

Testimony of
The Honorable Michael Chertoff

Assistant Attorney General, Criminal Division
United States Department of Justice
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STATEMENT OF SECRETARY MICHAEL CHERTOFF
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Mr. Chairman, Senator Leahy, and members of the Committee: thank you for the opportunity to address you today, and for your ongoing support of the Department of Homeland Security's efforts to keep America secure. I am honored and pleased to appear before the Senate Judiciary Committee for the first time in my current capacity to discuss the vital issues of border security, interior enforcement and immigration reform as a whole.

Illegal immigration is a severe and growing problem. As members of this Committee know, over the last few months this Administration has been consulting with members of Congress on comprehensive immigration reform. We have been grateful for your input in these productive sessions. And I am thankful for your support and input as we move forward. Citizens are rightly disturbed by illegal immigration. The President has heard these concerns. And I have heard them too, from all across the country and from right here on Capitol Hill. I am committed to taking aggressive and innovative steps to solve the problem.

We are moving to end the old "catch and release" style of border enforcement, increasing removals by tens of thousands a year. We have expanded Expedited Removal along the entire southwest border. We are hiring and training hundreds of new border patrol agents. We are deploying new technologies, from advanced telecommunications to unmanned aerial vehicles. And we are finding new ways to work with state and local law enforcement to deal with illegal immigration and the ills that it brings.

Illegal immigration hurts everyone. It flouts the rule of law, and it allows criminal elements to enter our country. It undercuts those who patiently pursue legal immigration proceedings. It places heavy economic strains on towns, overwhelming their ability to cope with the tide of humanity. And it threatens the lives of the migrants themselves. The human smugglers and traffickers -- known as "coyotes" -- who bring them to the country all too often rob them, abuse them and leave them for dead. In addition to this human cost, these smugglers also traffic in guns and narcotics, a threat to the stability of both the United States and Northern Mexico. Finally, if we can not control our borders, we leave the way open for terrorists hoping to do us harm.

Since his first inauguration, President Bush has placed the utmost importance on border security and has devoted significant resources to this challenge. The President believes -- and I agree -- that illegal immigration threatens our communities and our national security.

The President understands that ending illegal immigration means both tough enforcement and action to reduce the demand that draws illegal migrants into the country. That's why his Administration believes we need a three-pillar, comprehensive approach to reforming our immigration system: (1) gain control of the border; (2) build a robust interior enforcement program; and (3) establish a Temporary Worker Program (TWP).

The effectiveness of our border security and interior enforcement initiatives is closely tied to creating a workable and enforceable TWP. While Secretary Chao will speak in more detail, the TWP seeks to address two huge strains on the current immigration system: high U.S. employer demand for workers and active participation of an estimated eight million undocumented workers in the U.S. economy. A well-designed TWP will provide legal channels for U.S. employers and foreign born workers to meet the needs of a vibrant and successful U.S. economy without disadvantaging American workers.

The President believes we need a well-designed TWP, coupled with a tough enforcement regime, to gain control of our borders. We must aggressively enforce our immigration laws. And enforcement will not wait for enactment of the TWP. We already are making a substantial down payment on the enforcement measures that the President's program will require. Indeed, since President Bush took office in 2001, the United States government has deported several million illegal aliens, including approximately 300,000 criminal aliens. Since 9/11, yearly spending on border security has increased by \$2.7 billion, or 58 percent. Yearly spending on immigration enforcement has also increased dramatically. Enforcement expenditures by DHS and Justice have gone up by \$1 billion, or 35 percent.

I would like to talk today about some of the enforcement measures the Department of Homeland Security is already taking.

U.S. Customs and Border Protection currently has over 11,000 Border Patrol agents along the 6,000 miles of our northern and southern borders, which is an increase of 1,649 Border Patrol Agents since 2001. In addition, and an additional 18,000 CBP officers are posted at our Ports of Entry (POEs), an increase of 4,533 officers added at ports of entry since 2001. Immigration and Customs Enforcement, or ICE, has over 8,000 agents and officers working to apprehend criminals, absconders, and other aliens illegally present within the United States. These DHS agents and officers apprehend illegal aliens in a variety of ways.

