



Border Security: History & Issues for the 116th Congress

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General Introduction

President Donald Trump has made constructing a border wall along the U.S.-Mexico border one of his highest priorities and a critical component of his immigration policy. In January 2017 President Trump issued an Executive Order calling for the construction of a wall along the Southwest border.

According to a recent analysis by Taxpayers for Common Sense, the U.S. government has spent \$9.7 billion on border barrier construction since 2007, almost entirely for construction along the Southwest border.

This briefing provides context for the current debate about the effectiveness and costs of a wall or other physical barriers by providing an overview of recent history of immigration patterns and security spending on the southern border.

A Brief History of Illegal Immigration into the United States

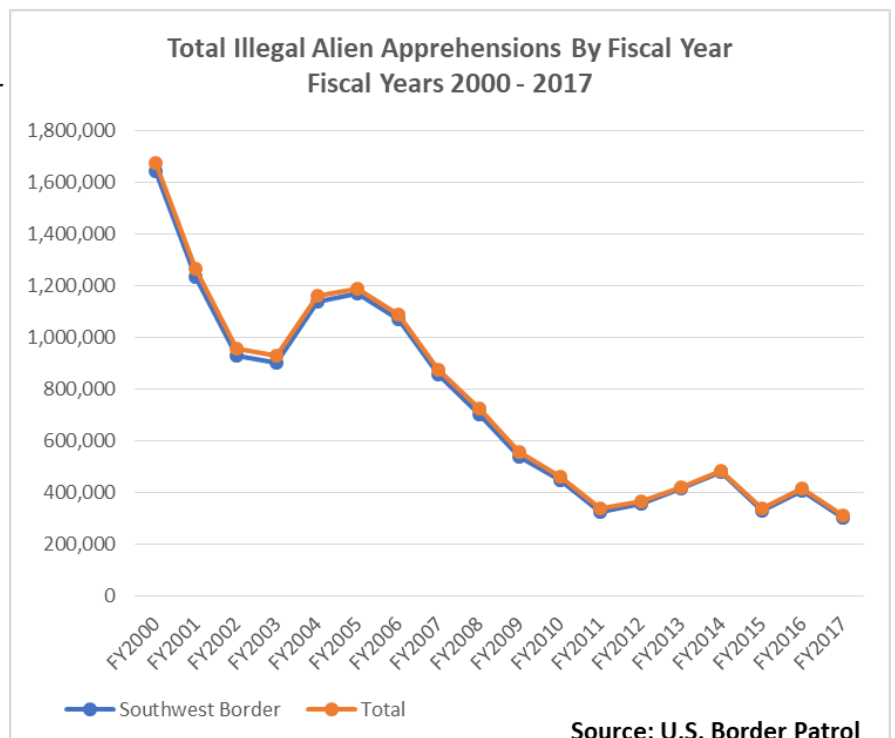
The 1980s and 1990s saw a tremendous increase of illegal immigration and drug trafficking into the United States. The Government Accountability Office (GAO) estimated that in 1988 the total number of illegal aliens that entered the United States was between 1.3 million to 3.9 million people, and that the vast majority, between 1.2 million to 3.2 million, entered across the Southwest border.¹ As a result, the United States Border Patrol (USBP) deployed additional agents and modern technology to specific areas of the Southwest border identified as high-traffic areas, including El Paso, TX and in San Diego, CA, with positive results.

During the late 1990's additional deployments of personnel and technology, along with initial construction of physical barriers along the border continued to reduce the amount of illegal immigration across the Southwest border.

Immigration Since 2000

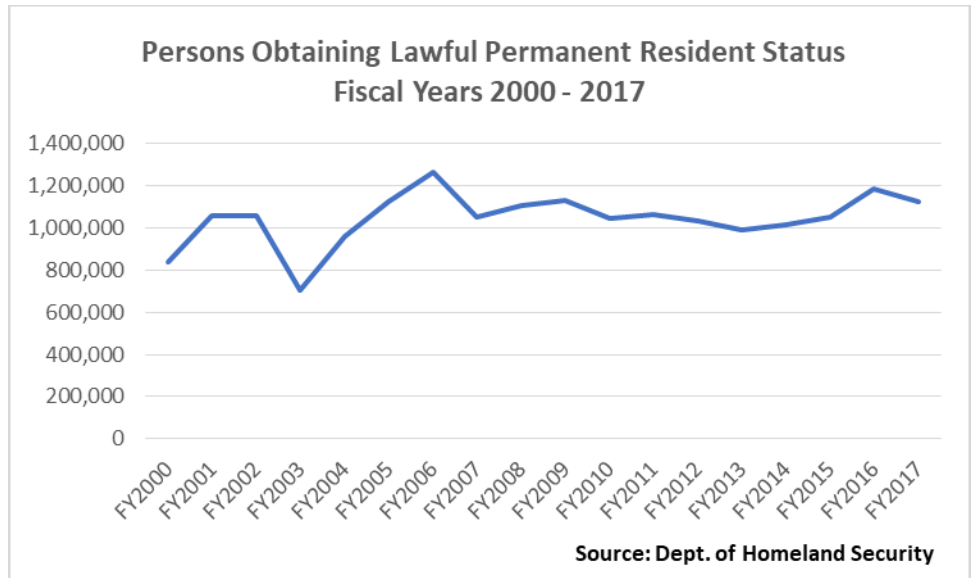
Over the last 20 years, while the number of legal immigrants into the United States has stayed roughly stable, the number of people attempting to enter the country illegally has declined dramatically.

