

An aerial black and white photograph of a multi-lane bridge over a river. A large crowd of people is gathered on the bridge, blocking traffic. Several white vans are visible on the bridge, some with their doors open. The river is visible on the left side of the bridge, and there are some trees and a fence on the right side. The overall scene suggests a protest or a significant event.

BLOCKADING THE BORDER AND HUMAN RIGHTS

**The El Paso Operation That Remade
Immigration Enforcement**

TIMOTHY J. DUNN

Blockading the Border and Human Rights

Inter-America Series

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Blockading the Border and Human Rights

The El Paso Operation That Remade
Immigration Enforcement

TIMOTHY J. DUNN

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To Amy Liebman, and our sons Benjamin and Gabriel.

*To my father, Robert “Olie” Dunn, and in memory of my mother,
Jo Ann Foster Dunn.*

*And to all those working to make a better world, with justice and
dignity for all.*

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Preface and Acknowledgments

My aim in this book is to provide an in-depth study of the groundbreaking Operation Blockade/Hold-the-Line that was initiated by the El Paso Border Patrol in September 1993, and related human-rights issues. This operation was a radical departure from previous Border Patrol enforcement—a shift in focus from apprehending unauthorized border crossers to deterring such border crossing in key urban areas and diverting potential crossers elsewhere. When Silvestre Reyes, a new, enterprising El Paso Border Patrol sector chief, aptly sized up and seized upon local conflicts over rights issues and other conditions, he fundamentally changed the unit's immigration enforcement efforts in ways that would resonate far beyond his sector. The operation, as implemented by Reyes, was extremely successful politically and changed the paradigm of border-immigration enforcement, becoming the model for a remaking of the Border Patrol's strategy and efforts border-wide. However, many purported positive effects of the operation were less impressive upon closer study and over time. Most notably, its impact on rights abuses was somewhat ambiguous in the El Paso sector, but became decidedly negative once the strategy was applied to other key border locations, resulting in the death of over 4,600 unauthorized border crossers by the end of 2007.

Despite its crucial importance to U.S. immigration-enforcement strategy for the entire U.S.-Mexico border since 1993, the operation, as well as its origins, context, and aftermath, has never received in-depth study in a full-length book. By contrast, key operations subsequently modeled on it have been studied, e.g., Operation Gatekeeper in San Diego, begun in 1994 (see Nevins 2002), and Operation Rio Grande in

South Texas, begun in 1997 (see Maril 2004). Nor have the human-rights issues surrounding Operation Blockade's origins, implementation, and aftermath been examined in detail, despite thousands of deaths of unauthorized border crossers along the entire U.S.-Mexico border since 1993 as the operation's strategy spread. Hence, this is the ground I chose to cover in the book—with a conceptual framework that contrasts two approaches to rights issues (citizenship-national sovereignty vs. human rights) and a critique of bureaucracy. My larger objective was to construct a critical, in-depth assessment of this landmark, paradigm-establishing operation that might be useful in developing more humane and workable immigration and border policies.

This book is the product of a fourteen-year journey examining border immigration enforcement and human-rights issues in the El Paso, Texas, area. It began as my dissertation, as I did field research and taught (part-time) in El Paso from 1994–1999. When I arrived in El Paso in September 1994, I was finalizing my first book, *The Militarization of the U.S.-Mexico Border: Low-Intensity Conflict Doctrine Comes Home, 1978–1992*, a wide ranging study of border immigration and drug enforcement in light of a new military framework with grave human-rights implications. Some may be wondering why I did not continue with the theme of militarization in this work. As my intellectual interests developed, I shifted (and broadened) my conceptual approach to center on two contrasting views of rights, as well as problematic, unaccountable bureaucratic power. I did so in order to critically analyze a wider range of border immigration enforcement and public challenges to it. I also felt my militarization framework did not fit this particular case so well, especially as I progressed in my research. There is, however, continuity in my devotion to the study of immigration and human-rights concerns in the U.S.-Mexico border region.

Upon completing my dissertation in 1999, I moved to Maryland to serve as a faculty member in the sociology department at Salisbury University. Here I continued to write articles and chapters on the border and immigration, and began to study Mexican immigration to the Eastern Shore of Maryland. In 2002, with the patient encouragement of Theresa May, editor-in-chief at the University of Texas Press, I began turning my dissertation into a book, a seemingly endless process of drastically editing my earlier work and doing additional research. I returned to El Paso several times to conduct research and have also stayed in touch with friends and contacts in the region to follow events from

afar. In this I have especially benefited from the frequent trips of my wife, Amy Liebman, to the region as a consultant for Migrant Clinicians Network on binational public health projects with migrant workers and area residents.

Given that this study has developed and evolved over so many years, I am indebted to many people for their support and assistance. It began in the sociology department at the University of Texas at Austin, where Gilberto Cardenas was my dissertation supervisor/advisor. He is responsible for provoking and guiding my interest in the U.S.-Mexico border and immigration with his lively graduate seminars and continuing support. Gideon Sjoberg's strong personal interest in my work was absolutely invaluable as he nurtured me through some of the darkest hours of my dissertation research as a key committee member. He also assisted me innumerable times with substantive, methodological, and conceptual issues (especially human rights and bureaucracy) in the dissertation and more so in the book. I would never have completed either without his many years of patient, ongoing intellectual support, for which I am extraordinarily grateful. Bryan Roberts first introduced me to the citizenship view of rights issues and was a valuable dissertation committee member, as were Christine Williams, Henry Dietz, and Antonio Ugalde. Fellow UT sociology graduate students Jeff Jackson and Kirsten Dellinger were especially supportive colleagues over the years, and the rich milieu of the UT Institute for Latin American Studies also nourished my studies. Also, a University of Texas Graduate Fellowship greatly aided my first year of research in El Paso.

I am most indebted to many people in El Paso, Texas, southern New Mexico, and Ciudad Juárez, Chihuahua. First and foremost, I would like to thank Benjamin Murillo, Silvestre Reyes, and the dozens of other people in the region whom I interviewed formally and informally during my research and who, for methodological reasons, must remain anonymous, particularly those involved with the El Paso Border Rights Coalition, Bowie High School in El Paso, the Lawyers' Committee for Civil Rights Under Law of Texas, the Border Network for Human Rights, and the El Paso sector of the U.S. Border Patrol. I am especially grateful for the opportunity to conduct many in-depth interviews as part of a collaborative video project for the El Paso Border Rights Coalition in 1995. Debbie Nathan, Suzan Kern, and Ramon Arroyos were outstanding colleagues in this effort (and others), and Alberto Esquinca and Roger "Tochli" Miramontes also made key contributions. Many others in the area also provided much background information, as well as a

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Special thanks are due to Josiah Heyman, chair of the Department of Sociology and Anthropology at the University of Texas at El Paso, for providing me with office space in summer 2007, and Kathy Staudt, professor of political science at UTEP, for her moral support, especially in the latter stages of this project. And thanks also to the Center for Inter-American and Border Studies at UTEP (especially former staff Teresa Nevarez and Samuel Schmidt), for providing me access to the library and other university facilities. I am also indebted to Claudia Rivers and Yvette Delgado at the UTEP Library Special Collections, and David McKenney for extensive photo research. I would also like to thank Molly Molloy, border and Latin American specialist at the New Mexico State University Library, for running her excellent FRONTERA email list, which for over a decade has compiled regional news reports on border and immigration issues. Fellow border scholars from outside the El Paso region Joe Nevins, Jose Palafox, and Gilberto Rosas each provided instrumental insights, assistance, and moral support.

At Salisbury University, I have been very fortunate to have strong support. My sociology department colleagues have been very helpful and accommodating over the years, in providing a supportive, posi-

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The University of Texas Press staff made this project complete with crucial decisions and editing. Thanks especially to Theresa May as well as Samantha Allison and Lynne Chapman for specifically heading up the editing for my book and Paul Spragens for extensive copyediting. Thanks also to Nestor Rodriguez and another anonymous reader for UT Press for their extensive comments and constructive suggestions for changes. They have all made the book much stronger.

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I apologize to those who assisted me whom I have left out acciden-

tally or have otherwise been unable to name. In a project of this duration I am certain my memory is incomplete. And of course, regardless of the wealth of assistance I have received over the years for this project, responsibility for the information and analysis in this book, as well as any errors, is mine alone.

CHAPTER 1

Introduction

“Securing the border” has become a dominant refrain heard across the political spectrum during recent years as a part of the growing concern (again) over unauthorized (illegal) immigration. While U.S.-Mexico border enforcement has been central to U.S. immigration policy and debates for decades (e.g., see García 1980; Dunn 1996), it has been propelled forward more recently by not only further immigration anxiety but also the post-September 11 preoccupation with terrorism (e.g., see Jehl 2005). Yet to understand border enforcement and the shape it has taken, it is imperative to examine a groundbreaking Border Patrol operation begun in 1993 in El Paso, “Operation Blockade,” later renamed “Operation Hold-the-Line.” This operation changed Border Patrol enforcement efforts regionwide along the U.S.-Mexico border in the 1990s and remains the foundation of the unit’s post-9/11 strategy. Indeed, the Border Patrol’s national strategy document for 1994 and beyond declared, “The national strategy builds on El Paso’s success” (U.S. Border Patrol 1994, 7), and outlined a series of measures to adopt many of its basic premises in other key southwest Border Patrol sectors (*ibid.*, 8–12)—which it has done with “Operation Gatekeeper” in the San Diego area (1994), “Operation Safeguard” in Arizona (1994, 1999), and “Operation Rio Grande” in South Texas (1997).¹ The El Paso Border Patrol began it all by designing and implementing a radical new strategy in Operation Blockade in September of 1993, posting some four hundred agents directly on the banks of the Rio Grande in a high-visibility fashion to deter unauthorized (or illegal) border crossings in the urban area of El Paso and neighboring Ciudad Juárez—a marked departure from the traditional strategy of apprehending unauthorized crossers after entry.

This operation, which has continued since in modified form, became the basis for a new paradigm in Border Patrol efforts in the U.S.-Mexico border region, officially termed “prevention through deterrence,” and realized in a similar fashion of massing of enforcement resources at traditionally high-volume, mainly urban unauthorized crossing areas. However, the deterrence was selective, as officials acknowledged unauthorized crossers would be diverted to more “hostile terrain” (U.S. Border Patrol 1994, 7), meaning more “remote and difficult to cross” areas (U.S. General Accounting Office 1997, 64).² The same “prevention through deterrence” principle that was pioneered in Operation Blockade in El Paso remains the foundation of the 2004 National Border Patrol Strategy for the Southern Border (Office of Border Patrol 2004), though now slightly modified, with the main goal of preventing the entry of terrorists.³ And the 2004 strategy was still in place as of late 2007 (interview with two El Paso Border Patrol managers, December 2007). This approach has been very popular politically overall, as it has rendered unauthorized border crossing far less visible in key (though not all), mostly urban areas at the same time anti-immigrant political sentiment spiked high in the mid-1990s (Andreas 2000) with the passage of Proposition 187 in California and very punitive federal immigration reform laws in 1996. Following September 11, 2001, border enforcement concern has heightened even further and by the middle of the decade anti-immigrant politics returned. However, the effectiveness of the strategy in significantly reducing unauthorized crossing borderwide is quite debatable, at best. The strategy seems to have resulted in a “squeezing the balloon” effect, where operations (pressure) in some key areas displaced crossings to other previously less heavily trafficked ones, but have not decreased unauthorized immigration overall (Massey 2005a, 2005b, 2007; Massey et al. 2002; Cornelius 2005; Orrenius 2004; Reyes et al. 2002).⁴ Moreover, the “prevention through deterrence” strategy has been accompanied by more than 4,600 recorded deaths of unauthorized border crossers from 1994 through 2007, during which time annual border-crossing deaths more than doubled (Cornelius 2006, 5–6; 2005; U.S. Government Accountability Office 2006, 16; McCombs 2007b; McConahay 2007; Rubio-Goldsmith et al. 2006; Associated Press 2007a; see also Eschbach et al. 1999, 2001a; Cornelius 2001).⁵

El Paso’s Operation Blockade merits in-depth examination in its own right and because of its central importance in U.S. border enforcement strategy. My book is focused not only on the paradigm-changing Operation Blockade and related border enforcement efforts in the El Paso

region, but also the local social and political context that spawned it and has shaped it since, particularly the human rights abuses and enforcement excesses inflicted on both local Mexican Americans and Mexican immigrants as well as challenges to that, prior to and since the implementation of the operation. A historic civil federal lawsuit brought by students and staff from Bowie High School against the El Paso Border Patrol the year before the operation began essentially forced the unit to change its enforcement practices; the operation was in large part a response to the lawsuit. In the process the political standing of the unit shifted radically: at first defensive about a growing cacophony of vivid, legitimized rights abuse claims by Hispanic residents, then rehabilitated as a heroic force keeping “them” (unauthorized Mexican crossers) out and protecting “us,” garnering overwhelming support across ethnic lines (i.e., Mexican American and Anglo) on the American side of the border. However, just months later the El Paso Border Patrol faced significant opposition when it proposed to extend the operation by building a solid fence/wall on the border just west of the city. Meanwhile, human rights abuses and other mistreatment by Border Patrol agents have certainly changed over time, becoming far less visible if not less frequent (probably), but have by no means been entirely eliminated by the operation. I examine these issues in extensive detail and interpret them in light of two competing frameworks on understanding rights, Human Rights (transnational) versus Citizenship (nation-state).

Other Research on U.S.-Mexico Border Enforcement

Despite the importance of El Paso’s Operation Blockade as the cornerstone of contemporary border enforcement strategy on the U.S.-Mexico border, it has received relatively little scholarly attention. No book has made it the central concern, though several works have focused in part on the operation or various aspects of it and offered important insights—particularly that it is not as successful as is commonly believed, and that it both reflects and has profoundly impacted inter-ethnic relations (Bean et al. 1994; Spener 2000, 2003; Vila 2000, 2003b, 2005; Ortíz-González 2004; Staudt and Coronado 2002). Still, there has been no in-depth, wider study of border enforcement in the area before and since the operation began, examining the dynamic and complex local origins of it and the human rights impact of such enforcement measures. Border enforcement along the U.S.-Mexico border has become

a more pressing concern over the past decade, as immigration policy debates raged in the 1990s and border security has become the watchword in the post-9/11 context, but there is still little scholarly work devoted to the topic. There are a few more general studies of immigration (and drug) enforcement policy and efforts along the U.S.-Mexico border (Dunn 1996; Andreas 2000; Andreas and Snyder 2001; *Social Justice* 2001; Massey et al. 2002; Payan 2006), and a few detailed studies of other principal sites of the new approach of the Border Patrol (see Nevins 2002; Maril 2004; Rosas 2004, 2006, 2007; Heyman 1995, 2002; Huspek 2001), but relatively little on El Paso despite its cornerstone role. Still, these studies have broken important ground on a topic too long overlooked and merit a brief review.

The research on the main “prevention through deterrence” border operations elsewhere along the border highlights several new key insights. Nevins (2002) links Operation Gatekeeper in the San Diego border area to a heightening of nationalism, in the face of rising globalization and related socioeconomic insecurity, among many sectors of the public—leading readily to scapegoating of “illegal aliens” for a host of social problems in California.⁶ Maril (2004) exposes Operation Rio Grande in South Texas as, in the view of field agents, little more than a public relations hoax perpetrated by inept managers. The operation frustrates agents by leaving them unable to apprehend many illegal border crossers they see getting through and by leaving vast areas in their sector of the border that go nearly unguarded. Rosas (2004, 2006, 2007) shows how a particularly stigmatized border-youth-underclass delinquent group in Nogales, Sonora, and Nogales, Arizona, is treated quite harshly by Border Patrol agents (as well as by Mexican police), but is readily able to get past the heightened border enforcement of Operation Safeguard there. Rosas (2006, 404–405, 413) uses the term “policability” to characterize the scrutiny, heightened surveillance, and occasional violence from the Border Patrol and other local police directed at not only unauthorized border crossers but also those of similar ethnic appearance (i.e., Latinos), including citizens and authorized border crossers.

Heyman (1995, 2002) also gives some attention to Southern Arizona, along with the San Diego border area, in examining views of Immigration and Naturalization Service (INS) officers, including Border Patrol agents. He posits that human rights abuses are directed against “defiant” aliens for the most part, at least as defined by agents (Heyman 1995). Further, he finds that Mexican American INS and Border Patrol

officers do not share a common identity with and have limited empathy for Mexican and Latino immigrants. He attributes this to the power of citizenship-based rights and benefits, for which Mexican Americans have had to fight long and hard against Anglo racism and perceptions that they were “anticitizens” (Heyman 2002, 485)—i.e., not “really” Americans but rather Mexicans who were here only to provide labor, and who as a result had to frequently prove their right-to-belong and citizenship. Several studies have also examined border enforcement at a more general level, from which a couple of key points stand out. One is that the escalated border enforcement efforts have been largely symbolic, having pushed crossings out of sight into more remote areas but having had little (or at least very debatable) impact on unauthorized immigration overall (Andreas 2000; Massey et al. 2002).⁷ Second, there have been a host of human rights problems bound up in border enforcement (Massey et al. 2002; Dunn 1996, 1999a, 2001; Falcón 2001), with potentially many more to come (Nagengast 2002).⁸

There has been some scholarly attention given to the El Paso case specifically, and that has made a number of contributions, though no work focuses squarely on Border Patrol operations there in great depth over an extended period of time. The most detailed analysis of the operation in its early stages is the remarkably multifaceted study of the operation’s first six months by the research team contracted by the U.S. Commission on Immigration Reform (Bean et al. 1994). While invaluable, and I cite it widely in this work, it covers a short time period and is largely devoid of local context. Spener (2000, 2003) has written two very insightful anthology chapters on the operation, based in large part on his participation in the Bean et al. report (he is one of the coauthors). He provides an excellent overview, as well as much-needed attention to the issue of the vast volume of local, legal border crossing by Juárez residents, which spiked in the wake of the operation (Spener 2000). He also makes a stinging critique of the operation as “something of a farce” (Spener 2003, 185) in terms of reducing the unauthorized work or residence of Mexicans in the United States, and instead posits that it has been far more about reestablishing the Border Patrol’s credibility—a point quite similar to Andreas’ borderwide critique of enforcement. Several scholarly books on El Paso (and Ciudad Juárez) also feature Operation Blockade as a key contextual factor and devote some attention to it, and though the operation is not the focal point, I draw on their very valuable related material extensively in my study (Vila 2000, 2003a, 2005; Ortíz-González 2004; Staudt and Coronado 2002).⁹

On the whole, I would argue that our understanding of contemporary border enforcement at the U.S.-Mexico border is incomplete, if not impoverished, without an in-depth, detailed examination of the pioneering El Paso case over time, which has thus far not been provided. The El Paso operation not only foretold what was to come in enforcement along the border, but it also demonstrates that the origins of the new national Border Patrol strategy are rooted in a dynamic local relationship between the unit and its supposed “subject population” (Heyman 1995, 264), and the surrounding local social environment more generally. The launching of Operation Blockade in 1993 dramatically changed El Paso and remade national Border Patrol strategy, but its origins are decidedly local. Moreover, a close examination also reveals that although the new border enforcement strategy seemed remarkably successful and popular, many problems remained but were rendered less visible, and that significant opposition to further escalated enforcement measures could be quickly aroused even in the midst of otherwise strong public support for the operation. And most important, the key previous human rights problems that the new strategy addressed did not disappear but rather seem to have decreased somewhat and shifted spatially to more outlying areas. In a broad sense, this foreshadowed the human rights problems that accompanied the new strategy when it was applied elsewhere along the border. The most tragic of these is the previously noted death of more than 4,600 unauthorized border crossers, mainly in other sectors, during the first thirteen years of the new Border Patrol enforcement strategy, which is directly related to spatial displacement of unauthorized border crossers to more remote, dangerous areas. Many of the successes (supposed and real), as well as the flaws, of the new Border Patrol enforcement strategy along the U.S.-Mexico border are contained in the El Paso case.

Citizenship and National Sovereignty; Human Rights; and Bureaucratic Power

In studying the pivotal El Paso case of Border Patrol enforcement, I will analyze the data in light of two competing frameworks on rights—the citizenship–national sovereignty view and the human rights perspective—and also to a lesser extent in light of several key concepts from bureaucracy/complex organizations theory. A key position among immigration scholars is that international human rights norms are eroding national sovereignty and replacing citizenship as the basis for

determining rights. This seems quite at odds with the reality of ongoing immigration events and policies, as nationalist and restrictionist sentiments have dominated U.S. immigration policy and debates since at least 1986—until the massive mobilizations of immigrants and supporters in the spring of 2006 opened political space for more of a debate. For while human rights norms have become more prominent rhetorically over the years, citizenship and national sovereignty still reign supreme in immigration matters, especially at the border, the very delimitation of national sovereignty. Moreover, in the post-September 11 world, human rights concerns in immigration (and many other) matters are being cast aside in the name of national security and antiterrorism. And Samuel Huntington, the prominent political theorist of the “Clash of Civilizations” thesis so in vogue following September 11, has even proposed that Hispanic immigration, especially Mexican, poses a threat to the (supposed) “Anglo-Protestant” culture of the United States and even to the nation itself, due to what he alleges is a strong tendency among Hispanic immigrants to refuse to assimilate, and hence identify with the United States (Huntington 2004a, 2004b).¹⁰

The key point of difference between the citizenship view of rights versus that of the human rights perspective revolves around the question of whether rights are conditional or unconditional. The citizenship framework holds that rights are conditional, whereas in the human rights perspective rights are unconditional. In the citizenship view rights are conditioned upon nation-state recognition and following the state’s precepts. The classic view of Marshall (1950) is that through struggle, citizens have over time won ever greater rights from the state (civil, political, and social)—which conforms with the history of civil rights movements in the United States. Moreover, this state recognition of citizens’ rights is itself conditional, whether based on property ownership, historically, or the fulfillment of duties (e.g., paying taxes) and following the law (see Van Gunsteren 1978; Barbalet 1988; Turner 1990; Isin and Turner 2002). However, some advocates of the citizenship framework are starting to recognize that international migration has grown and that noncitizens seek rights as well, which makes traditional citizenship notions insufficient and has instead led to still-forming, somewhat vague variations such as transnational, cultural, or denationalized citizenship (Isin and Turner 2002; Miller 2002; Sassen 2002, 2006; Castles and Davidson 2000).

Within immigration studies there is a prominent faction that at least implicitly takes what I term a citizenship-nationalistic perspective, in

that national sovereignty, security, and citizenship are their primary concerns, to which immigration is said to pose a challenge or even a threat (e.g., see Jacobson 1996; Weiner 1995; Soysal 1994; Brubaker 1989; Shuck 1998; Jopke 1998; Baubock and Rundell 1998; Sassen 1998, 2002, 2006; Teitelbaum and Weiner 1995; Huntington 2004a, 2004b; Castles and Davidson 2000; Shafir 1998; Koopmans et al. 2005). Much of this literature proposes a more or less zero-sum struggle in which human rights for immigrants are thought to undermine citizenship and the nation-state. (In contrast, the vast impact of international capital in undermining national sovereignty typically is not scrutinized.¹¹) Indeed, international migration and human rights standards are seen as fundamentally challenging citizenship, national boundaries, and the basis of nation-state legitimacy (Sassen 1998, 2002, 2006; Jacobson 1996; and Soysal 1994). This position, in my view, is consistent with the overall thrust of the growing nativist, anti-immigrant forces in developed nations—though I am not suggesting these authors are nativists themselves.¹² In this view, human rights principles are “undermining the boundaries of the nation-state” (Soysal 1994, 157) and creating a “denationalized citizenship” (Sassen 2006, 303–309; Sassen 2002). Moreover, granting rights to “foreign populations” has “undermined the very basis of national citizenship” and has rendered citizenship “inventively irrelevant” (Soysal 1994, 137, 162). Further, in the related nationalistic perspective (outlined by Eschbach et al. 2001b, 9), protection and enhancement of the nation-state are justifiable regardless of their impact on nonmembers, or even at times on minority group members. Similarly, Soysal (1994, 132–134) and Jacobson (1996, 97) cite examples of quite repressive treatment of immigrants as reinforcing national sovereignty and citizenship.¹³ Heyman (1998, 38) posits that citizenship is an “anti-immigrant ideology” in designating citizens as insiders deserving of rights versus noncitizens as outsiders undeserving of rights.

While the citizenship-nationalistic camp sees human rights standards as a threat to national sovereignty, proponents also do acknowledge that, ultimately (and ironically), human rights depend on nation-states to be enforced (Soysal 1994, 149; Jacobson 1996, 11; Sassen 1998, 2002, 2006), and that international human rights agreements “do not for the most part entail formal obligations or enforceable rules” (Soysal 1994, 149) for nation-states. However, “They [international human rights treaties] form a *basis for the claims of migrants* . . . and *stir up publicity* regarding migrant issues” (Soysal 1994, 149, emphasis added; see also Jacobson 1996, 100; Sassen 1998, 94–97). Thus, the real “dancer” of human rights

agreements for national sovereignty and citizenship is that they provide a framework for immigrants and other nonstate, noncitizen social actors (e.g., nongovernmental organizations) to make claims upon nation-states and to generate publicity. This hardly seems like human rights superseding citizenship, national sovereignty, and national boundaries—let alone even threatening democracy itself, as suggested more recently by Jacobson (2004).¹⁴

The human rights perspective, in contrast, maintains that rights are unconditional and views state and bureaucratic-organizational power in a more critical light. In this view one has rights because he or she is a human being, and though duties are important, rights are not conditional upon them (Sjoberg et al. 2001). Moreover, human rights are universal, transnational and not nation-state bound. An overriding concern is advancing human dignity and equal respect, especially in light of organizational power, that of both the state and private sector (see Sjoberg et al. 2001, 25). Specifically about state power, Turner (1993, 178) notes: “the point about . . . *human* rights is that they are extragovernmental and have traditionally been used to counteract the repressive capacity of states.”¹⁵ He stresses the concept of universal “human frailty” or vulnerability as underpinning the human rights framework (Turner 1993, 2006; Elliott and Turner 2003)—a condition that is especially evident in light of state repression. (More recently Turner [2006, 139–140] has changed course and proposed that human rights and nation-state citizenship are not in tension, but rather complementary—a view I see as overly beholden to the nation-state.¹⁶) While human rights are very difficult to enforce, Sjoberg and colleagues (2001) propose that they provide a crucial means for evaluating organizations (both governmental and corporate) and at least potentially holding them accountable, because they provide widely accepted standards that transcend a specific nation or organization. Crucial for this study, Sjoberg (1996, 285–289; see also Sjoberg and Vaughan 1993, 144–149) proposes that bureaucratic power structures tend to undermine the human rights of the most subordinated groups in society, through a process of “social triage,” wherein their well-being is sacrificed or written off, and sometimes repressed, because adequately addressing their needs and rights would be “inefficient” for elites (and I would add, for other advantaged groups); it would entail too much cost and sacrifice on their part.¹⁷ Both authors maintain that the human rights perspective is better suited for analysis in a world increasingly marked by globalization, a phenomenon that certainly includes international migration. Martinez in essence combines several

key concerns of Turner and Sjoberg, in proposing that repressive acts by official agencies of state power (noted by Turner) not only adversely impact the well-being of individual victims but also serve to subjugate communities (in line with Sjoberg), causing “trauma suffered by the community” that in turn creates distrust and disempowerment and inhibits human development and constructive social relationships.¹⁸

Within immigration literature, there is a growing body of work that at least implicitly adopts the human rights perspective—i.e., showing concern for the rights, well-being, and dignity of immigrants (e.g., see Pécound and Guchteneire 2006, 2007; Rubio-Goldsmith et al. 2006; Cornelius 2005, 2001; U.S. Government Accountability Office 2006; Koulis et al. 1994; Santibáñez et al. 1993; Eschbach et al. 1999, 2001a; Bustamante 2002; Mattila 2000; Goodwin-Gill 2000; Rosenblum 1999; Dunn 1996, 1999a, 2001; Dunn, Aragonés, and Shivers 2005; Fujiwara 2005; *Social Justice* 1996, 2001; Hernández-Truyol 1997; Nevins 2003, 2008; Johnson 2008; Heyman 1998). While making important contributions, particularly in offering an alternative to the more developed and dominant nationalistic-citizenship view, much of it is either relatively abstract (often legalistic or philosophical) or, conversely, very focused on empirical details and lacking in concepts (though some works provide policy suggestions/options), and none squarely addresses the bureaucratic power structures whose agents commit rights abuses. Several key points stand out, however. First, Bustamante (2002, 345–346) proposes that those who see the granting of rights to immigrants, especially to undocumented immigrants, as harmful to nation-states reinforce a power inequality that leads to impunity for those who violate the human rights of immigrants—i.e., not granting immigrant rights gives abusers *carte blanche*. He also notes that the vulnerability of immigrants and their human rights is not due to a lack of international human rights standards and treaties that apply to this group, but rather to a lack of political will on the part of nation-states to enforce them (on this see also Mattila 2000) in the absence of any international mechanism to do so. Perhaps as a result, many advocates for the rights of immigrants frame their arguments in some variation of the language of citizenship, not human rights (*Social Justice* 1996; Rosenblum 1999; Romero 2005; Park 2004; Johnson 2004; Buff 2008; Chavez 2008).¹⁹ Within this approach, the cultural citizenship framework, for example, is focused on how Latinos in the United States, citizens and immigrants, have gone about constructing/winning their rights at the community and grassroots level, and ultimately from the nation-state (Oboler 2006; *Latino Studies* 2004a, 2004b; Flores and Benmayor 1997; Camarillo and Bonilla 2001). While

importantly stressing the agency of a subordinate group, this view tends to see a unity between Latin American immigrants and Latino U.S. citizens, or to otherwise conflate them, which is by no means always accurate. For instance, De Genova and Ramos-Zayas (2003) show how differing citizenship status serves as a source of antagonism between Puerto Ricans (U.S. citizens) and Mexican immigrants. This citizenship focus is quite consistent with Heyman's (2002) interpretation of the long Mexican American experience with Anglo racism and perceptions of Mexican Americans as "anticitizens," noted earlier. In addition, one study showed the key role of framing immigrants' claims for human rights based on their demonstrations of nation-state loyalty and patriotism (Fujiwara 2005).²⁰

The citizenship conceptual focus is not surprising, given the crucial quest for civil rights by minority groups in U.S. history, and the eminently clear route such an approach has afforded to subordinated groups (i.e., mobilize, then confront and petition the state). Thus rights in the United States typically have been understood as civil rights—rooted in the U.S. Constitution and accorded by the federal government—for which subordinated groups of all types have had to struggle over the years, most famously African Americans. While very understandable, this exclusively nation-state focus presents a trap of sorts, for if rights are conditional upon nation-state recognition, what does one use as a counterstandard for rights if the nation-state turns down a group's petition, or decides it's politically expedient to take away that group's rights? This concern is especially relevant for immigrants as nonmembers or marginal members of a society. Hence the importance of human rights as an alternative, universal standard against which to evaluate nation-state practices and build critiques of infringements on human dignity, even when such infringements are legal under a given nation's laws (Sjoberg et al. 2001). They are international, unconditional, and based most notably on the United Nations' Universal Declaration of Human Rights, passed in 1948, which includes some thirty articles guaranteeing, among other things: life, liberty, and security of person (Article 3); freedom from torture, or cruel, inhuman, or degrading treatment (5); freedom from arbitrary arrest, detention, or exile (9); and freedom of movement, including to leave one's country (13) (though the document is silent on the right to enter other countries); and that all people are equal in dignity and rights (1) and all are entitled to human rights without distinctions of national or social origin or language (2) (see United Nations 1948).

Finally, organizations are a key issue in my adapted framework on human rights, and some theoretical points on them bear mentioning as

well, especially as my study is focused on a specific bureaucratic power structure, the Border Patrol, and its effects on its “subject population” (Heyman 1995, 264)—i.e., those over whom the unit presumes to exercise authority, meaning in this study mainly Mexican immigrants and those who may appear to be Hispanic immigrants, namely Mexican Americans. (“Hispanic” is a more apt term than “Latino” in this context, given local practices and realities.²¹) In broader terms, my focus is on the impact of a bureaucracy on its surrounding social environment (Perrow 1986), one rife with inequality and ethnic subordination in this case. It speaks volumes that such social impacts constitute a largely neglected theme in organizational studies despite the obviously profound effects of large organizations (public and private) on society (Perrow 2000).²² (In contrast, as noted previously, Sjoberg and colleagues do take up the notion of the impact of bureaucracy on the human rights of disadvantaged groups, while Martinez notes the traumatic impact on communities of human rights abuses committed by state agencies.) In addition to wielding great power and resources, bureaucracies exercise their considerable influence through subtle means as well, such as employing “powerful myths” and symbols (Meyer and Rowan 1991; Selznick 1996, 273–274) to construct their legitimacy, as well as by turning demands for democratic input by the public into “administrative involvement” (Selznick 1953, 265), or managed, controlled participation.²³ Regarding the manipulation of myths and symbols, the Border Patrol routinely employed the depersonalizing term “illegal alien,” and (as we shall see) invoked “street crime” and even the provocative term “border bandits,” to frame new border enforcement projects.²⁴ While bureaucracies most often produce conformity and social control with such measures, groups and individuals make challenges to them by drawing upon competing or contradictory symbols and practices from various distinct institutions, and playing them off against each other, to thereby seek change “within and between” institutions or organizations (Freidland and Alford 1991, 254–257)—e.g., applying the norms of democracy to a hierarchical, authoritarian bureaucracy. Thus, I see a dynamic, though unequal, relationship between bureaucracy and its “subject population.”

Methodology

I gathered most of my data for this study while living and working for five years (1994–1999) in El Paso, Texas, researching and writing my dis-

sertation (on which this book is based) and working as a college instructor. My general methodological approach was that of the case study, defined by Orum et al. (1991, 2) as “an in-depth, multifaceted investigation, using qualitative research methods, of a single social phenomenon” (see also Yin 2002), which is particularly apt when studying bureaucracies and organizational deviance (Sjoberg et al. 1991, 55–60). The basic strategy was to seek multiple data sources and types, drawing on people having a variety of perspectives or from varying social locations, based on the assumption that powerful organizations are likely to closely hold and selectively release information on their activities (Sjoberg and Nett 1997, xlv). My main research method was ethnographic fieldwork (Jorgensen 1989; Neuman 2003, Chapter 13)—observation, participant-observation, as well as open-ended, semistructured interviews with a wide range of informants—supplemented by the use of written documents, particularly court documents, human rights reports, and local newspaper accounts. In sifting through the data I adopted a “bottom-up orientation” emphasizing the point of view of subordinated actors (Williams and Sjoberg 1993), particularly the “subject population” of the Border Patrol, though I also took into account the “top-down perspective” of bureaucratic elites. My purpose was to discover, describe, and interpret the data for a “bottom-up” contemporary history of Border Patrol enforcement efforts in El Paso, a topic that has gone largely unexamined by scholars. I gave special emphasis to human rights issues, not only for their intrinsic importance but also guided by Durkheim’s classic insight that the study of “deviance” (organizational in this case) helps us to better understand the “normal” (cited by Sjoberg and Nett 1997, 264).

My data sources were predominantly from outside the Border Patrol, as I was unable to gain formal, deep, and ongoing access to members of the El Paso Border Patrol, beyond several high-level managers and a few field agents. As is the case with many agencies, its leaders were not willing to provide wide-open access to an independent, outside researcher, but they did provide some limited access and tried as best they could to answer all my questions. I compensated for this by also interviewing several local retired Border Patrol agents and two retired INS (Immigration and Naturalization Service) officials—making for interviews with some fifteen current and former Border Patrol and INS officials (nearly all Border Patrol, and most currently with the unit). I also participated in a five-week-long Border Patrol Citizens Academy (BPCA) in 1995 (a class presenting the unit’s point of view on its mission and activities to interested citizens). In addition, I did in-depth interviews with an

additional sixty-five individuals from a wide range of backgrounds but somehow related to the unit and its activities, including victims of human rights abuses by agents (twelve) and lawyers and activists challenging Border Patrol enforcement abuses and excesses (twenty); other law enforcement or military officials whose units collaborated with the Border Patrol (five); and various knowledgeable local observers of Border Patrol enforcement efforts (twenty-eight)—e.g., social service providers, residents of patrolled areas, reporters, etc.²⁵ I supplemented this research from the 1990s with brief fieldwork in July 2004, interviewing eighteen additional people, including four Border Patrol officials, as well as remaining in ongoing contact during the first decade of the 2000s with several friends and informants living in the El Paso area and making several additional trips to the area, each involving some research (briefly in January 2001 and March 2005, longer for most of Summer 2007 and in late November–early December 2007).

However, given my lack of inside access to the Border Patrol, my primary source of data was my experience as participant-observer (and sometimes just passive observer) with “watchdog” groups challenging the unit’s enforcement excesses, namely, the El Paso Border Rights Coalition (BRC) and People Against the Wall (PAW), during the mid-1990s (1995–1998). I supplemented this with my observations as a resident of El Paso for five years (1994–1999), living in a hillside central city neighborhood (Sunset Heights) less than a mile from the border, and closely observing local border enforcement issues and related news and debates. As a member of the BRC and PAW, I participated in numerous meetings, had countless conversations, developed friendships, and attended a number of public events—mainly as an observer—particularly during the intense six-month-long conclusion to the Border Patrol’s wall campaign in 1995 and after. I also observed twenty public presentations by the Border Patrol to build support for its efforts (most during the border wall campaign). Also, as a member of the BRC, I participated in a collaborative project that created a forty-minute video on Border Patrol human rights abuses pursuant to the settlement for the Bowie lawsuit (discussed later), which afforded me access to a number of victims and case materials.²⁶ My methodological approach was adapted from Littrell’s (1993) “adversarial methods” for research on bureaucratic power structures, which he maintains allow researchers the greatest independence in studying them (rather than adopting the worldview of the organization) and are a means to overcome common obstacles to accessing data on them—though I sought to take a somewhat more

discreet, less adversarial role than that outlined by Littrell (1993). He recommends extensive participant-observational techniques emphasizing the researcher's role as an active citizen participating in groups challenging bureaucratic power structures.²⁷ I also followed the long-standing (and often neglected) "social reform" tradition in sociology (Feagin and Vera 2001) in taking a critical approach and working with activist groups seeking to improve society. Thus, the points of view I came to know the best were those critical of the Border Patrol and located outside it, and as such constitute a "bottom-up" view at odds with the "official story" put out by the leaders of the unit. However, I also sought as much as possible to know and understand the "official story" of the unit's leaders and other perspectives from within the unit, albeit on a limited basis owing to lack of access, with which I could compare the outside perspectives that the unit often ignored or denied.

A Note on Militarization

Before proceeding, I should briefly explain my approach in this book in light of my previous work, as some readers familiar with my earlier work may have some questions about the apparent lack of continuity. In my previous book (Dunn 1996), an examination of immigration and drug enforcement borderwide from 1978 to 1992, I posited that border enforcement had become increasingly militarized—i.e., with the military acting more like the police as they became involved and the Border Patrol acting in a more militarized fashion, broadly speaking, with much of it, specifically, reflecting key features of the Pentagon's Low-Intensity Conflict Doctrine—and that this had ominous human rights implications, some of which were already evident. However, in this book I have decided not to pursue the militarization thesis for several reasons—though I have pursued it in other work (Dunn 1999b, 2001; Dunn and Palafox 2005).²⁸ My main reason is that the militarization interpretation does not square well with the substance of the El Paso case, in my view; this became clear to me the more I studied it over my five years in El Paso. There are some elements of militarization present (e.g., some military support in helicopter surveillance, and some use of military surveillance equipment by the Border Patrol, and so on), but these were not central features of Operation Blockade, and the chief feature of the lining up of hundreds of agents along the river did not rise to militarization in my mind.²⁹ Operation Blockade was a bristling show

of force in its early stages especially, but not of blatantly militaristic force (military equipment or personnel, or agents outfitted as such)—or at least very little—but rather it was a vivid display of the ubiquitous, ordinary green-and-white Border Patrol vehicles along the Rio Grande staffed by regular agents parked along the river.³⁰ Whatever militarism was present at the outset faded over time as staffing levels were reduced and the operation became routinized and more mundane. It just didn't look or feel, to me, like a military operation in any meaningful way; it was a police matter overwhelmingly and framed as such by its designer, Sector Chief Silvestre Reyes. (However, subsequent similar efforts, Operation Gatekeeper in San Diego and Operation Safeguard in Arizona, appear to have had a much greater degree of militarization [including much greater military involvement and resources].) Operation Blockade showed that border enforcement was not a unidirectional trend toward more militarization (in a more narrow sense), but rather that the Border Patrol could take the initiative and carry out heightened border enforcement in a relatively less militarized way. However, this operation also showed such could still lead to serious, though less visible, human rights problems—the most significant of which, border-crossing deaths, becoming much clearer as the strategy was implemented elsewhere along the border.

The Setting and the El Paso Border Patrol

Before proceeding to the data and substantive issues of this study, I should briefly outline the setting of El Paso and overview the El Paso Border Patrol sector. El Paso, and its neighbor immediately across the Rio Grande, Ciudad Juárez, constitute the second-largest metropolitan area on the border (following San Diego and Tijuana), with some 1.9 million people in 2000; El Paso accounts for nearly 700,000 and Juárez the remainder (Coronado and Vargas 2001). In general terms, El Paso is a large, poor city, with a poverty rate typically around 25 percent (more than twice the national average), with unemployment usually in the 9–13 percent range, where Hispanics make up some three-quarters of the population, and non-Hispanic whites (“Anglos” in local terms) nearly all the rest (apart from a small portion of African Americans, Asian Americans, and Native Americans), and the foreign-born (overwhelmingly Mexican and a subgroup of the Hispanic portion of the populace) make up approximately one-quarter of the population (Staudt

1998, 35, 41; Coronado and Vargas 2001). The key ethnic divide in the city is between the shrinking, but still economically dominant, Anglo population and the growing Mexican American and Mexican immigrant population, though there has been relatively little overt conflict or even great tension.

Some 70,000 people live in hard-scrabble *colonias* in the rural desert areas outside of El Paso, which are unincorporated, poor communities made up mainly of recent Mexican immigrants and lacking in basic services, usually running water and/or wastewater. While neighboring Ciudad Juárez is a centerpiece of the border maquiladora industry (foreign-owned export production and assembly), with approximately half of its population being migrants from elsewhere in Mexico, it also has much greater poverty, including among the some 200,000 heavily female factory workers (Wright 2006; Salzinger 2003; Bowden 1998)—despite also a growing group of well-educated, middle-class professionals (Sklair 1993). El Paso, in contrast, has suffered massive job losses under the North American Free Trade Agreement (NAFTA), some 15,000 by 1999 (Gilot 1999), mainly in the once-thriving garment industry—though officially only some 9,500 by 2002 (Public Citizen 2005, citing U.S. Department of Labor data). Despite overall high levels of poverty and unemployment, there is a burgeoning Mexican American middle class in El Paso. Some 21 percent of all jobs in El Paso are public sector, over 50,000, including nearly 5,000 civilian jobs at the Fort Bliss army base. El Paso is a military town with 59,000 military retirees and family members in the area, in addition to 12,000 soldiers at Fort Bliss (“City of El Paso” 2005). Various federal police agencies related to the border also are key employers (e.g., Border Patrol, INS, Customs Service, etc.).

El Paso is geographically isolated, located at the tip of West Texas squeezed in between New Mexico and Mexico, over five hundred miles from the nearest large urban area to the east (Austin or San Antonio, Texas) and nearly three hundred miles from any other large city to the west, north, or south (Tucson, Arizona; Albuquerque, New Mexico; or Chihuahua City, Chihuahua, respectively); the only significant-sized city nearby, besides neighboring Ciudad Juárez, is Las Cruces, New Mexico (some 50,000 people and fifty miles north). Otherwise, El Paso is surrounded by sparsely populated desert and dry mountains for hundreds of miles in any direction, apart from the Rio Grande Valley, which turns north into New Mexico on the west side of El Paso, where the U.S.-Mexico border switches from being the Rio Grande to a riverless, land border going west through desolate territory to the Pacific.

Perhaps owing to such isolation, most undocumented border crossing in recent decades has been of local, often temporary crossers—many of whom came to work in El Paso—rather than long-distance migrants heading to the U.S. interior. However, El Paso also has a continuous and long history of large-scale Mexican migration for settlement purposes, starting in the early twentieth century with the Mexican Revolution (1910–1920) (see Romo 2005; Garcia 1981).

The El Paso Border Patrol sector, with thirteen stations, covers the two westernmost counties of Texas (El Paso and Hudspeth) and all of New Mexico, and includes some 289 miles of the border (El Paso Border Patrol 2005). Staffing levels grew from some six hundred agents at the outset of Operation Blockade in 1993, the vast majority in the El Paso area (interview with David, El Paso Border Patrol manager, September 19, 1996), to nearly double that by mid-2005, and increasingly agents were posted in outlying stations, especially in New Mexico. Until Operation Blockade, the El Paso sector was typically the second-largest sector in terms of annual apprehensions of unauthorized crossers (following the San Diego sector), averaging in excess of 200,000 apprehensions per year, before dropping sharply after the operation began. Prior to the blockade Border Patrol agents were typically focused on apprehending unauthorized border crossers after they had entered the country, patrolling mainly to question, detain, and apprehend. A memo from Border Patrol managers in this era stressed to agents the importance of generating as many apprehensions as possible in order to justify future budget requests (Salopek 1992, 1993). This meant hundreds of thousands of episodes per year of stopping and questioning suspects, making such incidents a common reality for residents of Hispanic appearance in heavily patrolled areas (e.g., poor neighborhoods near the Rio Grande). Within the unit, there was a gradual historical shift in ethnic makeup of the traditionally nearly all-Anglo unit (until the 1970s), as by 1995 approximately half of the agents in the El Paso Border Patrol were Hispanic, with Anglos accounting for nearly all the rest (and a few African Americans); while in terms of gender makeup, males made up 95 percent of the unit (El Paso Border Patrol Citizens Academy presentation, September 20, 1995). The El Paso Border Patrol's first Hispanic sector chief, Silvestre Reyes (the architect of Operation Blockade), was appointed in 1993.

From here forward I examine border enforcement and human rights in the El Paso area in a largely chronological fashion, starting with the

historic Bowie lawsuit of 1992 that reined in Border Patrol abuses, followed by an examination of the implementation of Operation Blockade (later renamed Operation Hold-the-Line) in 1993, and then a close study of the debate and struggle over a border wall/solid fence proposed by the Border Patrol for just west of El Paso in late 1993 through 1995. I then take a more detailed look at human rights issues for the pre- and post-Operation Blockade eras, through the mid-1990s. My last substantive chapter is an update of border enforcement and human rights issues in the area from 1999 through 2005, especially post-September 11, 2001. I conclude with an analysis of this data and history in light of the competing citizenship-nationalistic and human rights frameworks on rights, followed by a brief epilogue on 2006–2007 and a look toward the future.

CHAPTER 2

The Bowie Lawsuit Challenge to the El Paso Border Patrol

The federal lawsuit brought by students and staff at El Paso's Bowie High School against the El Paso Border Patrol in 1992 was a historic event, for it is the most successful, formal, and large-scale challenge to Border Patrol enforcement excesses and rights abuses in local history, and arguably along the entire border. It is a vivid instance of a "subject population" standing up to a bureaucratic power structure and its negative impact on their community, thereby putting some limits on the previously almost untouchable power and discretionary authority of the El Paso Border Patrol. It marked the establishment of a dynamic, though still unequal, two-way relationship between the unit and its "subject population," drastically changing the one-sided previous relationship in which the Border Patrol acted with impunity. Community activists successfully challenged the enforcement excesses of the Border Patrol by making an appeal to another institution, the federal courts, thereby making change in one organization by playing it off against the contrasting norms and practices of another (Freidland and Alford 1991)—in this case, one with formal authority as well. This was done within the citizenship-nationalistic framework as a long-subordinated ethnic group made a victorious claim for their civil rights in U.S. federal court, appealing as legitimate members of the nation with legal standing.

This lawsuit and the surrounding complex social environment clearly shaped the Border Patrol's actions thereafter, especially in Operation Blockade, initiated less than one year after the lawsuit was filed—which in turn became the model for subsequent Border Patrol operations elsewhere along the border, and a whole new approach to border enforcement. Accordingly, the landmark lawsuit and its origins merit considerable attention, something they have not received much of from scholars

(two of the only exceptions being Ortíz-González 2004, 66–68; Bixler-Márquez 2005). I will not be delving in great detail here into the various rights abuses (that will come later in Chapter 5), but rather will focus on this unique organized challenge to the Border Patrol, and how it arose.

Earlier Challenges to Border Patrol Abuses: An Organized Opposition Emerges

In some regards the Bowie lawsuit was the culmination of a grassroots challenge, begun in the mid-1980s, to human rights abuses committed by area border enforcement authorities. It is important to note that the context for this was the Border Patrol's great discretion in exercising its broad formal authority—particularly far greater latitude to stop and search people in an area within twenty-five miles of the border and its functional equivalents (e.g., highway checkpoints and airports) (see CLINIC 2001; Compton and Newland 1992).¹ In practice, agents used this authority against people of Hispanic appearance, especially those appearing to be from lower-income backgrounds (as most undocumented border crossers in the area were from Mexico and poor), and they pushed this authority even further, asking to see suspects' "papers" (immigration documents, even birth certificates), obliging them to comply or explain why they could not (e.g., see Plaza 1993). This meant that out on the streets of El Paso, Hispanic residents had to be prepared to prove their right to be in the country at all times or face the prospect of arrest, detention, and possibly even deportation by Border Patrol agents—a form of ethnic policing, in essence, at odds with American culture and more reminiscent of authoritarian regimes, leading some rights advocates to term the border a "deconstitutionalized zone" (Jimenez 1992; CLINIC 2001).²

For many years the unit's main enforcement tactic in the area was roving patrols in ubiquitous green-and-white sport utility vehicles (suv's) throughout the city and especially neighborhoods near the river boundary that were transit points for undocumented border crossers (e.g., the "south side" of the city between the Rio Grande and Interstate 10, including downtown), as well as close monitoring of transportation centers (airports, bus depots, etc.).³ One of the oldest of these neighborhoods is the densely populated, poor *segundo barrio*, or second ward, in the south-central area of the city, immediately adjacent to the river boundary running from downtown roughly two miles east to the Bridge of the

Americas, and including Bowie High School. Roving Border Patrol vehicles were a common, near constant sight in these areas. As one veteran agent said (smiling) about his job before Operation Blockade, “We’d just get the keys [to Border Patrol vehicles] and drive” (interview with Allen, Border Patrol agent, Fall 1995).⁴ A former agent from the 1980s told of the common tactic of “shotgunning” to boost apprehension numbers, which, he explained, “consisted of patrolling the downtown El Paso area and randomly stopping and questioning individuals with the object of locating aliens unlawfully in the United States” (*Murillo v. Musegades* 1992a). There were a number of well-trafficked, unauthorized border crossing areas on the river within the city frequented largely by local crossers (mainly workers), including an unconcealed spot immediately underneath the downtown international bridge. However, the Border Patrol generally did not attempt to close down such crossings, but rather focused on apprehending illegal crossers as they came through nearby neighborhoods (see Nathan 1991; Plaza 1993; Ortíz-González 2004, 50–66; Saenz 1997). Yet the veteran agent cited above admitted it was very difficult to discern undocumented border crossers from local residents and citizens in a poor Mexican American and immigrant neighborhood near the border.

Consequently, this “cat and mouse” enforcement strategy made for regular apprehension chases through border neighborhoods, intrusive questioning of residents, a good deal of chaos, and some human and civil rights abuses and other excesses of authority, all directed against persons of Hispanic appearance. The chase aspect, however, held an appeal for agents; as one noted, “Chasing people is part of the Border Patrol mystique. That’s our heritage. I used to love what I did for a living. Now [under Operation Blockade] it’s just a job” (Zamarripa 1996d). The rights abuse problems stemming from the Border Patrol’s enforcement efforts, while not new, became a prominent issue locally in El Paso in the latter 1980s with the advent of border human rights groups and reached a high point with the Bowie lawsuit in 1992. In general, it seems that the absence of any local, external oversight and accountability for the Border Patrol, as well as very stubborn, unapproachable local Border Patrol leadership, frustrated victims and allied activists and, as they became more organized, led to the historic lawsuit.

During the 1980s the issue of rights abuses committed in the course of border enforcement was initially raised as a sustained concern in El Paso by a small group of mainly leftist Anglo and Chicano activists and intellectuals (many college students or recent graduates) from both El

Paso and Juárez who in 1986 formed the League for Immigration, Border Rights, and Education (LIBRE). As a part of the group's larger vision critiquing and challenging the border more generally, LIBRE members saw border enforcement as a form of labor control, contrasting a closed border policy for workers with the open border policy for capital and goods, such as the booming export-assembly maquiladora industry in Juárez, where workers had few rights (Janine, presentation to Border Rights Coalition, September 28, 1997; see also Ortíz-González 2004, 55–62).⁵ Among its many early activities, LIBRE started seeking out rights abuse victims and recording their narratives of the incidents involving claims of abuse as a means to document an issue that had been ignored previously, notably in the local media.⁶ Made up solely of volunteers and lacking in resources, even an office, LIBRE conducted a variety of activities to seek out rights abuse victims, including the establishment of a local telephone hotline and the painting of a large “¡OJO MIGRA!” (Watch Immigration Authorities—Border Patrol, bridge inspectors, etc.) mural (that explained how to report abuses to the hotline) on the Juárez side of the cement riverbank underneath the main downtown international bridge—which remained in place for over a decade. The group brought rights abuse cases it documented to the attention of the local media, and was successful in convincing them to devote some coverage to specific cases, which helped make border enforcement rights abuses a public issue. This caused the Border Patrol, in particular, substantial grief, as it was cast in the defensive position of having to deny such claims, and this coverage was a significant change from the previous media practice of either ignoring the issue or only repeating the Border Patrol's version of events.

A new organization that would prove instrumental to the Bowie lawsuit, the Border Rights Coalition, grew directly out of LIBRE's pioneering work. In 1989 LIBRE members came together with several other mainly faith-based local immigrant and refugee advocacy service groups (especially those that had emerged to help Central Americans refugees) to form the Border Rights Coalition (BRC).⁷ The BRC was established at the urging of a new, border-region-wide human rights organization, the Immigration Law Enforcement Monitoring Project (ILEMP) of the American Friends Service Committee. ILEMP, headed by longtime activist Maria Jimenez, was the first group to promote efforts to systematically monitor human rights concerns in the border region as they related to border enforcement, and the BRC was one of the first of several local groups (along with others in Tucson, San Diego, and the Lower

Rio Grande Valley of Texas) that ILEMP helped set up for that ambitious objective, and which gathered data for a series of pioneering border enforcement human rights reports (ILEMP 1990, 1992, 1998).

With ILEMP's help, the BRC eventually hired a part-time staff person to document abuses as well as to coordinate education and outreach, and the organization took over the old LIBRE telephone hotline to receive reports of abuses by border authorities. Like LIBRE, the group had few other resources, but building on LIBRE's work and reputation it received calls from victims and referrals from other groups. The BRC took down people's stories in detail, helped people file official complaints (a very convoluted and often intimidating process) when they were willing to do so, and referred people to legal assistance—though few could afford this and very little was available on a free or low-cost basis. Like LIBRE, but on a more extensive basis, the BRC also brought abuse cases it had documented to the attention of the local media (in El Paso and Juárez) in order to draw attention to the issue or a particularly onerous abuse case.

This caused the Border Patrol (and other border enforcement bodies) a good deal of public relations trouble, as the group's work, publicly and in a sustained way, called into question the Border Patrol's more dubious practices that had long been overlooked or quietly tolerated, and sometimes forced the unit to respond to the abuse charges. While controversial, the persistent efforts of the BRC raised the issues of human rights in border enforcement and the near total unaccountability of federal enforcement agencies to local communities, in a manner that opened up something of a two-sided debate, which was a departure from the previous typically one-sided bureaucratic public relations glossing over of enforcement problems. More specifically, the BRC played a central role in facilitating the historic Bowie lawsuit challenging the Border Patrol's abusive enforcement practices.

Before examining the events that led to the lawsuit, it is important to note the gross inadequacies in the official complaint process, for this was a key factor in the lawsuit, as victims felt they had little other recourse. The procedures for filing a complaint against Border Patrol and other INS agents were largely inaccessible to the public, as there was virtually no publicity indicating that a complaint procedure existed, nor was there even a standardized complaint form (Salopek 1993; see also Human Rights Watch 1995, 26). Such basic flaws in the public complaint process were not unique to El Paso, but rather were systemic, having been noted as a key problem in the INS as a whole (including the

Border Patrol) since 1980 and again in 1997 by the U.S. Commission on Civil Rights (1980, 1997). In addition, it was found to be common for El Paso Border Patrol and INS agents to informally discourage the filing of complaints, sometimes stonewalling would-be complainants and losing statements taken down from them (Salopek 1992, 1993). Federal Judge Lucius Bunton of El Paso (who presided over the Bowie lawsuit) likewise noted that victims of abuse by Border Patrol agents were often “discouraged from filing a complaint by the governmental offices, personnel, and complaint structure.” Moreover, he noted that “Victims fear retaliation by the INS and by the Border Patrol in the form of deportation, criminal charges, or loss of legal immigration status for themselves or family members . . . victims have a sense of futility in filing grievances as victims are rarely, if ever, informed of the disposition of their complaints” (Bunton 1992a, 17⁸). As for what happened to public complaints that actually made it to the Border Patrol management, in my research I found the formal process to be fraught with problems and potential conflicts of interest—particularly an initial self-review of the complaint full of discretion for Border Patrol managers, and then a close, nearly cozy relationship between the official oversight body (the Office of Inspector General, Department of Justice) and Border Patrol managers that made for conflict of interest.⁹ Thus, the complaint process, because of its flaws, provided little recourse for victims of abuse by Border Patrol agents.

Buildup to the Bowie Lawsuit

The 1992 federal lawsuit that successfully challenged the El Paso Border Patrol and forced unprecedented changes in its enforcement practices in the El Paso area was brought by staff and students of El Paso’s Bowie High School, which is located immediately next to the Rio Grande (some fifty yards away) in the south-central section of the city populated mostly by poor and working-class Mexican immigrants and Mexican Americans, and an at least moderately popular (if not major) crossing area for undocumented border crossers.¹⁰ The Border Patrol left holes largely unrepaired in the border fence on top of the nearby river levee, as a means to funnel undocumented border crosser traffic through this relatively open area, where agents would have a better chance of spotting and apprehending suspects before the latter could enter the nearby neighborhood and blend in with the local residents

(author notes from videotape of Border Patrol presentation to Bowie MECHA, November 4, 1992). That the area was in part a high school campus did not deter agents in the least from using it as a prime site for chaotic apprehension efforts.

While this lawsuit has many points of origin, the key precipitating event is an episode in which one visually impaired student (who is legally blind, though he has partial vision) was abused by a Border Patrol agent, after which he decided to challenge his treatment. On Bowie High's graduation day in late May 1992, the student, "Juan," was stopped and questioned by a Border Patrol agent while walking home from a graduation rehearsal. When Juan told the agent he was going to exercise his right not to answer the agent's questions and tried to walk away, the agent threw him up against a fence, physically roughed him up, spat in his face, and also threatened to beat him, before finally letting him go (Juan, interview, Summer 1995). Shortly afterward he told a school counselor about the episode; she is also Mexican American and a graduate of Bowie High, and later recalled:

He was talking to me about what had happened and he was shaking . . . he was somewhat embarrassed . . . he started crying . . . He did come in the following week and he said, "Gosh, Victoria, what do you think I should do?" I said, "I think you need to see a lawyer. *It's happened too many times to our kids. The time has come.*" And then I started telling him about my experiences [with the Border Patrol]. And I said, "*For too many years, Juan . . . maybe our parents have indoctrinated us and told us that this is the way it is here in the border, and that we just have to accept it . . . Maybe the time has come. . . . Juan, pase lo que pase [come what may], you need to come forth and say what happened to you.*"

INTERVIEW WITH VICTORIA, BOWIE HIGH SCHOOL OFFICIAL, FALL 1995
(EMPHASIS ADDED)

Victoria helped him contact the Border Rights Coalition, which took down the details of his case and contacted the media, for the case was compelling and Juan was willing to go public about what had happened. This set in motion the coming together of a number of victims of Border Patrol abuse from Bowie High. The BRC recorded their cases of abuse and put them in contact with a new civil rights lawyers group in San Antonio, the Lawyers' Committee for Civil Rights under Law of Texas, which was interested in helping them take the Border Patrol to court

to seek redress and have these practices stopped. In the fall of 1992, the Lawyers' Committee did so.

Upon hearing of Juan's plight with the Border Patrol, Bowie High teacher and assistant football coach Ben Murillo came forward with another more grievous abuse incident that became the anchor for the lawsuit (he became the lead plaintiff), whose basic details merit notice here. During the prior fall (1991) Murillo and two football players were pulled over by Border Patrol agents on a main street just off the Bowie campus as they were driving to visit a neighboring school and watch a junior varsity football game. One agent drew his gun as he approached the car, was very rude and abrupt in his questioning, and refused to holster the gun for several minutes despite the absence of any threatening behavior by the coach and players. The agents said they were searching for an undocumented river-border crosser who was seen carrying a bag thought to possibly contain drugs and who had just headed into the area (interview with Ben Murillo, September 15, 1995; see also Dubose 1992; Plaza 1993; Bixler-Márquez 2005, 161–162).¹¹ Murillo's coming forward to speak about this publicly was instrumental in leading other victims to come forward as well, and the evidence of Border Patrol rights abuses began to mount.

The background of the case is more complex, of course. Over many years Border Patrol agents had sometimes abused and harassed Bowie students and others in the surrounding neighborhood, one of the city's poorest areas, the *segundo barrio*, made up mainly of Mexican immigrants and their succeeding generations of offspring. The question is *why in 1992* did an organized effort to challenge and stop those practices emerge? There are many reasons. First, while the Border Patrol had long had a prominent presence on and around Bowie High, its antagonism and abuse had become worse. Agents had reportedly become more abusive and engaged in other questionable behavior more intensively in the several years leading up to the case, according to several participants in the case, all of whom were school staff and had worked there for at least several years beforehand (interviews with Emiliano, Guadalupe, and Ben Murillo, Fall 1995). Ben Murillo recalled the transition:

Border Patrol was all over the place on our campus, running through the stadium, on the roof of the fieldhouse, coming into the dressing room while kids were dressing, on the practice field. . . . [Before] they'd sit and talk to you like a regular human being. But then something

happened. . . . All of a sudden they weren't friendly anymore. We'd catch glares from these people who were now storming our campus, like we were some kind of enemy. . . . As it turns out, this time was when the new [El Paso Border Patrol sector] chief, Musegades, came in.

INTERVIEW WITH BEN MURILLO, BOWIE FOOTBALL COACH,
SEPTEMBER 15, 1995

It seems that Border Patrol agents' increasingly antagonistic attitudes coincided with the tenure of Dale Musegades as the El Paso Border Patrol sector chief. In addition, drug enforcement became a heightened concern for agents around the campus, as several staff reported abusive episodes related to this type of enforcement, which was new to them. Murillo's incident was triggered by that concern, as were others. In a similar but less severe case, a widely beloved and highly respected staff person was followed by agents as she drove home from school, after she had completed her workout jogging around the school track. She was pulled over by agents, who proceeded to search her car in a fruitless, wrongheaded quest to ferret out illegal drugs—which she considered highly offensive (interview with Guadalupe, Fall 1995). In her role as a staffperson, and due to her approachable manner, students also came to her with frequent complaints about Border Patrol mistreatment of them, including rude and inappropriate searches. She recalled what they had told her: “Most of it was ‘They stopped us. They questioned us. They threw us against the van.’ or ‘They threw us against the wall. They took our bag and threw our books down, and searched our bags and left everything on the floor’” (interview with Guadalupe, Fall 1995).

The comments of several staff members are suggestive of the unsettled environment brought on by Border Patrol enforcement activity on the campus. The Bowie High principal during this period, newly arrived, recalled a litany of surreal Border Patrol actions that staff brought to his attention in his first months on the job:

I heard about students being stopped on campus, about agents that were actually in classrooms, who were pretending to be students, about vans from the Border Patrol that were driving on my campus, knocking out my watering system, and just tearing up the grass. . . . I heard about students who were grabbed and accosted, about teachers and clerks who were followed home, about some teachers and coaches who had weapons

placed on their heads. . . . I was totally amazed that this was happening at Bowie High School, or any place in the United States at the time.

INTERVIEW WITH HERB, BOWIE HIGH SCHOOL PRINCIPAL, FALL 1995

While the new principal was surprised at such heavy-handed Border Patrol actions on campus, another Bowie staff member and alumna, Guadalupe, recalled a sense of near Border Patrol occupation of the school grounds during her time as a student in the 1970s:

The Border Patrol at Bowie High School was here at all times. The Border Patrol was part of Bowie High School, or at least that's what we thought. As students, we saw them here on campus all the time; we'd see them everywhere. They'd stop us everywhere. They were all over. . . . I always thought they were part of the school.

INTERVIEW WITH GUADALUPE, FORMER BOWIE STUDENT, FALL 1995

This general impression of a forceful Border Patrol presence, particularly the daily surveilling and frequent targeting of students for stops and questioning (some of which became abusive), both on school grounds and nearby neighborhood streets, was confirmed by student informants as well (interviews with Rafael, Juan, and Sylvia, Bowie High ex-students, Summer 1995) and by numerous affidavits submitted by the plaintiffs in the Bowie lawsuit.

Despite these problems, higher authorities had authorized the unit's presence on the campus, essentially handing Bowie High on a silver platter to the Border Patrol to do with largely as it saw fit. Specifically, the El Paso School District superintendent, Stan Paz, himself Hispanic, had formally approved the Border Patrol's presence on the Bowie campus and continued to support it even after complaints from Bowie staff and students were brought to his attention (interviews with Emiliano and Herb, Fall 1995). El Paso's federal congressional representative's office was also instrumental in arranging this agreement between the school district and the Border Patrol (*ibid.*; also see *Murillo v. Musegades* 1992d, 96-1116).

Beyond Border Patrol misconduct itself, a more important factor fueling the lawsuit was that a variety of actors at the school were in place who were willing to challenge these practices and laid the groundwork to do so. One was the school counselor, Victoria, who encouraged Juan to come forward with his graduation-day abuse case and seek assistance.

Perhaps the most important factor at the school was the role played by a social studies teacher, Emiliano, who formed an organization that, in becoming the impetus for the conscientization (or consciousness-raising) of Bowie students about their rights, was the backbone of the lawsuit. In 1991, he founded a Bowie High chapter of the *Movimiento Estudiantil Chicano de Atzlán (MECHA)*, a Chicano student political and cultural group typically based at universities (he said this was the first high school chapter). His formation of the *MECHA* chapter stemmed in part from his growing concern over the Border Patrol presence and activities on campus and harassment incidents that students had shared with him. One of the *MECHA* group's activities in the spring of 1992 was to have a couple of speakers from the Border Rights Coalition come in and do a "know your rights" presentation (interview with Emiliano, Bowie High teacher, Fall 1995). One of the students who heard this presentation was Juan, the one who challenged the Border Patrol by deciding to exercise his right to remain silent when stopped and questioned on the way home from graduation practice later that spring.

Another key school actor whose help was instrumental in seeking justice for the Bowie High students and staff who had experienced abusive treatment by the Border Patrol was the school's new and outspoken principal, who had recently been transferred to the school. Immediately at the start of his tenure at the school, in 1992, he had noticed and questioned the strong presence of the Border Patrol on campus and was put off by the arrogant responses he received from agents. He recalled:

The first day, I could see the presence of the Border Patrol right on Bowie High School. As I pulled in for my first day on duty, there were four or five of their vans on my upper parking lot, and I thought it most strange. . . . And I pulled up and I said, "Good morning. Is there something I can help you with?"

And their answer was, "You can't help us with anything."

I said, "Well, I'm the principal."

And they said, "We don't care who you are."

I said [to myself], "Wow! They're going to find out who I am and they're going to care." And that was my first introduction to the U.S. Border Patrol.

INTERVIEW WITH HERB, BOWIE HIGH SCHOOL PRINCIPAL, FALL 1995

The principal was already well known locally for his strong will, high public profile, outspokenness, colorful, even charismatic character, and

willingness to take on authorities he felt were acting unfairly. He took his status as the highest authority at the school very seriously and was more than ready to respond to what he saw as direct and unjust challenges to his authority. His willingness to question the Border Patrol's activities stands in stark contrast to previous Bowie High principals. Several Mexican American lawsuit participants noted rather ironically an Anglo (actually, a self-described loud-mouthed Jewish guy originally from Brooklyn, New York) stood up for Mexican Americans and Mexican immigrants against the Border Patrol, while previous Mexican American principals were unwilling or afraid to do so (interviews with Juan, Victoria, and Ben Murillo, Fall 1995). Victoria recalled:

I would see the Border Patrol trucks lined up right here, inside the campus. It was an uncomfortable feeling. . . . But nobody, teachers or counselors or principal, nobody went over and confronted them and said, "Don't do this. Don't come into our campus." . . . It's such a shame that the two Mexican American principals we had here never said anything. It had to have been the person that was not of our particular race to say, "This is going to stop." And it has stopped. And I am very grateful to [Herb].

