

**TESTIMONY OF MICHAEL W. CUTLER
FOR THE HEARING TO BE HELD ON
MARCH 30, 2007
BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES,
BORDER SECURITY AND INTERNATIONAL LAW
"PAST, PRESENT AND FUTURE: A HISTORIC AND PERSONAL
RELECTION ON AMERICAN IMMIGRATION"**

Chairwoman Lofgren, Ranking Member King, members of Congress, ladies and gentlemen; it is an honor and a privilege to appear before this subcommittee. It is especially fitting to conduct a hearing about the past, present and future of immigration at this important historical location, Ellis Island. According to the Ellis Island Museum, from 1892 until 1954, this historic facility processed nearly 12 million aliens seeking to begin their lives anew in our land of freedom and opportunity. My mother, in fact, was one of those who first set foot on American soil when she stepped off the ocean liner that brought her to the United States a few short years before the onslaught of the Holocaust that caused the death and suffering of so many millions of innocent people. My grandmother, for whom I was named, was one of the 6 million who was killed for no reason other than the fact that she was a Jew. My father was born in the United States but his parents and most of his siblings arrived at Ellis Island in 1908 from Russia seeking the freedom and economic opportunity that were not possible in their homeland.

The United States was indeed built by immigrants and New York City is perhaps one of the most ethnically diverse cities in the entire United States of America. New York is not only an extremely diverse city; it is a city that celebrates its diversity with a great deal of passion. During the warmer months there is rarely a weekend when there isn't a parade, street fair or food festival that celebrates so many different cultures, ethnicities or religions. Our nation is greatly enriched by this diversity, living up to its motto, E Pluribus Unum, "From many, one." I am nearly as proud of being a New Yorker as I am of being a citizen of the United States.

However, as we celebrate the lawful immigration of people from all over the world who enter our nation in accordance with our laws, to share the "American Dream" I believe it is critically important that we distinguish between those aliens who enter our nation lawfully and those who enter our country in violation of law. Not long ago I sat in an auditorium at a college on Long Island, watching a series of panel

discussions as I awaited my turn to participate in a discussion about immigration. I heard one of the speakers make a disturbing point. She said that in the old days immigrants came through Ellis Island, today they come across the Mexican border. That simple statement illustrated that the debate about immigration often loses sight of reality. Ellis Island was not simply a terminal where aliens arrived and then waited to catch a ride to some town in the United States. Ellis Island was a facility that provided immigration inspectors, public health officials and others the opportunity to screen those aliens who were seeking to enter the United States to enjoy a far better way of life than was possible in their native countries. Simply arriving here was no guarantee of being admitted to the United States. Ellis Island was, in effect, America's waiting room.

If there was a doubt that the arriving alien might harbor a dangerous communicable disease, that person was kept here as long as necessary, until public health officials could determine if that applicant for admission posed a health risk to our citizens. Similarly, Ellis Island provided law enforcement officials with adequate time to identify those who might be fleeing criminal prosecution in their homelands. In those days there were no computers that could assist with this vital issue.

Today when aliens run our nation's borders without being inspected, the potential exists that these aliens may carry diseases. These aliens may be fugitives from justice in their home countries who have extensive criminal backgrounds. In this perilous era, the potential also exists that these aliens may be involved directly or indirectly with terrorism. This is not a matter of xenophobia; it is a matter of commonsense. Our nation needs to know who is entering or seeking to enter our country. At present it has been estimated that there are from 12 million to twenty million illegal aliens in our country whose true identities are unknown and ultimately unknowable. Because they are undocumented, we can not be certain of when they entered the United States and in fact, we cannot even be certain as to their true nationalities. The President has called for legalizing illegal aliens which would require our beleaguered adjudications officers at USCIS to suddenly have to confront many millions of applications for amnesty filed by aliens whose identities can not be verified. I fear that terrorists and criminals would seize this opportunity to acquire official identity documents in fictitious names in conjunction with such a guest worker amnesty program and use those documents as breeder documents to create new identities for themselves, obtaining driver's licenses, Social Security cards and other such documents. They could

then use these officially issued documents to embed themselves in our country and also circumvent the various terror watch lists and so-called no fly lists.

I started out by telling you how proud I am to be a New Yorker. On September 11, 2001 the United States was attacked but the focal point for much of the destruction was the iconic World Trade Center complex that would have been easily visible from this island on which we are now conducting this hearing. Our nation needs to balance its desire to open its doors to legitimate visitors and immigrants with the need to protect our nation and our citizens from those who would come here and do us harm.

Virtually all homes and apartments come equipped with a front door that has a peephole and a door bell. This is provided so that the responsible homeowner may determine whether or not to open his door to the stranger who shows up on his doorstep. For the United States, Ellis Island provided that peephole. Today millions of aliens enter our nation in accordance with law through many ports of entry. Many come for a temporary visit to engage in commerce, tourism, education or to visit a friend or family member. These visitors are inspected by an inspector of CBP who can attempt to determine the intentions of aliens seeking entry into the United States. It is a daunting job with a serious responsibility. I speak from experience because for the first four years of my career with the INS I worked as an immigration inspector at John F. Kennedy International Airport located not far from here.

Other aliens enter our country as immigrants, seeking to reside in the United States permanently, contributing to the vibrant tapestry that comprises the United States of America.

Of course, this inspection process is not without its failings and, indeed, it is estimated that perhaps as many as 40% of the illegal alien population of the United States did not run our nation's borders but were admitted through the inspections process and then, in one way or another, violated the terms of their admission into the United States, either by overstaying the temporary period for which a nonimmigrant alien was admitted, accepting unauthorized employment or by being convicted of committing a felony in our country. We have been told that the enforcement only approach to immigration does not work and that is why we need to have a guest worker program for millions of illegal aliens. In point of fact, the Office of the Inspector General just released a report that disclosed that the number of

fugitive aliens now stands at more than 600,000; nearly twice the number of such fugitives who were present in the United States on September 11, 2001. There are approximately 3,000 special agents at ICE to enforce the immigration laws from within the interior of the United States for the entire country. New York City has been found to be safest big city in the United States even though it has more than 8 million residents living in a city that covers some 400 square miles. This is largely attributable to the simple fact that the NYPD has roughly 37,000 police officers. The NYPD also has a wide variety of resources that can be called into action when the situation arises that require such resources.

Where immigration law enforcement is concerned, I believe that all that we have been given is the illusion of enforcement and it is the illusion that has failed to accomplish the mission of securing our borders against those who enter the United States illegally. The illusion of enforcement has failed to address the millions of illegal aliens who are present in our country today. The illusion of enforcement and the constant effort to keep up with the huge numbers of applications for immigration benefits has caused USCIS to put speed over accuracy as evidenced last year when it apparently naturalized 30,000 aliens even though their immigration alien files were among the more than 111,000 such files that were lost last year.

By not differentiating between those aliens who have played by the rules and abided by the law to enter our country to become a part of this magnificent nation and those aliens who succeed in violating our nation's borders and laws and then being rewarded for it, we make a mockery of our own laws and insult those decent people who have patiently waited their turn to lawfully immigrate to the United States.

It has been said that you only get one opportunity to make a first impression. For many people throughout the world, the first impression that they have about the United States and our resolve to live up to our standard of being a nation of law, is the way that we enforce or fail to enforce the immigration laws. It is therefore critically important that we do not create any ambiguity about the difference between being an alien who is lawfully present in the United States and being an illegal alien.

I look forward to your questions.