

**Marc R. Rosenblum
Specialist in Immigration Policy
Congressional Research Service**

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***A Line in the Sand: Assessing Dangerous Threats to Our Nation's Borders*
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Management**

Chairman McCaul, Ranking Member Keating, Members of the Committee: Thank you for the opportunity to testify today on behalf of the Congressional Research Service. My statement draws on a new report that I am coauthoring with my CRS colleagues Jerome Bjelopera and Kristin Finklea; and I want to thank them and acknowledge their role, along with several other colleagues at CRS, in preparing this statement.

Pursuant to the Committee's request, my statement today will consist of three parts. First, I will discuss key threats to U.S. borders. Second, I will describe selected threat scenarios. Third, I will discuss some policy options Members of Congress may consider with respect to border security in the next four years and beyond.

The Complexity of the Border Security Mission

America's national security concerns at the border long predate the post-9/11 focus on "homeland security," though the nature of border threats has changed over time. The first federal immigration laws, passed in 1798, authorized the President to arrest or deport any alien deemed dangerous to the United States, and any adult male alien from a country at war with the United States.¹ Over the course of the 20th century, laws expanded to exclude anarchists (in 1903), aliens considered a threat to public safety during times of war (1918), communists (1950), and terrorists (1990).²

The mission and focus of U.S. border enforcement has also changed over time. The border patrol was established in 1924 and focused initially on preventing the entry of Chinese migrants and on preventing alcohol inflows during prohibition, with the majority of agents stationed on the northern border.³ Unauthorized migration, mainly from Mexico, emerged as a major policy concern beginning in the late 1960s.⁴ The year 1970 also marked the beginning of America's "war on drugs."⁵ Border patrol staffing climbed eleven-fold between 1975 and 2011,⁶ and the Drug Enforcement Administration's (DEA) budget

¹ The Aliens Act of June 25, 1798 (1 Statutes-at-Large 570), and the Alien Enemy Act of July 6, 1798 (1 Statutes-at-Large 577), respectively. Three laws passed prior to June 1798 concerned federal naturalization provisions.

² Respectively, the Immigration Act of March 3, 1903 (32 Statutes-at-Large 1213); the Act of May 22, 1918 (40 Statutes-at-Large 559); the Internal Security Act of 1950 (64 Statutes-at-Large 987); Immigration Act of 1990 (P.L. 101-649).

³ See U.S. Customs and Border Protection (CBP), "Border Patrol History," http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/history.xml. Also see Tony Payan, *The Three U.S.-Mexico Border Wars: Drugs, Immigration, and Homeland Security* (Westport, CT: Praeger Security International, 2006).

⁴ See CRS Report R42560, *Mexican Migration to the United States: Policy and Trends*, coordinated by Marc R. Rosenblum.

⁵ See CRS Report R41535, *Reauthorizing the Office of National Drug Control Policy: Issues for Consideration*, by Lisa N. Sacco and Kristin M. Finklea.

⁶ Calculations from data available at CRS Report R42138, *Border Security: Immigration Control Between Ports of Entry*, by Marc R. Rosenblum; and Syracuse University Transactional Records Access Clearinghouse, "National Trends in Apprehensions and Staffing," <http://trac.syr.edu/immigration/reports/141/include/rep141table2.html>.

expanded about five-fold (in constant dollars) during the same period.⁷ Despite these increases, however, the estimated unauthorized population in the United States grew from about 1.7 million in 1979 to about 12.1 million in 2007, before declining to about 11.5 million in 2011.⁸ About 22.5 million individuals were current (past month) illegal drug users in 2011, representing a slight per capita increase since 2002, but a decline of about one-third since the 1970s.⁹

With the first World Trade Center bombing in 1993, the Oklahoma City bombing in 1995, and the interception of the millennium bomber in 1999, counterterrorism became a third important focus of U.S. border security during the 1990s—and the top concern after September 11, 2001. Thus, the Homeland Security Act of 2002 created the Department of Homeland Security and charged the new agency with, among other responsibilities, preventing the entry of terrorists and terrorist weapons, securing U.S. borders, immigration enforcement, and customs enforcement (including preventing illegal drug flows).¹⁰

As **Figure 1** illustrates, these elements in DHS' border security mission are distinct but partially overlapping. The “criminal networks” circle in **Figure 1** includes characteristics that are unique to that threat, including trafficking organizations that specialize in drug smuggling. The circle intersects with “unauthorized migrants” where these threats relate, as in the case of drug trafficking organizations (DTO) that expand into migrant smuggling. At the core of the diagram all three circles overlap, describing convergent threats—DTOs, unauthorized migrants, and terrorists who use the same smuggling routes or techniques, for example.

While one may be drawn to the core of **Figure 1**, the peripheral areas of each circle are also important because threats encompass distinct features, and certain policy responses may be more appropriate to combat particular threats. For example, while there is some degree of overlap among unauthorized migrants, drug smugglers, and potential terrorists, the great majority of unauthorized migrants do not fall into the other categories. None of the 9/11 hijackers or known post-9/11 terrorist threats (e.g., Richard Reid, the “shoe bomber”; Umar Farouk Abdulmutallab, the “underwear bomber”; and Faisal Shahzad, the “Times Square bomber”) entered the United States illegally. And while most unauthorized migrants enter the country between ports of entry or by overstaying nonimmigrant visas,¹¹ many illicit drugs are smuggled into the United States hidden within cargo containers, private vehicles, or in other non-commercial vehicles.¹² As a result, the enforcement tools targeting unauthorized migration—personnel and infrastructure between ports of entry, worksite enforcement, Secure Communities—likely do little to reduce narcotics smuggling, and vice versa. Another set of enforcement measures may be ideally designed to combat terrorism, and yet another to prevent other border threats, such as fraudulent goods.

⁷ Calculations from data available at Department of Justice, “Drug Enforcement Administration,” http://www.justice.gov/archive/jmd/1975_2002/2002/html/page100-103.htm; and CRS Report R42440, *Commerce, Justice, Science, and Related Agencies: FY2013 Appropriations*, by Nathan James, Jennifer D. Williams, and John F. Sargent, Jr., Coordinators.

⁸ See CRS Report R42560, *Mexican Migration to the United States: Policy and Trends*; CRS Report RL33874, *Unauthorized Aliens Residing in the United States: Estimates Since 1986*, by Ruth Ellen Wasem.

