



U.S. Immigration and Customs Enforcement

STATEMENT

OF

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

REGARDING A HEARING ON

“ILLEGAL TUNNELS ON THE SOUTHWEST BORDER”

BEFORE THE

**UNITED STATES SENATE
CAUCUS ON INTERNATIONAL NARCOTICS CONTROL**

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226 DIRKSEN SENATE OFFICE BUILDING**

INTRODUCTION

Chairman Feinstein, Co-Chairman Grassley, and distinguished Members of the Caucus:

On behalf of Secretary Napolitano and Director Morton, I would like to thank you for the opportunity to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE) to combat illegal tunneling on the Southwest Border. ICE has the most expansive investigative authority and largest force of investigators in the Department of Homeland Security (DHS). With nearly 7,000 Special Agents assigned to more than 200 cities throughout the United States, and 70 offices in 48 countries worldwide, ICE is uniquely positioned to leverage its broad statutory authority to support border enforcement by targeting the illicit pathways and organizations that produce, transport, and distribute illegal contraband.

The illicit drugs, money, and weapons that fund and arm criminal organizations operating along the Southwest Border are part of a complex system of pathways used by transnational criminal organizations that span the globe. ICE targets transnational criminal organizations at every critical phase in the cycle -- internationally, at our nation's physical border and ports of entry (POEs), and in cities throughout the United States in which criminal organizations earn substantial profits off of the smuggling of illicit goods.

ICE's efforts are conducted in close coordination with our partners at U.S. Customs and Border Protection (CBP), the Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Federal Bureau of Investigation (FBI), the U.S. Marshals Service, the U.S. Department of Justice, and our state, local, tribal and foreign partners. ICE's work also directly supports the Mérida Initiative, a Department of State program to establish a strategic framework to guide United States-Mexico cooperation. Our growing partnership with

Mexico is critical to our continued success in disrupting criminal activity along the Southwest Border.

Illegal Tunneling on the Southwest Border

The use of clandestine cross-border tunnels represents a unique tactic that is being used by transnational criminal organizations. These groups continue to invest in techniques to circumvent border security and have demonstrated enduring and creative, evolving capabilities to construct and use underground passageways to transport narcotics, people, and contraband into the continental United States. For these reasons, a Tunnel Strategy Appendix is now included in the National Southwest Border Counternarcotics Strategy.

Illicit tunnel activity has been on the rise since the first documented tunnel was discovered in 1990. Since then, 154 tunnel attempts have been discovered, all but one of which were located along the Southwest Border. Over the past several years, law enforcement has seen a marked increase in the number and sophistication of tunnels. This increase is a direct result of increased pressure by federal, state, and local law enforcement authorities against transnational criminal organizations, driving them to adapt and evolve their smuggling tactics, techniques and routes.

The considerable sophistication, as well as the extensive time and labor that go into the construction of tunnels, suggest that smugglers consider tunnels to be a useful investment despite the risk of discovery and interdiction. An example of this is the nearly half-mile cross-border tunnel discovered in San Diego, California on November 25, 2010, by agents on the ICE-led Border Enforcement Security Task Force (BEST) Tunnel Task Force (TTF). The tunnel traveled 2,200 feet at a depth of 90 feet and included shoring, electricity, ventilation, and a rail system to

assist in ferrying contraband. The entrance was concealed under a hydraulic steel door in the kitchen of a Tijuana, Mexico residence. The tunnel exited into a warehouse near the Otay Mesa port of entry in California. It is estimated this tunnel took more than a year to construct at a cost of more than \$1 million.

Successfully countering illegal tunnels requires investigations that disrupt and dismantle the criminal organizations responsible for their construction and use. These crucial investigations are best supported by two critical capabilities: intelligence collection and sharing related to the planning, financing, construction, and use of tunnels; and the detection of tunnel construction and smuggling activities.

ICE Efforts to Counter the Tunnel Threat

ICE Homeland Security Investigations (HSI) serves as the lead agency for all counter-tunnel investigations. As you know, ICE has primary jurisdictional authority to investigate and coordinate the prosecution of individuals and criminals engaged in unlawful tunnel-related activities along the Southwest Border. ICE engages in counter-tunnel investigations primarily through the BEST TTF construct.

