



**STATEMENT OF THE AMERICAN IMMIGRATION COUNCIL**

**SUBMITTED TO THE SENATE JUDICIARY COMMITTEE**

**HEARING ON “Building America’s Trust Through Border Security: Progress on the Southern Border”**

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The American Immigration Council is a non-profit organization which for 30 years has been dedicated to increasing public understanding of immigration law and policy and the role of immigration in American society. We write to share our analysis of infrastructure and personnel investments already made by the Department of Homeland Security (DHS), as well as our reporting on improvements needed at its border enforcement agency, U.S. Customs and Border Protection (CBP), to ensure integrity of operations along the Southern Border.

The High Cost of Border Security

Since the last major overhaul of the U.S. immigration system in 1986, the federal government has spent an estimated \$263 billion on immigration enforcement and border security.<sup>1</sup> As discussions between Congress and a new administration start to focus on the future of immigration enforcement and border security, it is important to review how much money already has been spent on these initiatives and what outcomes have been produced.

As discussed in [\*The Cost of Immigration and Enforcement and Border Security\*](#), immigration enforcement spending largely falls into two issue areas: border security and interior enforcement. Border spending includes staffing and resources needed for CBP working at and between U.S. ports of entry.<sup>2</sup> Interior enforcement is primarily focused on staffing and resources for U.S. Immigration and Customs Enforcement (ICE) to apprehend noncitizens in the interior of the country, detention for those undergoing removal proceedings, and deportation of those ordered

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<sup>1</sup> See American Immigration Council, *Giving the Facts a Fighting Chance: Addressing Common Questions on Immigration* (Washington, DC: December 2015), 16, <https://www.americanimmigrationcouncil.org/research/addressing-common-questions-immigration>; U.S. Department of Homeland Security, *Budget-in-Brief*, FY 2017, 17, <https://www.dhs.gov/publication/fy-2017-budget-brief>.

<sup>2</sup> See, American Immigration Council, *The Cost of Immigration Enforcement and Border Security*, (Washington, DC: February 2017), available at, <https://www.americanimmigrationcouncil.org/research/the-cost-of-immigration-enforcement-and-border-security>.

removed. However, because CBP can only keep those apprehended at the border in their custody for short periods of time and transfers to ICE those who are not swiftly deported, ICE's budget and detention capacity are integral to an assessment of investments made into border security.

In terms of staffing, the current number of border and interior enforcement personnel stands at more than 49,000.<sup>3</sup> The number of U.S. Border Patrol agents nearly doubled from just under 11,000 agents in Fiscal Year (FY) 2003 to requiring over 21,000 agents in FY 2016.<sup>4</sup> Additionally, the number of ICE agents assigned to its office of Enforcement and Removal Operations (ERO) nearly tripled from 2,700 officers in FY 2003 to nearly 8,000 officers in FY 2016.<sup>5</sup>

As part of the FY 2017 omnibus appropriations bill, CBP received an additional \$772 million in order to build new replacement fencing along the Southern border, as well as funding for staffing retention and new facilities. ICE received a \$390 million increase over past years for additional immigration detention funding despite border apprehensions being at 17 year lows.<sup>6</sup>

The United States currently has over 650 miles of fencing along the Southern border, record levels of staff for ICE and CBP, as well as a fleet of drones—among other resources. Some of these resources have been spent on ill-conceived projects, such as the \$1 billion attempt to construct a "virtual fence" along the Southwest border, a project initiated in 2005 that was later scrapped for being ineffective and too costly.<sup>7</sup>

### Do We Need a Wall?

For generations, politicians have talked about constructing a contiguous border wall along the Southern border. As detailed in [\*The High Cost and Diminishing Returns of a Border Wall\*](#), building a fortified and impenetrable wall between the United States and Mexico is unnecessary, complicated, ineffective, exorbitantly expensive, and would create a host of additional problems.<sup>8</sup>

The Government Accountability Office found that single-layer pedestrian fencing, which tends to be as high as 18 feet and attempts to deter and slow individuals from crossing, could cost approximately \$6.5 million per mile. In addition, millions would have to be spent on roads for

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<sup>3</sup> See American Immigration Council, *Giving the Facts a Fighting Chance: Addressing Common Questions on Immigration* (Washington, DC: December 2015), 18, <https://www.americanimmigrationcouncil.org/research/addressing-common-questions-immigration>.

