

LEGAL PATHWAYS: A HUMANE AND EFFECTIVE OPTION

EXECUTIVE SUMMARY

Expanding legal pathways reduces illegal entry more effectively than traditional enforcement-only approaches. Border Patrol data show work visas and the Biden administration's humanitarian parole programs have been far more effective against illegal immigration than the Trump administration's enforcement-only policies, according to a National Foundation for American Policy (NFAP) analysis. The evidence indicates reducing or eliminating humanitarian parole programs, as GOP lawmakers have [proposed](#), would increase illegal entry and remove what is currently the executive branch's most effective tool to encourage lawful migration.

Using legal pathways prevents migrants from dying on unsafe journeys to the border and keeps cities from being burdened by unscheduled migrant arrivals. Admitting more legal workers benefits Americans by expanding the labor supply, which is essential to economic growth as U.S. population growth falls to low levels. The historic refugee flows from Latin America, driven by economic hardship and political repression in Venezuela, Cuba, Nicaragua and other countries, are unlikely to be stopped by harsh means but can be managed by expanding legal pathways and through regional cooperation. The strong U.S. economy after the Covid-19 pandemic has contributed to the refugee flows.

Among the findings in the research:

- After the Biden administration introduced humanitarian parole programs, Border Patrol encounters declined by 92% for Cubans, Haitians and Nicaraguans as a group between December 2022 (the month before the parole programs started) and November 2023 compared to an 18% increase for nationals of non-parole countries, according to an NFAP analysis. The programs require a U.S. sponsor, flying to an interior port of entry and the possibility of employment authorization.
- After the Biden administration introduced the parole program for Venezuelans in October 2022, Border Patrol encounters declined by 90% for Venezuelans between September 2022 (the month before the parole programs started) and March 2023 compared to a 24% increase for nationals of non-parole countries. The monthly limit reduced the program's effectiveness for Venezuelans after March because the demand exceeded the available monthly slots to enter legally via parole.
- During the Trump administration, which relied on enforcement-only policies, Border Patrol apprehensions at the Southwest border, a proxy for illegal entry, [increased](#) 108% between [FY 2016](#) and [FY 2019](#) (from 408,870 to 851,508).¹

¹ Department of Homeland Security. See also Stuart Anderson, "GOP State Lawsuit Could Stop Sound Way To Reduce Illegal Immigration," *Forbes*, March 21, 2023.

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- After the start of the Covid-19 pandemic in March 2020, Border Patrol encounters initially declined. However, Border Patrol [encounters](#) on the Southwest border rose from 16,182 in April 2020 to 69,032 by October 2020, a 327% increase.²
- The Trump administration's immigration policies did not override people's need for protection and their motivations. Pending asylum cases rose 276% between FY 2016 and FY 2020 (from 163,451 to 614,751), according to Syracuse University's [TRAC](#).
- Forcing asylum seekers to "Remain in Mexico" in unsafe conditions under the "Migrant Protection Protocols" (MPP) beginning in January 2019 did not reduce illegal entry. Border Patrol apprehensions along the Southwest border increased by 162% between December 2018 (the month before Remain in Mexico started) and May 2019. Eight months after the start of MPP, Border Patrol apprehensions along the Southwest border in September 2019 were almost identical to those of September 2018.³ In contrast, the Biden administration's parole programs showed immediate and significant declines in illegal entry.
- Providing Haitians the option to enter the United States legally at a port of entry significantly reduced illegal entry. After Haitians started receiving permission and waivers to enter lawfully at ports of entry, Border Patrol encounters fell from 7,762 in May 2022 to 145 in June 2022. In November 2023, there were only 102 Border Patrol encounters of Haitians at the Southwest border. The exceptions to Title 42 expulsion authority and using the CBP One app, not Title 42, reduced unlawful migration from Haiti. "What this says is that legal pathways can work better than deterrence," said Tom Cartwright of Witness at the Border.
- The Bracero program is likely the most effective policy the U.S. government has ever established to reduce illegal entry. After the 1954 enforcement actions and the increased use of the Bracero program, INS apprehensions fell from the 1953 level of 835,311 to as low as 32,996 in 1959—a 96% reduction. "Without question the Bracero program was . . . instrumental in ending the illegal alien problem of the mid-1940's and 1950's," according to the Congressional Research Service. Apprehensions and illegal entry increased significantly after the legal safety valve of the Bracero Program ended in 1964.
- The United States has a limited availability of temporary work visas, including only 66,000 annual nonagricultural seasonal visas. If given the option, migrants from Latin America and elsewhere would use

² Ibid. The Border Patrol reported encounters in place of apprehensions beginning in March 2020 due to using the Title 42 health authority.

³ <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2018>; <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2019>.

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legal visas. According to community surveys in a recent report funded by USAID, 92% or more of Guatemalans agreed with the statement, “Visas are a better way to migrate than migration without documentation.” Among the authors’ conclusions: “[R]egular temporary migration is considered preferable to irregular migration in a very marked way. . . the results also support the idea that the availability of visas can reduce irregular migratory intention.”

Low U.S. population growth means admitting more legal workers as immigrants, refugees and temporary workers would benefit the U.S. economy. “Without continued net inflows of immigrants, the U.S. working-age population will shrink over the next two decades and by 2040, the United States will have over 6 million fewer working-age people than in 2022,” according to economist Madeline Zavodny in a 2023 NFAP [study](#).

Beyond the economic benefits, there are humanitarian reasons for increasing legal pathways. Since 1998, traveling across the border has become more dangerous, leading to over 9,000 [deaths among migrants](#). “In FY 2022, more than 750 migrants died attempting to enter the United States across the Southwest border,” according to DHS.

Parole programs or any legal pathways are most effective if the numbers are sufficient to meet the demand. The 30,000 per month limit is too low. DHS concedes the numbers are insufficient and have been short since at least April or May 2023, around the time Border Patrol encounters of Venezuelans increased significantly following several months of decline.

Reducing or eliminating humanitarian parole programs and the legal pathway they provide could lead to additional tens of thousands of migrants attempting to cross unlawfully each month unless other legal avenues take their place. Supporters of work visas and humanitarian parole programs can point to examples of 90% or higher reductions in illegal entry, but advocates of enforcement-only border policies cannot identify similar successful reductions in illegal entry from their recommended policy approach, as evidenced by the significant rise in illegal immigration during the Trump administration before the pandemic.

EXPANDING LEGAL PATHWAYS VS. ENFORCEMENT-ONLY POLICIES

Today, the debate over illegal immigration centers on whether to expand legal pathways or continue the traditional enforcement-only approach. GOP lawmakers have argued, including in negotiations over aid to Ukraine, that Congress should prohibit many existing legal pathways, including applying for asylum at ports of entry and parole programs for Cubans, Nicaraguans, Venezuelans and Haitians. This report examines legal pathways to evaluate their effectiveness in reducing illegal entry compared to relying solely on immigration enforcement and whether legal pathways also may offer economic and humanitarian benefits.

