

We support border security – including a border wall where practical – that uses information to guide the technology and infrastructure that will effectively combat drug-and-human trafficking and safely accommodate asylum seekers. This report details the current situation at the border and provides 20 policy recommendations to conscientiously secure our border.

THE STATE OF OUR BORDER

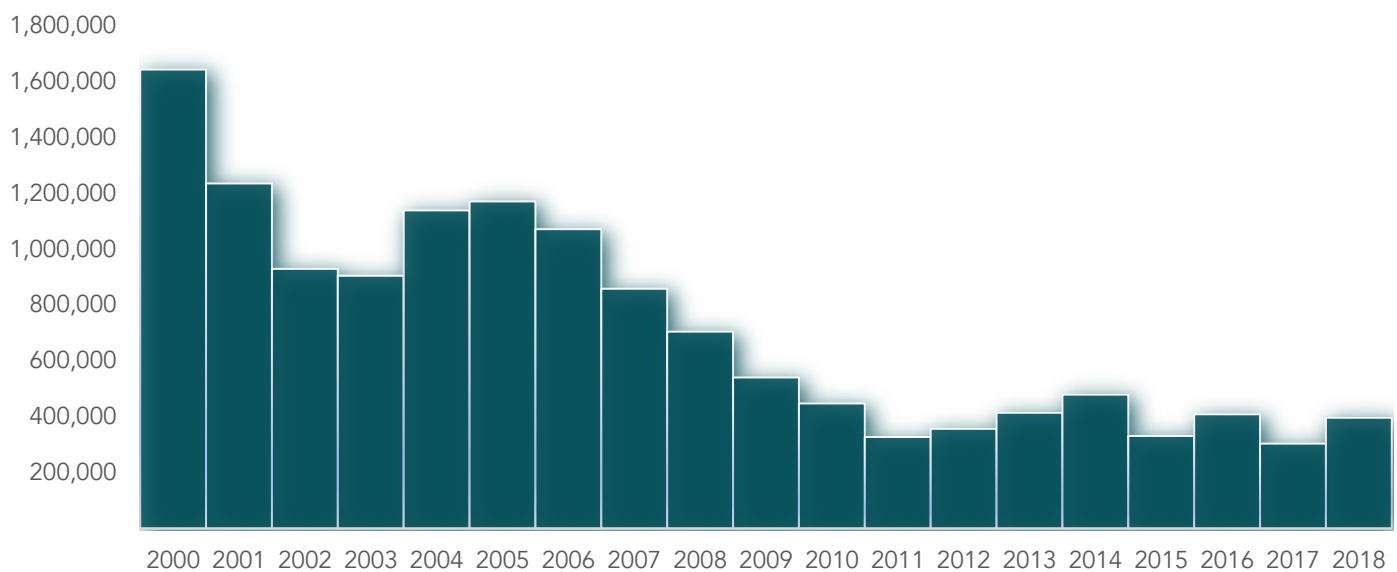
BORDER ANALYSIS AND POLICY
RECOMMENDATIONS

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C E N T E R

The Changing Southwest Border

Apprehensionsⁱ for illegal border crossings are rising, but the level is less than half of what it was in 2000, when illegal entries peaked at 1.64 million. However, the number of family units seeking asylum at the southwestern border is growing.ⁱⁱ

Total Southwest Border Apprehensions by FY 2000-2018



The chart above reflects the reductionⁱⁱⁱ in border apprehensions on the southwest border in the past eighteen years, per U.S. Customs and Border Protection (CBP) data. The vast majority of individuals who are now illegally present and arrived in the last 10 years did not ever cross the southern border; rather, they entered on a legal visa and overstayed.^{iv}

According to CBP data, the recent increase in apprehensions is well within normal volatility, and total apprehensions remain relatively low. In addition, having migrants traveling as family units is safer than when there were much higher numbers of unaccompanied children.^v

Apprehensions of family units in FY2019 could triple over FY2018 and it still would not be the sharpest year-to-year increase of the last five years.

