

**ASSESSMENT OF RISKS AT THE NORTHERN  
BORDER AND THE INFRASTRUCTURE  
NECESSARY TO ADDRESS THOSE RISKS**

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**JOINT HEARING**

BEFORE THE

**SUBCOMMITTEE ON ECONOMIC  
SECURITY, INFRASTRUCTURE  
PROTECTION, AND CYBERSECURITY**

JOINT WITH THE

**SUBCOMMITTEE ON EMERGENCY  
PREPAREDNESS, SCIENCE  
AND TECHNOLOGY**

OF THE

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**Tuesday, August 8, 2006**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON HOMELAND SECURITY,  
SUBCOMMITTEE ON ECONOMIC SECURITY,  
INFRASTRUCTURE PROTECTION, AND CYBERSECURITY,  
JOINT WITH THE  
SUBCOMMITTEE ON EMERGENCY  
PREPAREDNESS, SCIENCE AND TECHNOLOGY  
*Washington, DC.*

The subcommittee met, pursuant to call, at 1:02 p.m., at Bellingham City Council Chambers, 210 Lottie Street, Bellingham, Washington, Hon. Dan Lungren presiding.

Present: Representatives Lungren, Reichert, Sanchez, Dicks and Jackson-Lee.

Mr. LUNGREN. Well, good afternoon. My name is Congressman Dan Lungren from California. I'm chairman of the Subcommittee on Economic Security, Infrastructure Protection and Cybersecurity of the Committee on Homeland Security, joining with my colleague, Chairman Reichert, who is chairman of the Subcommittee on Emergency Preparedness, Science and Technology. This is a joint field hearing that was called by Congress to be held here.

And before go any further, I'd like to turn it over to the mayor of this fair city, who has been gracious enough to allow us to use the chambers.

Mr. ASMUNDSON. You're very welcome, and thank you, Mr. Chairman and members of the Committee.

In Bellingham, we have hosted congressional hearings in this room before, and we're very happy to have you here today. We hope that it is a productive meeting; hope that you enjoy the community while you're here. The sockeye are great around Lummi Island right now, and there are lots of them, if you have time to stay and do a little fishing.

But most importantly, I just wanted to ensure that you knew that Bellingham and the community has enjoyed a wonderful relationship with our Canadian neighbors for all of my life, and for, you know, as long as Bellingham has been around. Appreciate your efforts in ensuring that we continue to have the great relationship and partnership with our Canadian brother. Thank you.

Mr. LUNGREN. Thank you very much, Mr. Mayor. It is a pleasure for us to be here. We thank you for allowing us to be here, and

we—many of us hope that we can have another visit back to this wonderful place.

Let me just say at the very beginning, under the rules of the House of the Representatives and the rules of the Committee, visitors and guests are not permitted to make undue noise or to applaud or in any way show their pleasure or displeasure as to the actions of the members of the House and this Committee.

In other words, we're trying to have this as a field hearing to gather information from those who have been invited to testify, and the members will have an opportunity to question those two panels of witnesses, and we will go forward from there.

The joint field hearing of the Committee on Homeland Security, Subcommittee on Economic Security, Infrastructure Protection and Cybersecurity, and the Subcommittee on Emergency Preparedness, Science and Technology will come to order. The two Subcommittees are meeting today to hear testimony on the risk of a terrorist attack against the United States emanating from Canada, and to evaluate the proper response to secure our borders while maintaining a steady flow of commerce.

As many of you may know, the issue of border security, the issue of immigration, the issue of the threat of terrorism and its implications for both of those first two subjects has garnered a lot of attention in the Congress and throughout the country. There are a number of hearings being held around the country on these subjects.

Our Subcommittees believed it was important for us to ensure that the northern border not be left out, that we have an opportunity to look at the unique circumstances that we find on our northern border, that we understand in all of its facets the seriousness of attending to the issue of securing our border on the north, and at the same time trying to understand even better the relationship that exists between our country and our neighbors to the north and attempt to come up with solutions to the problems that are presented without, as we suggested, unduly interfering with the steady flow of commerce with our northern neighbors.

We have had two days here—or this culminates two days in this part of the country. We had an opportunity to have a firsthand look at the Port of Seattle, to look at the particular circumstances that exists there with respect to securing our border. We had an opportunity to go to several of the points of entry to the United States, had an aerial view of a good portion of this sector of our northern border, an opportunity in closed session to speak with a number of the experts who are working on a daily basis in the professional fields to secure our border.

I must say right here and now that I thank all of you who are doing that. We've been immensely impressed with the quality of the leadership and the quality of the membership of your units as they are doing their job here on the northern border.

And with that, I would now recognize the ranking minority member of the Subcommittee, the gentlelady from California, Ms. Sanchez, for any statements she may have.

Ms. SANCHEZ. Thank you, Mr. Chairman, and thank you to the mayor of Bellingham for having us here today.

I'm really happy to be here in Washington State today. I didn't get a chance yesterday to go on some of those field trips that we

took, but I do know that we're in my colleague Congressman Rick Larson's district, and it's been critically important for us to talk about the challenges that we face on the northern border. I know Congressman Larson was disappointed that he couldn't be here, but did have a prior commitment that is keeping him from joining us today, especially given that he has consistently worked very hard in the Congress to get the resources that we need, especially patrol agents on the northern border, and to enhance the security here in the state of Washington. And of course I would like to thank you, our witnesses, for joining us here and for sharing your expertise on the issues that we are going to be discussing today. Okay. So the issue of border security, I think this is a very, very hot topic around the nation. Certainly the people in my district in Orange County, California, which is about two hours away from the southern border, contact me on a daily basis talking about what's going on at the border and what the grand plan really is from a security standpoint.

And nationwide, there have been endless discussions about what is being done at the border or what is not being done, what works, what hasn't worked, and what we really need to do to secure our borders, especially since September 11th. But these discussions have been largely incomplete because to a large extent they have ignored the unique characteristics that we have on our northern border. We have to remember that the northern border of the United States and Canada is about a twice as long, or more, than the southern border, and we always hear people talking about the southern border. We watch the television and people have pictures of the southern border, but very little is said about what's going on up here. I remember about three or four years ago we went to Niagara Falls on this committee. I don't know if any of the members were here—I think you were, Ms. Lee—and we had the same discussion about what's happening and what's going on with respect to the northern border, but nothing's really been done. And if Congress and the President want to really deal with the border security, it's got to get serious about our northern border, and it has to get serious about ports of entry, airports, about the ports that we went to see this morning. So I'm really interested to hear, in particular because technology keeps coming up, I'd like to hear about the problems because a lot of money has been spent here with respect to how do we secure the board with technology. And some of it, from what I know or have gathered, has not worked. So we want to learn the lessons from that as we further explore how to protect these land borders we have.

And, you know, I guess I would like to say that prior to my being in the Congress, I worked on a lot of issues in government because I was an investment banker and had to look at a lot of different issues. And one of the things we know is that people—people, criminals, whether they be terrorists or drug traffickers or traffickers of people, they look to the least resistance in getting their job done.

So if we've got 10,000 people working on the southern border, and all of the attention is there, then one of the places people are going to look is to come in from the north because, from what I'm told, we have less than 1,000 people really working on the northern

border, again twice as long as the southern one. So unless we get serious about what's happening here on these borders, then what's going to happen is the more we plug other places, people and drugs and terrorists and other things will come through this border. So I think it's incredibly important that we take a look and that we begin to craft a solution. I look forward to the witnesses' testimony, and Mr. Dicks, I think—

Mr. DICKS. Would you yield to me just briefly? I just would want to ask and have consent to put into the record the statement of Congressman Rick Larson who represents this district.

Mr. LUNGREN. Without objection.

Mr. DICKS. And Senator Maria Cantwell's statement, as well.

Mr. LUNGREN. Without objection. They'll be included in the record.

Ms. SANCHEZ. Thank you, Mr. Chairman, and I yield back my time.

Mr. LUNGREN. I thank the gentlelady, and the Chair now recognizes the Chairman of the Subcommittee on Emergency Preparedness, Science and Technology, the gentleman from the state of Washington, Mr. Reichert.

Mr. REICHERT. Thank you, Mr. Chairman. I am pleased to be here in a little bit different capacity, as most of you might know me as the sheriff of King County just a year and a half ago. So it's a pleasure to be here today.

And I don't know how many of you have ever attended a hearing that's held by members of Congress. It's probably one of the most boring things you can do. So I don't know how many people up there are planning to stay for the next three hours, but have fun. The second thing is, you know, it sometimes gets serious, and this is serious business, but we want to keep this kind of casual, but we want to also—e're here to collect information. You know, we want to hear from the witnesses.

So you'll see a lot of speeches by us, and then you'll see a lot of speeches by the witnesses, and there are a lot of questions and a lot of answers. And hopefully by the end of the hearing, we have answers to questions so we can go back, and we can begin to work with people and make a difference.

So I thank the Chairman and thank the members who are here today to take the time out of their busy schedule to be with us here in the Northwest to talk about how we keep our borders safe, the northern border here between Washington State and Canada, and the Canadian border and all the rest of United States. But before I start, it's important to highlight the unique characteristics of this region.

Yesterday we had the opportunity to visit the Port of Seattle. The Port of Seattle, together with the Port of Tacoma, represents the third largest container port in the nation. 70 percent of the cargo that comes through these two ports move across the country. So we like to say we're the Port of Chicago. 30 percent of the products stay here. Protecting the Port of Seattle truly represents a national interest, and that's one of the reasons we were there yesterday. In addition, Washington State is home to many national and international businesses such as Boeing and Microsoft, PACCAR, PSE, and countless others. The focus of this hearing is to assess

the risks of terrorism associated with the northern border and to evaluate the proper response for securing our borders while maintaining a steady flow of commerce.

Far too often Congress focuses solely on the southern border, as has been said, and it's important to understand the challenges represented here in Washington State and the rest of the northern border. For example, excluding Alaska, the northern border is twice as long as the southern border, yet we have only one-enth of the Border Patrol agents. For many across the country, September 11th signaled the need for stronger border security protecting against terrorism. However, here in the Northwest, we witnessed the threat of terrorism much earlier. In 1999, Ahmed Ressam, the so called "millennium bomber," was apprehended in Port Angeles trying to smuggle explosives in an attempt to bomb Los Angeles International Airport. It is clear that terrorism organizations acknowledge our weaknesses along the northern border, and it's imperative that we take action to protect our borders. At the same time while protecting the borders, it is important that we must not lose sight of the importance of close relationship with our friends in Canada. We must take a balanced approach to protect the northern border while minimizing the affect it will have on the free flow of commerce between our two countries. Canada is our largest trading partner with over 440 billion traded in 2004. In addition, in 2010, Vancouver will host the Winter Olympic games. It is estimated that one-uarter of the Olympic visitors are expected to pass through Washington State.

Any solution to border security must take into account our historically close relationship. As a part of the September 11th reform bill passed in 2004, the Department of Homeland Security and the Department of State were required to implement the Western Hemisphere travel initiative. While it is imperative that those crossing the international border have proof of citizenship, I believe we must be cautious of any negative impact this could have on local business. And so as Chairman of the Homeland Security Subcommittee on Emergency Preparedness, Science and Technology, I believe we must utilize new and existing technology to help further secure the border.

In June, the Homeland Security Committee approved by a voice vote H.R. 4941, the Homeland Security Science and Technology Enhancement Act of 2006. This legislation will, among other things, encourage the Department of Homeland Security to look into existing technologies, especially through the Department of Defense, that can be used for Homeland Security application. In many cases, the technology already exists to make us more secure. It is important that while continuing to encourage the developments of new technologies, we must also utilize those technologies that already exist. Most recently the House of Representatives passed H.R. 5852, the 21st Century Emergency Communications Act. This legislation, which passed by a vote of 414 to 2, was based on the testimony from four hearings that I chaired in our Subcommittee last year. The need for interoperable communications is especially in demand here at the border with Customs and Border Protection, Immigration and Customs Enforcement. The FBI and state, local enforcement all work closely together. I'm specifically interested in

hearing the level of coordination between the United States and Canada in securing the border. Many initiatives in place will help us do so, including secure border initiatives, integrated border enforcement teams and trusted traveller programs. I thank the Chairman for his patience and thank the rest of the Committee being here. I yield.

Mr. LUNGREN. I thank the gentleman for his comments. The statements of all members, of course, will be entered into the record. We are pleased to have two distinguished panels. We're pleased have two distinguished panels of witnesses before us today. Let me just remind the witnesses how we operate. Your prepared text will be part of the record automatically. We would ask you to try and give about a five-minute summary of statements. At the end of the testimony of the three of you, we will then open up the questions from the members, as well.

So if you could abide by that, we could make sure we have plenty of time to talk with you and get your answers and also get the second panel in and conclude at the time we are supposed to conclude.

Mr. LUNGREN. The first panel includes Mr. Thomas Hardy, director of field operations, Seattle field office, Customs and Border Protection; Mr. Ronald Henley, chief patrol agent, Blaine Sector, U.S. Border Patrol, Customs and Border Patrol. Someone I knew 20 years ago when he was on the southern border working that issue, as well. Some things never change, do they?

Mr. HENLEY. No, sir.

Mr. LUNGREN. Major General Timothy Lowenberg, the adjutant general of the Washington National Guard.

Thank you, gentleman, for being here. Mr. Hardy, we'd like to start with you.

**STATEMENT OF THOMAS HARDY, DIRECTOR OF FIELD OPERATIONS, SEATTLE FIELD OFFICE, CUSTOMS AND BORDER PROTECTION**

Mr. HARDY. Good afternoon. My name is Thomas Hardy. I am the director of field operations for Customs and Border Protection. My sphere of responsibility and ports of entry—have been the ports for people and merchandise arriving into the country. We are organized under a field office, which I generically call the "Seattle field office." The Seattle field office of Customs and Border Protection has the responsibility for 67 points of entry in five states along 1,700 miles of northern border, stretching from the Pacific Ocean to the western shore of Lake Superior.

We carry out our enforcement mission in the land, sea, and air environments, including major international airport, two of the nation's largest container sea ports. We handle about a quarter of all the passengers and commercial traffic crossing our northern border. During the fiscal year 2005 alone, Seattle field office processed more than 20 million travellers, screened more than 3 million containers, 7 million vehicles, 6,000 vessels, and more than 28,000 aircraft. Simultaneously we facilitated the entry of approximately \$58 billion worth of merchandise. Meeting a formidable set of challenges demands creativity, innovative solutions, and a multi-layered approach to border enforcement. The Seattle field office has piloted some of the most important CBP initiatives in the post-11 environ-

ment. The Blaine port of entry was the first to use the Automated Commercial Environment, or ACE program, which permits electronic submission of truck manifest information. The Seattle field office initiated the US/Canadian Trusted Traveler Passenger program known as NEXUS. It followed a very successful pace operation in Blaine.

We also expedited the legitimate flow of commerce by implementing the Free and Secure Trade program at several border airports within the field office. Although the FAST shipments, the Free and Secure Trade shipments are still subject to examination, because the drivers have been prescreened and the cargo is—e’ve received advanced information, we require fewer examinations. At the busiest ports, FAST shipments have the benefit of a dedicated lane to expedite them to and through the border.

The Seattle field office piloted the Container Security Initiative, which is part of our layered enforcement strategy, by sending the CBP officers to Vancouver, Canada, and integrating Canadian targeters with our Seattle targeting center. The field office has also created counterterrorism detection teams to work cooperatively with the RCMP, Coast Guard, FBI, ICE, and our state and local partners. Similarly the Seattle field office is working with the National Guard and other entities to prepare for the 2010 Winter Olympics in Vancouver, British Columbia.

Even before 9/11, the field office in partnership with Canada, developed the Interagency Border Enforcement Team concept at Blaine. A program so successful, it’s been replicated across the northern border.

The CBP mission of protecting American agriculture has been fully integrated into our port operations. By examining cargo and passenger baggage, the field office helps prevent, again, the entry of dangerous plant pests and animal disease. Recent interceptions of an invasive slug from a shipment of Bulgarian mushrooms, exotic fruit flies in an empty trailer returning from hauling mangos from Mexico to Canada, and the Asian wood-oring insects that come along with the cargo in on the pallets, they also have been intercepted, and they could potentially devastate our forests. These are examples of the agriculture mission that we took on three years ago.

The field office, in cooperation with the Center For Disease Control and other federal offices and local agencies that develop the plans, provided training and state resources so we can respond immediately to avian flu outbreaks in animals and humans. Perhaps there’s no more chilling a reminder of the reality of the opportunity for terrorists to work within our excellent business opportunities was-appened with the so-called Millenium Bomber. I was the principal field officer with US Customs when we intercepted Ahmed Ressam at Port Angeles, Washington, with a tankful of explosives intended for use in a terrorist plot to blow up LAX around the time of the Millenium. This apprehension demonstrated terrorists are willing to use any means, whether big ports, small ports, or southern border or northern border. I thank you for the opportunity to testify today. Look forward to responding to any of your questions.

[The statement of Mr. Hardy follows:]

## PREPARED STATEMENT OF THOMAS HARDY AND RONALD HENLEY

Good Afternoon chairman, Reichert, Chairman Lungren, Ranking Member Sanchez, Ranking Member Pascrell, distinguished Members of the Subcommittees. It is our pleasure to appear before you today to discuss how U.S. Customs and Border Protection (CBP), one of the agencies of the Department of Homeland Security, is working to secure our Nation's borders, both at and between our ports of entry.

Every day, thousands of people try to enter our country illegally, many to work and provide a better life for their families. After all, in their home countries, they make only a fraction of what they could make in the United States. Our strong economy creates the demand for these workers, places tremendous pressure at the border and makes our job of securing the border, both at and between the ports of entry, very difficult.

To most effectively secure the border, we must reform our immigration system to relieve this pressure. We need comprehensive immigration reform that increases border security, establishes a robust interior enforcement program, creates a temporary worker program, and addresses the problem of the estimated 11 to 12 million illegal immigrants already in the country.

We are taking significant steps to secure the border—more than any other time in our Nation's history. As America's frontline border agency, CBP employs highly trained and professional personnel, resources, expertise and law enforcement authorities to discharge our priority mission of preventing terrorists and terrorist weapons from entering the United States. In fulfilling this priority mission, we are also able to fulfill our traditional missions, including apprehending individuals attempting to enter the United States illegally; stemming the flow of illegal drugs and other contraband; protecting our agricultural and economic interests from harmful pests and diseases; protecting American businesses from theft of their intellectual property; regulating and facilitating international trade; collecting import duties; and enforcing United States trade laws.

CBP is responsible for protecting more than 5,000 miles of border with Canada and 1,900 miles of border with Mexico, while operating 325 official Ports of Entry. On an average day in 2005, CBP personnel: processed 1,181,605 passengers and pedestrians, 69,370 containers, 333,226 incoming privately owned vehicles and \$81,834,298 in fees, duties and tariffs; executed 62 arrests at the ports of entry and 3,257 apprehensions between the ports for illegal entry; seized 5,541 pounds of narcotics and 1,145 prohibited plant materials or meat or other animal products at and between the ports of entry; refused entry to 868 non-citizens at the ports of entry; and intercepted 146 smuggled aliens and 206 fraudulent documents while rescuing 7 illegal immigrants in distress or dangerous conditions between the ports of entry.

CBP's enforcement efforts are carried out in the field by CBP Officers and Agricultural Specialists within the Office of Field Operations, and Border Patrol Agents within the Office of Border Patrol. CBP Officers perform their enforcement duties at the 325 official ports of entry that include airports, seaports, and land ports. Border Patrol Agents monitor over 6,900 miles of border between the official ports of entry in the Northern, Southern, and Coastal areas of the United States.

As part of CBP's "layered approach" to border security at the official ports of entry, CBP uses sophisticated detection technology to rapidly screen high-risk cargo for weapons, radiation, and other contraband. Additionally, CBP Officers receive antiterrorism training to better enable them to recognize, identify, and interdict individuals who pose a terrorist risk. To facilitate the crossing of low-risk, frequent travelers and commercial truck drivers, CBP uses "trusted traveler" programs such as the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), Free and Secure Trade (FAST), and NEXUS programs. To date, approximately 225,000 SENTRI, NEXUS, and FAST cards have been issued to these "trusted travelers," who undergo a background investigation and interview, among other requirements, to qualify for these programs. Developed in partnership with the governments of Canada and Mexico, these programs enable CBP to focus its limited resources on high-risk travelers and cargo.

Since 2001, funding for border security has increased by 66 percent. DHS, working in conjunction with its Federal partners has apprehended and sent home more than 6 million illegal aliens. On May 15, 2006, President Bush announced his plan to increase the number of CBP Border Patrol Agents to 18,000 by the end of 2008, thereby doubling the number of agents since he took office in 2001. These additional agents will serve as a tremendous resource in our mission of securing the border.

CBP's effort to gain operational control of our border is a central component of the Secure Border Initiative (SBI), which is a broad, multi-year initiative that looks at all aspects of securing the border. SBI is taking a comprehensive approach to securing the border through an integrated systems approach and strategic policy and

planning. It is an effort to think about border security nationally, to include building a systematic approach to disrupt, dismantle, and deter all cross-border crime and balance legitimate travel and trade into and out of the United States. SBI, as envisioned by the Secretary of Homeland Security and the Commissioner of CBP, addresses the challenges we face at every segment of our Nation's borders to integrate the correct mix of increased staffing, greater investment in detection technology and infrastructure, and enhanced coordination.

Each day, the men and women of CBP enforce our borders and protect the Homeland, with the utmost vigilance, dedication to service, and integrity. We thank you for the opportunity to present this testimony today, and would be happy to respond to any questions you might have.

Mr. LUNGREN. Thank you very much, Mr. Hardy.  
Now Chief Henley.

#### **STATEMENT OF RONALD HENLEY**

Mr. HENLEY. Chairman Lungren, Chairman Reichert, ranking members, and the other distinguished members of the Committee, on behalf of the dedicated men and women of US Border Patrol, I welcome you to Blaine Sector. I want to extend a collective thanks to all the members of Congress, what you've done in the past and for what you will do in the future in support of our efforts to gain operational control of our borders. CBP's priority mission is to prevent terrorists and weapons of terror from entering the United States at and including our ports of entry. To accomplish this mission, every Border Patrol sector in the United States has a goal to maintain and expand operational control of our borders by using the right combination of personnel, technology, and tactical infrastructure.

Currently Blaine Sector's operational challenges can best be summarized as using available resources in a highly mobile, dynamic tactical framework that minimizes the adverse impacts on historically exploitive corridors, while focussing discretionary resources on evolving concerns and threats. Traditionally Blaine Sector's enforcement resources has been focussed on the Canadian border between the Pacific Ocean and the base of the Cascade Mountains, which is called our Coastal Mainland Corridor. The natural terrain and geographical nexus from the coast of the mountains in our area of responsibility presents a tremendous challenge to enforcement operations.

Virtually all of the personnel enhancements received since September 11, 2001, have been directed to this particular stretch of border allowing an unprecedented, yet not optimal, level of border security be achieved. This operational posture has thrust smuggling enterprises to the point of forcing their shift eastward, farther often into the neighboring sectors. During fiscal year 1905, smugglers continued to resort to more desperate measures as evidenced by the greater use of aircraft flying contraband over the Border Patrol's tactical deployment and by the destruction of at least one cross-order tunnel in Lynden, Washington. To combat the situation, the Border Patrol has developed and implemented a national deterrence-based enforcement strategy supported by the proper combination of additional personnel, technology, and increased intelligence gathering. This national and unified and seamless enforcement approach has created a common operational picture where the Border Patrol, CBP office of field operations, the US Coast Guard, CBP air and marine, ICE, the EPA, the National Guard, and other Depart-

ment of Homeland Security entities collaborate with the RCMP, state, local and federal law enforcement by sharing intelligence and resources. The courageous men and women of the United States Border Patrol, coupled with the proper mix of intelligence, technology, and tactical infrastructure stand ready to effectively meet the challenges of the 21st century to provide for a secure and safe homeland. I look forward to responding to any questions you may have.

[The statement of Mr. Henley follows:]

See page 8

Mr. LUNGREN. Thank you very much, Chief Henley, and now General Lowenberg.

**STATEMENT OF MAJOR GENERAL TIMOTHY LOWENBERG**

General LOWENBERG. Thank you. Good afternoon Chairmans Lungren and Reichert, members of the Committee. For the record, I am Major General Tim Lowenberg. I am testifying on state duties today on behalf of Governor Chris Gregoire. In the interest of time, I'm going to make a liberal record in addition to my formal written testimony, which I thank the Chairman for accepting for the record.

Among my many duties, I am the security chair of the task force that has been formed to coordinate US federal, state and local arrangements for the 2009 International Police and Fire Games, as well as the 2010 Winter Olympics. That task force is chaired by your colleague, Rick Larson, who represents the district in which this field hearing is being conducted.

Essentially this is an open public forum. I encourage the members of this Committee to solicit classified briefings from the US Customs and Border Protection that document the vulnerability and requirements of border security in this region. From August 2009 to March 2010, the international events that I have just mentioned will bring more than 20,700 athletes from more than 80 nations, and additionally 25,000 coaches, 10,000 media representatives, and more than 325,000 spectators from around the world to a venue, which is a few kilometers from the Washington/British Columbia border. These events present an unprecedented state and federal security challenges. A security committee has been addressing these changes since early 2005. The list of the federal, state and local and bi-ational participants is set forth in Pages 7 through 10 of my written testimony. Our next meeting is September 6th, and I encourage members of the Committee and your staff representatives to attend that meeting, and any future meetings, as well.

Even at this early planning stage, it's clear that we need your help in addressing five significant problem areas. First, we need to acquire the elements of an effective unified command structure our architecture, especially as we gear up for these international events.

Second, we need interoperable wireless communications systems upgrades, and we need to deconflict and synchronize bandwidth allocations on both sides of the US and Canadian borders. As recently as this spring, CBP and state and local law enforcement agencies were unable to communicate with one other during a life-

threatening real world border operation. Third, Customs and Border Protection itself is undersized and underresourced for current northern border security requirements. The lack of adequate staffing and related support systems will become increasingly critical as we approach 2009 and 2010 international events along our border. Four, beginning in fiscal year 1907 and continuing through federal fiscal year 2010, all state, local, and federal stakeholders will need special federal funding for regional and bi-ational training and exercises to assure the preparedness of the cross border security departments.

Washington's military department has taken the lead in designing a collaborative five-year exercise schedule that will enable us to build towards full mission capability by the end of fiscal year 1908, but those plans require dedicated federal funding for all exercise participants. And finally, secure and improved personal identification systems and streamlined border crossing procedures are essential. Governor Chris Gregoire and British Columbia Premier Gordon Campbell have issued a formal Washington State/British Columbia high level dialogue that focuses on integrated solutions to border security and cross border law enforcement measures. They are united in opposing the proposed Western Hemisphere Travel Initiative Passport Requirement that does little to increase security, while significantly and negatively impacting cross border flow of commerce, tourism, and trade.

They have instead encouraged President Bush and Prime Minister Harper to support a cross border initiative that would take full advantage of available technology, technology that I might mention that were developed by the Naval criminal investigative service, that can be used at licensing offices to help evaluate foundational documents used to establish personal identity and citizenship, and can also be used by federal representatives at border crossings to wirelessly check the authenticity and validity of driver's license and ID cards against documents stamped at more than a 110 record databases. The work of the cross border high level dialogue working group and the proposed two-hase pilot project is explained in greater detail at Pages 11 through 13 of my written testimony. And finally at Pages 13 through 16, I have provided comments about the impact of federal and national guard policies on border security and cross border security risk. I welcome the opportunity to engage in a further dialogue about these and other issues outside this hearing. Thank you, Mr. Chairman, and members of the Committee for your kind attention and for your public service. I look forward to responding to your questions.

[The statement of Major General Timothy Lowenberg follows:]

PREPARED STATEMENT OF MAJOR GENERAL TIMOTHY J. LOWENBERG

Good afternoon, Mr. Chairman and distinguished members of the Committee. For the record, my name is Major General Tim Lowenberg. I am the Adjutant General of the State of Washington and Chair of Homeland Defense and Homeland Security for the Adjutants General Association of the United States (AGAUS). In addition to my Army and Air National Guard command responsibilities, state law designates the Adjutant General as the State's senior emergency management official and vests in me the responsibility to "administer the comprehensive emergency management program of the state of Washington" (RCW 38.52.005). The Adjutant General is also responsible for managing Washington's statewide Enhanced 911 telecommunications system and for serving as a voting member of the State Interoperability Executive

Committee (SIEC). The Adjutants General of twenty-five (25) other states and territories have been similarly vested with dual military commander / force provider and civilian emergency management responsibilities. In the other states in which National Guard and state emergency management functions are not merged under the operational control of The Adjutant General, my general officer counterparts and their respective state emergency management directors have fashioned very close relationships to assure a heightened level of civil-military emergency preparedness and domestic response capabilities.

In addition to the foregoing statutory duties, I am the Homeland Security Advisor and State Administrative Agent (SAA) for the State of Washington. In these capacities, I serve as the Governor's primary agent for all matters pertaining to homeland defense and homeland security and I administer all Department of Homeland Security grant programs, including the allocation and distribution of grant monies to other state agencies, cities, counties, tribal governments and private and non-profit organizations. In these capacities, I deal directly with Department of Homeland Security (DHS) Secretary Michael Chertoff and senior members of his Department and with Assistant Secretary of Defense for Homeland Defense, the Honorable Paul McHale and other principal members of the Department of Defense. Fifteen (15) of my fellow Adjutants General also serve, as do I, as their state's Homeland Security Advisor.

Finally, I have the honor of serving as Co-Chair of the National Homeland Security Consortium and as a member of the Executive Board of the Governors' Homeland Security Advisors Council. The National Homeland Security Consortium is a coalition of the following independent national organizations and associations:

1. National Governors Association (NGA)
2. Adjutants General Association of the United States (AGAUS)
3. American Public Works Association
4. Association of Public Safety Communications Officials
5. Association of State & Territorial Health Officials (ASTHO)
6. Business Executives for National Security
7. Council of State Governments
8. Governors Homeland Security Advisors Council
9. International Association of Emergency Managers
10. International Association of Chiefs of Police
11. International Association of Fire Chiefs
12. International City/County Managers Association
13. Major City Chiefs Association
14. National Association of Counties
15. National Association of County & City Health Officials
16. National Association of State Departments of Agriculture
17. National Association of State Emergency Medical Services Officials
18. National Conference of State Legislatures
19. National Emergency Management Association (NEMA)
20. National League of Cities
21. National Sheriffs Association
22. Naval Postgraduate School
23. Urban Area Security Cities
24. U.S. Chamber of Commerce

The Governors' Homeland Security Advisors Council is a newly formed adjunct of the National Governors Association Center for Best Practices. It represents the Homeland Security Advisors of the fifty-three (53) states and U.S. territories.

I mention these complex and tightly interwoven civil-military responsibilities because they are unique to the Adjutants General of the states, territories and the District of Columbia and because they result in a powerful fusion and unity of effort across the spectrum of state homeland security requirements, especially for states like Washington that share land, air and maritime borders with another nation. It is these responsibilities and operational experiences that I draw upon in proffering the following observations about border security and the infrastructure necessary to address cross-border security risks. Thank you for the invitation to address these important topics.

