

Virtual Border Fence Given Mixed Assessment In First Test

by Muzaffar Chishti and Claire Bergeron for the Migration Policy Institute

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The first "virtual fence" along the Southwest border has been officially accepted by the Department of Homeland Security (DHS) after an eight-month delay. But problems associated with the pilot testing of a 28-mile virtual fence segment in Arizona raise questions about the government's ability to deploy the fencing across vast swaths of the southern and northern borders in the future.

The pilot program is "not optimal," the Government Accountability Office (GAO) said — a conclusion Homeland Security Secretary Michael Chertoff echoed, though he said he remains confident a high-tech surveillance system will be deployed.

Border Patrol agents began using the virtual fence technology in December 2007, assuming control from the Boeing operators who had developed the system.

The virtual fence pilot program, known as Project-28 or "P-28," targets 28 miles of border in the Tucson, Arizona, sector. P-28 is part of the Secure Border Initiative (SBI), a multiyear, multibillion-dollar plan that President George Bush and Chertoff announced in 2005 to tighten border security and reduce illegal immigration.

The Customs and Border Protection (CBP) portion of the initiative, known as SBInet, centers on using advanced technology, such as radars, cameras, and sensors, coupled with infrastructure such as fencing and increased personnel, to better control illegal entry. P-28, which is part of SBInet, is supposed to provide an integrated system for identifying, classifying, and responding to illegal crossings into the United States.

In September 2006, Boeing received the DHS contract to implement SBInet along the northern and southern borders. As part of that contract, Boeing received \$20.6 million for P-28, which was scheduled to launch by June 2007. Subsequently, the government gave Boeing another \$65 million to replace the pilot program's software.

Last summer, however, Boeing and DHS encountered several problems, including software integration issues, fuzzy camera images, and radars activated by rain or other environmental factors.

In August 2007, DHS officials notified Boeing that the agency would not accept P-28 until it fixed 53 specific technological problems. These included an infrared camera flicker anomaly and problems integrating the information received from cameras, sensor towers, and unattended ground sensors.

After Boeing made changes to the Project 28 technology and credited DHS \$2.2 million for remaining technological problems, DHS announced conditional acceptance on December 7, 2007, and final acceptance of the program on February 22, 2008 — eight months after the scheduled launch date.

Critics of P-28, including GAO, have pointed out that the pilot project still does not meet Border Patrol agents' expectations and that much of the technology used in P-28 will have to be replaced with new technology.

GAO has also stated that many of the initial problems with P-28 stemmed from Boeing's failure to consult with Border Patrol agents in the initial technology development stages, as well as the company's failure to adequately test the P-28 technology before deploying it to the field.

DHS officials have stated that P-28 is "functionally workable" and that its technology has helped Border Patrol agents reduce illegal entries into the country. Furthermore, the government has maintained that P-28 was always intended to be a "building block" for future border technology.

In addition to P-28's virtual fence, SBInet calls for building new "real fences" to control pedestrian and vehicle traffic. Ultimately, the goal of SBInet is to secure all 7,000 miles of the United States's borders with Canada and Mexico, using various combinations of technology, infrastructure, and personnel for different portions of the border. DHS has stated it is on track to have 670 miles of pedestrian and vehicle fencing in place along the US-Mexico border by the end of 2008.

GAO, however, has noted that this task may prove to be difficult as well due to resistance from communities and landowners along the border. According to GAO's report, 54 percent of the remaining fence projects are scheduled to be constructed on private property.

- Read the GAO's report on SBInet and P-28 [here](#).
- Read the DHS fact sheet about SBI [here](#).
- Learn about US border enforcement in the MPI Insight US Border Enforcement: From Horseback to High-Tech [here](#).

Congress Returns Its Attention to Immigration

Defying the widely held belief that Congress would avoid any immigration debate in a presidential election year, House Democrats are considering bringing an immigration package to the House floor later this year.

