

# University of Richmond Law Review

---

Volume 42

Issue 4 *Allen Chair Symposium 2008: Immigration in the Twenty-First Century: Perspectives on Law and Policy*

Article 2

---


3-1-2008

## Save America: Stop Illegal Immigration

Hon. Virgil H. Goode Jr.

*United States Congressman, Fifth District of Virginia*

Follow this and additional works at: <https://scholarship.richmond.edu/lawreview>

 Part of the [Immigration Law Commons](#), [Law and Politics Commons](#), [Law and Society Commons](#), [Legislation Commons](#), and the [National Security Law Commons](#)

---

### Recommended Citation

Hon. Virgil H. Goode Jr., *Save America: Stop Illegal Immigration*, 42 U. Rich. L. Rev. 831 (2008).

Available at: <https://scholarship.richmond.edu/lawreview/vol42/iss4/2>

This Symposium Essay is brought to you for free and open access by the Law School Journals at UR Scholarship Repository. It has been accepted for inclusion in University of Richmond Law Review by an authorized editor of UR Scholarship Repository. For more information, please contact [scholarshiprepository@richmond.edu](mailto:scholarshiprepository@richmond.edu).

# ESSAY

## SAVE AMERICA: STOP ILLEGAL IMMIGRATION

*The Honorable Virgil H. Goode, Jr. \**

Security is an overriding issue confronting the United States, and if we want enhanced security, illegal immigration must be stopped. In fact, illegal immigration is an addiction that the United States must break, or it will break the United States.

Best estimates put the number of illegal aliens in our country today at between thirteen and twenty million.<sup>1</sup> Obtaining an exact count of the illegals is difficult because they are not registered anywhere as illegal. In 2000, however, the U.S. Census Bureau estimated that there were 8.7 million illegals in this country<sup>2</sup> and immigration officials say that the illegal population grows by a half-million each year.<sup>3</sup>

The Immigration and Naturalization Service (“INS”) (now referred to as Immigration and Customs Enforcement) estimated the illegal alien population to be about seven million in 2003—1.7 million below the Census Bureau’s total.<sup>4</sup> According to a report from the Federation for American Immigration Reform (“FAIR”), the INS derived its estimate from data collected as a result of the amnesty of 1986—the Immigration Reform and Control Act of 1986.<sup>5</sup> To update its estimate, INS then relied upon Census Bu-

---

\* United States Congressman, Fifth District of Virginia. B.A., 1969, University of Richmond; J.D., 1973, University of Virginia School of Law.

1. See Brad Knickerbocker, *Illegals in U.S.: Just How Many?*, CHRISTIAN SCI. MONITOR, May 16, 2006, at 2.

2. *Id.* at 1

3. *Id.* at 2.

4. *Id.* at 1.

5. Pub. L. No. 99-603, 100 Stat. 3359; FED’N FOR AM. IMMIGR. REFORM, HOW MANY

reau and INS legal immigration data and airline arrival and departure records, but this estimate includes only aliens who continued to live in the United States, illegally, for more than one year.<sup>6</sup> Omitted are aliens who were performing seasonal work illegally and those aliens who were in their first year of overstaying their non-immigrant entry visa.<sup>7</sup> The estimate also does not include groups of illegal alien residents who obtained work permits under valid programs.<sup>8</sup>

A factor in the increasing flow of immigrants into the United States can be traced to the late 1960s shortly after Congress amended the Immigration and Nationality Services Act.<sup>9</sup> This legislation essentially removed all national origin quotas, but retained an overall quota and included for the first time a separate quota for immigrants from Mexico and the Western Hemisphere.<sup>10</sup> Furthermore, the Act did not include so-called family reunification or chain immigration in the quota system.<sup>11</sup> As a result, the number immigrating to the United States from Central and South America and Asia increased significantly. Under this new system, chain immigration became the order of the day as immigrants swelled their ranks by bringing family members into this country.