#### **WASHINGTON / PACIFIC NORTHWEST BORDER SECURITY REQUIREMENTS**

It is particularly timely and appropriate that you are conducting your combined Subcommittee hearing in Bellingham, Washington near some of the most critical air, land and maritime border crossing points between the United States and Canada. I urge you to request classified briefings from U.S. Northern Command (US

NORTHCOM) and U.S. Customs and Border Protection (CBP) concerning our region's border security vulnerabilities and requirements.

In the unclassified realm, in December, 1999 federal border agents apprehended an Algerian terrorist, Ahmed Ressay, in Washington as he drove off a ferry from British Columbia with a trunk full of bomb-making materials. Information from Ressay helped prevent the mishandling and potential detonation of the shoe bomb Richard Reid attempted to explode aboard an American Airlines flight in December 2001. Ahmed Ressay was subsequently convicted and sentenced to 22 years for his role in the so-called Millennium Plot to bomb the Los Angeles international airport.

In August 2009, Canada will host the International Police and Fire Games and in February and March 2010 Canada will also host the 2010 Winter Olympics (February 12–28) and Paralympics (March 12–21). All of these events will be in British Columbia. The International Police and Fire Games will draw an estimated 14,000 athletes from more than 70 nations plus an estimated 25,000 coaches, officials and family members and untold thousands of spectators. Unlike the Winter Olympics, the international community is invited to all venues free of charge. The 2010 Winter Olympics will draw an estimated 6,700 athletes from more than 80 countries plus an estimated 10,000 media representatives, 35,000 Games volunteers and more than 250,000 visitors, all of whom will be “on the move” within a few kilometers of the U.S.-Canadian border. Untold thousands of international visitors will attempt to transit Washington—British Columbia air, land and maritime border crossing routes in both directions in conjunction with these events and for all of the training and recreational activities that precede and follow them.

These international gatherings obviously present unprecedented economic opportunities for our state/provincial, regional and national economies. They also present an attractive “world stage” of target opportunities for terrorists and an unprecedented scope of state/provincial and national domestic security challenges.

To address these challenges and opportunities, the Governor of Washington formed a 2010 Olympics and Paralympics Task Force in August 2004 to help forge a synchronized operations plan and facilitate unity of effort among U.S. and Canadian law enforcement and security agencies. Recognizing that border and regional security obligations are principally the responsibility of the U.S. and Canadian federal governments, the State of Washington has stepped forward to help facilitate pre-planning, communication and coordination among all U.S. and Canadian local, state/provincial and federal stakeholders.

The 2010 Olympics and Paralympics Task Force has been co-chaired from its inception by U.S. Representative Rick Larsen (D-WA) and former U.S. Representative and former state transportation secretary Sid Morrison (R-WA). I have been privileged to serve as a member of the Task Force Executive Committee and as Chair of the Security Subcommittee. Since early 2006, Laura Laughlin, Special Agent in Charge of the FBI Seattle Office, has served as Security Committee Co-chair.

The Security Committee has met quarterly at Camp Murray, Washington since early 2005. Regular participants in these planning sessions include:

- U.S. Customs and Border Protection (CBP)
- Washington Military Department—Joint Force HQ
- Washington Military Department—Emergency Management Division (EMD)
- U.S. Department of State, International Athletic Event Security Coordination Group (IAESCG)
- US NORAD Western Air Defense Sector (WADS)
- U.S. Secret Service
- U.S. Secretary of Defense—Office of the Assistant Secretary of Defense—Homeland Defense (ASD-D)
- U.S. Secretary of Defense—Office of Special Events Coordination, Joint Staff/Joint Director of Military Support, Special Events Manager
- U.S. Department of Homeland Security—IR/IMD
- U.S. Coast Guard—13th District HQ
- U.S. Federal Highway Administration
- Federal Bureau of Investigation (FBI)
- FEMA Region X
- U.S. Department of Energy, National Nuclear Security Administration, Office of Emergency Response
- U.S. Immigration and Customs Enforcement (ICE)
- Royal Canadian Mounted Police (RCMP)—Emergency Operations
- Royal Canadian Mounted Police (RCMP)—Integrated Security Unit 2010
- Royal Canadian Mounted Police (RCMP)—2010 Federal Security Office
- Washington State Patrol (WSP)
- Washington State Department of Transportation (WSDOT)
- Washington Department of Health (DOH)

- Whatcom County Sheriff and Emergency Management Offices
- Bellingham Fire Department
- Port of Seattle Police Department
- Pacific Northwest Economic Region (PNWER)
- Pacific Northwest National Laboratory (PNNL)

I would be remiss if I did not acknowledge the personal initiative and leadership of Mr. Thomas Hardy, Director of Field Operations for the northern region of U.S. Customs and Border Protection. Although his area of responsibility (AOR) spans eastward from the Pacific Ocean to the states of the upper Midwest, he has attended virtually every meeting of the 2010 Task Force Security Committee and has been quick to proffer the leadership and expertise of CBP in virtually all of the Committee's undertakings.

The next 2010 Task Force Security Committee meeting is at Camp Murray, Washington on September 6, 2006. Committee on Homeland Security members and staff are cordially encouraged to attend this and all future meetings.

At the September 6, 2006 meeting, we will have a presentation from the Department of Homeland Security—Office of Preparedness, update briefings from the Royal Canadian Mounted Police 2010 task force and British Columbia Department of Emergency Services and status reports from the following Security Committee work groups:

- *Planning and Operations* (CBP and WSP, Co-leads);
- *Information Analysis & Communications* (FBI and WSP, Co-leads);
- *Communications Interoperability* (FBI and WSP, Co-leads);
- *Logistics & Finance / Administration* (Department of Homeland Security and Washington Military Department, Emergency Management Division, Co-leads);
- *Training and Exercises* (FEMA Region X and Washington Military Department Joint Force Headquarters, Co-leads); and
- *Public Information* (CBP and Washington Military Department-EMD, Co-leads).

The Security Committee work groups are reviewing, assessing and preparing recommendations for addressing current and long term cross-border security requirements.

### ***SPECIAL SHORT TERM REQUIREMENTS***

Even as we await the formal Work Group recommendations, it is obvious that we need an effective Unified Command Center architecture that assures the security of the Pacific Northwest U.S.—Canada border at present and as we approach the timeframe of the special 2009—2010 international athletic events.

We also need interoperable wireless communications systems upgrades and U.S. and Canadian bandwidth allocations that are de-conflicted and synchronized on both sides of the U.S.—Canada border. As recently as this spring (2006), CBP and U.S. state and local law enforcement authorities were unable to communicate with one another during a potentially life-threatening, real-world U.S.—Canada border security operation.

Customs and Border Protection (CBP) itself is undersized and under-resourced for current northern border security requirements. The lack of adequate CBP staffing and related support systems will become increasingly critical as we approach the timeframe of the 2009 and 2010 international athletic events.

We also know that all local, state and federal stakeholders will need special federal funding for regional and bi-national training and exercises in FFY2007 through FFY2010 to assure preparedness for the special security challenges these international events will present. The Washington Military Department has taken the lead in designing a collaborative five (5) year schedule of increasingly robust regional and bi-national table top / field exercises that will enable us to build toward full mission capability by the end of FFY08. These plans, however, require dedicated federal funding for all exercise participants.

Secure and improved personal identification systems and streamlined transit procedures for trusted agents and citizens of both countries are also essential if we are to strike an appropriate balance between security interests and sustaining and enhancing the economies of the Pacific Northwest Economic Region (Alaska, Yukon Territory, British Columbia, Washington, Oregon and Idaho). In this regard, Washington Governor Chris Gregoire and British Columbia Premier Gordon Campbell have initiated a formal British Columbia-Washington State *High Level Dialogue* that focuses on integrated approaches to border security and cross-border law enforcement measures. On December 8, 2005, Governor Gregoire and Premier Campbell wrote to President George W. Bush expressing concern that the proposed Western Hemisphere Travel Initiative (WHTI) passport requirement does little to in-

crease security while significantly and negatively impacting the cross-border flow of commerce, tourism and trade—habitual and well-established cross-border transit activities upon which both nations depend. They subsequently wrote to President Bush and Prime Minister Stephen Harper to elaborate upon their concerns. Copies of their letters are attached and marked as Appendices 1 and 2. In these letters, Governor Gregoire and Premier Campbell invite the two federal governments to participate and join in their *High Level Dialogue Working Group*.

Governor Gregoire and Premier Campbell have also emphasized, and I concur, that the key to effective homeland security is to have fully staffed, well-trained, professional border guards whose agencies work cooperatively from both sides of the border. We fully support reasonable security measure for the safety of all persons. However, we oppose *unreasonable* measures that do little to improve security while diminishing the quality of life and economic vitality of our region.

U.S. federal requirements permit the use of State driver licenses that are marked to indicate U.S. citizenship status. This would allow the State of Washington to update its driver license enrollment and issuance policies and processes to come into compliance with border crossing requirements. We have identified technology that can be used at licensing offices to help validate the acceptability of foundational documents (used to establish personal identity and citizenship) and that can be used at border crossings to wirelessly check the authenticity and validity of driver licenses and ID cards against document standards and record databases.

The Cross-Border *High Level Dialogue Working Group* is currently working on a two-phased project to demonstrate the feasibility and effectiveness of these technologies for assuring traveler identity and document authenticity. The two phases of our Cross-Border Initiative are:

1. Use of wireless handheld scanners at border crossings to demonstrate the ability of customs officials to screen driver licenses; and
2. Implementation of processes and policies to improve driver license enrollment processes and system changes to allow wireless scanners to verify the authenticity and validity of driver licenses against Department records.

On behalf of Governor Gregoire, I urge the Committee to support these critical Cross-Border security initiatives.

#### **IMPACT OF NATIONAL GUARD POLICIES ON BORDER SECURITY AND CROSS-BORDER SECURITY RISKS**

The U.S. *National Strategy for Homeland Security* (July 16, 2002) defines homeland security as “a concerted national effort to prevent terrorist attacks within the United States, reduce America’s vulnerability to terrorism, and minimize the damage and recover from attacks that do occur”. The Strategy clearly articulates that homeland security as a “shared responsibility” of the federal and state governments. It goes on to prescribe that “Cost sharing between different levels of government should reflect the principles of federalism.”

Based on these core tenets and the simple recognition that all disasters are local disasters, including incidents of national significance, Congress has implemented programs designed to sustain and enhance the states’ ability to meet their homeland security responsibilities. Nearly all federal agencies have supported the strategy of enhancing state capabilities—with the exception of the Department of Defense (DoD) which has pursued a series of unilateral actions that directly undermine and diminish the states’ capacity to respond to domestic emergencies. DoD has taken these actions with no notice to or consultation with Governors or the National Guard Bureau (the statutory “channel of communications. . .between (1) the Department of the Army and Department of the Air Force, and (2) the several states [on] all matters pertaining to the National Guard”. See 10 USC 10501(b)).

These unilateral DoD actions include (1) the BRAC 2005 withdrawal of state National Guard aircraft responsible for moving 1 out of every 2 soldiers and airmen and 1 out of every 3 short tons of equipment that were airlifted into the Gulf Coast states after Hurricane Katrina hit land fall in August 2005, (2) the January 2006 elimination of force structure authorizations and budget authority for 34,000 Army and Air National Guard positions, (3) the removal of \$1.2 Billion in military equipment and supplies from Army National Guard units [leaving the Army National Guard with less than 34% of its authorized and required equipment], (4) the July 2006 removal of two years’ worth of Governor and Adjutant General-validated military construction projects from the Future Years Defense Plan [FYDP], and (5) the Defense Department’s request for legislation giving the President authority to take control of a State’s National Guard away from the Governor in the event of any “serious natural or manmade disaster, accident or catastrophe.” [See Section 511 of the House-passed 2007 Defense Authorization Act]. These DoD actions have been under-

taken with no notice and without consulting the Department of Homeland Security, the National Guard Bureau or the States and territories. They individually and materially degrade the States' ability to respond to catastrophic emergencies, including domestic terrorist attacks. They also individually and materially degrade the States' abilities to help secure our borders and protect cross-border critical infrastructure from transnational terrorist threats.

Taken individually and as a whole, these and other DoD actions are the result of DoD's failure to consult with the states and territories. The National Defense Enhancement and National Guard Empowerment Act of 2006 (S.2658/H.R. 5112), as amended by unanimous consent in the Senate, would address these shortcomings by (1) elevating the National Guard Bureau [NGB] to the status of a DoD "joint activity" [giving the Chief, NGB direct access to the Secretary of Defense and the Joint Chiefs of Staff instead of being silenced in the no-man's land between the Chiefs of Staff of the Army and Air Force], (2) giving the Chief, NGB, in consultation with the states' Adjutants General, the authority to articulate the National Guard's homeland defense and homeland security requirements, (3) giving the Chief, NGB 4-star rank commensurate with the Bureau's joint activity status, and (4) designating the deputy commander of US NORTHERN COMMAND as a National Guard general officer position.

Other provisions of the original legislation may be appropriate for study and review by the Commission on the Role of the National Guard and Reserves (CRNGR), but immediate passage of the foregoing provisions is necessary to assure states maintain the capacity to contribute to the nation's Homeland Security.

#### **CONCLUSION**

I would like to thank the Committee for the opportunity to testify on behalf of the State of Washington and the other federal, state and local stakeholders who comprise the Governors 2010 Olympics and Paralympics Task Force and its Security Committee. We are all citizens deeply devoted to our nation's security. The requirements I have outlined above are necessary to safeguard our borders and sustain and enhance our state and national economies. Working with Congress, we can, we must and we will assure our nation remains a safe and secure place in which to live, work and raise our families.

Mr. LUNGREN. Thank you very much, General, and now we'll go through a round of questions. We'll limit ourselves to five minutes apiece, and I'll start by addressing questions to Mr. Hardy. Director Hardy, we were very impressed with your folks, very impressed with what we saw, very impressed with the history of the Millennium Bomber where—Where it wasn't just dumb luck. It was savvy law enforcement, an agent who saw something that she thought didn't match up, and then working in coordination with others completing that. So that's the good stuff. However, when I look at that, and then sometimes you go and you say, boy, they sure did a good job while I was there, is that what it's really about or is it something else? So I was a little disturbed when I saw this report about what occurred on—ast week where the Government Accountability Office issued a report concluding that its employees attempted to enter the United States successfully at nine different ports of the entry using bogus documentation.

The report suggests that at some point the employees that came across were not confronted or even asked for identification. They make specific reference to a circumstance here in the state of Washington where two GAO agents were able to enter upon showing a driver's license to a CBP agent and answering a few questions. And the GAO suggests that, look, this is what we did in 2003. This is what we did in 2004. There hasn't been improvement. I see signs of improvement, but when I see a report like this, I have to be able to answer what happened.

Does this—oes this indicate that your officers are still having difficulty being able to evaluate the genuineness of the various forms of ID as they come across? And if you could give us a sense of what

that is, and if not, can you give us a sense of what occurred in those circumstances, if you know? And what should we be looking at when we get a report like that that suggests that, you know, you can send some people across, and they can get across fairly easily with forged documents.

Mr. HARDY. Well, thank you for that question, and yes, we have been looking into those situations, and the incidents themselves do go to the documents that were—hat are being allowed and acceptable to cross the border. The individuals used driver licenses, which, as you know, are not indicative of license plates. They're indicative of the beginning of a story. The history of the northern border is one of vehicle crossings and identifying vehicles, not so much working with the people that come through. So we have ramped up in the last, especially the last two years, more and more identification of people coming through and asking additional questions. But, yes, the documents that we are left with accepting are a myriad of driver's licenses, a myriad of birth certificates, which might indicate people were babies then and they are real people now driving in cars. So it makes our life very difficult. It is one of the reasons why we seek some resolution to better identification of people at the border.

Mr. LUNGREN. Let me address this both to you and the General.

General you had some personal comments on the Western Hemisphere Travel Initiative. That's a response by Congress, maybe not all members of this panel, but it was a response by Congress to the very issue that Mr. Hardy talked about, suggesting that we need to—and realize, as well, that we need to firm up the quality of our entry procedures, both in terms of making sure the person who's got the document is who he says he was, and then that is connected with something that shows us, you know, birth certificate or something that suggests that this is that person. So in response to that, Congress has pushed the Administration to have this Western Hemisphere Travel Initiative. Let me just give you the view that I hear from other members of this Congress, not up in this area and not on the southern border.

They say, well, look, we have this problem. Congress has now said you've got to do something about it, and all we hear are gripes from the states saying, hey, we can't handle this in terms of driver's licenses, and we're going to kill our commerce across the southern border. I hear that when I'm in Southern California. And across our northern border, I hear that when I'm up here. And then I try to explain to members that, yeah, this is an important issue, that you have to understand this concern people have of this detrimentally affecting their economies and forth. So what do we do?

General LOWENBERG. Mr. Chairman, I think we all agree on what the problem is, but the issue is how does that affect the enhancement of security, and in that respect, the REAL ID Act is a requirement imposed by Congress that no federal agency could comply with, even if money were no object, and money is a limiting factor for the states. With respect to the ID verification system that the premier of British Columbia and the governor of Washington are encouraging the federal authorities on both sides to undertake, is using the very kind of technology that Chairman Reichert pointed to that's been fully mature and developed by the Department of

Defense, and it uses commercial off-the-shelf software. And so frankly that is much more robust in identifying and tying identification cards to a much richer array of databases than a passport. And so again, the emphasis is on the intelligent application of financially available and technologically available systems like the one I've suggested.

Mr. LUNGREN. The gentlelady from Southern California.

Ms. SANCHEZ. Thank you, Mr. Chairman, and thank you, gentlemen, for testifying.

You know, in the Congress, we do things—we things, we authorize, meaning we put out policy and what policy should be, and then of course we appropriate. We have to put the moneys towards the policy, hopefully. And unfortunately, in the time that I've been in the Congress, in the five years now, it's almost five years now since 9/11, we've passed various acts. For example, the 9/11 Act, which said that we were going to add an additional 2,000 agents at the border for the next five years, so 10,000 agents, unfortunately, when we get the budget from the President, it's got 200 new people funded or 500 new people funded. And every time we try to increase that funding, it's voted down.

In fact, December 16th of this past year, all of the House Republicans voted against a proposal that required more border agents and the new catch and release program, by authorizing 100,000 additional detention beds, and incorporated state-of-the-art surveillance technology, including cameras, sensors, radios, satellites, unmanned aerial vehicles.

Again, in 2005, 226 of the 227 House Republicans voted against the proposal to permit 41 billion to security our nation from terrorist threats, 6.9 billion more than the President had asked for, and another proposal for transportation, security, immigration, processing, security functions, \$4 billion more than the President's budget. And in 2005, 225 of the 227 Republicans voted against an effort to add 284 million to the emergency spending bill for securing the nation's borders that would have hired 500 additional Border Patrol agents and 200 additional Immigration investigators and provided funding for unmanned border aerial vehicles. In other words, there's a policy out there, but when we go to put the resources, the resources don't pass, at least in the House of Representatives. So my question to you is could you use additional Border Patrol agents in this sector, in the Spokane and Blaine sector, could you use additional support staff, and what is the current ratio that you have, and what should it be? Could you use unmanned aerial vehicles, and could you use additional state-of-the-art surveillance equipment, and what type of equipment would you find useful?

Mr. HENLEY. Yes to all of the above, but let me elaborate on that. We have a national strategy. Every sector in Border Patrol, all 21 of them, really are preaching on the same page these days, and I would say under the old INS, that's probably always a statement I could make. We have different levels of what we call patrol, and it starts at the base level and works up to Level 5.

Now, without getting into the numbers, I can tell you I'm about 400 people short. So the fact of the matter is that—

Ms. SANCHEZ. 400 people short of where you think you—of what—the level where you're taking care of that physical border area?

Mr. HENLEY. Where I can make an honest assessment of what I really do need. So without getting into specifics about that in a public forum, I can tell you that without the assistance of other agencies up here, and all the ones that I list in my testimony, we would be way behind the curve.

So the tactical infrastructure, all of the things that go along with Border Patrol, as the Chairman alluded to, I spent 16 years of my career on the southern border, and it's drastically different on the southern border than it is on northern border. The strategy is the same. If we had the same amount of resources, human resources and infrastructure, it will be almost identical in my opinion.

Ms. SANCHEZ. I mentioned earlier that I thought that when you block one area, the water goes through the existing holes, meaning that, you know, we haven't done much here on the northern side. Can you tell me, you know, we keep hearing this 10 to 1 ratio, 10,000 people, agents at the southern border, for 1,000 for twice the area to cover up here. How many agents are actually stationed on the northern border at a given time given eight-hour shifts and demands? You know, that's not classified. I've seen the number before, but I want to see from your end how many you think at any one time are up here?

Mr. HENLEY. Well, ma'am, what I can tell you the formula is, is—because of the three shifts and vacations and time off and all of that, you divide whatever number that you have by five, and that tells you about what you have on the border at any one time, no matter whether it's the northern border or the southern border.

However, you have to add in the tools that we use. We have aircraft. They also monitor traffic. We have cameras, we have sensors. We have, you name it, that are force multipliers. And on the Canadian border, some of our best partners are the RCMP and Canadian municipal police officers on both sides. So it's—without getting into the numbers, I can tell you that it's—because we are so small, that really brings the community together, whether it be sheriff's department all the way down to King County, the Whatcom County sheriff's department, the local police department. Some of them we dispatch for. I've been doing that since 1955.

Ms. SANCHEZ. Let me ask the last question because I see my time is up: Would you prefer that we hire these people, that we put them through the training system and that they're Border Patrol and they're assigned to you, or would prefer that they be contracted out? Because that's what some people have talked about.

Mr. HENLEY. I—I'm a Border Patrol agent and bleed green, some people say, and I can tell you that the training—

Ms. SANCHEZ. You think there's a difference?

Mr. HENLEY. I can't tell you about contract help. I can tell you that Border Patrol officers train Border Patrol officers. So you have a cadre of individuals on the field who go back to the academy to teach, and in my view, that's the best training you could ever get.

Ms. SANCHEZ. Thank you, Mr. Chairman.

Mr. LUNGREN. Thank you. The gentleman from the state of Washington, the Chairman of the Subcommittee.

Mr. REICHERT. Thank you, Mr. Chairman. I want to continue along the same lines as my colleague began, and that's with the resources. I know when I was sheriff, I was a little bit jealous of some of the police departments that were nearby that had a staffing level of one 1.8 per thousand. That's a fat police department. The sheriff's office was .8 per thousand, and we always needed more people, and the county council of course had said—instead of helping me out, cut me \$2 million a year because they had a, you know, budget shortfall.

So without getting into, as you said, Chief, into the numbers, there's a lot of things that go into how you decide to and where you decide to deploy your personnel, and there's also—as you said, not only is it important to have people manage the borders, but it's also the resources and the technology that you have available to you to help patrol your borders. We can always use, and I as the sheriff would say I need more people, but I'd also recognize that I needed more tools, more technology. And one of the things, really, that I—just if I could ask you, very quickly, prior to September 11th, how many Border Patrol were assigned to the northern border here in Washington State?

Mr. HENLEY. 52.

Mr. REICHERT. 52, and today?

Mr. HENLEY. More than that.

Mr. REICHERT. I know that's a question you can't answer, but there's been an increase?

Mr. HENLEY. There has been an increase.

Mr. REICHERT. Substantial increase?

Mr. HENLEY. I would say substantial.

Mr. REICHERT. Okay. I just didn't want to leave people with the impression that there wasn't something being done in helping you to add resources, personnel to your staff.

One of—I think the biggest tools that can be used here is this communications piece that the General touched on. He had a number of—a unified command is so important. There has to be this partnership. This—the wireless upgrade, and General, you talked about the bandwidth issue. Isn't there other technology, too, besides acquiring the 700—are you on 800 megahertz up here? So we're looking at 700, right? We want to get law enforcement, first responders to 700. Is there an effort still to do that? Are you looking at other technologies? Because what the federal government, part of their role should be is to help you weed through the 800 or 900 vendors that are available the different technologies and how to solve this interoperability piece. What are you looking at here in Northwest Washington as far as interoperability solutions?

General LOWENBERG. Mr. Chairman, we have interoperable communications strategies that we are well on the way of addressing, but the challenge is for us, and for every northern tier state, is that the bandwidth doesn't recognize lines on maps. So the bandwidth allocation by US authority and the Federal Communications Commission does not synchronize the width, the bandwidth allocations by the Canadian authorities.

So for roughly the northern one-third of the land mass of the state of Washington, and every other northern tiered state, we have that—we have that challenge. That's why it's so important

that we get this early start in preparation for the 2009 and 2010 international athletic events because the consequences of that lack of synchronization will be much more profound. Chairman Reichert, you were part of the culture that is part of the solution, and that is the solution of the culture of collaboration. This task force that Congressman Reichert chairs includes the Canadian principal officials, as well as American principal officials. At our meetings, we have representatives, senior representatives from the Pentagon, from the Department of Homeland Security headquartered in Washington, D.C., from the US State Department interagency group in Washington, D.C., and we have in this region, and I think it's important perhaps for the Committee members who are not from Washington State, to recognize that we have a well-established Pacific Northwest Economic Region that spans from Alaska to the Yukon Territory, British Columbia, Washington, Oregon, and Idaho with a continuous collaboration by the elected and appointed officials in all of those provinces and states. That is part of the solution, which is not finance dependent, it is not technology dependent, but it's a huge part of the solution. And that's why the Premier and the Governor are encouraging federal governments to join in this collaboration in focussing on a pilot project that could endure the benefit of both federal governments.

Mr. REICHERT. Yes. I just want to make clear that although I've been helpful, I think, in helping the police to shed the light on interoperabilities to the members of Congress, I don't chair the Committee up there. I want to make sure the Congressman Larson gets credit for what he's doing and credit for what I haven't done yet, but I'll continue to try to do so. Thank you.

General LOWENBERG. Thank you.

Mr. REICHERT. I yield.

Mr. LUNGREN. Thank you. Then gentleman from Washington, Mr. Dicks, is recognized for five minutes.

Mr. DICKS. I want to thank the witnesses for testifying today, and now for a brief amount of time I'm going to try to step through this. Mr. Hardy, you heard about this proposal from the governor of Washington, and Mr. Lowenberg mentioned about trying this technology on the borders on—to do a better job on licenses and to try and come up with a way to meet the Western Hemisphere—what do we call it, Travel Initiative, which is a big concern, as you know, to officials, governors, senators from the northern states. Would you be prepared to sit down and talk about this if we could set up a meeting?

Mr. HARDY. Congressman, one of my staff has already sat in on a meeting with the entities that are proposing this. We've taken a quick look at it, but we have forwarded it this past week to Washington, D.C., and my recommendation was for our headquarters people to sit down seriously and see essentially on—the access requirements, who's going to query 110 different indices, who gets the approval to do that. But it is all automated, and this is a great big world of automation these days. So we should be able to overcome those kinds of things.

One of the biggest issues, of course, is the driver's license. It can be a problem in our cities or states regarding citizenship. It's not a current requirement, and how the states and the provinces deal

with that and make it a requirement or an alternate card for border crossers is an important piece of that. That's—those are the two quick things that came out of our deliberations.

Mr. DICKS. See, we're as concerned, and we're going to run up on these deadlines that are in the legislation and not be there because we haven't put the resources to do it, or it just becomes too hard to do, and there's a lot of concerns on border communities. It's going to have a very—if it doesn't happen, you know, it's going to have a very negative economic impact on these communities.

Mr. HARDY. Correct. That's why we had the meeting one day, and we are nimble enough to move it.

Mr. DICKS. You're moving it. So you are giving us a yes, and we will accept that.

Mr. HARDY. Yes.

Mr. DICKS. Yeah. I was impressed to see the technology, the Nexus program, the Fast program. Both I thought were pretty effective, and we had a chance to be with Mr. Henley yesterday at the border to look at this. And I was impressed by that, but there was long lines. And so we are, you know, we're concerned to make sure we have adequate personnel and adequate technology.

General Lowenberg, you—what have you got—tell us what you think of putting National Guard units on the border? What do you think about that?

General LOWENBERG. You're referring to especially to jump start the application along the southern border?

Mr. DICKS. Yeah.

General LOWENBERG. I think that the alternative of using National Guard personnel rather than federal full-time military personnel is the preferable option, especially when we send federal military forces to our border with Mexico, I think we make it more difficult, the objective of integrating Mexico into a tri-national security arrangement.

And then whatever we did along the southern border, we create an important precedent for what we might be required to do during the 2009 and 2010 events if border security such a concern that we need to provide augmentation to the federal agency responsible for border security.

So considering the courses of action available to the President, I think it was a prudent and proper use of the National Guard.

Mr. DICKS. General, the conditions the National Guard is overstretched due to the demands of the war in Iran and Iraq—in Iraq and Afghanistan, and then to use them in defined role to secure the border, what steps has the Washington Guard unit taken to ensure that it is—that it can protect and serve the people of the State of Washington without compromising—I mean some people want to put people down on the border. If I understand, it wouldn't be that large a number; is that correct? So it wouldn't affect your ability to—

General LOWENBERG. From late August through the end of September, we will have approximately 375 National Guard volunteers, Army and Air Force, forming CBP augmentation in the state of Arizona. Governor Gregoire signed an agreement saying she would fully concur with the deployment of any and all volunteers, but she would not involuntarily activate a number units without

first consulting the governor of that supporting state against the ongoing security requirements of our own state. So we think we have struck the appropriate balance, and we can sustain the level of support that we have committed to support the southern states.

Mr. DICKS. Just one final question: On the UAVs, Mr. Henley, I think that would be a very positive augmentation to what you've got going up there already. What's the—is this in the budget at some point in the future?

Mr. HENLEY. I believe it's called the SPI. When we're slated to get UAV on the northern border, I don't know, but this was my intent to throw my hat in the ring for that.

Mr. DICKS. You think it would be a major plus?

Mr. HENLEY. I think one UAV patrolling all the way from the Montana border all the way to the coast would be most beneficial to a large part of the Northwest.

Mr. DICKS. Thank you, Mr. Chairman.

Mr. LUNGREN. Thank you. The gentlelady from Texas, Ms. Jackson-Lee, is recognized for five minutes.

Ms. JACKSON-LEE. I thank the Chairman very much, and I do want to emphasize what we have come away with from our visit, and that is that there is darn good law enforcement going on up here. We owe you a debt of gratitude. The American people owe you a debt of gratitude, and so I want the emphasis to be on the fact that I didn't see a lot of dumb luck around. I saw a lot of hard work.

This is an official hearing, and I believe, gentlemen, you should view this as providing the fodder, the information that is necessary to provide you with the resources and the, if you will, the road map that will be effective in what your very able members of Congress have asked us to look at, and that is of course the needs of the northern border.

