICE started publishing monthly releases in October 2020, and releases are far below the fiscal year 2019 and 2020 monthly averages.

Figure 8

ICE has reduced releases of people charged or convicted of crimes

Immigration and Customs Enforcement (ICE) releases by month, 2019/2020 monthly average



Sources: Immigration and Customs Enforcement, "Detention Management," April 2024.

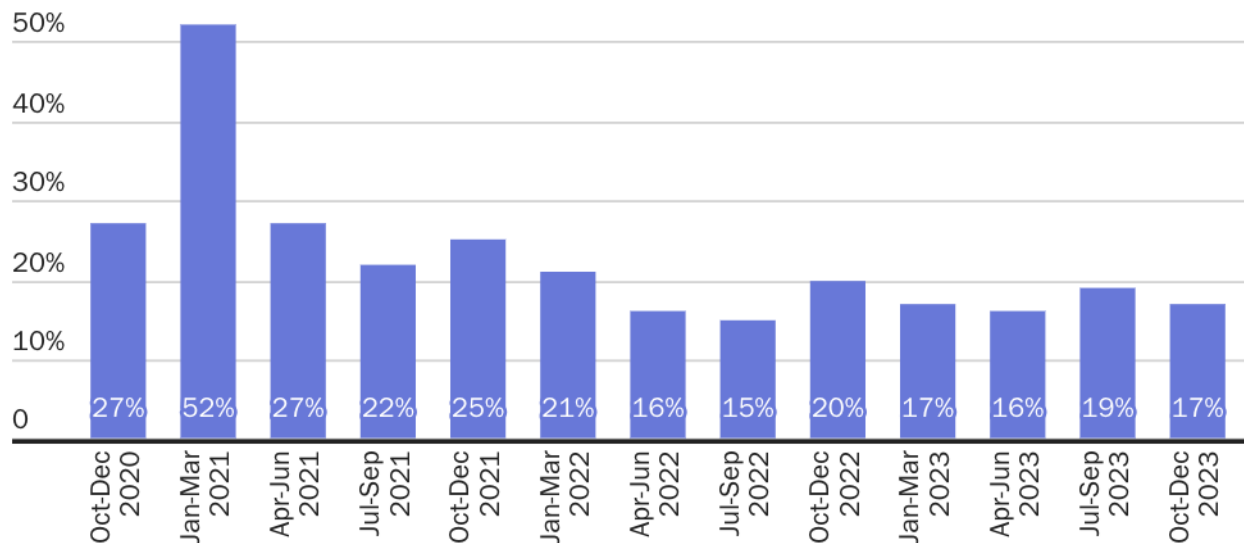
Figure 9 shows that this phenomenon is not the result of fewer arrests, as the percentage of criminals entering ICE custody who were released was also lower. The share of arrests fell from 27 percent in the final full quarter of the prior administration to 17 percent in the most recent quarter of this administration. Total arrests of immigrants charged with or convicted of crimes were higher by nearly 1,500 in the most recent quarter.⁶²

Of course, Customs and Border Protection (CBP) also releases people, and unfortunately, no data have been published for this agency. But the point is that no administration has been able to detain everyone who it ideally would like to. It is interesting to note that ICE continued to release more criminals in 2020, even though the total number of releases fell dramatically.⁶³ We also do not know the type of crimes that these people were charged with, so we cannot say whether they pose a public safety threat. It could be that everyone who was released had only immigration-related charges or traffic violations.

Figure 9

ICE has reduced share of people charged or convicted of crimes who are released

Immigration and Customs Enforcement (ICE), people charged or convicted of crimes who were released, share of total ICE arrests of people charged or convicted of crimes, quarterly.



Sources: Immigration and Customs Enforcement, "[Detention Management](#)," April 2024; DHS, "Immigration Enforcement and Legal Processes Monthly Tables," 2024.

