

Testimony of

Hon. Wayne Jernigan

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"Federal Strategies to End Border Violence"

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Senate Judiciary Committee

Subcommittee on Immigration, Border Security and Citizenship
And
Subcommittee on Terrorism, Technology, and Homeland Security

Mr. Chairman and Members of the Subcommittees, it is an honor and a privilege to be invited to appear before you to discuss strategies to combat Border Violence along the United States border and the Republic of Mexico.

On April 18th, 2005, Sheriff Sigi Gonzales sent out letters to the 16 Texas Sheriff's whose counties border the Republic of Mexico. The letter invited us to a meeting to discuss unique problems that we face along the border. This was done out of frustration in what we felt was the inadequacy of our federal government to protect our border in preventing a potential terrorist from entering our country. We felt that as citizens of this great country, our almost 2,000 miles of border was very porous, that many people whose intentions were unknown were coming into our country. If their intentions were to commit acts similar to or worse than what happened on September 11, 2001, then very little was being done to stop them. All of us expressed the same frustration since we had mentioned this many times to federal and state legislators. We felt that perhaps speaking as one voice we would be heard. We realize that we are a bi-partisan multi ethnic coalition of Law Enforcement professionals. The crisis that we face on our border is not a racial issue, or even one of politics. This crisis is a red white and blue national security crisis.

On May 4th, 2005, we met in Laredo, Texas. As a result we formed the Texas Border Sheriff's Coalition. The first and foremost priority of our coalition is protecting all residents of this country against a terrorist act without regard to race, sex, or ethnicity. We continue to believe that many persons have entered our country with intentions of harming us. We are sincere when we tell you that we are not blaming the agents of the United States Border Patrol but, rather, we criticize the policies that they have been shackled with.

I want to make you aware that the Law Enforcement experience of the member sheriffs of this coalition total almost 460 years including 101 years of experience as sheriffs. The oldest serving sheriff of this coalition is El Paso County Sheriff Samaniego with 22 years. I have attached the list of member sheriffs of the coalition with their years of experience and have marked it as Attachment #1. I have served more than 29 of the 42 years of my Law Enforcement career on the Texas/Mexico border. We have seen the border become more violent and criminally active than at any point in our careers. Our officers rarely encounter the socio-economic illegal alien of the past, but routinely encounter criminal illegal aliens.

I have been asked to briefly relate to you some of the problems that we have encountered along the border, specifically the violence along the border and incursions, among other matters. Most of the sheriffs that have encountered these problems are present to answer any questions you may have as they relate to their counties.

The areas of Val Verde and Maverick Counties, specifically, continue to see many persons from countries other than Mexico entering the country and being let loose in our counties. I and Sheriff Tomas Herrera have been very concerned with these persons since it is not known how many potential special interest aliens were being released into our great country with what we term as a "notice to disappear". We did not know what diseases, if any, these persons may have had. These persons, when released, would trek into town through day care centers and schools. After we complained of this practice, Border Patrol, changed their policy and began to transport them to bus stations. The most damaging part of the "catch and release policy" was the debilitating effect on agent morale. These illegal immigrants who were apprehended and then released would photograph themselves and send the pictures back to their respective countries to show that they had made it to America. I have attached one such photograph and marked it as Attachment #2. The photograph shows them holding their "permission" papers.

All of us are concerned that the border with Mexico is being used as the open door to this country. Most of the illegal immigrants from countries of special interest that are apprehended are apprehended along the southwest border. I have attached these lists and have marked them as Attachment #3.

Through intelligence information we have also learned that several murders in Laredo, Webb County, Texas, have been orchestrated by members of drug cartels operating in both countries. These drug cartel enforcers cross the Rio Grande River, commit their murders in the United States, then head back to Mexico, again, via the Rio Grande River. We have all seen in the media the reports of the murders in Nuevo Laredo, 24 so far in the first 36 days of 2006. These murders are connected to organizations in both Mexico and the United States. In February, a Task Force in Laredo Texas confiscated Improvised Explosive Devices as well as items used to make explosive devices. Border Patrol agents and deputy sheriffs have been shot at from Mexico on a routine basis. Just last month a sniper in Mexico shot at agents that were working along the banks of the river in the area of the cities of Rio Bravo/El Cenizo. This continued, sporadically, for three days. Agents reported seeing several individuals wearing military style uniforms on a hill on the Mexican side, one of them was using what was believed to be a high powered rifle with scope.

