



“Enemy Territory”: Immigration Enforcement in the US-Mexico Borderlands

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Executive Summary

For the last two decades, the guiding strategy of immigration enforcement along the US-Mexico border has been “prevention through deterrence,” or stopping unauthorized immigrants from entering the country rather than apprehending those who have already crossed the border. “Prevention through deterrence” has entailed a massive concentration of enforcement personnel and resources along the border and at ports of entry. It has also led to the detention and removal of increasing numbers of unauthorized immigrants and far greater use of “expedited removal.”

As gauged by the doubling in size of the unauthorized immigrant population over the same period, “prevention through deterrence” has not been a successful enforcement strategy. Moreover, it has funneled more migrants to their death in the deserts and mountains of the southwest as they (and smugglers) resort to increasingly dangerous routes to evade border enforcement. In addition, there has been public concern over ethnic profiling and the use of extraordinary authority by Border Patrol agents to conduct arbitrary searches within 100 miles of the border. Despite these problems, the federal government continues to spend billions of dollars each year on the “prevention through deterrence” strategy.

A first step in overcoming the deficiencies of this border enforcement strategy is to strengthen accountability within the Border Patrol, so that allegations of excessive force and abuse are investigated and adjudicated promptly and appropriately. The culture of the Border Patrol must be transformed to foster respect for rights. More broadly, the mission of the Border Patrol should be to capture dangerous individuals and to disrupt the operations of the transnational criminal organizations that traffic people, drugs, guns, and money. In addition, providing more pathways to legal entry through immigration reform would enhance border security by attenuating the flow of unauthorized immigrants within which dangerous criminals or terrorists can hide. Finally, the US government should pursue economic policies to promote development in Mexico and Central American countries in order to address the underlying causes of migration.

Tenuous Rights

In 2008, the American Civil Liberties Union (ACLU) described the US border as a “Constitution-Free Zone,” referring to a 100-mile wide strip of territory around the “external boundary” of the nation within which Fourth Amendment protections against random and arbitrary stops and searches by law-enforcement officials do not apply. According to the ACLU, the 197.4 million people residing in this zone—roughly two-thirds of the US population—are subject to “administrative” stops by the Border Patrol or other federal authorities for the purpose of guarding the nation’s borders from security threats (ACLU 2008b). The inland checkpoints where the Border Patrol conducts “administrative” stops and searches are mostly clustered near the southwest borderlands of California, Arizona, and Texas, but are also found along the northern border in Washington state and could, in principle, appear anywhere else along US land or coastal borders (ACLU 2008a).

While the ACLU’s depiction of a border zone devoid of Constitutional guarantees may be over-stated, it does powerfully convey the manner in which federal authorities often treat the borderlands, and especially the US-Mexico borderlands, as “enemy territory” (Nevins 2010, 171-173). The extraordinary authority of Border Patrol agents to conduct inland border searches under the rationale of border protection has too often resulted in human rights violations inflicted upon both immigrants and native-born Americans. Some border communities—like Douglas, Arizona—are so permeated by Border Patrol personnel and equipment that the lives of all residents are disrupted to varying degrees (Nevins 2010, 155-158).

Over the course of decades, federal lawmakers have not only poured more and more resources into controlling immigration and securing the border, but have fundamentally changed the nation’s border and immigration enforcement strategies to prevent unauthorized immigrants from entering the country. Yet legal immigration channels remain woefully inadequate to accommodate the demand for either temporary or permanent visas. With a lack of legal immigration options, migrants, many of whom have close family in the United States, risk death by seeking to cross the US-Mexico border without authorization. Once in the United States, they live in a precarious state defined by their “unlawful presence.”

The Evolution of US Border Enforcement

Since the creation of the Border Patrol in 1924, many border communities have been living with heavy-handed border enforcement. But the nature and scale of that enforcement has varied considerably over time, with different communities experiencing different degrees of Border Patrol intrusion at different periods. During the 1960s, 1970s, and 1980s, the immigration enforcement strategy of the Border Patrol was focused on the arrest of unauthorized immigrants who had already made it across the border and entered the United States (Dunn 2009, 125-163; Rosenblum 2013, 3). As a result, the Border Patrol was highly active in Mexican-American communities in border cities like El Paso, Texas, which meant that US citizens of Mexican heritage were often stopped, searched for drugs and weapons, and questioned about their immigration status. Moreover, unauthorized immigrants and native-born citizens alike fell victim to beatings and other forms of abuse at the hands of Border Patrol agents (Dunn 2009, 125-163).

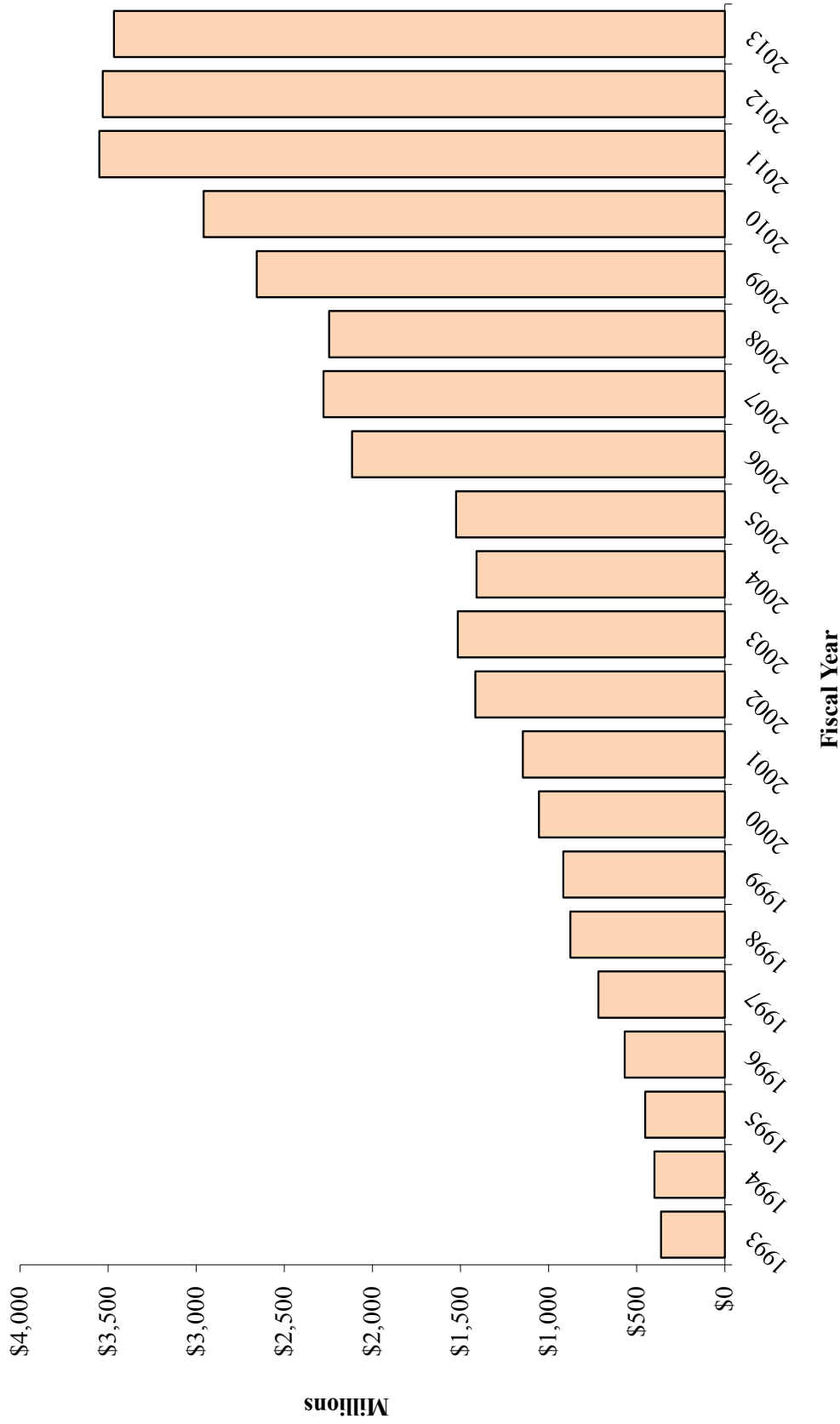
Life along the border began to change substantially in the early 1990s with the implementation of a “prevention through deterrence” strategy of immigration enforcement devoted to deterring unauthorized entry into the country. This was to be accomplished by amassing enforcement personnel and resources directly along the border (Dunn 2009, 125-163; Rosenblum 2013, 3). As this strategy was gradually implemented along more of the border, traditional crossing points in urban areas became more difficult to traverse and unauthorized flows shifted to outlying areas. As a result, the growing ranks of Border Patrol agents began to deploy to more rural communities comprised mainly of immigrants. Enforcement efforts therefore became more tightly focused on non-citizens, and the abuses which occurred were now less visible to the general public (Dunn 2009, 125-63, 196). But the abuses were no less real, and US citizens in urban areas were not immune to the periodic enforcement excesses of roving patrols (Rosas 2012). However, the efforts of advocacy groups such as the Border Network for Human Rights have succeeded in curbing abuses in some locales (Peter 2014).

