



# HOW TO FIX A BROKEN BORDER: DISRUPTING SMUGGLING AT ITS SOURCE

PART II OF III

By Terry Goddard

FEBRUARY 2012

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### ABOUT PERSPECTIVES ON IMMIGRATION

The Immigration Policy Center's *Perspectives* are thoughtful narratives written by leading academics and researchers who bring a wide range of multi-disciplinary knowledge to the issue of immigration policy.

### ABOUT THE AUTHOR

**Terry Goddard** completed his second and final term as Arizona's Attorney General in January 2011 and has reentered the private practice of law. A native of Tucson, Arizona and graduate of Harvard College, he was first elected Arizona Attorney General in 2002. Over 8 years in office, he focused on protecting consumers and fighting the organized criminal activities of the drug cartels. He made significant progress in attacking cartel money laundering, seizing approximately \$20 million and culminating in an historic \$94 million settlement with Western Union in February, 2010. He received the Kelly-Wyman Award for 2010, the top recognition given by his fellow Attorneys General. Terry's first job out of ASU law school in 1976 was prosecuting corporate fraud. During his legal career, he has handled a wide variety of cases from a challenge to a federal highway route to election law matters before the state Supreme Court. Before law school, he served on active duty in the Navy, retiring as a commander after 27 years in the Reserves. Mr. Goddard is currently teaching at Columbia Law School in the Attorney General Project and a graduate course entitled "The Art of Public Decision Making" at Arizona State University School of Public Affairs. He has been selected a Wasserstein Fellow at Harvard Law School and is a Senior Fellow at the American Immigration Council. Terry lives in Phoenix with his wife Monica and teenage son.

### ABOUT THE IMMIGRATION POLICY CENTER

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## Introduction

Debates over immigration miss the critical border-security issues. Critics of current U.S. border strategies correctly point out that illegal drugs are still being smuggled across our southwestern border in wholesale quantity and that the flow of illegal border crossers, although reduced in recent years, is still significant. Until the border is “fixed,” they refuse to consider any immigration reforms. The Obama Administration takes the opposite tack, saying with great pride that it is creating a “21st Century Border”—one that is more secure now than it has ever been. Neither side in this debate seems interested in defining what a “secure border” means. And, without a definition, it is hard to say who is right or even what constitutes success or failure.

With all the overheated border-security rhetoric, it is commonly assumed that the problems on the border are basically simple and that they can be fixed the old-fashioned way with a greater infusion of money and manpower and maybe a better fence. The prevailing assumption is that all we need to stop illegal crossings of drugs, people, cash, and guns are more Border Patrol agents, more National Guard troops, and more surveillance and sensors to cover the hundreds of rugged miles between lawful ports of entry. The dispute is over how much is enough, with one side saying the current buildup has done the job and the other saying we need even more. Lost in this war of words is any understanding of the nature of modern-day smuggling.

***If this country wants to stop smuggling and not just present an obstacle to immigration reform, we must take a broader and more analytical approach to what motivates the smugglers...***

It is easy to be misled by focusing exclusively on the border as a physical barrier. Rather than being just a line in the desert sand, the southwest border is a complex, multidimensional interrelationship of immigration laws, cyberspace money transfers, and international business connections. Consequently, smugglers must understand and move easily in the multidimensional universe that is the border. Superbly organized, technologically adept, and very well funded, they can penetrate border defenses almost at will.

If this country wants to stop smuggling and not just present an obstacle to immigration reform, we must take a broader and more analytical approach to what motivates the smugglers—and the means by which they illegally move drugs, money, guns, and people in such large volumes with such impunity. Going after the contraband product or smuggled people, as this country has been doing for years, is destined to be an endless chase. The cartels will just regroup and continue operations, learning from their mistakes. If we are serious about stopping the threat on the border, we have to dismantle the criminal organizations that carry the contraband and take away the tools that make them so effective. Anything less will fail.

My perspective on border security and cartel procedures comes from a multitude of investigative reports and criminal prosecutions in Arizona over the past decade, while I served as the Arizona Attorney General. Although Arizona contains only 380 of the 2,000 border miles,

it is the entry point for over half of the people and drugs being smuggled into this country. My experience covers hundreds of different cases. In the process, I have gained a deep respect for the cartels' abilities, their sophistication, and their adaptability.

