



# Border Security: The Role of the U.S. Border Patrol

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## Summary

The United States Border Patrol (USBP) has a long and storied history as our nation's first line of defense against unauthorized migration. Today, the USBP's primary mission is to detect and prevent the entry of terrorists, weapons of mass destruction, and illegal aliens into the country, and to interdict drug smugglers and other criminals along the border. The Homeland Security Act of 2002 dissolved the Immigration and Naturalization Service and placed the USBP within the Department of Homeland Security (DHS). Within DHS, the USBP forms a part of the Bureau of Customs and Border Protection under the Directorate of Border and Transportation Security.

During the last decade, the USBP has seen its budget and manpower more than triple. This expansion was the direct result of congressional concerns about illegal immigration and the agency's adoption of "Prevention Through Deterrence" as its chief operational strategy in 1994. The strategy called for placing USBP resources and manpower directly at the areas of greatest illegal immigration in order to detect, deter, and apprehend aliens attempting to cross the border between official points of entry. Post 9/11, the USBP refocused its strategy on preventing the entry of terrorists and weapons of mass destruction, as laid out in its recently released National Strategy. In addition to a workforce of over 20,000 agents, the USBP deploys vehicles, aircraft, watercraft, and many different technologies to defend the border.

In the course of discharging its duties, the USBP patrols 8,000 miles of American international borders with Mexico and Canada and the coastal waters around Florida and Puerto Rico. However, there are significant geographic, political, and immigration-related differences between the northern border with Canada and the Southwest border with Mexico. Accordingly, the USBP deploys a different mix of personnel and resources along the two borders. Due to the fact that approximately 98.7% of unauthorized migrant apprehensions by the USBP occur along the Southwest border, the USBP deploys over 85% of its agents there to deter illegal immigration. The northern border is more than two times longer than the Southwest border, and features far lower numbers of aliens attempting to enter illegally, but may be more vulnerable to terrorist infiltration. As a consequence of this, the USBP has focused its northern border efforts on deploying technology and cooperating closely with Canadian authorities through the creation of International Border Enforcement Teams.

Some issues for Congress to consider could include the slow rate of integration between the USBP's biometric database of illegal aliens and the Federal Bureau of Investigation's (FBI) biometric database of criminals and terrorists; the number of unauthorized aliens who die attempting to enter the country each year; the increasing attacks on Border Patrol agents, and the threat posed by terrorists along the sparsely defended northern border as well as the more porous Southwest border.

This report will be updated as circumstances warrant.

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## Recent Legislative Developments

### Administration Request for Border Security Funds

In a June 22, 2010, budget amendment the Administration requested an additional \$600 million for border security along the Southwest border of the United States, including added funding to the U.S. Border Patrol (USBP). This funding would be partially offset by rescinding \$100 million in Department of Homeland Security (DHS) funds for SBInet (commonly known as the “virtual border fence”), which has been suspended pending the outcome of a technical and cost review. The Administration requested that the remainder be designated as emergency requirements. Of the total, \$399 million would be for DHS and \$201 million would go to the Department of Justice (DOJ).

Within the DHS total, \$297 million would be used to hire 1,000 new Border Patrol agents, \$37 million for two new unmanned aerial detection systems, \$53 million for 160 new Immigration and Customs Enforcement (ICE) agents, \$6.5 million for 30 new Customs and Border Patrol (CBP) officers, and \$6 million for 20 new Customs and Border Protection (CBP) canine teams to improve border enforcement operations along the Southwest border.

The \$201 million that is being requested for DOJ would increase the presence of federal law enforcement in the Southwest border districts by adding seven Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) Gunrunner Teams, five FBI Hybrid Task Forces, additional Drug Enforcement Administration (DEA) agents, equipment, operational support, and additional attorneys and immigration judges, and supporting additional detention and incarceration costs for criminal aliens in coordination with DHS enforcement activities. The amendment would also provide funding to support Mexican law enforcement operations with ballistic analysis, DNA analysis, information sharing, technical capabilities, and technical assistance.<sup>1</sup>

### Congressional Action on Border Security

The budget amendment by the Administration was initially included in the House-passed version of H.R. 4899, but the border security provisions were dropped prior to final passage and the identical provisions were re-introduced as a separate bill—the Emergency Border Security Supplemental Appropriations Act of 2010 (H.R. 5875). H.R. 5875 includes \$701 million for border security, \$100 million more than the Administration’s request. Both the Administration and the House-amended version include \$201 million to DOJ for border security efforts, largely for more law enforcement personnel, as discussed above. H.R. 5875 was passed in the House on July 28, 2010.

For CBP, House-passed H.R. 5875 would provide a total of \$412 million, \$13 million more than the request, including \$208 million for new Border Patrol agents, \$32 million for two new unmanned aerial detection systems, \$136 million to hire and retain new CBP officers, and \$36

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<sup>1</sup> OMB, Estimate No. 8, “FY2010 Emergency Supplemental Proposals in the FY2011 Budget for the Departments of Homeland Security and Justice to Support Efforts to Secure the Southwest Border and Enhance Federal Border Protection and Law Enforcement and Counternarcotics Activities,” June 22, 2010, hereinafter, OMB, Border Security Request, 6-22-10; [http://www.whitehouse.gov/omb/assets/budget/amendment\\_06\\_22\\_10.pdf](http://www.whitehouse.gov/omb/assets/budget/amendment_06_22_10.pdf).

million for tactical communications and infrastructure, as well as for corruption investigations, and \$8 million for training. Additionally, the House-passed version provides \$30 million for ICE, \$23 million less than requested, to reduce narcotics smuggling and border violence, and it puts \$50 million toward supporting state and local law enforcement through Operation Stonegarden (distributed through FEMA). Also, the Administration's request would provide fewer Border Patrol agents and CBP officers than the House July-amended version.

On August 5, 2010, the Senate took up S. 3721 as a substitute amendment to House-passed H.R. 5875. The bill was passed by unanimous consent. Senate-passed H.R. 5875 includes \$600 million for border security (\$101 million less than House-passed H.R. 5875 would provide), of which \$394 million is allocated to DHS and \$196 million to DOJ. In contrast to the House version of the bill, Senate-passed H.R. 5875 is reportedly completely offset by increases to H1-B and L visa fees and a rescission.

For CBP, Senate-passed H.R. 5875 would provide a total of \$306 million, including \$176 million for additional Border Patrol agents, \$39 million for CBP officers at ports of entry on the Southwest border, \$10 million to support integrity and background investigation programs, \$14 million for tactical communications, \$32 million for UAV acquisition and deployment, and \$6 million for the construction of forward-operating bases for the Border Patrol. Senate-passed H.R. 5875 also includes \$80 million for ICE, of which \$30 million is directed toward efforts to reduce the threat of violence along the Southwest border, and \$50 million for additional ICE personnel; and \$8 million for the CBP, BP, and ICE basic training at the Federal Law Enforcement Training Center (FLETC).

On August 9, the House introduced a new border security supplemental bill—H.R. 6080—which was subsequently passed by the House on August 10. H.R. 6080 contains identical language to Senate-passed H.R. 5875. Reportedly, the House took up the bill with a new number to avoid a dispute related to its constitutional obligation to originate all revenue measures.<sup>2</sup> This dispute arose with the addition of funding provisions in Senate-passed H.R. 5875 that were not included in the House-passed version. As of August 11, H.R. 6080 was awaiting a Senate vote.

## **Background**

Founded in 1924 by an appropriations act of Congress (Act of May 28, 1924; 43 Stat. 240), the USBP has a long and storied history as our nation's front line in the struggle to secure our borders. The USBP's mission has historically been to prevent unauthorized aliens from entering into the country. As such, until recently the USBP formed part of the Immigration and Naturalization Service (INS). The Homeland Security Act of 2002 (P.L. 107-296) merged most interior and border enforcement functions of the Department of Agriculture, the INS, and the U.S. Customs Service to form the Directorate of Border and Transportation Security (BTS) within DHS. Using the authority given by Congress in the Homeland Security Act, the Administration sub-divided BTS and placed the border enforcement functions, including the USBP, within the Bureau of Customs and Border Protection (CBP). This consolidated all the agencies charged with border enforcement duties with the overarching goal of enhancing security by allowing for the

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<sup>2</sup> Theo Emery and Edward Epstein, "Border Security Bill Passes in House," *CQ Today*, August 10, 2010, online edition.

freer sharing of information and resources between all the organizations with a presence on the border.<sup>3</sup>

Although CBP is charged with overall border enforcement, within the bureau a distinction is made concerning border enforcement *at* and *between* points of entry. As currently comprised, the USBP's primary mission is to detect and prevent the entry of terrorists, weapons of mass destruction, and unauthorized aliens into the country, and to interdict drug smugglers and other criminals *between* official points of entry. USBP agents have no official role *at* points of entry; instead, CBP inspectors stationed there are responsible for conducting immigrations, customs, and agricultural inspections on entering aliens.

The USBP's statutory authority for border enforcement powers derives from section 287 of the Immigration and Nationality Act (INA).<sup>4</sup> The INA gives immigration officers (as designated by federal regulations) the statutory authority to search, interrogate, and arrest unauthorized aliens and all others who are violating immigration laws. The INA also bequeaths immigration officers a broader statutory authority to make arrests for any felony cognizable under the laws of the United States. Federal regulations then designate USBP agents as immigration officers capable of wielding the above mentioned powers.<sup>5</sup> This means that the USBP is not a statutorily defined agency, instead its role is delineated through federal regulations.

In the course of discharging its duties the USBP patrols 8,000 miles of our international borders with Mexico and Canada and the coastal waters around Florida and Puerto Rico. The United States' northern and southwestern borders differ radically in geography, climate, and length. The northern border with Canada touches 12 states and is over 4,000 miles long.<sup>6</sup> Among its many challenging natural features are vast mountain ranges such as the Rockies, the Great Lakes, many different river systems, and in the winter heavy snow and bitter cold temperatures. Conversely, the southwestern border with Mexico touches only four states and is less than half as long, featuring large tracts of desert land where temperatures average well over 100 degrees for much of the year, mountain ranges, and the Rio Grande along the Texas border. Patterns of illegal immigration differ widely between the northern and Southwest borders. The southwestern border accounts for over 97% of all illegal alien apprehensions and thereby commands the lion's share of USBP resources and manpower. Not surprisingly, the USBP's main emphasis along the southwestern border is containing unauthorized immigration. The northern border, conversely, poses a severe logistical challenge given its length, geographic complexity, and comparative lack of manpower. Along the northern border, the main concerns are the border's vulnerability to terrorist infiltration and the proliferation of cross-border smuggling.

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<sup>3</sup> For a more detailed account of the formation of DHS refer to CRS Report RL31549, *Department of Homeland Security: Consolidation of Border and Transportation Security Agencies*, by Jennifer E. Lake, and CRS Report RL31560, *Homeland Security Proposals: Issues Regarding Transfer of Immigration Agencies and Functions*, by Lisa Seghetti.

<sup>4</sup> 8 U.S.C. §1357 (a).

<sup>5</sup> 8 C.F.R. §287.5.

<sup>6</sup> The USBP does not patrol the border between Alaska and Canada; for the purposes of this report the northern border is the border between the contiguous United States and Canada.

## Organization and Composition

As an executive branch agency, most USBP initiatives are initially administrative measures. However, the U.S. Congress has strongly supported many of them through the appropriations process.

## Evolution of the National Strategic Plan

In 1993, a study commissioned by the Office of National Drug Control Policy concluded that the Southwest border was “being overrun,” noting as an example that 6,000 illegal immigrants attempted to enter the United States every night along a 7.5-mile stretch of the San Diego border. The study also concluded that drug smuggling was a serious threat all along the Southwest border, and recommended that the then INS change its focus from arresting illegal immigrants to preventing their entry.<sup>7</sup> Partly in response to public and congressional concerns about the number of illegal immigrants and drugs entering the country, in 1994 the USBP began implementing its first National Strategic Plan (NSP).

Developed as an effort to gain and maintain control of the borders, the original NSP was a multi-phased approach to deploying and focusing USBP resources on the areas of greatest illegal entry of people and goods. The NSP called for a calibrated balance of personnel, aircraft, equipment, technology, and tactical infrastructure. The focus of the NSP was an operational strategy known as “Prevention Through Deterrence.” The strategy’s goal was to place USBP agents and resources directly on the border in order to deter the entry of illegal aliens, rather than attempting to arrest aliens after they have already entered the country (this had largely been the strategy prior). According to CBP, achieving optimum deterrence would mean that increasing the number of agents and resources in a sector would not result in an increase in the number of unauthorized migrants apprehended in that sector.<sup>8</sup> The “Prevention Through Deterrence” policy was embraced by Congress, with both the House and Senate Appropriations Committees in 1996 directing the INS to hire new agents, reallocate USBP agents stationed in the interior to front line duty, and staff the interior offices with investigative staff instead.<sup>9</sup>

Phase I of the NSP involved the “Hold the Line” program in El Paso, TX, and Operation Gatekeeper in San Diego, CA. In addition to placing more agents on the line, these operations utilized landing mat fencing,<sup>10</sup> stadium lighting, and cameras and sensors to deter and detect unauthorized aliens. Phase II of the program included the expansion of Operation Safeguard (1999) in Tucson, AZ, operation Rio Grande (1997) in the McAllen and Laredo sectors of Texas, and an increased emphasis on securing the northern border. Phase III was set to involve the

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<sup>7</sup> U.S. General Accounting Office, *Border Control: Revised Strategy Is Showing Some Positive Results*, GAO/GGD-95-30, December 1994, pp. 5-8.

<sup>8</sup> U.S. Customs and Border Protection, *Performance and Annual Report: Fiscal Year 2003*, p. 41.

<sup>9</sup> U.S. Congress, Senate Committee on Appropriations, *Departments of Commerce, Justice, and State, The Judiciary, and Related Agencies Appropriations Bill, 1996*, report to accompany H.R. 2076, 104<sup>th</sup> Cong., 1<sup>st</sup> sess., S.Rept. 104-139 and U.S. Congress, House Committee on Appropriations, *Making Appropriations for the Departments of Commerce, Justice, and State, The Judiciary, and Related Agencies For the Fiscal Year Ending September 30, 1996, and for Other Purposes*, report to accompany H.R. 2076, 104<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 104-378.

<sup>10</sup> Landing mat fencing is constructed from surplus Vietnam War era landing mats used to set up temporary landing strips for airplanes.



remaining areas of the Southwest border as well as the coastal waters around Florida and Puerto Rico.

Although CBP maintained that the “Prevention Through Deterrence” strategy applied to both the southwestern and northern borders, the mix of USBP resources used to enforce it differed markedly between the borders. Along the Southwest border, the NSP emphasized the following mix of resources in descending order of importance: personnel, equipment, technology, and tactical infrastructure.<sup>11</sup> The emphasis on personnel, equipment, and technology along the Southwest border reflected the BP’s emphasis on stemming the flow of unauthorized immigrants attempting to enter the United States from Mexico.

Conversely, the northern border emphasized a different mix of resources and activities: intelligence, liaison, technology, equipment, and personnel last.<sup>12</sup> The emphasis on intelligence gathering and coordination with Canadian immigration and security agencies along the northern border was due in part to the comparatively smaller amount of people attempting to cross over illegally from Canada as well as the geographic enormity of the border. Additionally, it also reflected the growing concern with terrorist infiltration.

