

STATEMENT FOR THE RECORD

OF

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**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY**

REGARDING A HEARING ON

**“THE FISCAL YEAR 2011 BUDGET FOR U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT”**

BEFORE THE

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON HOMELAND SECURITY**

Thursday, March 18, 2010 - 2:00 p.m.

INTRODUCTION

Chairman Price, Ranking Member Rogers, and distinguished Members of the Subcommittee:

I appreciate the opportunity to appear before you today to present the President's Fiscal Year (FY) 2011 budget request for U.S. Immigration and Customs Enforcement (ICE), and to discuss our operational, investigative, and management priorities for the upcoming fiscal year. As the primary criminal investigative arm of the Department of Homeland Security (DHS), ICE protects the security of the American people and the homeland by vigilantly enforcing the nation's immigration and customs laws. The FY 2011 budget request acknowledges ICE's role in (1) preventing terrorism and enhancing security; (2) protecting the borders against illicit trade, travel, and finance; and (3) protecting the borders through smart and tough immigration enforcement in the Interior.

ICE protects national security through the work of our special agents who target, investigate, and dismantle criminal organizations and terrorist networks that exploit weaknesses in our legitimate trade, travel, and financial systems. Our criminal priorities include counter-terrorism and counter-proliferation, and involve the targeting of intellectual property, child sex tourism, alien, narcotics, weapons, and bulk cash smuggling, human trafficking, immigration fraud, and illegal employment offenses. ICE officers enforce civil immigration laws to secure the homeland and protect our communities by identifying and removing aliens who support terrorism, criminal aliens, alien gang members, and human rights violators. By removing these aliens and aliens with final orders of removal, ICE provides integrity to the nation's immigration system.

ICE is committed to meeting this mission in an increasingly efficient and effective manner. Your support has propelled our success, and I thank you.

ICE's FISCAL YEAR 2011 BUDGET REQUEST

ICE's proposed FY 2011 budget is \$5.8 billion, an increase of 2 percent over the FY 2010 budget. The request includes an increase of \$80 million to mainly support detention and removal operations, the Border Enforcement Security Task Force (BEST) program, and the National Intellectual Property Rights Coordination Center.

I remain committed to reforming the nation's immigration system by improving detention and removal operations, expanding the use of Secure Communities technology to identify criminal aliens and the use of institutional hearing programs, and ensuring that ICE agents and staff are provided with the best tools and technologies as are practical. The budget request presented today reflects not only the priorities of the Department, but the resources necessary to support ICE's vital role in protecting national security, the border, and public safety. I am confident this budget request will help to advance the important mission of ICE, and I look forward to being able to share measurable results of these priorities as we make progress.

Prevent Terrorism and Enhance Security

ICE is the second-largest criminal investigative agency in the federal government with nearly 7,000 special agents located in every state and in 44 countries around the world. While present throughout the interior of the United States, ICE is strategically located in 25 border cities within 30 miles of our northern and southern borders to

support the nation's border security efforts. While our investigative jurisdiction is quite broad, our principal responsibilities lie in protecting national security by preventing terrorist attacks and combating trans-border crime by securing our borders.

Joint Terrorism Task Force/Visa Security Program/Counter-Proliferation

Investigations Unit

ICE leads the Department's counterterrorism efforts with our representative serving as Deputy Director of the National Joint Terrorism Task Force (JTTF). We are the only federal law enforcement agency with full statutory authority to investigate and enforce criminal violations of all U.S. export laws related to military items and controlled dual-use commodities. With our unique immigration and customs enforcement authority, we are able to target and remove aliens who pose threats to national security. We have agents dedicated to all but a few of the JTTFs nationwide, and plan to participate in all 106 JTTFs by 2011. Since October 2007, ICE agents assigned to JTTFs initiated 2,197 cases, nearly 50 percent of which resulted in arrests, 365 of them for criminal violations and 669 for administrative immigration violations. These statistics show the effectiveness of our administrative immigration authority—an authority that renders ICE uniquely postured in the law enforcement community.

ICE also maintains an aggressive Counter-Proliferation Investigations (CPI) program, which primarily involves investigations into trafficking of military products and sensitive technology. As highlighted in a *60-Minutes* segment which aired on CBS on February 14, 2010, ICE agents were successful in investigating and tracking an illicit shipment of sensitive technology and electronic components to Iran that could have potentially improved that country's nuclear capability. In 2010, the CPI Unit will focus

on priority programs addressing trafficking in advanced weaponry, sensitive dual-use commodities, and technologies sought by foreign countries and terrorist groups.

