POROUS BORDERS AND DOWNSTREAM COSTS: THE COST OF ILLEGAL IMMIGRATION ON STATE, COUNTY AND LOCAL GOVERNMENTS

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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POROUS BORDERS AND DOWNSTREAM COSTS: THE COST OF ILLEGAL IMMIGRATION ON STATE, COUNTY AND LOCAL GOVERNMENTS

MONDAY, AUGUST 14, 2006

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
San Diego, CA.

The committee met, pursuant to notice, at 11 a.m., at the San Diego county Administration Center, room 310 and 410, 1600 Pacific Highway, San Diego, CA, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representative Tom Davis.

Also present: Representative Becerra.

Staff present: Larry Halloran, deputy staff director; Teresa Austin, chief clerk; Stephen Castor, counsel; Allyson Blandford, office manager; and Michael McCarthy, minority professional staff member.

Chairman TOM DAVIS. Good morning. The committee will come to order. I want to welcome our guests to today's hearing.

Porous borders exact a high price. Ineffective immigration enforcement undermines respect for law. It threatens national security. The steady flow of illegal immigration also passes unpredictable and largely unreimbursed costs on to States and counties already struggling to maintain safe, healthy, and prosperous communities. That de facto unfunded mandate is draining local law enforcement, health care, and education budgets.

Today we're convening in San Diego to learn more about the intergovernmental impact of illegal immigration and to discuss the urgent need for enhanced border security. We particularly want to hear local assessments of efforts to strengthen enforcement in what is called the internal border where undocumented aliens apply for work, official documents, and public benefits. As the people of this area know only too well, no effort to harden or patrol the international boundary will ever be 100 percent effective. And those who enter legally but subsequently violate the terms of their visa should be detected and detained by vigilant internal enforcement systems. So we asked our witnesses this morning to give us the benefit of their experience and their guidance regarding the costs of illegal immigration and effective ways to limit those costs.

The current failure of enforcement is being felt throughout the Nation as the tide of undocumented aliens swells well beyond the six traditional settlement States of California, New York, Texas,

Florida, Illinois, and New Jersey. As of last April, legislatures in 43 States considered bills on immigration issues. Attempting to fill the vacuum left by earnest but hopelessly understaffed Federal efforts, States sought to control access to education and other public benefits, strengthen employment verification, punish human trafficking, strengthen eligibility requirements for identifying documents and voting, and coordinating law enforcement. County governments and mayors have similarly taken steps to regain some control over their fiscal fate.

Obviously, when Washington fails to exercise sovereign control over what is pouring into the national melting pot, States, counties, and cities feel the heat. Although difficult to quantify precisely, the impact of illegal immigration on State, county, and city budgets is undeniably growing. According to one estimate, those without a legal right to be here generate net fiscal costs approaching $10 billion nationally. The State of California is reported to have spent almost $3 billion in a single year providing services to illegal immigrants. By one estimate, the county of San Diego spends more than $50 million a year to arrest, jail, prosecute, and defend illegal immigrants. Of that, Federal reimbursement covers only about $2 million.

The health care system, already under severe strain, risks being swamped by a continuing flood of uninsured illegal immigrants, many of whom use hospital emergency rooms for primary care. Federal law requires emergency medical departments to treat everyone. The national costs of such mandated free health services exceeds $1 billion annually. This year Federal reimbursements will cover only one quarter of that total. States, counties, and cities have a right to expect that fiscal security will only come when the Federal Government focuses on effective border security.

Decades-long neglect of the sovereign responsibility to adequately police national boundaries and enforce national laws has transferred immense burdens downstream to local taxpayers. Any serious immigration reform must take account of those ingovernmental impacts and protect States and localities from fiscal shockwaves. From that perspective, effective external and internal enforcement programs are essential prerequisites to broader immigration reforms. Otherwise, any new immigration law will suffer the fate of the last effort 20 years ago when good intentions were overwhelmed by weak follow through.

When your basement's flooding, you plug the leaks first, and then you start the remodeling job. Plugging our porous immigration system using Federal dollars will free States and counties to focus on their core responsibilities: To protect the health and safety of all those seeking to build a better community.

This morning, we're going to hear testimony from six witnesses. Each of them brings a depth of experience and insight on this important discussion, and we look forward to their testimony. And without objection, the gentleman from California's 31st District, Mr. Becerra, will sit with the committee today.

[The prepared statement of Chairman Tom Davis follows:]

Statement of Chairman Tom Davis
Committee on Government Reform Hearing
Porous Borders and Downstream Costs:
The Impact of Illegal Immigration on State, County and Local Governments
County Administrative Center
San Diego, California
August 14, 2006

Porous borders exact a high price. Ineffective immigration enforcement undermines respect for law and threatens national security. The steady flow of illegal immigration also passes unpredictable and largely un-reimbursed costs onto states and counties already struggling to maintain safe, healthy and prosperous communities. That *de facto* unfunded mandate is draining local law enforcement, health care and education budgets.

Today, we convene in San Diego to learn more about the intergovernmental impact of illegal immigration and to discuss the urgent need for enhanced border security. We particularly want to hear local assessments of efforts to strengthen enforcement at what is called the "internal border" where undocumented aliens apply for work, official documents and public benefits. As the people of this area know only too well, no effort to harden or patrol the international boundary will ever be one hundred percent effective. And those who enter legally, but subsequently violate the terms of their visa, should be detected and detained by vigilant internal enforcement systems. So we asked our witnesses this morning to give us the benefit of their experience, and their guidance, regarding the costs of illegal immigration and effective ways to limit those costs.

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Obviously, when Washington fails to exercise sovereign control over what is pouring into the national melting pot, states, counties and cities feel the heat. Although difficult to quantify precisely, the impact of illegal immigration on state, county and city budgets is undeniable, and growing. According to one estimate, those without a legal right to be here generate net fiscal costs approaching ten billion dollars nationally. The State of California is reported to have spent almost three billion dollars in a single year providing services to illegal immigrants. By one estimate, the County of San Diego spends more than fifty million dollars a year to arrest, jail, prosecute and defend illegal immigrants. Of that, federal reimbursements cover only about two million dollars.

A health care system already under severe strain risks being swamped by a continuing flood of uninsured illegal immigrants, many of whom use hospital emergency rooms for primary care. Federal law requires emergency medical departments to treat everyone. The national cost of such mandated free health services exceeds one billion dollars annually. This year, federal reimbursements will cover only one quarter of that total.

States, counties and cities have a right to expect the fiscal security that will only come when the federal government focuses on effective border security. Decades-long neglect of the sovereign responsibility to adequately police national boundaries and enforce national laws has transferred immense burdens downstream to local taxpayers. Any serious immigration reform must take account of those intergovernmental impacts and protect states and localities from fiscal shockwaves. From that perspective, effective external and internal enforcement programs are essential prerequisites to broader immigration reforms. Otherwise, any new immigration law will suffer the fate of the last effort twenty years ago, when good intentions were overwhelmed by weak follow-through.

When your basement is flooding, you plug the leaks first, then start the remodeling job. Plugging our porous immigration system – using federal dollars – will free states and counties to focus on their core responsibilities to protect the health and safety of all those seeking to build a better community.

This morning, we will hear testimony from six witnesses. Each of them brings a depth of experience and insight to this important discussion and we look forward to their testimony.

Chairman TOM DAVIS. And, Mr. Becerra, you're recognized for an opening statement. Thank you for being with us.

STATEMENT OF HON. XAVIER BECERRA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BECERRA. Mr. Chairman, thank you very much for allowing me to sit. And thank you for being here. I want to thank in advance the witnesses who will testify for their participation. And certainly, we want to thank all those who have taken the interest in being here as well on an issue that most of us consider very important.

Nobody questions that immigration by undocumented immigrants creates costs for States and local governments, costs that are most severe here in the State of California. But we can't lose sight of the other side of the ledger as well as talk about this issue, the benefits that immigrants bring to our local economies and our local communities.

[Audience boos and hisses.]

Mr. BECERRA. A thorough examination of immigration policy requires consideration of the overall impact of immigration and immigrants on America, and that means looking at both the costs and the benefits. That is why I believe we need effective comprehensive immigration reform that addresses both costs and benefits, not just a one-sided enforcement only approach.

In their prepared testimony, our witnesses describe very persuasively the costs that immigration creates for local law enforcement and health care. These problems are real, but unfortunately, they are not new. They can be traced back to the failures of our Federal immigration policy. Failure to recognize the demand for immigrant labor in our economy, failure of the Federal Government to fund the needs of State and local government, failure of the Federal Government to repay State and local governments for unfunded mandates, and the failure to secure our borders. In short, Mr. Chairman, our immigration system is broken and the Federal Government has failed to respond.

Congress has an obligation to enact practical, effective immigration reform and to do it now. This is the third hearing in the House——

[Audience cheers and applauds.]

Chairman TOM DAVIS. Please. You're our guests here. We're happy to have you here, but we don't want you interrupting the speakers in debate.

Go ahead, Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman.

This is I believe the third hearing that's being held here in San Diego on the part of the House of Representatives. And it's a hearing to discuss a bill that the House has already passed. I want us to think about this for just a second. The House of Representatives back in December 2005 passed legislation to change our immigration laws, the Senate back in July did the same, and today, we're holding a hearing. Throughout this month we're holding any number of hearings—I believe it's about 21 hearings, the House of Representatives will be holding throughout the Nation. And we're holding them after the bill has already been passed. That's very similar

to a parachutist saying that he's going to jump from a plane and pack his parachute after he's jumped. You have to look before you leap. In this case, the House of Representatives leapt back in December 2005, and now we're being told let's take a look. That's not the way you make policy. We don't need more hearings, we need action.

Instead of spending the summer on a taxpayer-funded traveling hearing or press conference, the House should be working with the Senate to pass effective bipartisan immigration reform. We need practical, comprehensive reforms that secure our Nation's homeland, recognize the role of immigration in our economy and our communities, and does credit to America's creed as the land of opportunity.

Mr. Chairman, I'm pleased to be here. I look forward to the testimony, and I hope before we conclude this session of the House of Representatives and the Senate come late September, early October that we will have a bill that's comprehensive in its approach to immigration reform that the President will sign and move this Nation forward. Yield back.

Chairman TOM DAVIS. All right. Thank you very much, Mr. Becerra.

And again, failure of Congress to act means the status quo. That continues to mean unfunded mandates on State and local governments.

I'd ask unanimous consent to insert into the record a statement by Representative David Dreier of California without objection.

[The prepared statement of Hon. David Dreier follows:]

DAVID DREIER
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Congress of the United States
House of Representatives
Washington, DC 20515

August 14, 2006

Statement of the Honorable David Dreier
before the
House Government Reform Field Hearing
San Diego, California

Mr. Chairman, distinguished Members of the Committee, thank you for allowing me the opportunity to submit a statement for the record at today's field hearing on interior enforcement of immigration laws. I would also like to thank all of our witnesses for participating in today's meeting. You face the challenge and see the negative impact of illegal immigration first-hand on a day-to-day basis, and I look forward to reviewing your comments on this important issue.

Regarding interior enforcement, I would like to focus my comments on the urgent need to reform our current employment verification system. Let me just say that the only way to begin to control the illegal immigration influx is to create conditions by which those immigrants will not desire to enter the country illegally in the first place. I think even the most cynical among us would agree that the vast majority of illegal immigrants come here because they are hoping to feed their families. Despite laws to the contrary, work is plentiful for illegal immigrants and current safeguards are insufficient to prevent their employment.

The roots of our broken immigration and employer verification system can be traced to three underlying factors: too many unreliable documents, including the Social Security card; a faulty employment verification system; and lax enforcement. I believe that as the Congress moves forward on the immigration and border security reform debate, that the cornerstone of any proposal must include an effective employment verification system and enhanced enforcement of our immigration laws. I believe that my bill, H.R. 98, the Illegal Immigration Enforcement and Social Security Protection Act, provides a strong foundation from which to build upon.

When first created in 1935, the Social Security number was only intended to track account contributions for participants in the Social Security system. Yet, over time, it has become a ubiquitous document for both government and private sector purposes. In 1943, President Franklin Roosevelt issued Executive Order 9397, which permitted the use of Social Security numbers as a personal identifier for federal government agencies. The 1976 Tax

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Reform Act wrote into law that the Social Security number would serve as the official taxpayer identification number, though the Internal Revenue Service had used the Social Security number for this purpose since 1962. In 1986, the Higher Education Amendments required student loan applicants to submit Social Security numbers as a condition of eligibility.

As many Americans know very well, the Social Security number is also frequently used to verify identity in the private sector. Call your phone company to check your bill, and you will be asked for the last four digits of your Social Security number. Apply for life insurance, and the application may ask for your Social Security number. Shop for a new car and the dealership will probably check your credit rating with a credit agency which has your Social Security number. The Social Security card is also one of the documents used to establish employment eligibility under the current employment verification process.

As you know, the 1986 Immigration Reform and Control Act created the system to help eliminate the hiring of illegal immigrants. While well intentioned, several weaknesses in the process demonstrate the increasing difficulty employers and federal officials have complying with and enforcing current law. There are 25 documents on the current I-9 form and 90 different combinations of such documents which can be used to establish identity and employment eligibility. While the former Immigration and Naturalization Service and the Department of Homeland Security have proposed to reduce the number of applicable documents under the system, to date there have been no changes. What we ultimately have is a system that forces U.S. employers to act as immigration and document verification experts.

The 1996 Illegal Immigration Reform and Immigrant Responsibility Act included several programs to test the viability of an electronic employment verification system. For example, the Basic Pilot Program allows participating employers to electronically verify a prospective employee's work authorization status. The possible hire's Social Security number is checked against records at the Social Security Administration, and if not verified, the information is checked against Department of Homeland Security immigration status records. Recently, the House approved a border control bill to require all employers to use this verification system. While expanding this program is a step in the right direction, I believe that we must do more to enhance the integrity of the system.

In June 2006 before the Senate Judiciary Immigration Subcommittee, the Government Accountability Office testified that "...document fraud and identity fraud have made it difficult for employers who want to comply with the employment verification process to ensure that they hire only authorized workers and have made it easier for unscrupulous employers to knowingly hire unauthorized workers with little fear of sanction. In addition, the large number and variety of documents acceptable for proving work eligibility have hindered employers' verification efforts." The Government Accountability Office also testified that according to Immigration and Customs Enforcement officials, access to the Basic Pilot Program information, "...could help Immigration and Customs Enforcement better target its worksite enforcement efforts on employers who try to evade the program." However, the Government Accountability Office

found that such efforts would be undermined by the system's inability to detect forged documents.

In fact, there have been several recent news reports on Social Security card abuse by illegal immigrants and the evidence is not encouraging. In March, Immigration and Customs Enforcement officers arrested 11 suspects and shut down seven "document mills" in south Los Angeles, which produced fake Social Security cards, driver's licenses and other documents. The report states a "set" of documents (a driver's license, a Social Security card and immigrant documentation) could be obtained for $100 to $150. Another report detailed the struggle against identity fraud that one Chicago-area resident faced because no fewer than 37 different illegal immigrants were using her Social Security number for employment purposes. There was also a report of individuals lending for a fee their valid Social Security cards to illegal immigrants. Perhaps most disturbingly, illegal immigrants using false Social Security numbers were apparently able to get work at a nuclear power plant in Florida. Far from being just an immigration issue, Social Security card fraud is a national security issue.

Social Security card and number fraud is also demonstrated in the Social Security benefit system. A February 2005 Government Accountability Office study found that "In November 2004, the Social Security Administration reported that the Earnings Suspense File contained a combined total of 246 million earnings records from all tax years back to the inception of the Social Security program (1937), representing about $463 billion in reported earnings." The Earnings Suspense File indicates a fundamental problem with the system: there is a significant number of people contributing Social Security earnings who we cannot identity. I recognize that it could very well be errors in the enumeration process, or failure of an individual to notify SSA in a change of their marital status. But we must also recognize that the problem could be individuals who are working in the U.S. illegally.

Today, the Social Security Administration faces considerable challenges to fix discrepancies in Social Security earnings reporting. For example, the February 2005 Government Accountability Office report found that "Of the 84.6 million records placed in the Earnings Suspense File for tax years 1985 to 2000, about nine million had all zeros in the Social Security number field. For 3.5 million records, employers used the same Social Security number to report earnings for multiple workers in a single tax year. About 1.4 million records had Social Security numbers that have never been issued by the Social Security Administration, and over 260,000 were missing a first name."

In addition to the broken employment verification system, another failure of the current immigration and employment policy is the inadequate enforcement of our work authorization verification laws. Over the last few years, the federal government's efforts have diminished further. For example, in 1999, the former Immigration and Naturalization Services allocated 240 agents to worksite enforcement. That number dwindled to 90 agents in 2003. Accordingly, the number of notices of intent to fine issued to employers declined from 417 in 1999 to just 3 in 2003. The June 2006 Government Accountability Office testimony states that "Immigration and

Customs Enforcement attributes the decline in the number of notices of intent to fine issued to employers and number of administrative worksite arrests to various factors, including wide spread availability and use of counterfeit documents..." In addition, Immigration and Customs Enforcement officials cite that the low fine amounts fail to act as a sufficient deterrent for employers to hire illegal immigrants.

Most employment enforcement activities have focused on critical infrastructure sites, such as airports. However, there has been recent action at employment sites. Notably, in April, Immigration and Customs Enforcement agents arrested seven managers of IFCO Systems North America, a nationwide pallet company, and 1,187 of the firm's illegal immigrant employees in 26 states. While this activity is encouraging, I believe that more must be done to crack down on the hiring of illegal immigrants.

H.R. 98 addresses all of these issues by creating one counterfeit-proof document, implementing an easy-to-use employment verification system and stepping up enforcement efforts. Specifically, the bill makes the Social Security card fraud-proof and provides employers with a tamper-free tool to verify work authorization status. This will come as a great relief to employers who have been forced to act as immigration and document experts. The bill requires the Social Security Administration to issue cards that contain a digitized photo of the cardholder, as well as other countermeasures to reduce fraud. This includes replacing the flimsy Social Security banknote paper with a durable plastic or similar material. Also, each card will contain physical security features designed to prevent tampering, counterfeiting or duplication.

In addition, this card will have an electronic signature strip that contains an encrypted electronic identification code unique to that individual. Employers could verify worker eligibility via a Department of Homeland Security database by swiping the card through an electronic card-reader or simply calling a toll-free number. The employer would know instantaneously whether or not they were permitted to hire the individual in question.

Let me point out that modernizing the Social Security card will not be burdensome for job seekers. Workers will only need to update their Social Security card once to have their photo placed on the card and for other long-overdue anti-fraud measures to be applied. A worker would only need the updated social security card when applying for a new job. I want to make it very, very clear that this is not a national ID card. In fact, the legislation contains language to ensure that the improved Social Security card does not become a national ID, and is only used to verify a prospective employee's authorization to work in the United States. Social Security cards are already routinely required to be provided to new employers; the changes we are proposing to the Social Security card take us no further down the road of creating a national ID card.

In addition, under H.R. 98, the government would collect no more information about an individual than it does today. The Social Security Administration already collects information on citizenship and employment eligibility and shares that information with the Department of Homeland Security under the aegis of the Basic Pilot Program. This bill does not threaten

anybody's privacy or impinge upon anybody's civil liberties. It simply combines and streamlines the current process under the Basic Pilot Program system.

Under the bill, employers will face stiff federal fines of $50,000, a 400 percent increase over current fine amounts, and up to five years in prison if they hire an illegal immigrant or choose not to verify a prospective employee's work eligibility. The employer would also be required to reimburse the government for the cost of deporting the illegal immigrant. Finally, H.R. 98 puts teeth into the new enforcement procedures by calling for the addition of 10,000 new Homeland Security officers whose sole responsibility will be to enforce employer compliance with the law. These new agents will free up the Border Patrol to exclusively focus on border enforcement and terrorism prevention.

Mr. Chairman, in recent years, we have improved the security of almost every government-issued document – passports, green cards, driver's licenses – save one, the Social Security card. With over five million cards issued annually, we need to realize that it's time to bring the Social Security card into the 21st Century. In the process, we will end the magnet of jobs for illegal immigrants.

I believe that H.R. 98 represents an excellent starting point to secure the Social Security card and enhance our efforts to stop the hiring of illegal immigrants. I look forward to working with my colleagues to reach these important goals.

Chairman TOM DAVIS. Now, Members will have 7 days to submit opening statements for the record.

I'm going to now recognize our panel of witnesses: Mr. Miguel Unzueta, the Special Agent in Charge of San Diego SAC, U.S. Customs and Immigration Enforcement; Mr. William Kolender, the sheriff, San Diego County; Supervisor Bill Horn, the chairman of the San Diego Board of Supervisors; Mr. Steven A. Escoboza, the president and CEO of the Hospital Association of San Diego and Imperial Counties; State Senator Denise Moreno Ducheny, the 40th District, thank you very much for being with us, Senator; and Dr. Bronwen Anders, who is a professor of pediatrics at the University of California at San Diego and former president of San Diego Chapter of American Academic of Pediatrics.

