



Shifting Realities at the U.S.-Mexico Border

Immigration Enforcement and Control in a
Fast-Evolving Landscape

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U.S. IMMIGRATION POLICY PROGRAM

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Executive Summary

A new era of large-scale migration has begun at the U.S.-Mexico border, with record numbers of spontaneous migrant arrivals, their increasingly diverse origins, and unprecedented regional attention to migration issues.¹ These shifts pose complex new border control challenges. In contrast to the Mexican single adults who made up the lion's share of arrivals in the 2000s and earlier periods and the growing number of northern Central Americans in the 2010s, migrants arriving at the southwest border in 2022 and 2023 have come from countries across the Americas as well as other world regions, and many are traveling as families.

These factors have stretched the U.S. border management system beyond its capabilities. Insufficiently equipped to respond effectively to these and likely future changes, U.S. immigration agencies must perpetually react and shift operations according to their strained capacity and daily changes in migrant arrivals. Such conditions result in unpredictable and arbitrary processing decisions for migrants, an inability to screen the majority of asylum seekers upon arrival for their eligibility for protection, large numbers entering the country to await hearing dates that may be years away, and spillover effects for U.S. and Mexican communities, local governments, and nongovernmental organizations (NGOs) that assist migrants. The cumulative picture is one of policy breakdowns that reach well beyond the border.

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Faced with these new realities, and having made a commitment to border control with humane enforcement, the Biden administration introduced an ambitious set of policies intended to improve border enforcement following the May 2023 end of pandemic-era Title 42 restrictions. These policies—part of a new regime of incentives and disincentives—seek to encourage migrants to arrive at ports of entry (POEs) for more orderly, scheduled processing, while deterring unauthorized crossings between POEs through tougher enforcement and increased migrant removals and returns. To promote orderly arrivals, U.S. Customs and Border Protection (CBP) has expanded the number of appointments available each day via the CBP One mobile app for migrants seeking to enter the country. Those allowed to enter receive parole, typically for two years, with the opportunity to request asylum once in the United States.

The administration is implementing these policies through its Circumvention of Lawful Pathways rule that treats migrants who cross the border illegally between POEs or who arrive at POEs without a CBP One appointment as ineligible for asylum unless they previously applied for and were denied protection in a transit country, with some exceptions. To promote the use of legal pathways, the government has also established new nationality-specific sponsorship parole programs to admit Cuban, Haitian, Nicaraguan, and Venezuelan migrants from abroad. And in collaboration with governments in Central and South America, the administration is building a regional network of Safe Mobility Offices (SMOs) to provide information to

¹ This report, originally published in early January 2024, has been revised to correct the immigration agency budget numbers in Figure 3.

intending migrants about these and other lawful mobility and protection pathways, encouraging their use as alternatives to irregular migration.

These are far-reaching policies that envision a new paradigm in U.S. migration management at the border and beyond. From the start of their implementation through the end of fiscal year (FY) 2023, however, the results were mixed. Between April and June 2023, migrant apprehensions between POEs fell by 46 percent. Apprehensions then increased each month through September, primarily driven by significant increases in arrivals of families and Venezuelans, including some who were already in Mexico and waited to see the consequences of the new regime. In total, U.S. immigration authorities recorded 2 million unauthorized migrant border crossings between POEs and 430,000 arrivals at POEs in FY 2023, and monthly migrant encounters remained elevated into FY 2024.

To shed light on the new realities U.S. agencies, border communities, and migrants face, this study combines insights shared by U.S. border officials and nongovernmental actors with Migration Policy Institute (MPI) analysts traveling along the U.S.-Mexico border; interviews with key migration stakeholders in southern Mexico, Guatemala, and Costa Rica; and analysis of border policies and data. It also examines how key changes in border processing capacities are being implemented at and between POEs and the effects of U.S. policies on Mexico and regional coordination.

The study's findings demonstrate that border control cannot be achieved at the border alone. Given current and likely future migration patterns, the border control mission requires substantial resource investments not just in CBP but also in other agencies involved in migrant processing, including U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), the Executive Office for Immigration Review (EOIR), and the Office of Refugee Resettlement (ORR).

Longstanding underlying capacity limitations and uneven cross-agency resource allocations and coordination are driving policy implementation and outcomes in border management, especially during episodes of high migrant arrivals. Bottlenecks in secondary agencies responsible for adjudicating asylum cases and humanely repatriating migrants found ineligible for protection represent severe breakdowns in the broader system needed to ensure effective border control.

At POEs, improvements in scheduling migrant arrivals through the CBP One app appear to result in better control of migrant arrivals and improvements within CBP's Office of Field Operations (OFO). However, if migrants overwhelm POE capacity or Border Patrol requires assistance between POEs, OFO erects barriers or shuts down international bridges to regain control—measures that come at significant expense to regular travel and trade from Mexico.

By providing essential services to migrants who are released from CBP custody, local governments and NGOs in communities along the border have become necessary partners to federal agencies in reducing economic and social pressures on border communities. Coordinating with CBP, they provide immediate services for migrants screened and released into the United States for further processing and assist them with making travel arrangements to destinations across the country. Obtaining funding for these operations is cumbersome for NGOs, and recent changes in how reimbursements are allocated for border and interior cities are making it more difficult to offer differentiated services along some parts of the U.S.-Mexico border.

Additionally, U.S. migration policies and a series of novel agreements with the Mexican government have cemented Mexico's strategic role as a partner and a staging ground for migrants seeking entry into the United States. Yet, Mexico has its own migrant processing and detention capacity limitations, and the new realities have raised concerns about future migrants taking dangerous routes to avoid detection or utilizing Mexico's asylum system to transit to the U.S.-Mexico border. For Mexican border cities and NGOs, moreover, recent bilateral agreements have compounded pressures to provide safety, shelter, and services, all with a fraction of the resources available across the border, as larger numbers of migrants wait for weeks or months in Mexico for appointments to enter at U.S. POEs, seek protection in Mexico, or to be repatriated by Mexican authorities.

As irregular migration has ballooned throughout the Western Hemisphere, the need for shared responsibility and collaboration, defined not only by heightened migration controls and enforcement but also by access to lawful mobility pathways, is increasingly evident. A growing list of countries—including Mexico and Panama—are seeking to implement additional migration enforcement and repatriations of unauthorized migrants as deterrence mechanisms.

At the same time, despite its long-term potential, the network of SMOs established in Colombia, Costa Rica, Ecuador, and Guatemala and managed by the United Nations High Commissioner for Refugees and International Organization for Migration has to date reached only a small number of would-be irregular migrants. Strict requirements governing who is eligible to access SMOs in each country, the limited number of legal mobility pathways open to them, and adjudication delays in protection cases referred to the U.S. government for review are the primary obstacles to matching a greater number of migrants with alternatives to irregular migration.

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Given these realities at and beyond the U.S.-Mexico border, effective border control requires a series of near- and longer-term measures that together constitute a functional and coordinated **system**. Building that system requires substantial investments of new resources to be appropriated by Congress. Border control cannot succeed through the actions of the executive branch alone at current funding levels. These investments should include the following:

1 Establish multiagency border processing centers for federal agencies and nongovernmental partners to seamlessly screen and refer migrants for entry to or removal from the country.

A network of processing centers along the border that house officials from CBP, USCIS, ICE, and ORR, alongside representatives of certified NGOs and legal service providers, would enable more transparent, efficient, and differentiated migrant processing. Such centers should have automated data collection systems with sharing capabilities that eliminate redundancies, ensure reliable data retention, and inform operational planning, program analysis, and forecasting of shifting migration patterns. By establishing facilities suitable for processing families and children, building surge capacity into the network of centers, and arranging standby facilities such as military bases, the U.S. Department of Homeland Security (DHS) could more nimbly adapt and respond to spikes in arrivals.

- 2 Create a federal government mechanism that supplements the work of border NGOs in directing migrants who do not have U.S. ties to destinations where sponsors assist them while their legal proceedings are pending.** A system akin to refugee sponsorship should be created to redirect migrants without family or other connections in the United States to localities with services and capacity to accept new arrivals, thereby bringing order and shared responsibility to how and where migrants are transported. Such placements should include case management and legal services support. Implicit in this approach would be the understanding that those whose asylum cases are denied would cooperate in their repatriation. Building such a capability would constitute critical assistance and relief for U.S. communities and NGOs working with migrants, as well as predictability for receiving cities and communities around the country willing to help newcomers.
- 3 Implement asylum system reforms that result in timely and fair decisions, and adequately fund essential agencies.** Because the border control and asylum systems are inextricably linked, the agencies that play leading roles in the asylum process—USCIS and EOIR—are essential to improving border management. Those agencies require significant investments in personnel, technology, and capacity-building to be able to streamline asylum adjudications. Full implementation of the June 2022 Final Interim Asylum Rule, which allows USCIS asylum officers to handle not only credible fear interviews but also full merits adjudication in border cases, would begin to reduce immigration court backlogs. This effort should include increased legal representation and case management support to ensure asylum seekers understand and comply with the procedural requirements of the process.
- 4 Equip OFO to carry out CBP One migrant processing.** Building out structural and workforce capacity at POEs is imperative to ensure that the increase in migrant processing via CBP One appointments does not interfere with other port operations that are vital to the U.S. economy and national security, including screening and facilitating lawful travel and trade. To do so, POEs require permanent and fully equipped space able to adapt to unexpected changes in the number and characteristics of migrant arrivals. Creating an OFO position equivalent to the Border Patrol's processing coordinators would help manage data entry during the screening process and free most officers to focus on essential port operations.
- 5 Formalize the public-private partnerships between CBP, NGOs, and local governments for delivering essential services to migrants released into the United States.** Formalizing local NGO partnerships with CBP for the coordination of post-release services for migrants processed at the U.S.-Mexico border can reduce pressures on city infrastructure and resources. At a minimum, these partnerships require agreements to share data on expected releases and migrants' nationalities and medical conditions to allow NGOs and cities to prepare to provide immediate assistance. Because NGOs and cities on the border and in the country's interior provide different services and face distinct challenges, creating separate funding streams for each can tailor processes and reduce competition for federal resources. For these partnerships to be adequately funded, returning to the competitive grant process for federal funding is the best path forward.
- 6 Further strengthen engagement and coordination with Mexico on migration management and capacity-building.** Beyond collaboration on enforcement measures, the U.S. government should address specific challenges its Mexican counterparts face in meeting the humanitarian needs of

migrants waiting in Mexico for CBP One appointments or protection in the country and the related pressures on Mexican cities. Forward-looking engagement with Mexico should provide assistance and technical know-how for efforts to support interested migrants' settlement in Mexico, bolster efforts to modernize Mexico's asylum and migration system, and rule of law reforms. Coordinated efforts to establish refugee processing and other lawful mobility pathways to the United States from Mexico cannot be a substitute for investments in building Mexico's asylum system.

- 7 Develop robust refugee processing and resettlement programs within the Western Hemisphere.** Realizing the potential of the SMOs to provide migrants access to protection closer to home requires establishing new labor mobility and protection pathways across the region and developing trust and communication with local networks of community stakeholders—including activists, religious leaders, and legal services providers—who migrants trust and who are critical to raising SMOs' visibility and participation. Particularly for the United States, addressing procedural bottlenecks will be fundamental to reaching resettlement targets and building migrants' confidence in SMOs.
- 8 Leverage regional partnerships and high-level dialogues to streamline lawful pathways and build new ones to and beyond the United States.** Most people who visit an SMO are unlikely to qualify for refugee resettlement. Thus, for those offices to provide real alternatives that incentivize regular over irregular migration, it will be important to streamline access to existing legal mobility pathways and to build new ones to additional destination countries. Regional and high-level dialogues should play a stronger role in highlighting the benefits of labor pathways for both source and destination countries.

Border control through effective migration management calls for a paradigm shift, with policy and political implications that extend well beyond the U.S.-Mexico border. Implementing these recommendations can bolster the government's ability to establish a more flexible, adaptable, and durable system that recognizes the border as a multi-agency, public-private, diverse, cross-national, and culturally rich ecosystem in which no single policy or initiative can immediately reduce unauthorized migration.

The multilayered, coordinated approaches outlined here are essential if the United States and its regional partners are to move from reactive to forward-looking migration management. Still, long-overdue immigration reforms—beginning with much-needed infusions of resources—require actions by Congress. Without such parallel longer-term efforts, effective migration management and border control will continue to elude U.S. authorities, to the detriment of U.S. national interests, communities, and migrants alike.

1 Introduction

In fiscal year (FY) 2023, for the second year in a row, the number of migrant encounters at the U.S.-Mexico border reached historic highs at nearly 2.5 million. This comes at a time of dramatic change for U.S. border policy. In May 2023, the Biden administration ended Title 42 expulsions—the pandemic-era policy of quickly expelling some unauthorized migrants, as authorized by public health law—and put in place a series of new migration management policies. These measures showed some early successes in reducing the pace of

migrant crossings and have encouraged more people to arrive at rather than between ports of entry (POEs),² but overall numbers rose through the end of FY 2023. In turn, the growing number of migrant arrivals—especially families—being permitted to enter the country to seek asylum and arriving in large cities is outpacing the capacity of support services to provide adequate housing and support their self-sufficiency, fueling federal–state–local political tensions.

The post-Title 42 policy regime involves significant changes both at and well beyond U.S. borders. This includes a call for restricting certain migrants’ eligibility for asylum and implementing removals and other consequences for those crossing the border between POEs without authorization (a return to primary processing under Title 8 authorities). At the same time, the policies aim to create order by channeling migrants to POEs with the opportunity to subsequently request asylum once inside the United States; nationality-specific, sponsorship-based humanitarian parole programs; and improved access to lawful mobility and protection pathways through a network of Safe Mobility Offices at which intending migrants can learn about and apply for such mobility options closer to home, rather than undertaking dangerous irregular journeys.

This multifaceted approach, under challenge in pending litigation, intends to create greater order and predictability at the U.S.-Mexico border in tandem with legal admissions and longer-term regional migration management coordination across the Western Hemisphere. These policy changes represent a paradigm shift in the administration’s response to the new realities of large-scale mixed migration that have challenged the institutional capacity of governments and communities on both sides of the border. Yet, achieving a balance between imposing additional consequences to deter unauthorized migration and expanding legal mobility pathways has presented a significant challenge, particularly as migrant arrivals continue to fluctuate in composition and scale.

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To analyze these policy changes and shifting on-the-ground realities, a team of Migration Policy Institute (MPI) researchers traveled extensively along the U.S.-Mexico border and in southern Mexico, Guatemala, and Costa Rica in 2023 (see Box 1). Drawing on this field research as well as analysis of publicly available data and other sources, this study sheds light on the deeper considerations and constraints—operational, policy, cross-agency, and cross-national—that are at play as the Biden administration implements its new policy vision.

The report begins with an overview of contemporary U.S. border policies. It then details key changes in border processing capacities at and between POEs and the effects of U.S. policies on Mexico and regional coordination. To map a pragmatic and meaningful approach to these new realities, the report concludes with critical near- and longer-term policy next steps to achieve sustained border control, humane immigration enforcement, and effective migration management throughout the hemisphere.

² Colleen Putzel-Kavanaugh and Ariel G. Ruiz Soto, “Shifting Patterns and Policies Reshape Migration to U.S.-Mexico Border in Major Ways in 2023” (commentary, Migration Policy Institute, Washington, DC, October 2023).

BOX 1 About This Study

Between March and September 2023, Migration Policy Institute (MPI) analysts traveled to 13 border cities in the United States and Mexico and conducted additional interviews with officials, policy experts, and service providers to analyze changes in migration policy and on-the-ground realities.

In the United States, the team traveled to San Diego, California; Yuma, Arizona; and El Paso, Laredo, Del Rio, Eagle Pass, McAllen, Hidalgo, and Brownsville in Texas, conducting nearly 40 semi-structured interviews with Border Patrol and Office of Field Operations (OFO) officials and representatives of local government agencies and nongovernmental organizations (NGOs). Six of the nine Border Patrol sector visits also involved sector briefings, tours of soft-sided and centralized migrant processing facilities, and operational briefings on port responsibilities and technologies. The interviews with NGO and local government representatives, meanwhile, focused on how stakeholders coordinate and fund services for migrants after they are released from U.S. Customs and Border Protection (CBP) custody. The analysts also toured two migrant reception centers coordinated by these stakeholders.

