



Statement for the Record
“Commonsense Immigration Reform”
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U.S. Department of Homeland Security

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Introduction

Thank you, Chairman Leahy, Ranking Member Grassley, and Members of the Committee. I am pleased to join you today to discuss the Department of Homeland Security's (DHS's) efforts on immigration and why I believe the time has come for Congress to pass commonsense immigration reform so that everyone plays by the same rules.

The United States is a nation of immigrants and a nation of laws. Our very founding is rooted in immigration. And at every great and momentous occasion throughout our proud history, the immigrant, and the immigrant experience, has contributed to the richness of our culture, the strength of our moral character, and the advancement of our society.

As this Committee knows, DHS plays a significant role in the administration and enforcement of our immigration laws. We secure our Nation's borders to prevent the illegal entry of people, drugs, weapons, and contraband, while fostering legal trade and travel. We enforce immigration laws to protect public safety, promote economic fairness and competition, and maintain the integrity of our immigration system. We administer legal immigration benefits and services to millions of new and aspiring Americans, including members of our Armed Forces. And we work with a range of Federal, state, tribal, local, territorial, and international partners to advance all of these efforts, while ensuring that the civil rights of affected communities are respected.

But we know that our immigration system is out of date and badly in need of reform. Our law enforcement, our economy, our workforce, and our communities are suffering and frustrated by current patchwork of laws and requirements that make up this system.

The current system forces law enforcement to spend as much time, if not more, going after those who pose little risk to the United States as it does criminals and drug smugglers and human traffickers. It makes it difficult for companies to hire and retain the workers they need, instead sending those we educate in America back to their home countries rather than allowing many of our best and brightest students to stay in America where they can create the next new industry and jobs for American workers. It allows unscrupulous businesses that hire undocumented workers to game the system in their favor, hurting lawful businesses and employees. And it keeps families apart, often for years at a time, as they wait for immigration relief.

Last month in Las Vegas, President Obama discussed the principles that are integral to reforming and updating our immigration system. This vision, which shares much in common with the principles proposed by a bi-partisan group of Senators, including several here today, would continue to strengthen border security and immigration enforcement; crack down on employers that hire undocumented workers; create a pathway to earned citizenship for undocumented immigrants already in the United States; and make improvements to the legal immigration system so our nation can continue to be a magnet for the best and brightest from around the world.

Today, I would like to discuss the President's vision for reform. In particular, I want to describe how the President's work on this issue strengthens and builds upon the Department's work, and will give our Nation the 21st Century immigration system it deserves.

Continuing to Strengthen Border Security

A constant refrain I have heard as Secretary is that before immigration reform can move forward, border security must come first. Too often, the “border security first” refrain has served as an excuse for failing to address overall immigration reform. The insistence that an overhaul of our immigration laws must wait until the border is secure fails to recognize that immigration reform promotes border security. Moreover, the argument ignores the unprecedented progress we have made.

I speak as someone who, as Arizona’s U.S. Attorney, Attorney General, and Governor, experienced the flood of illegal immigration in the early part of the century. That situation no longer exists. Over the past four years, DHS has made historic investments in additional personnel, technology, and infrastructure at our borders. We have made our ports of entry more efficient to expedite lawful travel and trade. We have deepened partnerships with federal, state, tribal, and local law enforcement, and internationally, to combat transnational threats and criminal organizations to help keep our Southwestern and Northern border communities safe. We have improved intelligence and information sharing to identify threats sooner, and we have strengthened entry procedures to protect against the use of fraudulent documents and the entry of individuals who may wish to do us harm.

Today, the U.S. Border Patrol is staffed at a higher level than at any time in its 88-year history. We have doubled the number of agents from approximately 10,000 in 2004 to more than 21,000 today. Along the Southwest border, the number of Border Patrol agents has increased by 94 percent to nearly 18,500. In coordination with state and other Federal agencies, we also have deployed a quarter of all U.S. Immigration and Customs Enforcement (ICE) operational personnel to the Southwest border region – the most ever – to dismantle criminal organizations along the border.

U.S. Customs and Border Protection (CBP) has deployed proven, effective technology tailored to the operational needs of our agents on the ground, including non-intrusive inspection systems, mobile surveillance systems, remote video surveillance systems, thermal imaging systems, radiation portal monitors, license plate readers, and biometrics to identify repeat offenders and criminals. And we have expanded unmanned aerial surveillance to the entire Southwest border.

