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“Measuring Border Security: U.S. Border Patrol’s New Strategic Plan and the Path Forward”
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Chairman Miller, Ranking Member Cuellar, and members of the Subcommittee, I am honored to present testimony today on behalf of the Congressional Research Service. My testimony today makes three main observations:

- The U.S. border in 2012 is a very different place than it was in the mid-1990s when the former U.S. Immigration and Naturalization Service (INS) developed the core of the current U.S. Border Patrol strategy. The U.S. Border Patrol (USBP) and other components within the Department of Homeland Security (DHS) have made major changes at the border and in the broader immigration control system; and these changes appear to have contributed to a sharp reduction in illegal migration, though increased enforcement is just one of many factors that explains the reduction.
- These gains entail costs, including direct appropriations for border security, indirect costs and unintended consequences of the current approach, and opportunity costs that come from high investments between ports of entry on the Southwest border, arguably at the expense of competing priorities.
- The first two observations suggest that the new USBP comes at an appropriate time and raises important questions. The USBP’s mission is to prevent illegal entries between ports of entry, and most of its resources are on the Southwest border. Yet many of the most serious transnational criminal and terrorist threats to the United States may be more likely to exploit points of vulnerability at ports of entry (POE) and at northern and coastal borders, rather than to risk entry across the Southwest border in light of existing enforcement measures there.

The Current Border Strategy: Prevention Through Deterrence¹

Since the 1990s, migration control at the border has been guided by a strategy of “prevention through deterrence”—the idea that the concentration of personnel, infrastructure, and surveillance technology along heavily trafficked regions of the border will discourage unauthorized aliens from attempting to enter the United States. The strategy was developed in 1994 as part of the former INS’ “National Strategic Plan” (NSP) in response to a widespread perception that the Southwest border was being overrun by unauthorized immigration and that drug smuggling was a serious threat along the Southwest border. The plan described a multi-phased approach. Implementation began with Operations “Hold the Line” and “Gatekeeper” in El Paso, TX, and San Diego, CA; and the plan called for expanding enforcement in three additional phases to cover the remaining areas of the Southwest border followed by the Gulf Coast and northern borders. In descending order of importance, the plan emphasized personnel, equipment, technology, and tactical infrastructure.

Shortly after the creation of DHS, USBP began to formulate a new national strategy to better reflect the realities of the post-9/11 security landscape. Published in March 2004, the strategy places greater emphasis on interdicting terrorists and features five main objectives: 1) establishing the substantial probability of apprehending terrorists and their weapons as they attempt to enter illegally between the

¹ This section and much of this testimony draws heavily on CRS Report R42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc R. Rosenblum (hereinafter CRS, *Immigration Enforcement Between Ports of Entry*); please see that report for a fuller discussion of these issues and additional citations.

ports of entry; 2) deterring illegal entries through improved enforcement; 3) detecting, apprehending, and deterring smugglers of humans, drugs, and other contraband; 4) leveraging “Smart Border” technology to multiply the deterrent and enforcement effect of agents; and 5) reducing crime in border communities, thereby improving the quality of life and economic vitality of those areas.² Thus, the 2004 strategy builds on “prevention through deterrence,” but places added emphasis on the rapid deployment of USBP agents to respond to emerging threats. This approach depends on tactical, operational, and strategic intelligence to assess risk and target enforcement efforts, relying on surveillance systems and close coordination with U.S. Customs and Border Protection’s (CBP) Office of Intelligence and other intelligence apparatuses. The plan formulates different strategies for each of the agency’s three operational theaters: the Southwest border, the northern border, and the coastal waters around Florida and Puerto Rico.

In November 2005, the Department of Homeland Security announced a comprehensive multi-year plan, the Secure Border Initiative (SBI), to secure U.S. borders and reduce illegal migration, reiterating many of the themes from the 1994 and 2004 border patrol strategies. Under SBI, DHS announced plans to obtain operational control of the northern and southern borders within five years by focusing attention in five main areas: increased staffing, improved detention and removal capacity, surveillance technology, fencing and tactical infrastructure, and interior immigration enforcement.³ DHS noted that these programs initially would focus on the southwest land border between official ports of entry and that it would deploy a mix of personnel, technology, infrastructure, and response assets in order to “provide maximum tactical advantage in each unique border environment.”⁴

Changes Since the 1990s

With the implementation of prevention through deterrence beginning in the 1990s and elements of SBI since 2005, U.S. border security and immigration enforcement look quite different today. Changes include 1) new enforcement resources at the border, 2) different enforcement practices at the border, and 3) additional modifications to the migration control system at ports of entry and within the United States. Most importantly, a growing body of evidence suggests that illegal migration to the United States has fallen to its lowest level in decades, although it is not possible to describe how much of the decrease is a function of border enforcement versus several other factors that also likely have contributed to reduced flows.

Additional Resources: Border Patrol Personnel

Congress has passed at least four laws since 1986 authorizing increases in border patrol personnel.⁵ Appropriators generally have supported such growth; and as **Figure 1** illustrates overall USBP staffing has grown about ten-fold from 2,268 in 1980 to 21,370 today. The border patrol numbered just 4,287 when the Prevention through Deterrence strategy was articulated in 1994; border patrol numbers roughly doubled during the remainder of the 1990s as the strategy was implemented; and numbers have more than doubled again in the post-9/11 period.⁶

See Attachments: **Figure 1**.

These data on USBP personnel understate law enforcement staffing along U.S. borders, because numerous other federal, state, local, and tribal law enforcement officials also operate in the border region,

² Department of Homeland Security, Bureau of Customs and Border Protection, “National Border Patrol Strategy,” 2004.

