



Asking for Trust, Evading Verification

A Chronology of Border Patrol and DHS Positions on Border Security Metrics

By Jerry Kammer

In a March 26 breakfast meeting with Washington reporters, Homeland Security Secretary Janet Napolitano said Congress should not include border security metrics as a prerequisite or “trigger” in immigration reform legislation to grant legal status to about 11 million people living in the country illegally.

“Relying on one thing as a so-called trigger is not the way to go”, Napolitano said. “There needs to be certainty in the bill so that people know when they can legalize and then when a pathway to citizenship ... would open up.”

Napolitano repeated an assurance that she had issued many times before: “We’re confident that the border is as secure as it’s ever been.”¹

Explaining why DHS had not fulfilled its long-standing promise to develop metrics for border security, she said, “That is a very — it turns out — a very difficult thing to do in any kind of statistically significant way.”

Five days before that breakfast meeting, the *New York Times* provided political context for the story. It reported that Obama administration officials “said ... that they had resisted producing a single measure to assess the border because the president did not want any hurdles placed on the pathway to eventual citizenship for immigrants in the country illegally.”²

The administration’s admitted stonewalling was the most direct evidence of its retreat from its previous pledges of commitment to rigorous standards of accountability at the border.

Two years earlier, Secretary Napolitano had called for a new, more rigorous border security standard to replace the standard of “operational control”, which had been in place since 2004. Napolitano disavowed “operational control”, calling it “an archaic term”.

She said she wanted a standard that would “comprehensively measure security along the Southwest border and the quality of life in the region.” Calling the new tool “the border security index”, she said it would play a vital role in border management.³

“The cost of defining success at the border is critical to how we move forward”, she told the Senate Committee on Homeland Security and Governmental Affairs. “It must be based on reliable, validated numbers and processes. It must tell the complete and transparent statistical story.”

The new term, the secretary said, would provide “a more quantitative and qualitative way to reflect what actually is occurring at the border.”

Jerry Kammer, a senior research fellow at CIS, won many awards in his 30 years as a journalist. In 2006 he received a Pulitzer Prize and the George Polk Award for his work in helping uncover the bribery scandal whose central figure was Rep. Randy “Duke” Cunningham. His work in Mexico for the Arizona Republic was honored with the 1989 Robert F. Kennedy Award for humanitarian journalism.

Two years after Napolitano called for development of the new standard, it remains undelivered. DHS officials said in official correspondence and in congressional testimony that its due date was November 30 of this year.

Just as the 2011 retreat from “operational control” had drawn criticism from congressional critics who said the metric was providing evidence of the Border Patrol’s inability to control the border, the failure to deliver the new border index had also been criticized.

On April 10, in a terse exchange with Sen. John McCain (R-Ariz.) at a Senate hearing, Border Patrol chief Michael Fisher indicated a change of course, saying that metrics were emerging.⁴

Asked McCain, “And we’re using them.”

Responded Fisher, “We’re just starting to.”

Fisher provided this explanation of the purpose of the metrics: “We want to know how many people come across the border and of that number, how many people do we either apprehend or turn back?”

McCain asked, “So have you developed the metrics and the standards or not?”

“Well, it is in the final stages of development, senator. I can tell you that”, Fisher replied.

The significance of Fisher’s disclosure was difficult to ascertain. The Border Patrol has long counted not only apprehensions and “turn backs” but also “got-aways” — people whose illegal entry into the United States was detected, but who escaped into the interior of the country.

What follows is a chronological account of Border Patrol and DHS positions on border metrics.

The Chronology: 2004 to 2013

October 2004 — Customs and Border Protection Commissioner Robert Bonner, speaking at the dedication of a new Border Patrol academy in Artesia, N.M., declares: “The Border Patrol has a clear strategic goal: to establish operational control of the border of the United States. All of our efforts must be focused on this goal.”⁵

March 2005 — Commission Bonner tells a House subcommittee on homeland security: “As a sovereign nation, it has always been important that we control our borders. In light of the terrorist attacks of September 11 and the continuing threat posed to our country by international terrorists, it is now absolutely essential that we do so. And it is likewise essential that we have a coherent and understood strategy for doing so. We are developing a new Border Patrol strategy designed to achieve the goal of operational control of the United States borders.”⁶

March 2005 — The *Arizona Daily Star* reports that Commissioner Bonner employed the term “operational control” repeatedly at a press conference, where he declared his determination to stop illegal crossings in Arizona’s borderlands west of Nogales, an area sometimes called the West Desert Corridor. “We will shut down — and I mean shut down — the West Desert Corridor”, Bonner said.⁷

