Is Border Enforcement Effective?
What We Know and What It Means

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Executive Summary

For too long, the policy debate over border enforcement has been split between those who believe the border can be sealed against illegal entry by force alone, and those who believe that any effort to do so is futile and without expanded legal work opportunities. And for too long, both sides have been able to muster evidence to make their cases — the enforcers pointing to targeted successes at sealing the border, and the critics pointing to continued illegal entry despite the billions spent on enforcement. Until recently it has been hard to referee the disputes with any confidence because the data was simply inadequate — both sides could muster their preferred measures to make their case. But improvements in both data and analysis are increasingly making it possible to offer answers to the critical question of the effectiveness of border enforcement in stopping and deterring illegal entry.

The new evidence suggests that unauthorized migration across the southern border has plummeted, with successful illegal entries falling from roughly 1.8 million in 2000 to just 200,000 by 2015. Border enforcement has been a significant reason for the decline — in particular, the growing use of "consequences" such as jail time for illegal border crossers has had a powerful effect in deterring repeated border crossing efforts. The success of deterrence through enforcement has meant that attempted crossings have fallen dramatically even as the likelihood of a border crosser being apprehended by the Border Patrol has only risen slightly, to just over a 50-50 chance.

These research advances should help to inform a more rational public debate over the incremental benefits of additional border enforcement expenditures. With Congress gearing up to consider budget proposals from the Trump administration that seek an additional $2.6 billion for border security, including construction of new physical barriers, the debate is long overdue. In particular, Congress should be taking a careful look at the incremental gains that might come from additional spending on border enforcement. The evidence suggests that deterrence through enforcement, despite its successes to date in reducing illegal entry across the border, is producing diminishing returns. There are three primary reasons. First, arrivals at the border are increasingly made up of asylum seekers from Central America rather than traditional economic migrants from Mexico;

this is a population that is both harder to deter because of the dangers they face at home, and in many cases not appropriate to deter because the United States has legal obligations to consider serious requests for asylum. Second, the majority of additions to the US unauthorized population is now arriving on legal visas and then overstaying; enforcement at the southern border does nothing to respond to this challenge. And finally, among Mexican migrants, a growing percentage of the repeat border crossers are parents with children left behind in the United States, a population that is far harder to deter than young economic migrants.

The administration could better inform this debate by releasing to scholars and the public the research it has sponsored in order to give Americans a fuller picture on border enforcement.

Deterrence through Enforcement

For most of its history, the United States had only limited controls over its land borders; the efforts over the past two decades or so to close the borders to unauthorized entry are a sharp departure. Unauthorized migration from Mexico began to rise sharply in the mid-1960s following the elimination of the Bracero Program that had offered temporary work permits to Mexican citizens, mostly for agricultural jobs. By the 1990s, with a huge bulge of young Mexicans entering the labor market and Mexico's economic growth too weak to absorb them, the number of illegal border crossers soared. The modern effort at border control can be dated quite precisely. It began on September 19, 1993, when the chief of the Border Patrol in El Paso, Silvestre Reyes, decided he was fed up with using his agents to try to chase down unauthorized migrants after they had already crossed the border into Texas. Instead, he took 400 of his 650 agents and put them on 24-hour duty along the most heavily trafficked 20 miles of the sector, between the cities of El Paso, Texas and Juarez, Mexico. This "Operation Blockade," which was later renamed "Operation Hold the Line," was immediately successful in reducing illegal entries in that corridor (Alden 2008). The effort was enormously popular, and Reyes went on to win a seat in Congress in the 1996 elections. His initiative was emulated the next year when Operation Gatekeeper was launched in southern California, in the corridor between Tijuana, Mexico and San Diego, California, that had been a similarly large magnet for illegal crossers. Both operations were seen as successful. In its first year, Operation Gatekeeper resulted in a 65 percent fall in illegal crossings along the five miles of the border from the Pacific Ocean inland; across the San Diego region, illegal crossings fell to a 24-year low. Similar declines were seen in El Paso, Texas (Pearson 2000).[1]

The model developed along the border in Texas and California was a strategy of "deterrence through enforcement." If the decision by a migrant to attempt to enter the United States illegally can be conceived as a rational calculation of costs and benefits, then the US strategy for deterring illegal migration since the mid-1990s has been based almost entirely on raising the expected costs of illegal migration through increased enforcement and penalties, rather than increasing the benefits by providing additional legal channels

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1 Joseph Nevins (2002) provided the definitive account of Operation Gatekeeper.

for migration or temporary work. President Trump's proposal for a "big beautiful wall" covering the entire border is only the most extreme version of an enforcement strategy that has relied primarily on border security to reduce illegal migration to the United States.