INTERVIEW WITH VICTORIA, FALL 1995

At any rate, this new principal was concerned about the Border Patrol presence on campus and receptive to receiving others' concerns about it, including complaints. Once this became known among the staff, a number of people came to him with complaints, including those involved in the previously mentioned episodes, as well as the social studies teacher who coordinated the MECHA group (interviews with Emiliano, Victoria, Guadalupe, and Ben Murillo, Fall 1995). The principal was shocked by what he saw and heard from his staff (as noted previously). Herb tried to get the complaints answered by arranging a private meeting with El Paso Border Patrol Sector Chief Musegades. According to the principal, the chief's response was an immediate blanket denial (interview with Herb, Fall 1995).

Following this frustrating private meeting, the Bowie High principal and the MECHA faculty advisor arranged for a larger meeting between themselves, the MECHA students, and Border Patrol representatives, so the former two could air their grievances about the unit's enforcement practices and the latter could explain themselves. Several interesting things emerged from this unprecedented meeting between the Border

Patrol and the aggrieved parties, in which the Border Patrol was represented by Chief Musegades, the sector's public affairs officer, and a field agent who was a Bowie alumnus (and Mexican American). First, Chief Musegades described the unit's authority as allowing it to do almost anything on Bowie grounds, given their proximity to the border, and he went on to portray the Bowie area as threatening, dangerous, and rife with cross-border drug trafficking, as well as the trafficking of undocumented immigrants from all over the world by international smuggling rings, all of which in turn justified whatever action the unit felt was necessary to address such menacing threats. (The above observations were drawn from a poor-quality video of the Bowie MECHA meeting with El Paso Border Patrol, November 4, 1992.)

Second, no one, neither staff nor students, challenged this framework or what seemed to be obvious exaggerations of the threats, but rather focused on critiquing the means employed—i.e., the various enforcement techniques that adversely affected innocent bystanders—and in a very NIMBY (not in my back yard) sort of way. For instance, one of the relatively few students to speak up questioned the chief as to why his agents “hassled him” and, more indignantly, why they couldn't tell he was obviously not an undocumented immigrant! More significantly, the students asked the chief to repair the border fencing, in order to keep unauthorized border crossers from crossing through the Bowie grounds, thereby reducing the necessity for the Border Patrol to be on campus (Bowie MECHA meeting with El Paso Border Patrol, November 4, 1992). In fact, the MECHA students had mounted a petition drive on the fence repair issue and gathered eight hundred signatures (interview with Emiliano, Fall 1995; Bunton 1992a, 18).

On the whole, students and staff came away from the meeting feeling still unsatisfied and frustrated, as the Border Patrol basically made no concessions nor agreed to change any of its actions, instead offering only rationalizations. Nonetheless, getting the Border Patrol to even meet with a critical, victimized group from the public was unprecedented locally and at least a symbolic step toward some sort of public accountability. Undoubtedly, it was also somewhat intimidating for the students and staff, as they had rarely been able to directly question representatives of the powerful agency whose agents had harassed or abused them, so it is not surprising that they did not question the terms of the Border Patrol's framing of the issues, which then limited the scope of their critique and implied (even called for) the heightening of border enforcement, albeit in a different way—as would become even more clear in the trial and after.

In the months leading up to the lawsuit, several other avenues for redress were also tried by Bowie staff. The issue of Border Patrol abuses against Mexican American and Mexican immigrant students and staff at Bowie High was even raised with the U.S. Commission on Civil Rights. At hearings held by the commission in El Paso during the summer of 1992, the Bowie MECHA group staff advisor made a formal statement outlining grievances about Border Patrol rights abuses against students and staff at Bowie High. However, he felt frustrated by the fact that this produced no noticeable results shortly thereafter (interview with Emiliano, Fall 1995), though the hearings did provide a new public forum and significant local publicity for the abuse issue. Moreover, he had previously written a letter to the Border Patrol detailing his complaints about agent abuses of Bowie students, saying he “got no response whatsoever” (interview with Emiliano, Fall 1995). And as noted previously, the principal’s attempt to convince the El Paso School District superintendent to limit the Border Patrol’s presence on school grounds fell on deaf ears. This collective failure of various attempts, via multiple avenues, to seek change in Border Patrol practices around Bowie High resulted in frustration and left little to try except the lawsuit, which the lawyers prepared; the MECHA group, with the aid of Border Rights Coalition members, continued gathering affidavits during the fall term. As noted earlier, the official complaint process was so flawed that filing a civil lawsuit against the Border Patrol was the only obvious way to seek some measure of real, local accountability from the unit.

Obstacles to the Bowie Lawsuit

Before turning to the lawsuit, it is important to consider the obstacles and difficulties faced by the Bowie students and staff in mounting such an unprecedented challenge to the Border Patrol’s enforcement practices. Even with the confluence of the previously noted factors that facilitated the emergence of the lawsuit at this time, however, there were still a number of mitigating circumstances that inhibited the students from pursuing their claims. First, and foremost, was a sense of fatalism and disempowerment in the community. One student involved in the case summarized the reaction of his friend’s mother and his mother to their respective sons being beaten by Border Patrol agents: “His mom didn’t want to do anything about it because of the fact ‘you cannot beat

the government.’ . . . My mom told me not to do anything about it” (interview with Rafael, Fall 1995).

This sentiment of fatalism emanating from parents was echoed by two Bowie staff, some of whom were themselves ex-Bowie students. Staff member and alumna Guadalupe recalled, “I never liked the Border Patrol being around. But I never thought anyone would do anything about it, because they hadn’t for years. So I figured it’s going to be like this forever” (interview with Guadalupe, Fall 1995). Assistant Football Coach Murillo, later lead plaintiff in the lawsuit, related a similar sense of fatalism at the time: “Part of the reason . . . why I didn’t take any action [initially] was because I had fallen into the mindset the people of this community had, ‘There’s nothing you can do about it anyway, so why bother trying?’” (interview with Ben Murillo, September 15, 1995).

A larger obstacle that had to be overcome was fear of retaliation by the Border Patrol, INS, or other government agencies. One student stated, “People thought: Most of us are on welfare, get food stamps and all that, and if you have anything against the government, that the government will take away welfare from them, food stamps, even their passports” (interview with Rafael, Fall 1995). Likewise, a Bowie staff member stated, “I knew for a fact that the mother [of the student who’d been abused] was not documented. . . . [T]he mama would start telling her son, ‘No ’mijo [my son], don’t do it. Mira m’ijo [look my son], I’m not documented. What are they going to do to me? You do anything like that [make a complaint] and they’re going to throw me back” (interview with Victoria, Fall 1995). Even one of the staff in the lawsuit expressed fear of retaliation: “During the lawsuit I was so afraid. I thought that they were going to get back at us somehow, or that they were going to do something to a student” (interview with Guadalupe, Fall 1995).

The fear-of-retaliation issue is especially relevant not only due to the fact that some students were undocumented immigrants or held insufficient documentation (e.g., border crossing cards allow a person to cross to shop or visit but not to attend school), but also due to the widespread phenomenon of “mixed status” households (i.e., whose members collectively are some combination of citizens, legal residents, and undocumented immigrants)—such that 85 percent of immigrant families are “mixed status” (Fix and Zimmermann 1999, 2; see also Fix and Zimmermann 2001). There was fear that those household members with non-U.S.-citizen status could face retaliation if a citizen household member raised a complaint about the Border Patrol or INS, as previous

quotes make clear, or that they could even lose access to social services and benefits (food stamps, etc.). And such fears were not so far-fetched, as the BRC knew of cases in which INS agents arrested and deported an undocumented immigrant family member they happened upon, while they were in the process of examining the case of another family member (interview with Beth, Border Rights Coalition coordinator, Winter 1996). Thus, if they were not U.S. citizens, students choosing to participate in the lawsuit put themselves, as well as any noncitizen members of their household, at risk for being retaliated against.

In addition to external pressures and potential threats, another factor inhibiting students' ability to challenge the Border Patrol on its abusive practices was a more complex, internalized pressure. Students were often initially unwilling to come forward and relate episodes in which they had been mistreated by Border Patrol agents because they felt embarrassed and ashamed. The victims' humiliation and embarrassment were cited in the plaintiffs' attorneys' brief, in attached supporting student affidavits, and in trial testimony as a key damage suffered by their clients (*Murillo v. Musegades* 1992c, 1992b). The victims generally felt that being stopped and mistreated by agents was an indication that the agents mistook them for being undocumented immigrants, or *mojados*, which they generally considered to be deeply embarrassing and offensive—a not surprising reaction given that such misidentification was a graphic reinforcement of the marginalization (and literal potential for exclusion) of Mexican Americans in the United States, marginalization of a type virtually unique among ethnic groups in the United States. Speaking of the aftermath of his beating at the hands of Border Patrol agents on a busy street, Rafael said, “I was embarrassed because there were a lot of people watching the incident. . . . I could see the people . . . just look at me” (interview with Rafael, Summer 1995). More generally he noted, “What they [fellow student victims] considered was that it was embarrassing if you would get stopped and harassed or anything [by Border Patrol agents] . . . your friends would make fun of you” (interview with Rafael, Summer 1995). Two other ex-students and lawsuit participants noted a similar sentiment of embarrassment in the face of Border Patrol enforcement efforts, some abusive (interview with Juan and Sylvia, Summer 1995). Specifically, Juan said of the aftereffects of the abuse he was subjected to by agents, again on a public street, “I think the only . . . bad thing was the feeling humiliated in front of so many people and being a U.S. citizen” (interview with Juan, Summer 1995).

Added to this shame obstacle was the fact that victims felt other people (especially authority figures) would probably not believe them or that they would be otherwise dismissed if they related episodes of Border Patrol mistreatment. For example, Sylvia noted that she did not tell even her mother about the beating she received from an agent on the street while walking home from school. She recalled that when she got home she looked in rough shape and upset, and her mother confronted her:

My mom asked me, “What happened to you?” And I just told that her that me and my boyfriend had gotten in a fight. I thought that if I told her a border agent had abused me, she wouldn’t believe me.

INTERVIEW WITH SYLVIA, FORMER BOWIE STUDENT, SUMMER 1995

Even Coach Murillo, who had an agent pull a gun on him on the street in the absence of any threat whatsoever, indicated similar sentiments early on. At the start of the episode as he was pulled over by two agents, he recalled that one of the two students with him teased, “Oh coach they think you’re a wetback.” Then he recalled that shortly thereafter, “I shared this incident only with the school secretary, because I didn’t believe the administrator [principal] really cared what happened. And when she told him about it he laughed and that was it” (interview with Ben Murillo, September 15, 1995). On the whole it seems that students and staff were not aware of the extent of the Border Patrol mistreatment, in part because they rarely discussed any such episodes they had experienced, out of a mix of embarrassment and fatalistic acceptance, not to mention fear of retaliation. It was only when one student first publicly came forward with his complaint of abuse late in the spring of 1992 that others would also later that fall.

As the victims came forward and the Border Patrol abuse issue became more public, several key lawsuit figures on the plaintiffs’ side were repeatedly threatened by anonymous callers and writers. Juan, the student who first publicly challenged the Border Patrol and appeared in the media, received a series of anonymous, threatening telephone calls and letters. He recalled, “I got death threats to my house, letters telling me to watch my back when I was walking, that I might not make it home. I would get three letters a week for three months. . . . At first I was very threatened, scared. But my mom was supportive, she told me to do what’s right, but she was worried” (interview with Juan, Summer 1995). Emiliano, the staff advisor to the student *MECHA* group, which was the key organizing vehicle for much of the lawsuit, received death threats

from an anonymous caller; he also reported that the supportive school principal had as well, and that even his own mother had received harassing calls (interview with Emiliano, Fall 1995). These central actors in the Bowie lawsuit courageously refused to let such ominous threats deter them, however. This entire phenomenon is reflective of the fact that the lawsuit, as well as just raising the issue of Border Patrol abuse in general, was a polarizing issue in the broader El Paso community, as it called into question what had long gone largely unrecognized or unquestioned—likewise, the previous work of the Border Rights Coalition in the years leading up to the lawsuit had raised the abuse issue and also often generated hostile, though less extreme, reactions from some quarters locally.

The Lawsuit

The actual lawsuit brought by Bowie High School students and staff against the El Paso Border Patrol, formally entitled *Murillo, et al. versus Musegades, et al.*, was filed as a federal civil rights claim by private parties in federal court in El Paso in late October of 1992. It went relatively quickly, as during the fall of 1992 the case was prepared and filed, a preliminary hearing held, and preliminary rulings issued by the judge, in the plaintiffs' favor. Once a few key people stepped forward in the summer and fall of 1992, to make public their claims of abuse, starting with Juan, a sort of crescendo effect emerged, as a long-dammed-up reservoir of Border Patrol abuse complaints spilled forth from students and staff, which were collected by the BRC and MECHA in the form of affidavits for the lawsuit.

The BRC first put Juan, and later other complainants, in contact with the lawyers who would take the case, the Lawyers' Committee for Civil Rights under Law of Texas, Immigrant and Refugee Rights Project (hereafter referred to as the Lawyers' Committee), based in San Antonio, Texas. No local lawyers at that time were willing to take on the Border Patrol, a large and powerful institution locally, though eventually a prominent local immigration attorney was brought on as a supporting attorney (interview with Beth, BRC coordinator, Winter 1996).¹² The Lawyers' Committee was especially poised to seize the opportunity this case offered, as it was a recently formed organization that sought to engage in high-impact, class-action immigration-related civil rights cases. After hearing the initial information from Juan's graduation

day abuse, the Lawyers' Committee sought out information on additional instances of abuse by Border Patrol agents in and around school grounds. The principal means for doing this was the Bowie MECHA student group (aided by the BRC), which spread the word and held several sessions for those who had complaints and were interested in coming forward and giving statements on what had occurred, taken down as affidavits by BRC staff and volunteers (interviews with Rafael, Emiliano, and Beth, Summer 1995, Fall 1995, and Winter 1996, respectively). This took place in September and October of 1992, and by mid-October the Lawyers' Committee had assembled the evidence, and written and filed a brief in federal court to initiate the case. The brief filed on behalf of the Bowie plaintiffs was focused on "egregious violations of the Fourth Amendment of the U.S. Constitution, which protects all persons from 'unreasonable search and seizure'" (*Murillo v. Musegades* 1992b, 1).

Beyond providing an impressive wealth of evidence of a wide array of Border Patrol abuses, the case also called for specific alternative border enforcement tactics near the school—which became precisely those that would be used more widely as the heart of Operation Blockade, implemented less than a year later. The Lawyers' Committee brief argued:

While the government has an interest in enforcing the immigration laws, its actions in this case are wholly unreasonable. Defendants [Border Patrol] have other less oppressive and constitutionally permissible means of achieving their goals. . . . First, Defendants could *patrol the immediate border area near the fence and levee of the Rio Grande River*, instead of patrolling a public school. Second, Defendants could take a common-sense approach to controlling the border and *patch holes in the border fence across from Bowie High School*.

MURILLO V. MUSEGADES 1992B, 7 (EMPHASIS ADDED)

These same tactics that became key features of Operational Blockade were cited by other lawsuit plaintiffs and supporters. The call to repair the fence, as noted previously, originated from the MECHA group, which gathered some eight hundred signatures—a fact noted by the presiding judge in his preliminary ruling (Bunton 1992a, 18). Several lawsuit figures said they initially suggested the river levee patrolling option, though they had different reactions in hindsight several years later. Coach Murillo sheepishly recalled proposing this idea earlier, but did not wish to take "credit" for it (interview with Ben Murillo, September 15, 1995); while Principal Herb boastfully claimed he devised this

idea, which became the operation's main tactic, in a speech at a Border Patrol function (Herb, public presentation, October 20, 1995).

During the preparation of its case, the Lawyers' Committee (representing the plaintiffs) made a strategic decision to exclude abuse claims from undocumented immigrant students. The second page of its brief makes this very clear, stating that those suffering from Fourth Amendment violations by the Border Patrol at Bowie High are "Hispanic students, employees and faculty members, all of whom are U.S. citizens or lawful permanent residents of the United States" (*Murillo v. Musegades* 1992b, 2). The lawyers took this course as a means to bolster the credibility of the plaintiffs in a lawsuit that they realistically viewed as facing a very tough uphill fight to achieve success (interview with Beth, BRC coordinator, Winter 1996). All the affidavits from the plaintiffs begin by establishing that those giving their statements are either U.S. citizens or legal residents (*Murillo v. Musegades* 1992a). Moreover, the plaintiffs' brief describes in detail only cases of abuse involving U.S. citizen plaintiffs (though they do not state this in the brief; I discovered this by cross-checking with the affidavits). Further, these abuse descriptions in the brief stress how essentially "normal"—which is to say American—the students appeared in dress and in use of the English language in their dealing with the agents (*Murillo v. Musegades* 1992b, 19–20).

The categorical exclusion of claims from undocumented students effectively limited which claims of abuse would have the chance to be heard or considered legitimate. The implication, however subtle at the time, was that somehow one's immigration status determined one's ability, if not right, to make a claim of mistreatment by the Border Patrol—despite the fact that legally this is not the case. Mistreatment claims from those without secure immigration status were effectively rendered invisible—which could be interpreted as meaning their abuse was not a problem, an interpretation against which the plaintiffs' lawyers would most definitely have reacted strongly. While the decision was made for strategic, pragmatic reasons to improve the chances for what was undoubtedly a long-shot lawsuit, it is clear that the plaintiffs' lawyers felt that a favorable ruling in the case would also in practice likely benefit undocumented immigrants (interview with Beth, BRC coordinator, Winter 1996). However, their exclusion from the lawsuit also created a type of stratification in which some claims of abuse were "more equal than others," owing not to the content and evidence of the claim but the status of the claim-maker. And certainly, it served to separate undocumented/insufficiently documented students from those with citizenship

or secure immigration status. The schism between undocumented immigrants, on the one hand, and legal immigrants and citizens, on the other (one version of a Mexican/Mexican American schism), permeated the case and related organizing, and came to the fore even further in Operation Blockade, implemented less than one year later.

The first preliminary hearings for the Bowie lawsuit were held in late October 1992, and though preliminary they were historic. For perhaps the first time a large group of local residents alleging mistreatment by Border Patrol agents were able to present their grievances in an official forum, federal court, that could exercise authority over the unit. During the daylong hearings eight of the student and school staff plaintiffs with the more exceptional abuse cases had the opportunity to present gripping, detailed testimony to a federal judge, Lucius Bunton, about how the Border Patrol had mistreated them, narratives supported by numerous affidavits of additional specific abuse claims. The plaintiffs' lawyers were quite pleased to have their case heard by Judge Bunton, because he was known as something of a maverick and had presided over a similar case in 1982 (*Mendoza v. INS*), in which he issued a preliminary injunction against INS and Border Patrol agents' targeting of suspects solely on the basis of ethnic appearance (Hispanic).¹³ The only witness for the defendants was Border Patrol Sector Chief Musegades, and he essentially maintained that his officers were highly trained professionals and that he had not received any abuse complaints, and if he had, he would have had them thoroughly investigated, and if evidence of wrongdoing by agents had been found, then the perpetrators would have been subject to appropriate disciplinary action (*Murillo v. Musegades* 1992d, 120–127). Basically, he maintained a bureaucratic wall of denial, both by denying having received abuse reports, despite the fact that he had, and by stressing formal procedures rather than any actual practices. Likewise, the Border Patrol agents' affidavits filed before the hearings basically maintained a position of outright denial that any of the alleged abuses had taken place (*Murillo v. Musegades* 1992a).

During these preliminary hearings evidence of the schism between Mexican Americans and undocumented Mexican immigrants came into sharp relief, as some of the plaintiffs' testimony demonstrated that they felt little sympathy for undocumented crossers. For example, one plaintiff testified under cross-examination from the U.S. attorney representing the Border Patrol that she supported the Border Patrol in its mission to remove undocumented immigrants from her neighborhood (*Murillo v. Musegades* 1992d, 86). Furthermore, a key thrust of the plaintiffs' lawyers' strategy in the hearing was to highlight the humiliation

and trauma plaintiffs had experienced as a result of being mistaken by agents for undocumented Mexican border crossers, in order to illustrate the adverse effects the Border Patrol abuses had had on them. For example, asked how he felt after Border Patrol agents had falsely arrested him in the school parking lot and taken him away for further questioning and possible deportation, a U.S. citizen Hispanic student replied, "I was humiliated and embarrassed at school because they [other students] thought I was an illegal alien" (*Murillo v. Musegades* 1992d, 94–95). Continuing in this vein, in summarizing the statements of witnesses he did not have time to call, a plaintiffs' attorney was careful to note that all of them were U.S. citizens or lawful permanent residents (*Murillo v. Musegades* 1992d, 117). Also, the plaintiffs' attorneys stressed that such stops and questioning by Border Patrol agents had occurred to their U.S. citizen and legal resident plaintiffs numerous times. This approach highlighted the wedge between Mexican Americans and legal immigrants versus undocumented Mexican immigrants.

One of the BRC activists observing the trial was especially perceptive and candid in detecting in the lawsuit this sentiment pitting Mexican Americans against undocumented Mexican immigrants. She was troubled by this and said, "The suit adapts a narrow NIMBY attitude: It's OK to catch people if they're illegal, but don't do it in my back yard!" ("Janine" 1992). However, the other BRC activists were so pleased to see the students standing up to Border Patrol abuses in an arena that offered them the chance for formal recognition and legitimacy of those claims, that they overlooked and did not want to discuss the framework underlying the lawsuit: this antagonism over ethnic and legal status and the pro-enforcement bias. Yet the implementation of Operation Blockade less than a year later proved Janine's concerns to be quite prophetic, as it played upon the exact tendencies she noted.

Nonetheless, following these initial and fairly brief hearings in late October 1992, the presiding federal judge, Lucius Bunton, issued a preliminary finding some six weeks later, December 1, 1992. He took the plaintiffs' evidence very seriously and found that their case had merit. Specifically, Judge Bunton stated in his findings:

A review of the actions of the INS [Border Patrol¹⁴] and its Agents in this case demonstrates Defendants *violated Plaintiffs' Fourth Amendment rights*. . . . [goes on to list specific cases of unreasonable searches].

The INS in this case discriminated against Plaintiffs in *violation of their Fifth Amendment rights to equal protection*. The INS has repeatedly and illegally stopped, questioned, detained, frisked, arrested, and

searched Plaintiffs and numerous other students from the Bowie High School District. *El Paso Border Patrol agents have subjected Plaintiffs and others to indecent comments, obscene gestures, and humiliation* in the presence of their co-workers, friends, family, and relevant community. The proffered evidence strongly supports this court in its conclusion that the *illegal and abusive conduct of the El Paso Border Patrol* was directed against Plaintiffs, staff, and residents in the Bowie High School District *solely because of their mere immutable appearance as Hispanics.*

BUNTON 1992A, 29–31 (EMPHASIS ADDED, EXCEPT FOR “SOLELY . . .”)

This was a historic validation of the body of complaints against Border Patrol mistreatment of Hispanic residents and citizens. Judge Bunton essentially found that nearly all the claims put forth by the plaintiffs had merit. It seems clear that the judge was not swayed in the least by the vague assurances and denials made by Border Patrol Chief Musegades, and that he was quite upset that the Border Patrol was disregarding his previous 1982 injunction against stops and searches based solely upon ethnic appearance. Beyond validating the merit of the plaintiffs’ abuse claims, Judge Bunton also certified the class-action status of the plaintiffs’ lawsuit, another major victory. His listing of those covered by the class-action status, while broad, is nonetheless telling for whom it left out, namely undocumented border crossers. Specifically, he stated that class members included “all other persons similarly situated to representative Plaintiffs who are United States Citizens or legal permanent residents of Hispanic descent” who live, work, attend school, or travel through the Bowie High School District (Bunton 1992a, 9–10). This exclusion of undocumented border crossers suggests that in his view they did not have constitutional rights to be violated in the first place, or were persons of little consequence.

Perhaps most importantly of all, Judge Bunton also granted the plaintiffs’ motion for a preliminary injunction, in which he prohibited El Paso Border Patrol agents from stopping, detaining, questioning, searching, or arresting any person solely on the basis of ethnic appearance (Bunton 1992b). Agents could conduct such activities only if they had “a reasonable suspicion, based on specific articulable facts involving more than mere ethnic appearance” (*ibid.*). Again, this directly addressed a key complaint of the plaintiffs, that they had been targeted because of their ethnic appearance. This injunction greatly reined in Border Patrol agents’ vast discretionary authority in the area served by Bowie High. And most crucially, in the short term at least (pending trial

or appeal), the Border Patrol had to abide by it, because the measure was formally imposed on it by a member of the federal judiciary.

The court's certifying of the merit of the complaints it heard against the Border Patrol, along with the injunction that specifically limited Border Patrol enforcement authority, was a historic first, locally. Though there had been some limited success previously, the court's actions were unprecedented in the depth and breadth of the restraints they placed on the discretionary power of the Border Patrol that had resulted in its prior abuses. This outcome validated a pent-up history of similar complaints in the area's Mexican American and Mexican immigrant communities that had never been addressed or formally heard. The initial ruling had many layers of significance, as several of the participants recalled. In assessing the lawsuit, ex-student Rafael remarked on the unity it instilled, stating, "The whole student body acted as one" (interview with Rafael, Summer 1995). Others noted the same. In addition to removing the Border Patrol from the Bowie campus, it also taught the students about their rights. As Rafael recalled, "I've learned a lot from it, starting with the rights I have. . . . I've been able to stick up to people, to higher authorities. I'm not embarrassed or afraid" (interview with Rafael, Summer 1995). Juan summed it up thus, "What I learned from all this is that if you believe in your Constitution, it's going to get you a long way" (interview with Juan, Summer 1995). The lead plaintiff, Coach Murillo, surmised, "I think it raised the level of self-esteem here, the level of pride. It relaxed the community, not just Bowie . . . but the whole community felt, 'hey something could be done'" (interview with Ben Murillo, September 15, 1995). The Bowie MECHA advisor reflected:

I was happy as a teacher because students were not only learning social studies; they were living social studies, in that *they were living the promulgation of the rights of Americans. And they began publicizing it very much . . . to the Segundo Barrio [neighborhood] community, as to what those rights were. . . .* The story of the Bowie case is the story of heroism of young people. . . . *They didn't just sit by and act as passive subjects of the government; they made the government respond to their needs in a constitutional and legal way.*

INTERVIEW WITH EMILIANO, BOWIE TEACHER, SUMMER 1995
(EMPHASIS ADDED)

The initial rulings were a significant victory for the community, especially the surrounding *segundo barrio*. The students and staff involved

became local celebrities and heroes to many for standing up for not only their own rights, but by extension those of the broader Mexican American and Mexican immigrant communities in the area. In the aftermath, during the winter of 1992–1993, there was a large celebration dinner and ceremony, organized by the Border Rights Coalition and others, in which participants and supporters came out in force (Plaza 1993).

Following Judge Bunton’s December 1992 preliminary rulings and injunction against ethnic profiling, the Border Patrol’s enforcement practices that had led to so many abuses were substantially reined in, though this unprecedented limitation was resented by agents and its implementation was hardly seamless. The experience of one of the main plaintiffs, Juan, several months later illustrates this. He recalled a retaliatory incident that occurred while he was waiting at a bus stop with a friend in March of 1993.

My friend had on a Bowie High School shirt. . . . And as I was heading into the bus, the [Border Patrol] agent stopped me and started to question me about what my citizenship was. I responded, “U.S. citizen.” Then he responded by asking where I was born. And then I exercised the right to remain silent.

And that’s when he came on with the sarcastic remarks, saying . . . *“Oh, you’re one of the assholes from Bowie High School.”* And then [he] *said our principal was full of shit*, because we were supposed to cooperate with them, because they were federal agents. . . . They started . . . saying we were *stupid* . . . and that they would *probably have to take us in*.

I looked at the agent and said . . . “Let me ask you a question. *Why is it that people like you that have a badge and a gun think that you can violate our rights like that and treat us like shit?*” He didn’t answer, and took off in his truck.

INTERVIEW WITH JUAN, FORMER BOWIE STUDENT, SUMMER 1995
(EMPHASIS ADDED)

The agent directly and hostilely responded to the lawsuit and to the student’s exercising his rights, in part by highlighting his inflated sense of importance as a “federal agent.” And indeed, the agent appears to have violated the injunction against ethnic profiling, for he targeted for questioning two Hispanic teenagers simply waiting for a bus in South El Paso. The episode symbolizes the Border Patrol’s chafing under and resentment toward the Bowie lawsuit’s success in initially limiting its

discretionary authority, and the Bowie plaintiffs' unwillingness to passively allow the old status quo to continue.

During 1993, as the case entered an extended phase of lawyer negotiations over a possible settlement, other political organizing around the abuse issue was deferred—at a time of growing momentum in the aftermath of the publicity and favorable preliminary rulings by Judge Bunton. As awareness and support for the lawsuit grew among community groups, neighborhood associations, and churches in the Bowie area, one unprecedented, potentially far-reaching proposal for community organizing around the abuse issue by the prestigious Mexican American Legal Defense Fund (MALDEF) was specifically undercut by the settlement negotiations. The BRC coordinator at the time, Beth, recalled:

At one point the MALDEF leadership development classes—these were community people . . . They contacted me and wanted to do a project on the Bowie case. *So they built this whole campaign they called “witness for justice,”* and they had fliers and posters and brochures that they had developed. . . . *We were training them on documenting cases, and they were going to set up tables at La Fe [health clinic] and various other places around the neighborhood to start getting people to come in and report,* so they could get additional witnesses, members of the class [action group for lawsuit]. *That never actually got implemented because . . . the lawyers said not to do it . . . because a settlement was imminent.*

INTERVIEW WITH BETH, BRC COORDINATOR, SPRING 1997 (EMPHASIS ADDED)

That MALDEF would consider taking up such a political organizing and community outreach campaign around the issue of rights abuses by Border Patrol agents was extraordinary, as no mainstream, influential Hispanic civil rights group had previously taken up such a measure in El Paso. Bringing MALDEF's resources and credibility to bear in a grassroots organizing campaign on the rights abuse topic raised the possibility of building a much broader movement beyond the lawsuit that might challenge the Border Patrol and empower local residents in various new ways. Once begun, such community organizing perhaps could have developed its own dynamic, exceeding a narrow focus on the lawsuit, and led to other community-based discussions, strategies, and actions on rights advocacy and the border. But such was not to be, as the plaintiffs'

lawyers muzzled the project just before it was to begin, no doubt for strategic legal reasons.

Despite this setback, a barrage of negative publicity and new developments from late 1992 through mid-1993 left the El Paso Border Patrol reeling and on the political defensive as its credibility reached a nadir in the aftermath of the initial rulings in the Bowie case. With an unresolved class-action civil rights lawsuit and unfavorable preliminary rulings hanging over the head of El Paso Border Patrol Sector Chief Dale Musegades, it was announced in the spring of 1993 that he would be retiring shortly (Montes 1993; Brock 1993b). Further contributing to the Border Patrol's woes was a cascade of publicity surrounding the case, ranging from extensive coverage in the local media on both sides of the border up to the national level on the *Good Morning America* TV show and in *The Wall Street Journal* (Tomsho 1993), which highlighted the plaintiffs' claims and the initial rulings in their favor and contrasted them with the Border Patrol's flat denials of any problems. The denials by an Anglo Border Patrol chief, who appeared to be a throwback to an earlier era, of the gripping descriptions of agent abuses articulated by Mexican Americans and Mexican immigrants, especially teenagers, were problematic for the agency. A high point in the critical media coverage of the unit was reached at about the same time as initial rulings in the Bowie case. An award-winning investigative series, first appearing in the *El Paso Times* in December 1992, provided extensive detail of local border enforcement (Border Patrol and INS agents) misconduct and the extreme difficulties facing members of the public in even attempting to report agent misconduct to authorities (Salopek 1992, 1993).

The frustration with the inaccessible official channels of the Border Patrol and other border enforcement authorities led to a locally unprecedented step. In December of 1992 the El Paso City Council appointed a Border Patrol Local Accountability Commission (after passing a motion for such in Summer 1992) to hear complaints, though the commission lacked investigatory or enforcement authority. The panel included a member of the Border Rights Coalition and one from the local chapter of the American Civil Liberties Union (ACLU) (interview with Beth, BRC coordinator, Spring 1997). In addition, the *El Paso Times* editorial board and the area's federal congressman, Ron Coleman, both backed a congressional proposal for an independent federal commission to review complaints against the Border Patrol, INS, and Customs Service ("Coleman Signs On . . ." 1993). Meanwhile, in the first half of 1993, the local MALDEF leadership class was expressing greater interest in the

abuse documentation issue, as noted previously, and in 1993 MALDEF's highly regarded, experienced legal team signed on as cocounsel for the Bowie case (interview with Beth, BRC coordinator, Spring 1997). Clearly, the Border Patrol was on the political defensive and losing the public relations contest as the legitimacy of its traditional enforcement methods was increasingly questioned and challenged. Meanwhile, after having long been relatively marginalized, the political legitimacy of rights abuse complainants and the BRC was greatly heightened. The issue of rights abuse in border enforcement, and of scrutinizing the Border Patrol's enforcement practices, was becoming "mainstreamed" among a broad array of social actors in the El Paso area.

After a year of negotiations, the Bowie lawsuit concluded in February 1994 with an out-of-court settlement agreement approved before the case went to trial. The main points in it essentially reiterated Judge Bunton's injunction against the Border Patrol, though with some important additions. The Border Patrol agreed that its agents would not violate subjects' Fourth Amendment rights. Specifically, Border Patrol agents were not to detain, question, or arrest any person solely on the basis of Hispanic ethnic appearance, but rather would need "reasonable suspicion," defined as it was in the injunction—i.e., "based on specific articulable facts involving more than mere appearance of the person being of Hispanic descent"—that the person had violated U.S. immigration law (*Murillo v. Musegades* 1994, 5). The Border Patrol agreed to implement a series of measures to make the official abuse complaint process more publicly accessible, including staffing a bilingual toll-free hotline and posting and distributing bilingual promotional materials for the complaint process.

Most notable of all, perhaps, the court would supervise the agreement for a period of five years, during which time the Border Patrol would present quarterly reports to it on abuse complaints received. Other provisions included civil and constitutional rights training for all El Paso sector Border Patrol agents (*Murillo v. Musegades* 1994). These were very meaningful reforms, particularly making permanent the key points of the previous preliminary injunction regarding the prohibition of stopping suspects solely on the basis of ethnic appearance. The provisions calling for a more accessible public complaint process were also historic, though they did not address how to lessen the public's fear of making such complaints and other inhibitions. (And unfortunately, the stipulated publicity to promote the abuse complaint process would turn out to be only minimally visible in practice, but it was an improvement.¹⁵)

Moreover, the court supervision for five years meant that the El Paso Border Patrol would be directly supervised by an external, authoritative body for a substantial period of time. Such formal, local oversight by an outside body with significant authority over the Border Patrol was unprecedented and, if nothing else, signaled the unit was under close watch.

Conclusion

The Bowie lawsuit is a sort of classic, heroic struggle of a sympathetic, righteous underdog against unjust authority, in this case Hispanic high school students and staff against the arrogant, abusive, capricious, Anglo-led Border Patrol. The time for change had indeed come, for a challenge to long-standing enforcement practices that amounted to ethnic profiling and violated the rights of area residents of Hispanic appearance, especially those in poor neighborhoods near the Rio Grande border. The Mexican American and Mexican immigrant Bowie High School students from a poor neighborhood were the central, heroic actors in this struggle, as they overcame many barriers—particularly the pervasive sense of fatalism and acceptance as well as fear of retaliation—to air their long-standing grievances and seek formal redress. A variety of supportive actors on the school staff and in the community, particularly the Border Rights Coalition, coalesced at the right time to facilitate a process of student empowerment that resonated deeply in the broader El Paso community.

The profound impact of a bureaucratic power structure on the surrounding social environment (Perrow 1986) was challenged and changed, as the Border Patrol was reined in by the federal civil rights lawsuit brought by Bowie High School students and staff. This altered the one-sided relationship in which the Border Patrol held near total sway, and replaced it with a more dynamic, two-way, though still unequal, relationship between the unit and its surrounding social environment; the unit now had to pay attention to and modify practices that adversely impacted the rights of key portions of its “subject population.”

By successfully challenging rights abuses by the Border Patrol against a long-subordinated ethnic group, actors from the group limited the process of bureaucratic “social triage” (Sjoberg 1996) against them, wherein the rights of subordinated groups are written off or repressed by bureaucratic power structures to the advantage of elites, and other

more privileged groups in society—in this case as an “acceptable by-product” of border enforcement. In suing the Border Patrol to make this change, the students and their allies appealed to norms and practices of another institution that contradicted and contrasted with those of the agency (in the way suggested by Freidland and Alford 1991). They employed federal judicial review, a key part of U.S. democracy, to take on an undemocratic bureaucratic power structure, in this case an unapproachable federal police body with broad formal authority and discretion. The preliminary rulings of the federal judge validated the rights abuse claims of the students and staff, and prohibited the Border Patrol from continuing its long-standing practice of targeting suspects solely on the basis of ethnic appearance—i.e., ethnic profiling.

In broad terms the Bowie lawsuit plaintiffs were also clearly working within the nationalistic-citizenship framework (Soysal 1994; Jacobson 1996), with its attendant exclusive and conditional nature, by opting to seek redress in federal court and more so by excluding undocumented Mexican immigrants, the ultimate underdog, from the pool of plaintiffs—despite the fact that beating and mistreating them was also illegal. This was deemed necessary from a legal tactics perspective, to create more sympathetic plaintiff/victims by stressing their status as legitimate members of society. Still, the lawyers and activists also hoped the benefits of the lawsuit reining in abusive agents would “trickle down” to undocumented immigrants as well. However, the calls by students and in the lawsuit itself for heightened border enforcement in ways that would be less intrusive to neighborhood residents (by repairing the border fence and placing agents directly on the river levee facing Mexico) were certainly nationalistic and also citizenship-based. The lawsuit questioned the current means of border enforcement, mainly the negative “spillover” effect on Mexican Americans and legal Mexican immigrant residents, not the border enforcement *per se*. No lawsuit could do the latter, but there was not even any questioning of enforcement in the efforts surrounding the lawsuit, and indeed quite the contrary. Thus, this successful appeal for the civil rights of Mexican American and legal Mexican immigrant residents was exclusive and conditional in being based upon the legal immigration or citizenship status of the plaintiffs and in some of its alternative proposals for border enforcement—which fell along fractured ethnic lines that became clearer later in Operation Blockade.

Thus, while the lawsuit was historic in winning meaningful reforms and oversight of the El Paso Border Patrol, it also drew on the

nationalistic-citizenship framework in ways that reinforced the process of differentiation and social distance between Mexican Americans and legal Mexican immigrants versus undocumented Mexican immigrants as the “Other” (see Vila 2000 for an extensive discussion of this issue). Moreover, the logic of the plaintiffs’ argument and even some of their proposed alternative Border Patrol enforcement tactics would become the basis for the Border Patrol’s Operation Blockade, designed and implemented by a new sector chief who would remake border enforcement strategy in the entire Southwest border region and in so doing provide a key building block for subsequent national Border Patrol strategy. This is not to suggest that the Bowie lawsuit or the comments and activities of various participants by themselves caused the Border Patrol to implement Operation Blockade, as there were many contributing factors (see Bixler-Márquez 2005, 159) and the chain of causation is impossible to fully determine. Still, they are undeniably key contributing factors, and Operation Blockade/Hold-the-Line cannot be adequately understood without looking at this context that foreshadowed it. Thanks to the lawsuit, the El Paso Border Patrol, for one of the very few times, was forced to reform and respond to its “subject population” and broader social environment. And respond it would, as it reasserted itself most strongly and with an operation that came as quite a surprise to residents and observers, despite hints in the lawsuit, as a new sector chief came to town and drew up his plan.

CHAPTER 3

Operation Blockade/Hold-the-Line: The Border Patrol Reasserts Control

The implementation of Operation Blockade on September 19, 1993, with four hundred agents posted round-the-clock in high-visibility fashion directly along the Rio Grande international boundary between El Paso and Ciudad Juárez for miles, was a historic turn in Border Patrol enforcement efforts. It sparked a series of new Southwest border region operations to discourage undocumented border crossers in the main long-standing, unauthorized border-crossing areas (in and around several border urban centers) and to divert or displace them to more remote and hostile terrain. It also was the foundation for a rewriting of the Border Patrol's national strategy based on this approach (see U.S. Border Patrol 1994 and U.S. General Accounting Office 1997, 64–67), which remains a cornerstone (see Office of the Border Patrol 2004).¹ It was a drastic departure from previous practices that had for decades been focused on apprehension of undocumented crossers after entry, which led to impressive totals for the El Paso sector of over 200,000 per year (as will be seen later on), which traditionally ranked second, behind the San Diego sector, in annual total apprehensions. Thus, Operation Blockade was a true strategic paradigm shift—and though it was officially later renamed Operation Hold-the-Line, in my view the original name is the more fitting and will be used henceforth.²

The origins of Operation Blockade, despite its key regional and national role, are decidedly local and merit careful attention. In the aftermath of the Bowie lawsuit, the El Paso Border Patrol was clearly on the political defensive, and it was clear that the old enforcement approach was not viable. The federal court injunction prohibiting ethnic profiling greatly limited the unit's discretionary authority and made its previous core enforcement practices—roving patrols of predominantly lower-

income, Mexican American neighborhoods near the border—difficult if not impossible to sustain. The local political climate had turned decisively against the unit, with a wide array of social actors jumping on the bandwagon to take up the issues raised in the Bowie lawsuit and poised to challenge the unit. Thus, the previously intractable bureaucratic power structure of the Border Patrol was forced to respond and modify its practices by the surrounding social environment, especially by the challenge launched by its “subject population.” And internally, the unit was in flux, awaiting a new chief in light of the retirement of Sector Chief Musegades in the spring of 1993, and with significant discipline and morale problems.

The time was indeed ripe for change; it would come from the top with the arrival in July 1993 of a new, politically savvy Mexican American sector chief, Silvestre Reyes, who brought a completely different way of relating to the public and responding to the challenging social environment. Within three short months after his arrival he accomplished what had previously seemed nearly impossible, restoring the unit’s credibility and earning it widespread public support across ethnic lines. Key in this was the new chief’s strategic use of popular myths and symbols (Meyer and Rowan 1991) to construct support for the new operation, particularly local myths about crime. Strongly reinforcing the border, as this operation did, certainly fit the citizenship-nationalistic framework, and it gave Mexican Americans in El Paso a new sense of security and belonging, as they were no longer prime “suspects” as objects of enforcement, which in turn enhanced their civil rights. While the operation illustrates a bureaucracy responding to the surrounding social environment, it also demonstrates the emphatic reassertion of bureaucratic power and authority to create a new dominant status and marginalize the opposition. Consequently, the operation merits a detailed examination, especially given its subsequent key role in U.S. border enforcement policy. In this chapter, then, I examine the buildup to the operation, the implementation of it, and the response of various social actors, before then scrutinizing its purported successes.

The New El Paso Border Patrol Chief

The INS brought in Silvestre Reyes, an El Paso native, to replace the retired Dale Musegades to fill the chief Border Patrol agent post of the contentious, crisis-ridden El Paso Border Patrol sector. Reyes came

from the McAllen, Texas, sector at the far eastern end of the border, which he had led since 1984, becoming the first Hispanic Border Patrol sector chief in history. He would take the El Paso Border Patrol out of crisis and restore its legitimacy by bringing a more open and effective public relations style and, more importantly, by fundamentally altering its enforcement strategy, designing and implementing it within his first two and a half months after becoming the chief of the El Paso sector.

Reyes was the ideal candidate in many regards. He was originally from the El Paso area and still had deep family ties in the area, and he knew both sides of border enforcement issues firsthand, as shown in an ironic story from his youth (that he has told many audiences):

I grew up on a farm here in west El Paso, and actually was well aware of the Border Patrol. . . . [W]hen I was small . . . *I would act as a lookout for the Border Patrol.* And when I saw them I would blow this air horn in the truck, so that the field hands would scatter and hide. So it was kind of ironic that as an adult I'd go to work for the very agency I had served as a lookout against. *But that's life on the border.*

INTERVIEW WITH EX-CHIEF SILVESTRE REYES, DECEMBER 10, 1996
(EMPHASIS ADDED)

He was also the grandson of a Mexican immigrant (who left during the Mexican Revolution after having been part of Pancho Villa's forces), and he joined the Border Patrol in 1969 rather by chance after completing military service in the Vietnam War.³ That he had been on the other side of the border enforcement issue seemed to enhance rather than detract from his credibility in some circles by showing he had an understanding of both sides of the immigration issue. He also had developed ties to the area during a four-year stint in the 1970s as an INS bridge inspector and supervisor in the El Paso sector. In addition, his status as a Vietnam combat veteran certainly helped bolster his credibility in El Paso, with its large army base (Fort Bliss) and thousands of military retirees and veterans residing in the area.

Most important, though, was that Reyes is Mexican American, and he took over leading a sector that was charged in federal court with civil rights abuses against Mexican American and legal Mexican immigrant high school students and staff. Moreover, he was replacing a highly controversial sector chief, Dale Musegades, woefully lacking in public relations skills, who seemed to be a throwback to an earlier era of blatant Anglo prejudice and discrimination against Mexican-

origin peoples. Further, Reyes was a pioneer in race and ethnic relations within the Border Patrol, as the first Hispanic sector chief in the history of the Border Patrol, a post he achieved in 1984 against some resistance.⁴ In addition, he had overcome ethnic hostility within the agency earlier in his career, particularly as a new agent in the Del Rio sector, where he was one of only two Hispanic agents when he started in 1969; he recalls that a veteran Anglo agent told him early on, “I think the Border Patrol is going to the dogs because they started hiring Mexicans.”⁵ Thus, Reyes had the experience, credibility, and background to take on the challenges posed by the El Paso sector. More important, he was extremely skilled in an area in which his predecessor had failed miserably.

A crucial part of Reyes’ strength as a Border Patrol chief lay in his well-developed public relations abilities, which were the key to his being selected by the INS commissioner to lead a sector mired in controversy. Specifically, Reyes stated:

In fact I was sent here because I probably had the strongest community relations program of anywhere on the border. I’ve always believed strongly that it’s a lot easier to enforce the laws if we have community support, than if we are in an antagonistic relationship. So while I was in McAllen, I worked very hard to establish good rapport with the community. . . . We also did a lot of things in the community to garner community support, volunteer in public schools . . . feeding the poor at Thanksgiving and Christmas time, sponsoring Christmas parties. . . . I learned very early that people respond very favorably to you if you’re doing nice things for their children.

*I also held community sessions where I would go and hold town meetings. And people could come in and talk about issues and problems and things relating to Border Patrol operations. . . . So when I got here, I already had that as a basis in terms of making sure that we did everything we could to have the community support us, instead of looking at us as an *invading army*.*

. . . [T]here’s a segment of the population that’s still resentful of the uniform . . . the things it represents and has represented on the border historically. *So one of the things I always tried to do was to be part of the community, to bridge that gap so that we would eliminate as much as possible that invading army mentality that existed in the past.*

INTERVIEWS WITH EX-CHIEF REYES, DECEMBER 10 AND 17, 1996
(EMPHASIS ADDED)

Especially notable is his comment that one point of such community and public relations was to counter the impression that the Border Patrol was an “invading army” of sorts, given the unit’s historically troubled relations with Mexican American and immigrant communities in the region. Thus, he saw a benevolent sort of community outreach as necessary to overcome that history and to build support for the unit, or at least acceptance, among a key portion of the unit’s “subject population,” i.e., Mexican Americans. And techniques key to obtaining this were benevolent deeds for children, and making the chief publicly available to discuss problems and concerns through community meetings. Thus the new chief was poised to radically change the approach of the El Paso Border Patrol leadership toward being more open and publicly approachable. One local border rights activist (and critic of Reyes) noted the striking difference in style between Reyes and his predecessor, observing, “I can’t imagine two bureaucrats more different than those two. The contrast between them was just amazingly sharp, because Musegades was an extremely closed kind of guy in terms of his relationship with the community; it was very, very poor” (interview with Beth, BRC coordinator, Spring 1997).

Beyond the community outreach measures noted previously, Reyes also made himself available to the media as part of his public relations efforts. He stated his philosophy thus:

I have always believed that in order to be successful you have to have a good relationship with media. . . . You’ve got to tell your story, what you’re doing, how you’re doing it, and why it’s important. . . . The best way of conveying that is the media. I’ve always had an open-door policy with the media.

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

Ultimately, Reyes’ public relations skills proved to be one of his biggest assets in dealing with Border Patrol opponents and especially the broader public after the implementation of Operation Blockade. Moreover, Reyes also had some expertise in implementing a sort of precursor to Operation Blockade in the Brownsville-Matamoros area in 1989 during his tenure as head of the McAllen sector. Hence, Reyes was in many ways the ideal candidate to clean up the mess in the El Paso Border Patrol sector.

Upon his arrival in July 1993, the local media received him warmly, and hopes were raised that he would clean up the Border Patrol. His

initial assessment of the El Paso Border Patrol sector certainly indicated that, even from a Border Patrol perspective, it was in need of significant changes, and he set about making them. He recalled, specifically:

The sector was having a tough time. They were being sued. There were a number of morale problems—sixty-seven different complaints [all pending] against specific officers. . . . One of my first goals was to resolve that lawsuit, that class-action lawsuit at Bowie High School, so we could get about the business of enforcing the law in El Paso. . . . I also systematically worked through all those complaints that had been filed. I disciplined a number of officers. . . . We were seeing between eight to ten thousand illegal or undocumented people crossing every day in between El Paso and Juárez. . . . *You had chaos on the border.*⁶

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996 (EMPHASIS ADDED)

Thus, he faced a very challenging set of circumstances, largely arising from the ineffectiveness of, and mistreatment problems endemic to, the apprehension-oriented enforcement strategy, and in less than three months he responded with Operation Blockade.

Buildup to Operation Blockade

Reyes arrived as chief in El Paso on July 4, 1993, well prepared not only with his background, but by having gathered as much information as possible before he arrived about the El Paso sector situation from national and regional headquarters staff as well as various people in El Paso (interview with ex-Chief Reyes, December 10, 1996). One initiative high on his action agenda upon arrival that merits special attention was his public relations efforts, or community outreach, because these were such a marked contrast to the approach of his predecessor. More important, they helped to neutralize or assuage critics of the Border Patrol and prepare the ground for a favorable (or at least much muted critical) reaction to the upcoming Operation Blockade. Of his early community outreach work before the operation, he recalled:

I basically did a lot of what I call groundwork in the community—talking to groups, talking to different people, the neighborhood associations, and walking the neighborhoods along the border highway, and

getting a feel for what we were doing and the ramifications of a lot of the problems we were facing as an agency.

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

Understandably, many he met with had serious concerns about the Border Patrol's enforcement efforts. Most instructive of these encounters is the meeting he held with the loosely organized opposition to Border Patrol rights abuses in early September of 1993, which included representatives from some seventeen rights advocacy groups (broadly defined) from El Paso and Juárez, convened by the Border Rights Coalition; their agenda was abuse, accessibility, and accountability.⁷ The BRC coordinator recalled:

The purpose was to first of all establish right away that these organizations were here . . . that they were concerned about Border Patrol abuse. . . . And it was a fairly narrow goal, which was to establish a better relationship with the Border Patrol, and to have the Border Patrol be more accountable to the community in some way. . . . [H]e made a lot of promises about accessibility. The Coalition people who were present brought up several abuse cases that had just fallen through the cracks. . . . He invited the Coalition to send him a dozen cases and he would personally investigate and find out what the status was. And he did do that actually. . . . [After the meeting] I was hearing that people wanted to take him at his word, and test him, and see whether he really meant it.

INTERVIEW WITH BETH, BRC COORDINATOR, SPRING 1997

Thus, in a dramatic departure from his predecessor that seemed to bode well for the future, Chief Reyes met with his unit's strongest rights advocacy critics and pledged to investigate their concerns (which he did) and to make himself accessible, rather than deny the validity of their concerns and remain aloof or reply with hostility. While the rights advocates and Reyes had some very frank exchanges of views and did not agree on all points, overall his performance played very well with this tough audience (BRC notes on Community Roundtable with Chief Reyes).⁸ However, in retrospect, Beth bitterly noted that Chief Reyes did not take the opportunity to give them any indication of the forthcoming Operation Blockade, which was sprung less than three weeks later; public input and dialogue clearly had their limits. Further, the focus on abuse was well-suited to an operation that went far toward

addressing abuse concerns while simultaneously dramatically reinforcing the border.

Reyes' later explanation for this meeting, while rather general, illustrates his approach to building community support, or at least acceptance, for his unit. He stated:

I have found that it's very difficult for people to dislike you if they know you. It's very difficult for people to criticize you if you're accessible. . . . I've always had the philosophy that you meet with everyone. . . . If you can resolve problems or potential problems by virtue of those meetings I think everybody wins.

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

Thus, Reyes used the encounter with opposition groups to build rapport and familiarity with him, hoping thereby to reduce the prospects for opposition, to undermine their grounds for criticism of the unit by providing them with access, and to resolve some lingering abuse problems. All this suggests "managing" the opposition, which in this scenario ideally also includes establishing some semblance of accountability, though a decidedly informal variety. Again, the contrast with Reyes' predecessor could hardly be more striking, and was quite welcome. Moreover, the meeting played very well in the local media (Olvera 1993b; "Open door . . ." 1993), and would be especially useful for future media and public relations efforts, for he would point to it as evidence of his openness to the community, even to the unit's harshest critics. A year and a half later he would even claim that he implemented Operation Blockade essentially at the request of the BRC and other critics (field notes on Border Patrol Public Hearing, March 21, 1995)—despite the fact he never mentioned the operation to them beforehand. Apart from this particular meeting, however, he conducted many others with a wide range of groups and key figures in El Paso, and he later reported that the main concerns he heard about were uncontrolled undocumented immigration through the city and crimes committed by undocumented crossers ("Border Patrol Chief Explains . . ." 1993; Fried 1994, 19). And these turned out to be the key themes he used to justify Operation Blockade.

Before turning to the implementation of Operation Blockade, it should be noted that just prior to it there was an emerging counter-sentiment in local political circles for a greater opening of the border in at least some symbolic way, which in hindsight seems quite remarkable.

That spring, the mayor (whose term ended in June 1993) had raised the idea of a twenty-five-mile borderless zone around El Paso and Juárez to open the border between the two cities, especially to facilitate trade and commerce, removing Border Patrol and all boundary enforcement authorities outside the city. This seems to have been inspired in large part by the general euphoria among local political and economic elites regarding the North American Free Trade Agreement (NAFTA)—due to be voted on in the U.S. Congress later that fall—which they saw as an opportunity to develop the region’s economy (Ortíz-González 2004, 68–69). Most notably, it was advocated by a large new organization, Unite El Paso, led mainly by Chamber of Commerce types and emerging political figures (including the future state senator for El Paso). This notion of a “borderless community” was one of the key themes that emerged in the group’s agenda over the summer of 1993, and it was raised during a citywide mass meeting of hundreds of people in the El Paso civic center convened by the group on September 18, 1993, the day before the implementation of Operation Blockade (interview with Beth, BRC coordinator, Spring 1997). This drew prominent local figures of all types (e.g., religious leaders, politicians, and businesspeople), including Border Patrol Chief Reyes, and this “borderless community” idea was prominent among the topics discussed (Fried 1994, 12–13; Ortíz-González 2004, 69, 130–131). Quite to the contrary, however, Chief Reyes implemented Operation Blockade just hours later at midnight on September 19, 1993, dramatically reinforcing the international border between the two cities and effectively halting all discussion of a borderless zone. Yet Operation Blockade did unite El Paso, albeit in a decidedly nationalist rather than binational way, rife with much scapegoating of undocumented Mexican immigrants.

The Implementation of Operation Blockade

Operation Blockade was implemented at midnight on Saturday night/Sunday morning September 19, 1993, and has been in place ever since in modified form, and, as noted earlier, it became *the* model for subsequent Border Patrol enforcement efforts at key locations along the Southwest border. The emphasis of the operation was to deter unauthorized border crossings in the core urban area between Ciudad Juárez and El Paso by making a bristling show of force, drawing precisely on the suggestions of critics in the Bowie lawsuit. This took the form of posting 400 Border

Patrol agents (out of 650 total in the sector) on the banks of the Rio Grande and adjacent levees in stationary, ubiquitous green and green-and-white patrol vehicles around the clock, at short-distance intervals (from fifty yards to one-half mile) along a twenty-mile stretch between El Paso and Ciudad Juárez, though the main focus was smaller (Bean et al. 1994, 4–5).⁹ This mass posting of agents created an imposing line, if not virtual wall, of agents along the river, which was supplemented by low-flying and frequently deployed surveillance helicopters buzzing over the river area (interview with Beth, BRC coordinator, Spring 1997). In addition, the numerous holes in the various stretches of border fencing along some sections of the river—such as that near Bowie High School—were patched and closed (Bean et al. 1994, 5). Also, additional agents were dispatched just west of El Paso to Sunland Park, New Mexico (the start of the riverless, not well-marked land border), which was just past the western end of the blockade (interview with ex-Chief Reyes, December 10, 1996). The operation was paid for with some \$300,000 from INS headquarters in Washington, D.C., to be used for fence repair and overtime pay for agents deployed on lengthy shifts (interview with ex-Chief Reyes, December 10, 1996), up to twelve and more hours per day and seven days per week initially.

Just prior to the start of the operation, Chief Reyes undertook a series of briefings to notify various local officials of the pending operation and to stress its importance for his agents. He says he personally briefed the mayor, county judge (the top elected county official), chief of police, county sheriff, and Mexican consul in El Paso about the operation in the few days before it was implemented. Though he did not specify what those briefings consisted of (e.g., how much detail he provided them), he said they were met with “great skepticism” (interview with ex-Chief Reyes, December 10, 1996).

On the day the operation began, he came in and briefed all three shifts of his agents about the operation. Especially noteworthy is that he did not call for deterring would-be crossers throughout the entire sector, but within the key twenty-mile urban area, to displace/divert them outside the city where he assumed the Border Patrol would have the advantage. This is important because the strategy is often characterized as one of deterrence; little is said about displacement. He recalled later:

The day that we were going to go into the operation, I personally briefed every officer in muster, and I explained to them what we were going to do. . . . I told them, “*I don’t care if you ever arrest another undocu-*

mented alien, as long as you keep them out of the country in this twenty-mile area.” I said, “If we are successful, and we can turn them back, and we can change and redirect the flow, we’ll put them out in areas where they’re on our turf, instead of us fighting them in the city. . . . If we manage to control this border, we’ll have done something that has never been done before.”

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996 (EMPHASIS ADDED)

This deterrence-displacement strategy was a profound shift from the unit’s traditional emphasis on apprehending unauthorized border crossers once they had entered the country. Chief Reyes had obtained a commitment from INS headquarters beforehand that his superiors would not penalize him for low apprehension numbers (Brinkley 1994). And it appeared to be quite successful, as apprehensions plummeted 80–90 percent in the early days and weeks, and ended up some 72 percent down during the first year of the operation (U.S. General Accounting Office 1997, 73). The result was that undocumented border crossing activity was no longer visible in main areas of the city along the border, and the bulk of the remaining undocumented crossing was forced to the edges of the city. Chief Reyes early on pointed to the displacement of would-be undocumented border crossers to the outskirts of the city as an indication of the operation’s success (“Border Patrol Chief Explains . . .” 1993).

This greatly reduced undocumented border crossings in the main urban area, and greatly lessened the previous sense of chaos caused by the unauthorized crossers and Border Patrol chases that had prevailed in many central-city neighborhoods near the border. One activist later recalled a sense of militaristic stillness along the river:

There was just this sense of great stillness that Sunday. . . . [W]e went down to the river to see what was going on and it was so quiet, it was just incredibly quiet. . . . The agents were a lot closer together than they are now, so it was visually also very impressive, a real show of force. . . . [T]here were several helicopters; you could see them in the distance all along the line of the river. You could see them as far as you looked. It was very military. And the sound of the helicopters beating in the air. There was nothing. It was just so quiet and still.

INTERVIEW WITH BETH, BRC COORDINATOR, SPRING 1997

Chief Reyes announced the blockade with great fanfare, framing it largely as a measure to “clean up” crime and general deviance problems,

an approach that resonated very well locally in reinforcing negative stereotypes about unauthorized Mexican border crossers (Vila 2000)—very much like the rationale surrounding California’s Proposition 187 a year later and reflecting a sentiment widespread in U.S. politics in the 1990s (see Nevins 2002). One of the first El Paso media reports of the operation (Brock 1993f) highlighted this: “THE AIM of the operation is *to drastically reduce illegal crossings from Mexico of street beggars, burglars, and others who commit crimes,*’ said Silvestre Reyes, chief of the Border Patrol’s El Paso Sector” (caps in original; emphasis added). Another early report also indicated that Chief Reyes pointed to the crime issue, noting, “He said that immigrants had been responsible for crimes ranging *from car thefts to transvestite prostitution,* that members of a *Mexican gang* were ‘terrorizing’ one South El Paso neighborhood, and that immigrant *beggars* and freelance *window washers* had become a terrible nuisance” (Golden 1993; emphasis added). Early on Reyes also said, “‘Everyone has anecdotes to tell me about their experiences of always being accosted by *street beggars, transvestites, and prostitutes*’” (“Illegal Crossings Dry Up . . .,” September 25, 1993, cited in Fried 1994, 19–20; emphasis added), adding that the operation was in part a response to such concerns (Brock 1993f; Sheppard 1993a). An interesting and unexplained characteristic of Reyes’ early correlation of crime and undocumented crossers is the prevalence of sexual and gender deviance themes—which I will not take up here, but merit serious analysis. While deviant behavior was undoubtedly a part of the local crime scene, stressing such themes was especially provocative in constructing a rationale for the operation in this culturally conservative, highly Catholic community.

Thus Reyes linked his project to the politically popular anticrime sentiment, but the reality was more complex. Though I will take up the crime issue in detail in a forthcoming section, it is important to note that generally undocumented border crossers comprise a vast and diverse category, one that does include those coming over to commit crimes, but that most come to work and for other nonthreatening purposes (e.g., shopping, visiting friends and relatives, etc.). Border Patrol agents themselves acknowledge this in typically stating that almost all—often put at 90 percent or more—of those they apprehend are “good people” who pose no threat, but rather are coming to work and better their lives (field notes of El Paso Border Patrol presentation, September 28, 1995). Even Chief Reyes said the same thing several months into the blockade, after it was firmly established (Garcia and Gamboa 1993b). However, this is

not a point he made in attempting to initially explain and justify the operation; quite the contrary.

The operation was met with shock on the part of undocumented crossers in Juárez (Golden 1993). Many had crossed illegally for years at well-established crossing locations, some just under the international bridges, either by wading or being taken across on an inner tube pulled with a rope, or literally carried on someone's back. Such unauthorized daylight crossings were a local institution, having existed for decades (Nathan 1991; Ortíz-González 2004, 50–53).¹⁰ The sudden disruption to the long-established norms for border crossing came as a complete surprise, with no forewarning. Chief Reyes designed the blockade to have the element of surprise, and it certainly did. Throughout the day on Sunday would-be undocumented border crossers in Juárez searched up and down the river for unguarded areas to cross, but found none. The implementation on a Saturday night/Sunday morning gave time for it to sink in before the Monday morning rush-hour commute of workers. Juárez crossers' shock and disbelief soon turned to frustration.

Meanwhile, on the El Paso side, the effect was no less dramatic, as the removal of the Border Patrol from long-patrolled neighborhoods was immediately apparent, as was the halting of all traffic of undocumented crossers and Border Patrol agents through the streets and yards in central city neighborhoods near the river. The blockade dominated the local news media for days on end, from the news programs to radio shows with pop music DJs and those with caller comments. Many came by to see for themselves that the Border Patrol was actually deployed en masse along the river. Most cheered the measure and some even brought out food and drink to the agents sitting in their trucks under the hot sun. In addition, a campaign of green ribbons on car antennas was implemented to show public support for the operation (Fried 1994, 16; see also Vila 2000, 167–181). Such spontaneous displays of broad public support for the Border Patrol were unprecedented in recent years and marked the beginning of a dramatic turnaround for the unit.

The blockade was initially announced by Chief Reyes as a measure that would be tried out for a short period of time. He did not decide to continue it permanently until he saw its success, which was very early for him, by the end of the first week (interview with ex-Chief Reyes, December 10, 1996). He later said that beforehand there had been a great deal of uncertainty about the viability of the operation among his INS superiors (discussed later), and he described the operation's implementation thus: "We basically sprung it on midnight September 19th

and just hung onto the line after that” (interview with ex-Chief Reyes, December 10, 1996). The initial characterization of the operation as temporary seemed to help Reyes win some leeway to try out what was in many ways a radical experiment in border enforcement. In particular, this helped greatly in securing the support of local Border Patrol agents, or at least overcoming their skepticism and reticence at trying such an unusual effort (interview with Allen, Border Patrol agent, Fall 1996), one that greatly limited their freedom of movement and discretionary decision-making power, and one they later widely came to dislike. And while I will not dwell on the point, it is very important to note that many of the field agents came to deeply dislike the operation’s main tactic of placing them in stationary vehicles on the river levees for eight to ten hours—“sitting on the X,” as agents called it (Simonson 2000; see also Maril 2004)—which even Border Patrol managers acknowledged (interview with David, Border Patrol manager, Fall 1996; see also Bean et al. 1994, 135–142).

After two days of Operation Blockade, the frustrations among stymied undocumented border crossers in Juárez reached a breaking point, one that in hindsight it seems could have led to the suspension of the operation, but which was instead managed successfully after some dramatic moments. Following a time-honored tradition in local Ciudad Juárez politics, on the third day of the blockade, several hundred frustrated undocumented crossers took to the main downtown northbound international bridge (Paso del Norte) and blocked off all traffic for about two hours. They seemed poised to make a mass rush across through the U.S. port of entry past the guard booths, though ultimately they did not. Their protest centered on being denied access to work in El Paso, as the crowd chanted, “*Queremos trabajar!* [We want to work!]” (Hamann and Ramirez 1993a). It looked like something that could lead to a riot, but the operation’s planning had included a contingency for just this type of bridge-blocking protest; Chief Reyes had held a hundred Border Patrol agents, a special Emergency Response Team, in reserve ready to meet the challenge (interview with ex-Chief Reyes, December 10, 1996). A phalanx of agents outfitted with long batons, gas masks, and their customary sidearms were quickly deployed on the U.S. half of the bridge, blocking off the lanes and guard booths in an intimidating pose. A standoff ensued between the protesters and Border Patrol. Meanwhile, approximately a hundred Juárez municipal police came onto the bridge and blocked the protesters from behind, essentially trapping them between the two police forces, and after some two hours, the Juárez police

ultimately dispersed the discouraged protesters without incident (Hamann and Ramirez 1993a).¹¹

There were several other protests held at and near the bridge on the Juárez side, including a much smaller one briefly blocking the two cities' main crossing point, the Bridge of the Americas just east of downtown, for roughly the same time period (Hamann and Ramirez 1993a), and a second large protest of some seven hundred people on the downtown streets of Juárez the following day during which protesters chanted, “¡Déjenos entrar! Queremos trabajar! [Let us in! We want to work!]” (Jaurégul 1993c). Tensions were further fueled that same day when a Border Patrol agent was hit on the head by a rock but not seriously hurt near the downtown bridge (Negron 1993), and by the burning of a U.S. flag and dragging about of an Uncle Sam piñata at some of these early protests (Vila 2000, 182).

The successful managing of these mass protests without incident was seen as a crucial turning point in the early consolidation of the blockade. In hindsight, Chief Reyes recalled, “We had contingency plans with a hundred-officer Emergency Response Team for demonstrations, banzai rushes [at the international bridges] . . . Ultimately we did have some of those demonstrations. . . . *It was touch and go for a few days*” (interview with ex-Chief Reyes, December 10, 1996; emphasis added). This suggests the operation was vulnerable to being reined in or suspended due to the bridge demonstrations or other mass unrest, an interpretation that is buttressed by other contextual factors. Namely, INS officials in Washington were concerned about the prospect for such demonstrations (interview with ex-Chief Reyes, December 10, 1996), and they were also pressured from other quarters in the Clinton administration to be sensitive to Mexican concerns about the operation and minimize the potential for controversy in light of the upcoming November 1993 U.S. congressional vote on the North American Free Trade Agreement (Brinkley 1994). As noted earlier, at the end of this tense, but highly successful, first week, Chief Reyes decided to make the operation permanent and continue it indefinitely, though he would have to wage a struggle with INS headquarters in Washington to do so (discussed later).