Since 2009, we also have provided more than \$250 million in Operation Stonegarden funds to enhance cooperation among Federal, state, tribal, local, and territorial law enforcement agencies to secure U.S. borders and territories. More than 80 percent of those funds – or \$167 million – have been allocated to states along the Southwest border.

The results of these efforts speak for themselves. Attempts to cross the Southwest border illegally, as measured by Border Patrol apprehensions, have decreased 49 percent over the past four years, and are 78 percent lower than what they were at their peak. From Fiscal Years 2009 to 2012, DHS also seized 71 percent more currency, 39 percent more drugs, and 189 percent more weapons along the Southwest border as compared to Fiscal Years 2006 to 2008. Further,

since 2008, crime in each of the four Southwest border states—Arizona, California, New Mexico, and Texas—has decreased significantly.

We see the results of the substantial investment and strong commitment to border security. But to continue making progress to secure our borders, we must modernize our immigration laws. We need to make sure our border security efforts are focused on combating public safety and national security threats – drug smugglers, human smugglers, and transnational criminal organizations – not economic migrants. And the best way we can do that is by removing one of the biggest incentives that drives most undocumented immigration: the jobs magnet.

We know most undocumented immigrants are here simply to work, not to cause harm or trouble. The more infrastructure we put in place to reduce opportunities for unauthorized work, the more we can lower the demand for undocumented workers and thus reduce illegal entry across our borders.

The President’s vision for immigration reform addresses this directly. It makes an electronic employee verification system mandatory. Electronic verification strengthens the integrity of our immigration system and helps support the American economy by providing businesses with a clear, free, and efficient means to determine whether their employees are eligible to work in the United States. By helping employers ensure their workforce is legal, electronic verification promotes economic fairness and a level playing field, prevents the illegal hiring that serves as a magnet for further undocumented immigration, and protects workers from exploitation. The President’s vision also would increase sanctions against businesses that break the law, a further disincentive that will help reduce the demand for undocumented workers.

Moreover, a key element of the President’s vision, shared by the Senate’s Bipartisan Framework for Comprehensive Immigration Reform, is an earned path to citizenship for individuals unlawfully present in the United States. Bringing these individuals out of the shadows not only will ensure they are held accountable for breaking the law, but also will bring them into a regulated system where they can find work legally, eliminating the need to cross the border illegally, where they may be preyed upon by transnational criminal organizations or involved in human smuggling. It will also help us to further secure the public safety of immigrant families and our communities. In turn, this will allow our agents and officers to stay focused on those who pose a public safety risk to the American people, and on interdicting drugs and other illegal contraband.

The President’s reforms would create new criminal penalties to combat transnational criminal organizations that traffic in drugs, weapons, and money, and that smuggle people across borders. Importantly, they would expand the scope of current law to allow for the forfeiture of these organizations’ criminal tools and proceeds, which will help deprive criminal enterprises, including those operating along the Southwest border, of their infrastructure and profits.

The President’s reform vision would expand our ability to work with our cross-border law enforcement partners. It would boost funding to tribal government partners to help reduce illegal activity on tribal lands.

In short, I believe passage of the President's reform principles is the single best step we can take to enhance border security.

Smarter, More Effective Immigration Enforcement

This Administration has undertaken historic efforts to enforce immigration laws in a manner that is smart and effective, and that maximizes the impact of the resources that Congress has made available. Over the past four years, we have fundamentally reformed immigration enforcement, prioritizing the identification and removal of criminals who pose a threat to public safety, repeat immigration violators, and recent border crossers, and targeting employers who knowingly and repeatedly break the law.

At DHS, we have ensured that our resources are applied in a way that enhances public safety, border security, and the integrity of the immigration system, while respecting the rule of law. Our enforcement results bear this out.

In Fiscal Year 2012, approximately 55 percent, or more than 225,000, of the individuals that ICE removed from the United States were convicted of felonies or misdemeanors — a more than 96 percent increase since Fiscal Year 2008. Overall, 96 percent of ICE's removals fell into one of our priority categories this past year.