## The Truth about Border Violence

Given the hysteria about border security in much of the national media, many are surprised to find out how safe and even tranquil the border region of the United States is today. El Paso is the safest city of its size in the country. There has not been a murder in Nogales, Arizona, in years and other violent crimes are rare. Pat Castro, the wife of former Arizona Governor Raul Castro, told me with indignation, "What do they mean about violence? I walk my dog every night in sight of the border and no one bothers me." The murder of border rancher Rob Krantz was a tragic event, but the fact remains that his death was the only such tragedy in many years in one of the most robust smuggling corridors in the world.

***Cartels are not interested in power or violence for their own sake. They want to sell drugs or pirated videos or bootleg software—not create chaos.***

Politicians trying to fan outrage over the "broken border" fail to grasp that the cartels are not interested in power or violence for their own sake. They want to do business—to sell drugs or pirated videos or bootleg software—not create chaos. They will go to great lengths to protect their business interests, but they are opportunists, not terrorists. Violent confrontation in the United States is not in their best interest. Violence focuses U.S. public opinion and law-enforcement power against them, so they avoid confrontation in this country with iron discipline. Large loads of valuable drugs are abandoned rather than risk a fire fight with U.S. law enforcement. Instead of a range war against U.S. border defense personnel—a war the cartels are very well equipped to fight—their agents drop their guns and run when they are confronted. Faced with U.S. law-enforcement pressure, the cartels quickly shift ground, changing their points of entry, the size of their loads, the kinds of vehicles used, the time of day they move, and even the cargo being smuggled. Confrontation interferes with business, and business comes first.

## The Border Build-Up

Under the Bush Administration, and at an increasing rate under President Obama, the troops and technology in the stretches of the southern border between the ports of entry have grown substantially. The number of Border Patrol agents now stands at 21,000—twice what it was in 2003. The increase on the southwest border is even greater. New technology is continually being deployed. Portable ground radar units can (and do) spot jackrabbits as well as human border crossers. Vehicle X-ray machines the size of Good Humor trucks can scan a semi trailer in seconds and show if there are spaces to hide contraband. Aircraft are being deployed in increasing numbers, including unmanned aerial drones. Flying at night without lights at very

high altitude, the drones can spot virtually anything moving on the ground without being heard or seen.

Because much of this manpower and technology have been authorized to fight illegal immigration, it is assumed that would-be border crossers will be deterred simply by the size of our border operations. But, while this build-up may have deterred some border crossers, it has created a robust and profitable market for more sophisticated smuggling—one that the cartels have been only too ready to enter. As long as smuggling is profitable, there will be cartel smugglers ready, willing, and in most cases able to go over, under, around, and through whatever barriers are placed in their way.

I have seen over and over again how the cartels put sophisticated, military-grade hardware in the hands of highly proficient, specially trained operatives who are willing to take great risks for large profits. These agents are more innovative, more opportunistic, and more aggressive than the forces defending the border against them—and they have the advantage of being able to wait patiently until they can exploit the slightest opening. Technologically sophisticated, they can undermine, neutralize, or avoid whatever border defenders put in their way. Consequently, troops and technology alone will not stop the smuggling. The cartel agents can only be defeated by a completely new approach—one that is as flexible, opportunistic, and multi-dimensional as they are. The approach must target the cartel organizations themselves, not just the contraband they smuggle.

The challenge is by no means simple and the solution will take far more determination than has been applied so far. What will definitely not work are the simplistic one-dimensional answers that sound good on the evening news, but do little or nothing to stop the threat. The cartels don't care much about which product they sell, just their profits. To stop them, we must look at our defense the same way. They are opportunistic and highly flexible. For the border effort to succeed, there must be a national strategy that is as opportunistic and flexible as they are. We must stop compartmentalizing border objectives by illegal activity. Current agency efforts are focused on stopping particular kinds of contraband. A successful effort cannot be about immigration alone (ICE), or drugs alone (DEA), or guns alone (ATF). It must address, disrupt, and destroy the total business of the cartels. What also won't work is continuing the practice of committing some government agencies against the cartels while others stay uninvolved or actually work against our national interests. We will need a much better grasp of the problem and far better coordination of the defense effort than exist today.

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## Jumping La Linea

The movement of contraband, people, and drugs across the border is managed by drug cartels (or, more accurately, Transnational Criminal Organizations). These are dynamic, intensely competitive organizations, constantly shifting their territorial control and relative power. But for this analysis it is sufficient to see them as a unified threat. Whatever the cartel, Sinaloa or Gulf, Los Zetas or Tijuana, the organization, techniques, and technologies for crossing the border are similar. They all provide the coordination of effort, equipment, intelligence about law-enforcement activities, and security needed to move people and drugs through border defenses and into this country.