<sup>4</sup> U.S. Government Accountability Office, "U.S. Customs and Border Protection: Review of the Staffing Analysis Report under the Border Patrol Agent Reform Act of 2014," May 2016, <http://www.gao.gov/assets/680/677475.pdf>.

<sup>5</sup> U.S. Department of Homeland Security, "Congressional Budget Justification", FY 2016, [https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20-%20Volume%202\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20-%20Volume%202_1.pdf).

<sup>6</sup> See, *Consolidated Appropriations Act, 2017*, H.R. 244, available at, <https://www.congress.gov/115/bills/hr244/BILLS-115hr244enr.pdf>

<sup>7</sup> Julia Preston, "Homeland Security Cancels 'Virtual Fence' After \$1 Billion is Spent," *New York Times*, January 2011, <http://www.nytimes.com/2011/01/15/us/politics/15fence.html>.

<sup>8</sup> See, American Immigration Council, *The High Cost and Diminishing Returns of a Border Wall*, (Washington, DC: January 2017), available at, <https://www.americanimmigrationcouncil.org/research/cost-of-border-wall>.

CBP to use while monitoring border activity and for fencing maintenance.<sup>9</sup> The easiest parts of the border fence have been built, according to Marc Rosenblum, formerly of the Migration Policy Institute and the current Deputy Secretary of the DHS Office of Immigration Statistics.<sup>10</sup> The estimated cost to construct the remaining, more complex border wall segments are between \$15 and \$25 billion, with each mile of fencing costing \$16 million.<sup>11</sup>

According to the FY 2017 DHS budget, the agency spent \$274 million on border fence maintenance.<sup>12</sup> Based on that expense, one can extrapolate that if fencing is built on the final two-thirds of the Southern border, the maintenance costs will triple to more than \$750 million annually. In FY 2006, appropriations for building and maintaining border infrastructure was \$298 million, and then jumped to \$1.5 billion in FY 2007 to pay for the fencing mandated by the Secure Fence Act.<sup>13</sup> FY 2016 appropriations for building and maintaining border infrastructure were \$447 million.<sup>14</sup>

If building a border wall was essential to border security, Congress and the administration could simply assess whether there are sufficient federal funds to allocate towards construction. However, from October 2016 through March 2017, monthly border apprehension rates have dropped by 75% and are now at the lowest point in decades.<sup>15</sup> Furthermore, CBP leadership and border experts have concurred that a wall is not the right solution. In January 2017, former CBP Commissioner Gil Kerlikowske said, "[A]nyone who's been familiar with the southwest border and the terrain ... kind of recognizes that building a wall along the entire southwest border is probably not going to work," adding that he does not "think it is feasible" or the "smartest way to use taxpayer money on infrastructure."<sup>16</sup>

Likewise, the head of the National Border Patrol Council, a union representing 16,000 Border Patrol agents, asserted, "We do not need a wall along the entire 2,000 miles of border."<sup>17</sup> He went on to say, "If I were to quantify an actual number, I would say that we need about 30

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<sup>9</sup> Government Accountability Office, "Secure Border Initiative Fence Construction Costs," January 2009, available at, <http://www.gao.gov/new.items/d09244r.pdf>.

<sup>10</sup> Kate Drew, "This is What Trump's Border Wall Could Cost," CNBC, available at, <http://www.cnbc.com/2015/10/09/this-is-what-trumps-border-wall-could-cost-us.html>.

<sup>11</sup> Id.

<sup>12</sup> Department of Homeland Security, "Fiscal Year 2017 Congressional Budget Justification, Volume 1," February 2016, available at, [https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20-%20Volume%201\\_1.pdf](https://www.dhs.gov/sites/default/files/publications/FY%202017%20Congressional%20Budget%20Justification%20-%20Volume%201_1.pdf).

<sup>13</sup> Carla Argueta, "Border Security: Immigration Enforcement Between Ports of Entry," Congressional Research Service, April 2016, available at, <https://fas.org/sgp/crs/homsec/R42138.pdf>.

<sup>14</sup> Id.

<sup>15</sup> Customs and Border Protection, CBP Southwest Border Apprehension Totals, Southwest Border Migration, retrieved May 20, 2017, available at, <https://www.cbp.gov/newsroom/stats/sw-border-migration>

<sup>16</sup> Brian Ross, Brian Epstein, and Paul Blake, "Retiring Border Chief Calls Trump's Wall a Waste of Time, Money," ABC News, January 2017, available at, <http://abcnews.go.com/Politics/trumps-border-wall-waste-time-money-retiring-border/story?id=44978156>.

