

Piling Up On the Border

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Immigration agencies brace for onslaught of arrests and guest worker oversight.

President Bush's call to end the "catch and release" of illegal immigrants has border agencies scrambling to figure out how they would handle a population surge in already overcrowded detention facilities. As part of his plan to crack down at the borders, Bush announced he would reverse a long-standing policy of releasing illegal border crossers from countries other than Mexico with a summons to return for deportation hearings. More than 60 percent of those released fail to show up for hearings, according to the Homeland Security Department inspector general.

"There aren't enough resources, either agents or detention beds, to immediately end catch and release," says a DHS official, who asked to remain anonymous. "This is definitely a multiyear project."

Customs and Border Protection and Immigration and Customs Enforcement officials say there is no timetable for the policy change. But when it happens, every illegal immigrant arrested will be taken into custody instead of served with paperwork for a deportation hearing. Senior officials and agents alike say they doubt the resources promised will be adequate to deliver the fix the Bush administration wants. Immigration agencies now have 21,800 filled beds. They plan to expand that to 27,500 by the end of fiscal 2007.

Whether it means deportation or a path to guest worker status, ending illegal immigration is contingent on several factors, Bush said in a televised speech in May. Expedited judicial proceedings must quicken the pace of removing illegal immigrants, he said. In addition, bolstered border security must cut off the flow into the United States, worker identity cards should ensure employers cannot claim ignorance of document fraud and more jail space should be created to house what undoubtedly will be an increase in people detained.

ICE Assistant Secretary Julie Myers says 4,000 beds will be added in fiscal 2006 to accommodate increased arrests. Officials have said immigration enforcement agencies will get funding in upcoming budgets for more bed space. In the meantime, she told reporters in May, immigration outposts across the country should use beds "more creatively." Inventive solutions have been popping up in manager meetings at CBP, including a pitch to use old cruise ships as detention barges - similar to their use as housing for emergency responders after Hurricane Katrina.

Chris Bauder, president of National Border Patrol Council Local 1613 in San Diego, says 4,000 beds would not even begin to quench the need for additional space. "The numbers [of arrests will] far exceed anything they're currently considering," says Bauder. The 4,000 beds expected by the close of this fiscal year equates to "a week to two weeks' worth" of arrests in San Diego alone, he says. An April DHS inspector general report estimated that nearly 35,000 beds will be needed, at \$1.1 billion.

Bush's plan to beef up the borders will require additional staff and resources, says an ICE agent who asked to remain anonymous. The guest worker program, for instance, is easily defrauded, the agent says. Illegal immigrants can attain guest worker status with fake Social Security numbers or letterhead from nonexistent employers. By the time an ICE officer learns the documents are fake, the offender could be states away, the agent adds. ICE declined to comment on how many fraudulent guest worker cases it discovers annually, but the Social Security Administration gets as many as 25 million wage reports a year in which names do not match Social Security numbers.

So many immigrants have guest worker status that ICE agents would be unable to keep up with their whereabouts,

the agent says. "The guest worker program is a joke," he says. If policy changes require additional job site enforcement, "we're going to be up to our eyeballs" in fraudulent cases, he says. "There's no way of keeping on top of it."

But Homeland Security Department officials say they can keep up, using the Employment Eligibility Verification System. The program, being conducted on a voluntary basis with about 10,000 employers, is similar to a credit history check, DHS officials said. An employer can scan a guest worker card, which holds data such as name, birth date and immigration control number, to determine legal status. The administration's fiscal 2007 budget request includes \$110 million for the system. But Robert Divine, deputy director of Citizenship and Immigration Services, told the House Subcommittee on Workforce, Empowerment and Government Programs on June 27 he didn't know how much it would cost to include every immigrant, and every employer, in the system.

Arming businesses with worker identification cards puts the burden of verification on employers for the first time. It also puts more oversight burden on agencies. Work site enforcement has been "a relatively low priority" for ICE and other agencies, according to a June 2005 Government Accountability Office report (GAO-05-813). It's difficult to prove employer violations and set fines that effectively deter the hiring of unauthorized workers, according to the report. It noted that an illegal immigrant could beat a beefed-up guest worker card program by claiming to be a citizen on CIS Form I-9, which "is vulnerable to document and identity fraud." GAO said too many documents are deemed acceptable proof of legal work status and that a universal method of worksite identification must be adopted. Even EEVS is susceptible to identity fraud because it lacks biometric identifiers and because an illegal immigrant could use someone else's card, Divine testified.

EEVS could pay for itself through fines on employers who hire illegal immigrants, Divine told lawmakers. But according to the GAO report, employer arrests fell nearly 85 percent, from 2,849 in 1999 to 445 in 2003. During the same period, employer prosecutions decreased from 182 to four, and fines collected fell from \$3.6 million to \$212,000. The GAO report concluded the slide was a result of ICE officials cutting back on enforcement. A CBP manager, who asked not to be identified, says those numbers will have to grow substantially if hundreds of thousands, if not millions, of illegal immigrants are to be caught and deported.

Lawmakers haven't done their part to solve the problem, either, Rep. Daniel Lipinski, D-Ill., said at the June hearing. "Up until this point, we have been cutting back on enforcement [funding]," he said.

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