

FENCING IN FAILURE: Effective Border Control is Not Achieved by Building More Fences

by Jason Ackleson, Ph.D.

EXECUTIVE SUMMARY

New proposals for more fencing and Border Patrol agents along the U.S.-Mexico border may only perpetuate an unsuccessful and counterproductive policy that does not effectively enhance national security or control undocumented immigration.

Among the findings of this report:

- President Bush's Fiscal Year 2006 budget would increase funding for U.S. Customs and Border Protection to \$6.7 billion. Next to defense spending, this is one of the highest growth rates in the federal government.
- On March 16, 2005, the House of Representatives attached an amendment (the "REAL ID Act") to the \$81.3 billion emergency supplemental to fund the war efforts in Afghanistan and Iraq that would give the Secretary of Homeland Security sole discretion to push forward the construction of border fences, roads, and other barriers by waiving all applicable laws.
- Border fencing has merely channeled undocumented migration to more remote and dangerous terrain. After triple-fencing was constructed in San Diego, apprehensions of undocumented immigrants fell from 450,152 in FY 1994 to 100,000 in FY 2002,

but apprehensions in the Tucson sector increased 342 percent during this same period.

- Building a fence along the entire southwest border would cost roughly \$9 billion (about \$2.5 billion more than the total budget of U.S. Customs and Border Protection in FY 2005) and is an ineffective means of combating undocumented immigration.
- The undocumented population in the United States has continued to increase despite ten years of fairly consistent and large increases in the border-enforcement budget and a parallel surge in the number of Border Patrol agents stationed on the frontier.
- The growing economic integration of the United States and Mexico, as well as the openness of U.S. society, dooms to failure any border-control strategy that focuses primarily on security at the physical frontier.
- An alternative approach to border security is suggested by the "Smart Border" accords the Bush administration negotiated with Canada and Mexico in 2001 and 2002, which represent a move towards "virtual borders" where inspections occur overseas or away from the land border entirely.

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INTRODUCTION

In the post-9/11 era, border security has become a growth industry. President Bush's Fiscal Year (FY) 2006 budget, submitted to Congress on February 7, 2005, requests a nearly 4.8 percent increase in funding for U.S. Customs and Border Protection (CBP), bringing the agency's total to \$6.7 billion. Next to defense spending, this represents one of the highest growth rates in the federal government.

Beyond the new spending for general border control, additional security measures are on tap. On March 30, 2005, the Department of Homeland Security (DHS) announced that an additional 734 Border Patrol agents would be assigned to the Arizona-Sonora border.¹ On March 16, 2005, members of the House of Representatives, by a voice vote, successfully attached an amendment (the "REAL ID Act") to the \$81.3 billion emergency supplemental to fund the war efforts in Afghanistan and Iraq. If the amendment is included in the final version of the supplemental and signed by the President, it would deny driver's licenses to undocumented immigrants, beef up judicial powers to deport political asylum seekers, and give the Secretary of Homeland Security sole discretion to push forward the construction of border fences, roads, and other barriers by waiving all applicable laws, including environmental protections. In the San Diego-Tijuana area, the provision would impact the completion of a \$58 million second-stage border fence between Otay Mesa and the Pacific Ocean. Congressional representatives and some federal officials want to extend the 14-mile, triple-layer fence through an area called "Smugglers Gulch" by leveling land and filling in a half-mile wide canyon.

In many ways, the construction of the fence and the deployment of yet more Border Patrol agents are emblematic of larger issues in the current immigration and border security debate.

The developments beg the question: does additional fencing and border security effectively address national security and migration to the United States? The available evidence suggests that the answer is "no."

It is highly unlikely that a strategy which is heavily reliant on fences and increased border security will actually reduce the overall flow of undocumented immigrants into the United States from Mexico. After the existing triple-fencing was constructed in San Diego, apprehensions in that sector of the border did fall from 450,152 in FY 1994 to 100,000 in FY 2002.² However, during the same period, apprehensions in the Tucson sector to the east soared some 342 percent.³ This indicates that the fence has not stopped undocumented migration, but has simply channeled it to more remote and dangerous terrain where more migrants than ever before are dying while trying to cross. The Tucson sector has now become the most popular crossing point for migrants along the entire frontier.

