

On August 12, Congress passed a bill directing over \$600 million in resources and personnel to southwest border security operations. The bill makes “emergency supplemental appropriations for border security” to both the Department of Homeland Security and the Department of Justice.

Title 1: Department of Homeland Security

HR 6080 provides more than \$250 million for new CBP staff, including hiring 1,000 additional Border Patrol agents; adding to the existing 21,000 Border Patrol agents currently deployed. A comparatively small allocation goes towards hiring CBP Officers for the chronically understaffed southwest ports of entry. Funds for 1,000 new personnel would have been better allocated to CBP for officers at ports of entry, rather than to Border Patrol operations between ports. According to CBP, the majority of illegal entries and smuggling of goods occurs at ports of entry.

From a border community perspective, these resources are lopsided. More Border Patrol agents are unnecessary, but better training and oversight of border operations is desperately needed. Border Patrol recently met expansion targets, and the numbers of new agents easily outpaced the agency’s capacity for sufficient training and supervision. This bill provides \$8.1 million for training, but this will only be sufficient to train the new officers hired in this package, not to enhance training for existing officers.

The bill offers only a nod towards oversight of border operations with \$10 million for integrity and background investigation programs. Fighting corruption on the border is an important priority; inadequate funding and resources for better management and accountability is disappointing.

The bill also funds a number of technological assets, including surveillance, communications equipment, and unmanned aircraft.

DHS funding:

CBP Personnel (\$253 million)

- \$175.9 million for 1,000 new Border Patrol agents to monitor the border and apprehend illegal crossers or smugglers and cartel operatives
- \$39 million to maintain to maintain current CBP staffing for ports of entry
- \$29 million for *new* CBP Officer staffing on SW Border ports of entry
- \$10 million for integrity and background investigation programs

Border Security, Fencing, Infrastructure and Technology (through 7/30/2011)

- \$14 million for costs to design, build, and deploy “tactical communications” for border enforcement

Air & Marine Interdiction, Operations, Maintenance & Procurement (through 7/30/2012)

- \$32 million for purchase and deployment of unmanned aircraft systems for surveillance

Construction and Facility Management (through 7/30/2011)

- \$6 million to deploy operating bases along the border, allowing resources and communications centers to be located further from border patrol stations

ICE Personnel (\$80 million)

- \$30 million for law enforcement efforts to reduce violence along border
- \$50 million for additional agents, investigators, intelligence analysts and support personnel

Federal Law Enforcement Training Center (through 7/30/2011)

- \$8.1 million for basic training for *new* CBP officers, Border Patrol agents and ICE personnel

Title 2: Department of Justice

HR 6080 directs substantial resources (\$196 million) to DOJ personnel and operations on the Southwest border. These involve a small amount of funds for immigration courts, and much larger sums for investigative bureaus such as the FBI, DEA, and ATF, which combat drug and gun smuggling, organized crime, and currency fraud. In addition, a combined \$27 million is dedicated to incarceration costs of the Office of the Federal Detention Trustee and the Bureau of Prisons, and another \$27.7 is provided to the U.S. Marshals for managing prisoner custody and transport.

The Obama Administration has prioritized combating organized crime in the border region, particularly as cartel operations have grown but illegal crossings have declined. This continued funding for DEA, ATF, FBI, and ICDE (Interagency Crime and Drug Enforcement) follow the Obama administration's priorities on reducing real security threats at the border. Other funding allocations however, are more ambivalent. While federal courts on the southwest border have high caseloads and need greater resources, the vast majority of their current cases are prosecutions of migrants for illegal entry under Operation Streamline. Illegal entry or reentry prosecutions constitute more than 80% of all federal criminal prosecutions on the southwest border. There is little evidence that resources provided by this legislation for prosecutions and the courts will focus on organized crime, human trafficking, and firearms, narcotics, and currency smuggling. Rather, it may be diverted into the *en masse* prosecutions of non-dangerous migrants that now constitute the bulk of the court's workload. The increased funds for U.S. Marshals and detention of federal prisoners similarly suggests misguided priorities—focusing on large numbers of small-scale prosecutions rather than enforcement targeted at dangerous criminal activities.

DOJ Allocations (\$196 million):

- \$2.1 million for administrative review and appeals costs (Executive Office of Immigration Review)
- \$7 million for the Office of the Federal Detention Trustee, which is responsible for holding all federal pre-trial detainees
- \$3.9 million for legal activities, salaries and expenses
- \$9.2 million for U.S. Attorneys' offices, which prosecute federal criminal violations, including Operation Streamline illegal entry cases
- \$29.7 million for U.S. Marshal Service, which manages custody and transport of federal prisoners to and from courts and jails
- \$8 million for construction projects for the U.S. Marshals Service
- \$21 million for Interagency Crime and Drug Enforcement (involving DOJ, DHS, and Treasury) operations to combat drug smuggling
- \$24 million for FBI salaries and expenses
- \$33.7 million for Drug Enforcement Agency salaries and expenses
- \$37.5 million for Bureau of Alcohol, Tobacco, Firearms and Explosives salaries and expenses
- \$20 million for federal prison system salaries and expenses

Title 3: Judiciary

The five federal courts on the southwest border handle 75% of all criminal prosecutions nationwide, as well as regular civil dockets. High prosecution rates stem primarily from Operation Streamline and other immigration-based prosecutions. While funding for courts and judicial services is a recurrent need, redirecting prosecutorial and enforcement efforts away from assembly-line trials of minor immigration violators and toward other more serious criminal or security threats would be a more efficient and effective use of federal dollars.

Courts of Appeals, District Courts, and Other Judicial Services Salaries & Expenses:

- \$10 million for Courts of Appeals, District Courts, and judicial services to meet increased workload requirements from immigration and law enforcement initiatives

Title 4: General Provisions to Offset Costs (through 7/30/2014)

HR 6080 provides that \$100 million of unobligated balances from DHS's border security, fencing, and technology appropriations (primarily from the bungled SBInet initiative) shall be redirected to the bill's border enforcement allocations. Congress anticipates that an additional \$550 million of the proposed appropriations can be offset by raising fees on applicants for H-1B and L visas.

- \$2,250 fee increase on applicants that employ 50 or more employees in the U.S. *if* more than 50% of applicant's employees are non-immigrants under a H-1B visa
- \$2,000 fee increase on applicants that employ 50 or more employees in the U.S. *if* more than 50% of applicant's employees are non-immigrants under an L visa

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