COMMON SENSE
BORDER SECURITY
SOLUTIONS

THOUGHTS FROM DENNIS E. NIXON

UPDATED APRIL 2018

Rio Grande River

Rio Grande Riverbanks infested with Carrizo Cane

Common Sense Border Security Solutions

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STATE OF THE BORDER

The flow of immigrants who illegally enter the US through the Mexican border has declined dramatically over the last couple of decades after the massive influx that occurred in the 1980's. Today, the border still faces illegal immigration with individuals coming to the US in hopes of participating in the American dream—a chance to succeed. These economic migrants, a term used by US Border Patrol, are law-abiding people who are seeking work because their country of origin has not given them a chance to succeed, even at the basic levels of feeding their families. Today, the bulk of migrants are Central American. The primary reasons for their migration to the US are family reunification (family members already established in the US), perceptions of amnesty (largely driven by misinformation), fear of violence in their home Country, and better economic opportunities. Much of this is fueled by a lack of consequences, which generally involves detention and removal, if appropriate, and criminal prosecution.

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Many of these Central American migrants are women and children from a non-contiguous territory. The fact that US courts have ruled against detention of family units means there is no real detention, removal, or prosecution of these individuals. Family units are released with a "notice to appear" with a court date that is to be determined.

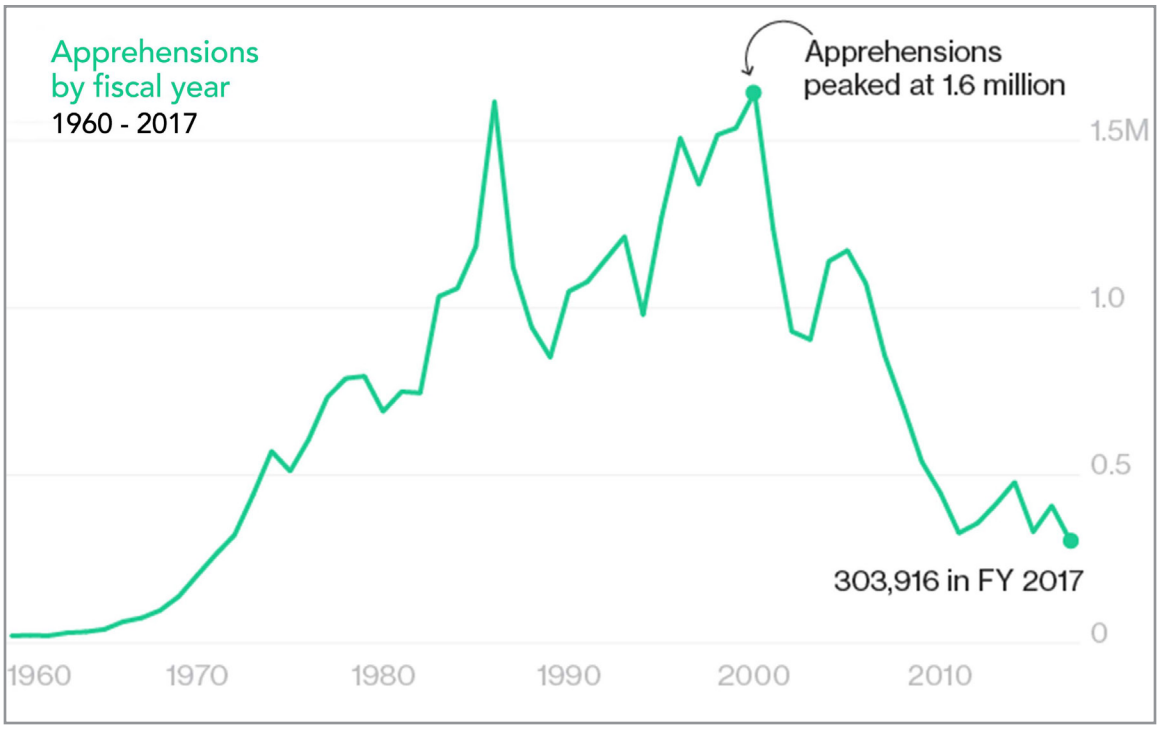
Bridge I and II in Laredo, TX

On average, many of these court cases take 1,000 days to be adjudicated. Due to this situation, many migrants never appear for a court date and end up being deported in absentia.

