

**NATIONAL SECURITY PROGRAM  
KENNEDY SCHOOL OF GOVERNMENT  
HARVARD UNIVERSITY**

**Securing the Borders: Creation of the Border Patrol Auxiliary**

**By**

**Christopher Hall, CAPT, USCG**

**Gregg Schauerman, GS-15**

**Robert Ewing, Col, ARNG**

**Brian Brandner, Lt Col, ANG**

**5 May, 2007**

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Form Approved  
OMB No. 0704-0188

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1. REPORT DATE <b>05 MAY 2007</b>		2. REPORT TYPE		3. DATES COVERED <b>00-00-2007 to 00-00-2007</b>	
4. TITLE AND SUBTITLE <b>Securing the Borders: Creation of the Border Patrol Auxillary</b>				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) <b>Harvard University, Kennedy School of Government, 79 John F. Kennedy Street, Cambridge, MA, 02138</b>				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT <b>Approved for public release; distribution unlimited</b>					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT <b>see report</b>					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES	19a. NAME OF RESPONSIBLE PERSON
a. REPORT <b>unclassified</b>	b. ABSTRACT <b>unclassified</b>	c. THIS PAGE <b>unclassified</b>			

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## **Thesis Question**

*Can the US Border Patrol increase mission capability through the use of citizen volunteers and if so, how could the volunteers best be used to support the Patrol's current operations in securing US land borders?*

## **Chapter One**

### **Understanding the Problem**

#### **The Present Situation**

Although the US Border Patrol is the largest uniformed federal law enforcement agency in the country, its resources appear to be far short of what is required to truly accomplish its mandate. Most of the Customs and Border Protection's (CBP) 30,000 officers operate in the nation's 314 land, air and seaports of entry, where they admit an average 1.2 million legal visitors a day.<sup>1</sup> A majority of the border remains void of barriers, surveillance and the presence of Border Patrol agents. The government demonstrated its commitment to improved border security in 2006 with an 11% increase in the CBP's budget, now over \$7 billion. But the new money is dedicated to several initiatives and only pays for an additional 1,500 border patrol agents.<sup>2</sup> Public demand for action to meet border patrol requirements compelled the President to order the deployment of 6,000 National Guardsmen to the Mexican border as part of "Operation Jump Start".<sup>3</sup> While fences and new technologies such as ground sensors and unmanned aerial vehicles will enhance the "reach" of existing agents, nothing would close the gap better than creating a program to increase the number of agents along the border.

#### **Increasing Border Presence Through Citizen Involvement**

Citizen auxiliaries have ample precedence in assisting law enforcement agencies. The Coast Guard Auxiliary, Civil Air Patrol and many other police auxiliaries have long and successful histories. Several volunteer groups have sprung up in recent years to help patrol the border. The Border Patrol has publicly welcomed their efforts as observers but operationally kept them at arms length. Although the volunteer leaders claim to have tipped agents to thousands of apprehensions, many agents feel the volunteers are more of a hindrance than a help due to poor communications and disorganization. Moreover, these groups are often not welcomed by local law enforcement due to the xenophobic or racist ideologies expressed by some members. All these problems stem from the fact the Border Patrol does not select, train and integrate volunteers into their operations as other law enforcement agencies have integrated them into their law enforcement activities. This paper will evaluate the feasibility of establishing a civilian auxiliary within the Border Patrol. By examining the missions, authorities, costs, legal foundations and organizational cultures of the US Coast Guard Auxiliary and the Florida Highway Patrol Auxiliary, we can identify elements key to developing a successful program. We then evaluate ways to apply these elements to today's Border Patrol and propose the creation of a US Border Patrol Auxiliary.

## **The Vision**

The Border Patrol Auxiliary (BPA) will be a professional organization of auxiliary members working side-by-side with Border Patrol agents in support of the Border Patrol mission. To guarantee the integrity and respectability of the Border Patrol, volunteers will be screened to ensure they have the characteristics essential to maintaining the high standards of the Border Patrol.

These volunteers will come from all walks of life. Among the citizens joining the BPA, are members of the border communities volunteering their time and skills to help defend our borders and their communities. They will include retirees from the Border Patrol, law enforcement and the military. Many people interested in criminology and law enforcement will join to gain experience and understanding of what is involved in the profession of law enforcement. No matter where they are from or what their interest is in the Border Patrol, they will all be contributing to securing the border from not only illegal immigrants but from international criminals, smugglers and terrorists.

Since the BPA members will have different skills and capabilities, the BPA must be organized to maximize the support provided by the members while protecting them from the inherent dangers associated with some of the missions performed by the Border Patrol. By developing a two-tiered system, the BPA can ensure volunteers are trained and equipped to meet the tasks assign to them in the numerous functional areas of the Border Patrol.

- **Tier-one** auxiliary members will perform support functions. These functions will keep members from direct contact with suspects and away from the dangers involved in field operations. Tier-one auxiliary members will comprise approximately 80% of the BPA. The primary purpose of these members will be to relieve Border Patrol agents from support jobs to allow them to return to performing field operations along the border.
- **Tier-two** auxiliary members will be the elite members of the BPA who will attend training at the Border Patrol Academy to gain the knowledge and skills required to perform along side Border Patrol agents in every facet of the Border Patrol mission. These members will comprise the other 20% of the BPA. Their primary mission is to increase the number of people performing security operations along the border under the direct supervision and as members of the Border Patrol.

## Chapter Two

### The US Border Patrol Today

#### **The Evolution of CBP and its National Security Role**

Border control – the effort to restrict territorial access – has long been a core state activity.<sup>4</sup> Its historic focus has been two-fold: military defense and economic barriers. In fact, the US Customs Service was the first federal agency created by Congress and the import duties it collected helped keep our nation solvent in its early years.<sup>5</sup> After the Cold War, economic globalization and reduced military threats led some in the west to believe national borders would become increasingly irrelevant. This is clearly not the case. Border control is more vital today than ever, but its emphasis has shifted to intensive law enforcement. The new policing objective is to deny territorial access to what Andreas calls “clandestine transnational actors” (CTAs). These include terrorists and smugglers as well as immigrants seeking refuge or employment.<sup>6</sup> In 1995, Deputy US Attorney Jamie Gorelick articulated this change in terms of national security: “The end of the Cold War changed the nature of the threats to our national security...An important component of this shift has been more intensive and extensive border controls to keep out CTAs.”<sup>7</sup>

The US government responded to this new national security threat by increasing border controls. Between 1995 and 2001, the Immigration and Naturalization Service (INS)<sup>8</sup> budget for border enforcement almost tripled, reaching more than \$2.5 billion. In 2001, the tragic terrorist attacks Al Qaeda perpetrated against the United States on September 11 focused even more attention on defense of the homeland. The Department of Homeland Security (DHS) was established to consolidate all federal agencies responsible for securing America’s borders and infrastructure, including the Treasury Department’s Customs Service and the INS’s Border Patrol. When President Bush appointed Michael Chertoff as the second Secretary of DHS, one of his priorities was to “get control of the borders.”



US Customs and Border Protection stood up in early 2003 as the DHS's lead agency for border control. CBP is the largest uniformed law enforcement agency in the country and its top priority is to keep terrorists and their weapons from entering the United States.<sup>9</sup>

#### **The CBP Challenge**

Our country shares a 5,252 mile border with Canada and a 1,989 mile border with Mexico, with a combined total of more than 300 international land-based ports of entry. Intertwined with our borders is a maritime system that includes 95,000 miles of coastline and navigable waterways and a global transportation network of over 300 seaports, 429 commercial airports and several hundred thousand miles of highways and railroads offering access to almost every community in America.<sup>10</sup>

The dual challenge for CBP is to control access along this entire border while facilitating a heavy and economically critical flow of legitimate trade and travel at ports of entry.<sup>11</sup> Table 1 shows the typical daily statistics for both types of activity based on 2005 data.<sup>12</sup>

**Table 1: A typical day for US Customs and Border Protection in 2005**

At Ports of Entry		
	 Flow into U.S.	 Denied Access / Law Enforcement
<b>People</b>	1.18 million passengers and pedestrians processed	868 non-citizens refused entry; 62 arrests made
<b>Goods</b>	79,107 shipments of goods approved for entry	2,187 lbs of narcotics seized \$329,119 worth of fraudulent commercial merchandise seized
<b>\$</b>	\$81,834,298 in fees, duties and tariffs collected	\$77,360 in illicit currency seized

Between Ports of Entry	
People	3,257 apprehensions for illegal entry 7 illegal border crossers rescued from distress or danger
Goods	3,354 lbs of narcotics seized

In light of this dual mission, CBP operations and personnel can be divided into two major categories: 1) the *officers* who process people and cargo at designated ports of entry, and 2) the *border patrol agents* who control the border between ports of entry. This paper considers only the border patrol agents.

**Border Patrol Operations**

As of late 2006, almost 12,000 border patrol agents were assigned to 142 stations in 20 sectors along the northern and southern borders. Agents patrol in many ways to accommodate different types of terrain, including passenger vehicles, all-terrain vehicles, boats, horses, planes, helicopters, mountain bikes and even on foot with K-9 dogs.

Border control operations between ports of entry are conducted using a layered strategy. The first two layers, called line watch and line patrol, are where the majority of agents are deployed. Agents positioned along the border line or just behind it are generally visible, primarily in well-marked vehicles. They arrest or turn back anyone attempting to enter illegally and their high profile presence is a deterrent to would-be illegal entrants.<sup>13</sup>

The third layer of enforcement is composed of interior traffic checkpoints on highways and secondary roads, generally 25 to 75 miles inland from the border. Both permanent and



tactical checkpoints are used. Permanent checkpoints generally have large, tollbooth-like structures and a supporting infrastructure. There are 33 of these checkpoints with all but one of them on the southern border. A portion of these checkpoints operate 24/7 with full computer support. Tactical checkpoints are mobile, so their numbers and locations vary daily. They are set up in response to intelligence or changes in activity routes and generally consist of a few vehicles, traffic cones and signs, and a mobile trailer.<sup>14</sup>

### **The Secure Border Initiative**

In November 2005, DHS Secretary Chertoff announced the Secure Border Initiative (SBI) as a comprehensive, multi-year plan to secure America's borders. The plan calls for improving border security across the board – deterrence, detection, response, apprehension, detention, and removal. To meet these challenges, SBI will improve border patrol capabilities in three key areas: increased manpower, new technology and an enhanced infrastructure. All of these improvements were underway during 2006 and all offer opportunities for the inclusion of a Border Patrol Auxiliary.

#### **Manpower**

The first pillar of SBI is to put more border patrol boots on the ground. With new appropriations in FY 2006, CBP is in the process of hiring and training 1,500 new agents and about 500 additional support personnel. By 2008, the President wants CBP to have 18,000 Border Patrol agents or double the pre-9/11 border patrol force. According to the CBP website, personnel totals as of September 2006 were as follows:

- 11,700 Border Patrol agents
- More than 600 CBP pilots and more than 75 CBP marine officers
- 12,000+ other CBP specialists and support staff

Although the personnel increase in recent years has been dramatic, it still seems far short of the number of agents required to truly secure our borders. Everyone agrees more agents are better, but no one can say how many will be enough. One member of Congress from Texas, where illegal immigration is a high priority, offered a bill authorizing 26,000 border patrol agents by 2010.<sup>15</sup> The current border patrol authorizations appear to be bounded by budgetary limits rather than built to a calculated manpower requirement.

The border patrol is also having some difficulty growing at this pace. To begin with, it is highly selective. Its vetting process yields only 1 qualified new hire out of every 33 applicants.<sup>16</sup> Retention is also a problem and probably a more serious one because it involves the most experienced agents. The border patrol typically loses 700 agents each year to retirement and to recruitment by other law enforcement agencies.<sup>17</sup> The US House of Representatives has passed legislation providing pay incentives to address these problems to include recruitment bonuses, retention bonuses and waivers to hire reemployed annuitants.<sup>18</sup> Reemployed annuitants would be especially valuable as trainers in a force with a huge influx of rookies.

Given the emphasis on manpower needs and the difficulty of recruiting and retaining qualified agents, it is vitally important for active agents to be assigned to front-line enforcement activity. The effectiveness of an increased front line presence has been demonstrated through

surge operations. For example, Operations “Hold the Line” in Texas (El Paso 2003) and “Gatekeeper” in California (San Diego 2004) were both designed to increase the visible presence of agents on the border between crossing points. In one case, agents were deployed within site of each other. Both operations were deemed highly successful in press reports and were believed to reduce illicit crossings significantly.

A current example of putting more agents on the front lines is "Operation Jump Start." The 6,000 National Guard troops deployed to the southern border since June 2006 are not directly engaged in enforcement actions, but many are filling support roles previously performed by agents. This support has enabled the border patrol to redeploy 384 agents to frontline enforcement duties. By the end of 2006, the border patrol attributed 13,196 apprehensions to the presence of the National Guard.<sup>19</sup>

Tier-one auxiliary members could perform the same kinds of support roles as the Guard members, enabling more agents to return to the front lines on both borders. Tier-two auxiliary members would add directly to the number of active enforcement agents on the front lines. Although they would have to be partnered with agents, tier-two auxiliary members would still increase the effectiveness and safety of those agents, many of whom currently patrol alone.

New border patrol agents are trained at the Federal Law Enforcement Training Center (FLETC) facility in Artesia, New Mexico. This center, along with the FLETC headquarters in Georgia and another facility in South Carolina, are run by DHS to train law enforcement officers from state, federal, tribal and international agencies. Major new investments were made in Artesia to accommodate huge classes of over 400 new border patrol agents at a time in a 16 week residential program that includes Spanish language training. The expansion of FLETC capacity will enable the Border Patrol to train tier-two auxiliary members after the surge of new agent hires begins to decline in 2009.

### **Technology – the “Virtual Fence”**

No realistically sized force of agents could monitor the entire border without the assistance of electronic eyes and ears, especially in remote areas. For years the Border Patrol has used military technologies such as footfall detectors, infrared sensors and night-vision equipment.<sup>20</sup> The results have been mixed. In some areas, especially on the northern border, the sensors operated 24/7 but the agents did not. That situation has improved with increased manpower, but the limitations of the sensors themselves sometimes waste manpower. For example, older footfall and infrared sensors cannot distinguish between humans and animals, leading to many false alerts. A further limitation of deployed technology to date has been the lack of a communications infrastructure to deliver the data to agents.

Newer technologies are more promising. Metallic detectors have proven to be a more reliable indicator of human activity to agents on the northern border.<sup>21</sup> A Predator B unmanned aerial vehicle (UAV) used on the southern border helped capture nearly 1,800 illegal immigrants and seize about 8,200 pounds of marijuana before it was destroyed in an unexplained crash in April 2006.<sup>22</sup> The UAV’s \$6.5 million price tag makes it the most expensive piece of technology in the arsenal. In spite of the cost, DHS plans to acquire at least one replacement.

The technology pillar of SBI, called *SBI<sub>net</sub>*, will deploy proven new technologies but more importantly, it will integrate all sensors and communications.

*SBI<sub>net</sub>* has been described as a 21<sup>st</sup> century virtual fence. It will integrate old fashioned fencing and tactical infrastructure with proven high-tech tools and information infrastructure. Defense technologies will be featured, such as infrared sensors capable of distinguishing humans from animals. The fully integrated *SBI<sub>net</sub>* will detect intrusions, characterize them accurately and help border agents to interdict the intruders. It will combine data from multiple sensors into a common operating picture, a concept borrowed directly from military operations. It will also provide state-of-the-art communications to agents on the ground, allowing them to view real-time images and perhaps even control sensors remotely.<sup>23</sup>

The basic manpower requirement of *SBI<sub>net</sub>* – monitoring a common operational picture of remote sensor data and communicating with agents in the field – can be done well by trained tier-one auxiliary members. In Florida, the Coast Guard uses auxiliary members to man its multi-million dollar Maritime Domain Awareness system which brings video, infrared and radio identification data in to a single tracking center.<sup>24</sup> Full time border patrol agents have complained that watching surveillance monitors is a boring assignment, but it would likely be much more engaging for a qualified tier-one member who only does one or two shifts a week.

