



Remarks by Homeland Security Secretary Michael Chertoff on the State of Immigration

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Contact: 202-282-8010

Secretary Chertoff: Good morning, everybody. I would like to introduce Deputy Commissioner Jay Ahern, who is the Deputy Commissioner of U.S. Customs and Border Protection; Emilio Gonzalez, who is the Director of U.S. Citizenship and Immigration Services; and John Torres, the Director of the Office of Detention and Removal at ICE. Could I ask them to get seated.

I think you'll remember that this past August, after Congress failed to pass the proposed immigration reform bill, we announced that we were going to use the tools that we have, such as they are, sharpen them up and go about the business of getting control of the border. And to that end, this past August the administration announced a series of reforms to strengthen immigration enforcement and to meet our nation's workforce needs to the extent the law permits so that we could try to fill the gap left open by Congress's failure to act to address the challenges comprehensively.

Among the 26 items that we put forward in our proposal, one was a commitment to provide periodic "State of Immigration" reports to the American people. Today, about a month after the close of the fiscal year, is the first of what I anticipate will be a number of briefings over the next year.

I'd like to use this particular kick-off briefing to provide an assessment of where we stand relative to our benchmarks for improving border security and immigration enforcement. I'm going to give a status report on our progress, as well as discuss some remaining challenges and how we're going to work to resolve them. We're going to talk about the promises that we've made and promises that we've kept, and in a couple of months we'll be back with another update.

I'd like to cover four major areas today. First is what we're doing literally at the physical border itself, particularly the Southwest border. Second, I'd like to talk about what we're doing with respect to interior enforcement of the immigration laws, which of course tackles the economic magnet that pulls most illegal migrants into the United States. Third, I'd like to talk about what we're doing to deploy tools that employers can use to verify the legitimacy of their own workforce so that they can support the law instead of violating the law. And finally I'm going to talk a little bit about some measures we're putting into place to alleviate what will be an economic hardship as we crack down at illegal migrants by – in particular, I want to talk about measures we are going to put into effect to streamline the process of getting temporary workers with respect to agriculture.

So let me begin at the border. And I'm going to talk about the infrastructure – meaning the fencing and the other tactical infrastructure; I'm going to talk about what we're doing to enhance and augment our personnel at the border; and finally, how we're using technology.

You'll remember one of the signature commitments we made when the President announced Operation Jump Start in 2006 was to build 70 miles of new pedestrian fence during the fiscal year 2007. We exceeded that goal. We built more than 76 miles. And there are now therefore in total roughly 160 miles of pedestrian fence on the Southwest border of the United States. Add to that about 115 miles of vehicle fence, which represents where we currently are with respect to tactical infrastructure – basically, a total of 270 miles of pedestrian or vehicle fencing.

This coming year, we plan to build an additional 225 miles of pedestrian fence, which will give us 370 miles of pedestrian fence by the end of 2008. And we also intend to build several hundred miles of vehicle fence so that we can complement pedestrian fence with barriers that will prevent vehicles from coming in.

Our goals with respect to fence total by the end of calendar 2008 are 670 miles of total pedestrian and vehicle fencing. Now I have to be clear, there's a very important condition that has to be met if we are to live up to the

goal at the end of calendar year 2008, and that is, Congress needs to fund the money that the President has requested to get this important work at the border done. If Congress funds that, we will get it done. If Congress doesn't fund it, obviously that's going to be a problem.

Now why do we need a fence? Fencing is not a panacea, it is not a magic bullet to deal with every issue at the border, but it is one of a number of important tools that we can use to make the job of the Border Patrol easier and more efficient. What fencing does is, it reflects the fact that between the border and the interior, there is what we call a "vanishing point," a point at which an illegal migrant can find a bus station or a train station or a highway, from which he or she can move readily into the interior of the country.

From the standpoint of the Border Patrol, what we need to do is lengthen the amount of time we have to intercept illegal migrants between the time they cross the border and the time they reach the vanishing point. When you go to a place like San Diego, for example, you see that there are urban areas in very close proximity to the border. What that means and what that meant prior to the San Diego fence was that it was quite easy for people to literally run across the border and within a matter of moments, they were either in an urban area or on a highway or some place where they could vanish into the interior. What the fencing does is it slows up that process to give the Border Patrol an opportunity to get there.

Now the fence obviously doesn't do the same work in the middle of the wilderness, where there is no vanishing point within a matter of minutes or even a matter of hours, and that's why the need for fencing depends a great deal on the landscape and the topography of the particular part of the border.

But what I will tell you is, if we get the 670 miles of pedestrian and vehicle fencing done – that is to say, if Congress gives us the money to do the job properly – then by the end of 2008, we will have barriers from the Pacific Ocean to the New Mexico/Texas border, except in those areas where the landscape itself creates a natural barrier. And I think that's going to be a major step forward for the Border Patrol.

Another question I sometimes get asked is: why does it take so long to build a fence? And there was a chart we displayed a little bit earlier that showed that in the last fiscal year, we began going very slowly with building fencing, and then it all of a sudden escalated and ramped up right at the end of the fiscal year. There's a reason for that. You don't build fence a mile at a time.

If you want to build, for example, 35 miles of fencing at the Barry M. Goldwater Range, what you first do is you make sure you have the land, you survey it, you grade it, you dig the areas to drop the posts of the bollards in, you pour concrete, you drop the posts and bollards in, and only at the end of that process do you begin to put the wire sheeting between the bollards that creates your pedestrian fence. And that's why you go for a significant period of time while you're doing the preparatory work, and only at the end do you see an escalation towards the goal that we reached in the last fiscal year.

And that is, in fact, what you're going to see as we go forward. You will see the process moving in chunks of border at a time as we begin to build from the bottom up, and escalate at the end by dropping the sheets of wire, or wire mesh, that needs to be put into place to complete the pedestrian fencing.

