

IMMIGRATION POLICY

SW 6030

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THE HUMANS AT THE CENTER OF THE U.S. IMMIGRATION DEBATE

How immigration policies impact the
migrant population...



POLICY HISTORY

According to U.S. Citizenship and Immigration Services Americans encouraged relatively free and open immigration during the 18th and early 19th centuries, and rarely questioned that policy until the late 1800s.

In 1875, the Supreme court determined immigration a federal responsibility after individual states began creating immigration restrictions due to Civil War fallout.

The Immigration Act of 1882, excluded "any convict, lunatic, idiot, or any person unable to take care of him or herself without becoming a public charge" from entry altogether.

The Chinese Exclusion Act of 1882, prohibited the entry of Chinese laborers into the country for 10 years. This occurred all while the Pacific Railroad construction employed thousands of Chinese.

The Immigration Act of 1891, expanded restriction categories to include polygamists, individuals convicted of crimes of moral depravity, and those with contagious diseases that posed a threat to public health. The law also created the first federal agency dedicated to enforcing immigration law, the Office of the Superintendent of Immigration within the Treasury Department.

(National Archives, Department of State, n.d.)

The Johnson - Reed Act of 1917, required literacy test, and Asiatic Barred zones.

The Nationality Act of 1940, established birthright citizenship.

The McCarran–Walter Act of 1952, removed Asian immigration ban, and national origins quotas were set at one-sixth of 1 percent of each nationality's population. Gave president power to limit immigration when deemed appropriate.

The Immigration and Naturalization Act of 1965, eliminated the national origins quota system and established a worldwide limit.

The Refugee Act of 1982, established standards and limits on refugees accepted. (50,000)

POLICY HISTORY (CONT.)

(History of immigration policy in the United States, Ballotpedia, n.d.)

ILLEGAL IMMIGRATION POLICY HISTORY

The Immigration Reform and Control Act of 1986, was written based on the recommendations of a 1981 congressional commission for amending the immigration system and reducing illegal immigration. The law made it illegal for employers to knowingly hire individuals unauthorized to work in the United States and established a system for verifying the legal status of employees.



The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 introduced civil penalties for attempting to cross the border illegally. Also increased resources for border enforcement.



2002 and 2006 legislation increased funding and abilities for border protection and determent.

(History of immigration policy in the United States, Ballotpedia, n.d.)

DACA

- On November 20, 2014, President Barack Obama announced that the U.S. Department of Homeland Security (DHS) would not deport undocumented parents of U.S. citizens and parents of lawful permanent residents (LPRs). The president also announced an expansion of the **Deferred Action for Childhood Arrivals (DACA)** program for youth who came to the United States as children.

Eligibility:

- Come to the United States before your sixteenth birthday
- Continuously lived in the U.S. since January 1, 2010
- Present in the U.S. on June 15, 2012, and on every day since August 15, 2012
- Have graduated or obtained a certificate of completion from high school, have obtained a general education development (GED) certificate, or “be in school” on the date that you submit your deferred action application

(DAPA and Expanded DACA Programs, n.d.)

CURRENT POLICY

The United States provides for immigrant visas based on family ties, employment, adoption, special immigrant categories, and the diversity visa.



The Immigration and Nationality Act (INA) was enacted in 1952. The INA collected many provisions and reorganized the structure of immigration law. The INA has been amended many times over the years and contains many of the most important provisions of immigration law.



In May 2020, USCIS retired its Adjudicator's Field Manual (AFM), a collection of our immigration policies and procedures.

(Immigration and Nationality Act | USCIS, 2019)

CURRENT POLICY (CONT.)

The Department of Homeland Security, through U.S. Citizenship and Immigration Services (USCIS), provides immigration benefits to people who are entitled to stay in the U.S. on a temporary or permanent basis. These benefits include granting of U.S. citizenship to those who are eligible to naturalize, authorizing individuals to reside in the U.S. on a permanent basis, and providing noncitizens with the eligibility to work in the United States

(Providing Immigration Benefits & Information, 2009)

Upon arrival at a U.S. port of entry, a child who is not traveling with their parent or legal guardian may be transferred to the custody of the Department of Health and Human Services (HHS), as required by law under the Trafficking Victims Protection Reauthorization Act of 2008

(ORR Unaccompanied Children Program Policy Guide: Section 2, n.d.)

CURRENT POLICY- HUMANITARIAN

Temporary Protected Status - If you are already in the United States, we may grant TPS to you so you can stay in the U.S. for a limited time.