***Cartels don't want the movement of large numbers of people to draw attention to or interfere with the incredibly lucrative drug trade moving along the same physical routes into the United States.***

The cartels keep a sharp eye on border defenses, posting scouts on high points on both sides of the border. As survival experts, these men can stay on location for weeks if need be. Water and food are cached in the desert for them. They have powerful binoculars and solar-powered, secure communications devices. Every Border Patrol move along *La Linea* (the line, or the border) is observed and reported by these scouts.

When scouts report a break in Border Patrol coverage, smuggling teams are ready. The break may only last a few minutes, but that is enough. For instance, specially equipped pickups (extra shocks and cargo capacity) will be standing by south of the border, loaded with a ton or more of marijuana. One crossing method uses a special ramp mounted on a second truck. The ramp vehicle drives up to the border fence, drops a ramp extension from the bed, and hydraulically extends another over the cab, making an arch above the fence. The load truck drives up and over, across the border without touching the fence! The ramps are retracted and both vehicles leave the border. The whole process takes only a few minutes.

Most crossings are done at night without showing a light since the vehicles are equipped with military-grade night-vision equipment. The cargo trucks move quickly into the rugged canyons and are on their way for 40 to 80 bone-crushing miles to a highway and on to a drop house in Phoenix or beyond. If the break in Border Patrol defenses is short or pursuit likely, the truck can be quickly camouflaged and hidden in an arroyo for weeks. Scouts keep a close eye on the load until the coast is clear and it can be moved north.

Human smugglers (*coyotes*) use a similar technique. Their cargo usually consists of around 20 people, often called *pollos* ("chickens"), who have paid a small down payment on their passage fee in Mexico and promised to pay the rest when they have safely crossed the border and arrived at a drop house in Phoenix or another non-border location. Ten years ago that fee was around \$1,600. Today it is around \$3,500 and rising.

The *pollos* camp near the border, so when a break in Border Patrol defenses is reported, they can walk quickly across *La Linea* and into the rugged desert beyond. The *coyotes* move their cargo rapidly, staying in low areas as much as possible so the ground radar cannot pick them up. Sometimes the *pollos* carry 60-pound packs of marijuana as partial payment for their passage. Chemical stimulants help to hold off weariness, sometimes with tragic results. Depending on the crossing location, the walkers will come to a highway after a long day's hike or as many as three or four. The country is rugged and the heat can be deadly. Most travel is at night. Directed by the scouts stationed on the high points, the travelers take cover whenever the Border Patrol is getting close.

## Coyotes

There is a belief held by many that coyotes are modern-day Robin Hoods—that they take the poor workers under their protection, shepherding them across the border and the desert wastes to sanctuary in the United States, with little thought for themselves. If this manner of *coyote* ever existed, the species is extinct today. The cartels have moved into the human-smuggling business and taken it over. Why? First, they are much more effective against the built-up border defenses than any mom-and-pop operation. Second, the cartels don't want the movement of large numbers of people to draw attention to or interfere with the incredibly lucrative drug trade moving along the same physical routes into the United States. In the smuggling corridors, the controlling cartel schedules all northbound movement, human and drug. No independent involvement is allowed. Third, as border security has increased, the price for transportation has soared, making the trade in human beings very lucrative. The end result: Exit Robin Hood, enter highly organized, systematically brutal, and very efficient cartels.

## The Journey North

After crossing the border, the journey north is a grueling trek even for the athletic. In his book *Midnight on the Line*, Reuter's reporter Tim Gaynor recounts how two young, fit journalists attempted the crossing without *coyote* help.<sup>1</sup> They push on for just over a day and a half, find they are hopelessly lost, exhausted, hungry, and thirsty—and desperately signal to the Border Patrol to pick them up before they perish. The hardships of the journey are also well described in the 2006 teen novel *Crossing the Wire*, by Will Hobbs. The perils of passage through the desert and mountains, the villainous *coyote*, and the suffering of the drug mules are compellingly presented in this story of two boys trying to find work in *El Norte*.<sup>2</sup>

When a smuggled group reaches a highway or a major roadway, the criminal organization may have arranged for a vehicle to be parked and ready, keys in the ignition and the tank full of gas, for the run to a drop house. For other groups, carefully coordinated drivers arrive just in time to pick up the *pollos* as they come out of the scrub. Most times, the carry vehicle(s) will be accompanied by a scout car that goes ahead and looks for roadblocks or law enforcement. Usually, there will also be a heavily armed guard car to prevent hijacking. Besides law enforcement, gangs of robbers (*bajadores*) are watching for the *pollo* carry cars, ready to

swoop down and seize the cargo. The *bajadores* then collect the rest of the payment due, or raise the price and hold the *pollos* for ransom.

