



Statement for the Record

U.S. House of Representatives Committee on House Homeland Security

"Open Borders: The impact of Presidential Amnesty on Border Security"

December 2, 2014

Founded in 1982, the National Immigration Forum (Forum) works to uphold America's tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and our communities, protect refugees, encourage newcomers to become new Americans and promote equal protection under the law.

Introduction

The National Immigration Forum (the Forum) thanks the Committee for the opportunity to provide its views on this hearing to discuss the matter of American border security. While it is important to consider what impact the executive actions announced by the President addressing immigration may have on border security, we believe that passing broad immigration reform would have the most significant impact on border security. Heads of border agencies under both Republican and Democratic Administrations have stated that the best way to improve border security is to fix the immigration system by providing legal avenues for workers to enter the United States when needed and allow families to reunify. We urge the members of the Committee not to lose focus on the on-going need to fix our broken immigration system through broad reform that includes a path to eventual citizenship.

We believe the current conversation around border security and immigration reform is different. In the past two years, an alliance of conservative faith, law enforcement and business leadership has come together to forge a new consensus on immigrants and America. These relationships formed through outreach in the evangelical community, the development of state compacts, and regional summits across the country.

Due to these relationships the National Immigration Forum launched the Bibles, Badges and Business for Immigration Reform Network (BBB) to achieve the goal of broad immigration reform. Targeting key states through a combination of field events, media coverage and direct advocacy BBB and its partners have had more than 700 meetings with Members of Congress and their staffs and held 303 events in key congressional districts across 40 states in the past year.

That is why as the Committee discusses border security, it is important that the discussion not become singularly focused on immigration enforcement. When it comes to border security, we need effective enforcement that is humane and transparent and takes into account the impact on the 15 million people who live along our borders. Smart enforcement and border security, coupled with immigration reforms that promote legal immigration, can improve security at the border and make our ports of entry more efficient for commerce. Moreover, this will allow law enforcement and border officials to put fewer resources toward economic migrants and more resources toward the true criminal and terrorist threats.

Congress must avoid repeating the mistakes of the 1986 Immigration Reform and Control Act, which resolved the status of most undocumented immigrants but failed to provide for adequate future flows of legal immigrant labor. That oversight more than anything contributed to the continued flow of undocumented immigrants into the country over any resolution of people's legal status. This summer's influx of unaccompanied children and families is not due to a lack of enforcement at our border, but rather, it is because the antiquated immigration system is not set up to deal with the humanitarian crisis in Central American and the unexpected influx of women and children seeking refuge.

On Capitol Hill, "border security first" is a common refrain in any conversation about immigration reform. Senate bill S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013, mandated that an additional \$38 billion be spent on border security and that the size of the border patrol be doubled. This approach failed to take into account the progress already made at the border but set achievable conditions for legalization to move forward. Many members of the House of Representatives have echoed that the border must be secure before Congress addresses other parts of the broken immigration system. That would require a determination — by an entity to be determined — that the border were secure before other provisions of immigration reform legislation could take effect. The Forum has written extensively on the need for smart enforcement at our nation's borders. To see a more detailed analysis on smart enforcement at our borders please see the Forum's papers: "[What Does Smart and Effective Enforcement Look Like?](#)", "[The 'Border Bubble': A Look at Spending On U.S. Borders](#)" and "[Cut Here: Reduce Wasteful Spending on Immigration Enforcement.](#)" As the House examines the issue of border security, we would encourage the House to look closely at the effectiveness, and "return on investment" of the spending on personnel and technology for border security.

Enforcement Today

In recent years, there has been an incredible amount of progress improving the level of enforcement at our borders. Accordingly, any additional increases in border security should be done in a smart and conscientious manner. Millions of dollars have been spent in the last decade as more money has been poured into border technology without metrics to show how effective these investments have been. In spite of this, the measurements we do have, show that our border is more secure than ever.

Currently, the entire Southwest border is either “controlled,” “managed,” or “monitored” to some degree. A record 21,370 Border Patrol agents continue to be stationed at the border, a number that does not include the thousands of agents from other federal agencies, including the Drug Enforcement Agency (DEA), the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Federal Bureau of Investigations (FBI), and other agencies, supplemented by National Guard troops.

Out of the 652 miles that the Border Patrol feels is operationally necessary, 651 miles of border fencing had been built that the Border Patrol feels is operationally necessary. The fence now covers almost the entire length of the border from California to Texas. There is double fencing in many areas. CBP relies heavily on technology in order to secure the United States’ borders and ports of entry.