Beyond operations, tier-one auxiliary members with computer network or communication system qualifications could assist with the technical support *SBI<sub>net</sub>* systems will require. Professionally qualified volunteers like these could be specially recruited and used on an as-required basis rather than regularly scheduled shifts.

### **Facilities**

SBI's third pillar, infrastructure investments, translates in part to new and better facilities. Previously, border patrol posts were often shoehorned into other government buildings, such as post offices and fire stations, which failed to meet their needs. Even posts with their own buildings usually did not have adequate detention facilities or space for growth. New sector headquarters have been built, contracted or planned on both borders. Based on local press reports, they all have similar characteristics:

- Minimum 10 acres of property
- A large, consolidated operations building
- Adequate detention facilities
- Room for growth in the number of agents and staff
- A helipad
- Vehicle garage and maintenance facility

The largest example may be the new \$14 million Border Patrol station in Murrieta, California. This 31,000 square foot building began operations in July 2006 as the base of border patrol operations from northern San Diego County to southern San Bernardino County. It has special operations offices enabling Border Patrol agents to network with other federal, state and local agencies. About 130 agents were working in the station at its opening, but it has the

capacity for 250. According to Patrol Agent in Charge Rick Salinetti, the new station combines all administrative and enforcement functions into one facility including detention and processing.

These large, consolidated operations centers meet two key requirements for the successful integration of volunteers: adequate space and supervisory control. In an auxiliary organized to parallel the agent force, each sector and station would have an auxiliary leader to manage recruiting, training, equipping and scheduling for the local commander. But the Border Patrol sector and station commanders would exercise *operational* control of the auxiliary force while they are on duty. The combination of large facilities and improved command and control communications under SBI will enable such a system.

## **Special Border Patrol Assets and Activities**

### **Air and Marine**

With over 500 pilots and 250 aircraft, CBP claims to have the largest law enforcement air force in the world. These aviation assets are used in a “layered enforcement strategy” on missions ranging from surveillance to interdiction. CBP also has a 200-boat marine force to detect, intercept, track and apprehend unauthorized maritime vessels attempting to penetrate our borders.

In early 2006, all air and marine assets were consolidated under the central Office of CBP Air and Marine for mission effectiveness and efficiency. This office is also responsible for air and marine training, safety, equipment, procurement and maintenance.<sup>25</sup>

Air operations appear to be part of the major infrastructure investment under SBI. Five new air wings are being established along the northern border. Posts in Washington State and New York State are already operational. A post in Great Falls, Montana, just became operational in August 2006. It is equipped with two Cessna Citations, two black hawk helicopters and a PC-12. It is manned by 20 pilots, 25 maintenance technicians and 8 supervisors plus other staff. The pilots and crews are armed law enforcement officers. The Great Falls post will patrol the Havre sector – 456 miles of border from the continental divide to the North Dakota border. Two more air wing posts are planned for North Dakota and Michigan in 2007.<sup>26</sup>

Plane and boat owners could also be recruited as tier one auxiliary members. Following the CGA example, private boat owners could use their own craft for standoff surveillance. Such missions involve watching for suspicious activity from a safe distance and reporting by radio to patrolling agents or sector operations centers. Some surveillance is done well inland. For example, drug smugglers from Canada have recently been caught landing hydroplanes on Soap Lake in Washington State, hundreds of miles from the border. Private pilots with their own aircraft may also be willing to conduct air surveillance. This is even safer for the participants in terms of potential contact. The Coast Guard pays for the gas when their auxiliary members use their own craft, so there would be some expense. But it's a very cheap way to expand CBP's surveillance fleet. As an added benefit, a variety of private craft would make it harder for potential intruders to spot and evade detection. The recent centralization of air and marine forces and the establishment of new air wings set conditions perfectly to organize and run a complementary auxiliary fleet.

## **Search, Trauma, and Rescue (BORSTAR)**

In 1998, CBP formed a search, trauma, and rescue team – known as BORSTAR – in response to increased numbers of immigrants stranded in remote terrain. Today, BORSTAR has 194 agents, including two women. They are all volunteers who complete a 5-week basic BORSTAR Academy and then continue with advanced specialty training for one year. Their skills include rappelling with body baskets, medical assistance, swift water rescue and air operations. Their primary mission is to assist agents or anyone else in distress along the border, but they can deploy anywhere in the United States.<sup>27</sup>

Even BORSTAR could recruit tier-one members. Search and rescue is a function performed by many volunteer organizations, including the Air Force's Civil Air Patrol. The skills required come from diverse fields including emergency medicine, firefighting, outdoor survival and even rock climbing. Civilian volunteers with expertise in one of these skills would be well suited for BORSTAR. Rounding out their rescue skills would require a greater training investment than most tier-one members, but since they would train as part of a team, rather than individually, the added cost should be minimal. In fact, tier-one members with the right qualifications could be instructors or evaluators on a specific discipline, such as advanced first aid. BORSTAR participation would be the only role in which tier-one members come into contact with fugitives. Since BORSTAR teams include armed agents and in most cases the fugitives are already in the custody of Border Patrol agents, only minimal risk is incurred by auxiliary members.

## **Current Issues and Trends**

### **Immigration Reform**

Gaining control of the border to protect our nation from threats means closing the border to *all* unauthorized entrants. Of course, most of the thousands of illegal entrants apprehended each day are not terrorists or drug dealers. Illegal immigrants from Mexico and other countries seeking work in America run into the same border defenses. According to DHS Secretary Chertoff, a comprehensive solution to immigration reform *must include* a temporary worker program. A brute force approach is too expensive and difficult. In order for his agency to focus on drug dealers, criminals, and terrorists, immigrants crossing to find work must be allowed to do so through a guest worker program. Such a program is likely to reduce the number of apprehensions by the Border Patrol, but it would not reduce the need for more manpower. Control of the border for national security requires full border surveillance and the ability to respond quickly to any incursion anywhere. These requirements are not impacted by the number of incursions or the type of person attempting entry.

### **Performance Measures**

A commonly reported but unreliable statistic for border patrol performance is the number of illegal entrants apprehended. In some cases, surge operations have been called successful because they increased apprehensions in a particular region. In other cases, decreased apprehensions have been called a successful indicator of deterrence. The total number of apprehensions nationwide has not shown a trend. It has risen and fallen significantly in recent

years, from a high of 1.7 million in 2000 to a low of 932,000 in 2003.<sup>28</sup> Most recently, DHS reported that the border patrol had apprehended 8 percent fewer illegal immigrants in FY 2006 than the previous year, a drop of nearly 100,000 from the 2005 total of 1.2 million. A more significant statistic for counter-terrorism is the fact that apprehensions of “other than Mexican” border crossers fell 35%, from 108,026 to 57,144. Secretary Chertoff credited the reductions to more deportations, which deter illegal immigration, and to better enforcement at the border.<sup>29</sup>

Other metrics indicate the border is still far from secure. In the CBP Performance Accountability Reports for 2005 and 2006, the objective for preventing terrorism between ports of entry is to use an appropriate mix of assets to “reasonably ensure” attempted illegal entrants are detected, identified and interdicted. This rather general objective is somehow measured precisely: 449 miles of the border were “under operational control” at the end of 2006. This means 95% of our land border is *not* under control.

A two-tier auxiliary would contribute directly to better performance metrics, both by improving the efficient use of agents and by augmenting agents on the front lines. Specific metrics are outlined in Chapter Six.

### **Northern vs. Southern Border Disparity**

The southern border has received the most media attention and the most resources due to the high number of illegal Mexican immigrants coming into the US. In December 2005, for example, Secretary Chertoff ordered the deployment of 1,700 agents – more than the entire authorized force increase for the year – to the southern border. In late 2006, Congress appropriated funds to start building the famous 700 mile fence on the Mexican border. But as one border becomes hardened, the other becomes more attractive. Mexican immigrants have already found routes to the US through Canada. Not surprisingly, many experts consider the largely open northern border to be a more likely point of passage for suspected terrorists. This was probably true even before 9/11. In December 1999, Ahmed Ressay was arrested after driving a rental car packed with bomb-making material from Canada to Washington State. He planned to use the bomb at Los Angeles International Airport.

There are also terrorists based in Canada. In June 2006, Canadian officials broke up a terrorist bomb plot targeted at their national Parliament. At the time, the Canadian Security Intelligence Service estimated as many as 50 terrorist organizations and 300 individual terrorism suspects have bases of operations in Canada.<sup>30</sup>

In the US Patriot Act of 2001, Congress mandated a 300% increase in the number of Border Patrol agents assigned to the northern border. By mid-2006, the number of agents had roughly doubled, but the total was still only about 10,000 agents. The concurrent deployment of five new air wings and new technology such as metallic sensors will certainly help. CBP agents on the northern border also rely on an excellent intelligence sharing relationship with their Canadian counterparts. A member of the Spokane sector says “You don’t need to monitor every inch of backwoods if you have a solid intelligence network.” To this end, northern Border Patrol agents have even ramped up “citizens’ academies” to teach residents of small US border towns how to help federal agents.<sup>31</sup>

The northern border is probably the best place to initiate a pilot auxiliary program. It has a greater relative manpower shortage and a lower operations tempo than the southern border. The northern Border Patrol's existing community outreach program is a baseline for contact and its good working relations with Canadian counterparts are a positive communication channel to address our international neighbor's concerns about volunteers on our borders.

### **Border Control Reduces Crime**

There is a direct link between improved border control and reduced local crime, especially on the southern border, which has a much higher rate of illegal immigration. One research study data found a significant reduction in property crimes correlated with increased border apprehensions during the 1990's.<sup>32</sup> Anecdotally, most community leaders in the San Diego and Tucson sectors told GAO interviewers in 2005 that border patrol checkpoints are of considerable benefit to their communities because taking illegal aliens off the streets reduces local crime and vandalism.<sup>33</sup> The State of Texas has invested specifically in the reduction of border crime with programs to support joint cooperation between CBP and state and local agencies in the border region. As of late 2006, these operations had reduced local crime rates by 60% or more.

This aspect of improved border control gives citizens a strong secondary motivation to volunteer for the BPA. Not only will they provide patriotic service to their nation in the war on terror, but they will also make an impact on the safety and security of their own community.

### **Border Patrol is Becoming More Dangerous**

From gunshots fired to rocks thrown, assaults on Border Patrol agents are on the rise. CBP Chief David Aguilar reported the annual number of assaults on his agents more than doubled from 2004 to 2005 and the upward trend continued in 2006. In part, this tracks with a general trend of increased harassment and attacks against all uniformed federal agents, including the National Park Service and US Park Police.<sup>34</sup> But a recent Congressional report states that violence against US Border Patrol agents on the southwestern border has increased at an alarming rate due to a new breed of drug cartel. These sophisticated and ruthless cartels use military hardware, including automatic weapons, high-powered binoculars and encrypted radios. They also employ spotters on both sides of the border. Rather than comply with Border Patrol agents when their smugglers are caught, these cartels vigorously protect their cargo of drugs or humans through direct confrontation.<sup>35</sup>

The increased threat to agents is a critical factor when considering the role of volunteers in border operations and the primary reason a two-tier volunteer system is required. Simply put, any volunteer who operates with agents on the front lines of the border is in harm's way. If these volunteers are not fully trained, armed and authorized to participate in enforcement action, they become defenseless targets and an unacceptable liability for the agents they are there to support.

## Chapter Three

### Case Study - US Coast Guard Auxiliary

The Coast Guard Auxiliary (Auxiliary) is an all-volunteer organization supporting the US Coast Guard (USCG) both operationally and administratively. Every day, Auxiliarists conduct boating safety classes and vessel safety checks, stand communication watches, assist during mobilization exercises, perform harbor and pollution patrols, provide platforms for unarmed boarding parties and recruit new people for the Service. And every year, they spend millions of hours helping the USCG carry out its missions.<sup>36</sup>

The Auxiliary's active workforce is comprised of 27,122 men and women<sup>37</sup> and is approximately 70 percent the size of the full-time, active duty USCG (with 39,846 members as of January 01, 2007).<sup>38</sup> Throughout its long and storied history the Auxiliary has stepped in when and wherever they were needed and have been vital to the USCG's success. Today, Auxiliarists are relied upon to fill the manpower gaps brought on by the growing demands of each of the Services' multiple missions.

This case study will examine the creation, history, organization, the roles and missions, and the law enforcement capability of the Coast Guard Auxiliary.

#### **Creation of the US Coast Guard Auxiliary**

The Coast Guard Historian's Office can trace the origins of the Coast Guard Auxiliary to the 1930s when pleasure boating emerged as an American sport during the depths of the Great Depression. By the end of that decade, over three hundred thousand motorboats and four thousand sailing yachts with auxiliary power were registered in the United States. Presiding over this armada, at least in theory, was the USCG. The service's mission included the enforcement of federal laws and safety standards relating to recreational watercraft, but statistical reality eroded the Coast Guard's ability to carry out that mandate. Budget cuts had reduced the service's manpower to about ten thousand officers and enlisted men. Only a few personnel were stationed on inland waterways (where the majority of pleasure boats operated), and most the Coast Guard's energy was siphoned off by other duties.<sup>39</sup>

"The US Coast Guard Auxiliary was founded with The Coast Guard Reserve Act of 1939. Passed on June 23, 1939, it created an institution unique in the federal government."<sup>40</sup> The new Coast Guard Reserve was to be a civilian organization. Members were not to hold military ranks, wear uniforms, receive military training, or "be vested with or exercise any right, privilege, power, or duty vested in or imposed upon the personnel of the Coast Guard." Nor were Coast Guard Reservists to be considered government employees. Apart from a provision stating "appropriations for the Coast Guard shall be available for the payment of actual necessary expenses of operation of any such motorboat or yacht when so utilized" (i.e., the Coast Guard would pay for the gas), it was expected the Reserve would cost the government no money whatsoever.<sup>41</sup>



## History

“The Coast Guard Reserve lasted less than two years in its original form, on February 19, 1941 Congress restructured the Coast Guard Reserve.”<sup>42</sup> The existing civilian volunteer organization was renamed the US Coast Guard Auxiliary and a new US Coast Guard Reserve was created to function on a military basis as a source of wartime manpower, like the reserves of the other armed services.

During World War II, the character of the Auxiliary changed from an organization primarily designed to help pleasure boaters into a flexible workforce able and willing to step in wherever the USCG needed them. Auxiliarists patrolled for German U-boats and formed the Volunteer Port Security Force to prevent "sabotage and subversive activities" on the nation's waterfronts. As the war went on and the Coast Guard's resources were stretched thinner, Auxiliarists were called upon to fill gaps wherever active duty Coast Guardsmen left them. Auxiliarists' boats patrolled the waterfronts and inlets looking for saboteurs, enemy agents, and fires. Other Auxiliarists manned lookout and lifesaving stations near their homes, freeing regular Coast Guardsmen for sea duty. When a flood struck St. Louis in the spring of 1943, Coast Guard Auxiliarists evacuated seven thousand people and thousands of livestock. In addition, airplanes joined the Auxiliary and Auxiliarists began flying missions for the USCG.<sup>43</sup>

Since the Second World War the Coast Guard has been barely large enough to perform the missions assigned to it. On many occasions the Auxiliary has stepped into the breach. The Coast Guard Historian's website describes numerous cases of the Auxiliary's ability to surge operationally to assist the USCG, some notable examples include:

- During the Vietnam conflict, several Coast Guard cutters were taken off their normal stations and sent to Southeast Asia. Auxiliarists put their boats to work on patrol duty.
- On June 5, 1976, the Teton Dam in Idaho burst, flooding a considerable area and washing toxic chemicals out of a warehouse into the reservoir below the dam. Coast Guard Auxiliarists warned boaters to evacuate and helped build a levee that saved the city of Idaho Falls.
- Two tragic accidents in Tampa Bay, Florida. On the night of January 28, 1980, twenty-three Coast Guardsmen were lost when the Coast Guard tender Blackthorn sank after a collision with the tanker Capricorn. On May 9, 1980, the freighter Summit Venture rammed the main span of the Sunshine Skyway Bridge collapsing twelve hundred feet of roadway and killing thirty-five people. In both cases, the Auxiliary helped with search and rescue (SAR) operations.
- In the spring of 1980, the government of Cuba suddenly announced it would permit a massive emigration through the Port of Mariel. For three weeks, a steady stream of small boats of every description, averaging two hundred to three hundred per day, made their way from Cuba to Florida. The Coast Guard mobilized all of its resources in the area. Auxiliarists manned radios, performed SAR along the Florida coast, and stood watch at the stations in the Coast Guardsmen's absence.<sup>44</sup>

## Organization

The Auxiliary has members in all 50 states, Puerto Rico, the Virgin Islands, American Samoa, and Guam. Membership is open to US citizens, 17 years or older, either civilian or active duty or former members of any of the uniformed services and their Reserve components, including the Coast Guard.<sup>45</sup>

Although under the authority of the Commandant of the US Coast Guard, the Auxiliary is internally autonomous, operating on four organizational levels:

- **Flotilla** - A Flotilla is comprised of at least 15 qualified members who carry out Auxiliary program activities. Every Auxiliarist is a member of a local Flotilla.
- **Division** - Flotillas in the same general geographic area are grouped into Divisions. The Division provides administrative, training and supervisory support to Flotillas and promotes District policy.
- **District** - Flotillas and Divisions are organized in Districts comparable to the Coast Guard Districts covering large geographic areas. At this level, Coast Guard officers are assigned to oversee and promote the Auxiliary programs.
- **National** - The Auxiliary has national officers who are responsible, along with the Commandant of the USCG, for the administration and policy-making for the entire Auxiliary.

