

¹ Calculations by the American Main Street Initiative for “got-aways”—aliens detected by the U.S. Border Patrol but not apprehended—on the southwestern border are based on U.S. Department of Homeland Security (DHS), “DHS Border Security Metrics Report: 2022,” July 3, 2023, p. 18 (for FY 2011–2021) (https://www.dhs.gov/sites/default/files/2023-07/2023_0703_plcy_fiscal_year_2022_border_security_metrics_report_2021_data.pdf); “DHS Border Security Metrics Report: 2021,” April 27, 2022, p. 16 (for FY 2010–2020): https://www.dhs.gov/sites/default/files/2022-06/2022_0427_plcy_border_security_metrics_report_FY2021_%282020_data%29.pdf; and additional sources for FY 2022 and FY 2023. For FY 2023, U.S. Border Patrol Chief Raul Ortiz testified on March 15, 2023 before the House Committee on Homeland Security that there had been “385,000 got-aways this fiscal year” on the southwestern border: <https://homeland.house.gov/2023/03/16/homeland-security-committee-republicans-confirm-the-cause-of-this-unprecedented-border-crisis-secretary-alejandro-mayorkas/>. For FY 2022, a DHS Inspector General report (“Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees’ Health and Morale,” May 3, 2023: <https://www.oig.dhs.gov/sites/default/files/assets/2023-05/OIG-23-24-May23.pdf>) says, “In FY 2022, CBP recorded more than 600,000 gotaways.” Fox News, based on a CBP source, had earlier reported that the tally was “at least 599,000” (“Border Officials Count 599,000 ‘Got-Away’ Migrants in FY 2022: Source,” Oct. 2, 2022: <https://www.foxnews.com/politics/border-officials-count-599000-gotaway-migrants-fiscal-year-2022-source>). *Newsweek* reported that CBP “confirmed” the “accuracy” of a claim of 600,000, saying it was “true” (“Fact Check: Were There 600,000 Southern U.S. Border ‘Got-Aways’ in 2022?,” Dec. 29, 2022: <https://www.newsweek.com/southern-us-border-migrants-gotaways-2022-1770201>). Since the I.G. report doesn’t provide an exact figure (“more than 600,000 gotaways”), calculations herein use the figure of 600,000 for FY 2022.

Across FY 2013–20, covering the second term of Obama and almost the full term of Trump, the total number of “got-aways” at the southwestern border was 1,056,597. For FY 2021, more than two-thirds of which was under Biden (January 20–September 30), the number of “got-aways” was 389,155. “Got-aways” are not broken out by month, but even if one-third of the FY 2021 “got-aways” were under Trump (which is improbable since there were four times as many “got-aways” under Biden in FY 2022 as under Trump in FY 2020) that still would mean there were 259,437 “got-aways” under Biden in FY 2021. For FY 2022–2023, the total number of “got-aways,” as of March 15, was 985,000. That brings Biden’s total as of mid-March 2023 to 1,244,437—easily exceeding the 8-year total under Obama and Trump (1,056,597), and even exceeding that 8-year total plus one-third of the FY 2021 total (1,186,315). Therefore, there were more “got-aways” in the first 26 months under Biden than in the 8 prior years (96 months) under Obama and Trump.

² Calculations by the American Main Street Initiative based on U.S. Customs and Border Protection, Southwest Land Border Encounters: <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>. Over the 8-year period covering February 2013 through January 2021 (essentially spanning Obama’s second term and Trump’s sole term), there were 2,158,225 encounters (44,963 per month) under Obama (counting January 2017 as Obama’s month) and 2,437,856 encounters (50,789 per month) under Trump (counting January 2021 as Trump’s month), for a total of 4,596,081 encounters over 8 years, or 47,876 per month. Over the 29-month period covering February 2021 through June 2023, there were 5,606,785 encounters under Biden, or 193,337 per month. So, there were 1,010,704 more encounters on the southwest border under Biden in 29 months than there were under Obama and Trump in 8 years (96 months), and 4.04 times as many encounters per month.

³ U.S. Customs and Border Protection (CBP), Custody and Transfer Statistics, U.S. Border Patrol – Dispositions and Transfers, USBP Monthly Southwest Border Apprehensions/Encounters by Processing Disposition, FY 2021 and FY 2023: <https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics>. In December 2020, 17 aliens were released on a Notice to Appear/Order of Recognizance (NTA/OR). In December 2022, 9,778 aliens were released on an NTA/OR, and an additional 130,577 were paroled, for a total of 140,355 who were released—which is 8,256 times as many releases as there were two years earlier (in December 2020).

