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Prevention Through "Deterrence": How the United States Border Patrol Uses Violent Rhetoric and Policy to Engage in Necropolitics

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Prevention Through “Deterrence”:

How the United States Border Patrol Uses Violent Rhetoric and Policy to Engage
in Necropolitics

Senior Project Submitted to
The Division of Social Studies
of Bard College

by
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To my amazing, brilliant, wacky family, thank you for your unyielding love and encouragement. Daddy, special thanks to you for being on call for the last four days (and always). I couldn't have done this without you. All is well.

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Introduction

“Honor first.”

-The United States Border Patrol motto

I am and have always been an American citizen. I am so far removed from the consequences of Border Patrol policy in my personal life that two years ago when I was packing the night before driving from Connecticut to Montreal with a group of friends for New Years and realized my passport was expired, I made a photocopy of my birth certificate, double checked I had my driver's license, and promised my mom that if customs didn't let me back in the U.S. I would call her so she could enlist Senator Richard “Dick” Blumenthal's help. Immigration policy does not endanger me. However, it does engage me.

There was one line in my notebook from Miles Rodriguez's class last semester, Migrants and Refugees in the Americas, that inspired this project. I wrote, “‘humanitarian crisis’ - Obama. Response implied opposite.” My main goal when I started researching was to make sense of the logistics of that specific situation (the 2014 response to an increase in violence south of the U.S.-Mexico border forcing high numbers of unaccompanied minors to flee to the U.S. and Mexico), but also to ask how the government can use terms like “humanitarian crisis” and have it not only lead to a negative outcome, but also have a completely different meaning than the one I am accustomed to and how the response defines the problem. My project evolved as I focused more on the theoretical side of that question. How can the United States Border Patrol claim innocence for the harm caused by policy that they wrote and have continued to implement? The

aim in writing this was to expose the reality of what Border Patrol has been doing to border crossers, and to find a way of defining it that differed from traditional analyses. To do that I asked the following questions. What is the nature of deterrence as Border Patrol uses it on the U.S.-Mexico border? How does language function in this process? What is the consequence of the policy? Lastly, how does the Border Patrol claim innocence, when the policy they are implementing leads to humanitarian crises and death?

Professor Rodriguez's class was not my first influence. I remember watching an ad in grayscale and sepia tone about immigration in my current events class in middle school (early on in Obama's presidency). The production style was similar to that of 80's anti-drug campaigns. The video featured a woman driving a car, a young boy in the back seat, and a white police officer pulling her over for a speeding ticket. The child looked over the back seat at the officer arresting his mother. Then a wide shot of the car and fade out. I remember that being my first impression of immigration and feeling anger and confusion.

I grew up in a family that constantly discusses the inner workings of political systems and how they either do or do not align with the values my older relatives hold. I always found it difficult to use reason to draw a line between policy and the emotional impact it has on us, and discovered a while ago that it was because there are people behind the policy whose motives and intentions are not always clear. In writing this project I believe I found a way to find that clarity by tracing a line from policy to human impact and identifying the places along the path where there have been attempts to obscure it.

The United States is comprised of multiple regions each with its respective border. The one I focus on is the Southwest border region, otherwise known as the “southern” border, or the U.S.-Mexico border.¹ The timeline of this project focuses on strategies implemented in the early to mid 1990s, with their effects cited to present. I will use specific language when referencing different actors. I refer to individuals who intend to, have already, or are in the process of entering the United States from the U.S.-Mexico border as “border crossers,” and to personnel monitoring the border as Border Patrol or the Border Patrol. The border crossers come predominantly from Central America and Mexico - specifically Honduras, Mexico, El Salvador, Guatemala, Belize, Nicaragua, and Costa Rica - but also include migrants from other areas in Latin America. The Department of Homeland Security includes the U.S. Customs and Border Protection (CPB) which is a federal agency that oversees the Border Patrol.

Chapter 1: El Paso

On Sunday, September 19, 1993, Border Patrol was stationed along the El Paso sector of the border, facing south.² It was a change that shocked the region, which had been used to freedom of movement across the border. It was a shock along the border at every level. Blockades might be commonplace in 2019, but the practice up until 1993 in El Paso had been

¹ U.S. General Accounting Agency. “Illegal Immigration: Southwest Border Strategy Results Inconclusive; More Evaluation Needed.” *Report to the Committee on the Judiciary, U.S. Senate and the Committee on the Judiciary, House of Representatives*. Page 6. Accessed April 29, 2019. <https://www.gao.gov/assets/230/224958.pdf>

² Brinkley, Joel. “A Rare Success at the Border Brought Scant Official Praise.” *The New York Times*. Sept. 14, 1994. Accessed April 29, 2019. <https://www.nytimes.com/1994/09/14/us/a-rare-success-at-the-border-brought-scant-official-praise.html>

Border Patrol agents driving around the city looking for suspected border crossers,³ targeting residents based on their skin tone. Interior apprehension had been used up to that point, which usually ended with someone hopping a fence and Border Patrol chasing after them. The most immediate response to the new protocol was from Mexican nationals. It was immediately clear that the heavy presence on the bridge communicated something hurtful and threatening to the public. Whereas working with locals to come up with strategies to reduce illegal border crossings might foster communication and united effort, placing U.S. Border Patrol enforcement personnel between Mexico and the U.S. told them, “this conversation only goes one way.” Within days, hundreds of people had joined a protest that “closed the Paso del Norte bridge and [they] confronted Border Patrol.”⁴ Like other cities along the border between the United States and Mexico, El Paso was home to a multi-ethnic population and was occupied by U.S. Border Patrol agents who often created a tense and disruptive atmosphere in their interactions with community members. However, the city, which in 1993 had a population of 561,842 residents⁵, was the site of a unique set of circumstances that led to the events of that day in September.

In the years leading up to 1993, and likely for some time after, a number of El Paso’s residents filed lawsuits and human rights violation claims against the Border Patrol. To assuage the public, the former Immigration and Naturalization Service (INS)⁶ replaced Chief Musegades,

³ I will use the term border crossers to refer to everyone who attempts to cross the U.S.–Mexico border, most frequently meaning migrants and refugees.

⁴ Garcia, Maria. "Special Report Part 3: Operation Blockade Creates Tension, Leads to Illegal Crossings in Desert." KVIA. January 16, 2014. Accessed April 20, 2019. <https://www.kvia.com/news/special-report-part-3-operation-blockade-creates-tension-leads-to-illegal-crossings-in-desert/55670185>.

⁵ United States Census Bureau

⁶ At the time, INS was in charge of border operations, but ceased to exist in 2003 as part of the post-9/11 government reorganization that included the creation of the Department of Homeland Security. U.S. Citizenship and Immigration Services (USCIS), U.S. Immigration and Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP) are now responsible for the former INS’s responsibilities.

who was at that point steeped in notoriety, with Mexican-American Border Patrol agent Silvestre Reyes as chief of the El Paso sector.⁷ Shortly after his assignment, Reyes introduced Operation Blockade.⁸ With the agency facing pressure from the public to limit their engagement with locals, the main concern was removing the incentive for that engagement: the assumption that there was a large population of “illegals” in the city who resembled a significant portion of the “legal” population. Reyes’ plan would reduce that likelihood by keeping border crossers out in the first place. He also had to find a way to prevent the then-understaffed Border Patrol from chasing border crossers through the city and questioning residents on their immigration status, which created, and continued despite, problems like *Murillo v. Musegades*.

Murillo v. Musegades was a court case in which Mexican-American high school students, graduates, and staff at Bowie High School in El Paso filed a lawsuit against the Border Patrol for what they considered to be discriminatory and abusive treatment. The story reached a broader audience than had other scandals surrounding Musegades, likely because the showdown was between one of the lowest-income neighborhoods in the country and the might of the U.S. Border Patrol. Musegades and multiple unnamed Border Patrol agents were accused and found guilty of discrimination based on accounts of unlawful search and seizure, failure to make people who they stopped or detained aware of their rights, discriminatory and abusive treatment of plaintiffs (“representative plaintiff”)⁹ and excessive presence on and interference with the school campus and surrounding area. Among the claims made in the affidavits were stories of physical

⁷ There are twenty sectors along the U.S.-Mexico border.

⁸ It was originally called Operation Blockade. Weeks after its implementation and backlash it was changed to “Operation Hold The Line” in an attempt to improve public perception, however I will continue to refer to it as Operation Blockade to avoid confusion.

⁹ The plaintiffs in the case represented other individuals “similarly situated”: ie. of Hispanic descent who worked, went to school, or resided and/or travelled in the Bowie High School school district.

and verbal abuse; pointing a gun at the head of a coach driving several students to a game; evidence of individual agents repeatedly targeting the same student by stopping him regularly, sometimes weekly, and driving by his home while yelling profanities and spitting out the window at him; entering a locker room at the school; driving a patrol vehicle on campus curbs, grass, sidewalks and sports fields; using binoculars to watch flag girls practicing on campus; and interrogating and detaining for several hours students en route to school.¹⁰ Statistics were not available to supplement the case because Border Patrol did not keep track of the residents who they interacted with in the aforementioned capacity. The Bowie students and staff won their lawsuit and the court order required Border Patrol to cease the practice of targeting people based on the color of their skin.

