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LAW ENFORCEMENT EFFORTS WITHIN THE DEPARTMENT OF HOMELAND SECURITY

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

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LAW ENFORCEMENT EFFORTS WITHIN THE DEPARTMENT OF HOMELAND SECURITY

TUESDAY, FEBRUARY 3, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 1 p.m., in Room 2141, Rayburn House Office Building, Hon. Howard Coble (Chair of the Subcommittee) presiding.

Mr. COBLE. Good afternoon, ladies and gentlemen. The Subcommittee on Crime, Terrorism, and Homeland Security will come to order.

The Subcommittee on Crime, Terrorism, and Homeland Security will now hold the third hearing on law enforcement efforts within the Department of Homeland Security. The first hearing, conducted on July 9, 2002, examined the transfer of several law enforcement agencies and offices to the new Department of Homeland Security.

The second hearing, conducted on November 20, 2003, focused on the Department of Homeland Security efforts through the Office of Domestic Preparedness to train State and local law enforcement and other first responders to prepare for and respond to terrorist acts.

This hearing examines how the transfer of law enforcement applies to the new department, has affected terrorism and nonterrorism of law enforcement missions, how these agencies are working with other law enforcement agencies in and outside of the Department of Homeland Security and whether the agencies need new law enforcement authorities to adequately carry out their responsibilities.

The Secret Service has two missions: One, law enforcement investigations and, two, the protection of the President and Vice President of the United States, their immediate family members and others.

The Coast Guard mission has four parts: To handle maritime law enforcement, maritime safety, marine environmental protection and national defense.

The Immigration and Customs Enforcement Bureau consists of the investigative and enforcement functions for immigration, customs and air security. Responsibilities of ICE range from intelligence work to investigating child pornography.

I would like to commend you and your agencies on your dedication and efforts to protect our Nation against terrorists and other

types of criminals. Your agencies carry great responsibilities and burdens. While we are at war with terrorists, the country at the same time faces growing drug cartels, the proliferation of child pornography, financial and Internet scams against the elderly and other serious crimes.

Our Nation has limited resources that must be used wisely. So I hope to hear today how your agencies are coordinating, cooperating and sharing information in these efforts.

There have been various press articles and reports about turf battles between some of your agencies and other agencies outside of the Department of Homeland Security. If these articles reflect accuracy, I expect you all to work diligently to end these disputes. I don't think we have time for the luxury of turf battles. We have better things to do.

We do not have the time to deal with this sort of problem when national security is at risk. I look forward to hearing how any disputes are being resolved and how the law enforcement agencies are working together to protect the American people.

I want to thank the witnesses who were able to be here today and look forward to their testimony, and now I am pleased to recognize the distinguished gentleman from Virginia, the Ranking Member of this Subcommittee, Mr. Bobby Scott. And Mr. Scott, before I recognize you, I will say to our other Members, thank the gentlemen from Wisconsin and Pennsylvania—strike that—Ohio from being here. And your opening statements will be made a part of the record without objection.

Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. I am pleased to join you in convening this hearing with several of our law enforcement agencies and the Department of Homeland Security. The last time we met with these agencies or their predecessor agencies, we were looking at them on the verge of their merger with DHS. I expressed my concerns about the effect of DHS superstructure, what effect it may have on the traditional law enforcement missions of these agencies as well as on preventing terrorism.

Coordinating information in law enforcement operations was cited as a major problem in not being able to prevent 9/11. I was concerned that adding additional bureaucratic superstructure might not help, might even be counterproductive, and I continue to have these concerns and hope our witnesses will be able to address these concerns.

Although I am relieved that we have not had another catastrophic terrorism event since 9/11, the issue of what impact DHS structure is having on preventing terrorism in our traditional law enforcement responsibilities is not resolved just by the fact that we haven't had these unfortunate incidents.

I would like to know, for example, whether or not the traditional law enforcement responsibilities have been affected by the association with DHS. Of course any terrorism incident would ultimately be a local and first responder situation; that is, the local police, the fire or emergency personnel. Some are concerned about the impact that DHS has had on the ability of local law enforcement entities to maintain their traditional law enforcement capabilities while doing their part to enhance overall security.

Localities are already hard hit by the cost of increased demands that have been put on them, particularly by the recent alert increases and by the pronouncements of the Federal Government, they have had to increase their vigilance. When we have these alerts, their demands go up and they have obviously substantial financial implications. I am aware that the law enforcement components of DHS, it is not your fault, but we would like to know and how you have been working with the local and State law enforcement agencies.

So, Mr. Chairman, I look forward to working with you on this and look forward to the testimony of the witnesses.

Mr. COBLE. And I as well. I thank you, Mr. Scott.

Today, ladies and gentlemen, we have three distinguished gentleman from the Department of Homeland Security. We place the order of witnesses testifying alphabetically. Our first witness is Mr. W. Ralph Basham of the United States Secret Service. Mr. Basham was appointed as the 21st Director of the U.S. Secret Service on January 27 of last year. Prior to this appointment he served as the Director of the Federal Law Enforcement Training Center and as the Chief of Staff for the Transportation Security Administration. Mr. Basham is a native of Owensboro, Kentucky, a River alumnus, right, Mr. Basham? Holds a Bachelor's Degree from Southeastern University in Washington, D.C. and has received numerous honors, including the 1992 and 2000 Meritorious Presidential Rank awards.

Our next witness is Admiral Thomas H. Collins. Admiral Collins is the Commandant of the United States Coast Guard and a longtime friend and shipmate of mine. Previously he served as the Coast Guard's Vice Commandant. He was also the Commander of the Pacific area and the 11st Coast Guard District, where he developed a successful response to illegal drug and migrant smuggling operations in the eastern Pacific. With an undergraduate degree from the United States Coast Guard Academy at New London, Admiral Collins also has a Master of Arts Degree from Wesley University as well as a Master of Business Administration Degree from the University of New Haven.

Our third witness is Mr. Michael J. Garcia. Mr. Garcia was appointed as Assistant Secretary for the newly formed U.S. Immigration and Customs Enforcement Bureau. This is the largest investigative arm of the Department and combines law enforcement and intelligence components from the former Immigration and Naturalization Service, the U.S. Customs Service, the Air Marshals and the Federal Protective Service. Mr. Garcia has a distinguished career as a Federal prosecutor and served as the Acting Commissioner on the INS during its transition to the new Department. He is a native New Yorker and graduated from the State University of New York at Binghamton, the tri-cities, right, Mr. Garcia? He received a Master's Degree in English from the College of William and Mary and holds a Juris Doctorate from the Albany Law School of Union University, where he was valedictorian.

It is good to have each of you with us. We have your written statements. They have been examined and will be reexamined, and I ask unanimous consent to submit into the record their entirety.

Now, gentlemen, as you all probably know, we try to live within the 5-minute rule around here. You won't be lashed with a whip if you violate it, but when the red light appears that will be your warning that your 5 minutes have expired. There will be an amber light to give you warning in advance.

So, Mr. Basham, why don't we start with you, and good to have all of you with us.

STATEMENT OF THE HONORABLE W. RALPH BASHAM, DIRECTOR, UNITED STATES SECRET SERVICE, DEPARTMENT OF HOMELAND SECURITY

Mr. BASHAM. Good afternoon, Mr. Chairman. I would like to thank you as well as the distinguished Ranking Member Mr. Scott——

Mr. COBLE. Mr. Basham, pull that mike a little closer to you, if you will. Thank you, sir.

Mr. BASHAM. Is that better?

—and other Members of the Subcommittee for providing the opportunity to discuss the law enforcement activities of the Secret Service and our transition to the Department of Homeland Security.

The Secret Service was created in 1865 to stem the rampant flow of counterfeit currency in post-Civil War America. Based upon that historic foundation originating in the Treasury Department, the Secret Service has become the leading Federal agency for safeguarding our Nation's financial infrastructure.

Because the Secret Service has maintained its dual missions of investigations and protection for more than a century, these missions have become fully interdependent and completely integrated through an international network of field offices.

Today the Secret Service's statutory responsibilities reach far beyond counterfeiting and protection. Our criminal investigation jurisdiction includes cyber crime, credit and debit card fraud, telecommunications fraud, identity theft, false identification fraud, bank fraud and other financial crimes.

The Secret Service protects our Nation's highest elected leaders, including their families and residences, as well as visiting foreign heads of State and foreign missions. We also coordinate security operations at major national events such as the 2002 Winter Olympics and this year's national political conventions and the G–8 economic summit in Sea Island, Georgia.

Just over 1 year ago, Mr. Chairman, the Secret Service testified before this very Subcommittee in full support of the Administration's proposal to transfer our entire agency, its resources and mission, to the new Department of Homeland Security.

Today I am enormously proud of the contributions of the over 6,100 men and women of the Secret Service and the contributions they have made toward the mission of homeland security. Our special agents, uniform division officers, technical and professional staff have endeavored each and every day to protect our elected leaders and critical and financial infrastructures and make a safer America.

But there are two in particular that I would like to highlight for this Subcommittee. First, the historic emphasis on prevention that

the Secret Service most prominently brings to DHS. For 139 years prevention has been the bedrock principle of both our investigative and protective missions of the Secret Service. This is the agency's culture and its creed. The Secret Service is fully integrated with the many components of DHS, and we continue to share our preventative expertise with these entities, from the infrastructure protection, to information analysis, to emergency preparedness and response.

Secondly, our agency shares another unique strength with the Department; namely, our experience in building partnerships and sharing information with our counterparts and other law enforcement agencies, State and local governments and the private sector. Such communication and cooperation is essential to a successful homeland security program, and I am convinced that the blueprint we have developed over the course of decades of experience is a success story that has been embraced by the Department.

Finally, Mr. Chairman, I would like to report to this Subcommittee the status of our electronic crimes task force initiative, of which this Subcommittee has strongly supported in the recent years. As you know, the USA PATRIOT Act authorized the Secret Service to expand our task force model in New York to cities and regions across the country. These task forces have revolutionized the Government's response to cyber vulnerabilities and computer crime and serve as models for how law enforcement must cooperate and operate in the information age. They remit the cutting edge of our efforts to partner with Federal, State and local police, prosecutors, private industry and academia to safeguard our critical and financial infrastructures and protect American consumers and industry alike.

In 2002, the Secret Service launched electronic crime task forces in Chicago, Los Angeles, San Francisco, Charlotte, Boston, Las Vegas, Miami and Washington, D.C. Last year we established task forces in Cleveland, Houston, Dallas and Columbia, South Carolina, and additional task forces are currently on the drawing boards.

Mr. Chairman, on behalf of the men and women of the Secret Service, we stand ready to continue our mission of protecting our leaders, our financial and critical infrastructure, and the American people. This concludes my prepared statement, and I would be very pleased to answer any questions you may have.

[The prepared statement of Mr. Basham follows:]

PREPARED STATEMENT OF W. RALPH BASHAM

Good afternoon, Mr. Chairman. I would like to thank you, as well as the distinguished Ranking Member, Mr. Scott, and the other members of the subcommittee for providing an opportunity to discuss the law enforcement activities of the Secret Service, and our role in the Department of Homeland Security.

The Secret Service was created in 1865 to stem the rampant flow of counterfeit currency in post-Civil War America. Since that time, the Secret Service has been the preeminent federal agency for safeguarding our financial infrastructure.

In 1901, we were assigned our historic mission to protect the President. And while for more than a century the Secret Service has maintained its dual missions of investigations and protection, those missions have become fully interdependent and completely inseparable.

Today, the Secret Service's responsibilities reach far beyond counterfeiting and Presidential protection. Our criminal jurisdiction includes access device (credit and

debit card) fraud, cyber crime, identity theft, false identification fraud, bank fraud, telecommunications fraud, and other financial crimes.

The Secret Service protects our nation's highest elected leaders, including their families and residences, as well as visiting foreign leaders and foreign missions. We also coordinate security operations at National Special Security Events, which this year will include the two national political conventions and the G–8 Summit in Sea Island, Georgia.

Just over one year ago, the Secret Service testified before this subcommittee in full support of the Administration's proposal to transfer our agency to the new Department of Homeland Security. We did so because of our strong conviction that the protective and investigative missions of the Secret Service were central to the mission of homeland security. We saw an opportunity for our personnel, with their unique experience and expertise, to make a vital and meaningful contribution to our common goal of protecting this nation.

One year later, I am enormously proud of the contributions that the 6,100 men and women of the Secret Service have made to the mission of homeland security. Our special agents, Uniformed Division officers, technical and professional staff have endeavored each and every day to protect our elected leaders and critical and financial infrastructures, and make a safer America.

Our efforts to support the new Department have been many. But there are two in particular that I would like to highlight for the subcommittee.

First is our historic emphasis on prevention that we have brought with us to DHS. For 138 years, prevention has been the bedrock principle of the Secret Service. It began with our efforts to stem the flow of counterfeit currency—to attack the problem when it was in production, not distribution.

It was continued with our protective mission, where we utilize threat assessments, intelligence and meticulous advance work to provide a safe and secure environment for our protectees. Prevention is also the central theme today of our groundbreaking efforts to shield our critical and financial infrastructures from intrusion and compromise.

From day one, Secretary Ridge and DHS have recognized the importance of prevention. Indeed, virtually all aspects of the Department are committed to preventing further terrorist attacks on American soil.

The Secret Service is fully integrated with the many components of DHS, and we continue to share our preventative expertise with these entities, from infrastructure protection and information analysis, to emergency preparedness and others.

Secondly, our agency brings another unique strength to the Department; namely, our experience with building partnerships and sharing information with our counterparts in other law enforcement agencies and the private sector.

Throughout our 150 field offices across the country and around the globe, our field personnel have developed productive and trusted partnerships with local police, prosecutors, academia and industry representatives in their communities.

These partnerships are vital to the success of both our protective and investigative missions. We recognize that without cooperation and support from our local law enforcement partners, we could not have a successful visit to a given community by one of our protectees. We also could not successfully prevent and detect electronic crimes and cyber attacks without the assistance, resources and expertise of our partners in law enforcement and the private sector.

Such communication and cooperation is imperative to homeland security, and I am convinced that the blueprint we have developed over the course of many decades of experience is a success story that will further strengthen and contribute to the success of the Department.

Finally, Mr. Chairman, I would like to report to the subcommittee the status of our Electronic Crime Task Force initiative. As you will recall, the USA/PATRIOT Act of 2001 included language, thanks to the support of this committee and others, authorizing the Secret Service to expand our highly successful New York Electronic Crime Task Force to other cities and regions across the country.

These task forces have revolutionalized the government's response to computer crime, and serve as models for how law enforcement must operate in the Information Age.

The composition and efforts of these task forces are tailored to the needs of their individual communities. They represent the cutting edge of our efforts to partner with federal, state and local police departments, prosecutors at all levels, private industry and academia to safeguard our critical and financial infrastructures, and protect American consumers and industry alike. Their training and investigative techniques are innovative and unprecedented. Most importantly, these task forces are making a meaningful difference in the communities they serve.

Last year, the Secret Service launched electronic crime task forces in Chicago, Los Angeles, San Francisco, Charlotte, Boston, Las Vegas, Miami and Washington, D.C. Just last month, we announced new task forces in Cleveland, Houston, Dallas and Columbia, South Carolina. Additional task forces are on the drawing boards.

Mr. Chairman, on behalf of the men and women of the Secret Service, we stand ready to continue our mission of protecting our leaders, our financial and critical infrastructures, and the American people. Thank you again for the opportunity to appear before the subcommittee.

This concludes my prepared statement. I will be pleased to answer any questions you or the other members of the subcommittee may have.

Mr. COBLE. Thank you, Mr. Basham. I failed to mention this in my opening statement, but I am well familiar with your agency. I have known many Secret Service agents personally, and you all do—as we say in this rural south, you done good, and you continue to do that I am sure.

Mr. BASHAM. Thank you, Mr. Chairman.

Mr. COBLE. To follow our alphabetical scenario, Admiral, good to have you with us.

STATEMENT OF ADMIRAL THOMAS H. COLLINS, COMMANDANT, UNITED STATES COAST GUARD, DEPARTMENT OF HOMELAND SECURITY

Admiral COLLINS. Thank you, Mr. Chairman, distinguished Members of the Committee. It is great to be with you to talk about the Coast Guard's law enforcement role and how that has been integrated into the Department of Homeland Security. I am also very delighted to be here with Ralph Basham and Mike Garcia, who are our close partners over the last year and prior.

You know, when most people think of the United States Coast Guard they have the image of people that are jumping around in helicopters and saving people. That is a wonderful image. It is accurate but incomplete. We are also a very robust law enforcement agency established in 1790 by the First Congress of the United States for that very purpose, law enforcement, and over time we have grown into a military, multi-mission maritime organization that we are today. And as we transition to the new Department of Homeland Security, I assure you that we have preserved our fundamental character, enhanced our law enforcement objectives and role and sustained mission performance across all our missions.

The Coast Guard provides the Department of Homeland Security extensive regulatory and law enforcement authorities in the maritime, governing ships, boats, personnel and associated activities in our ports, in our waterways, in offshore maritime regions. Our entire mission profile we think aligns extremely well within the Department of Homeland Security. In all our mission areas we remain focused on performance-based results. Our budget and brief documents for 2004 document some of these performances.

For example, in fiscal year 2003, the Coast Guard seized 68 metric tons of cocaine at sea, valued at nearly $4.4 billion, the second highest seizure total ever.

The Coast Guard also noticed a significant reduction in foreign fishing vessel incursions of the U.S. Exclusive Economic Zone. From 2002 to 2003, incursions on the MBL, the Maritime Boundary Line, of the Bering Sea, dropped from 22 to 6 due to the increased presence of the United States Coast Guard in partnership with the Russian Federal Security Service.

In our homeland security defense role, the Maritime Transportation Security Act of 2002 has brought many new requirements and initiatives that enable a more coherent maritime security strategy. The requirement for port, vessel and facility security plans provides increased vigilance through additional security forces and sensors.

Transportation security cards and the vetting of crew and passenger lists through intel and law enforcement databases in partnership with our DHS partners has improved the process of allocating law enforcement resources to the highest threats.