Nonetheless, it is an issue that requires comprehensive, immediate changes, including developing a comprehensive border strategy, ridding the area of certain plants, strengthening law enforcement cooperation, and reinforcing existing infrastructure.

1. DEVELOP A COMPREHENSIVE BORDER STRATEGY

Improving border strategy and drug detection requires Congress to lead a comprehensive survey of both the northern and southern border. It is critical to determine what strategies currently work, to identify areas for additional research, and to improve on the strategies that are outdated in certain regions. Enhancing border security requires improved coordination between agencies, integration of information and technology, and a thorough analysis by all key players. We need to focus not just on security, but on trade and the necessary flow of people for school, employment, tourism, and consumption.



2. GET RID OF THE PLANTS

Vegetation covers between 30,000-60,000 acres along the border; the density of these plants makes them an opportune place for border crossers to avoid detection or ambush Border Patrol agents.^{vi} Carrizo cane and salt cedar – prominent types of vegetation in this area – also absorb large amounts of water from other vegetation. The removal of both plants would increase visibility to the Rio Grande, provide space for more surveillance equipment, and positively affect the surrounding environment.^{vii}

The salt cedar, however, is a natural habitat of the willow flycatcher bird, which is protected under the Endangered Species Act, making destruction of the cedar problematic. Carrizo cane removal is equally troublesome, but despite complications, necessary.^{viii}



3. STRENGTHEN OPERATION STONEGARDEN

Operation Stonegarden was established in 2008 to enhance federal, state, territorial, tribal, and local law-enforcement cooperation to secure U.S. borders. The operation awards grants to eligible law enforcement agencies for costs incurred in support of border law enforcement. A lack of oversight led to the inefficient use of resources that does not further the border security goals of the program. More oversight would allow improved decision-making on how to strengthen the program by improving performance and efficiency, reducing waste and abuse, and determining the appropriate level of funding.^{ix}

4. AUTHORIZE A LEVEE WALL

In 2018, CBP presented new information on building a levee/border wall construction project in the Rio Grande Valley (RGV). The levee plan – RGV-03 – would consist of 6 miles of reinforced-concrete levee wall to heighten the existing levee through Hidalgo County in McAllen, Texas, and 4 miles in Starr County in Rio Grande City. A levee would allow for additional detection devices, lighting, video, surveillance, and all-weather patrol in addition to continued river access for property owners.^x Of course, as with all levee or border wall proposals, this will cross private property and has faced some pushback from landowners. It may also restrict wildlife crossings.



A SMART(ER) BORDER

#5 Modernize the entry/exit biometric system

Most new unauthorized immigrants are individuals who have overstayed their visas, rather than individuals who entered the United States illegally. Congress has provided for the implementation of an entry/exit system to track everyone who enters and leaves. While the United States has completed its capability to track entries, the entry system is responsible for costly delays at ports of entry. And the exit component is not yet completed, though progress in expanding exit capability at the top 20 airports and in various pilot programs is ongoing.^{xi} Completing and streamlining the entry/exit system would allow the Department of Homeland Security to improve the efficiency of overstay investigations and reduce some of the costs associated with the system.

Making the entry system more efficient begins with a \$250 million investment in upgrading existing license plate readers at ports of entry and piloting a program that uses license plate readers in cargo lanes to reduce border waiting times, as well as developing a high-throughput, non-intrusive inspection system for passenger vehicles. Delays from the entry system were estimated in 2010 to cost \$1.8 billion and over 8,500 jobs. Reducing such delays should therefore be a top priority in developing the entry/exit system.^{xii}

According to a 2008 report by DHS, completing a biometric exit system at airports and seaports would cost at least \$3.1 billion, and potentially up to \$6.4 billion depending on the specific system.^{xiii} The same report estimated the benefits of the system at only \$1.1 billion. The present expansion of exit capability at the top 20 airports already costs about \$1 billion.^{xiv} Completing exit capabilities at land ports could be even more expensive, since, as the Government Accountability Office (GAO) has reported, there is not enough space.^{xv} These costs represent the cost to the government and do not account for the significant costs an operational biometric exit system would pose to travel and commerce through delays.