Reyes

As a border control strategy, prevention through deterrence (PTD) was born in McAllen, Texas and grew up in El Paso. It was a combination of acute circumstances and a military-veteran-turned-Border-Patrol agent's creative problem-solving abilities. Different sources tell different accounts of Reyes: that he was a visionary who single-handedly revolutionized border security, that he left his superiors in the lurch, or that he was self-serving and only cared about his sector knowing that implementing his strategy would put pressure on other areas of the border where blockades were not being used. Others knew him casually as "that fella in El Paso who figured it out." When he was stationed in McAllen, Texas, Reyes noticed large numbers of people hopping the border and Border Patrol ineffectively chasing after

¹⁰ "Murillo v. Musegades, 809 F. Supp. 487." *Justia US Law*. Dec. 4, 1992. Accessed April 29, 2019. <https://law.justia.com/cases/federal/district-courts/FSupp/809/487/1455969/>

them, and thought, “what if we stop them before they get here?” Insufficient funding and personnel to constantly station hundreds of officers along the border caused the operation to shut down a few weeks after its implementation, but Reyes was given a second chance in El Paso.

Reyes’ plan was to place guards along densely populated areas of the border in something between a show of force reminiscent of pre-war military operations and a police car stationed at a busy interstate. The move was widely criticised by people who were paramilitary-minded for putting agents in high-visibility areas where they were more vulnerable to attacks, and by people who were from a human rights background/perspective for deterring at-risk border crossers from accessing populated areas with resources and pushing them out into dangerous terrain.

Sometimes the two arguments converged, as in the case of the former INS district director, who had overseen the launch of Operation Blockade, Mark Reed’s comments to the LA Times. Reed said of the change, ““What we did is we took away safe passage and it became more difficult to get across. Instead of taking a bus to the border, it cost a lot of money and you paid a smuggler... Instead of a single man making his way up, now you brought the whole family up and you stayed. That didn’t work out too well for us. Now we really created a mess.””¹¹ The message the blockade sent was also a mess, as Larry Francis, who was the mayor of El Paso in 1993, pointed out, ““... people in Mexico weren’t sure that we weren’t telling them ‘none of you are welcome.’”

¹² INS supported the plan despite criticism, taking the new numbers coming out of El Paso to mean it was a success. If it had been implemented fully all along the border at the start, it might

¹¹ Carcamo, Cindy. “Border wall built in 1990s cut illegal immigration, but it also brought problems for small town.” *L.A. Times*. March 9, 2018.

<https://www.latimes.com/local/california/la-me-jacumba-border-fence-20180309-htm1story.html>

¹² Garcia, Maria. "Special Report Part 3: Operation Blockade Creates Tension, Leads to Illegal Crossings in Desert." *KVIA*. January 16, 2014. Accessed April 20, 2019.

<https://www.kvia.com/news/special-report-part-3-operation-blockade-creates-tension-leads-to-illegal-crossings-in-desert/55670185>.

have made a difference overall, but as it stood Operation Blockade turned out to be a slap in the face to everyone south of the border who thought they were part of a multinational community, and something to scoff at for many of the people who regularly crossed the border in the area. There were fewer arrests in the city, but they had simply moved the problem laterally. In reality, border crossers, “many of whom were locals from Ciudad Juarez simply commuting to work in Texas, went to the edge of town where the fence magically disappeared and agents were few and far between.”¹³ Other sectors along the border soon adopted similar strategies and the miracle solution in El Paso became national strategy.

Jason De León is a joint faculty member in the Department of Anthropology and Chicana/o Studies at UCLA.¹⁴ In *The Land of Open Graves: Living and Dying on the Migrant Trail*, he attempts to bring us closer to “the realness” of the deaths and disappearances of border crossers. He argues that Operation Blockade was not a success for “public relations,” as Jason De León argued, but it was considered a success for Border Patrol. Apprehensions declined in El Paso, but it did not improve relations between U.S. and Mexican nationals. Dr. Josiah Heyman Dr. Heyman, director of the Center for InterAmerican and Border Studies at the University of Texas at El Paso (UTEP), has written on topics of immigration and border politics ranging from corruption among the ranks of immigration enforcement agencies like CBP and ICE to what a completely new system of border enforcement would look like. Dr. Heyman called Operation Blockade, ““a tactical success but a strategic failure... It strategically just shifted them into desert areas, mountain areas, and into the hands of smugglers.””¹⁵ Funneling border crossers into

¹³ De León p. 6.

¹⁴ De León, Jason. “Faculty profile.” *UCLA Anthropology*. 2019. <https://anthro.ucla.edu/faculty/jason-de-león>
<https://anthro.ucla.edu/faculty/jason-de-león>

¹⁵ Garcia, Maria. "Special Report Part 3: Operation Blockade Creates Tension, Leads to Illegal Crossings in Desert." KVIA. January 16, 2014. Accessed April 20, 2019.

vulnerable positions is a key element of PTD and will be discussed in detail below, but is not the only tactic in the Border Patrol's new strategic toolkit.

DTD

It can be difficult to distinguish what is and is not deterrence. Immigration strategy includes deterrence, but not exclusively. Methods of controlling immigration include impermeable barriers, quotas, and raids and round-ups. These methods do without saying. They make it impossible for immigrants to enter or stay in the country. Deterrence policies can look similar, but instead say, "Don't do it, it won't end well." The cornerstones of PTD are communication and manipulation. An acronym to help remember what deterrence is is DTD. The latter Ds stand for dissemination, desolation, deprivation, and detention. CBP disseminates information to the public south of the border, Border Patrol creates conditions in order to isolate (desolate) and deprive¹⁶ border crossers, and through detention creates conditions for surrender. PTD says, "If you choose to do this thing that we have intentionally made more difficult, you and the people you love might suffer." To that end, programs like BORSTAR, the Border Patrol Search, Trauma, and Rescue Unit,¹⁷ created in 1998 in response to the growing number of injuries to Border Patrol agents and migrant deaths along the borders,¹⁸ which trains border

<https://www.kvia.com/news/special-report-part-3-operation-blockade-creates-tension-leads-to-illegal-crossings-in-desert/55670185>.

¹⁶ Of life-sustaining resources.

¹⁷ "BORSTAR provides specialized law enforcement, search and rescue response from conventional to high-risk Border Patrol Operations, Federal Emergency Management Agency (FEMA) mission assignments, national search and rescue operations, national special security events and specialized training support directed by the Department of Homeland Security (DHS) for both domestic and foreign government agencies." Located in El Paso, Texas. Created in 1998.

¹⁸ U.S. Customs and Border Protection. "Border Patrol Search, Trauma, and Rescue (BORSTAR)." *Department of Homeland Security*. March 2014.

<https://www.cbp.gov/sites/default/files/documents/Border%20Patrol%20Search%2C%20Trauma%2C%20and%20Rescue.pdf>

agents in first aid and advanced search and rescue techniques, feels out of place. It makes more sense when you learn that it is “the only national law enforcement search and rescue entity with the capability to conduct tactical medical, search and rescue training for Federal, state, local and international government agencies.”¹⁹ It serves PTD for people to die and go missing in the desert, or drown in the Rio Grande, for families to mourn, for women to be raped and assaulted. The tragedy of their remains and in their testimonies are useful.

The flaw in the system is that they are only mimicking the factors that make people attempt to cross the border in the first place. The short list of ongoing threats to Latin American nationals is: femicide, extortion, gang violence, forced gang activity, sexual assault and rape, domestic violence, and environmental disasters, all of which are incentives to attempt to migrate to or seek asylum in another country. Survivors often choose the U.S. after exhausting other options.²⁰

PTD looks like a wall that extends the length of a metropolitan area and out into a sparsely or unpopulated area, then stops. It is meant to manipulate crossings by “funneling” people into dangerous regions in which they are likely to suffer harm, ostensibly in the hope that they decide to turn back. It looks like media campaigns telling people about what people who do follow that wall until it ends unceremoniously in the middle of the desert and leaves them there. The wall does what border patrol cannot be seen doing: pick up potential border crossers, drop them off in the middle of nowhere, and drive away. It looks like family separation. While deportations have been tearing families apart for decades, they most often target people already situated in the U.S. and often result in the deported individual attempting re-entry to reunite with

¹⁹ U.S. Customs and Border Protection. “Border Patrol Search, Trauma, and Rescue (BORSTAR).”

²⁰ People who suffer violence or threats of violence often attempt to hide in another country or another part of their home country, and only leave when they are detected. UNHCR report.

family still in the U.S. Family separation is has a different aim, more in line with deterrence through detention. It happens mainly to people who were only recently apprehended while or after crossing the border. The alleged goal is to enforce pre-existing laws by detaining border crossers until their court date, and follows a trend from George W. Bush's presidency that saw assembly line court cases in which a judge would try multiple defendants at once.

Dissemination

Blockades are not the only form of deterrence the U.S. uses. Another strategy borrowed from wartime is government-funded propaganda. There have been two key years for dissemination, 2009 and 2014.

