



# Testimony of Secretary Napolitano before the Senate Committee on the Judiciary, "Oversight of the Department of Homeland Security" (Written Testimony)

 SHARE

Release Date: December 9, 2009

Hart Senate Office Building  
(Remarks as Prepared)

## I. Introduction

Thank you, Chairman Leahy, and members of the committee for the opportunity to give an update on the Department of Homeland Security's (DHS) efforts to secure our country and protect the American people from the range of threats we face – from terrorism and natural disasters to cyber attacks and infectious diseases like H1N1.

In my previous appearance before the committee, I discussed the critical issue of immigration. Today I would like to again highlight the Department's work in this important area and the progress we have achieved over the past year.

Securing our borders, enforcing our nation's immigration laws, and providing timely and effective immigration benefits and services to millions of lawful immigrants each year remains one of the Department's most important missions.

It is a mission that our more than 230,000 employees contribute to every day with tremendous dedication and skill. It is a mission that impacts our national security, our national sovereignty, and the health of our economy. And it is a mission that goes to the core of our national identity as both a nation of immigrants and also a nation of laws.

Much has been accomplished to meet our border security and immigration-related responsibilities since I first appeared before this Committee in May, 2009.

For example, partially as a result of our Southwest Border Initiative and increased enforcement, seizures of illegal drugs, cash, and weapons have increased, while apprehensions of illegal aliens at the border have dropped to their lowest levels in decades, signaling reduced traffic flows and fewer attempts to illegally enter the United States.

Similarly, in the interior of the country, deportations are at historic highs, the result of a stronger focus on identifying and removing dangerous criminal aliens, fugitives, and gang members; and developing stronger partnerships with federal, state, local, tribal, and international law enforcement, who serve as vital force multipliers to our efforts.

We also have worked to streamline our legal immigration procedures and benefits, reducing name check backlogs for those seeking to live or work in the United States, and launching a much improved, customer-friendly website for U.S. Citizenship and Immigration Services (USCIS) that provides e-mail and text message alerts to individuals seeking updates on their case status. And we have continued to provide enhanced tools to the nation's employers, including the web-based E-Verify system, to help them maintain a legal workforce.

In addition, we have taken action to improve management and oversight of detention facilities that house illegal aliens, launching a major overhaul of the immigration detention system to prioritize risk, strengthen oversight, increase efficiency, and ensure consistent treatment, standards, and care for those in federal custody.

These changes reflect a more focused, strategic, and common-sense approach to all aspects of immigration, from illegal entry at the border to enforcement in the interior to the procedures for legal immigration. As we have implemented these improvements, we have continued to ensure that lawful trade and travel move freely across our borders by strengthening travel document security requirements, enhancing our biometrics collection, and working with states to develop secure forms of identification.

Our commitment to securing our country and enforcing the law has never been stronger. This is what the American people expect of the Department and it is the duty we have sworn to uphold.

In my time today, I would like to discuss these important objectives and the Department's work to meet them over the past year, as well as what the Obama Administration considers to be the necessary and equally important path forward: developing a set of reforms that will address long-standing structural problems with our nation's immigration system and the laws and policies that govern it.

We can no longer perpetuate a status quo that is unacceptable for workers, employers, law enforcement, faith leaders, and America as a whole. We must seize this moment to build a truly effective immigration system that deters illegal immigration, provides effective and enduring enforcement tools, protects workers from exploitation and retaliation, and creates a tough but fair path to legalization for the millions of illegal immigrants already here.

I am committed to working with this Committee to realize this goal and create a 21st century immigration system that works for everyone, including the men and women of the Department of Homeland Security who are charged with protecting our borders and enforcing our immigration laws.

## **II. Securing Our Borders**

Let me be clear: an effective immigration system begins with secure borders. In May, 2009, the Obama Administration launched the Southwest Border Initiative to strengthen security along our southwest border, prevent illegal entry and the movement of contraband, and assist Mexico in its efforts to combat rising drug-cartel violence. Over the past year, we also launched important new initiatives to strengthen security on our northern border, and at our land, air, and sea ports of entry.

For example, under the Southwest Border Initiative, we have deployed additional technology, manpower, and resources to the border; strengthened partnerships with state and local law enforcement; and created a more robust partnership with Mexico to break apart the criminal infrastructure supporting the drug cartels and prevent similar violence on the U.S. side of the border.

### **Border Enforcement Security Task Forces (BESTs)**

A major part of this effort has included the expansion of multi-agency Border Enforcement Security Task Force (BEST) teams, which work to address border-related crime, including arms trafficking and human, bulk cash, and narcotics smuggling.

