Homeland Security

Remarks by Homeland Security Secretary Michael Chertoff on the State of Immigration and the No Match Rule

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Secretary Chertoff: Good morning everybody. I recognize Ralph Basham and Julie Myers, who are head of Customs and Border Protection and Immigration and Customs Enforcement. Obviously, their agencies play a major role in how we deal with the border and the issue of illegal migration, as well as in conjunction with Citizenship and Immigration Services for legal migration as well.

As you know, over the last year we have provided State of Immigration addresses to the American people highlighting our efforts to secure our border, enforce our national immigration laws, and improve temporary worker programs, and legal migration. This is the fourth address and it comes at the close of the fiscal year that ended on September 20, 2008. It gives us an opportunity, at this point, to step back and assess our progress over the last past year using a variety of different measurements and also to look back over five years since the department was created in 2003.

I think what will be evident, if you have an objective evaluation of the facts, is that we have achieved a tremendous amount over many fronts in turning the tide on illegal immigration. We developed a comprehensive multi-year strategy for dealing with the issue of illegal migration, we have implemented that strategy, and today we are seeing positive results of our actions. In fact, we are seeing the kinds of results that the country hasn't seen for many years.

As I always do, I have to emphasize that to get the problems of illegal migration under control in a sustainable long-term way, it has to be part of comprehensive immigration reform so we take the economic pressure that drives migration illegally into this country, and we take some of that off the table, which makes it much easier for our enforcement agencies to do their job.

We have to work with the law, as it currently exists. Of course we have to assure the American public that we will enforce the law that is on the books. As a consequence, using existing laws and using existing tools as they may be, we have put our country on a path moving in the right direction, with respect to illegal migration. We have reversed the trend of increasing illegal immigration into our country, which I think is something that would not have been thought possible just a few years ago.

As part of our effort to refine the tools that we have available under existing law, and I want to take a moment at the outset of my remarks to make an announcement regarding our No-Match Rule. As many of you will recall, in August 2007 we published a final rule that outlines the reasonable steps an employer may take when that employer receives a no-match letter from the Social Security Administration that indicates an employees' name or social security number may not match the records in the database, or may be false, or misleading in some other way.

Basically, a no-match letter is a sign that something is wrong. It is either a sign that there is a mistake in the way the data is being kept and ought to be corrected, or, more seriously, it is a sign an employer has hired somebody who is providing a false social security, and or a false name, and is likely not authorized to work in this country. There can be innocent explanations for no-match letters as our regulation recognized. For example, someone may have gotten married and failed to update their last name. In that instance what the regulation indicates is you ought to correct the problem. That is in the interest of the employer, it is in the interest of the Social Security Administration, and, by the way, it is in the interest of the worker so that in ten, twenty, thirty years when the worker is expecting to get their social security, they don't discover that it has all been deposited in an account that

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belongs to someone else.

That problem can be dealt with as a clerical matter and everybody is going to be better off. But, there are many instances where the reason for a no-match is that we have an un-authorized worker using phony documentation. What the regulation would propose is that in that instance an employer cannot, simply put, put their head in the sand, but must take steps to ensure they are brought into compliance with the law.

Essentially, this is kind of an anti-ostrich regulation. It says you need to look at the facts, you need to make a reasonable effort to determine the truth, and you need to take appropriate steps. Unfortunately, after we issued the rule last year it was challenged in court and we were barred by the court from implementing it. That litigation continues, but rather than take the course of fighting the litigation through the various levels of appeal, we determined to look at what the court had criticized and see whether we could make corrections ourselves that would enable us to respond to the courts' concerns about the original rule.

As a consequence, in March of this year, we proposed a supplemental rule to address those concerns and we also provided a more detailed analysis of how we developed the No-Match Rule and what the consequences would be. Not surprisingly, we got a lot of comments with regards to the supplemental rule. I am pleased to say we have carefully considered the comments and that this week I signed the final rule that revises the original rule, addresses the issues that the court raised, and that will be published in the Federal Register in the coming weeks.

