



Disproving Five Common Myths About Asylum

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MYTH #1: It is easy to qualify for asylum protection.

There are two ways to claim asylum under U.S. law.

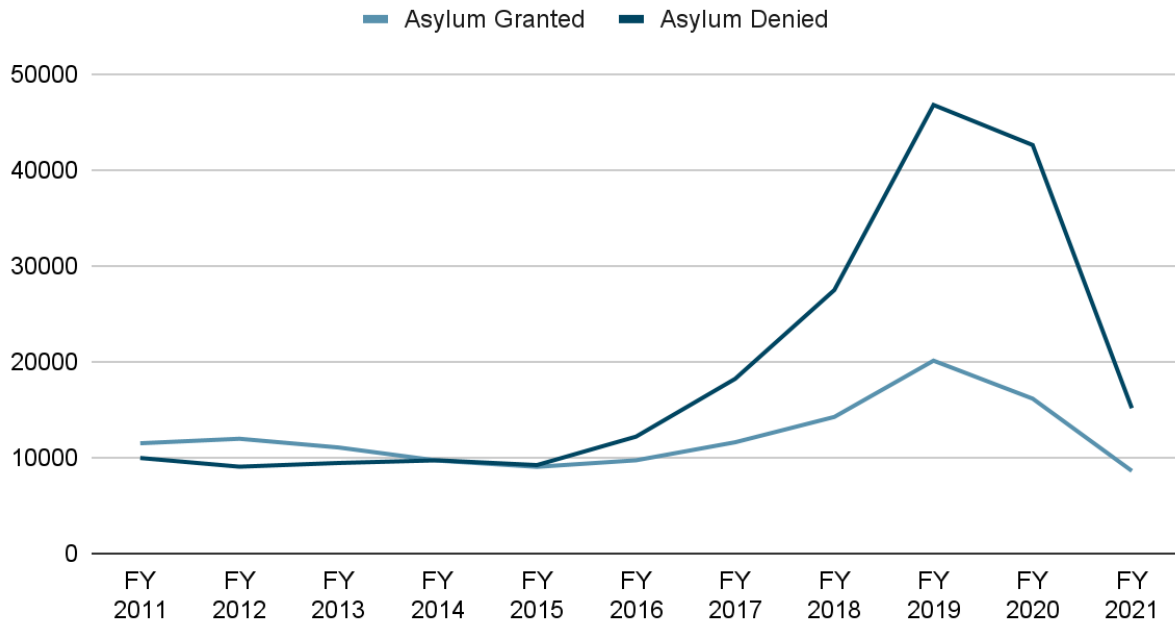
- 1. The affirmative process: when an individual appears at a U.S. port of entry seeking admittance because they fear returning to their home country.**
- 2. Defensive asylum: when someone already in the U.S. is placed in removal proceedings and claims fear of being returned to their home country.**

In both cases, an asylum officer conducts an initial credible fear interview, during which it is determined if there is a “significant possibility” that the individual will face persecution based on their race, religion, nationality, membership in a particular social group, or political affiliation. Economic hardship, unchecked gang violence, and extortion in most cases won’t warrant protection. If the asylum officer makes a positive determination, the individual must then provide evidence of the alleged persecution before a judge to qualify for asylum. No attorney is provided during these proceedings.

Some believe the standard for the initial credible fear interview is too low and allows individuals with meritless claims to remain in the U.S. for an extended period while they wait in the asylum backlog for an available judge. However, a credible fear screening is only intended to protect individuals from removal temporarily; it is not the final determination of an asylum claim. To have an approved claim, an asylum seeker must have their case adjudicated by an immigration judge, or under the new 2022 Biden **rule** (see more below), an asylum officer.

Ultimately, an initial credible fear determination does not guarantee an approved asylum claim. In fact, as of 2021, the likelihood of a successful asylum claim was **only 37 percent**. Evolving immigration policies, **jurisdictional bias**, and access to legal counsel heavily impact success rates.

