

SECURING AMERICA'S PORTS OF ENTRY
ACT OF 2019

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1004

TO INCREASE THE NUMBER OF U.S. CUSTOMS AND BORDER
PROTECTION OFFICE OF FIELD OPERATIONS OFFICERS AND
SUPPORT STAFF AND TO REQUIRE REPORTS THAT IDENTIFY
STAFFING, INFRASTRUCTURE, AND EQUIPMENT NEEDED TO
ENHANCE SECURITY AT PORTS OF ENTRY



SEPTEMBER 9, 2020.—Ordered to be printed

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SECURING AMERICA’S PORTS OF ENTRY ACT OF 2019

SEPTEMBER 9, 2020.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1004]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1004) to increase the number of U.S. Customs and Border Protection Office of Field Operations officers and support staff and to require reports that identify staffing, infrastructure, and equipment needed to enhance security at ports of entry, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 1004, the Securing America’s Ports of Entry Act of 2019, requires U.S. Customs and Border Protection (CBP) Office of Field Operations (OFO) to increase the number of officers and support staff and to report on any additional staffing, infrastructure, and equipment needed to enhance security at ports of entry.

II. BACKGROUND AND THE NEED FOR LEGISLATION

As port of entry freight and passenger volumes increase, OFO staffing levels must keep pace to efficiently and effectively secure

the nation's border and facilitate trade and travel. The OFO Workload Staffing Model is designed to determine the number of CBP Officers needed to fulfill its mission.¹ The Workload Staffing Model assesses passenger volume at each port of entry, processing times, annual work hours per full-time CBP officer, additional responsibilities incurred depending on passenger volume, and minimum overhead coverage requirements to calculate the number of CBP officers needed to fulfill its mission.² For fiscal year (FY) 2020, the Workload Staffing Model estimated a need for 27,187 OFO officers.³ As of May 25, 2019, OFO had 23,898 officers on board, 3,289 short of the Workload Staffing Model requirement.⁴ Congress funded 600 new CBP officers for FY2019.⁵

In recent years, the demographic composition of individuals arriving or seeking entry at our southwest border has changed dramatically, creating a variety of new challenges for our frontline personnel. While single adult males have historically composed the majority of those taken into custody, the southwest border now experiences unprecedented levels of families and unaccompanied alien children seeking entry between or at ports of entry. In FY2017, CBP reported that 29,375 family units and 7,246 unaccompanied children sought admission at U.S. at ports of entry.⁶ That same year, 75,622 family units and 41,435 unaccompanied alien children entered between the ports of entry at the southwest border.⁷ By FY2019, CBP reported that the overall numbers had increased significantly. While 53,430 family units and 4,614 unaccompanied alien children sought admission at southwest border ports of entry, 473,682 family units and 76,020 unaccompanied alien children were taken into custody between ports of entry.⁸ This massive inflow resulted in a humanitarian crisis within a border enforcement system not prepared to handle these populations at this scale. This required CBP to move CBP officers from OFO ports of entry around the country to assist Border Patrol in the processing of these individuals. In June 2019, OFO estimated that between 500 and 750 officers would be diverted from ports of entry to help Border Patrol with processing, transporting, and supervising those in custody.⁹ By the end of September, all officers had returned to their posts.¹⁰

Increasing CBP officer staffing could also help drive the U.S. economy. According to the Joint Economic Committee, “[e]very day 1.1 million people and \$5.9 billion in goods legally enter and exit

¹ U.S. Customs and Border Protection, *Staffing Methodology at Ports of Entry* (Oct. 8, 2019), available at https://www.dhs.gov/sites/default/files/publications/cbp_-_staffing_methodology_at_ports_of_entry_0.pdf.

² *Id.* at 13–14.

³ E-mail from U.S. Customs and Border Protection to Committee staff (Aug. 22, 2019, 12:04 EDT).

⁴ E-mail from U.S. Customs and Border Protection to Committee staff (June 14, 2019, 17:49 EDT).

⁵ U.S. Senate Committee on Appropriations, *Summary Department of Homeland Security Fiscal Year 2019 Appropriations Agreement*, available at <https://www.appropriations.senate.gov/imo/media/doc/DHS%20Conference%20Press%20Summary1.pdf>.

⁶ U.S. Customs and Border Protection, *Southwest Border Migration FY2017*, available at <https://www.cbp.gov/newsroom/stats/sw-border-migration-fy2017>.