Under pressure to increase the cap for the H-2B visas used by seasonal sectors such as the seafood industry, House Democrats are considering also adding enforcement-related measures conservative Democrats are seeking.

The Congressional Hispanic Caucus is pressing House leaders to include five-year visas for immigrants living illegally in the United States. The measure falls short of the permanent legalization Caucus members and others sought in prior years, but it would confer legal status, if only for a time, on unauthorized immigrants.

House Republicans, who favor increased enforcement of US immigration law, have said they would strongly oppose any effort to give visas to unauthorized immigrants — setting the stage for a possible showdown on immigration just months before the US elections.

On the Senate side, Republicans introduced a package of 15 bills to enhance border security and crack down on illegal immigration.

The bills mandate completion of the US-Mexico border fence, prohibit unauthorized immigrants from obtaining driver's licenses, and make driving under the influence of alcohol a deportable offense for certain immigrants. The bills also propose making English the official language of the United States.

The bills were introduced in the wake of comprehensive immigration reform's failure and exemplify "enforcement only" immigration legislation. They propose increased worksite enforcement and enhanced border security and contain no provisions that would give unauthorized immigrants a path to legalization.

Read the text of the various bills here:

[S.Res. 239](#). (enforce laws and improve border security) | [S. 850](#). (improve information sharing) | [S. 2710](#). (resolve "no-match" letter discrepancies) | [S. 2712](#). (complete Southwest border fencing by 12/31/10) | [S. 2713](#). (prohibit certain use of appropriated funds) | [S. 2714](#). (close credit card loopholes related to immigrants) | [S. 2715](#). (declare English as national language) | [S. 2716](#). (authorize National Guard to support Border Patrol) | [S. 2717](#). (provide enhanced federal enforcement of immigration laws) | [S. 2718](#). (withhold federal highway funding to states with certain driver's license laws) | [S. 2720](#). (withhold financial assistance from certain countries) | [S. 2721](#). (amend naturalization oath) | [S. 2722](#). (prohibit repeat drunk drivers from obtaining legal status) | [S. 2738](#). (remove incarcerated immigrants)

Policy Beat in Brief

Increased Fines for Employers

Employers with unauthorized-immigrant workers will have to pay increased fines starting March 27 thanks to a new DHS and Department of Justice (DOJ) rule. It is the first increase in fines since 1999. DHS Secretary Michael Chertoff has stated the fines were increased to further discourage the employment of unauthorized immigrants. The minimum penalty for knowingly hiring an unauthorized immigrant will rise 36 percent, from \$275 to \$375, and the maximum fine for a first-time offender will jump 45 percent, from \$2,200, to \$3,200. The new maximum fine for repeat offenders, \$16,000, is 45 percent higher than the previous fine of \$11,000. Fines against employers are assessed

per person, so employers who hire multiple unauthorized immigrants will be fined for each violation.

- Read the new DHS and DOJ rule [here](#).
- Read the MPI Policy Brief *Immigration Enforcement at the Worksite: Making It Work* [here](#).

E-Verify Participation

About 53,000 employers now participate in the federal E-Verify system compared to 14,265 employers in February 2007 according to DHS. E-Verify allows employers to determine whether new hires are authorized to work by checking their names and Social Security numbers against a federal database. The federal government has frequently cited the benefits of E-Verify, saying the program is the best means available for checking employees' work authorization. Although federal law does not mandate participation in E-Verify, a new Arizona law requires all employers in the state to use E-Verify to confirm the employment eligibility of new hires. Approximately one-third of all employers currently using E-Verify are in Arizona.

- Read more about the new Arizona law in the [January 2008 Policy Beat](#).