The local El Paso media coverage was overwhelmingly positive, with Border Patrol officials cited at length and also many favorable comments from members of the public—a feeling of public “euphoria” over the operation was noted by some journalists (Vila 2000, 169). The media quickly detected that the operation was almost immediately very

popular among El Paso residents, and across racial and ethnic lines (discussed later), as overwhelming public support was manifested in a variety of ways: telephone call-in polls for local TV news programs (Bean et al. 1994, 124), radio call-in show comments (field notes, October 21, 1994), call-in comments and letters to newspapers (e.g., Fried 1994, 61–73; Monroy 1993), and the previously noted phenomena of individuals coming out to the river levee to greet agents with food and drink as well as the car antenna green-ribbon campaign, and more.¹² Chief Reyes was the man of the hour and basically had the local media fawning over him.¹³ After nearly a month of the blockade, for the one and only time Chief Reyes appeared at a public forum on the operation. At El Paso Community College he faced a crowd of some 350 people, largely supportive of the operation, but also including some critics, and he reportedly handled himself very well in answering questions and presenting his case for the operation (Brock 1993a). Meanwhile, the local organized opposition that had challenged Border Patrol practices highlighted in the Bowie lawsuit was caught off-guard, rather divided over how to respond, and fell into turmoil (discussed later).

It is important to reiterate that by placing hundreds of Border Patrol agents on the river boundary, the operation also largely removed them from patrolling in the neighborhoods within El Paso and from direct enforcement contact with the public, or that is to say, the circumstances from which many of the previously noted complaints of Border Patrol agent abuse and mistreatment against the public had sprung. This led to a drop in complaints of abuse by agents, the central concern of the organized opposition that had so thoroughly and successfully critiqued the unit. (The extent of the drop in abuse complaints will be discussed in a later section on “other successes” of the operation.) This is probably the basis for the chief’s later claim, noted earlier, that the operation was designed to address their concerns. And indeed, the main tactics of the operation (fence repair and posting agents directly on the river) were exactly those suggested by the plaintiffs in the Bowie lawsuit and their supporters, but implemented on a grand scale. However, one additional tactic to discourage repeated attempts to cross illegally created a new human rights problem, but the effects were felt only on the Mexican side of the border. During the early weeks of the operation, the Border Patrol stopped returning unauthorized Mexican border crossers apprehended in El Paso to nearby Juárez, and instead returned them to the remote Palomas, Chihuahua–Columbus, New Mexico, port of entry, some sixty miles west of the city. The displacement of thousands of

crossers overwhelmed small, impoverished Palomas, caused great hardship for returnees left to walk home through the desert, and sparked protest from Catholic Church officials (Associated Press 1993b).

The Popularity of Operation Blockade: The Response of the Public

The operation proved enormously popular with El Paso residents across ethnic lines, including among Mexican Americans, some three-quarters of the local population. In addition to the outpouring of visible public support during the operation's early weeks, noted previously, the El Paso mayor and the Hispanic Chamber of Commerce quickly stated their support for the operation (Fried 1994, 16–18). The operation was accompanied by a wave of nationalist sentiment, which one human rights activist likened to that surrounding the Gulf War several years earlier (field notes, January 14, 1995). (El Paso is the site of a large U.S. Army base, Fort Bliss.) More important, two local opinion polls conducted using standard (i.e., social science) survey research methodology in 1994, one in February and one in October, found 84 percent (U.S. Congress, House Committee on the Judiciary 1995, 108; Bean et al. 1994, 124) to 85 percent (Valdez 1994b) of the respondents, respectively, supported Operation Blockade/Hold-the-Line. The October 1994 poll also included a breakdown along ethnic lines that showed some differences, but still overwhelming support, as 78 percent of Hispanics surveyed supported the operation, versus 91 percent of those from other groups (i.e., Anglos and African Americans) (Valdez 1994b). Although sampling limitations in both cases call into question how broadly these results can be generalized, it seems very safe to conclude the operation enjoyed overwhelming support among El Pasoans.¹⁴

The overwhelmingly positive local reaction to the operation was fueled in part by and reflected local ethnic divisions. The operation gave rise to widespread expressions of harsh anti-Mexican and anti-undocumented-immigrant stereotyping and scapegoating by both Anglos and Mexican Americans (Vila 2000, 167–177). Vila's key insight is that this was the public expression of deep-seated, often ignored tendencies in local interethnic relations that ranged from ambivalent to hostile, wherein Anglos tended to look down on Mexican-origin people in general, and Mexican Americans strove to differentiate themselves from Mexicans and vice versa.¹⁵ The operation created expanded opportunities for this sort of differentiation and expression of hostility.

Further, a more practical, immediate benefit of the operation was that no longer were El Pasoans of Mexican appearance subjected to routine surveillance and questioning about their citizenship or immigration status by Border Patrol agents roving the streets of El Paso, who were sometimes harassing in tone and sometimes worse. For example, the eight Bowie lawsuit participants I interviewed in 1995 were thrilled to no longer have Border Patrol agents on campus or neighborhood street patrols following the start of the operation. This not only made the streets less tense for residents, it also reduced humiliation or shame among Mexican Americans and legal Mexican immigrants, when mistaken for undocumented immigrants (as illustrated by the sense of shame among Bowie students noted in Chapter 2). In this sense, the operation also affirmed the security of the position of Mexican American and legal Mexican immigrants, especially those from lower-income categories, as they had been the most frequent previous targets of scrutiny questioning their right to be here. The eight Bowie lawsuit participants I interviewed in 1995, especially the ex-students, displayed a sentiment I would characterize as something like “It’s about time the Border Patrol did their damn jobs and focused on keeping ‘them’ [i.e., undocumented Mexican immigrants] out, and left ‘us’ alone.” This sentiment was widespread.

That the new Border Patrol chief initiating the blockade was himself Mexican American was another crucial factor, especially as he had recently replaced an extremely unpopular Anglo Border Patrol chief whose tenure was more than tinged with racism. Bean and colleagues’ (1994, 130) report of their interviews and discussions with twenty-four Mexican American leaders in El Paso is clear on this point; all respondents agreed that the reaction to the operation among Mexican Americans was made more positive by the fact that it was implemented by a co-ethnic. The authors surmised, “It prevented Mexican Americans from mobilizing against the operation on the grounds that it was racist” (Bean et al. 1994, 130). Had it been implemented by an Anglo Border Patrol chief, even Mexican American leaders who supported the operation said they would then have opposed it. One supporter explained: “We have been attacked so many times that we are always defensive. The Operation would have disappeared in two or three days (if a Mexican American had not directed it). We would have been up in arms” (Bean et al. 1994, 130).

Interestingly, a majority of the Mexican American leadership consulted by Bean and colleagues (1994, 126–129) had reservations about the blockade, but they did not express their opposition because there

was no political space in the early months to do so. Two months after the operation began, Anthony Trujillo, superintendent for one of the two large local school districts (Ysleta—east El Paso), critiqued this tendency: “I think the hypocrisy is that a Hispanic now leads our Border Patrol and this makes (the blockade) acceptable to some. If an Anglo had (ordered the blockade) Hispanics would have been after his throat” (Garcia and Gamboa 1993b). In response to these claims, Reyes said, “I’m not going to be any less American just because I’m Hispanic” (*ibid.*). On another occasion, he stated, “You can’t lose your identity, but you have to understand where your loyalty lies” (Herrick 1994, 62, 64). Beyond its resonance with the community’s complex ethnic fissures and supportive latent sentiments, the popularity of the operation was also based in the previously noted widely perceived successes stemming from it. The crime issue in particular was most often cited by the operation’s supporters, and Mexican Americans were no exception—a topic I will take up later in the chapter, after examining the responses of other social actors to the operation.

Response of (Semi-)Organized Opposition

In the face of Operation Blockade’s popularity and various successes, the loosely organized opposition that had so successfully challenged the Border Patrol’s previous overly zealous, sometimes abusive enforcement activities was “left in disarray,” noted one activist in hindsight (Janine, BRC presentation, September 28, 1997), who further observed, “Operation Blockade threw us for a loop”—though the BRC would recover for a time later on. In the year before, the Border Rights Coalition had been so devoted to the Bowie lawsuit, and its focus on Border Patrol rights abuses against Mexican Americans and legal Mexican resident immigrants in south-central El Paso, that it was very difficult for it to address or critique an operation that was received warmly by those groups and lessened abuses against them (discussed later). The BRC struggled mightily over how to respond to the operation, and though it eventually did, it fell far from its previous height as an influential local political actor during the Bowie lawsuit. As the then-BRC coordinator recalled, “Certainly, Operation Blockade stole all the thunder, whatever was left of it; the rumblings about the Bowie case most definitely got muted by Operation Blockade” (interview with Beth, BRC coordinator, Spring 1997). Meanwhile, arguably the strongest opposition to the operation emerged

surprisingly from the local Catholic Church hierarchy, which had previously been silent on border enforcement matters.

The ranks of the organized opposition were divided in response to the operation, as some BRC allies from the Bowie lawsuit came out in support of Operation Blockade. Most notably, the Bowie principal who had played such a visible and forceful role in supporting the lawsuit and publicizing the student and staff complaints about Border Patrol abuses came out publicly right away as a strong advocate of the blockade, saying, “I think it’s great to put these agents on the line and keep people out” (Sheppard and Hamann 1993).¹⁶ In addition, the Mexican American student who first decided to stand up to the Border Patrol initially hailed the operation in the media, and the other key Bowie lawsuit participants, almost all Mexican Americans, by and large supported it, especially because it got agents off school grounds and neighborhood streets and, for some (particularly students), because it reduced the chaotic presence of undocumented border crossers in the neighborhoods.¹⁷

In contrast and relatedly, the BRC was relatively slow to respond, affording Chief Reyes a bit of extra breathing room in the operation’s crucial early days when its viability was not yet assured. While many key veteran BRC members were critical of the operation right away for a range of reasons, especially the scapegoating, anti-immigrant tone accompanying it, there was much internal debate, soul-searching, and some divisions and defections over how to respond. Eleven days into Operation Blockade, the BRC finally came out publicly against it, though by this point its popularity and initial successes were already firmly established. Still, the BRC and supporters held a press conference and announced Operation Bridge Builders, whose first event would be a “bi-national bridge building picnic” to be held at the beginning of the land boundary just west of the city (Operation Bridge Builders 1993).

The group announced a position statement criticizing the Border Patrol and the blockade’s supporters for their scapegoating of undocumented crossers as being responsible for much crime and the burdening of social services. The statement instead offered three critiques: the blockade was not the solution to El Paso’s problems (e.g., crime or social service shortfalls), which were caused by poverty and required increased funds; the blockade was harmful to El Paso in that retail sales downtown, dependent largely on customers from Juárez, were off sharply in the first week; and relations between El Paso and Juárez, as well as binational relations, more generally were suffering due to the blockade, which was in contradiction to the spirit of the much-touted North

American Free Trade Agreement (NAFTA), to be voted on later that fall in the U.S. Congress (Operation Bridge Builders 1993; Valdez 1993a). Chief Reyes immediately countered, “It’s time we quit listening to the self-serving statements that fit the agendas of certain interest groups” (Valdez 1993a). The group’s binational picnic several days later went off relatively successfully, with some seventy people attending, a large opposition gathering by local standards, and one member even dressed up as the Statue of Liberty (interview with Beth, BRC coordinator, Spring 1997). However, this paled in comparison to the enthusiastic and broad support for the operation.

Even this fairly mild expression of criticism was met with some nasty expressions of hostility, chilling further public critiques. A local Mexican American attorney who had spoken at the Bridge Builders press conference had his office vandalized and windows broken the night afterward (field notes, March 10, 1995; also interview with Beth, BRC coordinator, Spring 1997), and two days later his office received a bomb threat against the binational picnic (Fried 1994, 27–28). In addition, the BRC coordinator received calls to her home phone in which the callers said “horrible things” to her teenage daughter who had answered the phone (interview with Beth, BRC coordinator, Spring 1997). Thus, the political climate was not conducive to criticism or debate.

A stronger and somewhat surprising formal opposition to the operation during its early weeks emerged from the local hierarchy of the Catholic Church, which had not previously taken a high-profile role among the organized opposition challenges to Border Patrol abuses. Just over three weeks into the operation, the bishops of the three dioceses in the binational region—El Paso, Texas; Ciudad Juárez, Chihuahua; and Las Cruces, New Mexico—issued a joint statement of opposition to it. And on October 14, the El Paso bishop, Raymundo Peña, accompanied by twenty priests, held a press conference announcing their opposition. They called for a moratorium of the blockade for six months to a year, during which time an alternative policy should be devised that would more readily facilitate the legal entry into El Paso of Juárez commuter day workers, who were experiencing hardship as a result of suddenly being excluded by the operation (Brock 1993a; “Operation Blockade . . . ” 1993). Their opposition cited Catholic theological principles, including biblical teachings on aiding strangers in your land, and a Papal encyclical on the right of people to immigrate to improve the lives of themselves and their families. In a more provocative vein Bishop Peña said, “[T]he Catholic Church does not condone the breaking of a just law,

under any circumstances. When a law results in serious hardship for the people it governs, nevertheless, thoughtful consideration must be given to changing the law or modifying its application" (Brock 1993a).

This drew the strongest response, as many accused the bishop of condoning the violation of a law. Chief Reyes responded rather carefully, saying, "With all due respect for Bishop Peña's concerns and call for a moratorium, a return to the old unworkable strategy of the past would not only be ill-advised but tantamount to abdicating our duties and responsibilities. While we recognize the impact that our new strategy has had on the undocumented workers of Mexico, it is unrealistic to expect employees of this service to 'look the other way' as a solution. . . . Mutual respect for the law is a fundamental aspect of order in our society" (Brock 1993g). Not surprisingly, the bishops' opposition to the blockade was unpopular in El Paso, such that the diocese took out an ad in the local press ten days later to deny that Bishop Peña had condoned the breaking of a "just law" or asked the Border Patrol to look the other way ("Operation Blockade . . ." 1993). There was dissent in parishes; for example, in a liberal Catholic church located in a Mexican American and immigrant neighborhood in South El Paso, when the priest read the bishops' opposition statement at Sunday mass and reinforced it in his homily, a number of families got up and left in protest (interview with Margo, Spring 1997; for other reactions against the bishops see also Vila 2000, 179–180). The institutional power and authority of the three area Catholic bishops enabled them to make public their opposition to the blockade, but they could not lead El Paso parishioners to join them.

Beyond the BRC and Catholic hierarchy there were various other, somewhat surprising sources of opposition to Operation Blockade during the early weeks and months, some organized and some not. Among the latter, in the first week some students at Riverside High School walked out of class briefly to protest against the blockade. More serious, but also largely unorganized, opposition came from downtown retail merchants, heavily dependent on Juárez pedestrian customers, who expressed opposition to the operation because their sales were off sharply during the early weeks of the blockade (Flynn 1993b). These sentiments dissipated as their sales mostly rebounded in ensuing months (Bean et al. 1994, 46–49). Meanwhile, the El Paso and Hispanic Chambers of Commerce formally supported the operation (Garcia and Gamboa 1993a). However, the partially business-led, previously noted new civic group, Unite El Paso, formally came out in opposition to Operation

Blockade and even sponsored a “Binational Unity Day” for December 12th that was to include a binational “hands across the border” march at one of the city’s three international bridges (Border Rights Coalition 1993c), but the event was canceled at the last moment due to weather (Ortíz-González 2004, 131–132). Centro de Salud Familiar La Fe, a pioneering, nationally recognized community health clinic based in South El Paso, hosted a public forum filled with speakers critical of the blockade, including a former president of LULAC, the League of United Latin American Citizens (Olvera 1993a). Much of this opposition came from Mexican Americans who were active in various leadership capacities in community-based and advocacy organizations.

The Border Rights Coalition, meanwhile, took a more subtle approach during late Fall 1993, compared to its initial protest activities, in seeking to uncover evidence that might counter some of the Border Patrol’s claims of success for the operation. It focused on the Border Patrol’s widely reported claim that the operation had made safer a key border neighborhood, Chihuahuita, near the main downtown bridge and notorious railroad bridge (the black bridge) frequented by criminals preying on crossers. The organization undertook a collaborative social science research project with local academics to investigate the issue. The BRC coordinator at the time explained, “We decided we would survey Chihuahuita. . . . The Border Patrol had been using it as their show piece for Operation Blockade. . . . [W]e didn’t ask, ‘Do you like the Operation Blockade or not?’ . . . It was ‘Do you feel Safer?’, because the Border Patrol was saying that they had saved this neighborhood from a crime wave by the undocumented” (interview with Beth, BRC coordinator, Spring 1997). In order to carry out a survey, the BRC enlisted the expertise of two members of the Department of Sociology and Anthropology at the University of Texas at El Paso, Drs. Cheryl Howard and Pablo Vila, and another specialist from the Center for Survey Research at the University of Massachusetts–Boston, Dr. Christine Hayes-Sokolove, who aided in the survey construction, data analysis, and interviewer training and supervision. The local chapter of the Mexican American Legal Defense Fund (MALDEF) provided volunteer interviewers from its leadership development classes to actually administer the survey; they contacted 68 percent of all dwellings in this small neighborhood and obtained a response from 64 percent of those contacted (Border Rights Coalition 1993b).

In contrast to media reports that the operation had made the previously high-crime neighborhood secure and that residents were

universally supportive, the BRC-sponsored survey found a significant minority of the residents, some 35 percent, personally did not feel safer since the operation had begun, versus 65 percent who said that they did (Border Rights Coalition 1993a).¹⁸ The survey also sought residents' views of the undocumented border crossers who went through their neighborhood, and found 81 percent of Chihuahuita respondents believed that undocumented crossers came for what could be termed "honest reasons," ranging from working, to bettering their lives, to shopping and visiting (Border Rights Coalition 1993a). A few respondents even reported being adversely impacted by the blockade (*ibid.*).

Perhaps more interesting than the survey project and its findings is the Border Patrol's competing public relations event held at the same time the BRC held its press conference in Chihuahuita in mid-December 1993 to report the survey results to the media. As the BRC was presenting its findings, a Border Patrol helicopter flew overhead bearing Santa Claus (interview with Beth, BRC coordinator, Spring 1997) in what became known as "Operation Santa Claus." The BRC representatives were stunned as the helicopter landed across the street at a community center and out stepped Santa Claus to greet a throng of assembled children and hand out gifts. This appealing public relations event was covered much more extensively by the media than was the BRC press conference—and was so successful that it was conducted for at least the next five years, generating attendant media coverage (Shubinski 1998). The contrast with the Border Patrol's image before the blockade could hardly be more striking. Within just six months, the agency had gone from being cited for widespread rights violations against Mexican Americans and immigrants in the same general South El Paso area to being the bearer of Santa Claus for Mexican American and immigrant children there. This masterful PR event clearly illustrates Chief Reyes' public relations philosophy, noted earlier, about building public support by doing nice things for children.

One additional and somewhat surprising source of opposition manifested itself in March 1994 at a special El Paso hearing held by the Clinton administration's U.S. Commission on Immigration Reform, headed by pioneering civil rights advocate and former U.S. congresswoman from Texas, Barbara Jordan. Aired here were some of the Bean team's preliminary findings on the relatively mixed results of the operation (for more on the commission and the operation, see Spener 2003). Several from the business community spoke against the blockade (but BRC members were not allowed to address the commission). Two prominent

local businesspeople criticized the operation and instead favored the withdrawal of border enforcement twenty-five miles inland—the idea floated by the previous mayor. One, from a foreign trade association, specifically criticized the operation for creating “tension and hostility” in the community (Brock 1994a). Perhaps more surprising, the chairman of the Hispanic Chamber of Commerce also spoke against the operation (Brock 1994a). It seems the early mainstream business sector support for the operation wavered over time. Indeed, business sector actors were prominent in the early opposition to a border wall project for nearby Sunland Park, New Mexico, announced on December 10, 1993, by Chief Reyes (the subject of Chapter 4). The BRC, meanwhile, entered a prolonged period of internal reflection and restructuring during most of 1994, largely halting its more public activities until early 1995, when it reemerged as a key actor in the decisive phase in the continuing debate over the border wall proposal.¹⁹

Response of Mexican Government to Operation Blockade

The Mexican government was, like other actors, completely shocked by the implementation of Operation Blockade. In general, Mexican officials were angered and offended by the blockade, which they saw as deeply contradictory to the spirit of closer, collaborative ties promised by the North American Free Trade Agreement, awaiting a ratification vote in the U.S. Congress later that same fall after years of careful negotiation and groundwork. The border region was already a delicate topic in the NAFTA debate, so the last thing that was needed was additional attention that would cast a negative shadow toward Mexico—e.g., from the scapegoating of Mexican undocumented immigrants as the source of all border crimes, the intensification of nationalism north of the border, etc. For Mexican officials, used to a highly centralized federal government, it was probably incomprehensible that one part of the U.S. government could be preparing for closer ties with Mexico, while another part was emphatically highlighting the literal dividing line between the two countries. Some U.S. opponents of the operation had also made a similar criticism, as noted previously. Meanwhile, local Juárez officials were deeply resentful of the operation as well (Golden 1993). While much of the Juárez public also expressed little sympathy for undocumented border crossers, many leaders were quite offended by the anti-Mexican prejudices expressed by many El Pasoans in their

support of the operation. A self-serving call by the Chamber of Commerce and Industry for a commercial boycott of El Paso by Juárez shoppers, termed “Operación Respeto” (Operation Respect), failed badly, however (Vila 2000, 182–185).

While the tone of public remarks from Mexican officials about Operation Blockade was angry and frustrated in the first weeks, the Mexican government publicly declared that the United States had the right to implement the operation (Bean et al. 1994, 126)—even though it disagreed with the measure. The Mexican government’s long-standing commitment to the concept of national sovereignty—especially as a defensive posture in dealing with its superpower northern neighbor—left it with few grounds to critique Operation Blockade. Consequently, two main complaints of Mexican officials were not having been consulted about the blockade ahead of time and, even more, the naming of the operation as a blockade, with its warlike overtones (Brinkley 1994).

Within two weeks of the beginning of the operation, the Mexican government filed a formal diplomatic protest demanding its suspension, because it was damaging relations between the two countries, and the two border cities as well (Brock 1993d); in their formal note Mexican officials said the operation “generates a negative atmosphere between the two countries” (Brock 1993i). The pending NAFTA treaty figured prominently into their critique. These concerns and events were ultimately felt in force by the INS leadership and in turn by Chief Reyes. The then-acting INS commissioner, Chris Sale, recalled: “The embassy in Mexico City was calling. We got beaten up for not consulting the Mexican government first. *The Mexicans didn’t like the name Operation Blockade*, and certainly there were those in the State Department who’d have been happier if it didn’t happen” (Brinkley 1994; emphasis added). With the Clinton administration trying to secure NAFTA’s passage through the U.S. Congress later that fall, the State Department “was trying to be especially considerate of Mexican interests.” Of these encounters with the State Department officials, then-National Border Patrol Chief Doug Kruhm said, “I still have pockmarks on my rear end from being chewed out” (Brinkley 1994). Kruhm in turn took his concerns to Chief Reyes, who in hindsight reported:

There was quite a bit of pressure to stand down from Operation Hold-the-Line [emphasis added]. . . . I was told that I was single-handedly going to torpedo the NAFTA agreement. . . . And the Ambassador from the United States to Mexico was very upset that we had done this.

The Mexican government filed a number of protests against me personally. . . . You have the State Department, the Attorney General's office, and *it's as intense as you want it to get.*

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

Given such pressure, it seems remarkable that the blockade was maintained. Ultimately, after the operation's success was established, the State Department formally responded to the Mexican diplomatic protest by supporting the operation (Brock 1993i). However, in response to this diplomatic pressure Chief Reyes agreed to change the operation's name from Operation Blockade to Operation Hold-the-Line (Brinkley 1994), trading a war metaphor for something more like American football.²⁰ Chief Reyes did not stop the operation, though he did scale down the staffing level of the operation due to a lack of additional INS funding for it. Thus both sides could claim a "compromise" had been reached, though it was largely symbolic and not substantive.

Response of INS Hierarchy

There were significant tensions between the INS hierarchy in Washington, who oversaw the Border Patrol, and El Paso Border Patrol Chief Reyes over Operation Blockade. At first glance this seems somewhat surprising, given that the operation was widely and almost immediately hailed as a great success, and within a year it was praised by U.S. policy makers at all levels and became the strategic basis for a reformulation of border enforcement along the entire Southwest border. However, it is important to note that this operation was a risky, largely unprecedented venture for the Border Patrol, and officials were skeptical of its likely effects and wary of the negative responses it might arouse. Thus, the INS headquarters staff demanded that changes be made in the initial draft of the operational plan submitted by Chief Reyes and his staff, especially contingency plans for troublesome possibilities (interview with ex-Chief Reyes, December 10, 1996).²¹ In addition, INS hierarchs approved it as a temporary measure slated to last thirty days (Brinkley 1994), but they were not enthusiastic about it. Reyes reports:

We didn't get a whole heck of a lot of support out of headquarters, and in fact had to overcome a number of obstacles to be able to implement it. . . . There was a tremendous amount of skepticism within my own

agency. . . . Did they think we could do it? The record shows that they didn't. But then again, not a whole hell of a lot of people thought we could.

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

The impetus for authorizing the plan was likely Washington's recognition of the necessity for change in the troublesome status quo in El Paso, manifest in the still unsettled Bowie lawsuit hanging over the unit and the lack of credibility and popularity for the unit locally. Dire straits may have opened the way for drastic changes to turn things around.

Funding for the proposal was crucial, as the operation required extra funds for overtime expenses to pay for a forceful, round-the-clock deployment of hundreds of agents along the river. Reyes said (interview, December 10, 1996) that INS headquarters initially denied his request for \$537,000 to cover those expenses. A senior INS officer characterized his colleagues' response to Reyes: "They were saying: *'Why in the hell does he want to do this? We don't have any money'*" (Brinkley 1994; emphasis added). Reyes then contacted a friend at headquarters and secured an extra \$300,000, left over from the budget of the soon to be completed fiscal year (ending September 30), which forced him to reduce the projected trial period from one month to two weeks. Thus, he went around the hierarchy to secure funding, apparently irritating his superiors.

This internal and external pressure apparently overshadowed the smooth local implementation of the operation and its very strong, immediate popularity among El Pasoans, because several weeks into it the INS hierarchy pressured Reyes to take down the operation, according to him, or to just rein it in a bit, according to his headquarters supervisor (Brinkley 1994). Reyes later recalled:

There was quite a bit of pressure to *stand down* from Operation Hold-the-Line. . . . I just told them [INS officials], all you've got to do is order me to stop it. Because I wanted to ask . . . why you're stopping the single most effective and most successful operation in the history of the United States Border Patrol. *And I wanted to be able to say it was so-and-so who ordered me to stop it. And nobody ordered me.*

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996 (EMPHASIS ADDED)

Two INS headquarters officials confirmed that Reyes threatened to hold a press conference to name those who ordered him to stop the op-

eration (Brinkley 1994). It appears that Reyes' threat to lift the veil of bureaucratic secrecy worked, because five days after the operation began, Reyes announced the blockade would continue indefinitely (Jaurégul 1993a). And within thirty days he made the decision to continue the operation permanently (Brinkley 1994), though this was apparently not made public until several weeks later (Garcia 1993). He later credited public support for enabling him to defy the INS hierarchy:

I think the support we got locally was what ultimately made the difference in Washington, D.C. . . . [W]ithin seven days we knew we had a winner. The whole community was excited about us having controlled the border for the first time ever. And right then and there I knew we would not be able to come off this strategy, that we would maintain it, no matter how hard we had to work and how many resources we had to redirect.

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

In addition, on the internal side, the INS hierarchy was in transition and weakened, as it was headed by a temporary acting commissioner while the Clinton administration's choice for INS commissioner, Doris Meissner, was in the midst of congressional confirmation hearings that same month. And the INS was on the defensive nationally following a series of reports on human rights abuses by agents (Americas Watch 1992, 1993; ILEMP 1990, 1992) and mismanagement and misconduct (e.g., McDonnell and Rotella 1993). Further, the INS was undergoing rare critical congressional hearings into agent and agency misconduct (U.S. Congress, House Committee on the Judiciary 1992; U.S. Congress, House Committee on Government Operations 1993), and there was a congressional proposal to establish some kind of civilian oversight body for the agency ("Coleman Signs . . ." 1993). All of this may have made the INS less than enthusiastic in its backing of a bold, risky new strategy.

Tensions lingered between the INS hierarchy and Reyes. This is evident in the relatively less generous INS resource allocation to the sector. Reyes later observed:

We had never received the kind of support or resources we needed in order to maintain the strategy. That's somebody else's decision. As soldiers in the effort, we do what we can with what we've got, and hope that we're treated fairly. The priority has been California. . . . In El Paso we're still waiting for our resources.

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

The “somebody else” Reyes referred to was the INS leadership in Washington, which made Operation Gatekeeper in the San Diego sector, launched in October of 1994, the agency’s main Border Patrol priority for resources during the coming two years. From 1993 through 1996 the number of Border Patrol positions grew 55 percent nationally, and 98 percent for the San Diego sector, but only 41 percent for the El Paso sector (U.S. General Accounting Office 2001, 31). Another indication of ongoing tension between the INS hierarchy and Chief Reyes in the wake of Operation Blockade was that the INS commissioner waited nearly two years to make a decision on the border wall for nearby Sunland Park, New Mexico, which is in stark contrast to her prompt approval for several other border wall projects. (The border wall proposal and debate are the subject of Chapter 4.)

One additional source of tension between the INS headquarters officials and Chief Reyes was that he and the operation were used by lawmakers to put INS officials on the spot and explain why they weren’t implementing other blockade operations all along the border, especially in California, and when they did, why they didn’t quickly achieve similar success (e.g., see U.S. Congress, House Committee on the Judiciary 1995). The operation’s surprising success left INS officials unprepared to answer lawmakers’ questions about why it was not being done elsewhere, leading one INS official to complain, “We got caught behind the curve” (Brinkley 1994). Chief Reyes said of the situation, “[T]hey [INS headquarters officials] were uncomfortable about being put in this position. It was like a Laurel and Hardy movie, ‘This is another fine mess you’ve gotten us into, Ollie’” (Brinkley 1994). Prior to the operation, lawmakers from California, a state key to Clinton’s reelection prospects, were already especially adamant in demanding increased border enforcement, including posting National Guard troops there.²² In the midst of a successful reelection campaign based largely around scapegoating immigrants (in Proposition 187), California Governor Pete Wilson toured El Paso’s Operation Blockade in April 1994 with great fanfare and called for similar measures in his state (Garcia 1994).

Looking Deeper into the Crime Issue

Given that Chief Reyes initially portrayed Operation Blockade principally as a street crime prevention measure, and that this worked so well in generating strong public support for the operation right away,

the crime issue merits careful scrutiny. While locally the operation has been widely thought to have played a vital role in reducing street crime, a closer look at relevant data reveals mixed indications regarding the role of Operation Blockade in reducing crime, as found by the Bean team's (1994) thorough study and upheld in later data.²³ It is instructive to note that the crime rate in the year before was relatively low compared to that of other similar-sized urban areas in the United States—twenty-seventh out of forty cities, to be precise (Bean et al. 1994, 85–93); however, from a strictly local perspective the crime rate (as per FBI Uniform Crime Report data) had increased substantially overall since the early 1980s, but had peaked in 1990 and declined significantly through 1993 (Bean et al. 1994, 95, 108, 113).²⁴ This flies in the face of the widespread local assumption that crime was rampant in the city due to its border location and the nefarious acts committed by unauthorized border crossers (see Vila 2000, 169–176). Most important, the crime rate had already been going down for nearly three years by the time the operation was implemented.

After the operation was implemented the overall El Paso crime rate fell, continuing its post-1990 decline, as did almost all of the various types of crime included within it. While the drop in crime was seized upon early on as evidence of the operation's success (e.g., see Sheppard 1993a; McDonnell 1993b, 1993c), the city's overall crime rate had already begun falling for nearly three years before the operation was initiated, starting in 1991 (Bean et al. 1994, 94–97). However, the Bean team found that during the first five months after the operation was implemented, the crime rate fell at a sharper rate than it had in the year previously. Specifically, the crime rate decreased 8.6 percent in the first five months of the blockade (October–February), compared with 2.8 percent in 1992 to 1993 (through September); however, such a sharp drop was by no means unprecedented, nor even the largest in recent years, as the rate had dropped 14.3 percent from 1990 to 1991, 6.1 percent from 1991 to 1992 (Bean et al. 1994, 96). Likewise, their statistical analysis, controlling for previous trends and seasonal variations, found that the crime drop during the first five months of the blockade was only half that found in the same five-month period of 1991–1992 (Bean et al. 1994, 102–103). Thus, they concluded that it was not possible at the time of their report to determine if the blockade period crime rate drop was due to the operation or due to other factors, such as the El Paso police redeployment (Bean et al. 1994, 122).

The trend over the medium term of the next several years was more ambiguous still. In the first four years after the blockade was

implemented, there was an initial steep drop followed by some fluctuations. Specifically, the El Paso crime rate fell dramatically for 1994 as a whole, approximately 18 percent from that for the 1993 preblockade (prior to September) months, which was more than double the above-noted 8.6 percent decrease in the first five months of the operation (late 1993 through early 1994). This is a bit curious, because we might expect that Operation Blockade's strongest impact would have been in its early months, when staffing levels were highest and apprehensions declined most sharply. Subsequently, from 1994 through 1997, the crime rate alternately rose and fell from year to year somewhat, but held fairly constant on the whole through 1997 (Aguilar 1997; Flynn 1998a; Bean et al. 1994, 95; U.S. Department of Justice 2005).²⁵ Specifically, the crime rate in El Paso dropped 15 percent from 1993 to 1994 (the 18 percent drop noted above compares 1994 to the portion of 1993 before the operation, not all of 1993), fell an additional 1.3 percent in 1995 from the previous year, jumped 6.0 percent in 1996, and then fell 7.0 percent in 1997—leaving the crime rate 2.8 percent lower in 1997 than it was in 1994 (U.S. Department of Justice 2005).

Further contradictory trends emerge from the crime data for specific neighborhoods, especially those near the border in south-central and southwest El Paso that previously were the site of significant traffic of unauthorized border crossers, though the readily available data for this are incomplete timewise, covering only 1994–1996, but include data on eight specific serious street crimes (six property and two violent).²⁶ These data show that crime fell drastically in two southwest, border-adjacent police districts from 1994 to 1996—70 percent in Sunset Heights and 92 percent in Chihuahuita, with the latter becoming one of the safest neighborhoods in the city (Baca 1997a, 1997b). However, during the same period the number of offenses remained the same or rose in two police districts in south-central El Paso—rising 16 percent in one police district covering most of the *segundo barrio* (Baca 1997d), and holding steady in the police district covering the southeast part of downtown, nearest the border, and part of the *segundo barrio* (Baca 1997c). Moreover, the large drop in Sunset Heights occurred only in 1996, as there had been a 17 percent increase from 1994 to 1995 (Baca 1997a) earlier in the blockade. This all suggests the impact of Operation Blockade on crime in these areas during this time was rather ambiguous, though probably positive, but far less so than was widely thought.

The Chihuahuita neighborhood, noted above, was especially benefited by the nearby deployment of Border Patrol agents on the river

running next to it, because this caused the Puente Negro (black bridge) gang to flee the area, whereas previously its members had hung out around the nearby black border railroad bridge crossing the Rio Grande, committing crimes against residents and undocumented border crossers. Effecting the removal of this notorious gang through a heightened Border Patrol presence was extremely popular, and repeatedly stressed in media reports. Indeed, one self-appointed spokesperson for the Chihuahuita neighborhood dramatically stated, “We’ve been killed, raped, and robbed and we’ve been terrorized by the Puente Negro gang. Mr. Reyes has had the sense and logic to do something about it” (Brock 1993e).²⁷ Nonetheless, as noted earlier, a survey of Chihuahuita residents found that a significant minority (35 percent) of the residents felt that their personal safety had not changed since the operation had begun.

Despite the rather mixed nature of the data on the effect of Operation Blockade on border neighborhood crime, there was a strong perception in those areas that the operation had helped reduce crime there—a sentiment I found widespread and strong in my five years of fieldwork (1994–1999) in El Paso as a resident of one of those neighborhoods, Sunset Heights. This included a longtime neighborhood resident and rental property manager sympathetic to the Border Rights Coalition, who attributed the noticeable crime drop in the area to the operation. He was especially struck by the relatively low level of neighborhood crime in 1995 in the wake of a sharp devaluation of the Mexican peso and drastic economic crisis, compared to a much higher level of neighborhood crime following several previous steep peso devaluations and crises during the 1980s, dramatized especially by burglaries involving the removal of a home’s entire food stock (field notes, October 25, 1995).²⁸

While the major street crime data are somewhat mixed, it appears that minor crime and general nuisance activity in the downtown area near the border declined significantly in the early weeks of the operation. During the first three weeks of the operation the relatively minor but very aggravating “grab and go theft” dropped 40 percent in the downtown area, and fell 29 percent citywide (McDonnell 1993c).²⁹ Bean and colleagues (1994, 105) report that during the first eight weeks of the blockade there was a reduction in the number of calls to police reporting petty criminal activity in the downtown area (e.g., vandalism, shoplifting and other petty theft, prostitution, minor drug offenses, aggressive begging, and illegal street vending), which they suggested was an indication that the blockade was keeping out some petty criminals.

The mayor of El Paso also commented on the change in such activity during the first week of the blockade, saying, "I walked through downtown [Wednesday] and all the underworld was gone. Particularly the pickpockets and transvestites weren't there" (Sheppard 1993a).

While I did not find similar petty crime statistical data for later periods, I certainly found during my five years of fieldwork in El Paso that in general there was a widespread belief among local residents that the blockade had greatly reduced such petty crime and general nuisance activity. Chief Reyes' characterizations resonated widely. In early 1994 he recalled, "When I arrived in El Paso . . . [t]here were gangs on every corner and glue sniffers, pickpockets, prostitutes, and shoplifters" (Herrick 1994). Later, in 1995, he said, "We've eliminated a lot of the chaos created by all of these [illegal] entries that pretty much gave a kind of Third World atmosphere to much of El Paso. . . . We have eliminated by and large the presence of panhandlers and beggars and window washers and transvestites and prostitutes and things like that" (Dubose 1995). While overdramatized by Reyes, this lessening of chaos in border area neighborhoods is real and one of the most important achievements of the operation. The comment of a Hispanic woman from a border-adjacent neighborhood provides a good example of the perception of increased security, as she stated about the operation, "I sleep better knowing we have law enforcement officers out there all night. Strangers used to walk through our neighborhoods, and we guessed they were from Mexico, day and night. Things got stolen. . . . [W]e were afraid. But not anymore" (Valdez 1994b). Several years later, a Chihuahuita neighborhood resident said, "Before Operation Hold-the-Line . . . [y]ou couldn't hang clothes on the line, they would take them. They used to break into vehicles, grab whatever they could and run across (the border). All that has stopped, thanks to the Border Patrol" (Baca 1997b).

Before concluding this topic, I should note that I cannot securely nor fully attribute the crime rate decreases that are found to Operation Blockade, as there could be a number of key factors. While Chief Reyes not surprisingly credited his operation for the drop in crime quite frequently during his tenure, local police officials were more reserved in their support. They did credit the operation in its early weeks for a significant reduction in a broad range of types of theft, especially downtown (McDonnell 1993c), but as time went by the El Paso Police Department took more credit, citing such new measures as an emphasis on community policing and neighborhood watch committees, an ongoing effort at greater collaboration with prosecutors to target the prosecu-

tion of repeat offenders, and targeting more problem-prone areas for attention (Fried 1994, 36–37; Mata 1995; Aguilar 1997; Flynn 1998a). Moreover, after years of relative understaffing there was a significant increase in the number of city police by 1995, up to a thousand, an increase of nearly 20 percent over the 1993 level (Aguilar 1997). Nonetheless, despite the rather mixed data on the impact of Operation Blockade on reducing crime in the city, it was widely thought to have done so by El Paso residents. During my five years there, I found that it was the aspect of the blockade most frequently praised by local residents. And this sentiment was undoubtedly reinforced by the fact that the operation did lessen the chaos of unauthorized border crosser and Border Patrol agent traffic in overwrought neighborhoods near the border.

Other “Successes” of the Blockade and Their Mixed Nature

On issues besides crime, Operation Blockade also had a rather mixed impact, though many of these were nonetheless also widely regarded as successes. These include apprehensions (taken as a barometer for the number of undocumented border crossers), human rights abuses, and rates of social service usage. The operation’s impact on the first two was less than is widely thought, but they were rendered far less visible and thus faded from public consciousness, while the operation had little to no impact on the third. The most commonly presumed success of the blockade is that it drastically reduced unauthorized border crossings, but the data suggest that the operation was not as rousing a success as was widely perceived. In general, Border Patrol apprehensions dropped sharply in the first weeks and months after the operation was begun, but then gradually reversed to increase slowly over time. During the first week of the operation apprehensions fell 80 to 85 percent—down from a previously typical weekly total of 5,000 to 7,000 per week to just 1,007 (Moore 1993). Chief Reyes stated the decrease in more dramatic terms, claiming that the estimated number of undocumented border crossers in the El Paso area dropped from up to 10,000 per day to less than 1,000 per day (U.S. Congress, House Committee on the Judiciary 1995, 33, 40), meaning a more than 90 percent drop. Over the first seven months the rate of decline slowed (Bean et al. 1994, 26–27), but apprehensions for the El Paso Border Patrol sector still dropped 72 percent in 1994 from their 1993 levels (U.S. General Accounting Office 1997, 73) (fiscal year 1994 began only twelve days after the operation started), which

is the figure most frequently cited by Border Patrol officials and other operation supporters.

First impressions were strongly shaped by this spectacular drop in the early period. However, over the next two years, apprehensions rose considerably, some 83 percent cumulatively from 1994 through 1996, but then declined 14 percent from 1996 to 1997. The upshot is that there was a 49 percent drop in apprehensions from 1993 (the fiscal year before the operation) through 1996, and a 57 percent drop from 1993 through 1997—significant to be sure, but not the frequently cited 72 percent figure for the first year. In terms of actual numbers, the drop was from 285,781 in 1993 to 79,688 in 1994, then rising to 110,971 in 1995 and again to 145,929 in 1996 (U.S. General Accounting Office 1997, 73) before falling to 123,376 in 1997 (Flynn 1998b). The downward trend continued in the following years, dropping to 93,386 in 2000 and 69,281 in 2002 (El Paso Border Patrol briefing, July 14, 2004). However, this view probably overstates the impact of the operation, because the 1993 baseline comparison figure (285,781) was an exceptional year, as the El Paso sector's apprehensions over the 1989–1993 period averaged 227,000—and 213,000 for the 1989–1992 period.³⁰ Using these as baseline preoperation comparison points, apprehensions dropped 32–36 percent through 1996 and 42–46 percent through 1997—still impressive, but far less so than the oft-cited first year result of a 72 percent decline. Meanwhile, some of the lessening of apprehensions in the El Paso sector was offset by increases in apprehensions in other sectors along the border, as it appears long-distance migrants in particular were diverted away from El Paso (Bean et al. 1994, 26–27; U.S. General Accounting Office 1997, 73).

An important point to be aware of in considering El Paso apprehension statistics is that undocumented border crossing traffic there was largely local prior to the blockade, in contrast to other high-volume undocumented crossing areas. Border Patrol officials estimated that 65 percent of the undocumented border crossers in El Paso were local commuters and 35 percent were long-distance migrants bound for the interior, compared to the San Diego sector, where they estimated 99 percent were long-distance migrants and 1 percent were local commuters (U.S. Congress, House Committee on the Judiciary 1995, 45, 48). A researcher for the Colegio de la Frontera Norte (COLEF) branch in Juárez also estimated that the large majority of the undocumented crossers in El Paso were local commuters from Juárez (as cited in Fried 1994, 8). Likewise, I found that area immigrant and border rights ac-

tivists also perceived, from their work and through contacts, that most unauthorized crossers were local, though they also recognized that a not unimportant portion was made up of longer-distance migrants (some of whom they assisted). Part of the reason for this large flow of local unauthorized crossing was the relatively difficult and bureaucratic process required to apply for a local-travel border crossing card, as well as the fact that many could not meet the somewhat unrealistic documentation criteria for eligibility stipulated by the INS (a point well elaborated by Bean et al. 1994, 145–155; see also Spener 2003, 190–191).

Beyond the dropping apprehension numbers, the operation pushed the remaining unauthorized border crossing much farther out of sight and had more subtle impacts in the unauthorized movement of people across the border. Bean and colleagues (1994, ii, 17, 122, 156, 165) proposed that several specific types of unauthorized border crossers were the most heavily deterred from crossing by the operation: street vendors and those who engaged in small-scale criminal activity. Also, older crossers, such as those working in domestic service, were deterred because of the increased physical demands of the shift to more remote outlying areas and to nighttime crossings (Bean et al. 1994, 156; Fried 1994, 46–48). However, the Bean team found that those who were successful in crossing were less likely to be apprehended once in, and that they stayed for longer time periods instead of commuting daily (Bean et al. 1994, 157–160; see also Spener 2003, 186–187)—a phenomenon replicated borderwide.³¹

Most important, illegal border crossing was rendered a much less visible phenomenon than it had been prior to Operation Blockade, as it was more diverted to nighttime hours and to more remote areas outside the city. Gone were the days of people riding rubber inner tubes being pulled across the river near international bridges in broad daylight. Undocumented border crossings were pushed more to nighttime hours, especially for those relative few still trying to cross in the central city area (Bean et al. 1994, 157, 161; U.S. Congress, House Committee on the Judiciary 1995, 49; Fried 1994, 45–49). Moreover, the operation diverted much of the flow of undocumented border crossers to mountainous and vast desert areas just west of El Paso in New Mexico—which, as noted earlier, was identified early on as evidence of the success of the operation and one of its goals (see also U.S. Congress, House Committee on the Judiciary 1995, 72). Through early 1995, some 80 percent of all Border Patrol apprehensions for the entire El Paso sector were made around Sunland Park, New Mexico, a border town just a few miles west

of El Paso (Thorpe 1995). Another indication of this westward diversion of illegal crossings is the dramatic more-than-fourfold increase in Border Patrol apprehensions for the rural Deming, New Mexico, station from 1993 through 1996 (from 4,447 to 18,353), which includes the Columbus, New Mexico–Palomas, Chihuahua, port of entry and miles of surrounding border (Bennett 1997). Taking a longer view, apprehensions for the Deming station jumped nearly sevenfold from 1992 to 1998 (from 3,058 to 20,302) (Flynn 1998b). By early 1998 the Deming station led the sector in apprehensions (“Illegal Border Crossings . . . ” 1998), and the newly opened (1996) Santa Teresa Border Patrol station, just west of El Paso, covering the Sunland Park area up to the Deming station area, was right behind Deming in apprehensions (“Immigrant Crossings . . . ” 1998).³² Thus, undocumented border crossing continued but was pushed largely out of sight, instead of occurring within El Paso itself. And as one veteran Border Patrol field agent stated in 1997, “It seems like it’s out of sight, out of mind” (field notes of September 18, 1997); in the view of most local El Pasoans, the illegal crossing problem was solved.

In addition, many previous undocumented crossers who worked in El Paso sought to be able to cross through official ports of entry by applying for and obtaining border crossing cards (Jauregul 1993b). This made their crossing legal, though once working here, they engaged in illegal activity, as the cards authorized crossing for nonlabor purposes only (see Bean et al. 1994, 145–155). For example, a longtime undocumented crosser in her mid-fifties who had worked as maid and direct care provider some sixteen years for an elderly El Paso couple was unable to cross for the first year of the blockade, but with the aid of an attorney retained by her former employers was able to obtain a crossing card and (illegally) resume her previous job (interview with Maria, Summer 1995). Relatedly, in broader terms it is important to note that most Juárez residents working in El Paso already had border crossing cards before the blockade (or were legal residents or U.S. citizens but residing in Juárez). Surveys show the number of Juárez residents coming to work before and after the implementation of the blockade varied only slightly, and also, that by one estimate, only 5 percent of all Juárez residents commuting to work in El Paso before the operation were crossing illegally then—i.e., 95 percent were crossing legally (Spener 2003, 188–190).

The human rights abuse data show a pattern similar to that for apprehensions, a dramatic drop followed by a significant increase, but not

reaching the previous level. However, the data on this topic are even less certain and complete, owing to a lack of publicly accessible, comprehensive abuse reporting mechanisms. Just prior to the operation the abuse issue was prominent, as crystallized in the Bowie lawsuit, to which the operation was in part a response, as noted earlier. Also noted previously, Operation Blockade greatly reduced the long-standing Border Patrol practice of targeting Mexican Americans in low-income El Paso neighborhoods near the border. In turn, claims of rights abuses by agents dropped dramatically in those neighborhoods. Chief Reyes claimed that after the operation was put into place, misconduct complaints and abuse reports to the Border Patrol “dwindled down from 25 to 30 per week to probably 1 or 2 a month” (interview with ex-Chief Reyes, December 10, 1996). The official complaint data provided to Bean and colleagues (1994, 134) by the Border Patrol show a much less dramatic decline in the first five months of the operation—from an average of 9.9 per month to 7.6 per month.³³

The Border Rights Coalition data show a more spectacular drop followed by a significant increase, specifically falling from 104 abuses involving Border Patrol agents reported to the BRC in 1993 to 17 in 1994 and then in 1995 rising to 42 (Border Rights Coalition 1995, 1996). There were other changes also, most notably that illegal or inappropriate seizures of persons made up a much lower share of the blockade-era complaints. In addition, there was a distinct spatial shift from urban areas to outlying areas, such as Sunland Park, New Mexico, where reports of abuse increased, including agents targeting a local church. (This will be discussed in detail in Chapter 5.) The increase stems from the fact that Border Patrol agents used more of the old roving patrol tactics there and were in increased enforcement-related contact with residents and crossers, much like they had been previously in El Paso. Thus, as was the case with the quantity of illegal border crossings, the abuse problem continued but was rendered far less visible by the shift to more peripheral areas. By 1996 and 1997, there were increasing reports of abuse problems in the central El Paso areas also, though they were not dramatic (interview with Beth, BRC coordinator, Spring 1997). In addition, the deaths of unauthorized border crossers in the El Paso sector jumped 72 percent from 1993 to 1998 (from 18 to 31) (Eschbach et al. 2001a), mainly due to increased drownings in the Rio Grande and adjacent irrigation canals, a long-standing but now-exacerbated problem. An additional 63 drowning deaths were recorded by Ciudad Juárez authorities from 1993 to 1997 (Eschbach et al. 1999, 440). Still, the recorded

mortality total for the El Paso side (only) from 1993 to 1998 was 20 percent lower than that for the prior six years (1987–1992) (Eschbach et al. 2001a)—though there was some shift over time in type of death toward drowning and away from auto-related fatalities and homicides. At any rate, these border-crossing death totals would prove to be relatively low compared to what would accompany later, similar border operations, especially in California and Arizona. Also, this problem remained largely inconspicuous to El Pasoans.

A broader view of the operation's human rights impact would note that it was designed to increase hardship for would-be illegal border crossers, leaving many Juarenses who had for years illegally crossed to work forced to abandon their El Paso jobs and scramble to make a living in the low-wage economy for the working class/working poor in Juárez, or to take greater crossing risks in order to keep their jobs in El Paso (e.g., see Fried 1994, 45–49; Nathan 1994). Also, as noted previously, during the early weeks of the operation, the Border Patrol further discouraged illegal crossing by shipping those they apprehended back to Mexico through a border crossing in a small, impoverished town sixty miles west in the desert, where they were left to walk back to Juárez. In addition, in 1994 and 1995 Border Patrol officials proposed to build a 1.3-mile-long steel wall on the border in Sunland Park, New Mexico, which they hoped would push undocumented border crossers even farther west out into more remote and dangerous desert areas (discussed in Chapter 4).

Finally, and briefly, it is very interesting that one key stereotype that many thought would be borne out by Operation Blockade was not at all. Rates of social service usage (specifically in education and health care), of which undocumented border crossers were long accused of illegally crossing to take advantage, showed little change in the first months after the operation was implemented (Bean et al. 1994, 65–68, 77).³⁴ The operation had virtually no impact on social services, in contrast to the more positive though relatively mixed (less positive than widely thought) impact on crime, apprehensions, and human rights violations.

Origins of Operation Blockade

One other issue that merits deeper examination is the origins of the operation. It is clear from earlier sections that Operation Blockade was definitely not an initiative devised by INS and Border Patrol headquar-

ters in Washington. It was designed by Chief Reyes to address specific local pressures and circumstances in a scandal-plagued Border Patrol sector, particularly after the Bowie lawsuit. And in responding to this crisis he inherited from the preceding sector chief, Reyes not only drew upon the alternative enforcement suggestions of the Bowie plaintiffs. He also drew upon his previous experience in the McAllen sector in the Lower Rio Grande Valley of South Texas, where, he said, he had done something similar on a smaller scale. According to Reyes, he came up with the idea for the operation shortly after arriving in El Paso in the summer of 1993, after gathering extensive information on the local situation, analyzing the unit's problems in light of the Bowie lawsuit, and witnessing "chaos on the border." Based on this, he said, "I decided that the best option, as far as our operations, that I thought would work would be to change our strategy from chasing and running people down, arresting them and doing all the kinds of things that created all these problems for us, to . . . putting together all the officers we could, putting them on the line and then taking a deterrent strategy, which was pretty radical" (interview with ex-Chief Reyes, December 10, 1996).

He was especially seeking to lessen abuse complaints, as he noted: "As a change in strategy when you prevent people from entering, you don't have to arrest them . . . transport them . . . process them . . . feed them . . . detain them, and . . . remove them. In any of those six steps you're liable to generate a complaint. That eliminates a lot of your headaches" (interview with ex-Chief Reyes, December 10, 1996). In his early formal review of the operation, he wrote: "The complaints by the local community of over aggressiveness by the agents, the lawsuits and the complaints heard by the Chief Patrol Agent called for an immediate solution" (quoted by Bean et al. 1994, 133). Thus, the problematic enforcement status quo was not sustainable.

This raises the role of the Bowie lawsuit in the origins of Operation Blockade, a very uncomfortable topic for Border Rights Coalition members on the whole and one about which there was considerable debate and discussion.³⁵ While proud of the Bowie lawsuit, some members saw that some aspects of the lawsuit were more than consistent with the operation's methods, such as taking up the abuse claims of Mexican American and legal immigrant students while excluding those of undocumented immigrant students, as well as the enforcement measures plaintiffs called for (fence repair and agents on the river and out of the neighborhoods). In response to concerns that the lawsuit "caused" the operation, one BRC member (a lawyer) expressed the view of many members

in countering that the lawsuit was designed to stop Border Patrol civil rights abuses and harassment at Bowie (in which it was largely successful), not to challenge the very nature of the border and enforcement there, something probably no lawsuit could have done. Hence, he felt it was not fair to hold the lawsuit responsible for Operation Blockade, though he also recognized and was troubled by the apparent relationship between the two (interview with Roger, BRC member, Fall 1994).³⁶ In my view, at the very least the lawsuit precipitated, if not caused, the operation, especially its timing and the form it took. A high-ranking INS official stated in 1997 that the operation was implemented to address the rights abuse concerns of El Paso high school students (October 14, 1997, notes from presentation at the University of California at San Diego, Center for U.S.-Mexico Studies).

However, there was more to the origin of the operation than the lawsuit. When I asked Reyes about the claim of the Bowie High principal that it was his and his students' idea that the border fence should be patched and agents be posted on the river levee across from the school to keep undocumented border crossers from crossing and coming onto school grounds, Reyes responded:

I'll gladly give the credit to Herb [Bowie High principal] or John Q. Public or whoever. I thought it was the right thing to do. I thought it made sense. I had had the experience of operating the original Operation Hold-the-Line in McAllen. So I knew that if we were able to hold onto the line, if we were able to change the mentality of those that were used to entering wherever they wanted . . . then we would be successful.
INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

Thus, Reyes does not try to claim full credit for the idea behind the operation, and acknowledges the input of the Bowie principal, but he does point to having done something similar several years earlier in the McAllen sector, which he elaborated on:

Actually, I had done this back in 1988 in the McAllen sector, in Brownsville, because back then we were seeing an influx of Central Americans. . . . I formulated a plan that put our officers right on the international border and prevented them from crossing, thinking that if it prevented them from crossing illegally into this country, they would in essence pile up in Matamoros [Mexico]. . . . So actually when I got here to El Paso, I already had that experience with that strategy.

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996³⁷

At one point the volume of people to apprehend and detain overwhelmed the Border Patrol and INS. He recalled, “In fact, we weren’t able to keep up with them, with the amount of people that were entering. . . . That’s when I decided to stop them from entering, back them up on the Mexican side, and see how they react. *That was the origin of Hold-the-Line*” (interview with ex-Chief Reyes, December 10, 1996; emphasis added). However, the documentary evidence on the McAllen operation is inconclusive.³⁸ Still, at the very least, Reyes drew upon his previous experience there during the extraordinary Central American refugee crisis period of 1988–1989 to design Operation Blockade.

Chief Reyes’ unique talent perhaps lay in being open to hearing the complaints against his unit and the suggestions for changes made by critics, and then drawing on some of those, as well as his previous experience, to devise Operation Blockade. It is hard to imagine another Border Patrol official acting in this manner, particularly in extracting ideas from criticisms of the unit that he creatively turned into a source of strength for it. The speed with which he implemented Operation Blockade after his arrival (less than three months) is also remarkable, given the entrenched bureaucratic nature of the INS. At any rate, it seems clear that Operation Blockade was a highly innovative response by new leadership of the local Border Patrol to a very problematic local context, and that its success resonated far beyond to become the model for a remaking of Border Patrol enforcement efforts for the entire border region. Despite this success and the popularity of Operation Blockade/Hold-the-Line, and despite Chief Reyes’ considerable talents, his proposal to construct a 1.3-mile-long, ten-foot-high steel wall along the border in nearby Sunland Park, New Mexico—where much of the unauthorized border crossing traffic had shifted—aroused considerable opposition and extensive public debate. This rather surprising turn of events is the focus of Chapter 4.

Conclusion

Operation Blockade was an emphatic turn in the relationship between the El Paso Border Patrol and its surrounding social environment. For perhaps the first time, the unit responded meaningfully to strong criticisms of its enforcement excesses—in this case contained in the Bowie lawsuit and the resulting court orders—as civil rights violations against Hispanic citizens and legal immigrants. The inequality of this relationship in favor of the Border Patrol was dramatically illustrated by

Operation Blockade, which drastically reestablished the Patrol's authority in a more focused way that undercut and marginalized its critics and was extremely popular locally across ethnic lines. This illustrated the unit's superior power and ability to radically alter and reduce unauthorized crossing patterns, as well as manipulate the wider social and political context. Ironically, however, the unit regained its superior position by an enlightened approach of listening to its critics and responding to them by drawing precisely on their alternative suggestions for border enforcement, made in the Bowie lawsuit, including repairing border fencing and posting agents directly on the Rio Grande facing Ciudad Juárez. Indeed, Chief Reyes would later claim he implemented the operation at the behest of the BRC and other rights advocacy critics—which the BRC vociferously denied. While the loosely organized opposition was overwhelmed by the operation, it did respond, though with little success; yet this illustrates a continuing, though vastly unequal, relationship between it and the Border Patrol. Still, the opposition was not dead and even had a new member, with the regional hierarchy of the Catholic Church becoming the lead critic of the operation based on humanitarian concerns for immigrants—though also to little effect. Throughout this effort, the opposition tried to change one organization, the Border Patrol, by drawing on contrasting alternative symbols and practices from other institutions (Freidland and Alford 1991)—religion, the economy (commerce and trade), and social science (survey research)—but the opposition was outmatched.

A good deal of the overwhelming popularity of the operation is based in the citizenship-nationalist framework and related interethnic relations and tensions. Reinforcing the border is not only obviously nationalistic, it led to a heightened sense of nationalism and unity across some ethnic lines (Anglo and Mexican American), while also deepening divisions. Support for the operation fell neatly within the nationalistic-citizenship paradigm, broadly speaking, wherein U.S. citizens and legal residents of any ethnicity could unite in supporting the heightened border enforcement that was more narrowly focused on the primary subordinate “other” in the area, unauthorized Mexican border crossers. The operation provided an opportunity for Anglos, Mexican Americans, and legal resident immigrants to distance themselves from poor unauthorized Mexican crossers (“them”), and thereby reassert their own claim to belonging and membership (“us”). A purported single ethnic group, Mexican-origin people, was shown to be something else, or at least much more complex. El Pasoans of Hispanic appearance no longer had

their right to belong there questioned and scrutinized by a quasi-ethnic-specific policing unit, and no longer faced the prospect of humiliation and abuse at its hands, as its agents were now out of the neighborhoods and instead posted out on the river levee, their actions directed at “them” (i.e., poor, unauthorized Mexican crossers). This was a very meaningful increase in security of status, affirming in a new, practical way the sense and right of belonging and inclusion for El Pasoans of Hispanic appearance, especially in poor neighborhoods near the river. On the whole, the overwhelming popularity of the operation reflects Vila’s (2000) findings that there is a strong desire for differentiation among Anglos, Mexican Americans, and Mexicans in the area—most notably the latter two distancing themselves from each other.

Much support for the operation was also generated by the skillful use of powerful myths and symbols (Meyer and Rowan 1991) by Chief Reyes and other local Border Patrol leaders to justify and demonstrate the success of the operation. Foremost among these was their linking of the issue of street crime and public disorder to unauthorized border crossers, a link Reyes made forcefully by repeatedly claiming a reduction in unauthorized border crossing into El Paso was leading to a reduction in street crime. This proved to be extremely popular, and was rooted in a widespread local belief that much, if not most, crime in El Paso was committed by undocumented border crossers—a part of the commonplace phenomenon of scapegoating poor Juarenses for many of El Paso’s social problems. That Reyes could marshal some data right away to show the operation was positively impacting the crime problem cemented its popularity. In addition, Border Patrol apprehension statistics, the unit’s key symbolic measure, were used by Reyes and colleagues to demonstrate success in reducing unauthorized border crossing. Later, falling claims of human rights abuses by agents were another sign of success, though used to a lesser degree.

A closer look at the data for all of these claims, and especially over a longer period of time, shows that the operation was not nearly as successful as in the first impression crafted by the Border Patrol sector leaders through their skillful use of myths and symbols. Crime was already falling before the operation, and crime data in the three years after it began were quite mixed—even contradictory—particularly when looking at border neighborhoods. Apprehensions, meanwhile, fell off sharply in the first weeks and year overall, but then began to rise in ensuing years, by 1996 reaching about halfway back up from the initial 72 percent drop-off in the first year, and human rights abuse claims exhibited

the same semi-U-like pattern. However, both apprehensions and rights abuses did change drastically in spatial distribution, from the city of El Paso to more remote, very poor peripheral areas outside the city. In the case of rights abuses, this spatial change ranged from deportations of undocumented crossers via an isolated, small town border crossing sixty miles westward to the targeting of rural, very poor Hispanic residents near the border for increased enforcement scrutiny and worse, as these rural settlements were where unauthorized crossing shifted. However, the key change is that the remaining problems were rendered far less visible, and thus removed from public consciousness, by this spatial shift to peripheral areas, leaving the initial impressions of the operation's success intact. Thus, despite being rather less successful than is widely thought, the operation was very clearly a political success because it did push problems out of sight, and lessened federal scrutiny and abuse for Mexican Americans and Mexican legal resident immigrants within El Paso, greatly securing their status and sense of inclusion after years of questioning.

As immigration policy problems were boiling over in California in 1993–1994 and threatening to swamp the national political agenda, Operation Blockade would become the model for the 1994 national Border Patrol strategy, and especially for Operation Gatekeeper in San Diego in 1994. Nonetheless, the initial impacts and reactions caused by the operation caught INS leaders off-guard, and they were resentful toward Reyes for causing a controversy with the Mexican government on the eve of the NAFTA vote. However, they were smart enough to subsequently adopt its methods as a winning approach to address the growing national discontent over immigration. And while top Border Patrol and INS officials repeatedly framed this as a “prevention through deterrence” strategy of enforcement, it led to displacement of traffic and related problems to less patrolled, more remote, less visible areas, whether within the sector, or across sectors (U.S. General Accounting Office 1997, 73)—the “balloon effect,” whereby enforcement “squeezes” in one area displace the “air” (unauthorized crossers) to others. Still, it made the problem “manageable” politically, at least for a time, and a “manageable border” was Chief Reyes’ larger goal and vision for border enforcement.³⁹ However, the INS leadership would not be so enthusiastic as Chief Reyes embarked on his next step in border enforcement, proposing a border wall just west of El Paso.

CHAPTER 4

The Border Wall Campaign

Just over two months after successfully implementing Operation Blockade, Chief Reyes sought to expand the operation in early December 1993 by proposing a 1.3-mile-long, ten-foot-high, solid, thin steel fence (or wall) immediately to the west of El Paso. It was to be placed near the start of the riverless, land-based section of the border in between two small poor communities, Sunland Park, New Mexico, and Colonia Anapra, Chihuahua. This measure proved to be a very controversial escalation that sparked vigorous debate and formidable opposition for most of the ensuing two years until the matter was finally settled largely (but not entirely) in favor of the El Paso Border Patrol. That it generated such divided sentiment locally was something of a surprise, given the overwhelming popularity of Operation Blockade and Chief Reyes. It breathed life back into the loosely organized opposition to Border Patrol excesses that had reached its zenith in the Bowie lawsuit but was left in disarray by Operation Blockade.

Several conceptual issues aid us in examining and interpreting the struggle over this proposed border wall. First and foremost, it illustrates a new phase in the dynamic, though still unequal, relationship between the bureaucratic power structure of the Border Patrol and its surrounding social environment (Perrow 1986, 2000), especially the loosely organized opponents of its measures. Though Operation Blockade had seemingly vanquished such opposition, the wall debate shows that the wildly popular operation had not foreclosed it, nor enabled the Border Patrol to resume its pre-Bowie-lawsuit posture of ignoring its adverse impacts on the community and all related complaints. Next, in examining this case it is important to keep in mind the role of the use of myths and symbols by bureaucracies to reinforce their position (Meyer and

Rowan 1991), as the Border Patrol invoked these to set and then shift, as needed, the terms of the wall debate to eventually overwhelm the opposition. In turn, much of the opposition to the wall can be understood in light of the proposition that groups seeking change in bureaucracies can alter them by counterposing the symbols and practices of one institution against another (Freidland and Alford 1991)—especially those of bureaucracy versus democracy in this case.

This proposal for a border wall was unprecedented locally and led a broad range of actors to rise up against it and led to a rare setback for such wall proposals borderwide, in spite of the fact that the Border Patrol repeatedly portrayed it as a *fait accompli*/done deal. In fact, the Immigration and Naturalization Service (INS), the Border Patrol's parent agency, had final authority over the matter and considered the proposal for nearly two years before ultimately opting instead for a chain-link/mesh fence as a compromise—like that along much of the border in El Paso in place since the late 1970s, which had sparked a similar debate over the “tortilla curtain.”¹ In contrast to Operation Blockade, the delay allowed time for significant public response to the newly proposed border enforcement measure *before* it was implemented. The Sunland Park border wall debate marked the only instance among nine cases during the 1990s in which a border wall proposed by the Border Patrol was *not* ultimately approved and built. (This stands in marked contrast to the “Secure Fence Act of 2006,” calling for seven hundred miles of border walling [Mittelstadt 2006].)

This outcome, and even that a debate emerged at all, is especially surprising given that the El Paso Border Patrol was riding an overwhelming wave of local popularity for its just-implemented Operation Blockade. If ever there was a favorable political context for a wall proposal, on the surface the El Paso area was it. Chief Reyes was the most popular public official in the area (subsequently confirmed in his election to the U.S. Congress in 1996), and he was the architect and leading spokesperson for both the blockade and the wall. However, the wall proposal divided opinion locally and aroused strong opposition, thereby transforming an internal bureaucratic decision-making process (entirely within the INS) into an open, democratic, and very public debate that lasted nearly two years (1993–1995) and resulted in a compromise outcome devoid of a wall *per se*. Here I chronicle the key developments, including: the lively early stages of the wall debate, the public hearing, the “great train robbery” bust, the hazardous materials scare, and the Mexican compromise. From them emerge the key factors leading to this rare outcome. (As noted in

Chapter 1, I was a participant-observer in the very active concluding portion of the wall debate during the first half of 1995.)