## Roles and Missions

To understand the missions of the Auxiliary, it is best to first start with the missions of the US Coast Guard:

- **Maritime Safety:** Eliminate deaths, injuries, and property damage associated with maritime transportation, fishing, and recreational boating. The Coast Guard's motto is "Semper Paratus" (Always Ready), and the service is always ready to respond to calls for help at sea.
- **Protection of Natural Resources:** Eliminate environmental damage and the degradation of natural resources associated with maritime transportation, fishing, and recreational boating.
- **Maritime Mobility:** Facilitate maritime commerce and eliminate interruptions and impediments to the efficient and economical movement of goods and people, while maximizing recreational access to and enjoyment of the water.
- **Maritime Security:** Protect America's maritime borders from all intrusions by: (a) halting the flow of illegal drugs, aliens, and contraband into the United States through maritime routes; (b) preventing illegal fishing; and (c) suppressing violations of federal law in the maritime arena.
- **National Defense:** Defend the nation as one of the five US armed services. Enhance regional stability in support of the National Security Strategy by utilizing the Coast Guard's unique and relevant maritime capabilities.<sup>46</sup>

With the passage of the Auxiliary legislation in October 1996, the Auxiliary's role was greatly expanded to enable Auxiliary participation in any CG mission authorized by the

Commandant.<sup>47</sup> In general, this law opens all CG mission areas to the Auxiliary with the exception of combat and direct law enforcement.<sup>48</sup>

In January of 2006, the USCG further defined the Auxiliary's role in Homeland Security, clarifying the Auxiliary's prohibition against federal law enforcement.

"Auxiliary involvement in Ports Waterways and Coastal Security (PWCS) missions at the operational commander level has been varied and warrants clarification. Requirements... stipulate that patrols and most other activities in this mission area are considered federal law enforcement. Effective immediately, due to the obvious inherent danger associated with these patrols and the lack of authority for the auxiliary to engage in direct law enforcement activities, no auxiliary facilities will be used for the PWCS mission. However, auxiliary participation in certain similar non-LE mission areas will continue as discussed below."

"Auxiliary facilities may be used to conduct the newly renamed Maritime Observation Mission (MOM)... This is a non-law enforcement mission whose primary purpose is to provide increased maritime domain awareness by observing areas of interest and reporting findings to the operational commander while maintaining the safety of auxiliary personnel. Should Auxiliarists observe anything suspicious during the course of normal multi-mission patrols, they should record and report the same immediately...but take no additional action."<sup>49</sup>

Therefore, the Coast Guard Auxiliary is primarily limited to the USCG's first three missions, Maritime Safety, Protection of Natural Resources, and Maritime Mobility with a limited "observation" only role in Maritime Security and National Security.

## **Law Enforcement**

The USCG's Auxiliary Operations Policy Manual lays out the prohibition against Auxiliarists performing law enforcement in very clear terms:

"Auxiliarists are engaged by the Coast Guard primarily in both operational and administrative support roles...while assigned to authorized duty to assist, to augment, or to replace Coast Guard personnel in the performance of Coast Guard duties, including while assigned as crew on Coast Guard or Auxiliary vessels, Auxiliarists shall have the same power and authority in execution of those duties as an active duty Coast Guard member assigned or previously assigned to similar duties, except Auxiliarists shall have no direct law enforcement authority."

"While Auxiliarists cannot execute direct law enforcement missions, they may support certain Coast Guard law enforcement activities. The key restriction is that no command can vest Auxiliarists with general police powers (e.g., power to search, seize, or arrest) or give Auxiliarists any direct role in law enforcement police action."<sup>50</sup>

There are several reasons the USCG prohibits the Auxiliary from direct Law Enforcement activities and this section will examine a few of the key reasons.

**Law:** Coast Guard Auxiliarists are prohibited from direct Law Enforcement (LE) and carrying weapons. The primary reason is explained in 14 U.S.C. 89(a). The statute provides Coast Guard active duty personnel the authority to engage in LE activities (enforce applicable federal law) and is limited to only “commissioned, warrant, and petty officers.” Civilian volunteer Auxiliarists are not provided the authority.<sup>51</sup>

**Liability:** What happens when someone violates the constitutional rights of a citizen? There is a federal statute guaranteeing the rights of citizens and persons called the "Civil Rights Act." 42 USC 1983 reads as follows:

“Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable...”

It does not apply to federal government agents and USCG Auxiliarists are not provided these immunities. Both Auxiliarists personally and the USCG as an organization would be liable if someone was detained illegally.<sup>52</sup>

**Immunity:** USCG active duty personnel have statutory immunity in certain cases when injury or death results from a shooting. Auxiliarists are not provided statutory immunity and are at risk both legally and financially should such actions occur in the line of duty.

**Training:** The USCG enforces a wide-variety of laws, from halting the flow of illegal drugs, aliens, and contraband into the United States through maritime routes to preventing illegal fishing and suppressing violations of federal law in the maritime arena. The training requirements for our active duty forces are immense and made much more challenging as the laws are frequently changing. The USCG can not guarantee the proficiency of the volunteer force and is therefore reluctant to put them in harms way.<sup>53</sup>

## **Summary**

The USCG Auxiliary has a 67 year history of excellence as an all-volunteer organization assisting the Coast Guard in times of both war and peace. It is a proven success story that can be used as a model for any federal or state agency. Although the Auxiliary doesn’t conduct direct law enforcement activities, Auxiliary members can man communications consoles, conduct search and rescue and safety patrols, and provide administrative support enabling the USCG active duty forces to spend more time on Maritime Security and National Defense.

## **Chapter Four**

### **Case Study - Florida Highway Patrol Auxiliary**

The Florida Highway Patrol Auxiliary (FHPA) is a professionally trained, all volunteer law enforcement organization dedicated to providing direct assistance and operational support to the Florida Highway Patrol responsible for promoting public safety for the citizens of and the visitors to the State of Florida.

Since 1957, Auxiliary Troopers have assisted the Florida Highway Patrol in the performance of its daily duties which include:

- Patrolling the streets and highways of the state
- Providing timely assistance to disabled motorists
- Participating in vehicle equipment and license checkpoints
- Operating the Florida Highway Patrol Breath Alcohol Testing Unit (BAT mobile)
- Assisting communication center duty officers in their duties
- Assist in aircraft surveillance operations
- Participating in specialized details
- Responding to natural disasters and other emergency situations<sup>54</sup>

This case study will examine why the Florida Highway Patrol created the Auxiliary, legal requirements to practice law enforcement, entry requirements, certification and continuation training, cost and missions performed by FHPA members.

#### **Creation of the Florida Highway Patrol Auxiliary**

In 1954, a meeting was held in Tampa to discuss plans for the formation of the Florida Highway Patrol Auxiliary. The FHPA was formed in 1955 in cooperation with the Florida American Legion. An act authorizing the Director of the Florida Highway Patrol to establish an Auxiliary composed of volunteers was passed in the 1957 legislature and signed by Governor Leroy Collins on May 14, 1957. Statewide, there are 46 units within ten field troops comprised of 402 total FHPA members.<sup>55</sup>

The FHPA was created as means to promote citizen involvement in law enforcement and an inexpensive way to increase the FHP capacity to meet increasing law enforcement requirements.

#### **Legal Requirements to Practice Law Enforcement**

FHPA is authorized by Chapter 321.24, Florida Statutes. Florida State Statutes and the Florida Criminal Justice Standards and Training Commission require every member of the FHPA receive law enforcement training at a state approved training center by state certified instructors. The Florida Highway Patrol currently requires a minimum of 125 hours of training by FHP approved instructors. Upon completion of training, members of the FHPA are authorized to bear arms and have the power of arrest when directed by a FHP trooper.

## **Entry Requirements**

The following requirements are used to screen volunteers to ensure the highest standards are maintained within the FHPA.

- Complete a formal application
- Successfully pass the Basic Aptitude Test for Law Enforcement
- Undergo a physical examination
- Undergo a thorough background investigation
- Pass a polygraph test
- Be a U.S. citizen
- Be at least 19 years of age
- Have a high school diploma or a GED
- Be in good standing financially and morally
- Be in good physical health<sup>56</sup>

The application process can take up to 1 year to complete. Upon acceptance, the student will begin certification training. Initially, new FHPA members will be assigned to an officer who will mentor them through a probationary period before allowing them to perform on their own.

## **Certification and Continuation Training**

The training one receives includes subjects such as:

- Criminal Law
- Traffic Law
- Search and Seizure Law
- Court Testimony
- Accident Investigation
- Firearms Training
- First Aid
- Self Defense
- Report Writing
- Human and Public Relations

These areas will enable a civilian to provide assistance to other Law Enforcement Officers across the full spectrum of duties.

The requirements are accomplished through video and hands-on training with 65 hours of video training, 40 hours of medical/first aid for law enforcement, 8 to 16 hours of fire arms training and 8 to 16 hours of defensive tactics training requiring the student to pass a proficiency test. Training is conducted locally at community colleges as well as from approved courses offered by the Florida Highway Patrol. The Patrol pays all tuition for the approved applicant and supplies all equipment and uniforms for use while performing duties as an Auxiliary Trooper.

Continuation training is performed side-by-side with full-time troopers. The training includes:

- Defensive Tactics
- First response
- CPR
- Weapons of Mass Destruction
- Firearms
- Felony Traffic Stops
- Professional Traffic Stops

In order to stay current and qualified, each member must perform 24 hours of service per quarter. This can be accomplished in any combination of time blocks.

### **Cost Analysis**

The FHP provides all training, uniforms and equipment to Auxiliary members. The Florida Legislature annually appropriates \$350,000 for training, uniform replacement, and equipment maintenance.<sup>57</sup> With 405 Auxiliary Troopers, this works out to an annual cost per Auxiliary Trooper of \$865.

### **Missions Performed**

FHPA members annually volunteer over 180,000 hours of service to the FHP (approx. 480 hour/year per Auxiliary Trooper).<sup>58</sup> Missions performed by the FHPA members cover a vast array of duties. These duties can be performed individually, in conjunction with FHP or as a team of FHPA members. Among the many areas the FHPA operate, here are a few key areas:

- Patrolling the streets and highways of the state
- Providing timely assistance to disabled motorists
- Participating in vehicle equipment and license checkpoints
- Operating the Florida Highway Patrol Breath Alcohol Testing Unit (BAT mobile)
- Assisting communication center duty officers in their duties
- Assist in aircraft surveillance operations
- Participating in specialized details to protect public events
- Responding to natural disasters and other emergency situations
- Administrative assistance

The Florida Highway Patrol Auxiliary program is a well defined program with 50 years of history and experience. Its success has proven civilian involvement in law enforcement can be accomplished professionally and safely at a cost of less than 10% of full-time law enforcement officers. Colonel Christopher A. Knight, the Director of the FHP, is impressed with the performance and results of the FHPA. By using the FHPA as the foundation of a Border Patrol Auxiliary, increased border security can be obtained at a substantially lower cost to the government.

## Chapter Five

### Making the Case for a Border Patrol Auxiliary

Based on our two case study models and the status of the Border Patrol today, we believe there is a strong case for the establishment of a Border Patrol Auxiliary. This section analyzes the benefits and risks in thirteen key issue areas:

- Costs
- Training
- Manpower
- Availability of Volunteers
- Public Acceptance
- Specialized Skills
- Border Patrol Capacity
- Organizational Culture
- Legal Issues
- Operations Security
- Safety
- Supervision
- International Reaction

The tier-two program has significantly more risks but there are mitigation strategies for all risks. This chapter concludes by summarizing the issues in tables for the Tier-one and Tier-two programs.

#### **Cost Analysis**

*“Volunteers are not free. They do however significantly expand the reach of state government, leverage scarce financial resources, and actively engage citizens in the work of a democracy.”<sup>59</sup>*

In early February 2007, President Bush called on lawmakers to approve a \$10.2 billion budget for border security. This budget includes provisions for an “... additional \$647.8 million for 3,000 Border Patrol agents and associated costs. Included in this amount are funding for agents and support staff, relocations and training.”<sup>60</sup> This represents a “loaded” cost of nearly \$216,000 to recruit, equip, train and bring each of the new 3000 agents on-line.

At first glance, the obvious benefit of any volunteer program appears to be manpower bang for the buck. With a cost of \$216,000 for each new agent, the Border Patrol should be able to realize immense value from the effective use of a volunteer force. In this section, we take a closer look at the costs, in comparative terms, associated with full-time Border Patrol agents and Border Patrol Auxiliary members.

Estimating effectiveness and efficiency in terms of the costs and potential savings in a government agency is a complicated endeavor. The Government Accounting Office (GAO), in a 2005 report to Congress on the Border Patrol’s Interior Checkpoint Effectiveness, had a difficult time comparing the performance of different Border Patrol sectors. The GAO developed their own two metrics to assess performance:

- Apprehensions per agent work year, and
- Costs per apprehension, based on average work year cost



A Border Patrol Auxiliary tier-one member provides a clear way to improve both metrics. By taking over a portion of the behind-the-scenes workload, members can relieve agents of the administrative, maintenance and instructional burdens. This relief can increase the percentage of an agent’s annual 2080 work hours spent on the front lines patrolling the border, manning border checkpoints and making apprehensions.<sup>61</sup>

To calculate the value of auxiliary contributions, it is helpful to calculate agent costs at an hourly rate. According to current data from the Department of Homeland Security,<sup>62</sup> the “loaded cost” (recruiting, training, compensation, equipping and IT/office support) of a GS-11 agent are listed in the following table.<sup>63</sup>

GS-11 Border Patrol Agent	Annual Loaded Cost	Cost/Hour (2080 hrs/work year)
Year 1 (First Year)	\$217,001	\$104.33/hour
Year 2	\$131,362	\$63.15/hour
Year 3	\$146,356	\$70.36/hour

### Tier-One Cost Analysis

Tier-one members would require very little capital investment. Assuming the government pays *all* the expenses and start-up requirements (recruiting & training, drug testing, background investigations and uniforms) a reasonable cost estimate can be made using the actual itemized costs for a DHS GS-5 employee, as shown in the following table.

