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IMPROVING SECURITY AND FACILITATING COMMERCE AT AMERICA'S NORTHERN BORDER AND PORTS OF ENTRY

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND BORDER SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

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IMPROVING SECURITY AND FACILITATING COMMERCE AT AMERICA'S NORTHERN BORDER AND PORTS OF ENTRY

TUESDAY, MAY 17, 2011

U.S. SENATE,
COMMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON IMMIGRATION,
REFUGEES AND BORDER SECURITY,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m., Room 226, Dirksen Senate Office Building, Hon. Charles E. Schumer, Chairman of the Subcommittee, presiding.

Present: Senators Leahy, Klobuchar, Grassley, and Cornyn.

OPENING STATEMENT OF HON. CHARLES E. SCHUMER, A U.S. SENATOR FROM THE STATE OF NEW YORK, CHAIRMAN OF THE SUBCOMMITTEE

Senator SCHUMER. The hearing will come to order. Thank you all for being here. I want to thank our Ranking Member, John Cornyn, and my leader on this Committee and our great chair, Senator Leahy, for being here.

Anyway, today's hearing is on improving security and facilitating commerce at our northern border and ports of entry. Last August, along with Senator Kyl, I passed a $600 million supplemental border bill that fortified the southern border. But after we addressed the southern border, the Government Accountability Office issued a report indicating that, "Only 32 of the nearly 400 northern border miles in fiscal year 2010 had reached an acceptable level of security."

Upon reading that report, I asked Commissioner Bersin and Director Morton, the heads of the two major agencies who are responsible for border security to testify here today on how we can improve security at our northern border.

The Department of Homeland Security has good people who are working very hard with limited resources, under incredibly difficult circumstances, to identify, investigate, and interdict terrorists, criminals and smugglers along the northern border.

But more can and must be done. I have a few ideas to enhance northern border security that I want to ask the witnesses about today, including deploying technology to track drug smuggling aircraft on the northern border, bringing an integrated, multiagency law enforcement initiative to the northern border, and funding

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state, local and tribal law enforcement officials as force multipliers along the northern border.

Although this hearing took several months to schedule, I am thankful to finally have our witnesses here. Today's hearing will also discuss our ports of entry. Senators Cornyn, Kyl, Graham and Feinstein sent Chairman Leahy a letter asking to hold a hearing on U.S. ports of entry and infrastructure on the southern border.

Their letter stated many southern border ports of entry need additional U.S. Customs and Border Protection and infrastructure improvements. In some instances, southern border ports of entry also require expansion to accommodate the high value of traffic that passes through the ports on a daily basis.

I could not agree more and I believe the same holds true for the northern border. I was happy to expand the scope of this hearing, with Senator Leahy's permission, to include discussion on ports of entry, but I would be remiss if I did not point out that H.R. 1, the House appropriations bill for 2011, actually cut $60 million in funding for our ports of entry and also proposed cuts to the Border Patrol of nearly 900 agents.

I was very disturbed by these cuts and sent a letter to House Appropriations Chairman Hal Rogers and DHS Appropriations Subcommittee Chairman Robert Aderholt asking that these cuts be reconsidered.

Although we successfully prevented the cuts to border agents, the cuts to ports of entry remained in the continuing resolution passed in the House, were insisted on by the House in order to avoid a government shutdown, a result, of course, that would have been far worse for commerce on the border.

Now, the House's proposed 2012 DHS appropriations bill cuts an additional $26 million for ports of entry. If passed, funding for our ports of entry would be cut by 27 percent when compared to 2010.

We need to be very careful to use a scalpel to cut wasteful spending as opposed to a meat ax which cuts critical investments, like ports of entry, solely to achieve cuts for their own sake rather than achieve iconic growth.

Our distinguished panel will move us closer to finding solutions to securing the northern border and our ports of entry, and I look forward to their testimony.

I now recognize the distinguished Ranking Member, Senator Cornyn, for a statement.

STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM THE STATE OF TEXAS

Senator CORNYN. Well, thank you, Mr. Chairman, and thanks to the witnesses. Chairman Leahy, thank you for allowing us to schedule this hearing. It is very important.

Of course, if you can imagine having a Chairman of the Subcommittee from New York and a Ranking Member from Texas, we are going to cover both quarters today.

We know from experience at our ports, borders pose a national security risk. Recently, the Government Accountability Office confirmed that only 44 percent of the southern border is secure. And despite the President's and Secretary Napolitano's statements about border security and the number of resources that have been

devoted to the border, 44 percent is nothing to celebrate nor should we declare that our work is done so we can then move on to other things.

We hear stories all the time about smugglers and drug cartels, much of which is true, working day and night to try to enter the United States undetected. We also hear stories of individuals who pose a national security threat attempting to enter the United States illegally.

For example, just a few months ago, a Muslim cleric was caught in California in the trunk of a car after being smuggled across the southern border. He had previously been deported from Canada to Tunisia, but arranged to be smuggled into the United States through Central America, Belize, and Mexico.

Though he was arrested by Customs and Border Patrol, thankfully, after being spotted by local firefighters, this incident makes me wonder how many others have managed to do the same thing he has, and rather than be apprehended, were successful.

Every year, we see many other individuals from countries other than Mexico. People other than folks who just want to come here and work and provide for their families crossing our borders, whether they be enterprising drug cartels, human traffickers, people who traffic in illegal weapons, through our ports of entry.

We also know that nearly half of the illegal population in America is composed of persons who came here legally and simply overstayed their visas, roughly 40 percent, last count I saw, of our illegal immigration.

I think that is an important point, Mr. Chairman, that it is not just a matter of border security. It is a matter of having enforceable immigration laws and being able to detect and apprehend people who overstay their visas, as well.

According to the General Accounting Office, Department of Homeland Security has arrested about 8,100 people who have overstayed. But there is a backlog of 1.6 million potential overstays that the DHS has not yet even had the opportunity to review.

So we do not know who these individuals are and many times we cannot even locate them here in the United States. We also do not know whether any of these visa overstays bear ill will to the United States or are criminals.

With the recent changes in the Department of Homeland Security's enforcement priorities and uneven enforcement of immigration laws, across the country as a result of inadequate resource, I am not confident that the DHS will ever be able to make sure that we can identify who is here, why they are here, and when they have left.

Secretary Napolitano last week testified before the Senate Homeland Security and Government Affairs Committee about visa overstays. When asked if she would be increasing investigations to locate such individuals, the Secretary stated that to do so was a costly and labor-intensive endeavor.

I agree with that characterization, but it is no excuse not to do your job, and this suggests to me that the Secretary does not consider visa overstays to be a real priority.

I am quite sure that locating visa overstays would have become an immediate priority for the Administration if Hosam Maher

Husein Smadi had succeeded in his mission to blow up a skyscraper in Dallas in 2009.

We have made some progress on border and port security working together through the past Administration and the current Administration. That is good, but we still have a long way to go.

I must say, Mr. Chairman, when you say that the $600 million we spent fortified the southern border, while we are grateful for the additional help, we still need more help. There is more work to be done.

Over the years, I have heard from my constituents, local business owners and organizations, like the Texas Border Coalition and the Border Trade Alliance, about the long lines and extensive delays at southern ports of entry. This makes the important point that it is not only about security, it is about allowing legitimate trade and commerce to enter the country, because that creates jobs here and there and is good for our economy.

I might ask, Mr. Chairman, I have three letters, one from the Border Trade Alliance, one from Hon. Richard Cortez, Mayor of McAllen, and one from the Texas Border Coalition. I would ask unanimous consent to make them part of the record.

Senator SCHUMER. Without objection, they will be made part of the record, as will the entire statements.

[The letters appear as a submission for the record.]

Senator CORNYN. I have also heard about old ports of entry that are crumbling and in need of repairs. I am sure that is true on the northern border, as well.

So last week I asked the Border Trade Coalition and Border Trade Alliance whether any of their concerns had been addressed, and ultimately their concerns remain the same.

Every year, our southern ports of entry handle approximately 352 million travelers and nearly 106 million cars, trucks, buses, trains, vessels, and aircraft. Given this volume, we should expect Homeland Security to make staffing and security changes at ports of entry a priority. Of course, that is going to take more resources, and I am not questioning the good faith or the good efforts of the Department to do what it can with what it has. I am just saying that Congress needs to do more to enable these folks at Homeland Security to do their job and to do it more thoroughly.

The calls for changes to ports of entry seem to have fallen on deaf ears, though, which is another reason why I am glad we are having this hearing today.

So Secretary Napolitano claims that the border is open for business. But at what level? If we really want to highlight legitimate trade and commerce, we should be doing everything we can to improve our relationship with Mexico, our third largest trading partner.

The Federal Government must do a better job of enabling legitimate trade and commerce by expanding trusted traveler and shipper programs, finding a better way to plan and finance our ports of entry, and improving cooperation between state and local officials.

We need to clamp down on the cartels who exploit every avenue to transport guns, drugs, and people in and out of the United States. Many people have left the southern border and would glad-

ly return to their communities if they felt secure. I think if we can provide Mexico with $1.6 billion through the Merida Initiative for enforcement, we can surely find enough money to improve our ports of entry and provide necessary resources to state and local law enforcement.

Last year, the President signed a supplemental appropriation bill that allocated $176 million to fund 1,000 new Border Patrol agents. While it increased the size of the Border Patrol, it barely touched the number of CBP officers needed to staff our ports of entry.

I introduced an amendment that would have authorized $200 million to hire 500 new CBP officers to staff high volume ports of entry and make infrastructure improvements. This amendment would have provided resources for Federal, state and local law enforcement officials who work on the front lines of the U.S. border every day.

I also have a bill, the Emergency Port of Entry Personnel and Infrastructure Funding Act of 2009, which would authorize $6 billion over 6 years for additional CBP officers at our ports of entry, modernization of our current land ports of entry, and construction of new ports on the northern and southern borders.

This bill would authorize a level of funding that would truly make a difference at the southern border ports of entry and I will continue to push for additional resources while we continue to discuss appropriations with the Department of Homeland Security.

Despite all of our challenges, I am glad to say that the State of Texas remains a thriving center of economic growth and investment. This growth will only continue with the prioritization of port of entry construction, approval of trade agreements, and increased targeting of illicit trade and smuggling.

I look forward to hearing the testimony today, as well as your recommendations for improving commerce and transit through our southern ports of entry.

Thank you, Mr. Chairman.

Senator SCHUMER. Thank you, Senator Cornyn.

Our Chairman is here and he has asked to make a brief statement before we get to our witnesses.

Chairman Leahy.

STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Chairman LEAHY. Thank you, Senator Schumer. I appreciate you holding this hearing. Senator Cornyn and you both represent states, large states, one on the northern border, one on the southern border. And I appreciate you expanding the hearing to address commerce at the points of entry.

I appreciate what the President said last week about efforts to enact comprehensive immigration reform. I strongly supported former President W. Bush's effort to do that. I wish we could have, and I think that we want to be realistic. As difficult as it may be politically for some, we are going to have to have a comprehensive immigration policy.

Commissioner Bersin, I honored two Border Patrol agents who died in the line of duty last week, Eduardo Rojas, Jr. And Hector

Clark. And I know that many talked about them when we were at the, as Mr. Morton knows, law enforcement event on Sunday.

I say this because nobody should take for granted or forget the sacrifices made by the agents of the Border Patrol.

Now, in Vermont, we do have a border and in our little state, we sometimes refer to Canada as the giant to the north. But our Canadian neighbors are partners in trade and commerce. They are joint stewards of our shared communities, and some of our communities are half in Canada, half in Vermont. Both nations try and make sure the border is secure.

It is a vital link in our National security chain. It is very challenging to guard and protect the longest, non-militarized border in the world, and those who want to do us harm are going to look for openings and gaps, whether it is in the mountain wilderness in New England, the Great Lakes, or the rural plains of the Midwest.

Now, before September 11, 2001, the northern border had been chronically understaffed and neglected. Since then, Congress has allocated a great deal of money to upgrade the equipment we have, the surveillance, vehicles, new stations, technology and so on.

A recent GAO report on northern border security assures more can be done, especially in deploying technology and developing partnerships with local and state law enforcement.

I had previously raised concerns with the Secretary of Homeland Security because Customs and Border Protection staffing in Vermont has dipped considerably in recent years, in part, because resources were shifted to the southern border. I worry that insufficient staffing will also cause excessive delays at the ports of entry, for example, during our summer tourism season.

The ties between Canada and Vermont run deeper than trade and commerce and they are based on more than tourism. Many Vermont families have members on both sides of the border. We have a number of first generation Canadian-Americans in our state, at least one of whom is married to this Senator. And some towns, like Derby Line, spread across the international line.

I think we have to prove that they are secure, but we have to also make sure that people can move back and forth. It is a major commercial factor and now with the Canadian dollar worth slightly more than the U.S. dollar, which is a major change in the last 20 years, it is even that more important.

I also appreciate the department's effort to help us resolve the issue of the Morses Line crossing.

Last, I would like to discuss the restoration of Amtrak rail service between Vermont and Montreal, Quebec. It is a critical link that can be done provided we take care of the border crossing.

Senator Schumer has two cross-border trains in New York State. There is another one, I believe, operating in Washington State. So let us look at these issues, because Canada is an enormous trading partner. We have our security concerns, but we also have major economic concerns.

Thank you, Mr. Chairman.

[The prepared statement of Senator Leahy appears as a submission for the record.]

Senator SCHUMER. Thank you, Mr. Chairman.

Now, let me introduce our witnesses and thank them for coming.

Alan Bersin is Commissioner of U.S. Customs and Border Protection. As Commissioner, he oversees the operation of CBP's 57,000 employee workforce, manages a budget of $11 billion. He is responsible for fulfilling CBP's mission of protecting the Nation's borders from all threats, while facilitating legitimate trade and travel.

John Morton is the Director of Immigration and Customs, ICE. ICE is the principal investigative arm of Homeland Security and the second largest investigative agency in the Federal Government. Created in 2003, it has a budget of $5.7 billion, 20,000 employees in offices in all 50 states and 47 countries.

The Agency's primary mission is to promote homeland security and public safety through the criminal and civil enforcement of Federal laws governing border patrol, customs, trade, and immigration.

Gentlemen, your entire statements will be in the record. We ask you to limit your testimony to 5 minutes each.

Mr. Bersin, you may start.

STATEMENT OF HON. ALAN BERSIN, COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Commissioner BERSIN. Good morning and thank you, Chairman Schumer, Ranking Member Cornyn, Chairman Leahy, and Senator Grassley. It is an honor to be here in front of this Subcommittee focusing on the northern border.

We all know that the southern border has been the primary focus of activities of CBP and DHS, as well as DOJ, with regard to border affairs, but never do we lose sight of the fact that keeping dangerous people and dangerous things away from the American homeland, which is the primary obligation of Customs and Border Protection, involves a northern border every bit as much as the southern border.

In fact, we have built up the resources, as the Chairman has indicated, significantly over the past decade. We at CBP have gone from 340 agents to 2,200 agents. We have gone to 279 air interdiction pilots and agents on the northern border. We have gone to 3,800 CBPOs, CBP officers who staff 122 land ports of entry that stretch from Washington State to Maine.

In every respect, we have seen a resourcing of the northern border, although not as dramatically extensive as that which has taken place on the southern border, actually represents a huge increase.

In the case of Border Patrol agents, we have increased the number 650 percent more than six times in the last decade.

So the question from the standpoint of, I believe, Secretary Napolitano, as well as Mr. Morton and myself, as we deploy these new resources, is to recognize that borders are borders, but as every Canadian, every Mexican, every resident of the northern and southern borders will remind us, the northern border is different from the southern border; and, in fact, we need to take those differences into account.

While measurements—metrics may, at end, have to be responsive to both borders, in fact, they have to both reflect a quality of

security and a level of quality of life that is important to both north and south.

So what are the major differences in terms of the north as we think about moving forward in terms of northern border security?

The first is while, as all of the Senators who have commented have indicated, we have $1 billion a day of trade going north and south over the Canadian-U.S. border. Building up a competitive United States economy in concert with Canada so that North America can compete with East Asia, with the Indian subcontinent, and with Brazil and South America is a critical dimension of our work in Customs and Border Protection.

We recognize that security and economic competitiveness go hand-in-hand; that, in fact, when you deal with the volume of trade and traffic that comes across the northern border and the southern border, that unless we do risk-managed handling of that cargo and those persons, unless we separate out trusted travelers and trusted shippers from those about which we either have derogatory information or about whom we lack sufficient information to make a judgment to expedite their movement, that we can have both security and economic competitiveness and a facilitated lawful traffic and trade.

Because we are dealing with a border that is three times the size of the southern border, 5,400 miles of diverse environments which vary in terrain, climate and population density, we must look to deploying technology so that we can detect threats in ways that are tailored and customized to the northern border.

The second major dimension about our relationship with Canada is that we must look at our security not only in terms of the northern border and the Canadian southern border, but also in terms of North American continental security. And recognizing these jointly held objectives, president Obama and Prime Minister Harper recently signed a very important accord with regard to the Canadian-U.S. border. Entitled *"Beyond the Border: A Shared Vision for Perimeter Security and Competitiveness,"* it recognizes that we are most secure both in Canada and the United States if we look at the job of security as being a continental one.

So as we move forward, Senators, into this vision, we will actually have to see security and commerce as contributing to one another, not as competing.

I look forward to answering your questions.

[The prepared statement of Commissioner Bersin appears as a submission for the record.]

Senator SCHUMER. Thank you, Mr. Bersin. And your entire statement will be read into the record. I know you had more testimony.

And the same for you, Mr. Morton. Your entire statement will be read in the record. You may proceed.

STATEMENT OF HON. JOHN MORTON, DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY, WASHINGTON, DC

Mr. MORTON. Chairman Schumer, Ranking Member Cornyn, Chairman Leahy, Senator Grassley, good morning to you, to Commissioner Bersin, as we discuss security along the northern and southern border.

As you noted, Mr. Chairman, ICE is the Department's principal criminal investigative arm, and we have jurisdiction over a broad range of crimes relating to border security, including export and import controls, international child exploitation, and the smuggling of drugs, people and money.

To this end, we have approximately 1,600 special agents and 40 intelligence personnel in our northern border offices. We, along with our partners at CBP, are also charged with the civil arrest, detention and removal of individuals illegally entering the country in violation of the immigration laws. We have roughly 1,500 enforcement and removal officers in our northern border offices dedicated to this task.

Working with CBP, these special agents and officers have produced strong results. Last fiscal year, our offices covering the northern border seized a combined total of $38 million, nearly 130,000 pounds of marijuana, one ton each of cocaine and ecstasy, and significant amounts of heroin and methamphetamine.

Likewise, we removed about 47,000 illegal aliens from the northern border region, roughly half of whom were criminal offenders.

We are able to pursue our success in all of these areas due to our partnerships and initiatives with other law enforcement agencies. We maintain the largest law enforcement footprint of any U.S. agency in Canada, with four attache and assistant attache offices.

In these offices, we not only coordinate enforcement efforts with Canadian law enforcement, we also run a visa security program to add an additional layer of vetting to the U.S. visas issued by the State Department.

Our interagency partnerships along the northern border are principally the integrated border enforcement teams, the IBETs, and the Border Enforcement Security Task Forces, or BESTs. We now have 21 Border Enforcement Task forces and I thank Congress for the tremendous support they have received to date.

The strength of the BEST task force model is that it involves the permanently collocated investigative task forces of Federal, state, local and foreign law enforcement agencies. We actually have cross-designated Canadian law enforcement officers working on our side of the border. They are located immediately on the border and specifically target cross-border crime. And I want to note that CBP is our principal and essential partner in every single one of them.

We have three BEST teams operating on the northern border, one in Blaine, one in Detroit, and one in Buffalo; and, as you know, we will be establishing a new BEST in Massena, New York. And, Mr. Chairman, I thank you for the significant support you have given us on that score.

I just want to highlight why this works well, and there is a particular example in my written remarks. But on December 15, 2010, a Canadian citizen tried to enter the United States via the Detroit Ambassador Bridge. CBP officers working for the Commissioner discovered suspected marijuana in the vehicle and contacted ICE.

We responded with our BEST team. We quickly arranged for the arrested driver to cooperate. We engaged in a controlled delivery to Troy, Michigan. This included local law enforcement officers from Troy, Trenton and Detroit, Michigan.

We ultimately delivered the narcotics or the marijuana in question. We arrested the boyfriend. We turned right around and, working with the Canadian members of the same BEST task force, executed two search warrants in Canada, and the Canadians arrested another two individuals. All four individuals were prosecuted.

None of this would have been able to have occurred had we not all been sitting together and able to move in very quick time, and that is why BEST works.

ICE's great strength is that it has a strong presence on the border, in the interior and overseas. This allows the Agency to attack and penetrate organized cross-border crime at all stages. And when you couple it with CBP's impressive powers of inspection, surveillance and interdiction, the combination proves to be a strong force in favor of border security and the sound management of the flows of goods and people to and from the United States.

Obviously, resources are a challenge, as Senator Cornyn has noted. There are many and varied threats facing CBP and ICE every day, but we have got a tremendous workforce out there every day trying to do the right thing.

I would close, again, with my condolences to Commissioner Bersin for the two Border Patrol agents lost in Gila Bend. We, as the members of the Committee know, just lost a special agent in Mexico to the cartels. And so we feel the pain that CBP is going through.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Morton appears as a submission for the record.]

Senator SCHUMER. Thank you, Mr. Morton.

My first question is for Mr. Bersin. As you know, we have had a major problem on the northern border with the smuggling of drugs, methamphetamines and ecstasy, as well as marijuana, and these drugs are smuggled into the country using low-flying planes.

On February 10, 2011, I, along with some of my colleagues, sent Secretary Napolitano a letter asking that DHS deploy sophisticated military radar technology along the northern border to catch low-flying aircraft that would otherwise not be caught with the current technology DHS uses.

At a hearing last month, Secretary Napolitano said she intended to improve our ability to catch low-flying aircraft by integrating the military radar feeds that Canada uses with our own AMOC.

When do you think the integration of the Canadian radar fees into the AMOC, the American center, will be up and running?

Commissioner BERSIN. Mr. Chairman, we expect that the 22 Canadian radar fees will be sent to the Air and Marine Operations Center, the AMOC, by the third quarter, November 2011.

Senator SCHUMER. Great. That is very good news. Thank you. I appreciate hearing that. I don't have to say anymore. You have done very well on that question.

A positive aspect of the GAO's northern border report with its statement that to address vulnerabilities related to insufficient staff and resources, DHS issued 3-year grants to tribal nations and state and local governments under Operation Stonegarden to augment Border Patrol personnel and resources for patrolling the land and border.

Now, despite the benefits that Operation Stonegarden has had in improving security along the border, the Administration did not request Stonegarden funds for the northern border and limited its request to $50 million for the southern border.

It appears that the House appropriations bill calls for $55 million to be allocated for Stonegarden. If we indeed can maintain the $5 million of extra funding in the appropriations process, can you commit that that extra money, not taking away from my friends on the southern border, will be used to keep Stonegarden going on the northern border?

Commissioner BERSIN. Absolutely. I thought when you started, Senator, that I wouldn't be able to do so well on this question. But as framed, there is no question but that Operation Stonegarden has considerable benefits in terms of the link between the Border Patrol and the state, local and tribal law enforcement.

It works well in the south, it works well in the north, and we will employ whatever resources are provided.

Senator SCHUMER. If the extra $5 million stays, it would go to the northern border.

Commissioner BERSIN. If it is on top of the money that has been allocated, yes, sir.

Senator SCHUMER. All right. Batting two for two. Wish you were playing for the Yankees against the Red Sox this weekend.

In early January, we were successful in passing the Northern Border Counter-Narcotics Strategy Act. This law requires, according to the Office of National Drug Control Policy, to develop a comprehensive, integrated, counter-narcotics strategy for all agencies along the border.

I can report that ONDCP has told my staff this strategy will be done by July 4. An important part of that strategy will be the operations integration center in Detroit.

The center will provide a centralized location to gather, analyze and disseminate operational and strategic data from all the Federal, state, local, tribal and Canadian law enforcement in the Great Lakes region.

Would DHS benefit from opening a similar operations integration center in the eastern part of the northern border, preferably in New York? Now that the Chairman is gone, I can certainly say that.

Commissioner BERSIN. Senator, as you know, ONDCP is in the process of completing the northern border counter-narcotics strategy, and you are correct that the fusion center, the operation integration center in Selfridge in Michigan is a highlighted portion. It is a proven, tried and tested technique of law enforcement, the kind of fusion that Secretary Morton referred to in the context of the BESTs work whenever put officers together.

