Trump Wants More Money for Corrupt Border Patrol

Alex Nowrasteh

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President Donald Trump doesn't just want to build a wall along the southern border, he also wants Congress to hire 5,000 additional Border Patrol agents—a 25% increase—to patrol it. However, Border Patrol suffers from worse discipline, performance, and corruption problems than any other federal law enforcement agency, my study for the Cato Institute found.

Congress should fix those problems before even considering any new request for more agents.

Stories of Border Patrol misconduct and corruption have dribbled into the press for years. They range from ordinary corruption to brutal crimes. On the ordinary side, Border Patrol agents Raul and Fidel Villarreal were convicted of smuggling in around 1,000 illegal immigrants in exchange for $1 million. On the brutal side, Border Patrol agent Esteban Manzanares kidnapped, assaulted, and raped three illegal immigrant women he apprehended while on the job in 2014.

There are many other cases just like those, but the full extent of the problem is very unclear. Are these just a few bad apples? Or is it "conservative to estimate" that 5 percent of the Border Patrol force, adding up to about 1,000 agents, is corrupt, as James Tomsheck said after he was removed as head of one of the internal affairs departments that oversaw Border Patrol in 2014.

Government reports offer confusing, contradictory, and incomplete answers. According to evidence released under the Freedom of Information Act, 158 Customs and Border Protection (CBP) employees were convicted or charged with corruption from 2005 to 2016. The Department of Homeland Security Office of Inspector General found 358 corruption or misconduct convictions, but it doesn't distinguish between government employees and civilians who conspired with them. CBP further complicates this mess by distinguishing between "mission-compromising" convictions, which include drug and immigrant smuggling, and "non-mission-compromising" ones, which include sexually assaulting detainees and murder.

Not only are records of corruption and misconduct poorly reported but the government can't even agree on the definition of what constitutes a complaint. CBP even shifted the definition and reporting system for "complaints" in a way that reduced the number of those filed against Border Patrol officers. That's why Government Accountability Office (GAO) watchdogs recorded

thousands more complaints made against sub-components of CBP than CBP itself records against the entire agency, which just strains credulity.

A new Cato Institute study analyzed Office of Personnel Management (OPM) data on the number of terminations for disciplinary and performance reasons by agency and occupation – data that includes (but is not limited to) those fired for corruption. This data is more reliable because the agency actually records the reasons for why an agent left or was fired, something neither the CBP nor Border Patrol does.
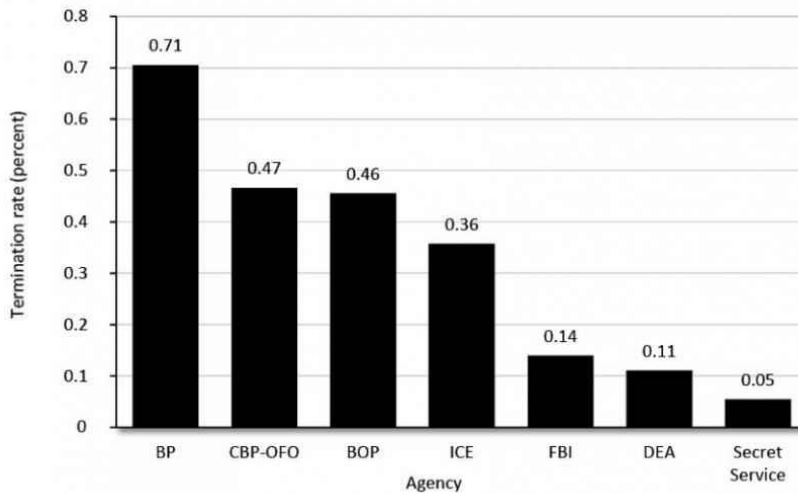
From 2006 through 2016, Border Patrol agents had the highest termination rate of any large federal law enforcement agency. On the whole, they were 2.2 times as likely to be terminated for discipline or performance as federal law enforcement officers in general and 49 percent more likely than Customs officers, 54 percent more likely than guards at the Bureau of Prisons, six times as likely as Federal Bureau of Investigation agents, 7.1 times as likely as Drug Enforcement Administration agents, and 12.9 times as likely as Secret Service agents.

Two explanations are generally offered for Border Patrol's relatively high termination rate.

One, that its internal affairs department is just better at providing effective oversight and firing troublemakers. But this is laughable given that the oversight at Border Patrol deteriorated precipitously after 9/11.

Congress disbanded the old Immigration and Naturalization Service that housed Border Patrol after it approved student visas for two 9/11 hijackers about six months after they flew jet liners into the World Trade Center. Congress then created the Department of Homeland Security (DHS) that housed another agency called Customs and Border Protection (CBP) and made Border Patrol part of it. However, Congress transferred Border Patrol's old internal affairs division elsewhere and neglected to create another one. CBP cobbled together an internal affairs division but it did not have the authority to investigate *criminal* misconduct in Border Patrol until August 2014. Outside agencies tried to fill the gap before then.

Figure 1
Discipline or performance termination rate for federal law enforcement officers, 2006-2016

Two, the termination rate is simply a reflection of the agency's expansion. This doesn't hold much water either.

The number of Border Patrol agents doubled from 2002 to 2010 but the number of Customs agents barely expanded. However, the termination rate for *both* Border Patrol agents and Customs agents shot up at the same time. Thus, the hiring of new Border Patrol agents can't explain the termination surge. Incidentally, most of the corruption charges against Border Patrol agents are for smuggling illegal immigrants or drugs into the United States.

The government should at least get a grip on these issues before handing Border Patrol more taxpayer dollars to hire more agents.

And a good place to start would be by implementing the Homeland Security Advisory Council's (HSAC) recommendations. This would mean boosting agent accountability by improving internal affairs, especially by bringing the number of internal affairs officers up to 729. This would increase the ratio of internal affairs officers at Border Patrol to the same level as that of the New York City Police Department (NYPD). Many of the other reforms recommended by the Council—like better training and recording stops—likewise mirror those suggested for police departments across the country.

Furthermore, the Government Accountability Office should annually audit Border Patrol internal affairs through undercover investigations to catch agents breaking the law or otherwise misbehaving. Civil service protections should only extend to Border Patrol agents after two full years on the job rather than after one year, making it easy to fire troublesome agents before they become serious problems.

Most importantly, civilians should also have greater oversight just as they do for some police departments. Border Patrol agents after all operate in local communities, so it's only right that

these communities should be able to form complaint review boards to oversee agent conduct—just like the committee New York City has for the NYPD. Related to this, all Border Patrol agent labor contracts should be public and scrutinized for provisions that inhibit prevention, detection, and punishment of corruption and misconduct.

Also, in the interest of transparency, the government should annually publish all corruption and misconduct information for every federal agency so that Border Patrol's track record can be compared with others, which is extremely difficult right now.

Congress should not authorize any additional hires until Border Patrol gets a grip and improves its personnel record to at least the level of other federal law enforcement agencies, which is hardly a high bar. Pumping more money and resources into a corrupt and low-performing agency will only reward failure and breed more problems without "securing the border."

Alex Nowrasteh is an immigration policy analyst at The Cato Institute.