Our maritime safety and security teams provide critical port security deterrents and response posture. Six teams are in place, and seven more will be in place by the end of fiscal year 2004. And these new units offer a rapid, deployable security force able to deliver vertically that support to our interagency partners and ships at sea.

We have implemented heightened security measures and expanded law enforcement programs and capabilities, including security and control boarding capabilities at sea, a canine program, shoreside law enforcement authority in partnership with the U.S. Marshals, underwater port security capability, a vertical insertion and vertical delivery of our boarding teams from helicopters, the expansion of airborne use of force capability, and so forth.

The Coast Guard is also capitalizing on the synergies available through revitalized organization relationships within the Department of Homeland Security. For example, I have just ordered the relocation of our maritime law enforcement and boarding team member schools to the Federal Law Enforcement Center in Charleston, South Carolina, the premier supplier of law enforcement training for more than 75 agencies; and in addition, we have developed very strong cooperative security partnerships with the Secret Service.

Common mission focus and an emphasis on integrated operations is a key goal within the Department of Homeland Security. Just last week four Coast Guard cutters operating in the Caribbean seized more than 11,500 pounds of drugs and caused approximately 3,000 pounds more to be dumped at sea. That work was done in cooperation with immigration and customs enforcement and the United States Navy. We thwarted five separate smuggling attempts and took 18 suspected smugglers into custody. The successful integration of Assistant Secretary Garcia's operations with mine epitomizes the power available to us by our collocation within the Department of Homeland Security.

I don't want to suggest for a moment that successful homeland security and nonhomeland security mission execution is not without challenges for the United States Coast Guard. We are working our assets and our crews harder than ever, but the initiatives included in the President's 2005 budget request will continue to strengthen our collective homeland security readiness. I ask you and other Members of Congress to support the President's request for the capacity and capability improvements for the Coast Guard.

Deepwater, our plan for major asset recapitalization, has never been more relevant, and the implementation of the Maritime

Transportation Security Act regulations is critical to our Nation's maritime security.

Thank you for the opportunity to testify here today, and I look forward to any questions you may have.

[The prepared statement of Admiral Collins follows:]

PREPARED STATEMENT OF ADMIRAL THOMAS H. COLLINS

Written Statement

DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD
STATEMENT OF ADMIRAL THOMAS H. COLLINS
ON
LAW ENFORCEMENT MISSIONS OF AGENCIES TRANSFERRED TO THE
DEPARTMENT OF HOMELAND SECURITY
BEFORE THE
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES
FEBRUARY 03, 2004

Good afternoon Mr. Chairman and distinguished members of the Committee. It is a pleasure to appear before you today to discuss the law enforcement missions of the United States Coast Guard, and how we interact with our partners in the Department of Homeland Security (DHS).

Shortly before the Coast Guard was transferred to the DHS on March 1, 2003, I briefed you on the transition and what that would mean for our law enforcement missions. It has been nearly a year since the Department of Homeland Security was created and I am happy to report that the transition is going as planned. The Coast Guard has preserved its essential qualities as a military, multi-mission and maritime service, and retains the full range of our missions. The importance of this cannot be overstated. Threats to the security of our homeland extend beyond overt terrorism. Countering illegal drug smuggling, preventing illegal migration via maritime routes, protecting living marine resources from foreign encroachment, implementing the provisions of the Maritime Transportation Security Act are all critical elements of national and economic security, and they are all Coast Guard responsibilities.

The Coast Guard provides the Department of Homeland Security extensive regulatory and law enforcement authorities governing ships, boats, personnel and associated activities in our ports, waterways and offshore maritime regions. We are also one of the five armed military services, with a robust, around-the-clock command, control, communications, and response capability. We maintain, at the ready, a network of coastal small boats, aircraft, deep-water cutters, and expert personnel to prevent and respond to safety and security incidents. The Coast Guard is a statutory member of the national foreign intelligence community, and brings extensive intelligence gathering, analysis, and coordination experience to the new department. These attributes, which served our law enforcement and other missions well in the past, enable us to be the lead federal agency for Maritime Homeland Security.

The Coast Guard has utilized its unique capabilities since September 11, 2001, to support the DHS missions, including providing direct and indirect support to combatant commanders executing Operations Iraqi Freedom and Liberty Shield. We remain focused on performance-based results. For example, in fiscal year 2003 the Coast Guard seized 62.1 metric tons of cocaine valued at nearly $4.4 billion, the second highest seizure total ever. The Coast Guard also noticed a significant reduction in foreign fishing vessel incursions of the U.S. Exclusive Economic Zone along the maritime boundary line that the U.S. shares with Russia. In 2003, only six incursions of the EEZ were noted

along the line; down sharply from the 22 detected in 2002. This sharp decline in EEZ incursions is attributed to two factors; increased presence of U.S. Coast Guard and Russia Federal Security Service enforcement assets, and a change in U.S. policy authorizing the use of warning shots and disabling fire as an enforcement tool.

One piece of enacted legislation critical to improving law enforcement performance is the Maritime Transportation Security Act (MTSA) of 2002. MTSA has brought many new requirements and initiatives that enable a more coherent maritime security strategy. The requirement for port, vessel, and facility security plans provides increased vigilance through additional security forces and sensors and thus deters illegal activity. TSA's development of the Transportation Worker Identification Credential (TWIC) program may further assist in reducing illegal activities in and around the ports. In addition, the vetting of crew and passenger lists through intelligence and law enforcement databases has improved the process of allocating law enforcement resources to the highest threats. The MTSA has also authorized many new capabilities for the Coast Guard that enhances law enforcement performance. For example, Maritime Safety and Security Teams (MSSTs) have been created to provide a critical port security deterrence and response posture. They include the use of canines and divers that can be used to detect narcotics and explosives hidden on board vessels, or parasitic explosive devices attached to their hulls.

Like our law enforcement partners, the Coast Guard is capitalizing on the synergies available through organizational relationships within the Department of Homeland Security. We have worked with many of these entities on law enforcement operations for decades, but we have capitalized on new opportunities to improve those working relationships by our common mission focus, which transitioned seamlessly as we all moved into the new department.

We are already participating in a department-wide effort to develop information exchange requirements. We have begun the process through an exchange of personnel at the U. S. Customs and Border Protection (CBP) National Targeting Center and the Coast Guard Intelligence Coordination Center (part of the National Maritime Intelligence Center) to coordinate information on cargo and crew on commercial vessels. This will ultimately lead to a system in which every agent in the Department of Homeland Security has access to the same law enforcement information in real time. Consolidating our information will ensure legitimate people and cargo are screened more quickly, and allow our enforcement agents to stay focused on higher threat targets.

As an example of our re-invigorated partnerships, Coast Guard personnel and agents from the CBP recently executed another successful interdiction near the Texas-Mexico border. A Coast Guard helicopter spotted a go-fast vessel two miles southeast of South Padre Island, TX. The local CBP office was notified, a Coast Guard small boat was launched from a shore station, and a patrolling cutter launched a second boat to pursue the go-fast. While the helicopter maintained surveillance of the activity, the smugglers ran the vessel aground on the beach and began offloading contraband to awaiting vehicles. The Coast Guard, with shoreside assistance from the CBP, apprehended eight people and seized twelve bales of marijuana.

This type of interagency cooperation also occurs in immigration enforcement, as shown in the successful interdiction of 61 migrants in two events in early January. On January 8th, 2004, an Immigration and Customs Enforcement (ICE) aircraft observed a migrant vessel three nautical miles west of Rincon, Puerto Rico. The Coast Guard's Greater Antilles Section (GANTSEC) diverted Coast Guard cutter VASHON to intercept. Once on-scene, the cutter took 44 migrants on board. On January 10th, an ICE C-12 aircraft located a migrant vessel seven nautical miles west of Rincon, Puerto Rico. GANTSEC diverted Coast Guard cutter SAPELO to intercept. Once on-scene, the cutter took 17 migrants on board. All of the 61 migrants were repatriated to the Dominican Republic.

Consolidating these agencies into DHS has allowed us to expand upon these relationships and capitalize on each other's strengths. These strengths, together with our Deepwater program and other multi-year resource efforts, will enable the Coast Guard to achieve our multi-mission goals while also executing the enhanced Maritime Homeland Security (MHS) missions that are a major part of our responsibilities.

I don't want to suggest for a moment that successful homeland security and non-homeland security mission execution is not without its challenges. We are working our assets—and our crews—harder than ever. The President addresses capacity and capability improvements for the Coast Guard in his Fiscal Year 2005 budget request, which I ask you to support. Deepwater, our plan for major asset recapitalization, has never been more relevant and I ask for your funding support for the President's request.

Thank you for the opportunity to testify before you today. I will be happy to answer any questions you may have.

Mr. COBLE. Thank you, Admiral. I note that we have been joined by the distinguished gentleman from Florida; Mr. Feeney has joined us. Good to have you with us, Tom.

Now, since I bragged on the Secret Service I am going to have to say equally good things about the country's oldest continuing seagoing service, the Coast Guard. You know how high I am on you all, Tom. And Mr. Garcia, I have not known that many people in Immigration and Customs, but I am sure you all do equally well, so I don't want to short anybody. Good to have you with us, Mr. Secretary.

STATEMENT OF THE HONORABLE MICHAEL GARCIA, ASSISTANT SECRETARY, BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY

Mr. GARCIA. Thank you, Mr. Chairman, Congressman Scott, and distinguished Members of the Committee. It is a privilege to speak before your Committee today about the development and mission of U.S. Immigration and Customs Enforcement. In March of 2003, when the Department first stood up, a new Federal investigative agency was also formed, U.S. Immigration and Customs Enforcement, or ICE, as it is better known. As the largest investigative arm of Homeland Security, ICE's primary mission is to detect vulnerabilities and prevent violations that threaten national security. In other words, ICE investigates homeland security crimes, in particular crimes related to border security, air security and economic security.

ICE pursues this new homeland security mission by building upon the traditional missions, resources, authorities and expertise of the legacy agencies it inherited. The investigative and intelligence resources of the former U.S. Customs Service, Immigration and Naturalization Service, Federal Protective Service, and now Federal Air Marshals Service, have been fused together to allow us to go after the criminal enterprises in new ways.

ICE is bringing new approaches to traditional areas of law enforcement and creating enforcement programs in response to its new homeland security mission.

Today I will speak about ICE's incorporation of Customs' enforcement tools and authorities. In this new agency, the unique resources that ICE components bring to investigations enhance our overall ability to pursue traditional missions. For example, the financial expertise of the former Customs Service is brought to bear on immigration crimes, allowing us to follow the money trail in a way that the former INS never could. Similarly, the former Customs Service could track weapons and drug smuggling operations, but it could not pursue investigations into human smuggling rings. The limitations significantly hampered the Custom Service's ability to combat organized smuggling organizations.

As you know, Mr. Chairman, the lines between the various forms of organized smuggling have all but disappeared. Increasingly sophisticated in their operations, smugglers are moving contraband across our borders that includes everything from drugs, money and weapons to counterfeit merchandise, fraudulent documents and even human beings. Smugglers don't care what they smuggle. They care only about the profit margin of their illicit cargoes. They

switch between these cargoes driven only by that bottom line, often carrying loads of drugs, people, money and other contraband at the same time.

Homeland security requires the same kind of flexibility in our approach to this organized criminal enterprise. At ICE we now have it. That is why we don't segregate our smuggling operations into artificial and impractical components. Instead we go wherever the money trail leads us.

Operation ICE Storm, which targets smuggling organizations along the southwest border, is the best example of ICE's new integrated approach to fighting smuggling crimes. The results of this new approach have been remarkable. ICE Storm has produced more than 700 arrests, 90 indictments, nearly $2 million in seizures and 46 assault weapons taken off the streets.

Let me put this in a different context. A couple of weeks ago during a news conference the Phoenix police chief stated that the murder rate in Phoenix has dropped some 30 percent in the last quarter over the prior year, and he touted ICE Storm and the cooperation between Federal and local enforcement as being largely responsible for this drop in violent crime.

The traditional offense of smuggling is a heinous crime in its own right, but it also highlights potential vulnerabilities in our border security. If organized crime rings can lead illegal aliens into the country, terrorists could potentially use the same methods to infiltrate our borders. If narco traffickers can smuggle cocaine into the country, terrorists could potentially use the same routes and methods to smuggle components for weapons of mass destruction.

This same approach underlies our counternarcotics mission. One recent ICE case highlights that fact with stunning clarity. More than 20 people were charged with narcotic smuggling in a ring that operated out of JFK International Airport in New York. A number of those arrested had badges allowing them access to secure areas of the airport facility.

While that case centered on narcotic smuggling, such an organization could, again driven by profit, arrange for weapons of mass destruction or the lethal commodities to enter the United States.

ICE applies a similar proactive strategy to all its operations. For example, we have launched Cornerstone, a financial investigations program aimed at closing vulnerabilities in the Nation's economic security in the same way that ICE Storm is focusing on closing vulnerabilities in our border security. Today's criminal enterprises and terrorist networks are highly adept at exploiting traditional financial and commercial infrastructures to earn, launder and store the money they need to fund their operations.

As a recent GAO study points out, criminal and terrorist organizations earn their money through a wide variety of criminal enterprises. All of these criminal activities are targets of ICE investigations under Cornerstone. Each of these activities was in its own way a mission of one of ICE's legacy components. Taken together, these traditional missions merge into something much more powerful. They fuse into our ultimate mission, which is to protect the homeland.

In Newark recently, ICE closed down unlicensed money brokers sending millions of dollars to Pakistan. More recently, in Massa-

chusetts, ICE charged a major gold refining company with commodities-based money laundering. In these cases there was no link to terrorists, but the vulnerabilities are clear.

Just last week, ICE announced the largest case ever involving the smuggling of counterfeit cigarettes into the United States. The probe resulted in a 92-count Federal indictment against 19 defendants. The potential profits resulting from such a scheme are enormous.

Results to date shows that Cornerstone is moving in the right direction. Since March 1, 2003, ICE financial investigations have yielded 1,200 arrests and bulk cash seizures of $75 million.

In summing up, I would just like to point out another areas where ICE is taking the lead: the export of U.S. weapons component and technology. Over the last year, ICE has roughly doubled the number of export enforcement cases that we have brought, and we expect further increases.

And finally, the fight against child pornography is also a critical focus of ICE. As you know, we have launched an unprecedented initiative against child sex predators worldwide called Operation Predator. This campaign, which fuses all the authorities and resources of ICE, has resulted in the arrest of roughly 1,800 individuals since last July. A key component of this initiative targets Internet child pornography, and last month ICE announced the arrest of more than 40 people nationwide in connection with a global Internet child pornography case.

Mr. Chairman, I have focused on just a few examples of how the ICE mission at DHS works hand-in-glove with the traditional missions of our legacy agencies. I could speak of literally dozens of other examples. However, I know that I am already over my time, but I look forward to answering any questions that you might have.

[The prepared statement of Mr. Garcia follows:]

PREPARED STATEMENT OF MICHAEL GARCIA

Good morning, Mr. Chairman, Congressman Scott, and distinguished Members of the Committee. It is a privilege to be here today to discuss the steps the Bureau of Immigration and Customs Enforcement (BICE) has taken to meet the considerable responsibilities that come with being the largest investigative arm of the Department of Homeland Security. BICE is comprised of some of our Nation's oldest and most recognizable law enforcement agencies and their combined responsibilities place BICE directly on the front line of protecting our homeland. We recognize and accept this responsibility and remain committed to fulfilling our combined missions.

While BICE is a new agency, we are committed to enforcing and enhancing the traditional law enforcement mandates of our legacy agencies. When creating BICE, our mission was to create a unified law enforcement agency capable of bringing all its law enforcement tools to bear, in an efficient and effective manner, on the vulnerabilities to our homeland security. The mission of homeland security is to address vulnerabilities—vulnerabilities that open our borders to infiltration and our financial systems to exploitation; and vulnerabilities that weaken our national security and expose our citizens to attack. The mission of BICE is to implement proactive initiatives aimed at closing vulnerabilities and strengthening national security. The merger of the combined jurisdiction, broad legal authorities, and investigative expertise of the former agencies has enhanced and expanded the investigative activities of BICE. These authorities include the investigation of a wide range of crimes, including violations of immigration laws, money laundering, migrant and contraband smuggling, trade fraud, import and export violations, including those linked to Weapons of Mass Destruction, and cyber crimes, including Internet child pornography.

On March 1, 2003, an impressive array of resources were brought together to create what would become known as BICE. Our charge was to continue the critical

mission of each of the organizations comprising BICE, while integrating and ultimately enhancing the operations within our new Bureau. BICE brought together the investigative and intelligence functions of the Immigration and Naturalization Service (INS) and the U.S. Customs Service (USCS), the Detention and Removal function of the INS, the Air and Marine Operations of USCS, the Federal Protective Service (FPS), and Federal Air Marshals (FAMS) from the Transportation and Security Administration (TSA).

This merger brings together thousands of dedicated law enforcement professionals, including 5,500 Special Agents; 4,000 Detention and Removal employees; 1,500 Federal Protective Service employees; and Federal Air Marshals. BICE is now the largest Federal law enforcement bureau and a key investigative arm of the Department of Homeland Security. Our primary focus has been to integrate all of these resources in a manner that would allow us to further enhance the investigative efforts aimed at protecting our homeland without interruption of the longstanding enforcement duties of our former agencies. We are accomplishing these goals and meeting the new challenges of the 21st century at the frontline as we continue to develop as a premier law enforcement bureau.

In June 2003, BICE created a unified field structure for Investigations by creating 25 BICE field offices within a strengthened chain of command; placed the Federal Protective Service, Detention and Removal Operations, the Air and Marine Operations, and the Federal Air Marshals at Division status to reflect their unique capabilities, and created a unified Intelligence Division. We will continue to bring to bear all the specialized skills and knowledge of our personnel and continue to create unified programs for training, firearms and investigative support.

The BICE Investigations Division has continued to execute the enforcement mandates of both the immigration and customs statutes. By combining our capabilities and expertise, BICE has realized significant synergies and been able to leverage resources to meet the inherited challenges and find new methods to overcome new challenges.

