

U.S. SENATE COMMITTEE ON THE JUDICIARY

'HEARING TO EXAMINE THE PROSECUTION OF  
IGNACIO RAMOS AND JOSE COMPEAN'

JULY 17, 2007

OPENING STATEMENT OF SENATOR JON KYL

Good morning. We're here today to discuss a case that has angered a significant number of Americans. Americans are angry because it has been reported for months that a foreign drug trafficker carrying hundreds of pounds of marijuana in the United States led two Border Patrol agents on a high-speed chase in his vehicle, then attempted to run away from them on foot, and ended up getting himself shot; that this same drug trafficker was later admitted into our country and granted immunity to testify against the two Border Patrol Agents at trial; that the Border Patrol Agents were convicted and are serving lengthy prison sentences; and that the drug trafficker is now suing the United States government for millions in damages. It's not my intention to comment on the facts of this case, because it is still on appeal in the Fifth Circuit, but I understand the strong feelings that many people have about the series of events I've just mentioned.

I think that Americans also view this case as a yet another example of how the United States lacks control over its southern border. And that lack of control continues to be a source of frustration and righteous anger for a lot of Americans.

As this case demonstrates, an open border is basically an invitation to criminals who not only import addictive substances, but who also import a culture of violence, and a disregard for the law, which exacts a significant toll on our society.

To illustrate my point, the Government Accountability Office (GAO) issued a briefing in 2005 on criminal aliens arrested in the United States. The GAO found that 55,322 criminal aliens incarcerated in U.S. jails had been arrested at least 459,614 times, averaging about 8 arrests per illegal immigrant. And that study population was charged with nearly 700,000 criminal offenses, which included 5,992 homicide charges, 50,958 assault charges, and 11,833 crimes such as rape, molestation, and sexual assault. This year, the Department of Justice (DOJ) reported that, out of a study population of 100 alien criminals who were released from jail, 73 individuals were rearrested at least once, and those 73 individuals accounted for a total of 429 re-arrests, with 878 charges and 241 convictions. DOJ rightly concluded that the “rate at which released criminal aliens are rearrested is extremely high.”

Lastly, the Border Patrol has provided me some statistics showing that 115,638 illegal immigrants caught crossing our borders this past year had serious criminal histories. Among them were 247 who had committed homicide, 377 who had engaged in sexual assault, 4,343 who had committed crimes of violence, and 114 who had engaged in kidnapping. The American public considers the amount of criminality that we’ve permitted through lax immigration enforcement to be a scandal. So do I.

I believe that Americans would have been much more receptive to the recent immigration legislation proposed in the Senate if they believed that the Federal government was doing everything within its power to secure our borders. It's certainly within our power to do more, and it is abundantly clear that relatively modest enforcement programs yield significant results. Last year, the Department of Homeland Security (DHS) and DOJ joined forces in Operation Streamline to combat the illegal immigration of non-Mexicans in the area of Del Rio, Texas, by detaining and prosecuting them; within a short period of time, the number of non-Mexicans crossing the border in Del Rio dropped by 61 percent.

Remarkably, the placement of only several thousand National Guardsmen on the southern border this past year to support the Border Patrol in Operation Jumpstart has reduced overall apprehensions by 28 percent, meaning that nearly 336,000 foreign nationals were deterred from making an illegal border crossing simply because the National Guard was providing technical, material, and observation support to the Border Patrol. I should note that the Border Patrol reports that, of the 856,855 illegal immigrants apprehended by the Border Patrol from June 2006 to June 2007, 138,891 – better than 16 percent – had criminal histories in the United States. So, it's reasonable to assume that the National Guard dissuaded thousands of criminals from entering our country, and protected thousands of Americans from acts of violence.

Because the presence of the National Guard protects Americans from crime, and helps restore the rule of law to our border, I've proposed an amendment to the Department of Defense appropriations bill to maintain the level of National Guardsmen in Operation Jumpstart at 6,000 through the end of fiscal year 2008.

I also believe that the American public is frustrated that the Federal government has not done enough interior enforcement. It is widely believed that about 40 percent of the illegal immigrant population in the United States entered legally on a visa, and then failed to return home, yet we still lack a system that biometrically records the entry and exit of visitors to our country, so that DHS can track and remove overstayers. Nor do we have a robust employment verification system that will allow employers to easily and accurately verify the identity and work eligibility of job applicants, with the result that many hundreds of thousands of foreign nationals are motivated to illegally enter or remain in the United States each year. We also lack a number of significant legal authorities to ensure that persons who may threaten national security are promptly removed, that dangerous criminal aliens are not released from custody before removal, that criminal document forgers are punished, and that gang members are denied entry into the country. Finally, we don't have nearly enough enforcement personnel within DHS to fully enforce our laws at the border and in the interior of the United States.

Until Congress and the Administration affirmatively act to enforce the existing immigration laws, to demonstrate competency in the tracking and management of foreign

nationals, and to pass legislation that will enable us to put an end to this unfortunate era of illegal immigration, I believe the American public will continue to distrust the Federal government. Until we have regained that trust, I do not believe that the public will be receptive to plans for a temporary worker program to meet our economic needs, or to the idea that some form of relief should be made available to deserving foreign nationals who are illegally present in the United States.