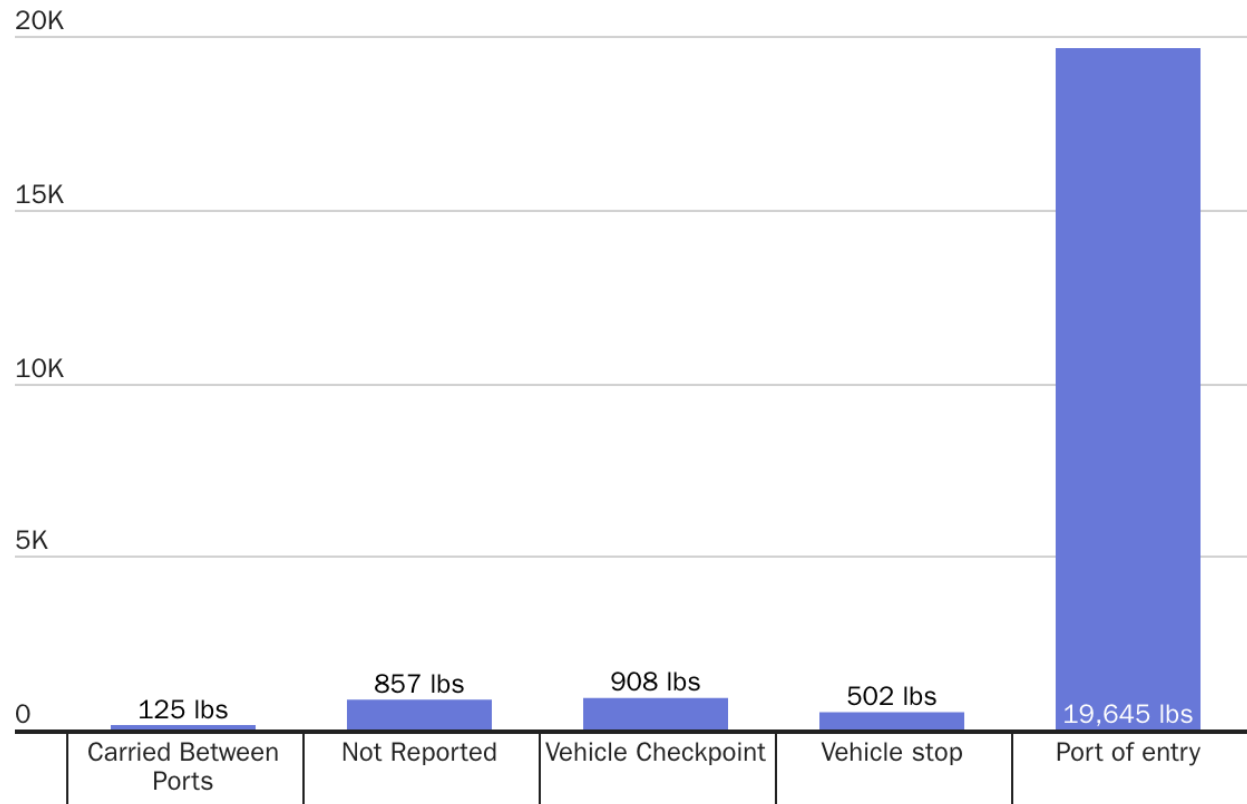
Immigrants aren't responsible for fentanyl deaths.

Immigrants are not responsible for fentanyl trafficking. Fentanyl trafficking is funded by fentanyl consumers, and nearly 99 percent of the users are U.S. citizens.⁶⁴ 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."⁶⁵ U.S. citizens are also the primary smugglers of fentanyl. In 2022, U.S. citizens made up 89 percent of convicted fentanyl traffickers.⁶⁶ 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 CBP have occurred at ports of entry or vehicle checkpoints, not along illegal migration routes.⁶⁷ The following graph displays the available data on seizure location 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.

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.

