



# IMMIGRATION POLICY CENTER

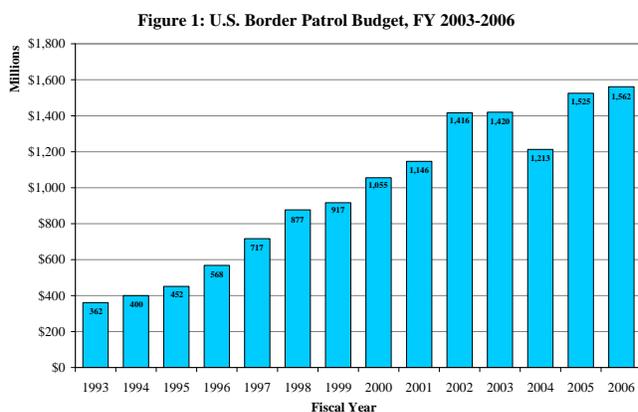
...providing factual information about immigration and immigrants in America

## Money for Nothing: Immigration Enforcement without Immigration Reform Doesn't Work

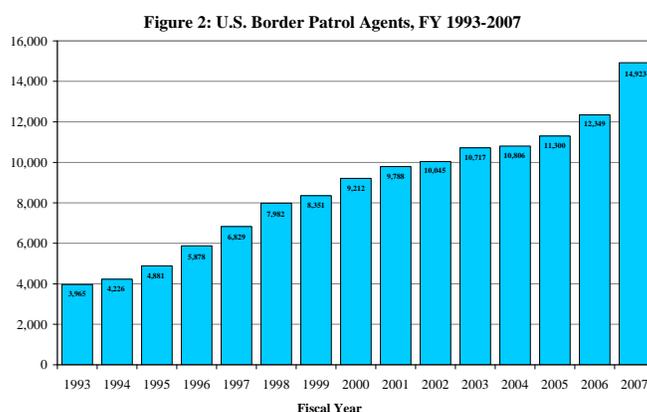
For more than two decades, the U.S. government has tried without success to stamp out undocumented immigration through enforcement efforts at the border and in the interior of the country, but without fundamentally reforming the broken immigration system that spurs undocumented immigration in the first place. While billions upon billions of dollars have been poured into enforcement, the number of undocumented immigrants in the United States has increased dramatically. Rather than reducing undocumented immigration, the enforcement-without-reform strategy has diverted the resources and attention of federal authorities to the pursuit of undocumented immigrants who are not a threat to anyone, and who are drawn here by the labor needs of our own economy. It has fueled the growth of increasingly profitable and sophisticated businesses in human smuggling and the production and sale of fraudulent identity documents. And it has done nothing to lessen the dependence of many U.S. industries on the labor of undocumented immigrants.<sup>1</sup>

### Spending on Immigration Enforcement Continues to Rise

- The annual budget of the U.S. Border Patrol stood at \$1.6 billion in Fiscal Year (FY) 2006—an increase of 332 percent since 1993 {Figure 1}. The number of Border Patrol agents grew to 14,923 in FY 2007—an increase of 276 percent since FY 1993. Under the Bush Administration's proposed budget for FY 2009, that number would increase to 20,000 {Figure 2}.<sup>2</sup>



Source: Statistics provided to the IPC by the U.S. Border Patrol, October 3, 2007.



Source: Statistics provided to the IPC by the U.S. Border Patrol, February 2, 2006; U.S. Department of Homeland Security, *Budget-in-Brief: Fiscal Year 2009*, p. 6.

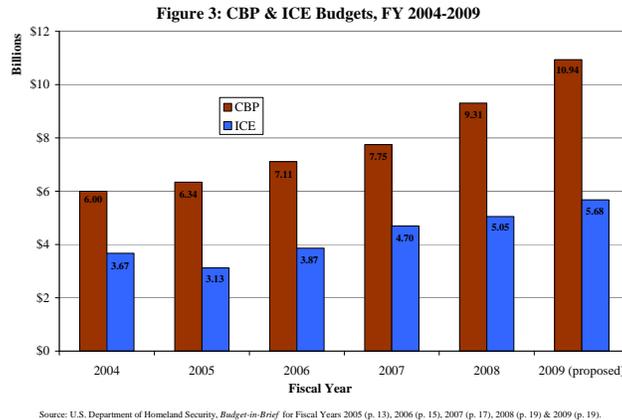
- U.S. Customs and Border Protection (CBP), the parent agency of the Border Patrol within the Department of Homeland Security (DHS), has seen its budget grow from \$6 billion to \$9.3 billion between FY 2004 and FY 2008, with the Bush administration proposing to ramp up funding to \$10.9 billion in FY 2009 {Figure 3}.