RESEARCH: PAROLE VS. NON-PAROLE COUNTRIES, TRUMP POLICIES

Border Patrol data show the Biden administration's humanitarian parole programs have been far more effective than the Trump administration's enforcement-only policies.

- After the Biden administration introduced parole programs, Border Patrol encounters declined by 92% for Cubans, Haitians and Nicaraguans as a group between December 2022 (the month before the parole programs started) and November 2023 compared to an 18% increase for nationals of non-parole countries, according to a National Foundation for American Policy analysis.
- After the Biden administration introduced the parole program for Venezuelans in October 2022, Border Patrol encounters declined by 90% for Venezuelans between September 2022 (the month before the parole programs started) and March 2023 compared to a 24% increase for nationals of non-parole countries.
- During the Trump administration, relying on enforcement-only policies, Border Patrol apprehensions at the Southwest border, a proxy for illegal entry, [increased](#) 108% between [FY 2016](#) and [FY 2019](#) (from 408,870 to 851,508).⁴

DHS has noted border encounters averaged below 400,000 per year between 2011 and 2017. "These gains were subsequently reversed, however, as border encounters more than doubled between 2017 and 2019, and—following a steep drop in the first months of the Covid-19 pandemic—continued to increase at a similar pace in 2021 and 2022."⁵

⁴ Department of Homeland Security. See also Stuart Anderson, "GOP State Lawsuit Could Stop Sound Way To Reduce Illegal Immigration," *Forbes*, March 21, 2023.

⁵ <https://www.federalregister.gov/documents/2022/10/19/2022-22739/implementation-of-a-parole-process-for-venezuelans>.

**Table 1
Parole vs. Non-Parole Countries**

Countries	Border Patrol Encounters Southwest Border - December 2022	Border Patrol Encounters Southwest Border - November 2023	Change from December 2022 to November 2023
Cuba, Haiti and Nicaragua	78,003	6,099	-92%
Non-Parole Countries	137,810	162,004	+18%

Source: National Foundation for American Policy analysis of Customs and Border Protection data.

TITLE 42

The Biden administration maintained Donald Trump’s use of Title 42, but it did not reduce illegal entry and likely increased it by removing the legal option of applying for asylum at a port of entry. Title 42 is a public health expulsion authority used during the Covid-19 pandemic primarily to prevent individuals from applying for asylum. Title 42 encouraged individuals to attempt entry multiple times because repeat border crossers, often Mexicans seeking work, generally were not processed or faced legal consequences other than being returned across the U.S.-Mexico border, according to the Border Patrol. “The repeat encounter rate jumped to more than *one in three encounters, including almost half of single adult encounters,*” compared to one in eight before Title 42.⁶ With the Covid-19 pandemic ended, the Biden administration could no longer justify maintaining Title 42 and ended it in May 2023.

Supporters of parole programs and work visas can point to examples of 90% or higher reductions in illegal entry, but advocates of enforcement-only border policies cannot point to such successful reductions in illegal entry from their recommended policy approach.

BACKGROUND ON PAROLE PROGRAMS

To provide a legal pathway, in October 2022, the Biden administration announced it would permit up to 24,000 Venezuelans to enter the United States via humanitarian parole with a U.S. sponsor.⁷ The program was modeled on the Uniting for Ukraine following Russia’s February 2022 full-scale invasion. In January 2023, the Biden administration [announced parole programs](#) for up to 30,000 a month from Cuba, Haiti, Nicaragua and Venezuela to enter the United States with a U.S. sponsor.⁸

⁶ <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-operational-fiscal-year-2021-statistics>. Emphasis added.

⁷ <https://www.federalregister.gov/documents/2022/10/19/2022-22739/implementation-of-a-parole-process-for-venezuelans>.

⁸ <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/01/05/remarks-by-president-biden-on-border-security-and-enforcement/>.

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In October 2022, the Biden administration made the purpose of the parole programs clear in its regulatory notice on Venezuela. “The parole process is intended to enhance border security by reducing the record levels of Venezuelan nationals entering the United States between POEs [ports of entry], while also providing a process for certain such nationals to lawfully enter the United States in a safe and orderly manner.”⁹

The federal notice provided six reasons for parole programs that apply, to an extent, to expanding legal pathways more generally: 1) reduce “irregular migration;” 2) allow for vetting before arrival at a port of entry United States POE; 3) “reduce the strain on DHS personnel and resources;” 4) “minimize the domestic impact;” 5) enhance migrant safety and disincentivize the use of smugglers; and 6) “fulfill important foreign policy goals to manage migration collaboratively in the hemisphere.”¹⁰

Parole can result in work authorization, but it is a short-term solution. Human rights advocates support more refugee processing because individuals admitted as refugees, unlike parolees, can become permanent residents.¹¹

THE TRUMP ADMINISTRATION’S POLICIES DID NOT REDUCE ILLEGAL ENTRY

Border Patrol data show the Trump administration’s often punitive immigration enforcement policies were ineffective in reducing illegal entry.¹² These policies included separating children from their parents as part of a “zero tolerance” policy. Apprehensions at the Southwest border, a proxy for illegal entry, [increased](#) by more than 100 percent between [FY 2016](#) and [FY 2019](#) (from 408,870 to 851,508).¹³ After the start of the Covid-19 pandemic in March 2020, Border Patrol encounters initially declined. However, Border Patrol [encounters](#) on the Southwest border rose from 16,182 in April 2020 to 69,032 by October 2020, a 327% increase.¹⁴

Table 2
Trump Administration Pre-Pandemic: Border Patrol Apprehensions Southwest Border

FY 2016 (pre-Trump)	FY 2017	FY 2018	FY 2019	Change from FY 2016 to FY 2019
408,870	303,916	396,579	851,508	+108%

Source: National Foundation for American Policy analysis of Customs and Border Protection data. Note: The Covid-19 pandemic began in early 2020. Title 42 and the switch to “encounters” as a measure starting in March 2020 make it difficult to compare FY 2020 to earlier fiscal years.

⁹ <https://www.federalregister.gov/documents/2022/10/19/2022-22739/implementation-of-a-parole-process-for-venezuelans>.

¹⁰ Ibid.

