

THE THIRD WAY CULTURE PROJECT



**MISSION ACCOMPLISHED II:
The Bush Record on Immigration Enforcement**

A Third Way Report

by

Michael Earls and Jim Kessler

MAY 2007

Executive Summary

With Congress set to debate immigration reform for the second time in a year, the main question is whether a comprehensive approach is necessary to solve the immigration problem or if an enforcement-only approach is sufficient.

Last year, during the height of the 2006 deliberations, Third Way released “A Heck of a Job on Immigration Enforcement,” a report examining the Bush Administration’s record on enforcing existing laws. What we found was not only that the size of the immigration problem dwarfed any realistic enforcement-only approach but also that enforcement under President Bush was far more lax than under President Clinton. As we stated in the 2006 report, “by virtually any standard, current laws against illegal immigration are not working the way they were intended.”¹

Now, as Congress prepares to debate this issue once more, we have updated our report with another year’s set of data to see if the Administration’s immigration enforcement record has improved.² A look at the most recent comprehensive data* shows that the Bush Administration’s enforcement record remains largely stagnant and unimpressive. Through the first five years of the Bush Administration, the level of immigration enforcement is roughly 30% below the last five years of the Clinton Administration, despite a sizable increase in Border Agents. Apprehensions and expulsions are down at the Mexican border, down at the Canadian border and down in the interior of the country. Under the typical enforcement rates of the past five years, it would take well over 100 years to deport all of the illegal immigrants currently in America, even if the flow of illegal immigrants across the border completely stopped.³

Among the key findings:

- **Total Apprehensions:** In the first five years of the Bush Administration (fiscal years 2001 through 2005), the number of illegal immigrants apprehended in the US declined by approximately 470,000 people per year, or 28% in comparison to the last five years of the Clinton Administration (fiscal years 1996 through 2000).⁴
- **Total Expulsions:** In the first five years of the Bush Administration, total expulsions from the United States fell by approximately 520,000 per year, or 30% in comparison to the last five years of the Clinton Administration.⁵

* FY 2005 enforcement data are the most recent comprehensive data available.

- **Apprehensions at the Southwest Border:** Similarly, the number of apprehensions at the Southwest border has declined by 350,000 per year, or 29% from the Clinton years.⁶
- **Apprehensions at Border Sites outside the Southwest:** The number of deportable aliens located at border sites other than the Southwest has declined by 17,000 per year, or by 39%, including a historic low total of 17,680 in FY 2005.⁷
- **Apprehensions inside the Country:** Despite the continued rise in the number of illegal immigrants in the US, the number of deportable illegal aliens located away from the border has declined by 14,000 per year, or 12% during the Bush Administration.⁸
- **Enforcement Only:** Under the Bush enforcement rates, it would take 109 years to deport the 12 million illegal immigrants already in the country.
- **Worksite Enforcement[†]:** Though the number of arrests related to illegal alien employment has risen each year since FY 2003, 84% of arrests characterized as “worksite arrests” are of the illegal alien workers rather than their employers.⁹

There are early indications that the overall enforcement rate is finally on the rise after five years of decline. Preliminary data suggest that this uptick in enforcement includes a continued upward trend in the area of workforce sanctions, a problem in dire need of attention as we reported last year. But the vast majority of these sanctions are high-profile sweeps of illegal migrants—not arrests of the employers that hire them. And these particular sweeps have had the unintended effect of dividing families and separating parents from their children.

Despite this increase of enforcement efforts, the size of the illegal immigration problem continues to dramatically outpace the Bush Administration’s expansion in enforcement measures. There are more than 3.6 million more illegal immigrants in the country today than when President Bush first took office (12 million vs. 8.4 million).¹⁰ And given the current and future enforcement rates, it seems like a pipedream to expect an enforcement-only strategy to have any chance of success.

With over 500,000 new illegal immigrants entering America each year,¹¹ enforcement clearly must be part of any long-term immigration reform strategy. But unless there are truly practical reforms that stem the flow of illegal immigrants into the country and effectively address the 12 million already here, there is no realistic chance of solving the immigration crisis. And if enforcement levels remain at the Bush levels, the problem will only get worse.

[†] The full set of workforce sanctions data were unavailable for FY 2005.

The Modern Illegal Immigration Problem

Viewed historically, illegal immigration is a relatively new problem in American history. Immigration laws were originally designed to focus on health and safety inspections of those seeking entrance.

