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Is Obama's Immigration Plan Too Modest? Proposals Cover Less Than Half of Nation's Undocumented

The Democracy Now!
November 17, 2014

President Obama is considering issuing an executive action that could protect millions of undocumented immigrants from deportation. According to The New York Times, Obama's executive actions will not provide any formal, lasting immigration status, but many immigrants will receive work permits, which will give them Social Security numbers and allow them to work legally under their own names. Another key component could prevent the deportation of parents whose children are U.S. citizens. Democracy Now! co-host Juan González breaks down the numbers of who will benefit from this possible executive order.

JUAN GONZÁLEZ: We begin today's show with news that President Obama is considering taking an executive action that would protect up to five million undocumented immigrants from deportation. According to The New York Times, Obama's executive actions will not provide any formal, lasting immigration status, but many immigrants will receive work permits, which will give them Social Security numbers and allow them to work legally under their own names. Another key component could prevent the deportation of parents whose children are U.S. citizens. Speaking at a news conference in Burma, Obama vowed to take action by the end of the year.

PRESIDENT BARACK OBAMA: I believe that America is a nation of immigrants. Everybody agrees that the system is broken. There has been ample opportunity for Congress to pass a bipartisan immigration bill that would strengthen our borders, improve the legal immigration system, lift millions of people out of the shadows so they are paying taxes and getting right by the law. It passed out of the Senate. I gave the House over a year to go ahead and at least give a vote to the Senate bill. They failed to do so. And I indicated to Speaker Boehner several months ago that if in fact Congress failed to act, I would use all the lawful authority that I possess to try to make the system work better. And that's going to happen. That's going to happen before the end of the year.

AMY GOODMAN: That was President Obama speaking in Burma on Friday. Republican House Speaker John Boehner has vowed to fight any such action "tooth and nail."

Meanwhile, last week, the National Day Laborer Organizing Network filed a lawsuit against the Department of Homeland Security over Obama's record number of deportations. The group says the agency violated the law by failing to respond to a rule-making petition seeking relief for millions of undocumented immigrants.

Before we go to our first guest, Juan, you've been covering this issue very closely. Talk about the significance of President Obama's words and plans.

JUAN GONZÁLEZ: Well, the president clearly made the—he made the statement right after the election, that this was the direction he was going to go to. But what happened on Friday was that it's becoming clearer that it's going to happen sooner rather than later, as we head to the end of the year. But the key thing, I think, that's being missed is that the numbers that are being bandied about, between 3.7 and 5.3 million undocumented, that number includes the 1.2 million young people that are already under a protected status, or deferred deportation, under DACA. So it's really a much more modest number that we're talking about. And the difference is, it's still a question of what plan President Obama takes, whether he will require the parents of U.S. citizen children to have been here at least 10 years or five years, which would affect the final number, and whether he will include the parents of the DACA young people who have already received a deferred deportation situation. And, of course, this is all temporary, because Congress can change it at any moment. So, I think it's actually a pretty modest proposal whichever way President Obama goes, because even at the most expansive plan, which would be about 5.3 million people, that's still less than half of the undocumented that are in the country currently.

AMY GOODMAN: And President Obama having said in the past he's not king, you know, sort of raising questions about whether he would issue an executive order. He's certainly changed his tune there.

JUAN GONZÁLEZ: Well, I think there's been no question that he made—he signaled, from the beginning of the year, pretty much, that he was at some point going to act if Congress did not. So I think he's merely following through on what his initial promise to the Congress was, if the Republicans could not pass an immigration bill, because, remember, the Senate bill that was passed more than a year ago, if there's not an accompanying bill by the House by the end of December, that bill will be void, and then both the Senate and the House would have to start all over again in January.

The Green Monster

How the Border Patrol became America's most out-of-control law enforcement agency

Garrett M. Graff - Politico
November/December 2014

Gil Kerlikowske was hoping to make it through at least his first week on the job without being awakened in the middle of the night. President Barack Obama's new head of Customs and Border Protection, Kerlikowske could have used a week of quiet as he began to figure out the nation's largest law enforcement agency, with its 46,000 gun-carrying Customs officers and Border Patrol agents and massive \$12.4 billion annual budget. He didn't get it. On his sixth night after taking office in March, a Border Patrol agent's single gunshot 1,500 miles away from Washington interrupted Kerlikowske's sleep. The gunshot itself wasn't all that surprising; Border Patrol agents regularly open fire on suspected smugglers, border crossers and people harassing them from across the Mexican line. So often, in fact, that the agency doesn't even bother to release details on most shooting incidents. But this wasn't a regular shooting incident.

Early the day before, while Kerlikowske, an affable career cop who had spent five years as Obama's drug czar, was going about his meetings in CBP's headquarters at Washington's cavernous Ronald Reagan Building, three Honduran women had surrendered to a green-uniformed U.S. Border Patrol agent in the Rio Grande Valley.

That, too, was a common occurrence. "RGV," as it's known in the Border Patrol, has been the epicenter of this year's "border crisis," the latest in a long series that stretches back decades—crises that inevitably lead to calls for more money, more agents, more fences. In this year's iteration, tens of thousands of people fleeing the Central American countries of El Salvador, Guatemala and Honduras have journeyed through Mexico to turn themselves in at the U.S. border seeking asylum. Many of the refugees have been unaccompanied minors ("UACs" to the bureaucracy), a fact that strained the U.S. government response and unleashed critical 24-hour cable media coverage. RGV had been particularly flooded, and so the detention of the three Honduran women—a mother, her 14-year-old daughter and a second teen—around midday on March 12 shouldn't have been anything other than routine.

Except that they surrendered to Esteban Manzanares.

Manzanares, a stocky 32-year-old agent who kept his head shaved short, was already under suspicion for misconduct—colleagues suspected he had let two border violators go free—but there was a huge backlog of misconduct cases at the inspector general’s field office in McAllen, Texas, and Manzanares was but one small unconfirmed red flag amid many along the southern border, so even under suspicion, he remained on duty with the Border Patrol.

Rather than detain the three Honduran women and bring them to the McAllen holding center, a 300-bed unit that some nights this spring hosted more than 1,000 people, Manzanares locked the women in the back of his Ford patrol truck—and drove them around the scrubland surrounding McAllen for an hour or two. It was a perfectly lovely South Texas day—sunny, low 70s, a bit cool for that time of year.

At 3:15 p.m., Manzanares texted his ex-wife, saying he wanted to be a good dad to their two children: “I want to help in any way I can but I am very limited.”

Then he stopped his truck in a wooded area. He raped both the mother and the daughter. He slit the mother’s wrists and tried to break the daughter’s neck, leaving them for dead in the brush.

He drove off with the third woman bound in his green-and-white heavy-duty Border Patrol truck with a red-and-blue light bar on top, a Department of Homeland Security logo on the door and a U.S. flag on the hood. Somewhere out in the borderlands, the agent left his third prisoner hidden, bound with duct tape.

Manzanares wrapped up his scheduled shift a little after 4 p.m. and returned his truck to the motor pool at the McAllen Border Patrol station, a huge new 68,000-square-foot facility constructed for \$22.4 million as part of the agency’s influx of new agents and money over the past decade. Only at 5:45 p.m., his paperwork for the day completed, did he finally pull out of the Border Patrol station. His apartment was just three miles straight down the highway, past South Texas College and then a right turn at the Exxon station, but he wasn’t going straight home.

It was just around that time that other Border Patrol agents made a horrifying discovery, spotting one of the women Manzanares had left for dead wandering past a security camera—one link in the huge post-9/11 network of electronic eyes and sensors that now monitors the border region. Agents responded to the scene and after a brief search located both the injured mother and daughter, took them to the hospital and began looking for their attacker; the women described him as wearing green, so the agents suspected they were looking for one of their own.

They were, and he was not far away: After leaving work, Manzanares had retrieved the third victim and brought her back to his apartment in a housing complex, the last set of buildings before the Rio Grande that demarcates the two countries. The complex was home to a number of his Border Patrol colleagues—including his next-door neighbor and one across the hall. They all joked about how safe it was. Border Patrol agents seemed to be everywhere in McAllen these days, as the agency since 9/11 had become one of the region’s largest employers, a boon for one of the poorest metropolitan areas in the country. There were now some 3,200 agents in RGV—driving along the border, patrolling by boat, flying overhead in helicopters, working interior checkpoints, watching cameras, staffing the Border Patrol’s new overhead surveillance blimp, the latest high-tech toy cast off by the Pentagon and repurposed to protect the border.

