Negative: Deportation of Immigrants

By “Coach Vance” Trefethen

***The United States Federal Government should significantly reform its policies regarding convicted prisoners under federal jurisdiction***

Case Summary: The AFF plan mandates deportation of immigrants (apparently both legal and illegal) in federal prison when their sentence is done.

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Negative: Deportation of Illegal Immigrants

INHERENCY

1. Illegal aliens already being deported

Prisoners released under First Step Act are deported if they’re illegal aliens

Yvette Hammett 2020. (journalist) 30 Nov 2020 “Reduced prison sentences lead to deportation for hundreds” LEGAL EXAMINER <https://www.legalexaminer.com/legal/reduced-prison-sentences-lead-to-deportation-for-hundreds/> (accessed 31 Mar 2020)

More than 7,000 federal prisoners saw their sentences reduced by the 2018 First Step Act. But hundreds of those people face deportation. Some call First Step an example of inflated hopes and modest reality. While it decreases prison overcrowding and improves prison conditions, it does not result in true freedom for those non-citizens who then face deportation, according to [a new report](https://www.ussc.gov/research/research-reports/first-step-act-2018-one-year-implementation) from the U.S. Sentencing Commission.

HARMS / SIGNIFICANCE

1. A/T “Illegal immigrants increase crime rate” - Actually, they don’t

Texas Study: Illegal immigrants have criminal conviction rate about half of native citizens

Michelangelo Landgrave and Alex Nowrasteh 2020. (Landgrave is a political science doctoral candidate at the Univ of California, Riverside. Nowrasteh is director of immigration studies at the Cato Institute’s Center for Global Liberty and Prosperity) 21 Apr 2020 “Illegal Immigrant Incarceration Rates, 2010–2018: Demographics and Policy Implications” <https://www.cato.org/publications/policy-analysis/illegal-immigrant-incarceration-rates-2010-2018-demographics-policy#background> (accessed 30 Mar 2022)

Previous empirical studies of immigrant criminality generally find that immigrants do not increase local crime rates, are less likely to cause crime than their native‐​born peers, and are less likely to be incarcerated than native‐​born Americans. Illegal immigrant incarceration rates are not well studied; however, Cato Institute research based on data from the Texas Department of Public Safety found that, as a percentage of their respective populations, illegal immigrants had a criminal conviction rate about half that of native‐​born Americans in Texas in 2015 and 2017.

2. No link between any immigrants (legal or illegal) and crime

No link between immigration and crime rates in the US

Annie L. Hines & Giovanni Peri 2020 (Hines – PhD candidate, Univ. of California-Davis. Peri - Professor and Chair of the Department of Economics at the University of California ) 8 Jan 2020 “Immigrants’ Deportations, Local Crime, and Police Effectiveness” <https://www.cato.org/publications/research-briefs-economic-policy/immigrants-deportations-local-crime-police> (accessed 31 Mar 2022)

Despite popular belief, academic studies find little correlation between immigration and crime rates in the United States. Most find that immigrants are less likely to commit crimes and less likely to be incarcerated than similar native‐​born Americans, and even undocumented immigrants have lower conviction and arrest rates. There is evidence that immigration decreases local crime rates but no evidence that the presence of undocumented immigrants is associated with more crime.

3. A/T “60% of prisoners are immigrants”

Nope: 21% of Federal prisoners are aliens. Of those, 66% were illegal aliens. So, the total (.66 x .21) = about 14% illegal, 7% legal immigrants.

[Preston Huennekens](https://cis.org/Huennekens)  2018. (MA in political science; served as a Research Associate at the Center for Immigration Studies) June 12, 2018 DOJ: 26% of Federal Prisoners Are Aliens <https://cis.org/Huennekens/DOJ-26-Federal-Prisoners-Are-Aliens> (accessed 30 Mar 2022)

The [Bureau of Prisons](https://www.bop.gov/about/agency/) is responsible for the custody and care of federal inmates. As of December 2017, BOP has custody of 38,132 known or suspected aliens. This represents approximately 21 percent of the total BOP population — meaning that one in five BOP inmates is an alien. Of the 38,132 known or suspected aliens, approximately 66 percent were unlawfully present in the United States.

