

Secretary Napolitano's Remarks on Smart Effective Border Security and Immigration Enforcement

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Thank you and good morning. The last time I was at American University I had the honor of giving the commencement address to the Class of 2010. I want to thank you for welcoming me back to campus today to talk about the enforcement of our nation's immigration laws and border security.

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

At the same time, the reaction to new waves of immigration—whether recent or in the past—has given rise to pieces of our history about which we are considerably less proud.

Little more than a century ago, postings that became known as "NINA signs," and read "Help Wanted: No Irish Need Apply," were not uncommon in this country. German, Polish, Italian, Jewish, Chinese, Japanese, Mexican, and other immigrants have faced similar discrimination at various points in our history.

And when times have been hard, it has been far too easy, as former President Clinton has said, "just to blame the immigrant."

We have learned from our past, and we are better than that today as a nation. But lessons afforded us by our own history must be a constant reminder, and guide post, for how we approach these and other difficult issues.

Nearly three years ago, when President Obama came into office and nominated me for this position, he and I both knew that we were inheriting a broken immigration system with a patchwork of laws and outdated requirements that were in desperate need of updating.

He said two things at the time and has maintained this position ever since:

First, we took an oath of office to uphold the laws of the United States of America, and we will do that by enforcing them in the smartest, fairest, and most efficient way possible.

Second, we know the immigration system needs to be updated, and we committed then, and continue today, to seek reforms that make sense and are meaningful.

But Congress hasn't acted and states continue to pass a patchwork of their own laws in an attempt to fill the void. It is this Administration's position that Congress needs to take up immigration reform once and for all. We have put forward our ideas and are ready to act quickly and collaboratively to support passage of reforms that make sense.

While doing everything we can to encourage Congressional action, we have undertaken a historic effort to secure the border and enforce our immigration laws in a cohesive way that is smart, effective, and that maximizes the resources that Congress has given us to do this job.

This Administration's approach to immigration enforcement has been widely discussed among those who like to debate the topic. Not surprisingly, our policies have been simultaneously described as engaging in a mean-spirited effort to blindly deport record numbers of illegal immigrants from the country and alternatively as comprehensive amnesty that ignores our responsibility to enforce the immigration laws.

These incongruent reactions make two things clear:

First, two opposites can't simultaneously be true; and second, it's time for a reality check when it comes to talking about immigration enforcement.

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We know that amidst all of the rhetoric surrounding the issue of illegal immigration, it's often difficult to keep track of the facts. So let's start there, with the facts.

As the President and I each said in El Paso earlier this year – and as mayors, police chiefs, community leaders, and recently an array of publications including USA Today, the Washington Post, and the Wall Street Journal have reiterated – security along the US border with Mexico is at an apex and, indeed, those who live and work along it continue to say it is safe and open for business.

And as someone who grew up in New Mexico and spent most of my adult life in Arizona, and who has walked the border, flown it, ridden it on horseback, and worked with border communities from Brownsville to San Diego, I can say that the border security measures we have taken constitute the most innovative and effective approach our country has ever deployed.

So, using the claim that the border is not secure as a reason to block immigration reform is not reasonable. We are continuing to answer the call, and for the last two and a half years, have seen dramatic declines in illegal immigration and dramatic increases in seizures.

And I, for one, have grown weary of hearing the profound efforts of our men and women serving along the border minimized. They are wearing the uniform of United States law enforcement and are deeply committed to their mission and to their country. They continue to achieve record results. Sometimes—like all law enforcement—they even give their lives.

The least we owe them is an honest appraisal of their hard work and that appraisal is that, thanks to them, the border is safer than it has been in decades.

We have committed unprecedented resources to this effort and, this year, will see yet again a historic drop in illegal crossings and more and more contraband seized. So let's take the "border is out of control" myth out of the equation.

At the same time, we have refined how we go about immigration enforcement in this country. Simply put, we have worked, and continue to work, to make sure that the limited resources we have been given are applied in a way that enhances public safety, border security, and the integrity of the immigration system, while respecting the rule of law.

As part of that process, ICE has adopted new policies, including a new process that ensures that those enforcing immigration laws make appropriate use of the discretion they already have in deciding the types of individuals we prioritize for removal from the country.

There has never been, nor will there be in these tight fiscal times, sufficient resources to remove all of those unlawfully in the country. That is why it is so important to set clear priorities.

The priorities we have set, however, do not mean that we will stop enforcing immigration laws. We have an obligation to enforce those laws. And over the past two years we have achieved record levels of enforcement, even as we have moved to focus our efforts in line with our priorities.

This year, I expect removals will again be at historic levels. When we announce these year-end removal numbers, some will undoubtedly say that DHS, and the Administration more broadly, are doing our jobs too effectively.