³ DHS, “Fact Sheet: Secure Border Initiative,” http://www.dhs.gov/xnews/releases/press_release_0794.shtm.

⁴ Department of Homeland Security, *DHS FY2008 Congressional Budget Justification*, p. CBP-BSFIT 3.

⁵ The Immigration Act of 1990 (P.L. 101-649), the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA, P.L. 104-208, Div. C), the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT, P.L. 107-56), and the Intelligence Reform and Terrorism Prevention Act (P.L. 108-458).

⁶ CRS analysis based on data from Syracuse University Transactional Records Access Clearinghouse and USBP Office of Legislative Affairs.

including 5,551 CBP officers at Southwest border POEs in 2011.⁷ About a quarter of U.S. Immigration and Customs Enforcement's (ICE) 20,000 personnel were deployed to the Southwest border in FY2011,⁸ along with about 1,200 National Guard troops.⁹

Additional Resources: Border Fencing

The former INS installed the first border fencing beginning in 1990, eventually covering the 14 miles of the border east of the Pacific Ocean near San Diego. Congress expressly authorized the construction and improvement of fencing and other barriers under Section 102(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA; P.L. 104-208, Div. C), which also required the completion of a triple-layered fence along the 14 miles near San Diego. The Secure Fence Act of 2006 (P.L. 109-367) amended IIRIRA to require double-layered fencing along five segments of the Southwest border, totaling about 850 miles.¹⁰ IIRIRA was amended again by the Consolidated Appropriations Act, FY2008 (P.L. 110-161), which requires the Secretary of Homeland Security to construct reinforced fencing "along not less than 700 miles of the Southwest border where fencing would be most practical and effective."¹¹ The act further specifies, however, that the Secretary of Homeland Security is *not* required to install "fencing... in a particular location... if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location."¹² As of April 11, 2012, DHS had installed 352 miles of pedestrian fencing and 299 miles of vehicle fencing (total of 651 miles) out of 652 miles DHS had identified as appropriate for fencing and barriers.¹³

See Attachments: **Figure 2.**

Additional Resources: Surveillance Assets

The border patrol utilizes advanced technology to augment its agents' ability to patrol the border. Under a series of related programs since the 1990s,¹⁴ the border surveillance system has consisted of a network of Remote Video Surveillance (RVS) systems (including cameras and infrared systems) and sensors (including seismic, magnetic, and thermal detectors) linked into a computer network. USBP personnel in a central location screen the network, monitor locations where sensor alarms are tripped, and alert field agents to intrusions and coordinate responses. These systems have struggled to meet deployment timelines and to provide USBP with the promised level of "situational awareness" with respect to illegal entries,¹⁵ and have come under criticism for non-competitive contracting practices, inadequate oversight of contractors, and cost overruns.¹⁶ DHS ordered a department-wide assessment of the most recent surveillance system, *SBI_{net}*, in January, 2010 and terminated the program in January 2011.¹⁷

⁷ CBP Office of Legislative Affairs, Sept. 20, 2011.

⁸ Department of Homeland Security, "Secure and Manage Our Borders," http://www.dhs.gov/xabout/gc_1240606351110.shtm.

⁹ Also see CRS Report R41286, *Securing America's Borders: The Role of the Military*, by R. Chuck Mason.

¹⁰ P.L. 109-367 identified five specific stretches of the border where fencing was to be installed; CBP Congressional Affairs provided CRS with this estimate of the total mileage covered by the law on September 25, 2006.

¹¹ P.L. 110-161, Div. E, § 564.

¹² *Ibid.*

¹³ CBP Office of Congressional Affairs communication with CRS, April 11, 2012.

¹⁴ The former INS' Integrated Surveillance Information System (ISIS) was initiated in 1998. ISIS was folded into a broader border surveillance system named the America's Shield Initiative (ASI) in 2005, and ASI was made part of DHS' Secure Border Initiative (SBI) the following year, with the surveillance program renamed *SBI_{net}*.

¹⁵ See e.g., testimony of DHS Inspector General Richard L. Skinner before the House Homeland Security Committee, Subcommittee on Management, Integration, and Oversight, *New Secure Border Initiative*, 109th Cong., 1st sess., December 16, 2005; and U.S. Government Accountability Office (GAO), *Secure Border Initiative: Technology Deployment Delays Persist and the Impact of Border Fencing Has Not Been Assessed*, GAO-09-896, 2009, <http://www.gao.gov/new.items/d09896.pdf>.

¹⁶ See DHS Inspector General (IG), *Secure Border Initiative: DHS Needs to Address Significant Risks in Delivering Key Technology Investment*, DHS OIG-09-80, Washington, DC, June 2009; and DHS IG, *Controls Over SBI_{net} Program Cost and*

Under DHS' new Alternative Surveillance Technology Plan, DHS plans to deploy a mix of RVS systems consisting of fixed daylight and infrared cameras that transmit images to a central location, mobile surveillance systems mounted on trucks and monitored in the truck's passenger compartment, hand-held equipment, and existing *SBI*net integrated towers.¹⁸ In addition to these ground-based surveillance assets, CBP's Office of Air and Marine (OAM) deploys 270 aircraft and 280 marine vessels to conduct surveillance operations and contribute to the interdiction of unauthorized aliens and other smuggling operations, and OAM operates nine unmanned aircraft systems along the borders.