Short of constructing a wall along the country's entire southern and northern frontiers, it is unlikely these measures will do anything to substantially reduce the flows of undocumented immigrants into the United States. Even if such a wall were built – which would itself be a counterproductive development – it would do nothing to deal with the fact that up to half of the undocumented immigrants in the United States came legally and simply have overstayed the conditions of their admittance. Furthermore, the cost of such a fence along the entire U.S.-Mexico border, if based roughly on the cost of the California fence (\$4.64 million/mile), would be outrageous – about \$9 billion, which is approximately \$2.5 billion more than CBP's total budget in FY 2005. Building a comparable fence along the northern border with Canada would add about \$14.5 billion to the tab, for a total of \$23.5 billion, or roughly

¹ U.S. Department of Homeland Security, Press Release, "Department of Homeland Security Begins Second Phase of Arizona Border Effort," 30 March 2005.

² Blas Nuñez-Neto and Stephen Viña, "Border Security: Fences Along the U.S. International Border," CRS Report for Congress (13 January 2005). Available at [<http://www.fas.org/sfp/crs/RS22026.pdf>].

³ Wayne Cornelius, "Death at the Border: The Efficacy and Unintended Consequences of U.S. Immigration Control Policy, 1993-2000," Working Paper No. 27. Center for Comparative Immigration Studies, University of California, San Diego, 2000. Available at [<http://www.ccis-ucsd.org/PUBLICATIONS/wrkg27new.pdf>].

⁴ FY 2005 budget estimates for CBP and DHS are taken from the Department of Homeland Security, Budget-in-Brief: Fiscal Year 2006, February 2006. [Available at: http://www.dhs.gov/interweb/assetlibrary/Budget_BIB-FY2006.pdf].

⁵ San Diego Union-Tribune, "Officials Tipped Off to Hole at Border," San Diego Union-Tribune (30 March 2005).

60 percent of the FY 2005 budget for the entire Department of Homeland Security, of which CBP is one division.⁴ Ironically, another obvious shortcoming of the border fence was illustrated just as the debate on this issue made the national press: Mexican authorities located an incomplete tunnel underneath the fence.⁵

THE POST-9/11 TERRORISM DIMENSION: MORE FENCES AND “BOOTS ON THE GROUND”

While terrorism was occasionally cited as a reason for increased resources for border control before 9/11, the tragic events of that day and the subsequent changes in the international security environment now make it the primary reason cited by officials for more security efforts at U.S. borders. The rhetoric on this issue has been ramped up in recent months with statements by high-level officials such as retired Admiral James Loy, DHS acting deputy director, who suggested that al-Qaeda terrorists may seek to use the U.S.-Mexico border as an entry point. The sentiment was echoed by some in Congress. Representative Solomon P. Ortiz (D-27th/Texas), for example, sounded the alarm at a Congressional hearing, stating that “The southern border is literally under siege, and there is a real possibility that terrorists, particularly Al Qaeda forces, could exploit this series of holes in our law enforcement system.”⁶

Some of the concern may stem from the fact that more non-Mexicans are crossing illegally into the United States across the frontier. During the first half of FY 2005, some 41,360 such individuals were apprehended (90 percent of whom are from Latin America).⁷ This is an increase from the figures from the same period last year. It should be remembered, however, that none of the al-Qaeda terrorists who committed the 9/11 attacks entered the United States illegally from Mexico or Canada. In fact, these terrorists entered legally on tourist or student visas

and then violated the conditions of their admittance. The DHS has also indicated that no chemical materials, explosives, or terrorists have yet to be seized at the U.S.-Mexico border since 9/11.⁸

AN UNSUCCESSFUL SOUTHWESTERN BORDER CONTROL STRATEGY

Despite the post-9/11 emphasis on national security, the border fence and similar security measures are a continuation of the ineffective southwestern border control strategy first implemented more than a decade ago. This strategy focuses human, structural, and technological resources at the physical, international frontier in the form of Border Patrol agents, barriers (such as fences), and surveillance equipment. As a result of the emphasis on “forward deployment,” the strategy has also placed interior enforcement of immigration laws on the backburner. In effect, immigration enforcement has become a high-profile federal effort to stem the flow of migrants into the United States as they cross – or at least present the image that these flows are being restricted.

