



## UNDERSTANDING THE IMPACTS OF THE THREATENED MASS DEPORTATIONS

- Donald Trump has threatened to invoke legislation that dates back over 200 years to carry out “the largest mass deportation” in American history.
- There are an estimated 11 million undocumented migrants in the US, representing approximately 3.3% of the population and 4.6% of the employed workforce (as of 2022), and there are an additional 2.3 million removable immigrants released into the US between January 2023 and April 2024 who would also be targeted in any mass deportation operation.
- A one-time operation to deport these 13.3 million migrants would cost at least \$315 billion.
- Deporting one million migrants per year would cost \$88 billion, with the majority of that cost going towards building detention camps. It would take over ten years, and the building of hundreds to thousands of new detention facilities, to arrest, detain, process and remove all 13.3 million, even assuming that 20% would depart voluntarily during any multi-year mass deportation effort. The total cost over 10.6 years (assuming an annual inflation rate of 2.5%) would be \$967.9 billion.
- To arrest 13.3 million in a short period of time would require between 220,000 and 409,000 new government employees and law enforcement officers, which would be nearly impossible given current hiring challenges across law enforcement agencies. One million at-large arrests per year would require ICE to hire over 30,000 new law enforcement agents and staff, making it the largest law enforcement agency in the federal government.
- Undocumented migrants *do not qualify for federal benefits* (such as ACA subsidies, public housing and welfare benefits), but in addition to paying taxes, they pay into programs like Social Security and Medicare, which they are unable to access.
- The US would lose out on \$22.6 billion paid to Social Security and \$5.7 billion paid to Medicare annually.
- Federal, state, and local governments would lose billions in tax revenues. In 2022, undocumented immigrant households paid an estimated \$468 billion in federal taxes and \$293 billion in state/local taxes. After taxes, that leaves \$256.8 billion in consumer spending power, money that could be spent in local communities. Approximately 39% of immigrant households owned their homes in 2020, with mass deportation affecting 1.6 million homeowners.
- The US stands to lose between 4.2% - 6.8% of annual GDP, which compares to shrinkage of 4.3% of GDP during the financial crisis (2007-2009).
- One million undocumented immigrant entrepreneurs, who generated \$271 billion in total business income in 2022, would be affected.
- The impact would be felt most in California, Texas and Florida, home to 47.2% of the undocumented community in 2020, where one in 20 residents would be subject to deportation.
- Economists also believe that mass deportations will also adversely impact employment opportunities for US citizens, exacerbate housing shortages and negatively affect the federal deficit.

It was easy for many to dismiss candidate Donald Trump’s falsehoods and divisive narratives on the campaign trail as merely rhetoric designed to galvanize his base. I have summarized in prior briefing notes how that rhetoric generally could presage a slide to autocracy, including a pervasive assault on the rule of law, but as January 20<sup>th</sup> approaches there is one theme, in particular, that captures the danger that the rule *of* law slides into the rule *by* law. I refer to Trump’s repeated references to “the invasion from Mexico” and his pledges to invoke the **Alien Enemies Act** to undertake “the largest deportation operation in American history.”



That promised mass deportation of undocumented migrants (those who entered the country illegally or entered legally but overstayed their visas) has been the centerpiece of Donald Trump’s re-election campaign (the mass deportation having been dubbed by him as “Operation Aurora”) and a core policy of the Republican Party 2024 platform.

Mass deportations incidentally ultimately could affect close to an estimated 28.2 million people (including 19.5 million Latinos) in this country ([according to FWD.us](#)), either directly *or* from separation of immediate family members. Some are recent arrivals, while others have lived in the United States for decades (according to [Pew Research Center](#), 66% had lived in the United States for over a decade, as of 2017). The 28.2 million figure represents 10.1 million undocumented migrants living in so-called “mixed status” households alongside 11.3 million US citizens, plus 2.4 lawful permanent residents and nonimmigrant (temporary) visa holders, and 4.4 million undocumented migrants who do not live in mixed-status households. And more than half (53%) of the individuals in mixed-status or undocumented households nationwide live in California, Texas, Florida and New York.

