

Restoring Credibility and Humanity

A New Framework for Immigration Enforcement



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About the American Immigration Council

The Council strives to strengthen the United States by shaping immigration policies and practices through innovative programs, cutting-edge research, and strategic legal and advocacy efforts grounded in evidence, compassion, justice and fairness. We collaborate with diverse stakeholders, including policymakers, grassroots organizations, and immigrant communities, to advance results-driven solutions to the challenges facing immigrants and communities throughout the United States.

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Introduction

The United States is at a crossroads for the enforcement of civil immigration laws in American communities. President Trump's vision of years-long mass deportation operations is losing credibility amongst the American public. Polling in early 2026 found that between 58 and 65 percent of Americans believe this agenda is going too far.¹ And while the administration initially claimed it would focus deportation on "criminal immigrants," the lesson of Trump's first year back in office has been that mass deportation indiscriminately sweeps in massive numbers of people who pose no public safety threat and who have resided in American communities for decades with no problems.

Efforts to carry out mass deportation have targeted **all** undocumented people, including those with no serious criminal offenses and with years of life in the United States, and have also swept up many noncitizens with lawful status—including, at times, even U.S. citizens. Immigration and Customs Enforcement (ICE) and U.S. Border Patrol ("Border Patrol") agents have arrested business owners, coaches, nannies, and neighbors, and disappeared many into an opaque and increasingly deadly detention system. The actions of immigration enforcement agencies have made communities less safe by relying on violent and extreme tactics that violate laws and American norms, instill fear, and chill community participation and economic activity. Nevertheless, immigration enforcement agencies under the Trump administration continue to pursue this increasingly unpopular agenda with impunity and little accountability.

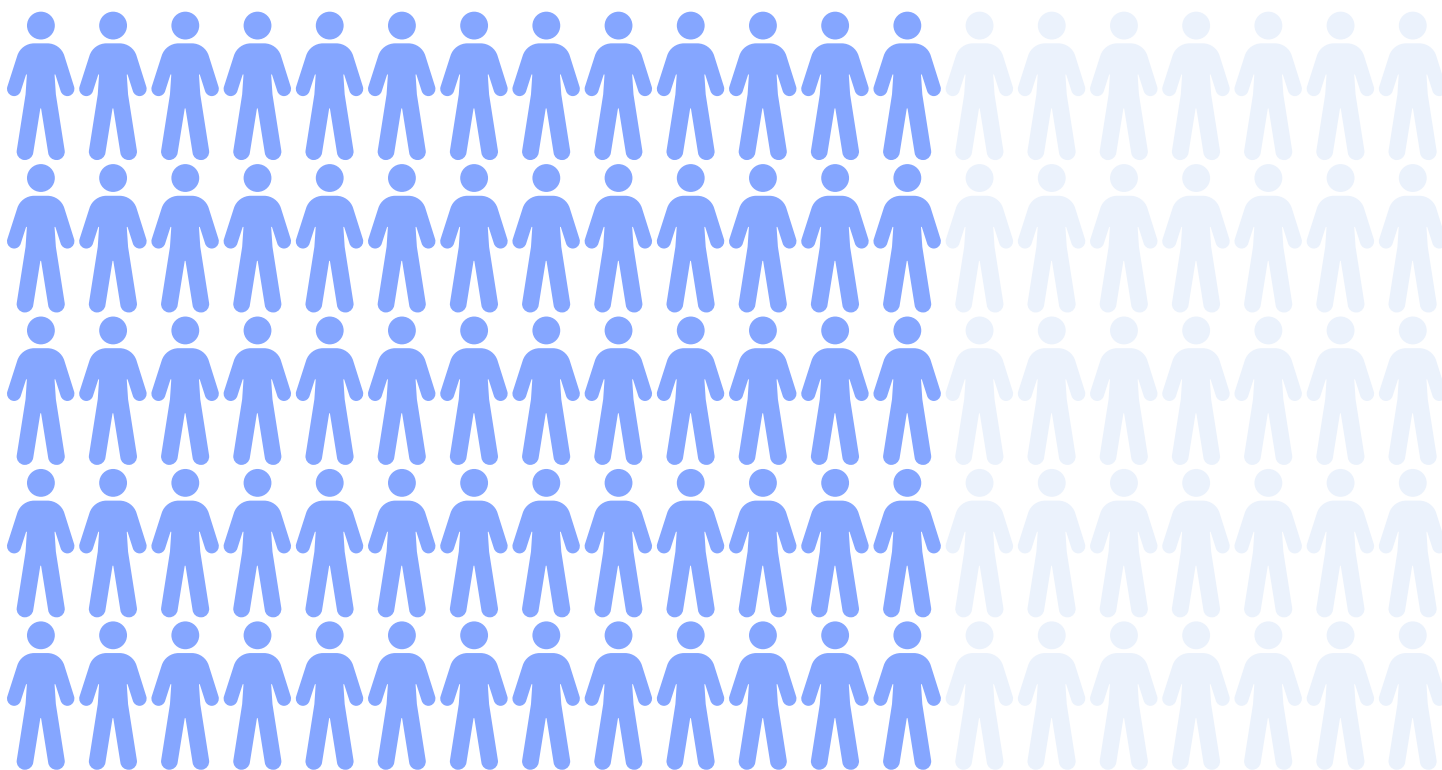
Mass deportation gained initial support because of frustrations with immigration policies at the U.S. border over the last decade, as millions of migrants arrived seeking asylum and were met with a system incapable of responding to the strain. But given the disruptions to daily life and acts of violence that have shocked the conscience of many Americans, in just one year, President Trump's average support on immigration has fallen dramatically, from a high of a net positive 11 percent support at inauguration to a net negative 1 percent support as of early April 2026.² Similarly, support for ICE, the agency tasked with carrying out this effort, is at record lows, with half of the country supporting the call to "abolish ICE" and 59 percent of the country disapproving of the agency.³

But even as Trump's immigration agenda threatens to undermine trust in the government's ability to enforce immigration law, most Americans still want an immigration enforcement system that enforces clear and fair rules, keeps communities safe, and lives up to American values.⁴ **The choice is not between mass deportation and no enforcement; it is between indiscriminate enforcement and credible enforcement. Policymakers and elected officials face an urgent decision: start working to restore credibility to federal immigration law and enforcement or allow the Trump administration's mass deportation agenda to undermine the rule of law itself.**

However, neither political party has yet put forward a roadmap on how to enforce immigration laws with credibility and humanity in American communities. While Americans have soured on Trump’s mass deportation agenda, they remain distrustful of Democrats’ ability to offer a viable path forward.⁵ After decades in which neither political party has been able to stabilize the immigration system, the current inflection point and erosion of public trust in the rule of law necessitates that Congress return to the drawing board to develop a new framework for immigration enforcement within the United States.

The roots of mass deportation and its harms are a result of an immigration enforcement system from a different era that is not equipped to address the challenges of today. It is an outdated system which cannot credibly deliver consequences or offer solutions—either subjecting too many noncitizens to deportation, no matter their equities, or leaving them to live in the shadows with no consequence or path forward.

58-65% of Americans believe President Trump’s mass deportation agenda is going too far.



The Four Core Pillars

A new framework for interior immigration enforcement



This paper recommends fourteen areas of reform across these core pillars. A credible and humane system must include laws that distinguish between people who pose a real public safety threat and those whose immigration violations can be resolved with proportionate civil consequences, rather than detention and deportation. It must deliver consequences, including deportation, for the violation of laws—but should not respond to different levels of violation with the same level of consequence.⁶ It should also offer some people who want to comply with the law pathways that allow them to do so. A credible, interior immigration enforcement system should not be measured by how many people are detained or deported, but by whether the rules are clear and fair, and consistently and humanely enforced by the government.

Immigration law and policy are enormously complex, and the failures of the status quo after decades without meaningful reform are extensive. Interior enforcement policies alone cannot control whether and how people enter the United States to begin with; a successful enforcement policy that clearly communicates the consequences for violating the law, and consistently enforces those consequences, is necessary for ensuring long-term control of U.S. borders, but it is by no means sufficient. While this framework does not address issues such as border management, asylum policy, or changes to lawful immigration pathways, it will be impossible to sustain a credible immigration enforcement system in the long run without changes that allow the rest of the system to function as well, including needed fixes to our legal immigration system. However, regardless of any other reforms, the present crisis requires immediate effort to rehabilitate the federal government's immigration enforcement system, and restore the link between enforcement of federal law, the rule of law, and community trust and legitimacy. This proposal seeks to bring the United States toward that goal.

Compliance

A credible enforcement system should incentivize compliance with the law by giving those who want to follow the rules a way to do so: rewarding them when they meet requirements, and imposing consequences if they do not. It must also account for the millions of undocumented people living in the United States—people who either violated civil immigration laws by entering the country without authorization or who entered lawfully and then fell out of status—who have become integral to the fabric of the United States. Overwhelming evidence shows that most undocumented immigrants pose no heightened risk of criminality and, in the long run, they are a critical net benefit to the U.S. economy and American communities.⁷ Unfortunately, today there is no way for most undocumented immigrants to “get right with the law,” even when they have lived in the United States for decades and otherwise comply with the law.

Congress should make compliance an option for as many undocumented people as possible by passing existing legislation that offers permanent legal status and pathways to citizenship. A majority of Americans consistently support⁸ this, especially for undocumented immigrants with no criminal record and extensive ties to the community. However, even robust, immediate legalization programs inevitably will leave millions of undocumented immigrants without legal status. An immigration enforcement system that offers one-time legalization but does not address the question of those remaining (or a future undocumented population) will not be effective.

Congress can impose consequences on undocumented immigrants and increase their compliance with the law without automatically subjecting all to arrest and deportation. **It should develop a diversion mechanism and compliance process that federal enforcement agencies can use if they encounter an undocumented immigrant.** Instead of forcing every person immediately toward arrest and deportation, a diversion mechanism would redirect undocumented

people with years of life in the United States and no criminal convictions into an alternative process with civil penalties proportionate to their case, and that offers access to lawful permanent status for those who prove their ability to comply with those penalties. To maintain credibility and effectiveness, this compliance process should be managed by a civil administrative agency that is not ICE.

Safety

Public safety should be a fundamental goal of any law enforcement agency. Immigration enforcement is no exception. Given limited resources, federal immigration agencies have traditionally focused efforts on noncitizens who had contact with the criminal legal system, and especially those who posed a public safety threat. But the second Trump administration is targeting all undocumented immigrants, including those who pose no public safety threats. It has abandoned enforcement priorities while simultaneously increasing indiscriminate arrests and violent practices. Mass deportation treats all immigrants as an existential public safety threat, even though immigrants correlate with lower crime rates.⁹ This agenda has instilled fear, eroded public trust, and led to decreases in the reporting of crime, all of which have counterproductively made communities less safe.

Many of the tactics this administration has used are permitted under immigration laws passed in the 1980s and 1990s, which have not kept pace with advances in the understanding of how to best improve public safety. These laws legislate detention and deportation for thousands who pose no actual safety threat and enable federal agencies to deputize local police to serve as immigration agents in American communities—with little oversight or direction. **A credible enforcement system will require Congress to make overdue revisions to these outdated laws to focus enforcement efforts on noncitizens who pose bona fide safety threats and ensure that local police are seen as protectors, not as entry points into a civil deportation dragnet.**

Therefore Congress should require immigration enforcement agencies (whether ICE or any other agency) to use “enforcement priorities” with a focus on noncitizens with violent or recent, especially serious criminal convictions; amend outdated grounds of deportation that distract from a focus on current and serious safety risks; codify professional law enforcement standards for immigration agencies; and repeal laws that permit federal agencies to deputize local police for immigration enforcement, instead taking steps to support a new public-safety partnership model between states and the federal government that offers financial support for supportive services in immigrant communities alongside more targeted enforcement against noncitizens who pose serious threats. Lawmakers have an opportunity to course correct by advancing laws and policies that actually deliver safety.