The BEST model has proven extremely effective. BESTs incorporate personnel from U.S. Immigration and Customs Enforcement (ICE); U.S. Customs and Border Protection (CBP); the U.S. Coast Guard (USCG); the Drug Enforcement Administration (DEA); the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); the Federal Bureau of Investigation (FBI); U.S. Attorney's Offices; and federal, state, local, tribal and foreign law enforcement agencies.

ICE, which leads the BEST teams, has established new BESTs in Las Cruces and Deming, New Mexico, and Mexico City, resulting in a total of 17 BESTs covering high-threat smuggling corridors, including along our northern border. Furthering this collaboration, the Mexican government has agreed to provide representatives to every BEST team on the southwest border, in addition to supporting the new BEST in Mexico City.

Since the launch of the Southwest Border Initiative, BESTs have seized over 1,809 pounds of cocaine, 45,889 pounds of marijuana, 571 pounds of methamphetamine, 45 pounds of crystal methamphetamine, 251 pounds of ecstasy, and 17 pounds of heroin. BESTs also have seized 1,361 weapons, 277 vehicles, and \$8.2 million in U.S. currency and monetary instruments. All of these seizures represent an increase over the same reporting period from 2008.

### **Armas Cruzadas and Other Efforts**

In addition to this effort, ICE has continued to support Operation Armas Cruzadas, a collaborative, intelligence-driven initiative with the Mexican government to identify, disrupt, and dismantle criminal networks that illicitly transport arms across the border.

Since the launch of the Southwest Border Initiative, Armas Cruzadas operations have accounted for the seizure of 361 firearms, 38,878 rounds of ammunition, and criminal arrests of 107 individuals. Overall, since its creation in 2008, Armas Cruzadas has resulted in the seizure of 1,890 weapons, 206,412 rounds of ammunition, criminal arrests of 257 individuals, and more than \$7.9 million.

Under the Southwest Border Initiative, DHS also has implemented for the first time 100 percent southbound rail screening to prevent illegal guns and cash from entering Mexico. CBP also has assigned 100 Border Patrol agents to conduct outbound

AILA InfoNet Doc. No. 09121461. (Posted 12/14/09)

operations at ports of entry; deployed additional non-intrusive inspection imaging systems to increase scanning of vehicles; assigned 13 additional currency and firearms canine teams to southwest border land ports; and deployed six Mobile Response Team special operations and other assets to support surge operations against drug trafficking organizations.

This comes in addition to the deployment of additional ICE attaches to Mexico City and an increase in ICE Border Liaison Officers to work with their Mexican counterparts.

### **Collaboration with Mexico**

We also have continued to further our collaboration with the Government of Mexico. In addition to the increases in staffing support and joint law enforcement that I noted earlier, we have implemented new Border Violence Protocols with Mexico to foster greater bi-national coordination when incidents of border violence occur.

CBP also has coordinated multiple bi-national border operations with Mexico to conduct enhanced outbound inspections on the U.S side of the border and enhanced inbound operations at nearby port crossings on the Mexico side of the border.

Under the Illegal Drug Project, ICE, CBP, and the Department of Justice (DOJ) also are collaborating with the Mexican Office of the Attorney General to prosecute narcotics seizures that occur at the Nogales, Arizona, port of entry that the U.S. Attorney's office declines to prosecute. The program increases pressure on drug trafficking organizations operating in the area by giving Mexico the necessary information to prosecute these cases.

In addition, we have continued to provide technical support and capacity building to Mexico under the Merida Initiative, a multi-year program to provide assistance to Mexico and Central America to better equip law enforcement agencies to complete their missions. For example, ICE has deployed 24 Special Agents to Mexico to teach Basic Criminal Investigative Methods to approximately 2,000 Ministry of Public Security investigators.

The Merida Initiative also encompasses non-intrusive inspection equipment training, canine enforcement training, upgrades to automated systems, assistance in transitioning the Mexican Customs from a revenue-based institution to a law enforcement-based institution, and improvements in immigration control programs. At the end of Fiscal Year 2009, CBP received funding through an interagency agreement with the Department of State to provide training for 44 canines for Mexico Customs and training for Mexico's Secretariats of Public Security (SSP) on five x-ray vans. Training is anticipated to begin in late winter or early spring of 2010.

On December 7th, I also signed a new Declaration of Principles and Bilateral Strategic Plan with Mexican Secretary of Finance and Public Credit Agustín Carstens to create a framework for increased, intensified interaction and engagement between our nations. Under these updated and enhanced agreements, we will identify new joint initiatives and long-term programs to augment information sharing, coordinate our border management efforts, improve the efficiency of border operations, and strengthen law enforcement cooperation.

