

GenEd 1092

Lecture 20: 11/16/2020



The Southern Border

- Since 2008 undocumented immigration from Mexico has been negative—the numbers have been going down.
- The people coming to the border are from Central America and are primarily trying to claim asylum.
- We have 10 million settled undocumented people with very few rights, most of whom have been here a long time and are very settled.
- How did we get here and what can we do about it?

Legacies of the 1965 Law

- Created three categories of people
 - Immigrants (Family/Employment)
 - Refugees/Asylees
 - Illegal/Undocumented Immigrants



**AMERICA
HAS
BEEN
INVADED**

HOLocaust
THESE ARE THE PEOPLE WHO BROUGHT SLAVE TO AMERICA

AMERICAN SOVEREIGNTY

After 1965

- 1980 Refugee Act
- 1986 Immigration Reform and Control Act (IRCA)
- 1990 Immigration Act
 - Increased legal immigration
 - Diversity visa program
- 1996 3 laws
 - Illegal Immigration Act
 - Anti Terrorism Act
 - Personal Responsibility and Work Opportunity Reconciliation Act

These three laws in 1996 changed conditions for undocumented people and vastly increased the numbers and geographic location.

U.S. Undocumented Immigrants

- Before 1965 it was not really an issue.
- 1974 “Discovery” of 4-12 million.
- Delphi Method: 8 million.
- Apprehensions as main source of data.
- 1986 IRCA Law
 - 1.75 million people working since 1982
 - special agricultural workers 1.27 million

Undocumented Immigrants

- IRCA legalized 2.7 million people
- Illegal immigration current estimate 11.3 million people.
- Annual inflow 500,000 per year.
- 60% cross the border
- 40% overstay their visa
- After entering country, 1-2% chance of being caught.

1986 IRCA

- 91% of pre-1986 illegal residents, mostly Mexicans were legalized (60% in California) 3 million people.
- Made it illegal to hire an illegal alien, introduced I-9 forms.

Changes in the Debate

Bush vs Reagan 1980

<http://www.youtube.com/watch?v=6gYHMwEdvIk>

Ronald Reagan 1984

- <http://www.youtube.com/watch?v=JfHKlq5z80U>

1986 IRCA

- Repeal of the Texas Proviso (1952: employing an illegal alien was not equivalent to harboring one)
- Sanctions of employers. But no ID card. Introduction of I9 form.
- Legalization of aliens present before 1982.
- Had to apply within an 18 month period starting 6 months after the law was enacted.

1986 IRCA

- As soon as they applied they were “lawful temporary residents” After a year they could apply for permanent residency upon demonstrating “minimal understanding of ordinary English” and a basic understanding of US history and government.
- SAWs Special Agricultural Workers aliens who had worked 90 days in agriculture in 1985-86. Could become permanent after a two year period as temporary residents.

Politics of IRCA

- Almost did not pass.
- Ethnic and civil rights groups mobilized against national ID Card
- Joined by conservatives worried about civil liberties.
- “Good faith clause” added at the behest of business that a document check conducted in good faith constituted an affirmative defense against the misdemeanor of hiring an illegal alien.

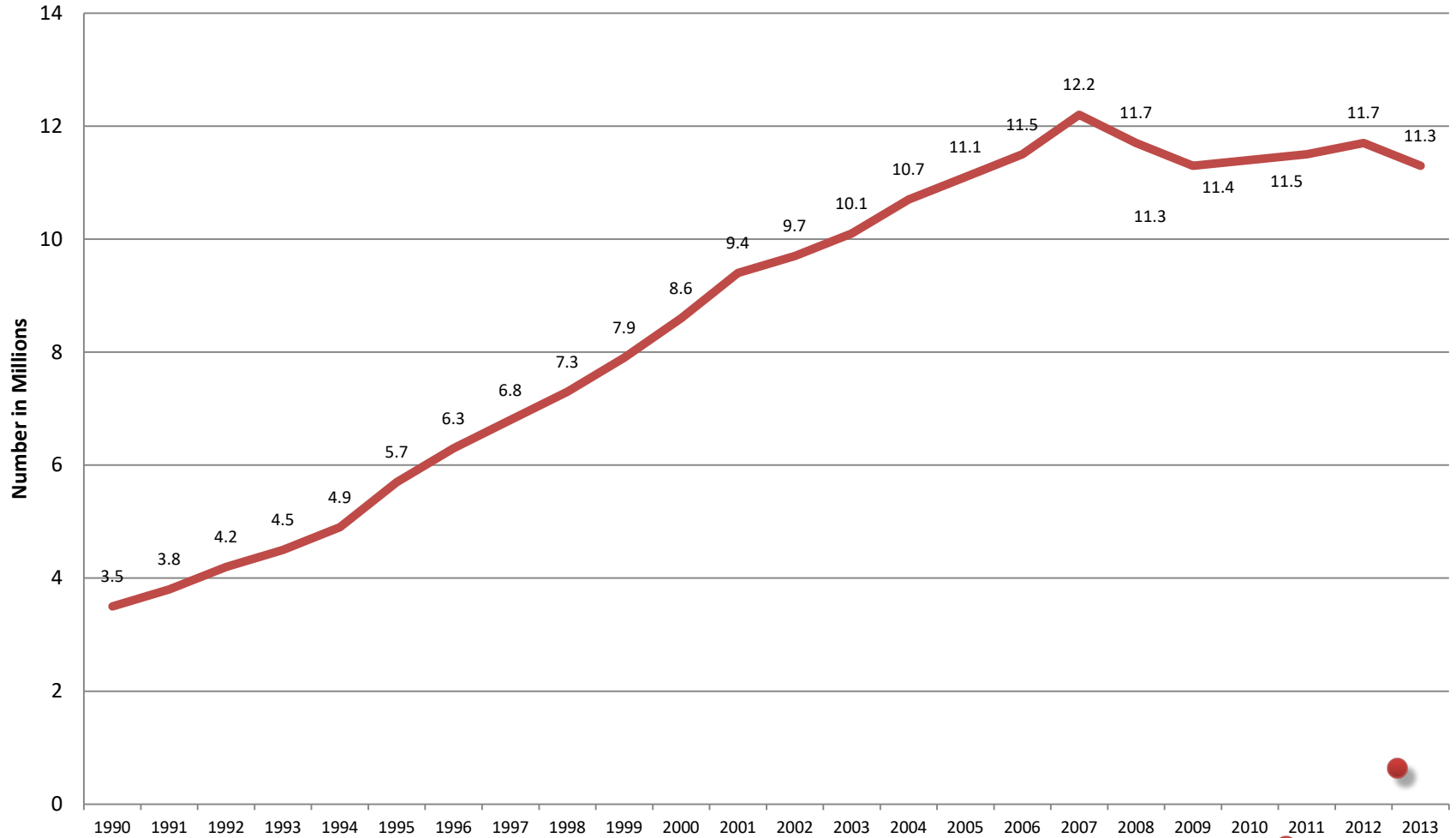
Consequences of IRCA

- Legalization of 2.7 million people, mostly of Mexican origin. (60 percent in California).
- Although border enforcement was increased, flows went back up by 1989.
- Legalized immigrants sponsored family, so both legal and illegal immigration rose.
- 1992 NAFTA passes integrating the Mexican, US and Canadian economies but no change to legal immigration numbers.

Three Critical Dates in New Era

- 1986
 - Under pressure from U.S. Mexico Joins GATT
 - Opens Economy to Global Trade and Investment
 - U.S. Congress Passes IRCA
 - Grants Legal Status to 2.3 Million Mexicans
 - Criminalizes Undocumented Hiring
 - Begins Militarization of Border
- 1994
 - Mexico and US Join Together in NAFTA
 - Lowers barriers to cross-border movements of goods, capital, resources, information, services, and certain classes of people
 - US Launches Operation Gatekeeper in San Diego
 - All-out Effort to Stop the Inflow of Mexican labor
 - Erects Steel Wall from Pacific Ocean to Sierra Madre Mountains
- 1996
 - Rise of Crimmigration and Militarization of Border

Undocumented Migration



Rise of Crimmigration 1996-present

- Three laws passed in 1996 that begin severe restrictions towards undocumented immigrants.

1996 Laws

- Antiterrorism and Effective Death Penalty Act (AEDPA)
 - Broadens definition of deportable felons
 - Aggravated felony automatic deportation
 - Restricts access to due process for deportation decisions
 - Excludes foreign born people who are members of terrorist organizations.

1996 Laws

- Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)
 - Aggravated felony Mandatory detention
 - Begins the integration federal and local law enforcement
- Personal Responsibility and Work Opportunity Act (Welfare Reform)

1996 Welfare Reform

- Restricts access to public assistance programs for legal immigrants during their first five years in the country.
- Enforces “deeming”
- Bars non citizens here longer than five years for some programs.

Sponsorship Requirements

- Citizen or LPR must prove they make 125% of the federal poverty level and sign an affidavit of support for the immigrant. Many working poor cannot sponsor immigrants.
- Deeming used to enforce sponsorship.

Patriot Act

- 2001 Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act.

