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By Wayne A. Cornelius
University of California, San Diego

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Controlling 'Unwanted' Immigration: Lessons from the United States, 1993–2004

Wayne A. Cornelius

This paper evaluates the strategy for controlling 'unwanted' immigration that has been implemented by the US government since 1993, and suggests explanations for the failure of that strategy to achieve its stated objectives thus far. Available evidence suggests that a strategy of immigration control that overwhelmingly emphasises border enforcement and short-changes interior (especially workplace) enforcement has caused illegal entries to be redistributed along the south-west border. The evidence also suggests that the financial cost of illegal entry has more than quadrupled; that undocumented migrants are staying longer in the United States; that migrant deaths resulting from clandestine border crossings have risen sharply; and that there has been a surge in anti-immigrant vigilante activity. Consequences predicted by advocates of the concentrated border enforcement strategy have not yet materialised: there is no evidence that unauthorised migration is being deterred at the point of origin; that would-be illegal entrants are being discouraged at the border after multiple apprehensions by the Border Patrol and returning home; that their employment prospects in the US have been curtailed; or that the resident population of undocumented immigrants is shrinking. It is argued that a severely constrained employer-sanctions enforcement effort that has left demand for unauthorised immigrant labour intact is the fundamental reason why steadily escalating spending on border enforcement during the last ten years has had such a weak deterrent effect. Reasons for the persistence of a failed immigration control policy are discussed, and alternatives to the current policy are evaluated.

Keywords: Border Control; Illegal Immigration; Employer Sanctions; Guestworker Programme

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Wayne A. Cornelius is Distinguished Professor of Political Science, Gildred Professor of US–Mexican Relations, and Director of the Center for Comparative Immigration Studies at the University of California-San Diego. Correspondence to: Center for Comparative Immigration Studies, University of California-San Diego, La Jolla, California 92093-0548, USA. E-mail: wcorneli@ucsd.edu

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A Decade of Policy Experimentation

Ten years into a large-scale experiment in immigration control launched by the US government under President Bill Clinton and continued under George W. Bush, it should be possible to identify which elements of this strategy have worked and which have not, and to suggest possible explanations for this policy outcome. These are the principal objectives of this article. What this analysis reveals is that the most important policy lessons to be gleaned from the US experience with controlling ostensibly 'unwanted' immigration over the last decade are negative ones. Thus far, there is no evidence that a tripling of border enforcement resources has created an effective deterrent to unauthorised immigration, while significant 'unintended' consequences abound. Why a failed strategy of immigration control persists, despite the steady accumulation of evidence demonstrating its low efficacy, is another key question, addressed in the conclusion.

During the 1990s, more than 11 million people were added to the US population through immigration. Of the total population, the percentage of foreign-born was still smaller at the end of the twentieth century than at the beginning, but in absolute terms the growth of the immigrant population in the 1990s was unprecedented. This robust growth has continued into the current decade: nearly 1.5 million immigrants are being added to the US population each year and, according to an estimate by the Urban Institute, at least one-third of that net growth—about 500,000 per year—is unauthorised (Passel *et al.* 2004).[1] But how much of this immigration is truly 'unwanted' and how much is the inevitable outcome of a set of policies and incentives that *generate* illegality? Any assessment of the effectiveness and consequences of US immigration control measures must begin by addressing the issue of intentionality.

Public opinion survey data have consistently shown that the American public does not want an expansionary immigration policy, but neither do they want to slam the door. In one recent national survey, nearly half (49 per cent) of Americans expressed a preference for a lower level of immigration, compared with 14 per cent who would like to see immigration increased; the remaining 33 per cent favoured the present level (Saad 2004). In another survey, a plurality (46 per cent) of Americans believed that 'immigrants are having a bad influence on the way things are going' in the United States. However, nearly as many (42 per cent) thought that immigrants were having a beneficial impact, while more than one in 10 respondents had no opinion.[2] When asked, in another survey, to choose between the statements that 'Immigrants today strengthen our country because of their hard work and talents' and 'Immigrants today are a burden on our country because they take our jobs, housing, and health care', respondents split evenly: each statement was endorsed by 47 per cent, with 6 per cent undecided (National Public Radio *et al.* 2004). President Bush's proposal in January 2004 to establish a new temporary foreign worker programme did not win majority support, but neither was there much support for alternatives to the Bush plan, suggesting a lack of consensus in the general public on what should be

done to reform the US immigration system (National Public Radio *et al.* 2004: Q. 55; Newport 2004).

All this does not amount to a clear mandate for a significantly more restrictive policy. Moreover, there are notable contradictions in the public's belief system about the consequences of immigration. For example, most Americans believe that immigration hurts the economy by driving wages down and causing unemployment among native-born workers. But majorities of Americans interviewed in national surveys conducted since 1995 thought that immigrants only take jobs that citizens refuse.[3] Thus, the US public does not perceive significant, direct competition between immigrants and native-born workers in the labour market. It appears that Americans, however grudgingly, recognise the essential role of immigrant labour in the functioning and growth of the economy. They continue to hire foreign-born migrant workers—authorised and unauthorised—for their businesses and homes, even during periods of recession.[4]

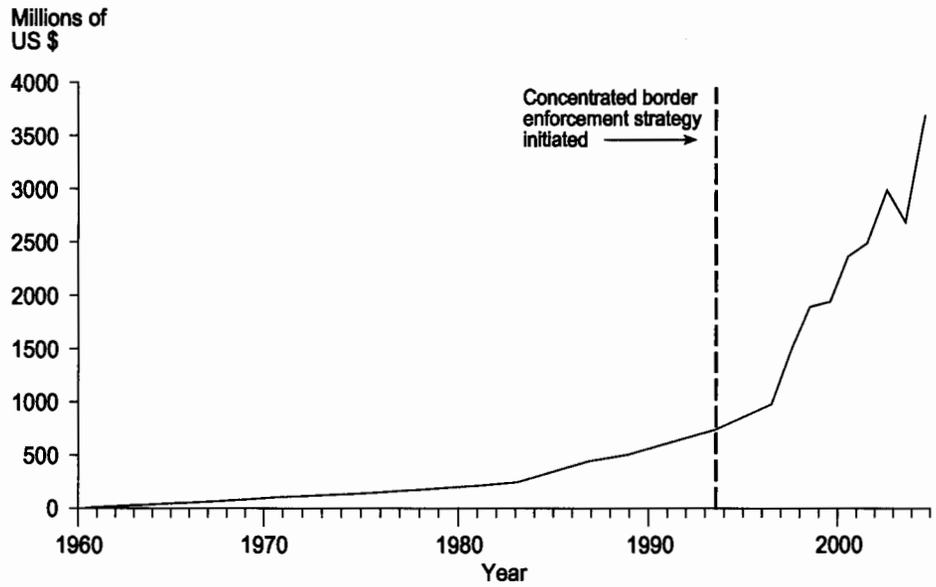
Finally, the salience of the immigration issue to the average American tends to be very low. In national surveys which ask about the main problems that government should be addressing, no more than 1–2 per cent of interviewees typically mention immigration as the most important problem facing the country—about the same percentage as those who respond 'don't know'. Thus, anti-immigration sentiment in the United States is broad but not very deep.[5] Only when immigration policy is placed overtly in the context of post-9/11 anti-terrorism efforts, or when there is a well-organised campaign to whip up support for anti-immigration ballot measures,[6] does the issue seem to arouse the interest of the average American.

