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U.S. House of Representatives, 34th District of California**

**Testimony before the Subcommittee on Border and Maritime Security
“Study in Contrasts: House and Senate Approaches to Border Security”**

Tuesday, July 23, 2013 at 10:00 a.m.

Good morning and thank you, Chairwoman Miller, and Ranking Member Jackson Lee for the opportunity to testify before the Subcommittee today on approaches to border security. With the recent passage of a comprehensive and bipartisan immigration reform bill by the U.S. Senate, this hearing is timely.

As this chamber considers a comprehensive reform of our nation’s immigration laws for the first time in almost thirty years, the public support for doing so has never been stronger. The American people overwhelmingly support the creation of a functioning immigration system that reflects our American values of fairness, and ensures that those caught up in a broken system over the last several decades, who have been productive members of our society can come out of the shadows and work towards the full responsibilities of citizenship.

We are a nation of laws and a nation of immigrants. Balancing these two important pillars, the U.S. Congress can once again prove that when confronted with challenges, we can be a pragmatic and forward-thinking body that resolves any issue the American people set before us and which reflects our best interests and values as Americans.

As Congress moves forward, the architecture of the immigration system must be one that is comprehensive and built to last. Therefore, it must be responsive to the ever changing dynamics of the world’s economy, migration patterns, innovation and technology to ensure America’s competitiveness and enduring status in the world, as well as protecting this nation against evolving threats. Simply fixing one aspect of our immigration system ensures that we will fall short of making our country stronger economically and safer from external threats. Therefore, our task should be to fix the whole immigration system, not merely one or two parts.

Just as a true immigration reform solution is comprehensive and about more than piecemeal fixes, improving border security is more than examining the sum of its parts. It is more than enforcement, manpower, assets, infrastructure and technology at our borders. Border security depends on a number of factors including bi-national relationships, trade agreements, foreign aid, commercial goods and, of course, people. Achieving border security today requires us to look beyond the obvious, to look beyond fences, boots on the ground, and even our own borders, in order to accomplish lasting and better border security.

For the better part of the 20th century and today, border security and immigration to the U.S. have been inextricably tied, with each impacting the other in various ways over time, but always one with the other. Border security and immigration reform are not an “either/or” proposition.

As we build a better, smarter, more accountable and efficient border security strategy and system, we cannot ignore its ties to the way in which our immigration laws address permanent and temporary visas, the reunification of families, our nation’s labor market and employment needs and interior enforcement mechanisms. To focus on one without focusing on the other is akin to fixing the brakes on a car without fixing the engine: you need both to get where you’re going.

And although we have not modernized our immigration laws for almost thirty years, in that time, our laws have advanced historic and wide-reaching border and interior enforcement measures. The U.S. government today spends more on immigration enforcement--- \$18 billion a year --- than it does on all other criminal federal law enforcement combined. That is almost a quarter more than total spending for the FBI, DEA, Secret Service, U.S. Marshals, and ATF.

This surge in resources spent at the border continues today with diminishing returns. Lawmakers continue to pour increasing resources to prevent unauthorized immigration even though net unauthorized immigration from the Southern border is at a 40-year low. We have met or exceeded the border security “benchmarks” of previous immigration reform proposals so that today we have a force of over 21,000 Border Patrol agents, over 21,000 Customs and Border Protection officers, hundreds of video surveillance systems, at least 9 unmanned aerial vehicles and more fencing, barriers, towers, technology and other assets than at any time ever before in our nation’s history.

While security and enforcement in the desert *between* our southern land ports of entry has dramatically improved, the same cannot be said for security *at* those ports of entry where millions of goods and people cross every day. As border enforcement has increased over the last several decades, unauthorized entries and contraband are now *less likely* to occur *between* our southern border ports of entry and *more likely* to occur *through* our land ports of entry, or as the result of legal entries at air ports of entry that result in visa overstays.

However, focusing the bulk of resources on apprehending unauthorized desert crossers has come at the cost of resources to prevent trafficking of humans, narcotics, currency, and counterfeit goods through our ports of entry. The greatest border security threats we face today come from Transnational Criminal Organizations (TCOs), not economic migrants crossing the desert.

In addition, spending on border enforcement between the ports of entry has created an imbalance in resources at ports of entry to the detriment of our economy. Today, 6 million U.S. jobs depend on the \$500 billion in yearly cross-border trade between the U.S. and Mexico. Currently, 37 of our 50 states rely on Canada as their largest export market. Insufficient resources at ports of entry result in excessive delays for commuters, tourists and merchants and approximately \$6 billion in lost economic output.

Finally, I would be remiss if I did not mention the extraordinary impact that increased border enforcement has had on local communities along all our borders. Nearly 2 out of 3 Americans live, and nine of the top ten largest metropolitan areas are located, within 100 miles of a land or coastal border (approximately 197.4 million people).