2001

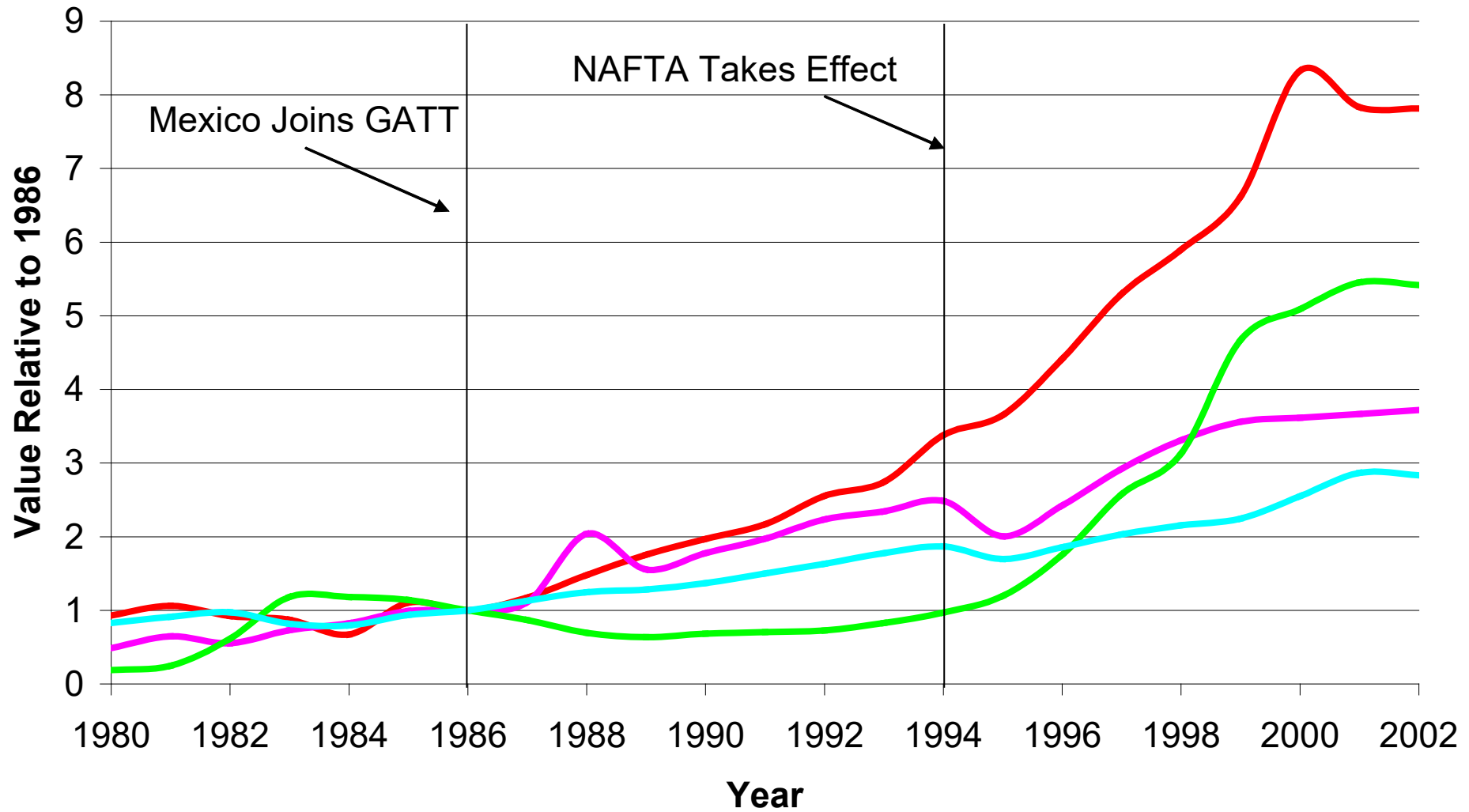
- PATRIOT ACT
 - Grants the executive branch additional powers of deportation
 - For the first time since the Alien and Sedition Act of 1798 Congress allows the arrest, imprisonment and deportation of noncitizens by the Attorney General, without judicial review.

2001 Patriot Act

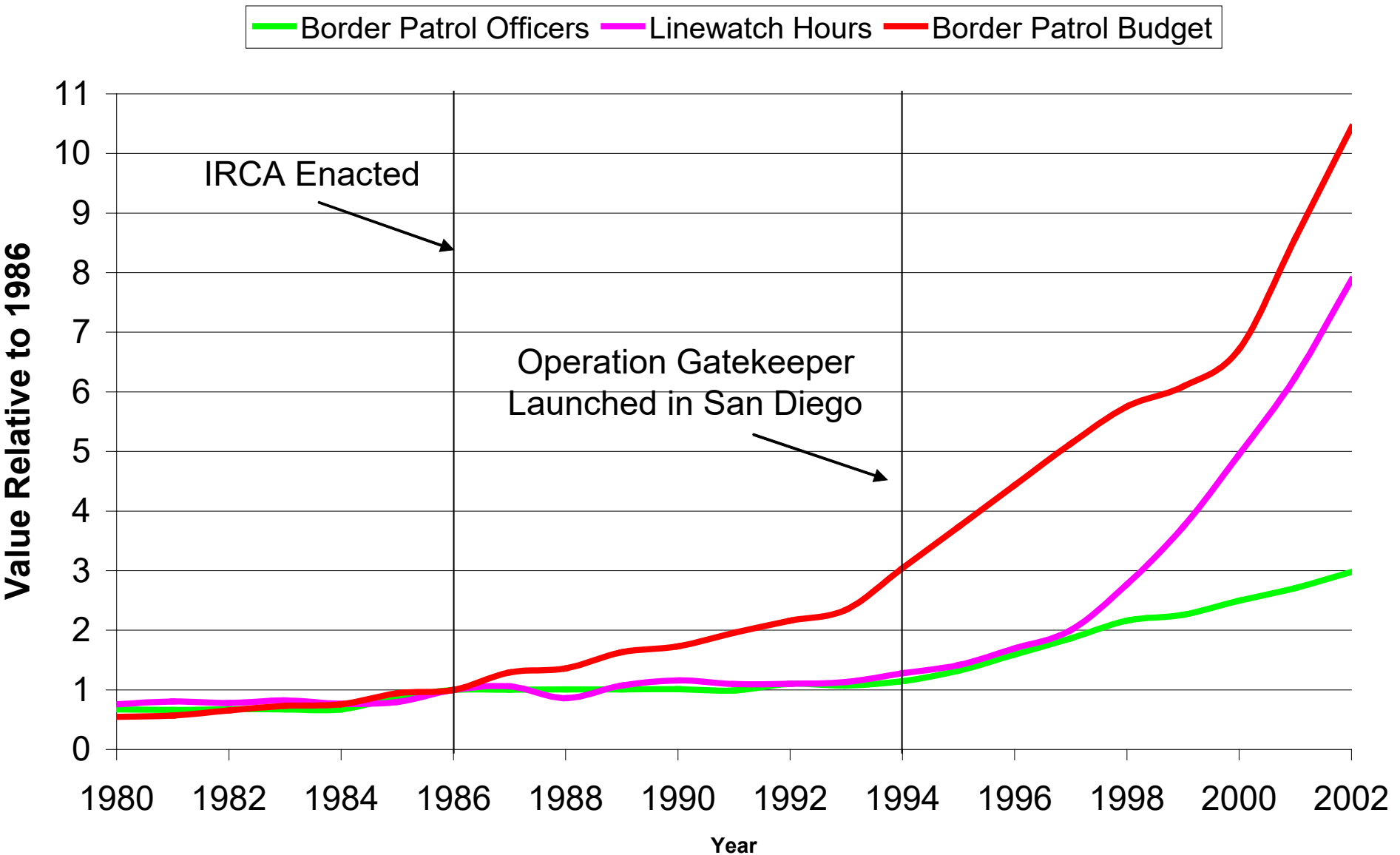
- Tripled the number of Border Patrol and Customs Agents on Northern Border
- Broadened the scope of aliens ineligible for admission or deportable due to terrorist activities.
- Authorizes detention for additional periods of up to six months of an alien not likely to be deported in the reasonably foreseeable future only if release will threaten US national security or the safety of any person.

Indicators of Cross-Border Economic Integration

— Total Trade — Business Visitors — Intercompany Transferees — Exchange Visitors



Indicators of Border Enforcement 1980-2002



Costs of Contradiction

- Transforms Mexican Immigration from a Regional to a National Phenomenon
- Raises Death Rate Among Border Crossers
- Lowers the Probability of Border Apprehension
- Reduces Rate of Return Migration
- Increases the Rate of Settlement
- Increase Net Rate of Undocumented Migration
- Shifts Composition from Workers to Families
- Puts Downward Pressure on US Wages and Undermines Working Conditions for US Workers

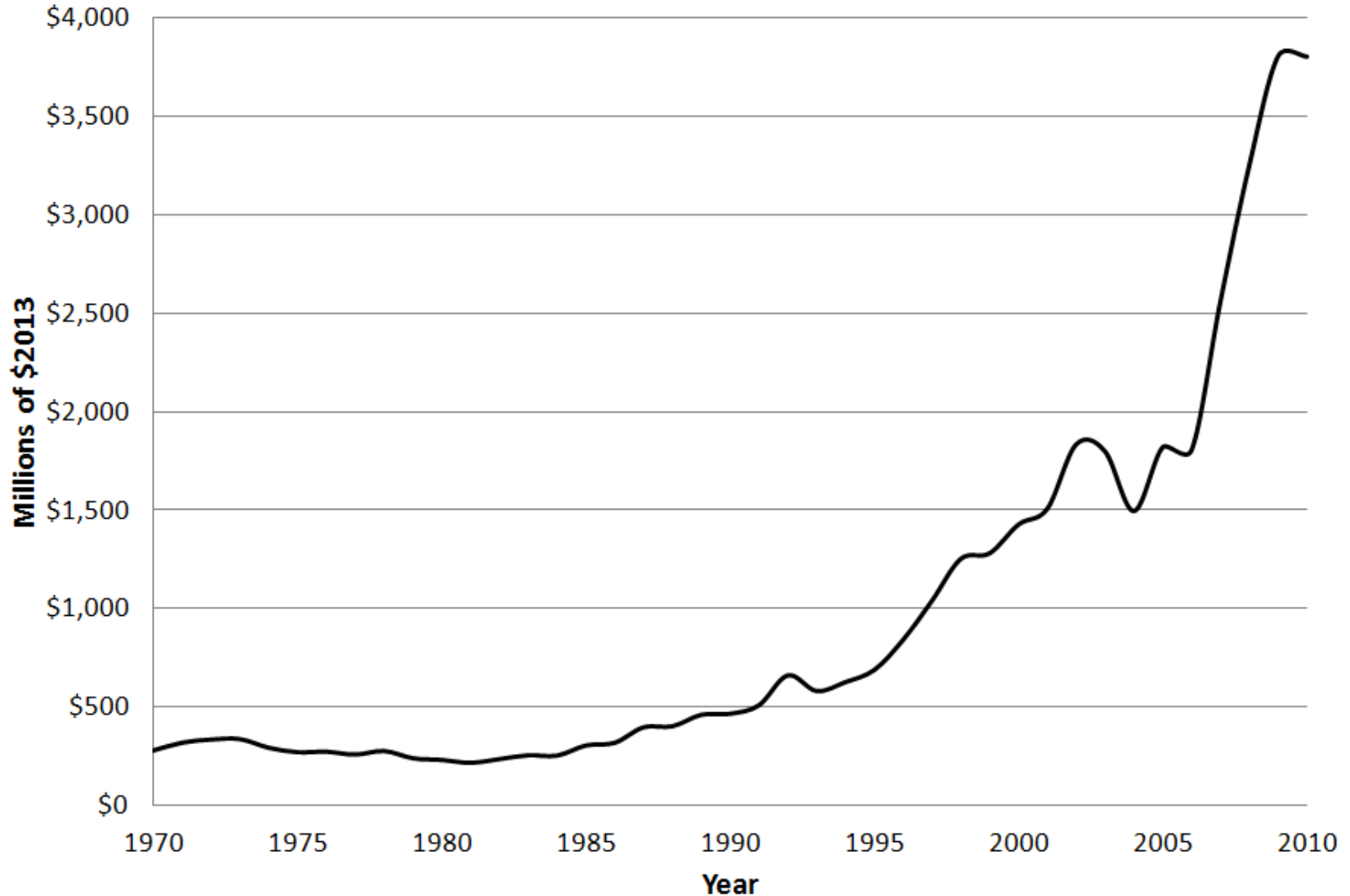
Changes in Border Enforcement

- Average Length of Stay
 - 1.7 years in 1986
- Rise in deaths
 - 472 people died in 2005
- Nontraditional border sites 29% in 1988, 64% in 2002
- Apprehension fell from 33% in 1980s to 5% in 2002.
- Cost of one arrest went from \$300.00 in 1992 to \$1700 in 2002.