CBP now has more than 250 Remote Video Surveillance Systems with day and night cameras deployed on the Southwest Border. In addition, the agency relies on 39 Mobile Surveillance Systems, which are truck-mounted infrared cameras and radar. CBP has also sent Mobile Surveillance Systems, Remote Video Surveillance Systems, thermal imaging systems, radiation portal monitors, and license plate readers to the Southwest Border. CBP also currently operates three Predator B unmanned aerial drones from an Arizona base and two more from a Texas base, providing surveillance coverage of the Southwest border across Arizona, New Mexico, and Texas.

Prior to August 2006, many persons who were apprehended at the border were released pending their immigration hearing. That practice was ended in August 2006, and now nearly all persons crossing the border illegally are detained. Immigration and Customs Enforcement (ICE) is now funded to hold 33,400 individuals in detention at any given time. Over the course of the government’s fiscal year 2013, ICE reported that it detained more than 441,000 individuals, an all-time high and 118,000 more than the 311,000 individuals who were detained in 2007. For fiscal year 2013, ICE reported that it had removed nearly 368,000 persons, and is now well over 2 million for President Obama’s presidency. That number is approximately 91,000 more than were removed in 2007. To read more on how the 2007 benchmarks have been met, please read the Forum’s paper “[Immigration Enforcement Today: 2007 Reform Goals Largely Accomplished.](#)” This year ICE chose to begin family detention in the Southwest in response to last year’s influx of unaccompanied children and families. Most recently ICE opened a large detention facility in Dilley, Texas which will eventually have 2400 beds. According to reports, this facility will cost [\\$298 per person per day](#). That means the new facility could cost upwards of \$261 million every year.

This enormous buildup in enforcement has had a significant effect. There will always be periodic surges like we have seen this year in border crossings but apprehensions of individuals at the border — a measure used to estimate the number of people trying to cross the border illegally — reached 40-year lows in 2013.

Land Ports of Entry Need Equal Consideration in Border Security

Unfortunately, most of the conversations about border security focus between the Ports of Entry, but the Ports are an important part of our border and national security, as well as our economic security, facilitating billions of dollars in international trade each day.

Trade and commerce at U.S. land ports of entry (POEs) have been increasing exponentially, especially across the southwestern border. The United States is Mexico's top trading partner, and Mexico is the United States' second largest export market and third largest trading partner.¹ In 2010, the value of cross-border travel at the U.S. land ports and exports with Mexico and Canada totaled more than \$791 billion.² In addition, more than 13,000 trucks bring over \$630 million worth of goods into the U.S. from Mexico every day.³ Meanwhile, three out of four of all legal entries into the U.S. occur at an official border crossing, which also translates into billions spent on tourism.⁴ The revenue gained from trade at the border generates jobs for Americans not just in border-states but all over the nation where land exports and imports reach. Customs and Border Patrol Field Operations, which oversees the flow of commerce at the ports, is under staffed. There are often long wait times to cross the border, which can detract from efficient commerce exchange, lead to billions of dollars in spoiled goods and can deter people from coming for tourism. According to the Houston Chronicle, wait times at ports of entry can take over five hours at peak times, and Bloomberg estimates the average wait is just over an hour at all times.⁵

Moreover, a 2012 Texas Border Coalition report found that because enforcement resources have been so focused *between* ports of entry, individuals illegally entering the U.S. between the land ports of entry have a 90 percent chance of being apprehended, but those entering illegally through a land port have a 28 percent chance of being apprehended.⁶ The understaffing also leaves land ports more susceptible to transnational drug and weapons smuggling. This startling report, coupled with long wait times at ports of entry that hinder the flow of commerce and trade from Mexico, makes clear the need for improvements at our ports of entry, including infrastructure, personnel and technology.

¹ The Wilson Center, Erik Lee and Christopher Wilson, "The State of Trade, Competiveness and Economic Well-being in the U.S.-Mexico Border Region," available at http://www.wilsoncenter.org/sites/default/files/State_of_Border_Trade_Economy_o.pdf.

² U.S. Department of Transportation Bureau of Transportation Statistics, Trans-Border Freight Data, available at <http://www.bts.gov/programs/international/transborder>.

³ U.S. Department of Commerce, Bureau of the Census, Foreign Trade Division annual report, 2010, Washington, D.C.

⁴ GAO-08-329T: *Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Border Crossings*, Statement of Richard M. Stana, Director Homeland Security and Justice Issues, Washington, DC, January 3, 2008, available at <http://www.gao.gov/assets/120/118716.pdf>.