For more than a decade after its launch in 1996, the evidence on the effectiveness of deterrence through enforcement was mixed at best. Measured by the number of apprehensions or arrests at the border, it was quickly apparent that building fences and massing Border Patrol agents was a powerful deterrent to illegal crossing in the places where it was deployed. In the El Paso sector, the decline in apprehensions was almost immediate following Operation Hold the Line, falling from 250,000 in 1992 to fewer than 80,000 by 1994. In the San Diego sector, apprehensions fell more gradually but still dramatically, from more than 550,000 in 1992 to just 110,000 in 2001 (CBP 2016a). But it was also equally apparent that sealing the high-traffic corridors alone would not significantly reduce illegal crossings. Instead, border crossers move to the more remote regions in Arizona, and the numbers continued to climb, as did the number of migrant deaths in what became increasingly dangerous crossings. Apprehensions along the entire border remained extremely high throughout the 1990s, and reached a record number — more than 1.6 million — in 2000.

Many leading scholars have argued that border enforcement was destined to fail because the decision to migrate illegally was driven overwhelmingly by economic opportunity, and enforcement would never provide a sufficiently powerful deterrent (Massey, Durand, and Malone 2003).[2] And with US wage rates on average remaining three to four times as high as those in Mexico, the potential wage gains for unauthorized migrants were, and remain, large. For much of the 1990s and early 2000s, this thesis seemed to be confirmed by the high level of illegal entry attempts despite a significant increase in Border Patrol agents, physical barriers such as fencing, and surveillance. Border Patrol leadership continued to argue throughout this period that enforcement was still a work in progress, and that with sufficient manpower and resources the early successes in California and Texas could be replicated across the border. Congress, not surprisingly, sided with the Border Patrol. The 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IRAIRA) authorized the hiring of an additional 1,000 Border Patrol agents annually to a cap of 10,000, as well as large new investments in surveillance capabilities. A second surge came in the mid-2000s, when Congress authorized another doubling of the size of the Border Patrol, and passed the 2006 Secure Fence Act authorizing no less than 700 miles of reinforced fencing along the border. The Department of Homeland Security (DHS) also invested heavily in surveillance technology to create a "virtual fence" along the border. Today, the Border Patrol numbers are just under 20,000 — with most of those along the border with Mexico — and more than 650 miles of fencing has been constructed along the border, most of it in California and Arizona. The Secure Fence Act also laid out a border mission for the Department of Homeland Security (DHS) that remains the law today — that the United

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2 More recently, Massey, Durand, and Pren (2016) have argued that the evidence shows that the primary effect of border enforcement was to increase the number of settled unauthorized migrants, because they feared returning to Mexico and being unable to re-enter the United States.

States should achieve "operational control" of the border, defined as "the prevention of all unlawful entries into the United States."[3]

While DHS remains far short of achieving that unrealistic goal, the last decade has provided evidence that the Border Patrol was more accurate in its predictions that enforcement would begin to reduce illegal entries significantly. Apprehensions of illegal border crossers began to fall sharply in 2006, and have continued to decline, falling even more sharply in the early months of 2017 following the inauguration of President Trump (Partlow 2017). The cause of the decline was initially difficult to determine, because the steep drop off in apprehensions began in 2007, which coincided with the collapse of the home construction market (a large employer of unauthorized workers) and then with the spike in unemployment that followed the 2008 financial crisis. But with the strong recovery of the US economy since 2009, coupled with a continued low level of apprehensions, the increased effectiveness of border enforcement has become more apparent. The United States has now had the strongest sustained period of job creation in the post-World War II era, unemployment has fallen well below five percent, and much of the job growth has been in lower-wage service and retail occupations that have historically attracted unauthorized immigrants. Yet illegal border crossings remain much lower than they have been in decades.

The decline in unauthorized border crossings is not entirely an enforcement story. Some of the fall is explained by demographics — the number of young Mexicans entering the labor market, the most likely cohort to attempt to migrate illegally, has been slowing, making it easier for them to find work at home even as growth in Mexico's economy has remained weak. Legal temporary work admissions have also been rising, especially under the H-2A program for agricultural workers, which was often ignored by farmers and growers when an undocumented labor force was readily available. The total number of H-2A visas issued to Mexicans has roughly tripled from the level of the early 2000s, from fewer than 30,000 annually to near 90,000, suggesting that more farmers and growers are using the legally available alternatives. But the decline in illegal entry has been far too large to be explained by these factors alone.

