EFFECTS AND EFFECTIVENESS OF U.S. BORDER SECURITY MEASURES

Testimony for the Committee on Homeland Security and Governmental Affairs hearing on on "Border Security: Measuring the Progress and Addressing the Challenges"
Thursday, March 14, 2013 in SD-342, Dirksen Senate Office Building

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U.S. IMMIGRATION AND BORDER SECURITY: TRENDS, ENFORCEMENT, AND METRICS

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Executive Summary

The U.S.-Mexico border has become increasingly fortified over the last two decades, as U.S. authorities have deployed greater manpower, technology, and physical barriers to prevent the entry of unauthorized immigrants and other perceived threats into U.S. territory. The current border security regime represents an enormous shift from the not so distant past, when the Southwest was a vast, sparsely populated frontier. Over the course of the last century, efforts to improve border enforcement evolved dramatically as a result of reactions to a series of crises related to questions of national identity, nativism, and nationalism in the early 20th century; cross-border smuggling and the war on drugs in the mid- to late-20th century; and, more recently, terrorism and national security in the early 21st century.

Whether these efforts have been effective—and worth the cost—is a matter of considerable debate. At this particular moment, this debate is of especially large consequence. There are presently an estimated 11 million people residing or working in the United States without authorization, either because they entered the country illegally or violated the terms of their immigration status. Both the Obama administration and lawmakers from both major parties have conditioned any forward movement on immigration reform to address this issue upon securing the border effectively.

In the preparation of my testimony, I examine the question of border security effectiveness by: 1) providing an overview of U.S. immigration trends, 2) tracing the evolution of current efforts to combat unauthorized immigration and other border security challenges, and 3) discussing the metrics currently used to evaluate effectiveness. I find, on the one hand, that there has been a tremendous effort by the U.S. government to increase border security in response to the dramatic increase in immigration flows over the last two decades. There is also significant evidence that immigration flows have been affected in a variety of ways, including new routes, methods of entry, and periods of duration in the United States.

On the other hand, available metrics do not appear to support the idea that border security measures have significantly reduced immigration flows. There is considerable room for improvement in the current metrics used to measure the effectiveness of border security. Almost all of the most commonly used metrics of border security effectiveness are proxy indicators. Because we are trying to measure unknowns, we necessarily resort to extrapolation based on arrest and seizure data that provides a highly imperfect indication of performance. As a result, at present, there is very little evidence that further investments in border security will yield the desired result. Moreover, it seems plausible higher fences, greater manpower, and more technology will be ineffective in significantly reducing unauthorized immigration flows in the absence of reforms to facilitate the process for both legal immigration and temporary guest worker status.

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Introduction

The U.S.-Mexico border has become increasingly fortified over the last two decades, as U.S. authorities have deployed greater manpower, technology, and physical barriers to prevent the entry of unauthorized immigrants and other perceived threats into U.S. territory. The current border security regime represents an enormous shift from the not so distant past, when the Southwest was a vast, sparsely populated frontier. Over the course of the last century, efforts to improve border enforcement evolved dramatically as a result of reactions to a series of crises related to questions of national identity, nativism, and nationalism in the early 20th century; cross-border smuggling and the war on drugs in the mid- to late-20th century; and, more recently, terrorism and national security in the early 21st century.

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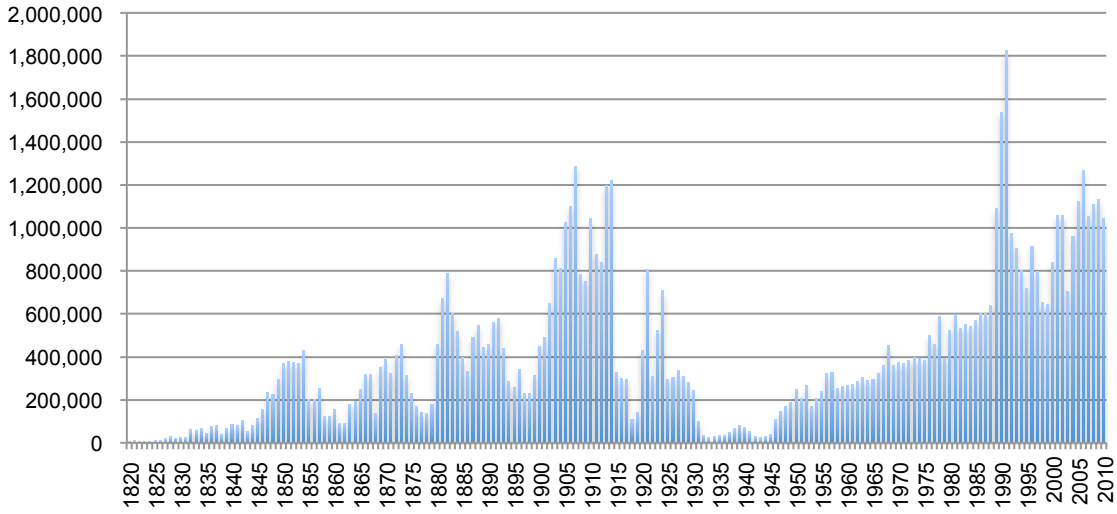
Background: The Origins of U.S. Immigration Control Policy

The inflow of U.S. immigrants has varied significantly over time, bringing newcomers in multiple, distinct waves during the course of the 19th century and 20th centuries. Early U.S. immigration policy was fairly permissive, and the country experienced fluctuating waves of immigration in the 19th century (See Figure 1).[1] Major surges included the massive influx of Irish and German in the 1840s. By the late-19th century, immigrants hailing from Southern and Eastern Europe helped fuel a wave of "new" immigrants that peaked around 8.8 million people from 1900-1910. It is worth noting that significant decreases in immigration occurred during times of trouble in the United States, including the recessions of the 1850s, the Civil War, and the "first" Great Depression in 1873.[2] In any case, throughout the 19th century, there were few significant immigration-related concerns related to U.S. borders or land-based ports of entry. Rather, the focus of border concerns had to do more with their expansion and the elimination or expulsion of original inhabitants of these territories.

Figure 1: Annual Immigration to the United States, 1820-2010

(Number of New Permanent Residents)



Source: Immigration and Naturalization Services and Department of Homeland Security. Note: For most of the 19th century, figures for new immigrants primarily include individuals to U.S. seaports and, starting in 1868, other points of entry (with all land arrivals included in the tally from 1908 onward). For most of the 20th century, official figures include all immigrant aliens admitted for permanent residence.
http://www.dhs.gov/files/statistics/publications/LPR10.shtm

During the first half of the 19th century the U.S. government imposed relatively few restrictions on immigration. Newcomers to the United States were essentially accepted automatically as citizens after an initial two-year period of residency under the Naturalization Act of 1790. Simultaneously, this act ironically imposed the country's first immigration restrictions by excluding Native Americans from eligibility for naturalization. Later, additional criteria were introduced and residency requirements were increased to five years in 1795 and temporarily extended to fourteen years under the 1798 Alien and Sedition Acts,

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which also first established the authority of the executive branch to deport resident aliens.[3] Over the next six decades, however, the federal government imposed no major immigration restrictions or policy measures, despite an 1849 Supreme Court ruling that established Congress's exclusive jurisdiction over immigration.

To be sure, after the U.S.-Mexican War of 1846-68, there were significant efforts by the U.S. federal government, and at the state and local level, to discourage former-Mexican nationals —known as *Mexicanos, Tejanos,* and *Californianos*— from remaining in U.S. territory. There were, also, state and local measures that sought to exclude or curtail the rights of immigrants, particularly in California and other parts of the Southwest where anti-immigrant reactions were especially strong in response to laborers imported from China to build the railroads that fueled the boom. Collectively, these measures illustrated the dividing lines that began to identity —and the establishment of white power— in the border region, setting the stages for policies and tensions over race and immigration for decades to come.

The Civil War marked a critical juncture in U.S. immigration history, as the post-bellum era brought two significant changes. First, the 14th amendment codified the right to *jus soli,* or "birthright" citizenship, for all persons born in the United States in 1868. The precedent for birthright citizenship already existed, but now extended the concept to Native and African Americans in a significant revision of the U.S. construct of national identity. For contemporary relevance, the fact that the legal basis for birthright citizenship became enshrined in the U.S. constitution also presented a high legal obstacle to modern day nativists who continue to protest the idea that the U.S. born children of "aliens" should have citizenship. Second, the federal government began to exercise greater centralized authority in regulating immigration, with a series of exclusionary laws —notably the 1862 Anti-Coolie Act, the 1875 Immigration Act, 1882 Chinese Exclusion Act, the 1907 Gentlemen's Agreement, and the 1903 Immigration Act— that banned the immigration of Asians, criminals, prostitutes, and the mentally impaired and supplanted similar measures previously developed in certain states. Again, as I discuss in more detail in the next section, these measures played out prominently in the border region, setting the foundation and tone for immigration enforcement in the 20th century.[4]

Trends at the national level began to shape immigration policies in ways that would lead to major changes along the border. The massive influx of people at the turn of the 19th century exceeded any previous wave of immigrants to the United States in absolute terms, and increased the resident population by nearly 12%. It also provoked a strong nativist reaction, and inspired new legislation imposing new restrictions on immigrants (e.g., literacy tests) and a series of national origins quotas that culminated in the Immigration Act of 1924. Adding to these restrictions, global economic instability and war brought international migration to a historic low by the 1930s and 1940s. However, the number of immigrants to the United States gradually increased during the post-war era, thanks partly to a more liberal policy environment. Most significantly, the 1965 Immigration and Nationality Act abolished previous discriminatory restrictions and country quotas. Under the 1965 immigration system,

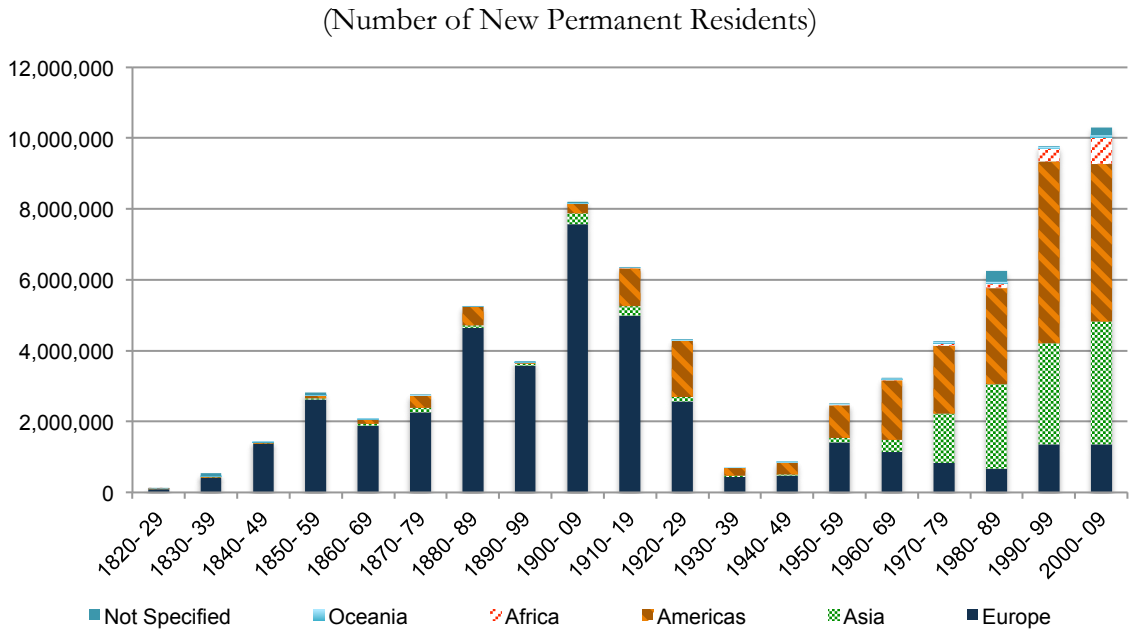
[3] Matthew Spalding, 'From Pluribus to Unum: Immigration and the Founding Fathers', *Policy Review,* (Winter 1994 1994).

