

**HOW MANY MORE DEATHS? THE MORAL CASE FOR A  
TEMPORARY WORKER PROGRAM**

**BY STUART ANDERSON**

Immigrant deaths at the border rose by 27 percent in 2012, according to U.S. Border Patrol data obtained by the National Foundation for American Policy. The 477 immigrant deaths in 2012 represent the second highest recorded total since 1998, eclipsed only by the 492 deaths in 2005.<sup>1</sup> Most troubling, the rise in immigrant deaths comes at a time when fewer people are attempting to enter illegally, as measured by the significant drop in apprehensions at the border over the past several years. The evidence suggests an immigrant attempting to cross illegally into the United States today is 8 times more likely to die in the attempt than approximately a decade ago.

Over the past 15 years more than 5,500 immigrants have died trying to enter America. This tragic loss of life is a direct result of the absence of legal avenues for foreign nationals to work at jobs in hotel, restaurants, construction and other industries. The current visa categories for agriculture (H-2A) and nonagricultural work (H-2B) are considered cumbersome and are only for seasonal work, not the type of year-round jobs filled by most illegal immigrants in the United States. (A grant from Carnegie Corporation of New York funded the research for this paper. The contents are solely the responsibility of the National Foundation for American Policy.)

**Table 1**  
**Immigrant Deaths at the Border: 1998-2012**

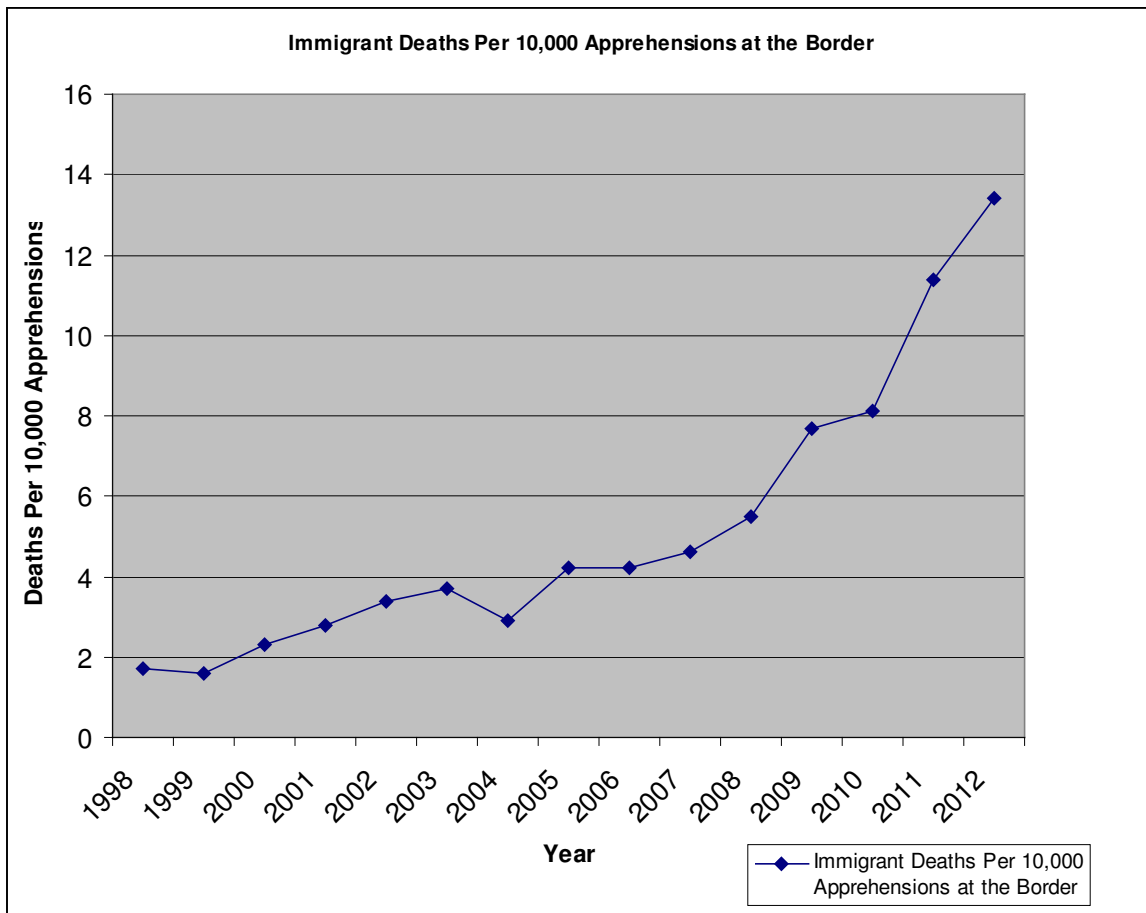
<b>Year</b>	<b>Immigrant Deaths</b>
1998	263
1999	249
2000	380
2001	340
2002	320
2003	338
2004	334
2005	492
2006	454
2007	398
2008	390
2009	420
2010	365
2011	375
2012	477
<b>TOTAL</b>	<b>5,595</b>

Source: U.S. Border Patrol

<sup>1</sup> U.S. Border Patrol.