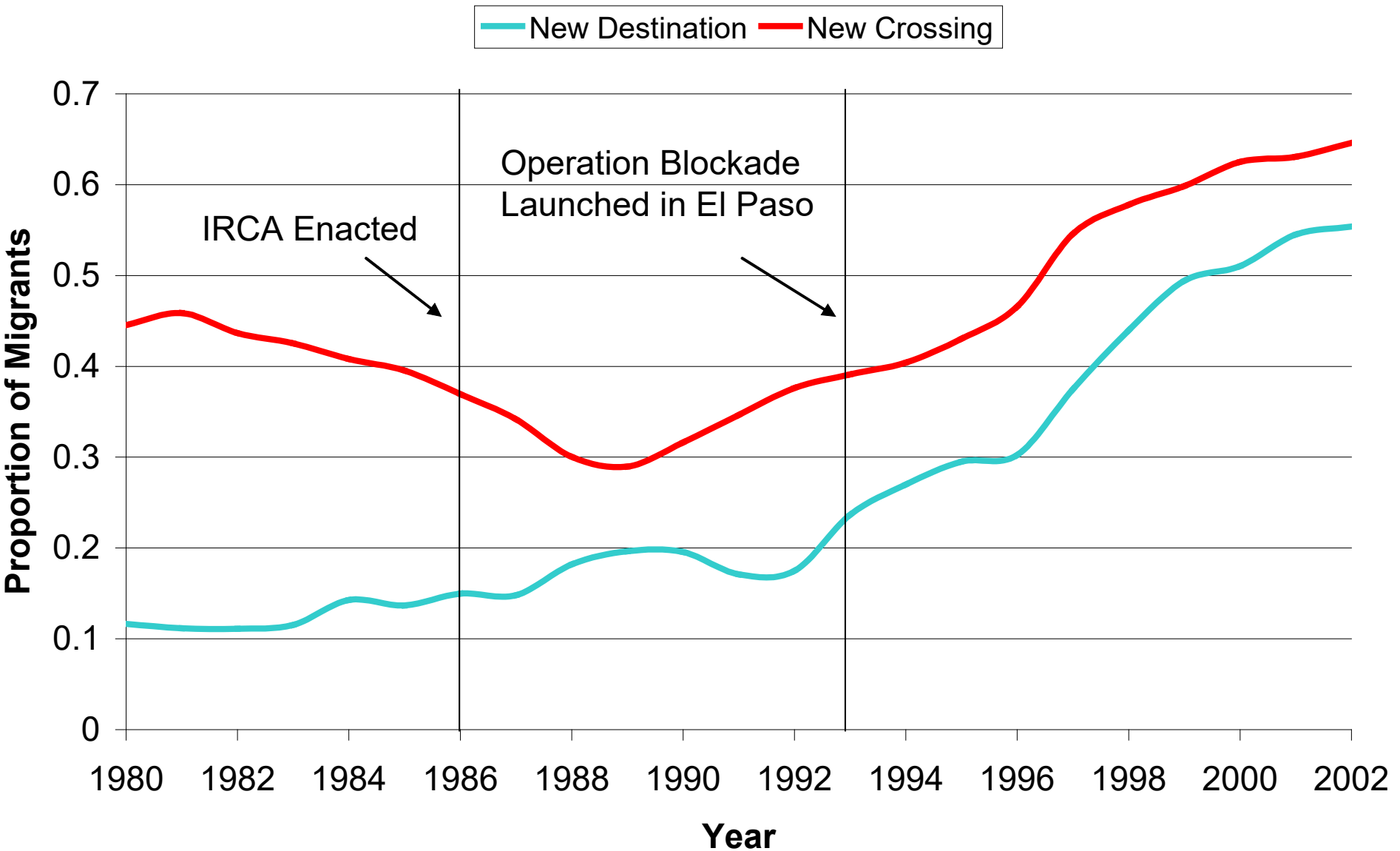
- Effects of militarization on **border outcomes**
 - Transformed the geography of border crossing
 - Increased use of coyotes (border smugglers)
 - Increased cost of using coyotes
 - No effect on probability of border apprehension
 - Increased risk of death during border crossing
- Effects of militarization on **migrant behavior**
 - No effect on likelihood of first undocumented trip
 - Decreased likelihood of return from first trip
 - Decreased likelihood of additional undocumented trip
 - Decreased likelihood of returning from additional trip

Militarization of the Border 1986-2010

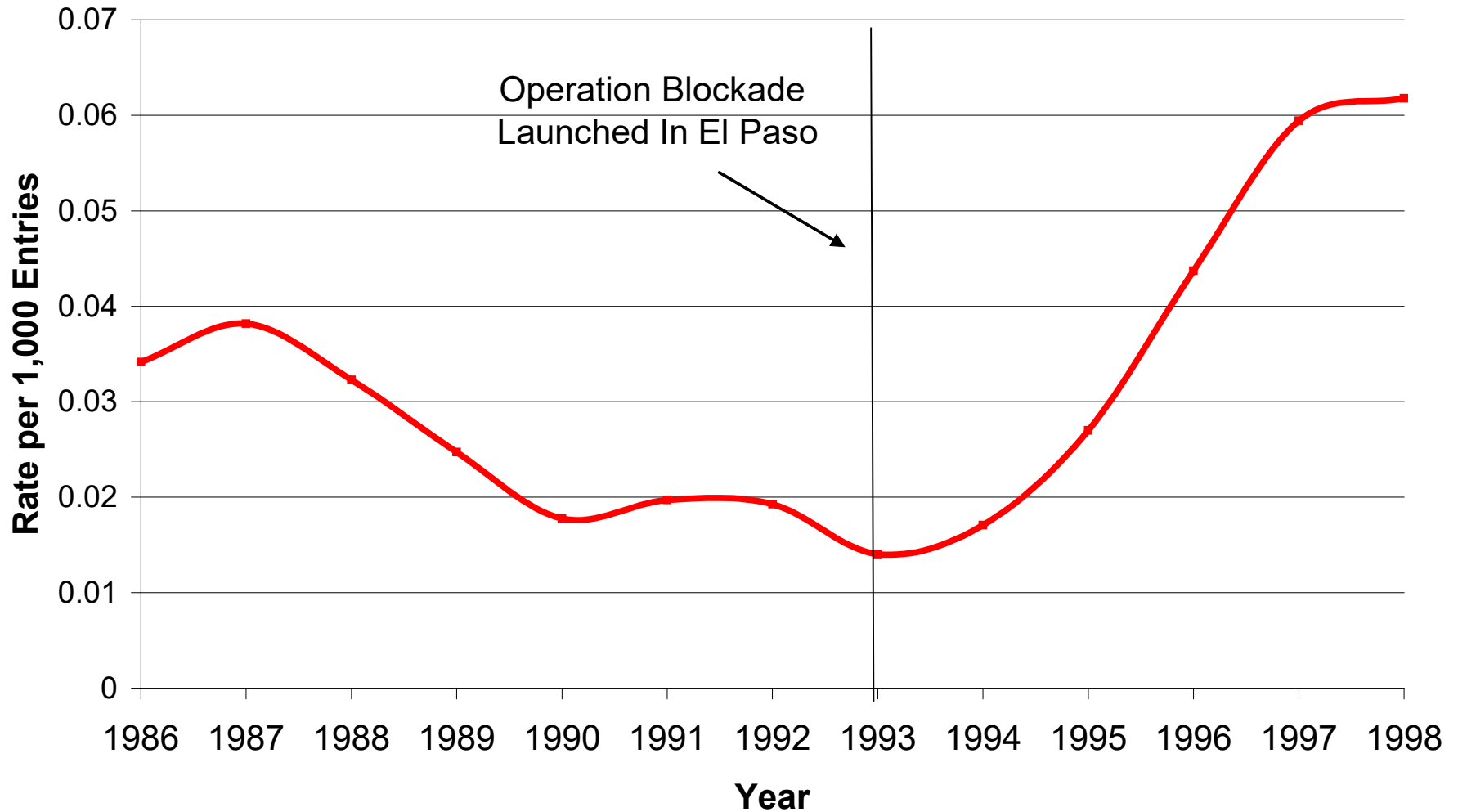
Figure 1. Border Patrol budget in millions of 2013 dollars



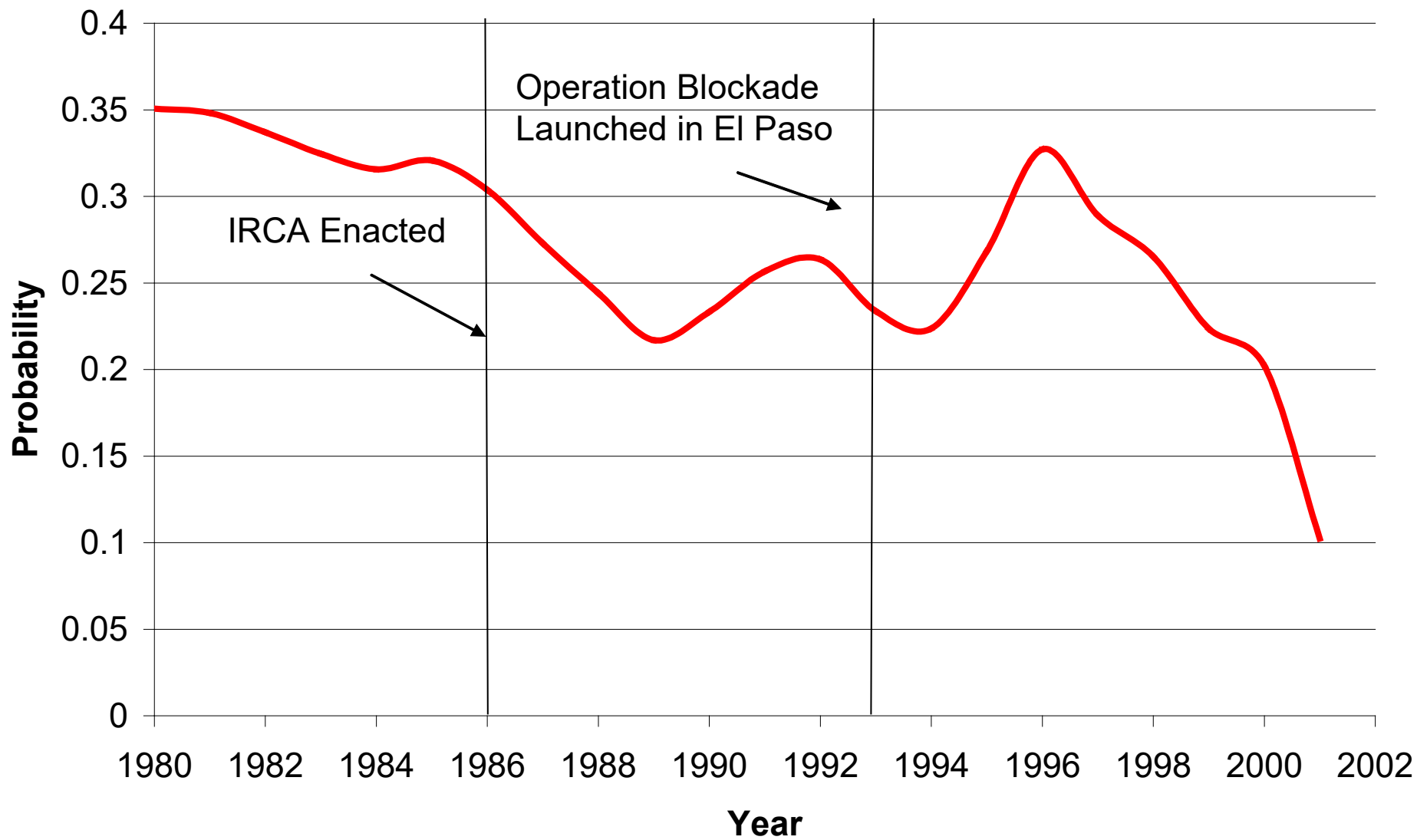
Proportion Going to New Crossing Points and Destinations