It's a policy of our committee that we swear all witnesses before you testify. So if you'd just rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Senator, I know you have to catch a plane and be out of here no later than 12:15. So I think we will get to you in plenty of time, but hopefully the hearing won't take too long and we can get through some questions with you as well. I will start, Mr. Unzueta, with you, and we will move straight down.

We have a light, I think, in front of you that goes orange after 4 minutes and red after 5. I think that's correct. Try to keep it to 5 minutes. Your entire statement is in the record and the questions that we've prepared at least based on the entire statement that we put in the record. So if we can keep to 5 minutes, we can move this along. Thank you very much for being with us, and thank you for your service to the country.

STATEMENTS OF MIGUEL UNZUETA, SPECIAL AGENT IN CHARGE OF SAN DIEGO SAC, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; WILLIAM B. KOLENDER, SHERIFF, SAN DIEGO COUNTY; BILL HORN, CHAIRMAN, SAN DIEGO BOARD OF SUPERVISORS; STEVEN A. ESCOBOZA, PRESIDENT AND CEO, HOSPITAL ASSOCIATION OF SAN DIEGO AND IMPERIAL COUNTY; DENISE MORENO DUCHENY, STATE SENATOR, 40TH DISTRICT, SAN DIEGO, CA; AND BRONWEN ANDERS, PROFESSOR OF PEDIATRICS, UNIVERSITY OF CALIFORNIA AT SAN DIEGO, FORMER PRESIDENT, SAN DIEGO CHAPTER, AMERICAN ACADEMY OF PEDIATRICS

STATEMENT OF MIGUEL UNZUETA

Mr. UNZUETA. Thank you, Chairman Davis and Congressman Becerra. It's an honor for me to appear before you today representing U.S. Immigration and Customs Enforcement [ICE], to discuss our efforts in combating illegal immigration within the interior of the United States, specifically in the areas of work site enforcement and document fraud. ICE's current work site enforcement strategy is part of a comprehensive layered approach that focuses on how illegal aliens get into our country, the ways in which they obtain identity documents allowing them to become employed, and the employers who knowingly hire them.

ICE is bringing criminal prosecutions and using asset forfeiture as tools against employers of unauthorized workers rather than to rely upon administrative fines as sanctions against such activity. Using this approach, ICE work site investigations now support felony charges and not just the traditional misdemeanor work site violations. Of course, a key component of our work site enforcement efforts targets the businesses and industries that deliberately profit from the wholesale employment of unauthorized workers.

In April 2006, ICE conducted the largest work site enforcement operation ever undertaken. This case involved IFCO Systems, a Houston based pallet supply company. ICE agents executed 9 Federal arrest warrants, 11 search warrants, and 41 consent searches at IFCO work site locations throughout the United States. In addition, ICE agents apprehended 1,187 unauthorized workers at IFCO work sites. This coordinated enforcement operation also involved investigative agents—agents from the—and officers from the Department of Labor, the Social Security Administration, the Internal Revenue Service, and the New York State Police.

The criminal defendants have been charged with conspiracy to transport and harbor unlawful aliens for financial gain as well as fraud and misuse of immigration documents. ICE has launched several investigations to enhance national security and public safety here in California and throughout the Nation. Operations Tarmac and Glowworm are national initiatives focused on securing the Nation's airports and nuclear facilities respectively, including such facilities here in California.

Operation Safe Cities, as an ICE initiative, started in December 2003 to identify and remove unauthorized employees from critical infrastructure businesses and facilities in the San Diego area including military installations, airports, nuclear facilities, and hazardous material transportation companies. This initiative includes an outreach program to educate employers on how—the law and its requirements with regard to employing foreign nationals in the United States. To date, Safe Cities has resulted in the review of more than 1,200 businesses in critical infrastructure industries and the removal of 537 unauthorized employees from businesses and facilities, including Camp Pendleton, the San Diego Airport, Amtrak, the San Onofre nuclear reactor, Northrop Grumman, several naval air stations, and others. These and other nationwide critical infrastructure operations demonstrate how ICE is using immigration laws to remove potential threats from California and from our Nation's most sensitive facilities.

Because the vast majority of employers do their best to comply with the law, ICE has developed the Mutual Agreement between Government and Employers [IMAGE]. A new voluntary corporate outreach program aimed at strengthening overall hiring practices in the workplace, this outreach program emphasizes enhanced employer compliance through corporate due diligence, training, and the sharing of best practices. It also provides employers with a comprehensive tool to avoid immigration violations within their own company, and to impact their industry and change the culture of tolerance for those who employ illegal workers.

Despite these efforts, the growing prevalence of counterfeit documents interferes with the ability of legitimate employers to hire

lawful workers. In short, the employment process cannot continue to be tainted by the widespread use and acceptance of fraudulent identification documents. Many of our investigations uncover fraud violations linked to other Federal, State, and local crimes. Over the past several years, the number of benefit fraud and document fraud investigations launched by ICE has increased, so have the number of criminal indictments, arrests, and convictions in these areas. Given our broad ICE authorities, ICE is in a unique position to investigate these cases and successfully prosecute the perpetrators.

In April 2006, ICE announced the creation of 11 new Document and Benefit Fraud task forces as one of the primary methods to eliminate vulnerabilities within the immigration process. Modeled after and built upon the successes of the Eastern District of Virginia Immigration and Visa Fraud Task Force, the Document and Benefit Fraud task forces detect, deter, and disrupt criminal organization and individuals that pose a threat to national security and public safety through the use of documents and benefit fraud schemes. The task forces are built on strong partnerships with prosecutors from the Department of Justice as well as Federal, State, and local law enforcement officers.

ICE has formally announced these task forces in Atlanta, Boston, Dallas, Denver, Detroit, Los Angeles, Newark, New York, Saint Paul, Washington, and Washington, DC. ICE is dedicated to this mission. Thank you for inviting me, and I'll be happy to answer your questions.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Unzueta follows:]

STATEMENT

OF

MIGUEL UNZUETA
SPECIAL AGENT IN CHARGE, SAN DIEGO, CALIFORNIA
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

POROUS BORDERS AND DOWNSTREAM COSTS: THE IMPACT OF ILLEGAL IMMIGRATION ON STATE, COUNTY, AND LOCAL GOVERNMENTS

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM

Monday, August 14, 2006 @ 11:00 am
San Diego County Administration Building
1600 Pacific Highway, Room 310, San Diego, California

CHAIRMAN DAVIS AND MEMBERS OF THE COMMITTEE, it is an honor for me to appear before you today to share U.S. Immigration and Customs Enforcement's (ICE's) efforts to combat illegal immigration within the interior of the United States; specifically in the areas of worksite enforcement and document and benefit fraud.

INTRODUCTION

Among the Department of Homeland Security (DHS) law enforcement agencies, ICE has the most expansive investigative authority and the largest force of investigators. Our mission is to protect our Nation and the American people by targeting the people, money and materials that support terrorist and criminal activities. The men and women of ICE accomplish this by investigating and enforcing the nation's immigration and customs laws. Working throughout the nation's interior, together with our DHS and other federal counterparts and with the assistance of state and local law enforcement entities, ICE is vigorously pursuing the most egregious employers of illegal workers and the organizations that undermine our immigration system through document and benefit fraud.

In his address to the Nation on May 15, 2006, President Bush addressed both document fraud and worksite enforcement when he stated that "we need to hold employers to account for the workers they hire. It is against the law to hire someone who is in this country illegally. Yet businesses often cannot verify the legal status of their employees, because of the widespread problem of document fraud." As indicated by the President's remarks, these two areas are intertwined. Fraudulent identification documents fuel the

ability of unauthorized individuals to enter the workforce illegally, after being hired by unwitting or unscrupulous employers. For this reason, the Administration has proposed an overhaul of the employment verification system and employer sanctions program as part of the President's call for comprehensive immigration reform that includes increased border security, a robust interior enforcement program, a temporary worker program, and a way to address the estimated 11 to 12 million illegal immigrants already in the country.

THE 1986 IRCA AND LESSONS LEARNED

ICE has substantial experience as a result of its role in implementing the 1986 Immigration Reform and Control Act (IRCA). We know its strengths and shortcomings and I believe it will be beneficial to provide a quick review of worksite enforcement under IRCA.

In the past, immigration investigators, to different degrees over the course of time, focused on worksite violations by devoting a large percentage of investigative resources to enforcement of the administrative employer sanctions provisions of IRCA. The resulting labor-intensive inspections and audits of employment eligibility documents only resulted in serving businesses with a Notice of Intent to Fine (NIF) or a compliance notice. Monetary fines that were routinely mitigated or ignored had little to no deterrent effect. The results were far from effective and the process involved endless attorney and agent hours in discovery and litigation to adjudicate and resolve cases. Egregious violators of the law viewed the fines as simply a cost of doing business and therefore the system did not serve as a true economic inducement for them to change their business

model.

Moreover, while IRCA required employers to review document(s) that establish identity and employment eligibility, its compliance standard rendered that requirement meaningless and essentially sheltered employers who had intentionally hired unauthorized workers. Under the 1986 law, an employer could comply with the eligibility verification process by reviewing a document that reasonably appeared to be genuine. Employers were not required to verify the validity of a document and were not required to maintain a copy of the documents that they reviewed. The ability of the employer to rely on the facial validity of a single document, and the lack of available evidence permitting after-the-fact review of the employer's assessment, routinely prevented the government from proving that the employer knew the employee was not authorized to work. Thus, the Administration's worksite enforcement proposal requires that the employer retain copies of relevant documents and information obtained during the verification process, as well as during the subsequent employment of a worker. The law also must not allow unscrupulous employers to ignore highly questionable documentation or other facts indicative of unauthorized status.

Another detrimental result of the documentation compliance standard established under IRCA was the explosive growth in the profitable false document industry that catered to unauthorized aliens seeking employment.

WORKSITE ENFORCEMENT: A NEW AND BETTER APPROACH

ICE's current worksite enforcement strategy is part of a comprehensive layered approach

that focuses on how illegal aliens get into our country, the ways in which they obtain identity documents allowing them to become employed, and the employers who knowingly hire them.

The ICE worksite enforcement program is just one component of the Department's overall Interior Enforcement Strategy and is a critical part of the Secure Border Initiative. ICE is bringing criminal prosecutions and using asset forfeiture as tools against employers of unauthorized workers rather than rely upon administrative fines as sanctions against such activity. Using this approach, ICE worksite investigations now support felony charges and not just the traditional misdemeanor worksite violations under Section 274A of the Immigration and Nationality Act.

Of course, a key component of our worksite enforcement effort targets the businesses and industries that deliberately profit from the wholesale employment of unauthorized workers. In April of 2006, ICE conducted the largest such worksite enforcement operation ever undertaken. This case involved IFCO Systems, a Houston-based pallet supply company. ICE agents executed nine federal arrest warrants, 11 search warrants, and 41 consent searches at IFCO worksite locations throughout the United States. In addition, ICE agents apprehended 1,187 unauthorized workers at IFCO worksites. This coordinated enforcement operation also involved investigative agents and officers from the Department of Labor, the Social Security Administration, the Internal Revenue Service, and the New York State Police. The criminal defendants have been charged with conspiracy to transport and harbor unlawful aliens for financial gain (8 U.S.C. 1324

and 18 U.S.C. 371), as well as fraud and misuse of immigration documents (18 U.S.C. 1546).

In immediate response to 9/11, ICE launched several investigations to enhance national security and public safety here in California and throughout the Nation. Operations Tarmac and Glowworm are national initiatives, focused on securing the nation's airports and nuclear facilities, respectively, including several such facilities in California. Closer to home, Operation Safe Cities is an ICE Special Agent in Charge (SAC) San Diego initiative started in December of 2003 to identify and remove unauthorized employees from critical infrastructure businesses and facilities in the San Diego area, including military installations, airports, nuclear facilities and hazardous material transportation companies. This initiative includes an outreach program to educate employers on the law and its requirements with regard to employing foreign nationals in the United States. To date, the Safe Cities initiative has resulted in the review of more than 1,200 businesses in critical infrastructure industries and the removal of 537 unauthorized employees from businesses and facilities, including Camp Pendleton, the San Diego Airport, AMTRAK, the San Onofre Nuclear Reactor, Northrop Grumman, several Naval Air Stations and others. These and other nationwide critical infrastructure operations demonstrate how ICE is using immigration laws to remove potential threats from California and our Nation's most sensitive facilities.

On May 23, 2006, SAC San Diego agents apprehended 26 Mexican nationals and one Honduran national who were unauthorized workers employed by Standard Drywall, Inc.

with access to Camp Pendleton. In addition, two Mexican nationals who are lawful permanent residents were arrested and placed in removal proceedings based on their past criminal convictions. The execution of the search warrants led to eight additional arrests.

In March 2005, as a result of a joint DHS/FBI intelligence report, the Operation Safe Water security initiative was launched. SAC Los Angeles agents apprehended 11 unauthorized workers employed by the Los Angeles Department of Water and Power (LADWP) and the Sanitation District of Los Angeles County (SDLA). In this case, agents conducted an initial Form I-9 Employment Eligibility Verification inspection of SDLA employees, which resulted in the apprehension of six unauthorized workers. The final inspection of approximately 7,000 Form I-9's revealed five more unauthorized workers at LADWP, who were subsequently apprehended. There was no evidence to suggest that LADWP or SDLA were engaged in unlawful employment practices.

In addition to protecting critical infrastructure, worksite enforcement combats alien smuggling. Alien smuggling is the importation of people into the United States via deliberate evasion of immigration laws. This offense includes bringing illegal aliens into the United States and unlawfully transporting and harboring aliens already in the country. During the last few months, we have made arrests at employment agencies that served as conduits between the criminal organizations that smuggle illegal aliens into this country and the employers that willfully employ them.

Worksite enforcement also combats human trafficking. Through its worksite enforcement actions, ICE has dismantled forced labor and prostitution rings, be they

comprised of Peruvian aliens in New York or Korean aliens in California. The common threads in these cases are the greed of criminal organizations and the desire of unwitting aliens to come here to work. Human trafficking cases often represent the most egregious forms of exploitation, as aliens are forced to work and live for years in inhumane conditions to pay off the debt they incur for being smuggled into the country.

In addition to all this, ICE worksite enforcement also combats trafficking in counterfeit goods, commercial fraud, financial crimes, and export violations. We leverage our legacy authorities to fully investigate these offenses, which in many cases have a nexus to the employment of unauthorized workers.

Through careful coordination of our detention and removal resources and our investigative operations, ICE is able to target the organizations unlawfully employing illegal workers, and to detain and remove the illegal workers that our agents encounter. Such actions send a strong message to illegal workers here and to foreign nationals in their home countries that they will be able to remain in the United States even if caught illegally working for one employer.

What impact will this have? Criminally charging employers who hire undocumented aliens will create the kind of deterrence that previous enforcement efforts did not generate. We are also identifying and seizing the assets that employers derive from knowingly employing illegal workers, in order to remove the financial incentives gained from such hires.

Because the vast majority of employers do their best to comply with the law, ICE has developed the ICE Mutual Agreement between Government and Employers (IMAGE) a new voluntary corporate outreach program aimed at strengthening overall hiring practices in the workplace. This outreach program emphasizes enhanced employer compliance through corporate due diligence, training and sharing of best practices. It also provides employers with a comprehensive tool to avoid immigration violations within their own company and to impact their industry and change the culture of tolerance for those who employ illegal workers.

IDENTITY AND BENEFIT FRAUD

Despite these efforts, the growing prevalence of counterfeit documents interferes with the ability of legitimate employers to hire lawful workers. In short, the employment process cannot continue to be tainted by the widespread use and acceptance of fraudulent identification documents.

Document fraud, or the manufacturing, counterfeiting, alteration, sale and/or use of identity and other fraudulent documents to circumvent immigration laws or engage in other criminal activity, is what many people think of when they hear about immigration related fraud. The sophistication of document fraud schemes has increased with new technology. In the past, the tools of the trade were typewriters and pieces of plastic. Today, document forgers are using computer software and high-resolution digital scanners to ply their trade. The introduction of the computer has allowed some producers

to create very high quality fraudulent documents.

Immigration benefit fraud is the knowing and willful misrepresentation or omission of a material fact on a petition or application to enter, work, or reside in the United States. If this type of fraud goes undetected, the perpetrator could fraudulently receive lawful immigration status and a genuine identity document issued by U.S. Citizenship and Immigration Services (USCIS). Obtaining a genuine identity document is immensely valuable to illegal aliens, criminals, and terrorists, since it allows them access to our borders and the interior of the United States. Immigration benefit fraud is also a highly lucrative crime, with perpetrators earning thousands or even tens of thousands of dollars for a single fraudulent application.

These cases are complex and challenging to investigate and often involve sophisticated schemes that cater to a large number of aliens and involve multiple coconspirators. ICE investigators have found that violators in benefit fraud schemes include attorneys, immigration consultants and business executives drawn by the profits they can reap. Criminal organizations are also using the Internet more frequently to market fake documents and immigration benefits to a larger audience of customers. These crimes require substantial resources to investigate and prosecute, since our cases do not stop with the prosecution. Through our partnership with USCIS, we not only seek to stop the individuals facilitating these fraud schemes, but we also then attempt to identify those that received benefits to which they were not entitled.

Many of our investigations uncover fraud violations linked to other federal, state and local crimes. Over the past several years, the number of benefit fraud and document fraud investigations launched by ICE has increased. So have the number of criminal indictments, arrests, and convictions in these cases. Given our broad authorities, ICE is in a unique position to investigate these cases and successfully prosecute the perpetrators. Furthermore, ICE brings to this effort the expertise of our Forensic Document Laboratory (FDL), recognized as one of the premier fraudulent document analysis facilities in the world. ICE also utilizes the services of our Cyber Crimes Center to investigate any Internet-related aspects of document and benefit fraud casework.

In April 2006, ICE announced the creation of 11 new Document and Benefit Fraud Task Forces (DBFTFs), as one of the primary methods to eliminate vulnerabilities within the immigration process. Modeled after and built upon the successes of the Eastern District of Virginia Immigration and Visa Fraud Task Force, the DBFTFs detect, deter, and disrupt criminal organizations and individuals that pose a threat to national security and public safety through the perpetration of document and benefit fraud schemes. The task forces are built on strong partnerships with prosecutors from the Department of Justice as well as federal, state, and local law enforcement officers; they improve inter-agency communication, increase efficiency, and act as a force multiplier in joint anti-fraud efforts. ICE has formally announced these task forces in Atlanta, Boston, Dallas, Denver, Detroit, Los Angeles, Newark, New York, Philadelphia, Saint Paul, and Washington, D.C., and we anticipate announcing DBFTFs in other cities in the near

future.

The force multiplying effect of these task forces enables ICE and our partners to focus our resources and dismantle larger organizations. For example, an investigation conducted by our SAC Washington, D.C. task force has resulted in the closure of seven document mills, the seizure of more than 10,000 documents, the arrest of 195 aliens, and the prosecution of 60 people. As of June 26, 2006, there were more than 250 DBFTF investigations nationwide, including cases from ICE offices with a formal DBFTF and from those working cases through informal partnerships with other law enforcement agencies.

A good example of this partnership occurred here in San Diego on March 14, 2006 when ICE agents arrested Raymundo Navarro and charged him with seventeen counts of "Manufacture, Distribution or Sale of False Citizenship or Resident Alien Documents," in violation of Section 113 of the California Penal Code. On April 25, 2006, ICE agents from my office arrested Alberto Vinalay and Jose Aguilar-Hojeda on this same state charge. Shortly thereafter, on May 3, 2006, agents from my office arrested Eduardo Paxtor, who was selling fraudulent identity documents out of the market where he worked as a butcher. In most of these cases, ICE worked closely with the Social Security Administration, Office of the Inspector General, and the District Attorney's Office to effectuate the arrests. We value the relationships that we have developed with our fellow law enforcement officers and continue to coordinate with them.

Our responsibility at ICE is to do everything we can to enforce our laws, but enforcement alone will not solve the problem. Accordingly, the President has called on Congress to pass comprehensive immigration reform that accomplishes the following objectives: strengthen border security; ensure a comprehensive interior enforcement strategy that includes worksite enforcement; establish a temporary worker program; and address the population of illegal immigrants already in the United States. Achieving these objectives will dramatically improve the security of our infrastructure and reduce the employment magnet that draws illegal workers across the border. We need to accomplish this with the recognition and intention of avoiding the mistakes that accompanied the 1986 legislation.

ICE is dedicated to this mission and our agents are working tirelessly to attack the egregious unlawful employment of undocumented aliens that subverts the rule of law. We look forward to working with this Committee in our efforts to secure our national interests. Thank you for inviting me and I will be glad to answer any questions you may have at this time.

Chairman TOM DAVIS. Sheriff, thanks for being with us.

STATEMENT OF WILLIAM B. KOLENDER

Mr. KOLENDER. Mr. Chairman, good morning and thank you for giving me the opportunity to appear before this committee and provide testimony regarding the specific impact of illegal immigration on local law enforcement.