Lawmakers should consider all associated costs of completing biometric exit at different categories of ports of entry as they discuss its expansion and/or completion, as well as potential alternatives and exemptions or expedited processes for certain approved classes of travelers.

TRAFFICKING NARCOTICS

According to the Drug Enforcement Agency (DEA), most drugs trafficked into the United States come through ports of entry. According to CBP, 90 percent of heroin, 88 percent of cocaine, 87 percent of methamphetamine, and 80 percent of fentanyl was intercepted in the first 11 months of FY2018 at legal crossing points.^{xvi} For the past four years, much of illicit (nonprescribed) fentanyl has been produced in China (90 percent pure) and mailed to the United States.^{xvii}

The brazen use of the U.S. Postal Service by foreign drug traffickers is a huge problem but is now one with a partial solution. To keep up with the protections already in use by FedEx and UPS, Congress passed new legislation in December 2018 that requires foreign senders to register packages before they are shipped to the United States.^{xviii} The law requires foreign governments to sign agreements with the United States to provide advance, secure data on their packages; if they refuse, former DHS Secretary Tom Ridge promised, "then we can have all those packages gather dust in some warehouse."^{xix}

Another important aspect of limiting trafficking is considering south-bound traffic inspections, which would hinder the smuggling of large amounts of cash from U.S. drug sales. Estimates of those flows fall between \$15-\$20 billion annually; money that goes right into the hands of drug cartels.^{xx}

PERCENTAGE OF SEIZED DRUGS INTERCEPTED AT PORTS OF ENTRY IN 2018

90 %
HEROIN

88 %
COCAINE

80 %
METH-
AMPHETAMINE

80 %
FENTANYL

#6 Expand region-specific technologies and deploy new sensor communications technologies



Greater investment in region-specific technology between ports of entry is a cost-effective means of securing the border that does not attempt to apply a one-size-fits-all strategy to border security.

Expanding region-specific technology must involve increased investment in and use of radar surveillance systems, Vehicle and Dismount Exploitation Radars (VADER), seismic acoustic detection and ranging border-tunneling detection technology, sensors, unmanned cameras, unmanned aerial vehicles, and other technologies that are more effective. Different regions with different terrains and patterns of

border activity represent different challenges to CBP and hence call for different, more flexible approaches.^{xxi} Tailoring the right technology to the unique challenges faced at each part of the border ensures that DHS resources are not wasted and that the agency maximizes situational and operational control with the amount of resources and personnel it has at its disposal.^{xxii}

Right now, CBP uses Remote Video Surveillance Systems (RVSS) that consists of long-range electro-optic and infrared cameras mounted on poles, towers, and buildings. When mounted on towers, RVSS helps detect early signs of potential crossers, and are useful when no physical barrier is present. They can also supplement existing barriers. Currently, 150 RVSS sensor towers are deployed along the border in San Diego and Laredo, in addition to 30 towers that serve as communications relays.^{xxiii}

Of course, newer, mobile RVSS technology can be used to cover more space at lower costs and can be moved in response to changes in border crossing patterns.^{xxiv} Mobile RVSS allows for temporary easements, whereas fixed installations require acquisition through eminent domain.^{xxv} In the past, when CBP has placed sensors on private property in undisclosed locations, property owners have brought lawsuits.^{xxvi} Intelligent Fiber-Optic (iFIDS) cables can also be used to detect above- and below-ground movement, including low-flying aircraft. The technology can identify multiple intrusions at once and contains a self-learning algorithm to mitigate false alarms.^{xxvii}

All of the technology comes at a hefty price. In 2019, CBP requested funding electro-optic/infrared aircraft sensors that better enable detection of people, vehicles, vessels, and aircraft at night and in other conditions where it's difficult to see. CBP's original request was for \$88.3 million, but the Office of Management and Budget cut it to \$43.7 million, in part to fund a border wall.^{xxviii}



#7 CRACK DOWN ON HUMAN TRAFFICKING AND SMUGGLING

On February 3, 2019, the president tweeted: “With Caravans marching through Mexico and toward our Country, Republicans must be prepared to do whatever is necessary for STRONG Border Security. Dems do nothing. If there is no Wall, there is no Security.

