AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FUNDING FOR IMMIGRATION IN THE PRESIDENT'S 2005 BUDGET

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

FEBRUARY 25 AND MARCH 11, 2004

Serial No. 68

Printed for the use of the Committee on the Judiciary

Available via the World Wide Web: http://www.house.gov/judiciary

U.S. GOVERNMENT PRINTING OFFICE

92–120 PDF WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON THE JUDICIARY

F. JAMES SENSENBRENNER, JR., Wisconsin, *Chairman*

HENRY J. HYDE, Illinois
HOWARD COBLE, North Carolina
LAMAR SMITH, Texas
ELTON GALLEGLY, California
BOB GOODLATTE, Virginia
STEVE CHABOT, Ohio
WILLIAM L. JENKINS, Tennessee
CHRIS CANNON, Utah
SPENCER BACHUS, Alabama
JOHN N. HOSTETTLER, Indiana
MARK GREEN, Wisconsin
RIC KELLER, Florida
MELISSA A. HART, Pennsylvania
JEFF FLAKE, Arizona
MIKE PENCE, Indiana
J. RANDY FORBES, Virginia
STEVE KING, Iowa
JOHN R. CARTER, Texas
TOM FEENEY, Florida
MARSHA BLACKBURN, Tennessee

JOHN CONYERS, JR., Michigan
HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JERROLD NADLER, New York
ROBERT C. SCOTT, Virginia
MELVIN L. WATT, North Carolina
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
MAXINE WATERS, California
MARTIN T. MEEHAN, Massachusetts
WILLIAM D. DELAHUNT, Massachusetts
ROBERT WEXLER, Florida
TAMMY BALDWIN, Wisconsin
ANTHONY D. WEINER, New York
ADAM B. SCHIFF, California
LINDA T. SÁNCHEZ, California

PHILIP G. KIKO, *Chief of Staff-General Counsel*
PERRY H. APELBAUM, *Minority Chief Counsel*

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

JOHN N. HOSTETTLER, Indiana, *Chairman*

JEFF FLAKE, Arizona
MARSHA BLACKBURN, Tennessee
LAMAR SMITH, Texas
ELTON GALLEGLY, California
CHRIS CANNON, Utah
STEVE KING, Iowa
MELISSA A. HART, Pennsylvania

SHEILA JACKSON LEE, Texas
LINDA T. SÁNCHEZ, California
ZOE LOFGREN, California
HOWARD L. BERMAN, California
JOHN CONYERS, JR., Michigan

GEORGE FISHMAN, *Chief Counsel*
ART ARTHUR, *Full Committee Counsel*
LUKE BELLOCCHI, *Counsel*
CINDY BLACKSTON, *Professional Staff*
NOLAN RAPPAPORT, *Minority Counsel*

CONTENTS

HEARING DATES

	Page
February 25, 2004	1
March 11, 2004	55

OPENING STATEMENT

FEBRUARY 25, 2004

The Honorable John N. Hostettler, a Representative in Congress From the State of Indiana, and Chairman, Subcommittee on Immigration, Border Security, and Claims	1
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas, and Ranking Member, Subcommittee on Immigration, Border Security, and Claims	3
The Honorable Elton Gallegly, a Representative in Congress From the State of California	6
The Honorable Zoe Lofgren, a Representative in Congress From the State of California	7
The Honorable Linda T. Sánchez, a Representative in Congress From the State of California	9

MARCH 11, 2004

The Honorable John N. Hostettler, a Representative in Congress From the State of Indiana, and Chairman, Subcommittee on Immigration, Border Security, and Claims	55
The Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas, and Ranking Member, Subcommittee on Immigration, Border Security, and Claims	81

WITNESSES

FEBRUARY 25, 2004

The Honorable Eduardo Aguirre, Jr., Director, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security	
Oral Testimony	11
Prepared Statement	13
Mr. Michael T. Dougherty, Director of Operations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security	
Oral Testimony	17
Prepared Statement	19
Mr. Daniel B. Smith, Principal Deputy Assistant Secretary of State for Consular Affairs, U.S. Department of State	
Oral Testimony	22
Prepared Statement	24
Mr. Seth M. M. Stodder, Counsel and Senior Policy Advisor, U.S. Customs and Border Protection, U.S. Department of Homeland Security	
Oral Testimony	27
Prepared Statement	30

Page

MARCH 11, 2004

Mr. T.J. Bonner, National President, National Border Patrol Council, American Federation of Government Employees, AFL-CIO
Oral Testimony 57
Prepared Statement 59
Mr. Timothy J. Danahey, National President, Federal Law Enforcement Officers Association
Oral Testimony 60
Prepared Statement 62
Mr. Michael W. Cutler, former INS Special Agent
Oral Testimony 65
Prepared Statement 68
Dr. Demetrios G. Papademetriou, President, Migration Policy Institute
Oral Testimony 70
Prepared Statement 73

LETTERS, STATEMENTS, ETC., SUBMITTED FOR THE HEARING

FEBRUARY 25, 2004

Prepared statement of the Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas, and Ranking Member, Subcommittee on Immigration, Border Security, and Claims 5
Prepared statement of the Honorable Elton Gallegly, a Representative in Congress From the State of California 7
Prepared statement of the Honorable Zoe Lofgren, a Representative in Congress From the State of California 8
Prepared statement of the Honorable Linda T. Sánchez, a Representative in Congress From the State of California 9

MARCH 11, 2004

Prepared statement of the Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas, and Ranking Member, Subcommittee on Immigration, Border Security, and Claims 81
Prepared statement of the Honorable Linda T. Sánchez, a Representative in Congress From the State of California 94

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

FEBRUARY 25, 2004

Response to questions submitted by Rep. Jackson Lee to Mr. Michael T. Dougherty, Director of Operations, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security 106
Response to questions submitted by Rep. Jackson Lee to Mr. Daniel B. Smith, Principal Deputy Assistant Secretary of State for Consular Affairs, U.S. Department of State 108

FUNDING FOR IMMIGRATION IN THE PRESIDENT'S 2005 BUDGET

WEDNESDAY, FEBRUARY 25, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 3:09 p.m., in Room 2141, Rayburn House Office Building, Hon. John N. Hostettler (Chair of the Subcommittee) presiding.

Mr. HOSTETTLER. The Subcommittee will come to order. Today, the Subcommittee on Immigration, Border Security, and Claims will examine the funding for immigration-related programs in the President's FY 2005 budget.

In the last session, the Subcommittee rigorously investigated the operations of the agencies charged with carrying out our nation's immigration laws. In the course of this oversight, the Subcommittee heard from critics who complained that our country is in an immigration crisis because our laws governing aliens are not being enforced. Experts complained that worksite enforcement had been abandoned, allowing unscrupulous employers free to employ illegal aliens.

In addition, complaints were raised that the Government was not doing enough to identify convicted criminal aliens before they were released to continue to prey on the American public. Further, critics noted that many aliens who were not detained would not appear for removal proceedings and that many non-detained aliens who had appeared and were ordered removed would ignore the orders and abscond.

Commentators also asserted that the United States had not done enough to protect itself along its borders and at its ports. In an August 2003 report, for example, the General Accounting Office identified vulnerabilities and inefficiencies in the inspections process at the land ports. Those vulnerabilities could be exploited by terrorists, who have abused our immigration laws in the past to harm the American people.

Finally, the Subcommittee has heard complaints from citizens and aliens about staggering backlogs in the adjudications process. According to the GAO, those backlogs reached an unacceptable level of 6.2 million pending applications by the end of FY 2003, making aliens who played by the rules wait years for their cases to be adjudicated.

I am pleased to note that in his FY 2005 budget, the President has addressed many of the deficiencies in the Government's implementation of the immigration laws that were uncovered by the Subcommittee. Specifically, the President's FY 2005 budget requests an additional $281 million for U.S. Immigration and Customs Enforcement. Of that increase, $23 million will go to worksite enforcement, more than doubling the resources devoted to this priority.

The President further requests an additional $30 million for the Institutional Removal Program, to ensure that aliens convicted of crimes in the U.S. are identified and processed before they are released back into society. The President also requests an increase of $50 million to apprehend alien absconders and $5 million for additional detention bed space to ensure that aliens appear for their immigration proceedings and that aliens ordered removed actually leave.

In addition to these increases, the President requests an additional $257 million for U.S. Customs and Border Protection, which enforces the laws along the border and at the ports. Of this $257 million, the President requests more than $20 million to identify high-risk travelers and goods for inspection. This will allow law-abiding travelers to enter the United States and continue to their destinations without delay.

In addition, the President's FY 2005 budget contains a $64 million increase for Border Patrol surveillance and sensors technology. Such technology is a force multiplier which frees Border Patrol agents to enforce the law more vigilantly.

The FY 2005 budget also contains an additional $58 million for U.S. Citizenship and Immigration Services. This includes additional funding to reduce the backlog of applications and to enable the agency to meet the goal of the 6-month standard for processing all applications by FY 2006.

Finally, the President's FY 2005 budget requests an increase of $120 million for consular relations. Consular officers are our nation's first line of defense in keeping out aliens intending to do us harm. This includes $52 million to assist implementation of fingerprint capture capability at all visa-issuing posts and $37 million to help develop a new biometric passport with embedded chips. The ability to capture fingerprints during the visa issuance process will allow inspectors to ensure that a bearer of a visa is the person to whom it was issued. Similarly, the issuance of biometric passports will make it easier for inspectors to verify that a passport is valid and held by the U.S. citizen it was issued to.

Further, additional funds are devoted to 60 new consular-related positions to handle the increased workload related to the important new requirement that all visa applicants be individually interviewed.

The Subcommittee will examine these proposed funding increases and assess to what degree the increases assist the U.S. Government in responding to the main immigration challenges facing the United States today: reducing the large illegal alien population, protecting the American people from alien criminals and terrorists, and ensuring that applications for immigration benefits are adjudicated correctly and in a timely manner.

Before I turn it over to the Ranking Member, the chair observes that as the nature of our Committee makeup, there are many times when witnesses requested by the majority and witnesses requested by the minority may not hold the same viewpoint and that those viewpoints may diverge. But I would like to personally thank Ms. Jackson Lee as well as other Members of the minority on the Subcommittee for allowing us to have this panel with all Administration witnesses to talk about the very important issues that are before us.

With that, I turn to the Ranking Member, Ms. Jackson Lee, for an opening statement.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman, and I thank the Members of this Committee who are present and I thank the minority side in particular for their cooperation. We are, in fact, in partnership with this effort that is a challenge for all of us, so I would indicate to the witnesses I appreciate your presence here, as well, and be reminded that any comments that we make, it's because we are in a partnership trying to achieve both a degree, a high degree of national security but also respecting the responsibilities we have as we interface with people who are seeking to come into this country legally.

Let me also note and compliment the presence of Director Aguirre for some of the work that I have seen him engage in on this question of immigration reform and the tone that he has exhibited. I think we are a long way away from solution, but I do appreciate the effort that you've made in explaining the importance of recognizing that there are immigrants that come to this country who come for economic reasons or come for opportunities of improvement of their lives.

And I think, Mr. Chairman, that's where I'm going on this particular Committee, and I know that there's a bell about to ring. Might I just say to the panelists, forgive me for my departure. There is a crisis brewing in Haiti and we are to be engaged in a meeting at the White House on this question and so I may not be able to complete this hearing, and that goes to my point, as well, are we prepared for what might be a pending flood of refugees into this country.

My concern today in looking at the budget is that we have a large sum of money for enforcement, and that is good, but we are certainly less than complete with the funding that we have for immigration services and benefits and citizenship and that is my concern. We are backlogged with valid applications of individuals who seek to come into this country legally. We are speaking about or debating the question of immigration reform and I intend to introduce a comprehensive Immigration Fairness Act of 2004. But in doing so, I am frightened of the burden and responsibility that will be put upon certain segments of homeland security and the fact that we will not have the resources.

Several years ago, we debated the desirability of dividing the former Immigration and Naturalization Service into two bureaus, an enforcement bureau and a benefits bureau. I expressed concern about the possibility that the enforcement bureau would become the focus of most of our resources to the detriment of our benefits bureau.

We no longer debate whether INS should be divided into different bureaus for enforcement and benefit purposes. The establishment of the Department of Homeland Security has made that separation a reality. On the enforcement side, we have the Bureaus of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement, ICE, and on the benefits side, we have the Bureau of U.S. Citizenship and Immigration Services.

I wish I could say that I was wrong, that my fears were unfounded, but my fears were not unfounded. The enforcement bureaus are receiving most of our resources to the detriment of the benefits bureau. The FY 2005 request for the two enforcement bureaus is $10 million-plus, whereas the FY 2005 request for the benefits bureau is only, I'm sorry, is this, $1.711 million. In other words, the Administration is proposing to spend six times more on enforcement than on benefits.

The real disparity, however, can be seen more clearly in the increases that these amounts represent. The Administration is requesting an increase of $538 million for the enforcement bureaus, but only is requesting a $58 million increase for the benefits bureau. In other words, for every additional dollar the Administration is requesting for the benefits bureau, it is requesting $9 for the enforcement bureaus.

I am not opposed to providing sufficient funding for the enforcement bureaus. My concern is that the Administration is not requesting adequate resources for the benefits operations. The Citizenship Bureau has not been able to keep up with its work. The U.S. CIS has a backlog of more than six million benefit applications. The Texas service center presently is working on visa petitions that U.S. citizens and lawful permanent residents filed for unmarried sons and daughters on October 30, 1998. These applications sit for more than 5 years before anyone begins to work on them.

Such delays do not just affect the people in other countries who are the subjects of the petitions, the petitioners are also individuals in this nation. The petitioners who file family-based and employment-based visa petitions are lawful permanent residents and citizens of the United States and American employers. In fact, when such a petition is denied, the foreign person who is the subject of the petition does not have standing to file an appeal. The right to the immigration benefit lies with the American petitioner. We are hurting our own who are within these borders, not just the alien who is the subject of the petition.

Despite this crisis, the Administration's budget for U.S. CIS only allocates $140 million for backlog reduction. Even with the addition of the $20 million U.S. CIS expects to receive from increased processing fees, this is not sufficient to eliminate the backlog. The magnitude of the backlog problem can be seen in the fact that during the 3-year period of fiscal years 2001 to 2003, U.S. CIS reported operating costs exceeded available fees by almost $460 million.

Since the beginning of fiscal year 2001, the number of pending applications increased by more than 2.3 million, about 59 percent, to 6.2 million at the end of fiscal year 2003. This increase occurred despite additional appropriations beginning in fiscal year 2002 of $80 million annually to address the backlog.

Meanwhile, $340 million is allocated for the U.S. VISIT program, which may turn out to be a waste of resources that could have been used elsewhere, such as for reducing the benefits application backlog. The stated objective for U.S. VISIT is to enhance the nation's security while facilitating legitimate travel and trade through our borders. According to a September 2003 report from the General Accounting Office, U.S. VISIT is a very risky endeavor. The potential cost of the program is enormous and may not be able to measurably and appreciably achieve its goals.

I am not sure that U.S. VISIT will increase the security of our borders, although I want it to do so. Even if it is fully and successfully implemented, U.S. VISIT only screens foreign visitors seeking admission on the basis of non-immigrant visas. It does not screen non-immigrant visitors from 27 countries participating in the visa waiver program, and if we know what is happening in Europe, we know that Europe is without borders. That means that those who don't come under the visa waiver program have the ability to send their individuals or constituents into countries who are subject to the visa waiver program and who knows what will happen. Twenty-seven countries participate in a visa waiver program or anyone who presents a green card, and it will be years before the system is fully operational at all of the land borders.

I conclude, Mr. Chairman, by simply saying this, that we are in a partnership to do better. I believe, however, we are failing if we do not provide the resources for individuals seeking legal access to this country.

And lastly, I would say to Mr. Dougherty, just in a comment to you, I am concerned in our airports across the country and I will cite the Houston airport, in that we are not training our officials sufficiently to protect the civil liberties and rights of individuals who come into this country and should be bound by those laws. We are finding that people are being detained inappropriately. Questions are being asked inappropriately. These people are not being—not threatening, they are not terrorists, and we are doing a disservice to the international reputation of this nation. We can be secure without violating the secure needs and the civil rights needs of our citizens and others. Thank you.

Mr. HOSTETTLER. I thank the gentlelady.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Several years ago, we debated the desirability of dividing the former Immigration and Naturalization Service (INS) into two bureaus, an enforcement bureau and a benefits bureau. I expressed concern about the possibility that the enforcement bureau would become the focus of most of our resources to the detriment of the benefits bureau. We no longer debate whether INS should be divided into different bureaus for enforcement and benefits purposes. The establishment of the Department of Homeland Security has made that separation a reality. On the enforcement side, we have the Bureau of Customs and Border Protection (CBP) and the Bureau of Immigration and Customs Enforcement (ICE), and, on the benefits side, we have the Bureau of U.S. Citizenship and Immigrant Services (USCIS).

I wish I could say that I was wrong, that my fears were unfounded, but my fears were not unfounded. The enforcement bureaus are receiving most of our resources to the detriment of the benefits bureau. The FY 2005 request for the two enforcement bureaus is $10,214 million, whereas the FY2005 request for the benefits bureau is only $1,711 million. In other words, the Administration is proposing to spend

6 times more on enforcement than on benefits. The real disparity, however, can be seen more clearly in the increases that these amounts represent. The Administration is requesting an increase of $538 million for the enforcement bureaus but only is requesting a $58 million increase for the benefits bureau. In other words, for every additional dollar the Administration is requesting for the benefits bureau, it is requesting 9 dollars for the enforcement bureaus.

I am not opposed to providing sufficient funding for the enforcement bureaus. My concern is that the Administration is not requesting adequate resources for the benefits operations. The Bureau of U.S. Citizenship and Immigrant Services (USCIS) has not been able to keep up with its work load. USCIS has a backlog of more than 6 million benefits applications.

The Texas Service Center presently is working on visa petitions that U.S. citizens and lawful permanent residents filed for unmarried sons and daughters on October 30, 1998. These applications sit for more than 5 years before anyone begins to work on them. Such delays do not just affect the people in other countries who are the subjects of the petitions. The petitioners who file family-based and employment-based visa petitions are lawful permanent residents and citizens of the United States and American employers. In fact, when such a petition is denied, the foreign person who is the subject of the petition does not have standing to file an appeal. The right to the immigration benefit lies with the American petitioner, not with the alien who is the subject of the petition.

Despite this crisis, the Administration's proposed FY 2005 budget for USCIS only allocates $140 million for backlog reduction. Even with the addition of the $20 million USCIS expects to receive from increased processing fees, this is not sufficient to eliminate the backlog. The magnitude of the backlog problem can be seen in the fact that during the 3-year period from fiscal year 2001 through 2003, USCIS's reported operating costs exceeded available fees by almost $460 million. Since the beginning of fiscal year 2001, the number of pending applications increased by more than 2.3 million (about 59%) to 6.2 million at the end of fiscal year 2003. This increase occurred despite additional appropriations beginning in fiscal year 2002 of $80 million annually to address the backlog.

Meanwhile, $340 million is allocated for the US-VISIT program, which may turn out to be a waste of resources that could have been used elsewhere, such as for reducing the benefits applications backlog. The stated objective for US-VISIT is to enhance the nation's security while facilitating legitimate travel and trade through our borders. According to a September 2003 report (GAO–03–1083) from the General Accounting Office (GAO), US-VISIT is a very risky endeavor, the potential cost of the program is enormous, and it may not be able to measurably and appreciably achieve its goals.

I am not sure that US-VISIT will increase the security of our borders even if it is fully and successfully implemented. US-VISIT only screens foreign visitors seeking admission on the basis of nonimmigrant visas. It does not screen nonimmigrant visitors from the 27 countries participating in the Visa Waiver Program or anyone who presents a green card, and it will be years before the system is fully operational at all of the land borders.

I believe that we need to pay more attention to benefits operations and that we much use our resources more wisely.

Thank you.

Mr. HOSTETTLER. The chair recognizes the gentleman from California, Mr. Gallegly, for an opening statement that he may have.

Mr. GALLEGLY. Thank you very much, Mr. Chairman. In view of the fact that we have a limited time and we have a vote, in consideration for the Ranking Member having to go to another meeting, I wouldn't want to deprive her from the opportunity to express herself on any of these issues. I would just ask unanimous consent that my opening statement be made a part of the record.

I would just like to add that while I understand the statements the Ranking Member made relative to many people being detained that shouldn't be detained at the airports, I'd like to add that we have about 12 million people in this nation that should have been detained that haven't been detained, and I would yield the balance of my time.

Mr. HOSTETTLER. I thank the gentleman.

[The prepared statement of Mr. Gallegly follows:]

PREPARED STATEMENT OF THE HONORABLE ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you, Mr. Chairman, for holding this very important hearing on funding for immigration in the President's 2005 budget. I am pleased to see that there are funding increases proposed for several programs that I believe are very effective at improving our ability to enforce immigration laws and secure the border, but I am primarily concerned with results. Monies appropriated by Congress should yield tangible results, and I don't mean just flow charts.

Among the funding increase proposals is the request for an additional $30 million in funding for the Institutional Removal Program, more particularly the subset of this program that screens inmates at city and county jails for immigration violations. This jail screening program, which was pioneered in my District and authorized nationwide by legislation I authored, is integral to removing criminal illegal immigrants because it screens prisoners at the point of entry into the criminal justice system, not only those who later receive prison sentences. This program has proven effective in my District, despite a lack of funding, and has never been expanded nationwide as intended. I have concerns with amount of resources that are currently being dedicated to this program, and it is my wish that a large portion of the $30 million increase for all Institutional Removal Programs goes to the portion of that program that services the nation's points of entry into the criminal justice system—city and county jails.

Additionally, I was pleased to see that additional monies have been requested for interior and border enforcement efforts. Statistics abound that tell us we are not doing an adequate job of policing our borders and enforcing immigration laws within the United States. However, I question whether a 50% increase in employer enforcement measures is enough.

Further, I am pleased to see that additional monies have been requested to institute a program to add biometric identifiers to American passports. Biometric identifiers are integral to the ability of this country to ascertain the true identity of individuals. I am interested in hearing more about the progress of this effort and what the Department of State plans to accomplish with these funds.

I would like to thank the Chairman for holding this hearing and giving us an opportunity to hear about these and other programs and ask questions about what monies requested will yield.

Mr. HOSTETTLER. The chair recognizes the gentlewoman from California, Ms. Lofgren, for an opening statement she may make.

Ms. LOFGREN. Thank you, Mr. Chairman. I will ask that my written statement be made a part of the record and will simply say that, first, I am concerned at the short time frame that the Committee and Subcommittee has been provided to actually review this budget and I think that is a disservice to the whole Committee, both the majority and minority. I think if we had more time, we could do a more substantive job.

So I would ask that the—I have certainly complained and I hope that the Chairman can also complain on behalf of his Members that we get more time next year and that we have an opportunity to, with additional time, to provide the kind of oversight that I know we all want to do.

I have a number of questions that I will be raising, but the one statement I would like to make just at the outset is that I continue to be enormously frustrated at the backlogs that continue in this Department. I guess this is immigration day for me. This morning, we had Asa Hutchinson at the Science Committee talking about student visas and then here today, this afternoon, Mr. Aguirre. I reminded Asa of a meeting that we were invited to attend as Members of the Judiciary Committee with the Attorney General at breakfast.

Obviously, the Committee is ideologically quite diverse, but the Members that were invited to meet with the Attorney General only talked about one thing. We complained about the Immigration Service to the Attorney General and it was all about processing. Eighty percent of the cases that come into my district office relate to immigration matters and it's almost always American citizens with spouses and family members. I know we have a 6-month goal. We're really, I think, 2 years into the 6-month goal, 5-year plan and I would say the bulk of the cases in my office are a year, year and a half old and it's just not acceptable.

I am concerned about the deployment of technology, what kind of planning we have. I understand that there is a request for additional fees. I don't per se oppose fee increases, but until I see how they're going to be spent and that there will actually be benefit, I'm not prepared to say that that's acceptable. So I'm hoping that we will—we are going to have to vote in a minute, but in the affirmative testimony, perhaps we can get some insight into the technology planning and the backlog reduction plans that are being envisioned, because I'm sure you don't enjoy being the object of complaints and we don't enjoy the complaining. We all would like to get this really moving more quickly than it has.

I, in view of the time, will yield back to the chair.

Mr. HOSTETTLER. I thank the gentlelady.

[The prepared statement of Ms. Lofgren follows:]

PREPARED STATEMENT OF THE HONORABLE ZOE LOFGREN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Chairman Hostettler and Ranking Member Jackson Lee, thank you for holding this very important hearing to discuss the immigration provisions in the fiscal year 2005 budget. I would also like to thank the witnesses for taking the time to be here today to let us know how we can help them improve our immigration programs across the country. I believe this is an essential oversight responsibility we have as members of this subcommittee. Unfortunately, not everyone agrees.

It appears the majority in the Judiciary Committee was anxious to move forward on finalizing the Committee's official views and estimates on the 2005 budget request without giving, not only the minority, but also the majority in this Subcommittee a substantive opportunity to contribute to those views. The majority in the Judiciary Committee wanted those view and estimates finalized this week.

However, I would have had to submit my opinion on the official views and estimates before we even held this hearing. What is the point of having this hearing if we have no way of officially responding to what we learn today about the immigration provisions in the budget request?

In the very limited time I was given to review the views and estimates, I found glaring problems that I would like to address at this hearing before we must officially submit our views of the budget request. The most glaring problem was the fact that while three and half pages were dedicated to enforcement functions, by far the largest sections only one small paragraph was written about service functions. While I agree there are many problems with enforcement, there are equally as many problems, if not more, with services, especially with the backlog of immigration applications. I would like to address some of those issues today and learn more about what types of funds and plans are needed to correct this tremendous problem that currently effects more than 6 million petitioners.

Although we do not come together on many issues as a subcommittee, I hope we can agree on this one—our oversight responsibilities should never be bypassed. We have a duty to ensure that our immigration programs are receiving appropriate funding and functioning properly. This is why I am very glad that we are here today for this hearing and hope we will agree that the full Committee's views and estimates on the budget should not be finalized until we have had enough time for this hearing and an analysis to follow this hearing.

Mr. HOSTETTLER. The chair now recognizes the gentlelady from California, Ms. Sánchez, for an opening statement.

Ms. SÁNCHEZ. Thank you, Mr. Chairman. I want to thank the Chairman and our Ranking Member Jackson Lee for convening this hearing today to discuss how the funds in President Bush's budget will be used for our admittedly broken immigration system.

