

DEATH AT THE BORDER

BY STUART ANDERSON

EXECUTIVE SUMMARY

The absence of a way to enter the United States legally to work has contributed to more than 4,000 men, women, and children dying while attempting to cross to America since 1998. Alarming, immigrant deaths increased in 2009 at a time when illegal entry fell significantly. This death toll – an average of about one person a day – has occurred in the context of great pressure from Congress and executive branch officials to “control the border.” The loss of life will almost certainly continue unless more paths are open to work legally in the United States. The only plausible way to eliminate immigrant deaths at the border, as well as reduce illegal immigration in the long term, is to institute a new program of temporary visas or portable work permits for foreign workers. Strong evidence exists that the current “enforcement-only” policy has strengthened criminal gangs, providing a profitable line of business for Mexican criminal enterprises. If Mexican and Central American workers could come to America on a legal visa or work permit they would have no need to employ the services of a coyote or criminal enterprise. (The research for this paper was funded by a grant from the Carnegie Corporation of New York.)

Table 1
Immigrant Deaths at the Border: 1998-2009

Year	Immigrant Deaths
1998	263
1999	249
2000	380
2001	340
2002	320
2003	338
2004	334
2005	492
2006	454
2007	398
2008	390
2009	417
TOTAL	4,375

Source: U.S. Border Patrol

IMMIGRANT DEATHS INCREASE EVEN AS ILLEGAL ENTRY DECLINES

Despite a decline in illegal entry, due primarily to the economy, immigrant deaths at the border have persisted. In FY 2009, 27 more people died trying to enter the United States than in the previous year.¹ In FY 2009, 417 immigrants were found dead near the border, compared to 390 in FY 2008 and 398 in FY 2007, according to the Border Patrol.

Analysis of apprehensions data, which are considered good proxies for illegal entry, show more people are dying even as fewer immigrants attempt to cross the border. As Figure 1 shows, since 1998 apprehensions have trended downwards, while immigrant deaths have moved upwards.

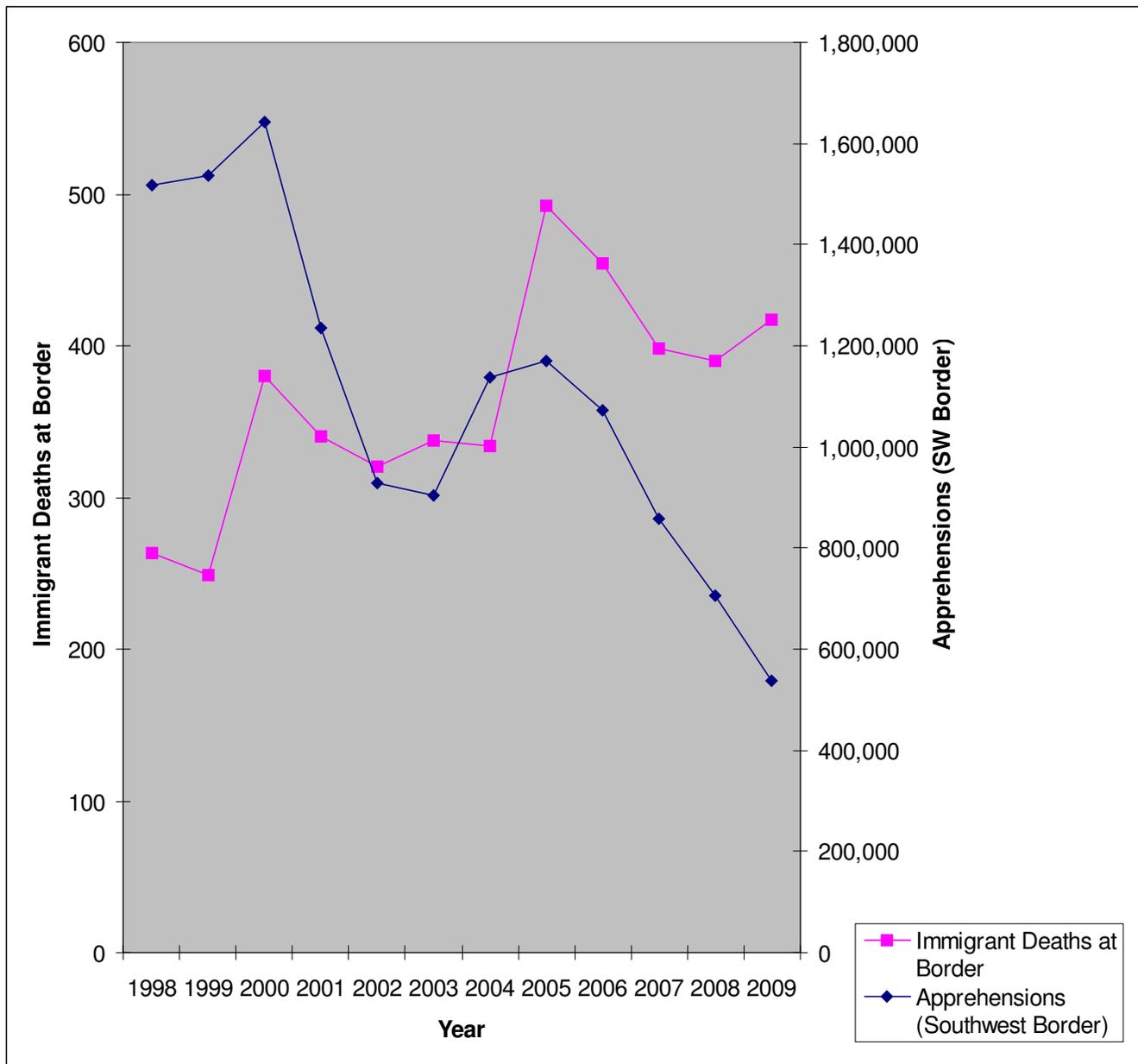
In FY 1998, the Border Patrol had approximately 1.5 million apprehensions at the Southwest border, and there were 263 immigrant deaths. In FY 2009, Border Patrol apprehensions fell to 540,865 along the Southwest border but immigrant deaths rose to 417. In other words, an approximately 64 percent decline in illegal entry since 1998 has been accompanied by a 59 percent increase in immigrant deaths at the border.