BICE's newly created alien smuggling unit is an excellent example of how resources that were once spread over several agencies have been integrated into one unit. This integration enhances BICE's ability to uncover and shut down vulnerabilities in our national security. Set up to identify and dismantle criminal enterprises that prey on persons who enter the country illegally, this unit works closely with all of our operational components to leverage our expertise and unique authorities. The combination of these investigative efforts enables BICE to comprehensively explore all aspects of the violation.

Last year, BICE launched Operation *ICE Storm*, an unprecedented multi-agency initiative to combat human smuggling and the violence it has generated in Arizona and nationwide. In support of the operation, BICE deployed 50 additional Special Agents to the Phoenix area. These resources enhance BICE's investigational capabilities and its ability to respond to local law enforcement. *ICE Storm* was developed to attack the smuggling-related violence that has grown in the Phoenix area at an alarming rate. Court statistics show that, from January through October 2003, Phoenix experienced a 45 percent increase in homicides when compared to the same period during the previous year. Over the last few years, there have also been a significant number of incidents involving extortion, kidnapping, and home invasions. In 2002–2003, there were 623 such incidents, 75 percent of which were the result of human smuggling or related activity.

The BICE led task force uses its broad range of authorities and resources to dismantle organized crime outfits that have turned human smuggling into a bloody but profitable venture. For example, a critical facet of *ICE Storm* involves targeting the monetary assets of smuggling organizations. Following the money trail and crippling the organizations' financial infrastructure is crucial to disabling the smugglers' operations. A financial analysis by BICE showed that during a six-month period in early 2003 more than *$160 million* were funneled into Phoenix through money transmitting businesses.

As a result of these efforts, *ICE Storm* has resulted in over 700 arrests, 90 indictments, nearly $2 million in seizures and 46 assault weapons taken off the streets in the first 180 days of the initiative.

Another investigative effort that brought to bear BICE's combined authorities and expertise was demonstrated in a case in Victoria, Texas, where 19 migrants died while attempting to enter the U.S. illegally concealed inside a locked tractor-trailer which was then abandoned by smugglers. By drawing on the array of assets now available, BICE investigators were able to quickly identify and locate the smugglers responsible and follow the money trail to the ringleader, who had fled the United States. The investigation resulted in 19 indictments, the extradition of the ringleader, who with her co-conspirators, are awaiting trial. In addition, an undercover

operation conducted in conjunction with this investigation resulted in the rescue of a 3-year-old boy from the same band of smugglers. His captors were subsequently apprehended and arrested. These types of criminals are exploiting vulnerabilities in our border security for financial gain; however, their human cargo could just have easily been a group of terrorists. For these reasons, BICE has made alien smuggling investigations one of our top priorities.

In addition to investigating alien smuggling organizations, BICE is dedicated to the continued investigation of smuggling organizations that transport illegal narcotics that pose a significant threat to our nation's border security and the well being of our citizens. BICE is a major contributor to the disruption and dismantling of major narcotic organizations. In fiscal year 2003, BICE agents arrested over 12,000 individuals on narcotics related charges. If organized crime rings can lead illegal aliens into the country, terrorists can use the same methods to infiltrate our borders. If narco-traffickers can smuggle cocaine into the country, terrorists can surreptitiously bring in components for weapons of mass destruction.

Currently, there are approximately 400,000 absconders in the United States. Absconders are individuals who have violated U.S. immigration laws, were ordered to deported, and fled before they could be deported from the United States. BICE is committed to the complete removal of all criminal absconders and has prioritized by identifying the "Most Wanted" criminal offenders. Two months after BICE publicly released the list of the "Top Ten Most Wanted", nine of them were apprehended and the tenth was confirmed out of the country. In prioritizing the worst offenders, we noticed that a number of them were sexual predators, many of whom had records of preying on children. As a result, on July 9, 2003, BICE launched Operation Predator, an initiative aimed at bringing to bear all of our powers and authorities that could be used to protect our children—America's future and the essence of our homeland. Since it's inception, BICE has arrested more than 1,835 predators and have deported or initiated deportation proceedings against those who are foreign born nationals. BICE will continue to remain committed to protecting our children through the relentless enforcement of Operation Predator.

In July 2003, BICE announced "Cornerstone", a BICE Financial Investigations Division program designed to identify vulnerabilities in our Nation's financial systems through which criminals launder their illicit proceeds. Cornerstone is focused on identifying systems that are being exploited by criminal or terrorist groups. Through this proactive approach, BICE systematically and strategically examines financial systems that may be susceptible to exploitation. BICE identifies criminal organizations that are exploiting these financial systems. BICE employs a methodology of attacking the exploitation, disseminating findings through liaisons to the financial and trade sectors, and working toward enhancing money laundering laws and regulations. Cornerstone enables BICE to focus its unique competencies and authorities on stopping this exploitation through intelligence gathering, implementing "fixes" where necessary to protect the integrity of our financial systems, and referring investigations for prosecution.

Since March 1, 2003, BICE financial investigations have yielded 1,213 arrests and bulk cash seizures of more than $75 million. Since it's inception in 1992, Agents of BICE's El Dorado Task Force in New York City have arrested more than 1,800 individuals and seized nearly $560 million in criminal proceeds. These existing financial investigations, which have been merged with Cornerstone, will aid the financial industry to eliminate the industry-wide security gaps that could be exploited by criminal organizations. As Secretary Ridge stressed in his announcement of Cornerstone, "Money is the lifeblood of terrorist networks." Through Cornerstone, BICE continues to safeguard the integrity of America's financial systems as part of our dedication to homeland security.

BICE's Arms and Strategic Technology Investigations Program enforces import and export control laws and prevents terrorist groups and hostile nations from illegally obtaining U.S.-origin military products and sensitive dual use technology. On March 7, 2003, BICE Special Agents arrived in the Iraqi Theater of Operations (ITO) to support the U.S. Central Command (CentCom) in Operation Iraqi Freedom. A total of 15 Special Agents were initially deployed to assist CentCom in identifying U.S. persons or entities that may have aided or assisted Iraq in the development of its weapons programs, or in the acquisition of defenses articles, or controlled dual use technology or products, or engaged in prohibited financial transactions with Iraq.

To this day, BICE continues to maintain teams of Special Agents in the ITO. The first U.S. charges to result from leads generated by the BICE teams in Iraq occurred on October 15, 2003, when a federal grand jury in the District of Columbia indicted two individuals on charges of brokering the manufacture and export of six armored patrol vessels, valued at a total of $11 million, to the Iraqi military. At least three

of the military vessels were completed in Iraq before the war and had been deployed by Iraqi military forces. Both individuals were arrested by BICE special agents, subsequently indicted, and are awaiting trial in the United States.

In July 2003, BICE Special Agents executed 18 Federal search warrants throughout the United States to disrupt an Iranian smuggling network that was illegally procuring parts and components for military fighter aircraft and missile systems through a company called MULTICORE located in London, England. Additionally, in August 2003, BICE and FBI agents in New Jersey arrested a British national named Hemant LAKHANI and two other individuals for attempting to smuggle a Russian-made Man Portable Air Defense System (MANPADS) into the United States. In addition, LEKHANI was also attempting to sell 50 additional MANPADS to undercover personnel.

America's welcome is also being exploited by human rights violators who enter the United States in an attempt to avoid being brought to justice for their heinous crimes. Their mere presence here undermines the values and ideals that are the foundation of this Nation. BICE is committed to preventing this country from becoming a safe haven for foreign criminals and we have backed that commitment by creating the Human Rights Violators Unit. This specialized unit is dedicated to identifying and investigating human rights violators and assisting in their removal from the United States.

In September 2003, BICE agents in Miami, Florida, arrested Frantz Douby, a former Haitian military official who had been convicted in absentia for his involvement in the 1994 Raboteau massacre where dozens of villagers were beaten and shot to death. Three other former Haitian military officers linked to the massacre have already been deported.

BICE has created several additional programs to address vulnerabilities that threaten our national security. For example, BICE established a Compliance Enforcement Unit to ensure that individuals comply with the requirements of the Student and Exchange Visitor Information System (SEVIS), and the United States Visitor and Immigrant Status Indicator Technology (US VISIT) program. SEVIS is an Internet-based system that maintains critical, up-to-date information about foreign students and exchange visitors, as well as their dependents, which can be accessed electronically. SEVIS enables the government to track students in the United States more accurately and expeditiously. US VISIT is a program designed to collect, maintain, and share information, including biometric identifiers, through a dynamic system, on foreign nationals to determine, among other things, whether individuals (a) have overstayed or otherwise violated the terms of their admission, (b) should be denied admission into the United States, (c) should be allowed to change, extend, or adjust their immigration status or (d) should be apprehended or detained for law enforcement action.

The vast majority of students come to the United States to take advantage of the outstanding educational and training opportunities our Nation has to offer. Unfortunately, this system can be exploited by those who seek to do us harm, as we witnessed in the 1993 World Trade Center bombing and then subsequently on September 11, 2001. We must shut down these vulnerabilities and the Compliance Enforcement Unit is making great strides through the use of SEVIS, and US VISIT by identifying those individuals who may pose national security risks.

The merging of 22 agencies and bureaus into the Department of Homeland Security provides new access to law enforcement databases that will now be used by the BICE Law Enforcement Support Center (LESC) to greatly broaden its enforcement capabilities. For example, the LESC now has access to intelligence information from the former INS, Customs, and the Federal Protective Services databases. This will improve our ability to provide timely information to state and local law enforcement agencies around the nation, as well as to international enforcement agencies.

Coordination between Federal and local law enforcement around the country has expanded significantly since September 11. As additional resources become available, the LESC will become even more critical to law enforcement and national security investigations. In fiscal year 2003, the LESC responded to nearly 600,000 investigative inquiries from federal, state, county and local police agencies in all 50 states. This surpasses the total inquiries handled in 2002 by more than 175,000.

The operational area that has perhaps benefited the most from our restructuring is Detention and Removal Operations. It is now a separate division, bringing a sharper focus to its unique mission, which includes the National Fugitive Operations Program. This program is designed to locate, apprehend, and remove alien absconders. Our Detention and Removal Program is continuing its efforts in promoting public safety and national security by ensuring the departure of those aliens. Officers assigned to Detention and Removal continue to work toward the location,

apprehension, and removal of all criminal aliens, absconders of the immigration process, and all other aliens ordered removed from the country.

The BICE Intelligence Division provides a centralized robust intelligence capability to support all of BICE's operational programs as well as other Department components and federal partners. This enhanced intelligence capability has proven critical in the success of BICE investigations and initiatives including ICE Storm, the Victoria, Texas smuggling case, and Operation Predator.

Air and Marine Operations continue to protect the Nation's borders from smuggling and acts of terrorism with an integrated and coordinated Air and Marine interdiction force. Airspace security is still being provided in the National Capital Region and coordination of real time information exchange is at an all time high.

The Federal Protective Service (FPS) is relentlessly securing and identifying potential vulnerabilities of more than 8,800 federal buildings nationwide. As the FPS continues to protect federal buildings, it has integrated its operations with BICE intelligence and investigations in regards to attempted penetration of federal buildings and assisted Detention and Removal Operations in moving detainees at federal facilities.

As mentioned earlier, the inclusion of the FAMS and the Explosive Unit and their mission to promote confidence in our Nation's civil aviation system through the deterrence, detection, and defeat of hostile acts targeting U.S. air carriers, airports, passengers, and crew has served to further mobilize the people and resources of the Department of Homeland Security. FAMS operates as a distinct unit within BICE, enhanced by BICE intelligence and operations data. Moving the FAMS to BICE provides an increased surge capacity during periods of increased threat to the air transportation system; improves the Department's ability to investigate events of interest in the airport environment through better connectivity between FAMS and the federal law enforcement community; and, provides FAMS with broader training and career opportunities.

As we have shown, criminal activities are best attacked by multiple investigations that are interconnected—tracing all the criminal components of the violations and not just a single act. The additional jurisdiction and resources that the combined agencies bring to BICE have enhanced our abilities to investigate national security threats and strengthen the Department of Homeland Security. BICE would not have been able to maintain the continuity of these multiple operations, much less enhance the way in which they are carried out, if it were not for the extraordinary sense of purpose, dedication, and steadfast determination of the men and women who work for the agency. They fully understand that their day-to-day work is critical to the security of this Nation and its economy.

In conclusion, I would again like to commend Congress on its efforts in pursuing the safety and well being of the American people and thank you for the opportunity to testify before you today. There is no higher duty of the Government than to defend its Nation. It is an honor to serve with the Bureau of Immigration and Customs Enforcement. It is a team of elite and dedicated law-enforcement officers who face the ultimate challenge of protecting and serving our Nation during a time of monumental change. I am confident that with the leadership of the President, guidance from Congress, and the continued cooperation and coordination within the Law Enforcement Community, we will continue to evolve as a premier law enforcement agency within the Department of Homeland Security. The American people deserve nothing less.

It would be my pleasure to answer any questions you may have.

Mr. COBLE. I thank you, gentlemen. We live within the 5-minute rule as well, so if you can, keep your questions rather briefly.

Secretary Garcia, when I was first elected to the Congress, my bread and butter issues back home were tobacco, textiles and furniture. All three are now beleaguered. I am a proponent of enforcing trade policies that assure that legal U.S. companies employing U.S. citizens are not doomed by the violations of these agreements. I also recognize the new role of Customs to defend our ports from terrorist attacks and to prevent supplies and goods or cargo from reaching terrorists and other parts of our country.

How have these responsibilities impacted your agency's ability to successfully enforce our Nation's trade laws, and are there any changes to the laws and/or regulations that could be enacted that would make your job more efficient and effective?

And Mr. Secretary, I am referring as well to transshipments, these goods that are shipped from countries of origin to a third party country that may end up in the United States and not be charged against the appropriate country. What sort of time frame could you give me on that?

Mr. GARCIA. A number of parts to your question, Mr. Chairman. Obviously, as you mentioned, those avenues of investigation, textile, cigarettes, key components of the traditional customs mission. I think I mentioned in my opening statement one recent example of our commitment to these traditional law enforcement areas. The largest cigarette counterfeiting case to date which was recently taken down, within the last week, showing ICE's commitment to this traditional enforcement area. That commitment carries across the board into all the areas you mentioned, IPR, textiles, all our trade enforcement authority as well.

We approach it in two ways, one in the traditional area of enforcement, such as that recent cigarette case, and two in the area of vulnerabilities. Now, while we haven't seen, Mr. Chairman, direct links between violations of those rules and regulations in terrorist financing, they do provide an avenue for raising incredible amounts of illicit funds. I think the cigarette smuggling business alone is estimated to cost the U.S. a billion dollars, in lost revenue a year.

They do provide tremendous opportunities for organized crime to raise money, and wherever you have that opportunity you have the vulnerability that those avenues could be exploited by terrorists or others intent on harming our homeland security. So we have a two-prong focus, of our traditional focus on enforcing the trade laws and our homeland security mission of closing down those vulnerabilities.

Mr. COBLE. Now, additional Customs agents were authorized, I believe last session, 50 I think. Now, what about transshipment? Are you directing additional attention to those?

Mr. GARCIA. Certainly, under both the theories that I just gave you. The Inbound diversions, where materials, cargo enters the country that is supposed to be destined to be transshipped, transited through the country, and be exported so it avoids certain duties and other obligations in the country, obviously poses a two-prong problem again. One, the economic impact of having people skirt the laws when other law-abiding businesses are playing by the rules. It has a tremendous economic impact on businesses in this country. And second, when you have containers that are transshipped that may not go through the same security, that are bonded or sealed and you have organized crime taking advantage of that mechanism to get items into the country, again you have a vulnerability, a vulnerability that could be exploited to harm our national security.

So, again, taking that approach of the traditional importance of that as an economic crime and that as a potential to be exploited for homeland security reasons, we are very much committed to that traditional area of enforcement.

Mr. COBLE. Now, those additional agents, are you dividing so many with transshipments, so many to port——

Mr. GARCIA. Yeah.

Mr. COBLE.—control, et cetera?

Mr. GARCIA. I will get back to you.

Mr. COBLE. I would like to know more about that.

Mr. GARCIA. Certainly, Mr. Chairman.

Mr. COBLE. Admiral, in the old days you remember, and so do I, that when we were talking about port security operations, safety was the number one word. Now safety—I don't mean that safety has been abandoned, but now security certainly is alongside safety. Am I right about that?

Admiral COLLINS. Yes, sir, absolutely.

Mr. COBLE. And I don't mean to suggest that we weren't concerned about security before, but in a less focused way.

Admiral COLLINS. Clearly. You know, prior to 9/11 on a resource basis, we probably were allocating 2½ to 3 percent of our resource base to port security issues. That clearly transformed itself quite rapidly after 9/11, and we pulsed up at one point above 55 percent of our resource base, and that has trailed off with a combination of rebalancing and additional resources that have come into the Coast Guard. We are now about 20, 27 percent or so, 25 to 27 percent for that mission area.

Mr. COBLE. I will continue, Admiral Collins, on a second round. I see my red light is on. Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman. I just wanted to follow through with that. 24 percent right now is the allocation of your resources toward what?

Admiral COLLINS. Port security—port and coastal security, but always the devil is in the details with these numbers. If you added up all our law enforcement activity, drugs, migrants, illegal fishing, and of course our ECZs, and along with port security, coastal security efforts, they represent about half of our budget. It is about half of our budget. And the other half falls at, you know, the traditional missions of marine safety, search and rescue, marine environmental protection, ice breaking, aids to navigation, and so forth. So it is about evenly split between the two. And if you look at our performance in those missions, I think you will see in our budget and brief document that goes along with our budget a fairly consistent high performance on all those areas, even with resource adjustments.

Mr. SCOTT. You indicated that you had had seizures of drugs. Do you have any idea what portion of the drugs that are coming into the Nation that you actually intercept?

Admiral COLLINS. Certainly. We have a—there is about 540 tons estimated that is moving through the maritime into the United States or toward Europe. We have goals of seizure rate goals and removal rate goals. Removal is those that we don't see but are abandoned by the trafficker as we chase them at sea. But currently it is 68 tons of that amount is what we are in fact interdicting.

