



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

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April 20, 2010

Hon. Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Hon. Janet Napolitano
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, DC 20528

Re: Federal Border Reform

Dear President Obama and Secretary Napolitano:

As the Administration turns its attention to the pressing need for federal border reform, I write to offer some insights based on my eight years as Arizona's Attorney General and my personal experience in tracking the flow of money that has funded the extremely violent, very well-organized, criminal cartels that are at the root of most border crime.

As you know, those cartels are already responsible for over 18,000 brutal murders in Mexico in the last three years alone. Terror has become the key tool in their successful human, drug, and arms smuggling operations. Because cartel violence knows no boundaries, without a comprehensive plan to shut the cartels down, Arizonans and other Americans along the border will never experience the border security we deserve.

As Attorney General, I have placed a high priority on disrupting cartel operations, in part by following and, when possible, seizing the money that funds their business. Through my efforts, illegal cross-border money wires related to human smuggling in Arizona have dropped from over \$250 million annually in 2005 and before to well under \$5 million in 2009. But clearly, much more must be done to secure our border: bold and immediate new action is necessary. It should include the following:

Tougher Laws

Reform must begin with the recognition that our current federal laws are woefully inadequate and are much to blame for the desire of many border state policy makers to take matters into their own hands. I believe that the first component to successful federal reform must be to strengthen the nation's laws against illegal entry into the United States. In the post-9/11 world, our nation's security requires strict laws against, and stern punishments for, those who try to cross our borders undetected. Federal law must be amended to ***allow felony charges against***

those caught entering the United States illegally, even for first time offenders. Such a felony conviction should also preclude the person from ever receiving legal residency status or work authorization in the United States.

We must also have stronger federal laws against employers who knowingly hire illegal labor, and I call on Congress to adopt meaningful *federal employer sanctions* as part of any federal reforms. Arizona businesses have been subject to a state employer sanctions law for several years now, and they should not be at a competitive disadvantage vis-à-vis employers in other states.

Stronger Enforcement Domestically

a. Apprehension

To enforce these and other immigration laws, law enforcement at all levels must have more adequate resources. At the federal level, we need *additional Border Patrol field agents along Arizona's Southern border*. I urge the Department of Homeland Security to recruit, hire and train new Border Patrol agents to be stationed in Arizona as soon as possible. Until those agents are in place, I believe that all options must be on the table, including re-deploying the National Guard with authorization to stop and turn back anyone attempting to cross anywhere other than at authorized border checkpoints.

b. Prosecution

State and local law enforcement must also have adequate resources to prosecute border-related crimes and incarcerate those responsible. As Attorney General, I have recently been successful in winning key funding to assist on the prosecution side. Last month, I entered into a \$94 million settlement with Western Union to resolve Arizona's claims that Western Union knowingly facilitated money transactions related to border crimes, including human and drug smuggling. Among other things, our settlement will provide \$7 million to the Arizona Attorney General's Office to create the first ever Border Enforcement Section within our Criminal Division. I have already begun interviewing prosecutors and investigators to staff this important new section, and have been heartened about my discussions with the U.S. Department of Homeland Security regarding housing this new Section at no cost to the State in the new federal Border Enforcement Center in Tucson. I ask that we now take the remaining steps to bring this plan to immediate fruition.

Perhaps more importantly, our settlement with Western Union includes \$50 million from which local law enforcement throughout the southwest border can apply for grants to allow for more effective enforcement of border crimes. Working with the Attorneys General of Texas, New Mexico, and California, along with the Arizona Department of Public Safety, the Arizona Department of Financial Institutions, and the Phoenix Police Department, we have created the Southwest Border Alliance, which will fund appropriate local law enforcement initiatives in a manner that will most effectively disrupt the organizations that are at the root of most border-related crime. That Alliance held a key strategy conference last week with state and local law enforcement from throughout the southwest border region, and should be in a position to begin issuing grants this summer. I appreciate the participation of Homeland Security and Department of Justice officials in that conference. I now call upon you to help maximize the effectiveness of

this unique settlement through matching federal funds from Operation Stonegarden or other federal sources.

c. Incarceration

Border states like Arizona desperately need overdue federal help with the cost of incarcerating criminal aliens. The State Criminal Alien Assistance Program (“SCAAP”) has been woefully under-funded since its inception and, as Secretary Napolitano knows all too well, taxpayers in states like Arizona have borne a highly disproportionate share of the cost of incarcerating criminal aliens. Our state budgets can no longer bear this burden and it is time for the federal government to step up and ***pay its full share of incarceration costs as the SCAAP law requires.***