- According to the U.S. Customs and Border Protection Service (CBP), illegal immigration apprehensions along the Southwest border dropped to 1.6 million in 2000.²
- These figures continued to decline, reaching 303,916 in Fiscal Year 2017.³
- Legal immigration into the United States has stayed roughly steady over the same period, accounting



for about 1 million persons annually.⁴

- Most foreign nationals who are granted lawful permanent residence (i.e., immigrants who receive a "green card") are individuals who are immediate relatives of U.S. citizens, accounting for 46 percent of all legal immigration in 2017.⁵



Visa Overstays

It is important to note that most unauthorized foreigners in the United States would not be stopped by physical barriers. According to the Department of Homeland Security, the number of unauthorized foreigners here in the U.S. is heavily driven by people who overstay their visas. In fact, asylum seekers and unaccompanied child migrants typically enter through designated Ports of Entry and present themselves to authorities rather than cross at unguarded stretches of the border.

- DHS estimated that 701,900 unauthorized foreigners overstayed their visa in Fiscal Year 2017.⁶
- That year the number of migrants apprehended for illegally entering the country was 310,531.⁷
- The number of visa overstays in Fiscal Year 2017 exceeded the number of people apprehended by law enforcement by roughly 226 percent.
- According to a recent report by the Center for Migration Studies, 2017 was the seventh consecutive year in which visa overstays exceeded the number of individuals who entered the country by crossing the border illegally.⁸

Drug Interdiction

Halting the flow of illegal narcotics into the United States is a high priority for the U.S. government, which allocates considerable resources through a number of federal agencies, including the Department of Homeland Security, the Justice Department, and the Defense Department to halt drug smuggling.

- The Drug Enforcement Agency (DEA) reported in its annual "National Drug Threat Assessment"⁹ that in 2017, 93 percent of the cocaine in the United States came from Colombia.
- DEA estimates that over 80 percent of the cocaine smuggled into the United States comes through Eastern Pacific zone, which includes the Southwest border region.
- DEA considers the Southwest border to be the primary entry point for cocaine, heroin, fentanyl, methamphetamine and marijuana into the United States.
- According to the DEA the flow for a majority of these drugs (with the exception of marijuana) is in privately owned vehicles and commercial tractor-trailers entering the United States at legal Ports of Entry.

Federal Jurisdiction

The U.S. Border Patrol (USBP) is the federal agency with primary responsibility for controlling the nation's borders. USBP is a part of the U.S. Customs and Border Protection Service (CBP). Together with other federal agencies – primarily the U.S. Immigration and Customs Enforcement (ICE) and the U.S. Coast Guard – USBP works to halt the flow of illegal immigrants, goods and terrorists into the United States while facilitating lawful international travel and trade. The Border Patrol was officially established by Congress in 1924 in response to increased illegal immigration. The Department of Homeland Security is the lead federal agency on protecting U.S. borders, and includes the CBP, ICE and the Coast Guard.

Prior to the creation of the Department of Homeland Security in March 2003, the various agencies involved in immigration and border issues were spread across several departments. These included the Immigration and Naturalization Service (INS) under the Department of Justice, the U.S. Customs Service under the Department of the Treasury, and the Coast Guard within the Department of Transportation.

Early Border Construction Initiatives

The Trump Administration is not the first to promote the construction of physical barriers along the Southwest border. USBP first began erecting physical barriers along the Southwest border in 1990 to deter illegal entries and drug smuggling from Mexico in the area around San Diego, CA, although it did little barrier construction prior to 1996. The initial 14-mile-long San Diego "primary fence" constructed in the early 1990's was part of the USBP's "Prevention Through Deterrence" strategy intended to reduce unauthorized migration by placing agents and resources in population centers directly on the border.