As the chief law enforcement officer of this county and with nearly 50 years of law enforcement experience, I know firsthand that illegal immigration has plagued local law enforcement and this county for decades. Although many illegal border crossers enter our country in search of employment, some of them do commit crimes in the county and end up in our jails. The cost of staff hours, equipment, and administrative work associated with the detention and/or arrest of undocumented foreign-born citizens is difficult to approximate, but the figures are in the millions.

Without full-time immigration staffing in our jails, we don't know the true impact that illegal immigration has on our county. Currently, jail personnel notify immigration officials of all persons who are booked in jail who claim non U.S. citizenship or who are foreign born. Their fingerprints are then compared against a Federal data base to help determine the immigration status. Immigration authorities place holds on these individuals suspected of being here illegally, and the jails coordinate their release to immigration officials when their local case has been concluded. That process has been carried on successfully for more than 4,400 times in the last 12 months.

An interesting statistic, though, shows that over an 18-month period, 25 percent of the individuals deported after incarceration not only reenter this country, but reenter our jails at least once, some as many as five times. It is important, therefore, to recognize that as long as the border remains porous, efforts like ours will have very limited results.

San Diego's law enforcement officers do not arbitrarily stop individuals solely on suspicion of immigration status while patrolling the streets of our county. There must be a reasonable suspicion of criminal activity. If there is no probable cause to arrest a subject, the officer will complete a field interview report and release the individual. However, if in the course of an investigation an officer or deputy sheriff determines that the subject's immigration status is in question, the Border Patrol will be notified and asked to respond. If the Border Patrol can respond in a reasonable amount of time, the law enforcement officer will remain with the subject until their arrival. At that time, the officer will relinquish control of the subject to the Border Patrol.

In preparation for today's hearing I contacted all of the police chiefs in this county as well as my own patrol station commanders for their impact concerning the illegal immigration on their departments and command areas. The responses were similar and addressed a common theme. Illegal immigration impacts the delivery of law enforcement services in this county, affecting calls for service, the crime rate, and our budgets.

Some of the more commonly reported crimes include:

Auto theft: Cars are stolen and used for transportation. Most illegal immigrants arrive in this county without transportation and without the means to purchase a vehicle.

Public drunkenness: This is common throughout the county, and sometimes leads to calls for disturbing the peace.

Domestic violence: Many illegal immigrants come from countries where violence against woman is accepted or at least tolerated. Some bring this attitude and behavior to the United States.

Robbery: Illegal immigrants commit robberies, but they are also victims since they normally carry only cash.

Traffic offenses: Drunk driving and hit-and-run accidents frequently involve unlicensed drivers, and many of these drivers are illegal immigrants.

Recently, during a law enforcement operation in North County, over 100 vehicles were towed for a variety of vehicle code violations, and the vast majority were driven by those believed to be illegal immigrants. Frequent calls for service involve loitering and suspicious activity, most of which are the result of illegal immigrants congregating in large numbers.

Day laborers and their encampments also impact law enforcement. Residents who fear crime and resent the perceived devaluation of their property oftentimes call the Department. Aggressive solicitation for work, drinking in public, and day laborers using parking lots as restrooms are among some of the calls that we receive.

Many encampments are remotely located, and contacting people living in these camps requires multiple officer response. The day laborer problems in the city of Vista were so severe that the City Council recently enacted an ordinance to deal with the issues. Gang activity among illegal immigrants is also a big problem. According to my gang enforcement unit, nearly 25 to 40 percent of local gangs are comprised of illegal immigrants. In North County, nearly 80 percent of the gang related crimes involve illegal immigrants either as suspects or as victims.

Significant financial resources in dealing with protests and counter protests related to illegal immigration have also impacted law enforcement in this county. In 2005, our Department alone spent almost $500,000 to provide a presence at the various pro and anti-immigration demonstrations. The majority of the border between San Diego County and Mexico lies within the Sheriff's rural law enforcement command. Much of the illegal immigrant and narcotic smuggling comes from this area through Mexico. And many of the dealers or end users are in fact illegal immigrants.

Residential and vehicle thefts in this area can be attributed to either illegal immigrants themselves or the smugglers guiding them across the border. Often, illegal immigrants will work off a portion of their payment for being smuggled into the United States by carrying narcotics.

We estimate that as much as 50 percent of the crime that occurs in communities immediately adjacent to the U.S. Border, Mexican border such as Campo, Boulevard, and Jacumba, is committed by illegal immigrants. The rural command does not have 24-hour staffing. Resident deputies are called from their homes from 911 prowler calls occurring into the late night or early morning hours.

These calls require that two deputies respond and, more often than not, illegal immigrants crossing through this area are the culprits.

Both Border Patrol and Customs routinely turn over illegal immigrants to the Sheriff's department that are found to have outstanding warrants from their prior visit to the United States.

Illegal immigrants sometimes become the victims of crimes. They are robbed, assaulted, kidnapped, and held for payment by family members, raped, and murdered. We have seen cases of false reporting of crimes where illegal immigrants claim to be crime victims so they won't immediately be deported. The Sheriff's department frequently receives calls to rescue illegal immigrants who are suffering from exposure to extreme heat or cold. Many times they lack water, are injured, or suffer from fatigue.

Another example recently of the strain that illegal immigration places on law enforcement and firefighters was the Horse Fire here that burned nearly 17,000 acres and is estimated to have cost nearly $7 million to fight, not to mention the 23 firefighters who were injured and citizens who were evacuated and displaced for a period of time. The fire required sheriff resources for a full week staffing our emergency operations center, and as many as 75 deputies were committed in the field for possible evacuation of the homes. The fire was determined to have been originated by an unattended camp fire in Horse Thief Canyon, a regular immigrant smuggling corridor.

As Congress and the President wrestle with these difficult issues, it is important that national policy reflect a clear understanding of the enormous challenges that local law enforcement face in dealing with immigration issues. And finally, as Governor Arnold Schwarzenegger of California has stated, national security is the responsibility of the Federal Government and should not be passed off to State and local governments.

Thank you very much, Mr. Chairman and members.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Kolender follows:]

Committee on Government Reform
The Impact of Illegal Immigration on State, County and Local Governments

Sheriff Bill Kolender, San Diego County
August 14, 2006

Mr. Chairman, good morning and thank you for giving me the opportunity to appear before this Committee and provide testimony regarding the specific impact of illegal immigration on local law enforcement.

As the Chief Law Enforcement Officer for San Diego County, and with nearly 50 years of law enforcement experience, I know firsthand that illegal immigration has plagued local law enforcement in our County for decades.

Although many illegal border crossers enter our country in search of employment, some of them do commit crimes in the County and end up in our jails. The costs of staff hours, equipment and administrative work associated with the detention and/or arrest of undocumented foreign-born citizens is difficult to approximate, but the figures are in the millions.

Without full-time immigration staffing in our jails, we don't know the true impact that illegal immigration has on our County. Currently, jail personnel notify immigration officials of all persons who are booked in jail who claim non-US citizenship or who are foreign-born. Their fingerprints are then compared against a Federal database to help determine immigration status.

Immigration authorities place holds on individuals suspected of being here illegally, and the jails coordinate their release to immigration officials when their local case has been concluded. That process has been carried out successfully more than 4,400 times in the last 12 months.

An interesting statistic, however, shows that over an 18-month period, 25 percent of individuals deported after incarceration not only re-entered the country, but re-entered our jails at least once, some as many as five times. It is important, therefore, to recognize that as long as the border remains porous, efforts like ours will have limited results.

San Diego's law enforcement officers do not arbitrarily stop individuals solely on suspicion of immigration status while patrolling the streets of our County. There must be reasonable suspicion of criminal activity. If there is no probable cause to arrest the subject, the officer will complete a field interview report and release the individual. However, if, in the course of an investigation, the officer or deputy sheriff determines that the subject's immigration status is in question, the Border Patrol will be notified and asked to respond. If the Border Patrol can respond in a reasonable amount of time, the law enforcement officer will remain with the subject until their arrival. At that time, the officer will relinquish control of the subject to the Border Patrol.

In preparation for today's hearing, I contacted all the police chiefs in this County, as well as my patrol station commanders, for their input concerning the impact of illegal immigration on their Departments and command areas. Their responses were similar and addressed a common theme: Illegal immigration impacts the delivery of law enforcement services in this County, affecting calls for service, the crime rate, and our budgets.

Some of the more commonly reported crimes include:

Auto Theft: Cars are stolen and used for transportation. Most illegal immigrants arrive in this country without transportation and without the means to purchase a vehicle.

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Robbery: Illegal immigrants commit robberies, but they are also victims since they normally carry only cash.

Traffic offenses: Drunk driving and hit and run accidents frequently involve unlicensed drivers and many of these drivers are illegal immigrants.

Recently, during a law enforcement operation in North County, over one hundred vehicles were towed for a variety of vehicle code violations and the vast majorities were driven by those believed to be illegal immigrants.

Frequent calls for service involve loitering and suspicious activity, most of which are the result of illegal immigrants congregating in large numbers.

Day laborers and their encampments also impact law enforcement. Residents who fear crime and resent the perceived devaluation of their property oftentimes call our department. Aggressive solicitation for work, drinking in public and day laborers using public parking lots as restrooms are among other calls we receive. Many encampments are remotely located and contacting people living in these camps requires a multiple officer response.

The day laborer problems in the City of Vista were so severe that the City Council recently enacted an ordinance to deal with the issues. The new law requires people who hire workers off the street to register with the city, display a certificate in their car window and provide written terms of employment to the workers.

Gang activity among illegal immigrants is also a big problem. According to my Gang Enforcement Unit, nearly 25-40% of local gangs are comprised of illegal immigrants. In North County, nearly 80% of the gang-related crimes involve illegal immigrants, either as the suspect or the victim.

Significant financial resources in dealing with protests and counter-protests related to illegal immigration have also impacted law enforcement in this County. In 2005, my Department alone spent over $489,000 to provide a presence at the various pro- and anti-immigration demonstrations.

The majority of the border between San Diego County and Mexico lies within the Sheriff's Rural Law Enforcement Command. Much of the illegal immigrant and narcotic smuggling comes into this area through Mexico and many of the dealers or end users are illegal immigrants. Residential

and vehicle thefts in this area can be attributed to either illegal immigrants themselves or the smugglers guiding them across the border. Often, illegal immigrants "work off" a portion of their payment for being smuggled into the U.S. by carrying narcotics.

We estimate that as much as 50% of the crime that occurs in the communities immediately adjacent to the U.S.– Mexico border (such as Campo, Boulevard and Jacumba) is committed by illegal immigrants.

The Rural Command does not have 24-hour staffing. Resident Deputies are called out from their homes for 9-1-1 prowler calls occurring during the late night and early morning hours. These calls require that two deputies respond, and more often than not, illegal immigrants crossing through the area are the culprits.

Both Border Patrol and Customs routinely turn over illegal immigrants to the Sheriff's Department that are found to have outstanding warrants from their prior visit in the United States.

Illegal immigrants sometimes become victims of crimes. They are robbed, assaulted, kidnapped and held for payment by family members, raped and murdered. We've seen cases of false reporting of crimes where illegal immigrants claim to be crime victims, so they won't be immediately deported.

The Sheriff's Department frequently receives calls to rescue illegal immigrants who are suffering from exposure to extreme heat or cold. Many times they lack water, are injured, or suffer from fatigue.

Another recent example of the strain that illegal immigration places on law enforcement and firefighters was the Horse Fire that burned nearly 17,000 acres and is estimated to have cost nearly $7 million to fight, not to mention the 23 firefighters who were injured and citizens who were evacuated and displaced for a period of time. The fire required Sheriff's resources for a full week, staffing at our Emergency Operations Center, and as many as 75 deputies were committed in the field for possible evacuation of homes. The fire was determined to have originated from an unattended camp fire in Horse Thief Canyon, a regular illegal immigrant smuggling corridor.

As Congress and the President wrestle with these difficult issues, it is important that national policy reflect a clear understanding of the enormous challenges that local law enforcement face in dealing with illegal immigration.

As Governor Schwarzenegger of California has stated, "national security is the responsibility of the federal government and should not be passed off to state and local governments."

Thank you Mr. Chairman.

Chairman TOM DAVIS. Chairman Horn, thanks for being with us.

STATEMENT OF BILL HORN

Mr. HORN. Thank you. Thank you for the opportunity to present San Diego County's testimony. Illegal immigration is significant and it has an adverse effect on local government. San Diego's proximity to the southern U.S. Border and the fact that the county of San Diego's responsible for providing essential services only amplifies this effect. I believe the illegal immigration issue is far greater than most are willing to admit. While current law and circumstances make it very difficult to accurately quantify the impact of this problem, it is immense.

My colleagues on the Board of Supervisors and I have commissioned a study to approximate the cost of illegal immigration on the county treasury. Unfortunately, the study will not be completed until late November. Part of the problem is that many of the children of illegal immigrants are born in the United States and are legal citizens of this country entitled to all the privileges that citizenship provides. This means that regions across America, and particularly those close to the border, are bearing the weight of providing services to children whose parents are often not paying taxes for those services.

Border counties have a younger impoverished population. For example, according to the U.S./Mexico Border Counties Coalition study entitled "At the Crossroads" in border counties, 43 percent of the children between zero and 17 years of age live in poverty. In nonborder counties, that's only 34 percent of the population. With higher levels of childhood poverty, there is a greater demand for government service.

One of the services San Diego County provides which is heavily utilized by illegal immigrants is pre and postnatal care as administered by public nurses. While the child, by virtue of being born on U.S. soil, is legal, the mother may not be. This significantly increases the workload and the wait times for public health nurses, making it more difficult for those legal residents to get care. While most people in violation of immigration laws are here to work, some are here to take further advantage of our open society.

The North County Regional Gang Task Force is a team of local, State, and Federal law enforcement groups. They target sophisticated street gangs involving major narcotics sales, transportation, and smuggling as well as violent crimes.

In 2005, out of the 448 arrests 232 of them were in violation of immigration laws. For the first half of 2006, the team already arrested 433 individuals. Of those, 367 are in violation of immigration laws. That is a staggering 85 percent. This is extremely troublesome. While the daily average of costs per inmate in county jails being $90 a day and the average stay 6 days, the costs alone for the 2006 illegal immigrant arrests is at least $198,000. This is not including the expense of apprehension.

Our porous borders and weak immigration laws pose a considerable public safety risk. This isn't just about money. It's about people's lives. As long as the border is insecure, we'll continue to import drugs and violence. According to the U.S./Mexico Border Counties study, if the border counties were the 51st State, they would

rank first in Federal crimes, second in incidence of tuberculosis. And I might point out in 1994 when I first became a supervisor, we had only three cases of tuberculosis in the county of San Diego, third in death is due to hepatitis, 50th in the percent of population that has completed high school, and 51st in the number of health care professionals. You can see we're greatly understaffed.

Reform is necessary for the State and local government to continue to provide quality services. State and local governments do not have control of the border or control of immigration, but they have to live with the effects of this every day. The cost of inaction arises every day. We're not talking about thousands of dollars, but millions. San Diego County may be the gateway to Mexico, but my taxpayers in the county of San Diego have become the doormat.

Every dollar spent providing service to illegal immigrants is a dollar that is not used for the taxpaying citizens. And I personally think, and my colleagues do, that that is unacceptable.

[Audience cheers and applauds.]

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Horn follows:]

Chairman Bill Horn
County of San Diego
Testimony to the House Committee on Government Reform
August 14th, 2006

Illegal immigration has a significant and adverse affect on local government. San Diego's proximity to the southern U.S. border and the fact the County of San Diego is responsible for providing essential services only amplifies this effect. I believe the illegal immigration issue is far greater than most are willing to admit. While current law and circumstance make it very difficult to accurately quantify the impact of the problem, it is immense.

My colleagues on the Board of Supervisors and I have commissioned a study to approximate the cost of illegal immigration on the county treasury. Unfortunately, the study will not be completed until late November.

Part of the problem is many children of illegal immigrants are born in the United States and are legal citizens of this country, entitled to all of the privileges that citizenship provides. This means regions across America, and particularly those close to the border are bearing the weight of providing services to children whose parents are often not paying taxes for those services.

Border counties have younger impoverished populations. For example, according to the US/Mexico Boarder Counties Coalition study "At the Cross Roads," in border counties 43% of children between 0 and 17 years old live in poverty. In non-border counties only 34.8% of that population lives in poverty. With high levels of childhood poverty, there is a greater demand for government services.

One of the services San Diego County provides which is heavily utilized by illegal immigrants is pre and post natal care administered by public health nurses. While the child, by virtue of being born on U.S. soil is legal, the mother may not be. This significantly increases workloads and wait times to see public health nurses, making it more difficult for those who are legal residents to get care.

While most people who are in violation of immigration laws are here to work, some are here to take further advantage of our open society. The North County Regional Gang Task Force is a team of local, state, and federal law enforcement groups. They target sophisticated street gangs involved in major narcotic sales, transportation and smuggling, as well as violent crimes. In 2005 out of 448 arrests, 232 were in violation of immigration laws. For the first half of 2006, the team has already arrested 433 individuals, 367 of those being in violation of immigration laws, a staggering 84.8 percent. This is extremely troublesome. With the average daily cost per inmate in county jails being 90 dollars per day, and an average stay of 6 days, the cost alone of the 2006 illegal immigrant arrests is at least 198,180 dollars. This is not including the expense of

apprehension. I believe our porous borders and weak immigration laws pose a considerable public safety risk.

Another example of that risk is the Horse Fire that last month burned almost 17,000 acres of the Cleveland National Forest. According to the California Department of Forestry the cost to fight the fire was over 6.8 million dollars. The San Diego Union-Tribune reported on July 26, 2006 the fire was apparently the result of a campfire abandoned by illegal immigrants.

While the County of San Diego does not have jurisdiction over education, the cost of even one child to the education system in California is significant. According to the County Office of Education the 2006-2007 cost per pupil is 11,264 dollars. Assuming just 100 children of illegal parents attend school this year; the cost will be 1,126,400 dollars. While we can't identify how many are enrolled, we can see the cost to taxpayers to provide them an education is significant.

According to the US/Mexico Border Counties Coalition study, if the border counties were the 51st state they would rank 1st for federal crimes, 2nd in incidences of tuberculosis, 3rd in deaths due to hepatitis, 50th in percent of population that has completed high school, and 51st in number of health care professionals.

Reform is necessary for state and local government to continue to provide quality services. State and local governments do not control immigration or border policy but have to live with the effects of those policies. The cost of inaction rises every day. We are not talking about thousands of dollars, but millions. Every dollar spent on providing services to illegal immigrants, or their children, is a dollar that is not used to provide services to tax paying citizens. This is unacceptable.

Chairman TOM DAVIS. Mr. Escoboza. You need to turn your mic on there.

STATEMENT OF STEVEN A. ESCOBOZA

Mr. ESCOBOZA. Good morning, Mr. Chairman and Congressman Becerra. Thank you for the opportunity to participate in this hearing today.

The Hospital Association of San Diego and Imperial Counties is a nonprivate 501(C)(6) trade association that represents hospitals on matters of public policy, legislative advocacy, public advocacy, and media relations. We're affiliated with the California Hospital Association and the American Hospital Association.

The hospital delivery system in San Diego is unique to health delivery in the State for many reasons. One obvious distinction is our geography in proximity to the U.S./Mexico border. Another distinction is that there are no county-owned or operated public hospitals. And so private hospitals serve as a safety net for all inpatient, emergency, and trauma services for all county residents regardless of their ability to pay. While this can be attributed to various Federal, State and local laws and regulations, it is also so because our local hospitals serve the San Diego community as part of their overarching mission to provide health care to all who require it.

The health care safety net delivery system in San Diego is at capacity and very fragile at this time. A recent and ongoing health care safety net study commissioned by the Board of Supervisors demonstrates that there are great threats to the safety net unless a significant list of challenges posed in the study can be addressed. While all these challenges are formidable, addressing emergency department overcrowding and the access risks that the entire community faces, if overcrowding is not a priority issue, is clearly evident in this report. The causes of emergency department overcrowding are all well documented here. Increased number of uninsured people, increased usage by Medicare and Medicaid beneficiaries in the ED, work force shortages, especially nurses and on-call specialists reduce possible reimbursement, lack of in-patient beds and an overall increase in the emergency department utilization.

Exacerbating the problem of increased overcrowding of emergency departments is the population of undocumented immigrants who do not qualify for the emergency services under Medicaid. While there is not yet clear data indicating the proportion of immigrants contributing to the over crowding of our EDs estimates ranging from 5 percent to 20 percent of ED visits in this State are attributed to undocumented immigrants.

I've been asked by the committee to respond to four particular areas of concern to the committee: The fiscal impact of legal immigration; how the Emergency Treatment and Labor Act [EMTALA], affects health coverage of illegal immigrants in San Diego; what measurements can be taken by the Federal and State government to curb the burden of illegal immigration in California's health care delivery system; and last, how Federal Health and Human Services guidelines on Medicaid eligibility will impact the health care system in San Diego.