We will be notifying the judge that we have taken action to address the courts' concerns on the original rule, and we will ask the court to lift the injunction, and let us proceed with implementation of the rule immediately. Once the rule is in effect, it is going to give a very clear roadmap to businesses that receive no-match letters. It will say that there is a period of time in which you need to address the discrepancy with the employee. If there is an innocent explanation then it ought to be corrected. That is a matter of fairness to the worker. If there is not an innocent explanation and it is in fact the case that someone is using phony documents, and someone is not authorized to work, then you have to make sure you bring your employment situation into compliance with the law.

Having laid out what we are doing in today's announcement with no-match, let me go back and look generally at the landscape as it relates to illegal immigration. First, the fence. As we speak we have over 370 miles of pedestrian fence and vehicle fences that have been completed. Our goal was approximately 670 miles by the close of the year. I should say we have other miles that are currently under construction, but we are not counting those as completed until all the elements of construction and, essentially cementing the fence, have been undertaken.

We remain committed to achieving our goal of 670 miles of fencing in the areas that the border patrol has identified as operational priorities. Although for reasons I will explain briefly, we have experienced some delay. I believe at the end of the calendar year we can get close to our goal, in terms of miles that are actually finished, or under construction, or in some cases under contract. I believe by the time the administration has completed its term in January we will have the vast majority of this 670 miles either done, or close to being done, with actual physical work being completed on the ground.

The next element we have been looking at over the past year is Border Patrol agents. As you know, we committed to double the number of agents from what we had when the President first took office, which was about 9,000, to 18,000 plus by the end of this calendar year. Here I am pleased to say we are ahead of schedule. Our current table of organization indicates we have 17,628 border patrol agents and I am confident that we will be able to exceed our goal of 18,000 by the end of the calendar year.

We continue to rollout and deploy technology. Our Project 28 prototype is currently being used and continues to be refined. It has aided the Border Patrol in over 4,000 apprehensions of illegal migrants in the part of the border in the vicinity of Sasabe. It has also led to the seizure of almost 8,000 pounds, 4 tons, of marijuana during the fiscal year 2008. We continue to work with the system and expect to be deploying the system in the Tucson sector early next year and subsequently expanding it to the Yuma sector.

In addition to this particular configuration of technology, SBInet contemplates a whole range of technological solutions to the border, therefore we can continue to deploy thousands of sensors along with ground-based mobile radar units, and fixed ground-based radar units. Those continue to deployed all along the border. We currently have four unmanned aerial systems that are operational and two more planned for delivery in the next few months.

Those are the inputs, so now let's talk about the results. With respect to apprehensions, we can see that fiscal year 2008, if we compare it to the prior fiscal year, reflects a 17 percent decrease in apprehensions. That is

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actually 40 percent less than in 2005. This is a clear indicator, but only one indicator, that enforcement is working, that fewer people are crossing, and that we are deterring people because we are making it more difficult.

More globally, Pew Hispanic Center recently issued its annual survey of where the country is with respect to lawful and unlawful immigrants. As you can see, for the first time since 2001, we actually have, according to Pew, at worst a completely flat rise in immigration meaning no increase, and likely a decrease in the net number of illegal migrants. Let me spell it out what that means. That means this is the first year for as long as many of us can remember, there has been no net increase in illegal immigration in this country. In fact, it is likely that there has been a net decrease in the number of illegal migrants in this country.

That means we are finally beginning to move the direction of illegal migration down rather than up. While it certainly does not suggest we can declare victory, it tells us for the first time that the efforts we are undertaking at the border have begun to turn the tide on illegal immigration and have begun to move that tide away from increased migration and towards decreased migration.

The fact that legal migration is now above illegal migration tells us there is more at work than just the economy. This is the positive result of enforcement, both at the border and the interior. Pew went on to say, "Inflows of unauthorized immigrants averaged 800,000 a year from 2000 to 2004, but fell to 500,000 a year if you average from 2005 to 2008 with a decreasing year-to- year trend. The unauthorized immigrant population grew more slowly in the period from 2005 to 2008 than it did earlier in the decade." Here are more specifics, "The number of unauthorized immigrants from Mexico appears to have leveled off since 2007. The number of undocumented immigrants from other Latin nations has fallen since 2007. A decade ago newly arrived unauthorized immigrants began to outnumber newly arrived legal permanent residents. The reverse now appears to be true." I commend you to read the report and get further enlightenment about what they have found.