In the wake of 9/11, the BP refocused its priorities to place greater emphasis on protecting against terrorist penetration. As security efforts at official ports of entry become more sophisticated and stringent, it is believed that terrorists and other criminals may attempt to illegally enter the country between points of entry. In order to prevent and deter terrorist entry, the BP, in conjunction with Immigration and Customs Enforcement’s (ICE’s) Anti-Smuggling Units and CBP’s Office of Intelligence, focuses its intelligence and surveillance operations on known smuggling operations that have previously trafficked aliens from significant interest countries. Additionally, the agencies develop joint operations to target and disrupt these especially high-interest smuggling activities.<sup>13</sup> The BP also coordinates and shares intelligence with Canadian and Mexican authorities along the northern and southwestern borders. It is important to note, however, that the increased emphasis on preventing terrorist entry into the United States did not change the scope of the BP’s mission—preventing unauthorized aliens from entering the country.

## **National Border Patrol Strategy**

Shortly after the creation of DHS, the BP was directed to formulate a new National Border Patrol Strategy (NS) that would better reflect the realities of the post 9/11 security landscape. In March of 2005, the BP unveiled the current strategy, which places greater emphasis on interdicting terrorists and features five main objectives:

- Establishing the substantial probability of apprehending terrorists and their weapons as they attempt to enter illegally between the ports of entry;
- Deterring illegal entries through improved enforcement;
- Detecting, apprehending, and deterring smugglers of humans, drugs, and other contraband;

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<sup>11</sup> U.S. Customs and Border Protection, *Performance and Annual Report: Fiscal Year 2003*.

<sup>12</sup> U.S. Customs and Border Protection, *Performance and Annual Report: Fiscal Year 2003*.

<sup>13</sup> Department of Homeland Security, Bureau of Customs and Border Protection, “Fact Sheet: U.S. Customs and Border Protection—Protecting Our Southern Border Against the Terrorist Threat,” Fact Sheet, August 20, 2004.

- Leveraging “Smart Border” technology to multiply the deterrent and enforcement effect of agents;
- Reducing crime in border communities, thereby improving the quality of life and economic vitality of those areas.<sup>14</sup>

The Border Patrol’s NS is an attempt to lay the foundation for achieving operational control over the border. The Border Patrol defines operational control as “the ability to detect, respond, and interdict border penetrations in areas deemed as high priority for threat potential or other national security objectives.”<sup>15</sup> The strategy places greater emphasis on a hierarchical and vertical command structure, featuring a direct chain of command from HQ to the field. The NS builds on the “Prevention Through Deterrence” strategy, but places added emphasis on enhancing the Border Patrol’s ability to rapidly deploy its agents to respond to emerging threats. Tactical, operational, and strategic intelligence is critical to this emphasis on rapid deployment, as it allows the Border Patrol to assess risk and target its enforcement efforts. The Border Patrol believes that much of this intelligence will be generated through the use of next generation surveillance systems, including cameras, sensors, and other technologies. However, recent pilot programs of these next-generation technologies have yielded mixed results. Additionally, the Border Patrol coordinates closely with CBP’s Office of Intelligence and other DHS and Federal agencies’ intelligence apparatuses. Lastly, the Border Patrol National Strategy formulates different strategies for each of the agency’s three operational theaters: the Southwest border, the northern border, and the coastal waters around Florida and Puerto Rico; the northern and southern border strategies will be discussed in detail subsequently.

## **Budget and Resources**

The Border Patrol is headquartered in Washington, DC, and has 20 district or sector offices throughout the country. Over the past two decades, border enforcement has increasingly become a priority, with the border enforcement budget increasing sevenfold from 1980 to 1995 and then more than tripling from 1995 to 2003.<sup>16</sup> **Figure 1** shows Border Patrol appropriations since fiscal year (FY) 2000.<sup>17</sup> Appropriations for the Border Patrol has grown steadily, from \$1.06 billion in FY2000 to \$3.58 billion requested in FY2011—an increase of 238%. The bulk of this increase has taken place since the formation of DHS in FY2003 and demonstrates Congress’s interest in enhancing the security of the U.S. border post 9/11. Accompanying the budget increase, Border Patrol manpower has more than doubled over the past decade. As of November 21, 2009, the Border Patrol had 20,202 agents on board.<sup>18</sup>

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<sup>14</sup> Department of Homeland Security, Bureau of Customs and Border Protection, “National Border Patrol Strategy,” March 1, 2005. Hereafter referred to as *BP National Strategy*.

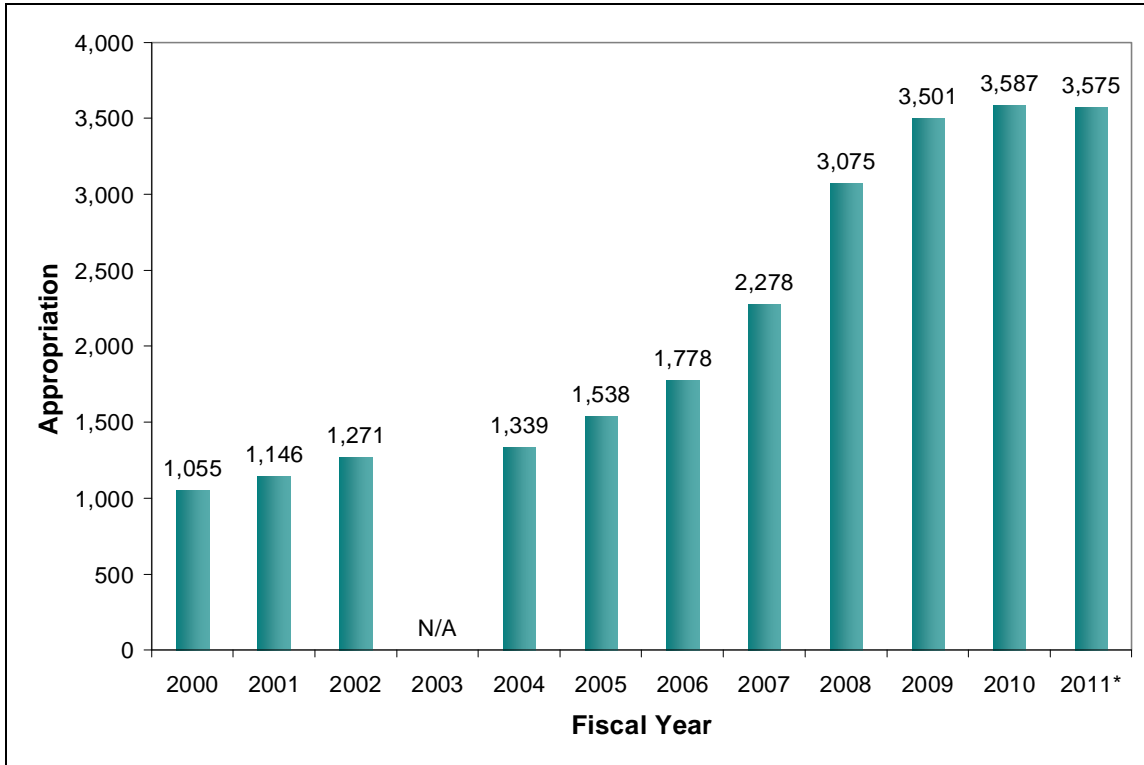
<sup>15</sup> *BP National Strategy*, p. 3.

<sup>16</sup> Reyes, Johnson, and Van Swearingen: “Holding the Line? The Effect of the Recent Border Build-up on Unauthorized Immigration,” Public Policy Institute of California, 2002, pp. v-vii.

<sup>17</sup> Due to the manner in which the Border Patrol collects and organizes its data, all statistics presented in this report are based on the Federal Fiscal Year, which begins October 1 and ends on September 30.

<sup>18</sup> Staffing numbers provided by CBP Congressional Affairs, December 6, 2010.

Figure I. Border Patrol Appropriations



**Sources:** Appropriations for FY2001 and FY2002 are from the Department of Justice, Immigration and Naturalization Service, FY2002 Congressional Budget Justifications. For FY2004 through FY2011, this table reflects the Border Security and Control Salaries and Expenses sub-account within the CBP Border Security and Control account of the DHS Appropriation, as identified in the following: H.Rept. 108-280 (FY2004); H.Rept. 108-774 (FY2005); H.Rept. 109-241 (FY2006); H.Rept. 109-699 (FY2007); and H.Rept. 111-298 (FY2010). FY2008 enacted amounts are from Division E of P.L. 110-161, and tables in the Joint Explanatory Statement for Division E, published in the Congressional Record, December 17, 2007, pp. H16107-H16121. FY2009 enacted from the DHS Joint Explanatory Statement as submitted in the Congressional Record, and the House- and Senate- enrolled version of H.R. 2638. The FY2011 funding represents the requested amount from the Congressional Budget Justifications. FY2005 also includes a \$124 million supplemental appropriation from P.L. 109-13. In FY2006, CBP also received \$423 million in supplemental funding for Salaries and Expenses in P.L. 109-234; however, the law did not identify how much of this funding would be for the Border Patrol and thus it has not been included in this table. The FY2008 DHS Congressional Budget Justifications estimate that the FY2006 appropriation for the Border Patrol was \$1,900 million.

**Notes:** \* Denotes requested funding amount from the FY2011 Congressional Budget Justification, CBP. In FY2003, immigration inspections from the former INS, Customs inspections from the former customs service, and the Border Patrol were merged to form the Bureau of Customs and Border Protection within DHS. As a result, for staffing and funding levels, the data for years prior to FY2003 may not be comparable with the data for FY2004 and after. Additionally, FY2001 and FY2002 numbers are from the INS FY2002 Congressional Budget Justifications. They were pulled from a table that breaks out the elements of the larger Enforcement and Border Affairs account within the agency's appropriation. In FY2003, the INS did not provide a breakout of the sub-accounts within the Enforcement and Border Affairs account in its Justifications; for this reason FY2003 numbers are not available. DHS has not responded to requests for this data. Appropriations for the Enforcement and Border Affairs account within INS for this period were as follows: \$2,541 million in FY2001; \$2,740 million in FY2002; and \$2,881 million in FY2003.

The Border Patrol also utilizes advanced technology to augment its agents' ability to patrol the border. The technologies used include, but are not limited to, sensors, light towers, mobile night vision scopes, remote video surveillance (RVS) systems, directional listening devices, unmanned aerial vehicles (UAVs), and various database systems. These so-called force multipliers allow the

Border Patrol to deploy fewer agents in a specific area while maintaining the ability to detect and counter intrusions

## **Surveillance Assets (Secure Border Initiative)**

Perhaps the most important technology used by the Border Patrol are the surveillance assets currently in place at the border. The program has gone through several iterations and name changes. Originally known as the Integrated Surveillance Information System (ISIS), the program's name was changed to the America's Shield Initiative (ASI) in FY2005. DHS subsequently folded ASI into the Secure Border Initiative (SBI) and renamed the program SBInet Technology (SBInet). Once it is beyond the pilot phase, SBInet will, according to DHS, develop and install "new integrated technology solutions to provide enhanced detection, tracking, response, and situational awareness capabilities."<sup>19</sup> The other program under SBI is the SBI Tactical Infrastructure program, which, according to DHS, "develops and installs physical components designed to consistently slow, delay, and be an obstacle to illegal cross-border activity."<sup>20</sup>

In the late 1990s, the Border Patrol began deploying a network of Remote Video Surveillance (RVS) systems (i.e., camera systems), underground sensors, and the Integrated Computer Assisted Detection (ICAD) database into a multi-faceted network designed to detect illegal entries in a wide range of climate conditions. This Integrated Surveillance Intelligence System (ISIS) attempted to ensure seamless coverage of the border by combining the feeds from multiple color, thermal, and infrared cameras mounted on different structures into one remote-controlled system with information generated by sensors (including seismic, magnetic, and thermal detectors). When a sensor is tripped, an alarm is sent to a central communications control room at a USBP station or sector headquarters. USBP personnel monitoring the control room screens use the ICAD system to re-position RVS cameras towards the location where the sensor alarm was tripped (although some camera positions are fixed and cannot be panned). Control room personnel then alert field agents to the intrusion and coordinate the response.

In FY2005, the General Services Administration's Inspector General (GSA IG) released a report that criticized the USBP for its contracting practices regarding RVS system. The GSA IG found that the contracts were granted without competition, and that in many cases the contractor failed to deliver the services that were stipulated within the contract, leading to RVS sites not being operational in a timely manner. In a 2005 report, the DHS Inspector General (DHS IG) noted that deficiencies in contract management and processes resulted in 169 incomplete RVS sites.

ISIS was folded into a broader border surveillance system named the America's Shield Initiative (ASI) by DHS in 2005. However, DHS Inspector General (IG) Richard Skinner stated in congressional testimony on December 16, 2005, that "to date, ISIS components have not been integrated to the level predicted at the onset of the program. RVS cameras and sensors are not linked whereby a sensor alert automatically activates a corresponding RVS camera to pan and tilt in the direction of the triggered sensor. However, even if ISIS was fully integrated, due to a limited number of operational RVS sites (255 nationwide), integration opportunities would be

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<sup>19</sup> Customs and Border Protection, "SBI Programs," November 10, 2008, at [http://www.cbp.gov/xp/cgov/border\\_security/sbi/about\\_sbi/sbi\\_programs.xml](http://www.cbp.gov/xp/cgov/border_security/sbi/about_sbi/sbi_programs.xml).

<sup>20</sup> *Ibid.*

limited to the areas near these sites.”<sup>21</sup> Additionally, the DHS IG noted in its 2005 report that, due to a lack of integration, “ISIS remote surveillance technology yielded few apprehensions as a percentage of detection.”

For these reasons, in FY2006, Congress withdrew support for ASI’s expansion. The conferees to the DHS Appropriations Act stated that it was their understanding that DHS was currently reviewing the entire ASI program, and that major procurement for the program might be curtailed until DHS “resolved fundamental questions about scope and architecture, and possibly its relation to overall, nationwide border domain security and awareness.”<sup>22</sup> The conferees noted that they expected to be kept informed of the results of this review and encouraged DHS to explore the use of off-the-shelf solutions for the program.

In FY2007, DHS folded ASI into a new, broader program known as the Secure Border Initiative (SBI). In its FY2007 budget submission, DHS asserted that it had “developed a three-pillar approach under the SBI that will focus on controlling the border, building a robust interior enforcement program, and establishing a Temporary Worker Program.”<sup>23</sup> The border surveillance and infrastructure component of the SBI program came to be known as SBInet and SBI Tactical Infrastructure. DHS noted that these programs would initially focus on the Southwest land border between official ports of entry and that it would deploy a mix of personnel, technology, infrastructure, and response assets in order to “provide maximum tactical advantage in each unique border environment.”<sup>24</sup>

However, the SBInet program has encountered a number of issues during the past several years. Congress has repeatedly requested detailed spending plans from DHS for the program. The Government Accountability Office (GAO) concluded in September 2008 that “important aspects of SBInet remain ambiguous and in a continued state of flux, making it unclear and uncertain what technology capabilities will be delivered, when and where they will be delivered, and how they will be delivered.”<sup>25</sup> In particular, GAO criticized DHS for having narrowed the scope of the program while simultaneously failing to meet its deadlines. GAO noted that, in December 2006, DHS had committed itself to having a suite of capabilities operational along the entire Southwest border by the end of 2008 (this has been called a “virtual fence” by some in Congress). However, “in March 2008, the SBInet System Program Office had reduced its commitment to deploying a to-be-determined set of technology capabilities to three out of nine sectors along the Southwest border by 2011 and to only two locations in one of nine sectors by the end of 2008.”<sup>26</sup> However, this timeline has been pushed back once more as deployment dates have repeatedly slipped and a full deployment date remains uncertain.<sup>27</sup> In early 2010, Secretary Napolitano ordered a

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<sup>21</sup> Testimony of DHS Inspector General Richard L. Skinner before the House Homeland Security Committee, Subcommittee on Management, Integration, and Oversight, *New Secure Border Initiative*, 109<sup>th</sup> Cong., 1<sup>st</sup> sess., December 16, 2005.

