

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AT AMARILLO

SWIFT AND COMPANY,

Plaintiff,

No. 2-06CV-314-J

v.

IMMIGRATION AND CUSTOMS
ENFORCEMENT DIVISION OF THE
DEPARTMENT OF HOMELAND
SECURITY and JULIE L. MEYERS,

Defendants

**APPENDIX TO DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

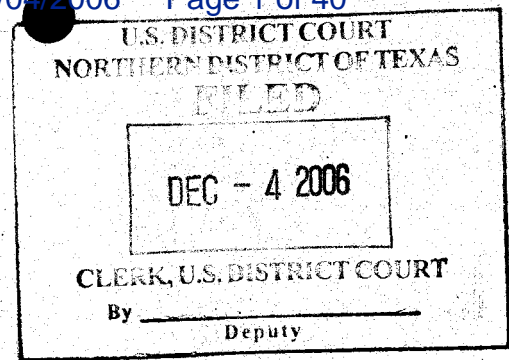


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4. CRS Report for Congress, Border Security: Key Agencies and Their Missions (Aug. 4, 2004).
5. U.S. Immigration and Customs Enforcement website, at <http://www.ice.gov/about/index.htm>.
6. U.S. Immigration and Customs Enforcement website, at <http://www.ice.gov/pi/worksite>.
7. Julie L. Myers, Assistant Secretary, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security, Immigration Enforcement at the Workplace: Learning From the Mistakes of 1986, before the United States S. Comm. On the Judiciary, Subcomm. on Immigration, Border Security and Citizenship (June 19, 2006) .

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AT AMARILLO

SWIFT & COMPANY,

Plaintiff,

v.

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT ("ICE");
JULIE MYERS; Assistant Secretary for
ICE, Department of Homeland Security
("DHS"),

Defendants.

No. 2-06CV-314-J

DECLARATION OF MATTHEW C. ALLEN

I, Matthew C. Allen, hereby declare:

(1) I am the Acting Deputy Assistant Director for the Smuggling and Public Safety Division, Office of Investigations, for United States Immigration and Customs Enforcement (ICE) in the Department of Homeland Security (DHS). My duties include the oversight of operational and programmatic activities concerning the worksite enforcement of immigration laws by ICE. Prior to being appointed to my current position, I was the headquarters Unit Chief for the Contraband Smuggling Unit and previously the Resident Agent in Charge (RAC) in Nogales, Arizona, where I was responsible for managing the ICE enforcement activities within that geographic location. As Acting Deputy Assistant Director, I have personally supervised from the headquarters level more than fifty ICE worksite survey operations. In that capacity, and based upon reasonable inquiry and my knowledge, information and belief, I state the following.

(2) Among its numerous responsibilities, ICE is charged with the worksite enforcement of immigration laws in the United States. This obligation requires ICE to investigate the immigration status of various employees in the country and assess whether those individuals are lawfully employed under the immigration laws. Such activities may require ICE agents to lawfully enter the premises of

an employer. The lawful entry by ICE agents onto the property of an employer may only be effected by consent of the employer, or with a properly issued criminal or civil search warrant supported by the requisite cause.

(3) The Department of Homeland Security has also provided employers with a voluntary tool designed to verify the lawful status of its potential employees. The Basic Pilot Program Employment Eligibility Verification system ("Basic Pilot") is a web-based system that verifies identifying information provided by newly hired employees. The information is entered into Basic Pilot by the employer and run against the databases of the Social Security Administration (SSA) and U.S. Citizenship and Immigration Services (USCIS). Basic Pilot is administered by, and the databases are maintained by, USCIS. Basic Pilot data is not used as the basis for worksite enforcement activity. Indeed, information ICE obtained and used in analyzing Swift's workforce was neither derived from nor based on Basic Pilot data. The Basic Employment Verification Pilot, Memorandum of Understanding, as signed by Swift, the Social Security Administration, and the Department of Homeland Security, clearly states, "The Department of Homeland Security reserves the right to conduct Form I-9 compliance inspections during the course of the Basic Pilot, as well as to conduct any other enforcement activity authorized by law."

(4) On February 14, 2006, the ICE office in Des Moines, Iowa, opened an investigation into the Swift pork processing plant operating in Marshalltown, Iowa. The investigation was initiated based upon information obtained by local ICE agents during the administrative processing of illegal aliens under ICE's Alien Criminal Apprehension Program (ACAP). During these jail-house interviews in Marshalltown, many illegal aliens reported to ICE agents that they were employed at Swift's Marshalltown plant under assumed identities. The illegal aliens assumed the identities of other people to obtain employment at Swift. ICE agents also received information about the illegal alien problem at Swift's Marshalltown plant from the Marshalltown police department. The information gathered during the investigation resulted in the service of an administrative subpoena on Swift requiring that the company provide the ICE Des Moines office with the Employment Eligibility forms (Form I-9)

pertaining to all current employees. ICE received approximately 1,300 Form I-9s from Swift. Based on the ICE investigation and review of the subpoenaed forms, ICE suspected that a substantial number of Swift employees had engaged in identity theft in order to secure employment with Swift. ICE based this assessment on the review of Form I-9's and photocopies of identification documents Swift presented to ICE pursuant to the subpoena, as well as on other independent evidence ICE had gathered.

(5) This assessment and any resulting investigative or enforcement activity is not based on any Basic Pilot information.

(6) After more detailed investigation in Marshalltown, ICE issued additional administrative subpoenas compelling Swift to produce form I-9s from seven other Swift plants located in the United States. As a result of this review, ICE agents examined several thousand Forms I-9 and noted similar suspect patterns discovered during their review of the Forms I-9 received from the Marshalltown facility. Based upon the training and experience of the ICE agents, these patterns suggested to the ICE agents that, company-wide, a substantial number of Swift employees were illegal aliens and had engaged in identity theft in order to obtain employment with the company. Thereafter, in a letter to Bloomington, Minnesota, ICE Special Agent in Charge (SAC) Mark Cangemi--dated July 5, 2006-- Jack Shandley, a Senior Vice President of Human Resources for Swift, addressed Swift's hiring practices and its ongoing evaluation of its performance in that area. In this letter, Mr. Shandley acknowledged "some limitations in our hiring practices and policies, principally related to third-party document fraud." In a meeting with ICE St. Paul representatives on September 21, 2006, Swift representatives again acknowledged that there might be some problem with the employment of illegal aliens and low level criminality within their plants (referring to possible document vendors). They also acknowledged that their own recent audit revealed highly suspect trends and patterns indicating the employment of illegal aliens and document fraud.