New Border Enforcement Practices: Enforcement with Consequences

Since about 2005, CBP has been phasing in a new set of enforcement practices that it now describes as "enforcement with consequences." Historically, immigration agents returned most people apprehended at the border to Mexico with minimal processing or (in the case of non-Mexicans) often released them pending a formal deportation or removal hearing. The enforcement with consequences approach seeks to minimize such "low consequence" responses in order to raise the costs to migrants of being apprehended, to make it more difficult for illegal migrants to reconnect with smugglers following a failed entry attempt, and thereby to discourage people who have been apprehended from making subsequent efforts to enter the United States illegally.¹⁹ The approach includes the following elements:

- **Expedited removal (ER).** ER is a provision of the INA that allows certain arriving aliens without documents to be formally removed from the United States without an inadmissibility hearing or an appearance before an immigration judge. Thus, ER orders can be implemented quickly and at minimal expense, but carry the same administrative penalties as standard removal orders. After being added to the INA in 1996, ER initially was reserved for aliens apprehended at ports of entry. With a series of notices in 2002-2006, ER was expanded to cover certain aliens who had entered the United States within the previous two weeks and were apprehended within 100 miles of any U.S. border.²⁰
- **Detention.** Non-Mexicans apprehended at the border usually are placed in removal proceedings prior to being returned by air to their country of origin.²¹ Historically, backlogs in the immigration court system meant that most such aliens were released on bail or their own recognizance for some period of time between their apprehension and removal hearing; and many failed to show up for their hearings.²² Under a policy

Schedule Could Be Improved, DHS OIG-10-96, Washington, DC, June 2010.

¹⁷ See DHS, *Report on the Assessment of the Secure Border Initiative Network (SBI)net Program*, Washington, DC, 2010; DHS, *Annual Financial Report: Fiscal Year 2011*, Washington, DC, 2011, p. 14.

¹⁸ Statement of Randolph C. Hite, Director, Information Technology Architecture and System Issues, Testimony Before the Subcommittees on Management, Investigations, and Oversight; and Border, Maritime, and Global Counterterrorism; Committee on Homeland Security, House of Representatives, *Secure Border Initiative: DHS Needs to Follow Through on Plans to Reassess and Better Manage Key Technology Program*, 110th Cong., 2nd Sess., Thursday, June 17, 2010.

¹⁹ See U.S. Congress, House Committee on Homeland Security, Subcommittee on Border and Maritime Security, *Does Administrative Amnesty Harm our Efforts to Gain and Maintain Operational Control of the Border*, testimony of U.S. Border Patrol Chief Michael J. Fisher, 112th Cong., 1st sess., October 4, 2011.

²⁰ See CRS Report RL33109, *Immigration Policy on Expedited Removal of Aliens*, by Alison Siskin and Ruth Ellen Wasem. Under the 2006 policy, most Mexicans apprehended at the Southwest border were not placed in expedited removal proceedings unless they had previous criminal convictions.

²¹ Most Mexicans were returned by bus with minimal processing—an option not available for aliens from most countries.

²² DHS estimated that there were 623,292 alien "absconders" in August 2006, many of whom had failed to appear for removal hearings after being apprehended at the border. See Doris Meissner and Donald Kerwin, *DHS and Immigration: Taking Stock and Correcting Course*, Migration Policy Institute, Washington, DC, February 2009, p. 44, http://www.migrationpolicy.org/pubs/DHS_Feb09.pdf.

implemented in August 2006, DHS now detains 100% of removable non-Mexicans apprehended at the border until their removal orders are finalized and executed.²³

- **Immigration-related criminal charges.** Unauthorized aliens apprehended at the border may face federal immigration charges, but historically most have not been charged with a crime.²⁴ In cooperation with the Department of Justice, CBP has worked since 2005 to bring criminal charges against such aliens more often. The most systematic effort in this regard has been Operation Streamline, a program through which CBP works with U.S. Attorneys and District Court judges in border districts to expedite criminal justice processing. Operation Streamline was established in the USBP's Del Rio Sector in December 2005, and expanded to four additional sectors by June 2008.²⁵
- **Remote repatriation.** Under the Alien Transfer Exit Program (ATEP), certain Mexicans apprehended near the border are repatriated to border ports hundreds of miles away—typically moving people from Arizona to Texas or California.²⁶ Under the Mexican Interior Repatriation Program (MIRP), certain Mexican nationals are repatriated to their home towns within Mexico, rather than being returned just across the border.²⁷

To manage these diverse programs, CBP has developed a “Consequence Delivery System ... to uniquely evaluate each subject and identify the ideal consequences to deliver to impede and deter further illegal activity.”²⁸ According to public comments by former CBP Commissioner Alan Bersin, the goal of the program, in certain sectors of the border, is to ensure that virtually everyone who is apprehended faces “some type of consequence,” and to eliminate voluntary return in most cases.²⁹

Figure 3 depicts two indicators of enforcement with consequences: removal cases initiated by the Border Patrol and immigration-related criminal charges brought in the federal court system, including illegal entry and illegal re-entry. As the figure indicates, the number of immigration-related criminal cases tripled between FY1999 and FY2010 (from 28,764 to 84,388 cases); and USBP removals increased fourteen-fold from 12,867 to 189,653. These increases occurred at a time of falling alien apprehensions, as described below, so that the ratio of such consequences relative to all USBP apprehensions increased from 1% in 1999 to 58% in 2010.³⁰

See Attachments: **Figure 3.**

Additional Changes to the Migration Control System

²³ CBP, “DHS Secretary Announces End to ‘Catch and Release’ on Southern Border,” http://www.cbp.gov/xp/cgov/admin/c1_archive/messages/end_catch_release.xml.

