



Border Security and Illegal Immigration

Summary and Key Points

Policy Proposals

1. Codify durable border security in federal law.
2. Limit “substantive due process” in immigration court to the issue of deportability; end immigration benefit applications in removal proceedings.
3. Reject amnesty for the existing illegal alien population, as it would undermine rule of law and encourage ever more unlawful migration.

Quick Facts

1. The number of inadmissible aliens encountered at ports of entry grew eightfold from 279,036 in FY 2018 to more than 2.3 million in FY 2024.
2. As of 2024, more than 3.6 million immigration cases were pending in immigration courts, up from 786,303 in October 2018.
3. It is estimated that almost half of the illegal aliens in the U.S. came here legally and then overstayed their visas.

What to Say About Border Security and Illegal Immigration

- A secure border is essential to public safety, national sovereignty, and the rule of law. When borders and interior enforcement are ignored, safety declines and confidence in the law collapses.
- Border security and removal policies should be enforced consistently and backed by clear federal law. States should not be forced to absorb the costs created by federal failure at the border.
- Allowing illegal entry undermines fairness for citizens and legal immigrants who follow the rules.
- Weak enforcement encourages dangerous migration and fuels criminal smuggling networks. Amnesty rewards illegal behavior and guarantees even more unlawful migration.
- Immigration courts must focus on the charges of removability, not provide yet a third (or more) bite at the apple to apply for immigration benefits during removal proceedings.

The Issue

The issue of illegal “immigration” has been at the forefront of significant political and policy battles for decades. To deal with this problem, three aspects of illegal immigration must be understood: entry through illegal border crossings, and legal entry followed by illegal visa overstays; inadequate interior enforcement to catch and remove those in the U.S. illegally for any reason; and excessive abuse of the immigration court system by aliens in removal proceedings, which facilitates and prolongs illegal immigration.

At least 11 million inadmissible aliens were allowed into the U.S. during the Biden Administration. They were either encountered and released by U.S. Border Patrol after entering between land ports of entry (catch and release); they were unlawfully paroled into the country by the Biden Administration at ports of entry; or they evaded the U.S. Border Patrol (got away). The Biden Administration encouraged mass illegal immigration through several means, including permitting asylum and other immigration benefit fraud, mass immigration parole, and enticing unaccompanied alien child (UAC) border crossings.

The Trump Administration quickly secured the southern border in 2025 by using executive orders, ending Biden Administration policies, and increasing use of military assets. To make such border security durable, however, Congress needs to codify the Trump Administration changes and more. Needed statutory changes include closing asylum, catch-and-release, and UAC loopholes, and narrowing immigration parole and Temporary Protected Status.

A second aspect of illegal immigration is the long-standing issue of visa overstays, where aliens entered the U.S. legally on a visa or other form of entry and then failed to leave when their visa or authorization expired. To counter this kind of illegal immigration, interior enforcement tools are needed, including notification from the Department of Homeland Security (DHS) to temporary visa holders that their visa is about to expire, and that they must prepare their departure or else they will be deported.

Aliens also prolong their stay in the U.S. by gaming the immigration court system when the DHS places them in removal proceedings. Deportable aliens will ask for multiple continuances, file motions to reconsider, file motions to reopen, and file appeals to buy additional years in this country. What is labeled immigration due process is excessive process, especially when illegal aliens commonly ignore this country’s lawful process before and upon entering the U.S.

Finally, at least 18.6 million deportable immigrants currently reside in the U.S. The Left argues in favor of amnesty for these aliens who have broken the law, but amnesty would be unfair to Americans and legal immigrants, would encourage more illegal immigration by rewarding it, and would bring trillions of dollars in costs. Rather, normalizing swift immigration enforcement and removing downstream benefits, such as drivers’ licenses, bank accounts, sending remittances to home countries, and more, would encourage existing illegal “immigrants” to return to their home countries and deter additional illegal immigration.

Recommendations

For a more durable secure border beyond 2028, Congress should remove the Left’s go-to tools for mass illegal immigration. Congress should end the ability to apply for asylum if an alien illegally entered the U.S. between ports of entry. Aliens showed during the Biden Administration that they are capable of going to a port of entry, when then-DHS Secretary Alejandro Mayorkas instructed them to do so, using the U.S. Customs and Border Protection (CBP) One app for mass parole.