(7) Although ICE had no obligation to contact or notify Swift, ICE relied solely on Swift's previously expressed desire to cooperate with the investigation and informed Swift of its desire to assess the immigration status of its workforce by conducting contemporaneous consensual interviews

of Swift employees in Marshalltown (Iowa), Worthington (Minnesota), Grand Island (Nebraska), Cactus (Texas), Hyrum (Utah), and Greeley (Colorado). At an October 19, 2006 meeting between Swift and ICE officials, upon information and belief, Swift insisted that ICE conduct any enforcement operation only one plant at a time – a so-called “managed” approach. ICE rejected this approach because the illegally employed illegal aliens at the other plants would learn of the enforcement operation at the first plant and flee, and offered instead to limit the contemporary consensual interviews to four simultaneous plants. However, citing economic concerns, Swift declined to consent to the contemporaneous consensual interviews. The ICE and Swift officials also discussed Swift’s need to hire new employees to replace the illegal aliens currently employed by Swift. Additionally, the United States Attorney for the Southern District of Iowa, working in coordination with ICE, also requested additional documentation from Swift and the company’s consent for ICE agents to contemporaneously interview its workforce at the above locations. ICE specifically discussed the manner in which it preferred to conduct the consensual interviews so as to minimize disruption to Swift operations and address any potential safety concerns at the plants, while maximizing law enforcement effectiveness and promoting public safety. ICE indicated, at each meeting and teleconference with Swift, that any ICE survey of Swift’s workforce would be conducted in manner which minimizes disruption to Swift’s production capacity but maximizes the safety of ICE’s and Swift’s employees. ICE also reiterated to Swift that ICE’s review and retention of any Form I-9’s produced by Swift could not serve as an inference for Swift that any particular employee is unauthorized to work. Last, Swift agreed to provide the documentation requested by the U.S Attorney’s office.

(8) Despite repeated requests by ICE, Swift has never fully explained what a “managed” approach would involve or how it would be mutually beneficial to ICE and Swift, except that it would involve addressing a single plant at a time.

(9) Based on my experience as a federal agent and the experience of other ICE agents, a phased approach with Swift would not be an effective means to halt the continuing use of stolen identities within Swift’s workforce. Unfortunately, based upon experience and information available to ICE, the

initiation of interviews by ICE agents at one plant would only serve to alert illegal aliens and identity-theft perpetrators employed at other locations. Moreover, it is important that ICE commence its planned survey prior to the potential departure of illegal workers during the holiday season.

(10) With respect to the planned surveys at various Swift locations, great consideration has been given to the logistics and timing of the operation so as to ensure the safety of Swift employees and the federal agents to be involved. ICE has coordinated its planning with the U.S. Department of Agriculture (USDA) to obtain information about plant operations, schedules and safety considerations. ICE has also coordinated with the Food Safety Inspection Service (FSIS) within USDA in an effort to minimize the risk of product contamination in the plants. All ICE agents and managers participating in the operation have been, and will continue to be, thoroughly briefed and trained with respect to the planned operational concerns.

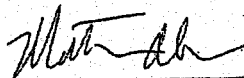
(11) If ICE is unable to conduct surveys at Swift as planned, it will cause great harm to ICE's efforts to enforce the immigration laws of the United States. ICE is charged with the ongoing investigation and enforcement of immigration laws, and cannot be constrained from exercising its lawful authority by a private entity. As I described above, a "phased" approach would alert illegal aliens in the Swift workforce to the ICE investigation, allowing them to disappear from Swift plants and elude law enforcement. This would disrupt Swift operations while also increasing the threat to the public interest.

(12) Moreover, the prevention of any potential enforcement action against Swift employees would also permit the continuation of identity theft by those employees who gained their employment by criminal means. The failure of ICE to apprehend individuals using the stolen identities also results in a continuing harm to the unassuming victims of identity theft. Additionally, the inability of ICE to ascertain the immigration status and true identities of the suspected illegal aliens presents an unknown threat to the security of the nation. The origin, criminal history, and affiliations of these persons remain unknown as they continue to reside and work in the population at large under the color of an assumed legal identity.

(13) Moreover, ICE has invested operational expenditures and extensive tactical preparations have already been made in anticipation of the operation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 4, 2006, at
Washington, D.C.



Matthew C. Allen
Acting Deputy Assistant Director
Smuggling and Public Safety Division
Office of Investigations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

EXHIBIT 2

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Testimony
United States Senate Committee on the Judiciary
Comprehensive Immigration Reform II
October 18, 2005

The Honorable Michael Chertoff
Assistant Attorney General, Criminal Division, United States Department of Justice

STATEMENT OF SECRETARY MICHAEL CHERTOFF
U.S. DEPARTMENT OF HOMELAND SECURITY
BEFORE THE UNITED STATES SENATE
JUDICIARY COMMITTEE
TUESDAY, OCTOBER 18, 2005
WASHINGTON, D.C.

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.

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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

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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.

EXHIBIT 3



NEWS Texas/Southwest

Business of fake documents is booming

Innocent people often the victims of ID theft

08:12 AM CST on Sunday, November 19, 2006

By ARNOLD HAMILTON / The Dallas Morning News

CACTUS, Texas – An Iraq war veteran jailed on a DWI-related penalty he knew nothing about. A mother threatened with the loss of state aid because she failed to alert authorities to a job she never held.

For Texans Alfredo Richard Toscano Jr. and Joanna Laureles, it was the first hint their identities had been hijacked, sold to illegal immigrants trying to get jobs at the local meatpacking plant.

Police and prosecutors say they are swamped with such cases – most linked to the dozen beef and pork operations that have transformed this region into Packing House Alley.

How pervasive is it?

An illegal immigrant from Mexico brazenly peddled fake documents from his home next door to the Cactus police chief for nearly two years before Texas Rangers busted what turned out to be one cog in a multistate operation.

The exasperated Cactus police chief, Tim Turley, said he didn't have the manpower, equipment or expertise to investigate properly. Worse, he said, he never could interest federal law officers.

"The document business is booming," he said. "You've got, what, 11 million illegal aliens? Somebody's got to provide those documents."

It's unknown how many immigrants use phony documents to land jobs, but federal records offer clues: In the last five years, the Social Security Administration mailed 8 million notices annually to individuals and employers, flagging problems with workers' identifying information.

Nearly half of "earnings in suspense" – Social Security funds collected, but unclaimed – came from the agricultural industry, including meatpacking, the agency said last year. About 13 percent came from the service industry, and 11 percent from the restaurant industry.

