Testimony of

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Border Security: Measuring the Progress and Addressing the Challenges

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Chairman Carper, Ranking Member Coburn, and Members of the Committee:

Good morning. My name is Doris Meissner. I am a Senior Fellow at the Migration Policy Institute and Director of the Institute's U.S. Policy Program. Thank you for the opportunity to appear before you today on the topic of "Border Security: Measuring the Progress and Addressing the Challenge."

My statement is based on my personal experience with border and immigration enforcement when I served as Commissioner of the U.S. Immigration and Naturalization Service (INS) from 1993 through 2000. It was during that period that serious efforts to address border control, particularly along the Southwest border with Mexico, were first introduced through a combination of substantial increases in funding for personnel, technology, and infrastructure and new enforcement strategies.

My statement is also based on a recent MPI report that I and colleagues co-authored, *Immigration Enforcement in the United States: The Rise of a Formidable Machinery*. In it, we provide an overview of the combined actions of today's federal agencies charged with enforcement of the nation's immigration laws and system. The report describes for the first time the totality and evolution since the mid-1980s of the nation's modern-day immigration enforcement machinery. That machinery evolved both by deliberate design and by unanticipated developments , and is organized around what we identify as six distinct pillars, as follows:

- Border enforcement
- Visa controls and travel screening
- Information and interoperability of data systems
- Workplace enforcement
- The intersection of the criminal justice system and immigration enforcement
- Detention and removal of noncitizens

The report lays out the programs and results, as well as the critiques, of each of these six pillars. Its key findings demonstrate that the nation has reached an historical turning point in meeting long-standing immigration enforcement challenges.

I will focus in this statement on the border enforcement pillar and the improvements that have been made in border security in the context of immigration enforcement system improvements overall.

I. Dramatic Increases in Funding, Staffing, Technology, and Infrastructure

Illegal immigration and enforcement have been the dominant focus and concern driving immigration policymaking for more than 25 years. During this time, there has been strong and sustained bipartisan support for strengthened immigration enforcement, along with deep skepticism over the federal government's will or ability to effectively enforce the nation's immigration laws.

Support for enforcement has been heightened by the inability of lawmakers to bridge political and ideological divides over other reforms to the nation's immigration policy. As a result, a philosophy known as "enforcement first" has become the nation's response to illegal immigration, and changes to the immigration system have focused almost entirely on building enforcement programs and improving their performance.

As a result, the level of immigration enforcement spending in the United States now stands at a record high. In fiscal year 2012, budget allocations for the federal government's two main immigration enforcement agencies, U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), as well as its primary immigration enforcement technology initiative, the US-VISIT program, reached $17.9 billion.[1]

This amount is nearly 15 times greater than the adjusted budget of the former Immigration and Naturalization Service (INS) in 1986 when the *Immigration Reform and Control Act* (IRCA) was enacted. It is 24 percent greater than the combined fiscal 2012 budgets of all other principal criminal federal law enforcement agencies: the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), Secret Service, US Marshals Service and Bureau of Alcohol, Tobacco, Firearms , and Explosives (ATF).[2] Such resource levels represent a paradigm shift in federal law enforcement spending that undergirds a transformation of the immigration enforcement system.

The lion's share of this increased funding has been devoted to border security. Between FY 2005 and FY 20012, CBP's budget rose from $6.3 billion to $11.7 billion, an increase of approximately 85 percent. During the same years, agency staffing grew by 50 percent, from 41,001 in FY 2005, to 61,354 in 2012. As of February 2012, a total of 21,186 full-time employees were staffing the nation's ports of entry, and the size of the Border Patrol stood at 21,370 agents — double its size in 2004.

The growth has occurred not only along the Southwest border, but also on the northern border with Canada, which has seen the number of agents deployed rise from 340 agents in 2001 to over 2,237 in 2011[3] — an increase of almost 560 percent since 9/11.[4]

Another recent trend has been substantial staffing growth in CBP's Office of Field Operations (OFO), which is responsible for inspecting people entering the country through air, land, and sea ports of entry (POEs). POE inspector staffing traditionally received less attention and fewer resources than the Border Patrol. Staffing of inspector positions is now virtually on par with Border Patrol agent-staffing between the ports. However, Border Patrol resources have doubled since 2005, while port-of-entry increases have grown about 45 percent.[5]

Border enforcement, which suffered from chronic resource deficiencies for much of the period between the early 1970s and the formation of the Department of Homeland Security (DHS) in 2003, has won strong, sustained public and bipartisan support. Today, the United States allocates more funding for border enforcement than for all of its other immigration enforcement and benefits programs combined.