So without prejudging where that center would be located, we certainly endorse the notion of continuing integration along those lines.

Senator SCHUMER. Great. That is good news, too. Thank you.

Finally, for you, I sent a letter on April 14 asking you to take action addressing delays in train travel between the Quebec-New York corridor, as incoming trains to the U.S. are stopped at our

border for up to 2 hours to complete the clearance and screening process for passengers on board.

Can we count on you to speed up the trains between Quebec and New York?

Commissioner BERSIN. As you know, we have in place, between Canada and the United States in the Pacific Northwest corridor, pre-clearance both for air traffic, which we also have on the east cost, but also with regard to rail traffic.

Senator, we are happy to continue to explore those options in the Montreal-New York corridor. There is a major difference, though, which is that there are interim stops between Montreal and New York in a way that is not the case between Vancouver and Seattle.

But we are committed to continuing to explore with you this notion of expediting that local traffic.

Senator SCHUMER. And you are working with Amtrak to try—knowing the differences between the west coast and us, to try and work that out.

Commissioner BERSIN. Yes, sir.

Senator SCHUMER. Because it is a real impediment. Thank you. I am confident that if you work with Amtrak, you can.

My final question. In Western New York, we have two bridges. They are the Peace Bridge and the Lewiston Bridge and the Queenstown Bridge, which are, respectively, the third and fourth busiest commercial crossings in the Nation, handling $30 billion in commerce between the U.S. and Canada.

We have been getting a lot of complaints from our business leaders about the amount of time it is taking for commercial traffic to enter the U.S. from Canada. Is there something you can do to expedite commercial traffic to the U.S. from Canada, such as prescreening commercial vehicles on the bridges?

Commissioner BERSIN. Yes. We are working closely in the wake of President Obama and Prime Minister Harper's *Beyond the Border* statement. We have a very deep relationship of cooperation with CBSA, Canadian Border Services Agency, and one of the things we are exploring with them is the notion of pre-inspection, the concept that we could separate out trusted shippers and trusted shipments, even in advance of them coming to the port of entry and, therefore, permitting them to be released without having to go through the ordinary port of entry process.

That is a matter that we are working on and hope to present a pilot in the not too distant future.

Senator SCHUMER. Now, the high risk is a good step and I am glad you are doing it, but that is only about 5 to 10 percent of our commercial truck traffic on these bridges.

Will you commit to working your Canadian counterparts to see that all commercial trucks bound for the U.S. get pre-cleared in Canada? I know you cannot snap your fingers and do that, but try and get that—is that a goal of the Department?

Commissioner BERSIN. As far as practicable, the notion of segmenting out trusted traffic is very critical to heightening the security profile. I doubt and am certain we will never reach 100 percent level, but we certainly can start down the path of segmenting traffic based on high risk or low risk.

Senator SCHUMER. With the indulgence of my colleagues, I will just ask one quick question of Mr. Morton.

One of the most effective things that ICE does is the Border Enforcement Security Task Force teams it operates. They consist of personnel from ICE, Customs and Border, and police from local Indian tribes.

I was very pleased to see that last week that ICE is forming one of these BEST teams in Massena. Given what is at stake, I would like to see this team up and running as soon as possible.

You know the problems we have had on the border. When do you think the BEST team in Massena will be up and running?

Mr. MORTON. Mr. Chairman, I think the BEST team will be up and running by the end of this fiscal year, in October.

Senator SCHUMER. Great. That is good, good news.

Senator Cornyn.

Thank you both.

Senator CORNYN. Commissioner Bersin, this is not a zero sum game, even though Senator Schumer and I are having some good-natured competition in terms of the attention your agency gives to the northern border versus the southern border.

This is all a Federal responsibility. I know you know that. We know that. But I would just like to ask you, in terms of the number of people that are detained coming illegally across the northern border, how does that compare to the 445,000 that were detained at the southern border, 59,000 of whom came from countries other than Mexico last year?

Commissioner BERSIN. It is a small, small fraction. We detained and arrested 6,000 people on the northern border. But, Senator, I know, because you referred to it in your opening remarks, that does not mean that we do not face significant threats.

In fact, in many ways, in terms of the terrorist threat, it is commonly accepted that the more significant threat, because of the population and because of certain relationships with Canada, people who can enter Canada and then come across our bridges into the United States, of course—and I know you know this—we have to maintain a very high security profile.

Because of the fact that we do not share no-fly information and the Canadians will not, we are, more than we would like, confronted with the fact where a no-fly has entered Canada and then is arrested coming across one of our bridges into the United States.

So I take your point. The number is a very small fraction, but it still remains the kind of threat that requires our attention.

Senator CORNYN. I am sure that is true. But I know and you know that the 59,000 people who come through Mexico into the United States from all over the world, including some of those countries that are state sponsors of terrorism—and you know, as I know, that some organizations that finance organizations in the Middle East that are committed to jihad exist in South America.

So we are not in a zero sum game here. I am just trying to document here the magnitude of the threat throughout the country and why I am absolutely committed to working with our colleagues to try to make sure you get the resources you need in order to do your job, because it is impossible for you to do your job given the current level of resources, in my view.

You appropriately noted the importance of infrastructure and staffing at the border ports of entry. I have introduced a bill called the Emergency Port of Entry Personnel and Infrastructure Funding Act of 2009. As I have said the bill would authorize $6 billion over 6 years for additional CBP officers at our ports, modernization of our current land ports of entry, and construction of new ports at the southern and northern borders.

Are you familiar with that legislation?

Commissioner BERSIN. Yes, sir.

Senator CORNYN. Will the Administration support the bill?

Commissioner BERSIN. That, as you know, Senator, going forward, is a determination not in the hands of CBP, but rather in OMB. We have received support in terms of additional CBPOs, but I do not think that anyone denies the fact that with regard to staffing the ports of entry, that we need to increase CBPOs.

We opened up, as you know, three ports of entry for the first time in 10 years on the southern border, two of them in Texas, in Anzalduas and Donna, and we did receive 300 additional CBPOs on top of the 250 CBPOs in the southwest supplemental.

So that helps, but I take your point.

Senator CORNYN. The GAO cites limited equipment, technology and infrastructure as a major challenge to stopping money and guns heading south. As we all know, the bulk cash that goes south is an integral part of the illegal drug transaction. If we can find a way to stop the money, then we can go a long way in defeating the cartels.

For example, ATF officers at the U.S.-Mexico border have indicated that one of their challenges in intercepting illegal firearms heading south is the ability to provide vehicle information to CBP officers on a timely basis.

According to the GAO, currently, license plate readers are available for only 48 out of 118 outbound lanes on the southwest border and none have been installed—none—in the 179 outbound lanes on the northern border.

When will CBP have all ports of entry equipped with license plate readers?

Commissioner BERSIN. Senator Cornyn, I cannot give you a definite date on which we will have all lanes completed with regard to LPRs. We accept the validity of the technology and we have, as you have noted, expanded it dramatically from where it was.

We have, again, as you know, particularly in the bridges in Texas, difficulty in the traffic and the road infrastructures leading into the ports of entry, which make it very difficult to place the LPRs in a way that permit us to operate.

We are working very hard on the issue and, as you know, southbound inspections are a critical dimension of our work in ways that were not true in the past. We are cooperating very much with ICE, as well as with state and local law enforcement to do those inspections, but we have a lot more work to do, to be sure.

Senator CORNYN. The Chairman has graciously allowed me to ask one more question, even though my time is up, because I am going to have to leave to go to another meeting.

But, Mr. Morton, when we asked about the policy of the DHS with regard to dismissing cases against criminal aliens, is the DHS

aware that immigration courts are dismissing cases involving criminals due to backlogs?

Mr. MORTON. I am not aware of any DOJ policy dismissing criminal aliens due to backlogs. No, sir.

Senator CORNYN. I'm sorry. DHS.

Mr. MORTON. And I am not aware of a DHS policy with regard to dismissing criminal aliens due to backlogs. The only policy that I am aware of, Senator, is the policy to terminate those cases in which someone is the likely recipient of a green card in proceedings and, obviously, if they are going to be given a benefit by the Department of Justice in the form of permanent residence, we do not want to, at the same time, waste government resources on those cases.

Senator CORNYN. So just to clarify, there is a DHS policy distinguishing between which aliens that have been detained and are at law enforcement facilities, which cases will be dismissed, and which cases will not be dismissed.

Mr. MORTON. Senator, I am not aware of any policy in terms of dismissal. There is very much a policy with regard to priorities and where we use our resources.

I will tell you, as the head of the Agency, however, criminal offenders are our highest priority and this year I think you will see for the first time in the Agency's history, we will remove more criminal offenders than non-criminal offenders.

So, again, if there is a specific concern you have, I would ask that perhaps our staffs talk, because I would be concerned by a policy that we are dismissing the case—immigration removal cases of known criminal offenders.

Senator CORNYN. We will follow-up with you. Thank you very much.

Senator SCHUMER. Thank you, Senator Cornyn.

Now, Chairman Leahy.

Chairman LEAHY. Thank you. I do not want to sound parochial, but I do have a few. We have talked about the border crossing and talked about pre-screening.

With the question of Amtrak, having trains come down through Vermont and from Canada or vice versa, the thing that stops it now is the passenger screening issue.

Could you support the creation of a pre-clearance facility at a train station, say, in Montreal, very similar to the kind of pre-clearance facilities that you have in a lot of our foreign airports?

Commissioner BERSIN. Senator Leahy, as I indicated, we are exploring with CBSA, the Canadian Border Services Agency, the way in which we can expedite this pre-clearance.

The difficulty in the Montreal-Vermont-New York corridor is that unlike Vancouver-Seattle, there are many stops along the way, which complicates the notion of pre-clearance, because you cannot then segment the traffic when it arrives in New York.

But we are certainly willing to explore the options and will continue to work with you and your staff and with Amtrak to see how we can manage the problem better.

Chairman LEAHY. Well, I appreciate that. Next week, there is a meeting, I believe. The Governor of Vermont, Amtrak, and Canadian officials are meeting in Vermont, in Burlington, for a cross-

border conference and I would encourage your Agency to send a representative to that conference.

Commissioner BERSIN. I will look and be in touch with Mr. Weeks, who heads up the CBPOs, and with Chief Fisher, who you know well, to see if the chief will attend along with the DFO.

Chairman LEAHY. That would be very helpful.

Let me ask you about another question which I have raised with Secretary Napolitano. You have a checkpoint used periodically on Interstate 91. It is about an hour and a half drive from—by interstate, it is about an hour and a half or more drive from the northwest crossings from Canada into Vermont. It is about a 3-hour drive from the northeast crossing from Canada by interstate into Vermont.

I cannot tell you the number of complaints I get by Vermonters who get stopped there and have proof demanded of them that they are American citizens. These are people that probably have lived, as I have, in Vermont their whole life.

They are wondering why there is all this, the guns, the uniforms, the flashing lights, everything, when there are half a dozen parallel roads, if somebody was really inclined to do something, they would just drive down one of the two-lane roads where there are no stops, and especially something so far from the border.

I get questions like, "Do you guys have so much money you have got to find a place to spend it?" And in one case, somebody showed her Vermont driver's license, and was driving a Vermont registered car, was detained for some time, and told she had to show her proof of citizenship.

In this case, we are a state probably 97 percent white and she did not fit that profile, and it made my blood boil to hear her story.

So are you starting to see whether this thing really makes sense?

Commissioner BERSIN. Senator Leahy, checkpoints have been a standard feature of Border Patrol strategy and tactics and are being applied on the northern border as we expand the presence there.

The notion is——

Chairman LEAHY. It is a long way from the border.

Commissioner BERSIN. Well, the notion is layered security, which is the theory of action of Border Patrol activity throughout. But I understand that when it occurs, as it is occurring now in the north from Washington to Maine, that citizens are questioning it and wondering what is this presence and why does it have to happen at a space and a time removed from the border.

We need to have Chief Fisher actually hold forums throughout Vermont, need to meet with the community, explain what the theory of action is, reach out, listen to people's complaints, and explain why they do what they do.

That has been the pattern that I trust will produce more understanding, if not less opposition immediately on the part of the citizens of Vermont.

Chairman LEAHY. Well, I kind of know how they feel. A number of years ago, and this was not something recent, but I drive to Vermont once or twice a year. Normally, I would fly, but during the August break, I drive. About halfway down the state, there is a very old crossing that crosses over into New York. I have crossed

that way, I have come down through the Adirondacks, which is a very pretty area.

Senator SCHUMER. You are always welcome, Mr. Chairman.

Chairman LEAHY. Thank you. And we got stopped at one of these. There was a family from Montreal. They were on their way actually to Florida, because I had asked them, and they were having to take all their suitcases out and the man came up and he said, "Pull your car over there."

I asked, "Why?" He said, "We have to prove you are a citizen." I said, "Well, what is your authority?" And he pointed to his holstered weapon and said, "That is all the authority I need."

Now, that struck me as not the best way to win friends and influence people. I asked if he had a supervisor, who actually came around the car at that point and looked at my license plate. It is one, just the number one.

We are a small state. We do not have many cars.

[Laughter.]

Chairman LEAHY. But they were looking at that and I could still see him kind of—he came over, well, that is fine. And, obviously, I could prove my citizenship, but I just thought this was unfortunate.

Now, at that time, I understand this was some time ago, long before you were there. Steps were taken, some re-training was done of the people involved. But I want our borders to be secure.

But we are such a wonderful country, I want us all to be welcoming to people. I do not want, at a time, again, when we are trying to attract people, businesses, tourists, everything else to come from other parts of the world, I want them to feel welcome here, just as other countries make us feel welcome.

Commissioner BERSIN. We are completely in agreement with that. And while that incident is unfortunate and regrettable, it also is——

Chairman LEAHY. A long time ago.

Commissioner BERSIN. It also points out the need for us, as you say, as we evolve into what I hope will become a premier law enforcement agency, that customer satisfaction and professionalism are required. We can be tough and fair and welcoming all at the same time.

Chairman LEAHY. I cross our borders all the time. I did a few weeks ago coming through—I had been scuba diving down in the Caribbean and came through Puerto Rico. The people could not have been more professional and nicer.

I was in line with everybody else. They were being very nice. They had no idea who I was or anything else. They just were very, very nice, and I want to compliment them on that.

Commissioner BERSIN. Senator, I hope you will consider becoming a member of Global Entry. It is the trusted traveler program, you bypass the line.

Chairman LEAHY. I actually prefer just getting in line with everybody else just to see how it goes. So thank you.

Commissioner BERSIN. Thank you.

Senator SCHUMER. Thank you, and thanks for coming, Mr. Chairman.

Senator Grassley's entire statement will be read into the record, and he is on.

[The prepared statement of Senator Grassley appears as a submission for the record.]

Senator GRASSLEY. Thank you very much, Mr. Chairman.

Director Bersin, on April 13, you responded to two letters that I sent you. You responded by citing Privacy Act considerations and failed to provide basic answers to questions.

I realize that this is a cut-and-paste response that we get from too many administration bureaucracies when they do not want to answer inquiries from Congress.

However, with a Border Patrol agent dead, this kind of response is unacceptable. There are serious questions that need to be answered, especially in light of the fact that two of the guns which were recovered at the crime scene at Border Patrol Agent Brian Terry's death were part of an operation conducted by ATF called Operation Fast and Furious.

So, Mr. Bersin, did Customs and Border Protection agents ever stop any suspects with weapons near the border, but were instructed by ATF or the U.S. Attorney's Office to let them go?

Commissioner BERSIN. Senator, no. I have never heard of that allegation. I have not received any report from within CBP in which that request was made, let alone granted. And as you know, with regard to that letter, the two questions that you focused on, there were very straightforward answers, which is, one, Brian Terry, our agent who died in the canyons west of Nogales on that December night, as all of his colleagues were fully armed and prepared to use force; and, second, that there is no requirement in CBP that less than lethal weapons be used in advance of defending yourself.

When someone points a gun at you, under our rules of force, you are entitled to kill that person, and they were so authorized and prepared to act.

With regard to the Fast and Furious, I am not the agency who is conducting that investigation. But with regard to your specific question, I have no information nor have I ever received any report to that effect, sir.

Senator GRASSLEY. Could you tell me how you feel about the fact that another agency's decision to put hundreds of guns into the hands of criminals on both sides of the border may have contributed to the death of Brian Terry?

Commissioner BERSIN. Senator, I am not going to condemn ATF on the basis of that generalized statement. I do not believe that it accurately depicts what has been investigated.

So, no, sir, I cannot subscribe to that statement as framed.

Senator GRASSLEY. Well, let me tell you, you may not feel comfortable in answering the question, but there is enough evidence out there that I have in documents that have come to me clandestinely to prove that this is not something that is hypothetical, that this is a real sad situation.

But I will go on and ask another question. The inability to secure our northern border leaves our country at a distinct disadvantage. Criminals can enjoy the freedom to transport illegal narcotics into the United States and, also, to transport—well, in the process, terrorists can even gain entry to our country.

The U.S. GAO report describes an inadequate response by the Department of Homeland Security, the Department of Interior, and the U.S. Department of Agriculture toward coordinating efforts at securing the border.

So, Mr. Bersin, Border Patrol has indicated that they are only able to secure within acceptable levels, and those are the words of the report, 69 of the nearly 4,000 northern border miles between Washington and Maine.

Do you believe that securing less than 2 percent of the northern border is acceptable?

Commissioner BERSIN. Senator, that mischaracterizes, respectfully, what the GAO concluded and how we define border security.

The notion of operational control is a concept that was utilized, for the most part, on the southern border. It had to do with the tactical deployment of Border Patrol agents during a period in which we doubled the size of the Border Patrol from 2004–2010, and this was used on a sector-by-sector basis to determine mile-by-mile along the border how to deploy those agents.

We discussed that with Mr. Stana and the GAO and are working to correct the notion that operational control as utilized there is what is being used to measure border security across the northern or southern border.

With regard to the USDA and the DOI, actually, that is a good news story, Senator.

Senator GRASSLEY. Before you answer that, let me ask a specific question, because I think you are starting to answer it, but let me ask.

The GAO report consistently describes a failure to share intelligence and develop joint budget requests or strategies to address these threats. Can you describe why it is so difficult for agencies to effectively communicate and coordinate and intelligence, along with whatever else you were going to say?

Commissioner BERSIN. Well, with regard to intelligence-sharing, actually, we are considerably further ahead—in fact, leagues ahead of where we were when I left Federal service at the end of the 1990s.

Senator GRASSLEY. So you are saying that GAO is wrong on that point.

Commissioner BERSIN. I am saying the GAO had pointed out specifically, if I am following your reference, that there were issues between the Border Patrol and Immigration and Customs Enforcement agents on the northern border.

I have actually—when I saw that report, Director Morton and I have discussed it and we agreed that we have not gotten the specifics and have asked that the GAO be very specific about the offices in which that lack of communication has taken place.

The BESTs, as Director Morton indicated in his opening remarks, and the IBETs, which are another form of communication-sharing and coalition-building involving Canadians, as well as American law enforcement, actually provides for better information-sharing than we have had.

It is not to say that we cannot improve it. We always can strive to do that, Senator.

Senator GRASSLEY. Let me ask Mr. Morton a question. In June of 2010, the union representing ICE agents released a letter announcing a unanimous, "vote of no confidence" for ICE leadership. The union's letter accused Assistant Secretary Morton and his command staff of, "misleading the American public."

Agents claimed that the ICE leadership spent more time campaigning for immigration reform as opposed to enforcing the Agency's, "core mission of enforcing U.S. immigration laws and providing for public safety."

The letter also stated that, "ICE has virtually no consistent national policy. As a result, the Agency's lack of adequate direction and material infrastructure." ICE agents also described how criminal aliens, "bragged to ICE officers that they are taking advantage of the broken immigration system and will be back in the United States within days to commit crimes.'

It is unfortunate that agents responsible for carrying out our immigration laws feel that the Agency is politicizing the issue and abandoning the Agency's core responsibility to the American people.

So, Mr. Morton, how have you addressed the complaints of your agents since issuing a no confidence letter last June?

Mr. MORTON. Well, a few things, Senator. First, as you may know, I was a career Federal prosecutor, before I came to this job, and spent my entire professional career in law enforcement.

Second, we have demonstrated quite, I think, clearly that the enforcement activities of the Agency when it comes to immigration enforcement, and that is half of what we do, is at an all-time high. There has never been a director of the Agency that has presided over a larger number of removals from the United States.

When it comes to criminal offenders, there is no question that our record is, I think, a solid one for the first time in the Agency's history.

We, this year, will pass 50 percent of the removals from the United States will be of people with a crime.

Just to give you some sense of it, the last fiscal year of the last Administration, the number of criminal offenders was at about 35 percent of our overall removals. That is now at 50 percent under my leadership and the number of removals from the country, again, has never been higher.

So I reject any suggestion that the Agency's enforcement efforts when it comes to immigration enforcement have been reduced and, obviously, we work within the appropriations and the resources that we have.

I issued the first civil enforcement priorities memo the Agency has had, directing us to focus first and foremost on criminal offenders, second on border security.

Our coordination with CBP has never been stronger and, in fact, the Commissioner and I are discussing further ways to latch CBP and ICE at the hip to ensure that border security is high as it possibly can be.

And, finally, we spend a lot of time on people who game the system. The number of criminal prosecutions for illegal reentry is, again, an all-time high. We have never prosecuted more people for illegal reentry.

The Commissioner and I are both a firm believer in making sure that there are consequences for people who violate the law along the border, and the results sort of speak for themselves.

Senator GRASSLEY. Madam Chairman, since I used 1 minute longer than Senator Leahy did, I will—because we have all gone well over the 5 minutes, I will put just a statement in the record in response that basically the *Washington Post* editorial saying that as far as this recordkeeping is concerned, that the Agency has cooked the books on the numbers.

Senator KLOBUCHAR [presiding.] Very good. That will be included.

[The article appears as a submission for the record.]

Senator KLOBUCHAR. I had some questions on some different topics here, but I want to just start with a general question.

I head up the Senate side of the U.S.-Canadian Inter parliamentarian Group and am on the Canadian border, and we have a lot of work and economic activity with positive tourism with Canada from Minnesota.

And I wanted to hear more about the work that you do with the Canada, the joint programs to combat terrorism, smuggling, fraud, and other crimes against the border.

I have been at a number of our border crossings and have seen some of the good work going on there, and, also, some of the work that has been done to try to at least get at some of the problems with delays at the border crossings.

I just wonder if you could address some of the joint efforts that are being made.

Commissioner BERSIN. Thank you, Senator. There are three major dimensions to the work that we do with both the Canadian Border Services Agency, which handles their side of the 122 ports of entry, but also with the Royal Canadian Mounted Police between the ports of entry.

The three areas are information-sharing—we have created, for the first time, a series of port committees in which the management of the Canadian side of the border and the U.S. side of the border meet regularly to work on common problems of expediting flow, as well as securing that flow from north to south and south to north.

The second is, as I mentioned in response to a question from Senator Schumer is the notion of pre-inspection, which is the concept of actually pre-inspecting cargo before it gets to the United States so that we can expedite its movement after doing the proper checks. We see that as a major way of segmenting traffic.

Also connected is the harmonization of the Partners in Progress, which is the Canadian trusted shipper program, together with our Customs and Trade Partnership Against Terrorism, that will permit companies to be jointly validated.

We are also working with the Canadians to create a unified approach to trusted travelers. So that, as you know, we have the NEXUS program that permits expedited crossing of trusted travelers from north to south and south to north. We, in the last quarter, extended the privilege of Global Entry, which makes that possible in airports to all members of NEXUS.

And lastly, we cooperate considerably in terms of intelligence-sharing and data-sharing. So I expect that President Portelance,

who is the head of the CBSA, will be coming to Washington after the Canadian cabinet is announced this week or next to pick up where we left off before the election, and one of the first items of business will be the signing of an agreement that sends a Canadian official to our National targeting center in Herndon on cargo and passengers, and we will be sending a CBP officer to the National Risk Assessment Center in Canada.

So in those three ways, but there are other illustrations, we are seeing cooperation as never before in keeping with the border vision issued by Prime Minister Harper and President Obama.

Senator KLOBUCHAR. Very good. And I am head of the Subcommittee that includes tourism. So my take on this is a little different than some people as we try to figure out how to make those crossings secure, but also simple for people. I think it is really important.

We actually have a couple hundred people in Minnesota, I do not know if you know this, that have to go through Canada to get to their homes and, in fact, only when the ice is frozen over is that not true. Then they can snowmobile across the border.

So anything that you can keep doing in that vein, as we look at tourism as our No. 1 export out of this country, to make that simpler would be helpful.