Sometimes it's a clerical error. Many times, though, the notices expose illegal workers who purchased the lost, stolen or duplicate identifying documents – from Social Security cards and birth certificates to fake driver's licenses – essential to landing a job in the U.S.

"Everybody knows," said Mark A. Grey, who has studied the packing industry as director of the University of Northern Iowa's Center for Immigrant Leadership and Integration. "You can't even call them undocumented [workers]. Everybody has documents. They're 'unauthorized.'"

Cactus, Texas

Part 1

- An immigrant haven on the High Plains
- Identity theft is paper trail to a job
- Cash is king, but corruption reigned

Part 2

- They come to work - and to send money home
- For many in Guatemala, no choice but to leave
- Despite many challenges, school succeeds with youths

Part 3

- Processing plants' dangers don't scare off migrants

Tell Us: Many readers have weighed in with their thoughts on immigration. What's your opinion of the situation in Cactus, Texas?

VIDEO

- City Manager Jeff Jenkins describes Cactus and its people
- Teachers describe efforts to

Dr. Grey and other experts describe a delicate public relations ballet involving corporations, unions, law enforcement and elected officials – all aware of the problem but loath to investigate too aggressively for fear it could dry up a ready source of cheap labor, force plants out of business and cripple tax revenues.

'You need IDs?'

Even if they had the want-to or the tools, authorities say it isn't easy to nab those in the fake-identity trade. Improperly documented workers rarely seem to know much about the brokers, and they are reluctant to share specifics.

Natividad Villa, the 25-year-old Mexican who worked at the Swift & Co. beef processing plant in Cactus under Sgt. Toscano's name, told Texas Rangers he bought his fake ID for \$600 from an unidentified, long-haired white man in nearby Dumas who drove a red Jeep Cherokee.

Mr. Villa then used that to get a valid Missouri driver's license, which he was carrying when his true identity was discovered. Held in the Moore County Jail, he declined to speak to a reporter.

In the last three years, Chief Turley said, he and his officers have seized dozens of falsified ID cards – most from Arkansas, Missouri, Kansas, New Mexico and Texas. Sometimes the fraud is so obvious it's almost comical, he said.

There was the Guatemalan with a license for Nelson Wilson.

"He couldn't even pronounce the name," the chief said. Even so, it wasn't enough to make a case because "we couldn't find the real Nelson Wilson to refute it."

The most prized documents: lost or stolen birth certificates and Social Security cards. Job-seeking immigrants generally pay between \$1,000 and \$1,500, using the papers to create a new, hireable identity. Fake IDs alone typically sell for about \$800.

"The price of good papers has actually gone down" because of an oversupply, said Northern Iowa's Dr. Grey. "There's more available."

Document brokers can set up shop almost anywhere – at flea markets, in motel rooms, in their cars and vans. Even next to the Cactus police chief.

"They'd rent an apartment for a while and put out the word: You need IDs? Come see us," said David Green, district attorney in four Panhandle counties.

With false identities so prevalent, even the most routine traffic stop can become an adventure: Police aren't certain who is being questioned – or arrested.

Veteran's troubles

In March 2002, Mr. Villa was arrested for drunken driving in Moore County, with a license bearing the name Alfredo Richard Toscano Jr. He pretended to be Sgt. Toscano in the court where he pleaded guilty.

Seven months later, the real Alfredo Richard Toscano Jr. was headed to his niece's sixth birthday party and stopped for speeding in Claude, Texas.

A bewildered Sgt. Toscano was arrested, his car impounded. The reason: His driver's license was suspended because of the drunken-driving conviction.

teach English in Cactus

• Law enforcement work is difficult with the increasing number of immigrants

Graphics:

• A closer look at Cactus
• Cactus Elementary School
• A dangerous job

Photos: Coping in Cactus

En español: Read Spanish-language coverage from AIDiaTX.com

Cactus, Texas: Complete coverage

"I've never gotten a DUI in my life," said Sgt. Toscano, an Amarillo native and Iraq war veteran stationed at Fort Sill, Okla.

"I'm sorry," the officer said. "I have to go by what this says."

He spent about nine hours behind bars, wearing an old-fashioned jail uniform: white with black stripes across it, his inmate number on the front.

The next morning, a sympathetic judge promised to alert the Texas Rangers to his plight.

Six weeks later, a Texas Ranger confronted Mr. Villa – still posing as Alfredo Richard Toscano Jr. – at the Swift plant.

Mr. Villa admitted his real identity and was sentenced to probation on an aggravated perjury charge. But his case was not over: Last November, a trooper stopped a vehicle in Ochiltree County in which Mr. Villa was a passenger. Mr. Villa, authorities said, produced another false ID.

Mr. Green wants to revoke his probation. And federal agents are taking steps to deport him.

Sgt. Toscano said he doesn't know how his identity was stolen. He's never been burglarized. He's never so much as lost his wallet.

Shocked mother

Ms. Laureles discovered that her identity was used by an undocumented Guatemalan woman at the Swift plant, when state welfare officials compared a list of recipients to Texas Workforce Commission records.

It turned up a match, showing that Ms. Laureles appeared to be collecting food stamps and Medicaid for her two daughters, ages 1 and 2, at the same time she was employed at the Cactus packing plant.

But it was Maria Gonzales – posing as Ms. Laureles – who was working there.

The real Ms. Laureles, 21, lived in Plainview, 100 miles south. She said she'd never heard of the plant.

Even worse: She was on the verge of losing her welfare assistance and possibly facing charges for defrauding the state.

"It was a big shock," she said.

With the help of Plainview and Cactus police, the matter was cleared up. Ms. Laureles kept her state assistance. Ms. Gonzales, 22, lost her job and surrendered all documents in Ms. Laureles' name.

Ms. Gonzales, who couldn't be reached for comment, was released on bond and permitted to return to Guymon, Okla., to care for her infant child.

But her case isn't near being prosecuted. Chief Turley said he is overwhelmed by so many similar incidents that he hasn't had time to compile all the evidence.

Ms. Laureles just wants it to end so "nobody else is using my papers."

Deborah Turner, a staff writer and photographer for Al Día, contributed to this report.

E-mail cactus@dallasnews.com

EXHIBIT 4

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CRS Report for Congress

Received through the CRS Web

Border Security: Key Agencies and Their Missions

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Domestic Social Policy Division

Summary

After the massive reorganization of federal agencies precipitated by the creation of the Department of Homeland Security (DHS), there are now four main federal agencies charged with securing the United States' borders: the Bureau of Customs and Border Protection (CBP), which patrols the border and conducts immigrations, customs, and agricultural inspections at ports of entry; the Bureau of Immigration and Customs Enforcement (ICE), which investigates immigrations and customs violations in the interior of the country; the United States Coast Guard, which provides maritime and port security; and the Transportation Security Administration (TSA), which is responsible for securing the nation's land, rail, and air transportation networks.