In an effort to protect national security, we are involved in the visa adjudication process through the Visa Security Program (VSP). While we work with the Department of State to create a comprehensive strategy for visa security, ICE continues to expand the number of posts at which our agents are stationed to investigate certain visa applicants. These agents attempt to determine whether an applicant has terrorist or criminal connections before the applicant can obtain a U.S. visa. The VSP depends on deep collaboration between ICE and the Department of State. In 2010, the VSP will deploy to at least two additional countries, bringing the total to 17 offices in the highest risk visa adjudicating posts. The assignment of VSP agents to additional posts is contingent on approval by the Department of State, pending National Security Division Directive (NSDD-38) requests.

Protect the Borders Against Illicit Trade, Travel, and Finance

Intellectual Property Rights

In the midst of a global recession, we need to do more to protect legitimate businesses and workers from international counterfeiting and piracy rings. Over the last ten years, there has been a significant increase in intellectual property (IP) violations due to the use of the Internet to facilitate the marketing and sales of counterfeit and illicit merchandise. This activity is not only a threat to our economy, but many of the items, such as counterfeit pharmaceuticals and electrical supplies, pose a threat to the health and safety of consumers. The National Intellectual Property Rights Coordination Center (IPR Center) has produced results in addressing this flow of commercial contraband into the

United States. For example, our agents at the IPR Center have initiated undercover operations to target individuals and organizations exploiting the Internet to facilitate the sale and distribution of counterfeit products. One such case involved a subject who sold more than \$1 million of pirated software via 40 websites. This person was convicted and sentenced to serve two years in custody and pay \$810,257 in restitution. As many of these violations are multi-national in scope, the presence of a Government of Mexico (GoM) attaché at the IPR Center has enhanced our ability to identify and dismantle cross-border organizations having an impact on both U.S. and Mexican markets.

Last December, we announced the results of “Operation Holiday Hoax,” a long-term, ICE-led intellectual property rights enforcement action. This effort, in conjunction with other federal agencies, local law enforcement and the GoM, targeted small businesses, stores, flea markets, and international courier facilities involved in the import or distribution of counterfeit products across the United States. The operation resulted in the arrests of 15 people and seizure of 708,250 counterfeit products worth more than \$26 million. In parallel enforcement activities, the GoM, in collaboration with ICE, has conducted 8,111 inspections, executed 100 search warrants, and seized approximately 274 tons of counterfeit merchandise. For the past three years, ICE has coordinated operations around the Super Bowl to target vendors and local merchants of game-related sportswear. For the three years combined, we have seized 34,030 counterfeit products worth over \$2.8 million.

During 2009, we generated more than 1,944 investigations involving counterfeit, unapproved or harmful merchandise, including counterfeit pharmaceuticals – a major growing health and safety issue. ICE and U.S. Customs and Border Protection (CBP)

together conducted more than 14,841 seizures of counterfeit merchandise, worth more than \$260.7 million. Our IPR Center continues to collaborate with the World Customs Organization and the Departments of Commerce, Justice, and State to train international customs administrations and law enforcement agencies to enhance their capacity to combat counterfeiting.

For FY 2011, I am requesting \$5 million to fund 25 new positions for the IPR Center to increase collaboration with key U.S. government agencies and our capacity to disrupt IP violations that threaten our economic stability. We will focus on dismantling criminal organizations that promote IPR crime and support anti-counterfeiting efforts.

Combating Southwest Border Violence

Border enforcement and combating border violence are key components of our mission. The GoM is battling cartels that use violence to get drugs to U.S. streets. Illegal drugs, money, and weapons flow both ways across our border, inextricably linking efforts by the United States and Mexico to combat drug cartels. As I testified in November 2009, we have bolstered our presence at the southwest border, adding BEST teams and increasing the number of intelligence analysts and agents. We have expanded our collaboration with the GoM and re-negotiated formal interagency agreements with the Drug Enforcement Administration and the Bureau of Alcohol, Tobacco, Firearms and Explosives to facilitate tight coordination and information sharing.