Current US immigration control policy reflects both the low salience of the issue and the ambivalence of general public attitudes toward recent immigrants, especially those who are perceived as 'needed workers'. The US strategy—quite intentionally, in the view of many critics—addresses only the supply side: the flow of unauthorised migrants; it does nothing serious to reduce employer demand for immigrant labour. A supply-side-only strategy inevitably fails to deter 'unwanted' immigration from Mexico and other Third-World countries, while further entrenching unauthorised workers in the US labour force.

A Border-Centred Strategy of Immigration Control

One of the paradoxes of recent US history is that the explosive growth of unauthorised immigration has been occurring at a time when the United States was spending considerably more on immigration control than ever before, especially on border enforcement. As Figure 1 shows, expenditure remained relatively modest during the 1960s, 1970s, 1980s and early 1990s; it then quintupled from $750 million in 1993 to $3.8 billion in Fiscal Year (FY) 2004, and the size of the Border Patrol was tripled to more than 11,000 agents.

The border enforcement build-up originated in early 1993, when the White House staff began searching for a way to inoculate President Clinton against the



Sources: US General Accounting Office; US Department of Homeland Security; Public Policy Institute of California

Figure 1. US border enforcement expenditures, fiscal years 1960–2004.

anti-immigration backlash that had emerged in California in the early 1990s. That movement had secured the re-election of Republican governor Pete Wilson and the resounding approval of Proposition 187, the voter initiative that would have excluded undocumented immigrant children from the public schools and blocked them and their parents from using virtually all other public services, had it not been struck down several years later by the federal courts on grounds of unconstitutionality (Magaña 2003; Ono and Sloop 2002). Clinton's advisors believed that a highly visible show of force on the border would neutralise Republican criticism of lax immigration control in the run-up to the 1996 presidential election. Accordingly, the administration began spending unprecedented amounts of money on border enforcement.[7]

Rather than spreading out the new resources all along the south-west border, a decision was made to concentrate them on four relatively short segments of it. Thus was born the 'concentrated border enforcement strategy'. The segments of the border that were to be fortified were those traditionally used by 70–80 per cent of unauthorised migrants entering from Mexico. First to be implemented was Operation Hold-the-Line in El Paso, Texas, in 1993, followed by Operation Gatekeeper in the San Diego area in 1994; Operation Safeguard in central Arizona, launched in 1995 (although most resources did not arrive until FY 1998); and Operation Rio Grande in south Texas, begun in 1997. The Arizona enforcement operation was augmented in 2004 with a special $23 million allocation (excluding manpower costs), dubbed the Arizona Border Control Initiative.

This strategy for deploying Border Patrol resources was intended to raise the probability of apprehension in these four corridors to so high a level that potential migrants would be deterred from leaving their home communities in Mexico and other key sending countries. The logic of immigration policymakers was that if they could effectively control these main gates, 'geography would do the rest', as former Immigration and Naturalization Service Commissioner Doris Meissner has recalled.[8] Formidable mountains and scorching deserts would deter crossings in more hazardous areas like the Arizona desert.

The natural hazards faced by migrants who attempt, today, a clandestine entry anywhere east of the San Diego metropolitan area are indeed extreme. The first major obstacle that migrants encounter is the Otay mountain range, where there is at least a 50 per cent probability of encountering sub-freezing temperatures, if not snow, if the crossing is made any time between mid-October and mid-April. If they cross anywhere to the east of the Otay Mountains they must pass through the Imperial Valley desert, where temperatures well over 100 degrees Fahrenheit are the norm during the period from June to September. Again, US immigration authorities simply assumed that no one would risk their lives trying to navigate around and through these extreme natural hazards.

The first step in fortifying the main gates was to erect a 10-foot-high steel fence to inhibit illegal entry through the San Diego and El Paso urban areas. This 'primary' fence was built by welding together corrugated steel landing mats left over from the Vietnam War and stored in government warehouses.[9] The primary fence in the San Diego sector ends in the Pacific Ocean, where Zodiac rafts patrol to discourage unauthorised migrants from swimming or wading around the fence. Migrants and professional smugglers constantly probe for the weak points in the primary fence. It is possible to dig under the fence; 14 trans-border tunnels, used to smuggle migrants, drugs or both, were discovered along the California–Mexico border in the three-year period 2001–04. The primary fence can also be cut through with acetylene torches and even simple saws. It is also possible to climb over the fence, but vaulting over the fence in heavily patrolled, well-lit urban areas usually results in quick apprehension by the Border Patrol, so most migrants now pass through outlying, undeveloped areas. In some areas the Border Patrol has made it more difficult to climb over the fence by erecting vertical extensions made of fine mesh wire, angled back into Mexico. The latest generation of border fencing technology consists of closely-spaced concrete poles.

Other hardware innovations of the post-1993 border enforcement strategy include high-intensity, stadium-type lighting and remote-controlled, 24-hour-a-day video surveillance systems. Each video surveillance unit is connected to hundreds of in-ground, seismic and magnetic sensors. Unmanned video observation towers provide surveillance in more remote areas and helicopters are used routinely for apprehending large groups of migrants. Beginning in June 2004, the Border Patrol has also used unmanned aerial vehicles ('drones') to provide surveillance of certain sections of the Arizona–Mexico border.