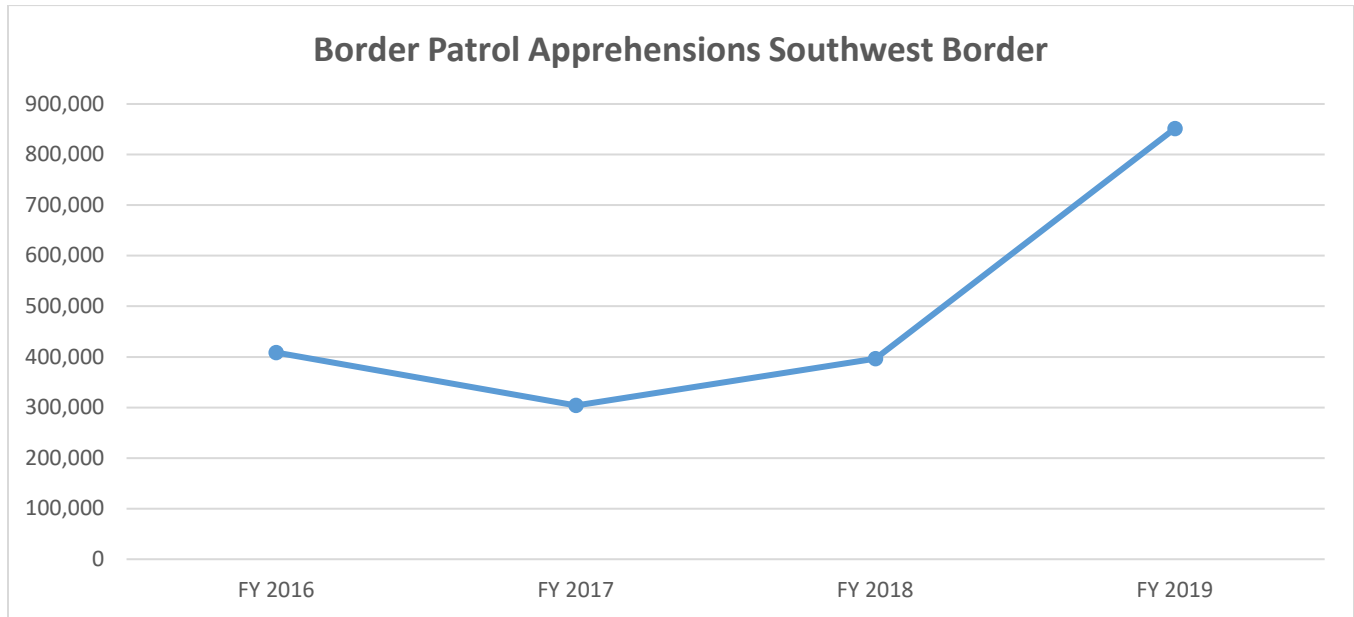
¹¹ Stuart Anderson, “Scenarios Differ On Fate Of Immigration Border Deal And Ukraine Aid,” *Forbes*, December 21, 2023.

¹² This section is adapted from *Illegal Entry, Presidents and Effective Policy*, NFAP Policy Brief, National Foundation for American Policy, May 2023.

¹³ See Stuart Anderson, “GOP State Lawsuit Could Stop Sound Way To Reduce Illegal Immigration,” *Forbes*, March 21, 2023.

¹⁴ Ibid. The Border Patrol reported encounters in place of apprehensions beginning in March 2020 due to using the Title 42 health authority.

Figure 1
Rise in Border Patrol Apprehensions During the Trump Administration



Source: National Foundation for American Policy analysis of Customs and Border Protection data.

Another indicator of the ineffectiveness of the Trump administration’s immigration policies is the increase in asylum applications. The policies did not override people’s need for protection and their motivations. Pending asylum cases rose 276% between FY 2016 and FY 2020 (from 163,451 to 614,751), according to Syracuse University’s [TRAC](#). If Trump’s immigration policies deterred people from coming to America, asylum applications would have declined or not have risen significantly. During the Trump administration, Other Than Mexico apprehensions, primarily Central Americans, rose from 175,978 in FY 2017 to 685,050 in FY 2019, an increase of 289%.

ILLEGAL ENTRY DOUBLED AFTER THE START OF REMAIN IN MEXICO

A myth has developed that the Trump administration stopped illegal entry by forcing asylum seekers to “Remain in Mexico” under the “Migrant Protection Protocols” beginning in January 2019. In reality, Border Patrol apprehensions along the Southwest border increased by 162% between December 2018 (the month before Remain in Mexico started) and May 2019. After the start of MPP, Border Patrol apprehensions along the Southwest border increased for four straight months and remained higher than in December 2018 for six consecutive months (February 2019 to July 2019). Eight months later, Border Patrol apprehensions along the Southwest border in September 2019 were

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almost identical (at 40,507) to those of September 2018 (41,486).¹⁵ In contrast, the Biden administration’s parole programs showed immediate and significant declines in illegal entry (a drop of over 90% for nationals of parole countries).

Table 3
An Increase in Border Patrol Apprehensions Southwest Border After Remain in Mexico in January 2019

Dec. 2018	Jan. 2019	Feb. 2019	March 2019	April 2019	May 2019	Change from Dec. 2018 to May 2019
50,751	47,979	66,883	92,833	99,273	132,856	+162%

Source: National Foundation for American Policy analysis of Customs and Border Protection data.

House Speaker Mike Johnson (R-LA) and others have advocated for the Biden administration to restart Remain in Mexico. There are two significant problems with this policy recommendation. First, the Mexican government has stated it will not allow the policy to start again. "Regarding the possible implementation of this policy for the third time, the Ministry of Foreign Affairs, on behalf of the Government of Mexico, expresses its rejection of the U.S. government's intention to return individuals processed under the program to Mexico," the Foreign Ministry said in a statement in February 2023.¹⁶

Second, the policy is unworkable when combined with other proposals, such as those in the House-passed bill H.R. 2, prohibiting individuals from applying for asylum in the United States after passing through other countries. If individuals cannot apply for asylum in the U.S., they would remain in Mexico indefinitely because there would be no hearings to attend in America. There is no reason why Mexico would agree to a policy that commits it to keeping all asylum seekers indefinitely in Mexico.