The Quest for “Prevention through Deterrence”

The strategy of “prevention through deterrence” was first implemented in El Paso in 1993 as Operation Blockade, then in San Diego in 1994 as Operation Gatekeeper, and later in other portions of the Texas, California, and Arizona borderlands (Dunn 2009, 1; Rosenblum 2013, 3-4; Massey, et al. 2002, 93-95). These various operations were characterized by the massing of Border Patrol agents at the border together with an assortment of technologies which came to include ground radar, cameras, motion detectors, thermal imaging sensors, stadium lighting, helicopters, and unmanned aerial vehicles (Rosenblum 2013, 17-18). But the symbolic centerpiece of “prevention through deterrence” has always been the border fence. Starting with just a single 14-mile stretch in San Diego that was completed in 1993, by February 10, 2012, US Customs and Border Protection (CBP)—the parent agency of the Border Patrol within the US Department of Homeland Security (DHS)—had finished building 651 miles of pedestrian and vehicle fencing along the US-Mexico border (Nuñez-Neto and Kim 2008, 1; CBP 2014a). The fence is symbolic not only because of its imposing presence, but also because it does not work as a deterrent. According to the US Government Accountability Office (GAO), during Fiscal Year (FY) 2010 there were “4,037 documented and repaired breaches” of border fencing (GAO 2011, 9). And no one knows how many times smugglers have simply driven over the fence by using a system of truck-mounted hydraulic ramps (Goddard 2012, 5).

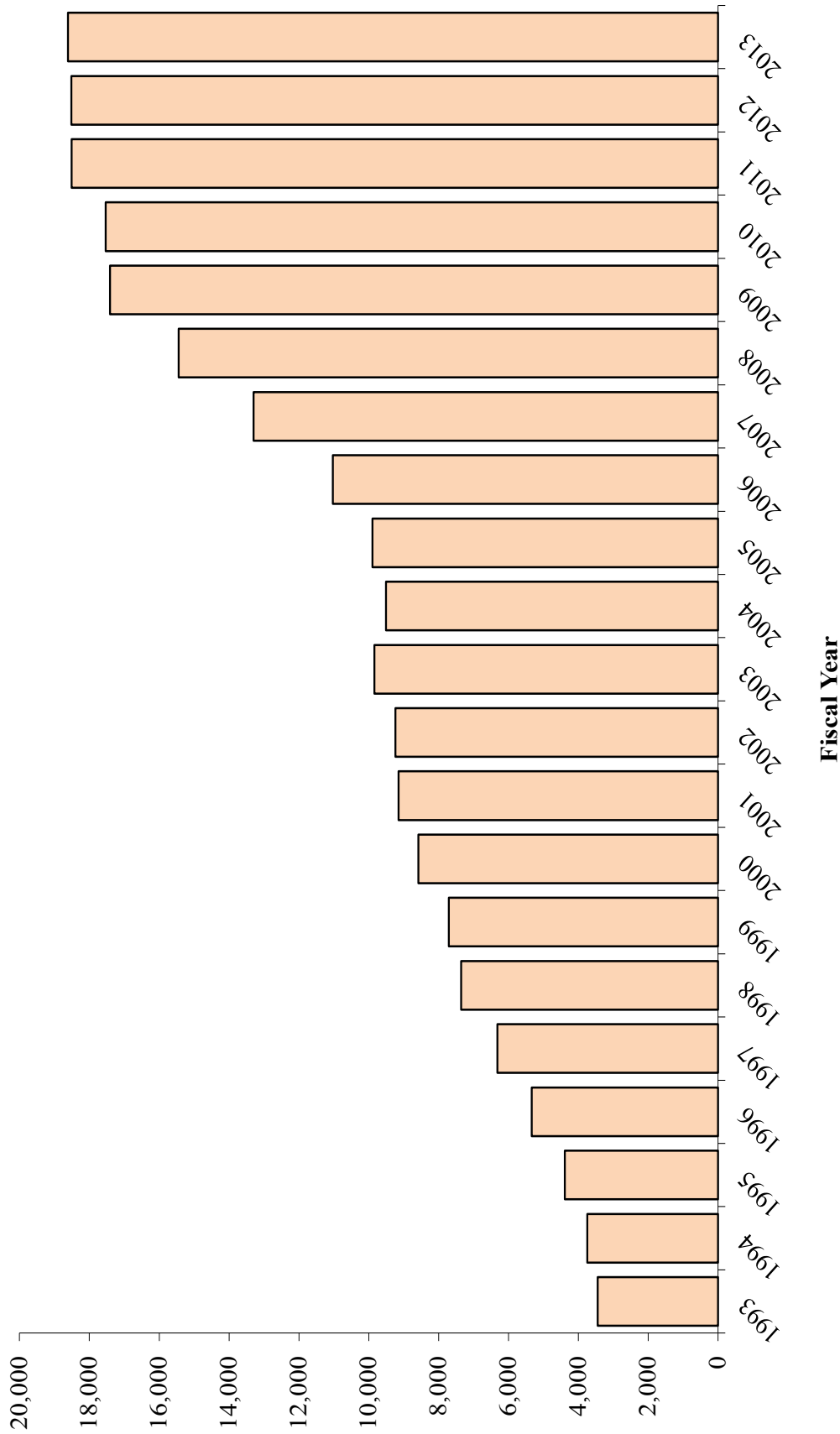
Effective or not, a massive amount of money and manpower has been poured into border enforcement since the initiation of “prevention through deterrence.” The annual budget of the Border Patrol has increased ten-fold, from \$363 million in FY 1993 to \$3.5 billion in FY 2013 (US Border Patrol 2014a). During this same period, the number of Border Patrol agents stationed along the southwest border increased from 3,444 to 18,611 (US Border Patrol 2014b). These increases eventually had a major impact on every Border Patrol Sector (US Border Patrol 2014b).