Back inside his apartment, Manzanares stripped his teenage prisoner naked, bound her to a chair, stuffed a sock in her mouth and raped her.

By 7 p.m., the Border Patrol, having questioned the first two victims, had realized there was a third victim, notifying the FBI that a kidnapping had occurred and that the girl was probably being held by a Border Patrol agent. The magnitude and horror of the crime were unusual, but the potential perpetrator wasn’t. The FBI in McAllen had gotten used to investigating assaults and misconduct among Border Patrol agents; it had become the field office’s top criminal priority.

It took only hours to narrow down a suspect: When investigators examined the truck Manzanares used on his shift, they found blood and duct tape.

By 12:39 a.m., FBI agents knocked on his red door, Apartment 1513, and shouted, “FBI—federal agents.” At first, there was no response. Then, the agents heard a single gunshot as Manzanares took his own life. When a SWAT team broke down the door, they found the teen inside, still naked and bound, but alive.

Now it was definitely time to tell the new commissioner.

Kerlikowske had already known that the Border Patrol was troubled, of course: It had taken 1,870 days into the Obama administration before he even became the first Senate-confirmed commissioner of the Obama era, and he was well aware he didn’t have much time to right an agency that was beset by corruption problems and excessive force complaints, the

unfortunate legacies of a massive hiring surge that had doubled the force's size in just a few years after 9/11. That lying and obfuscation had often accompanied the scandals was no real surprise either.

"We had a history of not addressing things as directly as we should," Kerlikowske told me when we met this fall in his office at the Reagan Building.

Kerlikowske wanted to use the Manzanares attack as an opportunity to show that on his watch, the agency would be different—more forthright and transparent. But it wouldn't be easy: He wrote a first draft of a statement he wanted to send out immediately, but CBP officials blocked their own new commissioner. They were nervous about admitting fault so quickly. CBP's longstanding policy had been to hold off for days, weeks, months and even years before addressing publicly any misconduct incident.

The CBP leadership was so concerned about Kerlikowske's statement that he finally had to turn to the new secretary of Homeland Security, Jeh Johnson, and the new DHS general counsel, for their approval.

Two days later, CBP released Kerlikowske's statement, the first since his swearing-in as commissioner. "I consider these actions, if true, to be reprehensible and I know they are not representative of the agents of the U.S. Border Patrol," it said. "I am deeply sorry that this incident occurred and am committed to doing everything in my power to prevent incidents like this from occurring again."

Anywhere else it would hardly have seemed like a controversial thing to say under the circumstances—but this wasn't anywhere else. And Kerlikowske had to start somewhere.

The United States today spends more money each year on border and immigration enforcement than the combined budgets of the FBI, ATF, DEA, Secret Service and U.S. Marshals—plus the entire NYPD annual budget. Altogether, the country has invested more than \$100 billion in border and immigration control since 9/11.

It has paid for quite a force: Customs and Border Protection not only employs some 60,000 total personnel—everything from desert agents on horseback to insect inspectors at airports—but also operates a fleet of some 250 planes, helicopters and unmanned aerial vehicles like the Predator drones the military sent to Iraq and Afghanistan, making CBP both the largest law enforcement air force in the world and equivalent roughly to the size of Brazil's entire combat air force.

The Border Patrol wing of this vast apparatus has experienced particularly dramatic growth: By the time the Bush administration left Washington, the fiercely independent agency—part police force, part occupying army, part frontier cavalry—had gone from being a comparatively tiny, undermanned backwater of the Justice Department to a 21,000-person arm of the largest federal law enforcement agency in the country.

But the Border Patrol has also become one of the nation's deadliest law enforcement agencies over that same period, involved in more fatal shootings—at least 46—since 2004 than perhaps any other such agency. (As this summer's events in Ferguson, Missouri, showed, definitive statistics on fatal law enforcement shootings are notoriously difficult to collect.) An internal report last year that the agency tried to keep secret accused its agents of shooting their weapons not out of fear for their lives but instead out of "frustration."

As one senior DHS official told me, "The agency has created a culture that says, 'If you throw a rock at me, you're going to get shot.'"

Corruption and excessive force have also skyrocketed along with the massive hiring surge. In fact, between 2005 and 2012, nearly one CBP officer was arrested for misconduct every single day—part of a pattern that Ronald Hosko, former assistant director of the FBI's criminal investigation division, calls "shocking." During Obama's first term, the sheer number of allegations was so glaring that, according to two CBP officials, DHS under Secretary Janet Napolitano ordered Customs and Border Protection to change its definition of corruption to downplay to Congress the breadth of the problem.

Yet the agency's response has been paralyzed by bureaucratic turf battles and the broken Senate confirmation process, which left CBP without a Senate-confirmed leader for five years. Now, just as he rebuilt police departments in Buffalo and Seattle, Gil Kerlikowske's new job is to bring order and discipline to a force so long lacking leadership, and to weed out what he calls "bad apples" like Manzanares who should have never been hired in the first place—a problem, CBP officials admitted during an internal meeting this past spring, that might take a generation to fix.

This article, tracing the rapid growth of the Border Patrol since 9/11 and the host of problems that spawned, is based on more than 50 interviews—including nearly all of the seven men who have headed CBP in the past decade and all three former DHS secretaries—as well as officials at the White House, Justice Department and Congress. I also reviewed thousands of

pages of documents, including inspector general investigations, CBP performance reports and budgets. What emerges is the largely overlooked story behind the story of the perennial border crises, in which the best intentions and worst impulses of the Bush administration met the laissez-faire management and political cynicism of the Obama administration. The result? A massive agency—freshly militarized by billions of dollars of weapons and technology and thousands of poorly vetted gun-carrying personnel hired in the panicky years after 9/11—was left adrift as violence and corruption in its ranks rose dramatically.

CBP officials in Washington refer to the Border Patrol, somewhat endearingly, somewhat ruefully, as the Green Monster, a name derived from the patrol's proud historic tradition of dark green uniforms.

This is the story of how the Green Monster came alive.

CHAPTER I: THE POOR STEPCHILD

The irony of New York's Statue of Liberty is that the Emma Lazarus poem inscribed on its base at its dedication in 1886, "Give me your tired, your poor, / Your huddled masses, yearning to breathe free," marked almost precisely the moment the nation's borders began to close to new immigrants—especially the tired, the poor and the huddled masses.

That same decade, Congress passed the first comprehensive immigration act, expanding earlier limits on Chinese and other Asian immigrants to include bans on "lunatics, idiots, convicts, those liable to become public charges, and those suffering from contagious diseases." In 1891, the United States began to deport those who entered the country illegally. By the 1920s, Congress created the first force to patrol the country's 7,500 miles of unguarded borders with Canada and Mexico. When the Border Patrol got up and running in 1924, its first agents were transfers from the Mounted Guard of Chinese Inspectors, who had enforced the Chinese exclusion acts in the U.S. West. Much of their early patrolling was done on horseback in the rough terrain of the Arizona deserts and Texas scrub, making them the closest thing to cowboys in the U.S. government.

The Border Patrol: A Brief History

1882: Congress passes the Chinese Exclusion Act to keep out Chinese laborers thought to be taking American jobs. The law begins decades of legislation regulating immigration to the United States.

1891: The first Office of Immigration is established, as part of the Treasury Department. The agency, which formalizes the immigration process, is actually meant to encourage more Western European immigration to the United States.

1904: The first informal border patrols begin to police the Mexican border. In 1915, Congress formally creates the Mounted Guards to prevent immigrants from crossing the border illegally.

1924: The Border Patrol is founded, housed within the Labor Department. Its 450 inspectors are initially charged with guarding the Canadian and Mexican borders, and later the Gulf of Mexico and Florida.

1933: President Franklin D. Roosevelt consolidates the Bureau of Immigration and Bureau of Naturalization into the Immigration and Naturalization Service (INS). The agency shifts its focus to law enforcement and is moved, in 1940, to the Justice Department.

