



U.S. Immigration and Customs Enforcement

**STATEMENT
OF
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**REGARDING A HEARING ON
“DOES ADMINISTRATIVE AMNESTY HARM OUR EFFORTS
TO GAIN AND MAINTAIN OPERATIONAL
CONTROL OF THE BORDER”**

**BEFORE THE
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON BORDER AND MARITIME SECURITY**

**Tuesday, October 4, 2011 - 10:00 a.m.
311 Cannon House Office Building**

INTRODUCTION

Chairman Miller, Ranking Member Cuellar, and distinguished members of the Subcommittee:

On behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to address you today regarding U.S. Immigration and Customs Enforcement (ICE). As the investigative arm of the Department of Homeland Security (DHS), ICE's primary mission is to promote homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration. The men and women of ICE do this every day by carrying out ICE's role in (1) protecting the borders through smart and effective immigration enforcement; (2) securing and managing our borders against illicit trade, travel, and finance; and (3) preventing terrorism and enhancing national security.

We are effectively managing our resources by carrying out our responsibilities in a smart, fair, and efficient manner. In the last two and a half years, we have made unprecedented strides across our agency, and as a result, we have made communities across America, and Americans around the world, safer and more secure. I welcome this opportunity today to share with you our successes and our opportunities as we move into a new year.

Protecting the Borders Through Smart and Effective Immigration Enforcement

There has been much discussion in recent months about the Administration's approach to immigration enforcement. The Administration's policies have been alternatively described as either an unprecedented effort to deport record numbers of individuals arbitrarily, or as an administrative amnesty that ignores the Government's responsibility to enforce immigration laws. Both characterizations are inaccurate. The Administration's policy guidance governing immigration enforcement makes this clear, as does its enforcement record. ICE has worked to develop guidance to help focus ICE's enforcement efforts on our highest priorities, including: aliens who pose dangers to national security or risks to public safety; recent illegal entrants; repeat violators of immigration law; and aliens who are fugitives from justice or otherwise obstruct immigration controls.

This approach has yielded results. DHS has produced record immigration enforcement. In FY 2010, ICE removed a record 195,772 criminal aliens, more than any other year in history, and 81,000 more criminal removals than in FY 2008. Nearly 50 percent of the aliens we removed in FY 2010 had been convicted of criminal offenses. Removing these individuals helps to promote public safety in communities across the country. We expect that this trend will continue, and that this fiscal year, we will again remove a record number of criminal aliens from the country.

Of those we removed in 2010 who lacked criminal convictions, more than two thirds were either recent border entrants or repeat immigration law violators. As such, and unlike ever before, an overwhelming majority of the aliens removed fell into one of ICE's enforcement priorities. In fact, the number of individuals removed who could not definitively be placed into at least one of the priority categories -- for example, those who were not immigration fugitives, repeat immigration law violators, or removed at the border -- dropped from more than 19 percent in 2008 to less than 10 percent in 2010. We expect to see similar results in FY 2011 as well.

Prosecutorial Discretion

DHS must ensure that our immigration enforcement resources are focused on the removal of those who constitute our highest priorities, specifically individuals who pose threats to public

safety such as criminal aliens and national security threats, as well as repeat immigration law violators, recent border entrants, and fugitives from justice or those who otherwise obstruct immigration controls. There are a significant number of cases currently pending before U.S. Department of Justice (DOJ) immigration courts, many of these will take years to resolve. Tens of thousands more are pending review in federal courts. Each of these cases costs taxpayers thousands of dollars, and those involving low priority individuals divert resources and attention from high priority cases. Due to the fiscal limitations, the expenditure of significant resources on cases that fall outside of DHS enforcement priorities hinders our public safety mission by consuming litigation resources and diverting resources away from higher-priority individuals.

Prosecutorial discretion has always been exercised in order to prioritize the use of immigration enforcement resources. The Immigration and Naturalization Service under the Department of Justice and later ICE under DHS has used discretion on a case-by-case basis where we feel it has been appropriate and responsible to do so, and where it enhances our ability to meet our priorities. In keeping with this practice, DHS and DOJ have recently established an interagency working group to implement existing guidance regarding the appropriate use of prosecutorial discretion in a manner consistent with our enforcement priorities.

This interagency working group will work to determine that immigration judges, the Board of Immigration Appeals, and the federal courts are focused on adjudicating high priority cases more swiftly by relieving pressure on the judicial system by identifying very low priority cases and on a case-by-case basis, setting those cases aside. This will allow for additional DHS resources to be focused on the identification and removal of those individuals who pose the greatest threats. In part, this process will accelerate the removal of high priority aliens from the country. At no point will any individuals be granted any form of “amnesty.” There will be no reduction in the overall levels of enforcement and removals – only a more effective way of marshaling our resources towards our highest priority cases and thus, increasing the number of criminal aliens and repeat immigration violators removed from the country.