DEFINITIONS BOX 1: *Physical barriers* (often referred to as Tactical Infrastructure) along our nation's borders fall into two categories: fencing primarily intended to prevent illegal border crossings by foot (referred to by DHS as "pedestrian fencing"), and barriers which have been installed to prevent vehicles crossings (referred to by DHS as "vehicle fencing"), but do not stop crossings by persons traveling on foot. Physical barriers can be permanent or temporary, i.e. they can be moved between locations, so they can be deployed in areas where heightened enforcement activities are taking place. Physical barriers are also supplemented by a wide range of technological and airborne surveillance systems.

DEFINITIONS BOX 2: *Primary Fencing* is the first layer of fencing encountered when crossing the border and may include both pedestrian and vehicle fencing. *Secondary Fencing*, located behind the primary fence, consists solely of pedestrian fencing. *Tertiary Fencing* refers to the third layer of fencing and is used primarily to delineate property lines rather than deter illegal crossings.¹⁰

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).¹¹

- IIRIRA Section 102 is the primary statute authorizing barrier construction along U.S. international borders.
- Section 102 explicitly gave the Attorney General (and now the Secretary of the Department of Homeland Security) broad authority to construct border barriers.
- The 1996 IIRIRA also authorized the construction of a secondary layer of fencing to reinforce the

- completed San Diego primary fence.
- Construction of this secondary fence stalled due to environmental objections made by the California Coastal Commission.

Congress subsequently significantly amended IIRIRA Section 102 through three enactments.¹²

- The REAL ID Act, passed by Congress in 2005, authorized the DHS Secretary to waive "all legal requirements" – including environmental considerations that might impede construction of barriers and roads under IIRIRA Section 102.
- The Secure Fence Act of 2006 directed DHS to construct 850 miles of additional border fencing along the Southwest border.
- The 2008 Consolidated Appropriations Act modified this requirement, directing Secretary of Homeland Security to construct fencing along not fewer than 700 miles of the border.

These statutory changes combined with increased Congressional funding for border projects resulted in the construction of several hundred miles of new barriers along the Southwest border between 2005, and 2011. In subsequent years, however, DHS slowed the deployment of additional fencing, as the agency shifted its enforcement strategy towards one that placed more emphasis on stationing personnel at key locations and deploying surveillance technology. In all, between Fiscal Year 2005 and Fiscal Year 2015 CBP increased the total length of primary barriers on the Southwest border from 119 miles to 654 miles. This included 354 miles of primary pedestrian barriers and 300 miles of primary vehicle barriers.¹³

CBP has focused deployment of pedestrian barriers in urban areas to shift illegal entrants away from population centers where it is easier to blend into the surrounding community. Vehicle fencing intended to slow and prevent vehicles from crossing the border has generally been deployed in more rural environments where criminal organizations engaged in trafficking and smuggling use vehicles to avoid encountering Border Patrol agents.

