



Remarks by Homeland Security Secretary Michael Chertoff and Attorney General Mukasey at a Briefing on Immigration Enforcement and Border Security Efforts

Release Date: February 22, 2008

For Immediate Release
Office of the Press Secretary
Contact 202-282-8010
Washington, D.C.

Secretary Chertoff: Good morning everybody, I want to thank the Attorney General for graciously allowing us to use his wonderful, high-tech facility for the press conference. I know those of you who worried about the snow are happy to be here rather than up at Nebraska Avenue.

So, and on a more serious note, I am happy that the Attorney General has joined me in hosting today's security, immigration and border briefing, because so much of what we do depends upon the cooperation of the Department of Justice and the very the fine work that the prosecutors at DOJ do in collaborating with us on enforcing the laws here.

You will remember that last August we announced a series of over two dozen reforms aimed at strengthening border security and immigration enforcement. And we indicated that we were going to come forward and report on a periodic basis on how we are doing. This was of course a response to Congress' failure to pass comprehensive immigration reform, which involves, of course, border security, immigration enforcement, but also finding a way to get what the need for workers that some sectors of the economy strongly feel. And also a way to address the issue of undocumented workers in the country in a way that brings them into compliance with the law and has them pay their debt to society.

Congress didn't give us comprehensive immigration reform, so we are going to do what we can with the tools that we have, and frankly we have made progress in doing quite a bit, and that is what I am here to update you on.

Let me begin at the border, telling you where we are with respect to the various metrics that we use to chart our progress, including the building of additional fencing, hiring of border patrol agents, deployment of new technology, tightening your document requirements for admission to the country by land or by sea.

First, let's start with fencing. I am delighted to say we have now exceeded 300 miles of fence on our southern border. As of yesterday, we have had a total of 302.4 miles of pedestrian fence and vehicle fence, which continues us on pace to hit our total of 670 miles of combined pedestrian and vehicle fencing in place by the end of this calendar year.

Now in building this fence we always seek the cooperation of landowners, state and local leaders and members of the border communities. We do interact. We are willing to listen to concerns. We are willing to have suggestions. On the other hand, as I've made clear, we are not willing to have endless debate, we are not willing to kick the can down the road indefinitely. We have made a commitment to the American people to get the job done, and we are going to live up to that.

A waving example of a win-win, where consultation has led to something that is both good for the local community and good for border enforcement.

Earlier this year I traveled to Hidalgo County, Texas to meet with community leaders who were concerned about the fence, but also knew that they had a need to build a levee at the river for flood control purposes. We were able to reach an agreement with local leaders to design our fence plans in a way that meshed with the local flood control needs, so that we are now going to produce basically a 16-foot wall at the border that will serve both to protect against possible floods from the river in that area of Texas, but will also serve as a very powerful barrier against drug smuggling and human smuggling in Texas. This is a great example of how those

who are willing to engage with us will find our receptive ears and a willingness to have creative solutions.

We will continue to try to accommodate landowners, and continue to try to find ways to kill two birds with one stone. But I have to say this, this is not an invitation to endless amounts of discussion about it, or endless amounts of complaining, that will not deter us from completing the job that we had promised the American people we will complete this year. We have also continued to expand the border patrol. We currently have over 15,400 agents on board, and we are on track to have over 18,000 by the end of this year. This again, will be the largest expansion in the history of the border patrol, doubling the number of agents as compared to what we had on hand when the President took office in 2001.

As you know, we have been carefully evaluating our P-28 technology prototype in a portion of the Tucson sector of the border in Arizona, and we have now fully accepted that P28 technology deployment.

I have personally witnessed the value of this system, and I have spoken directly to the border patrol agents who are involved in operating that system over the last few months and who have seen it produce actual results in terms of identifying and allowing the apprehension of people who were illegally smuggling across the border.

Now, this is merely the first step in a more comprehensive program, and it's a program that uses a wide variety of tools. We anticipate going from about six to 40 ground-based mobile surveillance systems throughout the border this coming calendar year, and that is to say 2008.

We are bringing on board a fourth unmanned aerial system, and we have plans to bring two more on board. All of this is part of an integrated, high-tech approach to the border. No one fix fits all, and we are going to adapt to a precise mix of technology and infrastructure to what is required at each part of the border.

But what we are doing is using all of the tools at our disposal to get the maximum leverage for our border patrol agents who have a very tough and important job to do.

Obviously, a critical element when you apprehend people is what to do with them. And here I want to pay special tribute to the fine work that the Department of Justice has done in supporting us through a program called Operation Streamline, which brings people who cross the border illegally into the criminal justice system to prosecute them either for misdemeanors when they are making a first illegal entry, or for felonies if they enter again after deportation.