⁹ Substance Abuse and Mental Health Services Administration, *Results from the 2011 National Survey on Drug Use and Health: Summary of National Findings*, September 2012,

<http://www.samhsa.gov/data/NSDUH/2k11Results/NSDUHresults2011.pdf>; The White House, Office of National Drug Control Policy, “Remarks by Director Kerlikowske before the Inter-American Drug Abuse Control Commission,” <http://www.whitehouse.gov/ondcp/news-releases-remarks/remarks-by-director-kerlikowske-before-the-inter-american-drug-abuse-control-commission>.

¹⁰ P.L. 107-296, § 402.

¹¹ CRS Report RL33874, *Unauthorized Aliens Residing in the United States: Estimates Since 1986*, by Ruth Ellen Wasem.

¹² U.S. Department of Justice, National Drug Intelligence Center, *National Drug Threat Assessment 2011*, pp. 13-16, www.justice.gov/archive/ndic/pubs44/44849/44849p.pdf.

Types of Threats at U.S. Borders

Border threats may be divided into actors and goods.

Threat Actors

Any person who intends to harm the United States, or whose presence may lead to harmful consequences, may be a threat and a potential target for border enforcement policies. Three general types of threat actors are terrorists, transnational criminals, and unauthorized migrants,¹³ although certain actors may fall into more than one category.¹⁴ These actors may be broadly distinguished and categorized by their motives and their behavior.

- Terrorists A defining feature of terrorists is that they are motivated by particular grievances about aspects of the societies that surround them,¹⁵ and they articulate their views “on moral grounds.”¹⁶ Based on their grievances and ideologies, terrorists generally have goals other than personal monetary gain.¹⁷ Terrorists often seek to instill fear among a targeted population to “destroy the collective confidence individuals invest in social institutions and . . . national leadership.”¹⁸ Terrorists use violent tactics to direct public attention toward their grievances, gain recruits, or coerce people.¹⁹ Terrorists also promote their causes by fashioning propaganda.
- Transnational criminals In contrast with terrorists, criminals generally are non-ideological, and fundamentally motivated by the pursuit of profit.²⁰ People also participate in criminal organizations for reasons that involve other sorts of personal gain, such as “belonging to a powerful and even prestigious entity,”²¹ or because of kinship, ethnic ties, or friendship.²² Profit

¹³ Some people may object to describing unauthorized migrants as “threats to border security.” Nonetheless, illegal migration flows threaten certain U.S. interests, even if people disagree about the scope or gravity of the threat. In addition, given that DHS’ mission includes preventing the entry of terrorists, illegal drugs and contraband, *and unauthorized migrants*, a common framework for understanding these inflows may be helpful for making border policy and allocating DHS resources.

¹⁴ In addition, some people may threaten U.S. interests without falling into any of these categories, including for example a legal migrant who (knowingly or unknowingly) carries a virus that threatens U.S. public health.

¹⁵ Anthony F. Lemieux and Victor H. Asal, “Grievance, Social Dominance Orientation, and Authoritarianism in the Choice and Justification of Terror Versus Protest,” *Dynamics of Asymmetric Conflict*, vol. 3, no. 3, (November 2010), p. 196. See also: Ryan Hunter and Danielle Heinke, “Radicalization of Islamist Terrorists in the Western World,” *FBI Law Enforcement Bulletin*, (September 2011), pp. 27-29, <http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/september-2011>.

¹⁶ Louise Richardson, *What Terrorists Want: Understanding the Enemy, Containing the Threat* (New York: Random House, 2007), p. 16. Also see Marc Sageman, *Leaderless Jihad: Terror Networks in the Twenty-First Century*, (Philadelphia: University of Pennsylvania Press, 2008), pp. 72-75.

¹⁷ Richardson, *What Terrorists Want*, p. 13.

¹⁸ Thomas F. Ditzler, “Malevolent Minds: The Teleology of Terrorism,” in *Understanding Terrorism: Psychosocial Roots, Consequences, and Interventions*, ed. Fathali M. Moghaddam and Anthony J. Marsella (Washington, DC: American Psychological Association, 2004), p. 197.

¹⁹ Robert A. Pape, *Dying to Win: The Strategic Logic of Suicide Terrorism* (New York: Random House, 2005), pp. 9-10.

²⁰ Frank E. Hagan, “‘Organized Crime’ and ‘organized crime’ Indeterminate Problems of Definition,” *Trends in Organized Crime*, vol. 9, no. 4 (Summer 2006), p. 135. See also James O. Finkenauer, “Problems of Definition: What Is Organized Crime?” *Trends in Organized Crime*, vol. 8, no. 3 (Spring 2005), pp. 65.

²¹ Diego d’Andria, “Investment Strategies of Criminal Organisations,” *Policy Studies*, vol. 32, no. 1 (January 2011), p. 3.

²² Klaus von Lampe, “Re-Conceptualizing Transnational Organized Crime: Offenders as Problem Solvers,” *International Journal of Security and Terrorism*, vol. 2, no. 1 (2011), p. 11.

incentives drive criminals to “provide goods and services that are illegal, regulated, or in short supply.”²³ They devote resources to enhancing their market-related activities, which can involve carving out and defending turf, devising novel smuggling techniques, managing and protecting supply chains, eliminating rivals, laundering money, and shielding their secrets from “competitors” (such as rival gangs and law enforcement).²⁴ Violence plays a key role in criminal behavior, but it is rarely ideologically-driven.²⁵ In addition, criminals may secure access to markets by corrupting or intimidating public officials or gaining influence over state activity.²⁶

- Unauthorized migrants In addition to terrorists and certain criminals, the Immigration and Nationality Act (INA) defines as inadmissible, among others, any alien present in the United States without being admitted or paroled, arriving at an illegal time or place, or not in possession of a valid unexpired visa or other entry document.²⁷ Unauthorized migrants—like legal migrants—may be motivated by some combination of employment opportunities, a general desire to improve their economic circumstances, family connections, and dangerous or difficult conditions in their home countries, among other factors.²⁸ Apart from immigration-related offenses such as illegal entry or the use of fraudulent documents to obtain employment, some unauthorized aliens never commit a criminal offense.²⁹

The differences among terrorists, transnational criminals, and “regular” unauthorized migrants are summarized in **Table 1**.

Illegal Goods

Any good that is smuggled in or out of the country is illegal and may pose security risks. Illegal goods fall into two categories distinguished by their inherent illegitimacy: goods that are always illegal and categorically prohibited, and those that are potentially legal but illegitimate because they are smuggled to avoid enforcement of specific laws, taxes, or regulations.