Proportionality

Scaled and proportionate consequences can strengthen the rule of law by delivering real consequences without tearing millions of people away from their families and communities through detention and deportation. The overly blunt nature of the current U.S. immigration system, in which the only options are no consequences or a life-shattering consequence, has helped this administration ramp up the dehumanizing rhetoric, political theater, and enforcement tactics of mass deportation.

This was not inevitable. The current laws established in the 1980s and 1990s **replaced** the prior, more flexible system that treated immigration violations as a problem that could be fixed rather than a permanent stain that could only be resolved by deportation. As a result, today the system fails to offer reasonable or proportionate civil consequences for violations, making detention and deportation a one-size-fits-all punishment.

A modern enforcement system should reserve its harshest tools for the highest-threat cases and create structured compliance pathways for everyone else. **Congress should adopt scaled, proportionate penalties for people facing removal, which would permit immigration judges to decide when removal makes sense—and when it does not.**

It should also significantly decrease the number of people that can be placed into immigration detention facilities, as a proportionate enforcement system does not require a system of mass incarceration. Any person still subject to detention should be entitled to basic due process with a bond hearing and appointed lawyer.

Accountability

Building a credible and humane immigration enforcement system depends on establishing that enforcement agencies are accountable to other branches of government and the public and therefore deserve the public’s deference and respect. Under the Trump administration, even when ICE officers commit misconduct serious enough to draw rebuke by public officials and protest by Americans nationwide, there seem to be no consequences.¹⁰ In just one year, the Trump administration has gutted three internal oversight bodies at the Department of Homeland Security (DHS), declaring oversight as a “roadblock[] to enforcement.”¹¹ It has also routinely denied members of Congress access to immigration detention facilities for oversight visits as they are entitled to under the law. Despite the shooting of multiple U.S. citizens and immigrants at the hands of immigration officers, the public has not seen federal agencies hold officers accountable—or even acknowledge error. Thanks to decades-old laws restricting judicial review, federal courts have also been powerless in accounting for legal violations and abuses.

A credible enforcement system must include codified accountability mechanisms that expand authority of both the federal courts and Congress to impose meaningful consequences when federal agencies and agents abuse their authority. True accountability will require a new, independent, and bipartisan oversight body whose recommendations are enforceable, alongside rebuilt internal oversight agencies within DHS with new legal authorities and greater independence to ensure they are more effective than in the past. Restoring credibility to immigration enforcement depends on a reformed and far stronger accountability system than ever before.

Compliance

*Government Should Make Rules People Can Follow,
And Get People to Follow the Rules*



Getting people to follow the rules should be the core goal of any credible and effective law enforcement system. Yet the current immigration enforcement system fails to give millions of people any means to follow the law—short of self-deporting and risking indefinite exile—even after years of living in the United States and contributing to their communities. The problem is not their willingness to comply with the laws (many of them have done so when given opportunities to seek temporary protection); the barrier is laws from the previous century that seal off any pathways to full legal status.

Failed Promises of Outdated Immigration Laws

Laws passed in the 1980s and 1990s promised to control unauthorized immigration through ever-harsher enforcement measures and punishments. The Immigration Reform and Control Act of 1986 (IRCA) provided immediate pathways to legal residency for some undocumented immigrants living in the United States at that time; moving forward, however, it increased funding for border enforcement and detention, and established employer sanctions in an effort to prevent the hiring of undocumented workers. The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 further increased the severity of penalties for immigration violations (including making it much harder for immigration violators to adjust to legal status), expanded the group

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of immigration violators who could be subject to detention and deportation, and, crucially, eliminated several programs and mechanisms that agencies had used in the past to allow eligible noncitizen residents to come into compliance with immigration laws.

The promise of these bills was that harsher and more punitive consequences for immigration violations would deter future unauthorized immigration. However, we have seen that the threat of punishment is not enough; instead, Congress has had to pour hundreds of billions of additional taxpayer dollars into enforcement infrastructure, including massive funding for ICE and U.S. Customs and Border Patrol (CBP)—funding which today is at levels comparable to a small military force.

The problem is that the fundamental premise is flawed. Making it harder for people to come into compliance with the law does not deter immigration violations. It does, however, force immigration violators to **remain** in violation of immigration law. As of 2024 there were at least 12.7 million undocumented people living in the United States.¹² This includes millions who have been in the country for years and have U.S. citizen children here. Since 2024, the Trump administration has also stripped lawful temporary protections from hundreds of thousands of people despite their compliance with immigration law—adding to the undocumented population.¹³

Millions of Undocumented People Left in the Lurch

The majority of these undocumented people are long-term residents of American communities who arrived in a 30-year period between 1980 and 2010,¹⁴ either without authorization or by overstaying temporary permission to reside in the United States. While more than 4 out of 10¹⁵ had managed to obtain some temporary form of protection by 2023, many of those have since lost those protections as a result of the Trump administration's efforts to "de-legalize" them. The majority of the undocumented population has never even had the opportunity to access protection

and remains entirely without status.¹⁶

Despite their presence being unauthorized (or permitted only through administrative forbearance), this population has put down roots in the United States; they are parents, spouses, children, friends, neighbors, employees, and employers of U.S. citizens. They pay billions in taxes and make up a significant portion of the workforce across industries that form the backbone of the blue-collar American economy, including agriculture, construction, manufacturing, and hospitality.¹⁷

This social and economic integration has happened despite their continued legal isolation. Congress has not sustained the political will to offer these people a path to come into compliance with the system, gain legal status, or secure U.S. citizenship. Policymakers have left them in the lurch.

With the Trump administration receiving an unprecedented \$75 billion for mass deportations from Congress in 2025¹⁸ and with our outdated immigration laws still on the books, every single undocumented person now faces imminent risk of arrest, detention, and deportation—a loss of their liberty and livelihood. Deep ties to the community, a spotless criminal record, decades of employment, U.S. citizen family members—none of these positive equities that most Americans view sympathetically—have any weight in stopping their arrest, detention, and deportation. Even those already taking steps to follow the rules and pursue available pathways to status are being swept up, including undocumented spouses of U.S. citizens while applying for green cards and migrant children found to have been victims of child abuse who were on their path to a green card as a result.

A system that ignores positive equities such as community ties and offers only the same harsh punishments (detention and deportation) for all violators, is far out of step with what most Americans believe to be fair. Furthermore, a

A system that expects people to comply with the rules, but punishes them even when they do, can never actually ensure the compliance it seeks.

system that expects people to comply with the rules, but punishes them even when they do, can never actually ensure the compliance it seeks. Therefore, a new and credible enforcement immigration system must start with pathways to lawful status for certain undocumented people.

Congress has the ability to take immediate steps to pass existing legalization bills. Signing these into law would legalize those with temporary protections—people who have been vetted, who pose no safety threats, and who have already followed the rules to gain their current status or protections (e.g. DACA, Temporary Protected Status).¹⁹ Other bills would legalize farmworkers and workers in other core industries; those with U.S. citizen spouses; or those with the longest years in the country.²⁰ Congress should work to make compliance with the law an option for as many people as possible. Overwhelming evidence shows that immigrants, including undocumented immigrants, pose no heightened risk of criminality and in the long run are a critical net benefit to the U.S. economy and American communities.

However, given the complexity of immigration law and the diversity of the undocumented population, it is inevitable that legalization will not be available to all undocumented immigrants. Millions will be left out, facing no consequences for their civil violations and also no path forward. As we saw after 1986, an immigration system that offers one-time legalization but does not address the question of the remaining undocumented population will not be effective. Over the last four decades, the government

has sometimes imposed disproportionate and harsh consequences against undocumented people and other times imposed no consequences at all. As a result, the government has failed to signal clearly and credibly that violations of the law would face reasonable and consistent consequences. When consequences are appropriate and consistently enforced, it allows people to make informed decisions about how to remain in compliance with the law, instead of creating perverse incentives to violate it.

Given this reality, Congress must codify a new enforcement mechanism that drives up compliance with the law for some undocumented people in place of using deportation proceedings as the single response to violations of immigration law. A credible immigration enforcement system should not confuse unlawful presence alone with danger. Congress can impose consequences on unauthorized immigrants who have been residing in the United States for years without subjecting them to the possibility of arrest and deportation—reserving harsher consequences for those more recently arrived or those who pose real safety threats. A modern and credible immigration enforcement system should reserve its harshest tools for the highest-risk cases and create structured compliance pathways for everyone else.

POLICY RECOMMENDATION #1

Enforcement Diversion: An Opportunity to Comply with the Law for Long-Term Undocumented Residents Who Pose No Threat

The limits of current legalization proposals

While current legalization bills in Congress could give permanent lawful status and paths to citizenship for 3 to 5 million people, millions of other undocumented people will remain. To address this still-extant population, Congress should create a diversion mechanism that federal enforcement agencies can use going forward if they encounter an undocumented immigrant with years of life in the United States. While some will not have compelling reasons to remain in the United States, many will have deep ties to the United States, pose no public safety threat, and deserve a chance to come into compliance. A diversion mechanism could identify someone who falls into the latter group, and instead of forcing them toward deportation, place them into an alternative process that assesses civil penalties proportionate to their case. Those who demonstrate ongoing compliance with that process will ultimately be allowed to seek lawful status.

Why a different process is needed for some undocumented people

A diversion mechanism would ensure that deportation proceedings—which are time and resource intensive—are prioritized for those who pose public safety threats, or for those who recently entered the United States without authorization who do not otherwise qualify for protections. In lieu of removal proceedings, a compliance process would give undocumented people who have remained in the United States for lengthier periods (e.g., five years or more) and who do not present a threat to their communities, an opportunity to demonstrate their ability to comply with the law going forward and correct their immigration violation, rather than face immediate arrest, detention, and deportation.

Prioritizing enforcement sooner rather than later

This diversion and compliance process would create an imperative for the U.S. government to initiate deportations of high-priority undocumented immigrants in a timely fashion; if it does not deport a person in the immediate years after they become removable, instead leaving them to deepen their ties to their community, then that person should be eligible for this alternative compliance process in lieu of usual deportation proceedings.

Creating a fair, scaled system of penalties

Congress can design a scale of meaningful but proportionate penalties for this process—allowing enforcement officials to consider the years a person has resided in the United States, the depth of their ties to their communities, and their record of paying taxes, among other factors. This could include, for example, a multi-year period of annual fines and vetting as a penalty for the violation of entering without authorization or overstaying an old visa, mandatory reporting, community service, payment of any back taxes, and other similar requirements that Congress may impose (with discretion to grant humanitarian exceptions in appropriate circumstances, such as for elderly

or disabled individuals). Those that fail to comply with substantial requirements, as well as any person convicted of a serious crime in that period, would face removal proceedings in front of an immigration judge and the prospect of deportation.

Incentivizing compliance through lawful status

Critically, scaled penalties must be paired with meaningful incentives for those who demonstrate their willingness and ability to comply—specifically, access to lawful permanent status. This offers people a carrot and stick incentive structure to follow the rules and actively work to come into compliance with the law, while ensuring that any person who qualifies for permanent status does so only after showing their ability to follow the rules going forward. Furthermore, it brings immigration in line with other legal systems: someone who has already served the penalty for their offense is usually considered to have complied with the law.

Addressing long-standing removal orders

Diversion and a compliance process would operate as a safety valve in the immigration enforcement system by ensuring that undocumented people who encounter immigration enforcement agencies have a chance to prove they deserve to stay while serving an appropriate penalty. This should also apply to some people with old, final orders of removal who the U.S. government has not deported and who have been diligently checking in with federal agencies for years—or even decades—without issue.²¹ There are also thousands more who do not even know they have a removal order, given that they received them as children after a parent or guardian failed to take them to a court hearing.²² A diversion for many undocumented people as well as some with these old removal orders would not be a no-consequence approach; it is an enforcement model that replaces indiscriminate detention and deportation of long-standing undocumented residents with structured compliance obligations, such as financial penalties and sustained monitoring.

A sustainable, forward-looking enforcement model

Crucially, a diversion mechanism and compliance process would be a proactive solution that could stay in place indefinitely—as compared to a single, one-time legalization program which neither addresses everyone who is already here or those who may arrive in the future and build lives in the United States. Prior legalization efforts addressed undocumented populations at the moment, but failed to deal with these future issues.

