

BORDER SECURITY: MOVING BEYOND PAST BENCHMARKS

Summary

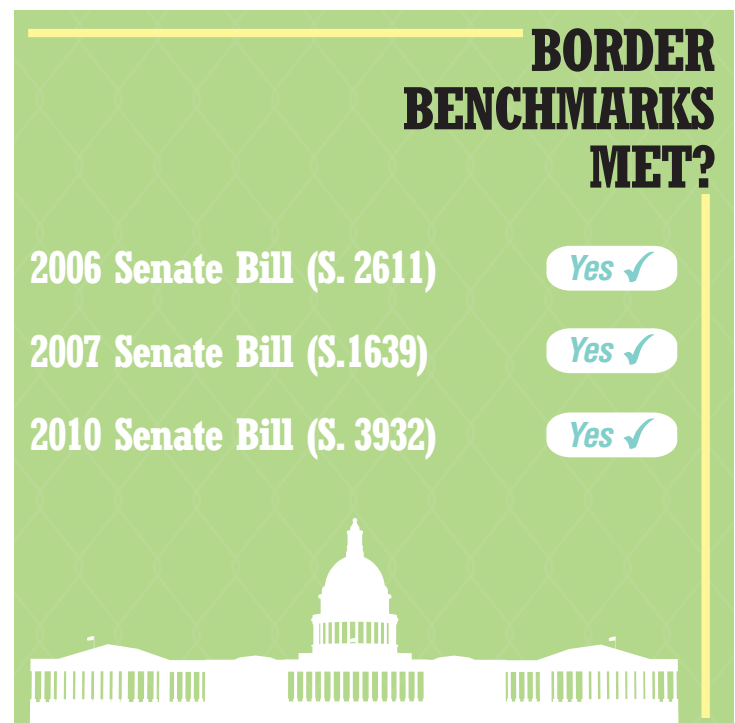
For years, but especially after 9/11, the calls for border security have been increasing with many lawmakers demanding that the border must be secured. The idea has gained traction, and recent comprehensive immigration bills have been loaded with border security measures that include more border agents, fencing, and high-tech surveillance, and the expanded use of detention. Proposals, such as the 2007 Senate reform bill (S.1639), went further by requiring that specific benchmarks, “triggers,” be met before legalization could take place.¹

Though none of these proposals became law, a resource-heavy approach has been implemented and has resulted in a dramatic build-up of border security and a massive expenditure of resources focused on the following: 1) Achieving “operational control” of the border; 2) Increasing border personnel; 3) Increasing border infrastructure and surveillance; and 4) Increasing penalties for border crossers, including prosecution and incarceration. In FY 2012, Customs and Border Protection (CBP) alone was funded at \$11.7 billion, an increase of 64% since FY 2006.² In 2010, Congress passed a special border security bill providing an additional \$600 million on top of the amount already appropriated.³

This report examines past immigration reform proposals, specifically the 2006, 2007, and 2010 Senate bills (S. 2611, S.1639, and S.3932), and evaluates the proposals in these four areas: operational control, border personnel, border infrastructure and technology, and detention.

Missing from these proposals is a proven way to measure when the border is reasonably secure. For example, lawmakers call for dramatic increases in spending on border agents without stating how many more personnel are actually needed to ensure border security. The 2007 bill proposed raising the total number of border agents to 20,000, but never explained why that number of agents is necessary. In fact, the number of agents on the border has increased steadily for the past several years. In 2011, there were 21,444 border agents, nearly double the number in 2006. Despite these increases, which exceed the number proposed in the 2007 bill, calls for more border agents persist.