I explore below a series of questions relating to the proposed mass deportations.

### **What the Alien Enemies Act Provides For**

The Alien Enemies Act was one of four acts passed in 1798 as part of the infamous [Alien and Sedition Acts](#), the other three being the Naturalization Act, the Alien Act and the Sedition Act. The acts were passed in response to concerns about a possible war with France at a time when there were 25,000 French nationals in the United States, who it was feared could be sympathetic to France. The Alien Enemies Act is the only act that survives, as it does not have an expiration date. In 1800, President Jefferson [allowed two of the other acts to expire](#) and the third was [repealed](#) by Jefferson and his new Republican majorities in both houses. Little has changed in the Alien Enemies Act since it was enacted.

The Alien Enemies Act permits the president to apprehend, restrain and remove, during a “declared war” (meaning by Congress, as only it has the power to declare war) or if the United States faces an “invasion or predatory incursion” by another country or foreign government, covered persons in the United States that are not “actually naturalized.” The original Act speaks of men over 14 and was amended in 1918 to include women. As the ACLU has [noted](#), the Act “applies to ‘natives of another country, which potentially includes people who were born abroad, but who are long-term residents of the United States. Past presidents have detained or deported noncitizens with legal status and noncitizens raised in the United States. While the government has never sought to use the Act to detain citizens, we have ample reason to fear that Trump would seek to break that norm.’”

The key element of the Act is that it allows the President in deporting people to bypass procedural safeguards, including the ability to seek relief through the immigration court system. As Katherine Yon Ebright, counsel with the Brennan Center’s Liberty and National Security Program, [noted](#) last February, “Trump could conduct the deportations summarily, without any of the hearings or other process typically accorded to non-citizens in peacetime and under immigration law.”



The Alien Enemies Act has a shameful past. It permits the government to target people in the United States on the basis of ancestry or nationality, regardless of how they came to be in the United States and, as Yon Ebright [noted](#) in October, without regard to their behavior or any threats they may pose. The Act has been invoked three times, in each case during a war declared by Congress:

- during the War of 1812 against British nationals, who were required to register with the government;
- during World War I against nationals of the German Empire, Austro-Hungary, the Ottoman Empire and Bulgaria, who were required to register with the government and over 6,000 of whom, according to the [National Archives](#), were placed in camps; and
- during World War II against nationals of Japan, Germany and Italy, on the basis of which, according to the [National Archives](#), over 31,000 suspected enemy aliens and their families, principally Germans and Italians, including Jewish refugees from Nazi Germany, were interned at camps and military facilities. The internment of close to 130,000 Japanese Americans was based on [Executive Order 9066](#).

When Congress apologized in 1988 for the internment of “US citizens and permanent resident aliens of Japanese ancestry,” it [acknowledged](#) the application of the law led to “fundamental violations of the civil liberties and constitutional rights of individuals of Japanese ancestry,” and concluded that the government’s actions were motivated largely by “racial prejudice, wartime hysteria and a failure of political leadership.”

### **What Might Invocation of the Act Mean in Practice**

Any invocation of the Alien Enemies Act would likely lead to legal challenges on the grounds that there has been neither a declaration of war nor an invasion by another country or foreign government. As Georgetown University Law Center professor Steve Vladeck noted, in an article [published](#) by NPR, Trump would not need the Alien Enemies Act to deport undocumented migrants. What he would need is the capacity to do so, and the issue is paucity of resources to identify, locate, detain and remove undocumented migrants. Ironically, the 2024 bipartisan border security bill scuppered at the direction of Trump would have provided funding of \$20 billion for immigration enforcement. Vladeck concludes, “The irony that Trump is now trotting out this old, anachronistic statute to solve a problem that he could have solved much more directly and much less controversially ... ought not to be lost on the folks who are learning about these authorities for the first time.”

That said, as Yon Ebright [points out](#), it is not clear whether courts would intervene to stop the Alien Enemies Act from being invoked in peacetime. “The last time the Alien Enemies Act was challenged, in *Ludecke v. Watkins* in 1948, the Supreme Court upheld President Harry S. Truman's extended reliance on the law three years after the end of World War II, the Court reasoned that the question of when a war terminates and wartime authorities expire is too ‘political’ for judicial resolution.” But she notes, much has changed since the 1940s as reflected in case law since then under the Fifth and Fourteenth Amendments.