As the only Latina that sits on the Judiciary Committee, and representing a district that is 60 percent Latino, immigration reform is important to me both personally and as a Member of Congress. I'm a little disappointed and very concerned that President Bush's immigration principles and now his budget are causing more confusion and harm than good in our efforts at immigration reform.

In fact, the system is so confusing that this weekend, I will be convening an immigration forum in my district to try to educate my constituents on what is election year rhetoric and what is reality in the immigration system. Unfortunately, unsuspecting immigrants in California and nationwide are already being taken for hundreds of dollars in scams, promising to sign them up for the nonexistent temporary worker program that Bush talks about.

Simply put, these immigration principles are not going to work and they're not going to help the existing backlog. My colleague from California, Zoe Lofgren, mentioned that 80 percent of her casework is immigration related, and I would venture to guess that mine is about the same. And with no earned legalization opportunities for the eight million hard-working undocumented immigrants in this country, a program like a temporary guest worker program opens the door to continued unfair treatment of workers and offers them no hope for the future.

In the interest of time, I am going to stop there and I will submit the remainder of my comments for the record. But I just want to underscore the fact that we can't continue to make budget decisions and put the bulk of our resources at enforcement, an enforcement that we don't really know what we're getting for our money, and not try to tackle the issue of the backlog. That is a huge issue that keeps families apart. It is a huge issue that continues to create problems with immigration, and it is in our national security interest to try to get that backlog dealt with so that we know who is in this country and so that our national security is not at risk.

With that, I will yield back the balance of my time.

Mr. HOSTETTLER. The chair states that all opening statements will be made a part of the record.

[The prepared statement of Ms. Sánchez follows:]

PREPARED STATEMENT OF THE HONORABLE LINDA T. SÁNCHEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Thank you Chairman Hostettler and Ranking Member Jackson Lee for convening this hearing today to discuss how funds in President Bush's budget will be used for our broken immigration system.

As the only Latino on the Judiciary Committee and representing a district that is 60% Latino, immigration reform is important to me personally and as a Member of Congress. I am very concerned that President Bush's immigration principles, and now his budget, are causing more confusion and harm than good in our efforts at immigration reform.

In fact, I am trying to clear up a lot of the confusion caused by President Bush's immigration principles in my district by holding an immigration forum this weekend

to educate my constituents on what is election-year rhetoric and what is reality. Unsuspecting immigrants in California and nationwide are already being taken for hundreds of dollars in scams promising to sign them up for Bush's non-existent temporary worker program.

Simply put, President Bush's immigration principles will not work.

It is obvious that the President's broad temporary worker program is not going to solve the problem of illegal immigration since it does not solve the family reunification problem. With no earned legalization opportunities for the 8 million hard-working undocumented immigrants in this country, the temporary worker program opens the door to unfair treatment of workers and offers them no hope for the future.

There is a better course of action for the President and for immigrants in this country. If the President is serious about immigration reform he will support the DREAM Act and the AgJOBS bill. These bills will make meaningful reforms to our immigration system. However, the President has refused to support these bills. Instead, he has proposed a budget that will continue to pump hundreds of millions of dollars into a system that does not work.

We all agree that our immigration system needs to be reformed. Illegal immigration is still a problem. Families still have to wait years, sometimes decades to be reunited. And, our borders are still not secure enough. We agree that it will take a major investment of federal funds to fix all of these problems. But if we are going to invest hundreds of millions of dollars, we need to be absolutely sure that the money is going into a system that will be effective. We need to put our money into a system that makes our country safer, and is fair and efficient for the immigrants already in this country and those that are waiting to get in.

President Bush's budget does not do that. The President's budget continues his pattern of giving hundred of millions of dollars to so-called enforcement programs while neglecting immigration services programs. In his budget the President seeks $281 million more for DHS's Bureau of Immigration and Customs Enforcement in FY '05 than he did in FY '04. This is the largest funding increase for a Bureau of DHS that the President seeks in his budget. My concern is what kinds of enforcement measures does the President have in mind for this additional $281 million?

I hope it is not ill-advised enforcement plans like the CLEAR Act which cuts funding to states and localities, burdens local law enforcement agents, undermines the NCIC database, and diverts scarce DHS resources away from apprehending terrorists. The CLEAR Act will not work, will not make us safer, and will be a complete waste of federal money. We should not be spending $281 million in additional dollars on enforcement programs like the CLEAR Act that make our country less secure.

A much better use of our funds are on programs that make our immigration system fairer, more efficient, and reduce the incentives for illegal immigration—such as reducing the visa backlog and promoting citizenship.

President Bush has proposed an additional $60 million for $500 million initiative to reduce the visa backlog by 2006. I am glad that the President is spending funds to reduce the visa backlog but $60 million is inadequate to make the necessary changes to a visa processing system that needs significant reform.

The President's visa reduction program is now several years old and we still have a backlog of over 6 million visas. Plus, the Bush administration is trying to increase the fees for visa applications with no indication of the reason for the increase or if the additional funds will help to reduce the visa backlog. I cannot support raising the fees for visa applications if the money will not help families reunite quicker.

I look forward to the testimony of the witnesses today and I hope that they can tell this Subcommittee exactly how President Bush's budget will repair our immigration system and not waste precious taxpayer dollars.

Ms. JACKSON LEE. Mr. Chairman?

Mr. HOSTETTLER. Yes?

Ms. JACKSON LEE. I ask unanimous consent to submit——

Mr. HOSTETTLER. I recognize the gentlelady from Texas.

Ms. JACKSON LEE.—to submit my questions for the record for this panel, and I thank you.[1]

Mr. HOSTETTLER. Without objection.

[1] The replies to post-hearing questions from Ms. Jackson Lee to the Honorable Eduardo Aguirre, Jr., and Mr. Seth M. M. Stodder were not available at the time this hearing was printed.

The chair will have the Subcommittee recess until these votes are over. I believe there are two votes. We may be down there 20 to 25 minutes, and I appreciate the indulgence of the witnesses. We will return as soon as possible. We are recessed.

[Recess.]

Mr. HOSTETTLER. The Subcommittee will come to order. Once again, I thank the panel for your patience.

Now to introduce the members of the panel. Mr. Eduardo Aguirre, Jr., is the Director of U.S. Citizenship and Immigration Services. In this position, he is charged with the overseeing of the administrative adjudication of applications for immigration benefits. He came to CIS from the Export-Import Bank, where he served as Vice Chairman and COO.

Prior to joining the Government, Mr. Aguirre was the President of International Private Banking at Bank of America, culminating a 24-year career with that institution. He has also served as Chairman of the Board of Regents of the University of Houston system and as a non-attorney director for the Texas State Bar. He has a Bachelor of Science degree from Louisiana State University. Thank you, Director Aguirre, for being here.

STATEMENT OF THE HONORABLE EDUARDO AGUIRRE, JR., DIRECTOR, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. AGUIRRE. Thank you, Mr. Chairman, and Ranking Member Jackson Lee, I recognize that you have to go to a pressing matter, and other Members of the Subcommittee. My name is Eduardo Aguirre and I have the honor of serving as the first Director of the U.S. Citizenship and Immigration Services within the Department of Homeland Security.

On the occasion of my confirmation hearing before the Senate when my dear friend, the Ranking Member, Sheila Jackson Lee, introduced me to the Judiciary Committee, I shared with them my story of having arrived in the United States as a 15-year-old unaccompanied minor from Cuba. My parents sent me here to escape a repressive regime and to experience freedoms and opportunities found only in America. That, of course, was the legal immigration track, the very system that I am now charged with fundamentally transforming.

We are a welcoming nation and the hard work and patriotism of our immigrants has made our nation prosperous. We seek to continue to improve the administration of immigration benefits for the more than six million applicants who petition CIS every year.

Upon creation of CIS, my team of 15,000 people and I embrace a simple but imperative mission, making certain that the right applicant receives the right benefit in the right amount of time while preventing the wrong individuals from obtaining our benefits.

We established three priorities that guide the aspects of our work: Eliminating the immigration benefit application backlog while improving customer service and enhancing national security. As we approach our institutional 1-year anniversary, I'm particularly pleased with the progress we have made and the professionalism exhibited by our employees day in and day out, while mitigating security threats that we know to be real and relentless.

To date, Mr. Chairman, we have initiated online options for application filings and case status updates. We've established the Office of Citizenship. We've eliminated lines at some of our highest volume offices. We've introduced a toll-free customer service help line. We streamlined the certificate of citizenship process for internationally adopted children. We've developed a more secure travel document for permanent residents and we fleshed out our leadership team while we were standing up our bureau.

CIS is one of the largest fee-funded agencies in the Federal Government, charging fees for a variety of benefits from individuals seeking to enter, reside, or work in the United States. Therefore, the actual cash flow for our business operations vary from year to year with the number of immigration benefit applications received. In any typical day, my team of 15,000 will process 140,000 national security background checks every day, receive 100,000 web hits, take 50,000 calls in our customer service centers, adjudicate 30,000 applications for immigration benefits, see 25,000 visitors at 92 field offices, issue 20,000 green cards, and capture 8,000 sets of fingerprints and digital photos at 130 application support centers. That was every day.

Backlogs of immigration benefit applications began to grow during the 1990's, seeing an overall 77 percent increase from FY '93 to FY '01. The primary factors included a dramatic increase in the number of applications and petitions received, delays in securing funding and positions to process these applications, the lengthy amount of time it takes to recruit, hire, and train adjudicators, and the lack of comprehensive approach to monitoring, supporting, and maintaining timely processing. That was, of course, in the past.

Beginning in the year 2002, the President pledged and the Congress supported a multi-year $500 million initiative to obtain a universal 6-month processing time standard by FY 2006 for all immigration benefit applications while providing quality service to all customers. We developed a comprehensive backlog elimination plan prior to September 11, 2001, to achieve this goal. The plan called for improvements to processes and expanded quality assurance efforts designed to achieve a high level of performance.

We initially realized significant improvements. In FY 2002, processing times for applications averaged by type between three and 72 months. By the end of the year, these same averages were reduced to between one and 26 months.

However, September 11, 2001, profoundly affected our business operation, employees, and stakeholders. New guidance was issued, security background checks were enhanced, and new processes were implemented. Already, many applications were subject to fingerprint and background checks. The enhanced check instituted in July 2002 represents an additional set of name checks against a variety of lookout databases housed in the Interagency Border Inspection System, also called IBIS. Approximately 35 million security checks were performed last year.

This change in the way we process immigration benefit applications has meant higher processing costs for CIS. We make no apologies for our commitment to the integrity of the immigration system and we will not try to save a quarter if it means compromising security to process an application more quickly. We will con-

tinue to coordinate and identify suspected benefit fraud cases and refer them to ICE for enforcement action. We're making America safer against security and criminal threats one background check at a time.

I believe that the President's FY 2005 budget will set us on the right path toward improving immigration services. The budget includes a total for CIS of $1.711 billion, $140 million in discretionary appropriated funds and $1.571 billion in fees, and seeks an additional $60 million to boost the total dedicated to backlog reduction efforts to $160 million.

To ensure that our backlog does not increase any further, we are currently seeking to adjust our fee schedule through the regulatory process by recovering the cost associated with comprehensive security enhancements that were instituted after September 11, 2001. The cost of these security enhancements are about $140 million annually, or $21 per application. The fee adjustments will also support new activities such as establishing a refugee corps and establishing the new Office of Citizenship.

In addition, CIS will develop study materials and teaching guides to ensure that the process of preparing for naturalization is meaningful, so that immigrants who choose to become U.S. citizens, as I did, have a real understanding of the commitment they are making when they take the oath of allegiance of the United States.

We are also developing standardized testing procedures so that applicants can be assured that they are experiencing an equitable testing process. We do not want to make the test more difficult. We do not want to make it less difficult. We want to make it more meaningful in a way that it does not have an adverse impact on any particular group of applicants. We are committed to improving the current process and doing it right.

We fully realize that increased funding alone will not enable us to realize our goals. We're taking a hard look at the way we currently conduct our business. We're aggressively working to modernize our system and increase our capacity through the engineering of processes, the development and implementation of new information technology systems, and the development of mechanisms to interact with customers in a more forward-reaching manner. We are now in the process of finalizing a new backlog elimination plan that will outline changes to our business processes and will set forth our revitalized vision of delivering immigration services in the future.

This, Mr. Chairman, concludes my prepared remarks. I thank you for the invitation to testify before this Committee. I apologize for the lengthy statement and I look forward to the questions.

Mr. HOSTETTLER. Thank you, Director Aguirre.

[The prepared statement of Mr. Aguirre follows:]

PREPARED STATEMENT OF EDUARDO AGUIRRE, JR.

Good afternoon Chairman Hostettler, Ranking Member Jackson Lee and Members of the Subcommittee. My name is Eduardo Aguirre and I have the honor of serving as the first Director of U.S. Citizenship and Immigration Services, within the Department of Homeland Security.

We are a welcoming nation, and the hard work and patriotism of our immigrants has made our Nation prosperous. We seek to continue to improve the administration of immigration benefits for the more than six million applicants who petition USCIS on an annual basis.

We continue to commit ourselves to building and maintaining an immigration services system that provides information and benefits in a timely, accurate, consistent, courteous, and professional manner; while preventing ineligible individuals from receiving benefits. Put more simply, it is our job to make certain that the right applicant receives the right benefit in the right amount of time, while preventing the wrong individuals from obtaining our benefits.

USCIS is one of the largest fee-funded agencies in the Federal government—charging fees for a variety of benefits from individuals seeking to enter, reside, or work in the United States. Therefore, the actual cash flow for our business operations, including a network of 250 local offices, Application Support Centers, Service Centers, Asylum Offices, National Customer Service Call (NCSC) Centers, Forms Centers, and Internet portals, varies from year to year with the number of immigration benefit applications received.

In any typical work day, our workforce of 15,500 (one-third of whom are contractors) will:

- Process 140,000 national security background checks;
- Receive 100,000 web hits;
- Take 50,000 calls at our Customer Service Centers;
- Adjudicate 30,000 applications for immigration benefits;
- See 25,000 visitors at 92 field offices;
- Issue 20,000 green cards; and
- Capture 8,000 sets of fingerprints and digital photos at 130 Application Support Centers.

USCIS has established three priorities: (1) eliminating the immigration benefit application backlog, (2) improving customer service, while (3) enhancing national security. In our first year of operation we have: initiated on-line options for a few application filings and case status updates; established the Office of Citizenship; eliminated lines at some of our highest volume offices; introduced a toll-free customer service help line; streamlined the Certificate of Citizenship process for internationally adopted children; developed a more secure travel document for permanent residents; and fleshed out our leadership team.

Backlogs of immigration benefit applications began to grow during the 1990s. Overall, there was a 77% increase from FY 1993 to FY 2001. The primary factors contributing to the backlogs were a dramatic increase in the number of applications and petitions received, delays in securing funding and positions to process this increasing number of applications, the lengthy amount of time it takes to recruit, hire and train adjudicators, and the lack of a comprehensive approach to monitoring, supporting and maintaining timely processing.

Beginning in FY 2002, the President pledged, and the Congress supported, a multi-year $500 million initiative to attain a universal six-month processing time standard by FY 2006 for all immigration benefit applications while providing quality service to all customers. We developed a comprehensive Backlog Elimination Plan prior to September 11, 2001 to achieve this goal. The Plan called for improvements to processes and expanded quality assurance efforts designed to achieve a high level of performance. We initially realized significant improvements. In FY 2002, processing times for applications averaged, by type, between three and seventy-two months. By the end of the year, these same averages were reduced to between one and twenty-six months.

However, September 11, 2001 profoundly affected our business operations, employees, and stakeholders. New guidance was issued, security background checks were enhanced, and new processes were implemented, including conducting interviews for the National Security Entry Exit Registration System (NSEERS) Program.[1] Additionally, since July 2002, we formally enhanced our security background checks on the processing of all immigration benefit applications to ensure that those who receive immigration benefits have come to join the people of the United States in building a better society and not to do us harm.

The process of performing enhanced security checks has been designed to compare information on applicants, petitioners, beneficiaries, spouses and children and other household members who apply for an immigration benefit against various Federal lookout systems. Already, many applications were subject to fingerprint and background checks. The enhanced check instituted in July 2002 represents an additional set of name checks against a variety of lookout databases housed in the Interagency Border Inspection System (IBIS).

[1] Program transferred to BTS in November of 2003.

The purpose of conducting security checks is to help law enforcement agencies identify risks to the community and/or to national security and to prevent ineligible individuals from obtaining immigration benefits. On the vast majority of applications, we perform two checks; one when the application is initially received, and one at the time of adjudication. Approximately 35 million security checks are performed annually.

In most of these cases (some 97%), the checks take only a few minutes. In the event of a "hit", however, we must hold that application without resolution until the security issue at hand is resolved. Last fiscal year, we processed a little over six million immigration benefit applications. Approximately 7% of the applications processed resulted in an initial security hit, and after further scrutiny, 2% resulted in confirmed security or criminal threat matches.

This change in the way we process immigration benefit applications has meant higher processing costs for USCIS because the costs of performing these checks were not factored into the existing fee schedule. As a result, existing resources have been diverted to perform the additional security checks until the fees could be adjusted to cover these costs. Although the security enhancements have meant longer processing times in some categories and a significant growth in the application backlog, USCIS has taken the position that security absolutely will not be sacrificed in our search for increased efficiency. USCIS will continue to coordinate and identify suspected benefit fraud cases and refer them to ICE for enforcement action.

Our intra-government coordination demonstrates that our approach realizes the intended results. By way of example, within the last month our background check procedures identified individuals wanted for murder in Portland and sexual assault in Miami. We are making America safer against security and criminal threats, one background check at a time.

I believe that the President's FY 2005 budget will set us on the right path toward enhancing immigration services. The budget includes a total for USCIS of $1.711 billion, $140 million in discretionary appropriated funds and $1.571 billion in fees, and seeks an additional $60 million to boost the total dedicated to backlog reduction efforts to $160 million. Our overall goal is to achieve a six-month processing time standard for all immigration benefit applications by FY 2006.

To ensure that our backlog does not increase further, we are currently seeking to adjust our fee schedule through the regulatory process by recovering costs associated with comprehensive security enhancements instituted after September 11, 2001. The annual cost of these security enhancements are about $140 million or about $21 per application.

The fee adjustments will also support new activities such as establishing a refugee corps to improve the quality of refugee adjudications and establishing the new Office of Citizenship[2] to promote instruction and training on citizenship responsibilities to both immigrants and U.S. citizens. The Office of Citizenship is developing initiatives to target immigrants at two critical points on their journey toward citizenship: when they obtain permanent resident status and as they begin the formal naturalization process. In the past, the Federal government provided few orientation materials for new immigrants. In contrast, CIS will reach out to new immigrants at the earliest opportunity to provide them with information and tools they need to begin the process of civic integration. In addition, CIS will develop study materials and teaching guides to ensure that the process of preparing for naturalization is meaningful, so that immigrants who choose to become U.S. citizens have a real understanding of the commitment they are making when they take the Oath of Allegiance to the United States. The establishment of a Refugee Corps, with an expanded management support structure, will provide a strong and effective overseas refugee processing program that will more efficiently identify inadmissible persons and those who are of national security interest without compromising the U.S. Refugee Program's humanitarian objectives.

We fully realize that increased funding alone will not enable us to realize our goals. We are taking a hard look at the way we currently conduct our business. We are aggressively working to modernize our systems and increase our capacity through the reengineering of processes, the development and implementation of new information technology systems, and the development of mechanisms to interact with customers in a more forward-reaching manner. For example, USCIS has recently eliminated the backlog of applications for the Certificate of Citizenship on Behalf of an Adopted Child with a program that proactively provides parents the certificate.

---

[2] As required by the Homeland Security Act of 2002.

We are now in the process of finalizing a new Backlog Elimination Plan that will outline changes to our business processes, and which will set forth our revitalized vision of delivering immigration services in the future.

Additionally, we are examining the standard of knowledge in the current citizenship test to ensure that prospective and new citizens know not only the facts of our nation's history, but also the ideals that have shaped that history.

The project management team for this initiative recently met with over a dozen historians, civics experts, and adult educators to discuss the redesign of the U.S. history portion of the naturalization test with the goal of making the test more meaningful, substantive, and fair. This group is examining the meaning of significant events that occurred in our nation's history, and is exploring ways in which naturalization candidates may better retain the significance of these events. Recognizing that many Americans have strong beliefs about what our new citizens should know about our country, we plan to publish the proposed test content in the Federal Register and ask for public comment. We believe that many Americans would like to have a say in what we are asking our new citizens to learn, and we are eager to hear from them. We look forward to briefing you and other Members of Congress on our proposed new citizenship test content and receiving your feedback, as well.

In a related effort, this same team is working to redesign the current citizenship testing methodology in an effort to ensure more uniform results. Currently, a candidate in Los Angeles is, in all likelihood, not tested the same way or asked the same questions as a candidate taking the same exam on the same day in Boston. Therefore, we are developing standardized testing procedures so that applicants can be assured that they are experiencing an equitable testing process.

We do not want to make the test more difficult. We do not want to make it less difficult. We want to make it more meaningful in a way that does not have an adverse impact on any particular group of applicants. Therefore, we will carefully pilot test the revised English, history, and government tests before implementing them. And, we will continue to consult with our stakeholders to solicit their input. Our newly created Office of Citizenship will be responsible for coordinating the development of educational materials designed to complement this important initiative.

Our plan is to implement the new test and testing process in 2006. Given the importance of the ultimate benefit for those tested—U.S. citizenship—this process is not one that can or should be rushed. We are committed to improving the current process and to improving it in the right way.

As we approach our institutional one-year anniversary, USCIS has stood up an organization of which we are very proud. We have established a leadership team, improved many of our operational processes, and continue to strive to make further improvements. The funding requested in the President's FY 2005 budget request is an important factor in continuing to improve the service we can offer our customers.

This concludes my prepared remarks. I thank you for the invitation to testify before this committee and I would be happy to answer any questions.

Mr. HOSTETTLER. Michael Dougherty is the Director of Operations for U.S. Immigration and Customs Enforcement, or ICE. As Director of Operations, he is responsible for the overall management and coordination of ICE's operations and serves as Assistant Secretary Michael Garcia's principal representative to DHS and to the law enforcement and intelligence communities.

Prior to this appointment, Mr. Dougherty was a partner in KPMG, LLP. He began his law enforcement career as an INS special agent in New York and was among one of the first agents assigned to the FBI Joint Terrorist Attack Force, or is that Task Force? Task Force. That should be Task Force, the FBI Joint Terrorist. You were attacking the terrorist problem, but that was actually a task force.

Mr. Dougherty graduated from Ohio State University with a bachelor's degree in political science. Mr. Dougherty, thank you for being here today. You are recognized.

STATEMENT OF MICHAEL T. DOUGHERTY, DIRECTOR OF OPERATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. DOUGHERTY. Thank you, Mr. Chairman. It's my profound pleasure to appear before you today and the distinguished Members of the Subcommittee, as well. It's also my privilege to discuss the President's budget request for fiscal year 2005 for U.S. Immigration and Customs Enforcement.

As you know, ICE was created on March 1, 2003, and has grown to become the largest investigative arm in the Department of Homeland Security and also is today the largest Federal investigative agency. ICE now also has the broadest investigative mandate in the Federal Government and is executing its new homeland security mission by building upon the traditional missions, resources, authorities, and capabilities of the agencies it inherited.

Today, one of ICE's primary missions is to detect vulnerabilities and prevent violations that threaten national security. In other words, ICE investigates homeland security crimes. Today, I will discuss how the President's 2005 budget will continue to strengthen ICE's immigration enforcement mandate, which is only one of the mandates it currently has today.

The 2005 budget seeks $4 billion in appropriated funds for ICE, $302 million more than in fiscal 2004, representing an approximately 10 percent increase. The requested increases include $186 million for ICE to fund improvements in immigration enforcement, both domestically and overseas, including more than doubling worksite enforcement efforts, increased efforts to combat benefits fraud and investigate violations of the SEVIS and U.S. VISIT systems, and approximately $100 million increase for detention and removal of illegal aliens.

Critical to the removal process is ICE's ability to effectively litigate cases before the Immigration Court. The budget request includes a $6 million enhancement to provide additional attorneys to keep pace with our increasing caseload.

Our budget also seeks $14 million to support our international enforcement efforts related to immigration. Ten million dollars of these funds will be used to implement ICE's visa security program to fulfill its obligations under section 248 of the Homeland Security Act related to visa security.

I'd like to briefly highlight and further explain some of the enforcement initiatives represented in the 2005 budget today. First, worksite enforcement. The 2005 budget includes an additional $23 million for worksite enforcement. This represents nearly 400 agents and support staff and more than doubles existing funds dedicated to worksite enforcement. With these resources, we will be able to continue our commitment to traditional worksite enforcement.

However, worksite enforcement is also a useful tool in securing the nation's critical infrastructure. Since September 11, ICE has screened 260,000 employee records pertaining to 3,600 critical infrastructure employers and has identified in excess of 5,000 unauthorized workers who obtained employment, principally by presenting counterfeit documents to their employers or providing false information to security officials.

Pursuant to these enforcement operations targeting critical infrastructures, such as airports, military installations, defense contractors, and Federal buildings, ICE has arrested over 1,000 individuals and secured the criminal indictment of 774.

Another key priority as reflected in the budget is benefits fraud. Recent history has shown that immigration fraud poses a significant threat to national security and public safety because it enables terrorists, criminals, and illegal aliens to gain entry and remain in the United States. ICE's goal, working in conjunction with CIS, is to detect, combat, and deter immigration fraud through aggressive, focused, and comprehensive investigations and prosecutions.

The $25 million requested in the '05 budget will enable ICE to continue and increase high-impact fraud investigations and prosecutions, providing increased national security and ensuring the integrity of the immigration application process. To ensure the most effective application of the resources, ICE has collocated benefit fraud units with CIS service centers to focus on the criminal organizations that engage in large-scale immigration fraud and that seek to undermine the system of legal immigration.

We also have significant initiatives reflected in our budget in the detention and removal program. Detention and removal of illegal aliens present in the United States is critical to the enforcement of our immigration laws. ICE today has a daily detention population of approximately 21,000. In '03, ICE removed more than 140,000 individuals from the United States, including 76,000 criminal aliens. An increase of $108 million in fiscal 2005 would expand ongoing fugitive apprehension efforts, facilitate the removal of jailed aliens from the United States, and create effective methods to control non-detained cases and support additional detention and removal capacity.

