



Commentary: Trump plans would worsen immigration problems

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Donald Trump recently proposed the creation of a new Deportation Task Force that will target millions of people in the United States. Trump wants voters to think they will reap the benefits of his plan while the citizens of Mexico will shoulder all of the costs, such as paying for a new wall. But his plan will actually have spillover effects on Americans by exacerbating problems that plague our legal system.

The first problem is overcriminalization. There are now thousands of criminal statutes, rules, and regulations on the books. The average American does not realize how vast the spider web of rules has become and how vulnerable he may be to prosecution and a fine or prison sentence.

Trump has vowed to enforce all of the immigration laws. That may sound unobjectionable, but one of those laws says it is illegal to "shield illegal immigrants." At first, that law was only used against smugglers who actively help aliens remain in the country, such as those who provide safe houses or produce phony identification documents. Not anymore. Prosecutors are now taking an expansive view of the law so it covers mild actions, such as advising an alien to remain low-key and avoid certain parts of town.

Consider the implications. There are an estimated 11 million illegal immigrants in the United States. If true, there must be millions of citizens and legal immigrants around them (neighbors, coworkers) who have probably violated the shielding law unknowingly. It's a striking example of how the government can turn ordinary people into "criminals."

The second problem that Trump ignores concerns the Constitution. He has promised to support the Second Amendment, but has not said anything about the constitutional guaranty of an impartial jury trial. Jury trials are now a rarity in the American criminal justice system. More than 90 percent of the federal criminal caseload is resolved through some sort of plea-bargain arrangement. Prosecutors are often able to use the threat of a severe sentence to induce the accused to cave in and accept a more lenient sentence rather than proceed to trial.

These disturbing legal trends are much worse along the southern border, where prosecutors and judges find themselves overwhelmed with immigration cases that do not occur in, say, Indiana. To move the cases along in "fast track" deals, prosecutors insist that the accused not only waive

their right to a trial, but also their right to file an appeal. And to save time, judges sometimes give up on individual cases and hearings. Instead, a room full of immigrants accused of crimes will be asked to enter guilty pleas all at once. Often, they do not understand what is happening to them because of the language barrier, and justice suffers. Trump's promise to step up enforcement and deportations will only worsen the assembly-line nature of immigration cases.

The third problem concerns police misconduct. Trump proposes to hire 5,000 Border Patrol agents. This is a recipe for blowback. When there is a pattern of police abuse and misconduct, it can sometimes be traced back to a period where there was a rush to hire scores of new agents. In the rush, standards fall. Background checks are insufficient. There is inadequate training before recruits assume the awesome responsibility of carrying firearms and making arrests. Because the Border Patrol has been growing faster than any other federal police agency, we need to be concerned about whether standards are being maintained.

Just last month, Border Patrol agent Juan Pimentel was convicted of smuggling cocaine. Pimentel also passed along sensitive information from law enforcement databases. Trump's hiring binge will likely lead to a decline in performance and a rise in misconduct.

Between 2005 and 2012, a Border agent was arrested for a crime every day, on average. Excessive force by border agents is especially difficult to detect because the victim's illegal status means he can't file a complaint or retain an attorney to file a lawsuit against the government. Such incidents may never come to the attention of anyone above the agent wrongdoer. And when misconduct goes unchecked, we usually get more of it.

Trump's candidacy has focused attention on our flawed immigration system, but his proposed solutions promise to worsen, not lessen, our problems.

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