This report is meant to serve as a primer on the key federal agencies charged with border security; as such it will briefly describe each agency's role in securing our nation's borders. This report will be updated as needed.

In the wake of the tragedy of September 11, 2001, the U.S. Congress decided that enhancing the security of the United States' borders was a vitally important component of preventing future terrorist attacks. Before September 11, 2001, border security fell piecemeal under the mandate of many diverse federal departments, including but not limited to: the Department of Justice (the Immigration and Naturalization Service); the Department of the Treasury (the Customs Service); the Department of Agriculture (the Animal and Plant Health Inspection Service); and the Department of Transportation (the Coast Guard).

The Homeland Security Act of 2002 (P.L. 107-296) consolidated most federal agencies operating along the U.S. borders within the newly formed DHS. Most of these agencies are now located in the Directorate of Border and Transportation Security (BTS), which was charged with securing the borders; territorial waters; terminals; waterways; and air, land, and sea transportation systems of the United States; and managing the nation's

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ports of entries.¹ The lone exception is the U.S. Coast Guard, which remains a standalone division within DHS.

The BTS comprises three main agencies: (1) the CBP, which is charged with overseeing commercial operations, inspections, and land border patrol functions, (2) ICE, which oversees investigations, alien detentions and removals, air/marine drug interdiction operations, and federal protective services, and (3) the TSA, which is charged with protecting the nation's air, land, and rail transportation systems against all forms of attack to ensure freedom of movement for people and commerce. Conceptually speaking, CBP provides the front line responders² to immigrations and customs violations and serves as the law enforcement arm of DHS, while ICE serves as the investigative branch. Although it is not located within the BTS, the U.S. Coast Guard also serves an important border security function by patrolling the nation's territorial and adjacent international waters against foreign threats. Combined FY2004 appropriations for BTS and the Coast Guard equaled \$17.91 billion,³ while the combined full time equivalent (FTE) manpower totaled 142,255 employees.⁴

The Bureau of Customs and Border Protection (CBP)

CBP combined all the previous border law enforcement agencies under one administrative umbrella. This involved absorbing employees from the Immigration and Naturalization Service (INS), the Border Patrol, the Customs Service, and the Department of Agriculture. CBP's mission is to prevent terrorists and terrorist weapons from entering the country, provide security at U.S. borders and ports of entry, apprehend illegal immigrants, stem the flow of illegal drugs, and protect American agricultural and economic interests from harmful pests and diseases.⁵ As it performs its official missions, CBP maintains two overarching and sometimes conflicting goals: increasing security while facilitating legitimate trade and travel.⁶ In FY2004, CBP appropriations totaled \$4.90 billion⁷ and manpower totaled 30,836 FTE.

¹ For a more detailed information on DHS, see CRS Report RL31549, *Department of Homeland Security: Consolidation of Border and Transportation Security Agencies*, by Jennifer Lake.

² Many argue that the State Department's Consular posts abroad provide the first line of defense by reviewing visa applications and determining which foreign nationals will be provided with the documentation required to legally enter the country.

³ For a more detailed breakdown of DHS appropriations, see CRS Report RL32302, *Appropriations for FY2005: Department of Homeland Security*, by Jennifer Lake.

⁴ All manpower estimates taken from The Department of Homeland Security, Performance Budget Overview, *Fiscal Year 2005 Congressional Budget Justification*.

⁵ U.S. Congress, House Appropriations Committee, *Department of Homeland Security Appropriations Bill, 2005*, 108th Cong., 2nd sess., H.Rept. 108-541.

⁶ U.S. Customs and Border Protection, *Performance and Annual Report: Fiscal Year 2003*, p. 25.

⁷ While CBP administers the US-VISIT program, the \$328 million appropriated for the program was placed in a separate account directly under the Undersecretary for Border and Transportation Security by the conference report.

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Between official ports of entry, the U.S. Border Patrol (USBP) enforces U.S. immigration law and other federal laws along the border. As currently comprised, the USBP is the uniformed law enforcement arm of the Department of Homeland security. Its primary mission is to detect and prevent the entry of terrorists, weapons of mass destruction, and unauthorized aliens into the country, and to interdict drug smugglers and other criminals. The USBP is thus vitally important to our nation's defense against terrorists and all others attempting to enter goods or persons into the country illegally. In the course of discharging its duties the USBP patrols over 8000 miles of our international borders with Mexico and Canada and the coastal waters around Florida and Puerto Rico.

At official ports of entry, CBP officers are responsible for conducting immigrations, customs, and agricultural inspections on entering aliens. As a result of the new "one face at the border" initiative, CBP inspectors are being cross-trained to perform all three types of inspections in order to streamline the border crossing process. This initiative unifies the prior inspections processes, providing entering aliens with one primary inspector who is trained to determine whether a more detailed secondary inspection is required.⁸

CPB inspectors enforce immigration law by examining and verifying the travel documents of incoming international travelers to ensure they have a legal right to enter the country. On the customs side, CBP inspectors ensure that all imports and exports comply with U.S. laws and regulations, collect and protect U.S. revenues, and guard against the smuggling of contraband. Additionally, CBP is responsible for conducting agricultural inspections at ports of entry in order to enforce a wide array of animal and plant protection laws. In order to carry out these varied functions, CBP inspectors have a broad range of powers to inspect all persons, vehicles, conveyances, merchandise, and baggage entering the United States from a foreign country.⁹

In order to execute its various missions, CBP maintains and utilizes several databases. CBP also administers the new US-VISIT program, which requires all incoming non-immigrant aliens to submit to a biometric scan.¹⁰ Additionally, CBP administers the Container Security Initiative, a program in which CBP inspectors pre-screen U.S.-bound marine containers at foreign ports of loading around the world.

Bureau of Immigrations and Customs Enforcement (ICE)

ICE merged the investigative functions of the former INS and the Customs Service, the INS detention and removal functions, most INS intelligence operations, the Federal Protective Service, and the Federal Air Marshals Service. This makes ICE the principal investigative arm for DHS. ICE's mission is to detect and prevent terrorist and criminal acts by targeting the people, money, and materials that support terrorist and criminal

⁸ Department of Homeland Security, Office of the Press Secretary, "Homeland Security Announces New Initiatives," press release, Sept. 2, 2003.