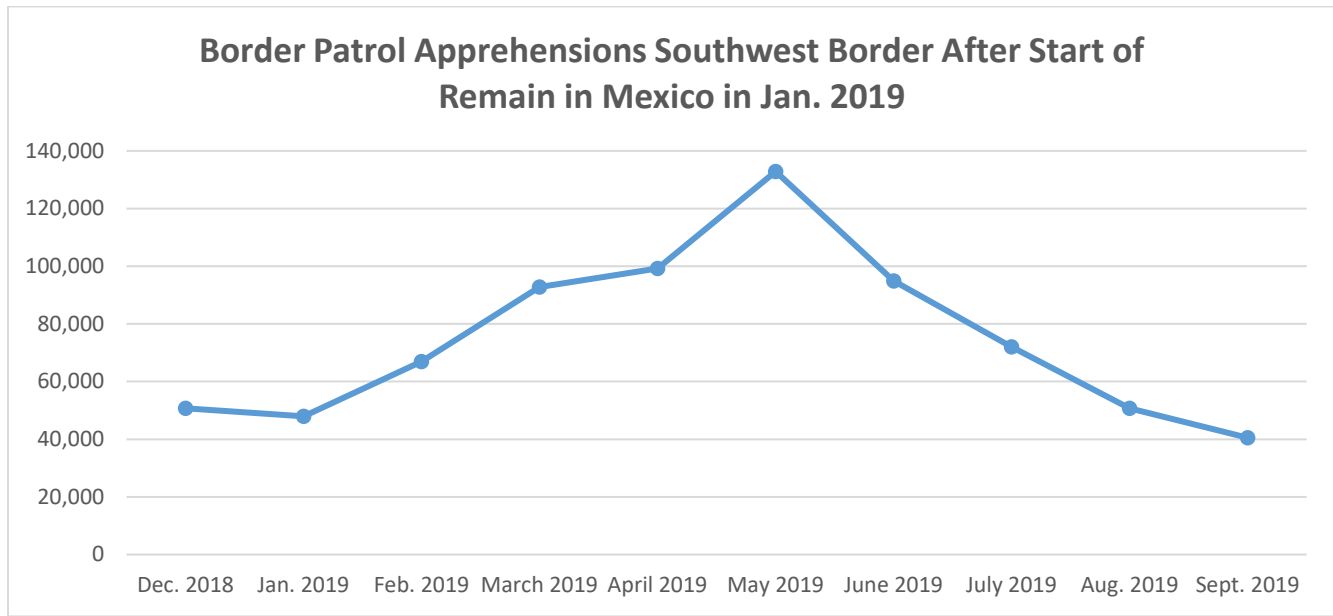
Human Rights First identified approximately 8,000 reports of “kidnapping, rape, human trafficking, torture, and other violent attacks against migrants expelled or blocked in Mexico” under MPP.¹⁷

¹⁵ <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2018>; <https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2019>.

¹⁶ <https://abcnews.go.com/Politics/mexico-rejects-effort-reinstate-remain-mexico-policy-asylum/story?id=96939554>.

¹⁷ <https://humanrightsfirst.org/library/any-version-of-remain-in-mexico-policy-would-be-unlawful-inhumane-and-deadly/>.

Figure 2
Rise in Border Patrol Apprehensions After Start of Remain in Mexico



Source: National Foundation for American Policy analysis of Customs and Border Protection data. Eight months later, Border Patrol apprehensions along the Southwest border in September 2019 were almost identical (at 40,507) to those of September 2018 (41,486).

PAROLE PROGRAMS FOR CUBANS AND NICARAGUANS

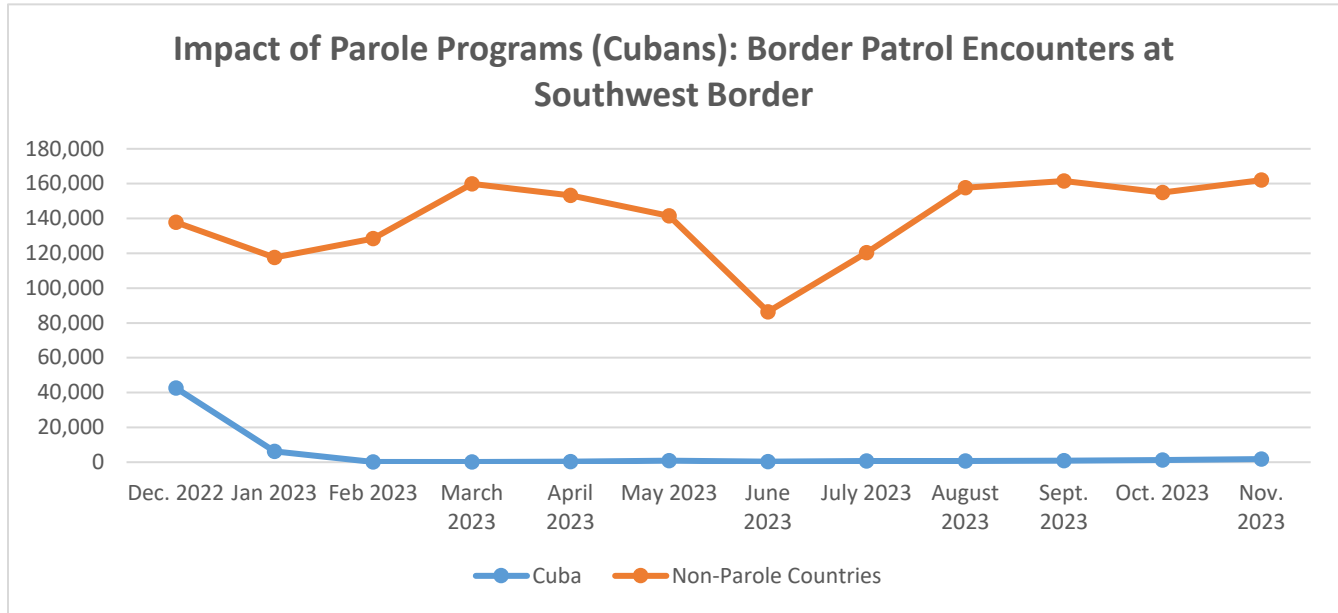
The parole programs for Cubans and Nicaraguans illustrate that opening legal pathways reduces unlawful entry. Border Patrol encounters of Cubans and Nicaraguans at the Southwest border rose for five straight months in 2022 and then dropped significantly after the parole programs started. Between December 2022 and November 2023, Border Patrol encounters at the Southwest border declined by 96% for Cubans and 88% for Nicaraguans, compared to increasing by 18% for nationals of non-parole countries.

Table 4
Cuba Parole Program vs. Non-Parole Countries

Countries	Border Patrol Encounters Southwest Border - December 2022	Border Patrol Encounters Southwest Border - November 2023	Change from December 2022 to November 2023
Cuba	42,617	1,703	-96%
Non-Parole Countries	137,810	162,004	+18%

Source: National Foundation for American Policy analysis of Customs and Border Protection data.

Figure 3
Cubans After Parole Programs Started vs. Non-Parole Countries: Border Patrol Apprehensions



Source: National Foundation for American Policy analysis of Customs and Border Protection data.

In the three months before the Biden administration announced new humanitarian parole programs, encounters of Cubans averaged 35,370 a month (28,817 in October, 34,675 in November and 42,617 in December 2022). After U.S. officials announced the parole programs, Border Patrol encounters of Cubans at the Southwest border fell to 6,217 in January, 176 in February 2023 and 117 in March 2023.

The story is similar for Nicaraguans. Like Cuba, a left-wing dictatorship rules Nicaragua, and Freedom House rates both countries “not free.”¹⁸ The Nicaraguan government has arrested or driven into exile journalists, opposition party members and Catholic Church leaders. After Nicaraguan Sheynnis Palacios won the Miss Universe pageant and became viewed as a symbol against the Ortega government, a Miss Universe director in Nicaragua was charged with treason.¹⁹

¹⁸ <https://freedomhouse.org/countries/freedom-world/scores>.