### **Federal, State, Tribal, and Local Partnerships**

Beyond this collaboration, we have improved coordination and strengthened joint activities with our federal, state, tribal, and local government partners.

With the Department of Justice, the Office of National Drug Control Policy, our Office of Counternarcotics Enforcement, and other federal agencies, we have issued a new Southwest Border Counternarcotics Strategy which identifies the key elements needed to effectively combat drug trafficking organizations, and provides the roadmap for additional supporting actions in the areas of interdictions, investigations, technology, and international cooperation, while also improving counternarcotics coordination.

In June, ICE also reached new formal interagency agreements with DEA and ATF to improve coordination, increase partnerships, and expand information sharing. The agreement with DEA enhances the ability of ICE agents to investigate drug cases. It also increases the number of agents targeting international drug traffickers, improves and enhances information and intelligence sharing, and promotes effective coordination between agencies. ICE's updated agreement with the ATF furthers joint efforts to investigate international firearms trafficking and possession of firearms by illegal aliens.

ICE also has continued its partnership with the Tohono O'odham Nation to enlist the support of the Shadow Wolves, an elite unit of Native American Patrol Officers that work with ICE and CBP to help identify and track smugglers.

Our support to state and local communities through Operation Stonegarden also has continued. In Fiscal Year 2009, southwest border communities received \$75 million in Stonegarden grants to help them respond to border-related crime, and we expect to

provide an additional \$60 million in Fiscal Year 2010.

As noted later in my testimony, the Department also has strengthened and expanded partnerships with state and local authorities through the Secure Communities and 287(g) programs, two important initiatives that leverage the support of state and local authorities to enforce immigration laws and identify and arrest criminal aliens booked in U.S. jails.

### **Technology Investments**

Technology remains a critical element in our overall border security strategy. In addition to the technology deployments noted earlier as part of the Southwest Border Initiative, we have continued to deploy technology under the SBInet program to increase our awareness of the border environment and improve the Border Patrol's ability to identify and respond to border incursions.

CBP is now conducting its first deployment of Tucson 1, a system of nine sensor towers and eight communications relay towers across 23 miles of the border near Sasabe, Arizona. This system will replace the prototype Project 28 system, which already has assisted the Border Patrol in making nearly 5,500 apprehensions and seizing nearly 15,900 pounds of marijuana. The Border Patrol expects to conduct operational testing of this new system early next year.

While this testing is underway, CBP will begin deployment of Ajo 1, a second technology system that will cover 30 miles of border near Ajo, Arizona. Both systems, once fully operational, will enhance the Border Patrol's ability to protect the border and leverage technology to more quickly and effectively identify and resolve illegal entries.

CBP also has deployed 41 mobile surveillance systems to provide radar and camera coverage along the southwest border, and it continues to operate five Predator B Unmanned Aircraft Systems, including two on the northern border.

Complementing this technology, CBP has successfully completed work on over 640 miles of fencing along the southwest border, and it has increased the ranks of the Border Patrol to more than 20,110 agents.

### **Northern Border**

In addition to southwest border technology improvements, CBP began construction this year of Remote Video Surveillance Systems along the northern border at 11 sites in the Detroit Sector and 5 sites in the Buffalo Sector. CBP also deployed three Mobile Surveillance Systems in the Detroit and Swanton Sectors in 2009.

These deployments are part of a broader National Northern Border Strategy under development that seeks to improve intelligence and information sharing, enhance bi-lateral partnerships, expedite lawful travel and commerce, increase personnel and infrastructure, and enhance investigations of transnational crime. CBP expects to complete a draft of this strategy by mid-2010.

In the interim, CBP has continued to increase its Border Patrol presence on the northern border to nearly 2,000 agents. This year, CBP also opened a new Unmanned Aerial System Operations Center in North Dakota, which provided critical support during the Red River Valley Floods by mapping flooded areas in North Dakota and Minnesota. As part of Operation Empire Shield, CBP also performed aerial surveillance operations along the maritime border of Lake Ontario and St. Lawrence Seaway, and the land border of New York and Ontario. In addition, ICE stood up a new BEST team in Detroit, complementing existing BEST teams on the northern border in Buffalo, NY and Blaine, WA.