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[1] Doris Meissner, Donald M. Kerwin, Muzaffar Chishti, and Claire Bergeron, *Immigration Enforcement in the United States: The Rise of a Formidable Machinery* (Washington, D.C.: Migration Policy Institute, 2013): 21, www.migrationpolicy.org/pubs/enforcementpillars.pdf.
[2] Ibid.
[3] Ibid.
[4] Ibid.
[5] Department of Homeland Security (DHS), *Budget-in-Brief FY 2007* (Washington, D.C.: DHS, 2008): 26, www.dhs.gov/xlibrary/assets/Budget_BIB-FY2007.pdf (noting that there were 15,893 employees at ports of entry and 11,955 between ports of entry in 2005); DHS, *FY 2012 Budget in Brief* (Washington, D.C.: DHS, 2013): 85 (noting that there were 23,053 employees at ports of entry and 23,675 between ports of entry in 2012).

II. Shifts in Border Control Strategy and Tactics

Border enforcement encompasses a broad sweep of responsibilities, geographies, and activities that involve the nation's air, land, and sea entry and admissions processes. Enforcement at U.S. territorial borders — especially the Southwest land border with Mexico — represents the most heavily funded and publicized element of border enforcement. CBP is the DHS agency that is tasked with regulating immigration and trade at the nation's borders, both at and between official ports of entry. It is made up of the Office of the Border Patrol (OBP), whose agents secure the border between ports of entry, and the Office of Field Operations (OFO), whose immigration inspectors administer air, land, and sea port-of-entry operations.

A. First National Border Control Strategy

The INS introduced the first formal national border control strategy in 1994 during my tenure as Commissioner. Based on the principle of prevention through deterrence, the strategy was updated in 2004 to reflect post-9/11 threats and unprecedented new resource infusions.

The national strategy called for targeting resources and gaining control of the border in phases, beginning with the four historically highest crossing corridors from Mexico. Implementation began with Operation Hold the Line in the Juarez-El Paso area and Operation Gatekeeper in the Tijuana-San Ysidro area south of San Diego. The Rio Grande Valley in South Texas and the Nogales corridor south of Tucson followed. The expectation was that as resource infusions were deployed, apprehensions would rise because strengthened enforcement would result in stopping larger numbers and percentages of those attempting to cross. As migrants and smugglers experienced less success in crossing, apprehensions would taper off and longer-term deterrence would set in.[6]

The strategy called for positioning resources as close as possible to the actual border line, so that the Border Patrol's work would increasingly be that of prevention of entry, as compared with apprehending individuals once they had entered the United States, often some distance from the border. Forward placement of new resources — at somewhat reduced levels from the initial infusions — was to be permanent in order to establish and then maintain border control. To that end, entire swaths near the border were bulldozed to build roads enabling Border Patrol vehicle access, install lighting, add fencing and other barriers, position surveillance equipment, and facilitate use of night-vision and tracking technology to locate and apprehend unauthorized entrants and contraband.

Although the strategy anticipated changes in crossing patterns and shifts in the flow, it did not sufficiently contemplate the speed and scale at which migrant crossing patterns would adapt to enforcement successes experienced in the El Paso and San Diego sectors. Nor could the multi-year resource buildup and dramatic physical changes taking place along the border keep up with the shifts. As a result, success in gaining control of key border areas also led to a funnel effect in others, with migrants crossing in ever-larger numbers across increasingly difficult terrain and dangerous, historically isolated desert areas, especially in Arizona.

[6] Border Patrol, *Border Patrol Strategic Plan: 1994 and Beyond* (Washington, D.C.: U.S. Customs and Border Protection, 1994): 9-10.

B. 2012-2016 Strategic Plan

In spring 2012, the chief of the Border Patrol announced a new strategy, known as the "Risk-Based Strategic Plan."[7] In this 2012-2016 plan, the Border Patrol states that the resource base that has been built and the operations that have been conducted over the past two decades enable it to focus on risk going forward. It calls for "identifying high-risk areas and flows and targeting our responses to meet those threats" through information, integration, and rapid response.[8]

To secure flows of goods and people by assessing and managing risk, the strategic plan lays out a vision of intelligence-driven operations that tap and analyze all of the information embedded in its considerable technology and agent experience base. It also underscores the importance of working closely with federal, state, local, tribal, and international partners in managing the "shared border."