<sup>22</sup> H.Rept. 109-241, p. 44.

<sup>23</sup> Department of Homeland Security, *DHS FY2007 Congressional Budget Justification*, p. CBP S&E 4.

<sup>24</sup> Department of Homeland Security, *DHS FY2008 Congressional Budget Justification*, p. CBP BSFIT 3.

<sup>25</sup> Government Accountability Office, *Secure Border Initiative: DHS Needs to Address Significant Risks in Delivering Key Technology Investment*, GAO-08-1086, September 22, 2008, p. 2. Hereafter referred to as *GAO SBInet Report*.

<sup>26</sup> *GAO SBInet Report*, p. 3.

<sup>27</sup> *GAO SBInet Report*, p. 3.

department-wide assessment of the SBInet technology project, but stated that she would continue to support the deployment of border supervision and protection technologies.<sup>28</sup>

Congress has been critical of the program in the appropriations process. In FY2007, the first year SBI programs were funded, Congress appropriated \$1.5 billion<sup>29</sup> for fencing, infrastructure, and technology at the border, but included a provision requiring the DHS IG to evaluate all contracts or task orders over \$20 million awarded in conjunction with SBI projects.<sup>30</sup> In FY2008, Congress expressed concern with the overall coordination of the SBI program and directed DHS to provide a briefing within 120 days of enactment on how the program is being effectively coordinated and how the FY2007 funds that were appropriated for the Office of Secure Border Coordination in FY2007 were obligated. The Appropriations Act provided \$1,225 million for SBI programs, but withheld \$650 million until an expenditure plan was received and approved.<sup>31</sup> In FY2009, P.L. 110-329 fully funded the President's request of \$775 million for SBI programs, but once again voiced concerns about the program's implementation and withheld a portion of the appropriation (\$400 million) from obligation until a 12-point expenditure plan is submitted and approved by the House and Senate Committees on Appropriations.<sup>32</sup> The Administration requested \$574 million for the deployment of SBI technologies and infrastructures in FY2011, a decrease of \$226 million from the FY2010-enacted level of \$800 million.<sup>33</sup>

## **Automated Biometrics Identification System (IDENT)**

In 1989, Congress authorized the INS to develop an automated fingerprint-based system to identify and track aliens.<sup>34</sup> The system was conceived to identify those aliens who are serial border crossers and to identify criminal aliens. In 1994, Congress appropriated large sums for the INS to develop and deploy a biometric database which grew into the IDENT system. IDENT was first deployed in the San Diego sector of the Border Patrol; by the end of 1995 it was installed at 52 Southwest border sites; by the end of 1999 it was deployed at 408 INS sites including all Border Patrol stations.<sup>35</sup>

Today, the Border Patrol continues to use IDENT to identify and track illegal aliens. IDENT combines a photograph, two flat fingerprints, and biographical data into two databases which can

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<sup>28</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Homeland Security Department's Budget Submission for Fiscal Year 2011*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., February 24, 2010.

<sup>29</sup> Of this total, \$1.2 billion comes from the FY2007 DHS Appropriation Act, P.L. 109-295, and \$300 million comes from the Emergency Supplemental Appropriations Act, P.L. 109-234.

<sup>30</sup> H.Rept. 109-699, p. 124.

<sup>31</sup> Division E of P.L. 110-161.

<sup>32</sup> This spending plan should include 12 specific components, among them: a detailed accounting of the program's implementation to date; a description of how the expenditure plan allocates funding to the highest priority border security needs, addresses northern border security needs, and works towards obtaining operational control of the entire border; certifications by the Chief Procurement Officer and the Chief Information Officer at DHS; an analysis, for each 15 miles of fencing or tactical infrastructure, of how the selected approach compares to other alternative means of achieving operational control; and a review by the Government Accountability Office. H.R. 2638, as Enrolled by the House and the Senate, pp. 83-84.

<sup>33</sup> *FY2011 DHS Congressional Budget Justifications*, the *FY2011 DHS Budget in Brief*.

<sup>34</sup> Immigration Act of 1990 (P.L. 101-649), Sec. 503 (b).

<sup>35</sup> U.S. Department of Justice, Office of the Inspector General, *The Rafael Resendez-Ramirez Case: A Review of the INS's Actions and the Operation of Its IDENT Automated Fingerprint Identification System*, USDOJ/OIG Special Report, March 2000, Appendix B.

be used to track repeat entrants and better identify criminal aliens. The INS settled on a two-fingerprint-based system because it was deemed adequate for identification purposes and also due to concerns about the time it would take to process the thousands of aliens apprehended each day with a 10-rolled fingerprint system. This has made the IDENT system difficult to integrate with criminal databases such as the FBI's Integrated Automated Fingerprint Identification System (IAFIS), which are based on a 10-rolled fingerprint database (IDENT/IAFIS integration will be discussed in more detail later in this report)

The IDENT system is administered in the field by Border Patrol agents using a dedicated workstation that features a digital camera and an electronic fingerprint scanner. After an alien's two fingerprints, photograph, and biographical information are entered into the IDENT workstation, the system electronically sends the information to the main IDENT database at the Justice Data Center. The fingerprints are then checked against the two separate databases that form the integral part of the IDENT system: the lookout and recidivist databases. The biometric information entered into the system is first checked against the lookout database of criminal aliens. Aliens are entered into the lookout database if they are convicted of an aggravated felony, multiple crimes, or crimes of moral turpitude; are known or suspected to be narcotics, weapons, or human smugglers; or are inadmissible due to security concerns (including terrorists) or other related grounds. If the alien registers as a hit on the lookout database, Border Patrol agents are authorized to arrest and remand them to the proper authorities.

The fingerprints are also checked against a recidivist database of aliens that have been apprehended trying to enter the country multiple times. Each time an alien is apprehended, his picture, fingerprints, and biographical information are added to the recidivist database. IDENT takes about two minutes to search both databases for an apprehended alien's fingerprints. When a potential match is determined, the IDENT terminal will display the fingerprints, photographs, and biographical information of the apprehended alien and the possible matches. The Border Patrol agent is then responsible for determining, based on his examination of the fingerprints and photographs, whether the match is in fact correct.<sup>36</sup> Most aliens are apprehended five to ten times before they are charged with misdemeanor illegal entry. Once an alien has been charged with a misdemeanor entry, the next apprehension brings a felony entry charge.<sup>37</sup>

Lastly, interoperable IDENT/IAFIS workstations been deployed to all Border Patrol stations.<sup>38</sup> This allows Border Patrol agents to check the FBI's database of criminal fingerprints and outstanding warrants in order to ascertain whether the apprehended alien has committed a criminal offense somewhere in the country. At the end of FY2009, IDENT stored more than 106 million fingerprint records of individuals and contained biometric data for legitimate travelers to the United States, immigration benefit seekers, and immigration violators.<sup>39</sup>

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<sup>36</sup> U.S. Department of Justice, Office of the Inspector General, *Status of IDENT/IAFIS Integration*, USDOJ/OIG I-2003-05, p. 3.

<sup>37</sup> CRS Report RL32366, *Terrorist Identification, Screening, and Tracking Under Homeland Security Presidential Directive 6*, by William J. Krouse.

<sup>38</sup> From CBP Congressional Affairs.

<sup>39</sup> U.S. Department of Homeland Security, *FY2011 Congressional Budget Justifications, US-VISIT*, p. US-VISIT-1.

## **Apprehensions Statistics**

Apprehensions have long been used as a performance measure by the Border Patrol. However, the number of apprehensions may be a misleading statistic for the reasons discussed below:

### **Multiple Apprehensions**

Border Patrol data are limited by their focus on events (i.e., apprehensions) rather than people; thus if one unauthorized migrant is caught trying to enter the country three times in one year he would count as three apprehensions in the data set. The Border Patrol has not released any data concerning how many unauthorized aliens are apprehended multiple times each year. This could mean that apprehensions statistics overstate the actual number of people trying to cross the border.

### **Successful Illegal Entries**

There are no reliable estimates for how many aliens successfully evade capture and enter the country. Most estimates cited calculate the growth in the unauthorized migrant population in the United States; as such they cannot take into account the number of unauthorized migrants who enter the country, stay temporarily, and then leave. For example, the number of unauthorized immigrants living in the United States grew by 500,000 people a year, from 3.5 million in 1990 to 10.8 million in 2009.<sup>40</sup> However, these data are limited. Most estimates of the unauthorized population derive from the Current Population Survey, which does not ask about legal status but does ask whether someone is a citizen.<sup>41</sup> Since unauthorized immigrants often enter and leave the country many times, this figure, and others like it, probably understate the number of people successfully entering the country each year. Lastly, there is no way of knowing what percentage of the people here illegally entered the country through the land border, and what percentage entered through a port of entry but then overstayed their visa.

### **Multiple Correlations**

It is impossible to gauge, solely from apprehensions data, whether increases or decreases in apprehensions are due to unauthorized migration patterns or border enforcement policies. An increase in apprehensions could be due to an increase in the number of unauthorized migrants attempting to enter the country. The same increase could also be due to increased patrolling of the border, as the additional agents make more arrests. Or it could be due to both an increase in the number of people attempting to illegally enter the country and increased patrolling. Lastly, it could be due to neither, and merely be a statistical anomaly.

Apprehensions data are thus a fairly unreliable gauge of how many people are attempting to enter the country illegally. Apprehensions data are valuable, however, in that they provide a glimpse at the trends on the ground along the border. While caution should be taken when attempting to draw conclusions about the efficacy of policy measures based solely on apprehension statistics,

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<sup>40</sup> For more information about estimates of the unauthorized population in the United States, please refer to CRS Report RL33874, *Unauthorized Aliens Residing in the United States: Estimates Since 1986*, by Ruth Ellen Wasem.

<sup>41</sup> These estimates use a residual methodology to estimate the population (i.e., the estimated population remaining after citizens and authorized aliens are accounted for).



apprehensions nevertheless represent the best information available concerning the number of people attempting to enter the country illegally.

## Southwest Border

### Prevention Through Deterrence In Action

The Border Patrol divides the Southwest border into nine operational sectors: two in California, two in Arizona, and five in Texas. Spanning from the Pacific Ocean to the Gulf of Mexico, the 1,952-mile Southwest border has long been the flash point for illegal immigration into the United States: since FY2000, 98.7% of all illegal alien apprehensions by the Border Patrol were made along the Southwest border. DHS, in the Border Patrol National Strategy (NS), notes that while many classify these aliens as “economic migrants,” an “ever present threat exists from the potential for terrorists to employ the same smuggling and transportation networks, infrastructure, drop houses, and other support and then use these masses of illegal aliens as ‘cover’ for a successful cross-border penetration.”<sup>42</sup>

As previously mentioned, the perceived success of operations Gatekeeper and Hold the Line led to “Prevention Through Deterrence” being adopted as the Border Patrol’s operational strategy in the 1990s. The NS for the Southwest border continues to expand the Prevention Through Deterrence strategy while incorporating rapid response capabilities. Today, about 85% of Border Patrol agents are deployed along the Southwest border with Mexico. This deployment reflects the Border Patrol’s goal of rerouting the illegal border traffic from traditional urban routes to less populated and geographically harsher areas, providing Border Patrol agents with a tactical advantage over illegal border crossers and smugglers.

### Southern Border Manpower

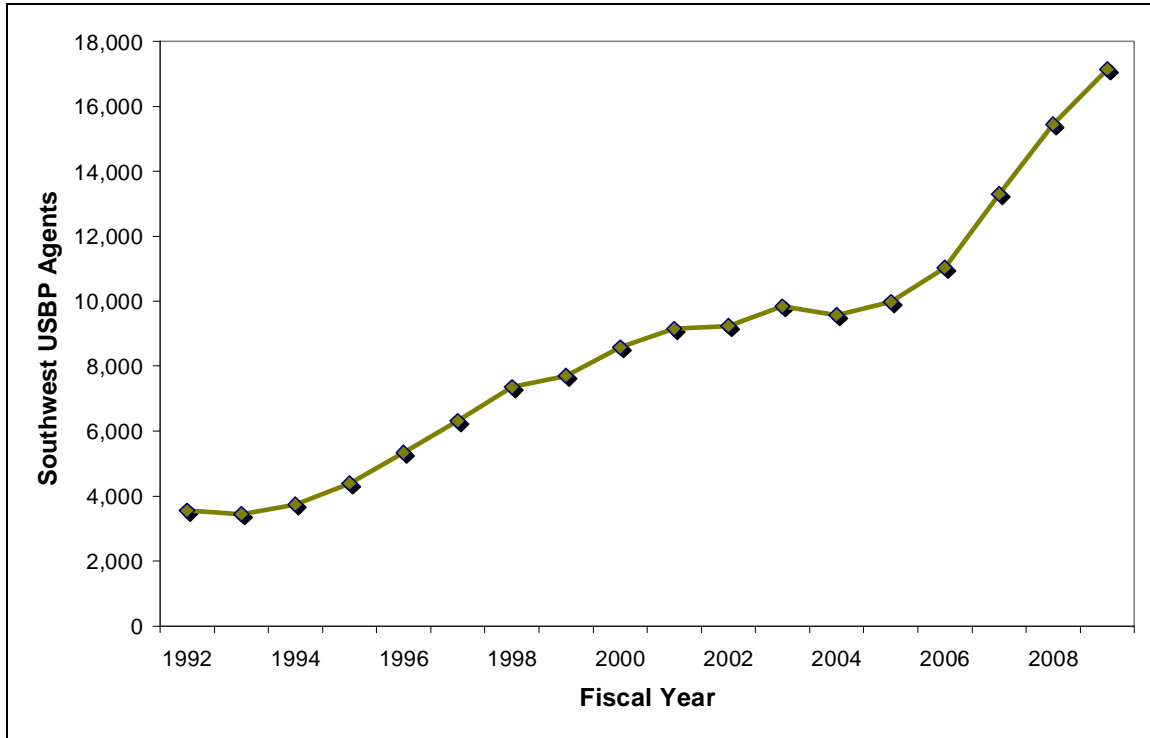
**Figure 2** shows that Border Patrol agent manpower assigned to the Southwest border has been increasing steadily since the early 1990s. In 1992, there were 3,555 agents assigned to the southern border, by 2000 that number had increased by 141% to 8,580. Since 2000, the number of agents assigned to the southern border has continued to increase, more than doubling once more to 20,119 agents at the end of FY2009. The rapid and steady increase of Border Patrol agents assigned to the southern border reflects the ongoing interest in Congress in stemming the tide of illegal immigration. The FY2011 Budget Request, however, includes a requested reduction of 181 Border Patrol agents.<sup>43</sup>

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<sup>42</sup> Department of Homeland Security, Bureau of Customs and Border Protection, “National Border Patrol Strategy,” March 1, 2005, p.5.