⁴ CBP, Enforcement Statistics, Terrorist Screening Data Set Encounters, U.S. Border Patrol TSDS Encounters Between Ports of Entry of Non-U.S. Citizens: <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>. There were 0 encounters with non-citizens on the TSDS in FY 2019 and 3 in FY 2020, for a total of 3 for FY 2019–2020. As of August 1, 2023, the number of encounters for FY 2023 was listed as 140, along with 98 encounters in FY 2022, for a total of 238 for FY 2022–2023 (to date). That’s 79.3 times as many encounters in FY 2022–2023 as there were in FY 2019–2020, even with FY 2023 not yet being completed.

⁵ Calculations by the American Main Street Initiative based on U.S. Bureau of Labor Statistics, Employment Situation Archived News Releases (<https://www.bls.gov/bls/news-release/empsit.htm#2022>), Household Data, Table A-7, for May of each year (here’s the link for May 2023: https://www.bls.gov/news.release/archives/empsit_06022023.htm). The U.S. foreign-born population over the age of 16 grew from 42,869,000 in May 2021 to 46,769,000 in May 2023, an increase of 3,900,000 over 2 years. In comparison, the U.S. Census Bureau lists the 2022 population of the city of Los Angeles as 3,822,238 (down 2% from 2020): <https://www.census.gov/quickfacts/fact/table/losangelescycalifornia/PST045222>.

⁶ President Joe Biden, Executive Order #13993, “Revision of Civil Immigration Enforcement Policies and Priorities,” January 20, 2021, republished by the American Presidency Project: <https://www.presidency.ucsb.edu/documents/executive-order-13993-revision-civil-immigration-enforcement-policies-and-priorities>.

⁷ President Joe Biden, Executive Order #13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," January 20, 2021: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

⁸ DHS, "Significant Considerations in Developing Updated Guidelines for the Enforcement of Civil Immigration Law," September 30, 2021, published in *Texas v. U.S.*, U.S. District Court for the Southern District of Texas, Victoria Division, "Defendants' Memorandum of Points and Authorities in Opposition to Plaintiffs' Motion to Postpone the Effective Date of Agency Action or, in the Alternative, for Preliminary Injunction," p. 114: <https://affordablecareactlitigation.files.wordpress.com/2021/11/tx-imm-us-op-11-12-1.pdf>.

⁹ Justice Felix Frankfurter, *Galvan v. Press*, 347 U.S. 522 (1954), 531: <https://supreme.justia.com/cases/federal/us/347/522/>.

¹⁰ DHS, "Assessment of the Migrant Protection Protocols (MPP)," October 28, 2019, p. 2:

https://www.dhs.gov/sites/default/files/publications/assessment_of_the_migrant_protection_protocols_mpp.pdf.

¹¹ DHS Secretary Alejandro Mayorkas, quoted in *Biden v. Texas*, No. 21-954, June 30, 2022, p. 6 in the opinion of the Court:

https://www.supremecourt.gov/opinions/21pdf/21-954_7148.pdf.

¹² Andrew R. Arthur, "'Biden's Border Funnel' for Illegal Migrants Pushes SW Border Port Encounters to a New Record in June," Center for Immigration Studies (CIS), July 21, 2023: <https://cis.org/Arthur/Bidens-Border-Funnel-Illegal-Migrants-Pushes-SW-Border-Port-Encounters-New-Record-June>.

¹³ See note 2.

¹⁴ CBP, Southwest Land Border Encounters (setting filters to include only individuals in a family unit—or family-unit aliens (FMUA)):

<https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

¹⁵ Chief Justice John Roberts, *Biden v. Texas*, No. 21-954, June 30, 2022, p. 3 in the opinion of the Court:

https://www.supremecourt.gov/opinions/21pdf/21-954_7148.pdf.

¹⁶ Justice Samuel Alito, *Biden v. Texas*, No. 21-954, June 30, 2022, p. 1 in his dissenting opinion: https://www.supremecourt.gov/opinions/21pdf/21-954_7148.pdf.

¹⁷ *Ibid.*

¹⁸ Chief Justice John Roberts, *Biden v. Texas*, No. 21-954, June 30, 2022, p. 18 in the opinion of the Court:

https://www.supremecourt.gov/opinions/21pdf/21-954_7148.pdf.

¹⁹ Andrew R. Arthur, "Border Crisis Driven by Biden's Shift in DHS's 'Parole' Release Policy," CIS, May 5, 2022: <https://cis.org/Arthur/Border-Crisis-Driven-Bidens-Shift-DHSS-Parole-Release-Policy>.