In Mexico, the team traveled to Tijuana, Baja California; Ciudad Juárez, Chihuahua; and Reynosa and Matamoros in Tamaulipas, conducting 14 interviews with representatives of Mexico's National Institute of Migration (Instituto Nacional de Migración, INM), NGOs, and local government agencies. They also toured migrant encampments, shelters, and government facilities. Key topics included the effects of U.S. migration policies on Mexican border cities as well as migrants' needs for shelter, protection, and legal services and their experiences with the CBP One app.

The research team conducted additional follow-up interviews virtually and in-person with organizations working on U.S.-Mexico border policy. And finally, to better understand the implementation of Safe Mobility Offices and other regional programs, the researchers interviewed key stakeholders in Mexico (in Mexico City, Tuxtla Gutiérrez, and Tapachula), Guatemala (Huehuetenango, Quetzaltenango, and Guatemala City), and Costa Rica (San José and Upala).

2 Changing Approaches to Migration and Border Management

President Joe Biden came into office in January 2021 promising border control and humane immigration enforcement. On his inauguration day, the president issued six executive orders related to enforcement in the interior of the country and at the U.S.-Mexico border, many reversing Trump-era policies.³

In the interior, the Biden administration overhauled interior enforcement policies and priorities for Immigration and Customs Enforcement (ICE)⁴ and sought to fortify and strengthen the Deferred Action for Childhood Arrivals (DACA) program.⁵ It also ended the travel ban affecting certain majority-Muslim

3 Muzaffar Chishty and Jessica Bolter, "Biden at the One-Year Mark: A Greater Change in Direction on Immigration Than Is Recognized," *Migration Information Source*, January 19, 2022.

4 Joseph R. Biden, Jr., "Executive Order on the Revision of Civil Immigration Enforcement Policies and Priorities" (executive order, January 20, 2021).

5 Joseph R. Biden, Jr., "Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)" (memorandum from the President of the United States to Merrick Garland, Attorney General, and Alejandro Mayorkas, Secretary of Homeland Security, January 20, 2021).

countries.⁶ At the U.S.-Mexico border, the Biden administration committed to terminating the Migrant Protection Protocols (MPP),⁷ also known as the “Remain in Mexico” policy; halting construction of additional border fencing;⁸ and ending Title 42 expulsions and family detention.⁹ Additionally, the administration sent an ambitious immigration proposal to Congress that called for a sweeping legalization program and for border control combined with meeting migrants’ humanitarian protection needs.¹⁰ Though many of these efforts quickly became entangled in litigation, they signaled a repudiation and sweeping reversal of the restrictive policies instituted by the Trump administration.

Escalating numbers of migrant arrivals at the U.S.-Mexico border from across the Western Hemisphere, however, quickly overwhelmed border management operations. Migrant encounters rose from 1.7 million in FY 2021 to a record-breaking 2.4 million in FY 2022.¹¹ Beneath these topline numbers were increases in families and unaccompanied children as well as a diversification of migrants’ nationalities, both trends that further strained the U.S. immigration enforcement system. Families and unaccompanied children combined accounted for 36 percent of all encounters in FY 2021 and 29 percent in FY 2022, up from 21 percent in FY 2020.¹² Moreover, irregular migration from Venezuela, Cuba, and Nicaragua resulted in 571,000 encounters in FY 2022, surpassing the 521,000 encounters involving migrants from Guatemala, Honduras, and El Salvador—a notable shift, given these northern Central American countries had for many years ranked as the top origin countries, after only Mexico.¹³

In response and in coordination with the Mexican government, the Biden administration began in FY 2023 to implement measures that aim to simultaneously disincentivize irregular border crossings and encourage migrants to instead access alternative protection and legal mobility pathways. The U.S. government began expelling Venezuelan migrants to Mexico in October 2022 and Cubans, Haitians, and

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Nicaraguans in January 2023. All are countries with which the U.S. government has limited or no migrant repatriation agreements. Although only a fraction of migrants from these four countries were in fact expelled to Mexico under Title 42, the perception that these migrants were less likely to be allowed into the United States, along with changes in regional enforcement and other factors, contributed to a dramatic

6 Joseph R. Biden, Jr., “Proclamation on Ending Discriminatory Bans on Entry to the United States” (proclamation, January 20, 2021).

7 U.S. Department of Homeland Security (DHS), “DHS Terminates MPP and Continues to Process Individuals Who Were Enrolled in MPP Into the United States to Complete Their Immigration Proceedings,” updated January 24, 2023.

8 Joseph R. Biden, Jr., “Proclamation on the Termination of Emergency with Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction” (proclamation, January 20, 2021).

9 Testimony by Tae D. Johnson, Acting Director, U.S. Immigration and Customs Enforcement (ICE), *Fiscal Year 2024 Request for the U.S. Immigration and Customs*, for the U.S. House of Representatives, House Committee on Appropriations, Subcommittee on Homeland Security, 118th Cong., 1st sess., April 18, 2023.

10 White House, “Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize Our Immigration System,” updated January 20, 2021.

11 U.S. Customs and Border Protection (CBP), “Nationwide Encounters,” updated June 14, 2023.

12 CBP, “Nationwide Encounters.”

13 Ariel G. Ruiz Soto, “Record-Breaking Migrant Encounters at the U.S.-Mexico Border Overlook the Bigger Story” (commentary, Migration Policy Institute, Washington, DC, October 2022).

decrease in irregular arrivals in Spring 2023. Mexico's cooperation relied on the United States establishing corresponding legal avenues for nationals from these countries, which are experiencing severe political or economic crises, to enter the United States. Thus, the U.S. government established a novel humanitarian parole program first in October 2022 for Venezuelans and extended it to Cubans, Haitians, and Nicaraguans in January 2023. Pending ongoing litigation, potential beneficiaries with U.S. sponsors may apply from abroad for parole into the country, and those whose applications are approved can travel to the United States, receive permission to stay for two years, and then apply for a work permit.¹⁴

This strategy of pairing enforcement measures with increased lawful pathways informed and became fundamental to the Biden administration's post Title-42 policies, which are meant to reduce irregular arrivals at the U.S.-Mexico border and create order by redirecting migrants to an expanded set of legal entry options. The pairing rests on a May 2023 final rule, known as the Circumvention of Lawful Pathways (CLP) rule,¹⁵ that aims to incentivize migrants' use of legal channels, including by scheduling appointments through the CBP One app to enter lawfully at a POE, after which they can apply for protection. At the same time, the CLP rule establishes a presumption that migrants (not including unaccompanied children) who arrive at POEs without a CBP One appointment or who cross the border irregularly between POEs are ineligible for asylum unless they applied for and were denied asylum in a transit country.¹⁶ The rule provides exceptions for migrants who can demonstrate they face a medical emergency, imminent threat to life, or are a victim of trafficking.

The CLP rule has been widely criticized by NGOs and legal service providers who consider it akin to Trump-era restrictions on access to asylum. It remains in effect as of January 2024, but litigation to stop it is pending consideration by the Ninth Circuit Court of Appeals after a California district court judge ruled against the federal government in July 2023.¹⁷

In returning from Title 42 to Title 8 enforcement, the U.S. Department of Homeland Security (DHS) has sought to more quickly impose consequences for irregular entry. It expanded its use of expedited removals and repatriation flights, and expedited the first step in the defensive asylum process (the credible fear interview) for nondetailed families through the Family Expedited Removal Management (FERM) program. DHS also increased its use of traditional detention and alternatives to detention (ATD) program for single adults.¹⁸ Following negotiations in May 2023, the Mexican government also agreed to continue to accept

14 National Immigration Forum, "Explainer: Venezuela Parole Program and Title 42 Expansion," updated October 21, 2022; U.S. Citizenship and Immigration Services (USCIS), "Processes for Cubans, Haitians, Nicaraguans, and Venezuelans," updated September 20, 2023.

15 DHS and Executive Office for Immigration Review (EOIR), "Circumvention of Lawful Pathways," *Federal Register* 88, no. 94 (May 16, 2023): 31314. Among other things, the Circumvention of Lawful Pathways (CLP) rule aims to reduce maritime migration, making Cubans and Haitians interdicted at sea ineligible for the new nationality-specific humanitarian parole programs.

16 DHS, "Fact Sheet: Circumvention of Lawful Pathways Final Rule," updated May 11, 2023.

17 On July 25, 2023, Judge Tigar of the Northern District of California blocked the CLP rule in *East Bay Sanctuary Covenant v. Biden*, see the ruling here: *East Bay Sanctuary Covenant et al. v. Joseph R. Biden, et al.*, No. 18-cv-06810-JST (U.S. District Court for the Northern District of California, order granting plaintiffs' motion for summary judgement and denying defendants' motion for summary judgement, July 25, 2023). The judge granted a 14-day stay of the decision, and the Department of Justice filed an appeal. On August 3, 2023, the Ninth Circuit Court of Appeals paused the decision to block the policy, meaning that the policy will stay in effect for the duration of the case; see Lucy Hodgman, "9th Circuit Allows Biden Asylum Policy to Proceed for Now," Politico, August 3, 2023.

18 DHS, "Fact Sheet: U.S. Government Announces Sweeping New Actions to Manage Regional Migration," updated April 27, 2023.

returns from the United States of Cubans, Haitians, Nicaraguans, and Venezuelans who had arrived irregularly in Mexico before traveling to the U.S. border.¹⁹

These enforcement-focused policies combined contributed to a temporary decrease in migrant arrivals between POEs. Migrant encounters decreased by 46 percent from 184,000 in April 2023 to 100,000 in June. However, the reduction was short-lived and migrant encounters between POEs increased each month thereafter, reaching 219,000 in September.²⁰ These increases were in large part due to continued high levels of arrivals of Venezuelans and families from Mexico, Honduras, and Guatemala, groups that are less likely to be placed in removal proceedings (as explained in detail in the next section). By the end of FY 2023, U.S. immigration authorities had recorded 2 million migrant encounters between POEs and an additional 430,000 encounters at POEs (more than double the 173,000 recorded in FY 2022).²¹

At the same time, the Biden administration announced plans to double refugee resettlement in the Western Hemisphere and increased the daily level of CBP One appointments in June 2023.²² It also streamlined and expanded family reunification programs previously established for Cubans and Haitians, extending them to Salvadorans, Hondurans, Guatemalans, and Colombians in July and Ecuadorians in October.²³

In order to improve would-be migrants' access to existing and new lawful pathways and discourage them from undertaking dangerous irregular journeys, the administration has partnered with other governments to establish a network of Safe Mobility Offices throughout the hemisphere, beginning with Colombia, Costa Rica, Ecuador, and Guatemala.²⁴ Operated by the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR), these offices screen individuals for eligibility for lawful mobility and protection pathways and refer them to the United States, Canada, and Spain.

The sum of these proposed and implemented policies is an ambitious, integrated near- and longer-term approach intended to reduce chaos and human suffering at the U.S.-Mexico border, and to engage other countries in the Western Hemisphere in region-wide migration management. To bolster these efforts, the Biden administration requested \$13.6 billion in its FY 2024 border supplemental budget request to Congress, which as of early January 2024 was still the subject of negotiations.²⁵

In advancing this shift in the priorities, policies, and scope of its immigration actions, the administration has established a clear path forward that seeks to meet the challenges of this new era of increasingly global mobility. Its success will, to an important extent, depend on grappling with the operational realities and imperatives outlined in the sections that follow.

19 Mexico's Office of the President, "México y Estados Unidos fortalecen Plan Humanitario Conjunto sobre Migración" (press release, May 2, 2023).

20 Migration Policy Institute (MPI) calculations based on data from CBP, "Southwest Land Border Encounters," accessed January 5, 2024.

21 MPI calculations based on data from CBP, "Southwest Land Border Encounters."

22 Valerie Gonzales and Elliot Spagat, "US Expands Slots for Asylum App at Land Crossings as Demand Overwhelms Supply," Associated Press, June 2, 2023.

23 DHS, "Fact Sheet: U.S. Government Announces Sweeping New Actions to Manage Regional Migration"; DHS, "DHS Announces Family Reunification Parole Process for Ecuador," updated October 18, 2023.

24 DHS, "Fact Sheet: U.S. Government Announces Sweeping New Actions to Manage Regional Migration."

25 Executive Office of the President, Office of Management and Budget, "Supplemental Budget Request," October 20, 2023.

3 Processing between Ports of Entry

Of the 6.6 million migrant encounters recorded along the U.S.-Mexico border between FY 2021 and FY 2023, 5.9 million (90 percent) were processed by the U.S. Border Patrol between POEs. That is an average of nearly 2 million encounters each fiscal year since FY 2021 with migrants of increasingly different nationalities and characteristics.²⁶ The sustained volume and quickly changing composition of border arrivals have posed significant operational and logistical challenges for the Border Patrol and other agencies with a role in processing arriving migrants.

How migrants arrive irregularly between POEs has changed significantly. Migrants who learn they are likely to be processed quickly and released from Border Patrol custody, as is the case with Venezuelans, Cubans, Nicaraguans, and Haitians, tend to seek out and surrender to U.S. authorities soon after crossing into U.S. territory. These encounters, commonly referred to by Border Patrol agents as “give-ups,” reflect migrants’ intention to seek asylum once in the United States, often with the misguided perception that they will qualify for protection despite CLP restrictions. Mexicans and Central Americans, who are often aware that they may be detained and removed, are more likely to attempt to evade detection. Since FY 2021, an estimated 1.7 million migrants were detected but not encountered by the Border Patrol (also known as “gotaways”).²⁷

The processing of migrants encountered between POEs starts with the Border Patrol but relies significantly on secondary agencies, principally the Office of Refugee Resettlement (ORR), U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), and ultimately the Executive Office for Immigration Review (EOIR), the Justice Department agency that houses the immigration courts. Upon encountering unauthorized migrants, the Border Patrol generally has 72 hours to process migrants before transferring custody to these other agencies. Agents attempt to process and transfer custody of unaccompanied children within 24 hours to ORR.²⁸ Processing other vulnerable populations (e.g., families with children or migrants who are sick) may take longer. Ultimately, how long migrants spend in Border Patrol detention for processing depends not only on the agency’s internal capacity but also on the capacity of USCIS to conduct credible fear interviews for migrants who express the intent to seek asylum after being placed in removal proceedings and that of ICE to coordinate removal hearings and carry out removals.

The processing of migrants encountered between POEs starts with the Border Patrol but relies significantly on secondary agencies.

The Border Patrol, which has roughly 19,000 agents,²⁹ has seen recent increases in its temporary holding capacity. These changes have expanded the agency’s ability to detain migrants to a maximum of slightly

26 MPI calculations based on data on southwest land border encounters from CBP, “Nationwide Encounters.”

27 U.S. House of Representatives, Homeland Security Committee, “Worst on Record: Biden & Mayorkas Make Border Crisis History in Fiscal Year 2023,” updated October 23, 2023.

28 Mexican unaccompanied children ages 6 and older are repatriated in coordination with Mexico’s National Institute of Migration (Instituto Nacional de Migración, INM), while those from other countries are released to the Office of Refugee Resettlement (ORR), part of the U.S. Department of Health and Human Services.

29 Joel Rose, “Biden Names a Border Patrol Veteran in Texas to Be the Agency’s next Chief,” NPR, June 9, 2023.

more than 23,000 individuals per day, spread across 68 stations and 13 soft-sided facilities along the U.S.-Mexico border.³⁰ Along with other key administrative and logistical investments, which will be discussed below, this expanded detention capacity has improved orderly processing during periods of high arrivals, though more capacity is needed.

A. *Dispositions and Consequences*

With the end of Title 42 expulsions, the Border Patrol has returned to its traditional approach to processing migrants encountered at the border, known as Title 8 processing. Under Title 8, this processing can take different forms (called “dispositions” in Border Patrol parlance) and result in different outcomes (or “consequences”). These dispositions place migrants in processing tracks that include: starting removal proceedings that can lead to a five- or ten-year ban on re-entry; charging and releasing migrants into the United States with a notice to appear (NTA) for future immigration court hearings, where many seek asylum defensively; and releasing migrants into the country based on humanitarian considerations under certain parole conditions (e.g., 60 days to report to ICE and receive an NTA). Notably, though migrants may start on a particular disposition track, the consequences they face at the end of their cases may vary (i.e., a migrant who is initially placed in removal proceedings may be removed from the country, eventually be granted asylum in immigration court, or be found eligible for some other form of immigration relief).

