
Trump administration to give Border Patrol agents authority to decide asylum claims on the spot: Sources

by Anna Giaritelli | May 02, 2019 02:30 PM

The Department of Homeland Security is racing to implement a plan that would give federal law enforcement on the border the authority to conduct interviews with asylum seekers who fear returning to their home countries, according to two sources with firsthand knowledge of the plan.

Under the pending procedural change, U.S. Citizenship and Immigration Services officers would train Border Patrol agents on the southern border how to conduct "credible fear interviews," which immigrants must pass to go on to claim asylum. Agents would conduct the interviews shortly after apprehending people who have illegally crossed from Mexico to the U.S.

The Trump administration is pushing to start agent training "ASAP," according to one official.

[Also read: ICE starting 90-minute DNA tests on immigrant families at border]

The proposal has some downsides. For instance, there likely would be fewer Border Patrol agents performing law enforcement duties while undergoing training. But that would be offset by an overall decline of undocumented immigrants seeking refuge in the U.S.

"If that gets rolled out and we actually start deporting people within a timely manner, you're going to see the numbers drop exponentially," the official said.

Homeland Security, under acting Secretary Kevin McAleenan, would essentially deputize law enforcement to carry out citizenship officers' jobs in order to initially reduce the number of people who have passed that stage and are waiting on asylum decisions. Those calls usually take two to five years due to the current 900,000 cases waiting to be decided by fewer than 500 immigration judges nationwide.

DHS is not planning to get congressional approval before implementing the change. Department officials believe they are within the law because an asylum officer must be an immigration official, which Border Patrol agents are considered to be. As long as agents get

training on how to carry out those interviews and make those decisions, the department believes the plan is sound, a second official, who spoke on background in order to speak freely, explained.

Currently, immigrant families who surrender to Border Patrol agents are taken to a station and interviewed there about their background. Those in custody are not to be held longer than 72 hours. While in Border Patrol custody, an immigrant can claim a “credible fear” of returning to his or her home country during the general interview with an agent.

[Read more: Trump orders changes to the asylum system in memo]

The agent would then notify U.S. Citizenship and Immigration Services of the claim and a representative would hear and decide a person’s claim, likely after the person in custody has been transferred from Border Patrol to Immigration and Customs Enforcement custody. Families who have been found by a USCIS officer to have a credible fear of return cannot be held by ICE more than 20 days and will be released into the U.S. and told to show up for their asylum verdict years down the road.

The second official said immigrants whose credible fear claims are denied would then have the ability to appeal the decision but would only have 10 days to have his or her case heard.

“Theoretically, we could end up deporting them in two weeks, rather than two to five years,” the source said. The move is likely to be challenged in the courts.