

STATEMENT BY

IGOR V. TIMOFEYEV

**DIRECTOR OF IMMIGRATION POLICY
AND
SPECIAL ADVISOR FOR REFUGEE AND ASYLUM AFFAIRS
DEPARTMENT OF HOMELAND SECURITY**

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SECURITY, AND INTERNATIONAL LAW**

HEARING ON

**PAST, PRESENT, AND FUTURE: A HISTORIC AND PERSONAL REFLECTION ON
AMERICAN IMMIGRATION**

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ELLIS ISLAND, NEW YORK AND NEW JERSEY

Madam Chairman, Representative King, Members of the Subcommittee:

Thank you for inviting me to testify before you today about the role of immigration in the development of American society. I am especially honored that my first appearance before your subcommittee – indeed, my first appearance before any congressional committee – is taking place at this symbolic location, the Ellis Island Immigration Museum.

As an immigrant myself, I have an immediate appreciation of the seminal role that the Ellis Island Immigration Station played in the immigration history of the United States. The Ellis Island Station is, first and foremost, a tribute to the industry, perseverance and hope of many immigrants who have left their home countries, and often their families, in order to build a new, better life for themselves in the New World. For most of the immigrants who arrived in the United States at the beginning of the twentieth century, the Ellis Island Station was the first American building to receive them. Some of my ancestors, such as my great-grandfather and some of his children, have passed through the walls of this building when, as Jewish immigrants from Russia, they decided to make the United States their new home.

The Ellis Island Center is also a symbol of the important role that the federal government plays in immigration. Prior to the end of the nineteenth century, individual states, rather than the federal government, regulated immigration into the United States. As a reaction to what would later be termed the “Great Wave” of immigration, on January 1, 1892, the federal government assumed the task of inspecting and processing all immigrants seeking admission to the United States. The Ellis Island Station was the most prominent embodiment of this newly federalized control over immigration policy and operations.

Lastly, Ellis Island is also a reflection of the increasingly multinational character of immigration. While we properly think of immigrants who passed through Ellis Island as individuals who made a deeply personal, and often painful choice, to leave behind the world they have known, Ellis Island is also a symbol of international cooperation between developed nations to manage migration. As Chief Aguilar described, the Ellis Island Station served as one of our Nation’s gateways for orderly, legal migration. The challenge that the Ellis Island Station was built to meet is the same challenge that we confront today – to find a way to encourage and promote legal immigration into the United States that benefits our country in a way that ensures security, while also guarding the United States against illegal migration by achieving effective control of the border and improving the enforcement of our immigration laws in the interior.

To meet this challenge, the Department of Homeland Security (DHS) is committed to realizing the President’s vision of immigration reform based on five essential principles: (1) gaining effective control over the border; (2) building a robust interior enforcement program; (3) establishing a Temporary Worker Program (TWP); (4) bringing illegal immigrants who are now in the United States out of the shadows; and (5) promoting assimilation of new immigrants into American society. Today, I would like to share with you some of my views on the history of immigration, on important initiatives the Department of Homeland Security is considering in this area, and on some of the principles we should keep in mind as we work to reform our immigration system.

History of Immigration and Integration

A hallmark of American immigration has been an emphasis on integration and inclusiveness. As early as 1790, President Washington recognized tolerance of newcomers as a distinctive trait of the United States. “The liberal sentiment towards each other,” he noted, “which marks every political and religious denomination of men in this country stands unrivaled in the history of nations.” An intrinsic part of this inclusiveness was the open invitation to any deserving immigrant to become a part of the American body politic through the act of naturalization. The words of Thomas Jefferson exemplify well this principle: “A foreigner of any nation, not in open war with us, becomes naturalized by removing to the state to reside, and taking an oath of fidelity; and thereupon acquires every right of a native citizen.”

The reality of accepting immigrants, however, has proven at times challenging. Indeed, moments in our history have reflected societal frustrations in upholding the ideal of America as a land welcoming to newcomers. At various points in recent history, from the 1800s to today, such frustrations have manifested themselves in such acts as the Chinese Exclusion Act, the Know-Nothing Party, nativist violence in New York, and anti-immigrant violence in California.

Counterbalancing against such tendencies, however, have been efforts aimed at recognizing immigrants as key contributors to America’s economy and culture and actively working to integrate them into the fabric of American society. One positive reaction to the “Great Wave” of immigrants flooding America’s borders at the turn of the last century was the “Americanization” movement, which found both the government and the private sector working to address the challenges posed by the increased immigration and to help those newcomers become full-fledged Americans.

Since 2000, the United States has welcomed more than four million new citizens and seven million legal permanent residents – a number reminiscent of the number of immigrants that arrived in America during the “Great Wave” at the turn of the previous century. Today, immigrants come from a greater variety of countries and regions than ever before. Moreover, they settle in new places, in addition to traditional immigrant destinations. For example, the “New Gateways” of North Carolina, Georgia, and Nevada have each experienced greater than 200% growth in their respective immigrant populations over the last decade. These communities are learning how to meet the challenge of developing experience and resources necessary to manage this growth.

With the creation of the Department of Homeland Security, the federal government is reinvigorating its efforts to be directly involved in integration initiatives, alongside community-based organizations, faith-based groups, and educational establishments. Notably, President Bush recently created the Task Force on New Americans, an inter-agency group designed to enhance and expand nationwide efforts to proactively integrate new immigrants and encourage assimilation. The Task Force is coordinating the efforts of the executive branch agencies in helping immigrants to settle and to integrate into the United States, working together with many private- and non-profit partners that assist newcomers. The primary efforts of the Task Force are directed at promoting instruction in English language and common U.S. civic values and history as ways to equip immigrants with the means they need to succeed in their communities.