Statistics from 2006 show that the United States now attracts about one million new legal immigrants annually; of those, roughly 600,000 are termed Change of Status immigrants.<sup>12</sup> In other words, those who have been here under some other status qualify for citizenship. Also exacerbating the situation is the use of the Fourteenth Amendment to the U.S. Constitution to justify granting citizenship to any child born on U.S. soil, even when the baby's parent or parents are in this country illegally.<sup>13</sup> The baby

---

ILLEGAL ALIENS? (2007), [http://www.fairus.org/site/PageServer?pagename=iic\\_immigrati  
onissuecentersb8ca](http://www.fairus.org/site/PageServer?pagename=iic_immigrati<br/>onissuecentersb8ca).

6. FED'N FOR AM. IMMIGR. REFORM, *supra* note 5.

7. *Id.*

8. *Id.*

9. Immigration and Nationality Act, Pub. L. No. 89-236, 79 Stat. 911 (1965).

10. *See id.* §§ 101(a)(27)(A), 201(e), 245(c), 79 Stat. at 911, 916, 919.

11. *Id.* § 201(b), 79 Stat. at 911.

12. *See The Human Tide*, NOTRE DAME MAG. ONLINE, Winter 2007-08, <http://www.nd.edu/~ndmag/wO708/immigration.html>.

13. *See* Robert J. Shulman, *Children of a Lesser God: Should the Fourteenth Amendment be Altered or Repealed to Deny Automatic Citizenship Rights and Privileges to American Born Children of Illegal Aliens?*, 22 PEPP. L. REV. 669, 674 (1995).

is the anchor for government-funded benefits, such as food stamps and Medicaid. The Fourteenth Amendment was adopted during Reconstruction to guarantee that all former slaves would be guaranteed citizenship.<sup>14</sup> I have co-sponsored legislation to end this so-called anchor baby interpretation of the Fourteenth Amendment, but the bill has yet to receive a committee hearing.

It was the amnesty of 1986 that opened the floodgates to illegals. This amnesty allowed an estimated three million illegal aliens to remain in the United States, and they, in turn, were allowed to petition for family members to come to this country via chain immigration.<sup>15</sup> The amnesty itself was bad enough because it sent a message that the United States was ignoring its established immigration laws. The subsequent failure of the U.S. government to secure the southern border, however, was the oversight that has had the gravest consequences. Imagine those living in Mexico and Central and South America looking at our country, where hard work and sacrifice have given millions the opportunity to succeed, yielding a good life for themselves and their families. When the amnesty was enacted and no measures were taken to restrict others from entering illegally, they began their march, especially flooding over from Mexico.

Once here, the illegals found that getting false Social Security cards was easy to accomplish. They used these Social Security cards to obtain driver's licenses and, in turn, gain the appearance, at least on the surface, of valid citizenship. Even with false identification, they remained illegal and often hid in the shadows. Yet, the illegals applied to American businesses for jobs. Some of these companies hired them without running any background checks regarding their legality. These companies became used to having illegals—a group of persons whom they could use to suit their own purposes, especially to pay lower wages. In some cases, the illegals were paid under the table or off the books. This practice has kept wages low in some industries and some prices artificially lower than they should be. Such an approach to illegal immigration can be compared to failing to fix a slow leak. By ignoring reality, one can proceed in blissful ignorance, lulled into

---

14. See J. Harvie Wilkinson III, *Gay Rights and American Constitutionalism: What's a Constitution For?*, 56 DUKE L.J. 545, 560 (2006).

15. See Nicole Jacoby, *Americas DeFacto Guest Workers: Lessons From Germany's Gastarbeiter for U.S. Immigration Reform*, 27 FORDHAM INT'L L.J. 1569, 1629 (2004).

a false sense of security, and then be genuinely shocked when the consequences of inaction explode. Now, many illegals feel that if they can get into the United States and stay awhile, they will not have to return to their home countries.

