

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

April 11, 2018

The Honorable Kirstjen Nielsen  
Secretary  
U.S. Department of Homeland Security  
245 Murray Lane SW  
Washington, D.C. 20528

The Honorable James N. Mattis  
Secretary  
U.S. Department of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301-1000

Dear Secretary Nielsen and Secretary Mattis:

We are writing to express our opposition to President Trump's recent decision to deploy National Guard troops to the U.S.-Mexico border.

A deployment of this kind is not to be made lightly. Thorough consideration of the justification for such a deployment, along with the implications and costs for the Department of Homeland Security (DHS), the Department of Defense (DOD), and affected stakeholders well in advance of such a deployment are both required and essential.

Border apprehensions are significantly lower now than they were during the Bush and Obama Administrations. From January to March 2018, an average of 30,012 apprehensions were completed each month across all southwest Border Patrol sectors.<sup>[1]</sup> During that same January to March time period in 2010, before the launch of Operation Phalanx, the average was 46,311 apprehensions per month.<sup>[2]</sup> Before Operation Jump Start, an average of 128,979 apprehensions were made from January to March 2006.<sup>[3]</sup> We require a clearer explanation of the impetus for this approach at a time when border crossings are at a 40-year low.<sup>[4]</sup>

We also question the authority for using the National Guard as "an immediate deterrent" against asylum seekers and unaccompanied minors as described in a press release issued by DHS.<sup>[5]</sup> More than one-third of apprehensions along the southwest border in the first five months of fiscal year 2018 were of unaccompanied children and families.<sup>[6]</sup> We know that these individuals often seek out Border Patrol agents in order to request asylum or other humanitarian aid. An enforcement-only approach toward these

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<sup>[1]</sup> U.S. Customs and Border Protection, "U.S. Border Patrol Southwest Border Apprehensions by Sector FY2018," available at <https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions> (accessed on 5 April 2018).

<sup>[2]</sup> U.S. Customs and Border Protection, "United States Border Patrol Total Apprehensions By Month, FY 2000 - FY 2017," pg. 11. Available at <https://www.cbp.gov/sites/default/files/assets/documents/2017-Dec/BP%20Total%20Monthly%20Apps%20by%20Sector%20and%20Area%2C%20FY2000-FY2017.pdf> (accessed on 5 April 2018).

<sup>[3]</sup> *Ibid*, pg. 7.

<sup>[4]</sup> Department of Homeland Security, Office of Immigration Statistics, "Efforts by DHS to Estimate Southwest Border Security between Ports of Entry," September 2017, 19.

<sup>[5]</sup> Department of Homeland Security, "To Secure the Border and Make America Safe Again, We Need to Deploy the National Guard," 4 April 2018. Available at <https://www.dhs.gov/news/2018/04/04/secure-border-and-make-america-safe-again-we-need-deploy-national-guard> (accessed on 5 April 2018).

<sup>[6]</sup> U.S. Customs and Border Protection, "U.S. Border Patrol Southwest Border Apprehensions by Sector FY2018," available at <https://www.cbp.gov/newsroom/stats/usbp-sw-border-apprehensions> (accessed on 5 April 2018).

migrants is short-sighted and outright ignores the other, serious factors causing them to flee their home countries.

Given that DHS and DOD have previous experience with this type of deployment, we know that using the National Guard in a support role to the U.S. Border Patrol is a costly endeavor. Operation Jump Start, which was in effect from 2006 to 2008, cost \$1.2 billion for the deployment of 6,000 National Guard personnel in California, Arizona, New Mexico, and Texas.<sup>[7]</sup> In addition to the cost associated with this effort, we are concerned by the expenditure of limited DOD resources for a questionable purpose when we should be investing in the readiness of military forces.

As you are undoubtedly aware, border security has been a rigorously discussed topic over the past year. We are surprised and puzzled as to why neither of you nor other members of the Administration mentioned a possible deployment of the National Guard to the southern border before. For example, Secretary Nielsen never once mentioned the potential need to use the National Guard for border security purposes when testifying before the Senate Judiciary Committee on January 16, 2018. In subsequent press briefings and televised Cabinet meetings, this approach was not discussed either.