Likewise, it will enhance ICE’s historic partnership with U.S. Customs and Border Patrol (CBP). Over the past few years, ICE has worked closely with CBP to increase efforts to prevent illicit trade and travel across our borders. This partnership includes the dedication of ICE officers, agents, and detention facilities to the apprehension and detention of recent border crossers. The record-setting results achieved along the Southwest Border are attributable, in part, to this unprecedented partnership. Notably, this process will allow DHS to free up additional resources that will be dedicated to the Southwest border.

Secure Communities

As I have stated, the Administration has established the identification and removal of public safety and national security threats as a top priority. To aid in this effort, we have expanded the use of the Secure Communities program, which identifies individuals arrested and booked into jail for a violation of a state or local criminal offense, convicted criminals, gang members, and other enforcement priorities in our jails and prisons.

ICE has acknowledged that it faced challenges in rolling out the Secure Communities program initially, including in explaining how the program works and which entities are required to participate. Nevertheless, Secure Communities has proven to be one of our best tools to help focus our immigration enforcement resources on our highest enforcement priorities, including convicted criminals and egregious immigration law violators, and ICE remains fully committed to the program.

Since its inception on October 27, 2008, through September 18, 2011, more than 97,600 aliens convicted of crimes, including more than 35,500 convicted of aggravated felony offenses were removed from the United States after identification through Secure Communities. These removals significantly contributed to a 71 percent increase in the overall percentage of convicted criminals removed by ICE, with 81,000 more criminal alien removals in FY 2010 than in FY 2008. As a result of the increased focus on criminals, removals of non-criminals fell by 23 percent during the same time period. In addition, over 25,000 aliens who were previously removed and reentered or who failed to leave the United States following the issuance of a final order of removal, deportation or exclusion, who are also DHS enforcement priorities, were removed through Secure Communities over the past two years.

Earlier this year, as part of the Administration's continued commitment to smart, effective immigration enforcement, ICE announced key improvements to the Secure Communities program. They included:

- Establishing a task force, comprised of law enforcement, state and local government officials, prosecutors, and immigration advocates, as part of the Homeland Security Advisory Council to develop recommendations on how to improve Secure Communities so that it can better focus on identifying and removing individuals who pose true public safety threats. ICE is currently reviewing recommendations submitted by the Task Force;
- Developing a new policy to protect victims of and witnesses to crimes, to ensure that the crimes continue to be reported and prosecuted;
- Revising the detainer form that ICE sends to local jurisdictions to emphasize longstanding guidance that state and local entities are not to detain an individual for more than 48 hours pursuant to the detainer;
- Working with the DHS Office for Civil Rights and Civil Liberties (CRCL) on regular and in-depth statistical monitoring of the program;
- Creating a series of training sessions in collaboration with CRCL designed primarily for use by front line state and local law enforcement agency personnel to address civil rights and civil liberties issues that may be relevant when Secure Communities is activated for a jurisdiction; and
- Agreeing to a protocol for CRCL to take the lead in investigating complaints of alleged civil rights violations for jurisdictions where Secure Communities is activated.

We are confident these changes will aid in our continued efforts to strengthen and improve Secure Communities. We will continue to expand Secure Communities to additional jurisdictions, and we look forward to nationwide deployment by the end of 2013. We will also continue to examine the program's effectiveness and invest in additional training and education efforts.

Worksite Enforcement

As part of its immigration enforcement efforts, ICE has been pursuing a comprehensive worksite enforcement strategy to deter unlawful employment and drive a culture of compliance with the nation's immigration-related employment laws. The Administration is focused on conducting criminal investigations and prosecuting employers who exploit or abuse their employees and those who have a history of knowingly and repeatedly employing an illegal workforce.

Our strategy has been designed to: (1) penalize employers who hire illegal workers; (2) deter employers who are tempted to hire illegal workers; and (3) encourage all employers to take advantage of easy to use and well-crafted compliance tools.

The success of our approach is evident in the statistics. As of September 17, 2011, ICE has initiated 3,015 investigations, which is 154 percent more than in all of FY 2008. In FY 2010, ICE arrested 196 employers for criminal worksite-related immigration violations, surpassing the previous high of 135 arrests in FY 2008. So far in FY 2011, ICE has also issued a record 2,393 notices of inspection, a more than a 375 percent increase from the number issued in all of FY 2008. This year, ICE has issued 331 final orders totaling \$9 million in fines levied on employers compared to 18 final orders issued totaling \$675,000 in FY 2008. In addition, FY 2010 worksite investigations resulted in a record \$36.6 million in judicial fines, forfeitures, and restitutions.