Expanded Training for Law Enforcement

Thirty-eight state and local law enforcement agencies now participate in a federal program that trains and supervises officers in the enforcement of select immigration laws. Immigration and Customs Enforcement (ICE) Assistant Secretary Julie Myers revealed the number at a recent congressional hearing. ICE runs the training program, which is known as 287(g) because it was established by section 287(g) of the Immigration and Nationality Act (INA). Although the program was created in 1996 as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), the first 287(g) program was not implemented until 2002. The average cost of running one 287(g) program is approximately \$17.5 million per year according to Myers's testimony.

- Read the DHS fact sheet on the 287(g) program [here](#).
- Read the MPI report *Testing the Limits: A Framework for Assessing the Legality of State and Local Immigration Measures* [here](#).

State and Local Policy Beat in Brief Immigration Compromise Bill in Utah

Utah Governor Jon Huntsman Jr. has signed a bill that will allow Utah police officers to enforce federal immigration law and will require Utah employers to verify that their employees are authorized to work. Absent from the new law are several of the bill's original provisions, which would have repealed in-state tuition provisions for unauthorized immigrants in Utah and would have made it a Class-A misdemeanor for charitable organizations to provide humanitarian assistance, such as food and shelter, to unauthorized immigrants. The bill was amended after Hispanic organizations and religious groups objected to its original provisions.

- Read the text of the Utah bill [here](#).

Illegal Immigration Bill in Indiana

Indiana's state legislature failed to pass a tough "enforcement only" immigration bill that would have suspended or revoked the business licenses of Indiana employers who hire illegal immigrants, beginning July 1, 2009. The bill would also have required the superintendent of the state police to draft a memorandum of understanding with federal immigration authorities to allow Indiana state police to enforce federal immigration law. The chairman of the House-Senate conference committee considering the bill referred the issue to a summer study committee, which means the bill could be revived in next year's legislative session.

- Read the text of the Indiana bill [here](#).

Enforcement in Prince William County

County police officers in Prince William County, Virginia, can now check the immigration status of anyone whom they stop in the course of normal law enforcement if the officer has probable cause to believe the person is in the country illegally. The county began implementing this and other controversial immigration measures, including one that denies certain county services to unauthorized immigrants, in February. The measures are expected to cost \$6.4 million in the first year and \$25.9 million over the first five years.

- Read Prince William County's Resolution 07-894 [here](#).

Enforcement Proposal in Phoenix

Phoenix Mayor Phil Gordon has proposed a new policy that would direct city police officers to inquire about the immigration status of any individual arrested on a criminal charge and to notify ICE whenever an officer has a "reasonable basis" to believe that a detained or arrested individual is an unauthorized immigrant. However, officers would be directed not to ask the immigration status of people stopped for civil traffic violations, victims of crimes, or witnesses to crimes. If implemented, the new policy would significantly change Phoenix's Operations Order 1.4, which restricts police officers' ability to contact ICE. The Phoenix police union claims the proposed policy does not go far enough, maintaining that the police should be able to contact ICE whenever they have a reasonable suspicion that a detained person is unauthorized.

- Read the proposed changes to the Phoenix police order [here](#).

Driver's License Law in Oregon

Oregon has passed a law that tightens the identification requirements for Oregon residents seeking to obtain, renew, or replace an Oregon driver's license. Under the new measure, anyone seeking a driver's license must provide a Social Security number or other proof of legal residence. The law will take effect July 1, 2008.

- Read the measure, SB 180, [here](#).

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Claire Bergeron is a paralegal at the National Immigrant Justice Center in Chicago. In 2007 and 2008 she worked as an intern and research assistant at the nonpartisan Migration Policy Institute (MPI), where she co-authored reports on Social Security “no-match” letters and the USCIS naturalization backlog. A graduate of Northwestern University, Ms. Bergeron obtained her BA cum laude in legal studies and anthropology in June 2007. While at Northwestern, Ms. Bergeron wrote two theses on US immigration, earning the Legal Studies Department “thesis of the distinction” award in 2006 for her research on due process standards for detained immigrants. Ms. Bergeron is a member of the Phi Beta Kappa honor society.