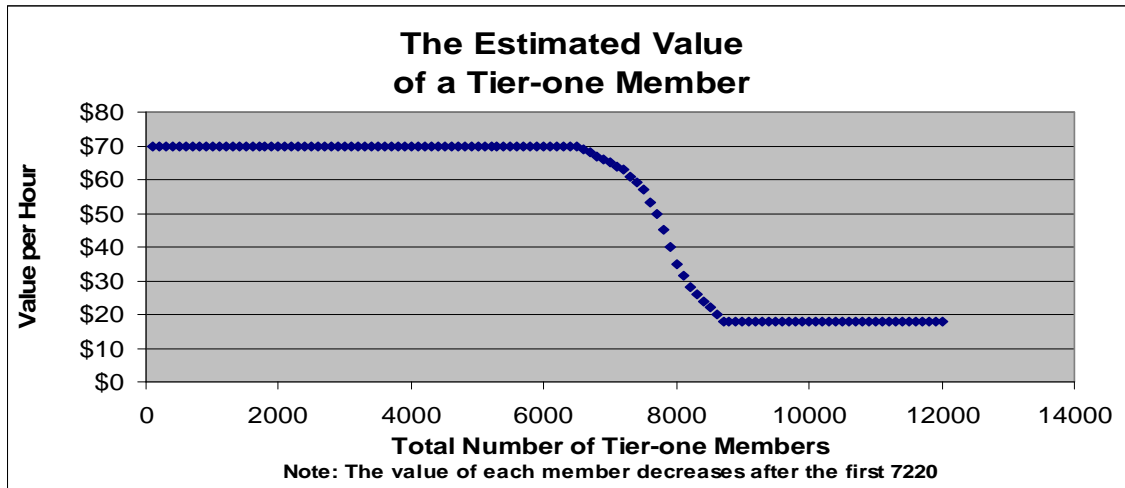
Potential Expenses Associated with BPA Tier-One Volunteer	DHS 2008 estimates for a GS-5 Administrative new-hire <sup>64</sup>
Recruiting & Training Costs	\$2,000
Drug Testing/Medical	\$68
Background Investigations	\$3,000
Uniforms	\$500
Total	\$5,568

Using these figures, a tier-one member will cost \$5,568 in start-up expenses. This equates to \$19.33 per hour during the first year of volunteer service and virtually nothing every year thereafter.<sup>65</sup> Therefore, for every hour a tier-one member provides in behind-the-scenes workload, a savings of \$70 per hour is obtained.

The tier-one members allowing qualified agents to return to the front lines provide the greatest return on investment. Since BPA members do not work full-time, it will take 7.22 BPA members to accomplish the same number of hours worked by a full-time agent. Therefore, if 1,000 agents<sup>66</sup> (of the 18,000 projected in 2010) assigned to tier-one tasks were replaced *in the*

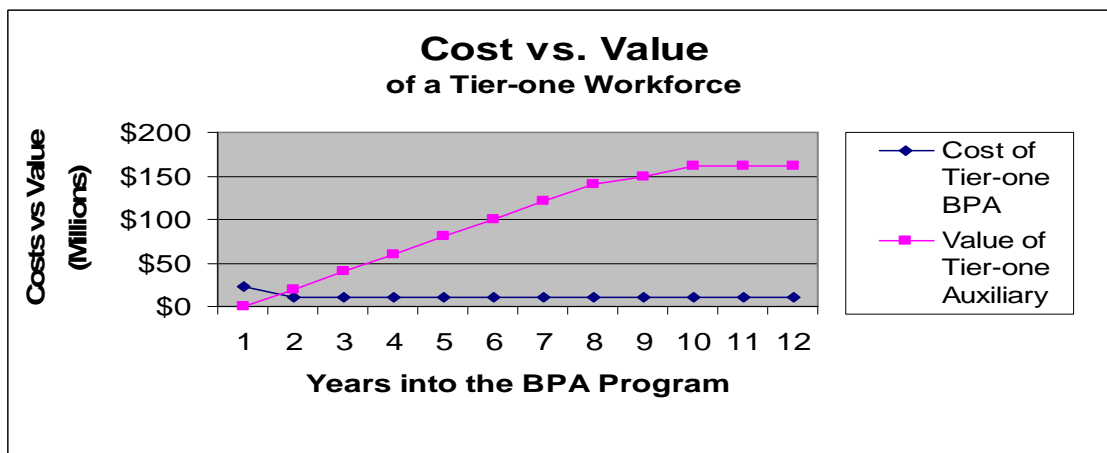
office by BPA tier-one members, the program would require approximately 7,220 tier-one members.<sup>67</sup>

Above the 7,220 figure, there is still great value in having additional tier-one members to reduce the day-to-day burdens on the full-time workforce. *Independent Sector Online*, a private research entity, developed a standardized value estimate for general volunteer work at a value of \$18.03/hour.<sup>68</sup> The figure below, *Estimated Value of Tier-One Volunteers* depicts the decline in value from about \$70/hour for the first 7220 members to \$18/hour for all the additional members.



The area under the curve can be multiplied by the number of hours worked per member, per year to calculate the potential value of a tier-one workforce.<sup>69</sup> With these figures, a 9,000<sup>70</sup> member tier-one, fully-operational<sup>71</sup> workforce could provide a value to the Border Patrol of \$162 million a year.

The figure below compares the potential value of a tier-one workforce to the costs associated with the program.<sup>72</sup> Even with the one-time start-up costs of \$5,568 per member; a 9,000 member BPA tier-one workforce would cost less than \$12 million per year to operate, while returning a potential benefit of \$162 million annually – this a great return on investment.



## Tier-Two Cost Analysis

The costs associated with tier-two BPA member are much simpler to compare to a full-time Border Patrol agent. The following table<sup>73</sup> breaks down *loaded* costs<sup>74</sup> for each of the first three years of a GS-11 Border Patrol agent's career.

<b>GS-11 Border Patrol Agent<sup>75</sup></b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
Personnel Compensation & Benefits: (pay, awards, overtime, benefits, bonuses, workers compensation, foreign allowance, educational allowance, home leave, & transit benefits)	\$82,827	\$93,517	\$107,671
Travel & Training: (travel for operations and training, PCS moves, basic training, advanced training, & career development,	\$44,978 (includes \$32,210 for PCS move)	\$15,958 (includes \$6,689 for PCS move)	\$16,277 (includes \$6,689 for PCS move)
Contractual Services & Supplies: (blackberry, telephone, utilities, recruitment, drug testing, medical, background investigations & contractual services)	\$34,890	\$3,612	\$3,683
Acquisition & O&M of Assets: (uniforms, safety & protective equipment, weapons, ammunition, supplies, vehicles, computers, technical equipment & radios)	\$54,306	\$18,275	\$18,725
<b>Total Loaded-Cost: Border Patrol Agent</b>	<b>\$217,001</b>	<b>\$131,362</b>	<b>\$146,356</b>

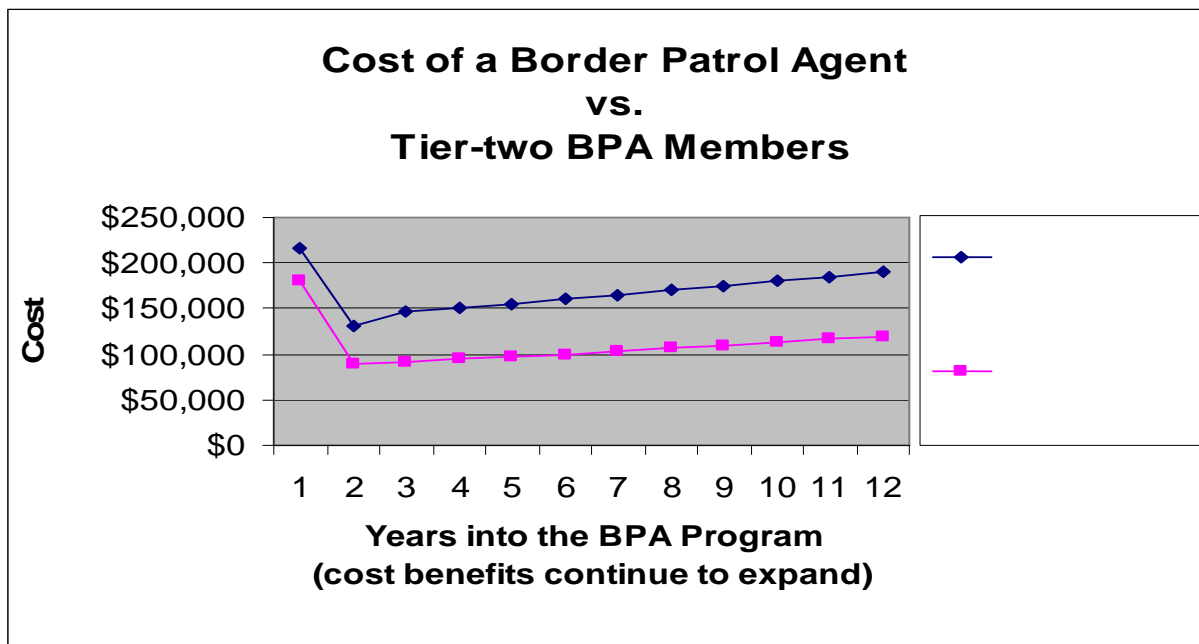
In the first year, the start-up cost for hiring, testing, training, equipping and moving are a majority of the expenses. After the first year, the compensation and benefits for an agent increase to over 70% of the total cost. It is this follow-on savings where the tier-two BPA can add significant value.

The same figures can be used to approximate the costs associated with a tier-two BPA. Although the *loaded* cost of a tier-two BPA member includes no salary or benefits, the cost does include: the same travel and training expenses<sup>76</sup> as an agent and approximately 14%<sup>77</sup> of an agent's share for contractual services and supplies, as well as the acquisition and O&M of assets.

The following table lists the loaded cost for each tier-two member.

<b>Border Patrol Agent Tier-Two Volunteer</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
Personnel Compensation & Benefits:	\$0	\$0	\$0
Travel & Training:	\$12,768	\$9,269	\$9,588
Contractual Services & Supplies: <sup>78</sup>	\$4,832.41	\$500.28	\$510.11
Acquisition of Assets: <sup>79</sup>	\$7,521.61	\$2,531.16	\$2,593.49
<b>Total Loaded-Cost: Tier Two Volunteer</b>	<b>\$25,122.02</b>	<b>\$12,300.44</b>	<b>\$12,691.60</b>

Using these figures, a tier-two member will have a total first-year loaded-cost of approximately \$25,122.02 to sign-on, train, qualify and begin patrolling the border or serving at a border checkpoint. Every year thereafter, a tier-two member will have a fully loaded cost of less than \$13,000. The figure below compares the annual costs of a Border Patrol agent to the combined costs of the 7.22 Border Patrol Auxiliary members to work roughly the same number of hours.<sup>80</sup> Although a staff of 100 or more tier-two volunteers would be expensive to operate, they would add significant value in the short term and additional benefits (discussed in the next few sections) in the long term.



**Training**

Training requirements for tier-one and tier-two members are very different. These differences derive from the roles and authorities at each level. Tier-one training will consist of short, inexpensive modules delivered on the job at the local station. In contrast, the full law enforcement training requirement for tier-two members is the largest hurdle in the entire program. The two major obstacles to the tier-two program are the costs and time requirements for tier-two members to obtain the training. The following discussion describes in detail these obstacles and ways to overcome them. The details of training requirements for both tiers will be covered in the next chapter.

Tier-two members must be fully trained as border patrol agents. Any compromise would undercut the basic premise of the program. The 16 week basic course at FLETC will be very costly for both the service and the member. The primary risks are 1) the FLETC course will be an entry barrier to desirable volunteers who are employed and cannot leave their jobs for four months and 2) the Border Patrol will not recoup the huge up-front cost of this training if members do not continue to serve in the auxiliary. In the worst case, volunteers could use the FLETC course as a free ride to qualify for other law enforcement jobs.

There are a couple of ways to mitigate the entry barrier risk based on military reserve and National Guard models. Guard commanders typically issue letters to employers appealing to their patriotism and national security interests to allow Guard members time off for training. This approach may work in some cases. A more compelling but controversial solution is to legislate job protection. By amending the Uniformed Services Employment and Reemployment Rights Act of 1994 to include the US Border Patrol Auxiliary as one of the uniformed services, Congress could extend reemployment rights to BPA tier-two members who are absent from their jobs for FLETC training. There is already one non-military service on the list.<sup>81</sup> Since the Border Patrol will never “activate” its auxiliary members, such legislation would have a limited long-term impact on employers compared to reserve or national guard members who can be activated multiple times and for much longer periods.

Even if their jobs are protected during their absence, most employed members will not be able to forgo their salaries for 16 weeks. The Border Patrol may have to pay tier-two volunteers a stipend during FLETC training on top of room and board expenses.

To mitigate the risk of not getting a return on the FLETC investment or becoming a “free ride” for law enforcement training, the BPA should require a term of service commitment. This commitment would be entered after the screening process is complete, but before the member goes to FLETC. Any member who completes FLETC and resigns or is dismissed from the BPA prior to meeting his or her commitment would be liable for a pro-rated portion of training expenses.

Another option would be to use federal student loans or grants to pay the cost of FLETC up front. This approach would have the dual benefit of attracting high-value recruits and greatly reducing start-up costs for the Border Patrol. It would appeal directly to ideal candidates for the elite tier-two service: new criminal justice graduates and recently discharged military members. Federal student loans are administered by the Department of Education under several programs including graduate study and vocational training. A specific new program may have to be created for FLETC for two reasons. First, the cost of this 16 week program is higher than current limits for one-year of college loans. Secondly, terms of the loan should defer payments in a way that allows graduates to work off up to 100% of the debt through a period of unbroken service in the BPA. Military members have a ready-made option in the GI bill. The Department of Veterans Affairs would have to add FLETC to its list of approved job training programs.

## **Manpower**

If the border patrol reaches the President’s goal of 18,000 agents by 2008, it will still have only about 2.5 agents per mile of border. This is well short of DOD’s estimate of 1.3 million required to close the border should the “bird flu” pandemic occur. Nor will it be enough to meet the objective of “operational control.” Partial control may be enough to reduce illegal immigration, but not to defend against the entry of terrorists crossing individually or in small groups. Part of the solution is new technology, deployed through SBInet, which should dramatically increase the border patrol’s capability to detect and communicate border incursions. Even with advanced technology, there still must be enough agents to monitor the sensors, direct the response and perform interdiction around the clock. Congress may authorize more agents, but national fiscal constraints and other Homeland Security priorities will likely restrict future

Border Patrol growth to small increments. So what happens when the agent workforce peaks at about 18,000 and the 6,000 Guard members go home? A civilian auxiliary of screened, trained, integrated volunteers could fill the gap left by the guard and more.

### **Availability of Qualified Volunteers**

A key feasibility question for the BPA is the availability of volunteers. Will enough people volunteer, and what kind of people are they?

It is widely accepted that volunteers are the backbone of the nonprofit sector and indeed, religious groups are the number one beneficiary of volunteers in America. A less well known fact is as much as 25% to 30% of all volunteer labor is directed to the government.<sup>82</sup> City, county and state governments all benefit from volunteers. In fact, one nationwide survey estimated a third of all state agencies engage volunteers.<sup>83</sup> Can a federal agency do the same? The Coast Guard Auxiliary example says, yes. Moreover, the Coast Guard and Border Patrol Auxiliaries both offer the same attractions -- patriotic duty and local community impact -- with little geographic overlap to create competition between them.

Alexis de Tocqueville famously observed that “America has long been a nation of joiners”.<sup>84</sup> Volunteerism has been carefully tracked by The Independent Sector, a Washington, D.C. based non-profit organization. Its most recent detailed survey reported, 44% of adults over 21 volunteered in formal organizations in 2000, each contributing an average of 24 hours per month.<sup>85</sup> The Bureau of Labor Statistics reported only 26.7% of Americans volunteered in 2006, but their survey included 16 to 20 year olds who are not high interest recruits for the BPA. A potentially valid concern from the Labor survey is a slight drop in volunteerism (2%) compared to the past three years. Other important trends remained consistent.<sup>86</sup>

- Persons age 35 to 54 are the most likely to volunteer (31%), while persons in their early twenties were least likely (17%)
- Women are more likely to volunteer than men (30% vs. 23%)
- Those with higher levels of education volunteered at higher rates than those with less education
- Employed persons volunteered at a higher rate than unemployed persons
- Almost 20% of volunteers were involved with more than one organization, and this trend was higher for those with more education

The BPA tier-one program can be large and accept people from most every demographic, so the implications of the above trends are applicable. As such, the average volunteer will be employed, educated and mature. Women and retirees will be a significant percentage, but can perform tier-one support duties as well as men. Also, to the extent the BPA will have to compete for volunteers in a constricting market, it is reassuring to see 1 in 5 volunteers in America are willing to serve more than one organization.