Often-cited indicators of progress by CBP are the number of apprehensions of unauthorized entrants, the level of violence at border towns, and the seizures of contraband. In recent testimonies before Congress, CBP reported significant achievements in each of these areas. Apprehensions at the border are down more than 80 percent from



peak numbers in 2000. FBI crime reports from 2010 show that violent crimes in southwest border states have dropped an average of 40 percent in the last 20 years.⁴

Yet, the calls for increased border security continue, even at a time when border apprehensions are at the lowest rate in more than 40 years. Border agents are completing only a few apprehensions per agent per week. Also, some border agents have been aiding other law enforcement agencies with tasks unrelated to their mission.⁵ Immigration reform proposals need to identify clearer goals for border security and ways to measure success rather than simply increasing resources.

Operational Control—An ‘Outdated Measure’⁶

The 2007 Senate bill (S. 1639) required DHS to demonstrate operational control of the border between the United States and Mexico. Recent bills and congressional reports have continued to call for operational control.⁷

“Operational control,” as defined by the Secure Fence Act of 2006, sets an unrealistic expectation that the border can be 100 percent sealed.⁸ The GAO, in its testimony before Congress, noted that “[r]esources that would be needed to absolutely prevent every single incursion would be something probably out of reasonable consideration.” As of February 2011, the GAO reported that the southwest border is at 44 percent operational control, with nearly two-thirds of the remaining 56 percent at the “monitored” level, and the rest at “low-level monitored.”⁹

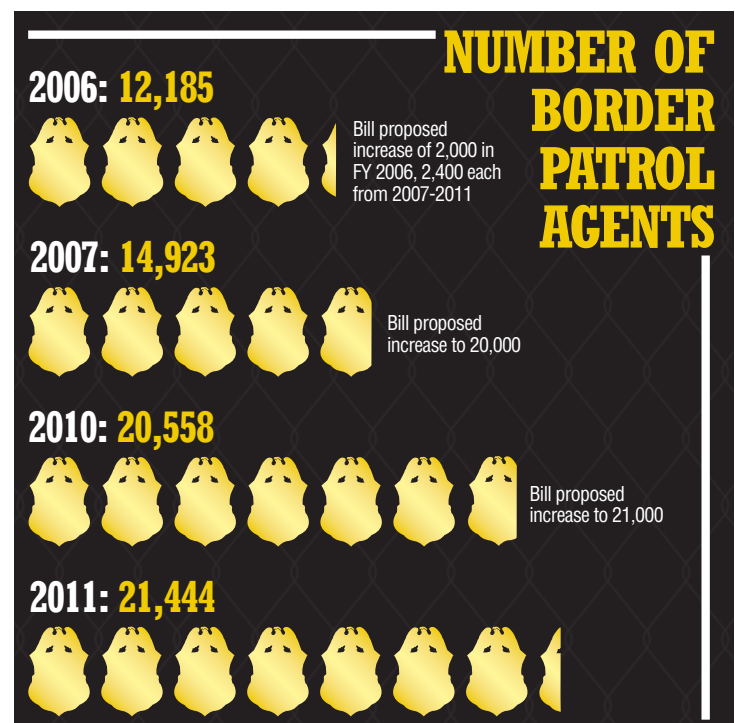
Achieving absolute border control, whereby no single individual crosses into a state without that state’s authorization, is impossible. Commentators have noted, “the only nations that have come close to such control were totalitarian, with leaders who had no qualms about imposing border control with shoot-to-kill orders.”¹⁰

DHS itself has moved away from using “operational control” as an outcome measure for border security, and cites the need to establish a border security measure that reflects “a more quantitative methodology as well as the department’s evolving vision for border control.”¹¹ In 2011, Border Patrol Chief Michael Fisher, in his testimony before Congress, called operational control an “outdated measure.” The 2012–16 Border Patrol Strategic Plan does not mention “operational control,” and instead, focuses on goals that would “[mitigate] risk rather than [increase] resources to secure the border.”¹²

Border Personnel

The 2006 (S. 2611), 2007 (S. 1639), and 2010 (S. 3932) bills prescribe large increases in Border Patrol agents, through incremental annual increases or set numbers.¹³ Comparatively small increases for CBP officers at ports of entry (POE) are also included. For example, the 2006 bill proposed an annual increase of 2,400 Border Patrol agents for the next five years, compared to an annual increase of 500 for POE inspectors. As cited previously, since 2006, Congress has funded a near-doubling of Border Patrol agents, from 12,185 to 21,444, and current numbers exceed the numbers set forth in the 2006, 2007, and 2010 bills.