The Integrated Border Enforcement Teams (IBETs), comprising U.S. and Canadian federal, state, provincial, and local law enforcement personnel, also have continued to conduct intelligence-driven operations along the northern border. By incorporating integrated mobile response capability (air, land, marine), the IBETs provide participating law enforcement agencies with a force multiplier, maximizing our border enforcement efforts. There are twenty-four IBETs in fifteen IBET Regions along the Northern Border. Each of these IBETs actively shares information and participates in bi-national enforcement operations.

Deputy Secretary Jane Holl Lute and I have met numerous times with our Canadian counterparts over the past year to solidify new agreements to improve security coordination. This includes formalizing the Shiprider Program to conduct joint maritime law enforcement operations and signing new agreements to improve sharing of biometric records to prevent immigration fraud and maintain the integrity of our immigration system, harmonize trusted shipper programs, share information on currency seizures, and improve coordination during emergencies.

We will continue to work with our friends and allies in Canada to ensure effective security of the northern border, especially as we approach the 2010 Vancouver Olympic Games. In fact, DHS will have a presence at the Intergovernmental Agency Joint Operations Center [dhs.gov/.../testimony\\_1260479345084...](http://dhs.gov/.../testimony_1260479345084...)

in Vancouver led by the State Department, as well as at the DHS-operated interagency Olympic Coordination Center in Bellingham, WA.

### **Impact and Results**

Our efforts are achieving their desired results at the border. This year, CBP and ICE seized a combined 911,800 kilos of narcotics along the southwest border – an increase of 36 percent. Outbound currency seizures nationwide also increased 74 percent – totaling more than \$57.9 million. From late March to November 2009, CBP seized \$22.1 million in southbound currency at land border ports of entry – an increase of nearly 300 percent over the previous year.

In Fiscal Year 2009, CBP also apprehended just over 556,000 individuals attempting to illegally enter the United States – a decline of 23 percent over the previous year, and more than half the total from the busiest years of the past decade. Specific Border Patrol sectors experienced even further declines. Most notably, the El Paso Sector saw a 51 percent reduction in apprehensions, the Tucson Sector a 24 percent reduction, and the Rio Grande Valley Sector a 19 percent reduction. All these statistics indicate fewer attempts to illegally enter the United States.

In short, the security of our southwest border has been transformed. While work still remains, our efforts have made a real difference in communities from Texas to California.

### **III. Enforcing Immigration Laws**

We also have made significant strides in enforcing the law in the interior of the United States, with a specific focus on identifying and removing criminal aliens that pose a threat to the American people.

#### **Targeting Criminal Aliens**

Over the past year, we significantly expanded the Secure Communities program, which identifies illegal aliens booked into local jails by checking their biometric fingerprints against DHS immigration databases. In its first year, the 95 jurisdictions that participate in Secure Communities helped us identify more than 111,000 criminal aliens in custody – allowing ICE to take appropriate action to ensure that criminal aliens are not released back into communities.

Since its inception in October 2008, Secure Communities has identified more than 11,000 aliens charged or convicted with Level 1 crimes, such as murder, rape and kidnapping, as well as more than 100,000 aliens convicted of Level 2 and 3 crimes, including burglary and serious property crimes.

In addition to Secure Communities, ICE has continued to support Operation Community Shield, an anti-gang initiative that seeks to identify, investigate, and remove illegal alien gang members from the United States. Since its inception in 2005, ICE and its partners have arrested more than 15,000 gang members and associates, almost 6,000 of whom have had violent criminal histories.

ICE's Criminal Alien Program also has helped to identify and arrest criminal aliens incarcerated within federal, state, and local prisons and jails. The Criminal Alien Program ensures that dangerous individuals are not released back into their communities by securing a final order of removal prior to the termination of their sentence. In Fiscal Year 2009, the program resulted in more than 341,000 interviews of incarcerated foreign-born nationals, and issued over 232,000 charging documents.

Through the National Fugitive Operations Program, ICE is also targeting aliens who have failed to depart the United States after receiving a final order of removal, deportation, or exclusion, or who failed to report to authorities after receiving a notice to do so. ICE currently has 104 fugitive operations teams deployed throughout the country. In Fiscal Year 2009, ICE successfully reduced the fugitive alien population by over 20,000 individuals.

#### **287(g) Authority**

In July, we also revised and standardized a new Memorandum of Agreement (MOA) with state and local law enforcement under 287(g) authority to ensure that participating law enforcement agencies serve as effective force-multipliers in our efforts to identify and remove criminal aliens.

This new MOA aligns 287(g) local operations with major ICE enforcement priorities –specifically, the identification and removal of criminal aliens. It also defines the objectives of the 287(g) program, outlines the immigration enforcement authorities granted by the agreement, and provides guidelines for ICE's supervision of local agency officer operations, information reporting and tracking, complaint procedures, and implementation measures.