Now, these issues of measuring population and measuring apprehension are not the only metrics showing we have begun to move the tide in a direction on decreasing illegal migration; remittances are down. According to a recent Inter-American Bank report, "For the first time this decade remittances to Latin America and the Caribbean and expected to decrease in value." The report goes on to say, "Until last year remittances to the region had grown by double-digits every year." The report attributes the decrease to, "More restrictive measures against illegal immigration," among other factors. The Bank of Mexico announced, for example, that remittances fell to $1.9 billion for August, which is a 12.2 percent drop from the same period in the prior year.

Finally, putting to one side all the numbers and statistics, if you open up the newspapers you increasingly see stories. Some of them are written by, frankly, people that are not sympathetic to the approach we are taking. They interview illegal migrants themselves. These stories repeatedly tell us that migrants are seeing the change in the enforcement climate and that is deterring them or discouraging them from trying to come into the country illegally. For example, there was a *Financial Times* headline on September 9, 2008 that in many ways sums it up, "Crack Down Turns Border Town into Ghost Town." In other words, a town south of the border, which had made a flourishing economy on staging and preparing people to cross illegally, now is out of business because people aren't going there anymore to try to cross the border.

Let me talk about a couple of other features about what we are doing at the border before we get to the interior. As you know, for several years we have ended catch and release. What that means now is, particularly those from countries other than Mexico who used to be caught and then released into the interior while waiting for deportation, only to disappear and never show up again. Those people are now held, detained, and removed. We have plugged a major incentive that was bringing people in illegally.

The metric that is an unhappy metric, but an accurate metric of our success, is the increase in violence that we have seen across the border as we have cracked down at the border. I know from my personal experience as a prosecutor, as well as what I have been told from the Border Patrol, that when it gets illegal organization to smuggle just not human beings, but also drugs and other contraband, they start to fight with the enforcement authorities in order to preserve the illegal business, and they fight among themselves in order to hold a larger percentage of a dwindling pie of illegal proceeds.

Unfortunately, it is predictable but in some ways it is proof that we are having an impact. That violence is spiking at the border and south of the border as well. I need to, again, commend the fine work of the administration of President Calderon for taking a very aggressive approach in dealing with these organized criminal cartels that are a threat to the peace and safety of the people of Mexico as well as the United States.

Turning to the interior, I would like to feature some of the very positive progress we have made in tackling all the features of illegal immigration that pose problems in the interior of this country. Let's begin with gangs. We know

transnational gangs, like MS-13, pose a clear threat to public safety. It is a threat because not only in many cases are they harboring illegal immigrants, but because they are engaged in illegal narcotics activity and acts of violence, including murder.

Through Operation Community Shield we have, in total, arrested more than 11,000 illegal alien gang members and their associates. Some of these serve time in prison before they get sent home, others get sent home directly. The point is, they are removed from the streets of American society. Over the past 4 months as part of this operation, we have had a surge of more than 1,700 arrests. If you look at the chart that is displayed, every year we have increased the number of arrests under this operation that is aimed at gang activity.

Fugitive operations. A fugitive is someone who has gone through the court process, a court has told them they must leave, and they have defied the court order and decided they are not going to leave the country. So it is not just a question of someone who is in the country illegally, it is someone who has been given a chance to go through the court process, and they have lost, and they have, basically, said to the judge that they are not going to obey their order. We have increased the number of fugitive operations teams dramatically. We currently have over 100. That has resulted in a record number of arrests to fugitives in fiscal year 2008, which is 34,000, several thousand above the prior fiscal year and double what was the case in 2006. That is a dramatic increase in removing fugitives and vindicating the authority of our courts to make decisions about who ought to be removed from the country. In respect to removals in general, we have set a record again in fiscal year 2008 with almost 250,000 removals. That is removing people who are illegally in the country and sending them back home.

Part of this strategy deals with work site enforcement. I recognize that is probably the part that gets the most attention in the press, although it is only one feature of all the other elements of the program I have outlined. Here again, this year was a record-breaking year for work site enforcement with over 5,100 administrative arrests and 1,100 arrests in work site cases. That compares with 4,000 administrative arrests and 863 criminal arrests in the prior year. If you look at the chart, you will see in the last 3 years there has been a total turn around in the number of arrests we have made, both on criminal charges and administrative charges based on work site enforcement.

