



Bipartisan Policy Center

What the Border Looked Like in FY2022

The release of fiscal year 2022 border data was again marked by [headlines](#) touting a record-breaking year for encounters. In the following issue brief, we delve into the border data further, analyzing the migration patterns and trends that occurred in FY2022, how Title 8 was used at the border in FY2022, how trends at the northern border and at sea changed this fiscal year, and what process changes were implemented at the border.

Note: In our border analysis, we only analyze data on encounters by U.S. Border Patrol (USBP) in between ports of entry, not all encounters at the southwest border, which include encounters by the Office of Field Operations (OFO) at Ports of Entry (POEs). However, when analyzing the northern border, we include encounters by both USBP and OFO.

“Expulsions” is the term used for sending migrants out of the country under Title 42, the CDC public health order, and “apprehensions” is used for all migrants processed under any part of immigration law, whether they ultimately are released into the United States, deported, or otherwise sent abroad.

**IMMIGRATION
PROJECT**
By Hannah Tyler
December 2022

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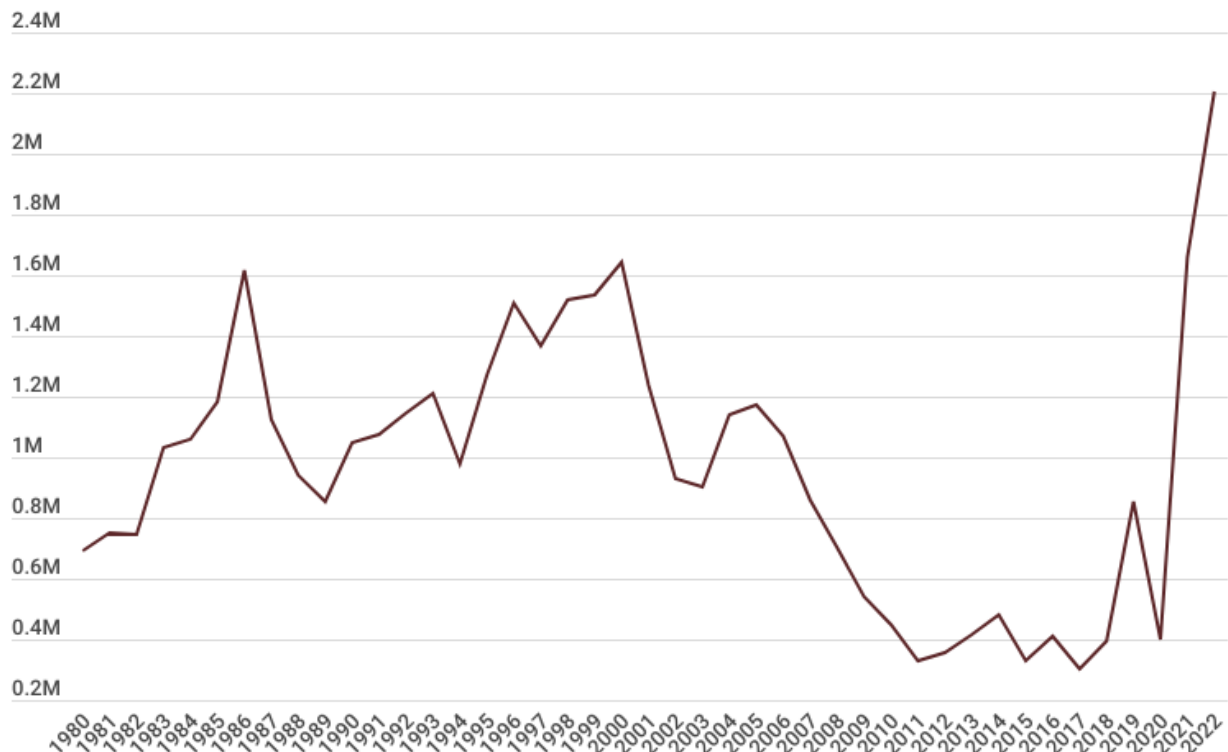
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Year-End Data from the Border: How Migration Patterns are Changing and What That Means for Border Management

U.S. Customs and Border Protection (CBP) released year-end data for fiscal year 2022 on October 21, 2022, showing a record-breaking number of encounters at the border, driven in particular by a sharp increase in Venezuelans, Nicaraguans, and Cubans. These numbers illustrate the increasingly [hemispheric](#) nature of migration, which we noted at the end of FY2021, pointing out [increases](#) in the “other” nationality category that have persisted into this year. Figure 1, below, places the increase in encounters in context, with over 2.2 million encounters between ports of entry by U.S. Border Patrol in FY2022, far surpassing FY2021’s record of 1.66 million.

Figure 1: Total Southwest Border Encounters (Between POEs) (FY1980-FY2022)

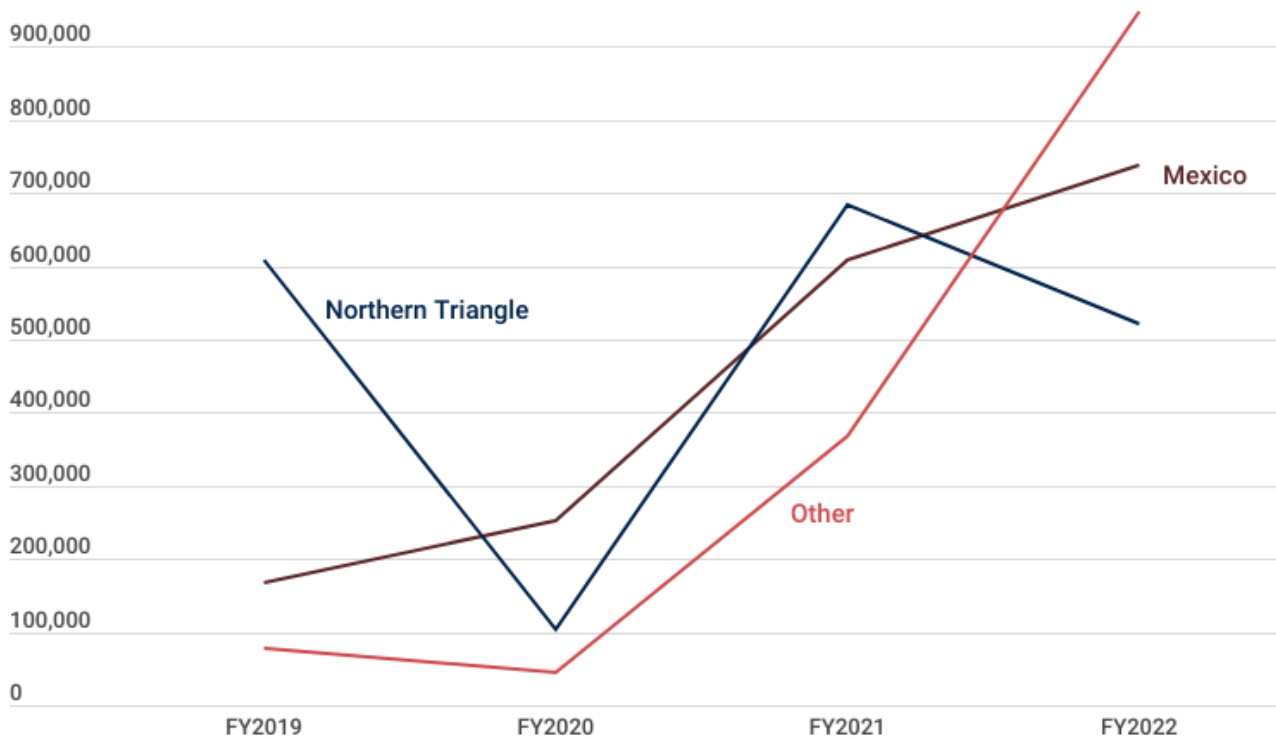


Source: CBP(1)(2)

CONTINUED DIVERSIFICATION OF NATIONALITIES ENCOUNTERED

As much of the press coverage has [noted](#), there was a continued increase in migration from countries other than Mexico, El Salvador, Guatemala, and Honduras this year. About 1.26 million encounters were with migrants from those four countries, while about 950,000 encounters were with migrants from “other” countries. For comparison, in FY2019, about 775,000 encounters were with migrants from Mexico and Northern Triangle countries, while a little over 77,000 migrants from “other” countries were encountered. The growth in migration from “other” countries can be seen in Figure 2, with the number of migrants from “other” countries increasing 150% this fiscal year as compared to FY2021.

Figure 2: Encounters by Nationality, Mexico vs. Northern Triangle vs. “Other” Countries (FY2019-FY2022)

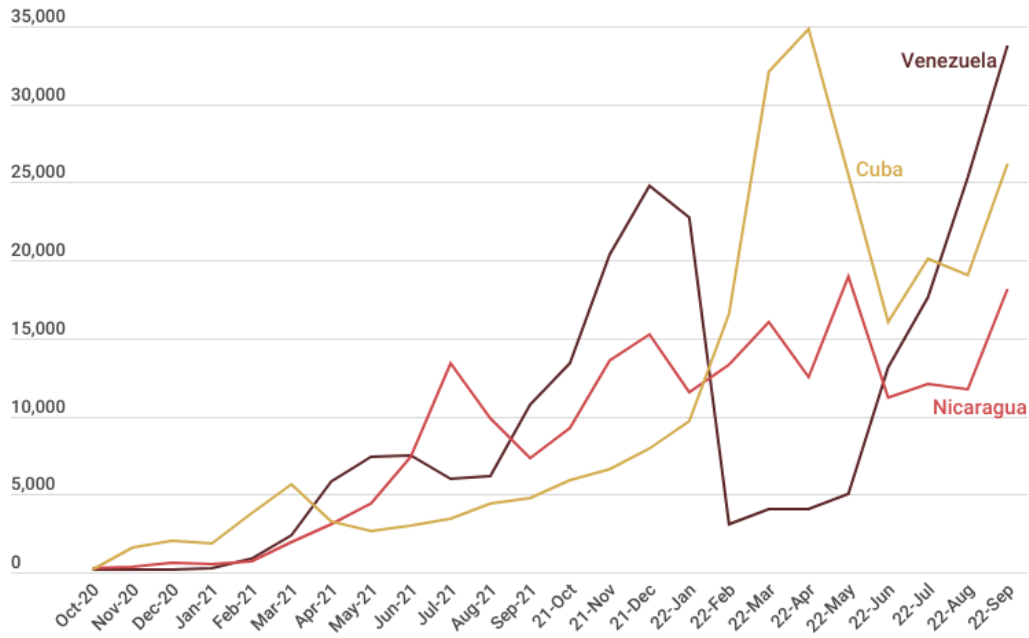


Source: CBP⁽¹⁾⁽²⁾

Press coverage of the increase in migration from countries other than Mexico and the three northern countries of Central America has [focused](#) particularly on nationals of Venezuela, and the Biden administration has responded to this increase specifically by [instituting](#) a new parole program (and new restrictions on applying for asylum at the border) for Venezuelans to discourage them from making the journey up through Mexico. According to reports in mid-October, the Biden administration was [considering](#) offering the same kind of

parole program for Cubans, Nicaraguans, and Haitians—all countries that saw significant increases in migrants in the last year—though they were ultimately not included. There has been a sustained increase in migrants from Nicaragua and Cuba, starting around March 2021 (though there had been an increase in Cuban migrants since June 2020), as seen in Figure 3, below.

