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Immigration

Trump deportation plan could be 'impossible'

People who've been on the front lines of immigration enforcement say it will take too much money and time.

By Ted Hesson

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Gonzalo Mercado, director of the community job center La Colmena in Staten Island, N.Y., speaks Dec. 5 with undocumented immigrants who are preparing themselves to face deportation when President-elect Donald Trump comes into office. | Getty

Donald Trump is pledging to deport two to three million gang members, drug dealers and other criminals who are in the U.S. illegally. But people who've actually run the nation's immigration enforcement agencies say it can't be done — at least not without spending billions and taking years.

"It's impossible, period," said John Sandweg, who was acting director of U.S. Immigration and Customs Enforcement in 2013 and 2014.

Trump's hard-line stance on immigration has been central to his platform ever since he called Mexican immigrants rapists and drug dealers on the day he announced his candidacy, and his pledges to build a border wall and create a deportation force resonated with the voters who elected him. But his continued promises to round up immigrants as president-elect could be one of the first reality checks on his administration.

Trump would need tens of billions of dollars in new spending approved by Congress. He'd also need years to hire and train new legions of enforcement agents, and to deploy hundreds of judges to relieve the nation's severely backlogged immigration courts. And to find even 2 million undocumented immigrants to deport, he'd have to change how he defines criminal acts worthy of removal — or start rounding up people without convictions. Added together, the obstacles could be insurmountable.

"This is not just, 'Oh, we can just plus-up officers' and everything else magically happens," Sandweg said.

The first problem is the expense. At an average cost of \$12,213 for each deportation, according to ICE, 2 million deportations would add up to more than \$24.4 billion over four years. That includes all ICE costs necessary to identify, arrest, detain, process and remove those immigrants. It doesn't include personnel salaries.

That's more than the entire current budget for ICE and Customs and Border Protection (which deals with border security), which amounted to \$19.4 billion in 2016.

Each of those agencies have responsibilities that stretch far beyond catching and deporting undocumented immigrants. There would be an additional cost to hire more federal immigration agents, and those agents would need training, office space, equipment and cars — which would require even more spending.

And then there's the cost and hassle of sending detainees through the overburdened immigration courts, which already face a backlog of more than 526,000 cases.

Because of this bottleneck, DHS' detention facilities are overflowing with 10,000 more detainees than the number of beds provided for in this year's proposed budget.

The Justice Department's Executive Office for Immigration Review received \$420 million in fiscal year 2016, and currently employs 295 immigration judges. There's broad agreement that those 295 judges aren't enough to deal with the existing backlog, much less an additional 2 million cases. An April report by Human Rights First recommended Congress approve funding for 524 judges just to address the present need.

Trump could try to focus on deportations that don't require a court hearing. Under the Immigration and Nationality Act, so-called expedited removals can be used against new arrivals encountered at the border and against undocumented immigrants who've been in the U.S. fewer than two years — but only if the arrestees can't claim asylum. And he could also try to increase deportations in which an immigrant agrees to waive the right to a hearing. Immigrants who have been trapped in detention centers for long periods of time would likely be most receptive to this approach.

But even if he did that, it's also unclear whether Trump would have time to execute his plan within a four-year term.

David Aguilar was national chief of the Border Patrol from 2004 to 2010, a period in which the number of agents nearly doubled, from 10,800 to 20,500. It took, he recalls, "a two- or three-year maturation period to get a full-out officer to do the job and to do it right."

The alternative is to shift manpower from existing activities related to immigration enforcement. But that would create its own problems.

"Let's assume, for example, that Border Patrol agents are used to support ICE," Aguilar said. "Well, that's going to be a no-go and it should be a no-go. Because you're going to detract from the Border Patrol's critically important responsibility of the borders."

Accelerating removals won't do much good, Aguilar said, if a reduction in border control allows deported immigrants to slip back through a porous border.

Trump may also have to scale back his estimate of how many deportations he would achieve. There don't appear to be anywhere near 3 million immigrants, legal or undocumented, who are deportable based on past criminal convictions. The Department of Homeland Security put their number at roughly 1.9 million in 2012. Based on that figure, the nonpartisan Migration Policy Institute calculated that 820,000 of these people were living in the country illegally.

The Obama administration was never able to deport more than about 238,000 immigrants from the U.S. interior (away from the border) in a single year. That occurred in 2009. And even that number, said Sandweg, "included a whole bunch of people with no criminal conviction."

To reach 2 million, Trump would have to target many immigrants living in the U.S. legally; such deportations are permissible, but only in the case of felonies and certain misdemeanors. In addition, Trump would have to pursue many undocumented immigrants who are low-level offenders. "There are going to be some very serious criminals," said Julie Myers Wood, who ran ICE from 2006 to 2008, "and there are going to be some individuals who committed more minor crimes."

Worksite raids — a tactic of the Bush administration that's less common today — would allow agents to cast a wider net, but at the price of alienating businesses, something a pro-business president like Trump might feel reluctant to do.

"It's aggressive," Myers Wood said. "And I'm not saying I recommend it. I'm just saying, 'Could you do it?' I think you could."

Rounding up criminals to deport is significantly more difficult than rounding up undocumented U.S. residents indiscriminately, experts say. "The criminal population is more resource-intensive to deport," Sandweg said. "It is much harder to find a serious gang member or a convicted felon because these people are generally adept at hiding in the communities."

As a consequence, says David Leopold, a Cleveland-based immigration lawyer, a numbers-driven haul of criminals could easily devolve into a "chaotic" roundup that included many more noncriminals.

"Even though they give lip service to going after people with criminal convictions," Leopold said, "they're going to go after whoever they can find, because the people without the criminal convictions are easier to find. They're the ones who are going to open the door when ICE comes knocking. They're the ones who are going to be compliant."

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