

Department of Homeland Security (DHS)

SHADOW SECRETARY EDWIN S. RUBENSTEIN

The Department of Homeland Security (formerly the Immigration and Naturalization Service) has three major immigration-related missions: 1. Secure the nations borders; 2. Combat terrorism; and 3. Enforce immigration laws inside the U.S. by removing immigrants who are here illegally and preventing employers from deliberately or inadvertently hiring illegal immigrants.

The first two objectives are performed primarily by the Border Patrol. Interior enforcement is the responsibility of the Bureau of Immigration and Customs Enforcement (ICE).

The Border Patrol (BP)

At the start of Bush administration there were 9,096 Border Patrol agents. The 2008 Budget provides funding for 17,819 agents—effectively doubling BP manpower. Legislation currently being considered in the Senate would hire 18,000 new border agents, doubling BP manpower yet again.

Money for the Border Patrol increased by 70 percent since 2005, to \$3 billion (<http://www.nytimes.com/2007/10/21/us/21border.html?partner=rssnyt&emc=rss>). The 2008 budget proposes more than \$3.5 billion, and if Congress passes the new law BP spending will likely increase to \$7 billion per year.

Ending Catch and Release

The Bush Administration has ended the policy of “catch and release” along the northern and southern borders. Non-Mexicans apprehended crossing the border illegally are now detained and then returned to their home countries as quickly as possible. All non-criminal Mexican aliens are returned to Mexico immediately.

This represents a welcome policy change.

In 2005 More than 70 percent of the 98,000 illegal aliens detained by the U.S. Border Patrol from countries other than Mexico were released almost immediately onto the streets of America because of a lack of detention facilities. A lack of funding and manpower at federal detention centers nationwide forced *Border Patrol* agents into what they angrily called a “catch-and-release” policy under which apprehended OTMs are turned loose because they have overwhelmed the number of available beds.

“OTMs” are illegal aliens from countries

“Other Than Mexico.” Some come from nations identified

as state sponsors of terrorism, although most come from Central and South America, Europe and Asia. Of the 19,500 beds available for criminal aliens in 2005, and others facing deportation, only 2,500 were dedicated to OTMs and they were usually filled.

In prior years OTMs were simply given a “notice to appear” letter and released into the general population because we lacked the facilities to hold them. Only 12 percent of those receiving the letters ever showed up, with some Texas Border Patrol sectors reporting no-show rates as high as 98 percent. <http://washingtontimes.com/national/20050607-104727-5363r.htm>

Many of the at large OTMs have prior criminal records.

The shortage of detention space was alleviated by an increase in total beds (to 28,450 in the 2008 Budget) and a process known as “expedited removal” in which an arriving alien can be removed without a formal hearing if it is determined that the alien entered because of fraud or misrepresentation.

The expedited removal budgetary “math” runs like this: Prior to expedited removal, the average amount of time that an OTM spent in detention was about 90 days. Once expedited removal is implemented, the timeframe drops to about 30 days. ICE’s goal is 15 days.

At 90-days, a detention bed can accommodate

Immigration Fiscal Impact Statement

4 OTMs per year. At 18-days, the same bed can accommodate 20 OTMs. Thus expedited removal can increase OTM removal efficiency by five-fold.

It costs \$35,000 to detain an OTM for one year. That implies a cost of \$8,750 for a 90 day detention, or \$1,750 for an 18 day detention.

In FY2005 165,178 OTMs were apprehended. If the average duration of their detention were to fall from 90 to 18 days, total detention costs would decline from \$1.445 billion (165,178 times \$8,750) to \$289 million (165,178 times \$1,750), or by nearly \$1.2 billion.

Transportation costs are another matter. While Mexicans apprehended in the U.S. illegally are usually bused back within a few hours, OTMs are driven to an airport and flown back to Guatemala, Honduras, Iraq, China, or wherever else they call home. At a hypothetical \$1,000 per OTM, transporting them home would cost U.S. taxpayers \$165 million.

Homeland Security's FY2008 budget allocates \$2.2 billion to support the detention and transportation of OTMs. <http://www.whitehouse.gov/omb/budget/fy2008/pdf/budget/dhs.pdf>

Legal Border Crossers

Last year 234 million travelers entered the country legally through land border crossing from Mexico. Many were U.S. citizens who work or shop in Mexico and live in border cities like El Paso. Until recently when Americans arrived at border checkpoints they simply declared their citizenship and were waived through.