The California Office of Health—State wide health planning development reports that in 2005 uncompensated care, meaning charity care and bad debt provided by all hospitals in the State was approximately $5.5 billion. Of that amount, approximately $1.4 billion is attributed to illegal immigration use. In San Diego County, approximately $476 million in uncompensated care is provided by local hospitals with approximately $119 million attributed to illegal immigration use.

The Emergency Treatment and Labor Act directs hospitals to provide medical screening examination to people who present in the emergency department, regardless of their ability to pay or their immigration status for the purpose of identifying an emergency medical condition. While the objectives of this act address the core functions and mission of our local hospitals to provide quality care to all patients, the ramification is a burgeoning patient population flow through the emergency departments and trauma centers in San Diego. Again, aggravating this growth in our emergency department usage is the population of immigrants who don't qualify for emergency medical services.

Section 1011 of the Medicare Modernization Act of 2003 targets this population with supplemental resources. Unfortunately, access to the funding is contingent upon the hospital completing provider payment determination questionnaires. The process to receive reimbursement is cumbersome and requires additional financial services personnel to manage and coordinate the implementation of Section 1011.

Additionally, hospitals must gather from patients complicated immigration documentation which is time consuming and rarely forthcoming. Because the Center for Medicare/Medicaid Services believes that the primary purpose of EMTALA services is to stabilize the patient on an emergency rather than to cure the underlying illness or injury, under Section 1011, payment will be made for medically necessary emergency services from the individuals from the time of the individual's arrival at the hospital emergency department until the patient is stabilized.

While patient stabilization is subject to some interpretation by CMS, usually meaning treat and release and some admission time, usually CMS will not cover the entire patient's stay. CMS believes that most patients are stabilized within 2 calendar days after inpatient admission. The cost of hospital services provided under Section 1011 should a hospital weather the provider payment determination process is very limited with all additional inpatient costs being borne by the hospital.

Given their mission and the current Federal law, EMTALA, hospitals will continue to provide patient care for all those who present in their emergency departments regardless of immigration status or ability to pay. Obviously, stronger enforcement at our borders that curtails illegal entry would curb some of the burden on hospitals. But important also is that hospitals want to avoid turning their health care professionals and hospital financial people into immigration experts. The onerous and cumbersome processes that have been put in place or will be put in place under Section 6036 of the Deficit Reduction Act distract from hospital operational and support services and could ultimately impact patient care. Hos-

pital personnel must have the ability to focus on providing care rather than worrying about immigration status of patients.

While sound public health policy dictates that the health of communities is enhanced by everyone being able to access health care through mechanisms such as EMTALA, there is also a need to strengthen border public health efforts along the border to address the burden, not just on hospitals and emergency departments, but also the threat of communicable diseases and environmental risks that impact hospitals, clinics, and physician offices indirectly because of the border's proximity to San Diego.

I hope my responses to the areas of the committee's concern about illegal immigration on hospitals in San Diego are helpful. I'll be looking forward to addressing any questions you might have.21Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Mr. Escoboza follows:]

Statement of Steven A. Escoboza,
President and CEO, Hospital Association of San Diego and Imperial Counties

Testimony before the House Committee on Government Reform

August 14, 2006

"Porous Border and Downstream Costs:
The Impact of Illegal Immigration on State, County and Local Governments"

Good morning Mr. Chairman and Members of the Committee. Thank you for the opportunity to participate in this hearing.

The Hospital Association of San Diego and Imperial Counties is a non-profit 501(c)6 trade association that represents hospitals on matters of public policy, legislative advocacy, public advocacy and media relations. We are affiliated with the California Hospital Association and the American Hospital Association.

The hospital delivery system in San Diego is unique to health care delivery in the State for many reasons. One obvious distinction is our geography and proximity to the U.S./Mexico border. Another distinction is that there are no county-owned public hospitals and so private hospitals serve as the safety net for all inpatient, emergency and trauma services for all county residents, regardless of their ability to pay. While this can be attributed to various federal, state and local laws and regulations, contracts and programs, it is also so because local hospitals serve the San Diego community as part of their overarching mission to provide health care to all who require it.

The health care safety net delivery system in San Diego is at capacity and very fragile at this time. A recent and ongoing Healthcare Safety Net Study commissioned by the Board of Supervisors demonstrates that there are great threats to the safety net unless a significant list of challenges posed in the study can be addressed. While these challenges are all formidable, addressing Emergency Department (ED) overcrowding and the access risks the entire community faces if overcrowding is not made a priority issue, is clearly evident.

The causes of Emergency Department overcrowding are all well documented: increased number of uninsured people; increased usage by Medicare and Medicaid beneficiaries who use the ED; workforce shortages, especially nurses and on-call specialists; reduced hospital resources; lack of inpatient beds; and in overall increase in emergency department utilization.

Exacerbating the problem of increased utilization and overcrowding of Emergency Departments is the population of undocumented immigrants, who do not qualify for

emergency Medicaid (Medi-Cal) services. While there is not yet clear data indicating the proportion of immigrants contributing to the overcrowding of EDs, estimates ranging from 5% to 20% of ED visits in the State are attributable to undocumented immigrants.

I have been asked that my testimony respond to four particular areas of concern to the Committee:

- The fiscal Impact of illegal immigration on the health care system in the San Diego area.
- How EMTALA affects health coverage of illegal immigrants in the San Diego area.
- What measure can be taken by the federal and state government to curb the burden of illegal immigration on California's health care system.
- How the recent HHS guidelines on Medicaid eligibility will impact the health care system in San Diego.

The fiscal impact of illegal immigration on the (hospital) health care system in the San Diego area.

The California Office of Statewide Health Planning and Development reports that in 2005 Uncompensated Care (charity care, bad debt) provided by all hospitals in the State was approximately $ 5.5 billion. Of that amount, approximately $ 1.4 billion is attributed to illegal immigrant use. In San Diego County, approximately $476 million in uncompensated care is provided by all local hospitals with approximately $ 119 million attributed to illegal immigrant use.

How EMTALA affects health coverage of illegal immigrants in the San Diego area.

The Emergency Treatment and Labor Act (EMTALA) directs hospitals to provide a medical screening examination to people who present to the emergency department, regardless of their ability to pay or their immigration status, for the purpose of identifying an emergency medical condition. While the objectives of this Act address the core functions and mission of our local hospitals to provide quality care to all patients, the ramification is a burgeoning patient population flow through Emergency Departments and Trauma Centers in San Diego.

Exacerbating this growth in our emergency departments and trauma centers, is the population of immigrants, who do not qualify for emergency Medicaid services. Section 1011 of the Medicare Modernization Act of 2003 targets this population with supplemental resources.

Unfortunately, access to the funding is contingent upon the hospital completing a Provider Payment Determination questionnaire. The process to receive reimbursement is cumbersome and requires additional financial services personnel to manage and

coordinate the implementation of Section 1011. Additionally, hospitals must gather from patients complicated immigration documentation, which is time consuming and rarely forthcoming.

Because CMS believes that the primary purpose of EMTALA services is to "stabilize" the patient on an emergency rather than to cure the underlying illness/injury, under Section 1011, payment will be made for medically necessary emergency services from the individual's arrival at the hospital emergency department until the patient is "stabilized". While patient stabilization is subject to some interpretation and CMS has interpreted it to usually mean treat and release and admission into the hospital, therefore, CMS will not cover the entire patient stay. CMS believes that most patients are stabilized within two calendar days after inpatient admission. The costs of hospitals services provided under Section 1011, should a hospital weather the provider payment determination process, is thus limited with all additional inpatient costs being borne by the hospital.

What measure can be taken by state and federal government to curb the burden of illegal immigration on California's health care system.

Given their mission and current federal law, EMTALA, hospitals will continue to provide patient care for all those who present at their emergency departments, regardless of immigration status or ability to pay. Obviously, enforcement at our borders that curtails illegal entry would curb some of the burden on hospitals.

But important also is that hospitals want to avoid turning healthcare professionals and hospital financial personnel into immigration experts.

The onerous and cumbersome processes that have or will be put in place related to Section 1011 of the Medicare Modernization Act and Section 6036 of the Deficit Reduction Act of 2005 (DRA) distract from hospital operational and support services and could ultimately impact patient care. Hospital personnel must have the ability to focus on providing care rather than worry about immigration status of patients.

While sound public health policy dictates that the health of communities is enhanced by everyone being able to access health care through mechanisms like EMTALA, there is also a need to strengthen broader public health efforts along the border to address the burden not just on hospitals and emergency departments but also the threat of communicable diseases and environmental risks that impact hospitals, clinics and physicians' offices indirectly because of San Diego's proximity to the border.

How the recent HHS guidelines on Medicaid eligibility will impact the health care system in San Diego.

It has been estimated that as many as 35,000 Medi-Cal beneficiaries in San Diego County could be adversely impacted by the recent guidelines because of their inability to provide

acceptable documentation of immigration status. At this time it is still uncertain what the hospitals' staff responsibilities and obligations to discern immigration status will be. The State will publish and disseminate guidelines within the month. However, as mentioned earlier, the process in place under Section 1011 is cumbersome, time consuming and place hospital caregivers in the role of immigration workers.

Notwithstanding this, the exemptions that the Centers for Medicare and Medicaid Services (CMS) have allowed in the rule for seniors and people with disabilities currently receiving Medicare or Supplemental Security Income (SSI) benefits, is welcomed by hospitals. CMS should consider expanding this exemption to include the non-elderly disabled who have severe mental and physical disabilities, the homeless, and anyone receiving Medicaid for five or more years.

For Title IV-E children receiving Medicaid, while not required to declare citizenship for IV-E, must have in their Medicaid file a declaration of citizenship or satisfactory immigration status and documentary evidence of the citizenship or satisfactory immigration status claimed on the declaration. California hospitals encourage CMS to consider an exemption for Title IV-E children on foster care and to children born on Medi-Cal.

The preamble to the regulation states that newborns whose mothers are categorically eligible for Medicaid are deemed eligible and remain eligible for one year as long as the mother remains eligible. Despite this categorical eligibility at birth, these infants will be required to produce citizenship documentation for "re-determination" at their first birthday. In the case of a child born in a U.S. hospital to a mother who is either a legal immigrant subject to the 5-year bar in Medicaid coverage or an undocumented immigrant, the preamble states that, in order for the newborn to continue to be covered by Medicaid, an application must be filed and the citizenship requirements would apply immediately.

We recommend that CMS amend its list of acceptable documents to prove citizenship and identity to include a state Medicaid agency's record of payment for these children. When Medicaid has paid for the birth of a child in a U.S. hospital, the child is by definition a U.S. citizen. Requiring Medicaid agencies to obtain additional documentation is unnecessary and redundant.

The citizenship requirements put forth by CMS will likely translate to increased costs borne by the state, providers and beneficiaries. With respect to services rendered to otherwise eligible beneficiaries, hospitals may in many instances have to forego compensation until and unless the documentation requirements are satisfied. The new requirements will likely result in a potential increase in uncompensated care and would have the added effect of compromising the health status of a significant number of individuals.

The DRA does not require that applicants and beneficiaries submit original or certified copies to satisfy the new citizenship documentation requirement. Yet CMS has added this

as a requirement in the interim final regulations. This requirement serves only to add to the information collection burden of the regulations. To satisfy this requirement, hospitals will ask CMS that States be allowed to accept and use copies of the required documents.

I hope my responses to the areas of you Committee's concern about the impact of illegal immigration on hospitals in the San Diego are helpful to you in addressing House Reform Bill (H.R. 4437) and Senate Reform Bill (S.2611) upon your return to Washington D .C.

Thank you.

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Chairman TOM DAVIS. Senator, thank you for being with us.

STATEMENT OF DENISE MORENO DUCHENY

Ms. DUCHENY. Thank you very much, Mr. Chairman and Congressman Becerra. Welcome to San Diego. And we are certainly pleased to have the opportunity to testify before you today.

I would say just for my own self and for your background as questions, that my current position in the Senate is to Chair the Budget Subcommittee on Health and Human Services. In the past, in the Assembly I chaired the Budget Committee of the Assembly for several years. And prior to that, I was a practicing immigration attorney here in San Diego for over 15 years, both before and after IRCA.

And it is in that context, Members, that we want to recognize how much this immigration reform debate has become highly controversial in Washington, but we sincerely hope that significant reform can be accomplished during this legislative session. It is also appropriate that you meet in San Diego where the realities of immigration, both positive and negative impacts, are an integral part of our everyday life. This is particularly true in the 40th District which I'm privileged to represent, including the entire California/Mexico border and adjacent communities in San Diego, Imperial, and Riverside counties.

Let me say at the outset that California has certainly experienced costs associated with immigration. You've heard from some of my colleagues on this panel today. We certainly don't appreciate all the crime that comes with smuggling, that occurs with drugs, or human trafficking through our neighborhoods. You've heard from some of the locals about some of these things. And certainly I want to take the opportunity at least to be here to reiterate the State's concern with recent cuts to Federal programs which have in the past compensated us at least partially for some of these public safety and health care costs associated with our position as a border State.

When the Border Patrol brings injured immigrants to our hospitals without taking responsibility to pay for their care, refuses to assume liability for immigrants who die crossing our deserts, throwing the burden of autopsies and funeral arrangements on our counties, and when the Federal Government refuses to prosecute drug smugglers leaving that responsibility to our State courts without any compensation to support prosecutions or incarcerations, we are forced to spend scarce State resources to meet the needs of safety and security in our communities. Some of these State concerns must be addressed if we're to have a true Federal partnership, particularly with the States on our international borders.

I would just statistically point out, following on Sheriff Kolender's statistics at the county level the most recent data I have from our prisons indicates that about 17 percent of prisoners in California, about 28,000 out of 170,000 are foreign born, of which that can be various status of immigration, but foreign born could be even U.S. citizens. 5,000 of the 170,000 prisoners we hold today are—have immigration holds on them. So that gives us some sense at least of that universe. Only 5,000 have immigration holds.

So the volume of crime from this population seems less, and as certainly our numbers say, at a lower rate foreign-born residents as a lower per capita rate than native born.

That said, Californians are—clearly understand that we are also the beneficiaries of the talent and work ethic brought to us by a large immigrant population. A recent Union-Tribune poll shows that 70 percent of Californians support comprehensive reform including development of a path to citizenship and a practical guest worker program to allow immigrants to continue their contributions to our communities.

Our universities have also done compelling research that demonstrates the net effect of immigration on California and U.S. economies and on our culture has been positive. While the precise economic impact of undocumented workers is difficult to quantify, we do know that the vast majority work every day in this State and others building new homes to meet our growth needs, harvesting the crops that feed our people, and have made California the No. 1 agricultural producer and exporter in our Nation.

[Audience cheers and applauds.]

[Audience boos and hisses.]

Chairman TOM DAVIS. Now——

Ms. DUCHENY. They also serve food in our restaurants——

Chairman TOM DAVIS. You know, everybody, I know there are a lot of strong feelings in this room on both sides, but we'd like to be able to keep this—the decorum that's appropriate for a congressional hearing. And if we don't, we'll have to clear the room.

Go ahead.

Ms. DUCHENY. Thank you very much, Mr. Chairman.

They also serve food in our restaurants, clean our hotels, and maintain our landscapes, all of which benefits one of our other largest industries, tourism. Proposals that would immediately deport or criminalize this population would have a dramatic negative impact on our economy. I point only tangentially to yesterday's newspaper here talking about a farmer in Salinas who has lost over $200,000 this year because he cannot find sufficient workers to pick his crops.

[Audience cheers and applauds.]

Ms. DUCHENY. Despite the myths that undocumented workers send all their earnings back home, corporations across America recognize their buying power and eagerly expand their selling strategies to capture this growing consumer market. We have small business people who don't capture all of the income because of the underground nature of much of what is happening. But we know that all these workers pay some taxes into our system. Many have payroll income tax, Social Security, and unemployment deducted from pay each week, although they are unable to collect appropriate refunds or benefits from these deductions. They pay sales tax every time they purchase clothes and shoes for their children or appliances for their homes. They pay property tax through rent payments, even if they are not homeowners. And our experience shows their U.S. citizen children are sure to hold higher paying jobs, pay more taxes, and they even have sacrificed their lives as members of our armed services.

The current situation does have costs, and others have spoken of that. I believe the largest costs to the State are probably those associated with the delivery of emergency health care services. Since undocumented immigrants are not eligible for temporary assistance to needy families [TANF], SSI, food stamps or many of our housing and social services programs, emergency health care is the one public program most impacted.

Researchers at UCLA and USC have also indicated to us that immigrants on the whole are less likely to use public services, and even before the enactment of the Personal Responsibility Act in 1996. That was true then. It's true now since they're clearly ineligible for them since the passage of that act.

Most immigrants, especially those without lawful permanent status are employed by businesses who do not provide health insurance for them. So we see many patients in emergency rooms who would not be there if they had access to preventive care or disease management services. Accessing the health care system through the most costly avenue, emergency rooms, only exacerbates the financial impact on the State. However, even with this reality, our research indicates that health care costs for immigrants are 55 percent lower than those of native citizens. Immigrants as a whole are a younger population, at least in California. They are that working age population; 72 percent are between the ages of 18 and 39. They are the working and relatively healthy population and therefore tend to use our services at a lower rate than native born citizens.

All of this leads us, and I believe I speak for the majority of my legislative colleagues and on behalf of most of our business communities looking to Congress to create the opportunity for these hard working neighbors and employees to emerge from the shadows of our economy and expand their contributions to our society.

[Audience boos and hisses.]

Ms. DUCHENY. By creating a program of earned legalization as proposed by the Senate, we may fully realize the economic benefits of this population. Legalized immigrants will pay more taxes, be able to acquire health insurance to lessen the burden of uncompensated care in our hospitals and become more active in our society. This was our experience with immigrants from all nations in this State, including those who acquired lawful permanent status and became U.S. citizens following the 1986 passage of IRCA.

This community wants reform that works for our businesses, our economy, and what is good for our families. We must allow our economy to continue growing. That demands a work force that is skilled in different trades. The vast majority of immigrants who have come to this country to work have proven that they work hard. It is not helpful to the California economy to outsource jobs to other countries when we're unwilling to allow the people here to do those jobs.

You have an opportunity to create meaningful reform based on fact and statistics, not politics of fear and rhetoric. We hope you will be able to do that in this session. Again, I appreciate the opportunity to address your committee. We do think investment in economic growth. We need border security. But border security also includes fully staffing our border crossings, a special plea for those of us from Tecate and Calexico to open our border crossings and

fully staff them. We think that would help with the security, and it would also help a lot of people get back and forth across the border for legal business on a regular basis. We don't have fully staffed border crossings. We don't have fully staffed security in this area. And we certainly all want to stop the kinds of smuggling activities that Sheriff Kolender talked about.

We do hope you can recognize that and that you will eliminate unreasonable quota restrictions, which also have required families to be separated for decades awaiting determination of permanent resident status, and that you can create a fair, clear, and simplified process for periodic importation of temporary labor if and when needed to sustain particularly our agricultural economy.

Finally, I have taken the opportunity to provide your staff also copies of a policy—immigration policy statement from the Border Legislative Conference of which I'm a member, Border State Legislators. And I would also note Western Governors Association, the Council of State Governments West, and the National Conference of State Legislators have all taken similar positions seeking congressional action on comprehensive immigration reform.

Thank you very much.

[Audience boos and hisses.]

Chairman TOM DAVIS. Thank you, Senator.

[The prepared statement of Ms. Ducheny follows:]

COMMITTEES
CHAIR, BUDGET SUBCOMMITTEE ON HEALTH & HUMAN SERVICES
VICE CHAIR, AGRICULTURE
TRANSPORTATION AND HOUSING
SUBCOMMITTEE ON CALIFORNIA PORTS AND GOODS MOVEMENT
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CALIFORNIA'S HORSE RACING INDUSTRY
PERCHLORATE CONTAMINATION
MOBILE AND MANUFACTURED HOMES

REMARKS FOR THE AUGUST 14, 2006
HOUSE COMMITTEE ON GOVERNMENT REFORM

Mr. Chairman, Members of the Committee:

Thank you for inviting me to testify today. We appreciate the issue of immigration reform has become highly controversial in Washington, but we sincerely hope significant reform can be accomplished during this legislative session. It is also appropriate that you meet in San Diego where the realities of immigration, both the positive and the negative impacts, are an integral part of our everyday life. This is particularly true in the 40th Senate District which I am privileged to represent, which includes the entire California border with Mexico and adjacent communities in San Diego, Imperial and Riverside Counties.

Let me say, at the outset, California has certainly experienced costs associated with immigration, be it documented or undocumented, and take this opportunity to reiterate the State's concern with recent cuts to Federal Government programs which in the past have compensated us for some public safety and healthcare costs associated with our position as a border state. When the Border Patrol brings injured immigrants to our hospitals without taking responsibility to pay for their care, refuses to assume any liability for immigrants who die crossing our deserts, throwing the burden of autopsies and funeral arrangements on our counties, and the federal government refuses to prosecute drug smugglers, leaving that responsibility to our state courts without any compensation to support prosecutions or incarcerations, we are forced to spend scarce state resources to meet the needs of safety and security in our communities. Some of these state concerns must be addressed if we are to have a true federal partnership particularly with the states on our international borders.