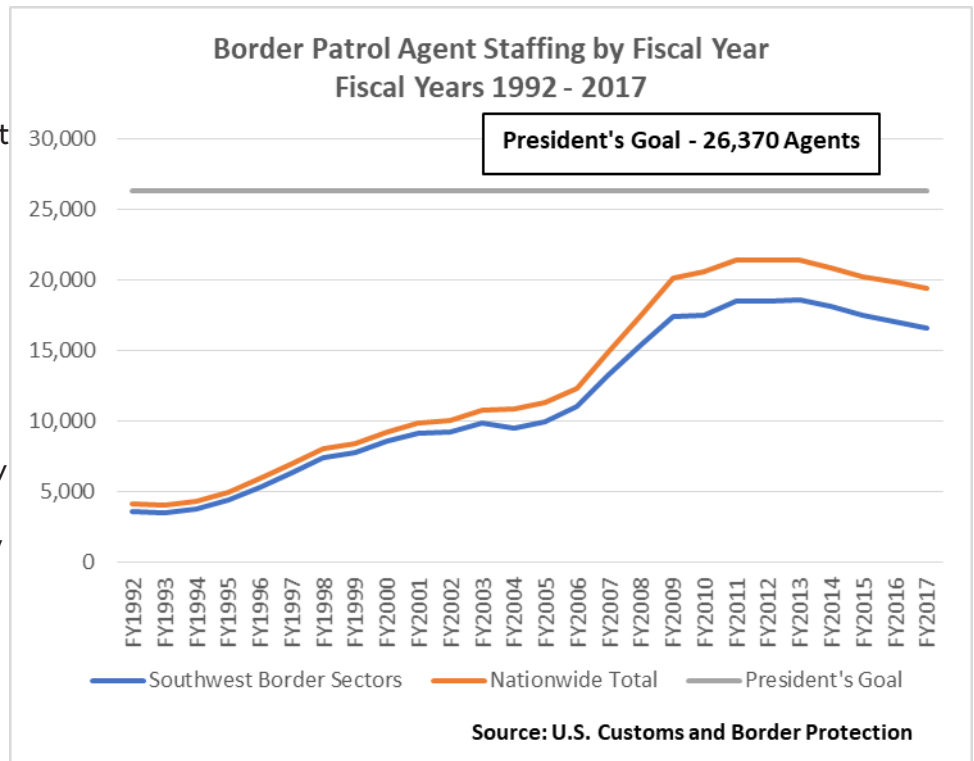
U.S. Border Patrol Staffing

In his January 2017 executive order, President Trump called for the hiring of 5,000 additional Border Patrol agents.

- From fiscal years 2011 through 2016, the Border Patrol had a statutorily-established minimum staffing level of 21,370 agents.
- USBP plans to meet President Trump's target of 26,370 agents by the end of Fiscal Year 2021.
- USBP has consistently had difficulties achieving its required minimum staffing levels.

This shortage of agents has a direct impact on the Border Patrol's ability to fully implement their deployment plans along the Southwest border. According to the Congressional Research Service the USBP deploys over 85 percent of its agents along the Southwest border given that roughly 98 percent of unauthorized migrant apprehensions by the Border Patrol occur there.¹⁴ In November 2017 GAO reported that the Border Patrol had only about 19,400 agents and noted that "Border Patrol officials cited staffing shortages as a challenge for optimal deployment."¹⁵

In a March 2018 report¹⁶ GAO cited a memo from the Acting Commissioner of CBP stating that from Fiscal Year 2013 to Fiscal Year 2016 the Border Patrol hired an average of 523 agents per year while losing an average of 904 agents per year. According to GAO, the memo cited a broad range of recruiting and retention challenges when competing with other federal, state, and local law enforcement organizations for applicants, and noted specifically that Border Patrol agents are deployed to less desirable duty locations and generally receive lower compensation.



GAO also reported that as of May 2017, the Border Patrol had 17,971 authorized agent positions in Southwest border sectors, but only 16,522 of those positions were filled – a deficit of 1,449 agents. As a result, eight of the nine Southwest border sectors had fewer agents than the number of authorized positions.¹⁷

GAO has made similar observations, reporting that within each Southwest border sector some stations are more understaffed than others.

According to USBP sector officials, recruitment and retention challenges associated with particular stations are related to quality of life factors in the surrounding area, noting that "agents may not want to live with their families in an area without a hospital, with low-performing schools, or with relatively long commutes from their homes to their duty station."¹⁸

Surveillance Technologies

To assist the U.S. Border Patrol (USBP) in its efforts to secure our nation's borders and to halt the illegal entry of individuals and goods, the Department of Homeland Security has deployed a variety of surveillance technologies, both ground-based and aerial. The Border Patrol uses these technologies to supplement its agents' ability to patrol the border.

According to CBP, the use of technology increases the effectiveness of physical barriers by improving the Border Patrol's capability to monitor the border region and respond to people approaching the barriers. Further, early detection of attempts to cross or breach barriers is critical to halting the illegal entry of individuals into the country when a barrier breach occurs, and to minimizing damage to barriers and the resulting repair costs. According to GAO, CBP recorded almost 9,300 breaches to existing barriers between 2010 and 2015.¹⁹

Background on Border Technology

USBP's current system of ground-based border surveillance technologies originated with the Integrated Surveillance Information System (ISIS), initiated in 1998 by the former Immigration and Naturalization Service (INS). In 2005 ISIS was integrated into a broader border surveillance system – the America's Shield Initiative (ASI). ASI in turn, was made part of DHS's Secure Border Initiative (SBI) in 2006, with the surveillance program renamed *SBI*net.

These systems were intended to provide complete coverage of the border region, creating a "virtual fence" along the Southwest border using sophisticated surveillance and command, control, communications, and intelligence (C3I) technologies. They consisted of a network of remote video surveillance (RVS) systems (including cameras and infrared) and sensors (including seismic, magnetic, and thermal detectors). The systems were linked to a computer network – the Integrated Computer Assisted Detection (ICAD) database. Data from multiple cameras and sensors was fed into a single central USBP control room. Border Patrol personnel monitoring the system could re-position RVS cameras toward the location where sensor alarms were tripped. Control room personnel would then alert field agents to the intrusion and coordinate the response.