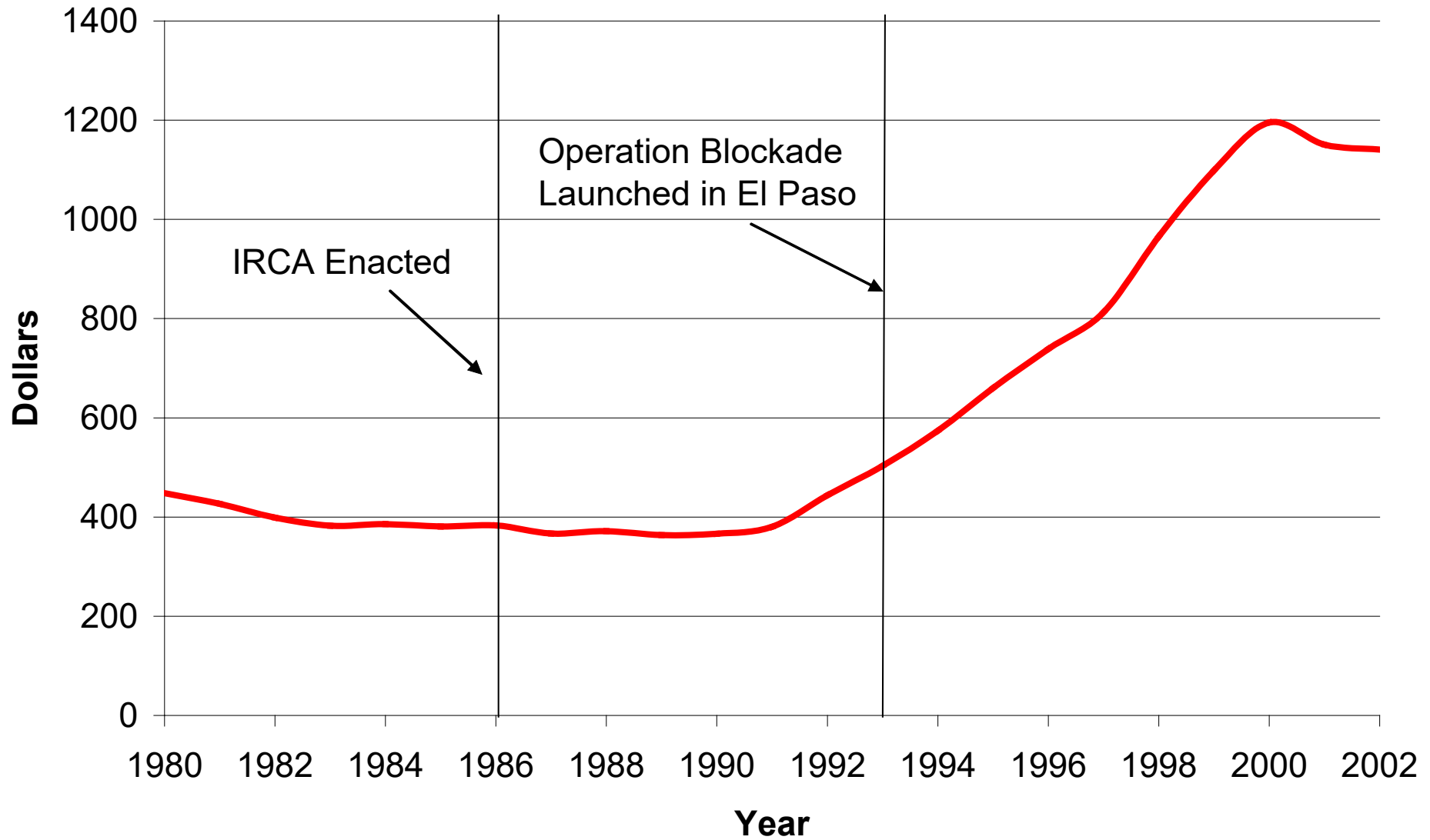
Death rate from suffocation, drowning, heat exhaustion, exposure, and unknown causes along border 1986-98