<sup>43</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Homeland Security Department’s Budget Submission for Fiscal Year 2011*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., February 24, 2010.

Figure 2. Southwest Border Agent Manpower

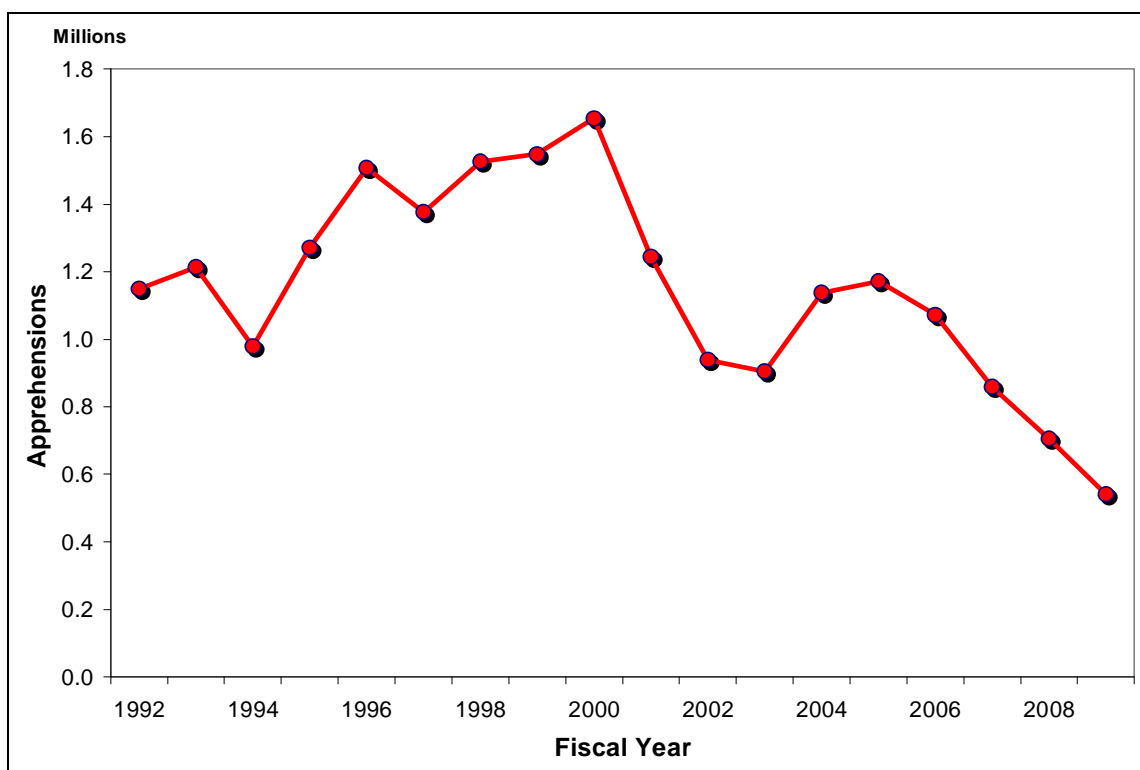


Source: CBP Congressional Affairs.

## Southwest Border Apprehensions

The impact of the “Prevention Through Deterrence” strategy has been difficult to gauge. There is considerable evidence that it has made border crossing more challenging, expensive, and dangerous for illegal aliens. However, the total number of aliens apprehended increased steadily from 1994 to 2000 even as the number of personnel and resources deployed along the border more than doubled. It is possible that the increased presence of agents and resources stationed on the border led the Border Patrol to apprehend more unauthorized aliens, accounting for the increase in apprehensions. It is also possible that the increase in apprehensions during that period instead reflects an increase in the number of people trying to enter the country in order to benefit from the quickly growing economy of the mid to late 1990s. **Figure 3** shows the recent trends in Border Patrol apprehensions along the Southwest border. Border Patrol apprehensions increased steadily through the late 1990s, reaching a peak of 1.65 million in 2000. From 2000 to 2003 apprehensions have declined steadily, reaching a low of 905,065 in 2003. In FY2004 and FY2005, apprehensions increased by 26% to 1.17 million. Since FY2005, however, apprehensions have declined steadily to a 17-year low of 540,865 in FY2009. This decline may be due to the increased enforcement along the Southwest border; the number of agents assigned to the southern border has increased roughly fivefold since 1992. However, it is important to note here that the past three years have seen the U.S. economy slow significantly, especially in the real estate construction market, which has long been perceived to be an industry penetrated by unauthorized migrant labor. The dramatic decline in apprehensions from 2000 to 2009 is likely the result of a combination of increasing enforcement at the border and decreased opportunities for work in the United States.

Figure 3. Southwest Border Apprehensions



Source: CRS Presentation of CBP Data.

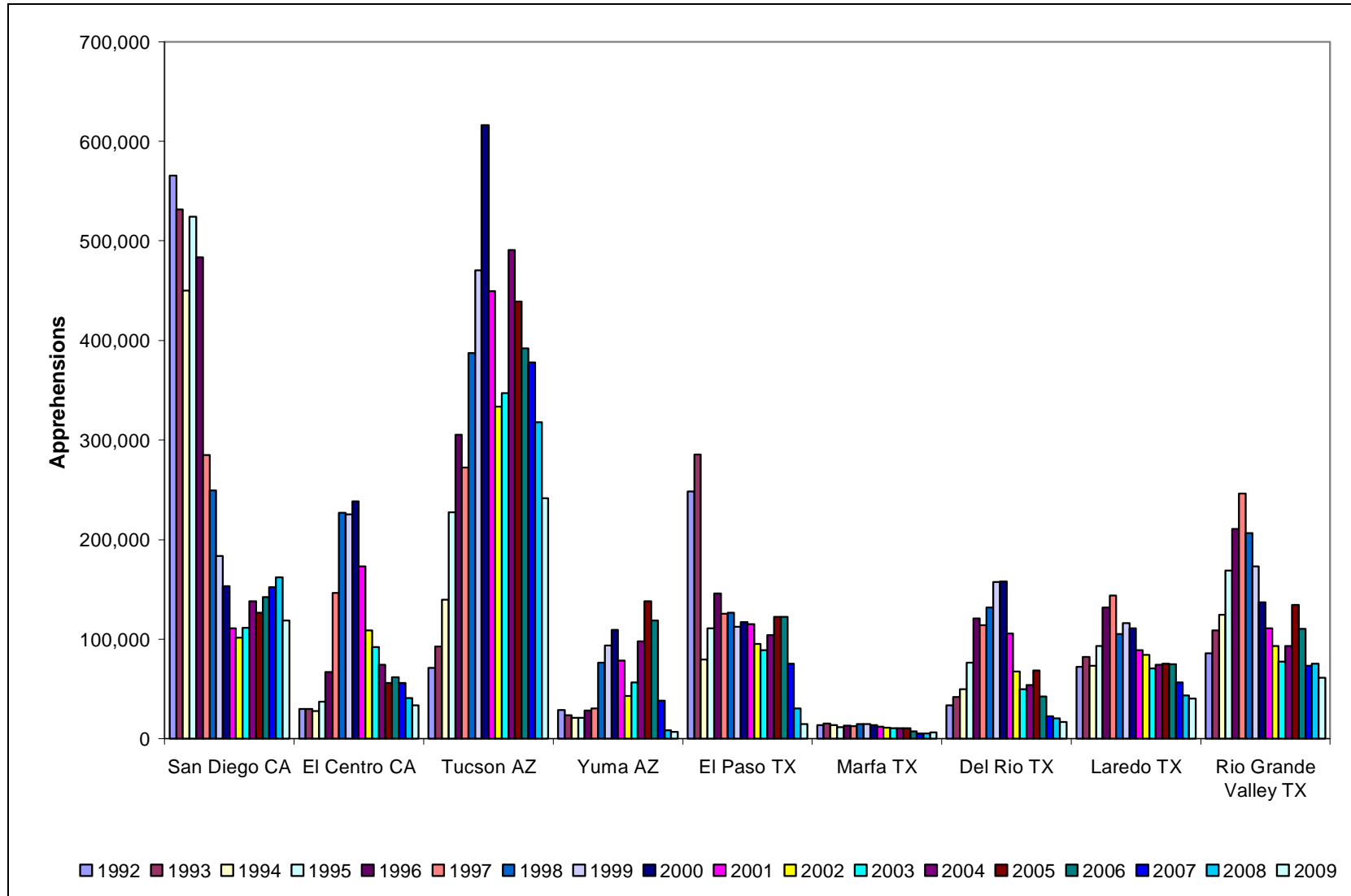
Analysis of apprehensions by Southwest border sectors reveals that the “Prevention Through Deterrence” strategy has apparently accomplished its goal of rerouting unauthorized aliens away from urban areas and towards more remote areas of the Southwest border, making the journey more difficult for aliens and thereby affording the Border Patrol with more time to make the apprehension. In **Figure 4**, Border Patrol data show that throughout the late 1990s apprehensions decreased significantly along the more populated California and Texas sectors, instead pushing out into the less populated areas of the Arizona desert along the Tucson sector. Apprehensions in the Tucson sector rose dramatically in last years of the 1990s even as they declined in the traditional hot-spots of San Diego, El Paso, and Rio Grande Valley. Following their peak in 2000, apprehensions in the Tucson sector declined markedly from 2001 through 2003 as the Border Patrol began concentrating assets in the sector. However, in FY2004 apprehensions in the Tucson sector exceeded the FY2002 and 2003 totals. FY2004 apprehensions in the neighboring Yuma sector of Arizona also surpassed the totals from the each of the previous two years. Some argue that the increase in apprehensions in FY2004 may have been due to the President’s proposed legalization plan for illegal immigrant workers, which may have given would-be immigrants an incentive to enter the country.<sup>44</sup> DHS maintains that the increase in apprehensions was due to the increase in agents assigned to line-watch duty along the Arizona border as a result of the Arizona Border Control initiative.<sup>45</sup> Overall, Arizona accounted for 52% of all apprehensions along the Southwest border in FY2004, and for 76% of the overall national increase in apprehensions in between FY2003 and FY2004. Since FY2005, however, this dynamic has changed somewhat.

<sup>44</sup> Dinan, Stephen; “Bush ‘amnesty’ blamed for rise in illegals,” *The Washington Times*, April 16, 2004.

<sup>45</sup> Department of Homeland Security, “Fact Sheet: Arizona Border Control Initiative.” September 21, 2004.

Apprehensions have decreased in Tucson and Yuma sectors, largely keeping pace with the overall reduction in apprehensions nationwide. Apprehensions in San Diego, however, have been increasing since 2001. This suggests that the increasing enforcement along the Arizona border has begun to shift the pattern of unauthorized migration back to California.

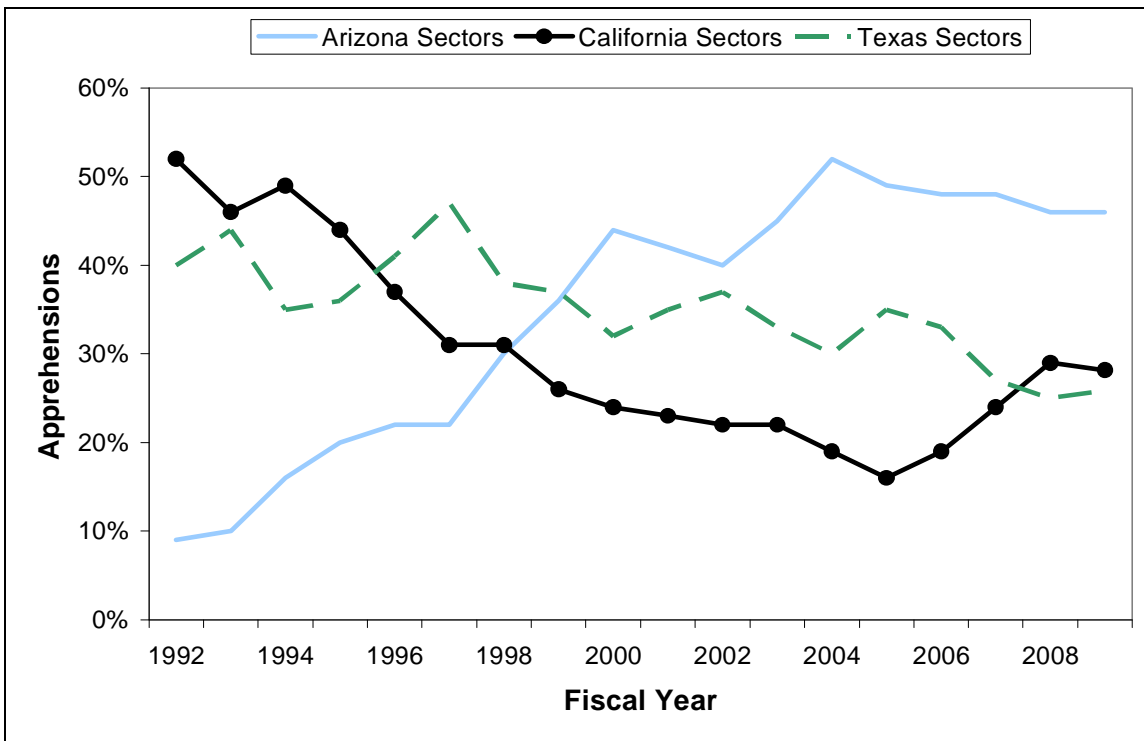
**Figure 4. Southwest Border Apprehensions, by Sector**



Source: CRS Presentation of CBP Data.

Another way to conceptualize the flow of unauthorized migration along the southern border is to look at total apprehensions by state.<sup>46</sup> **Figure 4** shows the changing patterns of unauthorized migration along the Southwest border. In the early 1990s, California and Texas accounted for over 90% of all apprehensions made. As the Border Patrol implemented its Prevention Through Deterrence strategy, including constructing the border fence in San Diego and deploying agents directly along the border in more populated areas, apprehensions in California began decreasing steadily while apprehensions in Arizona began increasing steadily. Even though overall apprehensions have declined over the past four years, Arizona’s percentage of the total has remained stable, right around 46%. Interestingly, the pattern of unauthorized migration appears to be shifting back to California to some extent. As previously mentioned, this suggests that, as the Arizona border crossing has become increasingly hardened through the deployment of agents and infrastructure, unauthorized migrants are probing other parts of the border in an effort to find easier crossing routes. This appears to have been the central theme of unauthorized migration over the past two decades: aliens are continually trying to find the least difficult entry point into the United States, and as enforcement efforts harden one part of the border the flow of unauthorized migration shifts to other sectors.

**Figure 5. Percentage of Southern Border Apprehensions, by State**



Source: CRS Presentation of CBP Data.

<sup>46</sup> New Mexico shares a border with Mexico but does not have its own Border Patrol sector. Instead, the Border Patrol’s El Paso sector has the responsibility for patrolling the New Mexico section of the border.