By the 1980s, there was general recognition that existing mechanisms of border enforcement were broken. The illegal immigrant population grew to 3.3 million in 1982 and 4 million in 1986. Seeking remedy, the 1986 Immigration Reform and Control Act legalized 2.7 million aliens through a one time only amnesty, and took what was then viewed as the crucial step of criminalizing the employment of illegal immigrants.

By 1996, however, the illegal population had swelled to 5 million. In response, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 was enacted, increasing the size and scope of the border patrol and its security efforts.¹² Nonetheless, the Pew Hispanic Center estimates that between 1995 and 2005, over 7 million unauthorized migrants arrived in the US¹³

The federal government has a broad array of enforcement tools at its disposal, ranging from a national network of Border Patrol agents to regulatory enforcement to civil and criminal prosecution. The Department of Homeland Security (DHS) oversees both Customs and Border Protection (CBP) and the Immigrations and Customs Enforcement (ICE). CPB administers approximately 90% of immigration apprehensions, namely, those which take place near the US border (especially the Southwestern border with Mexico).¹⁴ ICE is responsible for the remainder of non-border apprehensions.¹⁵ However, the overall strategy towards enforcement has changed during the Bush years.

Following 9/11, the Border Patrol was folded into the new Department of Homeland Security (DHS), and its mission was redefined. The National Border Patrol Strategy states, "The priority mission of CBP, specifically including all Border Patrol Agents, is homeland security—nothing less than preventing terrorists and terrorist weapons—including potential weapons of mass destruction—from entering the United States."¹⁶

In 2006, Congress took up the issue of reforming our nation's immigration laws. With some voices clamoring to remove all illegal aliens and others advocating for a path to citizenship, the legislative debate was full-throated and divisive. In the Senate alone, over 200 amendments were offered to the McCain-Kennedy "Comprehensive Immigration Reform Act of 2006." Though McCain-Kennedy passed 62-36, the measure ultimately died in the House of Representatives.

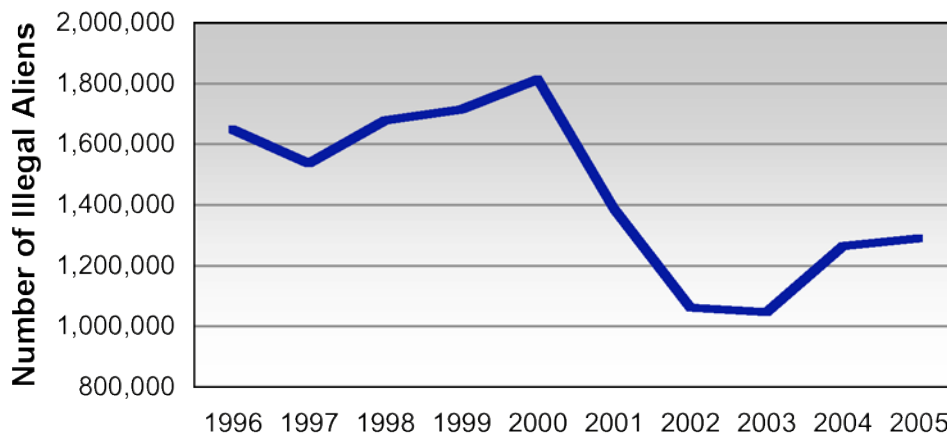
With the failure to pass significant reform legislation, the issue of enforcement gained prominence as congressional opponents of legalization held hearings around the country highlighting the illegal immigration crisis and calling for an enforcement-only solution. But many of those on the front-lines of the problem recognized the shallowness of this debate. Among the reform proponents seeking a comprehensive approach, the four governors along the Southwest border wrote to then-Speaker Dennis Hastert and then-Majority Leader Bill Frist urging passage of “comprehensive reform legislation that secures the border, protects taxpayers and restores the rule of law by practically dealing with the 12 million illegal immigrants currently in the country.” These same governors wrote that “the combination of lax and ineffective enforcement of our borders and the failure to enforce immigration laws has led to an explosion in the illegal immigrant population.”¹⁷

What follows is a comparison of immigration enforcement activity between the first five years of the Bush Administration (the latest years with comprehensive and publicly released data) and the last five years of the Clinton Administration. What we found is that despite massive increases in enforcement resources, apprehension and expulsion of illegal immigrants have fallen dramatically by virtually all metrics. This includes a significant decline in enforcement along our most stressed border—the Southwest border with Mexico.