²⁴ Aliens apprehended at the border may face criminal charges for illegal entry (8 U.S.C. §1325) or (on a subsequent apprehension) illegal re-entry (8 U.S.C. §1326), and in some cases they may face charges related to human smuggling (8 U.S.C. §1324) and visa and document fraud (8 U.S.C. §1546). See CRS Report RL32480, *Immigration Consequences of Criminal Activity*, by Michael John Garcia. In contrast, unlawful *presence*, absent additional factors, is a civil violation.

²⁵ According to CBP Office of Legislative Affairs, November 1, 2011, Operation Streamline was initiated in the Yuma Sector in December 2006, Laredo Sector in October 2007, Tucson Sector in January 2008, and Rio Grande Valley Sector in June 2008. A total of 164,639 people were processed through Operation Streamline through the end of FY2011.

²⁶ See U.S. Congress, House Committee on Homeland Security, Subcommittee on Border and Maritime Security, *Does Administrative Amnesty Harm our Efforts to Gain and Maintain Operational Control of the Border*, testimony of U.S. Border Patrol Chief Michael J. Fisher, 112th Cong., 1st sess., October 4, 2011.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Alan Bersin, *The State of US/Mexico Border Security*, Center for American Progress, August 4, 2011, <http://www.americanprogress.org/events/2011/08/usmexicoborder.html>. Bersin indicated that certain aliens would not be subject to enforcement with consequences, such as aliens younger than 18 years old traveling without a parent or legal guardian.

³⁰ Not all people facing charges were apprehended by USBP, and not all aliens subject to removal were apprehended during the same fiscal year. Thus, the proportion of aliens facing enforcement with consequences as described in Figure 3 is not precisely defined as a percentage of USBP apprehensions, though USBP apprehensions represent the great majority of such cases.

Changes to the border patrol's enforcement resources and practices have not occurred in isolation. While the focus of this hearing is on the border patrol, the effects of border patrol policies also depend on CBP enforcement efforts at POEs and on immigration enforcement within the United States. Without addressing them in detail, four changes since the 1990s have further contributed to a changed immigration control environment: more robust screening at ports of entry;³¹ expanded removals from the interior, including through the Secure Communities program;³² the expansion of the E-Verify electronic employment eligibility verification system and other worksite enforcement efforts,³³ and the passage of dozens of state and local laws—some of which are subject to legal challenges—related to the use of E-Verify, the role of state and local law enforcement officials in immigration enforcement, and other measures to combat illegal migration.³⁴

Border Enforcement Outcomes³⁵

Total Apprehensions

For many years, the INS and DHS have used USBP apprehensions as a proxy to measure illegal entries,³⁶ and changes in apprehensions as an indicator of border enforcement outcomes. As **Figure 4** illustrates, total USBP apprehensions have fallen each year since 2005, and the 2011 total of 328,000 apprehensions was less than one-fifth the 1.68 million apprehensions recorded in 2000. Apprehensions in 2011 were at their lowest point since 1970.

See Attachments: **Figure 4.**

While apprehensions data are useful indicators of illegal inflow trends, they are problematic indicators of unauthorized migration for at least three reasons. First, apprehensions data exclude *successful* unauthorized aliens, certain *unsuccessful* unauthorized aliens (including aliens who are denied entry by CBP officers at ports of entry, aliens who are apprehended by law enforcement officials other than USBP, and aliens who die while crossing the border); and *would-be* unauthorized aliens who are deterred at the border or who never attempt to migrate at all. These exclusions mean that apprehensions data are an incomplete picture both of unauthorized migration and of migration enforcement. Second, apprehensions data count events rather than people. Thus, an unauthorized migrant who is caught trying to enter the country three times in one year counts as three apprehensions in the data set. Apprehensions data therefore may over-estimate the actual number of people trying to cross the border. Third, apprehensions are a function of illegal flows and of the *unknown* effectiveness of border enforcement. Thus, fewer apprehensions may reflect fewer attempts at illegal entry, lower apprehension rates for the same number of entries, or some combination of the two.³⁷ The border patrol estimates the number of successful illegal entries (“get-aways”) and the number deterred at the border (“turn backs”), but these data are limited by the agency’s surveillance capacity, among other factors, and are not available to outside researchers.³⁸

³¹ See archived CRS Report RL31733, *Port and Maritime Security: Background and Issues for Congress*, by John Frittelli; and archived CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program*, by Lisa M. Seghetti and Stephen R. Viña.

³² See CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*, by Marc R. Rosenblum and William A. Kandel.

³³ See CRS Report R40446, *Electronic Employment Eligibility Verification*, by Andorra Bruno.

³⁴ See CRS Report R41423, *Authority of State and Local Police to Enforce Federal Immigration Law*, by Michael John Garcia and Kate M. Manuel.

³⁵ For a fuller discussion of enforcement outcomes, see CRS, *Immigration Enforcement Between Ports of Entry*.

³⁶ See e.g., CBP, *Securing America's Borders: CBP Fiscal Year 2010 in Review Fact Sheet*, Washington, DC, March 15, 2011, http://www.cbp.gov/xp/cgov/newsroom/fact_sheets/cbp_overview/fy2010_factsheet.xml.

³⁷ Also see U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, *Department of Homeland Security Appropriations Bill, 2012*, Report to Accompany H.R. 2017, 112th Cong., 1st sess., May 6, 2011, H. Rept. 112-91 (Washington: GPO, 2011), p. 33.

³⁸ According to CBP's Office of Legislative Affairs (December 22, 2011) and other sources, CBP reportedly plans to incorporate

Given these limits, it is useful to consider several additional data sources that offer insight into illegal migration and the effectiveness of border enforcement and migration control efforts.

