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PROTECTING THE HOMELAND: BUILDING A LAYERED AND COORDINATED APPROACH TO BORDER SECURITY

HEARING

BEFORE THE

SUBCOMMITTEE ON INFRASTRUCTURE AND BORDER SECURITY

OF THE

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HOUSE OF REPRESENTATIVES

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HEARING ON PROTECTING THE HOMELAND: BUILDING A LAYERED AND COORDINATED APPROACH TO BORDER SECURITY.

Tuesday, June 15, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INFRASTRUCTURE
AND BORDER SECURITY,
SELECT COMMITTEE ON HOMELAND SECURITY,
Washington, DC.

The subcommittee met, pursuant to call, at 10:35 a.m., in Room 2318, Rayburn House Office Building, Hon. Dave Camp [chairman of the subcommittee] presiding.

Present: Representatives Camp, Dunn, Smith, Diaz-Balart, Shadegg, Souder, Sanchez, Dicks, Slaughter, Jackson-Lee, and Turner.

Mr. CAMP. [Presiding.] The Subcommittee on Infrastructure and Border Security hearing will come to order. Today's hearing is on Protecting the Homeland: Building a Layered and Coordinated Approach to Border Security. This hearing will examine the level of cooperation within the Department of Homeland Security in preventing terrorists and others from entering the United States illegally.

Today, we will hear from two panels. Panel I is Mr. Victor Cerda, Senior Adviser to the Assistant Secretary, U.S. Immigration and Customs Enforcement, Department of Homeland Security; and Mr. David Aguilar, Tucson Sector Border Patrol Chief, Bureau of Customers and Border Protection, Department of Homeland Security. Panel II is Dr. James Carafano, Senior Research Fellow for Defense and Homeland Security at the Heritage Foundation; Mr. Randel K. Johnson, Vice President for Labor, Immigration and Employee Benefits at the U.S. Chamber of Commerce; Mr. T.J. Bonner, President of the National Border Patrol Council, AFL–CIO; and Mr. Sergio Ugazio, Secretary for the National INS Council Local 1944 of the American Federation of Government Employees.

Thank you all for your participation. We have agreed at this meeting among the members to waive all opening statements in order to provide sufficient time for both panels and for questions. Members may submit their opening statements for the record. The record will remain open for 10 days after the close of the hearing. We will divide the hearing time with 1 hour for each panel.

I would now recognize Ms. Sanchez to offer her welcome to the witnesses.

Ms. SANCHEZ. Thank you, Mr. Chairman, and good morning. Thank you again to all of our witnesses for coming before us today. I think this is one of the most important topics that we have on our subcommittee to explore. Once again, in the interests of time because I know we have a long agenda, I welcome and I look forward to your testimony.

Thank you.

Mr. CAMP. Thank you.

We will begin with panel I. I want to again welcome Mr. Victor Cerda and Mr. David Aguilar. We will ask you to briefly summarize your statement in 5 minutes or less. You may begin.

STATEMENT OF VICTOR X. CERDA, SENIOR ADVISOR TO THE ASSISTANT SECRETARY, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY

Mr. CERDA. Good morning, Chairman Camp and distinguished members of the subcommittee. My name is Victor Cerda. Currently, I am the Senior Adviser to the Assistant Secretary of the U.S. Immigration and Customs Enforcement. It is my privilege to appear before you to discuss our agency's immigration enforcement efforts.

ICE is the largest investigative arm of the Department of Homeland Security, charged with the mission of preventing terrorist and criminal activity by targeting the people, money and materials that support terrorists and criminal organizations. In that mission, U.S. immigration and customs laws are among our most important enforcement tools. Our goal in enforcing these laws is to restore integrity to our nation's immigration system. The key to this effort is prioritization. We attack the most critical threats first.

Our first order of business is to address the serious threats to our communities and our nation posed by violent criminal aliens, individuals with possible terrorist associations, fugitive alien absconders, and sexual predators. We are getting results. Since March 2003, ICE has removed more than 85,000 criminal aliens and we expect to exceed last year's numbers. Similarly, ICE has been involved in several cases regarding foreign nationals who posed a threat to our national security, such as the case announced yesterday regarding Mr. Abdi.

Under DHS, ICE combines the once separate legal authorities and law enforcement resources of the former INS and the U.S. Customs Service to create a more powerful enforcement agency. For example, we have combined resources from both agencies to develop a unified smuggling division, enabling us to hit smuggling organizations of all kinds much more effectively. Likewise, the financial investigation capabilities we gained from Customs, housed in Cornerstone, our comprehensive economic security initiative, allows us to more effectively follow the money trails that support smuggling, criminal and terrorist organizations.

All of these tools were brought together in Operation ICE Storm, an ICE interagency task force we launched last year in Phoenix, Arizona in response to a violent crime wave led by rival smuggling gangs. ICE brought our expertise in human smuggling, weapons and drug trafficking, and money laundering investigations into a partnership with other stakeholders at the Arizona border, includ-

ing Customs and Border Protection, to disrupt and dismantle these smuggling organizations. Since we launched ICE Storm, we prosecuted more than 190 defendants for human smuggling, kidnapping, money laundering and weapons and drug violations, and we have seized over $5.2 million.

This is just one example of how we work with other agencies to better coordinate our efforts in this new homeland security mission. We are also working with our counterparts at CBP, Custom and Border Protection, in efforts to construct a unified enforcement front at the Arizona border, for example. We are strengthening relationships with state and local law enforcement through a variety of innovative initiatives. We have developed groundbreaking agreements with law enforcement agencies in Florida and Alabama to delegate immigration enforcement authorities to state officers, providing us with a valuable force multiplier on the frontlines of law enforcement.

ICE is also deploying our information-sharing assets such as the Law Enforcement Support Center, to provide our partners at the federal, state and local levels with timely and accurate immigration information to aid in enforcement. In March alone, for example, the LESC fielded over 60,000 calls from law enforcement and placed over 2,100 detainers on aliens. Finally, our Compliance Enforcement Unit is a valuable tool for gathering, analyzing, and disseminating information on immigration violations, drawing on the data from national databases.

With each of these initiatives, we are working towards restoring and maintaining integrity in our immigration system, ensuring that a potential vulnerability is sealed from those who would do us harm. Mr. Chairman, today I focused on only a small part of what ICE contributes to the coordinated effort to secure our borders and homeland. With the enforcement and investigative capabilities of ICE it has brought together, and by working with our colleagues at the federal, state and local levels, we have developed an effective new approach to border security and immigration enforcement.

In conclusion, I would like to thank you, Mr. Chairman and members of the subcommittee for the opportunity to testify today. I look forward to answering your questions.

Thank you.

[The statement of Mr. Cerda follows:]

PREPARED STATEMENT OF VICTOR X. CERDA

I. INTRODUCTION

Good morning, Chairman Camp and distinguished Members of the Subcommittee. My name is Victor Cerda, currently I am the Acting Director for Detention and Removal Operations (DRO) at U.S. Immigration and Customs Enforcement. It is my privilege to appear before you to discuss the immigration enforcement mission of U.S. Immigration and Customs Enforcement (ICE). I am here today to testify you because of my knowledge and professional role both with the former INS and currently with ICE. Over the course of the last year, I have been in several different leadership positions including the Acting Chief of Staff, Principal Legal Advisor, Special Counsel to the Assistant Secretary and currently, the Acting Director of Detention and Removal Operations. These positions have provided me with the Operational and Administrative knowledge needed to testify before you today. As the largest investigative arm of the Department of Homeland Security (DHS), ICE is charged with the mission of preventing terrorist and criminal activity by targeting the people, money, and materials that support terrorist and criminal organizations.

One of our key objectives within that larger mission is to detect and address vulnerabilities in our border security.

We know that criminal and terrorist organizations have exploited—or attempted to exploit—gaps and vulnerabilities in our border and our immigration systems to gain entry to our country. With ICE's enhanced ability to investigate both immigration and customs violations, we are uniquely positioned to enforce our homeland security missions in ways never before possible. Our nation's immigration laws are among our most important law enforcement tools in that effort.

II. ENFORCEMENT PRIORITIES

ICE's goal in enforcing these laws is to restore integrity to our nation's immigration system. The key to this effort is prioritization—systematically attacking the most serious threats first. Specifically, ICE has made the apprehension and removal of dangerous criminal aliens and national security threats our top enforcement priority. This is not to suggest that ICE does not fully and consistently enforce the law in other situations. It is simply to suggest that our first order of business is to address the serious threats that individuals with possible terrorist associations, fugitive alien absconders, violent criminal aliens, sexual predators, and others pose to our communities, our families, and our nation. Our objective is to strategically target our resources and authorities on the most dangerous aliens in order to remove them from the streets before they can do harm.

It's a strategy that is getting results. Since March 1, 2003, ICE's Detention and Removal Office (DRO) has removed more than 85,730 criminal aliens and we expect to exceed last year's numbers. The DRO has more than 18 fugitive absconder teams across the nation and has created a "Most Wanted" list of the most dangerous criminal aliens, which has been a valuable tool for generating tips and leads. From the original list, nine of the ten were captured within a few weeks, and the tenth was determined to have already left the country. Under ICE's "Operation Predator," which targets pedophiles, child sex tourists, and child pornographers we have arrested 3,023 child sex predators who exploit children for pleasure or profit. Approximately 40 percent of the predators we've arrested under this program have entered the United States illegally, while an additional 20 percent have been visitors who have violated the terms of their visa by either overstaying or violating the terms of their visas.

III. BACKGROUND

ICE was formed on March 1, 2003, by combining the investigative, detention and removal, and intelligence arms of the former Immigration and Naturalization Service (INS) and the former U.S. Customs Service, including Customs' Air and Marine Operations (AMO), along with the Federal Protective Service (FPS) and the Federal Air Marshal Service (FAMS). Prior to being restructured as part of the Department of Homeland Security, the INS was a "dual mission" agency, responsible for granting citizenship services and benefits to new arrivals to our country while being simultaneously responsible for enforcing immigration law. This dual mission resulted in difficulties for the agency, which often struggled with the challenge of how to best execute two missions that did not always complement one another. The reorganization into DHS, which split the dual INS missions into separate agencies, was a commitment on the part of our government to help our people better execute the missions with which they have been charged.

While our sister agency, U.S. Citizenship and Immigration Services (USCIS), focuses its attention on providing immigration services, ICE is a law enforcement agency. By combining the once separate legal authorities and law enforcement resources of the former INS and former Customs, we have created a more powerful enforcement agency better capable of dealing with ICE's legacy agencies' jurisdictions.

Consider, for example, ICE's creation of a unified smuggling division. Prior to our reorganization into DHS, enforcement authorities for drug and contraband smuggling were the province of the Customs Service, while enforcement authorities for human smuggling were the exclusive province of INS. Unfortunately, criminal smuggling organizations are less fastidious in their division of labor. Motivated by profit and profit alone, they might move drugs one day and human "cargo" the next—shifting their tactics in response to demand, profit margins, and enforcement patterns. By combining these two units, we can now hit these organizations much more effectively, whether they are trafficking in drugs, weapons, or illegal aliens.

Moreover, with the financial investigations capabilities we gained from legacy Customs, ICE is now able to follow the money trails that support these criminal smuggling organizations more effectively than ever before. Under Cornerstone, our comprehensive financial investigations initiative, ICE has the ability to follow the money trails that support smuggling, criminal, and terrorist organizations. We know

that criminal and terrorist organizations must earn money to fund their ongoing operations, and we also know that they move and store that money through a variety of illicit schemes. With Cornerstone, we bring to bear one of the most sophisticated financial investigations shops in law enforcement to detect these financial schemes, disrupt the flow of money, and put these organizations out of business. These enforcement abilities help disrupt the illegal aliens ability to access the United States by using these criminal smuggling organizations.

IV. COORDINATED/COOPERATIVE EFFORTS

All of these tools were brought to bear in one of our agency's most striking successes: "Operation ICE Storm," an initiative we launched last year in Arizona. Over the course of several months, our agents and their state and local counterparts in the Phoenix area began to track increasing and alarming levels of violence related to human smuggling operations. Rival smuggling gangs were engaging in violent confrontations and bloody shootouts in and around the metropolitan area. The victims were not only gang members. In some cases, the human beings who were the smugglers' "cargo" were kidnapped and held for ransom, sexually assaulted, or simply executed outright in order to deny profit to rival gangs.

In response to this violent crime wave, ICE assembled "Operation ICE Storm," an interagency task force to combat violent crime in the Phoenix metropolitan area. We brought our expertise in human smuggling, drugs, weapons smuggling, and money laundering investigations into a comprehensive partnership with other stakeholders at the Arizona border, with the specific goal of disrupting and dismantling the operations of these smuggling organizations. We saw rapid results. Since we launched "ICE Storm," we've prosecuted more than 190 defendants for human smuggling, kidnapping, money laundering, and weapons and drug violations. We've seized over 100 weapons and over $5.2 million. Every time we confiscate an assault weapon or a bundle of cash from these criminal organizations, and every time we trace back and shut down one of their funding streams, we make it harder for these criminals to conduct business. Furthermore, our efforts are producing additional positive results. For example, the Phoenix Police Department credits ICE Storm with a 17 percent decline in homicides and an 82 percent decline in migrant-related kidnappings in the final quarter of 2003. These decreases are a direct result of ICE's ability to coordinate resources and combined authorities to disrupt the alien smuggling organizations along the border to improve immigration enforcement.

Moreover, in this new homeland security mission we are working more effectively with our counterparts in the federal government—notably Customs and Border Protection (CBP), our partners at DHS—as well as with state and local law enforcement agencies in a coordinated effort to leverage our law enforcement capabilities. The Department of Homeland Security's recently introduced Arizona Border Control (ABC) initiative, for example, builds upon the success of Operation ICE Storm. In this new initiative, ICE, working in conjunction with CBP and other federal, state, and local agencies, is aggressively applying the pressure of immigration laws, anti-money laundering laws, and other federal and state statutes to deprive smuggling organizations of their funding, disrupt their operations, and dismantle their organizations, both in the United States and abroad. We are working closely with our partners at CBP, combining our investigative and detention resources, expertise, and authorities to construct a unified enforcement front at the Arizona border, to fight illegal immigration and its associated criminal activity.

V. COORDINATION WITH STATE AND LOCAL LAW ENFORCEMENT

ICE is also committed to working more effectively with our counterparts at the state and local levels, particularly in tracking down alien absconders. ICE is acutely aware of the critical role state and local law enforcement plays in the broad homeland security mission. Officers at the state and local level are not only the first responders when there is an incident or attack against the United States, but, also, during the course of their daily duties they may encounter foreign-born criminals and immigration violators who pose a threat to our national security or to public safety. Recognizing that critical role, ICE partners with state and local law enforcement agencies nationally and locally through a variety of arrangements to enhance the overall effectiveness of our collective law enforcement efforts and our joint ability to protect the homeland.

For example, ICE's Institutional Removal Program targets criminal aliens who are serving sentenced in federal and state jails, to ensure that, upon their release, these aliens are taken directly into ICE custody for deportation from the United States—before they can be released into the community. Obviously, the success of this program depends upon communication, coordination, and cooperation with other agencies, to ensure that criminal aliens cannot exploit this potential gap. This fiscal year alone, ICE has removed 28,109 criminal aliens through this program.

ICE is also fostering innovative new relationships through our 287(g) program, which recognizes a role in immigration enforcement for state and local law enforcement. Under the terms of Section 287(g) of the Immigration and Nationality Act (Illegal Immigration Reform and Immigrant Responsibility Act, sec. 113, Sept. 30, 1996), Congress has authorized ICE to enter into written agreements with state and local authorities to define the full extent of this partnership. A state or local law enforcement agency works with ICE to develop a Memorandum of Understanding (MOU), which details each party's specific responsibilities under the agreement. Once this agreement is in place, ICE provides officers with a five-week training program in immigration issues, and provides supervision and support for state and local officers engaged in immigration enforcement. We see this as a valuable "force multiplier" program for more effective immigration enforcement. These authorities, which are initiated by the states or local jurisdictions, are currently in effect in Florida and Alabama.

VI. INFORMATION-SHARING

ICE also maintains a number of powerful information-sharing tools that we use to provide critical feedback to our federal, state, and local counterparts in the field. Our Forensic Documents Laboratory (FDL), for example, is a critical investigative tool in the battle against immigration fraud, the only federal crime laboratory dedicated almost exclusively to the forensic examination of documents. The lab is staffed 365 days a year to provide a full range of services to law enforcement agencies, including handwriting analysis, foreign and domestic document examinations, fingerprint analysis, and training in the detection of fraudulent documents. Another key ICE asset, the Law Enforcement Support Center (LESC), maintains a vast store of information related to immigration, which we provide to state and local law enforcement when appropriate. In fiscal year 2003, the LESC responded to nearly 600,000 queries, an increase of over 175,000 from the previous fiscal year. These phone queries allow ICE to place detainers or detention holds on illegal aliens who may be in the custody of local law enforcement based on information that they may receive from the phone query. The FDL and LESC are just two examples of how ICE is providing critical information and training services to our state and local law enforcement partners, contributing to officer safety, community safety, and national security.

Finally, ICE's Compliance Enforcement Unit (CEU) is a valuable tool for collecting, gathering, and disseminating information on immigration violators. The CEU examines data from several databases—the Student and Exchange Visitor Information System (SEVIS), the National Security Entry-Exit Registration System (NSEERS), and the U.S. Visitor and Immigrant Status and Indicator Technology program (US-VISIT). Through analysis of the databases, the CEU identifies possible immigration violators and assigns these cases to ICE investigators for action. Since its creation in June 2003, the CEU has vetted tens of thousands of leads compiled from these databases. Many of these leads have resulted in the arrest of individuals with egregious criminal convictions.

VII. CONCLUSION

Mr. Chairman, today I have focused on just a few of the immigration enforcement capabilities that ICE contributes to the DHS effort to secure our borders and homeland. The United States has always welcomed with open arms those who would enter our nation by legal means. Our nation's great diversity, and our willingness to accept newcomers from all around the world, strengthens our freedoms and our prosperity. At the same time, ours is a nation of laws and we are responsible for targeting those who would exploit vulnerabilities in the border and immigration systems to illegally enter the United States. By aggressively enforcing our immigration laws and targeting criminal aliens, we seek to deter criminal and terrorist organizations who threaten our way of life, and we seek to strengthen the legal immigration process for worthy applicants. With the expansive enforcement capabilities and innovative investigative techniques that ICE has brought together, our agency is uniquely positioned to protect our homeland. By working with our colleagues at the Federal, state, and local levels, we have developed an effective new approach to border security and immigration enforcement. By taking a proactive approach to preventing future terrorist attacks and criminal activity, ICE will continue to align our investigative priorities with the critical role of protecting our homeland.

In conclusion, I would like to thank you, Mr. Chairman and Members of the Subcommittee, for the opportunity to testify today on behalf of the men and women of ICE, and I look forward to answering any questions you may have.

Mr. CAMP. Thank you very much.

Mr. Aguilar, you have 5 minutes.

STATEMENT OF DAVID AGUILAR, TUCSON SECTOR BORDER PATROL CHIEF, BUREAU OF CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

Mr. AGUILAR. Thank you and good morning. Chairman Camp, Ranking Member Sanchez and distinguished subcommittee members, it is an honor to have the opportunity to appear before you to discuss the level of cooperation within the Department of Homeland Security, specifically through the operations and law enforcement initiatives of the United States Border Patrol in preventing terrorists from entering and remaining in the United States.

My name is David Aguilar and I am currently the Chief of the Tucson Sector Border Patrol. It has now been over a year that immigration inspectors and U.S. Border Patrol agents from INS, agricultural inspectors from the Animal Plant Health Inspection Service, and customs inspectors from the U.S. Customs Service merged to form the U.S. Customs and Border Protection within the Border and Transportation Security Directorate at DHS. With a unified presence, focus and determination, we have combined our skills and resources to be far more effective than as separate agencies.

The mission of CBP's Border Patrol is to provide homeland security along our nation's borders between our ports of entry, patrolling and securing over 4,000 miles of international land and water border with Canada, and 2,000 miles of international border with Mexico. We also patrol roughly 2,000 miles of coastal waterways surrounding the Florida Peninsula and Puerto Rico.

We work hand in hand with CBP officers to inspect people and cargo entering the country through ports of entry. While the priority mission of the Border Patrol is to detect and prevent terrorist weapons, including weapons of mass destruction, from entering the United States, we still take on our traditional missions of interdicting illegal immigrants, drugs, currency and other contraband. Historically, major Border Patrol initiatives such as Operation Hold the Line in El Paso, Operation Gatekeeper in San Diego, and Operation Rio Grande in our McAllen Sector have had great border enforcement impact on illegal migration patterns along our nation's southwest border.

Today, new DHS initiatives such as the Arizona Border Control Initiative will continue to have a significant affect on illegal migration. These initiatives have sought to bring the proper balance of personnel, equipment, technology and infrastructure into areas experiencing the greatest level of cross-border illegal activity on the southwest border. Efforts have been established and are being improved upon to build better liaison with agencies across the southwest and northern borders of the United States.

One example is our participation with the Integrated Border Enforcement Team with Canada. Another, similarly, along the southwest border with Mexico, are our Border Patrol–Mexico Liaison Units, which have worked to achieve the same goals. The program has already achieved successes with the cooperation between the two countries on issues such as information-sharing, cooperative enforcement efforts, and border safety initiatives, to name a few.