Total Apprehensions and Removals Are Down Significantly

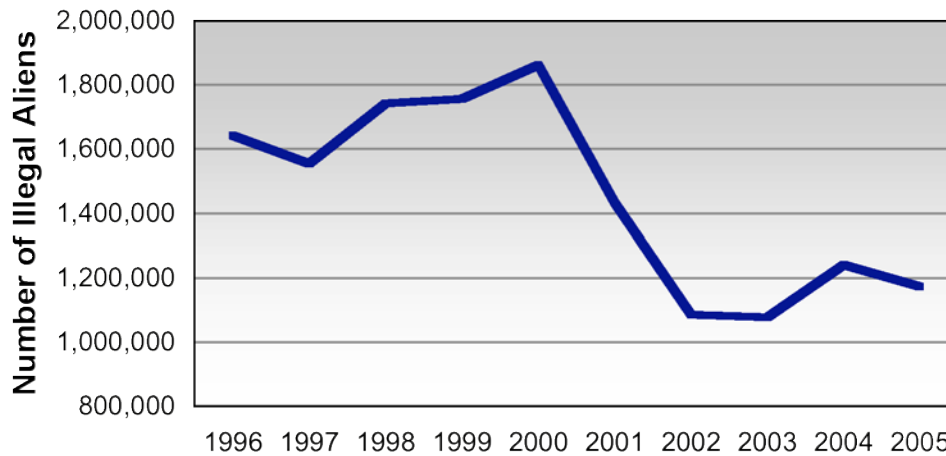
Total Apprehensions Are Down by 28%: After reaching a high of more than 1.81 million apprehensions in FY 2000 and averaging 1.68 million between FY 1996 and FY 2000, annual apprehensions fell to an average of 1.21 million between FY 2001 and FY 2005 (1.29 million in 2005).¹⁸ The newest data continues to belie the claims of the President’s National Border Patrol Strategy, which imply that both anti-terror and immigration enforcement missions can be performed without a significant drop in performance.

Total Apprehensions, FY 1996–2005



Total Expulsions Are Down by 30%: The number of illegal immigrants expelled[‡] from the US has declined by 30%—from an average of 1.72 million expulsions per year between fiscal years 1996 and 2000 to an average of 1.20 million apprehensions between FY 2001 and FY 2005 (1.17 million in 2005).¹⁹

Total Expulsions, FY 1996–2005



Apprehensions on the Southwest Border Are Down Significantly

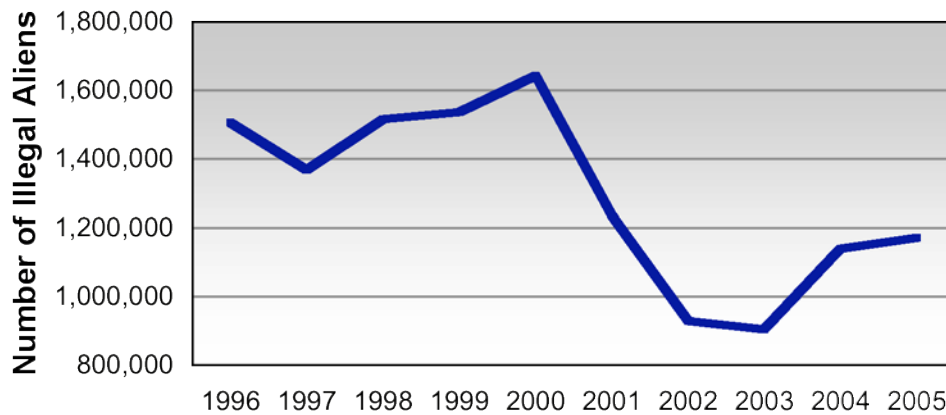
The Pew Hispanic Center reports that unauthorized migrants from Mexico and the rest of Latin America comprised nearly 80% of the unauthorized population in the US as of 2005.²⁰ Additionally, from 2000 through 2005, the number of unauthorized immigrants from Mexico increased by an estimated 1.5 million.²¹

Despite these figures, enforcement along the critical Southwest border has decreased during the first five years of the Bush Administration.