Mr. SCOTT. 10 to 15 percent?

Admiral COLLINS. Right. That is the seizure rate and a removal rate if you will count all that abandoned, discarded, thrown over the side——

Mr. SCOTT. 85 percent of the drugs sent to the United States, 85 percent—85 to 90 percent actually get through in your guesstimate, because you obviously don't know?

Admiral COLLINS. These estimates change year by year. Some portion of that is going to Europe, and I can get you the specific distribution and the current estimates of that flow.

Mr. SCOTT. I would appreciate that.

Mr. Basham, I understand that 5 minutes didn't allow you to give a full presentation on how we are working with the boarding, counterfeiting of $20 bills. Do you want to say something about how well we are doing or what the challenges are?

Mr. BASHAM. Actually, as you are aware, Mr. Scott, the redesign of the 20 just came out this past spring, and it is a bit early to tell as to the effects of the redesign and the security features. We are not seeing a large number of counterfeit 20's getting into circulation, but as a matter of fact, I happen to have a couple of samples of the counterfeit that we just took out in the Seattle area, and to be quite honest with you, it is somewhat alarmingly close to the genuines. If you wish, I can have someone—have you——

Mr. SCOTT. I don't know if you can show those to the camera. Just hold them up a little bit. Hold them up just in front of you.

Mr. BASHAM. Well, I have a sample of genuine notes and then two samples of the counterfeit currency of the new redesigned 20's. And with the exception of a somewhat noticeable flaw in the paper consistency, if you are at the Wal-Mart and you are clerking at the Wal-Mart, I suspect these would have gotten through. But it is not—at this point we are not——

Mr. SCOTT. Now, most of the tests that are usually given are some marker that—do those work on the counterfeits?

Mr. BASHAM. No. But it is a deterrent for those who do not know. But it doesn't work—it will give you an indication, but it doesn't work in every case. So it is not a reliable way of determining counterfeit——

Mr. SCOTT. Is there any cheap, reliable way that you can tell?

Mr. BASHAM. There is no cheap, reliable way of detecting it. Because of the confidence that the American public has in its currency usually it just passes through one hand to the next and finally getting into the Federal Reserve System, and that is where the majority of it is found.

Mr. COBLE. Thank you, Mr. Scott. We have been joined by the distinguished lady from Texas, Ms. Sheila Jackson Lee. Good to have you with us, Ms. Jackson Lee.

Mr. Feeney, the gentleman from Florida.

Mr. FEENEY. Thank you, Mr. Chairman. It seems like another deterrent to counterfeiting 20's is that, counterfeit or not, a 20 doesn't get you very far anymore.

Admiral, I was interested in your testimony. In Florida we have more coastline than the rest of the eastern seaboard put together. We have got 14 deepwater seaports. We have challenges in Port Canaveral, for example, which is the only place I know of on the planet that within 35 miles you can get into the air, you can travel by rail, by road or in international space. And of course we have got both a very large passenger port capacity, and we have got some military applications, and we have got a very large cargo. And I heard you describe the increasing interactivity between your agencies, intelligence, for example, the Immigration Service which is the important—I am interested in knowing how we are doing as

we establish the Homeland Security Department, specifically relating to the Coast Guard working with local law enforcement.

Florida has a pretty comprehensive homeland security approach. We have got port security. We have got the harbor pilots that obviously have interest in this regard. We have got the cargo aspects of the port, and I thought maybe you would share with us how you are dealing with our local law enforcement, our sheriffs, our port security, et cetera.

Admiral COLLINS. Sure. I would be pleased to. I should probably note up front that Florida is probably one of the more I think aggressive States in dealing with security and the strategy to deal with security.

Mr. FEENEY. Thank you. I was Speaker of the House when we adopted that plan. So I will take that as a compliment.

Admiral COLLINS. It certainly is, and we have developed over the years not only for security but in other mission areas, search and rescue and boating safety, a whole host of things, a very close relationship with the marine patrol and other elements within Florida.

I should note that the Maritime Transportation Security Act requires the development of a new security regime across the United States, including Florida. We have been in dialogue with the Governor's office and others within Florida on how that is supposed to roll out. We have created a local captain of the port—by captain of the port jurisdictions, area maritime security committees that are required by the Maritime Transportation Security Act of 2002. Those have robust participation, local, port authorities and State figures as well as our DHS partners, and it becomes the clearinghouse to coordinate the development of security plans and security operations at each port.

You take Miami, for example, there is a terrific coordination in the Port of Miami. Every time a cruise ship comes in, how you deal with that cruise ship, what is the division of labor between local, small boat resources, State resources and Coast Guard, and that is done in a coordinating fashion to ensure the appropriate security.

So day-to-day operations are coordinated through the captain of port, and other entities like the Joint Terrorist Task Force, between FBI, DHS and local folks, and through those various mediums coordinating mechanisms, I think we are doing terrific stuff. And the Maritime Transportation Security Act promises in its coordinating mechanisms of the area maritime security committee—promises even closer collaboration going forward.

Mr. FEENEY. Thank you. Secretary Garcia, I appreciate your testimony. I had a chance to speak with you about some issues earlier. And one of the things I am interested in as we put together this new Homeland Security Department, it is a baby in time, but it is a huge baby, and there are some real challenges, including in your department. And there have been suggestions that as your mission gets broader, you lose focus. I mean, there have been some recent arguments that suggest that the agency is losing identity, for example, that the mission itself is becoming diluted, that the direction is in some ways being lost and that of course there are always people displeased by any change. There are some suggestions that morale is low in the agency.

I appreciate the fact that we have got interconnectivity between the different challenges that you have, but you have a big task now ahead of you, and can you address sort of how you are going to keep an agency whose mission gets much broader also focused and efficient?

Mr. GARCIA. Certainly, Congressman. I think it is important to step back, as you say, and look at what we have done here, and that is to merge tremendous organizations with different history, different culture, different worker rules into one new law enforcement agency.

If you had told Customs agents, Immigration agents 18 months ago that they were working under—would be working under the same agency umbrella today, they would have looked at you in disbelief, and that is what we have done. And that is only on the agent side. We have brought Federal Protective Service in, the Federal Air Marshals in, Detention and Removal into this umbrella, Intelligence assets.

There are cultural differences. There are differences in work rules and journeyman levels, in administrative support systems. You can imagine, in your experience with bureaucracies and Government agencies the tremendous challenge of putting those together, and at the same time ensuring that we don't fall back at all in our traditional missions as we have discussed some today, that we continue to push forward on narcotics and smuggling and export enforcement and launch new programs under a new organization.

What have we accomplished? We changed—really changed the face of law enforcement, reorganized those investigative assets into a unified law enforcement system of 25 unified field offices across the country reporting up one chain into a new headquarters structure with new program boxes—predator, with human rights violators and other programs new to the Department of Homeland Security. There is anxiety in change, and that is certainly so. And there are challenges.

What we have to do is get the information out to the field. I visited 22 of our 25 field offices I have just mentioned within the past year. I have done town halls. I do regular messagings. I have noticed actually a change in the anxiety level, and it has gone down as we get forward on our path, as we announce our permanent leadership which we continue to do. In fact, most of it is now in place, and we move forward and gain ground. And as we bring these new tools to bear in different ways, as we show and demonstrate our commitment to the traditional mission about our ability to do things differently now, our ability to create new culture and a new organization, and we see that——

Mr. COBLE. Mr. Garcia, the time has expired. We can continue that on the second round.

The gentlelady from Texas.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. Let me thank both you and the Ranking Member for making sure we didn't miss this very important hearing. I think as the headlines have challenged us over the last couple of days on the vulnerability of our intelligence and intelligence gathering, to understand the

law enforcement components of homeland security I think are extremely vital.

Let me take a moment of personal privilege and congratulate our JTTF in Houston and add my appreciation to Richard Garcia, the special agent in charge. The FBI is not here, but the special agent in charge who was a key component to that task force, because we just hosted one of the super events of the world, the Super Bowl, and I am here to tell you that we are safe and sound, and we are very appreciative of all of the agencies that participated, which include the Secret Service and the Customs and the ICE and a number of others. And I know that the Coast Guard was carefully handling the port at the same time. So we appreciate the work that was done over these past couple of days, and I want to make note of that as a public compliment.

But I do want to focus on several aspects of your efforts and raise these questions overall and then, if you will, throw them to you gentlemen to answer.

I want to get a status of our work with respect to identity theft which has become certainly a huge domestic concern, but it has impact with respect to terrorism as well. And so I want to see what strides we have made in dealing with international issues of identity theft, meaning those who are maybe traveling internationally or those who would use the identity of either someone from their place of residence or someone here in the United States that would help penetrate the borders and/or to do harm within the borders of the United States.

With respect, Admiral, to the Coast Guard, let me raise a point of contention or a problem that we had in Houston, and that is weak land entry. Now, I know that you are in the waterways. My question to you is do you coordinate and have meetings with ports as relates to how they access—or how individuals are able to access by land but then may have them enter into the port land area and do harm on the waterways either by way of commandeering a small boat, if you will, or some other harm? Is there a constant dialogue with port leadership of respective ports so that your work is not simply on our byways? I am interested in that issue, and I would be interested in your comment on your Coast Guard intelligence coordination centers and whether or not they are working and do they work land and sea as well.

I would appreciate, and I guess this requires sort of a simple sentence, because I am giving a number of questions, but I would like to get these on the record, your thoughts about the budget for 2005 as it relates to each of your segments. And then I would be interested in any particular needs that you need as we look toward legislative activity in 2004 and/or budgetary at this time.

But I think, gentlemen, if you can start off with this whole idea of intelligence, and do you feel that you are fixing the loopholes in your intelligence—in our capability, if you will, or the sharing of intelligence. I think that is key for me. And then you can go into the respective questions that I have asked you. And I thank you. Mr. Basham, you might want to start.

Mr. BASHAM. With respect to the sharing of intelligence, as you are aware, the Department of Homeland Security has been very aggressive in putting together and bringing together a number of the

components within that department to share information, disseminate information. We are involved with the Terrorism Threat Integration Center. They have stood up the Homeland Security Operations Center. We are constantly working with the Department as well as with other departments within Government to ensure that the information that we obtain is shared and that they are quite frankly doing exceptionally well in sharing information with the Secret Service and the Department of Homeland Security.

So I think we have made some great strides in that area, and I think it will continue to improve. And I am sure my colleagues here would agree.

Ms. JACKSON LEE. How many notches up from 9/11? Five notches, six notches, two notches up?

Mr. BASHAM. A grading scale, I would hesitate to grade it. I can only say that I think it has improved considerably over the time prior to 9/11, just because we are all now together sharing information at one location, and so therefore I feel it has improved considerably. I will defer to my colleagues here if they have——

Mr. COBLE. The gentleman's time is expired. So if you all could answer her remaining questions as tersely as you can.

Ms. JACKSON LEE. Thank you, Mr. Chairman.

Mr. GARCIA. Thank you. I would echo what Director Basham has said in terms of intelligence sharing. Obviously, I think it was pointed out originally how important that is. In post-9/11 we are all under one agency roof. We all share into the DHS facility as well as across agency and department lines and I have seen tremendous improvement in that from my days even back in the Department of Justice when I worked terrorism issues in New York.

In terms of the budget, I saw some tremendous advances in 2005 in enhancements, a 10 percent overall increase related to institutional removal, international program, compliance enforcement and our air and marine division. Enhancements that will make us an even more effective homeland security law enforcement agency in the years to come.

Ms. JACKSON LEE. Admiral.

Admiral COLLINS. In terms of—I echo the comments of my colleagues here in terms of information sharing and intel collection. I think it is getting better and better and better every day, and the big reason is we are under the same roof, have common goals, one team, one fight, sharing staff. I have staff in ICE. ICE has staff in my operation. We are sharing our intel databases, ready access into the maritime database from other agencies and vice versa. We are doing collaborative screening. In other words, vessels and people and cargo coming into the United States, we are doing collaborative screening. We are doing screening collaboratively with FBI and ICE and Customs and so forth.

So I think the combination of those features, whatever the notch equals—I am not sure what a notch equals but a number of notches we have increased, and I think we will get better and better all the time.

Also what is very, very positive to me is that we have in the maritime created a tiered intel organization, an information sharing organization at the local level, at our area level, the middle management level and at the headquarters level in Washington, and it is

a tier structure that allows a great deal of information flow into the maritime community.

So to answer your question about Houston, we have a field intelligence support team that is a giant team. It is made up of Coast Guard, our DHS partners, the State police, the local port authorities and others, and it can bring and get a common operating picture of the port and all the things that impact the port.

I think that is a very, very positive development, and more of that to come. Thank you.

Mr. COBLE. Ms. Jackson Lee, we are going to have a second round so that we can come back to your remaining questions.

Ms. JACKSON LEE. Thank you.

Mr. COBLE. We will start our second round now.

Ms. JACKSON LEE. Will the gentleman yield?

Let me just apologize. For my coming in from Houston, the planes were delayed in bad weather, and I apologize for that. If I am not here for the second round, I have a bill on the floor, and I will submit my questions for the record.

[The information referred to follows:]

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CONGRESSWOMAN SHEILA JACKSON LEE
SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OVERSIGHT HEARING:
LAW ENFORCEMENT EFFORTS WITHIN THE DEPARTMENT OF HOMELAND SECURITY

February 3, 2004
2141 RHOB, 1 P.M.

PANEL QUESTIONS

1. (Question for all panelists) With respect to the transfer of agency responsibility to the new Department of Homeland Security under H.R. 5005, the "Homeland Security Act of 2002," has the shift from independent agency status to an

"umbrella" entity under the Department made you more or less effective as an agency?

a. How long do you feel it will take in order to deem the new Department's law enforcement branch "fully integrated" and fully functional?

b. What specific steps do you recommend to make the integration process work optimally?

2. (Question for Admiral Thomas H. Collins – U.S. Coast Guard) Admiral Collins, with respect to the ship escort system that was implemented in the Houston Ship Channel last month, could you discuss the measures taken by the U.S. Coast Guard or by DHS to secure the escorts of the ships carrying hazardous materials?

a. Do you recognize any problems with the interoperability between the U.S. Coast Guard and land-based DHS law enforcement agencies as it relates to ship escort security measures?

b. Relative to the Coast Guard Intelligence Coordination Center that you reference in your testimony, how would you rate the turnaround time for the cross-update of intelligence information? Is the Coordination Center's database completely integrated with all DHS yet? If not, how long do you anticipate before this process is completed?

3. (Questions for Michael Garcia, Assistant Secretary of the Bureau of Immigration and Customs Enforcement)

a) As you know, we are a nation of laws, but we are also a nation immigrants, and it is important that we maintain that philosophy as we deal with the border. With the creation of the homeland security department, the Customs and immigration enforcement were merged. How does that work, and are the two entities working together? Can you also give me a status on how the Department is enforcing alien smuggling and cutting down on the sex smuggling trade?

(b) There is a case currently going on that involves Customs Enforcement that is very important and has international implications involving the Nigerian government and its President where I believe a large substantial amount of money was incorrectly and improperly seized by Customs agents. I would like to meet with you in my office about this matter in the very near future? However, I would like to ask a question about how you handle Heads of State when they transfer or bring in large sums of money into the country. If you do not have the information that I need, then we can apeak about this later.

Mr. COBLE. Reclaiming my time, let me extend kudos to you all having hosted a very fine Super Bowl. And since my team did not win—that is a game, folks, that I think neither team should have lost.

Ms. JACKSON LEE. Mr. Chairman, you have nothing to be ashamed of. Those young men from all of the Carolinas were dynamic—and I hope the witnesses will allow us this exchange—but they were outstanding and you are absolutely right, they were both winners on the field.

Mr. COBLE. This has nothing to do with the issue at hand. I have had more people come to me in recent days and they will say, Bobby—Mr. Scott—best Super Bowl I ever saw. Kudos to you.

Ms. JACKSON LEE. Absolutely. Come back again.

Mr. COBLE. I wasn't there. I saw it on TV.

Admiral, when I hear "Coast Guard," I think search and rescue, aids to navigation, drug interdiction, et cetera.

A, have those bread-and-butter issues that you all have been doing since 1790, have they been adversely affected, or if not adversely affected, compromised as a result of additional food on your plate? A.

Number B, how about the coordination of efforts with the Navy regarding maritime homeland security?

I guess that would be one and the same question.

Admiral COLLINS. Mr. Chairman, I don't think so. I think the search and rescue standards, we are not walking away from those a bit. In other words, being on scene within a certain time frame after the initial call notification, we are adhering to that. We saved well over 5,000 people last year in the United States who are alive today because we were around. So we are attending to that.

We are exceeding our performance standards for search and rescue. We are exceeding our performance standards relative to aids to navigation. We are exceeding our performance standards relative to ice-breaking. I think we are working hard, we are meeting the performance standards across the board.

It has been with the help of great partnering with State, local, and Federal to help us with that mission and our partners in DHA. That is one secret. The other secret is that our budget has grown. We have increased the capacity to do this work; from 2002 to the present our operating budget has increased over 50 percent. And we have grown our people force structure by over 10 percent. So that allows us to deal with some of these new demands.

Mr. COBLE. That is the answer I was hoping for. Oftentimes folks ask me, how about the Coast Guard? Can they still take care of their bread-and-butter issues? And I am glad to hear you say you can do that even though you are probably strapped.

The gentlelady from Texas asked you about identity theft. I do not think you got into that. How about getting your oars into those waters?

Mr. BASHAM. Thank you for the opportunity.

Last year we launched a very aggressive initiative on identity theft. And as a matter of fact, we have provided training to State and local law enforcement to, first of all, help them identify what identity theft is really about; and if they come upon a situation where they think they have an issue, how they should preserve the

evidence in a case of that. We have sent over 40,000 CD-ROMs to State and local law enforcement entities out there to show best practices, to show them how they go about working a case of this nature. In fact, we are in the second printing or the second rendition of that CD-ROM on identity theft.

And so we are very aggressively working that issue and we feel that it is going to have a very positive effect. The Secret Service is very involved—continues to be involved working with our partners out there.

