



U.S. Immigration and Customs Enforcement

STATEMENT

OF

**MARCY M. FORMAN
DIRECTOR
OFFICE OF INVESTIGATIONS**

**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY**

BEFORE THE

**COMMITTEE ON THE JUDICIARY
IMMIGRATION, BORDER SECURITY AND CITIZENSHIP SUBCOMMITTEE
TERRORISM, TECHNOLOGY AND HOMELAND SECURITY
SUBCOMMITTEE**

UNITED STATE SENATE

**MARCH 1, 2006
WASHINGTON, D.C.**

INTRODUCTION

Chairman Cornyn, Chairman Kyl, Ranking Members Kennedy and Feinstein, and distinguished Members of these subcommittees: It is an honor for me to appear before you today to share U.S. Immigration and Customs Enforcement's (ICE's) latest assessment of the criminal threat and vulnerabilities along the southern border.

THE ICE MISSION

Among the Department of Homeland Security (DHS) law enforcement agencies, ICE has the most expansive investigative authority and largest force of investigators. Our mission is to protect the American people by combating terrorists and other criminals who cross the Nation's borders and threaten us here at home. The men and women of ICE accomplish this by investigating and enforcing the Nation's immigration and customs laws. Working overseas, along the Nation's borders, and throughout the Nation's interior, ICE agents and officers are demonstrating that the newly merged customs and immigration authorities constitute an effective mechanism to identify, disrupt, and dismantle criminal organizations that violate the Nation's borders and the Nation's customs and immigration laws.

By leveraging the full enforcement potential provided by the new and unique blend of customs and immigration authorities, ICE agents and officers—together with our DHS and other federal counterparts and with the assistance of tribal, state and local law enforcement entities—are making it more difficult for potential terrorists and transnational criminal groups to move themselves, their supporters, or their weapons across the Nation's borders through traditional human, drug, contraband, or financial smuggling networks, routes, and methods. Specifically, this work serves to dismantle the criminal business networks that seek to exploit the Nation's borders. Moreover, our presence extends from the border well into the interior of the United States and deters illegal immigration by making clear, that it is not acceptable to fail to fully comply with the Nation's immigration laws. These efforts implement the Nation's critical homeland security priorities and strengthen respect for the Nation's laws.

It is important to understand that special agents within the ICE Office of Investigations work closely with our enforcement and interdiction counterparts within the ICE Office of Detention and Removal (DRO). ICE/DRO fields "Fugitive Operation Teams" along the Southwest border and throughout the Nation's interior to help ensure the national security and public safety. These teams aggressively target immigration violators who are considered the most dangerous to the general public. In addition to coordinating with the other elements within ICE, we also cooperate externally with our sister agency, U.S. Customs and Border Protection (CBP), as well as other federal, state, and local law enforcement authorities, such as Tobacco, Firearms and Explosives (ATFE), the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), and others.

Our law enforcement presence extends beyond our borders. ICE has agents stationed in Attaché offices in embassies and consulates throughout the world. I am particularly proud of these agents, who maintain productive working relationships with their foreign

counterparts to combat crime that originates overseas but is aimed at crossing the Nation's borders.

THREAT ASSESSMENT

As the DHS agency with the broadest law enforcement authority, ICE has established intelligence and investigative operations at the Nation's Ports of Entry, as well as between them and throughout the Nation's interior. Consequently, ICE is uniquely able to assess the vulnerabilities and threats to the American people that arise from the Nation's borders. This assessment is comprised of three elements, beginning with a discussion of the criminal business of human and contraband smuggling in both directions across the Nation's borders. The second element focuses on how that illegal activity — its networks, infrastructure, routes, and skilled guides — may afford potential terrorists and other criminal organizations the opportunity to introduce themselves, their weapons, or their supporters into the United States. The final element discusses the primary motivation for crime — the financial rewards — and how the infrastructure and financial system of this country can be exploited to the criminal's advantage.