That said, Californians clearly understand that we are also the beneficiaries of the talent and work ethic brought to us by a large immigrant population. A recent Union Tribune poll shows that 70% of Californians support comprehensive reform, including development of a path to citizenship and a practical guest worker program to allow immigrants to continue their contributions to our communities. Our Universities have also done compelling research that demonstrates the net effect of immigration on the California and U.S. economies – and on our culture – has been positive.

While the precise economic impact of undocumented workers is difficult to quantify, we do know the vast majority of our undocumented workers work every day in this state and others building new homes to meet our growth needs and harvesting the crops that feed our people and

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have made California the number one agricultural producer and exporter in our nation. They also serve food in our restaurants, clean our hotels, and maintain our landscapes, all of which benefit one of our other largest industries - tourism. Proposals that would immediately deport or criminalize this population would have dramatic negative impacts on our economy.

All of these workers pay some taxes into our system. Many have payroll, income taxes, social security, and unemployment insurance deducted from their pay each week, although they are unable to collect any appropriate refunds or benefits from these deductions. They pay sales tax every time they purchase clothes and shoes for their children or appliances for their homes. They pay property tax through rent payments even if they are not homeowners. And our experience shows, their US citizen children are sure to hold higher paying jobs, pay more taxes, and many have even sacrificed their lives as members of our Armed Services.

Despite the myth that undocumented workers send all their earnings back to their home countries, corporations across America have recognized their buying power and are eagerly expanding their selling strategies to capture this growing consumer market. They work and own small businesses all of which result in expendable income those corporations are finding hard to ignore.

The current situation does have costs, as I know other witnesses will note. The largest costs to the state are probably those associated with delivery of emergency healthcare services. Since undocumented immigrants are not eligible for TANF, SSI, food stamps or many of our housing and social services programs, emergency health care is the one public program most impacted. As most immigrants, especially those without lawful permanent status, are employed by businesses who do not provide health insurance for them, we see many patients in emergency rooms who would not be there if they had access to preventive healthcare or disease management services. Accessing the healthcare system through the most costly avenue, emergency rooms, only exacerbates the financial impact. However, even with this reality, our research indicates that healthcare costs for immigrants are 55% lower than those of our native citizens.

All of this leads us, and I believe I speak for the majority of my legislative colleagues and on behalf of most of our business communities on this point, looking to Congress to create the opportunity for these hard working neighbors and employees to emerge from the shadows of our economy and expand their contributions to society. By creating a program of earned legalization as proposed by the U.S. Senate, we may fully realize the economic benefits of this population. Legalized immigrants will pay more taxes, be able to acquire health insurance to lessen the burden of uncompensated healthcare on our hospitals, and become more active participants in our society. That has been California's experience with immigrants from all nations, including those who acquired lawful permanent status and became US citizens following the 1986 passage of IRCA.

This community wants reform that works for our businesses, and our economy, and reform that is good for families.

We must allow our economy to continue growing. That demands a workforce that is skilled at different trades. The vast majority of undocumented individuals have come to this country to

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work and have proven that they work hard. It is not helpful to the California economy to outsource jobs to other countries because we are unwilling to allow the people here to do these jobs.

You have an opportunity to create meaningful reform that is based on fact and statistics, not politics of fear and rhetoric. You have an opportunity to reward those who work hard and contribute to society, instead of expending the same effort to build walls and demonize fellow human beings.

Again, I appreciate the opportunity to address your committee. It is my sincere hope that your work will yield realistic immigration policies that recognize the realities of our economy and our need for a stable workforce. We hope you will eliminate unreasonable quota restrictions requiring families to be separated for decades awaiting determination of permanent resident status, and can create a fair, clear and simplified process for periodic importation of temporary labor, if and when needed to sustain our agricultural economy.

Finally, I would like to take this opportunity to highlight an important policy report generated by the Border Legislative Conference, comprised of a group of legislators from US-Mexico Border states, regarding Immigration Reform. I've cited the link for the report here in my remarks and can provide a hard copy as well. The report can be accessed at: http://www.borderlegislators.org/Meetings/XIII%20Monterrey/Immigration%20Policy%20Statement.pdf

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Chairman TOM DAVIS. Dr. Anders.

STATEMENT OF BRONWEN ANDERS

Dr. ANDERS. Thank you Chairman Davis. Mr. Becerra.

Chairman TOM DAVIS. Let me just ask. We have one more witness to get through. Can we just have some decorum. Let them state their case, and then we'll get to questions.

Thank you, Dr. Anders.

Dr. ANDERS. My name is Dr. Bronwen Anders. I've worked in pediatric settings in San Diego County for the last 25 years, including the University Hospital Primary Care Clinic for Children, private practice, community health centers, and I'm currently a consultant for the Indian clinics in East San Diego County.

I represent the American Academy of Pediatrics which is an organization of 60,000 primary care pediatricians whose—who are deeply committed to protecting the health of children, adolescents, and young adults in the United States. Our testimony at today's hearing will focus on children, the innocent victims of illegal immigration. Children, whether they are undocumented or not, need care in our communities. Most immigrant children's care should be preventive, but too often that care is foregone, leading to far more costly and frequently inappropriate emergency room and hospital care. Unfortunately, immigrant children often do not receive the care they need because of Federal, State, and local laws, limiting payment for their care or a generalized belief that if children seek care, their families or loved ones may become the target of law enforcement.

Early preventive care for children, for instance, with asthma and diabetes, can keep them out of much more expensive hospital care. One in every five American children is a member of an immigrant family. About one-third of the Nation's low income, uninsured children live in immigrant families. Children of immigrants, often racial or ethnic minorities, experience significant health disparities. Many immigrant families also have varied immigration statuses that confer different legal rights and affect the extent to which these families are eligible for public programs such as SCHIP and Medicaid. As a result, foreign born children may be ineligible for insurance coverage while his or her younger U.S. born sibling is eligible as a native citizen.

Beyond the health status of the child, communities should also care about the health of the children who live in them. Because immigrant children may have diseases that are rarely diagnosed in the United States. Left untreated, these diseases may be passed on to the communities in which immigrant children reside. Tuberculosis is an example of this that can be readily picked up as a preventive screen in well child checks thereby eliminating more costly care down the road with some risk to the community. In addition, many foreign born children have not been immunized adequately or lack documents verifying their immigration status. And we described in the paperwork we've handed out how measles and mumps epidemics recently in this country may have come from populations of under-immunized children.

One of the most important risk factors for lack of health coverage is a child's family immigration status. Some children in the United

States are ineligible for Medicaid and SCHIP because of immigrant eligibility restrictions. Medicaid and SCHIP are not available to most immigrant children because of eligibility restrictions imposed by various Federal laws, two examples of which include the sponsor deeming rule and the recently promulgated citizenship and identification documentation requirements. These bureaucratic delays can prevent prompt treatment not only for immigrant children but also children new to foster care systems, victims of domestic violence, child abuse, and sexual abuse, and teens who might be estranged from their families. The paperwork currently required for newborns who, by definition are citizens irregardless of maternal citizenship leads to unnecessary delays in Medicaid benefits.

Recommendations that we want to propose to lawmakers is that they should be aware of and sensitive to the onerous financial, educational, geographic, linguistic, and cultural barriers that interfere with achieving optimal health status for immigrant children. This awareness should translate into one, CMS confirming with States that newborns are presumed eligible for Medicaid coverage. Paperwork should not delay payment for services provided to resident newborns.

Two, the deemed sponsor rule should be changed so that immigrant children are not denied access to care and, by extension, quality care.

And three, the pooling of community resources to address unpaid-for care provided by pediatricians in immigrant children. Undocumented children receive care from pediatricians and other caregivers in the community. Children, families, and communities benefit from the provision of this care. Communities should not expect those caregivers alone to provide the resources needed to furnish this care.

Four, encouraging payment policies to support the establishment of a medical home for all children residing in the United States.

And five, outreach efforts for children who are potentially eligible for Medicaid and SCHIP but not enrolled, with simplified enrollment for both programs and State funding for those who are not eligible for Medicaid or SCHIP.

In closing, the American Academy of Pediatrics seeks to ensure that Congress keep in mind the children we care for as it considers restructuring immigration law. Pediatricians and a host of other health professionals provide care to children throughout the United States. We must not compromise children's health in the name of reform.

Chairman TOM DAVIS. Thank you very much.

[The prepared statement of Dr. Anders follows:]

American Academy of Pediatrics

TESTIMONY

of the

AMERICAN ACADEMY OF PEDIATRICS

Submitted for the Record of the Hearing Before the
Committee on Government Reform
August 14, 2006

"Porous Borders and Downstream Costs: The Impact of Illegal Immigration on State, County and Local Governments"

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The American Academy of Pediatrics (AAP) is an organization of 60,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists, who are deeply committed to protecting the health of children, adolescents and young adults in the United States. Our testimony in today's Hearing, "Porous Borders and Downstream Costs: The Impact of Illegal Immigration on State, County and Local Governments," will focus on children, the innocent victims of illegal immigration.

Children, whether they are undocumented or not, need care in our communities. Most immigrant children's care should be preventive, but too often, that care is foregone. Comprehensive, coordinated, and continuous health services provided within a medical home should be integral to all efforts on behalf of immigrant children. Children need and deserve access to care, and communities benefit when they receive it.

Unfortunately, immigrant children often do not receive the care they need because of federal, state and local laws limiting payment for their care, or a generalized belief that if children seek care, their families or loved ones may become the target of law enforcement.

AAP believes that barriers to access, such as the recent promulgation of rules by the Centers for Medicare and Medicaid Services requiring Medicaid recipients to document citizenship and identification, will harm the health of the children in our country and the communities they live in.

Immigrant Children

One in every five American children is a member of an immigrant family. About one-third of the nation's low-income, uninsured children live in immigrant families. Children of immigrants, often racial or ethnic minorities, experience significant health disparities. These disparities arise because of complex and often poorly understood factors, many of which are worsened by the circumstances of their lives. Although these children have similar challenges with regard to poverty, housing, and food, significant physical, mental, and social health issues may exist that are unique to each individual child.

Children of immigrants are more likely to be uninsured and less likely to gain access to health care services than children in native families. Socioeconomic, financial, geographic, linguistic, legal, cultural, and medical barriers often limit these families from accessing even basic health care services. Once care is available, communication barriers often result in immigrant children receiving lower-quality services. Many immigrant families also have varied immigration statuses that confer different legal rights and affect the extent to which these families are eligible for public programs such as SCHIP, the State Children's Health Insurance Program, and Medicaid. Thus, the immigration status of children in the same family may differ. As a result, a foreign-born child may be ineligible for insurance coverage, while his or her younger, U.S.-born sibling is eligible as a native citizen.

Each immigrant's experience is unique and complex but certain overarching health issues are common in caring for immigrant families. Immigration imposes unique stresses on children and families, including:

- depression, grief, or anxiety associated with migration and acculturation;
- separation from support systems;
- inadequate language skills in a society that is not tolerant of linguistic differences;
- disparities in social, professional, and economic status between the country of origin and the United States; and
- traumatic events, such as war or persecution, that may have occurred in their native country.

The health of immigrant children not only impacts the child, it impacts the entire community. Preventive care commonly provided to children born in the United States will often not be available to children of immigrants. Left untreated, the health issues caused by this lack of prevention cause immigrant families to seek care for their children in emergency settings. Children commonly present with worse health status in the emergency room than if they had received preventive care.

Beyond the health status of the child, communities should also care about the health of the children who live in them because immigrant children may have diseases that are rarely diagnosed in the United States. Left untreated, these diseases may be passed on to the communities in which immigrant children reside. In addition, many foreign-born children have not been immunized adequately or lack documents verifying their immunization status. Dental problems are also common among immigrant children.

The measles vaccine is an example of the importance of prevention for communities. Measles is a highly infectious viral disease that can cause a rash, fever, diarrhea and, in severe cases, pneumonia, encephalitis and even death. Worldwide, it infects some 30 million people and causes more than 450,000 deaths a year. In the United States, measles was once a common childhood disease, but it had been largely eliminated by 2000. Nevertheless, an outbreak of measles occurred in Indiana last year. A 17-year-old unvaccinated girl who visited an orphanage in Romania on a church mission picked up the virus there.

When the girl returned, she attended a gathering of some 500 church members that included many other unvaccinated children. By the time the outbreak had run its course, 34 people had become ill. Three were hospitalized, including one with life-threatening complications. Clearly, communities should care about the health of those who reside in them.

Federal and State Health Programs for Immigrants

One of the most important risk factors for lack of health coverage is a child's family immigration status. Some children in the United States are ineligible for Medicaid and SCHIP because of immigrant eligibility restrictions. Many others are eligible but not enrolled because their families encounter language barriers to enrollment, are confused about program rules and eligibility status, or are worried about repercussions if they use public benefits.

The vast majority of immigrant children meet the income requirements for eligibility for Medicaid or the State Children's Health Insurance Program (SCHIP), but for various reasons are not enrolled. Medicaid and SCHIP are not available to most immigrant children because of

eligibility restrictions imposed by various federal laws. Two examples include the sponsor deeming rule and the recently promulgated citizenship and identification documentation requirements.

While qualified immigrants can become eligible to receive federal benefits after five years of U.S. residency, secondary rules often interfere with their access to benefits, such as the "sponsor deeming" rule. Current law requires that people who immigrate through family "sponsors" may have their sponsors' income counted in determining eligibility. This rule applies even if the sponsor lives in a separate household and does not actually contribute to the immigrant's financial support. Sponsor deeming has made a majority of low-income immigrants ineligible for benefits, even after five years have passed. Moreover, if an immigrant uses certain benefits, including Medicaid and SCHIP, his or her sponsor can be required to repay the government for the value of the benefits used until the immigrant becomes a citizen or has had approximately 10 years of employment in the United States. Together, these requirements impose significant barriers to securing health coverage, even when immigrant children are otherwise eligible.

Immigrant children who used to qualify based on certifications as to their immigrant status now may not qualify because of changes contained in the Deficit Reduction Act. These changes require that Medicaid applicants, who would otherwise qualify, must now also provide documentation such as a passport or original birth certificate to verify their citizenship status and identity. While designed to weed out fraud and abuse from the system, AAP has already received information that the rule has limited access to care for poor children who would otherwise qualify for Medicaid. An extreme example of this can be found in new rules denying coverage for children born in the United States to undocumented mothers.

According to these new rules, newborns may not be eligible for Medicaid until strenuous documentation requirements have been satisfied. Hospital records may not be used in most cases to prove that children are citizens, even though the child was born in the hospital providing care and are, by definition, citizens. Thus, care for some citizen newborns may not be paid for by Medicaid because paperwork documenting their status is not yet available. Pediatricians treating these citizen newborns whether they are low-birthweight, have post-partum complications, or simply need well-baby care, may not be paid. This result is completely unnecessary because the child will eventually qualify for Medicaid benefits as a result of where he or she was born.

Recommendations

Lawmakers should be aware of and sensitive to the onerous financial, educational, geographic, linguistic, and cultural barriers that interfere with achieving optimal health status for immigrant children. This awareness should translate into:

- CMS confirming with states that newborns are presumed eligible for Medicaid coverage. Paperwork should not delay payment for services provided to resident newborns.

- The deemed sponsor rule should be changed so that immigrant children are not denied access to insurance, and by extension, quality health care.

- The pooling of community resources to address unpaid-for care provided by pediatricians to immigrant children. Undocumented children receive care from pediatricians. Communities benefit from the provision of this care. Communities should not expect pediatricians alone to provide the resources needed to furnish this care.

- Encouraging payment policies to support the establishment of a medical home for all children residing in the United States. Comprehensive, coordinated, and continuous health services provided within a medical home should be integral to all efforts on behalf of immigrant children. In addition, the establishment of a medical home should be a "scorable element" for children, as the medical home will have the effect of providing care for children away from the emergency room in many instances.

- Outreach efforts for children who are potentially eligible for Medicaid and SCHIP but not enrolled, simplified enrollment for both programs, and state funding for those who are not eligible for Medicaid or SCHIP. The Medicaid reciprocity model, which allows Medicaid recipients in one state to qualify for services in another state without reestablishing eligibility, is an example of a model that enables underserved families to access health benefits more easily.

In closing, the American Academy of Pediatrics seeks to ensure that Congress keeps in mind the children we care for as it considers restructuring immigration law. Pediatricians and a host of other health professionals provide care to children throughout the United States. We must not compromise children's health in the name of reform.

Chairman TOM DAVIS. Let me thank all the panelists. By agreement with Mr. Becerra and myself, I'll take 15 minutes for questions and then Mr. Becerra will take 15 minutes for questions. I understand you have to leave after—we're close, Senator. But let me start with our representative from ICE, Mr. Unzueta.

Under the catch and release policy, Border Patrol agents are returning many illegal immigrants without prosecution. While acknowledging our criminal justice resources are already stretched thin, what effect do you think the catch and release strategy has had on encouraging people to repeatedly come back across the border? And yesterday we were at the border and saw that sometimes it takes like 10 different episodes before somebody will prosecute just given the burden in the offices of the prosecution.

Mr. UNZUETA. Well, I can't speak for the Border Patrol, as they're a separate entity within the Department of Homeland Security. I can certainly speak to ICE's position with ending catch and release. Within the past summer, within this summer, Secretary Chertoff has announced the Secure Border Initiative Phase II which focuses on interior enforcement as part of that strategy. The Office of Detention and Removal, which is represented by a different agency head as opposed to myself have gone out nationwide and secured additional bed space. In addition to that, we have established a command center between the ICE's Office of Investigation and Detention and Removal in headquarters to coordinate where illegal immigrants are sent and where bed space is available.

In essence, we have eliminated the catch and release policy as far as ICE is concerned and the aliens that come into our detention facilities. We have plenty of bed space here in San Diego and throughout the southwest border. Again, when those bed spaces reach limited capacity or when they're reaching their maximum capacity we're able to go to this coordination center and find exactly where bed space is available.

Chairman TOM DAVIS. But if somebody crosses illegally and they're caught and the penalty is you basically send them back. I mean, that's not a deterrent to try again. Is that fair to comment.

Mr. UNZUETA. Well, everybody that we come in contact with—we're really focused, as far as our strategy, on national security and public safety. Our agents work tirelessly in complex conspiracy investigations, and our attempt is to try and target the highest levels of criminal organizations.

Chairman TOM DAVIS. So if somebody has a past criminal record and the like, obviously you're going to treat them—you're going to take care of them.

Mr. UNZUETA. Correct.

Chairman TOM DAVIS. They're going to be put away; you'll work with Mexican authorities, whatever you have to do. But the average person who's just crossing trying to come over here looking for a new life who didn't want to go through the paperwork, they're sent back basically with a slap on the wrist and no penalty in coming back, is that——

Mr. UNZUETA. In all likelihood they will be voluntarily returned to Mexico. I don't want to speak for the Border Patrol or for Cus-

toms and Border Protection, but they have undergone a couple of new programs where they're working with Mexican counterparts.

Chairman TOM DAVIS. The committee is familiar of that.

Construction industry insiders know where they can go to obtain day laborers and get cheap labor. You know where these sites are as well.

What is ICE's policy with respect to day laborer congregation points? Does ICE ever establish identification checkpoints where immigration documents are evaluated?

Mr. UNZUETA. The day laborer sites haven't been productive as far as our enforcement in the posture that we're taking. Much of what we've done with work site enforcement is focusing on employers as opposed to the employees. Looking at companies that are egregious in their behavior of hiring illegal workers, and targeting those companies and those industries with criminal sanctions as opposed to notice of intent to fine, which we found was not very productive.

Given the numbers of priority areas that we have and that our focus right now is on national security and public safety, quite honestly, the day laborer sites have not risen on the level of priority, and so we aren't focused on those individual areas.

Chairman TOM DAVIS. Sheriff, you mentioned that the city of Vista enacted an ordinance to deal with their day laborer problems. We have that in Herndon, in my county. The town of Herndon, they were congregating at a 7–11. They set up a day laborer site funded by the town, and the voters recalled the council in the next election.

[Audience cheers and applauds.]

Chairman TOM DAVIS. Trying to deal—but again, it was the Federal Government's failure to deal with the problem, and everybody—in fact I've talked to the Mayor about it and he said well, everybody said what are you going to do about it. He did it, and tough issue for local governments.

What are the provisions of the ordinance in Vista and how is the Sheriff's department working to curb the day laborer problems?

Mr. KOLENDER. Oh, excuse me. The ordinance basically states that you as an employer have to register with the city as someone who hires day laborers. And you have a sticker on your car that says that. The goal is to knock off the large crowds of people.

Chairman TOM DAVIS. Been effective or do you have any thought on that.

Mr. KOLENDER. So far, they say it's been somewhat effective. It's relatively new.

Chairman TOM DAVIS. OK. Now you cite that nearly 25 to 40 percent of local gangs are comprised of illegal immigrants. In the North County, nearly 80 percent of gang related crimes involve illegal immigrants.

Does your gang enforcement unit work with ICE and the FBI? Are we getting good cooperation across different jurisdictional line? And if so, how does the Federal law enforcement assist your gang unit's efforts?