Humanitarian Parole - Individuals who are outside of the United States may be able to request parole into the United States based on humanitarian or significant public benefit reasons.

Refugee - You must receive a referral to the U.S. Refugee Admissions Program (USRAP) for consideration as a refugee. Find more information on the referral criteria.

Asylum - Every year, people come to the United States seeking protection because they have or fear they will suffer persecution due to race, religion, nationality, membership in a particular social group, or political opinion.

(Humanitarian, 2017)

CURRENT POLICY UPDATES

May 11, 2021 -Technical Update - Replacing the Term “Alien” - This technical update replaces all instances of the term “alien” with “noncitizen” or other appropriate terms throughout the Policy Manual where possible, as used to refer to a person who meets the definition provided in INA 101(a)(3) [“any person not a citizen or national of the United States”].

August 30, 2022-Guidance for Special Immigrant and Nonimmigrant Religious Workers-this update clarifies the circumstances under which certain related petitioners may meet the compensation requirements even if the attesting employer is not the entity that will directly compensate the religious worker.

October 18, 2022- USCIS began implementing a new process that provides safe and orderly means for nationals of Venezuela and their qualifying immediate family members who are outside the United States and who lack U.S. entry documents to come to the United States.

(“Volume 6 - Immigrants | USCIS”, n.d.)

GOALS AND OBJECTIVES

The Department of Homeland Security (DHS) engages in immigration enforcement actions to prevent unlawful entry into the United States and to apprehend and repatriate noncitizens who have violated or failed to comply with U.S. immigration laws.

On May 31, 2022, the Department of Homeland Security (DHS) and Department of Justice (DOJ) began implementing a rule to ensure that those subject to expedited removal who are eligible for asylum are granted relief quickly and those who are not are promptly removed. By establishing a process for the efficient and thorough review of asylum claims, the new rule aims to reduce existing immigration court backlogs and to shorten the adjudication process to several months.

(Special Reports | Homeland Security, n.d.)

- October 22, 2022 – The new process for Venezuelan nationals is already seeing people entering the United States in an orderly manner.

"While it is still in its early days, this process has already reduced irregular entries of Venezuelans at our border by more than 85%, showing that when there is a lawful and orderly way, people will be less inclined to put lives in hands of smugglers" (*Statement from the Department of Homeland Security on the Arrival of First Venezuelan Nationals under New Process | Homeland Security, n.d.*).



**POLICY
EFFECTIVENESS**

CURRENT POLICY DEBATES

Public opinion regarding whether immigration should be
REDUCED, INCREASED, or REMAIN THE SAME:

“Reducing immigration was, by far, the most popular view in the 1990s; two-thirds of adults thought that was what the government should do. By 2018, roughly one-third (35 percent) held that view; 42 percent thought immigration should remain the same, while 22 percent supported an increase in immigration. The gap between “reduced” and “increased,” once fifty-eight percentage points, narrowed to thirteen percentage points in 2018”

(Hout & Maggio, 2021).

CURRENT POLICY DEBATES

Conservative stances and
recommendations from two Republican
governors from border states:

Ron DeSantis (FL) and Greg Abbott (TX):

“Governor DeSantis unveiled law enforcement’s efforts to combat immigration-related crimes. The strike force, made up of the Florida Department of Law Enforcement, the Florida Highway Patrol, and sheriffs, is working together to conduct operations throughout the State of Florida to interdict human smuggling and human trafficking, drug smuggling and drug trafficking, as well as to seize illegal weapons. In the span of just three days, in Northwest Florida, law enforcement interdicted five illegal aliens from Honduras and two from El Salvador who were arrested and charged with human smuggling or solicitation to commit human smuggling. The strike force also recovered almost four grams of fentanyl, which is enough to kill nearly 2,000 Floridians”

(Governor Ron DeSantis announces proposals to stop the flow of illegal aliens and protect Floridians from the ongoing biden border crisis, 2021)



**RON DESANTIS
(FL)**

GREG ABBOTT (TX)

Governor Abbott (2022) has taken significant action to secure the border in the wake of the federal government's inaction. Those actions include:

- Securing \$4 billion in funding for Texas' border security efforts
- Launching Operation Lone Star and deploying thousands of National Guard soldiers and Texas Department of Public Safety troopers
- Arresting and jailing criminals trespassing or committing other state crimes along the southern border
- Allocating resources that include acquiring 1,700 unused steel panels to build the border wall in Texas
- Signing a law to make it easier to prosecute smugglers bringing people into Texas
- Signing 15 laws cracking down on human trafficking in Texas
- Signing a law enhancing penalties for the manufacturing and distribution of fentanyl
- Issuing a disaster declaration for the border crisis
- Issuing an executive order preventing non-governmental entities from transporting illegal immigrants