The build up in border enforcement was spurred by a number of events.⁹ Economic downturns in the late 1980s and early 1990s, as well as the 1993 bombing of the World Trade Center and the Golden Venture incident (in which a boat carrying about 300 undocumented Chinese refugees ran aground near Queens, New York), fermented fears about U.S. borders being “out of control,” open to a so-called “flood” of “illegal aliens.” In 1994, dislocations of workers in Mexico caused by the phasing in of the North American Free Trade Agreement (NAFTA) and the devaluation of the peso also created pressures for migration out of Mexico.

Against this backdrop, in 1993 Silvestre Reyes, then-Border Patrol chief for El Paso, Texas, and now a Congressional Representative (D-16th/Texas), began “Operation Hold the Line.”

⁶ Eric Lipton, “Despite New Efforts Along Arizona Border, ‘Serious Problems’ Remain,” *New York Times* (14 March 2005).

⁷ *ibid.*

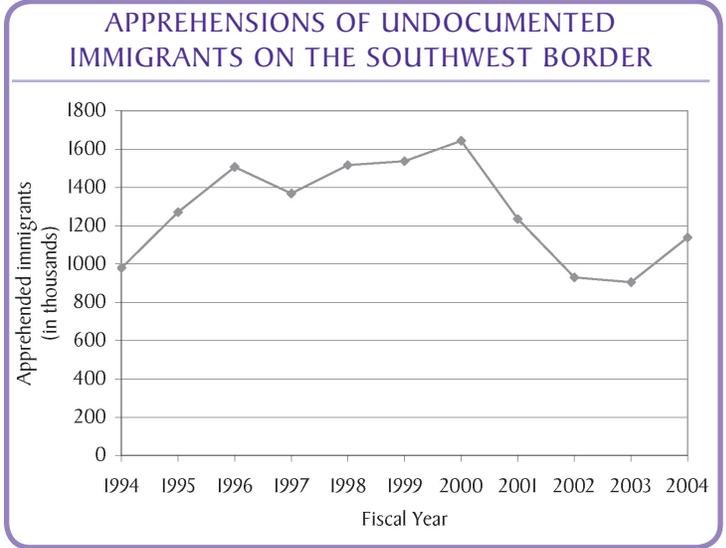
⁸ Tom Ridge indicated this in remarks made in El Paso, Texas (4 December 2003). See Louie Gilot, “Balance trade and Security, Ridge Says,” *El Paso Times* (5 December 2003).

⁹ For a cogent review of the political and economic issues and contradictions in U.S. immigration policy, see Walter Ewing, *From Denial to Acceptance: Effectively Regulating Immigration to the United States*, *Immigration Policy in Focus* 3, no. 5 (November 2004). Available at [<http://www.aifl.org/ipc/ipf112204.asp>].

This initiative spread 450 Border Patrol agents along the El Paso section of the border on a 7-day-per week, 24 hour-a-day watch. In effect, Reyes adopted and applied a “line-watch” strategy he utilized in south Texas years earlier. The policy attracted much public attention, political interest group action, and new federal resources. It was quickly copied in other urban areas of the frontier, notably in the San Diego/Tijuana region in the form of “Operation Gatekeeper.” There, and in other areas along the border, thousands of new Border Patrol agents took to the field, sensors were installed, and a double high, 14-foot fence was built to deter the flow of undocumented immigrants into the United States. The idea was to achieve “Prevention Through Deterrence”: migrants would simply decide the trip to the United States was too difficult and risky and therefore abandon their plans.