The Rio Grande Valley, Cameron, Hidalgo, and Starr Counties, have continuous problems with pseudo-cops coming from Mexico to extort and kidnap citizens in these counties. This area is the fastest growing area in the nation. They have seen their share of terrorist activity as it relates to the migration of many members of ruthless gangs that come into this country for reasons other than legitimate employment. Sometime last year, a woman was taken off an airplane at the McAllen, Texas, airport. She had come in from Mexico, through the river, as her clothes were still wet, and had a passport from Africa. She was from a special interest country and had come in to Mexico using a passport from a friendly country to avoid detection. Who knows what her intentions were. Thanks to an officer at the airport she was taken off the plane.

During this same time period, a high-ranking member of the Mara Salvatrucha, or MS-13, was apprehended in the Brooks County area, also in south Texas. He had entered the country illegally. This MS-13 member is believed to have been responsible for the killing of close to 30 persons, or more, in a bus explosion in his native country. It is my understanding that he had a lengthy criminal record in the United States. This person, as many others, find it very easy to come into our country through a very porous, wide-open, and unprotected border. Twenty seven members of the MS-13 were apprehended entering the United States in the Del Rio area of operations during the month of January, 2006.

We have received information that the drug trafficking organizations immediately across our border are planning on killing as many police officers as possible on the United States side. This is being planned for the purpose of attempting to "scare us" away from the border. The recent activities of the drug trafficking organization operating in the Hudspeth, El Paso County areas have included threats against the families of Deputy Sheriff's. In one incident subjects made threats to the wife of a Hudspeth County Sheriff's Sergeant at their home. The drug trafficking organizations have the money, equipment, and stamina to carry out their threats. They are determined to protect their illicit trade. It is my opinion that these drug trafficking organizations may form an alliance with Islamo Fascist terrorist

organizations. The Department of Homeland Security recently issued Officer Alerts warning their agents of such potential threats. We, the local officers, learned about the warning through the news media.

The cartels operating in Mexico and the United States have demonstrated that the weapons they possess can and will be used in protecting their caches. I have attached photographs showing some of the weapons that these cartels possess. The photos have been marked as Attachment #4. In Val Verde County a fragmentation hand grenade was discovered on one of the trails near the Rio Grande where drugs are frequently smuggled into the United States.

Local, state, and federal officers have found many items along the banks of the Rio Grande River that indicate possible ties to terrorist organizations or members of military units of Mexico. Currency, clothing, are common finds. Recently, a jacket with patches was found in Jim Hogg County, Texas, by agents of U. S. Border Patrol. The patches on the jacket show an Arabic military badge with one depicting an airplane flying over a building and heading towards a tower, and another showing an image of a lion's head with wings and a parachute emanating from the animal (lion). It is believed from an undisclosed document that Department of Homeland Security translators concluded that the patches read "defense center", "minister of defense", or "defense headquarters". The bottom of one patch read "martyr", "way to eternal life" or "way to immortality".

On January 28th, 2006, USBP Chief David Aguilar was asked by a reporter from KGNS television station in Laredo, Texas, what the outcome of the investigation of the jacket was. Chief Aguilar responded that the patches were not from Al Qaeda but from countries in which Al Qaeda was known to operate. He also stated that the investigation was turned over to the proper authorities who had already concluded their investigation. He knew nothing further.

On February 2nd of this year, deputies in Zavala County discovered an 18" duffel bag approximately 8 miles North of Zapata by the highway right of way. This duffel bag had "Armada de Mexico" embroidered on the bag. Inside the bag were several items that are commonly used to maintain higher levels of physical exertion. Inside the bag, a bus ticket with an origin of Veracruz, Mexico was found. I have attached photographs of the duffel bag and marked it as Attachment #5.

Employees of our offices have also seen incursions into this country of persons dressed in battle dress uniforms (BDUs), carrying what officers believe to be automatic weapons, very clean cut, and in very good physical condition. On March 3rd, 2005, several officers assigned to do surveillance by the Rio Grande River by the Zapata/Webb County line observed approximately 20-25 subjects dressed as indicated above. The subjects were walking on a gravel road, coming from riverbank, and marching in a cadence. The deputy observed these individuals through his borrowed night vision goggles. These individuals were carrying large duffel bags and walking two abreast. They were each armed with assault rifles.