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 smuggling 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 for cocaine at ports of entry. In 2020, CBP estimated that it seized just 2 percent of the cocaine entering the country at ports.⁶⁸ 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.⁶⁹ 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 any more fentanyl when arrests fall. Notably, despite a 42 percent drop in arrests in January 2023, Border Patrol seized almost no fentanyl (just 4 pounds) not at vehicle stops or checkpoints, the same amount as the prior month.⁷⁰ In June 2023, arrests again fell 42 percent, and the amount of fentanyl seized by Border Patrol not at checkpoints went down 67 percent.⁷¹

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 2021 has said 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."⁷² DEA testified that its investigations have found that "the vast majority of fentanyl is coming in the ports of entry."⁷³ CBP and other agencies have made similar assessments.⁷⁴ It is precisely because these ports of entry are both scarce and incredibly valuable that cartels war for control over them.⁷⁵

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.⁷⁶ 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.⁷⁷ 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.⁷⁸ In fact, the effort backfired. During Border Patrol's hiring surge, the potency of marijuana increased by 37 percent.⁷⁹

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 that of heroin.⁸⁰ But fentanyl has 50 times the potency of heroin, which means that the same weight can supply 50 times as many consumers, creating a massive economic incentive for smugglers to prefer it to heroin.

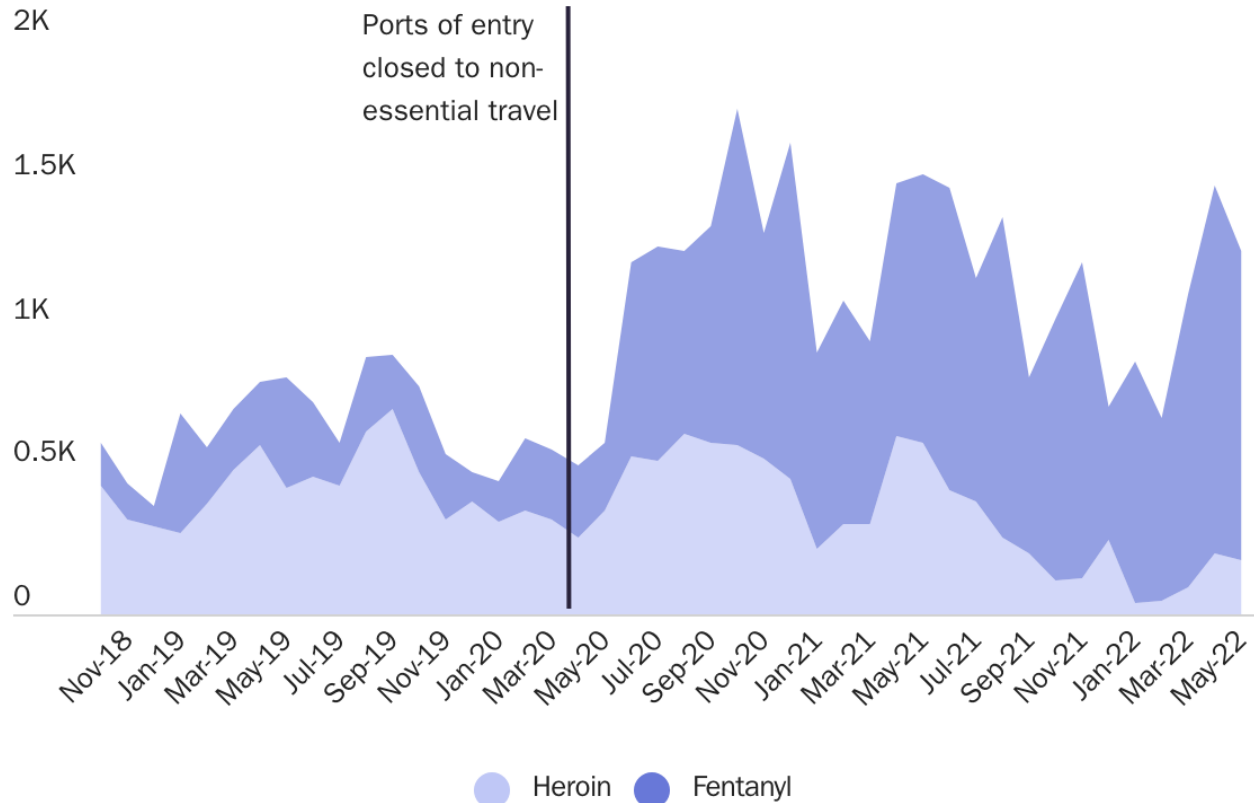
"Closing the border" increased fentanyl deaths.