Now I recognize that some people don't like fencing. Of course some people really do like fencing, and I often believe I find myself caught in the middle between those who want to see the entire border fenced with double-fencing, and those who don't want to see any fence on the border. Again, my compelling rationale for building fencing is, the operational need of the Border Patrol, driven by what the Border Patrol assesses as their tactical needs and what fits in with their overall strategy and lay down of capabilities at the border.

But obviously the border is an environment in which not only people live but also animals and wildlife have their habitat. And so people do raise the issue of the environmental impact of the fencing. Therefore, in addition to obviously the paramount concern we have with the Border Patrol's tactical and strategic needs, we do seek input from local residents and landowners, we do conduct environmental assessments so that we can mitigate or minimize any impact on the environment, and we of course conduct engineering assessments to build the type of fence that, from an engineering standpoint, works in the particular landscape.

Not surprisingly, there are differences of opinion at the border, and we've seen environmentalists recently challenge our efforts to build in one particular area of Arizona in the San Pedro area, claiming that we were interfering with the environment of the local habitat. This is a classic example of how we have a conflict between the needs of national and homeland security on the one hand and environmental concerns on the other.

Congress has spoken on the subject by giving me as the Secretary the authority to waive environmental laws as necessary to promote our control of the border. And I do not use that authority lightly. I do not use it without careful consideration of the equities. But on the other hand, I do use it to prevent undue delay in terms of excessive litigation or long, drawn-out procedural fights that could result in delaying our ability to build fencing and lighting and roads literally for years, if not decades.

In the case of the particular area we recently waived the environmental laws on, that waiver was undertaken only after four separate environmental reviews had been conducted over a period of a decade, covering not only this particular area but a broader area of the border. Two separate federal land management agencies authorized us to proceed with the construction. The particular construction steps we are undertaking do include mitigation measures to address wildlife concerns, and we have committed to working with the Fish and Wildlife Service to make sure we can address those concerns. We are, for example, erecting temporary river barriers so that we can remove them during a flood season. And we're working to make sure that the construction does not permit the spread of invasive weeds, or result in storm water pollution.

So even when we waive the laws with respect to environmental protection, we put into place voluntarily measures that reasonably respond to legitimate environmental concerns that have been raised as a consequence of a lot of study.

But I also have to make it clear to the public that in the end, this is a matter of reasonable balancing: balancing risk and considering not only the environmental consequences but the human consequences of what we do at the border.

Fencing does have a very significant impact in terms of human consequences. In the particular area of San Pedro, for example, last year 19,000 illegal entrants were apprehended in the course of fiscal year 2007; 11 percent of those people had criminal backgrounds. Obviously we didn't necessarily apprehend everybody, but to the extent that fencing allows us to minimize and reduce the number of illegal people who are smuggled in, and particularly to reduce the number of criminals who come in or drugs that are smuggled in, that to me is a very positive step for the human environment; for the human environment of the entire country, because if we reduce the flow of marijuana and methamphetamine and cocaine, and if we reduce the flow of criminals coming across that part of the border, we are reducing some of the environmental damage that occurs in our cities when those drugs hit the streets or those criminals commit crimes.

There's also a humanitarian dimension to building a fence here. There were multiple migrant deaths last year due to the elements – I think there were 14. To the extent that fencing discourages or prevents people from crossing into this particular area, and then losing their life due to the elements, there's a positive humanitarian benefit to building that fence.

So as I balance on the one hand the concern of the environmentalists, I have to consider on the other hand the very important humanitarian and public safety elements that are promoted by building fencing in this area. Indeed, even if we look at the habitat by itself and the impact on the local environment, just in a particular area that we're building fence, I would suggest to you that a proper balance recognizes that fencing can actually protect the local habitat and not merely interfere with it.

One thing we have seen repeatedly is that in areas where drug smugglers and human smugglers operate freely, there is trash and human waste that has an impact on wildlife and vegetation. There's an impact on water quality. There are wildfires that are created because of campfires that get out of control. And therefore, to the extent that we minimize smuggling, we're actually protecting part of the local habitat.

I understand some people have a negative reaction when I suggest that there's actually a local habitat benefit to building fencing. But the reality is, if you actually go to the border and you see the consequences of smuggling, if you see the refuge that the smugglers leave behind – the cans, the rusted automobiles that we sometimes find – you have to recognize that in some ways a fence can be a positive impact on the habitat.

The bottom line is this: We will continue to use the authority that Congress gave this department in a way that's sensitive to local concerns, that is mindful of the need to protect the environment, but that does not allow the process of securing the border to get bogged down in endless litigation or procedural wrangling that will result in years going by before we complete the mission that Congress has mandated and that the American people rightfully expect us to get done.

Now I've talked about tactical infrastructure, but obviously that's merely a tool that enables the Border Patrol to do their job, which is to intercept, apprehend and remove people who enter this country illegally, as well as to

intercept the flow of illegal drugs and other contraband. And that means we've got to give the Border Patrol the kinds of resources necessary to do patrolling as we build infrastructure across the border.

That's why the President in May of 2006 committed to doubling the number of Border Patrol agents as compared with the roughly 9,000 agents who were part of the Border Patrol force when President Bush took office in 2001. That means we committed to getting over 18,000 boots on the ground by the end of calendar year 2008.

So how are we doing? Well, when the President made the announcement in May of 2006, we had about 11,500 agents. By the end of this past fiscal year in October, we had almost 15,000 agents. In other words, we've added basically about 3,500 agents in the period of time since the President made that commitment. We are on track to exceeding 18,000 agents by the end of calendar year 2008, which will be the doubling the President committed to getting done. We're also going to be requesting funds – again, we asked Congress to give us these funds – to get to the level of 20,000 agents by the end of fiscal year 2009, which of course will be after the President has left office.