¹⁹ See <https://www.theguardian.com/world/2023/dec/02/nicaragua-miss-universe-sheynnis-palacios-ortega> and <https://www.reuters.com/world/americas/nicaraguas-miss-universe-franchise-owner-accused-conspiracy-2023-12-02/>.

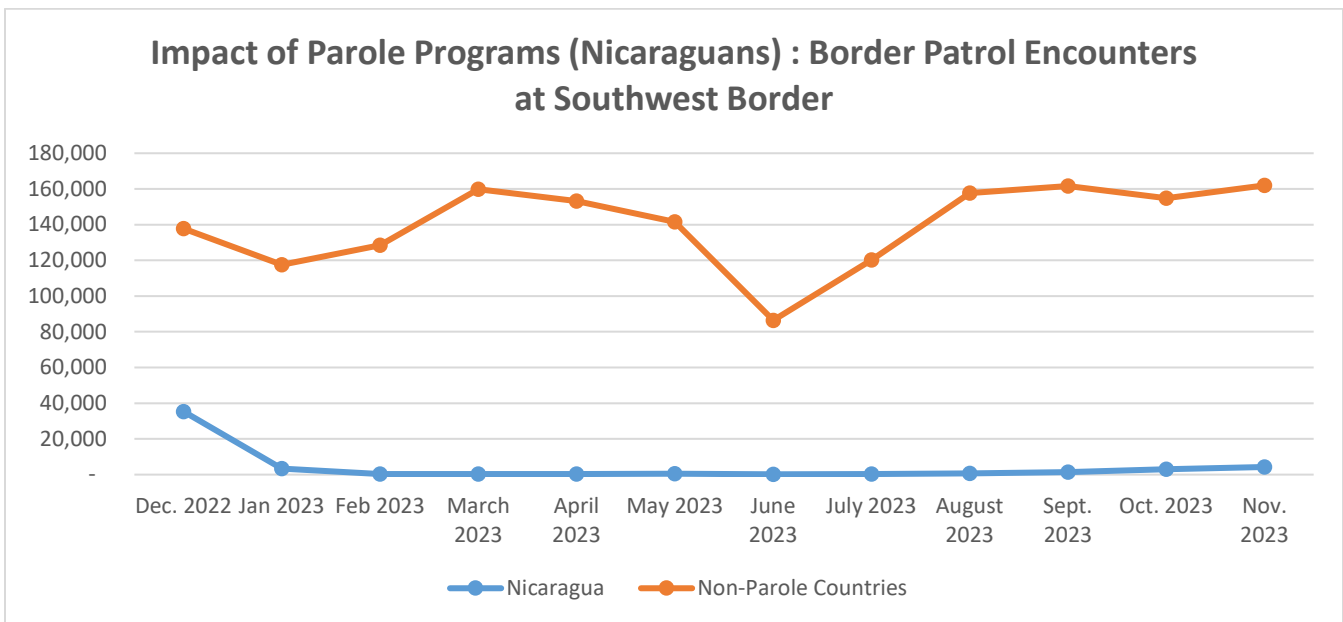
**Table 5
Nicaragua Parole Program vs. Non-Parole Countries**

Countries	Border Patrol Encounters Southwest Border - December 2022	Border Patrol Encounters Southwest Border - November 2023	Change from December 2022 to November 2023
Nicaragua	35,355	4,294	-88%
Non-Parole Countries	137,810	162,004	+18%

Source: National Foundation for American Policy analysis of Customs and Border Protection data.

Before the Biden administration announced new humanitarian parole programs, encounters of Nicaraguans averaged 30,152 a month in October, November and December 2022. After Biden officials announced the parole programs, Border Patrol encounters of Nicaraguans at the Southwest border fell to 3,336 in January, 399 in February 2023 and 230 in March 2023.

**Figure 4
Nicaraguans After Parole Programs Started vs. Non-Parole Countries: Border Patrol Apprehensions**

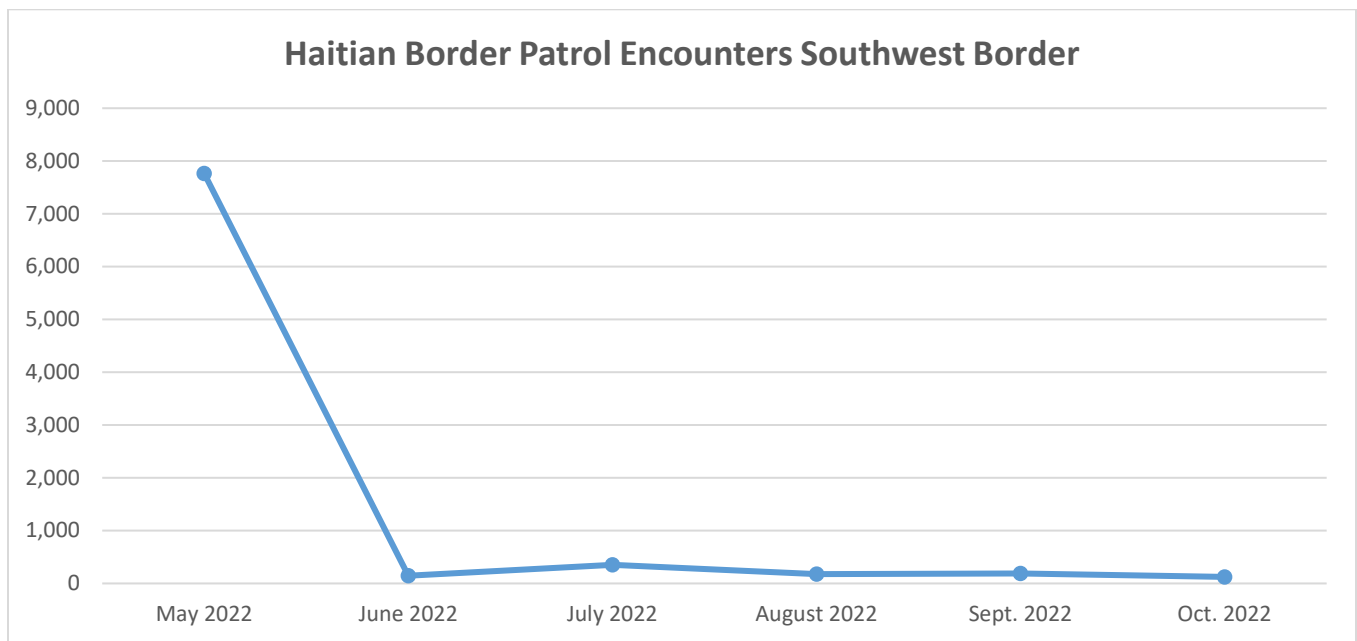


Source: National Foundation for American Policy analysis of Customs and Border Protection data.