Shortly after the transfer of the Border Patrol into CBP in March of 2003, it was recognized that CBP, Immigration and Customs Enforcement's Office of Investigations would need to coordinate closely

on transferring the Border Patrol's anti-smuggling units to ICE's Office of Investigations in order to properly address various administrative and operational issues. A working group consisting of CBP and ICE representatives undertook efforts to transfer the administrative functions of our anti-smuggling units to ICE's Office of Investigations. It also addressed operational issues related to roles and responsibilities between the Border Patrol and ASUs. This was a critical step in organizing the relationship between the Office of Investigations and the Office of Border Patrol in that it ensured coordination of operations, as well as the sharing of information and intelligence, by clearly outlining roles and responsibilities.

A resulting joint CBP and ICE memorandum accomplished the goals. It was signed by Commissioner Bonner and ICE Assistant Secretary Michael Garcia on April 14, 2003 and was immediately disseminated to respective field offices. This effort is but one major component of a mutual, ongoing and very comprehensive effort to appropriately link and create what we call a synergistic foundation for enforcement between DHS interdiction and investigations agencies.

Another important area is the area of detention issues. On the southern border, detention of illegal aliens from Mexico is short in duration, as a majority are given the opportunity to voluntarily return to Mexico. Long-term detention is required of aliens that fall into specific types of categories. These categories include criminal aliens other than Mexicans, other than Canadians, asylum seekers, and since 9–11, special interest aliens. If an alien requires long-term detention, it is standard operating procedure to turn the alien over to ICE's detention and removal operations branch after the alien has been initially processed by Border Patrol.

As the chief patrol agent of the Tucson Sector, I can offer a fresh perspective about collaborative efforts by DHS, non–DHS, and state and local and tribal agencies under the Arizona Border Patrol Initiative. This initiative began on March 16,2004 and brought together an unprecedented working relationship among various federal, state and local agencies to include the tribal Tohono O'Odham Nation. There are a number of operations that are happening out there where our people are working very closely together.

Mr. Chairman, the Border Patrol is tasked with a very complex, sensitive and difficult job, which historically has presented immense challenges. The challenge is huge, but one which the men and women of the United States Border Patrol face every day with vigilance, dedication to service and integrity. I would like to thank you again, Mr. Chairman, and the entire subcommittee for the opportunity to present this testimony, and for your past support of CBP and the Department of Homeland Security.

I would be pleased to respond to any questions that you might have at this time.

[The statement of Mr. Aguilar follows:]

PREPARED STATEMENT OF DAVID AGUILAR

Chairman Camp, Ranking Member Sanchez, and Distinguished Subcomittee Members, it is my honor to have the opportunity to appear before you to discuss the level of cooperation within the Department of Homeland Security (DHS), specifically through the operations and law enforcement initiatives of the United States Border Patrol, now a component of the U.S. Customs and Border Protection (CBP),

in preventing terrorists from entering and remaining in the United States. My name is David Aguilar, and I am currently the Chief of the Tucson, Arizona Sector, CBP Office of the United States Border Patrol (OBP). I would like to begin by giving you a brief overview of our agency and mission.

It has been over a year now that Immigration Inspectors and the U.S. Border Patrol from the Immigration and Naturalization Service (INS), Agricultural Inspectors from the Animal and Plant Health Inspection Service (APHIS), and Customs Inspectors from the U.S. Customs Service merged to form the U.S. Customs and Border Protection (CBP) within the Border and Transportation Security (BTS) Directorate of the Department of Homeland Security. With a unified presence, focus and determination, we have combined our skills and resources to be far more effective than as separate agencies.

The mission of CBP's Border Patrol is to provide Homeland Security along our Nation's borders, between ports of entry, patrolling and securing 4,000 miles of international land and water border with Canada and 2,000 miles of international border with Mexico. We also patrol roughly 2,000 miles of coastal waters surrounding the Florida Peninsula and Puerto Rico. We work hand in hand with CBP Officers, who inspect people and cargo entering the country through ports of entry. While the priority mission of the Border Patrol is to detect and prevent terrorist weapons, including weapons of mass destruction, from entering the United States, we also interdict illegal immigrants, drugs, currency and other contraband.

Historically, major Border Patrol initiatives such as *Operation Hold the Line,* in our El Paso Sector, *Operation Gatekeeper* in our San Diego Sector, and *Operation Rio Grande* in our McAllen Sector have had great border enforcement impact on illegal migration patterns along the Southwest Border. Today, newer DHS initiatives, such as the Arizona Border Control Initiative (ABC) will continue to have a significant effect on illegal migration. These initiatives have sought to bring the proper balance of personnel, equipment, technology and infrastructure into areas experiencing the greatest level of cross border illegal activity on the southwest border.

Efforts have been established and are being improved upon to build better liaison with agencies across the southwest and northern borders of the United States. One example is our participation with the Integrated Border Enforcement Teams (IBETs) with Canada, whose mission is to enhance border integrity and security at our shared border by identifying, investigating, and interdicting persons and organizations that pose a threat to national security or are engaged in other organized criminal activity. Some of our northern border IBET resources are collocated with Royal Canadian Mounted Police (RCMP), ICE and other law enforcement agencies.

Similarly, along the southwest border with Mexico, Border Patrol Mexican Liaison Units have worked to achieve the same goals. The program has already achieved successes with cooperation between the two countries on issues such as information sharing, cooperative enforcement efforts, and border safety initiatives to name a few.

Shortly after the transfer of the Border Patrol into CBP in March of 2003, it was recognized that CBP and Immigration and Customs Enforcement's Office of Investigations (ICE/OI) would need to coordinate closely on transferring the Border Patrol's Anti–Smuggling Units (ASUs) to ICE/OI in order to properly address various administrative and operational issues. A working group consisting of CBP and ICE representatives undertook efforts to transfer the administrative functions of ASU to ICE OI, but it also addressed operational issues related to roles and responsibilities between the Border Patrol and the ASU. This was a critical step in organizing the relationship between ICE/OI and CBP/OBP in that it ensured coordination of operations, as well as the sharing of information and intelligence—by clearly outlining roles and responsibilities.

The resulting joint CBP and ICE memorandum accomplished these goals. It was signed by CBP Commissioner Robert Bonner and ICE Assistant Secretary Michael Garcia on April 14, 2003, and was immediately disseminated to respective field offices. It will optimally enhance the security of our nation's borders. This effort is but one major component of a mutual, ongoing comprehensive effort to appropriately link and create a synergistic foundation for enforcement between DHS interdiction and investigations agencies.

Another important area is on detention issues. On the Southern Border, detention of illegal aliens from Mexico is short in duration, as the majority are given the opportunity to voluntarily return to Mexico. Long-term detention is required of aliens that fall into specific types of categories. These categories include criminal aliens, Other Than Mexican (OTM) or Canadian, Asylum Seekers, and since 9/11, "Special Interest Aliens" (SIA's).

If an alien requires long-term detention, it is standard operating procedure to turn the alien over to ICE's Detention and Removal Operations (DRO) Branch, after

the alien has been initially processed by OBP. The long term detention of SIA's is critical due to the fact that these aliens are from countries that have been deemed by the Department of Homeland Security as countries of interest since 9/11 due to the possibility of links to terrorist activities from a particular SIA country. Both CBP and ICE are continuously working together to ensure that no SIA, or aliens identified as a danger to the American public are released.

As the Chief Patrol Agent of the Tucson Sector, and I can offer a perspective of our collaborative efforts by DHS, non–DHS, and state, local, and tribal agencies under the Arizona Border Control Initiative (ABC). This initiative began on March 16, 2004, and brought together an unprecedented working relationship among various federal, state, and local agencies to include cooperation with the Tohono O'Odham Nation.

This effort includes co-locating ICE and CBP units to expedite the transition from interdiction to investigations. Through the coordination center of the Arizona Partnership of the Southwest Border HIDTA, other law enforcement agencies will support the ABC targeted areas with upcoming collaborative enforcement operations, targeting criminal enterprises involved in cross border incursions.

Transportation hubs at Tucson and Phoenix airports are being staffed by personnel from the Transportation Security Administration (TSA), ICE, and CBP. Information and intelligence gathered at these hubs is fed into the ABC intelligence task force and made available to all appropriate BTS and law enforcement partners.

ICE/Air and Marine Operations (AMO), and CBP/OBP Air Operations are cooperatively scheduling flights to maximize available air assets in targeted areas. Members of the Border Patrol Search and Rescue Team (BORSTAR) and the Border Patrol Tactical Team have been assigned to AMO flights for interdiction and rescue operations.

Increased cooperation for access to public lands has been coordinated with Department of the Interior and Department of Agriculture entities. This cooperation ensures that the best interest of enforcement and the protection of our natural resources are maintained. Joint enforcement efforts are also being conducted with the National Park Service.

Nationally, the Border Patrol is tasked with a very complex, sensitive and difficult job, which historically has presented immense challenges. The challenge is huge, but one which we face everyday with vigilance, dedication to service, and integrity. I would like to thank you again, Mr. Chairman, and the entire Subcommittee, for the opportunity to present this testimony today, and for your past support of CBP and the Department of Homeland Security. I would be pleased to respond to any questions that you might have at this time.

Mr. CAMP. Thank you very much. Thank you both for your statements. We will now go to questioning. Members will be recognized and the 5-minute rule will apply.

As you are aware, Mr. Cerda, there was more disturbing news yesterday involving Al-Qa'ida operatives living in the United States and their plan to attack an Ohio shopping mall. I think it is important to point out the indictment involved in that came out as a result of an arrest some months ago on basic immigration and document fraud charges. Could you describe how the day-to-day investigative and enforcement functions of the Immigration and Customs enforcement unit impact our ability to fight terrorism here at home?

Mr. CERDA. Yes. The arrest which was announced yesterday I think first demonstrates the important partnership the Department of Homeland Security has with the Department of Justice. I also think it highlights the importance of the unique immigration enforcement authorities which are encompassed in DHS in our efforts to thwart potential acts of terrorism.

ICE investigators form the largest partnership with the FBI in our national joint terrorist task forces and serve as a critical component in ongoing investigations throughout the country day to day. As part of that membership, we are constantly looking, whether it is criminals using the customs enforcement authorities we in-

herited, or again as in the abdicates, utilizing immigration enforcement authorities to remove a potential threat from the streets of America. That is exactly what happened.

It is a good example, where based on information of a potential threat in Thanksgiving weekend, ICE agents working through the JTTF took action, apprehended the individual, detained him and placed him into removal proceedings, during which time as we proceeded with the administrative procedures, the JTTF was also able to continue working its criminal investigation which was announced yesterday. So again, it is a day-to-day effort that we have using the important immigration enforcement authorities, using our customs enforcement authorities, and partnering with the Department of Justice.

Mr. CAMP. Could you both comment on the structure in DHS and the division of responsibilities in the Border and Transportation Security Directorate and how that either helps or hurts our ability to apprehend and prosecute terrorists in the United States?

Mr. AGUILAR. Yes, sir. Mr. Chairman, I think one of the things that has come about as we became DHS and that strengthens the ability of all the enforcement entities within DHS is the ability to integrate intelligence, interdiction efforts and investigative efforts. By that, I mean the following, in that we are now able to integrate a lot of the intelligence databases that in the past were not necessarily shared in the most effective and efficient means possible. Today, there is not only the integration of databases, but there is also the collaborative effort. There are co-location of offices of say for example Border Patrol and investigative assets. As an example, in Tucson, Arizona we have ICE investigators co-located and working side-by-side with Border Patrol agents, side-by-side with TSA assets at the airports.

Then of course we have opportunities to work with the FBI through JTTF and other agencies that are heavily involved in the defense of our nation. It is this collaborative effort, these integrated databases that are built into the structure that have facilitated, and in fact I believe have greatly enhanced our opportunities to thwart any kind of terrorist activity against our country.

Mr. CAMP. Mr. Aguilar, can you discuss the status of the geospatial tracking program on the southern border that is being developed in El Paso and how that is linked to the larger integrated border intelligence system?

Mr. AGUILAR. Yes, sir. At the present time, as I said, I am the Chief over in Tucson so I am not totally familiar with the geospatial program that is being worked on in El Paso, but I have been briefed on it. Basically what that geospatial program will be doing for us is give us a situational awareness of what is happening on the border close to real time. In addition to that, it will of course be able to articulate where the resources are and actually define the threat based on threat assessments done by a multiple agency picture that will be drawn up as a part of this program out there.

Mr. CAMP. Okay, thank you. Thank you very much.

Ms. Sanchez may inquire.

Ms. SANCHEZ. Thank you, Mr. Chairman. Again, thank you both for being here.

I have a question about the way your agencies work together now that you are under the same agency. Let's say that ICE knows that there is a direct shipment coming across Nogales or someplace like that, and you want to have a controlled delivery, where you allow the shipment to go through so that you see where it ends up and maybe you catch the big fish, rather than just the person bringing the drugs over. How do you coordinate with the Border Patrol?

I have been told by a lot of guys down on the border that, especially from ICE, that when you are trying to work together, that that is not happening, that things are being caught at the border instead or the delivery is being stopped, rather than this ability to let it go through and control it and figure out where it goes. I want to find out from both of you, do you think that you are actually working together in those kind of situations or that you are actually impeding each other from getting that kind of work done?

Mr. CERDA. As Chief Aguilar here noted, one of the key elements that we have at the border with the presence of the Border Patrol there, but in addition the alien smuggling units that work hand-in-hand with the Border Patrol, we have taken the transition, and given the importance of this integration, of that mission and of the situations he noted, to be able to control the deliveries of individuals to come in and try to determine whether there is a large organization behind that.

We have worked and focused on the transition of the ASU units that previously were with the Border Patrol stations. That involves working and looking at the logistical aspects of it, too, to include the controlled deliveries, the staging at the border. We will continue to be working on that until it is perfected. We believe we are on the right track there. While you may have occasionally a situation of communication, locally we are working together; nationally, again, we have these working groups up here to ensure that such situations do not occur so that our law enforcement mission is not impeded.

Ms. SANCHEZ. Mr. Cerda, your answer was a little complicated, I did not really did not get a "yes, we are working well together, and most often when we ask for a controlled delivery it actually gets past the border and we are able to try to track it down," or "no, we have instances where this is being impeded." What is the answer to that?

Mr. CERDA. The answer is yes, we are working together.

Ms. SANCHEZ. So you would say the majority of when you call for controlled deliveries, it is happening.

Mr. CERDA. Yes.

Ms. SANCHEZ. When you call for controlled delivery, can the Border Patrol say no to you? How is it that you are working with that?

Mr. CERDA. It is a mutual understanding because the Border Patrol has an important mission at the border. Both of our missions need to be in sync. Clearly, if there is a situation that arises that may impede effective enforcement at the border, it is an issue that needs to be discussed. We have to prioritize among ourselves, among the DHS mission, which one takes priority. It is case by case. If that situation does arise, it does arise and it is handled at a high level out there at the local sectors with the SAC offices in

ICE, their counterparts, or if necessary elevated to the national. But frankly, I have not seen that point arise to that point of bringing a case up at the national level.

Ms. SANCHEZ. And then for the Chief I have a question, because your Border Patrol works 24 hours a day.

Mr. AGUILAR. Yes, ma'am.

Ms. SANCHEZ. I think ICE works 9 to 5.

Mr. CERDA. I would correct that. We are available.

Ms. SANCHEZ. You are 24 hours now?

Mr. CERDA. ICE is 24/7. The law enforcement mission exists 24/7 and we respond.

Ms. SANCHEZ. Because I hear a lot from the Border Patrol that they get some of these people that have no documents to be in our country and they have to release them because your people are not around. Can you both comment on that? Is that happening?

Mr. AGUILAR. Let me speak for Tucson. First of all, as the Chief of the Tucson Sector, which as you probably know?

Ms. SANCHEZ. A great city. My family is from there.

Mr. AGUILAR. Yes, a great city. I completely agree, a great state, but it is the most active area that we have in the country right now, specifically the cross-border illegal incursions out there. In Tucson, we work very closely with ICE. We do not have a major problem in any kind of response from ICE to Border Patrol requirements for any kind of support, whether in the area of detention or removal, or response to apprehensions or working collaboratively with some of the other law enforcement agencies out there.

There are situations where we will mutually support each other. If ICE cannot respond to a call out, for example, from a police department, they will in fact call us and we will respond for them, and vice versa. In fact, there will be times when we do not have units available say, for example, in Phoenix or in that area to respond for a law enforcement call out. Then, we will call upon them and they will typically get out there. It is a good working relationship. It has worked tremendously in Tucson and we are still continuing to build on that.

I would like to get back to the issue of cross-border pass-throughs, if you will. In Tucson, again, as the Chief in Tucson, as the most active sector in the nation for narcotics trafficking, we work very closely with ICE and the DEA on those situations when there is a request and/or requirement from ICE investigators to run a load like that through the border. We work closely with SAC. The special agent in charge and the Chief have joint agreements at the local level that facilitates any of those situations when that type of request comes through, in collaboration of course with DEA and the U.S. Attorney's Office also.

Mr. CAMP. Thank you very much. Your time has expired.

Ms. SANCHEZ. Thank you, Mr. Chairman.

Mr. CAMP. Ms. Granger may inquire.

Ms. GRANGER. Thank you.

Mr. Cerda, you have in your remarks that since March 1, 2003 ICE has removed more than 85,730 criminal aliens, and you expect to exceed that this year. Give me an idea of how that number compares to before ICE was created. Also, give me a profile of who

these people are, where they are found, how long they have been there, and that sort of thing.

Mr. CERDA. The numbers historically have been increasing. I believe you will see a continuing increase under DHS in terms of our focus on criminal aliens. The criminal aliens are identified whether it is at the POE at the borders or in the interior through the Criminal Apprehension Program, through the Fugitive Absconder Program, or through again the Institutional Removal Program.

One of the key changes we are making in ICE is to refocus the Institutional Removal Program which is a program that works at the state facilities, the penal institutions there, identifying people, criminal aliens who are amenable to removal while they are serving their sentence, so that at the point of their completion of that criminal sentence, they are amenable and already available for removal. It is a way of identifying them early in the process and ensuring that any threats to the community are avoided by taking action immediately upon their release and taking them into ICE custody, and then effectuating their order of removal.

Again, by this refocus over here, elevating the program, the Institutional Removal Program in detention and removals, I believe you are going to be seeing increased numbers, increased efficiencies in our capability of identifying criminal aliens.

Ms. GRANGER. When you said "they are amenable," do you mean they agree to it? I do not understand that process.

Mr. CERDA. Sometimes we have to go through an immigration proceeding where they can seek some forms of relief before the immigration judge, notwithstanding their criminal convictions. So if they are granted relief, they would not be removed. They would be subject to release at that point in time. So we still have a burden to prove under the Immigration Act, to establish the grounds of removability, as well as have an order issued by a judge.

Ms. GRANGER. Recently, I was able to get some funding for the APHIS fingerprinting system for some smaller towns in the metroplex. They showed a demonstration of it, and I was so impressed. In one case, literally in a matter of about 5 seconds, they went through all the database which would have taken, they said, 2 1/2 weeks doing it by hand. Are you part of the APHIS system?

Mr. CERDA. Biometrics is essential throughout the Department of Homeland Security. That is one of the changes that has been implemented, is the focus on IDENT–APHIS and the use of data not only internally within DHS, but also connecting to the Bureau, their wants and warrants system, too, so that again at the POEs or when we apprehend an individual, we have the capability of running the biometrics and at the same time not only identifying immigration violations, but seeing that they are wanted in so-and-so state or wanted by the U.S. Marshall Service. We are all part of that, and biometrics is going to be a bigger part of our enforcement efforts.

Ms. GRANGER. Do I still have some time? Mr. Aguilar, recently, I think it was in April, there was a town hall meeting in Houston. I got some reports of it. There, there seemed to be a question about rounding up illegal aliens. The statement was made that, no, we are not going to do that; we do not round up illegal aliens; there

is no problem here. Can you give me some more information about what happened at that meeting? Are you familiar with it?

Mr. AGUILAR. Unfortunately, I am not familiar with that meeting. As I said, I am the Chief over in Tucson. But I can tell you that these roundups or sweeps, as some people refer to them, are not occurring. The Border Patrol focuses its efforts very specifically on cross-border illegal incursions in what we refer to in Tucson, for example, as a compressed zone of enforcement, where our interdiction efforts are on the immediate border and the primary purpose is not only to apprehend what does get across, but also to present a high-visibility, high-profile deterrence presence to keep these people from crossing. That is our main focus.

Ms. GRANGER. Thank you. I understand. Thank you.

Mr. CAMP. Thank you.

Mr. Souder may inquire.

Mr. SOUDER. I have a couple of questions. From testimony that we have had on the border, in Arizona often it is the seventh time that somebody has picked up before they are detained longer-term. In El Paso, Texas, I think the testimony was twelve. At what point when a person commits an illegal activity coming into the United States as an illegal alien is it considered a criminal offense?

Mr. AGUILAR. The question is for me? Yes, a criminal offense basically occurs when the individual crosses into the United States for the first time. The criminal prosecution of that individual for illegally coming into the United States without inspection has certain thresholds that vary in different parts of the country. They vary due to the U.S. Attorney's capacity to actually handle that workload out there. They do work closely with us. And then we have in certain areas of the country geographic focuses or focuses on criminal activity, for example, that endangers people, not only the immigrants, but also the communities where they are crossing.