Before I proceed, the specific community context for the proposed wall merits some attention, for it influenced events. Sunland Park, New Mexico, and Colonia Anapra, Chihuahua, are two small, poor communities of roughly ten thousand people each (in the mid-1990s) that lie directly across the border from each other, where the border shifts from being the Rio Grande (which turns north into New Mexico) to a land-based line. The two communities are just a quarter mile apart and share a valley between Mount Cristo Rey (rising up from the banks of the Rio Grande) on the east side and a large mesa approximately two miles to the west. Sunland Park borders El Paso (on the east side of Mount Cristo Rey), while Anapra is the westernmost *colonia* (neighborhood) of Ciudad Juárez, linked only by a dirt road. The busy, main east-west tracks of the onetime Southern Pacific Railroad (now merged with the Union Pacific) come out of El Paso en route to Los Angeles by curving around the north side of Mount Cristo Rey and then turn south to run nearly on top of the border for approximately a mile and a half between the two communities, before angling northwest away from the border.

These are very poor communities that, although rather marginalized, also have a history of activism. Sunland Park, New Mexico, with a poverty rate of some 53 percent in 1990, was half immigrant (Mexican) and 98 percent Hispanic. It had an active city government that successfully provided basic services, and was the site of a large trash landfill that sparked a great deal of community activism and protest (VanDer-slice and Shapiro 1996; Bath 1995; Lorenz et al. 1997; Sheppard 1993b). Anapra is an illegal squatters settlement (many outlying city neighborhoods in Mexico begin as such) that the city government of Juárez has tried to discourage and to which it has denied water service (Nuñez 1995; Hamann 1995). Building construction ranges from cardboard attached to pallets to cinder block, and there is electricity, but streets are unpaved and there is no water service apart from water delivery trucks. Many residents work in the maquiladora export assembly plants in eastern Juárez, and there is a history of activism by grassroots community groups petitioning the city for services.

Local illegal border crossing by Anapra residents had gone on since its settlement in the 1970s, as Sunland Park had the nearest amenities and public services (from grocery stores to churches to running water); also, the nearest official ports of entry were five miles away (one to the east and one to the west). Prior to the 1990s, there was an official port

of entry for livestock (cattle and horses) import/export between the two communities—which local residents pushed to have expanded into a full official port of entry in the early 1990s before losing to developers just to the west in the more wealthy and newly developed Santa Teresa (Tilney 1995). The ongoing, small-scale local illegal border crossing traffic was greatly supplemented with the onset of Operation Blockade, as many illegal crossers were pushed to the west of the operation into this area.

The Early Stages of the Debate

Chief Reyes first announced plans for the Sunland Park border wall in early December 1993 as “the extension of our border program” (Brock 1993h), meaning Operation Blockade, which had displaced illegal border crossing (now diminished overall in the sector) to Sunland Park, New Mexico—just outside the western end of the operation—as the area now accounted for 75 percent of Border Patrol apprehensions (Valdez 1993b). In announcing the wall project, Reyes said of the location, “This is an area that became very active once our operation [Blockade] was in place. Apprehensions of undocumented immigrants (in that area) started going up within the first 36 hours of the operation” (Valdez 1993b). Thus, the initial rationale for the border wall project was immigration control.

From the outset, Chief Reyes did his best to present the wall project as a done deal, an already decided upon course of action said to only be awaiting federal environmental studies, with construction slated to begin in mid-1994 (Brock 1993h). And unlike his preparation for Operation Blockade, where select officials received some warning immediately beforehand, Chief Reyes did not notify government officials from either El Paso, Sunland Park, or Mexico prior to announcing the project, as “Reyes did not feel it was necessary to consult with community leaders or groups about the fence” (Valdez 1993b). He maintained this *fait accompli* position consistently throughout nearly the entire twenty-two-month process; only for a few months late in the debate did he become receptive to public input on the fence, apparently under duress from INS higher-ups.

Although Operation Blockade was extremely popular in the El Paso area, and Border Patrol officials linked the wall project to it, the wall proposal provoked vociferous dissent from many quarters. The wall proposal seems to have been just a bit too much of an escalation, especially symbolically for many people. Most notably, in stark contrast to

what occurred with Operation Blockade, many local elites immediately came out strongly against the wall proposal, heavily stressing the negative symbolism of a border wall between two friendly nations (just several weeks after the passage of NAFTA), and many making an analogy between it and the recently dismantled Berlin Wall. This would prove to be the central argument of wall opponents throughout the entire debate. El Paso's then-mayor Larry Francis, a supporter of Operation Blockade, blasted the wall proposal, saying, "[T]he last thing we need is our own Berlin Wall. The fence would send the wrong message. It would be an atrocity" (Brock 1993c).

Thereafter a host of other civic and business elites joined the mayor in blasting the wall proposal, based largely on the negative symbolism of the wall for binational relations and commerce. Unite El Paso, the recently formed civic group headed by businesspeople and lawyers (one of whom was elected El Paso's state senator in 1996), came out against the proposal in a formal public statement ("Unite El Paso Opposes Wall" 1993). One of the group's leaders, a prominent Mexican American businessman, further stated that the proposed wall "has thrust our two communities into a posture of hostility and animosity. . . . [W]e reject . . . the idea that the daily commerce of our two communities should be undermined by the poorly thought out, bureaucratic decisions of a local federal official" (Flynn 1993a). At the same time, leaders of both the local Hispanic and Greater El Paso Chambers of Commerce came out strongly and publicly against the wall. The incoming president of the Hispanic Chamber said dramatically, "At a time when generations who have suffered death and inhumane treatment have finally broken the Iron Curtain in Europe, it is inconceivable that the United States of America, the leader of the Free World, would even consider such a destructive and ill-conceived idea" (Flynn 1993a). Several months later El Paso's federal congressman, Ron Coleman (Democrat), came out against the wall, saying it would "send the wrong message" to Mexico (Brock 1994b; see also Brock 1995b). The then-governor of New Mexico (who lost the Fall 1994 election) also came out against it, saying it contradicted the just-passed North American Free Trade Agreement (NAFTA) (Bean et al. 1994, 9). And in Sunland Park the mayor vowed to stop the plan, and a city council member characterized it as "offensive and unfriendly" (Associated Press 1994). On the Mexican side, the proposal was panned as the "border's own Berlin Wall" in the press, and a host of business and political elites also came out strongly against the proposal (Bean et al. 1994, 8–9; Brock 1993c). Likewise, the consul general for

the Mexican Consulate in El Paso declared in early 1994 that the wall was “an unjustified aggression” (March 7, 1994, report in the *El Paso Herald-Post* cited in PAW 1996) and characterized it as “unfriendly, inopportune, and imprudent” (cited in Bean et al. 1994, 9).

In the wake of this storm of negative reaction from a broad spectrum of local elites following the initial announcement of the border wall proposal, Border Patrol officials publicly raised the proposal again only infrequently for the next year. During this period of relative dormancy, a Fall 1994 opinion survey of El Pasoans by a local polling firm found majority support for the wall as an immigration control measure, though it was by no means overwhelming and far less than the 85 percent support for Operation Blockade found in the same poll (Valdez 1994b), noted previously. Specifically, Hispanic respondents favored the wall “to help curb illegal immigration” at a rate of 54 percent to 40 percent, with 6 percent undecided, a ratio very similar to the grouping of all other respondents (56 percent pro, 36 percent against, and 8 percent unsure) (Valdez 1994a).² Overall, it was later reported that this poll found 55 percent supported the wall proposal, 38 percent were opposed, and 7 percent were unsure (Crowder 1995). When the Border Patrol did raise the wall proposal during 1994, it shifted the framing of it from immigration enforcement to crime prevention, particularly to stymie the threats posed by Anapra-based “criminal gangs” (e.g., Valdez 1994a; Hamann 1994). This became the thrust of the Border Patrol’s framing of the wall proposal thereafter, and it proved to be much more successful in overwhelming opponents.

After a year of relative quiet on the wall proposal, in January 1995 the Border Patrol initiated a sustained public campaign to promote the Sunland Park border wall that ended in September 1995 with the INS commissioner’s final decision. In late January 1995 Chief Reyes once again took the *fait accompli* approach in announcing that wall materials would be delivered within a week and that construction would begin soon thereafter (Brock 1995c). No mention was made of opportunity for public input, but this announcement served as a clarion call for a new, more grassroots-oriented expression of opposition to rise up. Meanwhile, previously vociferous local elite opponents remained quiet (especially the El Paso mayor and business leaders)—with a few notable exceptions, mainly the municipal officials of Sunland Park, El Paso’s federal congressional representative, Ron Coleman, and Catholic Church officials. Also, one of El Paso’s two daily newspapers, the *El Paso Times*, consistently maintained a strong antiwall editorial line throughout the

intense 1995 debate period (Editorial, January 25, 1995; February 28, 1995; May 10, 1995).

While elite opposition trailed off, a new organized opposition emerged over the first half of 1995 that was more diverse and grassroots in character. Most notably, it included a reconstructed Border Rights Coalition (BRC), which in February 1995 spawned the broader-based and more narrowly focused group People Against the Wall (PAW). A broad array of groups and individuals became involved with the organized opposition, namely PAW and related efforts: environmental groups, Chicano student and barrio resident groups, Mexican *colonia* groups, and immigrant advocacy and service groups. They, along with the remaining aforementioned elite wall opponents, made for a multilayered, formidable opposition to the wall. PAW conducted eight major activities in March through June of 1995, including a petition drive (that quickly garnered over 1,000 signatures) and letter-writing campaign, mobilization for a public hearing, four public protests against the wall involving variously from 50 to 250 people, held in downtown El Paso and at the proposed border wall site in Sunland Park/Anapra, and a series of public debates (PAW 1996; field notes, Spring 1995).

On the other side, during the first half of 1995 the Border Patrol's outreach efforts to promote the wall included at least three public presentations at which its representatives were the only speakers and participation in at least six public events in which those officials debated critics of the wall (usually PAW members) in some type of public forum. These outreach efforts and debates included diverse settings, from a radio show, to a high school class, to a formal public hearing, to an El Paso business association meeting, to a neighborhood political forum, and to the visiting annual convention of the National Association of Hispanic Journalists. In addition, both sides did extensive work to promote their views in the press, though the Border Patrol ultimately far surpassed wall opponents; the issue was prominent in the local media throughout the first nine months of 1995 and also gained some attention in the regional and even national press.

Though ultimately overwhelmed by the Border Patrol, the more grassroots-oriented organized opposition's ongoing and diverse efforts during the first half of 1995 were instrumental in creating a political climate that prevented the unit from attaining INS approval for the wall, but rather for a reinforced chain-link fence instead. In contrast, apart from the Border Patrol, there was no organized, visible pro-wall activity by local civic groups or other social actors, as the sizable pro-wall

sentiment remained unorganized and was usually outnumbered at wall debates and forums. However, public support for the wall grew steadily later in the debate as the Border Patrol skillfully recast it mainly as a serious crime and safety measure.

The Public Hearing

The high point of opposition to the wall proposal, and the most significant public event of the entire wall debate, was the public hearing on March 21, 1995, in Sunland Park that the Border Patrol finally agreed to hold after some insistence by opponents. This event allowed the greatest public participation and was the most well attended, drawing some two hundred people (field notes, March 21, 1995), and it foreshadowed the themes that would frame the remainder of the wall debate. Such a formal event allowing for public input on a yet-to-be implemented border enforcement effort was unprecedented locally for the Border Patrol, and thus was a procedural victory of sorts. Over a period of the several preceding months, as opposition to the wall proposal coalesced and broadened, there had been a growing call for a hearing emanating from Sunland Park municipal officials and area environmentalists (Associated Press 1994; “Activist Wants Hearing . . .” 1995).

Internal INS–Border Patrol differences also appear to have been a contributing factor to the public hearing being held, and more generally in seeking public input, *per se*. As noted previously, in his initial December 1993 announcement of the wall project, El Paso Border Patrol Chief Reyes said seeking community input was unnecessary. In March 1994 he reported that wall plans were proceeding and that construction could begin as early as October of 1994 (Associated Press 1994). However, the next day the national head of the INS, Commissioner Doris Meissner (in town for a meeting), pointedly stated that the wall was only “under consideration,” and that “construction ‘was not on schedule’ for next October because the project ‘has not been approved’”; she added that it would be adopted “only as a last resort” (Brock 1994b). Further, the same month at a congressional hearing (where Chief Reyes was also present and testified), Commissioner Meissner stressed the importance of Border Patrol chiefs conducting “wide consultations with the community on fencing projects” (U.S. Congress, House Committee on the Judiciary 1995, 55). Moreover, later that spring Commissioner Meissner stated in El Paso that “fencing [made of solid steel, *i.e.*, a wall] needs to

come with community support,” and she also challenged Chief Reyes “to build consensus” for the wall proposal (Lijó 1995e). These contradictory remarks, Reyes versus Meissner, may have been a reflection and continuation of the lingering tensions between the INS hierarchy and Chief Reyes stemming from his implementation and continuation of Operation Blockade/Hold-the-Line (see Brinkley 1994).

As the public hearing unfolded, the opposition to the wall carried the day in terms of speakers and audience response. Most of the approximately two hundred people present appeared to be Hispanic—from Sunland Park, though a number were from El Paso—and against the wall. Of the forty-one people who spoke during the two-hour hearing (excluding two Border Patrol officials who moderated and presented, respectively), thirty-two were against the wall, eight were in favor, and one was ambivalent, resulting in a ratio of 4:1 against the wall, and antiwall speakers also elicited much stronger applause from the crowd (field notes, March 21, 1995).

The key themes and actors in the intense 1995 portion of the wall debate were present in the public hearing; each side merits close examination. The wall proposal’s proponents, including the Border Patrol, generally cast the issue as a means for reducing crime and enhancing public safety in a dangerous area, and they offered an impressive litany of criminal incidents to illustrate the need. In his opening presentation, Border Patrol Chief Reyes strongly portrayed the wall as a “last resort” safety measure to stem crime in an “increasingly dangerous area” (field notes, March 21, 1995). And he pointedly stated that the Border Patrol was “not trying to send a message” to Mexico, but rather that it was “trying to take care of a dangerous area, for agents, residents, and undocumented immigrants” (field notes, March 21, 1995). He said six agents had been hurt in the area in recent months, and then pointed to a display of weapons seized, located on a large table in front of his podium, which included knives, machetes, nails in wooden boards, three-to-four-inch metal spikes welded to metal bases, and rocks (placed in official-looking, court-evidence-like plastic bags). Likewise, the Border Patrol’s “Fact Sheet” on the wall that was distributed at the hearing highlighted “acts of aggression” and “criminal/gang activity,” including: “loss of property, assaults and robberies . . . rock throwing, roadway pits, assorted booby traps constructed for the sole purpose of deflating vehicle tires and disabling Horse Patrol units”; it also mentioned “reported snipings” (i.e., shootings by concealed shooters) as having occurred in the area (“Border Patrol Fact Sheet,” March 21, 1995). Reyes said that, on the basis of such concerns, the unit had secured the support of the newly elected

New Mexico governor, Republican Gary Johnson, for the border fence (field notes, March 21, 1995).

Several speakers from the audience echoed this wall-as-crime-prevention sentiment. One said she supported the wall because her house had been burglarized three times in the last year, which she blamed on border crossers, and because her daughter was scared of the increasing number of strangers (presumed border crossers) trespassing through the family's yard (field notes, March 21, 1995). Another speaker said the wall was necessary because the United States was allowing people "to flout the law" by entering the country illegally (field notes, March 21, 1995). An employee of the Southern Pacific Railroad supported the wall because he felt it would protect company employees and property near the border (recall that Southern Pacific tracks run immediately next to the border between Sunland Park and Anapra). To bolster his case, he claimed some seven hundred incidents had occurred in the area during 1994, including employees being shot at seven times, thirteen rock-throwing incidents, six hundred burglaries (using a very broad definition, discussed later), tampering with train air brakes, and assorted vandalism, all costing the company hundreds of thousands of dollars (field notes, March 21, 1995).

One key symbolic prowall theme raised was a distorted use of a line from a poem by Robert Frost ("Mending Wall"). Chief Reyes concluded his remarks by saying, "and in the words of Robert Frost, 'Good fences make good neighbors'" (field notes, March 21, 1995). The line caught on as several other wall supporters at the hearing also used it, and wall supporters at virtually every subsequent wall debate in 1995 invoked it in near-mantra fashion. This, despite the fact that Robert Frost's poem "Mending Wall," from which this slogan is drawn, is actually quite critical of walls, as he satirizes the narrow-mindedness of the one who repeatedly, unthinkingly utters "good fences make good neighbors," and indeed questions why good neighbors should even need good fences. One antiwall speaker challenged this use of Frost to support the wall by reading the poem in its entirety, after which he simply said, "Robert Frost would be against this wall."³ Two other pro-wall themes of note at the public hearing were, first, an emphasis on nationalism and, second, frequent declarations of strong support for Chief Reyes and whatever he might propose—rather like genuflections to his charisma and authority—which became so common as the debate continued that spring that wall opponents termed such speakers the "follow the chief crowd" (field notes, March 21, 1995).

Interestingly, the main Border Patrol efforts, immigration and drug enforcement, were conspicuous by their absence in the new Border Patrol framings of the wall issue. Most notably, immigration enforcement, the original rationale for the wall offered by Chief Reyes in December 1993, was not raised at all by him at the public hearing and rarely thereafter. In addition, the Border Patrol “Fact Sheet” handout listed it only briefly near the end on the back page (“Border Patrol Fact Sheet,” March 21, 1995). Chief Reyes largely ceded the immigration issue to the opposition, and instead opted to use the more politically persuasive crime issue, as he had with Operation Blockade. However, during the hearing and throughout the 1995 wall debate, the Border Patrol rarely raised its most dramatic and popular crime issue, drug trafficking—which is especially notable because the issue was the official rationale for the military’s involvement in building border walls for the Border Patrol elsewhere. The El Paso Border Patrol sought assistance from the military to construct the proposed Sunland Park wall as well, but the military ultimately declined to assist, citing the lack of drug trafficking nexus (interview with Joint Task Force Six official, Spring 1997).⁴

Wall opponents, in contrast, who were the vast majority of speakers, made their case by drawing on issues that the Border Patrol and other wall proponents largely did not address. Chief among these were: immigration and related humanitarian concerns, an official border crossing port of entry as a counteroption to the wall, and, most strongly, the more abstract notion of the wall as a negative and hostile symbol. Most notable among the wall opponents was the Catholic archbishop of Las Cruces, New Mexico, Ricardo Ramirez (who presided over the archdiocese encompassing the wall area), accompanied, in solidarity, by several of his clerical brethren (including the priest from the Sunland Park parish), whom the Border Patrol allowed to share the stage with Chief Reyes and to make a long opening statement. Bishop Ramirez drew on a variety of themes in speaking out strongly against the wall. He criticized the wall for sending a “contradictory message,” especially coming on the heels of several years of effort “to improve mutual trade relations” (i.e., NAFTA) between Mexico and the United States, concluding, “Not only is the concept wrong, but so is the timing” (field notes, March 21, 1995). He characterized the wall as another symbol of growing anti-immigrant sentiment, such as was found in the passage of the harshly anti-immigrant Proposition 187 in California just months earlier, a sentiment that he felt was rooted in economic insecurity among the public. In contrast, he invoked the moral authority of the National Catholic

Bishops Conference and cited its recent statement calling for fairness and compassion in immigration policy (field notes, March 21, 1995).

Echoing some of the archbishop's themes, the most frequently raised critique by antiwall speakers was its negative symbolism and implications for binational relations and for American values, followed by the immigration issue. For example, a member of the mainstream Hispanic Leadership Institute said her group opposed the wall as running counter to their goals of cross-border trade, binational cooperation, and removal of barriers in general. Other speakers criticized the wall proposal as a "shortsighted, hostile attempt to divide interdependent communities" on both sides of the border, as "breaking the ideals of the Statue of Liberty and freedom," and as "un-American" and reminiscent of a "police state" (field notes, March 21, 1995). Analogies were commonly drawn with the powerful symbols of the Berlin Wall and the Iron Curtain. This vein of criticism was a continuation of the earliest critiques of the wall by elite local actors in 1993. A number of speakers also criticized the wall by appealing specifically to the immigration issue, claiming it was a "monument to anti-immigrant hysteria" and unlikely to be effective in reducing undocumented immigration, especially as it would not address the root causes of immigration. Relatedly, a few criticized the wall on health grounds, pointing out that other walls (in Nogales) had caused would-be undocumented border crossers injuries and left unpaid bills for their treatment (field notes, March 21, 1995).

Meanwhile, wall opponents did not challenge so strongly the Border Patrol's use of the crime issue to justify the wall, except to question the wall's effectiveness as a means for that. Many doubted the effectiveness of the wall in reducing crime in Sunland Park, and some also claimed the wall was symptomatic of the general local tendency to blame Mexicans for much of the crime in U.S. border communities (field notes, March 21, 1995). The priest for the Catholic church in Sunland Park took the latter point further, stating, "They [undocumented immigrants] are not gang members. They're parents, children, human beings. We're losing sight of that. To put it [blame for crime] all on people who cross the border is going way out of reality" (Lozano 1995a). However, these criticisms of the crime issue would soon be overwhelmed by the "great train robbery" bust.

Many speakers, especially those from Sunland Park, strongly advocated the building of an official port between Sunland Park and Anapra as an alternative to the wall. They claimed this would be a means for much needed economic development for their poor community and

that it would deter crime (field notes, March 21, 1995). A variation on this sentiment was a prominent opposition slogan, “Bridges Not Walls/ Puentes Sí, Muros No,” throughout wall debate during 1995. It echoed a position first raised by the Sunland Park mayor a year earlier (Associated Press 1994), which she forcefully reiterated here. However, this overlooked the fact that elsewhere walls and ports of entry were not necessarily separate, mutually exclusive projects, as almost all of the other border walls previously built had ports of entry as well. Of course, few people there had seen the other walls hundreds of miles to the west, while an official border port of entry had been on the community’s wish list for years.

Finally, the breadth of the antiwall sentiment at the public hearing, expressed by three-fourths of the speakers, is worthy of examination. Members of the newly formed grassroots-oriented opposition group People Against the Wall (PAW) accounted for eleven of the thirty-two antiwall speakers, and they were from El Paso. A variety of other organizational affiliations were also present among antiwall speakers, including: the Catholic Church, Sunland Park city government, local grassroots environmental groups (including an antilandfill group from Sunland Park), a disability rights group, several mainstream Hispanic business and political groups, several Chicano activist community groups, a Chicano college student group, and the high school serving the Sunland Park area. Further, many antiwall speakers just listed themselves as residents of Sunland Park (field notes, March 21, 1995). It is important to also point out that among the audience of some two hundred people, the sentiment was overwhelmingly anti-wall, based on audience clapping and response to the speakers. And the vast majority of the audience members were from Sunland Park, as indicated by a show of hands at the end of the hearing, in response to the town mayor’s solicitation of the audience on that point, though almost all declined to speak (field notes, March 21, 1995). Their reluctance to speak up was not due to any formal barriers at the event but rather was likely due to fear, according to a local Catholic priest present (and interviewed later). He also noted that town residents were generally from very humble Mexican immigrant backgrounds and easily intimidated by the Border Patrol (interview with Reverend Jaime, Fall 1995).⁵ Such is not uncommon in immigrant communities facing Border Patrol authorities, owing to fear of retaliation, even deportation. However, later that spring in perhaps a safer venue for some, namely students, to express their opposition, a referendum held at the high school serving the Sunland Park area showed

strong opposition to the wall, specifically 400 against it versus 206 for it (Lijó 1995d).

Before proceeding to the next phase of the debate, two additional protests sandwiched around the public hearing, on the weekends before and after it, merit brief attention, for they were the only events during the wall debate throughout 1995 that enabled binational, and especially Mexican, grassroots participation. PAW members felt it was imperative that some attempt be made to reach out to residents of Anapra (the Mexican *colonia* adjacent to the border wall site), because their voices had thus far been excluded from the debate (field notes, March 6, 13, 1995). Consequently, antiwall activists held two protests at one of the only locations where people from both countries could easily gather, at the site of the proposed wall immediately on the border between Sunland Park and Anapra. PAW members, in conjunction with Sunland Park activists, contacted two *colonia* resident civic groups in adjacent Anapra, no small logistical feat—due to the lack of phone and other public services there, a lack of intimate familiarity with the social networks in Anapra, and the border itself (despite the communities being just a few hundred yards apart, a legal visit entailed a lengthy trek via the nearest port of entry, a twelve-mile round-trip and often entailing long waits at the crossing). (See also Staudt and Coronado [2002, 63] for a framework on the obstacles to cross-border collaboration by activist groups.) The first protest was just a simple, fairly brief gathering on Sunday afternoon, March 19, 1995, of perhaps 20 PAW and Sunland Park activists with some 50 Anapra residents. The Anapra residents brought along a large, painted wooden sign, which they posted at the border; it referred to the Berlin Wall in protesting this proposed wall and asked both federal governments for an international port of entry there instead (field notes, March 19, 1995).⁶ One week later, on Sunday, March 26, 1995, five days after the public hearing, the second protest was held. This time antiwall activists opted for a more festive binational picnic straddling the border, which drew approximately 250 people (Hamann 1995; Giovine 1995b). These binational collaborative protests were a defiant challenge to the wall proposal, and they boded well for the opposition; one Mexican journalist covering the first protest noted that the only other case where a Border Patrol wall plan had been foiled previously (until 1998), in Douglas, Arizona, also had a strongly binational opposition movement (field notes, March 19, 1995). However, this growing opposition momentum was soon profoundly reversed.

“The Great Train Robbery” Bust

Less than three weeks after the public hearing, a single event reframed the remainder of the wall debate almost exclusively as a crime control measure, much to the advantage of the Border Patrol and leaving the opposition reeling on the defensive. This key episode was the Border Patrol’s spectacular foiling of a theft of goods from a train, “the great train robbery,” on the railroad tracks near the site for the proposed wall, complete with some gunfire. This event was widely covered and recounted in the media for weeks and in nearly every story about the wall proposal, dramatically bolstering the Border Patrol’s crime control rationale for the wall. Chief Reyes said after the incident, “There’s a whole drama that unfolds right in the belly of the metropolitan area of El Paso and most people don’t even understand or realize it. . . . That’s the area we’re proposing the fence. One of the expectations of the construction there is that this activity would stop” (Negron 1995). The timing of this bust was extremely fortuitous for the Border Patrol, coming in the wake of the public hearing and growing opposition, although the unit had been working on such a bust more than three months earlier (field notes of Border Patrol presentation, January 19, 1995). However, it is plausible that the Border Patrol may have decided to push for a train theft bust much more strongly after faring badly at the public hearing. At any rate, this attempted train burglary was met with an unusually large-scale and rapid multi-agency and binational law enforcement response, spearheaded by the Border Patrol; clearly, much preparation went into this effort.

The events of the train robbery are well suited to drama and in fact could hardly have come out any better for the Border Patrol. Near dawn on April 7, 1995, at about 6:00 A.M., a group of individuals stopped a Southern Pacific train on the tracks just a few yards from the international boundary running between Anapra and Sunland Park. It was a well-organized job, with twenty or more people involved (Fonce 1995b; Negron 1995; Associated Press 1995a). Several had earlier jumped on the train when it was northwest of Anapra, and as the train came very near the border at Anapra, they pulled the emergency brake mechanism to stop it. They then tossed boxes of cargo off the train to waiting collaborators who dragged them across the border, just a few yards away and out of the jurisdiction of U.S. authorities, and loaded them into waiting vans. They stole between seven and twelve televisions, as well as thirty cases of jackets, each with thirty jackets inside (Negron 1995;

Fonce 1995b; Associated Press 1995a). Similar episodes had occurred in recent months beforehand, according to the Border Patrol (field notes of El Paso Border Patrol presentation, January 19, 1995), and in fact had gone on regularly for years, according to Sunland Park police (Power 1995; Negron 1995). This one was met with an unusually rapid and coordinated binational response. Border Patrol agents were monitoring the area, having clearly had the area under surveillance, as a waiting force of agents quickly descended upon the scene and others notified Juárez police, apparently also waiting nearby, judging by their uncharacteristically speedy arrival to this remote area that they rarely patrolled, and they apprehended twelve suspects with the aid of the Border Patrol (Fonce 1995b). Southern Pacific Railroad security personnel and Sunland Park police were also quickly on the scene (field notes of local TV news reports, April 7, 1995). Adding more drama, two of the fleeing suspects fired gunshots at police officers during an attempted getaway (Negron 1995; Associated Press 1995a), and Juárez officers responded in kind (Aynesworth 1995).

The publicity surrounding this admittedly dramatic bust was impressive, rocketing upward the status of the Border Patrol and its wall proposal, and essentially drowning out wall opponents. Local media coverage immediately after the event was extensive and focused on comments by Border Patrol and Southern Pacific Railroad officials (Negron 1995; Associated Press 1995a), who presented rather breathless descriptions of the event, especially in the case of local TV news reports (field notes, April 7, 1995). The Border Patrol was portrayed as heroically having helped stop a “train robbery,” a term that conjured up the old “Wild West” of movie lore, though the episode itself was less a robbery than a theft or burglary.⁷ Similarly, many of the early news reports of the episode used the term “bandits” to describe the assailants (Negron 1995; Fonce 1995b; Associated Press 1995a). The coverage didn’t stop there, however, as during the next several months a number of stories appeared in the regional and even national media on the train robbery issue and the Border Patrol’s counterefforts (e.g., see Aynesworth 1995; *CBS Evening News* 1995; Herrick 1995; Sahagun 1995). Again, the El Paso Border Patrol and Southern Pacific Railroad were virtually the only sources cited for these stories, as Border Patrol public affairs officials in particular were apparently working overtime on the issue.

The stories were often spectacular and melodramatic portrayals that verged on alarmist and absurd at times, making vigorous border security measures such as the wall seem to be an appropriate response. In

discussing the April 7, 1995, train burglary bust, one report's lead was: "It's become more like a war zone out there" (Aynesworth 1995). Another began: "The scene was out of an Old West movie. Mexican bandits, more than 20 of them, hijacked an eastbound border freight train. Then, firing at U.S. federal agents and Mexican police, they stole away into the Chihuahua desert with their loot" (Herrick 1995). Still another started: "In a throwback to the Wild West, freight trains thundering through this parched valley are being swarmed by bandits who plunder their cargoes, then flee back across the Mexican border—which in some places is only 10 paces from the tracks" (Sahagun 1995).

In these media reports of the "train robbery" issue, the Border Patrol's wall proposal was almost unfailingly mentioned as the remedy for the train robbery problem. One of the most provocative reports, exemplifying this, appeared on the *CBS Evening News*, which undoubtedly reached a far wider audience than any newspaper report. It merits quoting directly:

Dan Rather, anchor: Just ahead, *larceny and sabotage* on one of America's busiest rail corridors. . . . *On the long border between the United States and Mexico some villains with Old West style are riding the rails again—desperadoes, train robbers.*

Scott Pelley reporting: Ten thousand tons flying on rails along the U.S.-Mexico border . . . TV's, VCR's, clothes, chemicals, poisons, and explosives. . . . And *waiting in the hills: bandits* . . . armed Mexican gangs. . . . A steel fence more than a mile long is being proposed to shield the trains. A decision by the Justice Department [within which falls the INS] is pending.

CBS EVENING NEWS, MAY 29, 1995 (EMPHASIS ADDED)

Despite these dramatic portrayals, crime overall on the railroad and in the area was not nearly so outrageous, and was more complex than the "Wild West" images conjured up. Such train burglary activities had been common in the same general area for years, as noted previously. Several physical and geographic factors made the Anapra–Sunland Park area an inviting target for these train burglars, especially its close proximity to the border.⁸ However, perhaps most telling is that Southern Pacific Railroad officials had exaggerated the extent of the theft problem in the Sunland Park–Anapra area in claiming some six to seven hundred burglaries had occurred there, as they categorized each forced entry into boxcars and cargo containers as burglaries, whether anything was stolen

or not (Negron 1995; Associated Press 1995a). In addition, railroad theft in general was not so unusual; a PAW activist called national railroad officials and was told that theft from and burglary of trains were an issue in many areas throughout the country, mainly poorer residential ones (field notes, April 17, 1995; see also Nathan 1995). While train burglaries had risen in the Sunland Park–Anapra area in recent months, with losses topping \$1 million over the prior year as a hundred trains there were hit, the area still ranked behind Los Angeles and Chicago in theft, according to SP officials (Sahagun 1995). By way of further comparison, it is interesting to note that two local “train robberies” occurring in 1996, well after the border wall debate was concluded, received virtually no publicity whatsoever.⁹

It should also be noted that in spite of the Border Patrol’s success in utilizing the train theft issue to characterize the Sunland Park–Anapra area as crime-ridden, the opposite was the case on the Sunland Park side. Sunland Park Police Department statistics indicate that reports of property crime had dropped significantly during the previous year (1994), while reported violent crime had not increased, but remained steady.¹⁰ A local police official credited the expanded presence of Border Patrol agents in the area since the onset of Operation Blockade in late 1993 for much of the drop, as he felt a more visible presence of uniformed police officers in the area was an effective deterrent to crime (telephone interview with Sunland Park Police official, Spring 1995). This decrease in reported crime took place during the same time there had been an increased flow of undocumented border crossers through the area, displaced there by the operation just to the east in El Paso. This contradicts common portrayals and popular stereotypes about undocumented border crossers as a chief source of crime. Nonetheless, the “train robbery” incident rendered invisible such complexities about crime in the area, serving as a broad brush to paint the border as a wild, lawless, dangerous place for which a wall was an appropriate crime control measure.

“Booby Traps” and the HazMat Scenario

Beyond the “great train robbery,” the Border Patrol’s use of two additional provocative crime and public safety issues to promote its border wall project, namely “booby traps” and a hazardous materials scare scenario, also merits brief attention. During the wall debate of 1995, Border Patrol spokespersons frequently alleged at public forums that Mexican

“gangs” hid what they termed “booby traps” near the border in the Sunland Park area to disable the unit’s patrol vehicle tires and horse patrols, and as evidence they often displayed several steel spikes (three to four inches long) welded to a metal base, which they said threatened agent safety and even injured one agent (“Border Patrol Fact Sheet,” March 21, 1995; field notes, Spring 1995). However, it turned out that this provocative allegation was not so straightforward, as a source close to the Border Patrol (later confirmed in a meeting with the source and his attorney) contacted the Border Rights Coalition to report that the “booby traps” displayed by the Border Patrol were in fact the unit’s own devices. Moreover, he claimed that these were used by the Border Patrol as tire-deflation devices to stop unauthorized vehicle border crossings in more remote areas (field notes, April 4, 1995, and August 26, 1995). A member of the BRC publicized the charge in a debate and the press (Lijó 1995d; Nathan 1995; Lijó 1995c), although this tactic led to some controversy within the BRC and PAW because the sources were unidentified and off-the-record (field notes, May 19, 1995). Nonetheless, this revelation at least somewhat limited the effectiveness of the “booby trap” issue by the Border Patrol.

The Border Patrol used a more alarmist public safety concern near the end of the wall debate, and with much greater effect, as it delivered a sort of coup de grâce blow to the opposition. In June 1995, Border Patrol Chief Reyes unveiled a newly completed emergency contingency plan entitled “HazMat Incident Scenario,” which forecast seven thousand deaths and ten thousand persons injured throughout the region in the event that a train carrying hazardous chemicals were derailed in the Sunland Park–Anapra area by the now infamous “train robbers.” Though the Border Patrol’s role in the construction of the report is unclear, as no author is given, the unit did distribute copies of it at the debate and to the media. The report’s details seemed hyperbolic in the extreme to the wall opponents, outlining a worst-case chemical disaster scenario, the likes of which have never occurred in the history of the United States. Nonetheless, the report maintained that repeated attempts by “train robbers” to disrupt and halt trains along the Anapra–Sunland Park section of track “[mark] the area for eventual disaster” (“Hazardous Materials” n.d. [1995], unpaginated). The report appeared to be fairly technical (e.g., listing various chemicals’ flammability, vapor density, and reactivity), which lent the report an air of credibility.

The local media enthusiastically covered the “Hazardous Materials” report. Border Patrol officials were cited heavily in this press coverage,

while wall opponents were entirely excluded (field notes, June 9 and 10, 1995). One front-page local newspaper story stood out in presenting verbatim extensive excerpted sections from the report under the headline “A grim what-if scenario: Wreck could kill thousands” (June 10, 1995). Wall opponents were once again caught completely off-guard by a new Border Patrol revelation, and the extensive coverage given this melodramatic, worst-case scenario tilted the wall debate even further toward crime and public safety concerns, to which the wall was presented as a ready solution by the Border Patrol (field notes, June 9 and 10, 1995). And it was precisely in this context that a “compromise solution” to the wall debate was surprisingly offered by the Mexican government, then ultimately accepted by U.S. authorities.

The Mexican Compromise and INS Approval of a Mesh Fence

The “compromise solution” to the wall debate was a more commonly found, less provocative border barrier—a reinforced chain-link/mesh fence rather than a wall. It was the result of binational pressures, as Mexican federal government officials proposed an alternative that paved the way, though later, to their chagrin. The new fence proposal was a classic *realpolitik*, lesser-evil compromise solution, though it left the Mexican government walking a very fine line between U.S. train protection and complicity in border barrier construction. As noted previously, the negative symbolism of a wall for U.S. relations with Mexico was one of the most prominent themes among wall opponents, and the Mexican consul general in El Paso had spoken out against it in 1994, terming it “an unjustified aggression,” among other things. However, Mexican federal government officials were also acutely sensitive to the Border Patrol’s successful, inflammatory use of the cross-border crime issue to promote the wall. Mexican officials wanted to remove the crime issue from the border enforcement discourse of the Border Patrol, because they felt it was unjustly coloring all undocumented Mexican immigrants, vilifying that large and vulnerable group (field notes of June 23, 1995, meeting with El Paso Mexican Consulate official).

Working behind the scenes, Mexican federal officials devised what they thought to be a reasonable alternative to Chief Reyes’ border wall proposal that would meet the crime and safety concerns he was raising. Just as the Border Patrol was promoting the hazardous materials scare scenario, a press report emerged in which Chief Reyes said that, re-

cently, “Our discussions have resulted in Mexican police agreeing to our proposal to erect a *fence or barrier* in the area [Anapra–Sunland Park] which would be patrolled on their side of the border also” (Brock 1995; emphasis added). This binational agreement to a “fence or barrier” was a heretofore publicly unknown “compromise” alternative plan, which was proposed by the Mexican Consulate to the Border Patrol in late May and early June (Bruner 1995a; field notes of June 23, 1995, meeting with El Paso Mexican Consulate official).

The Mexican counterproposal accepted many features of the Border Patrol’s proposal, with one crucial difference, namely in calling for a one-mile-long, ten-foot-high chain-link/mesh fence—rather than a solid steel wall 1.3 miles long—placed just north of the boundary along the railroad tracks between Sunland Park and Anapra, where the train theft problem was most acute (Bruner 1995a; field notes of June 23, 1995, meeting with El Paso Mexican Consulate official). El Paso Mexican Consul General Armando Ortiz Rocha said a fence would be “less offensive” to his country, while Chief Reyes termed it a “suitable alternative” (Bruner 1995a). Mexican officials tried to finesse the issue by insisting that they were not proposing a border fence but rather a train protection device. They tried to explain that the fence placement they wanted just north of the border along the tracks (rather than directly on the border several yards away) meant it was not a border barrier (Resendiz 1995); this was a very subtle, if not dubious, distinction because the tracks in question ran just several yards from the border.

Mexican Consulate officials were also adamant that their counterproposal was not an immigration enforcement measure, but rather was devised to address Border Patrol concerns over “delinquency” in the Sunland Park–Anapra border area; they took Chief Reyes at his word that his wall proposal was mainly a means to address the crime problems in that area, especially train theft/burglary (field notes of June 23, 1995, meeting with El Paso Mexican Consulate official). Consul General Ortiz said, “There is a difference between a wall or a fence installed on the dividing border line, and this wire fence installed along the tracks to protect the railroad trains. Mexico will not negotiate for a wall. The (government’s) position is ‘no’ to walls and ‘yes’ to combat delinquency” (Bruner 1995a). In addition to the fence, the Mexican proposal included provisions that met previous Border Patrol requests by offering Mexican police patrols in the area during night hours, the installation of lighting fixtures near the border, and a paved road near the border and proposed fence site (Bruner 1995a; Resendiz 1995; field notes of June 23,

1995, meeting with El Paso Mexican Consulate official). Chief Reyes remarked of the Mexican counterproposal, “As long as we have control (of the area) and we have the cooperation of Mexican law enforcement, it may be a better proposal [than the steel wall]” (Bruner 1995a).

Wall opponents were outraged and felt betrayed. One PAW activist noted at the time, “They [the Mexican Consulate] sold us out” (field notes, June 20, 1995). Indeed, Mexican Consulate officials recognized that the efforts of PAW and other organized opposition had been instrumental in creating the political climate within which their chain-link fence counterproposal would be a viable compromise solution. It was especially significant in their view that the opposition to Chief Reyes’ wall proposal had been sustained over such a long period (one and a half years), despite the Border Patrol’s best efforts to overwhelm it (field notes of June 23, 1995, meeting with El Paso Mexican Consulate official). Thus, Mexican officials took advantage of the political space that wall opponents had helped create and then undercut their position, completely excluding them and their concerns in the process. However, PAW members quickly realized that mounting an opposition to a border chain-link fence would be much more difficult than against the proposed wall, because such border fencing was already commonplace in El Paso (field notes, June 20, 1995). Meanwhile, one critical local Mexican political analyst noted that this was the first time that the Mexican government had agreed to any border barrier (previously protesting or taking no position). And he felt that it had now lost its basis to criticize other U.S. border enforcement proposals, but rather was reduced to debating wall materials and placement, instead of the acceptability of border walls and barriers per se (Schmidt 1995.) This marked the end of the Sunland Park–Anapra border wall debate, for little opposition activity took place after mid-June 1995.

Ironically, much as wall opponents had felt betrayed by them, several months later Mexican officials publicly expressed their feeling that their “compromise” alternative was betrayed by the Immigration and Naturalization Service. In September 1995 INS Commissioner Doris Meissner formally approved the construction of a 1.3-mile-long, heavy-gauge chain-link/mesh fence along the border just south of the SP railroad tracks, which was precisely the site that had been proposed for the wall between Sunland Park and Anapra (Bruner and Ramirez 1995). Mexican Consulate officials quickly distanced themselves from the project, protesting that the INS fence was a border barrier, to which they had not agreed, rather than the train security measure they had instead proposed. They felt “deceived” by the INS, because they thought

their compromise fence site area parallel to the tracks (just north of the border) had been unilaterally changed by the INS, which approved its placement squarely on the border, at the site originally proposed by the Border Patrol for the wall (though this was a very fine-grained distinction, because it was also very near to and ran along the tracks) (Bruner 1995b; Conley 1995). Thus, the Mexican Consulate's attempt to resolve the wall debate by taking advantage of local wall opposition efforts to then present its own "compromise solution," aimed solely at assuring train security, backfired. The actual construction of the fence began in January 1996 and took over a year to complete, using civilian labor—ironically including an undocumented immigrant (field notes, January 10, 1996).¹¹ It was built with stronger footings and larger framing poles than with typical border chain-link fencing elsewhere, similar to those used in border walls (field notes, May 15, 1995; March 17, 1997; October 18, 1997), which would allow it to be converted to a wall fairly easily—a fact confirmed by a recently retired Chief Reyes (December 10, 1996, interview). The chain-link/mesh was also thicker and stronger than that used in other typical border counterparts.

More telling, immigration enforcement was highlighted by Chief Reyes immediately upon announcement of the project's approval by INS Commissioner Meissner. As reported in the *El Paso Times*, "Reyes said the fence will deter most crossers, who won't want to take the dangerous journey that would be required for a crossing through the desert west of Sunland Park" (Bruner and Ramirez 1995). Since then, in practice, the Sunland Park fence seems to have led less to deterrence per se than displacement of unauthorized border crossings, as they've shifted farther west rather than halted. The shifting rationale for the wall-cum-fence employed by Chief Reyes to ultimately win a compromise solution illustrates the give-and-take of the vibrant wall debate that wall opponents created. However, when queried a year later, Reyes defensively denied the significance of wall opponents to the final outcome in a manner that seemed dismissive not just of opponents but of democratic norms, in supporting a bureaucracy forging ahead regardless of public concerns. Specifically, he said, "We never stopped. The fence is going up. The more noise that groups make and the more people wretch and lament a fence going up on the border, obviously it creates a little more of a problem for our agency. But you don't stop doing what you're doing" (interview with ex-Chief Silvestre Reyes, December 10, 1996).

In December 1995, shortly after the official conclusion of the wall debate, Chief Reyes retired from the Border Patrol to successfully run

as a Democrat for a seat in the U.S. House of Representatives in the 1996 elections; in so doing, he also became the first Hispanic to be elected to represent the El Paso district, whose population was 75 percent Hispanic, in the federal congress. To the surprise of his former wall debate adversaries, he has not been a typical ex-cop, law-and-order conservative, but rather more eclectic, and has taken moderate-to-liberal positions on many issues, even some immigration matters, and ironically has emerged as a strong advocate of warm U.S.-Mexico relations. Over time he has been a strong critic of proposals to use the military on the border (instead calling for further buildup of the Border Patrol), was for a time the head of the Congressional Hispanic Caucus, and has been quite critical of enforcement-only immigration proposals offered by conservatives (including the seven hundred miles of border wall authorized in Fall 2006), as well as of the vigilante-like Minutemen border monitoring group. Most recently (in 2007), he became the chair of one of the most important congressional committees, the House Intelligence Committee, owing in large part to his (surprising) early opposition to the U.S. war in Iraq (Montgomery 2007).

One final issue merits at least brief mention in wrapping up the wall debate. Racial and ethnic divides (on the U.S. side) were generally not so significant in the wall debate, as members of all groups were present on both sides in roughly equal measure overall. I base this on my observations of virtually every wall debate event during 1995; in addition a Fall 1994 opinion poll found the same result, as noted previously. Nonetheless, interethnic inequality was an issue among the central players in the debate on the U.S. side. Most of the visible wall supporters were Mexican American, from Chief Reyes to many of the audience members who spoke in favor of the wall at debate forums, especially later in the wall debate. In contrast, almost all of the core members of the main wall opposition group, People Against the Wall, were Anglos, especially as the debate wore on and the group lost momentum and members in the latter phases. The broader wall opposition still included many Mexican American and Mexican actors who spoke out against the wall, and PAW certainly collaborated closely with Mexican American and Mexican allies. However, PAW was largely unable to incorporate members of either group into the leadership of the organization itself, with a few exceptions. This issue caused PAW some internal tensions and much soul searching in the latter phase of the debate, but little progress was made on it (field notes, May 8, 1995; May 17, 1995; June 20, 1995).

Conclusion

The debate over the Sunland Park–Anapra wall is remarkable in several respects, mentioned at the outset but meriting reiteration here. The first is that there was any debate at all, given the popularity of the El Paso Border Patrol and its Chief Agent Silvestre Reyes in the wake of their having recently implemented Operation Blockade, and particularly given that Reyes initially framed the wall as an extension of the hugely popular operation. Even more remarkable is that the Border Patrol failed to entirely prevail, ultimately settling for the “compromise” of a reinforced mesh fence rather than a solid steel wall. This is the only case in nine episodes during the 1990s in which the Border Patrol proposed a steel wall along the border, but failed ultimately to have it approved, as eight border walls were built from 1990 to 2000, all in Arizona and California—though significant local opposition did temporarily stymie wall plans in Douglas and Nogales, Arizona.¹² (This contrasts sharply with the 850 miles of border walling approved by Congress in Fall 2006—covering more than one-third of the 1,900-mile border [Mittelstadt 2006].) There are many factors that contributed to this outcome, ranging from vigorous and diverse local opposition, to binational considerations and the Mexican government’s compromise counterproposal, to ambivalent if not strained relations between the INS hierarchy and the El Paso Border Patrol. My view is that the latter internal tensions created a bureaucratic opening of sorts that enabled a host of local social actors to spark a public debate that influenced a border enforcement policy before it was implemented—a very rare opportunity and quite in contrast to Operation Blockade.

The wall debate was another crucial phase in the newly invigorated, though still unequal, relationship between the El Paso Border Patrol and the surrounding social environment following the Bowie lawsuit. That there was debate at all in the post–Operation Blockade climate shows this relationship remained important (rather than easily ignored, as prior to Bowie), but the result also illustrates the inequality. Ultimately, the Border Patrol had a far more significant impact on the social environment than the opposition had. The Border Patrol set the terms for the debate, shifted them as needed (from immigration to crime to mass public health hazards), and had ample resources and was in an authoritative position to make its case in the media and with the public. The opposition had none of these advantages, and though it did for a time successfully contest the framing of the debate with the Berlin Wall analogy, it was ultimately overwhelmed. Still, opposition to Border Patrol

excesses managed a significant comeback from severe marginalization in the wake of Operation Blockade, though this new opposition was somewhat distinct from earlier efforts and politically dared not question the operation; yet it did provide a means for expressing frustration with and opposition to the Border Patrol's enforcement escalation.

This case illustrates the strategic, sometimes inflammatory use of myths and symbols to reinforce organizational power (Meyer and Rowan 1991) and to challenge it (Freidland and Alford 1991). The Border Patrol, and the media covering the unit's exploits, employed a number of popular, quasi-institutionalized myths and symbols in the border region that evoke fear and suggest a wild, out-of-control state in need of drastic measures as a remedy. They included the provocative "border bandit" and "criminal gang" labels, and most strikingly, the "train robbery" image, for it suggested not only crime but also the lawlessness of the "Wild West," and some of this symbolism (particularly "border bandit") is quite tied to the history of anti-Mexican prejudice and discrimination in the region.¹³ However, these were not solely myths and symbols, for there was enough immediate evidence offered by the Border Patrol to give them some credibility, though countervailing evidence was ignored. Most notable was the fact that an organized gang of train burglars was caught red-handed by the Border Patrol in a spectacular episode that completely turned the terms of the debate toward the unit's favor, thanks to the ceaseless repetition of this imagery and event by the Border Patrol and media for weeks and months after. Counterinformation showing the greater complexity of the crime issue was conveniently overlooked, such as the falling crime rates in the Sunland Park area at the same time that undocumented border crossings there had increased, or that cargo theft from trains was by no means unique to the border.

The myth used by the Border Patrol to apply the coup de grâce to the opposition was the dire Hazardous Materials (HazMat) contingency scenario that forecast the death of thousands of area residents in the event that the now infamous border criminal gangs/bandits were to derail a train loaded with hazardous chemical materials. Despite the hyperbolic nature of the claim and the unprecedented nature of any such catastrophic episode of this scale, anywhere in the United States, it was presented in a technical document with the trappings of being a public health or emergency services product, and backed by the authority and credibility of the Border Patrol acting as a guardian of public safety.

The Border Patrol also used several other mythic symbols rooted in various institutions. The first of these was the "booby traps" (suppos-

edly planted by border gangs), a term suggestive of warfare and deadly physical attack, while the actual device displayed as proof was just a tire-puncture contraption (and may well have been made by the Border Patrol itself). One myth used by the Border Patrol, strongly rooted in American culture to the point of a commonsense truism, was the “good fences make good neighbors” line from Robert Frost’s famous poem “Mending Wall,” despite the largely unrecognized fact that Frost used the line in the poem in a manner that critically satirized those who utter such sentiments.

By way of comparison, wall opponents had very few compelling institutionalized myths and symbols at their disposal. Their most vivid were the analogy to the Berlin Wall (the Cold War antithesis of freedom, democracy, and harmonious relations) and the related hostile symbolism a border wall would convey toward Mexico, an important and growing trade partner. These far outweighed humanitarian immigration concerns also raised (but much less often) by wall opponents. Arguably, more so than any of the eight locations where the Border Patrol has prevailed in its border wall efforts, El Paso is a self-consciously strategic cross-border commerce and industrial site, which probably heightened sensitivity to the hostile binational symbolism of a border wall, especially among local elites. While compelling, ultimately the Berlin Wall analogy and negative implications of a wall for binational relations were a bit too abstract compared to the more immediate and always stirring symbolism of border crime, especially after the “great train robbery” bust. This was even more so the case after the Mexican government accepted the anticrime rationale as legitimate and offered a “compromise” chain-link fence “train security” barrier along the border (quickly morphed into a border barrier), thereby defusing the negative symbolism of the wall for binational relations. Still, the crime issue that had worked so well for the Border Patrol in building support for Operation Blockade was not quite as persuasive in the wall debate, though it did ultimately carry the day, but only after much sensational framing of it.

The relative success of the loosely organized opposition to the Border Patrol’s wall proposal illustrates the ability of groups to draw upon the contradictory symbols and practices of multiple institutions in their efforts to seek change “within and between” institutions (Freidland and Alford 1991). Wall opponents drew upon the rhetoric and practices of participatory democracy and citizen pressure on governments, such as public forums and debates, public hearings, petitions and letters to officials, and public protests. The organized opposition also drew upon

Catholic Church authority figures to try to cast the immigration issue in humanitarian terms. Thus, the organized opposition employed the symbols and practices of a variety of other institutions to challenge the Border Patrol's wall proposal, which created an open, public, democratic debate that was crucial to changing the outcome. However, much of this democratic participation was channeled into "administrative involvement" (Selznick 1953), in which critics are co-opted or at least contained. Local critics of all stripes were allowed to make their case and even debate Border Patrol officials, but in largely ceremonial acts (e.g., at a public hearing and various debates) that allowed no formal input into the closed bureaucratic decision-making process; thus public venting of competing sentiments was allowed, but actual input and influence were matters solely of bureaucratic discretion. And it seems in this instance that INS Commissioner Doris Meissner was receptive to public concerns, due to lingering INS tensions with Chief Reyes over Operation Blockade. However, the real co-optation in this case befell not the civic opposition but the Mexican government, as the latter's desire to quell the Border Patrol's "border criminal" rhetoric led it to craft a "compromise," an alternative "train security" chain-link fence proposal for that border area. This ultimately backfired, though, as the fence that received final approval was recast by the Border Patrol as an immigration enforcement tool after all.

Finally, though the issue of human rights was not prominent in the wall debate, it was looming in the background, at the least. Wall opponents did periodically raise concern for the human rights of undocumented immigrants in the debate. Moreover, upon approval of the fence by the INS, Chief Reyes stressed that it would force undocumented crossers through the more remote desert areas to the west, a prospect he hoped would deter them, given the greater difficulty and hardship—which was borne out somewhat by markedly increased apprehensions to the west in ensuing years (though this was not deterrence, but rather displacement). That is a version of "social triage" by a bureaucratic power structure (Sjoberg 1996, 285, as noted in Chapter 1), in which an organization sacrifices—or in this case intentionally puts at heightened risk—the well-being of a vulnerable, subordinated group in order to advance the organization and the elites it serves. Such enforcement logic and practices would prove especially dangerous for migrants in future years, though mainly in other Border Patrol sectors.

Human Rights Issues and the El Paso Border Patrol

Previous chapters focused on the El Paso Border Patrol's enforcement activities and its excesses, particularly in relationship to its "subject population," with some attention to human rights problems, but without close examination. Here I undertake a detailed examination of known human rights abuses committed by the El Paso Border Patrol over time, particularly before and after Operation Blockade—which we will see changed, but did not resolve, such problems. In this we will see the long-overlooked effects of a particular bureaucratic power structure on the surrounding social environment (Perrow 1986, 2000), on its "subject population," in graphic detail. As we proceed we would do well to keep in mind the notion of "social triage," in which the human rights and well-being of disadvantaged groups are written off or repressed by powerful bureaucracies (Sjoberg 1996). In the contrasting citizenship-nationalist view (Soysal 1994; Jacobson 1996), measures to protect the nation and national sovereignty (including border enforcement) are justifiable regardless of their impact on immigrants, and sometimes even on minority group citizens (Eschbach et al. 2001b).

"Official" data on El Paso Border Patrol human rights abuses were not accessible.¹ However, there is a substantial body of evidence on human rights abuses, broadly defined, and other forms of mistreatment by the El Paso Border Patrol, from "unofficial" (i.e., nongovernmental) sources, mainly narrative data drawn from victims through the pioneering efforts of the Border Rights Coalition and the landmark Bowie lawsuit. Consequently, this chapter is a sort of "unofficial" history of the issue—i.e., a bottom-up view from adversely affected members of the unit's "subject population." I selected cases for examination based upon availability and the discovery of new data (Sjoberg and Nett 1997, 137,

141, 144) on a sensitive, relatively hidden subject, using an inductive approach to bring out new information for analysis and consideration. I gathered most of my data from twenty-one in-depth, open-ended interviews during the mid-1990s: twelve with principal informants-victims (all Mexican American or Mexican), five with NGO rights activists, and four with Border Patrol officials from varying ranks.² I obtained much of this data in my capacity as a director of a BRC video project on rights abuses that was part of the settlement of the Bowie lawsuit (noted in Chapter 1). Given the data available, the bulk of the chapter focuses on abuses committed against residents of El Paso and surrounding areas on the U.S. side of the border, although unauthorized border crossers from Juárez and elsewhere in Mexico undoubtedly experienced the bulk of Border Patrol abuses over the years. They were the overwhelming majority of those apprehended by agents, but they had little opportunity to report mistreatment.

Despite the critical tone of my presentation here, it is important to stipulate at the outset that I am not suggesting all or most Border Patrol enforcement encounters result in abuses. Moreover, human rights abuses by Mexican police authorities are generally much worse and more widespread overall. Rather, my objective is to shed light on an important topic that is often ignored or underexamined by scholars, and to also look for key themes and patterns in the data. Unfortunately, the available data do not allow us to determine the precise frequency of abuse in the El Paso area, though this has been examined for other areas of the border.³ My approach is also guided by Durkheim's classic insight (noted by Sjöberg and Nett 1997, 264) that the study of "deviance" helps us to better understand the "normal." The four groupings of rights abuse cases that I examine in detail are: South El Paso residents during the 1960s and 1970s, undocumented Mexican border crossers in the 1980s and early 1990s, South El Paso residents in the late 1980s and early 1990s leading up to Operation Blockade, and those same residents after the initiation of Operation Blockade through the mid-1990s. This approach affords a look at Border Patrol abuses across time and among different types of victims.

Human Rights Abuses in the 1960s and 1970s in South El Paso

Human rights abuses by the El Paso Border Patrol are by no means a phenomenon limited to the recent era of monitoring by the Border

Rights Coalition and others, though obviously information for earlier periods is not as available. Two female Mexican American informants provided information on several abuse cases of varying degrees of severity from the 1960s and the 1970s in *segundo barrio* (second ward), the old working-class and working poor, Mexican American and Mexican immigrant Southside neighborhood near Bowie High School and the Rio Grande international boundary; they each grew up in the neighborhood and graduated from Bowie High. Victoria characterized the scale of the Border Patrol abuse problem during her childhood thus: “In the early 1960s, gosh, you would have had to be blind in the barrio, *en el segundo barrio*, in order not to have seen or witnessed the horrible things that went on. . . . Everybody in *el segundo* had had some type of experience with the Border Patrol” (interview with Victoria, Fall 1995). The abuses spanned a wide range, including beatings, false deportation, heavy-handed questioning, sexually suggestive leering, and even some suggestion of sexual fondling. The episodes are marked by a strong sense of impunity as well as enforced passivity, fear, and subordination.

The first such incident Victoria remembered seeing during her childhood in the early 1960s was a severe beating of a beggar boy from Juárez by a Border Patrol agent, which inspired fear and passivity. Victoria said:

I remember seeing this adult beating up on a boy—maybe twelve, thirteen years of age—and he was beating up on him so very badly, you couldn’t even tell the boy’s face because it was so swollen. My cousin and I got close and said, “Why are you doing that?” And he turned around and said very, very ugly words—bottom line was “you shut up or you’re going to get exactly the same thing.” Then he turns the boy around, takes a hold of one of his arms, and breaks it. We saw the bone. We went home and I told my mother, and she said, “Well, that’s the reason you shouldn’t be out at night. Things like that could happen to you.” . . . Later on, I knew that the community was afraid of the Border Patrol, very, very much afraid.

INTERVIEW WITH VICTORIA, FALL 1995

Victoria recalled another serious incident, the false deportation of her legal-resident brother, which again caused pain and inspired passivity:

He was picked up one day [by the Border Patrol], in spite of the fact he knew the language. We had been here at least six, seven years. . . . He was taken to Caseta [border crossing and small town on Mexican side of

border about twenty miles southeast of city], a place where they would take people who gave them problems. . . . It took him a couple of days to get back to El Paso. And my mother was very, very worried. She would go to the church and pray the rosary. [Long pause, she starts crying softly.] And then he called, told my mother what had happened. And again, she just took it. She said that's the way it was, that was the law. And that we needed to abide by those particular rules.

INTERVIEW WITH VICTORIA, FALL 1995

Given such episodes, it is not surprising that Mexican American and resident immigrants in Southside neighborhoods feared the Border Patrol even in less severe encounters and that passivity prevailed. However, Victoria's voice shook with anger years later as she told of a humiliating episode, laced with an undertone of prior sexual abuse that elicited no response from onlookers in the community.

We were going to a party. . . . They stopped us on 13th Street . . . very close to the border. The man [Border Patrol agent] pushed us all against the wall, in spite of the fact that we were dressed to go to a party. He kept on talking Spanish, a very broken Spanish. . . . And I said, "I am a student a Bowie High School, sir." And he started saying bad words. I remember Nidia started crying. . . . In talking later on, [I discovered] she had had another experience with the Border Patrol, very close to 13th Street. She was "*touched*" [respondent's emphasis] and she thought that the same thing was going to happen. . . . He had us out there, the four girls; one of them was crying. The neighbors heard, but none of them would go over and say, "leave them alone," "don't you have proof," "they speak the language." . . . Nobody said anything. You could just see the curtains and the faces. Well, they let us go. I went home and told my mother and she said, "Well, honey, there's nothing that anybody can do." I made sure I never traveled 13th Street again, never, ever!

INTERVIEW WITH VICTORIA, FALL 1995

There were also school-related Border Patrol abuses during earlier time periods, long before the Bowie lawsuit. Victoria recalled very rough apprehensions, near beatings that she observed in the 1970s as a teacher at a middle school near the border. Once again, acceptance and passivity stand out, even by school authorities. Victoria recalled:

You could see the kids, maybe thirteen-, fourteen-year-old kids coming in [just crossed the border illegally]. . . . You would see the immigration running after the kids. . . . You could hear the kids screaming and trying to hide inside, or hiding under the portables [temporary trailer-like classrooms]. Whenever they did catch them, they'd throw them against the wall, or throw them on the floor, and hit them . . . drag them into the car. . . . And again I didn't say anything. . . . Why? Because the mentality was "That is the law. That's the way it is. You can't change it." When I asked my principal, he said, "Well Mrs. [her name], there's nothing we can really do."

INTERVIEW WITH VICTORIA, FALL 1995

And even on the less severe end of the continuum, Border Patrol surveillance of students sometimes took on unpleasant, implicitly sexual overtones. A second informant, Guadalupe, recalled being stopped, questioned, and leered at by agents several times while walking to Bowie High during the 1970s—and her parents' fear of deportation if she complained about it.

As a student, I was detained several times and questioned. . . . They [Border Patrol agents] were always there in the morning, because they knew we had to jump the trains [train tracks]. And that's when they would stop and question us. But there were some that were, like—not saying sexually harassing us, but they were there to watch us as girls, you know. And that I disliked all the time. I would tell my mom.

But my mom would say, "I've always told you. Don't say anything about Border Patrol." I guess parents in this area thought that if you ever complained about Border Patrol that they would be taken back to Mexico, that they would be deported. . . . That's why they were so afraid. And of course, they would pass that on to us.

INTERVIEW WITH GUADALUPE, FALL 1995

On the whole, Victoria and Guadalupe indicate that during the 1960s and 1970s enforcement encounters with the Border Patrol, some of which ranged from unpleasant to traumatic, were part of the everyday life in the *segundo barrio* area in South El Paso. Beyond the specific abuses disclosed here, which vary widely in type and severity, what stands out is the acceptance, passivity, and fatalism reinforced by fear of retaliation (especially of deportation) among the "subject population"—particularly parents instructing their upset, complaining

children not to publicly complain and to just accept mistreatment. Humiliation stemming from Border Patrol mistreatment is also a prominent theme, which was in some cases compounded by the community passivity observed by victims. (I am not intending to “blame the victim,” but rather to note some of the layers of the adverse impact of the human rights abuses committed by the Border Patrol.) Consequently, Border Patrol agents acted with relative, if not absolute, impunity and no accountability to the broader public or the unit’s “subject population,” which was too vulnerable and intimidated by the prospect of retaliation to make public, formal complaints. Consequently, agent abuses came to be accepted as an unpleasant fact of life in South El Paso, though this would change radically with the Bowie lawsuit. And while we can’t determine the frequency of such abuses during this period, both informants suggest these were common. Regardless of frequency, just the heavy presence of agents in the area, combined with a history of unfair treatment, presented area residents with a constant, visible symbol of a possible enforcement encounter that could be threatening or worse.

Border Patrol Human Rights Abuses against Undocumented Border Crossers

Border Patrol mistreatment was not only an issue for Mexican Americans and immigrants residing near the border, but, even more so, for undocumented Mexican border crossers, the intended target for Border Patrol enforcement efforts. I interviewed three women who regularly crossed the border illegally from Juárez to work in El Paso for many years as domestics and vendors throughout the 1980s and early 1990s—a long-standing feature of local life prior to Operation Blockade (e.g., see Quintanilla and Copeland 1996 [1983]; Ruiz 1987). The abuses they experienced from agents include hitting and beating, imprisonment to cover up abuses, inhumane detention conditions, bizarre humiliation, just plain petty meanness, and denial of due process.

The most compelling of these cases is that of “Maria,” a petite single parent in her fifties who had crossed illegally for fourteen years to El Paso to work as a housekeeper. Maria recalled an incident from the late 1980s that took place shortly after she and her sister had crossed the Rio Grande illegally just west of downtown El Paso, which began with an unprovoked clubbing and ended with a two-day detention to try to keep

the abuse hidden from media exposure that could cause bad publicity for the Border Patrol:

When we entered the [drainage] tunnel, the Border Patrol showed up. It was dark. They detained me and then they went after the others, eight people. One of them thought I would run. *He hit me with a club on the back. When it hit me, I fell to the ground. . . . My sister was very mad. She asked them why they did it. . . . They told her to shut up; they were mad. They took us to the migra offices, where one officer took off my shirt and looked at my back and saw where they hit me. From there they took us to the corralón [detention center]. . . . I said, "Why, what did I do? I didn't do anything!"*

Well the chief there that day told me, "Nothing is going to happen to you. We're going to detain you. Why? *Already there are a lot of problems for the migra. We don't want there to be another one. . . . We don't want any press, no newspaper, no TV to report this. For that reason we're going to leave you here.*"

They left me there for the entire day. At six in the afternoon they transferred me to the county jail. They let my sister go because she had a young baby and her chest was soaked with milk, so they let her go. But they detained me the sixteenth of May [that day] and the seventeenth they held me all day in the county jail. At midnight they let me go.

INTERVIEW WITH MARIA, SUMMER 1995 (TRANSLATION MINE;
EMPHASIS ADDED)

She was released after two days because a county social worker at the jail learned of her case and intervened on her behalf with Border Patrol officials. Having never been in jail before, she was extremely upset at the ordeal and was left traumatized:

When I arrived at the county jail . . . they made us undress. . . . They sprayed your private parts with some liquids [for delousing, presumably] and then sent you to wash up. This is what I'll never forget!! . . . For some while after I got out of jail, any noise made me nervous. . . . To return to crossing [illegally], it took one and a half years afterward. I was really fearful. But . . . I had to continue crossing to work, in order to take care of my children.

INTERVIEW WITH MARIA, SUMMER 1995 (TRANSLATION MINE)

Another incident of mistreatment illustrates the Border Patrol's use of force during an interrogation, while playing on the victim's shame

and modesty to cover it up, as well as the denial of due process and legal protection. “Juanita,” a domestic worker who had crossed daily from Juárez for ten years, is originally from the state of Durango, and now lives legally in the United States. Her mistreatment in the late 1980s stemmed from Border Patrol suspicion that she was Puerto Rican and a possible people smuggler:

One of the times the immigration [Border Patrol] caught me I had problems because of my blonde hair, and I am a dark. They said I was Puerto Rican. . . . They hit me and kept me locked up for a day, so that I would say I was Puerto Rican and that I smuggled people across the border. I never smuggled anyone across. I looked for friends to cross with, because of the fear I had of the men there. . . .