Much of the Border Patrol's manpower is tied up doing 'line-watch duty', with agents sitting in SUVs (sports utility vehicles) near the primary fence, watching for activity. In some areas, agents are stationed every 100 yards or so. But there are still long stretches of the US–Mexico border that have not yet been heavily fortified.[10] Along most of the 350 miles of border in the state of Arizona, the only man-made barrier is a few strands of wire strung on 3-foot-high metal poles. There is a regular shuttle-van service connecting small staging towns, like Altár in northern Sonora, to popular crossing points on the Arizona border, like Sasábe. The most heavily-used trails through the desert are patrolled, however, and many migrants are apprehended before they get to their pick-up point, which can be 20–40 miles inside the United States.

Another technological enhancement of the post-1993 strategy of border enforcement is the IDENT system, a computerised database in which the photo, fingerprints, and other personal identifying information on each apprehended illegal migrant are entered. The Border Patrol says that it uses this technology to spot migrants who are egregious recidivists, who are presumed to be professional people-smugglers rather than ordinary migrants.[11] But fewer than 4 per cent of apprehended migrants are actually detained and prosecuted for illegal entry, partly because it costs $90 a day to keep them in detention facilities and bed space is very limited. For the remainder of the apprehended migrants, if they are willing to sign a form attesting that they are voluntarily repatriating themselves, they are simply bused to a gate on the border, where they re-enter Mexico. Typically such 'voluntarily repatriated' migrants are in custody for only a few hours.

Data collected by the Border Patrol using the IDENT system show that the recidivism rate among apprehended migrants has risen in recent years (Table 1). This trend has been interpreted by immigration authorities as evidence of the efficacy of the concentrated border enforcement strategy, but that would be so only if repeat crossers were being discouraged after multiple apprehensions and returning to their places of origin. There is, however, no evidence that the higher probability of apprehension in heavily fortified corridors is having such an effect on migrants' behaviour. The vast majority of apprehended migrants attempt to enter again the next evening or within a couple of days. People-smugglers typically give their clients three 'free' tries, and most do not need more than one or two (Cornelius 1998: 130; Sherry 2004; Spener 2001).

Table 1. Border patrol apprehensions and individuals apprehended, fiscal years 2002–04

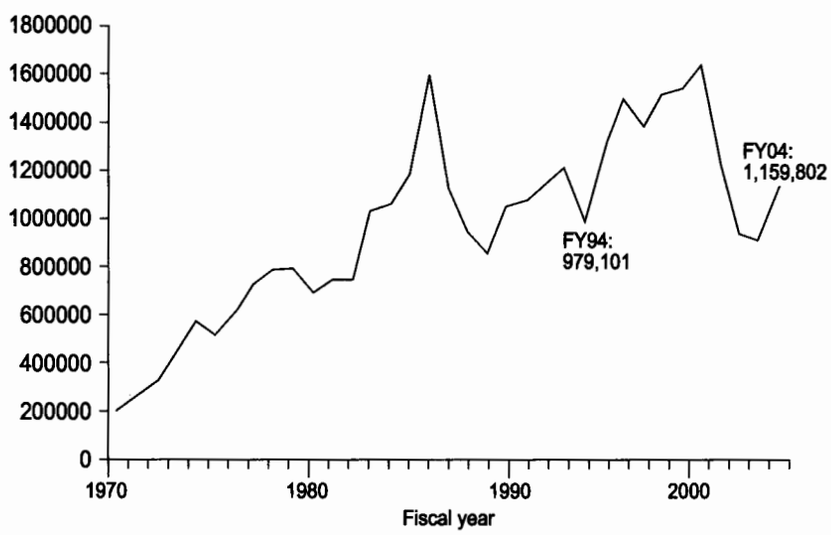
	FY 2002	FY 2003	FY 2004
(a) Apprehensions	955,310	931,557	1,159,802
(b) Individuals	693,798	638,480	741,115
Recidivism rate: (a)/(b)	1.38	1.46	1.57

Sources: US Department of Homeland Security, Border Patrol Enforcement Integrated Database; Winograd (2004); calculations by the author.

Long-distance repatriation is an option that the US has used from time to time to discourage immediate re-entry. During the month of September 2003 the Border Patrol flew all migrants apprehended along the Arizona segment of the border to four border cities in the state of Texas. Mexican officials had denied permission for the apprehended migrants to be repatriated to destinations in the interior of Mexico. The official justification for this 'lateral repatriation programme' was to reduce fatalities among migrants who would otherwise have tried to re-enter via the Arizona desert, but the clear intent was to discourage apprehended migrants from trying again, anywhere along the border, in the near future. During the summer of 2004, the US government pressured the Mexican government into accepting 'deep repatriation' of as many as 300 apprehended migrants per day to six cities in central and southern Mexico. Each of these 151 chartered flights cost US taxpayers $50,000. Among the migrants who accepted long-distance repatriation, nine out of 10 told journalists who interviewed them when they landed in Mexico that they planned to re-enter the United States very soon (see, for example, Kraul 2004). Bus tickets are relatively inexpensive in Mexico, and even from the southern state of Oaxaca it would cost only about US$150 and take two or three days for the average migrant to get back to the border.[12]

Efficacy and Unintended Consequences of Concentrated Border Enforcement

What impact has the unprecedented border enforcement effort of the last 10 years had on the flow of unauthorised migrants from Mexico? As shown in Figure 2, apprehensions rose sharply along the south-west border from FY 1994 to 2001, as the



Sources: US Immigration and Naturalization Service, FY 1970 – 2002; Department of Homeland Security FY 2003 – 2004

Figure 2. Apprehensions on US south-west border, fiscal years 1970–2004.

border was being fortified. From 2001 apprehensions fell again by about 25 per cent each year for two fiscal years. Since October 2003, however, the trend has been upward. From FY 2003 to FY 2004 apprehensions increased by 25 per cent, borderwide, while the number of discrete individuals who were apprehended at least once rose by 16 per cent.