Following the amnesty of 1986, the 1990s brought an era of unparalleled prosperity: the Berlin Wall fell; the USSR broke up, ending the Cold War; the stock market soared as dot coms boomed and offered average citizens the opportunity to speculate and make fortunes quickly; and Americans reveled as if every day was New Year's Eve. The Clinton Administration interpreted the so-called peace dividend of the Cold War's end as an opportunity to reduce military spending and intelligence funding. The result was mistrust among the various defense, intelligence, and federal law enforcement agencies. Each scrambled to keep secure as much of its own vital infrastructure as possible, something that the career employees in each community knew could not be abrogated if we were to maintain our position as the preeminent force for good on the planet.

Yet, darkening clouds were already on the horizon. W.C. "Dan" Daniel held the congressional seat from the Fifth District of Virginia until his death in 1988, and he chaired the Military Readiness Subcommittee of the House Armed Services Committee.<sup>16</sup> The reporter who conducted what is believed to have been the last interview Dan gave before his death told me that Dan posed the question, "I wonder if they realize that terrorism is the greatest threat that America faces today?"<sup>17</sup> Dan spoke of the Tamil rebels and other terrorist groups that were then operating in Asia and the Pacific Rim.

Although Dan did not mention the Taliban specifically, it was already operating in Afghanistan, and Osama bin Laden was laying the groundwork for the assault on the United States. Once terrorists hit the World Trade Center and the Pentagon, and the airliner crashed in a Pennsylvania field, the federal government began scrambling to discover who could have perpetrated such a reprehensible act. Some wondered if the U.S. intelligence had missed indications of the attack. The 9/11 investigation commis-

---

16. JACK IRBY HAYES, SR., DAN DANIEL AND THE PERSISTENCE OF CONSERVATISM IN VIRGINIA 152, 209, 227 (1997).

17. Linwood Duncan, News Director for Piedmont Broadcasting Corporation in 1988 and my current Press Secretary, conducted this interview.

sion found that “[t]wo hijackers could have been denied admission at the port of entry based on violations of immigration rules governing terms of admission.”<sup>18</sup> Three hijackers violated the immigration laws after entry—one failed to enroll in school as declared and two overstayed their terms of admission.<sup>19</sup> Six months after the attack, their flight schools received posthumous INS visa approval letters for two of the hijackers,<sup>20</sup> which made it clear that actual approval of the visas took place before the September 11th attacks. Over half of the 9/11 terrorists were in the United States illegally.<sup>21</sup>

Lax is the best term to describe the security measures in force regarding persons entering the United States before September 11, 2001. In the wake of 9/11, the federal government rushed to strengthen our nation’s defenses. Congress formed the Department of Homeland Security (“DHS”) and put in place strict policies to safeguard air travel in the United States.<sup>22</sup> That was an important step, but the DHS did not establish sufficient procedures to secure the southern border. Instead, it followed the lead of the President and the politically correct crowd in not wanting to “offend” any illegal immigrants already in the country or those who may be coming from south of the border. Some were concerned that by “offending” the illegals they would be “offending” all Hispanics. The leadership of both parties did not respond to my calls, along with others in Congress, to build a multi-layered fence along the southern border.

Further, my legislation allowing for stationing U.S. troops on the border with Mexico was largely ignored. The measure passed the House as an amendment on four occasions, but failed to ever clear the U.S. Senate.<sup>23</sup> Instead, a number of people in both political parties acted as though by ignoring the situation, it would resolve itself. In the House, however, a small group of less than ten formed the Immigration Reform Caucus, headed by Republi-

---

18. NAT’L COMM’N ON TERRORIST ATTACKS UPON THE U.S., THE 9/11 COMMISSION REPORT 564 n.33 (2007) [hereinafter 9/11 Report].