All three systems struggled to meet deployment timelines and to provide the promised level of border surveillance. DHS also faced criticism of the ASI and *SBI*net systems for non-competitive contracting practices, inadequate contractor oversight and cost overruns. In January 2010, then-DHS Secretary Napolitano ordered an assessment of the *SBI*net technology and later suspended the *SBI*net contract in March 2010. The review noted *SBI*net's history of "continued and repeated technical problems, cost overruns, and schedule delays, raising serious questions about the system's ability to meet the needs for technology along the border."²⁰ Another 2010 report by GAO faulted both DHS and the program's prime contractor Boeing for mismanagement and poor oversight.²¹

DHS terminated *SBI*net in January 2011. Over the first five years of the program DHS received about \$4.4 billion for SBI, including about \$2.5 billion for physical fencing and related infrastructure, and about \$1.5 billion for "virtual fencing." In the end, DHS spent over \$1 billion for *SBI*net.²²

Current Border Technology

CBP continues to deploy surveillance technologies along the Southwest border. For example, the 2011 Arizona Technology Plan (ATP) called for deployment of a mix of radars, sensors, and cameras in Arizona, and the 2014 Southwest Border Technology Plan expanded these deployments to the rest of the Southwest border. According to GAO, as of October 2017, the Border Patrol had completed the planned deployment of select technologies under the ATP to Arizona, Texas, California, and New Mexico.²³

While information collected from field agents indicates the importance of using technology to augment physical barriers, GAO has found that CBP is currently unable to accurately assess how effective existing technologies are.

In a March 2018 report GAO noted that USBP had not yet fully implemented recommendations it made in 2011 and 2014 which would improve USBP's assessments of fielded technologies, stating that "the Border Patrol has not yet used available data to determine the contribution of surveillance technologies

to border security efforts," and that "Border Patrol officials [have] stated they are not yet able to fully assess surveillance technologies and their impact on border security operations."²⁴

President Trump's Border Wall Initiative

On January 25, 2017, as one of his first acts upon taking office, President Trump issued Executive Order 13767,²⁵ which instructed the Secretary of Homeland Security to "take all appropriate steps to immediately plan, design, and construct a physical wall along the southern border... to most effectively achieve complete operational control" of the U.S.-Mexico border. The order defines a "wall" to mean "a contiguous, physical wall or other similarly secure, contiguous, and impassable physical barrier." The order does not specify how much of the Southwest border is to be covered by this construction.

In response to the President's Executive Order, CBP established the Border Wall System Program. This program is intended to replace and add to existing barriers along the Southwest border.²⁶

In March 2017, CPB issued two Requests for Proposals (RFP) for physical barrier prototype designs for the Southwest border, one for designs using reinforced concrete and one for prototypes made of other materials. CBP later issued task orders under contracts awarded to six companies for the design and construct of eight prototypes. CBP and the Army Corps of Engineers tested the prototypes between October and December 2017 using a range of methods to attempt to climb and breach them. Based on the results, CBP identified design characteristics which could be used to customize future barrier designs for specific locations, depending on the terrain and other factors. CBP's goal was not to select a "winning" design, but rather to learn what designs might best meet the demands of certain border regions.²⁷

Is Building More Physical Border Barriers Chasing a Problem That Is Already Diminishing?

- According to CBP, in Fiscal Year 2000 there were more than 1.6 million apprehensions of undocumented immigrants on the Southwest border.²⁸
- This accounted for 98 percent of all apprehensions of undocumented immigrants nationwide.²⁹
- In Fiscal Year 2017 there were 303,916 apprehensions along the Southwest border, 18 percent of the 2000 level.³⁰

Since 2009 GAO has issued over 35 reports on the challenges facing and progress made by the Department of Homeland Security (DHS) and its various agencies in developing and deploying physical barriers, surveillance technology, personnel and other resources along the Southwest border.³¹ They have repeatedly raised concerns about the ability of DHS and its component agencies to adequately measure the relative effectiveness of barriers, technology and personnel in their efforts to control the illegal flow of persons, goods and narcotics into the United States. GAO cautions that "by proceeding without key information on cost, acquisition baselines, and the contributions of previous barrier and technology deployments, DHS faces an increased risk that the [current] Border Wall System Program will cost more than projected, take longer than planned, or not fully perform as expected."³²

Endnotes

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