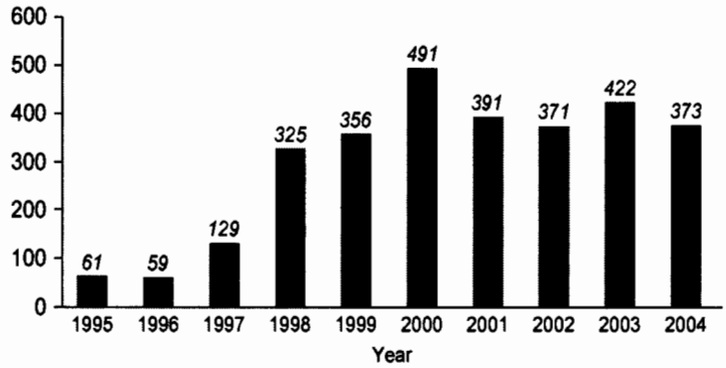
What do these fluctuations in apprehension statistics tell us about the actual flow of unauthorised migrants?[13] Falling apprehensions at the beginning of the current decade enabled the Border Patrol to assert that it had turned the enforcement corner, due to greater resources and more efficient performance by agents in the field (Martin 2004: 84). A more plausible interpretation is that apprehensions rose in the late 1990s because migrants and people-smugglers were still learning how to evade the new obstacles, but by the end of 2001 the learning process was complete and the probability of apprehension once again began to decline. Furthermore, after eight years, the concentrated border enforcement strategy had raised the financial costs and physical risks of illegal entry to the point where undocumented migrants were staying longer on each trip they made to the United States or were settling there permanently.[14] Data from surveys of Mexican migrants in transit or returning from the US document these trends. Both legal and illegal migrants were staying longer in the United States in the late 1990s, but the sojourns of unauthorised migrants were especially extended.[15] In 1992 about 20 per cent of Mexico-to-US migrants returned home after six months, about 15 per cent in 1997, and by 2000 only 7 per cent of migrants did so (Reyes *et al.* 2002). If unauthorised migrants are not coming and going across the border as frequently as in previous years, they are not at risk of being apprehended. The upturn in apprehensions beginning in the last quarter of 2003 can be attributed largely to the US economic recovery, which was creating large numbers of jobs and attracting new, first-time migrants to the United States, coupled with a weak, 'jobless' economic recovery in Mexico.

This analysis of trends is necessarily speculative, because we lack recent data gathered in migrant-sending communities about how the border enforcement build-up is affecting migration decisions. However, the weight of the evidence from various kinds of sources is that tougher border enforcement has been much more effective in bottling up unauthorised migrants inside the US than in deterring them from coming in the first place.[16] Such a conclusion is consistent with the robust growth in the stock of illegal immigrants living in the United States that has occurred throughout the period of tighter border enforcement. By March 2002, an estimated 9.3 million undocumented immigrants were living in the United States, of whom 5.3 million (57 per cent) were from Mexico—a huge increase over 1990 (Passel 2004). Moreover, the percentage of undocumented immigrants working in labour-intensive sectors of the US economy has continued to rise as border enforcement was stepped up. For example, the proportion of undocumented immigrants among agricultural workers increased from about 38 per cent in 1994 to 52 per cent in 1998 (Department of Labor 2000: 22). By 2003, undocumented migrants accounted for at least 60 per cent of the total US labour force in agriculture (an estimated 80 per cent in California).[17]

The most unambiguous consequence of the post-1993 border enforcement strategy has been to redistribute illegal entries along the south-western border, away from the larger border cities and towards more remote, undeveloped areas (Orrenius 2004). The main gates for illegal entry in the pre-1993 period were the San Diego, California and El Paso, Texas metropolitan areas, and the southern Rio Grande Valley in Texas. Apprehensions in these now-heavily-fortified sectors have fallen by a combined 64 per cent since 1993, while they have soared along the Arizona–Mexico border. The 260-mile Tucson sector has become the leading corridor for illegal entry, accounting for 490,827 apprehensions (43 per cent of the south-west border total) in 2004.

As border control has tightened, a higher percentage of migrants have sought assistance from professional people-smugglers—*coyotes*—to reduce the probability of apprehension. The proportion of migrants using *coyotes* rose from 15 to 41 per cent (Consejo Nacional de Población 2004). Mexico's Instituto Nacional de Migración estimates that at least 100 large-scale people-smuggling rings now operate in Mexico, with thousands of smaller operators involved. People-smugglers' fees have sky-rocketed in the last 10 years. The average fee paid to a smuggler by an unauthorised Mexican migrant attempting to cross along the California–Mexico segment of the border more than tripled from $143 in the pre-Operation Gatekeeper period to $490 in 1995, rising dramatically again to upwards of $2,000 by 2004 (Cornelius 1998: 131; Cornelius 2005; Reyes *et al.* 2002; Sherry 2004).[18] Nevertheless, smugglers have not yet priced themselves out of the market, because the US-based relatives of would-be illegal migrants—the principal source of funds for many clandestine border crossings—have dug deeper into their pockets, and migrants lacking financing from US sources have gone more heavily into debt to hometown lenders.

The post-1993 strategy of border enforcement has clearly also greatly magnified the physical danger associated with illegal entry. Since 2000, an average of 410 migrants have died each year as a direct consequence of attempted illegal entry along the US–Mexico border (see Figure 3).[19] These statistics understate the number of deaths since they include only migrants whose bodies have been recovered by the Border Patrol and the Mexican police. Most migrants perished from dehydration and heatstroke in the deserts, or drowned in the Rio Grande river and the All-American irrigation canal that runs along the border in California and Arizona (Cornelius 2001: 670–1). To put this death toll in perspective, the fortified US border with Mexico has been more than 10 times deadlier to migrants from Mexico during the past nine years than the Berlin Wall was to East Germans throughout its 28-year existence. More migrants (at least 3,218) have died trying to cross the US–Mexico border since 1995 than people—2,752—were killed in the World Trade Center attacks on 11 September 2001. In recent years the probability of dying versus that of being apprehended on the US–Mexico border has doubled, from 1 death per 5,812 apprehensions in 1998 to 1 death per 3,109 apprehensions in 2004. The death toll has continued to mount, despite an expanded search-and-rescue effort by the Border Patrol. In 2004, for example, 1,321 migrants were rescued from the deserts and mountains, but at least 373 still died.



Source: Mexican Consulate's reports of migrant fatalities, compiled by the Mexican Ministry of Foreign Relations and the author. The statistics in this graph include both identified and unidentified bodies, as well as skeletal remains.