These generalized statistics will not apply to the tier-two program, which is a small, elite, and highly selective service. Tier-two members will have to be recruited from specific target populations. Based on the Florida Highway Patrol case, such groups would include current law enforcement and emergency services personnel, current or former armed forces members and

criminal justice graduates. The availability of these specific population groups will vary in different regions of the border as a function of population density. This means it may be harder to build a tier-two force in rural sectors.

### **Public Acceptance**

From the public perspective, radical members of ad hoc groups have created a negative image of volunteers on the border. How can the Border Patrol make sure the public accepts and has confidence in its auxiliary service?

Tier-one support roles are mainly out of sight of the border in sector and station offices, so the public will have little direct contact. If the BPA opts to place tier-one volunteers in more forward roles, such as supporting fixed interior checkpoints or in standoff surveillance positions, the image they project will be as a *member* of the Border Patrol service. They'll wear uniforms, be indoctrinated to represent the service professionally and operate under the direct supervision of Border Patrol agents. This image will be a strong counter to any negative preconceptions the public may have about the Border Patrol Auxiliary.

Although the risks are somewhat higher, the same preconceptions are true for tier-two members. Tier-two members would be in constant contact with the public and appear similar to the Border Patrol agents, as in the Florida Highway Patrol case. The main issue of public concern will be the arming of tier-two members. Over time, public trust will develop as the BPA proves to be a professional and reliable organization. But to mitigate the risk of public rejection in the beginning, a public relations campaign should be developed to stress three key program characteristics:

1. Each tier-two member is a fully trained federal law enforcement officer
2. Auxiliary members are always under the direct supervision of a Border Patrol agent
3. The danger posed by criminals on the border today makes it necessary to arm tier-two members for their own protection

On the positive side of public relations, a BPA would strengthen the Border Patrol by exercising a key concept of community policing: enlisting the open support of average citizens as the department's unpaid eyes and ears in the communities they know best.<sup>87</sup> Such benefits have already been sought and received on a small scale. Border Patrol agents in Washington State instituted a simple community outreach program with refrigerator magnets leading to at least one narcotics seizure. The Del Rio sector on the southern border sponsored a rancher liaison program to introduce locals to operations with a tour, video, and briefings. By involving a large number of volunteers from the community directly into its operations, the BPA would create greater amount of this kind of social capital. Agents would enjoy greater public trust and get more support from the whole community.

### **Specialized Skills**

Although the volunteers would all have to be trained to perform specific tasks, they would bring with them a myriad of skills to enhance the operational effectiveness of the Border Patrol. Auxiliary members can also be expected to transfer knowledge to the Border Patrol

agents in the form of local expertise and continuity. Border Patrol agents move from sector to sector or even border to border throughout their careers. Most auxiliary members would be working in communities they lived in all their lives, so they would know the local people and territory as well or better than the agents – especially the hundreds of new agents now being deployed. They possess a wealth of knowledge on the local terrain, weather, people, and activity patterns which will be hugely beneficial to an inexperienced young agent force. For example, new agents assigned to the northern border in recent years have been sent to local community colleges to learn about mountaineering and outdoor survival. Think of the increased capability gained by having agents unfamiliar to a region ride alongside a local auxiliary member who is a skilled outdoorsman intimately familiar with the terrain. Members with the right qualifications could even be recruited for the auxiliary as “in house” instructors. Auxiliary members who serve for multiple years at the same station will also develop Border Patrol operational expertise and become a source of continuity instrumental to both new members and new agents.

Additional skill sets could include licensed mechanics, EMTs, master craftsmen, electricians, plumbers, network engineers and pilots just to name a few. These skill sets will all contribute to the effectiveness of the Border Patrol by replacing Border Patrol agents performing these tasks instead of patrolling the borders. Many volunteers will also have foreign language skills which are invaluable in assisting agents with suspect interviews or in communication with Mexican and Canadian authorities.

Some tier-two volunteers would also be a ready pool of recruits to fill future hiring needs, even those created by normal attrition. This has often been the case in the Florida Highway Patrol. Auxiliary members with prior background checks and training who have already proven themselves in operations can become successful new agents immediately. This is a great improvement over the current hiring process, which requires many months to recruit, vet and train untested applicants.

### **Capacity**

Another concern is the Border Patrol’s capacity to support the Border Patrol Auxiliary. The overall manpower requirement to support the BPA should be minimal if they bring back annuitants and retired law enforcement officers to form the staffing required to handle the administrative affairs of the BPA. As with the Coast Guard Auxiliary and the Florida Highway Patrol Auxiliary, these organizations have their own leadership and administrations parallel to the principle agency and only require oversight at the supervisory levels.

Many of the sectors are already building new facilities large enough to accommodate the BPA. The BPA legislation should also appropriate new monies to add co-located facilities to enhance the BPA’s development and its cohesion with the Border Patrol.

### **Legal Issues**

There are two main legal liability issues pertaining to the BPA. First is the liability for injury to auxiliary members while on the job. The second is the liability of the Border Patrol and the auxiliary members for their actions related to the performance of their assigned duties. Both of these issues are covered in the legislation.



The following are excerpts from the draft legislation in Appendix D.

”Exemption From Liability- Each organizational element or unit of the Border Patrol Auxiliary organization shall, except when acting outside the scope of its authority, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

- (1) Chapter 26 of title 28, United States Code (popularly known as the Federal Tort Claims Act).
- (2) Other matters related to non-contractual civil liability.”

“Treatment as Federal Employee for Limited Purposes- A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

- (1) The provisions referred to in section 3(b).
- (2) Compensation for work injuries under chapter 81 of title 5, United States Code.
- (3) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).”

Auxiliary members will also be eligible to join any of the National Reserve/Auxiliary Law Enforcement Associations which will provide life insurance options and other benefit programs designed specifically to assist volunteer law enforcement members.

The legal issues of the right to bear arms and make arrest also requires legislation. The following is an excerpt from the draft legislation pertaining to this matter.

(d) After approval by the director on an individual basis and after a firearms course approved by the director, a member of the Auxiliary, while under the supervision and direction of the director, or a Border Patrol agent, shall have the power to bear arms and make arrests.

As with any organization supporting the government, the legislation must be precise and complete. A review by the proper legal authorities will ensure these important issues are dealt with in order for the organization to be a productive addition to any agency or operation.

### **Operational Security**

It is critical for the BPA to mirror the Border Patrol in all aspects. Therefore, the security programs and policies in place for the Border Patrol will also be in effect for the BPA.

Sensitive information on the tactics, techniques and capabilities of the Border Patrol must be protected from the hands of those wishing to penetrate our borders. The Border Patrol’s vetting process for new employees includes background checks and other screening procedures designed to eliminate security risks. Since most auxiliary members will have access to internal information, they must be subject to the same screening process, including random drug testing after they are on the job. Of course, no system is flawless. At least six Border Patrol agents have

been prosecuted for taking bribes from criminal elements in the past 18 months. Through supervision, a personnel reliability program and periodic background reviews, those slipping through the screening process will be identified and removed from the program. Legislation establishes the right to dismiss members without cause allowing the removal of members without legal entanglement.

Some auxiliary members may also require a clearance for classified material to perform certain operational support tasks, such as working in an operations control center where classified tips are received. These members would undergo additional, standard security investigations prior to being granted clearances. Security clearances will add to the start up costs for tier-one members, but should be limited to a small percentage of members.

### **Supervision**

Supervision is critical to making the BPA a successful addition to the Border Patrol. The BPA will be under the direct supervision of the Chief Border Patrol Agent. All programs and policies will be approved by Chief Border Patrol Agent prior to being implemented. Each sector chief will have operational control over the BPA unit in their sector. Within the BPA, hiring annuitants to initially fill supervisor positions within the BPA will help adapt the auxiliary members quickly to Border Patrol operations.

On the line, auxiliary members will be under the direct supervision of the Border Patrol agent in-charge. In support areas, the auxiliary member will work under the supervision of the section chief or manager of the particular function or duty. All other details performed by auxiliary members will be under the supervision of the BPA sector chief and their staff.

### **Safety**

Last year, a Border Patrol agent on a solo patrol came under attack by several illegal immigrants while apprehending an illegal immigrant. Seven illegal immigrants bombarded the agent with baseball size rocks splitting open the agent's head. The agent managed to fire his weapon in self-defense to scare off the attackers. The illegal immigrants fled back into Mexico.<sup>88</sup> During another routine solo patrol, Senior Patrol Agent Catherine Hill was involved in a rollover accident. Hours later she was found dead by a maintenance worker.<sup>89</sup>

The safety of agents on patrol is probably the strongest argument *in favor of* the BPA tier-two program. Its members can greatly increase operational safety by eliminating solo patrols through "ride along" support. In areas where communications are lacking, they can set up radio relays to ensure that patrols are never out of contact with their station. If an agent becomes injured or needs back-up, the presence of auxiliary support can make the difference in saving a life or stopping an incursion without endangering an unsupported agent.

The inherent danger involved in direct security operations along the border is also a major risk for tier-two members. This is where the training and supervision are important. These elite auxiliary members are willing to undergo the intense training program and maintain proficiency levels equal to Border Patrol agents. This is not unprecedented. The Guard and Reserve forces of the US military also maintain these stringent standards. The auxiliary troopers

of the FHPA are another outstanding example. Therefore, the risk of injury to BPA members should not be a strong barrier to recruitment or service.

### **International Reaction**

Both Canada and Mexico have differing views on the security measures being taken by the US Government. In the field of cooperative enforcement of border security, the Border Patrol as well as law enforcement agencies along the borders have a longtime relationships with their international counterparts. By developing a BPA as part of the Border Patrol, the international community should afford the BPA the same courtesy and respect the Border Patrol already enjoys. This can only be accomplished by ensuring the BPA program is developed in the mirror image of the Border Patrol. It is equally important for the Border Patrol to educate their international counterparts on the purpose and capabilities of the BPA.

Many of the adverse opinions from the international community about operations along the border deal with the numerous voluntary citizen groups. These groups take the law into their own hands by apprehending illegal immigrants without authority inflaming emotions on both sides of the border. The Border Patrol Auxiliary gives an avenue for volunteers to be an effective part of securing the border with the recognition afforded of being associated with the Border Patrol.

It is not within the scope or time permitted for this study to obtain direct input from the governments of Canada and Mexico. It is our recommendation to solicit the views of both countries in helping to integrate the BPA into operations along the border.

### **Organizational Culture**

A potential barrier to the successful establishment of the BPA is the culture change required. Agents may be reluctant to accept civilians into their professional law enforcement service. Our case studies don't offer much advice because their auxiliaries have such long histories. Current officers of the Coast Guard or Florida Highway Patrol have never known a time *without* an auxiliary. One can postulate, however, that the context of broad change within the Border Patrol today makes it an opportune time to do something dramatically new.

By 2008, because of the steep hiring curve in recent years, the average border patrol agent will have just two years of experience. Agents are already taking on supervisory responsibilities with only three to five years of experience, much earlier than in the past. This relatively young and inexperienced force creates an unprecedented demand for training, particularly post-academy on-the-job training within their sectors. In our view, this situation creates opportunities for introducing an integrated auxiliary. First, a younger workforce with fewer ingrained cultural norms can more easily accept new ways of working. Secondly, the increased training pace within each sector creates more opportunities to put volunteers into the mix without duplicating training requirements. Training volunteers alongside regular agents rather than in segregated sessions has the added benefit of building the agents' trust in their new auxiliary. Trust is the most important prerequisite for acceptance.

The new command and control communications infrastructure being developed under SBInet will also make it easier to integrate volunteers into operations. In fact, since SBInet is currently in the design stage, specific roles and capabilities for volunteers can be built into the program.

**Tier-One Program Summary**

The following table summarizes the key issues related to instituting a BPA tier-one program. All the risks can be mitigated satisfactorily, leaving no compelling objection to prevent the program’s establishment.

<b>Tier-one Program</b>	
<b>Issue</b>	<b>Benefits</b>
<b>Cost</b>	<ul style="list-style-type: none"> <li>• <b>Low start up and maintenance costs</b></li> <li>• <b>More than 10x return on investment when auxiliary members return agents to the front line</b></li> </ul>
<b>Training</b>	<ul style="list-style-type: none"> <li>• <b>Modular CBT is cheap and proven method</b></li> <li>• <b>OJT will evolve to train-the-trainer</b></li> </ul>
<b>Volunteer Availability</b>	<ul style="list-style-type: none"> <li>• <b>Expect high percentage of mature, educated, employed volunteers</b></li> <li>• <b>No limits on membership based on gender, race or age</b></li> </ul>
<b>Safety of Volunteers</b>	<ul style="list-style-type: none"> <li>• <b>Limited or no direct exposure to border operations</b></li> </ul>
<b>Specialized Skills</b>	<ul style="list-style-type: none"> <li>• <b>Local area expertise</b></li> <li>• <b>Operations continuity</b></li> <li>• <b>Professional skills</b></li> <li>• <b>Language skills</b></li> </ul>
<b>Risk Mitigation</b>	
<b>BP Capacity</b>	<ul style="list-style-type: none"> <li>• <b>Physical: start the BPA in sectors with new facilities, expand as more capacity is built</b></li> <li>• <b>Operational: Use National Guard model to define initial support roles; Design new BPA roles into SBInet infrastructure</b></li> </ul>
<b>Legal Issues</b>	<ul style="list-style-type: none"> <li>• <b>Legislate protections for on-the-job injuries</b></li> <li>• <b>Legislate liability for actions</b></li> <li>• <b>Legislate removal without cause</b></li> </ul>
<b>Operational Security</b>	<ul style="list-style-type: none"> <li>• <b>Vetted like employees</b></li> <li>• <b>Random drug tests</b></li> <li>• <b>Personnel Reliability Program</b></li> <li>• <b>Periodic background reviews</b></li> </ul>

**Tier-Two Program Summary**

<b>Tier-two Program</b>	
<b>Issue</b>	<b>Benefits</b>
<b>Cost</b>	<ul style="list-style-type: none"> <li>• <b>Up to 30% cheaper than agents after initial start-up</b></li> </ul>
<b>Safety of Border Patrol agent</b>	<ul style="list-style-type: none"> <li>• <b>Eliminate solo patrols</b></li> <li>• <b>Provide critical communications link</b></li> </ul>
<b>Manpower</b>	<ul style="list-style-type: none"> <li>• <b>Grow agent force beyond 18,000</b></li> </ul>
<b>Specialized Skills</b>	<ul style="list-style-type: none"> <li>• <b>Local knowledge</b></li> <li>• <b>Law enforcement experience</b></li> </ul>
<b>Risk Mitigation</b>	
<b>Safety of Auxiliary member</b>	<ul style="list-style-type: none"> <li>• <b>Trained like agents</b></li> <li>• <b>Armed for defense</b></li> <li>• <b>Workman’s comp and survivor benefits</b></li> </ul>
<b>Availability of Volunteers</b>	<ul style="list-style-type: none"> <li>• <b>Recruit from specific demographic groups</b></li> <li>• <b>Availability will vary by region</b></li> </ul>
<b>Legal Issues</b>	<ul style="list-style-type: none"> <li>• <b>Legislate protections for on-the-job injuries</b></li> <li>• <b>Legislate liability for actions</b></li> <li>• <b>Legislate removal without cause</b></li> </ul>
<b>Organizational Culture</b>	<ul style="list-style-type: none"> <li>• <b>Current context of change allows for innovation</b></li> <li>• <b>Members meet all the requirements and training of an agent</b></li> </ul>
<b>Public Acceptance</b>	<ul style="list-style-type: none"> <li>• <b>Public relations campaign</b></li> </ul>
<b>Operational Security</b>	<ul style="list-style-type: none"> <li>• <b>Screened and vetted like agents</b></li> <li>• <b>Random drug testing</b></li> </ul>
<b>Training</b>	<ul style="list-style-type: none"> <li>• <b>Service commitment</b></li> <li>• <b>Student loans or grants</b></li> <li>• <b>Job protection as “uniformed service”</b></li> </ul>

## **Chapter Six**

### **Developing the Border Patrol Auxiliary**

#### **The Mission**

The mission of the Border Patrol Auxiliary (BPA) is to assist the US Border Patrol in accomplishing the mission of detecting, interdicting and apprehending those who attempt to illegally enter or smuggle people, including terrorists, or contraband, including weapons of mass destruction, across US borders between official ports of entry. To meet these mission requirements, the Border Patrol Auxiliary must be responsive to the Commissioner, U.S. Customs and Border Protection. The Commissioner will determine the scope, powers and responsibilities of the Border Patrol Auxiliary.