To address concerns that individuals may be arrested for minor offenses as a guise to initiate removal proceedings, the new agreement also explains that participating local law enforcement agencies are required to pursue all criminal charges that originally caused the offender to be taken into custody.

To date, ICE has trained more than 1,000 officers operating under 66 local 287(g) agreements between DHS and law enforcement agencies nationwide. Since January 2006, these officers have identified more than 120,000 individuals, predominantly in jails, who are suspected of being in the country illegally.

### **Worksite Enforcement**

Furthermore, we have transformed worksite enforcement to address the demand side of illegal immigration. This year, ICE released new field guidance that formalizes procedures for arrest and removal of illegal workers identified during enforcement actions.

This new guidance increases our use of administrative tools such as Form I-9 audits, criminal prosecutions, seizure of assets, civil fines, and debarment. It also promotes workplace compliance through the use of tools such as E-Verify, training, and best practices through ICE's Mutual Agreement between Government and Employers (IMAGE) program. The IMAGE program provides participating employers with education and training on proper hiring procedures, fraudulent document detection, use of E-Verify, and anti-discrimination procedures.

ICE is also auditing the books of thousands of employers suspected of relying on illegal labor to achieve an unfair advantage in the marketplace. Indeed, in a single day this past July, ICE audited more employers suspected of hiring illegal labor than had been audited in all of last year, reviewing more than 85,000 Form I-9s and identifying more than 14,000 suspect documents. Last month, ICE announced an additional 1,000 workplace audits.

ICE prioritizes its worksite enforcement operations by targeting the most egregious violators, which include those who abuse and exploit their workers, aid in the smuggling or trafficking of aliens into the United States, create false identity documents or facilitate document fraud, or create an entire business model using an unauthorized workforce.

### **E-Verify**

We continue to encourage workplace compliance by expanding and improving E-Verify—our web-based system that allows participating employers to electronically verify the employment eligibility of employees. For most employers, the use of E-Verify is voluntary and limited to determining the employment eligibility of new hires only.

Over 175,000 employers representing more than 660,000 worksites are currently enrolled in E-Verify, with an average of 1,000 new employers enrolling weekly. Since the start of Fiscal Year 2010, employers have run over 2 million queries through E-Verify.

As this participation has expanded, USCIS has increased public education and employer training for E-Verify. In Fiscal Year 2009, USCIS held 125 live presentations, attended 15 conferences, and conducted 140 live Webinars. We remain committed to working closely with non-profits and worker advocacy organizations as we improve E-Verify to ensure it is a positive tool in increasing workplace compliance.

We also have continued to enhance and expand the system's capabilities. In February, USCIS added U.S. passport data to the system to help reduce mismatches for foreign-born U.S. citizens. Access to this passport data confirmed the work eligibility for an additional 15,000 employees last year.

Next year we plan to include passport and visa photos to further increase the system's effectiveness. We also plan to improve system navigation and offer some important features, such as an automated reminder for employers when work authorization documents expire, an enhanced case management system, and improved text and instructions to help employers avoid data entry errors.

USCIS also has launched a Compliance Tracking Management System, which serves as an electronic file cabinet to manage monitoring reports and the tracking of compliance cases. In November, USCIS also opened the Buffalo Verification Operations Center to perform immigration status verification checks and conduct monitoring and compliance for E-Verify.

In September, the amendment to the Federal Acquisition Regulation (FAR) implemented the E-Verify federal contractor rule, which requires covered federal contractors and subcontractors, including those who receive American Recovery and Reinvestment Act funds, to participate in E-Verify.

Employers with federal contracts or subcontracts that contain the FAR E-Verify clause are required to use E-Verify to determine the employment eligibility of employees performing direct, substantial work under those federal contracts, and new hires organization-wide regardless of whether they are working on a federal contract. A federal contractor or subcontractor who has a contract with the FAR E-Verify clause also has the option to verify the company's entire workforce. To date, over 20,000 Federal Contractors have enrolled in E-Verify, generating more than 525,000 queries.

We will continue to increase the system's ability to automatically verify work eligible employees – currently 96.9 percent of all queries – and decrease the percentage of employees who need to follow up with the government to update their records.

### **Detention Reform**

In August, ICE announced a major overhaul of the immigration detention system.