Under this program, individuals who are caught at certain designated high-traffic, high-risk zones are prosecuted and if convicted are jailed. This has an unbelievable return effect. In Yuma sector, over the last -- of the first quarter of 2008 fiscal year, which is to say October through December of last calendar year the Department of Justice prosecuted over 1,200 cases. And as a consequence, apprehension rates dropped nearly 70 percent.

What we see, both statistically and anecdotally, is that when people who cross the border illegally are brought to face the reality that they are committing a crime, even if it is just a misdemeanor, that has a huge impact on their willingness to try again and on the willingness of others to break the law coming across the border.

Just in Laredo, in the first 45 days of our Operation Streamline activity there, we saw a reduction in apprehensions of 33 percent. This program works, and the fact that we move it around and focus in on high-tech areas magnifies its deterrent impact. Overall, if we look back at fiscal year 2007 as I previously indicated, we experienced a 20 percent reduction in apprehensions for the entire southern border. This trend has continued into the first quarter of fiscal year 2008, when southwest border apprehensions were down 16 percent and nationwide down 18 percent from the first quarter of the prior year. In other words, the trend is continuing in a positive direction.

There is one last metric that shows success, and it's an unfortunate metric: an increase in violence against the border patrol up 31 percent last year. As I have reluctantly, but consistently predicted, as we strike at criminal businesses they are going to strike back. They are going to fight with us to preserve their illegal activities, and they are going to fight with each other in order to carve up a shrinking pie of ill-gotten gains.

Just this month, the border patrol discovered a piece of wire that had been stretched across a road between a double fencing, so that it could be pulled and literally decapitate an agent if the agent was riding in an open vehicle like an ATV or something of that sort. We take these threats very seriously, and I am going to be down in Mexico next weekend and I look forward to continuing our cooperation with Mexican authorities as we jointly

attack violence at the border and in the areas around the border.

Finally, as long as we are talking about the borders, let's talk about the ports of entry. You know it doesn't make a lot of sense to really build barriers between ports of entry if we then open the ports of entry to all comers on what I have called an honor system for entering the country. An honor system is wonderful in school, but it is naïve and dangerous at the border when there are many people who want to get into this country for dangerous and criminal purposes. As a consequence, and consistent with recommendation of the 9-11 commission, in January we ended the process of accepting oral declarations alone at land and sea ports of entry. And we began the process of tightening up strictly on the kinds of documents that can be presented at the land ports of entry.

Now this has a very positive result, it reduces the number of false claims of U.S. citizenship and makes it easier for the border patrol to evaluate documents to see if they are fraudulent or not, because they have got a smaller pool of documents to look at.

Just in the last couple of weeks, we picked up a person wanted on a homicide warrant when they presented their passport at a port of entry in the southwest. And the reason that person had to present a passport was because we were contracting the number of kinds of documents that were going to be acceptable. That is the exact, predictable and very salutatory result strengthening our security at the border.

Now I know there was a lot of heartburn about whether this would cause tremendous amounts of stress at the ports of entry. And we implemented this change over the last month in a deliberate way with a lot of messaging, and with the cooperation of local communities as well as our border patrol. Earlier this month, I visited the San Luis port of entry in Arizona and saw these new procedures firsthand. The truth is, the real news here is there was no news. There were not significant changes in wait times, as we measured them compared to wait times in prior periods. We have gotten close to 95 percent compliance on average with the new requirements. People get it and they want to get it. And so we are going to continue moving forward as part of a comprehensive program to strengthen security at the border.

The second element of this of course is what is the economic magnet that is bringing people into the country to work illegally? The answer is jobs. And therefore, work site enforcement and interior enforcement are critical elements of a strategy to deal with this issue of illegal migration.

In fiscal year 2007, ICE made 863 criminal arrests including 92 individuals who were in the employer/supervisory chain. We also made over 4,000 administrative arrests. Most of these arrests are for identity theft. And identity theft is not only a crime with respect to immigration laws, but it is a crime that hurts real people.

Let me give you some examples, some specific real-life examples of what we have done in the last year with respect to employer and employee work site enforcement actions. On February 7 of this year, 57 illegal aliens were arrested during a work site enforcement operation conducted at Universal Industrial Sales in Lindon, Utah. ICE forwarded roughly 30 cases to the Utah County Attorneys Office for criminal prosecution for offenses such as identity theft, forgery and document fraud. And the U.S. Attorney also unsealed two indictments charging a company and its human resources director with harboring illegal aliens and inducing or encouraging them to stay in the U.S. illegally.