Mr. COBLE. Thank you, Mr. Basham. I still have a little time left. You all have not responded to my earlier concern—and I hope it is because it is not a problem—and that is turf battles. You have read about it as far as you all are concerned.

Can we assume that is not taking a lot of your time?

Mr. BASHAM. I can say, originally, Mr. Chairman, it was somewhat a concern to the Secret Service; and I am sure you were aware of that, as you expressed. However, we have found that that has not been a problem for us. It is not a distraction for our agents. In fact, we are working very, very close with ICE out there and task forces.

We have a very robust effort under way within DHS to deal with financial crimes and financial infrastructure protections, working with ICE as a partner. So we feel it has enhanced the Government's ability to deal with those issues. And so I feel very, very strongly that it has improved and it is not a concern.

Mr. COBLE. You all concur? Admiral?

Admiral COLLINS. Absolutely. And if you look at some of the major initiatives that we are launching, it was done in a collaborative way. Container security, for example, is a close partnership between TSA, legacy Customs and the Coast Guard and others, including NARAD from the Department of Transportation.

If you look at the efforts with migration and migration interdiction between ICE and the Coast Guard, and drug interdiction, many of those have been enabled with ICE aircraft and Coast Guard cutters working together in a collaborative way and getting terrific results. There are coordinating mechanisms built into our Department to allow for coordination across the organizational elements.

The Coast Guard attends the operations policy weekly council meeting in BTS every week to compare notes on where we are going and how we can coordinate better. I feel very positive about, it and where there are seams, there are efforts under way look at those seams and how we deal with them together.

Mr. COBLE. I am glad to hear that.

Mr. Secretary, do you concur?

Mr. GARCIA. Yes, I do, Mr. Chairman. We work with the Coast Guard very closely across the board.

One recent case we had down in the Everglades, port security, where the Coast Guard invited us into their investigation to assist; and we did some great work together down there.

As Director Basham said, we work very, very closely in the financial crimes area. Echoing your opening remarks, after 9/11, there really is no place for turf battles. There are issues where there has

to be coordination, and we are working at better coordination at this table with our partner agencies.

Mr. COBLE. Glad to hear it.

The gentleman from Virginia.

Mr. SCOTT. Mr. Basham, I wanted to follow up on the ID fraud. We have seen TV ads where one credit card company will show its fraud alerts and will void charges being charged to one person; they will cancel the charges and whatnot.

When they find that a charge was improperly done, do they routinely report it to the criminal justice people, or do they just write it off and issue a new card and keep going?

Mr. BASHAM. I think a number of the credit card companies accept a certain level of risk. And now, to the percentage of ones they actually write off versus charging it back to a merchant, I can get that information.

Mr. SCOTT. Do they report it to a criminal justice authority for prosecution, for investigation and prosecution?

Mr. BASHAM. Well, the only times I can comment on that is when we are actually contacted, which is frequently that we are contacted. We work very closely with the credit card companies, particularly if we find——

Mr. SCOTT. If you find that a charge—and I have had a card where I don't know how they got the number or whatever, but the charges were improperly being put on a credit card. I reported it. They canceled the charges and I got a new card.

Okay, does anybody prosecute that? Investigate it? Do you have the resources to investigate cases like that?

Mr. BASHAM. On a singular charge against an individual's credit card? I can't say that we have the resources to track down——

Mr. SCOTT. If you had more resources, could you track down situations like that so that people would stop doing it?

Mr. BASHAM. Yes, we could.

Mr. SCOTT. If you had more resources?

Mr. BASHAM. If we had more resources, we certainly could.

Mr. SCOTT. We will see what we can do.

I look forward to you testifying in favor of a bill that I have introduced to give you those resources.

Mr. BASHAM. I will be honored to.

Mr. SCOTT. We have heard all about the coordination between the agencies. One of the downsides of that is, some agencies can get information a little bit easier and more casually, particularly if they are using the foreign intelligence side of the criminal justice system, than other agencies.

Can you say a little bit about how law enforcement works cooperatively with agencies that are acquiring information under the Foreign Intelligence Surveillance Act for which probable cause is not needed?

Mr. GARCIA. If I could take the first shot at answering that, perhaps.

One, as you point out, Congressman, the FBI has primary domestic foreign intelligence collection capability under FISA and the other intelligence statutes, domestic collection authority. There are other probable cause and other requirements under that statute, but they are different from the——

Mr. SCOTT. Under FISA you do not need the probable cause of a crime. In fact, you don't need a crime. It can be anything—foreign intelligence, they can get the information.

In the old days, they couldn't use it on the criminal side, and so there was no incentive to abuse the foreign intelligence collection to try to run a criminal investigation without probable cause.

Now that everybody is sharing everything, you have an incentive to abuse the foreign intelligence, and somebody on the criminal side can ask one of their buddies, I have a hunch, no probable cause, just a hunch, can you use FISA to listen in a little while, to see if we can find something out? When you are sharing all of this information, going back and forth, that can be a problem. In the old days, since you couldn't share, there was no point in asking. If they found anything, you couldn't use it.

My question is, with all of this information-sharing, do you have people who are using FISA to get information, sharing that information with everybody else that—nice to hear it, but couldn't have gotten it on their own?

Mr. GARCIA. I will give you my perspective from ICE on that.

Obviously, as I said, FBI has primary collection authority on that; I think the collection authority in that area is under FISA. We participate with the FBI and joint terrorist task force's cases by nature aimed at terrorist financing, terrorist support, terrorist plots in the United States.

Our agents, as part of that task force, would have some access to the information collected by the FBI under the rules governing information-sharing, the PATRIOT Act and the rules that were in place before that. Those agents participate in a task force setting and have access, as needed, as I understand it, to that information on particular cases governed by the rules for that sharing that are now in place.

Mr. BASHAM. Actually, I would echo that. We, as well, participate in the joint terrorism task forces, and a great deal of that information is compartmentalized. And it is not shared across all agencies, but only those agencies that have a specific interest or a specific jurisdiction that it deals with.

So I would say that with respect to protecting that information, as best you can under that setting, they are very cognizant of the need to do that. That has been our experience with it.

Mr. COBLE. We will have one more quick round, Mr. Scott.

Mr. SCOTT. Mr. Garcia, you indicated that when you catch smugglers, they could have used the methodology to smuggle weapons of mass destruction with the same methodology that they are smuggling drugs and people, "they could." .

Do you have any evidence that they are using the same methodology?

Mr. GARCIA. No, Congressman. What our approach is is that certainly the vulnerability exists. If, particularly in that case, we have people with access to sensitive areas of a facility, an airport, the danger exists or the potential exists that they would take advantage of that access to move weapons or move WMD components through the airports or across the border.

Certainly, these are organized criminal enterprises driven by profit. Where the profit was greater, that is where we believe that

criminal activity would be focused. So if terrorists or others looking to harm——

Mr. SCOTT. You do not have any evidence that they actually have—let me ask you, I have several other questions that I am try trying to get in quickly.

Is ICE working with the State Department on visa issuance?

Mr. GARCIA. In the visa security unit, yes, Congressman. That was, up until recently, run by Asa Hutchinson at the bureau level, BTS level. It is now operationally within ICE.

We have signed an MOU with the State Department to govern procedures. DHS has signed in terms of visa issuance. We are now in the process of implementing that, getting funding for that program. As of today, the only DHS personnel overseas are in Riyadh and Jedda, Saudi Arabia, as required by the statute. We are now coming up with a plan for further expansion of the visa security unit overseas working with our partners at the State Department.

Mr. SCOTT. When there are violations, how much prosecutorial discretion do you have? Do you have any prosecutorial discretion if you have violations of visa procedures?

Mr. GARCIA. Most of the visa law enforcement authority rests with diplomatic security of the State Department overseas. Under the terms of the MOU, we work with diplomatic security to look at investigations that would result from the visa process and see which ones of those would be amenable to presentation for prosecution. Ultimately, the decision for that would rest with the U.S. attorney's office.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. COBLE. I have one more, too, and then we will wrap it up.

Mr. Secretary, would you classify the intelligence that your office gathers as responding to domestic threats or foreign threats? Is it possible to separate the two? To what extent is your domestic intelligence work integrated with your foreign intelligence work?

I am piling on here. I am giving you four or five questions.

As to the mission of the office, it appears very similar to me to that of the FBI and the DEA, for example. Explain whether and how the Office of Intelligence is duplicating or complementing the work of the other law enforcement agencies responsible for domestic intelligence. What are the unique responsibilities of your office compared to the other offices?

And if you would, explain any plans for the sharing of intelligence amongst the other agencies.

And what role does the Terrorist Threat Integration Center play in all of this?

Mr. GARCIA. Certainly.

Mr. Chairman, ICE collects law enforcement information. As I pointed out in response to Congressman Scott's question, we do not have domestic intelligence-gathering capability. Our capability to gather intelligence is essentially to gather law enforcement information, case-related information, operational information.

We have different divisions in ICE that provide different types of information to our Central Intelligence Division, our main division for intelligence responsibilities. The Federal Protective Service gathers information about violations on Federal property; 8,000 buildings they protect nationwide. The FAMS have a civil aviation

piece, bringing in information about violations in their particular domain—investigations, broad authorities, tremendous information. Detention and removal, moving more people through their system than the Bureau of Prisons last year, has a similar capability to collect information from that community. All, merging with ICE.

As you can see, very different branches and types of information-collecting information can be used operationally by ICE. For example, human trafficking information. Someone stopped on the border may have a phone number that links up with a case in Newark. We use that to drive our cases.

We share across our divisions, clearly. We also share laterally and across the board and upwards. We participate with the IAIP, the DHS primary intel group. The TTIC, we have personnel assigned to the TTIC on a full-time basis where we have access to all our systems. We are part of the terrorist screening center. We have personnel assigned to the CIA and we brief on specific issues.

So we take advantage of all of those opportunities to make our information available upwards into DHA, into the TTIC and across to our agencies sitting here and in other departments, and then we brief on specific issues. We briefed the FBI, in fact, within the last week on an issue that we uncovered that we thought was particularly important.

Mr. COBLE. Thank you, sir.

And one final question, Mr. Scott.

Mr. SCOTT. One final question, Admiral Collins. You indicated that your guesstimate—obviously, we do not know for sure—85 to 90 percent of the drugs trying to get into the United States actually make it. We are stopping 10 to 15 percent. Is getting it down to 50 percent a realistic goal?

Admiral COLLINS. I think you have got to look at it. There is not one silver bullet. There are a number of different strategies that are being pursued aggressively under the coordination of ONDCP that looks at source country strategy, interdiction zone strategy and so forth. And I think, hit it high, hit it low, and hit it in between, also focusing on demand and supply; and a combination of that multifaceted approach yields tremendous results.

Mr. SCOTT. I see on the supply side if people do not want as much drugs, you could reduce it. How much would it cost? I mean, in terms of——

Admiral COLLINS. I think it is a multifaceted approach. I was just down at the Joint Interagency Task Force South in Key West, which coordinates all the interdiction efforts for the United States out of that southern vector coming into the United States; and they had a substantial Colombian delegation, the minister of defense and others, briefing on the progress they are making in country. It is very, very impressive.

And I think the combination of a dedicated, focused, professional military really turned around in Colombia and committed to administration in Colombia, along with a solid effort in the interdiction zone—I think we have a window of opportunity to go and undermine this whole operation.

Mr. SCOTT. The reason I ask that is, I read there is one study that said if you wanted to reduce drug use by 1 percent in America,

you could spend $30 million on drug rehab, about $300 million on prisons, or a billion dollars on interdiction.

Admiral COLLINS. Like I said, I don't think there is any one individual solution. It is multifaceted. And you have got to be very proactive in supporting Colombia and the great things they are doing as a country, in country.

Mr. SCOTT. And that costs us about a billion dollars.

Admiral COLLINS. It is a huge payoff, I think. And in the interdiction zone and on the demand side, it is multifaceted. If you look at the national strategy on this issue, it——

Mr. SCOTT. We are at 85, 90 and catching 10 to 15 percent now. How much more money will it cost to get it down much further? Are we talking billions?

Admiral COLLINS. I don't have at the tip of my fingers a number for you, Congressman.

Mr. COBLE. I thank the gentleman. I think this has been a good productive hearing, and we thank you all for your contribution. This concludes the oversight hearing on law enforcement efforts within the Department of Homeland Security.

The record will remain open for 1 week, and gentlemen, I have additional questions that I am going to submit in writing, and we will look forward to hearing from you.

Mr. Scott, do you have any written questions that you want to submit?

Mr. SCOTT. No.

Mr. COBLE. If you will respond, the record will remain open for 1 week. Thank you again for your attendance, and the Subcommittee stands adjourned.

[Whereupon, at 2:20 p.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

POST-HEARING QUESTIONS AND RESPONSES FROM THE HONORABLE W. RALPH BASHAM

Questions For The Record
U.S. Secret Service

Hearing on "Law Enforcement Efforts Within DHS"

House Subcommittee on Crime, Terrorism and Homeland Security
House Committee on the Judiciary

February 3, 2004

Questions from Chairman Coble

Question 1. *We understand that your Beltsville Training Facility is utilized to train Secret Service agents in the investigative and protection arenas. We also understand that other federal agencies as well as state and local departments receive protection-related training.*

a. *To what extent is the Beltsville Training Facility utilized to train outside entities, and does this training extend beyond that of protection?*

Because of the uniqueness of the experience, skill-level, and curriculum offered at the James J. Rowley Training Center (JJRTC), the demand for training by non-Secret Service entities has been enormous, particularly in a post-September 11, 2001, era where use of protective security measures has become a necessity rather than a luxury. Because the Secret Service possesses a world-wide reputation as a premier protective security entity, federal, state, local and international law enforcement organizations frequently request that the Secret Service provide specialized training programs for their personnel.

While training of new Uniformed Division and special agent recruits has been our first priority, our training staff has been able to stretch available resources to provide limited protective security-related training to other agencies. During the past few years, 30 training sessions were provided to approximately 1,300 local, state, and other federal law enforcement officials in such areas as Small Protective Detail Training, Protective Driver Training, Motorcade Security Training and Helicopter Evacuation.

b. *Also, does Beltsville complement the Federal Law Enforcement Training Facility (FLETC) and the FBI Academy? If so, how?*

For more than two decades, the Secret Service has used the FLETC to conduct initial recruit training for weapons-carrying personnel. Basic training lasts several weeks and involves countless hours of both classroom instruction and live scenario-based practical experiences. Therefore, the Secret Service maintains a full-time contingent of instructor

staff at FLETC facilities in both Glynco, Georgia, and Artesia, New Mexico, to facilitate training for both Secret Service recruits and those representing other federal law enforcement agencies.
When Secret Service personnel complete recruit training at FLETC, they attend mission-specific training at the JJRTC which is specifically designed to meet their job requirements. This includes training in protective security, protective intelligence, and complex investigative methodologies to preserve the nation's financial integrity.

The Federal Bureau of Investigation Academy in Quantico, Virginia, has responsibility for conducting the full range of training for the FBI, including initial recruit training and specialized training in a wide range of investigative programs for which the FBI has responsibility. While the FBI Academy and the JJRTC have different missions, the two maintain a consistent exchange of academic and practical training methodologies, protocols and facilities between instructional staff of both institutions.

c. *What are your future plans for the Beltsville Training Facility?*

The Secret Service is currently compiling a report for Congress that will detail our vision for the future of the JJRTC. The Secret Service will provide the subcommittee with a copy of this report, which should be completed in two to three weeks.

Question 2: *In the USA PATRIOT Act, this Committee authorized the expansion of your New York Electronic Crimes Task Force into a national network of task forces that have been touted as a model for law enforcement. Given that the task force concept is nothing new to law enforcement, what are unique characteristics of your task forces, and what has fueled their success on the local level? Do these task forces duplicate efforts of other agencies within DHS, specifically ICE? Does the Federal Advisory Committee Act (FACA) apply to this task force, or is there an exemption for law enforcement task forces?*

Within any law enforcement task force, specialists from various organizations combine and focus their unique talents and strengths toward a specific enforcement challenge. With the continuous incorporation of information technologies into our daily lives, electronic crimes and their disruptive potential have grown and changed in tandem; therefore, the Secret Service has found that any task force that confronts these crimes must be flexible, agile and broad-based in order to be effective. What is truly unique about this initiative is that the Secret Service has tailored its Electronic Crimes Task Forces (ECTFs) to include members of local, state, and federal law enforcement as well as experts from the private sector and academia. With this broad membership, the Secret Service ECTFs transcend traditional police-only task force models. By pooling and sharing resources and expertise, the constituent members of ECTFs find solutions to the complex and ever-changing challenges inherent in preventing, investigating and prosecuting electronic crimes.

The guiding principle behind electronic crimes task forces is to build a broad coalition of experts from various backgrounds who can contribute their specialized talents towards safeguarding America's critical, financial and telecommunications infrastructures. Task forces have the

specialized knowledge to anticipate emerging challenges, the security expertise to mitigate the effects of crimes, and the investigative skills to track down and prosecute those who attempt electronic crimes. The crimes are wide ranging, and include e-commerce fraud, cyber-crimes, telecommunications fraud, and computer intrusions.

Another unique characteristic of the Secret Service's ECTF initiative is their emphasis on prevention and preparedness. Traditional task forces are often established for the sole purpose of responding to an overt criminal act. The ECTFs emphasize detection, response, education, awareness and training. They rely on close relationships with local police, the private sector and the community they serve to act as an early warning system to identify potential access points for criminal intrusion and close them, thereby limiting or preventing the criminal action.

ECTFs, which are strategically located in thirteen cities nationwide, are also the regional hubs for critical infrastructure preparedness "table top" exercises. With the modern threats against America's infrastructures, the Secret Service has applied its traditional methods of team building with government and community entities to create these exercises. The exercises create a forum where the experiences and outlooks of local, state and federal agencies and the private sector can be shared, and their security plans tested against realistic scenarios. These exercises enable public and private sector entities to identify vulnerabilities, exchange concerns, and find constructive and coordinated solutions.