The question that sometimes comes up is: Are we compromising the standards for training the Border Patrol agents to move these accelerated numbers? And the answer is: No, we're not. We've carefully studied and worked with the Border Patrol and the Federal Law Enforcement Training Center in Artesia to make sure that we can accommodate the increased flow without sacrificing the very important training that is necessary to equip the Border Patrol to do the job safely and effectively at the border. That includes physical training to handle the very challenging environment at the border, classroom instruction, language skills for those who need it, training in the use of force and the appropriate rules of engagement, defensive driving, and instruction in the law that governs the proper respect for civil rights.

I'm confident that we have not sacrificed any of the quality of training. But I'm not relying only upon what I've heard from the Commissioner of Customs and Border Protection or the Chief of the Border Patrol or the head of our Training Center. Here's what the National Association of Former Border Patrol Officers had to say about the issue of training. They were initially skeptical about whether we could get the job of increased recruitment and deployment done without sacrificing training. But after going down to inspect the program in New Mexico, the statement that this National Association issued was as follows: "They are doing it, and they are doing it exceptionally well. There has been no degradation of training standards; to the contrary, they have improved substantially." That is the view and the assessment of an independent group of former Border Patrol officers.

I also have to comment and thank – comment upon and thank the National Guard, which continues to support the Border Patrol under Operation Jump Start. It was the purpose of the National Guard to fill the gap as we increased recruiting. And of course, as we've gotten 3,500 additional agents into the Border Patrol, we have drawn down the National Guard from the original start-up number of 6,000 to the current number of 3,000. But the National Guard continues to assist with entry identification teams, fence construction, and serves as an important force multiplier to let our Border Patrol get the job done as effectively as possible.

The third element of our strategy is technology. We're in the 21st century and we ought to be using 21st-century tools, which means more than just fencing and barriers. We have added new technology at the border as we speak: unmanned aerial systems and ground-based radar in mobile units enables us – and I've seen this with my own eyes – to have either aerial, video or ground-based radar connected into a Border Patrol agent who can map onto his grid exactly where migrants are coming in so that he can direct a Border Patrol team to intercept and apprehend those migrants, and to do it in a place that is most convenient and most effective for the Border Patrol.

We're going to continue to move forward with technology, and in particular we're going to do so as part of an integrated project that we're currently assessing and testing at what we call our P28 location in Arizona, right near Sasabe. When that system is fully accepted, the system will have integrated radar and cameras that will give a common operating picture over a 28-mile stretch to a Border Patrol agent who will be able then to use that information to direct the Border Patrol to conduct an efficient and safe interception.

Now we are being rigorous about the testing, which is currently underway. And I have said to the Chief of the Border Patrol, and I have said publicly, that we're not going to actually accept and buy a system until we know what works, not just in the laboratory but in the frankly very tough environment of the border itself. But we're making progress and we're committed to using the results of this technology to continue to move forward with our efforts at the border.

That of course brings up the most important question: Are the efforts we're undertaking having an impact? So

let's look at some metrics. In fiscal year 2007, we saw a 22 percent reduction in apprehensions of illegal aliens at the Southern border as compared to the previous year. Even after adjusting for seasonal differences, we're at the lowest point in the last five years. While this in and of itself is not conclusive proof of driving down the numbers of illegal migrants between the ports of entry, other factors support the view that we're beginning to see a significant turn in the direction of migration.

We haven't completed the job yet, but we've made a significant first step in reversing the tide of illegal migration between the ports of entry. For example, anecdotal information tells us that there are fewer people in traditional border staging areas. A recent Pew research report not only agreed with us that there have been declines in apprehensions, but noted that financial remittances from the United States to foreign countries have significantly declined, and that has been attributed at least in significant part to the fact that there are fewer people coming across the border to do work. In fact, *The New York Times* recently ran a piece suggesting that this decrease in remittances from Mexico was due to the impact of our enforcement efforts.

This is not a declaration of victory or suggestion that the job is done. It is, however, I think, a fair recognition that we have begun to make some progress and we've turned the tide. What it ought to do is it ought to encourage us to step up the tempo and step up the pace. And I'm committed to making sure we do just that.

Let me, before I turn to the issue of interior enforcement, talk about one other element of the border, which I think is kind of timely. Often we focus on the issue of illegal migration coming between the ports of entry, but it's as important to make sure that we do have security at the ports of entry themselves, meaning that we check to make sure illegals or criminals or even terrorists are not sneaking through our ports of entry in plain sight.

There was a recent GAO report on border security, entitled "Despite Progress, Weakness in Traveler Inspections Exist at our Nation's Ports of Entry." And GAO apparently said that without checking the identity, citizenship and admissibility of travelers, there's a greater potential that dangerous people and inadmissible goods may enter the country and cause harm to American citizens and the economy.

That's right – and that's why over the last year we have steadily and deliberately increased the efforts we are taking at our ports of entry to require people to show some form of identification, to enter them into our database to make sure we're checking whether we have negative information on them, to open up the trunks of the cars that come in, and generally to raise the level of security at our ports of entry.

That's precisely why, come the end of January of next year, we're going to drastically reduce the types of identification that can be presented at the ports of entry, requiring that people either produce a passport or a birth certificate and a driver's license or other photo ID. That's why we are moving forward, working in cooperation with states here in the United States and with the Department of State and with the Canadians north of the border to create a system of secure identification that later next year will implement the Western Hemisphere Travel Initiative.

All of these steps, which are precisely targeted to address the vulnerabilities that GAO talked about – based on its study of the border earlier this year – all of these steps are exactly the solution to the problem that GAO has raised.

But you probably also noticed over the last year, there's some complaining. People are complaining that they don't like to have to wait if we look at more identification, or if we look at more car trunks, or if we take the time to enter in and key in names into our database. And I think in some ways this is kind of the fundamental dilemma of homeland security. On the one hand, people rightly expect that we will do what we need to do to make sure that, as GAO said, we avoid the potential that dangerous people and inadmissible goods enter the country. On the other side, there is a cost to doing that. There's a financial cost, and certainly as we transition to new technologies under the Western Hemisphere Travel Initiative, there may be a bit of a cost of inconvenience.