Specifically, $50 million are requested to continue the implementation of the ICE National Fugitive Operations Program. ICE today has 18 fugitive operations teams deployed throughout the country, and since March 1 has apprehended approximately 6,000 fugitives. A large number of these were convicted of serious crimes and were subsequently ordered deported. Thus, the program has a significant public safety impact in communities across the nation. The '05 budget request would fund an additional 30 teams to locate these potential threats to public safety.

We also seek funding for the Institutional Removal Program, which is designed to ensure that aliens convicted of crimes in the United States are identified, processed, and where possible, removed. The $30 million request would transfer the Institutional Removal Program from the responsibility of the Office of Investigation to the Office of Detention and Removal, freeing up special agents to work on more complex crimes directly related to national security. It would also make management of the program consolidated under a single operational division, as recommended by both the General Accounting Office and the Department of the Inspector General.

Concluding, $11 million has been requested in the '05 budget, which would more than double the capacity of the Intensive Supervision Program. Pilot projects have demonstrated that effective control of lower-risk persons who are released in the communities dur-

ing immigration proceedings or while awaiting approval can stem the growth of the fugitive population. This year, we plan to have eight supervision sites that will be able to monitor 200 individuals per site using methods such as electronic monitoring, halfway houses, and voice recognition technology. Increases in '05 would double the capacity for each site and provide for an additional site.

In conclusion, Mr. Chairman, deterring illegal migration and combating immigration-related crime have never been more critical to the national security. The men and women of ICE are tackling this challenging mission with remarkable dedication. I believe the President's '05 budget request for ICE will provide significant resources to further the mission of ICE on behalf of the American people. We're eager to work with you and the Members of Congress to provide the American people with the level of security they demand and deserve.

I thank you and look forward to taking your questions.

[The prepared statement of Mr. Dougherty follows:]

PREPARED STATEMENT OF MICHAEL DOUGHERTY

Good morning, Mr. Chairman, Congresswoman Jackson Lee, and distinguished Members of the Subcommittee. It is a privilege to appear before your committee today to discuss the President's Budget Request for Fiscal Year (FY) 2005 for US Immigration and Customs Enforcement.

In March of 2003, when the Department was created, a new federal investigative agency was also formed: U.S. Immigration and Customs Enforcement—or ICE, as it is better known. As the largest investigative arm of Homeland Security, ICE's primary mission is to detect vulnerabilities and prevent violations that threaten national security. In other words, ICE investigates homeland security crimes. In particular, border security, air security, and economic security.

ICE pursues its homeland security mission by building upon the *traditional* missions, resources, authorities and expertise of the legacy agencies it inherited. The investigative and intelligence resources of the former Immigration and Naturalization Service, U.S. Customs Service, Federal Protective Service and Federal Air Marshal Service have been fused together to allow us to go after the criminal enterprises in new ways. ICE is bringing new approaches to traditional areas of law enforcement and creating enforcement programs in response to its homeland security mission.

Today, I will discuss how the President's FY 2005 Budget will continue to strengthen ICE's immigration enforcement mandate.

ICE FY 2005 BUDGET FOR IMMIGRATION ENFORCEMENT

ICE is committed to enhancing immigration security and enforcement, as the FY 2005 budget illustrates. The FY 2005 budget seeks $4.0 billion for ICE, $302 million more than FY 2004, representing an increase of 8 percent.

The requested increases include $186 million for ICE to fund improvements in immigration enforcement both domestically and overseas, including a more than doubling of current worksite enforcement efforts; increased resources to combat benefits fraud and investigate violations of the SEVIS and US-VISIT systems; and approximately $100 million increase for the detention and removal of illegal aliens. Detention and removal of illegal aliens present in the United States is critical to the enforcement of our immigration laws and the requested funding will expand ongoing fugitive apprehension efforts, the removal from the United States of jailed illegal aliens, and additional detention and removal capacity. Critical to the removal process is ICE's ability to effectively litigate cases before the Immigration Court. The budget request includes a $6 million enhancement to provide additional attorneys to keep pace with an increasing caseload. Our budget also seeks $14 million to support our international enforcement efforts related to immigration, including enabling ICE to provide visa security by working cooperatively with U.S. consular offices to review select visa applications.

INVESTIGATIONS INITIATIVES

As a result of the President's proposed new temporary worker program to match willing foreign workers with willing U.S. employers, enforcement actions against companies that break the law and hire illegal workers will increase. The FY 2005 President's Budget includes an additional $23 million for enhanced worksite enforcement. This more than doubles existing funds devoted to worksite enforcement and allows ICE to assign more Special Agents devoted to this effort. With these resources, ICE will facilitate the implementation of the President's temporary worker program initiative by enhancing our traditional worksite enforcement program that offers credible deterrence to the hiring of unauthorized workers. Without such a deterrent, employers will have no incentive to maintain a legal workforce.

Since 9/11, ICE has screened 259,037 employee records pertaining to 3,640 critical infrastructure employers and identified over 5,000 unauthorized workers who obtained employment by presenting counterfeit documents to their employer and providing false information to security officials. ICE enforcement operations targeting unauthorized workers in critical infrastructure facilities such as airports, military installations, defense contractors, and federal buildings have resulted in the arrest of over 1,000 workers and the criminal indictment of 774 individuals. ICE's challenge is to enhance public safety by ensuring that individuals intending to do us harm do not gain insider access to critical facilities by taking advantage of vulnerabilities in hiring and screening processes that enable undocumented workers to go undetected by employers and security officials.

Benefits Fraud

Immigration fraud poses a severe threat to national security and public safety because it enables terrorists, criminals, and illegal aliens to gain entry and remain in the United States. ICE's goal, in conjunction with U. S. Citizenship and Immigration Services (USCIS), is to detect, combat, and deter immigration fraud through aggressive, focused, and comprehensive investigations and prosecutions. ICE focuses on identifying and targeting the most significant, prolific and egregious violators for prosecutions, such as organizations and facilitators responsible for multiple benefit applications and individuals that pose a risk to national security or public safety. In September 2003, ICE created Benefit Fraud Units in Vermont, Texas and California as a means of identifying and targeting fraud, at the earliest possible point—when an application is received at a USCIS Service Center.

The $25 million FY 2005 budget request will provide stable funding to ICE's benefits fraud and will enable ICE to continue and increase, high-impact fraud investigations and prosecutions, providing increased national security and insuring integrity in the immigration application process.

Special Agents Dedicated to Compliance Enforcement

As part of its overall immigration enforcement strategy, ICE will continue to analyze data generated through the Student and Exchange Visitor Information System (SEVIS) and US-VISIT program to detect individuals who are in violation of the Nation's immigration laws and pose a threat to homeland security. ICE's Compliance Enforcement Unit has investigated and resolved over 21,000 National Security Entry Exit Registration System (NSEERS) and SEVIS violator leads. This represents less than half of all violator leads generated under the programs. With an estimated FY 2004 enrollment of nearly 700,000 foreign students and exchange visitors and 7,000 schools and programs, estimates suggests that more than 30,000 leads may be generated by the SEVIS program this year.

The FY 2005 budget's request of $16 million will increase the funding for ICE's SEVIS and US-VISIT compliance efforts by over 150 percent through the addition of 130 Special Agents to investigate and resolve violator leads. The funding will also allow continued and expanded data mining technology, as well as targeting software, to increase the efficiency of identification and tracking efforts towards nonimmigrant aliens who may pose the most significant national security threats. The increased funding will allow ICE to double the overall violator resolution rate from the forecasted FY 2004 rate of 30% to 60% in FY 2005.

International Affairs

ICE's Office of International Affairs is the largest consolidated Attache unit within DHS with over 50 foreign offices in over 42 countries. ICE Attaches and subordinate foreign offices work closely with Embassy staff and counterpart host government departments to execute international initiatives and extend the U.S. borders. Pursuant to section 428 of the Homeland Security Act and the Memorandum of Understanding between the Departments of Homeland Security and State, ICE's FY 2005 budget request of $14 million includes an increase of $10 million to support

a new Visa Security Unit (VSU). The VSU and DHS staff stationed at overseas posts, including Saudi Arabia, will work cooperatively with U.S. consular officials to promote homeland security in the visa process.

DETENTION AND REMOVAL INITIATIVES

Detention and Removal of illegal aliens present in the United States is critical to the enforcement of our immigration laws. ICE has a daily detention population of approximately 21,000 and in FY 2003, ICE removed more than 140,000 individuals including 76,000 criminal aliens. An increase of $108 million in FY 2005 will expand ongoing fugitive apprehension efforts, the removal from the United States of jailed offenders, effective methods to control non-detained cases, and support additional detention and removal capacity.

Fugitive Operations

$50 million dollars are requested to continue the implementation of the ICE National Fugitive Operations Program, established in 2002, which seeks to eliminate the existing backlog and growth of the fugitive alien population. Currently, ICE has 18 Fugitive Operations Teams deployed throughout the country and since March 1st, approximately 6,000 fugitives have been apprehended and nearly 700 additional criminal aliens have been apprehended in connection with fugitive operations teams. The FY 2005 budget request would fund an additional 30 teams to locate these potential threats to public safety.

Institutional Removal Program

The Institutional Removal Program (IRP) is designed to ensure that aliens convicted of crimes in the U.S. are identified, processed, and, where possible, ordered removed prior to their release from a correctional institution. ICE requests $30 million to transfer the IRP duties currently being performed by Special Agents to Immigration Enforcement Agents. The shift of responsibilities will allow Special Agents to be assigned to more complex investigations in the areas of National Security, Smuggling, and Financial Investigations, and make management of the IRP the sole responsibility of a single operational program office, Detention and Removal Operations, as recommended by both the General Accounting Office and the Department of Justice Inspector General.

Alternatives to Detention

$11 million dollars have been requested in the FY 2005 budget to more than double the capacity of the Intensive Supervision Appearance Program (ISAP). The premise for this initiative is that the effective control of lower risk persons released into the community during immigration proceedings or while awaiting removal will stem the growth of the fugitive population. In FY 2004, ICE plans to have eight intensive supervision sites operational that will be able to monitor 200 individuals per site using methods such as using electronic monitoring devices, half-way houses and voice recognition technology. Increases in FY 2005 would double the capacity for each site and provide for an additional site. These alternatives to traditional detention practices are more cost effective; allow ICE to detain a greater number of aliens who may pose a threat to public safety; and early results from pilot projects reflect an increased appearance rate for immigration court proceedings for those in an intensive supervision program versus those released on their own recognizance.

Detention Bed Space

Adequate detention space has long been considered a necessary tool to ensure effective removal operations. An increase in bed space to accommodate a higher volume of apprehended criminal aliens results in a significantly higher appearance rate at immigration proceedings. When final orders of removal are issued, this will result in a greater number of removals and fewer absconders. With the $5 million request for FY 2005, ICE will enhance its ability to remove illegal aliens from the United States.

Caribbean Regional Interdiction

Pursuant to Executive Order, the Departments of Defense, Homeland Security and State share responsibility for responding to the migration of undocumented aliens interdicted or intercepted in the Caribbean Region. Additional funding of $6.2 million is requested to support the cost of housing up to 400 migrants as they await determination of any immigration claims. This initiative will support operations at Guantanamo Bay and maintain a high level of preparedness for possible Caribbean migration emergencies or other mass migration events.

LEGAL PROGRAM BACKLOG ELIMINATION

The ICE Office of the Principal Legal Advisor's Office (OPLA) completed approximately 275,000 cases in Immigration Court in FY 2003, assisting in these proceedings in the determination of who qualified for immigration benefits and who was subject to removal. The number of new cases received in immigration court has continued to increase from approximately 150,000 cases in FY 93 to 290,652 cases in FY 2002. In addition, ICE OPLA is currently handling approximately 500 national security related cases as well as 250 cases involving possible human rights abusers in various stages of immigration court proceedings. At the same time, the case preparation time has continued to fall and we project that time available for preparation could also fall. To keep pace with the increasing number of complex immigration court cases as well as an aggressive plan by the Department of Justice to address the pending cases, additional attorneys and support staff are required. $6 million dollars are sought in the FY 2005 budget to increase the program staffing and help address the increased workload. Additional resources will permit ICE Counsel to identify and argue for the removal of individuals who pose national security or public safety risks, while at the same time ensuring that bona fide claims are granted.

CONCLUSION

Deterring illegal migration and combating immigration-related crime have never been more critical to our national security. The men and women of ICE are tackling this challenging mission with diligence, determined to ensure that no duty is neglected. The President's FY 2005 Budget Request for ICE is an important step in restoring the rule of law the system of legal immigration. We are eager to work with you and the other Members of Congress to provide the American people with the level of security they demand and deserve. Thank you. I look forward to your questions.

Mr. HOSTETTLER. Daniel Smith was named the State Department's Principal Deputy Assistant Secretary for Consular Affairs in November of 2002. He is a career member of the Senior Foreign Service and previously served as Deputy Executive Secretary to Secretary of State Colin Powell. Prior to this assignment, he served as executive assistant to the Under Secretary for Global Affairs.

Mr. Smith received his B.A. summa cum laude from the University of Colorado in Boulder and his Ph.D. and M.A. in history from Stanford university. Mr. Smith, thank you for being here. You're now recognized.

STATEMENT OF DANIEL B. SMITH, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF STATE FOR CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. SMITH. Mr. Chairman, Members of the Committee, thank you for inviting me to testify today before you on the Department of State's Border Security Program. I am pleased to provide an overview of how the Bureau of Consular Affairs administers that program. Funded largely through the Department's limited fee-retention authorities for consular services, the Border Security Program exists to strengthen the security of the United States by pushing out our borders.

In fiscal year 2005, the priorities of the Consular Affairs are: Protecting our homeland by strengthening the visa process; protecting Americans by providing consular information, services, and assistance; providing Americans with the most secure travel document possible, the U.S. passport; and providing consular personnel worldwide with the tools and training they need.

The Department of State's visa work abroad constitutes a vital element in our national border security. To guard against terrorists

and other threats, consular officers must have the best information available within the U.S. Government. The majority of the data in our consular lookout system now is derived from the law enforcement and intelligence communities. We reciprocate that data sharing, and Department of Homeland Security officers at ports of entry now have access to the 75 million visa records in our Consular Consolidated Database.

We have joined in the establishment of the Terrorist Screening Center that will integrate terrorist watch lists and serve as the centralized point of contact for U.S. terrorist information. Together with the Terrorist Threat Integration Center, we will rely on the TSC to ensure that consular officers have access to the information they need to deny visas to those who would do us harm.

We are also engaged with DHS in implementing a biometrics program that will track the entry and exit of foreign visitors by using electronically scanned fingerprints and photographs. The system is designed to create a coordinated and interlocking network of border security. With our aggressive roll-out schedule, the program will be in effect at all non-immigrant visa adjudicating posts by October 26 of this year.

Consular Affairs also works to promote the safety and security of Americans abroad. We strive to extend to all Americans our best efforts to ensure their safety wherever they might be. We provide current information on travel conditions and security through our website at travel.state.gov and through the Overseas Citizens Services Call Center.

CA has also been heavily involved in assisting U.S. citizen parents whose children were abducted or wrongfully retained abroad, as well as working to prevent future abductions and wrongful retentions. We have worked toward implementing a transparent international adoption process that safeguards the interests of children, birth parents, and prospective adoptive parents. These initiatives, among others, are overwhelmingly funded as part of the Border Security Program.

We are also engaged in an ongoing process of continuous improvement of the U.S. passport, the world's most valuable identity and travel document. Embedding biometrics into U.S. passports to establish a clear link between the person issued the passport and the user is an important step forward in the international effort to strengthen border security. We recognize that convincing other nations to improve their passports requires U.S. leadership. To that end, the Department of State has a program that should produce the first biometric U.S. passports by October of this year.

We also continue to strengthen homeland security by ensuring that the consular function has appropriate facilities and is staffed at sufficient levels by consular officers who are trained to screen out terrorists. As part of the Border Security Program, the Department is requesting additional positions to provide us the ground troops necessary to staff our first line of defense.

We continue to strengthen management controls via the issuance of standard operating procedures as well as our program of Consular Management Assistance Teams. CA uses its new Vulnerability Assessment Unit to analyze consular data, systems, and

processes to detect anomalies in visa and passport processing to reduce vulnerabilities.

The mission of the Bureau of Consular Affairs is to help Americans abroad, to facilitate legitimate international travel, and to stop the travel to the United States of foreigners who present a threat to our country. By focusing on information sharing, providing sufficient resources, and enhancing the integrity of our processes and documents, the Department of State is ensuring that we have a Border Security Program in which the American people can place their trust and confidence.

Thank you, Mr. Chairman. I welcome your questions.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF DANIEL B. SMITH

Mr. Chairman, Ranking Member, Members of the Committee:

Thank you for inviting me to testify before you today on the Department of State's Border Security Program. I am pleased to explain both the strategy employed by the Department of State in its Border Security Program and then how that strategy is implemented in the day-to-day operations of the Bureau of Consular Affairs.

The Border Security Program at the Department of State is a complex mission involving the activities of a number of bureaus and offices. Funded largely through the Department's limited fee retention authorities for consular services, the Border Security Program exists to strengthen the security of the United States by "pushing outward" our borders. The Department has followed a consistent and multi year strategy that focuses on:

- Providing accurate and timely information to all personnel responsible for processing passports, adjudicating visas and providing other consular services.
- Ensuring that all personnel responsible for Border Security services have the business quality hardware and software they need to fulfill their responsibilities.
- Connecting all overseas and domestic operations responsible for Border Security together through high-speed networks, which make possible such powerful tools as the CLASS namecheck system and the Consolidated Consular Database (CCD).
- Investing in our people to ensure that they have the training needed to provide quality Border Security Services. Covering the operating costs of many Department of State personnel who provide Border Security services.
- Ensuring the integrity of our people, processes and products.

The Department's Border Security Program is much larger than just the Bureau of Consular Affairs (CA). CA's main partners in implementing this program include the Bureaus of Diplomatic Security, Information Management, Human Resources, Intelligence and Research, and Resource Management as well as the geographic bureaus. The Administration is seeking some $836 million in the FY-05 budget to help fund these activities.

In terms of Consular Affairs, our mission is to help Americans abroad, facilitate legitimate international travel, and prevent the travel to the United States of foreigners who are likely to engage in activities harmful to our country. We have no higher responsibility than the protection of our citizens and safeguarding our country's borders through the Border Security Program, and we are determined to carry out this responsibility in the best and most effective manner possible.

In FY 2005, the priorities of CA are:

- protecting our homeland by strengthening the visa process as a tool to identify potential terrorists and others who should not receive visas and preventing those people from entering the United States;
- protecting Americans by ensuring that they have the consular information, services, and assistance they need to reside, conduct business, or travel abroad;
- providing Americans with timely and effective passport services and a secure travel document; and

- providing consular personnel worldwide with the tools and training they need to carry out these responsibilities.

VISA SERVICES

The terrorist attacks of 9/11 highlighted as never before the crucial role the Bureau of Consular Affairs plays in U.S. border security through the visa process. The Consular Officers of the Foreign Service at the 212 visa adjudicating embassies and consulates abroad are truly our first line of defense. In FY-05, we will continue our efforts to ensure that the visa process is as secure as possible and that it supports our overall homeland security efforts so that—with the immigration check at the port of entry and the enhanced capabilities of the Department of Homeland Security—it will form a coordinated and interlocking network of border security in which the American people can have confidence.

One of the most important tools we can provide our consular officers abroad is information that will help them identify and deny a visa to a terrorist, criminal or other ineligible alien. Our goal is to push the borders of the United States out as far from our shores as possible to stop a problematic or questionable traveler overseas. To this end, our coordinated efforts with law enforcement and intelligence agencies have more than doubled the names of known or suspected terrorists and other ineligible aliens in our databases. We will continue to seek opportunities for data sharing with federal agencies that have a role in the visa process or interact with visa recipients. In fact, the majority of the data in our consular lookout system now derives from other agencies, especially those in the law enforcement and intelligence communities.

I am particularly proud that an activity funded through the Department's Border Security Program—the TIPOFF program—is a key building block for the Terrorist Threat Integration Center (TTIC), which will maintain the principal database on known and suspected terrorists in a highly classified form. The TIPOFF database with its approximately 120,000 records was transferred to TTIC on November 17, 2003. TTIC, together with the separate Terrorist Screening Center, will eliminate the stovepiping of terrorist data and provide a more systematic approach to posting lookouts on potential and known terrorists.

We are also currently engaged with DHS in implementing a biometrics program to track the entry and exit of foreign visitors by using electronically scanned fingerprints and photographs. This new system, which begins with consular officers collecting electronically scanned fingerprints at consular sections abroad and continues with DHS's US-VISIT program at ports of entry and departure, will create a coordinated and interlocking network of border security. We began our new Biometric Visa Program in September 2003, and it is now operational at more than 70 visa-adjudicating posts. With our aggressive rollout schedule, the program will be in effect at all visa-adjudicating posts by the congressionally mandated deadline of October 26, 2004. The inclusion of additional biometrics, in addition to the photograph that has always been collected, in international travel documents is an important step in continuing to improve our ability to verify the identity of prospective travelers to the United States. In the process of screening visas and passports domestically and abroad, additional biometrics can serve as a useful adjunct to existing screening processes that identify individuals who might be terrorists, criminals, or other aliens who might represent a security risk to the United States.

Other visa-related initiatives that will be funded through the on-going Border Security Program include:

- Re-engineer the interagency visa clearance process to allow stronger accountability and quicker processing.
- Improve the capacity of CLASS to handle additional information such as Interpol and deportation lookout information, and lost and stolen passport data.
- Continue to work with countries that are eligible for the Visa Waiver Program (VWP) and with ICAO to meet the requirement that those countries incorporate biometric identifiers in their passports by October 2004, as congressionally mandated.
- Review facial recognition results from initial test deployment at visa posts to determine how it may benefit screening in the operational environment.
- Introduce new, tamper-resistant and machine-readable immigrant visa foil. This new machine-readable immigrant visa process will include digitized photo and fingerprints.
- Eliminate crew-list visas and require all seafarers to obtain individual visas.

AMERICAN CITIZENS:

The Bureau of Consular Affairs works to promote the safety and security of the 3.2 million Americans who reside abroad and those U.S. residents who make about 60 million trips outside the U.S. each year. This complements our overall homeland security efforts on the visa side of the house, extending to all Americans our strongest and best efforts to ensure their safety wherever they might be. We provide current information on travel conditions and security through our Consular Affairs home page at http://travel.state.gov, which received nearly 198.5 million inquiries in FY 2003, and the Overseas Citizens Services (OCS) Call Center, which received approximately 70,000 calls.

International tensions and security concerns, especially incidents of international parental child abduction, have prompted more parents to take preventive action to monitor or limit their children's travel abroad. This has resulted in a growing number of requests for passport lookouts, and increased inquiries concerning preventive measures to avoid international parental child abductions, in particular. The Office of Children's Issues (CA/OCS/CI) has also worked with the OCS Call Center to respond to routine inquiries concerning preventive measures, while maintaining responsibility for passport lookouts. We hosted a meeting with left-behind parents in 2003 and plan similar meetings through FY 2005.

Our priorities for American citizens in FY 2005 include implementation of the Hague Inter-country Adoption Convention, which will require CA, as the Central Authority for the Convention, to take on responsibilities never before performed on the federal level; enhanced services for victims of crime abroad and tracking of statistics on such crimes; enhanced emergency "fly-away" teams; efficient administration of overseas civilian participation in the 2004 general election; expanded use of CA's web site and the Overseas Citizens Services Call Center to provide the most current information on travel conditions and security; continuation of the re-engineering of the American Citizens Services software; and outreach around the United States to educate the public and stakeholder groups about our programs and the assistance that consular officers abroad can provide. Topics to be addressed will include: travel safety overseas, especially for students; crisis preparedness; international parental child abduction, including prevention measures; intercountry adoption; the passport application process; and consular notification and access in arrest cases. These initiatives are overwhelmingly funded as part of the Border Security program.

PASSPORT SERVICES:

Just as we are committed to the most secure adjudication process and documentation to support the visa process, the same is true in terms of what we consider to be the world's most valuable document—the U.S. passport. In FY-03, Passport Services issued over seven million passports. We recently completed the system-wide introduction of photodigitization technology to support passport printing. That effort has been so successful that we have, in turn, moved the production of passports issued abroad to our U.S. domestic production facilities so that we can take advantage of the significant security improvements embodied in the photodigitization process. But, we also have many other initiatives underway. We will proceed with our efforts to enhance biometrics in U.S. passports and bring our passport into compliance with international standards established in May 2003. The inclusion of a "smart" chip in the passport, on which we will write the bearer's biographic information and photograph, will increase the security of the document. This initiative is consistent with U.S. legislation that requires our Visa Waiver Program participants to take such a step, but it is not required. We are nonetheless pursuing the initiative because it supports U.S. national security. This new passport will further strengthen our ability to reliably link the authorized bearer of a passport to its user.

We are completely redesigning the U.S. passport and its security features. And, since the passport process is only as strong as the underlying adjudication process, we are strengthening our datasharing efforts with agencies in order to help confirm the identity of applicants. We will enhance our computer systems and provide for expected upgrades to accommodate the production of passports. To protect the over 60 million passport records stored on-line and provide redundant systems to support other agencies that require access to these vital records, new storage and server systems will be procured in FY 2004 and FY 2005. Again, these activities are funded as part of the Border Security Program.

MANAGEMENT AND ORGANIZATIONAL EXCELLENCE:

We continue to strengthen homeland security by ensuring that the consular function has appropriate facilities and is staffed at sufficient levels by consular officers who are trained to screen out terrorists. As part of the Border Security Program, the Department is establishing 93 new consular positions—13 domestic and 80 overseas in FY-04 and is requesting 60 additional positions in FY-05—15 domestic and 45 overseas. In addition, the Department plans to establish 68 new positions overseas in FY-04 and is requesting 63 in FY-05 as part of the Consular Associate replacement program. These additional positions will give us the ground troops necessary to staff our first line of defense.

We place a high priority on maintaining efficient and state-of-the-art systems and leveraging technology to the extent feasible because of the global nature of consular operations and the necessity for interagency data-sharing. We will continue to replace IT equipment for consular sections abroad as well as Consular Affairs domestic operations on a 3 to 4 year cycle, provide updated remote and computer-based training on consular systems to supplement hands-on training by visiting experts at least once every 12 to 18 months, and maintain Support Desks to provide key links between employees and the development and support elements in the Consular Systems Division.