[4] They also led to interesting developments in the borderlands as many Asian immigrants fled to Mexico to avoid oppression in the United States; to this day, the best Chinese food in the Southwest is arguably found in the Mexican border town of Mexicali.

all countries were eligible for an equal number of visas (170,000 annually), and a new formula was developed for additional family reunification and employment visas.

This new policy regime was accompanied by —and also contributed to— two major trends in U.S. immigration. The first trend was a sharp change in demographics, as new inflows of immigrants came increasingly from the Americas and Asia (See Figure 2).[5] The second trend was a significant increase in unauthorized immigration in the 1970s, largely from Mexico and Central American countries that were previously exempt from national origins quotas.[6]

Figure 2: Immigration to the United States by Decade and by Region, 1820-2009



Source: Immigration and Naturalization Services and Department of Homeland Security. http://www.dhs.gov/files/statistics/publications/LPR10.shtm

In the 1980s, as the United States rebounded from economic crisis, there was a dramatic surge in immigration from the Americas and from Asia. In a single decade, the number of Latin American immigrants increased by roughly 50% (from 1.9 million in the 1970s to nearly 2.7 million in the 1980s), while the number of Asian immigrants grew 70% (from 1.4 million in the 1970s to nearly 2.4 million in the 1980s). Migration from the Americas was driven largely by economic and political instability, with large numbers of immigrants coming from Mexico and Central America. Likewise, economic crises and structural reforms in several Asian countries brought numerous immigrants from the Philippines, China, South Korea and India.

[5] This shift actually began during the war, when large numbers of Mexican and Central American immigrants were recruited under the Bracero Program initiated in 1943. The war also resulted in the December 1943 repeal of the Chinese Exclusion Act (due to the U.S.-China alliance), and the 1965 War Brides Act.

[6] While there are few reliable estimates for the number of unauthorized persons residing in the United States prior to the 1980s, estimates range from 2 to 12 million. Marc R. Rosenblum, 'Border Security: Immigration Enforcement between Ports of Entry', *CRS Report for Congress* (Washington, D.C.: Congressional Research Service, 2012). p. 1.

Along with these flows of legal immigrants, the number of unauthorized immigrants grew significantly during the 1980s. Rosenblum (2012) notes that the estimated number of unauthorized aliens grew from 1.7 million in 1979 to 3.2 million in 1986. To address the surge in unauthorized immigration, U.S. lawmakers introduced new legislation —the 1986 Immigration Reform and Control Act (IRCA)— which granted amnesty to nearly 2.7 million unauthorized persons, while also mandating new employment regulations and stronger border controls to prevent further unauthorized immigration.

Despite these measures, unauthorized immigration continued and even accelerated after IRCA. Observers cited several reasons, including continued rigidity in visa quotas, inadequate measures to boost border controls, and the fact that amnesty appeared to increase the incentives for family members to migrate to the United States. As amnesty failed to assuage the influx of immigrants, anti-immigrant sentiments grew and politicians increasingly called for tougher measures to prevent the entry of unauthorized immigrants to the United States. For many, the solution to the unbridled flow of immigrants was to "beef up" the border, an approach rooted in the long and particular historical evolution of U.S. immigration controls in the Southwest. Below, I examine the evolution of U.S. border enforcement measures as an outgrowth of the particular policy concerns that accompanied immigration during the 20th century.

The Evolution of U.S. Border Enforcement

As noted above, the U.S.-Mexico border was subject to relatively little enforcement of immigration controls at or between official points of entry throughout most of the 19th century. It is remarkable that the border remained largely "unprotected" in the wake of the hostilities of the U.S.-Mexican war, which ceded nearly half of Mexico's territory to the United States under the 1848 Treaty of Guadalupe Hidalgo. In an effort to secure newly acquired territory throughout the 19th century, sporadic patrols were formed by the U.S. military, local law enforcement authorities, and white vigilante groups that clashed intermittently with the original Native American inhabitants, conquered Mexican settlers, and Chinese and Japanese immigrants drawn to the Southwest as agricultural workers.[7] However, by and large, the border was a vast, open frontier subject to relatively little state control for most of the 19th century.

The first documented immigration enforcement efforts between points of entry were introduced in 1904, when the U.S. Immigration Service organized mounted patrols of immigration inspectors, primarily in an effort to prevent the entry of Chinese immigrants barred from entry to the United States.[8] These early mounted patrols were based in El Paso, Texas, and had little manpower and few designated resources; the border patrol began with just 75 inspectors.[9] The U.S. Congress formally gave the U.S. Immigration Service authority

[7] Kelly Lytle Hernandez, *Migra!: A History of the U.S. Border Patrol* (American Crossroads; Berkeley, Calif.: University of California Press, 2010) xvi , 311 p.
[8] These efforts were supported by occasional law enforcement and military patrols along the border. "Border Patrol History," Customs and Border Protection, Online document drafted January 20, 2010. http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml (Accessed January 20, 2012).
[9] Deborah Waller Meyers, 'U.S. Border Enforcement: From Horseback to High-Tech', (Washington, D.C.: Migration Policy Institute, 2005).

to create designated mounted patrols within the Immigration Service in 1915, though immigration authorities continued to argue for a specific agency for the purpose of patrolling the border.[10]

According to Lytle-Hernandez (2010), with the passage of the national origins quotas established by the Immigration Act of 1924, Congress immediately approved the Labor Appropriation Act of 1924 that created the U.S. Border Patrol to prevent the entry of immigrants between ports of entry. The new agency was housed within the Immigration Bureau of the Department of Labor, appropriated a budget of $1 million, and charged with a mandate to enforce U.S. immigration laws along the northern and southern land borders. Later, Congress passed the Aliens and Nationality Act of 1925, which granted the agency broad powers to detain or arrest aliens in order to enforce immigration law.[11]

In the early days of the Border Patrol, the nearly 2,000-mile border had no fencing and was largely unguarded. As a new law enforcement agency, the Border Patrol faced a daunting challenge and few resources at the outset. The agency had fewer than 500 poorly trained and ill-equipped inspectors. While some were drawn the Texas Rangers and from Mounted Patrol units, the vast majority came from non-law enforcement backgrounds.[12] These new Border Patrol inspectors were literally handed a gun and a badge, but had no standardized uniforms until 1928 or official training academy until 1934.[13] Most inspectors patrolled the border by horseback; inspectors provided their own horse and gear, while the federal government provided feed.[14]

From these inauspicious beginnings, the Border Patrol grew relatively quickly as U.S. concerns about border security grew as a result of the enforcement of Prohibition, the Great Depression, and the outbreak of World War II. In 1932, new command posts were established on both the northern and the southern border, in Detroit and El Paso respectively, as the agency's jurisdiction was expanded include not only immigration offenses

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[10] In a 1918 communication from Supervising Inspector Frank W. Berkshire wrote to U.S. Commissioner-General of Immigration Anthony Caminetti, lobbying for an agency that could be specifically tasked with immigration and customs enforcement along the U.S.-Mexico border. Berkshire is cited as stating, "If the services of men now being drafted cannot be spared for this work, it may be that the various departments vitally interested would give favorable consideration to the formation of an independent organization, composed of men with out the draft age. The assertion is ventured that such an organization, properly equipped and trained, made up of seasoned men, would guard the border more effectively against all forms of lawlessness than a body of soldiers of several times the same number." "Border Patrol History," Customs and Border Protection, Online document drafted January 20, 2010. http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml (Accessed January 20, 2012).

[11] According to Lytle-Hernandez, the Supreme Court had previously established precedent in the 1916 case of *Lew Moy vs. the United States* that aliens would be considered to be entering the country until they had reached their final destination within the United States.

[12] Lytle-Hernandez (2010).

[13] The first Border Patrol academy was inaugurated for a class of 34 inspectors in December 1934 at Camp Chigas, El Paso.

[14] "Border Patrol History," Customs and Border Protection, Online document drafted January 20, 2010. http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml (Accessed January 20, 2012).

but also the burgeoning industry of cross-border smuggling.[15] Meanwhile, the demand for the Border Patrol's services grew amid the concerns of the prohibition era, the collapse of the U.S. economy led to a backlash against Mexican immigrants and even U.S. citizens of Mexican descent, as many as a million of whom returned home or were involuntarily "repatriated" due to the lack of jobs.[16] By 1940, when the agency was transferred from the Department of Labor to the Department of Justice, its personnel grew from 916 to over 1,500 inspectors.[17] The war introduced new responsibilities for the agency, as inspectors were detailed to supervise internment camps for U.S. citizens of Japanese descent and to assist in the detection of airborne and maritime enemy invaders in border states.

The end of the war re-focused the agency on immigration control with a new intensity at the height of the Bracero Program, a guest-worker program that provided special visas for manual and agricultural laborers beginning in 1942.[18] Over course of the 22 years during which the program was in place, nearly four and a half million Mexican and Central American workers were admitted to the United States on a temporary basis. The program was initiated to address the shortfall in manual labor caused by the war effort, but persisted for years afterwards due to the demand from employers for relatively cheap manual labor. Although the Bracero Program was tarnished by deplorable treatment and labor conditions for these workers, the program was the result of a bi-national agreement between the U.S. and Mexican federal governments. As such, it provided for certain protections and employer responsibilities, including standardized wages, housing, health services, a pension upon repatriation, and payment of transportation costs from the home country. The spirit of cooperation between the United States and Mexico during wartime contributed to what many deemed a successful program, at least on paper.