A number of considerations shape Border Patrol decisions about which dispositions are used in which cases. For example, the list of countries with which the U.S. government has repatriation agreements directly affects which migrants the Border Patrol considers amenable for removal dispositions. Mexicans and northern Central Americans are more likely to be subject to expedited removal or reinstatement of removal than migrants of other nationalities.

Institutional capacity constraints are also central to disposition decisions. Continuous periods of elevated migrant arrivals have sometimes overwhelmed the holding and processing capacities of the Border Patrol, ICE, and USCIS, and affected Border Patrol sectors may seek temporary authorization from headquarters to use dispositions that require less processing time such as parole and ATDs (approximately 15 minutes per person) on a case-by-case basis instead of issuing NTAs (which can take up to two hours per family). Sectors have made this request during exigent circumstances—including when daily border-wide encounters have surpassed 7,000—to ensure detained migrants’ health and safety and the agency’s ability to conduct its mission.³¹

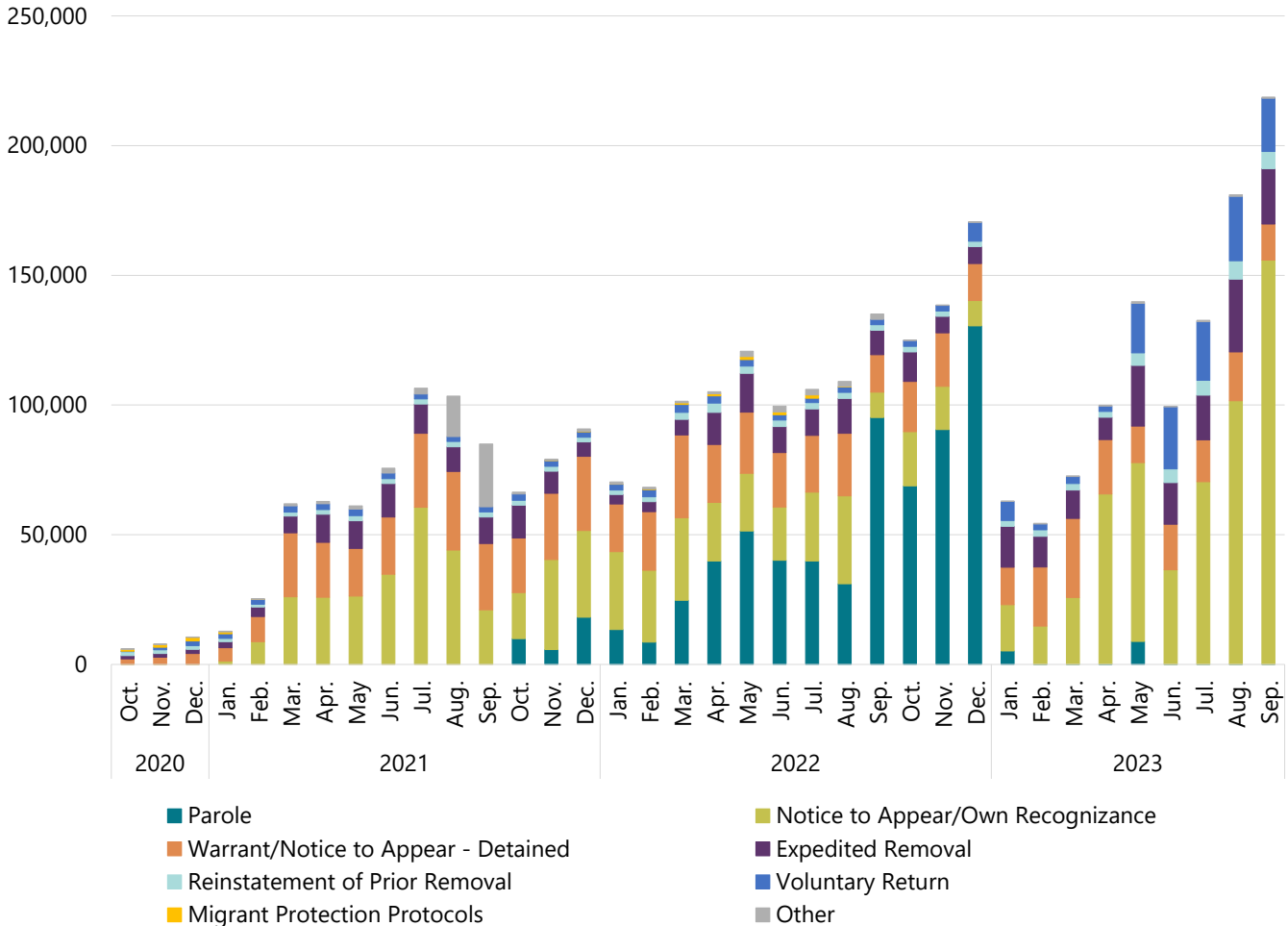
Institutional capacity constraints are also central to disposition decisions.

30 Eileen Sullivan and Michael D. Shear, “Border Is Calm as Crowds Cross and Biden Administration Fights Court Ruling,” *The New York Times*, May 12, 2023; testimony by Alejandro N. Mayorkas, Secretary, DHS, *Oversight of the U.S. Department of Homeland Security*, before the House Judiciary Committee, 118th Cong., 1st sess., July 26, 2023; DHS: “Fact Sheet: The Biden-Harris Administration Takes New Actions to Increase Border Enforcement and Accelerate Processing for Work Authorizations, While Continuing to Call on Congress to Act,” updated September 20, 2023.

31 Memorandum from Raul L. Ortiz, Chief, U.S. Border Patrol, to all chief parole agents and all directorate chiefs, made public by American Immigration Lawyers Association (AILA), “CBP Issues Memo on Policy on Parole with Conditions in Limited Circumstances Prior to the Issuance of a Charging Document,” May 10, 2023.

Border Patrol data show a decreased use of expedited removal and an increased use of parole (with and without ATD) during episodes of high migrant encounters in FY 2022 (see Figure 1). The use of parole, however, has been snarled in litigation since March 2023.³²

FIGURE 1
U.S. Border Patrol Monthly Title 8 Apprehensions, by Processing Disposition, FY 2021–23



Notes: Migrants who are placed into Title 8 proceedings can be removed under expedited removal, taken into detention and subsequently removed, or be released temporarily into the United States while their removal cases (along with possible asylum claims) are adjudicated. Dispositions categorized as “parole” include those labeled by the Border Patrol in FY 2022 as “Parole + Alternatives to Detention” and “Parole + Conditions,” whereby migrants receive a short term (usually 30-day) parole and then must report to ICE to receive a notice to appear (NTA). Border Patrol disposition data account for initial dispositions, meaning that final outcomes could change subject to the individual’s case.

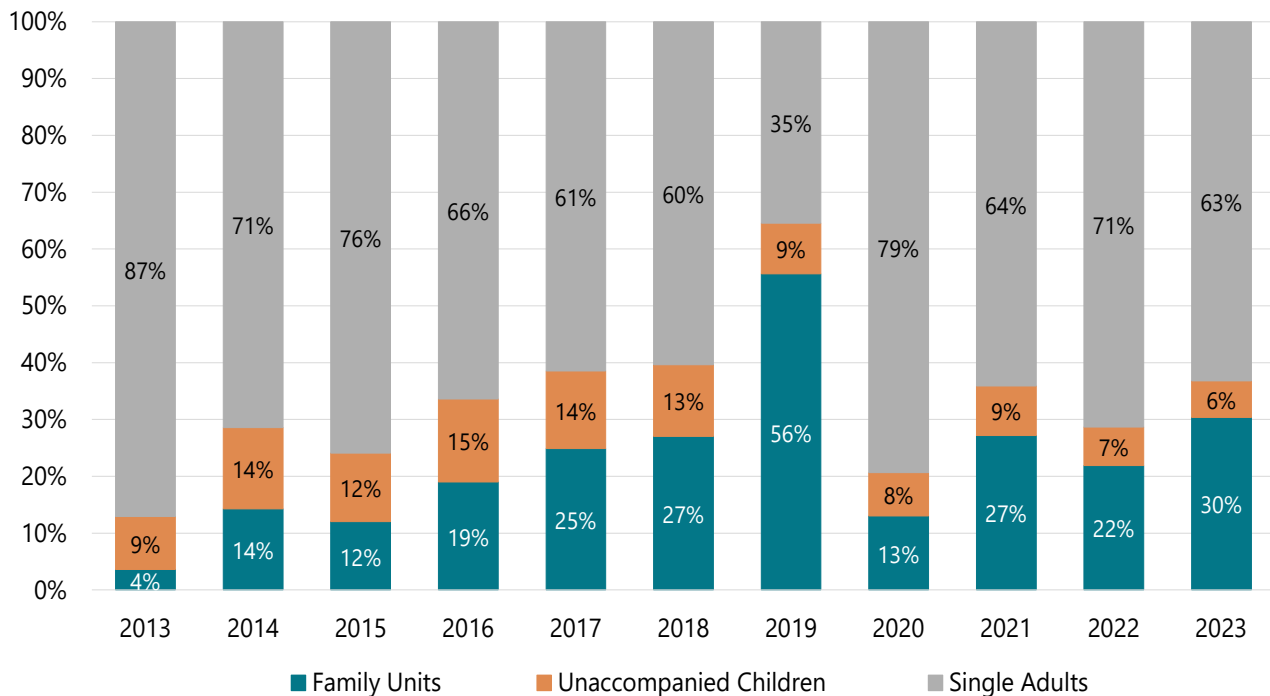
Source: Migration Policy Institute (MPI) tabulation of FY 2021–23 data from U.S. Customs and Border Protection (CBP), “Custody and Transfer Statistics—U.S. Border Patrol - Dispositions and Transfers—USBP Monthly Southwest Border Encounters by Processing Disposition,” updated November 14, 2023.

Even when migrant arrivals fell in June 2023 and the Biden administration sought to scale up the use of expedited removal, the fact that large numbers of migrants sought protection and/or could not easily be removed due to their nationality forced the Border Patrol to continue to rely on release with an NTA as its primary processing mechanism.

32 Andrew Atterbury, “Florida Federal Judge Temporarily Blocks Biden’s Migrant Parole Policy,” Politico, May 11, 2023.

The reliance on NTAs is also partially explained by the large share of migrants arriving in family units (see Figure 2), for which other dispositions generally are not used, given restrictions on how long and under what conditions families can be detained. Instead, the Border Patrol aims to quickly process and release families (and unaccompanied children) from custody. Episodes of increased and sustained family migration, as in July and August 2023, can then result in larger rates of NTA issuances. In turn, the increased use of NTAs and parole creates a growing population of migrants with liminal statuses for extended periods of time, adding to the backlog of asylum and other cases in U.S. immigration courts and leaving migrants in legal limbo for years to come.³³

FIGURE 2

U.S. Border Patrol Encounters at the U.S.-Mexico Border, by Type, FY 2013–23

Sources: MPI tabulation of data on southwest land border encounters from CBP, “United States Border Patrol Southwest Family Unit Subject and Unaccompanied Alien Children Apprehensions Fiscal Year 2016,” updated November 2, 2023; CBP, “Southwest Border Migration FY 2017,” updated December 15, 2017; CBP, “U.S. Border Patrol Southwest Border Apprehensions by Sector Fiscal Year 2019,” updated November 3, 2023; and CBP, “Nationwide Encounters—FY20 - FY23 Nationwide Encounters by Area of Responsibility,” updated November 14, 2023.

In response to increased family arrivals, the Biden administration announced in May 2023 the Family Expedited Removal Management (FERM) program.³⁴ The program is for families processed for expedited removal who indicate a fear of return, and it allows USCIS to conduct the resulting credible fear interview in a nondetained but monitored setting in certain cities. Since its implementation, the FERM program has been adding additional cities to its list of participating locations on a weekly basis. Still, the program has been used to process a relatively small population to date: just 1,600 families between May and September 2023.³⁵

33 For an examination of issues contributing to the backlog in asylum cases, see Muzaffar Chishti et al., *At the Breaking Point: Rethinking the U.S. Immigration Court System* (Washington, DC: MPI, 2023).

34 ICE, “ICE Announces New Process for Placing Family Units in Expedited Removal” (news release, May 11, 2023).

35 DHS, “Fact Sheet: The Biden-Harris Administration Takes New Actions.”

BOX 2 The Growing Use of Parole at the Border and Beyond

The *Immigration and Nationality Act* (INA) allows the U.S. Department of Homeland Security (DHS) to use parole on a case-by-case basis to grant noncitizens permission to lawfully enter the country for a certain length of time for humanitarian reasons or for significant public benefit, and parolees are eligible to apply for employment authorization. This parole authority has been used for decades, but the Biden administration's prolific use of it to respond to humanitarian crises and border pressures surpasses that of prior administrations.

Parole can be used by Border Patrol, OFO, and ICE as part of migrant processing at and between POEs. Humanitarian parole can be used at POEs, at the discretion of an officer, for people without travel authorization who present an acute medical or humanitarian need. Additionally, migrants who arrive at a POE with or without a CBP One appointment and express fear of returning to their origin country may receive discretionary parole in addition to receiving a notice to appear (NTA) in immigration court. Those processed with a CBP One appointment generally receive two years of parole while those without an appointment typically receive one year of parole.

Between POEs, Border Patrol has used the parole authority for faster processing during times of high migrant arrivals when its facilities face overcrowding. Previously, when Border Patrol capacity met or exceeded a certain threshold border-wide, agents were given the authority to grant eligible migrants a 60-day parole and place them in an ATD program, though as of January 2024, these policies were mired in litigation and barred from use. Migrants granted this short-term parole are required to report to an ICE office before the parole ends to receive their NTA.

Other recent uses of parole have been for specific nationalities, based on U.S. interests and urgent humanitarian needs. In response to the Taliban takeover of Afghanistan following the withdrawal of Western forces, the U.S. government implemented Operation Allies Welcome to facilitate the arrival of vulnerable Afghans and Afghans who served alongside U.S. troops. In coordination with various government agencies, Afghans are vetted and interviewed in a safe third country and upon arrival at a U.S. POE, where CBP officers may use their discretion to grant a two-year period of parole. Since 2021, the U.S. government has welcomed more than 90,000 Afghans through this process.

The Biden administration announced its first nationality-specific, sponsorship-based parole program, Uniting for Ukraine, in April 2022. Through this program, a U.S. sponsor applies through USCIS to support a Ukrainian national (or family), approved beneficiaries must travel by air to the United States, and upon arrival, a CBP officer may use their discretion to grant a two-year period of parole. The program does not have a cap, and more than 170,000 Ukrainians had arrived in the country as of December 2023. A similar process was implemented in October 2022 for Venezuelans and expanded in January 2023 to include Cubans, Haitians, and Nicaraguans. This program has a cap of 30,000 parolees per month, and more than 60,000 Cubans, 112,000 Haitians, 47,000 Nicaraguans, and 76,000 Venezuelans had arrived in the United States as of November 2023.

Sources: DHS, *Parole Requests Fiscal Year 2023, First Quarter* (Washington, DC: DHS, 2023); Muzaffar Chishti and Kathleen Bush-Joseph, "In the Twilight Zone: Record Number of U.S. Immigrants Are in Limbo Statuses," *Migration Information Source*, August 2, 2023; DHS, "Operation Allies Welcome," updated October 26, 2023; U.S. Department of State, "Afghan Arrivals under the US. Refugee Admissions Program," accessed November 11, 2023; DHS, "Uniting for Ukraine," updated December 5, 2023; U.S. Department of State, "Welcoming Ukrainian Nationals to the United States," accessed January 5, 2024; USCIS, "Processes for Cubans, Haitians, Nicaraguans, and Venezuelans," updated September 20, 2023; CBP, "CBP Releases November 2023 Monthly Update," updated December 22, 2023.