Figure 1: US Border Patrol Budget, FY 1993-2013



Source: US Border Patrol, 2014(a).

Figure 2: Number of US Border Patrol Agents Stationed Along Southwest Border, FY 1993-2013



Source: US Border Patrol, 2014(b).

Variations on a Theme

The “prevention through deterrence” strategy has gone through a few iterations since it was introduced in the 1994 *National Strategic Plan* of the Immigration and Naturalization Service (INS). However, the fundamental goal of deterring unauthorized immigration through concentrated border enforcement has remained the same (Rosenblum 2013, 3). The first reshaping of the strategy came in the wake of 9/11 with the dissolution of the INS and the creation of DHS. The new *National Border Patrol Strategy* of 2004 placed a high rhetorical value on the interdiction of terrorists attempting to cross the border and emphasized the use of “Smart Border” technology (camera systems, sensor platforms, gamma x-rays) to get the job done. Yet the primary day-to-day work of the agency would continue to be the deterrence of “illegal entries through improved enforcement” (CBP 2004, 2-3). The next iteration of this approach came with the *2005–2010 Strategic Plan of CBP*. The plan’s title, “Protect America,” encapsulated the continued rhetorical focus on fighting terrorism. In addition, the plan called for “establishing and maintaining operational control of the borders” through a combination of personnel, technology, and a more centralized command structure within the Border Patrol (CBP 2005, 2, 23).

DHS Secure Border Initiative

The central role of technology in securing the border was apparent in DHS’s Secure Border Initiative (SBI) of 2005. The rather ambitious aim of SBI was “to achieve operational control of both the northern and southern border within five years”—which did not occur. Nevertheless, this goal was to have been achieved through a variety of means, including a general ramping up of immigration enforcement both along the borders and in the interior of the country; ending the so-called “catch and release” of unauthorized immigrants from countries other than Mexico; and expanding immigration-detention capacity and use of the “expedited removal” process. However, the centerpiece of SBI was increased investment in “tactical infrastructure” along the border (fences and vehicle barriers), together with the development of “SBInet,” a system of “smart” technologies such as thermal imaging, ground radar, and drones that would allow Border Patrol agents to detect the unauthorized entry of immigrants into the United States (DHS 2005; Rosenblum 2013, 5-6).

SBINET

SBInet did not go smoothly. In September 2006, CBP awarded a contract to Boeing to develop and deploy SBInet technologies. One of Boeing’s first tasks was Project 28, a \$20.6 million effort to secure 28 miles of border in Sasabe, Arizona (Ewing 2010; Miller 2014). Boeing was not up to the task. According to a 2010 GAO report, “the number of new SBInet defects has increased faster than the number of defects that have been fixed, which is not a trend that is indicative of a maturing system” (GAO 2010, 25). On March 16, 2010, Homeland Security Secretary Janet Napolitano froze funding for the program and issued a statement noting that “the system of sensors and cameras along the Southwest border known as SBInet has been plagued with cost overruns and missed deadlines.” A decision was made to “redeploy” funds to off-the-shelf, “tested, commercially available security

technology” (DHS 2010). After SBI¹ was officially cancelled in January 2011, CBP developed the Arizona Border Surveillance Technology Plan—a combination of cameras, radars, and sensors designed to secure the Arizona-Mexico border (GAO 2014, 2).

ENDING “CATCH AND RELEASE”

SBI also involved changes in the way unauthorized immigrants were handled and processed by the Border Patrol. Until recently, if the immigrant was from Mexico and did not have any outstanding warrants, was not a convicted felon, and had not been formally “removed” or deported from the United States, he or she could be “voluntarily returned” home. But if an immigrant with a clean record was what the Border Patrol terms Other Than Mexican (OTM), he or she was placed in removal proceedings. The Border Patrol would then contact the Office of Enforcement and Removal Operations at US Immigration and Customs Enforcement (ICE)—the interior-enforcement counterpart to CBP within DHS—to determine if detention space was available for the immigrant to be held during the removal process. If there was no available space, as was often the case, then the immigrant would be issued a “Notice to Appear” before an immigration judge on a specified date and released on his or her own recognizance. Most immigrants who were issued a Notice to Appear did not do so. As a result, critics dubbed the practice “catch and release” and it was largely ended in August 2006 (Nuñez-Neto, et al. 2006, 2-10).¹

EXPANSION OF “EXPEDITED REMOVAL” AUTHORITY

Putting an end to the policy of “catch and release” involved not only an increase in the detention capacity of ICE, but also an expansion of the “expedited removal” process by which arriving immigrants are removed from the United States *without* the opportunity for a hearing before an immigration judge. Immigrants who enter without proper documentation can be summarily removed from the United States by an immigration officer unless they request asylum or express a fear of persecution or torture if returned home, in which case they are supposed to be referred to an asylum officer who determines if that fear is “credible.” In addition to being accorded scant legal rights, immigrants placed into expedited removal, as well as those awaiting a credible fear determination, are subject to mandatory detention. Expedited removal was originally applied only to immigrants arriving at ports of entry. But it was expanded in 2005 to include immigrants apprehended by the Border Patrol between ports of entry along the southwest border, and, in 2006, to immigrants apprehended along the northern border. The federal government currently applies expedited removal authority to unauthorized immigrants arrested up to 100 miles from a land border, and who arrived in the United States within the previous 14 days (Siskin and Wasem 2008, 4-8).

CBP CONSEQUENCE DELIVERY SYSTEM

At the same time SBI was being implemented, CBP was rolling out its “Consequence

¹ Unauthorized immigrants who request asylum and are found to have a “credible fear” of persecution if returned to their home countries can be paroled into the United States—a practice which is also referred to by critics as “catch and release” (Nuñez-Neto, et al. 2006, 4).

Delivery System” (Rosenblum 2013, 6-8). As described by Border Patrol Chief Michael J. Fisher, Consequence Delivery “uses a combination of criminal and administrative consequences developed by the Border Patrol, and implemented with the assistance of ICE, targeting specific classifications of offenders, effectively breaking the smuggling cycle along the border of the United States” (Fisher 2011a). In practice, this means that fewer apprehended Mexicans are given the option of “voluntary return” to Mexico. Rather, the Border Patrol now opts for three types of “high consequence” outcomes: formal removal (deportation); immigration-related criminal charges; and lateral repatriation (that is, sending immigrants to remote locations far from the smugglers who took them across the border) (Rosenblum 2013, 6-8). Lateral repatriation can result in the separation of family members who migrated together, and it sometimes returns migrants to dangerous border cities without their belongings (De León 2013; Slack, et al. 2013).