The emphasis on rapid response recognizes the need to be nimble in the face of continual changes, including possible threats of terrorism or other public harm. To institutionalize rapid-response capabilities, CBP has, for example, developed mobile response teams involving up to 500 agents to provide surge capabilities when changes in border activity occur.[9]

Steep staffing increases have also allowed the Border Patrol to deepen its readiness and training to be able to cope with border safety exigencies that arise regularly in the border's frequently harsh climate and terrain. The Tucson, AZ sector, for example, has trained staff to provide emergency medical assistance and maintains rescue platforms where migrants can radio for help.[10]

Overall, the 2012 plan depicts an organization that envisions steady-state resources and operational challenges, and that seeks primarily to refine its existing programs and capabilities. A notable new theme is a heavy emphasis it gives to partnerships, especially with neighboring nations, which would have been "unthinkable" until recently.[11]

C. Changed Border Enforcement Tactics

A prominent feature of today's border enforcement is significant change in the enforcement methods the Border Patrol uses along the Southwest border. As its resources have grown, the Border Patrol has introduced new programs it terms the "consequence delivery system" (CDS).

In implementing CDS, the Border Patrol has replaced its long-standing practice of granting voluntary return to the majority of deportable migrants located along the U.S.-Mexico border with a

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[7] Border Patrol, *2012-2016 Border Patrol Strategic Plan* (Washington, D.C.: U.S. Customs and Border Protection, 2012): 4, http://nemo.cbp.gov/obp/bp_strategic_plan.pdf.
[8] Ibid., 4, 7.
[9] Testimony of Mark Borkowski, Assistant Commissioner, Office of Technology, Innovation, and Acquisition, U.S. Customs and Border Protection (CBP); Michael Fisher, Chief, U.S. Border Patrol; and Michael Kostelnik, Assistant Commissioner, Office of Air and Marine, CBP, before the House Committee on Homeland Security, Subcommittee on Border and Maritime Security, *After SBInet - the Future of Technology on the Border*, 112th Cong., 1st sess., March 15, 2011, www.dhs.gov/ynews/testimony/testimony_1300195655653.shtm; Statement of Janet Napolitano, Secretary of Homeland Security, before the Senate Committee on Homeland Security and Governmental Affairs, *Securing the Border: Progress at the Federal Level What Remains to be Done?* 112th Cong., 1st sess., May 4, 2011, www.dhs.gov/ynews/testimony/testimony_1304459606805.shtm; Border Patrol, *Border Patrol Strategic Plan*, 12.
[10] Briefing by Border Patrol for the Committee on Estimating Costs of Immigration Enforcement in the Department of Justice, National Research Council of the National Academies, during a visit to the Tucson Sector, September 2010. Notes on file.
[11] Border Patrol, *2012-2016 Border Patrol Strategic Plan*, 5.

system that aims to impose some "consequence" on those it apprehends. The stated purpose for these measures is to break the smuggling cycle and networks by separating migrants from smugglers, and to raise the cost — monetary, legal, and psychological — of illegal migration to migrants and smugglers alike.

The modus operandi that had long characterized Southwest border enforcement involved liberal use of voluntary return of removable migrants. With voluntary return, an unauthorized migrant subject to removal may waive the right to a hearing and return voluntarily to his or her country of origin, typically Mexico.[12] The advantage to the government is that voluntary return is fast and relatively inexpensive; the advantage to the migrant is that it does not lead to long-term detention or a formal removal order that bars future immigration. Migrants removed pursuant to a formal order issued by an immigration judge are ineligible for a visa to return for ten years and then for 20 years after any additional removal.[13] Moreover, illegal entry after a formal order of removal is a felony.[14]

Until recently, about 90 percent of deportable migrants located since 1980 have been allowed voluntary return.[15] Voluntary return as the prevailing enforcement response to illegal crossing is now being supplanted by a variety of actions that are more consequential, both for the migrant and for the immigration system more broadly.

Possible consequences include issuance of formal orders of removal through the expedited removal program, filing criminal charges for illegal entry or illegal re-entry, such as those brought through Operation Streamline, and removal to the interior of Mexico or through a port of entry distant from where the person was initially apprehended.

The strategy was spearheaded in the Tucson sector, where CBP has reported that 90 percent of those apprehended (save for juveniles and special humanitarian cases) are subject to a "consequence" rather than being permitted voluntary return.[16] CDS was adopted border-wide during 2012.

If implemented as envisioned, voluntary return — historically widely characterized as a revolving door and the prevailing enforcement practice on the U.S.-Mexico border for many decades — will be limited to a relatively small sub-group of illegal crossers, primarily unaccompanied minors and humanitarian cases. CDS represents a sharp departure from past enforcement policy and practice.

