

CUT HERE: ✂**REDUCING WASTEFUL SPENDING ON IMMIGRATION ENFORCEMENT****SAVE MORE THAN \$2.6 BILLION****Report Highlights**

As Congress debates measures to reduce the federal budget deficit, it should not overlook the skyrocketing spending on unfocused immigration enforcement programs. Poorly-prioritized, enforcement-driven immigration policies contribute more to the U.S. deficit than to our national security and commerce needs. Failure to fix our country's immigration system has resulted in an over-reliance on ever-escalating enforcement spending that cannot be sustained. If our enforcement was focused along security priorities outlined in this paper, the government could save more than \$2.6 billion for American taxpayers. If Congress fixed our immigration system comprehensively, it could save billions more, directing valuable enforcement assets on actual security threats and making taxpayers out of all employers and immigrants.

UNCONTROLLED BORDER ENFORCEMENT COSTS

In recent years, border security spending has increased dramatically. Border Patrol spending alone has escalated nearly ten-fold since 1993. In just the last six years, the *increase* in the budget has averaged a staggering \$300 million each year.

The vast majority of border enforcement efforts are focused on areas *between* ports of entry. Yet, the number of persons attempting to cross the border illegally between ports of entry is at its lowest level since 1972. While Congress has been obsessed with beefing up security between the official ports of entry, they have neglected protecting the entry points themselves—this despite the fact that an estimated 90% of illegal drugs enter the country through ports of entry.

MISGUIDED INTERIOR ENFORCEMENT POLICIES

The Obama Administration has deported more than one million immigrants at a cost of nearly \$23,000 per person. Government data tells us that about half of immigrants deported did not have a criminal record, meaning the government spent approximately \$11.5 billion deporting immigrants who did not pose a threat to public safety since the beginning of 2009. Many immigrants are held in prisons and jails prior to their deportation—regardless of whether they have committed crimes—at a cost of \$166 per day, adding up to an expense of hundreds of millions of dollars annually for American taxpayers.

The government can effectively reduce wasteful spending and reduce the deficit by, among other things:

- Prioritizing the deportation of immigrants who pose a threat to public safety and reducing an over-reliance on detention by maximizing cheaper alternatives to detention. Savings: about \$1.6 billion annually in detention costs.
- Ceasing the year after year unjustified increases in the Border Patrol budget. The budget should reflect current security needs. Focus on effective programs and eliminate those that are ineffective and waste resources. Savings: \$300 million.
- Eliminating Operation Streamline. Savings: more than \$360 million per year.

Introduction

Deficit-reduction talks in Congress must include a comprehensive examination of the fiscal burdens and effectiveness of current immigration enforcement programs. The last decade has witnessed enormous expansion of immigration enforcement efforts, both at the borders and in the interior of the United States. In 2010, the government carried out more deportations than ever before and deployed more enforcement agents to the border than at any time in our history. Since taking office in 2009, President Obama has presided over the deportation of more than one million individuals.

Correspondingly, the federal government is spending more money than ever on border and immigration enforcement. The budgets for the enforcement agencies within the Department of Homeland Security (DHS)—Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP)—have grown steadily since DHS was created in 2003. The Fiscal Year 2012 DHS appropriations bill passed by the House of Representatives allots a staggering **\$11.8 billion** for CBP and **\$5.5 billion** for ICE.¹

It is increasingly difficult to justify the record spending for immigration enforcement in the context of our economic crisis and massive budget deficit. Those fiscal realities demand that we take a hard look at enforcement spending and assess its effectiveness to the nation, while Congress fails to pass reform that would create a functioning immigration system and add taxpayers to the rolls.

Insatiable Congressional demand for enforcement programs has led to astronomical spending while pushing off solutions for the fundamental problems in our immigration system. Despite record deployment of border security resources, politicians continue to shield themselves behind the empty platitude of “border security first” to avoid a real discussion on how to fix our immigration system. Rather than first making the changes necessary so that our immigration laws are enforceable, members of Congress have repeatedly said that they want to see the border “secured” before they will consider fixing our immigration system. However, members of Congress who insist on enforcement of our broken laws will never be satisfied.