For example, CBP Border Patrol agents apprehend aliens attempting to enter the U.S. between the POEs, while CBP and ICE officers at our POEs stop illegal entry by aliens who possess stolen or fraudulent documents. In addition, CBP apprehends or detects aliens who attempt entry with terrorist or criminal intent while ICE officers and agents work with federal, state, and local correctional facilities to identify and remove aliens with criminal records. And I would be remiss

if I did not mention the critical role that the U.S. Coast Guard plays in securing our land and sea borders.

In FY 2005 alone, CBP Border Patrol agents made over 1.1 million apprehensions. CBP Field Operations officers stopped more than 600,000 aliens attempting to enter at our POEs; our officers referred them for further law enforcement action such as detention or prosecution for those with criminal records. In the same period, ICE apprehended approximately 140,000 illegal aliens in interior enforcement operations with an additional 15,000 aliens apprehended under its Fugitive Operations Program. Under the President's leadership, ICE developed the Fugitive Operations Program and its first teams were deployed in 2004. CBP also voluntarily returned over 940,000 Mexicans and refused entry to an additional 425,000 aliens at POEs. ICE also executed removal orders for over 130,000 aliens who have been placed in proceedings, including 77,000 with criminal records. These are solid numbers demonstrating a solid commitment to law enforcement.

Today, the President is signing the DHS Appropriations Bill into law. Thanks to this Congress, DHS now has \$940 million in new resources for DHS law enforcement agencies to further strengthen border security and enforcement. This includes more than \$890 million alone for CBP and ICE, our primary border enforcement agencies. These increased resources will support a full range of critical border security needs, including 1,000 Border Patrol agents on top of the 500 new agents added last year. The bill also permits further expansion of detention capacity by as many as 1,920 additional beds, provides 250 additional ICE investigative agents, and adds 8 new fugitive operations teams to track down individuals ordered to leave this country, but who instead absconded.

Even now when DHS is continually focused on our response to the tragedy of Hurricanes Katrina and Rita, we have remained constant in our enforcement of the law and have not allowed those tragedies to prevent us from implementing new approaches to border security. For example:

? In September I authorized eliminating the environmental challenges that had for years blocked completion of the 14-mile border barrier in San Diego. This barrier will provide multiple layers of security, further reducing illegal entry to the United States and improving border security.

? With funds appropriated by the Congress earlier this year, we have begun to hire, 1,500 new border patrol agents for deployment along the entire border. This brings the total Border Patrol agent increase to 3,070 agents since President Bush took office in 2001. We have already begun to graduate these new agents. In addition, there are currently 400 border patrol agents at the academy in Artesia, New Mexico, whom I will have the honor of addressing this Thursday. We are grateful to the Congress for providing us the additional funds to hire these agents.

? We recently obtained a Predator B unmanned aerial vehicle. This innovative technology enhances our ability to secure the southwest border. In addition we continue to partner with the Department of Defense to take advantage of training opportunities. For the next month, as part of such training, the Defense Department is providing four UAVs in the El Paso sector.

? We have deployed additional Border Patrol agents and support personnel to the Tucson Sector as part of the Arizona Border Control Initiative, a partnership that combines the best efforts and resources of our DHS law enforcement agencies with other federal government agencies and with State, Local, and Tribal law enforcement.

? We are providing additional Immigration Enforcement Agents devoted to criminal removal programs and additional fugitive operations teams to track down absconders.

? We have targeted violent criminal street gangs nationwide for immigration enforcement, particularly the Mara Salvatrucha organization, one of the most violent and rapidly growing street gangs. Recently, ICE arrested 359 MS-13 members including 10 clique leaders. The phenomenal success of this effort since its launch in March 2005 led to its expansion to include all criminal street gangs, a targeted effort to keep our communities safer.

Our most pressing enforcement responsibility is on the southwest border, the pathway for two-thirds of the illegal aliens currently in our country. (The other third are mostly visitors who enter legally and then overstay their visas.) While visiting the southwest border, I have seen first-hand the efforts of our border enforcement staff. They have done much; but, as we all realize, much still remains to be done.

Our apprehension work draws upon three interdependent tools: technology, infrastructure and people. Deploying all three assets in proper harmony is the key to our border enforcement work.

In the weeks ahead, I will be speaking much more about a systematic program of technology acquisition, infrastructure improvements, and workforce efficiencies that will animate our work at the border. Congress has generously provided for additional technology investment. I have created a new DHS program office and hired a talented leader for that office. With our DHS team, we will define clear performance mandates for how best to make these investments. Our work ahead is not just about buying more gizmos - it is about using all the considerable tools in our border security toolkit in a more disciplined, systematic, and effective manner.

