



Texas Uses Multipronged Approach to Securing Its Border

When Texas Governor Rick Perry announced on July 21 that he would send 1,000 Texas National Guard troops to the Mexican border to deal with the massive wave of illegal immigration by children, he received national attention. But the National Guard is only one of several resources Texas is using to counter the border crisis.



A report in the *New York Times* on August 6 spotlighted the beefing up of the mission of Texas game wardens, who have gone from catching poachers and drunk boaters to apprehending smugglers and human traffickers. While the game wardens have no authority to enforce federal immigration law, they can make arrests for violations of state law, including human trafficking.

However, game wardens patrolling the Rio Grande are likely to encounter more dangerous lawbreakers than fisherman who have exceeded their daily catch limit. And the danger on the river has been going on for years. The *Monitor* newspaper in McAllen, Texas, which covers the Rio Grande Valley, reported back in 2010 that drug cartel pirates were robbing fisherman on 60-mile-long Falcon Lake (the popular name for Falcon International Reservoir), a manmade lake formed by a dam on the Rio Grande.

“We suggest they stay on this side and not go into Mexico for their own safety,” Capt. Fernando Cervantes with the Texas Parks and Wildlife Service in Zapata was quoted as saying by the *Monitor*. “If anything happens in Mexico, we cannot go over to Mexico.”

In May 2010, pirates from the Los Zetas cartel, claiming to be Mexican Federal Police, boarded at least three U.S. boats and demanded either weapons, drugs, or money.

On September 30, 2010, David Hartley and his wife, Tiffany, from McAllen, Texas, were in waters on the Mexican side of the lake riding jet skis when they were chased by two boats containing about six gunmen. The Zapata County Sheriff said the woman escaped and reported that her husband was shot. He remains missing and is feared dead.

On October 12, 2010, Commander Rolando Flores, the lead Mexican investigator for the David Hartley disappearance case, was beheaded by Mexican drug cartel members and sent in a suitcase to the Mexican military.

Partially because of these dangerous incidents, the U.S. Coast Guard patrols Falcon Lake.

In this environment, it is little wonder that, as the *Times* reported, Texas game wardens patrol the Rio Grande in boats mounted with .30-caliber machine guns and bulletproof shields.

The state of Texas has taken additional steps in its quest to secure the border, notes the *Times*. On the border, Texas uses helicopters with infrared technology. It has installed cameras activated by motion



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detection monitors on private ranches, which are monitored remotely. Texas has also a \$7.4-million high-altitude surveillance airplane. State officials said that the use of the high-tech helicopters and the surveillance airplane to patrol the border has been responsible for more than 13,000 arrests, \$87 million worth of drug seizures, and the rescue of 137 people.

Local law enforcement officials in Texas have also offered to join the fight to secure the border. Click2Houston (the website of NBC affiliate, KPRC) reported that Andy Walters, chief of the Oak Ridge North Police Department in Montgomery County, Texas, has proposed a plan to help increase the number of police officers working near the Texas border. Walters' plan would also provide training to those officers unfamiliar with organized criminal operations, such as the drug cartels.

Walters told KPRC news that his officers and many in other departments have not been trained to deal with the drug cartels and need additional training. Walters, whose department is located in the Houston metropolitan area, sent three of his officers for a week each to work with Border Patrol and law enforcement agencies in Brownsville and Brooks counties, on the border.

"Train the officers what to look for, what's going on," said Walters. "Get the latest intelligence and bring it back."

Walters told reporters that he believes this plan, which he has presented to state legislators, can be expanded statewide. His plan calls for the more than 2,000 law enforcement agencies in Texas to send one officer each, on a rotating basis, to work in rural border communities. Walters believes that this plan would be more effective than Governor Perry's plan to send National Guard troops, who lack the authority to make arrests for immigration offenses, to the border.

However, Texas National Guard troops sent to the border may have limited authority to make arrests, reported the *New York Times* on July 24. The distinction, notes the *Times*, is that because Perry deployed the guard troops himself, rather than by federal authority, "he has the power to order the troops to make arrests and apprehensions, something Guard troops in past border deployments have been prohibited from doing."

The *Times* notes:

The [national guard troops] due at the border next month will work side by side not with federal Border Patrol agents but with state police officers of the Department of Public Safety. They will not be able to enforce federal immigration laws but may be able to enforce state law. A 19th-century federal law that makes it a crime for military personnel to perform civilian law enforcement activities does not apply to state-duty troops.

The "19th-century federal law" the *Times* referred to is the Posse Comitatus Act, passed on June 18, 1878. The act was passed to limit the powers of federal government in using federal military personnel to enforce state laws. In other words, federal troops should not serve as police officers.

However the Posse Comitatus Act refers to the armed forces of the United States and does not apply to National Guard forces under state authority from acting in a law-enforcement capacity within its home state or in an adjacent state if invited by that state's governor.

Maj. Gen. John F. Nichols, the adjutant general of the Texas National Guard, was quoted by the *Times* as stating that the troops would undergo training for their new role, and described their mission as "referring and deterring" — using their presence on the border to serve as a deterrent and referring people who they suspect are illegal immigrants to state law enforcement officers.



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