

A large, detailed image of the Statue of Liberty's head and crown, looking upwards and to the right. The background is a cloudy sky with a blue tint.

# PEREGRINE

AMERICAN IMMIGRATION IN THE 21<sup>ST</sup> CENTURY

IMMIGRATION & SECURITY

*IN THIS ISSUE*

Marc R. Rosenblum

John H. Cochrane

Sylvia Longmire

Tim Kane



The number-one policy most Americans think of in response to illegal immigration is securing the border. It has become a reflexive rallying cry that border security has to come first, before any other policy, to deal with the estimated twelve million immigrants who live in the country. As most experts know, this is an impossible condition to meet; thus the border-security-first mantra has become an obstacle to reform.

Begin with the fact that the border is not the main problem, given that nearly half of illegal immigrants don't cross the border illegally. America could seal the border so tight that not a single coyote could cross again, but millions of people could still travel legally and then overstay their visa terms. Securing the border is at best one plank in the larger security discussion and, arguably, the least important plank. I've often held that if America had an efficient ID system the so-called problem with undocumented workers would be solved in an instant. The key word is undocumented; just add verifiable documents and there's no need for sealing the border.

This issue of *Peregrine* asks what other security reforms would be most effective. Securing the border is given equal consideration, and I am just as curious as everyone else to know if adding more resources there is still necessary. After investing billions of dollars on fencing and patrol agents, maybe the returns are diminishing to zero. I have my own opinions, but what do a score of immigration experts think? Our survey gives a fascinating answer.

This issue includes a long-form essay by Marc Rosenblum, deputy director of the Migration Policy Institute, that explains the shift in how the United States has handled deportations in the past two decades. We also have essays by John Cochrane, Sylvia Longmire, and Tom Church.

Security matters. It matters so much that it shouldn't be used as a red herring to prevent action on everything else that matters. The world has changed since America was attacked on 9/11, and it's long past time to acknowledge that the United States has made measurable progress in improving its border security. With little progress on interior security, the net outcome has locked millions of immigrants in, meaning inside the border and inside a shadowy status ripe for exploitation.

Tim Kane  
Editor

**MAIN ESSAY**

Shifts in the US Immigration Enforcement System  
by Marc R. Rosenblum

**BASIC FACTS AND ADDITIONAL BACKGROUND**

Immigration & Security  
by Tom Church

**NEW IDEAS**

A Comment on security and the *Peregrine* Survey  
by John H. Cochrane

Securing the Southwest Border Requires Meaningful Immigration Reform  
by Sylvia Longmire

**SURVEY RESULTS**

*Peregrine* Survey on Immigration & Security  
by Tim Kane

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**EDITORIAL BOARD**

Tim Kane  
Edward Lazear  
Tom Church



# Shifts in the US Immigration Enforcement System

by Marc R. Rosenblum

The US immigration debate often feels like the movie *Groundhog Day* because the same arguments and legislative proposals are replayed in an endless loop. Yet even though the national conversation about immigration policy remains almost unchanged during the past twenty-five years, the immigration enforcement system has been transformed. In general, the system has gone from informal returns of people apprehended at the southwest border to formal removals of people apprehended at the border and in the US interior. This transformation has been driven by changes to US immigration law—chiefly the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)—and by massive new investments in immigration enforcement personnel, infrastructure, and technology.

In 1996, the United States shifted from returns to removals, a technical but significant change. IIRIRA rewrote the Immigration and Nationality Act's (INA's) deportation provisions, making it easier for immigrants to be formally removed, as opposed to deportation via informal return. In the twenty-five years before 1996, just 3 percent of all people expelled from the United States were formally removed (under legal provisions that at the time were known as "deportation" and "exclusion"), versus 97 percent who were informally returned. The proportion jumped to 13 percent in the first decade after IIRIRA's passage, 40 percent when President Obama took office in 2009, and an all-time high of 71 percent in 2013.

These statistics are important because removal carries stiffer penalties than return. Removal is a formal administrative process that involves a legal ruling against a noncitizen. Noncitizens removed from the United States are ineligible to receive a visa to reenter the country, including tourist or temporary worker visas or lawful permanent resident (LPR) status for at least five years, in some cases permanently. A noncitizen who reenters the United States following a removal order is subject to felony criminal charges and may be imprisoned for two or more years, depending on the original grounds for removal. Under the older rules, deportees were required to leave the country but were not subject to additional consequences or enhanced penalties.

The 1996 reforms and these recent trends have been a source of confusion in the US immigration debate. The number of noncitizens removed from the United States has increased in sixteen out of eighteen years since IIRIRA was passed: President Bush presided over more removals than any of his predecessors, and President Obama

by Tom Church

One in ten people in the world (700 million) want to emigrate to another country, according to Gallup. One quarter of potential international migrants (165 million people) say the United States is their desired future residence. Although the desire to move is not the same as intent or action, the poll indicates that the demand for permission to enter the United States each year is high.

Demand outstrips supply for US immigration visas and citizenship, which leads to illegal entry by some. Most migrants who come into the United States without legal approval come from countries that are geographically close, an unfair advantage if they are given precedence over foreigners waiting for visas and green cards. Those pressures call attention to the need for and fairness of border and internal security in the form of physical and identity documentation barriers.

The United States has several responses to individuals overstaying their visas or attempting to enter the country illegally. External border security is handled by US Customs and Border Protection (CBP). Interior enforcement and removal of undocumented immigrants caught at the border are handled by US Immigration and Customs Enforcement (ICE). Legal immigration and naturalizations are handled by US Citizenship and Immigration Services (USCIS).

The number of border security agents has increased dramatically during the last two decades, from 4,000 in 1993, to 10,700 in 2003, and to 21,400 in 2013. The cost in 2013 was about \$3.5 billion a year.