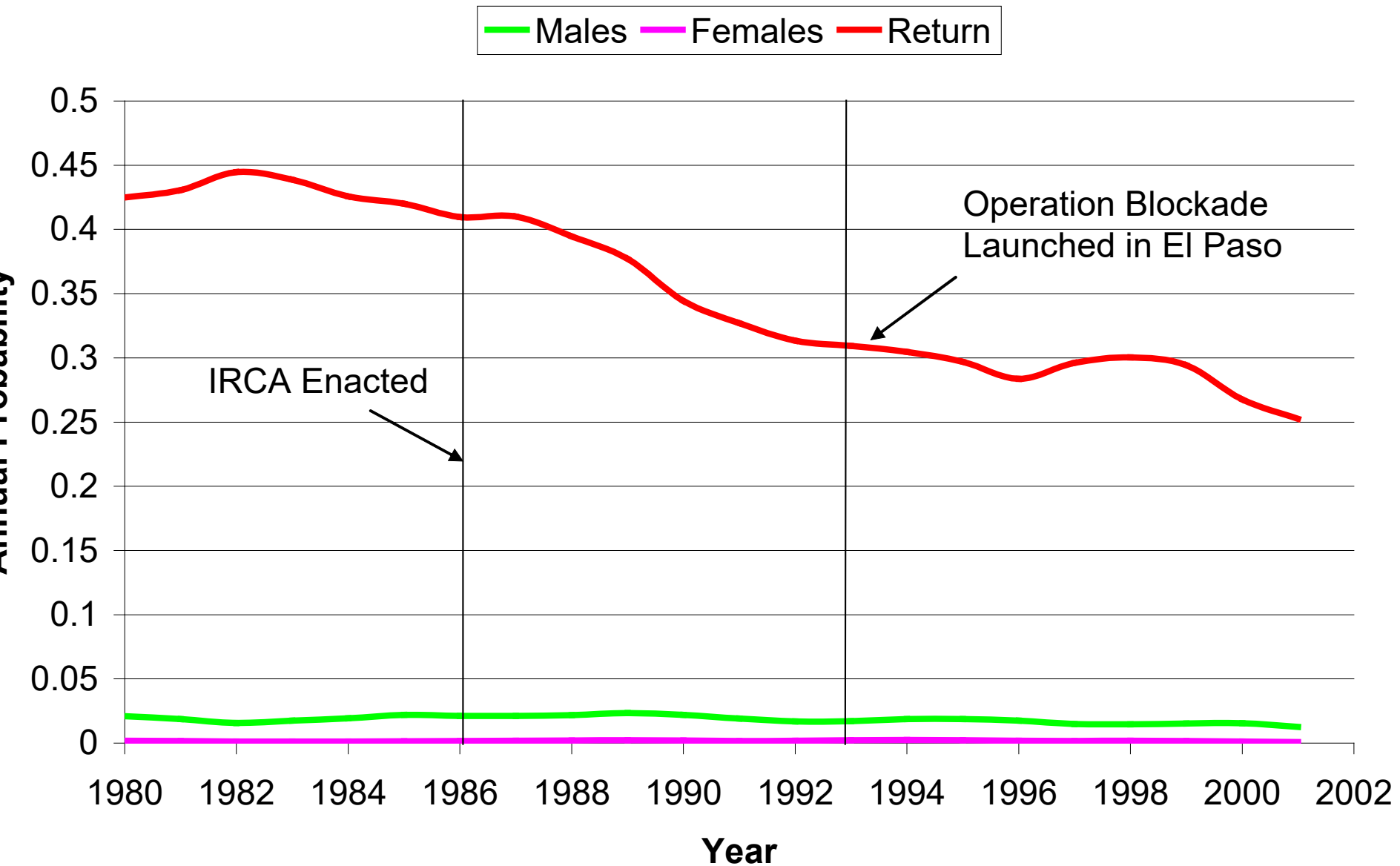
Probability of Apprehension 1980-2001



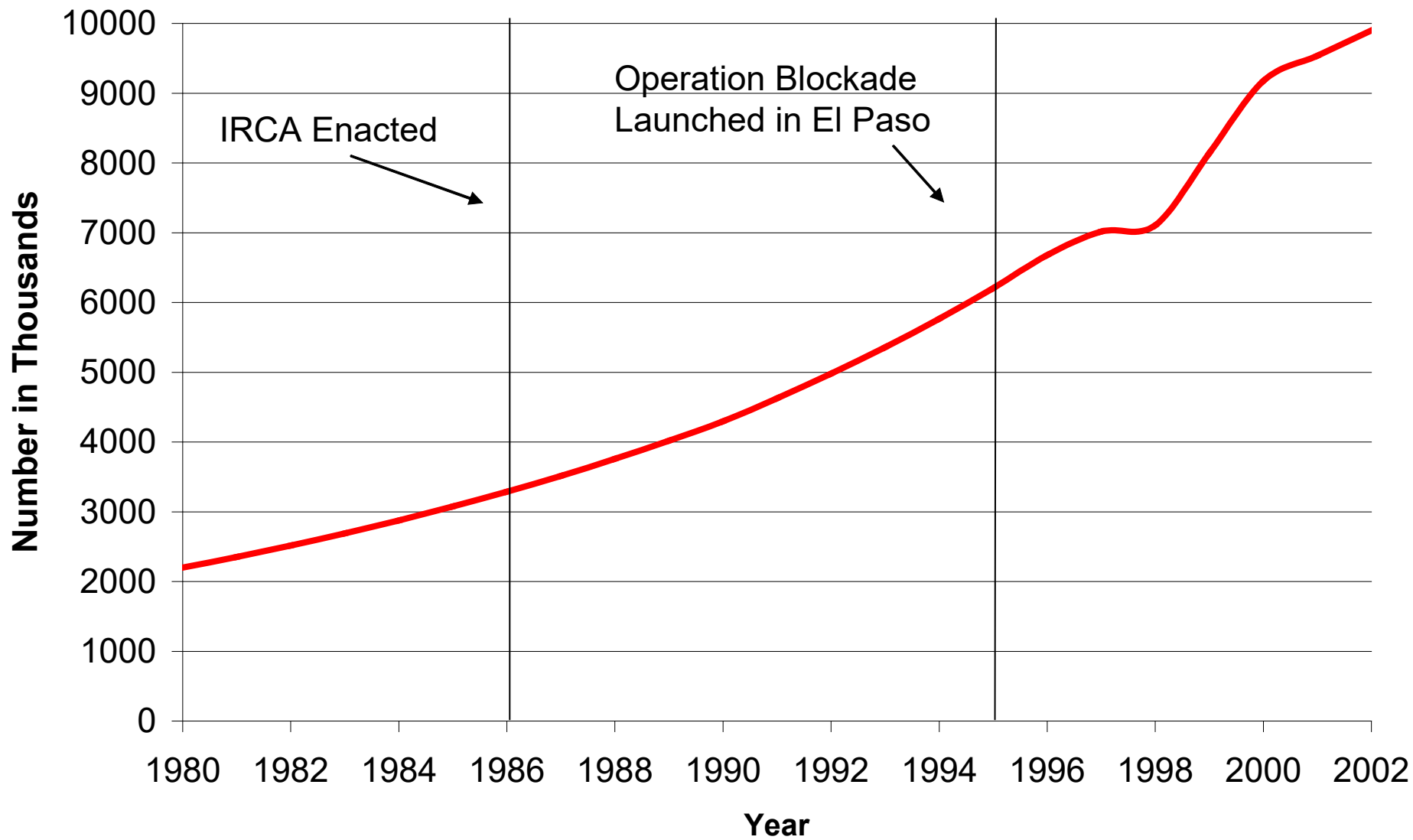
Average Cost of Hiring a Coyote



Probability of First Undocumented Migration and Return 1980-2001



Number of Mexicans in the United States 1980-2002



Massey Conclusions

- From 1986-2010 the U.S. spent \$34.6 billion in border enforcement and in doing so:
 - Transformed what had been a circular flow of male workers going to three states into a settled population of families living in 50 states
 - Reduced out-migration while leaving in-migration unchanged to double the net rate of undocumented migration and population growth
 - Created a population of 11 million undocumented U.S. residents: 60% of Mexican immigrants and two-thirds of all Central American immigrants
 - All while attempting to end an undocumented flow that would have ended of its own accord after 2000

Circular Migration Becomes More Permanent

- Return Migration Becomes Too Difficult as the Border Tightens
- First Trips do not change
- In 2003 the median number of years in the US for an undocumented person was less than 8 years.
- In 2013 the median number of years was 13.

1996-2008

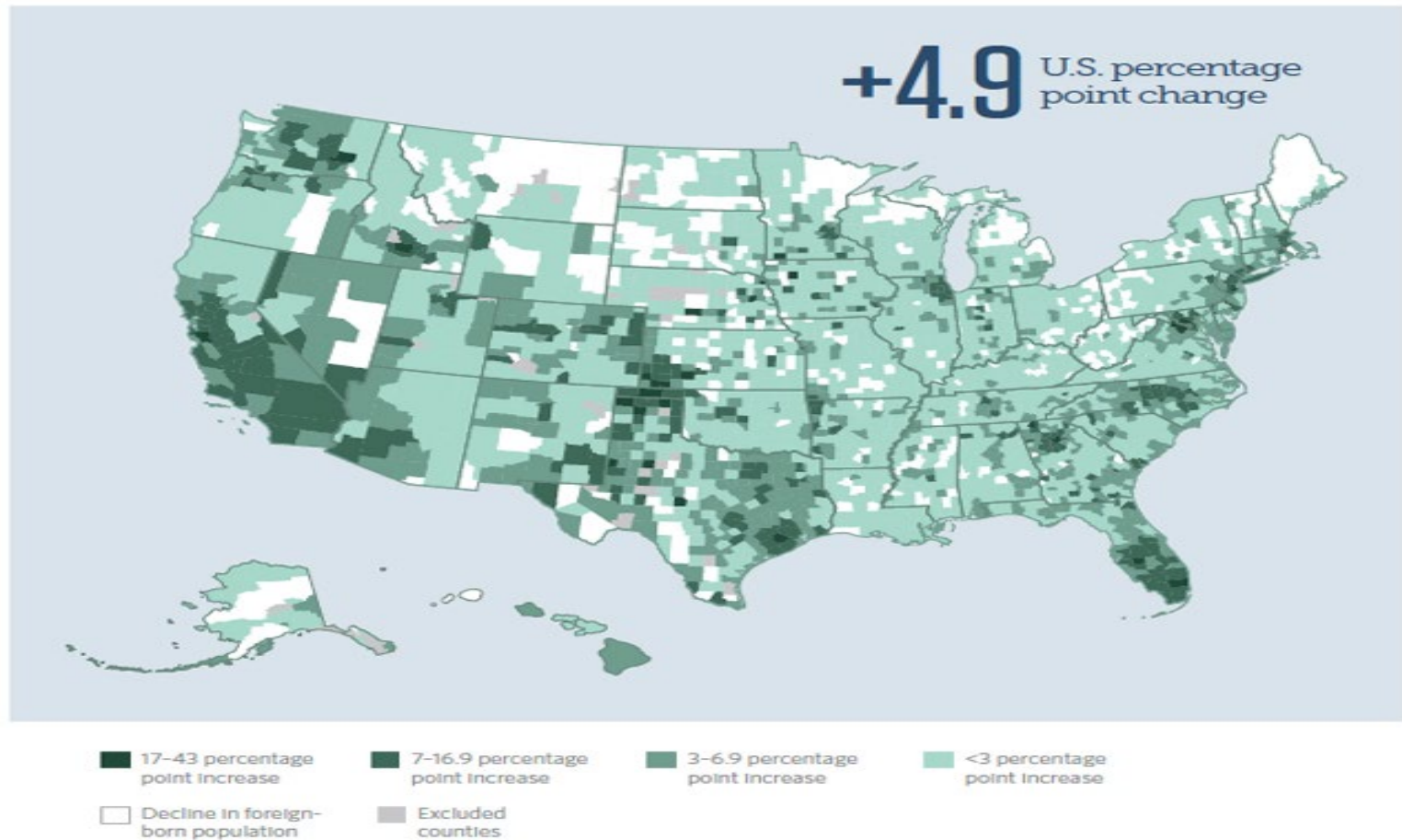
- Families reunited in the US, more women and children came to the US from Mexico.
- Immigration became a national phenomenon as people moved to new states
 - Labor recruiting (meat packing, agricultural workers, construction workers, service workers)
 - New crossing points
 - Lower cost of living outside gateway cities
- Rise in Nativism, racism against Mexican Americans and worry about immigration

New Destinations

Map 1

Immigrants Move Beyond Traditional Gateways

Change in foreign-born adults as a share of total adult county population from 1990 to 2012



Note: Change in foreign born as a share of total county population is equal to the percentage point difference between the percent of the county population that was foreign born in 2008-2012 compared with that for 1990. Excluded counties are those with fewer than 1,000 residents in 1990 or for which no data were available.

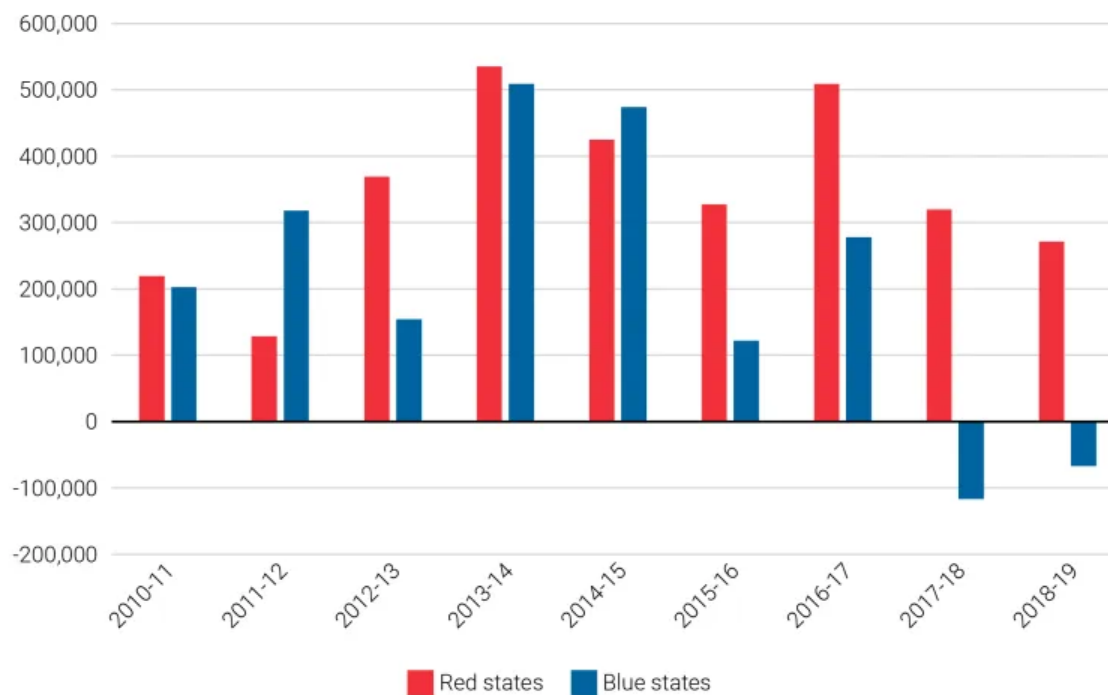
Sources: Pew's analysis of the 1990 decennial census and 2008-2012 American Community Survey

© 2014 The Pew Charitable Trusts

2016 Unauthorized Immigrants in States

State and Total Unauthorized immigrants	% of all immigrants who are unauthorized	% of unauth immigrants who are Mexican
Arkansas 55,000	41%	64%
Nebraska 60,000	41%	62%
North Carolina 325,000	39%	39%
Oklahoma 85,000	38%	78%
Tennessee 130,000	38%	56%
Utah 95,000	38%	71%
Idaho 35,000	37%	79%
Georgia 400,000	36%	49%
Louisiana 70,000	36%	28%
Kansas 75,000	35%	69%
Nevada 210,000	35%	66%

Figure 5. Annual foreign-born gain in red and blue states, 2010 to 2019



Source: William H. Frey analysis of decennial censuses and 2010 to 2019 American Community Surveys, released September 17, 2020.

