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Defining Border Security in Immigration Reform

Mike Slaven
Policy Analyst

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A comprehensive immigration reform bill that won bipartisan support the U.S. Senate has hit a contentious snag in the U.S. House of Representatives that's all too familiar to Arizonans: border security.

A central challenge to passing a comprehensive immigration bill remains getting members of Congress to begin to agree on what a "secure" border with Mexico even looks like — or to give some definition to that very contested term. For an immigration reform bill to work, majorities in Congress need to commit to border-security standards that are reasonable and attainable. More fundamentally, though, the debate on border security needs to move beyond the pitfalls that have made agreement about this issue so difficult. Political leaders need to engage in the kind of precise discussion about when or how exactly the border can be considered sufficiently "secure," which has not been determined as of yet.

A successful immigration reform bill would therefore represent not only a policy advancement, but also a major political achievement that would broker — at least momentarily — some brand of consensus on exactly what a "secure border" means.

As anyone familiar with Arizona politics knows, opinions diverge hugely on whether the border is "secure." This is despite the fact that according to all the measures and standards that have usually been used, the U.S.-Mexico border has been more secure in the last few years than at any time in decades.ⁱ

Given this fact, how do we get to agreement? Defining border security is a deeply charged political issue. But amid continued, broad popular support for the aims comprehensive immigration reform,ⁱⁱ elected officials have the opportunity to lead on answering what exactly a "secure border" would be. If the border is to be secured before other parts of immigration reform are implemented — as many have insisted, including key House Republicans — then it is crucial that a clear discussion of criteria take precedence in a debate too often rife with fuzzy claims, hazy evidence and shifting standards.

The bill that passed the Senate with a bipartisan supermajority last month represents one approach to laying out some criteria. The Senate bill gauges border security through two measures:

- For setting goals, the bill employs a metric called the “effectiveness rate,” which roughly measures the success of enforcement efforts in thwarting unauthorized crossings.
- For setting enforcement standards, there are “triggers” that must be met at the border for the legalization portions of the bill to proceed. These largely depend on enhanced technology, surveillance resources and manpower being in place on the border.

Even with the huge increases in border security resources provided in the Senate bill — which, among other things, would more than double the Border Patrol presence on the Southwest border — its approach will be revisited as the debate moves to the House of Representatives. There, the chamber’s Republican leaders say that in order to come to a floor vote, a bill must be supported by a majority of their caucus, which is much more conservative than its Senate counterpart.ⁱⁱⁱ

With Arizona’s Republican Senators John McCain and Jeff Flake helping to lead the way, 68 U.S. senators agreed on a bipartisan bill with border security “triggers” that make the implementation of other parts of immigration reform attainable. A bill emerging from the House could either establish feasible goals or demand an amount of control over the border that verges on impossible. As some House leaders say they might approach immigration reform through a piecemeal approach that holds border security as their top priority, the question of what a “secure border” means continues to stand out.

There may never be 100 percent agreement on whether the border is “secure.” But if reform is going to pass and succeed, political leaders must lead on defining standards for border security that are realistic — both in terms of how success is gauged and what actually can be achieved on a 1,969-mile-long border.

Elusive Agreement on a “Secure Border”

The measures usually employed to measure border security all point to major improvements in the past decade. So what is the source of such major disagreement on whether the border is “secure?” Some recent assessments place much of the blame for this disagreement on the federal government for not clearly defining standards for what a secure border means.^{iv}

However, the most fundamental problem is in determining when the border is “secure” is that defining “security” is both inherently subjective and highly political. The bureaucratic debate over measurements occurs on top of a more fundamental political debate over values. Whether people regard the border as “secure” has at least as much to do with gut feelings, levels of comfort with different kinds of risks,

and political dynamics as with statistics. Take three major phenomena in the recent border debate:

Shifting areas of concern

It has been difficult to settle on which “border security” problem is the focus of policy. Post-9/11, border security discussions were dominated by concerns with terrorists exploiting vulnerabilities at the border to enter the United States.^v In the mid-2000s, during a high tide in unauthorized crossings into the United States, the border-security debate reoriented around the unauthorized entry of labor migrants. Later, the escalation of the Mexican drug war prompted concern about violence potentially “spilling over” into the United States, making border security a flashpoint again despite the fact that illegal crossings were clearly declining. Today in Congress, the major border-security concern seems again to be the number of unauthorized crossers that can be apprehended.