## Scope of Deportations

Perhaps the Alien Sedition Act reference was a red herring. As Senior Fellow at the American Immigration Council (AIC) Dara Lind noted in her New York Times op-ed (“[What ‘Mass Deportation’ Actually Means](#)”), “no change is needed to U.S. law to start the deportation process for every unauthorized immigrant in the United States. Being in the country without proper immigration status is a civil violation, and deportation is considered the civil penalty for it.” She expects Trump to issue guidance to Immigration and Customs Enforcement (ICE) that every unauthorized immigrant can be arrested, and that “deportable immigrants who happen to get caught up by ICE, even if agents aren’t specifically looking for that person, could also be detained.”

Trump has framed the deportations as an effort to rid the country of criminal elements. But is this program intended to be so limited, or is the intention to seek to deport all undocumented migrants or go even further? As recently as January 5, the scope of the program was unclear. In an [interview](#) with Margaret Brennan on “Face the Nation,” Tom Homan, the proposed border czar, spoke of focusing on “public safety threats,” but was unwilling to be pinned down on the scope of the deportation program and how the administration would implement deportations if the intended (home) country of destination were unwilling to accept deportees.

According to an AIC [report](#) prepared based on 2022 data (unless otherwise noted):

- There were approximately 11 million undocumented immigrants in the United States, or approximately 3.3% of the American population and 4.6% of the American employed work force. An additional 2.3 million removable immigrants were released into the United States between January 2023 and April 2024 and would also be targeted in any mass deportation operation.
- A one-time operation to deport these immigrants would cost at least \$315 billion: \$89.3 billion to conduct sufficient arrests, \$167.8 billion to detain immigrants *en masse*, \$34.1 billion on legal processing and \$24.1 billion on removals.
- Deporting one million immigrants per year would cost \$88 billion, with the majority of that cost going towards building detention camps. It would take over ten years, and the building of hundreds to thousands of new detention facilities, to arrest, detain, process, and remove all 13.3 million targeted immigrants, even assuming that 20% would depart voluntarily during any multi-year mass deportation effort. The total cost over 10.6 years (assuming an annual inflation rate of 2.5%) would be \$967.9 billion.
- To arrest 13.3 million in a short period of time would require between 220,000 and 409,000 new government employees and law enforcement officers, which would be nearly impossible given current hiring challenges across law enforcement agencies. One million at-large arrests per year would require ICE to hire over 30,000 new law enforcement agents and staff, making it the largest law enforcement agency in the federal government.

## Unanswered Questions

There are any number of unanswered questions about the program, starting with the overall question of how the administration intends to carry out the largest deportation effort, and thus



the largest law enforcement effort, in the country's history, when to date the country has never deported more than 2 million (and usually far fewer) immigrants in any year, and the vast majority of those were apprehended at the border, rather than living in the country.