An important tool in this effort has been Secure Communities, a program that uses biometric information and services to identify and remove criminal and other priority aliens found in state prisons and local jails. Since its inception, more than 150,000 aliens convicted of serious crimes, including aggravated felony offenses like murder, rape, and sexual abuse of children, have been removed from the United States after identification through Secure Communities. For this reason, ICE has expanded Secure Communities to more than 3,000 law enforcement jurisdictions across the country.

To ensure that our enforcement resources continue to be focused on priority cases, we also have implemented policies and training to ensure that those enforcing immigration laws make appropriate use of the discretion they have in deciding the types of individuals prioritized for removal from the country.

Last year, for example, we established a process to allow certain young people who were brought to the United States illegally as children and who meet several key guidelines to request consideration of deferred action for a period of two years, subject to renewal, and, as a result, apply for work authorization. This process helps us continue to focus immigration enforcement and ensure that resources are not spent pursuing the removal of low priority cases involving productive young people working to better their lives and strengthen their communities. To date, more than 424,000 requests for deferred action have been received by U.S. Citizenship and Immigration Services (USCIS), and of those, more than 178,000 have been approved.

We also have worked to better detect and deter those who overstay their lawful period of admission to the United States. In 2012, DHS submitted a biometric air exit plan to the House and Senate Appropriations Committees detailing the Department's way forward on developing

exit capabilities and addressing overstays. This built on a previous effort to vet all overstays for national security concerns, which also leveraged existing capabilities to close out overstay leads. We now vet all potential overstays and refer leads to ICE based on national security and public safety priorities for further review.

Key to determining who is lawfully abiding by the terms of their admission is the ability to match entry and exit records. DHS continues to enhance its capabilities to integrate, process, and analyze biographic information contained in immigration databases, which will significantly enhance our ability to identify and target for enforcement action those who have overstayed their period of admission and who represent a public safety and/or national security threat. The current phase of this effort includes automating connections between DHS data sources, and refining ICE's ability to more effectively target and prioritize overstay leads of concern, which will dramatically improve our ability to successfully match entry and exit records biographically. We expect this phase to be complete in mid-2013.

This system will strengthen our ability to identify individual overstays; provide the State Department with information to support visa revocation, prohibit future Visa Waiver Program (VWP) travel for those who overstay, and place "lookouts" for individuals, in accordance with existing Federal laws; establish greater efficiencies to our Visa Security Program; and enhance the core components of an entry-exit and overstay program.

Concurrently, the DHS Science and Technology Directorate (S&T) is developing criteria for evaluation of new technologies that may provide the ability to capture biometrics upon exit. As DHS noted in the 2012 plan, we will evaluate technological options within the constraints of the current fiscal environment. S&T is developing a test environment for a variety of biometric technologies in order for DHS to identify how to implement a process that increases the security of the travel system and enhances our ability to detect and deter overstays, while also improving passenger processing.

The President's vision for commonsense immigration reform will build upon and strengthen our enforcement efforts in several ways. It would expand smart enforcement efforts that target convicted criminals in federal or state correctional facilities, allowing ICE to remove them from the United States at the end of their sentences without re-entering our communities. It also would create a streamlined administrative removal process for people who overstay their visas and have been determined to be threats to national security and public safety.

As important, the President's principles for immigration reform include investing in our immigration courts by increasing the number of immigration judges and their staffs, investing in training for court personnel, and improving access to legal information for immigrants. These reforms will improve court efficiency. They also will allow DHS to better focus our detention resources on public safety and national security by reducing the time spent in ICE facilities, and accordingly, overall detention costs.

Cracking Down on Employers Who Hire Undocumented Workers

Our nation's economic health and continued prosperity depends on businesses of all kinds and sizes being able to find and maintain a stable, legal workforce, and having confidence that they are all playing by the same set of rules. When businesses break the law by hiring undocumented workers, it undercuts lawful businesses, creates an uneven playing field, and hurts all workers, affecting wages, employee safety, and creating further demand for illegal labor.

A key part of our immigration enforcement efforts has been strengthening enforcement against employers that hire undocumented immigrants. In 2009, ICE implemented a new worksite enforcement strategy focused on more effective auditing and investigations that prioritize the use of criminal prosecutions against employers that engage in fraud or abusive practices against their workers, use unauthorized workers as a business model, or participate in other criminal conduct.