In January of this year, a federal jury convicted a former human resources director at a poultry plant in Butterfield, Missouri of harboring an illegal alien and inducing an illegal alien to enter or reside in the U.S. Under federal statutes this person faces up to 10 years in prison without parole. Another former employer recently plead guilty to aggravated identity theft. A total of 136 illegal aliens were arrested as part of this investigation into identity theft, social security fraud and immigration-related violations at the plant.

In March of last year, 2007, a textile product company in New Bedford, Massachusetts was raided, and the owner and three other managers were arrested and charged with conspiring to encourage or induce illegal aliens to reside in the U.S. and to hire illegal aliens. Another person was charged in a separate complaint with knowing transfer of fraud human identification documents. Approximately 320 illegal workers were arrested on administrative charges as well.

And also in March of 2007, the owner of an Indiana business that performed construction services in seven Midwest states plead guilty to violation relating to the harboring of illegal aliens and was sentenced to 18 months in prison. He also forfeited \$1.4 million. These are the kinds of cases that have high impact on those who would hire and employ undocumented and illegal aliens often facilitated through identity theft and

document fraud.

I am delighted to say as part of our effort to continue to make it less appealing for people to break the law, we will soon publish a regulation with the Department of Justice to increase civil fines on employers as we announced last August. This is again, a way to keep that pressure up to make sure people are compliant with the law.

A couple of other brief things before I turn it over to the Attorney General. As important as it is to punish law breaking, we have got to make it easy to follow the law. There has got to be a path to legality as well as punishment for illegality. And so we want to continue to move forward, to get our no-match regulation out there. We are very close to publishing our new no-match rule, which we think will address the issues raised by the court as a consequence of an ACLU lawsuit last year, which was designed to make it impossible for us to tell employers a very simple, common sense principle that when you get information that someone may have something questionable about their social security number/identity, you should inquire further, and that you cannot hire illegal aliens. And we are looking forward to getting this issue resolved in the very near future.

Likewise, we are continuing to promote the use of E-Verify. The state of Arizona, I think, in the last couple of days had its new rule requiring E-Verify use sustained by the federal courts, and we are beginning to see that illegal workers are picking up and leaving, because they recognize this system is an impediment to their continued illegal activities and illegal employment in this country.

Nationally, we are adding 1800 new E-Verify users every week, that is the marketplace speaking. That is employers saying they want to get on board with this. We have over 53,000 employers now using E-Verify, which is more than double what we had fiscal year 2007. And more than 1.7 million new hires have been queried this fiscal year under the system. This is a good news story.

Now the federal government needs to lead by example, and in the coming weeks we are going to issue a proposed rule requiring federal contractors to use E-Verify. This will significantly expand the use of E-Verify, and continue to build capabilities that will help people comply with the law and make it harder to violate.

Finally, we need to talk about continuing to focus on those illegally in the country who are fugitives, criminals, and gang members, which we do through targeted enforcement operations again, in cooperation with the Department of Justice.

In fiscal year 2007, our fugitive ops teams arrested 30,000 individuals, double what was the case in fiscal year 2006. These teams, which we have quadrupled to 75 teams since fiscal year 2005 focused on people who have violated a judges removal order or who have criminal records. We have also expanded our criminal alien program initiating formal removal proceedings against 164,000 illegal aliens who are serving prison terms for crimes they have committed here in the United States. We don't need to import criminals into America, we need to have them go back where they came from.

In fiscal year 2007, ICE arrested 3,302 gang members and their associates as part of operation community shield, including 1442 arrests for criminal activity. And this year we have arrested a further 723 gang members and their associates. This is focusing on people who are a threat to the safety and security of American citizens.

And finally, we work with the Department of State to expand the official list of known organized crime street gangs. These actions will ensure that when active members of a known organized street gang from El Salvador, Honduras, Guatemala or Mexico tries to come into the U.S. and seeks a visa, we can identify them and bar them so they do not enter the country.

Finally, as we recently announced, we are working hard to improve the user-friendliness of our temporary worker programs. The bottom line is as long as there is a need for workers, there is going to be a strong drive to bring them in and that is going to unfortunately fuel illegal activity. As we are pressing the accelerator on enforcing the law, we should not at the same time be stepping on the brakes. And therefore, we are going to try to lift our foot of the brake so that we can enforce the law, we can create a legal tool so the temporary workers can come into the country with visibility and in a regulated manner. And that is going to get us further along the path we have taken to getting real border security for this country.

General?

Attorney General Mukasey: Good morning. Thank you Secretary Chertoff.

The security of our borders raises issues that are really basic to us as a nation. The ability to control who-and what-comes into and out of a country is one of the most important attributes of a sovereign government, and being able to do that is also vital to our nation's security.