III. Technology and Infrastructure

Technology and fencing have dramatically transformed the infrastructure along the border. Although the first border fencing was constructed in 1990, prior to 2005, there were just 78 miles of pedestrian fencing and 57 miles of vehicle barriers in place along the Southwest border. Following the enactment of the 2006 *Secure Fence Act*,[17] that picture changed dramatically. By

[12] *Immigration and Nationality Act* ("INA") §240B(a)
[13] INA § 212(a)(9)(A).
[14] INA §276; see also National Research Council of the National Academies, *Budgeting for Immigration Enforcement: A Path to Better Performance* (Washington, D.C.: National Research Council of the National Academies, 2011): 51.
[15] Ibid., 48.
[16] Remarks by Alan Bersin, Commissioner, CBP, at the Center for American Progress, Washington, D.C., August 4, 2011.
[17] Pub. L. No. 109-367, 120 Stat. 2638 (Oct. 26, 2006).

February 2012, CBP had completed 651 miles of fencing along the Southwest border, including 352 miles of pedestrian fencing and 299 miles of vehicle fencing.[18]

Technology initiatives have also played a major role in transforming the border, though the results of highly touted large-scale technology initiatives have often been disappointing. The most recent example was the high-tech component of the Secure Border Initiative (SBI), known as SBInet.

SBInet was intended to provide the Border Patrol with a "common operating picture" of the border, by integrating images compiled from cameras, ground sensors, and radar. However, as documented by the Government Accountability Office (GAO), the program began experiencing problems shortly after it got off the ground. After years of missed deadlines, failed tests, and spending of more than $860 million, Homeland Security Secretary Janet Napolitano announced in January 2011 that DHS was cancelling the project.[19]

Post SBInet, DHS has focused on nonintrusive inspection equipment at ports of entry and already-tested, commercially available technologies between the ports. They include remote video surveillance systems, mobile surveillance systems, thermal imaging, radiation portal monitors, mobile license plate readers, and unmanned aircraft.[20] Predator drone coverage now spans the entire Southwest border.[21] Fixed and mobile surveillance systems, which function as on-the-ground radar, are steadily replacing long-used ground sensors. Such surveillance technology allows a single agent to monitor seven miles of border area to classify the level of the threat of detection for enforcement response.

Technology has also fueled improvements in border control at ports of entry (POEs). New screening tools, such as the US-VISIT program, which checks the fingerprints of arriving noncitizens against criminal and immigration databases, have strengthened officers' capability to determine when an arriving noncitizen is not eligible for admission. Similarly, improved platforms for border crossing cards have lessened the possibility of photo substitution on documents — a major problem for decades on the land borders.

IV. Ports of Entry

The ports of entry (POE) mission is arguably the most difficult and complex element of border security. CBP's immigration inspectors question, under oath, persons seeking entry in order to determine their admissibility. POEs are responsible for both facilitation of legitimate trade and travel — which are vital for the economies and social well-being of the United States and most countries around the world — and for preventing the entry of a small but potentially deadly number of dangerous people as well as lethal goods, illicit drugs, and contraband.

As border security improves and border enforcement makes illegal crossing between ports ever more difficult, the potential for misuse of legal crossing procedures builds and can be expected to

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[18] CBP, "Southwest Border Fence Construction Progress," February 10, 2012, www.cbp.gov/xp/cgov/border_security/ti/ti_news/sbi_fence/.
[19] Susan Ragland, *Secure Border Initiative: Controls over Contractor Payments for the Technology Component Need Improvement* (Washington, D.C.: Government Accountability Office, 2011): 2, www.gao.gov/assets/320/318871.pdf.
[20] Testimony of Janet Napolitano, Secretary of Homeland Security, before the U.S. Senate Committee on Homeland Security and Governmental Affairs, *Securing the Border: Progress at the Federal Level: What Remains to be Done?* 112th Cong., 1st sess., May 3, 2011, www.dhs.gov/news/2011/05/03/secretary-janet-napolitano-senate-committee-homeland-security-and-governmental.
[21] Ibid.

steadily increase, especially at land ports of entry. CBP estimates that it processed more than 340 million travelers in FY 2011.[22] With such volumes, inspectors have very little time on average to determine whether a traveler is authorized to enter.

Dramatic improvements in the nation's screening systems and capabilities, especially the US-VISIT program, have been fielded since September 11, 2001, as part of strengthened border control, especially at airports. New intelligence and information-sharing initiatives have also been implemented during the past decade. Inspections staffing has increased substantially, and CBP has undertaken numerous additional improvements to strengthen security at land POEs.