CRIMINAL THREATS

Our southern border is a particularly vulnerable region where cross-border criminal enterprises occur. To understand the criminal activity we see along the Nation's border, it is helpful to be reminded that criminal enterprises are businesses. They are run to make money. It is estimated that human smuggling through Mexico into the United States puts hundreds of millions of dollars into criminal hands — and the drug trade is much larger. The related crimes that we see — the killings, hostage taking, robberies, money laundering — are all methods that criminals employ in order to gain and expand market share and maximize profit in their criminal business enterprises.

Most of these activities involve at some stage the illegal movement of people or goods across the Nation's borders. Our understanding of the border guides ICE's strategy for targeting, dismantling, and deterring these organizations through enforcement actions that are designed to defeat or disrupt the way they do business. In other words, we hit them where it hurts—their wallets—to undermine their ability to fund their criminal activity and employ their accomplices. Every dollar of criminal proceeds seized is one less dollar criminals can use to sustain and grow their violent enterprises.

ICE investigations complement another critically important element that exists within the larger border security effort. The additional element is interdiction, which we share responsibility with CBP. The Department's Secure Border Initiative (SBI) strategy is our roadmap for synchronizing ICE investigations, interdiction and detention and removal processes along with CBP inspections and interdiction into a seamless enforcement capability that protects the American people.

ICE is acutely aware of the recent increase in violence along both sides of the border. In direct response to the increased violence, ICE first partnered with other federal, state, and local law enforcement officials in Laredo, Texas to create a multi-agency operation called Operation Blackjack. Operation Blackjack has subsequently evolved into the Department

of Homeland Security's Border Enforcement and Security Task Force, known as "BEST."

The BEST task force incorporates personnel from ICE, CBP, ATF, FBI, DEA, U.S. Marshals Service, U.S. Attorney's Office, and key state and local law enforcement agencies. The BEST task force concept incorporates personnel from existing intelligence groups — involved in both collection and analysis — to help identify and disseminate information relating to violent smuggling organizations. The BEST task force has been a highly successful and effective tool to combat violence in the Laredo area.

This coordinated approach among federal, state and local law enforcement officers has led to significant enforcement successes. For example, in late January of this year, ICE agents from our Laredo office, along with ATF agents and Laredo Police Department officers assigned to BEST, arrested one suspect for federal firearms violations, following his previous sale to an undercover ICE agent of a fully automatic AK-47-type assault rifle and approximately 26 grams of cocaine. Along with this arrest, BEST agents executed a federal search warrant at a residence and seized a cache of automatic weapons, parts to manufacture automatic weapons, a silencer, and other firearms paraphernalia. Additionally, agents seized 1.5 pounds of methamphetamine, approximately one pound of cocaine, and other paraphernalia related to drugs and guns. However, this is not the end of the story.

The day after that enforcement action, BEST task force agents — acting on information from the FBI — executed a federal search warrant for a commercial storage locker that was being used by this criminal's associates. Agents seized five grenade shells, nine pipe bombs, 26 grenade triggers, 31 grenade spoons, 40 grenade pins, and other parts that are used to assemble explosive devices. This is still not the end of the story.

A week later, ICE agents from Laredo, along with ATF agents and Laredo police officers, executed a federal search warrant at a related residence and seized 81 grenade casings, ten live grenades, two AK-47 assault rifles, one Uzi submachine gun, and miscellaneous items. Following these seizures, BEST task force agents arrested a second subject for federal firearms violations four days later.

These seizures are clearly related to the violence along the border, particularly in the Nuevo Laredo and Juarez area. This violence is caused by intense competition between the remnants of the Gulf Cartel and the Federation. The Gulf Cartel continues to be supervised by Osiel Cardenas Guillen despite his arrest in 2003, and Joaquin "Chapo." Guzman Loera and Arturo Beltran Leyva are members of the "Federation" which is attempting to take control of this important "Plaza" from the Gulf Cartel. The phrase "Plaza" is used to describe the corridor that extends from Southern Mexico up to the Nuevo Laredo area. Each of these competing cartels has established relationships with violent criminal gangs that act as enforcers and foment violence in support of their cartels. The Gulf Cartel is supported by Los Zetas, a paramilitary organization, and other criminal gangs Los Negros, the Mexican Mafia and other criminal entities, support the Federation. The competition between these two cartels and the criminal gangs that

support them provides the fuel for the increase in violence that we have seen in the last several years.