They accused me of being Puerto Rican. . . . I showed them my Mexican identification papers. They *hit me on the back and on the legs, which left marks there*. Then a Mexican [American] woman from the immigration [Border Patrol] came to me and she said, “Why don’t you tell the truth? Because you have a Puerto Rican accent, and your way of acting is very much Puerto Rican.”

But the truth was that I worked for a Puerto Rican family, and when you work for someone, one picks up an accent. . . . Well, then I told her, “I should do something, because you all left marks on me.”

She said, “Let’s see if it doesn’t give you shame if you have to show your body to the police.”

I told her, “If there was a law to protect me, then I would do something, because this is an injustice what you have done. You shouldn’t hit me for nothing more than this.”

She said, “Well, that’s what the law is here!”

INTERVIEW WITH JUANITA, FALL 1995 (TRANSLATION MINE;
EMPHASIS ADDED)

That such force and humiliation would be used against a suspected lower-level people smuggler is remarkable, as is the sense of impunity with which the agent declares the unprovoked use of force to be entirely legal. Especially noteworthy is the fact that the victim challenged the Border Patrol for its abusive treatment, appealing for legal protection and suggesting she would expose the abuse—which the agent discouraged both by playing on her cultural modesty about exposing her body to display her beating marks to the police and by insisting such abuse was quite legal anyway. Like Maria’s detention, this response was clearly meant to keep the abuse covered up and out of the “official record” as well as the press.

The third Mexican respondent, “Perla,” is an extremely poor, uneducated, though very determined, single parent of four children, perhaps in her late thirties at the time of her interview. Prior to Operation Blockade she had frequently and for years crossed the border illegally, often with her young daughter, to work as a street fruit vendor in El Paso, for which she was often apprehended and deported by the Border Patrol. She reports that in the late 1980s and early 1990s, on several occasions, she and her young daughter, under age six at the time, were held in detention for extended periods without food. She recalled one such case in which she and her daughter were detained twenty hours without being fed:

This time they apprehended us at six in the afternoon and detained us until the next day without giving us any food! We could see through the windows of our cells the Border Patrol agents receiving food and eating. I asked for food, but was told there wasn’t any. *My daughter was crying because she was hungry.* . . . They told us there was no food and that “you all do not eat!” . . . We were detained until two in the afternoon. From six until the next day without any food or anything!

INTERVIEW WITH PERLA, SUMMER 1995 (TRANSLATION MINE; EMPHASIS ADDED)

Perla also witnessed a more serious episode of mistreatment, the humiliation and use of force against a group of unaccompanied young boys, at the same downtown bridge Border Patrol detention facility. She recalled:

They locked up some boys, about nine, eight, seven, and six years old [with whom she had arrived]. . . . They resisted and they [Border Patrol agents] hit them [the boys] on the body. . . . They put the boys inside [the holding area] and then pulled them out. There was a scale there. They started weighing them. Then the *migras* [Border Patrol agents] began to undress the children; they took off all their clothes. They made fun of them. They poked them in the behind; they grabbed their butts, and they gave them some more [hits]. . . . They gave it to them on the head [she makes a clubbing motion]. . . . All the boys were crying. They [the Border Patrol agents] said they [the boys] were thieves. Then they took them away to another place . . . and we didn’t know what happened to them.

INTERVIEW WITH PERLA, SUMMER 1995 (TRANSLATION MINE, WITH ASSISTANCE FROM DEBBIE NATHAN)

It appears that the Border Patrol stripped, hit, humiliated, and terrified a group of young boys who had resisted in some way, as a form of “street justice” retaliation. It seemed to still shock and upset the respondent as she recalled the event several years after the fact. She considered reporting the abuse to the local Mexican Consulate, but decided against it due to a strong fear of retaliation by Border Patrol agents, should they find her out (interview with Perla, Summer 1995).

Taken as a group, the Border Patrol human rights abuses against undocumented Mexican border crossers related here contain a wide range of abuse types and severity, though on the whole they tend to be more physical in nature—against decidedly non-physically-threatening (though perhaps annoying in the eyes of agents) women and children. Among the most striking common features are agents actively discouraging victims from filing abuse complaints, related cover-up techniques, and the ever-real threat of retaliation. In addition, a sense of agent impunity permeates these episodes, with the only agent fear being bad publicity or exposure to an outside entity (especially the media), but certainly not internal oversight. It is also important to note that El Paso Border Patrol agents also committed some abuses against undocumented Mexican crossers during the 1980s that were much more severe than those detailed here—including shooting alleged rock throwers, burning down a shack on the Mexican side of the border, and deliberately overturning an inner tube ferrying people across the Rio Grande, which resulted in the drowning of two people (Salopek 1992, 1993; interview with John, El Paso immigration and labor attorney, Summer 1996). Throughout all of this, impunity prevailed by and large, as there was very little accountability within the Border Patrol, or externally via civil lawsuits in the courts, though a few of the latter obtained modest monetary damages and made some information public.

Border Patrol Human Rights Abuses against South-Central El Paso Residents in the Late 1980s and Early 1990s

While abuses committed by the Border Patrol against undocumented Mexicans were probably more widespread and severe, it is abuses committed against U.S. citizens and legal residents of Mexican origin in South El Paso in the several years prior to Operation Blockade that became the most well known and which provoked the greatest outcry—most notably the landmark 1992 Bowie lawsuit. While the abuse claims

in the lawsuit were discussed in summary form in Chapter 2, I will examine them in greater detail here. Though the Bowie lawsuit provided the most extensive and detailed abuse data, there are certainly parallels between that information and abuse data discussed in the previous sections. Agent mistreatment spanned a similarly broad range, including hostility and rudeness; sexual leering; false arrest; false deportation; reckless driving and endangerment of students; aggressive and capricious searches; invasive surveillance based on overly, even absurdly, broad criteria for suspects; disruption of an educational environment; unprovoked physical battering; threats of use of excessive force, including deadly force; and a sense of impunity.

The incident precipitating the challenge to the Border Patrol that culminated in the lawsuit is a good starting point. In this episode a Bowie student, “Juan,” who is visually impaired (to the point of being legally blind, though he has partial vision), was roughed up and spat upon by a Border Patrol agent after he refused to answer the agent’s questions during a routine stop in the street near Bowie High as he was walking home from his high school graduation practice in late Spring 1992. Given typical Border Patrol criteria for “suspects” (i.e., Hispanic appearance, darker complexion, and speaking in Spanish), it is worth noting that Juan is Mexican American, has a light complexion, and speaks English very well. He decided to assert his right not to answer agents’ questions because of what he had learned about his legal rights that spring (see Chapter 2 for fuller elaboration). Juan recalled:

It was June 3rd, graduation day. I was walking home after rehearsal in the morning with a friend. . . . They stopped us and asked our citizenship, and we said, “U.S. citizen,” and we went through this two more times. I turned to my friend and said, “Let’s go.” One Border Patrol agent said if we didn’t stop they were going to beat us up real bad, to the point where we wouldn’t be able to move. I felt a chill down my back, but I kept on walking. I felt the agent’s hand on my elbow. . . . When he jerked me around, he spat in my face. . . . He started pushing me. He wanted to see some ID. I told him, “I don’t have any ID, and I would appreciate it if you would take your hands off me.”

He started asking me, “Where were you born?”

I told him I was exercising my right to remain silent. He told me I couldn’t because he wasn’t placing me under arrest. My friend then showed ID and told him where we were coming from and everything else. We had certificates with a list of the graduating seniors. *The other*

agent took my friend's and crumpled it up. The agent next to me asked for mine . . . and I said, "I want to see you try it."

That's when he said, "I think you have a weapon on you." He got me and slammed me up against a fence, put his left forearm on the back of my neck, started slapping me with an open hand on my back and legs. . . . He kicked my legs. . . . He said [to another agent] . . . "The Bowie kid thinks he's a lawyer." . . . The other agent told my friend he could go. I told my friend to get my mom and brother. . . . The agent responded [to his mom and brother] . . . that I was rude, that I have to understand that they were *federal agents doing their job and that I was making their job harder by having a bad mouth.* My mom got mad.

Two or three days afterward my brother and I were standing in front of the apartment. . . . I don't see very well; my brother saw the agents. . . . And he said, "*They flipped us off.* Those are the guys who stopped you." Then they moved forward a couple yards, opened up his window, and *spat towards us* and took off.

INTERVIEW WITH JUAN, SUMMER 1995 (EMPHASIS ADDED)

This encounter lasted some twenty minutes, during which it turned from an instance of harassment to one of abuse, due to the agent's unwillingness to accept any questioning of his authority by a "suspect," however relatively minor (yet courageous) or well grounded in the Bill of Rights. This sparked a petty meanness that was juvenile and befitting a schoolyard bully—the threat to beat up badly, sarcastic put-downs, spitting on the victim, slamming him against a fence, and making obscene gestures outside his home. This seems more like the behavior of high school delinquents than law officers, certainly not vaunted federal agents. And the latter status is nonetheless invoked by the officer as a rationale for requiring total compliance from the suspect-turned-victim. Thus began the Bowie lawsuit, because Juan not only stood up to the agents during the abusive incident, but also, with the help of a school counselor, sought help from the Border Rights Coalition and, while making his case public through the media, sought legal assistance.

Once Juan came forward to report and speak out against Border Patrol mistreatment, many other people affiliated with Bowie High did as well. The most severe incident to come out was an assistant football coach and two players being stopped and having a gun pulled on them by Border Patrol agents; eventually the coach became the lead plaintiff in the lawsuit. The incident occurred in the fall of 1991, as the coach

and two players—all three Mexican Americans—were riding by car from Bowie High to a nearby rival high school to watch a junior varsity game. Coach Murillo recalled what happened after they were pulled over by agents:

The kids made a comment. “Oh coach, they think you’re a wetback.” We laughed, but then I told my two young football players that these guys have a difficult job and to be sure to respond to any questions respectfully. . . . *I turned around and saw a gun pointed at the back of my head.* . . . When I saw the gun, I immediately turned back and cringed, I thought, “I can kiss my butt good-bye.” . . . I said, “I am Ben Murillo and I’m a coach at Bowie High School and I have two football players with me, and I’d appreciate it if you’d holster your gun.”

He said, “I’d appreciate it if you’d shut your mouth and get out of the car!”

I realized then that this guy might be dangerous and I wasn’t going to give an inch from that point on. I said, “No sir, I’m not getting out until you holster that thing.”

A couple of seconds later the agent says, “I holstered my gun. Now get out of the car!” with this real bad-ass attitude.

I got out of the car. I saw his partner with her hand near her gun. He asked me for ID. I gave him my license from my wallet. He told me to “assume the position” on the Suburban. I’m wearing coach’s shorts and a T-shirt identifying me as Bowie football, but I did it anyway. The guy patted me down. . . . The female agent asked the other student for ID and you could see that she looked at it like “Oh God,” because his was a military ID. His father is a Navy Seal.

By this time the other agent came back and said, “Mr. Murillo, we had a report . . . [that] ID’ed a person whose attire matched what one of your football players was wearing.” [The report was of a person crossing the river with a duffel bag.]

I’m thinking, it was physically impossible for them to identify what [the student] was wearing, unless they’ve got X-ray vision.⁴ . . . I asked him, “So listen, this gives you the right to pull a gun on me and to endanger my life?!”

And the guy snapped with that attitude again [and said], “*I can do anything I want! I’m a federal agent! It’s my job! I’m a federal agent and I can do anything I want!*”

INTERVIEW WITH BEN MURILLO, SEPTEMBER 15, 1995

(EMPHASIS ADDED)

Once again what stands out is the agent's inability to handle any questioning of his authority, however extremely or abusively he was exercising it. And again, the agent justifies his abusive behavior on the basis that he's a "federal agent," which he claims allows him to "do anything I want!"—a level of impunity to which no police official in a democratic society could lay claim. The agent's attempt to justify his gross overreaction of pulling a gun on a suspect absent any evidence of a physical threat was based on a badly misplaced suspicion of drug or other contraband smuggling.

Another episode of abuse was seen as particularly dramatic in the Bowie case, this one involving a young female student who was pushed to the ground and kicked by agents as she was on her way home from Bowie High. This incident appears to be an instance of purely capricious meanness and physical abuse, without a clear pretext or rationale. Several years later the victim, "Sylvia," a young Mexican American woman, recalled:

I was coming from track practice over to my house . . . , carrying two Food City [supermarket] plastic bags with my dirty gym clothes. Two agents were passing in their car. One of them just stopped me and he asked me where I lived, my citizenship, what school I went to. So I answered all his questions in English. And just out of nowhere, he just *shoved me to the ground and started to kick me, in both legs. And I got bruises on my legs and I also got a big bruise on my chest.* . . . The other agent called him and they just left.

[Afterward] I couldn't feel comfortable walking even in the streets, thinking that the same incident will happen to me again. . . . It was a period that if I didn't walk with somebody a little bit *whiter* than me, I wouldn't feel comfortable. . . . Well, I feel kind of frustrated, because thinking that I'm a U.S. citizen, that I have to be watching my back.

INTERVIEW WITH SYLVIA, BOWIE HIGH EX-STUDENT, SUMMER 1995
(EMPHASIS ADDED)

Particularly noteworthy are the viciousness and apparently unprovoked nature of the abuse by the agent, and their effects on the victim. Most strikingly, she understandably no longer felt secure on the streets, and she gained a stronger sense of security walking with someone who was whiter in appearance, presumably because she felt that

would make it less likely she would be stopped by the Border Patrol. Her U.S. citizenship status added to her bitterness at being stopped and abused.

Another episode of violent abuse involved the Border Patrol, two Bowie students, and a street vendor. In this instance, during the summer of 1991, two students tried to intervene to stop what appeared to be an unprovoked beating by Border Patrol agents of a presumably undocumented Mexican flower vendor, for which they were also beaten. One of the students, Rafael, later recalled:

I saw a vendor running. . . . And a couple of seconds later I saw a Border Patrol Suburban was going towards him, and the Border Patrol agents just cut him off and *they just started beating him up*. The man was saying something to them in Spanish, like, "Please, just take me in." . . . My friend . . . just went up to them and told them, "You know what? He hasn't done anything, just take him in. Why do you have to beat him up?!" One of the Border Patrol agents just turned around and *just whacked my friend with a club*. And *astounded, I went up kind of confused, wondering what had happened, and I as well got hit*. . . . They whacked me a couple times on the head, stomach, back, and leg. That was it. But it was sad, because . . . *they pointed a gun at my friend*. And then they took him in, along with the undocumented person. Later on they took him back home and they apologized to his mom for everything. But his mom didn't want to do anything about it because "*you cannot beat the government*."

INTERVIEW WITH RAFAEL, SUMMER 1995 (EMPHASIS ADDED)

Yet again, merely questioning the manner in which Border Patrol agents exercised their authority, this time the beating of a non-physically threatening suspect, provoked physical abuse and an agent pulling a gun—again absent any physical threat. Yet again, the parent of a victim declined to make any sort of complaint, this time apparently due to fatalism, though perhaps the Border Patrol's informal apology also mollified the parent. The victim-son also later refused to join the Bowie lawsuit due to fear of retaliation against other family members (interview with Rafael, Summer 1995).

Beyond such violent abuses, the more common types were unreasonable stops, questioning, and searches; insulting comments; and overall rough treatment. One Bowie High staffperson, "Guadalupe," to whom

students frequently came to report Border Patrol mistreatment, summarized students' common complaints:

Most of it was “They stopped us. They questioned us. They threw us against the van, or they threw us against the wall. They took our bag and threw our books down, and searched our bags and left everything on the floor. . . . They stopped us and made fun of us. They made fun of our clothing, the way we talk”—just *humiliating* the students.

INTERVIEW WITH GUADALUPE, FALL 1995 (EMPHASIS ADDED)

Noteworthy in this summary is the petty meanness, yet again, from exercising stop and search authority in a physically abusive manner to mocking and humiliating the students. Also, it is important to note that most incidents occurred off campus, as students made their way to and from school. One staffperson who heard from students of many such abuses noted that it seemed “the modus operandi” of the Border Patrol was to commit abuses largely out of sight, when there were not witnesses around (interview with Emiliano, Fall 1995).

The issue of unreasonable searches stands out in the above litany, which seems to reflect a heightened anti-drug-smuggling emphasis of the Border Patrol during the latter 1980s and early 1990s, as concern about illegal drugs gained in political importance. Drug enforcement added a new basis for suspicion and grounds for agents to stop, harass, and abuse “suspects,” especially young people with bookbags and the like. Drug enforcement concerns were even used by agents as a pretext or rationale for following home and rudely questioning a respected Bowie staffperson, Guadalupe, after she had gone jogging around the campus track at the football stadium. She recalled the episode:

One afternoon as I was leaving the stadium, I noticed there was this Border Patrol van . . . and that they had binoculars looking my way. But I figured, “You know, they’re not looking at me.” . . . So I got into my car. . . . As I was driving . . . I saw the Patrol van behind me with its lights flashing and all. I figured “They’re not after me, they’re after somebody else.” . . . but he was pointing to me and telling me to go to the side. And I stopped.

And one of the Border Patrol agents came to me and very rudely said, “What do you have?!”

And I said, “I don’t understand your question. . . . I have what I have every day, my belongings. I just jogged at the school and I have my

belongings, my bag, and my change of clothes, that's all I have." And he looked around the car, and I'm sure he was ready to ask me to open the trunk, but I said, "You know I work at Bowie High School and that's where I jog in the afternoons."

And he said, "Oh, it's that we saw two people by your car and we thought that they had stashed some drugs in your car. So that's why we followed you." That was their excuse. But he was very rude and very ugly about it.

INTERVIEW WITH GUADALUPE, FALL 1995

This episode is a relatively mild case of mistreatment, but it does give some idea as to the lengths to which the drug enforcement mania was taken; and it is especially absurd given that Guadalupe was a prominent school staffperson who was the furthest thing anyone could image from a drug smuggler in character and appearance.

While most incidents occurred on neighborhood streets, some abuses also occurred on campus, and those disrupted the institution and its students. One type that stood out for being offensive to respondents was agents leering at female students. One ex-student from the early 1990s recalled:

You'd see lots of Border Patrol agents driving around in Suburbans [suv's]. They would sometimes stop and with their binoculars they'd be checking out the cheerleaders' tryouts. . . . It was kind of embarrassing.

INTERVIEW WITH RAFAEL, SUMMER 1995

The principal at the time recalled seeing agents objectifying the female flag drill team practicing before school:

I myself saw agents who were parked in my parking lot, using binoculars, looking at my flag girls at 6:30 in the morning, and telling me personally that they had their eye on a white car for a possible drug deal, but there was no white car.

INTERVIEW WITH HERB, FALL 1995

This leering at female students by Border Patrol agents was remarked upon by, and was especially offensive to, almost every person associated with the Bowie lawsuit with whom I spoke during my research. (There also appears to be remarkable continuity to this activity over time, for the two respondents in sections covering earlier eras also remarked on similar agent behavior, in one case nearly identical.) Such blatant sexual

objectification of teenage girls by uniformed agents was especially inappropriate given their official authority and the broad, sometimes abusive ways they exercised it in this neighborhood.

Another form of agent misconduct on school grounds was the rough and disruptive manner of their apprehension activities. One student from the early 1990s recalled:

It was sad . . . they [Border Patrol agents] would round them [undocumented border crossers] up like some kind of cattle herd, through the school. . . . So if you were in the crowd where supposedly three or four illegal aliens were . . . *they would take you down.*

INTERVIEW WITH RAFAEL, SUMMER 1995 (EMPHASIS ADDED)

He also discussed an even more questionable practice by the Border Patrol, the presence of undercover Border Patrol agents in school and related apprehensions:

Sometimes you'd see *undercover Border Patrol agents on campus* and if they thought you were an illegal alien *they would just take you down*, so it was kind of sad, you'd *see people running in the hallways*. . . . It was weird. . . . They stuck out like a sore thumb, because they were too old to be in school. *They would be walking around and just start running after someone they thought was an illegal alien.*

INTERVIEW WITH RAFAEL, SUMMER 1995 (EMPHASIS ADDED)

Especially noteworthy in Rafael's comments is the disruptive violation of school grounds and buildings by agents and the repeated reference to their use of force in apprehending suspects, including students caught in the middle or misidentified.

Border Patrol activity on campus also brought additional risks for students there, including reckless driving by agents. Guadalupe recalled what she observed, as well as a contemptuous response from an agent:

I saw a Border Patrol van going across the field where the band practices and the kids were still around. It made me mad, because they were coming at a very high rate of speed. . . . I just looked at them and said, "You people are not going to be happy until you kill one of our students!"

And real ugly, one of them turned and said, "*And who are you to tell us anything?!*"

INTERVIEW WITH GUADALUPE, FALL 1995 (EMPHASIS IN ORIGINAL)

Another problem was the looming prospect of false arrest or unwarranted apprehension. One faculty member recalled the first time he became aware of that, after he had rather sharply questioned a student about why he was late for class:

He explained to me that he had been playing handball on the courts on campus between classes, when the Border Patrol showed up and threatened to take him away. They didn't accept his school ID as proof of his citizenship, or his word. . . . One of our school security guards showed up and got him released by swearing for him.

INTERVIEW WITH EMILIANO, FALL 1995

Another Bowie staffperson also spoke of this problem of the mistaken identification and pursuit of students as unauthorized border crossers:

It was very difficult for me to see the trucks coming in, into the actual campus, going after what they thought were . . . undocumented people. . . . I know for a fact that a couple of times they thought that the people they were after were aliens, and in fact they were students.

INTERVIEW WITH VICTORIA, FALL 1995

Cumulatively, these cases indicate a heavy-handed, harassing, and at times abusive Border Patrol presence around Bowie High and in the surrounding neighborhoods. Several respondents from the Bowie lawsuit had noteworthy interpretations of the effects of this activity. One (an alumna turned staff) spoke of a restrictive, inhibiting sense of continuous surveillance:

It was kind of like . . . [being] sent to a detention home and the facility is closed up . . . always being guarded and looked at. . . . They [Border Patrol agents] were always around. . . . It's like we were enclosed and we were always being watched. It's like we weren't free to do things that other high school students could do.

INTERVIEW WITH GUADALUPE, FALL 1995

At another point she said it felt like they "can treat you like a foreigner in your own country." Addressing the effect of Border Patrol harassment around the school grounds, ex-student Rafael said, "Everyone was used to it. . . . It was disturbing, but it was just part of life there" (interview with Rafael, summer 1995). It seems such had become an accepted part

of life, even normal to some extent. Another former student, Juan, spoke of being intimidated by the Border Patrol presence on campus:

That was an uncomfortable feeling, that I would get an education and still have to deal with the pressure of them coming in and asking for ID. And what if I didn't have it? I think it affected the learning environment a lot. . . . It was very threatening. [Note: he is a U.S. citizen.]

INTERVIEW WITH JUAN, SUMMER 1995

A faculty member spoke of Border Patrol intimidation as another obstacle for students to have to overcome to receive an education, and as inspiring fear and worsening dropout problems at the school. Specifically, he characterized the effect of the Border Patrol on students thus:

The Border Patrol . . . add[ed] one more layer of *intimidation*. . . . The neighborhood is gang- and drug-infested and now they [the students] have to go through a neighborhood that was also infested with federal agents trying to *harass them and take away their rights* . . . their rights not to be stopped, questioned, and searched . . . their rights . . . to walk freely on the streets . . . not to be suspected of being criminal simply because of how they looked. . . . They exacerbated our dropout problem. . . . I saw some [students] honestly afraid.

INTERVIEW WITH EMILIANO, FALL 1995 (EMPHASIS ADDED)

Border Patrol intimidation and disruption were an issue for faculty and staff as well, creating an oppressive environment for them, according to the principal from that time:

[As a teacher] your job is to put all your time and expertise into teaching children. You should not have to worry about Big Brother. I likened it to 1984, George Orwell's Big Brother—looking for a place to hide so the Border Patrol couldn't come and be bombastic in your class, or grab one of your students.

INTERVIEW WITH HERB, FALL 1995

The heavy-handed Border Patrol presence adversely affected not only the campus, but also the surrounding neighborhoods. One ex-student from a nearby neighborhood said:

Before the lawsuit, *people were afraid of the Border Patrol agents*. . . . Sometimes they were nice, but sometimes, you know, *it wasn't safe to be outside*. . . . They were afraid to go outside. . . . Even the parks . . . they were bare.

Seeing incidents occur around . . . *it just closed the whole neighborhood up*. . . . If a neighbor would see someone else getting beat up, they would just close the door behind them and pretend they didn't see anything. *It was embarrassing if you would get stopped and harassed or anything*. But if somebody would see anything, they wouldn't say anything because . . . they were too afraid of them.

INTERVIEW WITH RAFAEL, FALL 1995 (EMPHASIS ADDED)

Former Bowie student and neighborhood resident Juan similarly said, "Lots of people felt threatened by the Border Patrol in my neighborhood." He went on to say that he felt "very uncomfortable, because I would always have to watch my back" (interview with Juan, Fall 1995). He also spoke of witnessing the agents' physical roughness and even sexual harassment (e.g., looking under dresses of females) of suspects they apprehended and loaded into Border Patrol vehicles.

Cumulatively, these characterizations and descriptions of the heavy-handed and sometimes abusive Border Patrol enforcement activities suggest they created an oppressed, disempowered community—even though the abuses were relatively minor. Yet these abuses and enforcement practices, in conjunction with the pervasive presence of agents, as well as their unaccountability and impunity, created fear, humiliation, distrust, and isolation, all inhibiting social bonds and human development, especially in the school itself.⁵ The notions of having to always watch one's back for fear of agent harassment, of an enclosed, unfree school and community under continuous surveillance, where fearful residents tried to stay inside lest they be stopped and questioned, or worse, by patrolling federal agents, seem surreal—particularly in the case of the school, where there were "herding" and "take downs" of suspects, including students; undercover agents and chases in buildings; reckless driving and endangerment of student pedestrians; and the more mundane ongoing stops, questioning, searches, and omnipresent scrutiny. And when their authority was challenged in any way, no matter how modestly or justifiably, agents habitually responded with forceful abuse and placed themselves above reproach, some invoking a vaunted "federal agent" status, with one even claiming, "I can do anything I want!" Later

one agent privately admitted to a social service worker that agents working in the Bowie area were “out of control” before the lawsuit (interview with Angelica, local social service worker, Spring 1997). And until the Bowie lawsuit, they were nearly untouchable for local residents, as there was no accessible, meaningful way for the public to lodge complaints against agents who mistreated them, and to prevent retaliation against them in some way if they did. The Bowie lawsuit changed that.

Rights Abuses in the Early Years of Operation Blockade

Operation Blockade is widely thought to have “solved” the problem of human rights abuses by Border Patrol agents. Indeed, the El Paso Border Patrol was awarded the 1997 Civil Rights Award in Law Enforcement by the International Association of Police Chiefs, and a proud El Paso Border Patrol spokesperson noted, “We’ve come a long way from being one of the most criticized agencies to being the recipient of this national award” (“Border Patrol Gets . . .” 1997). Further, in 1995 the El Paso Border Patrol initiated, in order to explain the unit’s mission and activities to members of the public, the Border Patrol Citizens Academy (BPCA), which the program director said was established in part to counteract the criticism of the unit by human rights groups over the years (field notes on BPCA, September 21, 1995). (I participated in the second-ever cycle of six BPCA classes offered in the fall of 1995.)

However, some abuses continued to occur in the wake of the operation—though fewer and generally in much less visible ways, in more remote locales—with data emerging on two small outlying communities in 1995, one west of the city and another to the east. They were the sites of some of the same sorts of Border Patrol abuses, though less severe overall, that had previously plagued south-central El Paso prior to the Bowie lawsuit and Operation Blockade—namely, intimidating and harassing surveillance, stops and questioning, inappropriate search and seizures, verbal abuse, and agent presence on school grounds and even on church grounds, resulting in distress among victims and weakened social bonds in the community. There are several new twists as well. In one community, the Border Patrol became entangled in a confrontation between the residents and the developer of a poor, underserved subdivision (i.e., *colonia*), and in the other the unit was at odds with a Catholic church.

First, however, by way of background and review (from Chapter 3), a more general overview of Operation Blockade and related human rights

concerns is in order. The Bowie lawsuit in late 1992 turned the tide on the human rights issue in south-central El Paso, and the status quo simply would not hold. Operation Blockade was implemented several months later; the removal of agents from roving patrol in the neighborhoods and the placement of hundreds of agents instead directly on the Rio Grande boundary led to very little enforcement contact with local residents, and likewise greatly lessened reports of abuse by Border Patrol agents in city neighborhoods, especially south-central El Paso during the first two years of the operation. However, reports of Border Patrol abuses in the older south-central city locales rose somewhat by late 1996 and early 1997, though this was gradual and the cases less severe than preblockade abuses (interview with Beth, BRC coordinator, Spring 1997). In terms of overall frequency, abuse complaints involving the Border Patrol dropped sharply in the year following the implementation of Operation Blockade (from 104 in 1993 to 17 in 1994), but then rose significantly in the second year (to 42 in 1995) (Border Rights Coalition 1995) before falling again in 1996 (to 14) (Border Rights Coalition 1996). Also, it should be noted that in a more severe and publicized case, two undocumented Guatemalan women reported they were sexually assaulted by Border Patrol agents just east of the city during March of 1996, reportedly with the knowledge of a supervisor (Zamarripa 1996a).

A significant change over time since the implementation of the operation is in the locations in which Border Patrol abuses were occurring, shifting from El Paso neighborhoods prior to Operation Blockade to the periphery of the El Paso area, both to the east and west of the city, outside the area officially covered by the operation, which are very poor and populated mainly by Mexican immigrants. Thus, the new abuse reported was not nearly as visible and was directed against an even more vulnerable group (as fewer were citizens). Operation Blockade tended to displace the human rights abuse problem, like the unauthorized border crossing flow, out of sight, and hence out of mind, for many people in El Paso.

In addition, it is worth recalling from Chapters 3 and 4 that the new Border Patrol enforcement efforts increased hardships for undocumented border crossers from Juárez, and were intended to do so, and created heightened physical risks. In a broad sense, many of those stranded in Juárez by the operation faced economic hardship after abruptly being cut off from their jobs in El Paso, to which some had commuted illegally for many years (e.g., see Nathan 1994). And as noted previously in Chapter 3, those apprehended in the early stages of the blockade were

returned to Mexico by the Border Patrol not in Juárez, but at a small, impoverished town sixty miles west in the desert, where they were left to walk back. Moreover, Border Patrol officials hoped that their new 1.3-mile-long, ten-foot-high reinforced chain-link fence built along the border in Sunland Park, New Mexico, would push undocumented border crossers even farther west out into more remote and dangerous desert areas. While previously unheard of in the area, at least five environment-caused deaths of border crossers were recorded from October 1993 through 1998 in remote areas of southern New Mexico (Nathan 1996, 1998; Flynn 1998c; Benke 1998; Eschbach et al. 1999, 25; Eschbach et al. 2001a). Meanwhile, drownings in the river and especially the adjacent irrigation canals continued to be the leading cause of death, claiming 115 suspected undocumented border crossers from 1993 to 1998, according to data from officials in El Paso County and Ciudad Juárez (Eschbach et al. 1999, 439–441; Eschbach et al. 2001a), with 52 of those drownings recorded just on the El Paso side (spiking at 18 deaths in 1998)—for a jump of 44 percent compared to the preceding six years (Eschbach et al. 2001a, 46). Nonetheless, the total border-crossing deaths of all types recorded on the El Paso side dropped 20 percent in the 1993–1998 period compared to 1987–1992 (from 153 total deaths to 122)—mainly due to a drop in homicides and deaths involving automobiles—despite a rise in drowning deaths (Eschbach et al. 2001a).⁶

Now let's turn to the two most significant clusters of reported Border Patrol abuses and mistreatment in the first several years after the blockade was implemented, one batch from a remote, very poor sub-subdivision and a nearby school in east El Paso County, and the other in Sunland Park, New Mexico, and focused largely on a Catholic church. "Colonia Lejana [remote, distant *colonia*],"⁷ is a very poor, tiny, and very isolated rural subdivision in east El Paso County well north of the Rio Grande, where residents were locked in a struggle with a developer for basic water services that they lacked—as is typically the case in the early years of such developments. "Juanita" was a leader in the community, which was principally made up of recent immigrants, both undocumented immigrants and legal residents, often in the same households. She was a legal permanent resident and had been a leader and spokesperson in the *colonia* residents' efforts to pressure the *colonia* developer for basic public services. Not long after they began, with the assistance of Texas Rural Legal Aid, the Border Patrol started visiting the *colonia* for the first time and then frequently during the first half of 1995—which seemed odd, because the unit had never visited it previously. The *colonia*

is difficult to find, ensconced among desert brush and located at the end of several miles of a very bad, unmarked dirt road; it is at least ten miles from the border itself and in a very remote area of El Paso County. An agent told Juanita that the Patrol was responding to reports that illegal immigrants lived there. She blames the developer for making a way to stop residents' agitation against him—which he later strongly denied. Juanita recalled the origins of the events and the adverse effects of a new heavy presence of the Border Patrol:

It all started because we got together to pressure the owner of the land to provide us with water and portable latrines. . . . And he didn't want to help us with anything, but rather he preferred to throw us to the immigration [Border Patrol]. That didn't do me any harm, because it doesn't affect me [she's a legal permanent resident], but the other families, yes, because they don't have their papers in order. Now that the *migra* has come here they live upset, they can't walk outside freely because of the fear the Border Patrol will pick them up. . . .

The helicopters began to come and small planes began to come; they went over the entire *colonia* [at low altitude]. Then, within a half an hour the Border Patrol trucks would come, three or four, driving around the entire *colonia*. They never picked up anyone here, because when the helicopters or planes came . . . the people hid. . . . But every week, or [sometimes] two or three times per week, the Border Patrol trucks came here.

INTERVIEW WITH JUANITA, FALL 1995 (TRANSLATION MINE)

Through the use of low-flying aircraft and frequent ground patrols, the Border Patrol created an intimidating presence that forced people to stay inside in this tiny and remote *colonia* that had previously never been visited by the unit. In addition, the Border Patrol also had specifically targeted Juanita (and no other residents) for a home visit that entailed several abuses of authority, though she was assertive in advocating for her rights and protecting herself from further abuses. That she was targeted is especially significant, because she was the leader in the residents' fight against the developer. Juanita related the incident in Spring 1995:

They [Border Patrol] came, one told me, because "I have a report" . . . that I had some illegal persons in my house.

I told him, "If you have a report that I have some illegal people in my house, then the person should have said who they are or how many they are."

He said, “No, they didn’t give me such information. . . . Could you show me documents for your children and your husband?”

I went inside and took out some envelopes that arrived for me from immigration [INS]. . . . I came and took out the two [border crossing] permits [for her sons]. It has their picture and everything.

Then he said to me, “Where are your children?”

I said to him, “They’re not here right now. . . . If you show me a paper that says you’re from immigration and you have an order, then you can come into my house. If not, you cannot come into my house.”

Then he told me, “These papers can’t be theirs.” And *he grabbed them and tore them up* and put them inside his car. When I saw him do this, I grabbed the other [remaining] papers. He told me, “You can’t take those.”

I said to him, “Why not, they’re my papers and I can take my papers.”

He told me, “I have to inspect them.”

I told him, “OK, then go get an order and bring it to me and I’ll let you inspect all of them.” . . . I said to him, “I don’t care if you’re from immigration. Go get an order and I’ll show you all everything that you want. In the meantime, I’m not going to show you anything, because you’re tearing up my papers, and those are important papers for me.” Then the man left, and he hasn’t come back. *Three days later two Border Patrol trucks came, but they didn’t come up to me, they just drove around and around. This was what began a series of Border Patrol visits driving around here.*

INTERVIEW WITH JUANITA, FALL 1995 (TRANSLATION MINE;
EMPHASIS ADDED)

This agent’s actions are clear abuses of authority. While immigration authorities have broad discretion to seize documents, this case seems especially illogical, unwarranted, and abusive. Seizing and destroying immigration documents with no explanation, especially documents that are recognized as valid at the ports of entry, does not make sense and lacks any semblance of due process. It seems to have been punitive retaliation, since the agent tore up Juanita’s sons’ papers immediately after she had denied him entry into her house to search for them, but had brought them out for him to inspect.

The origins of the Border Patrol “visit” to her house and the subsequent high-profile patrolling presence are a bit murky, but there appears to have been something amiss. Juanita was told by the “visiting”

agent that it was based on a report from an unidentified source that she was sheltering undocumented people in her house. As noted previously, Juanita believes this report came from the *colonia* developer whom residents were pressuring for basic water services. An activist with a non-governmental organization (NGO) who worked with residents from this *colonia* and others in the area agrees with Juanita's interpretation—while the developer strongly denied it and nearly a decade later the residents' attorney in the case was inclined to believe him.⁸ One Border Patrol official acknowledged that such retaliatory, grudge-based reports account for the vast majority of the calls they receive on their anonymous-tip phone line (interview with David, manager with the El Paso Border Patrol, Fall 1996). Moreover, the NGO activist noted previously had received an ominous advance warning from a Border Patrol agent acquaintance, who she recalled warned her to “be careful, stay out of it . . . because things are going to happen” in the *colonia*; the very next day she witnessed the Border Patrol's arrival there in force with a number of vehicles, a helicopter circling overhead (interview with Norma, NGO *colonia* activist, Spring 1997).⁹ Thus, this “visit” from the Border Patrol was clearly a planned, nonrandom crackdown, and most likely was based on some sort of tip or call from the public.

It is curious that this tiny, isolated *colonia* would rate such attention from the Border Patrol—absent some perceived threat to public safety creating extenuating circumstances for the Patrol. Subsequent media exposure of the visit, and of the residents' pending case against the *colonia* developer, caused some controversy that worked in the residents' favor. After investigating the case, the BRC publicized it—within the *colonia* resident-developer lawsuit context—as well as other abuse cases, in an August 1995 press release (Border Rights Coalition, Texas Rural Legal Aid, and Lawyers' Committee for Civil Rights 1995) and at a press conference, which received extensive local media coverage, complete with interviews with Juanita. Chief Reyes held a counter-press conference the same day and angrily denied all the allegations, saying, “I think they are figments of the Border Rights Coalition's imagination. It's just a lot of smoke . . . empty allegations . . . either unsubstantiated, exaggerated, or totally fabricated” (Fonce 1995a). Nonetheless, following the BRC press conference, the Border Patrol stayed away from Colonia Lejana, making for a victory of sorts for the residents. This was followed by a successful negotiated settlement in their lawsuit against the *colonia* developer.¹⁰ Thus, public exposure in the media of controversial if not abusive immigration enforcement practices stopped them and opened

the way for residents to be successful in seeking redress for their larger grievances against the *colonia* developer.

Interestingly, the following year, two top-level Border Patrol managers were contradictory in their responses to a similar, hypothetical case, which I posed to them during separate interviews, of targeting a *colonia* following a call-in report. I asked what sort of discretion the Border Patrol typically exercised in investigating and responding to anonymous tips, and I used a *colonia* resident as suspect in the hypothetical example. One upper-level manager of the El Paso Border Patrol sector vigorously maintained that the unit was obligated to investigate and act on all such tips, no matter what the source, how significant the case, or what the other potentially mitigating factors. He specifically denied that the unit had any discretion whatsoever in how it handled such calls (interview with David, manager with the El Paso Border Patrol, Fall 1996).¹¹ Chief Reyes offered a more plausible response to the same hypothetical example, noting the unit's discretion in handling such matters was based on available resources and the level of danger in the tip. Specifically, he stated:

We get a tremendous amount of information on people that are quote-unquote "illegally" in the country. Yet because of the resources that have been dedicated to Hold-the-Line, we perhaps haven't had the opportunity to check all that stuff out. So as you get more agents in, more resources, it's something which can be done. . . . Unless it's a situation where . . . it's a murder or something like that, then you get real involved.

INTERVIEW WITH EX-CHIEF REYES, DECEMBER 10, 1996

These contradictory responses from local, high-level Border Patrol officials offer no convincing explanation for the *colonia* crackdown in question, and in fact Reyes' explanation is at odds with such an action absent extenuating circumstances. Moreover, the grim advance warning of the impending crackdown given to an NGO activist by a Border Patrol agent suggests that this was an exceptional action for the unit, and one shrouded in bureaucratic secrecy. While the Border Patrol may not have knowingly colluded with the *colonia* developer, its actions certainly had the effect of intimidating the community at an opportune moment for the developer. At any rate, it is certainly curious that the Border Patrol chose to react so strongly, and at this particular time, to what seems to have been a low-priority type of case.

At a more general level, various residents in other *colonias* in East El Paso, as well as NGO activists and social service providers working with

them, indicated to me that the fear of immigration enforcement in the *colonias* tended to hinder residents' civic participation and lessen trust and heighten suspicion in these communities, though none thought this was an overwhelming obstacle or issue (field notes, December 2, 1996; February 10, 1997). Though the Border Patrol presence in the *colonias* east of El Paso apparently was not, with some exceptions, overwhelming, agents were around enough to leave an impression and reinforce this fear, in some cases even among immigrants with secure legal status. We shall see in the epilogue that this turned out in subsequent years to be a much more significant issue.

The crackdown in Colonia Lejana was not the only Border Patrol enforcement effort that affected the community. The Border Patrol was also lurking outside a school in a nearby village, causing children much anxiety and fear. Juanita discussed the case and effects on her elementary-school-aged daughter and classmates:

One of my daughters [elementary school age] saw a *Border Patrol* in the parking lot at school. She saw when they took a boy and a girl out of school. . . . The sheriff took them out of school . . . [and] turned them over to the Border Patrol. . . . After this, *my daughter had problems—chewing her nails, pulling her hair* . . . if she hears a noise outside, she gets up to see if it's the Border Patrol. *She lives waiting for the Border Patrol*. . . . I went to the school. . . . I asked a teacher, "What's going on?"

And he said, "Now they're constantly anxious, watching for the Border Patrol."

The Border Patrol is arriving in the parking lots at the school. The children see them and they get scared. . . . *Many of the children are not studying, not concentrating, because of their fear of the Border Patrol. They're crying, nervous, biting their nails, they're looking out the window, not paying attention to the teacher, because they're looking out to see if the Border Patrol is coming.* At the hour of departure from the school if they see the Border Patrol, they won't leave. . . . I have seen many that don't want to go to school. . . . "Don't take me [to school] because the Border Patrol is going to take me away."

INTERVIEW WITH JUANITA, FALL 1995 (TRANSLATION MINE;
EMPHASIS ADDED)

Particularly of note here is that young students' fear of the Border Patrol, aroused by its presence on and near school grounds, led some students to not only be distracted, but to also display significant signs of distress, including anxiety, nervousness, an inability to concentrate, and

heightened fearfulness.¹² Apparently these elementary-school-age children were more sensitive to distress from the mere presence of Border Patrol agents near their school than were the older Bowie High School students, who faced a much more heavy-handed and abusive Border Patrol presence. While the Border Patrol has formal authority to lurk around school grounds and to collaborate with local law enforcement there, since the Bowie lawsuit reports of such activity have been very rare. Internal policy for both the INS and the Border Patrol since 1993 has even directed agents to stay off school and church grounds, unless first securing approval to be there from the Border Patrol sector chief or INS district director.¹³ I do not know if such internal clearance was granted in this case, but it is clear that those activities had a detrimental impact on young students in this instance.

The Border Patrol's impact ranged beyond the school grounds, as it was felt in Colonia Lejana also, and in ways that are reminiscent of the Bowie High neighborhood. Juanita explains:

Here in the *colonia*, the problem of the Border Patrol is affecting the adults, because there are mothers of families that don't have papers, and *they are scared to leave [their house] to go to their patio, due to their fear the Border Patrol might come and take them away. . . . The colonia isn't like in past years. In hot weather we'd all be outside, you could see everyone. We'd wave to each other, coming out on their patio, walking with their kids. Now it's not the same. Now the colonia is dead, deserted, because of the fear here, the fear of the Border Patrol.*

INTERVIEW WITH JUANITA, FALL 1995 (TRANSLATION MINE;
EMPHASIS ADDED)

Though the Border Patrol has ample authority to patrol in and around this tiny, very remote *colonia*, its mere heightened presence increased residents' fear and greatly inhibited normal social life in the community—much like the community “closed up” in South El Paso due to heavy Border Patrol roving patrols there, previously noted by Rafael. This disempowered atmosphere was very favorable for the *colonia* developer whom the residents were challenging, and who they suspected had reported them to the Border Patrol. Though the human rights abuses in this case were relatively modest—mainly a harassing, intimidating presence and one episode of document destruction—their impact on the community, and on children in particular, was nonetheless significant. Finally, it is important to reiterate that the Border Pa-

trol backed off from the *colonia* following the August 1995 press conference convened by the BRC, which publicized these abuses.

The other main cluster of Border Patrol rights abuses that came to light in 1995 are from Sunland Park, New Mexico, which is just west of El Paso a few miles and the site of the proposed border wall. Recall that much border enforcement attention was shifted here as Operation Blockade displaced a good deal of undocumented border crossing to the area, which came to account for the bulk of Border Patrol apprehensions in the El Paso sector during 1994–1995. In a new twist here, the rights abuse problem included a heavy Border Patrol enforcement presence at and around a church, which led to some surreal instances of agent misconduct and the inhibition of religious practices. The church was something of a gathering place for unauthorized border crossers (the border is just a mile away) who came for religious reasons and to seek assistance, as the parish priest explained:

This is a beacon for people. They spot the [bell] tower and they know it's a Catholic church and they come and ask. Mostly, what they want [is] . . . first to give thanks. Almost all of them make some sort of trip into the church, to say a little prayer or make a sign of the cross, and then come outside and wait. Some of them will use water, bathroom facilities, that sort of thing. A lot of them won't do that, they'll just stay outside, wait for some form of transportation. . . . It's not unusual to come outside the church and see, I don't know, fifteen or twenty people. . . . They don't ask for much.

INTERVIEW WITH REVEREND JAIME, FALL 1995

Churches are generally regarded as sites of refuge and sanctuary, though the INS and Border Patrol have violated that precept in the case of the 1980s sanctuary movement (see Bibler 1993). Yet even Border Patrol policy places some limits on agents' activities on church grounds, which are, like schools, off-limits to enforcement activities unless authorized by the sector chief, as noted previously. While it is not known if agents had such permission or not, in practice there appear to have been few limits for them here. They sat in their vehicles in the church parking lot for long periods of time, made apprehensions on the grounds, and even occasionally entered the church in pursuit of suspects.¹⁴ This led to some bizarre episodes and enforcement practices. Reverend Jaime describes some of these:

[It was] not uncommon to see them [Border Patrol agents] running around the church chasing people, nor into the church. They've done that to me on at least two occasions . . . when somebody's come dashing into the church and the door opens again and somebody else comes dashing in . . . a Border Patrol, and they spotted me and immediately retreated. . . . [I]t was in the middle of mass. [Agents entered the church sanctuary on two other occasions also.]

The other activity is that they had quite a habit of parking their vehicles on our parking lot for hours at a time . . . quite frequently . . . I haven't actually seen them staking out masses and stuff, because I'm usually celebrating [the mass]. But I have heard from some of the parishioners that "*La migra está afuera* [the Border Patrol is outside]," so they're outside.

I've seen them apprehending people on church grounds; I've seen them running after people on church grounds to be sure. . . . [During mass] all of a sudden you see this mass of people flowing across the windows, and then running in one direction or the other; you know what's happening.

[I]t was not uncommon to have helicopters flying over here quite frequently. . . . They hovered over the parish and their bright lights would be shining all over the property, including my windows in the rectory. I'd be sitting in there and all of a sudden this bright light would be coming through my venetian blinds. . . . Clearly more than ten times this occurred [at] twelve, one in the morning. . . . [I]t was loud.

INTERVIEW WITH REVEREND JAIME, FALL 1995

This exceptional Border Patrol enforcement focus on the Sunland Park Catholic Church—from helicopters to field agents—was also documented and then critiqued by the Border Rights Coalition and allies in an August 1995 press conference (along with the Colonia Lejana case), and Reverend Jaime also had separate interviews with the press (field notes of local TV news coverage, August 21, 1995). As with the Colonia Lejana crackdown, the Border Patrol summarily denied these rather damning allegations; Chief Reyes angrily responded by questioning the truthfulness of the clergyman's account of events at the church (field notes of local TV news coverage, August 21, 1995). Nevertheless, and most important, the Border Patrol also backed off the church grounds after the press conference, as it also did in Colonia Lejana. One Border Patrol agent source reported that Border Patrol agents received orders from management the next day to stay off the church's grounds (field

notes, August 26, 1995). Reverend Jaime reported that shortly after the press conference the Border Patrol began to stay off church grounds, with a very few slight exceptions, and that he was very relieved and grateful for that change. He said:

[T]heir actions speak louder than their words. They have really not been parking here like they used to; they have not been *hanging around like vultures*. We had our fiesta. Normally when we have these kinds of activities they're all over the sides . . . hanging around the edges. This time they were nowhere to be seen. And I thought, "Wonderful!"

INTERVIEW WITH REVEREND JAIME, FALL 1995 (EMPHASIS ADDED)

He later reported that this change in behavior continued well into 1998, with the exception of some occasional late night Border Patrol activity on church grounds (personal communication, May 21, 1998).

Though the Border Patrol did back off the church grounds, it is important to consider the impact of the previous heavy-handed enforcement practices in this case. Reverend Jaime discussed its intimidating effects on his parishioners:

Well, it had a negative effect, because they felt uncomfortable . . . seeing them [Border Patrol] parked in our parking lot. . . . I've heard *story after story where they were coming to something, they saw them and they turn around and went away*, because they didn't have their documents with them. . . . We're dealing with people who are very simple . . . really sincere. . . . I mean they're very humble and they're open and wonderful people, but *they're easily intimidated*. . . . *And you've got a lot of anger underneath all those smiles*.

INTERVIEW WITH REVEREND JAIME, FALL 1995 (EMPHASIS ADDED)

Especially noteworthy is that there seems to have been a fear of "pass-book like" enforcement by Border Patrol agents near the church, such that some parishioners in this very poor, largely Mexican immigrant small town stayed away and became angry.¹⁵ In demanding parishioners' papers on church grounds (near the border), Border Patrol agents were acting as gatekeepers not only to the United States, but also to the church, curtailing people's ability to freely practice their religious beliefs; it is hard to imagine such police measures occurring or being accepted elsewhere in the United States.

Reverend Jaime went on to discuss the effect of Border Patrol stopping and questioning of Sunland Park residents, and especially the impact on one individual who is a U.S. citizen.

I know citizens and I know documented people, legal residents here, who keep *constantly being stopped by the Border Patrol*. . . . The same agents asking the same people again and again and again, it *boils down to harassment*. . . .

I know one person . . . who was loving and trusting and open and comfortable and real happy. And after that first episode was a little less so. And there was a second episode and . . . now they're very suspicious of any police car. . . . Now they're just kind of like a little leery of everybody; they think everybody is out to get him. And you know, I think he was stopped three or four times, but you could just see the change. . . . *Any official in uniform was kind of unnerving for him . . . someone who is a citizen.*

INTERVIEW WITH REVEREND JAIME, FALL 1995 (EMPHASIS ADDED)

More generally, when I asked about the impact on the community of such Border Patrol activity, he said:

It certainly did have an impact for a long time. We've worked very hard to overcome some of that. Not so much directly saying this is coming from the Border Patrol, but you could see its effects. The [three] barrios are separate. . . . *Every community was afraid of every other community.* And a lot of it had to do with their perception that "*Well, the Border Patrol was here because of you.*" . . . If it weren't for you people . . . we'd be fine."

INTERVIEW WITH REVEREND JAIME, FALL 1995
(EMPHASIS IN ORIGINAL)

On the whole, Reverend Jaime's comments indicate that frequent stopping and questioning of residents left people more suspicious and less trusting, and sowed further community divisions and weakened social bonds. This outcome is very similar to that described by the Bowie plaintiffs—though in this case the focal point of Border Patrol enforcement was a church rather than a school, the effect on the communities was much alike.

Interestingly, Reverend Jaime suggested these negative impacts could be lessened if the Border Patrol focused its apprehension activities right

at or very near the border, rather than in the village, which was several hundred yards away (interview with Reverend Jaime, Fall 1995). This is almost identical to the suggestions of the Bowie plaintiffs for the unit to focus its enforcement immediately at the border and to leave local El Paso residents alone. One Border Patrol agent stationed in the Sunland Park area in 1996 explained, "I mean, everybody in this town is Mexican and poor . . . and you can't just go stopping and questioning everyone. . . . Now we get them [undocumented border crossers] before they get into town" (field notes of ride-along with agent in Sunland Park, New Mexico, September 24, 1996).¹⁶ He attributed this sensitivity to the effect of past allegations against the unit of human rights abuse, particularly in the Bowie lawsuit.

The agent also said the agents' relations with the community had improved "a hundredfold" since late 1995, when the unit began consistently posting the same agents in the area, with the opening of a new Border Patrol station in nearby Santa Teresa, New Mexico; previously agents had been rotated in on temporary assignments as a "day off" from the tedium of stationary river postings in El Paso. Now agents recognized local residents better, who in turn recognized individual agents, and they interacted more, with agents even sometimes providing assistance (e.g., with fixing a flat tire), and as a result, "they trust us more" (field notes of ride-along with agent in Sunland Park, New Mexico, September 24, 1996).

Over the next several years, the picture was more ambivalent. By 1997, according to one local activist, the Border Patrol was viewed positively by many residents, because petty crime had decreased in the area with the increased presence of Border Patrol agents (interview with Marisol, Spring 1997). A local teacher summarized the contradictory views he observed, stating that students from the area both appreciated and feared Border Patrol agents (interview with Jack, Spring 1997). And heavy-handed enforcement practices targeting local residents did not entirely recede. A Sunland Park business owner reported in 1998 that agents had twice recently asked him for his "papers" when he was at the Sunland Park post office, and once even blocked the exit during a particularly busy time and let people go only after they showed agents their immigration documents, detaining those without them (field notes, March 16, 1998).

Overall, the Sunland Park case is quite similar to that of Colonia Lejana. In both, community members generally did not publicly challenge the Border Patrol, apart from one leader. While social bonds

were inhibited in each, the Sunland Park community was by no means left as disempowered overall or closed up by the unit's excesses. (Sunland Park is a much larger, stronger, less isolated community in general.) Residents had participated in the 1994–1995 border wall debate that was focused on their community, though on a relatively modest scale apart from the open hearing. And as with Colonia Lejana, local residents were very active on other (i.e., nonborder/non-immigration-enforcement) community issues, especially in fighting the initial siting and later renewal of a large for-profit landfill disposal site on the edge of town. Still, heavy-handed Border Patrol enforcement and abuses did have some adverse effects in both cases, particularly for the Catholic church and some of its parishioners in Sunland Park and for children in the school near Colonia Lejana, creating anxiety and surreal conditions that inhibited, respectively, the freedom to worship and to attend school in a secure learning environment. In both cases, remote, poor, largely Mexican immigrant communities and key institutions were targeted by Border Patrol immigration enforcement efforts, with adverse effects not only for the undocumented, but also for U.S. citizens and legal residents—quite similar to the situation in South El Paso neighborhoods prior to Operation Blockade, but far less visible because of the peripheral locations. Yet, some public exposure, through the media, of the Border Patrol's enforcement excesses there led the Border Patrol to largely halt the questionable practices.

Conclusion

On the whole, the content of rights abuses committed by El Paso Border Patrol agents detailed here shows remarkable continuity over time, space, and different elements of their “subject population”—though there were also some important differences in the latter two aspects. The consistencies in abuse content include: excessive, unjustified use of force (sometimes extreme, such as beatings and drawing weapons) against decidedly nonthreatening suspects (including women and children), particularly over any questioning of their authority; harassing and intimidating stops, questioning, and false arrests; grossly overbroad ethnic group enforcement targeting that spilled over onto many innocent suspects; invasive enforcement efforts and harassment of whole communities, including three sensitive institutions (two schools and a church); inhumane detention conditions; intentional humiliation and

petty meanness (some quite bizarre in the case of young boys in detention); measures to prevent the reporting of abuses (including the use of detention and denial of due process); and gratuitous claims of false authority, especially based on “federal agent” status. Again, this is not to suggest all agent encounters with the public were abusive, or that there were not much more profound human rights abuses by Mexican police, but rather that rights abuses by Border Patrol agents did occur at least on occasion and that the aforementioned themes were recurrent in the data presented here.

While there is great continuity in these abuses across time, location, and groups, there were also important changes in the latter two categories. With the onset of Operation Blockade there was an important spatial-location shift and somewhat of a group shift, from Mexican Americans and legal resident immigrants in poor neighborhoods within El Paso, to unauthorized border crossers, recent Mexican immigrants, and some Mexican Americans outside the city in very poor, rural areas. Meanwhile, unauthorized Mexican border crossers in both periods experienced much of the abuse (though we have less data on them), and the spatial shift also affected them (i.e., the main sites of their abuse shifted).

As for the big question of whether Operation Blockade lessened rights abuses against the subject population, the data are not available to fully answer this, but what we have suggests the operation had some positive impact, though much less than its boosters maintain. The available data suggest an overall decline in rights abuses, but with fluctuations of increases and drops over several years. More clear is that the spatial-location shift of abuse to more outlying areas rendered it far less visible and more difficult to monitor, so we have even less of an idea than previously of what types of abuse and how much occurred. Yet we can at least see some new types, such as the rise of environment-caused deaths of crossers in the deserts and mountains (reaching five through 1998 after previously being unheard of in the sector). Meanwhile, the long-standing problem of Rio Grande and border canal drowning deaths (recorded by El Paso authorities) jumped 44 percent in the six years after the operation began—though the overall total of all types of border-crossing deaths (recorded by El Paso authorities) dropped 20 percent, mainly due to a drop in transportation-related deaths. Thus, like many of the operation’s effects, human rights abuses were much less visible and the data rather mixed overall, though at least marginally better, but by no means conclusive. The issue cries out for additional, non-immigration-

status-dependent monitoring, community mobilization, and meaningful, intensive oversight by an independent, local third party with some ability to hold the Border Patrol accountable, or at least to expose more thorough abuse data to the light of public scrutiny.

In the zero-sum view of the citizenship-nationalistic framework, the rights violations against immigrants, especially the undocumented, reinforce national sovereignty, for the devaluing of the rights of immigrants valorizes citizenship in this perspective (Sassen 1998, 2002, 2006; Soysal 1994; Jacobson 1996). However, the unfortunate “spillover” of this onto citizens due to their similarity in ethnic appearance to immigrants would seem to undermine citizenship—though the more strident nationalistic view does see measures that adversely impact minority group members of a society as tolerable if the measures are undertaken to protect the nation-state. That Operation Blockade reduced this adverse “spillover” effect on minority group citizens, certainly within the city of El Paso, greatly extends the reach of the citizenship-nationalistic framework for Mexican Americans in the city and thereby strengthens both their status and the framework.

From the human rights perspective, in contrast, border enforcement actions that undermine the dignity of any individuals are problematic, even if some are legal under nation-state guidelines (Sjoberg et al. 2001; Turner 1993). On one hand, many of the abuses detailed here are illegal under U.S. law, including against unauthorized border crossers. However, the marginal status of unauthorized border crossers leaves them effectively unable to report abuse, let alone seek redress, and hence extremely vulnerable to human rights abuses (much as Bustamante 2002 noted). On the other hand, some of the abuses and other questionable measures seem quite legal, particularly those in the post-Blockade era in the peripheral areas outside the operation—e.g., heavy surveillance and questioning of residents, staking out and entering church and school grounds. Yet such legal measures just as certainly undermined the dignity of many individuals, regardless of citizenship or immigration status, and even adversely impacted the social bonds of entire communities, much as Martinez (presentation to El Paso Border Patrol agents, June 19, 1995) proposes. Clearly these various abuses collectively amount to “social triage” (Sjoberg 1996) across time and location, as the rights of disadvantaged groups were written off and repressed by agents of a powerful bureaucracy. However, over time this social triage became more limited by group, as the sacrificing of the rights of people of Hispanic appearance was much

reduced within El Paso and shifted from these newly empowered minority communities in the city to more isolated, poorer ones on the periphery, and even more so from Mexican Americans (at least within the city) to Mexican immigrants.

In organizational terms, the human rights violations by Border Patrol agents most starkly illustrate the highly unequal nature of the relationship between the unit and its subject population. And until the activism of the BRC and allies culminating in the Bowie lawsuit, little was done about it, making for a completely one-sided relationship laced with abuses. And whenever any victims challenged the extreme, abusive exercises of authority that agents sometimes engaged in, agents responded with violence or threats, and often invoked the powerful symbol of “federal agents”—a term that while technically true is also a bit grandiose.¹⁷ The general lack of recognition of the rights of the “subject population” gave the unit a sense of impunity for its violations of this subordinated group—though much of this was halted for key elements of the latter (Mexican Americans and legal resident Mexican immigrants) by the Bowie lawsuit and the implementation of Operation Blockade. Still, this impunity largely remained in the unit’s treatment of unauthorized border crossers (and for Hispanic residents of more peripheral areas near the border), for which there was no oversight. The operation reinforced the citizenship-nationalist framework and made it vastly more meaningful for Mexican Americans in poor neighborhoods of El Paso, but it left unauthorized border crossers vulnerable to even more illegal abuses. Thus, the most effective tools for rights-abuse victims and their allies were education, documentation, and public exposure of Border Patrol abuses via the media, as was prior to Operation Blockade.

CHAPTER 6

Into the New Century: Continuity, Change, and the Return of Old Problems

My previous chapters take the immigration and human rights story through roughly 1996–1997, and here I update developments in the latter 1990s and into 2005. After the first several years of Operation Blockade/Hold-the-Line in the mid-1990s, things were pretty stable and fairly low-key for the El Paso Border Patrol for the rest of the 1990s. But after 1999 and through 2005 a few changes in enforcement efforts led to troubling human rights patterns—some new and some resembling old problems little seen for years, since before the operation began. Surprisingly, post-September 11 antiterrorism concerns in the several years after 2001 appear to have had little direct impact on Border Patrol enforcement or on human rights problems, though they have colored the context and have slowly opened up the prospects for expanded (or renewed) border militarization. Here I will examine the El Paso Border Patrol and related human rights issues since the mid-1990s, briefly overviewing the late 1990s before turning to a more detailed examination of the 2000–2005 period. The latter includes: an overview of Border Patrol enforcement, a detailed focus on human rights issues and responses in outlying areas and in the city, and the emergence of a vigilante-style “minutemen” border surveillance group, as well as renewed militarization.

Once again, several conceptual issues bear keeping in mind in examining these details. One is the impact (as in human rights) of bureaucratic power structures (the Border Patrol in this case) on the surrounding social environment and the dynamic, though unequal, relationship between them, as a new organized opposition arose to challenge Border Patrol abuses. Another larger concern at work is the clash between the citizenship-nationalistic framework on rights with the human rights

perspective, as the former is upheld with limited regard for the latter in the case of nonmembers of society (unauthorized immigrants) and related “suspects” (i.e., those who appeared Hispanic and poor). Finally, “social triage” is also at play, as we see a powerful bureaucracy essentially writing off (or at least degrading) the well-being and human rights of those vulnerable groups—in some new and old ways, though largely out of sight.

The Late 1990s

For the most part there were few new developments in the El Paso Border Patrol or on related human rights issues during the late 1990s; I observed little of such during that time as I lived in the area through Summer 1999 and continued to do low-key research. Border Patrol Sector Chief Reyes retired in late 1995 to successfully run for the federal congress in 1996, and by 1999 two more sector chiefs had come through, including the long-serving Luis Barker, an Afro-Panamanian immigrant (1999–2005). However, the basic Blockade/Hold-the-Line strategy of posting agents directly on the Rio Grande and levees for the most part remained in place within the urban area, though staffed at a lower level. The unit’s size increased by several hundred to nearly a thousand, and more agents were shifted to stations outside El Paso, while within the city the unit continued to keep a fairly low profile. The unit did have a somewhat renewed presence on the city streets, mainly in more approachable-appearing bike patrols, but not the ongoing roving patrols in large sport-utility vehicles that had been common in the pre-Blockade era.

Reports to the Border Rights Coalition of agents stopping and questioning people in South El Paso, and related problems of harassment, did start to rise, but not drastically. Perhaps the biggest immigration rights event of the late 1990s was a roundup of 116 local legal resident immigrants, who were subject to new, strict grounds for deportation contained in the 1996 immigration reform law, in late Summer 1998.¹ The local INS district headed this operation, not the Border Patrol, though its agents likely played a support role in the massive one-day apprehension effort. Meanwhile, the BRC officially closed down in late 1998, as the group membership dwindled and its sponsor, the American Friends Service Committee, moved on to support other area organizations, and in late 1999 formed the Border Network for Human Rights,

which was more focused on community outreach and organizing, and led by a recent Mexican immigrant (a former journalist).

On the whole, things were fairly quiet in the late 1990s for the El Paso Border Patrol and in border enforcement generally in the region, though with one exception that was focused mainly outside the immediate area. This was the flurry of activity after a U.S. Marine shot and killed a teenage, Mexican American high school student, Esequiel Hernandez, while he was herding his goats in Redford, Texas, near the Big Bend area of the border, on May 20, 1997, some two hundred miles southeast of El Paso. A small Marine team was on a covert drug surveillance mission to assist the Marfa sector of the U.S. Border Patrol (see Dunn 1999b, 2001; Ferry 1997). El Paso was the nearest metropolitan area and home of the headquarters, based at Fort Bliss, for the anti-drug military task force coordinating the mission. Thus, the story received extensive local coverage, and the Border Rights Coalition played an active role in organizing educational and protest activities for some months thereafter. However, the impact on the El Paso sector was limited to the suspension of the use of military ground forces to support the Border Patrol's antidrug efforts for eighteen months (which was reinstated, but with more high-level Defense Department oversight). Interestingly, in April 1997, just prior to that tragic episode, the El Paso Border Patrol sector had publicly highlighted for one of the first times its use of just such military ground troop covert surveillance in an operation that netted 620 undocumented immigrants and 1,500 pounds of marijuana (Conley 1997). This suggests that the El Paso Border Patrol may have been moving toward adopting this higher-level militarization as a more prominent enforcement tactic—but such activities were halted in the wake of the Redford shooting several weeks later.

Into the New Century

The focus of this section is to provide some update of conditions in the El Paso sector since 1999, and especially since September 11, 2001.² Overall, the far-reaching terrorist attacks seem to have had little effect on what the Border Patrol does (though they have made for much closer inspection and longer waits at the international bridges and ports of entry; see Payan 2006). Continuity, with some modifications, has been the rule, while the unit has also reemphasized some old, problematic tactics. Meanwhile, human rights problems involving the unit amplified the

earlier (1995) trend of shifting more to outlying areas, but new problems also emerged within El Paso as well, and then there were also a growing number of deaths of unauthorized crossers in the desert. The militarization issue, in the form of ground troops, also resurfaced.

El Paso Border Patrol: Update and Continuity

In general, Border Patrol activities seem to have exhibited a great deal of continuity in the El Paso sector since 1999, and even since September 11, 2001, through late 2005. The basic Operation Blockade/Hold-the-Line strategy of sizable, visible deployment of agents in the main ten to fifteen miles of the Rio Grande international boundary bisecting the El Paso–Ciudad Juárez urban area has remained in place. However, numerous informants in July 2004 noted that agents seemed to be spaced increasingly farther apart over time—which I noted in my own observations during the same time. Still, Border Patrol spokespersons assured me that three hundred agents (or one hundred per shift) were devoted to line-watch posting on the river and levees for the operation, but that seems generous (field notes, July 14, 2004). Three additional facets of this continuity stand out. One is that agents continue to feel Operation Hold-the-Line postings on the river, termed by agents “sitting on the X,” create morale problems due to boredom (a strong agent sentiment since the operation began), and this contributes to increasing agent turnover. More tellingly, agents offered the criticism that “we only catch the dumb ones,” because they felt most illegal crossers avoided the operation by merely crossing outside it in outlying areas (Simonson 2000). Second, the more approachable-appearing bike patrols begun in the late 1990s in central and south El Paso not only continued, but by 2001, aided by backup units and surveillance cameras, they accounted for a significant share (20 percent) of all Border Patrol apprehensions within the city (Peregrino 2001). Third, the El Paso Border Patrol remained largely unchanged organizationally by the historic breakup of its previous parent agency, the Immigration and Naturalization Service, or by the reorganization of its border enforcement elements, including the Border Patrol, along with those of the U.S. Customs Service (from the Treasury Department), into the new Department of Homeland Security (DHS) during the shake-ups following September 11. The Border Patrol now has a new parent agency (within DHS), being part of the U.S. Bureau of Customs and Border Protection (CBP), but at the local level is little changed, apart from losing an antismuggling unit to another

branch of the Department of Homeland Security (interview with two El Paso Border Patrol officials, July 2004).