A. Secure Border-Crossing Documents

Since January 2007, the Western Hemisphere Travel Initiative (WHTI) has required all travelers to present specified documents to prove citizenship and identity to enter the country at POEs,[23] ending inspectors' acceptance of verbal declarations of citizenship. The requirement represented a dramatic change from past practices on the Mexican and Canadian land borders where roughly 621,874 people — most of whom live and work in border areas — cross daily.[24]

The change provoked particular concern and tension in the U.S.-Canadian relationship, because the initial WHTI requirements called for all crossers to present passports, which many Canadian crossers did not possess. The United States subsequently agreed to accept enhanced drivers' licenses that are designed to meet WHTI document requirements, issued both by Canada and a number of northern border states, including Washington, Vermont, and New York. The United States also began to issue a new document, known as a passport card, to meet the statutory requirements.[25] According to CBP, the changes have had a high rate of compliance, without increasing wait times at ports of entry or seriously inconveniencing travelers.[26]

Land border inspections have become significantly more reliable and secure as a result of the change, as well as requirements for new border crossing cards (BCC) on the Southern border. Lawful crossers now possess high-quality digital documents that are produced on the same platform as green cards and incorporate their same security features. Photo substitution on documents — a major problem for decades on land borders — is virtually impossible with currently available methods.[27]

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[22] CBP, "CBP's 2011 Fiscal Year in Review," (press release, December 12, 2011), www.cbp.gov/xp/cgov/newsroom/news_releases/national/2011_news_archive/12122011.xml.
[23] Maura Harty, Assistant Secretary of State for Consular Affairs, and Elaine Dezenski, Acting Assistant Secretary for Border and Transportation Security Policy and Planning, Department of State (DOS), "DOS Special Briefing on Western Hemisphere Travel Initiative," (DOS briefing, Washington, D.C., April 5, 2005), http://2001-2009.state.gov/r/pa/prs/ps/2005/44286.htm.
[24] CBP, "On a Typical Day in Fiscal Year 2011," www.cbp.gov/linkhandler/cgov/about/accomplish/typical_day_fy11.ctt/typical_day_fy11.pdf.
[25] DOS, "US Passport Card Frequently Asked Questions," March 2011, http://travel.state.gov/passport/ppt_card/ppt_card_3921.html.
[26] Statement of Richard M. Stana, Director, Homeland Security and Justice Issues, GAO, before the Senate Committee on Homeland Security and Governmental Affairs, *DHS Progress and Challenges in Securing the U.S. Southwest and Northern Borders*, 112th Cong., 1st sess., March 30, 2011, www.gao.gov/new.items/d11508t.pdf; Joint Statement of DHS Acting Assistant Secretary for Policy Richard Barth and CBP Office of Field Operations Assistant Commissioner Thomas Winkowski before the House Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Communications, *Implementing the Western Hemisphere Travel Initiative at Land and Sea Ports of Entry: Are We Ready?*, 110th Cong., 1st sess., May 7, 2009, www.cbp.gov/xp/cgov/newsroom/congressional_test/whti_ready_testify.xml.
[27] Jess T. Ford, *Border Security: Security of New Passports and Visas Enhanced, but More Needs to be Done to Prevent Their Fraudulent Use* (Washington, D.C.: GAO, 2007): 3, 13-4, www.gao.gov/products/GAO-07-1006; Dr. Nabajyoti Barkakati,

Despite the document integrity, today's problem is look-a-likes: people crossing with legitimate documents they have obtained from others with similar appearances.[28] Given the high volume of land-border crossings and facility constraints, it has not been possible to scan the fingerprints of Mexican border crossers with BCCs, or of Canadian visitors — thereby "assuring" identity through biometrics — except for individuals referred for more in-depth screening, known as secondary inspection.[29]

B. POE Infrastructure

Meeting the physical infrastructure needs at POEs has not kept pace with advances in documentation and screening developments. Communities such as Nogales, AZ, for example, have two ports that typically handle 15,000 pedestrian and 20,000 vehicle crossings daily (3.5 million pedestrians and 4.7 million vehicles annually). The POEs are equipped with technology that permits 100 percent license plate reading and document scanning. However, when traffic wait times exceed 60 minutes, inspectors typically "flush" traffic through, pulling aside only obvious high-risk crossers, in an effort to reconcile their facilitation and enforcement missions under trying conditions.

Thus, while there have been significant advances in POE screening and controls, infrastructure limitations prevent such technologies from being fully utilized, especially during times of heavy traffic. Similarly, given the high volume of traffic at land border crossings, full deployment of US-VISIT screening requirements for Mexican and Canadian visitors has not yet been implemented.[30] As a result, the potential for land POE inspections to be a weak link remains a critical enforcement challenge.

V. Determining Border Control

In assessing success and effectiveness, the Border Patrol has traditionally relied on border apprehensions data and changes in detected flows.

Border apprehensions reached a peak for the post-IRCA period of almost 1.7 million in 2000[31] and have fallen significantly in the years since. Apprehensions in FY 2011 numbered 340,252, one- fifth of the FY 2000 level — and the lowest level since 1970.[32] The most precipitous drop took place from 2008 to 2011 when apprehensions declined by 53 percent.[33] The post-2008 decline

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Improvements in the Department of State's Development Process Could Increase the Security of Passport and Border Crossing Cards (Washington, D.C.: GAO, 2010): 7, 13-4, www.gao.gov/assets/310/305134.pdf; CBP, "Securing America's Borders: CBP Fiscal Year 2009 in Review Fact Sheet," November 24, 2009, www.cbp.gov/xp/cgov/about/accomplish/previous_year/fy2009_stats/11242009_5.xml.

