



U.S. Immigration and Customs Enforcement

STATEMENT

OF

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U.S. DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

BORDER SECURITY OVERSIGHT:
IDENTIFYING AND RESPONDING TO CURRENT THREATS

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY

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INTRODUCTION

Chairman Chaffetz, Ranking Member Tierney, and distinguished members of the Subcommittee:

On behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to appear today to discuss the significant progress U.S. Immigration and Customs Enforcement (ICE) and the U.S. Department of Homeland Security (DHS) have made to secure the border. ICE has successfully carried out clear, smart priorities, and implemented a number of key reforms and programs that have improved public safety.

ICE primarily consists of two operational programs: Enforcement and Removal Operations (ERO) and Homeland Security Investigations (HSI). ERO enforces the nation's immigration laws in a fair, prioritized, and effective manner. ERO identifies and apprehends criminal and other removable aliens, detains these individuals, and, guided by ICE's prioritized enforcement principles, removes individuals who are illegally present (or otherwise subject to removal) from the United States. HSI is responsible for a wide range of domestic and international criminal investigations arising from the illegal movement of people and goods into, within, and out of the United States, often in coordination with other federal agencies.

I currently serve as ICE's Executive Associate Director for ERO, and I have served previously in other ERO leadership positions at ICE Headquarters since 2009. Previously, I served as ICE HSI Deputy Special Agent in Charge in Dallas, Texas, as a Special Agent and Assistant District Director for Investigations with the former Immigration and Naturalization Service, and as a U.S. Border Patrol Agent. Altogether, I have been a federal law enforcement officer for 29 years, 27 of which have been spent in immigration enforcement.

Over the past four years, ICE has focused its finite resources on the apprehension, detention, and removal of individuals who fall within our enforcement priorities. To this end, ICE has prioritized the removal of (1) aliens who pose a danger to national security or risk to public safety (including aliens engaged in or suspected of terrorism or espionage, criminal aliens, and aliens subject to outstanding criminal warrants); (2) recent illegal entrants; and (3) aliens who are fugitives or otherwise obstruct immigration controls. Through this focus, ICE has been able to help ensure public safety, and has seen unprecedented successes in enforcing the nation's immigration laws.

Overall, in fiscal year (FY) 2012, ICE's Office of Enforcement and Removal Operations (ERO) removed a record number of 409,849 individuals. Of these, approximately 55 percent, or 225,390, had a criminal conviction – almost double the total removals of criminals in FY 2008. This includes 1,215 aliens convicted of homicide; 5,557 aliens convicted of sexual offenses; and 40,448 aliens convicted for crimes involving drugs. Moreover, ICE also continues to make progress in the removal of other enforcement priorities. In FY 2012, 96 percent of all ICE's removals fell into a priority category – a record achievement.

Prioritizing Recent Border Crossers

ICE's recent immigration enforcement successes are the result of smart, effective enforcement priorities. In order to help maintain control at our nation's borders, while at the same time managing limited resources, ICE prioritizes the identification and removal of recent border crossers and conducts targeted enforcement operations with U.S. Customs and Border Protection (CBP). This relationship with CBP is critical to DHS's enforcement success. More than half of the individuals removed by ICE in FY 2012 (240,363) were border removals (cases

initiated by CBP, expedited removals, or removals of individuals within three years of entry into the United States). In addition, aliens referred to ICE by CBP currently represent 44 percent of all individuals in ICE detention on any given day.

Detention and Removal

ICE Detention

Upon being taken into ICE custody, individuals are booked, fingerprinted, and photographed. Within 12 hours of arrival at a detention facility, each detainee receives an initial health screening. This is followed by a comprehensive health assessment, including a physical examination and the completion of detailed medical history, within 14 days of their arrival.

ERO facilitates the processing of individuals in removal proceedings through the immigration court system and coordinates their departure from the country, including the preparation of necessary travel documents. Along the Southwest Border, Mexican nationals are largely removed via land transportation through U.S. Ports of Entry into Mexico. ICE removes Mexican nationals along the Southwest Border in accordance with agreements between the Government of Mexico, CBP and ICE.

Together with its DHS and Department of Justice partners, ICE carefully manages the detention population in its Southwest Border field offices to ensure that it can address the rapid and substantial changes in operational needs that can occur in the region. As this Subcommittee knows, border circumstances can quickly change. As a result, ICE has redoubled its efforts to be more nimble and smart as we respond to changing operational requirements, and we have the right policies and infrastructure in place to do just that.

Removal Operations

In addition to removals to Mexico by ground transportation, removals may occur by commercial or charter flights. ICE Air Operations routinely depart from Mesa, Arizona; San Antonio, Texas; Alexandria, Louisiana; and Miami, Florida.

ICE Air Operations has provided transportation support to the Alien Transfer and Exit Program (ATEP). ATEP is a joint effort between ICE and CBP that allows for the transportation of aliens from an apprehending Southwest Border Patrol Sector for subsequent removal to Mexico through another Southwest Sector. The program is designed to deny, disrupt and dismantle the ability of alien smuggling organizations operating in the participating sectors. ATEP targets frequent recidivist illegal entrants, and other illegal aliens apprehended by CBP within the Laredo, Rio Grande Valley, and Tucson sectors.

ICE Air Operations is now preparing to commence Interior Repatriation Initiative (IRI) operations. On April 18, 2013, DHS signed an agreement with the Government of Mexico that created the framework for IRI. This initiative is designed to reduce recidivism and border violence by returning Mexican nationals to their cities of origin. In those locations, there will be a higher likelihood that they will reintegrate themselves back into their communities, rather than fall victim to human trafficking or other crimes in Mexican border towns. We expect to begin in summer 2013.