Security benchmarks that Congress identified in 2007 as a prerequisite for an immigration overhaul have long since been met. In fact, the Obama Administration has broken every record for arrests, removals, and worksite audits. The number of people arrested trying to cross the border illegally, used as a proxy for measuring the total number of people trying to cross illegally, is at its lowest point since 1972. Yet, instead of starting work on reforming our immigration laws, these members of Congress have responded by repeatedly funding more construction of infrastructure and technology to find and apprehend the diminishing number of those crossing illegally along the U.S.-Mexican border, and Border Patrol staffing remains on an upward trajectory.² As expenditures for border security continue to increase while apprehensions on the border decline, our marginal return on investment in border enforcement is rapidly diminishing. In other words, we are spending more and more money that we don't have to apprehend fewer and fewer people.

Spending Analysis for Our Borders

Highlights

- The number of Border Patrol agents more than doubled between 2000 and 2011.
- Since 2006, the government has spent more than \$60 billion on border enforcement.
- Spending for the Border Patrol's parent agency, Customs and Border Protection, has doubled since 2006.
- The government has spent approximately \$2.4 billion on the border fence, which has already been breached more than 3,000 times.

Unprecedented and expensive manpower, infrastructure, and technology for border security efforts have been deployed in the last decade—the vast majority of which have been directed at surveillance and manpower between ports of entry on the U.S.-Mexico border.

Beginning with manpower, the Border Patrol more than doubled its force on the Southwest border between 2000 and 2011, mushrooming from 8,580 to more than 17,659 agents.³ Nationally, the ranks of the Border Patrol are funded at a level of 21,385⁴—an all-time high. The Border Patrol is the largest, but not the only enforcement presence on the border. There are 17 Border Enforcement Security Teams, including hundreds of agents led by ICE that focus on dismantling criminal organizations in the border region.⁵ There are 1,200 National Guard troops patrolling the Southwest border, as well as thousands of federal law enforcement agents from ICE, the FBI, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Drug Enforcement Administration, the US Marshals Service, and CBP.⁶

Congress has also provided enormous sums for security infrastructure to CBP. There are 649 miles of border fencing, 139 Border Patrol stations, and 37 Border Patrol checkpoints. The arsenal of surveillance and communications equipment includes 10,000 ground sensors, as well as sensor and communications towers, mobile surveillance systems, and thousands of cameras with infra-red night vision.⁷

Unsatisfied with the record deployment of resources at the border, in August 2010, Congress passed an emergency supplemental border appropriations bill, providing funding for 1,000 *additional* Border Patrol agents and 250 new Customs and Border Protection Officers.⁸ It augmented federal law enforcement in the Southwest border districts by adding seven ATF Gunrunner Teams, five FBI Hybrid Task Forces, additional DEA agents, equipment, operational support, and over 30 prosecutors and immigration judges.

With crime rates in the border region and unlawful cross-border traffic already at historic lows, the necessity of the flood of new resources into the border region is far from evident.

One border enforcement initiative that must be singled out for its wasteful diversion of resources is Operation Streamline, a Bush Administration program launched in 2005 that requires every person apprehended crossing the border illegally to be charged with a crime and prosecuted. Before Streamline, Border Patrol agents routinely returned first-time border crossers to their home countries, or handed them to ICE to face deportation in the civil immigration system. Pre-Streamline, U.S. Attorney's Offices near the border typically prosecuted only those migrants with criminal records or those who made repeated attempts to

unlawfully cross the border. Today, prosecutions of non-dangerous migrants make up nearly 90% of *all* federal prosecutions in the border region. So many border crossers are being prosecuted that federal courts in the Southwest now hear more than 75% of *all* the federal “criminal” prosecutions in the country.⁹

The criminal prosecution of non-violent immigration violators is having a big impact on the federal prison system. According to the U.S. Sentencing Commission, 35%, of *all* persons sentenced to federal prison were sentenced for immigration violations.¹⁰ While 50% of persons sentenced to federal prison are Latino, 60% of the Latinos sentenced are sentenced for immigration violations.¹¹ The vast majority of those sentences are for illegal entry and illegal re-entry.¹² In other words, we are incarcerating a lot more non-violent offenders. The average sentence for immigration violators is 16.6 months.¹³