The fallacy that more agents equals greater overall security has resulted in continued proposals for more



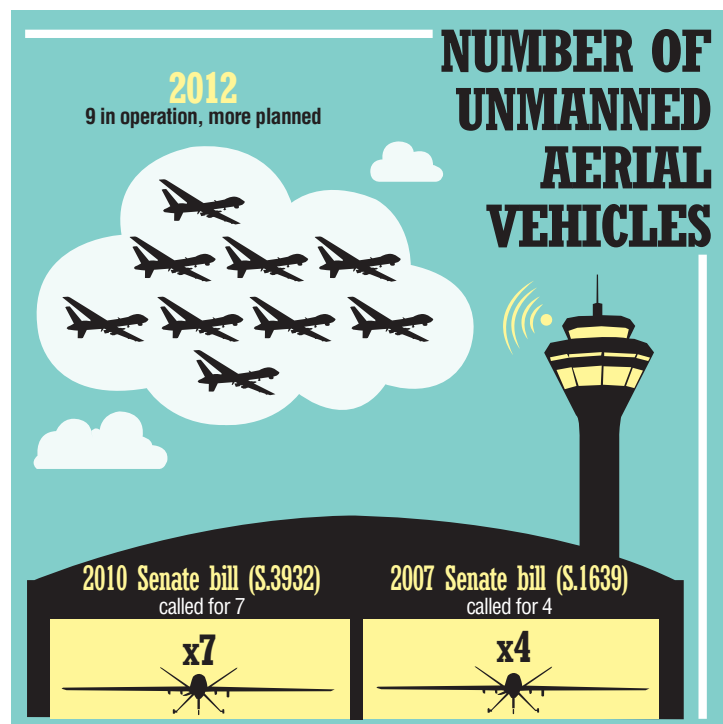
personnel without a clear evaluation of security goals. Despite historical increases, recent immigration proposals continue to call for more personnel.¹⁴ These calls for more border personnel are unjustifiable when apprehensions by Border Patrol nationwide are at the lowest level since 1972.¹⁵

This focus on personnel between ports of entry has coincided with an increase in traffic through ports of entry. At the same time that apprehensions between the ports of entry decreased nationwide, illegal entries through ports of entry have increased. Ports of entry have also seen an increase in seizures of drugs, weapons, and currency.¹⁶ Moving forward, there needs to be an evaluation and establishment of clear and reasoned goals and strategies for resource allocation at the border to address needs on the ground.

Border Infrastructure/Surveillance

In conjunction with personnel, the border has seen increases in infrastructure and surveillance technologies. The 2007 and 2010 bills call for the construction of fencing and increase of Unmanned Aerial Vehicles (UAVs). Congress has answered by pouring billions into border infrastructure to build double-layer fencing and remote surveillance systems and deploying increasing numbers of UAVs. Current numbers exceed the markers set in the 2007 and 2010 bills. In particular, the 2007 bill required the construction of 370 miles of fencing and 300 miles of vehicle barriers, 105 ground surveillance towers, and four UAVs. As of 2012, CBP had 651 miles of fencing, 300 video surveillance systems installed, and nine UAVs in operation.¹⁷

Since 2006, DHS has poured approximately \$4.4 billion into border technology and infrastructure. In 2010, DHS terminated *SBI*net, the “virtual fence,” after incurring costs of nearly a billion dollars and only 2.5 percent of the project completed. In 2011, the GAO reported concern for CBP’s implementation of a new technology plan when “cost and operational effectiveness and suitability are not yet clear.”¹⁸



Detention

Border security has also resulted in dramatic increases in resources for detention and prosecution of immigration-related offenses. The 2006 and 2007 bills called for an increase in the number of detention beds, 20,000 and 31,500 respectively, benchmarks that have been met and exceeded. The current congressional appropriation for detention beds sets a level of 34,000 beds.