The unit was considerably better staffed, with 1,147 agents in the sector in 2004—and slated for 1,300 by the end of 2005 (Borunda 2005)—compared to 967 in 2000 (Simonson 2000). Meanwhile, the bulk of apprehensions were made in the rural outlying regions of the sector, especially southern New Mexico. In 2003 the Deming, New Mexico, station (with authority over the border town of Columbus, New Mexico, and much of the New Mexico section of the border) registered the largest share of total apprehensions in the El Paso sector (27 percent), followed by the Fabens, Texas, station (18 percent) east of El Paso, and then El Paso (16 percent). In contrast, in 1999 the El Paso station ranked first, with 31 percent of all sector apprehensions, and in 1993 it had accounted for 79 percent (Border Patrol Power Point presentation, July 14, 2004). When crossing in outlying areas, immigrants most often were guided by smugglers for long, dangerous treks through the desert and mountains. The total number of apprehensions annually in the sector went through a U-shaped pattern from 2000 to 2004—starting at 93,368 in 2000, dropping to 69,281 in 2002, and rising to 104,228 in 2004 (Gilot 2004b)—and in 2005 were on pace for an 11 percent higher total as of June (Gilot 2005c). Officials believed that heightened enforcement in southern Arizona (the leading site of apprehensions borderwide) pushed more crossers into southern New Mexico.

The post-9/11 changes for the unit appear relatively modest. Border Patrol officials said in 2004 that antiterrorism is now the highest priority for the unit. However, agent positioning and deployment remained similar to previously noted practices. Unit officials said Operation Hold-the-Line was the “blueprint” for Border Patrol strategy for the entire Southwest border, and that post-9/11, the basic strategy remained the same, specifically, to push illegal crossing activity “out to the fringes”—i.e., out of the urban El Paso area to more remote areas. (The 2004 National Border Patrol Strategy for the Southern Border makes similar points for the entire Southwest border.³) Changes have been more subtle, such as improved fingerprint and biometric identification systems, more interagency intelligence information sharing and distribution to agents, participation in regional antiterrorism task forces, and some agent antiterrorism training and equipment (e.g., radiation detectors at checkpoints)—though much remains to be done on the last (e.g., border surveillance cameras cover only a small portion of the border in the sector) (interview with Border Patrol officials, July 2004). The new elec-

tronic fingerprint system and access to more fingerprint databases have led to apprehensions of several criminals wanted for serious offenses, and it could conceivably help identify known terrorists.

Perhaps the biggest change since 1999 is an apparent growing focus for the El Paso Border Patrol sector on rural *colonias* and other poor communities in southern New Mexico and east El Paso County. This seems to be a significant expansion of the tactics common to the 1995 crackdowns in Colonia Lejana in east El Paso County and in Sunland Park, New Mexico (discussed in Chapter 5). Having more agents in recent years seems to have enabled the unit to follow up on more tips and other data on the presence of suspected undocumented immigrant *residents* in the area (not crossers or passers-through)—which in the mid-1990s it could not do much about due to a lack of personnel, as Chief Reyes had noted. This new focus has principally come to light due to the work of the Border Network for Human Rights, as it responded to growing complaints of rights abuses in those outlying areas, which are generally five to thirty miles from the border.

Human Rights Problems and New Challenges to Them

The newly formed Border Network for Human Rights (BNHR) started receiving complaints of Border Patrol harassment and abuses in rural, poor communities in late 1999, and these problems seem to have peaked in 2002, according to its data. These reports came mainly from small, poor communities in the Rio Grande Valley of southern New Mexico, south of Las Cruces, but well north of the border, as well as in the outlying areas of east El Paso County (interview with Jaime, BNHR coordinator, July 2004). Particularly alarming were reports of Border Patrol agents forcibly entering homes without permission or warrants, as well as the establishing of temporary checkpoints just outside communities. Other abuses and excesses were quite familiar: aggressive and harassing questioning, verbal abuse, physical abuse (typically mild), and even one school apprehension of parents. The BNHR responded with an approach that led to greater involvement by residents of affected communities, leading to community organizing—in contrast to the previous BRC emphasis on mainly documenting abuse cases. And also, in contrast to past practices (in dealings with the Border Rights Coalition), the Border Patrol eventually responded more constructively to abuses documented and publicized by BNHR reports, evolving toward a position of seeking

dialogue to hear communities' concerns—and also modifying some questionable practices.

Initially, the BNHR was hard pressed to respond to abuse reports from these more distant communities, given its very few resources (one part-time staff and a sparsely outfitted office) and the travel distances involved from El Paso. The BNHR coordinator eventually was able to go out to them, record details of the episodes from residents, and offer them “know your rights” educational talks. This was similar to previous BRC efforts, except that he went directly to the communities, which were quite far from the BNHR offices, and then maintained contact with them afterward as well. In the past, the BRC typically did little community follow-up after such documenting and presentations, but rather waited for residents to contact the BRC. The BNHR coordinator changed this (for both practical and philosophical reasons) in 2000 and 2001 by adopting a model focused more on training interested community members to be “*promotoras/promotores de derechos* [rights promoters]” in the afflicted communities. They were residents in the communities available to record abuses and educate their neighbors on their rights.⁴ The BNHR developed a rights training curriculum based not only on the U.S. Constitution but also on international law, and some promoters even posted yard signs with various portions of the Bill of Rights (e.g., the Fourth Amendment, which prohibits unreasonable searches and seizures).

The next move developmentally for the BNHR was to form human rights committees in each community where rights promoters were active, and eventually a regional council with representatives from each community committee. This more decentralized, participatory model was far more practical for the resource-limited BNHR and more consistent with its goal of empowering immigrant communities facing rights abuses and other problems. The results were impressive. By 2003 BNHR included fifty-three human rights promoters, eleven human rights community-based committees in southern New Mexico and in El Paso County, and two regional coordinators (one for southern New Mexico and one for El Paso County). This resulted in an estimated eight to nine hundred people organized and reached through the committee members, promoters, and members of their families (interview with Jaime, BNHR coordinator, July 2004). BNHR also held annual assemblies of several hundred members to review the previous year and set the agenda for the future.

Generally, each December the BNHR activists conduct an outreach campaign of several days, going to communities to solicit information

from their fellow area residents, which BNHR compiles into a report and publicizes. In their first such effort, in 2000, they documented/recorded 49 abuse events. And for 2002 and 2003 combined, the BNHR recorded 258 events of abuse in 80 cases (typically, more than one abuse per case). Specifically, of the 258 abuse events BNHR recorded for 2002 and 2003, there were 25 wrongful entries into homes, 23 physical abuse events, 40 wrongful detentions, 46 wrongful arrests, 19 wrongful deportations, and 40 events of verbal or psychological abuse (BNHR 2003, 9). (Most of these appear to have been recorded in 2002 [Valdez 2002].) The Border Patrol was responsible for approximately 70 percent of all abuses reported in 2002–2003. Interestingly, some 25 percent of the victims during 2002–2003 were either U.S. citizens, legal resident immigrants, or otherwise lawfully in the United States (in contrast, the 2000 BNHR report found 71 percent of the victims were likewise citizens or otherwise legally present). Particularly noteworthy among the cases is a Border Patrol apprehension of several parents at an elementary school in Berino, New Mexico, apparently with the approval of the principal.

Most recently, for 2004, the BNHR reported 85 cases of rights abuses by law enforcement authorities, with fewer complaints about the Border Patrol, Immigration, and Customs officials, and more about local police doing immigration enforcement (38 percent of the total); BNHR leaders feel the latter will heighten people's fear of the police and their reluctance to report crime or call for assistance (Valdez 2005). In one case, the El Paso police called the Border Patrol after a parking citation incident in which the offender could not supply proof of citizenship, but did have a state ID card. In another, a family was deported after a child mistakenly called 911, bringing the police, who then called in the Border Patrol. Border Patrol officials strongly opposed any limits on the ability of local police to collaborate with them, such limits having been imposed by several other cities in the Southwest. This issue would prove to be more troublesome in the near future.

Following the publicity surrounding the BNHR's report of rights abuses each year, Border Patrol officials have expressed an interest in meeting to hear the group's concerns, and have suggested they meet in the future before the BNHR goes to the press (interview with Jaime, BNHR coordinator, July 2004). In fact, Border Patrol and local officials have even gone out to public meetings in specific affected communities at the request of the BNHR, to hear residents' concerns and answer their questions. The Border Patrol has even started to do its own community forums as a result. This is in stark contrast to past practices, in which

Border Patrol officials would quickly deny abuse claims documented and publicized by the BRC, as in 1995. On the whole, the BNHR coordinator feels the organization has been successful in “creating a structure where people are not fearful . . . and [will] participate and fight for their rights,” which has in turn limited some patterns of abuse, especially by the Border Patrol, and enhanced the public accountability of such authorities at a grassroots level (interview with Jaime, BNHR coordinator, July 2004). The main lingering problem is the close collaboration of local police with the Border Patrol (which escalated in 2005 and 2006—see epilogue). Meanwhile, the BNHR has broadened its agenda from focusing solely on documenting rights abuses, training residents, and organizing communities to also include a push for immigration reform and legalization in state and national policy and to take up the cause of labor rights, as many community residents have troubles in that arena as well (interview with Jaime, BNHR coordinator, July 2004). Relatedly, in 2003–2004, for the first time in many years, Border Patrol agents raided two or three local farms using immigrant labor (e.g., chile harvesting in southern New Mexico), according to a key local labor attorney (interview with Daniel, Summer 2004).

Selective Targeting of El Paso Immigrant Social Services

Meanwhile, during the first years of the new decade in El Paso itself, the Border Patrol also began to take a higher profile and to target several nongovernmental organization (NGO) immigrant social service providers, two of which were church related. The most alarming result of this was a tragic, very preventable death of an undocumented immigrant—and the biggest scandal for the unit within the city in a decade. As noted previously, while agents in the city were still mainly posted on the river, they did have a somewhat heightened presence on city streets, particularly the bicycle patrol. However, the agency turned to more conspicuous, questionable tactics when at least three immigrant-related social services were targeted for surveillance and aggressive enforcement in two cases. While this is not a large number, it marked a significant break, as the unit had not targeted such organizations for years, and certainly not since the September 1993 implementation of Operation Blockade. In May of 2001 Border Patrol agents raided a downtown El Paso homeless shelter, the Coalition for the Homeless Opportunity Center, entering at night without a search warrant and taking away nine people suspected as undocumented immigrants (Valdez 2001). (This episode harked back

to an earlier era, as approximately a decade earlier the Border Patrol had raided another homeless shelter on Thanksgiving Day.) The rationale behind the 2001 raid was not clear, as Border Patrol Sector Chief Luis Barker denied it was a raid and stated, “We do not raid shelters. We treat them just like any other sensitive institution” (Valdez 2001). This assertion seems to refer to the unit’s 1993 policy of not conducting enforcement activities at schools, churches, and the like.

While no additional raids were made on the shelter thereafter, the unit did in fact start targeting at least two other “sensitive institutions.” Earlier, in 2000, on at least one occasion, several Border Patrol trucks staked out Annunciation House, an immigrant shelter near downtown El Paso run mainly by Catholic activist volunteers, apprehending a guest outside; the agents appeared to be unaware of the 1993 policy in their remarks at the time to A-House staff (interview with Max, Annunciation House staff member, July 2004). Then in 2002, immigration activists report, Border Patrol agents were for a time regularly staking out and surveilling the offices of Diocesan Migrant and Refugee Services (DMRS), a project of the El Paso diocese of the Catholic Church, located just around the corner from St. Patrick’s Cathedral in Central El Paso. Agents even stopped and questioned at least one person near the cathedral as well. A DMRS staff member complained quite publicly about these practices, fearing they would intimidate clients and prevent them from seeking assistance, and eventually the Border Patrol backed off, after a meeting between the Border Patrol’s attorney and attorneys allied with DMRS. Still, it was highly unsettling and quite unusual, such harassment having rarely if ever occurred previously, at least not in many years (interview with Marie, immigration attorney, July 2004).

This new, albeit apparently limited, targeting of immigrant-related social services peaked in an episode in which a Border Patrol agent shot and killed an undocumented immigrant whom he and other agents had pursued from a local immigrant shelter and cornered in a confrontation that went horribly wrong. On the day of the shooting, February 22, 2003, there was a heightened Border Patrol presence at and surveillance of Annunciation House; in hindsight one A-House staff member thinks the unit may have been planning to raid the house, but became distracted (interview with Max, Annunciation House staff member, July 2004). That morning a guest of the shelter, nineteen-year-old Juan Patricio Peraza, an undocumented immigrant from Tijuana, took out the trash to a dumpster behind the building and was confronted by Border Patrol agents, from whom he fled. Very quickly additional

agents arrived on the scene to assist, and soon a semicircle of six to eight agents confronted Peraza with guns drawn, one block from the shelter, as he was cornered and he held a large piece of metal pipe on his shoulder. One agent shot and killed Peraza, who the agents claim had first swung his pipe at them. A group of horrified shelter residents who witnessed the event from the roof of the shelter (they had a clear line of sight from the two-story building) claim Juan Patricio did not swing the pipe, but rather was holding it on his shoulder the entire time in something of a standoff before the agent inexplicably shot him (Dietz 2003; Chávez 2003; interview with Max, Annunciation House staff member, July 2004). Border Patrol officials claim that the unit did not specifically target Annunciation House for any enforcement operation that day, though its heightened presence in the area beforehand and very rapid and strong backup response to the fleeing suspect suggest otherwise.

The handling of the witnesses from Annunciation House afterward is particularly stunning, as the Border Patrol attempted to take custody of and deport them. The El Paso police arrived on the scene soon after the shooting. They promised the A-House witnesses that they would not turn them over to the Border Patrol, but rather wanted to take them to police offices to get their witness statements as part of the investigation of the shooting. However, once at the station, police officers quickly ceded control to Border Patrol agents, who started grilling witnesses about their immigration status. A-House activists quickly called immigration lawyers to go to the police station to monitor the situation, and when the lawyers found the witnesses had been turned over to the Border Patrol, they were livid, but could not convince the police to retake custody of them. This violated what the police had told the witnesses previously, and it seemed the Border Patrol wanted to discover if they were undocumented immigrants in order to deport them quickly—to get rid of witnesses who contradicted agents' version of events—or to at least threaten them with lengthy detentions during an investigation and grand jury process. The lawyers intervened by calling the mayor, who was an ally, who in turn called his police chief, and within several minutes the Border Patrol was removed from questioning the witnesses, but one witness had already admitted being in the country illegally (interview with Daniel, Marie, attorneys, summer 2004; Dietz 2003). A miscarriage of the initial investigation of a serious incident was thus narrowly averted.

The shooting sparked a good deal of outcry locally, including a protest and religious service on the street where Juan Patricio was shot. It

was attended by several hundred people, including several dozen BNHR activists, who had marched in protest over twenty miles from distant outlying *colonias* to the shooting site in downtown El Paso. A coalition of some fifty-five organizations (local, national, and international) and seventy-eight individuals signed a statement of concern about the Border Patrol's actions, which appeared in the *El Paso Times*. However, in June 2003 a grand jury heard evidence from the investigation and refused to indict the shooting Border Patrol agent for any offense. Still, one source in El Paso (who wishes to remain entirely anonymous) indicated that a state's attorney involved in the case said that he could not understand why the agent shot the victim, or why the Border Patrol couldn't control the situation without shooting him.

In the aftermath, absent any accountability for the Border Patrol for this very controversial shooting, and in light of mounting abuses by agents over the prior three years, the Annunciation House led an effort, with thirty supporting local organizations, to establish some sort of local oversight of the unit. The staff led the push for the city to restart its long-dormant Human Relations Panel (begun in late 1992 as the Border Patrol Local Accountability Commission in the wake of the Bowie lawsuit), and also for the county government to create a similar body (interview with A-House staff member Max, July 2004). Later on, after the shooting incident, Border Patrol agents picked up several A-House guests walking nearby and questioned them about the organization, and then released them (interview with A-House staff member Max, July 2004). This sounds like an intelligence background information gathering effort, which suggests a lack of institutional memory, given that the unit had been well aware of A-House since the mid-1980s, and had had some sensitive run-ins with staff (but no raids) over the years.

These episodes raise the larger issue of Border Patrol policy around social service institutions, broadly defined, as well as the aftereffects of the Bowie lawsuit settlement. A number of people I interviewed in El Paso during July 2004 raised concerns about both, in light of the above episodes. The official policy established in 1993 pertains to "enforcement activities at schools, places of worship, or at funerals or other religious ceremonies" (INS Office of Operations, May 17, 1993), which a Border Patrol attorney acknowledged was still in effect, during a meeting in 2002 with attorneys allied with Diocesan Migrant and Refugee Service (Marie, El Paso immigration attorney, personal communication, August 9, 2004). This relatively narrow focus would not preclude the enforcement efforts outlined previously, with the exception of the

heightened surveillance and staking out of DMRS, as it was located so near to a Catholic church. Also, the 1993 policy does allow enforcement activities at those otherwise proscribed sites and events if a chief patrol agent has authorized them ahead of time—but the guidelines suggest care should be taken in allowing such exceptions. However, after the 2001 raid of the homeless shelter, the Border Patrol sector chief insisted the unit would not raid “sensitive institution(s),” a term far broader than places of worship and schools. Likewise, in 2004, Border Patrol officials stated that it was unit policy to refrain from going on church and school grounds, and they said that in practice—though not formal policy—the unit also tried to avoid enforcement in “places that cause a lot of heartache to people,” listing blood banks and hospitals as examples (interview with two El Paso Border Patrol officials, July 2004). Thus, while the heightened surveillance and targeting of immigrant-serving social services may not have violated Border Patrol policy (with the exception of the DMRS case), it certainly seems to have violated what Border Patrol officials claimed were at least informal guidelines for their practices. And many local immigration activists were certainly upset and felt the operations were a violation of either Border Patrol policy or at least previous informal understandings.

Several activists also said that, starting in 2001, in the wake of several of the above controversial enforcement incidents targeting social services, Border Patrol officials started responding to protests of their actions by noting that the Bowie lawsuit settlement provisions had expired and that they were no longer bound by them. The counsel for the El Paso Border Patrol told lawyers allied with DMRS (at a meeting to discuss the Border Patrol presence outside DMRS’s offices) that the Border Patrol felt it no longer had to abide by the Bowie settlement because it had expired (its five-year oversight period ended in 1999), but that the unit would voluntarily continue to abide by it nonetheless. However, lawyers allied with DMRS, including one active on the Bowie plaintiffs’ side, noted it was not a voluntary matter, because one main feature of the Bowie settlement was that the unit had to abide by the Fourth Amendment of the U.S. Constitution (prohibiting unreasonable searches and seizures). The other main feature of the agreement was that the unit had to maintain a publicly accessible complaint process—hardly a difficult or controversial measure (Marie, El Paso immigration attorney, personal communication, August 9, 2004). Thus, not surprisingly, Border Patrol officials said in 2004 that the El Paso sector chief had continued to require agents to abide by the terms of the Bowie settlement, and

required each station to turn in monthly reports on how it was doing so (interview with two El Paso Border Patrol officials, July 2004). Still, how fully this was put into practice is another matter, as the aforementioned incidents illustrate, and it is important to note that virtually no similar incidents had occurred within El Paso from the start of Operation Blockade in 1993 through 1999.

In a very different vein, but still falling under the heading of misconduct, Border Patrol agents also were involved in two additional significant scandals in 2005, some of the worst since Operation Blockade was implemented in 1993. In the first, two agents were indicted on federal charges of assault with the intent to commit murder in April of 2005 (Gilot 2005b) for shooting a fleeing, unarmed unauthorized border crosser in the buttocks (and severing his urethra) as he ran away from a drug smuggling attempt; in addition, the agents did not report the episode and attempted to cover it up (Gilot 2005a). In the second, an agent pled guilty to possession of 10 kilograms or more of cocaine and was sentenced to seventy months in federal prison (Fonce-Olivas 2005).

Border-Crossing Deaths

Another new human rights development in recent years has been the growing prominence of the death of border crossers, particularly in remote desert areas in the sector—a major concern borderwide, but not so previously in the El Paso sector compared to elsewhere. The desert-crossing death issue has been much bigger in other areas, especially Arizona and California, where the well-publicized death totals have been the highest. (The borderwide death total of unauthorized border crossers from 1994 through 2005 exceeded 3,600 ([and more than 4,600 from 1994 to 2007] [Cornelius 2006, 5–6; 2005; U.S. Government Accountability Office 2006, 16; McCombs 2007b; McConahay 2007; Rubio-Goldsmith et al. 2006; see also Eschbach et al. 1999, 2001a, 2003; Cornelius 2001; see note 5 of Chapter 1 for calculation details]), including an annual record 473 in 2005, with almost half occurring in Arizona, where heat exposure was the leading cause (McCombs 2007b).) As the issue first gained prominence in the late 1990s through a landmark study by researchers from the University of Houston (Eschbach et al. 1999, but initially written up and widely circulated in 1996 and 1997), the Border Patrol responded with heightened rescue efforts, termed “Operation Lifesaver,” in all sectors, including El Paso, in 1998. As noted previously, drowning deaths in the Rio Grande and adjacent canals had

long been a problem in the El Paso sector, and those increased significantly during the mid-to-late 1990s.

Since then, however, what seems to be new is that the number of deaths due to environmental exposure factors (i.e., high heat or cold) increased and those were more often taking place in far outlying areas, especially in the desert and mountains of the Deming-Columbus, New Mexico, border area, where the largest numbers of Border Patrol apprehensions have shifted as well in recent years. As noted in Chapter 5, five environmental-cause deaths were recorded from October 1993 through 1998. However, in 2002, there were five desert deaths out of nine total crossing deaths recorded in the El Paso sector by the Border Patrol (Gilot 2003b), at least two and up to five desert deaths in 2003 out of 10 total crossing deaths recorded (Gilot 2004a), and five in 2004 out of some 18 total for the year (Gilot 2005d).⁵ The problem escalated in 2005, as there were 10 desert-crossing immigrant deaths in southern New Mexico by late July (Buey 2005), by which time there were apparently 22 total crossing deaths in the El Paso sector (Buey 2005; Gilot 2005d).⁶ Overall, some 90 bodies were recovered in New Mexico near the Mexico border from 2000 through mid-2005, which authorities suspect were unauthorized immigrants (Fears 2005)—for an average of 15 per year. This represents a significant jump from the 1990s, when such deaths were quite rare (zero–two per year) in the El Paso sector. And the jump in deaths is certainly related to the increased diversion of illegal border crossers farther out into remote areas, especially the Deming-Columbus, New Mexico, area, which by 2003 was the site of the largest number of apprehensions in the entire El Paso sector. However, it pales in comparison to the 140 to 250 desert deaths per year, during the same time period, discovered in Southern Arizona, the epicenter of this tragedy (see U.S. Government Accountability Office 2006; Rubio-Goldsmith et al. 2006). (And these death totals undoubtedly understate the problem, however, because of the great difficulty in even discovering such deaths in a vast and extremely sparsely populated desert and mountainous area, and also due to imperfect interagency communication of death data [see Rubio-Goldsmith et al. 2006, 9–14; Cornelius 2006, 5–6].⁷) Certainly the unscrupulous practices of smugglers who leave stragglers behind are a big part of the problem, but so is the enforcement strategy that has forced more would-be illegal crossers to turn to smugglers for assistance and to take more dangerous, remote crossing routes.

One indication of the growing prominence of the desert-crossing deaths issue, and an innovative response, was the creation of a humani-

tarian aerial effort, Paisanos al Rescate (Countrymen to the Rescue). It was formed by an El Paso Mexican American businessperson and twenty volunteers to fly a small plane over the desert-parched stretch of border from El Paso to Nogales, Arizona, on weekends to look for migrants, drop water bottles by parachute, and in emergency or rescue cases call the Border Patrol; they did not have to notify the Border Patrol in 2005, as they encountered no such severe cases (Gilot 2004c, 2005d).

Minutemen and Militarization

In summer 2005, border enforcement became a political flashpoint in the area. Most notably, vigilante-like, armed “minutemen” patrols of several dozen volunteer citizens emerged in southern New Mexico, after their heavily publicized origins in southeast Arizona during the previous spring. There are two main groups in the region, the New Mexico Border Watch and the Texas Minutemen, and they added an unpredictable and potentially volatile facet to border enforcement. Their members are typically armed and their goals are to help keep out undocumented immigrants, and to stop terrorists from entering the United States, by monitoring select areas of the border. They report to the Border Patrol suspected unauthorized border crossers (whom they also sometimes stop and detain), and they put pressure on the federal government to adopt stricter border enforcement efforts (Meritz 2005a, 2005c; Gilot 2005e). They expanded into Texas in Fall 2005, setting up in the Rio Grande Valley area just southeast of El Paso (Gilot 2005e).

Their presence generated considerable controversy and debate in the region, including condemnation by El Paso’s ex-Border-Patrol-chief-turned-congressman, Silvestre Reyes, and protests led by the very mainstream group LULAC (League of United Latin American Citizens), which characterized them as racist and xenophobic (Taylor 2005). The Border Patrol, meanwhile, did not appear to be enthusiastic about its ostensible helpers, as an official from the El Paso sector claimed the unit did not condone the border watch groups and would monitor the situation (Meritz 2005b), but some individual agents were supportive. This situation was rife with potential pitfalls, such as chances for people to be hurt (either border watchers or unauthorized crossers), which could have created grave controversy. In addition to all this, the governor of New Mexico declared a “state of emergency” for the four New Mexico counties along the Mexico border.⁸ The governor of Arizona quickly followed suit in declaring the same for her state.

Meanwhile, also in 2005, the military deployed several hundred ground troops to aid the El Paso Border Patrol for the first time on a significant scale since the 1997 Redford shooting case had frozen such measures. This expanded the more low-level, long-running assistance it had provided the unit in this sector (e.g., road building, aerial surveillance, etc.). Though it is not yet clear, such ground troop deployment may portend a future expansion of the military's "homeland security" role, as the 2006 deployment of National Guard troops to the border (see epilogue) similarly suggests. This ground troop assistance built upon, and much expanded, already existing military aid for the El Paso Border Patrol that had been conducted under the banner of drug enforcement, such as military construction units adding twenty-eight miles of dirt road near the Columbus, New Mexico, port of entry, a focal point of illegal crossings and apprehensions in the sector (Flynn 1999). And in 2003, military construction units placed thin steel sheets on 0.2 of a mile of the Sunland Park border chain-link fence (out of the 1.3-mile total), making a small wall-like section in a more remote portion of the fence that was frequently damaged with holes, due to thefts of train goods and other problems (Gilot 2003a). Interestingly, the train robbery problem in the area, raised so often in the 1995 debate over the border wall-and-fence proposals, continued in 2003. Otherwise, the border fence of reinforced chain-link material was still in place in 2004, and people still routinely made illegal crossings over it and just to the west, according to a local resident and a Border Patrol officer in the area (field notes, July 15, 2004). (Meanwhile, political support was building in the early part of the decade for the long-desired official border crossing/port of entry between Sunland Park and Anapra.)

In early 2005, the El Paso sector of the Border Patrol qualitatively escalated the use of the military in border enforcement by reintroducing the use of active-duty ground troops, specifically those of a tanklike unit. The Border Patrol enlisted a squadron from an Army Stryker Brigade Combat Team, some four hundred soldiers and forty of the army's new (tanklike) armored combat vehicles, Strykers (used frequently in Iraq), to conduct "Operation Bootheel," as a military training exercise and ground observation mission in southwestern New Mexico, for approximately two months.⁹ The military unit used its advanced, high-tech surveillance equipment on the Strykers to do observation for the Border Patrol, leading to the arrest of nearly 2,500 undocumented immigrants and the seizure of some 6,000 pounds of marijuana in this remote area (Roberts 2005). Army Stryker units were back assisting the

Border Patrol in the same remote region of southern New Mexico during October 2005, and according to a military spokesman, “The mission is to observe the border for *suspected transnational threats*, and we will limit activities to reporting suspect activities to Border Patrol agents” (Gilot 2005f; emphasis added).

The introduction as military support of tanklike armored vehicles, though reportedly they are only doing observation/reconnaissance, is a remarkable step. Moreover, drugs are no longer the main focus of the military’s mission of support for civilian law enforcement, but rather, according to a military spokesperson, it now also includes illegal immigrants within the newly broadened mission of “*the interdiction of suspected transnational threats*” (Hess 2005; emphasis added)—as part of the military’s new “homeland defense support role.” (The rationale appears to be that terrorists could intermingle with normal, nonthreatening unauthorized immigrants.) To carry out this much expanded mission, the military unit that had been tasked to assist police in drug enforcement, Joint Task Force Six (JTF-6), was converted in late 2004 to Joint Task Force–North, though it was still based at El Paso’s Fort Bliss and using many of the same relationships and techniques used previously to supply antidrug support for civilian police agencies such as the Border Patrol (Valdez 2004).¹⁰ Meanwhile, the Mexican government has deployed thousands of its army troops to the border to aid antidrug work there, but those soldiers have occasionally, inadvertently, crossed the border in more remote areas. In an incident in 2000 they fired two shots at Border Patrol agents near Sunland Park, New Mexico (whom the soldiers mistook for drug traffickers) (Valdez 2000).

Conclusion

So where does all this leave us in understanding the El Paso Border Patrol’s efforts during the first several years of the new century? On one hand, while the unit ostensibly adopted an antiterrorism focus on the border after September 11, there was in fact a great deal of continuity in its border enforcement efforts pre- and post-September 11, with Operation Blockade/Hold-the-Line the continued centerpiece and main strategy, and an increasing focus, begun in the late 1990s, on apprehensions in more remote areas to the west (and to the east to a lesser extent) as well. (Such pre- and post-9/11 continuity was also found in the Border Patrol’s efforts in South Texas by Maril [2004] and Spener

[2004].) On the other hand, there were meaningful changes in El Paso Border Patrol efforts that did affect the surrounding social environment and the unit's "subject population"—but seem to have had nothing to do with antiterrorism. Specifically, the Border Patrol's focus moved from the border to outlying residential areas located miles inland, bringing a turn backward to "old school," problematic enforcement tactics quite at odds with the new antiterrorism focus. Most notably, the heightened El Paso Border Patrol focus on poor, outlying *colonia* residential areas was a shift back to the troublesome immigration enforcement practices used in South El Paso prior to Operation Blockade, which inspired the Bowie lawsuit.

The attention to this periphery in the new century is in essence an expansion of the measures that led to rights abuses found in 1995 enforcement, which targeted the outlying communities of Sunland Park, New Mexico, and Colonia Lejana in east El Paso County. Interestingly, most of the newly targeted outlying communities in the new decade are five or more (some many more) miles from the border, and their population generally is poor and first-generation immigrants and their families (with very few passing-through border crossers)—some of whom are undocumented, but often part of "mixed status" households (i.e., with a combination of U.S. citizen, legal immigrant, and illegal residents) (see Fix and Zimmermann 1999, 2001). They are not security threats in any meaningful way, and, at the very least, extremely unlikely to be knowingly connected to terrorists. At the same time, within El Paso, while Operation Blockade remained in place on the river there, the Border Patrol also engaged in selective enforcement against three immigrant-serving nongovernmental organizations (NGOs) (homeless shelters and legal services, two of which were church-related)—a tactic that was unheard of for the first seven years of Operation Blockade.

The unit's return to traditional, problematic enforcement practices of trying to determine the different citizenship and immigration statuses of area Hispanic residents in poor communities—mainly in new outlying areas and selectively within the city—led to familiar human rights problems of harassment, intimidation, and even one highly suspect (at best) shooting death of an unauthorized immigrant by Border Patrol agents. The overall human rights situation did not reach the depths of the Bowie lawsuit era, but it did worsen compared to the mid- and late 1990s. And in turn, from this new pattern of abuses arose new organized efforts to challenge them, led by the Border Network for Human Rights. While the El Paso Border Patrol gradually became relatively

responsive to the latter's concerns and reined in some of the problems, the overall enforcement picture that emerged was far from the previous nearly single-minded focus on deterring and displacing unauthorized border crossings that was the centerpiece of Operation Blockade, and it was even further from the unit's new high-priority antiterrorism mission. On a different note, a new human rights problem for the El Paso Border Patrol sector emerged as well, that of border crosser deaths in the desert, which grew from an average of zero–two such deaths per year sectorwide prior to 2000, to an average of 18 per year in the first half of the new decade in just the southern New Mexico portion of the sector. Perhaps the significant increase (30 percent from 1999 to 2005) in the number of El Paso Border Patrol agents enabled this combination of activities that maintained previous efforts while expanding into new and problematic “old” ones.

These problems coincided with the end of some formal, federal court oversight of the El Paso Border Patrol with the expiration of the Bowie settlement in 1999, which, combined with new border enforcement urgency in the post-9/11 era, seems to have left the unit with a much freer hand in determining its enforcement efforts. Perhaps not surprisingly, the unit lapsed into some of the problematic tactics common before Operation Blockade, though still on a smaller scale in the city and more focused on outlying areas. The new antiterrorism mission also enabled the El Paso Border Patrol to make use of military ground troops on a significant scale for the first time in eight years in 2005 (including several hundred in tanklike, armored Stryker vehicles), and for the very first time to do so while explicitly focusing on immigration enforcement as its top priority (rather than drug enforcement spilling over into immigration enforcement)—under the auspices of the military's new Joint Task Force–North. The same antiterrorism rationale was a key part of the inspiration for vigilante-like “minutemen” and others to “guard” the border in 2005. Though the fear of terrorist infiltration is understandable in the post-9/11 era, the new approach was quite ill-founded and a rather blind approach (I take this issue up in my concluding chapter).

In conceptual terms, these developments are yet another phase in the impact of the Border Patrol as a powerful bureaucracy on its surrounding social environment (Perrow 1986, 2000), particularly in its adverse impact on human rights for some of the most subordinated people (Hispanic residents of targeted poor, outlying communities, and immigrants making use of targeted El Paso NGOs). The rise of a new human-rights-based organized opposition to challenge the agency is part of

the ongoing, dynamic, though unequal, relationship between it and its subject population. Specifically, the Border Network for Human Rights (succeeding the Border Rights Coalition) built an impressive web of human rights advocates, organizers, and local groups in at least nine outlying communities to document and challenge rights abuses, especially by the Border Patrol, and the latter became responsive to their concerns, while the rights abuse problem shifted more to local police collaborating with the Border Patrol.

Together, the BNHR and its allies—several targeted immigrant-serving NGOs, the Catholic Church, and others—appear to have followed the model of seeking change “within and between” institutions and organizations (Freidland and Alford 1991). They sought change in the Border Patrol through approaches rooted in federal law (e.g., the Fourth Amendment), international human rights, religious morality, and even approaching local governments (to monitor abuses by the unit). The Border Patrol faced the most serious opposition to its excesses since the border wall debate of 1993–1995, and one that was more similar to (yet also distinct from) the broader, community-based opposition that coalesced around the Bowie lawsuit in 1992–1993.

While Border Patrol rights abuses and enforcement excesses did not go unchallenged, they can be interpreted as a form of “social triage” (Sjoberg 1996), in that the normal operation of a powerful bureaucracy led to the writing off, and at times even repression, of the dignity and well-being of some members of very disadvantaged groups. Residents of Hispanic appearance in poor, outlying communities (particularly *colonias*) targeted by the Border Patrol faced this, but with the BNHR’s assistance, they were able to successfully challenge it. Human rights were also disregarded in the intimidating surveillance of several immigrant-serving NGOs (two of which were church-related) and repression of their clients (in the form of a warrantless raid, unjustified deportations, and even one shooting death), all with no accountability or penalty. That is, the rights of both nonmembers of U.S. society (undocumented immigrants) and members (citizens and legal residents) suspected of being nonmembers were infringed upon, and sometimes worse, solely because of their ethnic appearance, residency in an outlying community (typically not close to the border), or use of NGO services within the city. Moreover, during the new decade unauthorized border crossers were more likely to die in remote desert areas due to environmental-exposure causes, having been forced into taking greater risks by heightened border enforcement elsewhere. It would seem their rights were expendable, at the least.

The involvement of both civilian vigilante-style militias and armed military ground troops (with quasi-tanks) in immigration enforcement, rationalized in part by the antiterrorism imperative, seems rife with potential for human rights problems, especially if either “force” comes into direct contact with an unauthorized border crosser or a citizen or resident they mistake for one. We need only recall the 1997 Marine shooting of a teenage Hispanic U.S. citizen in Redford, Texas. Taken together, these measures and practices by the El Paso Border Patrol and its allies amount to the sacrificing of the rights and well-being of selected portions of subordinated, vulnerable groups by a powerful bureaucracy, or at least their exposure to greater danger—i.e., social triage.

Finally, we can see in these events the ongoing tension between the citizenship-nationalistic framework of rights and the human rights perspective. The Border Patrol’s continuing enforcement efforts in all the various locations are predicated on upholding the citizenship-nationalistic approach, in which the nation-state determines who shall be admitted and who shall have what rights (Soysal 1994; Jacobson 1996; Sassen 1998, 2002). The events of September 11 further reinforced the citizenship-nationalistic framework, obviously manifest in the formation of the military’s Joint Task Force–North, with its anti-terrorism mission to find “suspected transnational threats” along the border, which has brought it into immigration enforcement. And in the nationalist-citizenship approach the rights and well-being of non-members are strictly a secondary concern, as at times are those even of minority group members, to protecting the nation-state and upholding its power (Eschbach et al. 2001b). This is reflected in the “social triage” noted previously that affected both officially nonmember unauthorized immigrants and Hispanic members (citizens and legal residents) who were incorrectly deemed “suspects.”

Challenges to the Border Patrol’s enforcement excesses since 2000 have been based more in a broad human rights perspective than similar challenges during the Bowie lawsuit era, which were squarely based in the citizenship-nationalistic framework. Specifically, the BNHR used and promoted awareness of not only U.S. civil rights, but also international human rights, and (unlike the Bowie lawsuit) has not based its advocacy on victims’ immigration status. Rather, the BNHR represented and organized undocumented immigrants as well as citizens and legal residents. The same broader view of rights was at least implicit in challenges by faith-based activists and others to the selective NGO targeting and repression of their unauthorized (or marginally authorized)

immigrant clients. This fits Turner's (1993) observation that it is the extragovernmental nature of human rights that is crucial to their utility in challenging governmental abuses. The human rights perspective also played the vital role here noted by Sjöberg and colleagues (2001), that an alternative, universal standard is necessary to evaluate and challenge questionable (and worse) practices by powerful bureaucracies that are effectively above reproach under the nation-state's guidelines. The critique of the growing border death issue is similarly based, as none are calling it illegal under U.S. law, but rather it is seen as at odds with a broader humanitarian ideal. While the human rights perspective certainly has less influence than the citizenship-nationalist framework, it has played an important role, and it may contain the kernel of organizational accountability and policy reform.

CHAPTER 7

Conclusion

My purpose here is twofold: to summarize my main findings in light of the key concepts I have used to frame my study, and to then discuss the findings and their implications in broader terms with an eye toward policy changes. Operation Blockade/Hold-the-Line marked a profound change in U.S. Border Patrol enforcement efforts along the U.S.-Mexico border, and though its origins lay in a reaction to civil rights abuse claims (largely rooted in a citizenship-nationalistic view of rights), profound human rights problems ensued once it became the model for border enforcement—most glaringly, more than 4,600 recorded deaths of unauthorized border crossers from 1994 to 2007 (Cornelius 2006, 5–6; 2005; U.S. Government Accountability Office 2006, 16; McCombs 2007b; McConahay 2007; Rubio-Goldsmith et al. 2006; Associated Press 2007a; see also Eschbach et al. 1999, 2001a, 2003; Cornelius 2001).¹ Thus it bears close examination if we are to learn key lessons, understand contemporary border enforcement, and craft better policy.

Operation Blockade was indeed a historic turn in U.S. border enforcement, setting the standard for Border Patrol enforcement doctrine for the ensuing decade and beyond. However, it cannot be fully understood unless seen in the local context that spawned it. Moreover, the twists and turns in border enforcement in the El Paso sector before and after illustrate a number of larger issues, both theoretical and policy-related. One key conceptual point is that the data in this study can best be understood as part of the dynamic, unequal relationship between the Border Patrol as a bureaucratic power structure and its surrounding social environment (Perrow 1986, 2000), especially the unit's "subject population" (Heyman 1995) and efforts to increase their rights. Further, much of this can best be understood as revolving around two competing

views of rights, the citizenship-nationalistic framework (Soysal 1994; Jacobson 1996; Sassen 1998, 2002, 2006) and the human rights perspective (Turner 1993, 2002, 2006; Sjöberg and Vaughan 1993; Sjöberg 1996; Sjöberg et al. 2001). Both provide an important means to heighten public accountability of this problematic bureaucracy, but with significant limitations, especially in the case of the citizenship-nationalist view.

Prior to the Bowie lawsuit of 1992, there was a very one-sided, extremely unequal relationship between the Border Patrol and its “subject population” in El Paso—i.e., those over whom the unit exercised its authority, namely people of Hispanic (mainly Mexican) appearance, especially in lower-income neighborhoods near the Rio Grande, which included the intended “target” of unauthorized border crossers but also Mexican immigrant legal residents and Mexican American citizens. The unit had vast discretionary authority and virtually no oversight, leaving the “subject population” highly vulnerable to abuses and kept in check both by a lack of information about their rights and by the fear of retaliation, especially deportation of themselves or family members. The Bowie lawsuit altered this relationship profoundly, as a historic, successful, and collective challenge to rights abuses committed by Border Patrol agents on and around Bowie High School in South El Paso against Hispanic students and on occasion even staff members. It was a classic heroic struggle of an underdog against unjust bureaucratic authority—Hispanic students and staff from a poor, marginalized area (and their rights advocacy allies) taking on the arrogant, abusive, and capricious Border Patrol led by an Anglo “old school” chief. The plaintiffs had to overcome many barriers and much history to air long-standing grievances and seek formal redress in federal court, particularly their fear of retaliation and sense of fatalism. The federal judge’s preliminary decision in late 1992 validated their abuse claims and also imposed a significant limit on the Border Patrol’s authority by forbidding enforcement against suspects solely on the basis of ethnic appearance (i.e., Mexican, Central American, or Hispanic more broadly)—effectively prohibiting ethnic profiling. This effort by the “subject population” and its allies, validated by the judge, put the unit on the defensive for perhaps the first time, and it served notice that the days of a one-sided relationship were over. They did it by playing off the clashing norms and practices of one institution (the federal courts) against those of another (the Border Patrol) to seek change (Freidland and Alford 1991)—i.e., judicial review and external oversight in a democracy versus a rigid, closed, undemocratic bureaucratic hierarchy.

This historic Bowie lawsuit was clearly set within the citizenship-nationalistic framework of rights, seeking the civil rights of plaintiffs in a federal court, which was certainly the most plausible (if not only), accessible venue and approach to seek formal recognition and redress. A nascent effort to further mobilize community members on rights issues that had the potential to challenge or broaden the lawsuit's conventional rights framework was eschewed at the request of the lawyers. The lawsuit went even further in embracing the citizenship-nationalistic framework in taking abuse claims only from U.S. citizens and legal resident immigrants, and excluding abuse claims from undocumented immigrants and other unauthorized border crossers—for whom many types of abuse, especially physical, were also illegal—in order to create a sympathetic group of plaintiffs (as legitimate members of society). Yet this political tactic heightened preexisting divisions between the groups (see especially Vila 2000, 2003b, 2005) and further marginalized those without secure legal standing. In fact, the plaintiffs expressed some hostility toward unauthorized border crossers and even suggested several key measures to more narrowly target border enforcement against them (e.g., repair the border fence and place agents directly on the river levee at the border), to thereby reduce the spillover of border enforcement scrutiny and rights abuses onto themselves as legitimate members of society.

This case certainly fits Sjoberg and colleagues' (2001) definition of human rights as social claims on organized (bureaucratic) power to advance human dignity, respect, and equality. However, it was significantly restricted in that the Mexican American citizen and legal resident Mexican immigrant plaintiffs were essentially arguing for a limiting of the bureaucratic "social triage" against themselves—i.e., the disregarding/writing off of *their* rights by a bureaucratic power structure (Sjoberg 1996; Sjoberg and Vaughan 1993)—and instead calling for that problematic bureaucratic power to be aimed at unauthorized border crossers, a more deserving target in their view, and certainly a more disadvantaged group. This is quite consistent with Heyman's (2002) contention that the power of citizenship, in which Mexican Americans struggled so long to be fully included due to Anglo racism that rendered them "anticitizens," limits Mexican American transborder ethnic identification and empathy with unauthorized Mexican immigrants.² The El Paso case study also resonates with the point that citizenship status differences can serve to create an antagonism between distinct Latino groups who tend to differ in that status (e.g., Puerto Ricans and Mexican immigrants; see

De Genova and Ramos-Zayas 2003), though in this case the parties share the same country-of-origin heritage. While some involved with the lawsuit hoped positive results would trickle down to all immigrants and residents, regardless of legal standing, the logic of the case and its specific critiques went in the opposite direction. Still, the 1992 lawsuit and its formal settlement in 1994 were historic achievements in both validating long-standing claims of rights abuses by Border Patrol agents against Mexican Americans and legal Mexican immigrant residents, and in establishing formal, local, external judicial oversight (for five years) over the El Paso Border Patrol for the first time, each of which limited the unit's vast discretionary authority.

Operation Blockade, begun in September 1993, was the next phase in the relationship, in which the Border Patrol reasserted its dominance in the surrounding social environment (Perrow 1986, 2000), and especially over the loosely organized opposition led by the Border Rights Coalition that had successfully challenged its enforcement excesses. The new El Paso Border Patrol sector chief, Silvestre Reyes, understood far better than his predecessor the importance of seeking public support and how to do it. He immediately met with representatives of many sectors of the public, including the organized opposition. He responded to the latter's critique by incorporating some of the exact alternative enforcement measures they had called for in the Bowie lawsuit—fence repair, a massing of agents and enforcement resources along the river to discourage unauthorized border crossers from trying in the urban area. Chief Reyes implemented these measures, however, on a far wider scale than contemplated by critics, with four hundred agents spread along twenty miles of river. But in 1995 Chief Reyes claimed to have implemented Operation Blockade at the behest of the unit's critics—a claim the latter vociferously denied. The Bowie lawsuit did not necessarily fully “cause” the operation, as some sort of increased border enforcement was likely in any event in light of the increasing anti-immigrant political climate nationally (Bixler-Márquez 2005, 159), but the lawsuit did precipitate it and profoundly influenced its form and timing. Chief Reyes also drew on his own previous experience with a similar operation in South Texas in 1989–1990, and in this case, in the face of significant skepticism and later opposition from the INS hierarchy. (The INS hierarchy was, nonetheless, opportunistic enough to seize upon the operation as a model for its national Border Patrol strategy the following year, and especially for Operation Gatekeeper in California, a response to the rapidly growing anti-immigrant sentiment there [Nevins 2002].) In doing so, he

decisively brought the unit off the defensive to place it in a dominant political position, strikingly resetting the terms of border enforcement on vastly more favorable terms, and thereby severely marginalizing the unit's local critics.

In this process Chief Reyes drew upon “myths and symbols” to bolster his organization (Meyer and Rowan 1991). He successfully made the case that the operation was a huge success, and won overwhelming public support, despite rather mixed actual evidence in the short and medium term. Most important, he cleverly invoked a powerful local “myth”—that most crime in El Paso was committed by unauthorized Mexican border crossers—to frame the operation largely as a means to lessen street crime and deviance, and not solely to reduce illegal border crossing as an end in itself. Likewise, his repeated references to diminishing the presence of prostitution and transvestites on the streets also constituted the manipulation of provocative gender symbols to mobilize support for the operation. This framing worked because it resonated well with the wider construction of unauthorized immigrants as an ultimate “other” who could be scapegoated for a wide array of social problems (crime in this case). As noted by Nevins (2002), this type of construction of the “other” was central in the case of Operation Gatekeeper in San Diego in 1994. Border Patrol apprehension statistics constituted another important symbol (this one institutional) to show the operation's success. The sharp drop in apprehensions (72 percent the first year) was said to mean fewer unauthorized crossers.³ However, data for the crime and apprehensions drop were not so clear-cut, especially the former, even in the early months. Crime had been dropping in the two years prior to the operation (after peaking in 1990), though it dropped more so after the operation started (Bean et al. 1994). Yet crime fluctuated in quite a mixed fashion over the medium term, even in neighborhoods near the border that should have been the most affected by the operation. Apprehensions rose significantly in the second and third years to something nearing three-quarters of the annual average for the years leading up to the operation, before declining again—but they were taking place in outlying peripheral areas and gained less attention.

Nonetheless, the positive first impressions of success on these issues—often based on sketchy evidence and without much comparative perspective—remained strong over time and with frequent repetition by Border Patrol officials. The loosely organized opposition to the Border Patrol's enforcement excesses, meanwhile, was left reeling as rights abuses dropped. Even so, opposition members mobilized some of their

own symbols to mildly critique or at least question the operation, including Catholic religious moral rationales forcefully presented by three area archbishops, the importance of growing cross-border economic relations, and social science tools to probe the anticrime rationale of the unit. However, these fell far short of the Border Patrol, and the unit's public relations prowess, which even included enlisting Santa Claus.

On the whole, my evaluation of the operation's effectiveness in the first several years is less critical than Maril's (2004, 162–168, 266–271) assessment of Operation Rio Grande (begun in 1997) in South Texas as a bureaucratic public relations hoax in the eyes of field agents there, or Spener's (2003) contention that Operation Blockade/Hold-the-Line in El Paso, with respect to the unauthorized work or residence of Mexicans in El Paso, was a farce. Like Spener, I do feel the operation was mainly designed to reestablish the badly faltering credibility of the unit in 1992–1993. However, more like Bean and colleagues' (1994) early assessment, I found the operation's impact to be rather mixed overall, not a farce. It had a significant impact in El Paso, but it was certainly not the rousing success it was touted as, and was less impressive as time went on. In contrast to Rosas' (2004, 2006, 2007) observation about the relative (though very dangerous) ease for the local, severely marginalized young people to successfully make unauthorized border crossings through Nogales, Arizona (eluding the Border Patrol's Operation Safe-guard there), such crossings, in my view, were not so feasible in the case of Operation Blockade in El Paso, unless one went outside the city into rural areas. This is due to the additional barriers in the city of the river, swift-flowing canal, and levee, as well as easier detection afforded by flat terrain (in contrast to the hills of Nogales).

The successful framing of the operation early on as a highly effective anticrime measure contributed to its enormous popularity in El Paso across ethnic lines, including among Mexican Americans (Vila 2000, 2003b), which surprised many observers. In addition to its resonance with the anticrime framing, this popularity was also firmly rooted in the citizenship-nationalist perspective. For one of the first times, Mexican Americans and legal resident Mexican immigrants, especially in poorer city areas, were no longer continually scrutinized as objects of enforcement by the Border Patrol, as they had been for decades. This greatly enhanced their security of status in the United States, affirming their membership and recognition as citizens or otherwise legitimate members. The operation provided a public opportunity to express a widely held sentiment, especially among Mexican Americans,

for differentiation from Mexicans, and particularly from unauthorized Mexican border crossers—a sentiment so well documented by Vila (2000, 2003b, 2005).⁴ Rallying behind the Border Patrol's more focused targeting of this "other" provided an ideal opportunity to express this differentiation from "them." That the operation was designed and led by a Mexican American Border Patrol chief was crucial to fending off early charges that it was racist. Citizenship and formal nation-state recognition as a legitimate member (in the case of legal resident immigrants) trumped notions of cross-border ethnic solidarity between people from American families of Mexican origin and current Mexicans of humble means—much as Heyman noted (2002). Of course, the very nature of the operation itself, with its bristling reinforcement of the boundary and hence of national sovereignty, at least selectively (in the affected locations), supports the citizenship-nationalistic view as well.

The next step in the relationship between the Border Patrol and the local opposition to its excesses proved awkward. Chief Reyes' plan for an even more stark reinforcement of the border, in the form of a thin 1.3-mile-long, solid steel fence/wall just west of El Paso, between Sunland Park, New Mexico, and Colonia Anapra (of Ciudad Juárez), showed some of the limits of the Border Patrol's dominance of the surrounding social environment. What in hindsight appears to have been a case of overreaching led to a resurgence of opposition to challenge this provocative new measure. The Border Patrol ultimately prevailed, but not without great effort and even then not entirely, as ultimately a reinforced mesh fence was built instead of a solid wall. The initial framing of the Sunland Park, New Mexico, border wall proposal by Chief Reyes was an attempt to extend the popular Operation Blockade. It not only fell flat, but provoked an immediate hostile reaction, mainly from local elites who recoiled at the symbolism of a border wall (which they likened to the Berlin Wall) that was completely at odds with ever-closer binational economic relations under the recently passed North American Free Trade Agreement (NAFTA). Thus the opposition was rejuvenated, and over time the BRC and more grassroots-oriented types came forward to essentially force the Border Patrol to engage in a vigorous debate, which was framed in competing symbols.

Faced with significant opposition to its wall proposal, the Border Patrol amplified the crime "myth" and other provocative symbols—invoking specters of train robbery, border bandits, and booby traps, as well as an unprecedented public health catastrophe in the event hazardous chemicals spilled due to train derailment—which collectively

overwhelmed the critique of a border wall as harmful to binational relations. (This critique was also undercut late in the debate by the Mexican government's compromise counterproposal for a mesh fence instead of a wall.) Again, the evidence for the Border Patrol's rationales was not completely absent (except in the case of the public health emergency scenario), but mixed at best. However, the spectacular March 1995 bust by Border Patrol and local police of a group/gang caught in the act of stealing train cargo near the border provided a perfect symbol of border disorder and crime—dramatically elevating a long-standing crime problem. This episode became *the* symbol in the Border Patrol's framing of the wall debate—leading to the widespread use of the provocative “border bandits” symbol, frequent references to border criminal gangs, and even portrayals of the area as an out-of-control “Wild West.” Meanwhile, as the debate heated up, the Border Patrol dropped almost entirely the immigration control rationale, which was its original (and real, as announced at the fence approval press conference) motive for the wall proposal.

After nearly two years, the Border Patrol clearly held the upper hand in the debate and had won much support, though still seemingly less than for Operation Blockade. Still, the opposition had reemerged from the post-Operation Blockade depths to successfully contest the issue for a time, once again drawing on the contrasting practices of other institutions, particularly the norms of grassroots democratic activism (petitions, letters, protests, demands for a public hearing, and inducing local government votes against the wall), as well as enlisting the Catholic Church hierarchy and its moral positions on immigration to challenge the bureaucratic authority of the Border Patrol. Yet the unit was able to channel much of this opposition into manageable forms of “administrative involvement” (Selznick 1953), creating the appearance of influence for the public, while keeping the decision-making process strictly internal (a matter to be resolved by the INS commissioner, to whom the El Paso Border Patrol was making its case). Nonetheless, the unit had to settle for a compromise mesh fence instead of a wall, thanks to the heightened opposition, as well as lingering tensions between Chief Reyes and the INS hierarchy.

The wall debate took place almost entirely within the citizenship-nationalistic framework, as it was yet another measure to reinforce the boundary and stress national sovereignty in a particular location. Moreover, the active players in the debate were nearly all U.S. citizens or resident immigrants, very few of whom were likely unauthorized immi-

grants (who typically shun public activism, especially in matters involving the Border Patrol, for fear of deportation). Cross-border collaboration by wall opponents faced many obstacles (especially logistical and political), very much like Staudt and Coronado's (2002, 63) framework predicts. Mexican participation was marginalized until the Consulate's compromise proposal late in the process, though local Mexican political elites in Juárez and poor residents of neighboring Colonia Anapra did make their opposition to the wall known through the press and protests, respectively. Otherwise, the wall was taken as a matter solely for actors on the U.S. side to address, despite its consequences for Mexicans. Human rights concerns were rarely taken up by any actors, though occasionally by the opposition. After the fence compromise was announced, Chief Reyes returned to the immigration control rationale, saying he hoped the fence would force unauthorized border crossers farther west out into the desert—a prospect that obviously would also heighten danger in an unforgiving climate. This suggests bureaucratic “social triage” (Sjoberg 1996; Sjoberg and Vaughan 1993) against a particularly vulnerable group—i.e., writing off their well-being through the exercise of bureaucratic power, in this case forcing them into more dangerous terrain.

A closer examination of the data of human rights abuse by Border Patrol agents over time, in the El Paso sector as a whole, shows a pattern of persistent themes, but a gradual limiting of bureaucratic “social triage” (Sjoberg 1996; Sjoberg and Vaughan 1993) as those whose rights were “sacrificed” shifted away from Mexican Americans in the city and toward Mexican immigrants in rural areas and unauthorized border crossers. While the groups targeted and their location changed, there is consistency across time in the types of rights abuses perpetrated by the El Paso Border Patrol. These include: unjustified and excessive use of force against nonthreatening suspects, especially those who questioned agents' authority; overly broad ethnic group targeting/profiling; enforcement targeting community institutions (two schools and a church); petty meanness and intentional humiliation; claims of super/extralegal authority; suppression of evidence or reports of abuse; and enforced acceptance of such by the not unreasonable fear of retaliation. For decades, much of this abuse was directed toward persons of Hispanic appearance, whether residents or border crossers, in El Paso's poorer neighborhoods near the border, especially the *segundo barrio* around Bowie High School. Many of the incidents verged on the surreal, especially those that came to light in the Bowie lawsuit (e.g., Border Patrol agents pulling a gun

on a nonresisting, unarmed, nonthreatening football coach and two students; agents chasing suspects and sometimes even students all over school grounds and inside the school). In contrast to Heyman's (1995) finding based on agents' views that abuse victims tend to be those who were defiant, I found that most victims were quite passive, though some did question agents' authority or otherwise assert their basic rights. It is hard to imagine such ethnic-focused policing, with bizarre and abusive incidents centered on citizenship (and drug enforcement to a lesser extent), anywhere in the country apart from the border.

While we have no social scientific measure (e.g., survey data based on probability sampling) of the frequency of agents' abuses in this area, several points bear keeping in mind. First, in terms of a wider perspective on the issue, most enforcement encounters were not abusive—as all observers and victims I encountered noted—and rights abuses by police authorities are far worse on the Mexican side of the border. Second and nonetheless, this problematic citizenship- and ethnic-focused policing that was characteristic of some abuse seems to have been common enough to have significantly affected communities. According to informants for this study, this policing lessened outdoor social interaction, heightened suspicions, and undermined community trust, much as suggested by Martinez (presentation to El Paso Border Patrol agents, June 19, 1995). Overall, this sort of scrutiny and sometimes abuse of persons of Hispanic appearance in the border area fits well with Rosas' (2006, 404–405, 413) important concept of “policeability,” according to which unauthorized border crossers, as well as ethnically similar-appearing citizens, legal residents, and authorized border crossers, are subjected to greater scrutiny, heightened surveillance, and occasional violence from the Border Patrol and other border police agencies.

The big human rights changes during the mid- and late 1990s after the Bowie lawsuit and the start of Operation Blockade seem to be a spatial displacement of abuses from the city to more outlying areas, along with some overall lessening of abuses (though not as much as was typically thought). Certainly the Bowie lawsuit and Operation Blockade greatly lessened such abuses (and the conflation of people ethnically similar yet of distinct legal and citizenship statuses) within the traditional enforcement areas of the city of El Paso (e.g., the *segundo barrio*, South and Central El Paso, etc.). However, some such abuses emerged in a couple of rural areas outside the blockade zone, especially in 1994–1995 in two communities (Sunland Park, New Mexico, and Colonia Lejana in east El Paso County), where agents still employed some

of the old roving patrol tactics, overly broad targeting of suspects, and encroachment on, if not targeting of, selected community institutions. Yet, because of their more peripheral location, these abuses were more difficult to monitor and less visible, though some did come to light. When the BRC and other activists publicized them in mid-1995 and a few community members came forward as witnesses, the Border Patrol responded with its traditional angry denial, but also quickly reined in the most questionable practices—once again illustrating the dynamic, though still unequal, relationship between the Border Patrol and its social environment (Perrow 1986, 2000), especially challengers.

The character of the human rights issue also changed to become more indirect (though just as serious, if not more so) under Operation Blockade, as increased hardship for would-be unauthorized crossers became a new theme. This is found in the intended effect of the new Sunland Park, New Mexico, border fence to push would-be unauthorized crossers farther west into harsh desert, the return of those apprehended during the early phase of the operation to Mexico via a distant, rural border crossing (Columbus, New Mexico–Palomas, Chihuahua), and the emergence of several theretofore unheard-of crossing deaths in the desert, accompanied by increased river drowning deaths. Again, most of this was far less publicly visible and more difficult to monitor, and by nature less obvious and more indirect than abusive encounters between agents and suspects. However, Hispanic citizens and residents of any immigration status faced less scrutiny on the streets of El Paso, due to the Operation Blockade deployment tactic of pulling agents out of neighborhood patrolling in the city, for the most part, and instead placing them directly on the river levees and assigning some to more rural, outlying areas, especially near the border. Still, on the whole, the targeting of more marginal and vulnerable groups—whether several outlying, rural communities subjected, as a whole, to “old style,” direct, heavy-handed enforcement or would-be unauthorized border crossers—amounted to the sacrificing of the well-being and some rights of more “truly disadvantaged” groups inherent in bureaucratic “social triage” in the name of bureaucratic efficiency (Sjoberg 1996; Sjoberg and Vaughan 1993).

In the post-2000 period, human rights problems wrought by the Border Patrol expanded significantly in three crucial ways, thereby continuing and deepening the bureaucratic “social triage” process (Sjoberg 1996; Sjoberg and Vaughan 1993) of sacrificing the rights and well-being of the most vulnerable among subordinated groups. First, rights abuses committed by the Border Patrol extended much farther into outlying

poor, largely immigrant communities (especially *colonias*) in southern New Mexico and rural El Paso County—after a post-1995 lull in such efforts—where the unit resumed its troublesome practice of very intensively trying to differentiate the citizenship and immigration status of Hispanic residents. Reports of rights abuses emerged from approximately a dozen rural, poor communities (all located from several to many miles from the border). These reported abuses included intimidation and harassment, warrantless entry of homes, some physical abuse and more verbal abuse, often inflicted via the problematic old tactic of roving patrols and new temporary checkpoints on the edge of communities. Second, within the city of El Paso for the first time since the initiation of Operation Blockade/Hold-the-Line, the unit turned to targeting, albeit selectively, several immigrant-serving nongovernmental organizations (NGOs) and their clients, which led to client intimidation and several deportations, and one highly questionable (at best, and totally unjustified at worst) shooting death of an unauthorized immigrant client. The first two human rights problems resemble “old” (pre-Bowie lawsuit, pre-Blockade) rights abuse patterns and enforcement tactics, and it is telling that they emerged after federal court oversight of the El Paso Border Patrol ended in 1999 with the expiration of the Bowie lawsuit settlement. Finally, a more indirect but lethal human rights problem was the growth in the number of deaths of unauthorized border land-crossers due to apparent environmental exposure (rather than drowning). These deaths jumped to an average of some twenty per year (mainly in southern New Mexico) from an average of zero–two per year during the 1990s, as more unauthorized border crossers were diverted to remote, dangerous desert crossing areas. This problem was much more severe in the neighboring Tucson Border Patrol sector.

Human rights risks were further heightened during the early years of the next decade (in the new century) by two distinct forms of militarization. The first was the use of active-duty military ground troops, for the first time in 2005, to explicitly aid the El Paso Border Patrol in immigration enforcement (rather than drug enforcement spilling over into immigration enforcement), as part of the military’s post-September 11 border-related “antiterrorism” role of seeking out “suspected transnational threats.” In several cases this included using quasi-tank, armored Stryker vehicles for surveillance. (And the same risk would hold for later, in 2006, when six thousand National Guard troops were deployed on the border to aid immigration enforcement—discussed in the epilogue.) Human rights were also put at greater risk by dozens of “minutemen”

and other armed volunteer, civilian-militia vigilantes taking up border observing periodically in the area. Both the military and the militia vigilantes are extremely ill-suited to direct contact with unauthorized immigrants or local residents they suspect. Moreover, the use of the military specifically for immigration enforcement further pushes us down the “slippery slope” toward militarized law enforcement embarked upon when soldiers were brought in during the 1980s and 1990s to assist drug enforcement on the border (see Dunn 1996), which was curtailed after a Marine shot and killed a U.S. teenage goatherd and student near the border in Redford, Texas, in 1997 (see Dunn 1999b, 2001).

The events of the early years of the first decade of the 2000s illustrate not only the sometimes problematic impact of the bureaucratic power structure of the Border Patrol on its surrounding social environment (Perrow 1986, 2000), but also the ongoing dynamic, though highly unequal, relationship between the unit and rights advocates. Most notably, the new upstart Border Network for Human Rights (BNHR) not only educated, but also organized, residents in nine outlying communities to document and challenge rights abuses, mainly by the Border Patrol (though increasingly by local police doing immigration enforcement), and the unit gradually became responsive to BNHR concerns and reined in some of its more questionable practices. On the whole, the BNHR and immigrant-serving NGOs made meaningful human rights gains by seeking change “within and between” institutions and organizations (Freidland and Alford 1991), by drawing on U.S. law (e.g., the Bill of Rights), as well as international human rights standards, religious morality, and even local government councils, to monitor and challenge the Border Patrol’s enforcement excesses. This exemplifies Sjöberg and colleagues’ (2001) view of human rights as social claims on organized power to further human dignity.

In the citizenship-nationalistic perspective, in which the rights of immigrants are highly conditional and very limited (Soysal 1994; Jacobson 1996; Sassen 1998, 2002, 2006; Eschbach et al. 2001b),⁵ these post-Operation Blockade rights abuses would be more tolerable, because citizens and legal residents were less the target (though some were still caught up in enforcement efforts in outlying areas), and the victims were more likely to be unauthorized border crossers. In this framework’s zero-sum view of rights, the latter’s loss in human rights is the former’s gain in the meaning and value of citizenship (or at least of nation-state authorization of residence as a legal immigrant). The increased hardship and even death of unauthorized border crossers, while tragic, are

entirely legal, and can really only be widely critiqued or called into question using a human rights framework holding that human rights are unconditional. This provides an alternative standard for the protection of human dignity and life (Sjoberg et al. 2001) against which to judge enforcement measures that are quite legal, and some even encouraged, under U.S. law; such is not possible under the citizenship-nationalistic framework. Ironically, an El Paso Border Patrol agent acknowledged as much, saying, “We’re supposed to be a civilized society. If we see someone drowning or in need of any kind of medical attention, we don’t ask about citizenship first, we immediately help them. . . . You cannot put a value on human life. I don’t care where they’re from . . . and it’s a sad commentary on society when people try to do that” (as cited in Self 1998). He said this in response to complaints about a new Border Patrol rescue effort for unauthorized border crossers, and especially its cost, from El Pasoans, Anglo and Hispanic, who protested that the safety of unauthorized border crossers was not worth the money or effort to protect, thereby showing their deep commitment to the citizenship-nationalistic framework and conditional view of rights.

In the early years of the first decade of the 2000s the citizenship-nationalist view of rights was largely reinforced but also challenged, particularly informed by a broader human rights perspective. The more restricted view is not surprising in the aftermath of the September 11, 2001, terrorist attacks and ensuing wars. The Border Patrol added a national defense mission by making antiterrorism its top priority, and eventually received some military support for that. Nonetheless, there was a great deal of continuity in the pre- and post-9/11 periods, as the unit made only relatively small changes in its tactics and few, if any, in its strategy. Operation Blockade/Hold-the-Line remained the model for the core strategy (i.e., “prevention through deterrence”), formalized in the National Border Patrol Strategy for the Southern Border (Office of Border Patrol 2004), though a few new procedures were added (additional agent training, wider information sharing, and radioactive materials detection). (This pre- and post-9/11 continuity in the El Paso Border Patrol’s efforts is not unique, as the same was found by Maril [2004] and Spener [2004] regarding Border Patrol enforcement in South Texas during the pre- and post-9/11 period, and more broadly borderwide by Payan [2006].⁶)

At the same time, some key El Paso Border Patrol activities had nothing to do with antiterrorism (or even the “prevention through deterrence” Operation Blockade strategy). The previously noted problematic

focus on Hispanic residents in outlying, poor residential communities and the selective targeting of NGO immigrant-service providers within the city of El Paso—which, absent specific intelligence otherwise (and none was ever mentioned), would be extremely unlikely to have any relationship to terrorism. Rather, it seems that a boost in resources (e.g., a 30 percent increase in agents), combined with lack of meaningful oversight, allowed the unit to lapse back into troubling practices, rife with potential for human rights abuses, in the process of scrutinizing the citizenship and legal status of poor Hispanic residents—now mainly in outlying areas. This is an implementation of the citizenship-nationalistic view on rights in one of its most problematic forms, in which the rights of some vulnerable, marginalized groups are sacrificed, including even those of some Hispanic citizens and legal resident “suspects.” However, the human rights perspective was also evident in the work of the BNHR and other rights advocates, as they no longer were so squarely focused only on violations of U.S. law and U.S. civil rights, but also international human rights norms, as well as broader humanitarian concerns. This eclectic approach, though still nascent, at least potentially provided a stronger footing from which to construct challenges to Border Patrol (and other) immigration enforcement excesses, especially because an unconditional view of rights lends itself more readily to critiques of a wide range of measures that undermine human dignity, even those considered legal under U.S. law.