OPERATION STREAMLINE

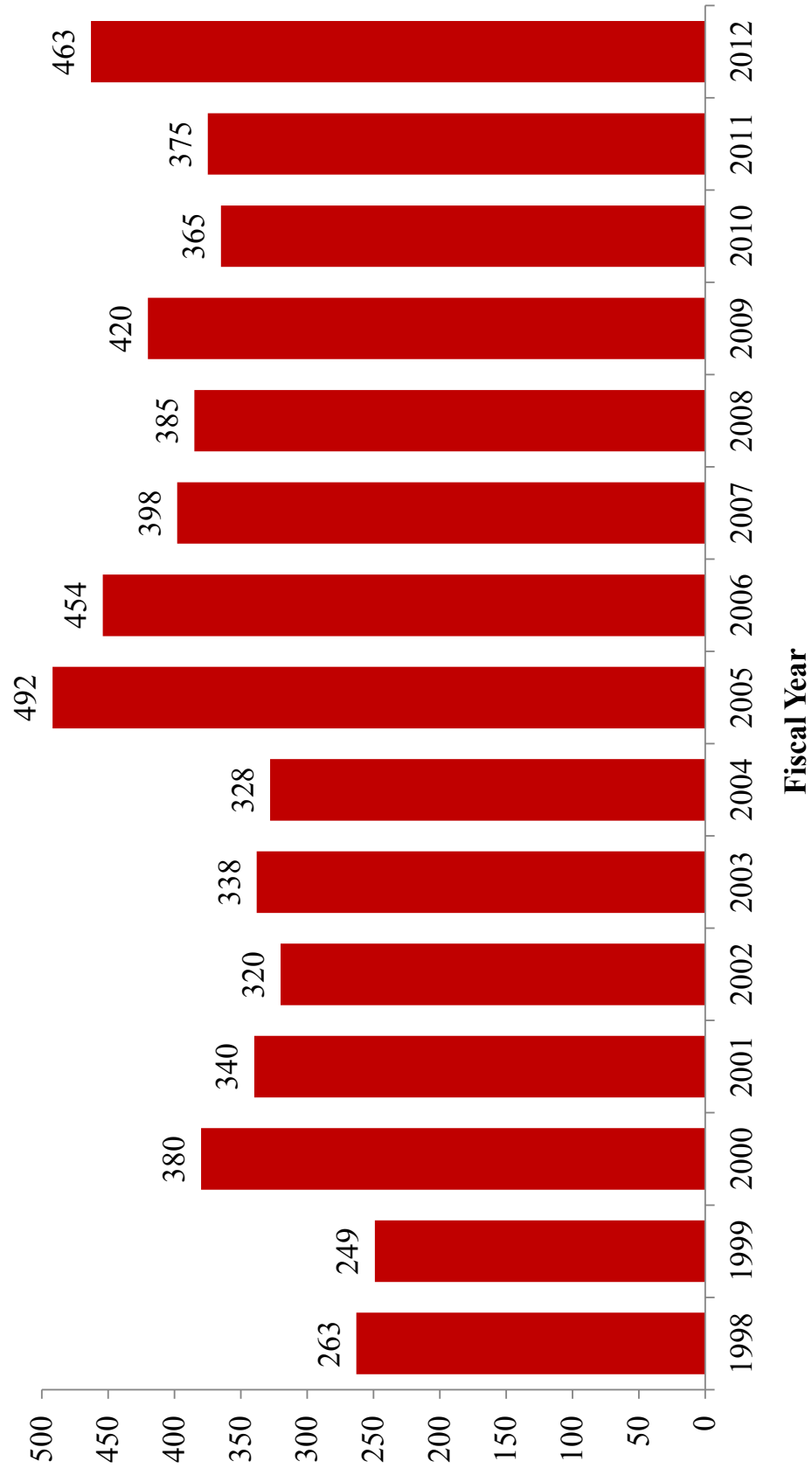
One prominent component of Consequence Delivery is Operation Streamline, which Chief Fisher describes as “a consequence-based prosecution program” (Fisher 2011b). Under Streamline, unauthorized border-crossers are prosecuted in group trials and convicted of illegal entry into the country, which is a misdemeanor. If they cross again, they may be convicted of a felony and face up to two years in prison (Lydgate 2010, 481-544). Although these offenses have been on the books since 1929, they are being applied under Operation Streamline more widely than ever before (Keller 2010, 65-139). The structure of Operation Streamline—in which 80 or more immigrants are tried at one time, and each defendant has only a few minutes of access to an attorney—compromises due process. Moreover, Streamline has severely strained the capacities of courtrooms along the border and clogged the courts with petty immigration offenses (Lydgate 2010, 481-544). According to Department of Justice data analyzed by the Transactional Records Access Clearinghouse (TRAC), immigration prosecutions “reached an all-time high” in FY 2013 of 97,384 (of which 53,789 were for “illegal entry” and 37,346 for “illegal re-entry”). This marks an increase of 367 percent over the number of prosecutions 10 years earlier (TRAC 2013a).

Collateral Damage

In addition to deporting non-violent immigrants en masse, the Border Patrol’s tactics and priorities also manage to drive unauthorized immigrants to their death. This was the case even before implementation of the “prevention through deterrence” strategy (Bailey, et al. 1996, 16-20; Massey, et al. 2002, 113-14). However, since the dawn of the “prevention through deterrence” era in 1994, the number of deaths has surged as smugglers lead their clients through increasingly isolated and dangerous terrain in order to evade heightened US border enforcement. The Border Patrol recorded 5,570 migrant deaths from FY 1998 to FY 2012 (Border Patrol 2013). As border enforcement resources were concentrated in California and Texas beginning in the early 1990s, more and more migrants began crossing into the United States through Arizona—and dying there. According to the Pima County Office of the Medical Examiner, 2,238 migrants died in just the Tucson Sector of the US-Mexico border from FY 1990 to FY 2012 (Martínez, et al. 2013).²