Current initiatives of the Task Force include:

- Providing adult educators, host communities, volunteers, and newcomers with resources needed to help immigrants settle in the United States, learn English, and realize American values. These resources include creation of a one-stop government website listing all federal resources for immigrants and a program to encourage and train Americans to volunteer to teach English and civics to new immigrants.
- Identify ways to expand English and civics instruction for legal immigrants, including through faith-based, community, volunteer, and other groups. This will include a comprehensive online training tool for adult English as a Second Language instructors who want to include civics and naturalization preparation within their curricula, in addition to other technical resources.
- Prepare recommendations to the President regarding actions to enhance the integration of legal immigrants into American society. To conduct research for this report and examine best practices in integration, the Task Force is holding a series of roundtables with representatives from academia, business, community and faith-based organizations, adult education, public libraries, state and local government, philanthropy, and traditional civic organizations.

I also would like to discuss a specific facet of immigration, namely the refuge that the United States has provided from its inception to individuals fleeing persecution. Indeed, one of the origins of our nation is the search of the Pilgrims and Puritans for religious safe haven in the early-to mid-1600s. This legacy endured both before and after the United States' independence. Throughout their history, the American colonies received many refugees, especially those seeking religious freedom. Moreover, some colonies, like Pennsylvania, were expressly established for that end.

Since independence, refugees continued to come to, and find welcome in, the United States in ever-increasing numbers. In 1967, the United States became a party to the United Nations Convention Relating to the Status of Refugees. The Convention gave official weight to the concept of asylum and provided a definition of refugee based on a fear of persecution. It also set forth certain responsibilities and expectations for participating states with respect to the treatment and processing of refugees and asylum-seekers.

Today, U.S. Citizenship and Immigration Services, a component of DHS, houses both a newly minted Refugee Corps and a well established Asylum Corps, corps of professional officers who receive special training in international human rights law, conditions in countries of origin, and other relevant national and international refugee law. In coordination with international and other executive branch partners, officers from these corps adjudicate tens of thousands of asylum and refugee applications every year, enabling refugees and asylum seekers from all corners of the world to receive the protection of the U.S. government and resettle in communities located across the United States to begin their lives anew.

Challenge of a Successful Immigration Reform

To meet today's challenges in the area of immigration, we need Congress to enact immigration reform legislation that would be both effective and workable. I would like to focus on two areas that will be of crucial importance to immigration reform legislation: worksite enforcement and programs for temporary guest workers and undocumented workers already in the United States.

Improvements in worksite enforcement are central to effective immigration reform. By closing the existing loopholes that allow illegal aliens to find jobs, we will remove the main economic incentive that draws illegal immigration to the United States.

First, we should make it mandatory for employers to use the Electronic Employment Verification System. This is a system that would enable employers to confirm, quickly and accurately, that their new employees are United States citizens or work-authorized aliens.

Second, we should ensure that DHS is granted greater access to Social Security data.

Finally, and most crucially, we should provide DHS with flexible authority to establish new requirements in response to new forms of worksite fraud, such as identity theft. We should not repeat the mistake of the past, when we deprived our immigration authorities of the ability to adjust these requirements in order to meet changing fraud patterns.

Two equally important components of immigration reform are the creation of a lawful, orderly mechanism to enable foreign workers to enter the United States on a temporary basis to fill jobs for which U.S. workers cannot be found and the development of a plan to bring millions of illegal aliens working in the shadows of our economy under the rule of American law. The TWP program should have a built-in flexibility to periodically adjust the number of guest worker visas issued based on the United States' economic needs at a particular time. This program would be a part of the overall effort to ensure that our immigration system is well geared to serve the economic needs of the American society.

Undocumented workers who are already in the United States will be given a clear choice: They can continue to work illegally and risk being detected, apprehended and sent back to their home country, or they can come out of the shadows, pay their debt to society, and obtain legal status. At the same time, however, there should be no special privileges for individuals who broke our law. Once they acknowledge their transgression, they would have to get in the back of the line behind those who have played by the rules and sought to come to the United States through legal means. No special path to citizenship should be created for individuals who broke our laws; that would be a disservice to immigrants who have come here legally. But once these individuals have achieved full reconciliation with the law, they should not be precluded from beginning the process of legally integrating themselves into the American society through generally applicable programs.

There are a few key principles that should guide us as we work on crafting these two programs:

First, we need to have transparent and consistent application standards that will protect applicants to these programs, guide adjudicators, and prevent fraud. If we make the application and adjudication processes confusing and complicated, we will magnify the possibility of fraud and abuse. Nor can we condone, as was done under the Immigration Reform and Control Act of 1986, a system that gives a blank check of “confidentiality” for information learned in the course of adjudicating applications for the program. We must ensure that artificial walls do not separate our counterterrorism and law enforcement investigators from information that could protect Americans.

Second, we should design judicial review of application decisions carefully. While we must ensure that applicants are treated fairly and objectively, we must also guard against the application process descending into never-ending litigation. Excessive litigation will break any immigration system, and these programs would be no exception.

Third, as with worksite enforcement, DHS must be given flexibility necessary to implement and manage a TWP and a program for currently undocumented workers. The challenge of implementing these two programs will be considerable, and to perform this task well DHS would need sufficient time and resources to develop regulations, develop and implement contract requirements, hire and train additional workers, and plan for the substantially enhanced workload.

We are working today on a difficult, but vitally important task, of creating a workable, common-sense immigration policy for America. This policy should enhance our security, strengthen our economy, and honor both the rule of law and our heritage as a nation of immigrants. I thank you for the opportunity to share some of my thoughts on this subject, I look forward to working with you on this task, and I would be pleased to answer any questions you may have.