

STATEMENT OF

**DAVID AGUILAR
CHIEF
OFFICE OF BORDER PATROL
U.S. CUSTOMS AND BORDER PROTECTION
DEPARTMENT OF HOMELAND SECURITY**

BEFORE THE

**U.S SENATE
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SUBCOMMITTEE ON TERRORISM, TECHNOLOGY AND HOMELAND SECURITY
AND
SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY AND CITIZENSHIP**

**REGARDING
“Confronting the Problem of Border Incursions and Violence”**

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CHAIRMAN KYL, CHAIRMAN CORNYN, AND DISTINGUISHED COMMITTEE MEMBERS: My name is David Aguilar, and I am the Chief of the Border Patrol, a component of U.S. Customs and Border Protection (CBP) within the Department of Homeland Security (DHS). I am honored to appear on behalf of CBP and the Border Patrol. Like you, we have no higher priority than the safety of U.S. citizens, as well as our dedicated agents that serve along the border. CBP remains steadfast in its commitment to securing our borders. It is a matter of national security, and through efforts like the Secure Border Initiative and the Arizona Border Control Initiative, we are consistently minimizing and shutting down vulnerabilities at the border. Criminal networks present a serious threat to border security and their lawlessness is not going unchecked. We take very seriously and investigate fully any alleged incident of criminal activity, threats against our agents or possible incursions.

I would like to begin by giving you a brief overview of our agency and mission.

CBP acts as the guardian of the Nation's borders, safeguarding the homeland by protecting the American public against terrorists and the instruments of terrorism, while enforcing the laws of the United States and fostering the Nation's economic security through lawful travel and trade. Within CBP's larger mission, the Border Patrol's time-honored duty of interdicting illegal aliens and drugs and those who attempt to smuggle them across our borders between the Ports of Entry remains a priority. We are concerned that terrorists and violent criminals may exploit smuggling routes to enter the United States illegally. Reducing illegal migration across our borders will help mitigate the danger of possible attempts by terrorists or violent criminals to enter our country.

As Secretary Chertoff noted in his June 9 statement before the Government Reform Committee, DHS has established a crosscutting initiative to protect the southwest border. It encompasses the efforts of several DHS agencies, and each agency plays an integral role. The operations themselves involve patrolling the border, apprehending illegal border crossers and seizing contraband, generating, sharing and analyzing information, detaining and removing illegal aliens, investigating smuggling organizations, and deterring illegal activity. One of the critical benefits of the creation of DHS is that the capability to take all of these enforcement actions along the continuum of border security now resides in one department within the Executive Branch.

With regard to CBP, the Border Patrol's National Strategy has made a centralized chain of command a priority and has increased the effectiveness of our agents by using intelligence-driven operations to deploy our resources. The Strategy recognizes that border awareness and cooperation with our law enforcement partners is critical. Partnerships with Immigration and Customs Enforcement (ICE), Department of the Interior, Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), Department of Transportation, as well as other interagency partners, state, local, and tribal law enforcement agencies and state Homeland Security offices play a vital role in collecting and disseminating information and tactical intelligence that assists in a quick and flexible responses, which are essential to mission success.

I have been asked to speak about border incursions by military and law enforcement personnel. Although decreasing in frequency, incursions into U.S. territory by units of Mexican military and law enforcement personnel have occurred. The reverse is also true – there have been incidents

where U.S. Border Patrol agents have accidentally strayed into Mexico. These incidents often take place in remote areas where the international border is unmarked or unclear. Each and every incursion is of the greatest concern to the Border Patrol. Each individual incursion requires and receives an in-depth review.

From FY 2001 through the end of FY 2005, there have been 144 documented incursions into the United States. The Border Patrol definition of an incursion is identified as the unauthorized crossing of the international border by individuals who are, or appear to be, Mexican government personnel, whether intentional or not. Incursions have declined by more than 50% since 2001, and we have open dialogue with the Government of Mexico to continue to reduce the frequency of incursions.

Although a declining trend, all incursions have the potential to result in violence, which is of significant concern to CBP.

Most incursion cases have been resolved at the field level by U.S. and Mexican authorities without the need for high-level diplomatic dialogue. Border Patrol does not have evidence of systematic incursions of the Nation's borders by Mexican military personnel.

At the local level, our enforcement leadership is using various mechanisms to establish periodic dialogue and interaction with Mexican police and military leaders to resolve and prevent accidental incursions. Protocols are in place throughout the southwestern border to handle incursions at a local level and to also implement measures to prevent future events. These protocols involve maintaining frequent communication with their counterparts within Mexican agencies, exchange of area maps, and briefings on the local terrain for units new to the area.