This worksite enforcement strategy prioritizes investigations involving national security, public safety, or critical infrastructure and key resources sectors, and will help reduce the demand for illegal employment while protecting employment opportunities for the nation's lawful workforce.

Under this strategy, since January 2009, ICE has audited nearly 9,000 employers suspected of hiring undocumented workers, debarred 917 companies and individuals, and imposed more than \$101 million in financial sanctions, which exceeds the total amount of audits and debarments during the entire previous administration.

At the same time, we have worked to help employers maintain a legal workforce through programs like E-Verify, our employee verification system managed by USCIS. USCIS has continued to improve and expand E-Verify by adding new features to monitor for fraud, redesigning the system to increase compliance and ease of use, and expanding the E-Verify Self Check program, a voluntary, fast, free and secure online service that allows individuals in the United States to check their employment eligibility status before formally seeking employment.

In 2011, we announced the 'I E-Verify' initiative to let consumers know which businesses are working to maintain legal workforces by using E-Verify. Employer enrollment in E-Verify has more than doubled since January 2009, with more than 429,000 participating companies representing more than 1.2 million hiring sites. More than 21 million queries were processed in E-Verify in Fiscal Year 2012, allowing businesses to determine the eligibility of their employees to work in the United States.

The President's vision for commonsense immigration reform would strengthen these efforts by further enhancing tools for employers to ensure a legal workforce by using federal government databases to verify that the people they hire are eligible to work in the United States. Specifically, it would require mandatory electronic employment verification, phased in over five years, with exemptions for certain small businesses. It also would ensure the privacy and confidentiality of all workers' personal information and include important procedural protections. This is an important protection as the majority of workers who will be verified through the system are U.S. citizens. And it would increase penalties for hiring undocumented

workers and establish new penalties for committing fraud and identity theft. These commonsense measures are consistent with the principles of the Senate Bipartisan Framework.

To protect against identity theft and document fraud, the President's principles for immigration reform also would mandate a fraud-resistant, tamper-resistant Social Security card and require workers to use fraud-and tamper-resistant documents to prove authorization to work in the United States. They would also seek to establish a voluntary pilot program to evaluate new methods to authenticate identity and combat identity theft, and allow workers to block their own Social Security number to prevent it from being used for fraudulent purposes.

Creating a Pathway to Earned Citizenship

Currently, there are an estimated 11 million undocumented immigrants present in the United States. While all of these people are in our country unlawfully, we know their individual stories can differ dramatically. Some were brought here as children and have spent almost their entire lives in the United States, many going on to graduate from high school or college. Others illegally crossed our borders as adults seeking better lives. Some also entered our country legally and overstayed their lawful period of admission.

The President's immigration reform vision recognizes that deporting 11 million people from the United States is not only impractical, but inconsistent with our values. No one questions that these individuals have broken the law and should be held accountable for their actions. But they are here, and in many cases they have been in the United States for years, have raised families here, and are now contributing members of our communities. For immigration reform to be successful, we must make clear from the outset to these individuals that they will have a pathway to earned citizenship.

Consistent with the President's reform principles, undocumented immigrants would have to register, submit biometric data, pass criminal background and national security checks, and pay fees. They would then be eligible for provisional legal status. Those with provisional status would have to wait until the current legal immigration visa waiting lists are cleared and pay penalties before being able to apply for lawful permanent residency, and ultimately, United States citizenship.

Those applying for green cards would also have to pay taxes, pass additional criminal background and national security checks, register for Selective Service, where applicable, pay additional fees and penalties, and learn English. Consistent with current law, five years after receiving a green card, individuals would be eligible to apply for U.S. citizenship like other lawful permanent residents.

Childhood arrivals—known as DREAMers—also will be eligible for earned citizenship. By going to college or serving honorably in the Armed Forces for at least two years, these individuals would be given an expedited opportunity to earn their citizenship.

Of course, we recognize that for this to work, DHS, the Department of State and other relevant federal agencies must be equipped to process applications for earned citizenship, conduct

background investigations, and prevent fraud and abuse. The President's immigration reform principles would implement fraud prevention programs that will provide training for adjudicators, require regular audits of applications to identify patterns of fraud and abuse, and incorporate other proven fraud prevention measures.