So people have to decide: do they want to have the security, do they want to continue to plug the gap that GAO has identified, and recognize that there'll be some cost to doing that? Or do we want to, you know, make sure that business isn't hampered and people can move back and forth readily, and recognize that if we don't put some barriers in place, we're going to wind up with dangerous people coming into the country?

Our decision and, I think, the mandate of Congress, has been very clear: in a reasonable and efficient but nevertheless tough fashion, we have to raise the level of security at our ports of entry, we have to continue to plug the gap that GAO has identified, we have to try to do it as efficiently as possible, but we have to be clear

that it is going to mean a change in the way of doing business at the border. It's going to mean no more waving people through, based on a nod and a wink. It's going to require people to show identification, sometimes making them open up their trunk, putting in the information in a database, and generally assuring the public at large that we have a better handle on who is coming into the United States.

Now let me turn to the issue of interior enforcement, because as I said earlier, what brings people into the country is jobs, in the case of at least a vast majority. And therefore, when people are willing to hire illegals, that is working contrary to our policy of getting control of the border.

Worse yet, some proportion of the people who come in illegally don't come in to do legitimate work; they come in to commit crimes. And our first priority should be to identify anybody who is in this country illegally that is a criminal or a gang member, arrest them, lock them up, and then kick them out when they serve their time.

So what have we done to pursue these objectives? Again, some dramatic increases in effort and results. In fiscal year 2007, as part of Operation Community Shield, we arrested over 3,500 gang members and their associates; 1,489 of these arrests included criminal charges. That means, since we began the program a couple years ago, we've had 7,600 arrests, and members of 700 different gangs have been removed from the streets because of Operation Community Shield.

Over a three-month period this past summer, ICE arrested more than 1,300 violent street gang members and associates in 23 cities in 19 states. To give you two examples of the kinds of people we're picking up, there was one individual, a member of the notorious MS-13 gang, who was arrested in Boston in August of this year. His rap sheet includes assault and battery with a dangerous weapon, breaking and entering, and larceny, among other charges. Another MS-13 gang member who we picked up over the summer has a criminal history, including armed assault with intent to murder, assault and battery, and breaking and entering. We don't want to import these people to our country; we want to export them. We want to make them serve their jail time if they've committed a crime and we want to kick them out of the country. And that's exactly what Operation Community Shield does.

Now, related to this effort, ICE has also very substantially increased its program to locate, arrest and remove fugitives from justice who have defied court orders to leave the United States. When people are arrested, and they go through the immigration removal process, and they appear before an immigration judge and they litigate their case, and then they lose their case, and the judge says, "You must leave," and those people flee – what they are doing is not only remaining in the country illegally, they are defying a court order. That makes them a fugitive. In order to address the flagrant violation of law that is engaged in by people who defy orders to be removed, we have expanded the fugitive operations teams from 15 to 75, including adding 23 teams just in fiscal year 2007. This has reduced our case backlog on fugitives by more than 35,000 individuals this year.

The third element of interior enforcement has to do with worksite enforcement. If you go back to fiscal year 2002, we had only 25 arrests and 485 administrative arrests for worksite enforcement. But in fiscal year 2006, which was the first full year after we inaugurated our new comprehensive strategy to secure the border, we had 716 criminal cases and over 3,600 administrative arrests. And this past fiscal year, we went up to 863 criminal cases, and over 4,000 administrative arrests.

That is a real increase in the size and the potency of the sanctions and the number of sanctions we're bringing against people who are deliberately violating our laws against employing illegal aliens. In October of just this past year, last month, Richard Rosenbaum, the former president of a nationwide cleaning service, pled guilty to harboring illegal aliens and conspiring to defraud the United States. He will pay restitution to the United States in an amount expected to exceed \$16 million. And he will also agree to forfeit bank accounts and currency totaling more than \$1.1 million for knowingly hiring illegal aliens. Bottom line: the days of treating employers who violate these laws by giving them the equivalent of a corporate parking ticket – those days are gone. It's now felonies, jail time, fines and forfeitures.

Now, I want to be clear: I don't think most employers want to violate the law. I think the vast majority of employers really do want to comply with the law. But we've got to give them the tools to do the job and to make sure that they are in compliance. This is not all about sticks. There have got to be some carrots as well that help people do the right thing. And that means a couple of things: facilitating legal immigration by finding ways to improve that process, and also facilitating the process of determining that you have a legal workforce by giving employers easy-to-use and accurate tools that will allow them to verify that when they hire someone, that person has a lawful right to work in the United States.

One major element of our strategy is E-Verify. E-Verify, formerly known as Basic Pilot, is a web-based system

administered by U.S. Citizenship and Immigration Services. It allows employers to electronically check whether a worker is authorized to work in our country. The basic version of this is to compare the name and the Social Security number to make sure they're accurate and that they match. An enhanced version we're currently putting online allows you to actually compare a picture of the person online, based on something we have in our federal files – and hopefully, eventually, pictures in driver's license files – to compare that picture with the person who's actually standing before you as the applicant. That would allow us to take E-Verify from simply a name-checking system to actually an identity-checking system.

E-Verify's popularity is growing. More than 24,000 companies were enrolled at the end of the fiscal year, but today that number is over 30,000. In terms of usage, more than 3.2 million new hires have been processed through E-Verify, and usage is growing by about 83 percent annually. Why? Because it's an easy tool to use. In more than 90 percent of cases, you get a response within seconds that clears a person. And even when there are discrepancies, most of them can be resolved within a very short period of time.

We do obviously want to work to make sure that we are as close to a hundred percent accurate as possible. For that reason, we have a monitoring and compliance unit to make sure that employers are using the system properly. We also have increased our outreach to employers to make sure everybody understands how the system works, and to make sure nobody abuses the system to discriminate or unfairly target people within certain ethnic groups.