Immigrants make the choice to enter the United States illegally based on multiple factors: available alternatives, the payoff for entering successfully,

has broken Bush's record. At the same time, however, apprehensions at the southwest border have fallen to their lowest level in forty years, leading to many fewer returns there. As a result, although total removals are at an all-time high, total deportations (i.e., removals plus returns) are at a forty-year low. Importantly, both of these trends reflect tough enforcement: deportations are low because strengthened enforcement (among other factors) has caused fewer people to immigrate unlawfully, resulting in falling apprehensions; removals are high because a growing proportion of those who are apprehended are subject to high-stakes enforcement.

Before IIRIRA, almost all formal removals (then known as deportations) involved appearing before an immigration judge. The judicial removal process, both before and after 1996, is a civil legal proceeding in which the government (represented by an Immigration and Customs Enforcement [ICE] attorney) argues for a noncitizen's expulsion; the noncitizen may present evidence and arguments to be considered for relief from removal on humanitarian or other legal grounds. Immigration hearings in which people contest their removal may be spread out over multiple appearances and may take months or years to resolve.

A primary goal of the 1996 law was to streamline the process by permitting immigration enforcement agents to execute removal orders themselves (i.e., without an immigration hearing). IIRIRA created new expedited removal (ER) proceedings for certain unauthorized immigrants who are unlikely to be granted relief from removal because they are apprehended during an illegal entry, and it revamped reinstatement of removal proceedings for immigrants who have been previously ordered removed. The proportion of removals resulting from one of these nonjudicial proceedings increased from 3 percent in 1995 and 1996, to 48 percent in 1998, and a record-high 83 percent in 2013.

These nonjudicial removal proceedings are one of the most important legacies of the IIRIRA, for they allow the Department of Homeland Security (DHS) to execute removals much more efficiently. Faster removals minimize the time immigrants are detained, an outcome that is attractive on its own merits (i.e., because unauthorized immigrants have not been convicted of a crime, making detention problematic) and one that greatly reduces the direct costs of removal. A strong case can be made that first-time crossers apprehended at the border should be subject to a more streamlined enforcement process than, say, a long-settled immigrant with strong ties to a US family and community.

Yet fast-track removal proceedings raise important questions about due process and immigrants' ability to petition for humanitarian relief. The INA allows certain immigrants who have been persecuted or fear persecution to be granted asylum in the United States,

and the probability of being caught. A stronger US economy relative to the Mexican economy (the nationality of 87 percent of border apprehensions) is one reason more people may try to enter the country. The rapid buildup in the number of border security agents during two decades has raised the probability of being caught, lowering the expected value of attempting a crossing.

Border apprehensions have dropped 60 percent in recent years. The US border patrol apprehended nearly a million illegal immigrants per year during the 1990s and the first half of the 2000s. In recent years, the number of apprehensions has fallen to levels not seen since 1970, roughly 400,000 per year. The border patrol attributes the decline to the relative strength of the US and Mexican economies and the rapid increase in the number of border patrol agents.

ICE removed more than 360,000 individuals in fiscal year 2013. About half were found inside the United States, and 82 percent of those had previously been convicted of a crime (mostly for immigration-related offenses).

America is a very large country, and ICE and CBP cannot be expected to apprehend every single individual who enters or remains in the country illegally. One way the US government tries to lower the return to working illegally in the United States is to penalize employers who hire illegal workers. To make it easy for employers to check work status, the United States has a nonmandatory program in place called E-verify that allows employers to check a worker's Social Security number against the federal database; once complete, the employer is immune from any federal prosecution if that worker ends up being illegal.

but expedited removal proceedings include limited opportunities to identify and protect those with such claims. Nor does the law allow most immigrants facing reinstatement to reopen the earlier removal order, even if their material circumstances have changed. Fast-track removal proceedings have also contributed to creating a large class of previously removed immigrants who have never gone before an immigration judge but whose enforcement record may make them ineligible for relief under a future immigration reform bill.

## New Investments and Tough Enforcement Policies Have Transformed the Southwest Border

The last three decades—and particularly since the 9/11 terrorist attacks against the United States—have seen dramatic changes at the southwest border. Total spending on border security (including immigration and customs enforcement) increased from \$1.3 billion in 1986 to \$12.4 billion in 2014. At the same time, the Border Patrol expanded from 3,243 to 21,391 agents, and more than 650 miles of fences and vehicle barriers were installed along high-traffic parts of the border.

In addition to these increased resources, US Customs and Border Protection (CBP) and partner agencies have implemented important policy changes during the last decade or so. First, CBP has increased the number of border crossers charged with the federal crimes of illegal entry and illegal reentry and therefore subject to incarceration. (These laws have been on the books since the 1920s but were rarely prosecuted until recently.) Border crossers may be prosecuted in a standard manner in federal district court, and CBP has also worked with certain courts to develop the “Operation Streamline” program, an expedited hearing process in which groups of defendants are charged at once, usually based on prearranged plea bargain agreements. With these efforts, the number of federal immigration charges brought in border districts increased from 15,392 cases in 1997 (1 percent of border apprehensions that year) to 90,067 in 2013 (22 percent of apprehensions).

A second change in border policy is CBP’s expanded use of expedited removal. Before 2002, ER was reserved for those found inadmissible at ports of entry, but DHS published a pair of notices in the Federal Register in 2002 and 2004 to expand ER to immigrants arriving by sea and then to anyone without proper documents apprehended within a hundred miles of the land border and within fourteen days of an illegal entry. As a result, the number of people CBP removed through ER increased from 40,651 in 2003 (4 percent of CBP apprehensions that year) to 182,011 in 2013 (43 percent of apprehensions).

The Pew Hispanic Center estimates that there are almost twelve million illegal immigrants in the United States. In January 2011, DHS estimated that 86 percent of them had been in the country longer than five years, and that 65 percent had been here longer than ten years. Although ICE’s job apprehending illegal immigrants, that so many have been in the country for more than a decade, casts doubt on its ability to remove all unauthorized individuals. Lax interior enforcement also explains why individuals continue to attempt to migrate illegally.