Mr. KOLENDER. When they're arrested, they're turned over to them—or they're booked and then it goes from there.

Chairman TOM DAVIS. Have they worked with you in gathering intelligence on these issues.

Mr. KOLENDER. Yes. Yes.

Chairman TOM DAVIS. OK. Has there been a—we have recently nationally put more money into gang prevention at the FBI levels in Washington recognizing that a lot of these gang members work across jurisdictions. In fact, in Fairfax, where I'm from, people will come from LA and back and forth across the borders. And I was in El Salvador last summer where we met members trying to get out of MS–13 that had been back and crossed the borders several times. This was a tattoo removal program they had down there for members who were trying to get out of gangs and explain how this works.

But really it goes across a lot of jurisdictional lines, doesn't it?

Mr. KOLENDER. Certainly. In fact, we have the MS from the Los Angeles here back and forth.

Chairman TOM DAVIS. Chairman Horn, as we continue the process of strengthening our borders, in your experience as a regional leader, what are the most effective strategies? Do we need to focus on manpower at Border Patrol which has been suggested by some of the other speakers? Do you need more fences? You need more cameras? What's the right mix for this area.

Mr. HORN. Well, as my testimony stated, the reality is, I think the biggest concern to us at the boards of supervisors is that our local taxpayers are being asked to pick up the cost of poverty in Mexico. Because that's what's coming across the border.

[Audience cheers and applauds.]

Mr. HORN. And I—you know, you could put in all the fences you want. You can put in all the cameras in you want. The point is that—and you mentioned to the Sheriff—I created the North County Gang Task Force in 1995. It involves the FBI, the Sheriff's department, all the local police departments, ICE, and your local Federal attorney, our local district attorney. It's been very effective. But the point is that 85 percent of the crimes that are committed in North County by the gang members are illegal aliens. And they shouldn't be here.

So somehow the Federal Government needs to take responsibility for the border. We are on the borderline with a Third World country. To be honest with you, I'm not into Mexican politics. I'm only concerned about the health and welfare of both the citizens living here and even the noncitizens that happen to be here and the costs to my taxpayers. We cannot afford this burden. And nobody seems to want to pick up the tab for it. And they keep asking us to do so. The sheriff mentioned the fire we just had, you know, $7 million worth of firefighting that took place that came out of our budgets that should go to protecting homes of citizens, what have you, we protected the Cleveland National Forest because somebody illegally came across the border, created a campfire and it got out of control.

So what I'm telling you is it's out of control. And you know——

Chairman TOM DAVIS. Has the fence made a difference? Where the fences——

Mr. HORN. I think the fence has made a difference where it's at. But the problem, the fence is not completed. The county of San

Diego has over 3 years ago given authorization for them to go ahead and put the fence in, and still the fence is not completed.

So I would——

Chairman TOM DAVIS. But it makes a difference where you have it is what I'm saying.

Mr. HORN. It makes a difference where you have it. But a half done job is a half done job.

Chairman TOM DAVIS. I got ya. I got it. OK. Thanks.

[Audience cheers and applauds.]

Chairman TOM DAVIS. Also we've talked about the costs—I'm going to get to health care in a second. But schools is a huge cost, is it not.

Mr. HORN. Yeah. I left that part out of my testimony just because we're running out of time here, and I'm looking at your lights. But now that you ask me the question, I'll give you the answer?

In the county of San Diego, just the education system alone, and we don't control the education system at the Board of Supervisors. But the cost to educate one child in California is significant—and I'm sure the Senator could elaborate on that—it's $11,264 per student. And assuming that only 100 children are of illegal parents and they're attending school here, that cost is $1,126,000 a year. And I'm only talking about 100 kids.

As you know if you've read the papers over the years, we've had school districts that are collecting—you know, taking buses down to the border and filling them up at Tecate and bringing them back. I realize the issue with ADA. But the cost to the public education system I think is tremendous. I don't have jurisdiction over that, and I'm sure Senator Ducheny could elaborate on that.

Chairman TOM DAVIS. Let me ask Senator Ducheny. You want to elaborate on the education—of course some of the kids that are born here of course are legal. Their brothers and sisters may not be. But again, on the educational components, so much of it is State and local funded, Federal Governments 7 percent nationally go to school.

Ms. DUCHENY. Probably less in California.

Chairman TOM DAVIS. Yeah, it's 2 percent in my county which is a very affluent county. Again, the Federal Government's role in trying to protect the borders because these are downstream costs to local governments.

Ms. DUCHENY. Well, and education is clearly one of the larger costs. I didn't address it because I think partly we view it as an investment. To a large degree, it is U.S. citizen children——

[Audience boos and hisses.]

Ms. DUCHENY. And often, even children who will become citizens at some point in their lives or become lawful permanent residents. And when they do that, they tend to have that education, they're more likely to be better workers. They're higher skilled workers, more likely to pay more taxes. I mean, it's sort of a complicated formula when you start playing that out.

Certainly there's a cost of direct——

Chairman TOM DAVIS. Let me just ask. Every study I have seen shows that an immigrant's success in America is dependent upon English language and education.

Ms. DUCHENY. Right.

Chairman TOM DAVIS. Those two factors. If you get those factors down, you're going to go up.

Ms. DUCHENY. That's our experience here. And so the second generation, you tend to see—or third generations, you get Congressmen like Congressman Becerra. You know, you—sort of second and third generation, you start to see much higher income and benefits to the economy. So it's a little complicated depending on who the children are. Certainly, you know, we have 6½ million children in schools in California. And about a quarter of them come in speaking a language other than English.

Chairman TOM DAVIS. Well, let me ask this question and anybody can answer it. How many of the key children of the people that are here illegally just aren't going to school? The opportunity is there. Are any of them staying home? They're afraid to send them or aren't aware of it, or did they come over here to get their kids educated? Anybody have a feel for that? Does the educational—school serve as sort of a magnet in terms of getting their kids educated.

Mr. HORN. I can say locally where I live I know the school district has a number of kids that are involved, and I think the parents want them there and they teach English, they try to. But as far as having a number, I think the local laws and the State law prevents us from taking that kind of a tally. So we couldn't give you an answer for that.

Ms. DUCHENY. But we encourage—we did have some discussion of this in the past, and there was some problem—you know, if they weren't in school, that would be a bigger problem for Sheriff Kolender. So on the whole, we think it's better to have them in school than not.

Mr. HORN. It's Federal law. It's not a State law. That's a Federal—that's a Federal law.

Ms. DUCHENY. There's court cases.

Chairman TOM DAVIS. Let me just ask our health experts, we've closed four hospitals in San Diego area over the last few years?

Mr. ESCOBOZA. That's correct.

Chairman TOM DAVIS. Can you walk me through the economics of that.

Mr. ESCOBOZA. Well, we have hospitals in San Diego—we've got 19 acute care hospitals here in San Diego, acute care meaning they have emergency departments. As my testimony went, the burden's really on the emergency department. But with respect to the immigrants who may have a traumatic situation who go into one of our six trauma centers, the length of stay and the cost for the services in that trauma center and result in other care in step-down hospitals or other arrangements is where the cost just grows dramatically.

We have hospitals that have very thin margins. I can go into a lot of detail about just reimbursement for——

Chairman TOM DAVIS. It's a tough business even without the nonreimbursement, isn't it, because of reimbursements from the government and from HMOs and everything else.

Mr. ESCOBOZA. San Diego is a high-penetration managed care county. And since the mid-80's, we have experimented with man-

aged care. As a result of that, though, the base for reimbursement from the Federal and State governments in San Diego is much lower. So when you compare us to the other 57 counties in the State or other States where Medicaid, or in California Medi-Cal, is reimbursed at a much higher rate, you can understand that economically we are in worse shape than other hospitals.

Chairman TOM DAVIS. I understand the emergency care side. What about someone who needs dialysis or something that gets very expensive? On those kind of issues are we asking the questions? Is there any pecking order? Are people who are here illegally eligible for those services as well.

Mr. ESCOBOZA. Virtually no services available. However, San Diego has, I think, a very strong community partnership of nonprofits that seek specialists care and try to get people who are close to death into some sort of a treatment. There's an organization here in San Diego called Reach Out to people who specialize in working with retired doctors who try to refer these patients to health care. But short of that, that's about the only care that's available.

Chairman TOM DAVIS. So if you have a very serious illness where you're going to need chemotherapy, something of this sort, and you're here and you're not documented and don't have insurance, it's very difficult to get care. Is that fair.

Mr. ESCOBOZA. Almost impossible.

Chairman TOM DAVIS. Dr. Anders, is that your experience as well?

Dr. ANDERS. Professionals along the border have worked hard to find counterparts south of the border where there's a good medical health care system. And we have a good working relationship with our professional colleagues south of the border. So if it's a nonemergent, long-term care kind of an issue—for children, for instance, we know how to direct them to good care south of the border.

What's more, we're building services on the border for kids on both sides. And there's been a growing support for a hospital right on the border that services children from both sides.

Chairman TOM DAVIS. What has been the cooperation from the Mexican authorities on doing these kind of issues, anybody, on the health care side? Any cooperation.

Mr. ESCOBOZA. Well, we've collaborated with our colleagues on south of the border. But frankly, it's a resource issue there too. As you know, the government there is very centralized. So getting the resources and the attention, the public policy that is needed from that side of the border, is difficult.

Chairman TOM DAVIS. What does ICE do when you get someone that's very, very ill? Do you just refer them into the hospital system? Do you kind of take charge at that point to make sure their health needs are met before you deport them or send them back or turn them over to the prison system? How does that work?

Mr. ESCOBOZA. Actually, we have a contract with Alvarado Hospital here in San Diego. And any time we need to refer somebody there, we use that contract. And I believe our medical expenses at the end of this fiscal year will approach close to $1 million that's coming out of our budget.

Chairman TOM DAVIS. OK. Thank you very much. Mr. Becerra.

Mr. BECERRA. Thank you, Mr. Chairman. And thank you all for your testimony. I think you've helped, again, shed some light on this. Most of what you've said I think you've said before or has been said by someone else. But perhaps by saying it enough, maybe we'll see some action taken in Washington, DC, and in the White House.

I want to thank Senator Moreno Ducheny for being here. I know that you're going to have to leave. So let me see if I can start with you first, Senator, so perhaps you can help respond here.

The House bill that passed back in December took an enforcement only approach versus the Senate bill which was a bipartisan bill which talked about enforcement, making sure our borders are secure, but also talked about dealing with the economic needs that you spoke about for the business community, agriculture, and otherwise, and also addressing the fact that we have a population that some estimate the size of the State population of Ohio that resides here with undocumented status.

Do you have any sense, has anything been done to give you and your colleagues in the State legislature and the Governor some idea what it would cost the State of California if it were to try to apprehend, prosecute, incarcerate, and then deport the individuals who are in undocumented status, whatever number is in California, but certainly the 10 to 12 million that are estimated in the United States?

Ms. DUCHENY. You know, I don't think we have any specific costs. I mean, the best I have are some economic studies we could give to you that show the needs of our labor force. And the fact of our demographics, at least in California, is that we have an aging population and sort of a college-age population that are big bulks. And the truth of our working force, the 18 to 40 to 50, the age that is most productive, are in fact largely immigrant labor in this State.

Now, whether—and some of that's documented and some of it's not. But our concern, and I think all our labor force studies say we need to focus on that. That goes to the education question in part, is keeping that work force so that we have the work force that's necessary.

We have a population that is not growing as much internally, I guess is the best way to say it. And so immigrant work force has kept our economy growing over the last several years. Those who immigrated under IRCA were an example of that. You saw the more undocumented coming again later after the 1990's, after that sort of—you saw the folks who got legal status in the early 1990's, you know, came above ground, started paying taxes, became U.S. citizens, did the whole thing, and then you started to see another demand for labor. And I think goes back to the question of you know, nobody wants people to break laws. But the question is whether the laws are realistic at this point. And at least as a practicing attorney, for years and years I watched Congress cutback on the annual amounts of immigration quotas that were allowed for family reunification and traditional methods of immigration.

And I think looking at that realistically and trying to figure out what is the true number that makes sense as a logical ongoing

legal immigration is really kind of the challenge that I think you guys face.

Mr. BECERRA. Thank you. Let me go to Special Agent Unzueta and ask you a question. Because I know that in a recent report done by the Inspector General for Department of Homeland Security they uncovered the fact that I guess in some cases I'm not sure if it was just ICE personnel, but other personnel within the Department of Homeland Security were being asked because of budget and management issues, shortage of moneys, to cut back on your use of gasoline to try to avoid driving any more than necessary and to try to conserve as much gasoline and other types of activities that would conserve on your exhausting of resources as possible.

So let me ask this question: Given that it's already a tight budget to begin with at Department of Homeland Security, and certainly I suspect for ICE, would you have the resources to go out and try to find and apprehend the 10 to 12 million or so undocumented immigrants that we're told are in this country?

Mr. UNZUETA. I think that would be a daunting challenge. You know, to go out and try to apprehend those folks would literally cripple our ability to conduct any criminal investigations and to target any criminal organizations, which is really what ICE as criminal investigators is designed to do.

Mr. BECERRA. Let me ask this. I asked in the hearing that took place in July here in San Diego of the Border Patrol representative what one or two items, if you could be as specific as possible, could you most use to help you do your work better? And by that I don't mean just a global increase in your budget. For example, the representative from the Border Patrol mentioned electronic surveillance equipment that was the type of drone activity—the drone aircraft that can fly unmanned and help us patrol the border itself.

He also mentioned better tunnel detection equipment, which I know you know quite a bit about. Those were the two things he said. If I had a chance to say to you, Congress, give me some resources so I could secure some equipment, he said overhead detection by these drones and better tunnel detection equipment are the two things I could best use.

Let me ask you: What one or two things, if you had a chance to tell us and you knew it would happen, that Congress would provide it, what would be the one or two things you would say you most need.

Mr. UNZUETA. I think the one thing we would be looking for right now is a comprehensive immigration reform package.

[Audience cheers and applauds.]

[Audience boos and hisses.]

Mr. BECERRA. Let me ask a question now of Chairman Horn and also Sheriff Kolender because they deal with this day-to-day here in the county of San Diego. In fact, I think Chairman Horn, I think you used the words "the costs of inaction." If we don't get something done soon, the costs continue to fall on the State and local governments. And I know the Senator could probably respond to some of this as well, but let me focus on the two representatives from the county of San Diego.

I know that there are some programs that the Federal Government has that try to reimburse you for the services and activities

you undertake that are really—should be federally borne, whether it's the incarceration of an immigrant who doesn't have the right to be in this country or whether it's the provision of a health care service to an immigrant who doesn't have the right to be in this country.

But I think every study, every indicator, every witness we've ever heard from has always said it's never been enough to fully compensate the local governments for the costs that were incurred. The program—both of you I know are very familiar with the State Criminal Alien Assistance Program [SCAAP]. It's a program that's been in existence for about 11 years now, and it's a program that's meant to try to reimburse specifically counties for the costs of trying to incarcerate undocumented immigrants.

So far every year that the President has submitted his budget to the Congress, he has proposed zero funding for SCAAP. And Congress, fortunately, has always funded, to some degree, the SCAAP program. Never enough. I think last year we funded—we gave about $400 million for the SCAAP program nationwide California, by itself, as the Senator I think could tell us, would consume $750 to $800 million on its own. So clearly $400 million for the entire Nation isn't going to be enough.

What would happen if you didn't get whatever your county's share of the California SCAAP funding is for this fiscal year if you didn't have that money, Sheriff?

Mr. KOLENDER. It would obviously have a very negative effect on our budget. As the chairman of the Board of Supervisors here would be——

Mr. BECERRA. You'd be coming to him a lot more often, I suspect.

Mr. KOLENDER. Yes, I would.

Mr. HORN. He comes——

Mr. KOLENDER. We all would.

Mr. HORN. He comes to me too much already.

I would point out that we estimate alone, just in the county of San Diego to incarcerate the prisoners he has in Otay Mesa that are not legally here in the country but happen to be locked up in our legal jail, it's about $50 million a year. You gave us $2 million last year.

Mr. BECERRA. $2 million.

Mr. HORN. So you owe us $48 million just for last year. So it's not a cost that may come in the future. It's a cost that his department and my county bears right now. I would just—you know, I don't even want to make a profit on you. I'd be happy with a 70—you know, a 25 percent discount just on the fees for health care. If I could just submit a bill. I don't want to be the person that says you're eligible or not eligible.

I happen to agree that if the child is here, they need to be educated. If they're here, they ought to be healthy. If they got tuberculosis, I want to attack the problem. The problem is we have no control over this border.

And you mentioned the tunnels. And we have a lot of tunnels. We had one big major one——

Mr. BECERRA. Right.

Mr. HORN [continuing]. With a railroad in it. But you have a criminal element on the other side of the border who—you know,

they're involved in their own government. I would like you to quit making treaties and everything else until they clean up their act. You are asking us——

[Audience cheers and applauds.]

Mr. HORN. I don't blame these folks for wanting to come here and work, make their life better and bring their family here. In fact, you know, I think that's probably the American way; that's why we have a statue of liberty. But at the same time, I do not believe that the legal taxpayers of the county should be required to pick up the tab because the local government doesn't want to address the issue.

Mr. BECERRA. Chairman Horn, I think what you've said most everyone would agree that if it's a Federal responsibility, the Federal Government should cover that cost. If the Federal Government's going to require you to do something, as we do by law in certain cases, for example, health care services, that we should then pony up whatever the costs would be that go beyond what are truly State or local government costs. And I think that's one of the reasons why so many of us are desperate to try to get a comprehensive immigration reform proposal passed this year——

[Audience cheers and applauds.]

Mr. BECERRA [continuing]. So we can deal with that sooner than later.

Ms. DUCHENY. Can I—let me see if I can ask a question of Mr. Escoboza and also of Dr. Anders—Senator, did you want to say something?

Ms. DUCHENY. I was just going to make one quick comment on the SCAAP and then I'll leave. But I remember when I was budgeteer in the Assembly in the late 1990's our SCAAP funding was—the national funding was $750 million. It was never enough. California got about $500 then. We've been steadily declining the amount that we get—the proposed zeros and Congress gets it back to $300. So when they're saying $300 or $400, 10 years ago we were getting $750. That wasn't enough then, and it should have been escalating, not declining.

Mr. BECERRA. It's gone down pretty much from the 1990's when we were getting a greater share. I think most of us would agree with you there.

I wanted to ask Dr. Anders and Mr. Escoboza on the health care side. And it's a tough side because here you're dealing with, in many cases, life threatening cases. And as you pointed out, and I think Mr. Escoboza you made a very good point about this issue of stabilizing the patient.

The patient comes in, required by law and probably good ethical standards in the health community to at least bring that person back to a stable position. At some point the Federal Government tells you you've stabilized. We no longer will cover any costs of that individual who's undocumented to be reimbursed by the Federal Government for the costs. The hospital, county, the providers can't in most cases just say that's when we cut that patient off of any kind of health assistance.

Give me a sense of what now these bureaucratic rules to require you now to sort of certify and document who everyone is that's coming in. What kind of costs does that impose upon a health care

provider to try to not only fulfill your ethical responsibility but now the Federal mandated responsibility to try to stabilize?

Mr. ESCOBOZA. Congressman, under Section 1011 of the Medicare Modernization Act we've had some experience, not a lot, because this law just went into effect last year. And so we're just collecting data now. But it is an onersome process, and you have many hospitals who are unwilling to even attempt to get reimbursement because of that burdensome responsibility. So we don't have good data yet, but maybe eventually we shall get some. And I think the waiting for the next shoe to drop is what impact the DRA, Deficit Reduction Act section will have on hospital personnel, medical clinicians in the hospital setting themselves.

We know that the State of California sometime later this month will put forth its guidelines. But again, just in general, I think to focus attention on patient care when people present in the emergency department or in one of the wards is what health professionals are all about. So whatever can be done to find a way to streamline that paperwork, I know technology has the potential for doing it in the future. But we need a system of identification that doesn't take the health care professional or other hospital staff away from taking care of that patient when they present.

Mr. BECERRA. And San Diego's hospitals are not able to present a bill to the Federal Government for the costs of administering this new administrative procedure for documenting who's coming in and who's in the hospitals, does it.

Mr. ESCOBOZA. Correct, sir. It's basically another unfunded mandate.

Mr. BECERRA. Dr. Anders, I don't know if you wanted to add anything. You need your mic.

Dr. ANDERS. Those of us who have worked in community health centers over the last few years know that we can no longer just decide what kids have and what they need. We need to also understand the funding sources. That sort of has been a whole additional burden even not just focusing on immigrants. And I think that there are a number of funding programs that we've become skilled at trying to mobilize. The EPDST program we've pushed to its max, but we need to hold on to, to support well child checks. We've worked at the community level to do what we can to raise funds for pharmaceutical needs of uninsured children of whom the undocumented are a high amount. And yes, it's complicated. It's challenging, and certainly the immigrant issue makes it harder.

Mr. BECERRA. Thank you.