Those thresholds, we work hand-in-hand with the U.S. Attorney's Office. In Tucson right now, it will vary anywhere from nine to twelve times for prosecution purposes. Of course, anytime that a criminal alien is apprehended, then prosecution thresholds drop tremendously.

Mr. SOUDER. I think it is important for both this subcommittee, the United States Congress and the American people to realize that we can talk about border enforcement and making secure borders, but your agents are going to be so discouraged if we do not provide the law enforcement to back that up, because what you just said, nine to twelve times, and that is assuming we catch them, which most people are not caught. That is very demoralizing to the agents on the border who work, who take risks, who get shot at, as the ranger was killed in Oregon, and then find that it takes nine to twelve times to find somebody prosecuted means that we do not have enough resources to adequately address this problem in numerous ways. That is very significant testimony.

Let me ask another thing. Every single state along the southwest border, California, New Mexico, Arizona and Texas, I have heard from agents of both of your agencies saying that it ranges anywhere from $4,000 to $12,000, you can get a package that in 7 days will guarantee you in the United States if you are a Central American or Mexican citizen; anywhere from $25,000 to $40,000 if you

are Middle Eastern. It will guarantee you safe passage or you get your money back.

What are we doing to address those networks? Would that be primarily an ICE function? Why isn't that a particular heavy focus, particularly if we are watching in the homeland security question the terrorism question? Are we looking for flyers, for advertising? Is the Mexican government helping us? Are the Caribbean islands, if they are coming from that direction into the networks? Because this is a huge, almost openly defiant challenge to our border security.

Mr. CERDA. We share the concerns that the smuggling organizations do pose to our national security. Clearly, by the amounts of fees that you cited, which are pretty accurate, smuggling is now more of a criminal organization endeavor, given the profits that are there. One thing we are doing now under DHS, now not only do you have the traditional alien smuggling expertise and authorities that we had under INS, but we are also utilizing our Customs enforcement authorities, particularly the money laundering aspects, the money laundering authorities that we have inherited.

ICE Storm, for example again, there are not only using our traditional alien smuggling approaches, the intelligence, but we are also going after the organizations and their resources. We are going after them and trying to identify them through their exchange of funds across the border internationally. Once we go across the border, that is where we work internationally with the governments. We also have our international attaches out there. But that is a new focus, a new approach, not only going after the individuals being smuggled, but going after the organizations, in particular their resources, their funding, to try to dismantle them not only locally here in the United States, but also as well as overseas.

Mr. SOUDER. Will we do a deprogramming as we pick up people to ask them how they are coming in? What context, the advertising, to try to get access to the flyers or the packages and the networks?

Mr. CERDA. Yes. That, again, is not only within ICE, but that is something we share closely with the Border Patrol. They are the eyes and ears out there at the border. They have the interactions. We also do similar debriefings in our detention and removal operations offices to identify potential, again, third country national risks that are going across the border that we have apprehended interior; or also looking at the intelligence that we gain from our own investigations, sharing that, setting up systems so that there is more communication within ICE as well as across the Bureau.

Mr. CAMP. Thank you very much.

And now Mr. Dicks may inquire.

Mr. DICKS. Thank you, Mr. Chairman.

Chief Aguilar, what is the legal authority for Border Patrol to conduct interior enforcement of civil immigration law?

Mr. AGUILAR. The Border Patrol can operate anywhere within the United States under Section 287 and 235 of the INA. We have the authority to approach any individual who we believe to be in the country illegally.

Mr. DICKS. I raise this point just because 2 weeks ago the Border Patrol engaged in street sweeps and checkpoints in Ontario, Cali-

fornia, a city which is east of Los Angeles, well away from the U.S.–Mexican border. The Border Patrol has also been helping ICE with some interior arrests that involve a large number of aliens on the southwest border. We were under the impression that you had said that the Border Patrol was not involved in sweeps.

Mr. AGUILAR. Right. The Border Patrol, again sir, concentrates its efforts along the nation's borders, but we can operate by statute anywhere within the United States. In working with either ICE or any other law enforcement agencies, in collaboration with them in the interior, there are occasions when we will unify with them. For example, in Phoenix right now, we operate at the Phoenix Sky Harbor Airport in a high-visibility, high-profile deterrence posture out there, and we will make arrests out there. We do not conduct sweeps, residential or anything of that nature.

Referring to the operations that you mentioned of about a week ago, there were no checkpoints conducted. The only other thing that I would add to that, again this happened within San Diego Sector. I am not completely familiar or intimate with those operations. But we do not conduct sweeps. We do work hand-in-hand with state and local law enforcement agencies in conducting operations relative to the criminal aspects of either human smuggling, narcotics smuggling or any other type of quality of life issues that a police department will concentrate on.

Mr. DICKS. Who would you say is in charge of interior immigration enforcement?

Mr. AGUILAR. That is one of the issues that are being worked out right now between CBP and ICE. The interior enforcement as it stands now is actually in the purview of ICE, with collaborative efforts with CBP when it is necessary.

Mr. DICKS. Mr. Cerda, would you agree with that?

Mr. CERDA. I would agree with that. I also note that there are collaborative efforts. Clearly, we are one Department and where there are major enforcement initiatives, we use all Department resources to include, again, ICE supporting CBP at the border or conversely CBP supporting ICE in the interior.

Mr. DICKS. Thank you, Mr. Chairman. I yield to the Ranking Member.

Ms. SANCHEZ. Thank you. Thank you, Mr. Dicks very much.

I have a question because going back to this issue of the Ontario sweep, and I realize that you are over in the Arizona area, but that did occur. It not only occurred there, but it occurred in my area of Santa Ana, California just last Thursday. So we are trying to figure out, many members, where we see these sweeps going on. What do you mean when you say you do not conduct a sweep? I do not know if you know the details of the Ontario situation, but what would you say that was, and who would you say has jurisdiction over doing something where Border Patrol and others come into a neighborhood, a shopping area, let's say, and start to ask people for their papers? What is that called if that is not a sweep?

Mr. AGUILAR. First of all, let me begin by saying the operation last week was in fact an intelligence-based operation that was conducted due to numerous telephone contacts and phone calls from the local police departments on quality of life issues that were occurring within those areas of operation.

Ms. SANCHEZ. So you are telling me that local law enforcement in Ontario called you and said, hey, we have problems over here?

Mr. AGUILAR. Yes. In the areas that the Border Patrol presence was at, yes, ma'am. That is my understanding of it.

Ms. SANCHEZ. Are you telling you that my Santa Ana police chief, in order for you all to come into Santa Ana and do what you did on Thursday, my Santa Ana police chief, Chief Walters, who does not even want you guys in town, called you up and said please come?

Mr. AGUILAR. I cannot speak to Santa Ana. I am not familiar with that one. The one I was referring to was the one that I was briefed on. That was Ontario, I believe, was one of the locations. That is the only one that I am familiar with.

Ms. SANCHEZ. Do you know of any other reason why your Border Patrol or anybody else would come and do this type of thing, other than local law enforcement calling and saying please come in?

Mr. AGUILAR. Intelligence-based operations where there is intelligence that criminal activity is occurring, that there is a need for us to respond out there.

Ms. SANCHEZ. Thank you, Chief.

Mr. DICKS. I was under the impression that ICE was doing intelligence work? Do you still do intelligence work? I thought that was moved from you over to ICE. That is not true?

Mr. AGUILAR. The intelligence responsibility was moved over to ICE, but intelligence-gathering, analysis?

Mr. DICKS. It is part of the deal.

Mr. AGUILAR. Everybody does it. Every law enforcement department does intelligence, especially the operations.

Mr. DICKS. Are you rebuilding your intelligence capability now that it was transferred over to ICE?

Mr. CAMP. I will let you answer that question, and the time is expired, and we will go on to another.

Mr. AGUILAR. By intelligence, I am referring to tactical intelligence.

Mr. DICKS. My time is up. Okay.

Thank you, Mr. Chairman.

Mr. CAMP. Thank you. Mr. Shadegg may inquire.

Mr. SHADEGG. Thank you, Mr. Chairman.

I want to welcome Chief Aguilar. We have worked with him a lot in Arizona. I have been down to the border with him a number of times. I appreciate your being here.

Mr. Cerda, today both of you are putting forward a very happy face. Things are going well. The agencies are working well together. Quite frankly, I understand that, but it seems to me the purpose of this hearing is for us to figure out how we can help the situation. By dint of my experience on the border in the past and my experience on the border since the creation of the new Department, I am disinclined to believe that everything is hunky-dory and that the agencies are working well together.

What can you tell me, as concrete examples of things that are working well, and can you give me some examples of things that are not working well with the new integrated Department?

Mr. CERDA. The concrete examples, again, and paramount is the focus on immigration enforcement that previously did not exist

under INS. It was a split mission there. So that is definitely working and I think we are seeing the results. Focus at the border, on border enforcement, extending the border, and at the same time in terms of investigations, focus on immigration enforcement, plus the additional use of the tools that Customs enforcement now brings to us, the customs investigations, the money laundering aspects. That is going to be a new positive aspect that we have under DHS that I believe will continue to produce better results.

Clearly, as we transition, and it is still in early transition, I will be the first to say, at DHS, that we will continue to identify issues that previously under one umbrella at INS were coordinated through internal policies, revisitation of those policies, identifying where we can enhance them, the fact that they existed in the past, we are still taking a new eye to everything to see whether in fact this does now go in accord with the DHS mission, does it fit the BTS's overall enforcement picture strategic goals.

That is where we are going. We identify issues. As we have mentioned, the ASU issue, we are working towards that because previously under one umbrella, it was with the Border Patrol station. Now, with the different roles that we have here, we add the focus, consolidate the expertise, but clearly there are going to be some instances where there are going to be coordination issues that arise. Frankly, the answer to that is coordination and leadership within DHS, communication consistently. We are seeing the benefits of the cross-sharing of intelligence that is being gathered. It is not only within BTS, but also as part of DHS's IAIP Office, and hopefully we will gain really effective intelligence that will assist us in targeting our limited resources towards those critical missions that exist.

Mr. SHADEGG. With regard to your relationship with Border Patrol, are there any areas that are not going as well as you think? Or is there anything that this Congress could do to facilitate the relationship and coordination between ICE and BCDS?

Mr. CERDA. On that point, clearly, as was mentioned, there is some frustration at times with respect to the inability to get a prosecution, similarly, with respect to the ability to continuously detain everyone that is apprehended. We have resources that we have to manage and prioritize. That requires constant communication at the local level. We continue to do that. One of my hats that I wear as Acting Director of Detention and Removals, and I have heard at times locally some frustration with the inability to detain everyone, but at the same time I think nationally, as well as locally, it is understood we are an enforcement mission. Clearly, we want to be as effective as possible, but we also have to manage within our resources.

Mr. SHADEGG. Chief Aguilar, what would you cite?

Mr. AGUILAR. I would say that things are working very well, again speaking from the perspective of Arizona, Tucson specifically. One of the great successes we have had out there is in fact the Arizona Border Control Initiative, which takes in the ICE's ICE Storm operation in Phoenix. The mutually supportive effort of all the BTS entities of the state, local and tribal law enforcement agencies, are working together out there, working collaboratively from all aspects of the enforcement field, primarily intelligence, interdiction

and investigation. All of those agencies coming together, sharing the information, and applying their resources in a very focused manner has made some tremendous impacts out there.

Mr. SHADEGG. There were some pay-grade issues that existed when the two were melded together. ICE had a different set of pay-grades and steps and how you move through the steps, versus Border Patrol. Can you describe what those issues were and have they been resolved, or are they being resolved?

Mr. AGUILAR. Within the Border Patrol, all of our journeyman agents are now GS–11s, which was one of the points that you refer to. That has been resolved. All of our Border Patrol agents are now GS–11s. The investigators that used to be under Border Patrol have now changed over to ICE, and I believe, and I will let Mr. Cerda speak to that, but I believe that has also been addressed.

Mr. CERDA. We did have a disparity with respect to the Customs investigator journeyman level and the former INS journeyman level, and that has been now consolidated. They have journeymen level 13 and that addressed that issue.

Mr. SHADEGG. And the line agents are happy with that?

Mr. CERDA. I believe so, yes.

Mr. SHADEGG. Is that your understanding?

Mr. AGUILAR. GS–11s across the board, yes, sir.

Mr. CAMP. Thank you very much. Mr. Turner may inquire.

Mr. TURNER. Thank you, Mr. Chairman. I appreciate both of you being with us today.

I wanted to take this opportunity to mention an item that I do not expect either of you to respond to, but I wanted to mention that as I think we are all aware, ICE has had some budget and financial problems. As you recall, there was a suggestion that there was $1.2 billion shortfall which led to a hiring freeze in the Bureau of Immigration and Customs Enforcement. Although I think it was later explained to be an accounting error, but our staff, the Democratic staff, has received numerous reports regarding efficiencies in the financial management of the Bureau. I have requested by letter dated yesterday that the Inspector General of the Department conduct an audit of the financial management of the Bureau.

Specifically, some of the reports indicate that there may be potential violations of the Anti–Deficiency Act, which is the federal law that prevents an agency from over-obligating appropriated funds. So I have requested that the Inspector General conduct an audit of the federal financial management system at ICE, as well as to look at the larger budget issues, particularly any potential violations of the Anti–Deficiency Act. I wanted our witnesses to be aware of that, that that request had been made.

One of the issues that I think I heard raised earlier in some of the questions was this issue of how are you making progress in integrating a lot of these databases. I believe Chief Aguilar made reference to that. More specifically, one of the reports that we have received on our staff as we visited the southwest border and talked to some of the folks at ICE and at Border Patrol, what we find is that Border Patrol, ICE and CBP are using different country of interest lists. As you know, those are the lists that identify citizens from countries that present a possible terrorist threat. It seems to

me that this was something that long ago should have been harmonized.

So I would like to ask perhaps Mr. Cerda, are you aware that your agencies's work off different countries of interest lists? And if so, how many countries are on each of the lists and where do we get the lists from? Are we taking any steps to make sure that all of our DHS agencies are working off the same country of interest list? It seems like a very basic fundamental effort that should have been long since coordinated.

Mr. CERDA. I am not aware of us working off of different types of lists here. Our intelligence is coordinated, particularly when it comes to intelligence regarding potential threats arising from certain countries, through the Department, through the Administration, through T–TEC, and also in coordination with the Bureau. I am not aware of separate disparate country lists out there. I can tell you that we do at the POEs and in the interior, queries off the same databases, particularly the IBIS checks that we fun, which serves as a feed. We do those queries. We also look at the basic data that we have where we can enter any terms of watch areas of concern. Again, the intelligence units within ICE, the intelligence-gathering at CBP, and again in coordination with IAIP is aimed at producing intelligence that is uniform across the board, based on what is available out there. But my short answer is that I am not aware of?

Mr. TURNER. If you do not mind, follow-up on that, because that information was provided to us in our visits to the southwest border. If that is occurring, obviously it needs to be fixed. I would appreciate if you would follow up and finding out if we are correct on that, or did we get bad information.

Mr. CERDA. I will do that.

Mr. CAMP. Thank you. Ms. Dunn may inquire.

Ms. DUNN. Thank you very much, Mr. Chairman. Gentlemen, thank you for being with us today.

I wanted to ask you a question about the Arizona Border Control Initiative. It is being referred to as a model actually for the coordination among agencies. I am wondering how this is working; how we can encourage and create incentives for this sort of partnership in other parts of the country. I am from Washington State and we have the Canadian border that we share with other states. I am wondering how much the success of ABC depends on the priorities of the leadership who are involved. I am wondering also how you work with the communities, the farmers for example, or the ranchers down there, and how they feel about our progress. Could you talk a bit about ABC please?

Mr. AGUILAR. Yes, ma'am. Again, I am the Chief down there in Tucson, and as the Chief, Under Secretary Hutchinson also named me as the integrator for the BTS entities within Arizona out there. As the integrator, the rest of the special agents in charge and BTS entity heads work collaboratively in order to primarily have a mission focus. In our case, it is kind of broad, and that is cross-border interdiction of anything coming across that border illegally.

One of the things that we do in support of that is focus our resources, our finite resources. As an example, AMO, air and marine interdiction units now, for example, have Border Patrol agents as

back-seaters, as we call it, in those air and marine helicopters to augment our Border Patrol flights across that border, both for an interdiction and deterrence posture out there. In addition to that, we work very closely with the Department of Interior, the Department of Agriculture, to broaden our ability to operate on publicly managed lands, something that in the past posed a real challenge. We work hand-in-hand with the tribal nation out there, with their police departments. Some of the main players out there are the state, local and other federal non–BTS entities that now focus their enforcement efforts under their own statutes and jurisdictions, on the criminal organized smuggling groups that are working in that area.

So taking everything from intelligence, interdiction and investigation and cohesively applying those enforcement efforts, we have made some tremendous impacts out there. As an example, if you would allow me to quote just one. In the Tohono O'Odham Nation, for example, there has been a reduction of over 83 percent of abandoned vehicles since the Arizona Border Control Initiative began. That is a tremendous number, because abandoned vehicles translate to smuggling capacity for narcotics and aliens out there.

One other of them that I will quote very quickly is that prior to the commencement of the Arizona Border Control Initiative, there was an average of two to five high-speed pursuits within that area of operation. Since we began, we are now down to one or two a week. So again, those are some of the impacts that have been made by that collaborative effort.

Outreach to the community out there is constant. That is one of the major things that we do, to the Native American Nations out there, to the ranchers out there, so that they know how we are operating, what the rationale is, what the deployments are, and especially the impacts. And they have seen the benefits of that collaborative efforts among all the BTS and other federal agencies out there also.

Ms. DUNN. Thank you.

Thank you, Mr. Chairman.

Mr. CAMP. Thank you. Ms. Jackson-Lee may inquire.

Ms. JACKSON-LEE. I thank the Chairman very much.

It is interesting, to the gentlemen that are here, one thing that we noted in the Homeland Security Committee is the overlapping jurisdiction of a number of committees, and the ability of the Homeland Security Committee to focus. I serve on the Judiciary Committee, Subcommittee on Immigration and Claims, and I have had the opportunity to have Mr. Garcia before me. The interest that I think we all have is how do we collaboratively and cooperatively secure our borders, both north and southern border. An issue that I am working on, and I would pose this question to you, the backdrop of the issue is that on the southern border, from where I come from, Texas, many of the individuals coming into the United States are obviously economic opportunists, if you will, or people who are seeking greater opportunity from what they consider a devastating economy. So it is a difference in what I would perceive to be the threat, though we know that the borders being open, opens the doors to many different types of threats.

Would you be kind enough to elaborate on what you think the distinction is in terms of securing the border when you are dealing mostly with economic entrants? What kind of resources are needed in that vein?

The other question that I would offer is that I have authored legislation dealing with helping stem the tide of smuggling. One aspect of it is a law enforcement tool that has been very effective, and that is a rewards program in order to get the large smugglers and to encourage those who may be victims to provide information. Any experience that you may have with that concept? I would appreciate your answers on both of those.

Mr. AGUILAR. I will take the one on the border, northern and southern. As the Border Patrol deploys its resources out there on the southern border, one of the things that we concentrate on is because of the element of flows of illegal immigration into the country through there, is what we call in Tucson basically reducing the flow, reducing the flow in those areas so that the real criminal, the terrorist, the potential weapons of mass destruction can be addressed by those enforcement assets once they are deployed and that flow is reduced out there.

Essential to reducing that flow out there, of course, and key, are going to be the Border Patrol agents that are being deployed out there. In addition to that is the force-multiplier effect of the infrastructure and technology that is being deployed out there literally as we speak. The continual building of accessibility to the border, mobility upon the border, the remote video surveillance cameras we are deploying out there, the sensors, the aerial platforms, all of those things combined bring together the components that will reduce that clutter and give us greater operational control of that border. By operational control, I am talking about knowing what is coming at our border and within a reasonable amount of time being able to interdict, confront, interview, detain, arrest or turn back that threat that has just crossed that border.

On the northern border, the threat remains the same, that potential incursion by people coming into this country with either a means or a desire to do harm to our country. The fortunate thing on our northern border is we do not have the elevated flow. That is where the technology and the infrastructure plays a much bigger part on that northern border. Our ability to have eyes and ears out there, not necessarily human, but electronic or technology-wise to again have that operational control.

So the means by which we are looking to gain that operational control remains the same. It is just the flow that is different out there, again, reducing that flow.

Ms. JACKSON-LEE. What happens when we have new initiatives and new programs, and we take intelligence officers and experts away from one area and put them in another area. Does that maybe increase the enforcement in one area, but decrease it in another? Would you suggest that we need more resources to balance out the needs, particularly in intelligence-gathering, which is part of what my smuggling legislation focuses on; that when you are able to pierce a smuggling operation, the more information you get to talk about what others exist, the more helpful you are. And if you can get it for those who are victims, it is very helpful. What

happens when you move one from the other? It is like borrowing from Peter to pay Paul. Isn't it necessary to provide more resources in order to gather the intelligence and enforce evenly, not only on the southern border, but on the northern border, which is very large as well?

Mr. AGUILAR. Absolutely. Intelligence-gathering capabilities, analytical capabilities and evaluative capabilities are absolutely essential to any enforcement operation out there. The force-multiplier effect that we got when we came together as DHS is that all of those agencies that before literally stovepiped a lot of the intelligence, that intelligence is now melding out there. It is melding because all these agencies have access to all of these databases that we spoke about previously. So we have magnified our intelligence capabilities, both gathering, analytic and evaluative. More work needs to be done in that area, and of course the human aspect, the personnel is a big part of that, yes, ma'am.