Since the business relationship between the *coyotes* and *pollos* is a one-time contact, payment must be quick and secure. For years, the preferred method has been wire transfer, which gives smugglers the choice of many pickup locations, instant cash, and few questions asked. They find a location where the clerk, for a fee, is willing to ignore federal reporting requirements or allow the pick-up agent to change identification and become a different person for reporting purposes whenever the \$10,000 federal reporting limit is approached.

## Money Drives the Show: Cartel Organization

Cartels are masters at contracting out. In the United States, cartels don't work through family or initiated members. Instead, they rely upon subcontractors—businesses which are either set up to serve the smugglers' needs or formerly legitimate operations that become providers to the cartels. Once a business starts working with the cartels, the criminal-related activity becomes its main customer base. While exclusive, the relationship is handsomely profitable, paying over the going rate for goods and services. This practice has been one, perhaps the only, consistent factor during the years I have worked on cartel-related investigations and prosecutions.

Contracting out creates misimpressions about the effectiveness of the law-enforcement response to smugglers. When a U.S. official holds a news conference proudly proclaiming the investigation of a "cartel" smuggling operation, the identification and arrest of the principals, and seizure of their assets, what this really means is that a business which contracts with the cartels for part of their operations has been identified and disrupted. That should be applauded, but in context. The elimination of one contractor, however satisfying, is by no means a blow to the criminal effort. There are certain to be other contractors operating on parallel tracks at each stage of the smuggling operation. Contractors are easily replaced. At worst, the smugglers experience some dislocation and must perform damage control.

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A good example of subcontracting is found in Operation River Walker, a 2008 prosecution resulting from a seven-month investigation into the Suarez-Fernandez Organization. The suspects arranged for the transportation of people from the border to drop houses in Phoenix. According to investigators, undocumented immigrants were charged about \$2,500 each to be smuggled into the United States. At the border, a "guide" or "walker" brought the smuggled people through the San Pedro River Riparian National Conservation Area. They were met by a "border organizer" who paid the different "sub-contractors" along the route—such as drivers, drop-house operators, bank-account holders, and load drivers—for their services. The Suarez-Fernandez Organization had set up this network over 10 years earlier. It facilitated the illegal



entry of over 8,000 persons per year into the United States, or at least 80,000 persons total. Operation River Walker took down an entire criminal enterprise, arresting not only the two coordinators, but all of the sub-contractors who made the business tick. It was a great success, but human smuggling continued in the same corridor.

Other prosecutions show how the cartels have been able to subvert formerly legitimate businesses. Seven travel agencies that catered to cartel customers were seized in Operation Fly by Night. These Arizona travel agents found it very profitable to provide tickets for lists of passengers, sight unseen, who were seeking air transportation from the McCarran International Airport in Las Vegas, one way to destinations in the deep South. Payment was usually in cash at over the list ticket price.

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In Operation Car War, 11 used-car lots in Phoenix were seized and the owners prosecuted for providing and storing used cars which transported *pollos* from the border. This investigation helped to answer the question of where were all the cars needed to transport thousands of people from the border. The answer: in plain sight, in the middle of town, on used car lots. It must have been perplexing for a would-be used car buyer at some Phoenix area car lots to find that none of the cars were for sale! A critical aspect of the scheme was that the lot operators, after selling their cars for cash to a *coyote*, placed phony liens on them. That way, when the Border Patrol or other law enforcement seized the cars, they were dutifully towed back to the "lien holder" car lot and the process started all over. The informant who broke this case was an inquisitive tow truck driver.

Operation En Fuego involved a large van transportation network that moved *pollos* from the border to Phoenix and on to 22 states. Operation Vaqueros went after a drug-trafficking organization responsible for moving large quantities of marijuana through southern Arizona, primarily in Cochise County. The organization employed advanced counter-surveillance, ramp trucks to overcome vehicle barriers at the border, and cleverly hidden vehicle compartments.