- Categorically prohibited goods include certain weapons, illegal drugs, and counterfeit goods. Among illegal weapons, “high-consequence weapons of mass destruction (WMD)” are considered one of the primary threats to homeland security.³⁰ Concerns over WMDs entering the United States generally involve worries over terrorists’ use of these weapons, yet some have raised concerns that criminal networks may—for the right price—attempt to smuggle WMDs or related materials. Illegal drugs comprise another set of illicit goods that challenges U.S. border security, as many drugs consumed in

²³ Finkenauer, “Problems of Definition,” p. 67.

²⁴ Toine Spapens, “Macro Networks, Collectives, and Business Processes: An Integrated Approach to Organized Crime,” *European Journal of Crime, Criminal Law, and Criminal Justice*, vol. 18 (2010), pp. 210-212.

²⁵ See for example, Phil Williams, “The Terrorism Debate Over Mexican Drug Trafficking Violence,” *Terrorism and Political Violence*, vol. 24, no. 1, (April 2012).

²⁶ See: Moisés Naím, “Mafia States: Organized Crime Takes Office,” *Foreign Affairs*, vol. 91, no. 3, (May/Jun2012), pp. 100-111.

²⁷ INA §§ 212(a)(6)-(7); 8 U.S.C. §§ 1227 (a)(6)-(7). Also see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by Ruth Ellen Wasem.

²⁸ See for example, Elizabeth Fussell, “Space, Time, and Volition: Dimensions of Migration Theory,” in *Oxford Handbook of International Migration*, ed. Marc R. Rosenblum and Daniel J. Tichenor (New York, NY: Oxford University Press, 2012), pp. 25-52.

²⁹ See CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*, by Marc R. Rosenblum and William Kandel. Also see for example, Lesley Williams Reid, Harald E. Weiss, and Robert M. Adelman, et al., “The Immigration-Crime Relationship: Evidence Across U.S. Metropolitan Areas,” *Social Science Research*, Vol. 34, no. 4 (December 2005: pp. 757-780.

³⁰ Department of Homeland Security, *Quadrennial Homeland Security Review Report: A Strategic Framework for a Secure Homeland*, February 2010, p. 6, http://www.dhs.gov/xlibrary/assets/qhsr_report.pdf.

the United States are produced abroad and smuggled into the country.³¹ The smuggling of counterfeit and pirated goods into the United States has also been identified as a threat to border security.³² This smuggling violates intellectual property rights (IPR) and “threaten[s] America’s economic vitality and national security, and the American people’s health and safety.”³³

- **Illegal via Smuggling** Goods that *are not* categorically prohibited are still illegal if they are smuggled into or out of the United States. For instance, alcohol and cigarettes, while generally legal and regulated in the United States, are sometimes smuggled to circumvent taxes or to evade other laws. Proceeds from the smuggling of cigarettes have been linked to the financing of terrorist operations abroad.³⁴ Other legal products, such as textiles or agricultural products, may be mislabeled to avoid tariffs or circumvent quotas. Illegal outflows are also a concern, particularly as they relate to transnational criminal organizations. Bulk cash smuggling³⁵ is one of the primary means by which criminals move their illicit proceeds out of the United States.³⁶ Between \$20 billion and \$25 billion in bank notes may be smuggled across the Southwest border into Mexico each year.³⁷ Analysts also believe that Mexican DTOs purchase firearms in the United States and smuggle these weapons to Mexico, where they may contribute to trafficking-related violence.³⁸

Understanding Border Threats and Risk

A fundamental challenge for border security policymaking is the uncertainty and fear surrounding border threats: many different threats exist, threat actors do not announce their intentions or capabilities, and our understanding of the underlying issues is imperfect. Thus, rather than attempting specific

³¹ CBP seized an average of 13,717 pounds of drugs each day in FY2011; see Customs and Border Protection, *On a Typical Day in Fiscal Year 2011*, March 7, 2012,

http://cbp.gov/linkhandler/cgov/about/accomplish/typical_day_fy11.ctt/typical_day_fy11.pdf.

³² See CRS Report RL34292, *Intellectual Property Rights and International Trade*, by Shayerah Ilias and Ian F. Fergusson.

³³ U.S. Customs and Border Protection, *Intellectual Property Rights Fact Sheet*, http://www.cbp.gov/linkhandler/cgov/newsroom/fact_sheets/trade/ipr_fact_sheet.ctt/ipr_fact_sheet.pdf. In FY2011, ICE and CBP had 24,792 seizures of counterfeit goods—25% more than in FY2010; see U.S. Customs and Border Protection, *IPR Seizure Statistics*, http://www.cbp.gov/xp/cgov/trade/priority_trade/ipr/ipr_communications/seizure/.

³⁴ International Tax and Investment Center, *The Illicit Trade in Tobacco Products and How to Tackle It*, http://www.kangaroogroup.eu/DB_beelden/booklet_illicit_trade_tobacco_products.pdf. Bureau of Alcohol, Tobacco, Firearms, and Explosives, *Cigarette Smuggling Linked to Terrorism*, June 18, 2004, http://www.atf.gov/pub/gen_pub/cigarettesmuggling.pdf.

³⁵ Cross-border movement of money is not inherently illegal, but certain practices are. In general, the movement of \$10,000 or more out of the United States is illegal unless it is declared and reported; see 31 U.S.C. § 5332, 31 C.F.R. § 103.23(a).

³⁶ Office of National Drug Control Strategy, *National Southwest Border Counternarcotics Strategy*, June 2009, p. 25, http://www.whitehousedrugpolicy.gov/publications/swb_counternarcotics_strategy09/swb_counternarcotics_strategy09.pdf.

³⁷ William Booth and Nick Miroff, “Stepped-Up Efforts by U.S., Mexico Fail to Stem Flow of Drug Money South,” *Washington Post*, August 25, 2010, <http://www.washingtonpost.com/wp-dyn/content/article/2010/08/25/AR2010082506161.html>. In FY2011, CBP seized an average of \$345,687 in undeclared or illicit currency each day—over \$126 million total; Customs and Border Protection, *On a Typical Day in Fiscal Year 2011*, March 7, 2012, http://cbp.gov/linkhandler/cgov/about/accomplish/typical_day_fy11.ctt/typical_day_fy11.pdf.