Human Trafficking, Drugs and Criminals of all dimensions - KEEP OUT!”^{xxxix} But according to the Bureau of Justice Statistics, 94 percent of criminals in trafficking cases are *U.S. citizens*.^{xxx} According to Human Trafficking Search, “the nexus of human trafficking and human smuggling accounts for a much smaller portion of trafficking in the U.S. than popularly believed, accounting for less than 10% of cases.”^{xxxi} There is debate about whether a wall will decrease or increase human trafficking and smuggling, but consensus exists around increasing surveillance and interception of boats, submarines, and tunnels, all used to bypass border security.

More can be done by enforcement officers as well. Training Immigration and Customs Enforcement and CBP officers to recognize signs of trafficking and smuggling and ensure that victims feel comfortable enough to come forward and report incidents of both is critically important. Also, ensuring that the United States provides a stable and safe space free from fear and intimidation is critical to ensuring victims will be effective witnesses.

#8 DEPORT MORE CRIMINAL OFFENDERS

Increasing the grounds of inadmissibility and deportability to include weapons trafficking, peonage and slavery, racketeering, obstruction of justice and witness tampering, and identity fraud will help ensure that nonimmigrants and immigrants who wish to be admitted into the United States are held to a high – but reasonable – standard of personal and legal conduct.



#9 PROVIDE COUNSEL TO VULNERABLE POPULATIONS

Most prospective refugees, asylees, and immigrants have no access or right to legal counsel. Granting counsel will increase the odds of a fair hearing and will also make proceedings more efficient by ensuring critical facts are vetted before hearings, relevant documents are reviewed, and necessary witnesses, experts, and translators are coordinated.^{xxxii}

#10 IMPLEMENT A BORDER TUNNEL TASK FORCE

Curiously, no one agency is assigned to find and address tunnel incidents at the border. As a result, tunnel smugglings of people and drugs are often discovered only by chance, through the investigation of unrelated cases.^{xxxiii}

Implementing a Border Tunnel Task Force is necessary to enhance DHS's capacity to detect and eliminate cross-border tunnels used for the smuggling of drugs, people, and weapons. An effective task force would include ICE, CBP, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and other federal, state, local, and tribal law enforcement personnel who could jointly work to detect, investigate, and destroy these illicit highways and disseminate information amongst agencies to increase prevention and faster response.^{xxxiv}



#11 STRENGTHEN THE MERIDA INITIATIVE

The Mérida Initiative, launched in 2007, began as a bilateral partnership between the United States and Mexico for security cooperation, and has grown to include some countries in Central America. The United States has provided about \$2.8 billion in assistance for the initiative since 2008, with the aim of disrupting organized crime, cartels, and gangs; strengthening the rule of law; modernizing the U.S.-Mexico border; strengthening communities; bolstering Mexico's southern border; and reducing the production and trafficking of heroin and fentanyl.^{xxxv} The initiative has served to facilitate cooperation leading to the arrest of top criminals and traffickers such as Joaquín "El Chapo" Guzmán, increased extraditions to the United States, improved criminal justice in Mexico, and greater cooperation in addressing irregular migration from Central America.^{xxxvi} Strengthening the Mérida Initiative would cost at least \$54 million to close the gap between expected and actual appropriations levels.^{xxxvii}

One of the four central pillars of the initiative is "creating a 21st-century border" and has involved the establishment of Mexican Customs southbound inspections from the U.S. A strengthened initiative could also provide funding to address corruption of border enforcement personnel, which threatens border security. It could also involve new provisions to ensure that assistance is tied to significant action to address corruption, impunity, and human rights abuses; improving transparency and accountability of Mexican authorities; better humanitarian training for actions involving migrants; and the increased use of outcome-based measures of the initiative's success, as recommended by the GAO.^{xxxviii}