Unique Apprehensions

The DHS Automated Biometric Identification System (IDENT) is a biometric database that includes about 138 million individual records.³⁹ Since late 1999, the system has been deployed to all USBP stations, allowing DHS to track individual case histories of most people apprehended by USBP, among others. The IDENT database provides additional insight into enforcement outcomes by describing the number of unique individuals apprehended by USBP per year, rather than the number of apprehension events. As **Figure 5** indicates, the number of unique individuals apprehended by USBP fell from about 880,000 in 2000 to about 618,000 in 2003 before climbing back to about 818,000 in 2005 and then dropping sharply to about 269,000 individuals in 2011. Thus, perhaps more importantly, the ratio of total apprehensions to unique individuals apprehended also fell during this period: from an average of 1.63 apprehensions per individual in 2000 to an average of 1.27 apprehensions per individual in 2011. **Figure 5** also presents IDENT data on the percentage of unique subjects apprehended by the border patrol more than once in a fiscal year (the recidivism rate). The recidivism rate peaked at 28% in 2007 and fell to 20% in FY2011, the lowest level since USBP began collecting these data.

See Attachments: **Figure 5**.

Smuggling Fees

The great majority of unauthorized migrants to the United States make use of human smugglers to help them enter the United States.⁴⁰ Migrants' reliance on human smugglers, along with prices charged by smugglers, are an additional potential indicator of the effectiveness of U.S. border enforcement efforts, as more effective enforcement should increase the costs to smugglers of bringing migrants across the border, with smugglers passing such costs along to their clients in the form of higher fees.⁴¹ **Figure 6** summarizes available time-series data describing average smuggling fees paid by certain unauthorized migrants for transport from Mexico to the United States, based on surveys conducted with unauthorized migrants in the United States and in Mexico (i.e., after migrants had returned home). According to these data, smuggling fees were mostly flat throughout the 1980s, at about \$750 - \$1,000 (in 2010 dollars), with an average annual growth rate of less than 1.5%. Smuggling fees began to rise during the early 1990s, climbed by over 7% per year throughout the 1990s and early 2000s to \$2,400 - \$2,700 in 2005-2006, and have remained roughly flat since that time—possibly because the economic downturn since 2007 has placed a cap on what smugglers may charge.⁴² These data suggest that crossing the border illegally became more difficult (or at least most expensive) in the decade after the USBP began to implement its national strategy.

See Attachments: **Figure 6**.

Probability of Apprehension

Social science research also provides data (reported by migrants in the United States and Mexico) on the probability that migrants will be apprehended while attempting to enter the United States illegally. Existing data sources indicate that many migrants are apprehended one or more times prior to

its estimate of successful illegal entries into a soon-to-be-released “border conditions index.”

³⁹ US-VISIT Office of Legislative Affairs, December 16, 2011.

⁴⁰ See Princeton University Mexican Migration Project, “Access to Border-Crossing Guides and Family/Friends on First Undocumented Trip,” <http://mmp.opr.princeton.edu/results/002coyote-en.aspx>.

⁴¹ See Bryan Roberts, Gordon Hanson, and Derekh Cornwell, et al., *An Analysis of Migrant Smuggling Costs along the Southwest border*, DHS Office of Immigration Statistics, Washington, DC, November 2010, <http://www.dhs.gov/xlibrary/assets/statistics/publications/ois-smuggling-wp.pdf>.

⁴² See attachment for sources.

successfully entering the United States. According to one source, a growing proportion of Mexicans who attempt to migrate illegally are apprehended at the border at least once: 28% for one sample of migrants who attempted to enter prior to 1986 versus 41% for aliens attempting entry in 2002-2009.⁴³ Another major survey finds that the probability of being apprehended on any given crossing has hovered around 25% since 1965.⁴⁴ Yet both surveys have found that the vast majority of migrants who attempt to cross the border eventually succeed.⁴⁵ Taken together, these data offer additional evidence that it became somewhat more difficult to cross the Southwest border illegally in the decade after 1994, but that the border remains broadly vulnerable to illegal crossers.

Survey Data from Mexico

The Pew Hispanic Center has analyzed survey data collected in Mexico from illegal migrants who were transferred from U.S. custody to Mexican authorities. In research published in 2012, Pew reports the following findings:

- Mexicans repatriated in 2010 were more likely to have lived in the United States for a long period of time than Mexicans surveyed during earlier periods. In 2010, 27% of repatriated Mexicans had lived in the United States for at least a year, compared to 6% in 2005 and 5% in 2000. And 17% of repatriated Mexicans had lived in the United States for at least 5 years, compared to just 2% in 2005.⁴⁶
- Mexicans repatriated in 2010 were more likely to have been apprehended at work or at home than Mexicans surveyed during earlier periods: 17% in 2010 versus 3% in 2005. The proportion of Mexicans surveyed who had been apprehended at the border fell from 49% in 1995 to 33% in 2005 to 25% in 2010.⁴⁷
- Mexicans repatriated in 2010 were less likely than those repatriated in previous years to report that they intended to return to the United States. Among those who migrated illegally to look for work (83% of those in the survey), 60% reported that they intended to return to the United States immediately, and 80% reported that they intended to return eventually, down from 81% and 92%, respectively, in 2005. Among new unauthorized migrants (those who had spent less than a week in the United States before being repatriated to Mexico), 18% of those repatriated in 2010 reported that they would not return to the United States compared to 6% in 2005.⁴⁸

Conclusions: The Effectiveness of U.S. Border Control and Migration Enforcement

Taken together, the data described above suggest that illegal inflows have fallen substantially during the last 5 years, and that border control and migration enforcement policies likely have contributed to this downturn. Yet available data do not allow for a precise description of the importance of migration

⁴³ University of California – San Diego (UCSD) Mexico Migration Field Research Project, data provided to CRS Sept. 23, 2010.

