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U.S. Border Patrol Operations

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Summary

In FY1995, the U.S. Border Patrol formally adopted a strategy known as "prevention through deterrence." This strategy calls for deploying Border Patrol agents directly on the border to deter illegal entry outright, rather than attempting to apprehend illegal aliens after they have entered the United States. Congress has supported expanding this strategy by providing the Border Patrol with greater funding and manpower. A key oversight issue for Congress is determining whether this strategy is effective in deterring illegal immigration.

Background

The U.S. Border Patrol's primary mission is to secure the 8,000 miles of land and water boundaries of the United States between ports of entry. The Border Patrol's major objectives are to prevent illegal entry into the United States, interdict drug smugglers and other criminals, and compel those persons seeking admission to present themselves legally at ports of entry for inspection. The Border Patrol is an enforcement division of the Immigration and Naturalization Service (INS) — the primary agency in the Department of Justice (DOJ) charged with administering the Immigration and Nationality Act (INA). In contrast to the Border Patrol's mission, INS Inspections and the U.S. Customs Service (a division of the Department of Treasury) share jurisdiction over ports of entry. INS Inspections is responsible for screening travelers seeking admission; the Customs Service is responsible for clearing the entry of goods and merchandise into the country. Under current law, both agencies are cross-designated to enforce each other's respective areas of the law. Further, inspectors from both agencies are cross-designated to enforce federal drug laws. Consequently, INS inspectors, like their Custom's counterparts, interdict inadmissible aliens, contraband, and drugs.

Prevention through Deterrence

In the closing weeks of FY1993, the El Paso Border Patrol Chief launched Operation Hold the Line. This operation was a concerted effort to deter illegal entry by significantly



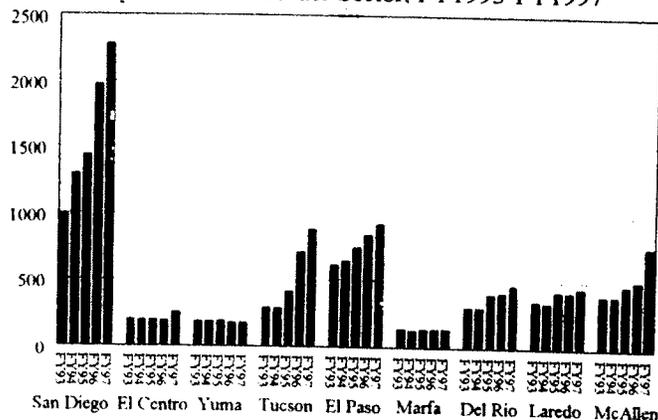
increasing line watch operations by deploying 400 of El Paso's 650 Border Patrol agents on a 24-hour-per-day, 7-day-per-week basis, along the 20 miles of border in metropolitan El Paso. As Border Patrol apprehensions and petty crime rates dropped in El Paso, the operation was hailed as a critical success in the popular press. However, initially official reaction to the operation was mixed. Nonetheless, 54 additional agents were redeployed from other sectors to El Paso and the operation was continued, and apprehensions decreased by 72% in FY1994. In time, Operation Hold the Line became the basis for the comprehensive border control strategy adopted by INS in FY1995 known as "prevention through deterrence." This strategy calls for deploying Border Patrol agents at the border to prevent and deter illegal entry, rather than apprehending undocumented immigrants after they have entered the United States.

The "prevention" strategy was a significant departure from the past. Over the years, the Border Patrol had increased its interior operations, which included activities traditionally assigned to INS Investigations, e.g., employer sanctions enforcement, alien smuggling and immigration fraud investigations, and criminal alien checks in county and local jails. As a result, line watch operations decreased. As undocumented immigrants entered the country more easily, often mingling with legal residents, it became more difficult for Border Patrol agents to differentiate between legal residents and illegal aliens (undocumented immigrants), and the number of allegations of Border Patrol agents violating the civil rights of Hispanics increased. The "prevention" strategy, however, entails focusing Border Patrol efforts at the border, particularly around major ports-of-entry, where the immigration violations are obvious. Moreover, under ideal conditions, preventing illegal entry would eliminate the need to detain and process for arrest apprehended aliens. In the meantime, this strategy — even with technological enhancements, e.g., encrypted radios, motion and seismic sensors, night vision goggles, and infrared scopes — is labor intensive. A key oversight issue for Congress is determining whether this strategy is effective in deterring illegal immigration and, if so, providing the Border Patrol with an adequate level of resources to fully implement it.