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

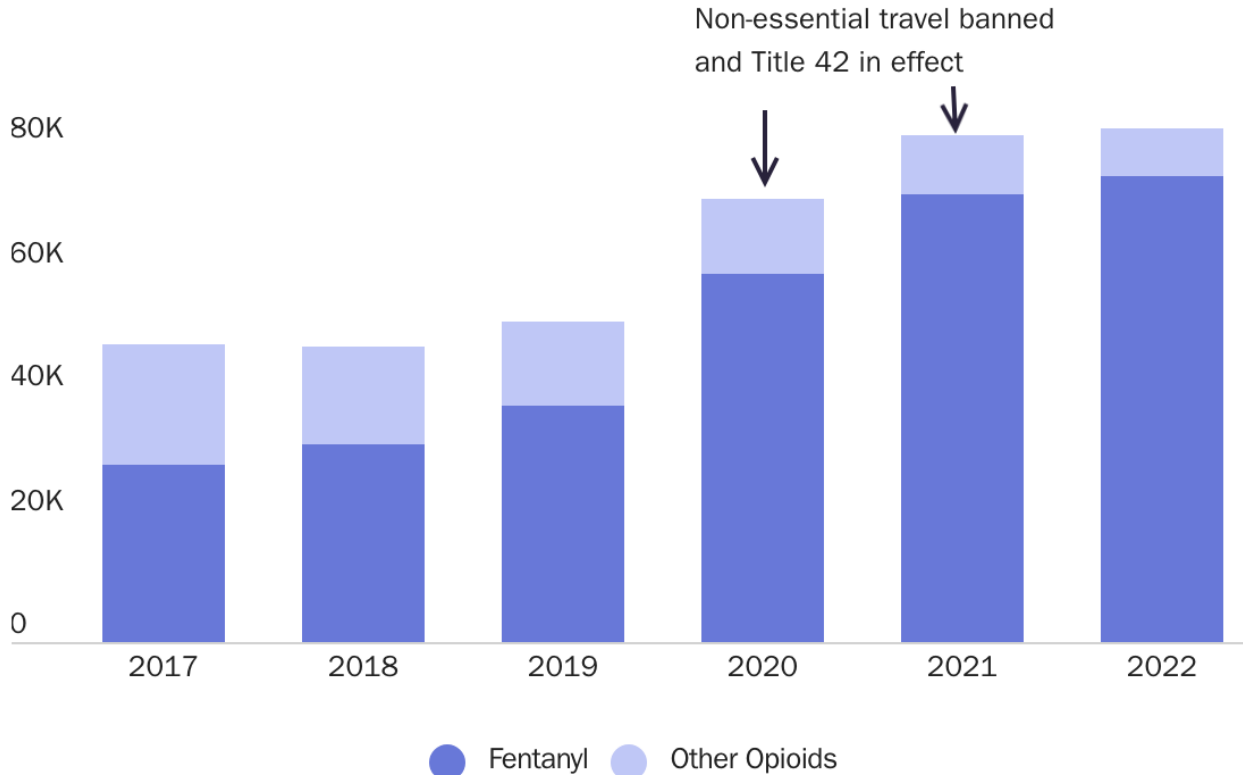


Sources: Customs and Border Protection, "Drug Seizure Statistics," 2022.

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 toward 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.⁸¹

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. Congress should legalize overdose prevention sites, places where people can intervene to reverse an overdose.⁸² States should allow users to protect themselves against overdoses by legalizing fentanyl test strips, which most states criminalize as "drug paraphernalia."⁸³ Physicians should be empowered to treat addiction by weaning addicts off these potent drugs and by issuing at-home prescriptions for methadone.⁸⁴ These are all ideas that have worked in other countries to reduce deaths.⁸⁵

Legal immigration increases security.