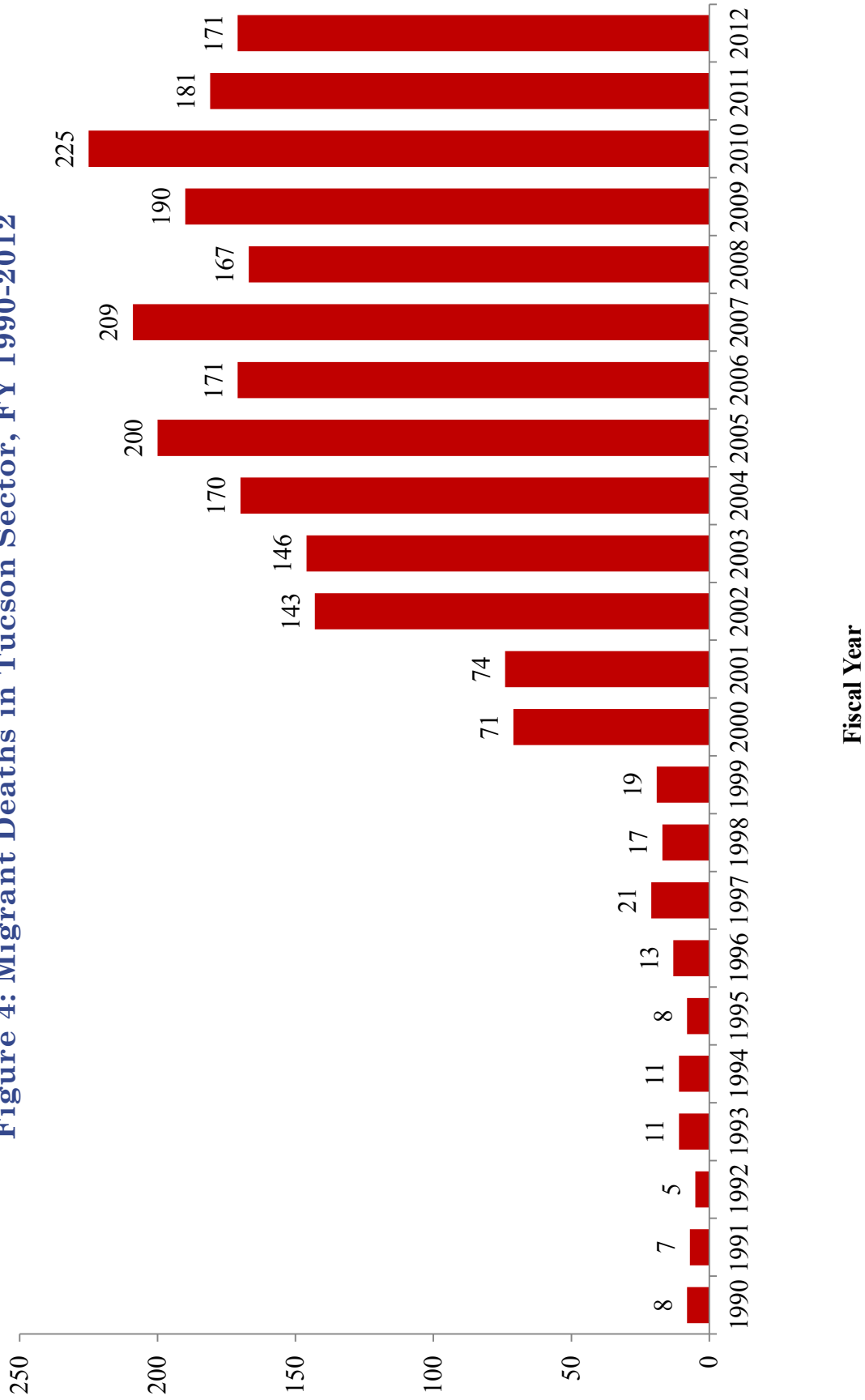
² The data in figures 3 and 4 do not include estimates of fatalities on the Mexico side of the US-Mexico border.

Figure 3: Migrant Deaths Along US-Mexico Border, FY 1998-2012



Source: US Border Patrol, 2013.

Figure 4: Migrant Deaths in Tucson Sector, FY 1990-2012



Source: Martínez, et al., 2013.

But Border Patrol involvement in immigrant deaths is not always indirect. A 2013 investigation by the *Arizona Republic* found that, “since 2005, on-duty Border Patrol agents and Customs and Border Protection officers have killed at least 42 people, including at least 13 Americans” (Ortega and O’Dell 2013). According to journalists Bob Ortega and Rob O’Dell, the shootings “vary from strongly justifiable to highly questionable,” and in none of the cases “is any agent or officer publicly known to have faced consequences—not from the Border Patrol, not from Customs and Border Protection or Homeland Security, not from the Department of Justice, and not, ultimately, from criminal or civil courts” (Ortega and O’Dell 2013). In addition, a 2013 report by the Police Executive Research Forum (PERF) raised serious concerns about the use of deadly force by CBP officers and agents, in particular with regard to “shots fired at vehicles and shots fired at subjects throwing rocks and other objects” (PERF 2013). The report advised, among other things, that CBP personnel “should be prohibited from shooting at vehicles unless vehicle occupants are attempting to use deadly force—other than the vehicle,” and that officers and agents “should be prohibited from using deadly force against subjects throwing objects not capable of causing serious physical injury or death” (PERF 2013, 2). In 2014, CBP released a new “use of force” handbook that incorporated some of PERF’s recommendations, but fell short of comprehensively revising its use-of-force policies (CBP 2014b).

In a related vein, research has documented physical abuse of deportees during their apprehension or detention by CBP and ICE. A survey conducted between 2009 and 2012 by the Migrant Border Crossing Study³ found that 11 percent of recent deportees interviewed in Mexico reported being hit, pushed, grabbed, or physically attacked while in US custody (Martínez, Slack, and Heyman 2013, 1-4). Likewise, a 2011 report by No More Deaths found that 10 percent of deportees reported physical abuse at the hands of US authorities (No More Deaths 2011). And a study of Salvadoran deportees from 1999 to 2000 found an abuse rate of 16 percent (Phillips, Rodríguez, and Hagan 2002, 285-306). Taken together, these studies indicate the abuse of far more people than the relative handful who report mistreatment to the DHS Office for Civil Rights and Civil Liberties, which received 58 cases of civil rights violations by CBP officers and 174 by ICE agents in FY 2012 (DHS 2013, 33).

Pending Policy Proposals for Border Enforcement

Fatalities and human rights violations notwithstanding, it seems likely that “prevention through deterrence” could remain a cornerstone of US border enforcement. Escalating levels of concentrated border enforcement are central to both the comprehensive immigration reform bill passed by the Senate in June 2013 and the border enforcement bill that passed the House Committee on Homeland Security in May 2013 (Ewing 2013). At first glance, these bills might seem very different. The Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744 seeks to revamp practically every component of the US immigration system, while the Border Security Results Act, H.R.

³ The Migrant Border Crossing Study (MBCS) is a Ford Foundation-funded research project that is currently housed in the Center for Latin American Studies at the University of Arizona in Tucson and the Department of Sociology at George Washington University in Washington, DC.

1417 is an enforcement-only bill which does not even acknowledge the existence of any other component of immigration reform (Immigration Policy Center 2013; AILA 2013). Yet the border enforcement provisions of the bills are very similar. Both share the arbitrary and possibly unverifiable goals of “operational control” over the entire southwest border (defined as a 90 percent deterrence rate), as well as 100 percent “situational awareness” (persistent surveillance). The Senate bill also extended border security provisions through the Corker-Hoeven, or “border surge,” amendment, which seeks to aggressively expand border security operations and would appropriate tens of billions of dollars in additional funding, and hire 19,200 additional Border Patrol agents, before DHS has even determined what resource and staffing levels are needed.

Likewise, the “Standards for Immigration Reform” released by the House Republican leadership in January 2014 also would seem to suggest a continuation of the existing enforcement-first style of border control. The one-page statement asserts that:

It is the fundamental duty of any government to secure its borders, and the United States is failing in this mission. We must secure our borders now and verify that they are secure. In addition, we must ensure now that when immigration reform is enacted, there will be a zero tolerance policy for those who cross the border illegally or overstay their visas in the future. (Boehner 2014)

In perpetuating and expanding this model of border control, lawmakers are failing to address the need for greater accountability of the law enforcement agencies that are responsible for border security, a problem which culminates in human rights abuses.