Asylum Decision Rates

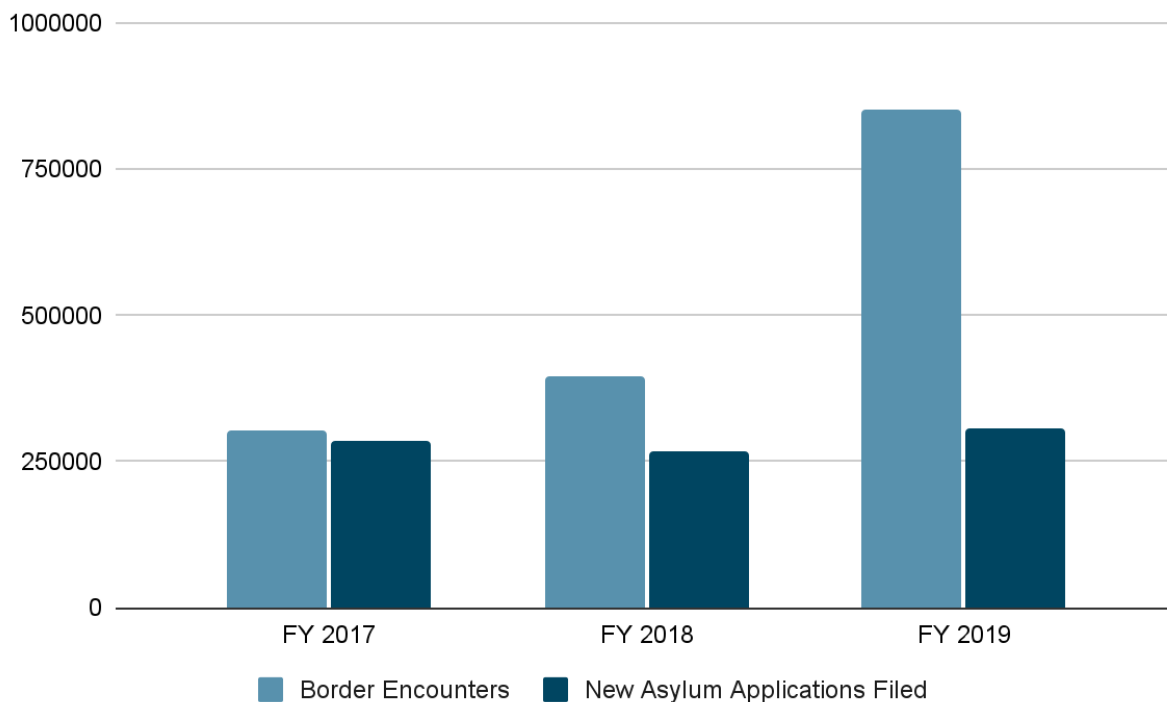


Asylum decision rate by fiscal year is available at [TRAC](#).

THE TRUTH? Over 63 percent of people who claim asylum are denied, making it very difficult to qualify for asylum protection.

MYTH #2: If the U.S. doesn't offer asylum, people won't come to the southern border.

Both Republican and Democrat administrations have used **deterrence policies** to keep people from coming to the U.S. southern border. President Trump **enacted** the strictest rules on asylum and still faced a **record-breaking number** of migrants at the border and increasing numbers of new asylum applications.



The number of asylum applications filed by fiscal year can be found at [DHS.gov](https://www.dhs.gov). The number of border encounters by fiscal year can be found at [CBP.gov](https://www.cbp.gov).

Policies that limit who qualifies for asylum only increase the number of asylum claim denials, but do not deter people from seeking protection.

Instead, we should seek to expand our **processing capacity** to process more people efficiently and effectively so we don't have people waiting for years in the backlogs. Increasing access to counsel for children and vulnerable populations would also limit the number of people filing new asylum applications or seeking appeals for adverse decisions. These policy changes are much more impactful for addressing the backlog than removing protections and returning people to harm.

THE TRUTH? Republicans and Democrats have tried many deterrence policies that don't work. Our focus should be on processing asylum claims, not hoping that people stop seeking a better life for themselves and their families.