Unfortunately, the number of visas available under the Bracero Program was insufficient to match the supply of willing laborers and the demand from employers, and millions of undocumented workers continued to flood into the U.S. labor market during the 1940s and 1950s. One major problem was that employers in the state of Texas were excluded from the Bracero Program, due to Mexican concerns about practices in that state that contributed to "widespread violation of contracts, discrimination against migrant workers, and such violations of their civil rights as perfunctory arrests for petty causes."[19] Another problem was that the program required laborers to be assigned to a sponsoring employer, and large

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[15] In 1933, the Bureau of Immigration and the Bureau of Naturalization were folded into a single agency known as the Immigration and Naturalization Service.

[16] Dunn (1996) estimates the number of immigrants repatriated during the Great Depression between 500,000 and 1 million. Timothy J. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home* (1st edn., Cmas Border & Migration Studies Series; Austin: CMAS Books University of Texas at Austin, 1996). p. 13.

[17] Lytle-Hernandez indicates that there were 916 inspectors in 1939. The Border Patrol indicates that in 1940 "[a]n additional 712 agents and 57 auxiliary personnel brought the force to 1,531 officers. Over 1,400 people were employed by the Border Patrol in law enforcement and civilian positions by the end of WWII." It is not clear why there were fewer personnel by the end of the war than in 1940. "Border Patrol History," Customs and Border Protection. Online document drafted January 20, 2010. http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml (Accessed January 21, 2012).

[18] Public Law 78.

[19] Fred L. Koestler, "Operation Wetback," *The Handbook of Texas Online*, Texas State Historical Association, Online Document. (Accessed February 2, 2012). http://www.tshaonline.org/handbook/online/articles/pqo01

numbers of Mexicans entered the country without proper permission and/or violated the terms of the program by seeking employment with employers other than the ones who sponsored them.

By the end of the Truman administration (1945-53), there were significant concerns over the growing number of unauthorized immigrants, as well as increasing frictions with Mexico over the poor treatment of workers enrolled in the program. In 1951, the Mexican government temporarily suspended its participation in the program, a change in policy that was ignored by many U.S. employers and Mexican migrants, who continued to enter the country illegally and fueled a sizeable increase in unauthorized immigration. The Border Patrol responded by diverting personnel from the Canadian border, assigning specialized units to deport unauthorized immigrants in both border and interior states, and employing boats and airlifts to repatriate tens of thousands of immigrants to the Mexican interior.[20]

Under the Eisenhower administration (1953-61), the president enlisted the services of the Border Patrol in a massive effort to expel unauthorized Mexicans, known as "Operation Wetback." The total number of unauthorized immigrants deported under the program is disputed, but certainly hundreds of thousands and perhaps over a million people were returned to Mexico. In conducting the operation, the Border Patrol employed mass roundups in large swaths of territory both to detain and encourage unauthorized immigrants to flee back into Mexico. Thus, in addition to those deported by Border Patrol sweeps, tens of thousands of Braceros and unauthorized laborers also likely returned "voluntarily" to Mexico. At the same time, these efforts converted much of the southwest into a hostile place for all people of Mexican descent, since the Border Patrol regularly harassed and even wrongly deported U.S. citizens in its zeal to remove unauthorized Mexicans.[21]

Hence, Operation Wetback firmly established the reputation of the Border Patrol for discriminatory treatment and occasional brutality against immigrants, and specifically Mexicans. Operating at the fringes of the state, agents had substantial discretion and autonomy to define their role in the day-to-day reality of the borderlands. For example, Border Patrol agents had —and still have— the authority to detain, interrogate, or arrest without a warrant whenever there is suspicion that an individual is in violation of U.S. immigration law.[22] Border Patrol agents asserted such authority forcefully—and abused it in many cases—over the course of the agency's history.

At the same time, Operation Wetback greatly expanded and consolidated the Border Patrol's role as a critical mechanism for border enforcement. The role of the Border Patrol arguably

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[20] "Border Patrol History," Customs and Border Protection. Online document drafted January 20, 2010. http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml (Accessed January 21, 2012).

[21] Dunn (1996) points out that the overall deportation effort was largely supported by the Mexican government as a means to protect the interests of Mexicans participating in the Bracero Program. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home.*

[22] In 1981, the Supreme Court's ruling in the case of United States v. Cortez found that the Border Patrol agents in that case had the discretion to detain and search individuals based on the "totality of the circumstances," which essentially granted them the ability to disregard protections from discriminatory racial profiling. That case has since provided a legal precedent for extending to other law enforcement officers the same kind of discretion long exercised by immigration authorities along the border.

became even more significant following the termination of the Bracero Program in 1964, which was followed by the 1965 Immigration and National Act. In addition to creating new country quotas —not based on the discriminatory criteria of the 1920s— the new immigration regime also thereby eliminated special exemptions from such quotas that existed previously for Mexican and Central Americans. With an end to special guest worker visas and new caps on immigration from these countries, the phenomenon of unauthorized immigration proliferated during the late 1960s and 1970s. This provided ample work for Border Patrol agents to continue and intensification its immigration enforcement efforts along the border.[23] By the 1980s, continued concerns about undocumented immigration and the passage of IRCA in 1986 dramatically expand the ranks and resources available to border enforcement agencies.

Border enforcement efforts also intensified significantly in the 1980s due to the proliferation of cross-border smuggling and other criminal activities in the Southwest. While Mexico had been a source of smuggled contraband since the Prohibition Era, the growth of the illicit drug trade enabled Mexican smuggling organizations to proliferate and grow far more powerful than in the past.[24] This was particularly the case during the 1970s and 1980s, as Mexican traffickers began to develop supporting operations to move product for Colombia's drug cartels. While the Colombians primarily trafficked cocaine through the Caribbean and the Gulf of Mexico to deliver the product to Miami, Florida, law enforcement efforts and tighter interdiction forced traffickers to reroute their activities inland to Central America and Mexico.[25] As Mexican traffickers became the inheritors of fallen Colombian kingpins, the share of cocaine passing through Mexico into the United States grew from 30% in the mid-1980s, to at least 50% by the late-1990s, and to 90% in the mid-2000s.[26]

As the Reagan administration (1981-89) ramped up U.S. counter-drug enforcement efforts, the INS strongly asserted itself in this area. The adoption of drug enforcement as a primary mission of the INS, and specifically the Border Patrol, led to a qualitative shift in the agency's role and character. In the context of the fight against organized crime, the agency and border enforcement measures in general became increasingly "militarized," according to Dunn's (1996) characterization. Borrowing from the doctrine of "low intensity conflict" or

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[23] By 1970, Border Patrol operational personnel were reclassified from being "inspectors" to being "agents," reflecting a shift in the internal culture of the agency.

[24] Luis Astorga Almanza and David Shirk, 'Drug Trafficking Organizations and Counter-Drug Strategies in the U.S.-Mexican Context', in Eric Olson, Andrew Selee, and David A. Shirk (eds.), *Shared Responsibility: U.S.-Mexico Policy Options for Confronting Organized Crime* (Washington, D.C.; San Diego, CA: Woodrow Wilson International Center for Scholars; Trans-Border Institute, Joan B. Kroc School of Peace Studies, University of San Diego, 2010).

[25] Eva Bertram et al., *Drug War Politics: The Price of Denial* (University of California Press; Berkeley, Los Angeles, 1996), William O. Walker Iii (ed.), *Drugs in the Western Hemisphere: An Odyssey of Cultures in Conflict* (Jaguar Books on Latin America, Wilmington, DE: Scholarly Resources, 1996).

[26] In 2005, the State Department's International Narcotics Control Strategy Report indicated that the Drug Enforcement Agency (DEA) estimated that 55% of cocaine entering the United States flowed through Mexico. In 2008, the State Department's International Narcotics Control Strategy Report estimated that this percentage had increased to 90%. In January 2011, a report prepared by the same agency indicated that this percentage increased to 95%. While INL is a reasonably credible source on this point, there is little explanation available about how these estimates are obtained or how incremental increases are measured. U.S. Department of State, 'International Narcotics Control Strategy Report (Incsr)', (1; Washington, D.C.: Bureau for International Law Enforcement and Narcotics, 2011).

"counterinsurgency," border enforcement increasingly relied on technologies and tactics often used in military combat:

- Helicopters and fixed-wing aircraft for transportation and reconnaissance;[27]
- Unmanned, remote controlled aerial drones equipped with cameras;
- Electronic sensors (for the detection of heat, sound, and vibration);
- Night vision, radar, and infrared equipment;
- Special forces units (e.g., Border Patrol Tactical Team, BORTAC);[28]
- High powered firearms (e.g., automatic and semi-automatic weapons);[29]
- Special detention facilities for detainees.

Such innovations were complemented by additional measures to fortify and facilitate operational control of border areas, including greater manpower, closed circuit television systems, high-powered lighting, as well as chain link fencing. The growth of the Border Patrol was particularly notable, as the number of agents grew from roughly 2,900 in 1980 to around 4,000 by 1994. In addition, the Immigration Act of 1990 called for new physical barriers along the border, which led the following year to the introduction of seven miles of corrugated metal fencing along the San Diego-Tijuana corridor, using military landing mats that were welded together and installed by Navy Seals.[30] While chain linked fencing had been installed in certain border areas in the 1970s, the introduction of a lengthier and more substantial "wall" along the border was a significant shift that invited both praise and criticism (including comparisons to the soon-to-be-defunct Berlin Wall).

Advocates of these intensified enforcement efforts lauded them as necessary and overdue measures to promote order in a time of turbulence along the border. In addition to the proliferation of drug trafficking, Mexico began to experience severe economic problems during the turbulent decade of the 1980s. In this context, a sense of lawlessness prevailed in key border corridors. Large numbers of would-be immigrants, smugglers, and petty criminals congregated in these areas, often using poorly guarded border zones as a staging area for incursions into the United States. Individuals who ventured into the no man's land along the border became easy targets for predatory criminal activities, including robbery and rape. Meanwhile, residents on both sides of the border were subject to property crimes and other inconveniences that contributed to the mounting political support for an escalation of the strategy of concentrated border enforcement in the 1990s and 2000s.

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[27] Dunn notes that the number of helicopters operated by the Border Patrol increased significantly over the 1980s, from 2 in 1980 to 9 in 1982 and 22 in 1988 to 58 in 1992. The number of fixed wing aircraft went from 28 planes in 1981 to 46 in 1988 to 43 in 1992. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home*. p. 43-44; 69.

[28] BORTAC was founded in 1984 and went on to participate in a wide range of law enforcement functions beyond immigration control, including counter-drug operations, crop eradication, and riot control.

[29] Dunn cites the introduction of M-14 and M-16 type rifles for special use to Border Patrol agents operating in dangerous situations. Dunn, *The Militarization of the U.S.-Mexico Border, 1978-1992: Low-Intensity Conflict Doctrine Comes Home*. p. 53.