Southwest Border Apprehensions Are Down by 29%: The number of apprehensions at the southwest border has declined from an average of 1.52 million apprehensions per year between fiscal years 1996 and 2000 to an average of 1.08 million apprehensions between FY 2001 and FY 2005 (1.17 million in 2005).²²

[‡] The combined total of formal removals and voluntary departures

Southwest Border Apprehensions, FY 1996–2005



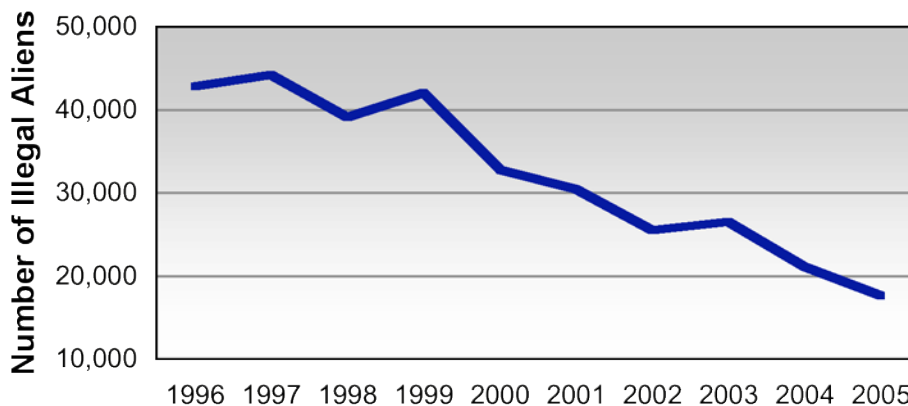
Border Enforcement Outside the Southwest Region is Rare and Declining

While the Southwest border remains the understandable focal point of enforcement activity due to its volume of activity, approximately 75% of the US entry points which CBP is responsible for patrolling are outside the Southwest. Border Patrol is responsible for the 2,000 mile Mexican border, the 4,000 mile Canadian border, and coastal borders near Florida and Puerto Rico comprising an additional 2,000 miles.²³

However, the relative decline in enforcement along non-Southwest border regions is even more drastic than along the Mexican border:

Border State Apprehensions Outside the Southwest Border are Almost Non-Existent and are Declining: The number of deportable aliens located in border areas outside the Southwest border has declined by 39%, from an average of 40,193 per year between fiscal years 1996 and 2000 to an average of 24,256 between fiscal years 2001 and 2005. Apprehensions reached a recent historic low of 17,680 in 2005.²⁴

Border Apprehensions (non-Southwest), FY 1996–2005



Apprehensions Inside our Borders Are Rare and Declining

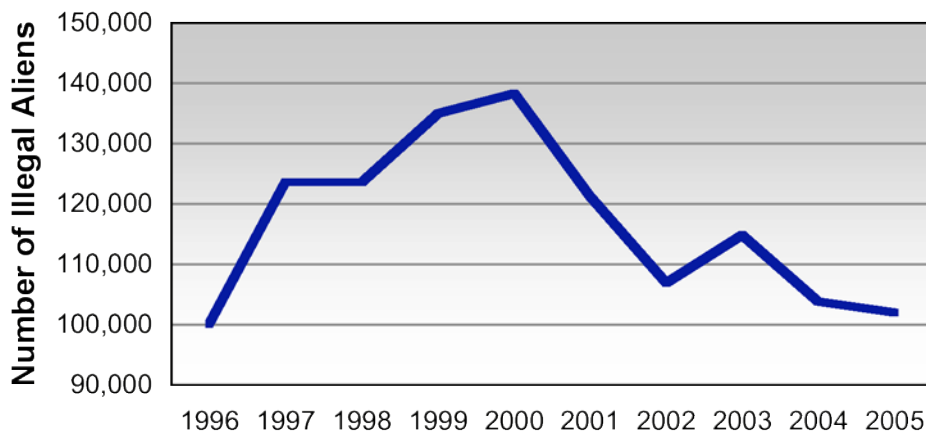
2007 GAO testimony estimated that 12 million illegal immigrants currently are in the US, an estimate shared by the Pew Hispanic Center²⁵ ICE handles most of the apprehensions that take place away from the border. However, despite the rising number of illegal immigrants within the nation, the number of deportable illegal aliens located away from the border has declined significantly during the Bush Administration.