Border Patrol Manpower and Funding

Between FY1993 and FY1997, Congress has substantially increased the Border Patrol's budget, from \$362 million to \$727 million, and the number of Border Patrol agents has increased from 3,991 to 6,848. Congress funds the Border Patrol in the annual Commerce, Justice, State (CJS) appropriations bill. Although there is no line item for the Border Patrol in the INS account, in recent years, Congress has earmarked

Chart 1. Border Patrol Agents on Duty
By Southwest Border Sector, FY1993-FY1997



CRS presentation of U.S. Border Patrol data as of 9/27/97.

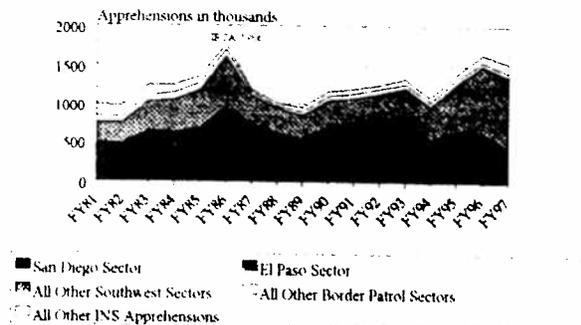
specific budget increases for the Border Patrol in terms of both dollars and new positions. For FY1998, both the Senate and House-passed CJS appropriations bills (H.R. 2267)

include \$125 million earmarked to hire an additional 1,000 Border Patrol agents in FY1998 — double the Administration's request. Such an increase would bring the Border Patrol to over 7,700 agents. In addition, Senate report language directs INS to deploy two-thirds of the newly funded Border Patrol agents to sectors in Texas other than El Paso. House report language directs the agency to deploy the new agents to areas with the highest levels of illegal traffic. Such report language indicates that the regional allocation of Border Patrol assets is an issue in this year's budget process. In FY1997, 92% of Border Patrol agents were deployed on the Southwest border, 42% in the San Diego sector (which accounts for 3% of the Southwest Border). Almost half of new Border Patrol agents hired since FY1993 have been deployed to the San Diego sector.

Border Patrol Apprehensions

In FY1997, INS apprehended 1.5 million undocumented immigrants. Of this number, the Border Patrol apprehended 1.4 million (a 9% decrease from FY1996); 97% were apprehended on the Southwest Border. Apprehension statistics, however, are an imperfect gauge of illegal immigration for several reasons. One, apprehensions are a measure of events rather than people, and undocumented immigrants are often apprehended more than once. Two, many undocumented immigrants enter the country legally through ports of entry and subsequently violate the terms of their admission by overstaying (up to 40% of the resident illegal alien population, according to recent INS estimates). And, three, apprehension statistics do not capture the number of aliens who elude the Border Patrol. Many factors drive apprehensions. For example, INS and others attributed the FY1994 dip in apprehensions to an economic recession in California, while they attributed the increase in FY1995 to the Mexican peso devaluation. Furthermore, increased Border Patrol strength has led to more apprehensions in some areas and less in others where deterrence has been achieved. However, while apprehension statistics cannot tell the full extent of illegal immigration, they remain a useful indicator of the flow of undocumented immigrants across the Southwest border.

Chart 2. INS & Border Patrol Alien Apprehensions Southwest Border in Comparison, FY1981-FY1997



CRS presentation of INS Statistics Division data.

From the Pacific Ocean to the Gulf of Mexico, the Southwest border is 1,952 miles long. The Border Patrol divides coverage of the Southwest border into nine sectors: San Diego and El Centro in California; Yuma and Tucson in Arizona; El Paso sector covering New Mexico and the western most portion of Texas; and Marfa, Del Rio, Laredo, and McAllen sectors covering the remaining border in Texas. For many years, the San Diego and El Paso sectors accounted for the greatest number of alien apprehensions. Prior to Operation Hold the Line, increased apprehensions served as the measure of Border Patrol effectiveness. However, in sectors where Border Patrol strength sufficed to deter illegal entry, decreased apprehensions became the mark of Border Patrol effectiveness. Nevertheless, in FY1994, apprehensions overall continued to rise as the flow of undocumented immigrants shifted from El Paso and San Diego, where Border Patrol

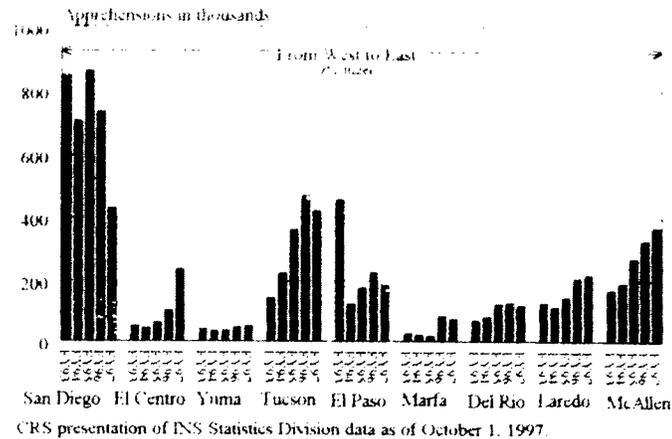
strength had been increased, to other sectors on the Southwest border less well manned. As a result, the Tucson and McAllen sectors surpassed El Paso as the sectors with the second and third highest number of apprehensions. Similarly, apprehensions also increased dramatically in the El Centro sector in FY1997 as smuggling networks rerouted aliens from the Tijuana/San Diego corridor.