[28] Ibid.

[29] DHS US-VISIT, "US-VISIT Biometric Procedures: Applicability to Canadian Citizens," October 2, 2009, www.dhs.gov/files/programs/editorial_0695.shtm; DHS US-VISIT, "US-VISIT Biometric Procedures: Applicability to Mexican Citizens," October 2, 2009, www.dhs.gov/files/programs/editorial_0696.shtm.

[30] DHS, "US-VISIT: What to Expect When Visiting the United States," www.dhs.gov/us-visit-what-expect.

[31] Apprehensions in 2000 reached 1,676,438 — slightly lower than the historic peak of 1,692,544 in 1986. Border Patrol, "Nationwide Illegal Alien Apprehensions Fiscal Years 1925-2011," www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/25_10_app_stats.ctt/25_11_app_stats.pdf .

[32] Ibid.

[33] CBP, "CBP's 2011 Fiscal Year in Review," (press release, December 12, 2011), www.cbp.gov/xp/cgov/newsroom/news_releases/national/2011_news_archive/12122011.xml; Border Patrol, "Total

corresponds to the onset of the Great Recession and the sudden loss of jobs, particularly in the construction, hospitality, and tourism sectors, which served as major sources of employment for unauthorized migrants, especially from Mexico and Central America.

Other changes have also taken place. Beyond significantly fewer apprehensions and individuals arrested, net illegal immigration from Mexico has fallen to zero or become slightly negative (fewer coming than leaving) for the first time in 40 years.[34] These changes can be traced to stronger growth in Mexico's economy than in that of the United States and to fundamental demographic change in Mexico, including lower birth rates, fewer people under the age of 15, and reduced numbers of young workers entering the labor force.[35]

However, border enforcement is also having an effect. Apprehensions along the Southwest border have declined in all nine Border Patrol sectors. The decline has been most dramatic in the Yuma, AZ sector (a 96 percent decrease between 2005 and 2011), the El Paso, TX sector (a 92 percent decrease), and the Del Rio, TX sector (a 76 percent decrease).

In recent years, CBP has identified the Tucson, AZ sector as its greatest challenge in establishing control across the full Southwest border.[36] The sector, which recorded 123,285 apprehensions in FY 2011, accounted for twice as many arrests as the next highest sector (the Rio Grande Valley, with 59,243).[37] At the same time, the Tucson sector has experienced a 42 percent drop in apprehensions since 2011, and a 72 percent decline since 2005. Thus, although its arrest levels are comparatively high, the declines place it among sectors that have seen the most significant progress in recent years.

Such changes raise the question of how to define and measure border control. DHS argues that preventing *all* unlawful entries is not an attainable outcome. Homeland Security Secretary Janet Napolitano has stated that DHS will never be able to "seal the border" in the sense of preventing all illegal migration.[38]

Illegal Alien Apprehensions by Fiscal Year," www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/99_10_fy_stats.ctt/99_11_fy_stats.pdf.

[34] Elliot Spagat, "AP Exclusive: Border Patrol to Toughen Policy," Associated Press, January 17, 2012, www.denverpost.com/immigration/ci_19757370; Douglas S. Massey, "It's Time for Immigration Reform," CNN, July 7, 2011, http://globalpublicsquare.blogs.cnn.com/2011/07/07/its-time-for-immigration-reform/; Jeffrey Passel and D'Vera Cohn, *U.S. Unauthorized Immigration Flows are Down Sharply Since Mid-Decade* (Washington, D.C.: Pew Hispanic Center, 2010), www.pewhispanic.org/2010/09/01/us-unauthorized-immigration-flows-are-down-sharply-since-mid-decade/; Jeffrey Passel and D'Vera Cohn, *Unauthorized Immigrant Population: National and State Trends, 2010* (Washington, D.C.: Pew Hispanic Center, 2011), http://pewhispanic.org/files/reports/133.pdf; Marc R. Rosenblum, *Border Security: Immigration Enforcement Between Ports of Entry*, (Washington, D.C.: Congressional Research Service, 2012): 1, http://fpc.state.gov/documents/organization/180681.pdf.

[35] Aaron Terrazas, Demetrios G. Papademetriou, and Marc R. Rosenblum, *Evolving Demographic and Human Capital Trends in Mexico and Central America and their Implications for Regional Migration* (Washington, D.C.: Migration Policy Institute, 2011), www.migrationpolicy.org/pubs/RMSG-human-capital.pdf.