Streamlining Legal Immigration

Our commitment to improving legal immigration includes launching new initiatives to spur economic competitiveness; streamlining and modernizing immigration benefits processes; strengthening fraud protections; protecting crime victims, supporting and helping to integrate refugees and asylees; updating rules to keep immigrant families together; and promoting civic engagement and integration. Over the past four years, we have made progress in each of these areas.

Supporting Economic Competitiveness

USCIS has launched a series of initiatives to spur economic competitiveness by attracting foreign entrepreneurial talent to create jobs, form startup companies, and invest capital in areas of high unemployment. This includes the Entrepreneurs in Residence initiative, which harnesses industry expertise to ensure USCIS policies reflect business realities and increase the job creation potential of nonimmigrant high-skilled visa categories. USCIS also continues to streamline the EB-5 Immigrant Investor visa program to promote job creation and capital investment by foreign investors. And DHS has taken action using existing authorities to keep more talented science and math graduates in the country longer and to attract highly skilled immigrants who will be critical to continuing our economic recovery and encouraging job creation

Modernizing Systems and Strengthening Protections

In May 2012, USCIS launched the first release of its electronic immigration benefits system, Electronic Immigration System (ELIS), which began the agency's transition from a paper-based to an electronic, online organization. This release provides the ability to manage cases electronically and allows customers to set up an account for filing electronically. Since then, USCIS has launched two additional releases improving on the system's initial capabilities. The system is modernizing the processes for filing and adjudicating petitions, transforming how USCIS interacts with its customers and manages the six to seven million applications it receives each year.

USCIS also has created a Fraud Detection and National Security directorate that focuses on detecting and removing suspected fraud from the application process. USCIS, working with the Department of Justice and the Federal Trade Commission, also launched the Unauthorized Practice of Immigration Law (UPIIL) initiative, a national, multi-agency campaign that spotlights immigration-services scams and the problems that can arise for immigrants when legal advice or representation is given by people who are not attorneys or accredited representatives. The UPIIL initiative has expanded nationwide to include all of USCIS's district offices.

Protecting Victims and Keeping Families Together

DHS also has worked to help protect victims of domestic violence, human trafficking, and victims of devastating natural disasters and violent conflicts, as well as individuals from around the world seeking refuge or asylum in the United States. The Blue Campaign, for example, has strengthened and expanded DHS efforts to address human trafficking through prevention, protection, and prosecution, as well as public outreach and law enforcement training. We also have increased educational efforts with respect to U nonimmigrant visas, which are for victims of crimes who have suffered substantial mental or physical abuse and are willing to assist law enforcement and government officials in the investigation or prosecution of the criminal activity.

To keep families together as they navigate the immigration process, last month DHS also adopted a final rule that will reduce the time U.S. citizens are separated from their immediate relatives who are in the process of applying for immigrant visas to become lawful U.S. permanent residents. This rule, which goes into effect next month, allows certain family members, who have been unlawfully present in the United States, to apply for a waiver of their inadmissibility while still in the United States and receive a provisional waiver determination before they leave the United States to complete the immigrant visa process at a U.S. consular post.

Promoting Integration

USCIS also has continued to strengthen its work with communities nationwide to promote citizenship preparation, including civics-based English instruction and education on the rights and responsibilities of United States citizenship. As part of this effort, in 2011, USCIS announced the Citizenship Public Education and Awareness Initiative, which funds citizenship and integration programs and activities, including competitive grants to local immigrant-serving organizations to strengthen citizenship preparation programs for permanent residents.

The President's Framework

The President's immigration reform vision builds upon each of these efforts. It would strengthen economic competitiveness by allowing foreign entrepreneurs who attract financing from U.S. investors or revenue from U.S. customers to start and grow their businesses in the United States, and to remain permanently if their companies grow further, create jobs for American workers, and strengthen our economy. It would improve the EB-5 Immigrant Investor visa program by adding measures to combat fraud and national security threats, permanently authorize regional center (pooled investment) programs, and expand opportunities for U.S. economic development.

In particular, it would "staple" a green card to the diplomas of science, technology, engineering and mathematics (STEM) PhD and Master's Degree graduates from qualified U.S. universities who have found employment in the United States. The President's vision would address the waiting list for employment-sponsored immigration by eliminating annual country caps, adding visas to the system, and implementing new measures to combat fraud and national security threats. And outdated legal immigration programs would be reformed to meet current and future demands by exempting certain categories from annual visa limitations.

