



Study: Border Patrol agents far more likely to be fired than officers at similar agencies

Rafael Carranza

December 8, 2017

Border Patrol agents are far more likely to be fired than employees at similar federal agencies, according to a study that calls for a hiring freeze at the agency tasked with securing the nation's borders.

The libertarian Cato Institute compared termination rates for Border Patrol — employee removals for misconduct or poor performance, among other reasons — with other agencies within the Department of Homeland Security. DHS is home to several law-enforcement agencies with different missions related to protecting the nation's borders and ports of entry.

The report cites poor oversight of the approximately 20,000 Border Patrol agents as the primary cause for the firings. But it also noted the reason for such a wide disparity is somewhat unclear because data on agent discipline is incomplete, according to the report.

“The biggest problem for Border Patrol is that they do not have effective internal affairs oversight,” said Alex Nowrasteh, an immigration policy analyst at the Cato Institute who based his analysis on disciplinary reports from the Office of Personnel Management, which functions as the human resources department for all federal employees.

The reports comes as Border Patrol prepares to significantly increase its hiring in response to President Donald Trump's executive order declaring his intent to add 5,000 agents by 2021. Customs and Border Protection, which oversees Border Patrol and is a division of DHS, did not respond to requests for comment.

How big is the problem?

The analysis from the Cato Institute found:

- On average, Border Patrol agents were 49 percent more likely to be terminated for performance and disciplinary issues than officers at their sister agency, the Office of Field Operations, which is also a part of CBP.
- They're twice as likely to be terminated than officers at Immigration and Customs Enforcement, which is set to add 10,000 positions under Trump's January executive order.
- Border Patrol agents are nearly 13 times as likely to be terminated than Secret Service agents, who are also a part of DHS.

James Norton, a former DHS official, said Border Patrol faces unique challenges related to its accelerated rate of growth in a relatively short period.

According to statistics from CBP, the number of border agents nationwide nearly doubled between 2003 and 2013, from 10,700 to 21,300. The number of agents peaked that year, and staffing levels began to fall as Border Patrol struggled to hire and retain agents.

Norton said doubling the agency's workforce "definitely" affected the culture at Border Patrol. "That can change the mindset and overall leadership of an organization. It can impact its stability and it can impact potentially performance," he said. "Because if the mission isn't clear, when the mission teeters and the mission bleeds, then there definitely could be issues in terms of overall performance metrics."

Challenges at the top

Norton noted a lack of stability in the agency's leadership. Few of the top posts at CBP and DHS have been permanently filled or confirmed, nearly one year into the new administration. A November report from DHS' Office of the Inspector General highlighted a lack of leadership and direction at DHS stemming from vacancies in the upper ranks. It also pointed to weak internal oversight of performance by employees and agencies under its jurisdiction, including CBP and Border Patrol.

"The Department does not always determine how to properly support employees once hired to ensure they are well-equipped to carry out their responsibilities while maintaining a high level of morale," the report stated. "DHS often fails to update and clarify guidance and policies, ensure full and open communication between employees and management, offer sufficient training, and reduce administrative burdens. Our reports are replete with examples of insufficient training to enable and enhance job performance."

The report from the Inspector General also found CBP data is often incomplete and unreliable, which can open it to misinterpretation. It echoes one of the main points from the Cato Institute's analysis on Border Patrol discipline and performance.

On Tuesday, the Senate voted to confirm Kirstjen Nielsen, who Trump tapped to lead DHS' 240,000 employees. During her confirmation hearing last month, she said she was aware of the leadership and performance issues.

She committed herself to addressing them early on, with an emphasis on training, as well as to strengthen internal controls within the department.

“I believe in accountability, just as I hope that you would hold me accountable, I will hold others accountable,” she said. “I would work with the men and women of DHS to ensure not only that they have the tools that they need, but that we can consistently have the opportunity to audit, have internal controls, and hold them accountable.”

Why this matters

According to his January executive order, Trump is expected to add 5,000 positions to Border Patrol by 2021, bringing the total number of agents then to more than 26,300.

But the agency has struggled in recent years to hire and retain employees. As of May, Border Patrol has approximately 1,900 unfilled positions, according to the U.S. Government Accountability Office.

The Cato Institute pointed out that even as the number of agents has doubled in the past 15 years, the number of internal affairs investigators — the people charged with probing agent performance — has not kept pace. There are also multiple disciplinary offices within DHS that often overlap but don't always share information with each other.

“If they hire more agents, but they don't hire enough internal affairs investigators ... then you will have the potential for many more performance and disciplinary problems going forward,” Nowrasteh said. “You will have the potential for more corruption and misconduct, and that it will go undetected.”

The Cato report calls for a hiring freeze until CBP and Border Patrol strengthen internal affairs processes and accountability for agents. However, with the administration's emphasis on border enforcement — and its push to add agents — it's unclear how open they would be to a hiring freeze.

The report also calls on DHS to improve its collection of data on performance and discipline, and to make that information more accessible to the public.

“Whether you agree with America's immigration policy or not, I think we can all agree that law enforcement agencies should be disciplined, they should perform their job professionally, and that there should be an absolute minimum of misconduct,” Nowrasteh said