What those critics will ignore is that while the overall number of individuals removed will exceed prior years, the composition of that number will have fundamentally changed. It will consist of more convicted criminals, recent border crossers, egregious immigration law violators, and immigration fugitives than ever before.

There are approximately ten million undocumented immigrants in the United States. While all of these people are in our country unlawfully, their individual stories can differ dramatically. Some were brought here when they were children. They have spent almost their entire lives in the United States and have gone on to graduate from college or serve in our military. Others illegally crossed our borders for the purpose of committing crimes against our citizens.

When we came into office, the then-exiting immigration enforcement policies we inherited allowed as many resources, if not more, to be spent tracking down and deporting the college student as were spent on apprehending criminal aliens and gang members.

ICE would conduct large scale worksite raids – and would not consistently punish the employer, nor target individuals who posed a public safety threat. Public safety wasn't enhanced by these raids, and they sometimes required hundreds of agents and thousands of hours to complete. As a result, while the agents were busy conducting these high profile raids, criminal aliens were free to roam our streets. This made no sense.

Agents were also directed to conduct sweeping operations, even though they siphoned away resources and failed to enhance public safety. Cordoning off an area suspected to contain a large population of illegal immigrants, these operations failed to net any meaningful number of criminals or public safety threats. This made no sense.

Finally, US Citizenship and Immigration Services placed into removal proceedings thousands of individuals who mistakenly applied for a green card, believing that their marriage to a US Citizen immediately entitled them to stay in the United States. Few

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of these cases have a nexus to public safety. Nevertheless, agency policy required ICE prosecutors and immigration agents to spend just as much time and resources pursuing these cases as those involving convicted felons. This also made no sense.

Accordingly, one of the first steps we took was the implementation of common sense policies that govern the allocation of our enforcement resources.

We established, as a top priority, the identification and removal of public safety and national security threats.

To execute on this, we expanded the use and frequency of investigations and programs, like Secure Communities, that track down criminals and gang members on our streets and in our jails

To further deter individuals from illegally crossing our southwest border, we also directed ICE to prioritize the apprehension of recent border crossers, and support and supplement Border Patrol operations.

In no small measure, the historic results we have seen along the southwest border are attributable to the joint efforts of Border Patrol agents and ICE officers and agents, and the emphasis we have placed on the removal of recent border crossers.

In the worksite category, we eliminated raids that did nothing to enhance public safety. Instead, we focused on targeted worksite enforcement programs like I-9 audits and criminal prosecutions of employers who egregiously violate employment laws.

Finally, we prioritized the removal of those who repeatedly violate our immigration laws and immigration fugitives. These are individuals who repeatedly return to our country after having been previously removed or who flagrantly ignore an immigration court's order to leave the country.

These priorities are simple common sense. They enhance public safety, help secure the border, and promote the integrity of our immigration laws.

Now, while it is easy to establish new priorities, you have to implement them in a way that achieves results.

After nearly three years of managing the immigration enforcement system, I am proud to say that we have achieved real results that match our priorities.

In 2010, ICE removed over 195,000 convicted criminals, more than had ever been previously removed by ICE, and 81,000 more than it removed in FY 2008. For the first time in decades, 50% of the aliens removed by ICE had been convicted of a criminal offense. In 2011, ICE will again remove a record number of convicted criminals from our country.

We have achieved similar results with regard to setting priorities for the removal of those termed "non-criminals." More than two-thirds of those in this category who were removed in 2010 were either recent border crossers or repeat violators.

The number of individuals removed who could not definitively be placed into one of our priority categories dropped from more than 19% in 2008 to less than 10% in 2010. These trends will also continue in 2011.

Now, let me take a moment to mention one program that helped us achieve these results, Secure Communities.

Secure Communities is a program that helps ICE identify those who have been arrested by state and local law enforcement for non -immigration state or local crimes, who are also in the country unlawfully. It bestows no additional authorities onto local law enforcement and only identifies those who have been booked into jails. Literally, in jails.

I know there has been a lot of discussion about Secure Communities – and to be perfectly candid, this program got off to a bad start. We did not explain clearly how it works and who is required to participate.

But as flawed as the beginnings of this program were, it has already helped accomplish a great deal toward ensuring that we use our enforcement resources where they do the most good. It is also highly misleading to suggest that Secure Communities is the reason why the agency has achieved record-breaking enforcement.

The reality is that the immigration enforcement agencies will always encounter more aliens than they can possibly pursue in a given year. Secure Communities hasn't increased the number of individuals who are removed, but it has helped change the composition – helping ICE to dramatically increase the number of convicted criminals and egregious immigration law violators.

Despite the misleading commentary about this program, it has proven to be the single best tool at focusing our immigration enforcement resources on criminals and egregious immigration law violators.