⁴⁴ Princeton University Mexican Migration Project, “Probability of Apprehension on an Undocumented Border Crossing,” <http://mmp.opr.princeton.edu/results/008apprehension-en.aspx>. The probability of apprehension fell somewhat during the 1990s to less than 20% in 2001, possibly as a function of increased use of smugglers during this period. This trend was reversed between 2001 and 2006, as the probability of apprehension climbed to an all-time high of about 35%; but by 2011 the probability of apprehension had once again fallen below 20%.

⁴⁵ In the UCSD surveys, 98% of intending migrants from Jalisco, Mexico eventually managed to enter the United States before 1986, and 97% eventually succeeded in 2002-2009. Overall, the UCSD researchers recorded eventual success rates of 92% or higher in four different surveys conducted between 2005 and 2009. CRS’ analysis of data provided by the Princeton survey suggests that 99% of Mexicans surveyed reported being able to enter the United States illegally after one or more attempts.

⁴⁶ See Jeffrey Passel, D’Vera Cohn, and Ana Gonzalez-Barrera, *Net Migration from Mexico Falls to Zero--And Perhaps Less*, Pew Hispanic Center, Washington, DC, 2012, <http://www.pewhispanic.org/files/2012/04/PHC-04-23a-Mexican-Migration.pdf>, p. 23.

⁴⁷ *Ibid.*, p. 24.

⁴⁸ *Ibid.*, pp. 24-25.

enforcement relative to other factors that also influence illegal migration, or for concrete conclusions about the effectiveness of border control and migration enforcement.

A fundamental obstacle to evaluating the effectiveness of migration enforcement measures is that individual and aggregate migration decisions are highly complex, reflecting not only the risk of apprehension and the costs of migration, but also—at least as importantly—a range of socio-economic “push” and “pull” factors at both ends of the migration chain, as well as social and family networks that facilitate migration.⁴⁹ Thus, even if we know with certainty that illegal inflows have fallen in a given period, as appears to be the case since 2007, it is not possible to describe how much of the downturn is a result of enhanced enforcement, and how much is a function of these other factors. It is especially difficult to measure “remote deterrence”: the decision by potential migrants, who may be thousands of miles from the border, to choose not to embark on a trip to the United States—though such deterrence may well reflect U.S. enforcement efforts.

Assigning causality is particularly difficult in the case of the post-2007 downturn because many of the most significant new enforcement efforts—including a sizeable share of new border enforcement personnel, most border fencing, new enforcement practices at the border, and many of the new migration enforcement measures within the United States—have occurred in the context of the most severe recession since the 1930s. The economic downturn has been particularly intense in certain industries that have historically employed a large number of unauthorized migrants.

Additional factors may have further contributed to reduced illegal migration from Mexico, historically the source of about 60% of unauthorized migrants in the United States. Abuses of migrants by smugglers and transnational criminal organizations and high levels of border-area violence appear to have discouraged some potential Mexican migrants.⁵⁰ The Mexican economy has recovered from the 2007-08 downturn more quickly than the U.S. economy, and expanding job opportunities in Mexico may have discouraged some would-be migrants.⁵¹ Perhaps most importantly, long-term demographic trends mean that relatively few Mexican workers have entered the labor market in recent years, as Mexico’s fertility rate has fallen from an average of 7.2 children per woman in 1960 to about 2.2 today.⁵²

The Costs of Border Enforcement

As described above, the prevention through deterrence approach to border security has been resource-intensive, relying on the deployment of personnel, infrastructure, and technology to U.S. borders. To evaluate the strategy and weigh it against alternative approaches, it may be useful to consider the costs of border enforcement, including direct costs, indirect costs and benefits, and opportunity costs.

Direct Costs

The two largest components of the border patrol’s prevention through deterrence approach, when measured in terms of direct spending, have been outlays for personnel and for border fencing and surveillance technology, depicted in **Figure 7**. As the figure indicates, USBP funding grew from \$232 million in 1989, to \$1.3 billion in FY2002 (the last data available prior to the creation of DHS), to \$3.6 billion in FY2012—a nominal increase of 1,450% and an increase of 750% when accounting for inflation.

⁴⁹ See for example, Douglas S. Massey, Joaquin Arango, and Graeme Hugo, et al., *Worlds In Motion: Understanding International Migration at the End of the Millenium*, 2nd ed. (New York: Oxford University Press, 2005).

⁵⁰ See David Scott Fitzgerald, Rafael Alarcón, and Leah Muse-Orlinoff, *Recession Without Borders: Mexican Migrants Confront the Economic Downturn* (La Jolla, CA and Boulder, CO: Center for Comparative Immigration Studies (CCIS) and Lynne Reiner Publishers, 2011).

⁵¹ According to Mexican data, Mexico’s GDP grew by 5.5% in 2010 and 3.9% in 2011; see Jeffrey Passel, D’Vera Cohn, and Ana Gonzalez-Barrera, *Net Migration from Mexico Falls to Zero--And Perhaps Less*, Pew Hispanic Center, Washington, DC, 2012, <http://www.pewhispanic.org/files/2012/04/PHC-04-23a-Mexican-Migration.pdf>, p. 31.

⁵² Pew Hispanic Center, *The Mexican-American Boom: Births Overtake Immigration*, July 14, 2011, <http://pewhispanic.org/files/reports/144.pdf>, p. 7.