ECTFs are also unique among law enforcement task forces in their involvement with academia. Task force members identify trends or unique types of crimes, which are subsequently shared with academic partners who have the expertise and the resources to create strategies to combat the problem. By leveraging this resource, both law enforcement and the private sector gain useful tools in preventing and combating electronic crime.

With regard to the Federal Advisory Committee Act (FACA), the Secret Service believes that the current ECTF structure, which provides for establishing and maintaining relationships with private sector entities to prevent and investigate financial crimes, does not violate the FACA. These relationships have formed the basis of the success of ECTFs. Because of the Secret Service's tradition of effectiveness, its emphasis on teambuilding and reputation for discretion in its operations, the ECTF's private sector members remain confident that their sensitive information will not be shared with other companies or the public. In order to maintain a free flow of such information, private sector members must feel secure that there will not be any unauthorized information release during a task force investigation. Therefore, the Secret Service is currently seeking an exemption from the FACA in order to solidify its position on this issue.

Question 3: The PROTECT Act, a bill introduced by Chairman Sensenbrenner to protect children from sexual predators and signed into law last year, authorized the Secret Service to provide forensic and investigative assistance to the National Center for Missing and Exploited Children (NCMEC). Please explain your role with NCMEC. Has that authority assisted the Secret Service in that role?

As the subcommittee is aware, the Secret Service has provided forensic support to the NCMEC, as well as to state and local agencies, since the passage of an omnibus crime bill in 1995. This partnership has allowed the Secret Service to offer many of our unique forensic capabilities to numerous local agencies throughout the country.

The support provided by the Secret Service has assisted these agencies in solving numerous cases of child pornography, child sexual abuse, child abuse and child homicide. Despite this support, the Secret Service felt that there was a gap in the services that we provided. As technology has expanded, the line between providing forensic and investigative support has become difficult to distinguish, especially in cases involving cyber crimes. The Secret Service felt that it was necessary to fill this gap and gain the additional authority to provide investigative support as well.

Since the passage of the PROTECT Act, we have expanded our support and provided assistance in ways we could not prior to enactment of the new law. As such, our level of case resolution has increased. The Secret Service is extremely grateful to Chairman Sensenbrenner and the Judiciary Committee for authorizing our agency to provide this vital assistance in protecting our nation's children.

Question 4: A recent article in the Atlanta Journal Constitution cites a severe exodus of senior agents at the FBI. The reasons given for this include money, burnout, and mandatory retirement. Is your agency experiencing similar trends? If so, what would you propose to remedy the problem? What is the average service time of your special agents?

The Secret Service is not experiencing the trends attributed to the FBI. The greatest percentage of separations is based on voluntary retirement. The average years of service of all Secret Service special agents on board is approximately 8 years, and the average years of service as of the date of separation for Secret Service special agents is approximately 17 years with our agency.

Question 5: Does the Secret Service need any new authorities? If so, what are a few of the most important ones?

The Secret Service is currently assembling and forwarding for Administration review a package of legislative initiatives to provide a limited expansion of existing authorities and to modify certain statutory authorities that relate to, among other subjects, National Special Security Events (NSSEs), the investigation of threats against Secret Service protectees and the production and distribution of false credentials at NSSEs. It is the intention of the Secret Service to provide the subcommittee with this submission in the very near future, pending Administration approval.

Question 6: The Secret Service has a unique role with its protection of people and currency. Its investigative responsibilities now include a variety of fraud related crimes, such as financial

crimes and computer crimes. Has this changed since the transfer to the new Department? How does the Service's mission fit into that of the Department of Homeland Security?

The dual missions of the Secret Service – protecting our nation's highest elected leaders and other officials and the investigation of financial and electronic crimes – remain unchanged. As part of the Department of Homeland Security, the Secret Service continues to be involved in collaborative efforts towards security enhancement within the United States and the prevention of any exploitation of our financial infrastructure. The Secret Service prides itself on protective and investigative philosophies that emphasize prevention, and that fully involve our partners in all levels of law enforcement, the private sector and academia. We believe this preventative philosophy mirrors that of the Department.

The Secret Service has excelled in its dual protective and investigative missions through its ability to form broad-based, effective multi-agency teams, and through its rigorous and ongoing methods of identifying and testing security vulnerabilities. The Department has recognized the efficacy of both tenets, and has sought our assistance in assessing vulnerabilities and developing security solutions for America's critical infrastructures.

Question 7: Please explain the problems with dollarization and counterfeiting in South America.

The Secret Service has identified a recent trend in counterfeiting where so-called "dollarized" economies -- those nations that have adopted the U.S. dollar as their own currency -- have become an attractive market for foreign-produced counterfeit U.S. dollars. This is due in part to a lack of training within foreign law enforcement and banking communities and the absence of legislation prohibiting the sale, manufacturing, and distribution of counterfeit U.S. dollars. Additionally, the general public's lack of familiarity with U.S. dollars and their security features make it easier to pass counterfeit U.S. currency into circulation in these countries. Countries that have taken the largest losses due to foreign counterfeiting are Panama, El Salvador and Ecuador.

Today, Colombia is the single largest producer of counterfeit U.S. currency in the world. Columbian counterfeiters account for approximately 36% of all counterfeit dollars passed in the United States. It is typically Columbian-produced counterfeit U.S. currency that is passed in the aforementioned Central American countries.

Question 8: Would you consider law enforcement to be an integral component of the Secret Service's mission?

Our law enforcement and homeland security functions are intertwined and interdependent. Our prevention-based approach to safeguarding our financial and critical infrastructures, identifying vulnerabilities in these networks and preventing electronic attacks and intrusions further both our homeland security and law enforcement goals. Like the Bureau of Customs and Immigration Enforcement, the Bureau of Customs and Border Protection, and the Coast Guard, the Secret Service's enforcement of its criminal jurisdiction plays a pivotal role in the domestic security of the United States.

Questions from Rep. Jackson-Lee

1. With respect to the transfer of agency responsibility to the new Department of Homeland Security under H.R. 5005, the "Homeland Security Act of 2002," has the shift from independent agency status to an "umbrella" entity under the Department made you more or less effective as an agency?

The Secret Service was transferred from the Department of the Treasury to the Department of Homeland Security. Our agency has never been an independent agency, and our roots in Treasury date back to the creation of the Secret Service in 1865.

The Secret Service strongly supported the original proposal to transfer to DHS, and our agency is proud of the contributions it has made to our common mission of homeland security. We believe that our unique status in the Department – organized as a distinct entity with direct reporting to the Secretary – has provided the Secret Service with the resources and flexibility needed to perform our protective and investigative missions to our maximum ability while allowing our agency to share information and maintain communication with our DHS partner bureaus, agencies and Directorates.

a. How long do you feel it will take in order to deem the new Department's law enforcement branch "fully integrated" and fully functional?

The Secret Service has been fully integrated and fully functional since the establishment of the new Department.

b. What specific steps do you recommend to make the integration process work optimally?

The Secret Service has continued its practice of assigning senior personnel to Directorates and key offices in the Department to provide support and establish direct communication with our law enforcement partners. This direct access between the Secret Service and other components of the Department has allowed for optimal coordination and reduction of duplicity on cross-cutting issues and has enhanced the communication flow and sharing of information.

POST-HEARING QUESTIONS AND RESPONSES FROM ADMIRAL THOMAS H. COLLINS

DRUG INTERDICTION COORDINATION

QUESTION: How does the Coast Guard coordinate its drug interdiction efforts with the Bureau of Immigration and Customs, the Organized Crime Drug Enforcement Task Force (OCDETF) and the Drug Enforcement Administration? Are any of the drug seizures a direct result of routine patrols? What impact has the move to DHS had on the Coast Guard's drug interdiction efforts?

ANSWER: The Coast Guard has longstanding, successful working partnerships with all major federal law enforcement agencies and is now a member of the national intelligence community. We are working at every level to leverage these partnerships to improve the effectiveness and efficiency of drug interdiction operations.

The Coast Guard coordinates closely with Customs and Border Patrol (CBP), Immigration and Customs Enforcement (ICE), and non-DHS partners from the Department of Justice (Drug Enforcement Agency and U.S. Attorneys Offices) and the Department of Interior (U.S. Fish and Wildlife, National Park Service, and Bureau of Land Management) in the planning and conduct of law enforcement operations to ensure both open communication and officer safety.

The Coast Guard works with its partners through interagency organizations such as the El Paso Intelligence Center (EPIC), Joint Inter Agency Task Force (JIATF) South, coastal High Intensity Drug Trafficking Area (HIDTA) offices, and the Organized Crime Drug Enforcement Task Forces' (OCDETF) Operation PANAMA EXPRESS (PANEX). Operation PANEX, a successful counter-drug investigation run by the U.S. Attorney's Office in Tampa, Florida, generates significant intelligence, in large part through information made available from Coast Guard drug seizures, that is shared with various joint intelligence and operations centers.

To ensure seamless integration of intelligence, both Coast Guard and ICE have permanent billets at JIATF, EPIC, and at the two Coast Guard Area Maritime Intelligence Fusion Centers (MIFCs). Personnel are also exchanged with CBP at the Coast Guard's Intelligence Coordination Center and at CBP's National Targeting Center.

While the tactical placement of Coast Guard assets is based upon intelligence, the geography and nature of counter-drug operations require the Coast Guard to routinely deploy assets in the Eastern Pacific and Caribbean in support of national coordinated counter-drug efforts. Actionable intelligence (raw intelligence coupled with necessary analytical resources) allows for quicker and more thorough sorting of targets, and more efficient use of surface and air resources.

The Coast Guard also routinely conducts harbor and coastal patrols as part of its maritime strategy for the enforcement of laws and treaties. As a result, these patrols do generate some random drug seizures and enforcement of other laws and treaties. These operations may also be coordinated with individual federal, state, and local law enforcement agencies, including ICE and DEA. For example, the Coast Guard and Immigration and Customs Enforcement coordinate aircraft operations in the Caribbean, offshore Miami, Florida, and around Puerto Rico to expand coverage by eliminating unnecessary overlap in patrols.

The move to DHS has enhanced our ability to execute the counter-drug mission. There is much more commonality of purpose with the 21 other DHS agencies, which has improved interagency cooperation. Additionally, the process improvements in the area of information and intelligence sharing within DHS have resulted in better operational scheduling coordination.

INTEGRATED DEEPWATER SYSTEM (IDS) BACKGROUND

QUESTION: According to information provided by the Coast Guard website, "U.S. Coast Guard Deepwater cutters are the 40th oldest of 42 similar fleets worldwide and the demands on our service are greater than we can provide." Because of their age, many of these assets lack essential capabilities and have tremendous maintenance costs. (1) Please explain what a Deepwater mission is. (2) How does the Coast Guard's ability to effectively carry out Deepwater missions impact on our national security and law enforcement efforts? (3) What is the Deepwater Capability Replacement Project?

ANSWER: (1) A general rule of thumb definition of a Deepwater mission has been a Coast Guard mission that takes place 50 or more miles off the coast. Unfortunately, this rule of thumb does not fully describe a Deepwater mission. The Coast Guard classifies the regions in which it operates into three areas: inland, coastal and Deepwater. Unlike Coast Guard operations in coastal and inland waterways, "Deepwater" missions typically require a long-term, continuous, on-scene presence at sea—often, as was demonstrated during Operation Iraqi Freedom, with overseas deployments lasting several months. Coast Guard missions also demand the ability to operate in severe environments—from Arctic to tropical and equatorial climates—24 hours a day, every day, wherever the demands of national security require the Coast Guard's humanitarian, law-enforcement, marine environment, maritime safety, or military presence.

(2) The Coast Guard's Deepwater legacy cutters and aircraft are currently the service's most capable assets. They are called upon to perform a wide-range of demanding missions in the most severe environments including national security and law enforcement efforts. While Deepwater ships and aircraft operate in all of America's marine environments, it is these assets that serve American on our maritime front lines. The Coast Guard's strategic approach to maritime homeland security places a premium on identifying and intercepting threats well before they reach U.S. shores. This approach necessitates giving Coast Guard crews the opportunity to prosecute potential threats to national security in a layered defense extending across the entire maritime domain of domestic waters, border and coastal areas and the high seas and foreign ports. As our legacy assets continue to age, the Coast Guard will need to continue to effectively push the borders outward. To accomplish this the service needs more capable assets with new technology for better surveillance, secure communications and more efficient command and control – and that is what the Integrated Deepwater System is designed to provide.

(3) On August 26, 1996, the Deepwater Capability Replacement Project Program was initiated as a Level I Acquisition by a decision of the Transportation Systems Acquisition Review Council (TSARC). In April of 2002, the Coast Guard Commandant, Admiral James Loy, chartered the Deepwater Capability Replacement Project Program as the Coast Guard's first ever Program Executive Office, and renamed it the Integrated Deepwater System (IDS) Program.

COAST GUARD AND FORMER US CUSTOMS SERVICE EFFICIENCIES

QUESTION: On January 27 of this year, the Coast Guard announced that it had delivered 5,700 pounds of drugs to Immigration and Customs Enforcement agents and seven suspected smugglers were turned over to the Bureau of Customs and Border Protection. This is good work. Please explain how having the Coast Guard and the former U. S. Customs Service under one Department has improved the efficiency of both services.

ANSWER: Regarding this specific case, the Coast Guard regularly turns all of the property we seize over to the Drug Enforcement Agency (DEA), Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), or agencies that have asset forfeiture and seized property management infrastructure.

More generally, the creation of DHS has improved our ability to coordinate law enforcement operations through improved information and intelligence sharing and providing more commonality of purpose between the agencies. National and Regional-level coordination meetings are held to improve the efficiency and delivery of field level services to the public. For example:

- Permanent billet sharing between ICE/CG at the Area Maritime Intelligence Fusion Centers (MIFC's) has enhanced use of operational intelligence.
- Bi-weekly Management Council meetings to discuss management issues, such as, Information Technology, Human Resources, Budgets, etc.
- Weekly Policy Council meetings involving DHS and component agencies to discuss cross-programmatic policy issues such as migrant processing, transportation security procedures, etc.
- Participation in several workgroups including
  - Use of Force Policies
  - Integrated Border Enforcement Teams
  - Maritime Operations Undercover Working Group
  - Container Working Group
  - Mass Migration Policy
  - Proliferation Security Initiative
  - Training Efficiencies: Federal Law Enforcement Training Center (FLETC) Charleston co-location of maritime training schools

Local coordination has been enhanced with the creation of the Department of Homeland Security. For example, prior to the transition, the Coast Guard and former U.S. Customs Service in Miami, FL, used to patrol waterways at the same time. Today, both agencies jointly plan their patrols and operations maximizing the full capability of all the assets.

RESERVE RECRUITING IMPACTS FROM DEPLOYMENTS

QUESTION: Many recent stories in the news indicate that the reserve components of several service branches may experience recruiting problems since these reserve components are actually being deployed, some times for considerable periods of time. Is the Coast Guard experiencing or anticipating similar recruiting problems? And if so, what do you propose as a solution?

ANSWER: While the Coast Guard Reserve has experienced the highest percentage of involuntarily recalls of all the Reserve components (approximately 62%) since September 11, 2001, the Coast Guard has not encountered significant difficulty in meeting its Reserve recruiting requirements.

Coast Guard recruiters have indicated that discussions of ongoing deployments play a significant role during their discussions with potential Reserve recruits, especially during discussions of potential unit assignments. Applicants are still requesting assignment to deployable units, but

most are requesting assignment to domestic units and are concerned about the probability of being involuntarily transferred to deployable units due to ongoing high OPTEMPO.

The percentage of female Reserve enlisted recruits is slightly down (14% in FY03 compared to 18% in FY02); this may be in part related to the rise in Reserve mobilizations/deployments, since women traditionally have provided a greater role than men in providing care for minor children or elderly parents.

The Coast Guard is reexamining the types of personnel being targeted for recruiting to best meet our changing workforce needs, and we are reviewing who receives Reserve enlisted bonuses to ensure we recruit enough people into our critical billets. Coast Guard Recruiting Command is continuing its efforts to give priority attention to female and minority applicants, and is focusing on recruiting in geographic areas that are producing higher percentages of female and minority accessions.

COAST GUARD'S ORGANIZATIONAL POSITION WITHIN DHS

QUESTION: Should the Coast Guard be moved under the Border and Transportation Security Directorate to better coordinate with other border security agencies? If not, why?

ANSWER: Moving the Coast Guard under the Border and Transportation Security Directorate (BTS) is neither necessary to better coordinate border security operations nor reflective of the Coast Guard's broad range of statutory responsibilities and its unique military, multi-mission nature.

The Coast Guard's array of responsibilities are far broader than those of the agencies comprising BTS. The Homeland Security Act (the Act) designated five of the Coast Guard's eleven missions as "homeland security" and the other six as "non-homeland security". The Coast Guard's non-homeland security missions, and even some aspects of the homeland security missions, do not completely align with the border security focus of the BTS agencies. In addition, the Coast Guard's "non-homeland security" programs and assets support and enable its homeland security role. For example, the Coast Guard could not have increased its port security posture as rapidly and robustly as it did immediately after September 11, 2001 if it did not have its other missions and their associated capabilities to temporarily redirect. The Coast Guard has been able to develop and implement the Maritime Transportation Security Act of 2002 and International Ship and Port Security Code requirements, in large part, due to the foundation provided by its Port State Control Program, initiated under the non-homeland security mission of Marine Safety and its strong reputation at the International Maritime Organization. Maritime safety and security requirements have been codified as part of the long-standing Safety of Life at Sea Convention. Rather than having to create new programs from scratch, many of the Coast Guard's existing, proven and effective marine safety programs, skill sets and processes are being expanded and enhanced to implement the new security requirements. It is worth noting that the legal authorities for imposing security zones and restricting seaport access, authorities critical for maritime security preparation and emergency response, have long been vested in the Coast Guard officials responsible for port safety functions.

In addition, because of the Coast Guard's diverse suite of missions, some programs actually align more closely with other elements of DHS. For example, the Coast Guard's Marine

Environmental Protection Program, which has recently contributed to such efforts as developing the Interim National Response Plan, coordinating the upcoming Spill of National Significance exercise in California, and providing special teams to assist in the Capital Hill ricin incident response is more closely aligned with the DHS Emergency Preparedness and Response Directorate (EP&R) than with BTS.