Under this plan, ICE has created an Office of Detention Policy and Planning to lead the design of this new system, and appointed experts in healthcare administration and detention management to the office. ICE also has established an Office of Detention Oversight to improve current access to facilities and to investigate detainee complaints, and it has formed two advisory groups of local and national organizations to provide input and feedback on general policies, practices and detainee healthcare.

Building on these reforms, Assistant Secretary for ICE John Morton and I announced additional initiatives on October 6th and a set of core principles that will guide this effort going forward.

Among these core principles, we will reduce detention costs, minimize the length of stays and ensure fair proceedings throughout the removal process; detain aliens in settings commensurate with their risk of flight or danger; be fiscally prudent in carrying out detention reform; provide sound medical care; and ensure that Alternatives to Detention are cost effective and promote a high rate of compliance for those with orders for removal or to appear in court.

Additional detention reforms include centralizing all of ICE's active contracts for detainee supervision under ICE headquarters rather than through disparate field offices and developing a new assessment tool to identify aliens suitable for alternatives to detention and classify detainees by their level of risk so that they can be placed in appropriate facilities. ICE also will develop a medical classification system to improve awareness of medical and mental health conditions of its detainees.

Moreover, ICE will more than double its on-site personnel from 23 to more than 50 to place federal employees in the facilities where more than 80 percent of ICE detainees are housed, strengthening day-to-day oversight at these facilities.

We expect these reforms to be budget neutral or result in cost savings. To ensure that this effort moves forward swiftly, I have established a set of one-year benchmarks to be met by the end of Fiscal Year 2010 that include reviewing all contracts for detention facilities, revising detention standards to reflect appropriate conditions for detainee populations; and issuing two competitive bids for detention facilities that reflect our core principles.

Ultimately, we believe these actions will meet ICE's detention needs, improve federal oversight, ensure appropriate custodial conditions and timely health care services for detainees, address special population needs, and ensure accountability.

### **IV. Improving the Legal Immigration Process**

America is and will always be a nation of immigrants. The immigrant story is part of our national character, and immigration remains a source of great strength for our country and our economy.

We must ensure our nation's legal immigration policies and procedures are every bit as effective as our enforcement mechanisms against illegal immigration.

Over the past year we have focused on improving the systems that provide benefits and services to legal immigrants who live or work in the United States to make these systems more effective, responsive, and fair.

For example, working with the FBI, we ended the backlog for background checks on applicants for green cards and naturalization. We also expanded the opportunity for widows to gain legal status in the United States following the untimely death of their U.S. citizen spouses.

We also have launched a new interactive website at USCIS that allows people to receive information about the status of their immigration cases by e-mail or text message, and we have reduced the time it takes to process those cases. Content on the website also has been rewritten into clear, accessible language that meets the informational needs of legal immigrants and, for

the first time ever, is available in Spanish.

Since August 2009, USCIS also has led a national education and outreach initiative to raise public awareness about the naturalization process and provide education on the rights and responsibilities of U.S. citizenship. To date, USCIS has held over 40 naturalization information sessions that have drawn nearly 4,000 participants. As part of its Citizenship Grant Program, USCIS also is providing \$1.2 million in competitive grants to support citizenship preparation programs for legal permanent residents. And in October, USCIS fully implemented its new Naturalization Test, which emphasizes fundamental concepts of democracy, U.S. history, and the rights and responsibilities of citizenship.

Additionally, through the expanded use of biometrics, USCIS is now better able to identify people committing immigration fraud, either by using someone else's documents or by forging documents to escape detection for a past crime or immigration violation. And we have enhanced our capacity to exclude those suspected of supporting terrorism or other serious international crimes before they enter our country.

## **V. Strengthening Identity Management, Trade, and Travel**

In Fiscal Year 2009, CBP processed more than 361 million pedestrians and passengers at our ports of entry, and 110 million conveyances. In addition, CBP initiated more than 18,000 trade enforcement seizures at the ports of entry valued at more than \$300 million, including intellectual property rights violations worth over \$260 million.

We recognize the need to facilitate lawful trade and travel across the border in a safe and secure manner, while barring unlawful merchandise or travelers from entry into the United States. This is a balance we strive for every day, and I believe our programs and policies reflect this commitment.

### **Western Hemisphere Travel Initiative**

On June 1st, 2009, CBP successfully implemented the land and sea requirements for the Western Hemisphere Travel Initiative (WHTI), fulfilling the 9/11 Commission recommendation and subsequent Congressional mandate to strengthen travel document security at our ports of entry.

Under WHTI, citizens of the United States, Canada, Mexico, and Bermuda are required to have a passport or other accepted document that establishes their identity and nationality to enter or depart the United States from within the Western Hemisphere.