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More generally, the border is the epicenter of DHS's overall effort to replace low-stakes informal returns with a range of high consequences, including formal removal (both ER and reinstatement), criminal charges, and lateral repatriation (in which people are deported to locations different from their points of entry). Overall, the proportion of southwest border apprehensions who were informally returned fell from more than 90 percent in the first half of the 1990s, to 82 percent in 2005, and to just 9 percent in 2013.

For years, most experts agreed that border enforcement had a minimal impact on unauthorized immigration because few immigrants were apprehended; those who were usually reentered the United States after being deported. Yet, although border enforcement will never push illegal entries down to zero, it is increasingly clear that the sustained investments and policy changes of the past three decades have had an impact. Recidivism rates are falling, evidence of immigrant deterrence is rising, and southwest border apprehensions (a proxy measure of attempted entries) hit their lowest level in forty years in 2011, part of an overall downward trend since 2000 that goes beyond the business cycle. Despite signs of economic recovery, apprehensions were flat or continued to fall in eight out of nine Border Patrol sectors in 2012–14, with the lone exception being the Rio Grande Valley sector, where most new arrivals were Central American children and families seeking humanitarian protection, rather than traditional unauthorized immigrants.

## Interior Enforcement Has Also Increased Since 9/11, but the Obama Administration Has Narrowed Its Focus

Alongside these changes at the border, DHS has also invested heavily in interior immigration enforcement in the post-9/11 period. ICE's Detention and Deportation Program (now known as Enforcement and Removal Operations) has seen its budget grow from \$413 million in 1998 to \$2.6 billion in 2014; its personnel grew from 3,400 to 7,662 during the same period.

On top of these increases, ICE has implemented and expanded three programs that reach into immigrant communities. Beginning in 2003, ICE created the Fugitive Operations Program, consisting of task

forces that pursue certain at-large removable immigrants. Second, beginning in 2006, ICE substantially expanded the §287(g) program, a partnership program between ICE and certain state and local law enforcement agencies. Most recently, since 2008, ICE has implemented the Secure Communities program, which automatically provides ICE with fingerprint records of individuals being booked into state and local jails. Local ICE field offices may use the information to request that arresting agencies hold removable immigrants so that ICE can take custody and initiate removal proceedings.

These investments have also paid off, as interior apprehensions (i.e., apprehensions occurring other than at the border) increased from 123,000 in 1998 and 115,000 in 2003 to 320,000 in 2008. At the same time, however, although programs like Secure Communities are often described as tools to promote public safety by targeting dangerous criminals, much of the growth in interior removals has consisted of unauthorized immigrants who had never been convicted of a crime or have only been convicted of minor offenses. Under the Bush administration, for example, interior removals of people convicted of violent crimes increased from 6,300 in 2003 (the first year for which detailed data are available) to 30,000 in 2008, but interior removals of noncriminals grew from 13,000 to 73,000 in this period.

The Obama administration took steps during its first two years to limit interior removals of most noncriminals and in 2010 published new enforcement priorities, under which the administration has substantially reduced interior removals and has restricted removals almost entirely to three priority categories: recent illegal entrants, people with previous removal orders, and people previously convicted of a crime. Thus, between 2011 and 2013 the total number of interior removals fell from 188,000 to 131,000, and all but 4,000 removals in 2013 fell into one of the administration's priority categories.

Finally, the Obama administration announced a series of additional reforms in November 2014 to further limit removals of noncriminals from within the United States. The announcement included refinements to the 2010 enforcement priorities and the termination of the Secure Communities program in favor of a more targeted information-sharing program with local law enforcement agencies. Most important, the

president expanded a 2012 program to affirmatively protect certain unauthorized youth from deportation and announced a new program to protect certain unauthorized parents of US citizens and LPRs, with the two programs covering about 5.2 million unauthorized immigrants.

Taken together, the record of the past twenty-five years represents substantial changes to the US immigration enforcement system. Immigrants crossing the border are more likely to be apprehended and face much stiffer penalties, particularly following multiple apprehensions. Since 9/11, ICE also has unprecedented reach into immigrant communities, though the Obama administration has taken steps to scale back certain interior enforcement programs. Increasingly sophisticated identification systems mean that DHS can identify and track unauthorized immigrants as they move throughout the immigration enforcement and criminal justice systems.

What is less clear is how to assess the price of these gains and which of these enforcement tools are cost-effective. Apart from the direct costs to taxpayers of CBP's \$12 billion budget, the concentration of resources at the border has an impact on the environment and on a range of quality-of-life issues for border communities. Immigration prosecutions are especially significant in this regard, as immigration cases accounted for 26 percent of all defendants in federal district court in 2013, up from 11 percent in 1997, and were 63 percent of defendants in federal magistrate court, up from 15 percent. These numbers raise questions about whether immigration enforcement distracts from other prosecution priorities. Within the United States, apart from ICE's \$5.6 billion budget, the impact of enforcement on immigrant communities has been even more profound, leaving millions of families, many of which are mixed-status, in a state

of uncertainty and vulnerability. The comingling of immigration controls and the criminal justice system arguably has further adverse effects for community policing and public safety.

In light of these costs, a second set of questions centers on what additional enforcement measures can realistically be expected, or demanded, as pre-conditions for comprehensive legislation to rationalize legal visa channels and legalize certain unauthorized immigrants, a policy package most Americans support. The southwest border has become a near zero-tolerance zone, where additional investments between ports of entry already offer declining returns. (Much less is known about illegal entries through ports of entry—an issue that calls out for more transparency and research.) In the interior, the lesson of the recent period is that enforcement capacity already exceeds political will. That reality has caused presidents and members of Congress from both parties to resist investments in worksite enforcement—long recognized as the largest gap in the current system—until a deal can be struck on new employment-based visas; it has now caused President Obama to take additional steps to shield millions of unauthorized immigrants from deportation. Despite these questions, however, broader immigration reforms still face a difficult uphill climb in Congress; further investments in border and interior enforcement will likely continue to dominate the immigration debate.