In 1933, President Franklin D. Roosevelt combined the Border Patrol and the Bureau of Citizenship into what came to be known as the Immigration and Naturalization Service, and on the eve of World War II, it became part of the Justice Department, where it would remain for six decades—always understaffed, increasingly neglected and largely forgotten in the government bureaucracy.

For its first quarter-century, most of the agency's staff and resources were expended securing the longer northern border with Canada, and it was only in 1954, long before political correctness hit the government, that Operation Wetback marked the Border Patrol's first large-scale deportations of illegal Mexican immigrants. Periodic INS crackdowns and raids over the coming decades followed, but the country never really took illegal immigration seriously until the 1990s, when Mexican border enforcement became a political lightning rod.

Only twice before 2001, in fact, did the Border Patrol make concerted efforts to "secure" the border—and both were localized initiatives rather than national strategies. As late as the beginning of the Clinton administration, the Border Patrol had just 4,000 agents, though steady growth spurred in part by popular border crackdowns in El Paso and San Diego brought it to 9,000 agents by 2001.

It was clear that still wasn't anywhere close to enough. In 2000, the peak year of illegal immigration, the Border Patrol apprehended 1.6 million people crossing the border. "And a large part of what was coming through wasn't even getting

apprehended,” recalls David Aguilar, who later became chief of the Bush-era Border Patrol and prior to that led its Tucson sector. “There was a lack of intestinal fortitude to address the border. We were being overrun.”

Near the top of the Border Patrol’s list of complaints was the policy known internally as “CARP,” the Catch-And-Release Policy. By the end of the Clinton administration, 80 percent of people who were caught and released with a notice to appear at a deportation hearing never showed up in court. But despite millions of border crossings, the Border Patrol had the financing in 2001 for just 60 detainees a day across the entire country. “They could turn themselves in and have a high confidence that they wouldn’t be returned to their home countries,” recalls Michael Chertoff, who would go on to become President George W. Bush’s second secretary of Homeland Security.

Mostly agents just asked border violators for their names and then did a cursory background check before returning them to Mexico or releasing them into the United States. Sometimes they ran fingerprints, sometimes they didn’t. In June 1999, agents captured one of the FBI’s Ten Most Wanted Fugitives, a rapist and serial killer named Ángel Maturino Reséndiz, aka “The Railway Killer,” and unknowingly released him back into Mexico, whereupon Reséndiz promptly sneaked back into the United States and murdered four more people before being apprehended by Texas Rangers.

As the 9/11 Commission dryly noted in its report on the terrorist attacks, “In the decade before September 11, 2001, border security—encompassing travel, entry, and immigration—was not seen as a national security matter.”

That changed quickly after the 9/11 attacks.

Tom Ridge, the Pennsylvania governor soon installed as Bush’s homeland security czar, singled out airport and border security as top priorities.

He had good reason to seek improvement.

“Within the INS structure, they were the poor stepchild. That was how most of INS viewed them at every level,” recalls Robert Bonner, who was Bush’s commissioner of Customs and in 2003 became the first head of CBP. “They weren’t appreciated and weren’t viewed with respect, and that created this defensiveness and insularity within the Border Patrol.”

Besides, CBP simply didn’t have anywhere close to the manpower, system or resources needed to police the border adequately—never mind secure the detainees it did catch. Richard Falkenrath, Ridge’s policy adviser in the White House, recommended in December 2001 that the United States create a single unified border agency—but that proposal collapsed when nearly every Cabinet secretary involved vetoed it. As White House chief of staff Andy Card later told Bush, “Tom tried to sell his plan to them and the response was classic Washington: ‘Don’t take anything away from us, just give us more money.’”

But the death warrant for INS came soon enough, when word got out that the slow-moving bureaucracy had approved long-delayed visas for two of the 9/11 hijackers, Mohamed Atta and Marwan al-Shehhi. No one evidently involved in the process noticed who the now-dead men were. Reading news of the visa approval over breakfast one day, Bush sputtered with rage. “I could barely get my coffee down,” he said.

It was stunningly bad mismanagement. INS was done.

The government’s entire homeland security apparatus, Bush decided, needed to be shaken up. “Maybe we should stop getting pecked to death like this,” Bush reportedly told Card, months after initially resisting such a major government reorganization. “Maybe it’s time to think big.”

INS was so marginalized that the following month, when Bush announced his support for breaking the agency apart, no one from the White House even bothered to tell the INS commissioner, James Ziglar, in advance.

INS was such a broken bureaucracy that it would be the single agency in the entire U.S. government to receive the ultimate “death penalty” after 9/11 in the wide-ranging bureaucratic reorganization that led to the creation of the Department of Homeland Security. INS was completely disbanded, its responsibilities removed from the Justice Department and its duties reassigned among three new DHS agencies: Immigration and Customs Enforcement (ICE), Citizenship and Immigration Services (CIS) and Customs and Border Protection. CBP—and the newly created DHS—would be a reality in less than a year.

“Unfortunately, the United States has not been in complete control of its border for decades,” Bush would later say. “We have a responsibility to secure our borders. We take this responsibility seriously.”

CHAPTER II: BUILDING A FENCE

Creating CBP fell to Robert Bonner, a federal judge and former head of the Drug Enforcement Administration who had been confirmed as Bush's pick to be commissioner of Customs just a week after 9/11. And Bonner knew that if he were going to succeed as CBP commissioner, he had to make an important decision quickly.

Weeks before the new agency officially launched, on March 1, 2003, he invited the Border Patrol's 20 sector chiefs to Washington to discuss the transition. They all arrived in D.C. in full dress green uniforms, shoes polished, brass buttons gleaming. As Bonner walked into the room, everyone stood and snapped to attention.

The new commissioner began his remarks simply: "The Border Patrol will remain green."

The Border Patrol: A Brief History (Cont.)

1954: The Border Patrol has roughly 1,000 agents, as public concern over illegal immigration leads to Operation Wetback, the agency's first mass Mexican deportations, in which more than 1 million illegal immigrants are removed.

1983: Illegal immigration begins to rise dramatically along the U.S.-Mexico border, topping more than a million apprehensions annually from 1983 to 1987.

1993: Operation Hold the Line launches in El Paso, Texas. The manpower-intensive project is the first serious attempt to "secure" the border. It proves wildly popular, and is followed by the similar Operation Gatekeeper in San Diego a year later.

2001: The Sept. 11 terrorist attacks spur border security fears, especially as illegal immigration along the U.S. border spikes, peaking at 1.6 million migrants stopped in 2000.

2003: INS is dissolved in the creation of the new Department of Homeland Security, giving way to three new agencies: Customs and Border Protection, Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services.

2005: The Border Patrol's hiring surge begins, boosting the agent ranks from 9,200 to about 18,000 by the time President George W. Bush leaves office.

2006: Bush signs the Secure Fence Act, providing for hundreds of miles of border fencing. "Unfortunately, the United States has not been in complete control of its border for decades," he says.

2009: President Barack Obama's first nominee for CBP commissioner, Alan Bersin, never receives a Senate confirmation hearing after he fails to fill out tax forms for household employees, and instead is given a recess appointment in March 2010.

2011: Border Patrol apprehends just 328,000 illegal immigrants along the Mexican border, the lowest level in 40 years, which the Obama administration touts as a sign that the new security is deterring illegal crossings.

2014: In March, Gil Kerlikowske becomes the Obama administration's first Senate-confirmed CBP commissioner, nearly 62 months into the administration.

CBP was meant to be, as officials said at the time, the "one face at the border," combining three different border functions—Customs inspectors, Department of Agriculture inspectors and Border Patrol agents—into a single unified agency. But the Border Patrol wasn't happy about becoming part of CBP. Its leaders felt it could stand on its own, like the Coast Guard or the Secret Service, and report directly to the DHS secretary. They didn't appreciate being lumped in with what was known as "legacy Customs," the Customs inspectors who made up what would now be called the Office of Field Operations.

Bonner's decision to let the Border Patrol keep its green uniforms—others received a new blue CBP uniform—set an early tone that the Border Patrol could stand apart, but he defends it. "They would have walked through fire for me from that point forward," he recalls. "I wasn't going to destroy the organization. That was still a wise and sound decision."