## **Border Safety Initiative**

As noted earlier, the “Prevention Through Deterrence” strategy has pushed unauthorized migration away from population centers and funneled it into more remote and hazardous border regions. This policy has had the unintended consequence of increasing the number of fatalities along the border, as unauthorized migrants attempt to cross over the inhospitable Arizona desert without adequate supplies of water. In June 1998 the Border Patrol launched the Border Safety Initiative (BSI) in part to address concerns about the increasing number of migrant deaths along the border.

BSI is a binational campaign focused on decreasing the dangers involved in crossing the hazardous Southwest border. As part of BSI, the Border Patrol releases television and radio advertisements and distributes posters educating would-be unauthorized aliens about the dangers involved with crossing the border. The Border Patrol also maintains water stations in the desert and deploys specialized rescue teams to save distressed aliens. Additionally, the Border Patrol has trained over 1,320 Mexican firefighters and law enforcement personnel in sophisticated search and rescue techniques and cooperates with the Mexican government to disrupt smuggling routes.<sup>47</sup>

BSI consists of four main elements: prevention, search and rescue, identification, and tracking and recording. The prevention piece stresses cooperation with Mexican authorities in order to identify the most dangerous crossing areas along the border and discourage illegal crossings there; it also includes setting up water stations and rescue beacons in the desert and posting warning signs at border crossings. The search and rescue aspect focuses on deploying rescue teams to those areas along the border where the terrain and dangers involved with the crossing may lead illegal migrants to become lost or incapacitated. The identification piece involves establishing procedures and resources to help officials on both sides of the border identify those migrants who died attempting to cross the border; in 1999 36% of the 369 migrants who died attempting to cross into the United States were unidentified. And lastly, the Border Patrol maintains an Incident Tracking System to collect and maintain BSI-related data.<sup>48</sup>

Border Patrol Search, Trauma, and Rescue (BORSTAR) teams form an important part of BSI. The teams are composed of agents who volunteer to undergo a highly specialized and rigorous training regimen that includes physical fitness, emergency medical skills, technical rescue, navigation, communication, swift-water rescue, and air operation rescues. BORSTAR’s primary mission is to respond to all incidents involving distressed people along the border. While the individuals rescued are typically illegal aliens, BORSTAR teams have also rescued American citizens who reside along the border as well as Border Patrol agents. The types of rescues attempted by BORSTAR teams vary depending on the geography, climate, and the time of year; they can be as simple as locating victims and providing them with water, and as complex as rappelling into remote canyons to assist victims and extract them by helicopter. In the first three years the initiative was operational, Border Patrol agents rescued 3,977 people along the Southwest border. As of FY2008 there were 210 specially trained Border Patrol agents deployed in BORSTAR teams.<sup>49</sup>

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<sup>47</sup> U.S. Department of Homeland Security, Bureau of Customs and Border Protection, “US Customs and Border Protection Announces Border Safety Initiative Aimed at Preventing Migrant Deaths,” press release, May 6, 2004.

<sup>48</sup> The American Immigration Law Center, “Border Safety Initiative,” February 25, 2003.

<sup>49</sup> From Border Patrol data provided by CBP Congressional Affairs.

## Interior Repatriation Program

In 1996, Congress authorized the then INS to create an Interior Repatriation program to return apprehended unauthorized Mexican aliens to the interior of the country as part of the Antiterrorism and Effective Death Penalty Act (P.L. 104-132; sec. 437). Eight years later, on June 9, 2004, the White House announced it had reached agreement with the Mexican government to begin implementing the Interior Repatriation Program. The Interior Repatriation pilot program is a departure from the current practice of returning aliens to the Mexican side of the border, and aims to reduce the number of aliens who immediately try to cross back into the United States. Due to constitutional constraints in Mexico, the apprehended aliens' return to the interior must be strictly voluntary and the willingness of their participation will be certified by Mexican consular officers.<sup>50</sup> The program ran through September 2004 and was estimated to cost \$13 million, which covered airfare to Mexico City or Guadalajara and bus transport from there to the aliens' hometowns.<sup>51</sup> The first repatriation flight landed on July 12, 2004, in Guadalajara and had 138 migrants on board.<sup>52</sup> The program was renewed each year from FY2004 through FY2009, U.S. and Mexican officials have jointly administered this program to return at least 82,558 Mexican nationals from the Arizona-Sonora desert to the interior of Mexico.<sup>53</sup> Program renewal for FY2010 has not yet been announced.

## Northern Border

### U.S.-Canadian Cooperation

Before September 11, the United States prided itself on having the longest open border in the world: the northern border with Canada, spanning 12 states and over 4,000 miles.<sup>54</sup> Today, Americans as well as Canadians have come to understand that open borders are rare precisely because they are a luxury. Given the ever-present threat of terrorism, officials in both countries have noted that cooperation between American and Canadian authorities at the border has become more important than ever.<sup>55</sup> As a result of this, in December 2001 then-Director of Homeland Security Tom Ridge and then-Canadian Minister of Foreign Affairs John Manley signed "The Smart Border Declaration," a 30-point action plan designed among other things to coordinate law enforcement operations, enhance intelligence sharing, improve the border infrastructure, coordinate visa policy, and create compatible immigration databases. One year after the

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<sup>50</sup> U.S. Department of Homeland Security, Bureau of Customs and Border Protection, Office of the Press Secretary, "Department of Homeland Security to Begin Pilot Program for Voluntary Interior Repatriation of Mexican Nationals," press release, June 29, 2004.

<sup>51</sup> Ricardo Alonso-Zaldivar, "U.S., Mexico OK Deportation by Air; Illegal migrants caught in Arizona could agree to return to their hometowns in the interior instead of just recrossing the border," *The Los Angeles Times*, June 9, 2004, p. A11.

<sup>52</sup> Chris Kraul, "Unauthorized aliens Receive a One-Way Ticket to Mexico," *The Los Angeles Times*, July 13, 2004, p. A1.

<sup>53</sup> Immigration and Customs Enforcement, "United States and Mexico Resume Voluntary Interior Repatriation Program," August 24, 2009.

<sup>54</sup> This does not include the 1,500 mile border with Alaska. The Border Patrol does not patrol the Canada-Alaska border.

<sup>55</sup> For an expanded discussion of northern border security issues, please refer to CRS Report RS21258, *Border Security: U.S.-Canada Immigration Border Issues*, by Lisa M. Seghetti.



declaration, Ridge and Manley highlighted the progress made by emphasizing the opening of Free and Secure Trade (FAST) lanes to speed legitimate commerce across the border and the creation of two new binational Integrated Border Enforcement Teams (IBET). Significant progress has also been made vis-à-vis increasing the compatibility of immigration databases and biometric standards, as well as the sharing of data and intelligence.<sup>56</sup>

The Border Patrol's northern border strategy focuses on safeguarding national security by preventing the entry of terrorists and reducing cross-border crime and smuggling. In order to accomplish this, the Border Patrol places emphasis on cooperation with other government and Canadian authorities and the use of enhanced intelligence gathering through the deployment of technology and equipment such as cameras and remote sensors. The goal of these activities is to identify threat areas and the resources required to mitigate the threats. Improving the mobility of agents in order to respond rapidly to identified threats is key to the new northern border strategy.<sup>57</sup>

This difference in strategy, compared to the Southwest border, is due to the enormity of the northern border, its varied and challenging geography, and the general lack of large American population centers along the border.<sup>58</sup> Additionally, the emphasis on intelligence and cooperation with Canada reflects the concern that terrorists may attempt to infiltrate the United States along the sparsely defended northern border. In their report, the 9/11 Commission noted that prior to the terrorist attacks the northern border received very little attention from Congress or the White House "[d]espite examples of terrorists entering from Canada, awareness of terrorist activity in Canada and its more lenient immigration laws."<sup>59</sup>

## **Northern Border Manpower**

The issue of Border Patrol staffing along the northern border has been closely examined over the past 10 years. In 2000, the Department of Justice's Office of the Inspector General (OIG) criticized the Border Patrol's northern border practices. The OIG concluded that the allocation of manpower and technological resources to the northern border was insufficient, that the Border Patrol had no reliable means of gauging the level of illegal activity along the border, and that the Border Patrol was unable to adequately respond to the illegal activity it was able to identify.<sup>60</sup> In February 2002, the OIG released a follow-up report concluding that post 9/11 the Border Patrol had taken strides toward addressing the deficiencies along northern border but was still drastically understaffed and unable to adequately perform its duties. Specifically, the OIG opined that the enhanced cooperation between the United States and Canada reflected by the IBET program, and the increases in technology such as sensor systems, night vision devices, computer systems, and vehicles, were significant improvements over the previous report. However, the OIG also pointed

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<sup>56</sup> Deborah Waller Meyers; *Does 'Smarter' Lead to Safer? An Assessment of the Border Accords with Canada and Mexico*, Migration Policy Institute, June 2003, pp. 3-6.

<sup>57</sup> Department of Homeland Security, Bureau of Customs and Border Protection, "National Border Patrol Strategy," March 1, 2005, p.17.

<sup>58</sup> U.S. Department of Justice, Office of the Inspector General, *Follow up Report on Border Patrol's Efforts to Improve Northern Border Security*, OIG Report No. I-2002-004, February 2002.

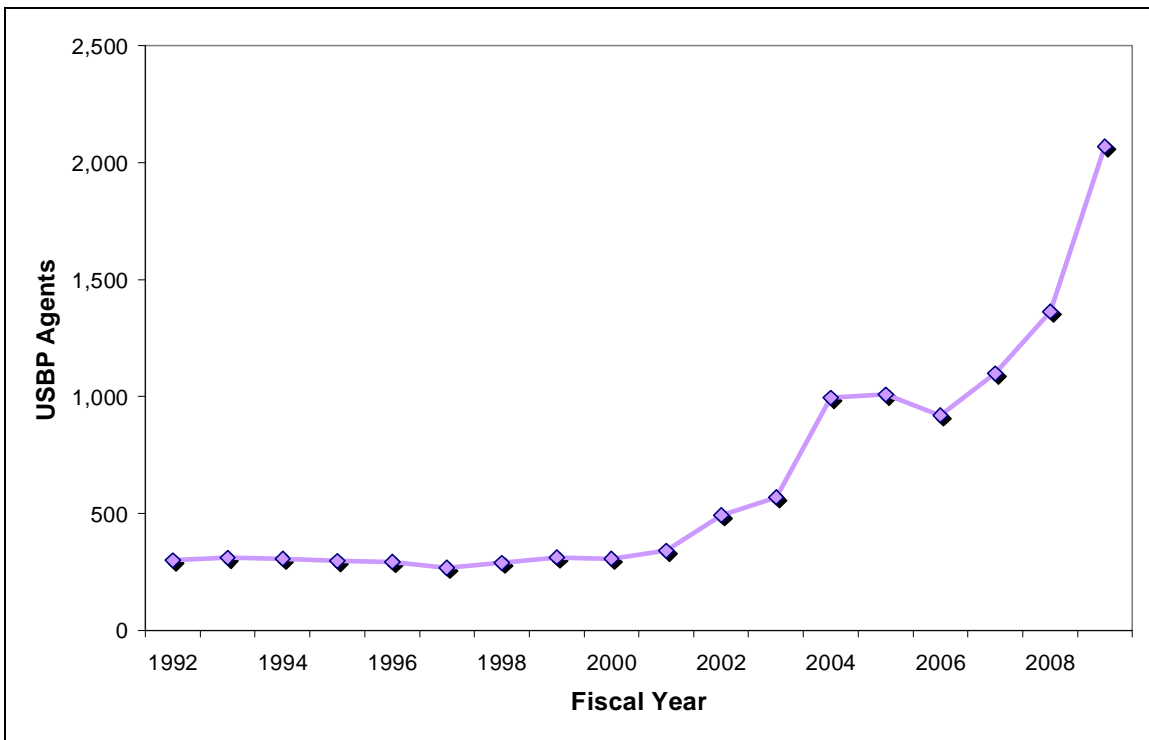
<sup>59</sup> The 9/11 Commission Report, *Final Report of the National Commission on Terrorist Attacks Upon the United States*, U.S. Government Printing Office, July 2004, p. 81.

<sup>60</sup> U.S. Department of Justice, Office of the Inspector General, *Follow up Report on Border Patrol's Efforts to Improve Northern Border Security*, OIG Report No. I-2002-004, February 2002.

out that many Border Patrol stations were still unable to operate 24 hours a day in 2002 and that the communications system was still inadequate.

In response to these criticisms and to the terrorist attacks of September 11, the USA PATRIOT Act of 2001 (P.L. 107-56) authorized tripling the number of Border Patrol agents and increasing and improving the monitoring technology along the northern border. **Figure 6** shows the history of northern border manpower for the Border Patrol. From 1992 until 2000, manpower at the northern border hovered around 300 agents each fiscal year. In the years following, the Border Patrol significantly increased the number of agents deployed to the northern border in response to the OIG criticism and congressional concerns, from 340 agents deployed in FY2001 to 1,008 in FY2005, meeting the PATRIOT Act mandate to triple the northern border manpower.

**Figure 6. Border Patrol Agents at the Northern Border**



Source: CRS Presentation of CBP Data.

Despite the tripling of the Border Patrol’s northern border workforce in the years after 9/11, Congress remained concerned that there were not enough agents assigned to the border. In 2006, the Intelligence Reform and Terrorism Prevention Act (P.L. 108-458) required that 20% of the Border Patrol’s annual increases in manpower be assigned to the northern border. However, the number of agents assigned to the northern border did not increase by 20% in FY2006 or FY2007, remaining around 1,000 agents even as the overall Border Patrol workforce increased by 35%. The appropriations committees repeatedly admonished DHS for failing to adhere to the requirements of P.L. 108-458. As of November 21, 2009, the number of agents assigned to the northern border increased stood at 2,069, an increase of 1,061 since the IRTPA mandate. However, during this same time period the Border Patrol’s manpower has increased by 8,855. Consequently, the northern border increase in agents represents 12% of the overall increase from FY2006 to FY2010, falling considerably short of the 20% requirement enacted by IRTPA.