B. *Credible Fear Interviews*

When placed in expedited removal, migrants who indicate they intend to apply for asylum, express fear of persecution or torture, or express fear of returning to their country of origin are eligible for a credible fear interview.³⁶ The interview is conducted by a USCIS asylum officer, who determines whether an individual meets the credible fear standard, and those with positive determinations may then apply for asylum.³⁷

For migrants encountered between POEs, the credible fear interview process changed with the implementation of the CLP rule. Now, migrants placed in expedited removal who claim fear of persecution must first rebut the rule's presumption of ineligibility. If they are not able to prove they applied for and were denied asylum in a transit country, or that they qualify for another exception to the rule, migrants are instead screened for eligibility for withholding of removal or protection under the Convention Against Torture, which requires migrants to meet much higher standards to establish that they fear return to their country of origin.³⁸ Migrants who arrive at POEs without a CBP One appointment may be inspected and released into the country with a NTA, but they will similarly have to overcome the rule's presumption of ineligibility if they apply for asylum.

The application of the CLP rule varies depending on migrants' characteristics and whether they arrive at or between POEs. Unlike those who arrive at POEs without a CBP One appointment and are inspected by OFO, single Spanish-speaking adults arriving between POEs who claim a fear of persecution are given their credible fear interview while in Border Patrol custody via phone and video interviews with USCIS asylum officers. Between the rule's implementation in May and September 2023, USCIS conducted 58,000 credible fear interviews like this,³⁹ usually within 24–48 hours of a migrant's arrival in Border Patrol custody. Prior to the interview, migrants are allowed access to a phone and issued a list of legal service providers, who may be able to provide basic assistance and explain the interview process to them. However, legal service providers have raised serious concerns about the compressed timeframe of the interviews, which makes it difficult for migrants to contact legal counsel, and advocates have raised questions regarding limitations placed by Border Patrol on migrants' phone usage.⁴⁰

The application of the CLP rule varies depending on migrants' characteristics and whether they arrive at or between POEs.

Migrants who enter U.S. territory irregularly between POEs but are not placed in removal proceedings and given a credible fear interview in Border Patrol custody, like those who arrive at POEs without a CBP One appointment, are still subject to the CLP rule if they apply for asylum at their future immigration court hearing. For example, families placed in the FERM program undergo the interview process in a similarly compressed timeframe but in a nondetained setting. Additionally, migrants issued an NTA and released from custody will be subject to the rule when they appear in immigration court.

³⁶ USCIS, "Questions and Answers: Credible Fear Screening," updated September 12, 2023.

³⁷ USCIS, "Questions and Answers: Credible Fear Screening."

³⁸ DHS, "Fact Sheet: Circumvention of Lawful Pathways Final Rule."

³⁹ Declaration of Blas Nuñez-Neto, Assistant Homeland Security Secretary, Border and Immigration Policy, *M.A et al v. Alejandro Mayorkas* (U.S. District Court of the District of Columbia, October 2023).

⁴⁰ Eileen Sullivan, "Lawyers Say Helping Asylum Seekers in Border Custody Is Nearly Impossible," *New York Times*, July 22, 2023.

From the implementation of the CLP rule in May through September 2023, 59 percent of the 58,000 migrants screened under the rule in Border Patrol custody were deemed to have a credible fear of persecution.⁴¹ Prior to the pandemic, credible fear grant rates reached a high of 83 percent.⁴² Though grant rates have fallen considerably among those screened under the CLP rule, its overall impact has been minimal because just 7 percent of migrants encountered by Border Patrol over the same period were subject to the rule.

C. *Detention and Processing Capacity*

A centerpiece of the changing reality at the U.S.-Mexico border has been Border Patrol's expanded use of soft-sided, tent-like facilities to reduce processing times, improve migrant care, and manage staffing and government resources to allow agents to return to their primary mission of frontline border enforcement. The agency has used these facilities during prior episodes of high migrant arrivals, but recent levels have pushed Border Patrol to expand its capacity. As of August 2023, the agency had 13 soft-sided facilities, each with the capacity to house between 600 to 2,000 migrants in pods, depending on migrants' gender and family composition. Including these soft-sided facilities as well as patrol stations, Border Patrol can detain more than 23,000 people across its facilities at any one-time.⁴³

To operate logistics and services in these facilities, Border Patrol employs an array of agents, processing coordinators, private contractors, and volunteers. As of March 2023, 961 Border Patrol processing coordinators⁴⁴ provided migrant care, intake processing, and administrative and logistical support (e.g., data entry and filing, transportation, and welfare checks). These coordinators have relieved agents of many administrative functions, but only agents can authorize case adjudications to issue NTAs or place migrants in removal proceedings.⁴⁵ Additionally, more than 1,300 contractors provided security, food services, and medical and child care.⁴⁶ Volunteers primarily assisted in organizing food, clothing, and storage supplies.

The soft-sided facilities, while a boost to capacity, are not however suitable for long-term detention. Migrants in pods sleep on mattresses on the floor with foil blankets, access to outdoor recreation time varies across facilities, and while some have light dimmers, in others the lights remain on 24 hours a day. Single adult males remain locked in their pods, while pods containing families or unaccompanied children have more freedom of movement. One agent interviewed as part of this study noted that the soft-sided facilities help to create a sense of calm by being taller and airier.⁴⁷ Yet, when facilities are overcrowded, deficiencies in contractor-provided care can lead to harmful conditions for migrants, including reported deaths.⁴⁸

41 Declaration of Nuñez-Neto, *M.A et al v. Alejandro Mayorkas*.

42 Declaration of Nuñez-Neto, *M.A et al v. Alejandro Mayorkas*.

43 Mayorkas, *Oversight of the U.S. Department of Homeland Security*. On September 20, 2023, the Biden administration released a fact sheet highlighting several changes to interior and border operations. Included in the announcement was the expansion of CBP capacity at both Border Patrol and ICE facilities to 23,000. See DHS, "Fact Sheet: The Biden-Harris Administration Takes New Actions."

44 The first class of Border Patrol processing coordinators was deployed in April 2021 to assist in migrant processing.

45 Letter from Senators James Lankford and Christopher S. Murphy to Homeland Security Secretary Alejandro Mayorkas on the issuance of notices to appear (NTAs) to migrants in Border Patrol custody, May 3, 2023.

46 Testimony by Raul Ortiz, Chief, U.S. Border Patrol, in a hearing before the U.S. House of Representatives Committee on Homeland Security titled, "Failure by Design: Examining Secretary Mayorkas' Border Crisis," March 15, 2023.

47 Author interview with Border Patrol agent in Rio Grande Valley Sector, March 2023.

48 Eileen Sullivan, "8-Year-Old Migrant Who Died in C.B.P. Custody Was Seen by Medical Staff 11 Times," *The New York Times*, June 1, 2023.

Another key feature of these centers is their integration of Border Patrol’s work with that of other government agencies to facilitate custody transfer and migrant processing. ICE personnel are present at these facilities to coordinate dispositions and carry out consequences—primarily to serve NTAs, schedule removal flights, and distribute ATD technology (such as GPS-enabled cellphones with a monitoring app)—once migrants have been screened and processed by the Border Patrol. In preparation for the end of Title 42, Border Patrol also established dozens of private booths, outfitted with phone and video capabilities, in each facility for USCIS to virtually conduct credible fear interviews with migrants. While ORR is also involved in this migrant processing system, in that Border Patrol coordinates and transfers custody of unaccompanied children to the agency, ORR does not have an in-person presence in these facilities. Legal service providers are not authorized to enter these facilities, which reduces migrants’ access to in-person representation during processing and has drawn criticisms from immigrant rights organizations.

The capacity of secondary agencies such as ORR, USCIS, and ICE can have a major impact on how migrant processing plays out. When these agencies lack capacity to take over custody, conduct credible fear interviews, or transfer migrants for expulsion or removal, Border Patrol may end up detaining migrants beyond the intended 72-hour period, or their initial disposition may change. For instance, migrants who are issued a NTA with a warrant of arrest may be transferred to ICE Enforcement and Removal Operations (ERO) custody, contingent on that agency’s limited detention capacity. If the migrants cannot be detained, they may be released under an ATD program. Similarly, if ICE ERO’s removal capacity is exhausted, migrants processed under expedited removal or reinstatement of removal may be detained longer in Border Patrol custody.⁴⁹ In turn, longer detention periods in Border Patrol facilities may overwhelm those facilities’ capacity during spikes in migrant arrivals, resulting in added pressure to release migrants with temporary parole.

The capacity of secondary agencies such as ORR, USCIS, and ICE can have a major impact on how migrant processing plays out.

Funding Border Infrastructure and Capacity

Changing on-the-ground realities and administrative priorities have also shifted federal funding requests for CBP. While spending for CBP enforcement needs, like detention and enhanced detection technology, is still significant, in recent years more funds have been dedicated to staffing, ATDs, and modernized infrastructure, as a result of the increased number and diversity of migrant arrivals.⁵⁰

For example, the budget for FY 2021 requested \$20 million for the hiring of Border Patrol processing coordinators, the first federal budgeting for this new position.⁵¹ And as migrant encounters increased in FY 2022 and FY 2023, the Biden administration requested \$163 million and \$230 million, respectively, to increase capacity and meet the care needs of migrants processed at the border.⁵² Taken together, these budgetary requests reflect efforts to aid the Border Patrol in managing changing migrant arrivals. The

49 In August 2022, the Office of the Inspector General reported that the El Paso Border Patrol Sector held migrants in custody beyond the 72-hour limit due to insufficient ICE detention capacity at its facilities. See Cindy Ramirez, “Inspector General: El Paso Border Patrol Sector Held Migrants in Custody Beyond 72-Hour Limit,” El Paso Matters, August 17, 2022.

50 DHS, “DHS Budget,” updated March 1, 2023.

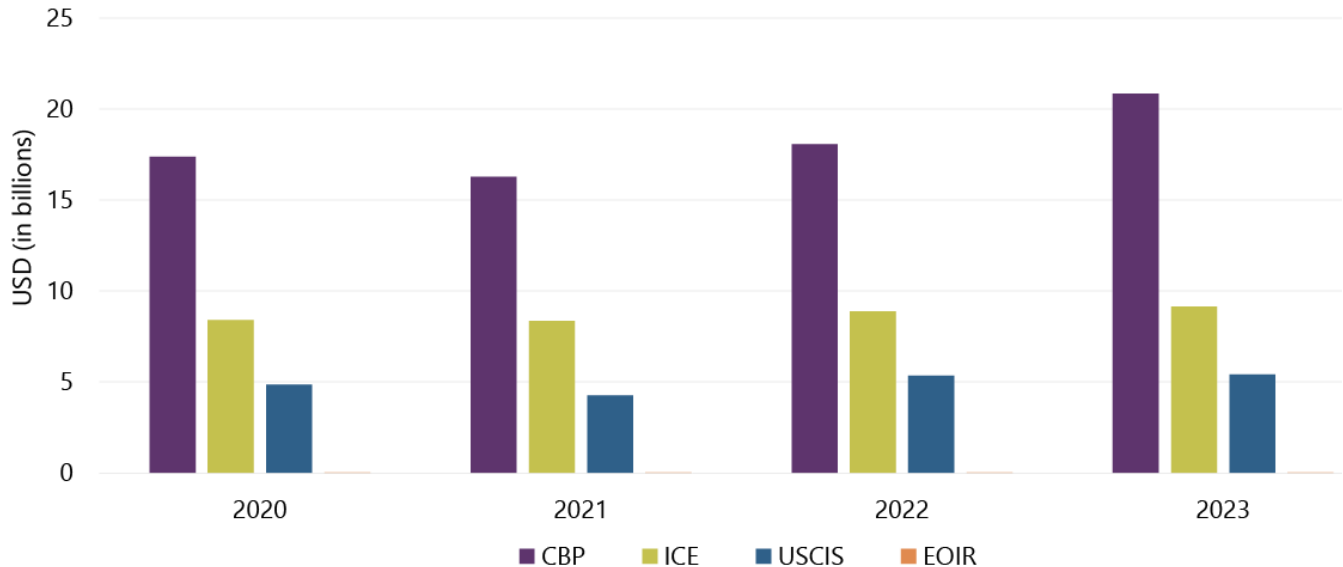
51 DHS, *FY 2021 Budget in Brief* (Washington, DC: DHS, 2020).

52 DHS, *FY 2022 Budget in Brief* (Washington, DC: DHS, 2021); DHS, *FY 2023 Budget in Brief* (Washington, DC: DHS, 2022).

budgets ultimately enacted for federal immigration agencies (shown in Figure 3) reflect the outcomes of congressional negotiations.

FIGURE 3

Enacted Budgets for Federal Immigration Agencies, FY 2020–23



Sources: DHS, *FY 2021 Budget in Brief* (Washington, DC: DHS, 2020); DHS, *FY 2022 Budget in Brief* (Washington, DC: DHS, 2021); DHS, *FY 2023 Budget in Brief* (Washington, DC: DHS, 2022); EOIR, “FY 2022 Budget Request at a Glance” (budget overview, n.d.); EOIR, “FY 2023 Budget Request at a Glance” (budget overview, n.d.).

Though these changes have sought to optimize Border Patrol’s capacity to process migrants quickly and safely, other important immigration agencies require similar measures to meet resource needs. For example, increased investments in ATD programs signal the Biden administration’s commitment to using means other than detention to ensure migrants appear for their immigration court hearings. However, reducing or limiting existing ICE detention capacity can delay migrant custody transfers and subsequently hamper Border Patrol’s processing abilities.⁵³ Dispositions such as expedited removal require ICE capacity, and current funding levels do not meet the needs on the ground. Similarly, EOIR’s immigration courts are ill-equipped to handle the increase in cases filed by migrants seeking protection, resulting in staggering backlogs and leaving migrants stuck in liminal statuses for years.⁵⁴

Creating a well-managed U.S. immigration system requires an investment in the whole system, starting at the border but extending beyond it to these downstream agencies. The Biden administration’s supplemental border funding request for FY 2024 reflects an attempt to rectify these mismatches, with \$2.5 billion requested for ICE (up from \$759 million in the prior funding request), \$755 million for USCIS (up from \$0), and \$1.4 billion for EOIR (up from \$36 million).⁵⁵ Effectively aligning agencies’ resources would maximize processing capacity and enforcement outcomes.

⁵³ DHS, “DHS Budget.”

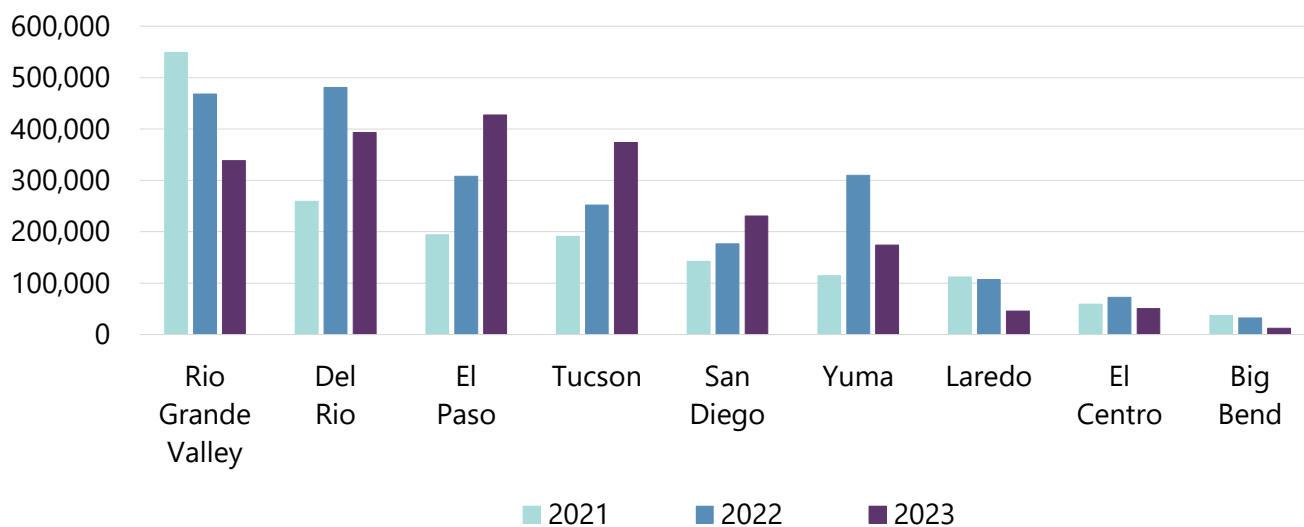
⁵⁴ Chishti et al., *At the Breaking Point*.