[30] Ibid. p. 66-67.

The Shift to Concentrated Border Enforcement in the 1990s and 2000s

Over the last two decades, the border region experienced a dramatic escalation of immigration control and security measures that radically transformed life in much of the Southwest. In the 1990s, this escalation was partly fueled by the above noted concerns about unauthorized immigration and drug trafficking, which were intensified by the trend toward U.S.-Mexican economic integration under the North American Free Trade Agreement (NAFTA). As numerous observers have noted, the intensification of enforcement measures during the NAFTA era was sharply at odds with the promise of a brave, new "borderless" world, and thereby illustrated the underlying contradictions and limits of globalization. By the advent of the new millennium, the September 11, 2001 terrorist attacks in the United States provoked a historically unprecedented expansion and reconfiguring border security measures in an effort to bolster U.S. national security from unseen enemies in an increasingly interconnected world.

The NAFTA Era

IRCA had directly charged the Immigration and Naturalization Service (INS) —of which the Border Patrol was a part— with the task of reducing unauthorized immigration. As noted earlier, IRCA also likely made this task more difficult, as newly legalized immigrants provided a draw for relatives and friends to enter the United States, in many cases illegally. Indeed, by 1990, the number of unauthorized immigrants grew to an estimated 3.5 million.[31] In response, Sen. Alan Simpson (R-Wyo.) proclaimed: "Uncontrolled immigration is one of the greatest threats to the future of this country." Yet, as Payan (2007) asserts, the perception of the threat had less to do with competition for jobs than with other concerns.[32] In particular, many U.S. citizens grew convinced that unauthorized immigrants were flocking to the United States to take advantage of the country's generous social welfare benefits. Moreover, the prospect of a major economic agreement between Canada, Mexico and the United States — the North American Free Trade Agreement (NAFTA) — heightened fears about a "NAFTA Train" of unauthorized immigration and organized crime moving across the U.S.-Mexican border.

In response to these concerns, U.S. authorities began an aggressive effort to stem the flow of unauthorized migration and illegal drugs into the country by developing a strategy of concentrated border enforcement. This strategy is credited to El Paso's then-Border Patrol sector chief Silvestre Reyes, who redeployed hundreds of agents in 1993 to devise what he initially referred to as the "Blockade." Reyes's initiative, later relabeled as "Operation Hold the Line," was arguably a continuation of a trend. That is, his strategy built upon earlier described trends that deployed new technology and physical barriers along the border, such as those that had been introduced in San Diego as recently as 1991. Yet, more so than previous efforts, Operation Hold the Line placed the concept of operational control at the center of enforcement efforts at the border. Moreover, while technology and fencing were an important part of the strategy, these would have proved ineffective without boots on the ground to detain unauthorized immigrants. Hence, the real key to Reyes' strategy was the

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[31] Office of Policy And Planning, 'Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000', in U.S. Immigration and Naturalization Service (ed.), (Washington, D.C., 2004).
[32] Tony Payan, *The Three U.S.-Mexico Border Wars: Drugs, Immigration, and Homeland Security* (Westport, Conn.: Praeger Security International, 2006). p. 67.

redeployment of personnel —some 400 agents posted in quarter mile increments along the border— to deter the unauthorized entry of immigrants into the United States.

Since the strategy of concentrated enforcement diverted immigration flows to less well-guarded portions of the border, the result was to dramatically drive down attempted crossings in targeted urban areas. Although net levels of unauthorized immigration remained unaffected, the ability to achieve isolated zones of operational control gained substantial support from locals and captured the attention of national politicians eager for policy solutions to a seemingly intractable problem. During the Clinton administration (1992-2000), officials were under intense pressure to do something in part because of criticism from conservatives. As Andreas notes, the 1994 re-election campaign of Republican governor Pete Wilson in California broadcast video taped images of immigrants teeming at the border, overwhelming immigration authorities, and charging en masse into the United States.[33] These images fueled the fears of many ordinary citizens about the rising tide of immigration and the failure to secure U.S. borders.

In an effort to address such concerns, in 1994 the Clinton administration appointed San Diego-based U.S. Attorney Alan Bersin as the lead coordinator or "czar" for Southwest border enforcement efforts. Bersin oversaw the implementation of Reyes' strategy in San Diego under the title "Operation Gatekeeper," while other corridors along the border did the same. As Hold the Line and Gatekeeper tended to divert flows of immigrants to other sectors of the border, the strategy was later deployed in 1998 in Brownsville, Texas as "Operation Rio Grande" and in Nogales, Arizona in 1999 as "Operation Safeguard." Combined these operations produced a dramatic increase in force deployments, fencing, and technology over the course of the 1990s. From 1990 to 2000, the number of Border Patrol agents more than doubled to reach over 9,000 agents, and steel fencing and high tech surveillance systems were deployed throughout the Southwest border region.

The 9/11 Era

The dramatic increases in border enforcement of the 1990s were followed by an unprecedented and unforeseen crisis that further fueled U.S. concerns about national security along the 2,000 mile perimeter. The September 11, 2001 terrorist attacks had an immediate and significant impact on enforcement efforts along the U.S.-Mexican border. On the day of the attacks, the U.S.-Mexican border was temporarily placed on a strict high-security alert that increased wait times for northbound border crossers from previous averages of thirty minutes to approximately four hours. The border was never actually "closed" but, as inspectors scrutinized incoming vehicles and passengers, the lines of northbound traffic at the border stretched four and five hours long, bringing cross-border economic activity to a virtual standstill in major twin-cities like Laredo-Nuevo Laredo, El Paso-Ciudad Juárez, and San Diego-Tijuana.

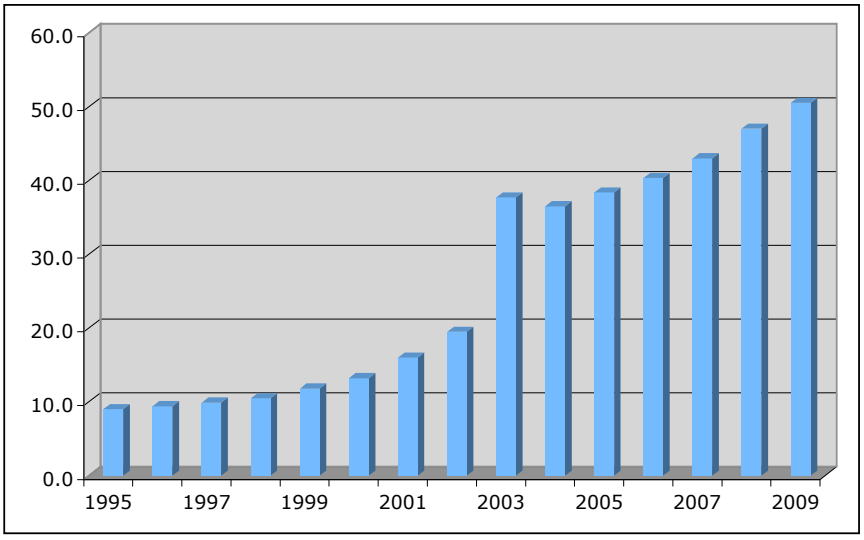
Although there was no evidence that any of the terrorists had entered the country through the U.S.-Mexico border, public anxiety about was very high and created a political rationale for continued investment in border enforcement measures into the 2000s. This response reflected the genuine sense of confusion and alarm that followed the terrorist attacks; it was difficult to know from what directions the United States might be attacked. For example, the

[33] Peter Andreas, *Border Games: Policing the U.S.-Mexico Divide* (Ithaca, NY: Cornell University Press, 2000).

deployment of biological weapons, albeit unrelated to the assault on the Twin Towers, suggested that Al Qaeda might have planned for a multi-pronged attack across a wide range of targets. In this context, a state of heightened alert border continued in the weeks, months, and years that followed, deterring legitimate economic activity while driving smugglers and undocumented immigrants to develop more sophisticated means of crossing the border.

The attacks also brought major bureaucratic challenges. In the wake of the attacks, the Border Patrol, for example, suffered a major drain on its available manpower because numerous agents were transferred to the Federal Air Marshals Program, leaving the organization below pre-9/11 staffing levels. This created major challenges because of the difficulty of recruiting, screening and training responsible and qualified individuals for these positions; it takes a full year to train and deploy new agents.[34] More importantly, citing concerns about insufficient interagency coordination in the lead up to the attacks, Congress passed legislation in November 2002 that completely reorganized the structure of federal agencies responsible for border law enforcement and domestic security by creating a new cabinet-level agency, the Department of Homeland Security. This constituted the largest bureaucratic reorganization in the federal government since the creation of the Department of Defense.

Figure 3: Federal Budgets for Homeland Security Spending (Billions of dollars), 1995-2009



Source: Data for FY1995-2003 are based on OMB estimates for expenditures, since the agency did not previously categorize expenditures for "homeland security" as reported in George W. Bush, *Securing the Homeland, Strengthening the Nation*. Washington, D.C.: Office of Homeland Security, 2002. Data for 2003-2008 adapted from U.S. Department of Homeland Security, *Budget in Brief* publications, 2004-2009 (www.dhs.gov). Note: Total budget authority in billions of dollars, not adjusted for inflation. Data for FY2009 includes only requested budget.

[34] Some changes have been less visible but sought to better coordinate functions across agencies, such as the introduction of an FBI fingerprinting database into INS operations. A similar project currently under development will eventually provide access to Mexican fingerprints databases, enabling U.S. border agents to identify criminals seeking to evade the law in Mexico.