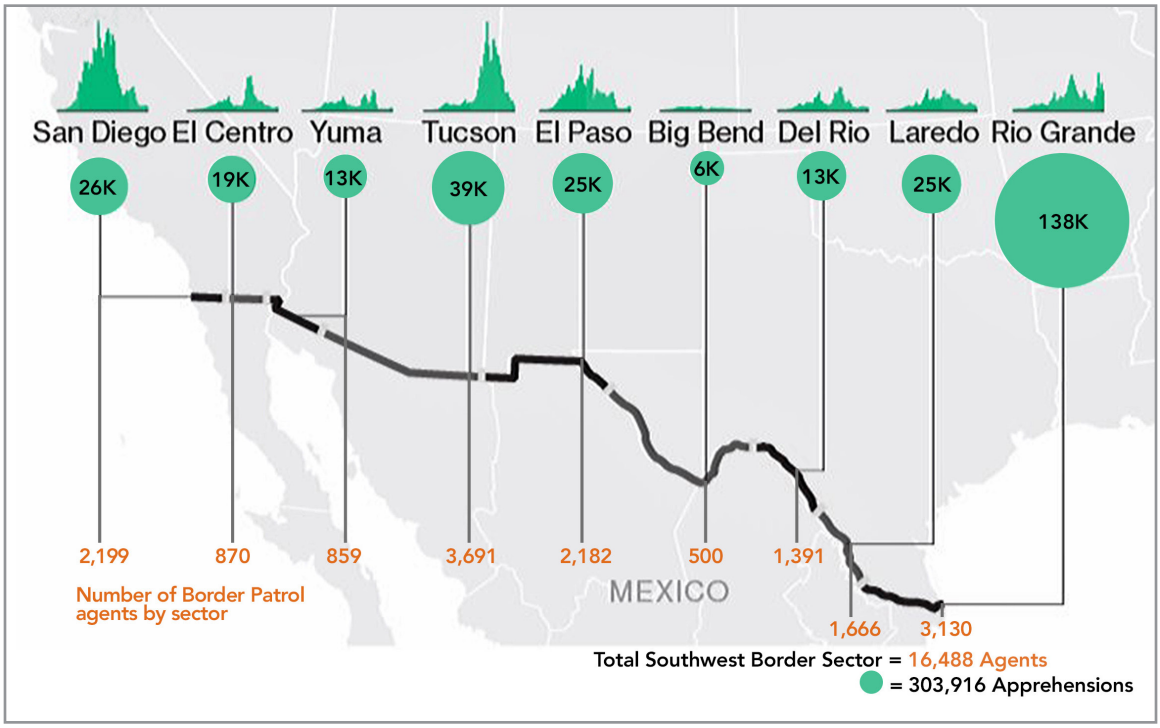
A secure border is defined as our ability to "enforce the rule of law." However, the lack of immigration judges or post-apprehension consequences undermines the rule of law. Border towns need to have facilities along the southern border with sufficient asylum officers, immigration judges, and consular officers to hear cases and then make a final determination on-site. If a decision to release pending a hearing is made at that point, then sufficient protocols and bond amounts need to be established to ensure that individuals will report for future hearings. This procedure is not being done at the present time.

The size and makeup of the economic migrant group has changed dramatically over the last several years. Previously, 90+ percent of economic migrants were of Mexican origin. This migration was driven by raw economic reality. The lack of making a satisfactory living in Mexico and a heavy law enforcement killed circularity. Circularity was when workers came into the US and returned to Mexico after several months of work so they can be with their families. This circular pattern continued for many decades, but it was disrupted by the large increase in border law enforcement—primarily the massive increase in Border Patrol agents followed by the rapid escalation of apprehensions. In 2000, the number of apprehensions peaked at 1.6 million nationwide and has since steadily drifted down to about 300,000 (see chart on page 3). Ninety-five percent of those apprehended are economic migrants. The other 5% are engaged in criminal activities that continue at a reduced rate. Today, only about one third of the 303,916 apprehensions are Mexican. Many believe the net migration of Mexicans, those coming and those leaving to return home permanently is now negative. In other words, more Mexican migrants are leaving the US than entering the US.

Apprehensions Have Plummeted Since 2000



Apprehensions At US Border Patrol Sectors in Fiscal 2017



Source: U.S. Customs and Border Protection

The 176,000 other apprehensions are made up almost exclusively from Central American countries, such as Honduras, Guatemala and El Salvador. These migrants continue to be 95% economic. However, the number of apprehensions of these migrants is slightly inflated due to the heavy movement of unaccompanied minors driven by the idea they can surrender to US Border Patrol and then be reunited with their loved ones. That reality has played out accurately because of our failure to expeditiously adjudicate these migrants in our court system, as discussed in this white paper.