## **Integrated Border Enforcement Teams (IBET)**

The IBET program focuses on sharing intelligence and enforcement resources between American and Canadian agencies along the northern border in order to address terrorism and identify, interdict, and apprehend persons who pose a threat to national security or who engage in other cross-border criminal activity. In order to accomplish this goal, the Border Patrol collaborates with the Royal Canadian Mounted Police (RCMP), Citizenship and Immigration Canada, and Canada Customs and Revenue Agency as well as other American agencies involved such as the Bureau of Immigration and Customs Enforcement (ICE) and the Coast Guard. IBET's mission is focused on three mutually agreed upon priorities: (1) national security, (2) organized crime, and (3) other cross-border illegal activity.<sup>61</sup>

IBET divides the U.S.-Canada border into 14 geographic regions, establishing international Joint Management Teams (JMT) in each region. These JMTs are comprised of senior agents from each participating Canadian and American agency and focus on sharing intelligence and information. The JMTs are responsible for determining regional operational priorities; developing local operational plans and practices; establishing local joint intelligence committees to expedite the sharing of information; reviewing and assessing operational effectiveness; and reporting to the national IBET Coordination Team. Additionally, a permanent Border Patrol Agent position has been assigned to RCMP headquarters in Ottawa, Canada, to serve as a liaison between the agencies.<sup>62</sup>

## **Northern Border Apprehensions**

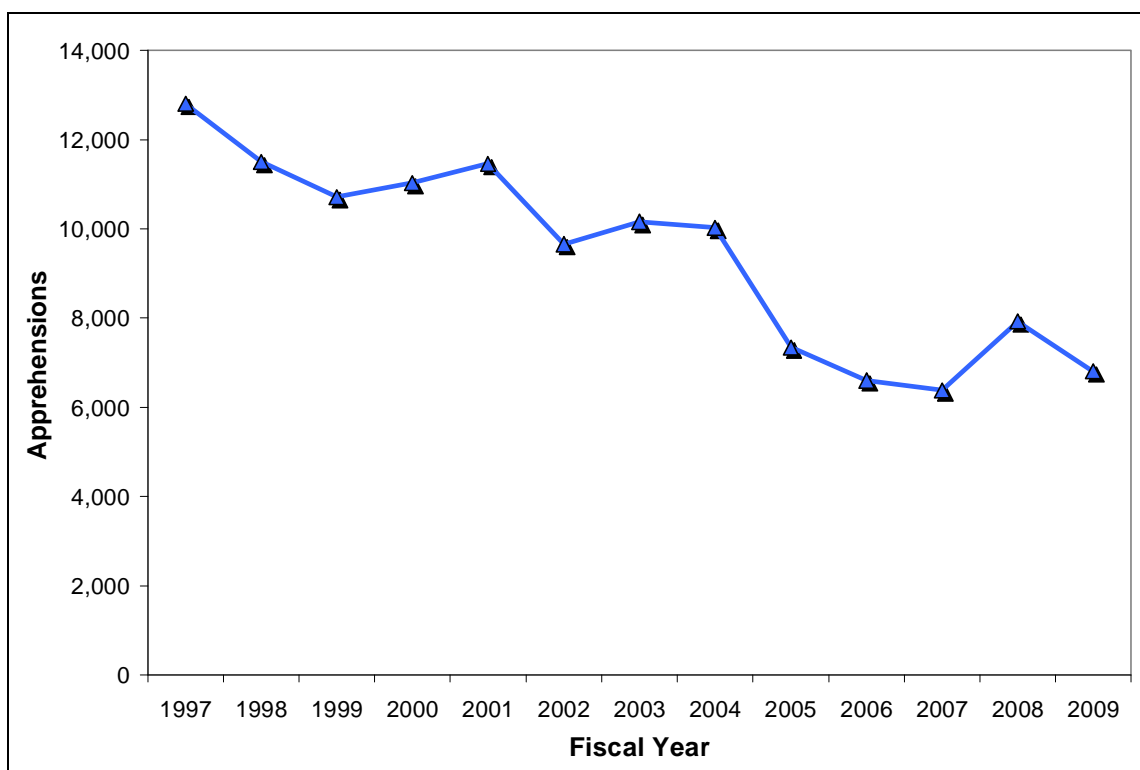
CRS analysis of Border Patrol data presented in **Figure 7** reveals that apprehensions along the northern border declined gradually from FY1997 to FY2009, reaching a low of 6,380 in FY2007. In FY2009, the number of northern border apprehensions was 6,806. Given the relatively low numbers of individuals being apprehended along the northern border, it is difficult to draw firm conclusions about what these small decreases and increases mean. The overall decline in apprehensions suggests that the increasing enforcement along the northern border may have discouraged individuals from attempting to cross. However, given the enormosity of the northern border and the relative lack of enforcement assets that are deployed there, compared to the Southwest border, the declining trend in apprehensions over the past 12 years could well be the result of other, unrelated factors.

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<sup>61</sup> U.S. Congress, House Committee on the Judiciary, Subcommittee on Immigration, Border Security, and Claims, "America's Response to Terrorism: Use of Immigration-Related Tools to Fight Terrorism," Prepared Statement of Jayson P. Ahern, Assistant Commissioner of Field Operations, Bureau of Customs and Border Protection, May 8, 2003.

<sup>62</sup> Information provided by CBP Congressional Affairs.

Figure 7. Northern Border Apprehensions



Source: CRS Presentation of CBP Data.

## Border Patrol Issues for Congress

### 9/11 Report and the Northern Border

The *9/11 Commission Report* focused its criticism of the Border Patrol on its lack of a coherent policy regarding the northern border. The report noted that Congress, with President Clinton's support, doubled the number of Border Patrol agents along the Southwest border by 1999 while rejecting efforts to increase the number of agents and resources along the northern border. The commission demonstrated these differences in priorities by stating that in 1999, there was one Border Patrol agent for every quarter mile of the Southwest border compared to one agent for every 13 miles of the northern border. The *9/11 Report* pointed out that this lack of balance in manpower between the patrolling of the borders was due to Congress and the INS' focus on unauthorized immigration as opposed to potential terrorist threats. According to the commission, securing the northern border was not a priority despite evidence that terrorists had entered the United States from Canada, awareness that terrorist activity existed in Canada perhaps due to its more lenient immigration laws, and the previously mentioned OIG report, which criticized the Border Patrol for not having a coherent northern border strategy.<sup>63</sup> The National Border Patrol Strategy includes a strategic focus particular to the northern border, seemingly addressing some of the OIG report's concerns.

<sup>63</sup> 9/11 Commission Report, p. 81.

As noted above, since 9/11, the number of agents deployed along the northern border has increased from 340 in FY2001 to 2,069 in FY2010. This means that, as of FY2010, the Border Patrol deployed roughly one agent for every 2 miles of the northern border, compared to eight agents for every mile of the southwestern border. However, the increase in northern border staffing over the past three years has fallen short of the mandate to deploy 20% of annual increases in Border Patrol staffing to the northern border that was enacted by the Intelligence Reform and Terrorism Prevention Act (IRTPA); only 12% of the overall increase in manpower since FY2006 has been deployed to the northern border. A possible issue for Congress concerns whether the increased numbers of Border Patrol agents and resources deployed along the northern border adequately address the 9/11 Commission's criticisms and are enough to effectively detect, apprehend, and deter potential terrorists from entering the United States across this border. Another potential issue could include what impact DHS's failure to meet the statutory mandate enacted by IRTPA has had on the security of the northern border.

## **Migrant Deaths**

Migrant deaths along the border are an issue that gained national prominence when 19 migrant workers were found dead in an airless truck trailer in Texas in May 2003<sup>64</sup> and 11 migrant workers were discovered dead in a railway car in Iowa in October 2002.<sup>65</sup> Unfortunately, the accurate collection of data concerning unauthorized migrant deaths at the border has remained challenging due to the large number of different federal, state, and local jurisdictions involved. Additionally, most data available do not include information from the Mexican side of the border and therefore most likely undercount the number of fatalities. The Border Patrol did not begin formally collecting information on migrant deaths until 1998. Prior to 1998, the best data available originated from the University of Houston's Center for Immigration Research (CIR). CIR compiled data on unauthorized migrant deaths along the Southwest border from local medical investigators' and examiners' offices in California, Arizona, New Mexico, and Texas between 1985 and 1998.

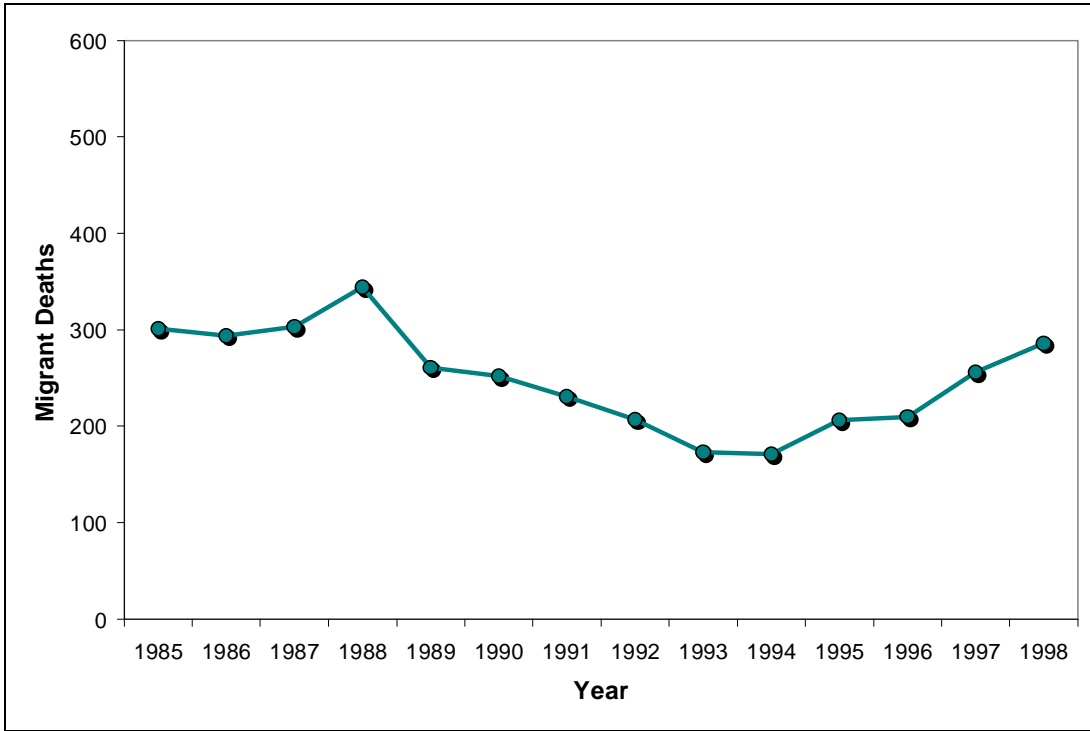
CIR data (**Figure 8**) show that deaths decreased steadily from a high of 344 in 1988 to a low of 171 in 1994. With the advent of the "Prevention Through Deterrence" strategy in 1995 and the rerouting of unauthorized immigration to the harsh conditions of the Arizona border, migrant deaths appeared to have increased in the late 1990s, with Border Patrol data (**Figure 9**) showing a then-high of 383 in 2000. Although migrant deaths decreased to 330 from 2000 to 2004, the 11% reduction in deaths during this period is actually markedly less than the 44% decline in apprehensions over the same period. During this period, the overall mortality rate (or, the number of deaths per attempted border crossing) seems to have increased despite the overall reduction in deaths. In FY2005, deaths increased by 43% from FY2004 to 472. Over the past four years, migrant deaths have declined to 423 in FY2009, but still remain above the historical averages.

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<sup>64</sup> Juan A. Lozano, "Migrant Toll Hits 19 in Texas Case; 2<sup>nd</sup> Truck Found," *The Associated Press*, May 17, 2003.

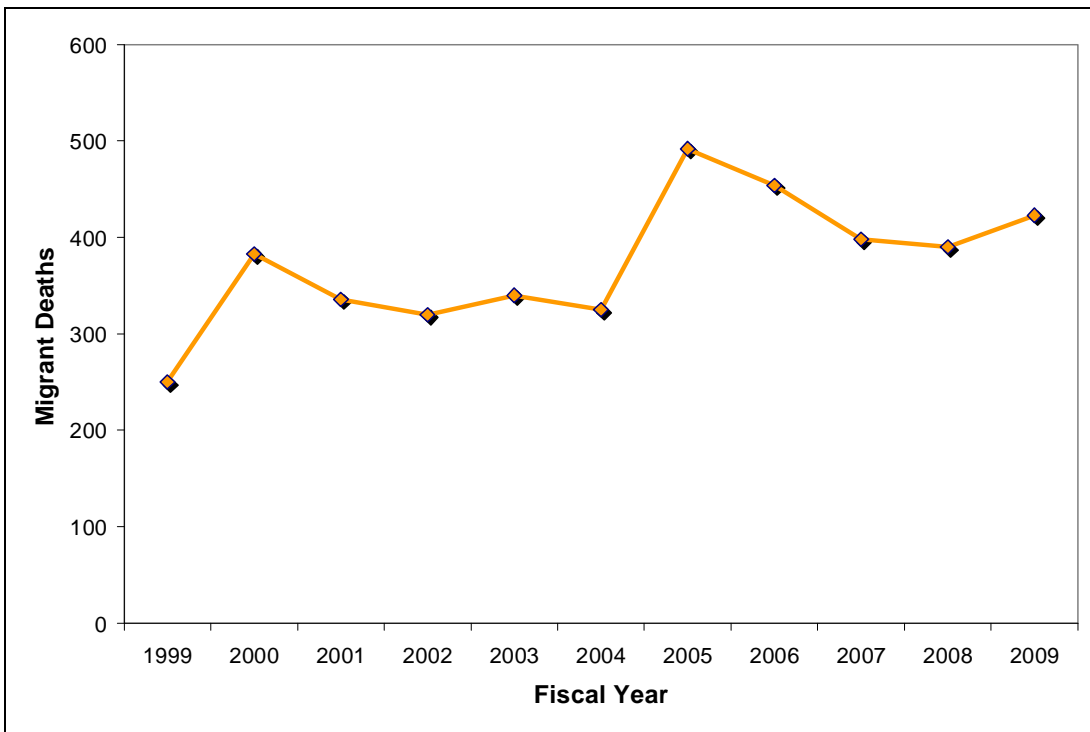
<sup>65</sup> Amy Lorentzen, "Eleven Found in Rail Car Among Thousands of Trespassers Causing Security Concerns," *The Associated Press*, October 16, 2002.

Figure 8. Migrant Deaths, Center for Immigration Research Data



Source: CRS Presentation of CIR and CBP Data.

Figure 9. Migrant Deaths, Border Patrol Data



Source: CRS Presentation of CIR and CBP Data.