#### **The Organization**

To maximize the effectiveness of the Border Patrol Auxiliary, a two-tiered system should be developed. The primary purpose of tier-one auxiliary members is to improve the efficiency of the Border Patrol by relieving regular Border Patrol agents from administrative and support roles keeping them from performing direct operational missions. The primary purpose for tier-two auxiliary members is to improve the effectiveness of the Border Patrol by increasing the number of agents along the border beyond the Congressionally restricted number of 18,000 Border Patrol agents.

BPA members should have uniforms similar to but easily distinguishable from the regular Border Patrol agents, with insignia indicating their qualifications and experience.

The BPA organization should mirror the Border Patrol organization with direct oversight by active Border Patrol agents. This is a well developed practice as demonstrated by the case studies of the US Coast Guard Auxiliary (USCGA) and the Florida Highway Patrol Auxiliary (FHPA). As with the USCGA and the FHPA, the Senior Staff of the BPA will develop policies and programs to enhance the capabilities of the Border Patrol. These programs and policies will be approved by the Chief Border Patrol Agent prior to implementation to ensure continuity of effort.

To get the program off the ground, the Border Patrol could hire several retired annuitants with good experience in both operations and training to be the BPA senior staff. They would serve for a specified period, probably 3 to 5 years, until volunteers moving up through the ranks have gained enough experience to take over the role.

The size of the BPA should reflect the needs of the Border Patrol. As is evident in the US Coast Guard Auxiliary which outnumbered its active duty counterpart, the number authorized should be at least equal the numbers authorized agents for the Border Patrol. Obviously, funding for the BPA will affect the number of volunteers that can be sustained but should not limit the number authorized.

To better understand each tier of auxiliary members, the following section will outline the role, eligibility requirements, training requirements and the mission to be performed.

### **Tier-One**

The tier-one auxiliary members will be in a supportive capacity and make-up approximately 80% of the members of the BPA. Their purpose is to replace agents performing administrative and other support missions not requiring fully armed law enforcement capabilities yet critical to the successful operations of the Border Patrol. Such missions may include indirect surveillance, equipment maintenance, and command, control and communications. Tier-one auxiliary members will never come in direct contact with suspects without the suspects under the direct control of regular Border Patrol agents.

### **Entry Requirements**

For Tier-one auxiliary members the following entry requirements apply:

- Complete formal application process
- Be a US Citizen
- Be at least 18 years of age
- Undergo a thorough background check (See Appendix A)
- Have a high school diploma or a GED
- Be in good standing financially and morally

### **Training Requirements**

The training program for tier-one BPA members would consist of a basic course covering areas common to every facet of the Border Patrol, such as its history, organization, mission, and authorities. This training could be accomplished at the sector training centers to defray cost and reduce demands on the Border Patrol Academy. The Border Patrol Academy would develop the curriculum and then “train the trainer” who will teach the program in each sector. Much of the basic course could be delivered via computer based training, further reducing the training burden on sector agents. After the basic course, tier-one auxiliary members would receive functional training in specific areas of responsibility such as communications and surveillance. This training will be conducted on the job by a border patrol agent using standardized certification training criteria. As an auxiliary member becomes certified and experienced, they may be authorized to train new members.

Once the auxiliary member completes training, the member will be required to perform a minimum of 12 hours per month or 36 hours per quarter in order to maintain proficiency in an auxiliary member’s functional area. As required, training will be scheduled to meet the ever changing demands of the job. Should an auxiliary member fail to meet requirements, remedial training will be accomplished to bring the auxiliary member’s competence back up to a level require to perform the mission.

## **Missions Performed**

Potential Tier-one missions:

- Administrative support in stations or at permanent checkpoints
- Maintenance and logistics
- Standoff Surveillance (land or boat based)
- Command and Control Communications
- Sensor monitoring
- Functional Instructors
- Aerial Observers
- Search and Rescue Operations
- Detainee processing
- Language support
- Construction
- Data entry
- Recordkeeping
- IT support
- BORSTAR rescue operations

## **Tier-Two**

Tier-two auxiliary members will be the elite members of the BPA making up approximately 20% of the force. These members will be fully trained at the Border Patrol Academy to perform side-by-side with border patrol agents in all aspects of border operations. As with the FHPA, these members would go through a screening program and advanced training commensurate to full-time agents to meet the demands of front-line operations.

## **Entry Requirements**

For Tier-two applicants the following entry requirements apply:

- Completed a certified Law Enforcement course (40 hours) or served in Law Enforcement (City, State, or Federal) for 1 year
- Complete a formal application
- Successfully pass the CBP Border Patrol examination
- Undergo a medical examination
- Pass a physical fitness test
- Undergo a thorough background investigation
- Pass a polygraph test
- Be a U.S. citizen
- Be at least 19 years of age
- Have a high school diploma or a GED
- Possess a valid state driver's license
- Be in good standing financially and morally



Appendix A lists the actual requirements for a Border Patrol agent and explains in detail each of the above requirements.

### **Training Requirements**

In order to effectively support agents in the field, Tier-two BPA members must go to the Border Patrol Academy for their training. This will ensure credibility and understanding of operational tactics, techniques and procedures critical to the safety and security of field operations.

Once the auxiliary member completes training, the member will be required to perform a minimum of 16 hours per month or 48 hours per quarter in order to maintain currency. Additionally, the member will be required to accomplish continuity training annually along side their full-time counterparts. As required, training will be scheduled to meet the ever changing demands of the job. Should a tier-two auxiliary member fail to meet requirements, a review board will be convened to investigate the cause and recommend a course of action to be taken to recertify the individual or recommend deactivating the auxiliary member.

Appendix B outlines in detail the Border Patrol Academy training program.

### **Missions Performed**

Tier-two missions:

- Vehicle Checkpoints (permanent and tactical)
- Border Interdiction
- Flight and Maritime Operations
- Routine Border Patrol (all modes)

### **Implementation**

The Border Patrol Auxiliary program should initially start in one sector by creating a staff of former Border Patrol Agents either retired or rehired. This cadre will develop the basic organization to train and equip a tier-one group of volunteers. This will allow the cadre to establish a working force and to overcome unseen obstacles. After six months of tier-one operations, the first group of tier-two members should undergo training at FLETC and arrive for field certification.

Tier-two members will be part of a three phase certification program. During their first two years of probation, they will be assigned mentors who will oversee their training and work with them in field operations. Probationary reports will be written on them to ensure those working in the field know their level of skills and to identify areas where additional training is required. The second phase of the program will require tier-two auxiliary members to operate along side full-time agents. During this phase, advanced skills training will be accomplished as well as ancillary training to maintain currency. Each tier-two auxiliary member will receive a quarterly performance report emphasizing progress in capabilities with recommendations for phase three certification. Phase three certification will allow the tier-two auxiliary member to

perform all duties associated with being a Border Patrol agent in an unsupervised status. This is the highest certification and will be reserved for those dedicated tier-two auxiliary members willing to dedicate the time and service to be entrusted with the authorities granted to Border Patrol agents.

### **Required Legislation**

To make this program become a reality, Congress will be required to pass legislation covering the scope of powers to be vested into the program as well as establishing the mission and purpose, structure and size, funding, accountability and the Department of Homeland Security's reporting responsibilities. The legislation must empower the Commissioner to determine the most efficient and effective implementation of the BPA. This will include determining who and when certain powers such as bearing arms and making arrests will be authorized. It must also protect the volunteers under protections and immunities afforded regularly employed Border Patrol agents. An example of such legislation may be found in Appendix D.

### **Evaluating the Program**

In order to evaluate the program and recommend changes to improve the program, a set of metrics must be developed. The metrics proposed are not all-inclusive but will be essential for program oversight and the development of a strong auxiliary capable of meeting its mission goals.

BPA contributions should be measured in two ways. First, BPA-specific metrics will track the size, value and skills of the auxiliary itself. Secondly, border patrol performance metrics will reflect the impact of BPA support.

### **BPA Specific Metrics**

BPA specific metrics are straightforward and would be logged by the BPA members themselves at the station level. By compiling them at sector and national headquarters, the border patrol can maintain a continuously updated picture of the auxiliary. This data can be used to calculate the value of the program for funding justification as well as to track the performance of BPA recruiting and processing.

- Statistics on size, composition and growth
  - How many have applied each quarter
  - How many have been accepted and indoctrinated, how many are pending
  - Time required to process applications
  - Number actively serving
  - Demographic data on active members
  - Skills/duties each member is certified to perform
- Member contributions
  - Total hours contributed by each member and in each sector
  - Hours contributed in each defined skill/duty area
  - Training hours attended as students
  - Training hours as instructors

At least two measures of value apply to tier-one members, as outlined in the Costs section of Chapter 5. When auxiliary members are filling support roles allowing agents to redeploy to the front lines, their value should be calculated using the loaded hourly cost of an agent. For other roles, such as administration, the standard value of volunteer work – currently estimated to be \$18.03/hour – may be used.<sup>90</sup> This will be inadequate in some cases, however. Professionals providing services in-kind should be valued at the rate they would normally cost the government.<sup>91</sup> A number of potential tier-one BPA roles would qualify as professional services, such as a certified network administrator providing computer support or a paramedic on a BORSTAR rescue team. This is why it is important to log all volunteer hours contributed by role and skill. The BPA can develop a table of hourly values for each of the roles/skills it defines in the tier-one program.

Tier-two members will all be working as agents, so their value should always be calculated using the loaded hourly cost of an agent. Probationary members should be valued at the entry GS-7 level, while those with more experience may be valued up to the GS-11 level.

### **Border Patrol Performance**

The BPA mission is to support the Border Patrol, so its true measure of success will be reflected in the border patrol's own performance metrics. This paper has identified three key performance areas as BPA support goals: efficiency, effectiveness, and the safety of border patrol agents. Each area requires new metrics.

#### **Efficiency**

Efficiency refers to the maximizing agent time in active enforcement activity on the front lines or at checkpoints. Efficiency will increase as BPA tier-one members fill support roles formerly done by agents. Current effectiveness measures are unknown. "Increased agent time on watch" was established as a performance metric in the CBP Performance Accountability Report for 2005 but no results were reported for 2006. This is nonetheless an important measure of efficiency for the Border Patrol's most valuable asset, its agents. Several variations of the "agent time" metric can be drawn from duty logs:

- Average number of agents on patrol per shift
- Agents on patrol per shift as a percentage of agents on duty
- Number of patrols per sector
- Number of hours on patrol per agent
- Percentage of duty hours on patrol per agent

Factors other than BPA support will influence efficiency, including new technologies and more agents in the force. The specific influence of the BPA may be inferred within each sector by correlating "agent time" metrics with the number of volunteer hours performed in duties enabling agent redeployment. The administrative burden of keeping logs and compiling metrics can be performed by tier-one BPA members, as is often done at Coast Guard stations by their auxiliary.

## **Effectiveness**

Effectiveness refers to enforcement performance, which translates to better control of the border. It will improve as a result of both better efficiency from tier-one support *and* the addition of tier-two members augmenting agents on the front lines. Deterrence is difficult to measure, so the border patrol typically reports performance in the form of traditional law enforcement data, such as the number of arrests and amount of contraband seized. These figures have risen and fallen without a discernable pattern in recent years.<sup>92</sup> They are subject to factors outside the scope of Border Patrol operations, like weather, economic conditions and government policies.<sup>93</sup>

The Border Patrol recently agreed to new performance measures recommended by the General Accounting Office to calculate the productivity and effectiveness of interior checkpoints.<sup>94</sup> These new measures would reflect BPA impact, especially by reducing the cost to operate checkpoints. Other new metrics could measure BPA impact on operational performance without reference to cost. Such metrics could include:

- Agent/patrol response time from sensor detection to interdiction
- Percentage of surveillance detections successfully interdicted
- Area of the border actively patrolled (more agents = greater area)
- Area of the border actively monitored (patrols + sensors + human surveillance)

As with efficiency metrics, these factors will be influenced by technology and the size of the agent force as well as BPA contributions. If tracked carefully, however, the BPA impact can be split out from overall performance improvements.

Some of these internal performance measures probably factor into the Border Patrol's annually reported performance on "control of the border." The specific impact of BPA support to this overarching performance goal can be measured only if BPA contributions are isolated in the evaluation process.

## **Safety**

There are many aspects to safety from line operations to procedures within the office. The greatest contribution by the BPA is in the field of line operations. Agent safety can be dramatically improved by augmenting agent line patrols with tier-two BPA members. Safety is maximized by eliminating single agent patrols and patrols operating out of radio contact. The safety benefit of auxiliary support is not injury prevention, but ensuring injured or threatened agents get treatment or backup as quickly as possible. Therefore, some suggested metrics in this area would be:

- Number/hours of single agent patrols (minimize)
- Number/hours of patrols pairing agents with tier-two BPA members
- Treatment response time for injured agents
- Number/hours of patrols in areas out of radio contact (minimize)

This does not take away from the support BPA can make in implementing the Border Patrol's overall Safety Program. The BPA will enhance the program by hours invested in overseeing new techniques and equipment. Improvements in the program can be drawn from members experience in their other occupational safety programs. Metrics to assist in this area of safety could include the following.

- Time between safety incidents
- Classification of safety incident
- Program changes to overcome potential safety incident
- Percentage of program performed by BPA members
- Number of hours dedicated to safety program

## **Conclusion**

Although CBP consists of many agencies other than the US Border Patrol and could benefit from a CBP Auxiliary supporting all of the various groups, the initial development of an auxiliary in the US Border Patrol will have the most dramatic affect on operations within CBP. The reduction of illegal immigrants and criminal activity along the border during “Operation Jump Start” reinforces the instant impact on border security by creating the Border Patrol Auxiliary.

Securing the border is the first step to controlling the influx of criminal activity and illegal immigration into the United States. By creating the US Border Patrol Auxiliary, the Border Patrol can increase the number of qualified agents on the border which is a proven deterrent to illegal immigrants and criminals along the border while increasing their capability and capacity across the entire spectrum of operations. All of this can be accomplished at a fraction of the cost by using volunteers. It will also expand citizen involvement in a critical area of national security. Together the nation can once again overcome a direct threat to our national security through the cooperation of governance and the people.

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## Appendix A

### US Border Patrol Agent Requirements

The following table was extracted from [http://www.cbp.gov/linkhandler/cgov/careers/customs\\_careers/border\\_careers/border\\_patrol\\_factsheet.ctt/careers\\_bpa\\_fact.doc](http://www.cbp.gov/linkhandler/cgov/careers/customs_careers/border_careers/border_patrol_factsheet.ctt/careers_bpa_fact.doc) on 9 February, 2007.

**Pre-employment Requirements** consist of a thorough background investigation, medical examination, fitness test, and drug test. If your background includes past or present arrests, convictions, dismissals from previous jobs, debts and financial issues, excessive use of alcohol, use of illegal drugs, and/or the sale and distribution of illegal drugs, you most probably will be rated unsuitable for this position. You may also be subject to a polygraph examination.

**Job Requirements.** Border Patrol Agents must wear a uniform, carry a weapon, work overtime and shift work (sometimes under arduous conditions), and be subject to random drug testing.

**Qualifications.** If you are interested in registering for the written test and want to receive notification of an open vacancy announcement, go to [www.USAJOBS.opm.gov](http://www.USAJOBS.opm.gov), click on folder entitled MY USAJOBS, then click on Create Your Account Now. Follow the instructions pertaining to receipt of e-mails, and register for the GL-1896, Border Patrol Agent. More specifics on qualifying experience and education will be found in the vacancy announcement. However, here are the basic qualifications.