And as my colleague indicated, I have been here before and walked along or seen the border. I've been to the northern border on the east coast. And so this is a revisit for me, and I see the needs are still enormously powerful. I do want to, as my colleague has done, acknowledge Congressman Rick Larson for his excellent work fighting for and generating extra resources in region, and as well as Senator Maria Cantwell for the leadership she's given as she worked through the Senate bill. And of course I understand that Sheriff Bill Elfo is in the room, a former Border Patrol agent that I know that we would have wanted his testimony because he emphasized the collaborative efforts that are going on. But let me, as I make mention of what we have done, let me suggest that I hold in my hand the GAO report, and it is very, very striking. And I just want to repeat some language out of the particular report that said that "as they crossed the Washington border, at no time did CBP officers question the authenticity of any of these agents' identifications. Furthermore, at one of the Washington crossings, agents were able to walk across the border without passing through any security checkpoints without presenting identification." From my perspective, that suggests not a failure in the hard work of the agents that I came across, but the necessity for more resources that we were frankly missing. And I just want to put on the record so that—there is a sense of unity around the fact that

we have to—we need reform. There is that sense of unity, but I think it's important to lay the facts down, and I hope you gentlemen will be, if you will, forthright to lay the facts down on the table. This is not an inquisition. We're not trying to extract from you elements that will undermine your leadership and your position, but you've got to be forthright as we move forward. We know that on every measurement, immigration enforcement has fallen significantly under this administration. For example, apprehension of undocumented individuals at the border has dropped by 31 percent under President Bush compared to President Clinton's record. Something must be going awry. And under the present administration, the laws for preventing employers from hiring undocumented workers are enforced so rarely that they might as well not exist. In 2004, only three employers were fined for work site immigration violations. So Mr. Hardy, you know, this would be a tough report if I hadn't been to the sites and seen the hard work, but one thing that comes to mind, your agents, your Border and Customs Protection agents are working 12 to 16 hours, some of them seven days a week. That has to indicate that there is a need for more resources.

So my question to you is doesn't a lack of sufficient manpower and secondary inspections—and I refer to the great work of Diana Dean, which wasn't dumb luck. She was an outstanding Customs agent inspector. After she questioned Ahmed Ressam, the Millennium Bomber, she sent him to secondary, and that was an important tool that she utilized—doesn't a lack of sufficient manpower and secondary inspection inhibit referrals to secondary? What should the ratio between primary and secondary inspections be, and why, and what is workload of the average Customs Border Protection inspector at the point in—at the ports in Washington, and do you need more? And if you say “no,” why are they doing 12 to 16 hour days and working seven days a week? To Major General Lowenberg, I'd be interested to know—let me just say I appreciate the generosity of volunteers, but isn't the National Guard stretched by the Iraq War in terms of there even being, if you will, the kind of backup that we need? Shouldn't we be having trained Border Patrol agents? I yield to Mr. Hardy for his answers and the Major General.

Mr. HARDY. I'll tackle the—

Ms. JACKSON-LEE. And I thank the Chairman.

Mr. HARDY. —the resources. As we've mentioned CBP's policy and what the effect is for us a layered policy, layered defense, and that stretches us into many layers. So the staffing is not in one place. I have 67 ports of entry. We have people working overseas. We have people—

Ms. JACKSON-LEE. Do you lack sufficient manpower, Mr. Hardy?

Mr. HARDY. The manpower, no. We want to do more of everything. We want to check more ID's. We want to identify citizenship and appropriate it, and we want to do that—

Ms. JACKSON-LEE. So you're lacking manpower; is that yes?

Mr. HARDY. I will need more manpower, especially as Border Patrol between the ports of entry starts interdicting more, or we start moving more workers into the legal realm of entering the United

States. They'll have to come to our ports of entry, and yes, we will need more people to resolve those issues.

Ms. JACKSON-LEE. Major General?

General LOWENBERG. As you indicated, we have an extremely high operations tempo. We can sustain the high operations tempo in Washington and every other state and territory if we are properly equipped.

Ms. JACKSON-LEE. I didn't hear that answer, sorry.

General LOWENBERG. If we are properly equipped. Our 80th Brigade Combat Unit spent a year in Iraq, has been back now for about 16 months, left 60 percent of all their equipment behind in theater at the direction of the Department of Defense. So 60 percent of all of our Humvees, 60 percent of all of our radios, 60 percent of all of the GPS systems is all unavailable to us for an indeterminate period of time. Overall, the authorized equipment levels in the Washington's Army National Guard for all units is about 34 percent of what we have been authorized, and that is representative of the other states around the union.

So the members of this Committee who also serve on the Armed Services Committee are well aware of the fact that the dilemma for the nation, frankly, to replace the equipment that has been expended in Operation Iraqi Freedom and Operation Enduring Freedom.

Ms. JACKSON-LEE. Thank you.

Mr. LUNGREN. We're starting now to do a second round, but we have to have this panel completed at 2:30 so we can proceed with the second panel and finish at our appointed time. So—

Mr. DICKS. What is the time?

Mr. LUNGREN. 4:00. We have to be out of the room at 4:00. They will escort us out. I see the sheriff's department personnel here.

Anyway, so let me ask you, Mr. Hardy—or excuse me, Chief Henley, the Congressional Research Service gave us an idea of what the increase was on the northern border, approximately 340 to a thousand, and you've indicated that you've had a significant increase in this area, even though you've also suggested you could do more with more.

The—throughout that time during the increase that's taken place since 9/11, border apprehensions remained relatively stable on the northern border despite the increased manpower, until 2005 when the figures show apprehensions fell by 27 percent. Now, that's across the entire northern border.

Can you give us an idea of how we should look at that? Is that evidence of the fact that we're doing a better job, that we're actually deterring? Is that an anomaly that even though we have more personnel, we caught less people because we're doing a better job? How do you sort that out for us?

Mr. HENLEY. Well, in 2002, we actually tripled our resources along the northern border. So that is the number you're talking about, 300 and some odd up to a thousand. Since that time, we've had three years under our belt of experience. Remember that there are no trainees that come to the northern border. They all start out at the southern border, and so it's a learning curve going from basically flat land on the—on the south up to some very harsh territory you're working with. So it takes a little while to learn to catch up.

And on top of that, the Border Patrol has pretty much been relegated to the border itself. Our ICE component is starting to take over the jails and all that. So we've seen a lot of significant numbers out of our jails from the sheriff's department, and we used to work King County from—or Whatcom County for that matter when I first got up here.

But what happens is that those numbers are significant and that also adds to the drop, but I would say primarily we're just getting better to do more with less. We've got a few more tools and cameras. We've got a few other things that came online. Can't speak for the rest of the northern border. I can just speak for our area of responsibility, and it's simply getting more familiar with the border and getting better at our jobs.

Mr. LUNGREN. So you think there is an element of deterrence in all of that?

Mr. HENLEY. Yes, sir.

Mr. LUNGREN. What is the biggest threat that you have right now from your perspective on the northern border?

Mr. HENLEY. Well, the biggest threat, certainly, is the focus on terrorism. We have both. There's no doubt about that. I couldn't tell you what's going around me. I can just tell you that the efforts that we explained this morning in our briefing, that with what we have to work with, I think we're going a pretty good job with that.

If I had more resources, could I expand? I certainly could. The same goes for our Air Force, as well as our ICE men, our counterparts. And Mr. Hardy's exactly right. If we did staff up the Border Patrol between ports, it's going to put tremendous pressure on all documentation coming through the port. Historically it always does. So—but the biggest threat for us is the lack of tools that it takes to really recognize that some of the dark areas that we need to be working that we can't get to. And so I can't tell you some specific threat, but I can tell you that that threat exists.

Mr. LUNGREN. Mr. Hardy, I have one minute left on my own time here. So in a minute, can you give me an idea of what you consider to be the most serious threat facing you and your folks on this part of the northern border?

Mr. HARDY. Obviously I referred to the intrusion by Ahmed Ressam, so that indicates terrorism. I always wonder which of my officers is going to run into the next one, and we do run into people that are on different indices that we need to talk to and talk to carefully, and it happens all the time, airports, seaports, and on land. So that is our major thrust.

However, in this part of the woods, we also have a big threat with marijuana and Ecstasy coming into the United States, and Ecstasy is a huge threat. It's a bunch of pills that can be concealed easily inside pockets of doors, and it is on the ramping up. We're seeing it in commercial shipments. So the narcotics effort is not going away. We still need to interdict. And similarly, then the agriculture pests that would ruin the economy.

Honestly, we in the ports of entry, we're working hard to develop our expertise on illegal aliens, but I wouldn't say it's a lesser threat. It's just that we run across fewer human smuggling incidents than we thought.

Mr. LUNGREN. Thank you very much. Ms. Sanchez recognized for five minutes.

Ms. SANCHEZ. Oh, gosh. I wanted first to—I sit on the military committees, the Armed Services Committee, as well as this Committee in the Congress, and I just wanted to say to the Major General thank you for bringing up the fact our equipment is all worn out because of Iraq and Afghanistan, not only for our National Guard, but our Reserve units, and of course also for our active Army. At the rate of \$2 billion a week that we spend in Iraq, that doesn't take into account what it's going to take to replace everything. So it's something that America has to realize is sitting out there, and we haven't paid for, as well as the fact that we haven't paid for the majority of the war so far. We've just sort of put it on a credit card. My questions are to you specifically because I'm worried about the National Guard as I am with my reservists and my armed services. California, as you know, sends the largest number of people into the armed forces, and that's also reflective in the National Guard and the Reserve units. And 50 percent of the rotation in Iraq today is done by National Guard and by reservists. And of course, President Bush just held some over. They're going to be staying longer in Iraq because of the problems that we're having in holding down the Green Zone in Baghdad. Some of my guys and gals have spent three tours already in Iraq. They're going to be spending some more, especially if you're in the healthcare field. They're gone almost all the time because of the casualties and things that they need to do in Iraq. And I'm going to tell you something. They're pretty tired, and their families are even more tired.

And on top of that now, we've asked them to go to our borders and help out there. In fact, the governor of California sent a thousand to the border and was asked for another thousand by President Bush and he said "no." So you have made a comment where you said you can sustain what you're doing and all the other states can with respect to the National Guard. That was one of the comments you made. I'll just say that this governor of California I think would disagree with you. He said no to that deployment of his troops. So my real question to you are concerns about our National Guard, about what's going on. What is the Guard doing to help secure the border and to reduce illegal border activity? And do you think that it's the—that border security is an appropriate role for the National Guard, or do you really think they should be concentrated on the future Hurricane Katrinas, possible earthquakes, et cetera, or do you really think that after coming back from two or three duty tours in Iraq, we should be sending them not for two weeks, as the President originally said, but for six months or eight-month stints at the borders?

Can you comment on that? Should that really be a task of our National Guard? Because I'm worried.

General LOWENBERG. I don't think there are many people that I work with, in or out of the Pentagon, in or out of the active or reserve components that would view the use of the National Guard as a steady state augmenting for the other federal agencies. I think we have to recognize that the reason the National Guard was tasked for this Operation Jump Start mission was to help provide for Customs and Border Protection while they brought more agents

on to make sure that CBP became right-sized and properly resourced. And as soon as that's done, the National Guard should be released because that should not be a standing mission of the National Guard.

Ms. SANCHEZ. What are they doing right now because, you know, there's been a lot of hoopla, and of course, sitting on the military committee, I know, but I would like this to be in the testimony, what are they doing? Are they carrying guns? Are they—are we militarizing the border? What are they doing? And why is that just a stop gap until we actually fund more agents so that we can train them so that they can correctly be handling the border for us?

General LOWENBERG. In the interagency, Department of Defense and the Department of Homeland Security, they are doing missions that are requested and validated by the customs and Border Protection agents of the DHS. So they are doing functions that would either have had to be performed by commissioned CBP agents or perhaps by contractors hired by CBP. And so for every CBP agent that we can release with the kind of field duties that only be performed properly by someone with that arrest authority, that does provide the sanction of the response capabilities of CBP.

Ms. SANCHEZ. And do you think in your state or in other states, I already mentioned that our governor saw it in California, mission pressure on our National Guard people?

General LOWENBERG. Without a doubt. It's just reflective of the scope of the age for all of our military forces to include the National Guard.

Ms. SANCHEZ. Thank you Major General. Thank you Mr. Chairman.

Mr. LUNGREN. Chairman Reichert?

Mr. REICHERT. Thank you, Mr. Chairman. You know, it's been my experience that solutions to protecting all of the communities come from local community, people who live here will come up with solutions to address the issues that are facing this community, and sometimes the federal government gets in the way. I discovered that as the sheriff in many instances in my 33-year career, and in my short life here in Washington D.C., traveling back and forth, I discovered sometimes we can get in the way from this perspective.

So I always have to chuckle when I say "we're from the federal government, and we're here to help" because I remember my reaction as the sheriff and as a detective when the federal government came to help us.

So, you know, we do want to help, but we help in a way that's a very high level support assistance. And I just have—as you're developing solutions and working together to protect the northwest part of our country, your community. And working with the Canadian government on a local level, also, we know you need Canadian federal government help and need the United States federal government help in coming up with international solutions. Resources are an integral part of trying to find a solution to the problems you're trying to address, but also technology, I saw this in my sheriff's career. My question to you is what—what do you see is the future of border security, securing the US-Canadian border, and keeping our ability to trade, and keeping our economy strong, our friendship strong between the US government and the Canadian—

US people and Canadian people, what is the future? It's not about hiring 50,000 Border Patrol.

What do you see as your tools in the future to protect this country?

Mr. HENLEY. Would you like me to take that on?

Mr. REICHERT. All three of you.

Mr. HENLEY. I think you're right that I'm not so sure I couldn't tell you today how many Border Patrol agents I actually need to secure my portion of the border. I can tell you what's worked in the past with a very few numbers and the tools it takes electronically and high-tech tools. The UAV, certainly, in my view is something that we need to look at seriously. Low tech, as you saw today, in the drive-throughs at the Canadian borders is pretty wide open in some locations. We have about 11 miles that anybody with a Volkswagen could come across it. So we're in the process of obtaining infrastructure that is helping us curb that. My worst fear is to have a high-speed chase down a school zone down in Bellingham. I've experienced some of that down in Southern California, and I really don't want to start that process up here.

So the technology of it, it's got to augment the human resources. Today people say to the CBP air we'll give you all the support you need. I say absolutely, but can I support CBP air the way I need to because of the limited amount of resources? It doesn't do any good to see something on top the Cascades if I can't respond to it. So—

Mr. REICHERT. Are you part of WAGAT? (Phonetic.)

Mr. HENLEY. We're working on that process.

Mr. REICHERT. How about JTTF?

Mr. HENLEY. We're a part of that.

Mr. REICHERT. What about the Homeland Security's integration initiative, have you entered into discussions because the Northwest is one of four across the country selected?

Mr. HENLEY. Well, the connectivity part of it all is very difficult for us in that terrain. So we do have—we've been working on that process now for about seven years, and we haven't bridged the gap.

Mr. REICHERT. Okay. I guess—I think there's some initiatives out there that could help you augment the current resources that you have, and I'd be happy to help you get connected to some of those.

Mr. HENLEY. Well, Chairman, we find a way to communicate if it's by tin cans, but we find a way to communicate.

Mr. REICHERT. I've been there. Thank you.

Mr. LUNGREN. Thank you. Mr. Dicks, we recognize you for five minutes.

Mr. DICKS. In the December of 2005 report on A Review Remote Surveillance Technology Along US Land Borders, the Department's IG office stated that programs like ICE and ASI have received more than \$429 million since 1997, and they continue to face significant problems. On the northern border, cameras and sensors are not linked in any automated fashion. Sensors are incapable of distinguishing between animals and humans. Systems components are highly vulnerable to malfunctions caused by temperature and weather conditions, and now the Department is talking about a new program called SBI Net, and that's a \$2 billion contract. My question is how can—you know, can we do better on this? I mean

can we fix these initial problems? I mean this received a lot of press attention, and you know, there's this—we hope that the money we spend, this is a lot of money, will actually be of a benefit to you in doing your job. What can you tell us about this?

Mr. HENLEY. Congressman, the camera system that you refer to did have problems, and I can say that we've rectified the vast majority of them. When a camera goes down, it comes off the pole. We send it to a location, and then we're at the mercy of when he fixes it and brings it back. But I will say the temperature changes in those cameras was a real problem. They are not linked to sensors. When a sensor goes off, still takes a camera operator to move that dispatcher who has other duties. So can we do better? Absolutely. And should we do better? Yes, sir.

Mr. DICKS. Do you think this new programs, SBI Net, is going to be the answer?

Mr. HENLEY. I can tell you they're bringing some pretty high-powered folks in on that for contracts, and I don't know who holds it, if we got the contract and if it's been decided, but I can tell you that it will link up the entire—both borders from sea to sea. So I can tell you that's one of the main goals for SBI Net was so everybody had the same operability.

Mr. DICKS. I noticed that the operators yesterday were very high on this ACE program. They also said that that was going to be augmented or improved, you know, when they reviewed the people coming through in the trucks. Mr. Hardy, this seems to be a very positive system because it brings all of the information into one system?

Mr. HARDY. You're absolutely right. We've—one query other than five queries, instead of toggling from screen to screen, those are the kinds of things that we were looking for to save time and also give the best answers. And they've got to come up, they've got a query, and they've got to come back for one answer, not a couple of answers.

Mr. DICKS. Don't have to go to—you've got all of these different systems rather than having one system provide the answer? Mr. Hardy. That's exactly right.

Mr. DICKS. Now, General, you're the top person in the state for the Governor on Homeland Security. You did the same job for Governor Locke. Now, when you look at this problem on the northern border, what—what are your concerns? I mean obviously you're a person with a lot of experience. What do you see as the, things you worry about?

General LOWENBERG. Well, I worry about the issues that have been raised, and frankly Mr. Henley and Mr. Hardy raise on a daily basis because border security is a principal function of the central federal government, not that of a border state. And yet if there is any gap in the ability for them to execute their mission, then there was a need in fact on the local jurisdiction. And so frankly that's what I worry about, and that's why we stay in constant communication.

Mr. DICKS. I was extremely impressed with the aviation program that you put into place and going after these people who were audacious enough to do interviews in Playboy magazine kind of challenging the manhood of our Border Patrol.

Mr. LUNGREN. He's no longer doing that.

Mr. DICKS. No. He's now in jail. So I mean I guess whoever laughs last laughs best, but that's an aggressive program. But what I was most impressed about was here you have good intelligence. You're working with the Canadian authorities. You're working with the Washington State Patrol. It was good see them arresting and pulling over a number of these people. Now, that's an example, I think, of a good partnership between all of these different authorities.

Mr. HENLEY. Congressman, I'll say that it is a top-notch air wing, top-notch pilots, and I can tell you that to me, that's the tie that binds all these indices because it's not only ICE and Border Patrol they support, if the local sheriff's department needs a search and rescue while we have a high speed failure to yield down I-5 going someplace, that's when airplanes are up within eight minutes, and we support—so it's been a tremendous tool for us. It's the tie that binds, in my view.

Mr. DICKS. Thank you, Mr. Chairman.

Mr. LUNGREN. The gentlelady from Texas is recognized for five minutes.

Ms. JACKSON-LEE. Thank you very much, Mr. Chairman. You want to hear about practical solutions, as well, and I'm probing you so that we can work on practical solutions. While I do, that Mr. Chairman, I'd ask unanimous consent to submit into the record statements of Mark S. Hansen, Evangelical Lutherans Call for Fair and Just Immigration Reform.

Mr. LUNGREN. Without objection.

Ms. JACKSON-LEE. And I ask to put a statement by Rosalinda Guillen and Pramila Jayapal on Defending Democracy in Regard to Community Immigration Hearings.

Mr. LUNGREN. Without objection.

Ms. JACKSON-LEE. The practical aspect of what our response should be, again, has been my theme, targeted resources. So I want to share with you the example of Martin Sabo, representing the minority of Democrats in Minnesota, which really captures what the Democrats are focussing on, practical solutions.

It was a \$600 million budget item. It obviously was different from the President's submission, which would include \$400 million for installation of 1,500 radiation border monitors at locations along the borders, plural; 200 million for additional air patrols and other aviation assets at our land borders. Mr. Henley, you have an excellent team, but we understand that they're doing miracles with limited assets, particularly aviation assets. And so that's a practical response, not resources scattered with no good intentions, but focussed targeted resources, and obviously the information regarding the installation of radiation portal monitors also would require human participation, but it also gives you sort of a widespread of information.

So I wanted—I share that with you, and I'm going to ask some questions. I want to go back to Mr. Hardy again, and I'm going to ask all the questions and then hopefully get the answers. You didn't answer what should be the ratio between primary and secondary inspections and also comment on the, if you will, overtime that has to be utilized because we are shorthanded by the Customs

and Border Protection. And again, as I said, effective darn good law enforcement, but we've got to get on the fact that—the facts about what we need.

The other question I asked is what is the workload of the average CBP inspector at the ports in Washington, and do you need more inspectors specifically? Mr. Henley, I'm interested—we work with sheriffs all over the country, and we've heard a lot from our southern border sheriffs, but we understand that there may be some challenges with respect to information sharing, and I don't know if it comes from the top, but we'd like to know how the Border Patrol agents in the field train—are trained about information sharing, and what would your response be to a northern border sheriff who would like more border intelligence from the CB—from the Border Patrol agents, and what concerns do you have about sharing information with local law enforcement? Is there anything we can do to be of help to you on that? Major General, if you would, again, it might sound like I'm asking the question again, but I think it needs to be clear. You've got 60 percent of your equipment in theater, if you will, in Iraq. Only 34 percent, as I understand it, on the ground. And what impact that has, if, for example you were called up to a Washington State crisis, and why you raised the question about using those resources, and I'm—I'm very glad—and let me congratulate your governor because she's using creativity and volunteers, but at the same time, I think it's important to note you're not on the front lines at the border. You're sort of in the backdrop, and we don't want to say “babysitting” because we think your work is outstanding, and we appreciate it.

But really, if a crisis was called up, the question is you've got to take care of this state. You've got to be where we wanted the National Guard to be in Louisiana, and they were not there. They are certainly doing their duty, but they are not there, and I think if you give us that kind of answer. And then lastly to Mr. Henley, you've had a hard time of retention and recruitment. Would an increase in your status from a GS11, GS13 help you? Would college incentives, would scholarships to give a two-year time to Border Patrol if you gave scholarships, and lastly, would you welcome foreign language training, as well, as incentive to keep your agents? And Mr. Hardy—

Mr. LUNGREN. Gentlemen, we have 30 seconds for you to answer that, and so you can answer the best you can and then submit the rest for the record, please.

Mr. HARDY. I'm going to have to submit it to the record. But on ratios and overtime are response to risk in each particular location.

Mr. HENLEY. In a nutshell, anything we can do for retention, I will say that we lose most of our troops to the academy rather than agents, so less than 5 percent which beats any—any corporation.

Ms. JACKSON-LEE. Major General?

General LOWENBERG. Equipment and material, our ability to respond to a state emergency, that's why we coordinate on a weekly basis with Oregon, Idaho, and Montana to determine what their depleted stocks are so we can hopefully have them continue the operation based on a regional response. Thank you.

Ms. JACKSON-LEE. And Chairman, if you'll indulge me for ten seconds, let me just thank the gentlemen. It's very difficult if we're

getting muffled answers and not getting what will be helpful to you. And I think, Mr. Hardy, you need to write a very detailed report. I've asked you two times, and I've yet to get answers to these questions, and it's very important for us to be helpful in a bipartisan collaborative manner to get direct, forthright answers from the individuals on the ground. Let me thank you gentlemen very much.

Mr. LUNGREN. I'd like to thank all three of you. You've given us excellent testimony. We've had an opportunity to speak with you all, so—and you've helped us very much in our pursuit of trying to help us come up with some solutions from a legislative standpoint. So thank you very much.

Mr. LUNGREN. I would like to now call up the second panel Mr. Dale Brandland, Mr. Collacott, Mr. Harris, Mr. Riley, and Mr. Johnson. I will remind the members of the panel that your entire written statement submitted will appear in the record. We would ask you to strive to limit your own testimony to no more than five minutes so that we can have sufficient time for questions. Thank you all for coming. We appreciate the time and attention that you've given to this request for your testimony.

On our second panel, we will have the opportunity to hear from, first, the Honorable Dale Brandland, senator from Washington State. Senator Brandland was the Whatcom County sheriff from 1992 to 2003, and prior to that was a Bellingham police officer, past president of the Washington State Sheriffs and Police Chiefs Association; Ambassador Martin Collacott, who formerly served as Canada's High Commissioner to Sri Lanka and Ambassador to Syria and Lebanon; Mr. David Harris, Senior Fellow for National Security, Canadian Coalition for Democracies and a former chief of strategic planning of the Canadian Security Intelligence Service; Mr. Jack Riley, director for Homeland Security Center at the Rand Corporation and is someone who has written extensively on this subject; and Officer Gregory Johnson, president of Chapter 164, National Treasury Employees Union. I thank all of you for your testimony, and at this time, I would invite Senator Brandland to begin.

**STATEMENT OF DALE BRANDLAND, WASHINGTON STATE  
SENATOR, 42ND LEGISLATIVE DISTRICT**

Mr. BRANDLAND. Thank you, Mr. Chair, and I'd like to thank Chairman Lungren and Chairman Reichert, members of the Committee. I would like to thank you for inviting me to testify before this Committee.

My name is Dale Brandland, and I'm a senator for the 42nd District, which includes the northern part of Whatcom County at our northern border of Canada. As you mentioned, I was the former sheriff of this county, and was for the past—for 11 years. I'm actually going to hit on three particular topics dealing with cooperation amongst agencies and interoperability, which has actually been touched on just briefly. I just want to spend a little bit more time talking about the infrastructure that we have been kind of alluding to, and finally mention secure identification.

First of all, cooperation and interoperability, given our proximity to the Canadian border, Whatcom County has a large presence of

federal agencies, as you all know. Historically Whatcom County has always enjoyed a good relationship with these agencies and their personnel. We have also formed relationships with our counterparts in Canada. People involved in criminal activity in our border are being investigated by agencies on both sides of our border. Cooperation and information is the norm for our county.

The cities of Lynden, Sumas, Blaine are all dispatched by US Border Patrol. Most agencies carry scanners in their vehicles and monitor each others frequencies so that they respond and help in cases of emergency. As a matter of fact, US Border Patrol has apprehended homicide suspects for the Whatcom County sheriff's office.

This voluntary cooperative spirit between the agencies is one of the keys to the successes of all of our agencies. That being said, it doesn't illustrate one of our fundamental flaws, and it is always the number one issue as we—that we deal with as we go through major incidents. Our personnel do have the ability to listen to radio traffic and other frequencies, but they do not have the ability to talk to one another. In Whatcom County, multiple agencies operate on multiple frequencies, and I think if you look at my testimony, I actually listed a number of those agencies, and the fact that which ones operate on—their own frequencies. I don't think this—and as you all know, especially this Committee knows, this is certainly not unique to Whatcom County. I would like to thank specifically Chairman Reichert and the members of the Committee for the passage of the 21st Century Emergency Communications Act. I believe that until this country comes to grip with the issue of interoperability and creates seamless ways for law enforcement personnel to talk to one another and with fire, public works, emergency management and their command posts, we will continue to see needless loss of life and property damage during major disasters. I'd also now like to talk a little bit about infrastructure. When I stepped out of the room for a little bit, I heard all of you mention the fact that you would like to see additional manpower on the Canadian border. I'm sorry, but I may have missed someone mentioning that there is no infrastructure to support that.

Representatives of—I'm sorry, in 1999, I testified before the House Judiciary Committee Subcommittee on Immigration and claims about the manpower shortage that we were experiencing at that time, specifically with the Border Patrol and the porous nature of our northern border. Since that time, we've seen dramatic changes addressing those issues. Agencies have consolidated, we have seen more manpower, we have—we now have an air wing that you have had an opportunity to look at, and it is obviously getting more and more difficult to cross our border. I cannot tell you the number of cases that are generated by our federal agencies, but I can tell you that most of them are handled at the local level. Most federal cases are taken to the US Attorneys Office in Seattle, and they are declined. This means that they will not prosecute the case. The case is then referred to our local authorities for prosecution. It is handled by our prosecutor, public defender, processed in our courts, and eventually those convicted are housed in the Whatcom County Jail or sent to the Washington State Department of Corrections. If we do not handle these cases, they will not be prosecuted.

The costs associated with prosecuting border related cases for Whatcom County is estimated cases to be over \$2 million annually, and I don't know the fiscal impact of the State of Washington for housing people in the Department of Corrections, but I can tell you that the costs of incarceration are incredibly high. There has been an improvement in this area. When I testified in 1999, it was estimated that we prosecuted over 85 percent of all cases generated by federal agencies. Estimates now put that number at between 60 and 70 percent. Part of the reason for that decline is the US Attorneys Office in Seattle and their aggressive efforts to help us. Unfortunately, it is my understanding that they are experiencing budget cuts, and we may not be able to see that same level of support in the future. Whatcom County has also been the recipient of a grant that focuses on fast-tracking people through the criminal justice system. It has been successful, but we are unsure about future funding. The developments at the US Attorneys Office and the uncertainty of future for Byrne grants has everyone in Whatcom County concerned. Our courts are clogged with criminal cases and our jails overcrowded, and we are quite frankly running out of options, and those I can summarize briefly.

Mr. LUNGREN. 40 seconds.

Mr. BRANDLAND. The criminal justice system is just that. It's a system. The system begins with an arrest. It does not end there. It's a system that requires balance. Overloading one part throws the rest of the system out of balance. I applaud the decision to hire more federal agents, but if we don't support and fund the rest of the system to prosecute border criminals and hold them in custody, we are only making marginal gains. In effect, we have only increased the already overloaded burden on the criminal justice system at the local level. Thank you very much. I would refer you to my testimony on secure identification for the remainder of my statement.

[The statement of Mr. Brandland follows:]

PREPARED STATEMENT OF HON. DALE BRANDLAND

Chairman Lungren, Chairman (Sheriff) Reichert, members of the committee, I would like to thank you for inviting me to testify before your committee. My name is Dale Brandland and I am the state senator representing our 42nd district, which includes the northern part of Whatcom County and our northern border with Canada.

Prior to my being elected to the state senate, I was the sheriff of Whatcom County and held that position for 11 years. My understanding of this hearing is that the committee is looking for an assessment of risks at the northern border and the infrastructure necessary to address those risks. I would like to address several points and they are: Cooperation among all agencies and Interoperability, Infrastructure and Secure Identification.

**Cooperation and Interoperability**

Due to our proximity to the Canadian border, Whatcom County has a large presence of federal agencies that deal with the legal entry of goods and people into the United States. They also play a very large role in controlling the illegal entry of goods, drugs and people into our country. Historically, Whatcom County has always enjoyed good working relationships with these agencies and their personnel. We have also formed relationships with our counterparts in Canada. People involved in criminal activity on our border, are being investigated by agents on both sides of our border. Cooperation and information sharing is the norm in our county. The cities of Lynden, Sumas and Blaine are actually dispatched from the US Border Patrol Office in Blaine. Most agencies carry scanners in their vehicles and monitor each others frequencies so that they can respond and help in cases of emergencies. This

voluntary cooperative spirit between agencies is one of the keys to the success of all of our agencies.

That being said, it does illustrate one of our fundamental flaws and it is always the number one issue we deal with when we have a major incident. Our personnel do have the ability to listen to radio traffic on other frequencies but they do not have the ability to talk to one another. In Whatcom County multiple agencies operate on multiple frequencies. Blaine, Lynden and Sumas share a frequency with the Border Patrol. The Sheriff's Office shares a frequency with Ferndale and Everson. Lummi Law and Order uses a different frequency. All fire units share a separate frequency. Western Washington University has its own dispatch center and frequency. The Bellingham Police Dept has its own frequency and the state patrol has its own frequency. If the National Guard is activated it will bring its own radio equipment and its own frequency. And yes, other federal agencies have their own frequencies. As you know, this is not unique to Whatcom County.