**GREG ABBOTT
(TX) - CONTINUED**

Governor Abbott (2022) has taken significant action to secure the border in the wake of the federal government's inaction. Those actions include:

- Taking aggressive action to secure the border as President Biden ends Title 42 expulsions, including busing thousands of migrants to Washington, D.C.
- Signing memoranda of understanding between the State of Texas and the States of Chihuahua, Coahuila, Nuevo León, and Tamaulipas to enhance border security measures that will prevent illegal immigration from Mexico to Texas
- Activating the Joint Border Security Operations Center (JBSOC) and directing the Texas Department of Public Safety, Texas Military Department, and Texas Division of Emergency Management to coordinate Texas' response to secure the border
- Creating DPS strike teams and establishing new vehicle inspection checkpoints targeting semi-trucks and other commercial motor vehicles.



**CURRENT POLICY
DEBATES**

Progressive stance and recommendations
from a Democratic governor from a border
state:

Gavin Newsom (CA)

GAVIN NEWSOM (CA)

“27% of Californians are foreign-born; California is strong because of our diversity, not in spite of it. Immigrants are essential to our culture and critical to our economic prosperity. That’s why California will always welcome newcomers and empower immigrant communities.”



Undocumented workers contribute more than \$263 billion to California’s GDP and generate economic activity that supports more than 3 million jobs.



At the border: investing \$1 billion in three counties to help communities; providing migrants temporary shelter, COVID screening, and health care; deploying the National Guard to fight against fentanyl and illegal drugs



Twenty-five California companies that are on the Fortune 500 list were founded by immigrants or children of immigrants. 42% of all new companies in California are started by immigrants.

(Immigration: California for all. Gavin Newsom on the Issues, 2022)

CURRENT POLICY DEBATES

Crime Considerations: *Criminal noncitizen statistics fiscal year 2022.* U.S. Customs and Border Protection. (2022, October 21).

	FY16	FY17	FY18	FY19	FY20	FY21	FY22TD
Assault, Battery, Domestic Violence	1,007	692	524	299	208	1,178	1,142
Burglary, Robbery, Larceny, Theft, Fraud	825	595	347	184	143	825	896
Driving Under the Influence	2,458	1,596	1,113	614	364	1,629	1,614
Homicide, Manslaughter	8	3	3	2	3	60	62
Illegal Drug Possession, Trafficking	1,797	1,249	871	449	386	2,138	2,239
Illegal Entry, Re-Entry	7,060	4,502	3,920	2,663	1,261	6,160	6,797
Illegal Weapons Possession, Transport, Trafficking	237	173	106	66	49	336	309
Sexual Offenses	155	137	80	58	156	488	365
Other ¹	2,544	1,851	1,364	814	580	2,691	2,891

CURRENT POLICY DEBATES

Economic Considerations:

- While some policymakers have blamed immigration for slowing U.S. wage growth since the 1970s, most academic research finds little long run effect on Americans' wages.
- The available evidence suggests that immigration leads to more innovation, a better educated workforce, greater occupational specialization, better matching of skills with jobs, and higher overall economic productivity.
- Immigration also has a net positive effect on combined federal, state, and local budgets. But not all taxpayers benefit equally. In regions with large populations of less educated, low-income immigrants, native-born residents bear significant net costs due to immigrants' use of public services, especially education.

(Penn Wharton Budget Model, 2018)

CURRENT POLICY DEBATES

Racial Considerations:

- “Our research reveals that racial attitudes are fundamental to understanding who backs the...most punitive immigration policies. We find that whites...feel culturally threatened by Latinos, who harbor racially resentful sentiments, and who fear a future in which the United States will be a majority–minority country” (Wallace & Zepeda-Millan, 2020, para. 1).
- “The racial anxieties triggered by and reflected in a country’s immigration laws convey a great deal about its moral compass and how it comprehends its demographic past, present, and desired future” (Wallace & Zepeda-Millan, 2020, p. 77).