This evidence suggests that border crossings have become more hazardous since the “Prevention through Deterrence” policy went into effect in 1995, resulting in an increase in illegal migrant deaths along the Southwest border. The Border Patrol has drawn criticism from human rights activists who claim that the agency’s migrant death count understates the number of fatalities. Some contend that the Border Patrol undercounts fatalities by excluding skeletal remains, victims in car accidents, and corpses discovered by other agencies or local law enforcement officers.<sup>66</sup> Others point to inconsistencies in how the agency counts migrant deaths, with some sectors counting smugglers and guides who perish, but others excluding them, even though official Border Patrol policy is to include all deaths in the 43 counties within 100 miles of the U.S.-Mexico border.<sup>67</sup> Border Patrol officials counter that local law enforcement agencies often do not inform the Border Patrol when they encounter dead migrants, and that deaths that occur outside the 100-mile belt or on the Mexican side of the border are outside their operational purview.<sup>68</sup>

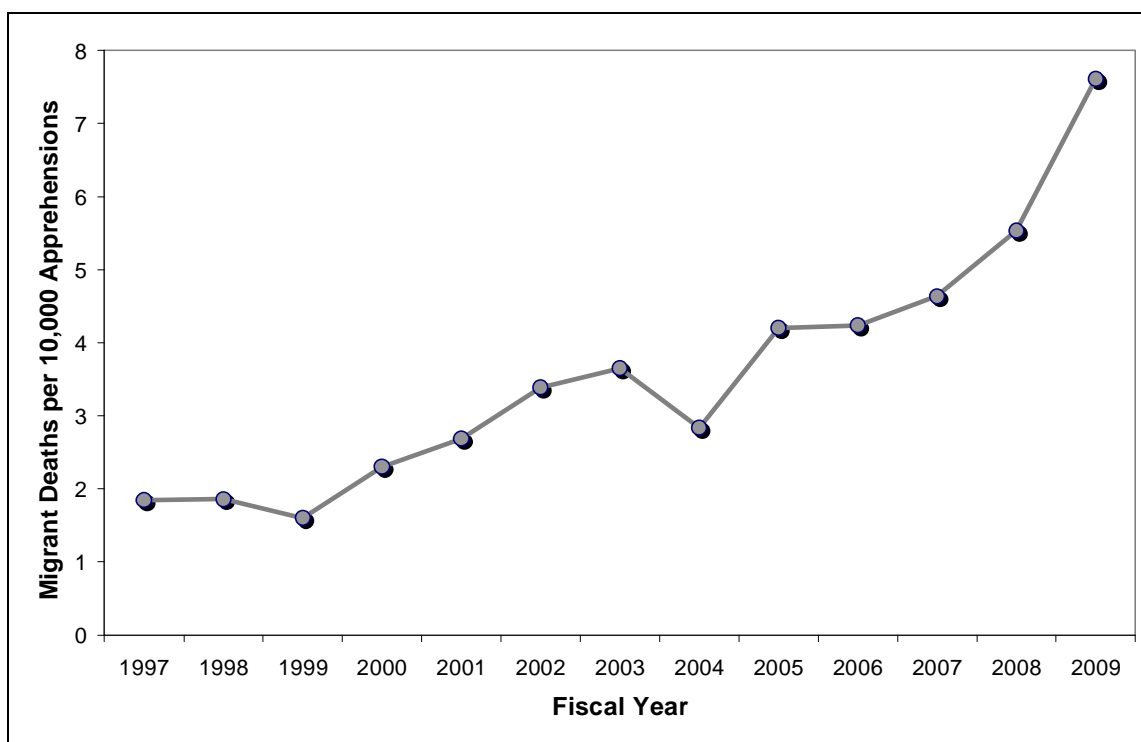
The ratio between migrant deaths and apprehensions shows how many unauthorized immigrant fatalities there are for every apprehension made by a Border Patrol agent along the Southwest border. Because apprehensions are, within their previously discussed limitations, the best statistic available for measuring the trends in the number of people attempting to enter the country illegally, this ratio sheds some light on the overall mortality rate at the border. **Figure 10** shows that the mortality rate per apprehension has been increasingly steadily (with the one-year exception of FY2004), from 1.6 deaths per 10,000 apprehensions in FY1999 to 7.6 deaths per 10,000 apprehensions in FY2009. This suggests that, even as apparently fewer individuals have been entering the country illegally over the past few years, the border crossing has become increasingly dangerous for those that do attempt to cross into the United States illegally.

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<sup>66</sup> For example, see <http://www.stopgatekeeper.org/English/bonner-040604.htm>.

<sup>67</sup> For example, see [http://www.uh.edu/cir/Deaths\\_during\\_migration.pdf](http://www.uh.edu/cir/Deaths_during_migration.pdf).

<sup>68</sup> Andrea Almond, “How Best to Count Border Deaths?” *The Associated Press*, November 7, 2004.

**Figure 10. Migrant Mortality Rate, per 10,000 Apprehensions**

Source: CRS Analysis of CBP Data.

The Border Patrol has taken several steps to address this problem in recent years, including the previously discussed Border Safety Initiative and the specialized BORSTAR search and rescue teams. In order to continue addressing this issue, the Border Patrol announced in May 2003 that it would add 150 agents to line-duty in the Tucson sector, place 20 rescue beacons in the desert, and enhance cooperation with Mexican border authorities.<sup>69</sup> A potential oversight issue for Congress includes whether the steps taken by the Border Patrol are an adequate response to the problem of migrant deaths and injuries along the border, given the data presented above showing the border crossing may be increasing in danger for unauthorized migrants.

## Attacks on Border Patrol Agents

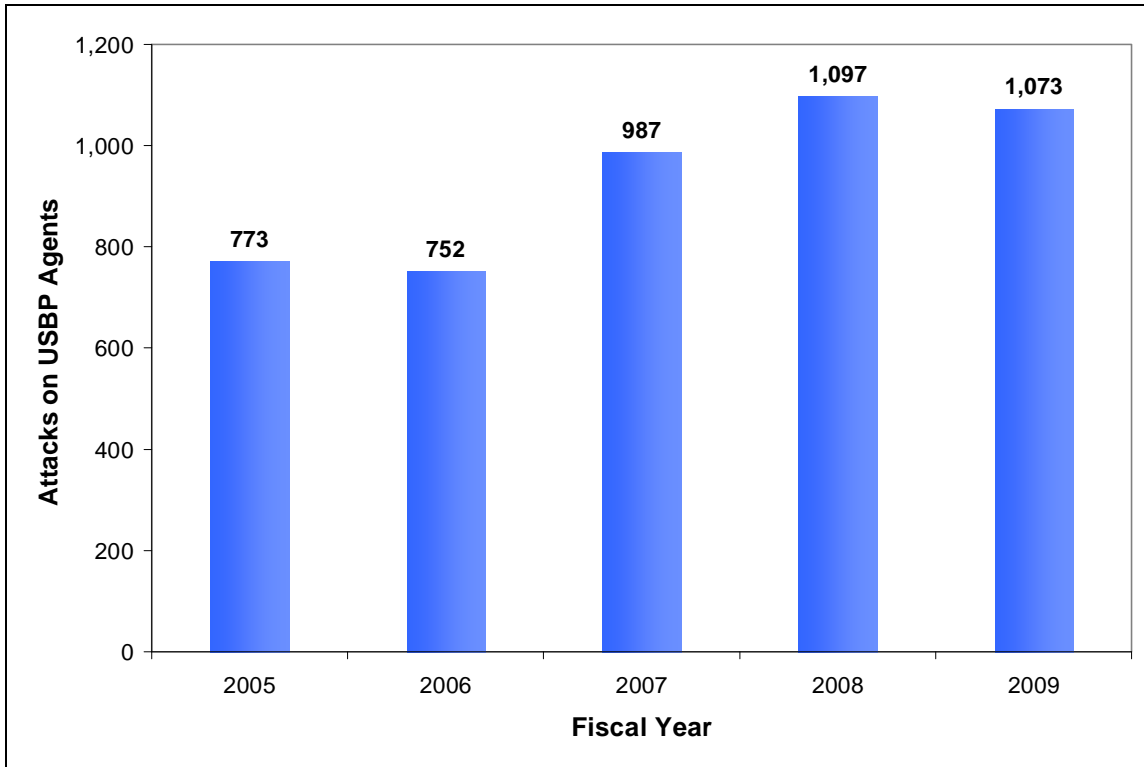
The Border Patrol only recently began collecting data on the attacks endured by agents in the line of duty. These data include a number of different types of attacks, including personal attacks, rock throwing, and shooting incidents. It is important to note that, while rock throwing incidents (or rockings) may not appear to be as serious as shootings, they are nevertheless dangerous to agents. **Figure 11** shows that, since the Border Patrol began collecting data, there has been a marked increase in the number of incidents, from 773 in FY2005 to 1,073 in FY2009. This increase in violence against agents may be related to the increasing enforcement at the border. As increasing numbers of Border Patrol agents are assigned to the Southwest border, there are more targets for unauthorized migrants and for smugglers to attack. Additionally, the Prevention Through

<sup>69</sup> U.S. Department of State, "U.S. Campaign on Mexican border Aims to Prevent Migrant Deaths," press release, June 4, 2003.



Deterrence strategy, with its focus on placing agents and Border Patrol resources directly on the border, may increase these kinds of attacks by providing more visible targets.

**Figure 11. Attacks on Border Patrol Agents**



Source: CRS Presentation of CBP Data.

A potential oversight issue for Congress could include whether Border Patrol agents have sufficient protection from these kinds of attacks, including whether the gear they are assigned is adequate or whether additional safety equipment is required. Another oversight issue could include whether the Border Patrol has sufficient contingency plans in place to evacuate agents who are wounded in the line of duty. Lastly, Congress may be interested in studying whether these attacks are linked in any way to smuggling organizations and, if so, what can be done to interdict these groups before they attack agents.

## Interior Enforcement<sup>70</sup>

The Border Patrol’s authority to conduct sweeps for unauthorized aliens in the interior of the country has in recent years come under scrutiny.<sup>71</sup> In June of 2004, Border Patrol agents from the Temecula unit arrested over 300 immigrants in the Ontario, Corona, and Escondido areas of

<sup>70</sup> For a more detailed discussion of the legal framework for Border Patrol inland enforcement, please refer to CRS Report RL32399, *Border Security: Inspections Practices, Policies, and Issues*, by Ruth Ellen Wasem et al..

<sup>71</sup> The Border Patrol’s statutory authority for border enforcement powers are stipulated in Title 8 of the U.S. Code [8 U.S.C. §1357 (a)] and section 287 of the Immigration and Nationalization Act (P.L. 82-414) . Additionally, their enforcement authority is federal regulations (8 C.F.R. §287.5).

California. DHS Under Secretary for Border and Transportation Security Asa Hutchinson noted that these particular sweeps violated DHS policy because they were not authorized in Washington, DC, but that the sweeps in general were legal and may be repeated in the future.<sup>72</sup> The *U.S. Code* states that immigration officers, as designated by federal regulations, are entitled to board and search all vessels “within a reasonable distance” of the border, and to have access to private land, but not buildings, within 25 miles of the border.<sup>73</sup> Federal regulations confer these powers on Border Patrol agents and define reasonable distance from the border as 100 air miles, but also allow Border Patrol district directors the ability to petition the Commissioner in special circumstances to extend reasonable distance.<sup>74</sup> Additionally, federal regulations state that Border Patrol agents have the right to interrogate suspected illegal aliens anywhere inside or outside the United States.<sup>75</sup>

On November 16, 2004, ICE and CBP signed a memorandum of understanding which delineates the interior enforcement duties of the Border Patrol and ICE and aims to strengthen the communication between the two agencies. The Border Patrol National Strategy notes that Border Patrol agents will be deployed to interior locations “where there is a direct nexus to border control operations, such as transportation hubs, airports, and bus stations to confront routes of egress for terrorists, smugglers, and illegal aliens.”<sup>76</sup> A possible issue for Congress is whether the Border Patrol should have a role in interior enforcement, and if so, how far that role should extend. Some might argue that Border Patrol resources would be more effectively deployed solely along the border, and that Border Patrol interior enforcement efforts duplicate the efforts of other agencies such as ICE. Others might note that the Border Patrol is uniquely situated to provide an interior enforcement function because it has intimate knowledge of illegal immigration activity and trends, and that it can deploy uniformed law enforcement officers much more rapidly than other agencies.

## **Integration of IDENT/IAFIS Law Enforcement Databases**

The CBP, and the INS and Department of Justice before it, has been repeatedly criticized by the Office of the Inspector General (OIG) for problems with its implementation of the IDENT system and for its lack of compatibility with the FBI’s IAFIS system. IAFIS is an automated 10-rolled fingerprint matching system linked to a database that holds over 40 million records, including wanted persons, stolen vehicles, deported felons, gang members, and terrorists.<sup>77</sup> Integration of the two systems is widely regarded as a vital component of tightening border security, as it would allow CBP inspectors and Border Patrol agents to access the FBI’s criminal database in order to establish whether apprehended aliens have outstanding warrants or criminal histories. However, integration has proved difficult for various technical and organizational reasons.

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<sup>72</sup> Claire Vitucci, “Immigrant Sweep Was Not Ok’d // But a Top Official Says the Practice Is Legal, Could Be Used Inland Again,” *The Press-Enterprise*, June 26, 2004.

<sup>73</sup> 8 USCS §1357 (a)(3).

<sup>74</sup> 8 CFR 287.1 (a)(1-3).

<sup>75</sup> 8 CFR 287.5 (a)(1-2).

<sup>76</sup> U.S. Department of Homeland Security, Bureau of Customs and Border Protection, “National Border Patrol Strategy,” March 2005, p.13.

<sup>77</sup> U.S. Department of Justice, Office of the Inspector General, *The Rafael Resendez-Ramirez Case: A Review of the INS’s Actions and the Operation of Its IDENT Automated Fingerprint Identification System*, USDOJ/OIG Special Report, March 2000, Appendix B.

The most pressing technical issue, according to an OIG report,<sup>78</sup> was related to the lower quality of fingerprint images in the IDENT system, with 20% to 30% of IDENT fingerprints being unacceptable in late 2003. Other technical issues identified by the OIG report relate to the US-VISIT program,<sup>79</sup> whose development has siphoned off some of the DHS staff working on the IDENT/IAFIS integration project. Additionally, the implementation of the US-VISIT program required some changes to the IDENT system which further delayed the integration project.

Organizationally, the two main issues with the integration project identified by the OIG report were undefined project leadership and funding concerns. On the project leadership side, while both DOJ and DHS have assigned lead responsibility for the project to specific offices, there remain concerns about how the two departments coordinate their efforts. As of January 2004 no memorandum of understanding had been released to clarify departmental roles. No subsequent OIG reports on IDENT/IAFIS integration have been released. In terms of funding, in FY2005 the President's budget request includes \$21.5 million for the integration project. The FY2005 DHS House and Senate Appropriations Committee reports both supported the IDENT/IAFIS integration project.<sup>80</sup> In recent years, as well as in the FY2011 budget request, the IDENT/IAFIS integration project has been funded through appropriations to the US-VISIT program.

OIG did note that some progress has been made in the integration of the IDENT and IAFIS systems, with integrated workstations being deployed to about 12% of all ports of entry and 20% of Border Patrol stations. However, the 2005 House Appropriations report expressed extreme concern at the slow pace of integration, noting that DHS officials had testified that interoperability would be achieved by the end of calendar year 2004 but that this no longer seemed to be the case.<sup>81</sup> CBP recently announced that it has deployed integrated IDENT/IAFIS workstations to every Border Patrol station, seemingly addressing congressional concerns about the slow pace of the integration project. However, while the integrated IDENT/IAFIS workstations allow Border Patrol agents to check the FBI's biometric criminal database, they do not allow agents to access the name-based consolidated terrorist watchlist maintained by the TSC. As previously mentioned, a possible issues for Congress to consider may be whether the Border Patrol's lack of access to name-based terrorist watchlists at their stations presents a weakness in our nation's border security. P.L. 108-458 called for the integration of all databases that process or contain data on aliens maintained by DHS, DOJ's Executive Office for Immigration Review, and the State Department's Bureau of Consular Affairs.<sup>82</sup>

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<sup>78</sup> For an expanded discussion of the history of IDENT, IAFIS, and the problems with their integration, please refer to U.S. Department of Justice, Office of the Inspector General Special Report, *IDENT/IAFIS: The Batres Case and the Status of the Integration Project*, March 2004.

<sup>79</sup> For a more detailed discussion of the US-VISIT program, please refer to CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) Program*, by Lisa M. Seghetti and Stephen R. Vina.

<sup>80</sup> U.S. Congress, Senate Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2005*, report to accompany S. 2537, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 108-280 (Washington, GPO, 2004), p. 15; and U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2005*, report to accompany H.R. 4567, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 108-541 (Washington, GPO, 2004), pp. 18-19.