Mr. Chair I would like to thank you and the other members of this committee for passing the 21st Century Emergency Communications Act of 2006. Until this country comes to grips with the issue of interoperability and creates seamless ways for law enforcement personnel to talk to one another and with fire, public works, emergency management and their command posts, we will continue to see needless loss of life and property damage during major disasters.

### **Infrastructure**

Representatives of the federal agencies are better able to speak to the issue of the 'assessment of risk' and the problems associated with accomplishing their mission. I would like to speak to you about the infrastructure necessary to address those risks.

In 1999, I testified before The House Judiciary Committee's Subcommittee on Immigration and Claims about the manpower shortage we were experiencing, specifically with the Border Patrol and the porous nature of our northern border. Since that time we have seen dramatic changes addressing those issues. Agencies have consolidated. We have more manpower at our border. We have an air wing that uses state of the art technology to apprehend illegal immigrants and drug smugglers and it is becoming increasingly difficult to enter our country illegally.

I cannot tell you the number of cases that are generated by our federal agencies but I can tell you that most of them are handled at the local level. Most federal cases taken to the U.S. Attorney's office in Seattle are declined. This means that they will not prosecute the case. The case is then referred to our local agencies for prosecution. It is handled by our prosecutor and public defender, processed in our courts and eventually, those convicted, are housed in the Whatcom County Jail or sent to the state Department of Corrections. If we do not handle these cases they would not be prosecuted. The cost associated with processing border related cases, for Whatcom County, is estimated to be over \$2 million annually. I do not know the financial impact to our state's Department of Corrections but considering the cost of incarceration, I know it is a lot of money.

There has been improvement in this area. When I testified in 1999 it was estimated that we prosecuted 85% of all cases generated by federal agencies. Estimates today now put that number at between 60-70%. Part of the reason for that decline is the U.S. Attorney's Office in Seattle and their aggressive efforts to help us. Unfortunately, I hear that recent (budget?) cuts at the U.S. Attorney's Office will severely impact to its ability to prosecute cases at current levels. Whatcom County has also been the recipient of a Byrne Grant that focuses on fast tracking people through the criminal justice system. It has been successful but we are unsure about future funding. The developments at the US Attorney's Office and the uncertainty of future funding from Byrne grants has everyone concerned. Our courts are clogged with criminal cases and our jail is overcrowded. We are running out of options.

The criminal justice system is just that, a system. The system begins with an arrest, but it does not end there. It is a system that requires balance. Overloading one part throws the rest of the system out of balance. I applaud the decision to hire more federal agents, but if we don't support and fund the rest of the system to prosecute border criminals and hold them in custody, we are only making marginal gains. In effect, we only increase the load for the already-overburdened criminal justice system at the local level.

### **Secure Identification**

Lastly, I would like to comment on identification needed to cross the border. I personally feel that there needs to be a safe, reliable and efficient way to move people back and forth across the border. As the nation moves into discussion about a uniform document for crossing the border, I believe the primary concern should be

making sure that we have a secure, tamper-proof document that follows a uniform standard.

A secure ID is tamper proof and has a high level of reliability. For example, Washington State moved to make our driver's licenses more secure three years ago when the legislature passed a bill that incorporated a biometric identifier in the driver's license. Shortly after we passed our law, Congress passed the Real ID Act. We have postponed the implementation of our system until the standards of the Real ID Act are implemented. I believe it is time to use technology to protect people's privacy and not intrude into it.

In anticipation of the 2010 Olympics in Vancouver, the State of Washington and the Province of British Columbia are working at developing uniform standards for the issuance of driver's licenses. Both jurisdictions understand that the driver's license is the most common form of ID used today. It is an ideal time to develop a pilot program with our two countries that takes full advantage of current technology and develops an ID system that is secure, affordable and workable for both our nations, as we struggle with the issue of national security. In Whatcom County, we understand the importance of national security but we also value the importance of allowing honest citizens to flow back and forth across our border.

Mr. LUNGREN. Thank you very much. Ambassador Collacott?

**STATEMENT OF MARTIN COLLACOTT, SENIOR FELLOW FOR  
NATIONAL SECURITY, CANADIAN COALITION FOR  
DEMOCRACIES**

Mr. COLLACOTT. Thank you, Mr. Chairman. I might mention that in addition to having served as ambassador from Canada to various countries, I was also at—headquartered assignments which included coordination of counterterrorism policy at the U.S. State Department, as well as diplomatic security and a few other things, and now I'm currently a senior fellow at the Fraser Institute, a think tank in Vancouver, where I concentrate on immigration and refugee policy and related terrorism issues.

I realize that these committees deal with a range of issues, including things like critical infrastructure, emergency preparedness planning. I'm just going to deal with immigration and what I call refugee, in US terms, asylum policy, relating to our terrorists get into Canada and whether we're doing a good enough job of dealing with them. I'll mention quickly, first of all, some of the positive steps our government's taken and then go into some of the problems. On the positive side, soon after 9/11, we sent troops to Afghanistan. They're still there, and we passed counterterrorism legislation, including prevention of terrorist fundraising, and we gave a lot of additional funding to the Canadian Security Intelligence Service, CSIS, and the RCMP, Royal Canadian Mounted Police, as well as the armed forces and border security agencies, and these organizations are now working together much better than in the past.

And we demonstrated this when we arrested 17 suspected terrorists in early June. We have, I think, very good—always have had, but even better cooperation than ever with the US agencies, and that's been mentioned quite a bit already. I won't go into that. And our new government, which was elected in January, has been much tougher in certain respects than the previous one. For several years, the previous government refused, for instance, to declare Hezbollah a terrorist agency—group, and they were finally pressured by the party now in power to be declared a terrorist group. They never would declare the Liberation Tigers of Tamil Eelam a terrorist group, but the new government did that fairly smartly

after they came into office. So this is encouraging. I'll turn to what's come of the problems and challenges are, though, in terms of our immigration policy, and I'm going to, in part, because in my paper that I had released in February on our response to terrorism, I cited various American sources to show that the United States are very concerned about these policies. The State Department reports, like the Congress reports, organizations like the Center For Strategic and International Studies, Center for Immigration Studies, a quick snapshot of our immigration program, we had the highest per capita intake in the world. Even if you include the legal immigration in the US, ours would still be substantially higher than America's. I think our legal intake is more than twice as high as yours.

Accompanying this, though, has been a sharp decline in economic performance in the last two and a half decades, and a major increase in poverty level, and partly because until 20 years ago, our immigration levels were determined largely by the state of our economy and our absorptive capacity. It's been—since then it's been driven mainly by political considerations, and we don't always have the resources to process these high numbers. The deputy director of CSIS testified before a committee, a senate committee at the end of May that their organization was only able to do security screening for 10 percent of the tens of thousands that have come from the Afghan/Pakistan region to Canada in the last six years. One of our problems is we, unlike you in the States, we have immigration quotas and limits each year. We have targets, and if twice as many people apply, they qualify. We're obliged to take them. So the present government not only has the highest immigration levels per capita in the world, but it's got a backlog of three-quarters of a million that it is obliged to accept. So our levels are likely to get higher. One place where they've held the line is on giving amnesty to illegals. We've found in the past that's almost always a disaster because if we do it, you're going to get a lot more people coming in as illegals and the expectations of the amnesties.

Now, one of the results of this very rapid and massive increase is the number of visible minority neighborhoods, which is almost always recent immigrants, rose in 1980 of 6 to 254 in 2005.

And when Ahmed Ressam, the Millenium bomber, has been mentioned by several people, he was able to operate in a very large North African/Middle Eastern Muslim community in Montreal. And without being spotted, he illegally obtained a passport, went back for bomb construction training in Afghanistan, got caught finally. The Canadian authorities lost track of him, and he was eventually caught rack by an alert Customs official in Port Angeles, US Customs. I would think we're now doing a much better of tracking these people than we had before.

The Muslim community, I mention them because while we have probably more terrorists centrifed in the Tamil community, they hold perhaps the greatest danger to Canadians and perhaps Americans because they more or less target them. That particular community developed from 100,000 in 1980 to 750,000 in 2005, and while it's assumed most of the—

Mr. LUNGREN. Wrap up in 30 seconds, please.

Mr. COLLACOTT. All right, and I will finish quickly. I was going to mention a couple other areas. We also have large problems with the refugee system. My own prescription would be for Canada and the US to work together to have a common security agreement. That would take a lot of give and take, but we want, as Canadians, to it keep the border open and keep free movement of people. And one argument, and I'll just mention that some people who are opposed to this kind of thing, and I don't think Canada is, but how can the Americans be serious about their border with Canada security-wise when they're very ambivalent about controlling the border in Mexico? And this tends to affect the debate in Canada to some extent. So it would make my job, someone who thinks we should be more conscious of border security, much easier if you had a more concerted attitude around your southern border, which is none of our direct business, but it does affect the debate. I'll stop there, Mr. Chairman.

[The statement of Mr. Collacott follows:]

PREPARED STATEMENT OF MARTIN COLLACOTT

Mr. Chairman, I am speaking here today as a Canadian and will talk about issues of border security from the perspective of what I believe to be in the best interests of my country. In doing so I will refer to various measures Canada has taken to strengthen its security with regard to the threat posed by international terrorism. I will also mention some of the challenges faced by our government in responding to these threats. I outlined many of the problems that Canada has to contend with in a paper released earlier this year entitled *Canada's Inadequate Response to Terrorism: The Need for Policy Reform*. I should note, in this respect, that the paper was completed prior to the Canadian federal election in January which resulted in a new government taking office, and that I am pleased to say that the new government has demonstrated a greater commitment and determination to deal with the threat of terrorism than did its predecessor. As I will point out, however, much remains to be done.

**Positive measures taken by Canada in the fight against terrorism**

Without enumerating all of the positive measures taken by the Canadian governments since the events of 9/11, I will mention briefly some of the more important. These include the decision to send a contingent of troops to Afghanistan. They have been there for some time already and will remain there. They are in the forefront of the fight against the Taliban and al-Qaeda.

In addition, we passed counterterrorism legislation including measures to prevent terrorist fundraising. We have significantly increased funding for the Canadian Security Intelligence Service (CSIS) and Royal Canadian Mounted Police (RCMP) to enable them to strengthen their capacity for identifying, monitoring and prosecuting terrorists. This led inter alia to the arrest of 17 terrorist suspects in Ontario in early June and the revelation by the RCMP that it had earlier broken up at least a dozen terrorist groups in the previous two years.

Other important developments are that the RCMP, CSIS and other government agencies in Canada are now working more closely than ever before to coordinate their efforts in the fight against terrorism. They are also committed to maintaining close cooperation with their American counterparts, an example of which was the decision to expand the operations of the joint Canada-USA Integrated Border Enforcement Teams (IBETs).

One of the most noteworthy indications that our recently elected government is serious about cracking down on terrorists and their supporters was the decision in April to designate the Liberation Tigers of Tigers of Tamil Eelam (LTTE) as a terrorist group. Despite the fact that the LTTE is one of the most ruthless and brutal terrorist organizations in the world, the previous government had refused to add the LTTE to the list despite three recommendations to do so by CSIS. The new government, in contrast, wasted little time after coming to office in naming the LTTE as a terrorist group as well as taking action against its various front organizations. I might add that the previous government had also been reluctant for a long time to place Hezbollah on the terrorist list and finally did so only after sustained pressure from the party that now forms the government.

### **Continuing challenges**

In turning to the areas where there remains a need for major improvements in securing the security of Canada, I am going to concentrate on those that relate to how terrorists and their supporters have come to be present on our soil and are able to prolong their stay since these are issues that fall within the ambit of the policy areas I focus on. There are, of course, other important considerations that you address such as protection of critical infrastructure and emergency preparedness planning that I will not attempt to cover in my comments.

One of the greatest challenges for Canada in relation to the preventing terrorists from establishing themselves in our country is the size of our immigration program. Canada has the highest rate of immigration in the world in relation to the size of its population—more than twice that of the United States. If estimates of the number of illegal migrants who enter our two countries are also factored in, the margin might be slightly smaller—but the rate of intake in Canada would still be substantially higher on a per capita basis than that for the U.S.

An important difference between the Canadian and American immigration programs is that, while yours is organized largely around quotas that place a limit on annual inflow, ours are based on targets and, if the number of applicants who meet our requirements vastly exceeds the targets, we are still obliged to accept them, along with the expectation they will be allowed to come to Canada without too much delay. Our new government has, in the event, inherited a backlog of more than three quarters of a million successful applicants who were approved before it came to office (equivalent to about seven million people in the case of the United States) and which it is now obliged to allow to come to Canada for permanent settlement. In the circumstances, therefore, that immigration numbers are likely to reach even higher levels in coming years in an effort to reduce this backlog.

Added to these very large numbers is the fact that for the past 25 years there has been a serious decline in the economic performance of newcomers. Their earnings are significantly lower than those who arrived before 1980 as well as people born in Canada. Accompanying this decline has been a rise in poverty levels among newcomers, which used to be roughly the same as native-born Canadians, but are now more than twice as high. In the judgment of many observers, including myself, we are taking in far more newcomers than we need or can effectively absorb, with the result that the process of economic and cultural integration has seriously slowed down.

Accompanying these developments has been a dramatic increase in the number of visible minority neighbourhoods (defined by Statistics Canada as composed of more than 30% from a single ethnic group) consisting largely of recent immigrants. According to Statistics Canada, the number of such concentrations increased from six in 1981 to 254 in 2001. Such a milieu can, in some cases, provide a relatively benign environment for individuals with extremist views to meet and form terrorist cells—as happened in the case of the millennium bomber, Ahmed Ressam, who had no difficulty making connections with others who held radical views among the concentrations of recent arrivals in Montreal from North African and Middle Eastern countries.

The very rapid increase in size of the Canadian Muslim population—from 100,000 in 1980 to 750,000 in 2005 combined with the importation of large numbers of radical mosque leaders from abroad (a phenomenon that has also occurred in the United States) also presents challenges. A senior official of CSIS recently acknowledged in connection with its counterterrorism program that it is currently monitoring about 350 high-level targets and around 50 to 60 organizational targets, adding that it is assumed there are at least ten more threats out there for every one that CSIS is aware of. At the same meeting of a Canadian Senate committee at which he made these statements at the end of May he also revealed that in recent years his organization has had the resources to screen only one tenth of the tens of thousands of immigrants who have come from the Pakistan-Afghanistan region.

On a more positive note with regard to immigration policy, the Canadian government has demonstrated resolve in its refusal to give in to pressures to grant status to large numbers of persons who are in Canada illegally. To regularize the status of such individuals inevitably leads to even larger numbers entering the country illegally in the hope that they will eventually receive the same treatment.

Another feature of the Canadian scene that governments must contend with in dealing effectively with national security issues is a disposition in Canada to give particular weight to the rights of persons accused of crimes, who are claiming asylum or have been ordered deported, etc. While Canada has a strong and admirable tradition of support for human rights, there can often be tension between meeting national security needs and recognizing and protecting the rights of individuals. In times of war or on other occasions when there are other significant security con-

cerns, such as the threat we are currently facing from terrorism, arriving at an acceptable balance between national security and individual rights can become increasingly difficult, often with the result that advocates on both sides are not satisfied with how particular issues are dealt with.

In the case of Canada, in my opinion, there has been a tendency—although with some notable exceptions—to give priority to the rights of individuals over national security considerations. In 2003, for example, it was revealed that Ottawa had lost track of 59 war criminals who were under deportation orders (a number that subsequently rose to 125). When security authorities asked that they be provided with names, pictures, and birthdates to facilitate the apprehension of these individuals, the federal minister of immigration declined to release details on the basis, that according to Canada's privacy act, such a release would infringe on the right to privacy of those being sought.

Another example of our perhaps going too far in protecting the rights of individuals is illustrated by the case of Mohammad Issa Mohammad. Mohammad was ordered deported from Canada in 1988 after it was discovered that he was a convicted terrorist who had been admitted under a false identity. In order to delay removal, he lodged a claim to remain in Canada as a refugee. While it was rejected, his status as a failed refugee claimant entitled him to lodge various appeals and ask for reviews of his case. He is now in his eighteenth year of appeals and reviews and is arguing before a federal court that sending him back to his country of origin would constitute "cruel and unusual" punishment since public health care facilities there were not as good as those to which he has access in Canada.

The Canadian refugee determination system (i.e. asylum system in American terms) is beset with a variety of problems. With particularly generous definitions of who is a refugee—with the result that we have among the world's highest acceptance rates—making a claim for refugee status has been to date the favourite channel of entry for terrorists from abroad. While its significance in this respect may diminish to some extent if the phenomenon of home grown terrorists continues to increase, the refugee system nevertheless continues to be an area of concern because of the large numbers of people who use it to obtain permanent residence in Canada and who would otherwise be inadmissible.

#### **Concluding remarks**

In conclusion, I would like to look to the future in terms of what would be in the best interests of Canada as well, hopefully, as those of the United States with regard to border security. I hope that, in order to preserve and strengthen the very important bonds of friendship and the economic ties between our two countries, some day we will be able to have a common security perimeter that ensures reasonably smooth movement of people and goods across our common border. I realize that in order to accomplish this we would have to find ways of agreeing on standards and procedures that would satisfy both the security concerns as well as other priorities of our two countries and that this would require a good deal of hard work and probably some give and take on both sides.

In my comments today I have been frank in outlining both some of the strengths and the weaknesses of measures taken by the Canadian government in dealing with issues that have implications for security. I realize that you in the United States have very strong concerns about security in the face of threats from terrorism—probably stronger than in Canada—which is hardly surprising given that you were the targets of 9/11 as well as a good many other major attacks in various parts of the world. I should mention in this regard that convincing Canadians that it is important to strengthen our borders—primarily to strengthen our own security but also to reassure the United States that it is not threatened by individuals from our side—can at times be made more difficult when skeptics in Canada ask why Americans are so concerned about security along our border when many Americans appear to be ambivalent about bringing an end to the massive flow of illegals across your southern border. It would, therefore, help people like myself, who are trying to convey the message to Canadians that border security is a matter of considerable importance, if the United States demonstrated clearly its determination to exercise full control over its border with Mexico. I trust you will accept these comments in the spirit of friendship and frank discussion between good neighbours in which they are intended. Mr. Chairman, may I thank you and your colleagues for giving me the opportunity to speak to you today and I hope my comments have been of some use to you in your deliberations on border security.

Mr. LUNGREN. Thank you very much. Mr. David Harris, please.

**STATEMENT OF DAVID HARRIS**

Mr. HARRIS. Thank you. Hello, Mr. Chairman and distinguished members. My name is Dave Harris, and I am a senior fellow for National Security, legal adviser to the Canadian Coalition for Democracies. The CCD is a leading non-political, multiethnic, multi-religious Canadian human rights organization and public policy think tank dedicated to defending and advancing democracy and civil liberties in a secure Canada and stable world.

My previous statements before congressional bodies warned of Canada's drift into terror haven status, but Canada may be emerging from this troubled period when the commitment of its past political leadership to counterterrorism was falling into doubt. Stephen Harper's Minority Conservative government policies, since January of 2006, has committed itself to confronting terrorism warfare and subversion upon Canada and allies. Under the current Canadian regime, achievements in the struggle with extremist Islam, the predominating foreign and domestic enemy, have assumed various forms. Abroad, Canadians fight on the Afghan front, and their government rejects and intimidates our countries from withdrawing from that mission. In the Lebanese salient, the Harper government has sponsored effective humanitarian efforts, while asserting explicitly Israel's right and duty, as a sister peace-loving democracy, to end Hezbollah's killer sanctuary in Lebanon. The Prime Minister is doubtless aware of Hezbollah's record of targeting reconnaissance in Canada against Canadian sites. At home, the predecessor liberal government brought in a new post 9/11 anti-terrorism act, and the current government vigorously supports efforts to guarantee internal security, including the recent raids and arrests of home-grown terrorists. This record reflects the close and successful relations between Canadian and American security intelligence and border authorities. None of this record of Ottawa's determination to confront the enemy, or my own growing, but still very cautious optimism, denies that the present Canadian government has inherited a dangerous and unacceptable situation from the preceding 13 years of federal leadership. I'll not go into a detailed recitation of supporting evidence already found in Ambassador Collacott's testimony or my own submission, my 8 June, 2006, testimony before the House Judiciary Subcommittee on Immigration. Suffice it to say, Ambassador Collacott's Fraser Institute study and books by Canadians Daniel Stoffman and Diane Francis authoritatively outline our deeply flawed immigration and refugee system, is a big part of the problem.

Canada per capita welcomes double the immigrants and three or four times the refugees as the United States. Immigrants will continue to make a great contribution to Canada, but the current intake, and often unselective, newcomers endangers our general security and economic future. It can be of solace only to immigration lawyers, lobbyists and politicians seeking block votes. Canada, its liberal-pluralist values, its stability, and its allies, are at risk when it persists in this course of time of liberalism's worldwide resistance struggle with Islamofascist ideology, incursion and terrorists. And this is what we're finding, supremacists are undermining the moderate and heroic Muslim authority figures in Canada, some of whom of assert that their lives are in danger. These supremacists

deeply distort children's perceptions of their fellow Canadians, and would at best reduce us to a collection of hostile enclaves. So for a number of years, Canada's political climate was relatively accommodating to the growth of extremism. A former prime minister got Pakistan to release the notorious patriarch, later killed in a terrorist shootout, of Canada's so-called al-Qa'ida family, the Khadres. The previous government even defended Hamas' and Hezbollah's right to exist in Canada, until public outcry produced a ban. Days ago certain opposition, liberal, Bloc Quebecois and New Democratic party parliamentarians shocked the national conscious by blocking moderate Canadian Lebanese from appearing, as invited, before a parliamentary committee looking at the Lebanese crisis.

Some fear, and I hope this fear is exaggerated, that this was an attempt to appeal to certain growing Hezbollah-sympathetic Canadian Islamic, and other interests, who have made disruptive protests lately in Canadian streets. In these photos from the Canadian Coalition for Democracies correspondents, including Exhibits A and B to my testimony, show bold displays of Hezbollah flags and symbols at recent Montreal demonstrations. Time is obviously short. I will withhold for the moment my specific recommendations, and if I may conclude simply with this. Canada appears not to be altogether the same country that it was at end of 2005. Recent developments suggest that the new Canadian administration, despite its minority status in Parliament, has been firm in deciding that North American security and a principal foreign policy are among its highest priorities. Millions of Canadians hope that the current United States administration will recognize this change, and your friends and allies to the north essentially trust that the United States security measures will reflect and support the new, more constructive attitude that Ottawa seeks to have adopted in relation to security and our common defense. Thank you very much for your invitation.

[The statement of Mr. Harris follows:]

PREPARED STATEMENT OF DAVID B. HARRIS

My name is David Harris, and I am a Canadian lawyer. I serve as Senior National Security Fellow and Legal Advisor to the Canadian Coalition for Democracies (CCD)(<http://www.canadiancoalition.com/>). The CCD is a leading non-political, multiethnic, multidominational Canadian human rights organization and public-policy think-tank dedicated to defending and advancing democracy and civil liberties in a secure Canada and stable world.

My previous pre- and post-9/11 statements before Congressional bodies cautioned that much would have to be done to fight Canada's drift into terror-haven status. Canada may now be emerging from the troubled period when the commitment of its past political leadership to counterterrorism was falling into doubt. I will briefly review current progress, signal the serious work yet to be accomplished, and propose certain criteria against which future achievement can be measured.

Since coming to power in January 2006, the minority Conservative Government of Stephen Harper has committed itself to confronting those who would impose terrorist warfare and subversion upon Canadian democracy and Canada's liberal-pluralist allies. Under the current Canadian regime, achievements in the struggle with extremist Islam—the predominating foreign and domestic enemy—have assumed various forms.

Abroad, Canadians are in combat on the Afghan Front, and their Government has set its face firmly against attempts to intimidate our country into withdrawal from that mission. In the terror war's Lebanese salient, the Harper Government has sponsored effective humanitarian efforts, while all the time asserting explicitly Israel's right and duty, as a sister peace-loving democracy, to end the killer-sanctuary that our Hezbollah enemy has long enjoyed under Syro-Iranian dominion of

Lebanon. In this, the Canadian Prime Minister is doubtless aware of Hezbollah's record of undertaking targeting reconnaissance in Canada against Canadian sites.

At home, it is to the credit of a predecessor Liberal Government that it brought in a new, post-9/11 Anti-Terrorism Act, and the current Government has vigorously supported efforts to guarantee internal security. Indeed, the eighteenth person was last week detained in connection with an alleged largely-homegrown Toronto-area Islamic terrorist ring accused of preparing mass-casualty attacks. Accusations claim that those concerned—all of them Canadian residents, and most of them Canadian citizens—sought to use three times the explosives detonated in Timothy McVeigh's 1995 Oklahoma City outrage. Meanwhile, Crown prosecutors prepare their case for the unrelated January 2007 trial of Momin Khawaja, a young Canadian Muslim who worked for a time with our Department of Foreign Affairs, and is now claimed to have had a role in British terror-cell preparations.

This record reflects, in many respects, the close and successful relations maintained between Canadian security, intelligence and border authorities, and their opposite numbers in the United States.

None of this record of Ottawa's determination to confront the enemy, or my growing—but still very cautious—optimism, is to deny that the present Canadian Government has inherited a dangerous and unacceptable situation from the preceding thirteen years of federal leadership.

The Canadian Security Intelligence Service (CSIS) director some years ago first alerted us to the presence of fifty terror organizations in Canada, the second-highest number in any country after the United States, itself. In June, the Deputy Director Operations of Canada's intelligence service warned a Canadian Senate subcommittee that Canadian residents include those who are graduates of terrorist training camps and campaigns, including experienced combatants from conflicts in Afghanistan, Bosnia, Chechnya and elsewhere." He offered that Canadian citizens or residents have been implicated in terrorist attacks and conspiracies elsewhere in the world," some having "been involved in plots against targets in the United States, Lebanon, Saudi Arabia, Israel, Singapore, Pakistan and other countries."

Those interested in further details of the infiltration problem might examine my 8 June 2006 testimony before the House Judiciary Committee's Subcommittee on Immigration, Border Security and Claims.

In any event, as Ambassador Martin Collacott indicates in his authoritative Fraser Institute study titled *Canada's Inadequate Response to Terrorism*, much of the difficult ground we now face was prepared over years through inadvertence and involved—and regrettably still involves—our deeply flawed immigration and refugee system.

In per capita terms, Canada welcomes double the number of immigrants, and three or four times the number of refugees, as the United States. This is to say that thirty-one million Canadians each year greet 250,000 immigrants. In addition, the 500 refugee claimants of 1977 have been transformed into the 29,000 a year, of today. It is hard to conceive how Canada can effectively screen such numbers.

Let there be no mistake. Immigrants have contributed in many important ways to Canada's development. Canada stands to benefit from economic- and security-sensible management of immigration policy and flows. However, as has been decisively shown by former Canadian Ambassadors Collacott, James Bissett, and in Daniel Stoffman's book *Who Gets In*, and Diane Francis's *Immigration: The Economic Case*, that is not at all what we have got now.

Our intake numbers are so great and, in many ways, unselective, that they endanger our internal security and economic future. They are justified only by two interests. First, the industries of immigration lawyers, NGOs and settlement groups that have arisen in response to and been fuelled by the influx. And, second, political leadership that has regarded the immigration and refugee system as a vote-importing mechanism promising bloc votes from grateful newcomers and aspiring sponsors of relatives.

Canada places itself, its liberal-pluralist values, its stability, and its allies, at risk when it persists in this course at a time of liberalism's worldwide resistance struggle with Islamofascist ideology, incursion and terror. Even conceding the ostensible economic benefits of current immigration approaches, Canada's enormous immigration numbers in today's world make it difficult to prevent the arrival of intolerant, supremacist strains of Islam.

And this is what we are finding. Supremacists are undermining moderate Muslim authority figures—some of whom now assert that their lives are in danger—, hatefully distort children's perceptions of their fellow Canadians, and would at best reduce our country to a collection of hostile, anarchic warring enclaves.

Meanwhile, as in the United States, possibly Wahhabist—or Muslim Brotherhood-oriented pressure groups alienate Muslims from the mainstream and enhance their

groups' grip on Islamic constituencies by issuing misleading "studies" claiming widespread anti-Islamic persecution. Carried by national news media who have signally failed in their due-diligence responsibilities to examine the history, links and agendas of the pressure groups, the publicity engendered by these reports grooms politicians and the public to accommodate fundamentalist Islamic demands. Privileges are extended in public institutions that would not be countenanced in an egalitarian society for any other religious or ideological community. A sense of fundamentalist entitlement is thereby encouraged, and the cycle of expectation-demand-concession continues, with the possibility that failure to concede will be pedaled hysterically as "Islamophobia", and draw hostile—possibly dangerous—consequences.

Given these trends, it is hardly surprising that, for a number of years, Canada's political climate was relatively accommodating to the growth of extremism. A former prime minister personally intervened to have Pakistan release the notorious patriarch of Canada's "al-Qa'ida Family," the Khadr. Mr. Khadr, senior, was later killed in a terrorist shoot-out, and a son is accused of killing a young American medic in Afghanistan. A previous government even defended Hamas' and Hezbollah's right to exist legally in Canada, and only public reaction eventually forced that government to outlaw these genocidal groups. And, days ago, certain Liberal, Bloc Que'be'cois and New Democratic Party parliamentarians shocked the conscience of progressive thinkers by blocking moderate Canadian Lebanese from appearing, as invited, before a parliamentary committee looking at the Lebanese situation. There is growing concern that this manoeuvre was designed to appeal to certain Hezbollah-sympathetic Canadian Islamic interests who have undertaken disruptive protests lately in Canadian streets.

Indeed, photos provided by Canadian Coalition for Democracies' correspondents show the bold and confident display of Hezbollah flags and symbols at recent Montreal demonstrations. Certain of these are herewith respectfully submitted to subcommittee members as exhibits A and B to this testimony. Note that in the course of such protests in Montreal and Toronto, Hezbollah sympathizers were, in at least one case that went unreported by mainstream media, confident enough to use intimidation, while scared and outnumbered police looked on, helplessly. This, in a country whose Parliament outlawed the organization in its Criminal Code.

Against this backdrop, the new Canadian Conservative Government appears for now to be the most credible hope for Canadians—and Americans—seeking security, stability and continuing good neighbourly relations. Nonetheless, of course, shifting demographics and political pressures mean that all political leadership of whatever stripe must be watched carefully to ensure progress on the security file.

Following are the sorts of initiatives that will reflect progress in the new Canadian Government's security and counterterror efforts. In fairness to the present political leadership, it must be borne in mind that the Government's freedom of action is likely to be constrained in the short run by its minority standing in Parliament.

First, the government must regain control of the immigration and refugee system by bringing it into line with the need for public safety, economic security, and the importance of social integration and cohesion. Comprehensive adjustments must be made in pertinent law and policy. Newcomers must be given clear notice of the tolerant, liberal-democratic nature of Canadian society as defined in the Canadian Charter of Rights and Freedoms, and that there is no room for radical supremacism.