Pointing to a rise in immigrant deaths, the Congressional Research Service (CRS) concluded, "This evidence suggests that border crossings have become more hazardous since the 'Prevention through Deterrence' policy went into effect in 1995, resulting in an increase in illegal migrant deaths along the Southwest border."²

The Congressional Research Service utilized an additional measurement to illustrate the problem. "[T]he mortality rate per apprehension has been increasing steadily (with the one-year exception of FY 2004), from 1.6 deaths per 10,000 apprehensions in FY 1999 to 5.5 deaths per 10,000 apprehensions in FY 2008," according to CRS. "This suggests that, even as apparently fewer individuals have been entering the country illegally over the past few years, the border crossing has become increasingly dangerous for those that do attempt to cross into the United States illegally."³

The number of deaths would be even higher if not for the rescue efforts of U.S. Border Patrol Agents. Just since 2005, the Border Patrol has rescued more than 10,000 migrants in areas near the southern border. In 2009 alone, the Border Patrol rescued 1,277 individuals near the Southwest border.⁴

Figure 1
Immigrant Deaths and Apprehensions



Source: U.S. Border Patrol

WITH FEW LEGAL PATHS, INCREASED ENFORCEMENT HAS MEANT MORE DEATH FOR BORDER CROSSERS

Increased enforcement at the border and immigrant deaths appear to be closely connected. The number of Border Patrol Agents is a good proxy for increased enforcement. Political support for border enforcement has translated into dramatic increases in Border Patrol Agents funded by appropriations. And the sentiment in Congress is to increase these levels even higher. In FY 1998, Border Patrol levels were at approximately 8,000, while immigrant deaths at the border were 263. By FY 2005, Border Patrol levels had increased by 40 percent – to 11,269 – at the same time immigrant border deaths reached 492, an 87 percent increase from FY 1998.

The increased deployment of Border Patrol Agents and the overall changes in strategy have increasingly pushed illegal immigrants into more dangerous terrain. This is not the fault of Border Patrol Agents, who do not make overall immigration policy. The policy on border enforcement comes ultimately from elected officials – the President and Members of Congress, as well as the Secretary of Homeland Security and the leadership at Customs and Border Protection.