<sup>17</sup> Morning Edition, Border Patrol Agents' Union Confers with Trump on Securing the Border, National Public Radio, November 2016, available at, <http://www.npr.org/2016/11/17/502402360/border-patrol-agents-union-confers-with-trump-on-securing-the-border>.

percent. Thirty percent of our border has to have an actual fence [or] wall.”<sup>18</sup> However, the existing 650 miles already comprise more than 30 percent of the 2,000 mile border.

Border infrastructure needs are more sophisticated than a concrete wall. According to an internal U.S. government study obtained by Reuters in April 2016, CBP believes that more technology is needed along the border to create a “virtual wall.” The agency requested better radios and more aerial drones, but only 23 more miles of fences.<sup>19</sup>

### Ensure Integrity of the Force to Improve Integrity of the Border

Despite the fact that the Border Patrol has seen a massive expansion of resources and personnel over the past decade, the current administration is looking to add even more by calling on Congress to hire an additional 5,000 Border Patrol agents. This initiative seems premature given that the Border Patrol has long been unable to fill all of the agent positions already authorized, due in part to high attrition rates, hazardous work in remote areas, and low pay.

Moreover, when the Border Patrol underwent a similar effort to surge hiring in [insert actual years], the agency experienced a spike in corruption and misconduct cases. University of Texas at El Paso Professor Josiah Heyman detailed the problems encountered in a paper recently published by the American Immigration Council, “Why Caution is Needed Before Hiring Additional Border Patrol Agents and ICE Officers.” For instance, after the 2006-2009 Border Patrol surge, Heyman noted that “the number of employees arrested for misconduct, such as civil rights violations or off-duty crimes like domestic violence, grew each year between 2007 and 2012, reaching 336, a 44 percent increase.”<sup>20</sup> Indeed, over the last 10 years, nearly 200 DHS employees and contract workers were found to have taken about \$15 million in bribes while employed by the department.<sup>21</sup>

The widespread recruitment problems resulting from the 2006-2009 Border Patrol growth spurt triggered Congressional attention, including passage of the Anti-Border Corruption Act of 2010. The law requires hiring reforms at the agency, including mandatory polygraph testing for all Border Patrol applicants.<sup>22</sup> Indeed, polygraphs are a standard practice in law enforcement hiring across the country with the same polygraph standard being applied for all Central Intelligence Agency, Federal Bureau of Investigation, Bureau of Alcohol, Tobacco, Firearms and Explosives, and the Drug Enforcement Administration hires. In many cases, these polygraph examinations revealed CBP applicants’ troubling backgrounds, including “10 applicants believed to have links to organized crime who had received sophisticated training on how to defeat the polygraph

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<sup>18</sup> Id.

<sup>19</sup> Julia Harte, “No Wall, But More High-Tech Gear, Fencing Sought by U.S. Border Agents, Reuters, January 2017, available at, <http://www.reuters.com/article/us-usa-immigration-fence-exclusive-idUSKCN0XP28J>.

<sup>20</sup> Josiah McC. Heyman, Ph.D., “Why Caution is Needed Before Hiring Additional Border Patrol Agents and ICE Officers.” American Immigration Council, April 2017, available, <https://americanimmigrationcouncil.org/research/why-caution-needed-hiring-additional-border-patrol-agents-and-ice-officers>.

<sup>21</sup> Id.

<sup>22</sup> Mica Rosenberg, “Former Border Patrol Officials Question Trump Plan to Add Agents,” Reuters, Feb 2017, available at, <https://www.usnews.com/news/top-news/articles/2017-02-24/former-border-patrol-officials-question-trump-plan-to-add-agents>.

exam.”<sup>23</sup> Despite these hiring reforms, inappropriate and abusive behavior by those hired by the agency continue to surface. Just this month, DHS confirmed that the Inspector General is investigating allegations that veteran CBP officers were hazing newer officers by duct-taping and restraining them on a so-called “rape table” where officers have been sexually assaulting and physically abusing their colleagues.<sup>24</sup>