Mr. CAMP. Thank you very much. The time has expired and the time for this panel has concluded. I want to thank you, Chief Aguilar and Mr. Cerda, for your testimony today. I appreciate your being here.

Now we would call panel II: Dr. James Carafano, Mr. Randel Johnson, Mr. Bonner and Mr. Ugazio. Please come forward.

Welcome and thank you for being here. We will begin each of you on 5 minutes to summarize your testimony. Why don't I start with Dr. Carafano? Thank you.

STATEMENT JAMES JAY CARAFANO, SENIOR RESEARCH FELLOW, DEFENSE AND HOMELAND SECURITY, THE HERITAGE FOUNDATINO

Mr. CARAFANO. I will submit a statement for the record. I would like to just make a few opening comments to briefly put those in context. I will use my best New York speed to get through that.

Mr. CAMP. Thank you.

Mr. CARAFANO. The Heritage Foundation has taken a strategic approach to looking at the area of homeland security. My particular background is in the area of strategy and history, and that is how I approach this issue. I think there are a lot of lessons in that respect that we can learn from the Cold War. The Cold War was a long, protracted conflict. I think this will be a long, protracted conflict. I think when Eisenhower became President, he really kind of set the strategy for the entire Cold War. I think that there is a lot we can learn from that.

He really said we need three things. He said you have to have some security. You have to have some combination of offense and defense. That is exactly right. The Homeland Security Department is an important part of the defense. You also have to have continued economic growth. The whole notion of protracted strategies is you want to grow and flourish while you hound the enemy into history. You want to be strong and then have the resources to provide the security.

The third thing is you have to protect civil liberties and privacy, because that is really the foundation that allows you to function and allows you to compete. You really need to do all three simultaneously. It is not really a question of tradeoffs. I think that is a

very appropriate strategy for this war. I think it is a great measure to look at what we are doing in all our areas of homeland security. If you do not have solutions that provide all three, security, economic growth and privacy, you really have the wrong answer.

I think no issue is more appropriate than the issue of border security. I think that you cannot have a border security strategy that also does not incorporate just border control, but it also have to be holistic in looking at it, maritime security, immigration, transnational transportation security, and the transnational supply train. The victory of border security is not just on the border. I think no issue is more important than that, than immigration. I do not think there is a solution to immigration that looks specifically at border control. If you do not have a comprehensive answer that includes immigration enforcement, workplace enforcement addressed as quotas, economic development in Latin America, international cooperation, respect for the rule of law, and really look at the economic consequences of all these programs, I simply do not think you can address this in a strategic way.

In my opening statement, I have suggestions for a number of initiatives, but in a sense what they all are is helping contribute, I hope, to a more holistic approach to this. I think, for example, if you notice a lot of my recommendations do not deal with border security per se, but they are more in areas that in the strategy talk about critical missions of domestic counterterrorism and intelligence and early warning. I think in some respects, you get a lot bigger bang for the buck in terms of enhancing border security by looking at those areas.

I would just like to point out very quickly that I have great respect for what the Department of Homeland Security has done. I think it is an enormous challenge that they face. I think the Congress in many respects has provided the right legislative foundation for addressing border security issues. I think that DHS has been responsible in the sense that a lot of things that they have done is really trying to take a crawl, walk, run approach to these things, and look at the implications in terms of security, economic development, civil liberties, as they look at programs. Things like the Arizona Border Initiative, the way they have approached looking at UAVs on the border, I think these are the right approach to test things out, to experiment, do trial and error. And then from them, broaden, because I think that is the only way you develop programs that are going to be sustainable over the long term.

Just the final point I would like to make, very briefly. I looked at this issue for 2 years now in some depth, and I just do not know how you really adapt a strategic approach to this problem unless you can create within the Congress oversight in a central committee that can really look across the board at these issues. My background is in defense. Could you imagine if we had a Department of Defense that was being supervised by 88 committees? What kind of defense structure or national security strategy would we have?

I think, particularly in the area of border security, I do not think we are ever going to achieve a holistic approach, which I think is the only way we are ever going to see quantum improvements in border security, unless we can consolidate oversight in the commit-

tees in the House and the Senate. I think, for example, the committee's effort in drafting an authorization is a great example of that. Some of the suggestions that I have, that is just a perfect approach for implementing some of those things, is through a well-crafted authorization bill. I do not know how you get a good authorization bill for the Department of Homeland Security by having it authored in multiple committees.

With that, I will end my statement.

[The statement of Mr. Carafano follows:]

PREPARED STATEMENT OF DR. JAMES JAY CARAFANO

Mr. Chairman and other distinguished Members, I am honored to testify before the committee today.[1] National efforts to enhance the security of the goods, people, and services that everyday cross the thousands of miles of land borders and tens of thousands of miles of coastline ringing the United States are a vital component of protecting the homeland. In my testimony, I would like to reaffirm the importance of this task as an essential component of the national homeland security strategy, assess the progress that has been made so far, make the case for further initiatives that will help create a more sustainable and integrated approach to protecting the flow of human and material capital transiting America's borders, and suggest some additional building blocks for creating a national system of systems for protecting the nation from transnational terrorist threats as well as other criminal and environmental dangers that may be carried through the crossroads of global commerce and travel.

The Terror War's Front Line

There are four reasons why border security must remain an essential element of national security.

- First, in the global war waged by terrorists, visas can be deadly weapons. One ready means available to enemies wishing to enter the United States is the nonimmigrant visa, which can be obtained from any of the 211 American consulates around the world.[2] Travelers holding nonimmigrant visas represent the overwhelming majority of individuals entering the U.S. Nonimmigrant visas are ideal for supporting attacks that require brief or repeated trips to the United States. In fact, all of the September 11 hijackers entered the United States in this manner. The 19 terrorists received a total of 23 visas from five different consular posts over a four-year period.[3] Terrorists can also enter the United States through the permanent immigration system, obtaining a "green card" to live in the country or become a naturalized citizen. One study of 28 known militant Islamic terrorists found that 17 of them were in the country legally, either as permanent residents or as naturalized citizens.[4] The prevalent use of iden-

[1] The Heritage Foundation is a public policy, research, and educational organization operating under Section 501(C)(3). It is privately supported, and receives no funds from any government at any level, nor does it perform any government or other contract work.

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[2] In addition, 28 countries are part of the U.S. Visa Waiver Program, allowing their citizens to enter the U.S. for 90 days without a visa. For a list of countries and program details, see U.S. Department of State, Bureau of Consular Affairs, "Visa Waiver Program (VWP)," at*travel.state.gov/vwp.html* (October 16, 2003).

[3] U.S. General Accounting Office, *Border Security: Visa Process Should be Strengthened as an Antiterrorism Tool,* GAO–03–132NI, October 2002, p. 6.

[4] Steven A. Camarote, *The Open Door: How Militant Terrorists Entered and Remained in the United States, 1993–2001* (Washington, D.C.: Center for Immigration Studies, 2001), p. 19.

tity theft and false travel documents makes the current system particularly vulnerable to abuse. In 2001, officials at border crossing points seized over 100,000 falsified documents. Over 50 percent of these documents were border crossing cards, alien registration cards, and fraudulent visas and passports.[5] Such materials have been used by terrorists. For example, one of the perpetrators of the 1993 World Trade Center bombing entered the country with a doctored passport.[6] Thus, intelligence is critical not only to keep suspected terrorists from legitimately obtaining and using passports, but also to prevent them from easily using falsified documents to travel into the United States.

• Second, infectious diseases,[7] invasive species, other environmental threats pose Health risks and could cause environmental degradation, and economic damage by the inadvertent or intentional introduction of diseases; non-indigenous species, including animals, plants, insects, and single-cell organisms; or other environmental hazards. One study estimated that damages and efforts to control invasive non-indigenous species already cost the United States $137 billion per year, more than the cost of recovery from the 9/11 attacks.[8]

• Third, as a component of America's borders, we cannot over estimate the importance and vulnerability of the maritime domain. About 95 percent by volume of U.S. overseas trade transits the waterways and the exclusive economic zone bounding the United States. In addition, many major population centers and critical infrastructure are in close proximity to U.S. ports or are accessible by waterways. Equally troubling are the prospects for criminals and terrorists to use the maritime domain for the conveyance of illicit goods and services. Nor are just the hundreds of ports of entry into the United States a concern. Coastal areas between the ports are perhaps even more vulnerable to exploitation.[9] Finally, as land borders and commercial air transport become more secure, criminals and terrorists will increasing look to the maritime domain as an attractive means to bring bad things to America's shores.

• Fourth, securing the transport of material goods, services, and people across the border is not only important for keeping out terrorists and the instruments of terror. Equally vital to national security is maintaining the free-flow of legitimate commerce. Many American industries, for example, rely on "just in time" movement of goods and services. Quick and responsive delivery lessens the need to have large stockpiles on hand, thus reducing operating costs.[10] Increased security that delays the delivery of products can negate the advantages of inventories that are managed by the speed that orders are filled rather the size of a company's warehouse. For instance, in the wake of the 9/11 attacks security at the borders and Canada was significantly upgraded. As a result, many truckers were delayed at border crossings for several hours. Since many truckers are only permitted to drive 10 hours per day, significant delays at the border can add an extra day to delivery time. After the attacks on the World Trade Center,

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[5] U.S. General Accounting Office, *Identity Theft: Prevalence and Links to Alien Illegal Activity,* GAO–02–830T, June 25, 2002, p. 7.

[6] U.S. Department of Justice, *The Potential for Fraud and INS's Efforts to Reduce the Risks of the Visa Waiver Program,* Inspection Report I–99–10, March 1999.

[7] The potential for diseases to spread rapidly is increasing. There are number of factors driving this trend including the growth of global trade that spreads diseases, the rise of pathogens resistant to antibiotics and other antimicrobial drugs, demographic changes, population growth and migration, and deteriorating public health infrastructure worldwide. Executive Office of the President, Office of Science and Technology, National Science and Technology Council, *Global Microbial Threats in the 1990s* (September 13, 2000) p. 2, at *www.ostp.gov/CISET/html/3.html.* See also George Fidas remarks before the International Disease Surveillance and Global Security Conference, Stanford University, Stanford, California, May 11–12, 2001, p. 8; David F. Gordon, *et al., The Global Infectious Disease Threat and Its Implications for the United States* (Washington, DC: National Intelligence Council, 2000), passim.

[8] David Pimentel, *et al.,* "Environmental and Economic Costs Associated with Non-Indigenous Species in the United States," June 12, 1999, np, at *www.news.cornell.edu/releases/Jan99/species* costs.html.

[9] The maritime sector is a preferred option for drug smugglers, as well as the smuggling and trafficking of people. The voluntary or involuntary movement of people across national boundaries has become the world's fastest growing criminal activity and its continued growth will ensure its prominence in the future maritime environment. U.S. National Intelligence Council, *Growing Global Migration and its Implications for the United States* (Washington, D.C.: National Intelligence Council, March 2001). In addition, drug smuggling frequently employs non-commercial vehicles such as small, fast, private boats with concealed compartments capable of storing 30–70 kilograms of material and delivers payloads over the shore rather than using conventional port facilities. Office of National Drug Control Policy, *Measuring the Deterrent Effect of Enforcement Operations on Drug Smuggling, 1991–1999* (August 2001), p. 1.

[10] For an introduction to just-in-time supply management, see B. Modarress and Abdolhossein Ansari, *Just-in-Time Purchasing* (New York: The Free Press, 1990).

Ford Motor Company idled five U.S. manufacturing plants because of slow delivery from parts suppliers in Canada.[11] The increased cost of transporting or stockpiling goods is not the only concern. Many commercial enterprises, such as farming and tourism, rely on the import of foreign nationals for seasonal work. Any screening process that slows the flow of people and material will add to the cost that threats impose on the United States.

Moving in the Right Direction

In the wake of the September 11 attacks, Congress and the Administration have made significant efforts to enhancing the security of commerce and travel across U.S. borders. The following initiatives are particularly noteworthy:

- First, the USA PATRIOT Act required the Federal Bureau of Investigation (FBI) to share information in its National Crime Information Center with immigration services and the U.S. Department of State.[12] It also instructs the Attorney General and the Secretary of State to develop a biometric[13] standard for verifying the identity of visa applicants and bearers of visas and passports, as well as querying law enforcement databases.[14]
- Second, the Homeland Security Act of 2002 transferred the Immigration and Naturalization Service (INS) to the Department of Homeland Security (DHS). The act places the responsibility for providing immigration-related services and benefits under the DHS's Bureau of Citizenship and Immigration Services (BCIS) while the DHS's Bureau of Customs and Border Protection has assumed the border security functions of the INS. The act also established an integrated investigative force, the U.S. Immigration and Customs Enforcement (ICE).
- Third, the Enhanced Border Security and Visa Entry Reform Act called for intelligence sharing and visa issuance and monitoring through several important measures including requiring law enforcement and intelligence agencies to share relevant information with State and the BCIS; directing BCIS to integrate its data systems into an interoperable, interagency system; assigning the DHS the primary responsibility for developing an overarching information architecture to share immigration and intelligence data; and requiring the implementation of an integrated entry and exit database.
- Fourth, the Maritime Transportation and Security Act (MTSA) required the establishment of maritime security committees and security plans for facilities and vessels, and strengthened and standardized security measures for domestic port security teams including federal, state, local, and private authorities.
- Fifth, the Administration's establishment of two intelligence integration centers—the Terrorist Threat Integration Center (TTIC) and the Terrorist Screening Center (TSC)—will help to consolidate terrorist information into centralized databases so that the information can be accessed by local, state, and federal authorities.

Among all the ongoing activities to improve border security these initiatives are particularly important because they recognize that border security means much more than securing the border. They provide the foundation for building a layered and coordinated approach to the challenge of protecting the border.

The Bush Administration's approach to homeland security rightly eschews the notion that there is a single, "silver bullet" solution to stopping terrorism. Rather, the President has adopted a multi-layered system that assumes no one security initia-

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[11] Joseph Martha, "Just-in-Case Operations," *Warehouse Forum,* Vol. 17, No. 2 (January 2002), np, at *www.warehousing-forum.com/news/2002*__01.pdf.

[12] The National Criminal Investigation Center (NCIC) is a computerized index of criminal justice information that is maintained by the FBI and available to federal, state, and local law enforcement and other criminal justice agencies. The database includes the agency's Interstate Identification Index (criminal history information); Wanted Persons File; Missing Persons File; Unidentified Persons File (to cross-reference unidentified bodies against records in the Missing Persons File); Foreign Fugitive File; and Violent Gang/Terrorist File (used to identify criminal gangs and their members to local, state, and federal law enforcement). The database also includes the U.S. Secret Service (now part of the Department of Homeland Security) Protective File, which maintains names and other information on individuals who are believed to pose a threat to the President. The law directs the agency to share information in the Interstate Identification Index and the Wanted Persons File as well as other files as agreed to by the Attorney General and the agency.

[13] Biometrics are methods of identifying a person based on a physiological or behavioral characteristics, including the person's face, fingerprints, hand geometry, handwriting, iris, retina, veins, and voice.

[14] The Enhanced Border Security and Visa Reform Act of 2002 reduces from two years (as enacted in the USA PATRIOT Act) to 15 months the period after which the President must certify biometric standards for identifying aliens seeking admission into the U.S. and from 18 months to one year the period after which the President must first report to Congress on the progress in implementing the use of biometrics.

tive will suffice. This strategy provides multiple opportunities to thwart or mitigate terrorist acts. Security is not provided by a single initiative, but by the cumulative effect of all the homeland security programs. For example, a terrorist might be discovered by an overseas intelligence operation while applying for a visa, by screening an international flight manifest, during inspection at a port of entry, or during a domestic counterterrorism investigation. Thus, improving security requires ensuring that each layer of the system is sufficient to do its part of the job and that efforts are complementary.

The Next Steps

Great strides in improving the security of the border will only be made when the components supporting border security are wedded into a "system of systems" or network-centric approach to homeland security. Network-centric operations generate increased operational effectiveness by networking activities, decision makers, and field officers to achieve shared awareness, increased speed of command, higher tempo of operations, greater efficiency, increased security, and a degree of self-synchronization. In essence, it means linking knowledgeable entities in an effort to coordinate a comprehensive national border security plan. Such a system might produce significant efficiencies in terms of sharing skills, knowledge, and scarce high-value assets; building capacity and redundancy in the national border security system; and gaining the synergy of providing a common operating picture to all involved and being able to readily share information.

In building a "system of systems" approach to border security, both Congress and the Administration must work toward integrating border control functions, immigration enforcement, transnational supply chain security, and maritime domain awareness into a more seamless web of homeland security activities.

There are measures that Congress and Administration should consider now for building toward a "systems of systems" approach to border security. Our research at The Heritage Foundation suggests some initiatives that should be considered as building blocks toward a more integrated system for protecting the homeland. They include the following:

Rethink Responsibilities for Visa Services. Congress should consolidate all visa activities in a single government organization. While the Homeland Security Act of 2002 gave the Secretary of the DHS exclusive authority to issue regulations and administer the visa program, consular officers remained part of the Department of State. This was a mistake. For the DHS to fulfill its responsibilities in the visa process and because of the national security aspect of visa approvals, the Bureau of Consular Affairs Office of Visa Services should be placed under the DHS. Moving the Visa Office to the DHS would enable the DHS to focus on tightening, improving, and more broadly utilizing the visa function to meet the exigencies of homeland security.[15]

Improving Innovations in Intelligence Sharing. The Administration should consolidate the TTIC and the TSC under the DHS. Since May 2003, two intelligence-sharing centers have been established by the Administration. The TTIC is designed to be a central location where all terrorist-related intelligence—both foreign and domestic—is gathered, coordinated, and assessed. It is composed of elements of the FBI, CIA, Department of Defense, Department of Homeland Security, Department of State, and other intelligence agencies. The TSC has responsibility for coordinating information from all terrorist watch lists and provide around-the-clock access to local, state, and federal authorities. Although the establishment of the TTIC and the TSC are significant steps in the integration of intelligence data, these centers have been placed under the Director of Central Intelligence (DCI) and the FBI respectively. This locates the centers away from the agency that is most in need of the information they provide—the DHS.

The structure for intelligence sharing between agencies should be based on a consumer-driven model. The DHS was designed as the biggest consumer of intelligence information and has the most at stake in terms of intelligence sharing and dissemination, particularly in the areas of visa issuance and monitoring. The current arrangement leaves the DHS as little more than just another intelligence end user, competing with other members of the national security community to ensure that its priority requirements are met. Thus, the TTIC and the TSC should be placed under the DHS both to ensure the best possible establishment and operation of

[15] James Jay Carafano and Ha Nguyen, "Better Intelligence Sharing for Visa Issuance and Monitoring: An Imperative for Homeland Security," Heritage Foundation *Backgrounder* No. 1699, October 27, 2003, at *www.heritage.org/Research/HomelandDefense/BG1699.cfm.*

these centers and to make certain that the DHS has the tools and ability to fulfill its responsibilities.[16]

Improving State and Local Support for Counterterrorism Immigration Investigations. The DHS and the states should pursue, and Congress should support, the use of Section 287 of the Immigration and Naturalization Act (INA) as a mechanism for state and local law enforcement to enforce the immigration aspect of border security. Section § 287(g) of the INA provides authority for state and local enforcement to investigate, detain, and arrest aliens on civil and criminal grounds. Officers governed by a § 287(g) agreement must receive adequate training and operate under the direction of federal authorities. In addition, in a civil lawsuit, the state law enforcement officers would be considered to have been acting under federal authority, thereby shifting liability to the federal government and providing additional immunity for the state law enforcement officers enforcing federal laws.[17]

The existing § 287(g) pilot program with the State of Florida could serve as a national model. Under § 287(g), Florida signed a memorandum of understanding (MOU) in 2002 to allow a small group of Florida law enforcement officers to conduct federal immigration investigations. Florida specifically limits its officers' civil immigration enforcement to situations in which they are part of a security or counterterrorism operation that is supervised by ICE. As the Florida MOU demonstrates, § 287(g) provides adequate protection to states and their law officers while requiring that well-trained officers conduct immigration investigations. It also allows states to tailor the use of their officers to essential domestic counterterrorism missions.

Three initiatives would further enhance state and federal counterterrorism efforts through § 287(g) programs:

1. The DHS should encourage other states to adopt programs based on the Florida model,
2. Congress should appropriate funds for the DHS to expand § 287(g) initiatives, and
3. States should use the Florida initiatives as a model for expanding their own domestic counterterrorism programs and improving cooperation with federal authorities.

Expanding the DHS Law Enforcement Capacity. The DHS needs more aggressive programs to expand law enforcement capacity within the agency, establish closer coordination within the components of ICE, and expand the Coast Guard's law enforcement capabilities. In the end, investments in domestic counterterrorism programs and intelligence and early warning may provide much greater security for value than physical security at the border or additional critical infrastructure protection at ports-of-entry. Key to enhancing the DHS capability to performing these functions will be growing its capacity to perform law enforcement operations.

It is not clear that Coast Guard and ICE law enforcements programs are being developed in tandem to create the objective law enforcement corps needed for border security. In fact, it is not apparent that the DHS has defined its long-term strategic needs in this area or that they dovetail with other ongoing federal and state efforts to expand the national capacity to conduct domestic counterterrorism.