At a more general level, the El Paso case demonstrates that a nearly untouchable bureaucratic power structure with vast discretionary authority to dominate the surrounding social environment (Perrow 1986, 2000), especially its “subject population,” can be forced by the organized efforts of the latter to respond, and that in place of unchecked dominance, a more interactive and dynamic, though still unequal, relationship between them can be established. Further, once made responsive, powerful bureaucracies will draw on “myths and symbols,” especially those resonant with local prejudices, to create a plausible “other” as an object for control, and thereby (re)build its local legitimacy. Most notably, this case study shows that the powerful bureaucracy can be compelled to modify its more problematic practices (not just rhetoric) that impinged upon the rights of the subject population. This is not full democratic accountability, but it is a huge, historic step forward in that direction in the case of the El Paso Border Patrol.

This was accomplished largely through the use of a citizenship-nationalistic approach by the more secure, relatively privileged elements

of the subject population, who essentially took a conditional-rights view themselves in arguing that violations of their rights were wrong because they were citizens or legal resident immigrants—leaving the implication that mistreatment of unauthorized immigrants and crossers was not wrong. Thereafter, Border Patrol efforts were more focused on the latter, more subordinate group, and any mistreatment, hardship, or rights violations against them were both far less visible and often more indirect, and thus far more difficult to challenge. The vast majority of El Pasoans, across ethnic lines, were quite willing to see enforcement directed at the excludable “other,” and occasionally some would even actively call for the latter’s well-being to be sacrificed. This conditional-rights view was tempered somewhat by new activism from 2000 through 2005 taking up a broader human rights approach, especially that of the BNHR, in challenging Border Patrol enforcement excesses in poor outlying communities and against several immigrant-serving NGOs within El Paso.

As border enforcement efforts shifted to more starkly and symbolically reinforce the literal international boundary, and hence national sovereignty, and as those measures generally left alone city residents and neighborhoods, the measures became more popular among El Pasoans and the grounds to challenge them far weaker. The exception was the border wall proposal, which crossed some symbolic limit in the minds of many. Still, during the mid- and late 1990s, critiques and challenges based on the rights, dignity, and well-being of the subject population receded, as enforcement was more limited to the unauthorized crossers and instances in which Hispanic citizens and legal residents were also adversely impacted shifted to more remote locations. This trend was countered somewhat with the new rights activism based in those outlying areas during the 2000–2005 period, as it was characterized by a broader view of rights. This nascent effort fits Sassen’s (2002, 2006) notion of “denationalized citizenship,” with rights being extended to noncitizens, including undocumented immigrants. However, the bulk of the data in this study shows that citizenship and rights, for the most part, remained firmly nationalized and bordered—and especially distant for undocumented immigrants. A key related lesson is that the citizenship-nationalistic, conditional view of rights leaves very little room for the critique and challenge of border enforcement practices that are quite legal under national law but still cause harm or undermine the basic dignity of unauthorized members of U.S. society or crossers—a key feature of contemporary border enforcement, particularly shown in the growth of border crosser deaths.

Overall, the human rights findings and conceptual analysis in this study fill a significant gap in the human rights literature related to immigration (noted in the introductory chapter). Much of the existing literature tends to adopt an approach that is fairly abstractly theoretical, philosophical, or legalistic (e.g., grounded in international human rights law) (e.g., see Pécound and Guchteneire 2006; Bustamante 2002; Mattila 2000; Goodwin-Gill 2000; Hernandez-Truyol 1997; Nagengast 2002) or instead take a much more empirical approach (often quantitative, presenting human rights data that are rather distant from the victims) and offer little conceptual analysis, though often containing key policy suggestions (e.g., see Rubio-Goldsmith et al. 2006; Cornelius 2005, 2001; U.S. Government Accountability Office 2006; Eschbach et al. 2001a, 1999; Koulis et al. 1994; Santibáñez et al. 1993; Falcón 2001). There are also a few studies on contemporary activist efforts to challenge human rights abuses in border enforcement (e.g., see Hagan 2007; Menjivar 2007; Hondagneu-Sotelo et al. 2007), a topic that will undoubtedly grow in the future. I have brought forth data that vividly relay abuse victims' experiences, as well as activist groups' efforts to challenge such abuses and other enforcement excesses, and then analyzed these in light of select concepts from more abstract human rights work (and citizenship and bureaucracy theory concepts). Admittedly, much more needs to be done, and I hope this study inspires others to take up further work on the topic drawing on all approaches, and to incorporate human rights concerns, broadly defined, into more border and immigration research.⁷

The troubling human rights findings in this study are not unique. Unfortunately, a host of human rights groups throughout the 1990s recorded repeated offenses committed by the Border Patrol along the Southwest border, including beatings and physical abuse, shootings and inappropriate use of firearms, sexual assault, inhumane detention conditions, denial of due process, false deportation, illegal and inappropriate searches and seizures, destruction of property, verbal and psychological abuse, and reckless high-speed chases (Immigration Law Enforcement Monitoring Project [ILEMP] 1990, 1992, 1998; Americas Watch 1992, 1993; Human Rights Watch/Americas 1995; Amnesty International 1998; U.S. Commission on Civil Rights 1997). One piece of in-depth investigative journalism (McDonnell and Rotella 1993) found that some Border Patrol agents complained about supervisors who tolerate and even encourage abusive practices, and concluded that “[physical] abuse is deep-rooted in the Border Patrol culture, according to some veteran agents.” It is important to reiterate that I am not intending to imply that

most enforcement encounters were abusive, but rather that there were serious problems that remain unaddressed.

The recurrence of evidence of similar types of physical abuse over sustained periods of time suggests the existence of something of an organizational pattern, though as noted previously the necessary data to accurately determine the frequency of abuse do not presently exist. However, other studies addressing the issue in other border areas have found mistreatment in border enforcement (mainly by the Border Patrol) occurring among 10 percent of respondents in South Tucson, Arizona, and 6 percent of those in South Texas (Koulish et al. 1994), while in Tijuana during 1991 some 5.9 percent of 5,400 deported/returned undocumented immigrants experienced “injuries or abuses of authority by the Border Patrol” (Santibáñez et al. 1993). While such frequency-of-abuse measures are lacking in the El Paso case, the data covered in this study indicate that the level of harassment and abuse was enough to send a distinct social chill through the life of the affected communities, from discouraging people from going outside to more broadly disempowering schools, churches, neighborhoods, and families where residents’ rights were too unknown and unexercised, especially before the Bowie lawsuit and even after it in outlying areas until the early years of the first decade of the next century. Much of the time people felt they had little alternative but to accept such conditions, owing to a fear of retaliation rooted in the vast discretionary authority of the Border Patrol to detain and deport immigrant family members, and of other INS officials to rescind their legal documents. And whatever the frequency of their occurrence, rights abuses committed by U.S. border enforcement agents are unacceptable for a nation that considers itself to be a worldwide beacon of democracy and freedom.

With the advent of the new regime of blockade-style operations beyond El Paso at key points borderwide since the mid-1990s (Operation Gatekeeper in San Diego, Operation Rio Grande in South Texas, and Operation Safeguard in Arizona), the most pressing human rights concern to emerge has been the sharp rise in border-crossing deaths among unauthorized border crossers, especially due to environmental hardship factors as crossers have been pushed farther into remote, outlying areas of desert and mountains, especially in Arizona. The annual borderwide total of unauthorized border crosser deaths more than doubled from 200 in 1994 to 473 in 2005 and 453 in 2006 (U.S. Government Accountability Office 2006, 16; McConahay 2007; McCombs 2007b). In Arizona those deaths jumped nearly twentyfold from 1998 to 2005, with the large Tuc-

son sector accounting for nearly half of all such deaths borderwide by 2005; from the late 1990s onward, heat exposure was the leading cause of death borderwide (U.S. Government Accountability Office 2006, 6). As observed at the outset of this chapter, more than 4,600 unauthorized border crossers died from 1994 to 2007 (Cornelius 2006, 5–6; 2005; U.S. Government Accountability Office 2006, 16; McCombs 2007b; McConahay 2007; Rubio-Goldsmith et al. 2006; see also Eschbach et al. 1999, 2001a; Cornelius 2001). While this problem was not a major one in the El Paso sector during the early years of Operation Blockade, it has grown in recent years. Moreover, it does not take great insight to have foreseen that the strategy of deterrence of unauthorized crossings in key urban areas and displacing them to remote, less guarded areas—the heart of Operation Blockade/Hold-the-Line and the subsequent national Border Patrol strategy of “prevention through deterrence”—was likely to lead to increased migrant mortality once applied more broadly along the border. (Moreover, as Maril notes [2004, 205–206], the general deterrence theory that underpins the Border Patrol’s “prevention through deterrence” strategy [though it was always applied selectively] was a shaky foundation upon which to base border enforcement.⁸)

Border Patrol and INS officials felt that the harshness of the conditions in outlying areas would not only heighten crossing difficulties, but would also lead to fewer people making the attempt to enter illegally—i.e., that it would lead to further deterrence and not just displacement. Then-INS Commissioner Doris Meissner said in 2000, “We did believe that geography would be an ally to us. It was our sense that the number of people crossing the border through Arizona would go down to a trickle once people realized what it’s like,” which she acknowledged had failed to happen (Borden 2000). The harshness of the desert did not deter crossers; it just sharply increased the number who died trying to cross (by a factor of twenty in Arizona, while more than double borderwide; see U.S. Government Accountability Office 2006). Another outcome of the deterrence-displacement border enforcement strategy pioneered in El Paso is that the resident population of undocumented immigrants in the United States has jumped from an estimated 3 million or so in the early 1990s to some 11.5–12 million by 2005 (Passel 2006). Once across the border, they stay longer and do less circular migration, especially Mexicans, and the propensity of the latter to engage in unauthorized immigration has been unchanged by the new border enforcement regime (see Massey et al. 2002; Massey 2005a, 2005b; Cornelius and Salehyan 2007; Reyes et al. 2002; Fuentes et al. 2007). This

is not due to a shortage of resources, as the budget of the Border Patrol shot up 646 percent from 1993 to 2007, reaching \$2.7 billion, and the number of agents nearly quadrupled, to some 15,000 (Ewing 2006, 4, 5; White House Office of Management and Budget 2007, 5). One result is that the cost per apprehension has jumped enormously—some 467 percent from 1993 to 2002 (Massey 2005a, 2005b)—as apprehensions have remained roughly the same (with some fluctuations).

Thus, while the strategy has rendered unauthorized border crossing less visible (Andreas 2000), at great cost in resources and human life, it has not greatly affected the substance of the issue. Though this approach has made it more difficult and dangerous to cross illegally, it has failed to deter unauthorized immigration overall (though it has had some successes in key areas). However, the (selective) implementation of the “prevention through deterrence” strategy has increased and redistributed some of the hardships and human rights failings inflicted in border enforcement, shifting them more onto unauthorized border crossers and Hispanic residents of rural, outlying areas (of various legal statuses) and away from citizens and legal resident immigrants of Hispanic appearance in key urban areas. This is an effective shoring up of the citizenship-nationalistic framework and conditional view of rights, at the expense of the human rights of the most vulnerable. The zero-sum, conditional view of rights has prevailed for the time being.

Broader Implications: What Should Be Done Instead?

Here I take up a “countersystem” approach (Sjoberg, Gill, and Cain 2003) to outline some alternatives to address the current dismal state of affairs. In my view, the current approach to border enforcement and most policy debate about it is entirely wrongheaded, and without profound change it is likely to continue to fail and only increase hardships (and worse). Indeed, border enforcement seems to have become fetishized—an intense focus that diverts our attention and obscures larger, underlying issues that should instead be brought to the forefront.⁹ More specifically, border enforcement problems cannot be resolved solely by focusing on the border (Massey et al. 2002; Massey 2005a, 2005b, 2007; Cornelius 2005, 2006; Ewing 2004, 2006; Payan 2006). Nonetheless, some focus on the border is unavoidable, and I agree with the call by Nevins (2003, 2008), among others (e.g., see Johnson 2008), for open borders as a long-term goal—which he raised as a response to some border enforcement critics

who have called for a return to the pre-1993 border enforcement approach because it caused fewer border-crossing deaths. He rightly takes vigorous issue with that, instead arguing that rights advocates must be bolder, and he calls instead for open borders for people (as opposed to just for trade, goods, and capital). In light of the humanitarian crisis of over 4,600 border-crossing deaths, a call for open borders is justified, and I support it; in terms of alternatives and solutions we can certainly do better than a return to the prior status quo. However, my open borders position is somewhat qualified, because I see some other steps as necessary first, ideally—and those would be likely to significantly lessen the negative consequences of border enforcement, as we work toward the goal of open borders. One fairly simple step that would take some pressure off Border Patrol enforcement efforts would be to allow more legal local border crossing by implementing more realistic, reasonable criteria for local border crossing cards for area residents from Mexico (Spener 2003).

More broadly, however, we must move beyond the fetishization of border enforcement and instead address larger, underlying issues that impact the border and unauthorized immigration taking place there. A place to start, though admittedly overly simplistic, is to address the “push and pull” factors fueling immigration—i.e., those that push so many people to leave their home countries, especially Mexico (source of over half of all undocumented immigrants [Passel 2006]), and those factors within the United States that attract/pull so many immigrants. The chief “pull factor” is strong labor demand in the U.S. economy, far beyond that covered by the number of immigration visas allotted each year, and the overwhelming majority of immigrants come to the United States to meet that demand, to work. However, we can and should also do much more to educate, train, and incorporate into the formal economy disadvantaged native U.S. workers to meet some of this labor demand.

Still, the United States has an aging population and immigrant labor is also needed, and these challenges can best be met by a twofold program. First, we should quickly legalize and recognize the contributions of the some 11 to 12 million undocumented immigrants already living and working in the United States, with some sort of reasonable background screening and avenue to earn permanent legal residency status for those who desire it. Second, we can meet additional future labor needs also by implementing some sort of temporary worker program to enable the hundreds of thousands of new immigrant workers who

now annually enter the United States illegally, to instead enter legally to meet our economy's demand for labor. (For more elaboration and variations on these two proposals, see the well-thought-out versions offered by Massey et al. 2002, 156–163; Portes and Rumbaut 2006, 366–369; Cornelius 2006, 2005; Massey 2005a, 2005b, 2007. Heyman [1998] also offers a very innovative, useful policy suggestion, that “local compacts” [of citizens, employers, and immigrant groups] sponsor immigrants and share related costs.) The bulk of Mexican migration has historically been circular, and many workers only want to come for a few years to work, but some provision should be made to allow those who desire it to earn permanent residency.

Besides changes in immigration policy, reform is also urgently needed in government immigration-related bureaucracies—especially the Border Patrol, for which Maril (2004, 286–305) provides a sensible, basic, and practical list of suggestions. A most urgently needed reform is the expansion of external, independent, public oversight for the Border Patrol (and other border and immigration enforcement bodies) at the local and regional levels (e.g., task forces, councils, etc.) to increase bureaucratic accountability and fairness, as well as open dialogue among diverse actors. Ideally, this would provide a means to enhance human rights and address a host of other concerns as well.

Turning back to economic points, we can do much to improve the quality of jobs for all workers (immigrant and citizen) by dramatically increasing enforcement of a quite different type—that focused on fair labor practices and work safety for all workers (Massey et al. 2002, 162). Likewise, we need to encourage and more fully and formally recognize a broad array of labor organizing and advocacy (e.g., unions, worker centers) to promote worker well-being and limit unfair efforts to repress such. Nongovernmental organizations (NGOs) would be vital in this, along with greater formal legal recognition of workers' rights and related enforcement. This would provide some protection for workers, so that a freer movement of labor would be humanely regulated and not solely weighted in favor of capital. Moreover, it would reduce the ability of unscrupulous employers to engage in extreme exploitation of workers of any citizenship or immigration status, legal or otherwise, particularly as they are more vulnerable owing to a fear of deportation.

Though it will take time and resources, it is just as vital to address the “push factors” in immigrant-sending countries, especially Mexico—i.e., we have to address the reasons why undocumented immigrants come in

the first place, mainly the lack of reasonable opportunities in their home countries. In a broad sense this is also a human rights issue—namely, the ability to decently provide for one’s family, without a lengthy family separation or wholesale uprooting from one’s home. Key steps would be to direct more investment, credit and insurance access, and aid of various types to small- and medium-sized businesses (which provide most jobs) and smaller-scale farmer/peasant operations in the main immigrant-sending regions (Massey et al. 2002, 161–162; Cornelius 2006, 7–8; 2005, 789). These are exactly the actors that have been decimated in Mexico under NAFTA and by other contemporary neoliberal economic policies—as wages have declined, poverty has risen, and over 2 million peasants have been forced off their land (Cornelius 2006, 7–8; Meyerson 2006; Faux 2006; Uchitelle 2007). NAFTA and like policies need to be reconsidered and renegotiated to stimulate better economic opportunities for the middle and lower classes. Immigrants often come to the United States to accumulate earnings for household necessities and investments and do send back vast revenue in remittances (which are the second-leading source of foreign exchange in the Mexican economy). Additional resources from immigrant-receiving and -sending country governments, as well as incentives for private investors to provide them also, could go far toward reducing out-migration pressure (for detailed, commonsense proposals see Massey et al. 2002, 156–163; Portes and Rumbaut 1996, 290–292).

In a broad sense, this is similar to the European Union model, wherein open borders between member countries were preceded by extensive aid and investment transfers from wealthy countries to the poorer ones (e.g., Spain, Portugal, Greece), which transformed the latter from migrant-sending countries to migrant-receiving ones. I would add that experienced grassroots NGOs (e.g., migrant associations, development groups) should play a key role in advising, determining, and administering such development efforts. Further, we should end U.S. support for dictatorships and regimes that grossly violate basic human rights, as well as direct U.S. intervention abroad for undemocratic, non-humanitarian ends (especially in Latin America and the Caribbean), as such have also been key in heightening hardship in sending countries and producing immigration and refugee flows to the United States (Sassen 1998). If these underlying non-border-specific, international political, economic, military, and foreign policy matters that fuel many of the “push conditions” in migrant-sending countries are not addressed and changes not begun, then unilateral U.S. border enforcement by itself

(and probably even broader “immigration reform”) will likely be ineffective in limiting unauthorized border crossing.

Confronting these underlying factors is how to make border enforcement more feasible, lessen human hardship, and let some of the air out of the “balloon” that we are squeezing up and down the border through heightened enforcement in key locations (i.e., displacing the flow of unauthorized crossers, but not lessening it appreciably). While it is utopian to hope that the fundamentals will be addressed on a large scale, some ameliorative steps can certainly be taken and compromises made in the current approach, for it is demonstrably ineffective at a time when new security concerns have raised the consequences of this ineffectiveness. To better manage unauthorized immigration and border security, the current economic model of corporate profits over all else, and the grossly unequal distribution of the benefits and costs of globalization, cannot continue in such an extreme form (e.g., NAFTA in its present version), for this model heightens push conditions that compel so many to become unauthorized immigrants. Moreover, if we create a more realistic, fair, and humane immigration policy that allows more legal entries by labor migrants, especially from Mexico and Central America (which together account for nearly 80 percent of our unauthorized immigrants [Passel 2006]), that will enable much better regulation and screening of who enters than we currently have, and also meet U.S. labor demands in ways that lessen hyperexploitation. Moreover, Massey and colleagues (2002, 2005a, 2005b, 2007) argue that such an approach would also enable saving a good deal of money on Border Patrol efforts.¹⁰

This broader response to the push and pull conditions underlying much unauthorized immigration, though it would require time and a redirection of resources, is the most promising means to reduce unauthorized immigration across the border, and thereby enhance border security—especially if combined with immigration reform (i.e., legalization plus much-expanded visa access). Interestingly, Secretary of Homeland Security Michael Chertoff acknowledged that immigration reform legislation, rather than just ever increasing border enforcement, was a key to securing the border (Gilot 2007g).¹¹ Border enforcement efforts would then have a smaller unauthorized border crosser population to contend with, and would have a much better chance of apprehending those who are some sort of security concern—a very small portion of all present crossers—and who are very difficult to detect among the hundreds of thousands of illegal border crossers each year. For example, the Border Patrol arrests just “hundreds” of people per year in the border

region who are from so-called “special interest” countries (mainly Muslim) that have terrorist groups or governments that might pose a threat to the United States (Office of the Border Patrol 2004, 5–6; see also Ewing 2006, 9)—far less than 0.1 percent of all apprehensions annually at present.¹² Ewing (2004, 9) stated it succinctly; “If finding terrorists really is like trying to find a needle in a haystack, then it is only logical to make the haystack smaller.” The Patrol could also focus on convicted violent felons and others who constitute some significant threat to public safety—though immigrants have low rates of criminal offending.¹³ Also, given that the September 11 hijackers all entered the United States with legal visas—despite many gaping flaws in their visa applications (Eggen 2002)—more careful (but reasonable) screening of visa applicants should be a very high security priority.¹⁴

In contrast, unauthorized crossing of the U.S.-Mexico border is a much less likely (though not impossible, of course) method for terrorist suspects to enter the United States (Mallaby 2007; Beinart 2006). Leiken and Brooke (2006) found that of the 373 Muslim terrorists in North America and Europe from 1993 to 2004, not one entered the United States from Mexico, whereas three had entered or tried to enter the United States from Canada—including the would-be millennium bomber, who was apprehended at a port of entry in Washington state—which also hosts a significant number of terrorists in the researchers’ database, as does the United States (only 3 percent of whom entered the country illegally).¹⁵ They report, “A senior FBI official says that Canada is the most worrisome terrorist entry point, and Al Qaeda training manuals advise agents to enter the U.S. through Canada” (Leiken and Brooke 2006, 513). They conclude, “Our data suggests that the Canadian border deserves top priority. . . . [T]he Mexican border appears to constitute a less serious *national security* danger than the Canadian border or, for that matter, our air and sea borders” (ibid.; emphasis in source). Indeed, a recent Government Accountability Office study found it was remarkably easy to cross the U.S.-Canadian border illegally (U.S. Government Accountability Office 2007a). Entry/infiltration of the United States via illegal border crossing would likely present more potential troubles for a would-be terrorist plotting against the United States than would legal entry.¹⁶ Of course, terrorists could cross the U.S.-Mexico border illegally, despite the disadvantages and lower likelihood, and some who have committed terrorism outside the United States have entered this way, but not for the purposes of attacking the United States.¹⁷ U.S. Intelligence Director Mike McConnell reported in August 2007

that there had been “some” terrorist suspects crossing the U.S.-Mexico border in recent years, though he allowed “not in great numbers” (Roberts 2007b). The only example he would specifically discuss was of a Hezbollah agent from Lebanon who entered in 2001 through an official port of entry hidden in a car trunk (Roberts 2007a).¹⁸ At any rate, good intelligence is a key tactic in preventing terrorism, so a useful approach might be to work with Mexican officials on the border and draw on their extensive knowledge of immigrant smugglers there to gather information on the highly suspicious would-be illegal crossers.¹⁹

At any rate, if we do not take up a broader approach to unauthorized immigration to address the underlying push and pull conditions—along with immigration reform centered on legalization and issuing more visas—those who pose some significant security risk will be intermixed among hundreds of thousand of labor migrants and refugees who pose no threat. The more politically popular approach of ever-heightening border enforcement will likely do little to change that, and even more extreme measures in border enforcement (such as the posting of thousands of troops on the border—like the six thousand National Guard troops announced in May 2006, discussed in the epilogue) probably could not be sustained indefinitely (e.g., due to cost or given the military’s ever-mounting responsibilities). The potential effectiveness of a drastic escalation in border enforcement to limit unauthorized immigration is an open question at best, as it has never been tried borderwide; it is beset with the potential for unintentional adverse consequences for the border region and Mexico more broadly. In the event that such enforcement was successful, where would a borderwide “squeezing of the balloon” displace the hundreds of thousands of would-be unauthorized immigrants who were unable to leave Mexico? Mexico’s stability is already more at risk in recent years, with the hotly contested 2006 presidential elections marred by credible allegations of fraud and massive protests, other unrest (especially in Oaxaca), increasing violence of the drug trade challenging the government, and an economy that still cannot provide reasonable opportunities for most of its citizens. If unauthorized migration were greatly reduced (without reasonable immigration reform opening up legal crossings), Mexico could become more unstable or face any number of adverse consequences (humanitarian and otherwise)—which would no doubt be felt along the border and even by the United States more widely, given that Mexico is our second-largest trading partner and there are 10 million Mexicans in the United States. Thus, if drastically increased border enforcement by itself re-

ally “worked,” it might fail in larger, more important ways that we can hardly anticipate.

In the post-9/11, yet ever-more-integrated, globalized world, I would argue that there is a strong security rationale to instead adopt a more humane, reasonable immigration policy, as well as economic development effective at a grassroots level and a humanitarian U.S. foreign policy toward migrant-sending countries—or what we could broadly characterize as a human rights approach in immigration as well as economic development and foreign policy. The status quo or an escalation of it, centered on a citizenship-nationalistic framework rooted in great fear, will not only be likely to fail to achieve its goals but also continue to leave the United States, as well as immigrants, vulnerable to a broad array of risks—a lose-lose proposition with the potential for worsening losses. A broad human rights approach, ironically, offers the best prospect for enhanced national security at the border and beyond, as well as improved well-being more broadly. This entails reducing undocumented immigration through increased legal immigration opportunities to meet U.S. labor needs (and the legalization of undocumented immigrants already here), really addressing key economic development problems in migrant-sending countries, focusing on the lower and middle classes, and increasing worker protections and organizing in the United States. Moving beyond the fetishism of border enforcement to instead tackle deeper, underlying issues is how to best make the border more secure and manageable—and moreover enhance human rights and build open borders for people rather than just for trade.

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Epilogue

Several themes regarding border enforcement and immigration have emerged at the local and national levels in 2006 and through mid-2007, which I can briefly sketch out here with an eye toward the future. Overall, the fetishization of border enforcement finds ever more expression, while larger, underlying issues fueling undocumented immigration remain mostly unaddressed. At the local level, these themes include the problematic and growing role of the county sheriff's office in immigration enforcement, the growing role of human rights groups in challenging abuses and advocating for policy changes, and the introduction of National Guard troops to aid the Border Patrol and the latter's continued expansion and enforcement activities. At the national level, key themes are immigration policies enacted and considered (i.e., fences/walls—virtual and physical—and immigration reform), the related mass mobilizations, and particularly the deployment of six thousand National Guard troops to the border for immigration enforcement. In broad terms we can certainly see a heightening of border immigration enforcement, immigration restrictionist sentiment, continuing human rights problems that fall decidedly along ethnic lines, but also some important countervailing forces.

The most significant border human rights issue at the local level since late 2005 has been the much-expanded role of the El Paso County Sheriff's Office in immigration enforcement—while the City of El Paso Police Department has explicitly backed away from doing such. In effect, the former has taken up some of the “dirty work” of the Border Patrol, adopting some of its “old” problematic tactics, such as temporary checkpoints in poor, outlying, largely Hispanic communities (particularly *colonias*) and some random patrolling and questioning of

residents, focused in part on immigration (along with a broader array of offenses in this case). While local police involvement in immigration enforcement was present earlier in the decade on a smaller scale (see Chapter 6)—and is a growing trend across the country—it greatly expanded with the introduction of Texas Governor Rick Perry’s “Operation Linebacker.” This effort was begun in Fall 2005 with the aim of having sixteen border county sheriff’s offices provide assistance to the Border Patrol, especially in understaffed rural areas, the rationale being aiding border security—specifically regarding terrorism, violent crime, and drugs. However, data show the operation netted seven times more undocumented immigrants, turned over to the Border Patrol, than arrests of suspects for other crimes during its first six months.

While the El Paso County Sheriff’s Office steadfastly denied engaging in immigration enforcement or racial profiling, the data show it was especially zealous in this endeavor, making nearly one-quarter (1,076) of the total regionwide immigration apprehensions/turnovers to the Border Patrol, while making just four drug arrests (Grissom 2006). Ironically, crime in El Paso County increased during the first year of the operation, though it dropped in the city (Gilot 2007d). Meanwhile, the growing Border Network for Human Rights (BNHR)—with two hundred rights promoters in twenty area communities (Gilot 2007e)—documented a stream of complaints from residents of five outlying, poor communities (mainly *colonias*) about the El Paso County Sheriff’s Office engaging in immigration enforcement (asking people for immigration papers) in stores, homes, and at vehicle checkpoints (including some just outside schools) (BNHR 2006b). These included random stops and questioning of pedestrians and motorists based on ethnic appearance, while immigration enforcement also featured prominently in stops for minor violations or calls for assistance.

The sheriff’s office’s immigration enforcement efforts had a chilling effect in the targeted outlying communities in the county, but also stimulated a burst of organizing to challenge them. Because of the office’s new role in immigration enforcement, immigrants became less willing to contact it to report crime (owing to fear of deportation), thereby making communities less safe and law enforcement more difficult. There were also sharp declines in church attendance and clinic visits for some weeks, as people were afraid to leave their homes (McConahay 2006), no doubt in large part due to the ubiquity of mixed-immigration-status households. Overall, this constituted what Nuñez and Heyman (2007) term an “entrapment process” for immigrant communities. However,

a coalition of rights and area resident groups, including the BNHR, successfully lobbied the El Paso County Commissioners Court (an elected governing council) and the El Paso City Council to pass resolutions calling on local law enforcement to desist from immigration enforcement, and they won the support of other elected officials active in state politics (Staudt 2008). Nevertheless, during Fall 2007, the sheriff's department in neighboring Otero County, New Mexico (just north of El Paso), conducted an immigration raid in the poor, small town of Chaparral (located some thirty miles from the border). It apprehended twenty-eight undocumented immigrants, including twelve from local schools, all of whom were turned over to the Border Patrol for deportation, which sparked protest (Gilot 2007).¹ In addition, several residents and researchers from southern New Mexico reported in late Fall 2007 that immigration enforcement by both Border Patrol and local sheriff's departments had continued at a relatively high level (though there were not raids) throughout the area (field notes, December 2, 2007).

In the spring of 2006, in something of a local political sea change, a series of vibrant pro-immigrant protests swept through El Paso, which sprang up as millions collectively were marching in historic pro-immigrant protests in cities around the country (Portes and Rumbaut 2006, 152–153). As in the protests elsewhere, their principal demand was for the legalization of the millions of undocumented immigrants in the United States and recognition of their and other immigrants' contributions to the United States. They were a vehement rejection of the hyper-nativist/restrictionist Sensenbrenner-King House bill (making felons of undocumented immigrants and those who assist them, and calling for a 700-mile border-long fence/wall) and an expression of ethnic pride. The largest of the El Paso protests reached six thousand people, on Cesar Chavez Day, as established rights and Mexican American groups joined forces with students who had begun the local protests by spontaneously walking out of classes (Gilot 2006e, 2006f). These were the first large-scale, explicitly pro-undocumented-immigrant protests in the city since at least the beginning of Operation Blockade/Hold-the-Line in 1993, and maybe ever. They suggest an ethnic unity across immigration statuses, which contrasts sharply with the previously typical desire for differentiation that the operation had played upon.

The Border Network for Human Rights was one of the groups involved in organizing these historic protests (Gilot 2006g), which it followed up by leading the formation of a new regional coalition, the Border Community Alliance for Human Rights—made up of several

rights advocacy groups in West Texas; southern New Mexico; Southern Arizona; San Diego, California; and Washington, D.C.—to make sure border region views were heard in Washington, D.C., as immigration legislation was considered.² In November 2006 and June 2007, the coalition led two delegations to Washington, D.C. (Gilot 2007f), composed of advocates, rights activists, and several local officials—including El Paso city and county council members, and even the El Paso police chief—to lobby legislators and meet lower-ranking staff at the White House. This bodes well for the interjection of border human rights concerns into national immigration policy debates, which was rarely the case in the past—though it also raises the possible danger of co-optation.

Another local issue that resonated nationally was the use of the National Guard on a large scale to assist the Border Patrol in immigration enforcement. In May 2006 President Bush announced plans to deploy six thousand National Guard troops to aid the Border Patrol for two years (discussed later). At least a thousand National Guard troops were dispatched to the El Paso Border Patrol sector, including nearly nine hundred sent to southern New Mexico (Associated Press 2007c) and at least a hundred in the El Paso area (Gilot 2006a). (In the second year, troop levels in the El Paso sector were to be reduced by half by September 2007 [Gilot 2007h], as well as borderwide.) While relatively little is known about the details of their work in the El Paso sector (or borderwide), they were involved in various activities, including maintenance, administrative help, and barrier construction, but it appears their main focus was surveillance activities (McConahay 2006; Ramirez 2007). Border Patrol officials claim the Guard surveillance efforts were instrumental in the 43 percent drop in the unit's apprehensions in the El Paso sector in the year since the soldiers arrived (Romo 2007). There were no major incidents associated with this through July 2007, as the Guard troops were kept from direct contact with the public by and large. However, the National Guard's surveillance efforts scrutinized not only remote, unpopulated border-crossing areas, but others very near poor, Hispanic communities—making some residents uncomfortable and worse, especially since the surveillance was undertaken in conjunction with the sheriff's office's intensified immigration enforcement in some of the same areas (McConahay 2006). There were some significant objections raised early on by area city councils. That of Sunland Park, New Mexico, voted to deny National Guard troops a right-of-way permit to the religious site Mount Cristo Rey overlooking the town, El Paso, and

Ciudad Juárez (Innes 2006c), and El Paso's passed a resolution against the posting of six thousand troops on the border (Crowder 2006).

Military troops also were active in the area building new border barriers in southern New Mexico, amid legal moves to greatly expand those efforts in the near future. A three-mile fence/wall of fifteen-foot steel pylons (closely grouped) was being built on either side of the Columbus, New Mexico–Palomas, Chihuahua, port of entry during Summer 2007 by a Navy Seabee construction unit (Gross 2007; "Seabees to Build . . ." 2007; Romo 2007). Just west of Columbus, New Mexico, the National Guard also constructed 13 miles of vehicle barriers (roughly waist-high, railroadlike track welded to steel poles) along the border—some 1.8 miles of which were inadvertently placed on the wrong side of the border and must be moved back on the U.S. side (Gilot 2007k). However, this pales in comparison to the approximately 75 miles of continuous border fencing (likely solid, wall-like) scheduled to be built from Columbus to El Paso in the near future—part of 850 miles of new fencing borderwide, authorized under the "Secure Fence Act of 2006" (discussed more later). Meanwhile, the previously established military antiterrorism support unit for civilian police, Joint Task Force–North (JTF-N), located at Fort Bliss in El Paso, continued its work quietly, providing the Border Patrol, which remained its primary partner, a wide range of support—from quasi-tank armored Stryker vehicles for surveillance to border fence/wall construction (Roberts 2006b; Romo 2007)—bringing soldiers into immigration enforcement in the process. In a unique twist, the University of Texas at El Paso hired in Fall 2006 the just-retired commanding general of JTF-N, Brigadier General Jose D. Riojas, to be a "Vice President of Strategic Initiatives" focused on "border security, defense systems, and policy and economic development," and undertook a series of related measures (UTEP 2006; UTEP News Release 2006).³ Interestingly, this may leave UTEP with a vested interest against any far-reaching immigration reform that could significantly reduce undocumented immigration, and hence the need (and funding) for ever-expanding border security measures.

Several Border Patrol activities at the local level are noteworthy, and some reflect national trends and concerns. One is that the number of El Paso Border Patrol agents grew 61 percent from 2005 to mid-2007, increasing from 1,300 (Borunda 2005) to 2,126 agents (Gilot 2007h). This was tied to national plans to boost the Border Patrol some 50 percent from 2005 to 2008 (from approximately 12,000 to 18,000). However, as

of Summer 2007 Operation Blockade/Hold-the-Line remained lightly staffed, though still in place; thus the extra agents were deployed elsewhere (to outlying areas and other activities). There were signs of some ongoing unauthorized crossings in and near the city, but it still appeared to be relatively small-scale, or at least still hardly visible.⁴ Total Border Patrol apprehensions of unauthorized crossers for the entire El Paso sector fluctuated wildly—up 17 percent from 2004 to 2005 and 2006 (to approximately 122,000), and up 37 percent from 2003 (Gilot 2006d)—but then down 43 percent in 2007 as of July (Romo 2007). In contrast, the migrant border-crossing deaths in the sector nearly doubled (from eighteen to thirty-four) from 2004 to 2006, with heat exposure the leading cause of death (nearly 40 percent of the cases), followed by drowning (Gilot 2006d). There also seemed to be an increase in agent shootings of suspects, with four for the year by mid-2007—and at least one under very questionable circumstances (Gilot 2007c, 2007b)—though data on this topic are very incomplete.

A local Border Patrol agent misconduct case became a national issue in 2006–2007, as two agents were convicted of violating the civil rights of an unarmed, fleeing drug trafficker they shot in the buttocks, severing his urethra, and covering up the 2005 incident (noted in Chapter 6). They were sentenced to eleven and twelve years, respectively, which seemed surprisingly long to many, while the drug trafficker was granted immunity and remained free—a controversial combination that led conservative activists nationally to take up the case, and as of mid-2007 there was growing congressional pressure for a commutation of their sentences (Gilot 2007; Meritz 2007).

Nonetheless, this case stands in stark contrast to a similar, more lethal 1992 landmark case in which a Border Patrol agent, Michael Elmer, in the Tucson, Arizona, sector was found innocent of all charges—despite shooting in the back and killing an unarmed, fleeing suspect thought to be a drug scout (on very shaky evidence, including no drugs) outside of Nogales, Arizona, and attempting to it cover up. His defense rested on the image of agents as “protecting our borders” in the “war on drugs,” in which the border was a “war zone” (Dunn 1996, 88–89). Meanwhile, in a barely publicized yet groundbreaking case, a Border Patrol agent pled guilty in Summer 2007 to violating the civil rights of three immigrant women he sexually molested (Gilot 2007a)—a matter very rarely prosecuted. Taken together, these cases suggest that perhaps severe agent misconduct will be prosecuted or otherwise taken more seriously by authorities in the future; this would be helpful, because the rapid ex-

pansion of the Border Patrol is viewed, even by sympathetic observers, to be likely to lead to more agent misconduct (Billeaud 2007).

At the national level, undocumented immigration once again caught fire to become a lightning-rod political issue during 2006 and 2007—rooted in part, ironically, in the tremendous post-1993 increase in border enforcement under the (failed) “prevention through deterrence” strategy, pioneered by Operation Blockade/Hold-the-Line, that led to a tripling of the U.S. undocumented immigrant population to some 11–12 million (as noted in Chapter 7). The punitive, restrictionist, enforcement-only Sensenbrenner-King bill, passed by the House of Representatives in December 2005, set the stage for the ensuing policy debate, as its felonization of undocumented immigrants and its 850-mile border wall proposal (among other measures) provoked historic mass mobilizations of millions of immigrants and their supporters around the country in the spring of 2006 (Portes and Rumbaut 2006, 152–153; Balz and Fears 2006). The Senate considered more “moderate” immigration reform measures in 2006 and 2007, which included some legalization for many undocumented immigrants and greatly expanded legal entry temporary worker visas, but also much-expanded border enforcement. More enforcement to “secure the border” has been one of the few areas of bipartisan agreement, and has become a precondition to any legalization program. No consideration has been given to the alternative idea that first implementing mass legalization (with family reunification), followed by greatly expanding the issuing of legal entry visas for immigrant workers, could greatly reduce undocumented immigration and thereby drastically help “secure the border.”

Rather, border enforcement fetishism has reigned supreme. Most notably, proposed and passed legislation, combined with executive branch action, has largely agreed upon 6,000–14,000 more Border Patrol agents (a 50–116 percent increase from the already deployed 12,000 agents), a new high-tech borderwide surveillance system (the “virtual wall”), 700 miles of border fencing/wall, and sending 6,000 National Guard troops to the border. Even the “moderate” (and failed) Senate immigration bill, the “Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007,” called for boosting the Border Patrol by 14,000 more agents by 2012 (to some 26,000 total), increased use of surveillance technology to create a “virtual wall” (including unmanned aircraft drones and satellite technology), and hundreds of miles of fencing and other barriers (*Secure Borders, Economic Opportunity, and Immigration Reform*

Act of 2007, Sections 2, 101, 102, 123–127). President Bush has committed to increasing the Border Patrol by 6,000 agents (up from 12,000 to 18,000) from 2006 to 2008, regardless. Apart from these enforcement measures, the bill also included two unique human rights provisions—one on measuring and reducing border-crossing deaths (*Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007*, Section 121) and a second calling for a “United State–Mexico Border Enforcement Review Commission” of sixteen border state residents to examine the impact of enforcement on “the protection of human and civil rights of community residents and migrants,” the environment, commerce and cross-border traffic, and the area’s quality of life (*Secure Borders, Economic Opportunity, and Immigration Reform Act of 2007*, Section 138). While this bill failed, the inclusion of the latter two measures constitutes an important, though modest, first step toward a more balanced, inclusive approach that has some sense of public accountability for the border region.

Meanwhile, a number of drastic border enforcement measures made it into law or were otherwise enacted. In a flurry of “get tough on the border” bipartisanship leading up to the congressional elections, both houses overwhelmingly passed the “Secure Fence Act of 2006” in September, which called for 850 miles of a double-layer “reinforced fencing” wall, along the 1,950-mile-long U.S.–Mexico border, including, in the El Paso sector, 75 miles or more, “from 5 miles west of the Columbus, New Mexico, port of entry to 10 miles east of El Paso, Texas” (*Secure Fence Act of 2006*, Section 3).⁵ The fencing materials to be used were not specified in the law, but it seems likely that at least some of the “reinforced fencing” will consist of the solid steel, military surplus landing mat type already in use in several sections of the border in Arizona and California (see note 13, Chapter 4), covering some 62 miles—though supplies of this material are running out (Nuñez-Neto and Garcia 2007, 20). (Some 85 miles of border in all were fenced by late 2006 [Innes 2006b].) New fencing in southeast Arizona constructed in 2007 was made of double-layer, reinforced steel mesh (in a tiny square pattern), ten to thirteen feet high, that can be seen through, like much stronger chain-link fence (field notes, December 6, 2007). Meanwhile, in South Texas, an eighteen-foot-high steel and concrete barrier is planned (del Bosque 2008). However, there are serious doubts as to whether this 850-mile fence will be constructed in its entirety or if it is even possible, particularly in light of the challenging, widely varied topography of the border (e.g., steep mountains, deep canyons, rivers) (McCombs 2006b; Innes 2006b), the relatively low ini-

tial funding for the 850-mile project (\$1.2 billion, though estimated early costs run from \$2.2 to \$9 billion), and land acquisition difficulties posed by widespread private ownership of border lands.⁶ Private construction firms will apparently build much of whatever is built; defense contractor KBR (former subsidiary of Halliburton, and notorious for problems in Iraq) is among the early bidders for the South Texas portion of the border fence (Root 2007). By early 2008, several hundred miles of various forms of new fencing had been built.

Nonetheless, the fence/wall law has reshaped the political landscape. A local poll found 57 percent of El Pasoans opposed the lengthy border wall/fence (Gilot 2006b), and mainstream institutions and figures spoke out against it, including the El Paso City Council and Congressman Silvestre Reyes, who called it an “empty gesture” (Gilot 2006b). This is quite a contrast from when he proposed a 1.3-mile-long border wall for Sunland Park, New Mexico, in 1993–1995 as Border Patrol sector chief (see Chapter 4). Opposition throughout Texas border areas has been especially strong, including a host of local government officials, business groups, and local residents in South Texas (Associated Press 2007b; “Proposed Border Fencing Angers Border Officials” 2007), and even Republican Governor Rick Perry came out against it (Trevino 2007). In late August 2007, a “Hands across the Border” protest was held in El Paso, Laredo, and Brownsville, featuring a host of such mainstream official types and even Miss Latina Texas contestants (Chávez 2007). Even many Border Patrol officers oppose the wall, preferring more agents instead. If and when the lengthy sections of fence/wall construction begin in earnest we may see more widespread local and regional protest and some significant modifications in the project. It seems political demagoguery is about to collide with reality on the border, and the result could open up new dynamics in the immigration debate.

With 850 miles of physical wall slated to be built, the implementation of a “virtual wall” of high-tech surveillance, the Secure Border Initiative Network (SBINET), has already begun and has greatly advanced the nascent privatization of border enforcement. In September 2006 the key military-industrial complex firm the Boeing Corporation (better known for its aircraft and aerospace prowess) won the SBINET contract, worth an estimated \$2.5–\$8 billion, from the Department of Homeland Security (DHS) (Witte and Hsu 2006; Archibold 2007; McCombs 2007a). This amounts to an outsourcing/privatization of a key feature of border enforcement, in that Boeing is not just selling surveillance equipment to the Border Patrol, but rather is responsible for the design, implementation,

and ongoing coordination of the entire new surveillance system slated to eventually cover the entire Mexican and Canadian borders (some 6,000 miles), in which it will work closely with the Border Patrol (Koslowski 2006; Dine 2006). Early in the bid-seeking process a DHS deputy secretary told private contractors, “We’re inviting you to tell us how to run our organization” (cited by Koslowski 2006, 3). The specifics of Boeing’s winning plan basically amount to packaging a wide range of surveillance and communication technology to greatly enhance detection of unauthorized border crossers anywhere on the border. (However, surveillance is only part of the puzzle, as agents must be available and able to act on the surveillance information—which could be especially challenging in remote areas.) The first phase of this ambitious venture is to cover a troublesome 28-mile stretch of the Arizona-Mexico border, west of Nogales—a \$20 million project. By Summer 2007, Boeing had built nine ninety-eight-foot towers in the area, topped by cameras, sensors, radar, and other off-the-shelf surveillance technology, whose collective data are to be sent via wireless network to Border Patrol managers and agents in the field (with laptop computers) who can follow it up (Archibold 2007). The key features appear to be cameras capable of producing high-quality images of people from over 8 miles (14 kilometers) away (Shalal-Esa 2006), as well as infrared (heat) imaging (Boeing 2007; Kollsmann n.d.), developed by an interesting subcontractor.⁷

Thus far SBINET is laden with technical, practical, and political problems. Boeing missed its June 2007 deadline for having an operational system for the first 28-mile section, and it was still not operating by late August, as technical problems plagued this initial project (Lipowicz 2007), some of which were incredibly foolish.⁸ Moreover, it is not clear how even the best cameras and sensors could cover the widely varied and rugged border terrain, such as scrub forest mountains and deep ravines and canyons. Then there is the little matter of cost. Given the unprecedented and extremely ambitious nature of the project, no one is quite sure what the cost will be. Indeed, the initial DHS contract for SBINET with Boeing did not even specify an upper dollar limit for equipment to be purchased, according to a congressional Government Accountability Office (U.S. GAO) investigation. DHS management estimated the SBINET’s overall acquisition cost at \$7.6 billion (U.S. Government Accountability Office 2007b, 2, 5), while the DHS Inspector General estimated it could cost \$30 billion (Cockburn 2007). The U.S. GAO prophetically noted that the “multiple and dependent projects being undertaken simultaneously” in SBINET create “additional risk” of “cost and schedule overruns

and performance problems” (U.S. Government Accountability Office 2007b, 7). These concerns were borne out in Spring 2008, as Boeing was eight months late delivering a completed sbinet to the Border Patrol, spent double the contract funding to develop it, and produced such a poor product that it will not be replicated elsewhere along the border, as was desired (i.e., it’s not the prototype). Boeing is instead preparing an entirely new system to replace it (Epstein 2008; Cole 2008). On the political side, there are significant privacy concerns, as several of the first surveillance towers are not on or near the border but rather 10 miles from it, one near a small town, Arivaca, Arizona. This raises the prospect of ongoing camera surveillance of area residents, many of whom are quite upset at this prospect. They are also incensed at being left barely notified of the construction of surveillance towers and given just four days in an official comment period to raise and respond to many environmental concerns (McCombs 2007d; Norrell 2007).

Another, more troubling proposal for further privatization of border enforcement emanates from military-security firms DynCorp International and Blackwater, both notoriously active in Iraq and elsewhere. DynCorp proposes to provide a “quick surge” of 1,000 private border agents within one year to augment the Border Patrol (Rosenkranz 2007). Thus far, Congress and the Border Patrol have been generally critical of this offer, viewing it as crass, dangerous opportunism (Losey 2007; Roebuck 2007). Blackwater, meanwhile, has plans to build a training complex near the border in rural eastern San Diego County and has expressed a strong interest in getting involved in U.S. border enforcement (Zimmerman 2007). At a general level, the various moves toward the privatization of border enforcement do not bode well for the status of human rights and public accountability. Corporate bodies tend to be far less concerned with such (but rather profit instead), and are also much less accessible, and more challenging to petition and hold accountable, when they infringe on human rights—or even citizenship-based civil rights.

Perhaps the most far-reaching national development in recent years was the May 2006 White House announcement of “Operation Jumpstart,” the deployment of 6,000 National Guard troops to aid the Border Patrol in immigration enforcement for a two-year period—to be scaled back to 3,000 for the second year—while the Border Patrol trains thousands more agents. The Guard soldiers were slated for a variety of support activities (e.g., training agents, communications, motor pool repair, construction, surveillance, analyzing intelligence), though not

arrest, detention, search, or seizure of immigrants (Burns 2006; Archibold 2006). Surveillance was chief among these during the first year, as the head of the National Guard Bureau, Lieutenant General H. Steven Blum, noted the main asset Guard soldiers provided was extra “eyes and ears” for the Border Patrol (Tan 2006). Overall, this operation raised militarization of the border to a new level; such a number of soldiers had not been deployed on the border since the Mexican Revolution ninety years earlier—though there had been several hundred similarly aiding the Border Patrol (under the rationale of drug enforcement) at any given time since the late 1980s (see Dunn 1996, 2001).

The early reports are encouraging to proponents, as the first year saw a 24 percent drop in Border Patrol apprehensions borderwide through the end of June 2007 (Rotstein 2007)—and a more dramatic 43 percent drop in the El Paso sector (Romo 2007). Further, there were no reports of troops on-duty involved in human rights abuses of migrants or the public, since they were rarely in direct contact with them. Still, as noted earlier, it was disquieting for some border residents in areas under military surveillance—and should Guard troops be put in regular contact with the public, then more serious problems would be likely. As for the drop in apprehensions, thus far it is not possible to know if it means fewer people were coming, or if the same number were coming but fewer were caught (because unauthorized crossers moved to more remote areas), or if the drop was a normal fluctuation tied more to larger factors such as the U.S. and Mexican economies (e.g., a construction slump in the United States). Meanwhile, migrant border-crossing deaths recorded by the Border Patrol continued at high levels, though they dropped a bit—from a record 473 in 2005 (McCombs 2007b) to 453 in 2006 (McConahay 2007), and then declining to 400 (a 12 percent drop) for 2007 (Associated Press 2007a). However, crossing deaths were up 22 percent to 225 in the most deadly border stretch, the southeast and central Arizona–Mexico border (Pima and Cochise Counties), which nearly equals the record 2005 level (230) (McCombs 2007c). Meanwhile, a Mexican government study recorded 275 migrant deaths borderwide for the first six months of 2007, suggesting the annual total may exceed 500 (Emmott 2007). As noted in previous chapters, the upshot of this mounting toll is that total border-crossing deaths have exceeded 4,600 since 1994 with the new border enforcement strategy (“prevention through deterrence”) pioneered in El Paso.

While politically popular, in spite of high death levels for unauthorized border crossers, the rate of return on the use of the National Guard

in immigration enforcement is not spectacular and costs appear high. Initial forecasts were that it would take up to one-third of the National Guard's total force to staff the deployment of 6,000 troops on the border on the quick-rotating basis that was proposed (two-to-three-week terms for each soldier) (Burns 2006)—quite an additional burden for a force already strained by extensive deployments in Iraq and Afghanistan.⁹ Moreover, the 24 percent apprehensions drop for 2006–2007 suggests that it would take another 6,000 troops or Border Patrol agents to bring apprehensions below 500,000 (roughly half their previous normal level). This would mean doubling of the combined Border Patrol/National Guard force (to 24,000), doubling costs and still leaving a high level of apprehensions—and it would take tens of thousands of additional agents or/and soldiers to replicate the intense border patrolling levels of the most successful “prevention through deterrence” efforts in El Paso and San Diego (McCombs 2006a).¹⁰ Such a rate of return would be very unimpressive and begs for a better alternative—such as greatly expanding avenues for legal entry for (and thereby screening of) would-be immigrants to greatly reduce illegal crossings and increase security.

Even if greatly expanded enforcement with thousands more Guard troops and/or Border Patrol agents were highly successful in reducing apprehensions and unauthorized immigration, there would be a number of troublesome issues to consider. First, border-crossing deaths might continue at a high level, as they have thus far—or perhaps even jump if crossers took greater risks to enter. Second, there would be the prospect of increased violence and conflict—particularly by migrant-smugglers, on whom unauthorized immigrants increasingly rely. There has been some indication of that during 2006–2007, both against Border Patrol agents and migrants (Innes 2006a; Moreno 2007). A third troubling issue would be the prospect of rising corruption. For example, three National Guard soldiers stationed near Laredo, Texas, as part of Operation Jumpstart to aid the Border Patrol were arrested for smuggling immigrants in June 2007, and early evidence suggests they were raking in thousands of dollars per “load” of immigrants and doing so regularly (Caldwell 2007b). In addition, three border-area National Guard soldiers were convicted of drug smuggling in Arizona, committed prior to Operation Jumpstart (“Three Former National Guard . . .” 2007). Another challenging issue that would need to be considered is the range of potential consequences for Mexico and border communities if much-expanded border enforcement were highly successful in reducing unauthorized border crossings. As noted in the conclusion chapter, a drastic

reduction in undocumented immigration from Mexico would adversely affect the Mexican economy and also quite possibly Mexican political and social stability. Any such consequences would also likely spill over onto the U.S. side of the border, and in ways that would be very difficult to fully anticipate.

Finally, we should consider that the mass deployment of the National Guard on the border for immigration enforcement on a temporary basis may represent another (much larger) step in the normalization of the use of the military in civilian border policing, far beyond what accompanied drug enforcement. If there is one sure lesson from prior use of the military in border enforcement under the rationale of drug enforcement, it is that what began as an innocuous-appearing, limited program to loan, give, and operate military equipment in the early 1980s expanded greatly over the course of fifteen years, at the urging of politicians, to over five hundred military missions per year, including over one hundred annually involving armed ground troops along the border (see Dunn 1996, 2001). One of the latter led to a Marine shooting and killing a teenage U.S. citizen in 1997 in a tragic mistake, after which the use of armed ground troops was sharply curtailed. The renewed escalation tendency should give us pause, especially given that the National Guard's immigration-enforcement Operation Jumpstart began on a much larger scale than the prior military drug-enforcement assistance. Moreover, we would do well to keep in mind that the human rights implications of military involvement in civilian policing at the border are ultimately ominous—and that such measures initially directed at the immigrant “other” can also be turned on citizen “suspects.” An active civil society on both sides of the border is the remedy.

Notes

Chapter 1

1. For an overview of the four operations, see Dunn and Palafox 2005.
2. The complete version from each source on the selective deterrence-cum-displacement strategy is as follows. The General Accounting Office report in its summary of Justice Department and Border Patrol border enforcement strategy statements and documents states: “The new border strategy involved ‘prevention through deterrence.’ . . . The key objectives of the . . . strategy were to (1) close off the routes most frequently used by smugglers and illegal aliens (generally through urban areas) and (2) shift traffic through the ports of entry or over areas that were more remote and difficult to cross illegally” (U.S. General Accounting Office 1997, 64). The Border Patrol national strategy document similarly stated: “The Border Patrol will improve control of the border by implementing a strategy of ‘prevention through deterrence.’ The Border Patrol will achieve the goals of its strategy by bringing a decisive number of resources to bear in each major entry corridor . . . raising the risk of apprehension high enough to be an effective deterrent. . . . The national strategy builds on El Paso’s success. . . . The prediction is that with traditional entry and smuggling routes disrupted, illegal traffic will be deterred, or forced over more *hostile terrain*, less suited for crossing and more suited for enforcement” (U.S. Border Patrol 1994, 6–7; emphasis added).
3. “The strategic approach on the Southern Border is to leverage the success of the 1994 Border Patrol Strategy, which focused on . . . a ‘prevention through deterrence’ posture” (Office of Border Patrol 2004, 15). The 2004 Border Patrol National Strategy stresses that its top priority is the prevention of the entry of terrorists and their weapons into the United States, and that agents will do so by maintaining and building on the unit’s previous 1994 “prevention through deterrence” strategy that enabled it to gain “operational control” of some high-traffic areas (El Paso, San Diego, McAllen) and that will now be expanded to other priority areas as “defined by threat analysis” (Office of Border Patrol 2004, 5, 9). The specific antiterrorism measures are relatively minor,

as they include more partnerships with other law enforcement bodies (such as through Joint Terrorism Task Forces), more extensive use of terrorist-related intelligence in operations, using more technology to detect and respond to illegal border crossings, heightening rapid deployment capability, and increased antiterrorism training for agents (Office of Border Patrol 2004, 7–8).

4. Border Patrol apprehensions remained high borderwide from 1993 to 2002, varying between 1 million and 1.5 million, and only dipping slightly below 1 million in 2003 (INS 2003) and 2004—which is just slightly less than when the main operations started eight years earlier, despite a near doubling of the number of Border Patrol agents (to almost 10,000) and almost tripling of the budget for INS border-enforcement efforts, 1994–2001 (Reyes et al. 2002). Typically more than 90 percent of Border Patrol apprehensions are of Mexicans. Apprehensions have shifted geographically away from the sectors where there are new special blockade-style operations—El Paso, San Diego, and South Texas—though not away from Southern Arizona, which, despite Operation Safeguard, has become the highest-volume unauthorized traffic point, whereas before the mid-1990s it accounted for only a small share of all Border Patrol apprehensions. Meanwhile, the size of the undocumented immigrant population within the United States has grown from an estimated 3 million in the early 1990s to an estimated 11.5–12 million by 2005 (Passel 2006), suggesting more undocumented immigrants are opting to stay once in rather than engage in circular, seasonal migration. Moreover, Massey and colleagues (2002; Massey 2005a, 2005b, 2007) and others (Cornelius and Salehyan 2007; Fuentes et al. 2007) have found that undocumented Mexican immigrants have not become more reluctant to try to cross or more likely to be caught.

5. I start with 1994, because this is the first full year of Operation Blockade and the beginning of the expansion of the new model in border enforcement. Cornelius (2006, 5–6; Cornelius and Salehyan 2007, 142) posits that 4,045 unauthorized border crossers have died from 1995 to 2006, including a record 516 in 2005; he draws on Mexican Consulate reports tracking the issue (Cornelius 2005, 784). Based on his data for 1995–2006 and adding U.S. data for 1994 (200 deaths—see U.S. Government Accountability Office 2006, 16) and 2007 (400 deaths—see Associated Press 2007a), there were 4,645 total recorded border-crossing deaths from 1994 to 2007. This total is quite similar to one based on data from the U.S. Government Accountability Office (2006) and Border Patrol (cited in McConahay 2006; Associated Press 2007a), which add up to 4,453 recorded deaths for 1994–2007. Specifically, the U.S. Government Accountability Office (2006, 4, 16) examines several U.S. data sources, including the Border Patrol, for migrant border-crossing deaths from 1985 to 2005. Oddly, the GAO does not provide an overall total nor exact totals for each year, but based on its graph of such data, I arrived at some 3,600 deaths from 1994 through 2005, including 200 in 1994 and 472 in 2005. Of special note, annual deaths nearly doubled from 1999 to 2005, jumping from 241 to a record 472, according to Border Patrol data reported by the GAO (2006, 16), with heat exposure the leading cause of death from the late '90s onward. (Note that McCombs [2007b] reports there were 473 deaths [rather than 472] in 2005, also based on Border Patrol data.) For 2006, the Border Patrol recorded some 453 such deaths (and oddly, there

were 56 migrant crossing deaths in just one rural South Texas county [Brooks], located some seventy miles from the border) (McConahay 2007), while for 2007 (fiscal year, ending September 30) the Border Patrol reported some 400 border-crossing deaths (Associated Press 2007a), which, combined with the GAO study data, makes for 4,453 crossing deaths for 1994–2007—nearly the same as the 4,645 death total for the same period based on Cornelius’ Mexican Consulate data. (Note that McCombs [2007b] reports there were 441 deaths in 2006 [rather than 453], also based on Border Patrol data.) And these death totals are likely undercounts or incomplete figures, due to the rugged and remote terrain surveyed—especially those by the Border Patrol, which seems to have a significant undercount problem, including a 22 percent undercount in Arizona in 2005 (Rubio-Goldsmith et al. 2006, 9–14). Indeed, Cornelius (2006, 5–6) proposes the actual death total could be twice the recorded total of known deaths. See also the pioneering work on this topic by Eschbach and colleagues (1999, 2001a, 2003) and Cornelius (2001).

6. Nevins provides relatively few details on the operation itself. Huspek (2001) provides some level of detail on Operation Gatekeeper and a state-class relations analysis.

7. Andreas (2000) makes the important critique that the current wave of border enforcement begun in the early 1990s is a largely symbolic performance in which illegal border crossing in key, traditional crossing areas (such as El Paso and San Diego) has been diverted to other less visible, more remote locales, pushing the problem out of sight and creating the public impression of significant progress, if not success, on the problem by the Border Patrol, INS, and federal government as a whole. All the while undocumented immigration across the border continues, but in a more hidden and less politically damaging fashion. Massey (2005a, 2005b, 2007) and colleagues (2002) make the same point and, in contrast to Andreas, also provide convincing evidence (a wealth of survey data on Mexican migrants) that contemporary border enforcement policies have failed in their objective of decreasing undocumented immigration from Mexico, but have instead diverted most to nontraditional (more remote) border-crossing areas and have in fact led Mexican migrants to remain in the United States for longer periods of time, and have caused much more hardship, from a spike in migrant border-crossing deaths to worsening U.S. labor markets and wages for low-skilled Mexican immigrants.

8. *Social Justice* (2001), a special issue edited by José Palafox, focused on a broad array of border enforcement issues, including many human rights problems, both at various specific border sites and borderwide. My previous book (Dunn 1996) examined the era of immigration and drug enforcement borderwide from 1978 to 1992, the lead-up period to the current border enforcement wave guided by the new strategy, and there I posited that border enforcement on immigration and drug matters became increasingly militarized—i.e., with the military acting more like the police as they became involved and the Border Patrol acting in a more militarized fashion, broadly speaking. And I found a wide range of human rights abuses by the Border Patrol and INS, even prior to the wave of new operations (see also Dunn 1999a). Nagengast (2002) argues that border militarization is a form of “symbolic violence” that opens the door

potentially to more severe physical violence against immigrants and U.S. Latinos taken to be such.

9. Of these, the anthology on El Paso and Juárez edited by Vila (2003a) has two chapters (of twelve) devoted to the operation. One is the Spener (2003) work cited previously. I also have a chapter in it (Dunn 2003) on the Border Patrol campaign to build a steel wall along the border in nearby Sunland Park, New Mexico, which I reproduce in this book as Chapter 4 with some modifications. Vila's earlier work (2000) is a groundbreaking study of identity construction and interethnic relations in El Paso and Ciudad Juárez, with Operation Blockade serving as a backdrop. Ortíz-González (2004) provides an insightful account of globalization at the same binational, yet local, level during the 1990s. Staudt and Coronado (2002) examine a broad range of vibrant grassroots activism in the same local binational context.

10. Huntington feels Hispanic, especially Mexican, immigrants are a threat because of their alleged refusal to assimilate, particularly to learn English, as well as their large regional concentration in the Southwest and large and sustained flows into the United States. He feels that these factors could eventually divide the nation into two cultures, and he raises the prospect of an autonomous Hispanic region in the Southwest (Huntington 2004a; 2004b, 221–257). His alarmist claims are based on weak data and misunderstandings, especially about English-language acquisition and cultural differences. Hispanics' English-language acquisition is not so different from other groups historically (who have typically taken three generations to become overwhelmingly monolingual English speakers), though a small minority remain bilingual into the third generation (Portes and Rumbaut 2006, 224–321). However, the continued influx of recent immigrants makes it seem otherwise. The data he cites for supposed cultural differences are quite poor, relying on stereotypes and the selective musing of Hispanic authors, not social science data. There is ample evidence of Hispanic, especially Mexican, immigrant commitment to what he terms "Anglo Protestant" culture, especially the work ethic (for which Mexican immigrants are famous) and religious commitment, as well as the desire for social mobility that drives much Hispanic immigration. Hispanic immigrants also generally have a strong commitment to their families, another value widely held (if not as widely practiced) in U.S. culture. And of course, the unauthorized legal status for a significant portion of Hispanic immigrants is also an obstacle to assimilation, but that can be remedied with policy changes and is not solely the fault of immigrants seeking a better life, responding to U.S. labor demands, and lacking access to a visa.

11. It is curious that this literature devotes very little attention to the much more profound influence of international capital in undermining nation-state power and sovereignty. Rodríguez (1996) is a key exception to this trend. Within the citizenship and human rights debate in immigration, Sassen (1998, 2006) is the exception, proposing that foreign investment tends to stimulate out-migration in developing countries. Sassen also takes up the issue of human rights, but she appears to posit a relative equality between the influence of international human rights agreements and international trade agreements in that both are said to undermine national sovereignty (Sassen 1998, 95–100),

when it seems abundantly clear that the latter have vastly more impact than the former because, for example, trade agreements have ample enforcement provisions, which human rights accords typically do not. In her more recent work, Sassen (2006) does recognize the superior power of international capital and the comparative weakness of international human rights standards.

12. Jacobson clearly feels immigrant rights are problematic. In contrast, Sassen appears not to be nativist in the least (quite the opposite). Soysal may not be either, though I find her at best ambivalent on immigrants' rights on the whole. At any rate, the work of Soysal (and Jacobson to a lesser degree) is cited at great length by Huntington (2004b, 214–220) in his anti-immigrant treatise to make the case that citizenship has been devalued as immigrants have gained more rights.

13. Soysal (1994, 132–134) cites cases of the harsh exclusion and coercive treatment of immigrants in earlier times, noting the treatment of Chinese laborers in United States prior to 1930, among others, and refers to such cases as the “classical immigration model,” within which it was accepted that some immigrants were categorically defined as not having rights, which in her view reinforced citizenship and national sovereignty. Similarly, Jacobson (1996, 97) cites as an (implicitly positive) example of national sovereignty a 1952 Supreme Court ruling upholding a California law limiting the ability of Asian immigrants to own land, because a challenge to it was based on international law and turned down. He also sees as problematic that the U.S. Constitution did not make rights citizen-specific, but rather as generally applying to “the people,” which courts have taken to include immigrants, and which he feels is “destructive” for the country (Jacobson 1996, 102–103).

14. Jacobson (2004) extended his argument about the “dangers” of the use of human rights standards by international and national courts by suggesting that such “judicialism” is a threat to the checks and balances of democracy—a view that negates the system of checks and balances devised by the founders of U.S. democracy, who divided governmental power among three branches (executive, legislative, and judicial). In general, the data are not strong for the view that the human rights model undermines citizenship and national sovereignty. Soysal (1994) focuses on the extensive human rights discourse in international and national policies dealing with immigrants in Western Europe, not on the much more limited actual implementation of such policies. Sassen (1998) looks mainly at international treaties (again discourse) and cites Jacobson (1996) for court data; in her important book of 2006, she does not cite any data (court or otherwise) at all to bolster her claim that human rights are gradually supplanting citizenship-based rights. Jacobson (1996) cites the growing number of U.S. federal lawsuit decisions of all types, not solely immigration-related, in which either the UN Declaration of Human Rights or the term “human rights” was invoked, but he does indicate the outcomes in those cases (i.e., the use of such terms on the prevailing or losing side of the cases, and the percentage breakdown for each).

15. In addition, he has noted four key areas of concern for human rights: the contradiction between citizenship and human rights (as an example he specifically points to the extensive social welfare rights available to citizens

compared to those available for immigrants and refugees who would merit such as humans), aboriginal rights for cultural recognition and land, environmental rights (to be free from pollution and environmental risk), and the universality of human vulnerability (Turner 2002, 137–138). He elaborates on several other themes in his 2006 work, many having to do with the body, broadly speaking (e.g., reproductive and sexual rights, disability rights, etc.), but also xenophobia and within that attitudes toward immigration (Turner 2006, Chapter 7), though even more so, toward diversity and multiculturalism.