Figure 3: Encounters by Nationality, Venezuela vs. Nicaragua vs. Cuba (FY2021-FY2022)



Source: CBP(1)(2)

The increase in migrants from Cuba has been especially notable—there were slightly over 38,000 encounters of Cubans at the southwest border in FY2021, and just over 220,000 encounters in FY2022, a nearly 500% increase. Cubans have fled the communist country to come to the United States for decades but more commonly arrived by boat. In 2015, the land border [saw an increase](#) in Cubans, as the Obama administration moved to normalize relations with Cuba and [ended](#) special immigration status for migrants fleeing Cuba, essentially [gutting](#) the Cuban Adjustment Act. In 2017, just before he left office, [Obama ended the so called “wet-foot, dry-foot” policy](#) that administrations for decades had used to repatriate Cubans interdicted at sea, while allowing those who made it to land to immediately be considered for asylum. The increase in Cuban arrivals at the U.S.-Mexico border was one reason for the change. In subsequent years, Cuban migration to the border slowed. However, in November 2021, Nicaragua [dropped](#) its visa requirement for Cubans, so many Cubans now [fly](#) to Nicaragua and then journey by land to the southwest border of the United States on foot. Inflation, the economic impact of the pandemic and sanctions, a [struggle](#) in tourism recovery, and pent-up demand are some of the current

migration [drivers](#). The number of Cuban migrants encountered has often surpassed the number of Venezuelan migrants encountered from month to month, especially from February 2022 to July 2022 when a new [visa rule](#) for Venezuelans (instituted in January 2022 by Mexico) temporarily reduced the number of Venezuelans encountered at the border. The number of Venezuelans encountered at the border again surpassed the number of Cubans encountered in August 2022.

The increase in Nicaraguans has also been substantial, going from about 2,000 encounters in FY2020 to slightly more than 50,000 encounters in FY2021, to just less than 164,000 encounters in FY2022. Nicaraguan President Daniel Ortega has grown increasingly autocratic, changing the constitution to [abolish](#) term limits, accused of [rigging](#) elections in [2016](#) and [2021](#), and cracking down [violently](#) on protesters, all of which may be contributing to the increase in migration, though the exact causes are difficult to pinpoint. Protests have persisted since 2018, with Nicaraguans fleeing the country since then but only recently to the U.S., as many previously went to Costa Rica. The government's recent crackdown on the Catholic church [promises](#) to further chill dissent, possibly leading to another increase in migration.

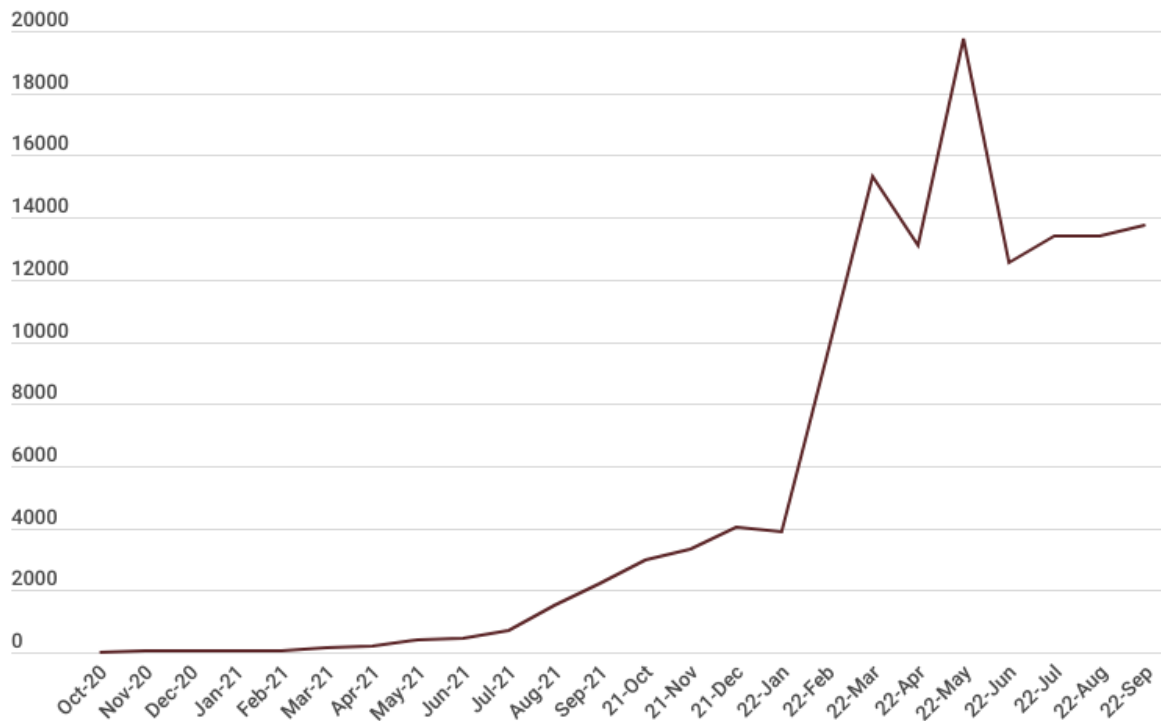
During a press conference in September 2022, President Biden [noted](#) that the increases in migrants from Cuba, Nicaragua, and Venezuela has been difficult to manage due to the government's inability to return them abroad since those countries do not accept migrant [expulsions](#).

There has also been a significant increase in migrants from Colombia, India, and Brazil. In FY2021, about 6,000 Colombian migrants were encountered at the southwest border, increasing to almost 125,000 in FY2022, a nearly 2000% increase. The reason for the increase is unclear, but numbers began to climb in August 2021, as seen below in Figure 4. Numbers have continued to rise throughout FY2022, growing in earnest in February 2022 and peaking in



May 2022 at around 19,300. There were [protests](#) in the country beginning in April 2021, [triggered](#) by an unpopular tax reform and sustained by concerns around inequality, police brutality, and the health and economic effects of the pandemic. Protests continued throughout 2021, [flaring](#) again in July 2021 which coincides with an uptick in Colombian encounters. The increase may also be related to the low [rate](#) of expulsion for Colombians under Title 42, as Mexico does not accept their return to its territory.

Figure 4: Encounters by Nationality, Colombia (FY2021-FY2022)



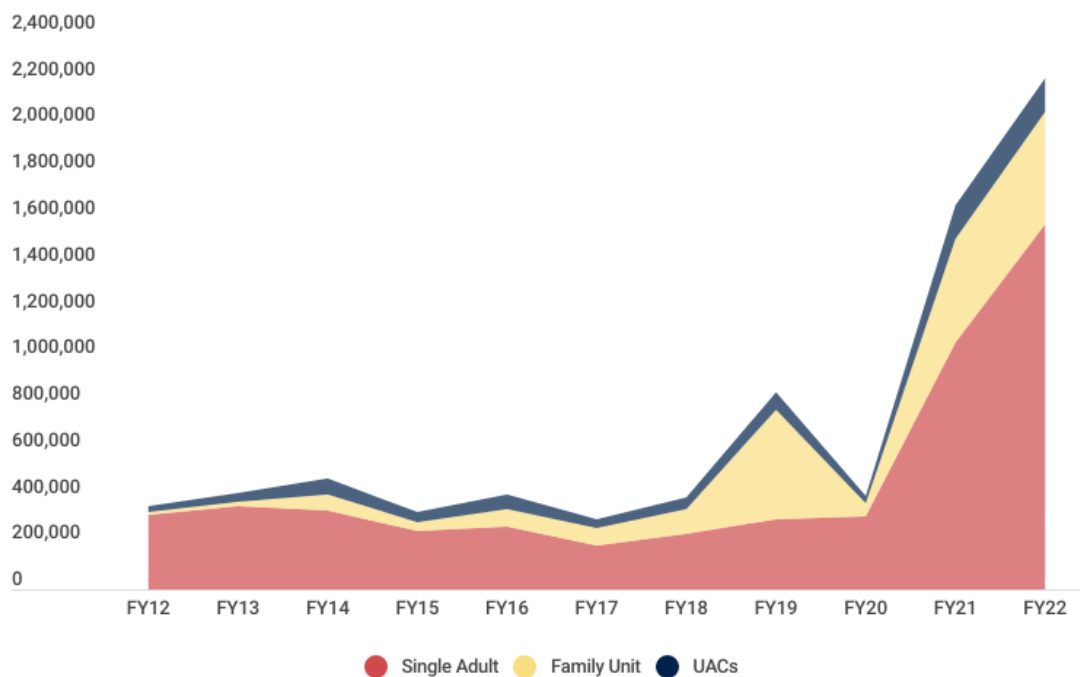
Source: CBP(1)(2)

In FY2021, just over 2,500 migrants from India were encountered at the southwest border, while in FY2022, there were close to 18,200 encounters—more than a 600% increase. Encounters have hovered between 1,000 and 2,500 per month since December 2021. The number of Brazilians encountered in FY2022 was similar to the number encountered in FY2021; in FY2022, there were nearly 53,500 encounters, while in FY2021 there were approximately 59,000 encounters. There were a little over 7,000 encounters in FY2020, indicating that the increase in Brazilian encounters seen in FY2021 may be a sustained trend.

SINGLE ADULTS DRIVE INCREASE, BUT NUMBERS OF FAMILIES AND CHILDREN ENCOUNTERED REMAIN HIGH

Encounters of single adults at the southwestern border continue to drive the increase in the overall number of encounters at the border, as seen in figure 5 below.

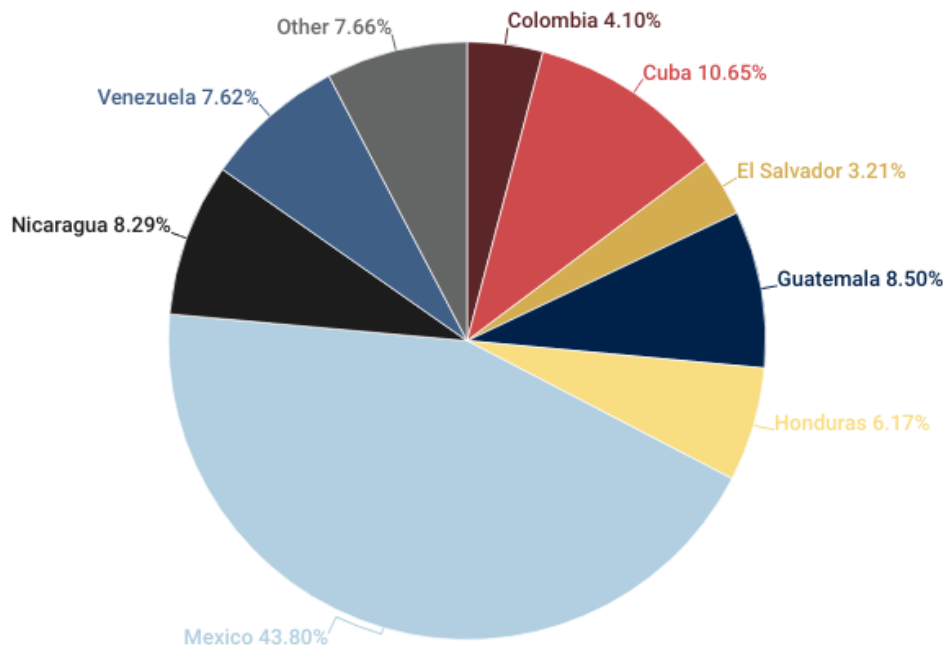
Figure 5: Total Encounters by Demographic, Single Adult vs. Family Unit vs. Unaccompanied Child/Single Minor (FY2012-FY2022)



Source: CBP⁽¹⁾⁽²⁾

Nearly 1,575,000 single adults were encountered at the border in FY2022, compared to about 1,063,000 in FY2021. The majority of those single adults, about 971,000, come from Mexico and the Northern Triangle, with almost 690,000 single adults from Mexico. Cuban single adults accounted for the largest number of single adults from outside those four countries, with nearly 167,800 single adults. Nicaragua followed, with about 130,600 single adults, and Venezuela narrowly behind all “other” countries combined—120,000 “other” single adults compared to 120,600 Venezuelan single adults.