One area that warrants particular attention is the future plans for the Coast Guard's marine investigative services and its sea marshall assets. Since 9/11, many of the local investigation and inspections arms of the Coast Guard's Marine Safety Offices have significantly shifted their focus to supporting domestic counterterrorism efforts. In addition, the Coast Guard created the sea marshals program to create a cadre of specially trained law enforcement officers to escort high-risk vessels into port. While the Coast Guard law enforcement initiatives are a positive effort, there is little sign that the service is creating a comprehensive human capital plan, including the leader development training and education that are needed to fully exploit the potential of these programs.

Consolidate and Integrate DHS Aviation Support Activities. To achieve greater efficiency, flexibility, and coordination for domestic airspace security and support operations, ICE's Office of Air and Marine Interdiction (OAMI) should be merged with Bureau of Customs and Border Protection (CBP) aviation assets. Additionally, the aviation support requirements and acquisition for the OAMI and the U.S. Coast Guard should be integrated to the maximum extent possible. Building

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[16] James Jay Carafano, "Terrorist Intelligence Centers Need Reform Now," Heritage Foundation *Executive Memorandum* No. 930, May 10, 2004, at www.heritage.org/Research/HomelandDefense/em930.cfm.

[17] James Jay Carafano, "No Need for the CLEAR Act: Building Capacity for Immigration Counterterrorism Investigations," Heritage Foundation *Executive Memorandum No. 925, April 21, 2004, at www.heritage.org/Research/HomelandDefense/em925.cfm.*

greater aviation support capacity and flexibility into the DHS is critical to the border security missions, as well as supporting other federal law enforcement activities, and lessening Defense Department requirements for reserving air defense assets of missions related to homeland defense protection.

The OAMI and the CBP already work closely together in a number of aviation missions. The OAMI currently has a Northern Border Initiative that established five OAMI air unites at strategic locations along the Northern Border. This initiative melds assets and operations with the Bureau of Customs and Border Protection (CBP) and will provide a law enforcement presence within one hour of being notified, 24x7, of suspected incursions along the Northern Border. Integrating OAMI with other CBP assets would only further enhance the DHS's capabilities to conduct these kinds of operations.

Over the long term, fiscal concerns will no doubt play the significant role in determining the extent to which the DHS aviation component can be expanded to meet a range of mission requirements. Aviation support and acquisition requirements invariably consume a significant portion of operations and maintenance budgets. Here, the department can profitably learn a lesson from the Department of Defense (DOD), which maintains four air forces optimized for different tasks at great expense. As a result, today the lion's share of defense procurement will be for modernizing its air fleet of combat, transport, and support craft.[18] In addition to the cost of developing and maintaining separate air arms, the DOD has had to invest considerable resources in creating the capacity to integrate these arms effectively. Effective consolidation now will enable the DHS to avoid similar challenges in the coming years.

Place Greater Emphasis on Private-Sector Solutions for Supply Chain Security. The DHS should pursue additional initiatives to encourage the private sector to improve security in transnational supply chains. As much as possible, the DHS needs to move away from making the border a bottleneck by using passage of the border as the place to screen the vast amounts of commerce entering and leaving the United States. Current efforts to achieve this goal rely heavily on two programs, the Container Security Initiative (CSI) and the Customs-Trade Partnership Against Terrorism (CTPAT). It may not, however, be strategically prudent to pursue the current combination of measures alone. Layered security, after all requires not placing all the eggs in "one security basket."

The MTSA required the Secretary of Transportation to establish a program to evaluate and certify secure systems of intermodal transportation. It did not direct that these programs would have to necessarily be conceived or implemented by the federal government. In order to reduce risk, as well as exploit the capacity of the marketplace to create innovative and effective solutions, the DHS might consider establishing mechanisms to allow the private sector to develop and implement its own alternatives to the CSI/CTPAT regime.

Improving Congressional Oversight. Congress should create permanent committees in both houses to provide oversight for the Department of Homeland Security. While security remains a cooperative government effort, we needed a dedicated Homeland Security Department. The rationale for the initiative paralleled the thinking behind the formulation of the 1947 National Security Act, consolidating key assets into one big, powerful organization and creating the means to orchestrate that department's efforts with other federal activities. Large, centralized organizations have drawbacks, the most obvious being the problems encountered in managing a vast bureaucracy. But big organizations can also have great strengths, providing unity of purpose, a wealth of capabilities, and economies of scale, and fostering a common institutional culture and practices that build trust and confidence and facilitate coordinated action.

The department now also faces the same challenges that confronted the Pentagon in 1947. In terms of efficiencies and improved coordination, the low-hanging fruit of corralling over 180,000 employees into one agency has been picked. What is left to be done is the hard work, the nuts and bolts of building a real department—implementing human capital, acquisition, and information technology programs; building security systems that match the national strategy; and standing watch every day against terrorist attacks. Oversight of these activities requires standing committees with the expertise and experience to see the big picture and dig into the details. No area demands more attention to ensuring that disparate programs work together than the complex challenges of border security.

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[18] Richard L. Kugler, "The Defense Budget: Meeting Requirements with Constrained Resources," in *QDR 2001: Strategy-Driven Choices for America's Security,* ed. Michéle A. Flournoy (Washington, D.C.: National Defense University Press, 2001), pp. 125–129.

The House Select Committee on Homeland Security has already demonstrated that there could be value added in consolidating oversight in a single committee. They've held productive hearings and rapidly assembled a capable staff with the energy, expertise, and dedication that make for good congressional oversight. The global war against terrorism will be a long, protracted conflict. We need a Department of Homeland Security that is built and run to protect Americans today, tomorrow, and 10 and 20 years from now. We need a Congress that is properly organized to support this effort. Leaving jurisdiction for the department's homeland security programs fragmented among a dozen committees runs counter to the intent behind the Homeland Security Act of 2002: Either merge functions, change cultures, and focus the federal government on homeland security or turn the initiative over to the terrorists.

Both houses of Congress should establish permanent homeland security committees.

Conclusion

A layered and coordinated approach is the only strategic solution that promises long-term success for protecting the U.S. borders. Congress and the Administration must work together to turn a number of promising initiatives into a comprehensive system of systems that will serve to deter, disrupt, and prevent acts of transnational terrorism upon the United States. I believe several of the building blocks suggested here could be important contributions to that effort.

Ms. GRANGER. [Presiding.] Thank you very much.

Mr. Johnson?

STATEMENT OF RANDEL JOHNSON, THE UNITED STATES CHAMBER OF COMMERCE AND AMERICANS FOR BETTER BORDERS

Mr. JOHNSON. Thank you, Madam Chairwoman. I would like to thank the subcommittee for this opportunity to talk about a wide range of issues, of which there are many in this area. Let me simply note with regard to my background that I am Vice President at the U.S. Chamber for Immigration, Labor and Employee Benefits, but more particularly I did represent the Chamber on the Data Management Improvement Act Task Force which studied issues at the borders for over 2 years. We did submit two separate reports to Congress. Unfortunately, they were probably longer than most people would care to look at, but they do hold a lot of interesting data there for the subcommittee.

My written testimony is quite lengthy. It covers issues ranging from cargo processing to the need for low-risk prescreened traveler programs such as SENTRI and NEXUS, to problems that the business community is encountering in visa processing, to frankly concerns that we have over the upcoming land port deadlines under US–VISIT in December, 200. I do also wish to note our strong support for the legislation that just passed the House, which would extend the October deadline under the visa waiver program for biometric encoded passports.

With regard to low-risk, prescreened traveler programs, I just want to emphasize that obviously these have to be part of any solution to our border security, if that solution is also going to take into consideration our need to keep commerce moving. The volume of our traffic at our borders, which I think astounds people who have not been there before, I think on its face indicates that this is really an unquestionable element of any program. We strongly support the committee's efforts to expand and implement things like NEXUS and SENTRI.

Obviously, technology must play a part, but I think we are kidding ourselves if we are going to look at it as a magic panacea. There is always going to be human error involved, and I think we are a long ways off from any kind of technology which will allow us to thoroughly check every traveler equally. Therefore, we have to have some kind of low-risk, prescreened traveler program to separate out the stream of most travelers from those who have to be looked at more carefully than others. Technology is great, but it is not going to be a solution, and we should not kid ourselves.

With regard to visa delays in US–VISIT, I just want to say that we have tried to document the problems the business community is having with visa delays. We are very encouraged by the fact that both Secretary Powell and Secretary Ridge recently have acknowledged that there are glitches in the system. Secretary Ridge has kicked off a system of review to try and see where those glitches are and see where they can be resolved without impairing security.

Considering US–VISIT, let me just say that with regard to our border communities, there is a lot of concern out there still with regard to the December deadline. Things are going fairly well at the airports. There are some complaints, but they are going fairly well. But at the land ports, as the December 2004 deadline approaches, there is just a skepticism out there when they hear officials from DHS talking about how the system will work and there will be no impact on traffic. It sounds great, but when it comes to thinking through how that reality is going to be translated to each port, and which lanes are going to have to be torn up, how are dedicated lanes going to be established, there is a lot of skepticism out there. I think the DHS just simply has to get out there community by community and explain how they are going to get this done 6 months from now.

I want to emphasize, as you well know, that there is more than dollars and cents here involved. If you talk to these border communities, as many of you have, it is a way of life that is involved. It is the community structure that is so intertwined with border commerce back and forth that if this is not done right, a lot of these communities are going to go down the drain. So the stakes are very high, and US–VISIT has to be done right. There is no room for error. In that regard, we hope DHS specifically moves beyond the rhetoric quickly and moves to pilot projects to test under realistic conditions what they intend to implement in December of 2004.

Let me just note finally that I know the Chamber and other people in the business community will be unfairly criticized at times, and inaccurately, for elevating profits, jobs and commerce over national security. That is not the case. We acknowledge we have to all work together to get this system done right. Of course, the enabling statute that established the Department of Homeland Security, which we strongly supported, recognizes that the Department in achieving national security also must look at economic security. It must keep border commerce moving. I believe the word is in a "speedy fashion." I am not sure who put the "speedy" in, but in a speedy fashion. That is the concept. I think that we all sort of have to move together and get the job done. We are willing to work with DHS to do that, and the Department of State.

Finally, I just hope that as these issues come rolling out, that the Congress can try to treat them in a bipartisan manner, because the stakes are really too high to do otherwise. With that, Mr. Chairman, I have 17 seconds left.

[The statement of Mr. Johnson follows:]

PRAPERED STATEMENT OF THE U.S. CHAMBER OF COMMERCE BY RANDEL K. JOHNSON

Mr. Chairman, members of the Committee, I would like to thank you for the opportunity to testify today on border security and economic issues. I am Randel K. Johnson, Vice President for Labor, Immigration and Employee Benefits at the United States Chamber of Commerce.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than 3 million businesses. The Chamber's federation includes state and local chambers throughout the United States and also includes 98 American Chambers of Commerce abroad (AMCHAMs) located in 86 countries, which represent American companies and individuals doing business overseas as well as foreign companies with significant business interests in the United States. Because of their role at the crossroads of international business, we believe the AMCHAMs are excellent barometers of the strength of our international relationships.

Chamber members with interest in the secure and efficient movement of legitimate travel and trade at our borders include companies and organizations in the travel and tourism industries, companies that import or export goods and services through our ports of entry, companies that do business with international customers and clients, and companies that employ an international workforce. Chamber members on both the U.S.–Mexico and U.S.–Canada borders, including local chambers of commerce and American Chambers of Commerce abroad that conduct business between the United States and other countries, also have a great interest in the implementation and efficiency of our border security.

I would also like to note that I am the chair of the Americans for Better Borders (ABB) coalition, which unites regional business organizations and a wide array of companies and national trade associations representing manufacturing, hospitality, tourism, transportation, recreation and other industry sectors to work to ensure that the efficient flow of commerce and tourism across our borders while addressing national security concerns.

The Chamber and ABB coalition were instrumental in the creation and passage of the Data Management Improvement Act (DMIA) of 2000, which set the current deadlines for implementation of the US–VISIT entry-exit program and established the DMIA Task Force, a public-private group chartered in 2001 by the Attorney General to evaluate and make recommendations on how the flow of traffic at United States airports, seaports, and land border ports of entry (POE) can be improved while enhancing security. I was privileged to be named by the Attorney General to represent the U.S. Chamber on the Task Force in 2002 and to serve on the Task Force and sign its two reports to Congress, one in 2002 and one in 2003.

We are all aware of the new environment in which not only business, but all of us must live. The need for security to protect us from another horror such as September 11 is very real. The U.S. Chamber has pledged its support for the broad ranging efforts to secure our homeland, was involved in the shaping of the legislation which created the Department of Homeland Security, and "key voted" in support of the legislation in both the House and the Senate.

The U.S. Chamber agrees with the Committee's theme for this hearing, that there must be a layered and coordinated approach to our nation's security to be truly successful. Border security must start before the traveler arrives at our ports of entry, and we must use technology to make the best use of our security resources to focus on high-risk or unknown travelers and expedite legitimate, low-risk and frequent trade and visitors. We need to have both secure borders and an efficient and predictable visa and entry process. The Chamber strongly supports these policies; I only wish to emphasize that we are concerned by the way these policies are currently being implemented and by the uncertainty of what they will look like in the future.

When Congress created the Department of Homeland Security in 2002, it saw fit to include two provisions we strongly supported: creating a special office in charge of reaching out to the private sector (a particularly important function as the Department got up and running) and making clear that part of the Department's mission is to include consideration of America's economic security as the Department strives also to protect our national security. These provisions, along with those in Title IV of the implementing legislation relating to borders and transportation which reflect the need, consistent with national security, to "ensure the speedy, or-

derly, and efficient flow of lawful traffic and commerce," I believe went a long way in addressing concerns at the time that the new Department would pursue a "fortress America." That is, many were concerned that the new Department would pursue aggressive security measures without weighing the negative economic impact on the country as a whole that could result from significant increases in barriers and delays at our borders. As Chamber President and CEO Tom Donohue has said, we need to ensure "that in the pursuit of security we don't lose our mobility and our economic freedom. Mobility and security must go hand-in-hand. Sacrifice one for the other and we'll pay a horrific price."

And, indeed, Secretary Ridge at the Department of Homeland Security, Secretary Powell at the Department of State and even President Bush, have repeatedly reassured those of us outside that the government will continue to search for ways to both improve security and to expedite, or at least not significantly hinder, legitimate international commerce, travel and immigration.

On the cargo side, we must say that the government has made a great start on meeting the dual goals of security and efficiency, through programs such as the Customs–Trade Partnership Against Terrorism (C–TPAT), the Free and Secure Trade program (FAST), and the Container Security Initiative (CSI). C–TPAT is a voluntary program by which businesses (including importers, carriers, brokers, warehouse operators and manufacturers) can work with Customs and Border Protection (CBP) to ensure the integrity of their security practices and receive the benefit of reduced border processing. The FAST program is a bilateral initiative between the United States and Canada that builds on the C–TPAT model and Canada's similar program, the Partners in Protection (PIP). C–TPAT and PIP carriers, drivers and importers can receive expedited processing at the U.S.–Canada border. The CSI is a program in which teams of CBP officers are deployed to participating foreign sea ports to work with officials of the host government to target cargo containers bound for the U.S. that might pose a threat. These programs have successfully "pushed out the border," engaged the cooperation of the private sector, and added to the risk-based, layered approach that is the topic of this hearing and we commend CBP for their implementation.

However, not nearly as much progress has been made on the travel side. Only a few programs, such as the NEXUS and SENTRI programs, use the same risk-based pre-clearance strategies that have been implemented in the cargo area. NEXUS and SENTRI successfully enroll thousands of border crossers, who voluntarily undergo pre-clearance and background checks—in the case of NEXUS by both the United States and Canada—and prove themselves to be low-risk crossers.[1] By doing so, they are able to use dedicated lanes at certain border crossings and speed their travel. These two programs are successful models of meeting the dual missions of security and efficiency. By identifying these individuals as low-risk, placing them through thorough security checks prior to their arrival at the border, and then allowing briefer inspections at the ports of entry, these programs model the layered approach that we support.

In fact, the DMIA Task Force in its 2002 report emphasized the expansion of these programs as integral to the eventual success of any entry-exit system at the land borders. We understand that a similar program for air travel from Canada (NEXUS Air) is in development, and we strongly encourage CBP to speed such a program to the traveling public. We also encourage the Committee, as it is considering the first ever authorization legislation for the Department of Homeland Security, to not only encourage these types of programs through specific authorizing language, but also provide resources for their expansion, maintenance and improvement to encourage as many as possible to enroll.

CBP Commissioner Bonner in March 2004 announced a new initiative that will also build on this layered approach, the Immigration Security Initiative (ISI). Based on reports from CBP, the ISI will post teams of CBP officers at major international airports around the world from which travelers embark to the United States. Much like their counterparts in the Container Security Initiative, the ISI teams will work with foreign governments and law enforcement, as well as use its own resources to target inadmissible persons and prevent them from boarding planes to the U.S. As

[1] The NEXUS program issues individual passenger radio frequency (RF)-enabled proximity cards for frequent travelers on the northern border. The SENTRI program operates on the southern border and provides an RF-enabled vehicle tag with associated data for all passengers registered within the vehicle. Over the next couple of years, the two programs will be merged and the NEXUS individual passenger-based technology will replace SENTRI on the southern border. Source: Department of Homeland Security, Request for Proposals for US–VISIT Program Prime Contractor Acquisition, RFP No. HSSCHQ–04–R–0096, November 28, 2003, p. 23.

a "middle layer" of security between the consular post and the port of entry, this program has the promise to further "push out our borders" for passengers.[2]

We support the concepts underpinning the ISI; however, the success of this program to facilitate legitimate travelers and reduce unnecessary inspections and screening at the ports of entry will depend heavily on the validity and detail of the targeting information, data and intelligence used to flag inadmissible persons. We would want to be sure that travelers will have an expedited means of clearing up any "false" negatives, to ensure their continued travel to the United States as quickly as possible. As important as such partnerships and targeting may be, the best assurance of stopping inadmissible persons is full pre-inspection, where actual U.S. inspections and admissions are recorded at foreign airports prior to departure. These programs are currently in place in several airports in Canada, Ireland, the Caribbean and elsewhere, and we would encourage CBP to evaluate expansion of these programs as well.

However, in spite of these successes and new initiatives for travelers, they are still quite limited. For the majority of travelers, there is a "one-size-fits-all" approach to screening and security. That is, everyone is seen as a risk. I believe there is concern among those of us in the private sector, the traveling public and border communities, that we are not much closer to finding the right balance between security and facilitation. Constantly tightening policy responses and approaching deadlines for still greater changes only increase the concern. These changes include: increased visa referrals for security checks, requirements for in-person visa interviews, upcoming deadlines in October of this year for Machine Readable Passports and biometrics for Visa Waiver Program (VWP) visitors, the inclusion of these visitors in September in the US–VISIT system at air and seaports, which includes fingerprinting more than 13 million visitors annually from countries around the world, and full implementation of US–VISIT at the 50 busiest land borders in December 2004 and the remaining land ports in 2005.[3]

Indeed, there is a growing perception abroad and in border communities that, in spite of the rhetoric, America is turning into a fortress. And this perception, based on reality, is hurting American businesses. A recent study by eight business organizations estimated that visa problems alone have cost more than $30 billion to the economy in lost revenues and other indirect costs.[4] And recent Department of Commerce data shows a drop of more than $17 billion in services trade surplus from 2000 to 2002, with a drop of $17.3 billion in travel exports between 2000 and 2003, and a more than $5 billion drop in passenger fares.[5] Cross border visits along our land borders are also down. According to Department of Transportation data, inbound passenger vehicle crossings were down almost 20 million between 2000 and 2002 on the Canadian border, and down over 40 million across the U.S.-Mexico border. Between 2000 and 2002 inbound truck crossings at the U.S.-Mexico border decreased almost 100,000, with a decrease of more than 220,000 between 2000 and 2001. On the Canadian border, inbound truck crossings decreased almost 300,000 between 2000 and 2001, and are down 100,000 from 2000 to 2002.[6] And, as anyone in these border communities can tell you, fewer crossings means less business and heavy impacts to the economy.

We have met in the last year, and continue to meet with representatives from many stakeholders in border communities, including local chambers of commerce, businesses and community representatives both as part of my work on the DMIA Task Force and on behalf of the Chamber. As the December 2004 deadline for US–VISIT land border implementation approaches, there is a very strong feeling that the local communities and businesses have made their serious concerns about entry-exit procedures known to various people in the government (and us) but are wondering if there is a real understanding of the challenge and stakes involved. Although recent official descriptions of how the US–VISIT system will be implemented

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[2] "Immigration Security Initiative: New Layer in Homeland Defense," Customs and Border Protection Today, May 2004, found at *http://www.cbp.gov/xp/CustomsToday/2004/May/isi.xml.*

[3] For a useful overview of various deadlines, see GAO Report 03–563, "Homeland Security Needs to Improve Entry Exit System Expenditure Planning," pages 48–50.