Anecdotal evidence

It is difficult to maintain objectivity in public discussion of border security, since anecdotes easily gain traction against broader statistical arguments. A notable example is the 2010 shooting death of southern Arizona rancher Robert Krentz, which rocked Arizona border politics^{vi} even though overall violent crime rates in border communities at the time were relatively low.^{vii}

Relative goals

There is simply a lot of relativity in what people consider “enough” security. To some, the border may be more secure now than before, but levels of unauthorized crossing may still be far too high to call the border “secure.” This leads to the pressing question of how much enforcement has to exist before it is considered enough. Some hard-line opponents of immigration reform seem to put the number of acceptable crossings at zero, while also calling for further increases to deportations, which already have reached record highs.^{viii}

Creating Consensus on What’s “Secure Enough”

As reform proponents realize, the ambiguity in defining a “secure border” could potentially be used by opponents to delay immigration reform indefinitely. Thus a successful immigration reform bill must forestall the tendency toward shifting standards and anecdotal or non-objective evidence in the border-security discussion. Majorities in Congress instead must find a way to agree on objective standards for determining the border as sufficiently secure.

Policy-wise, this effort has been translated into the enforcement “triggers”^{ix} that have been a major topic of discussion in Congress. These triggers would determine when there has been enough progress in securing the border to proceed with the other parts of the immigration bill, especially the granting of permanent legal status to the current unauthorized population.

In recent years, “securing the border first” has been a litmus test by many Republicans for supporting reform.^x However, there has never been a lasting or specific consensus on what has to be done to meet this demand definitively. The “secure the border first” stance rose in popularity after conservative opposition helped scuttle Congress’ last major immigration reform push in 2007. Some Republicans who had generally supported the effort (including both McCain^{xi} and Flake^{xii}) changed their positions to say overall reform should happen only after the border had been secured. While the border-security goals laid out to be accomplished by the 2007 legislation were largely achieved by 2010,^{xiii} many continue to hold this position and maintain the border is not secure enough.

In the absence of a single objective meaning for “border security,” the political bargain on immigration reform depends on enough political leaders agreeing to leave behind shifting or shapeless definitions, and instead deciding on workable standards to write into law. Such standards must address particular concerns of lawmakers and the public, as well as command confidence by being based on data and evidence. And, crucially, they must actually be attainable.

Setting Attainable Goals: Problems with Past Measures

As the House begins to take up the issue, what measurements could policymakers look to in order to try to forge consensus? By all the measures that typically have been used to gauge border security, the fact is the border is more secure today and in recent years than it had been in the previous four decades. Still, none of those measures are particularly effective at determining whether the security issues that our political system focuses on are actually being addressed.^{xiv}

- *Border Patrol apprehensions* — The most commonly cited border-security statistic is probably the number of Border Patrol apprehensions of people crossing without authorization between ports of entry on the U.S.-Mexico border. This figure is broadly accepted as a proxy for overall levels of unauthorized crossings — where more apprehensions represent increased overall traffic, and fewer represent reduced traffic — though it is a very rough proxy that is problematic as a measure of enforcement success.^{xv} Obviously, apprehensions do not measure what would seem to be the most pertinent statistic: how many people manage to cross successfully into the U.S. without authorization.^{xvi}
- *Seizures of illicit substances* — Various government agencies have reported on seizures of drugs, money and weapons at the border. However, seizure numbers do not make clear what proportions of these illegal flows are being intercepted. It is also unclear that attempting to

intercept these flows at the border, rather than at other places in the smuggling chain, is most effective.^{xvii}