²⁰ U.S. Border Patrol (USBP) Chief Raul Ortiz, quoted in *Florida v. U.S.*, U.S. District Court, Northern District of Florida, Pensacola Division, pp. 14-15:

https://storage.courtlistener.com/recap/gov.uscourts.flnd.405819/gov.uscourts.flnd.405819.157.0_1.pdf.

²¹ CBP, Custody and Transfer Statistics, U.S. Border Patrol – Dispositions and Transfers, USBP Monthly Southwest Border Apprehensions/Encounters by Processing Disposition, FY 2021 and FY 2023: <https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics>. In December 2020, 17 aliens were released on a Notice to Appear/Order of Recognizance (NTA/OR). In February 2021, 8,798 aliens were released on an NTA/OR—which is 518 times as many releases as there were two months earlier. In September 2022, 9,766 aliens were released on an NTA/OR, and an additional 95,191 were paroled, for a total of 104,957 who were released. In December 2022, 9,778 aliens were released on an NTA/OR, and an additional 130,577 were paroled, for a total of 140,355 who were released—which is 8,256 times as many releases as there were two years earlier (in December 2020).

²² DHS Office of the Inspector General, "Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale," May 3, 2023, p. 7: <https://www.oig.dhs.gov/sites/default/files/assets/2023-05/OIG-23-24-May23.pdf>.

²³ Judge T. Kent Wetherell, *Florida v. U.S.*, U.S. District Court, Northern District of Florida, Pensacola Division, p. 39:

https://storage.courtlistener.com/recap/gov.uscourts.flnd.405819/gov.uscourts.flnd.405819.157.0_1.pdf.

²⁴ See note 5.

²⁵ U.S. Census Bureau, "Profile of the Foreign-Born Population in the United States: 1997," 1999, p. 9:

<https://www2.census.gov/library/publications/1999/demographics/p23-195.pdf>. The overall foreign-born population in the U.S.—including those under the age of 16—increased by 4.5 million (from 9.6 million to 14.1 million) from 1970 to 1980. Prior to that, the largest decade-long increase was 3.2 million (from 10.3 million to 13.5 million), from 1900 to 1910. The increase of 3.9 million from 2021 to 2023 cited herein includes only the foreign-born population over the age of 16. Were those under the age of 16 also included, the figure would likely be even larger than 3.9 million. But the federal government has not published recent figures for the foreign-born population under the age of 16.

²⁶ See note 5. From May 2009 to May 2021, the U.S. foreign-born population over the age of 16 grew from 34,761,000 to 42,869,000 (up 8,108,000), the U.S. native-born population over the age of 16 grew from 200,691,000 to 218,341,000 (up 17,650,000), and the overall U.S. population over the age of 16 grew from 235,452,000 to 261,210,000 (up 25,758,000). Thus, the foreign-born population accounted for 31% of the increase (8,108,000 ÷ 25,758,000 = 31%). From May 2021 to May 2023, the U.S. foreign-born population over the age of 16 grew from 42,869,000 to 46,769,000 (up

3,900,000), the U.S. native-born population over the age of 16 grew from 218,341,000 to 219,849,000 (up 1,508,000), and the overall U.S. population over the age of 16 grew from 261,210,000 to 266,618,000 (up 5,408,000). Thus, the foreign-born population accounted for 72% of the increase ($3,900,000 \div 5,408,000 = 72\%$).

²⁷ See note 1.

²⁸ See note 1. There were 985,000 "got-aways" through the first 17 months of FY 2022–2023, assuming the figure that Chief Ortiz gave on March 15, 2023 (for FY 2023 to date) was through February 2023 (he didn't specify). That equals 57,941 per month ($985,000 \div 17$). If, instead, Ortiz's figure was through March 15, the day on which he spoke, the average across 17.5 months was 56,286. If Ortiz's figure was through January, the average across 16 months was 61,563. Thus, from the start of FY 2022 through the most recent tally that DHS has released for FY 2023, the average number of "got-aways" has been more than 55,000 per month, regardless of which exact date Ortiz was using.

²⁹ *Fox News Sunday*, May 1, 2022: https://www.facebook.com/BretBaier/videos/homeland-security-secretary-mayorkas-joins-me-today-for-fox-news-sunday/526258102409569/?_rdr.

³⁰ For more on this, see Andrew Arthur's "Aliens Without Documents at the Ports Aren't 'Seeking to Enter the United States Lawfully,'" CIS, June 5, 2023: <https://cis.org/Arthur/Aliens-Without-Documents-Ports-Arent-Seeking-Enter-United-States-Lawfully>.

³¹ Judge T. Kent Wetherell, *Florida v. U.S.*, U.S. District Court, Northern District of Florida, Pensacola Division, p. 22: https://storage.courtlistener.com/recap/gov.uscourts.flnd.405819/gov.uscourts.flnd.405819.157.0_1.pdf.

