

Background

No. 2285
June 17, 2009



Published by The Heritage Foundation

U.S. Border Security: Realities and Challenges for the Obama Administration

Matt A. Mayer

Whether the issue is drug smuggling, illegal immigration, or the terrorist threat, securing America's borders is a vital security challenge. The first 100 days of Barack Obama's Administration have provided a glimpse of how President Obama will tackle this challenge in the next year. Beyond that, the picture is less clear.

Where Credit Is Due. But for the enormous strides to secure the southern border made over the past four years by the Bush Administration, the Obama Administration would have a far tougher job protecting America's borders. Specifically, the Bush Administration

- increased the number of Border Patrol agents from 11,000 to 17,500;¹
- added substantial fencing and other tactical infrastructure at the border with Mexico;
- rolled out and fine-tuned the first deployment of SBInet, a program initiated in 2006 as part of the Department of Homeland Security's Secure Border Initiative (SBI) that aided in the apprehension of almost 4,000 people attempting to cross the border illegally;
- increased the number and use of unmanned aerial systems (UAS);
- launched the ports of entry (POE) modernization project;
- added 108 new radiation portal monitors at POEs, bringing the number to 1,127;² and

Talking Points

- President Obama has inherited a southern border strengthened by the investments in Border Patrol agents, fencing, and technology made by President George W. Bush.
- President Obama's initial actions on border security are largely consistent with those of President Bush.
- The challenges for President Obama will come when the economy improves and the industries that hire large numbers of illegal immigrants increase the incentives for illegal immigrants to cross the border.
- Because the drug cartels, smugglers, "coyotes," and terrorists constantly adapt their border plans based on operational needs and impediments, U.S. Customs and Border Protection must be able to have a flexible approach at the border to stay ahead of the bad actors.
- It is critical for the Obama Administration and Congress to ensure that the Border Patrol receives the resources it needs to properly train agents and continue to recruit strong candidates.

This paper, in its entirety, can be found at:
www.heritage.org/Research/Immigration/bg2285.cfm

Produced by the Douglas and Sarah Allison
Center for Foreign Policy Studies
of the
Kathryn and Shelby Cullom Davis
Institute for International Studies

Published by The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002-4999
(202) 546-4400 • heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

- began the long-term development of the Coast Guard's Integrated Deepwater System Program intended to recapitalize Coast Guard equipment.

These measures resulted in better control of roughly 757 miles on the southern border, the apprehension of 1,040,000 people attempting to cross the border illegally at or between the POEs, and the processing of 396.7 million pedestrians and 122 million vehicles through the POEs in fiscal year (FY) 2008.³ These achievements established a solid foundation on which President Obama and his team can build continuing border-security enforcement.

The State of Border Security Today

The Obama Administration's proposed FY 2010 budget for Customs and Border Protection (CBP) largely represents continuity with the Bush Administration's actions. Although President Obama's proposal does cut the budget for CBP's Washington, D.C., headquarters by \$248 million, it requests an increase in funding for operations along the border.

Specifically, President Obama requests a \$175 million increase in border security inspections and trade facilitation at POEs, a \$55 million increase in border security and control between POEs, a \$37 million increase in air and marine operations, and a \$4 million increase in border fencing, infrastructure, and technology.⁴ These increases are in addition to the \$100 million increase for border fencing and the \$420 million increase for construction upgrades to POEs in the economic stimulus package passed in February 2009.⁵

With the decrease in border crossings and the economic recession, these funding levels appear reasonable. These funding requests also are entirely consistent with President Obama's often-stated desire to use technology and personnel at the south-

west border to secure it and to reduce the flow of firearms and currency from the United States to Mexico.

In looking at the current state of affairs on the border, a clear conclusion on what CBP should do with the funding becomes apparent: It must exercise flexibility and adapt as necessary to the fluid environment of the border.

Despite the media reports and poor public relations conducted by the U.S. Department of Homeland Security, SBInet is not and never was supposed to be the be all and end all of border security. Rather, it was simply another tool that CBP could use to strengthen border security. The first use of SBInet at the P28 location in Arizona, contrary to popular lore, led to the apprehension of almost 4,000 people attempting to cross the border. Of course, CBP and the prime contractor for SBInet, Boeing, spent too much time and money working out kinks in the SBInet system, especially with the Common Operating Picture that allows users to gain an integrated view of the sensors, cameras, and other components deployed along the border. Nonetheless, CBP and Boeing have eliminated the bugs and began the second and third installments of SBInet in Arizona.