Long-term savings and system efficiency

While incorporating diversion into the immigration enforcement system would require significant administrative effort, there would be substantial long-lasting savings. For example, diverting most long-standing undocumented people away from immigration courts would reduce the burden on that system, allowing for an overall reduction in resources devoted to the immigration courts. Similarly, because fewer people would be subject to detention and deportation proceedings following encounters with immigration officials, the federal government would be able to save potentially billions of dollars currently spent on enforcement against long-time residents and people who are not public safety threats. This could ultimately make it easier for immigration officials to focus resources on those who are in violation of the law, ensuring that the system is able to effectively target and respond to ongoing and new violations.

Recommendations for Enforcement Diversion

- Create a diversion mechanism in the immigration enforcement system for long-standing undocumented individuals and some with long-standing removal orders encountered inside the United States who can demonstrate that they have been contributing to their communities and do not pose a public safety threat.
- This diversion mechanism would operate in lieu of deportation proceedings and immigration officers would notify qualified individuals about their eligibility if they encounter an undocumented person who qualifies.
- Individuals whose cases are diverted would have to demonstrate compliance with ongoing requirements and accept a set of scaled penalties proportional to their case considering both the severity of their immigration violation and the positive equities that they have accrued in their time in the United States.
- Diversion and a compliance process could incorporate any of the following penalties and conditions: a set of fines determined by years present in the United States and ability to pay; a mandatory reporting schedule; tax payment history; national security and criminal background checks; community service or training; and a waiver for any of these requirements in cases where hardships exist.
- Failure to comply with the requirements of the compliance process could also lead to placement in removal proceedings as part of a scaled set of penalties for non-compliance. Individuals who successfully complete the process would be able to adjust their status to that of a permanent resident of the United States, allowing them to fully come into compliance with the law and “curing” their violation of the law.

POLICY RECOMMENDATION #2

Restore Institutional Credibility: Give a New or Existing Sub-Agency, Not ICE, Responsibility Over Enforcement Diversion and Compliance Process

Establishing an agency to administer diversion

Congress should assign authority over an enforcement diversion and compliance process to a new or existing civil administrative subagency; one that does not have its own ability to detain or deport individuals. This sub-agency would be responsible for fielding applicants to determine eligibility; administering scaled civil penalties and vetting; and, for those who comply, referring them to U.S. Citizenship and Immigration Services (USCIS) for adjustment to permanent status. In other words, the core mission of this agency would be to manage and effectuate this diversion mechanism and compliance process amongst those who pose no safety threat and have been in the United States for the requisite time period.

Why the diversion and compliance process must be separate from ICE

This agency should not be ICE because ICE has lost the trust of the American people. Recent polling suggests that nearly two out of every three Americans disapprove of the work of the agency.²³ Assigning the job to ICE would raise serious questions about whether the penalties and rewards that are integral to the compliance process would be administered fairly.

Structuring an agency built for compliance, not enforcement

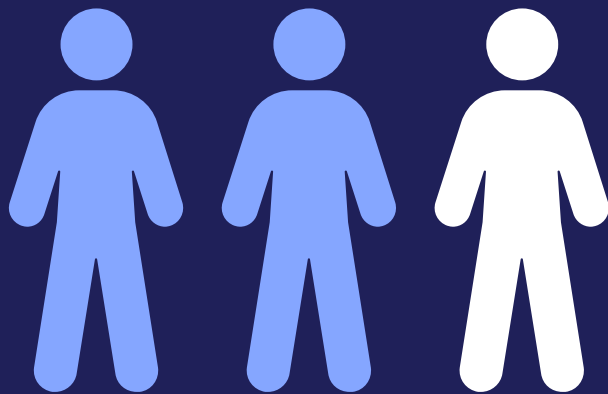
Administering a process of non-punitive compliance is a task left more to a different agency, which could either be a component of USCIS—one which would require Congressional appropriations instead of being funded by application fees alone—or a new subcomponent of DHS. This component could use both in-person check-ins to ensure compliance and a suite of technological tools to register people online; track and monitor their compliance across the multiple years of the process; provide feedback and resources to individuals throughout the process; ensure they meet the requirements; and ultimately decide on penalties for individuals who fail to do as required, and grant status to those who do.

Separation from ICE builds trust

For an enforcement diversion and compliance process to be meaningful, participants will need to see it as separate from the existing detention and deportation system—which will require separating it, bureaucratically, from agencies with arrest and detention authority. Separating this agency would also have more credibility in the eyes of states and localities that have enacted legal restrictions on cooperation with ICE, making it more likely for state partners to work alongside the federal government to administer this process.

Recommendations for Restoring Credibility

- Any enforcement diversion mechanism and compliance process should be administered by either USCIS or a new component of DHS created to run the process, funded through a combination of fees and penalties paid for by individuals placed through the process and supplemented by Congressional appropriations and cost-savings from reduced enforcement.
- Authorize the new component to conduct intake and eligibility review, create compliance case plans, collect civil penalties, and grant lawful status.
- Require this component to track compliance of individuals enrolled in the program.
- Authorize the component to refer a non-compliant individual to formal removal proceedings.



Recent polling suggests that nearly two out of every three Americans disapprove of the work of ICE.

SPOTLIGHT

Narciso Barranco

In June 2025 masked DHS agents forcefully arrested Narciso Barranco while he was gardening in Los Angeles. **Narciso is the father of three U.S. marines with over three decades of life in the United States and no criminal record.**¹ Despite 31 years working multiple jobs and raising his three sons who chose to serve in the U.S. military, Narciso has almost no options to obtain lawful permanent status under current law—leaving him vulnerable to deportation.

Narciso spent a month incarcerated in an immigration detention facility—despite posing no safety threat—until an immigration judge released him on bond. He subsequently fought his deportation proceedings in court, initially winning his case; but now he awaits a government appeal which leaves his status and future in the United States in limbo. In recent months, his U.S. Marine son Alejandro Barranco has spoken out on the betrayal he feels given his family's proud military service.²

In a credible and humane immigration system, ICE or other enforcement agents would approach long-time undocumented residents like Narciso without masks, use of handcuffs, or pepper spray. They would ask questions, ascertain his status, and then serve him with a referral notice placing him into a compliance process. Through this enforcement diversion and compliance process, Narciso would be able to demonstrate his strong ties and love for the United States, pay any penalty or back-taxes authorities deemed necessary, and eventually take his place next to his U.S. Marine sons as a resident with lawful status.

1. Helen Jeong and Amber Frias, "Gardener seen being hit by immigration agents in June video is released from detention," *NBC News*, July 16, 2025, <https://www.nbcnews.com/news/us-news/gardener-seen-hit-immigration-agents-june-video-released-detention-rcna219251>.

2. Drew F. Lawrence, "Father of 3 Marines Who Was Beaten by ICE Agents Released, Leaving Family to Process His Detention," *Military.com*, July 16, 2025, <https://www.military.com/daily-news/2025/07/16/father-of-3-marines-who-was-beaten-ice-agents-released-leaving-family-process-his-detention.html>.



POLICY RECOMMENDATION #3

Incentivize Compliance: Ensure That People Following the Rules Are Not Punished for Doing So

Under the current administration, thousands of people who are actively seeking immigration status have been detained and subject to potential removal. In an effort to satisfy daily immigration arrest quotas, ICE has arrested people who have applied for green cards through their spouses;²⁴ people who have been found to be eligible for visas for victims of trafficking or been granted Special Immigrant Juvenile Status;²⁵ and people who are attending their immigration court hearings as required by government order.²⁶ These efforts have not only sown fear among applicants for benefits, they have actively undermined the primary mission of the government: to encourage compliance with the law.

A credible legal system should not penalize individuals for engaging with lawful adjudicative processes. Doing so deters compliance both now and in the future. Congress must enact laws that prevent such actions, many of which are only permissible because Congress never considered that any agency would act in this manner.

Recommendations for Incentivizing Compliance

- Any individual who is found to have a bona fide claim to permanent status, who is not considered a priority for removal, should not be subject to arrest or detention during the processing of their application, absent extraordinary factors.
- Congress should either relax narrow caps on certain forms of immigration relief with extensive backlogs (such as U visas for victims of crimes or Special Immigrant Juvenile Status for child victims of abuse, abandonment, or neglect) so that there are not multi-year delays between the determination of eligibility and the grant of the visa, or mandate that individuals found eligible for those statuses be ineligible for deportation unless they become independently removable due to a subsequent criminal conviction or removable act.
- Congress could also address the broader issue of multi-year backlogs through targeted reform aiming at the employment and family-based visa backlogs, which prevent many immigrants already in the United States from obtaining the green cards to which they will eventually be entitled.

Safety

Law Enforcement Should Protect Communities from Threats, Not Treat the Community as a Threat



Public safety requires community trust

Public safety matters, and immigration enforcement can, and should, take the broader safety concerns of the general public into consideration. Achieving public safety requires building trust with communities and earning their support. This requires law enforcement to demonstrate that they will protect communities from both serious and violent crime. The Trump administration uses “public safety” as a pretext for pursuing mass deportation, but its mass deportation campaign has demonstrated no consideration for it. Less than 14 percent of ICE arrests in 2025 were of people who had any prior crime involving violence or use of force on their record.²⁷

Evidence shows immigrants are not driving crime

This should come as no surprise. Most undocumented immigrants are not “the worst of the worst.” Studies have consistently shown that levels of criminality amongst noncitizens are lower than amongst U.S.-born residents.²⁸ Mass deportation necessarily means detaining and deporting millions of people who pose no bona fide public safety threat. In short, the U.S. government is arresting, detaining, and deporting mostly people who have no criminal record or have only been accused or convicted of low-level offenses. And while the administration is essentially treating all immigrants as an existential threat to American communities, years of evidence show that heavy concentrations of immigrants are in fact

correlated with **lower** crime rates—suggesting that immigrants actually make American communities safer.²⁹

Mass deportation decreases public safety

Indeed, the mass deportation campaign has demonstrably **decreased** public safety. Federal agencies have reported decreases in investigations of human and drug trafficking because agents typically assigned to issues like domestic terrorism or political violence have been diverted to low-level immigration arrests.³⁰ Simultaneously, local police sheriffs around the country have documented a decrease in the reporting of crime, especially amongst immigrant communities who are fearful that talking to local police could result in detention or deportation.³¹ This has led sheriffs to speak

out on the agenda's harms to law enforcement credibility, including in states and counties where a majority of voters initially supported "mass deportation."³²

How enforcement tactics have reduced public safety

In October 2025, prior to "Operation Metro Surge" in Minneapolis, 52 percent of all Hispanic adults and 29 percent of Black and Asian adults expressed worries that they, a family member, or a close friend might end up deported.³³ As ICE carried out more "at-large" community arrests in the subsequent months, encounters with immigration officials became even more violent and chaotic. In the aftermath of the killings of Alex Pretti and Renee Good, more Americans than ever before indicated support for "abolishing ICE" as they watched

SPOTLIGHT

Sheriff Chris Swanson

Sheriff Chris Swanson of Genesee County Michigan spoke to The New York Times regarding working with federal immigration agencies on implementation of the second Trump administration's mass deportation agenda. "There is a right way to do our job, and there is a wrong way to do the job. So, what you are seeing is this type of immigration enforcement that is not making us safer, it is dividing us."³

Photo credit: Saul Loeb/Getty Images



3. Brent McDonald, Ben Laffin, Singeli Agnew, Amogh Vaz, "Local Sheriffs Voice Frustration With ICE," *The New York Times*, February 13, 2026, <https://www.nytimes.com/video/us/politics/100000010686059/sheriffs-voice-frustration-with-ice.html>.

footage of ICE and Border Patrol agents cracking down on communities in Minnesota, including by breaking into homes in violation of the Fourth Amendment and tear-gassing neighbors who protested or merely monitored ICE's activities.³⁴

Many of the tactics and policies the administration is invoking are permitted (implicitly or explicitly) under outdated immigration laws that have not kept pace with advances in public safety and policy. Laws enacted in the 1980s and 1990s, during the height of the failed war on drugs and "Tough on Crime" policies, legislated detention and deportation for large categories of noncitizens who posed no actual safety threat.³⁵ These laws also created legal mechanisms through which the federal government could use local police as a force multiplier for federal immigration enforcement—even when doing so undermines the safety of local communities. By failing to codify best practices in enforcement that would have encouraged agencies to focus on public safety threats, these laws made indiscriminate enforcement easier and targeted enforcement harder.