- How will ICE deal with undocumented migrants living in homes with different immigration statuses, and what does this mean for family separation? According to AIC, the planned deportations would separate 4 million mixed-status families, affecting 8.5 million American citizens (including 5.1 million children) with undocumented family members. Imagine the impact on these families of the loss of household income, estimated by AIC to be an average of 62.7% annually.
- What will the economic impact be of removing farm workers, home health care aides, daycare workers, construction workers, cooks? According to AIC,
  - Close to 90% of the undocumented migrant community is over working age, and losing working-age laborers would exacerbate severe workforce challenges faced by many sectors in the country since the pandemic.
  - Undocumented migrants are concentrated in certain key US industries, including construction (13.7% of the overall workforce), agriculture (12.7%) and hospitality (7.1%). In major construction trades such as plasterers and stucco masons, drywall installers and ceiling tilers, and roofers, the loss would be more than 30%, and among housekeeping cleaners, construction laborers, agricultural graders and sorters and agricultural laborers the loss would be 25%.
  - Not only are these workers essential by reason of services they provide and their contributions to supply chains, but they also pay federal, state and local taxes, contribute to Medicare/Social Security, and are entrepreneurs and consumers.
    - One million undocumented immigrant entrepreneurs, who generated \$271 billion in total business income in 2022, would be affected. Losing the 157,800 undocumented immigrant entrepreneurs in neighborhood businesses would lead to disruptions to services that have become an integral part of community life and provide local jobs for Americans.
    - The US would lose out on \$22.6 billion paid to Social Security and \$5.7 billion paid to Medicare annually.
    - Federal, state, and local governments would lose billions in tax revenues. In 2022, undocumented immigrant households paid an estimated \$468 billion in federal taxes and \$293 billion in state and local taxes. That leaves, after taxes, \$256.8 billion in consumer spending power, money that could be spent in local communities. Approximately 39% of immigrant households owned their homes in 2020, with mass deportation affecting 1.6 million homeowners.
    - The US stands to lose between 4.2% - 6.8% of annual GDP, which compares to shrinkage of 4.3% of GDP during the financial crisis (2007-2009).
    - The impact would be felt most in California, Texas and Florida, home to 47.2% of the undocumented community in 2020, where one in 20 residents would be subject to deportation.



Economists also believe that mass deportations will also adversely impact employment opportunities for US citizens, exacerbate housing shortages and negatively affect the federal deficit, as undocumented migrants boost the labor supply and economic output, increasing taxable income and business profits, without a corresponding commensurate increase in spending obligations (*see [The Economist](#)*).

Moreover, undocumented migrants *do not qualify for federal benefits* (such as ACA subsidies, public housing and welfare benefits), but in addition to paying taxes, they bolster programs like Social Security and Medicare, which they are unable to access (*see [interview](#) with Laura Collins of the George W. Bush Institute*).

- How will local law enforcement/local government agencies (on whom ICE has relied in the past) react to arresting people, separating families, detaining them, processing them and removing them? What will the impact be on retention and recruitment?
- Trump and those close to him continue to maintain that National Guard and active-duty military will aid in the deportation process. Will Trump declare a national emergency as a predicate to deploying the Guard or the Military? Will he invoke the Insurrection Act so as to override the restrictions in the Posse Comitatus Act on the use of the military domestically (*see “[Understanding The Breadth And Depth Of Emergency Powers](#)”*)? Will the government *invoke* public health emergency powers to expedite removals? Will “*expedited removals*,” created under the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, be expanded from border areas to interior areas to remove those who cannot prove they have been in the country for at least two years?
- How will National Guard and active-duty military units (whom Trump has threatened to deploy) react to participating in the deportation program? What will the impact be on retention and recruitment?
- What will the impact be on levels of crime in areas where law enforcement resources are diverted to the deportation program?
- Who will be targeted first?
  - According to [Lind](#), if there are diplomatic breakthroughs with countries that previously resisted taking deportees, expect large numbers of people to get arrested at their ICE check-ins and deported under existing removal orders.
  - If there are no new breakthroughs, expect deportations to be limited to countries that are generally already willing to take [U.S. removal flights](#) (e.g., Mexico, Guatemala, Peru). Undocumented migrants with prior contact with the criminal justice system are appealing targets, but if they are still in the country, it likely is because their cases are complicated and will need to be worked out in court.
  - Migrants with legal status that has lapsed, or legal protections that the Trump administration might try to strip, such as the more than 1 million migrants that enjoy [Temporary Protected Status](#), may be easy to find but more difficult to remove.