MYTH #3: "Catch and release" allows asylum seekers to freely live and work in the U.S. while they wait for their asylum hearing.

U.S. Immigration and Customs Enforcement's (ICE) Enforcement and Removal Operations (ERO) is responsible for monitoring every person who comes into the U.S. until they are granted status in the U.S. or are deported. ICE **states**: "every case, whether 'detained' or 'non-detained,' remains part of ERO's caseload and is actively managed until it is formally closed." Non-detained refers to individuals who are released while they wait for a judge to hear their case — also called parole.

There are numerous factors that ICE uses to determine if someone should be detained or released on parole. According to the 1996 Immigration Reform and Immigration Responsibility Act (IIRIRA), asylum seekers are eligible for parole if it is determined that they “will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding.” Having relatives legally residing in the U.S. who can act as a sponsor can contribute to an individual’s release. Conversely, criminal convictions or previously absconding from immigration removal proceedings can be a detriment.

In addition to parole, ICE uses the **Alternative to Detention** programs that, “is not a substitute for detention, but allows ICE to exercise increased supervision over a portion of those who are not detained.” These programs utilize a series of electronic monitoring and check-in mechanisms to monitor asylum seekers and other immigrants in the interior of the U.S.

Parole is mutually beneficial to our system and the asylum seekers being processed. Without parole, we would bear the cost of detaining people for the duration of their legal proceedings.

Detention **costs** approximately \$134 per day for each adult and almost \$320 per day for each family. According to **TRAC**, nearly 334,000 non-detained asylum seekers at the end of 2021. To detain each of them for two years would cost at least \$90 million.

THE TRUTH? ICE detains those who present a risk to public safety and allows other asylum seekers (primarily women and children) to live and work under ICE supervision until they decide on their asylum claim.

MYTH #4: We’re releasing dangerous criminals into the U.S. while they wait for their asylum hearings.

Asylum seekers must pass rigorous background and security screenings before proceeding with an asylum claim. DHS uses **biometric information** to verify identification and screen for associations with criminal or terrorist organizations and cross-checks information with domestic and international criminal databases. DHS is seeking to **modernize** this process further to use DNA to prove familial relationships.

Research shows that “immigration is consistently linked to decreases in violent and property crime.” In fact, most **research** finds that in areas with large numbers of immigrants, crime rates trend downward. Additionally, because of the extensive screening process, the likelihood of an asylum seeker committing a large-scale attack or an act of terror is almost none. The **Cato Institute** found that “four asylum seekers, or 0.0006 percent of the 700,522 admitted from 1975 through 2015, later turned out to be terrorists.”

THE TRUTH? Not only do asylum seekers rarely commit acts of violence in the U.S., but areas with large numbers of immigrants also have *lower* crime rates. Since the 9/11 attack, far-right extremists are now the most dangerous group in America.

MYTH #5: Biden’s expedited processing rule will unfairly benefit asylum seekers.

In March 2022, the Biden administration announced a new **rule** allowing specially trained USCIS asylum officers to adjudicate some asylum decisions. This measure aims to address

the growing backlog of cases in the immigration courts, which is **currently at** over 1.7 million cases.

Allowing USCIS officers to adjudicate claims will help expedite the process and address the backlog over time. However, as outlined in the proposed rule, the system may also reduce due process protections for asylum seekers and could actually be detrimental to the number of approved asylum claims.

An expedited process could limit asylum seekers' time accessing counsel or gathering evidence in their favor. While there is reasonable **concern** about how this process could harm asylum seekers without increased access to legal counsel, there is no evidence that it gives them a higher chance of receiving protection.

THE TRUTH? Without additional protections, Biden's adjudication rule may actually reduce the number of approved asylum claims. Expedited processing does not ensure positive decisions.

Conclusion

Myths about the asylum process are harmful to meaningful discussion and policy reform. Instead of perpetuating falsehoods about the dangers asylum seekers present, we should be enacting changes to expand our processing capacity to more efficiently process asylum claims.