Entry without inspection is a criminal offense, but it is a misdemeanor for a first-time offense. For subsequent reentries following prosecution, however, it is a felony offense that carries a federal prison sentence ranging from 5 to 20 years. Generally, prosecutions under the misdemeanor provision have not been a priority and the majority of aliens apprehended at the border accept voluntary departure. In addition, identification of unauthorized migrants attempting multiple crossings was until recently nearly impossible since Border Patrol arrest records and fingerprint cards were taken and stored manually. In FY1994, the INS began testing two automated border control systems on a pilot basis. These systems are ENFORCE, a case processing system, and IDENT, a fingerprint-based positive identification system. When fully operational, these programs will allow INS to compile valuable data on identity, rates of recidivism, and nationality of apprehended aliens. Although IDENT is deployed in every sector, to date there is no connectivity between sectors, and often no connectivity between stations within sectors. Nevertheless, IDENT has already allowed the Border Patrol to identify repeat offenders, criminal aliens, and smugglers for prosecution. The Administration's "Border Czar," U.S. Attorney Alan Bersin, has described IDENT as the "linchpin" to federal efforts on the Southwest border.

Operation Gatekeeper

Following El Paso's Operation Hold the Line, Congress and the public pressured the INS to replicate that operation in the San Diego. Conditions in San Diego, however, made a "Hold the Line" approach more difficult than in El Paso. First, the San Diego-Tijuana corridor is the busiest border crossing point in the United States: correspondingly, the Border Patrol apprehends more undocumented immigrants in San Diego than in any other sector. Second, the border is not clearly demarcated by the Tijuana river as it is by the Rio Grande in El Paso. Third, sociologists studying illegal immigration have long noted that undocumented immigrants crossing in San Diego have usually traveled long distances from points far in the interior of Mexico. Thus, they are more likely to hire a guide or smuggler, are more determined to cross, and are more likely to attempt multiple crossings. For many years, the western-most portion of the San Diego sector, from the Pacific Ocean to the San Ysidro mountains (14 miles), was a no man's land, where large bands of undocumented immigrants gathered on the U.S. side of the border on a nightly basis. Directed by alien smugglers, these bands routinely overwhelmed Border Patrol agents by rushing their positions en masse. Other criminals preyed on undocumented immigrants,

Chart 3. Border Patrol Apprehensions on the Southwest Border FY1993-FY1997 in Comparison, by Sector



and armed robberies, rapes, and murders were common. Moreover, drug smugglers often drove across open areas of the border, leading Border Patrol agents and other law enforcement officers in high speed vehicular pursuits. To impede this illegal cross-border traffic, INS erected 14 miles of fence constructed of surplus military landing mat and installed permanent stadium style lights, since most crossings are attempted at night.

In FY1995, INS deployed new resources to San Diego, and the Border Patrol launched Operation Gatekeeper in this first 14 miles of the border (covered by the Imperial Beach, Chula Vista, and Brownsfield stations). Gradually, the flow of undocumented immigrants shifted into the mountainous backcountry of East San Diego County, and the cost of crossing increased dramatically. Indeed, there has been significant loss of life on the part of migrants who have perished due exposure to the elements and other accidents, such as falling off cliffs (one Border Patrol agent has died in such a fall). In addition, undocumented immigrants have become more dependent on smugglers to guide them across the border to highway pickup points. To interdict such traffic, the Border Patrol set up highway checkpoints on major East-West corridors in East San Diego County. As a result, high-speed vehicular pursuits have increased as alien smugglers attempt to evade the Border Patrol. These pursuits have often resulted in crashes in which a number of undocumented aliens have either been severely injured or lost their lives.