- *Crime levels in border communities* — Addressing fears about “spillover violence,” authorities have sometimes pointed to crime rates in U.S. border jurisdictions. Overall they show relatively low and flat violent crime rates.^{xviii} However, some analysts say it is difficult using existing data to assess trends in border-related crime specifically.^{xix} Others note a divide between U.S. border cities, where crime rates are low, and rural areas where the perception of danger is higher.^{xx} Regardless, analysis of border-related crime cannot answer questions about unauthorized crossers who enter without committing violent crimes.

- *Inputs: Manpower, technology, spending* — How many resources the federal government has put into border security is often cited in discussions. These numbers already have risen hugely.^{xxi} Input statistics may tell some of the story, but they clearly do not measure the success of enforcement. Research has not even precisely determined the extent to which border enforcement actually works at preventing unauthorized entries. Enforcement is far from the only factor determining the flow of migration: The wage gap between the U.S. and countries of origin, the supply of possible migrants in sending countries, and the presence of immigrant networks in the U.S. are also very important in determining these flows, so resources alone do not determine success.^{xxii}

Dual Focus: Inputs and the “Effectiveness Rate”

Notwithstanding, the bill that passed the Senate continues to rely on the amount of resources on the border as a main criterion of success. An amendment by Senators Bob Corker, R-Tenn., and John Hoeven, R-N.D., ensured the bill mandates specific technological capabilities be in place in each border sector, requires “persistent surveillance” across the border, and provides that 20,000 additional Border Patrol agents be hired and stationed on the southwest border, more than doubling the Border Patrol presence there.

| Two versions of “effectiveness” | |
|--|--|
| <u>Senate-passed bill</u> | <u>Cornyn hard triggers</u> |
| <ul style="list-style-type: none"> • 90% effectiveness rate is a goal in all SW border sectors • “Persistent surveillance” required • DHS plans must include specified resource increases • Triggers met if this plan (including new resources) is operational | <ul style="list-style-type: none"> • 90% effectiveness rate required in all SW border sectors • “Full situational awareness” across border required • DHS must submit security plans • Effectiveness goal must be met continuously in 12 months preceding legalization |

The Senate bill's other critical metric is a previously little-discussed statistic called the "effectiveness rate," which attempts to measure the portion of people who cross unauthorized between ports of entry and fail. The rate is the number of apprehensions plus the number of "turnbacks," divided by the total number of attempted crossings. This measure has its problems, many of which are discussed below.^{xxiii} Still, the effectiveness rate conceptually makes more sense than many previous standards as a measure of success.

The bill that passed the Senate establishes a 90 percent effectiveness rate as the goal in all sectors of the southwestern border. However, it does not require that this be met as a "trigger," instead establishing resource levels as the primary triggers to proceed with legalization.^{xxiv} This debate over "hard" or "soft" triggers — raised in the Senate in the form of a failed amendment by Senator John Cornyn, R-Texas — is likely to be resurrected in the House, with many Republicans demanding what they view as more accountability in meeting border security standards.

Depending on how it is dealt with in the House, a 90 percent "effectiveness rate" could either represent a high-but-realistic security goal or a nearly insurmountable obstacle to the legislation's legalization programs.^{xxv} Some members of the House have indicated that they may also move forward with piecemeal legislation that addresses border security, leaving proposals to legalize most of the current unauthorized population for later. Still, in such a case, the goals of border-security measures should be defined so that it can be judged whether the provisions have sufficiently worked.