Lastly, the Coast Guard's transfer to DHS as well as its direct reporting status to the Secretary was done with purpose. The current organizational alignment will provide for the most rapid movement of all or portions of the Coast Guard to the Department of the Navy in response to armed conflicts or times of national emergency, as authorized by statute.

In summary, any proposal to move the Coast Guard under one of the other DHS Directorates fails to appreciate the true multi-mission and military nature of the service, and the full range of authorities, capacities, capabilities and partnerships the Coast Guard makes available.

COAST GUARD LAW ENFORCEMENT AUTHORITY

QUESTION: Is the Coast Guard in need of any new law enforcement authorities that will allow the agency to more effectively accomplish its mission? If so, please describe the authorities and explain how they will benefit the agency's effectiveness.

ANSWER: Trained and qualified Coast Guard members should have clear authority to arrest for violations of federal law discovered during the performance of their official duties. Such authority is needed to allow the Coast Guard to better carry out its existing maritime security responsibilities and does not reflect a new mission for the Coast Guard. Additionally, State and local law enforcement officers should have express authority to make arrests for violations of security zone regulations established by the Coast Guard.

A number of statutes, such as the Ports and Waterways Safety Act and Espionage Act, give the President or the Secretary, and by subsequent delegation, the Coast Guard, broad authority to protect facilities and other installations on or adjacent to waters subject to U.S. jurisdiction. This authority includes establishment of safety and security zones and searches and seizures of property while enforcing those zones. The Coast Guard also has a responsibility to patrol and safeguard maritime facilities under the Maritime Transportation Security Act and other statutes. Coast Guard members regularly patrol port areas, both on the water and ashore, to carry out the Coast Guard's responsibilities. Coast Guard commissioned, warrant, and petty officers have statutory authority to arrest for violations of U.S. law committed on the water, and to pursue violators ashore. However, none of these statutes grant Coast Guard members express authority to arrest for violation of federal law on shore. Similarly, although authority for a Coast Guard member to carry a firearm in the performance of official duties is inherent within the Coast Guard's status as an armed force, there is no express statutory authority to do so.

Therefore, under current law, a Coast Guard member who detects a violation of federal law during an authorized shore-side patrol may only detain the suspect and wait for another federal law enforcement agent to make an arrest. A court could void an otherwise proper arrest and suppress any evidence if it later found that the detention was for too long a period of time. Equally as important, the individual Coast Guard member could face allegations of unlawful arrest or unauthorized use of force with potential personal liability.

As a short-term solution, the Department of Justice has agreed in a Memorandum of Understanding with the Coast Guard to deputize up to 1,000 Coast Guard members as special deputy U.S. Marshal To date, over 300 trained and qualified Coast Guard members have been deputized. This Memorandum of Understanding will expire in August 2005.

The Coast Guard has established permanent or temporary security zones around certain high-risk vessels, port facilities, and other critical infrastructure. In many cases, these security zones were established at the request of local authorities. In most ports, State and local authorities have overlapping or concurrent jurisdiction over many actions that would constitute a violation of a Fede security zone. However, violation of a Federal security zone regulation is not necessarily a violatio of State law. Although many, but not all, States authorize State law enforcement officers to detain arrest for violations of Federal laws detected while performing their State duties, some State officia have questioned their authority to enforce security zones. Clarifying that State and local officers m but are not required to, make arrests for violations of Coast Guard security zone regulations will all them to take action if actions violate a Federal order but do not violate State law.

The Department of Homeland Security sought additional law enforcement authority in the Administration's proposed Coast Guard Authorization Act of 2003. However, neither H.R. 2443, a passed by the House, nor S. 733, as reported in the Senate, includes these provisions. The Coast Guard and the Department are reviewing the Coast Guard's need for additional law enforcement authority and intend to request these additional authorities in the Administration's proposed Coast Guard Authorization Act of 2004.

COAST GUARD MISSION

QUESTION: Would you consider law enforcement to be an integral component of the Coast Guard's mission?

ANSWER: Yes. The Coast Guard is the lead federal agency for enforcing U.S. law in the maritime arena, and the only U.S. entity with the mandate, authority, and capability to perform the full breadth of maritime law enforcement offshore. These law enforcement attributes are required for the Coast Guard to fulfill each of its five fundamental responsibilities: Maritime Security, Maritime Safety, Protection of Natural Resources, Maritime Mobility, and National Defense.

Without law enforcement capabilities and authorities, the Coast Guard would not be able to enforce safety and security zones around sensitive vessels and areas, board and seize vessels involved in illegal drug or migrant smuggling, enforce boating safety regulations designed to save lives, enforce the clean-up of marine pollution, provide at-sea enforcement of Fishery Management Plans, and ensure foreign fishermen do not illegally harvest U.S. fish stocks.

HLS ACT OF 2002

QUESTION: With respect to the transfer of agency responsibility to the new Department of Homeland Security under H.R. 5005, the "Homeland Security Act of 2002," has the shift from independent agency status to an "umbrella" entity under the Department made you more or less effective as an agency?

- How long do you feel it will take in order to deem the new Department's law enforcement branch "fully integrated" and fully functional?
- What specific steps do you recommend to make the integration process work optimally?

ANSWER: Prior to the creation of the Department of Homeland Security, the Coast Guard was an agency within the Department of Transportation and not an independent agency. However, the Coast Guard's move to the Department of Homeland Security (DHS) has improved our ability to execute law enforcement missions due to much greater commonality of purpose with the 21 other DHS agencies and the synergies that exist between the agencies. We are integrated within the Department across the spectrum of law enforcement operations and processes are continually improved as we gain more experience. To work optimally, Tactics, Techniques, and Procedures (TTP) will be the same to the degree possible, and otherwise fully complementary. This is an ongoing process as policies are integrated, best practices adopted, and joint operations occur.

SHIP ESCORTS IN THE HOUSTON SHIP CHANNEL

QUESTION: With respect to the ship escort system that was implemented in the Houston Ship Channel last month, could you discuss the measures taken by the U.S. Coast Guard or by DHS to secure the escorts of the ships carrying hazardous materials?
Do you recognize any problems with the interoperability between the U.S. Coast Guard and land-based DHS law enforcement agencies as it relates to ship escort security measures?

ANSWER: On December 21, 2003, Secretary Ridge directed the setting of Homeland Security Advisory System (HSAS) Threat Condition Orange. The Coast Guard changed from Maritime Security (MARSEC) Level 1 to MARSEC Level 2 (MARSEC Level 2 generally corresponds to HSAS Condition Orange). We remained at MARSEC Level 2 from December 21st until January 9th.

While at MARSEC level 1 the Coast Guard conducted escorts of selected vessels through key port areas in order to provide protection to the vessels, their cargo, the port, and nearby populace. Escorts are focused on all vessels carrying Certain Dangerous Cargoes (CDCs) in bulk, as well as high value naval vessels. Additionally, escorts are provided for a percentage of vessels carrying 500 or more passengers.

MARSEC Level 2 includes all of the MARSEC 1 escort requirements, as well as an increase in the percentage of escorts provided to vessels carrying 500 or more passengers.

In Houston, our operational commanders and units face unusual challenges stemming from the volume of CDCs and other hazardous material transiting the Houston Ship Channel. This is further complicated by high traffic density and lengthy transit times up river. These factors combined consumed significant resource hours.

Despite the complications, we developed tactical solutions that provided escort coverage and best managed our assets. For example, rather than requiring CG escort boats to remain with each vessel for the entire transit, we devised a "zone defense" escort system in Houston. The "zone defense" provides escorts within designated zones. As a CDC vessel goes from one escort zone to the next, it is handed-off to the asset covering the next zone. This provides for economies of scale, as a team of escort boats can sometimes provide protection to several vessels simultaneously within a zone. Additionally, this makes best use of our resources by minimizing transit times.

As a result of these innovative tactics, we were able to provide 231 escorts in the Houston Ship Channel during the 19-day MARSEC 2 period. These tactics ameliorated threats to these vessels and the port while maximizing the resources around Houston. Moreover, we are closely examining these tactics as a possible "best practice" that could be applied to other large ports.

With respect to interoperability, there were no problems operating with land-based DHS Law Enforcement Agencies. Their involvement in vessel escort duties is minimal. Other DHS agencies were more focused on port facility and cargo inspections.

POST-HEARING QUESTIONS AND RESPONSES FROM THE HONORABLE MICHAEL GARCIA

Questions for the Record
Michael Garcia
House Judiciary Committee,
Subcommittee on Crime, Terrorism, and Homeland Security
On Law Enforcement Efforts within DHS
February 3, 2004

1. **QUESTION**: When the Administration announced that the air marshals would be shifted from the TSA into the Bureau of Immigration and Customs Enforcement, it stated that Immigration and Customs agents would receive cross training and later the air marshals will be cross-trained for other responsibilities. Furthermore, according to a September 2, 2003 MSNBC news article on the Department of Homeland Security website, Secretary Ridge stated, "Importantly, with this single move, we will be able to deploy more than 5,000 additional armed federal law enforcement agents to the skies." *Has the Department started to cross train Immigration and Customs agents and air marshals? What does or will this cross training include? Has the move allowed the Department to deploy more than 5,000 additional armed federal law enforcement agents to the skies? Will this cross training include other agencies within the Department of Homeland Security?*

   ANSWER: A formal program of cross training Immigration and Customs Agents in the skill sets necessary to augment the Federal Air Marshal Service in its mission to protect the aviation environment began in earnest in December 2003. To date, 323 ICE Special Agents have successfully completed FAMS Surge Training.

   ICE agents will receive updated FAMS training and serve as a reserve force that could be deployed, if needed. Blocks of instruction center around but are not limited to: Arrest Procedures, Boarding Procedures, Surveillance Detection, Aircraft Tactics, Least Risk Bomb Locations, Firearms Proficiency, Defensive Measures and other related disciplines.

   Additional approaches designed to deliver FAMS Surge training to as many ICE Agents as possible, without having a detrimental effect upon core mission responsibilities, are currently being discussed and evaluated. It is the overall objective of this program to deliver cross training scenarios to every ICE Agent, thereby extending surge capacities to the level referred to by Secretary Ridge. Force multiplier training is also being extended to Special Agents from the Secret Service.

   Furthermore, we are providing ICE Special Agents a FAMS force multiplier

briefing by the end of the current fiscal year. Under the Force Multiplier concept, ICE Special Agents primarily rely on their existing level of training supplemented with a specific briefing to better prepare them for the unique characteristics of the FAM mission. This computer-based briefing will provide for the enhancement of aviation security by tracking the travel of ICE Special Agents who are traveling armed on U.S. carriers during their normal course of business. This will provide the FAMS the flexibility to then re-deploy Federal Air Marshals to flights that have no armed presence, absent specific threat information. ICE agents acting as force multipliers are not intended to replace FAMs.

The current objective is to train 5,000 ICE Agents and there are no plans to bring this training to other non-DHS law enforcement entities at this time. A working group has been established to develop an implementation plan for mission surge capability and the Force Multiplier Program within ICE. These initiatives offer BTS/ICE the capability to enhance aviation security with minimal costs.

Additionally, Federal Air Marshals will receive criminal investigator training, to include ICE Special Agent responsibilities.

2. **QUESTION**: Assistant Secretary Garcia, at the hearing you were asked about how your expanded anti-terrorism responsibilities impacted your agency's ability to successfully enforce the Nation's trade laws. *As a follow-up, could you please describe any changes in law or regulation that would facilitate your job? Also, please describe how the authorized additional agents I referred to during the hearing are being utilized to address the issue of transshipment.*

ANSWER: In the Trade Act of 2002 ("the Act"), Section 352 authorized "Appropriations for Textile Transshipment Enforcement Operations", defining transshipment as claiming preferential treatment under any provision of law on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components". In furtherance of ICE's effort to detect, deter, prosecute and penalize violators, in FY 2003 Congress appropriated $4.75 million to ICE for "transshipment enforcement operations, outreach and education". Section 352 specifically outlines how the money should be allocated within ICE, including the hiring of 10 investigators to be assigned to selected ports to investigate instances of smuggling, quota and trade agreement circumvention, and use of counterfeit visas to enter inadmissible goods, one investigator to be assigned to the ICE Office of Investigations, Commercial Fraud Investigations Unit textile program to coordinate and ensure implementation of textile production verification team results from an investigation perspective. As well as, five import specialists and two investigators in Hong Kong. These personnel will work with Hong Kong and other government authorities in Southeast Asia to assist such authorities in pursuing proactive enforcement of bilateral trade agreements. The act also

provided for additional "Permanent Trade Positions" in various foreign offices including Central America, South Africa, Mexico, South Korea, and New Delhi, India. This language was interpreted by ICE to include Special Agents and funding is sufficient to hire more than the original 10 Special Agents identified.

Based upon a analysis of textile transshipment cases nationwide, ICE has proposed the following allocations for funding of Special Agent positions, while meeting the requirements as set forth in the original language of the Act, 14 Special Agents to be assigned to investigate textile smuggling, transshipment, quota/visa violations, and trade agreement circumvention. It is recommended that these positions be designated to specific domestic field offices. An additional investigator will be assigned as a Program Manager Headquarters Textiles program to coordinate the deployment of Textile Production Verification Teams, and to support field investigations. Additionally, three Special Agents will be assigned to Attaché offices in Hong Kong, Pretoria, and Bangkok to coordinate the deployment of Textile Production Verification Teams, and to support overseas investigations.

3. **QUESTION**: *How has the Federal Protective Service (FPS) been integrated with ICE? Have FPS's duties expanded? Are there any plans to cross train FPS employees and if so in what capacity? How does FPS fit under the mission of ICE?*

ANSWER: Integrating once-fragmented resources and creating a shared identity, ICE was formed by combining the investigative and intelligence arms of the former Immigration and Naturalization Service (INS) and the former U.S. Customs Service, including Air and Marine Operations, as well as the Federal Protective Service and the Federal Air Marshal Service. ICE is now the second-largest investigative agency in the Federal government, creating a dynamic and innovative new law enforcement organization uniquely focused on homeland security - including federal workplace security, border security, air security, and other enforcement issues.

Information and intelligence sharing, improvements in cooperation and coordination, and integration efforts regarding training, technology, and support infrastructure are improving efficiency and effectiveness. Part of any major organizational transition includes establishing mutually supportive relationships among the ICE law enforcement programs. Sharing intelligence and investigative tools and techniques improves the capacity and capabilities of the entire organization. Specialized law enforcement skills and assets can also be shared, thus relying on the strengths of the individual programs and avoiding costly duplication. For example, the FPS has expertise in crowd control. This expertise can be used to support large-scale law enforcement operations,

resulting in improved safety and security of the law enforcement personnel, the apprehended, and the general public.

FPS continues to fulfill the legacy mission of protecting approximately 8,800 General Services Administration owned and leased facilities and properties. The agency anticipates that the pending revised authorities, based on the language in Section 1315 of the HSA, will permit FPS to expand its mission of law enforcement and security programs to include additional Federally owned and leased locations, particularly those for DHS.

FPS is funded from offsetting collections and fees for security services. Funds are reimbursed from other Federal agencies for the cost of law enforcement and security services for federal buildings. This funding methodology serves to focus the organization on its core mission. While FPS is integrated into the daily operations of ICE and coordinates all activity with ICE management, the statutory restriction in the Homeland Security Act of 2002 limits the use of FPS funds "solely for the protection of buildings or grounds owned or occupied by the Federal Government." FPS' capabilities and operational performance in the past and in recent events such as G8 in Georgia and FTAA in Miami have proven that the agency can contribute significantly to the law enforcement and security mission needs of DHS.

4. ***QUESTION:*** *What types of money laundering cases are you currently working? Are any of these cases being worked in conjunction with other agencies? Are any of these cases tied to terrorist organizations and if so are these cases worked jointly with other agencies?*

ANSWSER: ICE conducts money laundering investigations pertaining to all aspects of our criminal jurisdiction including narcotics violations, alien smuggling, child pornography, illicit gaming, terrorist financing, Customs fraud and illegal exports. These cases are often worked with other agencies such as the IRS, DEA, FBI, FinCEN and the Federal Reserve. In addition ICE either leads or is a member of many financial investigative task forces throughout the country including HIFCA and HIDTA initiatives. The vast majority of ICE's financial or money laundering investigations are not related to terrorism or terrorist financing. In the few investigations that have been found to have a demonstrative nexus to terrorism or terrorist financing, ICE is conducting those investigations jointly with the FBI under the general direction of the JTTF or under field negotiated working agreements.

5. **QUESTION**: The Department of Homeland Security has been testing new passenger entry procedures at the Hartsfield-Jackson International Airport in Atlanta and new exit procedures are being tested at the Baltimore Washington

International Airport (BWI). *Please explain, to the extent possible, how successful these projects have been. How many passengers have passed through theses points? How significant or minor is any increased processing time? The exit point at BWI is an automated kiosk. How does this work?*

ANSWER: The new entry procedures, which were first tested at the Atlanta Hartsfield International Airport, were part of the US-VISIT processing, and were fully implemented at 115 airports and 14 seaports on January 5, 2004. Since that time there has not been a significant increase in processing time. Overall flight processing has only increased approximately 5 minutes per flight. Over 4 million travelers have been processed through US-VISIT upon entry and over 450 positive matches have been made to the US-VISIT watch list. Of those, 140 have resulted in adverse actions from refused admission to arrest.

The exit procedures are still being tested at the Baltimore Washington International Airport in Baltimore, Maryland and the Royal Caribbean Cruise Terminal in Miami, Florida. The statistics for this pilot are maintained by the US-VISIT program office and would be best answered by US-VISIT.

6. **QUESTION**: How has merging the various agencies, such as the Federal Protective Service and parts of Customs and INS, strengthened your mission?