Removal Proceedings and Criminal Prosecutions

ICE's Office of the Principal Legal Advisor (OPLA) has 26 Chief Counsel offices around the country who litigate in removal proceedings before the Executive Office for Immigration Review. A total of 382,675 proceedings were completed in FY 2012. In addition, OPLA

supports the U.S. Department of Justice's (DOJ) litigation of immigration appeals and federal litigation on behalf of ICE. OPLA's resources are focused on the agency's highest enforcement priorities, including criminal aliens and recent border entrants. In addition, OPLA has implemented a number of efficiencies in handling extensive caseloads in the immigration courts (such as developing pilot projects to establish formal expedited dockets in some localities, and working with DOJ to narrow contested issues in cases where courts are able to handle them on an expedited basis), while at the same time increasing the number of prosecutions for federal crimes.

OPLA also supports enforcement through targeted criminal prosecutions. In FY 2012, OPLA staffed 44 Special Assistant United States Attorney (SAUSA) positions nationwide. The SAUSAs assist U.S. Attorneys with increased caseloads that result from ICE's increased enforcement, and serve as critical force multipliers. ICE implemented the SAUSA initiative as a force multiplier in federal prosecutions focusing on immigration and customs-related criminal cases.

Detention Reforms

Also reflective of ICE's commitment to smart, effective immigration enforcement are the significant reforms we have made to the immigration detention system. Beginning in August 2009, these reforms address questions raised about ICE's immigration detention system, while allowing ICE to maintain adequate detention capacity to carry out our immigration enforcement responsibilities.

To help effectuate these reforms, in 2009 ICE established its Office of Detention Policy and Planning, which oversees day-to-day detention reforms while designing a new detention

system consistent with our nation's values. ICE has also deployed nationwide a new automated Risk Classification Assessment instrument to improve transparency and uniformity in detention custody and classification decisions. This assessment instrument incorporates factors that reflect the agency's enforcement priorities and guides decision making regarding whether an individual should be detained or released on conditions, and if detained, the individual's appropriate custody classification level. The Risk Classification Assessment also provides an opportunity to identify victims of crimes, including human trafficking, and individuals who might face particular risks in detention due to age, health, disability, or sexual orientation or gender identity.

In addition, ICE has promulgated the 2011 Performance-Based National Detention Standards (PBNDS 2011), a revised set of national detention standards that better address the needs of ICE's detainee population. Among other things, these standards improve medical and mental health services, maximize access to counsel and legal resources, reinforce protections against sexual abuse, augment religious opportunities, and enhance procedures for reviewing and responding to detainee grievances. Agreements to implement PBNDS 2011 are in place at ICE's largest detention facilities, accounting for approximately half of the agency's detainee population, and ICE is continuing to seek broader implementation of the standards through ongoing negotiations with detention facilities.

In addition, ICE has implemented strong safeguards against sexual assault in detention. These safeguards include a 2012 directive which establishes agency-wide policy and procedures with respect to prevention, response, and investigation of allegations of sexual abuse or assault for all detainees. The directive complements the mandates imposed on detention facilities by the new requirements of PBNDS 2011. This summer, DHS will also finalize new regulations,

pursuant to the Prison Rape Elimination Act, which will build upon the zero-tolerance policy previously adopted for sexual abuse and assault at such facilities.

ICE continues to ensure the health and safety of detainees in our custody by enhancing oversight of detention facilities and improving conditions within the system. In addition, ICE's new detention standards place stricter limitations on the use of administrative segregation to protect vulnerable detainees and to house individuals with serious mental illness.

Other Key Border Security Efforts

Border Enforcement Security Task Force

ICE has also improved border security by increasing our presence on the Southwest Border and strengthening our relationships with our law enforcement partners both domestically and internationally. ICE established the Border Enforcement Security Task Force (BEST) program, which leverages over 765 federal, state, local, and foreign law enforcement agents and officers representing over 100 agencies. Congress formally authorized the program by passing the Jaime Zapata Border Enforcement Security Task Force Act, which was signed into law by President Obama in 2012. Today, we have 35 BESTs: four along the Northern Border, 14 along the Southern Border, and 17 located at seaports across the country, including Puerto Rico.

BEST provides a co-located platform to conduct intelligence-driven investigations aimed at identifying, disrupting, and dismantling transnational criminal organizations that operate in air, land, and sea environments. In FY 2012, BESTs made 2,676 criminal arrests, 809 administrative arrests, and federal prosecutors obtained 1,419 indictments and 1,335 convictions in BEST-investigated cases.

Illicit Pathways Attack Strategy

Over the last few years, ICE developed the Illicit Pathways Attack Strategy (IPAS). IPAS supports the Administration's Strategy to Combat Transnational Organized Crime, an initiative launched in July 2011 that integrates federal resources to combat transnational organized crime and related threats to national security and public safety while urging foreign partners to do the same.

ERO contributes to IPAS by identifying known or suspected alien smugglers or persons being smuggled. These individuals, along with victims of human trafficking, are interviewed by ERO Intelligence Officers and information ascertained from these interviews is used in ERO lead intelligence reports. ERO lead reports are socialized with the intelligence community and the human smuggling and trafficking center for further analysis and utilization.

ICE's initial IPAS focused on high-risk human smuggling in the Western Hemisphere in order to identify and target human smuggling organizations and their pathways across the globe. ICE is currently expanding the IPAS model to include financial crime, in order to better combat transnational criminal organizations. ICE, together with its law enforcement partners, leads investigations into human smuggling networks – with a core mission that has a direct impact on national security, public safety, and human dignity.

CONCLUSION

Thank you again for the opportunity to appear before you to outline for the subcommittee examples of ICE's strategic approach to border security. I am confident that we will continue to build upon the momentum we have generated as a result of our considerable achievements to improve public safety and secure the border.

I would now be pleased to answer any questions you may have.