Even as he allowed the Border Patrol to keep the uniform, much of the rest of it needed to be remade. "The structure itself was dysfunctional," Bonner told me. "There was simply no command structure. No one was accountable or responsible for the entire Border Patrol."

The Border Patrol had long been divided into 20 sectors across the country, each reporting to a regional INS commissioner and leading to what Bonner says were 20 individual "fiefdoms" across the country. When Bonner took over, the Border Patrol had just 17 staff in its national headquarters. The chief of the Border Patrol was effectively a ceremonial position, and there

wasn't anyone to look at the big picture. "No one had ever asked the question: What resources did you need to control the border?" Bonner recalls. "You can't determine your resource needs without a strategy."

Bonner, working with Ridge and his 2005 successor, Chertoff, embarked on the nation's first-ever serious border security discussion, mapping out sector by sector what was needed to secure the borderlands. He broke down the regional fiefdoms, uniting everyone into a structure reporting to a newly empowered chief of the Border Patrol. But the task was almost beyond imagining: The agency's own studies concluded the Border Patrol did not have "operational control" over 97 percent of the border.

As Ridge told me, "There was clearly a need for more bodies—what the magic number was, I don't know."

As DHS secretary, he had initially laughed off the idea of dramatically growing the Border Patrol, labeling such dreams "fool's gold."

"It's nice to say you're going to have 10,000 more Border Patrol agents in five years, but what other part of Homeland Security do you want to take the money from?" he had told one interviewer. Then, he realized Congress didn't view it as an either/or; members would appropriate money for everything. As Ridge remembers it, "People just wanted to give me unlimited amounts of money."

The Border Patrol would get all those 10,000 agents—and a lot more.

CHAPTER III: FIELDING AN ARMY

Freshly trained new agents began to flood Border Patrol stations in the Southwest so quickly during the second term of the Bush administration that some stations began to hold their daily musters in the parking lot—the only place large enough to gather everyone.

When Chertoff took over as secretary in 2005, his original goal had been to grow even more quickly—doubling the border force in just two years. Eventually a "compromise" pace of doubling in four years was settled on, but even that seemed disconcertingly rapid, boosting the agency's budget by billions of dollars a year.

"From an integrity issue, you can't grow a law enforcement agency that quickly," Bonner says. There was plenty of evidence to prove the point: Police departments in Miami, Los Angeles and Washington, D.C., had all been beset by systemic misconduct scandals after they had tried to grow their force rapidly in the 1980s and '90s.

The plan was audacious: By the time the next president took office, the Border Patrol would grow from 9,200 agents in 2001 to some 18,000 agents, before capping off in the first Obama term at 21,000 agents. "We felt it was within the limits of what we could do," Chertoff says now, "but it was the upper limit."

"It wasn't just the administration [driving the growth]. If President Bush asked for 100 agents, Congress would add 200," recalls Richard Skinner, who was the first Senate-confirmed DHS inspector general. "You have to remember how scared everyone was. The mentality was we need more boots on the ground."

The new Border Patrol growth plan was approved in 2005, as Bonner prepared to hand over the reins of CBP to a new commissioner, W. Ralph Basham, a former Secret Service agent who had led the federal government's police academy in Georgia, then helped start the Transportation Security Agency and later became director of the Secret Service in 2003.

Basham knew that recruiting, training and deploying that many agents so quickly would be a "herculean" effort. "I was very concerned when I was asked to grow the Border Patrol over that period of time," Basham says. "Normally, you'd want a chance to make a careful plan. You want to choose very carefully people who are put into a tough environment like that we had on the southwest border."

But Congress and the Bush administration prized speed and quantity over quality. "Their view was, 'We're going to field a small army and make up for decades of neglect by previous administrations.' Almost any body in the field was better than no body," explains one DHS official.

"Would I as chief of the Border Patrol have liked to have more time to grow?" David Aguilar asks. "Absolutely. Any chief of police would tell you that you'd prefer to grow more slowly. We didn't have that time."

Problems were to be expected in such a hiring surge—and they were almost implicitly part of the plan. "They were severely understaffed and underfunded for too long," says Jay Ahern, who rose to be Basham's deputy commissioner and then was acting commissioner for the first year of the Obama administration. "When you have big numbers coming on board, you know you're going to make some bad hires. That doesn't mean for a second in my view that it was a mistake."

The surge meant the agency had to search far and wide for qualified candidates, going so far as to spend \$8.4 million sponsoring Kenny Wallace's NASCAR car and painting his Chevrolet in the familiar green and white Border Patrol colors. The agency raised its recruiting age limit from 37 to 40, and, according to two people involved in the hiring process, regularly sent new agents through the academy and even out into the field before completing full background checks.

"At some point, it became more important to have people in seats than it was to have qualified people in the seats," says James Wong, a now-retired senior CBP internal affairs official who helped oversee the background-check process. "Was I concerned about the quality of the people we were bringing on? Yes."

"There was no doubt that that [growth] was a major concern," says Skinner, then the DHS inspector general. "The growth was more than CBP was prepared to manage."

Agents in the field pejoratively referred to the new hires as "No Trainee Left Behind," and below chief Aguilar, who enthusiastically embraced the surge, some Border Patrol leaders were deeply concerned about what they were seeing in the field—agents who weren't properly prepared or vetted for their new role. "The Border Patrol was never big on the huge hiring," argues one former training officer. "We weren't prepared. That's never worked out for anyone."

"The mentality was that we can do this extreme hiring and at the same time build out our management and training systems—which they didn't do," says Skinner, the DHS inspector general.

After decades of underfunding and being short-staffed, now the opposite problem took hold. "I had 50,000 employees, an \$11 billion budget, but they still couldn't throw enough money [at me]," Basham recalls. But many agents felt that the hiring surge took the agency far past what it could manage. "Money was just coming in—grow, grow, grow," recalls a senior CBP official. "We didn't want it all."

By the middle of the hiring surge, some southwest sectors reported to the GAO that average agent field experience was down to 18 months—and falling. And whereas the agency aimed for an agent-to-supervisor ratio of 5 to 1, some stations reported ratios as high as 11 to 1. By the end of the Bush administration, more than half of the Border Patrol had been in the field for less than two years.

As Skinner says, "The supervisory capacity was exhausted. People were being promoted prematurely as supervisors or trainers with inadequate inexperience. I don't think [the hiring] was done in a very strategic manner."

But still, Chertoff argues today, what choice did they have? "Sure, every time you hire someone, you have a cause for potential concerns. But there's an old law enforcement maxim: big cases, big problems; small cases, small problems; no cases, no problems," he says. "We didn't take a 'no problems' approach, which was doing nothing."

CHAPTER IV: 'WHAT HAPPENS IN THE FIELD STAYS IN THE FIELD'

The corners cut during the hiring surge were becoming clear by the final months of the Bush administration. There was the Miami CBP officer who used his law enforcement status to bypass airport security and personally smuggle cocaine and heroin into Miami. There was the green-uniformed agent in Yuma, Arizona, who was caught smuggling 700 pounds of marijuana across the border in his green-and-white Border Patrol truck; the brand-new 26-year-old Border Patrol agent who joined a drug-smuggling operation to distribute more than 1,000 kilograms of marijuana in Del Rio, Texas; the 32-year-old Border Patrol agent whose wife would tip him off on which buses filled with illegal immigrants to let through his checkpoint on I-35 in Laredo, Texas. Some cases were more obvious than others, like the new Border Patrol agent who took an unusual interest in maps of the agency's sensors along the border and was arrested just seven months into the job after he had sold smugglers those maps for \$5,500.

In November 2007, CBP official Thomas Winkowski wrote an agencywide memo citing numerous incidents, or, as he called them, "disturbing events," and saying that the leadership was concerned about the "increase in the number of employee arrests." The memo, never made public but obtained by the Miami Herald, reminded officers and agents, "It is our responsibility to uphold the laws, not break the law."

Although the allegations concerned just a fraction of the force, the work CBP did made it especially susceptible to corruption, and made that corruption uniquely damaging. "There's a huge vulnerability there with employees who control the flow of goods and people on the border," explains James Wong, the CBP internal affairs investigator. "You've got undocumented immigrants, contraband or even worse—a weapon of mass destruction."