## Further Reading

*Deportation and Discretion: Reviewing the Record and Options for Change*, by Marc R. Rosenblum and Kristen McCabe, October 2014.

*The Deportation Dilemma: Reconciling Tough and Humane Enforcement*, by Marc R. Rosenblum and Doris Meissner, April 2014.



Marc R. Rosenblum

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# A Comment on Security and the *Peregrine* Survey

John H. Cochrane



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Of all the canards, straw men, and flat-out silliness flung at immigration control, the idea that we must keep immigrants out in the name of national security is surely one of the worst.

The 9/11 terrorists came into the country legally. Richard Reid, the shoe bomber, was entering legally. The Tsarnaev brothers came here legally.

Terrorists and others who wish to enter the United States come on planes, with tourist visas. They do not swim the Rio Grande. They do not stop on the way to pick vegetables under the hot sun. They do not try to work, to pay taxes, to buy houses and cars. They are not interested in education for their kids, and the ability to go to authorities for legal protection. Immigrants want all these things, and we deny them.

The immigration issue is not who enters the United States. The immigration issue is who is allowed to work here legally, and to enjoy the protections of the law without threat of deportation. And that issue has absolutely nothing to do with security. Keeping a vegetable picker apart from a farmer does not enhance national security. Kicking my sharp MBA student away from a tech start-up because the H-1B lottery is full does not enhance national security. Denying education or employment to young adults, here since infancy, does not enhance national security. If anything, the opposite: young men and women, denied legal work, soon sour on unfair systems that keep them idle. See most of the Middle East.

Next year's budget allocates 13.5 billion dollars for customs and border protection. It allocates 8.5 billion dollars for the whole FBI. If you want security, you should want to flip those numbers. If you want to

keep out terrorists, post a few more agents at JFK, not Laredo.

Illegal immigration is easy to fix. Make it legal. Recognize that every worker is also a consumer, a taxpayer, and a potential citizen. People undergo the great strains of immigration, and the indignities of starting on the bottom of the ladder, poised to love this country, not to hate it.

## Reactions to the *Peregrine* survey

Considering this quarter's *Peregrine* survey, I am astonished that 68% of any group of freedom-loving Americans are not horrified by the idea of mandatory E-verify. In order for any living person in the United States to work, he or she must obtain the prior approval of the Federal Government? The Founders are rolling over in their graves.

It shouldn't take a minute to figure out how this will go wrong. The same organizations that run the Obamacare websites are going to be in charge.

Once in place, its expansion is inevitable. It will start with further reducing the employment options of ex-criminals. You wouldn't want a felon working at a day care center, right? E-verify them! Or a banker convicted of fraud or insider trading selling stocks? E-verify them! Or unlicensed nail salon workers preying on unsuspecting customers? E-verify them! Hey, let's check that prospective employees are up to date on their divorce payments. And that they have complied with the Obamacare insurance mandate. Surely you wouldn't want people accused of horrible crimes, like campaign finance violations, to work, right? While we're at it, we can check on the statistics of employer requests. Are they interviewing a diverse-enough set of people?

Where is your political freedom when the Federal Government controls who works? The Soviet Union kept power for many years by that simple means. It didn't have to send people to Siberia to silence them. It just had to threaten to pull their work permit. What in heaven's name are we doing instituting a Federal Work Permit to the United States?



Am I overstating it? Read the plain text of the question: "verify the legal status of their prospective employees." Not even this survey limits "legal status" to immigration law.

## Legal Status

Well, at least our respondents aren't indulging in the usual fantasies about sending people "home," many of whom have been here for decades. And "allow to work" is really progress. But how does 83% here add up with 68% in favor of E-verify and 63% in favor of stronger penalties for employers?

"No promise of U.S. Citizenship?" People who live here for decades, work, pay taxes, own houses, may never vote in our elections? What kind of democracy is that?

Imagine we are looking at some other country, say a Gulf state, with a large population of immigrant workers, say from the Philippines. And they deny these workers legal status, with no recourse when employers mistreat them or others cheat them. We'd be indignant. But that country is the United States, today.

Finally, this country says, ok, they can stay and work, but they can never be citizens. They can never vote. They need a passport from some country they haven't been to in decades. We'd still be indignant. We'd call it apartheid.

## Better Performance Metrics

I wonder how many people responding to this question could name any existing "performance metrics" of the US Customs and Border Protection agency today. A good prefatory question would have been: Name one

performance metric. Name one alleged problem with that metric.

Having no idea, I looked them up in the most recent "Performance and Accountability Report." (I presume this is what was meant.) It's pretty anodyne stuff such as

- Total revenue: \$40.9 billion (includes custodial and entity revenue)
- Illegal alien apprehensions between the ports of entry: 420,789
- Inadmissible aliens interdicted at the ports of entry: 204,905
- Pedestrians and passengers processed: 362 million
- Aircraft passengers processed: over 102 million
- Prohibited plant and animal materials seized at the ports of entry: 1,603,944

The trouble with "metrics" is that you get more of what you measure. Would it be "success" if the border patrol removed all 11 million "illegal aliens" overnight? They're actually under orders not to do so.

But if we're going to play with "metrics" it would be a lot of fun to include all points of view on the "metrics" committee:

- Families ripped apart by deportations
- Average number of years between parent visits to children, for fear of deportation
- Person-years on various lists
- H-1B visa applicants denied because the lottery ran out
- Lost tax revenue due to H-1B visa denials

# Securing the Southwest Border Requires Meaningful Immigration Reform

by Sylvia Longmire



Longmire is the author of *Border Insecurity: Why Big Money, Fences, and Drones Aren't Making Us Safer*. She is a former Air Force officer.

Moving into an election year, immigration reform is on every politician's mind yet not what they want to talk about. Border security isn't far behind as a hot-button political topic. But no matter how much we debate or ignore these two issues, they are inextricably linked and remain confounding to anyone who attempts to provide a workable solution to either.