Figure 3. Deaths due to unauthorised border crossings.

Some stretches of the border have become more deadly with each passing year; the Arizona segment witnessed an all-time high of 175 migrant fatalities in 2004.[20] US officials invariably blame these deaths on professional people-smugglers, but it is apparent that smugglers are only satisfying a demand that has been created largely by the concentrated border enforcement.

A final consequence of the post-1993 enforcement strategy has been to stimulate organised vigilante activity on the US side of the border. These paramilitary groups, with names like Ranch Rescue and American Border Patrol, now operate in all four of the south-western US border states but especially in Arizona. They are heavily armed and have been acquiring increasingly sophisticated technology, like night-vision cameras. Vigilantes have even deployed an unmanned aerial drone to keep unauthorised migrants under surveillance. In some areas the US Border Patrol openly collaborates with these groups, receiving data from them and picking up groups of migrants whom the vigilantes have rounded up. While anti-immigrant vigilante activity has occurred sporadically in the US–Mexico borderlands for several decades, the incidence of such activity and the level of organisation among participants have increased sharply in the post-1993 period (see Ellingwood 2004: 98–103).

The consequences of the current US strategy of border enforcement, after nearly 10 years of implementation, can be summarised as follows:

- illegal entries have been redistributed along the south-west border;
- the financial cost of illegal entry has more than quadrupled;
- undocumented migrants are staying longer in the United States and more of them are settling permanently;
- migrant deaths have risen sharply; and
- there has been an alarming increase in anti-immigrant vigilante activity.

However, the following consequences have not yet materialised:

- that unauthorised migration is being deterred in Mexican places of origin;
- that would-be illegal entrants are being discouraged at the border after multiple apprehensions by the Border Patrol and returning home; and
- that their employment prospects in the US have been curtailed; and that the resident population of undocumented immigrants is shrinking.

All of the latter outcomes were predicted by proponents of the post-1993 strategy of border enforcement. It is possible that, with significantly higher levels of manpower and technology, the current strategy may eventually produce some of the anticipated results, but the timeframe for effectiveness is highly uncertain, and it is equally possible that ratcheting up investment in this strategy will yield only an intensification of the trends observable during the last 10 years.

Policy Alternatives

Several alternatives to the current strategy of immigration control are theoretically available to US policy-makers. One would be to return to the *status quo ante*, by dismantling the four existing concentrated border enforcement operations built since 1993. But each of these operations has developed its own political constituency among local residents and their elected representatives (see, for example, Berestein 2004; Zúñiga 2004). Dismantling the fortifications that have pushed illegal entries out of local residents' sight would be politically prohibitive. Another option would be to build a true 'Maginot Line' of fortifications along the entire 2,000-mile border with Mexico, extending or replicating the extant enforcement operations and squeezing illegal entries into ever-narrower corridors that could be monitored more closely. Such a project would require tens of billions of dollars in new expenditure and cause major disruption in the economies of border states and cities. Moreover, the record of the past decade is that fixed fortifications do not stop unauthorised migrants, any more than they stop mechanised armies; they simply rechannel them and create more opportunities for professional smugglers to cash in on the traffic.

A different approach to immigration control would be to place relatively less emphasis on border enforcement and strengthen enforcement of immigration laws in the workplace. Since 1986 the United States has had legislation that penalises employers who knowingly hire unauthorised foreign workers, but enforcement of employer sanctions has always been at a token level. By the end of the 1990s, the Immigration and Naturalization Service was devoting only 2 per cent of its budget to worksite enforcement. During that decade, while the US border enforcement build-up was underway, worksite enforcement virtually collapsed. Investigations of employers dropped more than 70 per cent, from 7,053 in 1992 to 2,061 in 2002. During the 2000–03 period, an average of 12 unauthorised migrants per week were apprehended at their workplace. In 2002, only 53 employers throughout the country were fined for immigration violations; in 2003, only four faced criminal prosecution

for violating the 1986 immigration law. In one recent period (August 2003–May 2004), the average fine imposed on employers found guilty of violating the 1986 law was only $9,729—almost a cost of doing business.[21] Staffing levels clearly reflect the low priority assigned to workplace enforcement: by 2001, only 124 immigration agents were assigned to full-time workplace enforcement in the entire country, compared with 9,500 agents on the border. Investigative work hours devoted to worksite enforcement decreased by more than half from 1999 to 2003. The Immigration and Customs Enforcement agency (successor to the Immigration and Naturalization Service) requested $23 million to expand worksite enforcement in FY 2005 but received only $5 million more, while the Border Patrol received $74 million in additional funding for hardware and technology.

Both through the appropriations process and in its reluctance to close a giant loophole in the 1986 Immigration Reform and Control Act that virtually precludes successful prosecutions of employers, the US Congress has sent very clear signals to the executive branch that what truly matters in the immigration control game is border enforcement—not interior enforcement. In recent years the Justice Department has attempted to prosecute several major corporations for employing unauthorised workers (most notably Tyson Foods, the giant chicken-processing company, and Wal-Mart, the country's largest retailer), but these companies have evaded significant penalties.[22] The provision of the 1986 law that provides sanctions for 'knowingly' hiring unauthorised immigrants contains no requirement that employers verify the authenticity of documents presented by job applicants.

Most US employers of unauthorised migrants pay them at least the legal minimum wage, and both the employers and the workers regularly pay taxes on their earnings; therefore, the only violation of the law is hiring immigrants who lack proper work authorisation. Prosecution of such 'victimless' white collar crime—giving jobs to needy immigrants—has never been a priority of US law enforcement agencies and courts (see Calavita 1990). Finally, individual home-owners do not have to worry about immigration law enforcement, despite the fact that they provide a large share of the jobs that go to unauthorised migrants in the United States—house cleaning, care of children and the elderly, gardening, small construction jobs and so forth. There is no government effort whatsoever to crack down on this widespread form of unauthorised immigrant employment.[23]

To reduce the magnet of US jobs, more vigorous worksite enforcement aimed at larger employers would have to be coupled with systematic efforts to remove unauthorised immigrants found to be employed by such firms from the labour market and the country. Without such 'removal' efforts, targeted workplace enforcement simply scatters unauthorised workers to other employers and industries. For example, in 1998, immigration authorities investigated 103 meat-packing plants in the state of Nebraska—a concentrated enforcement effort dubbed Operation Vanguard. Some 4,500 immigrant workers (17 per cent of the total work force) were found to have used questionable Social Security numbers in applying for their job. Immigration agents selected 3,135 of these workers to be interviewed, but 2,149 (69

per cent) quit their jobs before agents arrived at the workplace. Only 1,040 workers were interviewed, and in the end only 34 unauthorised workers were arrested and expelled from the country (Martin 1999). Complaints by employer groups, community organisations, local politicians and members of Congress led the Clinton administration to call off Operation Vanguard (Grey and Woodrick 2002: 371). There is no evidence that 'Vanguard' had a durable impact on hiring practices in Nebraska's meat-packing industry. Similar enforcement campaigns targeting service and construction employers have also failed to change basic labour-market dynamics in the industries and regions where they have been implemented.

