



## The Criminalization of Migrants in the United States

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#### I. EXECUTIVE SUMMARY

Immigration remains one of the most pressing and polarizing issues in U.S. politics. Despite the fact that unlawful presence in the United States is classified as a civil offense, recent policy enforcement trends have treated migrants as criminals. In 2025, immigration tensions escalated with the largest number of ICE arrests in the recent era, many of which targeted law-abiding migrants alongside those with criminal records. This has raised concerns about racial profiling, due process, and the balance between national security and civil rights. Public policy leaders must consider reforms that safeguard the rights of immigrants while maintaining public safety, ensuring that immigration enforcement does not disproportionately criminalize vulnerable communities.

#### II. OVERVIEW

Immigration policy sits at the intersection of national security, civil rights, and humanitarian responsibility. While political rhetoric often frames immigration as a “threat,” data shows that immigrants contribute significantly to the economy, culture, and labor force. However, ICE enforcement practices have increasingly blurred the line between civil immigration violations and criminal activity. This not only strains trust between immigrant communities and law

enforcement but also raises constitutional concerns regarding equal protection and due process.

##### *A. Relevance*

This issue is deeply personal to me as it affects Caribbean and Haitian immigrant communities—groups I identify with—that often experience uncertainty, targeting, or limited access to resources due to immigration enforcement. It also impacts loved ones who may face risks due to shifting policies and heightened deportation threats. On a broader scale, immigration policy shapes labor markets, demographics, and the nation’s commitment to democratic values. Ensuring that policies are just and humane is crucial for building trust in government and protecting vulnerable populations.

#### III. HISTORY

##### *A. Current Stances*

U.S. immigration enforcement has long fluctuated between inclusion and restriction. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act expanded grounds for deportation, embedding a more punitive approach. In 2025, ICE reported record numbers of arrests, including migrants without criminal

records, sparking debates over racial targeting and civil rights. Conservative leaders often frame strict enforcement as essential to border security and national sovereignty. While Progressive leaders argue for comprehensive immigration reform that decriminalizes immigration violations, expands pathways to citizenship, and enhances protections against racial profiling. In the midst of the spectrum, Moderate policymakers seek a balance, emphasizing border enforcement while supporting limited legal reforms such as DACA expansion or temporary protections.

## I. POLICY PROBLEM

### *A. Stakeholders*

The primary stakeholders in the criminalization of migrants include undocumented immigrants themselves, particularly those from the Caribbean, Latin America, and Africa who are disproportionately targeted by enforcement policies. Many of these individuals live in mixed-status families and contribute to the U.S. workforce, yet face the threat of detention and deportation for civil violations.

Other key stakeholders include federal and local law enforcement agencies such as ICE and DHS, who bear responsibility for enforcing immigration law while balancing civil rights concerns. Community organizations, advocacy groups, and legal aid providers also play critical roles in ensuring migrants have access to due process and protection from unlawful detention. Finally, policymakers and taxpayers are indirect stakeholders — as immigration enforcement has major implications for public spending, labor markets, and community relations.

### *B. Risks of Indifference*

Ignoring the growing criminalization of migrants risks eroding trust in democratic institutions and perpetuating systemic inequality. Indifference allows racial profiling and civil rights violations to continue unchecked, disproportionately affecting Black and Brown immigrants. This could result in deeper community mistrust toward law enforcement, making neighborhoods less safe overall.

From an economic standpoint, over-prioritizing detention and deportation drains federal resources that could otherwise fund integration programs, education, or legal support. On a human level, family separations and detention trauma cause long-term psychological harm. Failing to address this issue risks normalizing the idea that migration — a natural and historically essential process — is a crime.

### *C. Nonpartisan Reasoning*

Approaching this issue from a nonpartisan standpoint highlights that humane and fair immigration enforcement benefits both security and society.

1. **Economic efficiency and labor stability:** Reducing unnecessary detentions keeps contributing workers — especially in agriculture, hospitality, and caregiving sectors — in the labor market, supporting economic productivity and reducing taxpayer burdens tied to detention costs.
2. **Rule of law and constitutional integrity:** Ensuring that enforcement aligns with civil rather than criminal processes strengthens due process protections for all residents, reaffirming America's constitutional principles.
3. **Community safety and cohesion:** Building trust between immigrant

communities and law enforcement improves cooperation, reporting of crimes, and public safety. A nonpartisan approach focuses on enforcement that is strategic, lawful, and humane — rather than punitive.

## **I. TRIED POLICY**

Over the years, several federal initiatives have sought to manage immigration enforcement, but many have blurred the line between civil and criminal law.

One example is “Secure Communities”, first implemented in 2008, which allowed ICE to access fingerprint data from local police departments. While intended to target serious offenders, the program led to widespread deportations of individuals with no criminal records. Studies later showed that it encouraged racial profiling and discouraged community members from reporting crimes.

Another policy, “Operation Streamline”, initiated in 2005, introduced mass criminal prosecutions for unauthorized border crossings, overwhelming court systems and raising questions about due process. Despite its tough stance, the policy failed to deter migration long-term.

These examples illustrate that punitive, enforcement-heavy strategies have repeatedly failed to address the root causes of migration while damaging trust in institutions and wasting public resources.

## **I. POLICY OPTIONS**

### **1. Community-Based Alternatives to**

#### **Detention (ATD)**

Replace large-scale detention centers with monitored community programs that allow migrants to remain with family while their immigration cases are processed. These alternatives — such as case management and check-ins — have shown high compliance rates and drastically lower costs. Oversight could be managed by DHS in collaboration with nonprofit organizations.

### **2. Decriminalization of Border Crossings**

Reclassify illegal entry and reentry as civil, not criminal, offenses. This would shift enforcement from the Department of Justice to civil immigration courts, aligning policy with the original intent of immigration law and reducing the burden on the federal justice system. Legal scholars suggest this would also prevent overcrowding in detention facilities and reduce family separation.

### **3. Accountability and Transparency Reforms for ICE**

Establish federal oversight mechanisms that require ICE to publicly report on arrests, detention conditions, and racial disparities. Create an independent review board to handle misconduct complaints. Greater transparency can rebuild trust and ensure that enforcement serves public safety rather than political agendas.

## **I. CONCLUSIONS**

In this brief, I have examined how the criminalization of migrants undermines civil rights, distorts the justice system, and weakens trust in law enforcement. Among the proposed options, community-based alternatives to

detention stand out as the most pragmatic and humane solution. They reduce costs, uphold human dignity, and maintain high rates of legal compliance while still respecting the nation's need for border management.

Ultimately, addressing the criminalization of migrants requires reframing immigration not as a crime, but as a civil, humanitarian, and economic reality. Through evidence-based reform, bipartisan cooperation, and oversight, the United States can protect both national security and the constitutional principles it was founded upon.

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