

Ranking Member Grassley Questions Homeland Security Secretary Napolitano on Southwest Border, Amnesty

Prepared Statement of Ranking Member Chuck Grassley
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Chairman Leahy, thank you for calling this hearing today. I share your concerns about the activities of the Department of Homeland Security. This Department was created eight-and-a-half years ago to consolidate the various functions and agencies intended to defend our nation's borders and infrastructure. Yet as we look at the Department of Homeland Security today, we see agencies failing to coordinate with one another, breakdowns in judgment, and failures to protect our government's own agents on the frontlines. In short, what I see is approaching a level that some might call chaos.

With Mexican President Felipe Calderón visiting President Obama at the White House last week, it highlighted some problems that more and more Americans are becoming aware of every day. Violence on our southern border has escalated as gangs and drug cartels acquire more weapons and more expertise. Further, our lack of defenses and their ability to evade justice has emboldened these criminals, who are becoming a greater and greater threat.

In just the last three months, the Department of Homeland Security has seen two of its own agents murdered while in the line of duty: Border Patrol Agent Brian Terry and Immigration and Customs Enforcement Agent Jaime Zapata. Both were tragedies, and my heart goes out to the families and loved ones of Agent Terry and Agent Zapata.

Most troubling is the fact that agencies of our own government have contributed to this violence by intentionally allowing thousands of guns to be trafficked from the U.S. to Mexico. The Bureau of Alcohol, Tobacco, Firearms, and Explosives decided to let thousands of guns "walk" after being purchased by straw buyers intent on reselling them. Many of those guns ended up in the hands of bandits who operate on the border, trafficking drugs and other illicit goods back into the United States.

This risky strategy of letting guns "walk" did not occur in a vacuum. There are serious questions to be answered about the role played by the Justice Department and agencies within the Department of Homeland Security. This ill-conceived policy has clearly affected the lives of countless individuals who may have been victims of crimes perpetrated as a result of letting guns into the hands of criminals. Agents on the ground were ignored when they questioned the wisdom of this decision, and that just pours salt on the wounds of the families who lost loved-ones. When the agents came forward with concerns, they were shunned and retaliated against.

If the federal agencies charged with protecting America and its borders were not working together, I have to question why the left hand didn't know what the right hand was doing. If they

were working together, then that raises the question of whether any other agencies objected. Who else knew? How high up was it approved?

The American people deserve answers. The families of those who may have died as a result deserve answers. Our government is organized precisely so that Congress can require accountability and provide oversight of the activities of the U.S. government in situations like this.

I continue to be concerned about the federal government's inability to secure our borders. According to the Government Accountability Office, half of the U.S.-Mexican border is not operationally controlled. The department just put a halt to the billion dollar virtual fence effort known as SBInet. The violence continues, and lives are being sacrificed.

In the interior of the United States, the department refuses to acknowledge that undocumented immigrants are lawbreakers. The Secretary says their approach to interior enforcement is guided by common sense, but Americans continue to shake their heads in amazement that the laws on the books are being ignored.

It's no secret that this Administration supports an amnesty program, or putting millions of people on a path to citizenship. Even the head of the enforcement agency, Assistant Secretary Morton, pressed Congress to pass the DREAM Act. Insiders say that he refused to endorse the legislation but was strong-armed to go public the morning that the Senate voted on the bill. His support for such legislation really undermines the department's credibility on enforcement.

Their credibility is also questioned when they tout record-breaking statistics but use "unusual methods" in calculating their numbers. As the *Washington Post* noted on December 6, 2010, the department has been cooking the books so they can say deportations are at an all-time high. While they're inflating their numbers, they institute policies that allow attorneys to dismiss removal proceedings, sometimes for criminal aliens.

I'm looking forward to asking the Secretary about the internal memos written by officials in her department that outline ways that the Administration can circumvent Congress and provide legal status to millions of people who are in this country illegally. Staff at U.S. Citizenship and Immigration Services wrote one such memo last spring, stating the purpose of their document is to "reduce the threat of removal for certain individuals present in the United States without authorization." In July of last year, many members of the Senate sent a letter to the department, asking for information on how the department was using its "deferred action" and "parole" authorities, which were created and reserved for individual cases that present "unusual, emergent, or humanitarian circumstances." We asked for specific data, only to be ignored and told that such data was not collected "in the way we requested."

Every Republican member on this committee sent the Secretary another letter on September 21 of last year inquiring about the internal amnesty memos and the use of the special discretionary authority granted to the Secretary. We asked the Secretary to come before Congress, to meet with members and explain the memos. The letter we received in response was unbelievably frustrating, to say the least. The Secretary responded to this very serious issue by

suggesting that the “record-breaking enforcement statistics speak for themselves.” The response barely touched on the internal memo that outlined administrative options to keep undocumented individuals in the country. The Secretary said the department would be available for briefings on enforcement-related issues, but when asked, the department refused to allow a briefing for committee members with U.S. Citizenship and Immigration Services or the authors of the memo. The department assured the public that deferred action and parole would not be granted to the entire illegal immigrant population. But they were unable to assure us that plans were not being drawn up to benefit certain segments of the undocumented population.

I'm still very disturbed that the department, and specifically U.S. Citizenship and Immigration Services, refuse to provide answers to Congress and the American people. I'm frustrated by their lack of straight-talk, and by their dismissal of our concerns that backdoor plans are being devised. I'm annoyed that this department apparently disregards the spirit of our immigration laws, and will go to great lengths to abuse the special authority Congress provided to the Secretary.

I was also disappointed to hear that the Secretary has again extended the deadline for states to comply with the REAL ID Act. Congress passed this law in 2005 in an effort to improve driver's licenses and require verification of an individual's identity. We passed this law because 18 of the 19 hijackers on 9/11 acquired some form of fraudulent ID. They had a total of 17 driver's licenses from various states. This law was specifically recommended by the 9/11 Commission.

The extension approved last week by the Secretary will now give states until January 2013. They delayed the deadline at the same time we heard about the Saudi student who was arrested on February 24, 2011 and charged with an attempt to use a weapon of mass destruction. This foreign student had laid out an elaborate plan that included obtaining false documents and driver's licenses. On page 10 of the criminal affidavit, it outlines how the student planned to get a forged U.S. birth certificate and then apply for a passport and driver's license. The suspect wanted to use different driver's licenses for each car he planned to rent, in hopes of detonating his bombs in different places during rush hour.

The Secretary has publicly stated that the terrorist threat facing our country continues to evolve. She says that we are seeing an effort by terrorists to recruit people who are already in the United States. Having secure standards for driver's licenses is one way to impede a terrorist's mobility. So I'd like to know why the Administration refuses to make sure driver's licenses are more secure, and why the Administration refuses to provide funding to help states comply with the law. I want assurances from the Secretary that she's committed to the law, and will not push to water down the requirements we put in place 6 years ago.

I also want assurances from the Secretary that the department will finalize a process to check outbound passengers who are leaving the United States. Another initiative that has been mandated by Congress but ignored is the entry/exit system created in 1996. After 15 long years, the executive branch refuses to keep track of foreign nationals who depart the United States. The exit system is an integral part of knowing who is in our country and ensuring that foreign nationals depart when they are required.

Secretary Napolitano, I appreciate you coming today, and I look forward to hearing what you are doing to address these issues that I have outlined.