THE PRICE TAG: Since 2006, American taxpayers have spent nearly \$60 billion on border security.¹⁴ Spending by Customs and Border Protection has more than doubled since 2005, from \$5.4 billion to nearly \$12 billion in this year’s House DHS appropriations bill.¹⁵ The Border Patrol’s budget alone in the FY2012 House-approved DHS appropriations bill is now more than \$3.6 billion—nearly ten times what it was in 1993.¹⁶ Since 2005, its budget has been increasing an average of \$300 million per year.¹⁷ The year-after-year increase in the Border Patrol budget, combined with the much smaller number of persons attempting to cross illegally, has increased the cost per apprehension to \$7,500 per person,¹⁸ a 500% increase since 2005.

In addition to the billions we are spending for Border Patrol, it is costing taxpayers an additional \$110 million each year to station 1,200 National Guard troops along the border.

By September of 2009, the border fence, along with accompanying roads and lighting, had incurred costs of more than \$2.4 billion, with more yet to be built¹⁹. Each year, it costs an estimated \$75 million to maintain the fence,²⁰ which is frequently breached. According to the Government Accountability Office (GAO), as of mid-May 2009, the fence had been breached more than 3,300 times, with cost to repair each breach averaging \$1,300.²¹ Additionally, in August of 2011, 40 feet of the border fence was destroyed by Arizona rain waters costing an approximate \$31,000 in damage²².

For a time, policy makers were enamored of the *virtual fence* to supplement the physical fencing and barriers. That idea proved to be a costly failure. In four years, more than \$1 billion was spent on the *SBI*net program, which Secretary Napolitano suspended in 2010 and ultimately canceled in 2011 for failing to meet implementation and operational requirements.²³

Operation Streamline, the program mentioned above that has skewed federal prosecutorial resources towards the prosecution of non-violent immigration violators, is estimated to cost \$360 million per year in Arizona and Texas alone. This is money that is not being spent on the pursuit of drug cartels, violent criminals, and other public safety threats.²⁴

OPPORTUNITY COSTS – NEGLECT OF PORTS OF ENTRY: Fortifying the border between ports of entry has been politically popular. Infrastructure at ports of entry has not had the same political *caché*. The Office of Field Operations, the component of CBP that manages all of the staff and infrastructure at the ports of entry, saw its budget increased only 17%, during the same period (1993 to 2010) in which the Border Patrol budget increased 875%.²⁵ Ports of entry on the Southwest border have not been adequately updated or renovated in decades, despite handling

far more traffic than the Northern border ports, nearly all of which have been expanded and retro-fitted in recent years.²⁶

This imbalance has consequences. Not surprisingly, experts estimate that just 30% of those attempting illegal entry at ports of entry are caught, versus a 70% apprehension rate between ports of entry.²⁷ It is estimated that 90% of illegal drugs enter the U.S. at ports of entry, which also serve as the conduit for nearly all the bulk cash and guns being smuggled into Mexico.

Local economies also pay dearly because our ports of entry infrastructure is inadequate. A 2006 study estimated that wait times at the border due to insufficient lanes, inspectors, and technology at ports of entry results in about \$2 billion in lost economic output in the San Diego region alone, every year.²⁸ Each additional 15 minutes of wait time at ports of entry represents an additional \$1 billion loss in productivity and a loss of 134,000 jobs in the bi-national border region.²⁹

Spending Analysis for Interior Immigration Enforcement

Highlights

- **The Obama Administration is deporting a record number of undocumented immigrants.**
- **The government spends an estimated \$23,000 to deport each individual.**
- **In 2011, ICE expected to jail more than five times the number of immigrants it detained in 1994—430,000.**
- **Detaining immigrants costs the government an average of \$166 per night per individual.**
- **The Administration's request for detention and custody operations alone for Fiscal Year 2012 was \$2.1 billion.**
- **By using cheaper alternatives to detention, the government could save \$4.4 million a night.**

The Obama Administration has presided over more than one million deportations.³⁰ A record was shattered when 397,000 non-citizens were deported in FY 2011, more than any other year in American history.³¹ This level of enforcement inside our borders does not come without significant cost. While the Administration has increased the number of deportations of people who have been convicted of crimes, nearly half of those deported in 2011 had no criminal record. In August 2011, Secretary Napolitano reiterated that DHS will adhere to a strategic deportation approach that focuses first on high-priority immigration violators. If implemented successfully, that approach might rein in the skyrocketing spending on enforcement.