I also just wanted to mention, I think you are aware of this, Senator Franken and I have written letters about this project, but there is a city that is applying to be one of the ports of entry, and it is Hallock, and they are looking to have the Border Patrol facility.

I just wanted to give, again, a good word for that city. They have a good police and sheriff's department. They have an airport that is less than two miles away. They are prepared to work to ensure that the land is affordable.

And I think one of the most important things, as you have seen the flooding across this country and especially in that part of Minnesota and North Dakota, they are actually 20 feet higher than some of the other sites that are looked at and while the other sites have been closed off by flooding for part of the year, they have not been. And so I hope that is something that you will consider as you look at the border facility. And I know Senator Franken feels strongly, as well. So I wanted to put in that pitch as you look at facilities.

Another issue I wanted to mention is honey laundering, and I know your agencies have been involved in that. At first when you say this, people somewhat laugh. Senator Schumer has been involved in this, as well, but in Minnesota, it is real jobs. We are sixth in the country for honey.

What we find is that producers have been hurt by some activity going on in China where they have been mislabeling or trans-shipping honey under the guise of sweetener to avoid paying duties. They also have been sending low quality, other countries have been doing this. They have been producing honey and then it goes from foreign countries that do not have to pay as high of tariffs, and that is why they have been unfairly competing.

Suddenly, there is a huge boost in honey from a country that does not even make it. You know that that is a problem.

And I know that there is some work being done in terms of the FDA looking at establishing a national standard of identity for honey, but if you could talk about what progress—I know there have been some prosecutions for honey laundering, but what has been going on and is there more work that we can do?

Commissioner BERSIN. The mislabeling in the source countries is a large problem and in the area of honey, actually, we have been able to make more progress in concert with Homeland Security Investigations and with the FDA than we have had in other areas, notably textiles, although we are working on that, as well.

But this is a—there was some very highly publicized investigations and then prosecutions having to do with that, and I think we have identified the problem, developed the law enforcement coalitions able to address them, and are on the lookout for honey laundering, as you describe it.

Senator KLOBUCHAR. Good. Do you want to add anything, Mr. Morton?

Mr. MORTON. The Commissioner has really summed it up right. We have a very close relationship with CBP and we investigater all of the honey that they identify as mislabeled. And as the Commissioner noted, we have had some very good successes lately.

The one thing I would add is not only do we approach it from the perspective of trying to evade customs, duties and unlawfully compete with domestic producers, a number of our cases have also involved adulterated honey. And so there is a real health and safety issue to it, as well, and we are very concerned about that across the board.

But I know, obviously, of your concerns here and we do actually have quite an aggressive effort to investigate honey laundering and I expect you will see more of the same in the future.

Senator KLOBUCHAR. That is good, because I am going to see all the honey people at the Minnesota State Fair in August. So we will then track our progress from the last state fair. But we are trying to push for this honey standard, which I do not think we have yet from the FDA, and then also just increase prosecutions.

So I appreciate both of your work in this area. As you know, it is a safety concern, but also a job issue for the United States.

With that, I do not think there are going to be other Senators coming today. I want to thank both of you for being here. You had to answer a broad range of questions from counterterrorism to honey. So I appreciate that, and I want to thank both of you for being here.

The record will remain open until Monday, May 23 for further testimony and questions. I would like to thank the following individuals and groups for submitting testimony for the record: the National Treasury Employees Union, that is NTEU and New York State Assemblywoman Addy Russell.

I ask unanimous consent that these statements be inserted into the record of this hearing. Without objection, so ordered.

[The statements appear as a submission for the record.]

Senator KLOBUCHAR. And the hearing is now adjourned.

[Whereupon, at 11:22 a.m. the Subcommittee was adjourned.]

[Questions and answers and submissions follow.]

QUESTIONS AND ANSWERS

Question#:	1
Topic:	southbound inspections
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: Various experts have indicated that one way for the U.S. to stem the flow of bulk cash and illegal weapons into Mexico is to institute 100% southbound inspections. According to CBP, DHS is currently conducting southbound inspections at all Southwest border ports of entry. However, these inspections are not conducted on a 24/7 a day basis.

How has CBP adjusted its resources to address the additional resources needed to conduct southbound inspections?

Response: Regarding resource adjustments to conduct southbound inspections, U.S. Customs and Border Protection (CBP) has:

- Assigned CBP officers to Temporary Duty Assignments to Southwest Border (SWB) ports of entry (including canine teams);
- Temporarily assigned local area CBP Border Patrol agents to work outbound operations alongside CBP officers;
- Permanently transferred several non-intrusive inspection (NII) systems to enhance outbound enforcement operations in support of the interdiction of high-risk cargo, bulk currency, and stolen vehicles departing the U.S. along the SWB; and
- Deployed available technologies, including wireless devices such as laptops and handheld devices to CBP Officers.

CBP is preparing to deploy temporary outbound infrastructure (e.g., temporary canopies to protect traveling public and officers from the elements, lighting for operations at night, speed calming devices, connectivity to law enforcement databases, signage) to support outbound operations along the SWB.

Additionally, since March 2009, CBP has enhanced its SWB outbound posture by:

- Conducting "pulse and surge" operations, that are either random or intelligence based. Pulse and surge operations are short duration, periodic outbound inspections followed by periods without inspections;
- Scanning 100 percent of all departing rail cars;
- Increasing its multi-agency cooperation, working with: U.S. Immigration and Customs Enforcement (ICE) and other federal agencies, as well as state and local law enforcement agencies;

72807.001

Question#:	1
Topic:	southbound inspections
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

- Conducting national level targeting of commercial shipments of precursor chemicals, dual-use commodities, and weapons, originating from and transshipping through the United States; and
- Working closely with ICE through ICE-led Border Enforcement Security Teams (BEST) to develop actionable intelligence as well as participating in enforcement activity during outbound operations.

In addition, CBP has placed personnel at the El Paso Intelligence Center (EPIC) to increase collaboration with federal, state, and local agencies. The collaboration includes information sharing that contributes to outbound weapons and currency seizures. Alert information is placed into TECS through border license plate readers data collection.

Question: What efforts have been undertaken to coordinate southbound inspections with Mexican authorities?

Response: In accordance with Bilateral Strategic Plan Initiatives, international meetings were held between the Department of Homeland Security and representatives of the Government of Mexico at Cuernavaca and Brownsville, and a joint operation plan was devised with Mexico's General Administration of Customs (MXC) in an attempt to reduce the illegal movement of firearms, ammunition, implements of war, bulk currency, and narcotics.

As a result, CBP has been conducting coordinated inspection operations with MXC at ports on both sides along the Southwest Border. Since June 6, 2009, CBP and MXC have coordinated over 50 southbound enforcement operations focused on disrupting the operations of criminal enterprises responsible for border violence. These coordinated operations are on-going.

The Port Bi-National Security Committees were established in May 2010 and are intended to create a formalized process to address security concerns and other related issues at ports of entry on both sides of the shared border. These committees help in the development of open and consistent communication between both countries' border security authorities that have equities in and around the ports of entry along the shared border. The Port Security Committees hold meetings monthly.

Question: What efforts have been undertaken to coordinate southbound inspections with state and local law enforcement?

72807.002

Question#:	1
Topic:	southbound inspections
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Response: The ports of entry along the Southwest Border (SWB) have a long history of working with state and local law enforcement agencies and over the years have developed good working relationships with those authorities. Communications and joint outbound operations held between the law enforcement agencies take place on a monthly, weekly, or sometimes on a daily basis, depending on the port. State and local law enforcement officers are a tremendous asset to CBP, acting as force multipliers by providing their knowledge of the community, and their understanding of local criminal elements.

Question: Does DHS have the authority to cross designate state and local law enforcement officers to assist in southbound operations?

Response: Yes, 19 U.S.C. § 507 provides CBP with the authority to request assistance from state and local law enforcement officers to assist CBP in carrying out its mission responsibilities. When trained and appropriately assisting CBP officers, state and local law enforcement officers are afforded the opportunity to assist with border searches when working alongside CBP officers.

Question: How many officers did DHS cross designate for this purpose in 2010?

Response: CBP designated 167 SWB state and local law enforcement officers in 2010.

Question: Can you explain why we do not have 100% southbound screening at this time?

Response: CBP's enforcement strategy is to focus resources on high-risk travelers, conveyances, or cargo exiting the United States, using available capabilities. Attempting to screen 100 percent of all travelers and cargo departing the United States, assuming current resources, technologies, and infrastructure would have a significant, adverse impact on legitimate travel and trade.

Question: What is your plan to put 100% southbound screening into effect by the end of FY 2013?

Response: There are substantial costs – related to implementation, infrastructure and facilities, staffing resources, inspection equipment, operations and maintenance, and disruption to trade and travel – that are associated with outbound screening. CBP's goal is to use unpredictable pulse and surge southbound operations to disrupt the ability of transnational criminal organizations to transport money and guns across the border.

72807.003

Question#:	2
Topic:	southbound technology
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: The GAO cites limited equipment, technology, and infrastructure as a major challenge to stopping the money and guns going south. For example, ATF officers at the U.S.-Mexico border have indicated that one of their challenges in intercepting illegal firearms heading to the border is the ability to quickly provide identifying information about a vehicle to CBP officers. According to the GAO, currently license plate readers are only available at 48 of 118 outbound lanes on the southwest border and none have been installed at the 179 outbound lanes on the northern border.

When will CBP have all ports of entry equipped with license plate readers for inbound and outbound traffic?

*******LAW ENFORCEMENT SENSITIVE START *******

Response:

[redacted]

[redacted]	[redacted]
[redacted]	[redacted]

[redacted]

- [redacted]
- [redacted]
- [redacted]

[redacted]

Question#:	2
Topic:	southbound technology
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

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*******LAW ENFORCEMENT SENSITIVE END *******

Question#:	2
Topic:	southbound technology
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: If funding is an issue, has DHS asked for additional resources to purchase and install license plate readers at all ports of entry?

Response: The FY2012 DHS budget request does not include funding for additional license plate readers.

Question: What metrics are currently used by CBP to evaluate vehicular and pedestrian wait times?

Response: CBP measures and records vehicular and pedestrian wait times for each operating hour at every land border crossing with significant traffic volume. Within the vehicle category, CBP separately measures wait times for commercial and private vehicles, as CBP processes these different types of vehicles at their respective dedicated lanes. Moreover, CBP separately measures wait times at booths and lanes dedicated for participants in the various Trusted Traveler Programs (NEXUS, SENTRI, FAST), and is beginning to separately measure wait times at the RFID-enabled Ready Lanes.

All the wait time measurements are recorded and stored in CBP's Border Wait Time (BWT) administrative tool. This system contains every hourly recorded wait time – for each location and lane type where they were measured – going as far back as mid-year of calendar year 2003. This system also stores the number of lanes that were staffed with CBP officers during those same hours when the wait times were recorded. This abundance of collected data provides a rich source of data for CBP to evaluate vehicular and pedestrian wait times.

Using this stored data, CBP defines average wait time as the arithmetic mean of all hourly recorded wait times of a specific lane type at a specific location (or groups of locations) over a certain period of time. For example, CBP could calculate the average wait time for privately owned vehicles at El Paso's Bridge of the Americas during the month of April 2011. This average wait time metric allows CBP to compare wait times among locations and over time. CBP regularly uses the average wait time metric to determine which crossings have longer wait times than others or to determine whether wait times are increasing or decreasing at certain locations.

Since the wait times are recorded by hour of the day, CBP has the ability to determine when the peaks – or longest wait times – occur. At most land border crossings, particularly busy ones, there are typical times of the day when wait times reach their peak. CBP defines average peak wait time as the arithmetic mean of the maximum daily

72807.006

Question#:	2
Topic:	southbound technology
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

recorded wait time of a specific lane type at a specific location over a certain period of time. As with the average wait time metric, the average peak wait time metric can be used to compare wait times among locations or over time. The average peak metric, of course, is focused more on the worst case scenario or longest wait time experience, rather than being a measure of central tendency.

Question: Are the current programs to facilitate frequent, pre-vetted travelers (SENTRI, FAST) operating effectively to facilitate travel?

Response: CBP's trusted traveler programs, with over one million members, expedite the processing of known, low-risk "trusted travelers" arriving into the United States; the success and popularity of these programs is driving their expansion. These programs – Global Entry, Secure Electronic Network for Travelers Rapid Inspection Program (SENTRI), NEXUS, and Free and Secure Trade (FAST) – free up valuable time at the borders for our CBP officers (over 132,000 hours annually) allowing CBP Officers to focus on higher risk, unknown travelers. At the land borders, there are 33 vehicle lanes along both borders solely dedicated to trusted travelers.

CBP continually looks for ways to facilitate the process for low-risk travelers. All major border crossings are equipped with radio frequency identification technology (RFID) infrastructure that allows vehicle lanes to easily be designed for SENTRI or FAST as traffic warrants.

Travelers carrying documents equipped with RFID can access a priority traffic lane at 10 land border crossings under a CBP pilot program called "Ready Lane," launched in 2010. The "Ready Lane" program facilitates the entry process for travelers using RFID documents including the United States passport card, enhanced drivers license, enhanced identification card, enhanced tribal card, trusted traveler card, as well as an RFID-enabled permanent resident card or border crossing card. The "Ready Lane" gives travelers with RFID-enabled documents priority, and allows the CBP officer to view the results of law enforcement checks before the individual arrives at the inspection booth but is not a trusted traveler lane. The accepted RFID-enabled travel documents denote citizenship and identity and were issued in a secure process; however, the card holder may not have gone through the extensive law enforcement checks conducted on trusted travelers as part of the enrollment process. To date, over 10 million RFID-enabled travel documents have been issued to travelers. Data queries on RFID documents are 60% faster than manual queries. "Ready Lanes" will be available at the 17 busiest land border crossings by the end of FY 2011–which will provide reduced wait times to travelers with RFID documents.

72807.007

Question#:	2
Topic:	southbound technology
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

The segregation of travelers by lanes, based upon the type of travel document presented, provides CBP with the ability to process travelers in a more efficient manner. Without a RFID-enabled document, a traveler's processing time can be well over 115 seconds as compared to SENTRI card holder's average processing time of 24 seconds.

Question: Are these programs adequate to accommodate low-risk frequent travelers, both vehicular and pedestrian?

Response: CBP believes these programs are well-suited to adequately accommodate low-risk and frequent travelers, both vehicular and pedestrian. CBP is in the preliminary steps of transitioning the "Ready Lane" concept to pedestrian operations in El Paso. CBP is also in the process of deploying a Pedestrian Reengineering pilot at the Paso del Norte crossing in El Paso, TX. The Pedestrian Reengineering pilot involves:

- Innovative technical and infrastructure enhancements to establish a model pedestrian process, more efficiently identify and process travelers, and create a welcoming and secure inspection environment.
- Construction is in progress on significant facility and signage enhancements, and an innovative technical solution is currently being designed for (phase-one) integration and deployment in December 2011, to securely and efficiently move pedestrians.

Question#:	3
Topic:	southbound infrastructure
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: I understand that CBP has set aside $10 million for temporary outbound infrastructure improvements, such as canopies, on the southwest border. This project was scheduled to begin in February 2011.

How many ports of entry have been completed?

Response: As of May 2011, no temporary outbound infrastructure improvements have been deployed. CBP, in coordination with its service provider, U.S. General Services Administration (GSA), delayed the schedule for temporary outbound infrastructure to incorporate port hardening activities into the program schedule. The consolidation of the two programs will provide several benefits, including a more efficient use of government resources, more expedient deployment of the technology and security infrastructure needed to enhance officer safety, and increased resistance to terrorism and smuggling exploitation. CBP released the Request for Proposal on May 18, 2011, and a design/build contract is expected to be awarded as early as July 2011. Construction will begin shortly after contract award.

Question: What are you doing to expedite these infrastructure improvements?

Response: In an effort to expedite the deployment of the Outbound Infrastructure Program, CBP, in coordination with its service provider, GSA, will complete the improvements through a design/build contract. A design/build contract allows the government to contract directly with one company that provides both design and construction services. This will eliminate the need to complete a second acquisition process after design of the infrastructure improvements for construction services.

Furthermore, the Outbound Infrastructure Program will be deployed through a geographically-phased schedule moving from the west to the east and in some cases, with installations being done simultaneously. This phased deployment will not only save time but also be the most effective use of government resources.

72807.009

Question#:	4
Topic:	CBP Officers
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: According to the supplemental signed last year, DHS was given $68 million to hire 250 new CBP officers.

Can you tell me if those officers are fully on board?

Response: CBP currently has 129 of the 250 CBP officers onboard. The remainder will be brought onboard before the end of the fiscal year.

Question: How many new officers have been stationed at ports of entry on the southern border?

Response: All of the 129 new officers have been stationed at ports of entry on the Southern border.

Question#:	5
Topic:	Roma Port of Entry
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: The port of entry near Falcon Lake is fairly remote and we have heard through various intel and press reports that the Falcon Lake dam is a potential target for terrorist activity. Specifically, we hear that the dam could be blown up and cause catastrophic damage to this Texas border region known as the Rio Grande Valley.

Are you aware of these reports?

*******LAW ENFORCEMENT SENSITIVE START *******

[redacted]

*******LAW ENFORCEMENT SENSITIVE END *******

Question: What steps is CBP taking to better secure this port of entry and the region?

Response: CBP coordinates closely with all of our Federal and State partners on security issues in the area, and from a regional perspective we have increased our activities in the area.

Question#:	6
Topic:	drug cartels
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: With the increased violence on the U.S.-Mexico border, many members of drug cartels and their families are moving to the United States. The Pacific Council's Binational Task Force on the United States-Mexico Border recommended that the U.S. deny members of drug trafficking organizations and their families safe haven north of the border. The Task Force also recommended that the U.S. bar family members and known associates of Mexican criminal organizations from entry and, if they were are already in the United States, revoke their visas and deport them.

What are you doing to bar family members of drug cartel leaders from entry into the United States?

Are there any legal authorities that you need to implement that Task Force's recommendations?

Response: Agencies within DHS (U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services, as well as the Department of State (DOS) and the Department of Justice (DOJ), remain committed to utilizing our law enforcement databases and civil and criminal law enforcement authorities to identify individuals associated with drug trafficking organizations and to either deny them entry to the United States or initiate removal proceedings provided they are removable under the Immigration and Nationality Act (INA). Additionally, ICE and CBP are in a position to utilize our sizeable footprint at our nation's land, sea, and air borders, coupled with ICE's longstanding experience in investigating transnational criminal organizations, to exploit any investigative information associated with these individuals at the time of their encounter with law enforcement.

ICE and CBP, along with other DHS components, DOS, and DOJ, find the use of existing sections of the INA very effective in accomplishing the recommendations of the Pacific Council Task Force. Specifically, the utilization of INA § 212(a)(2)(C), 8 U.S.C. § 1182(a)(2)(C), which provides that an alien is inadmissible when there is a reasonable belief that the alien:

i. is or has been an illicit trafficker in any controlled substance or in any listed chemical . . . , or is or has been a knowing aider, abettor, assister, conspirator, or

Question#:	6
Topic:	drug cartels
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
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colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

ii. is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

Pursuant to INA § 221(g) and related authorities, DOS has the authority to refuse issuance of a visa to inadmissible aliens. The Secretary of Homeland Security has the authority to refuse or revoke visas, pursuant to section 428(b) of the Homeland Security Act of 2002 (Pub. L. No. 107-296) and consistent with the related memorandum of understanding with DOS regarding implementation of that authority. In addition, when an alien has a visa, DHS officers may, with an adequate factual basis, find that an alien is inadmissible under INA § 212 at a port of entry and may, in appropriate circumstances, revoke, by physically canceling a visa, pursuant to 22 C.F.R. § 41.122(h).

An example of this type of enforcement action is "Operation No Refuge" (ONR), which is an initiative with the El Paso Intelligence Center (EPIC) and its Situational Awareness and Targeting Unit, to identify transnational criminals, associates, and family members. There are currently a total of 1,772 subjects targeted under ONR. Additionally a CBP analyst is embedded into the EPIC Research and Analysis Section's Southwest Border Unit and is working directly with the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI) and other federal, state, and local analysts on the Gatekeeper North Project, giving CBP direct access to intelligence on drug cartel members and their families living on both sides of the border. From this research, ancillary subjects of interests are also developed.

Question#:	7
Topic:	2010 GAO report
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to the December 2010 GAO report, overlap exists in mission and operational boundaries among agencies at the northern border due to a lack of coordination among the involved agencies. As a result, officials from federal, state, and local law enforcement agencies may patrol in the same geographic area and pursue the same persons or criminal organizations.

A recent article in the Wall Street Journal discussed the amount of federal funding given to northern border states under Operation Stonegarden which totaled $11.1 million last year. While DHS intended to limit these grants to southwest border states for FY11 and FY12, the restriction was removed in the budget bill passed by Congress.

Does DHS's intention to limit these grants to the southwest border states indicate only that there is a more pressing need there, or that state law enforcement is less equipped to handle the unique threats we face at the northern border?

Response: For FY11, the same 39 States and territories that were eligible to receive funding in FY10 remain eligible to apply. DHS has not yet made the decision about how much to allocate to the Southwest or Northern border regions, and will do so based on the most current assessment of risk prior to announcement later this summer. In FY10, the Southwest border represented about 4/5ths of the enforcement activity volume that CBP faced.

Although funding is allocated based on the *greatest need*, the allocation of grant funds has not been limited to only the Southwest Border states. Funding under Operation Stonegarden is also available for Northern Border areas.

Question: The article I mentioned quotes a Blaine County Sheriff who says that he has not spent the money he was given in 2009 or 2010. Interestingly, Blaine, WA was identified by the GAO as a state with a known presence of terrorist organizations. Is it common that counties receiving grants for border security purposes lack productive ways to spend the money?

72807.014

Question#:	7
Topic:	2010 GAO report
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Response: Blaine County has used about half (47%) of the funds it was allocated during the FY-2009 program period. The guidelines of the Stonegarden grant program allow the funds to be used within a 36 month timeframe. Funds disbursed in FY-2009 program period* may be used throughout fiscal years 2010, 2011, and 2012.

The Operation Stonegarden grants are available for 36 months from the time of award. Since the types of activities allowed under this program varies from personnel costs, which are typically drawn down incrementally for operational activity, to large equipment purchases that may require long procurement processes or environmental assessments, the time it takes for each jurisdiction that receives funds varies.

**Funding disbursed under the FY-2009 program period was available for recipients to use at the beginning of FY-2010.*

Question: How well equipped are state and local law enforcement officials to handle terror threats or attempted terrorist entry into the U.S. at the northern border? Are state and local law enforcement officials an effective partner when it comes to terrorism related threats at the northern border?

Response: Each state and local law enforcement agency along the northern border possesses varying degrees of preparation and capability. The purpose of grants to local law enforcement such as Operation Stonegarden is to enhance border security by supporting the strategies of agencies like U.S. Customs and Border Protection. Other grant programs within the Homeland Security Grants Program have the purpose of increasing the resilience of communities by helping them to prepare for, respond to, and recover from incidents such as natural disasters or to help prevent or protect against terrorist attacks.

72807.015

Question#:	8
Topic:	2008 GAO report
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: A 2008 GAO report highlighted the issue of arrest authority at preclearance sites on the northern border. According to officials from the U.S. and Canada, the host country would have sole authority to make arrests at the preclearance site. The report cites concerns by U.S. officials that our government would lack the ability to arrest and later prosecute high value terrorists who present themselves at the border; rather, such individuals would have to be extradited to the U.S.

Is this still the policy in place at preclearance cites? Have any changes or exceptions to this policy been made?

Response: Yes, it is still the policy. There have been no changes or exceptions to the issue of arrest authority at preclearance sites. CBP continues to operate air preclearance under the existing Air Preclearance Agreement with Canada which was signed in 2001.

CBP officers have limited search authority where CBP officers can conduct pat downs for officer safety purposes or contraband. In the event that there is evidence of criminal activity and/or violations of law, CBP officers must rely on host government law enforcement officials to conduct more invasive personal searches and arrest authority. Preclearance CBP officers cannot make arrests and cannot make seizures of currency violations.

Question: If not, does the possibility that the U.S. would be unable to obtain custody of an individual who presents a threat to our national security raise concerns with DHS?

Response: CBP retain[redacted]d exercises the authority to prevent such individuals from boarding flights to the United States. Should the U.S. seek to pursue prosecution of an individual in the U.S., it may seek extradition of that individual under the U.S.-Canada Extradition Treaty.