The key with SBInet is for CBP to determine where additional SBInet installments make sense based on three factors.

1. Does the operational environment of the area lend itself to the SBInet tool?
2. If yes, does the expected cost of installing *and* maintaining SBInet present a compelling return on investment?
3. If yes, does the utility of SBInet beat other, lower-cost tools, such as unmanned aerial systems.

If the final response is yes, installing SBInet will make sense.

1. Intelligence Reform and Terrorism Prevention Act of 2004, P.L. 108-458, Section 5202, December 17, 2004.

2. "Securing America's Borders—CBP 2008 Fiscal Year in Review," U.S. Customs and Border Protection, November 5, 2008, at http://www.cbp.gov/xp/cgov/newsroom/highlights/08year_review.xml (June 4, 2009).

3. *Ibid.*

4. "Budget-in-Brief Fiscal Year 2010," U.S. Department of Homeland Security, at http://www.dhs.gov/xlibrary/assets/budget_bib_fy2010.pdf (June 4, 2009).

5. American Recovery and Reinvestment Act of 2009, P.L. 111-5, Title VI, February 17, 2009.

Because the drug cartels, smugglers, “coyotes,” and terrorists will constantly adapt their border plans based on operational needs and impediments, CBP must be able to similarly adapt its approach at the border to keep up with or ahead of the bad actors.

Between May 1990 and April 2009, authorities detected 104 tunnels used to smuggle contraband items and people from Mexico to the United States. Of those 104 tunnels detected over 19 years, roughly 92 were detected after the September 11, 2001, terrorist attack. As CBP has secured more and more of the border, smugglers have moved to water routes or dug pathways *under* the border. Of the 92 tunnels detected after 9/11, 69 of them (66 percent) were detected over the last four years.⁶ Hence, CBP must exercise operational flexibility to enhance tunnel detection and remediation capabilities as more of the illegal activities go, literally, underground.

At the POEs, much work remains to be done. Some estimates place the POE modernization project at \$5 billion to \$6 billion. The recent economic stimulus plan included roughly \$720 million for POE modernization. Many POEs are so old that they inhibit the flow of commerce when layered security measures are added. Given the economic recession, a rapid and steady flow of commerce is critical. Idling trucks are also harmful to the environment, as they do little other than spew carbon dioxide.

As with SBInet, CBP must exercise flexibility with POE modernization. The insertion of non-intrusive inspection capabilities, such as X-ray portals and secondary screening lanes, must occur where the projected benefits to both flow of commerce and security outweigh the cost and disruption of adding those elements.

In terms of the southbound flow of firearms and currency, beyond the public relations aspects that play to the needs of the Mexican government, this is the key question for the Obama Administration: How sustainable is the heightened activity, given the other demands on CBP? As with much else proposed by President Obama, confiscating southbound fire-

arms and currency is not a new activity for CBP. It has done such work for years. Because there is no urgency in transporting currency across the border, smugglers have the luxury of time to wait out the flurry of activity of Obama’s first 100 days.

As with the U.S. investment in apprehending illegal immigrants crossing the southern border, rather than increasing the cost for the American taxpayer to include monitoring what *leaves* the United States, the Mexican government must spend more resources—as it does on *its* southern border—to secure its northern border.

Finally, in conjunction with the Coast Guard and the U.S. Navy, CBP has employed the Joint Inter-agency Task Force South located in the Florida Keys to interdict the smuggling operations that have used fastboats and semi-submersibles to evade the security assets on the border. With P3 and C-130 airplanes overhead and Coast Guard cutters in the water, interdictions of drugs have increased.

Each ton of illicit drugs confiscated on the water before it hits land alleviates some of the pressure on the border areas, thereby curtailing some of the border violence. After all, if there are fewer drugs to smuggle across the border, there are fewer fights over traffic lanes and other criminal issues related to the drug trade.

The Challenges of the Future

Congress Must Fund Border Patrol Training.

The most immediate challenge for the Obama Administration is the lack of experience of much of the Border Patrol. With the enormous increase in agents, roughly 40 percent of Border Patrol agents have less than two years of experience.

It is critical for the Obama Administration and Congress to ensure that the Border Patrol receives the resources it needs to properly train agents and continue to recruit strong candidates for vacant positions.