Appropriations for fencing and technology increased from \$25 million in FY1996 to \$298 million in FY2006, an eleven-fold increase (eight-fold when adjusting for inflation), and then jumped to \$1.5 billion in FY2007 before falling to \$573 billion in FY2011 and \$400 billion in FY2012.

See Attachments: **Figure 7**.

*Indirect Costs and Benefits*⁵³

Border enforcement also may entail a number of indirect, and sometimes unintended, costs and benefits that also may be useful to consider as part of a comprehensive analysis of the issue:

- **Crime and migrant mortality.** The concentration of enforcement resources around the border may exacerbate crime and migrant mortality by making migrants more reliant on smugglers and more likely to cross in dangerous locations. On the other hand, if enforcement deters illegal crossers, such prevention should reduce crime and mortality; and the concentration of law enforcement personnel near the border may further enhance public safety and migrant protection. The empirical record suggests that crime rates have fallen in certain Southwest border cities faster than in other cities of a similar size, but the impact of border enforcement on border area crime and migrant mortality is unknown because available data cannot separate the influence of border enforcement from other factors. Available data about known migrant deaths along the Southwest border suggest that mortality rates have risen and that border crossings have become more hazardous since the “prevention through deterrence” policy went into effect in the 1990s, though once again the precise impact of enforcement on migrant deaths is unknown.
- **Migrant flows.** Social science research suggests that border enforcement has had the unintended consequence of encouraging unauthorized migrants to settle permanently in the United States rather than working temporarily and then returning home, as was more common prior to the mid-1980s.⁵⁴ A second unintended consequence of enhanced border enforcement between ports of entry has been an apparent increase in illegal entries through ports of entry and other means.⁵⁵ There is also anecdotal evidence that unauthorized aliens have turned to maritime routes and border tunnels as alternative strategies to cross the U.S.-Mexican border.⁵⁶
- **Effects on border communities and environmental impact.** As with border crime and violence, the effects of enforcement on border communities and the environment are complex because they reflect changes in migrant behavior and the secondary effects of enforcement *per se*. Border enforcement benefits local communities because unauthorized migration imposes costs on local services, strains public safety resources, and undermines the rule of law. Yet enforcement also may disrupt local economic activity by discouraging travel and commerce; and some residents of border communities see enhanced border enforcement as leading to racial profiling, wrongful detentions, and other adverse consequences.⁵⁷ Similarly, border enforcement may benefit the

⁵³ For a fuller discussion of indirect costs and benefits, see CRS, *Immigration Enforcement Between Ports of Entry*.

⁵⁴ For example, see Wayne Cornelius, “Evaluating Recent US Immigration Control Policy: What Mexican Migrants Can Tell Us,” in *Crossing and Controlling Borders: Immigration Policies and Their Impact on Migrants’ Journeys*, ed. Mechthild Baumann, Astrid Lorenz, and Kerstin Rosenhow (Farmington, MI: Budrich Unipress Ltd, 2011).

⁵⁵ See for example, Jonathan Hicken, Mollie Cohen, and Jorge Narvaez, “Double Jeopardy: How U.S. Enforcement Policies Shape Tunkaseno Migration,” in *Mexican Migration and the U.S. Economic Crisis*, ed. Wayne A. Cornelius, Davide FitzGerald, Pedor Lewin Fischer, and Leah Muse-Orlinoff (La Jolla, CA: University of California, San Diego Center for Comparative Immigration Studies, 2010), p. 66.

⁵⁶ See for example, Richard Marosi, “Border Battle Over Illegal Immigration Shifts to Beaches,” *Los Angeles Times*, March 24, 2011; Associated Press, “Major Drug Tunnel Found in San Diego,” *Washington Post*, November 30, 2011.

⁵⁷ See for example, NY School of Law, NY Civil Liberties Union, and Families for Freedom, *Justice Derailed: What Raids On*

environment because some illegal border crossers transit through sensitive environmental areas, cutting vegetation for shelter and fire, causing wildfires, increasing erosion through repeated use of trails, and discarding trash.⁵⁸ At the same time, the construction of fencing, roads, and other tactical infrastructure may damage sensitive border-area ecosystems; and some environmental groups have opposed border infrastructure projects.⁵⁹

- **U.S. foreign relations.** The United States has strong border partnerships with Mexico and Canada, but issues related to migration control and border enforcement have been occasional sources of tension, particular in the U.S.-Mexican case, and may lead to missed opportunities for deeper cooperation at the border and beyond.⁶⁰

Opportunity Costs

In a world of scarce resources, funding for USBP may be seen as competing with funding for other DHS components like CBP's Office of Field Operations (OFO), which is responsible for inspections and enforcement at POEs, and ICE, which is responsible for DHS investigations and most enforcement activities related to transnational crime within the United States, among other competing priorities.

For example, **Figure 8** focuses on the allocation of resources to enforcement between POEs vs. inspections and enforcement at POEs since the creation of the Department of Homeland Security. The bars indicate the number of full time equivalent (FTE) positions funded for these two activities, and the lines represent total congressional appropriations to each (including funding to USBP and for fencing and tactical infrastructure in the case of enforcement between the ports). As the figure illustrates, resources between the ports (the green bars and lines in the figure) have grown much faster than OFO resources (the blue lines and bars in the figure). Funding for enforcement between the ports more than doubled in the 2004-2012 period, from \$1.9 to \$4.0 billion (108% growth), while OFO funding has increased by less than one-third, from \$2.2 to \$2.9 billion (32%). Similarly, FTEs for enforcement between POEs increased from 11,745 to 23,306 (98% growth), while OFO FTEs increased from 17,467 to 21,893 FTEs (25% growth).