The deaths of immigrants seeking to work in the United States should raise questions about current U.S. immigration policy. Unfortunately, these deaths have not engineered a rethinking of policies. Discussions of the benefits of comprehensive immigration reform rarely, if ever, focus on saving lives at the border. One of the few exceptions came from a business group. In a June 2009 press release favoring a market-based approach that provides temporary visas for lesser-skilled workers and discussing the problems of establishing a commission to regulate foreign worker flows, the U.S. Chamber of Commerce said, “The alternative would be a repeat of the mistakes of 1986, when legalization of undocumented workers did not provide a sufficient number of visas for people to come in legally—leading to the deaths of people crossing the border illegally and 12 million illegal residents in the country.”⁵

ROOT CAUSES

Poverty in Mexico combined with the pull of better economic opportunities in the United States leads people to risk their lives on the journey to America. The absence of a way to enter the U.S. legally to work has contributed to more than 4,000 men, women, and children dying while attempting to cross to America since 1998.

The loss of life will almost certainly continue unless more legal paths are open to work in the United States. The higher relative wages offered in the United States are a primary factor in encouraging illegal immigration, leading one to conclude that greater enforcement alone is unlikely to prevent illegal immigration. Research by economists

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Gordon Hanson and Antonio Spilimbergo found the U.S.-Mexico wage gap is a key factor for illegal immigrants. “A reduction in the Mexican real wage or an increase in U.S. real wages leads to an increase in apprehensions in the current month. This suggests that U.S. and Mexican labor markets are tightly linked,” according to Hanson and Spilimbergo.⁶

Even though it is clear the U.S. and Mexican economies are linked, current U.S. immigration policies are premised on a belief that these connections can be severed by passing new laws or adding more personnel at the border. However, the record of the past 50 years is that additional laws and border personnel cannot overturn the law of supply and demand.

This death toll – an average of about one person a day – has occurred in the context of great pressure from Congress and executive branch officials to “control the border.” As noted, the primary means of control has been to increase the size of the Border Patrol, build barriers and deter illegal immigrants from crossing through easier terrain.

University at California-San Diego Prof. Wayne Cornelius writes, “The available data suggest that the current strategy of border enforcement has resulted in rechanneling flows of unauthorized migrants to more hazardous areas.” He argues the increased number of immigrant deaths is a natural result of that strategy, an approach influenced by pressure from Congress.⁷

Cornelius led a team for the Mexican Migration Field Research Program that conducted over 3,000 survey interviews with Mexican migrants in 2007 and 2008. According to the surveys, 72 percent listed purely economic reasons for immigrating illegally – higher wages and more jobs in the U.S. and a desire to build a house or start a business in Mexico.⁸

The surveys found the current risks do not deter most illegal immigrants: 91 percent of the migrants surveyed believed it was “very dangerous” to cross the border illegally and 24 percent knew someone who died trying – yet still the migrants attempted to come themselves, viewing they had no viable legal ways to work in the U.S.⁹

Would these individuals avail themselves of legal visas to work in America? According to the survey, 66 percent said, “Yes” to the question: “If there were a new temporary visa program for Mexican workers, like the Bracero program, would you be interested in participating?” Given that the Bracero program carries some political baggage, it is likely the “yes” answers would have been even higher if the questions were asked about a temporary work visa that allowed you to work legally in the U.S. for a period of years with the ability to change employers.¹⁰

THE NAMES BEHIND THE NUMBERS

Two closely examined cases have helped put names to the tragedy of border deaths and illustrate the logical consequences of a policy that denies legal entry and thereby empowers and profits criminal enterprises that smuggle people into the United States.

In *The Devil's Highway*, Luis Alberto Urrea describes how in May 2001, 26 Mexican men crossed the border into the southern Arizona desert led by a coyote, a guide whose job is to lead illegal immigrants into America while avoiding detection by the Border Patrol. The coyote, known as Mendez, guided the men into brutal desert territory, the middle of what is referred to as the Devil's Highway. Mendez took wrong turns that got the group lost in the desert but he did not want to turn back or play straight with his charges. "[The surviving victims] repeatedly asked the defendant how much further they would be required to walk. The defendant repeatedly advised them that they were within one to two hours of their destination . . . he never confessed to the members of the group that they were lost," according to official documents on the case.¹¹

In fact, with several men near death, Mendez finally admitted they were lost and collected – or, some say, extorted – additional money from the men and went off with a cohort, promising to return with water for the group. He never came back and was found near death by the Border Patrol.

