

Testimony of
Mr. Charles Demore

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STATEMENT

OF

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FOR

BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT
THE DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

ALIEN SMUGGLING

BEFORE THE

SENATE SUBCOMMITTEE ON CRIME,
CORRECTIONS AND VICTIMS' RIGHTS

COMMITTEE ON THE JUDICIARY

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ROOM 226 SENATE OFFICE BUILDING

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, thank you for the opportunity today to address you regarding the efforts of the Bureau of Immigration and Customs Enforcement (BICE) to combat the smuggling of aliens into the United States. I am Charles

DeMore, the Interim Assistant Director of Investigations and I am pleased to have the opportunity to share my experience and knowledge with you regarding this important issue.

The creation of the new Department of Homeland Security (DHS), and specifically BICE, combined legal authorities and investigative tools to effectively combat organized human smuggling and trafficking by investigating and administratively prosecuting immigration violations related to criminal organizations involved in smuggling, transporting, and harboring of aliens; money laundering; racketeering violations; human trafficking and child forced labor provisions. In addition, the new BICE structure provides a more effective means of dismantling and disrupting the criminal activities of these organizations, with tools such as financial and data analysis, telecommunication intercepts, and air and marine interdiction capabilities. However, no enforcement effort would be complete without the cooperation and collaboration of the Bureau of Customs and Border Protection (BCBP). I am pleased to tell you that we are fully engaged with our partners in both BCBP and other DHS components in combating these crimes.

I would like to begin by providing an important clarification and necessary distinction between the terms alien smuggling and human trafficking. Alien smuggling and human trafficking, while sharing certain elements and attributes and overlapping in some cases, are distinctively different offenses. Human trafficking, specifically what U.S. law defines as "severe forms of trafficking in persons," involves (unless the victims are minors trafficked into sexual exploitation) force, fraud or coercion, and occurs for the purpose of forced labor or commercial sexual exploitation. Alien smuggling is an enterprise that produces short-term profits resulting from one-time fees paid by or on the behalf of migrants smuggled. Trafficking enterprises rely on forced labor or commercial sexual exploitation of the victim to produce profits over the long-term and the short-term.

Smugglers are willing to risk potential death seeking their dream and are normally free to seek it once they reach their final destination. On the other hand, we know that trafficking victims find themselves in a servitude arrangement that does not end once they have reached their destination, and further may find themselves moved from one destination to another against their will.

Human smuggling has become a lucrative international criminal enterprise and continues to grow in the United States. This trade generates an enormous amount of money - globally, an estimated \$9.5 billion per year. The commodities involved in this illicit trade are men, women, and children. Traffickers or smugglers transport undocumented migrants into the U.S. for work in licit, semi-illicit and illicit industries. The traffickers' foremost goal, like the smuggler, is to maximize profits. The sale and distribution of smuggled humans in the U.S. is a global, regional, and national phenomenon. Women and children are trafficked short distances within the U.S. (small towns to bigger cities), as well as coming from as far away as China, Ukraine and Thailand.

The U.S. Department of State has estimated that at any given time, there are hundreds of thousands of people in the smuggling pipeline, being warehoused by smugglers, waiting for new routes to open up or documents to become available -- and their primary target is the United States.

While human trafficking cases have attracted media attention, the loss of life in an alien smuggling case is no less tragic. To illustrate the callous disregard smugglers have for human life I would like to provide you with the details of some tragic incidents involving deaths (noting that some of these smuggling cases may be trafficking cases as well):

Iowa - In October 2002, 11 undocumented aliens were found dead in a covered grain car near Dennison, IA. It was determined that they had been smuggled and their bodies trapped in the grain car for four months. This crime is the subject of an ongoing investigation.

Texas - In May 2003, 17 undocumented aliens were found dead inside a tractor-trailer in Victoria, Texas. Four hours into their 300-mile trip to Houston, oxygen ran out in their dark, sealed, hot, airless trailer. These aliens had beat their way through the trailer taillights in a desperate attempt to signal for help. Within 72 hours of the discovery, the collective efforts of Special Agents and intelligence analysts from BICE, our counterparts in the Bureau of Customs and Border Protection, the Texas Department of Public Safety, the Victoria County District Attorney's Office, the United States Secret Service, and the Victoria County Sheriff's Office, led to the identification and arrest of four defendants in Ohio and Texas. As of July 17, 2003, a total of fourteen defendants have been charged with various smuggling-related crimes arising from this tragic incident. The successes that we achieved in this operation are a direct result of fully integrating BICE special agents and other personnel, equipment and methodologies into a unified law enforcement effort. Still, the smugglers remain undaunted by the tragedy. They continue to use sealed railroad cars and tractor-trailers to move illegal aliens through the South Texas smuggling corridor. In fact, only days after the grisly discovery in Victoria, Texas, 16 other migrants were discovered in a tractor trailer only an hour away.

Washington - In January 2000, three undocumented aliens were found dead in the cargo container of a vessel in Seattle, WA. The three were part of a group of eighteen smuggled Chinese aliens that had been sealed in the container for a period of two weeks. The survivors, who were in dire medical condition, remained in the container with the deceased until their discovery.

California - In March 2000, six undocumented aliens were found in the San Diego east county mountains, four of which died due to hypothermia. The smugglers abandoned the group in the snowy mountains as the aliens pleaded not to be stranded.