B Metropolitan Policy Program
at BROOKINGS

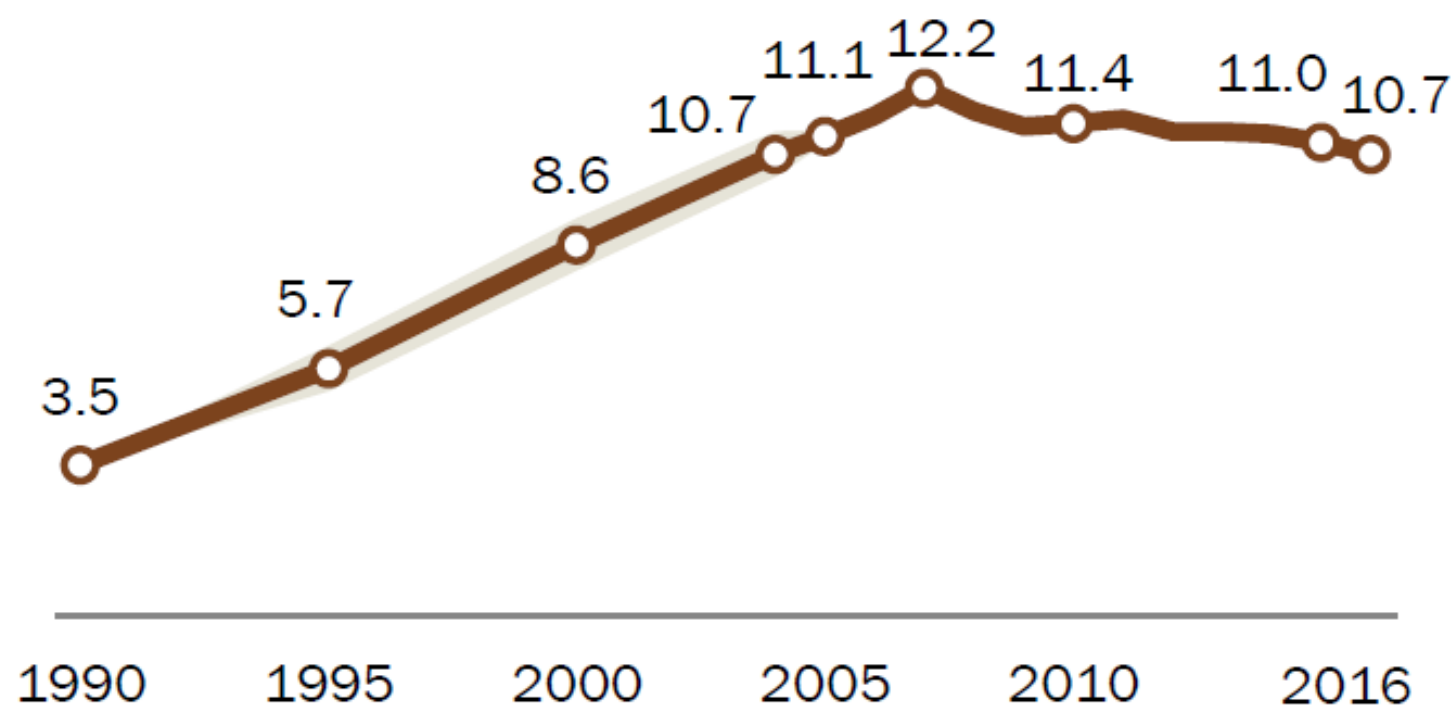
- **Samuel P. Huntington (2004)**
 - “Unlike past immigrant groups, Mexicans and other Latinos have not assimilated into mainstream U.S. culture, forming instead their own political and linguistic enclaves—from Los Angeles to Miami—and rejecting the Anglo-Protestant values that built the American dream.”
 - “The United States ignores this challenge at its peril.”
- **Lou Dobbs (2006)**
 - “invasion of illegal aliens” part of a “war on the middle class.”
- **Patrick Buchanan (2006)**
 - Illegal immigration part of “Aztlán Plot” hatched by Mexicans seeking to recapture lost lands
 - If we do not get control of our borders and stop this greatest invasion in history, I see the dissolution of the U.S. and the loss of the American southwest—culturally and linguistically, if not politically—to Mexico.” (Time, August 28, 2006, p. 6)

2008-2020

- Decline in immigration from Mexico for economic reasons. More people coming who are fleeing violence of drug cartels and thus seeking asylum.
- Return migration to Mexico
- Rise in Central American asylum seekers and unaccompanied minors.
- Change in national origin of undocumented and method of entry
- Rise in settled families who are undocumented
- Rise in crimmigration.

Number of unauthorized immigrants in the U.S. declined over the past decade

In millions



400 thousand

© | Published 2017

The top-two
ways illegal
immigrants
arrive in the U.S.

300

200

100

Overstayed
visa

Crossed
over
Mexican
border

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

Year

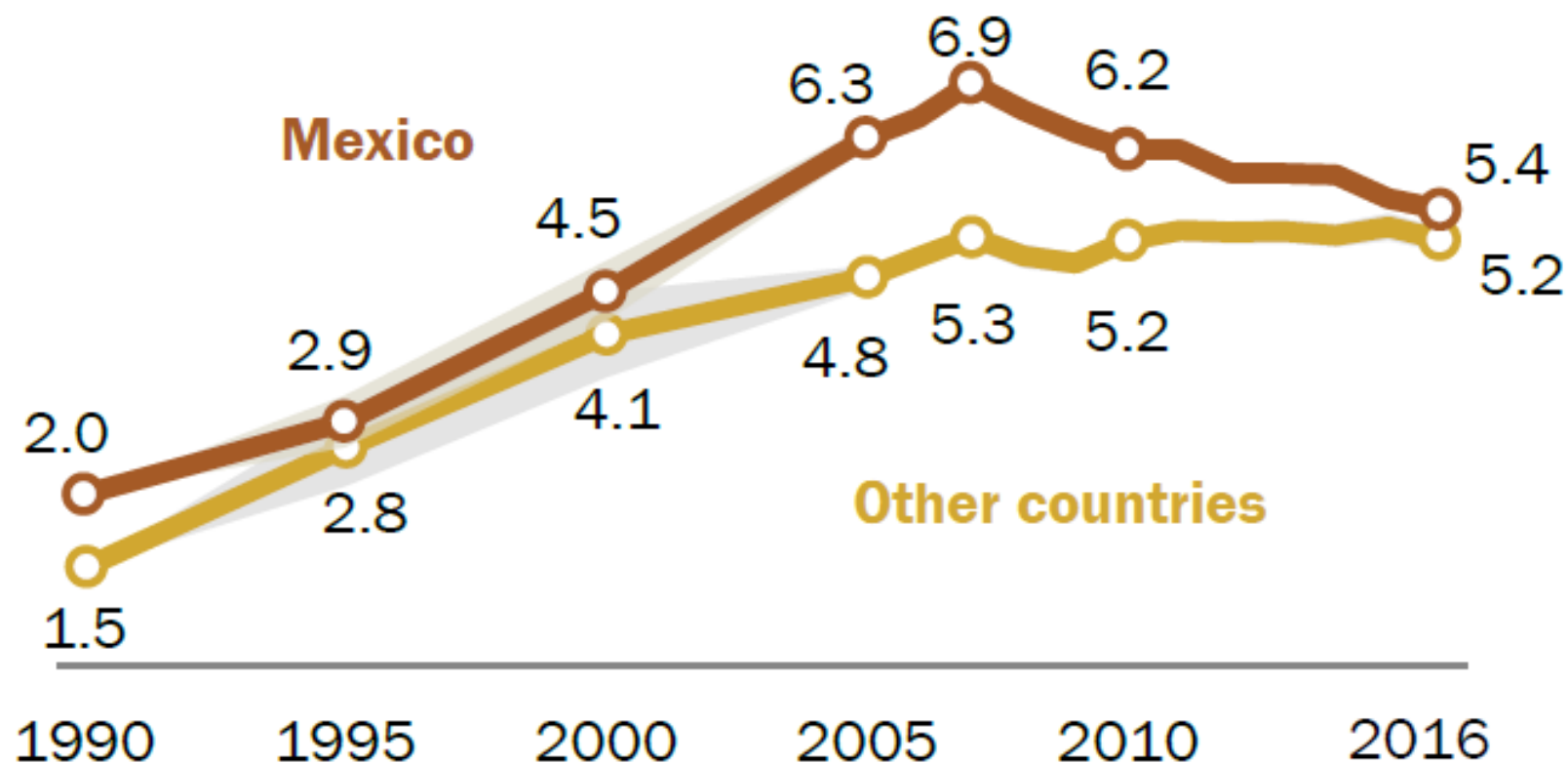
Year

Year

Year

Those from Mexico have decreased

In millions



Share of Long-Term Unauthorized Immigrants Surpasses Share of Short-Term Immigrants

% of unauthorized adult immigrants, by duration of U.S. residence

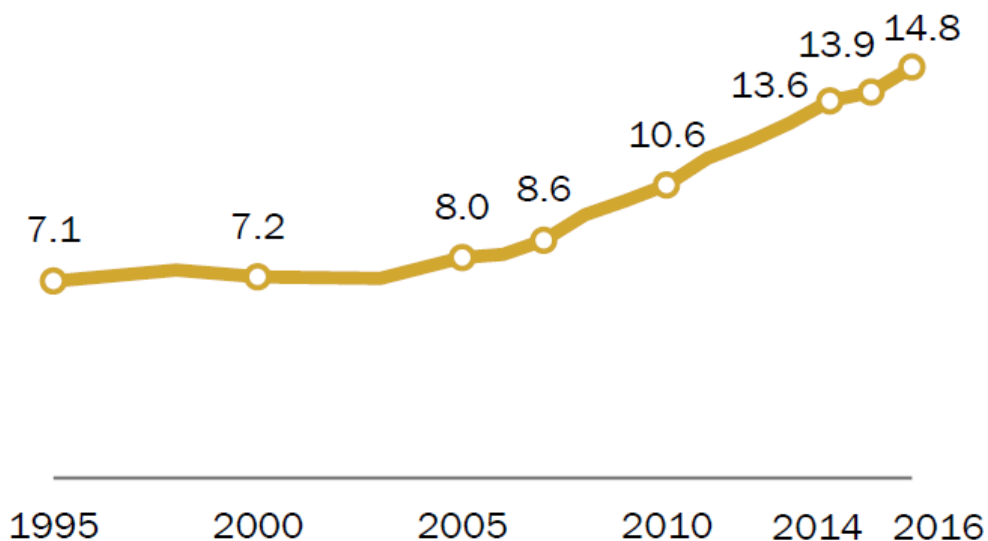


Note: 2013 estimates are preliminary. Data labels are for 1995, 2003 and 2013.