**RECOMMENDATIONS
FOR POLICY
IMPROVEMENTS**

Donald Kerwin (2018) – Center for Migration Studies –

Within his article “From IIRIRA to Trump: Connecting the Dots to the Current US Immigration Policy Crisis” in the *Journal on Migration and Human Security*, several contributing authors propose policy recommendations:

ACER AND BYRNE PROPOSE THAT:

- the one-year asylum-filing deadline and the expedited removal process be eliminated;
- expedited removal be limited to ports of entry and not used against Central American children and parents fleeing persecution;
- detention decisions include “independent court review,” custody hearings at least every six months, and affordable bond levels; and
- the executive branch and Congress provide sufficient resources to reduce backlogs and ensure “fair and timely” adjudication of claims by the Asylum Division and the immigration courts.

(p. 201)

SCHIRO RECOMMENDS THAT ICE:

- end the expansion of family detention centers, opt not to renew contracts for these facilities, and release “as many families as are permitted by law”;
- detain families only if strictly necessary and “for only the briefest” periods in nonsecure, licensed, accessible, and modestly sized facilities;
- adopt a presumption against detention, particularly in the case of families, women, and asylum seekers;
- acquire a critical mass of qualified staff to “perform the unique duties associated with detention and its alternatives”; and
- implement nonpenal standards of care that “are responsive to families, women, and asylum seekers.”

(p. 201)

JUAREZ, GOMEZ-AGUINAGA, AND BETTEZ

RECOMMEND:

- increased transparency and accountability regarding the lobbying expenditures of for-profit prison corporations;
- repeal of mandatory detention laws that “criminalize” immigrants; and
- repeal of the congressional bed mandate, which requires that ICE fill a set number of detention beds each night and, thus,
- incentivizes detention without reference to actual need.

(p. 201)

LOPEZ PROPOSES THAT CONGRESS:

- repeal the bars to entry based on past unlawful presence;
- in the alternative, allow all undocumented spouses of US citizens to adjust status in the United States; and
- eliminate the minimum income requirement, or at least allow the earnings of the noncitizen spouse to count toward this threshold.

(p. 202)

COON PROPOSES:

- community outreach to “rebuild trust between police and citizens”;
- policies in 287(g) jurisdictions not to ask victims or witnesses about their immigration status;
- federal and civil oversight of the program to ensure nondiscrimination by law enforcement;
- monitoring arrest rates of different groups for minor crimes, as evidence of profiling and harassment; and
- research on implementation of 287(g) in other jurisdictions to learn practices that can help reduce fraud and civil rights violations.

(p. 202)

POLICY IMPROVEMENTS – FINAL CONSIDERATIONS

“All of these recommendations have merit. Ultimately, however, the issues raised...run deeper than (any) particular policy prescriptions. Forty-three million foreign-born persons live in the United States, and nearly twice that many if their US citizen children are included. As in the past, the nation’s productivity, vitality, and values are inextricably bound to the success of its foreign-born residents, their families, their US communities, and even their communities of origin. The 'rule of law' has historically been a central value and guiding principle of the United States. In the immigration context, the rule of law demands enforcing the law in effective, humane ways, scrupulously upholding due process rights and protecting those fleeing persecution and violence. As constituted, the current system does not fully honor the rule of law, too often serves as an instrument of exclusion and marginalization, and has become a symbol to the world of US cruelty and injustice. It needs to be fundamentally reformed”
(Kerwin, 2018, p. 202).

POLICY DISCUSSIONS- NASW CODE OF ETHICS

- **Value:** Dignity and Worth of the Person
Ethical Principle: Social workers respect the inherent dignity and worth of the person.
- Social workers treat each person in a caring and respectful fashion, mindful of individual differences and cultural and ethnic diversity. Social workers promote clients' socially responsible self-determination. Social workers seek to enhance clients' capacity and opportunity to change and to address their own needs. Social workers are cognizant of their dual responsibility to clients and to the broader society. They seek to resolve conflicts between clients' interests and the broader society's interests in a socially responsible manner consistent with the values, ethical principles, and ethical standards of the profession.

(NASW Code of Ethics, 2022)

POLICY DISCUSSIONS

“American public opinion is notoriously partisan. Republicans and Democrats differ on many issues; liberals and conservatives differ on even more. Immigration is no exception”
(Hout & Maggio, 2021).

- How does the NASW Code of Ethics "dignity and worth of a person" impact a social worker's approach to immigration policy?
- As a county established by immigrants, how can the U.S. maintain a controlled, yet humane immigration policy?
 - Build the wall? (Reducing immigration)
 - Amnesty? (Increasing immigration)
 - Secure the borders with compassion?

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