19. *Id.*

20. Dan Eggen & Cheryl W. Thompson, *Hijackers Visa Fiasco Points up INS Woes*, WASH. POST, Mar. 17, 2002, at A20.

21. See 9/11 REPORT, *supra* note 18, at 384.

22. Homeland Security Act of 2002, Pub. L. No. 107-296, §§ 101, 401, 403, 426, 116 Stat. 2135, 2142, 2177–78, 2186–87.

23. H.R. 532, 108 Cong. (2004).

can Congressman Tom Tancredo.<sup>24</sup> After 9/11, caucus membership mushroomed, and now there are over ninety members in the caucus.<sup>25</sup> The caucus has been an important element in getting a majority of House Republicans to support a number of measures aimed at stopping the invasion of illegals into our country, such as a fence along the southern border and fining employees up to \$50,000 for hiring an illegal without conducting a background check.<sup>26</sup>

Many believe that over the years those in the House and the Senate have become more distant from the people who elect them to office. The case for securing the southern border of the nation, however, is an instance that one can point to as having been driven by the American people. The traditional news media mostly ignored the issue. Instead, it was taken up by talk radio, which represents much of the traditional, conservative thinking in the United States. Talk radio reflected the growing concerns of average Americans about the lack of security on our southern border and emboldened these citizens to drive home their concerns with members of the House of Representatives and the Senate. Within a year, political correctness fell to the public's very real demand that securing the border is the first thing that needs to be addressed regarding the issue of illegal immigration. As a consequence of these citizen demands, the politically correct immigration reform bill that was introduced in the Senate, which included a glide path to citizenship for illegals, went down to defeat.<sup>27</sup> At the same time, my bill to construct a fence along the southern border was rolled into more comprehensive legislation,<sup>28</sup> and the fence is going forward—too slow to suit my tastes, but it remains on the forefront of the national agenda.

I find it interesting that the Mexican government was one of the most vigorous opponents of the fence being built. Mexico is a country with abundant natural resources, but those resources have not been tapped in large measure. Also, there have been ongoing reports over the years of instances of corruption in certain

---

24. Immigration Reform Caucus, <http://www.house.gov/bilbray/irc/> (last visited Feb. 18, 2008).

25. See Right Web, Immigration Reform Caucus, <http://rightweb.irc-online.org/profile/1484.html> (last visited Feb. 18, 2008).

26. See, e.g., H.R. 5111, 108th Cong. (2004); Right Web, *supra* note 25.

27. Comprehensive Immigration Reform Act of 2007, S. 1348, 110th Cong. (2007).

28. See Secure Fence Act of 2006, H.R. 6061, 109th Cong. (2006) (enacted).

areas of Mexico, and this corruption has left millions of that country's people living in poverty. The Mexicans who have immigrated to the United States illegally are known to send a portion of their wages back to their families in Mexico. Best estimates are that \$20 billion per year is sent to families in Mexico, and this funneling of money makes the practice the second largest industry in Mexico, ranking only behind its oil exports.<sup>29</sup> While some of the \$20 billion sent back to Mexico comes from legal visa holders and immigrants, a large portion is being returned by those who are in this country illegally.<sup>30</sup>

To reiterate, illegal immigration is one of the greatest problems confronting America. As a country, we must take a strong stand at every level of government against illegal immigration and make it clear that there is no welcome mat for illegals.

---

29. *E.g.*, Matthew Quirk, *The Mexican Connection*, ATLANTIC, Apr. 2007, at 26, available at <http://www.theatlantic.com/doc/prem/200704/world-in-numbers>; Geri Smith, *Channeling the Remittance Flood*, BUS. WK., Dec. 28, 2005, [http://www.businessweek.com/bw/daily/dnflash/dec2005/nf20051228\\_4272.htm/](http://www.businessweek.com/bw/daily/dnflash/dec2005/nf20051228_4272.htm/).

30. *See* Colozado Alliance for Immigration Reform, <http://www.cairco.org/econ/econ.html> (last visited Feb. 18, 2008).



\*\*\*