The evidence of an enforcement impact is strengthened by research showing that many fewer Mexicans are attempting to return after being deported or voluntarily returned to Mexico, suggesting that for various reasons, they are being deterred from attempting another crossing (Roberts, forthcoming). Recent research on illegal border crossings has improved our understanding of the role of deterrence. Despite the enormous buildup in Border Patrol personnel, fencing, and surveillance capabilities over the past two decades, the likelihood of an illegal border crosser being apprehended has risen only slightly. The Border Patrol faces an adaptive adversary, the smugglers, who try to keep the likelihood of arrest from rising through their own investments in personnel (spotters, foot guides), technology (night vision goggles, drones), and tactics (new crossing routes). But this raises smugglers' costs and thus the fees that they charge their clients, which rose from less than $1,000 in 2000 to $3,000 or more in recent years. The Border Patrol also began to

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3 Secure Fence Act of 2006, Pub. L. No. 109-367, 120 Stat. 2705. That exact language was replicated in President Trump's January 25, 2017 executive order on border security, in which operational control was defined as stopping all illegal entries. See Border Security and Immigration Enforcement Improvements, Exec. Order No. 13767, 82 Fed. Reg. 8793 (Jan. 25, 2017).

impose consequences on those caught attempting illegal entry in the late 2000s, ranging from formal removal to prosecution and jail time. Rising smuggling costs and intensifying consequences have increased deterrence, both for those contemplating going to the border in the first place, and those caught attempting illegal entry after going to the border. Deterrence through enforcement appears to have been a significant factor in reducing the number of unauthorized border crossings.

Measuring Success

Our understanding of the role of border enforcement in reducing illegal entry has been greatly enhanced by recent improvements in the measurement of illegal border crossings. Since 1925 following the creation of the Border Patrol, the primary measure for the security of the border against unauthorized entry has been the annual number of apprehensions. Apprehensions are simply a measure of the number of arrests made in the border region of those attempting illegal entry; for the past two decades, the Border Patrol has kept good records of multiple (or "recidivist") apprehensions, which show that up until recently many border crossers had tried to cross multiple times in a single year. The annual number of apprehensions rose more or less steadily from the end of the Bracero Program in 1964, reaching peaks of just over 1.6 million in 1986 (right before the passage of the Immigration Control and Reform Act, which legalized many unauthorized migrants in the United States) and then a record of 1.65 million in 2000. From 1974 to 2010, the annual number of apprehensions at the US-Mexico border never fell below 500,000. Despite its long lineage, however, the apprehensions measure has always been an inadequate one for understanding the utility of border enforcement in preventing illegal entries. Apprehensions are a poor measure of success. A falling number of apprehensions could equally indicate successful border enforcement (rising deterrence and fewer attempts) or failed border enforcement (a lower apprehension rate and more successful illegal entries). And the apprehensions number is of little value in determining which enforcement measures have been more or less successful at discouraging illegal entry.

Recent studies have begun, however, to disaggregate the various components of border enforcement, and make it possible to arrive at more robust conclusions on effectiveness. As Roberts, Alden, and Whitley (2013) argued, the goal of border enforcement is to reduce the number of successful illegal entries; therefore, the core strategic measure of enforcement success is the total number of illegal entries. But determining successful "entries" is much harder than simply counting arrests. It requires making credible estimates of the number of persons who succeeded in crossing the border and entering the United States without being apprehended, or in many cases even directly observed, by the Border Patrol. In order to determine that measure, the US government needs robust estimates on both the likelihood that an unauthorized border crosser will be stopped and detained (the "probability of apprehension") and the likelihood that border crossers will be deterred from attempting entry or reentry after being apprehended and returned to Mexico. While the Border Patrol keeps accurate records of "recidivist" apprehensions — those arrested multiple times — determining whether an individual has evaded the Border Patrol entirely and entered successfully, or was deterred from making additional entry attempts, poses much larger methodological challenges. In 2015, DHS contracted with a research organization, the

Institute for Defense Analyses (IDA), to produce the first serious estimates of successful illegal entries between the ports on the US-Mexico border, as well as at the port of entry and in the maritime environment (IDA 2016). The estimates were presented to the department leadership in early 2016, but were never released to the public or to the Congress. A copy of the study leaked later that year, however, producing several news stories, and was posted on the internet (Spagat 2016).