72807.016

Question#:	9
Topic:	DTOs
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: According to the U.S. Department of Justice's National Drug Threat Assessment for 2010:

"The rising influence of Asian DTOs that was observed and reported by law enforcement agencies in 2008 continued to increase in 2009. . . . Asian DTOs that had previously trafficked high-purity Southeast Asian heroin have become the predominant distributors of MDMA and high-potency marijuana, drugs typically associated with low criminal penalties and high profit margins. Asian DTOs increasingly smuggle large quantities of MDMA through and between ports of entry along the U.S.-Canada border, as evidenced by seizure data that show a substantial increase in the amount of MDMA seized along the Northern Border from 2004 to 2009. While Asian DTOs continue to produce high-potency marijuana in Canada, they have decreased their reliance on foreign production by establishing marijuana grows in the United States, further reducing associated smuggling risks and costs. Consequently, the amount of marijuana seized along the U.S.-Canada border decreased from 10,447 kilograms in 2005 to 3,423 kilograms in 2009."

What specific steps has CBP taken to increase coordination and intelligence-sharing with DEA, Canadian law enforcement and other relevant agencies to address the evolving threats from these Asian drug trafficking organizations operating on our northern border?

Response: In an effort to stem the flow of drugs and identify those organizations, including Asian drug trafficking organizations responsible for the trafficking of drugs along the Northern border, CBP has increased its deconfliction and sharing of intelligence, and coordinates operational activities with the Drug Enforcement Administration (DEA). CBP shares intelligence with the Canada Border Services Agency (CBSA) and the Royal Canadian Mounted Police (RCMP). Strong partnerships between CBP and Canadian law enforcement partners have led to significant success stories in recent years across the northern border, including a 314% increase in Border Patrol marijuana seizures across the northern border from FY08 to FY09. From FY10 to FY11, cocaine and MDMA seizures have increased significantly. Field commanders have enhanced border security through these partnerships by coordinating patrols, sharing available resources, and conducting intelligence driven, risk based patrols.

CBP also coordinates with DEA and with Canadian government officials to discuss trends, tactics, and procedures; and discuss membership in integrated working groups, such as the Integrated Border Enforcement Team (IBET). Further, CBP's Office of

72807.017

Question#:	9
Topic:	DTOs
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Intelligence and Operations Coordination (OIOC), which has recently been reorganized as the Office of Intelligence and Investigative Liaison (OIIL), has a CBSA intelligence analyst assigned to the office to ensure information is shared between both countries in a timely, efficient manner. OIIL, in partnership with CBSA, has also produced two joint threat assessments that address drug threats pertaining to the Northern border.

In working to gather intelligence related to drug trafficking, including drug organizations, OIOC assigned two CBP officers to work at DEA's Special Operation Division. In this forum, DEA agents and CBP officers work together to ensure that information is properly shared and disseminated to appropriate personnel. In several instances, CBP officers provided useful information for DEA investigations; likewise, DEA agents shared information with CBP for tactical operations at the ports of entry.

Additionally, other intelligence and law enforcement communities receive CBP intelligence reports via DHS channels. By using this mechanism, information is timely disseminated to a wider array of agencies.

In January 2004, the Government of Canada established the National Risk Assessment Center (NRAC) at the CBSA to protect Canadians against current and emerging threats. NRAC, which operates 24 hours a day, seven days a week, is one of the first points of contact and liaison for national and international partners involved in security, intelligence and law enforcement.

CBPs National Targeting Center-Passenger (NTC-P) continues to work with its Canadian counterparts at NRAC on the sharing of traveler-related data. CBP and CBSA have agreed to the exchange of targeting analysts to act as liaisons between its centers. The NRAC liaison arrived at the NTC-P the second week in June 2011, and the NTC-P liaison will report to NRAC by early July 2011.

U.S. Immigration and Customs Enforcement (ICE) has the most expansive investigative authority and largest force of investigators in the Department of Homeland Security (DHS). With more than 7,000 special agents assigned to more than 200 cities throughout the United States, and 70 offices in 48 countries worldwide, ICE is uniquely positioned to leverage its broad statutory authority to support border enforcement by targeting the illicit pathways and organizations that produce, transport, and distribute illegal contraband across our borders.

Strong partnerships and intelligence programs exist across the Northern Border and will continue to be strengthened. DHS components such as U.S. Customs and Border

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Primary:	The Honorable Jeff Sessions
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Protection (CBP), ICE, and the U.S. Coast Guard (USCG) regularly coordinate efforts with each other and other Federal agencies.

Since 2005, CBP has been an active partner in the ICE-led Border Enforcement Security Task Force (BEST) to identify, disrupt, and dismantle criminal organizations that seek to exploit vulnerabilities along the U.S. borders and threaten the overall safety and security of the American public. BESTs are designed to increase information sharing and collaboration among the participating agencies through co-location, focusing toward the identification, prioritization, and investigation of emerging or existing threats.

ICE, and its predecessor agencies, has participated in the Organized Crime Drug Enforcement Task Force (OCDETF) program since its inception in 1982. Using combined immigration and customs authorities, ICE agents combat large-scale drug trafficking organizations, sophisticated money laundering organizations and foreign born nationals who are principle members of criminal organizations trafficking drugs across our borders.

ICE has long understood the value of taking the assets and money away from criminal organizations and has been on the forefront of developing the most effective ways to accomplish this through the initiation of complex financial investigations as well as parallel asset identification and removal investigations. The goal of these financial investigations is to deny criminal organizations their capacity to profit and thus to survive.

In addition to financial expertise, ICE has a large footprint at the U.S. land, air and sea borders, which naturally positions special agents to be able to support OCDETF's efforts to attack the drug trade and the bulk cash smuggling of drug proceeds.

ICE on a daily basis conducts investigations aimed at targeting illicit trade, travel, and finance through the identification, disruption, and dismantlement of criminal and terrorist organizations. ICE special agents utilize their authority, expertise, and investigative techniques, such as certified undercover operations, Title-III electronic intercepts, informants, asset identification and removal, financial and trade information exploitation to not only identify and dismantle transnational criminal organizations, but to deny these organizations the capacity and structure to regenerate the resources and capital needed to survive.

Partnerships with CBP, state, local, tribal, other federal agencies and foreign law enforcement along the northern border are essential to enhance situational awareness,

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conduct joint investigations and operations along the border. ICE has six Special Agent in Charge (SAC) offices located at or near the northern border, including Boston, Buffalo, Detroit, St. Paul, Denver, and Seattle with numerous sub-offices at or near the northern border as well as international corresponding offices in Canada: Vancouver, Ottawa, Toronto and Montreal.

ICE also participates in the IBET program with personnel from the six northern border SAC offices across the U.S.-Canadian border. Primarily through integrated intelligence gathering, the mission of the IBET's is to enhance border security between the ports of entry by identifying, investigating, and interdicting individuals and organizations that pose a threat to national security or are engaged in other organized criminal activity.

The IBET concept currently operates in 15 individual regions across the northern U.S. border.

- Enhancing border integrity and security between designated ports of entry;
- Exchanging cross border actionable intelligence; and
- Identifying, investigating and interdicting persons, organizations and goods that threaten the national security.

ICE, as part of the IBET, combats criminal organizations seeking to exploit the Northern Border as a vector for their illicit actions.

Question: A particular problem on our northern border is the smuggling of MDMA, the drug popularly known as ecstasy. Years ago, this drug was sourced primarily from Europe, but, in recent years, the primary supply of ecstasy in the United States has been from Canadian sources. Nonetheless, the number of seizures decreased from 708 in 2008 to 357 for 2009, according to the National Drug Threat Assessment for 2010. Has CBP developed a coordinated strategy with DEA and other relevant agencies for dealing with the supply chain of ecstasy?

Response: CBP is working closely with DEA, ICE and our other Federal partners to monitor and identify trends and patterns with regards to the production and illicit movement of ecstasy.

Part of this relationship includes CBP's Office of Intelligence and Operations Coordination (OIOC), which has recently been reorganized as the Office of Intelligence and Investigative Liaison (OIIL), and the newly opened Operations Integration Center (OIC) in Selfridge, Michigan, DHS continues to improve its ability to ascertain, analyze,

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and share information with its partners and provide improved overall border management situational awareness.

As the largest investigative arm in DHS, ICE works on a daily basis with additional DHS operational components to be the investigative arm for the uniformed and interdiction centric agencies of CBP and the USCG.

ICE and CBP leadership meet on a regular basis along with the leadership of other DHS components to discuss areas of mutual concern. ICE field leadership determines the prevailing threats in their respective areas of operation and to determine which of the agency's assets and programs will counter those threats. ICE ensures at the field level that IBETs and BESTs coordinate, cooperate, interact, share information, and deconflict investigations and operations. To this end, BEST Field Executive Boards, which include representation from local participating agencies, meet quarterly, or more often if necessary, to establish priorities and increase the efficacy of operations.

Question: As Canada-based DTOs increasingly begin to rely on domestic growing of Marijuana in order to avoid smuggling risks and costs, has CBP developed a mechanism or strategy for sharing what it has learned about these organizations and their smuggling operations that will allow us to better target the smuggling of cash proceeds from these sales?

Response: Through liaison activities and intelligence sharing, CBP has worked closely with Canadian law enforcement agencies for decades. There are a number of mechanisms that facilitate the sharing of information about smuggling trends, means, and methods. CBP and Canada Border Services Agency (CBSA) are currently developing a joint intelligence briefing product that will be used as the basis for a monthly teleconference to share and discuss current intelligence, trends, and enforcement operations along the Northern Border. This product and briefing will also include information provided by other US and Canadian law enforcement agencies. Some other examples include:

- The Integrated Border Enforcement Teams (IBET) are multi-disciplinary, multi-agency intelligence driven/intelligence led enforcement teams. They work in land, air, and marine environments between the ports of entry along the Canada/United States border, while respecting the laws and jurisdiction of each nation.

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Question#:	9
Topic:	DTOs
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Primary:	The Honorable Jeff Sessions
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The IBET functions through a partnership of five core agencies: CBP, ICE, U.S. Coast Guard (USCG), RCMP, and CBSA. On the local level, partnerships with other Federal, state, provincial, municipal, and tribal entities are encouraged.

- BESTs incorporate personnel from ICE, CBP, USCG, CBSA, RCMP and other key federal, state, and local agencies. BESTs were developed as a comprehensive approach to identifying, disrupting, and dismantling criminal organizations, including drug trafficking organizations, posing significant threats to border security at or around the ports of entry. There are currently 21 established BEST units, including four along the northern border – Seattle and Blaine, Washington, Detroit, Michigan, and Buffalo, New York areas of responsibility.

  CBP engages in integrated Cross-Border Maritime Law Enforcement Operations. On May 26, 2009, the United States and Canada signed the Framework Agreement on Shiprider. Once Canada passes implementing legislation, the agreement will allow the exchange of cross-designated officers on a permanent basis in order to create seamless maritime law enforcement operations that diminish the ability of drug traffickers to use the international border as a way to evade pursuit. Currently still a pilot, Shiprider enables the RCMP and USCG to cross-train, share resources and personnel, and utilize each others' vessels in the waters of both countries.

ICE has six Special Agent in Charge (SAC) offices located near or at the northern border, including Boston, Buffalo, Detroit, St. Paul, Denver, and Seattle with numerous sub-offices at or near the northern border as well. ICE has the largest investigative footprint of any U.S. law enforcement agency in Canada with personnel positioned in Canadian cities (Ottawa, Vancouver, Toronto, and Montreal) for coordination with Canadian law enforcement partners.

ICE has seen the following trends during its investigations of drug trafficking organizations operating on the Northern Border:

- Increased sophistication;
- U.S. cities serving as transit points for bulk currency and narcotics; and
- Increased alliances with Mexican transnational criminal organizations.

Additionally, drug trafficking organizations have been successful in overcoming traditional northern border impediments to smuggling, such as geography and weather, by using more sophisticated smuggling techniques.

72807.022

Question#:	10
Topic:	guidance
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

Question: The Government Accountability Office (GAO) issued a report in December 2010 identifying a variety of difficulties with interagency coordination, information sharing, and efficient resource allocation along the northern border.

Following the release of the report, DHS notified the GAO that it would be releasing a Northern Border Strategy Implementation Plan sometime this year, which aims to provide Department-wide guidance to better integrate, coordinate, and achieve its northern border management missions.

When can we expect this plan to be released?

Does the plan provide for serious implementation of the recommendations made in the GAO report?

Were all of the federal and local law enforcement entities involved in northern border security given an opportunity to submit proposals or raise concerns before the plan was finalized?

Response: The U.S. Department of Homeland Security (DHS) has enhanced the security and resiliency of the northern border while facilitating the flow of lawful trade and travel at northern border ports of entry. Cooperation with federal, state, local, tribal, and Canadian partners is critical in these efforts. DHS concurred with the recommendations presented by the GAO in the December 2010 report, *BORDER SECURITY: Enhanced DHS Oversight and Assessment of Interagency Coordination Is Needed for the Northern Border*, and is taking steps to further improve northern border coordination.

Most notable among these efforts is the creation of the DHS Northern Border Strategy (NBS). The NBS will for the first time articulate a Department-wide vision for managing the U.S.-Canada border. It will identify past successes and future goals for the Department at the northern border, and emphasize the importance of partnerships in that effort. While the NBS is a leadership-directed initiative, it was advanced through a bottom-up approach and drew upon the experiences and expertise of front-line personnel. DHS is currently collecting input from the federal interagency. The Department expects to finalize and release the NBS in the coming months and is determining the best path forward for its implementation. It is important to note that a DHS implementation effort

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Question#:	10
Topic:	guidance
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable Jeff Sessions
Committee:	JUDICIARY (SENATE)

will draw from interagency and state and local input, and will require continuous coordination with federal, state, local, tribal, and Canadian partners.

Question#:	1
Topic:	drug cartels
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

Question: Drug Cartels Moving to the United States

With the increased violence on the U.S.-Mexico border, many members of drug cartels and their families are moving to the United States. The Pacific Council's Binational Task Force on the United States-Mexico Border recommended that the U.S. deny members of drug trafficking organizations and their families safe haven north of the border. The Task Force also recommended that the U.S. bar family members and known associates of Mexican criminal organizations from entry and, if they were are already in the United States, revoke their visas and deport them.

What are you doing to bar family members of drug cartel leaders from entry into the United States?

Are there any legal authorities that you need to implement that Task Force's recommendations?

Response: Agencies within DHS (U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services, as well as the Department of State (DOS) and the Department of Justice (DOJ), remain committed to utilizing our law enforcement databases and civil and criminal law enforcement authorities to identify individuals associated with drug trafficking organizations and to either deny them entry to the United States or initiate removal proceedings provided they are removable under the Immigration and Nationality Act (INA). Additionally, ICE and CBP are in a position to utilize our sizeable footprint at our nation's land, sea, and air borders, coupled with ICE's longstanding experience in investigating transnational criminal organizations, to exploit any investigative information associated with these individuals at the time of their encounter with law enforcement.

ICE and CBP, along with other DHS components, DOS, and DOJ, find the use of existing sections of the INA very effective in accomplishing the recommendations of the Pacific Council Task Force. Specifically, the utilization of INA § 212(a)(2)(C), 8 U.S.C. § 1182(a)(2)(C), which provides that an alien is inadmissible when there is a reasonable belief that the alien:

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Question#:	1
Topic:	drug cartels
Hearing:	Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry
Primary:	The Honorable John Cornyn
Committee:	JUDICIARY (SENATE)

i. is or has been an illicit trafficker in any controlled substance or in any listed chemical . . . , or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or
ii. is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity.

Pursuant to INA § 221(g) and related authorities, DOS has the authority to refuse issuance of a visa to inadmissible aliens. The Secretary of Homeland Security has the authority to refuse or revoke visas, pursuant to section 428(b) of the Homeland Security Act of 2002 (Pub. L. No. 107-296) and consistent with the related memorandum of understanding with DOS regarding implementation of that authority. In addition, when an alien has a visa, DHS officers may, with an adequate factual basis, find that an alien is inadmissible under INA § 212 at a port of entry and may, in appropriate circumstances, revoke, by physically canceling a visa, pursuant to 22 C.F.R. § 41.122(h).

An example of this type of enforcement action is "Operation No Refuge" (ONR), which is an initiative with the El Paso Intelligence Center (EPIC) and its Situational Awareness and Targeting Unit, to identify transnational criminals, associates, and family members. There are currently a total of 1,772 subjects targeted under ONR. Additionally a CBP analyst is embedded into the EPIC Research and Analysis Section's Southwest Border Unit and is working directly with the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI) and other federal, state, and local analysts on the Gatekeeper North Project, giving CBP direct access to intelligence on drug cartel members and their families living on both sides of the border. From this research, ancillary subjects of interests are also developed.

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SUBMISSIONS FOR THE RECORD

TESTIMONY OF

ALAN BERSIN
COMMISSIONER

U.S. CUSTOMS AND BORDER PROTECTION
DEPARTMENT OF HOMELAND SECURITY

BEFORE

SENATE JUDICIARY COMMITTEE
SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND BORDER SECURITY

REGARDING

NORTHERN BORDER SECURITY

May 17, 2011
Washington, DC

72807.027

Chairman Schumer, Ranking Member Cornyn, and distinguished Members of the Subcommittee, it is a privilege and an honor to appear before you today to discuss U.S. Customs and Border Protection's (CBP) efforts along the northern border. I am Alan Bersin, Commissioner of CBP.

As America's frontline border agency, CBP is responsible for securing America's borders against threats, while facilitating legal travel and trade. To do this, CBP has deployed a multi-layered, risk-based approach to enhance the security of our borders while facilitating the flow of lawful people and goods entering the United States. This layered approach to security reduces our reliance on any single point or program that could be compromised and includes close coordination with DHS partner agencies, with other U.S. interagency partners, and with our Canadian counterparts. It also extends our zone of security outward, ensuring that our physical border is not the first or last line of defense, but one of many.

Northern Border Environment and Challenges

Along the U.S. northern border, CBP processes more than 70 million international travelers and 35 million vehicles each year. Since the implementation of the Western Hemisphere Travel Initiative (WHTI) in June 2009, WHTI compliance along the northern border is at approximately 99 percent, allowing CBP to facilitate travel and focus on individuals who may pose a threat to national security. In addition, CBP annually makes approximately 6,000 arrests and interdicts approximately 40,000 pounds of illegal drugs at and between the Ports of Entry (POE) along the northern border. Although CBP typically defines the northern border region as the area between the United States and Canada, running from Washington through Maine and including the Great Lakes region, CBP also facilitates and ensures the security of trade across the Alaska-Canadian border. On the northern border, CBP has 122 land border crossings and 13 ferry land crossings, eight Border Patrol Sectors, eight Air and Marine Branches, nine Coastal Marine Units and 23 Riverine Marine Units to protect against the illegal flow of people and contraband at and between the official POEs.

There are a number of ways in which the northern border is operationally distinct from other environments. The international boundary with Canada extends over 5,500 miles across both

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land and water (including the border of Alaska), and it is often described as the longest common non-militarized border between any two countries. It delineates two friendly nations with a long history of social, cultural, and economic ties that have contributed to a high volume of cross-border trade and travel, amounting to more than a billion dollars a day. The border is a diverse region consisting of major metropolitan centers, integrated bi-national communities, numerous transit hubs, and vast regions with little or no population. Thickly forested, mountainous areas with recreational trail networks provide avenues and cover for those seeking to cross the border illegally. The extensive commercial and transportation infrastructure along the border also provides avenues vulnerable to exploitation by traffickers and smugglers, including vehicular transportation, commercial trucking, and commercial and non-commercial air, rail, and maritime modes of transportation.

The Great Lakes region consists of several large bodies of open water, including the Great Lakes themselves, and rivers along the border. Because the lakes are heavily used by boaters in the summer and ice fisherman and snowmobiles in the winter, they present unique border enforcement challenges as small vessels can potentially be exploited for illicit purposes.

Seasonal changes affect the ease with which the northern border can be crossed; in general, winter allows the Border Patrol to focus its attention on fewer points of egress as compared to the summer, when much more of the border is passable. In the winter, sub-zero temperatures and significant snowfall provide a natural barrier along some portions of the border. While pedestrian and vehicle traffic are reduced during the winter, illegal entries utilizing snowmobiles are not unusual. When frozen, some rivers, lakes, and streams become easier for smugglers and others to utilize for crossing the border on foot, via snowmobiles or other modes of transport, while other areas become treacherous with ice floes and are less traversable. The spring thaw can cause impassibly deep mud on some logging roads, thereby closing them to commercial truck traffic. During this period, there is an increase in smuggling via all-terrain vehicles (ATV).

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CBP Resources on the Northern Border

Over the past two years, the Department of Homeland Security (DHS) has dedicated historic levels of personnel, infrastructure, and technology to the northern border as it has to the southwest border. Since 9/11, Border Patrol agent staffing on the northern border has increased by over 650 percent – from approximately 340 agents in 2001, to more than 2,200 agents today. CBP has employed two unique programs to achieve these increases in northern border staffing: the Northern Border Intern Program and the Resident Agent Pilot Program. Since its inception in 2008, the Northern Border Intern (NBI) Program has allowed CBP to deploy 531 fully trained Border Patrol agents to the northern border. These NBIs complete 14 to 15 months of extensive training at the Border Patrol Academy as well as in the field along the southwest border. During their tenure on the southwest border, they learn invaluable lessons in order to obtain the necessary officer safety skills, job knowledge, and experience required for northern border operations. Traditionally, the Border Patrol has viewed the activity levels along the southern border as beneficial to forming a well-rounded agent and conducive to overall training. Currently there are an additional 180 NBIs going through their field training on the southern border.

The Resident Agent Pilot Program in Grand Forks Sector has deployed 35 agents in 12 different remote locations throughout the sector in order to enhance its geographic presence. Agents involved in this program compose self-reliant units who perform all the standard duties without a traditional base of operations. Resident Agents are ideally suited for providing the field commanders with an unprecedented level of situational awareness within remote areas of the border. They are able to provide improved situational awareness by focusing their daily activities on the creation of partnerships, expansion of community outreach, and the development and dissemination of intelligence. This situational awareness is leveraged to benefit DHS, CBP Border Patrol Sectors, Field Offices, and Air and Marine Branches.

At the POEs along the northern border, CBP's Office of Field Operations (OFO) has deployed more than 3,800 CBP Officers and Agriculture Specialists. We have developed and implemented a comprehensive training curriculum for these Officers and Agriculture Specialists,

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which includes basic academy training, as well as comprehensive, advanced, on-the-job and cross-training courses. CBP continually strives to provide our frontline officers with recurrent training to help them better perform their jobs.

The American Recovery and Reinvestment Act (ARRA) provided CBP with $420 million to modernize CBP-owned land POEs (LPOEs) and provided the General Services Administration (GSA) with $300 million to modernize GSA-owned LPOEs. CBP and GSA are utilizing ARRA funds to modernize and renovate 39 northern border LPOEs to bring these facilities into compliance with post-9/11 requirements and standards to address growing demand for additional capacity, new requirements for enforcement technologies, and to maximize the efficiency of existing personnel and resources.

Also within CBP, the Office of Air and Marine (OAM) has 158 Air and 121 Marine Interdiction agents deployed along the northern border. Since 2004, CBP has opened five strategically located Air Branches along the northern border in Washington, Michigan, Montana, New York and North Dakota. CBP has stationed 52 fixed-wing and rotary aircraft on the northern border, including two Unmanned Aircraft Systems (UAS) operating out of Grand Forks Air Branch in North Dakota. CBP, with the cooperation of the Federal Aviation Administration, recently expanded its operational airspace along the northern border, allowing CBP UAS operations from the Lake-of-the-Woods region in Minnesota to the vicinity of Spokane, Washington. An area of northern New York adjacent to Lake Ontario and a portion of the Saint Lawrence Seaway were also recently opened for CBP UAS operations. These UAS contribute significantly to situational awareness in areas that are difficult to reach by other operational elements – a critical capability in difficult terrain along the northern border. In the maritime environment, since 2009, OAM has opened six new marine units on the northern border in New York, Ohio, Michigan, Pennsylvania, and Washington. Currently, CBP operates 29 coastal and 52 riverine vessels on the northern border.

As a part of a multi-layered approach to secure America's borders, CBP has also greatly improved our technological capabilities on the northern border. CBP has deployed two mobile surveillance systems (MSS) to provide added radar and camera coverage in the Spokane and

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Detroit Sectors, and installed additional remote video surveillance systems (RVSS) in the Detroit and Buffalo Sectors, among other technologies.