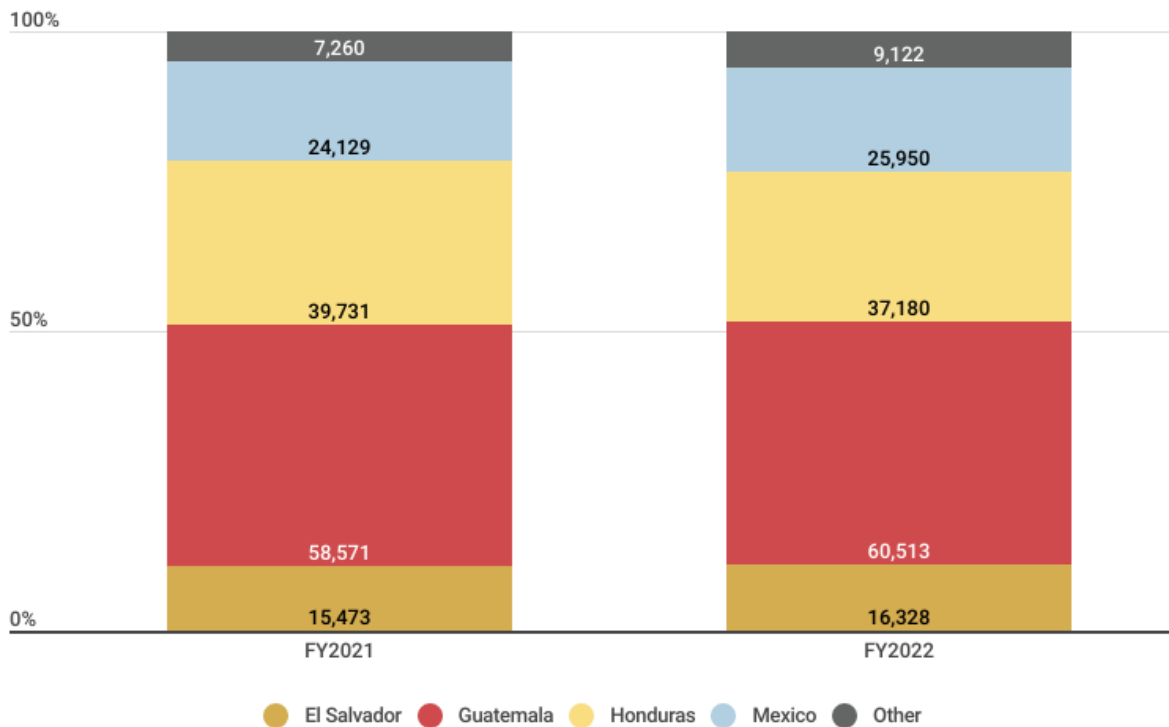
Figure 6: Total Encounters by Demographic, Single Adult (FY2022)



Source: CBP(1)(2)

The number of family units encountered in FY2022 increased only slightly from FY2021, going from just over 451,000 to about 483,000 family units. The same is true of unaccompanied children—about 149,000 unaccompanied children were encountered in FY2022, compared to nearly 145,000 in FY2021. The vast majority of unaccompanied children came from Mexico and the Northern Triangle—almost 138,000 children—with Guatemala making up the largest portion, nearly 60,500 children. Overall patterns changed little from last year, as seen in Figure 7 below, though there were increases in unaccompanied children from Colombia, Cuba, Haiti, India, and Venezuela, and a decrease in children from Ecuador.

Figure 7: Total Encounters by Demographic, Unaccompanied Children/Single Minors (FY2021-FY2022)

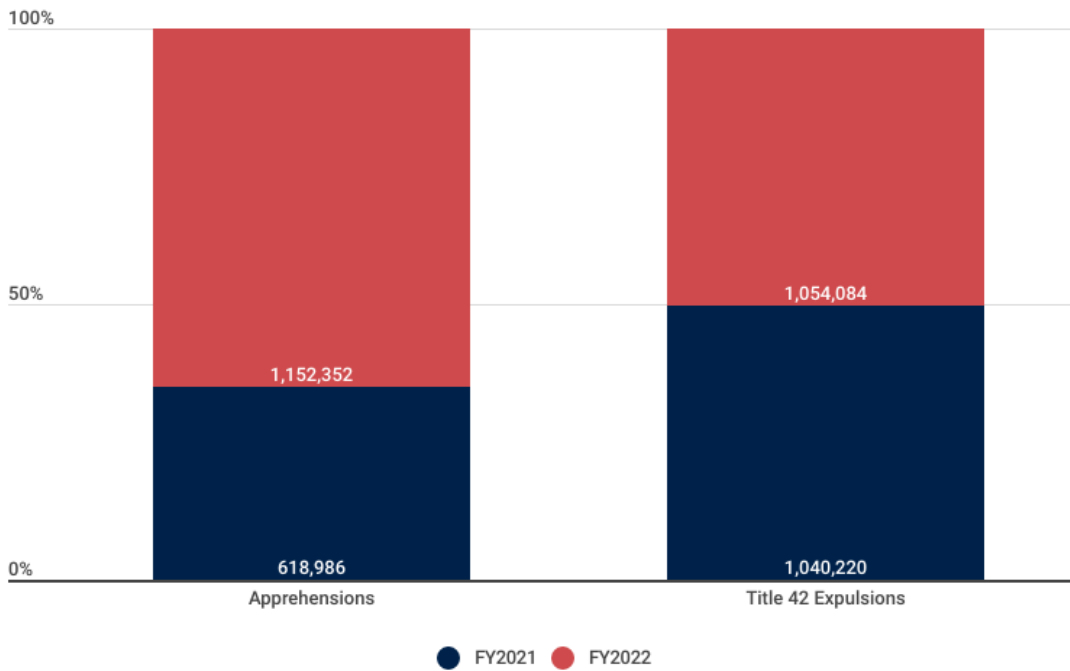


Source: CBP(1)(2)

CONTINUED RELIANCE ON TITLE 42 TO MANAGE THE BORDER

Though the Biden administration attempted to end Title 42 through a [CDC order](#) issued in April 2022, an attempt that was ultimately [blocked](#) by a federal judge in May 2022, the administration has continued to [use](#) the public health order as a border management tool. This is evidenced by the administration’s recent decision to [expand](#) Title 42 to Venezuelans in an effort to [deter](#) them from making the journey to the border. Yet the administration continues to argue in court that the policy should be rescinded, and has greatly increased its use of immigration authorities under Title 8 for border encounters compared to last year (See Figure 8), nearly doubling the amount of immigration apprehensions from about 620,000 in FY2021 to about 1,150,000 in FY2022.

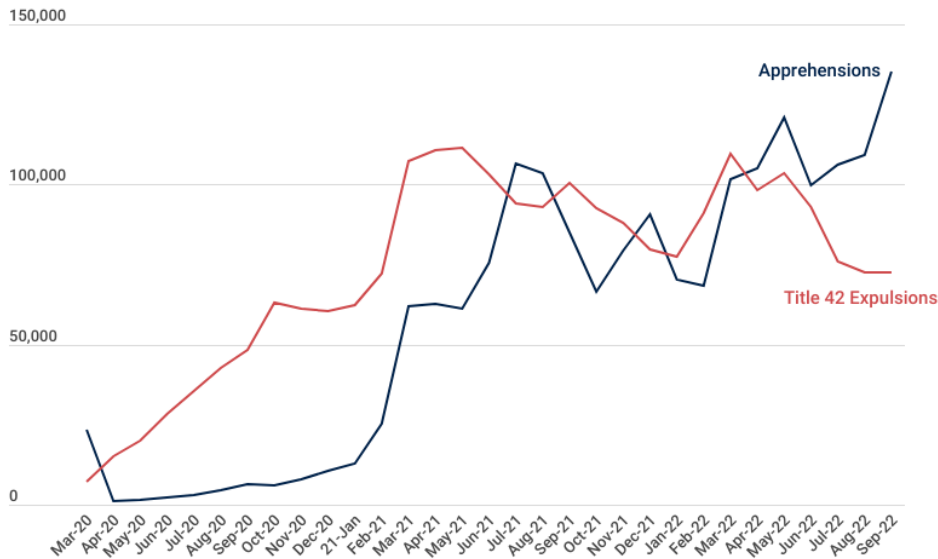
Figure 8: Southwest Border Apprehensions vs. Expulsions (FY2021-FY2022)



Source: CBP(1)(2)

However, Title 42 remains a centerpiece of the Biden administration’s border strategy, having been used at the border over a million times in both fiscal year FY2021 and FY2022—about 1,040,000 times in FY2021 and a little over 1,054,000 times in FY2022. The use of Title 42 has decreased in recent months, seen below in figure 10, going from approximately 104,000 expulsions in May 2022 to around 75,000 expulsions starting in July 2022, a change likely spurred by the increasing numbers of people from countries that Mexico will not allow expelled across the border.

Figure 9: Monthly Southwest Border Apprehensions and Expulsions (March 2020 – FY2022)



Source: CBP(1)(2)

Title 42 is unlikely to end any time soon, [since](#) the CDC has not yet sought public comment on the termination of the process, which is required by the federal judge in order to formally end Title 42.

CONCLUSION

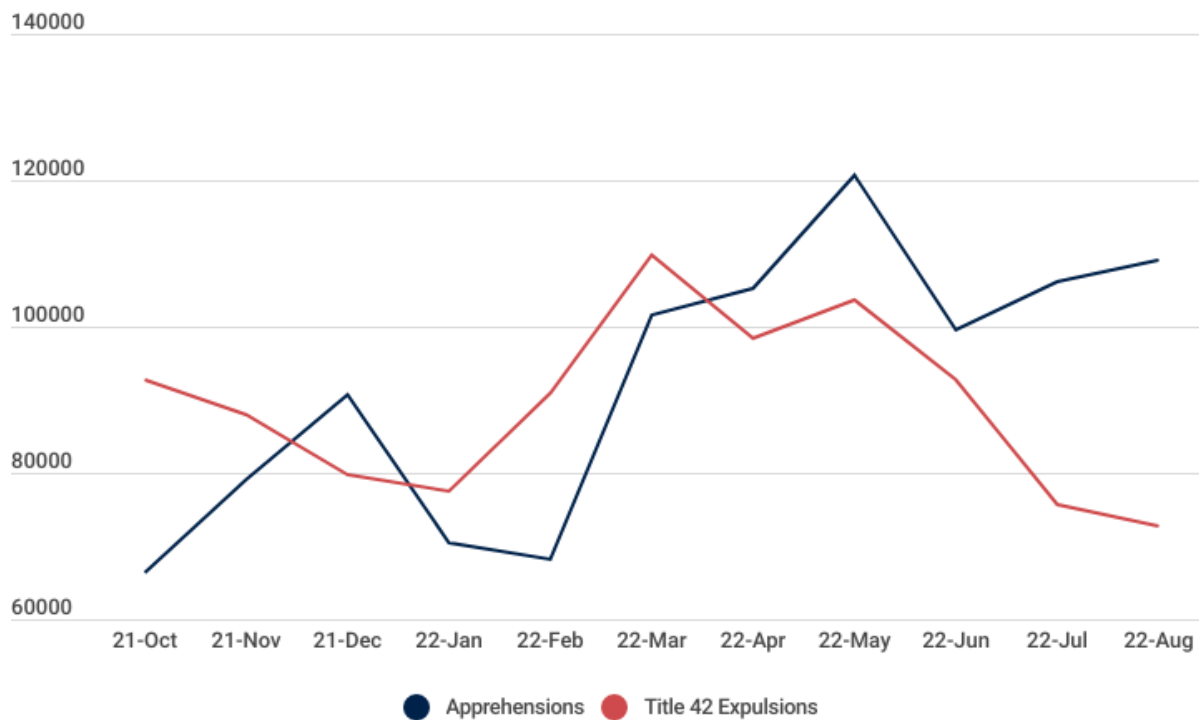
The Biden administration is becoming increasingly reliant on temporary tools, using Title 42 and parole programs, like the new [process](#) for Venezuelans, to manage the border in the absence of reform to the overall border management framework. This means the process at the border is becoming a patchwork, made up of decades-old policies that no longer reflect the reality of migration at our southwest border and temporary processes instituted in an effort to catch up. As migration to the border becomes increasingly diverse and hemispheric, the asylum [backlog](#) continues to grow and fails to deliver timely decisions to immigrants, while encounters of family units and unaccompanied children remain high. A new approach is desperately needed. The Biden administration has instituted some process changes, such as streamlining asylum by [giving](#) asylum officers the power to make asylum determinations for new arrivals at the border and [increasing](#) the use of ports of entry to process asylum seekers, but more drastic and permanent changes are needed. Absent congressional action, this and future administrations will continue to rely on temporary changes to manage a the changing dynamics at the border.