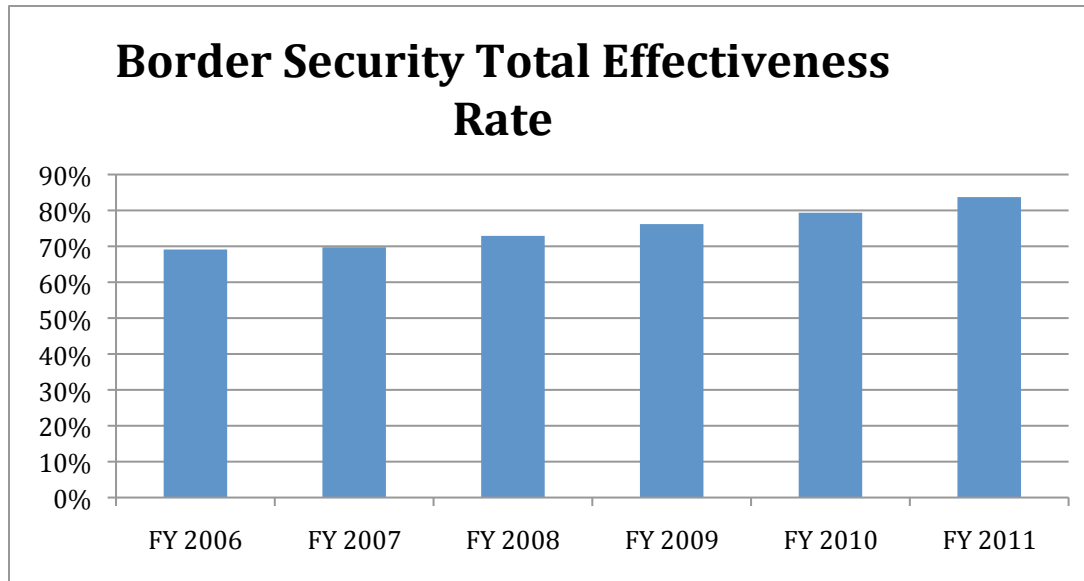
The most important difference between varying versions of the "effectiveness rate" proposals is how strictly they require the standard to be met before action occurs in other policy areas. The Senate bill considers its security provisions satisfied if Department of Homeland Security's plan to meet 90 percent effectiveness, including mandated resource and staffing increases, is certified as "operational." If DHS has trouble meeting this goal, a border security commission with border-state representatives is empanelled to help guide DHS in meeting the goals.

A "hard trigger" version is very different. The "hard triggers" version proposed by Cornyn requires that the 90 percent effectiveness rate — and 100 percent situational awareness, or basically unbroken surveillance — be achieved continually for the 12-month period preceding legalization. Relatively small lapses, including a minor slippage in a low-traffic sector for a week or a month, could delay the implementation of legalization measures. This seems to be a problem that any "hard" version of the triggers risks creating.

How many have "gotten away?"

Reliance on the effectiveness rate has a clear basic problem: It means estimating the amount of unauthorized border-crossers who have gotten away. Obviously, some

would cross without being detected. The Border Patrol in recent years has kept track of estimated “turnbacks” and “gotaways,” in addition to the number of apprehensions. Together, this is called “known flow” data. Using the most recently released complete “known flow” data — for federal Fiscal Year 2011 — shows the following trends across Border Patrol sectors:



Overall, the “effectiveness rate” based on known flow data has improved considerably in recent years. Under a “hard triggers” plan, the effectiveness rate would require further significant improvement based on the known flow data in a large number of sectors, as shown below in border effectiveness rates by individual sector:

| | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|-------------------|---------------|---------------|---------------|---------------|---------------|---------------|
| San Diego | 80.47% | 75.45% | 81.98% | 86.77% | 89.72% | 91.86% |
| El Centro | 82.76% | 84.76% | 83.52% | 87.69% | 88.75% | 90.54% |
| Yuma | 63.81% | 78.69% | 87.60% | 91.85% | 94.81% | 93.74% |
| Tucson | 66.93% | 63.91% | 67.92% | 71.30% | 77.79% | 86.87% |
| El Paso | 72.93% | 86.80% | 92.68% | 94.38% | 95.72% | 94.63% |
| Big Bend | 86.07% | 87.58% | 81.34% | 73.45% | 73.01% | 67.97% |
| Del Rio | 62.97% | 68.64% | 72.76% | 81.79% | 85.92% | 86.46% |
| Laredo | 70.24% | 64.47% | 77.72% | 83.82% | 86.76% | 83.95% |
| Rio Grande Valley | 55.44% | 52.60% | 57.28% | 60.59% | 63.30% | 70.84% |
| Total | 69.11% | 69.73% | 72.91% | 76.19% | 79.35% | 83.71% |