⁹ For a more detailed analysis of inspections practices along the U.S. border, including the legislative foundation for CBP powers, a history of inspections practices, and the policy issues involved, refer to CRS Report RL32399, *Border Security: Inspections Practices, Policies, and Issues*, by Ruth Ellen Wasem.

¹⁰ For further discussion and analysis of the US-VISIT program, see CRS Report RL32234, *U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT)*, by Lisa Seghetti.

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networks.¹¹ As such they are an important component of our nation's border security network even though their main focus is on interior enforcement. In FY2004, ICE appropriations totaled \$3.43 billion and the agency had 14,410 FTE employees.

Unlike CBP, whose jurisdiction is confined to law enforcement activities along the border, ICE special agents investigate immigrations and customs violations in the interior of the United States. ICE's mandate includes uncovering national security threats such as weapons of mass destruction or potential terrorists, identifying criminal aliens for removal, probing immigration-related document and benefit fraud, investigating work-site immigration violations, exposing alien and contraband smuggling operations, interdicting narcotics shipments,¹² and detaining illegal immigrants and ensuring their departure (or removal) from the United States.¹³

ICE is also responsible for the collection, analysis and dissemination of strategic and tactical intelligence data pertaining to homeland security, infrastructure protection, and the illegal movement of people, money, and cargo within the U.S.¹⁴ In December 2003, the Federal Air Marshal Service (FAMS) was transferred from the TSA to ICE. FAMS is responsible for detecting, deterring and defeating hostile acts targeting U.S. air carriers, airports, passengers and crews by placing undercover armed agents in airports and on flights. Lastly, ICE polices and secures more than 8,800 federal facilities nationwide via the Federal Protective Service.¹⁵

The United States Coast Guard

The Coast Guard was incorporated into DHS as a standalone agency in 2002. Their overall mission is to protect the public, the environment, and U.S. economic interests in maritime regions — at the nation's ports and waterways, along the coast, and in international waters.¹⁶ The Coast Guard is thus the nation's principal maritime law enforcement authority and the lead federal agency for the maritime component of homeland security, including port security. Among other things, the Coast Guard is responsible for: evaluating, boarding, and inspecting commercial ships as they approach U.S. waters; countering terrorist threats in U.S. ports; and for helping to protect U.S. Navy ships in U.S. ports. A high-ranking Coast Guard officer in each port area serves as the Captain of the Port and is the lead federal official responsible for the security and safety

¹¹ Bureau of Immigrations and Customs Enforcement, Border Security and Immigration Enforcement Fact Sheet, at [http://www.ice.gov/graphics/news/factsheets/061704det_FS.htm].

¹² Bureau of Immigrations and Customs Enforcement, Office of Investigations Fact Sheet, [http://www.ice.gov/graphics/news/factsheets/investigation_FS.htm].

¹³ Bureau of Immigrations and Customs Enforcement Organization, at [<http://www.ice.gov/graphics/about/organization/index.htm>].

¹⁴ Bureau of Immigrations and Customs Enforcement, Office of Intelligence Organization, at [http://www.ice.gov/graphics/about/organization/org_intell.htm].

¹⁵ Bureau of Immigrations and Customs Enforcement, Organization, at [<http://www.ice.gov/graphics/about/organization/index.htm>].

¹⁶ U.S. Coast Guard, Overview at [<http://www.uscg.mil/overview/>].

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of the vessels and waterways in their geographic zone.¹⁷ In FY2004, Coast Guard appropriations totaled \$6.78 billion and the agency had 45,532 FTE military and civilian employees.

As part of Operation Noble Eagle (military operations in homeland defense and civil support to U.S. federal, state and local agencies), the Coast Guard is at a heightened state of alert protecting more than 361 ports and 95,000 miles of coastline. The Coast Guard's homeland security role includes protecting ports, the flow of commerce, and the marine transportation system from terrorism; maintaining maritime border security against illegal drugs, illegal aliens, firearms, and weapons of mass destruction; ensuring that the U.S. can rapidly deploy and resupply military assets by maintaining the Coast Guard at a high state of readiness as well as by keeping marine transportation open for the other military services; protecting against illegal fishing and indiscriminate destruction of living marine resources; preventing and responding to oil and hazardous material spills; and coordinating efforts and intelligence with federal, state, and local agencies.¹⁸

The Transportation Security Administration (TSA)

The TSA was created as a direct result of the events of September 11 and is charged with protecting the United States' air, land, and rail transportation systems to ensure freedom of movement for people and commerce. The Aviation and Transportation Security Act (ATSA, P.L. 107-71) created the TSA and included provisions that established a federal baggage screener workforce, required checked baggage to be screened by explosive detection systems, and significantly expanded FAMS. In 2002, TSA was transferred to the newly formed DHS from the Department of Transportation; as previously noted, in 2003 the Federal Air Marshal program was taken out of TSA and transferred to ICE. In FY2004, TSA appropriations totaled \$2.52 billion and the agency had 51,346 FTE employees.

TSA is responsible for guaranteeing the security of aviation in the country. In order to achieve this mission TSA assumed responsibility for screening air passengers and baggage, a function that had previously resided with the air carriers. TSA is also charged with ensuring the security of air cargo and overseeing security measures at airports to limit access to restricted areas, secure airport perimeters, and conduct background checks for airport personnel with access to secure areas, among other things.¹⁹ However, an opt out provision in ATSA will permit every airport with federal screeners to request a switch to private screeners commencing in November 2004.²⁰

¹⁷ For an in depth discussion of the Coast Guard and port security, see CRS Report RS21125, *Homeland Security: Coast Guard Operations—Background and Issues for Congress*, by Ronald O'Rourke, and CRS Report RL31733, *Port and Maritime Security: Background and Issues for Congress*, by John Frittelli.

¹⁸ U.S. Coast Guard, Homeland Security Factcard, at [<http://www.uscg.mil/hq/g-cp/comrel/factfile/Factcards/Homeland.htm>].

¹⁹ U.S. Government Accountability Office, *Aviation Security: Efforts to Measure Effectiveness and Address Challenges*, GAO-04-232T, Nov. 5, 2003, pp. 5-6.

²⁰ See CRS Report RL32383, *A Return to Private Security at Airports?: Background and Issues* (continued...)