How Was Immigration Enforcement Law Used at the Border in FY2022?

The number of Title 8 apprehensions at the U.S.-Mexico border nearly doubled from fiscal year 2021 to FY2022, going from about 620,000 apprehensions in FY2021 to a little over 1,150,000 apprehensions in FY2022. Though the use of Title 8 has greatly increased this fiscal year, Title 42, the public health emergency order that allows U.S. Customs and Border Protection (CBP) to expel migrants without processing them under immigration law, was still used about 1,054,000 times in FY2022, seen below in Figure 1. Title 42 remains a centerpiece of the Biden administration's approach to the border, despite the administration's attempt to [end](#) it in April 2022 which was [blocked](#) by a federal judge in May 2022.

Figure 10: Monthly Southwest Title 8 Apprehensions and Title 42 Expulsions (FY2022)



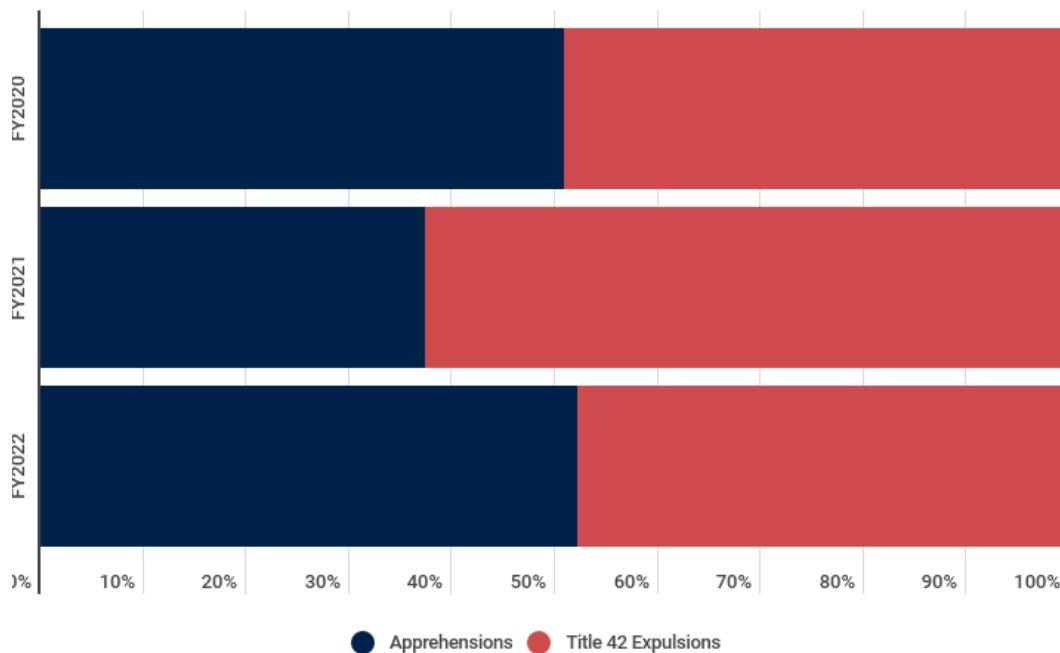
Source: CBP⁽¹⁾⁽²⁾⁽³⁾

In this blog, we break down how the Border Patrol used its immigration authorities at the border in FY2022. When the CDC’s Title 42 order eventually comes down, apprehended migrants will again be processed entirely under the immigration authorities of Title 8. CBP tracks the disposition of all migrants processed under immigration law, and those dispositions offer insights into how the Biden administration’s approach has changed at the border this fiscal year, and how the administration might approach the border once Title 42 ends.

TITLE 42 VS. TITLE 8

The Biden administration continues to rely heavily on Title 42 to manage the border, though it used the public health order for a smaller percentage of overall encounters at the border in FY2022 than in FY2021. (Figure 2). Title 42 was [implemented](#) at the border in March 2020, at the beginning of the coronavirus outbreak. Though the order took effect halfway through FY2020, it was used to expel nearly half of all migrant encounters at the border that year; there were just over 197,000 Title 42 expulsions in FY2020, and about 203,600 Title 8 apprehensions. Use of Title 42 greatly increased in FY2021, accounting for about 63% of all encounters, and decreased again in FY2022, accounting for only 48% of encounters.

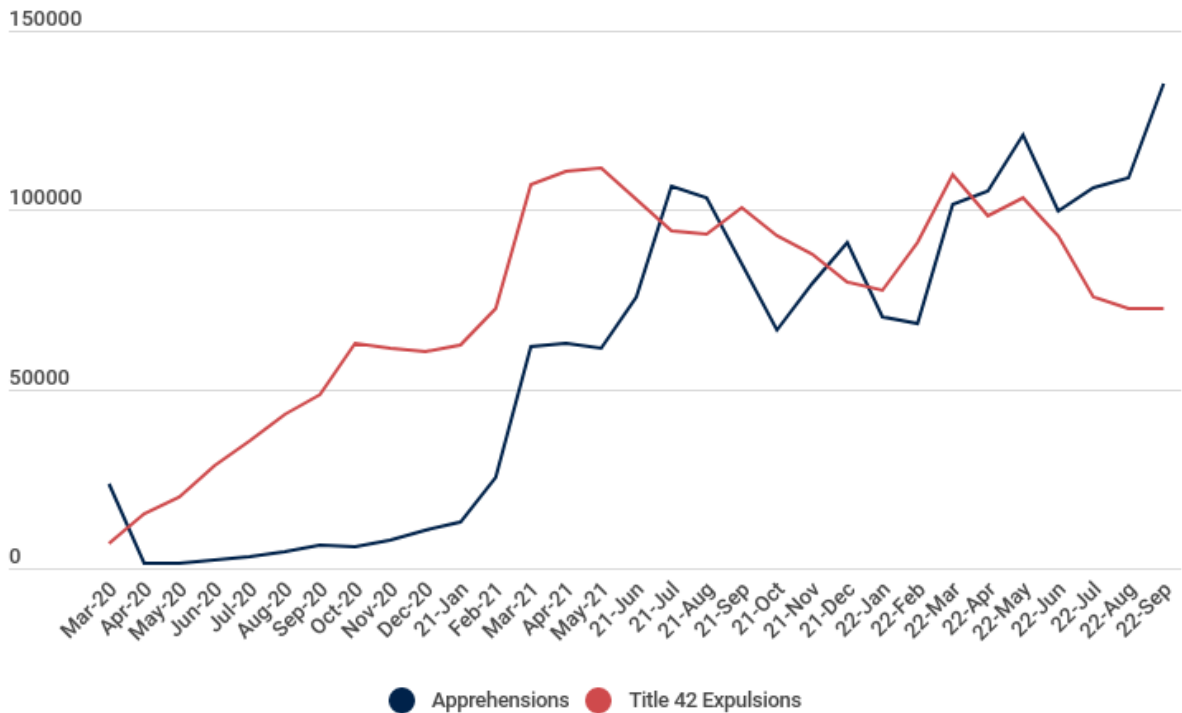
Figure 11: Southwest Border Apprehensions vs. Expulsions (FY2020-FY2022)



Source: CBP(1)(2)(3)

Usage of Title 42 increased quickly once it was implemented, as seen below in Figure 3. Border expulsions increased from just under 7,100 in March 2020 to nearly 48,500 in September 2022. Beginning in April 2020, the number of Title 42 expulsions outpaced the number of Title 8 apprehensions and remained the most-used authority at the border until July 2021. Usage of Title 42 and Title 8 authorities has remained more even since July 2021, with Title 42 expulsions declining somewhat at the end of FY2022.

Figure 12: Monthly Southwest Title 8 Apprehensions and Title 42 Expulsions (March 2020 – FY2022)



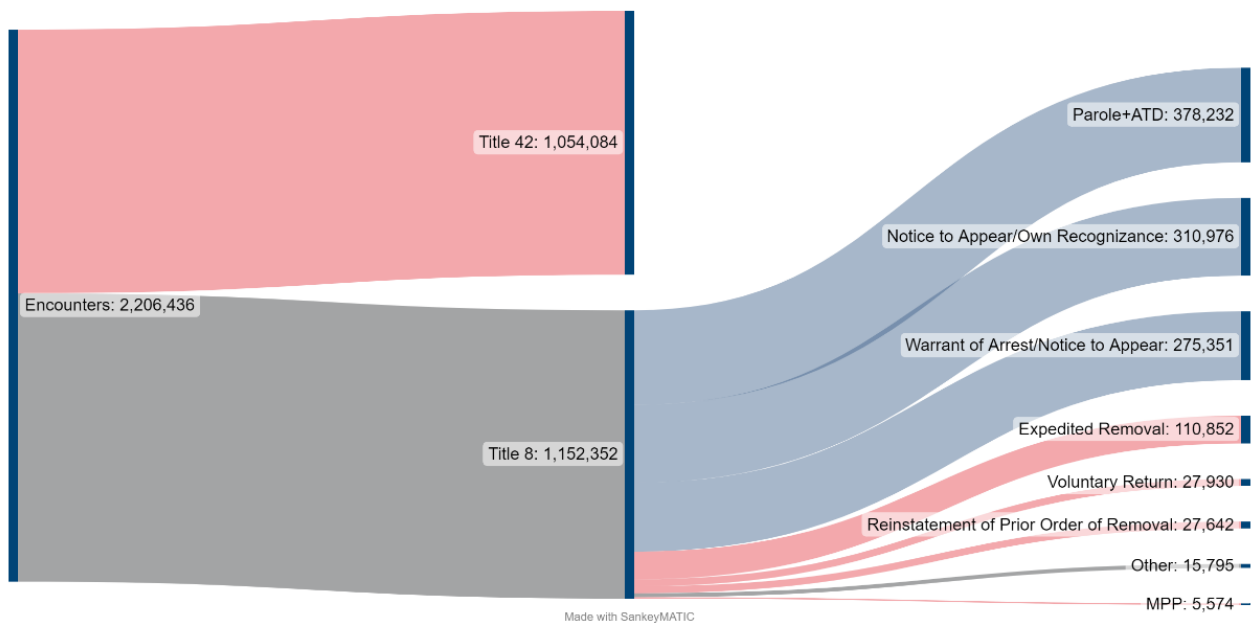
Source: CBP(1)(2)(3)

Continued reliance on Title 42 to manage the border is a precarious strategy, as the public health order can only remain in effect while there is a declared public health emergency. Many officials anticipate that the public health emergency may end in FY2023, which adds urgency to the question of how the administration plans to utilize Title 8 to manage the border in the coming fiscal year.