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- The budget of U.S. Immigration and Customs Enforcement (ICE), the DHS interior-enforcement counterpart to CBP, has grown from \$3.7 billion in FY 2004 to \$5.1 billion in FY 2008, with a further increase to \$5.7 billion in FY 2009 proposed by the Bush administration {Figure 3}.<sup>3</sup>



## Continued Emphasis on Border Enforcement

- Since 9/11, the border-enforcement strategy first instituted in the early 1990s has been repackaged into various initiatives, programs, and policies with different names.

### *The “Secure Border Initiative”*

- On November 2, 2005, Homeland Security Secretary Michael Chertoff announced the Secure Border Initiative (SBI), consisting of five main elements intended “to achieve operational control of both the northern and southern border within five years”:
  1. More immigration-enforcement agents deployed along U.S. borders and throughout the interior of the country;
  2. Expansion of immigration-detention capacity and the “expedited removal” process in order to end the “catch and release” of undocumented immigrants from countries other than Mexico;
  3. New, “smarter” technology to detect the unauthorized entry of immigrants into the United States, such as thermal imaging, ground radar, and Unmanned Aerial Vehicles;
  4. Increased investment in “tactical infrastructure” along the border, such as fences and vehicle barriers; and
  5. Ramped up interior immigration enforcement, including worksite raids.<sup>4</sup>

### *Ending “Catch and Release”*

- When an immigrant is apprehended by the Border Patrol, his or her fingerprints are checked against the combined databases of DHS and the Federal Bureau of Investigation (FBI) to reveal if the immigrant is subject to any outstanding criminal warrants or has a criminal record, and to determine his or her country of origin. If the immigrant is from Mexico (or Canada) and does not have any outstanding warrants, is not a convicted felon,

and has not previously been formally “removed” or deported from the United States, he or she can be “voluntarily returned” home. If an immigrant with a clean record is what the Border Patrol terms an Other Than Mexican (OTM), he or she is placed in removal proceedings (unless the OTM in question is from one of the primarily Arab, Muslim, or South Asian countries designated by the federal government as being of “special interest” to U.S. national security, in which case the Border Patrol must first conduct several other security checks).

- The Border Patrol then contacts the Office of Deportation and Removal at ICE to determine if detention space is available for the immigrant to be held during the removal process. If there is no available space, as was usually the case until recently, then the immigrant is issued a “Notice to Appear” before an immigration judge on a specified date and released on his or her own recognizance. Most immigrants who are issued a Notice to Appear do not do so. In FY 2004, roughly two-thirds failed to appear before an immigration judge. As a result, critics dubbed the practice “catch and release.”<sup>5</sup> On July 14, 2006, DHS officially announced the end of “catch and release” for OTMs.<sup>6</sup>

#### *Expansion of “Expedited Removal” Authority*

- Putting an end to the policy of catch-and-release has involved not only an increase in the detention capacity of ICE, but also an expansion of the “expedited removal” process by which arriving immigrants are removed from the United States *without* the opportunity for a hearing before an immigration judge.
- Immigrants who come here without proper documentation can be summarily excluded from the United States by an immigration officer unless they express a fear of persecution if returned home, in which case they are supposed to be referred to an asylum officer who determines if that fear is “credible.” Immigrants who are placed into expedited removal are subject to mandatory detention.
- The expedited removal process, created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), initially applied only to immigrants arriving at ports of entry.<sup>7</sup> It was expanded on September 14, 2005, to include immigrants apprehended by the Border Patrol between ports of entry along the southwest border—and, on January 30, 2006, to immigrants apprehended along the northern border.<sup>8</sup>
- The number of immigrants, undocumented or otherwise, who were formally “removed” from the United States for any reason increased from about 187,000 in FY 2001 to more than 300,000 in FY 2007. In addition, roughly one million immigrants each year “voluntarily return” to their home countries (mainly Mexico) after being detained.<sup>9</sup>