CBP has also established the Operational Integration Center (OIC) located at Selfridge Air National Guard Base in Harrison Township, Michigan. The OIC is a demonstration project, involving the application of personnel and technology to enhance border security and situational awareness for CBP and its mission partners in the Detroit region, a critical area of the northern border. In terms of personnel, the OIC allows for a collaborative work area and communications capabilities for all components of CBP, the United States Coast Guard (USCG), other DHS organizations, federal law enforcement agencies, state and local law enforcement, and appropriate Canadian agencies. The OIC brings together information feeds, including radar and camera feeds, blue force tracking, database query from databases not previously available to CBP, remote sensor inputs, RVSS and MSS feeds, and video from various POEs and tunnels. Additional information feeds such as local traffic cameras and MSS will be added in the near future. This level of personnel and technology integration may serve a model for collaboration and technology deployments in other areas of the northern border.

To continue to bolster our northern border security efforts, our FY 2012 budget request includes $55 million to support investments in technology systems that address security needs for the northern border maritime and cold weather environment, as well as innovative technology pilots. It will also deploy proven, stand-alone technology that provides immediate operational benefits. These demonstrations and deployments explore how best to integrate various border security organizations and mission operations in order to enhance border security in this challenging environment.

In the coming year, CBP plans to continue to expand joint operations by exploring a joint command with the U.S. Coast Guard (USCG) in the Great Lakes Region. The Air and Marine Operations Center (AMOC), which includes representatives from the USCG, as well as other agencies, provides a comprehensive picture of the air environment in the United States. The AMOC can monitor violations of U.S. airspace, track potentially dangerous aircraft, and coordinate and expedite an operational response. Our FY 2012 budget request continues to

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strengthen the AMOC by exploring opportunities to incorporate the USCG into management and decision-making, and expand AMOC's intelligence capability.

Northern Border Strategy: Intelligence and Partnerships

As we have increased our operational presence on the northern border, we have also continued to build on our partnerships and intelligence capabilities, in order to provide comprehensive awareness of the environment to our strategically placed personnel and resources. Although the northern border is nearly three times the length of the southwest border, the volume of illicit cross-border activity is significantly lower. Nonetheless, Canada remains a major source for MDMA/Ecstasy and high potency marijuana consumed in the U.S., while cocaine, weapons, illicit drug proceeds, and other contraband regularly crosses from the U.S. into Canada. In this environment, in which a reduced volume of traffic is spread across vast expanses of border, we must rely on intelligence, information-sharing, and strong partnerships with federal, state, local, tribal, and bi-national law enforcement agencies, as well as with the public and private sectors, to maximize resources and ensure the success of our mission. Coordination and cooperation among all entities that have a stake in our mission has been, and continues to be, paramount.

President Obama and Prime Minister Harper of Canada recently issued *Beyond the Border: A Shared Vision for Perimeter Security and Competitiveness*. The declaration states that both the U.S. and Canada share responsibility for the safety, security, and resilience of both countries. It further states the importance of addressing threats before they reach our shores. Key to achieving this vision is greater information sharing, a risk-management approach, and engaging both with all levels of government and with communities. Both countries committed to developing an integrated strategy that would enable each to meet the threats and hazards faced by both nations, including natural disasters and terrorism. We will look for opportunities to integrate efforts, including joint facilities, programs, and operations.

CBP is working closely with all of our partners to increase information-sharing and intelligence capabilities on the northern border. This information-sharing enhances our understanding of evolving threats and establishes a foundation for law enforcement entities to exercise targeted

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enforcement in the areas of greatest risk. All-source intelligence analysis provides domain awareness and informs, enables, and supports action by policymakers and operators in securing the northern border. This intelligence-driven approach prioritizes enforcement activities based on emerging threats, vulnerabilities, and risks, and greatly enhances our border security efforts.

It is important to emphasize that our objective is not just to strengthen border security, but also promote economic prosperity between the United States and Canada. Our strategy on the northern border is built on the premise that security and lawful trade and travel are not mutually exclusive, but rather mutually reinforcing. We must safeguard the transnational flows of goods and people, while also encouraging the lawful and efficient trade and travel essential to the economic vitality of both the United States and Canada, and the economic competitiveness of North America. By utilizing advance information to separate higher-risk from lower-risk traffic, officials on both sides of the border are better able to expedite the processing of lawful travel and trade, and focus more time and resources on the higher-risk traffic.

Border Security Coordination and Cooperation

Recognizing the importance of partnerships, intelligence, and information sharing to the success of our mission, CBP is engaged in several national initiatives to increase security on the northern border. Our officers and agents provide support to the Integrated Border Enforcement Teams (IBET), comprised of U.S. and Canadian federal, state/provincial and local law enforcement personnel, and encompassing 15 regions along the northern border. The IBET concept was formalized in December 2001 with five core agencies: CBP, USCG, U.S. Immigration and Customs Enforcement (ICE), Royal Canadian Mounted Police (RCMP), and the Canadian Border Services Agency (CBSA). IBETs operate as intelligence-driven enforcement teams designed to increase information- and intelligence-sharing capabilities between U.S. and Canadian authorities. By incorporating integrated mobile response capability (air, land, marine), the IBETs provide participating law enforcement agencies with a force multiplier, maximizing border enforcement efforts.

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On the northern border, ICE and our other law enforcement partners work to dismantle criminal organizations. The aggressive use of investigative and prosecutorial resources is critical on the northern border, where a whole of government approach is needed to attack criminal organizations before they have the opportunity to take root and expand. Our personnel provide manpower to ICE's Border Enforcement Security Task Force (BEST) units along the northern border, which focus on every element of the enforcement process, from interdiction to prosecution and removal. BEST units utilize a comprehensive approach towards dismantling the cross-border criminal organizations that exploit our border and utilize that information to eliminate the top leadership and the supporting infrastructure that sustains these criminal organizations.

Border Patrol has also established Border Security Evaluation Teams (BSET), which serve as a mechanism for northern border sectors to expeditiously evaluate the security of outlying border zones of a sector. BSETs gather intelligence and establish points of contact with state and local law enforcement agencies, local civic leaders and the public to determine if suspected cross-border activities and intelligence indicate a need for deployment of additional Border Patrol resources in certain areas. BSET findings are used by Sector Chiefs to establish baseline border security levels and assist with the sector's planning process.

CBP continues to engage in collaborative efforts with the Department of the Interior (DOI) and U.S. Department of Agriculture (USDA) to fulfill its enforcement responsibilities on federal lands. In March 2006, the Secretaries of DHS, DOI, and USDA signed a Memorandum of Understanding (MOU), which describes cooperative national security and counterterrorism efforts on federal lands along U.S. borders. This MOU provides specific guidance on cooperation related to border security as well as compliance with related environmental laws, regulations, and policies.

In addition to the MOU, we have created several innovative solutions to strengthen interagency communication on federal lands. In 2005, the Border Patrol established the Public Lands Liaison Agent (PLLA) Program. Under this program, each sector designates an agent dedicated to interacting with organizations and agencies involved in land management issues. The PLLA's

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job is to build and maintain solid working relationships with our land management agency counterparts so that we can capitalize on opportunities to collaborate and work through any issues that may arise. Borderland Management Task Forces increase communication and provide a unique opportunity to leverage resources and quickly identify and resolve any potential problems.

In an effort to increase intelligence and information-sharing among our partners, Processing, Exploitation, and Dissemination (PED) cells have been established at the AMOC in Riverside, California, and at the National Air Security Operations Center in Grand Forks, North Dakota, to provide essential information to law enforcement across the nation – increasing understanding of evolving threats and providing the foundation for law enforcement entities to exercise targeted enforcement in the areas of greatest risk. This intelligence-driven approach prioritizes emerging threats, vulnerabilities and risks, which greatly enhances our border security efforts.

Additionally, CBP, in conjunction with CBSA and RCMP, recently completed a Joint Border Threat and Risk Assessment, which provides U.S. and Canadian policymakers, resource planners, and other law-enforcement officials with a strategic overview of significant threats along the border between the United States and Canada. The threat assessment encompasses a range of national security issues, including cross-border criminal organizations, drug trafficking and illegal immigration, the illicit movement of prohibited or controlled goods, agricultural hazards, and the spread of infectious disease. The assessment also further highlights the commitment of the two countries to identify and mitigate potential threats along our shared border, where there is a potential of terrorism and transnational organized crime.

Coordination on the northern border is further enhanced through the participation in joint operations and task forces, including Operations Channel Watch, Outlook, and Frozen Timber. These operations are conducted under the auspices of the multi-agency enforcement teams, composed of representatives from Canadian and U.S. federal law enforcement agencies who work together with local, state, and provincial enforcement agencies to target transnational criminal activity, including investigations involving national security and organized crime.

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In addition, we are working with the Office of National Drug Control Policy and other interagency partners to develop the inaugural Northern Border Counternarcotics Strategy. On January 4, 2011, the President signed H.R. 4748 requiring ONDCP to consult with the head of relevant National Drug Control Program agencies and relevant officials of international, state, local, and tribal governments to develop a Northern Border Counternarcotics Strategy by this summer. The Department of Homeland Security joins ONDCP, the Department of Justice, and the Department of State as executive agents in developing this strategy.

Enhancing Economic Prosperity

CBP is committed to a coordinated approach to border management that strengthens border security and promotes economic prosperity. Ensuring the secure flow of trade and reducing transaction costs are critical to promoting economic growth on the northern border.

In support of these efforts, CBP established a Canada Integrated Planning and Coordination Cell (CIPCC), designed to crosscut the organizational structure of CBP and align CBP's initiatives regarding Canada and the U.S.-Canada border under a single, dedicated team. The CIPCC, in concert with CBSA, has developed a bilateral and integrated border management framework, which supports improved continental security, enhanced mobility of people and goods, and increased economic prosperity of both Canada and the United States.

Through a collaborative process, the CIPCC and CBSA are working to implement initiatives focused on increasing information sharing, harmonizing policies and programs, and ensuring the coordination and cooperation of infrastructure planning and improvements. As part of this effort, on January 19, 2011, we established the Small Ports Working Group to develop a long-term strategy to more effectively and efficiently manage small POEs along the northern border. Based on mutual assessments of each POE, applying agreed-upon criteria, CBP and CBSA will coordinate port operations and identify joint solutions, where possible.

We continue to develop and implement several additional initiatives consistent with the *Beyond the Border* declaration that recognize that more than 90 percent of all non-trusted cargo and more

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than 98 percent of trusted cargo is cleared at the point of primary inspection. CBP will continue to keep this Subcommittee closely apprised as we continue to explore creative approaches to expedite legitimate trade and travel with our U.S. interagency partners and our counterparts in Canada. .

Measuring Success on the Northern Border

As Secretary Napolitano recently stated, while we have made significant progress over the past two years, we continue to focus on new ways to more comprehensively measure results along our nation's borders. This applies not only to the southwest border, but the northern border as well. CBP, in consultation with independent, third-party experts and stakeholders, has begun the process of developing an index that will more holistically represent what is happening at the border and allow us to measure progress.

Although the northern border environment differs greatly from the southwest border, the measures we develop must provide an accurate assessment of how the investments we have made are improving the lives and livelihoods of the people who live in each border region. While the specific metrics and value associated with each metric may differ than those used to measure success on the southwest border, the overall index must be applicable in all environments in which we operate. The success of our efforts along the northern border, as along the southwest border, must be measured in terms of the overall security and quality of life of the border region; the promotion and facilitation of trade and travel; and the success of our partnerships in enhancing security and efficiency.

Conclusion

Chairman Schumer, Ranking Member Cornyn, and distinguished Members of the Subcommittee, thank you for this opportunity to testify about U.S. Customs and Border Protection's efforts in regards to northern border security. I look forward to answering your questions at this time.

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Testimony by the Border Trade Alliance
Submitted for the Senate Judiciary Committee's Subcommittee on Immigration, Refugees and Border Security
"Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry"
May 17, 2011

The Border Trade Alliance appreciates the opportunity to submit testimony for this important subcommittee hearing on security and trade facilitation along the U.S.-Canada border.

About the Border Trade Alliance

Founded in 1986, the Border Trade Alliance is a non-profit organization that serves as a forum for participants to address key issues affecting trade and economic development in North America. Working with entities in Canada, Mexico and the United States, the BTA advocates in favor of policies and initiatives designed to improve border affairs and trade relations among the three nations.

BTA's membership consists of border municipalities, chambers of commerce and industry, academic institutions, economic development corporations, industrial parks, transport companies, custom brokers, defense companies, manufacturers and state and local government agencies.

A discrepancy in agency resources

The Committee will get no argument from the trade community and the constituency that the BTA represents that the Border Patrol is not an integral component of our nation's border security strategy.

But the increased attention that Congress and this and previous administrations has directed towards Border Patrol has left the agency responsible for security at the ports of entry, Customs and Border Protection, coming up short in the chase for dwindling human and technological resources.

Border Patrol has seen a huge spike in agents since fiscal year 2004. That year, Border Patrol was allocated $4.9 billion to fund 10,817 agents. But by fiscal year 2010, Border Patrol was allocated $10.1 billion to fund just over 20,000 agents.

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According to a March 30, 2011 GAO report, the Border Patrol is now better staffed than at any other time in its 86-year history.[1]

The same rapid rise in staffing levels cannot be said for CBP inspectors at our ports of entry.

2010 border security supplemental: ports come up short

The 2010 supplemental border security funding bill provides an illustration of how port security often plays second fiddle to security between the ports.

The president last August signed into law the supplemental appropriations bill that allocated $176 million to fund 1,000 new Border Patrol agents. The same bill appropriated $68 million for 250 new CBP officers, which was half of what the House of Representatives originally sought in July 2010.

A renewed commitment to improving port staffing levels

CBP in fiscal year 2010 was responsible for inspecting 352 million travelers and nearly 106 million cars, trucks, buses, trains, vessels and aircraft at over 330 air, land and sea ports of entry.[2]

By increasing the number of frontline inspectors, Customs and Border Protection can devote the manpower necessary to interdict those individuals who would seek to do us harm. But the increased staffing levels can play a marked role in the facilitation of trade and travel by letting safe travelers and cargo pass more quickly into U.S. commerce.

To that end, the BTA last year strongly supported legislation by this subcommittee's Ranking Member, Sen. John Cornyn, which sought to improve dramatically CBP staffing levels at the ports of entry.

His bill introduced in the last Congress, the Emergency Port of Entry Personnel and Infrastructure Funding Act of 2009, which we hope will serve as the basis for forthcoming legislation, called for an increase of 5,000 CBP officers over a multi-year period at the ports of entry and directed the Department of Homeland Security to implement CBP employee recruitment and retention bonuses.

The BTA was and is strongly supportive of that bill for two obvious benefits a dramatic increase in port personnel offers: more inspectors to curtail contraband smuggling, and more inspectors to facilitate legitimate trade and travel. Simply said, there is no one single resource as valuable as increased human capital at our points of entry that results in increasing the flow of trade, thus increasing the flow of tax revenue through international travelers' purchases of goods and services on the U.S. side of the border.

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[1] http://www.gao.gov/new.items/d11508t.pdf

[2] http://www.gao.gov/new.items/d11508t.pdf

Opportunities for cooperation with the Canadian Border Services Agency

In a time of razor-thin budgets, we recognize that federal funding to modernize every port facility and staff CBP at a level that is reflective of trade volumes is a dubious prospect at best.

The budget situation does, however, present CBP an opportunity to re-imagine its inspection processes and its interaction with its counterparts in Canada, the Canadian Border Services Agency.

In a February 2011 hearing in the House, Department of Homeland Security Secretary Janet Napolitano commented on the prospects of pursuing a system of pre-clearance with Canada, wherein U.S.-bound cargo could be inspected in Canada rather than at a plaza in the U.S.

Sec. Napolitano, speaking specifically to the potential of such a program at the bridge connecting Buffalo, New York and Ft. Erie, Ontario, said:

> *"We have looked into preclearance on the Canadian side. We cannot do it. The position has not changed. ... We understand the importance of the span for trade and tourism and so forth. But we are not going to be able to resolve the preclearance issues in Canada."*

Yet in that same month, President Obama and Canadian Prime Minister Stephen Harper signed a joint declaration entitled "Beyond the Border – A Shared Vision for Perimeter Security and Economic Competitiveness" which included the following statements:

> *"We intend to pursue creative and effective solutions to manage the flow of traffic between the United States and Canada. We will focus investment in modern infrastructure and technology at our busiest land ports of entry, which are essential to our economic well-being.*
>
> *"We will strive to ensure that our border crossings have the capacity to support the volume of commercial and passenger traffic inherent to economic growth and job creation on both sides of the border."*

The BTA believes that our country's unique, strong relationship with Canada can serve as a source of border cooperation and innovation. Working closely, we believe that CBP and CBSA can develop inspection protocols that will speed the passage of legitimate trade and travel, reduce time-consuming redundancies and bolster both nations' security. We hope the White House and DHS can get on the same page in terms CBP's relationship with CBSA going forward.

Infrastructure

Outmoded, aging infrastructure presents its own challenges to facilitating trade. Not only does inefficient infrastructure slow the passage of trade and travel, it increases costs.

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According to data assembled in late 2008[3], U.S. land border ports have an average age of 40+ years and are inadequate to serve CBP's mission. A survey of CBP needs at that time identified more than $5 billion dollars in capital improvements to upgrade the existing system, not including any funding for new ports of enrtry. That initial $5 billion amount has increased to $6 billion, or $600 million a year for the next ten years just to meet expected need for existing facilities.

Sen. Cornyn's aforementioned legislation sought to address the need for a commitment to infrastructure funding by granting CBP additional authority to modify existing or construct new land ports of entry.

Again, in this budget environment a multi-billion dollar land port infrastructure campaign seems unlikely, so we encourage CBP to explore cost-sharing options with state and local governments, private sector stakeholders and the government of Canada. CBP Commissioner Alan Bersin has made clear to the trade community that out-of-the-box thinking (and financing) will be required if port of entry construction and modernization is going to happen at the pace necessary to process existing and future trade volumes.

Finally, to the extent that the members of this subcommittee can influence the process, we strongly encourage the next highway funding bill to include funding for a Coordinated Border Infrastructure (CBI) program, as was the case under SAFETEA-LU.

CBI funds are disbursed to state departments of transportation to help underwrite costs for transportation projects associated with facilitating international trade in and around ports of entry, with project locations up to 100 miles from the border.

Two northern border states that process a large amount of U.S.-Canada cross-border trade, Michigan and New York, receive annual funding of $28.3 million and $27.5 million respectively under CBI.

It's because of CBI that states can, for example, construct roads leading from a port to the interstate highway system. Even the most modern port is of little benefit to the economy if trade is still encountering bottlenecks in the border region.

CBI helps reduce congestion, facilitates trade and it creates jobs, something we know Congress and the Administration are especially are especially sensitive to in this economy.

Customs-Trade Partnership Against Terrorism: Improvement can strengthen security, economy

CBP inspectors at the ports are charged with the important dual mission of security and facilitation.

[3] Data comes from a December 2008 meeting of the U.S.-Mexico Joint Working Committee on Transportation Planning, though information refers to ports on both the U.S. northern and southern borders. Further information available at http://www.borderplanning.fhwa.dot.gov/mm_12-2-08.asp

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Inspectors, using technology and relying on experience, make quick decisions on whether to release a shipment or traveler into the U.S. or refer that cargo or vehicle to a secondary inspection area for more intense inspection.

The nation's major importers are especially sensitive to the role CBP plays in a company's bottom line. If there aren't enough inspectors to open up all the lanes at a land border port during a period of peak traffic, then shipments can get stuck waiting in sometimes miles-long backups, stalling just-in-time manufacturing operations and increasing costs.

CBP and the private sector are working closely together to make the international supply chain stronger and to help speed the passage of legitimate cargo in order to allow our limited inspection resources to focus on infrequent, less-known shippers.

The trade community is acutely aware of the economic damage that our country would suffer if an unsecured supply chain were to facilitate terrorist activity. And day in and day out, companies are undertaking measures – both seen and unseen – to root out the scourge of drug and human trafficking and the illegal export of guns and currency that fuel the cartel violence to our south.

For example the vast majority of companies engaged in robust international trade are members of the Customs-Trade Partnership Against Terrorism, otherwise known as C-TPAT. Members of C-TPAT partner with CBP to ensure that their supply chains are secure by strengthening the physical security of warehouses and manufacturing facilities, strengthening the security of conveyances by using special seals on truck trailers and employing shipment tracking technology such as GPS to ensure that a shipment is not tampered with, in addition to host of additional measures designed to minimize as much as possible the chance that a shipment could be compromised to smuggle contraband into the U.S.

In exchange for C-TPAT members undertaking the oftentimes expensive steps to make their supply chains stronger from point of origin to destination, CBP commits to facilitating expedited service at the U.S. ports of entry. Unfortunately, the trade community of late has been growing frustrated with the program's failure to deliver clearly identifiable benefits to its members.

To that end, the BTA has produced a detailed recommendations paper[4] for ways to improve the program and has engaged in a thus far very productive dialogue with CBP in exploring pilot programs to ensure that C-TPAT is delivering on its promises to participating companies.

Frustrated with the feds, states poised to engage in border inspections

Getting border security right is critical for CBP and the Department of Homeland Security because the border states –north and south - are poised to fill the leadership vacuum on this issue, which we believe holds the potential to make a bad situation worse.

[4] http://www.thebta.org/btanews/bta-puts-forth-recommendations-for-an-improved-c-tpat.html

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We are concerned that state legislatures, which have grown increasingly frustrated with the federal government's failure to adequately secure our borders, will direct state departments of public safety to conduct their own border region inspection operations.

We do not want to see a needless turf war sparked between competing state and federal agencies in the border region. Legitimate cross-border trade and travel is too vital to the economic health of a country struggling to emerge from the throes of a deep recession to risk it to unnecessary slowdowns in trade.

We strongly support the president's call to double U.S. exports over a five-year period. We will not achieve the president's goal, however, if we make it harder for legitimate cargo to exit this country to foreign markets due to poorly considered outbound inspections.

The Border Trade Alliance appreciates the opportunity to submit these comments for the record. We welcome the opportunity to testify before your committee in the future and we offer our 25-years of experience in border affairs as a resource to your committee as you investigate these and other important issues affecting border security.

Testimony of the Honorable Richard Cortez
Mayor and Bridge Board Chair of McAllen, Texas
before the
United States Senate Committee on the Judiciary
Subcommittee on Immigration
Refugees and Border Security "Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry"
May 16, 2011

U.S. Senate Committee on the Judiciary and committee members: thank you for this opportunity to share my views regarding Ports of Entry.

Without a strong and growing economy on the border, we cannot have a growing national economy or achieve our security goals. Trade directly generates one-third of the U.S. economy. Land ports of entry are responsible for more than three-quarters of a trillion dollars in trade annually with Canada and Mexico.

On the southwest border, we need to assure that our economic climate not only helps fund the security measures we need, but also provides opportunity to the people in the region so they become part of the solution and are not tempted to become part of the problem.

To achieve our economic security, we need well-built, well-equipped and well-staffed ports of entry that can facilitate legitimate trade and travel and interdict lawbreakers.

We are grateful that Senators Cornyn, Graham, Kyl and Feinstein have asked the Senate Judiciary Committee to hold this hearing today on U.S. Ports of entry and infrastructure on the Southern Border.

We have an imbalance of investment and results on the border. Since 1993, we have increased our investment 800 percent in Border Patrol personnel, mobility, communications and technology. That effort between the ports has been successful; the Border Patrol intercepts 70 percent of lawbreakers across the border; in the El Paso sector, the success rate is 90 percent.

In contrast, we have let the land ports of entry fall into disrepair. We currently have ports like McAllen, Hidalgo, Reynosa that the electrical grid is outdated and the infrastructure is antiquated at a time when technology and infrastructure is needed to secure our borders. Over the same period, the land ports budget has

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risen only 17 percent and our ability to intercept criminals only 28 percent of the time.

That bears repeating. Between the ports, we catch the criminals 70 percent of the time. At the ports, we catch them less than 30 percent. That is an imbalance Congress needs to correct.

The criminal cartels are exploiting our weakness. According to the Department of Justice, 90 percent of the drugs smuggled into the US enter through the land ports. The physical bulk cash that exits goes exclusively through the ports. There is no data on firearms, but anecdotally, the ports are where they too traverse the border.

To achieve our economic security, we need well-built, equipped and staffed ports of entry that can both facilitate legitimate trade and travel and interdict lawbreakers. We need those improvements for our national security, as well.

Rich Stana at the Government Accountability Office estimates we need 6,000 new inspection personnel and more than $5 billion to bring the facilities up to snuff. We don't expect you to wave a fiscal wand and achieve this overnight. I do not advocate taking anything away from the Border Patrol. But if there are additional resources to be allocated, this year or next year, they should go to the ports of entry as a first priority.

