

Ken Cuccinelli says half of illegal immigrants have overstayed visas

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Former Virginia Attorney General Ken Cuccinelli says Republican presidential candidate Donald Trump's plans for a border wall with Mexico has its limits in stemming the flow of unauthorized immigrants into the U.S.

"Half the people who come into this country illegally don't cross the border illegally," Cuccinelli, also a Republican, said recently during an interview with conservative radio host Laura Ingraham. "They come on legal visas and then overstay, and then we can't find them."

We examined Cuccinelli's claim. Similar versions of this statement have been uttered by other Trump opponents, including U.S. Sen. Ted Cruz, R-Texas, who recently suspended his campaign for the GOP presidential nomination. Cuccinelli was a key strategist for Cruz.

Cuccinelli sent us several studies to back his point.

He noted that in a 2004 report, the Government Accountability Office said three separate estimates culled from various surveys by the Department of Homeland Security found visa overstayers made up 27 percent, 31 percent and 57 percent of undocumented immigrants in three small surveys of immigrants.

Two of those surveys asked immigrants caught in sting operations how they entered the country. The third survey asked green card holders whether they overstayed their visas or crossed into the U.S. illegally.

"The percentages above do not represent the illegal population but, as indicated above, do provide some evidence that in all likelihood, a substantial proportion of illegal immigrants are overstays," the GAO said.

Cuccinelli also pointed to a widely cited report by the Pew Research Center in 2006. It estimated "nearly half of all the unauthorized migrants now living in the United States entered the country legally through a port of entry such as an airport or a border crossing point where they were subject to inspection by immigration officials."

While the source data gave an estimate that said somewhere between 33 percent and 50 percent of undocumented immigrants were visa overstayers, the report went middle-of-the-road and called it 45 percent.

Pew relied on a 1997 study by the Immigration and Naturalization Service. The INS report concluded that in 1996, 41 percent of illegal immigrants had entered the U.S. legally. The problem is that neither the INS nor its successor, the Department of Homeland Security, have provided updated statistics on the percentage of undocumented immigrants who overstayed visas since that aging study.

Cuccinelli also cited a 2014 study by Robert Warren, a former INS demographer who worked on that federal agency's 1997 report. Building on figures from the earlier INS report, Warren estimated that in 2012, visa overstayers comprised 58 percent of the people who became undocumented immigrants that year.

Why do analysts estimate the number of visa overstays rather than relying on hard government figures? The reason is that while the U.S. does a good job getting information about foreign visitors when they enter the country, it does not collect reliable data from them when they depart, according to a report issued in January by The Migration Policy Institute, a Washington-based think tank that examines immigration trends.

Michelle Mittelstadt, the institute's director of communications, said that in the absence of firm data from the government, analysts typically say that between one-third to one-half of unauthorized immigrants are people who have overstayed the time they were legally allowed to be in the U.S.

"When we use those estimates, we are clear to note that this is based on some pretty historical work," Mittelstadt told us. "The reality is that there are no better estimates out there right now."

Alex Nowrasteh, an immigration policy analyst at the libertarian Cato Institute, said that while estimates of undocumented immigrants have been stable since 2007, the number of people entering illegally across the southwestern U.S. border has "collapsed." That means that the proportion of those overstaying their visas likely is on the rise, he said.

"The patterns of illegal immigration have changed since this question was last investigated," Nowrasteh wrote in an email. "Cuccinelli is likely closer to the truth today than he would have been in previous years."

Our ruling

Cuccinelli said half of illegal immigrants "come on legal visas and then overstay."

This widely cited statistic stems from an estimate based on research going back to the 1990s. The federal government hasn't provided updated statistics on overstayed visas, and subsequent research has focused on adapting the old data to new trends. Estimates in those reports have ranged from 27 percent to 58 percent of illegal immigrants overstaying their visas.

So Cuccinelli is using what research shows to be a plausible figure. But he would be more accurate to refer to it as an estimate rather than a fact.

We rate his statement Mostly True.