Another area that needs greater focus is Mexico's southern border. Until Mexico can secure its own southern border, it will continue to be a land bridge for Central Americans seeking to enter the US. While Mexico has deployed immigration officers to its southern border to deter illegal entry it does not have sufficient personnel, infrastructure or technology to make a real impact.

The skeptics that do not want to face the facts about immigration and the need for economic migrants continue to dismiss raw data in favor of the extreme notion that if 11 million undocumented immigrants are given residency or some path to citizenship, there will be a massive new flood of people seeking residency because the opportunities in America far exceed those in their home countries. That belief is incorrect based on demographics. Most economic migrants are from Central America. A positive aspect is that Central America has a smaller population than Mexico and the distance to travel makes migration a challenging task. So distance and numbers have worked to keep the migrant inflows at more manageable levels.

A worldwide fact is the rapid decline in birth rates in areas including Mexico and Central America is at a crisis point. It takes 2.1 births per female to sustain a population. Virtually, all developed countries and the developing world, with a few exceptions, are below 2.1. In 1960, Mexico's fertility rate was 7.0. Now, Mexico has fallen to 2.0 and most of the population is now concentrated in major metropolitan areas. Demographers say no country in the history of the world has declined in fertility rates as rapidly as Mexico. The demographic winter has hit these countries just as it has the rest of the world. Europe and Asia are in trouble with fertility rates that are below both replacement and sustainability levels. It is unlikely that these countries can recover from such low fertility rates, and the numbers suggest that countries will experience high reductions in population over the next couple of decades. For example, Japan and Russia are experiencing actual population loss. The US is currently at about 1.77 births per female, which is below replacement level. Since 10,000 baby boomers are retiring every day, the outlook is bleak. Without population growth and the prospect of new workers, economic growth is unlikely. Future GDP growth above 2% on a sustained basis will be an enormous challenge facing the demographic winter that will have a huge impact on the world over the course of the next several decades—no people equals no economic growth!

The entire point of this section is to clearly point out that we need an immigration policy that addresses America's need for workers. We need about 600,000 to 650,000 low-skilled workers every year to keep our economy growing. We do not produce that type of worker in America. In fact, the largest part of the workforce is now the millennial generation. This group of workers is not committed to this work, so where are we going to get people to do the so-called basic jobs which some have called the "dirty jobs"? We better wake up and understand the need to reform our immigration policy in America or we will continue to starve this country's economy due to the lack of human capital that do the basic work required in a growing economy. This should be a fact-based discussion with the political and emotional elements pushed aside for the simple sake of reason.

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CLEAN UP THE RIO GRANDE AND GIVE BORDER PATROL ACCESS AND VISIBILITY

There are two things US Border Patrol seeks along the Texas-Mexico Border. One is visibility of the river and the other is access to the river. Both can be easily achieved by simply cleaning up the riverbank along the Rio Grande. The Salt Cedar and Carrizo Cane are non-native, invasive plants that need to be eradicated. Its density becomes a hiding place for immigrants and criminals who illegally enter the US, and in that process, make Border Patrol and other law enforcement more vulnerable. These plants need to be eradicated and the riverbanks should be re-populated with native prairie grasses that have limited growth potential and can be easily and economically maintained. The cane and cedar plants consume water resources (which is killing the river) that serve as the primary drinking and irrigation source for Texas border communities. Eradication will protect all of the border water supply.

The Carrizo Cane in South Texas along the Rio Grande River

Once these invasive plants have been eradicated, an all-weather river road should be built to provide US Border Patrol access to the riverbank. Furthermore, Mexico should be convinced to eradicate the plants on their side of the river to create a larger buffer zone that will discourage immigrants and criminals from crossing. The new open zone with a clean field of view can be further enhanced with modern technology: motion detectors, cameras, infrared sensors, etc. This natural buffer zone (think of it as a linear park enhancing the border) is a far more effective barrier to entry than any man-made barriers. This approach is a faster, cheaper, and more effective way to patrol and control the river and allows Border Patrol officers to do what they do best: protect the border. Under the Secure Fence Act of 2006, some border fencing was installed on the Rio Grande that gave Americans a false sense of security. Only until we can provide Border Patrol with a clean river, can we expect to see real results.

CLEAR BACKLOG IN OUR IMMIGRATION COURT SYSTEM BY HIRING MORE IMMIGRATION JUDGES

Most law enforcement executives believe the border has become secure, but it is self-evident that more can be done. However, the reward for enhancing apprehension is only as good as the legal process we have to support it. The process we have today is merely a catch and release program which has been severely criticized for years, but little has been done to improve it. Today, with the rapid decline in illegal immigration, the problem squarely rests on an inadequate judicial system. Simply said, we need more immigration courts.