In 2009, Pablo Izquierdo, “who runs the advertising agency in Washington that produced the ads... produced several *Migracorridos*, or ‘immigration ballads.’”²¹ Under former Commissioner of U.S. Customs and Border Protection (CBP), Gil Kerlikowske, the CBP launched the “Dangers Awareness Campaign” in 2014. They funded the production of songs, ads, and billboards to be aired and posted in El Salvador, Honduras, Guatemala, and Mexico.²² The purpose of the million-dollar mixed media project was to disseminate information in Central America about the dangers of attempting to cross the border using illegal methods, including coyotes and trains, in the hopes of deterring people, “especially families with children,” from attempting the journey to the U.S.²³ The composition and the lyrics are at odds. An upbeat song

²¹ Hamilton, Valerie. “How the US is trying to deter migrants from Central America - with music.” *Public Radio International*. July 17, 2014, 10:45 p.m. EDT. Accessed April 20, 2019.

²² Hamilton, Valerie. “How the US is trying to deter migrants from Central America - with music.” *Public Radio International*. July 17, 2014, 10:45 p.m. EDT. Accessed April 20, 2019.

<https://www.pri.org/stories/2014-07-17/how-marimba-beat-helping-us-border-patrol-deter-migrants-coming-border>

²³ Ibid

features the lyrics, “‘*La Bestia del sur le llama, maldito tren de la muerte,*’ which translates to, ‘They call it The Beast, damn train of death.’” The campaigns have not had the effect they were expected to. Doris Meissner, former commissioner for INS, stated, “‘The research that we do know about is that people are very aware of the dangers, but they make the decision to try.’”

The media campaign is evidence that the Border Patrol was committed to communicating with potential border crossers. They were not laying a trap and seeking out victims. They genuinely wanted to ebb the flow of border crossers. It is the least harmful of the deterrence tactics. That being said, if it had worked, it would have convinced people to stay in one dangerous situation rather than enter another dangerous situation. Its harmlessness is mostly due to its inefficacy. Considering how heavily the U.S. relies on deterrence on its southern border, its implementation methods are shoddy. Deterrence is, as I will argue later, the only true deterrence strategy in PTD, and it is not even included in the policy that references the other tactics. In addition to million-dollar media campaigns are signs like the tiny one De León noticed “on the wall of the men’s bathroom [of the Juan Bosco migrant shelter in Nogales] that had been produced by the U.S. Department of Homeland Security. In spanish the flier warned, ‘The next time you try to cross the border without documents you could end up a victim of the desert.’ This line was accompanied by a pathetic cartoon drawing of a cactus.”²⁴ De León follows his description with two shrewd observations. First, it was one of the few times he had seen “a warning sign produced by the U.S. government in a Mexican shelter.” Second, “the wording of the pamphlet personified the desert as a perpetrator of violence targeting migrants.”²⁵ This point is seen again and again in policy, which I will also go into in a later section.

²⁴ De León, Jason, *Land of Open Graves*, Introduction. p 29.

²⁵ *Ibid.*

Unfortunately, issuing cryptic warnings is not the only tactic Border Patrol employs. Their treatment of people who do not heed those warnings shatters the confidence the non-aggressive tactic inspires.

Desolation and Deprivation

Desolation and deprivation are the most actively harmful tactics. They force us to consider whether, on either an institutional or an individual level, Border Patrol prefers that border crossers die rather than enter the U.S. The remains of missing persons are sometimes and sometimes not uncovered intentionally by police and volunteers, or unintentionally by passers-by; the persons to whom they belonged are thought to have been funneled into the desert by Border Patrol through PTD. What is clear is that on an institutional level, the language distances Border Patrol from deaths resulting from their tactics, and they use that distance to absolve themselves of responsibility, possibly even of personal guilt. To understand these two tactics, we need to be familiar with the environment of the borderlands.

The border between the U.S. and Mexico extends 1,951 miles east to west.²⁶ Where the U.S. meets Mexico, California borders Baja California, Arizona borders Sonora, New Mexico borders Chihuahua, and Texas borders Chihuahua, Coahuila, Tamaulipas, and a very small portion of Nuevo León. These regions make up the Borderlands. Elapsing state boundaries are vast stretches of desert, and topographical features such as mountains and rivers that overlay the borders on the map. The Sonoran Desert covers 100,387 square miles of arid land in “southwestern Arizona and southeastern California, U.S., and including much of the Mexican

²⁶ Bush, George W. “Quick Facts About the U.S.-Mexican Border.” *The White House*. <https://georgewbush-whitehouse.archives.gov/infocus/usmxborder/quickfacts.html>

state of Baja California Sur, part of Baja California state, and the western half of the state of Sonora.” Traversing the desert is dangerous for many reasons. Temperatures during the day can surpass 100 degrees Fahrenheit.²⁷ Among its population of harmless inhabitants are predatory and poisonous animals including mountain lions, coyotes, tarantulas, scorpions, lizards and snakes.²⁸ Even people who intentionally venture into the desert for short trips, prepared for the harsh conditions they might face, they are still at the mercy of the elements. When De León went with a group and a guide into the desert to recover remains, he described the relentless heat and sun exposure that left him with blisters covering every inch of exposed skin. Within the Sonoran Desert alone there are ample opportunities for harm without ever coming into contact with another person. That is its strength. It allows Border Patrol to stop border crossers without direct contact. By as early as 1926, Border Patrol acknowledged the environment’s power to derail border crossing efforts, but even then it was not an entirely new concept. Both De León and Martinez cite the 1886 Chinese Exclusion Acts as the first mention of the benefits of environmental in border-related policy. De León also addresses the connection between these earlier strategies and the Border Patrol’s strategy in the 1990s, “As one federal agent testified in 1926, the goal of border enforcement was to ‘at least make attempts to cross the border dangerous and hold illegal entry down to small proportions.’”²⁹ Deadly terrain as an ally of the state is addressed in “1994 and Beyond” and was taken further with walls and fencing throughout the early 2000s with more extensive barrier wall and fence building projects. Steps toward aggressive methods of PTD included increasing train speeds. Oscar Martinez, author of

²⁷ National Park Service. “Sonoran Desert Network Ecosystems.” *NPS*. Last updated Nov. 7, 2018. <https://www.nps.gov/im/sodn/ecosystems.htm>

²⁸ The Editors of Encyclopaedia Britannica. “Sonoran Desert.” *Encyclopedia Britannica*. Accessed April 20, 2019. <https://www.britannica.com/place/Sonoran-Desert>

²⁹ De León p. 32.

The Beast, wrote about “La Bestia,” a cargo train that runs north through Mexico and until recently was a popular method of transportation for border crossers. Personification of land along the border is crucial because it reveals that the U.S. sought an ally to combat border crossings. The source below, taken from a 1997 Government Accountability Office report on immigration reveals that crossings and crossers are one and the same:

Appendix V Indicators for Measuring the Effectiveness of the Strategy to Deter Illegal Entry Along the Southwest Border		
Indicator	Source of data	Predicted outcome if AG's strategy is successful
Use of public services in U.S. border cities.	State and local sources. Hospitals, local school districts, local welfare departments.	A decrease in public service usage in border cities.
Deaths of aliens attempting entry.	County death records. Death records in Mexico. University of Houston Center for Immigration Research reports (1996, 1997).	Depends on how enforcement resources are allocated. In some cases, deaths may be reduced or prevented (by fencing along highways, for example). In other cases, deaths may increase (as enforcement in urban areas forces aliens to attempt mountain or desert crossings) .
Assaults against INS agents.	INS statistics.	A higher incidence of violence against INS agents as crossing efforts of illegal aliens are frustrated.
Abuses of aliens by INS officers.	DOJ. Advocacy groups.	May vary, depending on type of enforcement effort.

Desolation might sound like a minor effort compared to deprivation, which manifests as starvation, thirst, and death or injury from treatable injuries or illnesses. However, it is an essential part of PTD in its own right, and adds an element of contradiction that surpasses ignorance and ventures into sinister territory. By that I mean it is entirely possible that the people responsible for the genesis of PTD in the mid-1990s believed it would be effective. Their

methods of shows of force and dissemination campaigns followed the general model of deterrence: fear of apprehension equals fewer attempted crossings. Constructing a wall that abruptly ends in the middle of a desert for no legitimate purpose, like ones that skip over roads, rivers, and property lines, does not send a message to anyone except the person who is trying to cross it. It is not a warning, it is a redirecting tactic that has been proven effective only in causing the deaths and disappearances of thousands of people since its construction.

“[T]he USBP began erecting a barrier known as the ‘primary fence’ directly on the border in 1990 to deter illegal entries and drug smuggling in its San Diego sector. The San Diego fence formed part of the USBP’s ‘Prevention Through Deterrence’ strategy, which called for reducing unauthorized migration by placing agents and resources directly on the border along population centers in order to deter would-be migrants from entering the country. The San Diego primary fence was completed in 1993, covering the first 14 miles of the border from the Pacific Ocean. The fence was constructed of 10-foot-high welded steel army surplus landing mats with the assistance of the Corps of Engineers and the California National Guard. In addition to the 14 miles of primary fencing erected in its San Diego sector, the USBP maintains stretches of primary fencing in several other sectors along the southwest border, including Campo, CA; Yuma, AZ; Nogales, AZ; Naco, AZ; Douglas, AZ; and El Paso, TX.”