Travel document compliance rates for WHTI continue to remain very high for U.S. and Canadian citizens. We are currently experiencing a 95 percent national compliance rate, with 98 percent compliance along the northern border and 93 percent compliance along the southern border. To date, there has been no discernable negative impact to our border operations.

We also have successfully installed Radio Frequency Identification (RFID) technology at 39 major entry points along our borders with Canada and Mexico representing 95 percent of traffic volume at our land ports of entry. RFID technology, which is now available in 354 vehicle lanes, enables swifter processing at border crossings for travelers using new state-of-the-art travel documents.

There are currently more than 3.5 million RFID-enabled documents in the hands of U.S. and Canadian travelers, including 2 million U.S. passport cards; 670,000 Trusted Traveler Program (NEXUS, SENTRI and FAST) cards; and more than 450,000 enhanced driver licenses issued by four states (Washington, Michigan, New York and Vermont) and four Canadian provinces (Quebec, Manitoba, British Columbia and Ontario).

We also continue to engage Native American tribes in discussions on the development of enhanced tribal cards. To this end, we have signed Memoranda of Understanding with four tribes (Kootenai of Idaho; Pasqua Yaqui of Arizona; Seneca of New York; and the Tohono O'odham Nation).

### **US-VISIT**

One of our most important tools for preventing terrorists, criminals, and illegal aliens from entering or remaining in the United States is our ability to capture biometric data from foreign nationals through US-VISIT.

US-VISIT enables CBP to deny admission to those ineligible to enter the country; analyzes entry records to help ICE apprehend those who remain illegally in the United States; assists USCIS in denying immigration benefits to applicants who have violated the terms of their admission; and assists the Department of State in denying visas to those who may have previously overstayed but who are no longer in the United States. Since September 2004, US-VISIT also has provided

AILA InfoNet Doc. No. 09121461. (Posted 12/14/09)

immigration and border management officials with records of the entries and exits of individual foreign nationals.

We have continued to enhance US-VISIT's capabilities by implementing 10-fingerprint processing. Ten-fingerprint scanners have now been deployed to all major ports of entry, providing the capability to capture 10 fingerprints from travelers. This has improved accuracy of identification, enhanced interoperability with the FBI and the Department of State, as well as with state, local, and tribal governments, and increased our ability to conduct full searches against latent fingerprint databases.

We also have continued to test US-VISIT biometric exit procedures for travelers departing U.S. airports and seaports. From May to June, 2009, US-VISIT conducted two air exit pilots at the Detroit Wayne County Metropolitan Airport and Hartsfield-Jackson Atlanta International Airport. In October, we provided an evaluation of these pilot tests to Congress and the Government Accountability Office.

Currently, we are reviewing public comments from the Notice of Proposed Rule Making the Department published in the Federal Register in April, 2009 proposing an exit system for airports. We will continue to work with Congress and industry partners to weigh our options and develop an effective system that meets our security objectives while facilitating lawful travel.

### **Secure Identification**

The 9/11 Commission Report made clear the need for secure identification – noting that for terrorists, travel documents are as important as weapons. Law enforcement must have confidence that an ID holder is the person he or she claims to be. For this reason, we remain focused on assisting states in improving the security of driver's licenses, consistent with the recommendations of the 9/11 Commission.

However, under REAL ID, attempts to establish federal standards for secure identification have not been successful. States have rejected REAL ID due to their concern about exorbitant costs, unrealistic timelines, and impractical requirements.

Indeed, 13 states are prohibited by state statute from implementing REAL ID. Based on information provided by the states, only nine of 56 jurisdictions have indicated that they have achieved all 18 benchmarks necessary to demonstrate material compliance by the December 31, 2009 deadline. According to the REAL ID regulations, driver's licenses may not be accepted for federal purposes – such as boarding an aircraft – from states that cannot achieve material compliance by this deadline.

As desirable as the goals of REAL ID may be, the reality is that we will never have national standards for secure identification as long as states refuse to participate. Congressional action is required to break this impasse and allow the Department to move forward in conjunction with the states.

For this reason, the Department continues to support the approach outlined in the current PASS ID legislation before Congress, which addresses many of the major problems with REAL ID while keeping its best elements. It is a bipartisan bill that is supported by the National Governors Association and by law enforcement and privacy groups alike.