Outdated laws enable overbroad enforcement

In 2003, in the aftermath of the September 11 terrorist attack, Congress created the Department of Homeland Security (DHS) and with it, ICE—agencies that from the start claimed public safety as a core agency mission. Yet, over the years, the agency's enforcement practices have swept in hundreds of thousands of noncitizens who posed

no real public safety or national security threat. The agency's tendency toward overbroad and punitive enforcement practices, coupled with outdated laws, created the conditions necessary for this administration to successfully execute on its mass deportation agenda.

Rebuilding public safety through targeted, credible enforcement

Public safety depends on targeted enforcement, professional standards, and community trust. Refocusing immigration enforcement on public safety therefore requires: codifying requirements that the agencies set "enforcement priorities"; amending old laws that distract from a focus on noncitizens who pose serious safety risks; codifying basic law enforcement practices to ensure that any immigration enforcement agency—whether ICE or otherwise—operates with high standards and guardrails; and the creation of a new public-safety partnership model between states and the federal government to rebuild trust between states and federal immigration agencies. Lawmakers have an opportunity to course-correct by advancing laws and policies that actually deliver safety.

POLICY RECOMMENDATION #4

Truly Prioritize Safety: Legislate Enforcement and Prosecutorial Priorities to Focus on Those Who Pose Bona Fide Threats

Why the system depends on smart, targeted enforcement

Given the millions of people in violation of civil immigration laws under the current outdated system, immigration enforcement has traditionally depended on prioritization—focusing arrest, detention, and removal proceedings against certain groups of noncitizens as opposed to every noncitizen in violation of the law. As the Supreme Court has recognized, a defining feature of the system is the discretion to determine “whether it makes sense to pursue removal at all.”³⁶ When immigration agencies fail to prioritize enforcement and instead rely upon indiscriminate enforcement tactics that sweep in **any** noncitizen, they divert resources from high-risk threats and weaken cooperation with state and local governments who do not want to work with the federal agencies to enforce federal immigration laws against community members who pose no threat. Both Republican and Democratic administrations have historically used “enforcement priorities” to guide decision-making, focusing finite enforcement resources on individuals who pose public safety or national security risks.³⁷ If properly implemented, these priorities help make enforcement effective, credible, and better aligned with public safety.

How arbitrary arrest targets undermine public safety

However, from day one, the current Trump administration has disavowed the concept of prioritizing the most serious violations, instead focusing on achieving arbitrary arrest targets; an emphasis on quantity over quality. With no priorities, any noncitizen can be a target for arrest, detention, and deportation. This has shifted the system away from threat-based decision-making and toward volume-driven enforcement. Individuals who pose no meaningful public safety risk are treated the same as those who do—diverting resources from more serious and complex cases and undermining public confidence in the system.

How Congress can ensure focused and targeted enforcement

Congress should codify a requirement that DHS issue and follow enforcement priorities that dictate who should be prioritized for arrest and removal proceedings; both by enforcement agents in the field **and** by DHS lawyers prosecuting cases in immigration court. This would prevent any administration in the future from carrying out indiscriminate mass raids. It would also encourage DHS lawyers to squarely consider the basic question of “whether it makes sense to pursue removal at all” in every case.³⁸

Prioritizing enforcement against genuine public safety threats

Even in a system where undocumented immigrants who meet certain conditions have access to legal status, either by a direct grant from Congress or through a diversion

mechanism and compliance process, there will be hundreds of thousands of noncitizens still in violation of immigration laws—including both undocumented and lawful permanent residents convicted of certain crimes. Priorities are necessary to help enforcement agencies focus resources on those who pose the greatest safety threats.

Congress should be clear that enforcement should prioritize removal proceedings primarily against noncitizens who pose a credible and specific national security or public safety threat that Congress should define as a person convicted of a violent or recent, especially serious criminal offense. Determining whether certain criminal convictions rise to the level of an “especially serious conviction” will pose challenges given that every criminal case is fact-specific and that state criminal laws define crimes differently. Therefore, Congress would need to delineate factors to be considered when determining whether a person’s crime meets this definition. Linking enforcement prioritization to criminal **convictions**, as opposed to mere charges, also pushes federal immigration enforcement agencies to defer to state and federal criminal legal systems.

Ensuring prioritization in prosecutorial decisionmaking

Congress should require by law that priorities be followed not only by the agents tasked with arresting people for removal proceedings but also by DHS lawyers who are responsible for initiating those proceedings in immigration court. For too long DHS lawyers have put every arrested person into removal proceedings—essentially relying on ICE agents to make the call on who is subject to removal. This new requirement would align the immigration system with other aspects of the legal system, in which prosecutors can make independent judgments of the cases handed to them by police, and help protect immigration court resources so that immigration judges focus on adjudicating priority cases.

When immigration agencies fail to prioritize enforcement and instead rely upon indiscriminate enforcement tactics that sweep in any noncitizen, they divert resources from high-risk threats and weaken cooperation with state and local governments.

SPOTLIGHT

Sheriff Kevin Joyce

Sheriff Kevin Joyce of Cumberland County, Maine made a public statement on January 22, 2026, after ICE agents arrested a local police officer training to work for Sheriff Joyce's department.⁴ The officer is an asylum seeker from Angola who has lawful authorization to work in the United States. In a recent interview, Sheriff Joyce said, "They came after him like storm troopers. You know the tactics, I call them bush league, because it is. This is not professionalism but it's meeting a quota; and you can't set quotas with law enforcement because bad things are gonna happen."⁵

4. Sheriff Kevin Joyce, "Sheriff addresses ICE operations in Cumberland County," press conference, Cumberland County, ME, January 22, 2026, by CBS 13 News, YouTube, 27:08, <https://www.youtube.com/watch?v=LYcGM0tBAuY&t=1s>. <https://www.youtube.com/watch?v=LYcGM0tBAuY&t=1s>

5. <https://www.nytimes.com/video/us/politics/100000010686059/sheriffs-voice-frustration-with-ice.html> Brent McDonald, Ben Laffin, Singeli Agnew, Amogh Vaz, "Local Sheriffs Voice Frustration With ICE," The New York Times, February 13, 2026, <https://www.nytimes.com/video/us/politics/100000010686059/sheriffs-voice-frustration-with-ice.html>.

Photo credit: Portland Press Herald/Getty Images



Recommendations for Prioritizing Safety

- Codify a requirement that DHS continually develop and effectuate enforcement and prosecutorial priorities. Ensure that compliance with this requirement is monitored by the the DHS's Office of Inspector General, and that the agency reports to Congress on progress towards carrying out these priorities.
- Require that DHS enforcement priorities focus immigration arrests and removal proceedings against people who pose a "credible and specific national security or public safety threat," defined to mean "people with violent or recent, especially serious criminal convictions" (not arrests or charges).
- Delineate specific factors to be considered when determining whether a person's underlying criminal convictions falls within the category of "especially serious criminal conviction."

POLICY RECOMMENDATION #5

Refocus Removal: Revise Criminal Grounds of Deportability to Focus on Serious and Recent Crimes

When the law gets priorities wrong

While current law does not mandate that ICE set enforcement priorities, it has designated one class of people that enforcement agents must always treat as a priority, even when they have lawful status. Noncitizens convicted of certain crimes are subject to the “criminal grounds of deportability” which make them subject to arrest, detention, and deportation proceedings.³⁹ In practice, being subjected to these grounds forces enforcement agents to treat these people as high priorities for enforcement, rather than using a criminal record as one of the factors that must be considered in determining whether someone is a public safety threat.

A majority of Americans support deporting noncitizens who commit violent crimes—as an appropriate consequence of the offense, and to remove public-safety threats from American communities. However, the proxy that the law uses in this regard (the criminal grounds of deportability) has, over time, borne less of a relation to the factors that would make someone a threat to public safety: namely, the recency and seriousness of the offense.

When low-level offenses trigger severe immigration consequence

Most criminal grounds of deportability were initially drafted to focus on violent or serious offenses like murder, rape, and assault, but Congress has significantly expanded the list over time to include many low-level offenses. A person convicted of low-level theft, such as stealing diapers from the grocery store, faces the same set of consequences as a person convicted of murder or a crime involving sexual violence.

Given that the criminal grounds of deportability also fail to place time limits on when an old offense can trigger deportation, even elderly people face detention and deportation based on a single, non-violent offense they received at a young age, despite demonstrating rehabilitation in the decades after.

Therefore, under current law, an enforcement agent is incentivized to arrest a permanent resident with a twenty-year-old conviction for a low-level offense over trailing a suspected human smuggler. That permanent resident must be held in a detention bed while someone who poses more of a threat may be released. They are placed in removal proceedings before an immigration judge, delaying any number of more straightforward cases that could result in swifter deportation. And even where the judge might be persuaded that the person should remain in the United States, the law may force their hands—overriding their individualized assessment of what safety and justice require.

Why Congress must modernize criminal grounds of deportability

To restore safety prioritization to the system, Congress must revise and pare back criminal grounds of deportability. The system should be simplified so that immigration consequences track actual and current public safety risk rather than vague or antiquated categories.

Enact a statute of limitations

First, Congress should codify a basic statute of limitations for initiating removal proceedings against people on the basis of certain prior criminal convictions. While there are many reasons to start removal proceedings against someone with legal status, removal proceedings that are based solely on a past criminal record should be focused on a reasonable period of time after a noncitizen completes their sentence for the criminal offense. If the goal is to use immigration enforcement as one tool for protecting the safety of American communities, pursuing deportation years after someone receives a criminal conviction and long after they paid their debt to society in the criminal legal system simultaneously disincentivizes rehabilitation and positive community participation, while prioritizing those who have shown for years that they no longer pose a threat.

Statutes of limitations are a core concept in the criminal legal system: criminal prosecutors have a specified period of time to bring a charge against someone for an offense. They protect judicial resources, in addition to ensuring fairness to those accused. With the exception of serious, violent crimes such as murder, nearly all criminal offenses in the criminal legal system have a statute of limitations. In the immigration context, a statute of limitations focusing on the period after a criminal conviction respects the basic principle that the longer the government waits to place someone in deportation proceedings, the deeper their ties to the United States grow, and the more tenuous the justification for removal. It also recognizes that deportation proceedings serve as a second consequence in addition to any consequences served for the offense itself. Under federal law, there is a default rule of a five-year statute of limitations which could be applied to the criminal grounds of deportability as a starting point for most criminal offenses that trigger deportation proceedings.⁴⁰ A statute of limitations would ensure that immigration enforcement agents charged with arrests focus on noncitizens who have more recently committed violent or serious crimes that make them an immediate threat or danger to their communities.

Repeal and amend vague terms of art

Second, Congress should repeal and amend vague legal terms of art which force lengthy determinations of whether a given offense triggers immigration consequences. For example, noncitizens can be placed into deportation proceedings or barred from certain forms of relief if they are determined to have committed a “Crime Involving Moral Turpitude,” (CIMT)—a technical term that refers to any crime considered to be morally reprehensible but does not have a clear legal definition. In some jurisdictions, subway fare evasion could count as a “crime involving moral turpitude.”⁴¹

Similarly, “Aggravated Felony” is another legal term of art, used to describe a category of offenses for which a criminal conviction carries particularly harsh immigration

consequences—including near-certain deportation.⁴² Despite the name, “Aggravated Felony” is not in fact limited to felonies. It is a label that Congress has applied to more than 30 criminal offenses over time—including minor offenses such as signing a bad check or filing a false tax return.⁴³ As two immigration judges noted in the past, “numerous non-violent, fairly trivial misdemeanors are considered aggravated felonies under our immigration laws.”⁴⁴

Make further legal revisions to align with public safety

Finally, Congress should conduct a comprehensive review of the current criminal grounds of deportability using an expert review panel that can recommend additional revisions that would eliminate other categories of crimes that do not reliably correlate with current public safety risk.