Chase and Scatter

“Chase and scatter” is a tactic in which the Border Patrol chases border crossers using whatever means have an access point, be it ATVs, helicopters, SUVs, or horses. Sometimes they have to follow on foot. They frequently employ dogs, guns, tasers, and battery equipment. The goal is to catch border crossers. The reality is scaring border crossers so that they act recklessly,

running too fast over rocky terrain, which greatly increases their risk of injury and death. The chase is often deadly.³⁰

Deprivation has perhaps the most startling effect because it is more often a result of desolation, which is the direct consequence of policy. We cannot draw a line from policy to deprivation without first establishing conditions for desolation. Border Patrol does not have a policy that directly causes deprivation, but it is implied that desolation will cause deprivation. The agency insists it does not condone abuse of border crossers, but the agency is made up of individuals who have evidently made it unofficial only in writing to do harm to border crossers. James Tomscheck, who was fired in 2014 from his position as Border Patrol internal affairs chief, depicted the agency as a corrupt group of individuals who had not been properly vetted, were highly corruptible, and neglected to hold each other accountable for misconduct.³¹

Detention

“They should help facilitate the asylum process so that one doesn't suffer in detention centers. They shouldn't be causing more harm.” - Alexa from El Salvador³²

“It is better to be free and to die by a bullet than to suffer and die slowly in a cage.”
-Anonymous Mexican woman³³

Detention is unpleasant at its best. Its worst depends on whom you ask. If you asked Connie, as Oscar Martinez did, she would tell you it was the “worst memory since she arrived” in Chiapas. She had been working in Huixtla at a dive when “migration”³⁴ detained her. She said

³⁰

<https://www.theguardian.com/world/ng-interactive/2014/aug/13/-sp-border-crisis-texas-ranchers-brooks-county-smugglers-deaths>

³¹ Johnson, Carrie. “Former Border Protection Insider Alleges Corruption.” NPR. Last updated August 28, 2014.

<https://www.npr.org/2014/08/28/343748572/former-border-protection-insider-alleges-corruption-distortion-in-agency>

³² UNHCR, *Women on the Run Report* (2015) p. 47, available at <https://www.unhcr.org/en-us/56fc31864.pdf#zoom=95>

³³ *Ibid.*, p. 47.

³⁴ Border Patrol

of the experience, ““They put me in prison. I was so nervous I got sick. I got depressed. I’d never been in a place like that, with so many people crammed together. I was the only woman in the cell. There were so many men. And I got harassed all the time. The guy in charge of the migration unit told me that if I slept with him, he’d let me go.””³⁵ Due to the recent changes in detention procedures, even for people who have not heard about the men who harassed Connie in prison, it is becoming increasingly difficult to believe that Border Patrol cares about the wellbeing of border crossers. For border crossers, that has always been the case. Institutional distrust is prevalent in Mexico. Many of the stories Martinez recounts in his book mention that the police were working with traffickers and kidnappers. Smugglers lie about what will happen to people. They lie to parents. A woman desperate to hear from her son who smugglers claimed they had left on a cattle farm, called Alba Caceres, a Guatemalan consul. Caceres first reached out to Border Patrol, but they could not locate him. She broke protocol and went to the address the smugglers had given the mother, but it did not match.³⁶ The truth is vital to women’s survival in the Borderlands. If Border Patrol is adding lies on top of the pile, they become untrustworthy and border crossers avoid them. The recent family separation policy is a huge blow to the Border Patrol’s credibility. Lying within an already insecure situation has ruined perhaps forever any relationship the Border Patrol could have had with border crossers. The lies include Border Patrol agents telling parents their child will meet them at the airport, and when the agents fail to bring the child, the agents convince the family member(s) to board the plane anyway because a separate plane for minors will be coming soon. Parents have arrived in Central America to

³⁵ Martinez, p. 84.

³⁶ Guardian US Interactive Team, Melissa Del Bosque, and The Texas Observer. "A Cemetery for Our People." The Guardian. Accessed April 02, 2019. <https://www.theguardian.com/world/ng-interactive/2014/aug/20/-sp-cemetery-for-our-people-guatemalan-consul-texas-migrant-crisis>

discover that Border Patrol has not released their child from custody. Updated media coverage says, “Reuniting migrant families might be too hard,” as if not doing so is an option. Parents have been tricked into signing custody waivers. In 2018, Trump decided he would allow Border Patrol to reunite families they had separated, but only if the families agreed to “voluntary” deportation, waiving their claims to asylum and abandoning their hope of staying in the U.S.³⁷

Migrant families have been separated by multiple means, including deportation and detention, but the simultaneous administrative officality and disorganization and negligence of the Trump-era policy have created a humanitarian crisis *within* the U.S. Scale and location are clearly important when it comes to triggering rage and empathic responses from the U.S. public. Hearing about a father who was deported after receiving a DUI and could not go to AA because it was during his shift at work is heartbreaking. Finding out the government has been physically tearing children away from their parents by the thousands is horrifying. Knowing that they are being held in facilities within the U.S. is humiliating. But they are still on the border. The majority of the “tender-age shelters” -- converted warehouses and grocery stores where Border Patrol is holding children ages five and under -- are in border states.

The UNHCR report, *Women on the Run*, includes case studies of 160 women³⁸ from the NTCA (Northern Triangle of Central America), which includes El Salvador, Guatemala, and Honduras, and from Mexico, traveling through and within Mexico to seek asylum.³⁹ The report effectively allies their voices and narratives with logistical language to support the UNHCR's argument for proposed updated policy. The recommendations section includes a text block titled,

³⁷ Lind, Dara. "Trump's "reunification" Plan Offers Separated Families an Impossibly Cruel Choice." Vox. June 25, 2018. Accessed April 20, 2019.

<https://www.vox.com/2018/6/25/17484042/children-parents-separate-reunite-plan-trump>.

³⁸ Including transgender women.

³⁹ UNHCR, *Women on the Run Report* (2015) p. 2.

“What Women Would Say to Governments” with quotes from Salvadoran, Honduran, Guatemalan, and Mexican women. The report also injects the main body of text with statements from the women in the study, providing not only color and context, but also providing valuable intelligence. For someone investigating gang violence, the following statement by Nelly, a young Honduran woman, would provide valuable insight into how gangs and criminal armed groups operate:

““The gangs treat women much worse than men. They want us to join as members, but then women are also threatened to be gang members’ ‘girlfriends,’ and it’s never just sex with that one; it’s forced sex with all of them. Women are raped by them, tortured by them, abused by them.””⁴⁰

Detention has always presented unique challenges for women, namely administrative obstacles. Some women did not view detention as an uncrossable border, “particularly those who had been quickly released from immigration detention.”⁴¹ For most of the women who participated in the study, however, detention was just as bad as or worse than the obstacles they had faced up to that point. “The most problematic aspect of flight and accessing asylum, as identified by the women themselves, was detention (in both the United States and Mexico).”⁴² There are two particularly strenuous aspects of detention as reported by the participants: psychological trauma and legal proceedings. Some women “were held in facilities with their children, including very young children, and described wanting to abandon their claims so that

⁴⁰ *Ibid.*, p. 16.

⁴¹ *Ibid.*, p.

⁴² UNHCR, *Women on the Run Report* (2015) p. 43.

their sons or daughters would be able to leave detention.”⁴² Detention left lasting marks. One Salvadoran woman said, ““The things I lived through in detention have marked me for life [...] Please remember that we are also human beings. I didn’t want to come here, but for me it was a question of life and death.””⁴³ That women who have lived through almost every form of violence imaginable consider giving up once in detention shows the emotional depths to which detention can drive women.

Legal representation is ““the single most important factor in determining outcome””⁴⁴ of individual asylum cases. Without legal representation, it is often impossible to “fully understand the proceedings, file the correct paperwork in a language they do not understand, or gather evidence.” People who do not speak English cannot fill out paperwork in English without a translator. Translators and attorneys are necessary, but being in detention makes it difficult to find one due to “lack of resources and distance from major service providers.”⁴⁵ “A significant number of women reported being” kidnapped and held for ransom in Mexico. “Some women went into significant debt to family members who paid [the ransom], leaving them without resources to pay bond or hire lawyers once they reached the United States and were detained there.”⁴⁶ Women detained in Mexico and in the U.S. reported being denied asylum on the basis of not having proof of their claims, even though the countries they are coming from are so violent that it is actually statistically less likely that they would not be at risk for violence. Several countries in the NTCA have the highest rates of femicide in Latin America. “[...] the list of femicides is led by Brazil (with 1,133 victims confirmed in 2017). [...] if the rate per every

⁴² *Ibid.*, p. 47.

⁴³ *Ibid.*, p. 47.

⁴⁴ *Ibid.*, p. 47. From “a recent academic study [that] looked at asylum cases from Central America.”

⁴⁵ *Ibid.*, p. 47.

⁴⁶ *Ibid.*, p. 45.

100,000 women is compared, the phenomenon has a scope in El Salvador that is seen nowhere else in the region: 10.2 femicides for every 100,000 women. In 2016, Honduras recorded 5.8 femicides for every 100,000 women. In Guatemala, the Dominican Republic and Bolivia, high rates were also seen in 2017, equal to or above 2 cases for every 100,000 women.” These numbers only include reported homicides. The actual number of femicide victims is unknown. According to global data collected by the World Health Organization (WHO), “Almost one third (30%) of all women who have been in a relationship have experienced physical and/or sexual violence by their intimate partner.”⁴⁸ The UNHCR report interviewed 160 women. A woman detained in the U.S. reported that authorities told her she “did not have the right to anything because I had been deported already.”⁴⁹ Entering the U.S. illegally is a misdemeanor under current U.S. law. She could have been charged with felony re-entry at the time. Human traffickers and drug smugglers manipulate the law as one of many means of entrapment. By eliminating the women’s ability to go to the authorities by forcing them to participate in illegal activity, traffickers can hold and abuse them without fear of repercussion.

