

Testimony of

The Honorable Asa Hutchinson

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Asa Hutchinson
before the
Senate Judiciary Committee's
Subcommittee on
Immigration, Border Security and Citizenship
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Mr. Chairman, Senator Kennedy, members of the committee, I am pleased to testify today in regard to an issue of growing national concern, the security of our borders.

From the standpoint of someone who has worked on border issues over the last two decades, I cannot recall any time that our nation's attention has been so focused on border security. This is the result of the concerns raised by the 9-11 Commission Report, a continuous flow of media stories on our borders, and of course the devastating attack against our country on September 11, 2001, by terrorists who were able to exploit vulnerabilities in our border security.. In addition, the President's Temporary Worker Initiative, as well as various immigration reform proposals in Congress, has resulted in a national debate that is timely, passionate and necessary. The decisions made in the next year on this topic will impact our ability to secure our borders from those who wish us harm and from those who diminish the integrity of our rule of law.

You have to start with the proposition that in order to be effective in the war against terrorism our nation must be able to secure its borders. In fact, this proposition is the foundation for the Department of Homeland Security. President Bush also made this clear in his statement of principles for immigration reform. Congress has appropriated over 1 billion dollars in developing an effective entry-exit system for our foreign visitors in the last three years. This program is US-VISIT, and it was one of my priority programs as Under Secretary of Border and Transportation Security. Upon completion it will be the most effective border system in our history guarding against illegal entry at our ports of entry. But that investment will be undermined if we do not develop complementary strategies for controlling the illegal flow across our vast land borders. To do so would be similar to posting a watchman on the gang plank of a ship but ignoring those coming over the side of the ship.

The necessary elements to tackle this enormous problem effectively are: (1) Increasing the funding of technology and security personnel along the border, (2) Making it more difficult for illegal aliens to get jobs in this country, and (3) providing a workable and practical means for migrant workers to have access to job opportunities in this country when those jobs cannot be filled otherwise.

When, and only when, these security measures are established then it is appropriate to begin a conversation on providing a temporary legal status to the 8 million illegal workers already in this country. It is a significant security vulnerability to allow such a large population live and work anonymously in our communities, with no legal identities or other common connections to society. It is, in fact, a terrorist's dream. Moreover, any legal status should be a temporary work permit with a point of return to the alien's home country.

So we must examine our immigration policy from a comprehensive perspective. Without a credible strategic enforcement plan, along with the funding necessary to execute that plan, any temporary workforce initiative is bound to send the wrong message.

Let me elaborate on these elements:

It is impractical to discuss border security without putting an emphasis on emerging technologies. The Department of Homeland Security, for example, has developed the America Shield Initiative that integrates new technologies with increased numbers of border patrol agents. This initiative is the right strategy for border security, and it builds upon the integrated enforcement action taken in Arizona known as the Arizona Border Control Initiative. When we launched the Arizona Border Control Initiative, we combined over 200 new agents with a variety of new technologies -- from Unmanned Aerial Vehicles to sophisticated ground sensors. This initiative resulted in a 47% increase in apprehensions of illegal aliens over a 1 year period.

The Department is continuing to build on this successful strategy. Presently the 2005 budget provides \$64 million for ASI and the War Supplemental adds \$51.8 million in new agents and technologies. This is a good start but in the long-term, it will have to be substantially increased. To make this effort successful in controlling our borders there needs to be accelerated funding of the technologies and specific funding of an oversight program office within DHS similar to the US VISIT program office that can oversee the taxpayer's investment. Congress has acted with a sense of urgency in funding additional border patrol agents but the technology tools for these agents are essential for accomplishing a long term, cost-effective strategy.

The effort at border security, however, must look beyond the borders. It does little good to apprehend illegal aliens if there is not sufficient detention space; and the detention costs will be excessive if there are not judges and attorneys to process the cases, and pressure needs to be applied to other nations to streamline the repatriation of the aliens. The opportunity for jobs in the United States is a great incentive to those who consider illegal entry. If the economic opportunity is combined with ineffective enforcement and removal then the magnet for illegal entry almost becomes too powerful to resist. A chief objective of any border control strategy must be to reduce the power of the magnet that draws illegal workers.

Any immigration reform proposal must include a greater investment in workplace enforcement. Employers must be able to verify the legal status of job applicants; they should report to the government the temporary workers they hire, and advise the government of any who leave employment. This system would allow a closer tracking of individuals in the system and will result in better enforcement of our immigration laws. There are a number of existing systems that could serve as a useful model for this new system including on line verification systems such as SEVIS, Student and Exchange Visitor Information System.

Another critical tool in border security is expanding the use of expedited removal in the circumstances where there are no issues of asylum or similar exceptional circumstances. The administration should be recognized for expanding the use of expedited removal in the Tucson and Laredo Sectors along the Southwest border but more needs to be done. Budgetary constraints have stalled the expansion to additional problem areas and I am convinced that comprehensive use of expedited removal along with sufficient detention space will work as a disincentive to discourage illegal migration.

Illegal entry will be greatly reduced when the following factors are in place:

1. The chance of apprehension is greater than two thirds. There are indications that we are approaching this goal in some parts of the border because of increased enforcement efforts.
2. If apprehended the removal to country of origin is speedy with little chance of release pending a court hearing.
3. If the alien avoids apprehension and removal then the chance of finding an employer that will accept your illegal status is unlikely.
4. There is a meaningful way to legally apply for temporary work authorization in the U.S. and to go back and forth between family and employment during the time of employment.

Although the focus of my testimony has been the increased need for effective immigration enforcement, I would add that the continued opportunity for immigrants in our nation is vital to our economic future and to the very essence of all that is American.

In Arkansas, I was fortunate as a member of Congress to watch the growth of the immigrant population in our state. They have added greatly to the culture, economic growth and values of my state. I was able to encourage the former INS to add an office in Fort Smith to better serve our immigrant population and also and an enforcement office to more quickly respond to the concerns of local law enforcement. It takes both and I am grateful for this Committee trying to achieve the right balance.