May 2006 — Border Patrol chief David Aguilar, testifying at a hearing of the House Armed Services Committee, says the Border Patrol is pursuing “a two-year bridge to what we are calling a five-year plan” to establish operational control of the border. Asked if this would mean an end to illegal crossings, Aguilar responds: “Will it be 100 percent? No. We will always have people crossing the border. But operational control of the border will get us to the point to where we’re able to detect any illegal incursion, be able to resolve it within the appropriate time in order to make the interdiction or deter or turn that incursion back across from where it came That is what the definition of operational control of the border is.”⁸

October 2006 — Homeland Security Secretary Michael Chertoff, a point man for the Bush administration’s push for immigration reform, says a temporary worker program would help “diminish some of that pressure at the border and let our enforcement agents focus on the criminals and drug dealers and other people in that state of mind.”⁹

June 2007 — Demographer Jeffrey Passell of the Pew Hispanic Center says that, of March 2006, there were 11.5 million unauthorized migrants living in the United States. He says that over the previous 15 years, the annual growth of the unauthorized population has been about 500,000.¹⁰

May 2009 — Testifying at a Senate hearing, Border Patrol chief David Aguilar says:

We are far better off now than we have ever been with respect to border security. I am confident that with our increased staffing, more tactical infrastructure, and integrated technology improvements, we have established a solid anchor for gaining, maintaining, and expanding operational control of our borders We continuously assess our progress and how we can improve it.

*But, clearly, what is now in place has absolutely provided a great benefit to our mission. In the Yuma sector, for example, our apprehension rate has plummeted from over 138,000 apprehensions that we made in 2005 to just over 8,000 in 2008. And that number continues to drop. Nationwide, we have seen a decrease from about 1.2 million apprehensions in 2005 to 723,000 in 2008.*¹¹

May 2009 — Sen. Charles E. “Chuck” Schumer (R-N.Y.): “It’s important for the American people to know that all of these measures to secure our border were enacted with the approval of the vast majority of Congress and supported by the three of us here in a bipartisan way. Those of us who support immigration reform have shown our commitment to tough and serious border enforcement. You can’t have one without the other, in my opinion. But for years now, the opponents of immigration reform have continually promised that they’ll engage in conversation about immigration reform once Congress showed it was serious about securing the border. ... So it’s time to end the divisive and unhelpful rhetoric that claims that nothing has been done to secure the border. It’s time to reengage in the long-promised yet long-delayed conversation about how to best reform our immigrations — broken immigration system. ... Many people have said secure the border first, and that’s what we’re in good process doing. So it’s now time for balanced, fair, and tough immigration reform.”¹²

February 2011 — The Government Accountability Office submits a report to Congress that states: “Border Patrol reported achieving varying levels of operational control for 873 of the nearly 2,000 southwest border miles at the end of fiscal year 2010. ... Border Patrol sector officials assessed the miles under operational control using factors such as the numbers of illegal entries and apprehensions and relative risk. CBP attributed the increase to additional infrastructure, technology, and personnel.”¹³

The GAO also reports: “DHS plans to improve the quality of border security measures by developing new measures with a more quantitative methodology. CBP is developing a new methodology and measures for border security, which CBP expects to be in place by fiscal year 2012.”

February 9, 2011 — DHS Secretary Napolitano fends off criticism that less than half the U.S.-Mexican border has been found to be under operational control. She dismisses the metric as “a very narrow term of art” that “does not reflect the infrastructure and technology and all the other things that happen at the border, and so it should not be used as a substitute for an overall border strategy.”¹⁴

February 15, 2011 — The GAO’s Richard Stana tells a House committee that there are two subcategories of “operational control”. Says Stana: “The measure of miles under operational control does not mean that illegal entries are detected and interdicted at the immediate border. Of the 873 miles reported under operational control, about 129 of them, or about 15 percent, were classified as controlled, which means the Border Patrol resources were available to either detect, deter, or apprehend illegal entries at the immediate border. The remaining 85 percent of the miles were considered as managed in that apprehension could take place sometimes a hundred miles or more away from the border or not at all.”¹⁵

Stana also criticizes the Border Patrol’s decision in late 2010 to measure its performance by reporting the number of apprehensions. He compares it to a baseball statistic that shows “just the number of hits” without the number of at-bats. He defends the Border Patrol’s previous use of “operational control” as a border metric. “I didn’t think miles under operational control is a bad measure,” he says. “It wasn’t perfect. But if you looked at how they developed it and, you know, some of the controls for reliability and data that they put into it, again, not perfect, but it was something that was easy to understand. You had a numerator, and you had a denominator.”