One example of this relationship is the Republican versus Democrat squabble over which should come first. Democrats believe immigration reform should come before considering the enormous (and maybe unnecessary) expense of additional border security. Republicans believe our government needs to secure the southwest border before tackling immigration reform.

The beauty (or ugliness) of this argument is that no one (on Capitol Hill anyway) can define what a secure border would look like. Would it be a Great Wall of China-like structure along our two-thousand mile-long border with Mexico? Or would it involve removing the existing border fence and handling crossings from a regulatory and humanitarian perspective?

Despite the vehement national disagreements over how to enact meaningful immigration reform, most Americans want some sort of reform. According to polling conducted by the Public Religion Research Institute in February 2015, a combined 77 percent of the country supports either a path to citizenship (60 percent) or permanent legal residence short of citizenship (17 percent) for undocumented immigrants; only 19 percent want to "identify and deport"

immigrants "who are currently living in the United States illegally." If these numbers are remotely accurate, then the problem lies in how to achieve reform, not the reform itself.

The problem with the Republican versus Democrat argument is that it purports to make the solution either reform first or security first. Could both be accomplished at the same time? Or could one perhaps occur as a direct result of the other? This would need to begin with a clear definition of a secure border.

The best, if simplest, way to secure a nation's borders is to know exactly who is coming into it, how and where they're entering, and what they're bringing. Knowing all this about every single human being crossing an international border is impossible but could be easier to achieve were you to break the nation's borders into smaller pieces.

In the language of US Customs and Border Protection (CBP) and its subordinate agency, the US Border Patrol, there are nine sectors along our border with Mexico. Within each sector are sometimes several official ports of entry (POE): inspection areas that vehicles and pedestrians traveling on highways must pass through when they enter US territory. These (POE) are the responsibility of CBP inspectors. The land in between POE belongs to the Border Patrol; responsibility for those sometimes vast areas is further divided among several stations within each sector. Some sectors see little activity; others are hot zones of drug and human smuggling.

It is the responsibility of these hard-working CBP men and women in green and black to identify as many border crossers as possible and determine whether they're allowed to come in, using a combination of physical barriers, human observation, and advanced technology, all of which are expensive. But a lot of people who aren't legally allowed to enter the United States get in anyway. Most of these people aren't violent criminals but come to reunite with family or pursue educational or job opportunities. But some are gang members or violent drug traffickers; a few are rapists, murderers, or child molesters.

The problem, however, is that no one in the CBP or the Department of Homeland Security or even the White House knows exactly how many people get in illegally

or, more important, who they are, all of which are the foundation of an insecure border. So how can the US government devise a system that encourages most, if not all, noncriminal border crossers to self-identify, thus decreasing the workload for border law enforcement agencies and increasing the likelihood that they can identify and apprehend illegal crossers?

Delving into the need for reforming the visa application process would fill an encyclopedia, but suffice it could be the first step. The current wait time for the average Mexican or Central American applicant for a US visa—average meaning not having a PhD or scientific skill—is twenty years. When your nine-year-old son is being held at gunpoint by a gang member in Honduras and you and your family are threatened if he doesn't join that gang, you don't wait twenty years. You sell everything you own, pay a human smuggler (known as a coyote) \$7,000 for each of your kids, and send them north.

A general lack of security, job opportunities, and educational opportunities are the biggest factors driving most migrants to the US border. What many politicians fail to understand is that no current US immigration policy or even the threat of lengthy incarceration deters migrants in desperate situations. Even the threat of death in the Sonoran Desert or the threat of rape by a coyote isn't a deterrent.

Knowing that economic migrants will always come, the only way to separate them from the real threats to our national security—terrorists, drug traffickers, and other criminals—is to create a safe way for them to get here and to make their arrival and stay in the United States as advantageous as possible for the US economy. A way to minimize the impact of more migrants on social service agencies—particularly those along the border that tend to absorb much of the traffic—makes reform much more palatable to both politicians and the general public.

Almost every undocumented immigrant that crosses the southwest border pays a coyote anywhere from \$3,000 to \$10,000 for each trip north. In the past fiscal year, US Border Patrol agents apprehended almost half a million people trying to cross the border illegally. If every one of those migrants paid the US government even a fraction of that amount as a visa or work permit application fee, the money would add up quickly

in a tight US economy. For the opportunity to come here legally and safely, virtually every applicant would gladly succumb to a criminal history check—advantageous to both the United States and the Mexican/Central American governments, which would encourage cooperation—and medical screening for infectious diseases.

Most Mexican and Central American migrants have family members living in the United States. Part of the process could be to provide a resident relative as a sponsor who would be accountable for the applicant's behavior while she or he is in the country. Another part could be a time limit on obtaining a job or enrolling in school; if the time limit passes or the applicant commits a crime, he or she gets deported and the sponsor gets fined.

These are only a few suggestions, all of which are feasible and beneficial to the US economy—and arguably American society as a whole. But the biggest obstacle isn't the usual red tape; it's the lack of political will to move forward on immigration reform. The most disheartening aspect is that were we to remove migrants from the sphere of law enforcement and bring them into a legislative and regulatory space, it would almost completely free up agencies such as the CBP and the Border Patrol to pursue the considerably smaller number of illegal border crossers: the real threats to border security. Talk in the halls of Congress would shift from increasing Border Patrol agent numbers, miles of fence, and operational drones to decreasing assets because they're needed in fewer or more-targeted areas.

Although this may sound at first like a call for immigration reform before even looking at border security, it's not. This is a platform for presenting immigration reform as a clear and direct means of achieving a more secure border and bolstering the US economy in the process. Noncriminal undocumented immigrants are not our enemies; yet we spend billions of dollars on technology and manpower to treat them as a law enforcement problem; in the meantime drug traffickers reap up to \$39 billion in profits across our southwest border every year. When the US government can find the most efficient and effective way to separate and identify border crossers—and leave only the threats to law enforcement—only then will we start to see real improvements in border security.