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ATSA authorized the TSA to create a Computer-Assisted Passenger Prescreening System (CAPPS II), a program that would compare the basic personal information provided by airline passengers to varied commercial databases in order to confirm their identity. However, due to mounting privacy concerns and operational problems, TSA recently announced it is scrapping its plans to implement CAPPSII this fall and will design a new program in its stead.²¹

Conclusion

This report has briefly outlined the roles and responsibilities of the four main agencies within the DHS charged with securing our nation's borders: the CBP, ICE, the U.S. Coast Guard, and the TSA. It should be noted, however, that while the Homeland Security Act of 2002 consolidated all the agencies with primary border security roles in DHS, there are many other federal agencies involved in the difficult task of securing our nation's borders. While border security may not be in their central mission, they nevertheless provide important border security functions. These agencies include, but are not limited to the Bureau of Citizenship and Immigrations Services within DHS, which processes permanent residency and citizenship applications, as well as asylum and refugee processing; the Department of State, which is responsible for visa issuances overseas; the Department of Agriculture, which establishes the agricultural policies that CBP Inspectors execute; the Department of Justice, whose law enforcement branches (the Federal Bureau of Investigation (FBI) and Drug Enforcement Agency (DEA)) coordinate with CBP and ICE agents when their investigations involve border or customs violations; the Department of Health and Human Services, through the Food and Drug Administration and the Center for Disease Control; the Department of Transportation, whose Federal Aviation Administration monitors all airplanes entering American air space from abroad; and lastly the Central Intelligence Agency, which is an important player in the efforts to keep terrorists and other foreign agents from entering the country. Additionally, due to their location, state and local responders from jurisdictions along the Canadian and Mexican borders also play a significant role in the efforts to secure our nation's borders.

²⁰ (...continued)

Regarding the Opt-Out Provision of the Aviation and Transportation Security Act, by Bartholomew Elias.

²¹ Chris Strohm, "DHS Scraps Computer Pre-Screening System, Starts Over," *Government Executive Online*, July 15, 2004, at [<http://www.govexec.com/dailyfed/0704/071504c1.htm>].

EXHIBIT 5



U.S. Immigration and Customs Enforcement

Protecting America & Upholding Public Safety

About Us

Created in March 2003, Immigration and Customs Enforcement (ICE) is the largest investigative branch of the Department of Homeland Security (DHS). The agency was created after 9/11, by combining the law enforcement arms of the former Immigration and Naturalization Service (INS) and the former U.S. Customs Service, to more effectively enforce our immigration and customs laws and to protect the United States against terrorist attacks. ICE does this by targeting illegal immigrants: the people, money and materials that support terrorism and other criminal activities. ICE is a key component of the DHS "layered defense" approach to protecting the nation.

What we stand for

Our mission is to protect America and uphold public safety. We fulfill this mission by identifying criminal activities and eliminating vulnerabilities that pose a threat to our nation's borders, as well as enforcing economic, transportation and infrastructure security. By protecting our national and border security, ICE seeks to eliminate the potential threat of terrorist acts against the United States.

How we work

Before 9/11, immigration and customs authorities were not widely recognized as an effective counterterrorism tool in the United States. ICE changed this by creating a host of new systems to better address national security threats and to detect potential terrorist activities in the U.S. We target the people, money and materials that support terrorist and criminal activity.

- We are the second largest federal law enforcement contributor to the Joint Terrorism Task Force.
- We dismantle gang organizations by targeting their members, seizing their financial assets and disrupting their criminal operations through our Operation Community Shield.
- We investigate employers and target illegal workers who have gained access to critical infrastructure worksites (like nuclear and chemical plants, military installations, seaports and airports) through our Worksite Enforcement Initiative.
- We help to identify fraudulent immigration benefit applications and fraudulent illegal document manufacture and target violators through our Identity and Benefit Fraud Program.
- We investigate the illegal export of U.S. munitions and sensitive technology through our Project Shield America Initiative.
- We help combat criminal organizations that smuggle and traffic in humans across our borders through our Human Smuggling and Trafficking Initiative.
- We ensure that every alien who has been ordered removed departs the U.S. as quickly as possible. We work to reduce the number of fugitive aliens in the U.S. through our National Fugitive Operations Program.
- We aggressively seek to destroy the financial infrastructure that criminal organizations use to earn, move and store illicit funds through our Cornerstone Initiative.
- We provide law enforcement and security services to more than 8,800 federal buildings that receive nearly

one million visitors and tenants daily through our **Federal Protective Service**.

- We play a leading role in targeting criminal organizations responsible for producing, smuggling and distributing counterfeit products through our National **Intellectual Property Rights Coordination Center**.
- We support the law enforcement community through three units dedicated to sharing information and providing investigative support: the **Law Enforcement Support Center**, **Forensic Document Laboratory**, and the **Cyber Crimes Center**.

We fulfill all of these roles and many others, acting with courage, integrity and a high level of accountability while striving for excellence in everything we do. We aspire to the highest standards of performance, professionalism and leadership.

EXHIBIT 6



U.S. Immigration and Customs Enforcement

Protecting America & Upholding Public Safety

Public Information

Worksite Enforcement

Effective worksite enforcement plays an important role in the fight against illegal immigration and in protecting our homeland. U.S. Immigration and Customs Enforcement (ICE) has developed a comprehensive worksite enforcement strategy that promotes national security, protects critical infrastructure and ensures fair labor standards.

The Worksite Enforcement Unit's mission encompasses enforcement activities intended to mitigate the risk of terrorist attacks posed by unauthorized workers employed in secure areas of our nation's critical infrastructure. In order to fulfill this mission, ICE special agents apply risk assessment principles to their critical infrastructure and worksite enforcement cases in order to maximize the impact of our limited resources against the most significant threats and violators.

Though worksite enforcement efforts are focused on investigations related to critical infrastructure and national security, these efforts and resources are also extended to other places of employment. Unauthorized workers employed at sensitive sites and critical infrastructure facilities—such as airports, seaports, nuclear plants, chemical plants and defense facilities—pose serious homeland security threats.

Worksite enforcement investigations often involve egregious violations of criminal statutes by employers and widespread abuses, and by uncovering such violations, ICE can send a strong deterrent message to other employers who knowingly employ illegal aliens. These worksite enforcement cases often involve additional violations such as alien smuggling, alien harboring, document fraud, money laundering, fraud or worker exploitation.

ICE agents use many tools to conduct these worksite enforcement investigations, among them ICE's Forensic Documents Laboratory, which determines the authenticity of documents used to establish employment eligibility. ICE also works with the private sector to educate employers about their responsibilities to hire only authorized workers and how to accurately verify employment eligibility.

Illegal workers frequently lack the employment protections afforded those with legal status and are less likely to report workplace safety violations and other concerns. In addition, unscrupulous employers are likely to pay illegal workers substandard wages or force them to endure intolerable working conditions. In addition to alleviating the potential threat posed to national security, ICE's efforts also prohibit employers from taking advantage of illegal workers. ICE's Worksite Enforcement Unit also helps employers improve worksite enforcement of employment regulations. The unit is currently engaged in developing automated mechanisms that will enable security agencies controlling access to sensitive facilities to verify immigration status independently before granting access to new employees.