Source: Table A1, derived from Pew Research Center estimates based on residual methodology, applied to March Supplements of the Current Population Survey for 1995-2003 and 2013, and the American Community Survey for 2005-2012.

The typical unauthorized immigrant has lived in the U.S. for nearly 15 years

Median years of U.S. residence for adult unauthorized immigrants



Source: Pew Research Center estimates based on augmented U.S. Census Bureau data. See Methodology for details.
“U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade”

PEW RESEARCH CENTER

Increase in recent arrivals from Northern Triangle and Asia, decrease from Mexico

Population of arrivals in previous five years, in thousands

Birth country	2016	Share	2007	Share
Mexico	525	24%	2,050	52%
Northern Triangle	375	18	425	11
Asia	450	22	525	13
Other countries	775	36	925	24
Total	2,100		3,950	

Note: Northern Triangle consists of El Salvador, Guatemala and Honduras. Asia consists of South and East Asia. All numbers are rounded; see Methodology for details

Source: Pew Research Center estimates based on augmented U.S. Census Bureau data.

See Methodology for details.

“U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade”

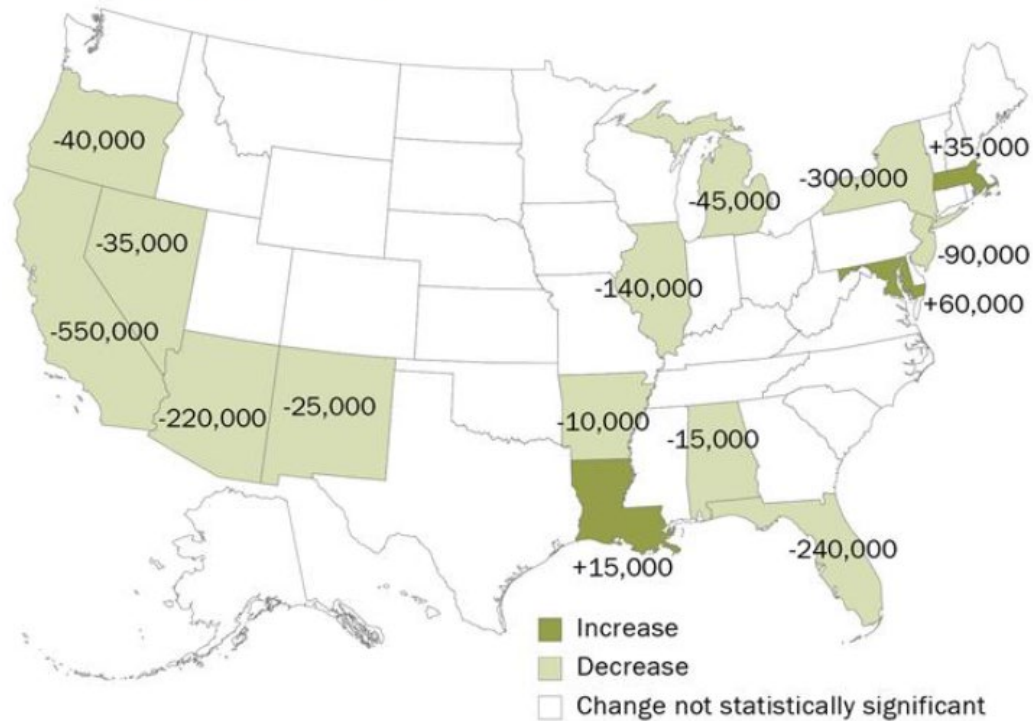
PEW RESEARCH CENTER

Interactive Map of Where the Undocumented Live

- <http://www.pewhispanic.org/interactives/undocumented-immigrants/>

Unauthorized immigrant populations changed in 15 states over the past decade

Statistically significant change, 2007 to 2016



Note: All numbers are rounded; see Methodology for rounding rules. Significant changes based on 90% confidence interval.

Source: Pew Research Center estimates based on augmented U.S. Census Bureau data. See Methodology for details.

"U.S. Unauthorized Immigrant Total Dips to Lowest Level in a Decade"

PEW RESEARCH CENTER

Estimating Numbers

- How do we know how many people are undocumented?
- Census counts and the undocumented have become a political issue.

Donald Trump

- "You have anywhere from 11 to 34 million illegal immigrants," he told Cooper. "I used to hear 11, now I hear 34 million!"
 - July 2015
 - https://www.washingtonpost.com/news/the-fix/wp/2015/07/08/donald-trump-hears-there-are-34-million-illegal-immigrants-there-arent/?utm_term=.fca9bccda3c

Widely Reported Yet Completely Wrong



Calculating the Number of Undocumented

- Residual Method
 - Take the American Community Survey (ACS) data which counts the number of people born in the US and every country along with the Current Population Survey (CPS) data.
 - Calculate the number of legal immigrants supplied by administrative data from Homeland Security. Account for deaths, departures and new arrivals for legal immigrants.
 - Subtract legal from total and residual is undocumented.

Adjust for Undercount

- We know some undocumented people do not answer the census.
- Use Mexican population to estimate the undercount.
- Surveys that ask whether people answered the ACS and Census.
- Use Mexican census to estimate how many Mexicans are in the US

Adjusting for Undercount

- Almost all Mexicans are either in the US or Mexico, can estimate how many are in US by seeing how many are born in Mexico, do not die, but are “missing”.
- Estimate based on these sources is about 10-15% for most age sex groups, higher for young single men.

Estimating Characteristics

- Where they are born, when they came to the US, how old they are, what kinds of jobs they have, whether they get any benefits.
- Estimates are then applied to individuals with a probability of being undocumented.
- Total counts are balanced.
- <http://www.pewhispanic.org/2016/09/20/methodology-10/>

The law and the undocumented

- Physical presence in the US without authorization is a civil violation. It can be punished by deportation and a fine.
- Overstaying a visa is also a civil violation. It can be punished by deportation and a fine.

Illegal Entry: Misdemeanor

- “Illegal Entry”/8 U.S.C. § 1325 makes it a crime *to unlawfully enter* the United States. It applies to people who do not enter with proper inspection at a port of entry, such as those who enter between ports of entry, avoid examination or inspection, or who make false statements while entering or attempting to enter. A first offense is a misdemeanor punishable by a fine, up to six months in prison, or both.

Felony immigration crime

- If a person is deported or ordered removed, or leaves voluntarily after being caught in the US and then returns to the US without inspection that is a felony.

Illegal Re-Entry: Felony

- “Illegal Re-Entry”/8 U.S.C. § 1326 makes it a crime *to unlawfully reenter*, attempt to unlawfully reenter, or to be found in the United States after having been deported, ordered removed, or denied admission. This crime is punishable as a felony with a maximum sentence of two years in prison. Higher penalties apply if the person was previously removed after having been convicted of certain crimes: up to 10 years for a single felony conviction (other than an aggravated felony conviction) or three misdemeanor convictions involving drugs or crimes against a person, and up to 20 years for an aggravated felony conviction.

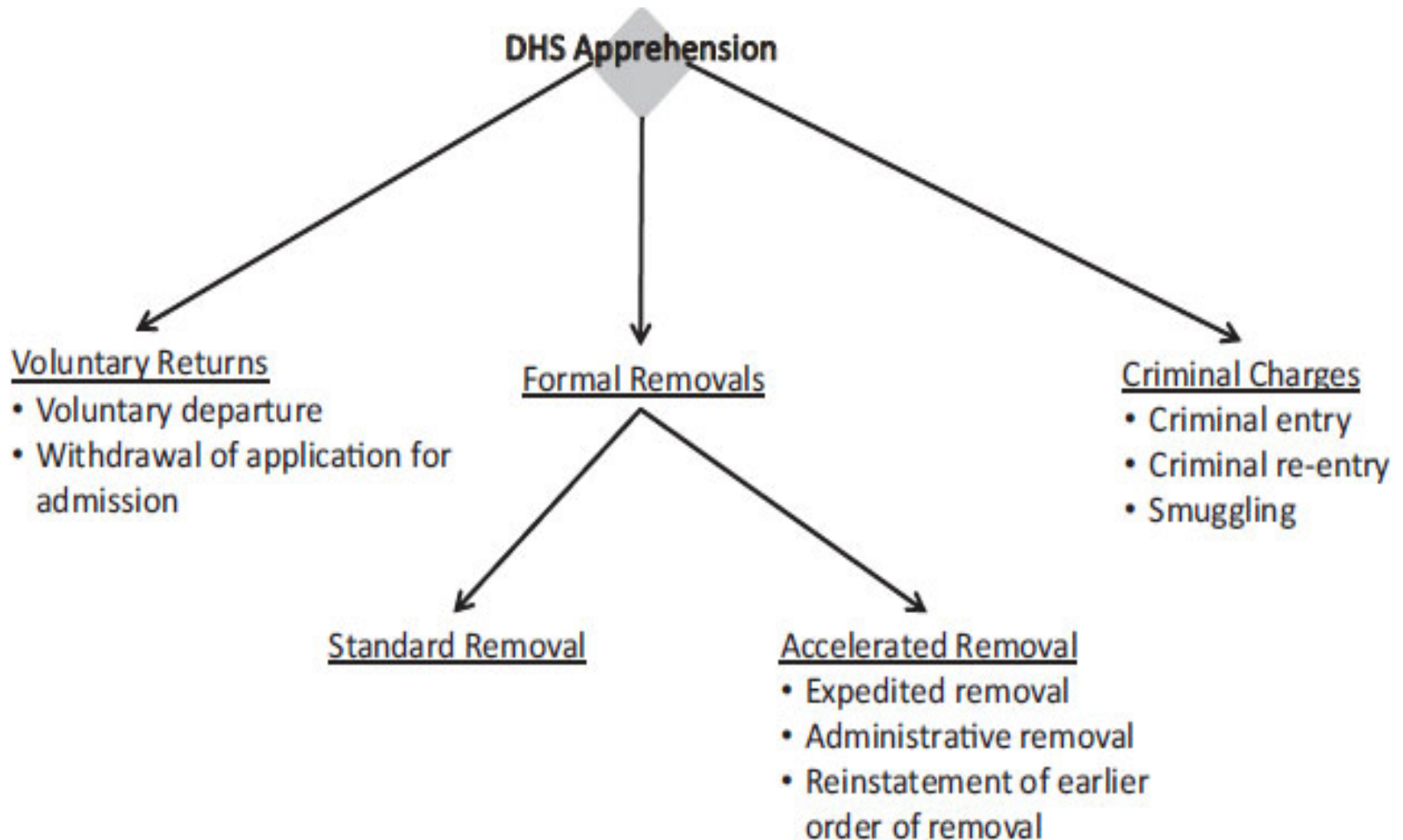
The law and the undocumented

- The 1996 IIRIRA law states that a person who enters without permission is “inadmissible” which means they cannot adjust their status, either inside or outside the US.
- **There is no path to legalization for undocumented people in the U.S. There is no line to get in.**

Prosecuting Immigration Crimes

- Illegal Entry and Illegal Re-entry are now the most prosecuted federal offenses. As of December 2018 they constituted 65% of all criminal prosecutions in federal court.
- Operation Streamline has been in effect at major crossing points. Allows group criminal prosecutions of up to 80 people at once.
- Individuals can be charged, tried, convicted, and sentenced in a matter of hours.