Recommendations for Refocusing Removal

- Enact a common sense statute of limitations, setting a fixed period of time in which the U.S. government can initiate deportation proceedings on the basis of a noncitizen’s criminal conviction, to align the immigration enforcement system with long-standing criminal legal principles and help immigration agents focus on current threats.
- Repeal the “Crime Involving Moral Turpitude” ground of deportability and make amendments to the “Aggravated Felony” ground of deportability to eliminate non-violent, low-level crimes to better prioritize enforcement against noncitizens with violent or especially serious offenses.
- Convene an expert review panel to recommend consolidation of overlapping criminal grounds of deportability and elimination of other categories of crimes that do not reliably correlate with present public safety risk.

POLICY RECOMMENDATION #6

Professionalize Enforcement: Require Immigration Agents to Use High Standards and Accepted Policing Norms

Mandate professional standards in immigration enforcement

Both American communities and law enforcement officers themselves are safest when law enforcement agencies operate according to the law and use accepted professional standards and practices. Yet under the Trump administration federal immigration agents have entered homes without judicial warrants in violation of the Fourth Amendment.⁴⁵ ICE and Border Patrol agents have used “at large” arrests and roving patrols that rely primarily on racial profiling to target entire communities, including American citizens.⁴⁶ In cities around the country agents have arrested and interrogated noncitizens near schools, daycares, and churches while wearing face masks and in plain clothes. They have wielded force in response to public protest, which has resulted in violence and the deaths of U.S. citizens. These tactics have significantly eroded public trust in ICE and Border Patrol—leaving both officers and communities more vulnerable to violence and safety threats. Restoring credibility to the immigration enforcement system will require any immigration enforcement agency to abide by the strictest and highest professional standards of policing.

Strengthen hiring, vetting, and training requirements

First, Congress should codify new hiring, vetting, and training requirements for immigration enforcement agencies including ICE and Border Patrol (or any comparable agency). The second Trump administration has significantly shortened the training period for agents—a policy it has authority to change, given that the laws do not require the agency to abide by any specific training program.⁴⁷

Mandate identification and transparency protocol

Second, Congress should codify a prohibition on the use of face masks by federal agents and require officer and agency identification (with a narrow exception to protect officer safety in exigent circumstances).⁴⁸ This will ensure that in most instances masked agents are not conducting arrests, and that communities know which law enforcement agency they are responding to if apprehended. Nearly all law enforcement agencies responsible for policing adhere to identification requirements, and immigration law should require a comparable set of requirements for any immigration enforcement agent granted the power to arrest.

Codify restrictions on enforcement in sensitive locations

Third, Congress should codify a prohibition on immigration enforcement in “sensitive locations,” or places where people receive critical public and social services or engage with public institutions—including schools, daycares, healthcare facilities, shelters, courthouses, polling locations, and places of worship.⁴⁹ In the past, DHS policy prevented

immigration enforcement in these locations, but under the current Trump administration⁵⁰ enforcement agents have waited outside daycares and near school property to target students, parents, and teachers for immigration arrests;⁵¹ and for months, agents targeted noncitizens appearing for proceedings in immigration courthouses around the country. Enforcement in “sensitive locations” has immediate chilling effects that decrease public safety by undermining community cohesion and decreasing engagement in daily community activities. In Chicago, “Operation Midway Blitz” led to a drop in school attendance in half of all school districts.⁵² In Minneapolis, even after a drawdown in aggressive immigration enforcement, immigrant community members hid at home, avoiding public spaces and institutions.⁵³ In cities where this administration ramped up enforcement, local police departments documented decreases in reporting of crime.

Modernize warrant requirements to prevent abuse

Finally, Congress should amend the legal grounds that give immigration enforcement agents the authority to effectuate “administrative warrants” for immigration arrests or engage in warrantless arrests. Under current immigration law, federal agents including ICE and CBP are allowed to arrest noncitizens they believe to be in violation of immigration law using an “administrative warrant”—a form filled out by ICE itself. Administrative warrants, unlike judicial warrants, are issued without independent review by a neutral magistrate and therefore require strict adherence to statutory safeguards to prevent misuse. When DHS fails to meet these requirements, it risks authorizing enforcement actions without adequate legal justification, raising serious concerns under the Fourth Amendment and eroding public trust in the agency’s operations.

Under some circumstances, ICE and CBP can also arrest a noncitizen without even an administrative warrant.⁵⁴ Congress must revise the statutes that permit administrative warrants and warrantless arrests to curtail current abuses and strengthen requirements for when and how a warrant is issued for immigration arrests. Congress should require warrants for most immigration arrests to be issued by a neutral decisionmaker (not just the agency making the arrest) at least a day in advance of an immigration arrest. Strengthening the requirements for when and how a warrant is issued will ensure that enforcement agents are more precise in who they apprehend or arrest, and align arrest practices with other law enforcement agencies.

In Chicago, “Operation Midway Blitz” led to a drop in school attendance in **half of all school districts**.

Recommendations for Professionalizing Enforcement

- Mandate a substantial training program that requires agents with arrest authority to receive national law enforcement certification and mandate recurring trainings including in constitutional and immigration law, use of force, de-escalation, and trauma-informed practices.
- Codify a prohibition on masking and require basic identification for immigration enforcement agents with a narrow exception to protect officer safety in certain exigent circumstances.
- Prohibit immigration arrests at “sensitive locations” including schools, daycares, healthcare facilities, shelters, courthouses, polling locations, and places of worship.
- Revise and strengthen 8 U.S.C. §1226 and 8 U.S.C. §1357, the two laws that give immigration enforcement agencies authority to issue “administrative warrants” for immigration arrests or make “warrantless arrests.”

SPOTLIGHT

Chief of Police Kelly McCarthy

Kelly McCarthy, Chief of Police of Mendota Heights, Minnesota, testified before members of Congress in Washington D.C. on February 12, 2026, regarding her observations of immigration enforcement agents and their policing practices during immigration raids and operations in Minnesota.⁶

“Trust is essential to policing. Since the murder of George Floyd, law enforcement agencies across Minnesota have worked relentlessly to rebuild trust and accountability, increase professionalism, and standardize best practices. Our officers have invested countless hours building relationships, engaging with residents, and demonstrating a commitment to fair and respectful policing. In a matter of months, the actions and attitude of some federal law enforcement personnel have undermined much of that progress. The use of masks, disrespectful language, excessive force, and the constitutional violations we see from some agents bares no resemblance to professional policing.”⁷

6. Kelly McCarthy, “House Democrats Hear Accounts of ICE Treatment,” House Democratic Steering and Policy Committee, Washington, DC, February 12, 2026, 1:09:22, <https://www.c-span.org/program/public-affairs-event/house-democrats-hear-accounts-of-ice-treatment/673305> <https://www.c-span.org/program/public-affairs-event/house-democrats-hear-accounts-of-ice-treatment/673305> <https://robinkelly.house.gov/media-center/press-releases/democratic-steering-and-policy-committee-holds-hearing-ices-lawlessness>

7. Ibid.

POLICY RECOMMENDATION #7

Federal-State Public Safety Partnerships: Targeted Enforcement, Community Support, and Shared Accountability

Effective enforcement of federal immigration laws will necessitate collaboration with state and local partners, to some degree, given the large population of noncitizens in violation of immigration law and the vast geography of the United States. Traditionally, this has been channeled through collaboration between the federal government and local police departments—while the federal government has not made a corresponding effort to collaborate with states and cities to address other impacts and needs of immigrant communities that are also core to safe communities.

A credible and humane approach would replace this outdated model with a new type of public safety partnership that incorporates two core components: first, collaboration between willing state agencies and federal immigration agencies on enforcement, but in a much more targeted manner only against those noncitizens who pose serious threats to public safety. This collaboration should be primarily between federal agencies and state-level actors, rather than through direct collaboration with local police for low-level immigration enforcement. Second, this partnership should include support from federal agencies to states on the integration and social services that are needed for thriving and safe communities where government, including law enforcement, is trusted and welcomed.

Terminate local deputization for civil immigration enforcement

For decades, the federal government has relied on local police departments to help in the enforcement of federal immigration laws, including through the “287(g) program,” which authorizes DHS to deputize local police officers to interrogate, arrest, detain, and even help deport noncitizens during the course of routine police activity, pursuant to section 287(g) of the Immigration and Nationality Act.⁵⁵ This program, which can turn an everyday traffic stop into permanent family separation, directly entangles local law enforcement agencies in the enforcement of federal immigration law—often with corrosive effects on public safety. Not only does diverting local police officers to immigration enforcement detract from a focus on local public safety priorities, it can also erode community trust with local police as people become more afraid to report crime, since doing so could result in deportation or detention.⁵⁶ Victims of crime and survivors of domestic violence are less likely to call for help in jurisdictions where local police are deputized to make immigration arrests.⁵⁷ The Trump administration has aggressively expanded the program, which today is nearly ten times larger than at the start of the second Trump administration, with hundreds of police agencies helping ICE and Border Patrol effectuate the mass deportation agenda, and at least one-third of the country living in a county that has one of these agreements.⁵⁸

But communities are safer when local police are seen as protectors, not as entry points into a civil deportation dragnet. Congress should repeal outdated federal laws, including 287(g),

that enable federal immigration agencies to directly contract with local law enforcement agencies in this manner because it makes American communities less safe.⁵⁹ While participation in 287(g) agreements is typically voluntary for local law enforcement agencies given that the federal government cannot compel participation, a few states like Florida and Texas have passed laws requiring local sheriffs to enter into these agreements. Sheriffs in such states have been vocal about the harms of directly enforcing federal immigration laws, especially when doing so leads to detention and deportation of community members with lower-level offenses who pose no real serious safety threat.⁶⁰ Other states have passed laws that prohibit local sheriffs from entering into 287(g) agreements including, more recently, New Mexico and Maryland.⁶¹ For decades, internal Department of Justice (DOJ) investigations and other reporting have shown that the 287(g) program undermines community trust and increases racial profiling of U.S. citizens;⁶² but federal agencies have been unable to exercise meaningful accountability or oversight to remedy these challenges given the dozens of counties engaged in immigration enforcement at such a local level.⁶³

The 287(g) program is not necessary for immigration agencies to enforce the law. Nothing in this framework, including ending the deputization of local sheriffs, prevents coordination with state and local authorities regarding noncitizens who present a serious public safety risk based on a recent offense; but terminating the 287(g) program by law enables targeted public safety cooperation by local police officers instead of generalized civil immigration enforcement against any noncitizen.

Build state partnerships that target high-risk offenders and invest in community stability

A credible enforcement system will still require some collaboration with willing states to identify noncitizens who pose bona fide safety risks to their communities so that federal agencies can initiate removal proceedings. Under an improved model of public safety partnership, this collaboration should focus only on high-risk individuals already in contact with state and local criminal legal systems rather than indiscriminate enforcement that uses local police for low-level civil immigration enforcement. It should also be based on partnerships between state agencies and the federal government, rather than directly between local sheriffs and entire immigration agencies. Given that the Constitution prohibits the federal agencies from compelling states to collaborate on immigration enforcement, states would have the autonomy to decide whether to enter these partnerships.