The use of technology in the smuggling of drugs has many variations. Specially constructed compartments welded into car bodies or attached to the undercarriage, hidden compartments in gas tanks where the gas smell will throw off drug-sniffing dogs, and other special modifications are common. In the case of Operation Driveshaft, drugs or money were hidden inside specially modified drive shafts of the defendants' vehicles. Even when dogs alerted on the vehicles, investigators failed to find the hidden compartment. During the execution of a warrant at the residence of a suspect, officers found three disassembled drive shafts. Two were packed with large quantities of cocaine. In another instance, officers stopped a southbound vehicle and found \$143,500 hidden within the drive shaft. In total, Operation Driveshaft led to the seizure of 36 pounds of cocaine, four pounds of heroin, 40 pounds of marijuana, and close to \$2.25 million in racketeering proceeds.

Operation Tumbleweed showed in detail how a sophisticated criminal operation could compromise border security. Equipped with radio towers set up in the desert to communicate, employing as many as 50 scouts scattered through the rugged border country to direct the operation, and using a mobile ramp to help vehicles hop the border fence, the Garibaldi-Lopez drug-trafficking organization was highly effective. It was beaten by the combined efforts of Phoenix police, the Pinal County Sheriff's Office, and the Arizona Department of Public Safety, along with federal agents. Linked to the Sinaloa cartel, the group smuggled over 400,000 pounds of marijuana per year into the United States from Mexico to stash houses in Phoenix to be sold across the U.S. Over its years in operation, the Garibaldi-Lopez organization smuggled over 2 million pounds of marijuana with a wholesale value estimated by agents to be \$1 billion.

The organization modified vehicles stolen in the United States to carry 2,000 to 2,500 pounds of bundled marijuana. Between one and four "load vehicles" were used for each cross-border shipment. The organization ran approximately one shipment per week. Each shipment occurred in two stages. The first stage transported bulk marijuana from the border into the remote country between Tucson and Phoenix. The organization allegedly loaded the vehicles in Sonoyta, Mexico, and crossed covertly into the U.S. through the Tohono O'Odham Nation. The movement of each load vehicle from Mexico to its final destination at a stash house in Phoenix involved no fewer than 20 people.

In indictments made public in December 2008, investigators describe the organization's movement through the desert as methodical. They went to great lengths to remain undetected, driving load vehicles through dry washes and dirt roads in barren parts of the desert. Drivers were outfitted with night-vision equipment to enable the vehicles to travel in the dark without any illumination. The load vehicles also carried tarps in the event they needed to stop and cover up so as not to be visible from the air. After being used, load vehicles were abandoned in Pinal County's Hidden Valley. The organization deployed scouts in the high ground of the U.S. desert to act as counter-surveillance against law enforcement. The scouts were outfitted with electronic equipment to communicate with the load trucks, advising the load drivers when to move. Scout coordinators dropped off food and supplies, enabling the scouts to stay in place for weeks at a time.

The second phase of the shipment involved transporting the marijuana into the Phoenix metro area. Once in Pinal County, the bulk loads were broken down into smaller loads. A separate group of drivers using inconspicuous SUVs and pickup trucks brought the marijuana into the Phoenix metro area, where it was turned over to the first-level customers who allegedly took their share to their respective stash houses. Payment for the marijuana was sent in bulk cash by car from Phoenix to Mexico. The load drivers from the first stage and the scouts from the desert would come to Phoenix to be paid, and then return to Mexico in a shuttle bus to prepare for the next load. When loads were not being moved, the scouts stayed in a compound in Pinal County, housing 10 to 15 scouts at a time awaiting redeployment.

Eerily reminiscent of Operation Tumbleweed was Operation Pipeline Express, completed with a flurry of arrests on October 31, 2011. Proclaimed as an “historic” blow to the Sinaloa cartel, the 17-month investigation claimed that it shut down an unnamed criminal organization which allegedly was smuggling \$33 million a month in drugs through the same deserts of western Arizona that were used by the Garibaldi-Lopez organization dismantled by Operation Tumbleweed. According to the Immigration and Customs Enforcement (ICE) press release, Operation Pipeline Express “dealt a significant blow to a Mexican criminal enterprise” and sent a “resounding message to the Mexican cartels that Arizona is off limits.”<sup>3</sup> As the *New York Times* reported, “the authorities acknowledged that the huge smuggling ring operated under their noses, in rugged terrain that is difficult to patrol.” The drugs were carried across the border, mostly in backpacks, and then transported to a network of stash houses in the Phoenix area. From there, the drugs were sold to distributors across the country. The route was through desolate desert in southern Arizona, including the Tohono O’odham Nation. Like the smugglers in Tumbleweed, spotters watched for out for law enforcement and diverted the loads if necessary.<sup>4</sup>

While this latest operation cites an impressively high level of interagency law-enforcement cooperation—federal, state, and local—the inflated rhetoric is identical to statements made less than three years earlier in announcing the conclusion of Operation Tumbleweed. Especially suspect is the claim that for the past five years the unnamed organization taken down in Pipeline Express exercised a “virtual monopoly” over the 80 miles of Arizona-Mexico border between Sells and Yuma. The clear implication is that authorities have stopped the only criminal smuggling operation in the corridor. However, it is impossible to reconcile this “virtual monopoly” language with the 2 million pounds of marijuana smuggled in the same corridor by the Garibaldi-Lopez group only a few years before.