Meanwhile, at the San Diego ports of entry (San Ysidro and Otay Mesa), INS inspectors encountered increased numbers of inadmissible aliens, particularly women who would rather take their chances by attempting to cross at a port of entry with either fraudulent or altered documents, or by making a false claim to U.S. citizenship, than by making the trek across East San Diego County. In addition to "mala fide" (bad faith) applicants for admission, inspectors encountered increasing numbers of lane runners and port crashers. Lane running occurs when aliens jump out of a vehicle and rush the inspections booths in an attempt to overwhelm the inspectors on duty. Port crashing occurs when an alien is able to gain enough speed while approaching an inspection booth that he can crash the gate with his vehicle. Hence, as Border Patrol strength is increased, pressure often mounts at ports of entry. Furthermore, detention needs increase as well, since to deter such attempts, mala fide applicants for admission and other criminals need to be detained for prosecution. The Administration's FY1998 request included funding for a 1,000 bed contract detention center near Otay Mesa. In FY1995, the interdiction of aliens committing immigration violations in San Diego prompted the Executive Office of Immigration Reform (EOIR), in conjunction with INS and the U.S. Attorney's Office in Southern California, to establish a port court at the Otay Mesa port of entry. EOIR, a branch of the DOJ, is separate from INS. Among other things, EOIR presides over administrative immigration hearings. At the Otay Mesa port court, Immigration Judges conduct hearings during which persons charged with immigration offenses, if found guilty, are administratively excluded from entry. If they are interdicted again following an administrative sanction, they may face prosecution for felony reentry.

Operation Safeguard and Rio Grande

Coinciding with Operation Gatekeeper, the Border Patrol launched Operation Safeguard in the Tucson sector to cope with the increased flow of undocumented immigrants there. More recently, in August 1997, INS launched Operation Rio Grande in the McAllen sector of Texas. In these operations, the Border Patrol adopted measures developed as part of Operations Hold the Line and Gatekeeper, including the installation

of landing mat fence and stadium style lighting. Other resources have been committed as well, such as night vision scopes, additional sensors, etc. Apprehension statistics indicate that these operations are developing along lines similar to Operation Gatekeeper. However, every sector presents the Border Patrol with new challenges. For example, in the Tucson sector, the terrain is extremely mountainous with the ranges running in a north-south direction--ideal for smuggling. In FY1997, the focus on border control shifted to the McAllen sector in Texas, where the Rio Grande river twists and turns through farmlands and marshes as it empties into the Gulf of Mexico. Here, the Border Patrol has relied for the most part on highway checkpoints on major north-south routes to interdict undocumented immigrants. Only recently, with the launching of Operation Rio Grande in the area of downtown Brownsville-Matamoros, has the Border Patrol adopted a "prevention" strategy in this sector. It is the Border Patrol's stated objective to expand the "prevention" strategy "up river" in the Laredo, Del Rio and Marfa sectors.

Although it is still too early to declare the "prevention" strategy a success overall, it is clear that a greater Border Patrol presence has slowly ratcheted up the cost of illegal entry. It has also increased tensions in the trans-border region among those who have traditionally profited from a state of lawlessness.

Violence on the Southwest Border

By virtue of their occupations, Border Patrol agents face the threat of violence on the Southwest border. In May and June 1997, there were seven confirmed cases in which snipers fired on Border Patrol agents from the Mexican side of the border in the San Diego/Tijuana area. There have been other shootings in both Sunland Park, NM, and Nogales, AZ. These and other unconfirmed events suggest an upsurge in violence on the Southwest border. Adversaries faced by the Border Patrol on the Southwest border can be categorized into four major groups: drug smugglers, alien smugglers, unauthorized migrants, and border bandits. Clearly drug smugglers pose the greatest threat to both agents and inspectors. Because of the high monetary value of the contraband and inherent risks of their activities, drug smugglers often resort to violence. They have been encountered armed with automatic rifles, body armor, night vision devices, and encrypted radios. In one such encounter, a Border Patrol agent was shot to death by drug smugglers in 1996 near Eagle Pass, TX.

In the past, alien smugglers and their charges posed no serious threat to Border Patrol agents. However, increased border enforcement has driven up fees undocumented immigrants pay smugglers for their services, and alien smuggling has often become more lucrative than drug smuggling. Nevertheless, on the whole, unauthorized migrants by themselves pose little or no threat to the Border Patrol. Most migrants do not resist arrest, once apprehended. Many have relatives in the U.S. and may be eligible for legal immigration benefits in the future; a criminal record would preclude them from such a benefit. "Border bandits", on the other hand, pose a much greater threat to the Border Patrol. These aliens cross the border to commit crimes of opportunity, which range from panhandling and shoplifting to burglary and auto theft. Border Patrol agents and other law enforcement officers have observed that border bandits have become more aggressive in recent years. On the other hand, federal law enforcement statistics show decreases in serious crimes from FY1992 to FY1995. According to the Attorney General, serious crime has decreased by 30% in San Diego; by 5% in Nogales, AZ; by 14% in El Paso; and by 20% in Brownsville, TX.