Good management requires effective internal controls. We continue to strengthen management controls via the issuance of standard operating procedures (SOPs), conducting Management Assessment and Internal Control Reviews at passport agencies, certifications that management controls are in place at consular offices, and sending Consular Management Assistance Teams (CMATs) to work collaboratively with posts toward our common goal of protecting homeland security and our borders. In FY 2005, the CMATs will maintain a robust schedule of visits to assess the integrity of management controls, effective resource utilization and space allocation, and the extent to which Department-mandated SOPs have been understood and implemented. CMATs serve as a resource in identifying and helping to resolve post needs, as well as providing guidance and counseling as appropriate. CA uses its new Vulnerability Assessment Unit, a joint initiative with the Bureau of Diplomatic Security, to analyze consular data, systems, and processes to detect anomalies in visa and passport processing, thus reducing CA's vulnerability to system manipulation.

The Department's Border Security Program is a critical element in the Department of State's goal to protect American citizens and safeguard the nation's borders. By focusing on sharing information, providing sufficient infrastructure and human resources, increasing connectivity, and enhancing the integrity of our processes and documents, the Department of State is ensuring that we have a Border Security Program in which the American people can place their trust and confidence.

Thank you and I welcome your questions.

Mr. HOSTETTLER. Seth Stodder is Counselor and Senior Policy Advisor to Commissioner Robert C. Bonner at U.S. Customs and Border Protection. In this role, he oversees all aspects of policy development at CBP and is a key aide to Commissioner Bonner in managing the Federal Border Agency.

Mr. Stodder is a 1995 graduate of the University of Southern California Law School. He received his bachelor's degree from Haverford College, where he graduated with honors. Thank you, Mr. Stodder, for being here. You are recognized for your testimony.

STATEMENT OF SETH M. M. STODDER, COUNSEL AND SENIOR POLICY ADVISOR, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. STODDER. Thank you, Mr. Chairman and other distinguished Members of the Subcommittee, for this opportunity to testify here today on the efforts of U.S. Customs and Border Protection.

As you all know, CBP is a new agency within a new Department of Homeland Security and it's coming up on its first birthday. For the first time in our history, our nation has a single agency, CBP, responsible for managing and securing the borders of the United States and all ports of entry into the United States. Under the

leadership of Commissioner Bonner, this new agency brings together all of the border inspectors from the legacy Customs Service, INS, and the U.S. Department of Agriculture, as well as the entire U.S. Border Patrol, and is focused squarely upon one of the chief missions of the Department of Homeland Security, preventing terrorists and terrorist weapons from entering the United States.

Certainly, the legacy agencies were focused on anti-terrorism. You all will recall that in 1999, it was a Customs inspector on the Northern border, Diana Dean, who intercepted and apprehended an al Qaeda terrorist, Ahmad Ressam, who was transporting a huge load of explosives aimed at destroying the Los Angeles Airport.

And I'm sure you've all seen the recent news reports concerning the testimony of legacy INS Inspector Jose Melendez-Perez to the 9/11 Commission. At Orlando Airport on August 4, 2001, just over a month before the September 11 terrorist attacks, Inspector Melendez-Perez turned away another terrorist by the name of Mohammed al Qahtani, and al Qahtani was picked up ultimately by U.S. forces in Afghanistan and he may have been a conspirator in the 9/11 attacks.

But the creation of CBP within DHS brings both the legacy customs inspectors like Diana Dean together with the legacy immigration inspectors like Jose Melendez-Perez, along with the agriculture inspectors and Border Patrol officers. It brings together the great wealth of talent and expertise from the legacy agencies and focuses them on a single homeland security mission, and this is already bearing fruit. One face of the border has arrived and it's making us more effective in carrying out our homeland security mission as well as in reinventing the border to make it more efficient for legitimate travel and commerce.

We now have a single CBP port director at every port of entry into the United States. We have a consolidated National Targeting Center and consolidated CBP Passenger Analytical Units. We have consolidated CBP secondary inspection teams focused on anti-terrorism, bringing together the expertise and, importantly, the broad legal authorities of customs, immigration, and agriculture inspectors. We're rolling out CBP primary inspections. Change is coming and change is coming fast.

The interceptions of the terrorists Ressam and al Qahtani were, quote, "cold hits" by trained, dedicated inspectors who sensed that something was wrong with these individuals, but this is the last line of defense for CBP.

Since September 11, we have been focusing on pushing our border out to identify and meet potential threats well before they reach our shores. This concept underpins some of the CBP's signature programs, like CSI and the Customs-Trade Partnership Against Terrorism, but it also motivates our efforts with regard to the movement of people into our country.

We collect Advance Passenger Information, or API, for all international air passengers, which we feed into our NTC and into our Passenger Analytical Units at the airports. Of course, the NTC is linked up to the Terrorist Screening Center and to the Terrorist Threat Integration Center, or TTIC, and we have up-to-the-minute information on potential terrorists on watch lists. But the NTC,

through the Automated Targeting System, goes well beyond the watch lists in identifying potential terrorists, potential threats. Our sophisticated targeting system allows us to identify potential terrorists or criminals who might not be on any watch list but who might still present a risk to the American people.

Enhancing this capability is a critical piece of the President's budget request for fiscal year 2005, as the budget requests $20 million for enhancements to our targeting capabilities and to the National Targeting Center.

DHS is also pushing the border out in other ways, through ICE's Visa Security Program, through U.S. VISIT, and through new concepts such as the Immigration Security Initiative, or ISI, which CBP will be piloting in Warsaw later this year. This program, which builds upon the legacy INS Immigration Control Officer Program, will put CBP officers in foreign airports to work with the carriers and the host governments to identify and question potential terrorist risks before they get on planes bound for the United States, a CSI for people, if you will.

We're also moving forward on securing our border between the ports of entry. Since 9/11, we have tripled the number of Border Patrol agents on the Northern border and we will be backing them up with more equipment to help them prevent terrorists or other criminals from illegally crossing our borders. The President's fiscal year 2005 budget will help CBP hugely on this score, for it provides $64 million in funding for border technology, including sensors and cameras. The budget also provides $10 million to test unmanned aerial vehicles, or UAVs, which we think will add another layer of detection capability.

And these efforts are not limited to the Northern border. We are continuing to strengthen our capabilities on our border with Mexico, with our main focus this year on getting better control over our border in Arizona. And we're working very closely with our partners in Mexico to get this done.

As you may know, Secretary Ridge, Under Secretary Hutchinson, and Commissioner Bonner and others traveled to Mexico City last week and secured an agreement from Mexico on greater cooperation in securing our mutual border. One of the key deliverables was an agreement to implement a program of interior repatriation of Mexican nationals illegally crossing into Arizona during the hot summer months back to their home states in Central and Southern Mexico. The details of this program are still being worked out, but we strongly believe that this historic agreement will result in fewer illegal crossers, fewer migrant deaths, and better control of our border.

As I said, our priority mission at CBP is keeping terrorists and terrorist weapons out of the United States, but the efforts I have discussed are making us more effective in carrying out our broader mission of securing our border against criminals, illegal migrants, illegal drugs, and other things that violate U.S. laws and harm the American people, and we're doing this while carrying out what we call our twin goal of facilitating movement of legitimate people and commerce through programs such as NEXUS, SENTRI, and FAST.

With that, this concludes my prepared remarks. Thank you for inviting me to testify and I look forward to taking any questions.

Mr. HOSTETTLER. Thank you, Mr. Stodder.
[The prepared statement of Mr. Stodder follows:]

PREPARED STATEMENT OF SETH M. M. STODDER

THANK YOU, CHAIRMAN HOSTETTLER, RANKING MEMBER JACKSON LEE, and distinguished Members of the Subcommittee, for this opportunity to testify today about U.S. Customs and Border Protection efforts to protect the United States from terrorists and criminal aliens and to ensure the integrity of the immigration laws. My name is Seth Stodder, and I am Counsel, and Senior Policy Advisor to the Commissioner of the U.S. Customs and Border Protection.

As you know, on March 1, 2003, immigration inspectors from the Immigration and Naturalization Service (INS), agricultural inspectors from the Animal and Plant Health Inspection Service (APHIS), customs inspectors from the U.S. Customs Service, and the entire Border Patrol merged to form the U.S. Customs and Border Protection—CBP—within the Border and Transportation Security (BTS) Directorate of the Department of Homeland Security. Now, for the first time in our country's history, all agencies of the United States government with significant border responsibilities have been brought under one roof. With our combined skills and resources, we can be far more effective than we were when we were separate agencies.

The priority mission of CBP is to prevent terrorists and terrorist weapons from entering the United States. This extraordinarily important priority mission means improving security at our physical borders and ports of entry, but it also means extending our zone of security beyond our physical borders—so that American borders are the last line of defense, not the first line of defense.

RESPONDING TO THE TERRORIST THREAT

As the single unified border agency of the United States, CBP's mission is vitally important to the protection of America and the American people. Numerous initiatives were developed to meet our twin goals of improving security and facilitating the flow of legitimate trade and travel. Our strategy is built upon a combination of factors: expanding advance information on people entering the United States; fostering initiatives that "push the border outwards" and extend our security perimeter; securing the movement of people through partnerships with other countries, including our neighbors to the north and south; and increasing staff positions and detection technology for greater border security.

NATIONAL TARGETING CENTER (NTC)

The National Targeting Center (NTC) has significantly increased our overall capacity to identify potential terrorist threats and other violators by providing centralized national targeting of passengers for the first time. NTC inspectors and analysts use a sophisticated computer system to monitor, analyze, and sort information gathered by CBP and numerous intelligence and law enforcement agencies against border crossing information. NTC personnel identify potential terrorists, terrorist targets, criminals, and other violators for increased scrutiny at the border ports of entry. When NTC personnel identify potential threats, they coordinate with our officers in the field and monitor the security actions that are taken. The NTC staff works closely with the Federal Bureau of Investigation (FBI)-led Terrorist Screening Center (TSC) to coordinate terrorist threat information, and the FBI has recently agreed to assign liaison staff to the NTC.

AIRLINES REQUIRED TO PROVIDE CBP WITH ADVANCE PASSENGER INFORMATION

One of the greatest challenges we face in the war on terrorism is determining whom to look at most closely. Because of its mission, U.S. Customs and Border Protection has the law enforcement authority to question closely and search every person entering the United States. The Advance Passenger Information System (APIS) helps us with our focus. APIS requires airline personnel to transmit data on every passenger on every aircraft electronically to CBP on take-off from foreign airports.

In conjunction with the new requirement, systems were upgraded and expanded to ensure that APIS could keep up with the expanded workflow. APIS is now a real-time system that runs advance passenger information against law enforcement and terrorist databases on a passenger-by-passenger basis. By the time a plane lands, CBP is able to evaluate who on the aircraft may pose a threat to the United States and take appropriate action, including sharing that information with the TSC.

Local port of entry Passenger Analysis Units, made up of officers with both immigration and customs backgrounds, analyze the APIS manifests to determine passengers of interest while flights are still traveling to our airports. In addition, APIS

manifests for arriving air and sea passengers are run against FBI and other agency databases for wants, warrants, and criminal history information. The same information is readily available for land border passengers referred for secondary processing.

PUSHING OUR BORDER OUTWARDS

We realize that we must push our zone of security outward. This is the "extended border," defense-in-depth concept, part of what Secretary Ridge has aptly called a "Smart Border" strategy. Pre-flight inspections and consular pre-screening for visa issuance are two critical areas that defend our borders prior to persons actually arriving in the United States.

COOPERATION WITH CANADA

The Smart Border Declaration with Canada is a 30-point plan for increasing security and facilitating trade. It focuses on four primary areas: the secure flow of people; the secure flow of goods; investments in common technology and infrastructure to minimize threats and expedite trade; and coordination and information sharing to defend our mutual border. This plan provides for the harmonization of processes and an increase of information sharing. To improve our effectiveness, CBP has expanded the use of liaison and increased intelligence sharing with other Federal, state, and local law enforcement agencies, our counterparts within the Canadian government, and the intelligence community.

Since September 11, 2002, the Border Patrol has expanded an already proven initiative called the Integrated Border Enforcement Team (IBET), which pools law enforcement resources and integrates operations and intelligence activities from various Federal, state, and local law enforcement agencies and the Canadian government. The IBET concept has been expanded from two locations to fourteen locations that now cover the entire northern border.

NEXUS

With Canada, we have implemented a program that enables us to focus our resources and efforts more on high-risk travelers, while making sure those travelers who pose no risk for terrorism or smuggling, and who are otherwise legally entitled to enter, are not delayed at our mutual border. Under NEXUS, frequent travelers whose background information has been prescreened for criminal or terrorist links are issued a proximity card, or SMART card, which allows them to moved expeditiously through the port of entry. NEXUS has expanded to eight crossings on the northern border.

WATCH LIST EXCHANGE

Another initiative with includes a revised and expanded information sharing agreement with Citizenship and Immigration Canada was signed in February 2003, and is being implemented by CBP. Also, we have agreed to exchange terrorist information and run advance passenger information for arriving air passengers against watch lists, so that each country knows of potential threats and can take appropriate steps in a timely manner.

COOPERATION WITH MEXICO

Mexico also pledged support to help increase security while facilitating trade across the southwest border. We have continued important bilateral discussions with Mexico to implement initiatives that will protect our southern border against the terrorist threat, while also improving the travel flow. Like NEXUS on the northern border, SENTRI is a program that allows pre-screened, low-risk travelers to be processed in an expedited manner through dedicated lanes at our land border with minimal or no delay. This has the obvious benefit of enabling CBP personnel to focus their attention on those crossing our borders that are relatively unknown, and therefore might pose a potential threat. SENTRI is currently deployed at 3 southwest border crossings.

We continue to implement our agreement with Mexico to share advance passenger information. This reciprocal exchange of data with Mexico will have the same benefit that the exchange of such data with Canada has, allowing law enforcement officials in both countries to track the movement of individuals with known or suspected ties to terrorist groups or other criminal organizations. We will also continue our negotiations with Mexico to establish a significant and credible Mexican Federal Law enforcement presence along the southwest border.

INVESTING IN INFRASTRUCTURE AND HUMAN RESOURCES TO COUNTER THREATS

New initiatives and a refocused mission are important elements in combating the new terrorist threat, but new goals could not have been met without increasing the number of personnel working at our nation's borders. This was especially critical for our Northern Border ports of entry where staffing was insufficient to do the security job without choking off the flow of traffic.

Before 9/11, we had approximately 1,600 customs and immigration inspectors on our shared 4,000-mile border with Canada. Most of the lower volume border crossings were not open 24 hours a day. There was little security when they were closed. After 9/11, all border crossings were staffed with at least two armed officers at all times. This human resource intensive effort was only a temporary measure—until these crossings were "hardened" and we were able to electronically monitor our low volume northern ports of entry to prevent unauthorized crossings. We accomplish this by installing gates, signs, lights, and remote camera surveillance systems.

CBP has received significant staffing increases for the northern border. Today we have over 2,900 CBP inspectors along the northern border. CBP currently deploys slightly over 1,000 Border Patrol Agents to our Northern Border—on 9/11, there were only 385. We have also bolstered our staffing on the southern border. We know that terrorists have and will use any avenue they can to enter our country. Prior to 9/11, we had 4,371 inspectional staff at the southern ports of entry. Today we have almost 4,900.

ONE FACE AT THE BORDER

Establishing the Department of Homeland Security is the most important organizational step here at home that President Bush and our nation have taken to address the ongoing threat of international terrorism, a threat that is likely to be with us for years to come.

On March 1, 2003, approximately 42,000 employees were transferred from the U.S. Customs Service, the Immigration & Naturalization Service, and APHIS to the new U.S. Customs and Border Protection. For the first time in our country's history, all agencies of the United States Government with significant border responsibilities are unified into a single federal agency responsible for managing, controlling and securing our Nation's borders. We are now creating "One Face at the Border."

Although legacy customs and immigration inspectors have assumed interchangeable roles at the land border ports of entry for years, unified CBP primary inspections also are now done at our country's airports. Significant cross training is being provided to our frontline inspectors to ensure effective implementation, and counterterrorism training is creating a better understanding of terrorist issues and better referrals to the secondary area.

We have also developed and are implementing combined anti-terrorism secondary units, which leverage the expertise and authorities of legacy customs, immigration, and agriculture inspectors to conduct a joint secondary inspection of passengers deemed high-risk for terrorism. CBP is also coordinating and consolidating our passenger analytical targeting units to bring together specific customs, immigration, and agriculture experience and authority to more effectively identify and interdict individuals who pose a possible terrorist risk.

As of October, 2003, we began hiring and training a new group of "CBP Officers," who will be equipped to handle all CBP primary and many of the secondary inspection functions, in both the passenger and cargo environments. We are also deploying CBP Agriculture Specialists to perform more specialized agricultural inspection functions in both these environments.

Training is a very important component to the roll out of the CBP Officer. We have created a new 14 week, 71-day basic course that provides the training necessary to conduct primary processing and have a familiarity with secondary processing of passengers, merchandise, and conveyances, in all modes of transport—air, sea, and land. The new CBP Officer course was built from the 53-day basic Customs inspector course and the 57-day basic Immigration inspector course, with redundancies removed, and with additions to address anti-terrorism and CBP's role in agriculture inspection. The training also supports the traditional missions of the legacy agencies integrated in CBP. Our first CBP Officers were hired on September 22, 2003, and they immediately started training at the Federal Law Enforcement Training Center (FLETC).

Training CBP officers to recognize fraudulent documents is another serious commitment. All CBP officers will receive our most current training on identifying fraudulent and altered documents. CBP secondary officers will receive more advanced training, and will continue to receive support from the world-class excellence

of the U.S. Immigration and Customs Enforcement's Forensic Document Laboratory (FDL).

ENHANCED SECURITY BETWEEN PORTS OF ENTRY

We know that securing the areas between the ports of entry is just as important as adding security at the ports of entry. CBP's Border Patrol is responsible for patrolling those areas and, uses technology and Agents detect attempts to enter the United States illegally between the ports of entry. The Border Patrol's mission includes an aggressive strategy for protecting against terrorist penetration, at both our northern and southern borders.

On 9/11, there were only 368 authorized positions for Border Patrol agents for the entire northern border. We are currently at over 1,000. This staffing increase will better secure our border against terrorist penetration. But we are doing more than just adding staffing. We are adding sensors and other technology that assist in detecting illegal crossings along both our northern and southern borders. The network of sensors consists of seismic, magnetic and thermal devices used to detect and track intrusions.

The CBP Border Patrol is also evaluating the use of Unmanned Aerial Vehicles (UAVs). UAVs are remotely piloted or remotely programmed aircraft that can carry cameras, sensors, communications or other equipment. The U.S. Military has employed UAVs, in various states as far back as the Vietnam War. The U.S. southern border with Mexico is some 2,000 miles long while our border with Canada is some 4,000 miles long. Each border contains vast and sparsely populated expanses. UAVs can potentially give Border Patrol personnel the same "eyes-on" capability that the military gets from UAVs in dangerous or hazardous environments.

RESPONDING TO THE AIR THREAT

When DHS received specific, credible intelligence regarding a possible threat of terrorist exploitation of the Transit Without Visa Program (TWOV) to conduct an attack on international commercial aviation, we moved quickly to address the threat. The concern was that terrorists might have been able to exploit security loopholes in the TWOV program. Under the TWOV program, citizens of countries who normally required a visa to enter the United States, were allowed to fly into and transit the United States without undergoing the visa issuance process and the security checks that the process entails. Accordingly, on CBP's recommendation, the Administration moved quickly to suspend the TWOV program in response to the threat. This issue will continue to be reviewed.

CBP COLLECTS BIOMETRICS

The National Security Entry Exit Registration System (NSEERS) was implemented on September 11, 2002. The NSEERS program requires certain nonimmigrant aliens from designated countries to be fingerprinted, interviewed and photographed at ports of entry when they apply for admission to the United States. NSEERS enables the U.S. Government to better track certain individuals of interest entering and leaving the United States.

CBP's collection of this biometric information has been an enforcement benefit for the nation. Under the NSEERS program, we have apprehended or denied admission to more than 1,190 aliens at our ports of entry. The new United States Visitor and Immigrant Status Indication Technology (USVISIT) provides us with much of the biometric information now collected during the NSEERS registration process.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATION TECHNOLOGY (US-VISIT)

The Department of Homeland Security's newest border security tool is the recently launched United States Visitor and Immigrant Status Indication Technology, or US-VISIT program. Using biometrics—two digital, inkless finger scans, and a photograph—US-VISIT captures the identity of passengers seeking admission to the U.S and makes it harder for individuals, especially terrorists and criminals, to enter the United States using fraudulent documents and assumed identities.

US-VISIT is part of a more comprehensive system that begins overseas, where the Department of State collects biometrics at the time of visa application. Currently, 55 posts are capturing digital finger scans, and all 211 visa-issuing posts will by operational by October 2004. These biometrics are then run against a database of known or suspected criminals and terrorists. When the visitor gets to the border, CBP uses the same biometrics—these digital fingerscans—to verify that the person at our port is the same person who received the visa. In addition, US-VISIT provides the digital photograph taken at the time of visa issuance to the CBP officers

on primary. And it works. We already know that these new procedures make it much more difficult for criminals or terrorists to use fraudulent documents to illegally enter the United States. The biometrics reveal individuals who are using, or have in the past, used an alias. This type of matching helps our CBP officers make admissibility decisions and enhances the overall integrity of our immigration system.

On January 5, 2004, US-VISIT became operational at 115 of our nation's international airports and 14 of our largest passenger ship seaport locations. Through February 17, CBP has processed more than 1.1 million passengers through US-VISIT, and had 100 "hits" on the biometrics. An example of a criminal violator detected by US-VISIT is a 10-year fugitive wanted on a New York warrant for vehicular homicide. He was apprehended at JFK. Although he was traveling under an alias that was not entered into any of our databases, he was identified in US-VISIT through a biometrics match. A similar scenario arose in Miami where we apprehended a fugitive who had been convicted and was wanted on sentencing for statutory rape of a victim under 17. One fugitive had entered the United States over 60 times in the past four years under assumed names and dates of birth. There are other similar successes that demonstrate the importance of US-VISIT as a new law enforcement and homeland security tool. Let me add that the success of US-VISIT has not come at the price of open borders. We have seen no significant increase in wait times at the airports since the implementation of the program.

The US-VISIT system will expand to the 50 busiest land ports of entry by December 31, 2004 and then to all land ports by December 31, 2005. US-VISIT is but a first step in the Department's goal of reforming our borders. It will take time and investment to achieve the goals of the program and ensure integrity in our immigration system.

CONCLUSION

The creation of DHS, the unification of the border agencies within CBP, and the joining of CBP with TSA and ICE under the BTS Directorate are efforts that have enabled us to have a more comprehensive and effective strategy as we press forward with our many initiatives.

With the continued support of the Congress, CBP will succeed in meeting the great demands placed upon it, and will play a key role—by better securing our border against the threat of terrorist and criminal aliens—in the Department of Homeland Security.

Thank you again for this opportunity to testify. I would be happy to answer any of your questions.

Mr. HOSTETTLER. I will now begin the round of questioning from the Subcommittee. First of all, Director Aguirre, the budget that has been submitted by the Administration seeks an additional $60 million for CIS to reduce the backlog in pending applications. In January, earlier this year, the GAO told our Committee that from the beginning of FY 2001 to the end of FY 2003, the number of pending applications increased by 59 percent despite additional backlogs—excuse me, additional appropriations in FY 2002 to address the backlog. Why do you think that the backlog continues to increase?

Mr. AGUIRRE. Mr. Chairman, the report that you refer to, of course, hit right along the lines of September 11 and so we must recognize that a significant number of background checks that were not being performed prior to 9/11 began to be performed shortly after and actually increased subsequent to that when we recognized the possibility of what could be done in cooperation with other agencies.

Additionally, we, going back to September 11, there were also certain items within the old INS that fell to what would now be the new CIS. The NSEERS program, the creation of the SEVIS program, things that frankly today are not within our purview that have now been transferred over to ICE were part of the, if you will, the weight that we were having to carry during that period. I sus-

pect that much of the increase in backlog that occurred during that year can be almost traced right back to September 11.

Now, we've made progress and we've made a number of adjustments, partly separating the INS and devoting the enforcement efforts to one side and the service to another. So I'm not sure that when we see the report again we would see the same type of criticism.

Mr. HOSTETTLER. Thank you. And so you're saying that there was a significant increase in the number of background checks as a result of September 11, is that what you said at the——

Mr. AGUIRRE. Yes, sir. There was a significant increase in background checks which were not being done before. Therefore, that actually slowed down each application significantly, and then on top of that, hundreds of our adjudicators were redeployed from actually adjudicating cases to doing NSEERS and doing security checks that were away from their normal daily duties. Now, many of those individuals—hundreds of those individuals have actually repatriated, if you will, back to CIS and are going back to the adjudication process.

Mr. HOSTETTLER. Thank you, sir.

Mr. AGUIRRE. Yes, sir.

Mr. HOSTETTLER. Mr. Dougherty, the President's FY 2005 budget includes an additional $23 million for enhanced worksite enforcement. In your testimony, you suggest that there may be a tie between this funding and the President's proposal for a temporary worker program. If the agency receives the funding but the program does not go in place, do you see this funding being used for worksite enforcement, however?

Mr. DOUGHERTY. Thank you, Mr. Chairman. I think the emphasis for us in terms of the strategic direction is to continue our commitment to traditional worksite enforcement. We recognize, however, that should the TWP go forward, that there will be a corresponding enforcement impact, and we would expect to have a significant challenge in meeting that, and so we would address it towards that goal.

Should the program not proceed, we believe the money, or the money and the positions, could be profitably used to do two things. One is continue our traditional worksite enforcement operations like we did most recently, it's been publicly reported, with WalMart and other cases that are currently pending, and then also continue our critical infrastructure protection cases, which have had a direct impact across the nation.

Mr. HOSTETTLER. Very good. You've brought up an interesting point which will actually be the subject of a hearing in the future, and that is the administration of such a temporary worker program, what it would actually entail, and the notion that you've brought up that there will be a significant impact on worksite enforcement is not lost on this Subcommittee.

Eleven million dollars were requested by the President to more than double the intensive Supervision Appearance Program, which provides alternatives to detention. Mr. Dougherty, what sorts of alternatives to detention has ICE examined under the program?

Mr. DOUGHERTY. To date, we've examined a few things. First is electronic monitoring through—commonly known as electronic

bracelets to monitor where people are out in the community, whether they have left their residence, for example, and that's done through a centralized monitoring process.

We've also had an experimental project with voice recognition technology where an individual is required to call in and the technology verifies the voice print, that it is the person, they're calling at a particular place at a particular time. There are other concepts we have which we are experimenting with and would like to move forward with more residential settings for family members, for example, who are detained, rather than having them in the traditional detention, have them in a more community setting. It's better for families, and more economical for us to supervise if they are in a residential setting.