⁵⁵ White House, “Letter Regarding Critical National Security Funding Needs for FY 2024” (letter to Speaker Pro Tempore of the House of Representatives, October 20, 2023); Executive Office of the President, Office of Management and Budget, “Supplemental Budget Request,” August 10, 2023; DHS, “Fact Sheet: Biden-Harris Administration Supplemental Funding Request,” updated October 20, 2023.

D. Sector and State Differences

Different parts of the U.S.-Mexico border experience migrant arrivals at different scales and from various countries, with implications for how Border Patrol shifts personnel and adjusts capacities. Since FY 2021, 58 percent of all migrant encounters between POEs have occurred in the Rio Grande Valley, Del Rio, and El Paso sectors. Rio Grande Valley and Del Rio recorded the most encounters in FY 2021 and FY 2022, respectively, and El Paso recorded the most encounters in FY 2023 (see Figure 4). At the same time, sectors with smaller staffing and resources, such as Yuma and Tucson, have recently experienced disproportionate migrant arrivals after years of lower activity, challenging their capacities. Across the border, interviewed agents expressed frustration with low staffing levels and resource allocations compared to the challenge of managing the border successfully, but those in smaller sectors particularly noted the need to do more with less.⁵⁶

FIGURE 4
Migrant Encounters between Ports of Entry, by Border Sector, FY 2021–23



Source: MPI tabulation of southwest land border encounters data from CBP, "Nationwide Encounters."

In the last three fiscal years, migrant encounters across all nine Border Patrol sectors have reflected the increasingly hemispheric nature of migration in the region, with arrivals from a much wider range of countries beyond Mexico and northern Central America. However, encounters with migrants of certain nationalities have tended to be concentrated in certain sectors. Between FY 2021 and FY 2023, Mexican migrants were the top group encountered in seven of the nine sectors, while Hondurans ranked first in Rio Grande Valley, as did Cubans in Yuma. Rio Grande Valley has long received large numbers of Central Americans, and Yuma has become a hub for South Americans (see Table 1). Though Venezuela only ranked third among origin countries in the Del Rio sector, 43 percent of all Venezuelans to cross the U.S. border irregularly since FY 2021 have done so through that sector. Trends also suggest that the El Paso sector is becoming the most evenly diverse, recently experiencing high levels of Venezuelan, Ecuadoran, and

⁵⁶ Author interviews with Border Patrol agents in the San Diego, Yuma, and Del Rio sectors, March 2023.

Nicaraguan arrivals—plus a notable presence of Colombian and Turkish migrants. Due to changes in arrivals in FY 2023, encounters in the San Diego sector have also become increasingly diverse, involving more migrants from beyond Mexico and Central America.

TABLE 1

Top Five Countries of Origin of Migrants Encountered between Ports of Entry, by Border Sector, FY 2021–23

	Rio Grande Valley	Del Rio	El Paso	Tucson	San Diego	Yuma	Laredo	El Centro	Big Bend
1	Honduras	Mexico	Mexico	Mexico	Mexico	Cuba	Mexico	Mexico	Mexico
2	Guatemala	Honduras	Guatemala	Guatemala	Colombia	Colombia	Guatemala	Cuba	Guatemala
3	Mexico	Venezuela	Venezuela	Ecuador	Brazil	Brazil	Honduras	Peru	Ecuador
4	El Salvador	Cuba	Ecuador	India	Peru	Peru	El Salvador	Colombia	Honduras
5	Nicaragua	Nicaragua	Nicaragua	Cuba	China	Venezuela	Ecuador	India	Venezuela

Notes: Top five nationalities were determined by totaling the number of encounters by nationality and sector from FY 2021 through FY 2023. Countries included in this table do not include the unknown number of countries listed by Border Patrol under the category of “other.”

Source: MPI tabulation of southwest land border encounters data from CBP, “Nationwide Encounters.”

Beyond the volume and characteristics of the migrants they receive, the geographical terrain and state policies across Border Patrol sectors also directly shape CBP operations. From miles of coastline in San Diego to sand dunes in Yuma and remote desert locations in Del Rio, the varied landscapes across the border provide natural barriers that can facilitate or restrict Border Patrol access and operations. Rugged terrain and natural threats can create dangers for migrants and agents alike.

Each sector also varies in terms of border length, area of responsibility, fencing systems, and use of additional technology to gather intelligence and surveil remote areas. In interviews, Border Patrol agents generally described physical fencing as primarily a means of increasing field capacity by slowing down migrants and smugglers.⁵⁷ It is the technology to locate migrants and direct agents in the field, coupled with fencing systems, that they considered to have the most significant impact on field operations. Especially in areas without fencing, mobile land and air surveillance units equipped with artificial intelligence to detect migrants were described as critical for daily operations.

State policies are also increasingly seeking to shape enforcement between POEs, creating additional differences between Border Patrol sectors. The clearest example is Texas’s Operation Lone Star. Implemented in March 2021, this has involved the deployment of Texas National Guard members and Department of Public Safety personnel to the U.S.-Mexico border to build fencing and arrest unauthorized migrants on trespassing charges.⁵⁸ The operation was received positively in some Texas border communities in remote areas or where there are gaps in federal fencing, but it has also been criticized in other parts of the state. In the Del Rio sector, for instance, Border Patrol has welcomed the presence of National Guard members as a deterrence mechanism, and some local ranchers have supported their arrests of migrants trespassing

57 Author interviews with Border Patrol agents in multiple sectors, March 2023.

58 Emily Hernandez, “What Is Operation Lone Star? Gov. Greg Abbott’s Controversial Border Mission, Explained,” *The Texas Tribune*, March 30, 2022.

on private property.⁵⁹ In El Paso, opponents have criticized the lack of coordination between state and federal authorities to identify strategic locations for state-built fencing.⁶⁰ Other public concerns regarding the operation include the Department of Public Safety's high-speed chases of migrants in congested areas, which have resulted in bystander injuries and fatalities.⁶¹ In July 2023, in the most recent expansion of Operation Lone Star, a water barrier made up of buoys and razor wire was erected within the Rio Grande and resulted in two deaths that month.⁶²

Additionally, Texas passed Senate Bill 4 in November 2023 amidst wide criticism, making unauthorized entries into Texas from Mexico a misdemeanor state offense and allowing law enforcement to arrest people suspected of doing so. It also authorizes state judges to order migrants to return to Mexico. The bill is expected to go into effect in February 2024, though it already faces multiple lawsuits.⁶³ Depending on its implementation, it could create new challenges for how federal agencies detain and remove unauthorized migrants in Texas.

4 Processing at Ports of Entry

A key aim of the new set of border policies is to direct migrants seeking to enter the United States to POEs via the CBP One app to be screened and processed into the country in an orderly manner, instead of attempting to cross the border between POEs. The mission of POEs, overseen by CBP's Office of Field Operations (OFO), is to facilitate legitimate trade and travel and to screen for potential threats to national security amid the millions of pedestrians, personal vehicles, and cargo that cross the border. POEs are vital pathways that enable economic growth, movement to school and work, avenues for tourism, and much more.

Within this broader mission, POEs are also now tasked with processing migrants who have scheduled appointments to enter the United States. Prior to the implementation of CBP One, irregular migrants did occasionally arrive at POEs, though this was rare. Now, POEs have a set number of daily CBP One appointments

POEs are vital pathways that enable economic growth, movement to school and work, avenues for tourism, and much more.

59 Author interviews with Border Patrol agents in the Del Rio sector, March 2023.

60 Author interviews with NGOs in the El Paso sector, March 2023.

61 Aaron J. Montes, "Operation Lone Star leads to More DPS Troopers in High Speed Pursuits Resulting in Collisions in El Paso," Texas Public Radio, August 15, 2023; Paul J. Weber and Valerie Gonzalez, "Chase on Texas Border that Killed 8 Puts High-Speed Pursuits in Spotlight Again," Associated Press, November 9, 2023; Norma Herrera, "So Much Blood on the Ground: Dangerous and Deadly Vehicle Pursuits under Texas' Operation Lone Star," Human Rights Watch, November 27, 2023.

62 David Martin Davies, "A Visit to the Floating Border Wall Installed by Texas Gov. Greg Abbott," updated August 6, 2023. In response to the implementation of the water buoys, Mexico sent a diplomatic letter to the United States stating that the installation violated the 1944 water treaty; see Stephen Eisenhammer, "Mexico Says Texan Buoys in Rio Grande Breach Water Treaty," Reuters, July 14, 2023. On July 24, the Department of Justice filed a civil complaint against Texas for the installation of the buoys; see U.S. Department of Justice, Office of Public Affairs, "Justice Department Files Complaint against the State of Texas for Illegally Placing Floating Buoy Barrier in the Rio Grande" (press release, July 24, 2023).

63 Keenan Willard, "Gov. Abbott Prepares to Sign Immigration Law SB4; Advocates Call it Racist, Unconstitutional," NBC Dallas Fort Worth, November 19, 2023; *Las Americas Immigrant Advocacy Center; American Gateways; and the County of El Paso, Texas v. Steven C. McCraw*, Case 1:23-cv-01537 (U.S. District Court for the Western District of Texas, Austin Division, December 19, 2023); *United States of America v. the State of Texas; Greg Abbott; Texas Department of Public Safety; Steven C. McCraw*, Case 1:24-cv-00008 (U.S. District Court for the Western District of Texas, Austin Division, January 3, 2024).

but still accept some irregular migrants without them (commonly referred to as “walk-ups”), especially if those migrants are part of a vulnerable population such as unaccompanied children or express an acute need for assistance. The acceptance of walk-ups varies across POEs and often depends on the current capacity of officers. Walk-ups processed and released into the country by OFO with an NTA will be subject to the CLP rule if they seek asylum at their immigration hearing. By encouraging migrants to register and schedule their entry, the U.S. government maintains more processing control over who comes to a POE and when. If unscheduled migrant arrivals become overwhelming, OFO can erect barriers or shut down bridges to prevent movement, though this comes at the expense of regular travel and trade.

In June 2023, OFO adjusted its operations to process 1,450 migrants per day through CBP One appointments.⁶⁴ Though that is a record number of migrants processed at POEs, the number of appointments still falls far below demand. It is unclear if appointments can be increased, given the other port operations necessary for trade and travel.

A. *CBP One App and Processing*

Launched in October 2020, the CBP One mobile app allows travelers, traders, cargo operators, and migrants to access various CBP processes, including pre-submission of the I-94 form (the entry form that acts as proof of legal visitor status), scheduling inspection times at cargo ports, and access to updated border crossing wait times.⁶⁵ In January 2023, CBP One’s capabilities were expanded to enable any migrant seeking entrance into the United States to make an appointment to present at a POE for processing for an exemption to Title 42 border restrictions.⁶⁶ In May 2023, the CLP rule further incentivized use of the CBP One app by subjecting migrants who arrive between POEs or at a POE without an appointment to a presumption of ineligibility for asylum.⁶⁷ The objective of these measures is to create predictability and order, giving border officials advanced information on who will be arriving at the border. Though the app has faced technological issues at times, it has broadly proven to be an effective scheduling tool. Its advanced information capabilities have allowed OFO to process four to five times more migrants at POEs, even compared to pre-pandemic periods.⁶⁸

Between January and September 2023, more than 278,000 migrants made appointments to present at POEs through the CBP One app.⁶⁹ Initially, daily appointments numbered between 740 and 800 border-wide. The number has since been expanded to 1,450 appointments per day across the eight POEs where this type of

⁶⁴ CBP, “[CBP One Appointments Increased to 1,450 Per Day](#)” (news release, June 30, 2023).

⁶⁵ CBP, “[CBP One Mobile Application](#),” updated June 28, 2023. Migrants who present themselves at a port of entry with a CBP One appointment are counted in overall U.S.-Mexico border encounters. Obtaining a CBP One appointment does not guarantee entry into the United States. Office of Field Operations (OFO) officers must still screen and vet every person before they enter via a port of entry, and the officers have the discretion to deny entry to individuals deemed inadmissible.

⁶⁶ White House, “[Fact Sheet: Biden-Harris Administration Announces New Border Enforcement Actions](#),” updated January 5, 2023. There are no limitations on who can use the CBP One app to schedule a time to present at a POE. Migrants who secure an appointment with CBP One and are authorized to enter the United States may decide to apply for protection or another immigration pathway once inside the country.

⁶⁷ DHS and EOIR, “[Circumvention of Lawful Pathways](#).”

⁶⁸ [Remarks by Blas Nuñez-Neto](#), Assistant Secretary for Border and Immigration Policy and Acting Assistant Secretary for the Office of International Affairs, DHS, at the 20th Annual Immigration Law and Policy Conference, organized by MPI, Catholic Legal Immigration Network, Inc., and Georgetown University Law Center, September 18, 2023.

⁶⁹ CBP, “[CBP Releases September 2023 Monthly Update](#),” updated October 21, 2023.

process is available.⁷⁰ At the outset, the app faced many well-documented problems, including frequent crashes, difficulties with its biometric live photo capture feature, and appointments filling up nearly instantly. The administration has since implemented several changes to address the technical issues and altered the registration process to allow migrants more time to register and confirm appointments. Most daily appointments are allocated to those who request appointments at a specific POE, and the remainder are allocated to those who have been registered the longest.⁷¹

Despite these improvements, significant challenges remain in relying on the CBP One app as a centerpiece of managing migrant arrivals. Because it requires a mobile device with access to the internet, migrants who have a newer phone and reliable access to Wi-Fi find it easier to use than those who do not. People who do not speak one of the three languages offered by the app (English, Spanish, and Haitian Creole) or are illiterate also face significant hurdles. Though migrants processed with a CBP One appointment are not subject to the presumption of ineligibility if they apply for asylum, the lottery for appointments does not allow for any kind of screening to determine and prioritize cases with likely eligibility or need for protection or other forms of relief. For migrants in particularly vulnerable situations and in need of protection, immediate medical care, or facing other emergencies, waiting in Mexico for several weeks is not tenable.

Despite these improvements, significant challenges remain in relying on the CBP One app as a centerpiece of managing migrant arrivals.

Once migrants secure an appointment, processing at a POE can take around 90 minutes, depending on the case. Officers confirm and correct information migrants have provided electronically via the app, verify documentation, and conduct national security screenings. If no issues are detected, migrants are given an NTA and one- or two-year parole and released into the United States.⁷² Those deemed inadmissible are transferred to Border Patrol or ICE for removal proceedings. Unlike for migrants processed by Border Patrol between POEs, USCIS does not conduct credible fear interviews or screen migrants for protection needs during processing at POEs; instead, migrants authorized by OFO to enter the United States may apply for asylum or another immigration pathway when they appear for their immigration court hearing.

To accommodate this additional responsibility, OFO has converted existing space in some POEs into processing areas, while in others processing occurs in adjacent soft-sided tent facilities. Unlike Border Patrol, which has additional contractors and processing coordinators to support agents' work, all migrant processing at POEs is conducted and overseen by OFO officers, pulling personnel away from other port operations.⁷³

⁷⁰ CBP, "CBP One Appointments Increased to 1,450 Per Day."

⁷¹ CBP, "CBP One Mobile Application."

⁷² Author interview with an OFO port officer, March 2023.

⁷³ Author interview with an OFO port officer, March 2023.

B. Daily Port Operations

The other port operations with which OFO must balance its expanding migrant processing responsibilities have considerable implications for the U.S. economy and national security. OFO is responsible for facilitating lawful trade and travel through the U.S.-Mexico border. In FY 2023, more than 200 million passengers, pedestrians, and trucks have crossed the border.⁷⁴ Each port faces different challenges depending on the composition of travel and trade through them. The San Ysidro POE in California is one of the most heavily trafficked pedestrian ports in the world. OFO processes more than 100,000 inbound travelers on San Ysidro's pedestrian bridge each day, in addition to nearly 40,000 personal vehicles via more than 34 vehicle lanes.⁷⁵ Meanwhile, the World Trade Bridge in Laredo, Texas, is the top cargo port in the nation, processing between 7,000 and 7,500 cargo trucks daily.⁷⁶ The bridge receives busses of travelers, agriculture, machinery parts, United Parcel Service shipments, and more, all requiring different procedures for scanning, vetting, and verification.

