



SUMMARY OF LEAKED, DRAFT REPORT DETAILING DHS PROGRESS ON IMPLEMENTATION OF BORDER ENFORCEMENT EXECUTIVE ORDER

Contact Greg Chen, gchen@aila.org or Kate Voigt, kvoigt@aila.org

On April 12, 2017, the Washington Post published an article, [*Trump administration moving quickly to build up nationwide deportation force*](#). The article linked to a leaked, draft report entitled [*90-Day Progress Report to the President on Executive Order 13767: Border Security and Immigration Enforcement Improvements*](#). This is a summary of that report.

Main Takeaways

- The draft is further confirmation that the Trump Administration is implementing a massive enforcement plan and wants to waste American taxpayers' money on an unnecessary wall, more detention beds, and the fast-track hiring of agents.
- The draft calls for preparation and construction of about 50 more miles of wall and fencing, pending funding.
- The Administration has recently expanded detention capacity by 1,100 beds and also identified 33,500 more beds that could be brought online if Congress provides funding. Immigration detention is already at historically high numbers of people detained every day – around 41,000 per day in January 2017.
- The Administration will establish border courts that hear cases by video conference. The courts are certain to violate due process and return asylum seeker to life-threatening harms.
- CBP has been plagued by poor morale, high attrition rates, and verified reports of abuse by border agents. Still, the agency plans to water down hiring standards by granting waivers for polygraph tests.
- The agency will dramatically increase its deportation forces by approving 8 new 287(g) jurisdictions, reviewing 18 new applications in April 2017, and identifying over 50 additional jurisdictions that may be interested in participating.
- The agency plans to all-but eliminate the use of parole, leaving vulnerable individuals in need of urgent humanitarian protection in harm's way and even potentially impeding travel for individuals who are lawfully present in the United States.

Summary of Report

Brief introduction¹

Section 4. Physical Security of the Southern Border of the U.S.

- CBP is working with industry partners and the U.S. Army Corps of Engineers to design and construct wall prototypes, in order to expand physical barriers at the border. Report includes timetables for RFIs, RFPs, contracts, and prototype construction.
- CBP submitted a reprogramming request to the Appropriations Committees for \$20 million:
 - **\$12 million** to support initial survey, drainage design, real estate and environmental planning, and title searches for FY17 & FY18; **\$6 million** for wall design standard development; and **\$2 million** for prototype construction including proposal planning and development.
 - Received letters from Homeland Security Appropriation Committee Chairmen to move forward as of March 24, 2017.
- CBP deemed the Rio Grande Valley (RGV) its highest priority area and is planning for the construction of approximately 34 miles of levee wall and/or border barrier system. Additionally, CBP is planning to replace 14 miles of primary and secondary barrier systems in the San Diego Sector.

Section 5. Detention Facilities

- In November 2016, CBP quickly developed 2 temporary holding facilities in Texas, Tornillo and Donna. Each facility provides holding space for 500 individuals, including family units and UACs.
- CBP placed these 2 facilities on a ‘warm-standby’ status in February of 2017 due to a decrease in the number of migrants crossing the border. Facilities on ‘warm-standby’ status can return to operational status within 72 hours.
- The CBP Migration Crisis Action Team is developing its plans for future migration surges including options to enhance the “Agency’s ability to temporarily hold 12,500 inadmissible aliens across 6 sites.”

Section 6. Detention for Illegal Entry

- On February 21, 2017, ICE issued field guidance to each of its operational programs, implementing Secretary Kelly’s memorandum, *Enforcement of the Immigration laws to serve the National Interest*. The implementation guidance directs ICE agents and officers to employ limited use of prosecutorial discretion, release on bond, and other conditions of release in order to comply with the EO and the new enforcement priorities.
- ICE expanded its detention capacity by 1,100 beds.
- ICE has identified 27 potential locations capable of providing 21,000 additional bed spaces.

¹ Note that the report does not include information on Sections 1-3 of the Border Enforcement Executive Order.

Section 7. Return to Territory

- The United States has yet to reach an agreement with the Government of Mexico to have third country nationals remain in Mexico pending their removal proceedings. In anticipation of such agreement, CBP, ICE, and EOIR have collaborated to develop a plan to establish immigration court hearings at the border or near Ports of Entry (POEs).
- CBP has identified 2 pilot locations and 2 options for immigration port court operations.
 - Option 1: Establish video teleconference system allowing immigration judges to remotely hear cases. This could be established in 90 days at a cost of \$50,000 per location.
 - Option 2: Physically placing immigration judges at the port courts along with support staff. This initiative would cost an estimated \$400,000 per site and could be operational in 6 months.