HUGE GROWTH IN PAROLE AND ALTERNATIVES TO DETENTION

Figure 4 represents the outcomes of all migrant encounters at the U.S.-Mexico border between ports of entry in FY2022, with red representing those migrants who eventually were sent out of the country and blue representing migrants who were allowed to stay in the country while their immigration case was decided.

Figure 13: Migrant Encounters and Dispositions (FY2022)



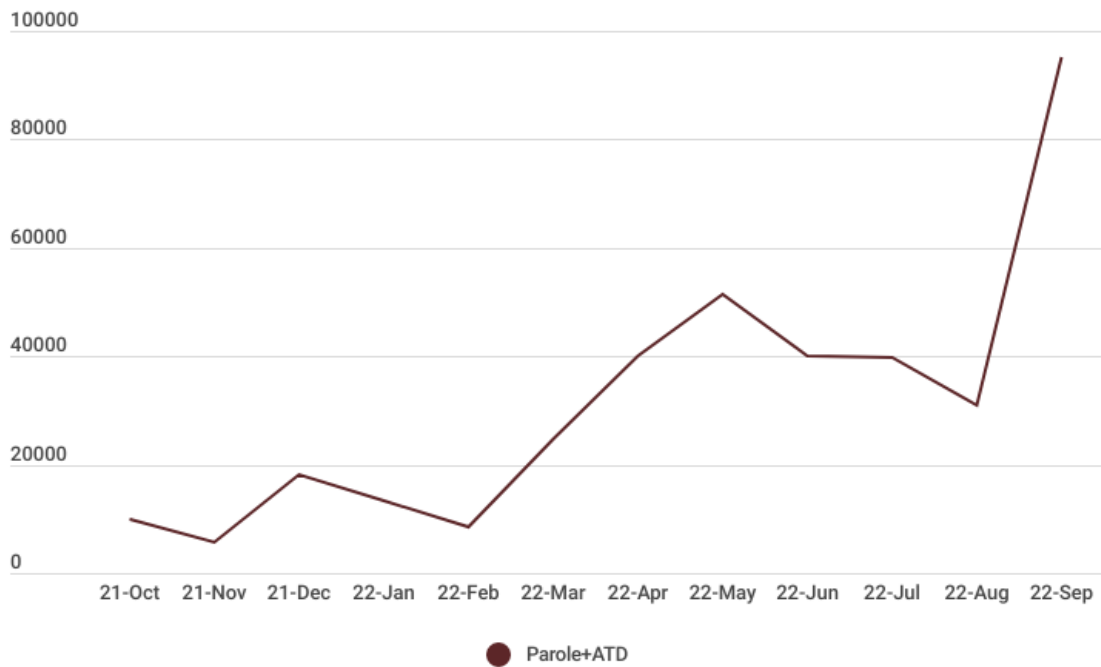
Source: CBP(1)(2)(3)

In May 2022 (just over halfway through the fiscal year), the largest disposition category under immigration law was the Notice to Appear/Own Recognizance category, with close to 200,000 people released into the country under those terms. Individuals in this category are given a notice to appear in immigration court, and sign paperwork committing to appear for scheduled immigration court hearings and then released on their own recognizance. In other words, they are not detained or monitored directly by Immigration and Customs Enforcement (ICE). This category was closely followed by the Warrant of Arrest/Notice to Appear category, with nearly 170,000 individuals. Individuals in this category are placed into immigration detention to await their court proceedings. Though these dispositions continued to be used throughout the rest of the fiscal year, the category that experienced the most growth, and

was the most used processing disposition during FY2022, was the Parole + Alternatives to Detention (ATD) category. In May 2022, just over 120,500 people had been placed into an ATD program and released into the country with humanitarian parole by Border Patrol. By the end of FY2022, that number had surpassed 378,000, a nearly 210% increase (Figure 5).

Figure 14: Number of Parole + ATD Dispositions (FY2022)

Source: CBP(1)(2)(3)



The first significant growth in the Parole + ATD category occurred between February 2022 and March 2022, when it went from under 8,600 people to nearly 25,000. Growth in the category increased steadily until May 2022, peaking at around 51,500 enrollments that month, and then dropped slightly between June and August 2022, falling to about 31,100 enrollments. But the next month, in September, program enrollments tripled to about 95,200, far outpacing all other disposition categories, and nearly doubling May’s previous high.

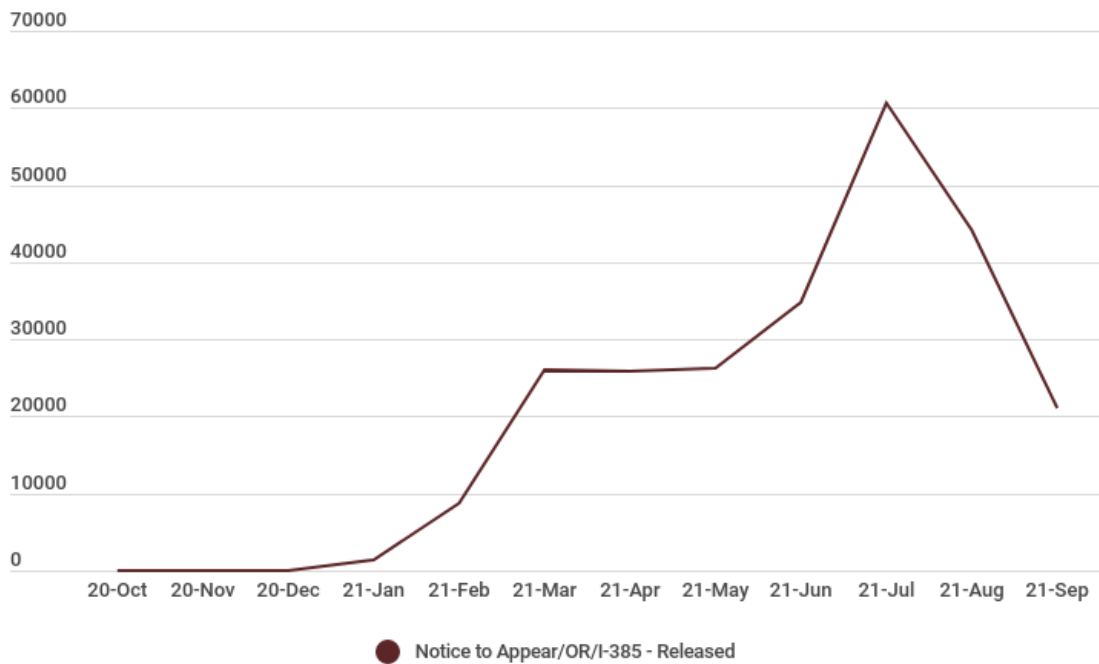
According to a September 2022 GAO [report](#), the growth in the Parole + ATD category was in large part due to the increase in apprehensions at the border and decreased detention capacity in Border Patrol facilities, after a Notice to Report (NTR) process (in effect from March 2021-November 2021) drew complaints from ICE. In March 2021, Border Patrol began processing many family unit members via NTR, which is a document that instructs an individual to report to an ICE office within 60 days. According to the GAO,

the NTR process was conceptualized and implemented over the course of a few days by senior Border Patrol headquarters officials with little input from Border Patrol Sectors or ICE Enforcement and Removal Operations (ERO). This led to significant processing challenges at ICE ERO field offices that could not handle the number of arrivals, and concerns among Border Patrol and ERO officials that only a small proportion of family units processed with NTRs were reporting to ICE offices, as these families were not required to specify which field office they planned to report to. Destination addresses were also often incomplete or invalid, meaning that ERO had limited ability to follow up and track the migrant families.

Because of the large number of arrivals, Border Patrol has sought to expedite processing for individuals and lessen the overall time they spend in Border Patrol custody. The paperwork for a Notice to Appear for the individual to be placed in full removal proceedings takes about 2 to 2.5 hours for an agent, while processing an individual for an NTR or into the Parole + ATD category takes about 30 minutes. In response to the challenges encountered with the NTR process, senior Border Patrol and ERO headquarters officials developed and implemented the Parole + ATD process in July and August 2021, and terminated the NTR process in November 2021. The Parole + ATD process contains additional mechanisms to track and monitor family unit members without Notices to Appear and increases the likelihood that family units report to an ERO field office. As the Parole + ATD process was implemented, sectors transitioned from using NTRs to Parole + ATD.

In government [data](#), the growth in the NTR process was reflected in the “Notice to Appear/Order of Recognizance, I-385 – Released” category from FY2021 (an I-385 [is](#) a Notice to Report). The category saw significant growth starting in March 2021 when the GAO report says that the NTR process was implemented. Numbers peaked in July 2021, seen below in Figure 6, and then began to decrease as the Parole + ATD category was implemented over the summer. It is important to note that the category is not only made up of NTRs, but much of the growth in the category from March to July 2021 can be attributed to the NTR process described in the GAO report.

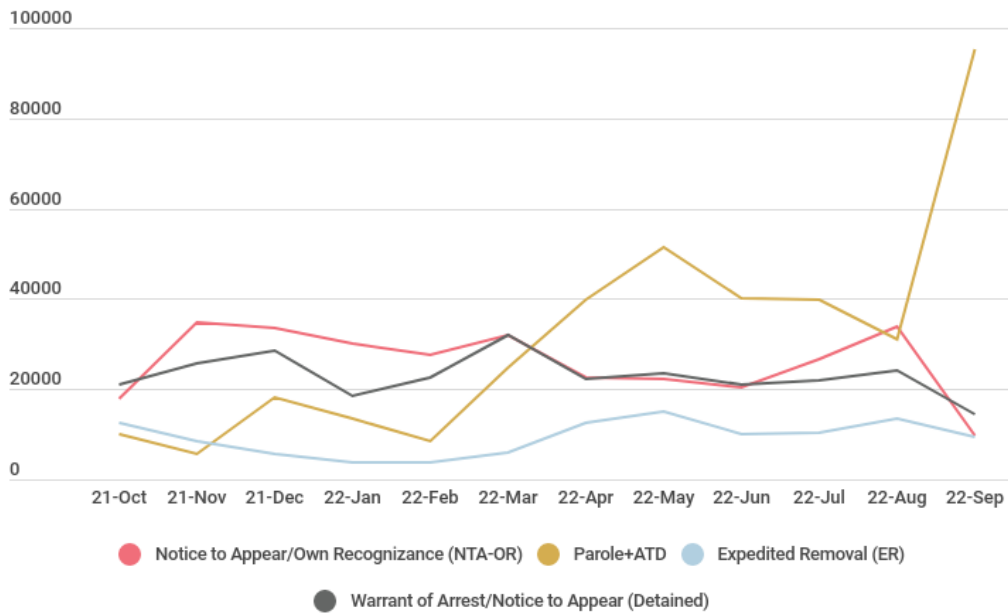
Figure 15: Notice to Appear/Order of Recognizance, I-385 – Released (FY2021)



Recent [analysis, and the September GAO report](#), has showed that growth in the ATD category in 2021 was driven by increased enrollment of various nationalities into ICE’s ATD program, with a particular increase in the number of Venezuelans, Nicaraguans, Brazilians, Hondurans, Haitians, Cubans, and Ecuadorians that year. This [suggests](#) that the administration may be especially reliant on ATD programs for nationalities that are excluded from Title 42 because neither Mexico nor their home country will accept returns of migrants.

The fiscal-year-end growth of the Parole + ATD category saw a corresponding drop-off in the use of the Notice to Appear/Own Recognizance, Warrant of Arrest/Notice to Appear, and Expedited Removal processing dispositions, seen below in Figure 7.