To cover their massive threat landscape and the diversity of arrivals, OFO employs a layered enforcement system at POEs.⁷⁷ The details vary from port to port, but this layered enforcement generally involves an interview with an officer; scanning the truck, vehicle, or baggage; and certifying travelers' documentation. Moving traffic through ports provides multiple, at times simultaneous, opportunities to identify anomalies and detect potential threats, while maintaining the constant flow of people, vehicles, and cargo. For example, OFO canine officers may circulate among traffic lanes with trained detector dogs before vehicles meet with an officer, and travelers' documentation may be screened while their vehicle or truck moves through a scanning device.

Each port faces different challenges depending on the composition of travel and trade through them.

Port operations can also be affected by external factors, including holidays, construction, and changes in supply chain demand that affect the flow of travelers and trade and require strategic shifts to manage their volume.⁷⁸ Contraband smugglers also consistently change their concealment methods, requiring OFO to continuously update anti-threat detection operations and protocols at POEs.⁷⁹ Finally, ports can experience interruptions based on increased unauthorized arrivals between POEs. In early September 2023, several bridges along the southwest border had to halt operations so that OFO officers could assist Border Patrol with migrant processing.⁸⁰ Closing a bridge for even one day can have tremendous impacts on local communities and economies.

⁷⁴ Department of Transportation, "Border Crossing Entry Data - Percent Change," accessed September 20, 2023.

⁷⁵ Author interview with an OFO port officer, March 2023.

⁷⁶ Author interview with an OFO port officer, March 2023.

⁷⁷ Author interview with an OFO port officer, March 2023.

⁷⁸ Author interview with an OFO port officer, March 2023.

⁷⁹ Author interview with an OFO port officer, March 2023.

⁸⁰ Valerie Gonzalez, "Some Crossings on US-Mexico Border Still Shut amid Rise in Migrant Arrivals," ABC News, September 22, 2023.

BOX 3 Technology and Prescreening Programs at Ports of Entry

OFO officers use different technologies depending on the nature of the goods or people being processed at a port. Officers use facial comparison technology to confirm the identity of pedestrians and travelers in personal vehicles. If alerted to a potential threat, officers may use a handheld device to test a small sample from the suspicious goods or vehicle for traces of an illicit substance. For large cargo trucks, POEs use non-intrusive inspection (NII) technology that scans the inside of the truck to check for anomalies (such as a difference in the goods in the truck vs. those listed on its manifest) or illicit goods without having to physically dismantle or enter vehicles. A newer type of NII is a multi-energy portal (MEP) that uses both low- and high-energy scanning, so that drivers can safely stay in their vehicle during a low-energy scan, while cargo undergoes a more in-depth, high-energy scan. Similar technology is being employed in passenger lanes as well, in the form of low-energy portals (LEP) that allow passengers to stay in their vehicles while they are scanned. Older NII models may require drivers or passengers to exit the vehicle and/or take several minutes to complete their scan, compared to the quicker scanning made possible by MEP and LEP machines.

These technologies serve the simultaneous goals of facilitating the movement of traffic while screening for threats. A missing piece of this puzzle is the ability to pre-screen or pre-vet passengers and cargo. Trusted trade and trusted traveler programs account for a small percent of arrivals at POEs, and membership in programs such as in the Free and Secure Trade (FAST) program has declined. FAST, as well as programs such as the Customs Trade Partnership Against Terrorism (CTPAT) and Global Entry, help OFO reduce the threat landscape. Millions of people and goods pass daily through POEs, and trusted trade and traveler programs allow OFO officers to focus their energies and resources on a smaller set of unknowns and potential threats. The CBP One app also allows for the collection of information in advance of border arrivals, though individuals must still be screened at the port itself, rather than beforehand. Further modernization of border operations requires not only investments in technology and infrastructure at POEs, but also resources to bolster prescreening efforts prior to arrivals.

Sources: Congressional Research Service, *Trusted Traveler Programs* (Washington, DC: Congressional Research Service, 2021); author interviews with OFO port officers, February and March 2023.

C. Port Capacity and Stakeholders

Migrant processing through CBP One appointments has been implemented at POEs that traditionally process pedestrians and passenger vehicles. Unlike cargo ports, these POEs are located close to city centers. In megaregions such as El Paso–Ciudad Juárez and San Diego–Tijuana, both sides of the port are adjacent to businesses, homes, and government buildings, making physical expansion difficult.⁸¹ Currently, POEs that process migrant arrivals have repurposed existing space or made use of temporary tent-like structures to create additional space.

Changes to POEs are dependent upon the resources and guidance of the stakeholders involved in port ownership and operations. POEs are governed, owned, and overseen by various entities, including cities, CBP, private companies, and the U.S. General Services Administration (GSA). Because ownership and stakeholders differ from port to port, so do infrastructure projects. Some ports governed by GSA have received funds through the 2021 *Bipartisan Infrastructure Act* for modernization projects.⁸² Other POEs make

81 Author interview with an OFO port officer, March 2023.

82 U.S. General Services Administration, “Land Port of Entry Infrastructure Projects Fact Sheet,” updated August 31, 2023.

use of the Donations Acceptance Program⁸³ that allows for donations of real estate, personal property, and certain services from the private sector and other government entities to support CBP infrastructure projects. CBP headquarters also decides where to host specific pilot programs, often based on ports' current flows and available resources.⁸⁴ Processing migrants at POEs can create unique capacity and infrastructure constraints, depending on a port's size and resources. Because operations and resources at some POEs are already strained, and options to expand infrastructure vary, it is unclear whether CBP One app processing can be further expanded to include more appointments or more in-depth protection screenings.

5 Post Processing and Beyond the Border

Once the Border Patrol or OFO releases migrants into the United States, they receive no additional support from DHS. Absent a formal reception system, NGOs, religious institutions, local governments, and other stakeholders in communities along the U.S.-Mexico border have for decades provided newly arrived migrants with some form of basic assistance and travel support. But increased migrant arrivals and releases have complicated these efforts and uncovered inefficiencies in existing processes. Addressing these gaps is important not only for migrants but also for the U.S. communities experiencing the spillover effects of increased migration.

As migrant arrivals have increased, NGOs and local governments have formed informal partnerships with CBP to coordinate reception services and help migrants in their next steps, rather than having them be released into the streets with little to no support, which could have political and humanitarian ramifications in border communities.⁸⁵

Addressing these gaps is important not only for migrants but also for the U.S. communities experiencing the spillover effects of increased migration.

Most migrants released from Border Patrol custody do not plan to stay in these border cities, but rather seek to unite with family, friends, or other sponsors elsewhere.⁸⁶ The strength of these partnerships varies from city to city and is dependent on CBP discretion. Though imperfect, these networks provide essential services to migrants and border communities while fulfilling an important post-processing role.

The informality of the relationships between local actors and CBP allows for some degree of flexibility, but it also makes them prone to lapses in communication, complicating operations for assistance organizations.⁸⁷ Depending on the sector, CBP may or may not provide NGOs with advanced notice of releases. Additionally,

83 CBP, "Donations Acceptance Program," updated June 12, 2023.

84 Author interview with an OFO port officer, March 2023.

85 In interviews, city officials and NGO representatives across the border repeatedly spoke of the benefits for local communities and migrants alike of localities coordinating migrant drop-offs with CBP, rather than having CBP release migrants in areas where they do not have access to assistance from NGOs or religious groups and may instead seek help from other community entities in a much less organized way. However, even when these networks exist, street releases can still occur when CBP, NGOs, and localities are experiencing capacity constraints.

86 In this context, "sponsor" refers to a person or group of people with whom a newly arrived migrant may be connected to in the United States. This could be a family member, friend, or acquaintance who they plan to meet up with in the interior of the country. However, an increasing number of migrants are arriving without strong social ties and often have a destination in mind based on their own understanding of services provided or access to work.

87 Author interviews with representatives of nongovernmental organizations along the U.S.-Mexico border in California, Arizona, and Texas, March 2023.

CBP is limited in terms of what information it can share with NGOs or other partners. While the agency can share the overall number of migrants who will be released, it cannot disclose any other kind of information (such as about migrants' medical conditions or needs for translation services), which limits NGOs' ability to prepare for new arrivals. And without formalized relationships, it falls to NGOs and individual CBP agents to continuously create and navigate relationships, develop plans for migrants' release, and coordinate logistics (such as drop-off locations and times).

Migrant-serving organizations must constantly adjust their services to the changing needs of migrant arrivals. As the diversity within the population of released migrants increases, organizations must overcome language barriers and find ways to assist migrants who may have a limited or no support system awaiting them in the United States. Lacking any formal resettlement structure, these organizations can only help facilitate travel to a migrant's intended destination regardless of the levels of support available on the receiving end. Similarly, increases in family arrivals necessitate differentiated services and resources, including diapers, formula, and child-sized clothing. Without advanced notice of who CBP will release into their communities, organizations are consistently shuffling to meet the language, health, and basic needs of those they welcome each day.

Different organizations offer different services, though typically these include a brief orientation, basic necessities (including clothes and food), and assistance coordinating onward travel.⁸⁸ Since the majority of migrants have a final destination that is not the border city through which they entered the United States, travel assistance is particularly helpful because it facilitates onward movement quickly and avoids overwhelming local shelters and service providers. This assistance can include helping migrants purchase airline or bus tickets and coordinating their travel to the station.⁸⁹ In several cities in Texas and Arizona, the state has provided free bus transportation for migrants to interior cities such as New York, Chicago, Washington, DC, and Los Angeles, with the involvement of some NGOs.⁹⁰ The state-sanctioned busing, originally without coordination with receiving cities, was intended as a political statement—often at the cost of migrants' health and well-being, with some reported cases of coercion to use the transportation.⁹¹ As more NGOs got involved and began using the state-funded buses, they could coordinate with receiving cities, ensure that medically vulnerable individuals were treated prior to travel, and coordinate passengers' access to food and water while on the bus.

Increased arrivals at the border are now being felt in interior cities across the country. Although CBP, in conjunction with local governments and NGOs, has developed a system to manage large numbers of

88 Author interviews with representatives of nongovernmental organizations along the U.S.-Mexico border in California, Arizona, and Texas, March 2023.

89 Author interviews with representatives of nongovernmental organizations along the U.S.-Mexico border in California, Arizona, and Texas, March 2023. Organizations along the border do not typically provide funds for travel; rather, migrants or their sponsors pay for a bus, train, or plane ticket and NGO staff help them to conduct the purchase.

90 Author interviews with representatives of nongovernmental organizations along the U.S.-Mexico border in Arizona and Texas, March 2023; Muzaffar Chishti and Julia Gelatt, "Busing and Flights of Migrants by GOP Governors Mark a New Twist in State Intervention on Immigration," *Migration Information Source*, September 28, 2022.

91 Sneha Dey, "'This is Horrific,' New York City Mayor Says of Greg Abbott's Policy as Second Busload of Migrants from Texas Arrives," *The Texas Tribune*, August 7, 2022; Nocco Quinones, Ashely Schwartz-Lavares, and Allie Weintraub, "Migrant Bus Conditions 'Disgusting and Inhuman,' Says Former Veteran Who Escorted Convoys," ABC News, October 24, 2023.

arrivals, the longer-term effects of these arrivals are being pushed further down the line to interior cities, which are grappling with the extensive costs of meeting housing and other needs.⁹²

A. *Differences across Sectors*

The resources and capacities of migrant-serving organizations vary considerably and for multiple reasons. Larger cities may have more migrant-serving NGOs and religious organizations that often share information, coordinate resources, and communicate about newcomers' needs.⁹³ While having many migrant-serving organizations is a benefit, it can also create tensions when organizations differ in their vision for post-release services. In smaller cities, some existing organizations have added migrant services to their portfolio, often operating with more limited resources and capacity.⁹⁴

City or county government involvement also varies by location. In some cities (such as Brownsville and El Paso in Texas), the city and county have developed reception centers for migrants to coordinate onward travel.⁹⁵ Other cities (such as San Diego, California and Yuma, Arizona), while less involved in migrant reception, are engaged in bilateral partnerships with Mexican officials largely concerning matters of regular trade and travel, CBP, and other relevant agencies.⁹⁶ Despite their different levels of involvement, U.S. border communities overwhelmingly desire a more coordinated federal response to migrant arrivals.

Differences in state-level approaches to migration have significant and disparate effects in border communities. From FY 2019 to FY 2023, California allocated more than \$1 billion in services for asylum seekers,⁹⁷ funding that has helped support the operations of service providers in the San Diego region. State-level responses in Texas are markedly different: Operation Lone Star has since 2021 allowed Texas National Guard members and Department of Public Safety personnel to assist CBP in immigration enforcement operations.⁹⁸ Migrant-serving organizations in Texas do not receive state funds; rather, when assistance is requested, the state of Texas increases the Department of Public Safety or National Guard presence in border cities.⁹⁹ On the ground, these differences set the tone for how organizations and local governments respond to increases in migrant arrivals.¹⁰⁰

B. *Federal Funding*

Organizations that serve migrants rely, to varying extents, on federal funding to provide migrant reception services once people are released from CBP custody. In FY 2019, Congress for the first time appropriated

92 Muzaffar Chishti, Julia Gelatt, and Colleen Putzel-Kavanaugh, "New York and Other U.S. Cities Struggle with High Costs of Migrant Arrivals," *Migration Information Source*, September 27, 2023.

93 Author interviews with representatives of nongovernmental organizations along the U.S.-Mexico border in California and Texas, March 2023.

94 Author interviews with representatives of nongovernmental organizations along the U.S.-Mexico border in Texas, March 2023.

95 Author interviews with representatives of nongovernmental organizations along the U.S.-Mexico border in Texas, March 2023.

96 Author interviews with representatives of nongovernmental organizations along the U.S.-Mexico border in California and Arizona, March 2023.

97 Lynn La, "What Title 42's End Means for California," *CalMatters*, May 11, 2023.

98 Texas Indigent Defense Commission, "Operation Lone Star - Operación Lone Star," accessed November 21, 2023.

99 Author interview with a representative of a nongovernmental organization along the U.S.-Mexico border in Texas, March 2023.

100 Muzaffar Chishti and Julia Gelatt, "Activism on Immigration by U.S. States Is Back, with New Tactics and Different Targets," *Migration Information Source*, June 28, 2023.

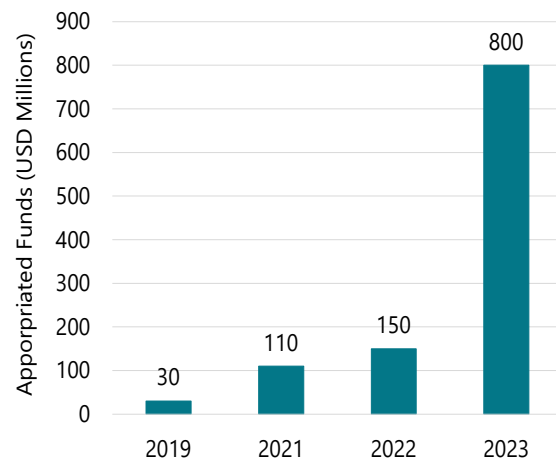
money specifically for migrant services through the Federal Emergency Management Agency (FEMA) Emergency Food and Shelter Program – Humanitarian (EFSP-H), and it has increased funding for migrant services nearly each year since (see Figure 5).¹⁰¹ In the FY 2023 appropriations negotiations, the name of the EFSP-H program was changed to the Shelter and Services Program (SSP), and it is jointly run by FEMA and CBP.¹⁰²

Under EFSP-H, organizations received funding for food, shelter, and transportation by applying through a competitive grant process.¹⁰³ Funding was limited to specific expenditures and accompanied by information collection and reporting requirements—for example, collecting the “alien numbers” (A-numbers) of migrants who received services for auditing purposes. Organizations could request reimbursement for services provided to migrants within 30 days of their release from CBP custody, limiting reimbursement for long-term services unless covered by different funding.¹⁰⁴

Local boards existed in each region to provide oversight and act as an intermediary between local organizations and FEMA. In interviews, NGO representatives noted problems with the model, including delays in the disbursement of funds and lengthy reporting requirements.¹⁰⁵ Nonetheless, this federal funding was crucial to the provision of services to migrants released from custody and helped alleviate some strain on local community resources.