Describing the type of heat stroke these 24 men experienced, Urrea writes, "Dehydration had reduced all your inner streams to sluggish mudholes. Your heart pumps harder and harder to get fluid and oxygen to your organs. Empty vessels within you collapse. Your sweat runs out . . . Your temperature redlines – you hit 105, 106, 108 degrees . . . Your muscles, lacking water, feed on themselves. They break down and start to rot . . . The system closes down in a series. Your kidney, your bladder, your heart."¹²

In all, 14 of the 26 men in the group died. One of them was Lorenzo Ortiz Hernandez, a father of 5 children age three to 12. He couldn't support his family by growing coffee so he decided to borrow \$1,700 at 15 percent interest and take a chance at crossing illegally for an opportunity to work in America. Describing what Border Patrol agents found when they encountered Hernandez's body, Urrea writes, "Lorenzo was on his back, his eyes open to his enemy, the sun. His brown slacks were empty looking: his abdomen had fallen in . . . It was 110 degrees before noon."¹³

The story of 73 or more illegal immigrants locked in the back of a tractor-trailer in May 2003 for a 300-mile trip to Houston also sparked consciences but no change in policies. Various middlemen (and women) arranged for a group of immigrants from Mexico and Central America to ride in the truck as a way to be smuggled into the

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interior of the United States. However, the air conditioner on driver Tyrone Williams' truck failed, leaving these men and women – and one child – to experience hellish conditions.

Two of the men managed to poke small holes in the truck and the passengers sought to take turns at breathing in through these tiny passages. One 911 call was generated by a passenger with a cell phone. A passing motorist, alerted by a waving cloth from the small hole in the truck, called police. Both failed to elicit help and prevent the tragedy. By the time Tyrone Williams stopped, 19 people had died of “asphyxiation, dehydration and heat exposure as the result of being trapped inside a tractor trailer truck. Among the dead was a 5-year-old child.”¹⁴

Throughout the trip, passengers had expressed concern for 5-year-old Marco Antonio. “Please, for the sake of the child, get out of the way, let the father take the boy to the hole so he can get some fresh air,” one passenger yelled. The boy was brought through the packed truck and put near the breathing holes. It did not save the boy.¹⁵

THE WAY TO ELIMINATE IMMIGRANT DEATHS AT THE BORDER AND REDUCE ILLEGAL IMMIGRATION

While in recent years poor economic conditions in the United States have reduced illegal entry to the U.S., as measured by apprehensions at the border, it is unwise to assume this decrease will be a permanent phenomenon.¹⁶

Strong evidence exists that the current “enforcement-only” policy has strengthened criminal gangs, providing a profitable line of business for Mexican criminal enterprises. In Phoenix, Arizona, a large proportion of kidnapping cases involve illegal immigrants smuggled into the country and then held for ransom, usually by the smuggler. Years ago, coyotes were small operators often smuggling the same illegal immigrants into the United States from one year to the next. That is no longer the case.

“Now, organized gangs own the people-smuggling trade,” writes Joel Millman in a report for the *Wall Street Journal*. “According to U.S. and Mexican police, this is partly an unintended consequence of a border crackdown. Making crossings more difficult drove up their cost, attracting brutal Mexican crime rings that forced the small operators out of business.”¹⁷ Illegal immigrants have been held for weeks and beaten until a relative can pay ransom beyond the cost of any smuggling fees paid before crossing the border. “[A]s border crossings decline, gangs earn less money directly from smuggling fees than from holding some of their clients for ransom, before delivering them to their destination farther inside the U.S.,” writes Millman.

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The evidence indicates that current policies are ineffective in addressing illegal immigration. In fact, current efforts seem to have produced the unintended consequence of swelling the illegal immigrant population. Making entering the U.S. more hazardous means individuals who enter successfully stay in America rather than travel back and forth to Mexico or Central America. A great deal of circular migration that used to take place has simply stopped.