Stana discusses the practical meaning of Border Patrol metric's: "[T]he Border Patrol's definition of operational control does not require agents to apprehend each and every illegal entry. For example, although Yuma is classified as having 100 percent operational control, about 10 percent of the entries are classified as got-aways. These are people that were never apprehended."

Stana adds this about the Border Patrol's practice of counting illegal entries and corresponding arrest rates:

For the 1,120 miles not reported to be under operational control, the Border Patrol said it was likely to detect about — but not apprehend — in about two-thirds of the miles and in one-third of those miles does not have the capability consistently to detect at all.

February 15, 2011 — At the same House hearing, Border Patrol chief Michael Fisher responds to a question about when the Border Patrol would deliver the new border-security metric ordered by Secretary Napolitano:

As soon as we feel comfortable that — that they'd represent what we believe that — you know, one of the things that we don't want to do, Madam Chair — and this is certainly something I've looked at — is, you know, how we do this and just beyond just the definition and beyond the words. We recognize that the words that we use mean something. And so, we want to make sure that we have a full understanding of, not just what we think they mean, but — but as it gets rolled out, both in terms of the committees and the American people, that we have a better sense. And it's not necessarily coming up with new metrics as much as it is understanding how those metrics apply in today's border environment. ... [Is it important to determine] [h]ow many of those individuals were apprehended just one additional time? And how many of those individual were apprehended between five and 10 times? That, to me, starts really understanding what is it that we're trying to affect as opposed to just looking at a metric outside of the broader context. So it's not new, necessarily, metrics, although we explore those as well. It's how we even further define — I mean, understand what these metrics mean to us now in this different border environment. But as soon as we're able to, we'll — certainly, I'll be talking with you and your staff to be able to get a sense of does this make sense.¹⁶

February 17, 2011 — The Chairman of the House Judiciary Committee, Lamar Smith (R-Texas), responds to the GAO report: "It is outrageous that DHS officials would make claims that the border is secure when according to the non-partisan Government Accountability Office, the Border Patrol has 'operational control' over less than half of the Southwest border. Forty-four percent is a failing grade. Administration officials are either blissfully unaware of the massive holes in security along the Southern border or are intentionally misleading the American people."¹⁷

March 15, 2011 — Rep. Henry Cuellar (D-Texas) expresses frustration to Border Patrol chief Fisher about the Border Patrol's explanation of its lack of clear metrics. Says Cuellar, "I met with you, I've talked to your staff, and we still have no idea what you're talking about, with all due respect."¹⁸

May 8, 2012 — A GAO report criticizes the Border Patrol's decision to disavow "operational control" as a metric and instead report apprehensions. It reports: "DHS transitioned at the end of fiscal year 2010 from using operational control as its goal and outcome measure for border security to using an interim measure." GAO says use of this measure "limits oversight and accountability and has reduced information provided to Congress and the public on program results."¹⁹

November 27, 2012 — DHS responds to a GAO recommendation that it establish performance goals that define how it will measure border security. Writes James H. Crumacker: "DHS fully appreciates the importance and need of having measurable goals to assess progress in the area of border security." Crumacker estimates that DHS will complete preparation of the metrics by November 30, 2013.²⁰

February 26, 2013 — Rep Cuellar says at a House hearing: "I also feel that the border is secured. Do we need to do more? Yes. ... But we've got to come to an agreement as to what measures. Otherwise, Democrats are going to say it's secure, Republicans saying it's not going to be, and we're never going to get it."²¹

March 14, 2013 — Sen. John McCain, at a hearing of the Committee on Homeland Security and Government Affairs: "We need to have a measurement, probably an effectiveness rate, so that we can assure the American people that we have about 90 percent effective control of the border and take steps that are necessary to achieve that."²²

April 4, 2013 — The *Los Angeles Times* discloses that internal Customs and Border Protection records show that Border Patrol agents apprehended fewer than half of the illegal border crossers into a portion of the Arizona border with Mexico. The

Times reports that between last October 1 and January 7 agents used a new system of airborne radar to detect 1,874 people in the borderlands west of Nogales. But an additional 1,962 people avoided arrest and disappeared into the United States after being spotted by the radar, the paper reports.