See Attachment: **Figure 8**.

2012 National Border Patrol Strategy

Based on preliminary information USBP has made available about the 2012 Border Patrol Strategic Plan,⁶¹ the plan will emphasize a risk-based approach to border security that emphasizes the use of information and intelligence to identify threats, and the integration and rapid deployment of USBP resources to target enforcement to the points of greatest vulnerability and where the risk of incursion is highest. Whereas the 1994 plan focused primarily on moving adequate resources into the border region, the 2004 plan began to focus attention on how such resources were allocated, and the 2012 plan reportedly will continue the shift in this direction to focus enforcement on high-priority targets. The plan

New York's Trains And Buses Reveal About Border Patrol's Interior Enforcement Practices, New York: November, 2011, http://www.nyclu.org/files/publications/NYCLU_justicederailedweb.pdf; Lornet Turnbull and Roberto Daza, "Climate of Fear Grips Forks Illegal Immigrants," *Seattle Times*, June 26, 2011.

⁵⁸ Department of Homeland Security, *Environmental Impact Statement for the Completion of the 14-mile Border Infrastructure System, San Diego, California* (July 2003), pp. 1-11.

⁵⁹ See e.g., Defenders of Wildlife, "Wildlife and Border Policy," http://www.defenders.org/programs_and_policy/habitat_conservation/federal_lands/border_policy/. Also see CRS Report R42346, *Federal Land Ownership: Overview and Data*, by Ross W. Gorte et al.

⁶⁰ On U.S.-Canadian border issues, see CRS Report 96-397, *Canada-U.S. Relations*, coordinated by Carl Ek and Ian F. Fergusson; on U.S.-Mexican border issues, see Marc R. Rosenblum, *Obstacles and Opportunities for Regional Cooperation: The US-Mexico Case*, Migration Policy Institute, April 2011, <http://www.migrationpolicy.org/pubs/USMexico-cooperation.pdf>.

⁶¹ Information about the 2012 National Strategy is based on USBP Office of Legislative Affairs staff briefing for the Senate Committee on Homeland Security and Government Affairs, February 13, 2012.

reportedly will continue to strike a balance between USBP's traditional emphasis on preventing illegal migration and the agency's post-9/11 priority missions of preventing the entry of terrorists and terrorist weapons, along with the recent U.S. focus on combating transnational criminal organizations.

Concluding Comments: Threats, Vulnerabilities, and Policy Responses

The 2012 USBP strategic plan reportedly describes the goal of border security in terms of risk management: a process that involves "identifying, analyzing, assessing, and communicating risk and accepting, avoiding, transferring or controlling it to an acceptable level considering associated costs and benefits of any actions taken."⁶² DHS defines risk as a function of specific threats, America's vulnerability to such threats, and their potential consequences.⁶³

From a border security perspective, four types of transnational threats may be especially important to consider: weapons of mass destruction (WMD), drugs and other contraband, potential terrorists and other "bad actors," and "regular" unauthorized migrants (illegal migration). These threats have substantially different overall risk profiles. By most estimates, the entry of WMD and "bad actors" are high-consequence but low-probability risks. Conversely, compared to the threats from WMD and "bad actors," illegal migration is a lower-consequence, higher-probability event—though some of the consequences of unauthorized migration do not lend themselves to precise measurement, and people may disagree about how to evaluate them. The entry of drugs and other contraband fall in between these two extremes.

Important differences also exist across different border zones in terms of America's vulnerability to transnational threats. For example, while the Southwest border between POEs historically has been a major point of vulnerability with respect to illegal migration and marijuana smuggling, most experts do not consider the Southwest border between POEs to be the most important point of vulnerability to WMDs or other types of drugs and contraband, both of which are more likely to be smuggled into the United States through a port.⁶⁴ Similarly, given existing enforcement infrastructure, the Southwest border may not be the greatest point of vulnerability with respect to individual "bad actors," who may be more likely to attempt illegal entry through POEs or to enter the United States from Canada or at a coastal border.⁶⁵

A third set of considerations focuses on expected policy benefits: the potential for a given policy to reduce risk. Most border security policies *per se* are designed to reduce vulnerability to a threat or group of threats. Policies within the United States also may be designed to lower the consequences and/or likelihood that a potential event will occur, for example, by hardening infrastructure, reducing demand for illegal employment, or disrupting smugglers' financial networks.

For these reasons, the USBP 2012 National Strategy appears to raise important and appropriate questions about future U.S. border security investments and policies. What are the most serious security threats confronted by the United States, and where are its greatest points of vulnerability? What additional investments and policy responses would produce the greatest reduction in risks to the United States? While some of the answers undoubtedly will direct attention to traditional investments in Southwest border personnel, infrastructure, and technology, USBP's focus on risk management also may direct additional attention to how we manage flows through ports of entry and to enforcement policies within the United States.

⁶² DHS Risk Steering Committee, *DHS Risk Lexicon*, September 2010, <http://www.dhs.gov/xlibrary/assets/dhs-risk-lexicon-2010.pdf>, p. 30.

⁶³ *Ibid.*, pp. 27-38.

⁶⁴ See for example, U.S. Department of Justice, National Drug Intelligence Center, *National Drug Threat Assessment: 2011*, Washington, DC: August, 2011.

⁶⁵ See for example, testimony of K. Jack Riley before the House Homeland Security Committee, Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity, *Border Security and the Terrorist Threat*, 109th Cong., 2nd sess., August 8, 2006.