Worksite Enforcement (WSE) Investigations

Worksite Enforcement investigations focus on egregious employers involved in criminal activity or worker exploitation. This type of employer violation will often involve alien smuggling, document fraud, human rights abuses and/or other criminal or substantive administrative immigration or customs violations having a direct nexus to the employment of unauthorized workers. Worksite investigations also encompass employers who are subjecting unauthorized alien workers to substandard or abusive working conditions. Also included in these types of investigations are employers who utilize force, threat, or coercion; such as threats to have employees deported in order to keep the unauthorized alien workers from reporting the substandard wage or working conditions.

EXHIBIT 7

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Testimony
United States Senate Committee on the Judiciary
Immigration Enforcement at the Workplace: Learning from the Mistakes of 1986
June 19, 2006

The Honorable Julie L. Myers
Assistant Secretary for Immigration and Customs Enforcement, Department of Homeland Security

STATEMENT
OF
JULIE L. MYERS
ASSISTANT SECRETARY
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY
REGARDING A HEARING ON
"IMMIGRATION ENFORCEMENT AT THE WORKPLACE:
LEARNING FROM THE MISTAKES OF 1986"
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY and CITIZENSHIP
Monday, June 19, 2006 @ 2:00 pm
226 Senate Dirksen Building

CHAIRMAN CORNYN AND MEMBERS OF THE SUBCOMMITTEE, it is an honor for me to appear before you today to share U.S. Immigration and Customs Enforcement's (ICE's) perspective on worksite enforcement and how ICE investigates and prosecutes employers engaged in the hiring of illegal aliens.

INTRODUCTION

Among the Department of Homeland Security (DHS) law enforcement agencies, ICE has the most expansive investigative authority and the largest force of investigators. Our mission is to protect our Nation and the American people by targeting the people, money and materials that support terrorist and criminal activities. The men and women of ICE accomplish this by investigating and enforcing the nation's immigration and customs laws. Working throughout the nation's interior, together with our DHS and other federal counterparts and with the assistance of state and local law enforcement entities, ICE has begun to change the culture of illegal employment across the country by pursuing the most egregious businesses engaged in the employment of illegal workers. ICE is educating the private sector to institute best hiring practices and garnering their support in identifying systemic vulnerabilities that may be exploited to undermine immigration and border controls. Strategically, a large part of our worksite enforcement efforts focuses on preventing access to critical infrastructure sectors and sites to prevent terrorism and to apprehend those individuals who aim to do us harm.

LESSONS FROM THE 1986 IRCA

ICE has a wealth of historical experience implementing the 1986 Immigration Reform and Control Act (IRCA). We know its strengths and shortcomings and I believe it will be beneficial to provide a quick historical review of worksite enforcement under IRCA.

To varying degrees and during specific time periods, the former INS focused on worksite violations by devoting a large percentage of their investigative resources to enforce the administrative employer sanctions provisions of IRCA. Conducting labor-intensive inspections and audits of employment

eligibility documents only resulted in serving businesses with a Notice of Intent to Fine (NIF) or a compliance notice. Issuing monetary fines that were routinely mitigated or ignored had little to no deterrent effect. Not only were the results far from effective, the process involved endless attorney and agent hours in discovery and litigation to adjudicate and resolve cases. Egregious violators of the law viewed the fines as just a "cost of doing business" and therefore the system did not serve as a true economic incentive to change their business model.

Moreover, while IRCA required employers to review identity documents demonstrating employment eligibility, its compliance standard rendered that requirement meaningless and essentially sheltered employers who had hired unauthorized aliens. Under the 1986 law, an employer complied with the eligibility verification process by reviewing a document that reasonably appeared to be genuine. Employers were not required to verify the validity of a document and were not required to even maintain a copy of the documents that they reviewed. The apparent validity of a single document and the lack of any available evidence regarding the document routinely prevented the government from proving that the employer knew the employee was illegal. The law should reasonably require the employer to review and retain relevant documents and information obtained during the verification process, as well as during the subsequent employment of a worker. It should not allow unscrupulous employers to be "willfully blind" to derogatory information or facts indicative of unauthorized status.

Another detrimental result of the documentation compliance standard established under IRCA was explosive growth in an increasingly profitable false document industry that caters to undocumented workers who purchase the documents necessary to gain employment.

A NEW APPROACH TO WORKSITE ENFORCEMENT

Based on these lessons, ICE's current worksite enforcement strategy is no longer a piecemeal case-specific effort; instead, it is part of a comprehensive layered approach that focuses on how illegal aliens get to our country, the ways in which they obtain identity documents allowing them to become employed, and the employers who knowingly hire them.

The ICE worksite enforcement program is just one component of the Department's overall Interior Enforcement Strategy and is a critical part of the Secure Border Initiative.

Thus, under the new ICE paradigm, worksite enforcement incorporates a vast multitude of investigations and crimes as illustrated below. Using this approach ICE worksite investigations now support felony charges and not just the traditional misdemeanor worksite violations under section 274A of the Immigration and Nationality Act. Let me give you some examples to explain what I mean.

Worksite enforcement includes critical infrastructure protection. Since 9/11, ICE has prioritized critical infrastructure. Just five days ago, an ICE investigation apprehended 55 illegal aliens working at a construction site at Dulles International Airport. Effective homeland security requires verifying the identity of not just the passengers that board the planes, but also the employees that work at the airports.

Worksite enforcement combats alien smuggling. In the last few months, we have made arrests at employment agencies that served as a conduit between the criminal organizations that smuggle illegal aliens into this country and the employers that willfully employ them.

Worksite enforcement also combats human trafficking. As the result of worksite enforcement actions, ICE has dismantled forced labor and prostitution rings, be it Peruvian aliens in New York or Chinese

aliens in Maryland. The common thread is the greed of criminal organizations and the desire of unwitting aliens to come here to work. Human trafficking cases represent the most egregious forms of exploitation, as aliens are forced to work and live for years in inhumane conditions to pay off the debt they incur for being smuggled into the country.

Worksite enforcement involves financial crimes, commercial fraud, export violations, and trafficking in counterfeit goods. ICE enforcement efforts leverage our legacy authorities to fully investigate these offenses that involve the employment of illegal aliens to promote and further these other crimes. By careful coordination of our detention and removal resources and our investigative operations, ICE is able not only to target the organizations unlawfully employing illegal workers, but to detain and expeditiously remove the illegal workers encountered. For example, in a recent case in Buffalo, New York, involving a landscape nursery, 34 illegal workers were apprehended, detained and voluntarily repatriated to Mexico within 24 hours.