Stronger Enforcement in Mexico

Our efforts within Arizona and other border states cannot be fully effective without better law enforcement in Mexico. Currently, despite the massive increase in murder and kidnapping in Mexican border towns like Nogales, Sonora, and Juarez, Chihuahua, Mexican prosecutors continue to achieve conviction rates reportedly as low as two percent. As Attorney General, I have dispatched my prosecutors to begin training Mexican prosecutors as Mexico transitions to more effective and more American-style prosecutions and jury trials. My lawyers have used Merida Initiative funds to travel to Mexico to train prosecutors at both the Mexican state and federal levels. We have also hosted three training seminars in Arizona. Through these efforts, ***we have already trained over 400 Mexican prosecutors in the last two years.*** We also have begun working with the Mexican Congress to modernize and strengthen Mexican criminal laws.

In the last year, I have personally met with each of the last two Mexican Federal Attorneys General to urge them to reciprocate Arizona’s efforts by doing more to locate, apprehend, and extradite fugitives who have committed crimes in the United States and escaped south of the border. While these cooperative initiatives are new, I am optimistic that they are already beginning to lead to greater cooperation from Mexican authorities in the prosecution of border crimes. Last week’s historic ICE arrests of 47 participants in human smuggling rings is a perfect example. I was pleased to join a cadre of federal, state and local officials in announcing these arrests, which were made possible in part by significant arrests in Mexico by the SSP (Mexican federal police). Such collaboration with Mexican law enforcement would have been impossible without Arizona’s and your Administration’s new and positive bi-lateral law enforcement relationships.

Better Communication Tools and Techniques

Ranchers and others who live along our border have also called for better communication infrastructure for reporting border crimes. We clearly need ***complete cellular coverage along the border*** to help homeowners and ranchers in remote areas whose properties have been ravaged by repeated trespassers, burglaries and other crimes. We also need full law enforcement interoperability to help federal, state and local officials better coordinate their efforts to apprehend those who commit border crimes. I also favor more regular compilation, reporting and analysis of border crimes so that law enforcement at all levels along the border can be better

equipped to track crimes as they are committed, apprehend the criminals, and prevent future crimes.

Reduce the Demand for Illegal Labor

We also need a federal immigration policy that more timely, accurately and fairly reduces the demand for illegal immigrant labor by better matching lawful immigration flows with our nation's employment needs. During difficult economic times, the numbers of temporary or seasonal workers authorized to enter should necessarily be reduced to encourage the hiring of the many Americans seeking work. But in times of full employment, our system must be prepared to more timely adapt to allow sufficient numbers of workers to obtain appropriate work permits and enter through lawful points of entry. Otherwise, the market forces that fuel demand for illegal labor will continue to frustrate our enhanced enforcement efforts.

Eliminate Cartel Profitability

Finally, our borders will not be secure, nor our citizens safe in their homes, as long as the violent criminal cartels remain profitable. According to the U.S. Department of Justice, the cartels' agents are active in over 200 U.S. cities, subverting the rule of law here as they have done in Mexico. Their scouts can be seen nearly every day operating throughout Southern Arizona. We must sustain a coordinated, multi-agency and multi-jurisdictional law enforcement effort to stop the money that funds these brutal criminal syndicates. And we must have the tools — especially enhanced money laundering statutes — to *seize their ill-gotten gains*.

While Arizona has been successful in seizing money wires associated with cartel activity, the cartels have found new ways to move money, including through stored value devices. The U.S. Treasury Department was scheduled to release new rules on stored value devices in February, but has not yet done so. I call on you and Secretary Geithner to promulgate effective stored value device rules as soon as possible. Taking the profit out of the criminal enterprises — a process Arizona has begun — is the most effective long term solution to ending the violence the cartels have wrought.

Mr. President, Madam Secretary, I recognize the political difficulty of undertaking federal border reform. The emotions underlying this issue are raw and real. They can lead to rhetoric that is at times divisive and hateful. But failure to act is not an option. It would lead not only to further frustration and cynicism, but to greater border violence and serious threats to national security. While I do not claim to have all of the solutions, I firmly believe that no solution will work — politically or otherwise — that fails to include the matters addressed in this letter. I urge you to act and act soon.

Thank you for your attention to this critical matter.

Sincerely,



Terry Goddard
Arizona Attorney General