The President's reform vision also seeks to eliminate existing waiting lists in the family-sponsored immigration system by recapturing unused visas and temporarily increasing annual visa numbers. It raises existing annual country caps from seven percent to 15 percent for the family-sponsored immigration system. It treats the families of same-sex partners the same as other families by giving foreign born same-sex partners of Americans access to the family based immigration system. And it revises current unlawful presence bars and provides broader discretion to waive bars in cases of hardship.

The President's reform principles would streamline immigration law to better protect vulnerable immigrants, including those who are victims of crime and domestic violence. They would better protect those fleeing persecution by eliminating certain limitations that prevent qualified individuals from applying for asylum. And the President's vision promotes earned citizenship and efforts to integrate immigrants into their new American communities linguistically, civically, and economically.

Finally, the President's reform principles recognize the importance of travel and tourism to the United States and support additional measures to promote foreign travel to America and to streamline processing for foreign visitors. This includes allowing greater flexibility to designate countries for participation in the Visa Waiver Program (VWP), which allows citizens of designated countries to visit the United States without a visa by obtaining security authorization prior to travel. The President's vision would strengthen law enforcement cooperation while maintaining the program's robust counterterrorism and criminal information sharing initiatives.

Conclusion

Our immigration system is sorely out of date and it is time to fix it. The principles outlined by President Obama – which are largely consistent with the Bipartisan Framework for Comprehensive Immigration Reform – will address long-standing problems.

His vision for reform will strengthen border security and immigration enforcement. It will help crack down on employers that break the law while giving them better tools to hire a legal workforce. It will provide an earned path to citizenship so that millions of people can play by the same rules as everyone else. And it will streamline legal immigration while supporting our economy.

Importantly, it will allow DHS to continue to build on the progress we have achieved along our borders. Immigration reform will help us keep our focus exactly where it should be: preventing the entry of criminals, human smugglers and traffickers, and national security threats. By updating our antiquated laws governing legal migration to our country, we can eliminate a key incentive to those who may seek to illegally migrate to the United States. And because illegal migration can have links to transnational criminal activity, where these individuals are at great risk from drug cartels and other transnational criminal groups smuggling or trafficking them to the U.S., immigration reform will help us further increase public safety.

Moreover, establishing a sensible pathway to earned citizenship is essential to improving the security and integrity of our immigration system. Streamlining the immigration process will encourage immigrants to pursue pathways to legal status, reducing attempts to unlawfully cross our borders, and will ensure that enforcement resources are spent pursuing the removal of high priority cases involving criminals and those who present a risk to public safety or national security.

Over the past four years, the men and women of DHS have worked very hard to meet our immigration responsibilities. The results we are seeing today reflect promises kept. They reflect the most serious and sustained effort to strengthen border security and enforce immigration laws that I've seen in the more than twenty years I've been engaged in immigration enforcement and policy.

Our borders are more secure and our border communities are among the safest communities in our country. We have removed record numbers of criminals from the United States and our immigration laws are being enforced according to sensible priorities. We have taken numerous steps to strengthen legal immigration and build greater integrity into the system. And we are using our resources in a smart, effective, responsible manner. We have matched words with action, and we are prepared to implement the reform principles being discussed today.

I believe we are at a unique moment in history. All sides of the immigration debate agree that the status quo is not acceptable and that we must act to address the significant shortcomings of the current system – now, not years from now. For the first time in recent memory, we are seeing a bi-partisan consensus emerge about what those commonsense steps should be. We must not miss this opportunity to enact meaningful reforms to not only strengthen our immigration system, but also to ensure that our nation remains a land of opportunity for immigrants, businesses, and all those whose dreams, aspirations, hard work, and success have contributed to our nation's uniqueness, diversity, cultural richness, and economic strength since our founding.

The President's vision for commonsense immigration reform will help our nation build a fair, effective, and commonsense immigration system that honors our heritage as a nation of laws and a nation of immigrants. The time to modernize our immigration laws is long overdue, and we stand ready to work with this Committee and the Congress to achieve this important goal for our country, the American people, and all those seeking to contribute their talents and energy to our great nation.