⁷ *Id.*

⁸ U.S. Customs and Border Protection, *Southwest Border Migration FY2019*, available at <https://www.cbp.gov/newsroom/stats/sw-border-migration>.

⁹ Telephone call from U.S. Customs and Border Protection to Committee staff (June 14, 2019).

¹⁰ E-mail from U.S. Customs and Border Protection to Committee staff (Sept. 20, 2019).

the U.S. at [the 328] ports of entry.”¹¹ CBP “estimates that an additional 1,000 POE officers would increase economic activity by \$2 billion and add 33,148 new U.S. jobs per year.”¹²

More CBP capacity will have significant economic impacts on America. According to the U.S. Travel Association, international visitors spend an average of \$4,200 per visit, from traveling to the U.S.¹³

CBP officers are also vital to stemming the nation’s drug epidemic. According to the Congressional Research Service (CRS), from FY2014 to FY2018, “about 65% of seized illicit drugs, by weight, were seized at land ports of entry at the border, about 28% of seized drugs were seized at air ports of entry, and about 5% were seized at sea ports of entry. . . . [N]early 97% of drugs were seized during inbound inspections across those years.”¹⁴ The smuggling and seizures of fentanyl and other opioids have rapidly increased in recent years. According to CRS, “[f]entanyl seizures increased from the 70 pounds seized by OFO in FY2015 to 2,173 pounds seized across OFO and the Border Patrol in FY2018.”¹⁵ On January 26, 2019, CBP officers seized the largest amount of fentanyl in CBP history totaling close to 254 pounds at the Nogales Port of Entry on the southwest border.¹⁶

With the expanding use of e-commerce and the ease of international transactions, the U.S. has observed a significant increase in international mail and potential opportunities to introduce contraband into the country. According to the testimony of OFO Executive Assistant Commissioner Todd C. Owen to this Committee on January 25, 2018, “CBP has seen a nearly 50 percent increase in express consignment shipments” and a 200 percent increase in international mail shipments over the past five years.¹⁷ Additionally, “[i]n FY 2013, CBP and the USPS processed approximately 150 million international mail shipments. By FY 2017, the number of international mail shipments had swelled to over 400 million shipments.”¹⁸ Yet according to the National Treasury Employees Union, over the last three years, only 181 CBP employees were assigned to the five Postal Service International Service Centers and 208 CBP employees were assigned to the Private Express Carrier Facilities.¹⁹

This bill requires CBP to hire no less than 600 additional OFO officers a year until the staffing levels identified in the Workload

¹¹ U.S. Congress Joint Economic Committee, Economic Impact of Understaffing U.S. Ports of Entry, *available at* https://www.jec.senate.gov/public/_cache/files/88c66173-5dc9-4e5e-b144-6f9517443409/economic-impact-of-understaffing-u.s.-ports-of-entry.pdf.

¹² *Id.* at 1.

¹³ U.S. Travel Ass’n, *U.S. Travel Answer Sheet*, (last visited Aug. 18, 2020), <https://www.ustravel.org/answersheet>.

¹⁴ Congressional Research Service, *Illicit Drug Flows and Seizures in the United States: What Do We [Not] Know?*, (July 3, 2019), *available at* <https://fas.org/sgp/crs/misc/R45812.pdf>.

¹⁵ *Id.* at 7.

¹⁶ U.S. Customs and Border Protection, *CBP Officers Seize Largest Amount of Fentanyl in CBP History*, *available at* <https://www.cbp.gov/newsroom/local-media-release/cbp-officers-seize-largest-amount-fentanyl-cbp-history>.

¹⁷ *Combating the Opioid Crisis: Exploiting Vulnerabilities in International Mail: Hearing before the S. Comm. on Homeland Sec. & Governmental Affairs Permanent Subcomm. on Investigations* (Jan. 25, 2018) (testimony of Todd C. Owen, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs & Border Protection), *available at* <https://www.hsgac.senate.gov/imo/media/doc/Owen%20Testimony.pdf>.

¹⁸ *Id.*

¹⁹ National Treasury Employees Union, *Authorities and Resources Needed to Protect and Secure the United States*, *available at* <https://www.nteu.org/legislative-action/congressional-testimony/authorities-and-resources-needed-to-prot>.