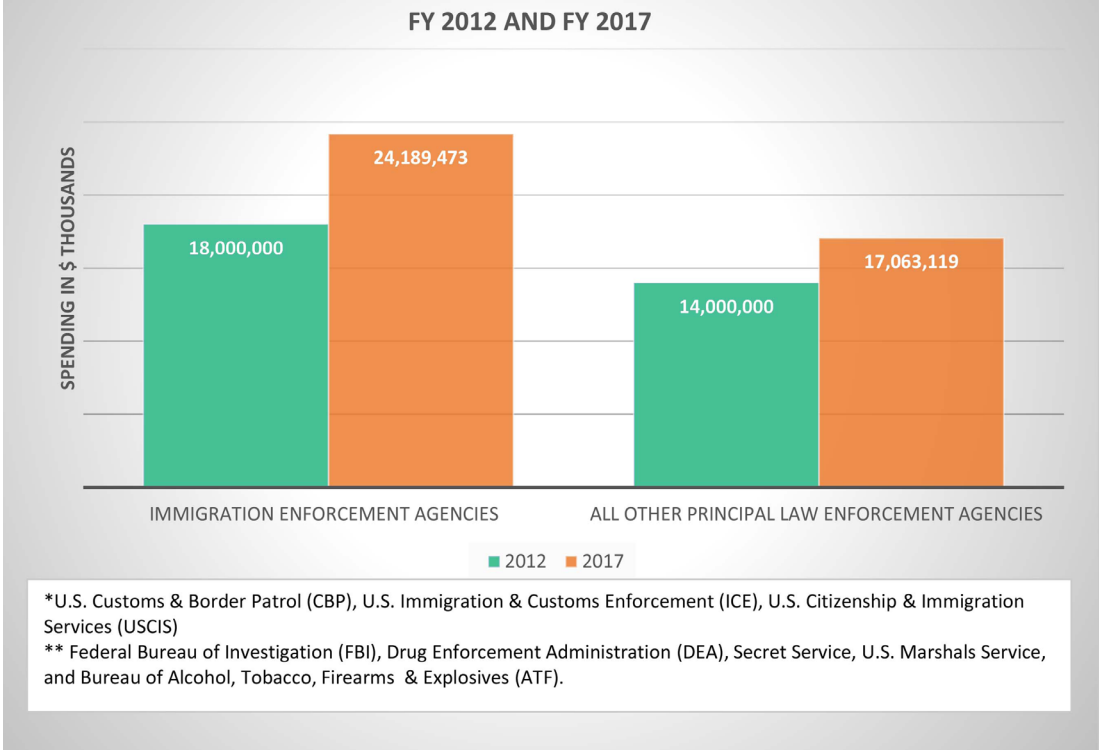
Through October 2017, more than half-a-million cases are awaiting adjudication in US Immigration Courts. This backlog has been rising steadily for nearly a decade and has yet reached another new all-time high. As a result, the average amount of time that an individual has already been waiting to have their case adjudicated is 675 days. However, that does not include how much longer they will have to wait before their cases are resolved. Border Patrol Executives put total wait time at 1,000 days.

Budget reductions resulting from the 2011 budget sequestration and the lack of will are the main culprit to solve the problem. As immigration enforcement budgets have more than quadrupled over the past five years, funding and staffing for immigration courts have lagged far behind. Acording to the Office of the Chief Immigration Judge, there are currently 330 immigration judges located in 58 immigration courts throughout the Nation; 253 judges were on the bench in 2010.

The July 2014 prioritization of cases of children and families from Central America seeking asylum has led to the further escalation of wait times for the many immigration court cases that have not been prioritized. Some judges have been removed from their typical caseload to hear only cases of recently arrived children and families — leading to even further delays. In order to clear the backlog, that grew from 540,000 cases in January 2017 to over 665,000 cases in December of 2017, Congress would need to double the number of immigration judges. The failure to increase the number of judges would result in a backlog of 1 million cases in only five years.

Adding more Border Patrol officers to catch offenders will not solve this problem, but has consistently been offered as a solution by the misinformed. The real problem with border security is not apprehension; it is processing the cases through the legal system.

