

**OPENING STATEMENT OF
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PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
*REVIEW OF INS POLICY ON RELEASING ILLEGAL ALIENS
PENDING DEPORTATION HEARING***

November 13, 2001

Thank you, Mr. Chairman, for calling this hearing to review the Immigration and Naturalization Service's policy of releasing illegal aliens while they await their deportation hearings. We will hear that many of the individuals released never appear for their deportation hearings, choosing instead to vanish into American society and adding to the estimated eight million aliens currently living illegally in the United States.

Many of the eight million illegal aliens in the United States entered the country legally but overstayed their visas. Others illegally slipped undetected across our borders. A significant number of others were apprehended by the Border Patrol but released pending the scheduling of a hearing before an immigration judge. According to one recently retired INS official, as many as 90 percent, or 22,000 of this group, don't show up for their hearings each year. We must ask ourselves if the INS's policy of releasing individuals before their deportation hearing takes place is in the best interest of our country's national security.

Last year, the Border Patrol arrested 1.2 million people who entered the United States without presenting themselves for inspection at a port of entry, as required by law. The vast majority of these individuals returned voluntarily to their country of origin after the Border Patrol collected information about them, including a fingerprint, that is put into the Immigration Service's automated fingerprint system called IDENT.

Thousands of others – perhaps twenty to thirty thousand of those apprehended – are scheduled for a hearing before an immigration judge. The vast majority of those released fail to show up. Although the INS may send out a notice to these no-shows, INS agents are not routinely sent out to locate the illegal aliens who fail to appear.

This morning we will hear disturbing testimony describing how INS agents would have difficulty locating these no-shows, in part, because the contact information the illegal aliens provide is not verified consistently. We will also hear how criminal and background checks are not conducted routinely prior to releasing illegal aliens, a policy that could result in felons or other dangerous individuals being released into American society. The lack of detention space also may influence how many illegal aliens are detained.

The policy of releasing illegal aliens pending deportation hearings is not limited to aliens who are apprehended by the Border Patrol when they try to enter the

United States outside a port of entry. In September 2000, the General Accounting Office reported that it is the policy of the INS to release aliens seeking asylum whom the INS has determined do not pose a flight risk. This means that in 1999, some INS district offices released nearly 80 percent of asylum seekers pending their asylum hearing. Yet as many as one third of the individuals seeking asylum who were released failed to appear for their asylum hearings. In fact, many of them never even bothered to file an asylum application.

A more recent report issued by the Department of Justice Office of Inspector General notes that more than 75 million individuals are inspected each year at U.S. airports for potential admission to the United States, some of whom are referred for secondary inspection. The report estimates that approximately 10,000 of the individuals subjected to a secondary inspection are ordered to gather additional documentation and report to an INS district office to complete the inspection.

Included among those whose inspections were deferred were individuals about whom lookouts had been placed on databases, as well as people with criminal records. The report indicates that at least 11 percent of those paroled fail to complete the inspection, and that 50 percent of these no-shows had criminal records or were on lookout lists. The Inspector General's report notes that INS did not consistently track these inspections to completion and conducted too little or no follow up action on the no-shows.

Now more than ever, we must seek ways to ensure that we know who is being permitted to enter the United States. I hope that this hearing will draw attention to the larger problem of securing our nation's borders, particularly our porous northern border, as it appears to be the entryway of choice for a number of terrorists. This is an issue that I have asked Chairman Levin to pursue.

For example, in December of 1999, Ahmed Ressam drove a car loaded with 130 pounds of explosives and timing devices from Canada to the State of Washington, with the intention of bombing the Los Angeles International Airport. Thankfully, Ressam was apprehended by an alert U.S. Customs agent as he attempted to enter through the port of entry. Convicted in April on terrorism charges, Ressam awaits sentencing next year.

More recently, Nabil al-Marabh, a reputed bin Laden operative wanted in connection with the attacks on the World Trade Center and the Pentagon, also chose to enter the United States from Canada. In June of this year, INS agents caught al-Marabh at the Niagara Falls border crossing as he hid in a tractor trailer, false identity documents

in hand. Despite a warrant for his arrest issued by the Boston Police Department, and intelligence reports that he was associated with bin Laden, INS sent al-Marabh back to Canada. He successfully entered the United States later this year, and was finally arrested by the FBI outside Chicago on September 19, 2001.

The southern border has long been the focus of the INS resources, while the northern border consistently has been understaffed and underfunded. Only about 340 Border Patrol agents and about 500 INS inspectors watch a border nearly 4,000 miles long in the continental United States and staff 113 ports of entry. Prior to September 11, a number of these ports were not staffed and guarded 24 hours a day.

The comprehensive new anti-terrorism law, the USA-Patriot Act of 2001, which President Bush signed into law on October 25, contains provisions to strengthen immigration enforcement and otherwise aid in the fight to detect and thwart terrorist activities. One important provision will triple the number of Border Patrol personnel, Customs Service personnel, and INS inspectors along the northern border. It also authorizes \$100 million to improve INS and Customs Service technology and additional equipment for monitoring the northern border. Swift implementation of these measures is critical to strengthening our homeland security.

I look forward to hearing testimony from all our witnesses today. As the President has said, we live in a different world from the one we lived in on September 10th. We need to adapt to that world by improving the methods by which we protect our borders, our liberty, and our lives.