PASS ID keeps the strong security standards of REAL ID but gives states flexibility in achieving them. It requires states to ensure the physical security of driver's license production process, including the ability to secure the physical premises and document materials, background checks on employees dealing with driver's licenses, and fraudulent document identification training for employees. It also requires states to validate the legitimacy of underlying "source" documents, such as birth certificates, and requires electronic verification of Social Security numbers and lawful immigration status. It also retains requirements to ensure that federal agencies may only accept PASS IDs for official purposes, such as accessing sensitive federal facilities or boarding commercial airplanes.

These security enhancements – which all agree upon – are in jeopardy, because states will not implement REAL ID and Congress has not yet enacted PASS ID. As such, I encourage Congress to act quickly to enact PASS ID to help get our nation back on track to implement these important security mandates.

Should Congress not act before it adjourns this year, we have planned for contingencies related to REAL ID implementation to minimize the impact to U.S. citizens. Any of these steps, however, would represent a temporary approach that does not advance our collective security interests over the long-term.

## **VI. The Need for Immigration Reform**

Over the past year, the Department of Homeland Security, in conjunction with other federal agencies, has taken major actions to secure our borders and implemented significant reforms to our immigration system within our current legal framework.

When it comes to immigration, everybody recognizes that our current system is not working and our laws need to change. American businesses, workers, and faith-based organizations have called for reform. Law enforcement and government at every level also have called for reform.

As the President has said, if we are truly going to fix this broken system, Congress will need to act. Immigration reform must consist of a "three-legged stool" that includes a commitment to serious and effective enforcement, improved legal flows for families and workers, and a firm but fair way to deal with those who are already here. And as I have always said, we must demand responsibility and accountability from everyone involved: immigrants, employers, and the government.

What might reform offer on the security side? I believe reform legislation should provide lasting and dedicated resources at our borders and critical legal tools that we do not currently have at our disposal.

For example, we need tougher anti-smuggling laws in dealing with the aggravated crimes smugglers commit – including assaulting law enforcement officers, endangering children, threatening relatives, and abandoning people in the desert. We also need to update laws that don't cover some of the new means by which criminals conduct their business.

We need improvements to the current law when it comes to interior and worksite enforcement. Dishonest businesses often ignore the civil fines for illegal employment now on the books because they are too low. In addition, it is difficult to prosecute worksite violations as felonies because of elaborate intent requirements built into current statutes.

But as the White House has made clear in their call for Congress to act: we will never have fully effective law enforcement or national security as long as so many millions remain in the shadows. We need legislation that creates the foundation for requiring illegal immigrants already in this country to register, supply biometric data, pass a criminal background check, pay requisite penalties, pay their taxes, and learn English in order to legalize their status. This approach recognizes that our laws have been violated by requiring illegal immigrants to meet numerous stringent penalties and requirements.

The immigration system must also work to support American families, businesses, and workers. I believe our system must be strong enough to prevent illegal entry and get criminal aliens off our streets and out of the country. But it must also be smart enough to reward the hard work and entrepreneurial spirit that immigrants have always brought to America – traits that have built our Nation. In that spirit, DHS supports including certain students with long-standing roots in our country who attended our nation's schools within the coverage of comprehensive immigration reform.

Today, we have a system where America educates many of the brightest individuals from around the world, and then tells them to leave the country when many would rather start their own ventures, strengthen businesses, and employ people right here in America. Going forward, our visa policies must work for every sector of our economy, and across the income scale.

We need carefully crafted programs that allow American businesses to hire needed foreign workers while protecting the labor and health-and-safety rights of all workers. In my meetings with leaders in agriculture, service industries and other fields, they have told me that current visa policies are hindering the growth of businesses looking to expand.

We also have the benefit of knowing what didn't work in the past and there is widespread agreement on why prior attempts at reform did not succeed. Those efforts failed to address the underlying reason why most individuals are willing to either enter our country illegally or overstay a visa – jobs. A robust employment eligibility verification program is critical to effectively address the primary draw of illegal immigration.

In addition, our immigration system is outdated where families are concerned, and we need to modernize and streamline the laws governing this process. No one should have to wait in a line for years in order to reunite with a spouse or a young child.

At the end of the day, people need to be able to trust the system. Americans need to know that their government is committed to enforcing the law and securing the border – and that it takes this responsibility seriously. Law enforcement needs to have better legal tools and the necessary resources to deal with border-related and immigration-related crime. Businesses must be able to find the workers they need here in America, rather than having to move overseas. And immigrants need to know that once we reform the laws and have a system that works, the contours of our immigration laws will endure.

I look forward to working with this Committee to define the path ahead. I appreciate your past support for the Department, your continued partnership, and your future collaboration.

This page was last reviewed/modified on December 9, 2009.