We are, indeed, aware of criminal organizations that wear military-style uniforms, use military-style equipment and weapons, and employ military-type vehicles and tactics while conducting illegal activity in border areas. Trafficking of persons and contraband constitutes a major threat, regardless of the perpetrators' identity. Border Patrol does not have proof that recent trafficking incidents we have seen involving individuals dressed in military or law enforcement attire were in fact Mexican Government personnel. However, we address each of these incidents as the serious criminal acts that they are, and these cases are actively pursued.

I recently returned from a visit with our agents on the southwestern border. During this trip, I met with our agents, Mexican Government officials and others in a continued effort to address critical border issues, including incursions. We have found that by working in partnership with Mexican officials we are able to lessen tensions and reduce the likelihood of an unfortunate incident. Mexican officials work with us on a daily basis in regards to our priority mission against terrorism. I believe that we can build on our efforts so far to make progress with this current problem.

DHS remains focused on monitoring and responding to these criminal threats and will continue to assess, develop, and deploy the appropriate mix of technology, personnel, and infrastructure to gain, maintain, and expand coverage of the border in an effort to use our resources in the most efficient fashion. As an example, the use of technology, including the expansion of camera systems, biometrics, sensors, air assets, and improving communications systems can provide the

force multiplier that the Border Patrol needs to be more effective. Tactical infrastructure improvements will greatly assist DHS' ability to deter and respond to illegal activity crossing our border. Examples of tactical infrastructure include: strategically-placed fencing, vehicle barriers, all-weather access roads, land clearings, and bridge-crossings. The ongoing efforts of the Secure Border Initiative will further enhance our border integrity through the targeted deployment of assets, which will assist in preventing future incursions.

CBP's Border Patrol is the first line of defense in DHS' multi-agency effort to dismantle the violent smuggling organizations that threaten the American quality of life. This line of defense does come at a price, and our dedicated agents face significant risks. In fact, 192 Border Patrol Agents have been assaulted already in FY 2006. These statistics continue to reflect an upward trend; in FY 2005, 778 agents were assaulted, more than doubling the FY 2004 total of 374.

As we continue to bring larger areas of the border under operational control, we can expect spikes in border violence as border criminals discover they can no longer operate with impunity and are prevented from using the border for their criminal activities. These violent reactions to our increased law enforcement effectiveness should abate, however, as we solidify operational control in a new area. Our agents are trained, equipped and instructed on how to handle border violence as well as incursions. We will continue to work to advance public safety and the legitimate flow of commerce along our border.

Recognizing that we cannot control our borders by merely focusing on the immediate border, our Border Patrol strategy incorporates a "defense in depth" approach including detection, rapid response, and the use of checkpoints away from the border. These checkpoints are critical to our patrol efforts, for they deny major routes of egress from the borders to smugglers intent on delivering people, drugs, and other contraband into the interior of the United States. Permanent checkpoints allow the Border Patrol to establish an important second layer of defense and help deter illegal entries through improved enforcement.

The Border Patrol is also working with ICE, other DHS components, and the Department of Justice on an integrated approach to dismantling the criminal groups that perpetuate cross-order criminal activity. Border Patrol and ICE will partner in the Department's newly established Border Enforcement and Security Task Forces (BESTs), which build on the Department's experiences fighting violent cross-border crime in Laredo, Texas, during Operation Black Jack. Operation Black Jack has been a focused effort to coordinate ICE, CBP, DEA, FBI, Bureau of Alcohol Tobacco Firearms and Explosives, U.S. Marshals Service, and other state and local law enforcement agencies with significant support from the United States Attorney's Office and the District Attorney's Office. BESTs will focus on every element of the enforcement process, from interdiction to prosecution and removal, with the goal of eliminating the top leadership and supporting infrastructure that sustains these cross-border organizations. They will leverage federal, state, tribal, local, and intelligence entities to focus resources on identifying and combating emerging or existing threats.