⁵ Transportation management system company, "US-Mexico border delays impact carriers' regional distribution activities" available at, <http://appian.tmwsystems.com/industry-news/us-mexico-border-delays-impact-carriers-regional-distribution-activities>.

⁶ Texas Border Coalition, *Without Strategy: America's Border Security Blunders Facilitate and Empower Mexico's Drug Cartels*, January, 2012, available at http://www.texasbordercoalition.org/Texas_Border_Coalition/Welcome_files/TBC%20Report-Without%20Strategy-Final.pdf.

In a positive move, the FY 2014 budget allocated funds to hire new officers, including 2,000 to be stationed at the busiest ports of entry to help decrease wait times and speed the flow of traffic,⁷ and the President's FY 2015 budget requested funding for an additional 2,000.⁸ However, it is unclear whether these additions are sufficient for CBP to succeed in its mission of facilitating trade and tourism at POEs.

Agent Training and Oversight

All of the efforts described above have demonstrated that the government can, and is capable, of enforcing our immigration laws. Yet, there are still smart, practical enforcement measures that can be adopted to further strengthen border security, including providing adequate border agent training, providing adequate resources and infrastructure at U.S. land ports of entry, establishing sufficient oversight mechanisms and procedures to hold agents accountable for misconduct, and effective use of border technology.

As Congress and CBP identify POEs where infrastructure should be expanded, begin awarding large contracts, and increase staff at ports of entry, corresponding levels of additional oversight must be built in. Between 2005 and 2012, there were 2,170 reported incidents of misconduct by CBP, and a total of 144 current or former CBP employees were arrested or indicted for corruption-related activities.⁹ In a report examining CBP's efforts to mitigate that problem, GAO found that while CBP has implemented integrity programs, including standardized training throughout agents' careers, it still struggles with managing and overseeing these programs—in part because rapid hiring has made it difficult for the agency to keep up.¹⁰ For example, although CBP established a quality assurance program in 2008 to review completed investigations on a monthly basis to ensure timeliness and quality and identify deficiencies, the Personnel Security Division tasked with undertaking this review reports that they have been unable to complete the required monthly checks because they have instead prioritized resources to screen new applicants to meet CBP's hiring goals. A December 2011 report from the Government Accountability Office (GAO) found that CBP does not have reliable training completion records to ensure officers received required training. It also found that more than 4,000 officers had not completed required courses in immigration fundamentals, immigration law and agricultural fundamentals.¹¹ A 2011 report by Appleseed concluded that CBP agents are not adequately screening unaccompanied alien children apprehended at POEs from contiguous countries to ensure they are not a potential victim of

⁷ Laura Martinez, \$225M to hire more CBP officers, *The Brownsville Herald* (Jan. 17, 2014), available at http://www.themonitor.com/news/local/article_6b5a6786-7fd8-11e3-90cc-0019bb30f31a.html.

⁸ Budget-in-Brief Fiscal Year 2015, U.S. Dep't. of Homeland Security, <http://www.dhs.gov/sites/default/files/publications/FY15BIB.pdf>.

⁹ U.S. Gen. Accounting Office, *Border Security: Additional Actions Needed to Strengthen CBP Efforts to Mitigate Risk of Employee Corruption and Misconduct* (2012), available at <http://www.gao.gov/products/GAO-13-59>).

¹⁰ *Id.*

¹¹ Government Accountability Office, *Border Security: Additional Steps Needed to Ensure That Officers Are Fully Trained*, December 2011, available at <http://www.gao.gov/assets/590/587314.pdf>.

trafficking and have no claim to asylum.¹² Despite the documented incidents of misconduct, CBP has not put in place sufficient mechanisms to ensure proper training and oversight within its ranks.