#### *Fencing the Border*

- Under SBI, the pace of fence building along the southern border has picked up considerably. On February 22, 2008, Homeland Security Secretary Chertoff announced

that there were a total of 302.4 miles in pedestrian and vehicle fencing completed along the U.S.-Mexico border, and that DHS would reach the 670-mile mark by the end of the year.<sup>10</sup>

- The fencing boom was facilitated in part by the REAL ID Act of 2005, which authorized DHS to waive any and all “legal requirements,” such as environmental laws, that might stand in the way of fence construction. DHS exercised this new authority on April 1, 2008, by waiving environmental and land-management laws in California, Arizona, New Mexico, and Texas in order to “facilitate additional pedestrian and vehicle fence construction, towers, sensors, cameras, detection equipment, and roads” along roughly 470 miles of the U.S.-Mexico border.<sup>11</sup> The Secure Fence Act of 2006 directed DHS to build 850 miles in additional fencing along the southern border—although the bill did not appropriate any funds for this purpose.
- The construction of a fence along the border with Mexico is a monumentally expensive endeavor of dubious effectiveness in stopping undocumented immigration. According to a [2006 report](#) from the Congressional Research Service, the U.S. Army Corps of Engineers has estimated the cost of construction—not counting the cost of buying the land upon which to build it—at between \$1.2 million and \$1.3 million per mile (although the first 9.5 miles of San Diego fence cost about \$3 million per mile). Moreover, maintaining the fence for a period of 25 years would cost anywhere from \$16.4 million to \$70 million per mile, depending on how much damage the fence sustains. A fence along all 2,000 miles of the southwest border would cost *at least* \$2.5 billion to build, plus anywhere from \$32.8 billion to \$140 billion to maintain over the following two-and-a-half decades.<sup>12</sup>
- In order to be effective, Border Patrol agents would have to guard the fence to prevent it from being breached by smugglers or circumvented by tunnels dug beneath it, as is occurring in San Diego. That still would leave the 4,000-mile border with Canada and the 5,000 miles of Pacific, Atlantic, and Gulf coastline where unauthorized entry into the country could also take place.

#### *“Smart” Technology*

- In addition to physical barriers such as fences, SBI relies heavily upon so-called “smart” technology (such as thermal imaging, ground radar, and motion detectors) to detect unauthorized border crossings.
- The first stage in the development of SBI’s high-tech surveillance system was Project 28: a \$20 million CBP contract with the Boeing Corporation to secure 28 miles of border in Sasabe, Arizona, using nine prototype “mobile surveillance systems.”<sup>13</sup> However, according to a March 2008 [GAO report](#), “DHS officials said that the project did not fully meet agency expectations and will not be replicated.”<sup>14</sup>

### *Troops on the Border*

- On June 15, 2006, the Border Patrol and the Department of Defense began a joint program, Operation Jump Start, that deploys National Guard troops to the southwest border to “perform non-law enforcement surveillance and support operations” while the Border Patrol pursues its goal of hiring an additional 6,000 agents by the end of 2008. The National Guard troops serve as members of Entry Identification Teams, “vehicle dismantlers” at Border Patrol traffic checkpoints, and surveillance-camera operators.<sup>15</sup>

### **Renewed Interior Enforcement**

- In response to criticism from many policymakers that interior immigration enforcement has withered as border enforcement has expanded, the federal government has rejuvenated enforcement efforts at various sites within the country.