In the town site of Zapata, residents report subjects getting off boats wearing BDUs, backpacks, and carrying weapons. The residents describe them as soldiers.

In Val Verde County, two illegal aliens were apprehended during a burglary near the Port of Entry. One of the aliens fled on foot and was apprehended by Deputies and Agents of the Border Patrol. The alien who was apprehended inside the residence was later identified as a career criminal with a twenty four page rap sheet. His criminal career included offenses in Florida and Texas. His clothing was still wet from his illegal entry that night. For over a year, groups of male subjects illegally crossed the river into the United States and burglarized remote ranch homes. These subjects took items from the homes that they burglarized, and would abandon the property at the next home that they burglarized. The only items that they routinely kept were firearms. During one burglary the subjects brought electric hair clippers with them and cut their hair in a distinctive pattern. When these subjects would encounter law enforcement they conducted sophisticated escape and evasion tactics to break contact. In one incident the subjects traveled twenty miles a day on foot across harsh landscape. The last subject apprehended in that group had traveled over eighty miles on foot before his arrest. The subjects were always physically fit. It is my opinion that these subjects were trained for escape and evasion.

The Texas Border Sheriff's Coalition is very concerned about the unique problems along our border. The United States Border Patrol is doing the best that they can with the resources they have been provided. Immediate help is needed for them and for the protection of our country. We have implemented Operation Linebacker, a second line of

defense in the protection of our country. The problems along the border are federal problems. Our governor, the Honorable Rick Perry, did not wait for a peace officer to get killed along the border to take action. He, just as we, is very much concerned. He has appropriated \$6 million for us to start the operation. Just last month he announced an additional \$3.8 million that he will grant our coalition. This much needed assistance provided by Governor Perry has already produced measurable results, but this assistance is only a stopgap measure. More help is necessary if we are to see an acceptable level of security exist on the border. The problems along the border will continue unless our federal government does something about it soon. Must we wait until an officer gets killed or until another terrorist act occurs?

I have addressed many of the enforcement issues facing the border today in my written testimony, but another crisis faces us. The Judicial system on the border is strained to failure. In Val Verde County, the annual budget for jury trials will be exhausted in March, only half way through the fiscal year. An examination of the caseload of the United States District Court, Western District, demonstrates this crisis irrefutably. I have attached a report that demonstrates the ten year record of civil filings within the Western District of Texas. It is marked as Attachment 6. The number of filings of civil cases across the District has remained fairly level with only minor increases consistent with population growth. If you examine the criminal filings, Attachment 7, for the same period an alarming trend is evident. The two District Courts on the border have seen dramatic caseload increases with little or no population increase. Attachment 8 shows the caseload of the two United States Magistrates in Del Rio. As you can see each of their caseloads equals the caseload of the other Magistrates in the Western District combined. The other District Courts in the Western District have seen small increases in their caseloads. What is not reflected in these statistics is the number of criminal subjects who are apprehended with commercial quantities of drugs, but who fall under the quantity threshold arbitrarily established by the United States Attorney's office. These subjects who have been apprehended by authorities are released without prosecution. Remember that only a percentage of all drug and alien traffickers are apprehended, and then, a portion of those apprehended are released without prosecution due to budgetary constraints. The criminals grow more educated by the system each time we handle them. We must restore Justice to the Border by immediately providing additional District Judges, Magistrates and Prosecuting Attorneys, as well as economic subsidies to effected State District Courts and Prosecuting Attorneys who have become incapacitated by the increasing crime on the border.

I am convinced that by funding additional Deputy Sheriff's on the border, our nation will accomplish a cost effective, and immediate solution to the burgeoning scourge of violence creeping North into our nation. Along most of the border, it is a Deputy Sheriff who receives the first call of suspicious activity and encounters subjects who may be crossing the border only for a new and better life in the North, or who may have far more sinister intentions. No matter how much more efficient we are made by the utilization of emerging technology, it is still necessary that a trained and experienced officer be available to respond to the identified threat.

I want to express my most sincere appreciation for allowing us the opportunity to appear before you and thank you for the work you do for our country, the United States of America.