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**Figure 1**



Source: U.S. Border Patrol, National Foundation for American Policy.

**DEATH AT THE BORDER**

How many people have to die? That is the question grieving mothers, spouses and children must ask when yet another son, daughter or father dies while entering the United States seeking work. So many people are dying that in Brooks County, Texas, NBC News reports, “The rising number of unclaimed corpses marks a growing crisis for this cash-strapped county.”<sup>2</sup>

We know based on the experience of the Bracero program that if provided a legal option workers would make the rational choice to work legally than attempt a dangerous trek across the desert, often led by unscrupulous guides.

<sup>2</sup> Hannah Rappleye and Lisa Riordan Seville, “Deadly Crossing: Death Toll Rises Among Those Desperate for the American Dream,” NBC News, October 10, 2012.

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Due to the lack of legal temporary visas for lower-skilled jobs, the significant buildup of Border Patrol and border enforcement has pushed those who want to work in America into increasingly remote and dangerous areas. Pointing to a rise in immigrant deaths, the Congressional Research Service (CRS) concluded, "This evidence suggests that border crossings have become more hazardous since the 'Prevention through Deterrence' policy went into effect in 1995, resulting in an increase in illegal migrant deaths along the Southwest border."<sup>3</sup>

Due to concerns about illegal immigration, the U.S. Congress and the last three administrations have supported greater enforcement at the border. As a result, the number of Border Patrol agents deployed nationwide has seen a five-fold increase over the two past decades. In FY 1993, there were 4,208 Border Patrol agents, a number that increased to 10,045 by FY 2002, and to 17,499 by FY 2008. At the end of FY 2012, the number of Border Patrol agents stood at 21,394.<sup>4</sup> Given that Border Patrol agents go through rigorous language and law enforcement training, it is not easy to retain this level of agents, as they are attractive recruits for other federal, state and local entities.

Apprehensions at the border have long been recognized as a proxy for attempted illegal entry, with the higher the number of apprehensions the greater the number of people attempting to enter the United States illegally. In FY 1999, the Border Patrol had over 1.5 million apprehensions along the Southwest border, while there were 263 immigrant deaths. In FY 2009, Border Patrol apprehensions fell to 540,865 along the Southwest border but immigrant deaths rose to 417. In FY 2012, immigrant deaths increased to 477, while there were 356,873 apprehensions along the Southwest border.<sup>5</sup> In other words, between FY 1999 and FY 2012, immigrant deaths increased by more than 80 percent at the same time apprehensions, a measure of illegal entry, declined by 77 percent.

The Congressional Research Service (CRS) utilized an additional measurement to illustrate the problem. "[T]he mortality rate per apprehension has been increasing steadily (with the one-year exception of FY 2004), from 1.6 deaths per 10,000 apprehensions in FY 1999 to 5.5 deaths per 10,000 apprehensions in FY 2008," according to CRS. "This suggests that, even as apparently fewer individuals have been entering the country illegally over the past few years, the border crossing has become increasingly dangerous for those that do attempt to cross into the United States illegally."<sup>6</sup>

The situation has worsened. Updating the CRS calculation finds that in FY 2012 there were more than 13.3 immigrant deaths per 10,000 apprehensions. That means compared to FY 1999, the evidence suggests an

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<sup>3</sup> *Border Security: The Role of the U.S. Border Patrol*, Congressional Research Service, November 20, 2008, p. 26.

<sup>4</sup> Data provided by U.S. Border Patrol.

<sup>5</sup> *Ibid.*

<sup>6</sup> Congressional Research Service, p. 27.

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immigrant attempting to cross illegally into the United States today is 8 times more likely to die in the attempt than about a decade ago. (See Figure 1.)

