



Primer: U.S. Deportations - A Longstanding & Normal Process

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Background

In response to the ongoing crisis of illegal immigration into America, former President Donald Trump has asserted that he is prepared to conduct mass deportations. Now, having been re-elected by historic margins, he has a mandate to follow through. While far-left activists have attempted to vilify this proposal, the reality is that deportation procedures are long-established federal processes.

The large-scale illegal immigration that Americans have endured since 2021 is entirely the result of the Biden-Harris administration's open-border policies and the elimination of successful Trump-era restrictions that curbed the flow of illegal aliens into the United States. The current Biden-Harris administration policy of de facto open borders has facilitated soaring levels of illegal entries, with more than 10.8 million encounters nationwide, including more than 8.72 million at the southwest border since 2021.¹ Migrants are arriving in large numbers in every state in the country, overwhelming major cities and rural areas alike.²

As of June 2023, an estimated 16.8 million illegal aliens resided in the United States.³ That number has grown in the time since. Some estimates put the total number above 20 million, with thousands more crossing the border every day.⁴ Allowing such a situation to go unremedied is unjust, immoral, and unsustainable. Dispelling the perception that most aliens who come here illegally will be allowed to stay is critical for eradicating the existing incentives for mass human trafficking, easing the strain on public services, and raising the wages of American workers.

Deportations have occurred in significant numbers in every recent administration, including under both Presidents Obama and Biden, albeit at insufficient rates to offset illegal entries.

¹ Report (September 2024). "Border Crisis Startling Stats," *House Committee on Homeland Security*. <https://homeland.house.gov/wp-content/uploads/2024/10/September-24-Startling-Stats.pdf>

² Lindquist (September 18, 2024). "What Has My Town Become?": Springfield Residents Say It's Falling Apart Amid Haitian Influx," *The Daily Wire*. <https://www.dailywire.com/news/what-has-my-town-become-springfield-residents-say-its-falling-apart-amid-haitian-influx>

³ A FAIR Research Report (June 22, 2023). "How Many Illegal Aliens Are in the United States? 2023 Update," *Federation for American Immigration Reform*. <https://www.fairus.org/issue/how-many-illegal-aliens-are-united-states-2023-update>

⁴ Matthews (January 23, 2024). "Matthews: Illegal immigrants double under Biden — and that's just the start," *The Hill*. <https://thehill.com/opinion/4423296-matthews-illegal-immigrants-double-under-biden-and-thats-just-the-start/>

Understanding how the deportation process works and what relevant federal laws are at play is crucial for debunking the hysterics from those who would continue to facilitate the ongoing invasion.

The Deportation or Removal Process

While “removal” has been the preferred term in administrative usage in recent years and is most commonly used in the Immigration and Nationality Act (INA), “deportation” is effectively the same action, and both terms can be used interchangeably. “Deportation” is better understood by a larger audience and will be the preferred term in this primer to describe the physical movement of a noncitizen from the interior of the United States to the exterior of the United States for violating immigration law, including those who have entered the country illegally, those who have overstayed beyond the expiration of their visas, and who obtained legal status through questionable executive actions of the Biden-Harris administration.⁵

The deportation process begins when an alien is identified as removable. For example, U.S. Customs and Border Protection (CBP) may identify someone who is removable because (1) they catch them coming across the border illegally; (2) United States Citizenship and Immigration Services (USCIS) might deny an application for immigrant status; or (3) U.S. Immigration and Customs Enforcement encounters someone with a criminal conviction.⁶ If a decision is made to pursue removal, this can happen via one of several processes:

- **Expedited removal:** People arrested by CBP without a valid visa or asylum claim can be subject to expedited removal and deported quickly without ever going before a judge.⁷
- **Enforcement of prior removal orders:** Anyone who has been ordered removed in the past who is found within the United States can be deported almost immediately, typically without going before a judge.⁸
- **A removal case in immigration court:** During these legal proceedings, anyone who may have a valid basis for relief and pathway to a legal immigration benefit, including individuals with an asylum claim, is typically entitled to present their claims.⁹
 - It is important to note that because of the high influx of illegal aliens applying for asylum, the immigration court case backlog ballooned from 1.2 million cases near the end of the Trump administration to nearly 3.5 million cases by the end of the third quarter of fiscal year 2024, a 175 percent increase.¹⁰ It is not uncommon for

⁵ Arthur (January 16, 2024). “Biden’s Parole Abuses on Trial in the Senate,” *Center for Immigration Studies*. <https://cis.org/Arthur/Bidens-Parole-Abuses-Trial-Senate>