### *Worksite Raids*

- There has been an increase in highly visible worksite raids in which unauthorized workers are detained and removed from the country. On April 16, 2008, for instance, ICE conducted simultaneous raids of Pilgrim’s Pride chicken-processing plants in Texas, Florida, Tennessee, Arkansas, and West Virginia and arrested more than 280 workers.<sup>16</sup> Simultaneous raids of Swift & Company meat-processing plants in Colorado, Nebraska, Texas, Utah, Iowa, and Minnesota on December 12, 2006, resulted in 1,297 arrests.<sup>17</sup>
- The number of workers “administratively arrested” for unlawful presence in the United States jumped from 1,116 in FY 2005 to 4,077 in FY 2007, while the number of “criminal arrests” for harboring or knowingly hiring an undocumented immigrant grew from 176 to 863 during the same period.<sup>18</sup>
- Workplace enforcement efforts are directed at undocumented workers, not the employers who hire them. In 2007, 98 percent of workplace arrests were of workers, while only 2 percent were of employers.<sup>19</sup>

### *E-Verify*

- E-Verify is a web-based, employment-verification system administered by U.S. Citizenship and Immigration Services (within DHS) and supported by the Social Security Administration (SSA). The GAO reports that, as of April 2008, approximately 61,000 of the nation’s 7.4 million employers had registered for E-Verify, and roughly half of those were active users of the system. Although E-Verify is a voluntary program, some states—such as Arizona and Mississippi—have passed legislation requiring all employers to use the system to determine the employment eligibility of newly hired employees.
- According to the GAO, “USCIS has estimated that a mandatory E-Verify program could cost a total of about \$765 million for fiscal years 2009 through 2012 if only newly hired employees are queried through the program and \$838 million over the same 4-year period

if both newly hired and current employees are queried. USCIS has estimated that it would need to increase its staff from 250 to about 340 full-time staff by fiscal year 2012 to operate a mandatory E-Verify program.”<sup>20</sup>

- In an [April 4, 2008, letter](#) to House Judiciary Committee Chairman John Conyers, Jr., the Congressional Budget Office estimated that a mandatory, nationwide E-Verify program, together with the other enforcement provisions of the “Secure America Through Verification and Enforcement (SAVE) Act of 2007,” would “decrease federal revenues by \$17.3 billion over the 2009-2018 period” and “authorize an increase in discretionary spending, subject to appropriation, of about \$10.3 billion over the 2009-2013 period and \$23.4 billion over the 2009-2018 period.”<sup>21</sup>
- A [2007 report](#) by Westat, which DHS contracted to review E-Verify, raised serious doubts about the program in terms of its capacity to uncover document fraud and its tendency to encourage employer discrimination against foreign-born workers. The report concluded that the program “generally does not detect identity fraud that occurs when an employee presents borrowed or stolen documents or counterfeit documents with information about work-authorized persons.” In addition, the program “increased discrimination against work-authorized foreign-born employees after hiring because foreign-born employees, especially foreign-born citizens, are more likely than U.S.-born employees to receive tentative non-confirmation findings.”<sup>22</sup>

#### *“No-match” Letters*

- A “no-match” letter is sent to an employer by the SSA when a worker’s name or Social Security number—as listed on the Wage and Tax Statement (Form W-2) submitted to the SSA and the Internal Revenue Service by an employer—does not match SSA records.
- DHS plans to re-write years of SSA policy and use no-match letters as an immigration-enforcement tool. New proposed regulations would re-interpret discrepancies in these records as “proof” that a worker is undocumented, and then use the failure of an employer to quickly rectify such discrepancies in response to a no-match letter as grounds for levying sanctions against the employer for “knowingly” hiring an undocumented worker.
- According to the GAO, SSA has estimated that the cost of implementing both a “no-match” program and mandatory E-Verify program “would be \$359 million for fiscal years 2009 through 2013 and that it would need a total of about 3,160 more full-time staff during these fiscal years for implementation of the initiatives.”<sup>23</sup>