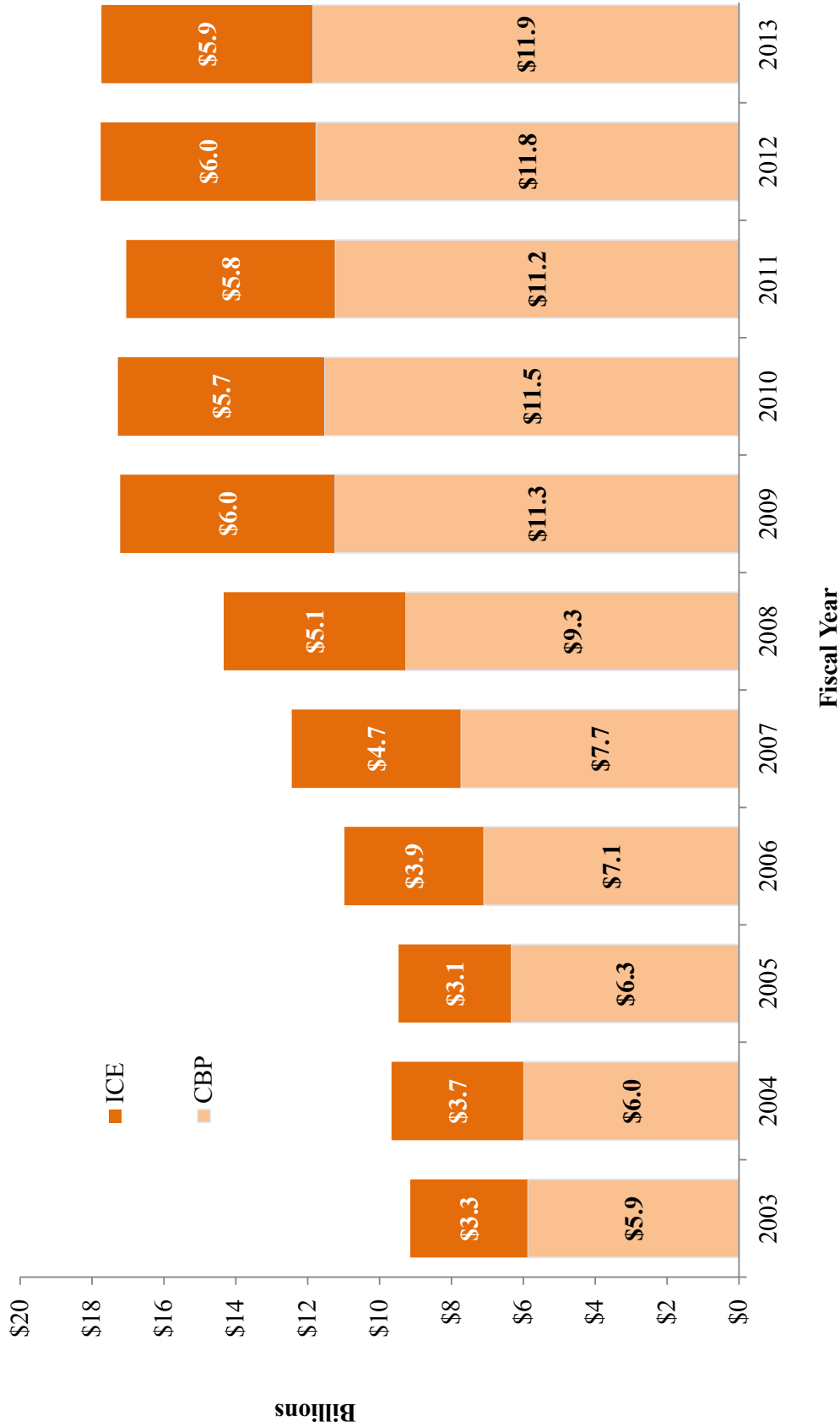
Beyond the Border

The policies and practices of the Border Patrol do not exist in isolation. Rather, border security operations have expanded in tandem with interior enforcement measures as part of a broader national initiative. Since the creation of DHS in 2003, the annual budget of CBP (which includes the Border Patrol) doubled from \$5.9 billion to \$11.9 billion in FY 2013. Spending on ICE grew 73 percent, from \$3.3 billion since its inception to \$5.9 billion in FY 2013 (DHS 2014). In addition to the growing ranks of Border Patrol agents, the number of CBP officers staffing ports of entry grew from 17,279 in FY 2003 to 21,423 in FY 2012 (CBP 2012). The number of ICE agents devoted to Enforcement and Removal Operations more than doubled from 2,710 in FY 2003 to 6,338 in FY 2012 (ICE 2013). All told, the number of border and interior enforcement personnel now stands at more than 49,000 (Border Patrol 2012; CBP 2012; ICE 2013).

Secure Communities

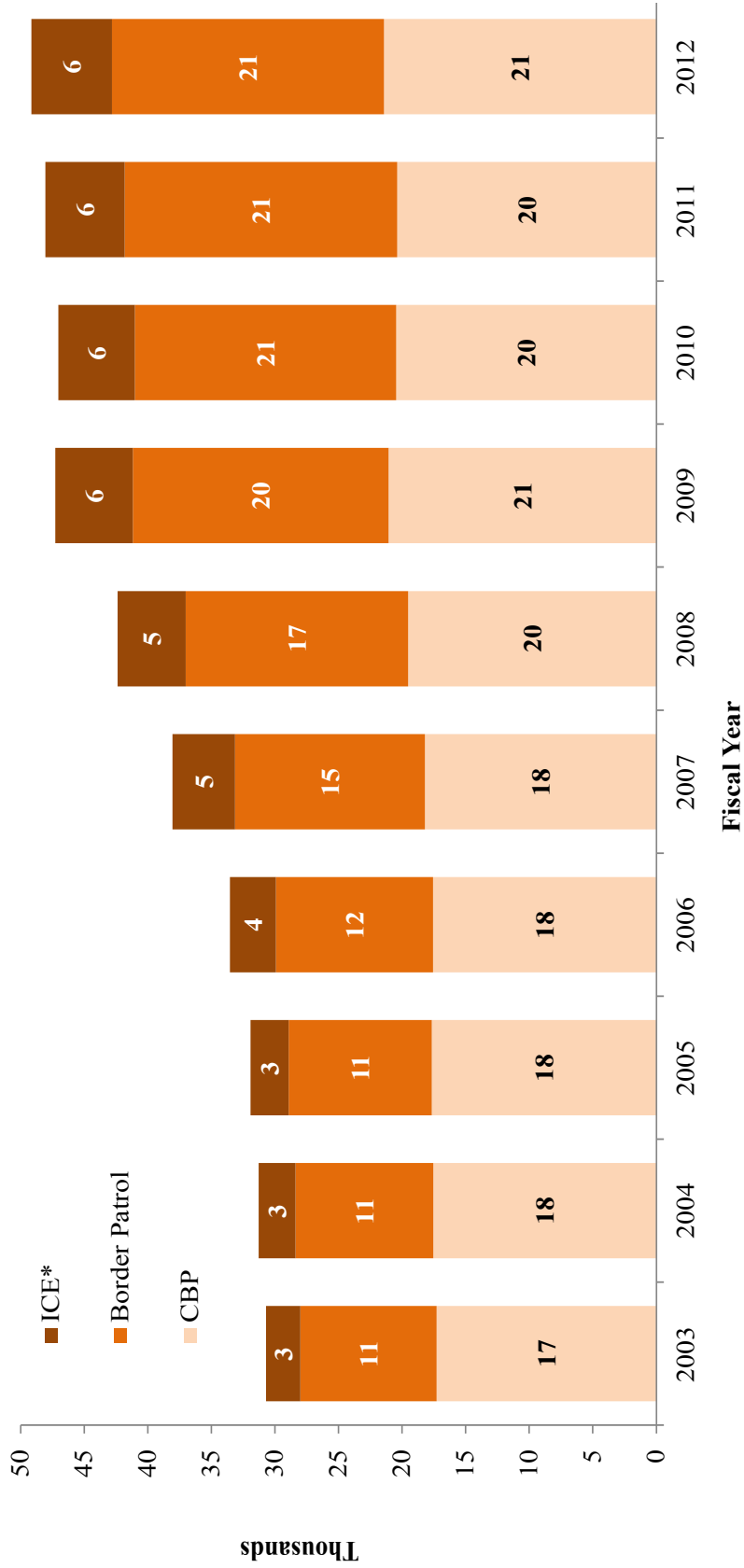
The growth of ICE over the past decade is most apparent in the dramatic expansion of one interior immigration enforcement program, Secure Communities. This DHS program, now activated in all 3,181 jurisdictions across the United States, uses biometric data to screen for deportable immigrants as people are being booked into jails, regardless of whether or not they are actually charged with or convicted of crimes (ICE 2013; Rosenblum and Kandel 2012, 15-16). Under Secure Communities, the fingerprints of anyone who is arrested for