At the Southern border, the rapid ramp-up in border enforcement over the last two decades has resulted in the division of cross-border communities, in security measures that have ignored the culture, voice and input of border residents, increased cases of Border Patrol and CBP abuse and corruption, civil rights violations, in more migrant deaths, and a militarized border.

Given the muscular enforcement landscape at the Southern border; the evolution of modern threats, our current economic and security needs, and the impact of enforcement on border communities, it begs the question of why we are still focused on yester-year responses to the exclusion of modern common-sense security measures. More enforcement on its own will not solve our immigration problems; just as no laws can negate the laws of supply and demand, or the human drive to survive. What we need is better, smarter and more effective border enforcement combined with broader immigration law reforms that strengthen our economy and nation.

The Senate's recent passage of S. 744 the "Border Security, Economic Opportunity, and Immigration Modernization Act," was evidence that reaching a bipartisan solution on a comprehensive immigration reform bill is entirely within our capabilities as legislators. I was pleased to see balanced reforms related to permanent and temporary visa programs, improvements to family-based and employment-based immigration, a worker verification system with strong due process provisions and a workable path to citizenship. However, the border security provisions were a tone-deaf response to the realities of our current state of border security and evidence that "more" is not a substitute for "better."

I look forward to hearing testimony from today's witnesses on S. 744, the Senate's comprehensive fix to our broken immigration system and H.R. 1417 the Border Security Results Act of 2013. We need a debate that takes into consideration previous border security efforts, and in the words of Chairwoman Miller "what a secure border looks like, how we get there and how to accurately measure progress and results." I hope that as we seek to define border security that we acknowledge that any legislative measure cannot be a one-size-fits all policy and must reflect the diversity and complexity of our borders.

Building a smarter, more accountable and efficient way to enforce and better secure our border is imperative. Any border security proposal must be agile and adaptable to: real-time intelligence, on-the-ground needs, changing technologies, operational capabilities and resources, analytical and cognitive criteria, and strong transparency, accountability and oversight measures.

The use of metrics and performance measures in assessing and determining whether or not our borders are secure are important elements of an overall picture of security and effectiveness. Metrics can and should be instructive; however, it is unclear whether they are dispositive. Reliance on static or fixed metrics alone as absolute evidence of security achieved is illusory.

It ignores an ever-changing border landscape and does not properly account for its affect on international and domestic economies, quality of life in border communities, the true security of communities, the frequency and severity of local criminal activity, changes in international land, air and sea travel and commercial operation volumes, and other measures, outcomes and cognitive reasoning that cannot always be truly captured by data.

In addition, real-time law enforcement requires agility, flexibility and responsiveness to an ever changing landscape of threats and risk-assessments. To hamstring our law enforcement to an inflexible metric ignores the nature of law enforcement. We have seen the ways in which inflexibility in lawmaking can lead to perverse incentives and unwanted or hazardous results for security and law enforcement, despite our best intentions and planning.

Legislative proposals which seek to tie border enforcement to the fate of those who would come forward and register for any legalization program are of great concern to me. To strive towards achieving the highest level of security and effectiveness at our borders is rational and reflects our mutual desires as Americans to achieve the best when it comes to securing our nation. But the idea that we would condition the fate of 11 million people---who meet all of the rigorous legalization requirements that we ask of them---on a trigger linked to achieving a fixed border security metric is irrational.

Any legalization program will ask the undocumented to come out of the shadows, undergo background checks, pay taxes, and learn our language. It will require them to demonstrate personal responsibility. To punish them from adjusting their status based on bureaucratic malfunctions or short-comings over which they had no control---even when they have met their personal responsibilities---is not consistent with our values of justice and fair dealing. To return to the car analogy I used earlier, to penalize the safe driver for the manufacturer's defect or failure makes no sense.

We need to fix all the parts of our broken immigration system, but what kind of border security measures do we need? We need measures: 1) that are responsive to a morphing security environment; 2) that promote the robust economic engine of cross-border trade; 3) that restore parity to our commercial and security operations by investing in ports of entry; 4) that add manpower where we need it, such as Customs and Border Protection Officers at land, air and sea ports or Homeland Security Investigators for worksite and visa overstay enforcement; 5) that address the most urgent security threats such as those posed by transnational organized crime; 6) that consult with border communities in developing local and sector-specific solutions; 7) that are transparent and fiscally accountable; 8) that promote a culture of ethics and integrity; and 9) that protect civil and constitutional rights.

In conclusion, I thank this Subcommittee for its work on the important issues related to the security of all our nation's borders. Today's hearing is more critical than ever and as Members of Congress we must rise to meet the challenge and the opportunity that the American people have placed before us. I am optimistic that we can get to a bipartisan solution on a comprehensive fix to our broken immigration system that includes a path to citizenship for the 11 million undocumented individuals within our borders. I look forward to working with this committee as we move forward towards a solution that respects our values and history as a nation of immigrants and a nation of laws.