This is not rocket science, but it does involve properly applying both high-tech tools such as detection sensors and low-tech, proven tools such as vehicle barriers. What is needed in rural areas will be different from the asset mix needed for border security in urban areas. I have directed that a comprehensive, border-wide plan be established for these investments.

The public is impatient for these improvements and I share that impatience. I am convinced that we can soon make dramatic improvements in the use of technology, infrastructure, and our rapidly growing enforcement team. We will set clear, measurable goals and report routinely to Congress and the American public about our performance.

While much of the public attention regarding border security has focused on apprehending those crossing the border, catching illegal entrants is just the first step. Obviously, the security of America and the integrity of our nation's legal immigration system require that the number of removals at least equal the number of apprehensions. Otherwise, apprehensions lead to release and disappearance. Regrettably, today apprehensions exceed removals.

Once detained, an illegal immigrant must be held until he or she is successfully removed from the country. For most illegal entrants, removal is swift, and detention is not a substantial administrative or budget problem. For example, the nearly 900,000 Mexicans who are caught entering the U.S. per year illegally are returned immediately to Mexico.

But other parts of the system have nearly collapsed under the weight of numbers. The problem is especially severe for non-Mexicans apprehended at the southwest border. In FY 2005 alone, the Border Patrol apprehended over 160,000 non-Mexican nationals. Only 30,000 of these illegal entrants were removed from the United States. The rest will be released, either under bond conditions or on their own recognizance

Let me reiterate this point. When a non-Mexican is caught trying to enter the U.S. across the southwest border today, he has an 80% chance of being released immediately because we have nowhere to hold him. Of course, he will be charged as an immigration law violator, but he will likely fail to appear at his immigration hearings.

This practice of "catch and release" acts as an enticement for additional border crossers. Indeed, Border Patrol apprehensions of non-Mexican nationals crossing into the U.S. illegally across the Mexican border have tripled in just three years. We must end "catch and release" and implement "catch and return." In fact, we are already taking steps to implement "catch and return" as I speak. We are reengineering our detention and removal process, without which we cannot have an effective enforcement strategy. This is the problem we have attacked first, in part to demonstrate decisively the advantage of taking a comprehensive approach to immigration enforcement problems.

In attacking this problem, we have also learned valuable lessons from recent successful operations. When a large number of Brazilians began illegally crossing the southwest border, we responded in July 2005 with "Operation Texas Hold 'Em." We prioritized the existing space, dedicated bed space and began detaining and removing all of the illegal Brazilians we apprehended. The word spread surprisingly swiftly; within its first thirty days, the operation had already begun to deter illegal border crossings by Brazilians. In fact, the number of Brazilians apprehended dropped by 50%. After 60 days, the rate of Brazilian illegal immigration through this sector was down 90%, and it is still significantly depressed all across the border. In short, we learned that a concentrated effort of removal can actually discourage illegal entries by non-Mexicans on the southwest border.

Building on that experience, we asked how we could achieve the same results with all non-Mexican entrants. We undertook a comprehensive review, identified choke points in the existing removal process, and devised ways to eliminate them.

The essence of our plan is to expand removals by better using our detention and removal assets. For example, our system will be three times as efficient if, instead of removing one person after a three-month detention, we can remove three people after detentions of just one month each. So our comprehensive plan calls for both more beds and faster turnover.

To improve turnover, we are expanding removal authority, pressing foreign governments to take back their nationals more promptly, streamlining review by their consular officers--we have been

experimenting with secure video links to facilitate this -- modifying our staffing requirements for escorts on international flights, modifying our air transport contracts, and streamlining the paperwork involved in removal flights. Additional steps are also being examined. Our experience with Brazilian entrants tells us that an aggressive removal program will deter illegal immigration attempts, multiplying the effect from increased beds and more rapid turnover of those beds.

Today I am announcing this goal for DHS: eliminate completely the "catch and release" enforcement problem. Return every single illegal entrant -- no exceptions. What's more, it should be possible to achieve significant progress in less than a year, as we apply concentrated removal efforts with the support of individual countries.