[4] *Do Visa Delays Hurt U.S. Businesses,* Prepared by the Santangelo Group for the Aerospace Industries Association, the American Council on International Personnel, the Association for Manufacturing Technology, the Coalition for Employment through Exports, the National Foreign Trade Council, the U.S.–China Business Council, U.S.-Russia Business Council, and the U.S.-Vietnam Business Council, June 2, 2004, available at *www.nftc.org.*

[5] Source: Department of Commerce, Bureau of Economic Analysis, Balance of Payments (International Transactions) data, 1960-present at *http://www.bea.doc.gov/bea/di/home/bop.htm.*

[6] Source: Bureau of Transportation Statistics, Department of Transportation, available at http://www.bts.gov/programs/international/border_crossing_entry_data/.

at land borders does indicate that the Department of Homeland Security is at least listening to these concerns, the border communities are still skeptical that the entry-exit procedures embodied by US–VISIT can be put in place by December without a significant and negative impact on cross border traffic.

This adverse impact is already being felt on the visa front. Our American Chambers of Commerce around the world report they are actually losing business to European and other competitors because of the difficulties in obtaining visas for their customers and clients, supporting the results of the study mentioned above. Impending changes to the VWP will disproportionately affect key American allies and trading partners such as the United Kingdom and Japan, both of whose governments have stated that, in spite of their best efforts, they will not be able to meet the October 26, 2004, deadline which will require VWP countries to begin issuing passports with biometric identifiers. In fact, the Department of State has stated it will not be able to issue U.S.-biometric passports until next year. We strongly support legislation to be voted on in the House this week that would extend the VWP deadline. This is an issue of the highest importance for U.S. companies doing business in the 27 countries in the VWP.

Turning back to the borders, the DMIA Task Force submitted two reports to Congress, one in 2002 and one in 2003. The 2002 report focused on what was then the entry-exit system and detailed numerous challenges to implementing such a system, including the differentiation required for the modes of entry (land, sea, and air) and differences between the northern and southern land border environments. In 2003, the Task Force report detailed the significant challenges facing our ports of entry in terms of infrastructure and technology and the need for greater cooperation and coordination among federal agencies with border responsibilities, with state and local governments, and the private sector. Significantly, in reviewing the progress to date on the US–VISIT system in 2003, the Task Force report included the following recommendation:

> That the first phase at air and sea [Ports of Entry] be reviewed and evaluated no later than 6 months after implementation by an independent body. This evaluation must consider the program's effect on national and economic security and international trade and travel. Congress should consider any recommendations from the independent review and evaluation and also reconsider deadlines for all other entry-exit statutory requirements. It is further recommended that any mandates in this area receive appropriate funding.[7]

We note that no thorough evaluation of the air and sea implementation of US–VISIT has yet been done to our knowledge—and the deadlines for land implementation are fast approaching.

The Chamber, its members, and the ABB coalition fully support the efforts of the Department of Homeland Security to improve the security at our ports of entry and borders and we recognize that the Department faces many difficult challenges. We do not oppose the US–VISIT system; the Department has worked hard over the last year to listen to the concerns of business and has made significant strides in adopting systems that attempt to balance the need for security and the continued facilitation of legitimate travel at our ports of entry. However, the U.S. Chamber and its members remain very concerned that, if the US–VISIT system is implemented improperly, we risk serious economic harm by impeding the billions of dollars in cross-border trade (particularly at our land borders) and deterring the millions of legitimate visitors to our country, who also spend billions of dollars within our borders.

Frankly, there is a concern that the government may be acting without sufficient planning and testing to ensure the systems will not adversely impact commerce and travel. And it is not an overstatement, given the enormity of our cross-border traffic, to say that there is literally no room for error. In fact, the recent GAO report on the US–VISIT expenditure plan noted the lack of sufficient testing plans or structures.

> DHS has not employed rigorous, disciplined management controls typically associated with successful programs, such as test management, and its plans for implementing other controls, such as independent verification and validation, may not prove effective. More specifically, testing of the initial phase of the implemented system was not well managed and was completed after the system became operational. In addition, multiple test plans were developed during testing, and only the final test plan, completed after testing, included all required content, such as describing tests to be performed. Such controls, while signifi-

[7] *Data Management Improvement Act Task Force Second Annual Report to Congress,* Department of Homeland Security, December 2003.

cant for the initial phases of US–VISIT, are even more critical for the later phases, as the size and complexity of the program will only increase.[8]

We submitted comments to the Department of Homeland Security on its interim final rule implementing the US–VISIT requirements for visa travelers at air and seaports on February 4, 2004. Some of these comments have been echoed in the recent GAO report just cited. I would briefly like to highlight some of our concerns regarding the air implementation here today.

First, although major delays in international arrivals have not been reported from the implementation at US–VISIT at airports so far (we do not have information about the sea port implementation), we are extremely concerned about the capacity of the system to absorb additional travelers and additional data, as we enter the peak travel season, particularly with the inclusion of Visa Waiver travelers by the end of September.[9] This concern arises on the technology, personnel, and infrastructure level. The US–VISIT program has so far been operational only during the lowest period for international travel to the United States during the year. As travel season picks up this summer, we expect additional travelers to arrive requiring enrollment in US–VISIT.

We also noted that CBP, as an insurance against delays, deployed additional personnel to airports in the initial days of the US–VISIT implementation. Yet GAO further noted that the US–VISIT office does not project any increased personnel requirements for the US–VISIT program.[10] If additional travelers during peak season or additional classes of travelers are required to be enrolled in the US–VISIT system, it is hard to imagine that additional staff will not be necessary to avoid delays. We would strongly urge CBP to devote adequate staff to ensure expeditious processing of all international travelers.

We also have concerns about the proposed *exit* system for airports, which is still in the development phases. The current system of exit confirmation is the testing of self-service kiosks located near the passenger security checkpoints at airports. While the concept of a self-service checkout is appealing, and certainly is the least likely to cause disruption or additional backups for departing travelers, the lack of information provided to travelers and the seeming "voluntariness" of the system may, in fact, reduce the effectiveness of the exit system in actually recording departures. The self-service kiosk also provides the traveler with no documentary evidence that he or she has complied with the exit verification, and, therefore, should any discrepancy arise, the traveler will be at a loss to prove compliance.

Given these discrepancies, any method of exit verification must include clear directions to the traveler *upon entry* as to the need to "check out" upon departure and the means by which to do so. Since initially the exit capability will not be available at all airports, we predict a great deal of confusion by travelers as to the exit requirement. We have already received questions via our American Chambers of Commerce overseas regarding whether travelers must exit from designated airports, and if they do not, how their exit will be registered and whether it will impact their ability to return to the United States in the future. A great deal of outreach to travelers (in multiple languages) must be made to avoid inadvertent noncompliance with any requirements for exit verification. We would strongly urge a period of time during which any negative impacts from failure to register are waived until it is clear that most travelers understand and are able to comply with the exit requirements.

Of course, the largest challenge to the US–VISIT program remains the land borders. *The circumstances of travel at land borders are monumentally different than at air and seaports and the hurdles are immeasurably higher.* The unique situation of the land borders was discussed extensively in the 2002 DMIA Task Force Report to Congress. The report stated:

> There is a marked difference between an inspection conducted at an air or sea POE [port of entry] and one conducted at a land border. Because of their varied status, divergent points of origin, unfamiliarity with requirements and regulations, and the increased risk to the U.S., most applicants for admission at seaports and airports receive a comprehensive inspection that includes mandatory data systems checks. In contrast, the great majority of persons arriving at land border POEs are residents of the border area who cross frequently and are familiar with requirements concerning their entry into the U.S. and receive an

[8] "First Phase of Visitor and Immigration Status Program Operating, but Improvements Needed," General Accounting Office Report GAO–04–586, May 2004.

[9] Approximately 13 million Visa Waiver Program entries would be included in the system, according to DHS data.

[10] "Finally, DHS's plans for future US–VISIT resource needs at the land ports of entry, such as staff and facilities, are based on questionable assumptions, making future resource needs uncertain." *Ibid.*

> inspection that may include data systems checks. The vast majority of all border crossings into the U.S. occur at land border POEs. . . . Border traffic includes U.S. citizens who leave and reenter the U.S. multiple times daily, permanent residents who make multiple entries, and aliens who hold non-immigrant visas or border crossing cards and commute back and forth daily or weekly from Canada or Mexico. Individuals can cross land borders as pedestrians, on bicycles, in cars, rails, buses, trucks, or other vehicles.[11]

In fact 80% of all inspections take place at the land borders; over 358 million inspections in 2002 were conducted at land borders, compared to 78 million at airports and 12 million at seaports.[12] The land borders also see the crossing of $540 billion in surface trade between the United States, Canada and Mexico.[13] As these facts and statistics reveal, the land borders represent a significantly larger challenge for the Department in order to ensure that the implementation of US–VISIT does not impede legitimate commerce and travel.

I do wish to emphasize that there is more at stake here than dollars and cents. The way we go about securing our nation has a profound impact on how other countries view us. It is also about a way of life that is intrinsic at our borders. These communities are so intertwined with those across the border that not just jobs, but whole lives, could be changed along with the fabric and social underpinnings of these communities if we are not careful about our approach.[14]

Therefore we also urge that as the US–VISIT program is developed it be coordinated with other programs at the land borders, including NEXUS, SENTRI and the FAST clearance for truck operators. But especially we urge that DHS actively, and quickly, provide the border communities with a detailed description of the programs to be implemented and how, so that inaccuracies, rumors and fears may be quelled. The time for generalities has passed and communities need a detailed explanation, port-by-port as to how US–VISIT will be up and running by December 2004. These communities, which know the day-to-day realities, should be given the chance to comment both formally and informally on the proposed implementation, and provide input and feedback to ensure that their, and our, worst fears are not realized.

In conclusion, we know that our borders and ports of entry cannot be our first line of defense, but the last in a series of layers, that begins when a foreign traveler decides to visit the U.S. at our embassies and consulates abroad. Many necessary changes have already been made in our visa process, but not without impact.

America's trade relationships, our diplomatic relationships, our cultural relationships and our academic relationships with the rest of the world depend a great deal on the ability of people to travel to the United States. The ability of any of these transactions to happen depends on the timeliness, predictability and efficiency of our visa and immigration system. Unfortunately, these qualities have been sorely lacking. Specifically, the changes to the visa system over the last year have strained many of our business and international relationships, and have created problems and costs for our economy, as described above. We need to be pro-active in quickly correcting these negative perceptions, and further refining our necessary procedures. Once patterns of travel, trade and educational and cultural exchange are reestablished with other nations, it will be difficult for the United States to get them back. We understand that the Department of Homeland Security is currently undertaking a thorough review of the visa system, with an eye toward these goals of security, efficiency and timeliness and we welcome that review, and hope we will have an opportunity to participate with the Department in reengineering this process.[15]

Let me reiterate that we understand the concern for security, and the Chamber fully supports efforts to improve our screening of persons who wish to come to this country. However, as stated above, we must look for those processes that can

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[11] *Data Management Improvement Act Task Force First Annual Report to Congress,* December 2002, p. 11.

[12] Source: PAS G–22.1 *INS Statistics, cited in Data Management Improvement Act Second Annual Report to Congress,* December 2003, p. 15.

[13] Bureau of Transportation Statistics, U.S. Department of Transportation, *North American Merchandise Trade by U.S. State and All Land Modes, 2002, www.bts.gov/ntda/tbscd/reports/annual02/state/us*_trade_2002_all.html.

[14] We have attached to this testimony the results of a recent survey we conducted of local chambers of commerce in communities along the borders with Canada and Mexico which give detail regarding the economic and social impact of border changes on their communities. The results include economic impact studies, resolutions of concern by local chambers of commerce, and other statements regarding the border.

[15] Tom Donohue, the President and CEO of the U.S. Chamber, has written to both Secretaries Ridge and Powell regarding visa processing and has suggested that a private sector advisory committee be created on this issue. The Chamber will soon be submitting detailed suggestions to the Department of Homeland Security to improve visa processing.

achieve that objective without sacrificing the efficiency and timeliness of our system. Our largest concern is that new policies seem to have been put in place with inadequate consideration of the need for coordination and communication with the private sector, or the real resource needs to efficiently carry out these changes.

We are also aware that many of these changes are being prompted by Congressional mandates, with tight deadlines. We believe that Congress must take a realistic look at what it hopes to accomplish in such a short time, and the costs, to the taxpayers, to our economy and our foreign relations of moving forward without adequately gauging the impacts. While deadlines may impart the seriousness of the imperative, deadlines that cannot be met provide a false sense of security.

None of this is to discourage efforts within the government agencies to deal with the very difficult questions of how to ensure that the next terrorist cannot penetrate our border protections—whether at the consulates overseas or at the ports of entry. In the end, it is the quintessential job of government to protect its citizens, and progress has been made. But we urge those with this responsibility to listen to the very real concerns of those who must live with the decisions they make.

I wish to thank you for this opportunity to share the views of the U.S. Chamber of Commerce and I look forward to your questions.

U.S. CHAMBER OF COMMERCE BORDER SURVEY MARCH 2004

The following represents a sampling of the responses we received to an informal survey of local chambers of commerce on the Canadian and Mexican borders in March 2004 regarding the potential impact of border security measures, including the proposed US–VISIT system, on their communities and economies.

Texas

The Laredo Port of Entry is the busiest commercial crossing on the U.S.-Mexico border, handling more than 9,000 trucks and over 900 rail cars *each day*. The Port of Laredo processed more than $32 million in exports and almost $47 million in imports from Mexico in 2002. In addition, the crossings in Laredo process almost 25,000 pedestrians and more than 43,000 passenger cars daily. According to the Laredo Chamber, "[A]ny delay, no matter how small per entry, multiplies into major congestion."[16] The Laredo Chamber estimates that at least 50% of local business is directly or indirectly tied to cross-border trade and traffic.

A recent study by Dr. Michael Patrick, Director for the Texas Center for Border Economic and Enterprise Development at Texas A&M University concluded that a 1% decrease in border crossings would cost the Laredo economy $19 million in annual sales, and increase local unemployment by 7.2%. Sales taxes alone would decline by $133,000. Across all of the major Texas ports, Brownsville, McAllen, Laredo, and El Paso a 1% decline in crossings would cost the border region $76 million in sales and 1,500 jobs, and decrease the Gross State Product by $1.2 billion.[17]

The Brownsville, Texas Chamber of Commerce reported an additional concern: Mexican citizens own approximately 50% of the resort condominiums at South Padre Island. Because the majority of Mexican border crossers hold so-called "laser visas," Border Crossing Cards that also serve as visitor ("B–1/B–2") visas that generally restrict their period of stay to 72 hours, the Chamber is extremely concerned that if border crossings become more difficult, many of these owners will divest of their real estate, costing the local economy millions of dollars. If the period of stay for "laser visas" is not extended, long border delays will limit the time that these vacationers can use their homes, making these investments less attractive.

The El Paso international bridges handle almost one-fifth of all trade along the U.S.-Mexico border, more than $38 million in 2002. Local economists estimate between 15% and 20% of the city's retail sales are derived from Mexican nationals.

According to the Greater San Antonio Chamber of Commerce, Mexican nationals purchased approximately $170 million in retail goods in San Antonio last year. Two major malls in the area report that as much as 35% of all sales go to Mexican nationals. Further, according to Visa International, San Antonio has the second largest usage of their credit cards by Mexican nationals in the United States (second to McAllen), with 8.29% of total U.S. purchases.

The Free Trade Alliance of San Antonio, the Greater San Antonio Chamber of Commerce and the communities of Brownsville, McAllen, Laredo, Del Rio, and El Paso have agreed to work together to address these issues. One common goal is to obtain a change to the limitation on the "laser visa" to allow Mexican nationals to

[16] Response to survey by Miguel A. Conchas, President and CEO of the Laredo Chamber of Commerce, February 2004.

[17] Patrick, Dr. Michael, "The Price of Security," *Inlandport: The Laredo Chamber's Business and Trade Magazine,* January/February 2004.

stay for longer periods of time and to be exempt from US–VISIT enrollment, since they have already submitted to extensive background checks to obtain the cards, which contain the biometric identifiers required under the US–VISIT system.

Washington

Whatcom County, Washington has four border crossings, Peace Arch, Pacific Highway, Lynden, and Sumas, accounting for more than 2 million crossings per quarter. The region had almost a one-third drop in crossings since the fall of 2002. While some of this continued the downward trend since the Canadian dollar weakened in the 1990s, it is worth noting that border activity has not increased in recent years as the Canadian dollar has strengthened.

A survey conducted by Western Washington University in the summer of 2003 revealed that Canadian shoppers make approximately 10% of all retail sales in Whatcom County, estimated at over $35 million. In 2002 the total trading relationship between Washington and Canada was nearly $11.3 billion. The Blaine, Washington border crossings are the sixth largest crossing in value of trade on the Canadian border at $9.9 billion.

According to Department of Homeland Security estimates, an additional nine seconds of inspection time will result in over 700 additional minutes of cumulative vehicle wait time at the Blaine crossing.[18] Delays at the border after September 11 and during periods of heightened security alert have caused Canadian residents, particularly in the Vancouver metropolitan area, to believe that border crossing is a hassle. There is discussion in British Columbia of running commercials on Vancouver area television encouraging Canadians to return north. Canadian press has reported stories about US–VISIT expressing great concern that it will cause additional delays when implemented. The local chamber of commerce in Bellingham, Washington reports hearing very little about how the Department is intending to implement US–VISIT and is very eager for local community outreach.

Arizona

The Yuma County, Arizona chamber has concerns about the impact of US–VISIT on the more than 20,000 agricultural workers that visit daily at the San Luis Port of Entry during the agricultural season. Yuma is a county of 170,000 people in the southwest of the state called "the lettuce capital of the country" and depends on this agricultural workforce for its more than $500 million agricultural industry. According to Ken Rosevear, Executive Director of the Yuma Chamber of Commerce:

> It is extremely important that [these workers] are able to cross within a short window of time to be able to coordinate with the busses that transport them to their work areas. These areas may be as far as 50 miles and require another two hours of travel. Waiting times at the border during the season can reach 2+ hours and that delay can cause shortages for that day's labor force in the fields. . . .[T]hese delays can cost millions of dollars in lost revenue per day.[19]

According to the Yuma chamber, a new port of entry at San Luis East is in the early stages of development because of existing congestion at the port of entry, including a new highway to run from the port to Interstate 8. According to Mr. Rosevear, "As far as ability to absorb any further delay in either commercial, auto, or pedestrian traffic, absolutely NONE. This will bring total gridlock to our current port."[20]

The Douglas, Arizona Chamber of Commerce reports similar concerns. Douglas estimates that more than 60% of its retail volume is from Mexican customers, and it underpins the entire local economy. Currently crossing times coming into the United States range from 20 minutes to 2 hours, with lines backing up more than 10 blocks into the town. This traffic backup creates air pollution problems. The regular crossers include employees of the more than 26 maquiladora plants across the border, and farm workers. These workers regularly cross the border each way daily, and sometimes several times.

The Nogales Chamber of Commerce reports that 80% to 90% of business in the town is tied to the border. The largest employers include the more than 300 maquiladora plants, produce companies, government agencies (most tied to the border) and merchants, who estimate that 80% of their revenue is from Mexican customers. Crossing times at the Nogales Port of Entry range from 20 to 40 minutes on average with longer waits during morning and afternoon commute times. According to Department estimates, a nine second increase in inspection times at the Nogales Port of Entry would result in an additional 500 minutes of vehicle wait

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[18] Department of Homeland Security, US–VISIT Industry Day Briefing, July 2003, *http://www.dhs.gov/interweb/assetlibrary/USVISIT_*IndustryConfBrief.pdf.

[19] Response to survey of border chambers, February 2004.

[20] *Ibid.*

time.[21] Of significance is the fact that the Nogales Chamber was not aware of US–VISIT or its pending implementation until informed by the U.S. Chamber. Apparently, there had been no outreach by the border agencies to the local Nogales business community.

New York

The Watertown Chamber of Commerce recently conducted a study of the Thousand Islands bridge crossing. The Thousand Islands crossing, which connects Interstate 81 to Highway 404 in Ontario is one of the fastest growing travel routes between Ontario, Quebec and the U.S. southern and mid–Atlantic states and cities, handling more than 2 million passenger cars per year, and forecasting 80% increase in traffic in the next 30 years. What makes this crossing unusual is that almost two-thirds of crossings are for recreation, and 63% of the visits are for more than two nights. Commuter crossings dominate the other major ports of entry on the U.S.-Canada border. As a major gateway between the recreational areas of upstate New York and the "cottage" areas of Ontario and Quebec, Thousand Islands is potentially more susceptible to declines in crossings due to delays, as vacationers may choose to spend their holidays on their own side of the border. The crossing also accommodates more than 1,500 commercial vehicles daily, comprising $29 million in trade per day, with more than 165,000 jobs in the U.S. and Canada dependent on this trade.

According to the Plattsburgh-North Country Chamber of Commerce, the total economic impact of Canada on the Clinton County, New York area, surrounding the Champlain/LaColle border crossing, is more than $1.3 billion, including more than 14% of all county jobs, almost $300 million in annual visitor spending on tourism and retail, and $8.7 million in county sales tax generated. The Champlain/LaColle border crossing is the only crossing in the eastern half of the continent that does not cross water, and is currently undergoing a major expansion. Yet, still, at the height of the summer vacation season, backups at this crossing can be over two hours.

California

The San Ysidro Port of Entry in California is the busiest border crossing in the world, processing over 40 million passengers and 15 million trucks and busses annually over the past three years. Its sister port at Otay Mesa, primarily a commercial port, handles more than $20 billion in two-way surface trade annually, averaging more than 5 million vehicles and 11 million people crossing annually in the last five years.