By one estimate tougher enforcement has lengthened to 9 years the average U.S. stay of a Mexican migrant; in the early 1980s a typical Mexican migrant stayed three years.¹⁸ Eighty-three percent of undocumented immigrants in the U.S. surveyed by the Mexican Migration Field Research Program said they did not return to their hometown for the annual fiesta; 61 percent had relatives who stayed in the U.S. due to tighter border enforcement.¹⁹

The number of authorized U.S. Border Patrol Agents increased from 3,733 in 1990 to 14,923 by 2007. Meanwhile, the illegal immigrant population in the United States rose from 3.5 million to 11.8 million between 1990 and 2007, according to the Department of Homeland Security.²⁰ Border Patrol levels today are far higher than at the height of the Bracero program in the 1950s, a period that saw significant reductions in illegal entry across the border.

The actions of Mexican farm workers between 1953 and 1959 demonstrate that allowing legal paths for work can reduce illegal immigration and save lives. After the 1954 enforcement actions were combined with an increase in the use of the Bracero program, illegal entry, as measured by INS apprehensions at the border, fell by an astonishing 95 percent between 1953 and 1959. One does not need to replicate the Bracero program in all of its features, but the experience of the 1950s demonstrates how access to legal means of entry can affect the decision-making of migrant workers. "Without question, the Bracero program was . . . instrumental in ending the illegal alien problem of the mid-1940's and 1950's," wrote the Congressional Research Service.²¹

If Congress adopted some key reforms the tragedy of immigrant deaths at the border would largely disappear and illegal entry to the United States would be reduced significantly. Combining sufficient legal avenues for work and immigration enforcement can dramatically reduce illegal immigration.

First, provide new temporary visas for lesser skilled foreign workers, particularly from Mexico. This can be done in the context of comprehensive immigration reform. Such visas must be relatively free of bureaucracy to be usable by both employers and employees and be of sufficient number to act as a reliable alternative to crossing the border illegally to work.

The National Foundation for American Policy has provided an alternative framework for providing such legal paths for workers – establishing the use of fully portable work permits as part of bilateral agreements with Mexico and

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Central American countries. (See *Common Sense, Common Interests*, National Foundation for American Policy, May 2009.) This would cut smugglers and criminal gangs out of the equation, effectively removing them from the business. If Mexican and Central American workers could come to America on a legal visa or work permit they would have no need to employ the services of a coyote or criminal enterprise.

Second, H-2B visas, for non-agricultural, seasonal workers, should be increased. The visas in this category have been exhausted consistently during or at the start of previous fiscal years. Given the seasonal nature of the jobs they are often difficult to fill. Blocking an increase in these visas or imposing onerous terms for compliance will not help American workers but rather harm U.S. employers and their American workers who need the additional labor to keep the businesses viable.²²

Third, Congress should pass the AgJobs Act, which would combine reform of H-2A visas for agricultural workers with a transition of currently illegal workers into the mainstream economy. The legislation has enjoyed support from both growers and unions.

Fourth, Congress should increase the allotment of green cards (for permanent residence) for low-skilled workers well above the current level of 5,000 a year. There is no compelling reason our system offers the opportunity for individuals in finance, technology and other fields to be sponsored for permanent residence but not those in fields such as hospitality, landscaping, agriculture and food production.

Fifth, Congress should avoid creating a commission to regulate the flow of foreign-born workers to the United States. Such a commission will never be able to gauge the demand for labor and can easily be influenced to shut off the flow of legal workers, which, among other things, would result in increased illegal immigration.

It is easy to blame the criminal gangs and smugglers for immigrant deaths, since their actions can contribute to people dying at the border. However, the criminal enterprises are filling the gap created by the absence of U.S. laws to provide legal avenues for lesser-skilled workers. Pointing the fingers solely at the coyotes and gangs is convenient, as was seen in the case of the 19 immigrants who died trapped inside the tractor trailer truck in Texas. "The coyotes were being exclusively blamed for the deaths of the undocumented immigrants . . . in reality the responsibility was a shared one. The governments of Mexico and the United States were also partially to blame for what happened," writes Jorge Ramos, author of *Dying to Cross*. He points out that coyotes "had long since become a necessity for anyone who wanted to cross the border."²³ This is confirmed in Wayne Cornelius' survey of illegal immigrants from Oaxaca (Mexico). Cornelius found 80 percent paid a coyote to smuggle them across the border.²⁴

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“The coyote business had blossomed as the result of the U.S.’s very flawed immigration policies, Mexico’s permanent state of economic crisis, and both countries’ inability to reach any kind of immigration agreement,” concludes Jorge Ramos. “If, instead of hunting down immigrants and penalizing illegal border crossings, both governments could find a way to regularize the entry of immigrants in an orderly fashion so that Mexico might provide the U.S. economy with the workers it needs, border deaths would become a thing of the past, and the countries would finally legalize something that occurs every single day, regardless of the law.”²⁵

END NOTES

¹ Data on immigrant deaths at the border come from the U.S. Border Patrol.

