

STATEMENT OF SENATOR CARL LEVIN
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING ON
RELEASE OF PERSONS ARRESTED FOR ILLEGAL ENTRY INTO THE U.S.
NOVEMBER 13, 2001

Today the Permanent Subcommittee on Investigations will hear from current and past employees of the U.S. Border Patrol who have come forward to express their concern and dismay at INS practices involving the release of persons arrested for trying to gain illegal entry into the U.S. While the problems raised by the Border Patrol agents would be serious in normal circumstances, they carry particular weight since the attacks of September 11th.

The U.S. Border Patrol is, according to its own description, the mobile uniformed law enforcement arm of the INS. It was officially established in 1924 and was given the responsibility of combating alien smuggling and illegal entries other than at ports of entry. While the Border Patrol itself has changed significantly over the years, its principal mission has remained the same.

The area we will be focusing on in this hearing involves the illegal entry of persons into the United States outside the normal ports of entry. Ports of entry are the only places where people may legally enter the United States. They are locations such as airports, bridges, and highways where INS officers and Customs Agents review persons, papers and luggage to decide whether to allow someone into the United States. Today's hearing looks at illegal entries made at places other than these official ports.

While the statistics we use to illustrate the problem may include people who have been in the country illegally for some time, I want to be clear, here, that what we are focusing on today are people who are arrested while trying to slip across our borders without subjecting themselves to inspection at a port of entry as required by law. "Inspection," by the way, is the INS term for reviewing documentation.

Our witnesses today are from two sectors of the Border Patrol. As you can see from this map, the Border Patrol is divided into 21 sectors, and the representatives we have testifying today are from the Detroit Sector, which covers four states - Michigan, Ohio, Indiana and Illinois - and the Blaine Sector, which covers Alaska, Oregon and the western half of the state of Washington.

When persons are arrested by the Border Patrol, the large majority voluntarily returns to their country of origin, usually Mexico or Canada. The others - perhaps as many as one third of those arrested on the Northern Border and significantly less on the Southern

Border - are given a notice to appear at a removal hearing. The Border Patrol decides whether the person should be detained, released on bond or, as is most often the case, released on his or her own recognizance while awaiting the hearing. The removal hearing can take several months to occur.

Detention decisions are not made by the Border Patrol alone. If the Border Patrol decides to detain a person or set a bond to help assure that a person shows up at the hearing, the INS deportation office can revise that decision and order the person released on a lower bond or on his or her own recognizance. (To be released on your own recognizance means that you are released on your promise that you will appear at the scheduled hearing; there is no bond.) For a number of reasons that we will be discussing at this hearing, the Border Patrol and the INS release on their own recognizance a significant number of people who are arrested for illegal entry even though the record is clear that most won't show up at their removal hearing. That means that most people who get caught and arrested for illegal entry who don't voluntarily return to their own country are allowed to move at will in this country with no constraints other than a written instruction to appear a hearing that is likely to result in their removal from the country.

This is absurd. Look at the statistics we were able to obtain from the Detroit Sector. In Fiscal Year 2001, the Detroit Sector of the Border Patrol arrested 2106 people. A significant percentage of those were arrested while actually attempting to enter the country illegally. Of those 2106, slightly less than two thirds were voluntarily returned to their country of origin; 773 were issued Notices to Appear at a removal hearing. Pending their removal hearing and based on statistics provided by Border Patrol agents, we estimate that 85% of the 773 were released on their own recognizance, or about 650 people. So, how many of these people actually show up for their hearings? The INS doesn't know. One former INS District Director and Border Patrol Chief told us that he thought the percentage of persons arrested outside a port of entry and released without bond who don't show up for their hearing was 90%.

Our conclusion is that the vast majority of people arrested by Border Patrol while attempting to enter the country illegally in the Detroit Sector who don't voluntarily return to their country, are released on their own recognizance and don't show up for their removal hearings. And to add insult to this injury, the INS has told us that if a person doesn't appear at their hearing, little or no effort is made to find them. I view this as a dysfunctional, absurd system. The INS must know, even without keeping statistics, that once a person is released after being arrested for illegal entry, they stand a very good chance of avoiding removal at all. So why do they continue to release so many on their own recognizance?

Today we will hear not only from Border Patrol officers on the front lines, we will also hear from the first panel of witnesses who represent INS and Border Patrol management.

We are an open and generous country and we welcome persons from around the world who want to contribute their hard work to the egalitarian values of our society. But we also have a duty to protect ourselves and our country from persons who would do us harm, and when we release persons into the country who are without an address, without ties, without any record of who they are or what they've done, we're abdicating our responsibility to the larger community.