Now there's another tool we'd like to use to help employers identify when there's a problem with their workforce. And that is the ability to use Social Security No-Match data. Earlier this year, we issued a regulation that would make clear to employers what they should do when they get a letter from the Social Security Administration that says to them there's a discrepancy or a mismatch between a name and a Social Security number that you have filed on behalf of an employee.

Sometimes there's an innocent explanation for that mismatch, which is that somebody has simply provided incorrect data to Social Security. In that case, of course it's very much to the benefit of the employee to correct that innocent mistake so they don't find themselves in 30 years expecting to get Social Security benefits that never arrive.

But there are also times – and frankly, a lot of times – when that mismatch reflects the fact that the name and the number aren't real, or they don't match because someone is using a false name or a false number in order to work illegally. And in that circumstance, there isn't simply a matter of cleaning up a discrepancy, but the employers should know the steps that they ought to take in order to make sure that they do not continue to hire or employ that illegal worker in their workforce.

What this regulation is designed to do is to create a very clear set of guidances and a clear safe harbor so employers know what to do when they get a No-Match letter, and then can take the appropriate steps either to correct a mistake, or to make sure that they discharge someone who is working illegally, based on the fact that they don't have a legal work authorization. The simple point is this: You can't simply stick your head in the sand.

Now, the bad news is this regulation is not in effect. It's been suspended because it's been blocked by a temporary injunction issued by a federal district court in California. That court responded to a lawsuit filed by a number of groups – advocacy groups as well as business groups – who were opposed to the idea of putting this No-Match regulation into effect. We're currently seeing what we can do to address the concerns that the judge entered in order to see whether we can get the injunction lifted, and then go forward with this regulation, which, as I've said, is temporarily suspended.

But I do want to make it clear that litigation such as the effort to block the No-Match rule or the effort to block building fence, is precisely the reason why it's been so difficult over the last 30 years to get control of the border. The problems that my predecessors had in dealing with illegal immigration, at least in part, were based on the fact that there were lots of hurdles that were put in place to prevent people from using some of the tools that we're trying to use now in order to get control of the border.

I know that some employers resist these rules because they're concerned about the impact it's going to have on their own workforce. When we got comments – at the time we put the No-Match regulation out for public comment, at least one business group was quite candid in saying that if this regulation went into effect, some businesses, which have workforces largely built on illegal workers, would be forced to discharge those workers.

And I understand that enforcing the laws is now going to have an economic impact on some industries. That's why we continue to urge Congress to address this by making sure that the law is reformed. But until Congress acts, we have the law that is on the books. And I and everybody else in my agency is sworn to uphold that law.

We are not going to have a silent amnesty. We're not going to deal with the economic issues by closing our eyes to a law violation. We're going to try to do the very best we can to improve the law in a way to make it easier to hire lawful workers. But at the end of the day, if people are hiring illegals, we're going to do everything we can with the tools we have to make sure that we react strongly and aggressively and in a tough manner against that violation of the law.

As another example of our approach, in Illinois recently, the state legislature passed a law that effectively prohibits employers from using this E-Verify system I've just described – even if they want to do it voluntarily. We went to court. We are suing to get that rule overturned.

My commitment is very simply this: I want to work to make sure we improve the law. We stand ready to work with Congress when Congress is ready to take up intelligent, sensible, comprehensive immigration reform. But while we have the laws on the books, we're going to enforce them. We're going to enforce them vigorously. We're going to keep faith with the American people. And my commitment to the American people is this: I will fight every lawsuit, I will deal with every procedural roadblock, I will use every tool the law allows to continue to press forward in enforcing the laws. We will not give up. We will not lose our resolve. We will not lose our energy. We're going to continue to work as hard as we can and overcome any roadblock that the law allows us to overcome to complete the job of getting control of the border, and to move forward on really turning the tide of this issue of illegal immigration, which is so much on the minds of the American people.

But a final critical piece of this is to deal with a very real economic need, which is currently being filled by illegals. And that means finding a way to make it easier to get legal workers to come into this country, particularly legal temporary workers, to meet the legitimate needs of our workforce and a growing economy.

As I said earlier, the vast majority of people entering our country illegally are doing so to work. And let's be honest – Americans are employing them. American companies are employing the illegals to do work because they can't find Americans to do that work. So if we are going to need to bring workers in to fill a growing labor gap, we have to find a way to do it lawfully, a way that promotes rather than compromises our national security, and a way that gives us visibility to the people who come in.

Some of this will require enactments by Congress. But there are some things we can do in the regulatory process. No sector of the American economy is in more need of illegal flow of foreign workers than agriculture, where we have traditionally relied upon foreign workers to do a great deal of the seasonal agricultural work.

One key program that has the potential to fill the need for seasonal agricultural workers is the H-2A visa program. That program, however, has not been used as widely as it can be, because it has been cumbersome, and it has been difficult, and it has therefore become unappealing to some employers. But working with the Department of Labor, DHS has completed a comprehensive review of the regulations implementing the H-2A program so that we can look for ways to improve the program, even as we continue to hope that Congress addresses the problem more comprehensively.

I'm therefore pleased to say that this week the Department of Labor and the Department of Homeland Security will send to the Office of Management and Budget a series of proposed regulations that will improve and remove some of the current limitations on U.S. employers' ability to utilize the H-2A program. These sets of proposed rules will provide farmers with a more orderly and timely flow of legal workers, while continuing to protect the rights of laborers and promoting legal and secure methods for determining who is coming into the country. The proposed rules will also provide better ways to ensure the integrity of the program.

This kind of regulatory change is what I would call a win-win. It's a win for the agricultural employers, by giving them an opportunity to take care of their business needs within the law rather than outside the law. It's also good for people outside the country, who are really looking for nothing more than to do work that will put bread on the tables of their families back home. And if we can give them a legal way to get that work, many of them will choose to take that legal way as opposed to trying to sneak across the border, and at a minimum, violating the law, if not putting their life and limb in jeopardy.