² *Border Security: The Role of the U.S. Border Patrol*, Congressional Research Service, November 20, 2008, 26.

³ *Ibid.*, 27.

⁴ U.S. Border Patrol.

⁵ "U.S. Chamber Resists Immigration Commission to Control Flow of Workers," Press Release, U.S. Chamber of Commerce, June 1, 2009.

⁶ Gordon Hanson and Antonio Spilimbergo, "Illegal Immigration, Border Enforcement, and Relative Wages: Evidence from Apprehensions at the U.S.-Mexico Border," NBER Working Papers, 5592, National Bureau of Economic Research, Inc., 1996, 1355.

⁷ Wayne Cornelius, "Death at the Border: The Efficacy and Unintended Consequences of U.S. Immigration Control Policy 1993-2000," *Population and Development Review*, vol. 27, no. 4, December 2001.

⁸ Wayne Cornelius, *Controlling Unauthorized Immigration from Mexico: The Failure of Prevention through Deterrence and the Need for Comprehensive Reform*, Mexican Field Research Program, Center for Comparative Immigration Studies, UC-San Diego, 2008.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Luis Alberto Urrea, *The Devil's Highway*, (New York, NY: Little, Brown and Co., 2005), 190.

¹² *Ibid.*, 127-129.

¹³ *Ibid.*, 144-45, 174.

¹⁴ Jorge Ramos, *Dying to Cross*, (New York, NY: HarperCollins, 2005), xi.

¹⁵ *Ibid.*, 84.

¹⁶ Miriam Jordan, "Illegal Immigration from Mexico Hits Lowest Level in Decade," *The Wall Street Journal*, July 23, 2009.

¹⁷ Joel Millman, "Immigrants Become Hostages as Gangs Prey on Mexicans," *The Wall Street Journal*, June 10, 2009.

¹⁸ Eduardo Porter, "Tighter Border Yields Odd Result: More Illegals Stay," *The Wall Street Journal*, October 10, 2003, 1. "Not only have U.S. policies failed to reduce the inflow of people from Mexico, they have perversely reduced the outflow to produce an unprecedented increase in the undocumented population of the United States," writes Douglas Massey. "America's unilateral effort to prevent a decades-old flow from continuing has

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paradoxically transformed a circular flow of Mexican workers into a settled population of families and dependents." Douglas Massey, *Backfire at the Border: Why Enforcement Without Legalization Cannot Stop Illegal Immigration*, Trade Briefing Paper No. 29, (Washington, DC: Cato Institute, Center for Trade Policy Studies, June 13, 2005), 8.

¹⁹ Cornelius, *Controlling Unauthorized Immigration from Mexico: The Failure of Prevention through Deterrence and the Need for Comprehensive Reform, Mexican Field Research Program*.

²⁰ Michael Hofer, Nancy Rytina, and Bryan C. Baker, *Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2007*, Office of Immigration Statistics, Department of Homeland Security, 2008, 4.

²¹ Stuart Anderson, *The Impact of Agricultural Guest Worker Programs on Illegal Immigration*, National Foundation for American Policy, November 2003; Congressional Research Service, *Temporary Worker Programs: Background and Issues*. A report prepared at the request of Senator Edward M. Kennedy, Chairman, Committee on the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, 41, citing the 1955 INS Yearbook.

²² See for example NewsChannel 8, "Maryland Crab Picker Job Fair Falls Flat: Companies Turn to Congress for Help," April 16, 2009.

²³ Ramos, 148-149.

²⁴ Cornelius, *Controlling Unauthorized Immigration from Mexico: The Failure of Prevention through Deterrence and the Need for Comprehensive Reform, Mexican Field Research Program*.

²⁵ Ramos, 149-150.

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