I have one last question. Let me give you some quick statistics. Since 1986 we've increased the budget of the Border Patrol which is now—to ICE and Border Patrol under Homeland Security. But since 1986 we've increased the budget of the Border Patrol by a factor of 10. We have increased man hours spent patrolling the border by a factor of eight since 1986. And the cost to the American taxpayer since 1986 for this activity has increased by about 500 percent. Yet since 1986 when we had the last immigration reform, we have continued to see individuals coming to our country without the right to be here.

All of this money, all of this enforcement, and yet we still have unauthorized migration. Many of us believe that in order to really

cutoff the spigot you have to deal with the magnet that's bringing folks in, and that's jobs; that there is someone in this country willing to break the law and offer to someone who is in this country without authorization an opportunity to work. In many cases, that opportunity to work comes under some pretty egregious circumstances with some pretty exploitive terms for that worker who works in this country.

But until—many of us believe that until we deal with the fact that there are employers who are willing to take advantage of people who don't have status in this country and are willing to work at lower wages under harsher conditions that we will not be able to stem the flow of undocumented immigrations. Many of us believe we have to figure out a way to come up with an identification document that can't be easily and fraudulently manipulated. And many of us believe that if we had more oversight over those types of work sites where we know immigrants tend to concentrate themselves when it comes to work, that we could do a better job.

I'm wondering if anyone has any final thought. And certainly, Mr. Unzueta, I would ask you as well as the sheriff to make a comment on this, because it's on the enforcement side that I'm asking the question.

Mr. KOLENDER. Sir, I think that's half of it. I think that nothing is going to really make any significant difference until we can work stronger with Mexico to get some responsibility on the part of their government toward the people who live there.

[Audience cheers and applauds.]

Mr. BECERRA. Good point.

Mr. Unzueta. Special Agent Unzueta.

Mr. UNZUETA. I certainly agree with many of the comments that you've made. And that's exactly why we have focused all of our efforts, increased on work site enforcement and developing programs like IMAGE where we're working with industry and trying to do the right thing. It's also why we have asked for the no-match information from Social Security Administration to be able to target and to focus effectively on industries or on particular companies that are the most egregious and the highest level of violators.

Mr. BECERRA. But if I could suggest to you that in the process of doing the work site enforcement which is our right to do as a sovereign Nation, that if you just deport the immigrant or prosecute the immigrant who worked without authorization, there's going to be another immigrant that will follow the next day.

Until we really—and I don't think any of us can name more than a few employers over the years who have actually been prosecuted for violating the law and hiring unauthorized immigrant workers. Until we actually go after the employer, the price won't be paid. Because there are always any number of immigrants, as we've just heard that will come through and try to take the job that immigrant who just got deported lost. So I think we really have to let the employer community know that those who do this the right way, legitimately, we're going to reward; but those who will do this unscrupulously, we'll punish.

Mr. UNZUETA. I would agree with you.

[Audience cheers and applauds.]

Mr. UNZUETA. And that is clearly why we're focusing now on criminal sanctions. And I hope within the next 30 to 45 days to be able to report back to you on a very significant case, actually, here in San Diego.

Mr. BECERRA. OK.

Mr. UNZUETA. Thank you, Mr. Chairman.

Chairman TOM DAVIS. Thank you. Let me just say to all of our panelists, thank you very much. Let me just note that the House bill, which I support, is also a bipartisan bill. That this thing—these bills, basically the House and the Senate come at it—at the whole issue from a different direction. But I am convinced after being here yesterday and today, hearing your testimony that we have to seal the borders first. If we can't do that we're not going to have credibility——

[Audience cheers and applauds.]

Chairman TOM DAVIS [continuing]. In a lot of these other areas.

We also recognize that we do need workers. And you've got to find a way to get people from the underground economy into a regulated economy where they can pay taxes and start paying their own way. And our failure to get any bill means the status quo continues. Although, I would note that the current status quo, we're not enforcing the laws that are currently on the books. And we need to do a better job of that as well.

[Audience cheers and applauds.]

Mr. BECERRA. Some of the witnesses referred to outside studies, and I would ask unanimous consent that they be given—be able to put them into the record and they'd be part of the record of this meeting again.

Chairman TOM DAVIS. This has been very helpful to us and our committee as we write this up. It's true that each House has passed a bill, but I'm not sure that we will get a reconciliation of that in the conference in this Congress, so this will go toward the record in the next Congress. And also we're still in a conference. I'm not sure if Mr. Becerra or I will be conferees on that, but I think this has been very helpful in terms of building the record. And I appreciate all that you all are doing as well.

Anything else, Mr. Becerra?

Mr. BECERRA. No.

Chairman TOM DAVIS. If not, the hearing is adjourned. Thank you.

Mr. BECERRA. Thank you.

[Whereupon, the committee was adjourned.]

[Additional information submitted for the hearing record follows:]

Charles Mallon
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San Diego, CA 92119
619-465-3723

Submitted for the record

House of Representatives Immigration Field Hearing
Monday, August 14, 2006
San Diego County Administration Center
1600 Pacific Highway, San Diego, CA

NOT MY JOB

I'M Charles Mallon, a Korea War Vet, and proud of it.
I've had it with being told "it's not my job". The straws that broke the camels back Is the treatment we get at Home Depot (HD), and the illegal at my gas station that
told me to get the hell out of his country, then ask me "I'm illegal, who are you going to call? I called SDPD and they said if he didn't hit you he did nothing wrong. The illegal had Mexico plates on his truck.

On Tuesday I decided to see who I could call. I started with DHS in Whashington and 4 hours later
I ended up at BP dispatch 20 miles South of here on the border.

DHS sent me to ICE tipline 866-347-2423. After about 15 min on hold they took my information which was a complaint about Fairmont HD. I ask if they could respond to a call on Saturday morning. They of course said no since they
weren't in my area. (I had requested a local contact) I told them that I needed local help with a reasonable response time.
They sent me to 800-333-4636 which is a FED INFO number for aspirin to border-patrol

They sent me to 619-557-5581 at 550 West C, Ste 560. Turns out that this is a personnel office for ICE or BP, I think, Anyway they were not enforcement.

They sent me , (I'm getting confused) to 619-557-6011 and/or 619-744-4600. The last number is at 185 West F St 6th floor.

At one of these numbers , I think the latter, I spoke to a very nice,sympathetic, ICE Officer. I think he told me that it was their job to go after local illegals but their hands were tied. He didn't want to go into detail as to why and told me that I needed to talk to my Senator, Congressperson------. He told me that if I wanted to get help with illegals, like HD, I should call BP dispatch at 619-216-4000 or 4069. I told him that I had been there before and that they only guard the immediate border (and checkpoints 100 miles up I5.
He told me that was my only hope so I called BP dispatch.

I got exactly what I expected. He told me that their job was to guard the immediate border. When I pointed out to him that they go 80 miles North, bypassing 100's of illegals at HD, Vons etc. he told me that that was ICE's

job. In other words another "NOT MY JOB".

He further told me that they went to a place like HD and once he got there that 75 % had"HB Visas" I told him that those numbers are in complete disagreement with National surveys and I ask for a copy of the report, and what happened to the 25 % that were illegal. He said that he could not give me the report. You need to talk to these people face-to-face, and under oath.

I then went to Gov Arnold and used #7 to get a live person supposedly a level above the message takers. I briefly recanted the above and ask if the Illegal had ask "his"Dad "who are you going to call" who would you tell your Dad to call. He said Police and I told him I did and they said NOT MY JOB. HE then started to give me the 619-557-5581 number but I interrupted him after 557 and gave him the rest of the number. The same for the rest of the number that he offered. At the end of our conversation I asked him what he was able to tell me to help. He said NOTHING since I was so well prepared. I ask him to not waste the next callers time with these suggestions and numbers as they don't work.

As you know, I have been after the City council, SDPD, Mayors office etc regarding our Sanctuary City internal Police policy, which I think is illegal. This policy is almost identical to Los Angeles SP40 which is in the courts now re its legality. The SD policy is 6.18-Patrol, 10/20/2005 ,Subject, ADULT UNDOCUMENTED PERSONS. THE ORIGINATING DIVISION IS OPERATIONAL SUPPORT.
I obtained a copy via California Public Records Act (CPRA).
It is a real stretch to find anything to justify the SDPD to ignore Federal and/or State Law.
I had a lengthy discussion with an officer in Operational Support. I have the Officers name and
badge number but will release it later. My complaint was the indifference shown to private citizens
versus the clusters of illegals loitering in a public area near Home Depot on Fairmont, clearly
marked with a city ordinance sign NO LOITERING, with the appropriate city code number.
I was told by Officer Townsend that I was also loitering.
The officer in Operational Support told me.

1)You are a minority
2)If you don't like the way the city is handling this you should leave.

The minority comment confused me for awhile but the Mexicans may now outnumber the White population.

We need to have our existing laws enforced now.

Thank You
Charles Mallon

TITLE 8, SECT 1325 OF THE US CODE

AN ILLEGAL ALIEN IS NOT AN IMMIGRANT

SB 2611 IS NOT AN IMMIGRATION BILL---- IT IS A BILL ABOUT CRIMINAL ILLEGAL ALIENS ALLOWED TO DESECRATE THE BORDERS, LANGUAGE AND CULTURE OF OUR NATION (OUR SOVEREIGNTY) WITH THE CONSENT OF OUR GOVERNMENT AND LAW ENFORCEMENT

Example--Sanctuary Cities ILLEGALS RULE

Los Angeles Special Order 40

San Diego SDPD POLICY 6.18

AND, STEALING OF OUR WELFARE BENEFITS INTENDED BY LAW FOR US CITIZENS ONLY!

AN ILLEGAL IS NOT AN IMMIGRANT AND HAS COMMITTED A CRIME.

TITLE 8, SECTION1325 OF THE US CODE

Illegal Immigration is a Crime

Under Title 8 Section 1325 of the U.S. Code, "Improper Entry by Alien," any citizen of any country other than the United States who:

- **Enters or attempts to enter the United States at any time or place other than as designated by immigration officers; or**
- **Eludes examination or inspection by immigration officers; or**
- **Attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact;**

has committed a federal crime.

Violations are punishable by criminal fines and imprisonment for up to six months. Repeat offenses can bring up to two years in prison. Additional civil fines may be imposed at the discretion of immigration judges, but civil fines do not negate the criminal sanctions or nature of the offense.

COST OF LATINO ILLEGAL ALIENS TO CALIFORNIA TAXPAYERS PER YEAR

"BILLIONS"

COST TO GET OUR COUNTRY BACK

"PRICELESS"

The Falsehood of Birthright Citizenship

Anchor Babies

Currently, the United States grants automatic citizenship to children born in the United States, regardless of whether a particular child's parents are United States citizens, legal permanent residents, temporary visitors, nonimmigrants, or illegal aliens. (A slight exception to the automatic grant of birthright citizenship is that children born in the United States to foreign diplomats are not automatically granted United States citizenship.) Shockingly, between 300,000 and 350,000 children per year are born in the United States to illegal-alien mothers, and these children are granted automatic citizenship upon birth. Some pundits argue that the Citizenship Clause of the Fourteenth Amendment demands that the children of illegal aliens and of nonimmigrants legally present in the United States be granted automatic citizenship; these pundits are simply wrong. Neither the Constitution nor any subsequent Supreme Court decision compels birthright citizenship to be conferred upon children of illegal aliens or of nonimmigrants born in the United States.

The Citizenship Clause of the Fourteenth Amendment declares, "All persons born in the

United States, and subject to the jurisdiction thereof, are citizens of the United States" (emphasis added). The Citizenship Clause establishes a two-prong test for Birthright Citizenship: (1) Birth in the United States and (2) Subject to the jurisdiction of the United States. The framers of the Citizenship Clause did not draft it on a "blank slate," but rather "adopted [it] against a legal and ideological background." After the Civil War, Congress enacted the Civil Rights Act of 1866, which read, "All persons born in the US and not subject to the jurisdiction to any foreign power, excluding Indians, are hereby declared to be citizens of the United States." Just two years later Congress drafted the Citizenship Clause of the Fourteenth Amendment, intending to constitutionalize the definition provided in the Civil Rights Act of 1866. Senators Trumbell and Howard, the "chief architects" of the Fourteenth amendment, intended for a person to be subject to the jurisdiction of the United States only if the person did not owe allegiance "to anyone else" (Senator Trumbell). The framers included the Jurisdictional prong of the Citizenship Clause to narrow the scope of birthright citizenship. A proper interpretation of the Citizenship Clause leads to the conclusion that political membership, and thus citizenship, can only result from free

individual choices.

As previously indicated, a child born in the United States to a foreign diplomat is not a United States citizen. Since the foreign diplomat is not subject to the jurisdiction of the United States, the diplomat's child, who inherits his parent's status, is not subject to the jurisdiction of the United States. Because the child is not subject to the jurisdiction of the United States, he is not granted United States citizenship upon birth.

Likewise, Congress must declare that the child of an illegal alien inherits the status of his parent; thus, the child, like his parent should be deemed to be an illegal alien. Otherwise, immigration law creates a perverse incentive for people to sneak into our country and give birth. Illegal aliens are "individuals whose presence in the jurisdiction of the US is prohibited by law. They are manifestly individuals . . . whom society has explicitly . . . denied membership." By automatically granting citizenship to the child of an illegal entrant, Congress rewards illegal entrants for violating American law. Congress should not incent illegal aliens to violate the law of the United States.

American citizenship confers valuable rights upon a person and the modern welfare state, characterized by "expanded entitlements conferred upon citizen children and their

families," compounds the attractiveness of American citizenship.

Further, the child of a nonimmigrant or of a temporary visitor should not be granted birthright citizenship. An alien present in the United States on a nonimmigrant visa necessarily owes loyalty and allegiance to a foreign nation. Congress must demand that the child of a nonimmigrant inherits the status of his parent and is not subject to the jurisdiction of the United States, and therefore is not a United States citizen upon birth. The Constitution does not contradict the principle that a child born in the United States to a person who is neither a citizen nor a legal permanent resident should inherit the status of his parent.

Office of Public Affairs
U.S. Department of Homeland Security

U.S. Immigration and Customs Enforcement

News Release

April 5, 2006
Contact:
ICE Public Affairs
(202) 514-2648

Joint task forces created in 10 cities to combat document and benefit fraud

The 10 new entities build on the success of existing task force in Washington, D.C./ northern Virginia

WASHINGTON, D.C. – Officials from the Department of Homeland Security, Department of Justice, Department of Labor, Department of State and other agencies today announced the creation of task forces in 10 major U.S. cities to combat the growing problems of document fraud and immigration benefits fraud.

The new "Document and Benefit Fraud Task Forces" will be located in Atlanta, GA; Boston, MA; Dallas, TX; Denver, CO; Detroit, MI; Los Angeles, CA; New York, NY; Newark, NJ; Philadelphia, PA; and St. Paul, MN. The ten new task forces build upon the success of an existing document and benefit fraud task force in the Washington, D.C. / northern Virginia area.

Led by U.S. Immigration and Customs Enforcement (ICE), the task forces build on existing partnerships to bring investigators together from a variety of agencies with expertise in different aspects of document and benefit fraud. These agents will partner with U.S. Attorney's Offices to formulate a comprehensive approach in targeting criminal organizations behind these schemes as well as the ineligible beneficiaries of such fraud. Any case where a sufficient nexus to terrorism is discovered will be referred to the Joint Terrorism Task Forces.

Participants in the task forces include ICE, the Department of Justice, U.S. Citizenship and Immigration Services (USCIS), Department of Labor Inspector Office of General, Social Security Administration Office of Inspector General, State Department Office of Inspector General, State Department Bureau of Diplomatic Security, U.S. Postal Inspection Service, U.S. Secret Service and numerous state and local law enforcement agencies. The task forces will primarily target two types of crimes:

Document fraud

This crime refers to the manufacture, sale, or use of counterfeit identity documents – such as fake driver's licenses, birth certificates, social security cards, or passports – for immigration fraud or other criminal activity. Document fraud also involves efforts to obtain genuine identity documents through fraudulent means. These activities have helped illegal aliens, criminals and even terrorists evade detection and embed themselves in our society. Document fraud often supports the crime of benefit fraud.

The threat posed by document fraud is exemplified by the fact that at least seven of the 9/11 hijackers obtained genuine Virginia identity documents by submitting fraudulent Virginia residency certificates. Using these ID cards, the hijackers were able to clear airport security and board aircraft for the attacks.

Benefit fraud

This crime refers to the misrepresentation or omission of material fact on an application to obtain an immigration benefit one is not entitled to – such as U.S. citizenship, political asylum, or a valid visa. Because these benefits give one the ability to freely enter, work, or reside in this country, they are prized by illegal aliens, criminals, and terrorists who may be willing to pay substantial fees for them. As a result, the criminal organizations that help individuals fraudulently obtain immigration benefits reap enormous profits.

Among those who have benefited from this type of fraud is Ramzi Yousef, the mastermind of the 1993 World Trade Center bombing who engaged in asylum fraud to enter this country. Every year, tens of thousands of applications for immigration benefits are denied because of fraud. One recent audit estimated that as many as 33 percent of applications for one particular category of visa were fraudulent.

"One of lessons from 9/11 is that false identities and fraudulent documents present serious risks to national security," said Homeland Security Secretary Michael Chertoff. "President Bush has directed the creation of these task forces to play a vital role in the fight against terrorists, human traffickers, and immigration violators. We must deny criminals the identification tools they need to threaten our country, cross our borders illegally and violate our immigration laws without detection."

ICE Assistant Secretary Myers stated, "These new task forces are badly needed to help combat the significant threats posed by document and benefit fraud schemes. By harnessing the expertise of numerous agencies in coordinated task forces across the country, we believe we can reverse the alarming growth and sophistication of these crimes."

Deputy Attorney General McNulty said, "Document fraud is a serious problem and is the common element of many different crimes. The Task Forces announced today will help restore the integrity of our immigration system and will help close the loopholes that terrorists and other criminals exploit to enter and remain in the United States by fraud."

USCIS Director Gonzalez said, "We can never lose sight of the fact that legal immigration to the United States is a highly-valued privilege. We must do everything in our collective powers to maintain the trust we've been given to safeguard that most precious of gifts."

Trends in Document and Benefit Fraud

In recent years, the problems of document and benefit fraud have surged, mandating a task force approach. ICE established an Identity & Benefit Fraud Unit shortly after the agency was created in March 2003 to coordinate leads received from USCIS and funnel this information to ICE field offices for investigation. Over the past two years, the number of document and benefit fraud investigations launched by ICE has increased from 2,334 in Fiscal Year 2004 to 3,591 in FY 2005. Criminal indictments in these cases have increased from 767 to 875, while arrests have risen from 1,300 to 1,391 and convictions have increased from 559 to 992.

At the same time, the sophistication of these schemes has increased with new technology. In the past, the tools of the counterfeit document trade were typewriters and pieces of plastic. Today, document forgers are

using computer software and high-resolution digital scanners to ply their trade. Criminal organizations are also using the Internet more frequently to market fake documents and immigration benefits to customers.

In addition, investigators are finding large-scale criminal organizations involved in these schemes. In one case in Denver, ICE agents discovered that members of the Mexico-based Castorena family counterfeit document organization controlled cells in at least 33 U.S. states. The cell "heads" paid as much as $15,000 per month to leaders of the Castorena organization for the right to operate fake document "franchises" in each U.S. city. Counterfeit documents manufactured by this single criminal organization have been found in all 50 states.

Investigations have also revealed that violators in many benefit fraud schemes are often professional attorneys, immigration consultants, and executives drawn by the profits they can reap from a desperate clientele. Yesterday, ICE agents arrested the operator of a Bronx non-profit organization who allegedly made some $1 million by filing 1,300 bogus benefit applications for illegal aliens for a fee. In January, ICE seized $5.7 million from a New Jersey man who created shell companies to file some 1,000 bogus labor petitions on behalf of Pakistani and Indian aliens seeking to enter or remain in this country. In December, a Washington D.C. law firm pleaded guilty to submitting fraudulent labor certifications for more than 100 illegal aliens

ICE is in a unique position to contribute to these new task forces, given its combined immigration and customs authorities. Furthermore, ICE will bring the expertise of its Forensic Document Laboratory (FDL), which is recognized as one of the premiere fraudulent document analysis facilities in the world. Every year, the FDL provides forensic document support to thousands of cases from agencies in the United States and around the world. ICE will also provide the services of its Cyber Crimes Center to investigate any Internet-related aspects of document and benefit fraud uncovered by the task forces.

Washington, D.C. / Northern Virginia Model

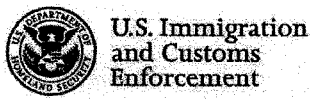
The new Document and Benefit Task Forces are being modeled on the multi-agency task force launched by the U.S. Attorney for the Eastern District of Virginia in recent years. Under this effort, a host of different agencies were brought together in Virginia to lend their respective expertise to these investigations and prosecutions. As a result, some of the largest document and benefit fraud investigations in the nation have been prosecuted in this judicial district.