Mr. HOSTETTLER. Thank you, Mr. Dougherty. In your testimony, you point out that these individuals are not of a violent nature. They are somewhat more lower on the emphasis, you might say, of concern for national security and potential criminal activity.

Mr. DOUGHERTY. Yes, Mr. Chairman. These would be individuals who, after having applied, the standard detention guidelines would not be deemed necessary to detain for either national security reasons or public safety concerns.

Mr. HOSTETTLER. Thank you, Mr. Dougherty. The Chairman's time has expired.

The chair now recognizes the gentlelady from California, Ms. Sánchez, for 5 minutes.

Ms. SÁNCHEZ. Thank you, Mr. Chairman. I'd like to begin my questions by addressing the first to Mr. Aguirre. In your written testimony that you submitted, you discussed the regulator fee increases that the U.S. CIS is seeking and you say that the fee increases will ensure that our backlog does not increase further.

I'm interested in knowing what studies the U.S. CIS conducted or what evidence does the U.S. CIS have that proves that the fee increases will result in a reduction of the current visa backlog.

Mr. AGUIRRE. Sorry. I keep forgetting to push the button.

Congresswoman Sánchez, I think my indication was not that it would reduce the backlog but that it would not increase the backlog. The fee increase for us is a recuperation of the expenses of processing the applications as we're processing them right now. It is not intended to be a backlog reduction fiscal effort. The backlog fiscal effort, it's a different function.

The increase in fee for us is simply a recognition that 2 years ago was the last time we looked at the fees and many things have taken place in the last 2 years, and right now, we're simply not recovering the cost of processing the application.

I will just make an additional comment on the fee increase. It's almost a conundrum. We have a backlog and, therefore, fees were collected for applications that are now being processed months if not years later, and those fees were computed at the cost of pre-9/11 processes. The processes that we have right now are simply not being captured by the old fees, and therefore, I don't want to confuse the fees with the backlog.

Ms. SÁNCHEZ. I understand. I think I understand your point. I'm curious in knowing whether U.S. CIS in the process of finalizing a new backlog elimination plan that will outline the changes in

your business processes that are supposed to tackle the existing backlog. What processes do you have in mind to help do that, because the backlog issue is of growing significance.

Mr. AGUIRRE. Yes, of course, as I briefly mentioned in my opening comments, we are expecting to have a backlog elimination program report to the Congress within the next few months. We were waiting for the final on not only the fee increase, but actually on the budget so that we would know what resources would be available to us and, therefore, we can then allocate it. It's a matter——

Ms. SÁNCHEZ. So we'll expect that in the next couple of months, then?

Mr. AGUIRRE. Yes, ma'am.

Ms. SÁNCHEZ. Okay. Thank you.

A question for Mr. Smith. In your written testimony, you discuss DHS using biometrics to track the entry and exit of foreign visitors using fingerprints and photographs and you say that this program has been in place since September of 2003, is that correct?

Mr. SMITH. Well, I'm talking about our overseas collection, that we've begun now the overseas collection——

Ms. SÁNCHEZ. Okay, and it's currently operational in 70 locations?

Mr. SMITH. That's exactly right.

Ms. SÁNCHEZ. In that time, how many known terrorists have been identified and apprehended as a result of the biometric checks that are occurring?

Mr. SMITH. Congresswoman Sánchez, I'm not aware of any known terrorists that have been apprehended as a result of those checks. We have had a number of hits, though, with NCIC databases with the, or through the DHS IDENT system of people who were obviously individuals we did not want to admit to the United States. I think we had roughly 60 hits so far.

Ms. SÁNCHEZ. Okay. And you don't know what the—and what was the ultimate of those hits? They just denied entry into the United States?

Mr. SMITH. Well, in some instances, it may well be that there was a waiver requested and it could have been a waiver was issued. But most of them would have been denied entry, yes.

Ms. SÁNCHEZ. Okay. But no known arrests?

Mr. SMITH. Not that I'm aware of.

Ms. SÁNCHEZ. Okay. You also discuss in your testimony CIS's efforts to make the visa processing system more secure, and I don't think that there's a person up here that disagrees that that needs to happen. My question is, what is CIS doing to make the visa processing system more efficient and less burdened by the delays it is currently experiencing.

Mr. SMITH. You're referring to the Department of Homeland Security or are you referring to the State Department in this regard?

Ms. SÁNCHEZ. The State Department.

Mr. SMITH. Well, the State Department has done a number of things. We have, for instance, a pilot program now that we're initiating which will allow us to electronically communicate with other interested agencies in Washington, the so-called Security Advisory Opinion Improvement Project. We think that that will reduce some

of the delays in the security advisory opinions that we have been having of late.

I should stress, though, that most visas are adjudicated without any reference to Washington. That is, only a small minority are ever referred for special clearances to Washington, and 80 percent of those are cleared within a month. But there have been—has been attention focused on particular certain categories of security advisories and concern expressed about some of the delays there. As I say, we are working with our partners in the interagency community to improve the communication and to reduce any needless delays in that process.

We have also, as I mentioned, been a partner with our other colleagues in creating the Terrorist Screening Center. We think that having a watch list, one watch list for the U.S. Government for counterterrorism purposes will expedite this whole screening process.

Ms. SÁNCHEZ. Thank you.

Mr. HOSTETTLER. The gentlelady's time has expired.

The chair now recognizes the gentlelady from Tennessee, Mrs. Blackburn, for 5 minutes.

Mrs. BLACKBURN. Thank you, Mr. Chairman, and thank you all for being here today. We certainly appreciate that.

Mr. Dougherty, I'd like to start with you if I may, please, sir. There is a basic worker verification program that has been a pilot project in six States, California, Texas, Florida, New York, New Jersey. How are you monitoring that program?

Mr. DOUGHERTY. Congresswoman, I believe you are referring to the SAVE system?

Mrs. BLACKBURN. Yes.

Mr. DOUGHERTY. My current understanding is that the SAVE system is administered, technically administered, by CIS, today and I think I can speak to the process, unless my colleague would like to do that.

Mr. AGUIRRE. Go right ahead. [Laughter.]

Mr. DOUGHERTY. Thank you. As you said, it is a pilot project that Congress funded and it provides an interface for certain governmental entities in certain, in narrow cases, within industry to verify Employment Authorization Numbers or an alien number. I understand there is an interface with the Social Security Administration and then a subsequent interface with the immigration databases.

Essentially, as I understand the process, you get a yes or a no answer. Is this a valid number? Is the person representing this number, proffering it, authorized to work or not? Today, there is no automatic referral process when there is a denial, or a record that indicates that the number is not valid, or the number is not authorized, or the number does not represent authorization to work. There's not an automatic referral to ICE for an enforcement action.

Mrs. BLACKBURN. Okay, thank you. Now, is ICE or is CIS working with the military with this worker verification program?

Mr. AGUIRRE. Congresswoman, we are working with the military in a variety of aspects. I'm not sure how that would fit to your question. Our work with the military has more to do with natu-

ralizations and things of that nature, but I'm not—I'd be happy to get closer to your question.

Mrs. BLACKBURN. That will be fine. My question is coming from an article that I have, and I'll be certain that this is passed to you so that you can prepare a response for the question. It comes from the Denver Post and the concern over some of the individuals in our military whose status is unknown as regards their citizenship. So I would appreciate a response on that, if you don't mind.

Mr. AGUIRRE. Not at all, Congresswoman, but let me do mention that for people to serve in the military, they must be holding a permanent residency.

Mrs. BLACKBURN. Correct.

Mr. AGUIRRE. And, therefore, the military is responsible for determining the status of the individual. We are working with the military right now to expedite the naturalization of those who seek it.

Mrs. BLACKBURN. Correct, and our concern there is on the documentation and I'll be sure you have the article because we would appreciate a response.

Mr. AGUIRRE. Happy to.

Mrs. BLACKBURN. I do have one question for you, sir. You know, I know that the Nebraska Service Center, Texas, California, all provide timely detailed information to my caseworkers when we call on them for help and I wish that I could say the same thing for the Memphis sub-office because we hear many complaints from constituents concerning the Memphis office, and this is one, for example.

A U.S. citizen wanted to adopt internationally and was told she needed to speak with a supervisor. After waiting in line for over an hour, she was told the supervisor had left for the day. And many examples of evidence and documents are sent that are supposedly never received in that office, and as a result, work permits are revoked, individuals being sent to the wrong town for their swearing in and being told that they can't participate in the swearing in in that town.

One thing we would like to know is how our D.C. office and our district office can work with yours to improve the service that our constituents and our staff receive from the Memphis office and we would appreciate your help on that.

Mr. AGUIRRE. Congresswoman, thank you for bringing that to our attention. I have in almost a year that I've been at this job, I have gone around the country and met with about a third of my 15,000 employees. I regret to say I haven't made it to Tennessee just yet and Memphis will be on my list to make sure that we take a look at what it is we can do to make that office satisfactory, not only to you, but particularly to those who apply for services and see if there's anything that, you know, resource allocation or guidance that's necessary. I'm not aware of any particular problems so I can't respond specifically, but I will look into it for you.

Mrs. BLACKBURN. That would be excellent. Thank you, sir. Thank you, Mr. Chairman.

Mr. HOSTETTLER. The gentlelady's time has expired.

The chair now recognizes the gentlelady from California, Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman. The questions I had on the fees have, for the most part, been asked, but I did note in the GAO report that they—this is a quote, it's not very nice, but it's them saying it—they say, "CIS knows neither the cost to process new applications nor the cost to complete pending applications," unquote. Do you think that's incorrect, and if it is correct, how do you—how did you base your recommendation for the fee increase?

Mr. AGUIRRE. Congresswoman, I might add, you said today was immigration day for you. Every day is immigration day for me.

Ms. LOFGREN. Yes.

Mr. AGUIRRE. And I'm not sure if they were referring to a point prior to the fiscal year which they analyzed or to today. I don't think it is accurate today.

Ms. LOFGREN. Okay.

Mr. AGUIRRE. I think we are actually very sophisticated in determining the cost of our application processing.

Ms. LOFGREN. Okay. Let me ask a question, and this is a specific one but it's something that I have been working on along with other members of the Refugee Caucus and it involves, obviously, therefore, both your agency as well as the State Department. But we have, as you know, we have not actually admitted the number of refugees that the President has said that we would, and I think there are a lot of reasons for that. It is a concern to the Refugee Caucus, which is, as you know, a strong bipartisan caucus here in the House.

But specifically, I am concerned about the 2,000 stateless Vietnamese who are in the Philippines. I sent a letter to Arthur Dewey at State, and I'll be happy to give you a copy. It's my understanding that the State Department has essentially identified the population, recommended them for resettlement, but that CIS has not actually performed its function yet.

Now, I have a special soft spot in my heart for these refugees because when other countries were forcibly deporting Vietnamese refugees back to Vietnam, we met—I met, along with some others, with the members of the Philippine legislature and also the Catholic Church in the Philippines and they intervened, and even though the Philippines is a very poor country, they did not take the step that others did and they allowed these refugees to stay, because many of the refugees that were returned ended up being imprisoned or killed.

I'm wondering, is there a way that we can help you get this resolved so that—these are all people who have ties to the United States. Can you fill us in on what's going on with that?

Mr. AGUIRRE. Yes, ma'am. I also have a special spot in my heart for refugees because I myself was a refugee from Cuba and, in fact, Catholic Charities was the one that cared for me until I was able to be of age.

I'm not particularly aware of this case with the Vietnamese although I would point to the fact that if you ask what it is that you can do, please approve our appropriations request as soon as possible because it—within it there is a request for Refugee Corps.

Right now, as we handle refugees, we are drawing from individuals that are already on asylum corps and then we are temporarily detailing them abroad for interviewing of refugees. We are very in-

terested—I am personally very interested in filling every potential opening for refugees in the President's——

Ms. LOFGREN. Perhaps I can ask you, if I would, I'll give you this letter and if you could get back to me on these particulars, I'd be very appreciative.

Mr. AGUIRRE. Glad to do it.

Ms. LOFGREN. And I've got one more question.

Mr. AGUIRRE. Yes, ma'am.

Ms. LOFGREN. I think that's all I'll have time for.

Mr. AGUIRRE. Get it in there.

Ms. LOFGREN. It has to do with biometrics. This is immigration day because between seeing Asa Hutchinson in the morning, we saw McCleary in the Science and Technology Subcommittee of Homeland Security and he mentioned that his Science and Technology Directorate is developing standards for biometrics. And I asked him the question, we're deploying biometrics in the State Department and in the border functions, but you haven't yet devised them.

And the question is, how are we going to integrate the best practices and standards that the Science and Technology Directorate is developing into what you're already deploying, because from what I am hearing, we may want some duplication. The FBI wants ten fingerprints because of what they learn abroad. The dataload on an iris scan is a lot lighter and we may want to do that. So I guess this is both for State and CIS. How do you plan to integrate this science?

Mr. AGUIRRE. Well, I'll begin, ma'am, by indicating that biometrics is, of course, a very fast, fluid, moving target. For us, the issue of biometrics is more related to background checks than with identification per se. In other words, we need ten fingerprints so that the FBI can comb their files efficiently and cost effectively and give us information on an individual. They could actually identify half a fingerprint, but it takes so long and costs so much that it would be impractical.

We are making sure that as we develop biometric standards, we're in coordination with the rest of Homeland Security, State Department, Justice, and elsewhere so that we are not duplicating or working at odds with each other. I leave it to State to continue answering the question, but it's a continuing issue. There is no finish line to this.

Mr. SMITH. Just to add, Congresswoman, we decided on initially two fingerprints. This was an interagency decision, actually, of the Secretary of State, Secretary Ridge, and the Attorney General who were involved in this decision, because we believed that was the—what was necessary to meet the law—in order to meet the October deadline for collecting biometrics with our visas. Thus far, it has worked very well and we've been in sync, absolutely, in lockstep with the Department of Homeland Security on U.S. VISIT.

When we talk about biometrics and the passport, though, it's a different story. The biometric in the passport is going to be facial recognition. This is the International Civil Aviation Organization's standard. It was the standard that Congress had adopted with regard to the Visa Waiver Program and the requirement that those countries place a biometric in their passport; and we are pro-

ceeding on the basis of that standard now with respect to the U.S. passport.

Ms. LOFGREN. I realize that my time has expired, but are we going to have a second round of questions or is this it?

Mr. HOSTETTLER. Yes, we will.

Ms. LOFGREN. Then I'll yield back my extensive time. Thank you.

Mr. HOSTETTLER. The chair now recognizes the gentleman from Iowa, Mr. King, for 5 minutes.

Mr. KING. Thank you, Mr. Chairman.

I would first direct my questions to Mr. Dougherty. As I look at some of the numbers that you have here in your testimony, having examined about 260,000 employee records, about 1,000 workers are arrested, 774 indictments, those kind of numbers, I see that the nation has been discussing numbers of illegals within the country in the range of eight to 12 million. I'm wondering if you have a number on that. Do you have a sense of how many illegal aliens are in this country, and if so, could you also break down how they got here?

Mr. DOUGHERTY. No, sir, Congressman. I don't have a reliable number for the number of individuals in the United States without authorization and I'm not sure I've seen a reliable estimate. I will tell you that from our perspective, when we look at the problem, we need to focus our enforcement resources on the highest national security and public safety impacts. So when we look out at that population, we think about the criminal aliens, those that have committed serious crimes and have been ordered deported for that. Or working through our partners, with our partners in the FBI and the Joint Terrorist Task Force concept, the national security threats.

Mr. KING. So you'd have a sense of the percentage of those illegals that have committed serious crimes. You'd have a sense of how many are incarcerated in our Federal and our State penitentiaries today. Would you be able to give us a sense of about how many American citizens fall victims to those criminals?

Mr. DOUGHERTY. Sir, I think I probably have the statistics or a sense of the statistics on the first part. In terms of the number of citizens who are victimized, probably working with the Department of Justice, some number could be arrived at, but we'd be happy to provide you and the Committee with any studies we have.

Mr. KING. I'd be very interested in that number, and the reason I asked the question is that we have compassion for victims of all kinds and this Committee often talks about the number of people who are victimized, if they are forcefully repatriated to their home country, as well as those who cross the desert, but that number is the only number we hear. We don't hear the number of people who are victimized by those who have successfully made the crossing. Thank you.

I'd direct my next question to Mr. Stodder. You discussed, I believe, an increase in border enforcement along the 4,000-mile Canadian border, maybe as much as tripled the number that we had around September 11.

Mr. STODDER. Right.

Mr. KING. Do you have a sense of how effective that's been in some concept of percentage of enforcement and about what it would take to get closer to the 100 percent enforcement?

Mr. STODDER. I actually don't have a sense necessarily of how effective that's been. I mean, we, as of the end of last year, last calendar year, we reached 1,000 Border Patrol agents on the Northern border.

The thing you have to think about the Northern border is that it is a different phenomenon than the Southern border because we don't necessarily have a mass migration threat that we have on the Southern border. I mean, it's really much more of a sense of—the attempt is to—everybody who's crossing that border is absolutely a threat and we need to detect them and interdict them.

But we are in the process—we have 1,000 Border Patrol agents on the Northern border. We are building up our sensoring capability on the Northern border. By the summer, we anticipate we will be piloting UAVs on the Northern border at some point. So I think we will get more of a sense, I think, through this year in the sense of what we really need on the Northern border. But this is a work in progress.

Mr. KING. Are any of those same things happening on the Southern border?

Mr. STODDER. Yes. I mean, certainly the UAVs. We also would anticipate testing UAVs on the Southern border in Arizona, as well as I think ICE is also doing some stuff with UAVs, as well. But absolutely, and we are increasing our sensoring capability. The President's budget in '05 will also give us the ability to go further.

Mr. KING. Given that we have a border policy, at least in the Western Hemisphere, that a birth certificate and driver's license gets you into the United States unless you're coming from Cuba, if we should decide that we want to require that traveler to provide an affirmative identification and proof, that would be the form of a passport, a biometric passport in whatever form we've discussed here. Can you handle that at the border if everybody crossing has to swipe a passport, or does that just burden you so much that it can't happen?

Mr. STODDER. Well, not necessarily. I mean, the policy decision on that is obviously well above us, but, I mean, obviously there would have to be changes in the system a bit, but the U.S. VISIT system, I think would form a basis for some of that. But I would probably defer that question a bit.

Mr. KING. Thank you, and I'd just in my brief moment left, I'd direct then to Mr. Smith, if we went that route and required passports coming from all Western Hemisphere countries, is that something that you could process, or how big of a burden would that be?

Mr. SMITH. Well, sir, I believe you're talking about requiring American citizens to have passports, is that correct, or——

Mr. KING. I'm talking about anyone coming from a nation in the Western Hemisphere other than Cuba that's today using a birth certificate. Oh, you're right. You're right on that, on American citizens.

Mr. SMITH. Because most of them, other than Canadians, would have to come with a passport and visa. But with respect to American citizens and the requirement that American citizens travel

within the Western Hemisphere with a passport, it is a very large policy decision and one that would have enormous resource implications for the Department in terms of the issuance of passports, but one that at this point, at least, has been discussed, but I don't know that there's any proposal with respect to that requirement.

Mr. KING. And my reference does fall to non-American citizens who use those false identification processes to come in under the guise of being American citizens just with birth certificates and drivers' licenses.

Thank you, Mr. Smith. Thank you, Mr. Chair.

Mr. HOSTETTLER. Thank you, Mr. King.

The chair now recognizes the gentleman from California, Mr. Berman, for 5 minutes.

Mr. BERMAN. Thank you, Mr. Chairman.

Director Aguirre, on October 27 of last year, Melissa Hart and I on this Committee, along with 13 of our colleagues, sent you a letter regarding the need for administrative reforms in improving the processing of the nonprofit arts-related O and P non-immigrant visa petitions. Do you think that letter is being irradiated, or can we get a response to that at some point into the near future?

Mr. AGUIRRE. Congressman, I'm sorry that I don't know about your specific letter. We went through a very——

Mr. BERMAN. We'll give you a copy.

Mr. AGUIRRE. Thank you, but I just wanted to say that we went through a very extensive scrubbing process before the end of the year to make sure that no letters were pending response and so I'm terribly sorry that yours may be the one and only that perhaps we missed. So I'd be more than happy to look at it. We want to maintain a responsive posture toward Members of Congress and I'll take a look at it.

Mr. BERMAN. Great. I appreciate that.

Mrs. BLACKBURN. If the gentleman would yield for just a moment——

Mr. BERMAN. Sure.

Mrs. BLACKBURN. I also have a copy of my letter that I signed on, the same letter that the gentleman is referring to, so mine has gone unanswered also and I would appreciate joining him in his request.

Mr. AGUIRRE. If it is the same letter, I'm sure I have the same response.

Mr. BERMAN. Think of it as 15 letters. [Laughter.]

Mr. AGUIRRE. Of course, it is immigration day, isn't it? [Laughter.]

Mr. BERMAN. I appreciate that. You've talked a little bit about the fees and your plan and we know about the recent fee increase. I'm looking at the—what would happen if someone came in and—what would happen to the backlogs and your ability to function if somebody came and said that a third of the money you're now using will be diverted for other purposes?

Mr. AGUIRRE. Well, sir, if a third—now you're going to a hypothetical and it's bending my head. If a third——

Mr. BERMAN. There's a legislative effort to take away a third of your money to provide to the States for the detention of people held by local law enforcement based on their status.

Mr. AGUIRRE. Right.

Mr. BERMAN. I'm wondering what that would do to the services side of the agency and your effort to deal with the backlogs.

Mr. AGUIRRE. Yes, sir. Well, Congressman, what I said in my opening statement is that we are a fee-driven operation and we are depending on those fees to fund the operations that we have, the 15,000 employees, a third of which are contract employees. And so if the funds weren't there, I'm sure we would not only increase the backlog, but terribly disrupt the Immigration Service.

Mr. BERMAN. I guess it would be a way of stopping contracting out. [Laughter.]

No, just—but I take it your response is, it would have a devastating impact on what you do.

Mr. AGUIRRE. Very, very good choice of words. Thank you, sir.

Mr. BERMAN. Because H.R. 2671, the CLEAR Act, directs that a third of the fee resources be diverted to funding the States for the cost of detaining these people. It allows you the ability, then, to raise your fees even further. I'm curious what you think of the implications of a policy that says that legal residents and people applying for legal resident status in the regular way, and people applying for naturalization who are legal permanent residents, should subsidize the detention of illegal immigrants in State prisons and local jails.

Mr. AGUIRRE. Congressman, obviously you're familiar with a bill that I'm not and therefore any response that I give to your very specific questions are going to be without taking the whole thing into context.

My answer perhaps will be that I think the Congress has acted and the President has signed the Homeland Security Act of 2002 which separated the service side of immigration from the enforcement side of immigration so that each of us could focus not only our resources and our attention and our process analysis to a relatively different aspect of the same universe. And therefore, we are doing the best we can to identify the cost of our application processing so that the fees can be funding that process.

Mr. BERMAN. So that the strong Congressional bipartisan desire to separate enforcement from services and provide a fee-based funding mechanism for services would be—that separation concept and principle would be violated by an effort that would try to divert fees to cover enforcement activities by State and local law enforcement officials. Is that a fair conclusion?

Mr. AGUIRRE. I'm sure your analysis is accurate in relation to how you understand that bill. I don't know the bill.

Mr. BERMAN. I hope you won't. Thank you very much.

Mr. AGUIRRE. Thank you, sir.

Mr. HOSTETTLER. I thank the gentleman from California.

We will now enter into a second round of questions. Mr. Aguirre, Director Aguirre, if I could, with regard to the workload that your organization has, there is no effective hard maximum to the number of applications that CIS can potentially be called on to adjudicate, is that correct? I mean, there's essentially no limit?

Mr. AGUIRRE. Mr. Chairman, the limits as they were I think are related to how the Congress has instituted into law the Immigration and Nationality Act. There are a number of caps in any num-

ber of different categories, and, of course, that, therefore, establishes the limit. But in the abstract, there is no limit. We are a—we take as people come and apply.

Mr. HOSTETTLER. Especially with regard to family members.

Mr. AGUIRRE. Yes, sir. That is correct.

Mr. HOSTETTLER. I just think that that needs to be understood for the record, that while there is a significant backlog, there is almost an endless source of applications that can be added to your workload, so I appreciate that.

Mr. AGUIRRE. Job security, as it were, yes. [Laughter.]

Mr. HOSTETTLER. Yes. Mr. Stodder, I have questions. The Border Patrol has seen an increase in agents in the past few years.

Mr. STODDER. Yes.

Mr. HOSTETTLER. You pointed that out in your testimony. It does not seem as if there is an increase called for in the FY 2005 budget. Is that accurate?

Mr. STODDER. That's accurate.

Mr. HOSTETTLER. How is the Bureau going to affect change with regard to the number of folks coming into the country illegally?

Mr. STODDER. I think, Mr. Chairman, I think that—I mean, our sense of this is, and you have to look at border security in terms of the mix of resources that we throw at the problem, and the green shirts, as we call them, or the Border Patrol agents are one piece of it. We have between 9,000 and 10,000 Border Patrol agents on the Southern border right now, which is a large complement of agents.

But you have to look at it also in the context of other technology that we bring to bear, whether it be low-tech technology like fences, sensors, and et cetera and cameras and things like that all the way to very high technology, like UAVs. It's the mix of resources that we think brings substantial control to the border.

I mean, in our estimate, thinking about the Border Patrol in terms of its strategy and how it's rolled out since the mid-'90's, it's really starting with Operation Gatekeeper in San Diego and similar programs in Texas, in El Paso and Laredo. We have gotten substantial control over the border in certain urban areas, like San Diego.

I was just in San Diego a couple of weeks ago and it's amazing to see the development, actually in Chula Vista, right opposite the border, that would have been unthinkable 15 years ago before the Border Patrol really got control of that border there, and how did it do that? It got it somewhat through increased Border Patrol staffing, but it also got it through increased fencing, better sensors, better cameras, better surveillance, et cetera.

So I think that the fact that we are not requesting additional Border Patrol agents in fiscal year '05 is not going to hamper our ability to control the border because I think that the increase in sensoring and cameras in our estimate is going to be far more important and will allow us to get much better control over the border.

Mr. HOSTETTLER. My concern is that I think there was a study in 1998 with regard to staffing of especially the Southwest border. At that time, it was determined that there would be slightly—have to be slightly less than 16,000 agents to man just the Southwest

border. I understand the influence of force multipliers with regard to UAVs and other technology——

Mr. STODDER. Right.