Control of the “Plaza” corridor translates into control of all smuggling, both of humans and drugs, in the area and any organization that wants to operate in this area has to pay a tax to the cartel. This area is also important because of the infrastructure on the U.S. side of the border. First, the Laredo Port of Entry is the busiest land Port of Entry on the Southwest border, handling approximately 6,000 commercial vehicles a day. U.S. Interstate Highway 35 starts in Laredo, Texas and provides ready access to both San Antonio and Dallas, where both drugs and aliens can be staged prior to movement to other parts of the United States.

We hope that this overview will provide some helpful context for discussing recent incidents on the Nation’s border with Mexico.

BORDER INCURSIONS

In a recent incident in Hudspeth County, Texas, several individuals wearing military-style camouflage clothing and carrying long guns provided protection for a cross-border smuggling attempt that included illegal entry into the United States. Further, at least one vehicle employed in this effort was a military-style vehicle that is more popularly known as a “Humvee” or “Hummer.” Regardless of the affiliation of the individuals involved, the Hudspeth incident was highly dangerous because of the firepower, tensions, and ambiguities faced by American law enforcement — and by Americans who live adjacent to the border and who routinely are confronted by such activities. The evidence and intelligence gathered to date, however, do not support a conclusion that the Hudspeth incident, constituted an incursion onto U.S. soil by the Mexican military, intentional or otherwise. Nonetheless, for ICE’s investigators, all types of smuggling reflect unacceptable vulnerabilities that we seek to close.

TUNNEL ACTIVITY

In recent weeks, we have all been reminded that illegal efforts to cross the border occur not only on the surface, but also underground. As many of you know, ICE worked with its Mexican law enforcement counterparts, along with DEA and CBP in the United States, to discover a tunnel beneath the border between San Diego and Tijuana in January 2006. Two days later, Mexican officials executed a search warrant at the warehouse and seized 4,351 pounds of marijuana. The subsequent inspection of the tunnel revealed it to be highly sophisticated and equipped with lighting, ventilation, and cement flooring. The tunnel was 2,477 feet long and descended to a maximum depth of 81 feet below ground level. An exit was found inside a warehouse in the United States, in Otay Mesa. Approximately 300 additional pounds of marijuana were seized there.

The discovery of the tunnel between San Diego and Tijuana indicates that smuggling organizations are turning to increasingly advanced and costly smuggling methods, those requiring significant start-up costs, but that we have confidence in the abilities of the dedicated officers on both sides of the border to detect and seal tunnels such as these.

The criminal business enterprises we face are sophisticated, nimble, and adaptive. As the Department of Homeland Security continues to strengthen the Nation's capacity to detect and defeat traditional forms of smuggling, criminals are increasingly making the business decision to invest substantial money and time into the creation of new and more sophisticated methods for continuing their illicit enterprises.

While federal law enforcement must address criminal threats operating across our borders, there is an additional important strategic reason for DHS and ICE to combat these threats and organizations. Intelligence reporting indicates that terrorists have both the interest and desire to exploit the existing vulnerabilities in our border security to enter the United States and perpetrate an attack against our citizens or our interests.

By aggressively targeting and defeating the criminal networks and the methods they use and simultaneously working to improve the security of the Nation's borders, we make it more difficult for potential terrorists to bring themselves, their supporters and their weapons into this country.

THE LONG REACH OF BORDER CRIME

The preceding examples are highly visible examples of the challenges ICE agents have faced in the battle to combat crime and violence along the border. However, beyond the significance of these incidents is the underlying fact that the violence and sophistication of these organizations is rooted in the commission of border crime of all types, which often extend well beyond the border and into the interior cities of the Nation. As such, I would like to take this opportunity to make you aware of ICE's efforts to vigorously investigate and prosecute crime that originates along our borders in order to protect the public at and between our border ports of entry and throughout the Nation's interior.