# Peregrine Survey on Immigration & Security

How does immigration intersect with issues of national security? The most obvious answer is border security, but too often that is the only answer. The state of the conversation among policymakers is lacking.

We asked a panel of twenty-five immigration policy experts to review to assess security-related policies which largely focus on reducing immigration of unauthorized people into the United States. Our standard question compares new policy ideas, but we also asked respondents to assess the effectiveness of existing policies. Notably, the majority of respondents are independent scholars, but of those who are affiliated with a political party, five are Republicans and five are Democrats.

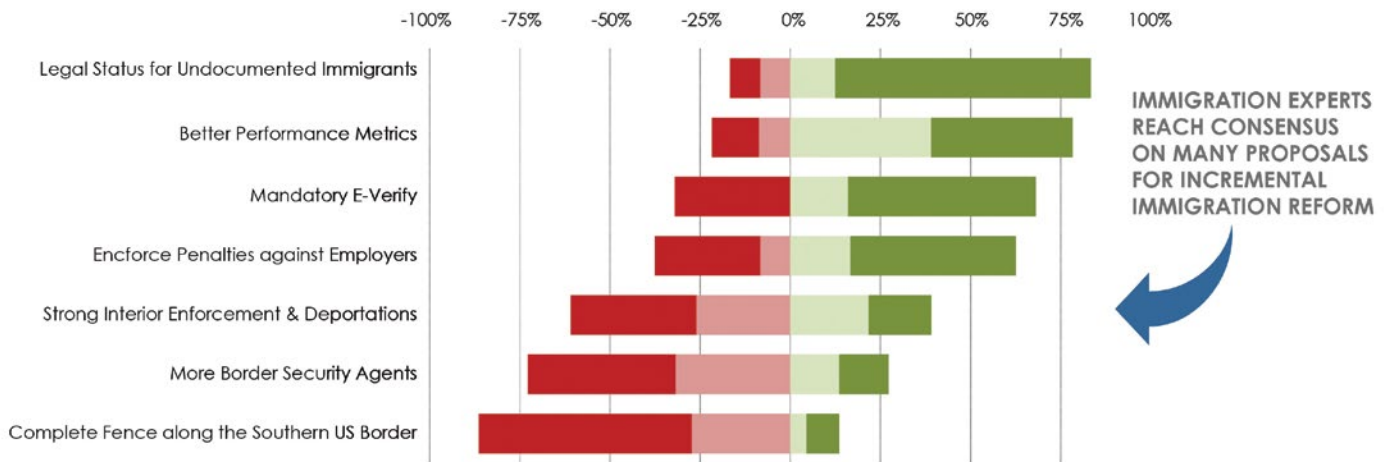
Results of the survey confirm that security at the border is considered far less important or valuable than other policies, and the reason is that resources at the border have increased so much in recent years. Other security-related issues are crying for attention.

**QUESTION: WHICH OF THE FOLLOWING IDEAS DO YOU AGREE WOULD BE GOOD FOR US IMMIGRATION POLICY? (THE PERCENTAGES OF EXPERTS THAT AGREE ARE NOTED NEXT TO EACH ACTION).**

<p><b>83%</b>    <b>LEGAL STATUS (DEFERRED DEPORTATION) FOR UNDOCUMENTED IMMIGRANTS</b>                  Allow undocumented immigrants to live and work in the United States with no promise or penalty regarding US citizenship.</p>
<p><b>78%</b>    <b>BETTER PERFORMANCE METRICS</b>                  The US Customs and Border Protection should be legally required to provide more data about immigration enforcement, and should generate and report improved performance metrics to be recommended by an independent commission or external agency such as the GAO. The existing measures are insufficient and make policy reform more difficult.</p>
<p><b>68%</b>    <b>MANDATORY E-VERIFY</b>                  E-verify is a voluntary program that allows private employers to verify the legal status of their prospective employees. (Required for federal employees and contractors.) Require all private employers of a certain size to use E-verify.</p>
<p><b>63%</b>    <b>ENFORCE PENALTIES AGAINST EMPLOYERS</b>                  Employers of undocumented workers in the US face various fines, increasing for second or third offenses. These penalties should be more effectively enforced..</p>
<p><b>39%</b>    <b>STRONG INTERIOR ENFORCEMENT &amp; DEPORTATIONS</b>                  Expanded funding for ICE to apprehend, detain, and deport undocumented immigrants inside the United States.</p>
<p><b>27%</b>    <b>MORE BORDER SECURITY AGENTS</b>                  The number of border security agents has increased from four thousand in 1993 to ten thousand in 2003 to over twenty one thousand in 2013. Apprehensions have fallen dramatically from their peak in the early 2000s, but overtime of agents is high. Should more agents be hired to secure the border?</p>
<p><b>14%</b>    <b>COMPLETE THE FENCE ALONG THE SOUTHERN US BORDER</b>                  The US-Mexico border is over 1,900 miles long, and over 600 miles of it is fenced. Estimates are that the cost would be \$4m per mile to actually seal the border against illegal crossings.</p>