Figure 16: NTA-OR vs. Parole + ATD vs. Expedited Removal vs. Detention (FY2022)



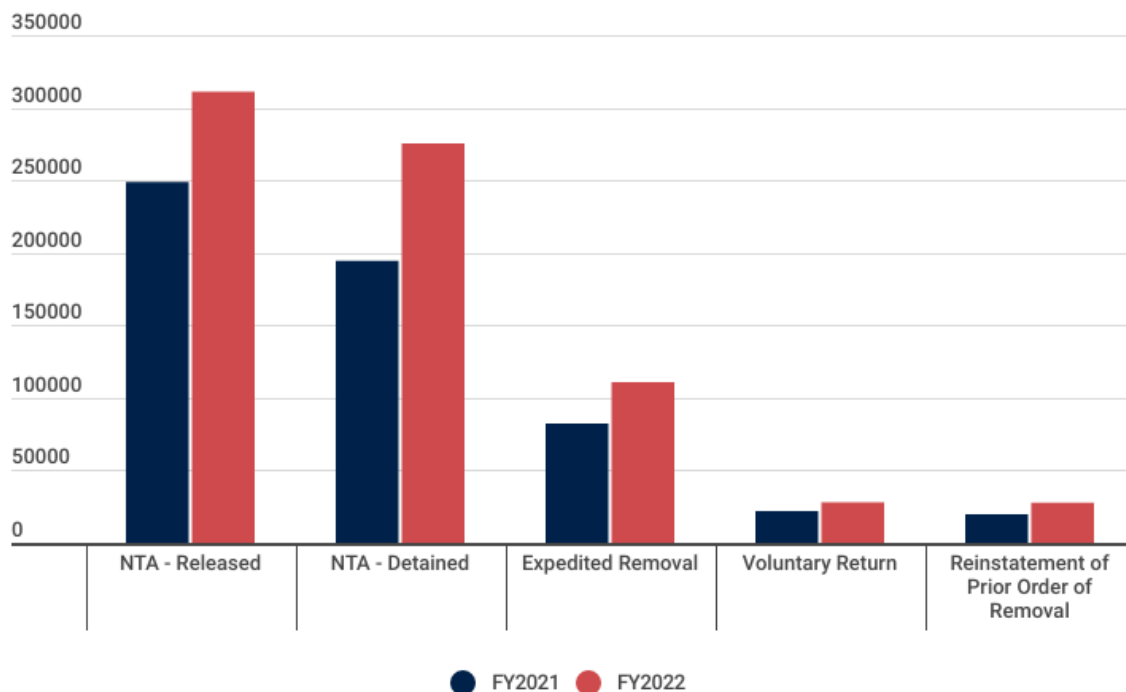
Source: CBP⁽¹⁾⁽²⁾⁽³⁾

Despite slight drop-offs between December 2021 and March 2022, and September 2022, expedited removals have remained relatively stable, averaging about 10,000 removals since April 2021. The number of expedited removals peaked in May 2022 this fiscal year, at about 15,000 removals. The increase in expedited removals between March 2022 and May 2022 was likely in response to the administration’s expectation that Title 42 would be removed in May 2022.

GROWTH IN ALL IMMIGRATION PROCESSING DISPOSITIONS IN FY2022

The use of all immigration processing dispositions (those not processed under Title 42) increased from FY2021 to FY2022, seen below in Figure 8, though not all processing categories are comparable from year to year—for example, the Parole + ATD category was not used in FY2021.

Figure 17: Comparison of Processing Dispositions from FY2021 to FY2022



Source: CBP⁽¹⁾⁽²⁾⁽³⁾

The most significant increase was in the detentions category, despite the Biden administration’s stated desire to decrease the use of detention. About 194,500 people were detained in FY2021, and around 275,500 people were detained in FY2022. The increases in all other categories were smaller, especially in the Voluntary Return and Reinstatement of Prior Order of Removal categories, which have always seen relatively fewer cases. Interestingly, however, the number of Reinstatement of Prior Order of Removal dispositions was higher in FY2020 than in both FY2021 and FY2022. Nearly 29,700 Prior Orders of Removal were reinstated in FY2020, compared to almost 20,000 in FY2021 and about 27,600 in FY2022. The number of processing dispositions in FY2020 was much lower across all other categories, in large part due to the COVID pandemic and the lower number of overall encounters.

The number of migrants enrolled in the controversial “Remain in Mexico,” or Migrant Protection Protocols (MPP) program was actually higher in FY2022 than in FY2021. President Biden ended the program in February 2021, so barely 4,000 migrants were enrolled in the program in FY2021. In August 2021, the administration was ordered to [reinstate](#) MPP by a federal judge and [resumed](#) enrolling people in December 2021. In June 2022, however, the Supreme Court [ruled](#) that the Biden administration had the authority to end the program for good, with the formal end of “Remain in Mexico 2.0” [announced](#) in October 2022. Just over 5,500 migrants were enrolled in Remain in Mexico 2.0, but the processing disposition will likely disappear for the foreseeable future.

CONCLUSION

Though it is unclear when Title 42 will end, relying on the public health order is an unsustainable border policy. Examining the way that the Biden administration has used Title 8 at the border in FY2022 may indicate the administration's more long-term vision for managing the border. Parole and Alternative to Detention programs will likely play a central role, and reliance on detention will probably decrease. However, changes in nationalities of migrants, agreements with Mexico or other countries on returns, and the effects of these policies on the rest of the immigration system, particularly ICE and the immigration courts, remains to be seen.



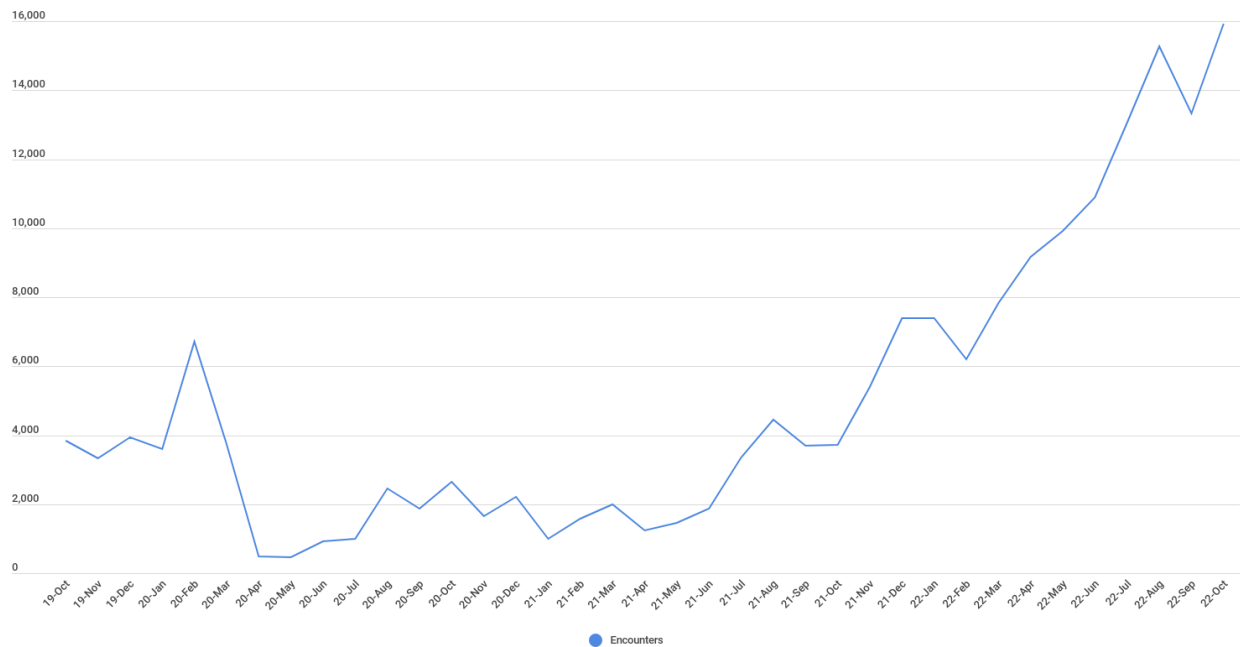
Alternative Routes: FY2022 Sees Increases in Migrant Encounters at the Northern Border and at Sea

While still much smaller in number than encounters at the southern border, the increases in encounters at the northern border and at sea indicate that migrants are seeking alternative routes to enter the U.S. These routes, though sometimes less tightly controlled than the southern border, are equally as perilous, with the number of fatal [drownings](#) in the Caribbean rising and those attempting to cross the northern border being exposed to extreme, and sometimes [fatal](#), weather conditions. As the Biden administration attempts to grapple with the end of Title 42 and its impact on migration at the southern border, it must also address these alternative routes.

MIGRANT ENCOUNTERS AT THE NORTHERN BORDER

The northern land border saw a significant increase in encounters this fiscal year. In fiscal year 2021, just over 27,000 migrants were encountered at the northern border by the Office of Field Operations (CBP officers at lawful ports of entry) and U.S. Border Patrol (agents patrolling the rest of the border), slightly below the FY2020 total of about 32,500. However, in FY2022, there were close to 110,000 encounters—an increase of nearly 350%, seen below in Figure 1.

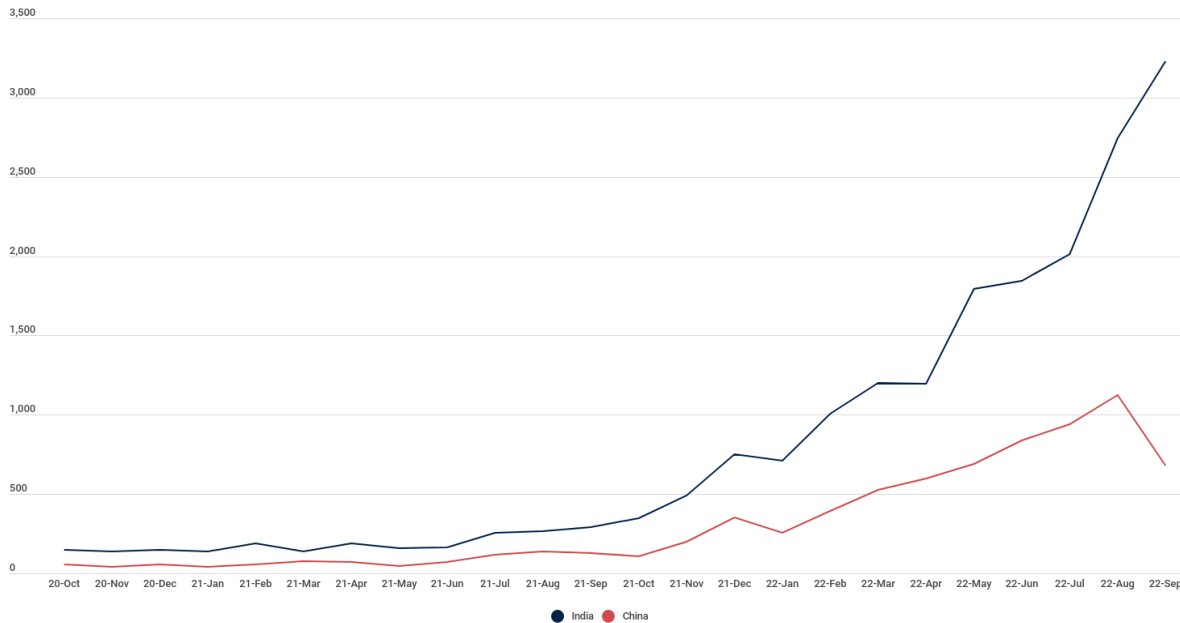
**Figure 18: Northern Land Border Encounters
(FY2020-FY2023TD)**



Though much of the increase in encounters at the northern land border this fiscal year was driven by encounters with Canadians—40,600 Canadians encountered in FY2022, compared to 16,200 Canadians in FY2021—there were significant increases in encounters with Chinese, Indian, Ukrainian migrants, and migrants from other countries.