Problem exaggerated – because they are “criminalized” for things that don’t apply to US citizens

Dr. Walter Ewing, Dr. Daniel E. Martínez and Dr. Rubén G. Rumbaut 2015. (Ewing - Ph.D. Editor and Writer at the American Immigration Council. Martinez – PhD. Assistant Professor of Sociology, George Washington Univ. Rumbaut – PhD; Distinguished Professor of Sociology, Univ of Calif-Irvine .) 13 July 2015 “The Criminalization of Immigration in the United States” [https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states (accessed 31](https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states%20%28accessed%2031) Mar 2022)

Despite the abundance of evidence that immigration is not linked to higher crime rates, and that immigrants are less likely to be criminals than the native-born, many U.S. policymakers succumb to their fears and prejudices about what they imagine immigrants to be. As a result, far too many immigration policies are drafted on the basis of stereotypes rather than substance. These laws are criminalizing an ever broadening swath of the immigrant population by applying a double standard when it comes to the consequences for criminal behavior. Immigrants who experience even the slightest brush with the criminal justice system, such as being convicted of a misdemeanor, can find themselves subject to detention for an undetermined period, after which they are expelled from the country and barred from returning. In other words, for years the government has been redefining what it means to be a “criminal alien,” using increasingly stringent definitions and standards of “criminality” that do not apply to U.S. citizens.

4. A/T “Lots of ‘criminal aliens’ who deserve to be deported”

Bogus definition of “Criminal Alien” exaggerates the threat. Only 1/5 of them were actually serious crimes

Dr. Walter Ewing, Dr. Daniel E. Martínez and Dr. Rubén G. Rumbaut 2015. (Ewing - Ph.D. Editor and Writer at the American Immigration Council. Martinez – PhD. Assistant Professor of Sociology, George Washington Univ. Rumbaut – PhD; Distinguished Professor of Sociology, Univ of Calif-Irvine .) 13 July 2015 “The Criminalization of Immigration in the United States” [https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states (accessed 31](https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states%20%28accessed%2031) Mar 2022)

The definition of “criminal alien” used by the federal government is clearly inconsistent with the general public’s understanding of serious crime. The term represents a terminological sleight-of-hand used to justify a punitive approach to immigration enforcement that is based on incarceration and deportation. An important part of the government’s attempt to redefine what it means to be a “criminal alien,” with all the social and legal implications this label carries, becomes clear upon closer consideration of the data on enforcement actions that is released by the U.S. Department of Homeland Security (DHS). According to DHS, 438,421 foreign nationals were removed from the United States in FY 2013. Among those removed, roughly 45 percent (198,394) were classified as “known criminal aliens.” (Along these lines, the director of ICE testified before Congress that “eighty-five percent of individuals removed or returned from the interior were previously convicted of a criminal offense”). However, a more detailed examination of the data clearly illustrates that the majority of “criminal aliens” are in fact *not* being removed for what most Americans perceive to be serious crime, such as the FBI’s eight Index Crimes, which consist of “Part I” offenses (homicide, assault, forcible rape, and robbery) and “Part II” offenses (larceny, burglary, motor vehicle theft and arson). In fact, DHS’s FY 2013 enforcement actions indicate that serious crimes such as “Assault,” “Robbery,” “Burglary,” and “Sexual Assault” collectively make up only one-fifth of the crime categories for which “criminal aliens” were removed.

SOLVENCY

1. No reduction of crime

Increased deportation won’t reduce the crime rate

Michelangelo Landgrave and Alex Nowrasteh 2020. (Landgrave is a political science doctoral candidate at the Univ of California, Riverside. Nowrasteh is director of immigration studies at the Cato Institute’s Center for Global Liberty and Prosperity) 21 Apr 2020 “Illegal Immigrant Incarceration Rates, 2010–2018: Demographics and Policy Implications” <https://www.cato.org/publications/policy-analysis/illegal-immigrant-incarceration-rates-2010-2018-demographics-policy#background> (accessed 30 Mar 2022)

Recent peer‐​reviewed empirical studies have found no link between violent crime and illegal immi­gration and a negative relationship between the number of illegal immigrants and most types of nonviolent crime.Our estimate of a low illegal immigrant incarceration rate is consistent with other research that finds that increasing immigration enforcement and deporting more illegal immi­grants does not reduce the crime rate, which would occur if illegal immigrants were more crime prone than natives.