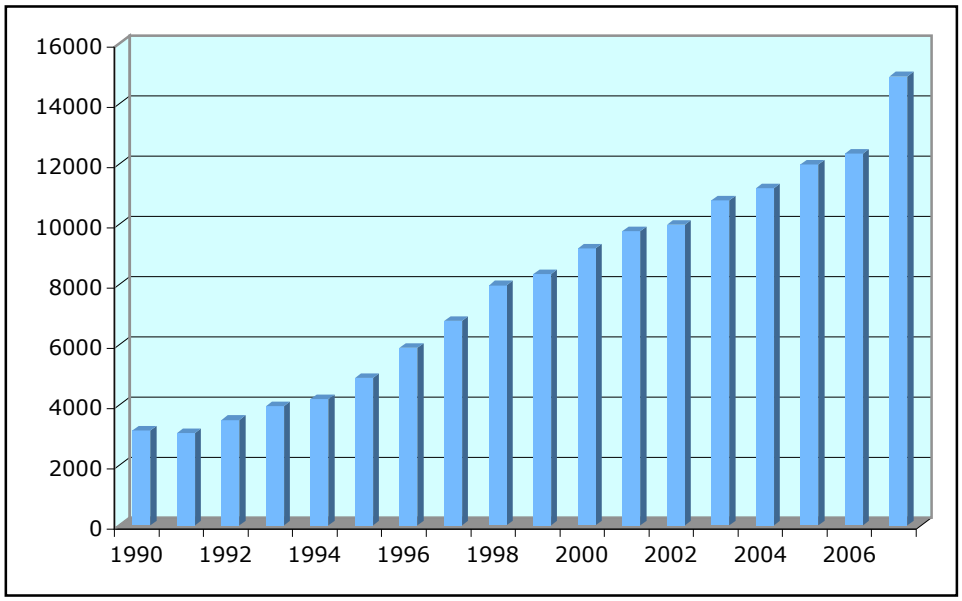
The creation of this new agency was accompanied by massive investments in border enforcement. Annual budget requests for border security grew consistently, with several special appropriations above and beyond regular allocations for the Department of Homeland Security. In the immediate aftermath of 9/11, Congress appropriated a $40 billion Emergency Response Fund to increase the number of air marshals, stock up on vaccinations, improve bio-terrorism responsiveness, strengthen the Coast Guard, deploy National Guard forces to U.S. airports, and fund criminal investigations. In addition, the Bush administration (2001-2009) requested $37.7 billion in FY2003 for homeland security measures (up from $19.5 billion the previous year), with roughly 11 billion (28%) reserved specifically for border security. Thereafter, the budget for the newly created Department of Homeland Security grew from $36.5 billion in 2003 to $50.5 billion in 2009, with an average increase of 6.7% annually.[35] While most funds for homeland security are directed to purposes that can be easily related to terrorism, many expenditures were really more aptly described as enhancing the capabilities of domestic law enforcement to manage decidedly local law enforcement problems.[36]

Amid these spending increases, there was continued growth in the number of personnel assigned to border enforcement. Notably, after dramatic increases in the 1990s, the Border Patrol again more than doubled in size to 20,000 agents by the end of the 2000s. By 2010, there were also more than 3,000 Immigrations and Customs Enforcement (ICE) agents, more than a thousand recently deployed National Guard troops, and a significant surge in the number of Alcohol, Tobacco, and Firearms (ATF) personnel.

[35] Total annual budget increases were as follows: 5.1% in 2005, 5.1% in 2006, 6.6% in 2007, 9.3% in 2008, and 7.4% in 2009. Data up to 2003 compiled from Department of Homeland Security, *Security the Homeland, Strengthening the Nation*, 2003. Data from 2004-2009 compiled from Department of Homeland Security "Budget in Brief" publications. Documents accessed at www.dhs.gov on January 10, 2008.

[36] One DHS-funded acquisition along the border was the purchase of a mobile tower for the San Diego Police Department to aid with the monitoring of crowds and detection of dangerous suspects. While this equipment could be deployed in mass disaster situations, at best, such equipment has tended to be used primarily for monitoring illegal beer drinking and braking up bar room brawls.

Figure 4: Total Number of Border Patrol Personnel, 1990-2007



Data adapted from 1990-2007 from José Z. García, "Security Regimes on the Border," Table 12.1 Security Personnel on the United States' Southwestern Border, p. 306; Leslie Berestein, "Tightened Border in San Diego Shifts Strain to Areas East," San Diego Union Tribune. From special report titled "Operation Gatekeeper: 10 Years Later." Originally published August 1, 2004; and Department of Homeland Security, Budget in Brief, 2006-09.

The dramatic expansion of border security in the post-9/11 context was accompanied by new fencing and greater physical control of key areas. Thanks to special appropriations for additional border fencing along the Southwest border, DHS more than doubled the amount of primary fencing from 154.7 miles in 2007 to nearly 370 miles in 2008.[37] As Rosenblum notes, in addition to this fencing, the Border Patrol also asserts that it has "operational control" of more than half of the U.S.-Mexico border, in so far as it has the capability to effectively deter or interrupt illegal activity in these areas.[38]

Measuring the Effects of U.S. Border Security Efforts

The 20th century marked a significant shift in U.S. immigration controls, and led to the gradual development a new paradigm in border enforcement that marked a sharp departure from the past. Whereas 19th century border management reflected the relatively "open border" paradigm prevalent in many borderlands in the modern era, by the late 20th century the United States adopted stringent border controls and practices that harked back to the Cold War, if not the days of Hadrian's Wall and Great Wall of China centuries earlier.

Heightened border security measures have had numerous consequences, from altering the physical landscape of fragile ecological systems to disrupting economies and communities

[37] Department of Homeland Security, *Budget in Brief*, 2009. The cost of current fencing construction is likely to be quite high, with significant cost overruns. During the 1990s, the construction of 14 miles of primary fencing along the San Diego sector of the border cost about $1.7 million per mile, roughly double what was predicted.
[38] Rosenblum, 'Border Security: Immigration Enforcement between Ports of Entry'.

along the border. Today, daily life for most of the 14 million people in the border region is defined by a sharp divide that was once an imaginary dotted line on a map. That line has increasingly taken the form of steel and concrete barriers, and starkly reinforces ethnic, social, cultural, and economic divisions across and on either side of the border. In a hyper-fortified border regime, those of us with privileged educational, social, legal, and financial standing have the luxury of easily crossing those divides. Wealthy Mexicans and U.S. citizens with passports, cars, special "laser" visas and "trusted traveler" permits regularly zip across the border for business, pleasure, shopping, hospital visits, and various forms of tourism. The least fortunate border residents live mainly on the Mexican side and have relatively few options: work in the maquiladoras, sell trinkets on the street, traffic drugs, or risk their lives crossing the line. Enumerating the effects of the last few decades of intensified border enforcement, however, requires a focus on the more immediate and tangible effects, both intended and unintended.

Figure 5: Evaluating the Effects of U.S. Security Measures Along the Border

	Positive Effects	**Negative Effects**
Security	1. Operational Control • Even amid the economically & demographically driven decline in Mexican outbound migration in recent years, we have seen more effective deterrence, detection, detention, and deportation of unauthorized immigrants & criminals in border areas. • Safer conditions—roads, lighting, communication systems, emergency backup—for agents working in border zones. • Safer conditions for border communities, businesses, and residents.	2. Increased Threats and Hazards • More sophisticated organized crime groups and greater threats for immigrants, residents, and government agents working in border zones. • More dangerous conditions and higher casualty rates for migrants crossing at and between ports of entry.
Social and Economic	3. Improved Quality of Life • Less property damage for businesses, ranchers, and residents located adjacent to the border. • Greater protection of parks and recreational areas located near the border. • Less litter and habitat damage from unauthorized border crossings in certain sensitive ecological zones.	4. Negative Externalities • Greatly increased operational costs of border enforcement. • Lengthy delays and lost economic opportunities for commercial, vehicular, and pedestrian border crossers. • Loss of social ties and health hazards in cross-border communities due to lengthy delays at ports of entry. • Border security measures have damaged sensitive ecological zones, and displacement of litter and habitat damage from unauthorized border crossings to other areas.

There are definitely measureable benefits from recent enforcement and security measures along the border. Increased operational control and capacity have improved the ability of

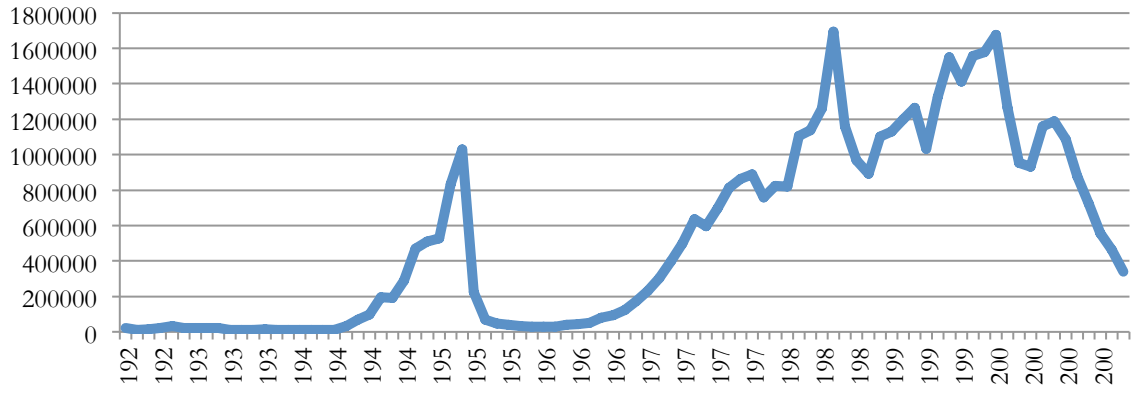
border security agencies to deter, detect, detain, and deport unauthorized immigrants, as well as other criminal actors, along the border. However, these increased enforcement measures have also increased the demand and profits for professional smugglers and traffickers, and increased the threats and risks faced by border security personnel and migrants alike. At the same time, the benefits of increased border security seem to be matched or outweighed by the significant accompanying economic, societal, and environmental costs. A sample of the benefits and costs of increased border enforcement measures is outlined in the matrix in Figure 5, and these issues are discussed below in greater detail.

1. Operational Control and Greater Security in Key Border Zones

Perhaps the strongest argument for concentrated border enforcement is the fact that the massive deployment of manpower, technology, and fencing brings isolated effects to the immediately surrounding areas, establishing what authorities have sometimes referred to as "operational control" in formerly lawless areas. The benefits of operational control include increased public safety in these areas, including a reduction of the risks that migrants themselves face.

First and foremost, the central question regarding the current border security regime is whether it has achieved its fundamental objectives. That is, has the massive investment in manpower, technology, and fencing effectively enhanced the capacity to deter, detect, detain, and deport unauthorized immigration? Certainly, the introduction of concentrated border enforcement in the United States has contributed to a change in unauthorized migration patterns. Since the 1990s, migrants crossing illegally into the United States have shifted away from heavily patrolled and fortified areas in search of less protected routes. However, this has not necessarily stopped or reduced the inflow of unauthorized immigrants. The primary factors driving and inhibiting immigration have to do with economic factors, while secondary factors like border enforcement and social ties tend to have effects that reshape immigration flows in various ways.