³⁸ See CRS Report R40733, *Gun Trafficking and the Southwest Border*, by Vivian S. Chu and William J. Krouse; and CRS Report RL32842, *Gun Control Legislation*, by William J. Krouse.

predictions about where, when, and how border threats will be realized, analysts often rely on probabilistic risk models as a framework for analyzing different types of potential threats.³⁹

The standard components of many risk models include estimates of the *likelihood* of a threat (or adverse event) and the *potential consequence* of the event. Risk is modeled as a positive function of these two components, so that risk increases with the likelihood and potential consequences associated with a particular threat (see **Figure 2**). Put another way, this model of risk may be understood as “as the statistical expect[ed] value of an unwanted event that may or may not occur.”⁴⁰

Thus, as **Figure 2** illustrates, events that are unlikely to occur, and that would have low consequences if they did occur, are especially low-risk threats. Conversely, an event that is likely to occur, and that would have severe consequences, is an especially high-risk threat. Threats exist between these two extremes, including high-likelihood, low-consequence threats and low-likelihood, high-consequence threats.

DHS employs this general framework for many of its risk management programs, including for example the Homeland Security Grant Program and the Strategic National Risk Assessment. Some experts have raised questions about whether this type of risk model is the right approach to understanding border threats.⁴¹ An alternative approach, based on game theory, places more emphasis on strategic planning by terrorists and other threat actors, who may attempt to exploit weakness in U.S. defenses.⁴²

Likelihood of Border Threats

Historical data may allow analysts to calculate *past frequencies* and use them to estimate probabilities. In the case of unauthorized migration, for example, CBP and the legacy INS have used apprehensions of unauthorized migrants by the border patrol as a proxy to estimate unauthorized inflows.⁴³ Apprehensions and survey data also may offer insight into illegal drug flows, in this case by analyzing drug seizures and data on the availability of illegal drugs within the United States.⁴⁴

Yet deriving probabilities from historical observations is problematic because measures of past frequencies are only of *known* frequencies and not *actual* flows. For instance, while data from the National Seizure System indicate that over 1.7 million kilograms of illegal drugs were seized along the Southwest border in 2010,⁴⁵ this is not indicative of the total amount of illicit drugs smuggled across the Southwest border and into the United States for that time period. Any estimates of illegal inflows—whether of drugs, unauthorized migrants, or some other illicit flow—are just that: estimates.

Learning from past history is even more problematic when it comes to extremely rare events like attempted terrorist attacks. Probability models based on historical frequencies are poorly equipped to

³⁹ See for example, DHS, *Risk Management Fundamentals: Homeland Security Risk Management Doctrine*, Washington, DC, April 2011.

⁴⁰ Sven Ove Hansson, “From the Casino to the Jungle: Dealing with Uncertainty in Technological Risk Management,” *Synthese*, no. 168 (2009), p. 424.

⁴¹ See for example, National Research Council, Committee on Methodological Improvements to the Department of Homeland Security’s Biological Agent Risk Analysis, *Department of Homeland Security Bioterrorism Risk Assessment: A Call for Change* (Washington, DC: National Academies Press, 2008). Also see Barry Charles Ezell, Steven P. Bennett, and Detloff von Winterfeldt, et al., “Probabilistic Risk Analysis and Terrorism Risk,” *Risk Analysis*, vol. 30, no. 4 (2010).

⁴² *Ibid.*

⁴³ See CRS Report 42138, *Border Security: Immigration Enforcement Between Ports of Entry*, by Marc. R. Rosenblum.

⁴⁴ See for example, the White House, “Drug Availability Estimates in the United States, 2012,” http://www.whitehouse.gov/sites/default/files/page/files/daeus_report_final_1.pdf.

⁴⁵ Data provided to CRS by the National Drug Intelligence Center. Data cover seizures of cocaine, heroin, marijuana, MDMA, and methamphetamine.

describe one-in-a-million chances, or to distinguish among, say, probabilities of one-in-a-million versus one-in-a-billion or one-in-one-hundred-thousand.⁴⁶ Especially when the stakes are high, as with terrorism, rare event probability models may not generate precise predictions about future likelihood.⁴⁷ Partly for this reason, the intelligence community often describes likelihood in terms of qualitative ranges, such as “remote,” “unlikely,” “probable,” etc.⁴⁸

More generally, historical analysis is limited because “past performance is no guarantee of future results.” Changes to the underlying model may invalidate long-term probabilities. Scientists use long-term frequencies to calculate the probability of severe weather, for example; but some people believe that rising temperatures and sea level may have altered climate dynamics so that probability models describing “500-year” floods and “100-year” storms may no longer be accurate. Similarly, some social scientists believe changes in U.S. and Mexican labor markets and demographics, along with the decades-long escalation in U.S. enforcement, may have fundamentally altered regional immigration dynamics.

Analysts may improve upon historical frequencies by relying on subject field experts to make more informed predictions about the *expected frequency* of future events. With respect to the threat of terrorism, for example, federal law enforcement, security agencies, and elements within the intelligence community use intelligence analysis to estimate the likelihood of a terrorist attack. This involves many factors aside from historical frequency, such as probing and evaluating the motives of threat actors, their organizational structures, and their capabilities, as well as estimating the impact of broad social, political, or economic forces on these actors. Analysts may look at similar data along with U.S. market forces to estimate the future likelihood of illegal drug flows and other contraband; and they may examine market and social forces to model future migration flows.

The Strategic Adversary Problem

Regardless of the methodology, a fundamental challenge to estimating the likelihood of border threats is that threat actors like unauthorized migrants, transnational criminal organizations, and potential terrorists are *strategic adversaries* who may adapt their behavior in response to U.S. border enforcement efforts.⁴⁹ In this regard, risk models for border security differ in important ways from risk models for natural disasters, industrial failures, or financial markets, for example. The strategic adversary problem means that any effort to describe the likelihood of a given threat must account for given security conditions. And any particular risk assessment can only represent a “snapshot” at a single point in time within a constantly evolving dynamic system.

Potential Consequences of Border Threats

Border threats may result in a range of potential consequences, and policymakers may disagree about how to evaluate them. The process of evaluating consequences includes at least three discrete tasks: defining the scope of a threat (i.e., the types of consequences), measuring the potential impact, and attaching value to the impact.

- **Defining consequences.** The first step in evaluating the potential consequences of a given threat is to define its scope: what type of impact may occur? Many traditional risk assessment methodologies limit their analysis to concrete criteria, including in particular *direct economic costs* and *loss of life*.⁵⁰

⁴⁶ Mark Jablonowski, *Precautionary Risk Management: Dealing with Catastrophic Loss Potentials in Business, the Community, and Society* (New York: Palgrave MacMillan, 2006).

⁴⁷ Ibid.

⁴⁸ See for example DHS Risk Steering Committee, *DHS Risk Lexicon*, p. 20, <http://www.dhs.gov/dhs-risk-lexicon>.