Secure and efficient ports of entry are very important to cities like McAllen. They create jobs, sustain our economy and improve our quality of life. They expedite legitimate trade and traffic to flow across our border and in our case, contribute to McAllen's $3 billion retail industry. Without federal-local coordination, efforts to simultaneously secure ports and make them more efficient will not be possible.

We are in an area of many political jurisdictions. We need a Border Financial Crime Task Force with personnel to provide intelligence and surveillance. It needs to be well connected with all of our law enforcement agencies. We must deter the idea that persons can simply run back undetected to Mexico after committing crimes here. We need uniformed south bound checks at all ports of entry specifically looking for fire arms and cash.

For example, it makes no sense to have international bridges where commercial truck traffic is not allowed to cross. Right now the truck industry is moving away from crossing through the Nogales Port in Arizona to our Ports in South Texas. This makes it necessary to increase our capacity to serve this new traffic. We cannot do that if some of our bridges cannot accept commercial truck traffic

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like our Anzalduas Bridge in McAllen. As per Article 10(3) in our presidential permit, which states, "The permitee shall construct appropriate southbound inspection facilities for vehicle, pedestrian and commercial traffic to include canopies and such features as may be need to address security and safety concerns, prior to the opening of the bridge ".

However, due to lack of federal funding, we, the McAllen Bridge Board intend to move forward with our obligation to construct a South Bound Facility as per our presidential permit, Article 10(3). Mexico is ready to receive empty truck traffic as soon as we send them.

Also, 2015 is just around the corner and we have no funding in place for the construction of a North Bound Commercial Traffic Facility at the Anzalduas International Bridge. We ask that funding be appropriated for this facility.

While our legal ports of entry have a positive effect on our commerce, they have a negative effect on our border communities because persons illegally in the U.S. commit crimes in our cities and then they try and make their run back into Mexico.

One example would be what we experienced in 2010. Around 9:30 p.m., closing time, in one of our busiest shopping intersections, four (4) suspects, all males from the State of Guerrero, Mexico and connected to drug activity and illegally in our country shot and killed another person. The victim was also a male from Mexico. He was shot twelve (12) times. All four suspects then simply boarded their vehicles and raced to Mexico. In this case we were very lucky that we were able to apprehend them just short of the port of exit. Currently, there is no communication system which allows us to alert our Port of Entry of what is approaching or leaving the port.

Drug trafficking is nothing new in our area. During 2009/2010 our officers seized:

- 75,000 pounds of marijuana
- 2,000 pounds of cocaine and
- 350 pounds of crystal myth

Whereas before it was rare, today it seems to occur more frequent.

In a recent arrest, our officers seized 12,000 pounds of marijuana, 150 pounds of cocaine, one (1) 70 caliber machine gun, two (2) military issue flak jackets, two (2) hand grenades, six (6) semi-automatic weapons and 1,800 pounds of assault rifle ammunition. Eleven (11) persons were arrested including a Texas National Guardsman.

Thank you for allowing me to share this information with you, and on behalf of all our citizens, we thank you for your service to our country.

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Statement by Senator Charles E. Grassley

Tuesday, May 17, 2011
Committee on the Judiciary,
Subcommittee on Immigration, Refugees and Border Security

"Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry"

I'd like to thank the Chairman of the Immigration Subcommittee for holding today's hearing about security and commerce at the northern border. Border security is a critical issue that this body needs to constantly assess and improve. The number one responsibility of Congress is to protect the homeland, and we must not turn a blind eye to the realities of illegal activity that is seen every day along the southern and northern borders.

Before I delve into the issues, I want to take a moment to thank all those who serve our country every day to protect the borders. We are saddened by the recent loss of Border Patrol Agents Eduardo Rojas, Jr., and Hector Clark, who were killed last Thursday near Gila Bend, Arizona. We pray for every agent's safety as they put their lives on the line and we share our gratitude for their dedicated service to our country.

It's been five months since Special Agent Brian Terry was shot and killed while on duty in Arizona. His family still has not fully received answers as to what happened in the shootout with a roving band of illegal immigrants, although a recent indictment issued in the case confirmed information I had previously received that two of the guns those criminals were using were a part of the Bureau of Alcohol, Tobacco, Firearms and Explosives' Operation Fast and Furious. The ATF failed to stop those weapons from being transferred to the bandits at the scene of the shootout with Agent Terry. One thing is clear—our borders are far less safe with the ATF having allowed well over a thousand firearms to end up in the hands of straw purchasers. These cartels make our borders an increasingly more and more dangerous place each day.

When you hear stories of Agents Rojas, Clark, Terry, and others, it's hard to accept Secretary Napolitano's word that the border is more secure today than ever. The Border Patrol Council – the union that represents agents - even said the Secretary's statements are "wrong and give citizens a false sense of security." And, the facts are against her. An independent study from the Government Accountability Office says that only 873 of the 2,000 miles separating U.S. and Mexico are under "operational control."

I'm also concerned by a recent Government Accountability Office report that emphasizes the significant threat posed by illegal crossing on our federal lands. Our national parks and forests are vulnerable because of the lack of law enforcement presence and because of their rugged terrain. On the Northern Border, the Spokane sector is the primary entry point for air smugglers of high-potency marijuana. Yet, there's insufficient agency coordination to share intelligence or to develop joint budget requests or strategies to address these threats.

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We have more than drugs and guns crossing our borders. We have human smuggling and trafficking. And, we have more than just Mexicans wanting to make a better life for themselves and their families. So far in fiscal year 2011, we have apprehended over tens of thousands of "Other Than Mexicans" at the southern and northern borders. We cannot let down our guard. Lest we forget that the so called "millennium bomber" who sought to unleash a terrorist attack at the Los Angeles Airport was captured at our northern border with a car full of high powered explosives. This is just another example of why we must remain vigilant against terrorists plotting against all our borders and points of entry.

Congress passed a $600 million border security bill in 2010, but this investment is only a down payment on what we really need to do. The funding, paid by fees from high tech companies, has only amounted to $61 million since August. That means the executive branch is collecting about $6.8 million each month. If that rate were to continue, we'll only have $325.4 million collected over four years. That's just 54% of the $600 million investment that we promised the American people. And, unfortunately, this funding does nothing to complete a double layer fence in badly needed areas.

The 2010 border bill also didn't address Operation Streamline, a program that charges individuals who have crossed the border illegally with a misdemeanor and those who re-enter after deportation with significant jail time. Operation Streamline, a fast-track program, resolves a federal criminal case with prison and deportation consequences in approximately two days or less. This program can serve as a deterrent against future illegal immigration in existing Border Patrol sectors.

Also ignored is the exit-entry control system that was mandated in 1996 to track every foreign national who arrives and departs the United States. Since then, due in part to the recommendations put forth by the 9/11 Commission, Congress has called on the Department of Homeland Security to develop a system that matches biometric information of an alien against relevant watch lists and immigration information. This biometric data is also supposed to be compared against manifest information collected by air carriers so that the federal government can confirm that foreign nationals have departed the country as required. After fifteen years and several serious terrorist attacks against citizens of the United States, administration after administration has failed to fully implement a biometric air exit system. It is unacceptable that progress on the exit portion of US-VISIT has stalled despite congressional funding and several pilot projects.

The President has touted the success of the previous administration's achievement in doubling the Border Patrol, and this Congress is committed to maintaining these levels of personnel. But, I'm seriously concerned about the President's mixed message, saying that a legalization program is in the best interest of our economy and our security. Secretary Napolitano touts this Administration's record number of deportations, but even the Washington Post disputed these figures, alleging they cooked the books to make them appear enforcement-minded. While I realize this is a hearing focused on border issues, I hope Mr. Morton will address the fuzzy math and so-called record statistics, and share with members the challenges his officers face in enforcing the laws on the books when aliens bypass our border patrol.

Again, thank you for holding this hearing today. I look forward to hearing from our witnesses.

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STATEMENT OF COLLEEN M. KELLEY
NATIONAL PRESIDENT
NATIONAL TREASURY EMPLOYEES UNION

ON

IMPROVING SECURITY AND FACILITATING COMMERCE AT AMERICA'S NORTHERN BORDER AND PORTS OF ENTRY

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND BORDER SECURITY OF THE COMMITTEE ON JUDICIARY

U. S. SENATE

May 17, 2011

Chairman Schumer, Ranking Member Cornyn, distinguished members of the Subcommittee; thank you for the opportunity to provide this testimony. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 24,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists who are stationed at 331 land, sea and air ports of entry (POEs) across the United States. CBP employees' mission is to protect the nation's borders at the ports of entry from all threats while facilitating legitimate travel and trade. CBP trade compliance personnel enforce over 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money. CBP is also a revenue collection agency, processing approximately 25.8 million trade entries a year at the POEs and collecting an estimated $29 billion in federal revenue in 2009.

LAND PORTS OF ENTRY

The U.S. has more than 4,000 miles of land border with Canada and 1,993 miles of land border with Mexico. Most travelers enter the U.S. through the nation's 166 land border ports of entry. About two-thirds of travelers are foreign nationals and about one-third are returning U.S. citizens. The vast majority arrive by vehicle. The purpose of the passenger primary inspection process is to determine if the person is a U.S. citizen or alien, and if alien, whether the alien is entitled to enter the U.S. In general, CBP Officers are to question travelers about their nationality and purpose of their visit, whether they have anything to declare, and review the travel documents the traveler is required to present.

Each day CBP Officers inspect more than 1.1 million passengers and pedestrians, including many who reside in border communities who cross legally and contribute to the economic prosperity of our country and our neighbors. At the U.S. land borders, approximately two percent of travelers crossing the border are responsible for nearly 48 percent of all cross-border trips. At the land ports, passenger primary inspections are expected to be conducted in less than one minute. According to CBP, for regular lanes the average inspection time per vehicle is 30 to 45 seconds during which CBP Officers should handle documents for all vehicle occupants and, if necessary, detain and transfer suspected violators to secondary inspection. For FAST truck lanes, the average processing time is 15 to 20 seconds. ("CBP: Challenges and Opportunities" Memo prepared by Armand Peschard-Sverdrup for: Mexico's Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group. January 2008, page 5.)

In fiscal 2010, CBP Officers and CBP Agriculture Specialists at the 331 POEs inspected 352 million travelers and more than 105.8 million conveyances—cars, trucks, buses, trains, vessels and aircraft. Out of the total 331 official POEs, currently only 24 major land POEs are situated on the Mexico-U.S. border: six in California, seven in Arizona, one in New Mexico and ten in Texas. On the Canadian-U.S. border there are 150 land POEs. Land POEs have a series of dedicated lanes for processing commercial traffic, passenger vehicles, pedestrians and in some cases rail crossings.

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CBP STAFFING AT THE PORTS OF ENTRY

In October 2009, the Southwest Border Task Force, created by Homeland Security Secretary Janet Napolitano, presented the results of its staffing and resources review in a draft report. This draft report recommends the "federal government should hire more Customs [and Border Protection] officers." The report echoes the finding of the Border-Facilitation Working Group. (The U.S.–Mexico Border Facilitation Working Group was created during the bilateral meeting between President George W. Bush and President Felipe Calderon held in Merida in March 2007.) "In order to more optimally operate the various ports of entry, CBP needs to increase the number of CBP Officers. According to its own estimate, the lack of human resources only for the San Ysdiro POE is in the "hundreds" and the CBP Officer need at all ports of entry located along the border with Mexico is in the "thousands." ("CBP: Challenges and Opportunities" a memo prepared by Armand Peschard-Sverdrup for Mexico's Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group, January 2008, pages 1 and 2.)

The Administration's FY 2012 budget requests funds for 21,186 CBP Officer positions--an increase of 409 over FY2011, but still 108 officers below the FY 2009 level of 21,294 CBP Officer positions. NTEU is disappointed that the FY 2012 budget request includes no significant increase in frontline CBP Officer or CBP Agriculture Specialist positions. **After a net decrease of over 500 CBP Officer positions between 2009 and 2011, the Administration is only seeking appropriated funding to "support 300 CBP Officers above the FY 2011 Budget and additional canine assets to the Port of Entry operations," despite independent studies that state that CBP is understaffed at ports of entry by thousands of officers.**

Of particular concern to NTEU in the Administration's FY 2012 budget request, is the decrease of $20 million in funding for inspectional overtime at the air, land and sea ports of entry. CBP states that "proposed efficiency will require POE[s] to reduce overtime spending during periods of increased workload, including but not limited to, the annual peak summer seasons at our Nation's air and seaports."

Overtime is essential when staffing levels are low to ensure that inspectional duties can be fulfilled, that officers have sufficient back-up and that wait times are mitigated. This is one reason why Congress authorized a dedicated funding source to pay for overtime-- customs user fees pursuant to Title 19, section 58c (f) of the U.S. Code. CBP collects user fees to recover certain costs incurred for processing, among other things, air and sea passengers, and various private and commercial land, sea, air, and rail carriers and shipments.

The source of these user fees are commercial vessels, commercial vehicle, rail cars, private aircraft, private vessels, air passengers, sea passengers, cruise vessel passengers, dutiable mail, customs broker and barge/bulk carriers. These fees are deposited into the Customs User Fee Account. User Fees are designated by statute to pay for services provided to the user, such as inspectional overtime for passenger and commercial vehicle inspection during overtime shift hours. In addition, APHIS user fees and immigration user fees also fund "fee-related" inspection costs. **User fees have not been increased in years and some of these user fees cover only a portion of recoverable fee-related costs. For example, CBP collects the extraordinarily low fee of $437 at arrival of a commercial vessel to a port to recover personnel and other costs**

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to process and inspect the vessel's crew and cargo. This fee, however, is capped at $5955 per calendar year; no matter how many times the commercial vessel enters a port that year. This fee was last raised from $397 to $437 in 2007, but the cap has remained at $5955 since 1986. In 2010, CBP collected a total of $19.9 million in Commercial Vessel user fees, but the actual cost of Commercial Vessel inspections in FY 2010 was $33.6 million.

Another example of an extraordinarily low user fee is the fee paid by railcar owners of $8.25 per car at arrival for processing and inspection, but the fee is capped at $100 per railcar per calendar year. **In 2010, CBP collected a total of $8.6 million in rail car user fees, but the actual cost of rail car inspections in FY 2010 was $18.9 million.**

And Commercial Vehicles pay only $5.50 per vehicle at arrival for processing and inspection, but the fee is capped at $100 per vehicle per calendar year. In 2010, CBP collected a total of $13.7 million in Commercial Vehicle user fees, but the actual cost of Commercial Vehicle inspections in FY 2010 was over $113.7 million.

CBP is seeking legislation to lift the exemption of passengers arriving from Canada, Mexico, most of the Caribbean Islands and U.S. territories from payment of the $5.50 per arrival fee for air and sea traveler processing and inspection. In 2010, CBP collected a total of $290.7 million in Air Passenger user fees, but the actual cost of Air Passenger inspections in FY 2010 was over $512 million. NTEU supports lifting these user fee exemptions allowing CBP to more fully recover the costs of passenger processing and inspection, but believes that Congress should review all user fees collected by CBP with an eye to more fully recovering CBP's costs of these services to the user.

One example on how the lack of user fee revenue inhibits CBP enforcement in a maritime environment is in the state of Maine that has approximately 5300 actual miles of seacoast exposed to the Atlantic Ocean when taking into account all of Maine's seacoast inlets and islands. CBP has determined that it will send only one officer to conduct inspections of private – and often, commercial – vessels as a means to reduce cost and avoid overtime. In many cases, a lone CBP Officer is required to approach and enter vessels having numerous persons, weapons, and other unknown factors on board. A solo boarding Officer is unable to conduct any cargo or personnel inspections, due to the size of the vessel, the number or persons aboard, or the need to enter confined spaces. Everything from private vessels to oil tankers are not properly inspected due to CBP not sending a sufficient number of Officers to do so.

In order to properly inspect vessels--private, commercial, or aircraft--a CBP Officer needs to properly check manifests, product labeling, country of origin, and so forth, to assure regulatory compliance, proper collection of fees, assessment of penalties, and rejection of non-compliant cargo. Should a CBP Officer conducting an inspection solo detect a radiation source on a vessel, they have no means to secure the vessel, its personnel, and conduct proper inspections, notifications, or contact support services for isotope identification. Nationwide, the private vessel program operates on the "honor system" and serves little purpose as a deterrent to illegal entry or the importation or exportation of contraband, WMD, terrorist activity, or undocumented personnel.

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CHALLENGES WITH FACILITATING LEGAL TRADE VS. STOPPING ILLICIT FLOW OF MONEY, GUNS AND DRUGS

Cross-border commercial operators are acutely concerned about wait times and costs of delay at the land POEs. Wait times differ across POEs and vary depending on whether the congestion involves pedestrians, passenger vehicles, trucks or railcars and whether the ports participate in expedited crossing programs such as SENTRI for people or FAST (Free and Secure Trade) lanes for trucks and railcars that are certified as compliant with the Customs Trade Partnership Against Terrorism (C-TPAT) agreement. Wait times also vary with the day of the week and the time of day and holidays on either side of the border. Currently, not all available lanes are staffed to capacity. Antiquated port infrastructure and CBP personnel staffing shortages contribute directly to wait times at the land POEs.

NTEU believes that there is no way you can speed up the inspection process in which CBP Officers are currently conducting primary inspections in 30 to 40 seconds without increasing staffing. NTEU's position was confirmed by the October 2009 draft report of the Southwest Border Task Force created by Homeland Security Secretary Janet Napolitano that recommends the "federal government should hire more Customs [and Border Protection] officers."

In 2007, in a GAO report entitled Border Security: Despite Progress, Weaknesses in Traveler Inspections Exist at Our Nation's Ports of Entry (GAO-08-219), GAO found that:

- CBP needs several thousand additional CBP Officers and Agriculture Specialists at its ports of entry.
- Not having sufficient staff contributes to morale problems, fatigue, and safety issues for CBP Officers.
- Staffing challenges force ports to choose between port operations and providing training.
- CBP's onboard staffing level is below budgeted levels, partly due to high attrition, with ports of entry losing officers faster than they can hire replacements.

The conclusions of this report echo what NTEU has been saying for years and, in order to assess CBP Officer and CBP Agriculture Specialists staffing needs, Congress, in its FY 07 DHS appropriations conference report, directed CBP to submit by January 23, 2007 a resource allocation model for current and future year staffing requirements.

In July 2007, CBP provided GAO with the results of the staffing model. **The GAO reported that "the model's results showed that CBP would need up to several thousand additional CBP officers and agricultural specialists at its ports of entry."** (See GAO-08-219, page 31) And the Washington Post reported that "the agency needs 1,600 to 4,000 more officers and agricultural specialists at the nation's air, land and sea ports, or a boost of 7 to 25 percent." (November 6, 2007)

The staffing model reinforces the findings of the Border Facilitation Working Group--"when you look at the budgets that are normally handed out to CBP to POEs, one can conclude that this unit has been traditionally under-funded." See "CBP: Challenges and Opportunities"

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page 1. Memo prepared by Armand Peschard-Sverdrup for: Mexico's Ministry of the Economy: U.S.-Mexico Border Facilitation Working Group. January 2008. **To date, however, it is NTEU's understanding that CBP's POE staffing model has not been made public or even available for Congress to review.**

IMPACT OF STAFFING SHORTAGES

According to GAO, "At seven of the eight major ports we visited, officers and managers told us that not having sufficient staff contributes to morale problems, fatigue, lack of backup support and safety issues when officers inspect travelers--increasing the potential that terrorists, inadmissible travelers and illicit goods could enter the country." (See GAO-08-219, page 7.)

"Due to staffing shortages, ports of entry rely on overtime to accomplish their inspection responsibilities. Double shifts can result in officer fatigue…officer fatigue caused by excessive overtime negatively affected inspections at ports of entry. On occasion, officers said they are called upon to work 16-hour shifts, spending long stints in primary passenger processing lanes in order to keep lanes open, in part to minimize traveler wait times. Further evidence of fatigue came from officers who said that CBP officers call in sick due to exhaustion, in part to avoid mandatory overtime, which in turn exacerbates the staffing challenges faced by the ports." (See GAO-08-219, page 33.)

Staffing shortages have also reduced the number of CBP Officers available to conduct more in depth secondary inspections. 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. This has resulted in a dramatic reduction in the number of illegal cargo seizures. For example, at the Port of Sweet Grass, Montana, from 2000 through 2007, there has been a 59% reduction in the number of seizures of illegal drugs, hazardous imports and other contraband. Port-by-port seizure data is deemed law enforcement sensitive and it is now very difficult to compare number of seizures at a port from year to year.

Without adequate personnel at secondary, wait times back up and searches are not done to specifications. This is a significant cargo security issue. A full search of one vehicle for counterfeit currency will take two officers on average a minimum of 45 minutes. Frequently, only one CBP Officer is available for this type of search and this type of search will then take well over an hour.

Finally, NTEU has been told that when wait times in primary inspection becomes excessive in the opinion of the agency, CBP Officers are instructed to query only one occupant of a vehicle and to suspend COMPEX (Compliance Enforcement Exams) and other automated referral to secondary programs during these periods. This is an improvement over the past practice of lane flushing, but is still a significant security issue. Also, when primary processing lanes become backed up, passenger vehicles are diverted to commercial lanes for processing.

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PORTS OF ENTRY AT THE NORTHERN BORDER

Each year, 45 million vehicles cross into the United States from Canada. Most of the trucks, however, use only 22 principal border crossings and by 2020, the volume of truck traffic is projected to grow to 19.2 million per year, an increase of 63% from 11.8 million in1999. The six highest-volume crossings on the Canada-U.S. border handled almost 90%of the value and three-quarters of the tonnage and truck trips. According to the most recent data NTEU has, the six highest U.S.-Canada POEs are Ambassador Bridge (Detroit, Michigan), Peace Bridge (Buffalo, New York), Blue Water Bridge (Michigan), Lewiston-Queenston Bridge (New York), Blaine (Washington), and Champlain (New York). (Truck Freight Crossing the Canada-U.S. Border, September 2002, page 2, 6.)

Preventing the flow of arms, drugs, other contraband, pirated merchandise, and undeclared cash, and invasive agricultural items, while at the same time facilitating trade and the legal movement of people as efficiently as possible is a daily challenge for CBP Officers and Agriculture Specialists at the land POEs on the northern border.

STAFFING SHORTAGES AT NORTHERN BORDER LAND PORTS OF ENTRY

Maine: NTEU has heard of several examples of how staffing shortages affect land ports in Maine that has 293 miles of densely wooded land border with Quebec, Canada. Along this expanse are the so-called "Woods Ports" that handle hundreds of vehicles a day. At the Woods Ports of St. Juste, St. Zacharie, St. Aurelie, St. Pamphile, and Estcourt Station only one CBP Officer staffs a shift. **This one CBP Officer staffing violates CBP policy and standard law enforcement assignment practices, prohibits any secondary inspections, places CBP Officers in extreme danger, and endangers our national security**. With help in some cases two hours away, a lone CBP Officer confronted by terrorists or other illegal persons attempting to enter the U.S., has little opportunity to prevail. Nor can a lone Officer conduct required monitoring of potential absconders, make ENFORCE entries, or perform many of the other duties that CBP requires.

Vermont: There has not been a new hire in over two years at the ports of entry in Vermont. Ten percent fewer CBP Officers in Vermont are now processing 18 percent more trucks, 40 percent more buses, 22 percent more car, 20 percent more trains and 18 percent more commercial entries. All of this is being accomplished with at least 25 percent less overtime and without the adequate resources to properly defend our country, such as stop sticks, electronic control gates or a dedicated enforcement team.

New York: At the Champlain Port of Entry, staffing is always an issue, especially for CBP Technicians that do a lot of the CBP Officers' clerical work in order to free up Officers to do exams. There is a great deal of difficulty hiring and retaining technicians because their pay is capped at a GS-7 and they seek to move up. There is also a need for more canine teams to examine shipments and dedicated outbound teams.

In Buffalo, CBP management is constantly pulling CBP Officers from various areas to open auto primary inspection lanes. CBP Officers are pulled from areas such as

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VACIS (a vehicle X-ray machine) and the back scanner van (ZBV). CBP then reports that there are no "targets" while these VACIS and ZBV Officers work a primary inspection lane. On a daily basis, the ZBV CBP Officer crew will be dispersed to attend to primary inspection activities and, rather than stating in the daily report that "ZBV staffing used on primary", managers write "no available targets". Therefore, in Buffalo, whenever any CBP report states "no available targets", CBP Officers were, in actuality, being diverted to work in primary.