In FY 2011, we will sustain increased enforcement efforts at the border, improve cooperative efforts with the Mexican government, support notable efforts such as Operation Armas Cruzadas to address arms smuggling and Operation Firewall to combat

the threat of bulk cash smuggling, and continued collaboration with other federal agencies at the El Paso Intelligence Center.

Improving coordination and partnerships with federal, state, local, territorial, tribal, and foreign law enforcement, particularly in the border region, is essential to securing our nation against the threat of cartel violence. ICE has effectively promoted this coordination through the use of BEST teams. In FY 2009, we established BEST teams in Las Cruces and Deming, New Mexico, as well as Mexico City, resulting in a total of 17 BEST teams covering high-threat smuggling corridors. For FY 2011, I am requesting \$10 million to acquire 23 new agents and officers to establish three additional BEST teams at seaport locations in Massena, New York; San Francisco, California; and Honolulu, Hawaii. The seaport BEST teams will primarily target corrupt transportation employees who facilitate the illicit smuggling of contraband and humans.

Protect the Borders through Smart and Tough Immigration Enforcement in the Interior

ICE administers effective enforcement at the border and ports of entry by supporting the apprehension, detention, and removal of aliens seeking illegal entry. You may remember “catch and release” of aliens at the border—we continue to reverse that practice. We are increasingly prioritizing the removal of criminal aliens and gang members who undermine public safety and reduce the quality of life in our communities. Our enforcement, however, is not limited to criminal aliens. We enforce criminal laws related to immigration in an effort to reduce the pressure at the border. This includes our alien smuggling investigations and our worksite enforcement program. Our goal is to

deter employers from hiring unauthorized workers and penalize those who violate the law through criminal prosecution or civil fines. We are also responsible for executing final orders of removal issued by the Department of Justice's Executive Office for Immigration Review (EOIR) judges. The immigration system must have integrity, and ICE enforces the law in a manner that provides integrity.

Worksite Enforcement

The opportunity to work motivates many people to enter our country illegally. In April 2009, ICE marked a clear shift in its strategy in enforcing immigration law, by focusing investigations on employers who knowingly hire unauthorized workers and exploit their workforce. Our goal is to foster a culture of compliance by deterring employers from hiring unauthorized workers, penalizing those who violate the law and encouraging employers to use compliance tools, such as E-Verify. By better focusing our efforts, we were able to target employers who hire unauthorized workers for criminal prosecution and civil fines through criminal investigations and by auditing companies' Employment Eligibility Verification forms (Forms I-9). In addition to penalizing employers who violate the law, we protect the stability of our federal contracting force by debaring contractors. ICE is increasingly using the debarment process to prevent unscrupulous employers from doing business with the government. To date, ICE has debarred 68 businesses and 24 individuals.

I am confident this new approach will encourage employers to think before violating the law. While ICE is increasingly focused on penalizing employers who violate the law, we are also engaged in outreach efforts by implementing compliance

tools such as E-Verify to the vast majority of companies who are interested in adhering to the law.

Secure Communities

I want to thank this Subcommittee and the Committee for providing vital resources to establish the Secure Communities program. With the funds that have been provided, the Secure Communities program continues to deploy information sharing technology (IDENT/IAFIS Interoperability) to state and local booking locations to support the identification, arrest, detention, processing, and removal of criminal aliens. This technology enables us and local law enforcement to identify criminal aliens in custody accurately, and enable the search of a person's criminal history and immigration status. We are prioritizing the deployment of this technology to jurisdictions estimated to have the most criminal aliens, and have already deployed this technology to 116 jurisdictions in 16 states. As of December 2009, we have processed over 1.34 million fingerprint submissions resulting in the arrests of 146,000 criminal aliens, 23,000 of which have been removed from the United States.

Secure Communities has enabled ICE to provide enhanced identification technology to local jurisdictions to assist in exercising ICE's authority under Section 287(g) of the Immigration and Nationality Act. ICE's 287(g) program provides state and local law enforcement agencies (LEAs) with the necessary delegation of authority, training, resources, and latitude to enforce immigration law as part of their law enforcement duties. The number of criminal aliens identified by 287(g) program officers in 2009 increased 46 percent compared to 2008. As of January 31, 2010, ICE has signed 287(g) program agreements with law enforcement agencies in 71 jurisdictions in 26

states, and has trained 780 officers who remain active. In addition ICE has revised and standardized the Memorandum of Agreement (MOA) that all participating state and local jurisdictions must sign. This newly revised MOA enhances our oversight of the 287(g) program and clearly defines its objectives to promote consistency and ensure our partners are using the same standards in implementing the program.