Despite Congress's failure to pass comprehensive immigration reform, we have done a lot to help secure our borders over the last few years, but there is still a lot to be done and that is especially true in connection with our Southwest Border. And I want to emphasize particularly the level of cooperation between DHS and the Department of Justice that was emphasized by Secretary Chertoff because that's the key to success here.

Addressing the many problems associated with the border is among my highest priorities, as it is obviously Secretary Chertoff's. Because of that, one of the first trips I made as Attorney General was to the Southwest Border and to Mexico, which an indispensable partner in our border enforcement efforts.

On that trip, which was just over a month ago, I visited the Port of Entry at Nogales, Arizona, and took a helicopter trip along the border. I met with the federal prosecutors; law enforcement officers who serve on the front lines of the effort to secure our borders; and also with a group of judges who preside over many of the cases that the Department brings and carry the legal burden of bringing those cases to conclusion. I also met with the five United States Attorneys whose districts comprise the Southwest Border.

I came away from that trip with an appreciation for the challenges and the complexities that we face along the Border, and the resources needed to address them. My subsequent work on these issues has deepened my understanding of the challenges that we still face.

One of the main lessons I learned, and one of the lessons that was stressed by Secretary Chertoff, is that one size does not fit all . . . that flexibility is key. That's true for two reasons. First, each border sector, and each border district, has its own challenges, its own issues, and its own opportunities based on terrain, traffic flow, crime patterns, and available resources. What may work in one sector or district doesn't necessarily work in another.

Second, the situation on the border is dynamic. That is, the criminals we are dealing with, the alien smugglers, drug smugglers, gun smugglers, and the like, watch very carefully where we are and what we do. In my helicopter trip along the border, for example, I was shown how smugglers have deployed car-battery-operated surveillance equipment that they use to track the movement of our law enforcement agents. As we adjust our practices and policies, the smugglers adjust theirs accordingly. It is crucial, therefore, that we change our tactics from time to time, place to place so that we stay one step ahead of those we're trying to stop.

Although one size does not fit all, as is true elsewhere, it is absolutely critical that we work together -- that the left hand knows what the right hand is doing. It doesn't make our country as a whole any safer for one district to solve a problem by pushing that problem off into another district.

Mindful of these challenges, the Justice Department is developing a Southwest Border enforcement strategy that is not only comprehensive, but also flexible in responding to the particular needs, the particular challenges of each sector and each district.

Working closely with our partners at the Department of Homeland Security, one of our main goals is to reduce incentives for people who come into this country illegally. Put another way, we are trying to raise the costs of coming here illegally -- especially for those who come here illegally and commit additional crimes, like narcotics trafficking and gun trafficking.

For example, as Secretary Chertoff announced a few minutes ago, next week we are increasing civil fines imposed on employers who knowingly hire illegal immigrants by 25 percent, the maximum allowed by law and the first such increase since 1999. We are also working with the Department of Homeland Security to increase criminal prosecutions against the most egregious employer offenders.

We are increasing prosecutions for entry without inspection through programs like Operation Streamline. These programs appear to have had a significant deterrent effect on illegal immigration in places like Del Rio, Texas and Yuma, Arizona, reducing the number of individuals returning illegally to the United States and discouraging others from coming here illegally in the first place. We have begun a pilot misdemeanor prosecution program in Tucson, Arizona, and we will be examining the results of that for possible implementation elsewhere.

In partnership with DHS, we are working to improve rates of prosecution and deportation of criminal aliens,

especially gang members, who are detained in American jails and prisons. The Central District of California, for example, introduced a pilot program in 2006, and the following year there was a 116% increase in prosecutions of criminal aliens for illegal reentry. We are reviewing that program with an eye toward expanding it to the Southwest Border districts and to other districts.

And we are closing the so-called voluntary departure loophole, which allows illegal aliens to remain in the country by continuing to litigate their cases, even though they have agreed to leave voluntarily and receive certain benefits for doing so. We published a proposed rule in November and, pending a Supreme Court decision on a related issue, we expect to issue a final rule later this year.

In addition to those changes, the Justice Department is doing what it can to be more responsive to those who are entitled to be in this country. One way we are doing so is by having the FBI work closely with DHS to improve the process for conducting name checks for immigrants to seek changes in their status. It is important to check law enforcement and intelligence files relating to these aliens, but the sheer volume of checks has led to a huge backlog. That backlog is now decreasing and the FBI continues to address the problem -- for example, by hiring a significant number of new employees and contractors this year and making other procedural and technological improvements.