The findings were striking. First, the research found that the total number of successful illegal entries across the southern border has fallen much more dramatically than the apprehensions data suggest — from close to 1.8 million in FY 2000 to fewer than 200,000 by FY 2015. Second, the primary cause of that sharp drop was not that a significantly higher percentage of border crossers was being apprehended by the Border Patrol, but rather that they were being deterred from trying in the first place, or from trying again after being arrested and returned the first time. The "deterrence rate" has risen from just 10 percent in the early 2000s — meaning that 90 percent of those returned across the border would try again — to roughly 60 percent by 2015. Third, this success was achieved despite the Border Patrol falling far short of the 100 percent apprehension rate that has been sought by the Congress since the passage of the Secure Fence Act. The likelihood of arrest on any particular border crossing has increased, but not by a lot — in 2000, the odds of getting caught were roughly 40 percent, and by 2015 it had risen to a little over 55 percent. And yet the total number of crossings has plummeted.

Deterrence appears to have increased considerably after 2011, when the United States began imposing "consequences" on nearly all apprehended migrants. Historically, most border crossers were "voluntarily returned" to Mexico, and the evidence shows that most simply kept trying until they were successful in entering the United States. But beginning gradually in the mid-2000s, and more comprehensively in 2011 with the launch of the "Consequence Delivery System," more and more border crossers have faced some sort of more severe penalty — from jail time to removal to the interior of Mexico to formal deportation.[4] Criminal prosecutions, especially felony prosecutions, appear to have had a powerful deterrent impact in discouraging apprehended border crossers from making future efforts. A Migration Policy Institute (MPI) survey of repatriated Mexican nationals showed a sharp increase in the number saying they would remain in Mexico rather than attempting to return to the United States. As recently as 2010, some 95 percent of all returnees said they would seek reentry, but by 2015 only 49 percent said they would try again (Schultheis and Ruiz Soto 2017). Rising smuggling costs — a consequence of tougher enforcement that has required smugglers to use more difficult and dangerous entry corridors — also appear to be acting as a strong deterrent. The MPI study reported that average smuggling costs for an individual had risen from $1,500 in 2010 to $4,100 by 2015 (ibid., 1).

This research has marked a huge advance over the traditional apprehensions measure, and over the Border Patrol's own "known flow" estimates, which rely on physical observations of border crossers. The IDA work, in particular, provided the first compelling evidence that enforcement — and not just demographic and economic factors — has played a big role in the reduction of illegal entries, and the research has isolated the importance of the consequences programs in deterring reentry. For the first time since the border build-up

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4 For an analysis of the Consequence Delivery System, see Capps, Hipsman. and Meissner (2017).

began more than two decades ago, there is some solid evidence on what works and what does not in border enforcement.

Conclusions and Policy Implications

The border enforcement buildup, coupled with harsher consequences for unauthorized border crossers, has played some significant role in reducing illegal entries across the southern border with Mexico. This might seem to lead logically to the conclusion that still more enforcement and even harsher consequences would be still more effective. This is indeed very much the approach the Trump administration is taking. There is a danger, however, in drawing such simplistic conclusions from the research.

There are at least three reasons to think more deeply about the policy implications of these findings. The first is the changing nature of the border-crossing population. The decline in traditional Mexican border crossers coming to the United States for better jobs has been accompanied by a rise in Central Americans — mostly from El Salvador, Guatemala, and Honduras — arriving at the border to request asylum protection. Over the past several years, apprehensions of non-Mexicans at the border, mostly from Central America, have met or exceeded apprehensions of Mexicans. The number of asylum requests from those arriving at the border has also soared in recent years, from just 22,000 in 2011 to 140,000 by 2015. Arrests of unaccompanied minors and family units have fluctuated, hitting nearly 140,000 in FY 2014, falling to 80,000 in FY 2015, and rising again to nearly 140,000 in FY 2016, but they have been consistently far higher than they were a decade ago (CBP 2016b). This population is a very different population from the traditional Mexican border crossers; while some may be coming solely for economic opportunity, many are fleeing violence or the threat of violence. The question of whether such individuals can be, or should be, deterred is a very different question.