Which is why, acknowledges Basham, who oversaw the hiring surge as CBP commissioner, the border region is considered the "highest threat environment for government corruption."

In fact, CBP was uncovering dozens of cases of criminal organizations like Mexican cartels and street gangs such as MS-13 infiltrating its ranks with new hires. “We made some mistakes,” Basham says today. “We found out later that we did, in fact, hire cartel members.”

What concerned Skinner, the DHS inspector general, was the possibility that he was hearing only about the most egregious misconduct. “We were getting more and more complaints, but our biggest concern was that there was a culture as to not report allegations to us,” Skinner says. “Out in the field, there was a culture to keep things to themselves. You’re familiar with ‘What happens in Vegas stays in Vegas?’ They had a ‘What happens in the field stays in the field.’”

Agents traditionally worked lonely patrols, with help far away and a strong tradition of frontier-style justice. The agency motto, “Honor first,” is a statement of both machismo and integrity, and its responsibilities require a mind-set far different from most law enforcement agencies. “Their mentality is everyone they encounter is a bad guy, which is totally different from other law enforcement,” Basham says.

“It’s a unique challenge—you encounter anything and everything a law enforcement [agency] can and would encounter,” says Aguilar, the former Border Patrol chief who joined the agency at age 22 after growing up in South Texas. “What most people don’t appreciate is that an agent has no idea what he or she is encountering before they’re in it.”

The Border Patrol: A Brief History (Cont.)

2005: The Border Patrol’s hiring surge begins, boosting the agent ranks from 9,200 to about 18,000 by the time President George W. Bush leaves office.

2006: Bush signs the Secure Fence Act, providing for hundreds of miles of border fencing. “Unfortunately, the United States has not been in complete control of its border for decades,” he says.

2009: President Barack Obama’s first nominee for CBP commissioner, Alan Bersin, never receives a Senate confirmation hearing after he fails to fill out tax forms for household employees, and instead is given a recess appointment in March 2010.

2011: Border Patrol apprehends just 328,000 illegal immigrants along the Mexican border, the lowest level in 40 years, which the Obama administration touts as a sign that the new security is deterring illegal crossings.

2014: In March, Gil Kerlikowske becomes the Obama administration’s first Senate-confirmed CBP commissioner, nearly 62 months into the administration.

Merging into CBP’s culture and management structure wasn’t something the agents in green did easily—or willingly. Even today, the Border Patrol’s distinct independence continues to show in ways big—the different uniforms—and small: Alone among CBP’s senior leadership, the head of the Border Patrol is known as a “chief,” whereas the heads of its other 13 units are known as assistant commissioners. As one DHS official says, “It’s an agency within an agency—there’s a whole war within the war.”

The insular culture certainly wasn’t prepared for the massive influx of new agents during the Bush years, and as those agents matured in the field, both corruption and excessive force complaints spiked.

Both parts of CBP also struggled with general misconduct arrests. There were 2,170 reported incidents of arrests for acts of misconduct, such as domestic violence or driving under the influence, from 2005 through 2012—that’s nearly one CBP officer or agent arrested for misconduct every single day for seven years.

As the Obama administration arrived in Washington in January 2009, the need for stronger leadership and management at CBP couldn’t have been clearer.

But things at CBP were actually about to get much, much worse.

CHAPTER V: THE FBI SOUNDS THE ALARM

President Obama’s pick for DHS secretary, Janet Napolitano, seemed on paper the perfect person to oversee the border. The feisty Arizona governor had been a tenacious federal prosecutor and a strong-willed border-state leader, and she immediately brought onto her staff a “border czar,” a former U.S. attorney from San Diego, Alan Bersin, who by the fall would be the administration’s pick to head CBP.

But border security was always a back-burner issue for Obama and his team until this year's crisis of Central American kids at the border. For much of his first term, in fact, CBP was back to stressing its role as facilitator of interstate commerce—not blocker of illegal migration. “We emphasized and worked to improve the flow through the border of legal travel and trade,” Napolitano said when we spoke.

As far as it went, the administration's border security plan settled into two major initiatives: Continue the investments in the Bush-era border security strategy while building out DHS' capability to deport illegal immigrants already inside the country. Under Obama, in fact, DHS deported more illegal immigrants than ever before—as many as 400,000 a year.

“The presence of so many illegal immigrants make a mockery of all those who are trying to immigrate legally,” the president said in one 2011 speech. Just days earlier, Napolitano had bragged in a congressional hearing that the administration had fielded “the most comprehensive and dedicated effort to strengthen border security that our country has ever deployed.” The statement was technically true, but it masked systemic problems inside CBP that went unaddressed year after year.

One of the biggest challenges was a long-running dispute over who actually could investigate misconduct. It was an issue that DHS didn't like to talk about publicly, but the bureaucratic turf war effectively paralyzed CBP's ability to address rising misconduct concerns. To outsiders, DHS insisted everything was just fine. On Aug. 1, 2012, the acting DHS inspector general, Charles Edwards, told Rep. Darrell Issa's House Oversight and Government Reform Committee, “There is absolutely no turf battles [sic] between OIG, CBP or ICE or the Bureau.”

Except that wasn't true at all.

Edwards' predecessor, Richard Skinner, who retired in 2011, had been fighting with CBP and the FBI for years over internal affairs investigations. “By the time I left, our relationship with CBP was dismal,” he told me.

“There was more than tension and friction,” Bersin, Napolitano's hand-picked choice for CBP commissioner, testified at one point. “There was outright confrontation.”

Even as Edwards promised Congress that everything was hunky-dory, that same summer, Ronald Hosko took over as assistant director of the FBI's criminal division. As head of all the criminal investigations across the nation in 2012, Hosko had a lot on his plate—street gangs like MS-13, narcotics smuggling, financial fraudsters, kidnappings, organized crime.

But he could see from the windows on the seventh floor of the Hoover Building on Pennsylvania Avenue what he considered just about the nation's biggest criminal threat: It was another government agency, just down the road, in the Ronald Reagan Building.

In the summer and fall of 2012, Hosko attended a series of meetings at CBP headquarters that left him stunned. CBP officials, just coming off the huge hiring surge that had doubled the size of the Border Patrol and increased Customs officers by thousands, had grave concerns about the people that they had hired.

Hosko heard senior CBP officials say at the meetings that they believed roughly 10 percent of the agency's workforce had integrity problems, but he was even more stunned when they batted around a range of numbers, going as high at one point as 20 percent, of those who might deserve to be removed from the force.

“That's a shocking number and chilling. If I have the senior leaders of an organization like CBP—with 40,000 uniforms and guns—saying 20 percent, that's shocking,” Hosko told me. “Let's say that's a gross exaggeration. Let's cut that in half. Let's say it's just 5 percent. That's still thousands of people.” (Asked about Hosko's numbers, CBP officials denied that the force had such systemic problems but refused to confirm whether the meetings he cited had taken place.)

The roots of the meetings that so upset Hosko lay in the tiny, but important, difference between being an “agent” and being a “special agent.” The title of “special agent” in the federal government is restricted to those who hold the job classification of GS-1811, which grants them both arrest and investigative powers.

In many ways, the difference between the two is CBP's original sin—a seemingly minor technical distinction, made in the harried heat of the DHS creation a decade ago—that would allow hundreds of cases of corruption in CBP's Office of Field Operations and use-of-force abuses in the Border Patrol to fester for years.

The problem was that no one at CBP received what's known as “1811 authority.”

When DHS was set up, ICE was given exclusive “1811 authority” to conduct investigations in the border region; CBP was only given so-called “1801 authority,” a lesser classification that allowed Border Patrol agents and Customs officers to make arrests and enforce federal law—but not investigate. They could be cops but not detectives.

That didn't particularly matter in the daily performance of CBP's duties—the borders were patrolled, the ports of entry watched—except that CBP was legally prohibited from policing its own workforce.

During his tenure, CBP Commissioner Basham had tried to start up a robust internal affairs department, led by James Tomsheck, a former Secret Service official Basham had recruited from his days leading that agency. But the members of Tomsheck's internal affairs unit were "1801s." Lacking that "1811 authority," CBP officials had to rely on DHS to investigate their own agency's problems—assuming DHS had time, manpower or money to do so.