Figure 6: Nationwide Illegal Alien Apprehensions Fiscal Years, 1925 - 2011



Source: U.S. Customs and Border Protection

A wealth of data collected over the last two decades illustrates these points, and strongly suggests that immigrants are not deterred by greater enforcement or increased costs. Indeed,

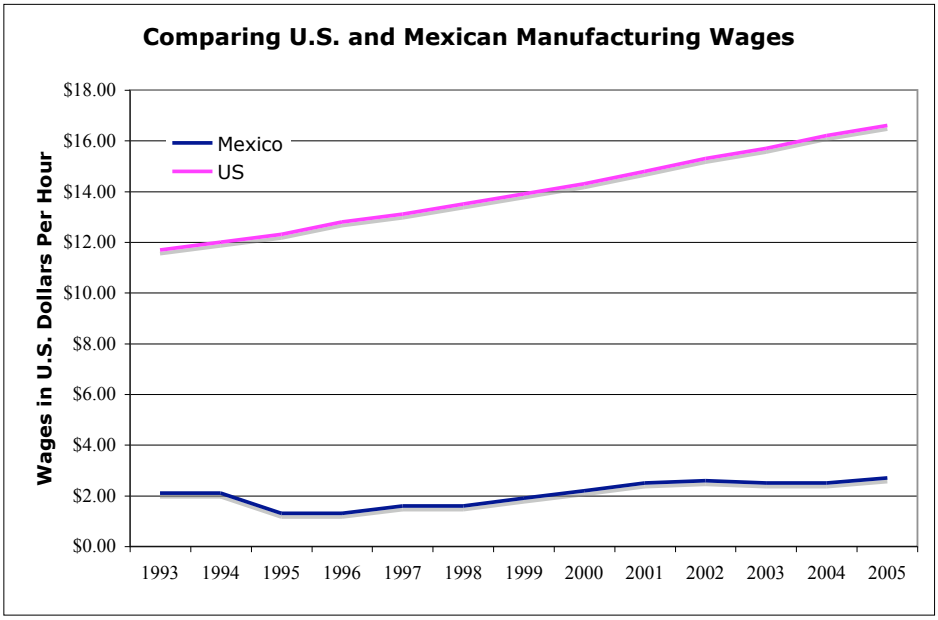
amid the massive buildup of enforcement at the border in the late 1990s and into the mid-2000s, the rate of unauthorized Mexican migration into the United States –as measured by proxy through the number of apprehensions along the Southwest Border– increased dramatically. By the late 2000s, however, migration ebbed significantly due to the global economic downturn. Demographers have also cited shifting demographic patterns in Mexico, most importantly a declining birth rate and a gradually shrinking younger population, as part of the explanation for this recent decline in outbound migration flows from Mexico.

Why does the dramatic increase in dangers, obstacles, and apprehensions not provide more of a deterrent? For one thing, the success rate remains very high for those seeking unauthorized entry into the United States, despite border enforcement efforts. Meanwhile, for many migrants another path to unauthorized entry or residence in the United States is made possible by the ready availability of false documentation (fake drivers' licenses, social security cards, and the like) that can be used to secure employment and a semblance of citizenship.[39] As many as one-third of all unauthorized residents living in the United States are estimated to have fallen into unauthorized status by overstaying their visas after entering the country legally. Still other migrants are willing to go to greater extremes, risking arduous crossings in less effectively patrolled mountainous and desert regions, and/or pay exorbitant fees to professional smugglers.

The root motivator of these yearning masses of unauthorized immigrants is economic. While rare instances of political instability during the 20th century have caused some migration from Mexico across the border (as was the case during the Mexican Revolution of the 1910s), the primary "push" factor has been economic instability and lack of employment opportunities, problems that became more severe starting in the turbulent 1970s and 1980s. As tough times pushed Mexicans to migrate in search of jobs (and with average U.S.-Mexican wage differentials of as much as 10-to-1), the strong performance of the U.S. economy "pulled" Mexican workers into the United States in search of better employment and earnings.

[39] Most U.S. citizens rely primarily on official identification issued by state governments —and because civil libertarians and individual privacy rights groups strongly oppose the creation of a national identity card— since there is no mandatory system of national identification within the United States.

Figure 7: Comparing U.S. and Mexican Manufacturing Wages



Source: Mexico Watch. http://www.latinintel.com.

Figure 8: GDP Per Capita in Mexico, 1900-2003

Source: Mexico Watch. http://www.latinintel.com.

Many U.S. citizens may wrongly assume that higher levels of poverty and lower levels of development in Mexico have maintained a steady stream of humanity across the border. This is not the case. Migration patterns have fluctuated along with periods of economic turmoil in

Mexico. While there were a number of significant economic crises in Mexico during first half of the 20th century, economic crises grew more frequent and more severe beginning in the 1970s. Mexican households destabilized by unemployment, inflation, and currency devaluations turned to migration as a means to alleviate these conditions. Opportunities to do so were, of course, conditioned by the economic situation in the United States.[40] This is why the two economic recessions that began in the United States —after 9/11 and after 2008—are probably far more important than tougher border controls for explaining the sharp decline in apprehensions noted earlier.

Meanwhile, the threat of terrorism in the post-9/11 presented a grave potential threat to national security, and one that deserves careful consideration in this discussion. Yet, for all the fear and alarm that followed, none of the 9/11 terrorists used the Mexican or Canadian borders as a point of entry to the United States. Also, no successful terrorist plots involving the land-based entry to the United States have occurred to date. Indeed, the only publicly reported attempt by a terrorist to enter the United States by land occurred in 1999 —the case of would-be "millennium" bomber Ahmed Ressam— and was foiled by a perceptive U.S. border patrol agent who became suspicious of Ressam's nervous behavior and detained the would-be terrorist.[41] While DHS has reported the detention of hundreds of suspects wanted for "terrorism or national security concerns," none of these are known to have occurred at land border ports of entry. Hence, post-9/11 claims that the border is the most likely gateway for terrorists to enter the United States have not borne out.[42]

95% of the more than 9,000 border patrol agents in 2001 were concentrated in the agency's southern sectors. To a well-financed terrorist with other options, that fact must have made the U.S.-Mexican border seem relatively well guarded, at least in comparison to other means of entry to the United States.[43] Indeed, the 9/11 terrorists exploited weaknesses elsewhere in U.S. security, notably the lack of adequate background checks for visitors and a failure of U.S. agencies to pool intelligence. Advocates of elevated border security measures therefore insist that, as these other security gaps are filled, the border must not be allowed to become the "weakest link" in the U.S. security chain. However, if pre-9/11 security checks were already sufficient to deter terrorist entry through the border, this raises important questions

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[40] Wayne A. Cornelius, *Mexican Migration and the U.S. Economic Crisis: A Transnational Perspective* (Ccis Anthologies; La Jolla, CA: Center for Comparative Immigration Studies, 2010) xvii, 269 p.

[41] Ressam attempted to enter the United States via Canada with a false French passport, but his plot was foiled on December 14, 1999 by a regular inspection by a U.S. customs agent who detained him. U.S. authorities had been previously alerted to Ressam's disappearance during a two-year Canadian investigation, and was attempting to smuggle nitroglycerin and timing devices to bomb LAX. Thanks to assistance from Canadian authorities, Ressam's arrest led to his eventual conviction, as well as the arrests of his co-conspirators and fellow Algerians, Mokhtar Haouari, Samir Ait Mohamed, and Ahcene Zemiri. Josh Meyer, 'Terrorist Implicates 3 Others in Lax Bomb Plot', *Los Angeles Times,* July 6, 2001 2001.

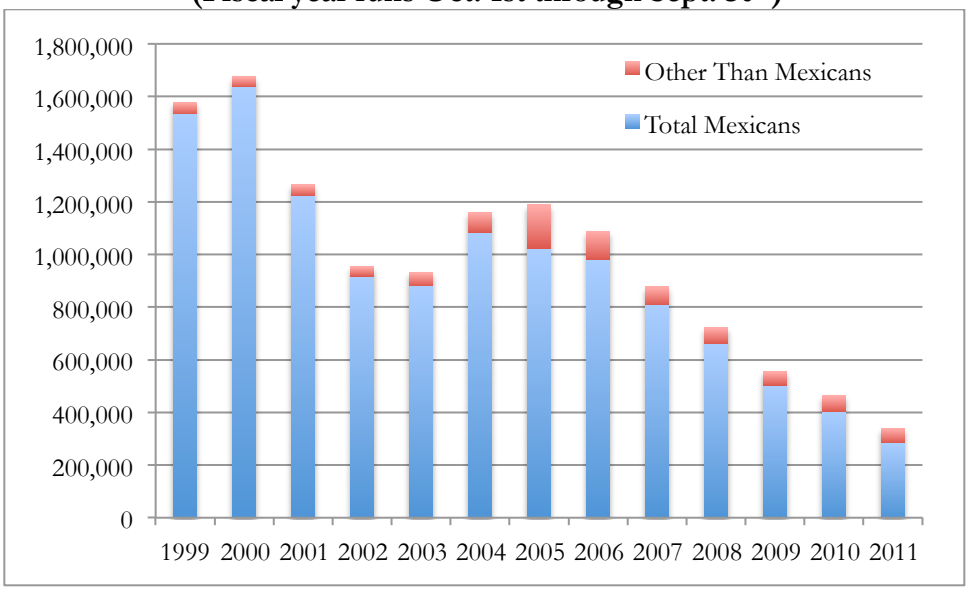
[42] One former border patrol chief proclaimed that "the next attack will come from somebody who will cross the border illegally." Arrillaga, Pauline, "AP Investigation: 'Catch and Release' Policy Frees Illegal Immigrants to Move About U.S.," *Associated Press.*

[43] According to Forest, "The 4,500-mile border between the United States and Canada was wide open, virtually unguarded… the 9,000-plus strong U.S. Border Patrol had only 334 agents along the Canadian border, which is twice as long as the U.S.-Mexico border." "Protecting America's Borders and Points of Entry: An Introduction," in James J. F. Forest, *Homeland Security: Protecting America's Targets, Volume 1: Borders and Ports of Entry.* p. 1.

about the "value added" of the substantial post-9/11 investments that have been made to further strengthen border security.

Figure 9: Illegal Alien Apprehensions From Mexico By Fiscal Year 1999-2011

(Fiscal year runs Oct. 1st through Sept. 30th)



Source: U.S. Customs and Border Protection

One thing is clear. The bulk of U.S. border security measures do not actually involve direct confrontations with terrorists. As noted above, there have been only a handful of cases referred by the Department for Homeland Security for prosecution by the Department of Justice. The average border patrol agent —including the many new recruits who rushed to the agency in the aftermath of 9/11 with visions of helping to combat Al Qaeda— will never see a terrorist, let alone help to detain one. Instead of taking on terrorists, DHS agents spend most of their day sorting through the haystack of petty drug dealers and would-be gardeners.

Still, U.S. cities located along the border have experienced relatively lower crime rates, both year-to-year and compared to the average for the top 300 cities in recent years. Indeed, crime rates in all four categories of serious violent crime tracked by the FBI's Uniform Crime Report —homicide, assault robbery, rape— actually decrease with greater proximity to the border. Cities that are closer to Mexico are safer, while those that are not are two to three times less safe (depending on the category of crime), as noted in Table 1.