The highly controversial Secure Communities program is designed to allow ICE to identify noncitizens who have been booked into local jails by searching fingerprint databases.³² While Secure Communities has led to the deportation of non-citizens convicted of a crime, it has also led to the deportation of thousands of individuals who have committed no crime at all. The fact that so many individuals referred to ICE through Secure Communities fall outside the Administration's stated enforcement goals has raised concerns in immigrant communities and undermined trust in the police in those communities.³³ Despite these concerns, the Administration requested—and Congress is proposing to spend—\$184 million on Secure Communities in FY 2012, a 35% increase over what was spent in FY 2011.³⁴

In the 287(g) program, in which state and local police officers receive training to enforce immigration laws, about half of those held for ICE are people who have committed traffic violations.³⁵ This program has proven to be problematic, with allegations of civil rights abuses of legal residents and community distrust of police. The Inspector General of the Department of Homeland Security noted in 2010 that ICE could not document that 287(g) funding was used as intended. The program cost taxpayers \$68 million in FY 2011. The Inspector General also raised the concern that ICE had not established a comprehensive approach for determining whether 287(g) program goals for removing criminal aliens who pose a threat to public safety are being achieved.³⁶

ICE operations demonstrate an overreliance on the costly and inappropriate institutional detention complex. The federal immigration detention system has also grown dramatically over the past several years. In FY 1994, 81,000 persons were held in detention facilities for immigration enforcement purposes. By the start of FY 2011, ICE was expecting the annual number of immigration detainees to rise to 430,000—more than five times the 1994 number.³⁷ Many of the detainees in ICE’s custody have no criminal record. To make matters worse, poor conditions in ICE’s network of immigration jails have been a source of outrage and lawsuits for years.³⁸

Nearly 50% of immigration detainees are held in prisons built and operated by private prison companies,³⁹ which become the recipients of lucrative government contracts thanks to Congress’ failure to fix the broken immigration system. The industry will have a stake in maintaining the status quo. Nevertheless, it makes no sense for government to spend dearly to keep individuals in facilities designed for punishment and isolation. There are tested and fiscally sound options to ICE’s current over-incarceration of immigrants, such as Alternatives to Detention programs, which can ensure that individuals appear for their immigration proceedings for a lot less money.

THE PRICE TAG: The Administration has shown that it can identify, detain and deport record numbers of noncitizens—at an enormous cost to taxpayers. ICE estimates it costs the government \$12,500 to deport each individual,⁴⁰ but when all the costs of apprehension, detention, legal processing, and transportation are added up, the government spends more than \$23,000 to deport each person⁴¹. That translates to a cost of \$4.5 billion spent in 2010 deporting the nearly 200,000 individuals who are not a threat to public safety or national security.

ICE’s budget for Fiscal year 2012, should the House-passed appropriations bill prevail, would represent an increase of more than 57%—from \$3.5 to \$5.5 billion—between 2005 and 2012. For detention and removal operations alone, ICE would receive \$2.8 billion for Fiscal Year 2012 and increase the amount of detention beds to at least 34,000.⁴²

With the average cost of detaining an individual in a jail-like facility at \$166 per day,⁴³ even using the most expensive alternatives to detention models could save ICE more than \$4.4 million a night if it only detained individuals who have committed violent crimes—an annual savings of over \$1.6 billion or an 80% reduction in costs.⁴⁴

ADDITIONAL COSTS – STRAINED COURTS: Other concerns arise from the perpetual growth of immigration enforcement inside our borders. While billions are spent to detain and remove immigrants, the budget for immigration courts responsible for hearing and adjudicating immigration cases has barely grown. Record numbers of cases have been jammed into the immigration court system, leading to staggering backlogs. The immigration courts not only hear

and adjudicate the claims of individuals facing deportation, they perform a critical check on the enforcement authority of DHS and must be funded at a level that allows them to perform their oversight role in an expeditious fashion. A recent policy announcement by DHS and the White House indicates that some relief may come to the strained immigration courts through a review of the 300,000 pending cases and the closure of low-priority cases. When implemented, this strategy could allow overburdened Immigration Judges and ICE attorneys to dedicate their resources more strategically.