In his February 15, 2019, emergency proclamation, President Trump said, “[D]espite the executive branch’s exercise of existing statutory authorities, the situation has worsened in certain respects in recent years. In particular, recent years have seen sharp increases in the number of family units entering and seeking entry to the United States and an inability to provide detention space for many of these aliens while their removal proceedings are pending.”^{xxxix}

In part, this is true. The administration has stressed a “sharp increase” in the number of family units apprehended at the southern border, but the increase is well within normal volatility. Meanwhile, every other indicator of border security and humanitarian need at the border shows the situation is well within historical bounds. CBP reports that more unaccompanied minors were apprehended in FY2016 and FY2014 than in FY2018. And CBP reports that total apprehensions are significantly closer to recent historic lows than they are to historic peaks. The number of apprehensions so far in FY2019 is more than 50 percent lower than they were at this time in FY2000.^{xl}

PEOPLE MANAGEMENT

A multifaceted approach
to asylum reform.

Certainly though, something needs to be done to ensure that we are more effectively, efficiently, and safely managing the inflow of asylum seekers. That solution is multifaceted and includes reforming how we intake and treat asylum seekers and adjudicate their asylum claims – and it starts well before they reach the southwestern border. A well-functioning asylum system accomplishes four goals:

GOAL 1

Protect due process and provide equal opportunity to make an asylum claim and to receive a fair and impartial decision in a timely manner

GOAL 2

Prioritize the safety, security, and well-being of asylum seekers and their families

GOAL 3

Reduce the push and pull for individuals to seek asylum in America through targeted aid and more efficient processing

GOAL 4

Respond to changing populations and humanitarian needs by incorporating flexible, clear parameters

THE ASYLUM JOURNEY

#12 AID FOR NORTHERN TRIANGLE COUNTRIES

In sharp contrast to the administration's 2017 position on foreign aid to Central America, President Trump recently announced that he would cut aid to the Northern Triangle countries that export the vast majority of asylum seekers the United States receives.^{xli}

Financial aid that reduces violence is one of the most impactful levers to reduce asylum journeys to America and ending it will likely increase the flow of individuals coming to seek refuge, and the flow of illegal narcotics and human traffickers.

In addition to reinstating aid, it is critical to improve collaboration with local aid organizations in Mexico and Central and South America to help nationals there get help in-country, as opposed to making the dangerous journey through Mexico as a last resort.

#13 ADEQUATE ADJUDICATION

The current backlog of cases in immigration courts is over 800,000; the pending caseload has grown by nearly 50 percent since President Trump took office in 2017. About 2 percent of cases are criminal or related to national security or terrorism; the rest are civil immigration cases – which includes asylum.^{xlii}

To better handle the backlog and ensure that individuals are not held in detention for extended periods of time – often years – we need to ensure that immigration officials have the capacity to siphon out cases that do not require full adjudication and to stipulate well-established facts and law. Increasing efficiency means allowing certain applicants to expedite or waive initial hearings and combine master hearings in cases where the facts are previously stipulated.

Of course, hiring more judges and support staff and increasing the flow of staff to the border where they are needed is an important intermediate step, but ultimately, the immigration courts need a change. The current immigration court system – 58 courts – is operated by the DOJ's Executive Office for Immigration Review (EOIR). Because they remain executive courts, as opposed to independent Article I or III courts, the system is subject to politicization and has succumbed to the slow nature of an overly rigid system. With trial and appellate divisions these courts could expedite hiring of judges, have access to additional funding to update court processes, safeguard judicial independence, and ensure due process for all immigrants. Faster, more efficient adjudication is the only long-term solution to ending long detentions and "catch and release."

PRESERVING THE HUMANITY IN ASYLUM

Ensuring that asylum seekers have the opportunity to safely make an asylum claim, and that once they do, they are able to represent their case before an impartial court in the United States are cornerstones of a fair and judicious asylum system.