Known flow data very likely underestimate the amount of crossers who have gotten away. Most Border Patrol estimates of “gotaways” are made from agents finding physical evidence of successful crossers after the fact, in a method called “sign-cutting.”^{xxvi} Sign-cutting is not an exact science, though the Border Patrol says its methods are improving.^{xxvii} It is not clear how much increased surveillance provided for in the bill might improve the accuracy of these estimates.^{xxviii} Other sources of data — particularly surveys of migrants — suggest that the number of unauthorized migrants who successfully cross may be about 50 percent higher than known-flow data reflect.^{xxix} The failed “hard triggers” amendment in the Senate required that the Border Patrol consider alternate methodologies in assessing its effectiveness rate, but it is not clear how they would be factored in.^{xxx} Depending on how they are, the triggers could be much more difficult to satisfy.

Resources as a trigger?

As discussed, measuring resources in place at the border does not measure the results of those enforcement activities. Therefore some may consider a bill like the one that passed the Senate, which uses resources as a major measurement of security, to be a step back. A “hard triggers” bill would likely abandon this or supplement it with a specific requirement for meeting an “effectiveness rate.”

It is crucial to note that migration flows occur due to a wide number of factors, other than enforcement, over which the U.S. government has very little control, including economic factors in “sending” countries. Therefore some may view resources as a safer kind of trigger that does not subject the implementation of reform to unforeseeable developments in migration flows that may affect “effectiveness” rates.

This is why provisions increasing resources have been included without much protest by pro-reform legislators. While it is arguable the extent to which such measures may improve security, as “triggers,” they are rather clearly attainable. Still, it is completely worth questioning what further resource increases, including a redoubling of the Border Patrol, stand to deliver in terms of enforcement results. Research on the overall effectiveness of border enforcement is relatively scant, and it stands to reason that at some point increased enforcement, which carries a significant price tag,^{xxxi} will yield diminishing marginal returns.^{xxxii}

Implications for the Policy Debate

Ambiguity in defining “border security,” shortfalls in the ways proposed to measure it, and the political and policy realities of reform suggest a number of implications as the House takes up the immigration issue:

- *Getting real about defining a “secure border”*
Politicians should be reasonably specific about what border security standards they want to see before the border can be considered “secure

enough,” so that the public can evaluate those demands. Those unwilling to specify only add delay — perhaps intentionally — to any immigration reform. Arizona politicians especially have dealt with border issues for a long time, and by now should be prepared to clearly state what they would consider a secure “enough” border for the purposes of new and lasting legislation.

■ *Balancing accountability and realism*

Holding the government accountable for security outcomes is a reasonable priority. Border policy, however, should recognize that government enforcement alone isn’t what determines cross-border flows. Especially as the economy improves, increases in unauthorized crossings may reflect new enforcement circumstances, rather than enforcement failures. Border-security goals must reflect this reality. Employing an “effectiveness rate” could help to address this problem or could be a major hindrance to progress, depending on how legislators act and react.

■ *Balancing clarity and flexibility*

The desire for standards to be clear and definite is well placed. But requiring that enforcement results meet very precise requirements risks hinging the implementation of important policies on standards that could very costly or unreachable. They could even scuttle implementation outright because of shortcomings that are relatively minor. Congress would be wise to make sure its goals are feasible, that meeting goals will not be hung up on minor shortfalls, and that funding to support these goals is sufficient on an ongoing basis. Otherwise, the bill could be undermined.