Inappropriate and criminal misconduct by agency employees also extends to how detainees in their custody are treated. CBP has been in the spotlight for its questionable practices regarding the treatment of migrants in its holding facilities near the Southern border. Each year, hundreds of thousands of individuals are held in these facilities, which are not designed for overnight custody (i.e., no shower facilities and no bedding apart from mylar blankets on concrete floors and metal benches), and yet are routinely used in this way. An analysis of government records pertaining to the length of detention for all Border Patrol sectors along the Southwest border in *[Detained Beyond the Limit: Prolonged Confinement by U.S. Customs and Border Protection Along the Southwest Border](#)*, reveals that individuals are frequently held for days and sometimes months in such facilities.<sup>25</sup>

Both CBP and ICE also have had serious and longstanding problems with handling the personal belongings of detained migrants. Too often, some or all of a detainee’s belongings are lost, destroyed, or stolen by the immigration enforcement agents entrusted with their care. DHS has attempted to correct this problem through two policy changes, however, these efforts have yet to bear fruit. As our report, *[Deported with No Possessions: The Mishandling of Migrants’ Personal Belongings by CBP and ICE](#)*, shows, detainees from Mexico continue to be as likely to have their property not returned to them as they were before DHS implemented the new policies.<sup>26</sup>

Finally, over the past year the American Immigration Council has worked to reveal CBP’s practice of turning away asylum seekers at the Southern border. Emboldened by presidential campaign rhetoric demanding a crackdown on immigrants and citing alleged changes in U.S. border policy, CBP Agents and Officers were reported to be refusing asylum seeking families the opportunity to seek protection in the United States in contravention of U.S. and international law. These allegations were detailed in a civil rights complaint to DHS as well as front-page Washington Post coverage in January 2017.<sup>27</sup> Investigation into these allegations remains underway.

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<sup>23</sup> Mica Rosenberg, “Former Border Patrol Officials Question Trump Plan to Add Agents,” Reuters, Feb 2017, available at, <https://www.usnews.com/news/top-news/articles/2017-02-24/former-border-patrol-officials-question-trump-plan-to-add-agents>.

<sup>24</sup> Lisa Ryan, Newark Customs Agents Are Allegedly Being Hazed on a ‘Rape Table,’ New York Magazine, May 2017 available at, <http://nymag.com/thecut/2017/05/newark-customs-agents-hazing-rape-table-dhs.html>.

<sup>25</sup> Guillermo Cantor, Ph.D., “Detained Beyond the Limit: Prolonged Confinement by U.S. Customs and Border Protection along the Southwest Border,” August 2016, available at, <https://www.americanimmigrationcouncil.org/research/prolonged-detention-us-customs-border-protection>.

<sup>26</sup> Walter Ewing, Ph.D. and Guillermo Cantor, Ph.D., “Deported with No Possessions: The Mishandling of Migrants Personal Belongings by CBP and ICE,” American Immigration Council, December 2016, available at, <https://www.americanimmigrationcouncil.org/research/deported-no-possessions>.

<sup>27</sup> American Immigration Council et al, U.S. Customs and Border Protection’s Systemic Denial of Entry to Asylum Seekers at Ports of Entry on U.S.-Mexico Border, DHS Civil Rights and Civil Liberties Complaint, filed January 13, 2017, available at,

## Conclusion

The American Immigration Council urges the Committee to take a comprehensive look at border security and examine the totality of needs at the Southern border. Our nation's security relies on an effective, needs-based deployment of the right resources in the right way and requires a border force to operate with integrity. Infrastructure and personnel surges without critical safeguards risks wasting taxpayer dollars and repeating the mistakes of the past.

Efforts that have accumulated in the name of security do not necessarily reflect border security needs.<sup>28</sup> It is past time for the United States to focus on metrics that actually assess achievements and progress on security.<sup>29</sup> DHS lacks transparent, consistent, and stable metrics for evaluating border enforcement. Before deciding how to address border security, Congress should require clear reporting on metrics from DHS.<sup>30</sup> Such metrics would better allow Congress and the public to hold the immigration agencies accountable and assess whether and what additional resources are needed (or not needed) to secure our border.

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[https://www.americanimmigrationcouncil.org/sites/default/files/general\\_litigation/cbp\\_systemic\\_denial\\_of\\_entry\\_to\\_asylum\\_seekers\\_advocacy\\_document.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/general_litigation/cbp_systemic_denial_of_entry_to_asylum_seekers_advocacy_document.pdf)

<sup>28</sup> Bipartisan Policy Center, "Measuring the Metrics: Grading the Government on Immigration Enforcement," February 2015, <http://bipartisanpolicy.org/library/measuring-the-metrics-grading-the-government-on-immigration-enforcement/>.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.