We question whether the President's remarks at a press event on April 3, 2018, prompted the creation of this deployment plan or unduly rushed it if discussions were still ongoing. During a conference call intended to brief Congressional committee staff on the President's decision on April 4, 2018, DHS senior officials noted that planning discussions for this deployment have been "ongoing" for "many" months yet were unable to answer basic questions about it. Press reports of President Trump's remarks on April 5, 2018, noted that between "2,000 and 4,000" troops could be deployed but that the Administration is still looking into the possible cost.<sup>[8]</sup>

A hastily and poorly designed deployment could have significant negative impacts on our national security, border security, and the communities located along the U.S.-Mexico border. Pursuant to Rule X(3)(g) and Rule XI of the Rules of the House of Representatives, please provide our Committees with written responses to the following questions as well as copies of the requested documents no later than April 27, 2018.

1. When was the assessment completed that identified deployment of the National Guard as a necessity? What factors or criteria were used to determine this approach would be the most effective and cost-efficient alternative? Please provide a copy of this assessment.
2. Under what authority will the National Guard be deployed? What duties or roles will they fulfill? What authority or other guidance will govern the use of force by National Guard personnel?
3. How does this deployment impact the U.S. Border Patrol's overall border security strategy?
4. How many service members and National Guard members will be involved, what is the length of their deployment and the estimated cost of their activities?
5. Please provide a detailed breakdown, by funding line, of the specific accounts that will be used to fund this effort.
6. Will funding for this effort require any reprogramming action, to include below-threshold or those that will require written congressional approval?
7. Will National Guard members be armed during their deployments?

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<sup>[7]</sup> Testimony from Major General John Nichols before the House Committee on Homeland Security's Border and Maritime Security Subcommittee during the hearing "Boots on the Ground or Eyes in the Sky: How Best to Utilize the National Guard to Achieve Operational Control" on 17 April 2012, pg. 7. Available at <https://homeland.house.gov/files/Testimony-Nichols.pdf> (accessed on 5 April 2018).

<sup>[8]</sup> Morin, Rebecca. "Trump: 2,000 to 4,000 troops expected along U.S.-Mexico border," *POLITICO*, 5 April 2018. Available at <https://www.politico.com/story/2018/04/05/trump-how-many-troops-mexico-border-504602> (accessed on 5 April 2018).

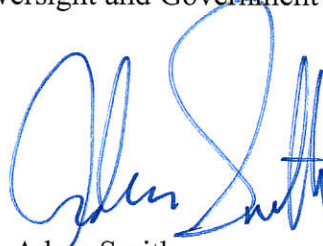
8. What scheduled training activities were deferred by units and personnel in order to conduct this deployment?
9. Per the joint statement issued by Secretaries Nielsen and Mattis on April 6, 2018, please describe the "security vulnerabilities" identified by DHS that will be addressed by the National Guard and how.
10. Per the joint statement issued by Secretaries Nielsen and Mattis on April 6, 2018, please explain what standard both DHS and DOD will use to determine "our nation's borders are secure" to end the deployment of the National Guard to the U.S.-Mexico border.
11. Please provide the memorandums of understanding (MOUs) between DHS, DOD, the National Guard Bureau, and relevant governors that will govern this upcoming deployment. Please also provide the MOUs for Operation Jump Start and Operation Phalanx.

Thank you for your attention to this important matter. Should you have any questions, please contact Alison Northrop, Chief Director for Oversight for the Committee on Homeland Security at (202) 226-2616; Brian Greer, Professional Staff Member for the Committee on Armed Services at (202) 225-4151; Maunica Sthanki, Counsel for the Committee on the Judiciary at (202) 225-6906; and Valerie Shen, Chief National Security Counsel for the Committee on Oversight and Government Reform at (202) 225-5051.

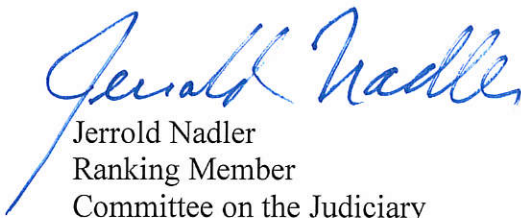
Sincerely,



Bennie G. Thompson  
Ranking Member  
Committee on Homeland Security



Adam Smith  
Ranking Member  
Committee on Armed Services



Jerrold Nadler  
Ranking Member  
Committee on the Judiciary



Elijah Cummings  
Ranking Member  
Committee on Oversight and Government Reform



Filemon Vela  
Ranking Member  
Subcommittee on Border and Maritime Security  
Committee on Homeland Security



Zoe Lofgren  
Ranking Member  
Subcommittee on Immigration and Border Security  
Committee on the Judiciary



Stephen Lynch  
Ranking Member  
Subcommittee on National Security  
Committee on Oversight and Government Reform