Staffing Model are achieved to address these needs. The bill also requires reporting on infrastructure improvements at ports of entry that would enhance drug interdiction, information on detection equipment that would improve the ability of officers to identify drugs, and safety equipment to protect officers from accidental exposure to dangerous toxins. S. 1004 also requires a report on OFO staffing required to fulfill reimbursable service agreements.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D–MI) introduced S. 1004, the Securing America’s Ports of Entry Act of 2019, on April 3, 2019, with Senator John Cornyn (R–TX). Senators Jon Tester (D–MT), Bill Cassidy (R–LA), Rob Portman (R–OH), Mitt Romney (R–UT), Kyrsten Sinema (D–AZ), Maggie Hassan (D–NH), Tom Carper (D–DE), Bob Casey, Jr. (D–PA), and Martha McSally (R–AZ) later joined the bill as co-sponsors. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1004 at a business meeting on June 19, 2019. The bill was ordered reported favorably by a voice vote with Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Sinema, and Rosen present.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Securing America’s Ports of Entry Act of 2019.”

Section 2. Additional U.S. Customs and Border Protections personnel

Section 2 requires CBP to hire enough OFO officers to fulfill the requirements of the Workload Staffing Model.

Subsection (a) mandates that CBP hire, train, and assign at least 600 new OFO officers above current attrition levels in each fiscal year until OFO reaches and sustains the Workload Staffing Model requirements.

Subsection (b) authorizes CBP to hire, train, and assign support staff to support new OFO officers.

Subsection (c) requires OFO, in its calculation of the number of OFO officers needed at each port of entry, (1) to rely on data collected at each port of entry and (2) to consider volume from seasonal surges, other projected changes in commercial and passenger volumes, current commercial forecasts and other relevant information.

Subsection (d) instructs GAO, if CBP does not hire at least 600 OFO officers during fiscal year 2020 or the number needed in each subsequent fiscal year, to (1) conduct a review of CBP hiring practices to determine the reasons the hiring levels were not achieved and (2) submit a report to Congress on its review findings.

Section 3. Ports of entry infrastructure enhancement report

This section instructs CBP to submit a report to Congress within 90 days of enactment that identifies (1) infrastructure improvements at ports of entry which would enhance the ability of OFO

officers to interdict drugs illegally transported into the U.S., including the circumstances at specific ports of entry which prevent the deployment of technology used at other ports of entry, (2) detection equipment which would improve the ability of officers to identify illegally transported opioids, and (3) safety equipment which would protect officers to accidental exposure to drugs and associated dangers with inspection of potential drug traffickers.

Section 4. Reporting requirements

Section 4 requires CBP to submit reports to Congress on certain staffing assignments and requirements.

Subsection (a) requires CBP to submit a quarterly report to Congress with data on temporary duty assignments of OFO officers, with specific information regarding such assignments to the southwest border. This subsection also requires CBP to notify a director of a port of entry from which employees will be reassigned of the redeployments, and the port director shall notify impacted facilities of the intended redeployments no later than 10 days before an employee is redeployed, absent emergency circumstances.

Subsection (b) requires CBP to submit a quarterly report to Congress regarding the reimbursable service agreements.

Subsection (c) instructs CBP to include information on OFO hiring, updates to the 2017 Resource Optimization at the Ports of Entry report, and a summary of quarterly reports in its annual Workload Staffing Model Report to Congress.

Subsection (d) defines the term “appropriate congressional committees.”

Section 5. Authorization of appropriations

This section authorizes appropriations of \$80,908,929 for fiscal year 2020 and \$97,132,268 for each fiscal year from 2021 to 2026 to carry out the requirements of this bill.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 6, 2019.

Hon. RON JOHNSON,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1004, the Securing America’s Ports of Entry Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 1004, Securing America's Ports of Entry Act of 2019			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on June 19, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Deficit Effect	0	0	0
Spending Subject to Appropriation (Outlays)	0	450	664
Statutory Pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 1004 would authorize the appropriation of about \$81 million for fiscal year 2020 and about \$97 million annually over the 2021–2026 period for Customs and Border Protection to hire more officers and support staff for the Office of Field Operations. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost about \$450 million over the 2020–2024 period and \$214 million after 2024. Estimated outlays are based on historical spending patterns for this program.

The costs of the legislation (detailed in Table 1) fall within budget function 750 (administration of justice).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION

	By fiscal year, millions of dollars—												
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2019–2024	2019–2029
Authorization	0	81	97	97	97	97	97	97	0	0	0	469	664
Estimated Outlays	0	65	94	97	97	97	97	97	19	0	0	450	664

Details do not sum to totals because of rounding.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Because this legislation would not repeal or amend any provision of current law, it would not make changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.