Many analysts now conclude this strategy failed in terms of reducing undocumented migration to the United States. A report by the U.S. Government Accountability Office (GAO)¹⁰ evaluated the strategy and called the results “inconclusive.”¹¹ Numerous scholars have pronounced the policy ineffective in deterring undocumented migration, even if it is politically and symbolically successful. The overriding evidence supports this conclusion: the number of undocumented migrants in the United States continues to increase. As indicated in Chart I, apprehensions of undocumented immigrants at the southwest border have returned to levels seen in the early 1990s, after falling during the recent economic downturn. Some analysts estimate that two to three migrants make it into the United States for every one caught by the Border Patrol. A study released in March 2005 by the Pew Hispanic Center estimates the number of undocumented immigrants at 10.3 million as of March 2004, an increase of 23 percent from 8.4 million in 2000 and growing by nearly half a million each year.¹² The numbers are increasing at the same rate as during the 1990s “despite significant efforts by the government to try to restrain the flow...at the border.”¹³

Chart I



Sources:

1. U.S. Citizenship and Immigration Services, “Southwest Border Apprehensions” (9 March 2005). Available at [<http://uscis.gov/graphics/shared/aboutus/statistics/msrfeb05/SWBORD.HTM>].
2. U.S. Department of Homeland Security, Office of Immigration Statistics, 2003 Yearbook of Immigration Statistics (September 2004). Available at [<http://uscis.gov/graphics/shared/statistics/yearbook/2003/2003Yearbook.pdf>].
3. U.S. Department of Justice, Immigration and Naturalization Service, 1999 Statistical Yearbook of the Immigration and Naturalization Service (March 2002). Available at [<http://uscis.gov/graphics/shared/statistics/yearbook/1999/FY99Yearbook.pdf>].

This flow of undocumented immigrants has occurred despite ten years of fairly consistent and large increases in the budget authority for the Immigration and Naturalization Service (now CBP) and a parallel surge in the number of Border Patrol agents stationed on the frontier, detailed in Charts 2 and 3.

There are at least three reasons why, despite these increased financial and human resources, the border policy began by the United States in the early 1990s has failed to reduce undocumented migration. First, while the policy did reduce urban apprehensions, it simply funneled most border crossers

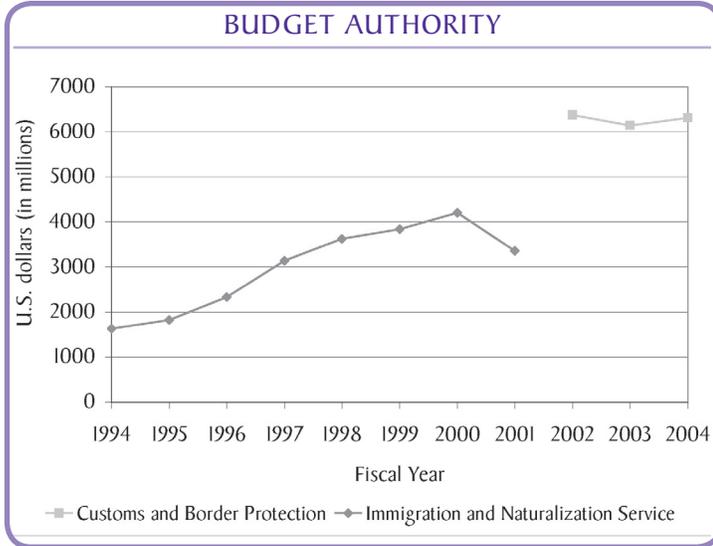
¹⁰ Prior to July 7, 2004, the U.S. Government Accountability Office was named the U.S. General Accounting Office.

¹¹ U.S. General Accounting Office, “Illegal Immigration: Southwest Border Strategy Results Inconclusive; More Evaluation Needed,” GAO Report GCD-98-21 (December 1997). Available at [<http://www.gao.gov/archive/1998/gg98021.pdf>].

¹² Jeffrey S. Passel, Estimates of the Size and Characteristics of the Undocumented Population. Washington, D.C.: Pew Hispanic Center, 2005. Available at [<http://pewhispanic.org/files/reports/44.pdf>].

¹³ Pew Hispanic Center Director Roberto Suro, quoted in Sylvia Moreno, “Flow of Illegal Immigrants to U.S. Unabated Mexicans Make Up Largest Group,” Washington Post (22 March 2005): A02.