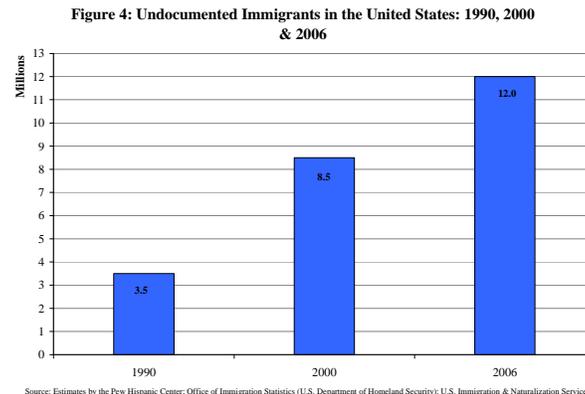
#### *“Fugitive Operations Teams”*

- There has been a dramatic increase in activity by ICE “Fugitive Operations Teams,” which “identify, locate, arrest and remove aliens who have failed to depart the United States pursuant to a final order of removal, deportation, or exclusion; or who have failed to report to a Detention and Removal Officer after receiving notice to do so.”

- According to ICE, Fugitive Operations Teams made 30,408 arrests in FY 2007, up from 15,462 in FY 2006 and 7,958 in FY 2005. There were 75 Fugitive Operations Teams deployed in the United States at the end of FY 2007, up from 52 at the end of FY 2006.<sup>24</sup>

### Despite Increased Enforcement Spending, Undocumented Immigration Continues

- At the same time the U.S. government has attempted to use employer sanctions and border enforcement to stop undocumented immigration, the undocumented population of the United States has *tripled* in size, from roughly 3.5 million in 1990 to 12 million in 2006 {Figure 4}.<sup>25</sup>



- The [Pew Hispanic Center](#) estimates that between 25 percent and 40 percent of all undocumented immigrants do *not* sneak across the border, but come to the United States on valid visas and then stay after their visas expire.<sup>26</sup>
- U.S. immigration-enforcement efforts, particularly those implemented along the border, are now accomplishing the exact opposite of what they were supposed to achieve:
  - Immigrants who in the past might have returned home to build a house or start a business after a few years of work in the United States are settling permanently and bringing their families with them.
  - Human smuggling is a booming business that now rivals drug trafficking in profitability and has attracted the interest of large-scale criminal networks.
  - More immigrants are dying while attempting to cross into the United States through increasingly isolated and treacherous terrain.<sup>27</sup>