This past year our criminal charges included 135 against employers, or people in the supervisory chain, and 966 against employees or others involved in criminal activity related to our work site enforcement. We have also raised fines to employers by 25 percent. At the same time as we have cracked down harder on employers and the work site, we have expanded the tools we are making available to employers who want to do the right thing.

E-Verify, which was our major upgrade and expansion of our pilot, has become a very popular program with people who are employing workers who want to make sure they are doing the right thing. We now have almost 100,000 employers and more than 90,000 currently participating. We basically add them at a rate of almost 1,000 per week. We have had 6.6 million queries of new hires since the programs' inception. We have added new capabilities, like a photo tool, that allows you to compare the photo of the person who is presenting documents with the photos we have in our databases. There is a proposal that is being carefully considered to make this mandatory for federal contractors.

This is important because we need to make sure our own house is in order. It is hard to make the case to the public that we are serious about illegal immigration if federal contractors are repeatedly being caught using illegal immigrants doing jobs in federal buildings, or for the federal government. A couple of states have already made it mandatory for their businesses to use E-Verify and those have been challenged by the courts, and to my knowledge, have been upheld. This is why I would like to thank Congress this past month for re-authorizing the program because I think that is a vote of confidence in its importance.

Finally, we want legal immigration. As much as we want to discourage illegal immigration, we want to encourage legal immigration. Here I am delighted to say that the United States Citizen and Immigration Services has worked very hard to improve the business practices and to reduce the backlog, which has been very frustrating for people who are obeying the rules and want to become lawful American citizens. We gave priority to name checks associated with citizenship applications through the name check elimination project. During the past year we reduced the FBI name check backlog from 314,000 pending requests to 16,000. That is a dramatic reduction in the number of people who were awaiting action by the FBI. Before November, well ahead of schedule, USCIS will have had substantially addressed all name checks pending for more than a year. By the end of June 2009 98 percent of all FBI name check requests will be completed within 30 days with the remaining 2 percent completed in 90 days or less. This is speed that has never been seen before and at a time, frankly, where the demand placed on the program has been greater than ever in the history of the country. We are doing this without compromising the security of the process that we are undertaking.

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I am also particularly delighted that over the last 5 years we have naturalized over 3.5 million new Americans including more than 1 million this past fiscal year, which is a new record, and a record that all of us ought to be proud of. This also includes military naturalizations and I have been privileged to conduct some of these myself, including in Iraq. In all USCIS in the last year naturalized, over 8,200 military personnel.

Finally, visitors. Obviously, there are people who come to the country who are not working and here as lawful permanent residents, but we still want to encourage them to visit. We want to do it in a way that increases efficiency and also lines up with promoting our security.

Among the things that we have in place, we are now deploying under our Western Hemisphere Travel Initiative, RFID readers at all our ports of entry, and we are on track to be able to process our new passport cards at our high volume ports when the reader initiative becomes mandatory in June of next year.

I will say compliance already is very high, and we have had hundreds of thousands of people applying for their new pass cards, and a number of states have come on board, beginning to roll out enhanced driver's licenses that will be accepted at our land ports of entry as adequate documentation under the Western Hemisphere Travel Initiative.

We also have US-VISIT up and running and we are continuing to roll out our ten print. We have done it at all our consulates overseas, and we are increasingly bringing the ten print readers to our air ports of entry.

Of course, as I announced, as the President actually announced last week, we have been pleased to welcome seven new countries to our Visa Waiver Program as part of new legislation that we are currently implementing that will upgrade security for all Visa Waiver visitors and expand the pool of countries that can now take advantage of the program. This includes South Korea and six of our friends in Eastern Europe and the Baltic's, Lithuania, Latvia, Estonia, the Czech Republic, Slovakia and Hungary.

Looking back and looking forward, many of the things we have accomplished in the last couple of years in particular as part of our Secure Border Initiative were things that people did not believe could be accomplished or would take ten years to do.