According to the San Ysidro Chamber of Commerce, more than 60,000 people cross the border daily, and two-thirds of this volume are regular crossers, presumably workers. Inbound waits for crossing are often more than two hours, and the chamber estimates that if each car is stopped only 10 seconds longer more than nine hours of delay could result. In the days following September 11, businesses along Main Street in San Ysidro reported more than 90% lost business. Further, there is no infrastructure in place for exit inspections, and no room for expansion; the town of Tijuana starts literally adjacent to the port of entry. Even so, outbound traffic is often backed up more than one hour, even though Mexican customs usually waives most traffic through.

At Otay Mesa, the local chamber of commerce estimates that 95% of business in the town is generated by cross-border trade, both directly and indirectly, much of it the maquila industries that operate facilities on both sides of the border, including Sanyo, Honeywell, Hitachi, Parker Hannifin, and others. One of the main appeals of the area is the availability of a skilled, legal workforce that enters from Tijuana daily.

The El Centro Chamber of Commerce, located just north of the Calexico border crossing, is concerned with the impact on its retail economy. El Centro has a population of about 150,000, but the adjoining town of Mexicali has more than 500,000 "laser visa" holders. The local Costco and Wal-Mart retail outlets depend on this cross-border shopping, and ground has recently been broken on a large new regional mall with numerous national retailers to serve this Mexican market. Further, businesses in El Centro and farms throughout the Imperial Valley depend on Mexican labor. The El Centro chamber expressed concerns similar to the Yuma chamber of the impact of US–VISIT on the entry of agricultural workers to this vibrant growing center in California.

The Greater San Diego Chamber of Commerce reports that total sales to Mexican citizens represented $3 billion in retail sales for San Diego in 2000 and 2001. After

[21] Department of Homeland Security, US–VISIT Industry Day Briefing, July 2003, *http://www.dhs.gov/interweb/assetlibrary/USVISIT*_IndustryConfBrief.pdf.

9/11, increased border security resulted in decreases in sales of up to 80% for several months.

The Greater San Diego Chamber of Commerce, along with the City of Chula Vista, the City of San Diego, the San Diego Association of Governments (SANDAG), San Diego Dialogue, Sand Diego Regional Economic Development Corporation, the San Diego World Trade Center, San Ysidro Business Association, San Ysidro Chamber of Commerce, and the South San Diego Economic Development Council, has formed the San Diego Alliance for Border Efficiency. One of its goals is to mitigate the impact of US–VISIT on southbound border congestion by ensuring the development of necessary infrastructure prior to implementation.

Michigan

The Detroit/Windsor border crossings account for more than 27 million inspections annually and almost $100 billion in trade. These crossings account for almost 40% of all U.S.-Canada trade, with the Ambassador Bridge being the single busiest border crossing along the northern border, handling 25% of U.S.-Canada trade itself. The automotive industry alone accounts for more than $300 million of this daily trade. More than 160,000 jobs in Michigan and 1.8 million jobs nationwide are tied to the export of manufactured goods to Canada. Thirty-eight states and Puerto Rico have Canada as their primary trading partner, and half of U.S. exports to Canada are produced in 14 states. Of the passenger crossings, the majority of noncommercial crossings are locals. More than 10,000 people cross the border in Michigan to work, including more than 1,600 nurses in the city of Detroit. One hospital estimates that 15% of its nursing staff, and 20% of its critical care nursing staff, cross the border from Canada.[22]

The efficiency of these border crossings is extremely fragile. Following the September 11 attacks, additional security at the Detroit border crossings resulted in 20 mile delays on the Canadian side, taking five hours to enter the U.S. However, delays as little as 20 minutes for just-in-time parts deliveries can result in assembly line shutdowns, increased costs to reroute trucks or ship cargo by rail, barge, or air, and create emergency inventory stockpiles (the exact costs that just-in-time was supposed to replace).

In a June 1998 Senate Judiciary Report on the original entry-exit system proposed by Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Dan Stamper of the Detroit International Bridge Company is cited as estimating that additional entry and exit procedures that would add only 30 seconds per vehicle (for only half of the daily crossings) would still add 3,750 minutes of extra processing time per day. Since there are only 1,440 minutes in a day, this effect would essentially shut down the border. In a February 26, 2004, letter to the Detroit Regional Chamber, Neal Belitsky, Executive Vice President of the Detroit & Canada Tunnel Corporation (which operates the Detroit-Windsor Tunnel), stated:

> Our facility is typical of those at the other major crossings between Michigan or New York and Ontario. The Bridge & Tunnel Operator's Association (BTOA) represents these crossings. Plazas were not designed for today's traffic volumes or the post 9–11 environment. . . .We are concerned that the system may not be fully field tested prior to installation. This could lead to significant disruptions in cross border traffic and trade. Has an assessment been completed that will indicate both anticipated volumes and risk?"[23]

Mr. CAMP. [Presiding.] Thank you, Mr. Johnson.

Mr. Bonner, you have 5 minutes.

STATEMENT OF T.J. BONNER, PRESIDENT, NATIONAL BORDER CONTROL COUNCIL

Mr. BONNER. Thank you. It is a pleasure to present the views and concerns of 10,000 front-line Border Patrol employees regarding the level of coordination and cooperation between the various agencies responsible for different aspects of homeland security, as

[22] Testimony of Dan Cherrin, former Director of Federal Public Policy of the Detroit Regional Chamber before the Standing Committee on Industry, Science and Technology of the Parliament of Canada, November 1, 2001.

[23] Letter to Claudia Berry, Public Affairs Group, Detroit Regional Chamber of Commerce, from Neal Belitsky, Executive Vice President, Detroit and Canada Tunnel Corporation, February 26, 2004..

well as to make specific recommendations for improving these important interactions.

Prior to the creation of the Department of Homeland Security, coordination within the agencies with primary jurisdiction for enforcing immigration, customs and agriculture laws was generally very good. Unfortunately, this same level of cooperation did not extend beyond each branch. The Homeland Security Act of 2002 attempted to improve coordination by placing the agencies responsible for enforcing these laws under one umbrella and creating two separate components: the Bureau of Border Security for enforcement, and the Bureau of Citizenship and Immigration Services for service.

A subsequent political compromise, however, replaced the Bureau of Border Security with two separate enforcement entities, the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement. In retrospect, this was a mistake. This artificial bifurcation of the enforcement functions of the Department has created needless barriers to the cooperation and coordination that is so essential in law enforcement, replicating and exacerbating some of the very problems that led to the call for a consolidated agency.

The merger also created another set of challenges relating to the effective enforcement of the various laws under the jurisdiction of the new Department. Instead of the relatively narrow focus of the previous entities, the two new bureaus are both responsible for enforcing customs, immigration and agriculture laws. Each of these areas of law are extremely complex and require a great deal of training and experience to master. It is unrealistic to expect employees to be fully competent in these three complex areas of law. In the war against terrorism, mediocrity is simply not an acceptable standard.

To remedy these deficiencies, the following solutions are recommended. One, consolidate the Bureaus of Customs and Border Protection and Immigration and Customs Enforcement into a single Bureau of Border Security, as envisioned by the Homeland Security Act, ensuring that the Border Patrol remains a separate entity within that Bureau. Two, ensure that the three main areas of law within the jurisdiction of the consolidated bureau are administered and enforced by specialists who are comprehensively trained in a single discipline. Finally, ensure that all of the components within the consolidated bureau, including the Border Patrol, have their own investigative branches that report directly up the chain of command to the head of their respective division.

While the need for these reforms is obvious to everyone who regularly deals with these issues, managers and other employees without collective bargaining rights and protections are constrained from publicly acknowledging it. The recent decision to remove such protections from all the criminal investigators in the Department will deprive Congress and the public of their invaluable perspective. Likewise, the new human resources management system currently being developed will have the same chilling effect on the ability of the Department's remaining employees to speak out on issues of public concern. Deliberately stifling the voice of those who

can warn us of problems and recommend solutions is not only counterproductive, it is an open invitation to disaster.

Thank you.

[The statement of Mr. Bonner follows:]

PREPARED STATEMENT OF T.J. BONNER,

On behalf of the 10,000 Border Patrol employees that it represents, the National Border Patrol Council thanks you for the opportunity to present our views and concerns regarding the level of coordination and cooperation between the various agencies responsible for different aspects of homeland security, as well as our recommendations for improving these important interactions.

Prior to the creation of the Department of Homeland Security, all of the agencies with primary jurisdiction for enforcing immigration, customs, and agriculture laws employed various classifications of enforcement personnel, including criminal investigators, responsible for those matters within their areas of jurisdiction. Coordination within these agencies was generally very good. For example, the criminal investigators in the Border Patrol's Anti-Smuggling Unit worked very closely with uniformed Border Patrol Agents to uncover and break up alien smuggling rings. This close internal coordination was a result of all of the various operations being overseen by the same management structure and sharing the same organizational culture and values. Unfortunately, this same level of cooperation did not extend beyond each branch.

The lack of cooperation and coordination between the agencies responsible for enforcing the laws at our Nation's borders and beyond was understandably a matter of concern even before the September 11, 2001 terrorist attacks. Additionally, there was a great deal of support for the concept of separating the enforcement and service functions of the Immigration and Naturalization Service (I&NS). In fact, the National Border Patrol Council endorsed that idea.

The Homeland Security Act of 2002 embodied those principles, authorizing the creation of separate components for enforcement and service, the Bureau of Border Security and the Bureau of Citizenship and Immigration Services. For reasons that are not entirely clear, a subsequent political compromise replaced the Bureau of Border Security with two separate enforcement entities, the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement.

In an attempt to appease those who supported the existing bureaucracies, inspections and patrol functions were placed into one bureau, and investigation, detention, and removal functions in another. Although proponents claimed that this new structure would create a clear demarcation between border enforcement and interior enforcement, this naive perspective is at odds with reality. By definition, every case involving the smuggling of people or goods into the United States originates at the border. This artificial bifurcation of the enforcement functions of the Department has created needless barriers to the cooperation and coordination that is so essential in law enforcement, replicating and exacerbating some of the very problems that led to the call for a consolidated agency.

The merger also created another set of challenges relating to the effective enforcement of the various laws under the jurisdiction of the new Department. Instead of the relatively narrow focus of the previous entities, the two new bureaus are both responsible for enforcing customs, immigration, and agriculture laws. Each of these areas of law are extremely complex, and require a great deal of training and experience to master.

Although the creation of the Department of Homeland Security has been compared to a corporate merger, a more apt analogy would be that of a hostile takeover. While it certainly would have been unwise to incorporate the mistakes of the beleaguered I&NS into the new Department, it was equally inadvisable to ignore the vast amount of knowledge and wisdom possessed by countless individuals who had dedicated their careers to enforcing immigration laws. The dominance of a single program in managing and setting the priorities of the bureaus that are now responsible for enforcing these three broad areas of law has resulted in a decreased emphasis on the enforcement of immigration and agriculture laws. This is not so much a conscious decision at the highest levels of the organization, but rather a normal subconscious predilection on the part of field managers who are primarily familiar with customs laws. Training and directives will not cure this problem; a revised structure is necessary. The new structure must recognize that it is unrealistic to expect employees to be fully competent in three complex areas of law. In the war against terrorism, mediocrity is simply not an acceptable standard.

The implementation of the following recommendations would correct these deficiencies:

(1)Consolidate the bureaus of Customs and Border Protection and Immigration and Customs Enforcement into a single bureau of Border Security, ensuring that the Border Patrol remains a separate entity within that bureau.

(2)Ensure that the three main areas of law within the jurisdiction of the consolidated bureau are administered and enforced by specialists who are comprehensively trained in a single discipline.

(3)Ensure that all of the components within the consolidated bureau, including the Border Patrol, have their own investigative branches that report directly up the chain of command to the head of their respective division.

While the need for these reforms is obvious to everyone who regularly deals with these issues, managers and other employees without collective bargaining rights and protections are constrained from publicly acknowledging it. The recent decision to remove such protections from all of the criminal investigators in the Department will deprive Congress and the public of their invaluable perspective. Likewise, the new human resources management system currently being developed will have the same chilling effect on the ability of the Department's remaining employees to speak out on issues of public concern. Deliberately stifling the voice of those who can warn us of problems and recommend solutions is not only counter-productive, it is an open invitation to disaster.

Mr. CAMP. Thank you, Mr. Bonner.

Mr. Ugazio, you have 5 minutes.

STATEMENT OF SERGIO UGAZIO, SECRETARY, NATIONAL INS COUNCIL LOCAL 1944, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. UGAZIO. Good morning, members, Mr. Chairman, Ranking Member Sanchez, distinguished members of this committee. My name is Sergio Ugazio. I am Secretary of Local 1944, National Immigration and Naturalization Service Council. I am also an immigration enforcement agent with the Bureau of Immigration's Custom Enforcement within the newly formed Department of Homeland Security. I have been an immigration agent for almost 10 years, and prior to that I was a corrections officer at a maximum security penitentiary within the Federal Bureau of Prisons. I am a former United States Marine and veteran of Desert Shield and Desert Storm.

This morning, I will touch on three points of interest within the Department of Homeland Security. They are as follows: the relationship between the Bureau of Customs and Border Protections and the Bureau of Immigration and Customs Enforcement, specifically the way that special agents, Border Patrol agents, and detention personnel interact; a widespread morale problems in both bureaus; and finally, everyone's favorite topic, pay banding and pay-for-performance systems.

First, with regard to staffing, while it is true DHS has increased the number of Border Patrol agents, like my colleague here, and inspectors to put on the borders since the events of September 11, 2001, in my line of work, detention and deportation, there have not been enough new hires to ensure proper execution of deportation procedures, nor to ensure adequate personnel for immigration court and final disposition. There is also a lack of detention space.

What this means is CBP officers, special agents and other law enforcement agencies are making arrests, but no one is taking care of these criminals. I am talking about criminals. Who is going to deport these people? And most importantly, how and where are these illegal aliens going to be housed? You can catch all of the ille-

gal immigrants you want, but please consider what is to be done with them once they are caught and in custody.

Illegal aliens apprehended in the U.S. have to be processed for immigration court and final disposition procedures, and reviewed for possible criminal activity, or most importantly, terror connections. If the number of arresting agents increases, then the number of agents preparing cases for final disposition must be increased as well, which is me. If you have a lot of these guys here, I am the guy that has to deal with what they do. I am the one that clean up everything that they do and makes sure that the rules and regulations of this Congress are followed.

In fact, it is on a daily basis in this country, aliens are caught crossing the border illegally and released and paroled in because of the lack of detention bed space. Where are you going to put these people once they are captured? Okay? They have to go somewhere. Once an alien is in custody, he must be offered due process. In South Texas, we have hundreds of agents and inspectors arresting people, but only 22 deportation officers oversee thousands of cases while ensuring an alien's rights are not violated, and the agency is protected from Habeas actions and lawsuits. This is an enormous undertaking and responsibility. The bottom line is clear: We need more detention and removal staff, which is what I do, not what he does. He catches them. I deal with the end result.

As to the second point, there is a morale problem within the DHS. A minute ago, a gentleman sitting over there says, how is the pay. The Chief said, hey, it is great; we all got GS–11s. But that is a temporary fix. We are going to go to a situation called pay banding. We had the largest budget in the history of the INS, Border Patrol, U.S. Customs, U.S. Agriculture, and yet we are under a hiring freeze. How are you going to catch these terror connections if you are under a hiring freeze? If the U.S. faces the threats it does, why are we not hiring more personnel? Why isn't there any money for overtime? There are people who want to do the job, but there is no money for overtime.

These are the kinds of questions being asked and this is why a morale problem exits. Also, the proposed new personnel system for the Department shifts the balance of power from unions to management so dramatically that it is causing great fear among employees. Pay banding, for instance, is part of the new system. This system has not worked for federal air marshals. What makes you all think it is going to work for us? This is demoralizing, and under this plan supervisors can unfairly reward their friends, and less-favored agents better not complain.

In closing, I know the agency and its executive staffs have a daunting task in making this successful, and I know it is a difficult deal. I know that many people at all levels are doing their best. All I ask is that you keep the concerns expressed by the agents and officers and administrative support staff and all others about the proposed personnel system. All of these people that responded to the crumbling towers in New York on 9–11, they were all union members, every single one of them. They never complained about the working conditions that day, because I do not think there were any working conditions.

That is it. My time ran out.

[The statement of Mr. Ugazio follows:]

PREPARED STATEMENT OF SERGIO UGAZIO

Good morning Mr. Chairman, Ranking Member Sanchez and distinguished Members of this Committee. My name is Sergio A. Ugazio and I am the Secretary for Local 1944 of the National Immigration and Naturalization Service Council. I am also an Immigration Enforcement Agent with the Bureau of Immigration and Customs Enforcement (BICE) within the newly formed Department of Homeland Security (DHS). I have been an Immigration Agent for almost 10 years and prior to that I was a Corrections Officer at a maximum security prison within the Federal Bureau of Prisons. I am also a former U.S. Marine and veteran of Desert Shield/Desert Storm.

This morning I am going to discuss three points of interest concerning the Department of Homeland Security. They are as follows:

(1.) The relationship between the Bureau of Customs and Border Protection (BCBP) and the Bureau of Immigration and Customs Enforcement (BICE) and specifically the way that Special Agents, Border Patrol Agents, and the Detention personnel interact;

(2.) The widespread morale problem in both Bureaus;

(3.) And finally everybody's favorite topic, Pay Banding and Pay for Performance systems.

First, with regard to the Border Patrol. While it is true that DHS has increased the number of agents deployed along the borders since the events of September 11, 2001, in my line of work—deportation—there have not been enough new hires to to ensure proper execution of deportation procedures, nor to endusre adequate personnel for immigration court and final disposition, and there is a lack of detention space. . What this means is CBP, Special Agents and other law enforcement agencies are making arrests but no one is taking care of the criminals. Who is going to deport these people? And most importantly, how and where are these illegal aliens going to be housed? You can catch all of these folks you want, but please, consider what is to be done with them once they in custody.

Illegal aliens apprehended in the U.S. have to be processed for immigration court and final deportation procedures and interviewed for possible criminal activity and terror connections. If the number of arresting agents increases, then the number of agents preparing cases for final disposition must be increased as well. The fact is that on a daily basis in this country, aliens are caught crossing the border illegally and released (paroled in) because of the lack of detention bed space. Once an alien is in custody he or she must be afforded due process. In South Texas, we have hundreds of Agents and Inspectors arresting people but only 22 Deportation Officers who must oversee thousands of cases while ensuring aliens rights are not violated and the agency is protected from Habeas actions and lawsuits. This is an enormous undertaking and responsibility. The bottom line is clear: We need more detention and removal staff.

As to the second point, there is a morale problem within DHS. We have the largest budget in the history of legacy INS, Border Patrol, US Customs, US Agriculture and yet we under a hiring freeze. With the U.S. facing the threats it does, why are we not hiring more personnel? Why isn't there any money for overtime? These are questions the kinds of questions being asked and why a morale problem exists. Also, the proposed new personnel system for the Department shifts the balance of power from unions to management so dramatically that it is causing great fear among employees.

Pay banding, for instance, is a part of the new system. If this system of has not worked for the Federal Air Marshals, what makes the Department believe that it will work for us? I cannot find one agent that wants this pay system. NOT ONE! I have read about the proposed system, and to be quite honest, it's demoralizing! Under the plan, supervisors can unfairly reward their friends, and less favored agents better not complain. THIS IS NOT FAIR! I am against it, and it is my opinion that DHS will lose a lot of highly skilled professionals because of the pay banding system. Just read the comments from employees; the overwhelming number oppose this system. Let the numbers speak for themselves

In closing, I know the agency and its executive staff have a daunting task in making DHS successful. I know that many people at all levels are doing their best. All I ask is that you hear the concerns expressed by Agents, Officers, administrative and support staff, and others about the proposed new personnel system. All of those first responders, firemen, NYPD, FEMA, and all the other law enforcement officers that put aside their personal well-being and ran into those burning and crumbling towers on that infamous day. . . THEY WERE ALL UNION MEMBERS!

When President Bush went to ground zero and grabbed the loud speaker, he was addressing union workers. Please don't attack the very people that defend this nation with union busting and personnel procedures that eliminate so many important employee rights. Instead, support us in our effort to be the dedicated, committed and vigilant employees so many of us want to be. Help us attack terrorism, identify sleeper cells in the U.S. and work to keep America great. Thank you

Mr. CAMP. Thank you very much. Thank you all for your testimony.

Ms. Sanchez may inquire.

Ms. SANCHEZ. Thank you, Mr. Chairman. I thank all the witnesses before us today.

I want to direct just a couple of questions to Mr. Ugazio and to T. J. Bonner. In the earlier panel, I am sure you heard all the rosy testimony from our DHS people. I want to find out. I asked them a couple of questions. I want to find out about the controlled delivery situation, or even broader than that, how are the different pieces working together? Do your people feel that there is the cooperation in between ICE and the Border Patrol, for example?

Secondly, the other question is about the issue of having an immigration specialist around when the Border Patrol does get people, and whether they can be processed, or what you do with them. So I would ask both of you to speak to that. They told me there was no problem. They were working together; that everything was great. What do your people feel? You are representing the on-the-ground troops there, if you will.