Legislatively mandating the number of detention beds raises similar issues as with “operational control,” by setting inflexible goals and taking away the ability of agencies to adapt to shifting risks and enforcement needs. In 2012, DHS Secretary Janet Napolitano testified before the House Homeland Security Appropriations Subcommittee and requested fewer funds for detention beds for FY 2013 compared to the previous fiscal year. She stated that “[DHS had] enough beds to handle the detained population.”¹⁹ Nonetheless, Congress raised the appropriation for FY 2013. ■

Appendix

Current status of Benchmarks:

Border Personnel

	BORDER SECURITY BENCHMARKS	BENCHMARK MET?	CURRENT STATUS
2006 CIR (S. 2611)	CBP Officers <ul style="list-style-type: none"> Each fiscal year from 2007-2011, increase by not less than 500 the number of POE inspectors 	Yes until FY 2010	CBP Officers <ul style="list-style-type: none"> FY 2008: 19,726 FY 2009: 21,058 FY 2010: 20,687 FY 2011: 21,063
	Border Patrol <ul style="list-style-type: none"> Increase of Border Patrol agents: 2,000 in FY 2006, 2,400 each year from 2007-2011. (Border Patrol FY 2006- 12,185) 	Yes until FY 2010	
2007 (S. 1639)	Border Patrol <ul style="list-style-type: none"> Increase of Border Patrol agents to 20,000 (Border Patrol FY 2007-14,923) 	Yes	Border Patrol Agents <ul style="list-style-type: none"> FY 2006: 12,185 FY 2007: 14,923 FY 2008: 17,499 FY 2009: 20,119 FY 2010: 20,558 FY 2011: 21,444
2010 (S. 3932)	Border Patrol <ul style="list-style-type: none"> Increase of Border Patrol agents to 21,000 	Yes	
	CBP Officers <ul style="list-style-type: none"> Increase of CBP officers to 21,500 	No	Apprehensions in the southwest have fallen to numbers lower than any seen since 1972. ²⁰

Border Infrastructure & Technology

	BORDER SECURITY BENCHMARKS	BENCHMARK MET?	CURRENT STATUS
2007 (S. 1639)	Fencing/Barriers <ul style="list-style-type: none"> • 300 miles of vehicle barriers • 370 miles of fencing 	Yes	Fencing/Barriers: As of February, 2012: <ul style="list-style-type: none"> • ~651 miles of pedestrian and vehicle fencing have been completed along the Southern border, including 352 miles of pedestrian fencing and 299 miles of vehicle barriers.²¹ • As of 2012, the border fence has cost over \$3 billion²², and over time may cost \$6.5 billion more in construction and maintenance, while only lasting for 20 years.²³ Surveillance: <ul style="list-style-type: none"> • As of September 2012, 300 Remote Video Surveillance Systems (tower with pair of day and night cameras monitored by personnel)²⁴ • As of June 2011, 33 Mobile Surveillance Systems (truck-mounted cameras and radars)²⁵ Unmanned Aerial Vehicles: <ul style="list-style-type: none"> • 9 UAVs in operation as of August 2012²⁶ • \$240.6 million since FY 2004 to establish a UAV program within CBP²⁷ • OIG audit (May 2012) <ul style="list-style-type: none"> • “CBP procured unmanned aircraft before implementing adequate plans to do the following: Achieve the desired level of operation; Acquire sufficient funding to provide necessary operations, maintenance, and equipment; and coordinate and support stakeholder needs,” • Recommends holding off on any further purchases until reforms are made
	Surveillance <ul style="list-style-type: none"> • 105 ground-based radar and camera towers 	Yes	
	Unmanned Aerial Vehicles <ul style="list-style-type: none"> • 4 unmanned aerial vehicles deployed for use 	Yes	
2010 (S. 3932)	Surveillance <ul style="list-style-type: none"> • 300 remote video surveillance sites • 56 mobile surveillance systems 	Yes (for RVSS, need more current #'s for MVSS)	
	Unmanned Aerial Vehicles <ul style="list-style-type: none"> • 7 unmanned aircraft systems 	Yes	