I do not think people would have predicted two years ago we would wind up seeing the trend in terms of illegal immigration actually getting reversed. I think it is fair to say that we have done more in the last five years to address illegal immigration than in decades before.

Five years ago, we did not have unified border agencies or inspection forces. We treated immigration and customs as totally separate tasks. Now, we have integrated components, integrated agencies, and we treat immigration and customs as part of border protection, a single mission to which we apply all of our resources, and now for the first time we have a unified nationwide strategy with respect to controlling the border, which includes infrastructure, personnel, and technology.

I am not ready to say we are close to declaring victory, but I think we are now on the road to victory, if we are persistent and if we are determined to complete the job.

It is important as we move forward not to step away from the path we have taken, not to reverse the direction, or to bow to those who say it is bad for business if you leave migrants out. We need to continue to show the American people that we will enforce the law.

It is my conviction that if we do that, there will come a time in the near future where the American public will finally say okay; we trusted the government to control immigration. Now we are prepared to open the door to more legal immigration or to more legal temporary workers.

At the end of the day, it is our philosophy, it is my personal philosophy, that the answer to dealing with the problem of jobs that Americans do not seem to want to fill, is not to allow people to come in illegally, to break the law to fill them, but to create a regulated legal visible and secure path, to invite people in when we want to invite them in, under the terms and conditions that satisfies us as Americans, that we are comfortable with the security and the economic impact of that migration in that temporary work, and also using a path that is transparent and protects the workers themselves from the kind of exploitation some of them experience when they come in an illegal status.

I want to encourage the public as we move forward to continue to keep track of our progress.

One of the things we have done is we have put a lot of this data on the web, and over the next week, we are

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going to put more of this data on the web, and we are going to expand the number of types of metrics we put on the web so the public can literally follow us month and month and see how we are doing. That, of course, is a way of holding government accountable as well as demonstrating to the public what we are actually achieving.

We have also created a widget that people can download on their desktop that will automatically update when new figures or new facts come out.

Ultimately, to solve the problem of illegal migration and to give us an immigration system that satisfies our economic needs and that is also humane to people who do want to come work in this country, we are going to have to go back to Congress and see if we can get comprehensive reform in the future.

I think we have actually upheld our end of the bargain. We were told when this was rejected in 2007 the American people did not trust the federal government to withstand the pressures of various interest groups and to enforce the law.

I think we have withstood that pressure. I think we have enforced the law. I think we have seen positive results.

Now, I would like to invite everybody at some point in the future to exercise a little bit of goodwill and see if we can come up with a joint approach that will allow us to build the enduring system that deals with immigration in a way that will satisfy our country's needs and security interests, but also allows us to engage with people who want to come and make a contribution, that history has shown in the long run benefits the United States of America as well as those who come to join us.

Thank you. I will take some questions.

Question: Mr. Secretary, there is a lot of unbuilt fences in Texas, what are the challenges you are encountering there and what are the prospects for finishing any part of that by January?

Secretary Chertoff: I think we will finish a significant part of this. The challenge has been that we have been engaged in very particular litigation over a minority but still a significant number of parcels where individuals object to a fence.

We have resolved many of them. Many of them are voluntary. Sometimes we have to find the person who is the land owner, and that slows the process up. Some people are very determined to litigate this to the hilt, and court takes time.

We are pressing forward vigorously. Where we have been able to acquire land in a sufficient chunk to build, we have gone ahead and built that. We have gotten some good settlements. We got a settlement with the University of Texas at Brownsville, which I think was a win-win, and we reached an arrangement with Hidalgo County that I think is going to be protection for their levy system as well as something beneficial to us.

All the court challenges to our exercise of authority have ultimately been rejected. We have won all those cases. Litigation takes time. We are going to keep pressing and we will be pressing through January 19th of next year, and then it will be up to somebody else to press.

Question: Mr. Secretary, on the no-match letters, could you specify a little more about what are the clarifications that you are sending to the Court in order to ask them to lift the injunction?

Secretary Chertoff: The largest clarification was there was a request for us to do some additional economic analysis and we performed the economic analysis. There are a couple of editing changes that have to be made, making it clear, for example, that the decision for prosecution of people who violate the law ultimately rests with the Department of Justice.