This sends a strong message to both the illegal workers here and to foreign nationals in their home countries that they will not be able to just move from job to job in the United States once ICE shuts down their employer. Rather, they will be detained and promptly deported.

Of course, a key component of our worksite enforcement efforts targets the businesses and industries that deliberately profit from the wholesale employment of illegal aliens. On April 19, 2006, ICE agents executed 9 federal arrest warrants, 11 search warrants, and 41 consent searches at IFCO Systems (IFCO) worksite locations throughout the United States. In addition, ICE agents apprehended 1,187 unauthorized workers at IFCO worksites. This coordinated enforcement operation also involved investigative agents and officers from the Social Security Administration, the Internal Revenue Service, and the New York State Police. The criminal defendants have been charged with conspiracy to transport and harbor unlawful aliens for a financial gain, as well as document fraud (8 U.S.C. Section 1324 & 18 U.S.C. Sections 1546 and 371, respectively).

Another recent example of our worksite efforts occurred on May 9, 2006, when 85 unauthorized workers employed by Robert Pratt and other sub-contractors for Fischer Homes, Inc., were arrested as part of another ICE-led joint federal, state and local investigation. In this case the targets of the investigation knowingly harbored, transported and employed undocumented aliens. Five supervisors were arrested and charged with harboring illegal aliens. (8 U.S.C. Sections 1324 & 1326). 80 of the 84 illegal workers encountered were detained and 12 have already been removed from the United States.

What impact will this have? Criminally charging employers who hire undocumented aliens will create the kind of deterrence that was previously absent in enforcement efforts. We are also identifying and seizing the assets that employers derive from knowingly employing illegal workers, in order to remove the financial incentive to hire illegals and to pay them substandard wages.

To be clear, the magnet of employment is fueling illegal immigration, but the vast majority of employers do their best to comply with the law. ICE has provided training and tools on our website to help employers avoid violations.

However, just as a chain is only as strong as its weakest link, the employment process cannot permit the widespread use and acceptance of fraudulent identification documents. Accordingly, in April 2006, Deputy Attorney General Paul McNulty and I announced the creation of ICE-led Document and Benefit Fraud (DBF) Task Forces in 11 major metropolitan areas. These task forces focus on the illegal benefit and fraudulent document trade that caters to aliens in need of fraudulent documents in order to obtain illegal employment. The DBF Task Forces are built on strong partnerships with

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entities such as U.S. Citizenship and Immigration Services, the Social Security Administration, the U.S. Postal Inspection Service and the Departments of State, Justice and Labor. The DBF Task Forces identify, investigate and remove organizations that supply identity documents that enable illegal aliens, terrorists or criminals to integrate into our society undetected and obtain employment or other immigration benefits.

NEW TOOLS

ICE has made substantial improvements in the way we investigate and enforce worksites. Yet, we must do more and our experiences can inform your efforts to make that possible. DHS supports several of the additional tools contained in the immigration reform bill passed by the Senate, and we look forward to working with Congress as it considers comprehensive immigration reform, including proposals to enhance worksite enforcement.

NO-MATCH

There are millions of employers in the United States. Contained within the Social Security databases are statistics that show the employers with the greatest raw number, and greatest percentage, of employees who have presented social security numbers that do not match official social security roles; this is known as "No-Match" data. We believe the availability of this data to DHS would greatly enhance worksite enforcement. Access to this data will allow ICE agents to quickly identify and remove unauthorized workers and identify employers who appear to rely on illegal workers as part of their business practices. In addition, access to this data will provide another tool to locate and remove fugitive aliens who have absconded from final orders of deportation. From a national security standpoint, access to SSA no-match data is essential to ICE's efforts to identify criminal employers and vulnerabilities in critical infrastructure industries and sectors throughout the country. This represents one legislative fix that would go far toward ensuring that our workplace laws are upheld.

Additionally, provisions in current legislative proposals regarding document retention by employers, including evidence of actions taken by employers to resolve employment eligibility issues (e.g., SSA no-match letters), are crucial to worksite enforcement criminal prosecutions. Asking employers to retain documents for at least as long as the statute of limitations for these crimes is simply common sense. ICE has provided additional training and tools on our website to help employers avoid violations.

PROPOSED MODEL OF FINES AND PENALTIES

Although criminal prosecution of egregious violators is our primary objective in worksite cases, a need exists for a new and improved process of issuing fines and penalties that carry a significant deterrent effect and that are not regarded as a mere cost of doing business. Only with a strong compliance program, combined with issuance of meaningful penalties, will the United States have an effective worksite enforcement program.

The Administration has proposed a streamlined administrative fines and penalties process that gives the DHS Secretary the authority to administer and adjudicate fines and penalties. We would further propose a penalty scheme that is based on clear rules for issuance, mitigation and collection of penalties.

In conclusion, I would like to thank the Subcommittee for its analysis and review of how to prevent the problems of 1986 from occurring again. As I have outlined in my testimony, ICE has made great

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strides in our worksite enforcement program and our efforts are part of a comprehensive strategy that focuses on several different layers of the problem simultaneously; including smuggling, document and benefit fraud, and illegal employment.

ICE agents are working tirelessly to attack the egregious unlawful employment of undocumented aliens that subverts the rule of law. We are working more intelligently and more efficiently to ensure the integrity of our immigration system.

Our responsibility at ICE is to do everything we can to enforce our laws, but enforcement alone will not solve the problem. Accordingly, the President has called on Congress to pass comprehensive immigration reform that accomplishes three objectives: strengthening border security, ensuring a comprehensive interior enforcement strategy that includes worksite enforcement, and establishing a temporary worker program. Achieving these objectives will dramatically protect our infrastructure, reduce the employment magnet that draws illegal workers across the border, while eliminating the mistakes that accompanied the 1986 legislation.

ICE is dedicated and committed to this mission. We look forward to working with this Subcommittee in our efforts to secure our national interests. I hope my remarks today have been helpful and informative. I thank you for inviting me and I will be glad to answer any questions you may have at this time.

CERTIFICATE OF SERVICE

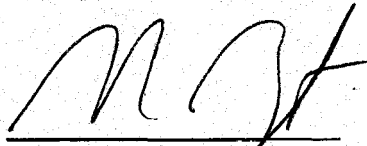
I certify that on the ___ day of December, 2006, a true and correct copy of the foregoing document was forwarded to the following by Federal Express Overnight delivery and by e-mail, as follows:

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