Mr. HOSTETTLER.—but given that that is an untested mix, I'm wondering what we do in the interim with regard to going from improving our Border Patrol to a mix of technology and human resources that is untested at this time. That's my concern.

Mr. STODDER. Mr. Chairman, I guess, with all due respect, I would say that that mix is not necessarily untested. I mean, the one piece that is untested is the UAVs and we are testing them now and we will be testing them over the summer. But I think that the mix of infrastructure and technology and detection technology and cameras as well as uniformed Border Patrol agents is tested and it works and it's worked in San Diego, it's worked in El Paso, it's worked in certain parts of Texas, and we're applying that—we're going to be applying that pretty strongly in Arizona this year to try to get better control in Arizona.

I mean, certainly, I mean, in the future, we may evaluate and view that we might need more people. But at this point, we don't, I mean, we don't think we do and we think we can make do with what we've got with the increases in technology and sensoring and cameras as well as the UAVs that the President's budget calls for.

Mr. HOSTETTLER. Very good. Thank you.

Mr. STODDER. Thank you.

Mr. HOSTETTLER. The chair now recognizes the gentlelady from California, Ms. Lofgren, for 5 minutes.

Ms. LOFGREN. Thank you, Mr. Chairman. I just have a few other additional items.

All of us have district offices and it turns out that all of us have lots of immigration inquiries, so this one is really for my hard-working staff in the hopes that we might come up with a better procedure than we've had so far.

We have had—we now have the third case in as many years of an American citizen with kidney failure who needs a kidney transplant from a sibling or family member in another country. The first case we had, and we had to go, I mean, it was a big to-do in the newspaper. I mean, this is a U.S. citizen. And the doctor, we talked with the doctor. The doctor did letters. The woman was going to die if her brother didn't give her the kidney. I thought it was great that he was willing to donate his kidney, and it took almost 8 months. I mean, she was on dialysis for 8 months and finally he got his visa, he donated his kidney, and then he went home.

We had another case, it took 8 months. And we have another case still, and it's very confusing and it just seems to me, I guess this is for both Smith and Aguirre, that there ought to be a way—I mean, certainly we don't want a fraudulent situation and there's no disagreement with that. But these are ascertainable items. If you've got a physician—I think the current case is at UCSF. We had one at Stanford University Hospital. I mean, the doctors are not going to be making this up and there ought to be some way to streamline this so that Americans here who need that kind of help can get it quickly and not have to hang on and potentially risk their lives because of bureaucratic delays.

Can you offer me any hope on that, either one of you?

Mr. AGUIRRE. Congresswoman, I'm going to punt only by saying that I don't think it's our purview. I think it's going to be probably a temporary visa——

Ms. LOFGREN. It is a temporary visa, but I'm thinking——

Mr. AGUIRRE. So it would probably be State.

Ms. LOFGREN. It is the State Department that is in charge of issuing the visas, but it seems to me there could be some coordination between—or even the Congressional offices. I mean, there isn't a Congressional office in the country that's going to lie about this. I mean, we're your allies in keeping our country safe and strong. Maybe I need to direct this to Mr. Smith.

Mr. SMITH. Congresswoman Lofgren, I was not aware of those specific cases that you mentioned but I have heard of similar cases. As you know, each individual needs to apply on their own——

Ms. LOFGREN. Right.

Mr. SMITH.—and qualify on their own for a visa, but there are two possibilities. One would be that they were able to qualify and to establish their bona fides and come over to the United States for this purpose. The other possibility would be humanitarian parole, which the Department of Homeland Security would decide upon——

Ms. LOFGREN. Right.

Mr. SMITH.—in those cases where we found that somebody was not eligible for a visa.

Ms. LOFGREN. Well, maybe what I could do is I could summarize these cases and send them to you and ask you to think if there's some way we could streamline this, because in the case of one lady, she almost died. I think there was concern that her brother, he was young and he was from the Philippines and would he go home. Frankly, I'd rather the American citizen got the transplant and lived than we had somebody overstay their visa, in all honesty. But, in fact, he went right home after he donated the kidney, just as he promised he would. So I will do that.

The other question I would like to ask has to do with processes. I continue to have concerns about the deployment of technology in immigration services and I'm hoping that your backlog reduction plan will address that, the storage of fingerprints so that we don't have to do them over and over again, the online processing of applications, the ability to check on the status. I mean, half of the calls into your offices are people trying to find out what's going on. If there was another way to find out, everybody would be happier and your officers could do their work.

I also wanted to express my hope that you will come to the San Jose office, and when you do, don't let them know in advance. Just show up and then tell me what you think of the guard services that we have contracted for, because one of my constituents who is a dean at the local college married a woman from Russia. They applied and he told me that it was the most humiliating thing as an American he'd ever been through, that his wife, as they were standing in line, said, "This is just like home. This is just like the Soviet Union."

Mr. AGUIRRE. Quite an endorsement, huh?

Ms. LOFGREN. Yes. So we can do better than that and I would love to have you come to San Jose.

Mr. AGUIRRE. Well, Congresswoman, I look forward to visiting that office as I do basically all of them. Your first question in terms of technology, technology is, without a question, the only way we are going to get out of this horrible backlog that we have and so we're looking for new technology to be implemented and making sure that it is cost effective and practical and applicable.

Now, in terms of the customer service that people may or may not get, I'd just like to assure you that as an immigrant myself, the one and only requirement that I established when I accepted this job was that we would treat all applicants with dignity and respect, and that was embraced by both Secretary Ridge and President Bush. At any time that we encounter a cultural issue in terms of our employees not understanding that, we take corrective actions, whether they're contract employees or otherwise. So I assure you that any time we hear about situations like these, we'll take a good look at it and make sure that people are treated with dignity and respect even if we're going to say no to the question.

Ms. LOFGREN. If I may indulge the Chairman, I would direct your attention to the contract security personnel at the San Jose office——

Mr. AGUIRRE. Yes, ma'am.

Ms. LOFGREN.—because I've personally witnessed, as have all the staff, really very abusive——

Mr. AGUIRRE. Duly noted.

Ms. LOFGREN. Thank you.

Mr. HOSTETTLER. The gentlelady's time has expired.

The chair now recognizes the gentleman from Iowa, Mr. King, for 5 minutes.

Mr. KING. Thank you, Mr. Chairman.

Mr. Stodder, as I listen to your testimony, I don't believe I heard you call for more Border Patrol officers on either the Northern or Southern border?

Mr. STODDER. Well, I didn't say that. I mean, I said that the President's budget has not requested more Border Patrol officers in the aggregate. It may be that we continue to move Border Patrol agents around in the sense that getting to 1,000 Border Patrol agents on the Northern border, we did take people from different locations around the country. So it may be that we conclude in this year that additional agents are needed on the Northern border, in which case we will move agents to the Northern border.

Mr. KING. Then on the Southern border, if you have a 4,000-mile border on the Northern border with 1,000 agents up there and you have a 2,000-mile border on the Southern border, how many agents do you have down there?

Mr. STODDER. We have close to 10,000 on the Southern border.

Mr. KING. On the Southern border?

Mr. STODDER. Yes.

Mr. KING. So there's a tremendous amount of concentration down there in comparison, at least, to the Northern border.

Mr. STODDER. Right. Totally different threat, though, I mean, in the sense of the—the mass migration threat from the Mexican border into the United States.

Mr. KING. Certainly.

Mr. STODDER. I mean, it's essentially that mission, whereas I think the Northern border mission is less of a mass migration mission and more of a detection and response mission.

Mr. KING. And so it might be that there is, as a percentage of the number of illegal crossings on the Northern border, there is that threat of terrorism that might be greater in proportion to the number of population that come across.

Mr. STODDER. That could be, because there aren't that many economic migrants that are going to be coming across the Northern border. But, I mean, the notion of 1,000 Border Patrol agents, and again, as I was stating to the Chairman, you have to think of it in terms of the mix of what we're doing on the Northern border, because it's not just 1,000 Border Patrol agents up there. It is the——

Mr. KING. All the technology.

Mr. STODDER.—all the technology. It's the air assets. The other thing that's important on the Northern border which we have worked with is working with the State and locals in the sense of we will be moving out to establish CBP task forces——

Mr. KING. Thank you, Mr. Stodder. I'm watching the clock, but I appreciate it.

Mr. STODDER. Yes. Sure.

Mr. KING. Then I would direct to Mr. Dougherty. If I recall correctly, the Attorney General was here testifying some months ago that those illegal aliens adjudicated for deportation, if they were released on—if they were not incarcerated but released on their own recognizance, that about 85 percent of them, I believe was the number, 85 percent just blended back into society.

I'm looking at a report here that shows that non-detained aliens with final orders, 87 percent report back—blend back in and, in fact, a number of non-detained aliens, is the term using, from countries who sponsor terrorism, they were looking at 94 percent. Do you care to comment on that?

Mr. DOUGHERTY. First of all, I'm not sure I'm familiar with the report you're referencing, but I'm familiar with the concept. There is a well known incidence of those with final orders of removal who have—criminal aliens and non-criminal aliens who have been through proceedings, who were either not detained in the initial instance or who were subsequently ordered released by immigration judges while they were going through the proceedings who do not appear for removal or do not self-deport. It's a significant problem.

We are focusing our resources, as I mentioned earlier, on the criminal aliens in that population because that's the highest public safety impact, as well as on the national security threats, as well. Today what we are also seeking with the funding levels requested in '05, to work on reducing the increase in the rate of new fugitives. So one program we have in place now is to take individuals who receive final orders of deportation directly out of the courtroom in the immigration courts. They receive the final order. They do not have the opportunity to blend back into society.

Mr. KING. Directly to deportation?

Mr. DOUGHERTY. That's correct, sir.

Mr. KING. And I appreciate that comment, and I'm watching the orange clock here. I will just lay out maybe a possible way to devise

a better system that we could have, and it's not critical of the operations that any of you operate, but it keeps in mind that there's a tremendous demand for illegal labor because of the price here in this country and that's a magnet that attracts people that want a better life and we recognize that and it's a human characteristic.

I'm thinking that there's another organization out there, another agency that has some tools that haven't been brought to bear here. We have now enacted through Congress an act that allows an employer to identify a potential employee as a legal employee; they'll eventually and very soon be able to go up on the web and enter in the same, Social Security number, green card number, and come back with a positive identification to verify that that's a legally employable individual.

I'm going to suggest to you all that I'd like to grant you some help of one day having an IRS agent sitting here and give them the authority to go in and enforce in a fashion different than testified today, and that would be to remove Federal deductibility for wages and benefits that are paid once an employer can verify the legality of the potential employees, whether they're guest workers, whether they're green cards, whether H-1-Bs, whether U.S. citizens. If we remove the Federal deductibility, employers themselves will enforce this and I believe it'll take a lot of load off the back of all of you.

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

Mr. HOSTETTLER. I thank the gentleman from Iowa.

The chair now recognizes the gentleman from Texas, Mr. Smith, for 5 minutes.

Mr. SMITH OF TEXAS. Thank you, Mr. Chairman, and thank you once again for holding an interesting and timely and critical hearing on such an important subject matter. I want to make some observations and then I have a couple of questions for some of our witnesses here today.

First of all, I am glad to see in the Administration's budget an increase in the money that's going to be spent on the worksite inspections. I notice, though, in some figures that we have been given in a memo to all Members of the Subcommittee that the number of companies fined for hiring illegal workers has plummeted from over 1,000 in 1992 to 13 in 2002. That means it was almost nonexistent.

And while it's a step in the right direction that we're increasing the amount of money—as I recall, it was something like from $20 million to $40 million, roughly—for worksite inspections, that's a little bit like having two candles instead of one candle in a blackout. It's a step in the right direction, but it's not doing near what we should.

The gentleman from Iowa just made an excellent point a while ago, which is basically if we're not willing to enforce employer sanctions, we're not really willing to reduce the attraction of the largest magnet that is attracting the individuals to this country, that is jobs. So I hope that this is the beginning of an Administration willing to go into the right direction.

But what concerns me, I think, is the mixed signals that is coming from the Administration. We had this small increase in a very large budget in one area. Meanwhile, as I understand it, we are not

increasing the number of Border Patrol agents. And meanwhile, going back to my assertion of mixed signals, we are approving matricular cards which are only going to be helpful to illegal immigrants and help them stay in the country longer. We're not doing anything to discourage States from offering drivers' licenses. We continue to give Federal benefits to many people in the country who are here illegally.

In other words, we make it very, very easy in many, many ways for individuals to stay here who are here illegally. That is not the right signal to send if we are, in fact, serious about reducing illegal immigration in America.

To the question that we hear asked so frequently, well, we have ten million people in the country illegally. What are we going to do, deport them all? No. There's an alternative to that and there's an alternative to gradual amnesty or immediate amnesty, depending on who is proposing it, and that is enforcing immigration laws. And if we enforced immigration laws alone, that would discourage many people from coming and would discourage those who are here from staying.

All that would lead to a reduction in the number of people who are in the country illegally, which, by the way, is far more than ten million. Ten million refers to the number of people who are here permanently. If you today took a head count of the number of people in the country illegally, it would probably be closer to 20 million because there's a lot of people who are here only for a month or two or three.

That's how serious the problem is, and if the Administration were serious, we wouldn't be sending these mixed signals, in my judgment.

Another mixed signal, by the way, is that I just had a staff counsel return from a trip to the border where she was informed by various agents that in New Mexico and Arizona, a person coming across the border illegally had to actually be apprehended between ten and 15 times before they were actually arrested and officially deported. When you're coming into the country or want to come into the country illegally and you figure your chances, that you have 15 free chances, that's an open invitation in bright red lights to come to America, keep trying to come to America. And, of course, we know once you get across the border and if you don't commit a serious crime, you're basically home free. So we shouldn't be surprised that both the illegal immigrant traffic is increasing and we shouldn't be surprised that so many people want to stay here. We're making it very easy for them to stay here.

By the way, I don't know who to ask, Mr. Dougherty or Mr. Stodder. On the Texas border, how many times do you have to be apprehended before you're actually a part of the deportation process, do you know?

Mr. STODDER. I actually don't know and it probably—it varies from location to location. It's not just——

Mr. SMITH OF TEXAS. From sector to sector——

Mr. STODDER. Yes, sector to sector——

Mr. SMITH OF TEXAS.—but it's probably five to 15 times?

Mr. STODDER. Yes, it's probably—that's probably about right. I mean, the other issue is, of course, the question of prosecution, I

mean, the prosecution thresholds in terms of whether you're going to be prosecuted for illegal entry, because the other thing, of course, is even if you are officially or formally removed from the United States to Mexico and you have a removal order, you could cross again but not be prosecuted. So I'm not sure necessarily a removal order may not get you an enormous amount.

But I do want to comment——

Mr. SMITH OF TEXAS. But a removal order is far more than happens most of the time, is my point.

Mr. STODDER. Sure. But I do want to comment on one thing in terms of what you're talking about in Arizona——

Mr. SMITH OF TEXAS. Yes?

Mr. STODDER.—which is what I refer to in my testimony, which is the interior repatriation issue with Mexico, because so many of the people who are—about 95 percent, close to it, say in Arizona or many of the border areas, of the Mexican citizens that are coming across the border or migrating are actually from Central and Southern Mexico. They're not from the border States. And so that is what's so vital about interior repatriation, because you're right in the sense that if we are voluntarily repatriating people right across the border, where else are they going to go?

Mr. SMITH OF TEXAS. That's true, but you know what? You just used the magic word which I think just totally makes the interior repatriation meaningless. It's voluntary. If someone wants to come back across the border illegally, why would they agree to go back to the interior or whatever country they came from? If it's not mandatory, it's to me very ineffective, at least in my opinion.

Mr. STODDER. Well, there's a distinction there in the sense that the interior repatriation back to Central or Southern Mexico is voluntary in the sense that it's an agreement with the Mexican government and we are still working out the details of that. There will be inducements to have people go on the planes to go to the Central and Southern Mexico, including, potentially, lateral repatriation.

But as I say, voluntary repatriation, that just simply means that they're withdrawing their ability to come into the country, so they could choose to go into formal removal proceedings if they wanted to, but ultimately they will be——

Mr. SMITH OF TEXAS. But the question of whether they go all the way back to the middle of the country or the Southern part of the country is still voluntary, is it not?

Mr. STODDER. It is voluntary, but, I mean, this is something that we are still working out the details of with the Mexican government.

Mr. SMITH OF TEXAS. Mr. Chairman, would you mind if I asked one more question even though my time is up and I don't—am I the last one so I'm not holding anybody up other than——

Mr. HOSTETTLER. You're the last one. Without objection, the gentleman is recognized for an additional minute.

Mr. SMITH OF TEXAS. Thank you. My last question is this. Under the Administration's immigration proposal, you're talking about potentially millions of people needing to be processed, millions of people placed, millions of documents checked and so forth. To my knowledge, such a massive new program is not funded in the Presi-

dent's budget. Is that true? At least, I haven't been able to find anything close to the amount of money necessary to implement the President's proposal. Is that an accurate statement?

Mr. AGUIRRE. Congressman, I'll try and answer that for you.

Mr. SMITH OF TEXAS. Mr. Aguirre?

Mr. AGUIRRE. The proposal that the President makes is, of course, a very serious proposal, calling on the Congress to enact a law that would then be administered by our bureau, and the idea would be that as the Congress develops the standards for that law, we will price it and we will put a fee on it that is equal to the cost of——

Mr. SMITH OF TEXAS. So you're waiting for the legislation before you put any money in the budget, is that right?

Mr. AGUIRRE. Yes, sir. The budget that we are currently looking at has no relationship to the proposal the President has made to the temporary worker program.

Mr. SMITH OF TEXAS. Right, and I consider it to be good news that the President wasn't so sure of his proposal passing that he actually put money in the budget, but that's a side story.

Thank you, Mr. Chairman, and thanks for the extra question.

Mr. HOSTETTLER. I thank the gentleman from Texas.

The chair wants to once again thank the panel for your participation in this hearing. I appreciate your indulgence during the time of votes.

Subcommittee Members are reminded that you have seven legislative days to revise and extend your remarks for the record. The business before the Subcommittee being completed, we are adjourned.

[Whereupon, at 5:32 p.m., the Subcommittee was adjourned.]

FUNDING FOR IMMIGRATION IN THE PRESIDENT'S 2005 BUDGET

THURSDAY, MARCH 11, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:06 a.m., in Room 2141, Rayburn House Office Building, Hon. John N. Hostettler (Chair of the Subcommittee) presiding.

Mr. HOSTETTLER. The Subcommittee will come to order.

Today, the Subcommittee on Immigration, Border Security, and Claims will hold its second of two hearings examining funding for immigration-related programs in the President's FY 2005 budget. At our hearing 2 weeks ago, the Subcommittee heard from Administration witnesses on their agencies' requests for funding. At today's hearing, we will listen to a spectrum of private witnesses. Two of our witnesses head organizations representing immigration enforcement officers. One of the witnesses comes to us from the Migration Policy Institute, a Washington think tank. The fourth, a former INS adjudicator, inspector, and special agent, will provide us with the perspective of those on the front lines of immigration enforcement and adjudications.

At its February 25, 2004, hearing, the Subcommittee examined a number of increases in funding in the President's FY 2005 budget, and I would like to highlight a few.

The budget requests an additional $281 million for U.S. Immigration and Customs Enforcement. Of that increase, $23 million will go to worksite enforcement, more than doubling the resources devoted to this priority. An additional $30 million is to be directed to ensure that aliens convicted of crimes in the U.S. are identified and processed before they are released back into society. The President also requests an increase of $50 million to apprehend alien absconders and $5 million for additional detention bed space to ensure that aliens appear for their immigration proceedings and that aliens ordered removed actually leave.

In addition to these increases, the President also requests an additional $257 million for U.S. Customs and Border Protection, which enforces the laws along the border and at the ports. Of this $257 million, $64 million is directed toward Border Patrol surveillance and sensor technology. Such technology is a force multiplier which frees Border Patrol agents to enforce the law more vigilantly.

The FY 2005 budget also contains an additional $58 million for U.S. Citizenship and Immigration Services. This includes additional funding to reduce the backlog of applications and to enable the agency to meet the goal of a 6-month standard for processing all applications by FY 2006.

In connection with backlog reduction, there is one increase in the FY 2005 budget that I think bears notice that we did not discuss at the last hearing. The Homeland Security budget requests an increase of 16 full-time positions for the Office of the Immigration Ombudsman. This office, created by the Homeland Security Act, is charged with proposing changes to problems encountered by individuals in dealing with citizenship and immigration services. These additional positions will allow the ombudsman to address systemic flaws in our immigration application processes, flaws that lead to wasteful redundancies and unnecessary delays.

Critics have raised issues with priorities that have not seen funding increases in the FY 2005 budget, however. In particular, there is no funding for additional Border Patrol agents in the budget, ending a trend that lasted for several years. Further, critics have complained that there is not enough funding to reduce the backlog in immigration benefits applications.

We will explore these issues and others today in reviewing with our panel how the President's FY 2005 budget responds to the many immigration challenges facing the United States today. Those are reducing the large illegal alien population, protecting the American people from alien criminals and terrorists, and ensuring that applications for immigration benefits are adjudicated correctly and in a timely manner.

At this time I will turn to Members of the Subcommittee who may have opening statements. If not, I will turn to introductions of the panelists.

Today, T.J. Bonner has joined us and has served as president of the National Border Patrol Council since 1989. He joined the Border Patrol as an agent in 1978. He currently serves as a senior Border Patrol agent and patrols the San Diego sector. Mr. Bonner graduated magna cum laude from Los Angeles Valley College with an associate of arts degree.

Timothy Danahey is the national president of the Federal Law Enforcement Officers Association. He also serves as special agent with the Naval Criminal Investigative Service. Mr. Danahey was hired by NCIS in 1985 after 7 years' service as a patrol officer in Stonington, CT. Mr. Danahey received his degree in psychology at the University of Rhode Island. He has also completed both the U.S. Air Force Air Command Staff College and the U.S. Army Command and General Staff Officers College. In addition to his duties at FLEOA and NIS duties, Mr. Danahey is an Army Reserve officer.

Michael Cutler is currently a fellow at the Center for Immigration Studies. Mr. Cutler began his 30-year career with the Immigration and Naturalization Service, or INS, as an inspector at John F. Kennedy Airport in New York in 1971. He thereafter served as an examiner in the Adjudications Branch at the New York District Office. In 1975, Mr. Cutler became an INS special agent in the New York Service Office. He retired from the INS in 2002. Mr.

Cutler graduated from Brooklyn College of the City University of New York with a B.A. in communication arts and sciences.

Demetrios G. Papademetriou is president, co-director, and co-founder of the Migration Policy Institute where he concentrates on U.S. immigration policy and related subjects. Previously he was a senior associate at the Carnegie Endowment for International Peace, where he directed and co-directed the International Migration Policy Program. Before joining the Carnegie Endowment, Dr. Papademetriou was the Director for Immigration Policy and Research at the U.S. Department of Labor and the Chair of the Secretary of Labor's Immigration Policy Task Force. He also served as Chair of the Migration Committee of the Paris-based Organization for Economic Cooperation and Development, or the OECD. Dr. Papademetriou received his Ph.D. in political science from the University of Maryland.

Gentlemen, thank you for appearing today. Mr. Bonner, the Chair now recognizes you for 5 minutes for your opening statement.

STATEMENT OF T.J. BONNER, NATIONAL PRESIDENT, NATIONAL BORDER PATROL COUNCIL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

Mr. BONNER. Thank you, Chairman Hostettler and Members of the Subcommittee, for the opportunity to present the views and concerns of front-line Border Patrol employees regarding the Administration's budget request for the upcoming fiscal year.

For the past several decades, illegal immigration has been out of control. Millions of foreigners cross our borders illegally every year, and hundreds of thousands more violate the terms of their authorized temporary visits. Every legislative attempt to solve these problems has failed.

The terrorist attacks of September 11, 2001, perpetrated by foreign nationals should have served as a wake-up call to fix our failed immigration system. Sadly, little has changed since then.

Although most politicians claim to support the strict enforcement of our immigration laws, many of their actions belie their rhetoric. A case in point is the Administration's budget request for fiscal year 2005.

Despite an overall increase of $3.6 billion for all DHS programs, the funding for one of its most important programs, the U.S. Border Patrol, is being slashed significantly. Its budget is slated for an actual decrease of $18.4 million. Another $74.2 million is being reallocated for sensors and surveillance technology and unmanned aerial vehicles. This de facto cut totals $92.6 million, or 5 percent of the Border Patrol's overall budget of $1.85 billion.

Substituting detection technology for staffing and equipment designed for apprehending lawbreakers is unwise. While such technology can be useful in pinpointing the location of those who cross our borders illegally, it cannot catch a single violator. Only trained people can accomplish that task. Instead of augmenting the staffing of the Border Patrol, however, the Administration's budget proposal eliminates 19 agent positions. Inexplicably, all of the other occupations in the Department are slated to add positions or at least remain at the same level.

While technologies such as remote cameras and sensors are undoubtedly useful in serving as extra eyes and ears, they can never replace the hands that catch violators. New technology should not come at the expense of staffing and other essential equipment. If such technology is deemed necessary, additional funding should be allocated for its acquisition.

If our borders were under any semblance of control, this reduction and shifting of funding might make sense. With multitudes continuing to stream across our borders and elude apprehension on a daily basis, however, it is ridiculous. Until control of the borders is achieved, it is irresponsible to propose cutting the Border Patrol's budget and staffing. As long as our borders remain porous, they are just as open to terrorists and other criminals as they are to illegal aliens.

About a decade ago, the Border Patrol embarked on a forward deployment enforcement strategy that was designed to discourage illegal immigration. It never achieved that goal, and the strategy makes no sense at all given the new primary mission of securing the homeland and protecting it against conventional and unconventional attacks in the United States.

In order to control illegal immigration, the employer sanctions laws need to be strengthened. The revised laws need to make it simple for employers to determine if a person is authorized to work in this country, difficult to circumvent, and onerous to violate. Although significant resources would initially be required to enforce these laws, the payoff would be well worth the effort and expense. Without the draw of jobs, illegal immigration would be reduced dramatically, allowing the Border Patrol and Inspections branches to concentrate on terrorists and other criminals. As it stands now, it is far too easy for these dangerous elements to slip in with the multitudes of illegal aliens.

Amnesty for lawbreakers cannot be part of any law designed to discourage illegal immigration, as it has the exact opposite effect. Despite its claims to the contrary, the Administration's proposed guest-worker program would grant amnesty to millions of illegal aliens. The high levels of illegal immigration that exist today are directly attributable to the 1986 amnesty.