In the past year, ICE agents working under this task force umbrella with the U.S. Attorney's Office, the Department of Labor, Social Security Administration Office of Inspector General, Department of State, and the District of Columbia Metropolitan Police Department, have arrested more than 40 counterfeit document vendors. They have also executed more than 11 search warrants and closed down seven document mills during this period. Roughly 10,000 counterfeit documents have been seized with an estimated street value of $1 million. These efforts have targeted major counterfeit document organizations operating in the area.

 # ICE #

U.S. Immigration and Customs Enforcement was established in March 2003 as the largest investigative arm of the Department of Homeland Security. ICE is comprised of four integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.

Office of Public Affairs
U.S. Department of Homeland Security



Backgrounder
Worksite Enforcement

June 16, 2006

Contact: ICE Public Affairs
(202) 514-2648

Overview

ICE is significantly enhancing its worksite enforcement efforts as part of its interior enforcement strategy. What is changing is ICE's strategy. ICE is bringing criminal prosecutions and using asset forfeiture as tools against employers of illegal aliens far more than the former U.S. Immigration and Naturalization Service (INS), which tended to rely on administrative fines as a sanction against such activity. Criminally charging and seizing the assets of unscrupulous employers will create the kind of deterrence that was previously absent in worksite enforcement efforts.

The former INS devoted a large percentage of its investigative resources to enforcing administrative employer sanctions. Yet, the administrative fine process was not a deterrent to unscrupulous employers. Many businesses came to view these fines as the cost of doing business. Consistently, INS agents and legal support staff invested a large amount of time and investigative effort to issue a Notice of Intent to Fine against an employer for non-compliance, only to find that these fines were routinely ignored, not paid in a timely matter, or mitigated down to a far lesser amount over several years.

ICE has decided to pursue criminal prosecutions and, in some cases, seize assets derived from illegal activities as tools against unlawful employers. In these cases, ICE is moving to bring criminal charges of knowingly hiring illegal aliens, and whenever possible, criminal charges of money laundering and harboring illegal aliens. Money laundering is a felony with a potential 20 year prison sentence, while harboring illegal aliens carries a potential 10 year prison sentence. ICE has found these criminal sanctions to be a far greater deterrent to illegal employment schemes than administrative fines.

ICE Worksite Enforcement Statistics:

- The best measure of this new approach lies in the number of arrests for criminal violations that ICE has brought in worksite enforcement investigations. These criminal arrests in worksite enforcement cases have increased from a mere 24 in FY 1999 and 25 in FY 2002 under the old INS -- to 160 in FY 2004 to 176 in FY 2005, and to a record 382 thus far this fiscal year.

- Similarly, ICE has obtained record payments from companies through forfeiture and other court-ordered settlements as a result of worksite violations. These far exceed the amounts collected by the INS through administrative fines. Last year, for instance, ICE received $15 million from Wal-Mart Stores, Inc. and 12 contract companies for worksite violations. This one payment in lieu of forfeiture was the largest single worksite penalty in U.S. history and is greater than the combined total of all the administrative worksite fines issued by the former INS for the prior eight years.

- In Fiscal Year 2004, ICE initiated 465 criminal worksite investigations and devoted 135,191 case hours to worksite enforcement investigations. These cases resulted in 160 criminal arrests, 67

criminal indictments and 46 criminal convictions. These efforts also resulted in the arrest of 685 individuals on administrative immigration violations. In total, ICE worksite enforcement investigations resulted in 845 arrests in FY 2004.

- In FY 2005, ICE initiated 511 criminal worksite investigations and devoted 146,350 case hours to worksite enforcement investigations. These cases resulted in 176 criminal arrests, 140 criminal indictments and 127 criminal convictions. Furthermore, these efforts resulted in the arrest of 1,116 individuals on administrative immigration violations. In total, ICE worksite enforcement investigations resulted in 1,292 arrests in FY 2005.

- Thus far this Fiscal Year (through May), ICE has already launched more than 219 criminal worksite investigations and devoted 167,346 case hours to worksite enforcement investigations. These cases have resulted in 382 criminal arrests, 82 criminal indictments, and 80 criminal convictions. Furthermore, these efforts have resulted in the arrest of 2,100 individuals on administrative immigration violations. In total, ICE worksite enforcement investigations have resulted in 2,482 arrests thus far this fiscal year.

FY 2007 Budget Enhancements:

The Administration's budget request for FY 2007 would provide $41.7 million in new funds to ICE specifically to strengthen worksite enforcement efforts. The additional resources would support the hiring of an additional 171 special agents and 35 support personnel to enhance worksite enforcement investigations.

Recent ICE Criminal Worksite Enforcement Examples:

- **Great Wall Restaurant** – On June 9, 2006, the owner of the New Great Wall restaurant in Tacoma was sentenced in federal court to ten months in prison and three years of supervised release for concealing and harboring illegal alien employees. Jian Zhong Tang, 37, was also ordered by U.S. District Judge Franklin D. Burgess to pay more than $38,000 in back wages to exploited employees at his restaurant.

- **Boston Cleaning Business** -- On May 12, 2006, Jose Neto, a businessman in Allston, Mass, was convicted of knowingly harboring illegal aliens who worked in his cleaning business. He had previously pleaded guilty to charges of attempting to bribe an ICE agent, inducing illegal aliens to reside in the country, and having a pattern or practice of knowingly employing illegal aliens. Neto, an illegal alien himself from Brazil, faces up to 15 years imprisonment, followed by 5 years of supervised release, and a $250,000 fine.

- **Dragon Buffet Restaurants – (New York)** -- On May 11, 2006, Hui Guo, a lawful permanent resident alien and citizen of China, pleaded guilty in Albany, New York, to one count of hiring and harboring illegal aliens in connection with two Dragon Buffet chain restaurants he operated in the Albany area. He was first arrested in November 2005. The investigation into Guo was part of a larger ICE probe into Kun Cheng, who owned six Chinese buffet restaurants in the Albany area. Cheng was arrested in November 2004 for his part in the organization. To date, this investigation has resulted in the criminal arrest of 9 individuals, the administrative arrest of 84 illegal aliens and the seizure of approximately $1.4 million and 11 vehicles.

- **Golden China Buffet** – On May 10, 2006, Jian, Lin, a Chinese restaurant owner and eight illegal alien workers that he was housing and transporting to and from work were arrested in Louisville, Kentucky. Jian Lin, the 32-year-old restaurant owner, and five illegal Chinese workers were arrested at the restaurant on immigration violations. Three other illegal workers — one Chinese and two

Mexican — were arrested at the Wilma Avenue residence that is owned by Lin and was used to house his workers.

- **Julio's Mexican Restaurants** -- On May 10, 2006, ICE agents in Missouri arrested the owner of two Mexican restaurants in Missouri and Iowa on criminal charges of knowingly hiring illegal aliens. ICE agents also arrested a total of 21 illegal aliens during the execution of search warrants on the restaurants. Investigation revealed that many of the employees had not been asked to complete any paperwork or provide documentation to work at the restaurants.

- **Fischer Homes Inc.** -- On May 9, 2006 ICE agents arrested four supervisors of Fischer Homes Inc. and 76 illegal alien workers at Fischer Homes construction sites in Kentucky. Headquartered in Kentucky, Fischer Homes is a leading builder of homes in Indiana, Kentucky, and Ohio, with annual sales of roughly $200 million. The four Fischer Homes managers are charged in a criminal complaint with aiding and abetting, harboring illegal aliens for commercial advantage or private financial gain. The maximum possible punishment for the crime charged is up to 10 years imprisonment, $250,000 or both. On May 11, several contractors and contract companies that provided illegal workers for Fischer Homes construction sites were indicted on criminal charges of harboring illegal aliens in connection with the scheme.

- **Operation Tarmac** -- On May 9, 2006, Karen Sue Rowell and Edward John Pitre, managers of Midwest Airport Services, were sentenced as a result of Operation Tarmac, an ICE critical infrastructure initiative targeting unauthorized employment at U.S. airports. Rowell received nine months federal incarceration and was ordered to pay a fine of $5,000. Pitre received 15 months of federal incarceration and was ordered to pay of fine of $1,000. On May 8, 2006, Midwest Airport Services and Service Performance Corporation were fined $150,000 and $600,000 respectively. In August 2005, Pitre was convicted for conspiracy to unlawfully harbor and shield illegal aliens from detection. Rowell pleaded guilty to aiding and abetting a false representation of U.S. citizenship.

- **Stucco Design** -- On May 2, 2006, Robert Porcisanu, the owner of an Indiana business that performed stucco-related services at construction sites in seven Midwest states was charged with money laundering, harboring illegal aliens, transporting illegal aliens, and false statements in connection with an illegal employment scheme. Porcisanu faces 40 years in prison. ICE is also seeking the forfeiture of $1.4 million. His firm was allegedly able to undercut the bids of contractors to perform work at construction sites by taking advantage of cheap labor costs from the use of illegal alien employees.

- **Air Borne Express (ABX Air)** – on April 26, ABX Air supervisor Douglas Steels pleaded guilty to charges of engaging in a pattern and practice of employing illegal aliens. He was sentenced to 6 months probation and a $10,000 fine.

- **IFCO Systems North America**-- On April 19, 2006, ICE agents arrested seven current and former managers of IFCO Systems North America Inc, pursuant to criminal complaints in Albany, New York, charging them with harboring illegal aliens for financial gain. ICE agents also apprehended 1,187 of the firm's illegal alien employees during search warrants and consent searches executed at more than 40 IFCO locations nationwide. The arrests were the result of a year-long probe of IFCO, which determined that more than half of IFCO's employees during 2005 had invalid or mismatched Social Security numbers. IFCO is the largest pallet services company in the United States, based in Houston, Texas.

- **Kawasaki Sushi** -- On April 14, 2006, the operators of Baltimore's best-known sushi restaurants agreed to forfeit more than $1 million and pleaded guilty to criminal charges of conspiracy to commit alien harboring and money laundering in connection with an illegal alien employment scheme. The

investigation found that the operators of the three Kawasaki restaurants in Baltimore exploited cheap, illegal labor to maximize profits in order to purchase new homes and luxury vehicles for themselves.

- **HV Connect** -- On April 11, 2006, a federal indictment was unsealed in Ohio charging two temporary employment agencies and nine individuals with hiring and harboring illegal aliens; mail and wire fraud; and laundering approximately $5.3 million. The indictment alleged that HV Connect, Inc., and TN Job Service, Inc. provided hundreds of illegal alien employees to unwitting companies in Ohio by falsely representing that they were legal. The indictment also alleged that the owners of these agencies used the profits from this scheme build a new home and purchase jewelry for themselves.

#ICE#

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Office of Public Affairs
U.S. Department of Homeland Security

U.S. Immigration and Customs Enforcement

Quick Facts

Worksite Enforcement

July 6, 2006

Contact: ICE Public Affairs
(202) 514-2648

Key Statistics

- ICE has initiated **592 Critical Infrastructure Protection Investigations** in FY'06 (through May)
  - This is **73%** of all worksite enforcement investigations initiated
  - This is already a **48% increase** over FY'05 (401 investigations)
- ICE has initiated **219 criminal investigations of egregious employers** (traditional worksite enforcement) in FY'06 (through May)
  - This is **27%** of all worksite investigations initiated.
  - This is already a **121% increase over FY'05** (99 investigations) and a 200% increase over FY'04 (73 investigations)
- ICE has executed **360 worksite apprehensions at Critical Infrastructure sites** FY'06 (through May)
  - This is already a **29%** increase over FY'05 (280 apprehensions)
- ICE has executed a total of **2100 traditional worksite apprehensions** in FY06 (through May)
  - This is an **88% increase in the first 8 months of FY'06** over all of FY'05 (1,116 apprehensions - at this rate the over all increase for FY'06 could be close to 180%)
- ICE has made **382 worksite enforcement related criminal arrests** and 80 convictions in FY'06 (through May)
  - These criminal arrests already represent a **117% increase over FY'05** (176 arrests) and a **139% increase over FY'04** (160 arrests)

Current Penalties: 274(a)

Civil money penalty: $100 - $1,000 for each individual
Knowing violation:

- 1st violation: not less than $250 and not more than $2,000 for each such alien
- 2nd violation: not less than $2,000 and not more than $5,000
- 3rd violation: not less than $3,000 and not more than $10,000

Misdemeanor criminal charge for "pattern and practice."

ICE's New Approach:

Felony charges for egregious employers.

- Money laundering felony holds potential 20-year prison sentence.
- Harboring illegal aliens for profit holds potential 10-year prison sentence.

#ICE#

U.S. Immigration and Customs Enforcement was established in March 2003 as the largest investigative arm of the Department of Homeland Security. ICE is comprised of four integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.

ICE Mutual Agreement between Government and Employers

IMAGE

Frequently Asked Questions

What Is IMAGE?

IMAGE is a joint government and private sector voluntary initiative designed to build cooperative relationships that strengthen overall hiring practices. The goal is to help restore the integrity of the immigration system of the United States by utilizing industry outreach and self-policing. ICE has developed this initiative as a new concept for employer self-compliance within the worksite enforcement program.

Why Was the IMAGE Program Started?

An April 1999 Government Accountability Office report entitled "Significant Obstacles to Reducing Unauthorized Alien Employment Exist," noted that certain industries historically have had a high percentage of illegal aliens in their workforce. ICE recognizes that the highest level of employment integrity can only be achieved through close coordination with industry partners. Furthermore, industry self-policing will allow ICE to focus on other aspects of its homeland security mission. The IMAGE program also serves to foster improved relations with businesses vital to U.S national interests as part of ICE's role in critical infrastructure protection.

Is IMAGE an Employment Eligibility Verification System?

The IMAGE program mandates that its members use the Basic Pilot Employment Verification Program administered by U.S. Citizenship and Immigration Services (USCIS) as the first of its ten best practices. The other best practices go beyond electronic verification to help employers who seek to maintain the integrity of their worksites.

What Are the Benefits of Becoming an IMAGE Member?

Following the prescribed steps of IMAGE could lessen the likelihood that your company is found in violation. IMAGE places an emphasis on self-policing. It can enhance your corporate image by associating it with sound hiring practices, and help to secure the homeland by reducing opportunities to inadvertently hire unauthorized workers. IMAGE participation may be considered a mitigating factor in the determination of civil penalty (fine) amounts should they be levied.

What Does ICE Agree to Do as Part of IMAGE?

ICE will look to IMAGE participants to promote industry-wide participation and acceptance of the IMAGE program. ICE will review IMAGE participants' hiring and employment practices/policies and recommend to companies ways to correct compliance issues. ICE will identify schemes used to circumvent hiring and employment processes. ICE will work collaboratively with employers whenever it discovers minor and isolated potential misconduct. ICE will attempt to minimize disruption of business operations resulting from a company's self-disclosure of possible violations. ICE will keep the related information confidential to the extent permitted by law and regulation.

For more information on the IMAGE Program
or to request an information packet,
visit **www.ice.gov/image.**

What Kinds of Additional Work Will IMAGE Participants Be Required to Perform?

Employers seeking to participate in IMAGE must first agree to submit to an I-9 audit by ICE. All IMAGE participants will agree to use the Basic Pilot Employment Verification Program for all hiring. Companies will agree to establish an internal training program covering topics such as I-9, fraudulent identity documents, and Basic Pilot Employment Verification Program procedures. Companies will have only trained employees completing the I-9 and performing the Basic Pilot Employment Verification Program query and will establish a secondary review process to ensure that a single individual does not subvert the process. Companies will conduct a semi-annual I-9 audit by a neutral party and establish a self-reporting procedure to inform ICE of violations or deficiencies. Additionally, companies will establish a protocol for responding to no-match letters from the Social Security Administration.

ICE is requesting that companies establish a tip line for employees to report violations or deficiencies and that employers with more than 50 employees designate a compliance officer to ensure that employment practices are in accordance with IMAGE guidelines.

Once a year, IMAGE participants will report to ICE the number of employees removed and denied employment as a result of IMAGE participation, identify major organizational changes and update their company's point of contact. Participants will immediately report to ICE the discovery or allegations of any substantive criminal violations.

What Is the Basic Pilot Employment Verification Program?

The Basic Pilot Employment Verification Program is an Internet-based system run by the USCIS in partnership with the Social Security Administration. Currently free to employers and available in all 50 states, the Basic Pilot Employment Verification Program provides an automated link to federal databases to help employers determine the work eligibility of new hires and the validity of their Social Security numbers. For more information on this voluntary program, visit the USCIS Web site at **http://www.uscis.gov/graphics/services/SAVE.html**.

Why Do I Have to Perform Document Checks?

Section 274A of the Immigration and Nationality Act requires employers to verify that all employees are authorized to work and have established their identities using the Form I-9.

What Happens If I Correctly Complete an I-9 Form and Perform the Basic Pilot Employment Verification Program Query and ICE Subsequently Determines the Individual to Be Unauthorized to Work in the U.S.?

If the employee presented the employer with documents that reasonably appeared to be genuine and relate to the employee presenting them, you cannot be charged with a verification violation. This type of circumstance underscores the importance of why ICE is advocating participation in the Basic Pilot Employment Verification Program for all employers.

U.S. Immigration and Customs Enforcement

Report Suspicious Activity:
1-866-DHS-2-ICE
1-866-347-2423
www.ice.gov

07/2006

Office of Public Affairs
U.S. Department of Homeland Security

Press Release

July 26, 2006
Contact: (202) 282-8010

DHS Highlights Best Practices for Maintaining Legal Workforces

Unveils new industry partnership to help businesses make good hiring decisions

WASHINGTON, D.C. – The U.S. Department of Homeland Security (DHS) today announced a new initiative and best business practices to help employers ensure they are building legal workforce through voluntary partnerships with the government.

Called the ICE Mutual Agreement between Government and Employers (IMAGE), the program is designed to build cooperative relationships between government and businesses to strengthen hiring practices and reduce the unlawful employment of illegal aliens. The initiative also seeks to accomplish greater industry compliance and corporate due diligence through enhanced federal training and education of employers.

As the criminal prosecution of worksite violations has increased in recent years, DHS has been flooded by requests from employers seeking information on how to avoid hiring illegal aliens. IMAGE is a balanced and carefully designed partnership program that seeks to provide answers to these questions and help employers comply with the law.

"Any comprehensive strategy to stem the flow of illegal immigration must address the thousands of employers that hire illegal aliens both wittingly and unwittingly," said DHS Secretary Michael Chertoff. "We have been bringing a growing number of criminal prosecutions against unscrupulous employers; however prosecutions are only part of the solution. If the government is going to fully address the problem of illegal alien employment, it must partner with employers, educate them and provide them with the tools they need to develop a stable, legal workforce."

"Most employers want to comply with our nation's immigration laws. Yet, every day they are confronted with illegal aliens attempting to secure jobs through fraudulent means, including the presentation of counterfeit documents and stolen identities. Employers are not trained or obligated to be document detectives. Today, we are launching IMAGE to help employers deal with these situations and confidently develop a legal workforce," said Julie Myers, Assistant Secretary for U.S. Immigration and Customs Enforcement (ICE).

Under this program, ICE will partner with companies representing a broad cross section of industries in order that these firms may serve as charter members of IMAGE and liaisons to the larger business community. As part of this program, businesses must also adhere to a series of best practices including the use of the Basic Pilot Employment Verification Program, administered by U.S.

Citizenship and Immigration Services (USCIS). To date more than 10,000 employers across the United States are using the Basic Pilot Employment Verification to check the work authorization of their newly hired employees.

"New employers are signing up to use the Employment Verification Program every day," said USCIS Director Emilio Gonzalez. "It's an indication that more and more employers are committed to making sound hiring decisions and in the process preventing unauthorized people from working in the United States."

What benefit does IMAGE hold for employers?

ICE will provide training and education to IMAGE partners on proper hiring procedures, fraudulent document detection and anti-discrimination laws. ICE will also share data with employers on the latest illegal schemes used to circumvent legal hiring processes. Furthermore, ICE will review the hiring and employment practices of IMAGE partners and work collaboratively with them to correct isolated, minor compliance issues that are detected.

Those companies that comply with the terms of IMAGE will become "IMAGE certified," a distinction that ICE believes will become an industry standard. Participation in IMAGE will help companies reduce unauthorized employment and minimize identity theft. An IMAGE participant can better protect the integrity of its workforce by helping ensure that employees are who they represent themselves to be.

What is expected from companies that seek to participate in IMAGE?

As a first step, companies must agree to a Form I-9 audit by ICE. They must also use the Basic Pilot Employment Verification program when hiring employees. This Internet-based system, which is free to employers and available in all 50 states, provides an automated link to federal databases to help employers determine the eligibility of new hires. For more information on this program and other USCIS verification programs, visit the USCIS web site at https://www.vis-dhs.com/EmployerRegistration/.

In order to become IMAGE-certified, partners must also adhere to a series of best practices. These include the creation of internal training programs for completing employment verification forms and detecting fraudulent documents. IMAGE partners must also arrange for audits by neutral parties and establish protocols for responding to no-match letters from the Social Security Administration. ICE is also asking employers to establish a tip line for employees to report violations and mechanisms for companies to self-report violations to ICE. A full list of best practices can be found at www.ice.gov.

DHS strongly encourages employers to review IMAGE program materials available at www.ice.gov.

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