Another example of how interagency efforts benefit this layered defense is the partnership between DHS and the Department of Justice to develop the IDENT/IAFIS integrated workstation, which captures a single set of fingerprints and submits them simultaneously to

DHS' Automated Biometric Identification System (IDENT) and DOJ's Integrated Automated Fingerprint Identification System (IAFIS) for identity checks. With immediate access to IAFIS nationwide, Border Patrol agents have identified thousands of egregious offenders in the past year, including 513 homicide suspects, 648 sex crime suspects, 6439 subjects previously charged or convicted of aggravated assault, and 11,844 suspects involved in dangerous drugs or trafficking, which otherwise may have gone undetected. With 31,414 major crime hits and 120,268 total IAFIS hits through fiscal year 2005, we have made significant strides towards improving national security and greatly enhancing our ability to secure our Nation's borders. Recently, the Border Patrol arrested an individual who was wanted for a 1994 double-homicide committed in Grant County, CA. The Grant County Prosecutors' Office charged the individual after Border Patrol agents turned him over to the local sheriff's office. Also in February, Border Patrol Agents in Albuquerque, New Mexico, assisted the Albuquerque Fugitive Operations Unit with the arrest of a subject who was wanted in Mexico for a triple homicide. Information was shared with the Albuquerque Fugitive Operations Unit. This information subsequently led to his arrest and turn over to Border Patrol. This individual was turned over to Mexican authorities. These are just two very recent examples of the criminal element present at the Nation's border. This important initiative was made possible through the joint efforts of the US-VISIT Program, which provided the funding and overall project coordination, and CBP, which installed the workstations and conducted training.

The United States continues to experience a rising influx of nationals other than Mexicans (OTMs) illegally entering the country. OTM apprehensions totaled 165,175 for FY05, whereas FY 04's number of OTM apprehensions was 75,389. The 119% increase in the apprehension of OTM illegal entrant aliens has created additional challenges in bringing a level of operational control to the border. In response, DHS expanded the use of Expedited Removal (ER) proceedings for OTMs across the entire border. ER proceedings, unlike section 240 removal hearings between apprehension and removal, shorten the duration of time between apprehension and removal. A significant increase in bed space was allocated to support this expansion. Brazilian nationals were the initial focus for the ER program, and the influx of Brazilian nationals across the southwest border has been significantly reduced. ER has proven to be an effective enforcement tool for the southwest border.

Both DHS and Mexican authorities have a shared interest in addressing assaults on law enforcement personnel, increased lawlessness, and the victimization of innocent people occurring in border areas. In response to the recent incursion and the apparent escalation in violence across the border, the Department and the Government of Mexico have been engaging in renewed discussions on collaborative border security and safety initiatives.

For example, CBP is working with the Government of Mexico on various initiatives to increase the security and safety of our shared border including:

?? **Information Sharing:** Border Patrol Liaison Program units share information related to terrorist threats and special interest aliens with the Government of Mexico. This effort has resulted in 468 arrests of non-Mexicans in violation of Mexican immigration laws. We know that Mexican authorities have identified many criminal organizations and issued multiple arrest warrants for alien smuggling.

- ?? **Operation Against Smugglers Initiative on Safety and Security (OASISS):** In an effort to reduce the increasing number of human smugglers operating along the southwest border, CBP, in cooperation with the Government of Mexico, implemented OASISS, a bilateral Alien Smuggler Prosecutions Program. The OASISS program expands upon previous efforts to identify and prosecute violent human smugglers and save the lives of migrants who are put at risk by smuggling organizations.
- ?? **Cooperative Enforcement Efforts:** In response to the escalating border violence, in coordination with CBP, the Government of Mexico has deployed several hundred enforcement and prosecutorial personnel from the PGR and PFP. In addition, the Government of Mexico has also deployed over 300 Mexican state police officers to target criminal organizations, human smugglers, and transnational gangs. These deployments of resources are to be based on assessments of existing border security threats in the San Diego, Tucson, Laredo, and McAllen areas.
- ?? **Border Safety Initiative:** As security and safety on the border are inextricably linked, I would like to mention the Border Patrol's "Border Safety Initiative" or BSI. In Fiscal Year 2005, southwest border deaths increased by 41% (464 in FY05 vs. 330 in FY04) and southwest border rescues have increased by 91% (2570 in FY05 vs. 1347 in FY04). These statistics indicate that a secure border will not only have an important law enforcement component, but also yield the humanitarian benefit of saving lives.

The Border Patrol's objective is nothing less than securing operational control of the border. We recognize the challenges that lie ahead, which includes incursions and increasing violence, and the need for a comprehensive enforcement approach. Our national strategy gives us the overall framework to achieve our ambitious goal. It is a matter of national security, and through efforts like the Secure Border Initiative, Operation Stonegarden, and the Arizona Border Control Initiative, we are consistently minimizing and shutting down vulnerabilities at the border. We face these challenges every day with vigilance, dedication to service, and integrity as we work to strengthen national security and protect America and its citizens. I would like to thank you for the opportunity to present this testimony today and for your support of CBP and DHS. I would be pleased to respond to any questions that you might have at this time.