The area referred to in the *Times* story is a portion of Arizona's West Desert Corridor, the area that CBP Commissioner Robert Bonner in 2005 vowed to "shut down". (see above).²³

April 5, 2013 — Reacting to the *Los Angeles Times* story, the chairman of the House Homeland Security Committee calls on the Obama administration to provide data to support its claims that the Southwest border is more secure than ever.

"These revelations are in stark contrast to the administration's declaration that the border is more secure than ever due to greater resources having been deployed to the region, and that lower rates of apprehensions signify fewer individuals are crossing," writes Rep. Michael McCaul (R-Texas).²⁴

April 9, 2013 — Rep. Candice Miller (R-Mich.), chair of the Subcommittee on Border and Maritime Security announces legislation to require that DHS develop a border security strategy and the means to measure its effectiveness. Says Miller, "We need a strategy to get us to a place where we can be confident that the overwhelming majority of illegal crossers are apprehended, as well as drugs and other contraband interdicted."²⁵

End Notes

¹ Transcript of *Christian Science Monitor* breakfast, March 26, 2013. See also "[Napolitano: Border Security Trigger 'Not The Way To Go' In Immigration Reform](#)", Talking Points Memo, March 26, 2011.

² Julia Preston, "[Officials Concede Failures on Gauging Border Security](#)", *The New York Times*, March 21, 2013.

³ Napolitano testimony at hearing of the Senate Committee on Homeland Security and Governmental Affairs, hearing on "[Securing the Border: Progress at the Federal Level](#)", May 4, 2011.

⁴ [Hearing of the Senate Committee on Homeland Security and Governmental Affairs](#), April 10, 2013.

⁵ [Remarks by Robert C. Bonner](#), Dedication of U.S. Border Patrol Academy, Artesia, N.M., October 21, 2004.

⁶ [Statement of Robert C. Bonner](#) to House Appropriations Committee, Subcommittee on Homeland Security, March 15, 2005.

⁷ Michael Marizco, "Patrol seeks border 'operational control'", *Arizona Daily Star*, March 31, 2005.

⁸ Aguilar testimony to the House Armed Services Committee, hearing on the National Guard and Border Security, May 24, 2006.

⁹ Transcript of Chertoff news conference on the fiscal year 2006 enforcement numbers, October 30, 2006.

¹⁰ Author's notes from presentation by Jeffrey Passell at OECD Working Party on Migration, June 13-14, 2007.

¹¹ [Aguilar testimony](#) to Subcommittee on Immigration, Refugees, and Border Security, hearing on "Securing the Borders and America's Points of Entry, What Remains to Be Done", May 20, 2009.

¹² *Ibid.*

¹³ "[Preliminary Observations on Border Control Measures for the Southwest Border](#)", GAO-11-374T, February 15, 2011.

- ¹⁴ [Napolitano testimony](#) to the House Committee on Homeland Security, hearing on “Understanding the Homeland Threat Landscape — Considerations for the 112th Congress”, February 9, 2011.
- ¹⁵ [Stana testimony](#) to House Committee on Homeland Security, Subcommittee on Border and Maritime Security, hearing on securing borders, February 15, 2011.
- ¹⁶ *Ibid.*
- ¹⁷ [Rep. Smith’s response](#) to GAO Border Security Report: “44 Percent is a Failing Grade”, February 17, 2011.
- ¹⁸ Rep. Cuellar at [hearing on Border Security, House Committee on Homeland Security, Subcommittee on Border and Maritime Security, March 15, 2011](#).
- ¹⁹ “[Border Patrol Strategy: Progress and Challenges in Implementation and Assessment Efforts](#)”, GAO-12-688T, May 8, 2012.
- ²⁰ Jim H. Crumacker, letter responding to draft of report GAO-13-25: “[Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs](#)”. Letter is included in the report, which is dated December 2012.
- ²¹ [Rep. Cuellar at House Committee on Homeland Security, Subcommittee on Border and Maritime Security, on border security, February 26, 2013](#).
- ²² [Sen. McCain at Senate Committee on Homeland Security and Governmental Affairs, hearing on border security, March 14, 2013](#).
- ²³ Brian Bennett, “[Radar Shows U.S. Border Security Gaps](#)”, the *Los Angeles Times*, April 3, 2013.
- ²⁴ Brian Bennett, “[Obama Administration Pressed for Border Data](#)”, the *Los Angeles Times*, April 5, 2013.
- ²⁵ Miller press release, “[Miller, McCaul, Cornyn Introduce Legislation to Secure America’s Borders](#)”, April 9, 2013.