Given the dangers that asylum seekers face back home, this is a harder population to deter, one that is willing to run higher risks than would traditional economic migrants. The United States has used a variety of means to deter asylum seekers from Central America, including working with Mexico to bolster enforcement at its southern border to prevent transit, the use of expedited removal to reject asylum seekers at the border, and detention during the application proceedings for those who are permitted to make their case in court. The Trump administration appears determined to double-down on these deterrence efforts. The recent White House executive orders, as interpreted by DHS, call for a range of deterrence-oriented measures, including: tightening "credible fear" determinations so that more asylum seekers are turned back at the border; increasing detention of asylum applicants; and sanctioning parents who pay smugglers to bring their children to the United States (Kelly 2017). While it is too early to draw any firm conclusions, it is possible that these threats have contributed to the decline in asylum applications at the border in the first half of 2017. Apart from the question of effectiveness, however, the policy issues raised by deterring asylum seekers are quite different from those involved in deterring economic migrants. Even those sympathetic to economic migrants seeking better jobs and opportunities in the United States would acknowledge that the law forbids them from entering and working illegally. But migrants have clear rights not to be returned where their life or freedom

would be threatened on account of race, religion, nationality, or membership of a particular social group or political opinion, and to seek asylum, which requires showing of a "well-founded" fear of persecution on one of these grounds.. Those standards, based on United Nations conventions and protocols, are incorporated into US law. Using enforcement tools to deter potential asylum seekers thus calls into question US compliance not only with its international obligations, but with its own laws. Congress should be vigorously debating how far it is willing to go down the path of deterring even legitimate asylum seekers.[5]

Secondly, along the same lines, deterrence works best where the stakes for the individual migrants are the lowest. Those most likely to be deterred are those with the weakest ties to the United States. In the MPI survey of repatriated Mexicans, for example, nearly two-thirds of those who had been deported and left minor children behind in the United States said they would try again to cross the border, far higher than the numbers for those without children (Schultheis and Ruiz Soto 2017). Again, while it may be possible to deter some of those deported parents, they are clearly willing to run much higher risks to enter again than would a border crosser whose primary motivation is economic opportunity. And the moral judgments involved in splitting up families in the name of enforcement are quite different from using deterrent measures to discourage young job seekers from coming to the United States. The current consequences regime is set up to impose harsher and harsher penalties on repeated border crossers if they are apprehended, in effect reserving the harshest punishments for those unauthorized migrants whose family ties to the United States are strongest. Again, Congress should be debating whether this was the intention behind tighter border enforcement.

Finally, further increasing border enforcement would seem to be a case of fighting the last war. As recent research by Robert Warren and Donald Kerwin (2017) has shown, the Mexican border has ceased to be the route of choice for those seeking to enter the United States and remain illegally. Increasingly, the easiest path into the country has been to arrive on a legal visa and then simply remain after the period of admission has expired. Visa overstays have long been a big percentage of the undocumented population — about 42 percent currently according to the Warren and Kerwin research. But they are a rising share of the newly arrived undocumented. In 2014, the latest data available, two-thirds of those added to the undocumented population in the United States were visa overstays. Despite more than two decades of pressure from the Congress, however, administrations have made only modest advances in discouraging visa overstays. Even simple and obvious measures — like email notifications to visa holders present in the United States warning them of the consequences of overstaying — have not been taken (Alden and Schwartz 2012). And enforcement actions targeted specifically at visa overstayers are rare. The potential enforcement gains from deterring overstays would appear to be far larger — and likely far less costly — than a further buildup along the border.

The latest research, in other words, would suggest that the United States is reaching the point of diminishing returns on border enforcement. Further border enforcement may do a bit more to discourage illegal entry, but it will overlook the biggest path for illegal migration (visa overstays), and require harsh targeting of the most vulnerable populations

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5 For a fuller discussion of the limitations of deterrence with respect to refugees and asylum seekers, see Gammeltoft-Hansen and Tan (2017).

(asylum seekers) and the most motivated ones (parents with children in the United States). Congress should be vigorously debating whether this is what it intended when it launched the border buildup more than two decades ago.

Finally, the public debate over border enforcement would be greatly enhanced by the release of research and data that DHS continues to hold in-house. While the research advances of the past couple of years are important, they have not been broadly shared either with the public or with the expert community. The potential is there for still further advances if researchers can get full access to DHS data, and can build on the excellent work done by the IDA team. Congress has long been demanding the development and release of such measures. Most recently, the National Defense Authorization Act of 2017,[6] passed in January 2017, calls for the administration to "develop metrics . . . to measure the effectiveness of security" between ports of entry, at ports of entry, and in the maritime domain. It specifies that the measures should include the apprehension rate and the estimated number of illegal entries. The time for a fact-driven debate on the cost-effectiveness of border enforcement — and the most sensible policy responses — is long overdue.

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