Detention Beds

	BORDER SECURITY BENCHMARKS	BENCHMARK MET?	CURRENT STATUS
2006 CIR (S. 2611)	Detention Beds <ul style="list-style-type: none"> • Construction/acquisition of additional detention facilities that have the capacity to detain at least 20,000 individuals at any time 	Yes	Detention Beds: <ul style="list-style-type: none"> • ICE is now funded to detain up to 34,000 individuals in detention at any given time based on the FY 2012 appropriation levels.
2007 (S. 1639)	Mandatory Detention <ul style="list-style-type: none"> • Detention of all removable aliens apprehended 	No	
	Detention Beds <ul style="list-style-type: none"> • ICE has resources to detain up to 31,500 individuals per day on an annual basis 	Yes	

Related Resources

- Center for American Progress, “[The ‘Border Security First’ Argument: A Red Herring Undermining Real Security](#)” (March 29, 2011)
- National Immigration Forum, “[Immigration Enforcement Today Measured Against Benchmarks Set in 2007](#),” (December 2011)

Endnotes

1. Text of S. 1639- Kennedy (D-MA) & Specter (R-PA) <http://www.aila.org/content/default.aspx?docid=22682>;
2. DHS, Budget-in-Brief, FY 2007 http://www.dhs.gov/xlibrary/assets/Budget_BIB-FY2007.pdf; DHS, Budget-in-Brief, FY 2012
3. Text of Public Law 111-230. <http://www.gpo.gov/fdsys/pkg/PLAW-111publ230/pdf/PLAW-111publ230.pdf> (\$305.9 of the \$600 million went to CBP to fund the hiring of new personnel, including 1,000 new Border Patrol agents and 250 CBP officers, greater use of UAVs, and new communications equipment. http://www.cbsnews.com/2100-250_162-6768934.html).
4. Josiah McC. Heyman, “Guns, Drugs, and Money,” Immigration Policy Center. (September 2011) http://immigrationpolicy.org/sites/default/files/docs/Heyman_-_Drugs_Guns_and_Money_091211.pdf
5. Lisa Graybill, “Border Patrol Agents as Interpreters Along the Northern Border: Unwise Policy, Illegal Practice,” Immigration Policy Center. (September 2012) <http://www.immigrationpolicy.org/sites/default/files/docs/borderpatrolagentsasinterpreters.pdf>; (The report documents CBP participation in providing translation and responding to 911 emergency assistance calls); November 21, 2012 -CBP released guidance on providing language-assistance, which directs CBP to redirect requests for assistance based solely on a need for language translation. <http://foiarr.cbp.gov/streamingWord.asp?i=1233>; Richard Marosi, “Plunge in Border Crossings Leaves Agents Fighting Boredom,” Los Angeles Times, Apr. 21, 2011;
6. Testimony of Michael Fisher, House Homeland Security Committee, Subcommittee on Border and Maritime Security, “Securing our Borders- Operational Control and the Path Forward.” (February 15, 2011) http://www.cbp.gov/xp/cgov/newsroom/con_res/ref_rec/congressional_test/fisher_testifies/chief_fisher.xml (“Since 2004, CBP has used ‘operational control’ to describe the security of our borders. However, this measure did not accurately represent the Border Patrol’s significant investments in personnel, technology, and resources or the efforts of other DHS Components who are engaged in border security such as ICE and the U.S. Coast Guard. Operational Control as applied by the U.S. Border Patrol is the ability to detect, identify, classify, and then respond to and resolve illegal entries along our U.S. Borders. . . The Border Patrol is currently taking steps to replace this outdated measure with performance metrics that more accurately depict the state of border security.”)
7. Congress, in the FY 2012 House Homeland Security Appropriations Conference Report: (“[committee] has consistently directed that CBP employ a comprehensive strategy for achieving operational control of the border, including identifying and utilizing the right mix of people, infrastructure and technology.”); H.R. 1091 Unlawful Border Entry Prevention Act - Hunger (R-CA) (112th) <http://www.govtrack.us/congress/bills/112/hr1091/text>– (calls for a plan to achieve operational control of border experiencing at least 40percent increase in apprehensions and directs DOD to deploy additional National Guard until DHS certifies operational control of the border)
8. Secure Fence Act of 2006: (“‘operational control’ means the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.”) <http://www.govtrack.us/congress/bills/109/hr6061/text>
9. GAO Report, “Border Security: Preliminary Observations on Border Control Measures for the Southwest Border” (February 2011) <http://www.gao.gov/new.items/d11374t.pdf>. See also Edward Alden, “Immigration and Border Control,” Cato Journal Vol.32, No. 1 (Winter 2012) <http://www.cato.org/pubs/journal/cj32n1/cj32n1-8.pdf> (“Evading border enforcement has become more difficult, more expensive, and more uncertain than before. But border control will always remain imperfect; it is not possible for the United States to create a perfectly secure border, and that should not be the goal.”)
10. Rey Koslowski, “The Evolution of Border Controls as a mechanism to Prevent Illegal Immigration” Migration Policy Institute. (February 2011) <http://www.migrationpolicy.org/pubs/bordercontrols-koslowski.pdf>
11. GAO Testimony, “Border Patrol Strategy: Progress and Challenges in Implementation and Assessment Efforts,” House Homeland Security Committee, Subcommittee on Border and Maritime Security (May 8, 2012) <http://www.gao.gov/assets/600/590686.pdf>