The Trump administration amplified its harshest aspects of detention when it enacted the “zero-tolerance policy,” also known as the family separation policy. The policy was meant to end “catch and release,” a Bush-era policy that released apprehended border crossers and assigned them court dates. The practice was criticised for giving apprehended border crossers too much leniency, allowing them to “slip away” before they were to appear in court.⁵⁰ However, most

⁴⁸ "Violence against Women." World Health Organization. November 29, 2017. Accessed January 20, 2019. <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>.

⁴⁹ *Ibid.*, p. 47.

⁵⁰ Rhetoric used by both conservative and liberal media: <https://www.washingtonpost.com>

people were not given the opportunity to leave detention in the interim. The exceptions were mostly adults traveling with minors. Catch and release has been heavily criticised by the current administration. A statement released by the White House on April 2, 2018 criticized catch and release practices. They claimed that they are the result of “statutory and judicial obstacles,” including a federal exception for “UACs” (Unaccompanied Alien Children) from “non-contiguous countries” including El Salvador, Guatemala, and Honduras “from being promptly returned to their home countries. This results in nationals from these and other countries entering and never leaving.” The statement lists statistics on how many of the “UACs” and “Family Units” who enter are apprehended, and how many are not, but includes no mention of homicide rates in the sending countries. Asylum is not the message the U.S. wants to send to potential border crossers. They express the concern that, “Foreign nationals see how easy it is to enter the United States, and how hard it is for federal immigration authorities to remove aliens who enter illegally, and are accordingly drawn to the United States. In the absence of lasting solutions to the problems that riddle our immigration system, we can only expect the flow of illegal immigration into our country to continue.”⁵¹ In lieu of a lasting solution, the administration decided to implement an advanced deterrence strategy.

Editor. “Former Attorney General Left Large Shoes to Fill - For Bart Stinson.” *The Daily Grind*. Dec. 17, 2018. <http://www.theofficialvipnews.com/google2badecc5bb02684b.html/2018/12/17/former-attorney-general-left-large-shoes-to-fill-by-bart-stinson/>,
Slippers, Fuzzy. “‘Caravan’ of Central American Migrants Heading Through Mexico for US Southern Border.” *Legal Insurrection*. April 1, 2018. <https://legalinsurrection.com/2018/04/caravan-of-central-american-migrants-heading-through-mexico-for-us-southern-border/>
Vaughann, Jessica M., Andrew R. Arthur, and Dan Cadman. “A One-Sided Study on Detention of Illegal-Immigrant Families.” *Center for Immigration Studies*. Sept. 14, 2018. <https://cis.org/Vaughan/OneSided-Study-Detention-IllegalImmigrant-Families>,
<https://www.post-gazette.com/news/nation/2006/05/15/Many-non-Mexican-aliens-caught-released-disappear/stories/200605150182>.

⁵¹ The White House. “What You Need to Know About Catch And Release.” *The White House*. April 2, 2018. <https://www.whitehouse.gov/briefings-statements/need-know-catch-release/>

When the policy was enacted, Border Patrol began separating minors from the family or caretakers they traveled with and placed them in separate detention facilities. A report detailed in the New York Times in February revealed new and horrifying information about Border Patrol's actions within those detention facilities. Minors in detention facilities during that time reported being sexual assaulted by staff and other minors while in custody. Of the "1,303 cases deemed the most serious, 178 claims were against staff members, and "the rest" were against other minors. "From October 2014 to July 2018, the Office of Refugee Resettlement, a part of the Health and Human Services Department that cares for so-called unaccompanied minors, received a total of 4,556 allegations of sexual abuse or sexual harassment, 1,303 of which were referred to the Justice Department."⁵²

Chapter 2: Policy and Language

1994 and Beyond

Reyes' strategy was "adopted in Southern California ('Operation Gatekeeper' in 1994), Arizona ('Operation Safeguard' in 1994 and 1999), and South Texas ('Operation Rio Grande' in

⁵² Haag, Matthew. "Thousands of Immigrant Children Said They Were Sexually Abused in U.S. Detention Centers, Report Says." *The New York Times*. Feb. 27, 2019. https://www.nytimes.com/2019/02/27/us/immigrant-children-sexual-abuse.html?fbclid=IwAR0Pun0Cd9TjxMx_YT4L3BX60cmE71penNrgHV7-WTQ-98VafhH0CvQr_p8

The document lays out a plan in four phases with the goal of expanding PTD operation to other parts of the border. Phase I focuses on control of San Diego and El Paso Corridors, Phase II on South Texas and Tucson corridors, Phase III on the remainder of the southwest border, and Phase IV on control of “All the United States Borders/Adjust to Flow (All AAs), effectively gaining control of the border incrementally from west to east. In Phase I we see the immediate impact of Operation Blockade. The priority for the first phase was to gain control of urban centers in order to prevent “illegal entrants [from being able to] assimilate with the population, making it difficult for the Border Patrol to quickly identify and arrest individual illegal entrants.” This was the problem in El Paso, which they stretched to include San Diego, another metropolitan area. It is clear they perceived Operation Blockade as at least a marginal success in El Paso, “When the Border Patrol controls the urban areas, the illegal traffic is forced to use the rural roads which offer less anonymity and accessibility to public transportation.”⁵⁵

Phase II predicts a shift in “illegal traffic” to the South Texas and Tucson corridors (AA3 and AA4) from AA1 and AA2 as a result of the previous phase. Here again, the focus is on urban centers. Elements of Phase II include determining whether Phase I was successful, highlighting the newness of the plan and revealing at least some possible misgivings. It includes concerning details as well. They anticipated that markers of success would be “fee increase by smugglers,” “fewer illegal immigrants in the interior of the U.S.,” and “reduction in use of social services and

⁵³ De León p. 31.

⁵⁴ “Border Patrol Strategic Plan 1994 and Beyond: National Strategy”, July, 1994.

⁵⁵ *Ibid.*

benefits in the U.S.”⁵⁶ They acknowledge a connection between their policy and the criminal activity (smugglers), but border crossers who have to pay the smugglers are not mentioned, again revealing their inconsistent concern for border crossers. Then their main goal is addressed: keep “illegal immigrants” out of the U.S. and prevent them from using social services.⁵⁷

Phase III was set to happen “only after valid indicators of success and changed conditions reflect border control has been attained in the Phase II main effort.”⁵⁸ It introduces considerations for shifts occurring within the U.S. and offshore as the plan pulls the attention of U.S. employers and higher levels of government. Some indicators of success are, “increased seacoast entries,” “political pressure to loosen the border,” “inquiries from U.S. employers of undocumented workers,” “improved public perception,” and “fewer aliens staging in Mexico.”⁵⁹ Changed conditions include, “air/sea entry attempts increase,” “change in smugglers tactics,” “Mexico will enhance border control of their Southern border (OTM’s who until now had entered their country, traversed, and then crossed the U.S. border will be forced to stay in Mexico),” “pressure for another ‘Bracero program’ (temporary worker program),” and “economic changes in U.S.”⁶⁰

Finally, Phase IV ends in a culmination of the “indicators of success” and “changed conditions” seen in Phases I through III, the concern being that those forms of resistance will pressure the Border Patrol into backtracking and losing ground. Phase IV is mainly a summary of the first three phases. It is not the priority, otherwise the remaining regions of the border, which Phase IV focuses on controlling, would have been mentioned earlier. The costs of the policy’s progress include “reduction in the cheap labor force” and special interest groups putting more

⁵⁶ *Ibid.*, p. 10.

⁵⁷ Subtext: “social services meant for legal residents”

⁵⁸ *Ibid.*, p. 11.

⁵⁹ *Ibid.* p. 11-12.

⁶⁰ *Ibid.* p. 12.

has been unsuccessful. There are human factors to consider, that they do consider and warn against, but regard them only as potential future pressures. They almost completely disregard the incentives driving people to attempt entry. They acknowledge that “[t]he most desperate of those aliens seeking entry will [still] attempt illegal entry,” but their scale for measuring desperation does not take into account the scope and longevity of the humanitarian crises occurring in Latin America.

Another very important detail is the differentiation between deterrence and re-routing. In the description of Phase I they write:

“As the strategy in San Diego and El Paso (main effort areas) becomes more effective, much of the flow of illegal traffic will shift to other avenues of approach that transform from supporting areas to main effort areas. Some part of the flow will turn to other entry tactics, including legal entry, use of fraudulent documents, and requests for asylum and immigration hearings. Some part of the flow will be deterred from attempting illegal entry.”⁶²

The “other” entry tactics all involve engagement with Border Patrol or other border enforcement entities, which implies that illegal crossings avoid official and willing interaction with Border Patrol.

⁶¹ 1994 and Beyond, p. 12.

⁶² Strategy 1994 and Beyond p. 9.