The Administration's budget request also seeks significant funding to implement a new human resources system within the Department of Homeland Security. The unfair system that was developed over the objections of employees will discourage even the most patriotic individuals from serving in the Department. The proposed pay system will significantly decrease average employee wages over time in order to balance the Department's budget and reward a few favored employees. The proposed disciplinary system will strip away meaningful appeal rights, allowing managers to unjustly punish employees for illegitimate reasons. The proposed labor-management relations system will deprive front-line employees of a voice in the decisions that affect them.

In conclusion, the American people, as well as the courageous men and women who risk their lives every day protecting our borders, deserve far better than the Administration's budget offers. The security of our Nation depends upon a comprehensive and effective immigration policy administered by a dedicated and highly

motivated workforce. The Administration's budget proposal not only fails to advance any of these critical goals, it represents a tremendous step backward.

Thank you, and I would be happy to answer any questions you might have.

[The prepared statement of Mr. Bonner follows:]

PREPARED STATEMENT OF T.J. BONNER

On behalf of the 10,000 Border Patrol employees that it represents, the National Border Patrol Council thanks you for the opportunity to present our views and concerns regarding the Administration's budget request for the upcoming fiscal year.

For the past several decades, illegal immigration has been out of control. Millions of foreigners cross our borders illegally every year, and hundreds of thousands more violate the terms of their authorized temporary visits. Every legislative attempt to solve these problems has failed.

The terrible events that unfolded on the morning of September 11, 2001 served to painfully remind us that we are not immune from terrorist attacks on our home soil. Without a doubt, our immigration laws and policies allowed all 19 of the perpetrators of that crime to enter and remain in the United States. Today, many of the same flaws and gaps that allowed those attacks to occur have not been fixed. This is unfathomable. As the philosopher George Santayana wisely noted in 1905, "[t]hose who cannot remember the past are condemned to repeat it."

Although most politicians claim to support the strict enforcement of our immigration laws, many of their actions belie their rhetoric. A case in point is the Administration's budget request for Fiscal Year 2005.

Despite an overall increase of $3,600,000,000.00 for all DHS programs, the funding for one of its most important programs is being slashed significantly. The budget of the U.S. Border Patrol, the only agency that patrols the 6,000 miles between the land ports of entry along the borders between the United States and its two contiguous neighbors, Mexico and Canada, is slated for an actual decrease of $18,395,000.00. Another $64,162,000.00 would be reallocated for "sensors and surveillance technology" and still another $10,000,000.00 reallocated for "unmanned aerial vehicles." This *de facto* cut totals $92,557,000.00, or 5% of the Border Patrol's total budget of $1,856,244,000.00. Substituting detection technology for staffing and equipment designed for apprehending lawbreakers is unwise. While such technology can be useful in pinpointing the location of those who cross our borders illegally, it cannot catch a single violator. Only trained people can accomplish that task. Instead of augmenting the staffing of the Border Patrol, however, the Administration's budget proposal eliminates 19 agent positions. Inexplicably, all of the other occupations in the Department are slated to add positions or at least remain at the same level.

The foregoing should not be construed as resistance to technology, but rather as a criticism of the theory that technology can replace human beings in labor-intensive tasks such as apprehending people who are determined to sneak into our country. While technologies such as remote cameras and sensors are undoubtedly useful in serving as extra eyes and ears, they can never replace the hands that catch violators. New technology should not come at the expense of staffing and other essential equipment. If such technology is deemed necessary, additional funding should be allocated for its acquisition.

If our borders were under any semblance of control, this reduction and shifting of funding might make sense. With multitudes continuing to stream across our borders and elude apprehension on a daily basis, however, it is ridiculous. Until control of the borders is achieved, it is irresponsible to propose cutting the Border Patrol's budget and staffing. As long as our borders remain porous, they are just as open to terrorists and other criminals as they are to illegal aliens.

About a decade ago, the Border Patrol began deploying many of its resources in highly-visible, static positions along the immediate border, generally in close proximity to major urban areas. The theory behind this new enforcement strategy was that large concentrations of personnel would discourage illegal aliens from crossing in those areas, and the terrain and remoteness of the remaining areas would accomplish the same goal. Experience has shown that the latter part of that assumption severely underestimated the desperation and determination of the people who cross our borders. In fact, there has been no reduction in the volume of illegal immigration. The folly of this strategy is magnified when viewed in light of the Department's new primary stated goal of securing the homeland and protecting it against conventional and unconventional attacks in the United States. It is inconceivable that ter-

rorists and other criminals will be deterred at all by the increased presence of uniformed agents.

In order to control illegal immigration, the employer sanctions laws need to be strengthened. The revised laws need to make it simple for employers to determine if a person is authorized to work in this country, difficult to circumvent, and onerous to violate. Although significant resources would initially be required to enforce these laws, the payoff would be well worth the effort and expense. Without the draw of jobs, illegal immigration would be reduced dramatically, allowing the Border Patrol and Inspections branches to concentrate on terrorists and other criminals. As it stands now, it is far too easy for these dangerous elements to slip in with the multitudes of illegal aliens.

Amnesty for lawbreakers cannot be part of any law designed to discourage illegal immigration, as it has the exact opposite effect. Despite its claims to the contrary, the Administration's proposed guest-worker program would grant amnesty to millions of illegal aliens.[1] The high levels of illegal immigration that exist today are directly attributable to the 1986 amnesty.

Given the Administration's support of amnesty for millions of illegal aliens, the proposed budget and personnel cuts for the Border Patrol should probably not come as a surprise to anyone. Nevertheless, they are disappointing and demoralizing to the front-line workers who risk their lives on a daily basis enforcing our Nation's immigration laws. The Administration's budget request also seeks significant funding to implement a new human resources system within the Department of Homeland Security. If the proposed system actually held out the promise of improving the existing system, it might be worth the increase sought by the Department. Unfortunately, instead of capitalizing on the opportunity to improve the current system, the ideologues in the Administration decided to combine the worst practices imaginable without regard to the consequences. The proposed pay system will significantly decrease average employee wages over time in order to balance the Department's budget and reward a few favored employees. The proposed disciplinary system will strip away meaningful appeal rights, allowing managers to unjustly punish employees for illegitimate reasons. The proposed labor-management relations system will deprive front-line employees of a voice in the decisions that affect them. Taken together, these draconian measures will discourage even the most patriotic individuals from serving in the Department.

In conclusion, the American people, as well as the courageous men and women who risk their lives every day protecting our borders, deserve far better than the Administration's budget offers. The security of our Nation depends upon a comprehensive and effective immigration policy administered by a dedicated and highly-motivated workforce. The Administration's budget proposal not only fails to advance any of these critical goals, it represents a tremendous step backward.

Mr. HOSTETTLER. Thank you, Mr. Bonner.

Mr. Danahey, the floor is yours.

STATEMENT OF TIMOTHY J. DANAHEY, NATIONAL PRESIDENT, FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

Mr. DANAHEY. Thank you. Good morning, Mr. Chairman and distinguished Members of the Subcommittee. I am honored to testify on such an important and vital subject. I respectfully request my written submission be admitted to the record.

Mr. HOSTETTLER. Without objection.

Mr. DANAHEY. The Federal Law Enforcement Officers Association—FLEOA—is a voluntary, nonpartisan professional association. FLEOA currently represents over 20,000 Federal law enforcement officers and is the largest association for Federal officers of its kind.

In April 2003, FLEOA testified and stated it was our belief that the creation of Immigration and Customs Enforcement, ICE, within the Department of Homeland Security was exactly what was needed to address systemic problems of the former INS and its inability

[1] According to Webster's dictionary, amnesty is "the act of an authority (as a government) by which pardon is granted to a large group of individuals."

to effectively enforce the immigration laws. We appreciated the Committee seeking our input on concerns we wish to discuss in the spirit of assisting you to make the Department more efficient and effective.

As a national officer of FLEOA, I represent many of the outstanding men and women who enforce our Nation's immigration laws. These men and women risk their lives every day in an ever increasingly dangerous line of work.

I would like to highlight six points in my testimony.

Pay parity. It is our belief that one of the biggest obstacles to effective immigration enforcement is the fact that ICE special agents are still being paid at very different levels, depending on which agency they migrated from. We recommend an immediate across-the-board increase for all legacy INS special agents as well as all agents currently assigned the 1811 job classification at DHS.

Interior enforcement. Currently, the number of aliens illegally in the United States is estimated at about 8.5 million, or 28 percent of the foreign-born population in the United States. The annual increase in the undocumented population is in excess of 500,000 per year and could possibly be higher for recent years. The results from Census 2000 call into question some of the basic information regarding immigration which we relied upon in the past.

Alien smuggling has become more sophisticated, complex, organized, and flexible. Thousands of aliens annually seek immigration benefits fraudulently.

FLEOA testified in April 2003 that ICE will need to address problems concerning interior capacity issues in relation to US-VISIT, Student Exchange and Visitor Information System, SEVIS, and other law enforcement agency referrals.

FLEOA feels that ICE has begun to address these issues as part of its overall immigration enforcement strategy through the creation of ICE's Compliance Enforcement Unit and the strengthening of its Worksite Enforcement Units. ICE management has stated that the FY 2005 budget will allow them to more than double existing funds devoted to worksite enforcement and allow ICE to devote more special agents to these efforts.

Detention and removal. FLEOA testified in April 2003 that the administrative mission relating to ICE's immigration enforcement such as Institutional Removal Program, IRP, and county jail cases be assigned to the Detention and Removal component. It is FLEOA's belief that ICE would be better off served by allowing ICE special agents to focus on the complex criminal matters as well as matters relating to national security.

International affairs. In FLEOA's April 2003 testimony, we recommended the consolidation of DHS overseas operations. FLEOA stated that these functions should include oversight of visa issuance at overseas posts. Through the creation of ICE's Office of International Affairs, ICE now has the ability to provide visa security by working cooperatively with U.S. consular offices to review select visa applications.

Immigration fraud. In previous testimony, FLEOA cited a 2002 GAO report titled "Immigration Benefit Fraud, Focused Approach Needed to Address Problems." The GAO noted that the former INS did not know the extent of the immigration benefit fraud program

problem. Excuse me. The GAO reported that the former INS interior enforcement strategy failed to lay out a comprehensive plan to identify how components within and among service centers and district offices are to coordinate their immigration benefit fraud investigations.

FLEOA notes that ICE has created Benefit Fraud Units in Vermont, Texas, and California as a means of identifying and targeting fraud.

Alien smuggling. FLEOA notes that ICE has failed to indicate a budget increase in support of efforts to investigate alien-smuggling and human-trafficking organizations. Currently, there is no stated mission involving the targeting of human-trafficking and alien-smuggling organizations within ICE.

We recommend that by making human-trafficking and alien-smuggling investigations one of ICE's primary enforcement functions, there exists a need to immediately fund and staff this component to levels to allow it to be effective.

In summary, we note that many of ICE's initiatives were suggested during FLEOA's April 2003 testimony before this Committee. We will never restore domestic tranquility or integrity into the legal immigration process until we begin to establish meaningful rather than token control over our borders and the interior of the United States through comprehensive immigration law enforcement.

On behalf of the Federal Law Enforcement Officers Association and the many dedicated men and women who risk their lives enforcing our immigration laws, I appreciate your time and attention and the opportunity to share our views. I will be happy to answer any questions you may have.

Thank you.

[The prepared statement of Mr. Danahey follows:]

PREPARED STATEMENT OF TIMOTHY J. DANAHEY

Good morning, Mr. Chairman and distinguished Members of the Subcommittee. I am honored to testify on such an important and vital subject. I respectfully request my written submission be admitted to the record.

The Federal Law Enforcement Officers Association—FLEOA, is a voluntary, nonpartisan professional association. FLEOA currently represents over 20,000 federal law enforcement officers and is the largest association for federal officers of its kind. Several years ago, FLEOA joined with all of the major state and local national police associations to form the Law Enforcement Steering Committee. The Law Enforcement Steering Committee includes the following prominent and important organizations: Fraternal Order of Police, National Troopers Coalition, Major Cities Chiefs of Police, Police Executive Research Forum, the National Association of Police Organizations, National Organization of Blacks in Law Enforcement, the International Brotherhood of Police Organizations and the Police Foundation. In becoming a part of this group, federal agents were able to add their voices to those of the over half a million state and local officers already commenting on the issues that our Association considers to be of greatest importance. I tell you today, as FLEOA has told our membership and the Law Enforcement Steering Committee for the past several years that the continuing revitalization of immigration law enforcement is one of our highest priorities. In April 2003, FLEOA testified before this committee and stated that it was our belief that the creation of Immigration & Customs Enforcement (ICE) within the Department of Homeland Security was exactly what was needed to address systemic problems of the former INS and its inability to effectively enforce the immigration laws. We appreciated the committee seeking our input on concerns we wish to discuss in the spirit of assisting you to make the Department more efficient and effective.

As a National Officer of FLEOA, I represent many of the outstanding men and women who enforce our Nation's immigration laws. These men and women risk their lives every day in an ever-increasingly dangerous line of work.

In our review of the President's Fiscal Year 2005 Budget regarding funds requested for immigration enforcement, we note that ICE has requested $4.0 billion for the FY 2005 budget, $302 million more than FY 2004, representing an increase of 8 percent. The requested increase includes $186 million for ICE to fund improvements in immigration enforcement both domestically and overseas, and approximately $100 million to fund the detention and removal of illegal aliens. We note that many of ICE's initiatives were suggested during FLEOA's April, 2003 testimony before this committee.

PAY PARITY

FLEOA supports ICE's budget request, although we note that its ability to effectively enforce our Nation's immigration laws is contingent upon ICE's ability to immediately address issues regarding pay equity within its Special Agent ranks. It is our belief that the one of the biggest obstacles to effective immigration enforcement is the fact that ICE Special Agents are still being paid at very different levels; depending on which agency, they migrated. The problems associated with this are self-evident. We recommend an immediate across the board increase for all legacy INS Special Agents as well as all agents currently assigned the 1811 job classification within the DHS.

While ICE represents a significant advancement in the protection of the homeland, legacy INS Special Agents have been left behind when it comes to the issue of pay parity. In recent years, legacy Customs Special Agents had their positions upgraded to allow for progression to a GS–13 pay grade, while INS Special Agents could only progress to the GS–12 pay grade, a difference of several thousand dollars. With the consolidation of the two agencies under ICE, the practice of receiving less pay for the same position in the same agency has become a serious issue. FLEOA notes that legacy INS Agents have proved invaluable in the fight against terrorism, and will continue to do so under ICE.

In the nearly one year since the creation of ICE, legacy INS Special Agents have been assured that the issue of pay parity is a top priority. However, in recent months it has become clear that there is neither the willpower nor apparently the resources to accomplish this important task. Meanwhile, ICE continues to hire new Agents, all of whom can progress to the GS–13 pay grade. **This situation severely undermines morale. Far from being an issue of money, this is an issue of morale and equity. All ICE Special Agents bear the same risks in protecting the homeland.**

ICE will likely implement a new pay-banding compensation system in the near future, abolishing the former pay-grade arrangement. This leaves legacy INS Special Agents vulnerable to perpetually earning less than former Customs Agents. With less than 2000 Special Agents nationwide, the cost is minimal.

INTERIOR ENFORCEMENT

Currently the number of aliens illegally in the United States is estimated at about 8.5 million or 28% of the foreign-born population in the United States. The annual increase in the undocumented population is in excess of 500,000 per year and could possibly be higher for recent years. The results from Census 2000 call into question some of the basic information regarding immigration which we relied upon in the past. The surprising figures from the Census suggest strongly that immigration levels, particularly undocumented and temporary immigration, are substantially higher than most had suspected.

Through its FY 2005 budget request, ICE has shown a commitment to the "base" Immigration Mission—starting with the development of a meaningful interior enforcement strategy. FLEOA notes that ICE has began to address concerns raised in a 2002 GAO Report titled "Immigration Enforcement, Challenges to Implementing the INS Interior Enforcement Strategy". In this report, the GAO noted that having an effective interior enforcement strategy is an essential complement to having an effective border *strategy*. The GAO noted that the former INS faced numerous and daunting enforcement issues such as the potential pool of removable criminal aliens and fugitives that number in the hundreds of thousands. The number of individuals smuggled into the United States has increased and alien smuggling has become more sophisticated, complex, organized and flexible. Thousands of aliens annually seek immigration benefits fraudulently. The GAO concluded that the former INS' tasks with regard to interior enforcement are considerable given the nature, scope, and magnitude of illegal activity.

FLEOA testified in April 2003, that ICE will need to address problems concerning interior capacity issues in relation to US-VISIT, Student Exchange and Visitor Information System (SEVIS) and other law enforcement agency referrals. FLEOA testified that budget formulation, budget execution, resource deployment, personnel staffing, position management and position classification must address the lack of Special Agents, Deportation Officers, and other clerical staff actually in place to address "leads" from US-VISIT and SEVIS, as well as from sources to include federal, state, and local law enforcement agencies. Systems such as US-VISIT and SEVIS will be rendered toothless if ICE doesn't have the interior enforcement resources to meaningfully deal with information on overstays, status violators and other law enforcement referrals.

FLEOA feels that ICE has began to address these issues as part of its overall immigration enforcement strategy through the creation of ICE's Compliance Enforcement Unit and the strengthening of its Worksite Enforcement Units. FLEOA feels that ICE's FY 2005 budget request, as well as the request for an additional $23 million for enhanced worksite enforcement is a positive first step in creating the infrastructure required to investigate and resolve violator leads. ICE management has stated that the FY 2005 budget will allow them to more than double existing funds devoted to worksite enforcement and allow ICE to devote more Special Agents to these efforts.

DETENTION AND REMOVAL

FLEOA testified in April 2003, that the administrative mission relating to ICE's immigration enforcement such as Institutional Removal Program (IRP) and county jail cases be assigned to the Detention and Removal component. It is FLEOA's belief that ICE would be better served by allowing ICE Special Agents to focus on the complex criminal matters as well as matters relating to national security. To achieve this goal, it is essential that ICE Special Agents be relieved of all administrative jail duties.

To this end, FLEOA supports ICE's request of $30 million to transfer the IRP duties currently being performed by Special Agents to Immigration Enforcement Agents within the Detention and Removal Program. ICE realizes that this shift of responsibilities will allow ICE to assign Special Agents to investigations that are more complex.

Our members in the field have continuously stated that one of the greatest problems in enforcing our Nations Immigration Law is in the area of detention and removal. Large amounts of illegal aliens are released in some areas (as many as fifty a day) before ever seeing an Immigration Judge. Lack of bed space is always cited as the reason. Many of these illegal aliens are released despite the fact that many do not have a valid, verifiable address. FLEOA supports the FY 2005 budget request for Detention and Removal Initiatives.

INTERNATIONAL AFFAIRS

In FLEOA's April 2003 testimony, we recommended the consolidation of DHS overseas operations. FLEOA stated that these functions should include oversight of visa issuance at overseas posts. ICE's FY 2005 budget request of $14 million includes an increase of $10 million to support a new Visa Security Unit, which was established pursuant to Section 428 of the Homeland Security Act. Through the creation of ICE's Office of International Affairs, ICE now has the ability to provide visa security by working cooperatively with U.S. consular offices to review select visa applications.

IMMIGRATION FRAUD

In its April 2003 testimony, FLEOA cited a 2002 GAO report titled "Immigration Benefit Fraud, Focused Approach Needed to Address Problems". The GAO noted that the former INS did not know the extent of the immigration benefit fraud problem. The GAO reported that the former INS interior enforcement strategy failed to lay out a comprehensive plan to identify how components within and among service centers and district offices are to coordinate their immigration benefit fraud investigations.

FLEOA notes that ICE has created Benefit Fraud Units in Vermont, Texas and California as a means of identifying and targeting fraud. FLEOA supports ICE's request for $25 million in FY 2005 budget in an effort to "provide stable funding to ICE's benefits fraud and assist in restoring integrity in the immigration application process".

ALIEN SMUGGLING

FLEOA notes that ICE has failed to indicate a budget increase in support of efforts to investigate alien smuggling and human trafficking organizations. In its April 2003 testimony, FLEOA cited a 2002 GAO Report on the former INS, in which the GAO was very critical of the INS ability to investigate alien smuggling groups. At that time, FLEOA recommended that ICE be the central investigative agency for all human trafficking and alien smuggling investigations. Currently, there is no stated mission involving the targeting of human trafficking and alien smuggling organizations within ICE.

We recommend that by making human trafficking and alien smuggling investigations one of ICE's primary enforcement functions, there exist a need to immediately fund and staff this component to levels that allow it to be effective. Research and experience has led us to believe that the most effective means to enforce laws relating to human trafficking and alien smuggling organizations would be to centralize all human trafficking and alien smuggling investigations into one agency with adequate staffing, funding and a strong headquarters component.

Congress and the Administration must begin to strike a balance between enforcement on our borders and enforcement in the interior. Word of mouth travels rapidly back to the source countries that one must merely make it across the border in order to attain this new form of unsanctioned amnesty. In short, we will never restore domestic tranquility or integrity into the legal immigration process until we begin to establish meaningful rather than token control over our borders and the interior of the United States through comprehensive immigration law enforcement.

On behalf of the Federal Law Enforcement Officers Association, and the many dedicated men and women who risk their lives enforcing our immigration laws, I appreciate your time and attention, and the opportunity to share our views. I will be happy to answer any questions you may have. Thank you.

Mr. HOSTETTLER. Thank you, Mr. Danahey.

The floor now recognizes—the Chair now recognizes the gentleman, Mr. Cutler.

STATEMENT OF MICHAEL W. CUTLER, FORMER INS SPECIAL AGENT

Mr. CUTLER. Thank you. Good morning.

Chairman Hostettler, distinguished Members of the Committee, I want to start out by commending Chairman Hostettler's courageous leadership in the vital area of immigration law enforcement. It is my belief that nothing will have a greater impact on the future of our Nation than the way in which we handle this critical issue. Consequently, I am honored at having been invited to participate in this hearing.

I am a New Yorker. On September 11, 2001, ashes from the conflagration at the World Trade Center fell on my house. The sight of the location we used to refer to as "the World Trade Center" that we now call "Ground Zero" continues to trigger in me and my fellow New Yorkers a profound sense of loss and grief and anger.

We are constantly reminded that we are in a state of war. Many of our Nation's valiant men and women, many of them scarcely old enough to vote, go in harm's way as members of our armed services to help wage a war on terrorism, some of whom return home seriously injured, or worse. I laud their bravery. The war effort is also costly in financial terms as well as human terms. But we must match the efforts of our soldiers fighting in distant lands with a commensurate effort within our own borders. The men and women who are responsible for enforcing our immigration laws need to have the resources to do an effective job.

Of late, we have heard some people question if the immigration laws can be enforced. They say that we have tried to enforce the laws, but even with the additional Border Patrol agents now stand-

ing watch at our Nation's borders, we still have many millions of illegal aliens living and working in the United States today. I would say to them that we have, to date, only been given the illusion of making a serious effort to enforce our immigration laws.

Before the merger of INS and Customs, there were some 2,000 INS special agents enforcing the immigration laws within the interior of the United States. Let us put this in perspective. New York has some 8 million residents policed by some 38,000 police officers. There are perhaps one and half times as many illegal aliens in the United States today as there are residents in the City of New York. Clearly, many more special agents are needed to handle the issue of interior enforcement, especially in view of the fact that, according to recently published statistics, there are some 400,000 aliens still living within the United States borders that have been ordered deported. And from what I have read, some 80,000 of these aliens have serious criminal histories. How can we expect so few agents to effectively deal with so vast a problem?

While only a small percentage of aliens become involved in serious criminal activity, a large percentage of our criminal population is indeed comprised of aliens. In addition to terrorists, our Nation is plagued by criminal aliens who are involved in narcotics trafficking, ethnic organized crime organizations, and other areas of criminal activities whose actions result in many more lives being lost each and every year than were lost in the horrific attacks of September 11. Half of the illegal aliens in the United States did not succeed in entering the United States by running the border but, rather, entered through a port of entry and then, in one way or another, violated the terms of their admission. This was, I would remind you, the way that the 19 terrorists who attacked our Nation entered our country. If we want to reduce the number of illegal aliens in our country and secure our Nation against the criminal intentions of terrorists and other criminals, we need to change the way we do business. It will require the expenditure of additional funds, but to not take appropriate action will ultimately cost our country far more. Law enforcement is labor-intensive work, and we desperately need many more special agents to enforce the immigration laws from within the interior.

We need many more Border Patrol agents to properly patrol the thousands of miles of borders. As I am sure Mr. Bonner will attest, the job of a Border Patrol agent is frustrating, and our agents are put in harm's way often, only to arrest recidivists repeatedly.

We also need many more adjudications officers and immigration inspectors to do a more effective job of ensuring that applications are correctly adjudicated in a timely manner. I have been told that each adjudications officer is expected to process some 40 applications for benefits each and every day in order to get a passing grade on their evaluations. I have also been told that the average naturalization examiner is expected to process between 20 to 25 applications for United States citizenship each and every day. We have so truncated the process that applicants for citizenship are no longer required to provide witnesses to attest to the fact that they possess good moral character, nor are background investigations conducted in support of applications for United States citizenship. Additionally, there is no routine effort to conduct field investiga-

tions in conjunction with applications for resident alien status to be conferred upon aliens. Is it any wonder that we often find the fraud rates are as high as they are in the benefits program? I would recommend that perhaps retired INS annuitants or retired law enforcement officers from other agencies such as local police departments should be hired to act as compliance officers to lend integrity to this critical process.

Another issue that we need to consider is the fact that there are four immigration service centers that process some 6 million applications for benefits each year. Each center has employees known as intelligence research specialists. Their job is to screen the applications for fraud. There are fewer than ten of these employees at each center.

There is also supposed to be 128 special agents assigned to work in conjunction with these service centers. I've been told that sparse as that number of agents may seem, in reality only 30 or 40 special agents are actually working full-time in this vital mission in the entire United States. The result is that fraud is running rampant. To cite an example, the State of Florida will issue driver's licenses to any aliens who can show proof that they have filed an application with immigration authorities to enable them to remain in the United States. The application need not be approved to qualify for the license to be issued, only that it is pending. As a result, many aliens working through immigration consultants and lawyers who specialize in immigration law have filed applications for authorizations to accept employment in conjunction with an application for political asylum. In reality, the application for political asylum is never filed, but the fee is waived for such an application and the receipt for the application satisfies the Florida requirement for the issuance of a driver's license. The cost of processing the spurious application runs at least $200 per application, and it is never recouped by the Government.