12. 2012-2016 Border Patrol Strategic Plan <http://www.aila.org/content/default.aspx?docid=41854>; GAO, "Border Patrol: Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs," (December 2012), <http://www.gao.gov/products/GAO-13-25>; Congressional Research Service, "Border Security: Immigration Enforcement Between Ports of Entry," (January 2012) <http://fpc.state.gov/documents/organization/180681.pdf> ("[A]ccording to CBP officials, effective control will be replaced by a "border condition index," which will combine multiple dimensions of border security, public safety, and quality of life into a holistic "score" that can be calculated for different regions of the border."
13. Text of S. 2611 Specter (R-PA) <http://www.aila.org/content/default.aspx?docid=19568>; Text of S. 3932- Leahy (D-VT) & Menendez (D-NJ) <http://www.govtrack.us/congress/bills/111/s3932/text>
14. Key Provisions of McCain-Kyl Border Security Enforcement Act of 2011 (proposing an increase of 6,000 National Guard troops to be deployed to the border and additional 5,000 Border Patrol agents, because "the border is still not secure."; Other Bills introduced in the 112th Congress calling for more personnel: H.R. 152 (Poe)- directing deployment of at least 10,000 National Guard troops, H.R. 1196 (Miller)-proposing increase of 8,000 Border Patrol agents by 2015.
15. USBP Apprehensions FY 1925-2011 http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/25_10_app_stats.ctt/25_11_app_stats.pdf; National Immigration Forum, "Immigration Enforcement Fiscal Overview: Where are We, and Where are We Going?" Feb. 2011.; Richard Marosi, "Plunge in Border Crossings Leaves Agents Fighting Boredom," Los Angeles Times, Apr. 21, 2011
16. Testimony of Michael Fisher, House Committee on Homeland Security, Subcommittee on Border and Maritime Security, "Measuring Border Security: U.S. Border Patrol's new Strategic Plan and the Path Forward." (May 8, 2012) <http://www.dhs.gov/news/2012/05/08/written-testimony-us-customs-and-border-protection-house-homeland-security> (CBP seized 159 percent more weapons along the southwest border in FY 2009-2011 compared to the preceding 3 years. For those same periods, CBP also seized 74 percent more currency and 41 percent more drugs.); Susan Ginsburg, "Countering Terrorist Mobility: Shaping an Operational Strategy" Migration Policy Institute. (2006) http://www.migrationpolicy.org/pubs/MPI_TaskForce_Ginsburg.pdf (There is a question of priority when current policies and rhetoric emphasize "non-port security along the U.S.-Mexico border, despite the terrorist threats being either via airport entry points or internal to the United States, and guns, drugs, and money mainly flowing through land ports.")