Starting on January 31, 2008 new rules will take effect that will require returning U.S. citizens to show a passport or other proof of citizenship. The requirements were approved by Congress as part of antiterrorism legislation passed in 2004.

Border agents have already stepped up scrutiny of returning Americans, slowing commerce and creating delays at border crossing not seen since the months following 9/11. Border officials warn that delays could remain a fact of life for years—or at

least until new security technology and expended entry stations are installed and until Americans get used to being checked and questioned like foreigners.

Technology is no panacea, in part because government data bases are notoriously erroneous. The Social Security Administration's database, for example, is used to determine whether workers are authorized to work in the U.S. The agency sends "no match" letters to employers when the names and SSNs of employees do not match those in its database.

But the error rate for U.S. citizens in the SSA data base is estimated to be 11 percent, meaning that about 13 million of the "bad" SSNs in 2006 belonged to U.S. citizens. As a result, a judge ordered DHS not to fine employers or initiate other actions on the basis of SSN discrepancies to "prevent irreparable harm to innocent workers and employers." [DHS:

No Match Enforcement. Migration News, October 2007. Vol.14. No 4. <http://migration.ucdavis.edu>] Similar problems could develop if U.S. citizens were erroneously prevented from entering the country on the basis of SSN discrepancies.

We will need more border crossings and more border agents to alleviate the delays—even with enhanced technology. The prospect is not good, however. While the Border Patrol's budget has increased 70 percent since 2005, financing for border station agents, who process travelers entering legally at designated crossing points, rose by just 30 percent over the same period. <http://www.nytimes.com/2007/10/21/us/21border.html?partner=rssnyt&emc=rss>

Interior Enforcement I Worksite Arrests

Most illegal aliens enter the country to work. As a practical matter, controlling the inflow of illegals is impossible so long as U.S. employers are able to hire them with impunity. The 1986 immigration act



established an employment verification process and strict sanctions against employers who knowingly hired illegal aliens.

But the effort to penalize companies for hiring illegals has languished. Counterfeit IDs plus the DHS’s unwillingness to hold employers accountable for hiring workers with these bogus documents led to a resurgence of illegal immigrants in the workforce after 1986. http://www.fairus.org/site/PageServer?pagename=iic_immigrationissuecentersff8e When the government subpoenaed employment records of large employers suspected of employing illegals, a huge outcry from the usual suspects—industry associations, Hispanic groups, and tame politicians—forced the immigration authorities to back off. <http://aolsvc.timeforkids.kol.aol.com/time/magazine/article/0,9171,995145,00.html>

“Firms Brace for Crackdown on Illegal Labor,” *Wall Street Journal*, October 1, 2007 <http://www.millerlawoffices.com/news.htm> ; Nicole Gaouette, “Immigration rules may hurt economy,” *Los Angeles Times*, August 11, 2007. http://www.house.gov/list/speech/ca50_bilbray/latimesenforce.html]

Unfortunately, DHS statistics on workplace arrests for years after 2004 are either unavailable or are combined with other actions so as to make comparisons with prior years impossible. This may reflect a desire to downplay ICE’s workplace efforts for political reasons.

In any event, the recent crackdown appears to be grossly under funded. No additional workplace enforcement agents have been hired and the fines levied on employers who hire illegals have not been increased. Instead, ICE has focused its workplace enforcement effort on new technology. An internet based system—called Basic Pilot—is

designed to enable employers to electronically check employees’ work eligibility with information in DHS and SSA databases. The 2008 Budget provides \$30 million for the Basic Pilot program.

There have already been problems reported with Basic Pilot. A GAO report <http://www.gao.gov/htext/d06895t.html> warns that its “...inability to detect identity fraud and DHS delays in entering data into its databases...” could affect future usage. Participation is voluntary. Only 8,600

employers have registered to use the Basic Pilot Program—and a smaller number actually use it.

By heightening border security without ramping up interior enforcement, DHS has made the illegal alien problem worse. Research suggests, for example, that the illegal alien population increased significantly when border security was tightened after 9/11. Seasonal migrants who previously would leave the U.S. at the end of the agricultural season and return later were, in effect, trapped by the increased border surveillance.

Border Fence

The immigration bill currently under consideration calls for the erection of 200 miles of vehicle

Worksite Arrests of Illegal Alien Workers			
Key Indicators		Notices of Intent To Fine Employers	
1997	17,554	1997	865
1999	2,849	1999	417
2000	953	2000	178
2001	735	2001	100
2003	445	2003	162
2004	159	2004	3

Historically, Congress and INS/DHS have devoted over five-times more staff and budget resources to border enforcement than interior enforcement. Workplace enforcement is especially understaffed.