The transition from EFSP-H to SSP in FY 2023 was largely viewed as an opportunity to reform the program through input from organizations that received funding. One welcome change is that funds can now be used to assist migrants up to 45 days after their release, rather than 30 days.¹⁰⁶ However, advocates and recipients of federal funds have also expressed concerns about some of the ways in which funding allocations and program requirements have changed.¹⁰⁷ For example, organizations are required under SSP to collect and report migrants’ A-numbers in order to receive funding, whereas previously these were kept just for auditing purposes.

FIGURE 5
Emergency Food and Shelter Program – Humanitarian (EFSP-H) and Shelter and Services Program (SSP) Funds Appropriated, FY 2019–23



Notes: No EFSP-H funds were appropriated during FY 2020. Funds appropriated for FY 2023 cover the full fiscal year and subsequently include some of the funds under the shift from the Emergency Food and Shelter Program – Humanitarian (EFSP-H) to the Shelter and Services Program (SSP).
Source: Federal Emergency Management Program, “Emergency Food and Shelter Program,” accessed October 11, 2023.

101 Federal Emergency Management Agency, “Emergency Food and Shelter Program,” updated June 26, 2023.

102 Elizabeth M. Webster, “FEMA’s Emergency Food and Shelter Program-Humanitarian Relief (EFSP-H) and the New Shelter and Services Program (SSP)” (Insight brief, Congressional Research Service, Washington, DC, May 16, 2023).

103 United Way, *Emergency Food and Shelter National Board Program: Humanitarian Relief Funding Guidance Fiscal Year 2023 Application and Funding Guidance* (Alexandria, VA: United Way, 2023).

104 United Way, *Emergency Food and Shelter National Board Program*.

105 Author interviews with representatives of nongovernmental organizations in Washington DC, June 2023.

106 Author interviews with representatives of nongovernmental organizations in Washington DC, June 2023.

107 Author interviews with representatives of nongovernmental organizations in Washington DC, June 2023.

For all releases of SSP funding, rather than using a competitive grant process, FEMA and CBP made allocations to organizations deemed by the agencies to be eligible applicants based on data on CBP encounters, released migrants' intended interior destinations, and previous EFSP-H allocations.¹⁰⁸ Organizations not deemed to be eligible applicants could become a subrecipient of funding from eligible applicants, but that is at the discretion of those initial funding recipients. Without a competitive grant process, organizations not designated as eligible applicants are excluded from funds, especially if the eligible applicants in their regions do not accept subrecipients.

Meanwhile, the local boards that provided oversight under EFSP-H have been dissolved. As a result, all communication between local stakeholders and the SSP must occur through the organizations identified as eligible applicants.¹⁰⁹ The lack of an oversight body also gives the eligible applicants greater discretion over the funds they are allocated, which can disadvantage subrecipients that do not already have an established working relationship with the eligible applicants in their region.

Demands for federal funding have also shifted to include more interior as well as border cities. Cities such as New York and Chicago have received federal funds to meet housing and other basic needs but have called on the federal government to do more, especially because newly arrived migrants often require assistance beyond the cutoff set for their eligibility for SSP-funded services (45 days post-release from custody).¹¹⁰ The current funding model is built to meet immediate and short-term needs, which often takes place in border communities. But since many migrants are awaiting court dates far in the future, long-term needs such as housing, school enrollment, work authorization, language access, and legal services have fallen to cities.

SSP funding for FY 2024 is uncertain and will depend upon the congressional appropriations process. In the original funding request, the Biden administration asked for \$84 million for the SSP and included up to an additional \$800 million for the SSP in a request for a \$4.7 billion Southwest Border Contingency Fund.¹¹¹ In contrast, the administration's supplemental funding request would allocate \$1.4 billion to the SSP.¹¹² Though federal funding covers just a fraction of their expenses, many organizations would not be able to continue to provide their services without the federal money.¹¹³ And without proper investment in the program, the unmet needs of arriving asylum seekers and other migrants will ultimately create more costs for cities and localities.

6 Spillover Effects of Border Enforcement in Mexico

U.S.-Mexico collaboration on migration management has evolved in stages over the last decade, but perhaps none as significant as the series of agreements made between October 2022 and May 2023. Under these agreements, the Mexican government has agreed to receive up to 30,000 Venezuelan, Cuban, Haitian, and Nicaraguan migrant returns per month, initially as Title 42 expulsions and subsequently as

108 Author interviews with representatives of nongovernmental organizations in Washington DC, June 2023.

109 Author interviews with representatives of nongovernmental organizations in Washington DC, June 2023.

110 Chishti, Gelatt, and Putzel-Kavanaugh, "New York and Other U.S. Cities Struggle."

111 DHS, *FY 2024 Budget in Brief* (Washington, DC: DHS, 2023).

112 DHS, "Fact Sheet: Biden-Harris Administration Supplemental Funding Request."

113 Chishti, Gelatt, and Putzel-Kavanaugh, "New York and Other U.S. Cities Struggle."

Title 8 removals.¹¹⁴ The U.S. government, in exchange, has agreed to open and maintain sponsorship-based admissions pathways for migrants from these nationalities, admitting 30,000 per month.

Because of the potential number of returns and the reimplementing of the Title 8 five- and ten-year bars for unauthorized entry, these agreements mark the first time that the countries' joint migration management policies may result in the longer-term settlement in Mexico of a non-Mexican population returned from the United States. As of September 2023, approximately 17,000 migrants had been returned to Mexico under these agreements.¹¹⁵ In a joint declaration with the United States in June 2019, Mexico previously agreed to accept migrants returned by U.S. authorities under the Migrant Protection Protocols (MPP), where migrants waited in Mexico while their U.S. asylum cases were adjudicated.¹¹⁶ While some migrants may have abandoned their asylum cases and stayed in Mexico, the underlying premise was that most would either receive protection in the United States or be repatriated by U.S. authorities to their countries of origin.

The more recent agreements, combined with the implementation of the CBP One app and the CLP rule, have cemented Mexico's strategic role as a partner and a staging ground for migrants seeking entry into the United States. CBP One's geofencing requirements, which only allow migrants to schedule appointments from northern Mexican cities and Mexico City, have reshaped migrant routes throughout the country to increasingly mirror the perceived availability of appointments at U.S. POEs.¹¹⁷ Additionally, the CLP rule's requirement that migrants must apply for and be denied asylum in a transit country to be eligible for asylum in the United States has put pressure on the Mexican asylum system, especially in areas with limited processing capacity. Mexico's asylum agency received 137,000 asylum requests from January through November 2023, and with one month left in the year had already surpassed Mexico's prior annual record (130,000 requests in 2021).¹¹⁸ Mexican government officials have expressed concerns that these policies may be encouraging more migrants to file for asylum in the country in an effort either to use the asylum paperwork to facilitate their transit to the U.S.-Mexico border or intending their request to be denied so they will be eligible to apply for asylum in the United States.¹¹⁹

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These agreements and policies, intended to create orderly processing into the United States, are thus having notable spillover effects in Mexico. This can be clearly seen in the added pressure on the capacity of Mexican border cities and civil-society networks to provide migrants safety, shelter, and services, all with a fraction of the resources available to U.S. cities and NGOs. The Mexican federal government has established three

114 Brendan O'Boyle and Kylie Madry, "US Parole Program to Continue Post-Title 42, Mexico to Accept Returnees," Reuters, May 2, 2023.

115 DHS, "Fact Sheet: The Biden-Harris Administration Takes New Actions."

116 Ariel G. Ruiz Soto, *One Year after the U.S.-Mexico Agreement: Reshaping Mexico's Migration Policies* (Washington, DC: MPI, 2020).

117 Author interviews with border NGOs in Mexico, March 2023.

118 Mexican Commission for Refugee Assistance (Comisión Mexicana de Ayuda a Refugiados, COMAR), "Solicitudes del reconocimiento de la condición de refugiado en México: Cierre de noviembre 2023" (data tables, December 1, 2023).

119 Author interview with a Mexican government official, July 2023.

designated shelters in the border states of Baja California, Chihuahua, and Tamaulipas with a combined capacity to house and provide basic services for up to 1,200 migrants, but migrants are often unwilling to go to these shelters due to fear that they will be detained and repatriated.¹²⁰ Absent direct assistance from the federal government, the resources of local governments and civil-society organizations vary across the border, from Tijuana to Matamoros, and most stakeholders struggle to meet demand for shelter during periods of heightened migrant arrivals. With assistance from IOM, some border cities such as Reynosa have been able to expand shelter capacity by working with local NGOs. And in Tijuana, city authorities have partnered with Baja California state authorities to repurpose city buildings into temporary shelters. Yet, across nearly all Mexican border cities, migrant encampments have grown in size and proximity to U.S. POEs.¹²¹

Access to safety for migrants has been a longstanding issue in Mexican border cities, but recent changes in their demographic profiles have posed new challenges for stakeholders involved. For instance, NGOs in Tijuana and Ciudad Juárez suggest drug cartels are becoming more involved in migrant smuggling and at times infiltrate shelters to harass and kidnap people for ransom, selectively targeting those perceived to have money. Heightened violence in Nuevo Laredo and Matamoros has also targeted migrants, including at encampments.¹²² As more migrants wait in perilous conditions to enter the United States, the humanitarian crises in some Mexican cities worsen.

As the number of families arriving at the border increases, based in large part on migrants' perception that U.S. policies favor families, safety considerations for migrant families have become central concerns for Mexican NGOs that provide basic resources and limited shelter. Following a reform in 2021, Mexican authorities are no longer able to detain children and families and must instead transfer them to state shelters to evaluate the best interest of children traveling with families.¹²³ Because of limited shelter capacity, however, authorities are not able to house most families, opting instead to release them from custody or not arrest them in the first place. Civil-society shelters and service providers therefore face additional assistance needs, especially when arrivals are high and resources are strained.¹²⁴

Many Mexican government and NGO efforts have also focused heavily on providing information about U.S. policies and programs. Government representatives often combat misinformation and interpret changes in U.S. policy for migrants, seeking to reduce pressure on local communities. However, the lack of predictability in U.S. policy puts Mexican institutions in the difficult position of having to regularly adjust their approach to provide adequate aid and resources to the migrants in their cities. Meanwhile, Mexican NGO networks—including some whose services span both sides of the border—provide orientation in how to access the CBP One app or referrals to organizations that can help meet the basic needs of especially vulnerable populations.

120 Arturo Rojas, "INM mantiene servicio en 17 estancias migratorias, con capacidad para 4,786 personas," *El Economista*, May 15, 2023.

121 Author interviews with U.S. and Mexican NGOs in Reynosa, Tijuana, and Matamoros, March 2023.

122 Author interviews with U.S. and Mexican NGOs in Ciudad Juárez, Tijuana, and Matamoros, March 2023.

123 Lizbeth Diaz, "Leyes de protección mexicana atraen nueva oleada de menores migrantes a EEUU," Reuters, April 14, 2021.

124 Author interview with a shelter director in Mexico, July 2023.

7 Coordinating Migration Responses in the Broader Region

The Biden administration's migration policy framework reaches well beyond the United States, calling for coordinated responses across the Western Hemisphere as an inextricable part of improving migration management at the U.S.-Mexico border. Accordingly, the administration has deepened regional engagement and aims to encourage Latin American governments to share responsibility for increasing lawful mobility and protection pathways, expanding migrant repatriation efforts, and addressing the root causes of irregular migration. Like the U.S. government, Central and South American governments are also increasingly experiencing institutional capacity constraints. Many of these countries, more accustomed to emigration, have limited and inconsistent migration frameworks, and new immigration and humanitarian protection needs arising from the Venezuelan displacement crisis and surges in transit migrants from a wide range of countries have challenged their ability to quickly adapt.

As a result, multiple migration-focused regional forums have sprung up or been consolidated in recent years.¹²⁵ The most significant of these is the 2022 Los Angeles Declaration on Migration and Protection, which was signed by 21 countries across the hemisphere. Signatories committed to four lines of action: generating stability and assistance for communities hosting large displaced migrant populations; expanding legal pathways; strengthening protection systems; and increasing coordination on migration management and emergency responses.¹²⁶

Under this regional framework, the U.S. government and regional partners are implementing four key efforts:

- ▶ In collaboration with the U.S. government, regional governments are establishing Safe Mobility Offices (SMOs) to offer migrants information and guidance on protection and lawful mobility pathways to the United States, Canada, and Spain as an alternative to irregular migration.
- ▶ The United States, Colombia, and Panama have launched anti-smuggling campaigns to target criminal networks in the Darién Gap, the dangerous stretch of jungle that straddles the latter two countries' shared border and through which thousands of irregular migrants pass on their way north through the Americas. To date, however, this collaboration has been uneven and ineffective at reducing irregular migration.¹²⁷
- ▶ The U.S. government has restarted and increased the number and frequency of removal flights to more countries in the region, including Cuba and Venezuela, and is working with other governments

125 Andrew Selee et al., "In a Dramatic Shift, the Americas Have Become a Leading Migration Destination," *Migration Information Source*, April 11, 2023.

126 White House, "Fact Sheet: The Los Angeles Declaration on Migration and Protection U.S. Government and Foreign Partner Deliverables," updated June 10, 2022.

127 U.S. Department of State, Office of the Spokesperson, "U.S.-Colombia Joint Commitment to Address the Hemispheric Challenge of Irregular Migration" (media note, June 4, 2023); Associated Press, "Panama Criticizes Colombia for Not Helping Stem Record Flow of Migrants through Darien Gap," Associated Press, August 6, 2023.

to also increase returns of unauthorized migrants in transit.¹²⁸ The Mexican government has agreed to remove migrants from Mexican border cities and to request that other countries accept the return of their citizens.¹²⁹ The U.S. government is also planning to invest foreign aid and technical assistance to support Panamanian authorities' capacity to screen migrants for protection and removal.¹³⁰

- ▶ With the aim of stabilizing migration flows, the U.S. government is providing nearly \$485 million through the State Department and U.S. Agency for International Development to assist migrants, hosting communities, and other vulnerable populations in the hemisphere.¹³¹

The establishment of SMOs has shown the most long-term promise of these regional efforts. SMOs were inaugurated in Guatemala and Costa Rica in June 2023¹³² and in Colombia in July and Ecuador in October.¹³³ And in August, the U.S. and Mexican governments agreed in principle to establish a similar, multi-purpose office in southern Mexico to facilitate processing of migrants' U.S. protection claims.¹³⁴ UNHCR and IOM coordinate the work of the SMOs in the four countries, though the host country determines the target population(s) and eligibility requirements for their services.¹³⁵ As of November 2023, SMO implementation was furthest along in Guatemala, where Guatemalan citizens can register online during open periods to establish their need for protection or interest in labor migration.¹³⁶ Following a case-by-case evaluation via virtual and in-person interviews, UNHCR provides application assistance for individuals it identifies as eligible for protection and refers cases to the U.S. and other governments for consideration, while IOM provides tailored information and referrals for individuals deemed likely to be eligible for lawful mobility pathways.¹³⁷

128 U.S. Department of State, Office of the Spokesperson, "U.S. Government Announces Sweeping New Actions to Manage Regional Migration" (fact sheet, April 27, 2023); DHS, "United States to Resume Removals of Venezuelan Who Do Not Have a Legal Basis to Remain in the United States to Venezuela" (press release, October 5, 2023).

129 INM, "Acuerdan INM y Ferromex acciones con 3 niveles de gobierno y CBP para sistema ferroviario y que personas migrantes no arriesguen su vida," updated September 22, 2023.

130 Stef W. Kight, "Scoop: Biden to Start Giving Foreign Aid for Deportations," Axios, September 29, 2023; Camilo Montoya-Galvez, "Biden Plans to Deploy Immigration Officers to Panama to Help Screen and Deport U.S.-Bound Migrants, Officials Say," CBS News, November 20, 2023.

131 The White House, "Fact Sheet: President Biden Hosts Inaugural Americas Partnership for Economic Prosperity Leaders' Summit," November 3, 2023.

132 Jenny Herrera, "En marcha plan de Oficinas de Movilidad Segura," Agencia Guatemalteca de Noticias, June 19, 2023; United Nations High Commissioner for Refugees and International Organization for Migration, "Movilidad Segura," accessed August 4, 2023.