***These large busts, while highly satisfying and good fodder for the media, do not end the criminal operations.***

Pipeline Express, perhaps inadvertently, makes one point with crystal clarity: There is no operator “monopoly” in the smuggling routes, but many parallel operations controlled by a cartel. These large busts, while highly satisfying and good fodder for the media, do not end the criminal operations. Even the impressive amount of drugs seized and persons arrested in Pipeline Express hardly makes a dent in the illegal traffic. Far from ending criminal activity in the area, the cartels go to school on operations like Tumbleweed and Pipeline Express, modify their procedures, and continue to push drugs and people across the border using parallel organizations in the same corridors. Matthew Allen, ICE’s special agent in charge for Arizona, commented that it was only a matter of time before either the Sinaloa cartel or another operation reclaims the area affected by the bust.<sup>5</sup>

It didn’t take long. Only hours after the news conference proclaiming how Pipeline Express broke up the alleged smuggling “monopoly,” Francisco Guillermo Morales Esquer, 36, was caught in Pinal County with more than \$1.5 million of heroin and methamphetamine. According to Pinal County Sheriff Paul Babeu, the Morales arrest is an example of the shape-shifting

nature of cartels. Babeu, in a news conference, opined that although Pipeline “struck a body blow” to the cartel, “they are still operating in robust fashion.”<sup>6</sup> Not much of a “body blow.”

Of course, another version of contracting out done by the cartels is their associations with organized street gangs in the United States. These criminal alliances have been identified by the Justice Department in over 200 U.S. cities.<sup>7</sup> Cartel representatives or agents are present in cities where alliances exist, primarily for observation and communication back to Mexico. The business on the street is conducted by local gang members. These very important criminal connections are for the local distribution of drugs and sale to the end user. I have not observed gang affiliations involved in the smuggling of drugs or people across the international border, so they are beyond the scope of this paper.

## **Bribery and Intimidation in the U.S.**

In the last few months of 2010, some particularly disturbing cases crossed my desk. Disturbing not for the large amount of drugs or number of people involved, but for the use of U.S. citizens and officials as part of the criminal scheme. Many in the United States believe that official corruption “can’t happen here”; that only in other countries do corrupt officials take bribes. Unfortunately, they are wrong. The cartels have been very successful using bribes and intimidation to turn officials in Mexico. It is beginning to happen in the U.S. as well. In one case, a legal assistant in the Cochise County Attorney’s Office was caught sending information to drug smugglers. She was not a high-level employee, but she had access to enough confidential information to provide the criminals with valuable tips on what was or was not being investigated. Another group smuggling drugs across the Tohono O’Odham Nation employed an Army National Guard member in uniform to keep vehicles from being searched.

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Over the years, there have been reported instances of federal officers in the Customs Service being bribed to look the other way when a load of contraband comes through their gate. The pressure on these officials is increasing as more contraband is funneled through the official ports of entry.<sup>8</sup> More recently, as reported by the *New York Times* in September, “authorities were reminded of how challenging the drug war had become when they arrested a Homeland Security official stationed at the border, charging him with leading the police on a chase through the desert during which he hurled packages of marijuana from his government vehicle.” In October, “a federal grand jury in Tucson handed up an indictment charging a Border Patrol agent with accepting a bribe to let a truck that he believed was smuggling drugs and migrants past a checkpoint in southern Arizona.”<sup>9</sup>

This past May, three employees of America’s self-proclaimed toughest sheriff were arrested in a drug and human trafficking case. Maricopa County Sheriff Joe Arpaio said a deputy and two female detention officers at the sheriff’s largest jail facility were among 12 people taken into

custody and accused of being in a Phoenix-based international drug-smuggling ring.<sup>10</sup> They were alleged to have worked with members of the Sinaloa cartel to bring more than five pounds of heroin into the Phoenix metropolitan area every week. The deputy, Alfredo Navarrette, was a member of the sheriff's human-smuggling unit. One of the detention officers, Marcella Hernandez, told authorities that she was eight-months pregnant with the child of Francisco Arce-Torres, the alleged drug ring's leader, who court documents said is a member of the Sinaloa cartel. The county Attorney's Office made plea bargain offers to 19 defendants in the case, saying that the proposed sentences ranged from probation to "substantial prison terms."<sup>11</sup> The investigation and filed charges show that even the most overtly anti-smuggling agency can be infiltrated.