[36] Remarks by CBP Commissioner Alan Bersin at the Migration Policy Institute (Leadership Visions address, MPI, Washington, D.C., October 14, 2010), http://vimeo.com/15887500.

[37] DHS Office of Immigration Statistics, *2011 Yearbook of Immigration Statistics* (Washington, D.C.: DHS, Office of Immigration Statistics, 2012): 95, www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2011/ois_yb_2011.pdf.

[38] Homeland Security Secretary Janet Napolitano, "Press Conference with Secretary of Homeland Security Janet Napolitano; ICE Assistant Secretary John Morton; Los Angeles County, California, Sheriff Lee Baca; Harris County, Texas, Sheriff Adrian Garcia; Fairfax County, Virginia, Sheriff Stan Barry on New Immigration Enforcement Results," Washington, D.C., October 6, 2010), www.ice.gov/news/releases/1010/101006washingtondc2.htm.

The Border Patrol has been re-assessing its definition of border control and the metrics to be used in determining control. Part of its thinking may involve the concept of determining and monitoring baseline flows. As in other areas of law enforcement, where some degree of law-breaking is expected to occur and is met with policing responses, CBP rightly argues that certain baseline flows of people and drugs crossing the border illegally will exist. Thus, the goal is distribution of baseline flows as evenly as possible so that no location is taking the brunt, and effective responses and deterrence keep them to a minimum. Low-level, distributed flows, under this theory, constitute "risk mitigation" consistent with law enforcement practices that see success as reducing risk to a point of low probability of high-risk occurrences, especially terrorism.

For FY 2011, the Tucson sector had 123,285 apprehensions. The Border Patrol states that at that level, given the steep percentage declines of recent years, the Tucson sector could be reaching the level of its baseline flows, as have San Diego, El Paso, and the other sectors that now experience a degree of illegal crossing attempts but are able to respond to them and are, therefore, deemed to be under control.

VI. Measurement

While most analysts agree that the combination of increased border enforcement, shifting trends in Mexico, and job loss in the U.S. economy has led to a decline in the number of individuals crossing the border illegally, there is much disagreement over how to measure improvements in border security and over what constitutes a "secure" border.

Establishing that border control has significantly improved relies primarily on inputs (e.g., resource increases) — not on outcomes and impact (e.g. deterrence measures, such as size of illegal flows, share of the flow apprehended, or changing crosser recidivism rates). Ultimately, the ability of immigration agencies and DHS to communicate change, overcome misperceptions, and combat distorted charges about inadequate border control will require evidence and analysis of such outcomes.

Apprehensions are insufficient as sole measures of effectiveness because they count activity or workload, not persons. In the past, the Border Patrol has cited both surges and reductions of apprehensions as evidence of deterrence.[39] Apprehensions are a valid proxy for reduced flows and deterrence, particularly when they demonstrate a trend, as has occurred with the steep apprehension declines in recent years. However, they do not provide an estimate of the total size of the illegal flow. More sophisticated, valid measures for estimating actual flows across the border are long overdue.

Due in large part to the new and improved technologies along the border, the Border Patrol is increasingly able to develop additional data that capture broader trends in border control effectiveness. Independent analyses of these data, like the apprehensions data, point to a fundamental change in border control and effectiveness in recent years.

For example, a 2012 report from the Congressional Research Service (CRS), which analyzed data stored in US-VISIT's IDENT database, concluded that the number of unique individuals intercepted by the Border Patrol fell from 800,000 in FY 2000 to 269,000 in FY 2011.[40] CRS also noted a

[39] Donald Kerwin, *Chaos on the U.S.-Mexican Border* (Washington, D.C.: Catholic Legal Immigration Network, Inc., 2001): 8-10, www.lexisnexis.com/practiceareas/immigration/pdfs/web305.pdf.
[40] Rosenblum, *Border Security: Immigration Enforcement Between Ports of Entry*, 25.

significant decline in the share of those individuals crossing the border who constituted "recidivist" crossers — meaning persons who had previously been caught crossing the border illegally, and who were attempting to cross again. According to the CRS analysis, the prevalence of recidivists as a share of total crossers fell from a peak of 28 percent in FY 2007 to 20 percent in FY 2011.[41]

More recently, a December 2012 GAO report looked at Border Patrol measurements of "estimated illegal entries," which CBP calculated by using cameras, sensors, and radars, as well as agent observation, to combine total apprehensions with an estimated number of "turn-backs" (individuals who cross back into Mexico before the Border Patrol can apprehend them) and "got-aways" (individuals who proceed into the interior of the United States after unlawfully crossing the border).