⁴⁹ NRC, *DHS Risk Assessment*; Ezell et al., “Probabilistic Risk Analysis.”

⁵⁰ See for example, Charles Meade and Roger C. Molader, *Considering the Effects of a Catastrophic Terrorist Attack*, RAND Center for Terrorism Risk Management Policy, Santa Monica, CA, 2006, http://www.rand.org/pubs/technical_reports/2006/RAND_TR391.pdf; also see Sara Clucking, “DHS S&T

An advantage to defining consequences narrowly in this way is that both of these criteria are easy to quantify (i.e., in dollars and in the absolute number of lost lives). An alternative approach considers a wider scope of consequences. In its Strategic National Risk Assessment, for example, DHS has conceptualized six broad categories of potential consequences: *loss of life, injuries and illness, direct economic costs, social displacement, psychological distress, and environmental impact*.⁵¹ An advantage to adopting this more expansive definition is that, for certain types of threats, these additional consequences may be at least as important as economic and mortality effects. On the other hand, psychological and sociological effects may be far more difficult to define and quantify.

- **Measuring consequences.** Within any given category of consequences, a second challenge is how to measure the impact of a given threat. How close in time and space must a given consequence be to attribute it to a particular security incident? For example, what are the economic consequences of a transnational retail crime network?⁵² Retailers incur direct economic costs from the loss of the pilfered goods, and also may incur second-degree costs from security spending to prevent merchandise loss. There may be third-degree costs if the criminal network sells the stolen products and use the proceeds to further additional criminal operations.⁵³ Are economic costs limited to the duped retailer, or do they also include the costs to public and private security agencies charged with investigating the crimes and related criminal activities? Partly for these reasons, analysts disagree—often by wide margins—about the potential consequences of different types of threats. In the case of unauthorized migration, for example, even when the analysis is limited to the narrowest economic question of fiscal impact,⁵⁴ estimates of net effects vary by wide margins.⁵⁵
- **Valuing Consequences.** How one evaluates consequences depends on who is making the judgment. For example, the smuggling of counterfeit medication impacts a range of individuals from law enforcement officers, to individuals consuming the counterfeit drugs, to the legitimate manufacturer. Consumers may place the greatest value on the potential health consequences of consuming the counterfeit product, while manufacturers may perceive the issue primarily in economic terms based on lost sales revenues and reputational costs. A distinction also may be drawn in terms of the *motives* of threat actors.⁵⁶ What is more threatening: terrorists who intend to harm U.S. interests, drug traffickers who intend to earn illicit profits but cause mayhem in the process, or an infectious disease outbreak that is not motivated by malicious intent? Ultimately, how one defines the scope of a threat (i.e., what categories of consequences are considered) and how one weighs each category are *inherently subjective* considerations. There is no “correct” way to value the loss of a human life, for example, or the destruction of a particular ecological habitat, or disregard for the rule of law.

Bioterrorism Risk Assessment (BTRA),” *International Symposium on Bioterrorism Risk*, October 6, 2009, <http://www.biosecurity.sandia.gov/ibtr/subpages/pastConf/20082009/albuquerque/6dhs3.pdf>.

⁵¹ Department of Homeland Security, *The Strategic National Risk Assessment in Support of PPD 8: A Comprehensive Risk-Based Approach Toward a Secure and Resilient Nation*, December 2011, p. 5, <http://www.dhs.gov/xlibrary/assets/rma-strategic-national-risk-assessment-ppd8.pdf>.

⁵² For more information on organized retail crime, see CRS Report R41118, *Organized Retail Crime*, by Kristin M. Finklea.

⁵³ For instance, federal law enforcement has reputedly traced the illicit proceeds from the theft and resale of infant formula to terrorist organizations and insurgent groups, including Hezbollah; see testimony by David Johnson, Section Chief, Criminal Investigative Division, Federal Bureau of Investigation, before the U.S. Congress, House Committee on the Judiciary, Subcommittee on Crime, Terrorism, and Homeland Security, *Combating Organized Retail Crime: The Role of Federal Law Enforcement*, 111th Cong., 1st sess., November 5, 2009.

⁵⁴ Fiscal impacts are just one of three main types of economic effects, along with the effect of migration on native-born wages and its effect on economic growth.

⁵⁵ See CRS Report R42053, *Fiscal Impacts of the Foreign-Born Population*, by William A. Kandel.

⁵⁶ For a discussion of motive or purpose, see: Gregory F. Treverton, *Intelligence for an Age of Terror* (Cambridge: Cambridge University Press, 2009), pp. 22-23.

Discussion of Selected Threat Scenarios

Lawmakers may use information about estimated likelihood and potential consequences of threat scenarios to develop their own “maps” of border risks in order to set enforcement priorities. At a general level, for example, many people would agree that certain threat scenarios involving terrorist attacks against the United States are low likelihood risks but could have very high consequences, while the threat of unauthorized migration flows is more likely, but has lower consequences.⁵⁷

With respect to the likelihood of terrorist threats at the Southwest border, the State Department reports no known operational cells of Hezbollah or Al Qaeda in the Western Hemisphere;⁵⁸ and CRS is not aware of any publically available evidence of ties between Mexican DTOs and homegrown terrorists. Terrorists may see crossing the Southwest border between ports of entry as a high-risk strategy, because 30-50% of unauthorized Mexican border crossers are apprehended at least once while attempting to enter the United States.⁵⁹ The apprehension rate is about twice as high for aliens crossing between ports of entry as for those who attempt to enter through a port without inspection or using a fraudulent document.⁶⁰ And anecdotal evidence suggests that apprehension rates are probably lower still at the Northern border and coastal borders. Thus, some analysts consider other modes of entry to be at greater risk of terrorist incursion.⁶¹ This intuition is backed up by data on apprehensions of unauthorized aliens from special interest countries: 2.3% of aliens apprehended at the Northern border in FY2006-FY2011 were from special interest countries, compared to 0.05% of aliens apprehended at the Southwest border.⁶²

A terrorist attack involving WMD may be particularly unlikely because of the technical and practical challenges to obtaining WMD materials and designing a delivery system.⁶³ Yet the potential consequences of a successful WMD attack on U.S. soil are sufficiently catastrophic that lawmakers may

⁵⁷ See for example, testimony by Michael Fisher, Chief, U.S. Customs and Border Protection Office of Border Patrol, before the House Homeland Security Committee, Subcommittee on Border and Maritime Security, *Measuring Border Security: U.S. Border patrol's New Strategic Plan and the Path Forward*, 112th Congress, 2nd sess., May 8, 2012.