HAITIANS AND LEGAL PATHWAYS

Providing Haitians the option to enter the United States legally at a port of entry significantly reduced illegal entry. Between December 2021 and May 2022, Border Patrol encounters of Haitians at the Southwest border averaged 4,371 a month. In 2022, Border Patrol encounters rose for three consecutive months to 1,903 in March, 4,462 in April and 7,762 in May. Then, after Haitians started receiving permission and waivers to enter lawfully at ports of entry, Border Patrol encounters fell from 7,762 in May 2022 to 145 in June 2022. In November 2023, there were only 102 Border Patrol encounters of Haitians at the Southwest border. In other words, it was the exceptions to Title 42 and the use of the CBP One app, not Title 42, that reduced unlawful migration from Haiti.

Figure 5
Haitian Border Patrol Encounters After Waivers and Appointments at Ports of Entry



Source: National Foundation for American Policy analysis of Customs and Border Protection data.

In June 2022, there were 3,924 encounters of Haitians by the Office of Field Operations at ports of entry along the Southwest border, far higher than the 268 encounters of Haitians at ports of entry in March 2022 before Haitians could enter lawfully. Haitian encounters at ports of entry along the Southwest border increased to 5,027 in July and 6,372 in August 2022 and have remained between 3,000 and 10,700 every month.

Table 6
Decrease in Haitian Border Patrol Encounters Southwest Border After Waivers at Ports of Entry

May 2022	June 2022	July 2022	August 2022	Sept 2022	Oct 2022	Change from May 2022 to Oct 2022
7,762	145	353	179	186	124	-98%

Source: National Foundation for American Policy analysis of Customs and Border Protection data.

The parole program for Haitians, announced in January 2023, resulted in a significant increase of Haitians entering at ports of entry other than the Southwest border and helped keep Haitians from attempting to enter the United States unlawfully.

“What this says is that legal pathways can work better than deterrence,” said Tom Cartwright of Witness at the Border. Cartwright notes tens of thousands of Haitians crossed at ports of entry when allowed exceptions to Title 42 expulsion authority with appointments via the CBP One app. “There was a tremendous effort made by advocates, particularly Haitian Bridge Alliance, to help the Haitian population in Mexico understand CBP One and the advantage of crossing with a CBP One appointment rather than without.” He says that during this period, the number of Immigration and Customs Enforcement deportation flights to Haiti (and the number of people on the flights) dropped significantly.²⁰

Yael Schacher, director of the Americas and Europe for Refugees International, said she agreed about the effectiveness of legal pathways. “CBP One and the CHNV (parole) program have essentially led to almost zero Haitians crossing the border unauthorized in the last year. And that outreach and education by organizations about these pathways is key. It is also important that the pathways be accessible and capacious. Otherwise, the smugglers will still be seen as more viable alternatives.”²¹

Schacher notes a D.C. Circuit Court ruling in June 2022 played a positive role since it said that families could not be expelled under Title 42 without a screening.²²

²⁰ Interview with Tom Cartwright.

²¹ Interview with Yael Schacher.

²² See <https://www.aclu.org/cases/huisha-huisha-v-mayorkas>.

PAROLE PROGRAMS FOR VENEZUELAN

In October 2022, the Biden administration announced up to 24,000 Venezuelans could enter the United States lawfully via humanitarian parole with a U.S. sponsor.²³ In January 2023, the administration expanded the parole program for Venezuelans. Border Patrol encounters of Venezuelans at the Southwest border declined by 90% for Venezuelans between September 2022 and March 2023. During the same period, Border Patrol encounters of nationals of non-parole countries increased by 24%.

Table 7
Venezuela Parole Program vs. Non-Parole Countries

Countries	Border Patrol Encounters Southwest Border - September 2022	Border Patrol Encounters Southwest Border - March 2023	Change from September 2022 to November 2023
Venezuela	33,749	3,326	-90%
Non-Parole Countries	129,340	159,830	+24%

Source: National Foundation for American Policy analysis of Customs and Border Protection data.

However, inadequate parole numbers and a requirement to hold a valid passport, combined with the continuing crisis in Venezuela and desperation among refugees, made the success short-lived. By April 2023, Border Patrol encounters of Venezuelans at the Southwest border had returned near the September 2022 level. Still, without the parole program, the number of Venezuelans attempting to enter unlawfully would have been much higher and added to the monthly illegal entry totals overall.

THE NEED FOR HIGHER PAROLE NUMBERS

Parole programs or any legal pathways are most effective if the numbers are sufficient to meet the demand. The 30,000 per month limit is too low. DHS concedes the numbers are insufficient and have been short since at least April or May 2023, around the time Border Patrol encounters of Venezuelans increased significantly following several months of decline.

“Due to high interest in these processes, we are updating the review process effective May 17, 2023,” according to DHS. “We are updating this process because the number of supporters who have submitted Form I-134A is *significantly higher than the 30,000 monthly* advance travel authorizations available. It is intended to maintain a fair,

²³ <https://www.federalregister.gov/documents/2022/10/19/2022-22739/implementation-of-a-parole-process-for-venezuelans>.

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equitably balanced, and available pathway for all beneficiaries of a Form I-134A to move forward through the review process and seek travel authorization.”²⁴

A STRONG PREFERENCE TO USE LEGAL VISAS

For jobs that do not require a college degree, the United States maintains only two seasonal visa categories—H-2A agricultural visas and H-2B nonagricultural visas. H-2B visas are limited to 66,000 a year. Moreover, nationals of several Latin American countries are ineligible for H-2A and H-2B visas.²⁵

If given the option, migrants from Latin America and elsewhere would use legal visas. A recent study of Guatemalans showed an overwhelming preference to use legal visas if available. According to 2023 surveys, 92% or more of Guatemalans agreed with the statement, “Visas are a better way to migrate than migration without documentation.” The *Impact of Regular Temporary Migration to Canada and the United States* included over 1,300 community surveys in Guatemala.²⁶ USAID provided a grant for the research. Among the conclusions of the authors: “[R]egular temporary migration is considered preferable to irregular migration in a very marked way. . . the results also support the idea that the availability of visas can reduce irregular migratory intention.”²⁷

As economists have long concluded, the surveys found that immigrants are self-selected, with typically the most enterprising and courageous members of a society the ones to immigrate to the United States or elsewhere. “In short, there is a fairly general consensus that [in Guatemala] it is impossible to progress or climb socially (for example, by improving home, buying agricultural land or educating children) through own efforts if people remain in the country,” according to the report.²⁸

²⁴ <https://www.uscis.gov/humanitarian/frequently-asked-questions-about-the-processes-for-cubans-haitians-nicaraguans-and-venezuelans>. Updated information as of October 11, 2023. Emphasis added. “Under the new review process, we will randomly select about half of the monthly total of Forms I-134A, regardless of filing date, from the entire pending workload to review. We will review the other half of the monthly total based on when the case was submitted under the first-in, first-out method, which prioritizes the oldest Forms I-134A for review.”

²⁵ See here for a list: <https://www.uscis.gov/newsroom/alerts/dhs-announces-countries-eligible-for-h-2a-and-h-2b-visa-programs-1>.