India and China are Canada’s two largest source countries for new immigrants. As economic and political turmoil has increased in India and China countries, it’s possible a larger number of migrants from both countries are making the journey to Canada and then continuing onwards to the United States. There were nearly 6,700 encounters of Chinese migrants at the northern border in FY2022, compared to just about 900 encounters in FY2021, and more than 17,300 encounters of Indian migrants in FY2022, rising from just about 2,200 in FY2021, seen below in Figure 2.

Figure 19: Encounters by Nationality, China and India (FY2021-FY2022)



There has also been an increase in encounters of both nationalities at the southern border—the number of Indians encountered at the southwestern border rose to nearly 64,000 in FY2022, compared to around 30,700 in FY2021. The number of Chinese encounters at the southern border rose from 450 in FY2021 to close to 2,200 in FY2022.

DRIVERS OF MIGRATION

Experts have put forward a number of [reasons](#) for the possible increase in Indian migrants to the southern border, pointing toward a climate of discrimination in the country, the end of pandemic-era restrictions, a perception that the Biden administration welcomes asylum seekers, and an increase in previously established smuggling networks. Sectarian violence has also [intensified](#), as right-wing groups targeting Muslims through rhetoric and provocation has led to an increase in communal tensions between Hindus and Muslims. Violent [clashes](#) and a [surge](#) in summary punishments of Muslims has [driven](#) many Muslims to leave the country. The factors driving Indian migrants to the southern border are likely the same factors bringing migrants from India to the northern border, as well as the fact that the northern border [is](#) less-fortified than the southern border.

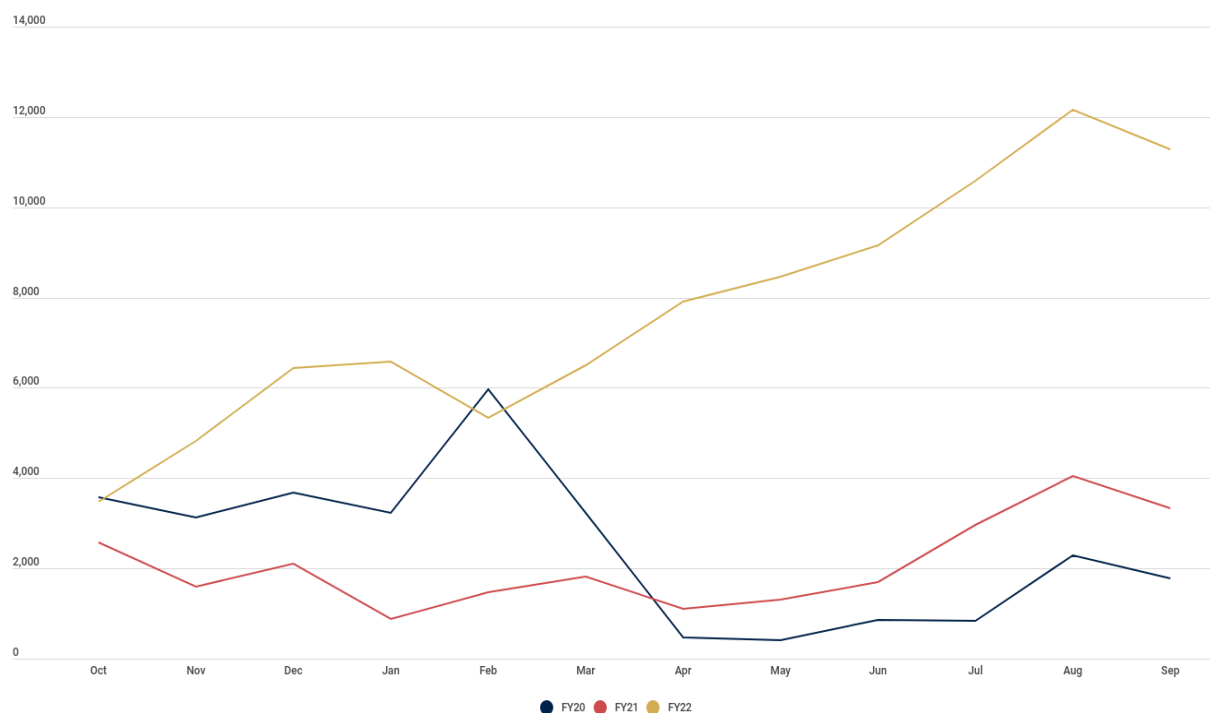
The Canada Border Services Agency (CBSA) [warned](#) in 2020 that Indian nationals would increasingly use sophisticated human smuggling networks to reach Canada, a trend that seems to have borne out this fiscal year, with the tragic death of an Indian family in January 2022. The smuggler who abandoned the Indian family is [believed](#) to have been part of a major human smuggling operation spanning India, Canada, and the United States.

More people [have](#) sought to leave China after years of strict “zero COVID” policies and stricter political controls, in what is being called the “run movement.” Strict [lockdowns](#) in 2022, combined with a sense of [disillusionment](#) in the youngest generation of Chinese citizens, shrinking economic opportunities, and growing political oppression, has led many Chinese citizens to leave the country. It is possible that the factors driving the “run movement” are [leading](#) more Chinese migrants to both the northern and southern border. An increasing [number](#) of rich and ultra-rich Chinese citizens are also searching for ways to leave, as fears that the Chinese government could seize their wealth and assets grow. Many of these rich and ultra-rich Chinese citizens [are](#) looking to Canada as an option, and some who make the journey may continue on to the United States.

The increase in Ukrainian encounters at the border was relatively smaller than the increase in Chinese and Indian encounters, going from just over 30 encounters in FY2021 to around 1,320 encounters in FY2022. Encounters began to rise in March 2022, after Russia [invaded](#) Ukraine on February 24, 2022, peaked in April 2022, and dropped in May 2022, though about 100 Ukrainians have been encountered on a monthly basis since then.

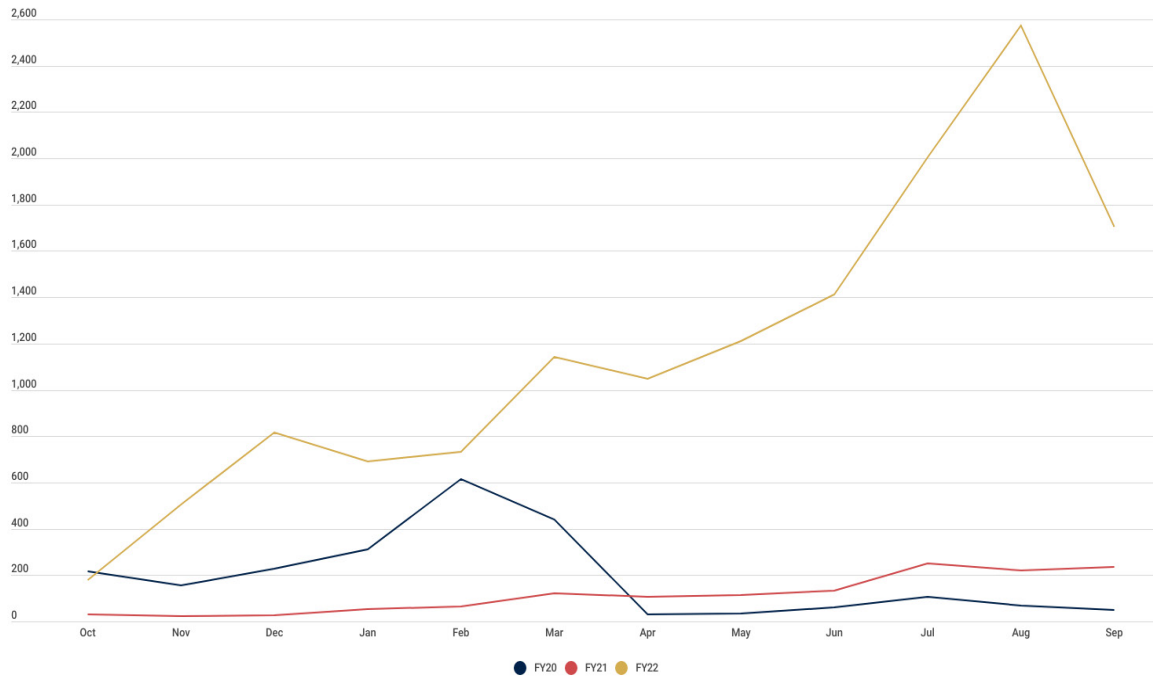
The increase in encounters this fiscal year was primarily driven by single adults. In FY2020, about 29,500 single adults were encountered at the northern border; that number decreased slightly in FY2021, to nearly 25,000 encounters. In FY2022, close to 93,000 single adults were encountered at the northern border. Numbers rose steadily throughout the year, dipping slightly in February and September of 2022, seen below in Figure 17.

Figure 20: Encounters by Demographic, Single Adult (FY2020-FY2022)



However, there has been a notable increase of family unit encounters at the northern border, which seems likely to persist into this fiscal year with nearly 2,500 family encounters in October 2022. In FY2020, there were about 2,300 family unit encounters, decreasing to around 1,400 encounters in FY2021. In FY2022, there were just above 14,000 family unit encounters—a nearly 900% increase from last fiscal year, seen below in Figure 18.

Figure 21: Encounters by Demographic, Family Unit (FY2020-FY2022)



Most migrants entering the United States from Canada are being processed through ports of entry using Title 8, but once migrants are processed it is not clear whether they are being released into the United States or being sent back to Canada using expedited removal. In other words, the data does not reveal how much of this increase in numbers is resulting in people being released into the United States. Under the [Canada-U.S. Safe Third Country Agreement](#), the United States could return those with protection claims to Canada, since the agreement requires claimants to request protection in the first safe country they arrive in. Returns under the Agreement would not be considered Title 8 returns.

Cooperation on migration is a [key](#) part of the Biden administration’s relationship with Trudeau’s government, and Canada has been a long-standing partner on the issue of migration management in the hemisphere. It is likely that both governments are already discussing how to respond to this new migration pattern, but it remains to be seen how each government chooses to handle the issue publicly.

MARITIME ENCOUNTERS ON THE RISE

FY2022 also saw a significant increase in unauthorized maritime migration from the Caribbean, according to [data](#) from the Migration Policy Institute. The increase in maritime migration is predominantly made up of Haitians and Cubans, and has reached levels not seen [since](#) the 1990s. According to [data](#) provided to CNN by the U.S. Coast Guard (USCG), USCG crews have intercepted more than 13,000 Cubans and Haitians in FY2022. Six thousand of those interceptions were of Cubans. In the USCG's FY2021 performance [report](#), they noted that interdictions in the first six months of FY2022 exceeded annual interdiction results from eight of the past 10 years.

The number of Cubans and Haitians intercepted in FY2022 nearly matches the total number—14,500—of maritime migration attempts in FY2021. Numbers in FY2021 were already higher than in FY2020; according to a USCG [report](#) from FY2020, about 7,600 migrants attempted to enter the country using maritime routes that fiscal year, and around 6,100 were interdicted by the USCG and their partners. The USCG's FY2021 performance [report](#) noted the increase in maritime migration attempts from FY2020 to FY2021, stating that “there is currently a surge of migrant activity in the maritime environment... the number of confirmed migrant landings... has increased 51% year-over-year.”

There were increases in maritime migration attempts [starting](#) in 2020, as the “oceanic human-smuggling pipeline” grew during the Trump administration. This growth was [attributable](#) to a number of factors—tighter land border enforcement under the Trump administration, the growth of smuggling rings and coyotes, and intensified passport control at airports led to a quintupling of apprehensions in the Southern California maritime zone in FY2020.