GAO found that between FY 2006 and FY 2011, apprehensions at the border as well as estimated illegal entries declined significantly in all nine Border Patrol sectors along the U.S.-Mexico border. In the Tucson sector alone, the number of estimated illegal entries decreased by 69 percent during that timeframe, while the number of apprehensions fell by 68 percent.[42]

CBP and DHS are developing additional measures from many other kinds of data that are amenable to assessing effectiveness . Systematic measurement of critical elements of border control would allow for a more informed, realistic public debate about border security and should be indispensable ingredients for CBP and DHS in carrying out their border control mission.

VII. Changes in Mexico

Fundamental demographic and economic changes are underway in Mexico that represent a historic shift in several of the key "push" factors underlying Mexican illegal immigration to the United States. The most significant has been a drop in Mexico's population growth rate — a trend primarily driven by falling fertility rates. Mexico's population growth rate stood at around 1.1 percent during the first decade of the 21st century — down from 3.2 percent in the 1960s.[43] Concurrently, the number of people under the age of 15 in Mexico has declined, and the number of people aged 15 to 29 will start to decline in the coming years.[44] Both trends are critical, because studies indicate that most unauthorized immigrants come to the United States before they turn 30.

In addition, unemployment rates in Mexico have fallen (4.9 percent, according to the country's official estimates), [45] educational attainment levels are rising, and Mexico's population is rapidly aging. All are indicators of declining "push" factors for illegal Mexican immigration. Studies indicate that the flow of Mexican immigrants overall has declined significantly, largely because of decreased illegal immigration flows. According to the Pew Hispanic Center, net new migration from Mexico fell to zero in 2010.[46]

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[41] Ibid.
[42] GAO, *Border Patrol: Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs* (Washington, D.C.: GAO, 2012): 11-12, www.gao.gov/assets/660/650730.pdf.
[43] Terrazas, Papademetriou, and Rosenblum, *Evolving Demographic and Human Capital Trends*.
[44] Ibid., 6.
[45] Instituto Nacional de Estadística y Geografía (INEGI), "Ocupación y Empleo," www.inegi.org.mx/Sistemas/temasV2/Default.aspx?s=est&c=25433&t=1.
[46] Jeffrey Passel, D'Vera Cohn, and Ana Gonzalez-Barrera, *Net Migration from Mexico Falls to Zero—and Perhaps Less* (Washington, D.C.: Pew Hispanic Center, 2012), www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/.

The shifts occurring in Mexico have not occurred in the neighboring Central American countries of El Salvador, Guatemala, and Honduras. However, the combined population of El Salvador, Guatemala, and Honduras (27.7 million people) is about one-quarter the size of Mexico's population (107.4 million).[47] Thus, even if the drivers of illegal immigration from these countries remain quite high, the number of unauthorized immigrants attempting to enter the United States from Central America is unlikely to rival past Mexican flows.

VIII. Conclusion

Today's border enforcement is a multi-faceted, sophisticated enterprise that encompasses not only immigration enforcement but wide-ranging national security, anti-narcotics, criminal enforcement, intelligence, regulatory, trade, federal, state, local, tribal, binational, and multinational missions, programs, and partnerships . The facts on the ground about border enforcement — especially along the Southwest border with Mexico — and about Mexican illegal immigration have steadily and dramatically changed. Public perceptions about them have not always caught up with the new realities.

The system has become institutionalized through its national security links and unprecedented resource investments in vital capabilities that demonstrate the federal government's ability and will to vigorously enforce the nation's immigration laws, at the borders and in the interior of the United States. Judging by resource levels, case volumes, and enforcement actions — the only publicly available comprehensive measures of the performance of the system — border security and immigration enforcement can be seen to rank as the federal government's highest criminal law enforcement priority. The difficulties and dangers of crossing the border and the greater likelihood of detection and removal once in the United States have become widely experienced by would-be and seasoned migrants alike.

Border security has been significantly strengthened in all its key dimensions. It is imperfect and would benefit from investment in land port-of-entry infrastructure as well as from developing systematic evaluation and impact measurement, for example. Nevertheless, it would be strengthened even further by enactment of immigration laws that both address inherent weaknesses in enforcement beyond border security — such as employer enforcement — and that better rationalize immigration policy to align with the nation's economic and labor market needs and future growth and well-being.

Meeting those needs cannot be accomplished through more border enforcement, regardless of how well it is carried out or how much added spending is authorized. The dramatic strides that have been made in border security constitute a sound platform from which to address broader immigration policy changes suited to the larger needs and challenges that immigration represents for the United States in the 21st century.

[47] Terrazas, Papademetriou, and Rosenblum, *Evolving Demographic and Human Capital Trends*: 19.