■ *A never-ending debate*

Because defining security is inherently subjective, no one should expect debate on whether the border is secure to end any time soon. The political goal for immigration reform should be more modest: a practical commitment on how — right now and for the purposes of this bill moving forward — “secure enough” can be defined.

Endnotes

ⁱ For a complete discussion, see Meissner, D., Kerwin, D. M., Chisti, M. and Bergeron, C. (2013) [Immigration Enforcement in the United States: The Rise of a Formidable Machinery](#). Washington: Migration Policy Institute.

ⁱⁱ See Newport, F. and Willke, J. (2013) [“Immigration Reform Proposals Garner Broad Support in U.S.”](#) *Gallup Politics*, June 9, 2013; Burns, A. (2013) [“Polls: Huge Support for Immigration Reform.”](#) *Politico*, June 13, 2013.

ⁱⁱⁱ Blake, A. (2013) [“Boehner Declares: Immigration Bill Will Be Subject to Hastert Rule.”](#) *Washington Post*, June 27, 2013.

^{iv} For instance, Alden, E. and Roberts, B. (2011) [“Are U.S. Borders Secure? Why We Don’t Know, and How to Find Out.”](#) *Foreign Affairs*, 90(4): 19-26.

- v For a discussion of this, see Olson, E. L. and Lee, E. (2013) [The State of Security in the U.S.-Mexico Border Region](#), Working Paper Series on the State of the U.S.-Mexico Border.
- vi Wagner, D. (2010a) ["Rancher's Murder Fuels Firestorm."](#) *The Arizona Republic*, March 30, 2010.
- vii Wagner, D. (2010b) ["Violence Is Not Up on Arizona Border Despite Mexican Drug War."](#) *The Arizona Republic*, May 2, 2010.
- viii Dade, C. (2012) ["Obama Administration Deported Record 1.5 Million People."](#) *NPR.org*, December 4, 2012.
- ix Broadly, in comprehensive immigration proposals, "triggers" for legalization include a number of enforcement measures that do not occur at the border, such as the implementation of a nationwide employment eligibility verification system or a biometric exit-monitoring system. While these programs are clearly interconnected and important, this brief focuses on what more strictly might be considered "border security:" enforcement that occurs at the border or in the border zone.
- x Parti, T. and Kim, S. M. (2013) ["Republicans: Border Security a 'Litmus Test' for Immigration Bill."](#) *Politico*, June 5, 2013.
- xi Sullivan, S. and Blake, A. (2013) ["John McCain, Republican Weather Vane on Immigration."](#) *Washington Post* online, January 29, 2013.
- xii Nowicki, D. (2011) ["Flake Rejects Comprehensive Immigration Fix."](#) *Arizona Republic*, March 23, 2011.
- xiii See: Verdery, C. S. (2010) [Brick by Brick: A Half-Decade of Immigration Enforcement and the Need for Comprehensive Immigration Reform](#). Washington: Center for American Progress; or, National Immigration Forum (2013) ["Immigration Enforcement Today: 2007 Reform Goals Largely Accomplished."](#) Washington: National Immigration Forum.
- xiv Roberts, B., Alden, E. and Whitley, J. (2013) [Managing Illegal Immigration to the United States: How Effective Is Enforcement?](#) New York: Council on Foreign Relations.
- xv See Orrenius, P. M. and Zavodny, M. (2003) ["Do Amnesty Programs Reduce Undocumented Immigration? Evidence from IRCA."](#) *Demography*, 40(3): 437-450.
- xvi Though, for self-evident reasons, this population is difficult to count using any method.
- xvii Olson and Lee 2013, pp.15-20.
- xviii Gillum, J. (2011) ["Comparing Crime Rates Near the Border with State Crime Rates"](#) [interactive]. *USA Today*, July 18, 2011.
- xix For instance: National Drug Intelligence Center (2011) [National Drug Threat Assessment 2011](#). Washington: Department of Justice.
- xx Olson and Lee 2013 p.12.; see also Avila, J. and Marshall, S. (2013) ["Is the Border Secure? Ranchers Say No."](#) *ABC News*, April 10, 2013.
- xxi For instance, Border Patrol spending up 750 percent since 1989. See Meissner et al. 2013, and also Rosenblum, M. R. (2012) [Border Security: Immigration Enforcement Between Ports of Entry](#). Washington: Congressional Research Service.
- xxii For a full discussion, see Roberts, Alden and Whitley 2013.
- xxiii One issue not otherwise mentioned is that the "effectiveness rate" applies to crossings between ports, so it ignores unauthorized crossers who enter through ports of entry themselves. That group has received quite little attention in recent border-security debates, despite accounting for as much as 20 percent of successful unauthorized crossings (see Roberts, Alden and Whitley 2013, p.20). This is a further exhibit as to why what "security" means is defined subjectively, and is not inherently connected to objective assessments of sources of risk.
- xxiv The "effectiveness rate" is sometimes mislabeled in the media — and even in statements by members of Congress — as an "apprehension rate." This isn't the case, since under any proposed version, "turnbacks" would also be included as enforcement successes to determine an overall "effectiveness rate." For instances of this mistake, see O'Keefe, E. (2013) ["Senator John Cornyn's Immigration Amendment Has Turned into a Flashpoint. So What's in It?"](#) *Washington Post Online*, June 13, 2013; and ["Cornyn RESULTS Amendment to S.744"](#) (2013) Web site of Senator John Cornyn, accessed June 18, 2013.
- xxv While the desire for "hard triggers" could take many legislative forms, the most prominent proposal has been the "RESULTS Amendment" from Sen. John Cornyn. This approach is likely to find support among conservatives in the House, but since legislative language has not yet emerged from the House, Cornyn's amendment will stand in here for the "hard triggers" model.
- xxvi Government Accountability Office [GAO] (2012) [Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs](#). GAO-13-25. Washington: United States Government Accountability Office, p. 83.
- xxvii Spagat, E. (2013) ["Under Pressure, Border Patrol Now Counts Getaways."](#) Associated Press, April 23, 2013.
- xxviii Other parts of the immigration reform legislation could also alter unauthorized flows: For instance, new temporary worker programs contained in the legislation might reduce unauthorized traffic overall.
- xxix Roberts, Alden and Whitley 2013 pp.21-24.