One of the most significant threats to the border and the interior of the United States is posed by transnational street gangs. Many members of violent street gangs are foreign-born persons who are actively involved in crimes such as human and contraband smuggling, robbery, extortion, rape, and murder. The foreign nationals who belong to these gangs often ignore our immigration laws, regularly entering the United States illegally. They then travel to the Nation's interior cities to join with other gang members and participate in criminal activity.

In response to the threat posed by transnational gang members who violate our borders and travel throughout the United States, ICE initiated Operation "Community Shield" in February 2005. Initially, Community Shield targeted the MS-13 street gang, one of the largest and most violent gangs of its kind. However, because of the successes of Operation Community Shield in combating MS-13, the program was subsequently expanded to investigate all criminal street gangs. ICE has partnered with state and local law enforcement and worked closely with other federal agencies such as ATF, CBP, and FBI to combat violent street gangs.

To date, ICE's efforts in Community Shield have resulted in the arrest of 1,933 transnational gang members and associates. ICE has determined that the majority of them are foreign nationals who are illegally present in this country. Moreover, ICE has also found that approximately half of the apprehended gang members have violent criminal histories, with arrests and convictions for crimes such as robbery, assault, rape, and murder. And, of course, this figure includes only those whose criminal histories are known.

The violence associated with illegal immigration over our borders is not limited to transnational gang members. It also encompasses innocent victims who are smuggled, or even worse, die during their journey into or within the United States. In case after case, we see the disregard smugglers and traffickers have for the lives hanging in their charge. Often we find that victims have fled poverty or abuse, only to be forced to travel in squalid conditions without adequate food, water, or even air. Moreover, they are frequently subject to brutal violence, forced labor, and sexual exploitation after arriving at their destination — in the United States, in our country. In a recent smuggling case in Arizona, 12 illegal aliens were held against their will at a Phoenix residence. Two smugglers threatened to kill the migrants if their smuggling fees were not paid. One of the aliens, a young woman, was threatened with rape. An enforcement action conducted by ICE and the Phoenix Police Department resulted in the rescue of the migrants and arrest of both smugglers. In a trafficking case in McAllen, Texas, two smuggled women from Central America were found on the side of a road beaten and without clothing. Their captors intimidated the victims by shooting weapons into the walls and ceiling as they raped them. ICE's enforcement efforts led to the rescue of two additional victims and the arrest of seven traffickers. The lead defendant was sentenced to 23 years imprisonment, which is one of the longest sentences ever obtained under the Trafficking Victims Protection Act.

Since the creation of ICE in March 2003, investigations into human trafficking and human smuggling have resulted in more than 5,400 arrests, 2,800 criminal indictments, and 2,300 criminal convictions of these violent criminal smugglers. The amount of assets seized from human smugglers and human trafficking organizations has gone from almost none before 2003 to nearly \$27.0 million in 2005.

COMBATING THE BUSINESS OF BORDER CRIME

ICE is uniquely equipped with the right mix of authorities to target the financial lifeblood that sustains the violent criminal activities we see along our borders, including human smuggling and trafficking and the illegal movement of drugs and weapons. While ICE is a relatively new law enforcement agency, its predecessor agencies and many of our agents bring to bear over thirty years of expertise in the investigation of financial crimes. Building on this expertise, ICE has achieved great success in choking off the illicit finances that fuel criminal operations, through the aggressive investigation of bulk cash smuggling, money laundering, and other financial crimes.

Over the past decade, ICE agents have observed several important and emerging money-laundering trends — and many of them are described in the recently published U.S. Money Laundering Threat Assessment (MLTA). The MLTA is the first interagency assessment that identifies vulnerabilities that terrorist and criminal organizations seek to exploit to earn, move, and store their illegal funds. ICE played a major role in preparing the MLTA, and I am proud of our contributions to this important document.

A number of the money laundering trends we have observed have developed in response to the compliance and anti-money laundering programs instituted by the U.S. financial industry. As the opportunity to exploit our financial institutions diminishes, criminal organizations are being forced to use non-traditional and riskier methods to move their proceeds, such as bulk cash smuggling. This contributes to violence along the border and throughout the Nation.