The 1811 vs. 1801 authority is a technicality about which every commissioner since CBP's creation has complained, all to no avail. "Bonner, Basham, me—we were 100 percent in lockstep on this one," says Jay Ahern, who took over as acting commissioner when Basham left in 2009 and served through most of the Obama administration's first year. "It was unconscionable that we didn't have a robust, fully functioning internal affairs effort that could report directly to the commissioner. It's a problem to this day. It's still a bad, bad operational decision."

By the end of the first year of the Obama administration, DHS ordered Tomsheck's internal affairs office to cease investigating corruption allegations within CBP. Tomsheck turned to the FBI for investigative help, but later, as the turf battle deepened, Edwards and the DHS inspector general's office cut off all DHS cooperation with the FBI's long-running Border Corruption Task Forces. As Hosko recalls, "They said, 'You can't share bilaterally with the FBI.' That has a significant chilling effect on any relationship that's not beneficial to either agency or to citizens of the U.S."

Hosko took the issue to the FBI leadership, as well as to senior leaders at the Justice Department, who in turn repeatedly raised corruption warnings and the lack of cooperation with Secretary Napolitano's office at DHS over the course of 2012 and 2013, to no avail. Those high-level warnings to DHS, including at least one delivered directly to DHS Deputy Secretary Jane Holl Lute, were confirmed by three different Justice and FBI officials in addition to Hosko.

"It was one of the highest-priority challenges that happened when I was assistant director," Hosko says. "We were unable to move DHS forward at all."

It's not at all clear what happened to the FBI's repeated warnings inside DHS. Napolitano says that her team became aware of corruption challenges at CBP when she came into office but that she doesn't recall any specific warnings in subsequent years: "Certainly, as we were taking the reins, that was an issue of concern. It's always an issue of concern with large law enforcement agencies that have grown quickly."

Unable to make headway with DHS directly, Hosko and FBI leaders took the matter into their own hands.

"We told not only the entire leadership of the FBI and DOJ, but we engaged extensively with our SACs to say we don't have enough intelligence on border corruption," Hosko says, referring to the heads of the FBI's 56 national field offices.

Special instructions, confirmed by other FBI officials, went out to the FBI's field offices in the fall of 2012 to pay extra attention to DHS-related border corruption.

"I was surprised by not just inertia, but forced inertia," Hosko told me. "CBP knew they had these holes and nothing was getting done."

But Napolitano's staff, for their part, felt this was as much a story about turf as it was about government corruption. "Just because DHS didn't use to exist, this all used to be [the FBI's]. Now they're preventing DHS from maturing into its own and using its own growing capabilities and levers," a former DHS official told me. The fight, he says, sums up "a lot of the goofiness of this town."

CHAPTER VI: SMOKING GUNS

In the early days of the Border Patrol's post-9/11 expansion, violence at the border was seen as a good thing. Agents getting attacked meant that the agents were making progress securing the border. Or at least that's how the bureaucratic logic of it went.

As former chief Aguilar says, "It was boots on the ground, birds in the air and boats on the water. We took back parts of the border that had been owned by the cartels, where they'd operated with impunity."

As new infrastructure went in, including more than 600 miles of border fencing, new technology came online, and as thousands of new agents arrived on the scene, they came into much more regular contact with smugglers—contact that led to more violence.

In 2004, there were 374 assaults on agents; by the following year, that number roughly doubled, and by 2007, there were a thousand assaults on agents annually, a rate that held steady for the next three years.

Back in 2006, Secretary Chertoff bragged about how, as the Border Patrol grew, “We’re starting to really hurt” the bad guys and organized criminal groups that once operated with near-impunity along the border. Chertoff’s strategy—and the strategy communicated to agents out in the field—was clear: Fight back. This was the U.S. border, and the U.S. would win. “If they think they’re going to back us down or chase us away, the answer to that is no,” Chertoff said in 2006. “Our Border Patrol is properly trained. They have rules of engagement. They are entitled to defend themselves. They will defend themselves.”

More recently, though, the border violence has led to a new set of troubling questions: hundreds of “excessive force” complaints against the Border Patrol that the agency has done almost nothing to address. Between 2007 and 2012, according to DHS, approximately 1,700 allegations of excessive force have been leveled against CBP, although exact numbers are hard to come by because the agency’s record-keeping is so poor.

And, in more than 130 shooting incidents, dozens of people have been killed. Often, the only set of facts that witnesses and the Border Patrol can agree upon at the end of an incident is that a person is dead. Many of the Border Patrol’s most controversial shootings actually straddle the border; at least six of the people killed in recent years by the Border Patrol have been in Mexico at the time.

In 2012, in an incident caught on a home video camera, Mexican citizen Guillermo Arévalo Pedraza was in a public park in Nuevo Laredo, Mexico, with his wife and daughters when, according to the Border Patrol, someone in the park began throwing rocks at a passing patrol boat in the Rio Grande. Agents in the boat opened fire with heavy weapons, killing Arévalo, who does not appear to have been involved in rock-throwing.

However, Arévalo’s death is not even the best-known incident in Mexico: In another video from June 2010, watched more than 1.6 million times on YouTube, Border Patrol agent Jesus Mesa Jr. fires across the concrete bed of the Rio Grande between El Paso and Juárez, killing a 15-year-old boy. The agent said later that he was surrounded by rock-throwers, but the video contradicts that story.

That all of these instances involved rock-throwing isn’t coincidental: So-called “rockings” are often cited as the cause of Border Patrol shootings, and they’re one of the most controversial aspects of the Border Patrol’s use of force. According to a March CBP memo, agents on the southern border have been “rocked” more than 1,713 times since 2010, though even that statistic is vague.

While being a Border Patrol agent is undoubtedly dangerous and even deadly, “rockings,” however chronic, aren’t the main reason. Nearly two dozen CBP officers died in the line of duty between 2006 and 2014; most of those deaths came during training accidents or in motor vehicle accidents. At least four agents were killed during hostile encounters at the border; most famously, Border Patrol agent Brian Terry was killed in a 2010 gunfight on the Arizona border with suspected drug traffickers who used weapons linked to the ATF’s Fast and Furious program.

No agent has been killed in a “rocking” incident, though the Border Patrol has shot and killed at least eight people in response to rock-throwing. As Wong, the CBP internal affairs investigator, says, “I know rocks can be dangerous—bottles, rocks, anything thrown can hurt you when it hits you—but there were a number of people shot in the back. That caused a concern.”

As use-of-force questions began to surface in 2010 and 2011, Congress pressured the agency to review its procedures, resulting in the Border Patrol asking the Police Executive Research Forum, a Washington law enforcement think tank, to study its policies. PERF’s secret internal report—made public a year later by the Los Angeles Times—examined 67 recent instances of the Border Patrol’s use of deadly force. Its conclusion was unambiguous: “Too many cases do not appear to meet the test of objective reasonableness with regard to the use of deadly force.” It determined that agents were actively stepping into the path of oncoming vehicles, “creating justification for the use of deadly force.” PERF said the Border Patrol’s use-of-force policies were far outside the mainstream of U.S. law enforcement. “It is clear that agents are unnecessarily putting themselves in positions that expose them to higher risk,” the report stated.

CBP fought releasing the report, which was issued in 2013, for a year, refusing even to provide Congress with more than a summary. Border Patrol Chief Michael Fisher said at the time that the agency would not change its rules of engagement as the PERF report recommended. Although policies were not changed, Napolitano acknowledges now that the report was worrisome: “I thought we needed to review the policies and ensure that there was ongoing training with the agents in the field,” she told me. “I wasn’t confident that everything that needed to be done was being done.”

As another DHS official who has worked closely with the Border Patrol says, “They developed a system where ‘If you throw rocks at us, we will shoot at you.’” In 2012, the most recent year for which statistics are available, agents opened fire in 22 out of 185 recorded “rockings.”

Finally, after the PERF report was leaked earlier this year, the new secretary of DHS, Jeh Johnson, and Fisher said the agency would change its policies to encourage agents to retreat or take cover, rather than returning fire, and that it would prohibit agents from moving into the path of a fleeing vehicle.