The new MOA requires that our partners align local operations with key enforcement priorities—the arrest and detention of criminal aliens who pose the greatest threat to the public safety or danger to the community. To deter racial profiling, task force officers must receive ICE approval and articulate a connection to our priorities before they arrest an alien for a civil immigration offense alone. Furthermore, to deter pre-textual arrests, we have established that participating local law enforcement agencies pursue the criminal charge that originally caused the offender to be taken into custody. We have instituted processes in which OPR and DHS’s Office for Civil Rights and Civil Liberties (CRCL) investigate and track complaints of racial profiling. These changes and the new MOA promote consistency to ensure that all of our 287(g) state and local law enforcement partners are using the same standards in implementing the 287(g) program, and are advancing the same mission.

Detention and Removal Operations

For FY 2011, I am requesting \$2.6 billion, an additional \$20 million above FY 2010, to maintain detention bed space at an appropriate and fiscally sustainable level. This request allows ICE to pursue reforms to improve the health and safety of our detainees and promote more uniform conditions and care among our detention facilities.

Over the past year, ICE has taken steps to minimize detention costs by consolidating ICE's detained population in facilities that both meet our high standards and are competitively priced. We continue to work towards establishing a smaller network of facilities, and have suspended operations at facilities that do not meet our standards or charge too much for the service they provide. For instance, we have reduced the number of authorized facilities from 341 to less than 270, and have withdrawn from 10 facilities that received two consecutive deficient ratings. Reducing the number of facilities will enable us to operate more efficiently, better allow us to oversee operations, and ensure appropriate care and treatment of the detained population. We are working closely with EOIR to ensure that we create an Alternatives to Detention (ATD) program that is both cost efficient and promotes a high rate of compliance with the final orders of removal. In conjunction with EOIR, we are piloting an expedited docket for the cases supervised on the more expensive forms of ATD. Finally, we continue to assess options to reduce the average length of stay of detainees in our custody and to expand institutional hearing programs so aliens complete their criminal sentences with final orders of removal. Reducing the average length of stay will potentially allow ICE to remove a higher number of aliens. Recently, we have taken steps to reduce the average length of stay from 33.5 days as of January 2010 to 28 days by FY 2011. This efficiency is increasingly important as the Secure Communities program leads to the identification of more criminal aliens.

To support our commitment towards the health and safety of detainees, I established an independent Office of Detention Oversight to monitor detention facilities and promote uniform conditions to meet our detention standards. To ensure better

accountability for detainee deaths, I have issued a directive that requires investigations into every detainee death, and notice about each death to DHS's Inspector General, DHS's Office for Civil Rights and Civil Liberties, Congress, the media, and other stakeholders. Transparency is an important part of detention reform, as is increasing federal involvement in detention oversight. We are increasing federal personnel at detention facilities to monitor conditions and to reduce reliance on contractors. The first group of federal monitors will begin their training at the end of this month.

Moreover, I intend to change the jail-oriented approach of our current detention system, and am in the process of redesigning the system so it meets our needs as an agency that detains people for civil, not penal, purposes. To achieve this, I have established an Office of Detention Policy and Planning (ODPP), which reports directly to me. ODPP oversees the day-to-day implementation of the ongoing reforms, while designing a detention system that reflects our nation's values. I am pleased to say that we have already made substantial progress towards this goal. Some of our accomplishments include, but are not limited to the following:

- We discontinued the use of family detention at the T. Don Hutto Family Residential Facility in Texas, and converted the facility to a female detention center.
- We have streamlined and revamped the Treatment Request Authorization (TAR) process to avoid delay in medical care. We are assigning case managers to any detainee with a complex case—not just those who are hospitalized—and retooling our benefits package.

- We are revising the Performance Based National Detention Standards (PBNDS) and will soon apply the revised standards to the largest facilities where ICE houses detainees. The revised PBNDS include new benchmarks such as increased visitation from family members; improved access to Legal Orientation Programs; longer recreational hours; accreditation of detention facilities by National Commission on Correctional Health Care; more opportunities to practice religious beliefs; and continuous outreach of ICE's zero tolerance policy against sexual abuse or assault in ICE facilities.