Nothing in the document indicates that the aim of the policy expansion is to cause injury to border crossers. One of the “measures of effectiveness” for Phase I is, “reduction of serious accidents involving aliens on highways, trains, drowning, dehydration (main effort).” They are seemingly sympathetic to and committed to the wellbeing of border crossers, but the conditions that are necessary for making the strategy work (including hostile terrain and fear of apprehension) hinder their ability to fully commit to protecting the people their policy affects. At times their awareness of this contradiction peeks through. Although they at no point make the connection between injury to border crossers and their policy, they do make one between an unspecified form of violence and the policy, “Violence will increase as effects of strategy are felt.” This line could be used to account for injury to border crossers by Border Patrol or by the environment; increase in violent activity such as assaults, rapes, and robbery as the policy pushes assailants out of cities and into more rural areas where law enforcement presence is minimal or nonexistent. I do not think it means any of those things. Based on the context and the fact that they never admit to any of the other forms of violence in the document, it can reasonably be taken to mean violence like Border Patrol faced in El Paso during the early days of Operation Blockade: backlash from Mexican nationals. At each phase, they account for this type of resistance, as well as resistance on other fronts. Indicators of success for the four phases include, “possible increase in complaints (Mexico, interest groups, etc.),”⁶³ “increase in complaints (Mexico, interests groups, etc.),”⁶⁴ “political pressure to loosen border,”⁶⁵ “potential for more protests against immigration policy,”⁶⁶ “more violence at attempted entries.”⁶⁷ Furthermore, the

⁶³ 1994 and Beyond, p. 9.

⁶⁴ 1994 and Beyond, p. 10.

⁶⁵ 1994 and Beyond, p. 11.

⁶⁶ 1994 and Beyond, p. 12.

⁶⁷ 1994 and Beyond, p. 12.

1997 report by the Government Accountability Office (GOA) differentiates between violence against border patrol and harm suffered by border crossers. The latter is not defined as “violence.”⁶⁸

The four-point plan demonstrates a desperate attempt at structure at a time when the Border Patrol was facing criticism for unruliness that led to harassment charges and the take-down of its sector chief. The desire for a cohesive, organized strategy led to an evolution of the Border Patrol that has remained the foundation of border operations for more than twenty-five years. The perception of the plan as incremental was challenged in 2001.

September 11 and Beyond

The September 11 terrorist attacks made 2001 a turning point for the U.S.’s national security apparatus, throwing the country into a period of shock, mourning, fear, and triggering a massive reorganization of government agencies. The post-9/11 era saw the creation of the Department of Homeland Security (DHS), the beginning of the never-ending War On Terror (as in WOT are we doing?), and a surge in funding for border security initiatives. September 11 was also considered a turning point for border security. On the southern border all was not quiet, but the changes were not as institutionally dramatic as they were up north. Border Patrol did not go through an upheaval in the same way that Washington did. At its inception, the DHS consolidated twenty-two departments, one of which was U.S. Customs and Border Protection (CBP). The United States Border Patrol (USBP) is under the jurisdiction of CBP. USBP has been an agency since 1924 and its inclusion in DHS did little more than make it part of a formidable

⁶⁸ GAO Report to the Judiciary. <https://www.gao.gov/assets/230/224958.pdf>

control of its borders. September 11 did not change the southwest border as much as it prompted Washington to accelerate and fully embrace policy introduced or implemented before September 11. A post-9/11 Border Patrol had more financial and moral support from Washington while remaining committed to the idea of holding the line. The result was a militarized⁶⁹ Border Patrol with a combination of high- and low-tech -- drones and other surveillance technology, and personnel, respectively -- blockade, still facing south. The CBP itself had a different perception of this stage in its development. The 2004 Border Patrol Strategic Plan states,

“In the wake of the terrorist attacks of September 11, 2001, the Border Patrol has experienced a tremendous change in its mission. With the formation of a new parent agency, U.S. Customs and Border Protection (CBP), the Border Patrol has as its priority mission preventing terrorists and terrorist weapons from entering the United States. The Border Patrol will continue to advance its traditional mission by preventing illegal aliens, smugglers, narcotics, and other contraband from entering the United States as these measures directly impact the safety and security of the United States... To carry out its missions, the Border Patrol has a clear strategic goal: to establish and maintain operational control of the border of the United States. All of our efforts must be focused on this goal.”⁷⁰

⁶⁹ Positions filled with ex-military personnel, increased funding for military-grade surveillance technology.

⁷⁰ U.S. CBP 2004 Strategic Plan <https://www.hsdl.org/?view&did=457100>

In one breath, USBP says it has a new mission and that they will achieve it by continuing to do what they have been doing. It is difficult to see where they draw the line between their “traditional mission” and their new “priority mission.” The statement about continuing to advance their traditional mission might simply be intended as reassurance that USBP will not abandon its responsibilities. On the next page it states that the strategic means of achieving the goal set forth by CBP will build upon the strategies outlined in its 1994 Strategic Plan.

Whatever they thought was going to happen as a result of their inclusion in DHS, the result was an alliance between Border Patrol and Washington over an urgent national security agenda: counter terrorism. The response was proportionate to the psychological effect the attacks had had on the country, but the pressure was localized in an area already shaking under the weight of the enormous mission it had been assigned. To avoid overwhelming the border, Washington increased funding for personnel and equipment. Even this was not necessarily new. The United States Immigration and Naturalization Service (INS), which was dissolved in 2003, had gone through several budget increases before the 2000s.

“INS’ overall budget has more than doubled within 5 years, from \$1.5 billion in fiscal year 1993 to \$3.1 billion in fiscal year 1997. INS has spent about \$2.3 billion on border enforcement from fiscal years 1994 through 1997. For fiscal year 1997, the combined budget for INS’ Border Patrol and Inspections programs—the two programs responsible for deterring illegal entry along the border—was nearly \$800 million. INS,

Over the next eight years they would acquire surveillance RPVs (remotely piloted vehicles) that would supplement manned surveillance methods. The government also assigned ex-military personnel to the border.⁷²

Unmanned aerial vehicles (UAVs) can be used for combat (unmanned combat aerial vehicle, orUCAV) and surveillance.⁷³ On the border their purpose is the latter. The spike in technological and unmanned warfare did not immediately translate to the southern border. As of 2008, Border Patrol was still submitting requests for UAVs.

In 1994, Border Patrol set up a course of action that they believed could lead to control of the southern border. The reality was messier than anticipated, initially due to inconsistent funding. The border drew from September 11 a sudden and relatively consistent entrance to political discourse. The new widespread public desire to secure the border meant politicians were able to use it as a show of their leadership capabilities. After years of uptakes in money going to border security, they still have not been able to follow through with the plan successfully. In terms of funding, there was a spike in 2001 and in 2006 when Bush signed the Secure Fence Act of 2006 (otherwise known as H.R. 6061).⁷⁴ but as there were (luckily) no attacks on the U.S.

⁷¹ GAO Report to the Judiciary. <https://www.gao.gov/assets/230/224958.pdf> p. 5.

⁷² There are two different types of UAVs: drones and remotely piloted vehicles (RPVs). Both drones and RPVs are pilotless, but drones are programmed for autonomous flight. RPVs are actively flown—remotely—by a ground control operator. UAVs are defined as a powered aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide lift, can fly autonomously or be piloted remotely, can be expendable or recoverable, and can carry lethal or nonlethal payloads.

⁷³ Prior knowledge of UAVs.

⁷⁴ Bush, George W. “Fact Sheet: The Secure Fence Act of 2006.” *The White House*. <https://georgewbush-whitehouse.archives.gov/news/releases/2006/10/20061026-1.html>

coming from south of the border that even came close to the scale and impact of September 11, PTD did not receive undivided organization attention. Immigration reform, however, did. Each administration since 1994 has interpreted PTD differently and woven elements of it into new or updated policy. During one of Obama's many standstills with Congress,⁷⁵ he signed an executive order that reinstated "catch-and-release" and prohibited Border Control from apprehending undocumented border crossers in response to the increase in unaccompanied minors crossing the border and the embarrassingly low attendance rate among border crossers who had orders to appear in court.⁷⁶ The order briefly challenged immigration law that said it was a misdemeanor to enter the U.S. without proper documentation. Unsurprisingly, it was not received well. Brandon Judd, former president of the National Border Patrol Council, told Congress, "[T]he releases are part of President Obama's 'priorities' program, which orders agents to worry chiefly about criminals, national security risks and illegal immigrants who came into the U.S. after Jan. 1, 2014. Mr. Judd said illegal immigrants without serious criminal convictions have learned that by claiming they came before 2014 — without even needing to show proof — they can be released immediately rather than being arrested."⁷⁷ The situation was also messy because immigration involves human factors that can change unexpectedly. In 2014 alone there were

The effects of policies inspired by Operation Blockade are not new. In the most recent of several evolutions, the current administration implemented policy that involved detaining families in separate facilities, or in separate sections in the same facility. Family separation is not

⁷⁵ Government shutdowns or refusal to act, both by Congress.

⁷⁶ Dinan, Stephen. "Obama reinstates 'catch-and-release' policy for illegal immigrants." *The Washington Times*. Feb. 4, 2016. <https://www.washingtontimes.com/news/2016/feb/4/obama-reinstates-catch-and-release-policy-illegals/>

⁷⁷ Dinan, Stephen. "Obama Reinstates 'catch-and-release' Policy for Illegal Immigrants." *The Washington Times*. February 04, 2016. Accessed April 1, 2019. <https://www.washingtontimes.com/news/2016/feb/4/obama-reinstates-catch-and-release-policy-illegals/>

new. Deportation has been standard operating procedure since people called it “banishment.”