The overriding reality is that most members of the US Congress have little tolerance for the economic disruptions and constituent complaints that a systematic crackdown on employers of illegal immigrants would inevitably generate. Nor has Congress shown any appetite for creating a new national system for verifying employment eligibility, without which effective worksite enforcement is impossible. The fiscal, political and technical challenges of creating an effective, fraud-proof, easily-accessed national system for verifying employment eligibility have blocked this option for nearly three decades. Meanwhile, bogus documents have proliferated among undocumented immigrants seeking US employment. Migrants can purchase high-quality, customised identification on the street corners of Mexican border cities and in US cities with large immigrant communities. There have been some small-scale, pilot programmes to enable employers to verify job applicants' documents, but Congress has not mandated any broader system, and employer participation in the programme remains voluntary. A severely constrained employer-sanctions enforcement effort is the fundamental reason why steadily escalating spending on border enforcement during the last ten years has had such a weak deterrent effect on unauthorised immigration.

Another approach is to restrict migrants' access to public services in order to deter illegal entry and over-staying. This is the approach to immigration control that the state of California tried to implement in the 1990s. Governor Pete Wilson argued that, once all public services were cut off, illegal immigrants would 'self-deport' and that those considering migration to California would be deterred. This logic was embedded in the Wilson-backed Proposition 187, approved by 59 per cent of the California electorate in 1994. The initiative's basic premise was demonstrably false: there was no direct, scientifically reliable evidence to support the notion that appreciable numbers of migration decisions were being influenced by the availability of public services in California. But the passage of Proposition 187 generated sufficient fear and confusion in the immigrant community for parents to stop taking their children to public health-care clinics. They did not 'self-deport', but they did avoid using services to which their US-born children were fully entitled.

The US welfare reform law of 1996 had similar consequences. Inspired by California's Proposition 187, this federal law made not only unauthorised immigrants but also legal permanent residents ineligible for virtually all federally-funded benefits, like food stamps and Medicaid, until they had lived in the US for at least five years.

Welfare reform stimulated no mass exodus of unauthorised migrants, and there was no let-up in the massive wave of new immigration occurring in the second half of the 1990s. But immigrant parents whose children were eligible for benefits did not access them because of confusion and fear of disclosing information about themselves to the authorities. About three-quarters of all children living in immigrant-headed households in the United States are US citizens, and there was a significant decline in benefit use by such families in the latter half of the 1990s (Singer 2004: 31). In short, restricting access to public services has proved to be a very blunt instrument of immigration control; it creates major social problems, and it does not discourage illegal immigration.

Legalising the migration flow to the greatest extent possible is another option. The United States could expand legal access to low-skilled employment, for migrants who would otherwise enter clandestinely or with visas lacking work authorisation. This could be done either by creating new guestworker programmes or by increasing the number of permanent-resident visas, but the US policy debate today focuses almost entirely on temporary worker schemes. Such a programme was the centrepiece of the comprehensive immigration reform plan proposed by President George W. Bush in January 2004, as well as several legislative proposals introduced in recent years by members of Congress. The Bush plan called for a temporary worker programme of unlimited size, with three-year employer-initiated visas, renewable once.

All such programmes share a basic conceptual flaw, i.e. the lack-of-fit between a temporary worker programme and the needs and preferences of migrant workers and their employers. Even among Mexican nationals, who have a multi-generational history of short-term labour migration to the US, fewer than one in 10 now employed in the United States is working in agriculture or some other seasonal job.[24] Because of technological changes, even agricultural jobs are increasingly year-round. Rotating temporary workers through permanent jobs is simply not sound policy, and invites non-compliance with the terms of the programme by both migrants and employers. Such a policy is politically expedient, however, since hardly any politician wants to acknowledge that there are permanent jobs in an advanced industrial economy that cannot be filled with native-born workers.

From a public policy perspective, it would be preferable to move directly to a sizeable increase in permanent-resident visas ('green cards') to accommodate foreign workers and employers in labour-intensive industries. Such an option would provoke much stronger political resistance than a temporary worker programme but would be likely to yield better long-term results, by giving migrants who are *de facto* permanent additions to the labour force a better platform for upward mobility and social integration. However, the United States has studiously avoided this route. Approximately 100,000 visas are issued each year to low-skilled *temporary* foreign workers in all occupational categories (the largest number to agricultural workers), but only 10,000 *permanent-resident* visas are allocated each year to low-skilled foreign workers—based on their occupation rather than their family ties—representing only 6 per cent of the total allocation of permanent-resident visas. Aggregate US employer

demand for low-skilled foreign workers is greater than for high-skilled foreigners, to whom nearly 200,000 temporary visas were granted in 2002, but that labour-market reality is not reflected in the US immigration system. Thus, much of the illegality in low-skilled employment today is 'manufactured' illegality: a direct function of unrealistically low quotas for low-skilled foreign workers, quotas that are set so low for political rather than market-based reasons.

In the long run, the most effective approach to immigration control would be to create alternatives to emigration by stimulating job-creating development in key migrant-sending areas. In the case of Mexico, we know precisely where such efforts would need to be targeted: the roughly 5 per cent of Mexican *municipios* (counties) which contribute the lion's share of migrants to the United States. Thus far, however, neither the US nor the Mexican government has shown any serious interest in the developmental approach to immigration control. The time-line for results—probably at least 10–15 years—is too long for most elected officials, and in the United States a unilateral approach to immigration control is clearly preferred over bilateral efforts that depend on the Mexican government. The Inter-American Development Bank and other multilateral institutions have become interested in schemes for harnessing the more than $15 billion in remittances that flow each year from Mexicans working in the United States to relatives in their communities of origin for small-business development, but targeted development assistance in high-emigration areas remains little more than a promising concept.