In addition to the regulation, which of course has to await OMB clearance, the Department of Labor is also issuing today a Guidance Letter to State Workforce Agencies that administer some elements of the H-2A program. Again, this Guidance Letter will help clarify the responsibility of the State Workforce Agencies with

regard to this H-2A program, so that we can ensure consistent application of the program nationwide, which will also make it more efficient.

And for those of you who are not familiar with what these agencies do, State Workforce Agencies post an employer's job vacancies in the state employment system, and they refer U.S. workers for jobs that need to be filled. And so they play an important role in regulating the flow of workers for, for example, job sectors like agriculture.

The Guidance Letter that is going out from the Department of Labor will clarify a number of issues, including the following:

That employers whose operations cross state lines can file one consolidated job order that'll be circulated in multiple states. That of course is more efficient for the employers; it streamlines and makes the process more attractive.

That State Workforce Agencies will first direct applicants to unfilled positions before referring them to temporary jobs that have already begun. That will address the problem that sometimes arises when employers feel they're caught in a revolving door, in which they hire someone to do a job at one point, and then someone else is referred and they have to fire the first employee.

And also the Guidance Letter will direct that the Department of Labor will not consider workers to be qualified or eligible to be referred for work unless a State Workforce Agency certifies that it has checked the legal status of the worker before referring a worker to an employer. This is designed to deal with the rather remarkable situation that sometimes occurs where you have a temporary worker on a job, a State Workforce Agency refers another worker, displacing the legal temporary worker, and then it turns out that the referred worker is an illegal worker who is in the country in violation of the law. The simple cure for that is to have the State Workforce Agency get on E-Verify and check the status of the referred worker before they send the worker in to displace a legal, temporary worker.

Some of these seem like pretty simple, straightforward, common-sense things. That's a good thing. We do like to promote common sense. And it's a reflection of the President's commitment and the administration's commitment to do everything we can within the existing law to give employers a way to satisfy economic needs that complies with the law rather than violates the law.

The bottom line before I take questions is this: Immigration is a source of strength for this country. And this agency, as well as the other agencies of this administration, are committed to promoting and enhancing the opportunities for lawful immigration that is good for this country, that supports our economic needs, and that also constructs a process that gives us visibility and confidence that we know who is coming into the country.

At the same time, illegal immigration poses not only a challenge to the rule of law, but at least in some cases a challenge to our security and our public safety. And there, we are committed to making continued progress, recognizing it's not – Rome wasn't built in a day, and we're not going to turn this problem around in a day, but we're committed to continuing to make substantial, measurable progress to strengthen the border and make sure that the law against illegal immigration is enforced.

In the end, I ask Congress to come back to the table and talk about a way we might resolve this problem comprehensively and in an enduring fashion, so that we can leave our children a legacy of a well-regulated border and a sound economy. In the meantime, my commitment is this: we will enforce the laws as they are on the books, we will not close our eyes to law-breaking, and we will continue to devote all of the energy of the Department of Homeland Security to overcoming any obstacles that prevent us from making sure that the rule of law remains our lodestar in the area of immigration.

And with that, I'll take some questions.

Question: Mr. Secretary, can you talk a little bit more about this – is it a proposed rule? And how many workers do you think would get through under this intense –

Secretary Chertoff: Well, it's – H-2A is not a capped agricultural program, so it can theoretically accommodate a very significant number of agricultural workers. I'm a little handicapped in my ability to be specific because the rule has not cleared yet, and there's some legal principles that don't allow me to get very particular about the proposal. But the general concept is we want to find a way to streamline some of the requirements with respect to wages and other kinds of terms and conditions under which people can employ

temporary workers so that the program is appealing to people, so that it's not highly bureaucratic, so that it doesn't make it difficult for employers when they bring temporary workers in legally to make a commitment to continue to employ them during the course of the season.

We think the proposals that we are considering or that are currently being considered are sensible, that they do not compromise protections for workers, and they in fact synchronize the approach of the agricultural program with the approach we take, frankly, with other temporary workers in the non-agricultural sector.

Question: Just to clarify, though, after the legal vetting is all you're saying that needs to be done, when will this be –

Secretary Chertoff: It's before OMB. I know there's a great sense of urgency to have the rule and regulation cleared. I think we'd certainly like to get it cleared in plenty of time to make sure that we can have a streamlined program for next summer so that next growing season gets the benefit of temporary workers who are legal, as opposed to illegal.

Question: In your guidance order that goes to the state offices, is that a must-do sort of thing, or you're advising them to do? And is that only referring to agricultural workers, or is this all workers that they refer to any job, or –

Secretary Chertoff: First of all, it's a Department of Labor letter, and I think it actually is more broad – applies more broadly than agriculture. I think it's very close to a must do, shall we say kind of expected that you're going to do it. The exact legal ability to compel is a little bit more complicated, but it's – there's a strong incentive to have the state labor agencies do it.

And by the way, there would be no reason I can think of not to do it. I can't imagine why a state agency wouldn't want to verify that the worker that they're referring is legal. Otherwise it defeats the whole purpose. Why do you want to refer an illegal worker over? So here we have a tool that can be used. We encourage the labor agency to use the tool, and I think my expectation is that they'll avail themselves of the guidance.

Question: Do you have a sense how many states are already doing it, or how many –

Secretary Chertoff: I do not have the answer to that.

Question: Mr. Secretary, you mentioned the recent GAO study on problems at legal border crossings. Some critics have said they've found an unacceptable failure rate. Do you think that's a fair criticism? And what in your mind is a reasonable failure rate?

Secretary Chertoff: I don't know that – the rate that people attribute in terms of failure, failure being you didn't stop somebody, is essentially an estimation. Since you don't know what you don't know, you don't know who came in that you didn't stop. It's kind of an extrapolation GAO undertook.