One time-stamped piece of evidence was a phenomenon known as “Mexican Repatriation” that occurred during and after the Great Depression (1929 to 1936) in which INS played a “complex” role.⁷⁸ In those years a staggering number of Mexican-Americans were forcibly (some willingly) deported to Mexico. The numbers are still contested because the INS does not have records for “non-federally mandated departures,”⁷⁹ but based on multiple sources⁸⁰ it was likely around one million.

Chapter 3: Rhetoric

“These aren’t people. These are animals.”

- Donald Trump, referring to members of MS13⁸¹

Above is a glimpse into the evolution of border security through the lens of deterrence.

Now I turn to the language that underlies every significant factor in the story of PTD. Language is the most dangerous tool that Border Patrol and other entities wield to control their image and

⁷⁸“INS Records for 1930s Mexican Repatriation.” *U.S. Citizenship and Immigration Services*. March 3, 2014.
<https://www.uscis.gov/history-and-genealogy/our-history/historians-mailbox/ins-records-1930s-mexican-repatriations>

⁷⁹ *ibid.*

⁸⁰ Articles from:

Wagner, Alex. “America’s Forgotten History of Illegal Deportations.” *The Atlantic*. March 6, 2017.

<https://www.theatlantic.com/politics/archive/2017/03/americas-brutal-forgotten-history-of-illegal-deportations/517971/>

<https://www.npr.org/2015/09/10/439114563/americas-forgotten-history-of-mexican-american-repatriation>,

https://www.washingtonpost.com/news/retropolis/wp/2018/08/13/the-time-a-president-deported-1-million-mexican-americans-for-stealing-u-s-jobs/?utm_term=.26a6274b71c0.

⁸¹ Korte, Gregory and Alex Gomez. “Trump ramps up rhetoric on undocumented immigrants: These aren’t people. These are animals.” *USA Today*. Last updated May 17, 2018.

<https://www.usatoday.com/story/news/politics/2018/05/16/trump-immigrants-animals-mexico-democrats-sanctuary-cities/617252002/>

justify their actions. Upon closer inspection, it is also clear that they have inadvertently used it to self-sabotage, partly because they do not know how to use it properly, but mostly because they had little intention of using PTD in a way that would protect border crossers, and the language that makes it possible for them to misuse deterrence is also what gives them away.

The distance Border Patrol places between itself and border crosser injury and death sets an unsettling tone. Border Patrol is solely responsible for engaging with border crossers; so, how do they reason that they are not involved in the harm that comes to border crossers? They do it like that. “The harm that comes to border crossers” is a passive statement. “Harm” and “border crossers” are present, but “Border Patrol” is not. I have yet to find a statement that begins with “The harm Border Patrol inflicts” that does not end in some version of “on migrants and refugees,” indicating that it does not work the other way around. The victims must always be included in statements of violence, which is a linguistic victim-blaming tactic. If you leave out the victim, there is no violence. If you leave out the aggressor, there is still the victim. There is only the victim. The gap left by “Border Patrol” in these kinds of statements leaves room for other perpetrators. Most often, they use the environment as the scapegoat. In those cases it usually indicates desolation and deprivation. The fact that this rhetorical tactic was not exposed when landowners spoke out about the impact the new blockades had on their communities, nor when border crosser deaths rose abruptly after 1993, is a sign that it will likely be around for a long time.

The rhetoric that I suspect will outlast even environmental personification is the language of detention. Sometimes the so-called perpetrator is even less human than heat, floods, animals, and jagged terrain. Sometimes it is a building. Writers for both liberal and conservative media

have been using passive language that distances Border Patrol from the facilities where they are detaining children and their families. Instead of saying, “Border Patrol is holding children ages five and under in what they call tender-age shelters,” they would say, “Children ages five and under are being sent to tender-age shelters,” or “The facilities house children ages five and under.” Border Patrol agents send border crossers to the detention facilities and guard them, but they are largely absent from descriptions of that process. Most of the statements resemble something like, “Persons caught crossing the border are sent to detention facilities.” This is an example of a problem I will explain soon: the absence of the offender in statements of violence. First, there is an important detail in the statement by the Border Patrol on their role after September 11. They group “illegal aliens” together with “narcotics, smugglers, and other contraband” and state that preventing these people and items from entering the United States “directly impact[s] the safety and security of the United States.” Overwhelming evidence has shown that the vast majority of people crossing the southwest border into the U.S. were survivors, not perpetrators, of terrorist-like gang and drug cartel violence. The list should differentiate between the people who are instigating the violence and the people who are not. This is one of the main pitfalls of PTD. On an institutional level, the agency responsible for acting out deterrence strategies has an inhuman and factually erroneous way of talking about border crossers.

The ways in which we refer to border crossers matter. They inform political discussion. Discussion informs policy. Policy impacts border crossers. Some instances of questionable rhetoric are closely associated with Border Patrol activities. Sometimes it is covert. In a disturbing game of Border-Patrol-themed MASH, a detention facility located in McAllen, where

wagering their freedom against their ability to perform unreasonable tasks with restrictions that she set, and then intervening and sabotaging them. Ursula might be a rogue incident, but even official jargon used regularly in government documents is conspicuously insensitive and disrespectful. The shorthand for families is “Family Units,” abbreviated as “FUs,” also an acronym for “fuck you.” Any migrants from countries that are not Mexico are called “Other Than Mexicans” (OTM’S)]. The most obvious case of inappropriate language is both the most frequently used and the most public: “illegals.” It perfectly illustrates Border Patrol’s priorities by identifying border crossers as illicit subjects. It does not just describe them. It defined them, and subsequently endangers them.

When we⁸¹ accept the stereotypes that claim border crossers are criminals, that they steal jobs from U.S. citizens, we are supporting that claim that they are a danger to U.S. citizens. Taken a step further, when we deem them threats to U.S. citizens, it justifies the claim that their existence within the U.S. is a danger to the state. That allowance makes it easier for us to accept dehumanizing rhetoric and excessive force as admissible. If we reduce people who are, or who we believe will be, in the U.S. illegally to “illegals,” then not only have we said that by crossing the border they committed a crime, but also that their existence within the U.S. is punishable. As Trump has done, claiming that a “migrant caravan” is an “invasion” makes the “illegals” that make up the group(s) enemies of the state and therefore a threat to the state’s sovereignty. As we know, former U.S. presidents have also deployed the national guard to the southern border.

⁸¹ Non-border crossers.

However, although people in those years talked about border crossers using hateful language, I have not found evidence that a large number of people, or else a person in a significant position of power, called them invaders. Trump has changed that.

Language of Violence

From the perspective of the Border Patrol, one of the biggest challenges it currently faces is the rise in illegal border-crossings. Deterrence has been used by police, military, and lawmakers to ensure security. The language of deterrence reaches multiple levels of policy. From nuclear warfare (mutually assured destruction,) to traffic stops, (“this time is a warning.”) The language of deterrence serves a different purpose for the Border Patrol. Rather than just communicating threat of repercussion for an action deemed unlawful, the language of deterrence is also used to describe Draconian strategies of preventing border crossings, and to communicate to the public (the U.S. public) that the agency has a plan and has put it into action.

The targets of deterrence, or the allegedly deterred, are referenced in policy, reports, and the press as “illegals,” their deaths as “unintended consequences” of PTD. So then, when they do suffer, it is their fault for not listening to the message the U.S. sent them. The problem with that logic is twofold. First, PTD is ineffective at deterring border crossers. Second, it falsely represents their deaths as collateral damage. It becomes an argument about the greater good. Border Patrol must make sacrifices to protect the U.S. One of those sacrifices is letting people die. There is evidence of their negligence and the violations that cause physical harm and death to border crossers. Farmers and other landowners file complaints about Border Patrol turning

their property into a graveyard. Advocacy groups find the remains of missing persons in the desert.

Border Patrol has the capabilities to help people, yet they abandon them. It is evidence that Border Patrol and border crossers are not on the same side of the issue. If the situation on the border was a war, the Borderlands would be no-man's-land and it would be obvious who the key players were. Reece Jones, author of *Violent Borders*, thinks it is a war. However, what is happening on the southern border is not a war. It is not easily definable. It can be better understood by looking at the language of violence.