³² U.S. Border Patrol (USBP) Chief Raul Ortiz, quoted in *Florida v. U.S.*, U.S. District Court, Northern District of Florida, Pensacola Division, p. 22: https://storage.courtlistener.com/recap/gov.uscourts.flnd.405819/gov.uscourts.flnd.405819.157.0_1.pdf.

³³ Jeffrey H. Anderson, "Denying Reality on Immigration," *City Journal*, July 11, 2022: <https://www.city-journal.org/article/denying-reality-on-immigration>. There were 1,534 releases by CBP on Biden's watch in late-January 2021, which this *City Journal* article includes, but the figure remains about 1.05 million when limiting releases to February-onward.

³⁴ Andrew R. Arthur, "Biden's Released at Least 2,020,522 Southwest Border Migrants," CIS, April 17, 2023: <https://cis.org/Arthur/Bidens-Released-Least-2020522-Southwest-Border-Migrants>.

³⁵ See note 1. While DHS doesn't specify the percentage of "got-aways" that were under Biden (as opposed to Trump) in FY 2021, 82.91% of encounters on the southwest border during that fiscal year were under Biden (even counting January as being entirely Trump's month). If one assumes that same percentage for "got-aways," it yields a result of 322,650 "got-aways" under Biden in FY 2021 (82.91% of 389,155). Adding this to Biden's FY 2022 (600,000) and FY 2023 (385,000 as of March 15) totals, there were 1,307,650 "got-aways" reported under Biden as of mid-March 2023, which likely covers numbers through February 2023 but perhaps only covers numbers through January 2023 (DHS hasn't specified). Meanwhile, there were 1,738,728 releases in between the start of February 2021 and the end of February 2023 (1,740,262 (<https://cis.org/Arthur/Bidens-Released-Least-2020522-Southwest-Border-Migrants>) minus 1,534 releases in late-January 2021 under Biden). Adding 1,307,650 "got-aways" to 1,738,728 releases and 280,260 additional releases of unaccompanied minors from the start of February 2021 through the end of February 2023 (<https://cis.org/Arthur/Bidens-Released-Least-2020522-Southwest-Border-Migrants>) yields a total of 3,326,638 aliens who have either escaped into the U.S. or have been released into the U.S. over the 25-month period covering February 2021 through February 2023—not counting those who were unreported (by OFO or ICE, which haven't released numbers since June 2022) or were undetected. That puts things on pace for just under 6.4 million over a 4-year term ($3,326,638 \div 25 \times 48 = 6,387,145$). The combined population of Los Angeles (<https://www.census.gov/quickfacts/fact/table/losangelescitycalifornia/PST045222>) and Chicago (<https://www.census.gov/quickfacts/fact/table/chicagocityillinois/PST045222>) as of 2022 (with both cities having lost population since 2020), per the Census Bureau, was just under 6.5 million (6,487,277).

³⁶ DHS Office of the Inspector General, "Intensifying Conditions at the Southwest Border Are Negatively Impacting CBP and ICE Employees' Health and Morale," May 3, 2023, p. 3 (<https://www.oig.dhs.gov/sites/default/files/assets/2023-05/OIG-23-24-May23.pdf>). The I.G. report cites the following: "Griff Jenkins, Bill Melugin, Timothy H.J. Nerozzi, Record 856 migrants die at southern border in fiscal year 2022: CBP, Fox News (Oct. 22, 2022), <https://www.foxnews.com/politics/record-856-migrants-die-southern-border-fiscal-year-2022-cbp> and Juliana Kim, The U.S. set a new record for apprehensions at the southern border, NPR (Oct. 24, 2022), <https://www.npr.org/2022/10/24/1130841306/new-record-in-border-patrol-apprehensions>."

³⁷ Andrew R. Arthur, "Was September 11 a 'One-Off' Event?," June 16, 2023, CIS: <https://cis.org/Arthur/Was-September-11-OneOff-Event>.

³⁸ CBP, Enforcement Statistics, Terrorist Screening Data Set Encounters, U.S. Border Patrol TSDS Encounters Between Ports of Entry of Non-U.S. Citizens: <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics>. There were 2 encounters with non-citizens on the TSDS in FY 2017, 6 in FY 2018, 0 in FY 2019, and 3 in FY 2020, for a 4-year total of 11. There were 15 encounters in FY 2021. There were 98 encounters in FY 2022. As of August 1, 2023, the number of encounters for FY 2023 was listed as 140, for a total of 238 for FY 2022–2023 to-date. That's an average of 11.3 encounters per month—versus 11 encounters in the four years across FY 2017–2020.