Apprehension



Voluntary Departure

- Produce a valid travel document
- Have money to leave the country on their own expenses
- Post a minimum \$500 bond within five days of a judge's order (if requested at the close of the removal hearing)
- Have not been granted voluntary departure previously
- Have been a person of good moral character for at least five years before seeking voluntary departure

Expedited Removal

- Removal (deportation) proceedings generally go before an immigration judge. Expedited removal means they do not.
- Created in 1996 IIRIRA Act
 - People entered illegally or overstayed visa
 - Make no claim to permanent resident status
 - Do not seek asylum
 - If they have been inside the US two years or less.

Expedited Removal

- Starting in 1997 it was only used at airports, seaports and the southern border.
- It was only used on people who had been in the US less than 2 weeks.
- Border patrol agents were trained to give credible fear screenings to people.

Expedited Removal

- In 2004 it was expanded to anyone apprehended within 100 miles of the border.
- By 2006 it was expanded to every border crossing
- The way it works:
 - People are arrested. They are asked if they have a credible fear of returning home and want to apply for asylum. If they say no, they are issued Form I-860 Notice and Order of Expedited Removal
 - They are physically removed from the US

Changes in Trump Administration

- January 25, 2017 new executive order
 - Expands expedited removal to anyone in the US for under 2 years

Notice to Appear

- If an individual does not go through the expedited process, they begin the normal process.
- Individuals are given the reasons why the government believes they are undocumented and that they should be removed.

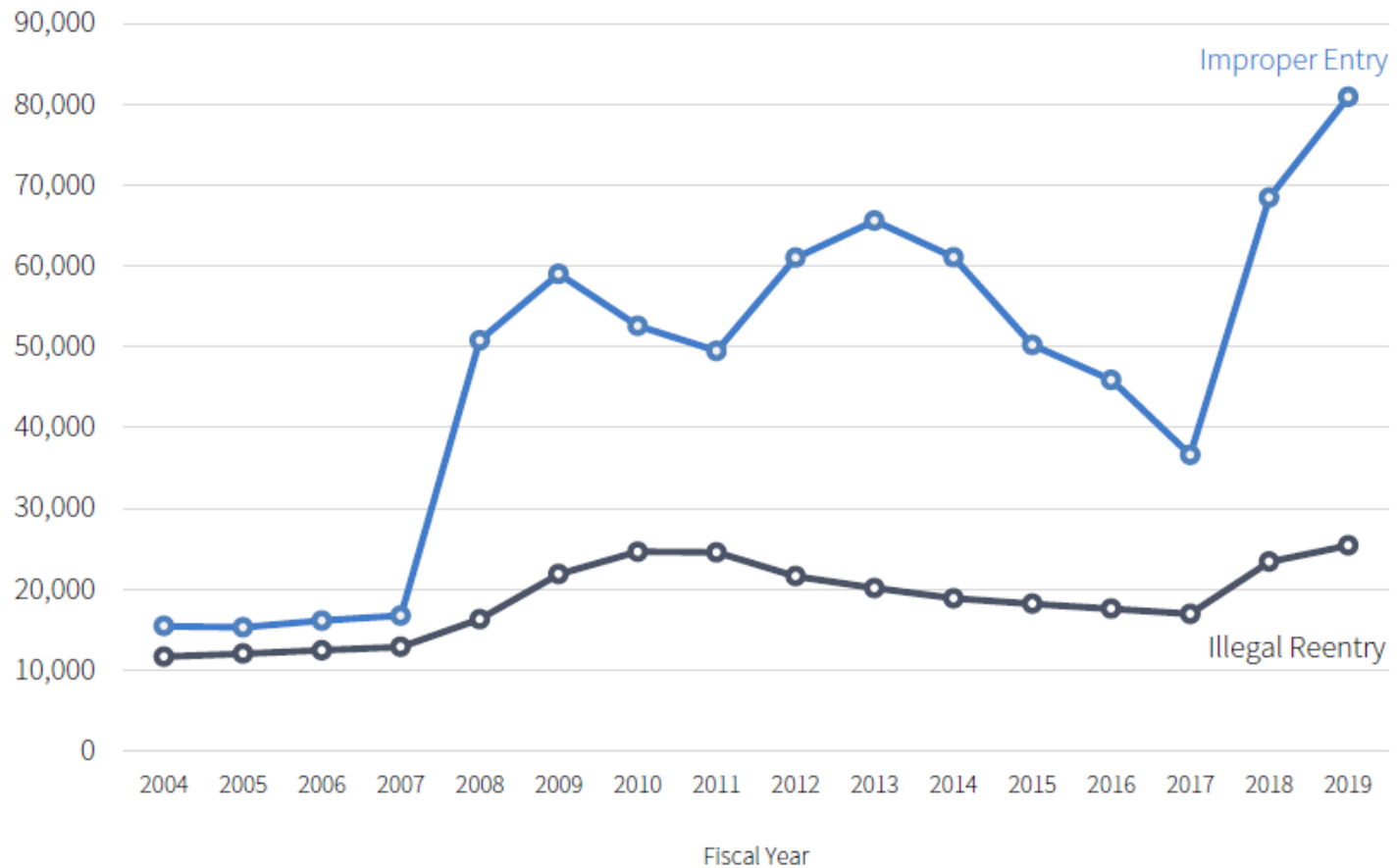
Bond Hearing

- Individuals appear before a Department of Justice immigration judge for a bond hearing. The judge sets the dollar amount of the bond. As in bail, the individual agrees to return for all hearings or forfeit the bond.
- The judge decides whether to grant bond based on criteria such as an individual's local family ties, ability to post the bond, time in the U.S., criminal record and how they entered the country.

Bond Hearing

- ICE is represented by a government lawyer. ICE will either agree the individual is eligible for bond or argue the individual is a flight risk or a danger to the community. ICE can also seek a higher bond amount or that no bond be set at all.
- Individuals have a right to counsel, but since these are civil proceedings, individuals do not have the right to an attorney provided at government expense. Many individuals represent themselves.
- Individuals not granted bond remain incarcerated until their deportation hearings are complete or they get a new bond amount.

Figure 1: Number of Individuals Charged with Improper Entry & Illegal Reentry, FY 2004-2019



Cost of Prosecutions

- One conservative estimate for the incarceration of defendants charged with or convicted of entry-related offenses totaled \$7 billion over the decade of 2005-2015. court-related costs include appointed public defenders, judicial resources, and administrative court costs, running millions of dollars each month³¹ Estimates of other

Border apprehensions

In 2000, 1.6 million migrants were apprehended along the U.S. border, but by 2017 the number was only 304,000. The number of apprehensions normally fluctuates from month to month.

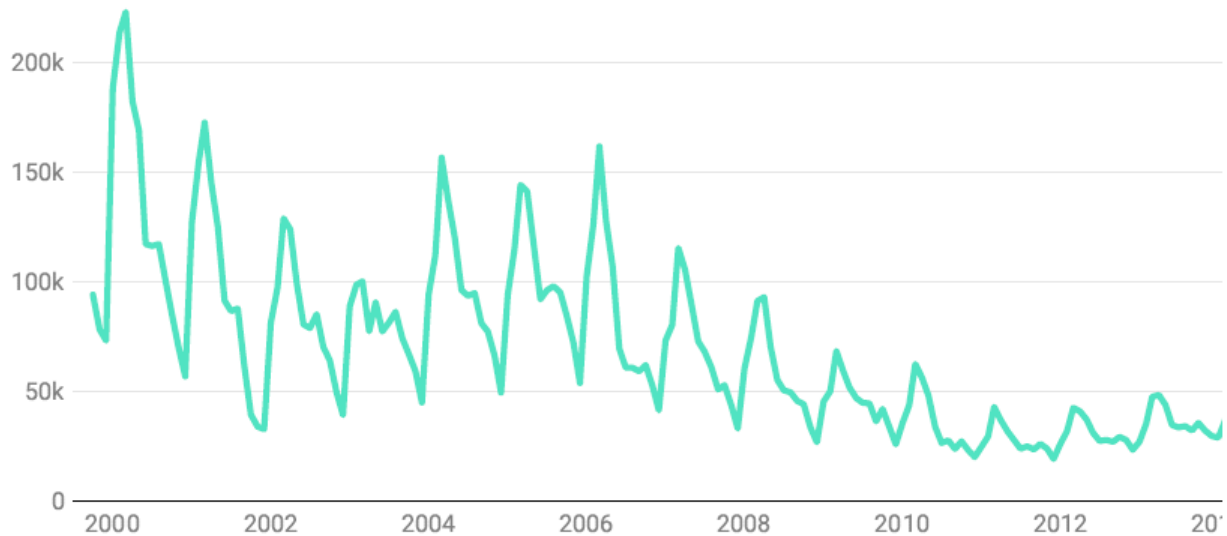


Chart: The Conversation, CC-BY-ND • Source: U.S. Customs and Border Protection • [Get the data](#)

Impact

- Border Patrol with little to do, ICE doing most arrests in the interior.
- People claiming asylum from Central America do not try to enter without inspection, but try to present themselves to border crossings but are turned away.
- The construction of the wall continues, and settled people are being detained and deported.

“The Border”

- The 100 mile zone.
 - Border Patrol can operate immigration checkpoints
 - ICE needs reasonable suspicion that someone has committed immigration violation
 - Border Patrol operates 170 interior checkpoints



The Government's 100 Mile Border Zone



The Government's 100 Mile Border Zone

Nearly 2 out of 3 Americans (197.4 million people) live within 100 miles of the US land and coastal borders, according to 2007 figures from the US Census Bureau.

Immigration Enforcement

- Customs and Border Patrol (CBP)
 - Enforcement at the border
- Immigration and Customs Enforcement (ICE)
 - Enforcement in the interior

Checkpoints

- <https://www.youtube.com/watch?v=Q6H0Od6UHJQ>