133 Julia Symmes Cobb, "U.S., Colombia to Open Three Migration Offices to Stem Irregular Crossings," Reuters, August 3, 2023; U.S. State Department, "Announcement of Safe Mobility Office in Ecuador" (press release, October 19, 2023).

134 Reports suggest the U.S. and Mexican governments are conducting negotiations on the possibility of establishing a Safe Mobility Office in southern Mexico. See EFE, "México instalará un centro para migrantes en Tapachula," Prensa Libre, August 3, 2023; *El Paso Times*, "Mass Migration: US, Mexico Working Together on Border," *El Paso Times*, August 2, 2023.

135 Agence France-Presse, "US, Guatemala Launch Site for Online Visa Appointments," Voice of America News, June 12, 2023; U.S. Department of State, Office of the Spokesperson, "U.S.-Costa Rica Joint Commitment to Address the Hemispheric Challenge of Irregular Migration" (press release, June 12, 2023); Myah Ward, "Biden Officials Are Publicly Touting the Lack of a Migrant Surge. Privately, They're Scared," Politico, June 12, 2023.

136 As of November 2023, there were four Safe Mobility Office (SMO) locations in Guatemala, and they targeted Guatemalan nationals. In their early stages, SMOs also accepted some cases of nationals from Honduras, Nicaragua, and El Salvador—countries participating in the Central American Free Mobility Convention (CA-4).

137 Author interviews with International Organization for Migration and United Nations High Commissioner for Refugees staff in Guatemala, July 2023.

However, despite their well-organized structure and gradual increases in capacity, the SMOs' success in encouraging more people to seek out and use alternatives to irregular migration is significantly limited by the relative lack of mobility pathways available to the offices' target populations. Preliminary results show that only a fraction of migrants who register online are eligible for existing protection mechanisms or lawful pathways. As of September 2023, only about 3,600 out of approximately 40,000 applicants across the SMOs in Colombia, Costa Rica, and Guatemala had been matched to a U.S. legal pathway.¹³⁸ By November, more than 2,000 refugees had arrived in the United States through the SMO process.¹³⁹ In Guatemala, most of those who were eligible for a pathway, such as family reunification parole, were not able to proceed with their case because of U.S. processing delays in the months after the SMOs were announced. Furthermore, although migrants who are found ineligible for existing protection pathways but are interested in working abroad are referred to the Guatemalan

Ministry of Labor for assistance with applying to participate in the United States' H-2 programs for seasonal employment, efforts to match migrant workers with U.S. employers fall short because of the relatively short supply of these visas. As a result, most migrants who engage with the SMOs are unlikely to receive either protection or access to a lawful mobility pathways in the short term, thereby curtailing the offices' ability to provide meaningful alternatives to migrating without authorization.

Despite their well-organized structure and gradual increases in capacity, the SMOs' success in encouraging more people to seek out and use alternatives to irregular migration is significantly limited by the relative lack of mobility pathways available to the offices' target populations.

Leveraging regional forums to generate migration management coordination has been a pivotal part of U.S. efforts to reduce irregular migration to the U.S.-Mexico border. Even without U.S. participation, for instance, the Quito Process has allowed the governments of the major host countries for displaced Venezuelans to share information and coordinate their response strategies since 2018, which has likely had an influence on some migrants' onward travel to the United States. The Regional Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V), led by the UNHCR and IOM, has also become a highly practical coordinating body and tool for information sharing. Other examples include regional conferences coordinated by IOM that have been providing participating governments with information and ideas since well before the recent surges in regional migration, though they have become far more visible recently. And the UNHCR-led Comprehensive Regional Protection and Solutions Framework (MIRPS) process has helped strengthen key elements of asylum systems across Central America.

Migration's transformation into a front-burner issue for countries across the Americas is an opportunity for governments to set effective policies, build robust institutions, and more broadly understand how to manage mobility that is hemispheric in nature. This watershed moment for Latin America—a part of the world that had historically experienced only modest intraregional movement, despite remarkable

138 Genevieve Glatsky and Zolan Kannno-Youngs, "Biden Plan Seeks to Keep Migrants away from the Border. Will It Work?," *The New York Times*, September 21, 2023.

139 White House, "Readout of President Joe Biden's Meeting with President Andrés Manuel López Obrador of Mexico," updated November 17, 2023.

similarities in language, culture, and history—also has significant implications for whether and how migrants consider traveling irregularly to the U.S.-Mexico border.

8 Rethinking Border Control and Migration Management: Critical Next Steps

Advancing the goals of effective border control and migration management will require continued active interagency coordination, policy adjustments tailored to changing migrant profiles and arrival patterns at the U.S.-Mexico border, and deepening engagement with like-minded countries in the Americas. Understanding the border as a diverse, cross-agency, public-private, and cross-national system that extends well beyond the boundary line itself requires institutionalizing a wide-ranging agenda of innovations designed to navigate new waters. Critical next steps for promoting the twin imperatives of border control with humane enforcement should include the following:

- 1 **Establish multiagency border processing centers for federal agencies and nongovernmental partners to seamlessly screen and refer migrants for entry to or removal from the country.** Responding to increasingly diverse migrant arrivals at the border calls for significantly different facilities and processing capabilities than those presently in use. CBP has gone to great lengths to accommodate shifting migrant profiles, but the changes have been ad hoc, often in response to immediate crises and urgent needs. Institutionally, CBP has not developed nor made the case for longer-term infrastructure changes and resources that reflect the new border reality or CBP's reliance on the work of partner agencies to execute its border control mission. As a result, processing outcomes are heavily driven by capacity limitations, which lead to arbitrariness and the release of migrants into the country with NTAs when arrival numbers exceed existing, often insufficient processing capacity. Border infrastructure investments should include establishing a network of multiagency processing centers that house officials from CBP, ICE, USCIS, and ORR and representatives of certified NGOs and legal service providers to allow for transparent, efficient, and differentiated processing of migrant arrivals. This new infrastructure should include facilities suitable for housing and processing families and children, as well as surge capacity to enable nimble responses to unexpected increases in arrival numbers and shifts in migrant characteristics. Surge capacity should be built into the processing center network but also include arrangements for standby facilities, including, for example, military bases, to respond to sudden mass migration emergencies. To further promote interagency coordination, such facilities and border processes should include automated data collection systems and have data-sharing capabilities, sound privacy protections, and reliable data retention to assist in placing migrants with sponsors and legal services pending asylum and removal proceedings. Such data systems would also provide information for operational planning, program analysis, and forecasting shifts in migration patterns.
- 2 **Create a federal government mechanism that supplements the work of border NGOs in directing migrants who do not have U.S. ties to destinations where sponsors assist them while their legal proceedings are pending.** Migrants arriving at the border who may already have family members or social connections in the United States can be assisted by local NGOs with travel to their destinations. However, many others—often having fled violence and repressive regimes—do not have established

destinations. As more migrants arrive without familial or social ties in the country, large urban areas such as New York, Chicago, and Washington, DC have become top destinations. A system akin to refugee sponsorship should be established and adapted to the needs of such migrants who have been permitted to enter the country in order to reduce the strain on receiving communities. The aim would be to redirect migrants without ties to localities with services and capacity to accept new arrivals. Such placements should include monitoring and case management, as well as legal services support. Implicit in such a system would be the understanding that those whose cases are not granted would be subject to and cooperate in their repatriation. Building such a capability would constitute critical assistance and relief for U.S. communities and nongovernmental agencies working with migrants, as well as predictability for receiving cities and communities around the country willing to help newcomers.

- 3 Implement asylum system reforms that result in timely and fair decisions, and adequately fund essential agencies.** Migrants currently permitted to enter the United States to pursue their asylum claims will wait years for decisions on their cases. Such delays deprive those eligible for asylum from gaining protection and being able to start new lives, and undercut deterrence of unauthorized migration by encouraging others to file weak claims as a way to stay in the country while their cases sit in the backlog. Deciding incoming asylum cases in months, not years, is critical to effective border control. The administration should broadly implement its June 2022 Final Interim Asylum Rule so that USCIS asylum officers can handle not only credible fear interviews but also full merits adjudication in border cases, thereby relieving some pressures on the pace of caseload growth in the immigration courts. Fixing the asylum system also calls for streamlining immigration court procedures for asylum case decision-making and appeals of cases asylum officers deny. USCIS and EOIR functions must be treated as essential elements of border management. Accordingly, they require resources for personnel and technology, administrative innovations, and substantial longer-term capacity-building. A healthy asylum system also calls for legal representation for asylum seekers and case management support to monitor compliance with the asylum process's procedural requirements. Partnerships between government and NGOs are the best avenue for building out these further attributes of an effective system.
- 4 Equip OFO to carry out CBP One migrant processing.** Directing migrants to present at POEs is a vital component of effective migration management, but the current availability of CBP One appointments is far below demand. Central to increasing appointment availability is building out POE infrastructure and workforce capacity to ensure that migrant processing does not interfere with other port operations. This should be done in coordination with the operations and locations of the network of border processing centers outlined above. Permanent and fully equipped space should be built at or conveniently near ports that process CBP One appointments to create an efficient and timely process for OFO and migrants. This space must account for unannounced arrivals who may need to be processed based on an acute vulnerability. Many ports already received significant funding through the *Bipartisan Infrastructure Act* to modernize facilities, and all modernization efforts should account for and consider increased migrant processing. Additionally, OFO staffing requires an equivalent of the Border Patrol's processing coordinators. By creating this new position, OFO processing coordinators can manage data entry during the screening process, allowing most officers to return to essential port operations.

- 5 Formalize the public-private partnerships between CBP, NGOs, and local governments for delivering essential services to migrants released into the United States.** Many NGOs and local governments in border communities coordinate with CBP to varying extents. These local networks have been central to providing services to meet the basic needs of migrants after they are released from CBP custody and to helping them get to their final destinations within the United States, thus easing pressure on border communities. Some have also collaborated with counterparts in interior cities to coordinate onward travel and let receiving cities know who is coming. At best, these systems are ad hoc and prone to lapses in communication. These partnerships should be formalized to allow for data sharing, including daily numbers of migrants, nationalities, medical conditions, and vulnerabilities. This would enable NGOs in destination locales to better prepare for migrant arrivals. Such NGO functions also require adequate funding, and serious consideration should be given to restoring a competitive grant process in the SSP program. The current allocation system leaves out valuable organizations and lacks careful oversight. Furthermore, the funding streams for NGOs that assist migrants along the border and in the country's interior should be better delineated. Currently, limited funding is allocated to both sets of migrant-serving organizations. This fails to reflect the fundamentally different service needs migrants have when they are released from CBP custody versus when they reach their final destination. They should not be required to compete in the same funding pool. NGOs on the border complete migrant processing by assisting with travel arrangements and meeting immediate needs, including for food, temporary shelter, and medical care. Interior NGOs require funding to help migrants access permanent housing, public benefits for which they qualify, legal orientation, and more. Creating separate funding streams for border and interior communities would allow the unique needs of each to be met.
- 6 Further strengthen engagement and coordination with Mexico on migration management and capacity-building.** Mexico is uniquely important—geographically, operationally, and politically—to the success of U.S. border control and enforcement measures. As a source, transit, and destination country, Mexico now also plays multiple roles on the migration spectrum. And as its society ages, Mexico is increasingly seeking immigrant workers to meet labor market needs. Its commitment to effective enforcement of its migration laws represents an important complement to U.S. border enforcement. The Mexican government's willingness to accept the return of non-Mexican migrants from Cuba, Haiti, Nicaragua, and Venezuela while the United States provides parole-based legal avenues for nationals of those countries is historic, given the cooperative, responsibility-sharing nature of this joint measure. At the same time, migrants in Mexico are vulnerable to crime, violence, and exploitation. The United States should work with Mexico to address specific challenges, such as meeting the humanitarian needs of migrants en route and addressing pressures on the border communities where migrants stay while awaiting CBP One appointments. A bilateral, longer-term agenda should provide support and technical know-how to efforts to support interested migrants' settlement in Mexico, processing of refugee and other legal pathways applications in southern Mexico, the further strengthening of a modern asylum and immigration system, and rule of law reforms.

7 **Develop robust refugee processing and resettlement programs within the Western Hemisphere.**

The Biden administration has committed to admitting up to 50,000 refugees from the Latin America and the Caribbean during FY 2024.¹⁴⁰ Albeit a relatively modest number, compared to the hundreds of thousands of migrants who seek protection after reaching the U.S. border, it is a critical dimension of regional cooperation and SMO capabilities and goals. Institutionalizing access to protection closer to home for seriously endangered people, so as to both provide safety and reduce the need for dangerous journeys to seek asylum, requires working closely with international humanitarian organizations, principally UNHCR and IOM, as well as developing trust and communication with often-fragmented networks of local activists, religious leaders, journalists, attorneys, and other intermediaries. Such refugee screening and admissions also call for addressing procedural bottlenecks. Doing so will be critical to meeting compelling protection needs and institutionalizing this refugee-focused component of regional cooperation in migration management.

8 **Leverage regional partnerships and high-level dialogues to streamline lawful pathways and build new ones to and beyond the United States.**

For the SMOs to be successful, they need to provide real alternatives to irregular migration. This requires streamlining access to existing legal pathways and building new ones to the United States and to additional destination countries. Over the longer term, SMOs in migrants' origin countries should enable intending migrants to get information about and apply for these pathways, rather than doing this after they have left and are in a transit country. Deepened engagement with regional partners and assisting them in building their own immigration systems are essential steps toward achieving cooperation with other countries, beyond the United States, Canada, and Spain. Developing and disseminating accurate assessments of the benefits—yet limited scope—of lawful mobility pathways to destination countries could encourage more governments to buy in to establishing pilot mobility programs and address concerns they may have. Though still in their nascent stages, operational SMOs should report data reflecting outcomes of their functions along with effects on local communities.

9 Conclusion

Heightened levels of spontaneous migration have become a new norm across the Western Hemisphere, reflecting growing displacement that is fueled by political instability, violence, slow post-COVID-19 economic recovery, human rights abuses, poverty, and climate events. In 2023, for the first time, Mexican and Central American migrants were outnumbered at the U.S.-Mexico border by those from elsewhere in the Americas and other world regions. Many are traveling as families, traversing increasingly dangerous routes over thousands of miles to get to the United States. More than half a million people crossed the treacherous stretch of jungle between Colombia and Panama known as the Darién Gap in 2023,¹⁴¹ and early projections suggest migration in 2024 could match that record.¹⁴²

140 The White House, "Memorandum on Presidential Determination on Refugee Admissions for Fiscal Year 2024," updated September 29, 2023.

141 Reuters, "Record Half-Million Migrants Crossed Latin America's Dangerous Darien Gap in 2023," Reuters, January 2, 2023.

142 United Nations High Commissioner for Refugees, *Global Appeal 2024* (Geneva: United Nations, 2023).

The volume and diversity of migrant arrivals have strained U.S. border enforcement beyond its capabilities, overwhelming an immigration and enforcement system not built for them. The Biden administration has advanced an ambitious, wide-ranging set of post-Title 42 policies that aim to establish border control and humane enforcement. But their success requires vastly expanded resources to overcome breakdowns in the government's ability to, for example, decide asylum cases in a timely and fair fashion, fully process expedited removal cases, and provide funding to NGO partners, whose work with migrants is essential in border communities and destination cities.

This report's near- and longer-term recommendations provide a foundation for establishing functional migration management systems in the United States and with partner nations in the hemisphere, one suited to the new realities of current and likely future migration. Moving forward requires recognizing that the United States and its neighbors are at a historic inflection point for migration management, and no one policy alone can immediately reduce unauthorized migration.

At the same time, critical structural and operational changes are needed to strengthen and modernize the U.S. border management system, and other systems in the region. While legislative changes have long been needed for the U.S. immigration system to fully advance broad national interests, the most meaningful step Congress could take at present would be to provide the resources to build capacity at entirely new orders of magnitude across the border enforcement system and throughout the hemisphere. Without such efforts, managing migration at the southwest border will continue to be a reactive exercise, rather than a cohesive strategy that proactively identifies migration patterns and responses across the region and addresses migrant protection needs and border control imperatives.

Without such efforts, managing migration at the southwest border will continue to be a reactive exercise, rather than a cohesive strategy.

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