<sup>81</sup> U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2005*, report to accompany H.R. 4567, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess., H.Rept. 108-541 (Washington, GPO, 2004), pp. 18-19.

<sup>82</sup> P.L. 108-458, sec.7208(e).

## **Deployment of SBInet Technology**

The SBInet Technology program has not met Congress's expectations, as noted by the appropriations committees, over the past two years. According to GAO analysis of the initial SBInet expenditure plan submitted to Congress, DHS initially believed that a comprehensive SBInet solution would be deployed to the entire Southwest border by 2011, and that some basic functionalities would be deployed by the end of 2008. However, in its most recent report, GAO noted that in 2009 DHS believed that some limited functionalities—that have yet to be determined—would be deployed to one-third of the Southwest border by 2011.<sup>83</sup> Essentially, SBInet has turned out to be more difficult to implement than DHS originally thought. Most recently, rather than extending a comprehensive “virtual fence” across the entire Southwest border by the end of 2008, as SBInet was originally envisioned to do, the program will instead provide limited pilot capabilities one Southwest border sectors sometime in FY2010. In early 2010, Secretary Napolitano ordered a department-wide assessment of the SBInet technology project, but stated that she would continue to support the deployment of border supervision and protection technologies.<sup>84</sup>

The new deployment schedule for SBInet represents a significant downgrading of the program's goals, as noted by GAO. Not only will the program be implemented years behind its original schedule, it is no longer clear exactly what functionalities the program will deliver. These factors may be of concern to Congress as it oversees the program's development and considers whether to continue to fund the program moving forward.

## **Coordination with Other Federal Agencies**

A GAO report criticized the Border Patrol for failing to coordinate its activities with the federal land management agencies operating along the border. The federal land management agencies with some role at or near the border listed in the GAO report are the Bureau of Land Management, the Fish and Wildlife Service, the National Park Service, the Bureau of Indian Affairs, and the Forest Service. While the GAO found that some coordination existed at the field level, as of May 2004 neither the Border Patrol nor DHS had issued any national level plans detailing how interagency coordination would occur. The report points out that while the agencies have “separate and distinct” missions along the border, when confronted with illegal activities both the land management agency law enforcement officers and Border Patrol agents must enforce federal laws and regulations and have the legal authority to bear arms, interdict criminals, and make arrests.

The GAO report found that the level of border related criminal activity reported by the land management agencies, including drug smuggling and unauthorized alien crossings, had increased significantly since the late 1990s. The report notes that the Department of the Interior saw unauthorized alien apprehensions on its lands within 100 miles of the Arizona-Mexico border increase dramatically, from 512 in 1997 to 113,480 in 2000, and that officials reported that the number of unauthorized aliens crossing through its lands continues to rise. The GAO notes that this increase in illegal activity adversely affects not just the agencies' law enforcement officers,

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<sup>83</sup> GAO SBInet Report, p. 3.

<sup>84</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Homeland Security Department's Budget Submission for Fiscal Year 2011*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., February 24, 2010.

but also the civilians who visit the various parks along the borders, endangered species, and the land itself.<sup>85</sup> A possible oversight issue for Congress concerns whether the lack of national level interagency coordination along the border poses a potential threat to border security. If so, Congress might consider whether increased interagency coordination would increase bureaucracy and reduce the efficiency of the Border Patrol's activities along the border, or whether increased coordination would increase efficiency by better allocating and deploying resources.

## **Civilian Humanitarian Groups**

Other border organizations, such as Humane Borders, Samaritan Patrol, and the Border Action Network, provide humanitarian relief such as drinking water and medical supplies to unauthorized aliens. This summer, a network of faith-based organizations (including Samaritan Patrol) has begun a campaign called "No More Deaths," which seeks to reduce the number of migrant deaths along the border by running two 24-hour camps in southern Arizona where migrants can receive food, water, and access to medical attention.<sup>86</sup> These kinds of activities concern those who believe that the humanitarian aid, no matter how well intentioned, assists unauthorized immigrants in their efforts to subvert immigration laws and enter the country. Others believe that the number of migrant deaths along the border is unacceptably high, and that these organizations are saving lives through their humanitarian aid.

A possible oversight issue for Congress concerns whether some of the activities of these humanitarian groups present an obstacle to the Border Patrol as it carries out its enforcement of immigration laws along the border. If so, Congress may decide what, if anything, can be done to curtail those specific activities by civilian border groups that negatively impact the Border Patrol.

## **Staffing and Training Issues**

Border Patrol agent manpower has been increasing steadily since the adoption of the "Prevention Through Deterrence" strategy, which focused on placing increased amounts of agents and resources directly on the Southwest border. **Figure 12** demonstrates the increasing manpower available to the Border Patrol, with agent staffing levels almost tripling between 1990 and 2002. This rapid increase in agents allowed the Border Patrol to place more agents directly on the border, but also resulted in a dilution of the level of experience of the agents in the field. A General Accounting Office (GAO) report in 1999 noted that the average experience level of Border Patrol agents had declined agency-wide, and that the percentage of agents with less than two years of experience had almost tripled, from 14% to 39%, between 1994 and 1998.<sup>87</sup> The GAO report goes on to observe that attrition rates were rising and that this was making it difficult for the Border Patrol to meet its hiring objectives.

Given the rapid expansion of Border Patrol manpower over the past few years, which has seen the Border Patrol increase by 100% since 2002, GAO's analysis of Border Patrol training may remain cogent today. P.L. 108-458, the Intelligence Reform and Terrorism Prevention Act of 2004

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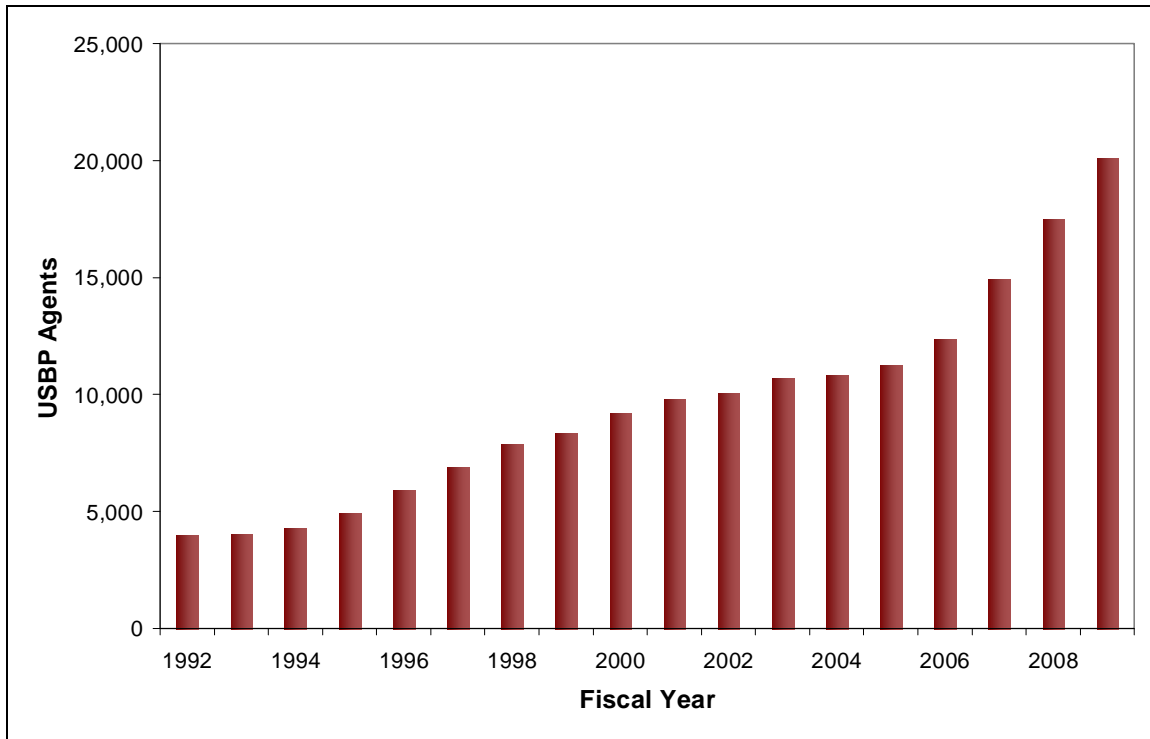
<sup>85</sup> U.S. General Accounting Office, *Border Security: Agencies Need to Better Coordinate Their Strategies and Operations on Federal Lands*, GAO-04-590, June 2004.

<sup>86</sup> Luke Turf, "No More Deaths Vows to Keep Helping Crossers," *Tucson Citizen*, July 27, 2004, p. 5A.

<sup>87</sup> U.S. General Accounting Office, *Border Patrol Hiring: Despite Recent Initiatives, Fiscal Year 1999 Hiring Goal Was Not Met*, GAO/GGD-00-39, December 1999, p. 2.

(IRTPA), included a provision that would increase the number of Border Patrol agents by 2,000 annually from FY2006 to FY2010.<sup>88</sup> Since IRTPA's enactment, Congress has appropriated large increases for the Border Patrol. These increases have allowed DHS to hire an additional 8,855 agents from FY2006 through FY2010, which is just short of the 9,300 additional agents authorized by IRTPA and other acts over this period. The FY2011 Budget Request, however, includes a requested reduction of 181 Border Patrol agents.<sup>89</sup>

**Figure 12. Overall Border Patrol Agent and Pilot Manpower**



Source: CRS Presentation of CBP Data.

A possible oversight issue for Congress concerns whether the rapid expansion of manpower has overly diluted the overall experience of the Border Patrol workforce. Another oversight issue could include whether the growth in manpower has been matched with enhanced training and other procedures to integrate new staff more efficiently and effectively into the workforce. Policy options could include requiring the Border Patrol to certify that its agents receive enhanced training, or providing incentives for senior agents to remain in the field.

## Agent Attrition

It is not clear whether Border Patrol agent attrition continues to be a problem in the Border Patrol today. During Senate testimony in July 2003, CBP Director Robert Bonner acknowledged that the Border Patrol was facing a serious problem with agents leaving the force to pursue other

<sup>88</sup> P.L. 108-458, sec. 5202.

<sup>89</sup> U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *The Homeland Security Department's Budget Submission for Fiscal Year 2011*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., February 24, 2010.

opportunities. He noted that “attrition rates for these positions are reaching crisis proportions.”<sup>90</sup> As **Figure 13** shows, 1995 also marks the beginning of an upward trend in the rate of agent attrition within the Border Patrol, with the average attrition rate doubling from around 5% in the period between 1990 and 1994, to slightly above 10% from 1995 to 2001. In 2002, Border Patrol attrition spiked to 18%, an increase that has generally been attributed to agents leaving the Border Patrol to join the newly formed Transportation Security Agency.<sup>91</sup> This made it difficult for the Border Patrol to add agents to its overall workforce in recent years because most of their new hires ended up replacing agents who had left the workforce. Since that peak, the attrition rate declined to 4% in FY2005, before increasing again to around 10% in FY2007-FY2009.

The high rates of attrition from 2000 to 2003 made it difficult for the Border Patrol to meet its staffing goals during that period. According to Bonner’s testimony in 2003, “there are four major reasons that employees are abandoning careers in federal law enforcement: lack of job satisfaction, low pay compared to that other law enforcement officers performing similar tasks, lack of upward and lateral mobility, and poor working conditions.”<sup>92</sup> After declining from FY2004 to FY2006, the Border Patrol’s attrition rate has risen to 10% (in line with its recent historical average) in FY2007 through FY2009. A potential oversight issue for Congress could include whether DHS is doing enough to promote the retention of existing agents. Policy options could include providing incentives to promote the hiring and the retention of Border Patrol agents, providing additional promotional opportunities for agents within the Border Patrol, and improving working conditions to the extent that this is feasible in the challenging border environment.

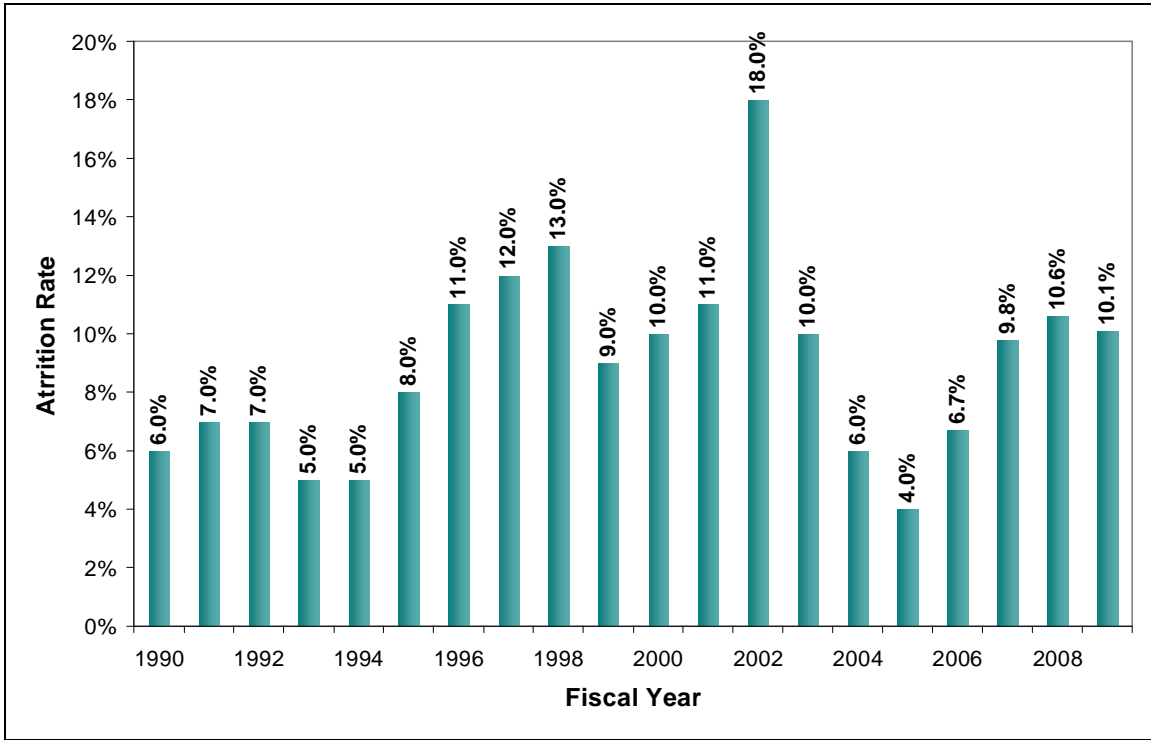
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<sup>90</sup> U.S. Congress, Senate Committee on Appropriations, Subcommittee on Homeland Appropriations, prepared statement by Bureau of Customs and Border Protection Director Robert Bonner, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., May 13, 2003.

<sup>91</sup> U.S. Congress, House Committee on Appropriations, Subcommittee on Homeland Security, prepared statement by Bureau of Customs and Border Protection Director Robert Bonner, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., May 7, 2003.

<sup>92</sup> U.S. Congress, House Government Reform Committee, Subcommittee on Civil Service and Agency Organization, *Hearing on Federal Law Enforcement Personnel in Post-September 11 Era*, 108<sup>th</sup> Cong., 1<sup>st</sup> sess., July 23, 2003.

Figure 13. Border Patrol Agent Attrition Rate



Source: CRS Presentation of CBP Data.

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