In 2003, ICE created the multi-agency San Diego TTF to identify, disrupt and dismantle transnational criminal organizations that seek to exploit the border between the United States and Mexico by constructing subterranean tunnels and passageways for the purpose of smuggling. In 2006, ICE incorporated the TTF in San Diego into the newly-established BEST (ICE's program to promote border-related coordination between federal, state, local, tribal, and international law enforcement agencies). The BEST serves as the local point of contact for counter-tunnel investigations and intelligence, technology detection development, equipment field testing, and

rescue emergency services. Likewise, CBP serves as the point of contact for tunnel interdiction, remediation, technology detection development, equipment field testing, rescue and emergency services, and community outreach. The TTF brings together investigators from several agencies including ICE, CBP, DEA, the U.S. Department of Defense, and various state and local agencies to combat the tunnel threat. Whether through the TTF or existing field relationships between local CBP and offices, both ICE and CBP work collaboratively in combating tunnel threats.

Our efforts to combat illicit tunnels are producing results. For example, on November 2, 2010, San Diego BEST TTF agents discovered a sophisticated 600-yard underground cross-border passageway that led to the seizure of 30 tons of marijuana, the second largest drug seizure on U.S. soil with a value of approximately \$30 million. TTF agents utilized various investigative methods that identified a possible tunnel exit point located near Otay Mesa, California. In addition, TTF agents identified a tractor trailer leaving the suspected tunnel location and the vehicle was stopped at a U.S. Border Patrol checkpoint in Temecula, California where agents found approximately 10 tons of marijuana. Following the seizure, TTF agents searched the building from which the truck departed and discovered a 16-ton cache of marijuana and the exit of a cross-border tunnel. TTF agents quickly alerted Mexican military personnel who located the tunnel's entrance at a warehouse in Tijuana. Inside that building Mexican authorities recovered an additional four tons of marijuana.

Another recent success resulted in the first-ever prosecution under 18 U.S.C § 555 (Border tunnels and passages). On December 11, 2009, Mexican military officials notified the ICE office in Calexico, California of a partially built subterranean tunnel. The Mexican Office of the Attorney General reported that individuals detained provided information that the exit point was located in a warehouse in Calexico. On December 14, 2009, ICE Special Agents

discovered the exit point of the tunnel. During the search of the tunnel, agents discovered a receipt from a hotel in El Centro, California, in the name of Daniel Alvarez. One week later, ICE Special Agents arrested Alvarez who ultimately pled guilty to 18 U.S.C. § 555, knowingly constructing a tunnel/passage into the United States, and was sentenced in the Southern District of California to 15 months imprisonment and three years of supervised release.

ICE has also been successful in combating unsophisticated tunnels that take advantage of existing subterranean infrastructure. On December 13, 2010, working in conjunction with CBP and the Government of Mexico, ICE Special Agents in Nogales, Arizona discovered a cross-border tunnel that resulted in the arrest of one individual and the seizure of 2,194 pounds of marijuana. The smuggling tunnel's exit point was a 10-inch narrow opening which penetrated the street on the U.S. side of the border. Smugglers utilized this underground pass-through to push cylindrical bundles of marijuana through the hole to a waiting transport vehicle. During surveillance, Special Agents observed an individual arrive at the tunnel exit-point in a van and load the vehicle with suspected packages of marijuana from the hole in the street. These and other tunnel discoveries are the result of our collaboration with other agencies and use of state of the art electronic surveillance technology and investigative techniques to combat cross-border smuggling by criminal organizations.

One of the primary goals of the TTF is to stop tunnels before they become operational. Nearly half of all tunnels that have been discovered to date were not yet operating at the time of discovery. This trend has increased over recent years, and demonstrates the success of our collective efforts on the TTF and our increased coordination with the Government of Mexico.