²⁶ Arnold Brodbeck, Fernando Landini, Mara Vera, Ursula Toerres Parejo, Isabel Gonzalez Enriquez and Angel Miguel Garcia, the *Impact of Regular Temporary Migration to Canada and the United States*, Action for Hunger, Final Report, May 2023.

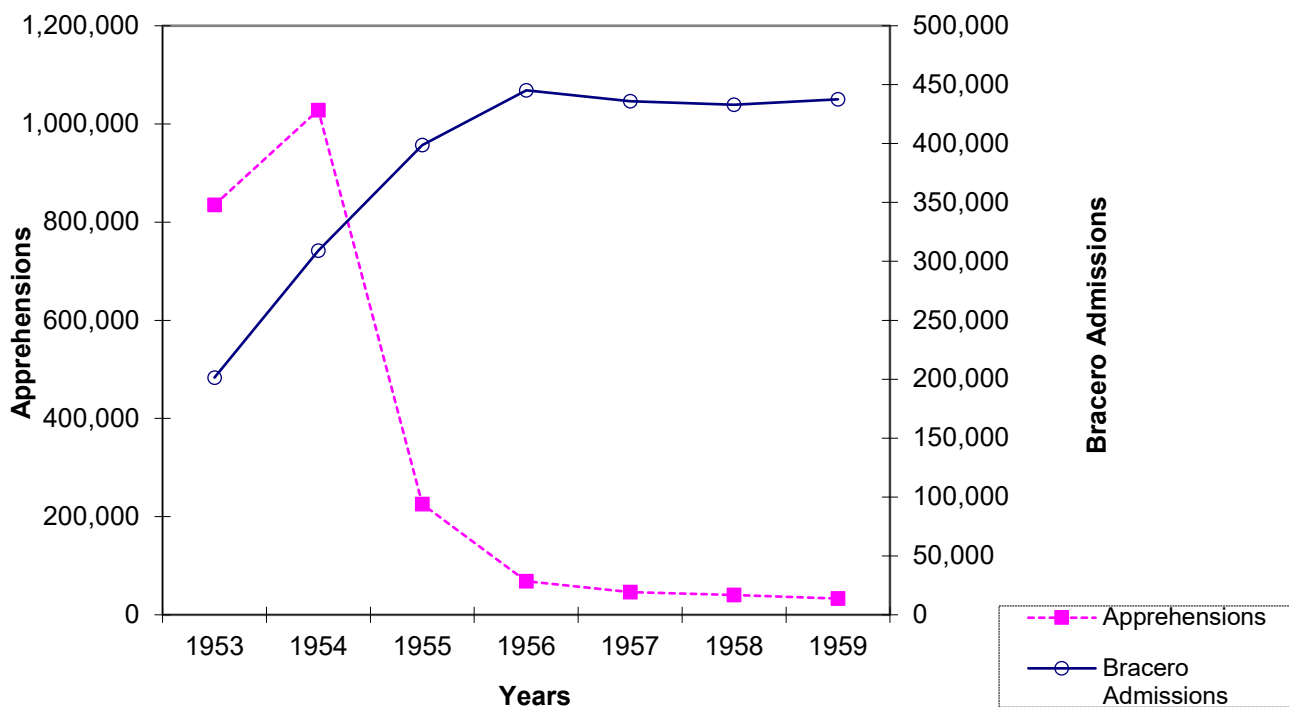
²⁷ Ibid. “At the same time, it also supports the argument that the availability of visas could increase the regular migratory intention. This pertains to cases of people who are not willing to assume the suffering and risks associated with migration without documentation but would be interested in the event that they there was a safe option that would allow them to return with their family.”

²⁸ Ibid.

WORK VISAS HELPED REDUCE ILLEGAL IMMIGRATION FROM MEXICO

In the 1950s, following an infamous crackdown on immigrants called Operation Wetback, INS Commissioner (General) Joseph Swing worked with growers, assuring them he would liberalize rules for the Bracero program to encourage them to use legal Mexican farm workers.²⁹ In 1955, General Swing said, “Net results of farmer-grower cooperation (with the INS) include a shoring up of the agricultural economy of the Southwest, and establishment of a dependable source of qualified agricultural labor.”³⁰

Figure 6
Apprehensions and Bracero Admissions: 1953-1959



Source: National Foundation for American Policy; Congressional Research Service, *Temporary Worker Programs: Background and Issues*, February 1980, p. 40; *Annual Report of the Immigration and Naturalization Service*, 1959; *INS Statistical Yearbook 1996*.

²⁹ Congressional Research Service, *Temporary Worker Programs: Background and Issues*. A report prepared at the request of Senator Edward M. Kennedy, Chairman of the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, 41.

³⁰ Immigration and Naturalization Service, I and N Reporter, 1955, p. 16, as cited in Kitty Calavita, *Inside the State*, Routledge, Chapman, and Hall, Inc., New York, 1992, p. 72.

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The Bracero program is likely the most effective policy the U.S. government has ever established to reduce illegal entry. After the 1954 enforcement actions and the increase in the use of the Bracero program, the 1953 level of 835,311 apprehensions fell to as low as 32,996 in 1959—a 96% reduction.³¹

The annual number of Mexican farm workers legally admitted increased from 201,380 in 1953 to 398,650 in 1955 and rose to an average of 437,937 for the years 1956 to 1959.³² Mexicans admitted as permanent residents (green card holders) rose from 18,454 in 1953 to an average of 42,949 between 1955 and 1959, with many likely sponsored by their agricultural employers.

There is little debate that expanding legal work visas was effective. “Without question the Bracero program was . . . instrumental in ending the illegal alien problem of the mid-1940s and 1950s,” according to the Congressional Research Service.³³

In the 1950s and early 1960s, senior law enforcement officials at the INS, including the Border Patrol, believed using legal visas and market forces allowed the U.S. government to reduce illegal immigration and control the Southwest border. According to a February 1958 Border Patrol document from the El Centro (California) district, “Should Public Law 78 be repealed or a restriction placed on the number of braceros allowed to enter the United States, we can look forward to a large increase in the number of illegal alien entrants into the United States.”³⁴

During a Congressional hearing in the 1950s, a top INS official was asked what would happen to illegal immigration if the Bracero program ended, and he replied, “We can’t do the impossible, Mr. Congressman.”³⁵ After the Bracero program ended in 1964, illegal immigration increased significantly. The lack of reliable temporary visas for nonagricultural work contributed to the rise in unlawful entry.

³¹ See Stuart Anderson, *The Impact of Agricultural Guest Worker Programs on Illegal Immigration*, National Foundation for American Policy, November 2003. Apprehensions data in this report differ slightly from the 2003 NFAP study. That study used “deported aliens located,” which INS and Congressional Research Service reports used as a synonym for apprehensions. The Border Patrol later revised the definitions for data it released on apprehensions.