16. In his discussion of xenophobia (and immigration, diversity, and multiculturalism), Turner proposes that there seems to be a strong “tension between the state and citizenship, on the one hand, and . . . human rights, on the other” (Turner 2006, 139). However, he posits that they are not in fact in tension, because the nation-state is crucial to providing human security (through its legal system and legitimacy), and that security is necessary for human rights, given our inherently vulnerable nature (Turner 2006, 140). Further, he maintains that the nation-state’s use of coercive force (a key element in many violations of human rights) is legitimate only “if it is subordinate to the rule of law” (Turner 2006, 139). He goes on to propose that citizenship and human rights together are essential to a successful multicultural society.

This is a flawed understanding in my view, because nation-states certainly can create laws that make human rights violations against both citizens and immigrants (especially the latter) quite legal. Even democracies have historically and legally denied basic rights to citizens, especially women and racial and ethnic minorities, and much more so to immigrants. Some of this continues today even. In fact in some instances, state legitimacy in the eyes of its citizens (to say nothing of unbridled national sovereignty) can rest in part on excluding immigrants, even with harsh measures. So Turner’s view of human rights would leave us quite beholden to whatever the state deems legal.

17. “Social triage” is an analogy to medical triage; the latter involves sorting the injured and ill into categories and prioritizing who shall receive medical care and when. Most relevant here, triage involves in circumstances of limited resources (such as the lack of blood) denying medical care to those most seriously injured or ill because treating them would consume limited resources and might not save them in any event, and instead using the limited resources on those likely to survive. While this is medically necessary in certain extreme circumstances, the common point here is that the well-being of some is written off. Sjoberg and colleagues are arguing that bureaucracies tend to do that to the human rights of the most subordinated groups in society, as it is more “efficient” from the standpoint of elites (and other advantaged groups) to do so.

18. Dr. Antonio Martinez is a psychologist and cofounder of the Marjorie Kovler Center for Survivors of Torture and president of the Institute for Survivors of Torture and Human Rights Abuses, both in Chicago. He has many years of experience counseling victims of torture and human rights abuses. In a 1995 presentation to some forty El Paso Border Patrol agents (fulfillment of one part of the settlement of a landmark civil rights lawsuit against the unit), Martinez discussed the social effects of human rights abuses by official agents of state power, noted in the main text. As for the effects on individuals, he noted

that even victims of relatively less severe human rights abuses by agents of state power can experience symptoms of serious stress as after-effects, including reliving the psychological distress of the abuses when exposed to symbols that remind them of the event (such as uniforms), avoidance, difficulty concentrating, jumpiness, irritability, and difficulty sleeping (Martinez presentation, El Paso, June 19, 1995).

19. For example, a special issue of *Social Justice* (1996) framed immigration as a civil rights issue—the purview of the nation-state—rather than as a human rights issue, as do Romero (2005) and Park (2004) in their U.S.-legal-system-focused approaches. Rosenblum’s (1999) critique of California’s Proposition 187 for putting immigrants’ rights at risk is done entirely from a nation-state legal perspective. *Latino Studies* (2004a, 2004b), the basis for Oboler (2006), devoted two issues to Latinos and the changing meaning of citizenship, noting among other things how Latinos have often been treated as foreigners regardless of their citizenship status.

20. Fujiwara (2005) notes in her case study that some legally recognized, mainly Asian immigrants, whose rights had been restricted by the federal government in 1996, won them back at least in part by community mobilization and highlighting their patriotism and positive relationship to national power (e.g., as military veterans or refugees allied with the United States in earlier wars), though they also claimed that immigrant rights were human rights.

21. Hispanic is much more commonly used than “Latino” locally in the El Paso area—regardless of the more tormented Census Bureau origins of the term (see De Genova and Ramos-Zayas 2003, 16–22; Oboler 1995). (I prefer the term Latino instead, but it would be misleading to use it here given local practices.) Moreover, some sort of broader pan-ethnic label (rather than the more specific Mexican American, Mexican immigrant, or *mexicano*) is needed because although Mexican-origin people account for the overwhelming majority of the Hispanic/Latino population in the region, there are others as well, including Puerto Ricans and Central Americans. And most important for this study, the Border Patrol and other immigration authorities scrutinize people who they think are from any Hispanic/Latino background.

22. For example, Wharton’s (2007) wide-ranging, lengthy anthology on the study of organizations is typical of the field in devoting little attention to their impact on society. Perrow (2000) attributes this lack of attention to the social impact of organizations to the fact that scholars have been too influenced by the interests of the organizations they study—especially in the case of business school scholars, who have come to dominate the field. The primary focus has been on the internal dynamics and efficiencies of organizations.

23. By “myths,” Meyer and Rowan (1991, 41, 44) are referring to institutionalized, widely accepted products, services, techniques, policies, and programs that many organizations adopt ceremonially in order to build legitimacy via conformity. I adopt Perrow’s (1986, 268–269) point that myths and symbols are often linked to organizational and political power, and I take a broader view of myths as being deeply ingrained and taken-for-granted understandings of the social world, regardless of accuracy, that are largely above questioning.

24. Stopping unauthorized immigration was not the sole rationale offered by Border Patrol officials for new measures, but rather more severe images were

invoked, including “border bandits,” a term from border history (especially in Texas) that is rooted in interethnic violence. “Bandits” were usually *mexicanos* from either side of the border who had somehow, sometimes with quite legitimate grievances, run afoul of Anglo authorities, or were innocent but made for convenient targets for Anglo, especially Texas Ranger, revenge purges (see Paredes 1958; Rosenbaum 1981; and Montejano 1986). The label was used with great frequency during the Mexican Revolution in the early twentieth century in descriptions of almost any activities by *mexicanos* in the border area that were deemed questionable by Anglo authorities (see Justice 1992; Sandos 1992).

25. In order to protect those interviewed, I have presented the time frame in general terms and used pseudonyms for all those I interviewed—with the exception of two key public figures. One is Ben Murillo, the lead plaintiff in the historic Bowie civil rights lawsuit against the Border Patrol (1992–1994), and the other is Silvestre Reyes, ex–chief Border Patrol agent for the El Paso sector (1993–1995), architect of the groundbreaking Operation Blockade/Hold-the-Line and current federal congressman for the El Paso area. They have each granted me permission to cite them by name.

26. The settlement agreement for the Bowie lawsuit stipulated that Border Patrol agents should receive some training in human rights issues, and a small amount of funds was made available to develop materials for this purpose; the BRC decided to make a video on the topic, which was begun in Summer 1995 and completed in Spring 1996. I was selected as a coordinator (which turned out to mean I was the director, much to my surprise) by the BRC on the basis of my expertise as a border and immigration scholar (due to my pending book) and my training in interviewing as a graduate student in sociology. (I should note that I used a pseudonym in the video credits, James Fenian.) I conducted roughly half of the interviews, devised the interview guides, and did rough editing of the footage. I knew nothing about video or film production or editing, and was taught a great deal by cameraman, technical coordinator, and editor Ramón Arroyos. Others involved include: Alberto Esquinca (co-interviewer), Roger “Tochli” Miramontes (camera assistant), Suzan Kern (producer), and Debbie Nathan (scriptwriter and conceptual guide); the latter two were key leaders in the BRC.

27. Specifically, Littrell (1993) suggests exercising one’s role as a citizen and participant in public policy debates involving bureaucratic power structures via press conferences, public hearings, the use of investigative reporters’ techniques, and consultation with journalists as well as with actors in groups challenging bureaucratic practices. This approach informed much of my participatory-observation research with human rights groups, though I sought to take a less adversarial, more discreet role. I was an active member of the organized opposition to the wall proposal, the Border Rights Coalition (BRC) and People Against the Wall (PAW), but I did not take a visible public advocacy role, such as public speaking, though I did attend debate events and protests, mainly to record data. I gained information from a range of actors and perspectives, all of which greatly deepened my understanding of the Border Patrol. I was in a somewhat delicate position as both an opposition participant and a researcher trying to gain information from the other side, the Border Patrol.

While I was no neutral observer, by taking a relatively low-profile role, I felt more able to step back and observe the opposition's efforts in public from a distance, which afforded me space for critical reflection on them. In addition, I consciously made extra efforts to be evenhanded in the interviews I was able to arrange with Border Patrol officials, for I sincerely wanted to understand their position and rationales on their own terms. I was also in a position to receive information from and interview retirees from both the Border Patrol and INS, and others close to the Border Patrol in some manner, and this was quite useful to compare with current Border Patrol officials' version of events.

28. I did expand on my militarization thesis in other work (Dunn 1999b, 2001) in analyzing the tragic case of U.S. Marines shooting to death a teenage goatherd/high school student, Esequiel Hernandez, in Redford, Texas, on May 20, 1997, while the Marines were on a covert surveillance mission for the Border Patrol. This case led to a bureaucratic rupture of sorts with an outpouring of data, and though the Marines involved were acquitted by a grand jury, the Pentagon largely stopped the use of armed ground troops along the border, while still continuing many other forms of support for the Border Patrol and other police agencies (training, aerial surveillance, etc.). Thus, it's not that militarization was not present along the border, but rather that, in my view, it was not the central feature of the new border enforcement strategy and operations pioneered by Operation Blockade.

29. Despite the perhaps face-value appearance of militarism embodied by the lining up of hundreds of Border Patrol agents on the Rio Grande to dissuade illegal entrants from crossing, to my mind the apt metaphor is not a "line of defense" against would-be "invaders," but rather much more that of prison guards along the perimeter (except to keep would-be law violators out rather than in). Moreover, the chief of the Border Patrol operation, Silvestre Reyes, did much to keep it designed and focused as a law enforcement matter carried out solely by a police agency rather than framing it as a national security issue and he kept military involvement minimal and out of sight, and the use of military tactics by his agents very limited and low-key. Operation Blockade came to be seen as a counter to arguments for the use of the military on the border.

30. In a broad sense it was like a terrain denial tactic that the military had previously used elsewhere in training exercises in remote stretches of the border, and in this sense militaristic (see Dunn 1996, 136), but very much a police version of this and far less threatening or coercive in nature.

Chapter 2

1. Many Fourth Amendment protections against unreasonable search and seizures do not apply in the border area. Specifically, within twenty-five miles of the border or its functional equivalent, agents do not need a search warrant to come onto private property, excluding residential dwellings, though they may enter any buildings in hot pursuit of a fleeing suspect. Moreover, in the same border or functional equivalent areas, Border Patrol agents do not need to meet the "probable cause" standards usually required of police to stop or

arrest someone. Rather, in these border and like areas Border Patrol agents must only have “reasonable suspicion” in order to stop, detain, arrest, or question someone. Elsewhere in the country such searches and stops would be unconstitutional (Summer 1997 interview with Jane, El Paso immigration attorney; Compton and Newland 1992; CLINIC 2001).

2. Jimenez employed the term in many presentations I witnessed and in an article (1992); she was the leading border rights advocate during the 1990s as head of the pioneering Immigration Law Enforcement Monitoring Project of the American Friends Service Committee, which organized local rights monitoring groups in four border communities, including El Paso. Rights activist and attorney Isabel Garcia of Tucson, Arizona, also used the term, specifically in referring to ethnic profiling stops by Border Patrol agents (Steller and Ibarra 1999). Rights advocates in El Paso with whom I interacted also used the term from time to time when referring to border agents’ broad authority (see note 1) and abuses stemming from it. This authority allows, in the border region, stops and searches that would be unconstitutional elsewhere in the country.

3. This area stretches some fifteen miles from the Asarco copper smelter and the University of Texas at El Paso campus on the near west side of the city, through downtown and the southern and central neighborhoods, including the massive train yards, all the way down the border highway past the Chamizal National Monument to the Zaragoza international bridge in the eastern Lower Valley area and on to the town/suburb of Ysleta, before becoming more rural. These neighborhoods are generally lower-income areas of the city and heavily Hispanic (Mexican American and Mexican immigrant).

4. The names of all interview subjects are pseudonyms, and the interview dates are kept general to protect informants.

5. Note that, in addition to Janine’s 1997 presentation, I am relying on numerous informal conversations with her about these topics, some summarized in my field notes, especially July 7, 1995.

6. A founding LIBRE member had worked for a local newspaper, during which time she and her colleagues received frequent tips from victims reporting abusive treatment they’d received from border enforcement authorities. However, she said that the newspaper staff was told by editors to ignore such reports of abuse and not to follow them up, because they came “from lawbreakers,” so they could not be trusted (Janine, presentation to BRC, September 28, 1997).

7. Other organizations that helped form the BRC include Diocese Refugee and Migrant Services (El Paso Catholic Diocese), Las Americas Refugees Project, Annunciation House, and Texas Rural Legal Aid.

8. This page number refers to a photocopy of the original, signed document written by Judge Bunton. For a published version, see *Murillo v. Musegades*, 809 F.Supp. 487 (W. Texas, 1992). Note that page numbers in the Federal Supplement Reporter will differ from the original.

9. Border Patrol sector chiefs are supposed to forward any and all complaints they receive from the public about agent misconduct, without making evaluations or judgments about those complaints (field notes of discussion with OIG agent, April 10, 1995). It is the OIG’s job to conduct a preliminary inves-

tigation to determine if the alleged complaint has merit and warrants further investigation and, in rare cases, prosecution. However, an El Paso Border Patrol manager said he does not forward all complaints to the OIG, but rather he checks each of them out first to determine if it's serious enough to forward and that he does not forward the less serious complaints against agents (interview with David, Border Patrol manager, Fall 1996). This practice of not forwarding all complaints received to the OIG but rather handling some internally (including even some more serious in nature) was reported by the INS commissioner to be official policy in 1995 (U.S. Congress, House Committee on the Judiciary 1995, 74), as she said the unit handles "minor" and "more serious alleged misconduct," while forwarding to the OIG the "most serious alleged misconduct." Thus, the INS and Border Patrol were left to handle many complaints entirely on their own, which raises the prospect of a conflict of interest and would provide opportunities for managers to bury complaints at their discretion. Moreover, once a complaint has been forwarded to the OIG, the Border Patrol still conducts its own investigation. More important, the El Paso Border Patrol maintained an ongoing liaison relationship with the OIG, usually headed by a Border Patrol manager, through which it obtains information on the progress of pending OIG investigations about Border Patrol agents (interview with David, senior-level manager, El Paso Border Patrol, Fall 1996). The presence of ex-Border Patrol agents within the OIG facilitates such liaison relationships. There were several liaison officers in the El Paso OIG office (field notes, April 10, 1995), and such an arrangement is not uncommon elsewhere (Human Rights Watch 1995, 29). This consulting violates the confidentiality of the investigation process, and again certainly affords the Border Patrol opportunities to engage in damage control efforts, or even retaliation. Even complainants from within the unit are harmed by this cozy relationship, as one retired agent reported that Border Patrol agents typically find that if they file a complaint about a Border Patrol supervisor with the OIG (for some sort of misconduct), the supervisor usually finds out about it within twenty-four hours (interview with Gabriel, retired BP agent, Fall 1997).

10. The Bowie High School campus, along with the Chamizal National Monument park grounds immediately adjacent to the east, forms a large open area (approximately eight blocks long by two blocks wide) running immediately along the river/international boundary in the midst of an otherwise densely populated urban neighborhood.

11. Murillo is identified by his real name, and the interview date is specified. He gave permission for this. I felt identifying him as the lead plaintiff was important to his story.

12. The plaintiffs' lawyers in this landmark lawsuit were Barbara Hines, Robert Greenblum, Albert Armendariz, Jr., and Carmen Rumbaut.

13. *Mendoza v. INS* was a similar but narrower case from 1982, involving Border Patrol abuses in a raid on a working-class bar in downtown El Paso, in which a number of Hispanic customers, including U.S. citizens, were swept up. Judge Bunton ruled that they were targeted solely on the basis of their ethnic appearance and that such was a violation of the Fourth Amendment protection against unreasonable search and seizure. He ordered this ethnic targeting

stopped in a court injunction. Much of the Bowie lawsuit was based on evidence that the Border Patrol was violating this injunction, evidence that was cited by the judge in his preliminary *Murillo* ruling (*Murillo v. Musegades* 1992b, 7–8; *Bunton* 1992a, 15–16).

14. The case involved no INS personnel, distinct from the Border Patrol, except in calling on the INS district director for his policy on enforcement activities on school grounds, which were much more circumscribed than the Border Patrol's. The plaintiffs' attorneys also sought to establish that the Border Patrol is part of the INS, which it is, though at the local level they are distinct bodies.

15. The only practically visible symbol, won in the Bowie settlement of 1994, that even hints at public access to the Border Patrol, let alone a complaint process, is a small-type bumper sticker in English on the back of each Border Patrol vehicle that says, "Questions or Comments? Call 1-800 [number]." Since at least the second half of 1995 the BP has added a second, seemingly competing, and larger-type bumper sticker next to it on many of its vehicles, which says, "U.S. Border Patrol 1-915 [number]" (field notes, September 21, 1995). Neither of these bumper stickers says anything specifically about a complaint process. Beyond the oblique bumper stickers, virtually no outreach is done by the Border Patrol or OIG to notify the public that an official avenue to report complaints even exists, though complaint process posters or notices are supposed to be placed at all INS and Border Patrol facilities.

Chapter 3

1. This 2004 strategy was still in effect as of December 2007 (interview with two El Paso Border Patrol managers, December 2007).

2. I choose to refer to it as Operation Blockade in this chapter because I feel that the label is more accurate, reflecting the architect's intent, than its subsequent label, "Operation Hold-the-Line," applied to make it more politically palatable. This relabeling will be discussed later in the chapter.

3. He joined the Border Patrol in 1969 shortly after leaving the military, following a tour of duty in Vietnam, because he needed to help support his family in the wake of his father's death. He sought work by taking all the federal civil service exams open to veterans, and he said, "The Border Patrol was simply the first agency to call me" (interview with ex-Chief Reyes, December 10, 1996). Interestingly, he is the grandson of an immigrant, as his grandfather migrated from revolutionary northern Mexico in 1913 (Herrick 1994), and another source reports that his grandfather once rode with Pancho Villa's forces as a rebel soldier (Montgomery 2007). Herrick (1994, 66) also reports that Reyes said, "We see people as down and out as you're going to get. I say there but for fate go me and my family." One might note that Reyes' particular fate includes the fact that the Border Patrol was not established until 1924. Montgomery also notes his compassion for undocumented immigrants: "You see the misery coming across the border. . . . You recognize that they're not criminals, that these

are people that are down and out because of economic circumstances. . . . The only difference between you and them is fate.” He also periodically gave them some of his old clothes and even his lunch, before deporting them. This recognition of their lack of criminality is ironic given the rhetoric he used to frame Operation Blockade.

4. Of his selection to be the first Hispanic Border Patrol sector chief in 1984, Reyes said:

[O]ne of the things that was significant in my selection was that in the Border Patrol there is a hierarchy that basically has a lot of influence on who the Commissioner designates or selects for these positions. In my case, the Commissioner [Alan Nelson] went against that hierarchy. I guess he felt strongly that it was time to take a chance on diversifying the work force at that level. . . . I am a product of Affirmative Action; I don’t make any bones about that. (Interview with ex-Chief Reyes, December 17, 1996)

Prior to being selected as the McAllen sector chief, Reyes had served for five years in the INS Southern Regional headquarters in Dallas in various positions with responsibility for overseeing various Border Patrol sectors.

5. Of the racist hostility he faced as a new agent in Del Rio, Texas, he said:

You just have to tough it out and grit your teeth and say, “I’m not going to react to this.” . . . I had just returned from Vietnam; this individual wasn’t even a veteran. I had fought for my country; I had put everything on the line and I felt I deserved an opportunity. *But to have that kind of arrogance and that kind of attitude expressed that bluntly, it makes you, I think, a more dedicated and more committed individual to succeed.* . . . I never forgot that. (Interview with ex-Chief Silvestre Reyes, December 17, 1996; emphasis added)

6. An agent from that period, who is otherwise critical of Reyes, does credit him with doing a good job of cleaning up agent misconduct in the sector (interview with Gabriel, retired Border Patrol agent, Fall 1997). On the high number of undocumented crossers, the basis for his estimate was not clear. At the very least he is counting events, not people, as his quote suggests, i.e., some are multiple crossings by the same people.

7. The participating groups spanned a broad range and seem to represent the broader reach of the BRC following the Bowie lawsuit and before Operation Blockade, when the organization was at a high point locally. Groups represented at the meeting included: a Chicano community clinic in the *segundo barrio*, a human rights group from Juárez, two Chicano student groups, a Bowie High alumni group, a rural *colonia*-resident public service advocacy group, MALDEF (Mexican American Legal Defense and Education Fund), the ACLU, the Mexican American Bar Association, the National Lawyers Guild, two Hispanic labor organizing groups, and several immigrant and refugee assistance and advocacy groups (BRC agenda for Community Roundtable with Chief Reyes, September 1, 1993). Abuse, accountability, and accessibility were the three topics on the agenda. The press was allowed to observe the meeting but not to participate.

This document was given to me by “Beth,” the BRC coordinator, following our Spring 1997 interview.

8. These notes were written up after the meeting and distributed to participants from the seventeen groups present. The BRC coordinator, “Beth,” gave me a copy from her files following our interview in Spring 1997. It is clear in them that there were some strong exchanges of views and ideas between the rights advocates and Chief Reyes, though the atmosphere seems to be quite respectful among all parties involved.

9. I should note that the version of the Bean et al. report (1994) I am citing is an early copy and the page numeration is a bit different from the formal version published later that same year by the U.S. Commission on Immigration.

On the substantive point, though the operation is generally said to have stretched twenty miles, it mainly focused on the length of the border running from the end of the river as international boundary (west of which the boundary is land only), about two miles northwest of downtown El Paso, running southeast approximately twelve miles to the Zaragoza bridge port of entry in Ysleta (Brock 1993f). Within this area, heavy attention was given to the mile or two around each of the three central city international bridges the most densely populated area and most popular unauthorized border crossing zone, much of it near downtown El Paso.

10. In May 1993 I had the opportunity to ride an inner tube pulled across on its return to Mexico from the United States, which was usually empty after the carrier dropped someone off on the U.S. side. Debbie Nathan was my guide as we engaged in a reverse crossing, as it were, via the services of one local tube crosser. The view of the nearby mountains in the late afternoon sun was striking, and border enforcement authorities were scarce on either side of the river; there was little crossing traffic at this time of day. It seemed surreal and calm at the time, but for many people the opposite crossing, northward, in the mornings was a daily, hectic, anxiety-producing reality.

11. Mexican authorities had their own reasons for wanting to break up the bridge protest, such as keeping the bridge open for the flow of tourism to Juárez and cross-border commerce more generally.

12. One newspaper solicited call-in opinions on the operation during its first week and received 130 responses, running 10:1 in favor of it (Monroy 1993). Many of the favorable remarks from callers excerpted were from persons with Hispanic surnames. During the first week of the operation, one local TV station reported that its call-in poll on the operation received nearly 2,500 calls, double the usual number for its other polls, and that 95 percent favored the operation (Bean et al. 1994, 124).

13. One Border Patrol source indicated that the favorable coverage of Reyes may have been in part due to local reporters seeking to curry favor with him, in order to be considered for a rumored forthcoming opening (which did not come to pass) in the Border Patrol sector’s public affairs office, a comparatively stable, good-paying job. He suggested Reyes himself started the rumor in order to win over local reporters, at least initially. It is not possible to confirm this, however (interview with Allen, Fall 1996).

14. The February 1994 poll is the more limited of the two in that it was an exit poll of primary election voters, and thus hardly a random sample of the entire population given the very low turnout rates for such elections; Bean and colleagues (1994, 124) elaborate the methodological critique of this poll. The October 1994 poll surveyed 307 registered voters by phone and had a sampling error range of ± 6 percent. The limitation of this standard methodology is that not all El Paso adults are registered to vote, and Hispanics in particular are underrepresented, such that they only became a majority of registered voters in 1998, despite making up three-quarters of the total El Paso population. Also, phone surveys have less complete coverage here than elsewhere, due to El Paso's high poverty rate making phone service less universal. Nonetheless, the October 1994 poll was the first citywide scientific survey on the operation and the most representative taken on the topic to that date. In addition, one could consider an indicator of the operation's popularity to be ex-Chief Reyes' landslide victory in the November 1996 federal congressional election, though earlier that spring he had an unexpectedly close race in the Democratic primary, which is the real election for this heavily Democratic district. However, the blockade was not a central issue in either election.

15. A key point made by Vila (2000, Chapter 3) is that constructing a positive Mexican American identity is difficult for those faced with institutionalized discrimination and prejudice in U.S. society, even more so on the border. Here Mexican Americans are confronted with the source of their difference daily, Mexico, whose visible poverty and frequently reported corruption make for an unflattering view many times. One way to cope with this in order to create a positive identity for Mexican Americans is for them to strongly differentiate themselves from contemporary Mexicans and Mexico.

16. The Bowie principal's support remained strong over the years. Two years later he continued to heap praise on the unit and Chief Reyes for the operation, when he was the main speaker at a Border Patrol Citizens Academy "graduation ceremony" (field notes, October 20, 1995). In private, however, he was less supportive, but felt his public praise was a sort of compensation for having previously criticized the Border Patrol so harshly (field notes, October 27, 1995).

17. The three Mexican American ex-students from the lawsuit whom I interviewed two years after the operation started were still highly supportive of the operation, whereas the five key staff members involved in the lawsuit (four of whom are Mexican American) I interviewed during the same period were supportive on the whole but more mixed, as the lead plaintiff had some reservations and the Bowie MECHA advisor was openly critical.

18. I obtained a copy of the actual survey form, in English and Spanish, and by my reading of it the thirteen questions were clear and fair, with none appearing biased or loaded. This is not surprising given the BRC's consultation with several academics, including a survey specialist, on this project.

19. Operation Blockade provoked an identity crisis for the BRC; that it survived in any form is somewhat remarkable. During a lengthy and difficult "restructuring process" throughout 1994, the now significantly smaller BRC reorganized, and members collectively recast its mission to include cross-border

labor and environmental issues, among other things, as well as the promotion of local, democratic input into border policies. When the BRC returned to the public stage in early 1995, it did not concentrate on critiquing or otherwise directly opposing the operation, given its widespread popularity, but rather focused on challenging the more provocative border wall proposal and also returned to documenting (somewhat resurgent) human rights violations by border enforcement authorities.

20. “The line” is a Border Patrol term for the border, but the operation’s new name also recalls the commonplace traditional American football cheer “hold that line!” (also a war metaphor), urging the defense to hold back the advance of the opposing team. Certainly, the new name is less offensive politically. It also seems to resonate with the macho toughness of the football-crazed culture of Texas, as well as that of the Border Patrol.

21. More specifically, Reyes recalled: “In the preceding couple three weeks before we started it on September 19, we had to get it approved by our headquarters. . . . [W]e had to make a number of adjustments, to resolve a number of questions and concerns that they had. ‘Were we going to use [tear] gas? Would we be able to respond to bonsai rushes? What about snipings?’ Just a number of concerns that people raise when you dramatically change the strategy” (interview with ex-Chief Reyes, December 10, 1996).

22. Senator Barbara Boxer, otherwise a liberal, called for National Guard troops to be used on the border as an immigration enforcement tactic (Borne-meier 1993). This proposal was supported by 73 percent of California residents in a September 1993 survey (Associated Press 1993a).

23. This mixed impact of the operation on crime in the city was first elaborated in detail by Bean et al. (1994), a thorough study of the operation and its manifold impacts on El Paso during its first six months, undertaken for the federal Commission on Immigration Reform at the time. I will use and then extend their findings based on subsequent data. However, the various discussions of the crime impact of the operation are speculative, in part because we do not know the immigration or border crossing status of those who committed crimes.

24. The El Paso crime rate rose 82 percent from 1983 to 1990 before dropping 22 percent from 1990 to the first half of 1993 before the blockade, and the auto theft rate rose 138 percent from 1983 to 1990 and remained near the 1990 level through 1993 before the operation (Bean et al. 1994, 95, 108, 113). The crime rate, or crime index, in this data is based on seven types of serious crime: murder, rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft. The first four are violent crimes and the latter three are property crimes, although robbery is perhaps best considered both.

25. This assessment is based on my calculations of the crime rate (number of serious crimes reported divided by 100,000s of population). My calculations are based on the data in the three cited sources, which together provide the 1993 preblockade months’ crime rate and El Paso 1993 population (Bean et al. 1994, 95), the number of crimes reported for 1993 through 1997 (Flynn 1998a), and the precise population for 1996 and a line graph back to 1987 (Aguilar 1997), off which I based my estimates for the previous years. My lack of precise popula-

tion data for 1994–1996 makes my calculations estimates rather than precisely accurate figures. I cross-checked my estimates with data from the FBI's Uniform Crime Reports for those years on the agency's Web site to get precise crime rates for those years.

One interesting point is that crime data tend to be reported in the press not as a rate per 100,000 of population, but solely as the number of reported crimes per year. This gives the impression that crime had risen from 1994 to 1996, leaving it nearly equal to the 1993 level. However, El Paso's population had expanded markedly during the same time, making for a lower rate. Nonetheless, many locally observed the higher number of total crimes reported and attributed it to a lessening of the blockade's staffing levels.

26. These statistics are drawn from data on eight different crimes: unauthorized use of vehicle, auto theft, auto burglary, burglary of residence, burglary of business, theft, robbery, and assault (Baca 1997a). These were reported in a special neighborhood weekly section in the *El Paso Times* over a period of four weeks.

27. This same spokesman was criticized by other residents, surveyed later, for making sweeping statements to the media claiming universal neighborhood support for the blockade (Border Rights Coalition 1993a).

28. He said that during the 1980s peso devaluations, burglaries in the area went up and changed in nature, in that burglars would take more than the usual property, even cleaning out all foodstuffs from cupboards and refrigerators. He felt that this sort of mass food theft, in which burglars placed food in bed-sheets and carried it away in bundles, bespeaks an unusual degree of desperation, which he believed was more likely for Mexicans in the midst of economic crisis than for typical El Paso burglars. This type of burglary has been very rare otherwise. In contrast, during the 1995 peso drop, burglaries did not seem to go up in the neighborhood though the crime data for the area in 1995 indicated it rose somewhat (Baca 1997a) and he didn't hear about any such food removal in those that did occur (field notes, October 25, 1995).

29. The "grab and go theft" category was defined to include pickpocketing, purse-snatching, shoplifting, theft of auto parts and accessories, thefts of bicycles, and thefts from vehicles, buildings, and coin-operated machines (McDonnell 1993c).

30. El Paso sector apprehensions were approximately 168,000 in 1989 (U.S. Congress, House Committee on the Judiciary 1995, 111), 223,188 in 1990, 211,786 in 1991 ("Detienen a más ilegales . . ." 1992), and 248,642 in 1992 (U.S. General Accounting Office 1997, 73).

31. This longer-stay consequence has since been replicated borderwide as the operation became the model for border enforcement, and it is a key factor in the rapid growth of the undocumented immigrant population in the United States since the early 1990s. See Massey et al. 2002.

32. However, for 1999 as a whole, the El Paso station accounted for the largest portion of apprehensions in the sector (31 percent), followed by Deming, New Mexico (22 percent), and Santa Teresa, New Mexico (12 percent), to the west and Ysleta, Texas (13 percent), and Fabens, Texas (9 percent), to the east. By 2003 Deming, New Mexico (27 percent), and Fabens, Texas (18 percent),

were the two leading stations, followed by El Paso (16 percent) (El Paso Border Patrol briefing, July 14, 2004).

33. Perhaps the difference is accounted for by the fact that Reyes included informal complaints in his total and the Bean team was provided information only on the formal ones that were filed. At any rate, Bean et al. (1994, 134) report that in the eleven and a half months prior to the operation, there were 114 formal complaints filed (or an average of 9.9 per month) and that 38 were filed in the first five months of the operation (or an average of approximately 7.6 per month), which is a drop of 23 percent.

34. Student enrollment was largely unaffected in El Paso area schools, even those close to the border, except for two, Bowie High School and Guillen Middle School (Bean et al. 1994, 65–68). As for health care, during the first months of the operation there were decreases in births, occupancy, admission, and emergency room visits recorded at the local county hospital, but in no case was the decrease very large (all were from 5 to 15 percent) (Bean et al. 1994, 77).

35. These observations are based on my two years of fieldwork as a participant-observer in the BRC and my extensive informal relations with several key members.

36. Even the BRC member most critical of the lawsuit is now quick to point out that she feels the Bowie lawsuit did not cause the blockade in and of itself. She feels that given the larger national anti-immigrant sentiment in favor of increased border enforcement, something like Operation Blockade was probably eventually inevitable for the El Paso portion of the border (Janine, BRC presentation, September 28, 1997). As it turned out, El Paso became the vanguard in developing the new border enforcement strategy.

37. He confirmed that this operation was tied to the 1989 mass operation to detain and remove from the country thousands of Central American political asylum-seekers in the Lower Rio Grande Valley of Texas. (For additional background, see Dunn 1996, 91–94; Kahn 1996; Nackerud 1993.)

38. The official INS plan outlining the larger 1989 operation focuses mainly on mass detention resources and policies, while references to the Border Patrol are limited to noting that an additional 250 agents were to be brought in to aid in the mass apprehensions of asylum-seekers and to achieve the objectives of “*Stop illegal entry into the U.S.*” and “*Deter future illegal entry,*” but the tactics specified for doing so were left vague, such as “maintain a mobile task force which can quickly shift to diverted paths of entry” (INS 1989, 3; emphasis added). Beyond the mobile task force, whose activities were never specified in the plan, the other main activity for the Border Patrol outlined in the plan was to provide agents to serve as extra guards at detention sites for the mass of detained Central American political asylum-seekers.

My own previous research and that in Kahn (1996) on INS activities in the Lower Rio Grande Valley during the 1988–1990 crisis period do not have any specific information on border enforcement operations, as most of our attention was focused on the mass roundup and detention of thousands of Central American political asylum-seekers. The extensive press research I conducted and several interviews with agents in Brownsville in the early 1990s shed no light on any earlier version of Operation Blockade. Still, it may have occurred as

Reyes says. The matter could perhaps best be resolved by a close examination of local press archives (especially the *Brownsville Herald*, whose electronic archives do not go back that far) and interviews with agents posted there during that period, which are beyond the scope and resources available for my research.

39. Reyes said:

The definition of a well-managed border, in my mind, is a border that you can control at or above 85 percent. You don't ever want to realistically seal the border, because I don't think that's feasible or practical or possible. . . . The border is 2,000 miles long. I figure that there's only about 10 percent that we really need to concern ourselves about. . . . We'll concentrate on areas like El Paso–Juárez with manpower. . . . Through technology and nonconventional means we can monitor the rest of the border. (Interview with ex-Chief Reyes, December 10, 1996)

Of course, no operation thus far has achieved anything close to the 85 percent apprehension rate for any length of time he points to as an ideal, not even Operation Blockade. And the diversion of crossers to more remote areas and sectors has not proven manageable for the Border Patrol at all, most clearly not in Arizona, to which many have been diverted. Still, this is his ideal vision: control the urban crossing areas, divert crossers to outlying places, and use more monitoring technology to effect apprehensions there and thereby manage the problem.

Chapter 4

A version of this chapter appeared in Pablo Vila, ed., *Ethnography at the Border* (Minneapolis: University of Minnesota Press, 2003). See Dunn 2003.

1. The only other such debate locally over a border barrier had taken place nearly twenty years earlier around the announcement of the construction of the local segment of the “tortilla curtain” (Martinez 1988), which was a ten-foot-high chain-link/mesh fence in high-traffic urban border areas (Dunn 1996, 38). Since 1990 the INS has had the final authority on border barriers (see Dunn 1996, 67–68).

2. The October 1994 poll was done by a local opinion polling company, K Associates, which was regularly contracted by local media for polling; it was headed by a UTEP math professor and statistician, Bill Kaigh. See note 14 in Chapter 3 for an overview of the poll's methodology and related concerns.

3. However, the relative subtlety of Frost's satire and criticism of walls was lost on wall supporters apparently, as they (including the Border Patrol) continued to use the “good fences make good neighbors” slogan throughout the hearing and the six-month 1995 debate. In fact, this line is used to illustrate the irrationality of the poem's wall proponent, whom Frost compares to “an old-stone savage.” Moreover, Frost questions why good fences should make good neighbors, and goes on to state, “Before I built a wall I'd ask to know, / What I was walling in or out, / And to whom I was like to give offense” (“Mending

Wall,” reproduced in PAW 1996). That notwithstanding, the “good fences make good neighbors” line was the single most recurrent sound bite of the supporters of the Sunland Park wall proposal during the course of the debate, and always presented with a straight face and without a trace of irony.

4. According to a JTF-6 representative (interview April 30, 1997), the military unit eventually denied the El Paso Border Patrol’s request for a military construction unit to build the wall, because the wall was an immigration control measure and the Border Patrol failed to demonstrate a clear drug-enforcement nexus (necessary for the military’s involvement). Also, the JTF-6 representative indicated that the unit was sensitive to the public controversy over the wall proposal, and to claims that military involvement would constitute an instance of border militarization.

5. To speak at the public hearing, people had to sign up for a two-to-three-minute slot, awarded on a first-come, first-serve basis. The sign-up sheet quickly filled up, though by the looks of the crowd, many may have been inexperienced in such hearings: with how to sign up, the norms of such events, etc. Before the floor was opened up to the signed-up speakers, several Border Patrol and Catholic Church officials first made opening pro and con presentations, respectively, on the proposed wall, and those were somewhat longer.

6. The Anapra residents’ posted sign at the boundary read “*LOS DIEZ MIL HABITANTES DEL PUERTO ANAPRA PROTESTAMOS CONTRA EL MURO DE BERLIN (ANAPRA). SOLICITAMOS GOBIERNOS MEXICO U.S.A. CRUCE INTERNACIONAL POR ESTE LUGAR. . . .* [followed by drawing of two hands in shaking-greeting] I HAD A DREAM I SAW PEOPLE HOLDING HANDS TOGETHER WITH NO IRON WALLS BUT BRIDGES OF FREEDOM” (field notes, March 19, 1995; also reproduced in a copied photograph on the cover of PAW 1996). My translation of the first part in Spanish: “We the ten thousand residents of Port Anapra protest against this Berlin Wall (Anapra). We ask the governments of Mexico and the U.S.A. for an official international border crossing for this place.”

7. Technically, a robbery involves taking property by using or threatening the use of force. Theft is the unlawful taking of another’s property, and burglary breaking into a building or secured space to commit theft best labels this episode. In this instance force was used, but to cover the criminals’ flight, not in the initial breaking into the train cargo containers and taking of the goods.

8. These factors include: the stretch of track running through there was SP’s heavily trafficked main line to the West Coast from El Paso; trains slowed down to go around Mount Cristo Rey; the tracks ran as few as ten yards from the international boundary just west of Cristo Rey along the north edge of Anapra, making for a convenient getaway route; and this segment of tracks was largely inaccessible in an area of desert brush and rugged foothills with very few adjoining roads (field notes of ride-along with Border Patrol agent in Sunland Park, September 21, 1996).

9. A train burglary incident involving the theft of fifteen computers during late Fall 1996 that took place just west of the earlier incident site merited only a brief four-paragraph notice in a local newspaper, buried on page 3B (the interior of the second section of the paper, devoted to local news) (Associated

Press 1996). Further, a potentially scandalous episode reportedly occurred in that fall, in which Border Patrol agents apprehended two SP personnel attempting to steal goods from a train and turned them over to SP railroad officials in El Paso. Local media found out about this, according to a Border Rights Coalition activist who spoke to a local media contact about it (field notes, November 10, 1996), yet no story ever appeared in the local press.

10. Most notably, reported burglaries in Sunland Park fell by approximately 50 percent from 1993 to 1994, while reported larceny fell 15 percent during that time (interview with Sunland Park Police official, May 23, 1995).

11. The Border Rights Coalition coordinator told me of a call she received from one of the fence laborers, who was caught in the midst of some INS bureaucratic snafu (his petition for legal residency had been denied), and thus he was technically an undocumented immigrant in the meantime. He turned to the BRC for help in resolving the problem.

12. These eight walls built during the 1990s ranged in length from fifteen miles for the first built (near San Diego) to one mile (in tiny Naco, Arizona), all made of corrugated, thin-yet-solid steel, standing ten to twelve feet high. Military construction units built each using surplus temporary landing-mat construction materials. By 2007, this thin steel walling covered some sixty-two miles of the border (Nuñez-Neto and Garcia 2007, 20). The eight border walls were located (west to east) at, in California:

- (1) San Diego to San Ysidro (fifteen miles)
- (2) Tecate
- (3) Jacumba ([2] and [3] in San Diego County's rugged, mountainous eastern area)
- (4) Calexico

and, in Arizona:

- (5) San Luis (near Yuma)
- (6) Nogales
- (7) Naco
- (8) Douglas

I visited and observed six of the eight border walls in Arizona and California (field notes, May 16, 17, 1995, and October 19, 1997). The two border walls I have not visited are those at San Luis and Douglas, Arizona. Since the early 1990s there have been plans for many more border walls as well. A 1993 study done by the military weapons laboratory for the Border Patrol recommended triple layers of border fencing in high-traffic areas all along the border (Advanced Systems Integration Dept. 1993, as cited in Dunn 1996, 174, 260). In that spirit, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (section 102) called for fourteen miles of two additional layers of wall from the ocean inland to the already existing San Diego–San Ysidro wall. The first five miles were funded and built. The second layer of wall is built of the same steel landing-mat material as the first, while the third layer of wall consists of a series of twenty-

foot-high cement pylons placed very close together and topped by an additional five feet of curved metal fencing (field notes, October 19, 1997). Thanks to Joe Nevins and José Palafox for help in researching the California border walls. The 2006 federal law authorizing seven hundred miles of border walls appears to be in part based on the 1993 study.

In the case of the 1990s walls, local opponents in Nogales and Douglas, Arizona, were able to force the unit to use more “aesthetically pleasing” painted concrete with openings, in place of solid steel, for the portions of the walls closest to border crossing posts and downtown areas in Nogales (Verhovek 1997) and Douglas (field notes, January 16, 1994; Notimex 1998). While the wall was built in Nogales by 1995 after local officials quickly reversed their opposition, the depth of the opposition to the wall was deeper in the Douglas, Arizona, case, where a community-based activist group, *Hermanos Unidos en Contra de la Pared* (Brothers [also colloquial for people] Against the Wall), formed in 1993 to oppose the Border Patrol’s wall proposal, effectively forestalling it for five years. Its members quickly mounted a very active, organized, diverse opposition to the wall in an otherwise very quiet local political context, and this opposition had a very strong binational character, which was credited by member activists as a key to their success (field notes on January 16, 1994, presentation by *Hermanos* activists).

13. “Bandit,” in particular, is a term used to describe criminals in the border region that is hardly used elsewhere in the United States. The term “border bandits” harks back at least eighty years and is rooted in a brutal history of anti-*mexicano* prejudice and discrimination among Anglos in the region, as noted in Chapter 1, note 24. The current case has interesting twists, in that a unit headed by a Mexican American Border Patrol chief (himself grandson of a *Villista*, a group often characterized as bandits by opponents on both sides of the border) and containing many Mexican American agents used the term to justify its proposal to construct a border wall whose main purposes would be to protect U.S. private property from Mexican assailants and to deter undocumented Mexican immigrants and laborers.

Chapter 5

1. As noted earlier, there is no systematic, comprehensive official effort to gather such abuse data involving the Border Patrol, let alone any specifically for the El Paso sector, and the Border Patrol’s typical response to publicized abuse claims is a classic “wall of denial” (see Chapter 2). While neither the BRC nor the Bowie lawsuit data are by any means comprehensive, for over a decade and with few resources, the BRC did provide a fairly constant and a more “user-friendly,” accessible, and approachable means for victims to report their allegations of abuse and mistreatment. BRC concern for victims led critics to call it biased, yet this concern was what made the group approachable for victims. As it was mainly a volunteer group, the BRC’s public outreach was limited, consisting of word-of-mouth referrals, seeking press coverage for specific abuses, a large painted notice on the cement riverbank beneath the main downtown

international bridge, and occasional “know your rights” presentations to community groups, among other measures. BRC documentation of rights abuses essentially consisted of the one part-time staff member or a volunteer carefully recording victims’ claims of abuse and any corroboration offered by witnesses or colleagues; interviewers developed a careful ear for inconsistencies and other suggestions of less-than-stellar credibility, but such were generally rare.

2. I should reiterate from earlier chapters here that in order to protect my informants (even after all these years) I have given all interviewees pseudonyms (with two exceptions) and made the interview dates somewhat general. The only exceptions are my interviews with Ben Murillo, the lead plaintiff from the historic 1992–1994 Bowie civil rights lawsuit, and Silvestre Reyes, ex-Chief Border Patrol agent for the El Paso sector, both of whose comments make more sense if they are identified and who granted me permission to cite them by name.

3. Abuse frequency is obviously a key issue, i.e., is it an isolated problem of a “few bad apples” or is it more widespread and systemic? Unfortunately, no quantitative probability-sample survey data exist on the issue of rights abuses or mistreatment involving the El Paso Border Patrol, though there is one study on the El Paso police (Holmes 1998). Such data on mistreatment in border enforcement (mainly by the Border Patrol) for two other regions, Tucson, Arizona, and South Texas, are available in a study by Koulisch et al. (1994), which found a 10 percent and 6 percent rate, respectively. Still, I would argue that the existing qualitative rights abuse data in the El Paso sector are not unique (i.e., the only such cases) and may give us something of a rough sense of abuse frequency, in the eyes of those interviewed. At any rate, there are methodological limitations on survey research on sensitive subjects, such as reluctance among respondents to be forthcoming or to even participate (see DeMaio 1984; Neuman 2003, 274–276) which Holmes (1998) noted in his study of the El Paso police and which Koulisch also mentioned to me prior to finishing his project (personal communication, May 5, 1993). Moreover, Sjoberg and colleagues (1991, 55–59) maintain that survey methods are ill-suited for studies of organizational deviance.

4. Earlier in the interview, the coach had explained that at Bowie High, the car had been parked under the stadium bleachers, next to the field house also underneath the stadium, so that no one from outside there could have seen the car or them getting into it.

5. In drawing this conclusion I am drawing on psychologist Antonio Martinez’s characterization of “trauma suffered by the community” due to human rights abuses by official agencies of state power, noted in Chapter 1, which he defines as “distrust reinforced by disempowerment” that “doesn’t permit the community to be a context for human development,” including the inhibition of constructive social relationships.

6. Deaths in the auto-pedestrian and auto-occupant categories especially declined; note that high-speed, multilane highways (Paisano Drive and I-10 to the west and the Border Highway to the east) run very near (as close as fifteen yards) along the Rio Grande for some twenty miles between El Paso and Ciudad Juárez. Also, available data from the Ciudad Juárez side on drowning deaths in the Rio Grande cover only the 1993–1997 period, totaling 63 deaths (Eschbach et al. 1999, 441).

7. I am using a pseudonym for the community to protect informants' identities.

8. In 2004 the lawyer who had represented the Colonia Lejana residents against the developer said the developer had told him recently that he did not report them to the Border Patrol and reportedly said that it would have been "financial suicide, because those people were paying my bills." However, it may well have been in his interest to get the residents deported and replace them with new owners; many *colonia* contracts are fairly easy for developers to void if buyers cease payment even briefly. It would have certainly been in his interest to have the agitating residents deported or sufficiently intimidated so as to drop the potentially costly lawsuit.

9. "Norma" is reluctant to be identified because she has received anonymous death threats for what the threatening parties termed "stirring up people" (i.e., helping people organize their communities to obtain basic public services), and she has been followed. Such chilling episodes surely heighten the methodological obstacles to gathering data for this type of "bottom-up" view of events and "unofficial" history from knowledgeable activist sources.

10. Under the out-of-court settlement reached, the residents were able to swap their remote land parcels for new ones from the same developer that were closer to public services and more likely to have water services extended eventually. Further, the Colonia Lejana residents, with their belongings, were relocated to the new plots and given at least some assistance with makeshift water service until they could be hooked up to full services. Texas Rural Legal Aid and the El Paso Inter-religious Sponsoring Organization (EPISO), the main *colonia* advocacy group in the area (see Staudt and Coronado 2002), were instrumental in aiding the residents.

11. While he was a model of civility and reasonableness in his responses to questions on all other topics during the interview, he was fairly rigid on this matter, as I asked him about it from different angles and he repeatedly maintained a position that basically denied the Border Patrol exercised any discretion in such cases.

12. These fall within the list of symptoms of serious stress as rights abuse aftereffects among some victims in cases of even less severe abuse that were noted by psychologist Dr. Antonio Martinez (presentation to El Paso Border Patrol, June 19, 1995).

13. A May 17, 1993, memo to sector chiefs and district directors from the INS Office of Operations, Associate Commissioner for Enforcement, specifically states, "Enforcement operations which are likely to involve apprehensions on the premises of schools, places of worship, or at funerals or other religious ceremonies require advance written approval by the District Director or Chief Patrol Agent" (INS Office of Operations, May 17, 1993). Thanks to Bowie lawsuit activists for providing a copy of this memo.

14. During 1995 I also observed a heavy presence of agents around and on church grounds, something that other area residents, in addition to Reverend Jaime, also confirmed a number of times. I was in Sunland Park frequently during 1995 and in periodic contact with several residents as well, as part of the border wall debate.

15. With “pass-book like,” I am making an analogy to the practice of police authorities asking to see your “official papers” (a pass-book) that demonstrated you had permission to be in a given area, a system enforced against blacks under apartheid rule in South Africa (see Hinson 1987).

16. I accompanied him during an evening shift, and nearly all enforcement efforts were focused on the border and the adjacent open area just south of the village; I saw no agent stops or questionings of local residents in the village, and the only enforcement activity in the village was searching for unauthorized crossers detected by infrared cameras who made it just into town.

17. The term “federal agents” is suggestive of the more prestigious elements of the federal police apparatus (such as the FBI, U.S. Federal Marshals, Secret Service, etc.), while the Border Patrol is among the least prestigious and serves as a stepping-stone upward for agents to those more prestigious entities.

Chapter 6

1. “Operation Last Call” was a pre-Labor Day 1998 one-day roundup for deportation of 116 El Paso-area legal permanent resident immigrants who had been convicted of driving while intoxicated (DWI) three times (the third offense constituting a felony) and were made deportable by the 1996 immigration reform law (the Illegal Immigration Reform and Immigrant Responsibility Act [IIRIRA]), which was retroactive. Many of those apprehended in the operation were longtime residents of the United States whose offenses had sometimes occurred decades earlier. This roundup spawned public protest and legal action by aggrieved family members and supporters.

2. This is based on some brief fieldwork I conducted in July 2004 in the El Paso area, during which I interviewed eighteen people, including four Border Patrol agents; I also conducted an extensive review of the archives of the *El Paso Times* newspaper for this chapter. More generally, I have kept in contact with several area residents and others who work with community groups there, and I have made several additional trips to the area a couple of brief ones entailing limited research (January 2001, March 2005) and two involving more extensive time and research (Summer 2007 and late November–early December 2007).

3. The 2004 Border Patrol national strategy stresses its top priority is the prevention of the entry of terrorists and their weapons into the United States, effected by maintaining and building on the unit’s previous 1994 “prevention through deterrence” strategy that enabled it to gain “operational control” of some high-traffic areas (El Paso, San Diego, McAllen) and now expanded to other priority areas as “defined by threat analysis” (Office of Border Patrol 2004, 7–9). The specific antiterrorism measures are relatively minor, as they include more partnerships with other law enforcement bodies (such as Joint Terrorism Task Forces), more extensive use of terrorist-related intelligence in operations, utilizing more technology to detect and respond to illegal border crossings, heightening rapid-deployment capability, and increased antiterrorism training for agents.

4. The use of laypeople as promoters and educators is an established outreach and educational technique in Latin America, particularly for public health efforts (e.g., training *promotoras de salud* in poor communities), as well as for other issues. The technique has also been adopted in the border region.

5. There is some concern about these data, as most are from the Border Patrol (which may have an interest in minimizing the issue), not independent monitors. One journalist told me that the unit did not include all border-crossing deaths in its statistics. Border Patrol categorization of its death data is also problematic. For example, for 2002 it classified three deaths as due to heat exposure but also found two additional skeletons in the desert for whom it could not determine the cause of death (Gilot 2003b) but which in all likelihood should be considered desert-crossing deaths. In 2003 it classified only two deaths as due to heat exposure, but listed three in an “other” category; it is certainly possible one or more were desert-crossing-related deaths. And in 2004 the fifth desert-crossing death as of July 14 was not included in Border Patrol crossing deaths in any category, because the decedent’s immigration status could not be determined despite the fact that this is frequently a problem in migrant crossing deaths (illegal crossers often carry no or little formal documentation) and in this case the victim (a Brazilian man) died of heat stroke in the desert a few miles north of the border in a rural area east of the city that was known as a popular site for illegal crossings, and after having come north from Mexico City to enter the United States (Borunda 2004b).

6. The ten desert-crossing deaths in southern New Mexico were all from the summer of 2005, through late July (Buey 2005), whereas the El Paso Border Patrol sector had already recorded twelve crossing deaths for 2005 by June 1 (Gilot 2005d).

7. As noted in note 5 of Chapter 1, Rubio-Goldsmith et al. (2006, 9–14) discovered a 22 percent undercount in Border Patrol data of border-crossing deaths in Arizona for 2005; this was due to a lack of coordination with county medical examiners. And Cornelius (2006, 5–6) proposes the actual death total could be twice the recorded total of known deaths borderwide, due to the difficulty in discovering the dead as crossers have opted increasingly for remote areas.

8. The basis for the emergency declaration seems a bit vague, but it was supposed to free up some monies in the state budget to address the situation. The declaration says the region “has been devastated by the ravages and terror of human smuggling, drug smuggling, kidnapping, murder, destruction of property and the *death of livestock*” (emphasis added). The latter was to have been addressed with state funds for a new fence to protect livestock in the area near Columbus, New Mexico, “along a favorite path for illegal immigration where a number of livestock have been stolen and killed” (CNN 2005).

9. According to the army, the Stryker is a rapidly deployable eight-wheeled armored combat vehicle, of which there will eventually be ten variations. The first is an Infantry Carrier Vehicle and the second will be the very tanklike Mobile Gun System. The Strykers are the combat vehicles for the army’s new rapidly deployable Interim Brigade Combat Teams, replacing tanks that are too heavy for rapid deployment. For additional information, see: <http://www.army.mil/>

features/stryker/default.htm; <http://www.globalsecurity.org/military/systems/ground/iav.htm>; http://www.military.com/soldiertech/0,14632,Soldiertech_Stryker,,00.html.

10. According to JTF-North's Web site: "JTF North, formerly known as Joint Task Force Six, is the Department of Defense organization tasked to support our nation's federal law enforcement agencies in the interdiction of suspected transnational threats within and along the approaches to the continental United States. Transnational threats are those activities conducted by individuals or groups that involve international terrorism, narco-trafficking, weapons of mass destruction, and the delivery systems for such weapons that threaten the national security of the United States. JTF North's new homeland defense support role is articulated in its mission statement: Coordinate military-unique support to law enforcement agencies and support interagency synchronization in order to deter and prevent transnational threats to the homeland. The new homeland defense mission aligns JTF North closely with U.S. Northern Command (USNORTHCOM), its higher headquarters" (<http://www.jtf6.northcom.mil/subpages/mission.html>).

Chapter 7

1. The important data regarding deaths of unauthorized border crossers are given a detailed examination in note 5 from Chapter 1.

2. Heyman (2002) makes this point regarding Mexican American Border Patrol agents and their dealings with undocumented Mexican immigrants; I am generalizing it more broadly, because I feel it fits this El Paso case very aptly.

3. Chief Reyes reversed the previous meaning of Border Patrol apprehension statistics, according to which increasing apprehensions were a goal, as they were said to demonstrate high levels of agent activity and demonstrate the need for more resources to handle the large numbers of illegal crossers. Prior to Operation Blockade, El Paso was generally the second-busiest sector, after San Diego, in terms of apprehensions, typically exceeding 200,000 per year.

4. Vila (2000, 2005) also found that this desire for differentiation ran both ways, with Mexicans in Ciudad Juárez tending to look down on Mexican Americans in El Paso.

5. Of these authors, I should note that Sassen and Eschbach et al. outline the citizenship-nationalistic perspective, but do not advocate for it (quite the contrary).

6. Maril and Spener provide similar findings of Border Patrol enforcement continuity, and from studying opposing sides of (or social actors in) the border enforcement issue. Maril (2004) studied the Border Patrol in the McAllen, Texas, sector and its Operation Rio Grande, and found remarkable continuity in its enforcement efforts before and after September 11, 2001 which, as noted previously, he found were, in the eyes of field agents, mostly for show and highly ineffective at stopping or apprehending unauthorized border crossers. In fact, he found agents felt that, in some ways, their unit's border enforcement was even more incomplete and ineffective after September 11 (Maril 2004,

266–267). Likewise, Spener’s (2004) study of small-scale immigrant smugglers in the northeast Mexico–South Texas area reports smugglers continued their efforts with little change in the 1998–2002 period, and were not greatly disrupted by Border Patrol efforts at any time, despite the unit’s claims to the contrary meaning there was little noticeable change in Border Patrol enforcement efforts after September 11. Taking a wider view of the border, Payan (2006) also notes very little changed in immigration enforcement before and after September 11, at least between the ports of entry, apart from massive bureaucratic reorganization (creation of the Department of Homeland Security). Most attention was devoted to the ports of entry, where waits lengthened greatly, and to increased new visa and trade inspection requirements.

7. One obvious need for the El Paso–Juárez area is a border enforcement abuse-frequency survey study, such as has been done in Tucson, Arizona, and South Texas (Koulish et al. 1994) and in Tijuana (Santibáñez et al. 1993). Another glaring need is to greatly expand attention to the varied, rich efforts to raise human rights issues and challenge abuses in border enforcement at a number of border locations.

8. Analysis of crime data has provided mixed results, at best, for deterrence theory. The basic underlying idea is that by raising the costs (difficulty, penalty, etc.) for law violations, more will be dissuaded from offending. While this idea is very popular with the public, in part for seeming so rational, it does not work well in practice, as much crime is not so rational, or is based on other costs and rewards not known by policy makers.

9. As an analogy, I am drawing on Marx’s concept of “commodity fetishism” (Marx 1977, 163–177), according to which the focus on the abundance of commodities produced under industrial capitalism diverts our attention from the larger social relations underlying their production, most notably great inequality between owners and workers. Also, Heyman (1998, 70) makes a point similar (though more social psychological) to my notion of border fetishism in proposing that the growing emphasis on border enforcement is a “symbolic displacement of interior tensions” regarding illegal immigration “toward the national margin.”

10. The basic idea of Massey and colleagues is that we have spent billions and achieved little in Border Patrol enforcement since the mid-1990s. They argue that we could be just as effective by spending less, and these broader immigration reforms could result in a less costly Border Patrol being more efficient and effective.

11. Secretary Chertoff said that without immigration reform his agency’s “customs and immigration officers are saddled with the need to pursue people who are coming here to work, which distracts them somewhat from pursuing those who are coming to do harm” (Gilot 2007g).

12. The apprehensions of “Special Interest [Country] Aliens” (SIAs) fluctuated from 141 to 360 from 1992 to 2004, peaking in 2002 and dropping to approximately 250 in 2003 and 2004 (Ewing 2006, 9). The portion of Border Patrol apprehensions falling in the broader “Other than Mexican” (OTM) category rose (from roughly 2 percent in 1999 to 13.2 percent in 2005), but nearly

all were from Latin America. Some 78.5 percent of the OTMs from 1999 to 2005 were from four Central American nations, and an additional 13.8 percent were from Brazil for a total of 92.3 percent of OTM apprehensions from those five Latin American nations (Ewing 2006, 8).

13. In contrast to stereotypes, immigrants have lower rates of criminal offending and incarceration than do the native-born (Sampson 2006; Butcher and Piehl 2005; Portes and Rumbaut 2006, 194–197).

14. The case of the September 11 hijackers shows us that much more attention needs to be given to the visa granting and legal entry process, as all nineteen hijackers entered the country with visas, though nearly all had significant errors and “red flags” on their visa application forms that should have alerted embassy officials and probably been grounds for denial of their visa applications (Eggen 2002; see also *9/11 Report* 2004, 549).

15. The United States hosted 93 of the 373 terrorists in their database, and Canada hosted 26. Of those in the United States, only 3 percent entered the country illegally, and none via the U.S.-Mexico border (Leiken and Brooke 2006, 514). They constructed their database from open source documents (e.g., media reports, court records, etc.), including only those who were convicted, charged (but not yet convicted), or otherwise known as terrorists and killed. They focused exclusively on Muslim Salafi (radical Sunni) of the Jihadi type (Leiken and Brooke 2006, 506).

16. Illegal entry would expose them to the constant danger of detection by immigration officials or local authorities who might turn them over to such for even small law violations (as with unauthorized immigrants now). It would be much less risky to enter legally and avoid having such obstacles foil their plans.

17. The case of Luis Posada Carriles, an anti-Castro Cuban émigré and ex-CIA operative, is the most notable of this type. He is wanted in Venezuela and Cuba for blowing up a civilian Cuban jetliner in Venezuela in 1976, killing 73 people. He claims to have crossed the border into El Paso and was detained in the area for over a year on immigration charges, which were eventually dismissed by a federal judge (Caldwell 2007a; “Cuban Militant’s Charges Tossed” 2007). Also, during the Central American civil wars of the 1980s and early 1990s, undoubtedly some combatants who had killed and tortured civilians intentionally (the key feature of terrorism) eventually fled for the United States and crossed the border illegally but they have not committed terrorist acts in the United States. The most widespread of human rights abusers were among U.S. allies, the forces of the governments in El Salvador and Guatemala (which committed over 90 percent of all civilian killings in their civil wars according to postconflict UN Truth Commission reports) and U.S.-sponsored and notoriously brutal counterrevolutionary forces in Nicaragua.

18. The Hezbollah agent was sentenced in 2005 to four years in prison after admitting he raised funds for Hezbollah while living in the United States (in Michigan). Hezbollah is considered a terrorist organization by the U.S. government. It is a Shiite militia and political party in Lebanon and has long clashed with Israel.

19. However, at a more general level, U.S. intelligence agencies also recognize the need to address underlying factors fueling global terrorism, such as the widespread grievances against the United States and the West in Muslim countries (“Declassified Key Judgments of the National Intelligence Estimate . . .” 2006).

Epilogue

1. The raid was part of a federally funded project, “Operation Stonegarden,” for border region local law enforcement agencies to coordinate with federal agencies to “combat crime and secure the border,” according to Homeland Security Secretary Michael Chertoff, and was tied to an antiterrorism program (Department of Homeland Security 2006). None of the Chaparral immigrants had anything to do with these more serious concerns, however, and the raid aroused a great deal of fear among immigrants and much protest from immigrant rights advocates and religious officials.

2. The Alliance was initially composed of the Border Action Network (Arizona), the Border Network for Human Rights (Texas and New Mexico), and the Latin America Working Group Education Fund (Washington, D.C.), and later added activists from San Diego, California. As a part of its advocacy it forged a set of “Alternative Guidelines for Border Enforcement Policies and Practices” that addressed (and critiqued) an array of topics, including: increasing agency accountability for rights abuses, review of border operations, proposed border fencing increases, use of the military on the border, community security, and detention and deportation (Border Network for Human Rights 2006a). In November 2006, I was one of several scholars the BNHR asked (including Josiah Heyman at UT–El Paso as the lead person) to read over their sections on border enforcement and border militarization and make suggestions, which I did. I felt the document was well founded and strong, and I offered only minor suggestions.

3. This is part of a larger push by the UTEP administration to capitalize on its border location and wide expertise to develop a border security program (capable of generating new external funding). In early 2008 UTEP was “designated a Center of Excellence for Border Security and Immigration by the U.S. Department of Homeland Security” (UTEP News Release 2008), for which it received a \$6 million grant; the focus is nearly all on border enforcement, not immigration in any broader sense. Interestingly, while retired General–cum–UTEP Vice President Jose Riojas heads the center, it appears that the managing director is Luis Barker, former El Paso Border Patrol sector chief (1998–2005) and recently retired national deputy chief of the Border Patrol. The university also opened a new border-focused Center for Defense Systems Research in October 2006 (with a \$1 million federal start-up grant), to be overseen by Vice President Riojas (Roberts 2006a). In 2007 UTEP started new academic specializations in “Intelligence and National Security” and established an “Intelligence Community Center,” funded by the Office of the Director of National Intelligence (UTEP News Release 2007). In addition, since 2004, UTEP has cohosted with

Congressman Silvestre Reyes annual Border Security Conferences, bringing in high-ranking security and military officials; one of the main themes for the 2007 conference was “strengthening intelligence through diversity” (“Border Security Conference . . .” 2007).

4. During Summer 2007 I lived in El Paso for seven weeks, in a neighborhood very close to the border, the same one where I previously lived from 1994 to 1999. I noticed very little obvious, visible presence of probable undocumented immigrants or Border Patrol presence in that neighborhood or others I visited, at least not the type that people described as common before Operation Blockade/Hold-the-Line. However, based on what I saw and read about or watched on local news media, there was some activity along the river in the urban area including daylight and nighttime unauthorized crossings and even some through sewer tunnels.

5. Nuñez-Neto and Garcia (2007) cite the total length of the fence/wall as 850 miles. The longest stretch specified in the law is from 10 miles west of Calexico, California, to 5 miles west of Douglas, Arizona roughly 400 miles, including nearly the entire state of Arizona. The other border fence sections called for in the law include: 20 miles around the Tecate, California, port of entry; from 5 miles northwest of Del Rio, Texas, to 5 miles southeast of Eagle Pass, Texas (over 60 miles); and from 15 miles northwest of Laredo, Texas, to the Brownsville, Texas, port of entry (over 200 miles). The law does allow for an exception to fencing in hilly and mountainous terrain, stating, “If the topography of a specific area has an elevation grade that exceeds 10 percent, the Secretary may use other means to secure such area” (*Secure Fence Act of 2006*, Section 3).

6. The Secure Fence Act did not include any funding. The 2007 DHS Appropriations Act allotted \$1.2 billion for it (Nuñez-Neto and Garcia 2007, 24). However, even a strong proponent of the 700-mile fence/wall, Rep. Duncan Hunter (R-CA), calculated that it would cost \$2.2 billion (Innes 2006b), while others have estimated costs at \$5–9 billion (Gilot 2006c). Another potential obstacle is land acquisition challenges posed by widespread private land ownership, especially in Texas, where unlike other border states, the federal government owns very little border-adjacent land and nearly all is held privately (apart from Big Bend National and State Parks, and a few small federal wildlife preserves); obtaining access to build the wall could involve lengthy and costly legal battles, some of which were taking shape in early 2008 (see Aizenman 2008).

7. The camera and infrared imaging system subcontractor is Elbit, an Israeli firm (Shalal-Esa 2006), which is reportedly Israel’s leading military contractor and has been involved in providing its surveillance expertise along Israel’s highly controversial massive security fence/wall barrier (Norrell 2007), being built along the entire West Bank, most of it outside of Israel’s internationally recognized borders.

8. Among the technical problems is the wireless communication network Boeing proposes to use to send its surveillance data to Border Patrol laptop computers. Reportedly, Boeing plans to use regular wi-fi, an unlicensed public band. This suggests that the network would hardly be secure and more practically, broadband and cell phone service in the area is notoriously poor, due to

rugged terrain and mountains (Norrell 2007). It's hard to believe Boeing could not foresee what local residents know so well.

9. If 6,000 border-deployed National Guard troops were rotated on a two-week basis, it would require $156,000$ troops to staff a one-year period (26 two-week periods per year \times 6,000 = 156,000). There were 444,000 total National Guard troops (337,000 Army National Guard and 107,000 Air National Guard) in 2006 (Burns 2006). In practice, many border-deployed Guard troops have volunteered for longer stays. Meanwhile in Iraq, National Guard troops have at times accounted for 41 percent of all U.S. forces deployed there (Graham and White 2005).

10. Noted immigration scholar Wayne Cornelius concluded that it would take nearly 100,000 Border Patrol agents to replicate El Paso's Operation Blockade/Hold-the-Line along the entire border, and more than 225,000 agents to replicate San Diego's Operation Gatekeeper worldwide (cited in McCombs 2006a). The El Paso operation started with 16 agents per mile along 25 miles (20 actually), and the San Diego operation had 38 agents per mile along its 66 miles in 1998. (Thus, replicating El Paso: 16 agents per mile \times 2,000 miles \times 3 eight-hour shifts per day = 96,000 agents; replicating San Diego: 38 agents per mile \times 2,000 miles \times 3 eight-hour shifts per day = 228,000 agents.)

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