No benefit to society, and not an effective crime-fighting tool

Dr. Walter Ewing, Dr. Daniel E. Martínez and Dr. Rubén G. Rumbaut 2015. (Ewing - Ph.D. Editor and Writer at the American Immigration Council. Martinez – PhD. Assistant Professor of Sociology, George Washington Univ. Rumbaut – PhD; Distinguished Professor of Sociology, Univ of Calif-Irvine .) 13 July 2015 “The Criminalization of Immigration in the United States” [https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states (accessed 31](https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states%20%28accessed%2031) Mar 2022)

The United States is in the midst of a “great expulsion” of immigrants, both lawfully present and unauthorized, who tend to be non-violent and non-threatening and who often have deep roots in this country. This relentless campaign of deportation is frequently justified as a war against “illegality”—which is to say, against unauthorized immigrants. But that justification does not come close to explaining the banishment from the United States of lawful permanent residents who committed traffic offenses and who have U.S.-based families. Nor does it explain the lack of due-process rights accorded to so many of the immigrants ensnared in deportation proceedings. Likewise, the wave of deportations we are currently witnessing is often portrayed as a crime-fighting tool. But, as the findings of this report make clear, the majority of deportations carried out in the United States each year do not actually target “criminals” in any meaningful sense of the word.

DISADVANTAGES

1. Weaker law enforcement through wasted resources

Link: Focus on illegal immigrants is bad - It distracts resources away from more effective law enforcement policies

Michelangelo Landgrave and Alex Nowrasteh 2020. (Landgrave is a political science doctoral candidate at the Univ of California, Riverside. Nowrasteh is director of immigration studies at the Cato Institute’s Center for Global Liberty and Prosperity) 21 Apr 2020 “Illegal Immigrant Incarceration Rates, 2010–2018: Demographics and Policy Implications” <https://www.cato.org/publications/policy-analysis/illegal-immigrant-incarceration-rates-2010-2018-demographics-policy#background> (accessed 30 Mar 2022)

For instance, federal officials should abandon efforts to convince so‐​called sanctuary cities to cooperate with federal immigration officials because such cooperation will not lower violent and property crime rates nationwide. Illegal immigrants have a lower incarceration rate than native‐​born Americans, so scarce law enforcement resources should not be spent on identifying and deporting a subpopulation with such a low crime rate. If the purpose of law enforcement is to deter crime and to punish criminals, their resources would be inefficiently allocated if targeted at illegal immigrants.

Impact: Turn AFF harms. Crime gets worse

Distracting law enforcement away from more effective ways to fight crime accomplishes the exact opposite of the goals of the AFF plan.

2. Increased social costs

Not in the public interest to deport all released legal immigrant offenders: Tthey have families they could be supporting

WASHINGTON POST 2015. (journalist Pamela Constable) 5 Nov 2015 “For non-U.S. citizens, early release from prison means swift deportation” <https://www.washingtonpost.com/local/social-issues/for-non-us-citizens-early-release-from-prison-means-swift-deportation/2015/11/05/c3330552-81da-11e5-9afb-0c971f713d0c_story.html> (accessed 31 Mar 2022)

Heidi Altman, legal director for the Capital Area Immigrants’ Rights Coalition, said ICE is supposed to focus on deporting immigrants who are “enforcement priorities” and whose “removal is in the federal interest.” Among those in the mass release group, she said, there are probably “long-term U.S. residents who are leaving behind families they could be supporting” and whose deportation “is not in our interests. ICE needs to be asking those questions and making those individual determinations.”

Families legally in the US go on welfare when their immigrant father is deported

Georgia East 2009. (journalist) 14 Apr 2009 “Advocates: Immigration enforcement pushing families onto welfare” SOUTH FLORIDA SUN SENTINEL <https://www.sun-sentinel.com/local/broward/sfl-deport-welfare-b041409-story.html> (accessed 31 Mar 2022)