Chart 2

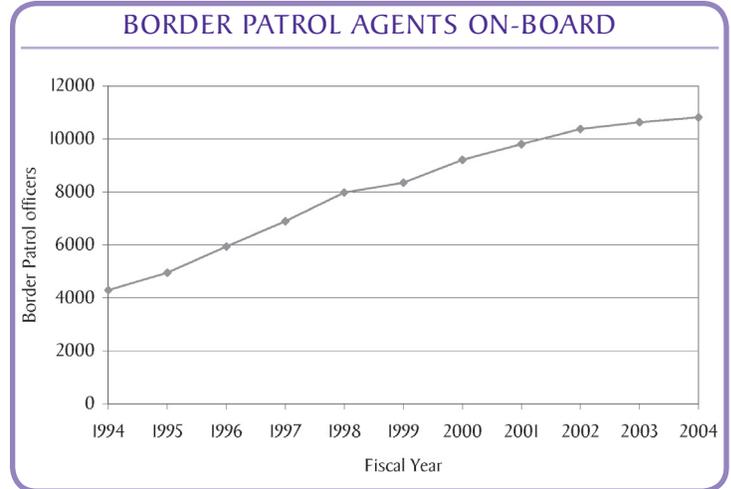


Source: U.S. Government Printing Office, Budget of the United States Government (last updated: February 3, 2005). Available at [<http://www.gpoaccess.gov/usbudget/browse.html>].

into the hands of ruthless smugglers known as “coyotes” who take them to the United States through ever more desolate and dangerous terrain in remote rural areas of the southwestern borderlands. In 2004, 580,000 undocumented immigrants were arrested in Arizona, 50 percent of the national total, compared to just 9 percent before “Operation Gatekeeper.”¹⁴ The death rate for undocumented immigrants crossing into the United States has soared under this policy, creating a major human rights problem. Secondly, estimates suggest that up to half of the undocumented immigrants currently in the United States came to the country legally and have simply overstayed their visas.¹⁵ Because little interior enforcement occurs, and given the fact the United States is an open society, security efforts implemented at the border have a limited effect on the number of undocumented immigrants.

Finally, and most importantly, the current border policy fails to address the economic and social forces that continue,

Chart 3



Sources:

1. U.S. Department of Justice, Immigration and Naturalization Service, “Border Patrol FY 2000 Recruiting and Hiring Report” (July 2000), p.2. Available at [<http://uscis.gov/graphics/publicaffairs/factsheets/recruit.pdf>].
2. U.S. Department of Justice, “Status of Achieving Key Outcomes and Addressing Major Management Challenges” (June 2001), p.18. Available at [<http://www.gao.gov/new.items/d01729.pdf>].
3. U.S. Department of Homeland Security, U.S. Customs and Border Protection, Performance and Annual Report Fiscal Year 2004, p.16. Available at [http://www.cbp.gov/linkhandler/cgov/toolbox/publications/admin/cbp_annual.ctt/cbp_annual.pdf].

at least in the short and medium-term, to underpin a steady flow of immigrants from Mexico to the United States in excess of existing legal limits. These forces include the significant economic disparity that exists between Mexico and the United States. In addition, development needs in Mexico tend to encourage migration because workers send billions of dollars of critical remittances back to their home communities each year. Moreover, NAFTA created an economic system that chiefly serves the interests of large U.S.-based multinational firms such as agribusinesses. Such interests tend to favor the existence of illegal immigration because labor is generally cheaper when it is undocumented.

¹⁴ Anonymous, “American Immigration,” *The Economist* (10 March 2005).

¹⁵ See Pia M. Orrenius, “Do Amnesty Programs Reduce Undocumented Immigration? Evidence from IRCA,” *Demography* 40, no. 3 (Aug. 2003): 437-50. A GAO report on the matter found that DHS underestimated the number of visa overstays in the United States, suggesting that “clearly...some substantial percentage of illegal residents are overstays.” See U.S. General Accounting Office, “Overstay Tracking: A Key Component of Homeland Security and a Layered Defense,” GAO Report #04-82 (May 2004). Available at [<http://www.gao.gov/new.items/d0482.pdf>].

¹⁶ For a general review of the Smart Border Accords, see Deborah Waller Meyers, Does ‘Smarter’ Lead to Safer? An Assessment of the Border Accords with Canada and Mexico, *Migration Policy Institute Insight*, no. 2 (June 2003). Available at [<http://www.migrationpolicy.org/pubs/6-13-0~1.PDF>].