Figure 5: CBP & ICE Annual Budgets, FY 2003-2013



Source: US DHS, 2014.

Figure 6: CBP Officers, Border Patrol Agents, and ICE Agents, FY 2003-2012



Sources: US Border Patrol 2012; US CBP 2012; US ICE 2013.

* Includes only ERO Officers.

any reason are run against both criminal databases and immigration databases. If there is an immigration “hit,” ICE can issue a “detainer” requesting that the jail hold the person in question until ICE can pick them up. Secure Communities has grown to encompass every part of the country, throwing more and more people into immigration detention prior to deportation (Waslin 2011). Most of the immigrants being scooped up by Secure Communities are non-violent and not a threat to anyone. ICE data analyzed by TRAC indicate that

...no more than 14 percent of the ‘detainers’ issued by the government in FY 2012 and the first four months of FY 2013 met the agency’s stated goal of targeting individuals who pose a serious threat to public safety or national security. In fact, roughly half of the 347,691 individuals subject to an ICE detainer (47.7 percent) had no record of a criminal conviction, not even a minor traffic violation. (TRAC 2013b)

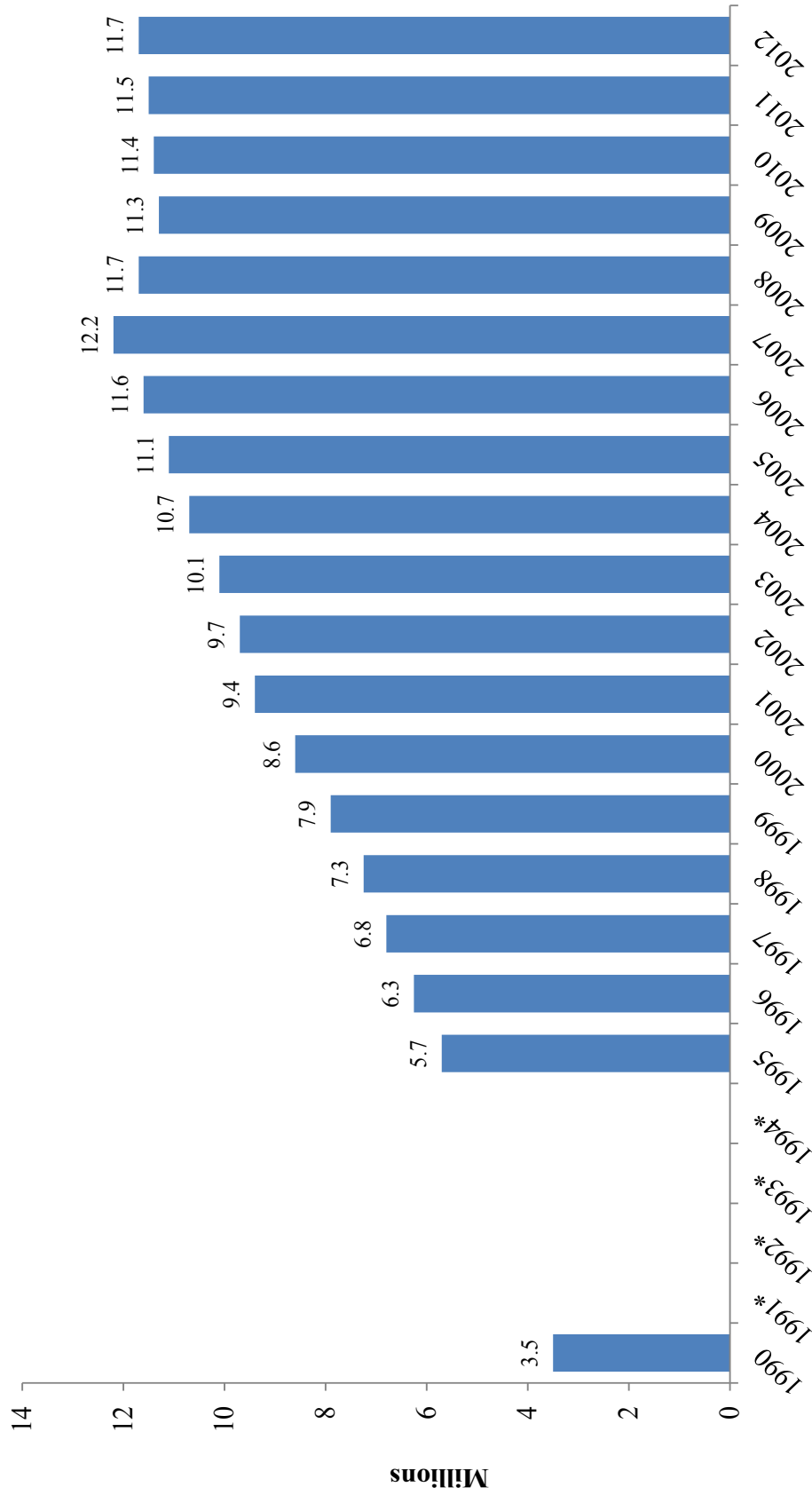
Given that Secure Communities is mostly targeting people who do not threaten public safety, more than one hundred cities and counties around the country are refusing to honor ICE detainers unless the individual in question has been arrested for a serious crime (Linthicum 2014).

The Failure to Deter Unauthorized Immigration through Enforcement Policies

Ironically, at the same time immigration enforcement has gone into overdrive, apprehensions along the US-Mexico border have fallen to their lowest levels in decades (Simanski and Sapp 2013, 3). The Border Patrol is at times quick to take credit for this dramatic decline, acting as if it were caused principally by the deterrent effect of their border enforcement programs (Fisher 2011b). But it is not a coincidence that the greatest drop in apprehensions started with the economic downturn which began in late 2007 and which reduced labor demand throughout the US economy (Passel, Cohn, and Gonzalez-Barrera 2013, 9). The fact is that the federal government has been trying without success to curb unauthorized immigration through enforcement-only policies for a long time. Since the last major overhaul of the US immigration system in 1986, the federal government has spent an estimated \$186.8 billion dollars on immigration enforcement (Meissner, et al. 2013, 3). But this expenditure did not keep unauthorized immigrants out of the United States, nor persuade them to leave, because the 1986 reforms failed to create legal channels of immigration that could keep up with US labor demand, or the need for family reunification.