Expressly limit immigration parole to true emergencies, such as emergency surgery, when an alien truly has no time to apply for a visa, and restrict the duration and expressly prohibit work authorization.

Limit Temporary Protected Status (TPS) to one short term, after which an alien must apply for a different benefit or depart. Expressly state that TPS is only for those aliens who were already in the U.S. when a disaster occurred in their home country; it is not for those who came after.

Rescind special immigration benefits for unaccompanied alien children, which have only incentivized and increased unaccompanied child border crossings.

Congress should reject the Ninth Circuit's interpretation of the *Flores* settlement. *Flores* has been interpreted to require the DHS to release from its custody all children, even if they are with a parent or parents, within 20 days. Since removal proceedings take longer than 20 days, the government is left with the choice either to detain the parent and release the child, or to release both the parent and the child. Congress should legislate to allow accompanied children to remain with their parents in immigration detention while they await their proceedings.

Strengthen immigration enforcement. U.S. laws must be enforced if further illegal immigration is to be deterred. The U.S. should judiciously increase the number of Immigration and Customs Enforcement (ICE) agents; expand the 287(g) program, which trains and deputizes state and local law enforcement officers to assist ICE in enforcing U.S. immigration laws; prevent sanctuary policies in states and localities; expedite removals of illegal immigrants caught at U.S. borders; end the ability of deportable aliens to apply for immigration benefits in deportation proceedings since they already had an opportunity to do so before and after entering the U.S.; and ensure that aliens show up at court hearings by maximizing the use of detention facilities.

Refuse amnesty to deportable aliens. Amnesty undermines the rule of law, and even the discussion of amnesty encourages more unlawful migration. If America were to suddenly award legal status to aliens unlawfully in the United States, it would be treating them better than aliens abroad who follow America's immigration procedures and patiently await a visa authorizing them to come to the United States.

Facts + Figures

FACT:

- The number of inadmissible aliens that the CBP encountered at and between ports of entry during the Biden Administration approached 11 million, the vast majority of whom were let into the U.S.
- More than 2 million additional illegal aliens evaded the U.S. Border Patrol during President Biden's four years. More than 550,000 UACs entered the U.S. during the Biden Administration, at least 400,000 of whom the Biden Department of Health and Human Services lost track of.

FACT:

- Eleven million immigration benefit applications are pending at the DHS's U.S. Citizenship and Immigration Services.
- More than 3 million removal cases are pending in the Department of Justice immigration court system.

FACT: Interior enforcement is critical to address all aspects of illegal immigration.

- It is estimated that more than 18 million illegal aliens currently live in the U.S.
- While difficult to tabulate accurately, it is estimated that almost half of the illegal alien population in the U.S. came here legally and then overstayed a visa.

Resources

Mike Howell, “Significant Policy Changes Needed to Meet Mass Deportation Goals,” Heritage Foundation *Backgrounder* No. 3941, November 21, 2025, <https://www.heritage.org/border-security/report/significant-policy-changes-needed-meet-mass-deportation-goals>.

Lora Ries, “Abrego Garcia: The Poster Child for the Left’s Demands of Endless ‘Due Process,’” Heritage Foundation *Commentary*, May 6, 2025, <https://www.heritage.org/border-security/commentary/abrego-garcia-the-poster-child-the-lefts-demands-endless-due-process>.

Robert Greenway, Andrés Martínez-Fernández, and Wilson Beaver, “How the President Can Use the U.S. Military to Confront the Catastrophic Threat at the Border with Mexico,” Heritage Foundation *Special Report* No. 309, January 27, 2025, <https://www.heritage.org/border-security/report/how-the-president-can-use-the-us-military-confront-the-catastrophic-threat>.

Lora Ries, “Rising from the Ashes: Principles and Policies for a New American Immigration System,” Heritage Foundation *Backgrounder* No. 3848, December 3, 2024, <https://www.heritage.org/border-security/report/rising-the-ashes-principles-and-policies-new-american-immigration-system>.