“Violence” is an important theme in policy and discussion surrounding PTD. As raised previously, the 1994 Strategic Plan identifies “violence” as a potential indicator that the policy is working. Violence in that case most likely referred to aggressive resistance to PTD, targeting Border Patrol. In an article published by CBS News in 2011, former Alabama Republican Representative Mo Brooks was quoted saying, in reference to undocumented immigrants in the U.S., “I’ll do anything short of shooting them.”⁸³ He told a CBS affiliate⁸⁴ “that illegal immigrants ‘are clogging up our emergency rooms and making our education system more expensive,’ adding that a local jail is overstuffed with ‘illegal aliens.’” People who are of the belief that rights granted by a sovereign nation should only be awarded based on a carefully-organized and exclusive system with a paper⁸⁵ trail, consider it, and have made it, an imprisonable offence to seek benefits without the proper paperwork -- even life-sustaining

⁸³ Montopoli, Brian. “Rep Mo Brooks: I’ll do ‘anything short of shooting’ illegal immigrants.” *CBS News*. July 13, 2011. <https://www.cbsnews.com/news/rep-mo-brooks-ill-do-anything-short-of-shooting-illegal-immigrants/>

⁸⁴ WHNT

⁸⁵ Also see: money

In their commitment to their multi-phase plan, Border Patrol has taken action against humanitarian groups attempting to counter the effects of PTD. There have been multiple instances in which Border Patrol destroyed supplies left by NGOs for people traveling through inhospitable areas around the border. *Disappeared*, a report co-published by No Más Muertes and La Coalición de Derechos Humanos includes evidence of harm incurred as a direct result of Border Patrol's actions. No Más Muertes,⁸⁶ an NGO committed to ending migrant deaths, allege that video footage in which three Border Patrol agents kick over open water jugs on the ground and then walk off depicts U.S. Border Patrol agents destroying humanitarian aid supplies meant for border crossers. They also allege that it is a recurring practice of Border Patrol.⁸⁷ A spokesperson for the Tucson sector where the incident took place refuted that claim and urged anyone with information about individuals engaging in similar acts to report them. Border Patrol might not encourage sabotaging humanitarian aid, but PTD is reliant on deprivation. Humanitarian efforts attempting to compensate for the environment's lack of resources undermine that condition, and they have taken No Más Muertes to court for it. Nine members face charges of "*Abandonment of Personal Property, Entering a Wilderness Area Without a Permit, and Driving in a Wilderness Area.*" One member, Scott Warren, faces up to twenty years in prison.⁸⁸

⁸⁶ "No More Deaths"

⁸⁷ Carroll, Rory. "US border patrol routinely sabotages water left for migrants, report says." *The Guardian*. Jan. 17, 2018. <https://www.theguardian.com/us-news/2018/jan/17/us-border-patrol-sabotage-aid-migrants-mexico-arizona>

⁸⁸ No More Deaths. "*#DropTheCharges!*" nomoredeaths.org.

With violence comes death. With death comes evidence of violence. The contradiction there is that the evidence is invisible by virtue of where it occurs. Dissemination is the only tactic that is actually deterrence, even though all the tactics fall under Border Patrol's concept of PTD. Through desolation, Border Patrol hushes up the deaths and disappearances to avoid criticism for inhumane tactics. In doing so, it betrays the nature of deterrence.

Missing Persons

In the past thirty to forty years, there has been a shift toward historical archaeology, in which sites do have archival sources, which was not the norm. The archaeology adds subtlety and nuance to the archival sources. For archaeologists to legally be able to excavate a site, it must have been uninhabited for 50 or more years. Even so, the Colibrí Center for Human Rights, led by co-founder and medical archaeologist Robin Reineke, is doing excavations and site surveys in Arizona.

Jeff Jurgen is a professor of Anthropology at Bard College in New York. His best estimate based on the timeline of PTD is that public archaeology began in the late 1990s. De León's work is considered cutting edge. They are essentially doing forensic work without soft tissue. What can researchers glean from very fragmentary evidence like pieces of bone? Maybe it is not possible to identify missing persons with that limited evidence, but it could serve another purpose: to help prove that necropolitics is in use. A more complex effect is that it can make deaths more visible.

Public archeology doesn't wait for time to elapse before site surveys or excavations begin. Many would argue that it resembles forensics, which it does, but its anchor in human

rights organizations differentiates it and makes possible multiple outcomes or applications. They can connect families and loved ones with personal effects, remains, or information regarding missing persons. However, because they do so not for the sake of an open or cold case, their findings are not treated like a forensic report would be. Rather than a victim and a perpetrator, they can act as political forensic researchers, identifying the most dangerous routes and connecting findings to archival information on changes or patterns in border security. From that merging of perspectives and evidence, they hypothesize causes of death and Border Patrol's intentions, just as we can do with PTD.

Professor Jurgens believes archaeology could reconstruct migratory routes otherwise out of public view, and make them visible. It is counterintuitive that the death at the border is invisible, even though the threat of death is used as a deterrent. The invisibility of the threat is at odds with what deterrence is. Even when visible, as in the EU and the mediterranean, death both precedes (deaths occurring in origin nations) and coincides with the border, so the death on the border is no different, it is just more death, more disappearance, and more family separation. Tearing families apart is both an incentive forcing people to attempt to enter the U.S. and a deterrent meant to keep them out. When horror occurs everywhere, you have never arrived. In fact, what the U.S. does in using deterrence is eliminate the possibility of arrival. Furthermore, identifying remains of the deceased can aim to reconcile the rights to life and identity that were stripped from them in the manner of their passing.

Is It Really Deterrence?

Are there fewer people attempting⁸⁹ to cross the border? No. Has the strategy caused people to decide not to cross the border, either for the first time or again? Border Patrol does not know. If Border Patrol has launched an investigation into that question, they have not shared it with the public. What they have shared is policy that identifies indicators of success of PTD to include loss of life, as is clear in the figure on page 18.

Not only is the strategic response to increased border crossings inconsistent with the reality of the situation - that hundreds of thousands of people are in danger or without means and are seeking protection and a reasonable quality of life in the U.S. - but it is also being done incorrectly. In Daniel S. Nagin's paper, "Deterrence in the Twenty-First Century," he finds, through analysis of statistical evidence and theory, that "certainty of apprehension, not the severity of the ensuing legal consequence, is the more effective deterrent."⁹⁰ As Nagin argues, "The police deter crime when they do things that strengthen a criminal's perception of the certainty of being caught. Strategies that use the police as 'sentinels,' such as hot spots policing, are particularly effective. A criminal's behavior is more likely to be influenced by seeing a police officer with handcuffs and a radio than by a new law increasing penalties."⁹¹ Essentially, deterrence in the context of immigration means officials manipulating people in such a way that they are able to control who lives or dies by giving them two terrible options. Either border

⁸⁹ Successfully or unsuccessfully, doesn't matter

⁹⁰ Nagin, Daniel S., "Deterrence in the Twenty-First Century," in *Crime and Justice in America: 1975-2025*, ed. M. Tonry, Chicago, Ill.: University of Chicago Press, 2013: 199-264.

⁹¹ Ibid.

crossers stay where they are and suffer there, or come here and suffer. Done in the name of upholding sovereignty, deterrence becomes an element of necropolitics.

Necropolitics

Deterrence does not necessarily require that people die, but it also does not require that they live. Especially now, the government has made the targets of PTD out to be both prospective citizens and enemies of the state. that they do not exist within the U.S., and their existence when outside the U.S. public sphere is of so little importance that their deaths do not matter. Where deterrence turns deadly is when it interacts with necropolitics. In Achille Mbembe's paper on necropolitics, he initially identifies the link between politics and death by arguing the politics is the product of death, then complicates their relationship by explaining how sovereignty is "expressed predominantly as the right to kill."⁹² He draws on Foucault's concept of biopower, which "function[s] through dividing people into those who must live and those who must die."⁹³ As I have proposed, Border Patrol's primary goal is to keep border crossers out of the U.S., and the main way they do that is by putting them in life-threatening situations. There is really no theory that entirely explains PTD, but in this way, necropolitics comes closer than most.

People and organizations that counter PTD are also automatically, and probably inadvertently, countering necropolitics. Their efforts are well-intended, but they also complicate the situation. The strategic⁹⁴ problem with using desolation as an element of PTD is that the

⁹² Mbembe p. 16.

⁹³ Mbembe p. 16.

⁹⁴ As opposed to moral.

resulting deaths are invisible. I have argued that Border Patrol is aware that PTD is ineffective, revealing that the real purpose of tactics like Operation Blockade, walls ending in the wilderness, and chase-and-scatter operations is to prevent border crossers from entering the U.S. at all costs. In line with that logic, counter-PTD operations have a complex role in PTD. They make it work better. They are a major avenue through which Border Patrol communicates with border crossers, something Border Patrol has proven to be minimally committed to doing. Counter-PTD efforts serve Border Patrol, but also expose it as the source of the violence. Border Patrol is responsible for the deaths of thousands of people and they cannot hide it, although they try. That is why groups like No Mas Muertes, and the archaeological professionals and volunteers that join their ranks, are necessary. Without them, Border Patrol might have a chance at claiming innocence.

Conclusion

The mission of Border Patrol is muddled. They are tasked with stopping illegal immigration, but rather than receive money for personnel to coordinate between community members and agents, their budget is invested heavily in PTD. Engaging with border communities, providing sustainable and relevant aid to Central America, providing effective grassroots organizations with a federal-scale budget, and demilitarizing the border would be huge improvements. However, before any of that is possible, the U.S. needs to reverse those deterrence policies that adversely affect border crossers.

By collecting the elements of the Border Patrol's history of deterrence and the response to the harm it causes and seeing how the two interact, I have done my best to explain the situation in a way that it has not traditionally been perceived. I explored the issue from a political and

human rights perspective, but rather than have either or both of those be the conclusion(s) about the situation on the southern border, I employed them simultaneously to form a new argument: that through its policy of “Prevention Through Deterrence,” the U.S. Border Patrol is, with the help of other political entities, engaging in a unique case of necropolitics. Finally, the humanitarian efforts to counter PTD are vital to revealing and subsequently undoing the damage Border Patrol has caused for so long.