xxx (EAS13772) [Requiring Enforcement, Security and Safety while Upgrading Lawful Trade and Travel Simultaneously](#) (2013) pp.21-22.

xxxi See Elmendorf, D. W. (2013) "[Letter to Patrick Leahy](#)," June 24, 2013.

xxxii For a fuller discussion of diminishing returns of enforcement increases, see Isacson, I. and Meyer, M. (2012) [Beyond the Border Buildup: Security and Migrants along the U.S.-Mexico Border](#). Washington: Washington Office on Latin America, 2012.

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About the chief researcher/author

Mike Slaven is a former staff member of the Arizona Governor's Office and the U.S. Department of Homeland Security. He has a master's degree from the University of Edinburgh in Scotland, where he is an entering Ph.D. candidate, and was a U.S. Fulbright Scholar in the United Kingdom researching immigration policy. Slaven can be reached at mcslaven@gmail.com or on Twitter @mcslaven.

Morrison Institute Latino Public Policy Center

The Latino Center is an extension of Morrison Institute for Public Policy, an Arizona State University resource. The Latino Center's mission is to bridge the gap of understanding between Arizona issues and Latino issues, which due to rapidly changing demographics no longer can be viewed separately in terms of impact or future. Joseph Garcia is center director and can be reached at Joseph.C.Garcia@asu.edu



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411 N. Central Ave., Suite 900 / Phoenix, AZ / 85004-0692