Michigan: In Detroit, CBP Officer staffing is below "Peak" resulting in **CBP Officers working multiple hours (more than half their shift) on primary--leaving fewer Officers in secondary to perform searches.** Also, Officers are pulled from dedicated assignments to supplement primary operations. Hand in hand with staffing is training. In Detroit, there is not enough staff to cover CBP Officers sent to training, so the Port doesn't send Officers to training.

Minnesota: There is a shortage of frontline personnel at the smaller ports of entry in northern Minnesota. There are a number of them that, through attrition, have gone down by one CBP Officer. This means that in order to keep those ports staffed at two officers per shift, management needs to send Officers from other ports to cover for days off, annual leave, sick leave, etc. This in turn reduces staffing at other ports of entry, such as the one at Warroad, MN. For example, if the Pine Creek or Roseau Port of Entry is short staffed, management will call the Warroad Port of Entry to send an Officer over to fill in at Pine Creek or Roseau. This leaves the Warroad Port of Entry shorthanded if a situation arises.

There has been a significant increase in traffic at the International Falls POE over the past couple of years, yet staffing levels have continued to decrease and within the next five year, it is estimated that 10 percent of the current CBP staff for International Falls will be eligible to retire. At the Port of Grand Portage, there is a desperate need for an outbound booth. At present, CBP officer are standing in the highway with traffic cones as their only measure of safety.

Not only is there a lack of personnel, there is also a lack of overtime funds to pay to keep CBP Officers on duty. At the Minnesota northern land ports, CBP Officers don't mind working the extra hours and many would welcome the opportunity to work overtime.

North Dakota: There is also a shortage of frontline personnel at North Dakota smaller ports of entry. **Many of the 15 small ports of entry have also been reduced by one CBP Officer.** This again means that in order to keep those ports staffed at two officers per shift they also need to send officers from other ports to cover for days off, annual leave, sick leave, etc. This in turn reduces staffing at the larger ports. **The large land border ports in North Dakota are Portal, Dunseith, and Pembina. These three ports support the other 15 when they are short handed.**

Attrition, caused primarily by retirements, is high in North Dakota, but a number of people just move on to other jobs. Others quit because they could not get a transfer back to their home area and had family there that they wanted to be with. North Dakota is also experiencing an "oil boom" and the wages are very competitive. CBP employees have resigned to work in the oil patch. Right now the only way the Pembina service port gets a new additional

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body is for someone at a pre-flight airport in Canada to select a port in North Dakota to return to.

Montana: The Port of Sweetgrass has seen a reduction of 11 frontline CBP Officer positions since January 1, 2010. The Port has also experienced the loss of a CBP Technician position which remains unfilled. The Port of Sweetgrass processes approximately 130,000 commercial trucks per year. And, with the Canadian dollar at a high level, the volume of persons arriving at the Port of Sweetgrass has increased as well.

Also, the Port has recently added a rail VACIS (vehicle X-ray machine) system located three miles from the Port of Sweetgrass, but there is no video surveillance system at this location. The Port needs video cameras to be installed at this location for the Officers' safety, as well as a security enhancement.

Washington: At the Blaine Cargo facility, neither the VACIS, nor the exit gate, are operated after midnight due to staffing shortages. Both of these operations are vital to the inspection of goods and the prevention of "port runners". **The truck drivers know that these operations are restricted after midnight and if a driver were to contemplate smuggling (narcotics, weapons, etc.) then he/she would do it on this shift due to the lack of manpower and resources.**

At the Peace Arch, there are not enough frontline personnel to fully staff this enlarged facility. If all 10 lanes are opened for the traveling public, Officers must abandon the work stations inside. Therefore, when all the lanes are opened up for vehicle traffic, the lines inside the building grow to two hour waits. Since the Situation Room reports are only triggered when the vehicle lines are over 1 hour, there is no report even though the people who are being processed inside are being made to wait excessively. At that point, vehicle lanes are closed and the Officers move inside to facilitate the lines of people, resulting in vehicle lines backing up over the 1 hour wait time limit.

These are just a few examples of CBP staffing shortages at the northern border. Again, NTEU concurs with the October 2009 Homeland Security Advisory Council Southwest Border Task Force Draft Report that calls on Congress to authorize funding to increase staffing levels for CBP Officers. **NTEU urges Congress to authorize and appropriate funding for CBP Officers and CBP Agriculture Specialists at the levels specified in CBP's own workforce staffing model.**

CBP AGRICULTURE SPECIALIST STAFFING

In 2008, NTEU was certified as the labor union representative of CBP Agriculture Specialists as the result of an election to represent all Customs and Border Protection employees that had been consolidated into one bargaining unit by merging the port of entry inspection functions of Customs, INS and the Animal and Plant Inspection Service as part of DHS' One Face at the Border initiative.

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According to GAO-08-219 page 31, CBP's staffing model "showed that CBP would need up to several thousand additional CBP Officers and agriculture specialists at its ports of entry." And GAO testimony issued on October 3, 2007 stated that, "as of mid-August 2007, CBP had 2,116 agriculture specialists on staff, compared with 3,154 specialists needed, according to staffing model." (See GAO-08-96T page 1.)

CBP FY 2012 budget request includes funding for 2,394 CBP Agriculture Specialists, 760 short of those needed, according to CBP's own staffing model. Also, according to CBP, the Animal and Plant Health Inspection Service (APHIS) user fees fund 2,332 of these 2,394 CBP Agriculture Specialists regular positions.

Also, NTEU continues to have concerns with CBP's stated intention to change its staffing model design to reflect only allocations of existing resources and no longer account for optimal staffing levels to accomplish their mission.

Finally, NTEU strongly supports Section 805 of S. 3623, a bill introduced in the Senate in 2009 that, through oversight and statutory language, makes clear that the agricultural inspection mission is a priority. The legislation increases CBP Agriculture Specialist staffing, and imposes an Agriculture Specialist career ladder and specialized chain of command.

RATIO OF CBP SUPERVISORS TO FRONTLINE CBP OFFICERS

NTEU continues to have concerns that CBP is continuing to increase the number of supervisors when a much greater need exists for new frontline hires. In terms of real numbers, since CBP was created, the number of new managers has increased at a much higher rate than the number of new frontline CBP hires. According to GAO, the number of CBP Officers has increased from 18,001 in October 2003 to 18,382 in February 2006, an increase of 381 officers. In contrast, GS 12-15 CBP supervisors on board as of October 2003 were 2,262 and in February 2006 there were 2,731, an increase of 462 managers over the same of time. **This is a 17 percent increase in CBP managers and only a 2 percent increase in the number of frontline CBP Officers. (See GAO-06-751R, page 11).**

In Maine, for example, the current ratio is approximately 1 to 8 of management to frontline employees. Despite the tremendous increase in supervision and management, at all but three major Maine ports of entry, the port directors and supervisors continue to work only day and evening shifts and refuse to staff midnight shifts, instead instructing officers who need assistance to call one of the three major ports if a supervisory decision or action is required.

In 2009, CBP reports that there were 19,726 CBP Officers of which 16,360 were bargaining unit frontline employees--a ratio of one supervisor for every five CBP Officers. And according to CBP data, in 2009, the number of CBP Agriculture Specialists was 2,277, of which 312 were non-frontline supervisors--a ratio of one supervisor for every six CBP Agriculture Specialists. **The tremendous growth in CBP managers and supervisors at the POEs has come at the expense of front line national security preparedness and frontline positions. Also, these highly paid management positions are exacting a needless level of expense upon the CBP budget.**

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RECRUITMENT AND RETENTION ISSUES

NTEU is pleased to commend Congress and the Department for addressing two major CBP Officer recruitment and retention challenges—lack of law enforcement officer retirement status and a lower rate of journeyman pay than most other federal law enforcement occupations. In July 2006, Congress extended enhanced retirement prospectively to CBP Officers and in October 2009, CBP announced an increase in the rate of CBP Officer and CBP Agriculture Specialists journeyman pay from GS-11 to GS-12.

According to GAO, however, up to 1,200 CBP Officers a year are lost to attrition and current hires are not keeping pace with this attrition rate. NTEU expects that the extension of enhanced retirement and increasing journeyman pay will help to attract and recruit new hires to keep pace with attrition and achieve staffing levels currently authorized. Since it usually takes about 1 1/2 years to recruit, hire and train a CBP Officer, however, Congress needs to increase CBP Officer staffing levels now to keep pace with current attrition rates.

NTEU commends the Department for increasing journeyman pay for CBP Officers and Agriculture Specialists. Many deserving CBP trade and security positions, however, were left out of this pay increase, which has significantly damaged morale. NTEU strongly supports extending this same career ladder increase to additional CBP positions, including CBP trade operations specialists and CBP Seized Property Specialists. The journeyman pay level for the CBP Technicians who perform important commercial trade and administration duties should also be increased from GS-7 to GS-9.

INFRASTRUCTURE ISSUES

"The average land POE is 40–45 years old. Urban sprawl has enveloped some of these ports, rendering them effectively landlocked…Over time, eroding infrastructure and limits on the availability of land – along with projected growth in the legal movement of goods and people stemming from the continued deepening of economic integration – will require both governments to erect new infrastructure." (See Facilitating Legal Commerce and Transit by Armand Peschard-Sverdrup, page 4).

Infrastructure issues vary from port to port. NTEU does not dispute that the infrastructure problems at the POEs need to be addressed. But all port infrastructure solutions, including constructing additional 24 hour port facilities, will take years to achieve. What is necessary today is to staff all existing lanes and to start now to recruit additional personnel to staff proposed new lanes to capacity. Without adequate staffing to achieve this, excessive overtime practices, as well as increased wait times, will continue.

Also, the observations and suggestions of frontline CBP Officers should be taken into account when planning new infrastructure solutions. For example, since before 9/11, the lack of a manned egress point for the Cargo Inspection facility at the Port of Blaine, Washington has been noted by numerous port runner incidents. After years of lobbying by Officers, Blaine has a manned egress booth, but it is not staffed 24/7, and the CBP Officer assigned to the exit booth has no way to physically stop a vehicle and driver who want to run the port. There are no gates,

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no tire shredders, or deployable bollards at the new egress point. Pulling into secondary is still largely dependent on the honor system. This new manned egress point intercepts the lost drivers, and the drivers who can't understand instructions from the primary officer, but it doesn't stop deliberate port runners.

TECHNOLOGY ISSUES

Customs and Border Protection relies on technology to process border crossings both inbound and outbound with greater efficiency and speed. To compensate for the inadequacy of personnel at land POEs, CBP is relying more on technology, such as Radiation Portal Monitors (RPM) and Radio Frequency Identification (RFID). According to GAO, however, "as of March 2011, license plate readers were available at 48 of 118 outbound lanes on the southwest border but none of the 179 outbound lanes on the northern border." (DHS Progress and Challengers in Security the U.S. Southwest and Northern Borders, GAO-11-508T, page 7.)

Technological advances are important, but without the training and experience, technology alone would have failed to stop the millennium bomber at Port Angeles, Washington. Today, primary processing is increasingly dependent on technology. CBP Officers 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 waived through. The majority of a CBP Officers' time is spent processing I-94s, documents non-resident aliens need to enter the U.S.

Also, technology improvements can't overcome deficiencies in equipment and in port infrastructure. For example, DHS recently touted as a money-saving effort the transferring excess IT equipment within the Department rather than buying new equipment. NTEU has learned that at the El Paso cargo facility, CBP Officers "barely get by with the old computers" they inherited three months ago when the facility received newer, yet used, computers handed down from the CBP training facility in Artesia, NM. It is questionable if this practice is efficient or effective.

Also, expedited inspection programs, such as FAST, work very well for the participants in these programs in that their clearance process is reduced. CBP, however, needs a higher level of verification of FAST participants because of the higher risk their expedited clearance creates. For example, at the Blaine POE, many of CBP Officer's narcotics seizures have come out of FAST approved Carriers and Consignees. Expedited inspection programs such as FAST and C-TPAT, require additional CBP Officers to conduct these verifications.

Finally, NTEU is closely monitoring the contemplated expansion of the Global Entry kiosk technology that is being piloted at the international airports and urges the Committee to also do so. It is our understanding that CBP plans to expand this program beyond U.S., Mexican nationals with a border crossing card, Canadian and Dutch citizens, and Legal Permanent Residents to additional countries, such as the U.K., South Korea, Germany and Japan and to holders of other visas types, such as holders of L1 (non-immigrant work visas) and E1 (treaty trader visitor) of various countries. Also, holders of F1 and J1 (students/researchers and their immediate family) from Holland are now eligible to apply for the Global Entry card.

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Please note that a Global Entry card holder never has to talk to a CBP Officer upon entering the U.S. from abroad (unless they are randomly chosen by COMPEX for a mandatory random check)—instead they are processed by an automated Global Entry kiosk, pick up their luggage and go directly to an airport exit without any interaction with CBP inspection officials.

NTEU also has concerns about the reported reduction of the time allotted for interviews of applicants for Global Entry cards by CBP Officers, the loosening of the vetting process to allow some individuals with misdemeanor convictions to be eligible, and the automatic enrollment of Global Entry cards to NEXUS card holders and the exemption of these card holders of the $100 processing fee—a fee that does not nearly cover the cost of processing the application and staffing the vetting, interviewing and issuance of these cards in this time of fiscal constraints. And Global Entry cards are good for five years.

NTEU RECOMMENDATIONS

As noted by DHS's own Advisory Council, for too long, CBP at the POEs has been unfunded and understaffed. This is true for CBP Ports of Entry at the both the northern and southern border. DHS employees represented by NTEU are capable and committed to the varied missions of the agency from border control to the facilitation of trade into and out of the United States. The American public expects its borders and ports be properly defended.

Congress must show the public that it is serious about protecting the homeland by:

- increasing both port security and trade enforcement staffing at the Ports of Entry to the level recommended by the draft September 2009 Homeland Security Advisory Council Report and Recommendations;
- fully staffing all existing lanes and booths at the POEs to capacity;
- extending career ladder pay increases to additional CBP personnel including CBP trade operations specialists, CBP Seized Property Specialists and CBP Technicians;
- Ensuring that CBP Officers' and Agriculture Specialists' overtime and premium pay system is fully funded; and
- requiring CBP to submit a yearly workplace staffing model that include optimal staffing requirements for each POE to fully staff all lanes and reduce wait times.

The more than 24,000 CBP employees represented by the NTEU are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade. These men and women are deserving of more resources and technology to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the Committee on their behalf.

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U.S. Immigration and Customs Enforcement

STATEMENT

OF

JOHN MORTON
ASSISTANT SECRETARY

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

"IMPROVING SECURITY AT AMERICA'S NORTHERN BORDER AND PORTS OF ENTRY"

BEFORE THE

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON
IMMIGRATION, REFUGEES AND BORDER SECURITY

Tuesday, May 17, 2011 – 10:00 a.m.
226 Dirksen Senate Office Building

INTRODUCTION

Chairman Schumer, Ranking Member Cornyn, and distinguished Members of the Subcommittee:

It is my honor and privilege to appear before you today to discuss the efforts of U.S. Immigration and Customs Enforcement (ICE) to improve security along the Northern Border of the United States.

ICE employs a multi-layered law enforcement approach to Northern Border security based on an understanding that our geographic boundary with Canada is only one piece of the criminal continuum – it is neither the starting point nor the final destination of cross-border criminal activity. In fact, this activity is often rooted in interior cities, as well as in smaller communities throughout the United States. It is in these communities where the vast profits are generated that sustain the operations of transnational criminal organizations (TCOs), and where ICE succeeds on a daily basis, together with our interagency partners in disrupting and dismantling the entire smuggling enterprise.

As the largest investigative agency in DHS and the second largest in the federal government, ICE is uniquely positioned to leverage its broad statutory authority to support border enforcement by working in close coordination with other DHS components and U.S. interagency partners, as well as our counterparts in Canadian law enforcement, to target the illicit pathways and organizations that produce, transport, and distribute illegal contraband. ICE applies a full range of innovative investigative and enforcement techniques, including leading and participating in joint U.S.-Canadian task forces, undercover operations, controlled deliveries, asset identification and removal, the

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use of well-placed confidential informants, and Title III electronic intercepts to identify these organizations and disrupt their ability to operate.

ICE continues to disrupt cross-border criminal activity systematically at all stages: internationally; along the trade, travel and transportation systems; and in cities throughout the United States. Through effective cooperation and collaboration between our federal, state, local, tribal and international law enforcement partners, we are making it increasingly difficult for TCOs and other criminals to operate.

EXAMPLE OF A TRANSNATIONAL CRIMINAL ORGANIZATION: THE UN GANG

The British Columbia-based "UN Gang" is an example of a TCO whose operations stretch across the entire Northern Border and beyond. This violent criminal organization operates from the Lower Mainland of British Columbia, Canada, and is actively involved in large scale narcotics trafficking and money laundering activities. Its operations stretch into the United States, Mexico, Venezuela, Colombia, India, Vietnam, Australia, and Great Britain. This gang exports large quantities of Canadian-grown marijuana into the United States and uses the revenue generated to purchase cocaine from abroad, which is then smuggled into British Columbia and sold throughout Canada. During a recent ICE-led investigation with its federal, state and local law enforcement partners, we uncovered evidence that the UN Gang imports hundreds of pounds of cocaine into British Columbia every month.

After Canadian marijuana is smuggled into the United States, UN Gang members sell it for U.S. dollars. These proceeds are then smuggled by couriers in the form of bulk

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currency from cities across the United States to California where they are used to purchase cocaine from abroad. This cocaine, in turn, is smuggled into Canada and subsequently sold for Canadian dollars. This method of drug trafficking and money laundering exemplifies the sophistication and reach of Drug Trafficking Organizations (DTO's) and is deemed to be an ongoing drug trafficking trend.

ICE, in coordination with its federal, state, local, tribal, and international partners, is well positioned to address the threat that the UN Gang and other TCOs pose to our nation and Canada. As a result of the joint efforts of United States, Canadian, and Mexican law enforcement, Clay Franklin Roueche, the leader and public face of this dangerous organization, was taken into custody. On December 16, 2009, he was sentenced in United States District Court in Seattle, Washington, to 30 years in jail after pleading guilty to exportation of cocaine, importation of marijuana, and conspiracy to launder money. In addition, since December 2005, the ICE-led investigation of UN Gang members has resulted in the seizure of 2,169 pounds of marijuana, 335 kilograms of cocaine, two pounds of crack cocaine, four pounds of methamphetamine, five firearms, and approximately $2 million in illicit proceeds.

ICE ASSETS ALONG THE NORTHERN BORDER

Over the past two years, DHS has made critical security improvements along the Northern Border, investing in additional personnel, technology, and infrastructure. ICE currently has approximately 1,600 Homeland Security Investigations (HSI) Special Agents, 1,500 Enforcement and Removal Operations (ERO) officers, and 40 intelligence personnel operating out of several ICE offices with responsibility for Northern Border

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states. Many of these agents and officers are stationed at our various sub-offices located either on or in proximity to the Northern Border. Further, more than 7,000 HSI Special Agents are located in communities throughout the country working tirelessly to detect, disrupt, and dismantle TCOs engaged in the smuggling of people, narcotics, bulk cash, weaponry and weaponry-related components across our borders.

In fiscal year (FY) 2010, HSI's seven Special Agent in Charge offices covering the Northern Border, often in joint or cooperative investigations with federal, state, local, tribal and Canadian law enforcement, seized a combined total of more than $38 million in cash and monetary instruments, nearly 128,333 pounds of marijuana, 1,998 pounds of cocaine, 2,239 pounds of ecstasy, 140 pounds of heroin, 283 pounds of methamphetamine, 859 weapons and firearms, 13,442 rounds of ammunition and 542,140 weapon components. These statistics reflect the impact of our coordinated law enforcement investments and investigations along the Northern Border.

Our immigration enforcement and removal functions along the Northern Border are also supported by 26 Criminal Alien Program and 28 Fugitive Operations teams, which identify, apprehend, and remove criminal aliens and/or individuals who have failed to comply with removal orders. Further, our seven principal Northern Border ERO field offices have agreements with 101 detention facilities, which allow us access to 6,146 beds for aliens in the removal process. In FY 2010, our Northern Border field offices apprehended and removed 47,723 aliens, including 23,502 criminal aliens, who were encountered at the Northern Border and nearby communities. In addition, these offices presented a total of 3,164 aliens for federal prosecution pursuant to 8 U.S.C. § 1326 (re-entry of removed aliens).

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Four states along the Northern Border - Idaho, Michigan, Montana, and New York – are currently working with ICE to implement Secure Communities, an information sharing partnership between two federal agencies – ICE and the Department of Justice. It imposes no new or additional requirements on state and local law enforcement. When state and local authorities arrest and book into jail a criminal offender, they submit fingerprints to the Federal Bureau of Investigation (FBI). These fingerprints are then automatically checked against immigration databases by ICE. If the fingerprint check reveals that an individual is unlawfully present in the United States, ICE takes enforcement action - prioritizing the removal of individuals who present the most significant threats to public safety. Since 2008, ICE has expanded Secure Communities from 14 jurisdictions to more than 1,200 today. We expect to reach nationwide deployment by 2013. We continue to review and improve the program to ensure that it is implemented and operated as effectively as possible.

ICE maintains the largest investigative footprint of any U.S. law enforcement agency in Canada, with four Attaché and Assistant Attaché offices (Ottawa, Vancouver, Toronto, and Montreal) that enhance national security by conducting investigations involving transnational criminal organizations and serving as the agency's liaison to our interagency partners and counterparts in local government and law enforcement. In Montreal, ICE operates a Visa Security Unit (VSU) to complement traditional screening by providing an additional level of review of visa applications of special interest persons before they enter the United States. VSUs work cooperatively with the Department of State and other partners to prevent terrorists, criminals and other ineligible applicants from receiving visas issued by the United States. Similarly, ICE works closely with U.S.

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Drug Enforcement Administration (DEA), which is the single point of contact for the United States on drug-related matters in the foreign environment.

NORTHERN BORDER PARTNERSHIPS

A crucial aspect of our approach to Northern Border security is partnerships with our colleagues across DHS agencies, as well as with federal, state, county, local, tribal and international agencies. These partnerships are essential to joint operations and information sharing along the Northern Border and beyond, and are conducted in the spirit of the President and Prime Minister's "Beyond the Border Declaration" toward integrated cross-border law enforcement. Collectively, these agencies possess a unique understanding of the threats, risks and vulnerabilities along the Northern Border that enhance our ability to deter, disrupt and investigate illegal cross-border activity.

ICE is also an active participant in the Canada Cross Border Crime Forum (CBCF). The CBCF meets annually, with smaller working-level meetings throughout the year, bringing together more than one hundred senior law enforcement officials and prosecutors from Canada and the United States to address cross-border issues, including counterterrorism cooperation, mass-marketing fraud, interoperability of our respective law enforcement agencies along the border, and combating organized crime. Currently, the CBCF is taking the lead on such issues as integrated cross-border law enforcement and cross-border undercover operations, and will take a leading role in implementing the Beyond the Border Declaration. Further, we have taken a number of steps to better integrate domestic Northern Border enforcement efforts. In fact, ICE and U.S. Border

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Patrol leadership meet on a regular basis along with leadership of other DHS components to discuss areas of mutual concern.

Border Enforcement Security Task Force

ICE's flagship task force program, the Border Enforcement Security Task Force, (BEST), was created in 2005 as a mechanism to address the threat of cross-border crime. BEST provides a proven and flexible platform from which DHS investigates and targets transnational criminal organizations that attempt to exploit perceived vulnerabilities at our nation's borders. BESTs differ from other task forces due to their geographic proximity and focus on cross-border criminal activity. In 2007, ICE began to deploy BESTs along the Northern Border. There are currently three BESTs operating along the Northern Border: Blaine, Washington; Detroit, Michigan; and Buffalo, New York. ICE anticipates establishing a new Northern Border BEST in Massena, New York in late 2011.

One significant advantage of the BEST task force model is the participation and integration of foreign law enforcement personnel to address criminal activity on both sides of the border. On the Northern Border, Canadian law enforcement participation includes representatives from the Royal Canadian Mounted Police (RCMP), the Canada Border Services Agency, the Ontario Provincial Police, the Niagara Regional Police Service, the Windsor Police Service, the Amherstburg Police Service, and the Toronto Police Service. In addition to our Canadian partners, we receive the support and participation of our fellow U.S. law enforcement agencies including U.S. Customs and Border Protection (CBP); the U.S. Coast Guard; the Bureau of Alcohol, Tobacco,

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Firearms and Explosives; the U.S. Postal Inspection Service; and the National Oceanic and Atmospheric Administration, along with other federal, state, local, and county law enforcement agencies. These Task Forces enable United States and Canadian law enforcement agencies to identify threats, address vulnerabilities, and identify, investigate, disrupt, and dismantle TCOs in a cohesive and coordinated environment.