This decline is notable in light of recent trends in illegal alien migration in states well beyond the Southwest border. The states that showed the greatest percentage increase of illegal aliens between 2000 and 2005 were concentrated in non-border states in the South and the Northern Plains—Mississippi, (149%), Tennessee (140%), Georgia (102%), Wyoming (100%), and South Dakota (80%).²⁶ Other states with illegal alien populations that grew by more than 50% include South Carolina (79%), Delaware (78%), New Mexico (65%), North Carolina (58%), and Maryland (51%).²⁷

Apprehensions Away from the Border are Declining: The number of deportable aliens located by ICE through investigations (predominantly away from borders) has declined by 12%—from an average of 124,131 per year between fiscal years 1996 and 2000 to an average of 109,794 between fiscal years 2001 and 2005 (102,034 in 2005).²⁸

This means it would take approximately 109 years⁵ to locate and deport the existing population of illegal aliens under the Bush Administration’s current rate of enforcement, even if not a single new illegal immigrant entered the country.

Non-Border Apprehensions, FY 1996–2005



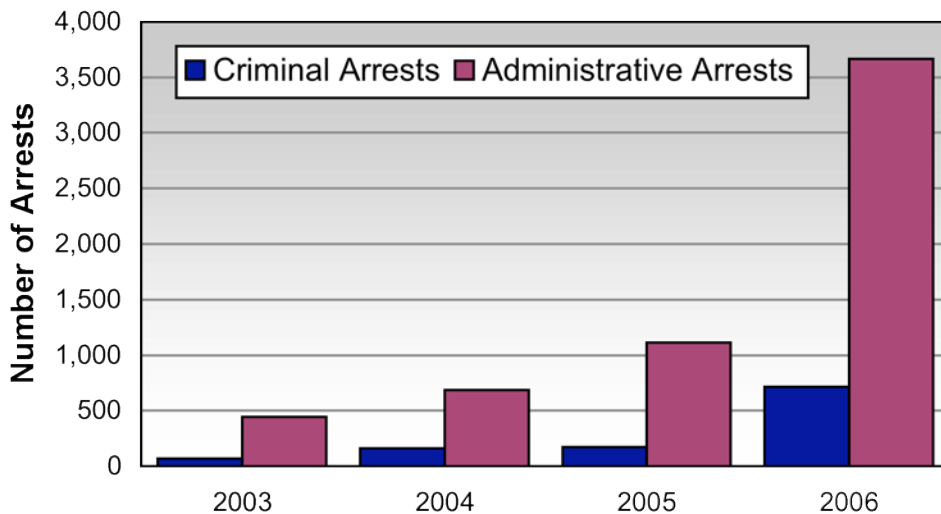
⁵ Last year we estimated that it would take 228 years to deport the existing population of existing aliens. This updated figure reflects a more accurate accounting measure of the rate of location and deportation rather than a more effective enforcement approach.

Most Worksite Enforcement Targets Aliens, Not Employers

As we reported last year, worksite enforcement is an area critically lacking in enforcement. In 1999, 417 employers received fines for employing illegal aliens—a number that dropped to three by 2004.²⁹ Indeed, in 2004, a person was more likely to be eaten by an alligator than to be prosecuted for hiring an illegal alien. Though comprehensive FY 2005 data on fines and all forms of worksite enforcement were not publicly available, the Bush Administration does appear to have improved on these enforcement numbers. Since its 2003 creation, ICE’s overall strategy in regards to worksite sanctions has shifted from a fine-based approach to a criminal approach which pursues prosecutions.³⁰ However, this approach has predominantly targeted the illegal alien worker rather than his or her employer.

84% of Worksite Arrests are of Illegal Aliens, Not Employers: Though the overall workforce arrest totals have increased from 517 in FY 2003 to 845 in FY 2004 to 1292 in FY 2005 to 4385 in FY 2006,³¹ a closer look at the data reveals that the vast majority of these worksite crackdowns have resulted in arrests of illegal alien workers rather than their employers. As ICE reports, “administrative immigration arrests generally refer to illegal alien workers who are unlawfully present in the United States.”³² Using this definition, a full 84% of the total worksite arrests from FY 2003 through FY 2006 have been administrative arrests of illegal alien workers.

Worksite Enforcement, FY 2003–2006



Separate from the issue of cracking down on the aliens and not the employers is the issue of magnitude. Illegal aliens comprise approximately 5% (approximately 7 million people) of the overall workforce of nearly 150 million, according to the Pew Hispanic Center.³³ As a result, even assuming the recent uptick in worksite arrests continues to trend upwards, the number of sanctions still pales in comparison to the size of the illegal immigrant worker population.