Second, efforts should be made to develop a common US-Canadian security perimeter, although this will require resolution of challenging issues, including those bearing on personal privacy.

Third, Canada should restrict entry to the country of Saudi Arabian money, and of radical, Saudi-trained and inspired clerics and teaching material, in order to limit sources of extreme-Wahhabist influence on our people and institutions. Private schools, religious institutions, advocacy organizations, media, and other public influencers must account for all funds that originate directly or indirectly from outside Canada. Canada must likewise deny entry to extremist clerics and others with a history of promoting a violent or racist agenda.

Fourth, government, media and other institutions should review on an ongoing basis the origins and history, links and agendas of self-described Canadian Islamic and Canadian Arab representative organizations, in order to determine which, if any, are suitable partners for publicity, outreach, sensitivity-guidance and public-initiative purposes. Particular diligence is required on the part of police and security organizations, because radical and terror-apologist groups routinely seek involvement with security bodies in order to build credibility with other government and non-government agencies. Given the difficulties presented by proliferating, well-funded Islamist influence organizations, authorities should, where any doubt exists, prefer contact with individual Muslim moderates, rather than with collective organizations. This is important where organizations that have been vocal in national se-

curity debates habitually avoid condemning by name enemy Islamic terror groups like Hamas, Hezbollah and Palestinian Islamic Jihad.

In conclusion, let me say that Canada appears not to be altogether the same country that it was at the end of 2005. Recent developments suggest that the new Canadian administration, despite its minority status, has been firm in deciding that North American security and a principled foreign policy, are among its highest priorities. Millions of Canadians hope that the current United States administration will recognize this change. Your friends and allies to the north especially trust that United States security measures will reflect and support the new, more constructive attitude that Ottawa seems to have adopted in relation to security and our common defence.

Mr. LUNGREN. Thank you very much, Mr. Harris.

And now Mr. Jack Riley, director of Homeland Security Center at the Rand Corporation.

#### **STATEMENT OF JACK RILEY**

Mr. RILEY. Thank you, Mr. Chairman, distinguished members. Thank you for the opportunity to testify today on the topic of border security. It is vital to our national interests. I have a brief oral statement for the time allotted today, but I thank you for accepting my written testimony for the record. Let me begin by saying that I don't think we face a daunting and more important challenge than Homeland Security than securing the borders, and there are three key principles that I think should guide policy making in this realm. The first is that there is no single programmatic fix to border security. Border security will be achieved through usually reinforcing, and to some extent, redundant layers of defenses that span all of the borders that affect our security, land, air and sea, including those borders that are in the interior of the country in places such as Chicago, Washington D.C., and other places where international passengers and cargo can arrive, an integrated approach to border security is essential. Second, border security and border protection begins far from our borders, our shores, our airports, and our crossing points. A wide variety of programs embrace this approach, including intelligence efforts to monitor the movements of suspected terrorists, efforts to reduce trafficking and stolen passports, and make legitimate passports more tamper-proof, and efforts to obtain advanced information and conduct advanced screening of passengers and cargo entering the United States. These programs push the border out and they're an essential component to border security. Third, we can reduce the volume of work and the magnitude of the task through more effective use of information and technology. In some circumstances, we can use information and technology to help profile out and allow trusted passengers and cargo to circumvent routine, but not random inspection. Programs such as NEXUS that were described earlier today and the Fast Lanes at the southern border are examples of such programs.

When low risk passengers and cargo are profiled out, resources can be focussed on the remaining and potentially more troubling risks. Our latest concept is the need for faster, less expensive, and more reliable technologies. These technologies which have uses in such things as screening cargo detecting unconventional weapons and providing a sensor network on the border are vital to our ability to provide for Homeland Security. These three principles that I outlined should be reflected in a national Border Patrol strategy. We are long overdue for the establishment of such a strategy, and

the strategy itself at a minimum should address four strategic areas of strategic planning.

The first is the establishment of concrete benchmarks and performance metrics for border security. Without these benchmarks, we don't know what programs work, which ones need adjustments, and which ones should be abandoned. Within the realm of border security, we want to be able to allocate resources to affect the programs, and we simply do not have the measures in place to allow us to do that today. Second, we need to develop a comprehensive border security technology roadmap. Most of our technology needs can be summed up with the statement "faster, cheaper and more reliable." These characteristics of technology, however, must be linked to policies and to a careful consideration of the problems we are trying to solve. It is important to structure our investment in technology in a way that will yield high payoffs, address mission relevant functions, and provide essential capabilities over a policy relevant time horizon.

Third, we need to develop a border security force plan to manage our personnel. In the same way that military institutions conduct forced mix studies at a time to project their personnel needs, so too must our border security forces identify the critical skills at the leadership at the rank and file levels that it needs to conduct its mission successfully. These skill needs assessments can then be linked to needs and training recruitment, retention, and other areas critical to force management, and finally we need to create plans to manage the border during crisis. Eventually our border security measures will fail and overlook one important aspect of border security, is how it will function after a security breach. Once the border has been shut down, as was after temporarily after 9/11, we need to think about what our plans and strategies are to initiate and reengage operations. The strategies and principles that I just described will take us a long way in enforcing our securing our borders, but let me conclude by saying that I think I would be negligent if I failed in my testimony today to note that we need a process to maintain and update the national border security strategy. For that reason, I am strongly in favor of creating a national center of excellence or some other long-term or permanent vehicle for providing strategic independent analyses on border security issues. Since 9/11, we have woefully underinvested in undertaking policy relevant analyses of border security problems. It is important for this deficiency to be corrected as quickly as possible. Thank you.

[The statement of Mr. Riley follows:]

DR. JACK RILEY<sup>1</sup>

THE RAND CORPORATION

BORDER SECURITY AND THE TERRORIST THREAT

BEFORE THE COMMITTEE ON HOMELAND SECURITY

SUBCOMMITTEE ON ECONOMIC SECURITY, INFRASTRUCTURE PROTECTION, AND  
CYBERSECURITY

SUBCOMMITTEE ON EMERGENCY PREPAREDNESS, SCIENCE, AND TECHNOLOGY

UNITED STATE HOUSE OF REPRESENTATIVES

**Introduction**

There are few homeland security challenges as daunting—and urgent—as securing the nation’s borders. Every day, nearly 20,000 cargo containers enter U.S. ports and every year, nearly 90 million passengers land at the more than 100 international airports scattered across the country. Add to the sea and air borders the thousands of miles of land borders shared with Canada and Mexico and the importance of those land borders to trade and tourism, and the magnitude of the challenge becomes abundantly clear. These statistics should also make clear how security can interact with commerce and economic activity. Decisions about security at the border have the potential to affect the livelihood of millions of Americans and a significant portion of the U.S. economy.

If there is an overarching theme to this testimony, it is that we have woefully underinvested in developing, evaluating, and refining a comprehensive and integrated border security strategy. We have invested in numerous border security programs and initiatives but the impacts and cost-effectiveness of virtually all of these initiatives is poorly understood. We are virtually flying blind on a topic of critical national importance.

Now that I have raised the alarm, let me turn to a review of one key instance that provides important insights for contemporary border security practices.

**The Millennium Bomber**

On December 14, 1999, Ahmed Ressam was captured near the U.S.-Canadian border by sharp-eyed border security personnel.<sup>2</sup> Ressam, trained in terrorist attack methods, was headed to Los Angeles with plans to detonate multiple bombs simultaneously at Los Angeles International Airport. His intent to conduct the attack on New Year’s Eve 1999 earned him the sobriquet “the millennium bomber.” As lessons in border security go, it is hard to point to one that more clearly illustrates the complexities of border control than the Ahmed Ressam case.

Ressam is Algerian by birth and tried to enter Canada in 1994 on a forged passport. His passport aroused suspicions and, fearing that he would not be able to gain entry, Ressam claimed political asylum on the basis of alleged political persecution in Algeria. He became one of approximately 30,000 people seeking political asylum in Canada that year. He was admitted pending the outcome of an asylum hearing that would determine the eligibility of his claim. Ressam was not placed in custody despite several warning signs that raised doubts as to the legitimacy of his claim and his suitability for prehearing release, including his own statements that he was falsely accused of arms trafficking in his home country.<sup>3</sup> Ressam skipped the hearing scheduled for June 1995. A warrant was issued for his arrest but he avoided deportation by obtaining false documentation (including a baptismal certificate and

<sup>1</sup>The opinions and conclusions expressed in this testimony are the author’s alone and should not be interpreted as representing those of RAND or any of the sponsors of its research. This product is part of the RAND Corporation testimony series. RAND testimonies record testimony presented by RAND associates to federal, state, or local legislative committees; government-appointed commissions and panels; and private review and oversight bodies. The RAND Corporation is a nonprofit research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world. RAND’s publications do not necessarily reflect the opinions of its research clients and sponsors.

<sup>2</sup>For a detailed accounting of the Ahmed Ressam case and its implications, see “Trail of a Terrorist” (Terence McKenna, WGBH Educational Foundation and Canadian Broadcasting Corporation, 2001; online at <http://www.pbs.org/wgbh/pages/frontline/shows/trail> as of August 2, 2006). See also The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks upon the United States, (National Commission on Terrorist Attacks upon the United States, New York: Norton, 2004; online at <http://www.gpoaccess.gov/911/index.html> as of August 2, 2006), pp. 172–184.

passport) under the identity “Benni Noris.” Authorities were unaware of his new alias but were actively looking for Ahmed Ressam during this period. Ressam was able to use the false identity to travel to Afghanistan in 1998 for terrorist training.

On December 14, 1999, U.S. immigration agents operating in Victoria, British Columbia, allowed Ressam to board a ferry that took him to Port Angeles, Washington. In Port Angeles, outside Seattle, Ressam hesitated to answer questions posed by a customs agent. He was asked for identification and, panicked, attempted to flee. It was at this point that U.S. authorities took Ressam into custody. A search of his car revealed materials, concealed in the trunk, to make bombs.

The Ressam incident reveals several key points about border security:

- **Technology is not a substitute for trained, professional security personnel.** It was not technology that caught Ahmed Ressam in 1999. It was good, old-fashioned security experience that resulted in Ressam’s capture and the disruption of the attack.

- **False documents are the currency of the terrorist trade.** Ressam was able to falsify a passport that got him on a plane to Canada. Once in Canada, he was able to create another passport that allowed him to travel to Afghanistan, where he was trained in one of Osama bin Laden’s terrorist camps. Perhaps most important, he was able to create a new identity that allowed him to avoid being arrested while the authorities sought “Ahmed Ressam.”

- **The border threat is not just a southern phenomenon; there is threat from the north.** As early as 1998, Canada’s Special Senate Committee on Security and Intelligence labeled Canada “a ‘venue of opportunity’ for terrorist groups: a place where they may raise funds, purchase arms, and conduct other activities to support their organizations and their terrorist activities elsewhere. Most of the major international terrorist organizations have a presence in Canada. Our geographic location also makes Canada a favorite conduit for terrorists wishing to enter the United States, which remains the principal target for terrorist attacks worldwide.”<sup>4</sup> More recently, the Canadian Security Intelligence Service acknowledged in its 2004–2005 annual report that “[a] relatively large number of terrorist groups [is] known to be operating in Canada, engaged in fundraising, procuring materials, spreading propaganda, recruiting followers and conducting other activities.”<sup>5</sup>

- **Our allies face many of the same border security problems as the United States faces.** In 1994, the year that Ressam entered Canada, there were some differences in how the United States and Canada handled asylum claims. However, Canadian and U.S. officials confronted many similar issues at that time, including a shortage of personnel to patrol the vast physical borders, an inability to ensure that immigrants and asylum-seeking individuals complied with the terms of their entry, and no reliable system for ensuring that international travelers were traveling with valid passports. U.S. border security is thus, to some extent, a hemispheric, if not international, issue.

### Principles of Effective Border Security

Where Ahmed Ressam failed to exploit the borders in his disrupted effort of 1999, the 9/11 terrorists succeeded. The 9/11 hijackers exploited many of the same vulnerabilities that Ressam attempted to exploit, including use of fraudulent travel documents and capitalizing on the laxity in our detention and deportation capabilities. But the 9/11 attacks also revealed additional border security vulnerabilities. Examples of additional border security weaknesses included the lack of physical security on aircraft, the weaknesses of the command and control system of the civilian air network, and the insufficiency of intelligence coordination within and across agencies.<sup>6</sup>

In the immediate aftermath of 9/11, officials moved quickly to close major border security gaps. The key steps in these efforts are described in subsequent sections of this testimony. Before discussing specific steps taken to improve border security, it is appropriate to review some overarching principles about effective border secu-

<sup>3</sup>A falsified passport in and of itself may not be sufficient to merit preventive detention. Indeed, experience has shown that many legitimate asylum claimants use falsified travel documents to escape their conditions of persecution.

<sup>4</sup>The Report of the *Special Senate Committee on Security and Intelligence* (The Honourable William M. Kelly, Chairman, Ottawa: Special Senate Committee on Security and Intelligence, January 1999).

<sup>5</sup>Public Report 2004–2005 (Canadian Security Intelligence Service, Ottawa: Public Works and Government, 2006; online at <http://www.csis-scrs.gc.ca/en/publications/annual—report/2004/report2004—e.pdf> as of August 2, 2006).

<sup>6</sup>The *9/11 Commission Report* provides perhaps the most authoritative and comprehensive review weaknesses that were exploited.

urity that have emerged since 9/11. In general terms, an effective border security strategy consists of operational control over people and weapons. It must exist at our land borders, ports and airports. It must ensure effective communications among the myriad agencies charged with regulating the commerce and security at the border. And it must provide an effective deterrent that raises the costs to, and increases the visibility of, those that seek to attack our society.

There are three critical principles that underpin border security.

- **There is no single programmatic fix.** Border security will be achieved through a network of mutually reinforcing, and to some extent redundant, layers of defenses. There is no easy solution. Border security is a long-term challenge that will always be marked by terrorists' efforts to identify and exploit the weakest link. As a consequence, we need to consider not just the effects of individual programs, but the interaction effects of multiple programs.
- **Border protection begins far from our shores, airports, and crossing points.** Border security is more effective when we have programs that reach toward the points of origin, rather than simply relying on defending the fixed points of the border. A wide variety of programs fall into this category and should be considered part of the border security effort, including intelligence efforts to monitor the movements of suspected terrorists, efforts to reducing trafficking in stolen passports and make legitimate passports more tamperproof, and efforts to obtain advance information and conduct advance screening of passengers and cargo entering the United States.
- **We can reduce the volume of work and the magnitude of the task through more effective use of information and technology.** In some circumstances, we can use information and technology to help "profile out" and allow trusted passengers and cargo to circumvent routine inspection. That is, we can identify pools of passengers and cargo that do not merit attention beyond random checks and screening because they are trustworthy, have been verified by reliable allies, or because the content of their conveyance is known with a high degree of certainty. When low-risk passengers and cargo are profiled out, resources can be focused on remaining, and potentially more troubling, risks. A related concept is the need for faster, less expensive, and more reliable technologies. These technologies, which have uses such as screening cargo, detecting unconventional weapons, and monitoring the border, are vital to our ability to provide for homeland security.

#### **Border Security Improvements Since 9/11**

Since the terrorist attacks of September 11, substantial progress on border security has been made. Improvements that cut across border segments are discussed first, followed by additional improvements specific to each border segment.

##### **Cross-Cutting Security Measures**

Several post-9/11 security measures have applicability to more than one segment of the border. These measures are reviewed briefly here, followed by a review of key border security initiatives by border segment.

**REAL ID Act.** In May 2005, Congress passed the REAL ID Act.<sup>7</sup> The Act requires that, by 2008, state driver's licenses meet minimum security requirements. To receive a license, an individual will have to present photo identification, documentation of the date of birth, proof of social security number (or of ineligibility for such number) and documentation showing the applicant's name and address of primary residence. State IDs that do not comply with this framework may not be acceptable for federal purposes such as boarding a plane. A data network will link all 50 states so that there are reduced opportunities for cross-state fraud. The REAL ID Act lets states offer illegal immigrants a "driving only" license to applicants who are unable to prove their legal status in the United States. Such a license would be marked as not being valid for the purpose of identification. If the act is implemented as designed, it should help cut down on the availability of false identification.

**Passport and Visa Improvements.** Since 9/11, numerous changes to the process by which foreigners travel to the United States have occurred. The most important of these changes include the development of the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) program and the strengthening of passport and visa requirements for travel to the United States. Under US-VISIT, certain non-U.S. travelers to the United States have their two index fingers digitally scanned

<sup>7</sup>"Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Enrolled as Agreed to or Passed by Both House and Senate)," H. R. 1268, Division B, 2005.

and a digital photograph taken at the U.S. port of entry. The fingerprints are then instantly checked against criminal information databases. Eventually, travelers are expected to be able to use US-VISIT as they exit the United States. Once in place, this system will help U.S. officials know with greater certainty when individuals remain in the United States longer than their visas permit.

Travelers from visa waiver program (VWP) countries must now participate in US-VISIT. Under the VWP, travelers from 27 countries (mostly European) are not required to obtain a visa when traveling to the United States for periods of 90 days or less. Countries participating in the VWP must issue their citizens machine-readable passports that contain biometric data.

Persons traveling from non-VWP countries must obtain a visa. In the aftermath of 9/11, the visa review process has been tightened significantly. Visas for travel to the United States now include biometric markers of fingerprints and a digital rendering of the face. To obtain the initial biometric information, visa applicants are required to submit to an in-person interview with a consular officer. In-person interviews may also be required for people traveling from certain countries even after biometric visa data is on record.

As a consequence of all of these changes, it is now more difficult for terrorists to enter the country using fraudulent documents through official points of entry. Indeed, since US-VISIT biometric processing was initiated on January 5, 2004, more than 1,000 individuals have been arrested or otherwise denied admission at U.S. borders. The concern, however, is that the success at the legal points of entry may force more efforts at crossing between official ports of entry.

#### **Air Transportation**

Given the nature of the 9/11 attacks, it is not surprising that many improvements in air transportation security have been implemented. Among the most notable accomplishments are the following:

- strengthening the security of cockpit doors to prevent intrusion
- implementing a system to screen checked luggage for explosives and other dangerous goods
- expanding armed patrolling of flights through the Federal Air Marshal Service.

These are among the many steps that have been taken to reduce the likelihood of future hijackings.

#### **Land Border Crossings**

Land border crossings remain a vital component of our national economy. At the same time, they are difficult to control, given that there are more than 6,000 miles of shared borders between the United States, Mexico, and Canada. Some of the notable security steps taken since 9/11 on the land border front include the following:

- the creation of fast lanes of various sorts to facilitate the movement of commerce and profile out trusted shipping sources. Examples include the opening of multiple NEXUS lanes between the United States and Canada and the development of a similar program, Free and Secure Trade (FAST), that addresses commercial shipping.<sup>8</sup>
- The development, under the Secure Border Initiative, of a plan to upgrade the technology used border control, including expanding the use of occupied and unoccupied aerial assets and accelerating the deployment of detection technology and sensors.
- Deployment of more personnel along the border. Since 9/11, the border patrol has increased by approximately 2,000 officers in size, and an additional 1,000 new hires are planned.

#### **Shipping and Ports**

After 9/11, customs and border personnel moved quickly to secure the commerce flowing through our nation's ports. Among the more important measures:

- the development of the Customs-Trade Partnership Against Terrorism (C-TPAT), under which firms voluntarily ensure the integrity of the security processes in exchange for priority processing, reductions in the number of security checks, and other steps that facilitate the movement of goods. C-TPAT has been an important avenue for engaging the private sector in supply chain security.
- the initiation of the Container Security Initiative (CSI), under which border personnel try to identify high-risk containers, prescreen and evaluate containers before they arrive in the United States, and develop new generations of con-

<sup>8</sup>At the U.S. border with Mexico, the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) program, similar to NEXUS, facilitates noncommercial border crossings.

tainers that offer additional security. CSI's significance rests in the fact that it initiates the security process long before the cargo reaches U.S. shores.

In addition, the Department of Homeland Security (DHS) has given out numerous grants to facilitate improvements in the physical security of ports around the country. Presently, DHS is screening about 50 percent of the containers arriving by ship for radiological and nuclear material using radiation portal monitors. And approximately 80 to 90 percent of the containers at land borders are being screened. Although this cargo screening effort is significant, it is important to point out that the cost-effectiveness of the approach has not been established.

### Remaining Border Security Challenges

Though substantial progress has been made since 9/11 in border security, substantial challenges remain.

#### Toward a National Strategy

H.R. 4437 calls for the development of a National Border Control Strategy (NBCS). This call is welcome and long overdue. Border security is sufficiently complicated and vital to homeland security that establishing a periodic NBCS review process may be appropriate. For example, the Department of Defense conducts a review every four years (the Quadrennial Defense Review or QDR) to assess strategy, "force structure, force modernization plans, infrastructure, budget plans, and other elements of the defense program and policies of the United States with a view toward determining and expressing the defense strategy of the United States and establishing a defense program for the next 20 years."<sup>9</sup> This type of periodic review is also critical for dealing with changes in the level or nature of the threat—whether that is numbers of people crossing the border, how they are trying to penetrate, or the techniques used.

In late 2005, the President and Secretary Chertoff announced the creation of the Secure Border Initiative (SBI). This initiative, which increases the number of border personnel and their enforcement activities, expands detention and removal capabilities and other infrastructure, and invests in border-related technologies, is a solid start. SBI is a building block for the development of the NBCS. By itself, however, the SBI does not address border security in sufficient depth and breadth to constitute a strategy.

An effective NBCS will include the following:

- **The establishment of concrete benchmarks and performance metrics.**

Concrete benchmarks and performance metrics will allow realistic and systematic appraisal of the tradeoffs across various programmatic choices and provide guidance on where to invest additional funds. Without these benchmarks, we will not know which programs work and which ones need adjustment. As homeland security resources become scarcer, it becomes increasingly important to invest in programs that fill critical security gaps in a cost-effective manner.

- **The development of a comprehensive border technology roadmap.**

Most of our technology needs can be summed up with the statement, "faster, cheaper, more reliable." These characteristics, however, must be linked to policies and to a careful consideration of the problems we are trying to solve. When there is a pressing need for security, there can be an incentive to invest in any—or all—apparent technological solutions, regardless of the potential payoff. For example, there were early calls to establish a missile defense system for the passenger air travel system, though subsequent analyses demonstrated that the public dollars could be better spent on other security measures.<sup>10</sup> It is important to structure the spending pattern to invest in technologies that will yield high payoffs, address mission-relevant functions, and provide essential capabilities and over a policy-relevant time horizon.

- **The development of a border security force plan.** The border security problem is dynamic. As a consequence, we need personnel that have the requisite skills to combat the current threat, but that also are capable of responding to new and emerging challenges. In the same way that military institutions

<sup>9</sup> 10 U.S.C. 118.

<sup>10</sup> *Protecting Commercial Aviation Against the Shoulder-Fired Missile Threat* (James S. Chow, James Chiesa, Paul Dreyer, Mel Eisman, Theodore W. Karasik, Joel Kvitky, Sherrill Lingel, David Ochmanek, and Chad Shirley, Santa Monica, Calif.: RAND Corporation, OP-106-RC, 2005; online at <http://www.rand.org/pubs/occasional-papers/OP106> as of August 2, 2006). See also *A Decision Analysis to Evaluate the Cost-Effectiveness of MANPADS Countermeasures*, (Detlof von Winterfeldt and Terrence M. O'Sullivan, Center for Risk and Economic Analysis of Terrorism Events (CREATE), University of Southern California, October 16, 2005; draft online at <http://www.usc.edu/dept/create/events/2005-01-31/von%20Winterfeldt%20and%20O'Sullivan%2011-22-05.pdf> as of August 2, 2006).

conduct force mix studies and attempt to project their personnel needs in different skill categories, so too must our border security forces identify the critical skills—both leadership and rank-and-file—that it needs. These skill needs assessments can then be linked to needs in training, recruitment, retention and other critical areas of force management.

- **The creation of plans for managing the border during crises.** Odds are, at some point, our border security measures will fail. An overlooked but important aspect of border security is how it will function after a security breach. For example, after an attack using the supply chain and the ports, presumably the port system would at least be temporarily shut down. Under what conditions do we reopen the ports?

#### **Illegal Immigration and Visa Overstays**

As documented by the 9/11 Commission, all of the 9/11 terrorists had at least one form of acceptable identification, such as a passport issued by a foreign country or a U.S. driver's license. In many cases, these documents were obtained fraudulently. Nevertheless, their possession of these documents facilitated their travel into and out of the United States and facilitated their movement around the United States. Their ability to acquire fraudulent documents made it more difficult to locate and deport those 9/11 hijackers who had overstayed their visas. Indeed, at any given moment, more than 400,000 individuals in the United States are living here in violation of lawful deportation orders.

In addition to the roughly half-million individuals lawfully adjudicated for deportation, an estimated 10 million simply entered the United States illegally without any paperwork. Many in this pool are drawn by the availability of jobs and other opportunities in the United States.

The high volume of illegal overstays in and illegal entries into the United States constitutes a substantial security risk in several ways. First, it spreads the attention and limited resources of border enforcement across a very large base. Second, it creates a substantial shadow economy in which terrorists and other criminals can hide and a smuggling and transport infrastructure they can exploit. Third, it demonstrates to terrorists how easy illegal entry is. A vital part of security is thus figuring out how to deter illegal visa overstays and immigration.

No existing program or combination of existing programs seems likely to cut down significantly on either of these problems, especially illegal immigration. Improved passport security and visa security make it more difficult for undesirable aliens to obtain permission to enter the United States. Though it is by no means certain, these programs may help shift the terrorists' attention to smuggling personnel over the long and difficult-to-regulate land border, rather than through airports and other formal ports of entry. And, once in, such individuals will face little risk of apprehension and deportation. Similarly, the REAL ID Act will do little to break the link between illegal immigration and employment. Under current procedures, which are passive, employers are only required to make a prospective employee provide identification. The REAL ID Act will not help in this case, because employers do not have the equipment or expertise to validate the identification. In addition, it seems clear that we will not be able to create the amount of detention capacity to provide a deterrent.

Instead, it should be a high priority to develop a program that helps reduce the incentive to enter the United States illegally. One possibility would be a program that requires employers to instantly check non-U.S. citizens against eligibility lists. H.R. 4437 provides one such system.<sup>11</sup> Congress would need to decide who is put on the eligibility lists—for example, immigrants currently residing in the United States who entered illegally or only legal residents and aliens. If properly implemented, such a system could help reduce the incentive to immigrate illegally. In turn, enforcement officials could then concentrate resources on controlling the smaller flows of individuals who are illegally crossing the borders. Such a system, however, presents daunting operational challenges and the costs and benefits of the approach have yet to be clearly assessed. That said, it should be a high priority to develop a program that helps reduce the incentive to enter the United States illegally.

#### **Air Transportation**

**Screening passengers for explosives.** Despite improvements in screening at airports, we lag in our ability to detect explosives on passengers. Richard Reid, the infamous shoe bomber, smuggled a bomb on board a flight from Paris to Miami and was thwarted only when he attempted to ignite the fuse in the passenger cabin. In

<sup>11</sup>A similar system is currently being tested with criminal aliens to determine their eligibility for deportation as they are being released from U.S. jails.

August 2004, Chechen terrorists brought down two Russian passenger aircraft when suicide terrorists ignited bombs.<sup>12</sup> Traditional screening methods are unreliable in that explosives may be disassembled to resemble innocuous household objects or the explosives may not be detectable by in-baggage screening equipment. Swabbing baggage for traces of explosives is more effective, though such methods are used on only a small portion of bags passing through screening. The Transportation Security Administration (TSA) has begun experimentation with explosive detection portals that send strong puffs of air through a chamber in which the passenger stands. The resultant air samples are then rapidly tested for traces of explosives. These portals, and similar methods, are potentially important additions to passenger security, though long-term effectiveness, cost of operation, and impact on passenger throughput are not fully known at this point.

**Screening cargo for explosives.** More than 20 percent of the cargo that moves by airplane is thought to be transported on passenger planes. Passenger flights are thus vulnerable to the terrorists' ability to smuggle explosives into the cargo. The primary means of assuring safety of cargo for shipment today is the "known shipper" program that subjects such cargo to minimal screening, combined with closer inspection of cargo that comes from unknown sources. Critics charge that existing programs are insufficient against the demonstrated threat against passenger aircraft. Opponents counter that a cargo screening program would be expensive and impractical. To date, no rigorous and objective evaluations or analyses have been conducted that would allow lawmakers to determine what approach is appropriate.

#### Ports

**Technology.** Many of the needs in port and supply chain security can be traced back to the requirement for faster, cheaper, and more reliable screening methods. Current screening methods at U.S. ports are relatively slow, are limited in the threats they can detect (primarily nuclear and radiological), can be fooled with shielding and other concealment methods, and generate many false positives that must be resolved by hand. Despite these deficiencies, there are periodically calls for screening 100 percent of the cargo that arrives at U.S. ports.

**Cost-Effectiveness.** More generally, however, we have yet to conduct a rigorous and integrated assessment of the security of the supply chain system from point of origin to point of destination. As a result, there is very little evidence about how the different elements of security work together; how much security the measures actually provide; or what impact they have on the cost of moving goods (whether measured in dollars or time). For example, does C-TPAT, the program under which firms certify their security procedures, lead to improvements in security? Does C-TPAT work more or less effectively than CSI, the program that uses technology and advance screening to assess the risk of container shipments? The lack of knowledge about effectiveness raises risks that we will overinvest in some measures when the funding could be more fruitfully applied to other measures.

**System Fragility.** Finally, and worth emphasizing, we know little about the port and supply chain system's ability to be reconstituted after an incident or to maintain operations during disruptions. Simulations suggest that the system could be quite fragile in the face of an attack, and we have little experience to help us understand what it would take to reestablish the chain.<sup>13</sup> Contingency planning in this area is important, and policies that promote the system's ability to withstand, absorb, and recover from shocks should be given priority.

#### Land Borders

Many of the issues not yet addressed with ports also remain for land border crossings. This is not surprising, since land border crossings are also an important component of the supply chain. In particular, it seems prudent to focus on developing technologies that will facilitate fast, inexpensive, and reliable screening of cargo and people. The "smart border" procedures put in place with Canada and Mexico also bear close examination. It is assumed that NEXUS, FAST lanes, and other programs will keep commerce flowing (or enable a rapid restart) after a disruptive inci-

<sup>12</sup>It is still unclear how the explosives got on the planes, though it is clear that the bombs were triggered by two female suicide bombers from Chechnya. Traces of RDX, a common component of military explosives, were found at the crash scene.

<sup>13</sup>*Port Security War Game: Implications for U.S. Supply Chains*, (Mark Gerencser, Jim Weinberg, and Don Vincent, Booz Allen Hamilton, February 2003; online at <http://www.boozallen.com/media/file/128648.pdf> as of August 2, 2006). See also "Ports, Trade, and Terrorism: Balancing the Catastrophic and the Chronic" (Edward E. Leamer and Christopher Thornberg, in Jon D. Haveman and Howard J. Shatz, eds., *Protecting the Nation's Seaports: Balancing Security and Cost*, San Francisco, Calif.: Public Policy Institute of California, 2006, pp. 37-52).

dent. Games, simulations, and other exercises can help identify issues that need to be resolved so that the policies will work as planned in the event of another attack.