CBP committed to addressing this problem by completing a comprehensive integrity strategy, which would coordinate integrity-related initiatives across all CBP components, including Office of Internal Affairs, Office of Field Operations, and Border Patrol, and would integrate prevention, detection, and investigative initiatives for each. Although the agency set a deadline for finalizing the strategy by May 2013 in its FY 2009-14 Strategic Plan and GAO recommended finalizing it in 2012, it remains unfinished.¹³ CBP officials stated in July 2013 that the strategy was undergoing final clearance within the agency but since then there have been no announcements. CBP must demonstrate its commitment to improving its ethical track record by completing and fully implementing the strategy. The Committee should require CBP to report regularly to Congress and the public its progress in developing and implementing a comprehensive integrity strategy. Another major step CBP can take is to fix its complaint process as part of a DHS agency-wide complaint system. The current CBP complaint system is woefully inadequate, inaccessible, and fraught with obstacles that make it extremely difficult for individuals to file complaints effectively and for CBP to manage them. The confusion begins with determining where to submit a complaint—because there is no central point of contact at CBP,¹⁴ complaints often go to the wrong entity within DHS, and are seldom redirected. As a result, complainants often wait years for a response. Within DHS, there is no mechanism for properly tracking complaint trends and using that information to analyze policies, procedures, and budgets. For example, in a recent audit, the OIG found that CBP’s case management system for use of force incidents and complaints was inadequate, and that CBP should better analyze use-of-force data to inform Departmental decision-making.¹⁵ CBP should develop a transparent, universal, multilingual complaint process, easily accessible both online and via a toll-free number, and prominently displayed in multiple languages at all detention facilities, ports of entry, interior checkpoints, and marked CBP vehicles.

Recommendations

The National Immigration Forum recommends the following:

¹² Appleseed, “Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors,” 2011 available at, <http://appleseednetwork.org/wp-content/uploads/2012/05/Children-At-The-Border1.pdf>.

¹³ U.S. Gen. Accounting Office, U.S. Customs and Border Protection Provides Integrity-Related Training to Its Officers and Agents throughout Their Careers (2013), available at <http://www.gao.gov/products/GAO-13-769R>.

¹⁴ CBP’s recent guidance on nondiscrimination directs individuals to file complaints with six different Departmental entities. U.S. Customs and Border Protection, “CBP Policy on Nondiscrimination in Law Enforcement Activities and all other Administered Programs,” (April 2014), available at http://cbp.gov/linkhandler/cgov/admin/fl/eo/funded_programs/nond_in_enf.ctt/nond_in_enf.pdf

¹⁵ DHS Office of Inspector General, “CBP Use of Force Training and Actions To Address Use of Force Incidents,” (September 2013), available at http://www.oig.dhs.gov/assets/Mgmt/2013/OIG_13-114_Sep13.pdf.

- **Fix our broken immigration system:** Passing broad immigration reform would have the most significant impact on border security. Heads of border agencies under both Republican and Democratic Administrations have stated that the best way to improve border security is to fix the immigration system by providing legal avenues for workers to enter the United States when needed and allow families to reunify.
- **Do not have singular focus on enforcement:** A singular focus on border enforcement will not result in truly secure borders. The U.S. population as well trade and commerce at U.S. land ports of entry have been increasing significantly in recent years necessitating more nuanced border policies. Certainly, we must do what we can to ensure that real threats cannot exploit our borders to do harm. But smart enforcement and border security, coupled with immigration reforms that promote legal immigration, can improve security at the border and make our ports of entry more efficient for commerce.
- **Additional Infrastructure and Personnel:** Customs and Border Patrol Field Operations, which oversees the flow of commerce at the ports, is under staffed. There are often long wait times to cross the border, which can detract from efficient commerce exchange, lead to billions of dollars in spoiled goods and can deter people from coming for tourism.
- **Additional Training and Oversight of CBP:** As the nation's largest law enforcement agency CBP should be trained and held to the highest law enforcement standards. Systemic, robust and permanent oversight and accountability mechanisms for CBP must part of any discussion on border security which includes equipping all CBP personnel with body-worn cameras and reforming DHS complaint systems to provide a transparent, uniform process for filing complaints
- **New Border Security Metrics:** DHS needs to develop additional metrics to measure border security. The current lack of metrics has greatly contributed to the public's lack of clarity surrounding our nation's border security. It has also made it difficult for members of Congress to hold the agency accountable and to know what additional resources are needed or unnecessary in order to secure our border.

Conclusion

Continued advancements in enforcement will depend on broader reforms to our broken immigration laws so that enforcement resources can target real threats. The American people want better immigration policy. Multiple national polls over the last month show solid support for solutions that include, in addition to reasonable enforcement, creating improved and new legal channels for future immigrants and establishing tough but fair rules to allow undocumented immigrants to stay and continue to work in the U.S. and eventually earn U.S. citizenship. We cannot simply spend or enforce our way to a solution on illegal immigration. Border security, while important, is only part of the picture. Immigration reforms that promote legal immigration and smartly enforce immigration laws can improve the security at the border, drying up the

customers for criminal enterprises that prey on migrants, and letting our border agencies focus on more dangerous threats such as terrorists, drugs, weapons and money.

Our immigration problem is a national problem deserving of a national, comprehensive solution. The Forum looks forward to continuing this positive discussion on how best to move forward with passing broad immigration reform into law.