- **Must be a U.S. citizen.** U.S. Customs and Border Protection (CBP) also has a residency requirement that applies to all applicants other than current CBP employees. If you are not a current CBP employee, CBP requires that for the three (3) years prior to filing an application for employment, individuals must meet one or more of the following primary residence criteria:
  1. Applicant resided in the United States or its protectorates or territories (short trips abroad, such as vacations, will not necessarily disqualify an applicant); or
  2. Applicant worked for the U.S. government as an employee overseas in a federal or military capacity; or
  3. Applicant was a dependent of a U.S. federal or military employee serving overseas.
- **Must possess a valid state driver's license at the time of appointment.**
- **Must be under age 40 to register for the written test.** This position is covered under law enforcement retirement provisions. Therefore, candidates must be referred for selection prior to their 40<sup>th</sup> birthday unless they presently serve or have previously served in a position covered by federal civilian law enforcement retirement.
- **To qualify for a GL-5 level position, you must have**
  1. Substantial work experience which demonstrates an ability to (1) take charge, make sound decisions, and maintain composure in stressful situations; (2) learn law enforcement regulations, methods, and techniques through classroom training and/or on-the-job instruction; and (3) gather factual information through questioning, observing, and examining documents and records. Examples of qualifying experience include interviewing in a public/private service agency, working as a claims adjuster, journalist, building guard, jail guard, or certain customer relations positions, **or**
  2. Earned a bachelor's or higher degree, **or**
  3. A combination of education and experience.
- **To qualify for a GL-7 level position, you must meet the basic entry qualification requirements for the GL-5 plus have superior academic achievement, or one year of graduate level education, or one full year of specialized experience equivalent to the GL-5 level, or a combination of education and experience. Specialized experience is law enforcement experience which has demonstrated the ability to:**
  1. Make arrests and exercise sound judgment in the use of firearms;
  2. Deal courteously, tactfully, and effectively on law enforcement matters with individuals or groups;
  3. Rapidly analyze information and take appropriate action in accordance with applicable laws, court decisions, and law enforcement procedures; **and**
  4. Develop and maintain contact with the network of informants.
- **To qualify at the GL-9 level based upon work experience, we must be able to determine that you have at least one year of specialized experience comparable in level of difficulty and responsibility that includes practical knowledge to interpret and an ability to enforce federal laws, rules, and regulations. This experience must demonstrate the ability to do all eight (8) of the following elements:**
  1. Develop cases, conduct interviews or interrogations, make apprehensions, and arrests in order to further the process

or cease development;

2. Prepare cases and appear as a professional witness in court;
3. Exercise sound judgment in the use of firearms and conduct training, qualification exercises, or courses in the proper care and use of firearms;
4. Deal effectively with individuals or groups of persons in a courteous and tactful manner in their detention, control or interrogation, and work to promote effective community outreach programs and public relations;
5. Analyze and disseminate intelligence information and data rapidly; and apply a practical knowledge of the laws, concepts, operational practices and law enforcement methods and techniques in order to independently perform duties typically encountered in law enforcement;
6. Develop and maintain contact with a network of informants, social and political organizations, state and local enforcement agencies, and private citizens, to ensure continuity of enforcement work and to carry out enforcement responsibilities;
7. Use a variety of law enforcement databases and information retrieval systems, such as TECS, NCIC, and NEXUS;  
**and**
8. Prepare reports and write other documents that deal with the collection, protection, and recording of evidence, the presentation of testimony, and the retention of informational materials concerning illegal activities and practices encountered during daily activities.

***Appointments will be made under the Federal Career Intern Program (FCIP) and will be in the excepted service. FCIP appointments are designed with a two-year trial period, during which time you will be learning the job and the organization, attending formal training programs, and developing your skills. If your performance and conduct are satisfactory, your appointment will be made permanent at the end of the two-year trial period.***

**Medical Requirements ...** The position requires moderate to arduous physical exertion involving running distances, climbing, jumping, walking, and standing, and exposure to inclement weather. Also requires the use of firearms.

**Vision.** Uncorrected distant vision must be equal to or better than 20/100 in each eye. Binocular distant vision must be correctable to 20/20 with glasses or contacts. Depth perception must be equal to or better than 70 seconds of arc. Peripheral and color vision must be normal. Refractive surgery to correct vision defects is permissible if an examination by a board-certified ophthalmologist or state licensed and certified optometrist determines there are no post-operative complications.

**Hearing/speech.** As measured by an audiometer, hearing loss must not exceed 30 decibels in either ear in the 500, 1000, and 2,000 Hz ranges. At 3,000 Hz, the deficit should not exceed 40 decibels in either ear. The use of any hearing aid to comply with the medical standards is unacceptable.

Any condition that would hinder full, efficient performance of duties or would cause a hazard to self or others, or the presence of medical conditions aggravated by environmental conditions, may be disqualifying.

## Steps in the Hiring Process, once the positions are announced:

1

**Apply by Internet.** To apply for the BPA position, you must register for the written test during the open application period via the Internet. Based on your responses to the questions, the Office of Personnel Management (OPM) will determine if you meet the basic qualifications for the position. **If you meet the minimum qualifications**, you will identify the city and state in which you want to take the written test. *After you register, if you pass the written test, the remaining steps take about 6-8 months.*

2

**Written Test.** If you successfully complete **Step 1**, scheduling of the written test will be done during the on-line registration process. As soon as you have registered and been scheduled for the written test, you will be able to print your test admission notice, which will contain the date, location, and time for the written test. This admission notice will also include the contact information for OPM. If you are unable to print your test admission notice, you will need to annotate the OPM contact information while in the registration process, and then request that a copy of your test admission notice be mailed to you. **You are required to bring the test notice with you to the written test.**

If you are unable to attend your scheduled test date and you are unable to reschedule your test date with OPM, you will need to reregister during the next Border Patrol Agent open application period.

We believe that proper test preparation is essential for success, and suggest that you take time to carefully read the study guide. You may download the guide from our web site at [www.cbp.gov](http://www.cbp.gov) (**scroll down to click on Border Patrol**), then click on **“Careers with Border Patrol”**, finally click on **Border Patrol Entrance Examination**). The test takes about 4.5 hours and contains three sections: (1) logical reasoning skills, (2) “Spanish language proficiency, or if you do not speak Spanish, an artificial language test that predicts your ability to learn Spanish, and (3) an assessment of job-related experiences and achievements. Sample questions for the written test can be found in Part III of an open vacancy announcement. Once you have taken the Border Patrol Agent test, you should receive a Notice of Results in the mail within four weeks following the test. To be eligible, applicants must have a score of at least 70 (excluding veteran’s preference points) on the written test.

**3**

**Selection Process.** If you pass the written test, your name will be placed on an applicant inventory. The nationwide inventory is maintained in score order, and where applicable, veterans preference points are added. Referral for a position is dependent on the scores of the applicants that are available on the inventory when a list is issued. If you are selected, you will be sent a tentative selection package. That package will contain forms and information regarding the oral structured interview, medical, vision, and fitness examinations, drug test, background investigation, and possible polygraph examination—all of which must be satisfactorily completed before a firm offer of employment can be made.

**4**

**Structured Oral Interview.** Those applicants who receive a tentative selection letter will be scheduled for a structured oral interview with a panel of Border Patrol Agents. The interview consists of questions asked by the panel consisting of job related hypothetical situations that do not require technical knowledge of the position. The structured interview is a pass/fail interview. Candidates must receive a “pass” in all areas in order to continue in the hiring process.

**5**

**Pre-employment Process.** In addition to completing **Step 4**, you must also successfully complete a drug test, physical fitness test, medical examination, background investigation and possible polygraph examination. These will be scheduled and completed as soon as possible.

**START  
WORK**

**Final selection and reporting date!** If you successfully complete these steps, your name will be placed in the pipeline for future vacancies. As vacancies occur, applicants in the pipeline will be given firm offers of employment. If you decline a job offer, your name may be removed from consideration for any location.

## Physical Fitness Screening Addendum

Due to the strenuous nature of Border Patrol Agent duties and the associated training programs, fitness tests have been developed and will be used to screen candidates for entry-level Border Patrol Agent positions. Although fitness tests are a separate pre-employment requirement, they are administered at the same time and location as the medical examination. The fitness tests include a: (1) push-up test, (2) sit-up test, and (3) 5-minute cardiovascular endurance step test.

The pre-employment tests are as follows:

1. **Push-up Test** is a timed test which requires you to complete twenty (20) proper form push-ups in sixty (60) seconds. The depth of the push-up will be measured using a foam block. If needed, rests between pushups must be taken in the “up position.” The Test Administrator will evaluate your form during the test and will instruct you when to start and stop.
2. **Sit-up Test** is a timed test, requiring you to complete twenty-five (25) proper form sit-ups in sixty (60) seconds. The Test Administrator will hold your feet during this test and instruct you when to start and stop.
3. **Step Test** is a timed test, requiring you to step up and down on a twelve-inch high step at a rate of thirty (30) steps per minute for a total time of five (5) minutes duration. To maintain the cadence, an audiotape is used which maintains a constant beat and gives verbal cues. The audiotape also contains special instructions to switch your lead leg every minute to avoid local muscle fatigue.

**In order to graduate from the required training at the CBP Border Patrol Academy** in Artesia, NM, all trainees must pass a fitness test which includes running 1.5 miles in 13 minutes or less, running a 220-yard dash in 46 seconds or less, and completing the Confidence Course in 2 minutes and 30 seconds or less.

## Appendix B

### Border Patrol Academy Program

The following information was extracted from [http://www.cbp.gov/xp/cgov/careers/customs\\_careers/border\\_careers/bp\\_academy/bp\\_acad\\_courses.xml](http://www.cbp.gov/xp/cgov/careers/customs_careers/border_careers/bp_academy/bp_acad_courses.xml) on 9 February, 2007.

#### Law Courses

**The Academy law program consists of four (4) separate courses. Successful completion of the combined courses requires the trainee to attain a minimum overall average of 70%.**

- **Nationality Law** teaches the basic trainee how to determine whether a person being questioned is: 1) an alien, 2) a citizen of the United States, or 3) a national of the United States.
- **Immigration Law** teaches the basic trainee to verify the classification of aliens, determine the legality of status, recognize violations, and initiate the appropriate action.
- **Criminal Law** teaches the basic trainee to recognize violations of Federal criminal statutes and either take appropriate action, with regard to laws under Department of Homeland Security purview, or make referral to another Federal agency of primary jurisdiction.
- **Statutory Authority** teaches the basic trainee the primary statutes, implementing regulations and court decisions from which a border patrol agent derives his or her authority to act in any given situation.

#### Spanish Courses

The Spanish language course includes formal classroom instruction in grammar with an emphasis on conversational skills. The course is designed to prepare the basic trainee to communicate effectively in the Spanish language. The course begins with the Spanish alphabet, basic sentence structure and pronunciation and includes the primary tenses used in the Spanish language. Additionally, a sixty-six hour conversation course is included as part of the Spanish curriculum where neither the instructor nor the trainee speaks English. In order to provide the trainee with the opportunity to perform duties in a realistic role play environment, six hours are devoted to job skills and eight hours to practical exercises. Successful completion of the Spanish course requires that the trainee attain a minimum average of 70%.

Additional help is available at the Language Laboratory, open every weekday from 4:30 p.m. to 7:00 p.m. Among the aids available in the Lab are audio and video review tapes, study stations and our recorded language course. An instructor will be available during these hours to answer questions, provide duplicates of tapes and give other assistance. The Language Lab is open to all trainees.

#### Border Patrol Operations

The Border Patrol Academy Operations program consists of FLETC Police Training instruction plus operations courses instructed by Border Patrol personnel. To successfully complete the operations portion of the Border Patrol Academy, trainees must attain an overall grade of 70% in the combined subject areas. The FLETC Police Training courses will be tested at the midterm point, and a final exam will be given at a later point in the course. A minimum score of 70% is needed to pass these exams.

#### Firearms Training

Firearms training is designed to instruct the trainee in range safety, survival shooting techniques, judgment pistol shooting, quick point, and instinctive reaction shooting. Both classroom and range practice sessions are utilized. Should a trainee fail to successfully complete the Academy Firearms

Program, he/she will be afforded eight (8) hours of remedial training followed by a two (2) hour re-qualification session.

## Physical Training

### Purpose:

**The purpose of the Physical Training Program at the Border Patrol Academy is fourfold:**

1. To physically condition each new agent to an acceptable standard that will enable the new trainee to perform the day-to-day duties of a border patrol agent working in the field environment.
2. To physically train and condition the new agent to successfully react to environmental or man made obstacles and physically dangerous situations in a manner most likely to minimize the likelihood of injury to the new agent, other agents or innocent third parties.
3. To psychologically condition each new agent to have confidence in their own physical ability to react positively to physically strenuous or dangerous situations while, at the same time, maintaining an awareness of their own physical limitations.
4. To instill in each trainee agent an awareness of the importance of physical fitness to the border patrol agent and the need to maintain an individual physical fitness program after leaving the Academy.

### Philosophy:

**The philosophy behind the aforementioned *purpose* has been developed due to the nature of the Border Patrol Agent's duties.**

The job or primary function of the Patrol agent is to apprehend violators of the immigration and nationality laws, both at and after entry. Secondly, due to our presence in the border areas, we frequently encounter and apprehend smugglers of both aliens and narcotics. The majority of agents perform their duties in rural areas, often on foot, and many times must respond to potentially dangerous situations by themselves without benefit of assistance. This fact, in itself, requires each patrol agent to be prepared, both psychologically and physically, to deal with armed and dangerous persons.

### Final Test:

Border Patrol Agent trainees will be required to take a final test. Testing is accomplished during a two hour Physical Training class. Failure in any portion of the Final Test is failure of the course. Border Patrol Agent trainees must successfully pass the entire test during one class period to graduate from the Academy. The test consists of three timed events. The following is a list of the three events and their maximum times.

- 1 1/2 Mile Run - Maximum time: 13 minutes
- Confidence Course - Maximum time: 2 1/2 minutes
- 220 Yard Dash - Maximum time: 46 seconds

## Drivers Training

The Drivers Training program is designed to train Border Patrol Agent trainees in the safe and efficient operation of motor vehicles. Emphasis is placed on principles and techniques relating to laws of motion, vehicle dynamics and driver response. Under close supervision and guidance, the trainees will learn to recognize their personal limitations as well as limitations of the vehicle. The Border Patrol is charged with the prevention of illegal entries in the expanses between the Ports of Entry as well as the apprehension of illegal aliens anywhere within the U.S. The safe operation of patrol vehicles under a variety of extreme

conditions is vital to the accomplishment of the Service mission. The Drivers Training branch is tasked with providing trainees with the necessary skills to become effective border patrol agents.

**The following three areas of instruction must be successfully completed in order to graduate from the Border Patrol Academy:**

- Van/Utility vehicle operation
- Skid control
- Emergency response

**Once the trainee has successfully completed the pass/fail portion of the program, he or she will be given further advanced instruction in the areas of:**


- Pursuit driving
- Vehicle stops (low-risk and high-risk)
- Night driving
- Four wheel driving



## Appendix C

### Border Patrol Cost Standards

The following information was provided by the Department of Homeland Security.