More broadly, though, many of the fatal shootings by the Border Patrol come with questions attached. The agency seems not to investigate shooting incidents consistently—even those that appear to violate CBP’s use-of-force guidelines. The PERF report found a “lack of diligence” in follow-up. Tomsheck, who served for eight years as CBP’s head of internal affairs, says he believes at least seven of the shootings are “suspect.” Another DHS official says, “There were definitely some bad shoots.”

An Arizona Republic investigation last year that examined some 1,600 CBP use-of-force engagements found that in at least nine of the 24 deadly killings since 2010, witnesses or other evidence contradicted the agents’ account of the incident. It also uncovered at least four people who died in encounters with the Border Patrol that the agency’s records didn’t include.

But there don’t appear to be any consequences for agents who violate the use-of-force policy. Since the hiring surge started, the Border Patrol has never publicly disclosed disciplining an agent involved in a shooting.

In recent years, only a single agent has faced a criminal trial for a shooting incident. But that case, in 2008, was dismissed after a mistrial, and the agent kept his job with the Border Patrol. The U.S. government paid \$850,000 to settle a wrongful death lawsuit brought by the dead man’s family—one of multiple lawsuits against the government over border patrol shootings in which it has refused to admit wrongdoing.

“Not a single Border Patrol agent for the last eight years has been disciplined for excessive use of force. With a workforce that large, that’s amazing,” Wong says. “You go pull the stats on any medium-size municipal police force, pull the stats on the NYPD. At any given time, they’ll have all sorts of excessive force investigations.”

CHAPTER VII: OBAMA’S NOT-SO-BELIGN NEGLECT

President Obama has repeatedly celebrated CBP’s success at securing the border. “During my first term, we took steps to try and patch up some of the worst cracks in the system,” he said during a speech last year in Las Vegas. “We strengthened security at the borders so that we could finally stem the tide of illegal immigrants. We put more boots on the ground on the southern border than at any time in our history.”

On the White House website, the administration claims that “President Obama has doubled the number of Border Patrol agents since 2004,” which isn’t remotely true—nearly all of the agency’s growth came during the Bush years, though Obama has added a few thousand agents since 2009. Mostly the Obama administration has left CBP running on autopilot.

In fact, the Obama administration would go more than five years before a Senate-confirmed CBP commissioner was finally installed, a period during which four different men passed through the revolving door of the director’s suite. Aguilar served twice as “acting commissioner,” once for so long that he had to give up the title and return to being “deputy commissioner,” even though his duties remained the same; Congress has a limit on how long someone can be “acting.”

Aguilar was supposed to run the agency for a bit as it waited for a permanent leader.

It would have to wait a long time.

Obama’s first nominee for commissioner was Bersin—a Rhodes scholar buddy of Bill Clinton who had become a powerful border politics figure as the U.S. attorney in San Diego during the Clinton administration. Bersin had been named Napolitano’s “border czar” at DHS when she took over, and was nominated for the vacant CBP commissioner post in September 2009.

Bersin, though, got hung up quickly in the confirmation process, tagged with what DHS officials called “the Geithner penalty,” the extra-strict vetting that the Senate Finance Committee gave every nominee after discovering tax problems by Treasury Secretary nominee Timothy Geithner. Bersin had missing or incomplete paperwork for all 10 of the people who had served as nannies or household help for his family between 1993 and 2010. It was an unforgivable mistake for Sen. Max Baucus, then chair of the Finance Committee: “As the person responsible for securing our nation’s borders, your failure to follow the law in this matter is unacceptable,” Baucus scolded Bersin.

Bersin's nomination never even got a hearing; instead, Obama gave him a recess appointment six months later, which meant that Bersin was forced out at the end of the following calendar year. At the conclusion of his recess appointment, Bersin returned to DHS in the same position he had held before, assistant DHS secretary for international affairs and "border czar." (Bersin, still at DHS, did not respond to interview requests.)

"The administration and Napolitano were all collectively supportive of Bersin," says a DHS official involved in that confirmation process. "There's something broken about our system—everyone can make a mistake."

But Baucus disagreed—vehemently—and exercised his authority to ensure that Bersin was forced out when his appointment expired. After Bersin returned to DHS headquarters on Nebraska Avenue, the CBP commissioner post sat vacant for 26 months, with Aguilar again serving as the "acting" until he retired in early 2013.

DHS officials say that the post simply wasn't a top priority for the White House to fill, in part because the administration didn't want to tangle again with the Senate Finance Committee, where, between the sour economy, Obamacare and numerous budget battles, the White House felt it had fought all the fights it could. (It's an odd legacy of the old Customs Service that the CBP commissioner is confirmed by the Finance Committee and not the Homeland Security Committee.)

But mostly it reflected a sense from the top that Aguilar was doing fine with an agency whose spiraling problems had not commanded top-level administration attention. "CBP's leadership at the time was quite mature—it had leaders who had been there for decades," says the DHS official. "The agency was being well run at the time."

Still, argues former DHS Secretary Chertoff, "When you're making strategic decisions, you're constrained by your ability to implement big change. There's an impermanence, and it's demoralizing for the workforce."

Indeed, CBP's problems were becoming so bad they couldn't entirely be ignored. In Obama's first year, CBP and DHS leadership even ordered the agency to change its definition of "corruption" to downplay the number of total incidents. Instead, according to internal affairs official Wong, the agency began to differentiate between "mission-compromising corruption"—bribery, narcotics-smuggling or human-smuggling allegations—and "non-mission-compromising corruption," a "lesser" category of cases that included things like employees' sexually assaulting detainees or workplace theft. Only the "mission-compromising" problems, the agency now decreed, would be reported to Congress. (Even rape and attempted murder like that of Manzanares, in other words, wouldn't have to be disclosed.) The distinction helped them wipe nearly a third of the corruption cases out of statistics.

Skinner, the original DHS inspector general, says that before he retired in early 2011, he raised the issue of troubling CBP corruption trends in department budget meetings, as well as directly with the deputy secretary multiple times, and even once used a meeting with Napolitano to raise the issue with her. "I expressed my frustration with her, [but there's] nothing that I can point to that improved," Skinner says.

Partly DHS' reluctance to spend more on internal investigations was a practical concern: The free-flowing homeland security money that had tripled the border security budget under the Bush administration ran into the new budget realities of the Obama administration. There was just less to go around. Napolitano says she was constrained in directing any additional resources toward internal investigations. "I never had a director or commissioner ever come into my office not asking for more resources. We just weren't going to get them. From a budget standpoint, it was an extraordinarily difficult time."

But partly CBP's problems just seemed to get lost in the DHS bureaucracy, despite hollering from the FBI, from the Justice Department, from CBP's internal affairs and the DHS inspector general.

"It just never became a priority," Skinner says.

No doubt that's at least in part because the agency itself was not a priority: It was only after Obama had been reelected in 2012 and Aguilar approached retirement that the administration even began to look for a permanent, confirmable head for the agency.

In January 2013, Obama counselor Pete Rouse approached Gil Kerlikowske, then serving as the White House drug czar, to ask if he had any recommendations for CBP commissioner. Kerlikowske raised his hand. "I'd had plenty of White House time and policy time," he says. "I was anxious to get back to operations."

Yet it still took 14 months until Kerlikowske, who was officially nominated in August 2013 and confirmed in March 2014, took the job. During most of that time, after Aguilar's retirement, Deputy CBP Commissioner Thomas Winkowski took over CBP as yet another interim leader.

Kerlikowske sailed through the Senate confirmation process, and he was installed in the director's suite just days before Agent Manzanares' rampage in McAllen, Texas. During Kerlikowske's confirmation hearing, not a single senator even asked about corruption—at the time, and to this day, the FBI's single biggest criminal priority along the border.

As a former police chief, Kerlikowske knew exactly what he was stepping into, problem-wise, at CBP. "Law enforcement always regrets hiring quickly," he says, sitting at the conference table in the spacious wood-paneled commissioner's suite. The horror stories are legendary in police circles: the infamous Miami police hiring surge in 1980; the notorious Washington Metropolitan Police class of 1989, when Mayor Marion Barry, under pressure from Congress, tried to increase the police force by nearly half in a single year. Both agencies faced widespread corruption problems in the years after.

"You try to put all the checks and balances in place," the 64-year-old Kerlikowske says today. "Unfortunately, that didn't happen during the last expansion [at CBP]."