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## Endnotes

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- <sup>1</sup> Portions of this report are adapted from Walter A. Ewing, *Enforcement Without Reform: How Current U.S. Immigration Policies Undermine National Security and the Economy* (East Lansing, MI: Julian Samora Research Institute, Michigan State University, March 2008).
- <sup>2</sup> Statistics provided to the IPC by the U.S. Border Patrol, February 2, 2006 & October 3, 2007; U.S. Department of Homeland Security, *Budget-in-Brief: Fiscal Year 2009*, pp. 6, 9.
- <sup>3</sup> U.S. Department of Homeland Security, *Budget-in-Brief* for Fiscal Years 2005 (p. 13), 2006 (p. 15), 2007 (p. 17), 2008 (p. 19) & 2009 (p. 19).
- <sup>4</sup> U.S. Department of Homeland Security, “Press Release: DHS Announces Long-Term Border and Immigration Strategy,” November 2, 2005.
- <sup>5</sup> Blas Nuñez-Neto, et al., *Border Security: Apprehensions of “Other Than Mexican” Aliens* (Washington, DC: Congressional Research Service, U.S. Library of Congress, September 22, 2005), pp. 2-6.
- <sup>6</sup> U.S. Customs and Border Protection, *Performance and Accountability Report: Fiscal Year 2007*, pp. 10-11; Statistics provided to the IPC by the Office of Immigration Statistics (February 9, 2006) and U.S. Border Patrol (October 5, 2007).
- <sup>7</sup> Alison Siskin and Ruth Ellen Wasem, *Immigration Policy on Expedited Removal of Aliens* (Washington, DC: Congressional Research Service, U.S. Library of Congress, September 30, 2005), pp. 1-6.
- <sup>8</sup> U.S. Customs and Border Protection, *Performance and Accountability Report: Fiscal Year 2007*, p. 11.
- <sup>9</sup> U.S. Department of Homeland Security, *Report to the U.S. House of Representatives, Committee on Appropriations, Subcommittee on Homeland Security: Bimonthly Status Report on the Department of Homeland Security’s Border Security Performance and Resources*, 110<sup>th</sup> Cong., 1<sup>st</sup> Sess., November 1, 2007.
- <sup>10</sup> U.S. Department of Homeland Security, Office of the Press Secretary, “Remarks by Homeland Security Secretary Michael Chertoff and Attorney General Mukasey at a Briefing on Immigration Enforcement and Border Security Efforts,” February 22, 2008.
- <sup>11</sup> U.S. Department of Homeland Security, “News Release: DHS Exercises Waiver Authority to Expedite Advancements in Border Security,” April 1, 2008.
- <sup>12</sup> Blas Nuñez-Neto and Stephen Viña, *Border Security: Barriers Along the U.S. International Border* (Washington, DC: Congressional Research Service, U.S. Library of Congress, December 12, 2006), pp. 7-9, 23, 25, 33.
- <sup>13</sup> U.S. Customs and Border Protection, “Fact Sheet: Securing America’s Borders: CBP 2007 Fiscal Year in Review,” November 6, 2007, pp. 2-3.
- <sup>14</sup> U.S. Government Accountability Office, *Homeland Security: DHS Has Taken Actions to Strengthen Border Security Programs and Operations, but Challenges Remain* (GAO-08-542T), March 6, 2008, p. 13.
- <sup>15</sup> U.S. Customs and Border Protection, *Performance and Accountability Report: Fiscal Year 2007*, p. 10; U.S. Customs and Border Protection, “Fact Sheet: Securing America’s Borders: CBP 2007 Fiscal Year in Review,” November 6, 2007, p. 2.
- <sup>16</sup> U.S. Immigration and Customs Enforcement, “News Release: ICE and Department of Justice Joint Operation Targets Identity Theft at Poultry Process Plants in Five States,” April 16, 2008.
- <sup>17</sup> U.S. Immigration and Customs Enforcement, “Fact Sheet: Worksite Enforcement Cases,” September 27, 2007.
- <sup>18</sup> U.S. Immigration and Customs Enforcement, *ICE Fiscal Year 2007 Annual Report: Protecting National Security and Upholding Public Safety*, pp. 7-8; U.S. Immigration and Customs Enforcement, “Fact Sheet: Worksite Enforcement Overview,” October 15, 2007.
- <sup>19</sup> Spencer S. Hsu, “Immigrant Crackdown Falls Short: Despite Tough Rhetoric, Few Employers of Illegal Workers Face Criminal Charges,” *Washington Post*, December 25, 2007.
- <sup>20</sup> U.S. Government Accountability Office, *Employment Verification: Challenges Exist in Implementing a Mandatory Electronic Verification System* (GAO-08-729T), May 6, 2008, pp. 2-4.
- <sup>21</sup> Congressional Budget Office, “Letter to the Honorable John Conyers Jr.,” April 4, 2008.
- <sup>22</sup> Westat, *Findings of the Web Basic Pilot Evaluation: Report Submitted to U.S. Department of Homeland Security* (Rockville, MD: Westat, September 2007), pp. 106-107.
- <sup>23</sup> U.S. Government Accountability Office, *Employment Verification: Challenges Exist in Implementing a Mandatory Electronic Verification System* (GAO-08-729T), May 6, 2008, pp. 2-4.
- <sup>24</sup> U.S. Immigration and Customs Enforcement, “Fact Sheet: ICE Fugitive Operations Program,” December 4, 2007.
- <sup>25</sup> Michael Hoefler, et al., *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2006* (Washington, DC: Office of Immigration Statistics, U.S. Department of Homeland Security, August 2007), p. 2; Jeffrey S. Passel, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.: Estimates Based on the March 2005 Current Population Survey* (Washington, DC: Pew Hispanic Center, March 7, 2006), p. 2; U.S. Immigration and Naturalization Service, *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*, January 31, 2003, p. 10.
- <sup>26</sup> Jeffrey S. Passel, *The Size and Characteristics of the Unauthorized Migrant Population in the U.S.*, March 7, 2006), pp. 2, 8, 16.
- <sup>27</sup> Douglas S. Massey, et al., *Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration* (New York: Russell Sage Foundation, 2002), chap. 6.