⁶ Bieber, Johnson (May 22, 2024). “What Is Deportation: Process And Basics,” *Forbes Advisor*. <https://www.forbes.com/advisor/legal/immigration-law/what-is-deportation/>.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Staff Report (October 24, 2024). “Quiet Amnesty - How the Biden-Harris Administration Uses the Nation's Immigration Court’s to Advance an Open Borders Agenda,” *House Committee on the Judiciary*. <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2024-10-24%20Quiet%20Amnesty%20-%20How%20the%20Biden-Harris%20Administration%20Uses%20the%20Nation's%20Immigration%20Courts%20to%20Advance%20an%20Open-Borders%20Agenda.pdf>.

such proceedings to take years to adjudicate.

- o Further, the Biden-Harris administration has empowered attorneys to pursue or agree to—and immigration judges to grant—mass dismissals, terminations, and closures of immigration cases, which enables illegal aliens to evade deportation and remain in the United States (catch and release), without any status—thereby placing them in limbo.¹¹

The deportation process, as described above, is being undermined and underutilized by the Biden-Harris administration, which continues to allow millions of illegal aliens into the United States and has fraudulently granted “legal” status to noncitizens through administrative fiat.¹²

Historical Highlights of Mass Deportations and Border Enforcement

Deportations have been a central part of President Trump’s agenda since 2016. The left-controlled media and the Democratic Party, when not slandering President Trump as a “fascist” or a “racist,” have derided his calls for a mass deportation effort as unworkable, pointing to costs and lack of resources.¹³ However, there is ample precedent for the successful apprehension and removal of many noncitizens. Even mass deportations are a normal part of the president’s toolbox.

For example, in 1954, the U.S. government conducted a campaign that resulted in the mass deportation of Mexican nationals—1,100,000 persons.¹⁴ Some 750 agents swept through agricultural areas with a goal of 1,000 apprehensions a day.¹⁵ That an operation which employed fewer than 1,000 border agents could deport more than a million illegal aliens strongly suggests a similar operation could take place today.

It is also important to note that both Democratic and Republican Presidents have developed and executed major operations to secure the U.S. southern border. For example, President Bill Clinton launched Operation Gatekeeper, which was part of a comprehensive national southwest border strategic plan meant to bring migrant apprehensions under control.¹⁶ Both President George W. Bush and President Barack Obama deployed the National Guard to the border to assist with apprehending illegal aliens and illicit drugs.¹⁷ There is nothing novel about the U.S. government exercising its sovereign authority to secure the nation’s borders and remove those who violate immigration law.

¹¹ Ibid.

¹² Arthur (January 16, 2024). “Biden’s Parole Abuses on Trial in the Senate,” *Center for Immigration Studies*. <https://cis.org/Arthur/Bidens-Parole-Abuses-Trial-Senate>

¹³ Vega (October 27, 2024). “Mass deportation would come with hefty bill, require more manpower, immigration experts say,” *CBS News*. <https://www.cbsnews.com/news/mass-deportations-cost-government-resources-60-minutes/>

¹⁴ Funderburk (September 2024). “Operation Wetback,” *Britannica*. <https://www.britannica.com/topic/Operation-Wetback>

¹⁵ Bandler (November 12, 2015). “Trump Says He Wants ‘Humane Deportation Force.’ Media Go Nuts. He’s Right,” *The Daily Wire*. <https://www.dailywire.com/news/trump-says-he-wants-humane-deportation-force-media-aaron-bandler>

¹⁶ Fact Sheet (November 2024). “Border Patrol History,” *U.S. Customs and Border Protection*. <https://www.cbp.gov/border-security/along-us-borders/history>

¹⁷ Shoichet (April 4, 2018). “Trump says he’ll send the military to the border. Bush and Obama did, too,” *CNN*. <https://www.cnn.com/2018/04/03/politics/border-troops-deployed-obama-bush/index.html>

Federal Detention and Deportation Laws

Congress has broad power to establish laws for detaining and removing aliens. The modern statute governing immigration to the United States is the Immigration and Nationality Act of 1952 (INA).¹⁸ Since it was enacted, the INA has been amended multiple times and is now hundreds of pages long. Listed below are the main federal statutory provisions associated with deportations:

- [U.S. Code, Title 8, Chapter 12, Section 1227. Deportable aliens](#)
 - This statute discusses different classes of aliens subject to deportation, including those inadmissible at time of entry, those with certain criminal convictions, those who failed to register, and those subject to security considerations.¹⁹
- [U.S. Code, Title 8, Chapter 12, Section 1229a. Removal proceedings](#)
 - Outlines the removal proceedings process. Includes applications for relief from removal.²⁰
- [U.S. Code, Title 8, Chapter 12, Section 1229c. Voluntary departure](#)
 - Discusses the conditions in which an alien would be permitted by the Attorney General to voluntarily depart from the United States and avoid deportation proceedings.²¹
- [U.S. Code, Title 8, Chapter 12, Section 1324. Bringing in and harboring certain aliens](#)
 - Sets out criminal penalties for bringing aliens in illegally to the United States.²²
- [U.S. Code, Title 8, Chapter 12, Section 1325. Improper entry by alien](#)
 - This statute sets out both civil and criminal penalties, including incarceration, for illegal entry into the United States.²³
- [U.S. Code, Title 8, Chapter 12, Section 1326. Reentry of removed aliens](#)
 - This statute sets out criminal penalties for those who have reentered the U.S. without the appropriate permission.²⁴

Agency Role In Brief

Federal agencies and their components have overlapping responsibilities for immigration enforcement. These include facilitating the lawful admission of foreign nationals and removing those without authorization to be in the United States or who have committed an action that

¹⁸ Report (October 2024). “History of U.S. Immigration Laws,” *Federation for American Immigration Reform*. <https://www.fairus.org/legislation/reports-and-analysis/history-of-us-immigration-laws>

¹⁹ Immigration Law (September 2024). “Texas State Law Library,” *Texas State Law Library*. <https://guides.sll.texas.gov/immigration-law/detention-deportation>

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

makes them removable (i.e., deportable).²⁵ Many of these functions fall within the Department of Homeland Security, but several other agencies, including components of the Departments of Justice, State, Health and Human Services, and Labor, also have responsibility for carrying out immigration policy.²⁶ The following agencies have primary discretion over deportations:

- **Department of Homeland Security (DHS)**

- DHS was established under the Homeland Security Act (HSA) in 2002.²⁷ The HSA abolished the Immigration and Naturalization Service (INS), which was within the Department of Justice (DOJ).²⁸ It transferred many of INS's functions to the new DHS, a cabinet-level department that incorporated 22 federal agencies.²⁹ Three DHS component agencies are responsible for immigration and enforcement functions: U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE), and Customs and Border Protection (CBP).³⁰
 - USCIS, ICE, and CBP may charge foreign nationals in the interior or at the border with grounds of deportability or inadmissibility and process them for removal from the United States.³¹

- **Department of Justice (DOJ)**

- Executive Office for Immigration Review (EOIR)
 - Within the DOJ, EOIR's Office of the Chief Immigration Judge operates the nation's administrative court system for immigration matters. Immigration Judges (IJs) (a species of administrative law judges) adjudicate immigration court proceedings, which are civil administrative proceedings and include removal proceedings.³²

²⁵ Straut-Eppsteiner (June 7, 2023). "Immigration 101: Executive Branch Agencies Involved with Immigration," *Congressional Research Service*. <https://crsreports.congress.gov/product/pdf/IF/IF12424>

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

Removal Proceedings Since 2008

NONCITIZEN REMOVALS, RETURNS, AND EXPULSIONS: FISCAL YEARS 1892 TO 2022 – Continued									
Year	Removals ¹	Administrative returns ²	Enforcement returns ²	Expulsions ³	Year	Removals ¹	Administrative returns ²	Enforcement returns ²	Expulsions ³
2008	359,795	NA	811,263	X	2016	332,331	30,341	76,137	X
2009	379,739	59,409	523,153	X	2017	284,365	15,072	85,380	X
2010	382,449	61,895	409,898	X	2018	327,608	72,756	87,202	X
2011	390,413	60,896	261,149	X	2019	347,090	89,719	81,401	X
2012	415,579	47,361	183,744	X	2020	237,364	113,857	53,595	206,770
2013	432,334	44,707	134,265	X	2021	85,783	128,339	49,664	1,071,074
2014	405,193	45,666	118,170	X	2022	108,733	180,266	81,121	1,103,966
2015	324,428	43,237	86,399	X					

X Not applicable.
 NA Not available.

¹ Removals are the compulsory and confirmed movement of an inadmissible or deportable noncitizen out of the United States based on an order of removal. A noncitizen who is removed has administrative or criminal consequences placed on subsequent reentry owing to the fact of the removal.