Section 8. Additional Border Patrol (BP) Agents

- 21,370 full-time BP agents are annually appropriated to CBP. The EO directs CBP to hire an additional 5,000 BP agents. CBP has also proposed an additional \$100 million in FY2018 to support the hiring of an additional 500 agents.
- As of February 8, 2017, the number of BP agents on board was 19,602. CBP anticipates that it will begin to yield net gains to its workforce beginning in FY2018.
- CBP is aggressively working to hire agents and assess possible modifications to the hiring process. CBP will work to reduce its overall time-to-hire by examining its pre-employment process.
 - *Polygraph Examination*: CBP is exploring legislative amendments to permit waivers of polygraph examination for certain groups. In April 2017, CBP will begin piloting use of “Test for Espionage, Sabotage, and Corruption” as an alternative to the “Law Enforcement Pre-employment Test.”
 - *Entrance Examination*: CBP plans to eliminate the Spanish language proficiency test on the entrance exam, although it will continue to train officers once hired. It is also exploring remote testing possibilities. As of March 2017 CBP allows the Candidate Experience Record portion to be done remotely. CBP is currently developing a remote version of the Logical Reasoning Test.
 - *Physical Fitness Test*: CBP plans to make the second physical fitness test non-adjudicative for Border Patrol officers, and remove it completely for CBP officers.
- CBP will continue to use its expedited hiring process. As of March 2017, time-to-hire for frontline personnel averaged just under 300 days, down from 469 in January 2016. The new process has shown the ability to hire in approximately 160 days.
- CBP also recommends hiring additional CBP officers at Ports of Entry.

Section 9. Foreign Aid Reporting Requirements

- The total foreign aid and assistance provided to Mexico for FY2012-2016 was \$973,000.

Section 10. Federal-State Agreements

- Border Patrol is collaborating with ICE in order to develop a CBP-wide agency plan to expand the 287(g) Program.
- ICE recently approved 8 new jurisdictions for inclusion into the 287(g) Program, reviewed 18 new applications in April 2017, and has identified over 50 additional jurisdictions that are interested in participating in the program.

Section 11. Parole, Asylum, and Removal

- USCIS detailed Fraud Detection and National Security (FDNS) Immigration Officers to border detention facilities and approved increase in FDNS positions assigned to the Asylum Division.
- USCIS issued revised guidance, effective February 28, 2017, to asylum officers for the application of the screening standard for credible fear (CF) and reasonable fear (RF) interviews. USCIS also trained refugee officer staff to conduct credible fear interviews.
- USCIS drafted a paper proposing additional changes to the CF and RF screening process in order to improve efficiency and efficacy.
- USCIS deployed asylum officers to additional detention facilities in Texas, Arizona, and California to conduct in-person CF and RF interviews.
- USCIS is finalizing a draft report of the vulnerabilities of the asylum program and steps to be taken to mitigate/eliminate such vulnerabilities.
- Drafted revised instructions on the proper application of the TVPRA.
- On February 2, 2017, USCIS forwarded to the Office of the Secretary recommendations on termination and modification on the use of parole.
- USCIS added the EO and February 20, 2017 implementing memo to its guidance to officers adjudicating humanitarian parole applications.
- The Office of Policy and Strategy is preparing regulatory actions regarding certain uses of parole and is also drafting new guidance for the USCIS Policy Manual to explain how USCIS will apply its parole authority on the termination or modification of USCIS's use of parole.

Section 12. Authorization to Enter Federal Lands

- CBP is not anticipating any impediments concerning access to federal lands.

Section 13. Priority Enforcement

- ICE shifted more of its resources towards the investigation and criminal prosecution of immigration fraud.
- ICE will establish new Document and Benefit Fraud Task Forces (DBFTFs) throughout the country, in addition to increased staffing at current DBFTFs.
- ICE meeting with Human Rights and Special Prosecutions Section of DOJ Criminal Division to discuss immigration aspects on EOs, particularly ICE human smuggling and

immigration fraud programs. Local ICE representatives are meeting with U.S. Attorney Offices to discuss prosecution thresholds and opportunities for collaboration.

- ICE is establishing 3 additional Border Enforcement Security Task forces (BESTs). There are now 44 BESTs.

Section 14. Government Transparency

- In March of 2017, CBP published updated Southwest Border Migration statistics and statistics related to BP enforcement actions.
- ICE is currently developing a “Monthly Arrest, Removal, and Release Report.”
- DHS Office of Policy will perform further analysis tracing the movement of individuals apprehended at the border and subsequently detained through the enforcement system. DHS eventually intends this to be a quarterly report.

Section 15. Reporting

- Section 15 of the EO directed the Secretary to submit a report to the President of the progress of the directives contained in this order. The issuance of this report addresses that section.

Section 16. Hiring

- CBP made requests to the Office of Personnel Management (OPM) to amend qualifications that are standard for [Border Patrol Agent, GS-1896](#), and to provide special salary rates for remote and hard-to-fill locations.
- Lists specific requests made to OPM, and likelihood of OPM approving – with or without modification – each request.