Spending for Immigration Enforcement Agencies* compared to Principal Federal Law Enforcement Agencies**



A Border Patrol executive said he could stop the migration of unaccompanied minors in a few months if our legal system worked today. Many children who arrive from Central America know they can surrender to Border Patrol, be sent to a detention center, and within a few weeks be released to family members in the US and the children are never to be heard from again. If children were to be processed quickly, then so too should the parents or family members upon their arrival to pick up their children. If parents or other relatives are determined to be out-of-status or undocumented, then both parents and their children should be legally processed expeditiously and returned to their country of origin. Doing so would stop the migration of children because the prompt enforcement actions would be quickly passed on to families in those Central American countries hoping to migrate their children. Again, the entire family should be processed together. Today, Unaccompanied Minor Children (UAC) are only detained by Border Patrol for up to 72 hours. From there, they are transferred to Health and Human Services for detention and then reunification with family members or sponsors at various facilities across the US.

The US Government spends more on its immigration enforcement agencies than all its other principal criminal federal law enforcement agencies combined. In FY 2017, spending for CBP, ICE and USCIS reached $24 billion from $18 billion in 2012. This amount exceeds by approximately 24 percent total spending for FBI, Drug Enforcement Administration (DEA) Secret Service, US Marshals Service, and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which stood at $14 .4 billion in 2012 and is now at a little over $17 billion.

(See graph above)

The legality of these family members and sponsors is never questioned, so one could surmise that the majority of family members and sponsors who pick up these kids from HHS are not here legally. Therefore, they and the UAC will never report for immigration hearings because that would impact the entire family. If the alienage of these family members and sponsors was determined and then enrolled in immigration proceedings, it would have an immediate impact on these children risking the trek from Central America. These facilities are costing taxpayers millions per month, and this money could be better invested in more post-apprehension resources, such as additional immigration judges.

ENHANCED SECURITY OPPORTUNITY

A one-size-fits-all barrier approach does not work. It's vital that we work with the local terrain and topography to create the most effective barriers to entry. Texas has a natural barrier in the Rio Grande that can be easily enhanced to help prevent future illegal entries. Weir Dam projects in the Brownsville and Laredo, Texas sections of the Rio Grande are being proposed. A Weir Dam broadens the reach, width, and surface area of the river thereby making it more difficult to cross. Security experts state that the best security comes in layers. Weir Dams can be coupled with sensors, cameras, and the eradication of non-native plant species along the riverbanks, which are hiding grounds for immigrants and pose a risk to Border Patrol agents. Additionally, Border Patrol agents need an all-weather access road to patrol the riverbank. All of these assets, when combined, provide a tiered, multi-layered approach to border security.

As Texas' largest trading partner, and our neighbor, we must support a border security plan with Mexico that continues to foster economic development and our good neighbor policies that have been in place for generations.

There is another project that would add significantly to enhanced law enforcement: paving the Mines Road (FM 1472) from Laredo to Eagle Pass, which would create a modern river road. Currently, there is a significant section between Laredo and Eagle Pass that is not paved and not maintained as an all-weather road. This deficiency creates obstacles to access the river as well as quick response times.

Border Patrol executives have long been in favor of paving this highway to improve access and to significantly improve response times as well as protect the condition of the Border Patrol's equipment. The current roadway is so bad that traveling at high speeds is nearly impossible and the use of the road is very hard on vehicles. The additional benefit of this highway is to create enhanced commerce between the border cities of Laredo and Eagle Pass, which would provide a favorable asset for economic development.

It also adds traffic to the area which makes clandestine travel much more difficult for illegal immigrants as well as drug and weapon criminals. This is another win-win for border security and economic enrichment versus building a physical barrier that adds little value for anyone.

FINAL THOUGHTS

To solve the border security problem, we must look at reasonable and productive solutions that benefit the US and Mexico. As Texas' largest trading partner, and our neighbor, we must support a border security plan with Mexico that continues to foster economic development and our good neighbor policies that have been in place for generations. By cleaning up the river in cooperation with Mexico, we provide a natural barrier that is effective, and an economically positive solution because it protects and preserves the border's most important asset: the Rio Grande River. It is the primary water source for urban and agricultural use and preserves private property rights that have existed for 300 years. It also preserves the wonderful history of the Rio Grande and its huge importance to the region from a tourist prospective, a beautiful natural amenity, and its historical importance to Texas and Mexico. By following this path and by sponsoring a doubling of immigration judges to solve the real crisis with immigration, we can provide comfort to citizens that our border is secure and our economy has been protected. All of these suggestions come at a cost well below of building walls, which only act to destroy our relationship with Mexico: our ally and partner. So if you really want border security, clean up the river and fix the immigration court system. Maybe it's time to add some "Common Sense" to all the questions surrounding border security and immigration.

West Texas Rio Grande scene

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