**Summary**

Since 9/11, security at U.S. borders has significantly increased. Much of the policy implemented after 9/11 reflects the principles of “pushing the border out” to extend the reach of our security and “profiling out” less threatening people and cargo in order to focus on targets that require more scrutiny. These principles have made border control more manageable, though they have by no means resolved certain broader issues of security.

Simultaneous with the programmatic initiatives that have increased border security is the sobering fact that we do not know very much about the effectiveness of individual border security programs, or about how various programs work together to affect commerce, costs, and security. As a consequence, we have very little idea about where to invest effectively in border security.

One reason we lack the template for investment in border security is that we also lack an integrated border control strategy. A national border control strategy is urgently needed to help establish priorities in both policy development and technology.

For these reasons, the establishment of a homeland security center of excellence on border security is strongly advisable. Border security is a dynamic, challenging problem that sustained, systematic and independent inquiry could productively address.

Mr. LUNGREN. Thank you, Mr. Riley.

And now Mr. Gregory, President of Chapter 164 of the National Treasury Employees Union.

**STATEMENT OF GREGORY JOHNSON**

Mr. JOHNSON. Mr. Chairman and members of the House Homeland Security Committee, thank you for the opportunity to testify before you today. My name is Gregory Johnson. I am president of Chapter 164 of the National Treasury Employees Union.

I am here today to testify in my capacity as president of NTEU Chapter 164 and not in any official capacity or as a representative of either the Department of Homeland Security or Customs and Border Protection. I testified before Congress the first time in this capacity and on this issue in 1991, before Congressman Swift and Sabo and Senator Slade Gorton, and then again in 1995. I have been employed by the US Customs Service and Customs Inspection since 1983. I have served at the land Port of Blaine since 1986, 17 years as the US Customs Inspector and the last 3 years as a Customs and Border Protection Officer, or CBPO.

All CBP employees recognize that change is a difficult challenge, but that change at Blaine proves to be particularly challenging. We serve with pride and the singleness of purpose to protect the security of this nation. Stopping terrorism, smugglers, drugs, counterfeit goods, currency and human traffickers is our foremost goal, while at the same time moving the vibrant flow of legal trade and travelers across our borders.

We here in Blaine and CBP employees around the country have become discouraged. Basic infrastructure needs go unmet. For example, since 9/11, the need for a manned egress point for the cargo facility at the Port of Blaine has been highlighted by numerous port runner incidents. Without a manned egress booth to check to make sure that trucks have been cleared to leave this port, the system depends on the good faith of the trucker to go through secondary and not run the gate. CBP officers are frustrated that the New Peace Arch that's in the proposed plan does not include technology to stop port runners. Technology has advanced our ports,

but without training and expertise, experience, technology alone would have failed to stop the millennium bomber in Port Angeles.

Today's primary response is increasingly dependent on technology. CBPOs are instructed to clear vehicles within 20 to 30 seconds. That is just enough time to run the license through a plate meter and check the identification on a database. If the documents are in order, the vehicle is released from primary into the United States.

The majority of an officer's time is spent processing documents needed to enter the United States. According to a June 2003 Inspector General report, Washington's generated terrorism inspections at the nation's 317 airports, seaports, and land border ports have increased, as border arrests for drug smuggling and fake immigration documents have dropped.

The report states that CBP officers now spend much of their time doing unnecessary interrogations and other work used to clear a wrongly detained person, that they are spending less time looking for smuggled drugs or fraudulent immigration documents. We performed over 2000 negative inspections on one commodity cargo before we could get to look up in the computer. Before the emphasis on the computer program to identify high risk cargo, officers had the discretion to override computer generated inspections which they believed to be nonproductive. We do not have that discretion today. One of the most significant issues at Blaine is continuing staffing shortages. According to the GAO, as of June 2003, CBP has not increased staffing levels at the POE. A large number of my members have indicated to me that they are looking to leave their CBP officer jobs at the Port of Blaine, and there remain a large number of CBP officer vacancies that have not yet been filled.

Officers also experience a great deal of difficulty on obtaining transfers to other ports after they complete their initial three years of service, even when they have arranged a swap with a qualified officer in a port they wish to transfer. This has computed to a higher rate of resignations. In addition, the ratio of supervisors to staff has increased dramatically at Blaine aggravating the vacancy situation.

Prior to 9/11, the goal was one supervisor to every 15 inspectors. Today at Blaine there is one supervisor for every four officers. This ratio puts increasing scheduling pressure on the rank and file front line officers. There are also continuing efforts to limit overtime and the extent of officer safety. Another source of concern for the officers at Blaine is the institution of the One Face at the Border initiative that was designed to eliminate the pre-9/11 separation of Immigration, Customs, and agriculture functions at the land, sea, and air ports of entry.

In practice, the One Face initiative has resulted in diluting Customs, Immigration, and agricultural inspection specialization, and the quality of passenger and cargo inspections. One Face—under One Face, former INS officers that are experts in identifying foreign visas and false identification papers are now at airports, sea ports, and land border ports of entry reviewing bills of lading from container ships, airlines, and rail and truck companies, while expert Customs inspectors are now reviewing passports and identification papers at airports, sea ports, and land border ports of

entry. The process, procedures and skills are very different at land, sea, and airports, as are the training and skill sets needed for passenger and cargo inspection. A dangerous example of a misapplication of the One Face at the Border initiative occurred here on Sunday, July 9, 2006. An unarmed CBP agricultural specialist, untrained in the use of force and customs and immigration law, was ordered to inspect arriving passengers on a regularly scheduled Amtrak train as one member of a two-man inspection team. Customs policy is for officers in these situations to operate under the principle contact and cover.

The most significant source of consternation for CBPOs is lack of law enforcement status for CBP officers. Within the CPB, there are two classes of officers. Those with law enforcement officers status and benefits and—

Mr. LUNGREN. Can you please sum up in 30 seconds?

Mr. JOHNSON. We thank the Committee for their support of H.R. 5814, and we urge the Committee to consider support of H.R. 1002, Law Enforcement Officers Equity Act.

[The statement of Mr. Johnson follows:]

PREPARED STATEMENT OF GREGORY M. JOHNSON

Mr. Chairman and members of the House Homeland Security Committee, I would like to thank you for the opportunity to testify before you today on border security issues at the Washington state ports of entry that I represent. My name is Gregory Johnson and I am President of Chapter 164 of the National Treasury Employees Union (NTEU). I have the honor of representing the former U.S. Customs Service personnel in the ports of entry at Blaine, Bellingham, Danville, Friday Harbor, Oroville, Frontier, Laurier, Lynden, Metaline Falls, Oroville, Point Roberts, and Sumas. I also represent the CBP employees stationed in Vancouver, British Columbia. NTEU is the elected representative of 15,000 Customs and Border Protection (CBP) employees at the Department of Homeland Security. I am here today to testify in my capacity as President of NTEU Chapter 164 and not in any official capacity or as a representative of either the Department of Homeland Security or CBP.

I have been employed by the former U.S. Customs service as a Customs inspector since 1983. I have served at the land Port of Blaine since 1986. In 2002, Congress passed the Homeland Security Act that created the Department of Homeland Security (DHS). DHS merged former immigration and customs inspectors, canine enforcement officers and agriculture specialists into the Bureau of Customs and Border Protection (CBP) on March 1, 2003. CBP was given the dual mission of not only safeguarding our nation's borders and ports from terrorist attacks, but also the mission of regulating and facilitating international trade and travel.

My experience goes back twenty years here at Blaine, seventeen years as a U.S. Customs inspector and the last three years as a Customs and Border Protection officer or CBPO. All CBP employees recognize that change is difficult, but the changes at Blaine have proved to be particularly challenging. CBP employees are dedicated to protecting this nation. We serve with pride and singleness of purpose. Stopping terrorism and smugglers?drugs, counterfeit goods, currency and human traffickers- is our foremost goal, while at the same time moving the vibrant flow of legal trade and travelers across our borders. But, here at Blaine we are discouraged.

The biggest challenge we face is the lack of resources and training to do our jobs effectively. In the past, there were three inspectors in secondary processing for every one inspector in primary processing. Now there is a one to one ratio. Before the merger, an inspector would check documents, query the traveler and send to secondary any vehicles or persons that needed additional vetting by an inspector. At secondary, a thorough document check or vehicle search would take place.

It was years of experience that now-retired U.S. Customs inspector Diana Dean, after brief questioning at primary, sent Ahmed Ressay, the millennium bomber, to secondary where the true purpose of his visit to the U.S. was discovered. Without adequate personnel at secondary, wait times back up and searches are not done to specifications. For example, a full search of one vehicle for counterfeit currency will take two officers on average a minimum of 45 minutes.

Technological advances are important, but without the training and experience, technology alone would have failed to stop the millennium bomber at Port Angeles. Today, primary processing is increasingly dependent on technology. CBPOs are instructed to clear vehicles within thirty seconds. That is just enough time to run the license through the plate reader and check identifications on a data base. If the documents are in order the vehicle is waved through. The majority of a CBPO's time is spent processing I-94s, documents non-resident aliens need to enter the U.S. At each shift change, it takes 5 minutes to sign on to these computers. During that sign-on time, so that lanes are not backed up at the booths, CBPOs are under extreme pressure to process visitors without technological support—in other words fly blind. We cannot even check against the flawed Terrorist Screening Database because computers are down during shift changes.

According to a DHS Inspector General report (OIG-06-43, June 2006), watch list-generated terrorism inspections at the nation's 317 air, land and sea ports of entry have increased, as border arrests for drug smuggling and fake immigration documents have dropped. CBPOs lack "authority to make timely and informed decisions regarding the admissibility of individuals who they could quickly confirm are not the suspected terrorists. CBPOs now spend so much time doing unnecessary interrogations and other work needed to clear the wrongly detained person that they are spending less time looking for smuggled drugs or fraudulent immigration documents."

CBP has implemented multiple mandatory referral policies, removing all officer discretion and application of talent and training when making a decision to refer. Due to these "random"(computer generated) non-discretionary (based upon country(ies) of origin and/or travel) referrals, CBPOs are being obligated to inspect travelers for no other reason than the policy itself.

These policies have an adverse affect on the American public, who are being ordered for baseless inspections, despite our good judgment to the contrary. They adversely affect our ability to concentrate on intercepting potential violators of American law, while our attention is diverted by these repeated referrals, the true criminals are escaping our attention. It is a drain on manpower and hours both of which have reached critically low levels.

CBPOs are inexcusably understaffed and CBP policy is further straining the staffing with mandated referral programs that to our knowledge, in no significant way increase our interceptions of violations of law. There is no comparison when looking at the percentages of interceptions that are a result of our application of talent and training versus those interceptions generated randomly. Some of us refer to it as "winning the lottery"—meaning the possibility of actually encountering, significant violations with any of these mandatory referrals- is one in a million. There is no data that shows that interceptions generated randomly by a computer results in any greater number of apprehensions than those interceptions based on officers' training and experience.

#### **Infrastructure Issues**

Since before 9/11, the need for a manned exit point for the Cargo Inspection facility has been highlighted by numerous port runner incidents. Today, commercial trucks travel in Blaine through three gates at primary processing. Trucks sent to secondary drive out of visual contact of the primary inspector and easily drive by secondary to the exit lane. Without a manned egress booth to check to make sure the truck has been cleared to leave the port, the system depends on the good faith of the trucker to go through secondary inspection and not run the gate. The Automated Commercial Environment (ACE) model stipulates a manned egress point, but that would require building an egress booth and staffing it. This has not happened yet at Blaine. For this reason, there is no way to know how many commercial trucks have run the port in Blaine in the past 12 months.

At Blaine there is no way to stop fleeing vehicles. There are no employable spike strips, barriers, or other devices to stop fleeing vehicles. Our only recourse is to call Border Patrol, who frequently are unable to locate vehicles because of the attendant time delay.

At Blaine, there is no pursuit policy. CBP policy forbids us from pursuing people off of port property, even when the chase begins at the port. And even though we have the statutory authority to pursue and stop all who enter the country, our agency will not let us leave port property, even on foot. If this policy had been followed in Port Angeles, Ahmed Ressay would have escaped.

#### **Staffing Issues**

One of the most significant issues at Blaine is continuing staffing shortages. According to the GAO, "**as of June 2003, CBP has not increased staffing levels [at the POEs]**" (see GAO-05-663 page 19). A large number of my members have

indicated to me that they are looking to leave their CBPO jobs here at Blaine and the large number of CBPO vacancies in Chapter 164 are not being filled.

In addition, the ratio of supervisors to staff has increased dramatically at Blaine aggravating the vacancy situation. Prior to 9/11, the goal was one supervisor to every 15 inspectors, today at Blaine, there is one supervisor for every three CBPOs. This ratio puts increasing scheduling pressure on rank and file frontline officers further demoralizing the workforce.

There are also continuing efforts to limit overtime at the ports of entry in Washington State at the expense of officer safety. In the past, two inspectors were assigned to inspect small boats and planes in Bellingham and Oroville at all times. Now only one inspector is on duty at night. Having no back up jeopardizes officer safety as well as homeland security.

It has long been proven that detection canines are an invaluable part of the land border security system. Detection canines are trained to detect explosives, drugs, concealed humans and currency. In the past, canine teams have been deployed during every shift at Blaine POE which necessitated overtime assignment for some canine teams. Since July 2005, over one year now, overtime has been eliminated for canine team duties. Dog teams work regular time only. Canine handlers do fill in for overtime duty but without their dogs. At a 24 hour port like Blaine that means that there are some shifts and sometimes whole days when there are no drug or bomb dog teams working.

CBPOs at Blaine believe that both bomb and drug canine detection teams are integral to securing our border. CBPOs nationwide and NTEU strongly support H.R. 4285 introduced by Representative Michael Rogers (AL), a member of the House Homeland Security Committee, to increase by not less than 25 percent the number of trained canine detection teams deployed at and between the POEs.

#### **One Face at the Border Initiative**

Another source of concern for the CBPOs at Blaine is the institution of the One Face at the Border (OFAB) initiative that was designed to eliminate the pre-9/11 separation of immigration, customs, and agriculture functions at US land, sea and air ports of entry. In practice, the OFAB initiative has resulted in diluting customs, immigration and agriculture inspection specialization and the quality of passenger and cargo inspections. Under OFAB, former INS officers that are experts in identifying counterfeit foreign visas are now at seaports reviewing bills of lading from foreign container ships, while expert seaport Customs inspectors are now reviewing passports at airports. The processes, procedures skills are very different at land, sea and air ports, as are the training and skill sets needed for passenger processing and cargo inspection.

An example of misapplication by CBP management at Blaine of the One Face at the Border initiative occurred on Sunday, July 9, 2006 when an unarmed CBP Agricultural Specialist was ordered to inspect arriving passengers on the regularly scheduled evening Amtrak train. The Agricultural Specialist assigned to this duty had not been trained in the CBP use of force policy or armed and dangerous response or the provisions of the land border inspectional safety policy.

Blaine CBPOs have on a number of occasions encountered felony fugitives, narcotics violators, and passengers on the Amtrak passenger trains who have bypassed the pre-clearance inspection in Vancouver. In June 2006, six illegal aliens were found on the Amtrak train who had boarded in Vancouver without inspection.

It is apparent that CBP sees its One Face at the Border initiative as a means to "increase management flexibility" without increasing staffing levels. It is instructive here to note that the former U.S. Customs Service's last internal review of staffing for Fiscal Years 2000-2002 dated February 25, 2000, known as the Resource Allocation Model or R.A.M., shows that the Customs Service needed over 14,776 new hires just to fulfill its basic mission--and that was before September 11. Since then the Department of Homeland Security was created and the U.S. Customs Service was merged with the Immigration and Naturalization Service and parts of the Agriculture Plant Health Inspection Service to create Customs and Border Protection. CBP has two overarching and sometimes conflicting goals: increasing security while facilitating trade and travel.

Congress, in the House-passed Immigration and Border Security bill, HR 4437, the focus of this hearing, in section 105, requires the Secretary of Homeland Security to submit a report to Congress "describing the tangible and quantifiable benefits of the One Face at the Border Initiative. . .outlining the steps taken by the Department to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions. . .? It is NTEU's belief that without adequate training and preservation of inspection specialization skills, the OFAB initiative is destined to fail to meet its objective.

### ***Law Enforcement Status***

The most significant source of consternation for CBPOs, is the lack of law enforcement officer status for CBP officers. Within the CBP there are two classes of federal employees, those with law enforcement officer status and its benefits and those without. Unfortunately, Customs Inspectors, Canine Enforcement Officers and INS Officers fall into the latter class and are therefore being denied the benefits given to other federal employees in the CBP who they work with at 317 ports-of-entry across the country including every international airport.

NTEU Chapter 164 members appreciate that the Homeland Security Committee recognized this inequitable treatment of CBPOs and did include in Section 406 of H.R. 5814, the Department of Homeland Security Authorization bill, LEO status to armed enforcement personnel at CBP from its creation on March 2003 forward, but for CBPOs like me who have over twenty years at our legacy agencies, this provision has limited effect.

The remedy for me, and many CBPOs transferred from legacy agencies, exists in another important piece of legislation involving the definition of law enforcement officer, H.R. 1002, Law Enforcement Officers Equity Act of 2005. NTEU strongly supports this bipartisan legislation introduced by Representatives Bob Filner (CA) and John McHugh (NY) and has 151 cosponsor to date including Homeland Security Committee Chairman Peter King (NY) and full Committee and Subcommittee Ranking Members Bennie Thompson (MS) and Kendrick Meek (FL). This legislation would include legacy customs and immigration enforcement officers along with those with a limited number of others with similar duties in other federal agencies as law enforcement officers for the purpose of 20-year retirement and allow our prior service to count toward this benefit.

Not many people recognize the sacrifices that CBPOs and Canine Enforcement Officers make for the CBP. Their lives are controlled by their jobs. They rarely work regular 9-5 schedules and they have little control over the schedules they do work in any given two-week period. Staffing levels are not adequate to meet the needs of most ports, so Inspectors are frequently asked to work on their days off or to work beyond their regular shifts. The constant strain of performing dangerous, life-threatening work on an irregular and unpredictable schedule has a profound impact on the health and personal lives of many CBPOs. They must maintain control and authority, sometimes for 16 hours a day, knowing that a dangerous situation could arise at any moment.

January 24, 2006, two alleged felons wanted in California, were chased by Washington State troopers and local county officials, into the Port of Blaine. Two CBPOs pursued the suspect, shot and wounded one, and both were captured. On February 28, 2006, another deadly shooting at Brownsville, Texas occurred at a U.S. border crossing, the third in a little more than a month, when CBPOs were forced to open fire on the driver of a stolen vehicle who was attempting to flee across the border. At least two CBPOs were involved as the suspect turned the vehicle toward them and tried to run them down in an effort to escape. The third recent CBP officer-involved shooting occurred at the southwest border in Douglas, Arizona. It is clear that CBPOs are performing law enforcement officer duties without law enforcement office status and recognition.

### ***Conclusion***

Each year, with trade and travel increasing at astounding rates, CBP personnel have been asked to do more work with fewer personnel, training and resources. The more than 15,000 CBP employees represented by the NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of trade into and out of the United States. We are proud of our part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade. We are deserving of more resources and technology to perform our jobs better and more efficiently.

The American public expects its borders and ports to be properly defended. Congress must show the public that it is serious about protecting the homeland by fully funding the staffing needs of the CBPOs at our 317 POEs. I thank you on behalf of all the members of NTEU Chapter 164 for visiting the Port of Blaine and talking to the CBPOs, canine officers, and trade entry and import specialists here to fully comprehend the jobs we do and what our work lives are like.

Mr. LUNGREN. Thank you very much. Thank you for all of your testimony. We're now going into a round of questioning. We'll see if we can get through two rounds of questioning. We do have get out of—I guess we have to leave here at five of 4:00 to allow this room to be cleared by 4:05. So we'll see if we can do that.

Mr. DICKS. The mayor said he wouldn't throw us out.

Mr. LUNGREN. Well, I talked to the sheriff and the police chief.

Mr. Harris, one concern we have, obviously, in looking at all of this is beyond the question of illegal immigration, and goes to the question of the backdrop of terrorism, and there has been concern among members of Congress that we ought to start looking at the northern border, not because we have a tremendous number of illegal immigrants that we do on our southern border, but rather but because of Canada's previous, some would suggest, previous less-than-vigorous concern about violation of their immigration policy and the prospect of terrorists coming to that country, that that would be a natural corridor for people if they wish to come into the United States in a terrorist mode.

I take it from your testimony your suggestion is that you think things are getting better in your country, that you're doing a better job in terms of your overall immigration policy with respect to potential terrorists and that you're doing a better law enforcement job of trying to check on terrorist cells or potential terrorist affiliates in your country.

Mr. HARRIS. I think that's fair to say, although I should mention at the operational level, I think the services involved, the RCMP, local, municipal, and even at regional, police organizations, and the intelligent ones have always been very adept at the work that they are doing and tend to not be the political levels that we found some of the greatest difficulties, although that is not, of course, to ignore the fact that we have, as a country, inherited some difficult situations. Just an example, there have been about 46,000 people who were applicants as refugee claimants who have in effect gone missing. We don't take statistics or identities on those who left the country, and those were people who were otherwise ordered deported, and they simply didn't report to anyone. So we don't know where they are. So that of course is an ongoing kind of challenge that we face. Beyond that, Canada suffers in the same way as many western jurisdictions, and therefore it seems only prudent that the US would guard its northern frontier in a similar fashion.

Mr. LUNGREN. Mr. Riley, you talked about the various approaches we need to have. It seems to me you stress the idea of planning and continue the evaluation and planning all the way through. At the time of the creation of the Department of Homeland Security, there were those that argued that we ought to utilize the military model as much as possible, that is DOD, the way they approach things, the way they do long-range planning, the way they have worked in a sense in partnership with Congress for that long-term planning. I'm just wondering with respect to your idea of establishing policies, establishing plans, establishing management tools, would you suggest that we utilize a DOD model, or is it so essentially different that it does not lend itself to model?

Mr. RILEY. I think the infrastructure that supports policy planning in the Department of Defense, but not just the Department of Defense, DOE, as well, is essential here. I would also point out that the—point to the significant investment at the National Institutes of Health in healthcare policy research and work that helps formulate and guide policymaking on the healthcare front. In almost every other dimension of national policy planning, we have

significant architecture in place to support policy development. Ten FFRDCs, federally funded research and development centers that support the Department of Defense, 16, including the national labs that support the Department of Energy, there's significant under-investment in Homeland Security issues.

Mr. LUNGREN. Senator Brandland, could you give me an idea of the type of prosecutions that you're referring to that are borne by your county as a result of the federal authorities not wishing to prosecute those who have violated our immigration laws or have come across the border illegally? I'm sorry, I've got 30 seconds, but—

Mr. BRANDLAND. Yeah. I would say the bulk of them are of a drug-related nature, and in certain cases just criminal related, as well. We also see some things that are not related to the federal presence. Because of our proximity, we have people that are deported from Canada, are deported to Blaine, and we end up having to take care of those issues, as well. And I would say in answer to your question, it's criminal and primarily drug related.

Mr. LUNGREN. Thank you very much. My time is up. Ms. Sanchez is recognized for five minutes.

Ms. SANCHEZ. Thank you, Mr. Chairman, and thank you gentlemen for being here today. To the Senator, I have a question with respect to SCAAP.

Mr. BRANDLAND. With respect to what?

Ms. SANCHEZ. SCAAP, State Criminal Alien Assisted Program. It's a federal program. Every year when the President's budget comes out in the six years, five years now, six years, he has no money in it. I know because as a Californian, we're impacted by criminal aliens, and the incarceration, processing into the incarceration process that we have in effect, we pay for it out of our state budget. So when he zeros that out and gives us no money for that, we get very upset, and quite frankly the Democrats work very hard, and we get money put back in for that.

Are you familiar with the program, and what do you think of it, and could Washington State use more funds for the incarceration of criminal aliens?

Mr. BRANDLAND. Yeah, I'm familiar with it. I've been out of the sheriff's office for about four years, and so I'm taxing my memory here a little bit. But yes, I am supportive of it. I believe that especially Whatcom County exemplifies the reason for particular programs like that. We're all here trying to do a job, and it's not just the federal government that's trying to deal with these issues. We work hand in hand with these people, and we're not complaining about it. So all we would like to do is have the resources to get the job done.

Ms. SANCHEZ. Once we fight for it, and we get it put into the budget, actually we pass it every year and every year we manage to put moneys into it. We've only been able to put about half of the amount. So it really affects the state that is near a border, like California that has a large immigration issue going on, and in particular when it comes to actually wanting to put some of these criminals and incarcerate them and put them behind bars.

I have a question for Mr. Johnson. Obviously your members are on the front lines. In fact, when you see what's going on every day,

you see how the strategies at the border is working or not. I'm appalled, quite frankly, to have heard some of the comments in which you made with respect to supervision, number of people, vacancies, morale and among your colleagues. You know, we hear some of this back in Washington D.C., but not to the extent that you've explained it, and that really bodes not well for our situation here at the border.

What do you think we can do to improve your members' ability to do their jobs better or to help them do their job? What is it that we as congresspeople need to take back and change so that we can help you do your job better?

Mr. JOHNSON. Give them the resources they need to do the job, which is people, staff. Before you arrived at the Peace Arch yesterday, there was a three-and-a-half hour backup that our officers were instructed to clear out before you got there, which they did.

Ms. SANCHEZ. And how did they clear them out, given that's important? Did you put more bodies; did you tell officers you're staying overtime now for the next two to three hours until we get this cleared out? How is it that you just—

Mr. JOHNSON. It's called, "Hi, how are you, have a nice day."

Ms. SANCHEZ. Hi, how are you, have a nice day. Hmm. Anything else you want to let us know, aside from resources, staffing, the morale? Can you talk a little about why—

Mr. JOHNSON. Officers were hired—we have a lot of officers that are hired from the Texas border, Brownsville, Laredo, Del Rio, El Paso. I can't for the life of me imagine why they'd want to go back. They want to go home. They've been here three years. They were told they had to serve a three-year appointment at Blaine. At the end of three years, they could put in for reassignment to Texas. Their families have stayed in Texas. They run separate households. They are told, no, you can't go.

Ms. SANCHEZ. Thank you, Mr. Johnson.

Mr. JOHNSON. And the officers have a difficult time getting their reassignments.

Ms. SANCHEZ. The last question I have is for Mr. Harris.

US—do you think it will actually prevent terrorists from entering the US should Canadians be required to be part of US VISIT, and how would you set up US VISIT at our land border, and should Canadians create their own entry/exit system, too?

Mr. HARRIS. Well, thank you for the question. That sounds as though it might deal with some of the subject matter in which my colleague, Ambassador Collacott, is expert, but for myself, I think generally I'd be concerned about adding unnecessary complications to the cross border dynamic. I am a bit—I'm uneasy about anything that would smack of automatic precleared passage, and I know that there may be room for this kind of thing in places, but I would be a bit concerned that one might find terrorists able to master these systems in effect to play them and take advantage of that. So I would have to put any judgment in abeyance until I resolved it in the way of bit of detail.

Ms. SANCHEZ. Thank you, Mr. Chairman, for the time, and Mr. Harris.

Mr. LUNGREN. Chairman Reichert, five minutes.

Mr. REICHERT. Mr. Chairman. First, for Mr. Johnson, there's some people have talked about dividing ISIS and the CBP; what's your opinion of that idea?

Mr. JOHNSON. We would like to have our agency—

Mr. REICHERT. That's a yes?

Mr. JOHNSON. Yes.

Mr. REICHERT. As part of the morale issue, is it the quality of benefits and pay along with—

Mr. JOHNSON. Benefits and pay is always a morale issue for government employees. That's—

Mr. REICHERT. Off the record. I know that.

Any other morale issue besides the travel issue of not being able to go back to their home?

Mr. JOHNSON. The morale issue, if you see what goes on at the Peace Arch on a Saturday or Sunday, we have a line, a lobby full of people, not only just packed, they're packed deep in there. And they go out of the building and into the parking lot. We have cars parked three and four deep in the bays on each side, put one or two officers out there to try to control the bedlam. Every officer inside is processing immigration documents. We are—we're bound. We're bound up. We're doing the best with what we have.

Mr. REICHERT. Are you still a working officer?

Mr. JOHNSON. I'm still a working officer, and I work Saturdays and Sun—Saturdays at the Peace Arch, not Sundays.

Mr. REICHERT. Thank you, Mr. Johnson. Thank you for your service.

Ambassador Collacott and Mr. Harris, besides the one point that I think was made a little bit earlier that the United States is placing additional effort on the Mexican border as a point of contention between the Canadian government and the US government, are there any other US border policies that are objectionable to the Canadian government that you know of that we might be able to work on?

Mr. COLLACOTT. I might comment briefly on that. Obviously we're not extremely enthusiastic over US visas because it's going to slow down the traffic in terms of the mutual benefit. Proportionately it's very important to Canada. The question also was asked, though, was about similar programs for Canada.

I personally think that we should be keeping track of who enters our country and who leaves our country much more closely. It's a very costly issue, and the Canadian reluctance to—well, I say they agree to because it's not ours to agree to, but Canadian unhappiness with having the US VISIT program imposed on them, but they said, well, it would cost a lot of money. Well, I'm afraid some of these measures do cost a lot of money, and they're never going to be perfect, and it doesn't guarantee every terrorist will be stopped, but I think it would be a major deterrent.

So my own position is I would like to see us have some similar way of keeping track on our territory because we have tens of thousands of people who we have no idea if they're still in Canada. They've been ordered deported, something like 50,000 with active deportation orders out, and we don't know where they are. And I think we to protect our national sovereignty, we should have a better idea of who's in that territory. Some people object because they

say, well, it's getting too close to the Americans, and we've got to show our sovereignty, but I think we would be strengthening our sovereignty by taking measures which may be parallel with the American efforts but would be in our own self-interests, and if they reassure the United States that we are taking more adequate measures to keep the terrorists out of our territory, so much the better. That's a very important additional benefit from this.

Mr. REICHERT. Thank you. Mr. Harris?

Mr. HARRIS. Thank you, Chairman Reichert. I couldn't agree more with the Ambassador when it comes to this whole issue of ensuring we know who is in the country. We must keep track of people and this issue of active deportees who have clearly vanished is unacceptable, I think in any country, and it really goes to the heart of solving the issues.

It's been mentioned that in Canada, perhaps because we are so near, and such a giant influence in our existence, we are tending to jealously guard our sovereignty, and so maybe we can be rather sensitive about that from time to time, maybe oversensitive. But at the very least, I think this is one of those areas where we can prove our own sovereignty by ensuring we know who's in the country. Related to this is the issue of the security perimeter. Many people are somewhat concerned that there may be legal difficulties and sovereignty concerns about becoming unduly, as some might say, enmeshed in the US security perimeters that one might develop, and part of the concern has to do with information privacy laws and imperatives. There is a commission of inquiry going on in Ottawa these days, it will be issued in final report soon, that they're looking into circumstances related to Maher Arar, a Canadian citizen, who since has been moved beyond his will to Syria. I'm somewhat concerned about the privacy implications of this and about the possibility that those who are not friends of the United States, or indeed of Canada, may attempt to use the outcome of this commission, which might be critical of the United States and Canadian officials, to inhibit that cross border cooperation and the intelligence sharing respect. But again, you're back to issues of sovereignty.