Our strategy must -- and it will -- produce measurable results, and we're working hard to secure the necessary resources. We are also working hard to streamline our cases and operations, not just to minimize our own costs, but also to reduce the burdens that our increased enforcement efforts impose on the court system.

The needs are massive. In FY2007, for example, the five Southwest Border U.S. Attorney's Offices prosecuted almost 12,000 felony immigration cases -- almost two-thirds of the national total. When you add the increasingly large number of misdemeanor prosecutions to that mix, the programs like Operation Streamline, the burdens on these offices are actually staggering. These programs impose other costs on the Department as well, from need for detention space, to costs for prisoner security and transportation. Our prosecutors and law enforcement officers on the frontlines are making heroic efforts with the resources they have, but they need more.

Just two months ago, Congress appropriated a total of \$22 million to support our prosecutors and U.S. Marshals on the Southwest Border. We are using that money to hire additional prosecutors, support staff, and Deputy U.S. Marshals. By December 2008, we expect to add as many as 50 new attorneys and 100 Deputy U.S. Marshals dedicated to border enforcement. That's a good start, but we need to maintain our momentum.

So this year, the Administration is seeking an extra \$100 million in funds for the Department's Southwest Border Enforcement Initiative. With that money, we hope to hire more than 265 employees, including over 50 attorneys to support increased prosecutions for immigration, drug, and firearms offenses; over 50 Deputy U.S. Marshals to improve prisoner security and transportation; and over 25 Drug Enforcement Administration agents to reduce the flow of drugs into our country from the South.

These resources are absolutely necessary to deal with the problems at the border, including the growing problem of cross-border violence and gang threats. They are also needed to keep pace with the increase in Border Patrol agents that Secretary Chertoff has discussed, since more Border Patrol agents means more cases for the Justice Department to handle. Congress rightfully will expect to see results for that money, and we're focusing on the best ways to achieve our goals and measure the results.

As I mentioned a few minutes ago, from my visit to the Southwest Border, I traveled on to Mexico, my first foreign destination as Attorney General. There I met with President Calderon and my counterpart, Attorney General Eduardo Medina Mora. We discussed various issues relating to the border, including cooperation to stem the flow of illegal immigrants and drugs from Mexico to the United States. We also discussed our efforts to cut down the flow of guns from the United States to Mexico and to reduce the violence at or near the border.

I'm pleased to tell you that the level of cooperation I have seen and experienced with the Mexican government and law enforcement is unprecedented. Only this week, a delegation from the Justice Department and the Department of Homeland Security --including the border United States Attorneys and high-level officials from the DEA, ATF, FBI, Customs and Border Patrol, and Immigration and Customs Enforcement -- met with their counterparts in Mexico to improve cooperation and coordination across the border. We expect that kind of cross-border exchange to continue, as the sharing of information and the building of productive relationships are crucial to the success of our efforts.

All of this increased cooperation with Mexico has led to real dividends. We've seen record numbers of

extraditions from Mexico. We've seen a government, in the Calderon administration that is willing to take the fight to the cartels. We've seen an increase in the numbers of law enforcement officers and vetted units that we can partner with. And we've seen searches and arrests not just here but also in Mexico, including the seizure last month of an underground target range in Tijuana that was actually a training ground for drug cartel assassins. That's one facility we can all be glad is out of business.

Our enforcement efforts at the Southwest Border are making a difference, but our nation's security calls for more. That will require a comprehensive yet flexible enforcement plan, and considerable resources to address the problems associated with the border. The Department of Justice, in collaboration with the Department of Homeland Security, is developing such a plan, and we're actively pursuing the necessary resources.

Thank you very much and now we'll take some questions. Yes?

Question: In last night's Democratic presidential debate, Senators Clinton and Obama criticized the border fence saying it had been built without proper consultation and they suggested that technological advances could perhaps substitute for a physical barrier. My question to you is, is it possible to do that with the fence that's now planned through 2008; and secondly what direction do you see the Project 28 advances taking as the barrier spans?

Secretary Chertoff: Well, first, as those of you who have covered me know I don't do debate commentary. But I will tell you in general what our approach on the border is, which has been consistent since we started this well over a year and a half ago. We use the right mix depending on what the particular terrain is. There are some areas where physical fencing makes a lot of sense, particularly in areas where the distance from the border to a transportation hub, what we call the vanishing point, is a very short distance. And there, fencing is important both in order to make it harder to get across that distance and also to try to be a protective measure for the border patrol.

But there are other areas where high technical or even medium-technical approaches work better. And we're happy to use those. So we're going to be guided by the operational requirements and strategies of the Border Patrol in terms of figuring out what the right mix is.

