



U.S. Immigration and Customs Enforcement

STATEMENT

OF

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REGARDING A HEARING ON

**“MONEY LAUNDERING AND BULK CASH SMUGGLING
ALONG THE SOUTHWEST BORDER”**

BEFORE THE

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

**WEDNESDAY, MARCH 9, 2011 – 2:30 p.m.
562 DIRKSEN SENATE OFFICE BUILDING**

INTRODUCTION

Chairman Feinstein, Co-Chairman Grassley, and distinguished Members of the Caucus: on behalf of Secretary Napolitano and Assistant Secretary Morton, I would like to thank you for the opportunity to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE) to combat cross-border smuggling organizations and the illicit proceeds used to fund their criminal activities. ICE has the most expansive investigative authority and largest force of investigators in the Department of Homeland Security (DHS). We protect national security and uphold public safety by targeting transnational criminal networks and terrorist organizations that seek to exploit our borders and America's legitimate trade, travel, and financial systems. Recognizing that partnerships are essential, ICE works closely across agency and international boundaries with our law enforcement partners at the foreign, federal, tribal, state and local level creating a united front to disrupt and dismantle transnational criminal organizations.

ICE's expertise in combating criminal organizations that exploit vulnerabilities in the sea, air, and land environments has proven essential in countering the smuggling of narcotics, money, dangerous goods, people and materials that threaten the well-being of the United States. Our law enforcement presence is global and ICE has a wide network of agents in attaché offices at embassies and consulates worldwide, all working in concert to target transnational criminal organizations. I am proud of these agents who work closely with their foreign counterparts to dismantle criminal organizations before they reach our nation's borders.

I would be remiss if I did not mention the recent brutal attack on two of our Special Agents who were shot in the line of duty while on mission in central Mexico in late February. ICE Special Agent Jaime J. Zapata lost his life and Special Agent Victor Avila was seriously injured in the service of our country. Sadly, this tragedy is a stark reminder of the dangers

confronted and the sacrifices made every day by our nation's law enforcement officers, and our hearts and prayers continue to go out to the victims and their families. Special Agent Zapata died fighting for what was right and will forever be remembered as a man of courage and honor. ICE is committed to continuing to assist the ongoing Mexican investigation to ensure that the perpetrators of this crime are brought to justice.

I want to stress that our working relationship with fellow law enforcement and civilian agencies in Mexico remains extremely positive and well-coordinated. As an example of the increasing coordination and cooperation, I would like to highlight the Bi-National Criminal Proceeds Study, which was released in June 2010.

This study, organized by ICE and commissioned by the Department of Homeland Security's Office of Counternarcotics Enforcement, was prepared in collaboration with the Government of Mexico and other federal agencies and underscores our shared commitment to fighting transnational criminal organizations. This bi-national study reveals the means by which transnational criminal enterprises move criminal proceeds from the United States into Mexico and beyond. The information outlined in the study—including critical assessments of money collection sites, transport routes, and chokepoints—enables the United States and Mexico to strategically target our law enforcement operations. The study and its findings are being addressed and implemented as part of several bi-national planning and strategic working groups. ICE participates in and/or leads these groups, which provide a forum for U.S. and Mexican law enforcement to coordinate, de-conflict and enhance significant criminal investigations of mutual interest.

Southwest Border Initiatives

In March 2009, the Administration launched the Southwest Border Initiative to bring unprecedented focus and intensity to Southwest border security, coupled with a reinvigorated, smart and effective approach to enforcing immigration laws in the interior of our country. In support of this initiative, ICE, through the Border Enforcement Security Task Forces (BEST) has targeted considerable resources at the Southwest border to interdict contraband, firearms, ammunition, undeclared currency, stolen vehicles, human smuggling, transnational criminal organizations, tunnel detection and other border crime at and between ports of entry along the Southwest border.

In FY 2010, ICE deployed special agents to high-risk locations, including Tijuana and Monterrey, and initiated 15,013 investigations along the Southwest Border – an increase of 16 percent over FY 2009.

Additionally, with the aid of the \$600 million supplemental appropriation that was requested by President Obama and passed by Congress in the summer of 2010, ICE is placing over 250 positions, including special agents, investigators and intelligence analysts, along the border. Indeed, ICE now has one quarter of its personnel assigned to the Southwest border, more agents and officers along the border than ever before.