#14 RE-LAUNCH CENTRAL AMERICAN MINORS (CAM) PROGRAM 2.0 AND EXPAND ATDs

One way to reduce the number of people crossing from Mexico to make an asylum claim in America is to provide a more flexible migration pathway through the re-launch of the Central American Minors (CAM) program.^{xliii} Prior to its rescission in 2017, CAM provided partial in-country processing, combined with family reunification and humanitarian parole for minors. A new and improved program would increase the volume of interviews conducted and expedite processing and also work with local nonprofit organizations to ensure that applicants are as safe as possible while awaiting a decision in-country. Permitting counsel and creating information guides about the process and who might qualify would help ensure that only those that are eligible for the program apply and receive status. Expedited processing for particularly vulnerable applicants and conditional approvals would allow the applicants in the most danger to await their hearing in the United States.

For those currently in the United States and those continuing to present themselves at the southwestern border, it is imperative that we expand alternatives to detention.

Even if we doubled the number of beds requested by the White House – to 130,000 detention beds – we cannot detain the flows of asylum seekers currently appearing at the border. At current rates, it would take about a month to fill those beds.^{xliv}

Detaining families and children are more expensive than alternative, community-based supervision and monitoring programs. According to the 2018 budget request for ICE, the average daily rate for a family bed in a detention center is \$319. Costs for housing a child separately in an Office of Refugee Resettlement-funded facility was \$248 on average per day in 2014.^{xlv}

#15 INCREASE USE OF FAMILY CASE MANAGEMENT

Daily costs for recently constructed temporary or tent-based shelters are estimated to be substantially higher, at \$775 per person per night.^{xlvi} The cost of monitoring individuals in the community through alternatives to detention is much lower. Specifically, the 2018 ICE budget request notes that the daily cost of community supervision and monitoring is \$4.50.^{xlvii} The average daily cost was \$36 for the Family Case Management Program,^{xlviii} a community-based program for families seeking asylum that the Trump administration ended in 2017 despite its 99 percent rate of appearance in court.^{xlix}

PROTECTING LAW ENFORCEMENT

It is critical to ensure that we protect law enforcement on the border from violence and frivolous complaints. To do so requires a broad range of reforms.

#16 GIVE BODY CAMERAS TO CBP AND ICE AGENTS

In May 2018, CBP announced the start of a six-month testing period of the so-called Incident-Driven Video Recording System (IDVRS) so officers could evaluate the use of body-worn cameras and vehicle-mounted cameras in operational environments, such as between ports of entry, in the air, and at sea.¹

In a privacy impact assessment conducted by DHS, the authors found that CBP could potentially:

- Reduce allegations and complaints, deter frivolous complaints, and lower the likelihood of use-of-force incidents
- Afford insights into law enforcement encounters that have traditionally been unavailable
- Supplement evidence in criminal cases, increasing the likelihood of obtaining successful prosecution for those who have violated the law
- Enhance training capabilities through utilization of footage as a learning tool
- Contribute to a “civilizing effect” on law enforcement/civilian interactions by reducing hostilities between officers/agents and citizens
- Strengthen officer/agent performance and accountability
- Increase officer/agent awareness and safety by influencing public behavior
- Simplify incident review by enabling the quick and immediate review of footage

Once the results of the pilot program are made public, it is imperative that we make necessary improvements and consider expansion.

LEGISLATIVE FIX?

Supported by the National Border Patrol Council (the CBP union) and the Southern Border Communities Coalition, the DHS Body-Worn Camera Act was introduced in the Senate in October 2018. It would require DHS to establish pilot programs for body-worn cameras (BWC) at CBP and ICE. The legislation would also require DHS to report to Congress on these pilot programs, develop policies governing the use of BWC with public consultation, and develop an implementation plan to require full BWC deployment. Neither the Senate bill nor its House companion moved beyond introduction.

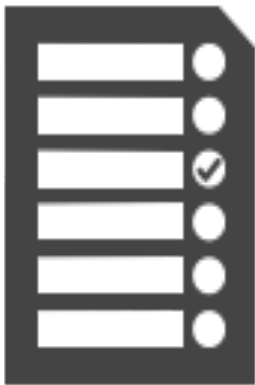


#17 INCREASE AIR AND MARINE OPERATION FLIGHT HOURS

CBP's Office of Air and Marine Operations relies on hundreds of aircraft and marine vessels to interdict people and cargo unlawfully approaching the United States.