Termination of this program would do nothing to decrease the amount of enforcement. It would only weaken public safety, and move the immigration enforcement system back towards the ad hoc approach where non-criminal aliens are more likely to be removed than criminals.

I have said many times that we can always do a better job and should always be looking to improve how we exercise our enforcement operations. For example, this summer ICE announced some key improvements to Secure Communities because we

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heard with an open mind some of the concerns expressed about the program. Our job is to listen and make adjustments consistent with our best law enforcement judgment. That's why Secure Communities now has new training for state and local law enforcement, and additional steps are being taken to protect witnesses, domestic violence victims, and victims of other violent crime.

While these improvements were necessary, and additional ones may still be required, removing people unlawfully in the country who have been booked into jail on non-immigration crimes will continue to be a top priority.

And while the President and I have both said that relief will not be granted to broad classes of individuals, we will exercise discretion on a case by case basis where we feel it is appropriate and responsible to do so, and when it enhances our ability to meet our priorities.

It makes sense to prioritize our finite resources on removing a Mexican citizen who is wanted for murder in his home country ahead of a Mexican national who is the sole provider for his American citizen spouse; It makes sense to remove a Costa Rican man convicted of sexual assault against a minor before we spend the time and money to send a mother back to her violent and abusive husband in Jamaica, separating her from her American-born children; finally, it makes sense to prioritize resources on the removal of a Chinese man convicted of aggravated assault and weapons offenses before removing a 10th grade student who was brought to this country when he was a child;

These are actual examples of the recent use of discretion. They do not constitute amnesty. They reflect the judicious and intelligent use of resources, common sense and prioritization.

So to support our priorities, DHS and DOJ recently announced a new process to further implement the appropriate use of prosecutorial discretion. Together, DHS and DOJ will review existing caseloads to ensure they correspond with our enforcement priorities.

This process has taken some time to design, but when implemented, will enable us to better execute on our mission to protect public safety and ensure border security. It will also establish an unprecedented cohesion of federal agencies to focus taxpayer resources on our enforcement priorities.

So, let me put it a little more directly. We cannot, on the one hand, be on the verge of removing, for the third consecutive year, a record-breaking number of unlawful individuals from this country, with the highest number of criminal removals in American history and, at the same time, be abrogating our law enforcement responsibilities.

Similarly, exercising discretion with more speed and better prioritization than at any time in history, protecting victims of domestic violence, engaging in worksite enforcement rather than workforce raids is not cosmetic tinkering. It is real change, with real results.

Vesting discretion in our immigration enforcement officers and immigration lawyers is not amnesty. It is a prioritization system that begins with finding and removing individuals who are criminals and repeat offenders. At the same time, our officers have the legal responsibility to remove unlawful individuals from this country. They will do so according to our priorities. But they will do their jobs.

I am proud to serve with the men and women of DHS who do this work every day, and I refuse to see them dragged into the rhetoric of daily political combat. They are protecting our country, just like the honorable men and women of our military, and I salute them for that.

And just as I am resolute in supporting the men and women of this Department, I am resolute in believing in the efficacy of the course we are charting on the mission we have been asked to perform.

We held a naturalization ceremony just a few weeks ago to honor the signing of the U.S. Constitution on September 17, 1787. The groundwork laid by the framers of our Constitution 224 years ago ensures that being an American is not about one's religion, ethnicity, or place of birth.

New Americans take on all the rights, as well as all the responsibilities, our Constitution guarantees. And, indeed, we have a strong tradition as a welcoming nation, and continue to find ways to improve the administration of the legal immigration system, and support those on the path to citizenship.

However, we will and must enforce our immigration laws. Doing otherwise is not an option. Enforcing those laws in a way that makes sense is neither simple nor easy, and we are committed to getting it right. We can all agree that we need fair, consistent, and enforceable immigration laws that encourage the free flow of commerce, while respecting both security and the rights of individuals. We will continue to work toward that common goal.

But we can't do it alone—which is why I am calling on advocates on all sides of this issue to work with us and the Congress on these issues, rather than attacking the system, or the people who work in it, as a whole.

In the meantime, it should not come as a surprise when we continue to outstrip historical trends on removals, or the numbers of criminals and egregious immigration law violators contained within that population.

It should be similarly expected that DHS will be just as focused in how we exercise discretion. Reform is needed, and the limitations of what we can do, both from an enforcement and discretion standpoint, are defined by the patchwork of laws we currently have on the books. We need legislative solutions to address these challenges.

So we will continue to be smart and effective in how we enforce the laws of this country, while at the same time asking Congress to amend and improve them where they need to be changed.

That is our commitment to the American people, to the men and women of DHS who keep our borders and our country safe, and to our heritage as a nation of immigrants and a nation of laws.

Thank you.

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