Cartel recruitment of American high-school students is on the rise as well.<sup>12</sup> Children provide cover and, if caught, are punished less severely than adults. Economic distress along the border makes the offers by the cartel agents especially enticing to teens. Anti-racketeering funds are being successfully used to reduce the number of vulnerable youth on the border. The Santa Cruz Sheriff's Office received \$50,000 in December 2010 for their anti-gang initiative, to be used jointly with the Nogales Boys and Girls Club. At the same time, the Yuma County Sheriff's Office was granted \$25,000 for a similar program.

## **Why the Wall Won't Work**

One can't help but hear support for a border wall, including—most notably—from Arizona Sen. John McCain. It is a recurring theme on talk radio. According to some advocates, the wall is supposed to keep "drug cartels, violent gangs, an estimated 20 million illegal aliens, and even terrorists" out of the country.<sup>13</sup> These grand claims, made on an officially sanctioned State of Arizona web site, might be funny—just another Arizona diversion for late-night comics—were not border security so serious. Not many contributors have been misled, so far. In over six months of solicitation for private funds, the official effort had raised only \$191,675 as of January 15, 2012.

From a law-enforcement, public-security perspective, the wall distracts this country from serious efforts to fight border crime. It could potentially divert a staggering amount of public resources to a construction project that does nothing of consequence to stop smugglers. It is naive to think that any physical structure today could even slow down the smuggling efforts of the drug cartels with their superb organizations, advanced technology, and vast resources.

***...The wall distracts this country from serious efforts to fight border crime.***

The cartels have the capacity to go over, under, around, and even through virtually any physical barrier. Janet Napolitano once memorably observed that, "for every 50 foot wall, there is a 51 foot ladder."<sup>14</sup> Walls can be defeated by tunneling; the ground under Nogales, Arizona is honeycombed with known tunnels and no one thinks they have all been found. A wall can be flown over, and already the drug smugglers' vehicle of choice is an ultra-light aircraft. The most imposing sections of the wall in Nogales, made of metal landing mats, can be cut through with high-temperature plasma cutting torches in seconds. The Border Patrol has had to weld so

many patches over the holes that the wall there looks more like a patchwork quilt than a barrier. According to the Government Accountability Office (GAO), “during fiscal year 2010, there were 4,037 documented and repaired breaches” of border fencing.<sup>15</sup> Besides, no wall on earth could have stopped half of the people who are illegally in the U.S. today because they crossed with valid papers through a port of entry and overstayed their visas.<sup>16</sup>

Constructing any part of the wall wastes valuable time and resources. Worse, like a modern version of the Maginot Line, it provides a false sense of security, the illusion that we are doing something to remedy border problems. This is no time to get distracted by building the wall or any other diversion.

## Targeted Enforcement

The U.S. should be putting all available resources, public and private, where they will be most effective: into fighting the drug cartels. An effective border defense must be intelligence driven and multi-level. We have seen how the cartels can use their information systems and secure communications to pick out and exploit the slightest hole in border defense. It is almost impossible to stop such sophisticated smugglers at the border. They will usually get across. Therefore, smuggling routes must be monitored deep into this country. Information from wire taps, informants, and thousands of discrete sources on both sides of the border must be gathered, synthesized, and analyzed. Sophisticated intelligence analysis can do more to protect the border than any wall.

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But most important of all, border-enforcement efforts must target the cartel organizations. It is these organizations which make it possible to elude detection using sophisticated technology, advanced communications, and real-time intelligence—along with the dual persuaders of threats and rewards. The cartels and their legion of subcontractors are the real criminal threat; not the migrants who hope to find work or join their families in the United States. Arresting thousands of *pollos* is a huge waste of resources. They or others like them will continue to attempt illegal entry, making the cartels even stronger with their passage fees. Pouring even more money and manpower into enforcement on the border will have little impact as long as the criminal organizations remain intact.