⁵⁸ U.S. Department of State, “Country Reports on Terrorism 2011,” July 31, 2012, <http://www.state.gov/j/ct/rls/crt/2011/index.htm>. On terrorism in Latin America, see CRS Report RS21049, *Latin America: Terrorism Issues*, by Mark P. Sullivan and June S. Beittel. In addition, out of 40 post-9/11 terrorist plots identified in one recent study, none had a nexus with the southwest border; see James Jay Carafano and Jessica Zuckerman, “40 Terror Plots Foiled Since 9/11: Combating Complacency in the Long War on Terror,” *The Heritage Foundation*, backgrounder #2604, September 7, 2011, <http://www.heritage.org/research/reports/2011/09/40-terror-plots-foiled-since-9-11-combating-complacency-in-the-long-war-on-terror>.

⁵⁹ Over 90% of Mexicans attempting to cross the border eventually succeed after a first apprehension; see David Fitzgerald and Rafael Alarcón, “Migration: Policies and Politics” in *Mexico and the United States: Strengthening the Partnership*, edited by Andrew Selee and Peter H. Smith. New York: Lynne Rienner Publishers, forthcoming.

⁶⁰ Ibid.

⁶¹ See for example testimony by Alan Bersin, Commissioner, U.S. Customs and Border Protection, before the Senate Judiciary Committee, Subcommittee on Immigration, Refugees and Border Security, *Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry*, 112th Congress., 1st sess., May 17, 2011. Also see Stewart M. Powell, “Are Potential Terrorists Crossing into Texas from Mexico?” *Houston Chronicle*, December 2, 2011, <http://www.chron.com/news/houston-texas/article/Are-potential-terrorists-crossing-into-Texas-from-2341185.php>.

⁶² CRS analysis of data provided by U.S. Border Patrol Office of Legislative Affairs. Special interest countries are defined based on a list of 35 special interest countries identified by CBP in 2004. These numbers should be interpreted with caution because the vast majority of aliens from special interest countries have no ties to terrorist groups, and because these data do not reflect aliens from special interest countries who evade detection.

⁶³ See CRS Report RL33787, *Maritime Security: Potential Terrorist Attacks and Protection Priorities*, by Paul W. Parfomak and John Frittelli.

take such a threat very seriously. One estimate suggests that a 10 kiloton nuclear detonation at the Port of Long Beach, CA would kill 60,000 people in its immediate aftermath and cost more than \$1 trillion dollars.⁶⁴ The release of a lethal biological agent in an unprotected population could cause untold number of deaths and economic costs exceeding \$1 trillion dollars.⁶⁵ Even without WMD, the 9/11 attack claimed 2,753 lives in New York City alone, and has been estimated to have caused \$55 billion in destroyed and damaged property. The broader economic impacts likely ranged between \$40 billion and \$122 billion.⁶⁶

On the other hand, with respect to the likelihood of unauthorized migration, even in a year in which apprehensions of unauthorized migrants fell to a four-decade low, the U.S. Border Patrol apprehended 340,252 unauthorized migrants in FY2011.⁶⁷ This number overstates the number of unique individuals apprehended, since it includes an unknown number of repeat apprehensions; but it may understate unauthorized inflows because it excludes people who successfully enter the United States (by crossing the border between ports of entry, being smuggled without inspection through a port, using fraudulent documents to enter through a port, or entering legally and then overstaying or otherwise violating the terms of a visa).

Yet the consequences of unauthorized migration may be considered less severe than those associated with terrorist threats and some other illegal flows.⁶⁸ From an economic perspective, for example, while research on fiscal effects reaches conflicting findings,⁶⁹ the weight of economic research suggests that the overall impact of unauthorized migration is not highly significant.⁷⁰ Likewise, from a public safety perspective, while a large proportion of federal inmates are foreign-born, research by CRS and others suggests that the overall criminality rate among the foreign-born (i.e., including legal and unauthorized migrants, at the federal, state, and local level) likely is no more than—and possibly is below—the native born rate.⁷¹ Even within the border region, while violence has increased on the Mexican side of the border, violent crime rates have not significantly increased in U.S. border cities or in other metropolitan areas where there has been an identified presence of Mexican DTOs. And there was no significant

⁶⁴ Charles Meade and Roger C. Molader, *Considering the Effects of a Catastrophic Terrorist Attack*, RAND Center for Terrorism Risk Management Policy, Santa Monica, CA, 2006, http://www.rand.org/pubs/technical_reports/2006/RAND_TR391.pdf.

⁶⁵ The White House, *National Strategy for Countering Biological Threats*, November 2009, http://www.whitehouse.gov/sites/default/files/National_Strategy_for_Countering_BioThreats.pdf.

⁶⁶ “The Reckoning: America and the World a Decade After 9/11,” *New York Times*, September 8, 2011, <http://www.nytimes.com/interactive/us/sept-11-reckoning/viewer.html>.

⁶⁷ U.S. Border Patrol, “Apprehensions/Seizure Statistics—Fiscal Year 2011,” http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/fy_profile_2011.ctt/fy_profile_2011.pdf. This number includes an unknown number of repeat apprehensions, so the number of unique individuals apprehended likely was substantially less than 340,000.

⁶⁸ This discussion does not include an analysis of the social, psychological, and cultural effects of a terrorist attack or of unauthorized migration. These effects are subjective and difficult to quantify, but some people may view them as important.

⁶⁹ See CRS Report R42053, *Fiscal Impacts of the Foreign-Born Population*, by William A. Kandel.

⁷⁰ One recent study concludes that the overall economic impact of unauthorized migration is “close enough to zero to be essentially a wash”; see Gordon Hanson, “The Economics and Policy of Illegal Immigration in the United States,” Migration Policy Institute, Washington, DC, December 2009, <http://www.migrationpolicy.org/pubs/Hanson-Dec09.pdf>.

⁷¹ See CRS Report R42057, *Interior Immigration Enforcement: Programs Targeting Criminal Aliens*, by Marc R. Rosenblum and William Kandel. Also see for example, Lesley Williams Reid, Harald E. Weiss, and Robert M. Adelman, et al., “The Immigration-Crime Relationship: Evidence Across U.S. Metropolitan Areas,” *Social Science Research*, Vol. 34, no. 4 (December 2005): pp. 757-780. Available data make it difficult to estimate the criminality rate exclusively among unauthorized migrants.

difference between average violent crime rates in border and non-border metropolitan areas in FY2000-FY2010.⁷²

Policy Options

Immediately after the 9/11 attacks, the convergence of immigration control, the war on drugs, and the urgency attached to the war on terror meant that DHS took an all-of-the-above approach to border security. But even when budgets are expanding, Congress and DHS face trade-offs among the different elements of DHS' mission. As budgeting has grown tighter in the current fiscal climate, policymakers face increasingly hard questions about how to set priorities and where to allocate scarce resources.