Mr. REICHERT. Thank you, Mr. Chairman.

Mr. LUNGREN. Mr. Dicks is recognized for five minutes.

Mr. DICKS. Thank you. Mr. Johnson, do you say the biggest challenge you face is the lack of resources and training to do our jobs effectively? In the past, there were three inspectors at secondary processing for every one inspector at primary processing. Now there is a one-to-one ratio. Now, when did that happen? When did that happen?

Mr. JOHNSON. Developed over the last several years.

Mr. DICKS. So are you saying that—I thought we heard the witnesses say that the number of personnel went up, not down. Wouldn't that mean that the personnel would have gone down, or are they doing something else?

Mr. JOHNSON. The number of personnel has gone up. The number of job demands has gone up. The number of—I've asked myself where these bodies are.

Mr. DICKS. And it's your professional opinion, based on your long service, and—is that you need to have more people in the sec-

ondary area? You think this is leading us towards kind of sloppy procedures at the border?

Mr. JOHNSON. How you work the job as a primary officer is you want to get people through you as fast as possible. You want to find the bad guy, and to do that, you work fast. You try to, "Hi, how are you, Hi, how are you" to get to the bad guys, but you need somebody to catch them in secondary to look at them because you're trying to make fast decisions. You're making decisions in 30 seconds is what our time and supervisors are demanding of us.

So without the officers in secondary, you—you don't have that ability to send people in that you think need to have a second look at, or somebody needs to take a closer look at this person. I don't have time to do it. I'm on primary.

Mr. DICKS. To there's the pressure on the individual because there's not as many people on secondary as there used to be to refer people to secondary?

Mr. JOHNSON. Yes.

Mr. DICKS. Okay. Now, let me ask Mr. Harris, you made some very important points. I just want to reiterate them.

The border threat is not just a southern phenomenon. There is a threat from the north. As early as 1998, Canada's Special Senate Committee on Security and Intelligence labeled Canada a venue of opportunity for terrorist groups, a place where they may raise money, purchase arms, and conduct other activities to support their organizations and their terrorist activities elsewhere. Most of the major international terrorist groups have a presence in Canada.

Now, you in your statement you thought maybe the new government is treating this as a more serious problem than the previous government?

Mr. HARRIS. That's the impression one receives. This government seems to be more determined to come to grips with these issues.

Mr. DICKS. Well, and also—I also thought the other statement in here, "More recently the Canadian Security Intelligence Service and colleagues in its 2004–2005 annual report, that a relatively large number of terrorist groups known to be operating in Canada engaged in fundraising, procuring materials, spreading propaganda, recruiting followers, and conducting other activities." So I mean I—it sounds to me as if we ought to be taking Canada, this problem, this lack of urgency in Canada more seriously than maybe we have been.

Mr. HARRIS. If I may, I think you have just, with respect, to quoted the report by my associate here, Mr. Riley.

Mr. DICKS. Oh, correct.

Mr. RILEY. Mr. Dicks, that is from my written testimony.

Mr. DICKS. Oh, I'm sorry. Why don't you comment on it then.

Mr. RILEY. Well, I think the basic point is that CSI, the Canadian Security Intelligence Service, has identified publicly in publicly available documents and threat assessments that it produces annually what they consider to be a significant radical threat residing in Canada and the consequence, danger that that presents to the United States.

Mr. DICKS. So—and we have the example in Port Angeles of the individual coming across with—I think it was anhydrous ammonia. So, you know, I think the gist of this, as I get it, we better be tak-

ing this maybe a little more seriously. We tend to look at Canada as rather benign and our friend and our ally to the north, our great trading partner, but Canada's got to be willing to step up to the task of dealing with these people internally and helping us on this securing the border. Do you think they're doing that?

Mr. HARRIS. I'd say precisely, as you say, we have a serious infiltration problem, and we've had so for some years, and we've got to pay attention to this, and nothing about my optimism relating to the current government and its attitude changes the fact that any government has to be watched very carefully, in the Canadian context of shifting demographics and numbers in political countries, as I was suggesting in relation to some of the Hezbollah protestors and their increased prominence in Canada. So we've got to look for results. There is a reason to be optimistic, clearly now, but not with results.

Mr. DICKS. I know my time's up, but Senator, I want to just compliment you for supporting Representative Larson's legislation for reimbursement of Whatcom County. I think it's long overdue.

Mr. LUNGREN. And thank you, gentlemen. Ms. Jackson-Lee is recognized for five minutes.

Ms. JACKSON-LEE. Again, I thank the witnesses, and let me say that I think the presentations of the witnesses, three of whom are not from this area, certainly are instructive. I know that one of the witnesses has already appeared before the judiciary committee, and I only say that because on the hearings that I've attended, the emphasis I would have hoped would have been on the local officials in the area. And since we're not getting that, I want to make that known on the record that we need to include more of the local leadership and citizens in the area, even though some of the testimony is instructive. I think as it relates to our friends to the north, obviously that's a sovereign nation, and they have to reform their nation any way that their political leadership chooses to do so. I think the testimony just further emphasizes the need, Mr. Johnson, for comprehensive immigration reform, and we look holistically on these issues at immigration reform, and look at the issues of border enforcement, border security, as we look at reforming the immigration system, which means that there's a lot of work for us to do. I think their testimony also suggests that you are probably, and of course I don't say this to dismiss any of the other witnesses, maybe the most important member on this panel. It is because you are highlighting for us a practical concern, and I hope as you highlight the practical concern, none of the leadership of your agencies will feel compelled to punish you or to punish anyone else who offers to speak on issues that are so very vital. And of course I hope that at the same time we would take this information and make it a vital part of our testimony, a vital part of the record. So I'm going to ask you again, because I'm constantly reminded of Diana Dean and that she'd need you as the secondary; is that my understanding??

Mr. JOHNSON. That's right.

Ms. JACKSON-LEE. And you're using this term "secondary." I believe Diana was on the front lines. She knew this individual, Mr. Ahmed Ressam, looked suspicious from all of the indicia that she had, and she then sent it back to the secondary.

So tell me to the best of your knowledge what is the average workload of the CBP inspector at the point—excuse me, at the port in Washington, and I know you’ve answered the question before, but I want that workload definition in there, and so if you know, and so that workload definition, I do believe that we need more inspectors. Let me also not ignore the Senator and just say that the legislation by Rick Larson, the Northern Border Prosecutorial Initiative Reimbursement Act, is to overcome the elimination of the SCAAP dollars by the President. So I’m assuming that that will be a very positive response, and I just want to get your “yes” on the record. Again, is that accurate?

Mr. BRANDLAND. Yes, ma’am, the fast tracking of criminals through our system has been a very, very effective—

Ms. JACKSON-LEE. But the resources, \$2 million that are in Congressman Larson’s legislation, would be very helpful to this area?

Mr. BRANDLAND. Yes, ma’am.

Ms. JACKSON-LEE. And many of us are hoping and working together, we want to offer practical solutions. So that’s why I raised that and is something that we should be interested in. Mr. Johnson, I want to let you answer, if you keep that one in your mind, the actual workload, and then I want people to understand that if there is a bust, is a catch, there may be a Border Patrol agent and a Customs and Border Protection, a person in the bust or in the effort that is getting the person who is violating the law; is that correct?

Mr. JOHNSON. Yes.

Ms. JACKSON-LEE. I don’t know if many people are aware of the fact that you don’t have the LEO protection, Law Enforcement Officers protection, which gives you retirement benefits and other protections. We, in the bipartisan spirit, have put forward this resolution at Homeland Security’s authorization, that in effect we have separated out Customs and Border Protection officers. We are looking for the leadership, Republican leadership of the Senate to take that and leave that provision in. Would you first answer the question about the workload, and again answer the question, and then this whole idea, this incentive making you part of the retirement benefits, and also the fact that you carry weapons, that you would also have the protection of the LEO. Mr. Johnson?

Mr. JOHNSON. The workload is difficult to quantify because our job is catch and clean. There’s no number I can give you other than to tell you, say, I send a car over, and I think he’s got currency in the car. He’s a currency violator. Two officers searching that car for currency will take at least 45 minutes to do a thorough, good search of the car. You have searches for, you know, taking marijuana. They can’t compact that, can’t hide that in the car very well, but they can put that in a commercial cargo, commercial truck and bury it inside a lumber load. You have to unload the lumber. Two officers searching a cargo truck takes a considerable length of time, another 45 minutes, minimum to do a good thorough search of the truck. You have to allocate the officers needed to do these functions. We, without talking numbers and staffing, we need resources to do this.

Ms. JACKSON-LEE. More inspectors?

Mr. JOHNSON. Yes, ma’am.

Ms. JACKSON-LEE. And the retirement benefits, would that help you?

Mr. JOHNSON. Retirement benefits would be a great—for the officers, because they always ask, we do the job, we enforce the laws, we stand on the line, we work the 16-hour days, and we don't get the retirement benefits or the law enforcement status that the other law enforcement officers do that come out and clean our catch.

Ms. JACKSON-LEE. Thank you.

Mr. LUNGREN. The time has expired, and we will try to do a second round because I think we can get out of here at five to 4:00. Just for the record, I looked it up, and our witnesses, one from the Seattle field office, which is from this area, and one from Blaine sector, which is in this area, the acting general of Washington, Mr. Johnson and Mr. Brandland are all from this area. So I guess five out of eight ain't bad, and we do have some friends from Canada, who are close to the border that we're talking about.

We have not interjected partisanship into this, and I have tried to not to—very assiduously, but I will just say this. I've been involved in this issue for 28 years since I first came to Congress. There is no blame on any one party. Both Democrat and the Republican administrations have not taken border security seriously, and I've fought both Democrat and Republican administrations for not doing the job they need to do.

But I'd just ask you, Mr. Johnson, are we better off with less people than we have now, that is what we had a few years ago?

Mr. JOHNSON. No. We need to deploy the people—if we deployed the people like we did several years ago, I think we'd be better off.

Mr. LUNGREN. Okay. Let me ask this: One Face at the Border initiative, you are essentially opposed to that as a concept, or is it not being implemented in a proper way?

Mr. JOHNSON. I am thinking about that, and I've never seen the policy paper that the One Face at the Border came from. It's like somebody's idea that this would work, but they have never tested it. You have Customs skills and job knowledge, import merchandise, contraband, terrorist, trade laws to enforce. Immigration law is—it's mind boggling the statutes that they have to enforce, the inspections and the case-by-case law. They're both very complex disciplines.

To run those in a blender and then add agriculture on top of it, and then the officers are given minimal—I think they started off giving them ten weeks of training and let them go for basic Customs officers school, and now they've evolved into a 16-week school which is basic immigration inspector school. And the two disciplines complemented each other, but now they've put them into one hat, and they seem to cast each other out.

Mr. LUNGREN. Well, let me go back a ways because I remember this argument back 25 years ago about whether we should have combined Customs service and Immigration and whether we should have one person on the line checking people and another person on the line checking Customs issues.

Is your argument against that decision, which had been made when I was gone, by both Congress and the Administration, or is it the implementation of it after that decision has been made?

Mr. JOHNSON. You need—and I think at the point of the primary is where both of these agencies intersected. Customs and Immigration shared the primary responsibilities. During the NPR, the Department of Homeland Security came from Senator Leiberman's, I think his initiative back in 2002, and the NPR with President Clinton, he looked at this consolidation, President Reagan's people looked at it, President Nixon's people looked at consolidation. They talked about primaries where the two agencies shared their responsibility. Customs shared half, Immigration shared half, and one thought was you have a primary officer, an officer that did the primary function to refer people to the secondary specialist. Either the Customs or Immigration people handled the more complex cases.

I see now that Immigration has so dominated what we do in Blaine, that Customs is almost not even addressed at the Peace Arch at that highway.

Mr. LUNGREN. Is that shown by the lack of stops, arrests?

Mr. JOHNSON. I believe you will see, if you look at the stats, yes.

Mr. LUNGREN. And would that be across the board in the area of agriculture, as well as in the area of trademark or copyright violations, as well as drugs?

Mr. JOHNSON. I believe so. I've talked to the agriculture people, and they said their numbers are way down.

Mr. LUNGREN. Okay. Do you have those figures, or if you could get those, could you submit those for the record, please?

Mr. JOHNSON. I don't know if I can get those numbers, but I can—I can seek those numbers.

Mr. LUNGREN. I'd just say I was impressed when we went and talked with people on the line yesterday. They had no idea what I was going to ask them. They had no idea I was going to ask for an agricultural exhibit, and the people doing ag actually told me they thought that after getting over a little bit of a rough road at the very beginning, they actually do a better job overall, which was something different than I heard from some people in Washington.

So it was kind of interesting talking to some of the people on the line, But I thank you for your testimony. Ms. Sanchez?

Ms. SANCHEZ. Thank you, Mr. Chairman. It's true you were absent from the Congress during the couple of hearings that we had with respect to One Face at the Border, but I will tell you that's not something put forward by Congress. That was something put forward by the Administration, and in fact, the first day they came to talk to us about it in a hearing back in Washington, it was pretty interesting because as you know, you've got three different types of people, agriculture, Immigration and Customs. And quite frankly, I'm told that at Immigration you have two huge books of different ways that people can enter this country legally between all of the visas and documents and everything. And to say that, you know, a two-week course you're going to be—at that time I think it was a two-week course they were giving to sort of interchange the combinations so they could put One Face At the Border.

There's just no way that you could learn all of that, let alone become a Ph.D. in larvae and whatever else you need to know for agriculture. So it was a big brouhaha when they had that discussion in the Congress, Mr. Chairman. And you know, quite frankly, back then, we were concerned that this morale issue where somebody

was being—someone from Customs wasn't paid for having to be there on Saturday being trained, but someone from Immigration got time and a half for being there on a Saturday for being training.

Am I not, correct, Mr. Johnson, where all these, you know, all of these different levels of compensation, yet you were supposed to be one person. And they hadn't figured that out. And I remember in that hearing I asked, well, when will we get them all on the same footing and the same ranking as far as compensation, and I remember the answer back from the assistant secretary was it would take until March of the following year, which at that time was maybe 18 months away. Gosh, you know, just some unbelievable amount of time before they could even pay everybody in the same way. So this was not something that we put forward per se. It was thing that came—that was put into play by the Administration. And it does concern me because it continues to show to the morale of many of these workers. I want to go back to the Ambassador. You discussed—I think it was you, told us a little bit about the backlog of applications. You know, I keep trying to let my colleagues know that of these 8 million or 10 million or 11 million people in the United States with the wrong kind of documents or invalid documents or no documents, I would estimate almost a third of them under the law, under the current US law, actually have a legal stance to be in the United States. It's just that they've been in the process, and the bureaucracy has held back their documents from being processed, that in fact what happens is they give up for, you know, they can't wait seven years to be with their husband, and whatever it is, and they start showing up without them, without the right documents. I'm concerned when you tell me there's such a backlog in Canada. Do you think it would be good idea for you all to get some additional employees to get this backlog out of the way? I'm concerned about people who may come to Canada and they can come across the border because it seems to be, as the last panel, said 12 miles at least, not that we're going to tell them which 12 miles, but you could drive a VW Bug across or what have you. So help us here. Do you see Canada trying to eliminate that backlog so that we can know—have those security checks and everything on these people as potentials to come across the border?

Mr. COLLACOTT. A very good question. Thank you, Ms. Sanchez. The sheer impression of how many people we should be taking in because these are very large numbers, and as I mentioned, there's no limit on how many can apply. If they qualify, we're obliged to take them, and I think the other question is is this a better system than the US where you determine quotas on most of your categories and there are limits. I think we're already taking more. I think immigration is good. My parents were, my wife is an immigrant from Asia, and it's done a lot for Canada. But I think we've taken far more people than we can absorb adequately. Particularly when the economy is not doing well. So I think we should have those people in the lineup at all. We should set limits based on a more rational consideration of how many people we can effectively take. Now, to the extent you take—

Ms. SANCHEZ. Do you have a security background type of check? Do you do it, do you pay privately to have it done, and how long

does it take because that seems to be one of the biggest problems that we have in the United States.

Mr. COLLACOTT. It can be lengthy, and it depends on what kind of relationship we have the security—or where they're coming from, obviously. When the Taliban was running Afghanistan, that wasn't considered one of the agencies that would give us a reliable report. So it could be complicated for security clearance. Because of the sheer numbers who apply, we—it takes a couple of years to process. So—and we don't have enough resources. We've pushed up the numbers without having the resources in place to screen them properly. And some of our missions have reported that they really can't screen out, for instance, for Russian criminals and so forth because they don't have the resources to do it. There's huge pressure to issue visas. If a visa officer doesn't issue a visa, he's going to get calls, probably, from a member of parliament or a lawyer, and he's going to spend ten times as long justifying a refusal that has been simply approval under our system. So there are some very great pressures, but yeah, to the extent we bring someone, and I believe we should screen them properly, and then it's very difficult given the numbers, the lack of resources, and the pressure to issue large numbers of visas.

Ms. SANCHEZ. Just to let you know, Ambassador, I've had instances where people have walked through my front door, my congressional office is outside of Los Angeles area, where they've got a letter in hand from six years ago saying—from the Immigration service saying, you're going to be US citizen, and you just need your oath ceremony, and we'll let you know as soon as possible. We'll schedule this for you, and then they've been waiting six years. So it's a major problem.

Mr. LUNGREN. I'm sorry, Ambassador, we only have ten minutes. We need to give both members and opportunity.

Ms. SANCHEZ. Thank you, Mr. Chairman.

Mr. REICHERT. I'm going to take the first few minutes, Mr. Chairman, with a couple of comments, and then ask, hopefully, if I don't spend too much time sharing some of my thoughts, I can ask a question or two. This is a problem that we've seen as we've listened this afternoon that includes local, state, federal, international partnerships and teamwork and ideas and thoughts and energies to try and solve along with labor, management, money resources. I think back to a number of things as the sheriff that I was involved in, and Sheriff, now Senator Brandland can recall, a shooting at the King County courthouse years ago. No security in the courthouse in King County. Right in downtown Seattle, a shooting occurred. Now there's the tightest security you can imagine. It's like going through the airport to try to get into the King County Courthouse. Columbine, for example, changed the way that law enforcement does—attacks a problem like Columbine. Before we used to surround the building and watch and open negotiations and patiently wait. What we learned is that it doesn't work in today's world anymore. We have to have active shooter programs now that we train our police officers to actively go in and seek out threat and take the threat out and save lives. We're talking about a national, international problem, a global war on terror that's changed this world. Not just changed this community, but has

changed this world, changed the way that we need to come together and work together to find the solution. And sometimes change is scary. Sometimes it creates fear amongst labor, amongst management, amongst other countries. What's the other country doing. Change causes fear. When I was a lieutenant, SWAT commander, I had one person working graveyard shift ten years. Looked like he was a zombie. I went to him and I said, "Pierre, we're going to put you on day shift." Made him the maddest, angriest person in the world. Three months later, he came to me and he said, "Lieutenant," and he was crying, he said, "this is the best thing that's happened to me."

All I'm saying is we need to focus on solutions, not partisanship politics, but we need to work together. Everyone at this table, everyone in this room, everyone in this community, and everyone on this Committee is committed, has to be committed to making this country safer. Period.

So my question, Mr. Johnson, is this: You support an initiative, a bill that will be introduced by Michael Rogers of Alabama; is that correct? It's an initiative—it's a bill that will increase by 25 percent the number of trained K-9, dogs?

Mr. JOHNSON. Yes, sir.

Mr. REICHERT. Are you familiar with that?

Mr. JOHNSON. Yes.

Mr. REICHERT. Have you been around K-9 dogs at the US borders?

Mr. JOHNSON. Yes, I have, sir.

Mr. REICHERT. Describe some of the things that they would do.

Mr. JOHNSON. This is straight from our K-9 officers to this panel. A year ago our K-9 officers were told narcotics are not our priority. There has been no K-9 overtime authorized for K-9 officers in Blaine for over a year. Shifts often go uncovered because we have no K-9 officer available. Sometimes we have to call Border Patrol to cover for lack of K-9 officers, if they're available.

Mr. REICHERT. So you're in agreement that 25 percent increase would be a great

Mr. JOHNSON. The more dogs the better.

Mr. REICHERT. Okay. We'll support that one for you.

Senator 911 report reflected interoperability to law enforcement officials is critical. We know that. You know that as a sheriff up here in Whatcom. What is the one thing you would do to help this area to become more interoperable? Can you think of one thing right now that would help push—you've got an interoperability bill that just passed out of the House. I believe Senate will support that also but—

Mr. BRANDLAND. Yeah. I certainly support the bill that was passed, but if money were no object, I would be working very, very hard at putting all of the—all of the police agencies on a particular bandwidth or—

Mr. REICHERT. So solving the bandwidth problem would be your number one issue?

Mr. BRANDLAND. Yes.

Mr. REICHERT. And Mr. Chairman, before I yield, I'd like to ask unanimous consent of the letter that was presented to me by a group of citizens to me submitted for the record.

Mr. LUNGREN. Without objection.

Mr. REICHERT. I yield.

Mr. LUNGREN. The gentlewoman from Texas is recognized.

Ms. JACKSON-LEE. I thank the distinguished Chairman, and I want to take this opportunity to thank all of the witnesses and to respond in the same generous spirit of my Chairman, my comments about the opportunities for local witnesses saying, because I've been to a number of these hearings, and we appreciate the witnesses that are here, but many, many times at every site that I've gone, local persons who want to have insight, input, if you will, to these processes, are, if you will, limited because of a focus that draws upon national witnesses versus those from the local jurisdiction. Let me also say that I welcome the comments of my colleague. Congressman Reichert is absolutely right. This is why I open all of the hearings that I have the opportunity of being—a privilege of being a part of, saying that immigration does not equate to terrorism, terrorism does not equate to immigration.

And this nation is a lands of laws, and it's a land of immigrants, and the comments of my friends from Canada and elsewhere really argue vigorously for what we are attempting to secure in this country, and that is comprehensive immigration reform. Knowing who is in the country is the first step to securing a homeland, knowing who's within your borders. Comprehensive immigration reform speaks directly to that, and enforcement only simply will not work, and it will not work, Mr. Johnson, because, one, you've made it very clear. You are eloquent in your statements about the fact that there is a need for more resources, particularly in the particular service that you're in. So I ask this question. In your testimony I heard that you were instructed to clear vehicles at the POE, point of entry, within 30 seconds at primary inspection. And this is barely enough time to check the license plates and the immigration documents. In fact, you just explained to me earlier, to be thorough, you need about 45 minutes, and you have individuals that might be on the secondary, but you don't have enough of those individuals. We are shortchanging it. So if you could explain how those instructions were given to you to hurry up and do what you were trying to do, and again, if you would indicate whether if better equipment, which we want to be problem solvers here, better technology in addition to trained personnel who have good benefits, are going to help secure this homeland, which is what we're all trying to do.

Mr. JOHNSON. We have a myriad of systems now to perform our function. We still have supervisors who focus on getting the line down. You have a lineup out there of vehicles. They want to get the line down. They want this line down. They put extreme pressure on officers, particularly young officers on probation, that you meet some quota. They'll print out the number of vehicles cleared, cleared per hour by all the officers and say you're not meeting your level. And officers have complained to me, for the last several months particularly, over the pressure they're getting from supervisors to move cars and move cars fast.

Ms. JACKSON-LEE. And that might lead to inefficiencies, and they have to do that maybe because they don't have a backup?

Mr. JOHNSON. They've got—they can't take the time to scrutinize to the level they want to.

Ms. JACKSON-LEE. And a part of that is not having the backup officer that helps scrutinize, and therefore they are gaping holes in the security that we need.

So in essence, we need focussed resources to ensure that we have front-line, like you are a front-line and secondary officer, and a number of officers that will be sufficient to give that detail in investigations; is that my understanding?

Mr. JOHNSON. Yes, ma'am.

Ms. JACKSON-LEE. And additional training, one of the issues is fraudulent documents. That's what the GOA study said. So we need officers who have that defined training that can stop fraudulent documents. That takes extra training; is that correct?

Mr. JOHNSON. It's an intense training. We get refresher training to refresh it. We have to continually do it over.

Ms. JACKSON-LEE. And you need resources to do that?

Mr. JOHNSON. And you need resources to do the training because you have to take officers off the line to train them. It creates a hold on the line. It's a circular.

Ms. JACKSON-LEE. And I think I understand the officers who are wanting transfers. They're not whiners. They live in another region, but they're utilized here because we are short-handed, and I guess they bring a certain amount of training. So it's not that they're whining about being up here, that they were promised that they would go back to their site down at the southern border; is that not correct?

Mr. JOHNSON. They were—it was—they are impressed with the fact that after three years of service in Blaine, they could transfer back to their homes in Texas where they were from. These are not officers who've been in Customs before. These are new hires off the street.

A lot of times they've left jobs in the local economy, from the private sector to take a job with CBP in Blaine to get on with Customs with the intent of working in Del Rio or Brownsville, and they—their family stayed home, and they're running dual households, living in a bachelor apartment in Blaine and trying to deal with teenage kids in Texas.

Ms. JACKSON-LEE. So we need officers who can work here and send the officers who were requesting transfer back.

Thank you, Mr. Chairman. I would just simply say that we focussed on the fact that targeted resources are going to be the best way of ensuring security coming in along with comprehensive immigration reform.

Mr. LUNGREN. Thank you.

Ms. JACKSON-LEE. And I yield back.

Mr. LUNGREN. And I thank all the witnesses for their valuable testimony and the members for their questions. The members may have some additional questions that they would submit to you. We would ask you to cooperate with us to respond to these in writing. The hearing record will be held open for 10 days, and without objection, the Committee stands adjourned.

[Whereupon, at 3:57 p.m., the subcommittee was adjourned.]

## SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF DONALD K. ALPER, DIRECTOR AND PROFESSOR, CENTER FOR CANADIAN-AMERICAN STUDIES, BORDER POLICY RESEARCH INSTITUTE, BELLINGHAM, WASHINGTON, USA

Chairman King and other distinguished members of the Committee. Thank you for the opportunity to submit comments for the field hearing, "Assessing the Northern Border: Considerations for Maintaining Secure and Open Borders," held on August 8, 2006 in Bellingham, Washington.

My name is Donald Alper and I am Professor and Director of the Center for Canadian-American Studies and the Border Policy Research Institute at Western Washington University in Bellingham. My comments reflect my knowledge of Canada-U.S. relations and experience as a border-crosser in this region for more than 35 years. Specifically, I want to provide a context for border security in the Pacific Northwest by describing how cross border relationships are an integral part of the social and economic fabric of the region, and that management strategies must fully take this reality into account in developing the most effective policies and strategies for this border region. Border control is of course a federal responsibility, but without a robust network of organizational and community links that make effective cooperation and interaction with Canadians possible, border control processes are less likely to serve regional and national interests.

This region contains 4 border crossings—referred to as the Cascadia Gateway—which together form the northern gateway between western Canada and the Pacific west. Over 23,000 cars and 3000 trucks cross through each day. Nearly 50 percent of trucks crossing through these ports of entry have a destination outside the border region. The Blaine Peace Arch crossing is the third busiest port of entry on the Canada-U.S. border.

Border regions are unique because of geographic, economic and socio-cultural factors. The region, known as Cascadia, is bounded by the Olympics, Cascades and Coast Range mountains. The transborder region shares a magnificent marine environment made up of the Puget Sound, Georgia Basin and Strait of Juan de Fuca. Moving east from the Pacific, the border bisects an area known as the Fraser lowland, a wedge shaped valley that contains aquifers, rivers, fisheries and airsheds—all of which spill across the 49th Parallel. Close and frequent interactions have always occurred among the numerous communities in the lowland. Even place names cross the border, reflecting a pattern of settlement that largely disregarded the boundary.

As a result of topography, much of the Cascadia region's population and economic activity is confined to approximately 5 per cent of the Georgia Basin-Puget Sound territory. Thus there is enormous growth management pressure as in-migration and the volume of trade rapidly increases. Border crossings have not kept pace with growth—although they are being improved and expanded—and transportation infrastructure is especially vulnerable because of the reliance on highways to move freight and people throughout the region. Although rail is vital for north-south freight movement, the predominant mode of transportation remains cars and trucks. Topography and urban settlement in the 1–5 Corridor has funneled traffic into a narrow corridor with little room to expand. Planners have noted for years that the best way to manage growth is for local, state and provincial governments to engage in regional planning that considers the environmental and economic needs of the region. Perhaps more than any other Canada-U.S. border region, the region has a strong history of engaging in this kind of regional bilateral planning. Utilizing such groups as the Lower Fraser Valley Air Shed Coordinating Committee, the International Mobility and Trade Corridor (IMTC) Project, the British Columbia-Washington Environmental Cooperation Council, the Cascadia Mayors' Council, boards of trade and numerous other public-private organizations, significant efforts have been made to protect and enhance the environment, improve the economies and plan for livable communities throughout the region.

Two large cities, Vancouver, B.C. and Seattle anchor the Cascadia region, although neither is geographically situated on the border. The cities are highly competitive; for example each is attempting to be the region's major port of entry for expanding Pacific Rim trade. At the same time, the two cities' global outlook in trade, environment and culture has prompted considerable interaction in areas such as global warming, urban design and green economies. High tech has been a major factor in the recent economic success of both cities. Vancouver and Seattle, approximately 150 miles apart, serve as major financial and corporate hubs for the region. Tourist travel in Cascadia is a dynamic and growing part of the region's economy. Civic leaders have worked together to advance regional tourism in forms such as

“two-nation vacation” tourism and EurRail style travel throughout Pacific Northwest states and provinces. In preparation for the Olympics in Vancouver, BC, Washingtonians have coined the phrase “Gateway to the Gold.” The region is a magnet for overseas travelers from Asia and Europe.

Natural resources play an important role in the economy of the region, although this sector is less important today than in the past. Yet, most of the serious cross-border political conflicts in the region have been over resource trade—softwood, salmon, beef and agricultural products. Many observers of trade politics believe that such political conflicts could be lessened with greater involvement of regional leaders and stakeholders. The highly successful 1999 Pacific Salmon Agreement was led by Washington State Governor Gary Locke and Canadian Fisheries Minister (and Victoria, B.C. resident) David Anderson.

Politically, the region shares a common sense of “distance” (some would say alienation) from respective national capitals, and a penchant for local problem solving. The region, perhaps more than anywhere else in North America, exhibits a “can do,” bottom-up” attitude in confronting border problems, seen especially in such areas as transportation planning, environmental management and tourism.