I am pleased to report that DHS has already begun implementing many significant changes in transitioning from "catch and release" to "catch and return." Here are some of those changes:

? We have substantially expanded our detention capacity as of October 1. With the President's signing of our appropriations bill, we will have \$90 million in new resources to add hundreds of more beds. Even with no additional efficiencies in the process, this one change will allow us to remove thousands of additional illegal aliens apprehended along our borders. We are

? I have directed the expanded use of Expedited Removal to all Border Patrol sectors along the southwest border. This allows us to remove quickly eligible aliens, reducing the time required in detention prior to removal. Over all, we expect to cut removal times in half, reducing days in detention from an average of 90 days to an average of 45 days.

? We have contracted for expanded air transportation services to move illegal migrants back to their home more quickly and efficiently.

? I have also directed the overhaul of our ground transportation system. We have a complex system that requires moving more than 1.8 million apprehended individuals per year, but we have identified significant opportunities to improve and streamline this process. For example, we will cut costs and removal time by using bus drivers and other contractors, rather than law enforcement agents, to transport apprehended migrants.

? We are modifying our policies on when removed aliens require escorts. By adopting a risk-based policy, our officers and agents can send more illegal migrants home faster and more efficiently while maintaining the safety of all involved in the removal process.

? Working with the Secretary of State, we are in the process of streamlining country clearances, an internal U.S. government processing change that could cut several days from every escorted deportation. Because an overstuffed removal pipeline is our most immediate problem, cutting even a few days from the average deportation will allow us to increase removals by thousands a year.

? Also working with the State Department, we have begun aggressive dialogues with foreign governments to ensure better foreign-country compliance with our repatriation requirements. We often find that people who are removable sit in our detention facilities--simply because the foreign country has failed to give us a "travel document" agreeing to take its citizen back. We

must make this a top priority in our bilateral relationships around the world, and working with Secretary Rice, I am sure that we will.

? We are moving to implement internal "best practices" so that all of our offices throughout the country operate using best-practices information. We want our removal process to be dynamic and efficient over the long run.

The comprehensive approach we have taken to removal can be applied more broadly to other aspects of border and interior enforcement. In that sense, what we are doing in our removal efforts is simply a down payment on our overall border enforcement initiative, which we are designing as a complement to the President's Temporary Worker Program.

There is a vitally important component to comprehensive immigration reform that I have not yet discussed: worksite enforcement. We can all agree that the current state of worksite enforcement does not work well enough. In anticipation of the Temporary Worker Program (TWP), we must strengthen our efforts to monitor worksites to ensure that both now, and with the start of the TWP, we deploy the necessary resources to ensure those employers who violate the current laws face appropriate punishment. We already have more aggressive efforts underway, including the ICE Worksite Enforcement Units. In addition, we must also give employers the necessary tools to verify the legal status of their employees. The current verification system is insufficient to detect fraud, particularly document fraud, and we must resolve this.

Interior enforcement is not worksite enforcement alone, however. It also includes a focus on criminal aliens, aliens considered a national security risk, traffic stop responses as well as criminal investigation and apprehension of aliens with final orders who have absconded. Importantly, it includes working with individual state and local governments to coordinate responses. I have heard and recognize the frustration that some state and local law officials have expressed about illegal immigration and their desire for closer relations with immigration enforcement agencies. We will find new ways to work with them. This will include new border enforcement task forces and expanded use of our existing legal authorities to train state law enforcement personnel.

Working with DHS's state partners is also a key part of our border strategy. We will actively reach out to our state partners for their agreement to improve our cooperation. and these are just some of the ideas by which our partnership with state and local law enforcement can be most effective.

In summary, my immediate enforcement priorities at DHS focus on five tasks:

? First, we will undertake transformational investment in technology and infrastructure.

? Second, we will work with Congress to staff effectively these enhanced enforcement efforts.

? Third, we will end the policy of catch and release.

? Fourth, we will implement more robust interior enforcement.

? Fifth, we will coordinate better with our federal, state, local and international partners to improve immigration enforcement overall.

These steps will significantly deter illegal immigration. Moreover, they will greatly improve border security.

Each facet of comprehensive immigration reform program that Secretary Chao and I discuss here today is carefully considered. Taken together, they offer a comprehensive strategy. We will continue regularly to apprise this Congress of the steps forward, and the expected outcomes.

As Secretary of Homeland Security I am committed to working closely with the Administration and with the members of this Congress to pass comprehensive immigration reform legislation that reflects the principles discussed with you today. This must be legislation that will meet the needs for a total solution to immigration reform. Nothing I do as Secretary of the Department of Homeland Security is more important to the national security of the United States than securing our borders, and I look forward to working with the members of Congress on this critical task.