Enforcing our immigration priorities and obligations is neither simple nor easy, and we are committed to getting it right. We all agree that we need fair, consistent, and enforceable immigration laws that encourage the free flow of commerce while respecting both security and the rights of individuals. We are committed to making changes within the immigration system that make sense and are achievable. While we are committed to being smart and tough with our enforcement, it remains the Administration's position that Congress needs to take up immigration reform. We look forward to working with Congress to this end.

Securing and Managing our Borders Against Illicit Trade, Travel, and Finance ***Southwest Border Initiative***

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 has targeted considerable resources at the Southwest border to address the activities associated with transnational criminal organizations, including the interdiction of contraband such as firearms, ammunition, bulk cash currency, stolen vehicles, human smuggling, and the detection of tunnels and other border crime at and between ports of entry along the Southwest border. Under this initiative, ICE has doubled the personnel assigned to Border Enforcement Security Task Forces (BESTs); increased the number of intelligence analysts along the Southwest border focused on cartel violence; and quintupled deployments of Border Liaison Officers to work with their Mexican counterparts. At the end of the third quarter of FY 2011, ICE deployed special agents to high risk locations, including Tijuana and Monterey, Mexico. ICE so far this year has initiated 9,748 investigations along the Southwest border, and is on pace to surpass FY 2010 totals.

Additionally, with the aid of \$80 million provided in the 2010 Southwest Border supplemental appropriations, ICE has deployed 241 special agents, investigative support personnel, and intelligence analysts to the border. Indeed, ICE now has one quarter of all its special agents assigned to the Southwest border, more agents and officers along the border than ever before.

Border Enforcement and Security Task Forces (BESTs)

In FY 2011, ICE also continued to bolster border security through the efforts of its BESTs, which bring together federal, state, local, territorial, tribal, and foreign law enforcement. Thus far in FY 2011, ICE-led BESTs have made 1,565 criminal arrests, 814 administrative arrests, and obtained 757 indictments; seized 200,278 pounds of illegal drugs and \$11.4 million

in U.S. currency and monetary instruments. Some 733 defendants have been convicted thus far in FY 2011.

Illicit Finance Investigations

One of the most effective methods for dismantling transnational criminal organizations is to attack the criminal proceeds that fund their operations. In coordination with public and private partners, ICE works to seize illicit proceeds derived from and used for criminal activities, and to shut down the mechanisms used to retain and transfer these funds by countering bulk cash smuggling within the U.S. financial, trade, and transportation sectors targeted by criminal networks.

ICE's bulk cash smuggling investigations are coordinated through the ICE-led Bulk Cash Smuggling Center, from which we provide real-time operational and tactical support to federal, state, and local officers involved in bulk cash smuggling seizures. In 2010, ICE, in partnership with the Drug Enforcement Administration, utilized the El Paso Intelligence Center (EPIC) to tackle bulk cash smuggling. This partnership ensures improved collaboration across the federal government for bulk cash smuggling investigations 24 hours a day, 7 days a week.

International Partners and Cooperation

ICE works closely with our international partners to disrupt and dismantle transnational criminal organizations. As part of these efforts, ICE currently maintains nine vetted units worldwide. These units are composed of highly trained host country counterparts that have the authority to investigate and enforce violations of law in their respective country. Because ICE officials working overseas do not possess law enforcement or investigative authority in host countries, the use of vetted units enables ICE to dismantle, disrupt, and prosecute transnational criminal organizations while respecting the sovereignty of the host country.

In FY 2010, Transnational Criminal Investigative Units (TCIUs) in Mexico, Colombia and Ecuador played a central role in Operation Pacific Rim—an ICE-led investigation that dismantled one of the most powerful and sophisticated bulk cash and drug smuggling drug trafficking organizations in the world. As a result of international cooperation, this operation resulted in ten guilty pleas, 21 indictments, and 22 arrests along with seizures totaling over \$174 million in currency, 3.8 tons of cocaine, \$37 million in criminal forfeitures, and \$179 million in property. During 2011, two more TCIUs became operational and ICE plans to expand additional TCIUs in FY 2012.

Preventing Terrorism and Enhancing National Security

As the largest investigative arm of DHS, ICE enhances national and border security by interrupting the illicit flow of money, merchandise, and contraband that supports terrorist and criminal organizations. As of the end of the third quarter of FY 2011, ICE has seized \$363 million in currency, 1.4 million pounds of narcotics and other dangerous drugs, and \$272 million worth of contraband and other illegal merchandise. In addition, ICE agents and officers responded to 1.1 million inquiries and calls for assistance from other federal, state, and local law enforcement agencies through ICE's Law Enforcement Support Center (LESC).