In addition, pursuant to Title 19 of the U.S. Code, ICE cross-designates United States and Canadian law enforcement officers to enforce customs laws in the United States, thereby overcoming the jurisdictional restrictions of the physical border. These officers and agents participate on task forces and conduct joint investigations that enhance law enforcement's ability to disrupt and dismantle threats to our borders.

The BEST model has been very successful. One recent example is a task force investigation that was initiated following an attempt to smuggle marijuana into the United States from Canada. On December 15, 2010, a citizen of Canada tried to enter the United States from Canada via the Detroit Ambassador Bridge. During a secondary enforcement inspection, CBP officers discovered multiple plastic bags containing suspected marijuana concealed within the vehicle. CBP contacted ICE for investigative assistance. The Detroit BEST task force responded to the port of entry, including ICE agents and our Canadian BEST partners from the Ontario Provincial Police, the Windsor Police Service, and the Canada Border Services Agency.

The driver of the vehicle subsequently cooperated with BEST agents and a controlled delivery of marijuana was conducted in Taylor, Michigan, approximately 15 miles from the port of entry. The controlled delivery resulted in the arrest of the driver's boyfriend, a Canadian citizen. Detroit BEST officers from the Troy Police Department,

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the Trenton Police Department, and the Detroit Police Department assisted in the investigation and the two subjects were successfully prosecuted for Michigan criminal charges.

Additionally, BEST partners from the Ontario Provincial Police and the Windsor Police Service executed two search warrants in Tecumseh and Windsor, Ontario, Canada, the day following the Michigan arrest. Agents seized evidence, including a vacuum sealer machine and digital scales. In addition, a cocaine cutting kit with residue was located at one of the residences. The two Canadian subjects were arrested and charged locally with conspiracy to export marijuana. This investigation reflects the unique and unprecedented coordination among foreign, federal, state, and local law enforcement facilitated by the BEST model on both sides of the Northern Border.

Integrated Border Enforcement Teams

ICE is an active participant in the 15 Integrated Border Enforcement Teams (IBETs), which work to identify, investigate, and interdict individuals and organizations that may pose a threat to national security or are engaged in organized criminal activity along the Northern Border. The IBETs operate as intelligence-driven enforcement teams whose core members include ICE, CBP, the U.S. Coast Guard, the RCMP, and the Canada Border Services Agency. By incorporating integrated mobile response capability (air, land and marine), the IBETs provide participating law enforcement agencies with a force multiplier, maximizing border enforcement efforts between the ports of entry. Each IBET along the Northern Border actively shares information and conducts bi-national enforcement operations aimed at securing the U.S.-Canada border.

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Project COLT

Last month, ICE was happy to return $160,000 to an elderly Los Angeles man who was victimized by Quebec-based telemarketing con artists who told him he had won a $3.3 million Canadian lottery prize. This money was recovered by ICE as part of Project COLT (Center of Operations Linked to Telemarketing), a bi-national effort involving numerous agencies, including ICE, the FBI, the U.S. Postal Inspection Service, the U.S. Secret Service, the Security and Investigation Services for Canada Post, the Sûreté de Québec and the RCMP. Since its inception in 1998, Project COLT has recovered approximately $27 million from those involved in fraudulent schemes and has initiated investigations resulting in 94 indictments and 74 convictions. In addition, Canadian law enforcement authorities have executed more than 75 search warrants and shut down 50 Western Union and Money Gram offices involved in telemarketing fraud conspiracies.

Under Project COLT, law enforcement officers work to intercept funds - often cash and cashier's checks - so they can ultimately be returned to victims. Project COLT investigators also work to prevent further victimization, both through public education and the prosecution of those who commit fraud. Project COLT has a full-time HSI Special Agent co-located on a working group that includes the RCMP, the Sûreté de Québec, the Montreal City Police, and the Canadian Competition Bureau. In addition, Project COLT members have formed partnerships with the Canada Border Services Agency, Canada Post Corporation, FedEx, Purolator, United Parcel Service, DHL and other companies to facilitate fund interception and return.

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Bulk Cash Smuggling and ICE's National Bulk Cash Smuggling Center

While some transnational criminal organizations choose to employ complex financial methods to launder their illegal proceeds, traditional bulk cash smuggling remains a persistent threat. In November 2010, ICE entered into a Memorandum of Understanding (MOU) with CBP and the Canada Border Services Agency for the sharing of currency seizure information. The MOU will help identify potential threats and assist in money laundering and terrorist financing investigations by creating a notification protocol for both countries when Canadian and United States border officers intercept more than $10,000. It should be noted that bulk cash smuggling is a principal means of smuggling illicit drug proceeds. In these instances, ICE coordinates closely with the DEA to ensure a sustained organizational attack continues to be mounted against the drug trafficking organizations.

The National Bulk Cash Smuggling Center (BCSC) serves as a central source for information and support for identifying, investigating and disrupting bulk cash smuggling activities around the world. The BCSC provides assistance, 24 hours a day, to assist federal, state, local and foreign law enforcement authorities in their efforts to restrict the flow of funding that supports criminal enterprises. The BCSC provides real-time tactical assistance, investigative support and subject matter expertise in the transportation and smuggling of bulk cash. Coordination with the BCSC helps law enforcement follow the money trail and expand local interdictions into full-fledged, cross-jurisdictional investigations. For example, the BCSC assisted ICE agents in Rouses Point, New York in January following the seizure of $279,825 in U.S. currency. The currency was seized from a Canadian citizen attempting to enter the United States at the Champlain Port of

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Entry. Subsequent joint investigative efforts by the BCSC and the RCMP ultimately identified the subject as a target in an active Canadian smuggling investigation. ICE continues to work with the DEA to link the BCSC with the El Paso Intelligence Center intake of bulk cash smuggling cases.

NATIONAL SECURITY AND THE NORTHERN BORDER

ICE recognizes the potential risk to national security that could be posed by the smuggling of people and goods across our Northern Border. ICE is focused on investigating special interest alien smuggling and the proliferation of military items and controlled dual-use commodities to sanctioned or embargoed countries. As the only federal law enforcement agency with full statutory authority to investigate and enforce criminal violations of all U.S. export laws related to military items, controlled dual-use commodities and sanctioned or embargoed countries, ICE is uniquely situated to carry out these investigations. Further, we have the capability to expand the scope of our investigations beyond our domestic offices to 67 attaché offices located around the world.

ICE's national security focus on the Northern Border is further enhanced by our participation in Joint Terrorism Task Forces (JTTF). We are the second largest federal contributor to the JTTF program. Our agents lend expertise in enforcing immigration and customs laws to the more than 100 JTTFs nationwide, including several in Northern Border states and territories, to help investigate, detect, interdict, prosecute and remove individuals and organizations that pose threats to the United States.

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Human Smuggling

While human smuggling is often linked to the Southwest Border, smuggling is, by definition, an international crime and not confined to any geographic region. Working with key partners, ICE has developed a full range of investigative and enforcement methodologies to confront the threat at every turn – in source and transit countries, at sea, at our nation's borders, and throughout the United States. Smuggling networks often exploit border controls and immigration policies of source and transit countries to move individuals toward the United States. These routes are constantly changing and evolving based on economic, political and law enforcement activities in source and transit countries, requiring an agile law enforcement response from ICE.

To target these smuggling methods and routes, ICE and the Department of Justice formed the Extraterritorial Criminal Travel (ECT) Strike Force in June 2006. This initiative combines investigative, prosecutorial and intelligence resources to target and aggressively pursue, disrupt and dismantle foreign-based criminal travel networks – particularly those involved in the movement of aliens from countries of national security concern. Through our network of attaché offices located in U.S. embassies around the world, we work in close coordination with the Department of State and our foreign law enforcement counterparts to coordinate these complex international investigations.

The ECT Strike Force program is a critical component of ICE's strategy to build a layered defense by combating human smuggling organizations far from the U.S. border, thereby expanding our zone of security. ECT Strike Force-designated investigations are intelligence-driven, and support the principles and vision outlined by national security experts in reports such as the 9/11 Commission Report, the National Counterterrorism

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Center's National Strategy to Combat Terrorist Travel, and the Migration Policy Institute's Countering Terrorist Mobility Report.

Counter-Proliferation Investigations

One of ICE's highest priorities is to prevent terrorist groups and others from illegally obtaining military products and sensitive technology from the United States, including weapon of mass destruction (WMD) components. ICE agents in the field conduct counter-proliferation investigations (CPI) focused on the illegal procurement and export of specific commodities and services, including explosives precursors. CPI priority programs address trafficking in WMD components and materials, sensitive dual-use commodities, and technologies sought by terrorist groups and others who might wish to inflict harm. Additional ICE programs address illegal exports of military equipment and spare parts to embargoed countries, significant financial and business transactions with proscribed countries and groups, export enforcement training for foreign law enforcement agencies, and outreach with domestic private industry.

For example, ICE's counter-proliferation efforts recently uncovered a scheme by a proliferator in Canada to obtain and export materials to Iran for use in the production of nuclear materials. On July 29, 2010, Mahmoud Yadegari was sentenced in a Canadian court to four years and three months' incarceration for attempting to export pressure transducers (which have applications in the production of enriched uranium, a critical step in creating nuclear energy and weapons) to Iran. He purchased the pressure transducers from a U.S. company. He then had them exported to Canada where he attempted to forward them to Iran through the United Arab Emirates. Company officials

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in Massachusetts alerted ICE to the purchases and ICE, in turn, coordinated its investigation with Canadian authorities.

ICE's export enforcement program uses a three-pronged approach: detecting illegal exports, investigating potential violations, and obtaining international cooperation to investigate leads abroad. The guiding principle behind ICE CPI investigations is the detection and disruption of illegal exports before they cause damage to the national security interests of the United States. ICE relies on specially trained CBP officers stationed at ports of entry to inspect suspect export shipments. Following detection of a violation, ICE agents deployed throughout the country initiate and pursue investigations to identify, arrest, and seek prosecution of offenders of the Arms Export Control Act, International Emergency Economic Powers Act and other related statutes.

The international nature of counter-proliferation networks and schemes requires a global investigative response. Our attaché offices located overseas work to enlist the support of their host governments to initiate new investigative leads and develop information in support of ongoing investigations. In FY 2010, ICE agents initiated a total of 1,149 criminal investigations into possible export violations and made 248 arrests for export-related criminal violations, more than any other federal law enforcement agency (as reported by the U.S. Department of Justice). These investigations also led to the seizure of thousands of arms, military weaponry, and other sensitive commodities related to illegal export schemes that were valued at more than $87.8 million. These efforts significantly contributed to preventing sensitive technologies and weapons from reaching the hands of terrorists, hostile countries and violent criminal organizations.

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CONCLUSION

ICE agents are working tirelessly in coordination with DHS and interagency counterparts, as well as our Canadian colleagues, to identify, disrupt and dismantle transnational criminal organizations that subvert the rule of law, violate our immigration and customs laws, destabilize our communities through violence and fear, and threaten our national security. The initiatives and investigations that I have mentioned today are only a few of the many in which ICE is involved.

ICE commits substantial resources to securing the Northern Border. Our efforts are part of a comprehensive strategy that focuses on securing the border, taking down the infrastructure that supports cross-border criminal activity, and identifying and seizing the illicit profits from these crimes. ICE is dedicated and committed to this mission, and we look forward to continuing to work with this Subcommittee on these efforts.

Thank you again for the opportunity to appear before you today. I would be pleased to answer any questions you may have at this time.

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ADDIE J. RUSSELL
Assemblywoman 118th "River" District

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Testimony to the Senate Subcommittee on Immigration, Refugees, and Border Security

From New York State Assemblywoman Addie J. Russell, 118th Assembly "River" District
Tuesday, May 17, 2011

I would like to take this opportunity to thank Senator Charles E. Schumer for holding this important hearing on Immigration, Refugees, and Border Security. I represent the 118th Assembly District in New York State, known as the River District, as it extends along the St. Lawrence River from Cape Vincent to Massena, NY, which is the United States-Canadian border.

I first want to extend my appreciation for your attention on Northern Border security including the placement of a Border Enforcement Security Task Force team in Massena, New York, for working with the Department of Homeland Security to agree to use military radar on the northern border to stop drug-dealers from using low-flying planes, helping to ensure that the federal government creates and implements a northern border counter-narcotics strategy, and for keeping the port of entry in Churubusco in Clinton County open to facilitate visits from Canada into New York State.

As a state legislator, with the length of my district bordering Canada, I know first-hand the issues which plague our northern border. Let me be clear – our relations with Canada are excellent. I have created a Northern New York-Canada Initiative which is a group of officials from Canada and the United States working to open up cross-border economic development and capitalize on marketing opportunities for the Northern New York-Southern Ontario region. We enjoy a wonderful relationship with our Canadian neighbors and are collaborating on a number of projects. However, the flow of narcotics from Canada into the United States appears to have increased dramatically in recent years and it is imperative that our federal government continue to develop successful strategies to curtail this activity.

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Perhaps most importantly is the need to strike a balance between enforcement and infringement – that is to say infringement on the daily lives of northern New York residents who face routine traffic stops and road blocks by Border Patrol officers presumably as part of anti-narcotics enforcement. While drug enforcement tactics are part of an overall strategy, the negative effects of enforcement are troubling to many, who refer to St. Lawrence County particularly as a 'police state'. Therefore, I urge our federal law enforcement agencies, as well as our state and local agencies to review what might be considered over-burdensome enforcement tactics and work with our citizens to create more of a positive relationship.

I am encouraged by the consideration of the use of high-tech measures along the border, such as the military-grade radar technology that Secretary Napolitano is deploying to the Northern Border, that will help detect frequent drug smuggling activity. This is good use of new technology and will hopefully produce results sooner and more comprehensively.

It is also vital that our border crossing procedures are thorough, yet efficient and speedy so as to not burden those citizens who are crossing for recreation and tourism, or hauling goods for businesses. Border crossing delays often deter tourism activities and mean increased costs for businesses. As we emerge from the recession, we must find every opportunity to help, not hinder business.

I would like to take this opportunity to urge the federal government to undertake immigration reform now. New York is still a largely agricultural state. In Northern New York, dairy farming is the dominant agricultural business. Many guest workers are employed on our dairy farm operations. However, the H-2A program does not apply to dairy farm workers. Guest worker programs must be updated in order for our economy to compete and grow. I have been examining the possibility of implementing a guest worker program at the state level, and am consequently working on draft legislation at this time. The true fix remains at the federal government level and I urge you to pass immigration reform, especially reforms that improve guest worker programs, ensuring that our farms have the ability to employ permitted guest workers if needed, without fears that they have unwittingly hired workers that are not in the country legally.

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In closing, I applaud your efforts to secure our northern border and ask that you work with ICE and the Department of Homeland Security to continue their anti-narcotics efforts, but with an increased sensitivity to residents along the border. I also urge you to implement immigration reform now, as we must find ways to assist farms by removing obstacles through the creation of a national guest worker program.

Thank you for allowing me to submit this testimony today.

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City of Hidalgo

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Mission:

To make Legislative recommendations to help the Texas Border Region grow and prosper

★ TEXAS BORDER COALITION

Testimony of Monica Weisberg-Stewart
Texas Border Coalition
Senate Judiciary Committee
May 17, 2011

I am Monica Weisberg-Stewart, Chairman of the Texas Border Coalition Committee on Immigration and Ports of Entry. I am speaking today on behalf of 2.1 million Americans in 14 border counties of the 1,250-mile Texas-Mexico border. Ours is a region of contrasts, exhibiting differences and similarities of language, culture, tradition, and economy. The multi-national, multi-cultural nature of our communities on both sides of the international boundary gives our region a distinct sense of place.

Without a strong and growing economy on the border, we cannot have a growing national economy or achieve our security goals. Trade directly generates one-third of the U.S. economy. Land ports of entry are responsible for more than three-quarters of a trillion dollars in trade annually with Canada and Mexico.

On the southwest border, we need to assure that our economic climate not only helps fund the security measures we need, but also provides opportunity to the people in the region so they become part of the solution and are not tempted to become part of the problem.

To achieve our economic security, we need well-built, equipped and staffed ports of entry that can facilitate legitimate trade and travel and interdict lawbreakers.

We have imbalance of investment and results on the border. Since 1993, we have increased our investment 800 percent in Border Patrol personnel, mobility, communications and technology. That effort between the ports has been successful; the Border Patrol intercepts 70 percent of lawbreakers across the border; in the El Paso sector, the success rate is 90 percent.

In contrast, we have let the land ports of entry fall into disrepair. Over the same period, the land ports budget has risen only 17 percent and our ability to intercept criminals only 28 percent of the time. That is an imbalance Congress needs to correct.

The criminal cartels exploiting our weakness: according to the Department of Justice, 90 percent of the drugs smuggled into the US enter through the land ports. The physical bulk cash that exits goes exclusively through the ports. There is no data on firearms, but anecdotally, the ports are where they traverse the border, too.

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To achieve our economic security, we need well-built, equipped and staffed ports of entry that can both facilitate legitimate trade and travel and interdict lawbreakers. We need those improvements for our national security, as well.

Rich Stana at the Government Accountability Office estimates we need 6,000 new inspection personnel and more than $5 billion to bring the facilities up to snuff. We don't expect you to wave a fiscal wand and achieve this overnight, but if there are additional resources to be allocated, this year or next year, they should go to the ports of entry as a first priority.

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The Washington Post

Advertisement

Unusual methods helped ICE break deportation record, e-mails and interviews show

By Andrew Becker
Center for Investigative Reporting
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For much of this year, the Obama administration touted its tougher-than-ever approach to immigration enforcement, culminating in a record number of deportations.

But in reaching 392,862 deportations, U.S. Immigration and Customs Enforcement included more than 19,000 immigrants who had exited the previous fiscal year, according to agency statistics. ICE also ran a Mexican repatriation program five weeks longer than ever before, allowing the agency to count at least 6,500 exits that, without the program, would normally have been tallied by the U.S. Border Patrol.

When ICE officials realized in the final weeks of the fiscal year, which ended Sept. 30, that the agency still was in jeopardy of falling short of last year's mark, it scrambled to reach the goal. Officials quietly directed immigration officers to bypass backlogged immigration courts and time-consuming deportation hearings whenever possible, internal e-mails and interviews show.

Instead, officials told immigration officers to encourage eligible foreign nationals to accept a quick pass to their countries without a negative mark on their immigration record, ICE employees said.

The option, known as voluntary return, may have allowed hundreds of immigrants - who typically would have gone before an immigration judge to contest deportation for offenses such as drunken driving, domestic violence and misdemeanor assault - to leave the country. A voluntary return doesn't bar a foreigner from applying for legal residence or traveling to the United States in the future.

Once the agency closed the books for fiscal 2010 and the record was broken, agents say they were told to stop widely offering the voluntary return option and revert to business as usual.

Without these efforts and the more than 25,000 deportations that came with them, the agency would not have topped last year's record level of 389,834, current and former ICE employees and officials said.

The Obama administration was intent on doing so even as it came under attack by some Republicans for not being tough enough on immigration enforcement and by some Democrats for failing to deliver on promises of comprehensive immigration reform.

"It's not unusual for any administration to get the numbers they need by reaching into their bag of tricks to boost figures," said Neil Clark, who retired as the Seattle field office director in late June, adding that in the 12 years he spent in management he saw the Bush and Clinton administrations do similar things.

But at a news conference Oct. 6, ICE Director John T. Morton said that no unusual practices were used to break the previous year's mark.

"When the secretary tells you that the numbers are at an all-time high, that's straight, on the merits, no cooking of the books," Morton said, referring to his boss, Department of Homeland Security Secretary Janet Napolitano. "It's what happened."

ICE declined to make any officials available for interviews. In selected responses to e-mailed questions, spokesman Brian P. Hale wrote that the agency did nothing different from previous years but did not deny that ICE had focused on voluntary returns when it faced a shortfall weeks before the fiscal year ended. Rather, field offices were reminded of the voluntary return option, he said.

"ICE offered eligible aliens . . . the opportunity to accept voluntary return," Hale said. "The decision to accept VR [voluntary return] was the aliens'."

Those efforts did not appear to result in a spike in voluntary returns. Statistics provided by ICE show that voluntary returns peaked at 8,960 in June, before dipping and then leveling off in the last two months of the fiscal year. A total of 64,876 immigrants were voluntarily returned to their home countries in 2010.

Chris Crane, president of the American Federation of Government Employees National Council 118, the union that represents ICE immigration agents and officers, said offering voluntary return was not common practice for the agency. The union has been at odds with Morton over what it calls lax enforcement and gave him a no-confidence vote in June.

"It's breaking the rules to break the record," Crane said. "You don't change the way you do business to meet some quota. Morton said we don't do quotas. But that's what this is."

New accounting

On Oct. 1 - the start of fiscal 2011 - Robin F. Baker, an acting ICE assistant director, cheered field directors on to the finish line in an e-mail obtained by the Center for Investigative Reporting.

"We are just 1061 shy of 390,000. However, we still get to count closed cases through Monday, October 4th so . . . keep having your folks concentrate on closing those cases," Baker wrote.

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Starting in 2009, ICE began to shut its books for the fiscal year ending Sept. 30 in the first few days of October. Any deportations that take place in one fiscal year but are confirmed after Oct. 5 are added to the next fiscal year's statistics.

Based on the new accounting approach, the agency counted 19,422 removals from 2009 in the 2010 statistics. In 2010 itself, 373,440 other people were deported.

Current and former ICE employees also point to an expanded U.S.-Mexico partnership as another way the agency increased overall deportation numbers.

Known as the Mexican Interior Repatriation Program, the bilateral effort between the U.S. and Mexican governments focuses on reducing the deaths of migrants attempting to cross the border during the scorching Arizona summer. Mexicans caught by Border Patrol agents in the Sonoran Desert region and southern Arizona are turned over to ICE agents, who carry out the removals to Mexico.

In a February memo, James M. Chaparro, ICE's head of enforcement and removal operations, called on field directors to "maximize" participation in the program, which he outlined as one of the ways to increase removals and "move us into position to meet or exceed the fiscal year goals."

Since its launch in 2004, the program had never started earlier than July 7. This year, the first flight full of Mexicans departed June 1. By starting in June, ICE tallied 6,527 returns that in the past would have been handled - and counted - by the U.S. Border Patrol. Overall, a record 23,384 Mexicans between June and September accepted flights back to Mexico City, and then a bus ticket to their home town, at a cost of almost $15 million.

ICE spokesman Hale said the agency started the program early because of available funds and a timely agreement between the United States and Mexico. He acknowledged that some of the immigrants removed through the program were caught or detained hundreds of miles from Arizona.

"Select individuals from west Texas were offered an opportunity to volunteer for safe return to their place of origin in the interior of Mexico," Hale said.

He also confirmed that Mexican nationals detained near Seattle - possibly as many as 500 immigrants, according to one local officer - were also included on the flights.

A year-end scramble

The surge to break the deportation record in the final weeks of the fiscal year consumed the agency, said a high-ranking immigration official, who spoke on the condition of anonymity because the person wasn't authorized to discuss the matter publicly.

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"They had everyone burning the candle at both ends to reach 390,000," the official said. "They were basically saying anything you can do to increase the overall removal number, that's what you should do - over everything else."

lIn the Seattle area, immigration officers were instructed to give the voluntary return option to immigrants who did not face mandatory detention and didn't have attorneys.

lIn the Atlanta area, ICE officers were told to persuade immigrants who had already asked to see an immigration judge to instead voluntarily leave the country.

lIn Chicago, officers were told to stop releasing eligible immigrants and monitoring them with electronic ankle bracelets, which might spur more to accept voluntary removals, according to a Sept. 22 e-mail.

"Due to our increase in funding for detention for the remainder of the fiscal year, do not release anyone on an order of recognizance at this time," James McPeek, an assistant field office director in Chicago, wrote in the e-mail to employees. "Another option is to offer a VR [voluntary return] and keep in custody - this will increase our removal numbers for the fiscal year."

An ICE employee in Louisiana, who spoke on the condition of anonymity for fear of reprisal, estimated that over a two-week period at least 100 to 150 Mexican nationals, some of whom had multiple drunken driving convictions, had their court cases reassigned as voluntary return, which was not common practice. ICE agents elsewhere reported similar numbers.

Several ICE employees said, however, that once the fiscal year ended, their offices reverted to infrequently offering the return option. In the Pacific Northwest, some employees received an e-mail stating just that.

"Effective immediately: do not offer V/Rs [voluntary returns] to aliens who have been convicted of or are pending DUI," ICE supervisor Elizabeth Godfrey wrote Oct. 4.

ICE's goal for 2011 is to remove 404,000 immigrants.

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