I do not think there is anything that is going to change the basic configuration of the program that was previously announced last year.

Question: In terms of the employers, it is basically the same?

Secretary Chertoff: Employers are going to be given a period of time when they get a no-match to engage with the employee. If there is a correction that needs to be made, it ought to be made. If there is not a correction because the underlying problem is a false document and someone is unauthorized to work, then obviously appropriate action has to be taken.

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Question: Is that amount of time the same as it has been?

Secretary Chertoff: Yes.

Question: Mr. Secretary, I have a two part question on the border fence. Given the 90 days or so it takes to construct the fence, and once you have permission and given the court, legal and environmental issues, is it accurate to say that the agents will not complete the 670 miles by December 31st, and by at least the inauguration, how much of the fence will be done, how much will be close to being done, and can you define what you mean by close –-

Secretary Chertoff: It is a little hard to project because as you pointed out, the biggest uncertainty is the court proceedings. They have been slower than frankly I would have projected. Obviously, we cannot break ground until we can get through these proceedings.

I am going to give you a projection, but it is not a guarantee. I believe by the time we leave the office and hopefully by the time we are at the end of the year, we will have 90 to 95 percent either completed or at least under construction, meaning we will have broken ground, we will have put pilings in, and of course, part of what I am thinking is once we are actually at the location building, it is unlikely people are going to be coming across illegally. That will be an area that we are controlling.

But I could be off by a couple of percent, depending on whether some of the court stuff takes a little bit longer. So far, at least in all the significant challenges, we have prevailed. That is important in terms of moving us to our final objective.

Question: Mr. Secretary, a couple of times you have made the case here for comprehensive reform. It is an issue that has received very little attention in the presidential campaign.

Secretary Chertoff: I do not talk about campaigns.

Question: Is it appropriate for this to be off the table, for there to be no discussion of immigration during the presidential election?

Secretary Chertoff: I do not talk about campaigns. I will answer a different question. Do I believe that in the next few years we are going to have to address this? Absolutely. This is not a situation which is sustainable over a long period of time. Even as we reduce the number of illegal migrants, we are still dealing with a very challenging process, which does have an impact on our resources. It has an impact on humanitarian considerations. It has an impact on economic needs of the country.

Obviously, as unemployment rises a little bit, that may change the dynamic a little bit, but I doubt that it is going to come to the point that lettuce picking is going to become a favorite occupation, even if we have something of an economic down turn.

I think this problem is going to be out there. By the way, it is a global problem. When I go over and talk to my counterparts in Europe, they are tackling the very same issue, and to be honest, they are beginning to emulate our strategy of tougher enforcement.

I think in the end, this is one of these big problems, it is not going to go away by itself, but I do recognize that the lesson I took from last year was we had not made the case to the American people that we would live up to the commitment to enforce the law, and there was some skepticism about whether when the camera's get turned off and the special interest groups come out, whether they would wind up forcing us to basically go back to business as usual.

Whether you like what we are doing or not, it would be hard to argue we were conducting business as usual in the last year and 18 months. We have the interest to prove it and we have the outputs to prove it. I am hoping that will empower the people on all sides to come together, look at the problem in full scope, and help the country come to a solution.

Question: Mr. Secretary, on E-Verify, what Congress approved in the Continuing Resolution was funding only until March of next year, the five year reauthorization went to the House and was approved, and did not get through the Senate. Given that E-Verify is on a short time table next year, what are its prospects?

Secretary Chertoff: I think actually there was a little bit of an inconsistency. I think there was one element of the

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Omnibus action approving funding for the year, and then there was another that suggested it was three months.

I think obviously there is something there to be resolved. The value of this program is very clear. It is hard for me to see the argument against the program. Why would we want to say to employers, we want to make it hard for you to know if people are here illegally. That makes no sense at all.

I am confident that however the lawyers resolve the inconsistency, that the Congress will make sure that this program can continue to move forward in the future.

Question: With regard to the no-match letter, would this apply to the IRS releasing information for individual taxpayer I.D. number holders to Homeland Security?