Spending Analysis for Current and Proposed E-verify Laws

Highlights:

- If E-Verify were made mandatory, it would cost the government more than \$1 billion over five years.
- The implementation of mandatory E-Verify without broader immigration reforms would result in an estimated decrease in tax revenues of \$17 billion over ten years.
- Due to errors in federal databases, an estimated 770,000 persons authorized to work in the U.S. would lose their jobs.

There are proposals circulating in Congress to expand the E-Verify electronic worker verification program by making its use mandatory for all employers in the U.S. Absent broader immigration reform, the cost of mandating the use of E-Verify would extend beyond the budget impacts on the agencies responsible for implementing the program. Libertarian, fiscally conservative organizations and some Tea Party groups have joined a growing chorus of opposition to E-Verify because of the regulatory burdens and fiscal and privacy concerns of mandatory E-Verify legislation.⁴⁵

The Department of Homeland Security estimates it would need \$765 million to \$838 million over four years to operate the program and the Social Security Administration estimates it would require \$281 million over five years to do the same.⁴⁶ However, if the status of current unauthorized workers is not resolved in broader reform legislation, it is anticipated that many employers would adapt to E-Verify by shifting immigrant laborers off the payrolls and into the underground economy. When Arizona implemented a mandatory E-verify law in 2008, it saw income tax collection drop by 13%.⁴⁷ According to the non-partisan Congressional Budget Office, if made mandatory, E-verify would decrease federal tax revenue by \$17.3 billion over 10 years.⁴⁸ Furthermore, mandatory E-verify would cost small businesses \$2.6 billion a year.⁴⁹ At the current rate at which the program incorrectly identifies workers as unauthorized, an estimated 770,000 legally authorized American workers would lose their jobs if the program were to become mandatory⁵⁰—further depressing tax revenue.

Savings Recommendations

ON THE BORDER, END UNNECESSARY INCREASES IN STAFFING, STOP UNPROVEN AND WASTEFUL INITIATIVES, AND SHIFT FUNDING PRIORITIES TO PORTS OF ENTRY TO INTERCEPT ILLEGAL ACTIVITY AND SUPPORT COMMERCE, TRADE, AND TOURISM

- Scrap Operation Streamline, **saving more than \$350 million** per year for the prosecution of real crimes.
- Stop annual *increases* in the budget of the already over-resourced Border Patrol. **Savings: \$300 million per year.**
- End the unnecessary deployment of the National Guard to our Southwest Border. **Savings: \$300 million per year.**
- Shift some of the savings realized by ending programs mentioned above to staffing and infrastructure at ports of entry. The GAO estimates that 6000 new personnel are needed at ports of entry to prevent smuggling in to and out of the U.S. and to facilitate travel and trade.

FOCUS ENFORCEMENT ON THREATS TO PUBLIC SAFETY AND NATIONAL SECURITY

- Programs that persistently fail to meet Administration goals or are riddled with incurable flaws, as the 287(g) program has been, should be terminated. Ending 287(g) would **save \$68 million per year.**
- ICE's detention operations should maximize cost-savings programs, and should utilize detention only when able to justify the expense and rationale for detaining an individual facing removal proceedings. ICE could **save more than \$1.6 billion annually** if it only detained individuals who have committed violent crimes. ICE should continue to reform its immigration detention facilities.

INCREASE FUNDING FOR THE IMMIGRATION JUSTICE SYSTEM TO KEEP PACE WITH ENFORCEMENT-GENERATED CASELOAD

- Funding for the adjudication of proceedings in immigration courts should keep pace with funding for immigration enforcement. Otherwise, immigrants languish in detention, awaiting a hearing, while costs to the government mount.
- Programs such as the Legal Orientation Program, which assists detainees to represent themselves before the immigration court, make the immigration court system function more efficiently, and provide the potential for significant avoidance of detention costs.