Members of Congress may ask whether border security and other DHS policies should be designed to prevent unauthorized migration *in general*, or whether policies should be tailored to target terrorists, transnational gang, or illegal drugs.⁷³ While DHS prioritizes counterterrorism, certain border security and immigration control policies may have been designed with a more generalized set of goals. Indeed, the Secure Fence Act defines *zero illegal inflows* as part of DHS' statutory mission.⁷⁴ Many analysts doubt that an open country in a globalized economy can ever achieve a 100% interdiction rate—and some question whether such a standard is even worth aspiring to.⁷⁵ Moreover, even at current interdiction levels, the population of unauthorized migrants in the United States has declined by about a million people since 2007, and net inflows apparently have declined to about zero or become somewhat negative.⁷⁶ In contrast, illegal drug flows do not appear to have declined over this period.⁷⁷ It is difficult to estimate changes in the likelihood that terrorists will cross the Southwest border.

In addition to setting overall priorities, Members of Congress may consider where DHS may get the most effective return on future enforcement investments. Lawmakers concerned about illegal drug flows, for example, may favor increased investments at ports of entry, such as more CBP officers, non-intrusive inspection scanners, and drug-sniffing dogs. In addition, DHS and other law enforcement agencies may combat traffickers' business models by taking additional action to disrupt DTO money laundering schemes and to detect and prevent southbound flows of money and guns.

For Members focused on counterterrorism, priorities might include continued investments in DHS information systems, such as the CBP Automated Targeting System, US-VISIT, and the Automated Commercial Environment, along with investments in intelligence collection programs to ensure that the

⁷² CRS analysis of Federal Bureau of Investigation (FBI) data; also see CRS Report R41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, by Kristin M. Finklea.

⁷³ As noted above, uncertainty about the likelihood of different illegal flows and inherent subjectivity about their consequences mean there is no "right" answer to this question.

⁷⁴ See P.L. 109-367, §(2)(b).

⁷⁵ See for example, testimony by Doris Meissner, Director, U.S. Immigration Policy Program, Migration Policy Institute, before the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, *Securing the Border: Building on the Progress Made*, 112th Cong., 1st sess., March 30, 2011.

⁷⁶ See Michael Hoefer, Nancy Rytina, and Bryan Baker, "Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2011," DHS Office of Immigration Statistics, March 2012, http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf; Jeffrey Passel, D'Vera Cohn and Ana Gonzalez-Barrera, "Net Migration from Mexico Falls to Zero—and Perhaps Less," Pew Hispanic Center, May 3, 2012, <http://www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/>; Scott Borger, Gordon Hanson, and Bryan Roberts "The Decision to Emigrate From Mexico," presentation at the Society of Government Economists annual conference, November 6 2012.

⁷⁷ Total illegal drug seizures along the Southwest border increased from 1.1 to 1.7 kilograms in 2005-2010; see CRS Report 41075, *Southwest Border Violence: Issues in Identifying and Measuring Spillover Violence*, coordinated by Kristin M. Finklea. According to the National Institute on Drug Abuse (NIDA), 8.9% of Americans aged 12 or older used an illicit drug in 2010, the latest year for which data are available, up from 8.3% in 2002; see NIDA, "Drug Facts: Nationwide Trends," <http://www.drugabuse.gov/publications/drugfacts/nationwide-trends>.

right data are being analyzed. In addition to terrorism prevention, some Members may also emphasize investments in resiliency, or the ability to survive and manage a terrorist attack. With respect to both counterterrorism and counternarcotics efforts, some of the most important work may involve bilateral and multilateral partnerships with allies abroad.

With net unauthorized migration flows at around zero, two key questions for Members concerned about unauthorized migration are how recent DHS policies like increased border personnel, CBP's consequence delivery system, and ICE's Secure Communities program have contributed to these recent trends; and the degree to which unauthorized flows will increase as the U.S. economy recovers and new hiring resumes.⁷⁸ For many years, some have argued that the greatest deficiency in America's immigration control system involves employment eligibility verification and worksite enforcement, rather than border control.⁷⁹ And some believe that it will be impossible to achieve further reductions in unauthorized migration without revisions of existing visa categories and avenues for certain unauthorized migrants to qualify for legal status—though others believe that enforcement should be further strengthened before Congress considers broader immigration reforms.

Concluding Comment

In sum, DHS' border security mission is broader than any single type of border threat. And policies to combat terrorism, criminal networks, unauthorized migration, and other illegal flows likewise are broader than border security *per se*, as they include enforcement within the United States and abroad. Understanding the differences among these threats, their relative risks, and how policies may be designed to respond to them is a logical starting point for a conversation about how to allocate scarce enforcement resources.

I thank the committee again for this opportunity to testify and look forward to your questions.

⁷⁸ One recent study found that illegal inflows fell about 60 percent between 2004 and 2010, with 40% of the reduction due to a stronger Mexican economy, 30% of the reduction due to increased U.S. border enforcement, and 30% of the reduction due to the weaker U.S. economy; see Scott Borger, Gordon Hanson, and Bryan Roberts "The Decision to Emigrate From Mexico," presentation at the Society of Government Economists annual conference, November 6 2012.