Even in states that currently limit some local collaboration with ICE, local police agencies typically still cooperate with ICE when it comes to noncitizens with recent, violent offenses who pose serious threats to their communities. To continue this collaboration and ensure that it remains focused on violent offenders and people convicted of recent, especially serious crimes, federal agencies could work with states to create “referral channels” that local police agencies use to report recent, violent noncitizen offenders to state agencies who in turn coordinate with federal immigration agencies—reporting and notifying rather than holding people on “detainers” which courts have increasingly found to violate the Constitution.⁶⁴

If the goal is to keep communities safe, local police should be focused on building trust; deputizing them to act as ICE or Border Patrol erodes that trust. Instead, state partnerships and “referral channels” allow local police agencies to play their protective role while ensuring that there is still targeted enforcement against noncitizens who present a true danger to the community. This ensures that a police officer’s routine traffic stop or an arrest and dropped charges do not end in family separation and deportation; but also that a noncitizen convicted of a homicide is referred to federal immigration agencies via state agencies to face deportation proceedings.

Federal immigration agencies should also establish formal data-sharing agreements with robust privacy requirements that help states and their local agencies identify violent and recent, serious offenders.

To prevent state public safety partnerships from devolving into local police sweeping in hundreds of low-level noncitizen offenders, Congress and the agencies should consider laws and policies that work together to ban the use of routine traffic stops and low-level policing as tools for immigration enforcement. This combination of state referral channels and targeted data sharing, alongside prohibitions on using everyday policing for immigration enforcement, would allow local partners to cooperate with the federal agencies on serious public safety threats without becoming immigration enforcers.

Fund state and local community supports

Alongside targeted enforcement through collaboration with state-level agencies, Congress and federal agencies should expand its vision of traditional enforcement to provide support for communities through appropriated funding for critical state programs and services that build safer immigrant and American communities.

Congress should redirect a portion of enforcement appropriations toward state and local partnership grants that support community safety and lawful integration, including funding for legal orientation programs so that noncitizens have access to legal support, particularly as they navigate processes to seek lawful status. Redirected money should also include support for naturalization services and ceremonies in states across the country. As of January 2023, 9 million Lawful Permanent Residents (LPRs) were eligible to naturalize and gain U.S. citizenship;⁶⁵ the federal government could increase the processing and swearing-in of new U.S. citizens through grants and loan programs that help state governments offer naturalization classes, aid low-income noncitizens with application fees, and offer grants to nonprofits offering legal services for naturalization applications. Investments in these services increase a compliance mindset among immigrant communities by increasing their trust in the system and by increasing a sense of “procedural justice” in which people accept the outcomes of an enforcement system because they understand how that outcome was reached.

Appropriations should also be redirected to include state-level support for language access, victim assistance, and community-based compliance programs (such as a compliance process for undocumented people diverted away from deportation proceedings or an immigration probation period for those in removal proceedings as described in this framework). These investments would help rebuild trust between communities and the

federal immigration enforcement agencies, especially in places impacted by overbroad enforcement under the Trump administration, while also improving long-term compliance and stability. Public safety depends on trust with community and with state and local stakeholders and these investments would take steps to that end.

Recommendations for Partnerships

- Repeal section 287(g) of the Immigration Nationality Act and other federal provisions that permit deputization of local police for civil immigration enforcement.
- Instead, support the creation of public safety partnerships between federal agencies and willing states. Partnerships should focus on state-directed collaboration for targeted enforcement of immigration laws against those that present bona fide safety threats; and should include federal funding for supportive and integration services that build safer immigrant and American communities.
 - Agencies should focus collaborative enforcement with state partners on high-risk noncitizen offenders using “referral channels” run by state agencies rather than “detainers”; and through data-sharing agreements with robust privacy requirements and limitations.
 - Congress and the agencies should consider passing legislation and policies that prohibit the use of everyday local policing for low-level immigration enforcement.
 - Congress should redirect a portion of enforcement appropriations toward state and local partnership grants that support community safety and lawful integration, including funding for legal orientation programs, naturalization services, language access, victim services, and compliance-based programming.

Communities are safer when local police are seen as protectors, not as entry points into a civil deportation dragnet.

Proportionality

*Consequences for Violations of Civil Immigration Laws
Should Be Tailored, Reasonable, and Humane*



The severity of deportation as a civil penalty

Deportation is the primary consequence for violations of civil immigration law, no matter the individual circumstances. Legally speaking, it is not a punishment, yet the Supreme Court has recognized that it is a “particularly severe” penalty in comparison to many criminal punishments.⁶⁶ It permanently alters a person’s life (usually irreversibly), deprives them of their livelihood, and sunders their connections to their communities. Yet an undocumented immigrant with multiple U.S. citizen family members and a clean criminal record faces the exact same penalty of deportation as a tourist who commits a felony on their first day in the country—and in practice, deportation is usually an even more severe penalty for those with community ties in the United States. The system fails to offer humane, reasonable, or proportionate civil consequences for immigration violations, effectively making detention and deportation a one-size-fits-all punishment no matter the situation.

A system with no proportionate alternatives

This poverty of options available to penalize a violation of immigration law punishes millions of people with consequences that are disproportionate to the civil violations at hand. Even where a judge agrees that deportation is inappropriate, no other penalty for the violation of civil immigration law is available. This system of enforcement has been likened to a “a medieval criminal justice system, where the only two choices were no penalty or the death penalty.”⁶⁷ It has also opened the door for this administration to stretch these laws to their fullest extent, often beyond all previous limits, no matter the consequences or the inhumanity.

Human impact and erosion of due process

Trump’s mass deportation effort has dehumanized people caught within its grasp and undermined

American principles of due process and justice. This is the consequence of a system which offers only a single “particularly severe” penalty for violations of immigration law.⁶⁸ Even prior to Trump, many people who posed no safety threat and had laid down deep ties to the United States found themselves languishing in detention facilities and facing removal. Immigrant U.S. war veterans, undocumented fathers and mothers raising U.S. citizen children, and lawful permanent residents with dated criminal offenses—who have long since been rehabilitated—may find themselves detained and deported. This penalty has been enforced despite decades of data and research underscoring that deportation of those with deep ties to the United States separates and destabilizes families, raises poverty, reduces the economy, and imposes psychological and physical harm to children who lose parents or family members to deportation.⁶⁹

The need for a proportionate enforcement framework

A credible enforcement regime must deliver consequences for violations of laws; but it should not respond to every violator or violation with the same consequence, and it must operate in a way that upholds American principles of due process and justice. The severe penalty of deportation should be reserved for the worst offenders and offenses; and for others, Congress should create a new framework for enforcement which makes sure that the penalty fits the offense.

Congress has the full Constitutional right to determine “whether and upon what conditions [noncitizens] shall be permitted to remain within the United States.”⁷⁰ By modifying the current removal system to embrace proportionality as its core principle, Congress can create a system which accounts for the individual circumstances of each case while still being efficient, impartial, and fair.

POLICY RECOMMENDATION #8

Make Consequences Proportionate: Legislate Scalable Penalties That Can Be Imposed In Lieu of Deportation in Appropriate Cases

It is a core principle of American law that penalties should be proportionate to the scale of the violation. When a person violates criminal law, a sentencing judge has significant discretion in what penalty to impose—ranging from community service to fines to jail to prison and even to death—based on the circumstances of the offense and of the offender. Similarly, when a person violates most civil laws, government agencies have a wide variety of tools to respond, ranging from the imposition of fines or plans to pay restitution, to orders to come into compliance, and more. Yet when a person violates **immigration** law, there is only the “particularly severe” single penalty of deportation.

While immigration laws do permit the imposition of civil fines on top of deportation, the basic penalty for any violation of immigration law is the same, and the core question for every immigration court hearing is the same: whether a person will be permitted to remain in the United States. But even where deportation is not an outcome that most Americans would find appropriate or support, the law offers federal officials no other possible legal penalty to impose instead. For the last 30 years, Congress has restricted immigration judges’ ability to grant permanent or temporary legal status to those facing deportation.

Enact a range of penalties

To create a more proportionate, fair, and just system, Congress should enact a set of scalable penalties for violations of immigration law that immigration judges can impose in lieu of deportation, specifically in cases where the harm caused by removal would far exceed the harm caused by the violation of the law.

These scalable penalties would be designed to address an individual’s specific violation of immigration law. As always, immigration judges could order removal under existing laws—just as, in certain limited cases where someone might qualify to apply for legal status which permits them to remain in the United States, immigration judges today can order relief and grant lawful status.

These scalable penalties would apply in individual cases where a person was found to be removable and had not qualified for an existing form of relief. Guided by a rubric of Congressionally-mandated factors that consider individuals’ specific circumstances, immigration judges could choose to either order removal, or instead impose fines and payment plans, treatment programs, community service, or other proportionate penalties authorized by Congress, in lieu of deportation. They would no longer need to decide that individuals either deserve relief without penalty or deserve the extreme penalty of deportation.

Immigration probation in lieu of removal

Among the proportionate penalties that an immigration judge could impose in lieu of deportation could be, in appropriate circumstances, a form of longer-term probation. Once assigned to probation through removal proceedings, the process could look similar to the diversion mechanism and compliance process, with any additional requirements set by the immigration judge as part of the penalty and administered by the same office administering that process. The imposition of a fine, community service or immigration probation would represent the immigration judge's determination that deportation was not the appropriate penalty, guided by factors provided by Congress. Instead, compliance with the terms of an alternate penalty—for example, by paying an additional fine, providing evidence of community service hours, or successfully completing a period of probation administered by agency staff—would demonstrate that the person merits a favorable exercise of discretion and should be permitted to remain. Thus, upon successful completion of probation or any other proportionate penalty, as determined by the immigration judge, the noncitizen would have access to pathways to permanent status (and for LPRs, full status would be restored).

Material or willful non-compliance during this probationary period would have real consequences, which would also be tailored to the nature of the violation. Failures to pay fines, repeated missed check-ins with a caseworker, or a conviction for a crime would result in return to the immigration court process, where immigration judges would have the option to impose a removal order for noncompliance, or in appropriate circumstances, to modify or extend the terms of the immigration probation. Those who repeatedly fail to meet the requirements would face removal, while those whose noncompliance was unintentional or minimal would be given an opportunity to address the concerns.

Benefits of scaled penalties

Many people would benefit from these scalable penalties. For example, an immigrant LPR and U.S. military veteran with a drug conviction stemming from addiction due to service-related PTSD might benefit from a probationary period with mandatory drug treatment programs, allowing her to demonstrate efforts toward rehabilitation rather than face removal to a country she hardly knows. An undocumented single mother of three U.S. citizen children, arrested for shoplifting, might find herself in removal proceedings; but if she has no other prior criminal history and long-standing ties to her community, and a family to feed and provide for, she might be an ideal candidate for a proportionate penalty of community service and a fine if she doesn't qualify for other relief.

Immigration court independence

Crucially, given the Trump administration's firing of hundreds of immigration judges and issuance of other policies that have severely eroded any semblance of impartiality on the immigration judge bench, Congress must mandate that immigration judges take into consideration individual factors like ability to pay when deciding on proportionate penalties. Congress would ideally pair a program like this with reforms to rebuild the immigration courts to instill greater overall impartiality and independence (for example, for years experts have called on the administration to make the immigration judiciary into an independent Article I court with greater insulation from political interference by the Executive branch).

Caseworkers not law enforcement agents

Additionally, to ensure that a probationary period or any scalable penalty is managed in a way that encourages compliance and accomplishes the goals of rehabilitation or restitution, this program would be best administered by caseworkers and not by a law enforcement agency—with the best option being the same component or agency that operates the enforcement diversion mechanism and compliance process discussed in the “Compliance” pillar of this framework.

The federal government could also partner with states and localities to hire local caseworkers or contract with local civil society organizations trained in supportive services and immigration law to administer this probationary program, which would provide further incentive for broader intergovernmental cooperation.

Recommendations for Proportionate Consequences

- Authorize immigration judges to impose proportionate consequences for violations of immigration law in lieu of the issuance of a removal order that includes civil penalties, treatment programs, community service, as well as an immigration probation program.
 - Provide that compliance with this probationary program be administered by the same component administering the enforcement diversion mechanism and compliance process.
 - Provide that individuals who materially or willfully fail to comply with these penalties, or violate the terms of the immigration probation program, be referred back to the immigration judge, who has authority to either order removal or order modifications to the penalties for unintentional or minimal noncompliance.
- Authorize immigration judges to grant permanent legal status (or restore LPR status) to individuals who successfully comply with penalties imposed on them by the immigration judge.
- Codify standards and guidelines that immigration judges would be required to use to assess whether a person should be diverted “into the probation program or other alternatives, including specific requirements of the factors that immigration judges should assess and when a person would qualify for the program.
- Adopt meaningful reforms to limit politicization of the immigration courts and take steps to restore the independence of immigration judges.