As far as consultation is concerned, we have done extensive but not unlimited consultation. In other words, we're willing to talk, we're willing to listen; however we're not willing to have that become an excuse for indefinite delay or running the clock.

The proof of the pudding is in the eating so let me just point you to Hidalgo County. There, the local county judge and the community came forward. They engaged with us. They had an approach that served their needs. We were satisfied it served our needs. They put some money in. We had money to put in and we came up with a very happy accommodation.

We are always open to handle things that way, but we've also made it clear that merely complaining is not going to deter us from executing our commitment to the American people.

Question: How far are you in expanding the virtual fence?

Secretary Chertoff: You know, it's going to be in some form or fashion, technology is going to be virtually every place in the border. But it's not necessarily going to be in the configuration of P28. For example, in some areas we're going to use this ground-based radar, these mobile surveillance systems which can be moved back and forth and operate in certain kinds of terrain in a more cost-effective way.

Even where we have fencing we supplement that usually with cameras and some kind of high-tech sensors. So it's going to be a mix and I would imagine that technology, particularly un-manned aerial systems, will play a major role in most of the areas of the border.

Question: On the subject of consultation, many of the land owners right along the border, Texas and New Mexico, I think Arizona, too, have complained bitterly and you are involved now in litigation; and you're being accused of really heavy-handed tactics with eminent domain and so forth. Was there not some way that you could have worked out something that would satisfy the needs of the government without so riling and offending the people who live near the border?

Secretary Chertoff: A majority of the people that we had to deal with actually voluntarily and cooperatively worked with us and we went in and we didn't need to go to court or anything of that sort. We wrote everybody.

We tried to visit with people in town hall meetings. Some people either ignored the request or simply said, as a matter of principle they don't believe in fence. They are entitled to their principles. I respect that. I respect private property. But you cannot make border security and national security an individual choice for each individual landowner.

Obviously when we use eminent domain we pay for the land that we take. But when people are smuggling drugs and human beings across a border, for an individual landowner to say "I don't care; I want to make sure my view of the river is unobstructed" is not an acceptable answer. So I go back to what I say with respect to Hidalgo County. When people came forward with a solution and met our needs, that was great. We were happy to accept it. But merely saying, I don't want this because I disagree with it, is not a basis to start to waive national security considerations.

Unfortunately, the consequences of smuggling are sometimes not felt by the people on the border, but by the people in the interior. And I have to be concerned not only about whether a fence is going to offend or bother someone who's a landowner on the border, but whether the drugs that get through without the fence are going to be sold on the streets of Washington, New York, or Chicago; and I think that's a responsible way to go about this is to consider the good of the whole country.

Question: Secretary Chertoff, on the P28 program, you said, I believe, that it is working now? You know, we've heard a lot that it's had a lot of problems. I mean, I think the Attorney General himself heard from people out in the border that it was just riddled with problems during his visit down to Nogales. What changed or what has brought it along to where you felt --

Secretary Chertoff: I don't think it's riddled with problems at this point. I think that the initial version that was completed in the summer was unsatisfactory so we did not take additional acceptance. You know, we're trying to be tough customers but not unreasonable customers. They sent a new team in. They retooled some of the basic components and elements of it. It got to a sufficient state that at the end of the year we decided we were prepared to take additional acceptance, meaning we would actually start to operate it ourselves. And after talking to the Border Patrol, not only the leadership but the people actually operating the system, we're convinced at this point all of the defects have either been cured or they're so immaterial that we're prepared to take a credit.

Now I think as we live with the system we're going to discover there are some features that we want to improve and some we probably don't care about and are willing to dispense with. And I liken it to what happens when you buy a house. You do an inspection. If there are material problems with the house, you don't close until they cure the problems. Sometimes there's some trim work and stuff that isn't important and accept it but you take a credit. But then you live in the house for awhile and you discover there are some things that maybe you thought were important that you don't care about anymore; and then there's some things you think maybe I'd really like to have this and you do a little bit of additional work. That's kind of the approach we're taking to P28.

Question: (Inaudible.)

Secretary Chertoff: I think we're going to take elements of P28 and we're going to apply it in other places. But I want to emphasize that when I say high-tech, P28 is just one part of a high-tech solution. In other parts of the border we're going to use ground-based radar. That's not P28; that's a different model. So P28, it's a tool. It's not a standalone strategy and it is a tool that we will use or adapt as appropriate depending where we're talking about.

Question: Mr. Secretary, you mentioned you're going to have a rule making for federal contractors to make certain that they screen their employees using the E-verify. Is it possible that some of the federal contractors working on the fence have not done that?