Table 1: Average Crime Rates for Major U.S. Cities, 2007-09

CATEGORY	MURDER RATE	RAPE RATE	ROBBERY RATE	ASSAULT RATE
Top 300 Largest U.S. Cities	13	44	386	531
Subset Within 200km of the Border	8	36	235	365
Subset Within 100km of the Border	4	27	128	262

Source: FBI Uniform Crime Report. Note: Average crime rates from 2007-09 in each category are calculated per 100,000 inhabitants and rounded to the nearest whole. Data gathered by Marisol Martinez, Sara Nettleton, and Jamie

Some of the explanation for higher levels of public safety in border communities may be linked to the proximity and generally increased presence of law enforcement in the border region. This explanation has not been definitively tested, but what can clearly be said is that proximity to the border is not a liability for communities. This is something that should be taken into consideration as lawmakers contemplate the security situation along the U.S. southwest.

2. Greater Threats and Hazards Attributable to Increased Border Enforcement

Perhaps the most significant and obvious unintended consequence of tougher border enforcement is the increasing sophistication and competition among Mexican organized crime groups. As is the case with immigration, it is clear that the additional scrutiny along the border and at U.S. ports of entry along the border makes drug trafficking more costly and difficult. The added costs are passed on to consumers, who must pay a higher price for drugs than they would if they were available legally for purchase in the United States. This profitability is what lures many to the drug trade.

Meanwhile, the increased difficulties involved in smuggling drugs across the border necessitates greater innovation and sophistication on the part of the smuggler. Individuals and minor criminal organizations face enormous risks if they should try to smuggle illicit drugs across the border. While many small-time criminals continue to do so (and many are caught), the major profits are found in wholesale distribution networks that must have vastly greater levels of sophistication. These are the so-called "cartels," which in fact represent a vast, loosely affiliated, and complex network of growers and producers (marijuana, opium, and synthetics); pilots, drivers, and logistics experts; look-outs (*halcones*), enforcers, and professional hit men; accountants and financial experts; and top-level cartel executives. As Marcelo Bergman argues, the more distant actors within this network are from enforcement efforts at the border, the more diffuse, more decentralized, and less profitable their participation in the industry.[44] In short, the general consequence of greater border enforcement is more sophisticated criminal networks.

There are also more specific consequences. As their supply-chains backed up and drug stockpiles built up in the aftermath of 9/11, drug traffickers resorted to more desperate and innovative tactics to move product across the border. Initially, such tactics included filling the tires of SUVs with silicon in order to charge northbound into the United States, against traffic and over the tire strippers used in southbound lanes. Over time, such desperate measures gave way to alternative measures to move product into the United States, including greater use of sophisticated underground tunnels and maritime vessels (including submersibles).[45] Another specific, unintended consequence has been the development of a domestic market for drug consumption in Mexico, leading to greater problems of drug abuse

[44] Presentation by Marcelo Bergman to the Woodrow Wilson Center, April 2010.
[45] Kraul, Chris. "Drug Traffickers Use Submersibles to Ferry Narcotics," *Los Angeles Times*, November 6, 2007.

in Mexican communities along the border, and possibly greater competition among organized crime groups to gain control of the domestic market.[46]

The growth of the organized crime threat has also put more law enforcement officers in harms way, due to the significant increase in the number of clashes between U.S. Border Patrol personnel and individuals entering the border region illegally. Unauthorized border crossers resort to throwing rocks and even shooting at Border Patrol agents; such confrontations have also resulted in an increase in the number of unauthorized crossers killed or wounded by Border Patrol agents. Finally, the arduous journey and high fees charged by migrant smugglers, or coyotes, make many migrants reluctant to return home as was customary in the past. The result has been a transition from seasonal, circular migration to more permanent settlement by migrants and their families in the United States. In other words, heightened border security has had the paradoxical effect of increasing the number of unauthorized immigrants and the lengths that they choose to stay in the United States.

Another deeply disconcerting problem along the border has been the compromised integrity of U.S. law enforcement, due to agency growing pains and corruption by organized crime. Increased recruitment efforts have brought in greater numbers of inexperienced agents, if not also some under-qualified personnel. Moreover, tighter scrutiny has provided criminal organizations with greater incentives to infiltrate and seek to corrupt U.S. law enforcement.[47] In 2004, the office of internal affairs for the U.S. Customs and Immigration Service compiled 2,771 complaints against the agency's employees, including more than 550 involved criminal allegations and more than 100 involved allegations of bribery.[48] From October 2003 to April 2008, there were numerous cases of alleged corruption identified along the border: 125 in California, 45 in Arizona, 14 in New Mexico, and 157 in Texas.[49] Conducting investigations into law enforcement corruption is a sensitive and often lengthy process, since ample evidence is needed in order to compile a successful case for prosecution. The emergence of hundreds of cases of alleged border patrol corruption over the last few years, suggests that the overall problem of official corruption among U.S. border security and law enforcement personnel may be far greater than the number of cases identified thus far.

Meanwhile, U.S. border enforcement efforts have also contributed to higher death tolls for migrants who are pushed to greater extremes –crossing the border in the deserts and mountains–in their effort to find jobs on the U.S. side of the border. Tougher border enforcement was intended to raise the stakes and create a deterrent for migrants crossing in major urban corridors along the border. However, the unintended result has been to redirect migrants to more dangerous routes, and has led to the proliferation of lucrative and sophisticated people smuggling organizations. In the early 1990s, the number of immigrants who died at the border en route to the United States tended to remain in the low double digits. With heightened border security measures, the number of migrants dying from

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[46] Luis Astorga disputes the notion that domestic consumption in Mexico has significantly affected competition among Mexican organized crime groups.

[47] Ralph Vartabedian, Richard A. Serrano, and Richard Marosi, "The Long Crooked Line; Rise in Bribery Tests Integrity of U.S. Border," *Los Angeles Times*, October 23, 2006.

[48] Arrillaga, Pauline, "Feds Struggle with Border Patrol Corruption," *Associated Press*, September 22, 2006.

[49] Archibold, Randal C. and Andrew Becker, "Border Agents, Lured by the Other Side," *New York Times*, May 27, 2008.

dehydration and exposure in desert and mountain areas now typically amounts to well above 400 deaths per year. In an interview with the author, former U.S. Border Czar Alan Bersin acknowledged the program's unintended consequences for migrants.

> Gatekeeper, as a major policy shift, had certain successes and certain failures, together with some consequences that were anticipated and some that were not. Here in San Diego [...] moving people further east in the first phase into the mountains of San Diego and then into the deserts of the Imperial Valley and the Sonoran desert in Arizona with the consequences of people being abandoned... I bare responsibility for that portion that took place during my watch... [however] the migration pattern of the twenty-first century and the twentieth century contributed to a highly lucrative criminal enterprise. Smugglers who took people into the mountains and abandon[ed] them. A Mexican and U.S. presence in those areas would have cut down on much of the tragic loss.

To be sure, the increased use of "professional" smugglers ("*coyotes*") that results from intensified border security measures presents another serious hazard for the safety of migrants.[50] Such individuals charge exorbitant rates (often in excess of $2,000), which are typically financed by a migrant's friends or relatives already residing in the United States. Smugglers are uniquely positioned to take advantage of their clients. One example is the case of Raul Antonio Espinoza Rojasin, who was arrested by U.S. authorities in 2001 in connection with a large scale smuggling ring along the Texas-Mexican border. According to the Los Angeles Times, Rojas was believed to be among the top twelve smugglers in Mexico, with networks stretching into Central and South America, Russia, and Asia. Rojas was "wanted in Mexico and the United States in connection with human trafficking as well as deaths of migrants who drowned in the Rio Grange."[51]

3. Improved Quality of Life in Border Communities

In a number of respects, enforcement efforts have improved quality of life in ways that go beyond the reduction of crime rates in U.S. border communities noted above. Fewer unauthorized migrants traveling through populated areas along the border means less property damage for businesses, ranchers, and residents located adjacent to certain areas of the border. This also appears to translate to greater protection of parks and recreational areas located near the border, and less litter and habitat damage from unauthorized border crossings in certain sensitive ecological zones. Border patrol agency officials frequently point to these improvements as significant contributors to the improved quality of life that has resulted due to greater operational control in populated areas.

4. The Negative Economic and Societal Externalities of Border Enforcement

The enormous escalation of border security measures in recent years raises a critical question of whether they merit the costs. Unfortunately, there has been little serious cost-benefit analysis to gauge recent spending on border security. Even without a full cost-benefit analysis, it is clear that the direct fiscal costs of current border security policies are clearly enormous. Annual budget requests for border security have grown consistently in recent

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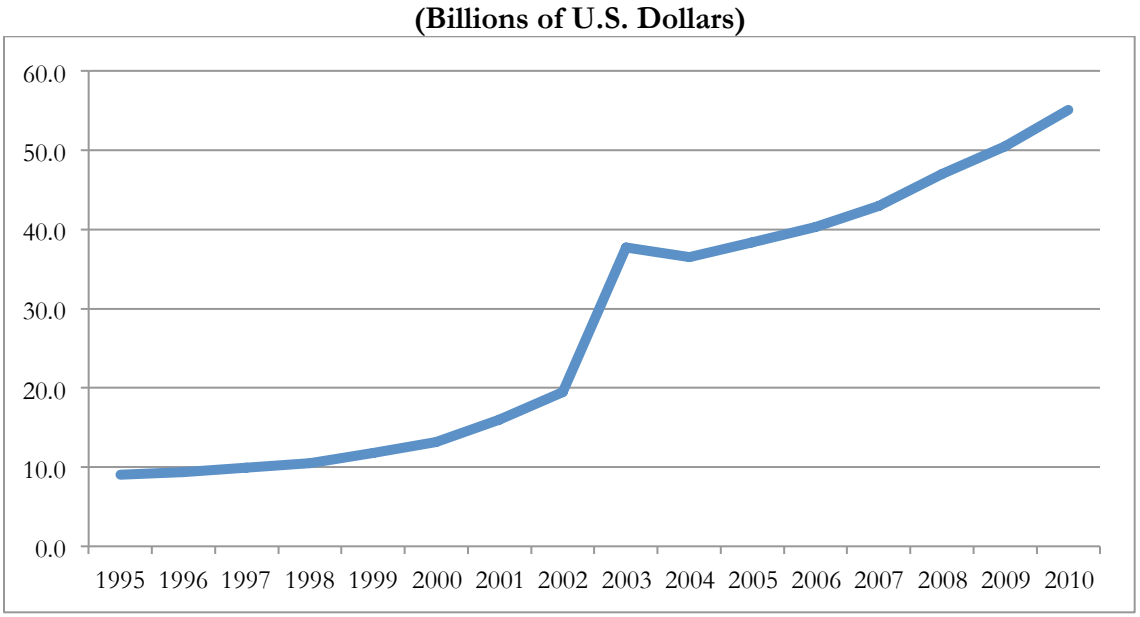
[50] A study by the National Foreign Intelligence Board reports that illegal migration is "facilitated increasingly by alien-smuggling syndicates and corrupt government officials." National Foreign Intelligence Board, *Growing Global Migration & Its Implications for the US*, at 3 (Mar. 2001). Available at: www.cia.gov/nic/graphics/migration.pdf

[51] Staff Writer, *Immigrant Smuggling Suspect Held*, Los Angeles Times, Mar. 7, 2001, LEXIS, News Library.