SPOTLIGHT

Howard Bailey

U.S. Navy veteran Howard Bailey was 40 years old, living in a house he purchased with a Veterans Affairs loan, running his own trucking company, happily married, and raising two U.S. citizen children, when ICE agents in 2010 appeared at his Virginia home to arrest him with his children watching. They placed him in immigration detention and deportation proceedings based on a single marijuana conviction he received 20 years prior and just after his service in Operation Desert Storm.⁸ Howard spent over a year in immigration detention and then ten years living in exile in Jamaica, a country he left at age 17. **A single marijuana offense—that would later be pardoned by the governor of Virginia—destroyed Howard’s life, separating him from his family and costing him his business, marriage, and home, and leaving his family in economic devastation and years of emotional turmoil.**

In 2021, with the support of several U.S. Senators, the Department of Homeland Security agreed to allow Howard to return to the United States and regain his lawful permanent status; a year later he earned his U.S. citizenship. Today, Howard is attempting to start a new life in the United States.⁹

In a credible and humane enforcement system, Howard, now a U.S. citizen, would not have been forced to endure a decade outside of this country. He could have faced alternative immigration consequences for his old marijuana offense, such as community service, a fine, or other lesser penalties that considered his status as a veteran. A system that considers positive equities such as service in the U.S. military or the low-level and extremely outdated nature of an old offense would offer tailored and reasonable consequences for immigration violations by law rather than the excessive and disproportionate consequences in cases like Howard.

11. Petula Dvorak, "An old pot arrest destroyed a Virginia veteran's life. Now that it's legal there, that should never happen again," *The Washington Post*, July 1, 2021, https://www.washingtonpost.com/local/an-old-pot-arrest-destroyed-a-virginia-veterans-life-now-that-its-legal-there-that-should-never-happen-again/2021/07/01/34c9e6d2-daa8-11eb-8fb8-aea56b785b00_story.html. https://www.washingtonpost.com/local/an-old-pot-arrest-destroyed-a-virginia-veterans-life-now-that-its-legal-there-that-should-never-happen-again/2021/07/01/34c9e6d2-daa8-11eb-8fb8-aea56b785b00_story.html

12. Petula Dvorak, "America exiled this veteran for 11 years. Now he's a citizen," *The Washington Post*, June 22, 2023, <https://www.washingtonpost.com/dc-md-vi/2023/06/22/immigrant-navy-veteran-deported-marijuana-virginia-citizenship/>. <https://www.washingtonpost.com/dc-md-vi/2023/06/22/immigrant-navy-veteran-deported-marijuana-virginia-citizenship/>

POLICY RECOMMENDATION #9

Reverse the Expansion of Immigration Detention: Codify Humane and Effective Alternatives and Limit the Use of Detention

Fueled by a record \$45 billion spent on immigration detention in 2025, the United States now has the world's largest immigration detention system, with a record number of people in detention.⁷¹ But mass incarceration is not a necessary component of an effective immigration enforcement system. For most of U.S. immigration history, detention was not a significant component of interior immigration enforcement. Expansion of the grounds of removability through the immigration laws passed in the 1990s, and the growth of the private prison industry, contributed to the relatively novel scale of immigration detention. For over two decades, as this system has expanded, civil society organizations, government watchdogs/whistleblowers, and internal government investigations have documented human rights abuses across the detention system, including medical neglect and abuse, overuse of solitary confinement, and subpar living conditions. 2026 is set to be the deadliest year of ICE detention in history, and the Trump administration is moving forward with plans to “reengineer” the detention system through the conversion of commercial warehouses into “[Amazon] Prime, but with human beings.”⁷² These endemic abuses erode the credibility of the entire enforcement system by further blurring the lines among keeping someone in custody to prevent them from absconding; punishing them; and engaging in outright abuse.

This framework recommends taking overdue steps to amend immigration law to decrease the overall number of people who can be subject to immigration detention in the first instance, while still ensuring proportionate and reasonable consequences for immigration law violators. By reducing the number of deportable immigrants through legalization; diverting immigrants who can demonstrate compelling circumstances into diversion processes or probation programs that lead to permanent status; enacting a statute of limitations for when the government can initiate removal against people with certain criminal convictions; and legislating diversions and alternative consequences that should be used in lieu of detention and removal for those who will not qualify for permanent legal status, Congress would decrease the number of people that an enforcement agency could detain while still delivering consequences for violations.

Congress should also codify alternatives to detention that promote regular appearance in court in lieu of detention. In the past, the use of community-based case management programs that provide supportive services to noncitizens in removal proceedings while they remain at home in their communities have demonstrated high compliance rates, with most people showing up to court; and they have been far less expensive than the equivalent number of beds in an immigration detention facility. Better alternatives exist: as one example, the Family Case Management Program piloted under the Obama administration resulted in a 99 percent appearance rate for court hearings.⁷³

Finally, Congress should codify prohibitions on the detention of certain vulnerable people to establish clear red lines that have too often been crossed by federal enforcement agencies. While internal DHS policies of the past have limited ICE detention of certain vulnerable groups of people like children, pregnant people, disabled people, and transgender people, these policies were not required by law, unenforceable in court, and subject to administrative whim. With this administration's commitment to detention in every case, children have languished in detention instead of going to school, while medically vulnerable individuals have suffered and died.⁷⁴ Congress must finally write into law a prohibition on detaining vulnerable groups such as this, which will rein in the worst abuses of the immigration enforcement system and build a more fair, credible, and effective system.

Recommendations for Reversing the Expansion of Immigration Detention

- Fund alternatives to detention case management programs that have proven successful in ensuring compliance with immigration enforcement processes.
- Adopt the core principles of this framework, which would decrease the number of people subject to immigration detention under the law, but still ensure penalties for violations of immigration law.
- Adopt statutory limitations on the use of detention for vulnerable individuals, including pregnant people, children, people with disabilities, people with serious medical issues, and transgender people.

For most of U.S. immigration history, detention was not a significant component of interior immigration enforcement.

POLICY RECOMMENDATION #10

Let All Seek Bond: Every Person Should Have the Right to Challenge Their Detention in a Court with an Appointed Lawyer

Immigration detention facilities are no different from the prisons and jails in which people are incarcerated for criminal offenses—and yet, unlike defendants in the criminal system, immigrants can be locked up and deprived of liberty without a fair day in court to make a case for their release or an appointed lawyer to represent them against the government. Since 1996, Congress has denied millions of immigrants the basic due process right to challenge their detention in front of a neutral official in the immigration courts.

If an enforcement system is to be seen as credible and legitimate, it must take due process as seriously as other areas of American law. Specifically, Congress should repeal or significantly limit the use of mandatory detention, which keeps sweeping categories of immigrants into detention even when they have strong arguments showing they pose no public safety or flight risk by depriving them of a right to a bond hearing.

Since 1996, two groups of people have been subject to mandatory detention: individuals with an increasingly broad range of criminal convictions (regardless of the recency or severity of those offenses) under section 236(c) of the Immigration and Nationality Act;⁷⁵ and people “seeking admission” to the United States, under section 235(b) of the Immigration and Nationality Act.⁷⁶ All people subject to mandatory detention are ineligible for release on orders of supervision or their own recognizance, and they are barred from a hearing before an immigration judge for release on bond.

Going into the second Trump administration, over half of the people in immigration detention facilities were subject to mandatory detention, often facing prolonged or indefinite detention while navigating their removal proceedings even when they posed no safety threat or flight risk. In January 2025, President Trump signed into law the Laken Riley Act, a significant expansion of the use of mandatory detention. Since its passage, ICE has been unable to consistently apply the law⁷⁷ and at least two members of Congress have publicly stated their regret for voting in favor of the law.⁷⁸

Subsequently, two decisions from the Trump administration’s Board of Immigration Appeals (BIA) further expanded mandatory detention, extending 235(b) mandatory detention for people “seeking admission” (previously understood to refer only to new arrivals) to those living in the U.S. for months or years.⁷⁹ Over 400 federal courts—an overwhelming majority of the courts that have considered the issue—have ruled against the BIA’s expansion of mandatory detention. However, the principle of mandatory detention, and its use for a large share of the detained population, paved the way for the Trump administration to pursue this policy.

Congress should repeal section 236(c) of the Immigration Nationality Act to ensure that any person detained has a chance to be considered for release. In addition to giving noncitizens a fair day in court, a right to a bond hearing would better ensure that the immigration system actually prioritizes safety—by giving the agency and judges greater authority to release those who pose no safety threat, it allows them to guarantee detention space for those who do. This is why ICE itself warned that the Laken Riley Act, by forcing the agency to keep so many people detained, could result in the release of others in detention who might pose an actual threat.⁸⁰ Repealing 236(c) will not mandate the release of anyone; instead, it will simply restore the pre-1996 policy where every person can make an attempt to show that they are not a flight risk or a danger to the community.

Similarly, Congress should amend section 235(b) of the Immigration and Nationality Act to clarify that mandatory detention cannot be used against undocumented people arrested in the interior of the United States based on their manner of entry. These changes are overdue given that for over 20 years, increasingly more noncitizens who pose no bona fide safety threat have been incarcerated, culminating with the current administration—as of February 2026, 42 percent of people in detention had no criminal record.⁸¹

Finally, to establish basic due process rights in the immigration detention system, Congress should work with appropriators to fund an appointed counsel program for every person in an immigration detention facility. When a person is incarcerated and deprived of their physical liberty by the government, they should not be alone in representing themselves. In a system with a significantly smaller detained population, providing appointed counsel to every detained person would be easier and more affordable to administer.

The Fifth Amendment of the Constitution ensures due process for every person, with no distinction based on citizenship status. Prolonged or indefinite detention without a right to a bond hearing and without a lawyer is a severe deprivation of that right, and any credible enforcement system must recommit to these core constitutional rights.

Recommendations for Letting All Seek Bond

- Repeal Section 236(c) of the Immigration Nationality Act, ensuring that all people have a right to seek release on bond.
- Amend Section 235(b) of the Immigration Nationality Act to clarify that it only applies to individuals who are physically arriving at the border, and not individuals who are arrested in the interior of the United States.
- Establish a basic right to an appointed lawyer for individuals held in detention.

Accountability

Agencies and Agents That Abuse Their Power Should be Reined In or Pushed Out

For years prior to the current Trump administration, government agencies and investigations, civil society organizations, and those inside the immigration system have documented instances of overreach and abuse by immigration enforcement agencies with little meaningful improvement or accountability.⁸² Now, under an administration that does not appear to consider the rights of immigrants to be an equity worth considering in policymaking (as several federal judges have pointed out) and where the few voices calling for accountability have been marginalized, these abuses have reached new heights. The future of immigration enforcement depends on reestablishing that enforcement agencies are indeed accountable to the public and therefore deserve the public's deference and respect.

Accountability is the foundation of public trust. An agency which acts outside of the bounds of its own rules and the law loses that trust—with significant consequences for both the public and for the agency itself. For example, people targeted for enforcement may seek to evade arrest or refuse to peacefully go into custody if they believe their rights may be violated with impunity, which raises the risks to law enforcement officers and the public.

Similarly, a general lack of accountability means that the public cannot trust the agency even when it **has** followed the law. Law enforcement operations inherently carry some risks, and immigration officers may find themselves in a charged situation despite adhering to law and policy. In a system where the public cannot trust the agency

to police itself, law enforcement agents who end up in dangerous situations where self-defense is warranted may find that the public does not believe their account of the situation and treats entirely justified actions as violent overreach.

Beyond public trust, accountability ensures that the people subject to enforcement are less likely to have their rights violated. A law enforcement workforce that knows violations of policy will not be meaningfully punished is a workforce that is more likely to ignore the rules and cut corners, at times with deadly consequences.