- What will the impact be of “fugitive operations” on a massive scale – ICE agents raiding homes, schools and universities, and businesses across America, checkpoints and detention facilities would be widely visible, particularly in and near heavily-immigrant neighborhoods. What will the impact be on American citizens wrongly profiled as undocumented, repeatedly having to prove they are not subject to deportation?
- How will the relevant law enforcement and government agencies (particularly DHS and DoJ) handle the managerial and human resource workload not only of overseeing a significantly expanded enforcement force but also responded to legal challenges.
- Where will deportees be housed and how will they be transported, both to detention facilities, and from detention facilities to their final destination? Deportations beyond Canada and Mexico would require commercial air travel, and some countries ban deportation flights. ICE currently lacks the space to hold significantly more than it currently holds (Lind [notes](#) that ICE has [authorization](#) for FY 2024 for 41,500 detention beds.)
- To what extent will migrants caught up in sweeps and detained choose to leave voluntarily rather than remain locked up in detention facilities? Lind [cites](#) high profile raids in the 1930s and 1950s that did not result in significant numbers of arrests, but did lead to voluntary departures to avoid being ensnared in a harsh and unforgiving process.
- How effective will state and local protections (including sanctuary city programs) be in countering deportations? To what extent will mass deportations pit Blue state governors and governments against the federal government or Red state governors and governments?
- To what extent will Congress fund deportation programs?
- Where will deportees be sent, and if home countries are unwilling to accept deportees to what third countries will they be sent? Could we be creating a situation akin to the discredited and now cancelled [plan](#) announced by the Conservative government in Britain in 2022 of deporting asylum seekers (regardless of country of origin) to Rwanda (as to which the UK Supreme Court ruled it was unlawful as Rwanda was not deemed safe for asylum seekers)?
- How will home countries respond. Honduras’ president [has warned](#) that she would consider shutting down a base used by the US military rent-free if the deportation process is carried out.
- Where will the outcry be not only over the unprecedented disruptions to families, schools, businesses and communities and the staggering hit to the economy as a result, but over the fact that the billions of dollars needlessly spent could be spent on countless domestic programs to improve the lives of millions of Americans.

### Concluding Thoughts

There is no question that immigration played a significant role in the election and there should be no question that our immigration system is broken. It is probably fair to also say



that multiple administrations, including the outgoing [Biden administration](#), bear responsibility for that broken system. It is also the case that multiple administrations deported undocumented migrants, but comparisons quickly can become complicated, given the multiple inputs – border apprehensions, removals, returns and so on, as well as offsetting actions taken to protect classes of undocumented migrants, including the Dreamers (*see e.g.*, [Migration Policy Institute](#) and [POLITICO](#)). Also, over time, the largest “mass deportations” have been driven by immigrants choosing to “self-deport.”

There is compelling evidence that the proposed mass deportations would have significant harmful effects on the economy and on our society. In addition to the data cited above, see also analyses from the [Peterson Institute for International Economics](#), [Center for Migration Studies](#), and [Carsey School of Public Policy](#), the summary of data provided by [FactCheck.org](#), [SLATE](#), [Foreign Policy](#) and [The New York Times](#) and “[Written Testimony on How Mass Deportations Will Separate American Families, Harm Our Armed Forces, and Devastate Our Economy](#)”).

I am reminded of the campaign in 2016 in Britain by those in favor of leaving the European Union. The vote was driven by emotion, but when the dust settled, the country, and in particular many of the demographics that voted to leave, was far worse off economically. The outcome might have been far different had voters been given the facts. It would be such a refreshing outcome were the incoming administration to level with the American people about the facts underlying immigration, including incidentally the level of crime associated with the undocumented community, and the impacts of its proposed solution on inflation, the deficit, families, communities, the military and the National Guard, and the country as a whole. Any chance? Not likely!

It will be up to Democrats and the media to make the case, and not just by calling out what happens at the border, but in the interior. Adrian Carrasquillo, writing in the *Bulwark* today (“[The Media Isn’t Ready for Trump’s Mass Deportation Moment](#)”), noted that mass deportations in fact will not be a “border story,” but rather a “national story” – not a tale of border apprehensions, but of “torn-apart communities” and, second, the mainstream media may not be up to the task of covering the stories. He quotes Paola Ramos, an MSNBC and Telemundo contributor, who blames the media for moving television audiences to the right on immigration by engendering a sense of panic based on narratives of border “invasions,” by criminal elements that led to rising crime rates. Will the media reverse the narrative and humanize the affected communities and individuals with no criminal records, who work, pay their fair share of taxes, and contribute to their communities and the larger good in myriad ways. Perhaps as we learned in the election, the days of impactful legacy media are over, and it will be up to influencers on social media and other alternative channels to properly frame the narratives.

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