**DO YOU AGREE WITH THE FOLLOWING IDEAS FOR REFORM OF US IMMIGRATION POLICY?**

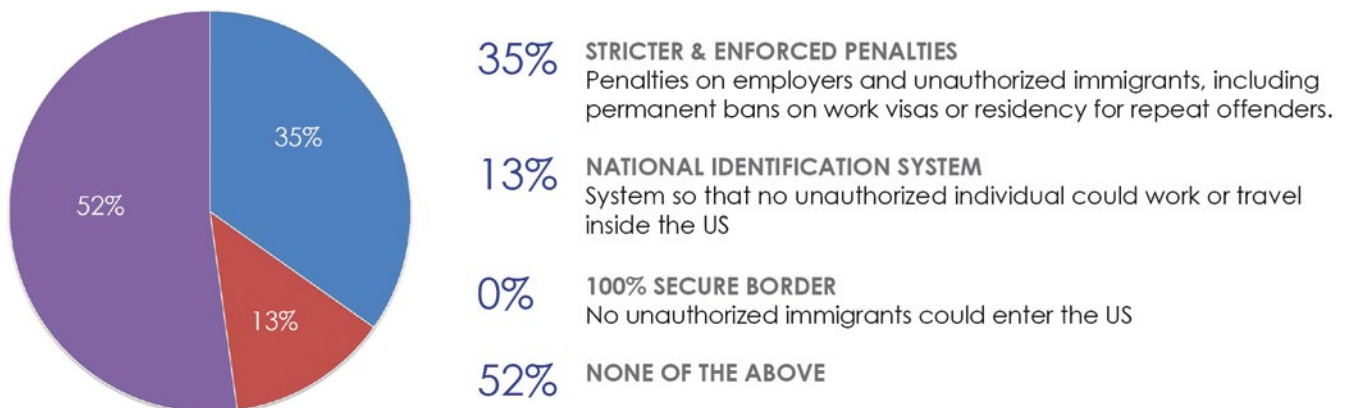


Four of the seven of the policy ideas are deemed by a majority of our scholars to be “good for country”; three fall far short. The idea with the most support is granting legal status to undocumented immigrants. Not only did 83 percent of respondents agree, but 71 percent agreed strongly.

Two other ideas are close behind. Better enforcement metrics were supported by 78 percent of respondents, but less than half agreed strongly. Only 68 percent supported making E-verify mandatory nationally, but most of that support agreed strongly. This idea generates strong disagreement as well. The last idea with majority support is the idea of enforcing penalties against employers of illegal aliens, with 63 percent in favor versus 37 percent opposed.

The idea that most respondents disagree with is completing the fence along the southern US border, often described as sealing the border. Fourteen percent agree with completing the fence, versus 86 percent opposed (59 percent strongly). In the same general category, three-quarters of respondents oppose adding more border security agents. Cracking down on illegal immigrants who are inside the United States was also opposed by a majority of respondents, although 39 percent favor this approach, with greater use of apprehensions and deportations, notably higher than is generally reported in the press.

**QUESTION: IF THESE POLICIES COULD BE IMPLEMENTED, WHICH WOULD BE MOST EFFECTIVE IN REDUCING ILLEGAL IMMIGRATION BY 50 PERCENT OR MORE?**



Apparently, our panelists believe that reducing illegal immigration by half is impossible, given a choice among three of the most commonly proposed enforcement approaches. Not a single respondent thinks securing the border would be the most effective policy. A third of respondents believe the most effective policy would be a crackdown on employers. Thirteen percent think a national identification system would be the most effective.

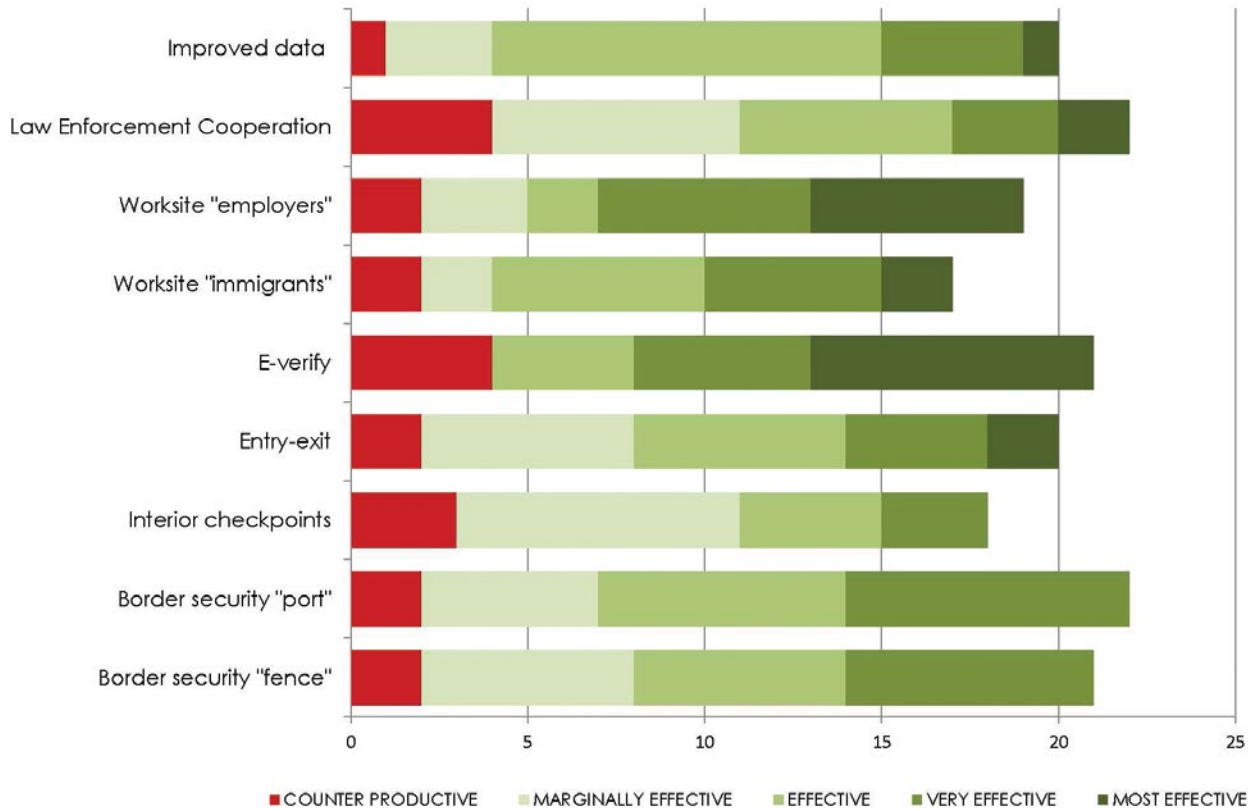
It must be noted that other policies might have been more popular, such as granting legal status or developing a flexible guest-worker program, which would relieve pressure on enforcement agencies to focus on new migrants.