With her two children to feed and her husband recently deported to Haiti, Jocelyne Jules says she had no choice but to sign up for food stamps. Jules, a U.S. citizen, had been a stay-at-home mom with her two sons, ages 2 and 4. She said her husband, Jean Jules, managed a local bakery for 16 years. He paid his taxes regularly. But in December immigration deported him to Haiti after his political asylum request was denied. Now, with her husband gone and their savings depleted from legal bills, Jules and her family are on the verge of homelessness. They're also examples of what experts say is a growing phenomenon -- self-supporting families forced to seek public assistance because a spouse has been deported. "I cry everyday,'' she said. "I never had to ask for help before. But now I'm out there, I can't find a job. It's hard.'' The exact number of families affected is hard to determine. Only legal residents and U.S. citizens are eligible for help, but people don't list deportation as a factor when they seek aid. Researchers and advocates, however, say pushing families onto government assistance is a growing side-effect of increased immigration enforcement.

Impact: Either hurts taxpayers or raises the deficit. And every increase in the deficit harms the economy

Dr William Gale and Benjamin Harris 2010. (Gale - PhD in economics, Stanford Univ.; senior fellow at the Brookings Institution and co-director of the Urban-Brookings Tax Policy Center; former assistant professor of Economics at UCLA, and a senior economist for the Council of Economic Advisers under President George H.W. Bush; Harris - master’s degree in economics from Cornell Univ and master’s degree in quantitative methods from Columbia University; senior research associate with the Economics Studies Program at the Brookings Institution) “A VAT for the United States: Part of the Solution” (notes about the date: This article is one of several in the overall publication at this source. The publication date was 2011, but this article was written in 2010) https://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/1001418-A-Value-Added-Tax-for-the-United-States-Part-of-the-Solution.PDF (accessed 26 Jan 2022)

But even in the absence of a crisis, sustained deficits have deleterious effects, as they translate into lower national savings, higher interest rates, and increased indebtedness to foreign investors, all of which serve to reduce future national income. Gale and Orszag (2004a) estimate that a 1 percent of GDP increase in the deficit will raise interest rates by 25 to 35 basis points and reduce national saving by 0.5 to 0.8 percentage points of GDP.

3. Paranoia

Link: Affirmative mindset and arguments directly promote paranoia

Dr. Walter Ewing, Dr. Daniel E. Martínez and Dr. Rubén G. Rumbaut 2015. (Ewing - Ph.D. Editor and Writer at the American Immigration Council. Martinez – PhD. Assistant Professor of Sociology, George Washington Univ. Rumbaut – PhD; Distinguished Professor of Sociology, Univ of Calif-Irvine .) 13 July 2015 “The Criminalization of Immigration in the United States” [https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states (accessed 31](https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states%20%28accessed%2031) Mar 2022)

A prime example of the enforcement-only mindset of DHS and its component agencies in the post-9/11 era is “Operation Endgame”—the name given to the “Office of Detention and Removal Strategic Plan, 2003–2012,” which was released on June 27, 2003, by Anthony S. Tangeman, Director of ICE’s Office of Detention and Removal Operations (DRO). Tangeman succinctly explains the rationale underlying his department’s new strategic plan:
As the title implies, DRO provides the endgame to immigration enforcement and that is the removal of all removable aliens. This is also the essence of our mission statement and the ‘golden measure’ of our success. We must endeavor to maintain the integrity of the immigration process and protect our homeland by ensuring that every alien who is ordered removed, and can be, departs the United States as quickly as possible and as effectively as practicable. We must strive for 100% removal rate.
However, Tangeman’s assertions about how best to “protect our homeland” ring hollow given that the vast majority of immigrants aren’t criminals (let alone terrorists), and that even minor infractions can render an immigrant “deportable” under current law. Yet the Tangeman memo, and the strategic plan it introduces, treat all immigrants as potential security risks—a paranoid worldview that has become widespread not only throughout the federal government, but in many state and local governments as well.