To complement our investigations, ICE created the San Diego Tunnel Detection Outreach program, which is a community outreach and intelligence-driven enforcement initiative. The

goal of this program is to educate the owners of property near the border on the indicators of tunneling activity and to increase communication between citizens and the TTF. In turn, this initiative aims to leverage the increased awareness and communication to generate new tunnel leads, cultivate source informants, and initiate increased criminal investigations and prosecutions. The San Diego Tunnel Detection Outreach program is primarily carried out through door-to-door canvassing of properties near the border in areas known for illegal tunnel activity and has proven to be a valuable law enforcement tool.

Intelligence Support for ICE Investigations along the Southwest Border

A robust intelligence and information sharing mechanism is critical to dismantling transnational criminal organizations operating along the Southwest Border. The ICE Office of Intelligence provides strategic, operational, and tactical intelligence support to enable counter-tunnel efforts. Through its various entities, the ICE Office of Intelligence uses an all-source analytical approach to track and identify networks and trends that enable transnational criminal organizations to operate along the Southwest Border. The ICE Office of Intelligence has also levied intelligence requirements to the Intelligence Community, requested additional information from the IC on targets, and developed strategic intelligence products in response to requests for information on tunnels.

ICE draws on its intelligence assets from our headquarters-based Office of Intelligence, the field-based Intelligence Teams supporting our Special Agents in Charge and Attaché Offices, and intelligence liaisons assigned to work with interagency partners in order to execute its law enforcement operations successfully. Over the past year, ICE has deployed additional intelligence analysts and officers to our offices on the Southwest Border, in Mexico, and to the

El Paso Intelligence Center (EPIC). These key personnel support ICE investigations with their subject matter expertise on transnational criminal organizations engaging in illicit activity such as money laundering, narcotics trafficking, illegal tunneling, human trafficking, alien smuggling, and counter-proliferation.

In December 2010, ICE prepared a baseline assessment of illegal tunnel activity along the Southwest Border in an effort to provide a strategic overview of illegal tunneling and offer recommendations for mitigating this threat. This report was provided to ICE leadership, inter-agency partners, the DHS Intelligence Enterprise via the Homeland Security Intelligence Council, and through the BEST to federal, state, local and tribal partners. The report identified areas of vulnerability, analyzed tunnel characteristics and trends, and identified key agencies involved in combating the tunnel threat. The assessment also provided an analysis of the relationship between tunneling activity and transnational criminal organizations and considered pertinent factors involved in combating the tunnel threat, including relevant legislation, current tunnel detection technology, and emerging tunnel threats.

Initiatives with the Government of Mexico

Cooperation between the Government of Mexico and U.S. officials on issues related to tunnels has been on the rise in the past several years. The ICE Assistant Attaché in Tijuana, Mexico is creating a joint ICE-Government of Mexico investigative tunnel response team that will focus on the identification and investigation of tunnels on the Mexican side of the border. The team will initially focus its efforts in the Tijuana area, eventually expanding its scope to respond to tunnels detected along the entire Southwest Border.

ICE has also procured emergency rescue and tunnel safety equipment for the Mexican military and the Secretaria de Seguridad Publica (SSP). In addition, ICE anticipates purchasing tunnel-exploring robots in order to test the safety and stability of tunnels prior to entry by law enforcement. The ICE Assistant Attaché in Tijuana, in coordination with the San Diego BEST TTF, will provide training to Mexican military and SSP officers on the proper use of ICE-provided equipment.

ICE is also sharing critical information with Mexican authorities to assist them in their fight against transnational criminal organizations. On March 23, 2010, Secretary Napolitano signed an unprecedented agreement with then-Government Secretary Fernando Gómez-Mont and SSP Secretary Genaro García Luna in Mexico that memorializes DHS's efforts to share criminal history information electronically with Mexican law enforcement about Mexican nationals who are being repatriated from the U.S. and who have been convicted of certain felonies in the United States. ICE worked closely with the Department of Justice and the FBI to ensure that all parties adhere to regulations on the sharing of this criminal record information and the agreement includes language that precludes Mexico from refusing to accept repatriation of Mexican nationals.

CONCLUSION

Thank you again for the opportunity to appear before you today and for your continued support of ICE and its law enforcement mission. ICE is committed to mitigating the threat of illegal tunneling activity along the Southwest Border through the various efforts I have discussed today. I appreciate your interest in this important issue.

I would be pleased to answer any questions you may have.