A more accountable immigration enforcement system for the future requires not just robust internal oversight mechanisms, but the ability for victims of civil rights violations to seek relief in federal court. Today, federal courts are largely powerless to intervene in holding federal agencies to account when their officers violate the rights of people taken into custody.

To restore accountability and trust in our immigration enforcement system, Congress should make a series of changes to ensure accountability at all levels of government, ensuring a safer operating environment not only for immigrants, but also for the federal government and the officers themselves.

POLICY RECOMMENDATION #11

Restore Power to the Judiciary: Repeal Limits on Federal Courts to Address Unlawful Immigration Enforcement Actions

In 1996, Congress stripped federal courts of their authority to “enjoin or restrain the operation” of immigration enforcement laws relating to the arrest, detention, processing, and removal of noncitizens.⁸³ For over two decades, this limitation contained at 8 U.S.C. § 1252(f) was interpreted to block courts from imposing additional requirements on immigration enforcement agencies; but it still permitted unlawful policies and actions by the federal government.

However, in 2022, the Supreme Court held that Section 1252(f) barred even court orders aiming to halt the **unlawful** operation of immigration laws, declaring in *Garland v. Aleman Gonzalez* that even when ICE is breaking the law, it is still “operating” the law.⁸⁴ Thus, even lawsuits seeking to enjoin an illegal immigration enforcement policy on a classwide basis are barred. In other words, thanks to this 1996 law and its 2022 interpretation, courts are severely restricted from holding ICE accountable for illegal policies, leaving immigration enforcement officials free to break the law with few meaningful ways to stop them.

Other provisions enacted in 1996 similarly limit the ability of federal courts to address unlawful actions by immigration enforcement officers, including limitations on the ability of people held in detention to file habeas corpus lawsuits in federal court,⁸⁵ and limitations on the ability of individuals subject to expedited removal to sue even when their rights are violated.⁸⁶

These limitations prevent federal courts from holding the government accountable to the law, as well as to its own regulations and policies. When courts cannot step in to halt unlawful actions, accountability can only occur through internal processes, which the Trump administration has shown can be dispensed with.

Recommendations for Restoring Judiciary Power

- Repeal or narrow Section 1252(f), thus allowing federal courts to step in to correct unlawful immigration enforcement actions, policies, or regulations.
- Repeal or narrow restrictions in Section 1252(e), which prevent challenges to erroneous use of expedited removal.
- Enact new laws specifically providing for judicial remedies against unlawful imprisonment and detention by immigration enforcement officers.
- Enact new laws specifically providing for judicial remedies against policies or practices of unlawful searches and seizures by immigration enforcement officers.

POLICY RECOMMENDATION #12

Compensate Victims of Federal Abuses: Give Victims of Civil Rights Violations Ability to Sue

Americans whose rights are violated by state or local law enforcement officers have the ability to bring lawsuits under a civil rights law that authorizes people to take the government to court.⁸⁷ However, no similar law exists for people whose rights are violated by **federal** law enforcement officers, meaning that in most cases, a person who is abused by federal law enforcement cannot sue for monetary damages, and may be unable to recoup even medical bills.

While a 1971 Supreme Court cases known as *Bivens*⁸⁸ authorizes an extremely limited set of lawsuits seeking compensation for illegal searches and seizures by federal law enforcement officers, the Supreme Court has subsequently narrowed that decision such that it is effectively limited to the facts of that case. In 2022, the Supreme Court even expressly ruled that an unlawful arrest of a U.S. citizen by immigration enforcement officers was not covered by *Bivens* and that the victim of such an arrest did not have any way to seek compensation.⁸⁹

As a result, when a U.S. citizen or an immigrant has their rights violated by an immigration officer, including egregious actions such as unlawful acts of violence, their ability to sue for damages is heavily limited and at times nonexistent. Even a person who is severely beaten or harmed by federal immigration officers during an arrest may be unable to seek compensation for their harms.

The American public broadly supports giving people the ability to sue law enforcement officers for misconduct.⁹⁰ Despite this, Congress has never created a cause of action generally authorizing these lawsuits.

Recommendation for **Compensating Victims**

Enact a federal remedy and cause of action for civil rights violations committed by federal law enforcement officers to align with 42 U.S.C. 1983, codifying *Bivens*. Existing proposals have been introduced in Congress to do this⁹¹; if desired, Congress could limit the extension of *Bivens* to actions resulting from immigration enforcement.



SPOTLIGHT

Renee Good

“In the last few weeks, our family took some consolation, thinking that perhaps Nae’s [Renee’s] death would bring about change in our country, and it has not. The completely surreal scenes taking place on the streets of Minneapolis are beyond explanation. This is not just a bad day or a rough week or isolated incidents. These encounters with federal agents are changing the community and changing many lives, including ours forever.”¹³

—**Luke Ganger, brother of Renee Good who federal immigration agents shot and killed on January 7, 2026, during “Operation Metro Surge” in Minnesota.**

“Our current paradox is that America should not require the permission of the federal government to sue the federal government for cases like Renee Good or Alex Pretti. If the government must give you permission to seek accountability for violation of constitutional rights, then your rights are just words on paper.”¹⁴

—**Antonio Romanucci, civil rights and torts litigator and lawyer for Renee Good’s family.**

13. Luke Ganger, “Renee Good’s Brothers Testify Before Congressional Democrats on DHS Immigration Enforcement Tactics,” House and Senate Democrats, Washington, DC, February 3, 2026, 3:23:56, <https://www.c-span.org/program/public-affairs-event/renee-goods-brothers-testify-before-congressional-democrats-on-dhs-immigration-enforcement-tactics/672732>.

14. Ibid.

POLICY RECOMMENDATION #13

Adopt External Oversight: Establish Independent Congressional Oversight of Immigration Enforcement Agencies

Over the last decade, Congress has begun to conduct its own independent oversight of immigration enforcement. For example, since 2020 members of Congress have been entitled to visit ICE detention centers to conduct independent oversight visits of conditions inside facilities, pursuant to Section 527 of the annual DHS Appropriations Act.⁹² However, this administration has repeatedly sought to place limits on this authority, actively preventing members of Congress from entering detention centers.⁹³ While a federal judge has repeatedly declared this action unlawful,⁹⁴ the Trump administration's refusal to give members of Congress access to these facilities has demonstrated that independent oversight with teeth is necessary.

Independent oversight is a core component of accountability measures. For example, in the criminal enforcement context, civilian review boards have been established over decades as a key measure of building trust within communities and law enforcement agencies. However, no such measures exist in the immigration enforcement space. The sole possibility for external oversight comes in the form of reviews by the Government Accountability Office (GAO). While the GAO has often identified broad systemic issues with immigration enforcement,⁹⁵ they are not tasked with investigating individual incidents and cannot direct an agency to remedy misconduct.

An independent board established by Congress in a bipartisan fashion could establish a level of oversight sufficient to prevent both the current abuses of this administration, and past violations that were allowed to fester.⁹⁶

Recommendations for Adopting External Oversight

- Create and fund a bipartisan independent immigration accountability commission external to DHS and appointed by the majority and minority Leaders of the House and Senate that:
 - Investigates and monitors immigration enforcement agencies and has independent power to conduct surprise inspections and review government documents and data;
 - Provides reports to Congress on investigations of serious and willful violations of the law;
 - Is empowered to fine the agency following formal findings of willful and serious non-compliance, as well as seek remedies in court;
 - Creates a public portal for the general public to submit complaints for investigation.
- Codify Section 257 of the DHS Appropriations Act into law outside of the annual appropriations cycle, ensuring that members of Congress have a statutory right to conduct inspections of immigration detention facilities that is not contingent on the passage of the provision each year in the annual appropriations bill, and ensure that this is insulated from shutdowns.

POLICY RECOMMENDATION #14

Establish Trust through Transparency: Rebuild Internal Agency Monitoring

Along with external oversight to keep immigration enforcement agencies honest, DHS has long had internal watchdogs that aim to keep the government accountable. The most prominent and powerful of these is the DHS Office of Inspector General (OIG), which is designed to be independent from the executive branch. The OIG has the power to conduct expansive investigations into misconduct across the entire Department of Homeland Security and may even refer cases of severe misconduct for criminal prosecution. In the past, OIG has been responsible for some investigations into abusive conditions in ICE and CBP detention facilities, although its recommendations for addressing the situation are nonbinding; a fact which has led to at least one tragedy, when a 2021 recommendation to immediately pull all ICE detainees out of the troubled Torrance County Detention Facility due to severe understaffing⁹⁷ was ignored and a man died in custody at the facility less than six months later.⁹⁸

However, the expansion of the “unitary executive theory” by the Supreme Court has cast the independence of these offices in doubt,⁹⁹ and President Trump successfully fired multiple inspectors general across the government. As a result, the power of the OIG to investigate government misconduct is now far more limited, and the specter of political interference is higher than ever.

Beyond the OIG, other DHS bodies dedicated to internal accountability include the Office of Civil Rights and Civil Liberties (CRCL) and the Office of the Immigration Detention Ombudsman (OIDO). Unlike OIG, both CRCL and OIDO are designed not only to provide direct accountability for violations of civil rights and detention standards, but also to provide insight and expertise at the policy-making level. ICE also contains within it the Office of Detention Oversight (part of ICE’s Office of Professional Responsibility), which conducts semiannual inspections of detention centers—both privately-owned and government-owned.

Both CRCL and OIDO have been gutted by the Trump administration. The former was reduced in size by 85 percent after Trump took office and the latter by 90 percent;¹⁰⁰ and in May 2026, OIDO was shut down entirely by ICE. During a deposition in a lawsuit seeking to reverse these staff cuts, the Trump-appointed interim director of OIDO admitted to having no knowledge whatsoever about ICE’s 2011 National Performance-Based Detention Standards—standards his office was congressionally mandated to enforce.¹⁰¹ The Trump administration’s stated intent in all but eliminating these oversight bodies was to speed up mass deportations,¹⁰² making clear that oversight and accountability served as an important check on aggressive enforcement—and that they believe basic legal rights as an impediment.

These internal accountability bodies have always been flawed and often lacked the ability to either conduct meaningful operational oversight or hold individual officers or policymakers accountable for unlawful actions. CRCL’s investigations have often led to few meaningful

changes—its role in policy formation has often been a sidenote; complaints can take years to resolve, and many investigatory reports are never made public. OIDO itself was only established in 2019 and struggled to assert itself in a meaningful way against ICE. Similarly, the Office of Detention Oversight has long been accused of hiring private inspectors who rubber stamp detention facilities.¹⁰³

However, despite these historical flaws, the near-total elimination of internal accountability has led to a collapse of public trust in the institution of policies and practices, endangering people held in detention and violating their civil rights. While we recognize that internal oversight will always be subject to executive interference, mandating statutory independence and providing penalties for DHS should that independence be violated could help ensure more robust oversight within the boundaries of the current Supreme Court precedent on executive authority. CRCL should not be reconstituted as it existed before the Trump administration's actions. Instead, a broader change to the component is necessary.

Recommendations for Establishing Trust

- Protect CRCL's independence by statute by pulling it outside the normal chain of command and mandating that DHS involves the agency in the development of major policies that impact civil rights.
- Grant CRCL subpoena authority like that held by DHS OIG, permitting it to question and investigate third parties who work with DHS in ways that impact civil rights.
- Insulate CRCL from presidential interference through tying independence to congressional funding, which could include limiting broader DHS funding if the CRCL Officer is removed for any reason other than cause.
- Provide both CRCL and OIG independent legal counsel such that they are not required to defer to DHS General Counsel on all matters.
- Require that CRCL makes its findings public in cases of public concern and provides annual transparency reports to Congress on its work.
- Mandate that the Office of Detention Oversight conducts its own inspections rather than hiring private contractors.
- Standardize detention inspection processes, clearly delineate responsibilities across the multiple bodies which conduct oversight of immigration detention centers, and establish clear performance goals and measures for inspections and compliance responses.

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