But here's the bottom line: To me, I want to drive the failure rate down to as close to zero as is humanly possible. It's never going to be zero because you never get perfection in human life. Just as even the best police chief in the country, I've never met one that succeeded in eliminating crime in their city. But it's still considered a good thing when you drive crime down.

Likewise, it's a very good thing as you drive down the number of people who might slip through the border without being stopped. But there's only one way to do that. You've got to be able to have a secure form of identification that you can input easily into your system, which has the names of the people that you want to keep out, and you've got to be able also to do a reasonable amount of searching the vehicles to make sure contraband doesn't come in. And that means, particularly as we transition to the Western Hemisphere Travel Initiative, which in the end will use technology to give us both secure documents and documents that can be read more quickly, there is going to be some cost and there's going to be some inconvenience. And that is the only way to plug the gap that GAO has identified.

And that's why over the last year you've been hearing squawks at the border about lines, and people complaining that we're spending too much time because we're actually looking at the documents, as opposed to waving people through. And the answer is, that's right, that's how we solve a problem: we fix it.

Question: Mr. Secretary, the border fence will cut off some cities, landowners, farmers from the Rio Grande, and that's fueling serious opposition. How do you respond to the opposition from people who live along the river, who depend on the river? And do you recognize that while we may gain border control, we're losing

property rights and local support?

Secretary Chertoff: Well, first of all, let me say, of course, when we talk about the area from the Pacific Ocean to the New Mexico-Texas border, that's – the vast majority of that is desert or wilderness, so there's no issue there about the river. We do recognize that in Texas the river creates a kind of a special challenge, and that's why we have worked to minimize the amount of fence in Texas. But some fence is important. What we want to do is find a way to build fence that allows landowners access to the river when they need it, but doesn't simply leave it wide open for illegals to come across.

But here's a dilemma in which we find ourselves: when the Border Patrol does need fencing at a certain part of the river, either because the river is narrow or because during the summer the river goes down, then if we don't put fencing up we're making it harder for the Border Patrol not only to keep out illegal workers, but to keep out drugs and criminals. And the drugs and criminals may not – the impact of that may not be felt by the rancher whose land is – we're talking about for the fence; it may be felt in the city of Chicago, or Washington, or Los Angeles.

But my responsibility is to look out for the welfare of the whole country. The bird's-eye view you get in my job is that it's not just one person's concerns and the burdens they feel, which obviously we want to take into account; we've got to look at the burdens that everybody assumes. So we are trying to be reasonable. If there's a way to accommodate the need to get to the river that satisfies the landowner, we're happy to do that. But at the end of the day, at some point we have to make a tough decision sometimes that we need to have some kind of fencing in there. And then we want to work to make it as easy for the landowner as possible. But we can't, in the end, simply give everybody an individual veto over the process.

Question: Mr. Secretary, the GAO report says part of the problem at ports of entry is serious under-staffing with Customs and Border Protection. You've laid out plans for increasing Border Patrol. What about CBP? What are the targets there? What's the funding?

Secretary Chertoff: Well, I do think we need to continue to do a number of things. First of all, if we can get the documentation that we're talking about in place it will take a good deal of the hay off the haystack, because you'll be able to move people much more quickly. Instead of manually keying in the names, you'll be able to swipe or simply read the name off the card from a chip, and that's going to cut the dwell time very substantially. That's one solution.

A second solution obviously is to build more modern and bigger infrastructure, which allows more lanes to be operated at once. A third solution is to make sure we have adequate staffing. And I'm working with the Commissioner of Customs and Border Protection, and with Deputy Commissioner Ahern to make sure we're doing everything we can to get appropriate staffing levels.

Often the constraint, though, is simply the number of booths. Because you only have so many booths in a particular port of entry, and you can only have one person in a booth, so we have some kind of a constraint limitation. I will say, though, again, because we have requested a significant amount of money across the board for Customs and Border Protection for the current budget, give us an appropriations bill. Give us the money. If we're still operating on a continuing resolution, I can guarantee you that's not going to give us what we need to deal with all the elements of our border strategy from a financial standpoint.

Question: But you can't give us any numbers at this point about how –

Secretary Chertoff: I don't have a number of exactly what we need in terms of additional inspectors. What I can tell you is that as we move into Western Hemisphere Travel Initiative, one inspector can get more work done because the time spent on each vehicle or each pedestrian is going to be diminished. So that's like a force multiplier.

Question: You and Secretary Rice had at one point announced plans to have a wallet-size passport card as an alternative to passports that was initially supposed to be ready I think a year ago, when you first announced it. Do you know how close you are to having that ready to go, and whether that will be ready by January?

Secretary Chertoff: The procurement is underway, and I don't know exactly – the State Department is doing the procurement – I don't know exactly where it is. It should be ready to begin distribution early next year.

Question: How much problem would you expect from the Congress next year for maintaining the target for the fences?

Secretary Chertoff: For maintaining the target for fences?

Question: Yes.

Secretary Chertoff: Well, we don't generally just put a specific line item for fencing. We have a more general line item. Our current budget request is very substantial – it's public; I don't have the number off the top of my head. But the amount of money that we have asked for in the current budget request would get us to the amount of fencing that we need to get to by the end of the fiscal year to meet the targets I've outlined.

Question: Secretary Chertoff, do you have yet any specific numbers for fiscal 2007 of the total number of detentions and deportations that took place? And of the reduction, the 22 percent reduction at the Southwest border, while you say that you have indication that less people are crossing over, some say that it can also be an indication that the undocumented have found other ways to enter into the country.

Secretary Chertoff: Well, first of all, we do have the numbers. We can supply them to you after the press conference; I don't have them handy.

I understand there's controversy about what the significance of it is. I can tell you that in general, the experiences, although there might be some truth with respect to a small percentage of people, I think in general, such a large decrease in apprehensions is indicative of a trend. It's not – if we were talking about a 2 or 3 percent difference, it might suggest it could all be accounted for with people moving to different areas. But I think it's too large and too consistent to be simply written off as people moving to different areas.