ICE leads efforts in national security investigations through interconnected programs that prevent criminals and terrorists from using our nation's immigration system to gain entry to the United States. This includes: investigating terrorist organizations and their actors; preventing criminal and terrorists from obtaining U.S. visas overseas; preventing criminal and terrorist

organizations from acquiring and trafficking weapons and sensitive technology; and identifying and removing war criminals and human rights abusers from the United States, while protecting children from exploitation.

Joint Terrorism Task Force (JTTF)

The FBI-led JTTFs are a part of a joint counterterrorism partnership between U.S. law enforcement agencies. Since 2007, ICE agents assigned to JTTFs have initiated 5,564 cases, resulting in approximately 1,119 criminal arrests and 2,010 administrative arrests. In FY 2011, ICE special agents in Louisville, Kentucky, assisted in a JTTF investigation which ultimately led to the arrest of Waad Ramadan Alwan and Mohanad Shareef Hammadi. Both of these Iraqi refugees were indicted on federal terrorism charges, as well as the murder of a U.S. person engaged in official duties. They both had allegedly conspired to have money and weapons shipped to Iraq to support the activities of al-Qaeda. In FY 2012, ICE will continue to collaborate with our law enforcement colleagues through the FBI-led JTTFs.

Visa Security Program

The Visa Security Program (VSP) deploys ICE special agents to diplomatic posts worldwide to conduct visa security activities and identify potential terrorists or criminal threats before they reach the United States. By working closely with the Department of State, this program enhances national security by providing an additional level of review of persons of special interest before they enter the United States. ICE conducts visa security operations at 19 high-risk visa adjudication posts in 15 countries.

Counter proliferation Investigations

ICE leads the U.S. Government's efforts to prevent foreign adversaries from illegally obtaining U.S. military products and sensitive technology, including weapons of mass destruction and their components. In FY 2011, ICE initiated 1,780 new investigations into illicit procurement activities, made 583 criminal arrests, obtained 419 indictments, achieved 262 convictions, and made 2,332 seizures valued at \$18.9 million.

In 2010, ICE, in coordination with the World Customs Organization (WCO), launched "Project Global Shield," an unprecedented multilateral law enforcement effort aimed at combating the illicit cross-border diversion and trafficking of precursor chemicals used by terrorist and other criminal organizations to manufacture improvised explosive devices by monitoring their cross-border movements. On March 22, 2011, Global Shield was endorsed by the WCO Enforcement Committee and converted from a pilot project to a permanent program. It currently has 83 participating countries and has led to 19 arrests, 24 seizures, and chemical seizures totaling over 33 metric tons.

Human Trafficking and Human Smuggling Investigations

ICE works with our interagency and international partners to extend our borders and disrupt and dismantle international human smuggling and trafficking networks and organizations along their entire routes. ICE holds the directorship of the Human Smuggling and Trafficking Center (HSTC), an interagency information and intelligence fusion center and clearinghouse. The HSTC was established to facilitate the broad dissemination of anti-smuggling and trafficking information and help coordinate the US Government's efforts against human smuggling, human trafficking and criminal facilitation of terrorist mobility.

In 2010, ICE's Office of Intelligence established its Human Trafficking Unit to develop intelligence and identify potential human trafficking investigative targets. In the coming fiscal year, ICE plans to expand coordination with the Departments of Justice and Labor to initiate additional investigations of human trafficking violations.

Sadly, a significant number of human trafficking victims are children. ICE takes these cases very seriously. ICE's "Operation Predator" targets and investigates human smugglers and traffickers of minors, as well as child pornographers, child sex tourists and facilitators, criminal aliens convicted of offenses against minors, and those deported for child exploitation offenses who have returned illegally. Since its launch in 2003, Operation Predator has resulted in the arrest of over 13,594 sexual predators, of which 10,975 were non-citizens.

In FY 2012, ICE will expand operations of our Child Exploitation Section by establishing the Child Exploitation Center and deploying Child Sex Tourism Traveler Jump Teams to conduct investigations of U.S. citizens traveling in foreign countries for the purpose of exploiting minors. ICE will also continue working to end human trafficking and smuggling alongside the Department's "Blue Campaign"— a DHS initiative to combat human trafficking through enhanced public awareness, victim assistance programs, and law enforcement training and initiatives.

CONCLUSION

Thank you so much for the opportunity to share with you the good work of Immigration and Customs Enforcement. I'm proud of the work our ICE teams do each and every day all around the world to help strengthen and secure our homeland; we're engaging in record-breaking immigration enforcement strategies, and I am confident we will continue to do so. ICE's broad authority to enforce the nation's trade, travel, finance, and immigration laws has made American communities safer. On behalf of the men and women of ICE, I thank you again for the opportunity to testify on these efforts. I would now welcome any questions you may have.