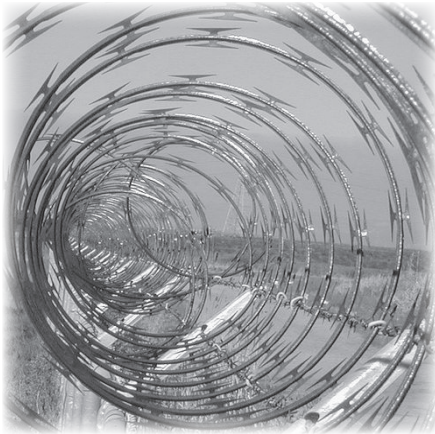
Understandably, 9/11 skewed the mix even further toward border enforcement. But indifference toward non-security related workplace enforcement was evident well before 9/11—beginning in the late Clinton years.

In April 2006, ICE announced a new interior enforcement strategy of bringing criminal charges against employers who knowingly hire illegal aliens. The media has reported large scale arrests of illegal alien workers since then. [Miriam Jordan,

barriers and 370 miles of new fencing along the U.S.-Mexican border.

How much will the new fencing cost? In the mid-1990s the Federal government built a 14-mile security fence at the Mexican border near San Diego. It cost \$25 million, or \$1.7 million per mile February 19, 2004

More recently, Israel constructed a fence at places on the West Bank. The Israeli security fence also costs about \$1.7 million per mile. ParaPundit.



Using this as a guide, 370 miles of new fence should cost taxpayers about \$629 million. (370 X \$1.7 million).

This is not your garden variety fence, but a complex of two 16-foot high steel fences separated by a wide road. It takes so much time to climb the first fence and cut through the second that apprehension is practically inevitable. Illegals have simply stopped trying to enter along the San Diego border.

Arrests of illegal immigrants along the border near San Diego plummeted from about 25,000 to 3,000 per year after the fence went up. Violent crimes have virtually come to a halt in that area, according to the San Diego PD. [Valerie Alvord, "Border fence plan runs into a barrier," *USA Today*, April 19, 2004]

The San Diego fence pushed the illegal influx eastward, into the desert. But Arizona apprehensions climbed from 160,000 in 1994 to 376,000 in 2003. Texas apprehensions rose slightly. California apprehensions were cut in half.

The southern border is 1,951 miles long. So why not fence off the entire border? At \$1.7 million per mile, *the entire U.S.-Mexican border could be*

sealed off for \$3.3 billion dollars.

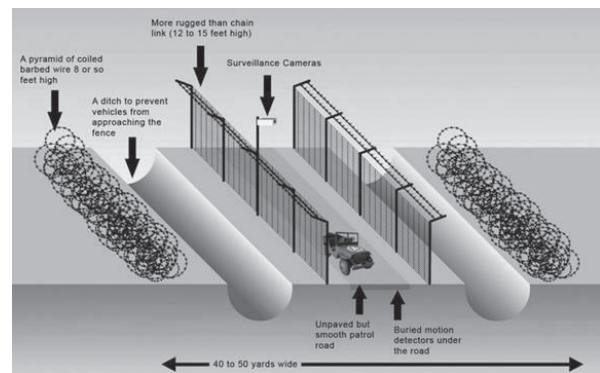
Compared to other infrastructure projects, the border fence seems downright puny. The Federal interstate highway system, for example, is about 46,000 miles long.

And we could easily afford to fence off the entire border. The \$3.3 billion price is equivalent to only:

3.0 percent of the \$110 billion spent on highway construction annually [*National Transportation Statistics 2006*, Table 3-29a. http://www.bts.gov/publications/national_transportation_statistics/2006/index.html]

0.5 percent of National Defense spending in FY2008 (\$603 billion)

0.11 percent of the entire U.S. Federal budget for FY2008 (\$2.9 trillion) [OMB, *Budget of the U.S. Government FY2008*, Historical Tables, Table 8-1. <http://www.whitehouse.gov/omb/budget/fy2008/pdf/hist.pdf>]



Federal funding may not even be necessary. Border state taxpayers could pass initiatives ordering the security fence construction. They would save millions in social service costs currently incurred on behalf of illegal immigrants—I estimate, for example, that nearly one quarter of California’s annual budget deficit, i.e. over \$9 billion in 2003, stemmed directly from immigration.

At the same time, a dwindling supply of illegal workers would raise incomes for Border state natives—and boost tax revenues.

A fence would quickly pay for itself. ■