Impact: 1) Cruelty 2) Distracts society from real solutions

Dr. Walter Ewing, Dr. Daniel E. Martínez and Dr. Rubén G. Rumbaut 2015. (Ewing - Ph.D. Editor and Writer at the American Immigration Council. Martinez – PhD. Assistant Professor of Sociology, George Washington Univ. Rumbaut – PhD; Distinguished Professor of Sociology, Univ of Calif-Irvine .) 13 July 2015 “The Criminalization of Immigration in the United States” [https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states (accessed 31](https://www.americanimmigrationcouncil.org/research/criminalization-immigration-united-states%20%28accessed%2031) Mar 2022)

Public policies must be based on facts, not anecdotes or emotions. And the fact is that the vast majority of immigrants are *not* “criminals” in any meaningful sense of the word. The bulk of the immigration-enforcement apparatus in this country is not devoted to capturing the “worst of the worst” foreign-born criminals. Rather, as Secure Communities exemplifies all too well, the detention-and-deportation machine is designed primarily to track down and expel non-violent individuals, including legal residents of the United States who have worked and raised families here for many years. This brand of immigration policy is cruel, pointless, shortsighted, and counterproductive. And it is not an effective substitute for immigration reform which makes our immigration system responsive to the economic and social forces which drive migration in the first place.

4. Due process violation

Link: AFF plan mandates immediate deportation and bypasses immigration courts

As soon as prisoners finish their sentence, AFF deports them without going through the immigration court process.

Link: Released immigrant federal prisoners are supposed to get a hearing in immigration court

Carlos Ballesteros 2021 (journalist) 27 Jan 2021 “The New Way Forward Act could disrupt the prison-to-deportation pipeline” <https://www.injusticewatch.org/news/immigration/2021/prison-deportation-pipeline-chuy-garcia-new-way-forward-act/> (accessed 31 Mar 2022)

As a child in the 1970s, Panton moved to New York City with his family from their native Jamaica. He arrived on a green card. In 1991, federal prosecutors sentenced Panton to life in prison for selling heroin. In August, a federal judge [granted Panton compassionate release](https://www.protasslaw.com/another-compassionate-release-win-for-protass-law-pllc/) for underlying health issues that make him susceptible to the worst impacts from COVID-19. When Panton was released, ICE was there to pick him up. His criminal conviction means he’s obligated to wait in immigration detention as his deportation case winds its way through immigration court.

Link: Bypassing immigration hearings before deportation is a 5th Amendment Due Process violation

Decision of the 9th Circuit Court of Appeals in the case of SALGADO DIAZ v. GONZALES 2005. Ernesto Salgado-Diaz, Petitioner, v. Alberto R. Gonzales, Attorney General, Respondent. Nos. 02-74187, 03-73312. Decided: January 31, 2005 <https://caselaw.findlaw.com/us-9th-circuit/1050543.html> (accessed 31 Mar 2022)

Due Process Violation
Immigration proceedings, although not subject to the full range of constitutional protections, must conform to the Fifth Amendment's requirement of due process.  United States v. Nicholas-Armenta, 763 F.2d 1089, 1090 (9th Cir.1985).   Salgado-Diaz can establish a due process violation by showing that he was denied “a full and fair hearing of his claims and a reasonable opportunity to present evidence on his behalf.”

Impact: Either 1) the plan will be voided by the federal courts as unconstitutional. Or 2) Plan takes effect anyway and essential constitutional rights are destroyed. That’s bad because:

Roger A. Fairfax and John C. Harrison, undated article with copyright date 2022. (Fairfax - Professor of Law, the Patricia Roberts Harris Research Professor, and Founding Director of the Criminal Law and Policy Initiative at the George Washington University Law School. Harrison -  Distinguished Professor of Law at the University of Virginia School of Law ) “The Fifth Amendment Due Process Clause” <https://constitutioncenter.org/interactive-constitution/interpretation/amendment-v/clauses/633> (accessed 31 March 2022) (brackets and ellipses in original)

The principle that the government should be limited in how it makes decisions that are detrimental to private people is very old in Anglo-American law. The Magna Carta, a statement of subjects’ rights issued by King John of England in 1215, became well known over the centuries. Chapter 39 provided that “[n]o free man shall be arrested or imprisoned . . . except by lawful judgment of his peers or by the law of the land.” This language and its subsequent refinements gave rise to the concept of “due process of law,” and influenced the drafters of the Due Process Clause of the Fifth Amendment to the United States Constitution. Although the Fifth Amendment Due Process Clause is brief, important parts of the Supreme Court’s constitutional doctrine rest on it. At the most general level, the clause reiterates the principle of the rule of law: the government must act in accordance with legal rules and not contrary to them. A more specific application of the Clause is the doctrine today called “procedural due process,” which concerns the fairness and lawfulness of decision making methods used by the courts and the executive.