Secretary Chertoff: It would be pretty foolish if you were working on the fence and you were hiring illegals. But we want to make it mandatory. You know, you read stories from time to time about people working on bases or whatever it is and buildings that are illegals and, you know, we think E-verify is a system for people to voluntarily embrace, and they're doing it at a rate of almost 2,000 a week. But we ought to lead by example and just as the state of Arizona has now essentially made it mandatory in the state, it's sensible for us to make it mandatory for federal contractors, and that's what we're going to do.

Question: Can I just follow up on the Real ID. You've got this May deadline by which states have to say whether they're going to be in or opt out, in which case their resident would lose the ability to use their licenses

for boarding airplanes and so forth. Where are you now on the number of states who say, you know what, we're going to comply?

Secretary Chertoff: I think virtually every state with maybe two or three exceptions at this point has sought the waiver and indicated, or they're indicating that one is one the way. So I think the vast majority of states representing probably more than 97 or 98 percent of drivers are indicating they want a waiver in order to meet the requirements of Real ID.

I think a big step forward was we dramatically cut the cost, so cost should not be a big issue anymore. There may be a couple of states where there's just an ideological objection and my answer is this: We're not making states do this. What we're saying to states is if you want your citizens to be able to use their license as a federal identification, to satisfy federal identification, you have to meet federal standards.

If you say, hey, I want my license just for driving; we don't want to use it for federal purposes; our citizens don't want to present it at the airport; they'll rely on something else, God bless you, you're entitled to do that. But what you can't do is say we want to use it for federal purposes but it's not going to be federal standards. I am very confident that we're going to get virtual total compliance, maybe one or two states that drop out.

Let me be clear about this, because I know the ACLU was suggesting, you know, maybe this is a bluff. This is a statute. I am shocked to imagine the ACLU would suggest the government would violate a statute. This is a statute. We are required by law. If we do not get a request for extension to meet the requirements of the law, we are required after May to no longer accept these things, these licenses at airports. We're going to obey the law. I'm not a bluffer and I'm certainly not someone who violates the law. So the good news is I think virtually every state is now coming to where they need to be and I don't think we're going to have a problem with it.

Question: Mr. Chertoff, there's been some news reports in recent days that the plans for the border fence near McAllen show it stopping short of a large development that's owned by the Hunt family of Dallas which has been active in supporting President Bush's campaigns. Was there any accommodation for that property owner or for any other large commercial property owners that have business interests on both sides of the border.

Secretary Chertoff: No.

Question: The Virginia Attorney General this week, I think, announced a plan that he was going to work with ICE to deport criminal aliens particularly sex offenders. Do you see more collaboration with the federal government and states on that, especially people who work the state prisons?

Secretary Chertoff: We do and we're working on a plan to actually expand our criminal alien program which would allow us to more expeditiously and more effectively work with not only federal, but state and even local penile facilities to more readily identify particularly the higher priority criminal aliens so we can make sure they all get deported and are not, or at least out in the street; and also, frankly, the quicker we can get them out the less burden there is.

We have asked for more money for 2009 from Congress to promote our 287-G training program. We have an ICE access program that works with state and local authorities; and the state of Arizona is now really essentially running a pilot on using their business licensing rules to enforce the law. And you know, I got to tell you, the proof of the pudding is it's having an impact. What I'm reading in the paper and what we're seeing from a variety of metrics is that when a location becomes inhospitable to people who are illegal working, the people who are working illegally leave. And when we target criminal aliens we get them out of the country.

So this is not an easy task to undo a problem that's arisen over 30 years, but I think we've really been making some substantial progress with the help of state and local governments.

Question: One question off topic for the Attorney General. Today there was a release, a letter from Congress concerning the issue of the legal announcements relating to the water boarding. Do you have every confidence that the initial analysis done by this department as it relates to water boarding is done without regard to politics?

Attorney General Mukasey: I have no reason to believe that politics was involved in that or any other analysis. There is, as you pointed out, a letter reflecting that there is an OPR inquiry at the request of two senators, into the drafting of those letters and whether people adhered to professional standards in doing that. But that's what there is, an inquiry, into that aspect.

Question: Back to the border; could you describe your decision-making process that led you to conclude this should be a top concern for the Justice Department? Was there a particular incident or story or conversation that led you to this decision?

Attorney General Mukasey: There was no particular incident or story that led to the conclusion. If you look at what the Secretary called the metrics, and the nature of the problem that Mexico is facing and that we're facing in the battle against drug cartels was obvious, that that had to be a priority and they are doing a heroic job. And we have to do no less in order to make sure that that problem gets solved. Drugs have been a problem in this country for a long time. The Mexicans are doing something about it and to have a matching strategy on the other side of the border that includes controlling population as well as controlling illegal activity, it shouldn't be a surprise that that's a priority.