In 2017 alone, Air and Marine Operations made 2,573 arrests and over 37,000 apprehensions of illegal entrants, and seized or disrupted hundreds of tons of drugs.^{li} More flight hours increase the support that Air and Marine Operations provides to Border Patrol at the southern border and allow more flexibility to shift officers and agents from detection to interdiction.^{lii} Establishing a minimum number of flight hours annually and providing long-term funding would make sure that operations are more stable and predictable over time. Incorporating unmanned aerial vehicles into the operations could also improve efficiency.

#18 PROVIDE FOR ADDITIONAL OVERSIGHT, MONITORING, TRAINING and IMPROVE HIRING



For the first time in a number of years, CBP has found it difficult^{liiii} to hire and retain staff, and seen its hired levels fall below authorized levels, though that trend may have reversed in 2018.^{liv} Any balanced approach to staffing at the border needs to address both the staffing level as well as the integrity of the staff.^{lv}

Lawmakers have proposed expanding the polygraph waiver established in 2016 to veterans and law enforcement who had to take polygraph exams for their previous job and who hold specific security clearances in order to make it easier for CBP to hire.

Critics worry that this would increase corruption, since an internal CBP analysis of polygraph data for 2015 and 2016 "revealed no difference between the military/law enforcement failure rates compared to the civilian rates." However, both concerns (the difficulty of hiring and the potential for corruption) can be addressed with a well-structured reform: Congress could expand the waiver to include law enforcement and people with lower-level security clearances combined with a requirement that such new hires be given a postemployment polygraph 3-5 years after starting.

Ideally, funding would be provided to establish a mandatory (or at least random) post-employment polygraph, as has been recommended by the GAO.^{lvi} After all, more corruption cases involved people who were compromised after starting the job than who went into CBP with criminal intent.

IMPROVING SUPPORT STAFF

19 INCREASE OVERSIGHT OF DETENTION CONTRACTORS

In addition to passing legislation protecting and overseeing contractors who run detention centers, it is necessary to reaffirm the principles surrounding detention, enshrined in The Victims of Trafficking and Violence Protection Act (TVPA) of 2000. TVPA was established, in part, to protect immigrant detainees from forced labor, the subminimum wages of which are now necessary to procure basic necessities at the commissary and avoid hunger, undernourishment, lack of personal hygiene, and lack of contact with loved ones, among other harms experienced in some detention facilities.^{lvii} TVPA is meant to allow individuals to refuse to provide labor without fear of placement or threatened placement into solitary confinement; threat of criminal prosecution; threats to transfer to unsafe and unsanitary living quarters, where they would be deprived of privacy, safety, and sanitation; and threat to deny them access to the commissary where they could buy food, hygiene products, and phone cards, thus denying them basic necessities and isolating them from friends and family.^{lviii}

Protecting the rights of migrants in detention by maintaining strict oversight of detention contractors should always be important but becomes more crucial as holding capacity is stretched and contractors are relied upon more. Ensuring the protections included in TVPA and its reauthorizing legislation affirms our commitment to humane treatment of detainees not convicted of criminal acts.

20 INCENTIVIZE VOLUNTEER PROFESSIONAL SERVICES AT THE BORDER

Individuals and family units on the border are especially vulnerable, and as flows across the border continue to rise, the need for professional services at the border will only increase. There is a clear need for lawyers to process cases and represent asylum seekers through the difficult and complex process. But other volunteers with professional backgrounds are also required to ensure safety and health for the immigrants themselves, U.S. personnel, and border communities. Nurses, doctors, social workers, mental health professionals, child caretakers, and other professionals are required to ensure all apprehended individuals are receiving necessary medical care and supervision.

The groundswell of support for separated families in the summer of 2018 shows the interest from not only the legal community but also the medical community in rising to the challenge of aiding asylum seekers in their time of need. Incentivizing more volunteer services at the border would ensure vulnerable people are cared for as their cases advance.

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