TARGETING TRANSNATIONAL CRIMINAL ORGANIZATIONS AND PURSUING MONEY LAUNDERING AND BULK CASH SMUGGING INVESTIGATIONS

One of the most effective methods for dismantling transnational criminal organizations is to attack the criminal proceeds that fund their operations. ICE targets members and associates of transnational criminal organizations that seek to exploit vulnerabilities in the trade, travel and financial systems to earn, move and store their illicit proceeds. ICE investigations utilize a

“supply chain attack” strategy designed to create cascading failures within a criminal organization by simultaneously targeting multiple components within the organization.

The combination of successful financial investigations, reporting requirements under the Bank Secrecy Act, and anti-money laundering compliance efforts by financial institutions has strengthened formal financial systems and forced criminal organizations to seek other means to transport illicit funds across our borders. ICE, as the investigative agency with jurisdiction over all border crimes, investigates bulk cash smuggling violations, which are predicated on the failure to file a Currency and Monetary Instrument Report (CMIR) with U.S. Customs and Border Protection (CBP).

ICE’s National Bulk Cash Smuggling Center

On August 11, 2009, ICE officially launched the National Bulk Cash Smuggling Center (BCSC), which is a 24/7 investigative support and operations facility co-located at the Law Enforcement Support Center in Williston, Vermont. Since its launch, the BCSC has undertaken a full assessment of the bulk cash smuggling threat and has developed a strategic plan to address the problem.

The BCSC utilizes a systems approach to identify vulnerabilities and disrupt the flow of illicit bulk cash at the Southwest border and beyond. By analyzing the movement of bulk cash as a systematic process, ICE develops enforcement operations to defeat the various smuggling methodologies currently employed by trafficking organizations. This approach allows us to more efficiently and effectively utilize our interdiction and investigative resources.

To date, the BCSC has initiated 329 investigations, which have resulted in more than 35 arrests and more than 70 seizures. In July and August 2010, ICE Special Agents working in

conjunction with state and local law enforcement officers seized more than 4,000 pounds of narcotics stemming from a BCSC investigation into a criminal organization based in New York City and Philadelphia that was responsible for the movement of bulk cash across the Southwest border to Mexico. To date, this investigation has resulted in four arrests and the seizure of more than \$3 million in narcotics proceeds. ICE continues to work with its partners in Arizona, Maryland, Texas and New York to identify additional associates of this trafficking organization.

ICE is further cooperating with both foreign and domestic law enforcement partners to disrupt the criminal organizations that are smuggling narcotics into the United States and smuggling bulk cash shipments out. The expanding relationship between ICE's BCSC and the Drug Enforcement Administration's (DEA) El Paso Intelligence Center (EPIC) is a key component of these efforts.

The relationship between the BCSC and EPIC is mutually supportive. The respective missions have distinct but complementary roles in combating the flow of illicit finance that is fueling violence in Mexico. The BCSC and EPIC are currently coordinating the establishment of the Bulk Cash Smuggling Center Intake & Analysis Section (BCSC I&A) at EPIC, which will be led by ICE with participation from our law enforcement partners. The BCSC I&A will function as a single point of contact for state and local law enforcement entities to report bulk currency interdictions and receive immediate real-time analysis and support. In addition, the BCSC has invited EPIC to staff a position(s) at the BCSC to further strengthen the relationship between the two centers.

Operation Pacific Rim

Operation Pacific Rim is an ICE-led investigation, with the assistance of DEA and FBI, which dismantled one of the most powerful and sophisticated bulk cash and drug smuggling super-cartels in the world. This super cartel was responsible for nearly half of the cocaine smuggled from Colombia into the United States between 2003 and 2009: approximately 912 tons with an estimated street value of \$24 billion.

Operation Pacific Rim originally targeted suspicious containerized shipments of fertilizer at Colombian seaports in Buenaventura and Cartagena. In September 2009, ICE special agents, working closely with the Colombian National Police and the Mexican Secretariat of Public Security, intercepted \$41 million in bundles of shrink-wrapped bulk cash concealed within shipments of fertilizer intercepted at seaports in Colombia and Mexico.

Subsequent to the \$41 million seizure, special agents from ICE Attaché offices in Bogota and Mexico City expanded the scope of the investigation by identifying the bulk cash and drug smuggling routes utilized by the cartel. ICE Special Agents eventually obtained enough information to launch an offensive across three continents, resulting in the capture of the leadership and other high ranking members of the Pacific Rim Cartel. During the arrest of these individuals, ICE developed and utilized cooperating defendants that led to the seizure of an additional \$163.8 million in illicit bulk currency, 3.3 tons of cocaine, \$179 million in assets, and \$37 million in criminal forfeiture warrants. ICE's efforts helped lead to 22 indictments, 21 arrests, and nine convictions.