The smaller communities which abut the border are a mix of suburbs, small-to medium size cities and rural towns. These communities are growing rapidly, especially on the Canadian side where zoning and natural geography limit extensions of population centers. Cities such as Surrey, B.C. and Abbotsford, B.C. have experienced some of the fastest growth rates in North America and have large and expanding immigrant communities from South Asia and the Middle East. Likewise, smaller communities in Whatcom County on the U.S. side are also growing with increased numbers of immigrants, many of whom have family and well developed social networks in the Fraser Valley and other parts of southwest B.C. The area’s relatively moderate climate, natural geographic beauty and numerous cultural and educational amenities make the Cascadia region a magnet for retirees. Many retirees have opted for smaller communities close to the border such as Bellingham, WA and White Rock, B.C. Retirees cross the border frequently for recreation and cultural purposes. History and geography have played an important role in the mobility and informality of border relations in the Cascadia region. Most First Nations? and Native American people do not recognize the border at all, as can be seen on native maps that show a single region marked by interwoven tribal boundaries. Early white settlers were border crossers, whether motivated by the prospect of gold in the interior of B.C. and the Yukon or work in the canneries in Bellingham or points south. Workers in the woods and mines moved back and forth for jobs, and industry set up shop wherever it made economic sense, with little or no consideration given to national boundaries. The Pacific salmon fishery, a traditional source of livelihood for Native and non-Native people alike, defied territorial boundaries and only forced the setting of boundaries when white fishers and political officials insisted on ensuring shares of the resource and, later, implemented environmental controls and planning. Persons from neighboring border communities often intermarry and, as a result, form strong social networks that require routine back and forth crossings. Cross-border shopping and recreation has spurred creation of numerous malls, resorts and expanded airports (eg., Bellingham, WA and Abbotsford, BC) in border communities.

The Cascadia border region is well known for its “culture of cooperation.” Many binational informal and formal alliances have sprung up to promote economic cooperation, improve the environment, foster academic links and work for efficiencies and greater security in border infrastructure. In recent years many of these groups have sought to provide a regional voice on border security matters. Perhaps the largest and best known of these groups is the Pacific Northwest Economic Region (PNWER), formed in the early 1990s, and viewed as a regional model for other parts of North American and Europe. PNWER, an alliance of elected officials and businesspersons from Alaska, Washington Oregon, Idaho, Montana, British Columbia, Alberta and the Yukon seeks cooperative approaches to enhance the economic potential of the region. Among its accomplishments is a Bi-national Energy Planning Initiative focused on integrated planning for cross border energy corridors. Another success story is the Blue Cascades binational planning process for regional critical infrastructure security. The Cascadia Project, based in Seattle and Vancouver, is the nucleus of many cooperative transportation and tourism cross border projects involving Oregon, Washington and British Columbia. The International Mobility and Trade Corridor Project (IMTC), located in Bellingham, is a U.S.-Canada coalition of government agencies with the shared goal of promoting cross border transportation and security through improvements to infrastructure, operations and technology. The IMTC has been viewed nationally and internationally as a highly effective regional model. In the academic realm, more than 35 Canadian and U.S.

universities and colleges form the Pacific Northwest Canadian Studies Consortium, a unique entity in North American and possibly the world. In media, KCTS, the public television station in Seattle, draws upwards of 30% of its viewers from Canada. The Seattle Mariners are viewed by many in B.C. as the 'home team,' and thousands cross the border to attend baseball games. B.C. resorts such as Whistler, Sun Peaks and Campbell River conduct major advertising campaigns in Washington cities including Bellingham, Seattle and Bellevue. These organizations and linkages, along with numerous others, are illustrative of the web of cross border relationships that have evolved at the regional level, linking Canadians and Americans in many different walks of life and endeavor.

As problem solvers, entrepreneurial regional leaders in Cascadia have excelled and often shown the way for both nations. For example, the dedicated border lane for low-risk automobile travel (first PACE and CANPASS, then NEXUS) was conceived by Canadians and Americans working together in this region. The NEXUS program has about 100,000 members with approximately 50% coming from this region. Law enforcement officials here piloted the security projects resulting in International Border Enforcement Teams (IBETS), later implemented along the entire northern border.

The border, therefore, needs to be contextualized historically, geographically and culturally to adequately understand its meaning and functions in the lives of people and communities—all highly relevant to effective border management. The border has been heavily influenced by the habits, understandings and folkways of the region. Although the Canada-U.S. border in the NW region has always represented a barrier in some respects, the ability of people to manage and traverse it to engage in normal societal and economic interactions has rarely been in question. One could say that people in the region have always appreciated the border for what it fundamentally means—a demarcation of sovereignty between two countries which allows each to control its own economy and social policies, whether it be handgun restriction, national medicare or capital punishment. In short, within the border communities the border is seen as vitally important because it magnifies national identity while encouraging international contact and diversity.

What are the implications that can be drawn from this overview for border security planning in this region?

1. Local, state and provincial business interests, civic groups, public-private partnerships and other relevant constituencies should be regularly called upon to play a significant role in shaping workable programs. More resources should be targeted to the regional level where cooperation, teamwork and entrepreneurship are ongoing and effective. If the overriding objective is to make the border as secure, efficient and transparent as possible, border policies and processes should reflect and respond to the ideas, interests and pragmatic realities of stakeholders who are most involved with them.
2. Highly effective programs such as IBETS, FAST and NEXUS work well and really need little more than wider application and full funding to both improve security and speed-up border crossings. The cooperative work that goes into NEXUS and IBETS is crucial to making these programs work. These programs rely upon and reinforce teamwork and trust which in the final analysis are the most important ingredients in effective border management and enforcement. More resources need to go into these programs which have proven themselves on the ground.
3. In partnership with Canadians, there should be a high priority effort to move clearance procedures away from the border. In the short term, this would involve accelerating the process of pre-clearance of freight and people at the point of departure outside North America. This kind of 'perimeter clearance' involves harmonized clearance procedures, but does not require the two countries to harmonize their visas or external tariffs. What is required is a "NORAD-like" data and information system which would allow for the accessing and sharing of intelligence data related to threats, whether in the form of people or material. It seems evident that if we trust each other enough to allow for intelligence and operations' sharing at the highest level of North American security, why should we be any less trustful when it comes to data necessary to determine if freight or people qualify to be cleared into Canadian and U.S. territory? It should be noted that there are significant regional actors such as Intervistas Consulting, based in Vancouver, and Western Washington University's Border Policy Research Institute that are actively involved in advocating and studying the implications of perimeter clearance.
4. A binational regional team of stakeholders, including representatives from the Department of Homeland Security and the Ministry of Public Safety in Canada should be constituted to assess what we do at the border, and how what

we do might be improved, changed or harmonized (including appropriate legislation, regulations or MOUs). The team would be ongoing and meet at least once a year. Assessment of this kind would help to build a stronger sense of cross-border teamwork and esprit de corps, and of course likely produce valuable recommendations to the respective national governments.

5. Border management and control in this region needs to be systematically evaluated in terms of specified intended objectives, to include indicators for determining whether or not such objectives have been attained. The evaluation process must be binational and should be led by a team of Canadian and U.S. universities in the region. Such evaluations are common in other realms. The Georgia Basin-Puget Sound Ecosystem Indicators Report (2002) identified key indicators for assessing the stressors and human responses that account for the state of the shared ecosystem. Similarly, numerous studies involving Canadian and American researchers have been conducted on contaminants in the shared marine waters of the region and in the rivers and watersheds of the Columbia Basin. Such an evaluation process should form the basis of a cross-border Border Studies Consortium (or Center of Excellence) made up of universities and think tanks with the capacity to engage in wide ranging border studies, and maintain a neutral site for serious discussions, teaching and research on the Canada-U.S. border.

6. Finally, implementation of the WHTI should be delayed until Canada and the U.S. agree on what each country will accept as secure identification, whether it be a pass card, new form of driver license or passport. Ultimately, like in Europe, the countries will need to agree on what constitutes national identification to assure that people and freight continue to move efficiently back and forth. It would be costly, economically disruptive and a source of needless antagonism in the Canada-U.S. relationship to proceed in accordance with pre-determined deadlines without a firm agreement by both countries to establish mutually acceptable identification.

Nobody can deny that the border generates seemingly opposing imperatives (security must be reconciled with ease of crossing) that require balance. Because of historical social relationships, locals and regional stakeholders are probably more aware of this than bureaucrats and policy makers in national capitals. Border communities are deeply invested in making the border work; they have the most to lose and gain if the process isn't working. Their involvement in the border management process is vital and needs to be expanded. This conclusion is not new. The most comprehensive study of the northern border by Demetrios Papademetriou and Deborah Waller Myers in 2000 concluded that in light of the speed of social and economic transformations on borders, "the public sector in the capital city may be the least well-prepared entity to effectively shape and manage such changes." The requirements of security and mobility must be a cooperative process that effectively bridges, not divides, our two societies and one in which local stakeholders are called upon for maximum input.

PREPARE STATEMENT OF THE HONORABLE MARIA CANTWELL, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF WASHINGTON

I want to begin by thanking members of the House Homeland Security Committee for holding this hearing today. Washington state faces unique security challenges and this field hearing allows for a focused discussion on these challenges and ways we may work together to overcome them.

Those of us who live in America's border-states know that border security is our first line of defense. It's especially difficult to secure our 4,000 mile-long northern border—nearly twice as long as our southern border with vast, rural and rugged terrain between many official points of entry.

Yet today, only 10 percent of our nation's border patrol agents and resources are deployed along the northern border, despite the fact that we have apprehended terrorists attempting to cross via northern points of entry.

This fact has been demonstrated by two relatively well-known cases here in Washington state over the past decade. Abu Mezer was stopped three times at the U.S./Canada border in Whatcom County. On his final attempt, he came through the wilderness at Ross Lake, was picked up, held by INS and subsequently released. In 1997, he was arrested in New York and charged with plotting to bomb the subways.

In 1999, Ahmed Rissan entered the country at Port Angeles, Washington, where he was caught and arrested for plotting to attack Los Angeles International Airport.

Rissam was able to exploit a loophole in the Visa Waiver Program to move from Algeria to France, from France to Canada and from Canada into the U.S. At each

stop, he created a false identity and attempted to enter the United States without a visa by using a false Canadian passport. He was apprehended thanks to the vigilance of one of our customs agents. But it is clear he should have not have gotten so far.

In 2004, I introduced legislation to require countries participating in the Visa Waiver Program to use biometric fingerprint identifiers for third-country nationals just like Reseam. This would make it much more difficult to falsify identities and much easier to discover illegitimate documentation. Under my legislation, the Secretary of State must certify to Congress, by the end of October, the progress that Visa Waiver Program countries have made to comply with this requirement.

In both the instances I've described, we were fortunate to apprehend these individuals. However, it's clear we have far more work to do to secure our northern border. The Government Accountability Office (GAO) further underscored this fact in testimony provided just last week before the Senate Finance Committee. The GAO found that undercover agents were able to use commercially available software and other materials to produce counterfeit identification, used to gain entry into the U.S. at nine land ports of entry.

In these undercover exercises, GAO also reported that Customs and Border Protection (CBP) agents were unable to identify the fake documents presented to them.

Last week's GAO report followed similar testimony the agency offered before the Senate's Permanent Subcommittee on Investigations this March, stating that in 2005 two teams of undercover agents successfully smuggled radioactive material—Cesium 137—through points of entry in Texas and Washington.

Mr. Chairman, the status quo is clearly unacceptable. We must implement a smart system that uses best available, interoperable technology, which will ensure our CBP officers' ability to verify the identity of an individual and the authenticity of the documents they possess.

#### ***Western Hemisphere Travel Initiative***

This is why I supported the Intelligence Reform Act of 2004, which directed the Department of Homeland Security (DHS) and State Department to establish a system that would require an individual to possess a secure, tamper-proof document to gain entry into the U.S.

In 2005, the departments announced a proposed plan entitled the Western Hemisphere Travel Initiative (WHTI) to implement this requirement in two phases beginning in 2007. While I support the general goal of this initiative, there are smarter, more efficient ways to go about it. Implementing the program on the northern border as proposed would have a detrimental impact on the legitimate trade, tourism and travel on which the economies of northern border communities rely.

For citizens of Washington state, it is absolutely critical that WHTI be implemented in a manner that minimizes any adverse effects on our citizens and economy. It must be proven to work. It must strike the right balance. With the best technologies and an appropriate plan for implementation, border security and efficient, cross-border commerce can work in tandem.

That's why the costs for obtaining any new credential must be affordable so that those Americans who live in our border communities and travel frequently between the U.S. and Canada are not unduly restricted in their travels.

In addition, tourism in Washington state is a major industry. Businesses providing transportation services to British Columbia make up a significant segment of this industry. We have both private and public ferries operating between Vancouver Island and Washington state. Washingtonians understand our ferries serve as an extension of our highways. As we move to implement WHTI, we must ensure that information is disseminated well ahead of implementation so that individuals may become familiar with new travel requirements. This is why I support including ferries in the roll out of WHTI as it applies to land border crossings.

Finally, as the most trade dependent state in the U.S., our economy depends on a smooth and seamless international transition that does not adversely affect the movement of goods across our border.

For these reasons, I've supported pushing the WHTI implementation date back to June 2009. While we continue to work on better securing our borders through the deployment of additional agents and resources, we must also ensure we establish the most intelligent system possible, to minimize any impact to legitimate travel, tourism and trade.

#### ***Combating International Drug smuggling***

I also want to highlight another aspect of border security we understand well here, in Washington state. Border security also means keeping our communities safe from international drug smuggling.

In 2005, just north of Lynden, Canadian customs agent discovered a 360-foot tunnel between the U.S. and Canada, which was being used to smuggle drugs. U.S. and Canadian authorities worked together and apprehended three individuals smuggling 93 pounds of marijuana into the U.S. They estimate that hundreds of pounds of drugs had been smuggled through the tunnel.

***Criminalizing the Construction of Smuggling Tunnels***

Currently there is no federal statute permitting law enforcement to punish individuals who have constructed tunnels on their property smuggling and other illegal activities.

That is why I was proud to introduce the Border Tunnel Prevention Act (S.2355) with Senators Feinstein and Kyl.

This vital legislation, included in the DHS Appropriations Bill for next year, criminalizes the construction or financing of any tunnel across the border into the U.S. used to smuggle drugs, weapons, and even terrorist. Law enforcement agencies all along our borders need this additional tool to help them keep our borders safe and combat the influx of drugs into our communities.

It is becoming increasingly clear that drug smuggling organizations are willing to use illegal, dangerous, and increasingly sophisticated schemes, to enter the U.S., especially along our northern border.

Just last month, the U.S. Department of Homeland Security announced the results of a two-year clandestine program, Operation Frozen Timber.

The effort targeted and dismantled a British Columbia-based smuggling organization that used helicopters and airplanes to transport large quantities of drugs across the border into the North Cascades. Local Law Enforcement stepped up as well, with sheriff's departments from Whatcom, Skagit and Okanagan Counties playing their part.

In all, Operation Frozen Timber intercepted more than 17 drug load, seizing 8,000 lbs of marijuana, 800 lbs of cocaine, three aircraft and \$1.5 in cash. Forty-five indictments and 40 arrests have been made in connection with this operation.

***Unmanned Aerial Vehicles (UAVs)***

Operation Frozen Timber showed that we need to continue to develop and deploy new technologies to assist our personnel surveying and securing our borders. These technologies have the potential to save taxpayers millions of dollars and reduce the loss of life.

UAVs are already deployed in limited using along the Southern border and have proven an effective resources to expand the reach and overall capability of agents as they respond to incidents. With extended range, UAVs can conduct prolonged surveillance sweeps over remote border areas, relaying information to border agents on the ground and closing surveillance gaps that currently exist.

These efficient and effective UAVs, have proven to be an invaluable asset in Operation Iraqi Freedom having flown more than 14,000 combat hours in the Iraqi theatre.

I sponsored an amendment also included in the FY2007 Department of Homeland Security Appropriations bill calling on DHS to work with the Federal Aviation Administration (FAA) to conduct a pilot project at Northern Border Air Wing sites to test UAV's along the northern border for border security purposes.

Assessing the use of UAV's in this role is critical to modernizing our patrol capabilities to secure our borders.

***Supporting Local Law Enforcement—Northern Border Prosecution Initiative***

The last issue I'd like to touch on is the critical need to support our local law enforcement jurisdictions in the important role they play securing our borders. Every year hundreds of criminal cases and their soaring costs are thrust onto our northern border communities by federal entities.

It's all too clear that our state and local governments are bearing an unfair financial burden. In Washington state, and between 80 and 90 percent of criminal cases initiated by federal authorities are ultimately handled by local prosecutors. This has a significant impact on the entire criminal justice system in communities along Washington's northern border.

In 2004, Whatcom County was forced to prosecute more than 85 percent of the criminal apprehensions made by federal law enforcement officers at or near the border. It cost the county more than \$2.5 million.

That's why I'm working with Congressman Larsen to establish a federal program to reimburse northern border communities for the cost of prosecuting and detaining individuals suspected of border crimes. This program would be authorized under leg-

islation we've introduced in the House and Senate entitled the Northern Border Prosecution Initiative Reimbursement Act.

Washingtonians deserve accountability when it comes to their own tax dollars and they deserve confidence when it comes to their safety. When our resources are stretched thin, law enforcement must do more with less and ultimately, the safety of our communities is compromised. And in this era of record deficits, federal policy makers are often forced to make tough decisions. That's why it is absolutely imperative that we make the smart choices that invest in the new technologies, the personnel and other resources that will make our borders more secure.

In closing, I believe we are all here today because everyone agrees the security risk posed by our nearly 6,000 miles of porous borders is simply unacceptable. We have long needed a more effective border security plan. I want to thank the members and other participants for their steadfast commitment to securing our borders and I look forward to working with all of you in the future as we continue to identify better ways to protect our nation.

PREPARED STATEMENT OF THE HONORABLE RICK LARSEN, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF WASHINGTON

Dear Mr. Chairman:

Thank you for providing me with this opportunity to submit comments for the record and for holding this important hearing today on security along the Northern Border.

In Washington state border security is backyard security and border news is local news. This hearing is important as it will focus on the unique concerns and issues that face the Northern border and the citizens of Washington state. Nationally, the border security debate has focused on immigration. Here at the Blaine Peace Arch and along the border in Washington state we face the unique challenge of protecting ourselves from drug interdiction and organized crime while maintaining an economically productive traffic crossing with our Canadian neighbors.

Canada is America's number one trading partner. With over \$1.6 billion worth of goods crossing the border every day and 16 million Canadians visiting the U.S each year it is now more important than ever to keep our northern border safe, open and secure.

The United States needs a policy that allows good traffic to flow into our country across the northern border while keeping the bad traffic out. We need to increase the number of border patrol personnel and customs and border protection officials at the northern border. We need to ensure that local law enforcement receive the resources they need to prosecute those that are caught along the northern border. We also need to make sure that changes in federal law do not create log jams at our border. This will become a particular concern as Washington looks to benefit from the tremendous economic opportunity that the 2010 Olympic and Paralympics games in Vancouver, British Columbia will bring.

During the time that I have represented Washington state's 2nd district we have seen the northern border grow stronger and our government grow more aware of the challenges the border faces. Some of the positive developments along the border under my watch have been:

- We tripled the number of federal agents along Whatcom County's northern Border since 9-11.
- The Department of Homeland Security opened a new Northern Border Air Wing in Blaine to counter terrorism, narcotics and human smuggling.
- Customs and Border Protection successfully shut down a drug smuggling tunnel along the border in Whatcom County.
- We secured \$300,000 for purchasing and upgrading radio equipment for Sumas, Lynden and Blaine police.
- I introduced the Northern Border Prosecution Initiative Reimbursement Act that, if implemented, will reimburse Whatcom County and other counties along the northern border for the annual costs prosecuting and disposing of federally initiated and deferred cases.
- We helped secure \$1 million for Whatcom County for a countywide criminal data integration project to support law enforcement efforts to track and identify criminals and keep them off the street.
- We helped expand the Nexus commuter program to provide dedicated lanes for access to and from Canada for Washington residents.

**Increasing Border Security**

Since 2004 Congress has authorized 10,000 new border agents—20 percent of which were slated to protect the Northern Border. Since that time, however, Cus-

toms and Border Protection has added less than 1,000 new agents across both the southern and northern borders. If it were not for Congressional intervention, the number of appropriated border agents would have been even lower. Congress must continue to push for more agents on our borders, and we need to ensure that the appropriate numbers of agents are placed here in Washington state.

#### **Northern Border Prosecution Reimbursement**

Another issue of great importance to the safety of northern border communities is the reimbursement of northern border states and counties for costs incurred while prosecuting and federally initiated and deferred cases on border-related crimes. Southwest states currently have a Southwest Border Prosecution Initiative reimbursement program, yet there is no comparable program for the Northern Border. I have introduced legislation that would correct this injustice. The Northern Border Prosecution Initiative Reimbursement Act would return to states and communities along the U.S./Canada border the resources they spend prosecuting and detaining people apprehended for federal border-related crimes.

Northern border communities are forced to cover the extreme costs of handling cases deferred by federal agencies. These cases place an enormous burden on all aspects of the criminal justice system, especially after September 11th. When such cases are declined by the U.S. Attorney's Office, the impact on local police forces, court systems, prosecutors, and public defenders is significant. Here in Whatcom County, these cases are referred at a cost of around \$2 million per year. That is too large a burden to bear for our local communities.

Local police departments and county prosecutors provide the first line of defense to protect our citizens from criminal activity in border communities. Our law enforcement, prosecutor's and public defenders—in partnership with U.S. Customs, U.S. Border Patrol and the Drug Enforcement Administration—play an invaluable role in keeping our country secure. As Congress works to increase support for federal agencies that fight to protect our country, we cannot neglect the needs of our local communities that are dedicated to securing our border and putting criminals behind bars.

#### **Travel Restrictions**

I am also concerned about the effect that new government travel restrictions and policies will have on cross border travel in commerce. The Western Hemisphere Travel Initiative (WHTI) that is set to be fully implemented in 2008 will require those crossing the border to carry new forms of documentation or a passport. Cities across our northern border like Blaine, Sumas, Lynden, and Bellingham will be hurt economically by WHTI unless the Departments of Homeland Security and State ensure that commerce, travel and tourism flow freely during implementation. These travel restrictions could create a logistical nightmare for Washington state and slow the economic benefits we hope to gain from the 2010 Olympics. I am not convinced that the Department of Homeland Security will be able to effectively implement WHTI by their 2008 deadline. We need to take a serious look at delaying implementation and setting up milestones so that DHS and the Department of State can show that the program works before it is fully implemented.

The Department of Homeland Security's recent announcement that it will expand US-VISIT to a wider range of Canadian citizens, even those that live in the U.S. is also raising concerns here in the 2nd. I hope that the committee can fully address this issue.

#### **2010 Winter Olympics**

Finally, as Co-Chairman of Governor Christine Gregoire's 2010 Olympics task force, I have worked at the federal level to communicate the opportunities and challenges that the 2010 Olympics in Vancouver, B.C. will bring to Washington state. Washington state will face monumental security and traffic challenges in 2010. The world's eyes will be focused on Vancouver B.C., but these Olympics will be easily accessible to all Americans. Many of those American citizens will travel across the northern border at the Blaine checkpoint. We need to take advantage of the economic opportunities that these Olympics will bring to the United States and we need to ensure that federal agencies are working with each other, Washington state and Canadian officials on security in the region.

Thank you for providing me with this opportunity to provide testimony. We are uniquely attuned in Washington state to the benefits and the dangers of living along our border. I also want to thank my other Washington state colleagues for working hard on these important issues, particularly Congressman Norm Dicks and Senator Maria Cantwell.

PREPARED STATEMENT OF DAVID S. MCEACHRAN, PROSECUTING ATTORNEY FOR  
WHATCOM COUNTY, WASHINGTON

Mr. Chairman and members of the Committee, I am David S. McEachran, Prosecuting Attorney for Whatcom County, Washington. I am writing about the impact that the U.S./Canadian Border has on the criminal justice system in Whatcom County. I am submitting this letter in lieu of testimony before your committee.

I have been the elected Prosecuting Attorney for Whatcom County for nearly 32 years and have dealt with the effect of the U.S./Canadian Border on our criminal justice system since I took office. In Whatcom County we have five ports of entry into the United States, including the Peace Arch Port of Entry in Blaine, which is one of the busiest ports of entry in the United States. Interstate 5, which begins on the United States/Mexican Border goes through Whatcom County and ends its northern terminus at the United States/Canadian Border. These factors combine to create a great deal of impact on the criminal justice system in Whatcom County. The four main areas in which we feel the impact from our proximity to the Border are: drug smuggling cases; fugitive cases; "bounce back effect"; and general criminal cases. I will outline the challenges that all of these categories present to our local criminal justice system.

#### **Border Drug Smuggling Cases**

Due to our Border position we see huge quantities of drugs flowing back and forth between the United States and Canada. Marihuana appears to be the largest "cash crop" that is exported from British Columbia and has been estimated to be a 7 billion dollar industry. Marihuana hemorrhages across the Border into Whatcom County in multi pound lots by land, sea and air. "B.C. Bud" is worth \$3,000 per pound in Whatcom County, close to \$4,000 per pound in Oregon, and as much as \$6,000 per pound in California. The prices fluctuate depending on supply. In order for the payment of "B.C. Bud" shipments, drug smugglers ship cocaine north through Whatcom County into British Columbia. This causes huge amounts of drugs to travel though Whatcom County from the north and south as well as a very active money laundering system. We have recently seen a bundling of "ecstasy" with marihuana coming from British Columbia into Whatcom County.<sup>1</sup> Due to the active transporting of "B.C. Bud" as well as cocaine on Interstate 5, the Washington State Patrol has recently trained drug sniffing dogs and handlers to work on Interstate 5. This has resulted in many cases stopping drugs from getting to Canada and also stopping the drugs once they have entered the United States from Canada. All of these cases are handled in Whatcom County and increase the pressure on our criminal justice system. Many of the smuggling cases that are stopped at the Border by federal Customs and Border Protection Officers and Immigrations and Customs Officers are handled through our local court system, due to an inability for these cases to be processed through the federal system. At one point my office was prosecuting approximately 90% of these cases instead of the U.S. Attorney's Office in Seattle. We are now doing 60-70% of these cases.

#### **Fugitive Cases**

All of the defendants in this category are wanted in other states when they are apprehended in Canada or at the Border. If these individuals are apprehended in Canada they are deported and turned over to federal officers at the Ports of Entry. The Whatcom County Sheriff's Office then is contacted by the CBP officers and the defendants are turned over to sheriff's deputies. I file Fugitive Complaints on these defendants and process them through our Superior Courts for extradition to the demanding states in the United States. We handle 100-136 of these cases each year. The defendants average over 30 days in our jail and have at least three court appearances and often are provided Whatcom County Public Defender services. All of these cases are done at the sole expense of Whatcom County.

#### **"Bounce Back Effect"**

We have a number of cases that are generated by people who are trying to go to Canada through Ports of Entry in Whatcom County and are denied entry. Canada will not allow people to enter who have felony records, mental problems or no

<sup>1</sup>My office filed a case involving the smuggling of 1.25 lbs of "ecstasy" yesterday that was discovered when the smuggler was stopped and searched at the Border and prosecuted in our criminal justice system.

money. Consequently, we have people that “bounce back” from the Border that are felons, have mental problems and no funds and remain in Whatcom County. These individuals have caused us many problems in criminal justice and are present in Whatcom County solely because of the Border. In 2004 I filed homicide charges on two men for committing separate murders in the City of Bellingham who had just been turned back from entry in Canada.<sup>2</sup> These are examples of the most serious crimes committed by “Bounced Back” defendants, but we have many other felonies that are committed by this category of defendant.

#### General Criminal Cases

We have cases involving stolen cars, firearms, credit cards, and drunk drivers that are discovered at the Border trying to enter or leave the United States. We have also had the City of Blaine used in fraud cases as a mail drop by Canadian citizens. I just finished prosecuting a case in July, 2006, in which two homicide suspects were fleeing from the State of California and drove north on Interstate 5 to enter Canada. They were tracked through cell phone usage to Seattle, then Bellingham and finally to a rest stop on I-5 one mile from the Peace Arch Port of Entry. A Whatcom County Sheriff's Deputy working with an ICE agent spotted the suspects and ended up in a high-speed chase to the Peace Arch Port of Entry. CBP officers had set up an “Outbound Checkpoint” just prior to entry in Peace Arch Park. The suspect was driving at speeds over 100 mph and slowed to approximately 50 when he approached the checkpoint. CBP officers had to flee for their lives when the vehicle drove directly at them at the checkpoint. They opened fire on the driver, wounding him in the neck. An ICE agent was able to strike the suspect vehicle with his truck, after it drove through the “Outbound Checkpoint” entering Peace Arch Park, causing the vehicle to spin and go onto the grassy area of the Park. The suspect continued driving his vehicle over the park lawn in an attempt to enter the incoming lanes from Canada and then drive in the wrong direction to enter Canada. A Whatcom County Sheriff's Deputy was able to force the suspect car into a curb and stop it short of entry into Canada. During this pursuit the Peace Arch Monument was actually struck by the suspects' vehicle. The driver got out of the vehicle and ran on foot into Canada before he was run down and captured by ICE agents. The initial information about the suspects indicated that they were wanted for a homicide case in California and were believed to be armed and dangerous. The Canadian Customs officers were so concerned that they abandoned their posts just prior to this assault and chase, claiming that they were not armed and would not be able to protect themselves. The driver, Ishtiaq Hussain was charged in Whatcom County Superior Court with Attempting to Elude a Pursuing Police Vehicle, and two counts of Assault in the Second Degree on Federal officers. He has been convicted and was sentenced to prison in the State of Washington.<sup>3</sup> This is an example of a “general case” relating to the Border and gives insight into the role that local law enforcement plays in Border security and prosecution of these cases.

I have created a table that outlines the above-described types and numbers of cases.

Case Types	1999	2000	2001	2002	2003	2004	2005
Fugitives	136	94	116	124	139	108	118
Drug Cases	132	138	126	146	143	113	121
General	230	113	151	150	143	87	66

The impact from the Border has been very profound on the criminal justice system in this county and has taken many of our criminal justice resources. I have listed these expenses that we incur on a yearly basis below:<sup>4</sup>

<sup>2</sup> State v. Manuel Bacallo #04-1-00942-4; State v. Mark Downey #04-1-00999-8; Mr. Bacallo was a Cuban citizen that came to the United States as a refugee when the Cuban prisons and mental facilities were emptied. He was on inactive federal parole due to his status in this country when he killed a young woman in Bellingham.

<sup>3</sup> State v. Ishtiaq Hussain #06-1-00125-0

<sup>4</sup> These figures were based on cases in 2002 numbers and are definitely higher today.

District Court	\$54,433
Superior Court	\$146,585
Prosecuting Attorney	\$215,962
Sheriff's Office	\$756,372
Public Defender	\$176,895
Jail	\$945,336
<b>Total Costs</b>	<b>\$2,295,817</b>

We have been impacted through law enforcement, jail services, court time, prosecutors, and criminal defenders. I believe strongly that this is a problem for the United States to address in the form of funding for our county to do this work. We are staggering under this load and need, and should receive assistance from the federal government. In Whatcom County we are providing the first line of defense to protect our citizens from criminal activity in Whatcom County, the State of Washington, and the United States. We deal with federal officers every day in my office as they present cases and develop them for prosecution. We still handle the bulk of cases generated from the federal agencies on the Border as opposed to the United States Attorneys Office. We are well situated and capable of handling these prosecutions, but we need to have financial assistance to maintain this effort.

On the Southern Border with Mexico local prosecutors have been faced with the same problem and, after refusing to handle these case, were given financial support from the federal government. I believe these cases are critical to us locally and to the country, and have not refused to handle them. However, the federal government must provide us support. I have always felt that the federal government has been behind our efforts to handle these cases, but so far behind us we can't even see or feel them. We need financial support to continue with this work, which is vital to the United States.