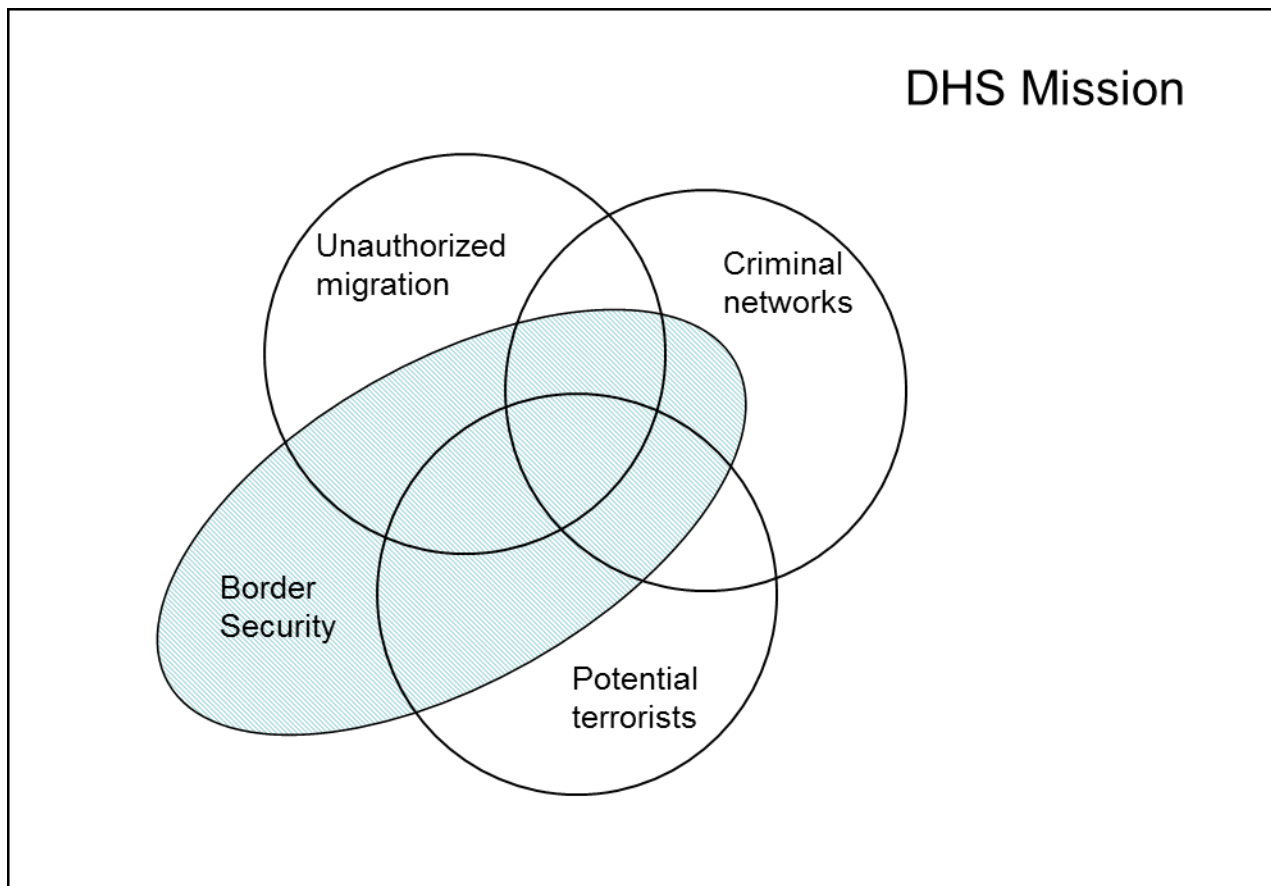
⁷⁹ See for example, U.S. Commission on Immigration Reform (Jordan Commission), *U.S. Immigration Policy: Restoring Credibility* (Washington, DC: U.S. Government Printing Office, 1994).

Marc R. Rosenblum
Specialist in Immigration Policy
Congressional Research Service
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A Line in the Sand: Assessing Dangerous Threats to Our Nation's Borders
Committee on Homeland Security, Subcommittee on Oversight, Investigations and
Management

Figures and Tables

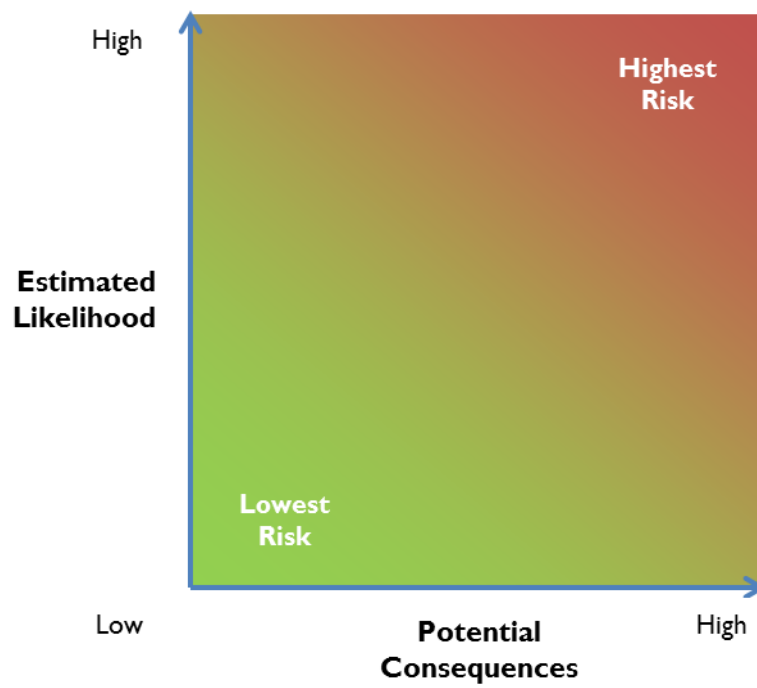
Figure 1: DHS Border Security Mission



Note: Figure is schematic, and not drawn to scale.

Source: CRS Analysis.

Figure 2: A Standard Risk Model



Source: CRS Analysis.

Table 1: Types of Threat Actors

Terrorists	Transnational Criminals	Unauthorized Migrants
Motivations—<i>Ideological</i>—Achieve socially transformative change or narrower, specific ends. Typically not focused on controlling turf or underground markets but react to particular grievances.	Motivations—<i>Profit Driven</i>—Create and maintain illicit wealth and prestige. Defend criminal markets and turf. Stave off “enemies” including law enforcement, other state actors, and rival criminal groups.	Motivations—<i>Personal Opportunity</i>—Some combination of factors such as employment opportunities, a general desire to improve their economic circumstances, family connections, and dangerous or difficult conditions in their home countries.
Means—<i>Propaganda and Violence Featuring Symbolic Dimension</i>—Justify violence in moral terms. Intend it to restore a particular sense of justice in a society perceived as unjust. Propaganda used to justify cause, recruit and raise support.	Means—<i>Engage in Violence and Corruption Aimed at Goals Tied to Illicit Markets</i>—Use violence to intimidate officials and rivals to protect operations. Corrupt public officials and people in the private sector. Use violence to exploit innocent victims. Tend to act in obscurity. Occasionally use propaganda to besmirch rivals.	Means—<i>Illegal Entry into the United States</i>—Apart from immigration-related offenses such as illegal entry or the use of fraudulent documents to obtain employment, most unauthorized aliens never commit a criminal offense. Some become involved with transnational criminals during the course of their migration or while obtaining employment.

Source: CRS Analysis.