The smuggling of bulk currency out of the United States, and especially across the Southwest border, has become one of the preferred methods of moving illicit proceeds out of the country. As such, criminal organizations now seek to exploit vulnerabilities in border security. ICE is the lead agency responsible for the investigation of financial crimes occurring at our borders. This is a critical part of the overall strategy to dismantle and destroy these smuggling organizations by taking away their illegal profits. Congress criminalized the act of smuggling large amounts of cash into or out of the U.S. in the USA PATRIOT Act one of the provisions of the USA PATRIOT Act, 31 U.S.C. 5332 – Bulk Cash Smuggling makes it a crime to conceal and smuggle over \$10,000 in currency and monetary instruments into or out of the United States with the intent to evade in an attempt to violate U.S. currency-reporting requirements. ICE agents have utilized this authority since the statute was enacted to arrest over 330 individuals for bulk cash smuggling violations. In addition to these arrests, ICE and our partners at CBP have cumulatively seized over \$160 million of the funds that were involved in these bulk cash smuggling violations.

ICE's enforcement of the law against bulk cash smuggling does not end at our Nation's borders. In August 2005, ICE partnered with CBP and the State Department to initiate a training program with our Mexican counterparts on ways to combat cash smuggling. As a result of this training and working with us on this joint financial initiative together, our Mexican counterparts have seized over \$18 million in cash and \$5 million in negotiable instruments that were involved in violations of Mexican currency-reporting requirements.

In addition to our efforts to combat bulk cash smuggling, ICE works aggressively to identify and investigate other financial methods that criminals use to move their illicit funds out of the United States — such as the use of unlicensed money-services businesses. These unlicensed businesses operate outside of the traditional banking system and governmental oversight and have been long recognized by law enforcement as vulnerable to abuse. The enhancements in 18 U.S.C. 1960, Prohibition of Unlicensed Money Transmitting Business, enacted through the USA PATRIOT Act, provide law enforcement with the authority to investigate unlicensed money remitters.

Since the passage of the PATRIOT Act, ICE investigations of unlicensed money-services businesses have resulted in over 171 arrests and the seizure of over \$25 million in currency. Additionally, during fiscal year 2005, ICE investigations resulted in the seizure of nearly \$1 billion in currency and assets from the criminals who exploit our borders.

Many of ICE's successful financial investigations that I have outlined for you today are related to our efforts to combat drug smuggling activity. Drug smuggling organizations are responsible for much of the violence we see at and near our Nations border with Mexico. Last year, our investigations resulted in the seizure of over 300,000 pounds of cocaine, 2.2 million pounds of marijuana, nearly 4,000 pounds of heroin, 2,200 pounds of methamphetamine, and hundreds of thousands of pounds of other smuggled drugs. These successes have disrupted these violent smuggling organizations by taking away their product and profits.

CONCLUSION

While the overwhelming bulk of the smuggling activity we combat today represents an array of traditional criminal threats, this illegal business is evolving in dangerous ways. The violators are better armed, and more willing to use force. The stakes are getting higher as we continue to strengthen the barriers against this activity. The urgent need to combat these criminal threats is more compelling than ever, because of the known potential of terrorists to exploit this criminal activity, and the Nation's border vulnerabilities, to enter or attack the United States.

While ICE is a new agency, with newly integrated authorities, many of our agents and officers have a long history in the field, with extensive experience gained from their previous service with the former U.S. Customs Service and INS. We are seeking to leverage the best of our former agencies' expertise, cultures, and techniques, while building a new federal law enforcement agency that is greater and more effective than the sum of its parts. In case after case, our agents and officers are putting into practice the powerful advantages that flow from our newly merged authorities and are putting them to great use on behalf of the American people. The net result is a greater contribution to the Nation's border security, which is a critical element of national security.

We know the threats; we know the risks; and we know that there can be no homeland security with anything less than vigorous enforcement against those who seek to use the Nation's borders against U.S. citizens.

The men and women of ICE are grateful for the chance to serve the American people and, on their behalf, I thank you and your colleagues for your continued support of our ongoing operations.

I would be pleased to answer your questions.