Whatever makes the cartel organizations strong must be attacked. Their communication systems must be cracked, jammed, and shut down. Their leaders must be identified, arrested, and incarcerated. Most important, the illegal flow of funds across the border into cartel pockets must be disrupted, interrupted, and stopped. Money is at the heart of all criminal organizations and this country has hardly lifted a finger to stop over \$40 billion a year in cartel funds pouring across the border.<sup>17</sup> International banks, wire transfer companies, stored value instrument issuers, and many import-export businesses are involved or complicit in the illegal movement of

funds. The physical border is irrelevant to the flow of money; it is the virtual border in cyberspace and currency exchanges that must be defended. Unless the Department of the Treasury becomes a full participant in the effort to stop the cartels by cutting off the illegal transfer of funds, there is little hope of success.

Our country has the law-enforcement expertise for what is needed. The mystery is why it has not yet been fully engaged. Why has there not been the kind of full-scale, all-out assault that was directed at the Mafia? So far, we see token and isolated gestures. The seizure of contraband, however impressive, does little to disrupt the cartel businesses. The round ups of “illegals” make headlines and pad agency budgets while the criminal organizations quietly regroup and keep breaking our laws.

Critical time is wasting. Few think that the courageous Mexican initiative against the cartels will be continued at the current level after the Calderón Administration ends in less than a year. This is the time for a maximum effort against the cartels. Only when the smuggling organizations are dismembered will border defense efforts be equal to the threat. Only then can it truthfully be said that the border is “secure.”

## Endnotes

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<sup>1</sup> Tim Gaynor, *Midnight on the Line: The Secret Life of the U.S.-Mexico Border* (New York, NY: St. Martin's Press, 2009), chap. 2.

<sup>2</sup> Will Hobbs, *Crossing the Wire* (New York, NY: HarperCollins, 2006).

<sup>3</sup> U.S. Immigration and Customs Enforcement, [“Multi-agency probe deals death blow to ‘billion dollar’ drug ring,”](#) October 31, 2011.

<sup>4</sup> Marc Lacey, [“76 Arrested as Officials Break Up Mexico-to-Arizona Drug-Smuggling Ring,”](#) *New York Times*, October 31, 2011.

<sup>5</sup> Fox News Latino, [“Arizona Busts Billion Dollar Drug Ring Tied To Mexican Cartels,”](#) November 1, 2011.

<sup>6</sup> Lindsey Collom and Dennis Wagner, [“Mexico drug-cartel suspect arrested again in Arizona,”](#) *Tucson Citizen*, November 2, 2011.

<sup>7</sup> U.S. Department of Justice, National Drug Intelligence Center, *National Drug Threat Assessment 2010*, 2010-Q0317-001, February 2010: [“Drug Trafficking by Criminal Gangs.”](#)

<sup>8</sup> Tim Gaynor, *Midnight on the Line: The Secret Life of the U.S.-Mexico Border* (New York, NY: St. Martin's Press, 2009), chap. 9.

<sup>9</sup> Marc Lacey, [“76 Arrested as Officials Break Up Mexico-to-Arizona Drug-Smuggling Ring,”](#) *New York Times*, October 31, 2011.

<sup>10</sup> Bob Christie, [“Arpaio deputy faces human smuggling charges,”](#) Associated Press, May 25, 2011.

<sup>11</sup> JJ Hensley, [“3 MCSO workers offered plea bargains,”](#) *The Arizona Republic*, September 9, 2011.

<sup>12</sup> Nick Valencia, [“Mexican drug cartels recruiting teens, Texas officials say,”](#) CNN, October 14, 2011.

<sup>13</sup> See the State of Arizona's [“Build the Border Fence”](#) website.

<sup>14</sup> Marc Lacey, [“Arizona Officials, Fed Up With U.S. Efforts, Seek Donations to Build Border Fence,”](#) *New York Times*, July 19, 2011.

<sup>15</sup> U.S. Government Accountability Office, [Border Security: DHS Progress and Challenges in Securing the U.S. Southwest and Northern Borders](#), GAO-11-508T, March 30, 2011, p. 9.

<sup>16</sup> Pew Hispanic Center, [Modes of Entry for the Unauthorized Migrant Population](#) (Washington, DC: May 22, 2006).

<sup>17</sup> This estimate is derived from U.S. Department of Justice, National Drug Intelligence Center, [2009 National Drug Threat Assessment](#), December 2008, p. 49, and United Nations Office on Drugs and Crime, [The Globalization of Crime: A Transnational Organized Crime Threat Assessment](#), 2010, p. 65.