 <b>FY 2008 MODULAR COST STANDARDS</b> Border Patrol Agent (GS - 11)							
Personnel		06=2.3%, 07 to 11 = 2.6%		Other		06=1.8%, 07=1.7%, 08=1.9%, 09=1.9%, 10 to 11=2.0%,	
Inflation Factors (note: unless specified, do not inflate 2nd year recurrals/annualizations)	FY 07 Cost (Base)	Justification/Standard		Justification/Standard		Justification/Standard	
		1st Year Standard for Border Patrol Agent	1st Year Cost	2nd Year Standard for Border Patrol Agent	2nd Year Cost	3rd Year Standard for Border Patrol Agent	3rd Year Cost
<b>Personnel Compensation and Benefits</b>							
11.1 Personnel Compensation	36,671	Salary based on FY 2006 actual salary for new hires divided by FTE burn rate, plus inflation, and 7/9/11 grade progression. First year salary, locality pay, and all other overtime lapsed at 50%	19,151	Yearly salary	43,514	Yearly salary	54,072
11.5 Other Personnel Compensation	9,168	LEAP calculated as 25% with 50% lapse.	4,788	LEAP calculated as 25%.	10,878	LEAP calculated as 25%.	13,518
11.5 Post Differential	-						
11.5 Awards	-	N/A		1% of salary	435	1% of salary	541
11.5 Overtime	3,706	Actual cost of OT in FY04 for Agent divided by FTE. Lapsed at 50%. Adjusted for inflation.	1,894	Actual cost of OT in FY04 for Agent divided by FTE. Adjusted for inflation.	3,871	Actual cost of OT in FY04 for Agent divided by FTE. Adjusted for inflation.	3,956
12.1 Benefits	32,682	Actual FY 2004 cost of Benefits for newly hired Agents. Includes amounts for social security, life insurance, health care, TSP Matching, etc. Lapse at 50%.	16,701	Actual FY 2004 cost of Benefits for newly hired Agents. Includes amounts for social security, life insurance, health care, TSP Matching, etc.	34,136	Actual FY 2004 cost of Benefits for newly hired Agents. Includes amounts for social security, life insurance, health care, TSP Matching, etc.	34,887
12.1 Bonuses			60		60		62
12.1 Workers Compensation							-
12.1 Foreign Allowance							-
12.1 Education Allowance	-		-		-		-
12.1 Home Leave	-		-		-		-
12.1 Transit Benefits	600		300		623		635

12.1 PCS Move	-						-
Contractual Services and Supplies							
21.0 Travel, Operational	3,464	Actual FY 2004 travel obligations, adjust for inflation.	1,765	Full year cost adjusted for inflation.	3,597	Full year cost adjusted for inflation.	3,669
21.0 Travel for Training	2,230	Actual FY 2004 travel for training obligations, adjust for inflation.	3,070	Full year cost adjusted for inflation.	2,316	Full year cost adjusted for inflation.	2,362
21.0 PCS Move	32,210	FY 2004 Actual obligations - Family Travel Per diem	-	Average cost of PCD divided by total number of PCS. Recur at 20%	6,689	Average cost of PCD divided by total number of PCS. Recur at 20%	6,823
22.0 PCS Move	-		-				-
23.3 Blackberry/Pager/Cellular Phone	2,259	DHS Proposed cost	2,259	None.	-	None.	-
23.3 Telephone (land line)	915	FY 2004 Actual obligations. Lapsed at 50%. Adjust for inflation.	466	Full year cost adjusted for inflation.	950	Full year cost adjusted for inflation.	969
23.3 Utilities	566	FY 2004 Actual obligations. Lapsed at 50%. Adjust for inflation.	288	Full year cost adjusted for inflation.	588	Full year cost adjusted for inflation.	599
25.2 Payroll Services	180	Per FTE cost of NFC. Lapsed at 50%.	92	Full year cost adjusted for inflation.	187	Full year cost adjusted for inflation.	191
25.2 Recruitment Costs	2,301	FY 2004 Actual one-time costs of advertising for Agent positions (based on actual costs). Include any OPM charges here (list-separately). Adjust for inflation.	2,345	None.	-	None.	-
25.2 HR Services	0						-
25.2 Drug Testing/Medical	4,569	FY 2004 Actual Cost of pre-employment drug test. Adjust for inflation. Components may adjust costs to account for multiple drug tests that may be required to fill one vacancy.(5 to 1)6	4,656	Recur unadjusted cost of 1 <sup>st</sup> year drug test divided by the agency policy for frequency of employee drug testing (20%).	288	Recur unadjusted cost of 1 <sup>st</sup> year drug test divided by the agency policy for frequency of employee drug testing (20%).	293
25.2 Background Investigations	19,521	FY 2004 Actual cost of background investigation. Adjust for inflation. Components may adjust costs to account for multiple background investigations that may be required to fill one vacancy. (5 to 1)	19,892	None.		None.	-
25.2 Other Contractual Services	4,052	FY 2004 Actual obligations divided by total personnel. Lapsed at 50%. Adjust for inflation	4,052	Full year cost adjusted for inflation. Recur at 25%	1,052	Full year cost adjusted for inflation.	1,073
25.3 Basic Training	3,842	FY 2004 cost of training divided by the training FTE	3,842	Costs of training required of the new law enforcement employee. Adjust for inflation.		Costs of training required of the new law enforcement employee. Adjust for inflation.	

25.3 Advanced Training	3,232	Cost of specialized training required for new law enforcement. Adjust for inflation	-	Cost of specialized training required for new law enforcement. Adjust for inflation	3,356	Cost of specialized training required for new law enforcement. Adjust for inflation	3,423
25.3 Career Development	-	Cost of other training required for new law enforcement employees. Adjust for inflation	-	Cost of other training required for new law enforcement employees. Adjust for inflation	-	Cost of other training required for new law enforcement employees. Adjust for inflation	-
25.3 ICASS	-		-		-		-
25.6 Physical Exams	-	FY 2004 Actual cost for physical exams, includes inoculations and immunizations. Adjust for inflation.	-		-		-
25.6 Health & Safety	527	FY 2004 Actual cost for mandatory fitness programs. May include cost for PHS clinics and employee assistance programs where such costs are linked to the number of employees (e.g. contract). Adjust for inflation. Lapse at 50%.	269	Full year cost adjusted for inflation.	547	Full year cost adjusted for inflation.	558
25.7 O&M for Equipment	-		-		-		-
25.7 O&M for IT Equipment	-		-		-		-
25.7 O&M for Vehicles (maintenance/parts/fuel)	693	Fuel only	693	Fuel, O&M Full year cost adjusted for inflation.	2,825	Fuel, O&M Full year cost adjusted for inflation.	2,936
25.7 O&M for Weapons	-						-
25.8 PCS Move	-						-
26.0 Supplies	1,858	FY 2004 Actual obligations. Lapsed at 50%. Adjust for inflation.	947	Full year cost adjusted for inflation.	1,929	Full year cost adjusted for inflation.	1,968
26.0 Ammunition	312	FY 2004 Actual obligations of ammunition used for training divided by number of agents.	318	Full year cost adjusted for inflation.	324	Full year cost adjusted for inflation.	330
26.0 Safety & Protective Equipment	1,985	FY 2004 Actual obligations for safety supplies, such as baton, helmet, handcuffs, flashlight, floatation vest, etc.	2,023	Recurring cost for safety supplies, such as baton, helmet, handcuffs, flashlight, floatation vest, etc.	824	Recurring cost for safety supplies, such as baton, helmet, handcuffs, flashlight, floatation vest, etc.	841
26.0 Uniforms	1,246	FY 2004 actual Uniform allowance per employee adjusted for inflation. Includes ceremonial uniforms and safety shoes.	1,270	Recurring cost for ceremonial uniforms and safety shoes.	259	Recurring cost for ceremonial uniforms and safety shoes.	264
Acquisition of Assets			-		-		-
31.0 Furniture	4,652	FY 2004 actual Cost of office furniture, including system furniture per employee. Should not include cost of carpet, equipment for the desk, or supplies. Adjust for inflation.	4,740	Recur 10%, reflecting a 10-year replacement cycle.	483	Recur 10%, reflecting a 10-year replacement cycle.	493

31.0 Equipment	703	FY 2004 Actual obligations. Adjust for inflation	716	Recur at 25% (4-year replacement cycle). Also include contract maintenance costs if not covered by warranty. Cost must be displayed separately for replacement and contract maintenance. Costs must reflect sharing of equipment.	182	Recur at 25% (4-year replacement cycle). Also include contract maintenance costs if not covered by warranty. Cost must be displayed separately for replacement and contract maintenance. Costs must reflect sharing of equipment.	186
31.0 Computer - Desktop	1,445	DHS Proposed cost	1,445	Recur computer workstation costs only (not networking) at 25% (4-year replacement cycle). Also include contract maintenance costs if not covered by warranty. Costs must be displayed separately for replacement and contract maintenance. Costs must reflect sharing of equipment.	361	Recur computer workstation costs only (not networking) at 25% (4-year replacement cycle). Also include contract maintenance costs if not covered by warranty. Costs must be displayed separately for replacement and contract maintenance. Costs must reflect sharing of equipment.	383
31.0 Computer - Laptop	1,816	DHS Proposed cost	1,816	Recur computer costs only (not networking) at 25% (4-year replacement cycle).	454	Recur computer costs only (not networking) at 25% (4-year replacement cycle).	481
31.0 Computer Network	1,339	Cost of accessories: Printers, scanners, high-speed printers, color lasers, network installation, cabling, router, file server, switches, etc.	1,364	Full year cost adjusted for inflation.	348	Full year cost adjusted for inflation.	355
31.0 Vehicles	16,960	FY 2004 Actual obligations. Cost assumes 2 to 3 ratio for cars to agents.	16,960	Recurring cost for vehicles for replacement (33%)	5,811	Recurring cost for vehicles for replacement (33%)	5,928
31.0 Technical Equipment	11,200	FY 2004 actual obligations. Adjust for inflation. Includes night vision goggles, binoculars, recording devices, PDAs, and GPS.	11,413	Recurring cost for night vision goggles, binoculars, recording devices, PDAs, and GPS. Recur 20%	2,326	Recurring cost for night vision goggles, binoculars, recording devices, PDAs, and GPS. Recur 20%	2,372
31.0 Portable Radios	5,363	FY 2004 actual obligation. Adjust for inflation.	5,465	Recurring cost for radios for replacement	995	Recurring cost for radios for replacement	1,014
31.0 Mobile Radios	4,106	FY 2004 actual obligations. Adjust for inflation.	4,184	Recurring cost for radios for replacement	1,027	Recurring cost for radios for replacement	1,047
31.0 Weapons	628	FY 2004 actual obligations divided by total number of agents. Adjust for inflation.	640	Recurring cost for weapons.	127	Recurring cost for weapons.	129
Total All costs	217,001		139,882		131,362		146,356

## **Appendix D**

### **Draft Legislation**

This draft legislation was adapted from HR 3704 dated 8 September, 2005.

HR XXXX IH

110th CONGRESS  
1st Session  
**H. R. XXXX**

To provide for establishment of a Border Patrol Auxiliary.

### **IN THE HOUSE OF REPRESENTATIVES**

**May 24, 2007**

Mr XXXX (for himself, Mr. XXX, and Mrs. XXX) introduced the following bill; which was referred to the Committee on Homeland Security

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### **A BILL**

To provide for establishment of a Border Patrol Auxiliary.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Border Patrol Auxiliary Act of 2007'.

### **SEC. 2. BORDER PATROL AUXILIARY.**

#### **(a) Establishment-**

(1) IN GENERAL- The Secretary of Homeland Security (in this Act referred to as the 'Secretary') shall establish a Border Patrol Auxiliary (in this Act referred to as the 'Auxiliary') as an organization under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Secretary. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Secretary, consistent with this Act and other applicable provisions of law. The Secretary may delegate to officers of the Auxiliary the authority vested in the Secretary by this section, in the manner and to the extent the Secretary considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(2) DUTIES- Not later than 6 months after the date of the enactment of this Act, the Secretary shall specify how best to use the Auxiliary. It is the intent of Congress that the Auxiliary be used to assist the US Border Patrol in accomplishing the mission of detecting, interdicting and apprehending those who attempt to illegally enter or smuggle people, including terrorists, or contraband, including weapons of mass destruction, across US borders between official ports of entry..

(b) Exemption From Liability- Each organizational element or unit of the Border Patrol Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c)), shall, except when acting outside the scope of its authority, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

(1) Chapter 26 of title 28, United States Code (popularly known as the Federal Tort Claims Act).

(2) Other matters related to noncontractual civil liability.

(c) Incorporation- The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Secretary.

(d) After approval by the director on an individual basis and after a firearms course approved by the director, a member of the Auxiliary, while under the supervision and direction of the director, or a Border Patrol agent, shall have the power to bear arms and make arrests.

### **SEC. 3. ELIGIBILITY, ENROLLMENTS.**

The Auxiliary shall be composed of citizens of the United States and its territories and possessions, who by reason of their special training or experience are deemed by the Secretary to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations. The Secretary shall specify, not later than 6 months after the date of the enactment of this Act, the qualifications for members in the Auxiliary, including special training or experience required.

### **SEC. 4. MEMBERS OF THE AUXILIARY; STATUS.**

(a) General Exemption From Treatment as Federal Employee- Except as otherwise provided in this Act, a member of the Border Patrol Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Secretary from prescribing standards for the conduct and behavior of members of the Auxiliary.

(b) Treatment as Federal Employee for Limited Purposes- A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

- (1) The provisions referred to in section 3(b).
- (2) Compensation for work injuries under chapter 81 of title 5, United States Code.
- (3) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).
- (c) Removal of Actions- A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28, United States Code.
- (d) Protection and Immunities- A member of the Auxiliary shall have the same protection and immunities afforded regularly employed Border Patrol Agents, which shall be recognized by all courts having jurisdiction over offenses against the laws chapter XX of title X, United States Code.

## **SEC. 5. DISENROLLMENT.**

Members of the Auxiliary may be disenrolled at any time, with or without cause, pursuant to applicable regulations of the Secretary.

## **SEC. 6. USE OF MEMBER'S FACILITIES.**

The Department of Homeland Security may utilize for any purpose incident to carrying out its functions and duties as authorized by the Secretary any vehicle at its disposition for any of such purposes by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof.

## **SEC. 7. AVAILABILITY OF APPROPRIATIONS.**

(a) In General- Appropriations of the Border Patrol shall be available for the payment of actual necessary traveling expense and subsistence, or commutation of ration allowance in lieu of subsistence, of members of the Auxiliary assigned to authorized duties and for actual necessary expenses of operation of any vehicle when assigned to Border Patrol duty, but shall not be available for the payment of compensation for personal services, incident to such operation, other than to personnel of the Border Patrol. The term 'actual necessary expenses of operation', as used in this section, shall include payment for fuel, oil, water, supplies, provisions, replacement or repair of equipment, repair of any damaged vehicle and for the constructive or actual loss of any vehicle where it is determined, under applicable regulations, that responsibility for the loss or damage necessitating such replacement or repair of equipment, or for the damage or loss, constructive or actual, of such vehicle rests with the Border Patrol.

(b) Interest- The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.

## **SEC. 8. ASSIGNMENT AND PERFORMANCE OF DUTIES.**

No member of the Auxiliary, solely by reason of such membership, shall be vested with, or exercise, any right, privilege, power, or duty vested in or imposed upon the personnel of the Border Patrol, except that any such member may, under applicable regulations, be assigned duties, which, after appropriate training and examination, he has been found competent to perform, to effectuate the purposes of the Auxiliary. No member of the Auxiliary shall be placed in charge of a vehicle assigned to the Border Patrol duty unless he has been specifically designated by authority of the Secretary to perform such duty. Members of the Auxiliary, when assigned to duties as herein authorized shall, unless otherwise limited by the Secretary, be vested with the same power and authority, in the execution of such duties, as members of the regular Border Patrol assigned to similar duty. When any member of the Auxiliary is assigned to such duty he may, pursuant to regulations issued by the Secretary, be paid actual necessary traveling expenses, including a per diem allowance in conformity with standardized Government travel regulations in lieu of subsistence, while traveling and while on duty away from his home. No per diem shall be paid for any period during which quarters and subsistence in kind are furnished by the Government, and no per diem shall be paid for any period while such member is performing duty on a vehicle.

## **SEC. 9. INJURY OR DEATH IN LINE OF DUTY.**

When any member of the Auxiliary is physically injured or dies as a result of physical injury incurred while performing any duty to which he has been assigned by competent Border Patrol authority, such member or his beneficiary shall be entitled to the same benefits provided for temporary members of the Patrol who suffer physical injury or death resulting from physical injury incurred incident to service. Members of the Auxiliary who incur physical injury or contract sickness or disease while performing any duty to which they have been assigned by competent Border Patrol authority shall be entitled to the same hospital treatment afforded members of the Border Patrol. The performance of a duty as the term is used in this section includes time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary.

*END*