No Work Permits for Illegal Immigrants. The next challenge for the Obama Administration is to prepare for unintended consequences. When the Obama Administration decided to provide illegal

6. “Master List of Border Tunnels,” U.S. Department of Homeland Security, as of May 15, 2009.

immigrants captured during worksite enforcement raids with work permits for the duration of the case against their employers, it in effect revived the “catch and release” policy that the Bush Administration wisely ended with “detention and removal.”⁷

This policy change will have two likely consequences. First, as the legal case against the employer winds its way through the courts, the odds that illegal immigrants with temporary work permits will disappear to another part of the country will increase. After all, if those illegal immigrants were willing to return to their home countries, they would have done so when they were arrested. Once free, they will fight to remain free.

The second consequence, which is much harder to discern, is the increase in border crossings that the policy will spur. Because illegal immigration tends to follow a supply and demand curve, an action that reduces the transactional cost of being caught will act as an incentive for additional crossings. Specifically, as the risk of being deported decreases due to the new policy of providing temporary work permits to those caught in worksite raids, those weighing the costs and benefits of crossing will naturally tip the scale to the side of crossing.

The Obama Administration should reconsider its short-sighted policy change and reinstate the penalty of detention and removal for those illegal immigrants apprehended during worksite raids. If the Administration fails to reverse itself, Congress should prohibit the distribution of work permits to illegal immigrants arrested during worksite raids. In Bellingham, Washington, where the new policy was first implemented, the unemployment rate was 8.1 percent, and more than 150 U.S. citizens had applied for the 28 positions filled by the illegal immigrants that were arrested, putting to rest the specious arguments that Americans will not do the work.⁸

Congress: Request Border Plans from White House. The last challenge for the Obama Adminis-

tration is the largest. Given the investments of the Bush Administration to secure the border and deport illegal aliens, as well as the widespread economic turmoil in the housing and construction industries, President Obama inherited a border with lower activity levels than in previous years. In this environment, it is easy to stay the course and please most constituents.

The real challenge for President Obama is what he will do when the economy becomes stronger and the demand for illegal labor returns to the levels of previous years in industries such as construction and hospitality, where large numbers of illegal immigrants gain employment. As the public once again demands action, the President will be required to make the tough choices on fencing, personnel, infrastructure, and technology. Given the expected budget deficits the country will face, these tough choices will be made at a time when the discretionary spending pie grows smaller and smaller.

Beyond his few comments about border security and the FY 2010 budget, there is little that can be discerned about what President Obama will do to secure the border once the current investments fail to keep pace with the increased activity of a robust economy. Congress should require the Administration to provide a plan of how it will adapt to the border challenges of tomorrow. Because of the polarization of Americans on illegal immigration, such a report will force the Administration to articulate its plans for the future so that the Congress and taxpayers can judge those plans in a thoughtful and deliberate manner.

Conclusion

Despite the change in presidential administration from Republican to Democrat, much of the activity on the border will remain the same. This *status quo* approach is good. President Obama inherited a much stronger and secure border than the one President Bush inherited in 2001. The key

7. Diem Nguyen, Matt A. Mayer, and James Jay Carafano, “Next Steps for Immigration Reform and Workplace Enforcement,” Heritage Foundation *Background* No. 2241, February 13, 2009, at <http://www.heritage.org/Research/Immigration/bg2241.cfm>.

8. Matt A. Mayer, “One Step Forward, Two Steps Back,” Heritage Foundation *Foundry*, April 2, 2009, at <http://blog.heritage.org/2009/04/02/one-step-forward-two-steps-back>.

element for President Obama is to allow CBP to be flexible as it continues its efforts to strengthen the border. The real challenge for President Obama will occur down the road when the economy recovers and the demand for cheap illegal immigrant labor increases. When this happens, President Obama will have to make difficult choices about funding border security with a budget constrained by the increased spending and entitlement growth of the last year.

—Matt A. Mayer is a Visiting Fellow at The Heritage Foundation, President and Chief Executive Officer of Provisum Strategies LLC, and an Adjunct Professor at The Ohio State University. He has served as Counselor to the Deputy Secretary and Acting Executive Director for the Office of Grants and Training in the U.S. Department of Homeland Security. His book, *Homeland Security and Federalism: Protecting America from Outside the Beltway*, has an expected publication date of June 2009.