Secretary Chertoff: No. What no-match does is, no-match basically says you are going to get a letter from Social Security as an employer. It is going to tell you there is a problem. You have to resolve the problem. It does not give us a whole lot of data from IRS. That would require a legislative change.

What it does do is it gives guidance to employers. It tells them if you do the right thing, then you are basically safe. If you take the letter and you throw it in the wastebasket because you do not want to be bothered or you do not want to get the bad news, then you are taking a risk.

Question: I have two questions, if you will indulge me. The first one is on Social Security, there was an effort to reform another supplemental to try to get the injunction lifted, and there was some opposition, feeling that it really did not do much. I am wondering what you feel is different about this one that might allow you to get this injunction lifted.

Second, I wanted to ask you about comprehensive immigration reform. If the Congress does not take it up in the next session and the Administration does not address it, can the U.S. continue to sustain this level of enforcement?

Secretary Chertoff: The answer to the first question is I would look at the Judge's opinion. We believe we have addressed everything the Judge expressed concern about, and that is why we feel we are in a position to go back and ask him to lift the injunction.

On the issue of sustaining enforcement, I think we have built the tools and the capabilities and we have recruited the people to allow us to continue to move in the direction we have now established, which is reducing illegal migration. I think as you push harder and harder, it gets expensive, and it becomes more and more difficult as you drive the number down.

I think the ability to enforce the law is in place, as long as the determination is in place. However, if you can satisfy the economic needs that are bringing some of these migrants in, by creating a lawful temporary worker program, so people can come in and do these jobs legally, it is going to make it a lot easier and a lot quicker to finish the jobs.

My bottom line is I think the next Administration, whoever it is, can continue the job of securing the borders and can get it done. I think we have the path laid out and the tools being fashioned to do that. We could do it more quickly, more easily, and more inexpensively coupled with comprehensive immigration reform that addresses the issue of temporary workers.

Question: I'm sorry. I hate to go back to the Social Security thing. Since we have to explain this to an audience that is not versed in this, is there anything that you can specifically tell us that might get this through?

Secretary Chertoff: One of the main issues the Judge raised, probably the one that took the most time to address was a question of whether we had done sufficient economic analysis of the impact of the rule on businesses as required by law.

We conducted an economic analysis. We laid it out. We now think we have answered the Judge's questions. We have shown we have considered the economic impacts of it. We think that satisfies the legal requirement.

My recollection of the Judge's opinion, it was not that the Judge said you cannot do this, you cannot make people check to see whether their employees are illegal. It was there was some statutory requirements that he felt were not met in the rule. These are the things we fixed, which is why we think the rule is now fully in compliance with the law and can go forward.

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I am going to venture a prediction. I am going to bet that the same claimants who sued last time are going to sue again or object to the rule. That is because groups like the Chamber of Commerce have told us, and they have not been coy about it, they have told us why they do not like the rule.

As they said when we did comments last year, there are many businesses that rely on illegal migration in order to carry out their activities, and it would hurt them if they had to comply with the law.

In my experience, making money is not a sufficient justification for violating the law, since most people break the law in order to make money.

I do not think there is a persuasive argument, but I am quite sure that we are going to get resistance again, and that is why I come back to comprehensive immigration reform. I think it would be a lot easier if we said to businesses, as we said in January 2007, if we can work together to have a legal way to get the workers, that is a win-win. You get the workers, the workers get protected, and we are obeying the law.

Because we did not get the comprehensive immigration reform, there are some people who believe the way to deal with their economic need is to make it hard for us to enforce the law, and regrettably, that has been a feature of the way immigration has been dealt with over the last 10 or 20 years.

We are trying to get out of this box of non-enforcement, violation of the law, and certain businesses that are built on illegality, which actually winds up also exploiting the very workers who are the foundations of those businesses.

Question: If the groups who were opposed to the no-match rule manage to stymie you in court for an extended period of time, have you extended the teams that would be doing audits of businesses, to look for people who are violating the --

Secretary Chertoff: We are continuing. We have a vigorous program of auditing. I should say a lot of -– this is going to send chills down the spines of some of the employers –- a lot of the cases we make, we discover large numbers of illegal's, come from tips. Actually, IRS does the same thing, too. Disgruntled employees or competitors, legitimate workers, phone in tips, give us information, and that gives us the ability to go and do investigations.