Operation Firewall

ICE's Operation Firewall disrupts the movement and smuggling of bulk cash en route to the border, at the border, and internationally via commercial and private passenger vehicles, commercial airline shipments, airline passengers and pedestrians. Since 2005, we have enhanced Operation Firewall efforts to include surge operations targeting the movement of bulk cash destined for the Southwest border to be smuggled into Mexico. In fiscal year 2010, Operation Firewall efforts in Mexico resulted in seizures totaling over \$6.1 million, the arrest of 13 couriers and the initiation of over a dozen joint criminal investigations. Since its inception in 2005, Operation Firewall has resulted in more than 5,100 seizures totaling more than \$494 million and the arrest of more than 1,000 individuals. These efforts include more 300 international seizures totaling more than \$236 million and over 215 international arrests.

In addition to our international investigations, domestic Operation Firewall efforts assist us in documenting and gathering intelligence on how organizations involved in bulk cash smuggling operate. For example, in May 2010, during a routine traffic stop, the ICE Special Agent in Charge office in St. Louis and the Illinois State Police found and subsequently seized \$91,550 that was concealed within several natural voids in a vehicle. The subjects admitted that the currency was proceeds from the sale of cocaine, and that they were being paid to drive the currency back to Mexico. These individuals also admitted to having been involved in the smuggling of narcotics and currency about once every two weeks for several years. One of the occupants added that the Mexico-based criminal organization with which he was affiliated regularly exploited his criminal record by using him as a "decoy vehicle" as he entered the United States from Mexico. He stated that while CBP officers questioned and searched his vehicle, other vehicles laden with cocaine were able to pass undetected. Both individuals pled

guilty to narcotics-related offenses. One of the individuals was sentenced to 140 months in prison, while the other individual awaits sentencing.

Operation Cornerstone

In July 2003, ICE launched its Cornerstone Outreach Initiative to work in partnership with the private sector to systematically and strategically identify and close down vulnerabilities in financial systems through which criminals launder their illicit proceeds. ICE builds both domestic and international partnerships by sharing law enforcement trends and methods with businesses and industries that manage the systems terrorists and criminal organizations seek to exploit. .

ICE provides training to the private sector on how to identify and prevent exploitation by criminal organizations. ICE special agents serve as subject matter experts in various types of money laundering methods, including fraudulent schemes, money service businesses, casinos, non-cash negotiable instruments, alternate remitters, charities, outbound currency initiatives, organized retail crime and schemes to pay illegal alien workers.

Through January 31, 2011, ICE special agents conducted approximately 9,818 Cornerstone outreach and training presentations to approximately 193,350 participants worldwide. Through fiscal year 2010, ICE's outreach efforts have resulted in the initiation of 416 criminal investigations that led to 270 arrests, 234 indictments, 183 convictions, and the seizure of nearly \$157 million.

Prepaid and Stored Value Cards and Other Emerging Methods

The terms “prepaid card” and “stored value card” (collectively “PP/SVCs”) are commonly used in reference to any card that represents money stored on or accessible by a card to facilitate a consumer’s purchases of goods, services, or further conversion to cash through an ATM. These cards may be “open loop” or “closed loop.” Open loop cards are usually network-branded, often reloadable, and can be used at point of sale terminals and ATMs anonymously. Closed loop cards, on the other hand, are designated for use at a specific merchant, typically have load limits, and cannot be converted back to cash. Examples of closed loop PP/SVCs include gift cards, mass transit cards, and prepaid phone cards.

According to the 2007 U.S. National Money Laundering Strategy, “stored value cards (sometimes referred to as prepaid cards) are an emerging cash alternative for both legitimate consumers and money launderers alike.” Of the two types, money launderers appear to prefer the open loop PP/SVCs because of their capability to be used at point of sale terminals, their wide acceptance by hotels and car rental agencies, and their portability. These cards enable the user to obtain cash from ATMs worldwide without going through a currency exchange. Additionally, cards issued by offshore financial institutions—and therefore not subject to U.S. reporting requirements—are widely available on the internet, including cards with very high load limits. PP/SVCs may be attractive to money launderers and smugglers as an alternative to bulk cash not only because of their small size and portability, but also because they are not expressly defined as monetary instruments under U.S. statutes and regulations and, therefore, they are not expressly and specifically subject to the CMIR reporting requirements or the potential bulk cash smuggling and structuring violations that stem from this requirement.