Question: Mr. Chertoff, how concerned are you about the violence at the border and can you be a little bit more specific in terms of the kinds of things that have been happening to the agents?

Secretary Chertoff: In recent weeks we lost an agent who was killed because he was run over by a smuggler who was fleeing back into Mexico. The Mexicans have apprehended somebody and so that's obviously in the legal process. That was just one example of what we're seeing increasing. Now it ranges from we've had occasions of people shooting at agents, trying to run agents down with vehicles, throwing large rocks or pieces of brick or concrete at agents, which actually can be fatal; and I've seen some pretty serious injuries that have resulted from it. And the levels have consistently increased.

Of course there's a lot more violence south of the border and that's an issue the Mexicans are tackling. But it's regrettably consistent with my own experience and what I've been told by others when you really crack down on a criminal business, which is they start to fight. In the old days, if it was easy to move lots of drugs or smuggle a lot of humans you could, you know, if you were busted you could just leave the drugs and walk away from it. Now, as we crack down, there's more tenacity in fighting to keep the illegal activities going.

Moderator: Two more questions.

Question: Mr. Secretary, could you explain what the DHS policy is for searching in computers at the border, people's personal computers, and requiring them to use their passwords to get into those computers? There's been some news reports about that.

Secretary Chertoff: Well, the posse is to comply with the law and border authorities and the issue of the password, I know implicates -- I guess there's a legal question that's arisen up in Vermont about whether it violates the Fifth Amendment to make someone use their password and the courts, I'm sure, will sort that one out.

Question: Secretary Chertoff, I was hoping you could talk about the overall prevalence of illegals in the U.S. workforce; and also tell me how ICE finds out about these --

Secretary Chertoff: You know, the best estimates we have have been about 12 million illegal aliens in the country and it's a very rough estimate to suggest that the workforce, the illegal workforce, is probably about seven to eight million of those. How do we find out about them? Well, a lot of it's anecdotes. You know, it's amazing how you get tips from people, you get informants who give you information. What we'd like to do, frankly, but we've been prohibited by law from doing is get information from Social Security when we get a large number of mismatches so that we could look a little bit further into that. But a lot of it does come from old-fashioned investigation, which is what agents and ICE have done for generations, following up on all sources of information in order to see when we can detect real problems.

Question: Mr. Attorney General, may I ask you about where we stand on FISA? With the house out of session right now, what's going on right now to try to move this forward?

Attorney General Mukasey: I can tell you what's going on from standpoint, and that is I'm trying to make known to as many people as possible the need for the bill; make known to as many people as possible that there was a bipartisan bill passed by the Senate and that the only thing that awaits is House action; and that if the vote were held today, it would pass by our account because there are a majority of House members who support it. And we're trying to bend every effort simply to bring that bill to a vote.

Question: One last question. We have had a lot of high profile arrests inside work enforcement sites. So my question is, are there any employers -- how successful have you been in prosecuting these employers and

can you give us an idea of how many more have you had and are there any employers that are serving time right now for hiring the illegals?

Attorney General Mukasey: I can't give you the precise numbers on the prosecutions and people serving time. I'm sure there are. What we try to do is to coordinate them from the ground up so that the people who wind up being prosecuted are not only the employees but also the employers and so as to minimize the collateral affects on the families of the employees when those raids are conducted. That we do do. That said, we try to prosecute high visibility employers and as far as the number who are doing time, I think we can probably get back to you on that, but I am sure there are some.

Moderator: One last question from Pierre.

Question: Attorney General, in terms of allowing the law to expire last weekend, for mom and pop sitting at home what's the practical difference of what you can do or can't do this week as compared to last week?

Attorney General Mukasey: It's very difficult to get into specifics because to do that is to disclose confidential information. I can't do that. What I can tell you is that the authorities that were enforced at the time stay enforced under the statute for a year from they were enacted. But if they have to modified, we have no way of doing that. It's difficult to do that. If, for example, there are carriers who are covered by prior orders and for some reason there's a carrier that a terrorist wants to use that's not covered by a prior order, we have no way under the current law to go get coverage of the same sort that we had under the Protect America Act. It also gets increasingly difficult by the day because the question of liability for carriers, as you know, up for grabs, and they become more and more uncertain; more and more hesitant to cooperate; and more and more inclined to do what they are, after all, in business to do, which is to protect the interest of their stockholders and push back. So my answer to mom and pop is we're trying to keep you safe, but it's getting increasingly difficult.

Moderator: Thank you very much.

###

This page was last reviewed/modified on February 22, 2008.