

U.S. SENATE COMMITTEE ON THE JUDICIARY

JOINT HEARING BETWEEN THE SUBCOMMITTEE ON TERRORISM, TECHNOLOGY,
AND HOMELAND SECURITY AND THE SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CITIZENSHIP.

HEARING – ‘THE SOUTHERN BORDER IN CRISIS: RESOURCES AND STRATEGIES TO
IMPROVE NATIONAL SECURITY’

JUNE 7, 2005

Good afternoon. This joint hearing will examine the strategies that the Department of Homeland Security (DHS) is employing to address widespread concerns that persons who threaten our national security may take advantage of the chaotic condition of our southern border to enter the United States. The hearing will also examine what resources DHS needs to bring the southern border under control so that terrorists and criminals are prevented from coming here.

I am pleased to welcome our distinguished witnesses. Border Patrol Chief David V. Aguilar offered our subcommittees valuable insights about conditions on the border when he last testified in April. Thank you for taking the time to share your expertise with us, Chief. Wesley J. Lee is acting Director of the Office of Detention and Removal (DRO) for U.S. Immigration and Customs Enforcement (ICE) within DHS. Congratulations on your recent assignment to that post, Mr. Lee, we wish you every success. Stewart Verdery is a Principal at Mehlman Vogel Castagnetti, Inc. Mr. Verdery served with distinction as the Assistant Secretary for Policy and

Planning at DHS' Border and Transportation Security Directorate from 2003 to 2005. Mr. Verdery, your written statement is a very thoughtful piece of work, and I thank you for it.

Many border state senators have long been concerned about the possibility of terrorists getting smuggled across our southern border with Mexico. Our concerns are shared by senior Administration officials. On February 16 of this year, former DHS Deputy Secretary Loy advised the Senate Intelligence Committee that “[r]ecent information from ongoing investigations, detentions and emerging threat streams strongly suggest that al-Qaida has considered using the southwest border to infiltrate the United States. . . . Several al-Qaida leaders believe operatives can pay their way into the country through Mexico, and also believe illegal entry is more advantageous than legal entry for operational security reasons.” Secretary of State Rice later commented on March 10 that “we have from time to time had reports about al-Qaeda trying to use our southern border . . . [it] is no secret that al-Qaeda will try to get into this country . . . by any means they possibly can . . . [t]hat's how they managed to do it before and they will do everything that they can to cross the borders.”

Despite these concerns, and despite the efforts of many border state senators, the United States government has not committed the resources necessary to perform the fundamental task of securing the border. As a result, our southern border is in a state of chaos, with thousands of aliens illegally crossing into the United States each week. Many of these aliens are not Mexican, but come from countries across the world, flying into Mexico and then sneaking across the

border on foot. Many do not have authentic identity documents. Many do not carry any documents at all. We do not know who they are. We do not know whether they intend to find work, or whether they plan to engage in acts of terror, or whether they are here to commit crimes in our open society.

This hearing is devoted, in part, to exploring what strategies DHS has in place to deal with these third country nationals, who are also referred to as “other than Mexicans” or OTMs. It is my understanding that DHS continues to engage in the practice of releasing OTMs into the United States because it lacks the detention facilities to hold them -- we want to know precisely what resources DHS needs to end that practice, which we consider a great hazard to our national security and public safety. Finally, we want to know what, if anything, the Mexican government is doing to assist the United States in deterring the flow of OTMs across our common border. I think many Americans have been surprised by the negative quality of recent statements of highly-placed Mexican officials, who appear to disparage our concerns about unchecked immigration and the border.