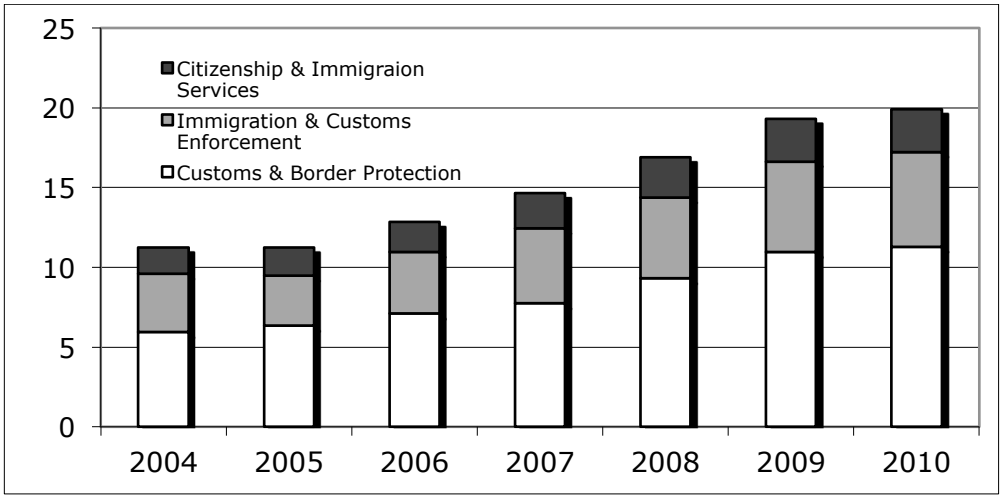
years, with several special appropriations above and beyond regular allocations for the Department of Homeland Security.

Figure 10: Congressional Allocations For Border Enforcement, 1995-2010



Source: Department of Homeland Security Budgets in Brief, 2003-2010. Data for FY1995-97 are based on OMB estimates for expenditures, since the agency did not previously categorize expenditures for "homeland security." George W. Bush, Securing the Homeland, Strengthening the Nation. Washington, D.C.: Office of Homeland Security, 2003.

Figure 11: Congressional Allocations For Homeland Security, 2004-2010



In the immediate aftermath of 9/11, Congress appropriated a $40 billion Emergency Response Fund to increase the number of air marshals, stock up on vaccinations, improve bio-terrorism responsiveness, strengthen the Coast Guard, deploy National Guard forces to U.S. airports, and fund criminal investigations. In addition, the Bush administration requested $37.7 billion in FY2003 for homeland security measures (up from $19.5 billion the

previous year), with roughly 11 billion (28%) reserved specifically for border security. Since then, the budget for the newly created Department of Homeland Security has grown from $36.5 billion in 2003 to $50.5 billion in 2009, with an average increase of 6.7% annually.[52] While most funds for homeland security are directed to purposes that can be easily related to terrorism, many expenditures are really more aptly described as enhancing the capabilities of domestic law enforcement to manage decidedly local law enforcement problems.[53] In the context of the current economic downturn and massive federal outlays to the wars in Iraq and Afghanistan, it seems doubtful that current levels of appropriations for border security will be sustainable over the long term.

Tougher measures equate to long delays for pedestrian, vehicles, and commercial trucks, due to more intensive inspection procedures. Such measures have incalculable costs for border communities and for the larger U.S. and Mexican economies.[54] After 9/11, primary inspections grew even more rigorous, with customs and border patrol agents more frequently taking time to make additional inquiries, search personal belongings or the trunk of a vehicle, and verify documents for authenticity for all passengers. There is reason to believe that the effect of heightened border security has had a detrimental effect on legitimate cross-border activity, and that both drivers and pedestrians are using their discretion not to travel across the border because of added hassles and delays.[55]

For example, in recent years the growth or decline of pedestrian and passenger vehicle traffic has alternated as border crossers presumably adjusted their mode of crossing in order to mitigate delays (when vehicular traffic decreases, pedestrian traffic increases). More strikingly, one study by the San Diego Association of Governments (SANDAG) found that cross-border trade —to the tune of $23.2 billion in the San Diego County sector in 2004— suffered significantly from increased border wait times. SANDAG reported that, with 99% of all trade between California and Mexico is carried by trucks, border delays resulted in a loss of $2.71 billion for San Diego County, $3.2 billion for the State of California, and $3.74

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[52] Total annual budget increases were as follows: 5.1% in 2005, 5.1% in 2006, 6.6% in 2007, 9.3% in 2008, and 7.4% in 2009. Data up to 2003 compiled from Department of Homeland Security, *Security the Homeland, Strengthening the Nation*, 2003. Data from 2004-2009 compiled from Department of Homeland Security "Budget in Brief" publications. Documents accessed at www.dhs.gov on January 10, 2008.

[53] One recent DHS-funded acquisition along the border was the purchase of a mobile tower for the San Diego Police Department to aid with the monitoring of crowds and detection of dangerous suspects. While this equipment could be deployed in mass disaster situations, at best, such equipment will be used primarily for monitoring illegal beer drinking and braking up bar room brawls. At worst, the high resolution cameras will be used for bikini monitoring by officers bored by the humdrum reality of the daily law enforcement routine.

[54] Many of the costs are difficult to measure. According to the Border Trade Alliance, "The current lack of comprehensive statistics regarding the scope and impact of wait-times at our land ports has made it difficult for policy-makers in Washington to determine the appropriate federal response. Recognizing the important need to confirm the impact of wait-times on trade and commerce, Senator Kay Bailey Hutchison (R-TX) and Congressman Ciro D. Rodriguez (D-TX) have introduced legislation (S.2425 and H.R. 4309) that requires the study of the economic impact and scope of the growing wait-times experienced at land border crossings in the United States." Border Trade Alliance, "Benefits of NAFTA Threatened by Cross-Border Wait-times: Legislators push to study effects on Economy," www.bta.org (Accessed January 19, 2009).

[55] Haralambides, Hercules E. and Maria P. Londono-Kent, "Supply Chain Bottlenecks: Border Crossing Inefficiencies Between Mexico and the United States," International Journal of Transport Economics, Vol. XXXI, No. 2, June 2004.

billion for the overall U.S. economy.[56] Since cross-border trade in San Diego accounts for just a fraction (about 12%) of overall trade between the United States and Mexico, it is very possible that losses are even more significant along the rest of the border. This may be especially true for Laredo, which handled more than $167 billion in cross-border trade in 2007 (nearly half of all trade on the border).[57]

Improving Assessments of Border Security Effectiveness

While there is ample evidence that border security measures in the southwest have had significant effects, there is unfortunately too little information available to measure their effectiveness. Almost all of the most commonly used metrics of border security effectiveness are proxy indicators. Analysts measure the number of unauthorized immigrants living in the United States based on surveys and approximations. Analysts measure the flow of illegal immigrants into the country by the number of arrests made by border patrol agents. Analysts measure the volume of drug, cash, or gun smuggling by the amount of contraband authorities are able to seize. Because we are trying to measure unknowns, we necessarily resort to extrapolation.

Evaluating Outcomes: To begin with, there is a critical need for data on the size and nature of the US unauthorized immigrant population and estimates of flows of unauthorized immigrants into the United States. Data on these phenomena need to be more regularly updated and disseminated to gain a clear picture of the overall effectiveness of immigration control measures, including those that go beyond the border. In particular, greater research and analysis is needed to approximate the proportion of visa overstays compared to unauthorized border crossers that comprise the U.S. immigrant population, as well as the proportion of Mexicans and Central Americans among the unauthorized immigrant population. In addition to government data on these measures, the United States government should work with the government of Mexico and Mexican research agencies to examine statistics on Mexican outbound migration and returnees (*repatriación*) to Mexico. If these data were collected in ways that made it easier to identify multiple returns, it would be more feasible to estimate the number of people leaving and returning to Mexico.

Evaluating Capacity: Authorities do have some measures that can be used to evaluate the capacity and performance of U.S. border control agencies, which sheds light on the effectiveness of current enforcement measures. For example, border officials have attempted to collect data on the likelihood of detention after detection, but the methodology for gathering these data vary from sector to sector. Developing a standardized methodology for the collection of these data would make it possible for officials to identify areas in need of improvement along different sectors of the border, and redeploy resources to those zones.

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[56] The same SANDAG study reported that the Mexican state of Baja California looses $1.49 billion and the overall Mexican economy looses $2.24 billion. San Diego Association of Governments, *Economic Impacts of Wait Times at the San Diego-Baja California Border*, Final Report, January 19, 2006.

[57] Laredo's total trade has grown continuously in recent years ($115 billion in 2003, $130 in 2004, $140 billion in 2005, and $157 in 2006), but could benefit even more so from a strong Mexican economy and expedited border crossings. Aguilar, Julian, "$167B Strong, and Growing," *Laredo Morning Times*, February 25, 2008.

Concluding Observations

It is not clear that more walls, technology, and manpower at the border have significantly diminished illicit cross-border flows. On the contrary, despite very costly investments in border interdiction, illicit flows of cross-border flows of people, drugs, guns, and cash are likely to continue even with significantly greater investments in border enforcement. It seems likely that there is greater room for improvement at by reducing migrants' incentives to leave their home communities or making it easier to verify eligibility for employment in the United States. Pursuing this course, perhaps by promoting economic opportunities in major migrant-sending communities in Mexico or placing greater scrutiny on U.S. employers, would require U.S. taxpayers and consumers to accept significant costs. As such, policy proposals in this vein have gained very little traction in the United States.

Meanwhile, the status quo at the U.S.-Mexican border is highly problematic. At the very worst, the U.S.-Mexican border has become a modern day Maginot Line, imposing in appearance but of little real value in thwarting cross-border flows of drugs and people. At best, U.S. authorities have succeeded only partially in securing the border against outside threats —primarily by raising the stakes for migrants and smugglers, and thereby discouraging terrorists— but at extraordinary cost. Ultimately, the real question is how "tough" border security has to be —not only as a deterrent, but also as a filter— and what other mechanisms can be used to enhance the effectiveness of border security. Given the enormous investments in post-9/ll border security measures, this is ultimately a question of whether tougher border security measures merit the numerous costs outlined above.

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