The number of deaths would be even higher if not for the rescue efforts of U.S. Border Patrol agents. Just since 2005, the Border Patrol has rescued more than 15,000 immigrants in areas near the Southwest border. In FY 2012, the Border Patrol rescued 1,333 individuals near the border.<sup>7</sup>

As noted, the increase in Border Patrol agents and the changes in strategy have pushed illegal immigrants into more dangerous terrain. As discussed in our 2010 analysis, this is not the fault of Border Patrol agents, who do not make overall immigration policy.<sup>8</sup> The policy on border enforcement is made ultimately by elected officials, the President and Members of Congress, as well as by the Secretary of Homeland Security and the leadership at U.S. Customs and Border Protection.

The debate over immigration reform rarely focuses on saving lives at the border. One of the few exceptions came from a business group. The U.S. Chamber of Commerce issued a press release in June 2009 advocating for new temporary visas and warning that establishing a commission to regulate foreign worker flows would maintain the status quo in immigration policy: “[That] would be a repeat of the mistakes of 1986, when legalization of undocumented workers did not provide a sufficient number of visas for people to come in legally – leading to the deaths of people crossing the border illegally and 12 million illegal residents in the country.”<sup>9</sup> Senator John McCain (R-AZ) and the late Senator Ted Kennedy (D-MA) both decried the number of immigrant deaths at the border during the push for immigration reform legislation in 2006 and 2007.<sup>10</sup>

Poverty in Mexico means the loss of life will almost certainly continue unless more legal paths are open to work in the United States. The higher relative wages offered in the United States are a primary factor encouraging migration, meaning enforcement alone is unlikely to prevent illegal immigration. Research by economists Gordon Hanson and Antonio Spilimbergo confirmed that the U.S.-Mexico wage gap is a key motivating factor for illegal immigrants. “A reduction in the Mexican real wage or an increase in U.S. real wages leads to an increase in apprehensions in the current month. This suggests that U.S. and Mexican labor markets are tightly linked,” according to Hanson and Spilimbergo.<sup>11</sup>

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<sup>7</sup> U.S. Border Patrol.

<sup>8</sup> Stuart Anderson, *Death at the Border*, NFAP Policy Brief, May 2010.

<sup>9</sup> “U.S. Chamber Resists Immigration Commission to Control Flow of Workers,” Press Release, U.S. Chamber of Commerce, June 1, 2009.

<sup>10</sup> See Shari Robertson and Michael Camerini, *How Democracy Works Now*, a documentary film series produced by Epidoko Pictures.

<sup>11</sup> Gordon Hanson and Antonio Spilimbergo, “Illegal Immigration, Border Enforcement, and Relative Wages: Evidence from Apprehensions at the U.S.-Mexico Border,” NBER Working Papers, 5592, National Bureau of Economic Research, Inc., 1996, 1355.

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University at California-San Diego Prof. Wayne Cornelius found, “The available data suggest that the current strategy of border enforcement has resulted in rechanneling flows of unauthorized migrants to more hazardous areas.” He argues the increased number of immigrant deaths have been a natural result of that strategy, an approach influenced by Congress.<sup>12</sup>

Cornelius led a team for the Mexican Migration Field Research Program that conducted over 3,000 survey interviews with Mexican migrants in 2007 and 2008. According to the surveys, 72 percent listed purely economic reasons for immigrating illegally – higher wages and more jobs in the U.S. and a desire to build a house or start a business in Mexico.<sup>13</sup>

The survey interviews found the current risks do not deter most illegal immigrants: 91 percent of the migrants surveyed believed it was “very dangerous” to cross the border illegally and 24 percent knew someone who died trying – yet still the migrants attempted to come themselves, viewing they had no viable legal alternative if they wanted to work in the United States.<sup>14</sup>

Would these individuals avail themselves of legal visas to work in America? According to the survey, 66 percent said, “Yes” to the question: “If there were a new temporary visa program for Mexican workers, like the Bracero program, would you be interested in participating?” Given that the Bracero program carries some political baggage, it is likely the “yes” answers would have been even higher if the questions were asked about a temporary work visa that allowed you to work legally in the U.S. for a period of years with the ability to change employers and possibly be sponsored for a green card.<sup>15</sup>

## **THE EXPERIENCE WITH LEGAL AVENUES TO WORK**

The actions of Mexican farm workers under the Bracero program between 1953 and 1959 demonstrate that allowing legal paths for work can reduce illegal immigration and save lives. When in 1954 enforcement actions were combined with an increase in the use of the Bracero program, illegal entry, as measured by INS apprehensions at the border, fell by an astonishing 95 percent between 1953 and 1959.<sup>16</sup> One does not need to

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<sup>12</sup> Wayne Cornelius, “Death at the Border: The Efficacy and Unintended Consequences of U.S. Immigration Control Policy 1993-2000,” *Population and Development Review*, vol. 27, no. 4, December 2001.