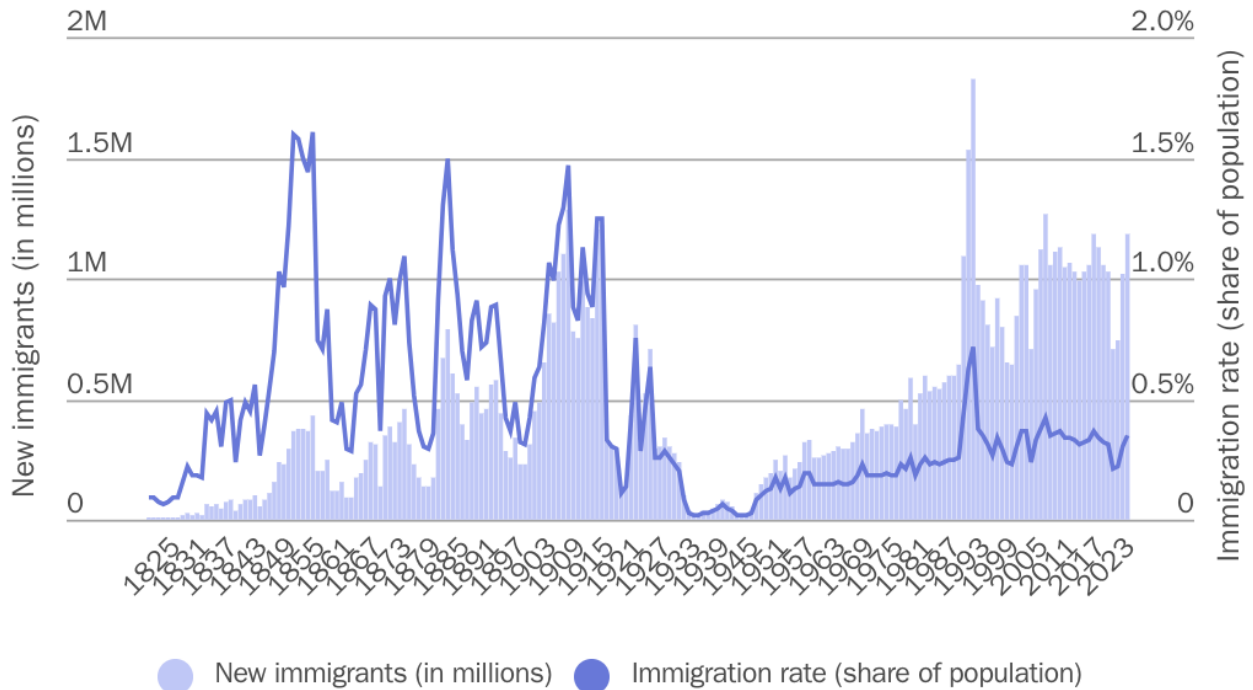
Despite the positive economic and social benefits of immigration, Congress's caps on legal permanent immigration will block about 97 percent of applicants in 2024—just 3 percent of applicants will receive a green card.⁸⁶ This restrictive system is the primary cause of illegal immigration, which diverts law enforcement resources away from serious threats to the country. America is just concluding a century of immigration restriction that replaced America's traditional system of legal immigration.

Currently, the United States is experiencing a legal immigration rate—the number of new permanent residents as a percentage of its population—of just 0.3 percent. As Figure 13 shows, this rate was dramatically lower than in the late 19th and early 20th centuries when the rate was consistently two to three times higher.

Figure 13

The legal immigration rate never recovered from the restrictions in the 1920s

Immigrants becoming legal permanent residents, share of population, 1820–2023



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

Legal immigration improves security by directing people to enter through a process in which they are vetted and screened before they enter. This is one reason why the legal immigrant incarceration rate is so low. DHS has made some efforts to increase the ability to vet people before they enter by creating parole sponsorship processes for Cubans, Haitians, Nicaraguans, and Venezuelans. Unfortunately, the process’s low cap of 30,000 per month and the uncertainty about its long-term future have undermined its effectiveness. Parole is only a temporary status, which may be canceled at any time.