Conclusion: Why Does a Failed Policy Persist?

While there is rising criticism from both the political left and right that the US system of immigration control is 'broken', it is striking that the proposals for 'comprehensive reform' that have been tabled by both the Bush administration and the Democratic opposition would leave in place the basic elements of the current approach. Why does the United States' 10-year-old set of policies for controlling unauthorised immigration persist, long past the point when it became apparent that they are not working?

First, there is the political calculus that heavy-handed, highly visible border enforcement remains useful in convincing the general public that politicians have not lost control over immigration. There are votes to be gained from advocating such measures, regardless of their track record. More than half of the US public, according to opinion surveys, believes that the federal government should be spending more to end illegal immigration along the US–Mexican border (see, for example, National Public Radio *et al.* 2004), and their elected representatives are happy to oblige.

Second, in the post-9/11 era, immigration control and anti-terrorism efforts are highly conflated, and a continuing show of force on the border symbolises the nation's resolve to fight terrorism even if it does nothing to genuinely enhance security. For example, legislation to reform the US system of intelligence-gathering in response to the 9/11 terrorist attacks, enacted by Congress in December 2004, mandates the hiring of 2,000 additional Border Patrol agents each year for the next

five years, nearly doubling the size of the Border Patrol. The stated rationale for this provision was that would-be terrorists may try to sneak into the country along with unauthorised labour migrants seeking entry along the US–Mexico border.

Third, and most importantly, the US economy in the twenty-first century has an insatiable appetite for immigrant labour—much of it low-skilled—which is not satisfied by existing laws and policies. Accordingly, the number of stakeholders in a *de facto* expansionary immigration policy is very large and continues to grow. This is reflected in the ambivalence of US public opinion concerning immigration. The average American may object to large-scale immigration (at least from Mexico and other 'undesirable' source countries) because it increases cultural diversity or tax burdens, but s/he recognises the labour market realities and economic functions of immigration.

The convergence of these factors makes it quite unlikely that a consensus will develop, in the foreseeable future, on what should replace existing US immigration control policies. The absence of consensus on alternatives locks in the current policy mix, under which unauthorised immigrants bear most of the costs and risks of 'control' while benefits flow impressively to employers and consumers.[25] Promised future experiments with guestworker programmes, highly secure ID cards for verifying employment eligibility, and new technologies for electronic border control are unlikely to change this basic dynamic.

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Notes

[1] Most of the US stock of unauthorised migrants consists of clandestine entrants rather than visa over-stayers. The US Immigration and Naturalization Service (INS) estimated the proportion of clandestine entrants at 59 per cent in 2000, compared with 73 per cent in a 2004 estimate by the US General Accounting Office.

[2] National sample of 1,000 residents of the United States, interviewed by *Ipsos/Associated Press*, 7–17 May 2004.

[3] For example surveys by Espenshade and Belanger (1998); National Public Radio *et al.* (2004).

[4] For evidence from employer interviews on the continued recruitment of Mexican migrant workers during recent recessions in the United States, see Calavita (1990) and Cornelius (1998).

[5] The relatively low salience of immigration as a public policy issue in the United States is a consistent finding of survey-based research (see Espenshade and Belanger 1998). Interestingly, in Western Europe the immigration issue appears to be more salient (and elicits greater negativity) among elites than among the general public; the opposite is true in the United States (see results of national surveys conducted in May–July 2002 by the Chicago Council of

Foreign Relations, online at: http://www.worldviews.org/detailreports/usreport/html/ch5s5.html; and Lahav 2004: 84–6).

[6] Such campaigns, heavily financed by national-level anti-immigration advocacy groups, led to the passage of 'direct democracy' ballot initiatives in California (Proposition 187 of 1994) and Arizona (Proposition 200 of 2004) that sought to bar unauthorised immigrants from receiving most state-funded social services.

[7] Harvard Law School faculty member Christopher Edley, a member of the US Commission on Human Rights who participated in the formulation of the Clinton administration's immigration policy, recalled the circumstances that gave rise to the Administration's unprecedented build-up of border enforcement resources beginning in early 1993. The White House perceived a 'crisis' in the area of refugee control, with Haitians and Chinese asylum-seekers threatening to arrive in overwhelming numbers. At the same time, a groundswell of anti-immigrant sentiment was developing in the US Congress and in the state of California which was crucial to the President's re-election in 1996. Accordingly, a decision was made to 'put as much money into the INS as they could plausibly absorb' (Public hearing of the US Commission on Human Rights, 14 November 2002, San Diego, California). More than $20 billion has been spent on the border enforcement effort since then.

[8] Personal communication with the author, March 2003.

[9] A few segments of the US–Mexico border now have double or even triple fencing, to make the obstacle course more formidable.

[10] The US border with Canada is even less fortified. Since the 11 September 2001 attacks, Border Patrol reinforcements have been rushed to the northern border, but by mid-2004 only about 1,000 agents were patrolling the 4,121-mile border with Canada. As several federal officials recently admitted, 'Essentially, the [northern] border remains wide open to anybody determined to cross it' (Peters 2004). This is ironic, since the only terrorists known to have attempted clandestine entry into the US, either before or after 9/11, came via Canada. Not a single person with verified terrorist connections has been apprehended along the US–Mexican border since the attacks.

[11] The Border Patrol refuses to reveal the number of apprehensions needed for the IDENT system to flag a migrant for possible criminal prosecution but claims that the cutting point is set high enough to distinguish people-smugglers from their clients (Winograd 2004). The threshold seems to vary by Border Patrol station and time period. For example, at the Calexico, California station in July 2003 it was 15 apprehensions; by July 2004 the threshold had risen to 18 apprehensions.

[12] Returning to the border by air from Oaxaca (via Mexico City) cost US $215 in December 2004—the equivalent of only three or four days' wages from a US job.