<sup>13</sup> Wayne Cornelius, *Controlling Unauthorized Immigration from Mexico: The Failure of Prevention through Deterrence and the Need for Comprehensive Reform, Mexican Field Research Program*, Center for Comparative Immigration Studies, UC-San Diego, 2008.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> Stuart Anderson, *The Impact of Agricultural Guest Worker Programs on Illegal Immigration*, National Foundation for American Policy, November 2003; Congressional Research Service, *Temporary Worker Programs: Background and Issues*. A

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replicate the Bracero program in all of its features, but the experience of the 1950s demonstrates how access to legal means of entry can affect the decision-making of migrant workers. “Without question, the Bracero program was . . . instrumental in ending the illegal alien problem of the mid-1940’s and 1950’s,” wrote the Congressional Research Service.<sup>17</sup>

If Congress adopted reforms to allow the legal entry of foreign-born workers in sufficient numbers the tragedy of immigrant deaths at the border would largely disappear and illegal entry to the United States would be reduced. As we have seen, combining sufficient legal avenues for work and immigration enforcement can dramatically reduce illegal immigration. Providing new temporary visas for lesser skilled foreign workers, particularly from Mexico, can be accomplished in the context of immigration reform or via a bilateral treaty with Mexico. Such visas must be relatively free of bureaucracy to be usable by both employers and employees and be of sufficient number to act as a reliable alternative to crossing the border illegally to work. Reforms to H-2A and H-2B visas would also lead to more legal entries.

## **CONCLUSION: HOW MANY DEATHS SINCE THE FAILURE OF IMMIGRATION REFORM?**

In 2007, Congress debated and failed to pass an immigration reform bill. “Poison pill” restrictions on a new temporary visa program favored by businesses have been cited as a key reason for the bill’s failure. Since the failure of Congress to pass immigration reform legislation in 2007, more than 2,000 people have died near the Southwest border. If another 5 years goes by without Congress approving new legal temporary visas for workers it is predictable that an additional 2,000 people will die simply because they wanted to work in America.

Increased border enforcement has exacerbated the lack of a legal visa category for lower-skilled jobs but it is unlikely such enforcement will go away. To oppose a new temporary work visa category, burden it with heavy regulation or restrict its use by insisting on a bureaucratic body to set annual numbers ignores the dangers facing foreign-born workers who would instead enter the country illegally. Many of those workers decide to enter without authorization due to family need and the lack of an appropriate legal visa category.

Even those workers who survive the desert and live to work in America would be more secure with a legal status obtained by entering through a legal visa category, rather than by seeking to work while out of status. Working illegally in the United States makes one more susceptible to coercion and often restricts labor mobility. Allowing easy portability from one employer to another should address genuine concerns about exploitation under a new

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report prepared at the request of Senator Edward M. Kennedy, Chairman, Committee on the Judiciary, United States Senate, for the use of the Select Commission on Immigration and Refugee Policy, February 1980, 41, citing the 1955 INS Yearbook.

<sup>17</sup> Ibid.

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temporary visa category. And such workers should also possess the chance to be sponsored for permanent residence (a green card).

The evidence indicates people are dying primarily because there is no legal way for workers from Mexico and elsewhere to enter America and work at year-round jobs in restaurants, hotel, construction and similar jobs. Those who oppose establishing a new temporary visa category because they say new workers may be exploited have to answer a simple question: Is it better that those workers die in the desert?

## ABOUT THE AUTHOR

Stuart Anderson is Executive Director of the National Foundation for American Policy, a non-profit, non-partisan public policy research organization in Arlington, Va. Stuart served as Executive Associate Commissioner for Policy and Planning and Counselor to the Commissioner at the Immigration and Naturalization Service from August 2001 to January 2003. He spent four and a half years on Capitol Hill on the Senate Immigration Subcommittee, first for Senator Spencer Abraham and then as Staff Director of the subcommittee for Senator Sam Brownback. Prior to that, Stuart was Director of Trade and Immigration Studies at the Cato Institute in Washington, D.C., where he produced reports on the military contributions of immigrants and the role of immigrants in high technology. He has an M.A. from Georgetown University and a B.A. in Political Science from Drew University. Stuart has published articles in the *Wall Street Journal*, *New York Times*, *Los Angeles Times*, and other publications. He is the author of the book *Immigration* (Greenwood, 2010).

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