We use all the tools, and we are continuing to use all the tools even while this regulation is being litigated.

Was there another part of the question that I missed?

Question: I was just wondering if you expanded the teams to do audits and investigations over the last year.

Secretary Chertoff: We have. We have the exact numbers.

Question: Can I ask a non-immigration question? Just one short question on comprehensive and then back to no-match.

How confident are you that the down trend will continue once the economy begins growing again, and on the bigger issue, for critics of CRs, you know, you should only be enforcement, do you expect major legislation will be posited before the economy starts growing again, and then on no-match, if I could just ask --

Secretary Chertoff: That's a hell of a one question.

(Laughter)

Question: Given the time, that it has taken so long to get the rule together, and there is some indication it will come out in the summer, now it does not look like even if it does go through, it will be up to the next Administration, the next Congress to actually enforce this, or would you say the critics on Capitol Hill or elsewhere are trying to --

Secretary Chertoff: First of all, we have talked about the no-match rule and we have been moving the 18 months. This is not a surprise being dropped on anybody in the last few months of the Administration. We had a lot of comments. In order to make sure that we did not get ourselves back into a situation where we were being sued because we did not pay enough attention to the comments, we had to work through all the comments.

I think this has been something that has been debated and discussed widely for 18 months. I do not think this is

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going to come as a surprise to anybody. I am quite sure, as I say, that we are going to wind up in court further.

Remind me of the first question.

Question: Confident that a down trend will continue.

Secretary Chertoff: I would agree that certainly, you know, for someone who is contemplating coming illegally, it is a mix of they have to weigh the incentive and the deterrents. When the economy goes down, the incentive diminishes. When the enforcement goes up, the deterrents increase.

If the economy suddenly changes in the next year or two and particularly if a differential between the economy in other countries and the U.S. becomes more marked, yes, that is going to probably encourage some more people to try to come across.

We can make real good use of this time to continue to build the border protection that we need and the enforcement that we need. Each year, assuming we continue along the path we have charted, it is going to be harder and harder and harder for people to cross the border.

I think we can actually lock in the progress that we have made, if we continue to keep the pace up over the next year or two, so that if economic conditions change down the road, although the incentives to come in may increase somewhat, the deterrents will have really increased because we will have more fence, more border patrol, more technology, more enforcement, and hopefully a better way to bring workers in legally, so that when the economy gets better, we can bring people in through the open front door instead of sneaking over the back fence.

I think that in some ways is the opportunity I would argue for comprehensive immigration reform being particularly attractive at a time when we are trying to figure out how to position ourselves for when the economy does ultimately improve and we are going to need to have more workers.

Moderator: Last question.

Question: If I could just ask you about the recent letters that have been sent to financial institutions, the FBI is investigating them, and so far, the powder has been proven to be non-lethal, but can you tell us what the Department is doing, and is this looking like it is a hoax or is this a red flag?

Secretary Chertoff: It is under investigation. I do not want to start speculating about it. Any time we get powder, and I have gotten this from time to time, we take it very seriously, and obviously, the first thing you want to find out if is it harmful. If it is harmful, we would be involved with other departments in terms of response and things of that sort.

Once it becomes a criminal investigation, obviously, the FBI takes the lead in that.

Question: The Supreme Court is going to take up the issue about Social Security questions. How do you feel about that? Do you think they should rule?

Secretary Chertoff: The Solicitor General has to make the argument. Just to put it in context, there were six courts that had addressed the question of how you interpret the knowledge requirement in the statute for aggravated identity theft. Three courts came out one way, three courts came out another way. That is usually an invitation for the court to resolve the issues.

Actually, the Solicitor General invited the Court or requested the Court to resolve it. I will let the lawyers file the briefs.

Question: Would it hurt operations if it does not go –-

Secretary Chertoff: Certainly, we have appropriate reviews of aggravated identity theft as a criminal charge, but I can promise you there are many other criminal charges that are appropriate and can be used, and however this comes out, there will be an ample arsenal of tools available for enforcing the law and making sure we can deal with identity theft, which is obviously a serious problem.

Moderator: Thank you very much.

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