The current growth of maritime interdictions in the Caribbean, as mentioned previously, is largely due to a higher number of [Cubans](#) and [Haitians](#) making the perilous journey by boat. A [number](#) of push factors have led to this rise, mostly related to deteriorating conditions in countries of origin and the dearth of legal pathways available to enter the United States. The July 2021 assassination of President Jovenel Moïse in Haiti contributed to spiraling gang violence, an increasingly weak governance system, and economic collapse, which was exacerbated by an August 2021 earthquake and tropical storm. Economic crisis in Cuba, deepened by the pandemic, spiking inflation, and worsening government repression in response to widespread protests in July 2021, have driven an increasing number of Cubans from the country.

CONCLUSION

The southern border is not the only United States border that requires a rethink in effective management. Trends at the northern border and at sea indicate that the Biden administration, and following administrations, must update policy for both to match modern trends and keep up with advanced smuggling networks. Smuggling at the southern border is now a billion-dollar business, and smuggling networks run by transnational criminal organizations have grown more sophisticated, using new smuggling routes and methods to conceal their activity. As travel increases post-COVID, and smuggling networks begin to cater to new groups of people, it is critical that the administration continue to crack down on smuggling while modernizing their approach to the northern border, the southern border, and maritime encounters.



Process Changes at the Southwest Border in FY2022

There have been several significant changes to how migrants are dealt with at the border this fiscal year, as the Biden administration responds to changing dynamics and explores ways to expedite the legal processes in the face of an unprecedented migration challenge. Below is an overview of the changes, including a new final asylum rule, an evolving approach to Venezuelans at the border, increased use of ports of entry and parole programs for asylum-seekers, and the administration's response to rises in unaccompanied children.

NEW FINAL ASYLUM RULE

Chief among the changes is a new [final rule](#) on asylum that [aims](#) to speed up and smooth the asylum process for border arrivals by [allowing](#) asylum officers to adjudicate claims, rather than sending all cases to immigration judges. The administration [hopes](#) this rule will alleviate immigration court backlogs and more quickly process asylum claims, allowing those eligible for asylum to be granted relief rapidly and those who are not to be removed from the country swiftly. The rule is currently being implemented in phases, starting with individuals from two detention facilities in Texas.

The process under the new final asylum rule [begins](#) after the individual is placed into expedited removal proceedings with a credible fear interview, which is meant to [determine](#) whether the individual meets a minimum legal threshold—having a credible fear of persecution or torture. An asylum officer from U.S. Citizenship and Immigration Services (USCIS) interviews the individual while they are in detention. If an officer does not find credible fear, the migrant may appeal the decision to an immigration judge. If an officer does find credible fear, the migrant moves on to an asylum merits interview with an asylum officer, which is to be conducted in a non-adversarial manner. The officer's initial positive credible fear determination serves as the base of the asylum application, and migrants have seven days (if submitting in person) or 10 days (if submitting by mail) to correct the record or submit additional evidence before their asylum interview. The interview takes place between 21 days and 45 days after the credible fear determination. If asylum is not granted, the individual is placed into streamlined removal proceedings in immigration court, where an immigration judge will review the asylum claim to decide whether the claim should be granted. The judge must [issue](#) a decision within 90 days.

The rule greatly [expands](#) the power granted to asylum officers, and could substantially [shorten](#) the time that it takes to rule on an asylum claim. The process under the new asylum rule is designed to take less than six months to reach a decision, accounting for the time it takes to conduct the credible fear interview, gather evidence for the asylum merits interview, conduct the asylum merits interview, and then have a judge review the case if it is not approved by the asylum officer first. This starkly contrasts to the time it takes to move a case through immigration courts, where the backlog has [surpassed](#) 1.9 million cases, and wait times for asylum claims [averaged](#) about four and a half years at the end of 2021. Some policymakers and advocates have [welcomed](#) the rule, to an [extent](#), but also have raised concerns about the [lack](#) of legal representation in the process and rushed and [confusing](#) timelines.

The small scale of the current rollout shows little to no impact on the majority of those encountered on the border; according to [government data](#) released on October 6, 2022, only about 2,200 people had been processed since June 2022 using the new asylum rule. The [majority](#) of migrants encountered at the border still are either released into the country or expelled using Title 42.

CHANGING APPROACH TO VENEZUELAN AT THE BORDER

Venezuelan [encounters](#) at the U.S.-Mexico border have been rising since March 2021, peaking at nearly 25,000 in December 2021. Mexico [imposed](#) a visa requirement on Venezuelans in January that meant they were no longer able to fly to Mexico as tourists easily and then make their way to the border. As a result of the policy change, the number of Venezuelans encountered dropped in February 2022 but rose again in June 2022 and have continued to increase, demonstrating that Venezuelans are now taking longer overland routes through Central America to get to the border.

The Biden administration's struggle to articulate a response to Venezuelans at the border is a symptom of its larger challenge in responding to the overall shift in demographics at the border since it took office. A greater number of migrants from countries other than Mexico and the Northern Triangle countries of El Salvador, Guatemala, and Honduras have been arriving. Migrant arrivals from Mexico and the Northern Triangle have decreased, both as a percentage of the total number of arrivals and slightly overall. Cubans, Nicaraguans, and Venezuelans have driven most of the increase in migrants from "other" countries this year.

The increase in the last year of Venezuelans and nationals of countries that the United States does not have diplomatic relationships with, including Cuba and Nicaragua, has been a new and significant challenge. Until recently, migrants from these countries could [not](#) be deported—their countries of origin do not

accept returns, and Mexico did not either, until the recent Venezuela agreement was reached. This had led to the release of the vast majority of these new arrivals into the United States, encouraging additional migration from these countries.

On October 12, the Biden administration [announced](#) that it would allow 24,000 Venezuelans with pre-existing ties to enter the United States through a parole program that would be decided remotely and require them to fly to the United States. Those that do not qualify for the program would be expelled to Mexico under Title 42. As of November 2, 2022, [around](#) 7,000 Venezuelans had been approved for the program since its launch. The Venezuelan program is closely [modeled](#) on the, [Uniting for Ukraine](#) program that allows Americans to apply to sponsor a Ukrainian for parole but requires the individual to wait outside the United States until approved to travel. Early [reports](#) indicate that sponsors in the Venezuelan program are receiving approvals in hours or days, a pace much faster than the normal immigration process. Sponsors and immigration advocates [expect](#) that because of the quick pace of approvals, the 24,000 slots the administration has designated for the program will be filled quickly. This program [offers](#) a narrow pathway for Venezuelans to enter the country legally, but the expansion of Title 42 to Venezuelans will result in the expulsion of many Venezuelans who arrive at the border. Reports of limitations on how many expelled Venezuelans Mexico will accept, however, may still mean migrants will be released into the United States.

INCREASED USE OF PORTS OF ENTRY (POES) AND PAROLE PROGRAMS

As indicated by the Venezuelan program, the Biden administration is increasingly using ports of entry and parole programs to manage specific groups of migrants at the border. The Venezuelan program is somewhat unique in this sense—Venezuelans who apply to the program online and are accepted will [enter](#) through airports (which are ports of entry), not ports of entry at the land border. This may present a challenge for some Venezuelans, as there are currently [no flights](#) from Venezuela to the United States due to concerns about the safety of the Venezuelan aviation industry.

In the initial months after Russia’s invasion of Ukraine, Ukrainians arriving at the border were [processed](#) through land ports of entry. Nearly 10,000 Ukrainians were processed through land border ports between February 1 and April 6, 2022. After the administration launched Uniting for Ukraine, they were no longer [allowed](#) to enter the country along the land border and had to fly to the United States upon approval.

Some Haitians have also been allowed to enter through land border ports of entry, [starting](#) mid-July 2022, after what DHS said was a “significant increase

in the number of individuals who have presented themselves with situations that warrant humanitarian exceptions” to Title 42. According to the Cato Institute, allowing Haitians to enter through ports of entry [made](#) an almost entirely “illegal” flow nearly 97% legal. The way Haitians are [being processed](#) through ports of entry is not clearly laid out— asylum seekers are referred to ports of entry by a group of six nonprofits working at the border in Mexico. Once processed by CBP officers at the port, they are released into the country. According to reports, this is being done on a case-by-case basis and is in theory open to asylum seekers of any nationality, but Haitians are currently being prioritized.

Title 42 [prevents](#) most asylum seekers from being able to claim asylum at ports of entry, and metering practices at ports prevent most migrants from even crossing into U.S. territory. This has made asylum-seeking and border management more difficult, as asylum seekers must cross the border illegally to encounter U.S. officials and request protection. Using ports of entry to process populations like Ukrainians and Haitians not only allows for more orderly management of asylum-seekers, but it is essential to reducing the influence of criminal smuggling organizations and ensuring that asylum seekers are safely able to seek protection.

UNACCOMPANIED CHILDREN

The number of unaccompanied children entering the U.S. shelter system in fiscal year 2022 [remained](#) high at almost 130,000, surpassing the 122,000 that entered during FY2021. The large number of unaccompanied minors in FY2021 led to [overcrowding](#) and inhumane conditions at the border, as the Biden administration had difficulty housing the record number of arrivals. HHS, the agency tasked with caring for unaccompanied migrant children, [opened](#) a number of emergency intake sites in FY2021 to ease overcrowding in Border Patrol facilities, which are also not designed to house children. The workers at the emergency sites, especially the Fort Bliss tent complex, [struggled](#) to provide adequate care to the children housed there, with untrained case managers unable to ensure the safe and timely release of children to sponsors.

Despite the rise in children entering the shelter system this year, HHS has not struggled as they did in FY2021, in part [because](#) they did not face the same level of humanitarian and operational setbacks. HHS [says](#) they have worked to set up new shelters and added bed capacity at existing shelters to deal with the arrivals of unaccompanied children. They [have](#) closed most emergency sites opened in FY2021, or worked to improve conditions at ones that remain open, and have expedited the release of children to sponsors by removing steps in the sponsorship process and increasing hiring of case managers to place children with sponsors. There has been a significant reduction of time children spend in custody, from [51 days](#) at the beginning of FY2021 to [28 days](#) at the end

of August 2022. In FY2022, the average number of children in HHS care has [stayed](#) at around 10,000 per month, peaking around 12,500 in December 2021. In FY2021, the number of children in care [peaked](#) at just above 20,000. In April 2021, when the agency began struggling with the number of children in care, HHS greatly [increased](#) the number of children discharged to sponsors, peaking at about 17,000 discharges in August 2021. The [number](#) of total monthly discharges has remained high in FY2022, between 7,500 to 13,000 discharges a month.

Advocates have raised [concern](#) over the fact that Fort Bliss remains open as a processing center for children, and want HHS to open a larger number of smaller shelters with higher standards of care. Ensuring that children are safely released to sponsors is also vital, since HHS reduced some steps in the sponsorship process.

CONCLUSION

Every fiscal year brings new changes and dynamics at the border, which in turn affect the immigration system as a whole. This is demonstrated through the new final asylum rule which is largely a [response](#) to [mounting](#) asylum backlogs and growing immigration court delays with the goal of preventing influxes in the border from further overwhelming an already massively strained system. New approaches to Venezuelans and unaccompanied children at the border highlight the administration's efforts to respond to what have now become sustained trends: the growth in migrants from countries other than Mexico and the Northern Triangle, and high numbers of unaccompanied children and families. Smoothing processes can provide temporary assistance to the strained immigration system at the boarder, and can help ensure that everyone arriving at the border is treated humanely and fairly. However these changes are ultimately "band-aids" substituting for larger and more sustained fixes needed to manage migration on a long-term basis. To effectively manage the border in the long term, larger structural reforms to the immigration and asylum system are needed.



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