

Testimony of
Mr. Michael W. Cutler

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TESTIMONY OF MICHAEL W. CUTLER
FOR THE HEARING TO BE HELD ON
July 12, 2006
BEFORE THE SENATE JUDICIARY COMMITTEE

"EXAMINING THE NEED FOR COMPREHENSIVE IMMIGRATION REFORM, PART II"

Chairman Specter, Ranking Member Leahy, members of the Committee, ladies and gentlemen, it is an honor and a privilege to be afforded the opportunity to testify before this committee on an issue that is, arguably, among the most critical issues confronting the United States today. So many areas of concern are inextricably linked to illegal immigration that when we seek to regain control of our nation's borders and restore integrity to the immigration system, we will be impacting everything from the economy, education, the environment and health care to criminal justice and national security. As I have stated at previous hearings at which I testified, "A nation without secure borders can no more stand than can a house without walls." It is important, however, to understand that our nation cannot gain control of its borders until and unless we recognize that we need to do more than focus on the borders of the United States. We need to think of immigration as a system of many components, all of which are critical to the success of the others. A well designed airplane that is missing a wing will not get off the ground. In order to soar into the sky, all of the components of the airplane must function properly. So too, all of the components of the immigration system must be made to work effectively and in coordination with the other elements of the immigration system.

It has been estimated that approximately 40% of the illegal aliens who are present in the United States did not run our borders or evade the Border Patrol but rather strolled through a port of entry and then disappeared in communities throughout our nation. The terrorists who attacked our nation on September 11, 2001, in fact, all entered the United States through ports of entry and then, counted on their ability to evade detection by the former INS. While much attention has been paid to the lack of secure borders, little attention has been paid to the need to have an adequate number of special agents of ICE enforcing the immigration laws from within the interior of the United States. At present there are roughly 3,000 special agents employed by ICE carrying out this critical mission throughout the entire country. ICE needs to do more than enforce the laws that prohibit an employer from knowingly hiring illegal aliens and seeking to apprehend the hundreds of thousands of alien absconders. Clearly these two missions are important, but when you consider the fact that according to a recent GAO report on the crisis at USCIS where immigration benefit fraud is concerned you realize that this is a major vulnerability that threatens national security but is not being addressed. ICE needs to work in close coordination with USCIS to make certain that the system by which various immigration benefits including the granting of resident alien status and United States citizenship has real integrity. The

"911 Commission Staff Report on Terrorist Travel" noted the fact that in order to attack our nation, the terrorists not only needed to gain entry into our country, an obviously critical issue, but they also needed to be able to embed themselves in our country and have the ability to travel around our country and across our borders as they prepared to attack us. When the United States provides an alien with resident alien status or when we naturalize an alien, we are providing him or her with the "keys to the kingdom."

If we were able to make the borders of the United States utterly impassible to illegal aliens but then do little, if anything, to detect and combat immigration benefit fraud thereby providing immigration benefits to aliens who are not entitled to such benefits, we act as foolishly as the homeowner who, fearful of having his home burglarized, invests considerable effort and money on buying strong doors and locks for his doors and windows and takes other such measures, but then hangs the key to the secure locks on the outside doorknob, making it simple for anyone passing by to gain entry into his home.

The huge illegal alien population present in the United States has a significant impact on the criminal justice system and on national security as well. While it is extremely difficult to provide a firm number as to the number of illegal aliens who are involved in serious criminal activities in the United States, I believe we can get a sense of the magnitude of the problem by considering some statistics I am familiar with. At present it is estimated that some 30% of the inmate population are identified as being foreign born. From 1988 until 1992 I was assigned as the INS representative to the Unified Intelligence Division of the DEA in New York. I conducted a study of DEA arrest statistics and found that nation-wide, some 30% of the defendants arrested by the DEA for crimes related to narcotics trafficking were identified as being foreign born, while in New York it was estimated that nearly 60% of the defendants apprehended by DEA were identified as foreign born. Those statistics remained constant for more than 5 years and the 30% figure back then is virtually the same today as it was then. A GAO report issued in April, 2005 found that in 2004, 27% of the federal inmate population is comprised of criminal aliens. That same report pegged the cost to the federal Bureau of Prisons for incarcerating criminal aliens at some 1.2 billion dollars. This same report found that on the local and state level for FY 2003, some 147,000 criminal aliens were in custody where SCAAP (State Criminal Alien Assistance Program) funds were provided to the local and state governments to help defray the cost of incarcerating these criminal aliens. This is not the total number of criminal aliens in state and local custody, however and the trend has been for these numbers to increase each year.

Additionally, there have been studies written showing a relationship between a wide variety of crimes that are committed to support terrorism. Drug trafficking in particular has come to be associated with this fund-raising objective but other crimes including mail fraud, arson and identity theft also help fill the coffers of terrorist organizations as well as organized crime groups. Often aliens who come to the United States fleeing not only the grinding poverty and perhaps tyrannical government in their home country, they are fleeing the criminal element of their home country. All too often, they are horrified to find that when they come to the United States, they learn that many of the criminals they are fleeing in their homelands have managed to come to our country, continuing the process of preying on these aliens who came here seeking the "American Dream."

It is also worth considering that when you have a large illegal alien population, a series of businesses spring up in support of that population that is not only helpful to the illegal alien who is simply seeking to get a job in the United States to send money home, but to members of organized crime groups, violent gangs, drug trafficking organizations and terrorists. Among these enterprises are money remitters, private mail box services and fraudulent document vendors. It is also important to understand that in an effort to hide in plain sight, or embed themselves in our country, criminal aliens and terrorists often take relatively pedestrian jobs to help pay their day to day expenses and to provide themselves with an effective "cover" so that they do not call attention to themselves. In the parlance of intelligence, this is how "sleeper" cells operate. Someone once said that an effective spy is someone who would not attract the attention of a waitress at a "greasy spoon" diner. You could expand upon that statement and state that an effective terrorist is also someone who would not attract the attention of a waitress or waiter at a "greasy spoon" diner, and indeed, it might well be the waitress or waiter who is the terrorist.

That is why it is vital that ICE not only focus on seeking to find illegal aliens who are employed at supposedly high-value secure venues such as airports and nuclear power plants, but to also as a matter of routine, enforce the immigration laws on a random basis at all sorts of employment situations.

It is therefore of extreme importance that there be many more special agents employed by ICE who can carry out the missions that come within that agency's purview. To put it in perspective, it has been estimated that there are about 15 million to 20 million illegal aliens currently residing in the United States. There are a little more than 8 million residents who live in the City of New York, my home town. New York has been found to be the safest big city in America because we have a police department, the NYPD, whose 37,000 highly trained police officers patrol the streets of New York and conduct other activities consistent with law enforcement. Compare the number of cops in New York with the 3,000 ICE agents who cover the entire country.

Finally, I would also recommend that the previous practice followed by the former INS be reinstated where ICE special agents were required to successfully complete a Spanish language training program and, in fact expand such foreign language training to include strategic foreign languages. Simply stated, you cannot investigate individuals you are unable to communicate with.

I look forward to your questions.