Conclusion

While Congress addresses budget gaps, it must look at wasteful programs that may provide tough-looking political sound bites but are draining our nation's coffers. We are experiencing record immigration enforcement and the accompanying unprecedented government spending—more Border Patrol agents than ever before, more surveillance technology, more employers being scrutinized and fined, more apprehensions and deportation, more immigrants in detention.

To date, politicians have been satisfied to spend ever-greater sums for enforcement that is neither smart nor effective. Enforcing broken laws does not serve our interests as long we remain without an immigration system that works for today's America. If immigrants have a functional system to go through, fewer will need to go around it. As we have noted in this paper, we could easily end funding for many enforcement programs, saving more than \$2.6 billion per year while at the same time keeping the focus on individuals who actually pose a threat to public safety. Enforcement would become more targeted and would lead to smarter spending.

The millions of undocumented immigrants who have been living in the United States for years are already integrated into our economy. Instead of spending more than \$5 billion year after year to track down, detain, and deport these immigrants, we should implement a program that requires all unauthorized immigrants to register with the government, pay a fine or pay any owed back taxes and learn English. A legalization program would be a true and lasting revenue generator. According to the Immigration Policy Center, a legalization program will boost the U.S. economy by an estimated \$1.5 trillion in added U.S. gross domestic product over a 10-year period, which includes approximately \$1.2 trillion in consumption and \$256 billion in investment.⁵¹

Doing more of the same—spending ever greater sums on nonsensical enforcement and keeping the undocumented from contributing to their potential will postpone our recovery and make it more difficult to reduce government deficits.

¹ United States Cong. House. 112th Congress, 1st Session. HR 1717. *Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2012, and for other purposes.* (Introduced in the U.S. House; May 26, 2011). 112th Cong., 1st sess. Congressional Bills, GPO Access. Web. 24 Aug. 2011. <http://www.gpo.gov/fdsys/pkg/BILLS-112hr2017rh/pdf/BILLS-112hr2017rh.pdf>. As of this writing, the Senate had not yet passed its DHS appropriations bill for the Fiscal Year 2012. A draft of the Senate bill, which has passed the Senate Appropriations Committee, is available at: <http://www.gpo.gov/fdsys/pkg/BILLS-112hr2017rs/pdf/BILLS-112hr2017rs.pdf>.

² Department of Homeland Security, "Fact Sheet: Southwest Border Overview," (http://www.dhs.gov/files/gc_1287434745257.shtm) and Yearbook of Immigration Statistics, various issues.

³ Politifact, "Obama Says Border Patrol-has Doubled Number Agents Since 2004" May 2011.

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⁸ National Immigration Forum, "Evaluating Supplemental Border Appropriations (HR 6080)," Aug. 2010.

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⁹ Russell Goldman, "What's Clogging the Courts? Ask America's Busiest Judge," ABC News, Jul. 23, 2008.

<http://abcnews.go.com/TheLaw/story?id=5429227&page=1>.

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¹¹ Ibid.

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¹³ U.S. Sentencing Commission, p. 31.

¹⁴ Immigration Policy Center, “Explaining the Recent Decline in Unauthorized Migration,” Sept. 9, 2010, graph of Homeland Security budgets for CBP, available at <http://www.immigrationpolicy.org/just-facts/explaining-recent-decline-unauthorized-migration>. The amount for the fiscal year 2011 budget came from Department of Homeland Security, “Congressional Budget Justification, FY 2012,” page 480, available at: <http://www.dhs.gov/xlibrary/assets/dhs-congressional-budget-justification-fy2012.pdf>.

¹⁵ United States Cong. House. 112th Congress, 1st Session. HR 2017. *Making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2012, and for other purposes.* (Introduced in the U.S. House; May 26, 2011). 112th Cong., 1st sess. Congressional Bills, GPO Access. Web. 24 Aug. 2011. <http://www.gpo.gov/fdsys/pkg/BILLS-112hr2017rh/pdf/BILLS-112hr2017rh.pdf>.

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