[13] The number of apprehensions is a highly imperfect but still useful indicator of the volume of unauthorised migrants entering the country. Apprehension statistics may either understate or overstate the actual flow owing to changes in Border Patrol apprehension tactics and resources, repeat entries by the same migrants (as shown in Table 1 above, the number of discrete individuals is considerably lower than the number of apprehension events), and the large but unknowable number of migrants who escape detection completely and proceed to their destinations in the US interior. The 'get-away' ratio has traditionally been estimated by Border Patrol officials at 2:1 or 3:1, but there is no scientific basis for this guesstimate. Border Patrol officers count the footprints left behind by migrants crossing the border and compare this with the number of apprehensions made during each shift to gauge the number of migrants who enter without detection.

[14] Focus groups with Mexican undocumented immigrants in California conducted by the Public Policy Institute of California also revealed that many people were staying in the US longer in the hope of legalising their status, so as to be able to move back and forth freely without the cost and risk of clandestine entry (Reyes 2004: 315–19).

[15] Encuesta sobre Migración en la Frontera Norte de México (EMIF), El Colegio de la Frontera Norte, Consejo Nacional de Población, Secretaría de Trabajo y Previsión Social, Instituto Nacional de Migración, 7 Fases (1993–2002). For further evidence of longer stays and greater permanence in the United States as border enforcement tightened in the second half of the 1990s, see Massey *et al.* (2002: 128–33) and Reyes (2004).

[16] It should be noted that stepped-up border enforcement is not the only factor that has contributed to the rapid growth of the unauthorised immigrant population in the United States in recent years. After the 9/11 terrorist attacks, many aliens of various nationalities, who were in the United States legally on temporary visas, over-stayed them out of fear that they might not be allowed to re-enter if they returned to their home country.

[17] Philip L. Martin, Department of Agricultural and Resource Economics, University of California-Davis: personal communication with the author. Lowell and Suro (2002) have estimated that, in 2001, unauthorised immigrants constituted 24 per cent of the US labour force in private household services, 17 per cent in commercial services, 9 per cent in restaurants, and 6 per cent in construction.

[18] Supplemented by author interviews with unauthorised migrants in southern California, July 2003 and July 2004.

[19] Statistics collected by Mexican consulates along the south-western border, compiled by the Mexican Ministry of Foreign Relations.

[20] The statistics reported in this paragraph include skeletal remains, which the US Border Patrol refuses to include in its counts of migrant deaths, even when such remains are discovered along paths used only by unauthorised migrants. For further evidence and analysis of trends in migrant mortality along the US–Mexico border, see Cornelius (2001).

[21] Data from US General Accounting Office, and calculated from US Citizenship and Immigration Services, Employer Sanctions Final Order Lists, August 2003, February 2004, May 2004.

[22] In the case of Wal-Mart, immigration authorities conducted pre-dawn raids on 61 Wal-Mart stores in 21 states on 23 October 2003. This enforcement action netted 245 unauthorised immigrants who had been employed by subcontractors as after-hours cleaning crew workers. Senior Wal-Mart executives denied any knowledge of the hiring practices of the company's subcontractors.

[23] The only notable exceptions have been nominees for high-profile federal government positions who have been forced to withdraw from consideration after it was revealed that they had employed unauthorised immigrants as house cleaners or nannies and failed to pay taxes on their earnings.

[24] For example, Mexico's Consejo Nacional de Población has estimated that only 8 per cent of Mexicans working in the United States in 2002 were employed in agriculture or horticulture, compared with 36 per cent in manufacturing and construction and 56 per cent in services. The decline in agricultural employment among Mexican migrants is a long-term trend that appears to have started in the 1970s (see Cornelius 1992).

[25] A recent, comparative analysis of 11 advanced industrial countries reaches similar conclusions about the persistence of 'failed' immigration control policies in many of these countries (see Cornelius and Tsuda 2004).

References

Berestein, L. (2004) 'Tightened Border in San Diego Shifts Strain to Areas East', *San Diego Union-Tribune*, 1 August.

Calavita, K. (1990) 'Employer sanctions violations: toward a dialectical model of white-collar crime', *Law and Society Review*, *24*(4): 1041–69.

Orrenius, P.M. (2004) 'The effect of US border enforcement on the crossing behavior of Mexican migrants', in Durand, J. and Massey, D.S. (eds) *Crossing the Border: Research from the Mexican Migration Project*. New York: Russell Sage Foundation, 281–98.

Passel, J. (2004) 'Mexican immigration to the US: latest estimates', *Migration Information Source*. Washington: Migration Policy Institute, 1 March.

Passel, J., Capps, R. and Fix, M. (2004) 'Undocumented immigrants: facts and figures', *Urban Institute Immigration Studies Program*, 12 January.

Peters, K.M. (2004) 'Difficult Terrain', *GovExec*, 1 August, online at http://www.govexec.com/story_page.cfm?articleid =29164&printerfr

Reyes, B. (2004) 'US immigration policy and the duration of undocumented trips', in Durand, J. and Massey, D.S. (eds) *Crossing the Border: Research from the Mexican Migration Project*. New York: Russell Sage Foundation, 299–320.

Reyes, B., Johnson, H.P. and Swearingen, R.V. (2002) *Holding the Line?—The Effect of the Recent Border Build-up on Unauthorised Immigration*. San Francisco: Public Policy Institute of California.

Saad, L. (2004) 'Americans Divided on Immigration', *Gallup News Service*, 22 July, online at http://www.gallup.com/content/print.aspx?ci = 12439

Sherry, A. (2004) *Foundations of US Immigration Control Policy: A Study of Information Transmission to Mexican Migrants*. San Diego: University of California-San Diego, Center for Comparative Immigration Studies, Working Paper No. 95, online at http://www.ccis-ucsd.org/PUBLICATIONS/wrkg95.pdf

Singer, A. (2004) 'Welfare reform and immigrants: a policy review', in Kretsedemas, P. and Aparicio, A. (eds) *Immigrants, Welfare Reform, and the Poverty of Policy*. Westport, Conn: Greenwood Publishing Group, 21–34.

Spener, D. (2001) 'Smuggling migrants through South Texas: challenges posed by Operation Rio Grande', in Kyle, D. and Snyder, T. (eds) *Global Human Smuggling: Comparative Perspectives*. Baltimore: Johns Hopkins University Press, 129–65.

Winograd, B. (2004) 'Crossing the Border, Again and Again', *Tucson Citizen*, 5 November.

Zúñiga, J. (2004) 'Border Shore-Up Pivotal in Imperial Beach's "Whole Coastal Renaissance"', *San Diego Union-Tribune*, 11 July.