Florida - In December 2001, a capsized vessel was found in the Florida Straits, alleged to have been carrying 41 Cuban nationals, including women and children. All are believed to have perished at sea.

New York - In June 1993, the Golden Venture, a vessel that had traveled 17,000 miles in 112 days from China, ran aground off the coast of Queens in New York City. The human cargo suffered subhuman living conditions during the voyage with inadequate food and ventilation. Most of the 286 people jumped into the frigid Atlantic Ocean, 10 of whom drowned.

Arizona - In 2002, 133 deaths were recorded relating to alien smuggling loads in the Arizona deserts. Tragically, many of these deaths were due to aliens being abandoned and lost in the desert heat, but some of these deaths were homicides. The BICE Phoenix Special-Agent-in-Charge is currently involved in an investigation in which as many as 13 homicides have been attributed to alien smuggling. Several of the deceased were undocumented aliens who were unable to pay their smuggling fees. Local law enforcement agencies attribute most of the increase of violent crime, hostage taking, and home invasions in Arizona as being related to alien smuggling.

As you can see, alien smuggling is not confined to any geographic region; it is a problem of national scope, which requires a coordinated national response. BICE is developing a foreign and domestic strategy, which includes the implementation of critical incident response teams. The purpose of these investigative teams is simple and effective: begin the investigation of a critical incident as quickly as possible, assembling the broad spectrum of technical and subject matter expertise that is needed to solve complex investigations.

The teams will consist of Special Agents drawn from BICE assets who possess specialized skills in the full constellation of investigative techniques; language and cultural skills, land, air and maritime smuggling, crime scene management, technical operations and forensics. BICE Victim-Witness Coordinators would supplement the teams as needed. This investigative response will be coordinated at a proposed BICE Smuggling Coordination Center utilizing resources and equipment deployed in key geographic areas nationwide.

Increased efforts are also being placed on addressing the smuggling of juveniles into the United States, which has surged in recent years. This increase is driven by the demand created by U.S. citizens wanting to illegally adopt children from abroad, immigrants attempting to reunite their families, and child exploitation. Mexican consulates in Southern Arizona alone handled more than 1,500 repatriations of unaccompanied Mexican juveniles during the first half of 2002.

In contrast to the smuggling of family members, trafficked children are often lured by promises of education, a new skill or a good job; other children are kidnapped outright, taken from their home villages or towns and then bought and sold as commodities. Attracted by enormous profits and minimal risks, criminal organizations at all levels of sophistication are involved in the trafficking of children as human cargo across international borders for sexual exploitation and forced labor.

The fall of communism, coupled with the deteriorating third world economies, has fueled the dramatic rise of this sinister form of commerce. Additionally, international organized crime groups such as the Chinese Triads; Japanese Yakuza; Russian, Albanian, Georgian, Ukrainian, Polish, Nigerian, and Thai criminal networks have also capitalized on weak economies; corruption, and improved international transportation infrastructure in order to facilitate the smuggling and trafficking of some 700,000 to 2,000,000 people globally each year. Some of these organizations have abandoned their historic ethnic alliances to join together in criminal enterprises and to hinder U.S. Government law enforcement efforts.

The national and international enforcement environment changed significantly after the September 11 attacks. BICE places a significant emphasis on targeting alien smuggling organizations that present threats to national security. This emphasis recognizes that terrorists and their associates are likely to align themselves with specific alien smuggling networks to obtain undetected entry into the United States. In addition to the emerging terrorist threat, three factors have created an environment in which terrorists and smuggling enterprises may combine their criminal efforts to pose a significant national and international threat. These factors are:

- 1) The involved criminal organizations growing volume and sophistication,
- 2) Their ability to exploit public corruption; and,
- 3) Lax immigration controls in source and transit countries.

As in our war on terrorism, the most effective means of addressing these issues is by attacking the problem in source and transit countries thereby preventing entry into the United States. For many years, we have recognized the need to identify and dismantle large-scale trans-national smuggling organizations and have done so in collaboration with other law enforcement agencies, both foreign and domestic. And we have served as co-chair, with the Department of Justice and the Central Intelligence Agency, to an interagency working group on smuggling targeting criminal organizations that present national security concerns for the United States. In the aftermath of September 11 and in concert with the intelligence community, we redirected our efforts to focus on smuggling organizations alleged to smuggle aliens who have ties with terrorists groups. Consequently, BICE is developing a strategy that will address alien smuggling and human trafficking at the national and international levels. The global Anti-Smuggling/ Human Trafficking Strategy will concentrate our efforts in intelligence-driven investigations against major violators, specifically targeting organizations with ties to countries that support terrorist organizations such as al Queda.

Members of this Subcommittee have previously raised the issue of the need for enhancing the penalties for smuggling offenses. While we believe the penalties set forth in section 274 of the Immigration and Nationality Act to be adequate, in practice the sentences imposed in cases have traditionally been quite short. Sentencing enhancements mandated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 have, however, resulted in significant increases in sentences imposed in the past few years.

We look forward to working with this Committee in our efforts to save lives and secure our national interests. I hope my remarks today have been informative and helpful to each of you in understanding the complexity surrounding these issues. I thank you for inviting me to testify and I will be glad to answer any questions you may have at this time.