Mr. UGAZIO. Basically, ma'am, the way the situation works is an alien is captured. They are processed by the Border Patrol. There is a 24-hour situation. They are interviewed by the Border Patrol personnel for criminal activity, to be categorized into a situation where they are just border crossers or if they are criminals or if they have terrorist connections. Once that is established, then they give a call to where I am stationed at the facilities. They talk to the supervisors. It is more like on a case-by-case basis. There really is not a situation where there is a policy, this is the way it will be done. It is just the Border Patrol supervisor at that time calls us and says, do you have bed space; we have this situation here; can you come pick this up. And a guy like me will go get them. I will apprehend this individual and he will come into my custody and he will be held with us.

Ms. SANCHEZ. What if you do not have bed space?

Mr. UGAZIO. If I do not have bed space, ma'am, that individual is going to be paroled. Once it has been established that he is just, let's say, a border-crosser, the individual is paroled into the U.S. which means he is still actually in custody, but he has to report back to the immigration court for final disposition. They do or do not. I do not know. Sometimes they do.

Ms. SANCHEZ. Mr. Bonner?

Mr. BONNER. It is interesting that they chose to put Mr. Aguilar up here because the Tucson Sector is the only one that has embarked on a so-called integrated effort between ICE and CBP. And even at that, it is not working nearly as well as it could be.

On the issue of controlled loads, we simply do not have that many occurring now because the level of cooperation is much less than it used to be when we had our own internal anti-smuggling unit. Typically on drug loads, we interface with the Drug Enforce-

ment Agency, which is still part of the Department of Justice. So that level of cooperation never was really great, and that aspect has not changed.

What has changed is the emphasis has shifted from immigration violations to customs violations, because most of the people who are running the ICE agency are former Customs people. I cannot really blame them for wanting to not repeat the mistakes made in the INS and not to bring over poor managers from that area, but there were a lot of good people who had a lot of knowledge about immigration, and they have been pushed out of the picture. So all of the emphasis, or the majority of it is now on customs violations. So we do not get those calls anymore, because most customs violations are coming through the ports of entry, not around the ports of entry.

Ms. SANCHEZ. The last question I have is on the performance-based pay system. It seems to me if we are asking people to cooperate, like in the controlled situation for example, doesn't the performance-based system maybe not make you want to cooperate as much? Maybe you want to do a drug bust, if you are in charge of doing a drug bust at the actual border, wouldn't you rather do that if it was going to be performance-based, than let it go through and get somebody else further up in the system to go after that drug bust, for example?

Mr. BONNER. Absolutely. If you are being paid based on your performance, which is rated by your first-line supervisor, there is absolutely no incentive for you to cooperate outside that chain of command, because you will not be recognized and rewarded for it. Another problem that would come up is if you get intelligence about something happening, you are going to hang on to that because you will be rewarded if you are the agent who makes the big bust. So why on earth would you give the information to the next agent to let them take money out of your pocket?

Ms. SANCHEZ. Thank you, gentlemen.

Mr. CAMP. Thank you. Your time has expired.

Ms. Granger may inquire?

Ms. GRANGER. Thank you.

Mr. Ugaziao, you said there is a hiring freeze. When was that hiring freeze instituted?

Mr. UGAZIO. Ma'am, it is currently ongoing. It has been going on for quite some time. I can provide you that information. I do not have it with me. I have e-mails from headquarters stating so. I have that information.

Ms. GRANGER. Good. Thank you. You talked about pay banding. I am sorry. I do not know what pay banding is.

Mr. UGAZIO. This is exactly the situation that we are talking about. If there are not people like us, you are never going to know about that. Union personnel, we are not against the system. We want to work with you. We want to do the job.

Ms. GRANGER. What is pay banding?

Mr. UGAZIO. Pay banding is a pay-for-performance system that rewards people that supposedly do a good job and do the right thing on a daily basis.

Ms. GRANGER. Fine.

Mr. UGAZIO. Here I am addressing Congress, but last month I got a fully successful, which is a middle rating, for my inter-

personal skills. And I am a union representative. People come to me with their problems and I deal with them. I am the liaison between the managers and the problem. It is a buffering system and I am the guy that does it, and I get a fully successful, which is a minimum rating. I should be getting outstanding.

Ms. GRANGER. Okay. I was not familiar with that term.

Mr. Johnson, you talked about US–VISIT. My question is, is your question, can it be done? Your concern is, can it be done at all or can it be done in that time frame?

Mr. JOHNSON. US–VISIT, I think DHS has recognized they have to phase-in the system over time, rather than plop it into place in December 2004. Frankly, I share the skepticism of border communities, at least the ones we hear from, like Laredo, which is, are they going to be able to get out there in December, only 6 months out, and do it in time.

Ms. GRANGER. Your concern is the time, the deadline.

Mr. JOHNSON. It is. If they can do it, our hat is off to them, but we are talking about ripping up streets and installing equipment, without hopefully delaying traffic while it is all being done. We are talking about installing radio frequency responders, where the idea is that people will be exiting the country, and that when they exit, that will be picked up by the radio frequency responder with no errors, and then the next time that person comes back into the country, it will be faithfully recorded that they in fact exited on time. What if that is not recorded and what happens when they come back? There is a big question. Did you exit on time? Did you exit illegally?

Ms. GRANGER. You question the deadline, and also whether it will even work. Right?

Mr. JOHNSON. Well, they all go together. It is just that we are skeptical as to whether they can meet it. We are not questioning the need for US–VISIT and the fact a system has to be put in place, but there are lots of pieces to this puzzle. What DHS at a minimum needs to do is get down there to the border communities, each one individually, and say, this is what we plan to install, and how to do it, and here is our timeline at your port of entry. Right now, there are a lot of generalities at the top, and reassurances that we will get it done, do not worry. But we have to reflect the concerns of our local Chambers and that is what I am trying to do.

Ms. GRANGER. Thank you.

Mr. CAMP. Mr. Dicks may inquire.

Mr. DICKS. Let me ask you, Mr. Bonner, does the Border Patrol have the same problems, morale-wise, as does Mr. Ugazio's people?

Mr. BONNER. Absolutely. I have been a Border Patrol agent for 26 years and I can tell you that I have never seen morale lower.

Mr. DICKS. Again, is it pay banding? Is it the anti-union approach of the Administration?

Mr. BONNER. I think that is a significant part of the problem. I think another part, in addition to the pay-for-performance, is the whole notion that collective bargaining is going to go away; that employees will lose a meaningful voice. But another aspect that is very troubling to the agents and is very demoralizing, is this strategy of deterrence, the notion that you can sit there for 10 hours and your mere presence will deter people from coming into the

country. The agents see people streaming by on either side, and they are thinking to themselves, I signed up for this, to sit here? This is even worse because they see these recruiting videos where agents you are on horseback, and there are helicopters, et cetera.

Mr. DICKS. So none of that is occurring? Is that what you are saying?

Mr. BONNER. I am saying, depending on the part of the country and depending on your work assignment, you might be told you are going to sit here all week, 10 hours a day, and you will do nothing but be a mannequin. That is very demoralizing.

Mr. DICKS. That is more on the northern border, right?

Mr. BONNER. No, that is on both borders.

Mr. DICKS. Both borders?

Mr. BONNER. Absolutely.

Mr. DICKS. And nobody else is going out to stop these people from coming in?

Mr. BONNER. That is the reason that we have a minimum of eight million people in the country illegally.

Mr. DICKS. What is the explanation for that? What is the strategy?

Mr. BONNER. The explanation is that if you leave your position, then other people can come in through the void that you have created. The philosophy behind the strategy is that if you have a lot of high-visibility positions, that this will somehow deter people from coming into the country. Well, you have people in Mexico where for example, the average wage is $4 a day, and in the United States it is at least 10 times that much, and they have the choice between living in abject poverty or making a better life for themselves and coming across. Of course, they are going to do that. I would do that if I were in their situation.

Mr. DICKS. So you personally disagree with the strategy. You do not think the deterrent policy is working and that we ought to be out trying to stop these people from coming in.

Mr. BONNER. Absolutely. We should be out there enforcing laws the way we did for the first 70 years of the Border Patrol.

Mr. DICKS. This has all changed since the Department of Homeland Security was created?

Mr. BONNER. No, this dates back to about 1994 when they launched Operation Hold the Line. Actually, Hold the Line I believe was initiated in 1992. It was a gradual transition, but it swept across the whole Border Patrol by the mid–1990s. It has had a very demoralizing effect. I think that strategically it has been a mistake. It has resulted in higher numbers of people eluding apprehension.

Mr. DICKS. Mr. Johnson, go back to US–VISIT. I understand the part of it dealing with the airlines. Tell us what this actually means? What is required at the ports of entry?

Mr. JOHNSON. Well, right now if you hold a visa, and you come into a port of entry, either airports or come December at land ports, you have to come into primary, and then you will be referred to what they call secondaries, as these gentlemen know better than I, and your index fingerprints will be taken and you will be photographed, and that information will be put into a database.

Of course, you are also checked at that same time, as everyone else is, against INS's databases like IDENT and NAILS. Now, the visa waiver program, individual travelers are going to be added come September, and that is an estimated 13 million additional travelers to the program. So obviously, that is a huge chunk of a number of people who are going to be now under US–VISIT. Can the government handle that additional volume and still get the lines processed quickly? We think it is a big question. Obviously, if they poured the resources needed there, then they can, but I think the government is going to have to acknowledge that additional resources are going to be needed in this case.

Mr. DICKS. Does the hiring freeze affect this as well, Mr. Bonner? Mr. Ugazio?

Mr. BONNER. It is going to affect every program out there because we are simply not allowed to bring new people on board. While the Border Patrol claims that it is not operating under a hiring freeze, it has not hired anybody since March. They claim that they have reached their hiring goals for the year. Well, given the fact that we are so hopelessly outnumbered?

Mr. DICKS. How many Border Patrol people are you short?

Mr. BONNER. We have 11,000 uniformed Border Patrol agents to cover 6,000 miles of land border, 24 hours a day, 7 days a week, 365 1/4 days a year.

Mr. DICKS. There is no way.

Mr. BONNER. There is no way we can do that, especially up along the northern border where we have 1,000 agents to cover 4,000 miles of border 24/7.

Mr. DICKS. We are aware of that in the State of Washington. We certainly are.

Thank you, Mr. Chairman.

Mr. CAMP. Thank you.

Ms. Dunn may inquire.

Ms. DUNN. Thank you, Mr. Chairman.

Let me ask a couple of questions. Mr. Carafano, in your written testimony you advocated expanded use of Section 287 of the Immigration and Nationality Act which provides authority for state and local law enforcement to investigate, detain and arrest aliens on civil and criminal grounds. Is this because you believe that state and local law enforcement should play a greater role in counterterrorism immigration investigations? How do you envision expansion of the involvement of state and local law enforcement? What problems such as jurisdiction do you think might be encountered by increasing the role of non-federal law enforcement?

Mr. CARAFANO. Most of my experience is with looking at the pilot program in the State of Florida. There, what you had was a case where you had very few, I cannot remember the exact number, but a handful of immigration investigative agents to cover a very large area. They have a very large immigration problem. What they developed in the State of Florida was a series of state-local counterterrorism task forces. Some of those eventually merged with a state joint terrorism task force.

What they did was they wanted to expand the capacity of the federal agents to do counterterrrorism investigations related to immigration in the State of Florida. So the program that they adapt-

ed under Section 287(g) guidelines is that state and local officers who are serving on the state counterterrorism task forces can receive training from the ICE investigators. They are certified by the ICE investigators and then they can conduct, and they have certain federal arrest jurisdictions and federal authorities as part of that, and then they can conduct investigations under the supervision of an ICE agent.

So what it allows you to do is significantly expand the federal capacity to conduct counterterrorism investigations in the immigration area, and leverage the knowledge of the state and local areas where they no better and they operate. The advantage to the state and local guys is that not only are they receiving the federal authorities, but also access to the federal databases. That knowledge enhances their capacity to do their own counterterrorism investigations. So it benefits both sides. It is a very appropriate way. There are no question sin terms of liability. It is a very low-cost program. It is a very controlled way.

I think one of the great successes in the State of Florida is, as you know there is always a lot of reticence on the part of local communities when state and local investigators are involved in immigration law. Now, they went out to each of the communities and they briefed them on the scope of the program and how they are going to enforce it. I think they did receive a lot of support from the communities because it was limited in focus.

Ms. DUNN. Thank you.

Let me ask you, too, Mr. Carafano, you suggested in your testimony that securing our nation's maritime borders is becoming more and more of a concern, actually relatively, because we spend so much time and energy on our ports and on our land borders. We all appreciate that the layered security system can be very effective. We currently have the Container Security Initiative. We have C–TPAT. We have the Maritime Transportation Security Act to talk about ports. Is that enough to get us the layered security system that we are concerned about? I speak specifically because I am from a state with 120 maritime miles that borders with Canada.

Mr. CARAFANO. Ma'am, my greatest concern is really in the future of the Coast Guard, because I think all of those are good layers. The Coast Guard is significant in virtually every single one of the layers in one aspect or another, whether it is an investigative or monitoring commerce or providing domain awareness. As you look to the future, and if you want to expand maritime security, which I think there is broad consensus we need to do, there are simply not resources to do that. Their modernization program simply not get them there from here. To me, it is the real linchpin that is risking falling apart.

This is the hard thing. It is just like the border. You do not enhance maritime security by fortifying ports. You enhance maritime security by improving maritime security. So you look where can you get the biggest bang for the buck? Where can you increase security among all the layers? You always come back to, if you ramp up the Coast Guard's capabilities and sustainability to do the multiple missions over the long term, I really think at the end of the day in terms of enhancing maritime security and its linkages with

border security, that is where the biggest bang for the buck is always going to be.

Ms. DUNN. Thank you.

Do I have a little more time? I cannot tell.

Mr. CAMP. Fifteen seconds.

Ms. DUNN. Great. I will ask it quick.

I would like to know from you about your comments on having a specific focused committee both in the House and the Senate to oversee the Department of Homeland Security? Could you tell us a little of your thinking behind your recommendation?

Mr. CARAFANO. A lot of this is based on my experience of growing up in the Department of Defense and looking at how the Department of Defense has evolved. There is a critical period in the history between when it was created in 1947 and the early 1950s. The real issues are really kind of in the unglorious nuts and bolts kinds of things. Some of the programs we have talked about here, like personnel programs, organization, administrative programs. You have to get that right, and to get that right, you have to get the mission set right, and all these multiple different requirements right.

So unless you can look at it in a holistic way, and make sure you have the right strategy and the right programmatics, you are going to wind up with a very flawed agency which, like when we did not get the Department of Defense right, it took us another 40 years to break down fundamental flaws. I think without oversight now in a holistic way, from a single committee in each Congress, we are going to find up with a Department of Defense, which will have similar flaws and stovepipes which will take years to break, because once they get set, then they never disappear.

Mr. CAMP. Thank you. Your time has expired.

Mr. Bonner, I just have a question. I appreciate much of your testimony. We authorized 1,000 new agents at the border, which I understand have been implemented. DHS tells us that they are there, that they were hired. Is that your understanding, that the 1,000 new agents did come into the Department?

Mr. BONNER. In this past year? I think that dates back several years.

Mr. CAMP. Within the last 2 years.

Mr. BONNER. I believe that over the last 2 years, maybe it approaches that much, but I believe it is closer to about 600. I think they are at the level that they are authorized, but I do not believe that that level is high enough.

Mr. CAMP. I understand that, but we authorized 1,000 and the 1,000 have been there. I appreciate that.

The other issue that they are telling us, and I wanted your comment on that, is that the attrition rates have not been as high as were anticipated or were assumed when the authorization went through, so that people are not leaving the agency as rapidly as they thought. So therefore the staffing levels have not declined as they thought they would. What is your comment on that?

Mr. BONNER. That is the information that I have been given from them, and I have no reason to doubt it. I think that there are a couple of reasons that attrition has fallen off, and the primary one is the fact that state and local jurisdictions are facing some of the

same financial shortfalls that the federal government is, and that is where most of our agents are gravitating towards, law enforcement careers in the state and local jurisdictions. They tend to pay more and offer more job satisfaction. I think once they start hiring again, you will see a mass exodus of employees.

Mr. CAMP. Lastly, I just wanted your comment, we have had a lot of testimony, not necessarily today, but over the last couple of years, on new technology at the border and the help that that may give. I did not hear much from you about that, and I just wanted to hear your comment on the developing new technologies and the help or lack of help they may give at the border.

Mr. BONNER. I think in certain areas they can be very useful tools, but I do not think that you replace hands with electronic eyes and ears because ultimately it is those hands that apprehend people. For example, in the President's Budget request for the upcoming fiscal year budget, they want to reallocate a total of about $75 million out of the budget for sensors and unmanned aerial vehicles. I think it is a mistake to take away from the ability to outfit the agents on the border and to staff the border, because at the same time they are calling for reductions in the number of Border Patrol agents.

Mr. CAMP. All right. Thank you.

Ms. Jackson-Lee may inquire.

Ms. JACKSON-LEE. Thank you very much. Bells are ringing, but I thank you gentlemen very much for your testimony.

I would like to go first immediately to Mr. Ugazio and thank you for your service as well. My understanding is that you have cited the numbers of immigration arresting agents and inspectors who arrest people, but that there are only 22 deportation officers who must oversee thousands of cases, while ensuring obviously that rights are protected. Are you suggesting that we are imbalanced in the resources and that we need additional resources to make that more even-handed?

Mr. UGAZIO. Yes, ma'am. Thank you for the question. The situation is, if I can just use a quick analogy, if you have a small town and you have 15 officers arresting all the bad guys, but you have one guy at the end processing and the jailer, and he is out catching 15 bad guys are even more, they are going to come to that jail, and immigration where I am at is that jail. So basically, the situation is you are going to have one guy doing the work of all these different people and it is going to be a difficult situation if you do not have an even number of people on my end interacting with these guys.

Ms. JACKSON-LEE. In actuality, what you are saying is we need to have a greater input from the local community as to the need of resources. Might I just say this in addition to overburdening you, I think a lot of times it eliminates your ability to use discretion in some of the cases that we have dealing with deportation. For example, two cases I am dealing with in Houston, an individual whose baby is dying is not a threat, not a terrorist, and would probably be able to be handled on supervised leave, if you will, from the detention center, but because of I guess some issues dealing with being overworked, it does not allow you to make a decision on these individual cases. Would you suggest that?

Mr. UGAZIO. Yes, ma'am, I would. It is difficult for the deportation officers in my section to properly analyze every case and understand exactly. They do what they can. They do a great job, but it is difficult to look at every case and say this is a situation that needs attention ASAP.

Ms. JACKSON-LEE. Mr. Bonner, why don't you respond to that, about getting local input? Then I also just would follow up with my last question, which I am very concerned about, is the deaths that are occurring out in the Arizona desert, and particularly how that is impacted by the Arizona initiative. We have not seen any response, as I understand it, from those tragic deaths that are occurring, and being able to give relief both in terms of the victims who are coming in, who I know may be coming in illegally, but they are human beings and should be treated as such. So Mr. Bonner, what about taking in local input and balancing those resources between what Mr. Ugazio has said and what we are doing here in Washington.

Mr. BONNER. I agree with him wholeheartedly. You absolutely have to have enough resources to accomplish, all aspects of the job. You cannot just hire a lot of enforcement agents and then neglect the support functions such as detention and removal.

As far as the Arizona Border Control Initiative, back when they launched the initiatives, such as Operation Hold the Line and Operation Gatekeeper, they should have foreseen that it was going to result in desperate people taking desperate measures. They made a serious miscalculation believing that people would stay away from the deserts and the mountains, and that if they just enforced the law with a great concentration of agents in the heavily populated areas that that would solve the problem.

As we have seen, it is simply not the case. These people are very desperate and they will cross in 120-degree weather carrying two jugs of water. It becomes very deadly for them. And the smugglers do not tell them any differently. They say, oh, this is a piece of cake. You are going to walk for a couple of hours and then you are going to be at a place where you are going to be picked up, when in fact they know that it is going to be a 12-hour walk and you cannot possibly humanly carry enough water with you to survive that journey.

It is a tragedy and it is something that we need to address by getting more personnel out there to stop people from coming through those areas. It is a large border. It is going to take a lot of personnel.

Ms. JACKSON-LEE. I think this committee and our subcommittee should really look to that issue, because people are still dying. Officers are in jeopardy, and even with the Initiative, it probably has not reached the point where we are seeing a difference. So I am very interested in that.

Let me finish by just simply saying I indicated that we have put forward a smuggling legislative initiative that includes a reward component to it in order to break some of these large smuggling operations. We have seen it work in other law enforcement efforts. What would be your thought about that sort of legislative initiative?

Mr. CAMP. The gentlewoman's time has expired. We do have a vote on.

I want to thank the panel for their testimony. I want to thank both panels. I note that with additional questions, members may wish to submit them in writing. Without objection, the hearing record will remain open for 10 days.

Ms. JACKSON-LEE. Mr. Chairman, would you just yield for a moment?

Mr. CAMP. I am going to conclude the hearing now.

Ms. JACKSON-LEE. Let me just make sure that Mr. Bonner would be happy to provide me that in writing, and I would appreciate it.

Mr. BONNER. Absolutely.

Ms. JACKSON-LEE. Thank you very much, Mr. Bonner.

Mr. CAMP. There being no further business, I again thank the subcommittee members and our witnesses today. The panel is dismissed and the hearing is now adjourned.

[Whereupon, at 12:25 p.m., the subcommittee was adjourned.]

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