17. CBP factsheet http://www.cbp.gov/xp/cgov/border_security/ti/ti_news/sbi_fence/; Testimony of Michael Fisher, House Homeland Security Committee, Subcommittee on Border and Maritime Security, "Securing our Borders- Operational Control and the Path Forward." (February 15, 2011) http://www.cbp.gov/xp/cgov/newsroom/con_res/ref_rec/congressional_test/fisher_testifies/chief_fisher.xml ("Out of 652 miles where Border Patrol field commanders determined was operationally required"); CBP, "Environmental Assessment for Remote Video Surveillance Systems," (September 2012) http://www.cbp.gov/linkhandler/cgov/border_security/otia/sbi_news/sbi_enviro_docs/nepa/otia_arizona/rvss_sept2012.ctt/rvss_sept2012.pdf; CBP Factsheet, "Unmanned Aircraft System MQ-9 Predator B," 08/12 http://www.cbp.gov/linkhandler/cgov/border_security/am/operations/oam_vessels/aircraft/uas/predator_b.xml/predator_b.pdf
18. GAO, "Border Security: DHS Progress and Challenges in Securing the Southwest and Northern Borders" (March 30, 2011), <http://www.gao.gov/new.items/d11508t.pdf>; DHS, "Report on the Assessment of the Secure border Initiative-Network (SBI-net) Program," (2010) http://www.globalexchange.org/sites/default/files/DHS_Report.pdf
19. Secretary Janet Napolitano. Hearing before House Appropriations Subcommittee on Homeland Security on FY 2013 DHS Appropriations. (February 15, 2012) http://www.micevhill.com/attachments/immigration_documents/hosted_documents/112th_congress/TranscriptOfHouseAppropriationsSubcommitteeOnHomelandSecurityHearingOnFY-13BudgetForDHSNapolitano.pdf
20. USBP Apprehensions FY 1925-2011 http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/25_10_app_stats.ctt/25_11_app_stats.pdf
21. CBP Factsheet. http://www.cbp.gov/xp/cgov/border_security/ti/ti_news/sbi_fence/
22. Robin Emmott, "U.S.-Mexico border wall a costly failure, film says," Reuters (Sept. 15, 2010).
23. Border Security: DHS Progress and Challenges in Securing the Southwest and Northern Borders, GAO, March 30, 2011, <http://www.gao.gov/new.items/d11508t.pdf>.
24. CBP, "Environmental Assessment for Remote Video Surveillance Systems" (September 2012) http://www.cbp.gov/linkhandler/cgov/border_security/otia/sbi_news/sbi_enviro_docs/nepa/otia_arizona/rvss_sept2012.ctt/rvss_sept2012.pdf
25. GAO, "U.S. Customs and Border Protection's Border Security Fencing, Infrastructure and Technology Fiscal Year 2011 Expenditure Plan. (November 17, 2011) <http://www.gao.gov/assets/590/586348.pdf>
26. CBP Factsheet, "Unmanned Aircraft System MQ-9 Predator B" 08/12 http://www.cbp.gov/linkhandler/cgov/border_security/am/operations/oam_vessels/aircraft/uas/predator_b.xml/predator_b.pdf
27. OIG Report. "CBP's Use of Unmanned Aircraft Systems in the Nation's Border Security," (May 2012) http://www.oig.dhs.gov/assets/Mgmt/2012/OIG_12-85_May12.pdf