As part of this effort, we are improving our acquisition strategy to procure cost effective facilities with better detention standards. We have begun reevaluating the contracts at the 20 of our facilities which house the most detainees. Where possible, we are renegotiating the contracts and incorporating new detention standards on a cost-neutral basis. We are in the process of soliciting services at new facilities that incorporate revised detention standards and provide for longer contract terms to optimize pricing.

ICE is making substantial progress on reforming its detention system, and will continue to provide tangible improvement as this process continues.

Management

For effective management of mission execution, I am maximizing our operational efficiencies to optimize the use of our resources and realize long-term savings. ICE supports the Department's management integration efforts to ensure that we operate efficiently and in close coordination with our sister operational components.

I recognize that the cornerstone of our success is recruiting and retaining a skilled and diverse workforce. The agency leverages robust recruitment programs to hire the best and brightest. We have several recruitment programs, such as the Student Career Experience Program and the Student Volunteer Program, which provide internship opportunities to college students. Students gain professional experience while exploring long-term career options. I am encouraging in-sourcing opportunities by reducing the contractor footprint at the agency. For instance, we are assessing the current information technology contractor workforce and targeting a 7 percent reduction by the end of FY 2011.

We are working closely with the Department of Defense's Operation Warfighter and Wounded Soldiers Program to identify career opportunities for our veterans. This supports the President's Veterans Employment Initiative and the Secretary's departmental goal of hiring 50,000 veterans by 2012. This month alone, we hired eight soldiers from Fort Hood during a one-day recruiting event at which the soldiers were interviewed and offered tentative selection letters immediately – a highly uncommon practice within the federal government. ICE has been certified by the Department of Veterans Affairs (VA) for on-the-job training program for criminal investigators. This certification allows veterans, beginning this month, to receive a stipend from the VA while attending this training program.

Currently, our special agents are performing a number of non-investigative duties. To align our core mission employee-agent skills, I am requesting \$15 million for additional investigative support personnel. The investigative support personnel will

assist with research and data analysis activities thus freeing special agents to focus on their investigative missions.

To manage our facility requirements effectively, we conducted a co-location study in 2009. The ICE co-location strategy focuses on consolidating our personnel and operations now scattered across multiple buildings in select metropolitan areas into more centralized locations. I am requesting \$20 million to support the third year of co-location efforts to institute long-term savings by consolidating rental, operating, and physical security costs.

I hope to see the agency's technical capabilities improve, and am requesting \$85 million for the modernization of critical data systems. Of this amount, I am requesting \$7 million to continue developing a medical classification system that will facilitate and ensure better management and welfare of ICE's detainees. The Law Enforcement System Modernization includes case management, information sharing, and operational support service projects to improve access to law enforcement information. The Atlas Modernization effort improves the network infrastructure, acquires new tactical communication, and implements cyber-security solutions.

These management efforts promote and emphasize innovations to help meet our mission in a manner that is efficient and fiscally responsible.

CONCLUSION

The president's FY2011 budget request for ICE reflects the Department's ongoing commitment and the dedication of ICE employees to protect the American people. For

FY 2012, we will deliver program budget and performance targets that support Quadrennial Homeland Security Review goals.

I thank the Subcommittee for its support of ICE and its mission. I am committed to working with this Subcommittee and Congress to address the significant challenges we continue to face in our efforts to enforce the nation's immigration and customs laws. I would be pleased to answer any questions you have at this time.

**BIOGRAPHY OF JOHN MORTON
ASSISTANT SECRETARY
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT**

John Morton is the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement (ICE). He leads the principal investigative component of the Department of Homeland Security and the second largest investigative agency in the federal government, with more than 19,000 employees and an annual budget of more than \$5 billion.

Mr. Morton came to ICE with an extensive background in federal law enforcement and immigration law and policy. Mr. Morton, who began his federal service in 1994, has held a variety of positions within the Department of Justice, including as a trial attorney and special assistant to the general counsel in the former Immigration and Naturalization Service and as counsel to the deputy attorney general.

From 1999 to 2006, Mr. Morton prosecuted criminal cases as an Assistant United States Attorney in the Eastern District of Virginia, first in the Major Crimes Unit and later in the Terrorism and National Security Unit. From 2006 to mid-2009, Mr. Morton served in the Criminal Division of the Department of Justice, first as the Acting Chief of the Domestic Security Section and then as the Acting Deputy Assistant Attorney General.

Mr. Morton is a graduate of the University of Virginia School of Law.