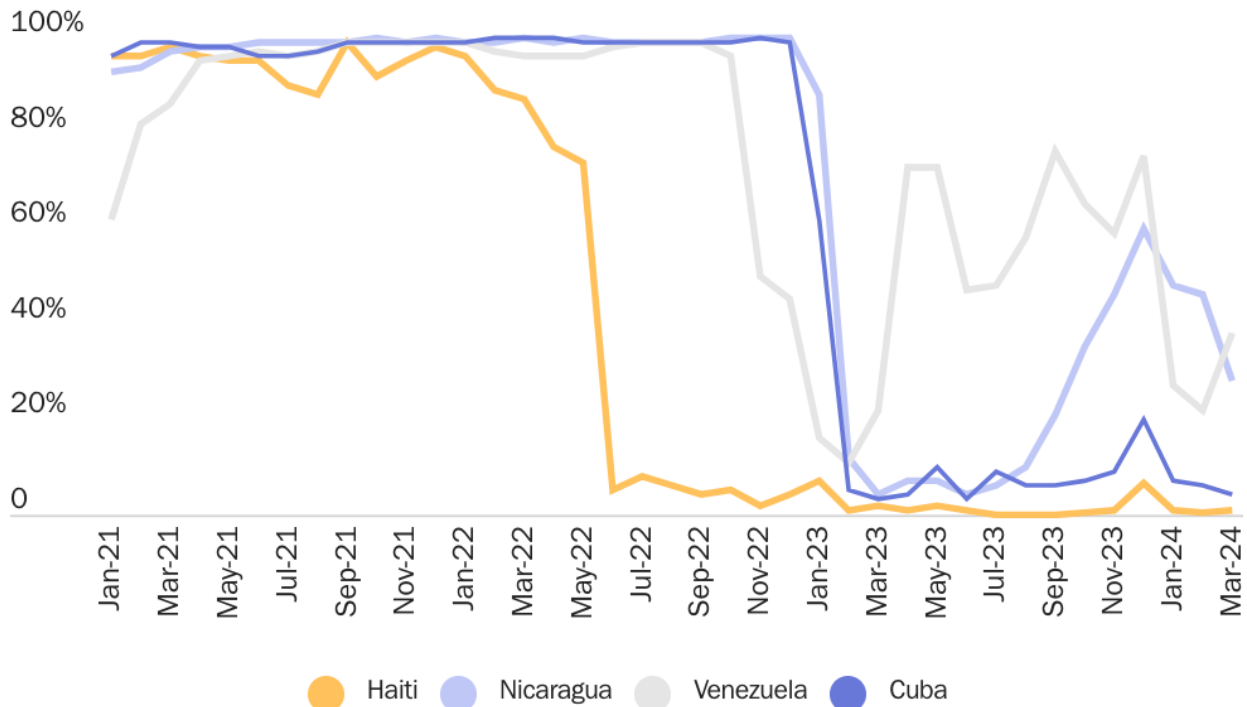
Nonetheless, the process has still greatly increased legality among the four targeted countries. In March 2024, a majority of entries by all four nationalities were lawful. Cuban and Haitian illegal immigration has greatly diminished—with 96 percent of Cuban and 99 percent of Haitian entries being lawful. This processing change has given Border Patrol more resources to focus on other crossers.

Congress should make the parole sponsorship programs permanent, allow parolees to obtain permanent status, and require DHS to expand the process to other nationalities with a high likelihood of crossing illegally. These reforms would benefit the security of the country, while removing illegality and chaos from the border.

Figure 14

Illegal share of CBP encounters, citizens of nations with parole programs

January 2022-November 2023



Sources: Customs and Border Protection, "Nationwide Encounters," 2024

Conclusion

People who commit crimes that violate the rights of others should be punished, including through deportation if they are not citizens of the United States. But each person should be treated equally as an individual. In America, we believe in individual accountability. We say, "You do the crime, you do the time." We don't lock up their families for what their relatives do. We don't target entire races, religions, or ethnicities. We don't ban childbirth for Americans just because they have higher rates of crime.

When a terrible crime occurs, justice demands that the person who committed it pays. Blaming whatever category an individual can be fit into isn't justice. It is unjust. Everyone knows this when the category is one that they fit into or have sympathies with, but it's quite easy to forget when it's not. It's one reason to have strong limits on power to force the government to only target those who violate others' rights.

It's also just bad policy to waste law enforcement resources going after entire races or categories of people. It's common sense to try to stop violence by catching and prosecuting violent criminals. Our justifiable fear of criminality should not cause us to forget the upside of people who, despite their flaws, are the basis of the greatest economy and society in the world. It's exactly because of this fact that so many people want to come to this country. We should create ways for them to do so legally.

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