² Returns are the confirmed movement of an inadmissible or deportable noncitizen out of the United States not based on an order of removal. Administrative returns include crew members from 2005 to 2017, and both crew members and administrative withdrawals since 2018. Administrative withdrawals are withdrawals of application for admission that are terminated without prejudice. Enforcement returns are all returns with the exception of crew members and administrative withdrawals. All returns are reported as enforcement returns from 1927 to 2008.

³ Expulsions on public health grounds under U.S. Code Title 42 in response to the COVID-19 pandemic.

⁴ Includes the 15 months from July 1, 1975 to September 30, 1976 because the end date of fiscal years was changed from June 30 to September 30.

Source: Office of Homeland Security Statistics.

The table above, adding together the first column of “removals,” highlights the number of noncitizens removed from the U.S. since 2008.³³ It demonstrates that deportations have been occurring for many years and have resulted in high numbers of noncitizens being removed under both Democrat and Republican administrations.³⁴ For example, the Obama administration (2009-2017) deported over **3 million illegal aliens**³⁵ even though it conflated removals and returns to give the appearance of high deportation numbers, as discussed below. The Department of Homeland Security has meticulously documented this process, underscoring that deportations are one of the most important functions of border security policy. (Note that in the table above, “expulsions” are a category of physical removal that falls under public health authorities (Title 42). Those have not been addressed in this first of a three-part series, but will be in the third part of this series).

Deportations—A Comparison Among Recent Administrations

As part of a failed defense of Vice President Harris’s border record, progressives and their allies in the media have suggested that deportations were higher under Presidents Joe Biden and Barack Obama than under Donald Trump. For example, in July, Reuters reported that “Biden is now deporting more people than Trump.”³⁶ This assertion is misleading because the Biden-Harris administration conflates removals and returns, which are two separate processes.³⁷

³³ Office of Homeland Security Statistics (2022). “2022 Yearbook of Immigration Statistics,” U.S. Department of Homeland Security.

https://ohss.dhs.gov/sites/default/files/2024-03/2023_0818_pley_yearbook_immigration_statistics_fy2022.pdf (January 7, 2016). “Democrats furious over Obama administration deportations,” *PBS News*.

<https://www.pbs.org/newshour/politics/democrats-furious-over-obama-administration-deportations>

³⁵ Chishti, Pierce, Bolter (January 26, 2017). “The Obama Record on Deportations: Reporter in Chief or Not?,” *Migration Policy Institute*. <https://www.migrationpolicy.org/article/obama-record-deportations-reporter-chief-or-not>

³⁶ Kellerman, Rosenberg, Hesson (July 8, 2024). “Biden is now deporting more people than Trump,” *Reuters*. <https://www.reuters.com/graphics/USA-ELECTION/MIGRATION-DEPORTATIONS/akpeoeoerpr/>

³⁷ Bedard (July 11, 2024). “Media ripped for falsely claiming Biden deported more than Trump,” *The Washington Examiner*.

<https://www.washingtonexaminer.com/news/washington-secrets/3077624/media-ripped-for-falsely-claiming-biden-deported-more-than-trump/>

Understanding the difference between a “removal” conducted by ICE and a “return” conducted by CBP is imperative. Removals consist of an arrest of an illegal alien processed by ICE and deported back to the alien’s home country; returns are when illegal aliens are apprehended near the border and are quickly pushed back—returned—to Mexico within a matter of hours. Returns are often conducted for the same people attempting to enter illegally multiple times.³⁸

This intentionally muddled distinction originated in the Obama administration, which combined removals and returns to make it appear that there were a record number of removals. Former President Obama eventually admitted that the alleged high deportation numbers “are a little deceptive because what we’ve been doing is ... we’ve been apprehending folks at the borders and sending them back. That is counted as a deportation, even though they may have only been held for a day or 48 hours.”³⁹ When President Trump took office in 2017, his administration restored the standard practice of listing removals and returns as separate and distinct categories.⁴⁰ Also, fewer deportable people were allowed to enter the United States under the Trump administration, so there were fewer deportation proceedings than Obama and Biden.