“SMART” BORDERS

An alternative approach to border security is suggested by the “Smart Border” accords the Bush administration negotiated with Canada and Mexico in 2001 and 2002.¹⁶ The agreements, somewhat different in the case of each bilateral partner, involve limited cooperation on a number of policy issues related to border control, including inspections, pre-clearances of goods and people, database coordination, and biometric identifiers. The accords were signed in response to a major challenge facing the three nations in the wake of 9/11: how to maintain economic integration and free trade in an age when terrorism operates across international frontiers. Smart Border technologies are therefore designed to facilitate trade but at the same time screen out terrorists, weapons of mass destruction, illicit drugs, and undocumented migrants.

As part of the accords, new dedicated systems at international ports of entry for pre-screened cargo and passenger vehicles will allow law enforcement officials to focus on higher risk entrants. Other systems may move us to an age of “virtual borders” where inspections occur overseas or away from the land border entirely. Still other initiatives seek to authoritatively identify persons seeking admission into the United States and test shipments of cargo for dangerous weapons. These systems are a good start, but more importantly, several components of the Smart Border agreements signal possible closer collaboration between the United States, Mexico, and Canada on counter-terrorism policy. This is vital because the current technologies alone are not yet well enough developed or properly implemented to guarantee border security.¹⁷ In addition, an agreement on migration must be built into the agreements because at present, the Smart Border work is mainly going on at ports of entry, not along the thousands of miles of relatively open border the United States shares with its two neighbors.

The Smart Border accords and associated technological systems thus represent possible improvements in the way U.S. borders are managed. However, some members of Congress want to rely on the old ways of doing things, such as fencing, which rhetorically and symbolically seem like the easy and simple answer for the war on terrorism – recall the Robert Frost proverb that states “good fences make good neighbors.” Unfortunately, these kinds of border control methods only

serve to confuse or ignore the underlying political, social, and economic factors at play on the border and between the United States and Mexico.

CONCLUSION: SEEKING ALTERNATIVES

The growing economic integration of the United States and Mexico, as well as the openness of U.S. society, dooms to failure any border-control strategy that focuses primarily on line-watch security at the physical frontier – be it through agents, walls, fences, or sensors. Viewing border security as a solely national security matter tends to neglect the larger economic and social forces that underpin the flow of Mexicans and others into the United States to fill gaps in the U.S. labor force.

Policymakers need to seek out alternative approaches to border security that take into account the transnational nature of trade and migration, as well as terrorism. This could be accomplished through a revised version of NAFTA that includes three additional elements. First, an agreement on security cooperation should be implemented among the United States, Mexico, and Canada which approaches terrorism as a North American, rather than simply a national, issue. Second, migration must be addressed in a humane way that acknowledges the contributions of migrants and the economic needs of all three NAFTA partners. And finally, an investment fund should be created that builds infrastructure, protects the environment, and encourages economic development in Mexico.

Re-evaluating U.S. border security policy does not mean abandoning important counterterrorism and homeland defense priorities. To strengthen these efforts, policymakers should consider a more intelligence-driven approach that builds a trilateral security relationship between Mexico, Canada, and the United States. This would involve sharing key information on threats, additional law-enforcement cooperation, and the establishment of “virtual borders” away from the physical frontier, where inspections would take place and goods or people would be pre-cleared to cross. Counterterrorism policy is most effective before a terrorist hits the vast mix of people and commodities trying to expeditiously cross into the United States. There has been some progress on these issues – the meeting of Canadian

¹⁷ See Jason Ackleson, “Border Security Technologies: Local and Regional Implications,” *Review of Policy Research* 22, no. 2 (2005): 137-155.

Prime Minister Paul Martin, U.S. President George W. Bush, and Mexican President Vicente Fox on March 23, 2005, was positive – but much remains to be done. The three leaders, for instance, did not address migration. An accord on migration would allow law enforcement agencies to focus their attention on the very small proportion of non-migrants with criminal objectives in the United States.

To be sure, the hurdles for an alternative approach to U.S. border security and migration policy are high given the current domestic political landscape. However, policymakers need to start exploring those options by first acknowledging that a truly “smart” border policy which will ensure security, facilitate trade, and justly manage migration will not be achieved by building yet another fence.

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