Conclusion

The latest data do not explain why the enforcement rate is so poor. It is possible that even though Congress has massively increased the number of border agents (from 4,876 in 1995 to 11,106 in 2005),³⁴ the Border Patrol's expanded mission to patrol the front lines against terrorism has led or contributed to the decline in enforcement of illegal aliens entering the nation.

But what is increasingly clear is that even if enforcement was maintained at the Clinton levels, the size of the illegal immigration problem is simply no match for an enforcement-only solution. It would take more than 100 years to deport all of the illegal immigrants already here, and that does not include any new people that are certain to show up.

Moreover, it is not clear that Americans particularly want massive deportations. In polling conducted for Third Way by the Benenson Strategies Group, 57% of likely voters said that illegal immigrants were "mostly good, hardworking people seeking to build a better life in America." 83% were willing to provide them a path to citizenship if they paid fines, continued to work, and learned English. And while 60% said that it would be a good goal to deport all illegal immigrants back to their home country, four out of five of these same voters said that it wouldn't be practical.³⁵

For reasons of practicality and reasons of public sentiment, this all adds up to the need for a comprehensive solution that does a better job of sealing our borders, goes after employers who willfully turn a blind eye to the law to lure illegal labor, and creates a sensible path to citizenship to address the 12 million illegal immigrants already here.

Anything short of a comprehensive approach has little chance of success, either at stemming the tide of illegal immigrants or satisfying public demand for real action on this problem.

Endnotes

¹ Third Way, "A Heck of a Job on Immigration Enforcement." May 2006. <http://www.third-way.com/products/38>.

² US Department of Homeland Security, Yearbook of Immigration Statistics, 2005. http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2005/OIS_2005_Yearbook.pdf.

³ Based on the average enforcement rate under Bush and the estimated 12 million illegal aliens currently in the U.S.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ US Department of Homeland Security, Immigration and Customs Enforcement, "Worksite Enforcement Fact Sheet." April 17, 2007. <http://www.ice.gov/pi/news/factsheets/worksite.htm>.

¹⁰ Jeffrey Passell. The Pew Hispanic Center, "The Size and Characteristics of the Unauthorized Migrant Population in the US." March 2006. <http://pewhispanic.org/reports/report.php?ReportID=61>.

¹¹ Ibid.

¹² An Immigrant Nation: United States Regulation of Immigration, 1978-1992, INS; <http://uscis.gov/graphics/aboutus/history/cover.htm>; Population Resource Center: US Immigration—a Legislative History; Federation for American Immigration Reform: US Immigration History

¹³ Passell.

¹⁴ Department of Homeland Security, Office of Immigration Statistics, "Border Apprehensions: 2005 Fact Sheet." http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_apprehensions_fs_2004.pdf.

¹⁵ Ibid.

¹⁶ National Border Patrol Strategy, Office of Border Patrol; http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/national_bp_strategy.ctt/national_bp_strategy.pdf.

¹⁷ Letter to Speaker Hastert and Majority Leader Frist from Governors Rick Perry of Texas, Janet Napolitano of Arizona, Arnold Schwarzenegger of California, and Bill Richardson of New Hampshire, August 25, 2006.

¹⁸ Yearbook of Immigration Statistics, 2005.

¹⁹ Ibid.

²⁰ Passell.

²¹ Ibid.

²² Yearbook of Immigration Statistics, 2005.

²³ Border Apprehensions: 2005 Fact Sheet.

²⁴ Yearbook of Immigration Statistics, 2005.

²⁵ Government Accountability Office, "Homeland Security: Management and Programmatic Challenges Facing the Department of Homeland Security." Testimony of David M. Walker before the House Homeland Security Committee, February 2007. <http://www.gao.gov/new.items/d07452t.pdf>.

²⁶ Steven Camarota. Center for Immigration Studies, "Immigrants at Mid-Decade: A Snapshot of America's Foreign-Born Population in 2005." December 2005: <http://www.cis.org/articles/2005/back1405.html>.

²⁷ Ibid.

²⁸ Yearbook of Immigration Statistics, 2005.

²⁹ David M. Walker GAO Testimony.

³⁰ Worksite Enforcement Fact Sheet.

³¹ Ibid.

³² Ibid.

³³ Passell.

³⁴ Syracuse University, Transactional Records Access Clearinghouse, "Border Patrol Expands But Growth Rate After 9/11 Much Less Than Before." <http://trac.syr.edu/immigration/reports/143/include/rep143table3.html>.

³⁵ Benenson Strategy Group poll of 1,236 likely voters, May 9-17, 2006.