**QUESTION: WHAT IS THE BALANCE BETWEEN COSTS AND BENEFITS (ECONOMIC, BUDGETARY, SOCIAL, ETC.) FOR THE THREE POLICIES DESCRIBED ABOVE?**



We were curious to know whether immigration scholars believe the benefits of the big three approaches to security outweigh the costs. For two of three, the answer is no. Only 13 percent of the panel believes a 100 percent secure border outweighs the costs. Only 25 percent think a national ID system is beneficial. This seems at odds with support for E-verify, suggesting there is a difference for many panelists between E-verify as a limited program for work sites and a national identity system. Another reason for the disparity is that E-verify is often framed as necessary to make enforcement against employers work because using E-verify would give employers safe harbor if their workers have falsified their identities and work permits. Exactly half of the panel sees net benefits for work site enforcement against employers; 33 percent think costs outweigh the benefits.

**QUESTION: PLEASE PRIORITIZE THE FOLLOWING PROGRAMS IN TERMS OF THEIR EFFECTIVENESS IN REDUCING ILLEGAL IMMIGRATION.**



This question was phrased in a way to evaluate existing policies rather than assessing new approaches. All the programs were evaluated as effective by a large majority of respondents. For example, twenty of twenty-two panelists think that border security at ports of entry is effective, whereas nineteen agree that border security in between entry points (i.e., the border fence) is effective, though neither approach received a single vote as the most effective program. The programs rated most effective are E-verify (eight top votes) and work site enforcement against employers (six top votes).

AT THE INTERSECTION OF IMMIGRATION POLICY AND NATIONAL SECURITY,  
IN 140 CHARACTERS OR LESS, WHAT IS THE ONE POLICY OR LAW THAT YOU RECOMMEND DOING (OR UNDOING)?

*Closer cooperation with other countries to identify potential threats earlier.*  
– EDWARD ALDEN

*To know and evaluate the effectiveness of immigration enforcement, need better and more data, better publicized.*  
– THERESA BROWN

*Don't be evil.*  
– BRYAN CAPLAN

*Do not create a police state in a fit of anti-immigrant xenophobia.*  
– JOHN COCHRANE

*Though almost every part of our immigration system has been exploited by terrorists, better tracking of those on temporary visas (and deportation of those who overstay) would be very helpful.*  
– JON FEERE

*Limit the illegal by increasing the legal.*  
– ADAM OZIMEK

*A good system of identity verification is the key to controlling illegal immigration, which will free up security resources to focus on real threats such as violent criminals and terrorists.*  
– TIM KANE

*Reduce illegal immigration by creating a legal channel for low-skilled workers to live and work here.*  
– BRINK LINDSEY

*Create guest worker visa program to channel would-be unlawful immigrants into legal market.*  
– ALEX NOWRASTEH

*We shouldn't aim to achieve zero unauthorized immigration--the costs would far outweigh the benefits. Instead, we should try to reduce it to an acceptable level.*  
– MADELINE ZAVODNY

*Mandatory E-verify.*  
– ROBERT RECTOR

*Better metrics that track individuals as they pass through (and often reenter) the enforcement system over time would allow cost-benefit analysis of different enforcement tools.*  
– MARC ROSENBLUM

*End mass immigration.*  
– MARK KRICKORIAN

*An open-borders policy for peaceful migrants. That way, border security can focus solely on the small minority of criminals and terrorists, instead of being diverted to preventing peaceful migration by those who only seek jobs and opportunity.*  
– ILYA SOMIN



## CONTRIBUTORS AND SURVEYED EXPERTS

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**Edward Alden**

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**Francisco Rivera-Batiz**

**Russ Roberts**

**Marc Rosenblum**

**Neil Ruiz**

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## ABOUT *PEREGRINE*

*Peregrine* is an online journal about US immigration policy that provides background facts, surveys, and opinion essays by scholars from a variety of perspectives. Each issue of *Peregrine* addresses a different aspect of immigration, looking to educate as well as identify areas of agreement among experts and the public on incremental policy changes. This free publication will be published online and in print and will also be available as a downloadable PDF.

The starting point for *Peregrine* is an awareness of America's unique status as a nation of immigrants. From pilgrims to pioneers to huddled masses yearning to breathe free, Americans are a peregrine people. The country's pathway to citizenship has been open for centuries and even now welcomes more than one million foreigners as permanent, legal residents every year. The United States is also a nation of laws, balancing natural rights with sovereign democracy. To maintain America's strengths as a nation of immigrants and a democracy of laws, *Peregrine* provides an arena in which the best reform ideas will be published, discussed, and analyzed.

*Peregrine* is led by Tim Kane, editor, and Tom Church, managing editor, as part of the Hoover Institution Conte Initiative on Immigration Reform. The journal relies on contributions from the membership of Hoover's Working Group on Immigration Reform, co-chaired by Edward Lazear and Tim Kane.

## CONTE INITIATIVE ON IMMIGRATION REFORM

The Hoover Institution's Conte Initiative on Immigration Reform is the result of significant scholarly workshops and conversations among academics, politicians, and Hoover fellows who are concerned with America's current immigration system.

The current system is complicated, restrictive, and badly in need of reform. It is ineffective at its stated goals of allowing sufficient immigration and punishing transgressors who overstay their visas or cross our borders illegally. A working group has been formed under this initiative that aims to improve immigration law by providing innovative ideas and clear improvements to every part of the system—from border security to green cards to temporary work visas. Our efforts are provided by Hoover scholars and leading affiliated thinkers and reformers from both sides of the aisle. Our membership is united by only one common theme: Our current system is broken and needs to be reformed.

Edward Lazear and Tim Kane co-chair the project as part of Conte Initiative on Immigration Reform with management and research support from Tom Church. For more information about the Conte Immigration Initiative, visit us online at [www.hoover.org/research-teams/immigration-reform](http://www.hoover.org/research-teams/immigration-reform).



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