<https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/U.S.%20Border%20Patrol%20Total%20Apprehensions%20%28FY%201925%20-%20FY%202020%29%20%28508%29.pdf>.

³² Calavita, Congressional Research Service, February 1980.

³³ Congressional Research Service, February 1980.

³⁴ Monthly Sector Activity Reports (MSAR), El Centro, California, February 1958, Accession 63A1359, Box 3, as cited in Calavita, p. 83.

³⁵ U.S. Congress, House Committee on Agriculture, Subcommittee on Equipment, Supplies, and Manpower, 1958, p. 450, cited in Calavita, p. 85.

MORAL AND ECONOMIC ARGUMENTS FOR EXPANDING LEGAL PATHWAYS

Low U.S. population growth means admitting more legal workers as immigrants, refugees and temporary workers would benefit the U.S. economy. “If the current [U.S. growth pace](#) continues through the decade, the 2020s will be the [slowest-growing decade](#) in the nation's history, according to [William Frey](#),” reported *Axios*.³⁶

“Without continued net inflows of immigrants, the U.S. working-age population will shrink over the next two decades and by 2040, the United States will have over 6 million fewer working-age people than in 2022,” according to economist Madeline Zavodny in a 2023 NFAP [study](#). “International migrants were the sole source of growth in the U.S. working-age population in 2021 and 2022. Without the growth among the foreign born, the total working-age population would have fallen by almost 0.5 percent in 2021. In 2022, it would have fallen again, albeit by only 0.03 percent.”³⁷

Beyond the economic benefits, there are humanitarian advantages from increasing legal pathways. Since 1998, traveling across the border has become more dangerous, contributing to over 9,000 [deaths among migrants](#).

“In FY 2022, more than 750 migrants died attempting to enter the United States across the SWB, an estimated 32% increase from FY 2021 (568 deaths) and a 195% increase from FY 2020 (254 deaths),” according to DHS. “The approximate number of migrants rescued by CBP in FY 2022 (almost 19,000 rescues) increased 48% from FY 2021 (12,857 rescues), and 256% from FY 2020 (5,336 rescues). . . . Meanwhile, these numbers do not account for the countless incidents of death, illness, and exploitation migrants experience during the perilous journey north.”³⁸

Legal entry via parole programs and work visas would avoid the current problems with migrants arriving in major U.S. cities and unable to find housing.

³⁶ America's Slowest Population Growth Since Great Depression, *Axios*, December 29, 2023.

³⁷ Madeline Zavodny, *Why The United States Still Needs Foreign-Born Workers*, NFAP Policy Brief, National Foundation for American Policy, July 2023.

³⁸ <https://www.federalregister.gov/documents/2022/10/19/2022-22739/implementation-of-a-parole-process-for-venezuelans>. “Although exact figures are unknown, experts estimate that about 30 bodies have been taken out of the Rio Grande River each month since March 2022,” according to DHS.

THE WESTERN HEMISPHERE REFUGEE CRISIS

The United States is experiencing a [refugee crisis](#), with more than [7.7 million people](#) leaving Venezuela due to the government's policies that resulted in plummeting living standards and among the world's worst human rights records, according to Freedom House.³⁹ Most individuals and families from countries undergoing political and economic crises in the region flee [desperate circumstances](#) and, finding no way to enter lawfully, cross the border and [turn themselves in](#), which is recorded as a Border Patrol encounter. In a previous report, NFAP examined [the past 100 years](#) of Border Patrol data and found the type of immigration enforcement policies many now propose have failed in the past to reduce illegal entry or end people's desires for a better life.⁴⁰

CONCLUSION: LEGAL PATHWAYS BETTER THAN PROPOSED ENFORCEMENT POLICIES, RELYING ON MEXICO IS UNREALISTIC

Parole programs and work visas have shown to be highly effective in reducing illegal entry, while enforcement-only policies, including those used during the Trump administration, have been ineffective.

Many legislative proposals, including those in the House-passed bill H.R. 2, assume the Mexican government will agree to take most or all migrants from the United States. That is unlikely to be the case, especially if the United States does not provide legal pathways for individuals.

"For its part, the GOM [Government of Mexico] has made clear that in order to effectively manage the migratory flows that are impacting both countries, the United States needs to provide additional safe and orderly processes for migrants who seek to enter the United States," according to DHS. "As the GOM makes a unilateral decision whether to accept returns of third country nationals at the border and how best to manage migration within Mexico, it is closely watching the United States' approach to migration management and whether the United States is delivering on its plans in this space. Initiating and managing this process—which is dependent on the GOM's actions—will require careful, deliberate, and regular assessment of the GOM's responses to unilateral U.S. actions and ongoing, sensitive diplomatic engagements."⁴¹

Many Republicans hope to end the executive branch's ability to use parole at the border to manage migration and to detain all arriving migrants in the United States or expel them to Mexico. Mexico would have to agree to accept

³⁹ <https://freedomhouse.org/countries/freedom-world/scores>.

⁴⁰ *Illegal Entry, Presidents and Effective Policy*, NFAP Policy Brief, National Foundation for American Policy, May 2023; Stuart Anderson, "The Outlook on H-1B Visas and Immigration," *Forbes*, January 2, 2024.

⁴¹ <https://www.federalregister.gov/documents/2022/10/19/2022-22739/implementation-of-a-parole-process-for-venezuelans>.

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larger numbers of migrants under any new form of Title 42 expulsion authority. “To reestablish these two programs or authorities would require Mexico’s agreement, and the Mexican government has said categorically it will not restart Remain in Mexico,” [said](#) Theresa Cardinal Brown, who served as a senior official in U.S. Customs and Border Protection. Since U.S. immigration authorities control [approximately 40,000](#) detention spaces and U.S. border personnel encounter more than [200,000 migrants](#) monthly, detaining all border crossers and those arriving at ports of entry is unrealistic.

Supporters of work visas and humanitarian parole programs can point to examples of 90% or higher reductions in illegal entry, but advocates of enforcement-only border policies cannot identify such successful reductions in illegal entry from their recommended policy approach, as the significant rise in illegal immigration during the Trump administration before the pandemic demonstrates.

Given the unprecedented refugee crisis in Latin America, the goal of U.S. immigration policy should be to manage migration to ensure it is safe, orderly and legal.

ABOUT THE NATIONAL FOUNDATION FOR AMERICAN POLICY

Established in 2003, the National Foundation for American Policy (NFAP) is a 501(c)(3) nonprofit, nonpartisan public policy research organization based in Arlington, Virginia, focusing on trade, immigration and related issues. Advisory Board members include Columbia University economist Jagdish Bhagwati, Cornell Law School professor Stephen W. Yale-Loehr, Ohio University economist Richard Vedder and former INS Commissioner James Ziglar. Over the past 24 months, NFAP's research has been written about in the *Wall Street Journal*, the *New York Times*, the *Washington Post*, and other major media outlets. The organization's reports can be found at www.nfap.com.
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