Deportations of Criminals Plummet Under Biden-Harris

The Left also claims that President Biden has refocused border enforcement on criminal aliens; this is another distortion of the facts.⁴¹ According to the Biden-Harris administration’s data, criminal aliens have been a top beneficiary of its immigration policies. An analysis by the Center for Immigration Studies shows a 57 percent decrease in arrests of criminal aliens and a 67 percent decrease in deportations of criminal aliens compared to the Trump administration.⁴² Furthermore, ICE admitted in September that tens of thousands of illegal immigrants with sex offenses and homicide convictions could be loose on the streets.⁴³ As of July 2024, the data are broken down by those in detention and those not in detention, known as the non-detained docket. The non-detained docket includes illegal aliens who have final orders of removal or are going through removal proceedings but are not detained in ICE custody. There are currently more than 7 million people on that docket.

³⁸ Feere (July 10, 2024). “Fact Check: Reuters Is Wrong — Biden Is Not Deporting More Illegal Aliens than Trump,” *Center for Immigration Studies*.

<https://cis.org/Feere/Fact-Check-Reuters-Wrong-Biden-Not-Deporting-More-Illegal-Aliens-Trump>

³⁹ Ibid.

⁴⁰ Dane (November 20, 2019). “Washington Post Still Spinning Deportation Numbers for Obama,” *Federation for American Immigration Reform*.

<https://www.fairus.org/blog/2019/11/20/washington-post-still-spinning-deportation-numbers-obama>

⁴¹ Feere (July 10, 2024). “Fact Check: Reuters Is Wrong — Biden Is Not Deporting More Illegal Aliens than Trump,” *Center for Immigration Studies*.

<https://cis.org/Feere/Fact-Check-Reuters-Wrong-Biden-Not-Deporting-More-Illegal-Aliens-Trump>

⁴² Ibid.

⁴³ Press Release (September 27, 2024). “Rep. Tony Gonzales Confirms Over 662,000 Noncitizens With Criminal Histories Released in U.S. Communities,” gonzales.house.gov.

<https://gonzales.house.gov/press-releases?ID=8D678E26-BA42-4F7C-B61F-C01C89D44F4D>

The data shows that, among those not in detention, there are 425,431 convicted criminals and 222,141 with pending criminal charges.⁴⁴ These crimes include:

- 62,231 convicted of assault⁴⁵
- 14,301 convicted of burglary⁴⁶
- 56,533 with drug convictions⁴⁷
- 13,099 convicted of homicide⁴⁸

An additional 2,521 have kidnapping convictions, and **15,811 have sexual assault convictions**. There are a further **1,845 with pending homicide charges**, 42,915 with assault charges, and 3,266 with burglary charges.⁴⁹

Conclusion

The Biden-Harris administration is responsible for creating a mass migration crisis in which millions of illegal aliens are invading the United States. The cost of illegal immigration is substantial, and illegal aliens are a net fiscal drain, meaning they receive more in government services than they pay in taxes. In 2017, the Center for Immigration Studies reported that the lifetime budgetary drain of illegal immigration on taxpayers is at least six times greater than the cost of deportation.⁵⁰ This ratio is likely substantially higher now and provides a strong argument for robust implementation of mass deportations, as has been historically normal. Not only are the fiscal costs of illegal immigration detrimental, but so are the social costs. The current processes being abused by the Biden/Harris administration are letting in far too many violent illegal aliens.

Concurrently, the ascent of the woke globalist agenda across the world and here at home makes it increasingly unlikely that those who do come here desire to assimilate. The left teaches that assimilation is no longer expected, demanded, or prioritized, and the federal government has deemphasized its importance. Worse, the current regime is advancing an open borders agenda to undermine these considerations specifically.⁵¹ This leaves only one solution, and that is to remove illegal aliens who are both violating the law, and negatively impacting the American economy and society. The federal government has the power and responsibility to conduct sufficient deportations to address this crisis, utilizing existing resources and capabilities.

⁴⁴ Shaw (September 27, 2024). "Tens of thousands of illegal immigrants with sexual assault, murder convictions in US: ICE data," *Fox News*.

<https://www.foxnews.com/politics/tens-thousands-illegal-immigrants-sexual-assault-homicide-convictions-roaming-us-streets>

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ CIS (August 3, 2017). "Deportation Is Much Less Costly than Allowing Illegal Immigrants to Stay," Center for Immigration Studies.

<https://cis.org/Press-Release/Deportation-Much-Less-Costly-Allowing-Illegal-Immigrants-Stay>

⁵¹ Miller (April 11, 2024). "Policy Brief: The Great Replacement in Theory and Practice," *Center for Renewing America*. <https://americarenewing.com/issues/policy-brief-the-great-replacement-in-theory-and-practice/>