But again, it's not razor-sharp precise. I view it more as a significant indicator of moving in the right direction, as opposed to a very specific number that can be translated directly into the decreased flow.

Question: Mr. Secretary, when you say that you will leave no tool sort of unused, should U.S. employers and workers who are hearing your remarks today take that as some sort of signal for expanded worksite enforcement in the near future, not just against criminals or fugitives, but at workplaces? And as a follow, can you do that without providing additional workers like you're offering for agriculture – can you do it without a tool like No-Match, since as I understand that was always used in SWIFT or the last big enforcement action against workers?

Secretary Chertoff: Well, let me separate out – the No-Match regulation that was enjoined does not prevent us from enforcing at the worksite. And typically what has happened is we get a tip and we go in and we actually look at the records there, and then we do use the No-Match records that we find on file as a way of identifying people that we ought to investigate.

So we intend to continue to increase the level of worksite enforcement. I recognize it creates a hardship, which is why we're working to improve H-2A, and I think also we're working to improve H-2B – temporary worker programs that we think will help address that issue. In the end, what we can do by regulation is somewhat limited, and we may need Congress to get back into this issue again in a comprehensive way.

But here's the one thing I'm not going to do: I'm not going to say that because there's an economic impact we're simply not going to enforce the law. I don't think that's a strategy which is endorsed by the public. I think it's inconsistent with the oaths of office we all took to execute the laws of the United States. And I just think it's time for Congress again to look at this problem comprehensively. And I think we're doing what we can, but in the long run I think there are going to be problems in the economy if we continue to move on the enforcement side alone and we don't take substantial steps to give people a legal way to fill their labor needs.

Question: Mr. Secretary, if I may, a question on REAL ID. Could you confirm what the Department is doing and what you're proposing as far as cutting billions of dollars you spend that troubles states so much? And what are some of the measures in relaxing some of the rules of the original intent of REAL ID? Is it failing, as some critics say, that a year from now it will be gone?

Secretary Chertoff: I think the ACLU, which as far as I could tell, never liked a security measure that it met, engaged in what I would describe as very wishful thinking in claiming this was dead. It was particularly ironic because we just signed an agreement with New York to go forward with REAL ID. And in fact, the tide I think is moving very firmly in favor of REAL ID.

Now, we have done a couple things to take account of some legitimate concerns the states have raised, and we're going to issue a final regulation. We are looking at ways to significantly decrease the cost by taking

some of the back office element of the system and having the federal government pay for that. We're also trying to create a little bit of flexibility in terms of the kinds of materials that can be used so that we don't sacrifice security, but we allow a little bit more flexibility for states to choose what will be a satisfactory actual material for the card itself. And we are working to make sure that we phase in, in a way that's disciplined, but also allows states to transition over a period of time, because you do have to move millions of people from their existing license to a REAL ID.

That may mean ultimately that people above a certain age move at a slower pace than people at a younger age. And that's kind of common-sense risk management. I mean, we're obviously more worried about terrorists who are in their 20s, 30s, and 40s than terrorists in their 70s and 80s. So we're open to making adjustments like that. But the fundamental principle remains not only unchanged, but it actually has probably got a greater level of commitment now than it ever has, because we not only have New York signing up for REAL ID, but a number of states have signed up for enhanced driver's licenses, which will be not only compliant with REAL ID, but they'll actually allow you to cross the land border – state of Washington, state of Arizona, state of Vermont, state of New York.

So we're actually beginning to see more and more big states, in particular, and border states move to a system that will be REAL ID-compliant. So for those who are singing a funeral dirge, I think they're singing the wrong tune and they may be whistling in the dark a little bit. I'm sorry, that was really an extended metaphor.

Question: Do you remain confident in your ICE Director after she judged a contest, a Halloween contest, and awarded Most Original Costume to someone who came dressed in dreadlocks and darkened face and prison stripes? Do you have any concerns about that?

Secretary Chertoff: Well, I – you know, I think she was right to apologize for having this proceeding take place. I've directed that – of the individual whose – came dressed in this kind of costume be put on administrative leave and that we have an inquiry to determine, you know, what is the appropriate sanction for this.

You know, here is the bottom line: People do dumb things. I get very perturbed when there's anything that is done that suggests that, with respect to the enforcement of the law, we're anything other than even-handed. I have zero tolerance for racism or discrimination in the area of law enforcement. We have to be tough, but we have to be fair. And any – you know, the idea that you're going to come and impersonate someone of another ethnic group, I think is completely unacceptable. So, you know, there's going to have to be an inquiry, and the appropriate level of discipline for the person who did this is going to have to be decided upon.

But I do think that Assistant Secretary Myers was quite right in first of all apologizing and reaching out aggressively, not only to Congress but to a number of groups representing personnel in the Department, to make sure that they understood her unwavering commitment to equality and fairness in the workplace and in dealing with the people that we deal with when we conduct enforcement operations.

Question: Does it bother you that she didn't recognize it until the actual complaint?

Secretary Chertoff: You know, I'm quite sure it bothers her. I know that she was kind of caught by surprise by this in the middle of a party. And I know she is mortified. But, you know, I think she's doing what she needs to to make amends.

Question: Mr. Secretary, you talked about using all the authority available to you on the border, specifically with regard to the fence. Are you contemplating waiving the environmental laws with respect to the construction in Texas of fencing, in towns where it's been so controversial like Brownsville?

Secretary Chertoff: Here's our approach everywhere, including Texas: We will certainly talk to landowners. We'll try to reach an accommodation. If they have an alternative suggestion that achieves our results, we're more than happy to do that.

At the end of the day, if we determine we need to do fencing, we'll take every step reasonable to take care of environmental concerns and mitigate. But I'm not laying down any of the authorities I've been given to get the job done. At the end of the day, I will use whatever authorities are required, but only after careful consideration of the alternatives and vigorous efforts to mitigate, where it's possible, to do so without compromising operational integrity.

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