Perhaps a more realistic measure of how effective enforcement programs have been in meeting their goal, both at the border and in the interior of the country, is the number of unauthorized immigrants living in the United States. This number has tripled from 3.5 million in 1990 (just prior to the initiation of “prevention through deterrence”) to 11.7 million in 2012 (Passel, Cohn, and Gonzalez-Barrera 2013, 9). In part, this increase reflects the fact that as many as half of unauthorized immigrants may enter the country on valid visas and then stay after their visas expire. For these immigrants, border enforcement is not a deterrent to entering the United States. But the persistent presence and growth of the unauthorized population also reflects the degree to which it has become part of US society. According to DHS estimates, roughly three-fifths of all unauthorized immigrants have been

Figure 7: Number of Unauthorized Immigrants in the U.S., 1990-2012



Source: Passel, Cohn, and Gonzalez-Barrera 2013, 9.
* Data unavailable.

in the United States for more than a decade (Hoefer, Rytina, and Baker 2011, 3). Moreover, according to the Pew Research Center, close to one million unauthorized immigrants are children, while 4.5 million native-born, US citizen children have at least one parent who is unauthorized (Passel and Cohn 2011). These are people who have roots in this country and are likely to stay when faced with escalating immigration enforcement (Filindra 2012).

One of the grim side effects of the current border enforcement system is how it fuels the human smuggling business. Migrants now depend upon the services of smugglers to guide them between (or through) ports of entry into the United States. But as demand for smugglers has increased, so have the prices they charge. As a result, the profitability of human smuggling has become so great as to attract the interest of drug cartels that are taking control of prized smuggling routes. Migrants not only fear the Border Patrol, but are also subject to abuses at the hands of the smugglers they pay to help them evade the Border Patrol (Goddard 2012; Heyman 2011; Heyman 2014, 120-124). Women and girls in particular are at high risk of being raped or abandoned in the desert by smugglers (O'Leary 2012, 143-144).

Prescriptions for Change

A first step toward improving the negative consequences of concentrated yet poorly-focused border enforcement is to increase accountability within the Border Patrol and the CBP more broadly. At present, it is difficult to ascertain if and when Border Patrol agents and CBP officers are disciplined or even investigated when allegations of misconduct are lodged against them. This shroud of secrecy must be lifted and investigations conducted within full view of the public. More importantly, allegations of misconduct must be subject to third-party monitoring and review to ensure some degree of neutrality. In addition, substantial revisions are needed in the CBP Use of Force Policy Handbook, and in the training of CBP officers, to prevent the use of excessive force in the first place (ACLU 2014). The culture of CBP must emphasize respect for the human rights of *all* people, be they US citizens or unauthorized border-crossers. This means that excessive force should never be tolerated, and deadly force never be used to protect property. In the end, CBP should have a mission comparable to that of any police department: protecting the public (PERF 2013, 10). And it should be the norm rather than the exception that a Border Patrol agent who abuses someone stands trial and faces prison time.

However, no amount of reform within CBP can compensate for the fact that US immigration law and policy is out of balance. The growing criminalization of both legally present and unauthorized immigrants is a systemic problem that requires a systemic fix. From the standpoint of public safety, the primary aim of law enforcement in general, both at the border and in the interior of the country, should be the capture of dangerous criminals, and not the pursuit of unauthorized border crossers or lawful permanent residents with misdemeanors on their records. In other words, the legal definitions of who qualifies as a “criminal alien” and who does not must be rewritten (Stumpf 2006, 367-419; American Immigration Council 2013). Of paramount importance from a law enforcement perspective is dismantling the transnational criminal organizations that smuggle people, drugs, guns, and money across the US-Mexico border. Targeting those criminal organizations would serve to enhance public safety and national security far more than the mass detention of

unauthorized immigrants, the vast majority of whom do not pose a threat of any kind (Goddard 2012; Heyman 2011).

Border security would also be greatly enhanced through immigration reform that effectively drains the sea of unauthorized immigrants within which dangerous criminals hide (Ewing 2007, 429). This would be accomplished by creating a readily accessible pathway to legal status for the current unauthorized population. In addition, establishing sufficiently flexible avenues for employment-based and family-based immigration would ensure that the country does not face the same problems yet again in future decades (Giovagnoli 2013, 4-8; Immigration Policy Center 2010). Until the United States has a functional immigration system, no immigration enforcement policy will work, no matter how much money is poured into it. And as long as unauthorized immigration exists on a large scale, transnational criminal organizations stand to make billions of dollars each year by coming up with new ways to circumvent US border defenses.

It also is important to keep in mind that border communities bear the brunt of poorly-conceived federal enforcement policies which should be protecting the people who live along the border rather than targeting them. Many of the conflicts between border residents and federal officials could be avoided if border communities were involved in the formulation and implementation of border enforcement policies, as well as longer-term strategies to develop border regions. For instance, non-governmental organizations based along the border have for years been calling for citizen review boards to provide local oversight of federal border enforcement personnel. They have also advocated for focusing federal resources on modernizing ports of entry rather than simply fortifying the vast stretches of land between ports of entry. In short, residents of border regions view their communities as a vibrant resource rather than just an enforcement zone to be policed by federal agents (Border Network for Human Rights and Border Action Network 2008; Heyman 2013).

Finally, lawmakers in the United States must begin to consider the ways in which US trade, investment, and international development policies impact migration from sending countries. For instance, the North American Free Trade Agreement (NAFTA) was crafted and implemented in such a way as to drive many small farmers out of business in Mexico. Without a means of subsistence, and with insufficient numbers of jobs available in urban areas, these former farmers have few options but to head north to the United States. If the federal government seeks to control unauthorized migratory flows in the long run, it must pursue economic policies that promote the creation of jobs in sending countries rather than exacerbating unemployment (Bacon 2013).

Conclusion

US policies governing immigration, trade, and international development are very much intertwined, and they must all incorporate the concept of human security. If people are driven from their home countries by economic necessity (created, in part, by US policies), drawn to the United States by labor demand, and confronted by unrealistic limits on legal immigration, then dangerous forms of unauthorized immigration are the inevitable result. Unauthorized migrants who make it through the gauntlet of US border enforcement face

a precarious existence of “unlawful presence” within the United States. They can be apprehended and deported by immigration agents at any time, and their upward economic mobility and social integration are severely limited. It would be far more humane and practical for the US government to enact policies which encourage job creation in the home countries of unauthorized immigrants, to create an accessible pathway to legal status for those unauthorized immigrants already living in the United States, and allow limits on legal immigration to rise and fall in accordance with economic conditions. Moreover, US border enforcement policies must become more tightly focused on the apprehension of terrorists and dangerous criminals, and the disruption of transnational smuggling networks, rather than on seizing as many unauthorized immigrants as possible.

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