Kerlikowske is a police department turnaround artist; he's previously stepped into roles in cities like Seattle and Buffalo that were struggling with morale problems and use-of-force complaints.

In Seattle, taking over following the 1999 World Trade Organization riots, he pushed officers to use nonlethal weaponry like Tasers, and in 2003, the city recorded its first year in 15 without an officer-involved fatal shooting. Kerlikowske is an advocate of body-mounted cameras for officers and has started a small field test to see if the cameras can work in the environments where the Border Patrol operates. "The Border Patrol is under constant scrutiny and criticism," he says. "I'd really like to see it past that and have it be more open and responsive to complaints."

He has also forcefully confronted corruption in previous agencies. In Seattle, when one police officer was arrested for robbing drug dealers, Kerlikowske held up the officer's badge at a press conference: "He has forever tarnished this badge," Kerlikowske told reporters. "It will never again be worn, and, in fact, it will be destroyed."

Now, in what he says was an attempt to start with a fresh slate and try to make headway on the intractable turf battles, he replaced Tomscheck, CBP's longtime internal affairs head, with a new agent on loan from the FBI. That agent has been tasked with reviewing each of the 67 shootings studied in the controversial PERF report—and has been given some of the long-sought authorities to investigate wrongdoing within CBP.

Kerlikowske has even more work cut out for himself: The new federal budget that started October 1 contains \$225 million to hire 2,000 additional CBP officers, the largest single increase Congress has ever passed.

The new hiring surge comes as Kerlikowske is still trying to reckon with the last one. On May 30, he finally released the Border Patrol's use-of-force handbook and promised it was "the beginning of a continuous review of our responsibility to only use force when it is necessary to protect people."

Just hours later, Border Patrol agents in Arizona chasing a suspected narcotics smuggler killed Jose Luis Arambula, a U.S. citizen, while he was fleeing on foot after crashing his vehicle.

He was shot fatally in the back of the head.

He was unarmed.

Immigration Reform, Activism, and Moral Certainty

**Duane Campbell - Talking Union
October 2, 2014**

Attacking allies does not move immigration reform forward. And, an argument from a position of moral correctness does not change policy. We need to be on the morally correct side but that is not enough to change policy because political and economic power largely controls this country. We have a political oligarchy- our government is dominated by corporations. We need to understand neoliberal capitalism, then, work to change it.

An argument is being made in many places in the Latino community condemning Obama for his not taking executive action on immigration and condemning Civil Rights veterans such as DSA Honorary Chairs Dolores Huerta and Eliseo Medina for their positions of not condemning the Obama lack of action.

A problem with this effort is that attacking our allies does not move immigration policy forward. And, an argument from a position of moral correctness does not necessarily change policy. We need to be on the morally correct side, as Huerta and Medina are, but that is not enough. See prior posts on this blog about Medina and Huerta.

I learned this in the anti war movement against the war in Viet Nam. We had hundreds of thousands in the streets opposed to the war, but the war went on. 58,000 U.S. soldiers died, 100,000s were injured. Over 1.2 million Vietnamese died. Although we were morally correct, the war went on.

In El Salvador between 1982 and 1992 the U.S. backed government carried out a civil war against the population. At least 75,000 were killed. In Nicaragua between 1979-1990 at least 40,000 were killed. In Guatemala the civil war cost at least 200,000 lives. Our solidarity efforts in the U.S. were morally correct, but our efforts did not change U. S. policy.

Moral correctness does not change policy because political and economic power largely controls this country. We have a political oligarchy- the control of our government by the super rich. Our government is dominated by corporations. We need to study and to understand neoliberal capitalism. Then, we will need to go to work to change it.

In the current immigration debate.

Tony Castro in VOXXI explains the dilemma this way.

"Democrats' growing concern about losing control of the Senate this fall and the fear of a potential debacle in 2016 is now increasing doubts about whether any immigration reform bill can be passed during President Obama's final two years in office.

Not only are Democrats pressing Obama to hold off indefinitely on unilaterally making immigration changes — not just until after the election — they are also saying he shouldn't use executive authority to ease deportations at any time."

Perhaps, more importantly, Republicans appear to be turning away from comprehensive immigration reform, and even Democrats and independents appear less enthusiastic than at any time during the Obama presidency.

So then, we come down to the argument about the Democrats keeping control of the Senate. There are handful of states where the control of the Senate will be decided in this election. They include: Kansas, Louisiana, Missouri, North Carolina, Iowa, Michigan, Kentucky, Georgia, Arkansas. These are the states where the Senate majority will be decided. In each of these states Latinos make up less than 3 % of the total vote. Arturo Camona of Presente argued that Latinos should vote against the Democrats in 4 of these states- the effect is that they should vote for control of the Senate by Republicans.

If the Republicans gain control of the Senate, rather than bills like we faced last year we will face bills like the 2006 Sensenbrenner bill, or the 1984 Simpson-Mazzolli bill, or the highly regressive bills passed in the Republican House this summer.

Advocates of punish the leaders approach underestimate the effects of the Republicans controlling both the House and the Senate. Santos, cited above, says that the President will still have a veto. Yes, he will. But the House has already passed legislation to further militarize the border and to end DACA. They could well package legislation such as ending DACA as a part a bill for the U.S. budget. Then the critics expect Barack Obama – who they denounce daily- to veto the entire U.S. budget and shut down the government in order to protect DACA. Recall that DACA is temporary, it must be renewed. Lets be a little more realistic.

Criticism of policy issues are of course welcome and necessary. However criticism should not impugn the integrity of veteran community leaders. We are working on the same issues – as allies. Rather than spending our time denouncing long time civil rights and labor leaders, we should spend our time organizing for political power. The AFL-CIO and several labor unions have been an important allies in the struggle for immigration reform. See the work of LCLAA here. <http://www.lclaa.org/campaigns/programs> In several states, such as the upper Midwest, where low voter turnout in 2010 delivered the states to the Republican governance (Wisconsin, Ohio, Indiana, Pennsylvania), we can see the result of Republican victories.

Unions are pitching in to prevent this Republican victory in 2014. Randi Weingarten of the American Federation of Teachers has announced that her union will spend some \$20 million to defeat anti education governors and to protect the Democratic majority in the Senate .

I don't see a positive effect of opposing this effort to defeat reactionary Republican politicians.

Between now and Nov. 4, we need to do all we can to prevent the Republicans from gaining control of the U.S. Senate. Voting for Republicans delivers the Senate to Republican control.

Being morally correct is not enough- you also have to have allies and a strategy that can move your effort toward winning.

The left needs to continue our work with labor and the immigrants' rights movement toward a fair and comprehensive immigration reform for the U.S. – a better bill than the one passed last year in the Senate, which among other things called for doubling the current border patrol by hiring an additional 20,000-plus border agents. The border patrol has grown from some 4,000 agents in 1992 to over 20,000 agents today – and the border crossing is more dangerous than ever.

U.S. immigration policy should help families reunite, treat immigrants with respect, and change the economic and trade policies that the U.S. and U.S.-based corporations have implemented in Central America and Mexico that have led to massive migration. For an update on the Central America children "crisis" see

To get fair, comprehensive reform we will need to organize, vote and defeat right-wing mostly Republican legislators who primarily want to militarize the border and those in both parties who promote so-called "free trade" zones. If the Republicans gain control of the U.S. Senate in the fall elections, all hope for a humane immigration reform will end for at least a decade.

The task of defeating anti-immigrant Congress members and senators, including most of the members of the Republican party, is work for us here in the U.S.

Individually, we can provide support, donations and volunteers to assist the refugees. The migrants particularly need legal volunteers.

We should actively oppose the further militarization of the border (Texas) and the growth of the for-profit prison system based upon incarceration of the maximum number of people. We can support good jobs, not prison jobs.

Finally, we can join with labor and immigrants' rights groups, religious and community groups in "know your rights" workshops and in providing support and shelter. Literature is available from the ACLU and other sources. These efforts help migrants to protect their own constitutional rights.

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NISN is a coalition of community, immigrant, labor, human rights and student activist groups, founded in 2002 in response to the urgent needs for the national coalition to fight immigrant bashing, support immigrant rights, no to the sweatshops exploitation and end to the racism on the community. Please visit our website: <http://www.ImmigrantSolidarity.org>

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