ANSWER: In creating the Department of Homeland Security and U.S. Immigration and Customs Enforcement (ICE), the President and Congress brought together some of the government's leading financial, criminal investigative and protective agencies from fragmented resources to form a single premier law enforcement agency. The melding of this expertise leaves ICE uniquely positioned to thoroughly address new and emerging threats to our national security in the 21st Century. The merging of the various agencies has strengthened ICE's investigative, intelligence, enforcement and security capabilities while collectively providing the necessary statutory authorities needed to protect the Nation's borders, critical infrastructures, and skies from criminal and terrorist activities.

7. **QUESTION**: On September 2, 2003, Secretary Ridge announced plans to "reorganize to better mobilize" the people and the resources of the Department of Homeland Security. Part of this reorganization involves transferring the Federal Air Marshal's to the Bureau of Immigration and Customs Enforcement. The reason cited was that these officers had previously worked independently of each other often "with separate intelligence and regardless of the threat to specific targets." *Has this new alignment yielded the intended results? Are their any other imminent realignments that you are aware of? If so, what is the intended goal of such realignments?*

ANSWER: This new alignment has allowed the ICE to achieve a seamless line of communication between intelligence gathering by the Federal Air Marshal Service (FAMS) and other programs within ICE. The vital intelligence gathering by the FAMS in protecting the Nation's civil aviation domain is directly related to ICE's overall mission in protecting the Nation as a whole. This seamless line of communication was instrumental to ICE during the last code Orange alert by allowing a coordinated response to the threat by the FAMS, the Office of Intelligence and the Office of Investigations. Currently, there are no other realignments scheduled within ICE.

8. **QUESTION**: It has been reported that with the creation of the new Bureau of Immigration and Customs Enforcement, some of the law enforcement personnel from the agencies that were consolidated were/are less than happy. A October 22, 2003 article on the topic which appeared in Government Executive Magazine cites a survey by the Federal Law Enforcement Officers Association that suggests that ICE has serious morale problems. *Please describe some of the logistical, managerial, and cultural issues that you encounter(ed) as you create a new entity out of several old parts. Do these "issues" rise to the level of a "serious morale problem"?*

   ANSWER: ICE was officially established in March 2003 and has integrated the separate and unique investigative arms that once belonged to the former Customs and Immigration and Naturalization Services (INS), as well as the former Federal Protective Service and the Federal Air Marshals Service. The integration of several different law enforcement agencies with unique administrative and operational systems has been an extremely complicated undertaking.

   During any period of change, it is completely natural for some employees to voice dissatisfaction, especially with relation to pay and training differences. ICE is diligently working to remove all barriers to agent unification. On April 20, 2004, ICE issued a news bulletin to all employees in the Office of Investigations (OI), informing them that the new ICE Criminal Investigator position had been created and that all ICE OI Criminal Investigators will be assigned to this new position with a potential to reach the full performance level of GS-13. This position officially merges the investigative functions of the former Customs and INS and assigns responsibilities for intelligence, counterintelligence, or investigative work directly related to national security and terrorism investigations. It also establishes pay parity within the investigator ranks, as the former INS investigator positions had a full-performance level of GS-12.

   Addressing OI investigator training differences, ICE implemented a training

program at the Federal Law Enforcement Training Center (FLETC) for all newly hired special agents. Graduates of the ICE basic training course possess the ability and authority to enforce all laws formerly delegated to two separate and distinct agencies. Additionally, ICE has developed a curriculum to provide cross training and is in the process of conducting such training for the remainder of special agents. This will further serve to maximize ICE law enforcement authorities and capabilities and removes another potentially negative morale issue.

9. **QUESTION**: A recent article in USA Today (February 2, 2004) cited ICE statistics that as many as 6,000 illegal aliens entered the United States in 2003 through a "catch and release" policy, under which illegal entrants are apprehended and then immediately released back into U.S. communities with orders to appear at a later date for deportation proceedings. The article states that this policy is partly the result of a limited budget for detaining illegal aliens in local jails. *Is it only a budget problem? Or does ICE foresee the need for additional bed space to detain illegal aliens and better secure the nation's borders? If so, where will these needs be and how can beds be best consolidated to save costs? Does ICE have a bed space strategy for the nation which coordinates transportation, detention locations, processing locations, and deportation hearing sites which will streamline the existing process? Are there plans to include the private sector and their resources to help ICE in their mission?*

ANSWSER: The issue of detaining illegal aliens is a public policy issue with significant budgetary impact. The cost of detaining the hundreds of thousands of illegal immigrants who cross our borders and then go through the lengthy Immigration hearing process would be prohibitive in terms of both manpower and bed space requirements. ICE Special Agents or Customs and Border Protection (CBP) Border Patrol Agents have the discretion to release aliens they arrest or encounter crossing the border on bond or on their own recognizance while the alien awaits their hearing.

The decision on whether or not to detain an alien is based on three main factors: criminal history (ICE is required to detain aliens who have committed certain categories of aggravated felonies); threat to public safety; and flight risk. Approximately 64% of aliens in detention are mandatory detention cases. Non-mandatory detainees may be released on bond or on their own recognizance, often with conditions.

Congress gives ICE sufficient funding for approximately 19,400 beds for detention purposes. However, this year ICE has detained approximately 22,500 aliens.

ICE DRO has been a leader in working with the private sector and state and local governments to meet detention needs. ICE contracts detention bed space from a number of sources and continually evaluates the performance and cost effectiveness of these arrangements to ensure the highest possible levels of efficiency to protect national security, maintain its commitment to human rights, and receive the best return on the tax payers dollar. ICE / DRO is currently examining its bed space and transportation requirements as part of a comprehensive detention capacity planning initiative. Options under consideration in this analysis include a range of detention options including significant participation by federal, state, and local authorities and private sector partners.

While there is sufficient bed space available in the open market for ICE to purchase 6,000-7,000 beds, it is not always in the most convenient or cost effective location, requiring additional staff and transportation resources. With strategic contracting and the authority to build additional facilities, ICE will be better positioned to meet current and future needs.

ICE is also creating new programs to ensure compliance with appearance at hearings and removal orders that do not require detention. One pilot project involves the use of electronic monitoring devices (EMD) as an alternative to detention for selected aliens. Currently DRO is testing this program using a private-sector contractor for electronic monitoring services in Anchorage, Chicago, Detroit, Miami, Portland, Seattle, and Orlando. Under this program, aliens awaiting Immigration court hearings or removal wear either a monitoring ankle bracelet or report telephonically to a voice recognition system monitored by a case manager.

Another alternative to detention, the Intensive Supervision Appearance Program (ISAP), is currently being finalized for deployment and testing.
A private contractor has been selected to provide community-based supervision of 200 illegal aliens each in Baltimore, Philadelphia, Miami, St. Paul, Denver, Kansas City, San Francisco, and Portland. The program will closely supervise illegal aliens that can be released into the community to ensure their attendance at Immigration Court hearings and compliance with Court orders.

Questions for the Record Submitted by
Congresswoman Sheila Jackson Lee

1. **QUESTION**: All Panelists: With respect to the transfer of agency responsibility to the new Department of Homeland Security under H.R. 5005, the "Homeland Security Act of 2002," has the shift from independent agency status to an "umbrella" entity under the Department made you more or less effective as an agency?

ANSWER: The September 11, 2001 terrorist attacks proved that protecting our Nation's homeland from terrorists and criminals was too large a task for one single agency at the time to handle alone. For this reason, it was necessary to create the Department of Homeland Security to unify and coordinate investigative, intelligence and enforcement activities that work in concert to keep out terrorists, criminals, and potentially dangerous materials. The merging of fragmented responsibilities into a consolidated effort under DHS has not diminished our effectiveness as an agency. Instead, it has greatly enhanced our ability to increase and better coordinate intelligence sharing; detect, deter and mitigate threats to the Homeland; assess vulnerabilities; protect the aviation security; and conduct broad reaching criminal investigations to thwart terrorist and criminal activity

a. How long do you feel it will take in order to deem the new Department's law enforcement branch "fully integrated" and fully functional?

b. What specific steps do you recommend to make the integration process work optimally?

ANSWER: The creation of the Department of Homeland Security has been the largest realignment of government in approximately 50 years. The U.S. Immigration and Customs Enforcement, within DHS, integrated several different agencies with separate missions into one single entity with an overall single mission – to protect the security of this Nation. The U.S. Immigration and Customs Enforcement believes that the integration has provided the Nation with better security than that which was in place prior to September 11, 2001.

The integration process not only included the merging of once fragmented resources but also required the separation of programs and resources among some of the former agencies that now compose the tri-bureau relationship between ICE, CBP, and CIS under DHS.

ICE has achieved many important milestones in the integration process. The following illustrate a few of the important achievements of this process:

- In June 2003, ICE implemented a reorganization plan that created a unified headquarters for the operational programs and a field office structure for the Office of Investigations. The reorganization plan also placed the Federal Protective Service, the Office of Detention and Removal, and the Office of Air and Marine Operations at Division status within ICE Headquarters to reflect the equal importance of their programs and created a unified Office of Intelligence.

- The creation of a unified Investigations field office structure required the merging of resources from 20 former Customs Special Agent-in-Charge Offices and partial resources from 33 former INS District Offices to form the 25 Special Agent-in-Charge Offices.

- With the creation of a unified Office of Intelligence, 6 Field Intelligence Units were created in support of ICE's Intelligence mission: to gather vital information and facts for analysis with the goal of detecting and identifying individuals, groups, and methods involved in terrorist or criminal activity.

- An ICE Academy was formed at the Federal Law Enforcement Training Center.

- A basic training curriculum, ICESAT, was created merging the training of both Customs and Immigration laws for ICE Special Agent trainees. The first ICESAT class graduated in August 2003.

- Immigration and a customs cross-training curricula were developed and are currently being delivered to the respective Special Agents. To date, there have been over 900 Special Agents who have been cross-trained.

- The FAMS joined ICE in November 2003. To assist in the mission of protecting aviation security, ICE Special Agents have received and continue to receive FAMS surge training to augment FAMS resources during heightened times of alert.

- In April 2004, the issues regarding ICE Special Agent pay parity were resolved. New position descriptions for entry, developmental,

and journey-level Special Agent jobs were prepared.

Although ICE has achieved many important milestones in the integration process, there is more work to be accomplished, some of which is hindered by external factors. For example, the physical co-location of Special Agents in the Special Agent-in-Charge field offices may take some time due to binding lease agreements that carried over from the former agencies. Although physical co-location in this area may not be attainable for all at this time, there has been no degradation in ICE's overall mission of protecting the security of this Nation.

As ICE continues with the integration process, ICE assures that all programs within ICE are working together as one to fulfill its overall responsibility to the people of this Nation by protecting them from another terrorist attack and exploitation by criminal organizations.

Moreover, ICE feels strongly that a seamless line of communication among all law enforcement and intelligence agencies is essential to prevent another terrorist attack and exploitation by criminal organizations. ICE is working closely in the arena of information sharing with all components of DHS in addition to other federal, state, and local law enforcement agencies and members of the intelligence community. With an open line of communication, all law enforcement agencies and members of the intelligence community will be able to work effectively and collaboratively to protect the security of the Homeland.

2. Admiral Collins, with respect to the ship export system that was implemented in the Houston Ship Cannel last month, could you discuss the measures taken by the U.S. Coat / DHS to secure the escorts of the ships carry8ing hazardous m

   a. Do you recognize a ; with the interoperability between the U.S. Coast Guard and land-based DHS law enforcement agencies as it relates to ship escort security measures?

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vessels carrying Certain Dangerous Cargoes (CDCs) in bulk,1 as well as high value naval vessels. Additionally, escorts are provided for a percentage of vessels carrying 500 or more passengers.

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In Houston, our operational commanders and units face unusual challenges stemming from the volume of CDCs and other hazardous material transiting the Houston Ship Channel. This is further complicated by high traffic density and lengthy transit times up river. These factors combined consumed significant resource hours.

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As a result of these innovative tactics, we were able to provide 231 escorts in the Houston Ship Channel during the 19-day MARSEC 2 period. These tactics ameliorated threats to these vessels and the port while maximizing the resources around Houston. Moreover, we are closely examining these tactics as a possible "best practice" that could be applied to other large ports.

With respect to interoperability, there were no problems operating with land-based DHS Law Enforcement Agencies. Their involvement in vessel escort duties is minimal. Other DHS agencies were more focused on port facility and cargo inspections.

1 As defined in 33 CFR 160

QUESTION: Relative to the Coast Guard Intelligence Coordination Center that you reference in your testimony, how would you rate the turnaround time for the cross-update of intelligence information? Is the Coordination Center's database completely integrated with all DHS yet? If not, how long do you anticipate before this process is completed?

ANSWER: The turnaround time for the ICC to screen vessels, crew, and passenger data is relatively quick, allowing for timely notification of all agencies. The turnaround times for processing the information and posting results to the ICC web page for vessels 300 gross tons and above that provide 96-hour Advance Notice of Arrival is 12 hours. For ships and crew where information is found that requires additional analysis (i.e., to resolve any identity issues, analyze "derogatory information, etc."), the turnaround time can be extended up to 48 hours. These timelines are adjusted based on customer input.

The ICC does not maintain unique databases for use in the screening processes for vessels or crews. Instead, ICC uses joint law enforcement and intelligence community databases. This includes access to the Automated Targeting System for Passengers (ATSP) provided by the National Targeting Center (NTC). The ICC has exchanged personnel with NTC to facilitate this access and understanding of information.

The ICC shares the information it collects with DHS components, such as IAIP, and other pertinent Federal agencies through its classified web site. ICC also has access to all available data on cargos and crews that have been vetted and "watch-listed" through the law enforcement database, Treasury Enforcement Communications System (TECS) and other classified intelligence databases.

3. **QUESTION**: Michael Garcia, Assistant Secretary of U.S. Immigration and Customs Enforcement

As you know, we are a nation of laws, but we are also a nation of immigrants, and it is important that we maintain that philosophy as we deal with the border. With the creation of the Homeland Security Department, the Customs and Immigration Enforcement were merged. How does that work and are the two entities working together? Can you also give me a status on how the Department is enforcing alien smuggling and cutting down on the sex smuggling trade?

ANSWER: Beginning last year, ICE implemented a training program at the

Federal Law Enforcement Training Center (FLETC) for all newly hired special agents. Graduates of the ICE basic training course possess the ability and authority to enforce all laws formerly delegated to two separate and distinct agencies. This broadened authority is an important tool to maintaining the integrity and security of our nation's borders.

Additionally, ICE has developed a curriculum to provide cross training in each of the former agencies' disciplines and is in the process of conducting such training for the remainder of special agents. This will further serve to maximize the law enforcement authorities and capabilities of the two former agencies. Once fully implemented, ICE special agents will have the ability to enforce the full compliment of laws and regulations with respect to the authorities granted by Congress. Integration of the two former agencies has served as a force multiplier and has greatly enhanced our role as the investigative arm within the Department of Homeland Security. One of the biggest challenges facing ICE is the threat posed by smuggling organizations and human traffickers. These organizations represent a form of organized crime.

One prime example of how ICE has responded to the organized alien smuggling syndicates in the Phoenix. Arizona area. Recently, the Phoenix metropolitan area was besieged with an increasingly alarming rate of violent crimes followed by community fear and outrage at the problem. ICE, recognizing these organizations as modern-day organized crime, assembled a task force, known as ICE STORM.

The task force was possible because of the skill set brought about by the merger of the former agents of the Customs Service and the Immigration Service. With extensive immigration, customs and money laundering expertise, and in partnership with other stakeholders in the federal, state, local and foreign law enforcement communities, ICE agents have begun addressing the smuggling related violence. The concept behind ICE STORM is to enforce the full spectrum of Federal laws to deprive smuggling organizations of their criminal proceeds, disrupt their operations and systematically identify and prosecute the organizational hierarchies in the United States and abroad.

ICE Storm employs a regional concept, which provides flexibility to timely counter organizational shifts in operations and activities derived from the continued success of the initiative and enhanced enforcement operations in Arizona and Mexico.

Since the inception of Operation ICE STORM in September of 2003, 201 defendants have been prosecuted for human smuggling and violence related crimes (kidnapping/hostage taking, money laundering, narcotics, and

weapons violations) and another 3300 undocumented aliens have been apprehended. As of May 11, 2004, $5.2 million has been seized with $1.8 million having already been forfeited. Thus far, several large-scale human smuggling organizations have been dismantled and 103 weapons have been seized, some of which were automatic military assault rifles.

Capitalizing on the successes of Operation ICE STORM, in March the Under Secretary of the Border and Transportation Security (BTS) Directorate announced the launching of the Arizona Border Control Initiative (ABC). This landmark program supports the priority mission of Department of Homeland Security (DHS) agencies to detect and deter terrorist activities and cross-border illegal trafficking of people and drugs. The ABC initiative involves hundreds of local, state, tribal and federal law enforcement officers in Arizona who will work together utilizing personnel, technology, and aviation assets. The ABC initiative exemplifies the DHS goal to present one face at the border. As a result, there will be joint border operations involving Border Patrol, ICE, Customs and Border Protection (CBP), and Transportation Security Administration (TSA), the Department of the Interior, the Tohono O'Odham Nation, the United States Attorney's Office, Arizona Department of Public Safety, and dozens of local law enforcement agencies.

QUESTION: There is a case currently going on that involves Customs Enforcement that is very important and has international implications involving the Nigerian Government and its President, where I believe a substantial amount of money was incorrectly and improperly seized by Customs Agents. I would like to meet with you in my office about this matter in the very near future. However, I would like to ask a question about how you handle Heads of State when they transfer or bring in large sums of money into the country. If you do not have the information that I need, then we can speak about this later.

ANSWER: I am not aware of a case involving the Nigerian Government and its President where Agents incorrectly and improperly seized a substantial amount of money. If you can provide further information I will be happy to have a member of my staff look into the matter. Heads of State like any other traveler are free to transfer or bring large sums of currency or negotiable instruments into or out of the United States as long as those funds are not proceeds of or used to promote illegal activity. If that amount is in excess of $10,000 the traveler is required to file a FinCEN Form 105 "Report of International Transportation of Currency or Monetary Instruments" with an Officer. This answer does not address the matter of Diplomatic Immunity to which some Heads of State may be afforded in certain circumstances.