An October 2010 Financial Action Task Force (FATF) report titled “New Payment Methods” states “... it appears that since 2006, a limited number of cases involving cross-border transport of prepaid cards has started to emerge. The lack of examples can be explained by the fact that prepaid cards are not considered monetary instruments in most jurisdictions and that it is very difficult for customs officers to easily differentiate prepaid cards from regular credit cards given that both share very similar physical attributes.” ICE contributed to the FATF report, and in order to provide much needed information to law enforcement, ICE developed and distributed a pamphlet to inform and educate ICE personnel, as well as federal, state, local and foreign law enforcement partners. The pamphlet, titled “Emerging Trends in Money Laundering: Pre Paid Cards,” provides an overview of how PP/SVCs function and outlines specific vulnerabilities associated with them. ICE also delivers instruction on the money laundering vulnerabilities associated with the misuse of PP/SVCs at domestic and international money laundering conferences and seminars sponsored by organizations like the Asia Pacific Economic Cooperation group, the FATF, the World Customs Organization, the Organization of American States and the United Nations Office of Drugs and Crime, among others.

As a result of ICE’s outreach efforts, domestic law enforcement agencies are now voluntarily reaching out to ICE when they encounter these cards. Over the last six months, authorities in New Mexico have encountered two separate instances where hundreds of PP/SVCs were found concealed in a compartment similar to those used to conceal cash, drugs and other contraband. The cards are also being used by criminal organizations to cover “expenses” incurred by their couriers as they transport cash, drugs and other contraband across the country. Customs authorities in Jamaica recently contacted the ICE Attaché Kingston requesting assistance with hundreds of U.S. issued PP/SVCs they are finding in mail coming from the

United States. These cards are associated with advance-fee schemes, which primarily target elderly U.S. citizens.

The Credit CARD Act of 2009 mandated that the U.S. Department of the Treasury (Treasury), in consultation with DHS, address the risks associated with these cards. Section 503 of the Act required that Treasury issue regulations in final form within 270 days implementing the Bank Secrecy Act regarding the “sale, issuance, redemption, or international transport of stored value,” and that such regulations regarding international transport of stored value may include subjecting these cards to the cross-border reporting requirement. ICE has met with Treasury’s Financial Crimes Enforcement Network on multiple occasions since the Act was enacted on May 22, 2009, to ensure that the regulations, which have not yet been issued, adequately mitigate the risks associated with the international transport of PP/SVCs.

ICE’s Efforts to Combat Kleptocracy

Through our Foreign Corruption Investigations Group in Miami, ICE works with foreign governments to conduct investigations into the laundering of proceeds emanating from foreign public corruption, bribery or embezzlement, also referred to as “kleptocracy.” The objective is to prevent these funds from entering the U.S. financial infrastructure, to seize identified assets in the United States, and to repatriate these funds to the proper foreign government authorities. ICE participates in the Anti-Kleptocracy Working Group, chaired by the National Security Council and focused on the U.S. government’s response to large-scale corruption by public officials. ICE has played an integral role in the development of the working group strategy as ICE is uniquely positioned as the U.S. cross-border investigative agency possessing international money

laundering expertise, immigration authorities, experience in complex financial investigations, and extensive international investigative assets.

One example of ICE's multinational working relationship is the assistance provided to Taiwanese authorities in their efforts to recover bribery proceeds paid to former President Chen Shui-bian and his family. On July 14, 2010, as a result of joint efforts between ICE, the Department of Justice and the Taiwan Supreme Prosecutors Office, the U.S. government filed civil forfeiture complaints against properties in New York and Virginia that represent a portion of the approximately \$6 million in illegal bribes paid to the former president and his wife by a financial services company. The funds used to purchase the properties were moved from Taiwan to the United States by using shell companies obtained at off-shore banking centers in the Caribbean and Switzerland. Former President Shui-bian and his wife were convicted of bribery, embezzlement and money laundering by the Supreme Court of Taiwan and sentenced to 20 years in prison. Additional indictments are pending in Taiwan.

CONCLUSION

Chairman Feinstein, Co-Chairman Grassley, and distinguished Members of the Caucus, thank you again for the opportunity to testify today and for your continued support of ICE and its law enforcement mission. ICE is committed to stemming cross-border criminal organizations and the illegal proceeds used to fund their criminal activities through the various efforts I have discussed today. I appreciate your interest in these important issues and look forward to continuing to work with you. I would be pleased to answer any questions you may have.