According to what I have been told, some 17,000 fraudulent applications have been identified. The aliens who made these applications have apparently given their real addresses on their applications, but ICE does not have the resources to go out and arrest these people, a number of whom are citizens of Middle Eastern countries and are consequently of potential national security concern. Florida is only one State of many that is experiencing this problem.

Immigration inspectors are expected to determine the admissibility of an alien applying for admission to the United States in approximately 1 minute. We have in place a visa waiver program which means that we do not have the ability to effectively screen aliens seeking admission to the United States from the 28 visa waiver countries.

Consider that Richard Reid, the so-called "shoe bomber," was traveling on a British passport and would have been exempted from the requirement of obtaining a visa before applying for entry into the United States. If citizens of the United States can be inconvenienced by being thoroughly searched before they board airplanes, if they can be made to wait on long lines of traffic before crossing bridges and tunnels at elevated threat level times, then why aren't we requiring that aliens who have no inherent right to

be here be more effectively screened in the interest of national security? The effective screening of alien visitors would, in my humble opinion, decrease the number of aliens who ultimately violate the terms of their admission and potentially threaten our well-being and security.

For years, the former INS was plagued by an incredibly high attrition rate. Funds that might have been put to far better use were squandered on a veritable revolving door in which the agency continually recruited and trained qualified young men and women who came to the INS highly motivated to serve their country, but who quickly became disillusioned by the inept leadership of the agency and resigned so that they could pursue satisfying careers at other agencies. No one at the INS seemed to care that so many talents and motivated employees were fleeing to other agencies. If we are to run a more cost-effective agency, management at ICE, CIS, and CBP must be made accountable for the attrition rates of the respective officers to which they are assigned. This would save significant money and result in a more effective and motivated workforce.

Law enforcement relies on the principle of deterrence to provide the most bang for the buck. The abysmal reputation that our Nation has gained over the past several decades in terms of our ability and determination to enforce the immigration laws deters few if any aliens who would come here, either in violation of our laws or with the intention of violating our laws after they enter our country. It is said you only get one opportunity to make a first impression. The way that we enforce and administer the immigration laws serves as the first impression many people throughout the world have of our Nation's resolve to enforce our laws.

We can do better. We must do better.

I look forward to your questions.

[The prepared statement of Mr. Cutler follows:]

PREPARED STATEMENT OF MICHAEL W. CUTLER

Chairman Hostettler, Ranking Member Jackson Lee, distinguished members of the committee, ladies and gentlemen. I want out to start our by commending Chairman Hostettler's courageous leadership in the vital area of immigration law enforcement. It is my belief that nothing will have a greater impact on the future of our nation than the way in which we handle this critical issue; consequently I am honored at having been invited to participate in this hearing.

The issue of immigration law enforcement is one that I have been involved with for some 30 years, the length of my tenure at the former INS. I began my career an immigration inspector, was detailed as an immigration examiner—now known as an adjudications officer and then, in 1975 I became a Special Agent.

I am a New Yorker. On September 11, 2001, ashes from the conflagration at the World Trade Center fell on my house. I have a vivid recollection of the many yellow ribbons that were tied to the trees in front of many of my neighbors' houses in the days that followed the worst terrorist attack ever committed on our nation. I also vividly recall the numerous cars that drove by bearing the photos of so many of the victims of the Trade Center attack with variations of the same plaintive question written below or above the photographs, "Have you seen my mother?" "Have you seen my son?" "Have you seen my wife?" "Have you seen my brother?" The people who tied the ribbons on the trees and pasted the photos on the windows of their cars were hoping and praying to one day find their missing loved ones. We know, of course, that their hopes were not realized.

The sights I have mentioned and the smells of the fires that burned for quite some time after the attack will never leave my memory—they will never leave my heart. The look of rage, sadness, fear and pain etched on my neighbors' faces will stay with me for the rest of my life. The sight of the location we used to refer to

as the World Trade Center that we now call, "Ground Zero" continues to trigger in me, and my fellow New Yorkers, a profound sense of loss and grief and anger.

We are constantly reminded that we are in a state of war. Many of our nation's valiant men and women, many of them scarcely old enough to vote, go in harm's way as members of our armed services, to help wage a war on terrorism, some of whom return home seriously injured or worse. I laud their bravery. The war effort is also costly in financial terms as well as human terms. But we must match the efforts of our soldiers fighting in distant lands with a commensurate effort within our own borders. The men and women who are responsible for enforcing our immigration laws need to have the resources to do an effective job.

Of late we have heard some people question if the immigration laws can be enforced. They say that we have tried to enforce the laws but even with the additional Border Patrol agents now standing watch on our nation's borders we still have many millions of illegal aliens living and working in the United States today. I would say to them that we have, to date, only been given the illusion of making a serious effort at enforcing our immigration laws.

Before the merger of the Immigration and Naturalization Service with the U.S. Customs Service there were some 2,000 INS Special Agents enforcing the immigration laws within the interior of the United States. Let us put this in perspective. New York has some 8 million residents. These residents are confined to the five boroughs that comprise the City of New York. Our mayor has said that New York is the safest big city in the United States if not the entire world. I believe that he is right. The reason we have a safe big city is that those 8 million residents are policed by a police department that, from what I have read, has some 38,000 police officers. The United States is estimated to have anywhere from 8 million to 14 million illegal aliens who are scattered across a third of the North American Continent and they have been policed by some 2,000 special agents! What do you suppose would happen to New York's crime rate if 36,000 members of the NYPD resigned tomorrow? Perhaps you now understand why we have the magnitude of the problem we have, where immigration law enforcement is concerned. According to recently published statistics, there are some 400,000 aliens still living and working within our nation's borders even though they have been ordered deported. From what I have read, some 80,000 of these aliens have serious criminal histories. How can we expect so few agents to effectively deal with so vast a problem?

While only a small percentage of aliens become involved in serious criminal activity, a large percentage of our criminal population is, indeed, comprised of aliens. In addition to terrorists, our nation is plagued by criminal aliens who are involved in narcotics trafficking, ethnic organized crime organizations, and other areas of criminal activities whose actions result in many more lives being lost each and every year than were lost in the horrific attacks of September 11. Half of the illegal aliens in the United States did not succeed in entering the United States by running the border but rather entered through a port of entry and then, in one way or another, violated the terms of their admission. This was, I would remind you, the way that the 19 terrorists who attacked our nation entered our country. If we want to reduce the numbers of illegal aliens in our country and secure our nation against the criminal intentions of terrorists and other criminals, we need to change the way we do business. It will require the expenditure of additional funds, but to not take the appropriate actions will, ultimately, cost our country far more. Law enforcement is labor-intensive work and we desperately need many more special agents to enforce the immigration laws from within the interior.

We need many more Border Patrol agents to properly patrol the thousands of miles of borders. As I am sure Mr. Bonner will attest, the job of a Border Patrol Agent is frustrating, and that our agents are put in harm's way often, only to arrest recidivists repeatedly.

We also need many more adjudications officers and immigration inspectors to do a more effective job of ensuring that applications are correctly adjudicated in a timely manner. I have been told that each adjudications officer is expected to process some 40 applications for benefits each and every day to get a passing grade on their evaluations. I have also been told that the average naturalization examiner is expected to process between 20 to 25 applications for United States citizenship each and every day. We have so truncated the process that applicants for United States citizenship are no longer required to provide two witnesses to attest to the fact that they possess good moral character. Nor are background investigations conducted in support of applications for United States citizenship. Additionally, there is no routine effort to conduct field investigations in conjunction with applications for the conferring of Lawfully Admitted, Permanent Resident status on aliens. Is it any wonder that we often find that the fraud rates are as high as they are in the benefits program? I would recommend that perhaps retired INS annuitants or retired

law enforcement officers from other agencies such as local police departments should be hired to act as compliance officers to lend integrity to this critical process.

Immigration inspectors are expected to determine the admissibility of an alien applying for admission to the United States in approximately one minute. We have in place a visa waiver program, which means that we do not have the ability to effectively screen aliens seeking admission to the United States from the 28 visa waiver countries.

Consider that Richard Reid, the so-called "shoe bomber" was traveling on a British passport and would have been exempted from the requirement of obtaining a visa before applying for entry into the United States. If citizens of the United States can be inconvenienced by being thoroughly searched before they board airplanes, if they can be made to wait on long lines of traffic before crossing bridges and tunnels at times of elevated threat levels, then why aren't we requiring that aliens, who have no inherent right to be here, be more effectively screened in the interest of national security? The effective screening of alien visitors would, in my humble opinion, decrease the number of aliens who ultimately violate the terms of their admission and potentially threaten our well-being and security.

For years the former INS was plagued by an incredibly high attrition rate. Funds that might have been put to far better use were squandered on a veritable revolving door in which the agency continually recruited and trained qualified young men and women who came to the INS highly motivated to serve their country but who quickly became disillusioned by the inept leadership of the agency and resigned so that they could pursue satisfying careers at other agencies. No one at the INS seemed to care that so many talented and motivated employees were fleeing to other agencies. If we are to run a more cost effective agency, management at ICE, CIS and CBP must be made accountable for the attrition rate of the respective offices to which they are assigned. This would save significant money and result in a more effective and motivated workforce.

Law enforcement relies on the principle of deterrence to provide the most "bang for the buck." The abysmal reputation that our nation has gained over the past several decades in terms of our ability and determination to enforce the immigration laws deters few if any aliens who would come here, either in violation of our laws or with the intention of violating our laws after they enter our country. It is said you get only one opportunity to make a first impression. The way that we enforce and administer the immigration laws serves as the first impression many people throughout the world have of our nation's resolve to enforce our laws.

We must do better.

I welcome your questions.

Mr. HOSTETTLER. Thank you, Mr. Cutler.

The Chair now recognizes Dr. Papademetriou.

STATEMENT OF DEMETRIOS G. PAPADEMETRIOU, PRESIDENT, MIGRATION POLICY INSTITUTE

Mr. PAPADEMETRIOU. Thank you, Mr. Chairman, Ranking Member Jackson Lee, Members of the Subcommittee. Good morning. I am delighted to be here.

I will take or I have taken already a somewhat different tack in my testimony. I am focusing on the services side. I anticipated that everyone else would do exactly what it is that they're doing.

Roughly speaking, the resources for the enforcement side go up by about $500 million. The resources on the service side go up a nominal $68 million. But, in reality, in terms of governmental commitments, they go down by a larger amount than that.

I do not know what is the proper level of enforcement resources that the country, our country, any country, should put into the function itself. Half a billion dollars may or may not be enough. I'm not going to take issue on this, with the exception that I have been in this business for about 30 years. Many of you have also done this for quite a while. I have never heard the Immigration Service, the enforcement function, or, for that matter, any other police or enforcement agency ever claim that they have had just the right

amount of resources to do the job that they need to do. And I think it is important that we keep that in mind as we throw more and more resources at that part of the agency.

Now, with regard to the services, I'm focusing on the adjudication backlogs. We all know that in immigration we have all sorts of backlogs. Sometimes we focus on the backlogs of people who have a theoretical right to come to the United States but have to wait outside until they get a visa. And those backlogs are 5 million people plus. What I'm focusing on today is in the 6.2 million plus people who are waiting for their adjudication, for their petition to actually be adjudicated by the services part of the Department, CIS. And if I might perhaps ask for my first chart to go up on the screen—that's what I understand happens up there. This is, you know, too sophisticated for me.

But on the principle that a picture is worth in this case about 10 million words, if we can spend just about a minute on that particular chart, and you will see the history of the investments that our country has been making on the services part of the immigration function going back 20, 25 years, but the most important, the most interesting stuff begins to happen at about 1994. That's when basically applications—that's sort of the dark blue line—begin to increase. As you may recall—Mr. Smith certainly does—this was the time when we were talking a lot about immigrants and what it is that we're going to do about them and what kind of new requirements we're going to impose on them, et cetera, et cetera. And that conversation culminated in three pieces of legislation touching on immigrants, some more directly, some less directly, all of them in 1996.

In the sharp rise of the red line on your chart, what you see is the Clinton administration effort in 1995 and 1996, something that became a major political debacle, to naturalize many more people than we had been doing up to that time. And you see the sharp increase in naturalizations from 1995 and 1996.

Then, what you see between 1996 and 1998, you see a continuous increase in received applications but a dramatic drop in completed applications. And as you may recall, that was the time we tried to re-engineer, for God only knows which time—third, fifth time—the immigration services function. It took us a couple of years to re-engineer it. Then indeed the re-engineering may or may not have been successful. The only thing I know is that the completed—the number of completed applications started to rise again from about 1998 to the year 2001, 2002, after 9/11, and then you see a dramatic drop in all services.

So the next three—and please do not put any more charts up there. You can sort of look at them at your leisure. The next three tables or charts are basically trying to peel away this particular onion. In the second chart, I'm taking naturalization out of the overall picture. In the following one, I'm focusing just on naturalization. And in the last chart, I'm focusing just on green card adjudications.

What we have at the end of last year—and I'm sure that you can ask GAO or the immigration—I guess CIS, to give you the exact figure. What we have is a backlog in green card adjudications that is now probably about 1.3 or 1.4 million, and naturalization that

is higher than that, naturalization backlogs are higher than that. And, of course, probably another three, three and a half, four million applications for all sorts of other immigration benefits.

And I ask myself: Is this good for us? And you will have the answer here in perhaps too many words in my text. And I would like to make just one more point because this is an important point, not only for this Subcommittee but for thinking about immigration or thinking smartly about immigration.

We need to understand that our failures—it's not only that our failures in enforcement that increase the number of illegal—the size of illegal immigration in the United States, but it is also our failure in adjudications.

The sad thing is that failures in adjudications are actually perfectly avoidable. I cannot tell you—the GAO perhaps could—what is the actual contribution or make an estimate of the contribution of these delays in adjudications to the illegal immigration—immigrant population in the United States. I suspect it's going to be hundreds of thousands. It may be much more than that. But this is something that the Subcommittee should consider.

I make five recommendations. Three of them in a sense deal with better management. The last two deal primarily with doing things differently.

First, the Subcommittee might make certain through your oversight powers that the CIS is held equally accountable for its mandated responsibilities as the immigration enforcement bureaus are.

Second, you might convey to the managers of CIS, and indirectly to the President, that they will be held to their commitments about better and more timely services and that excuses for failing to meet self-imposed targets and deadlines will be rejected.

Third, that this Subcommittee, the full Committee, the Congress, should accept at least co-responsibility with the Administration for reducing and eliminating adjudication backlogs because, (a) they keep immediate families apart, (b) they induce employers to break the law, and, more generally, (c) they undermine respect for and the integrity of the immigration system itself.

We don't fail in that function only by not enforcing the law. We fail by not delivering on promises that we also make.

The fourth recommendation, I think you should put, this Subcommittee, Congress, should put its shoulders behind better services in the immigration area by working with your colleagues in the relevant Appropriations Committees to obligate the proper levels of public funding resources to immigration services. The objective here will be to eliminate backlogs as quickly as possible. Simultaneously, you should make it absolutely clear that you will not tolerate standards of excellence for that function that are less than equal to those you regularly demand from the DHS' enforcement bureaus.

And, finally, you might want to begin to consider that maybe, just maybe, the CIS is misplaced within a bureaucracy whose mandate and measurements of success are about hard-headed, and necessary—it's not in my testimony, but I think I have made it clear in my remarks—homeland security functions. Put differently, and looking once more at the four charts and the inexorable falling behind of immigration services for the last decade or so, should we

not be thinking more about whether the CIS contributes anything unique to homeland security and the cost at which it does so?

Thank you, Mr. Chairman.

[The prepared statement of Mr. Papademetriou follows:]

PREPARED STATEMENT OF DEMETRIOS G. PAPADEMETRIOU

INTRODUCTION

Chairman Hostettler, Ranking Member Jackson Lee, Members of the Subcommittee.

Thank you for the invitation to appear before you to comment on the President's FY2005 Budget request for the immigration functions of the Department of Homeland Security (DHS).

The facts about the President's request are well known to you, especially since you have already heard from Government witnesses about them at an earlier hearing.

In outline form, the President proposes to increase funding for the Department's two "enforcement" bureaus—Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE)—by $538 million. At the same time, funding for the services/benefits part of DHS—Citizenship and Immigrant Services (CIS)[1]—would increase by $58 million. Even this increase, however, is deceptive in that in terms of *appropriated* funding, adjudications suffer an $11 million cut and overall funding for the Bureau is cut by $85 million. As Ms. Jackson Lee noted in her Statement of February 25, ". . . for every additional dollar the Administration is requesting for the benefits bureau, it is requesting 9 dollars for the enforcement bureaus."

Perhaps this is as it should be—were it not for two important and interrelated factors.

The first is the fact that CIS is falling ever further behind in discharging its principal responsibilities to US citizens and US residents, namely, the adjudication of their petitions for immigration benefits *for which they have already paid the requisite fees*. Adding insult to injury, petitioners, who have been waiting for several years for the immigration services' division to "get its act together," are about to be required to pay more, retroactively, for a service they will receive at some distant time in the future.

The second factor relates to the relationship between the Government's abject failure in this elementary good governance function *and illegal immigration.*

I will take each issue in sequence.

IMMIGRATION ADJUDICATION BACKLOGS AND THEIR CONSEQUENCES

Benefit adjudication backlogs, on a steep rise since the mid-1990s, have spiraled seemingly out of control in the last two years. CIS Director Aguirre has acknowledged as much before this Subcommittee and has offered both his explanations for this development and another iteration of a "plan" for performing magic by the end of FY2006.

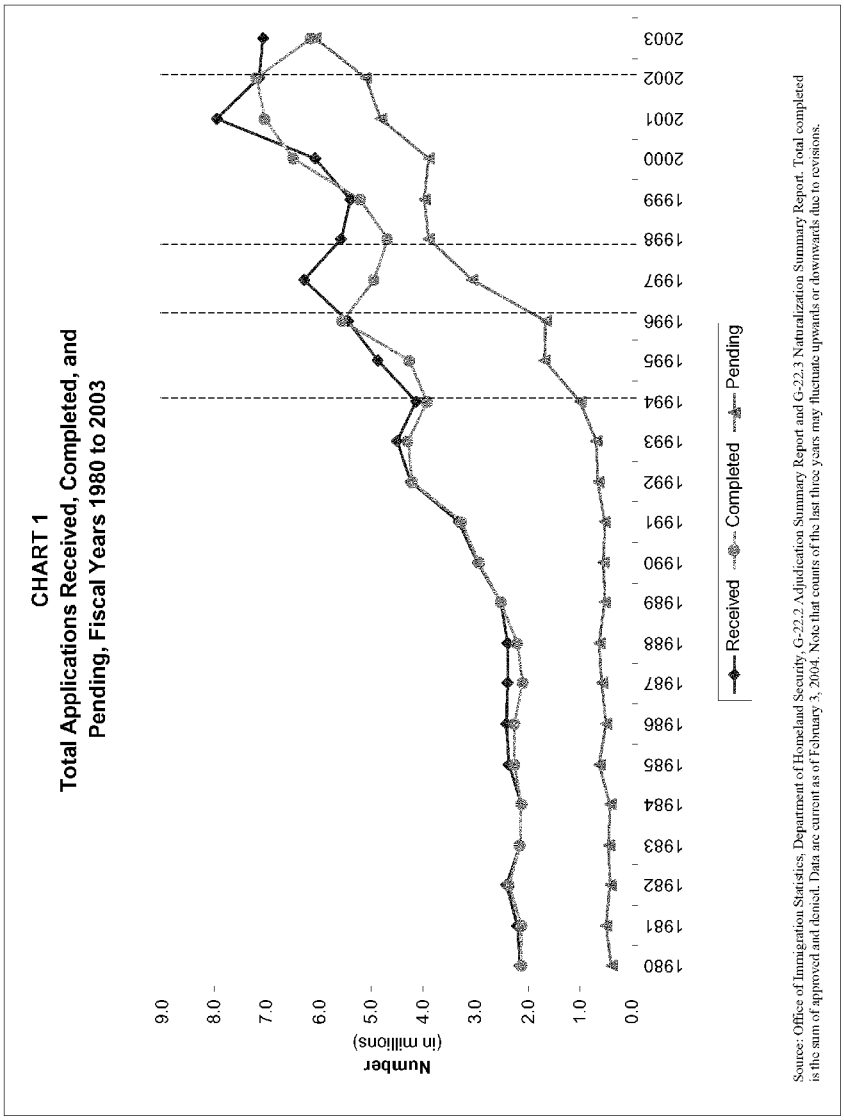
And in fact, part of Director Aguirre's explanation is quite legitimate. Delivering immigration benefits must indeed be accurate, security considerations must be satisfied to virtual certainty, and the service must be professional, courteous and above reproach. *But immigration benefits must also be delivered in a timely fashion.*

The cost of failure in that last regard is not just longer waiting lines and the likely (but completely unnecessary and avoidable) swelling in the unauthorized population; it is the breeding of disrespect, if not disregard, for the rules, a phenomenon that has an extraordinarily corrosive effect on the rule of law. That effect is not unlike that which offends so many law-abiding Americans when they see unauthorized immigrants come and/or stay in our country illegally.

a. Backlogs

If you will allow me, I would like to give you a sense of the sorry state of our government's performance in delivering immigration benefits in the last twenty or so years.

[1] CIS is responsible for adjudicating petitions for naturalization, permanent residence, refugee and asylum status, and non-immigrant entries.



Let us take a look at Chart 1, which tracks the total benefit applications received, completed (a number that reflects approvals plus denials), and pending since 1980. (My colleagues at the Migration Policy Institute have also graphed the same data going back to 1960, and I will be happy to provide that graph to the Subcommittee, if you so wish. I assure you, however, that the trend and the relationship among these three variables are unexceptional, except for a brief spike in the number of applications received in 1976 that reflects certain one-time adjustments to our immigration formula that year.)

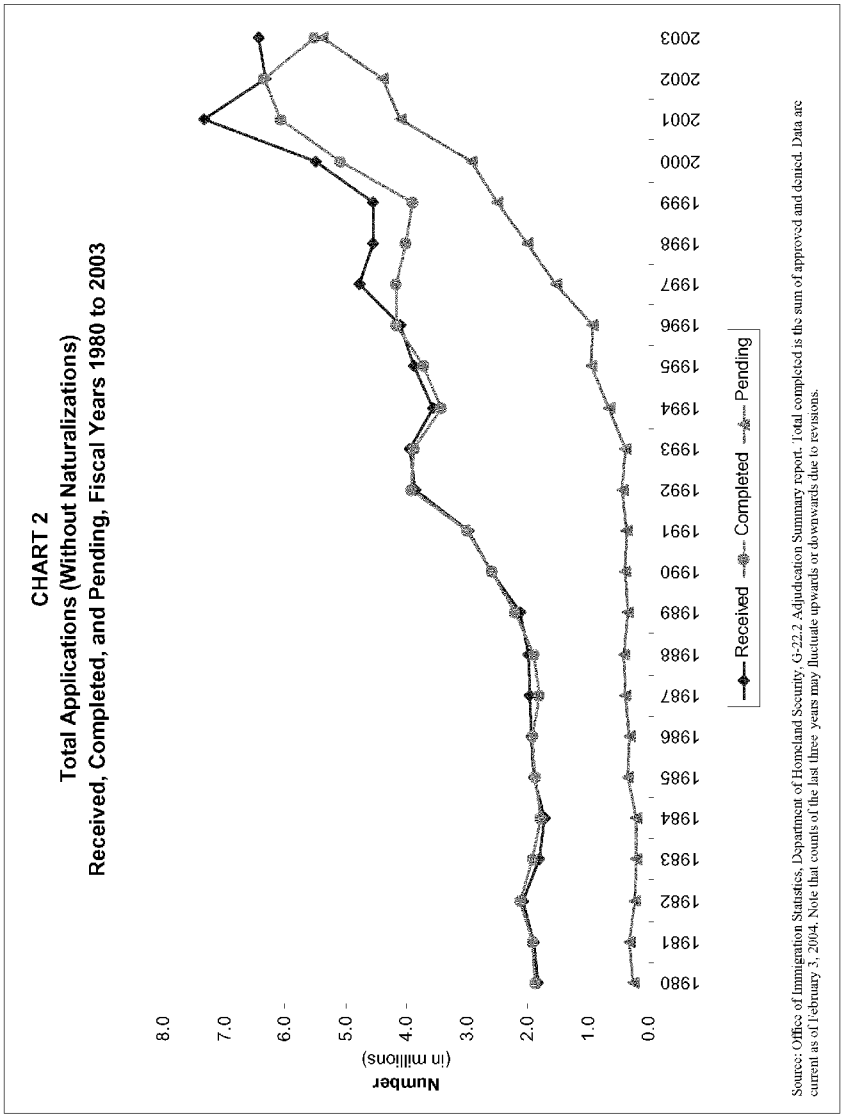
Returning to the chart in front of you, please note that until the early 1990s, pending applications were holding fairly steady both in absolute numbers (in the low hundreds of thousands) and relative to completion rates—as did the numbers of received and *completed* applications. Demand began to grow as those who received legal permanent status under the Immigration Reform and Control Act of

1986 (IRCA) became eligible for benefits, primarily as petitioners for their immediate family members. Yet, for a period, the then INS more or less was able to keep up with most of the additional demand, primarily as a result of the efforts of then INS Commissioner Doris Meissner. (Please note the sharp upward climb in completed applications—the red line—and the corresponding flattening in the number of pending cases—the light blue line—in chart 1.)

Things started to fall apart, however, by the mid-1990s, when the IRCA-fueled demand for adjudications combined with the surge in naturalization petitions that resulted from what some analysts have characterized as the "assault on immigrants" that culminated in three pieces of legislation affecting that population in 1996: The Anti-Terrorism and Effective Death Penalty Act, the Personal Responsibility and Work Opportunity Reconciliation Act, and the Illegal Immigration Reform and Immigrant Responsibility Act.

Surges in demand, however, are not the only variable responsible for what happened after 1996. The naturalization re-engineering that followed the political debacle of the Clinton Administration's efforts to promote naturalizations in 1995 and 1996 created a sharp completion trough that lasted until 1998. At that time, completion rates increased nicely again until FY 2002, when they dropped precipitously once more—a drop from which they have shown no signs of recovering so far. In fact, at this time, the immigration services' backlog is *well over six million* (it stood at 6.2 million at the end of FY2003, with more than 1.2 million pending "green card" adjudications and multiyear naturalization delays).

No part of this tale is a surprise to anyone with even a passing interest on immigration matters. During the immigration roller-coaster years of the last ten years, demands on the INS (and its successor agencies) have been increasing exponentially while the organization's capabilities have been diminishing seemingly at even steeper rates. It is no wonder, then, that the ratio of pending-to-completed applications have been rising so steeply during this same time.

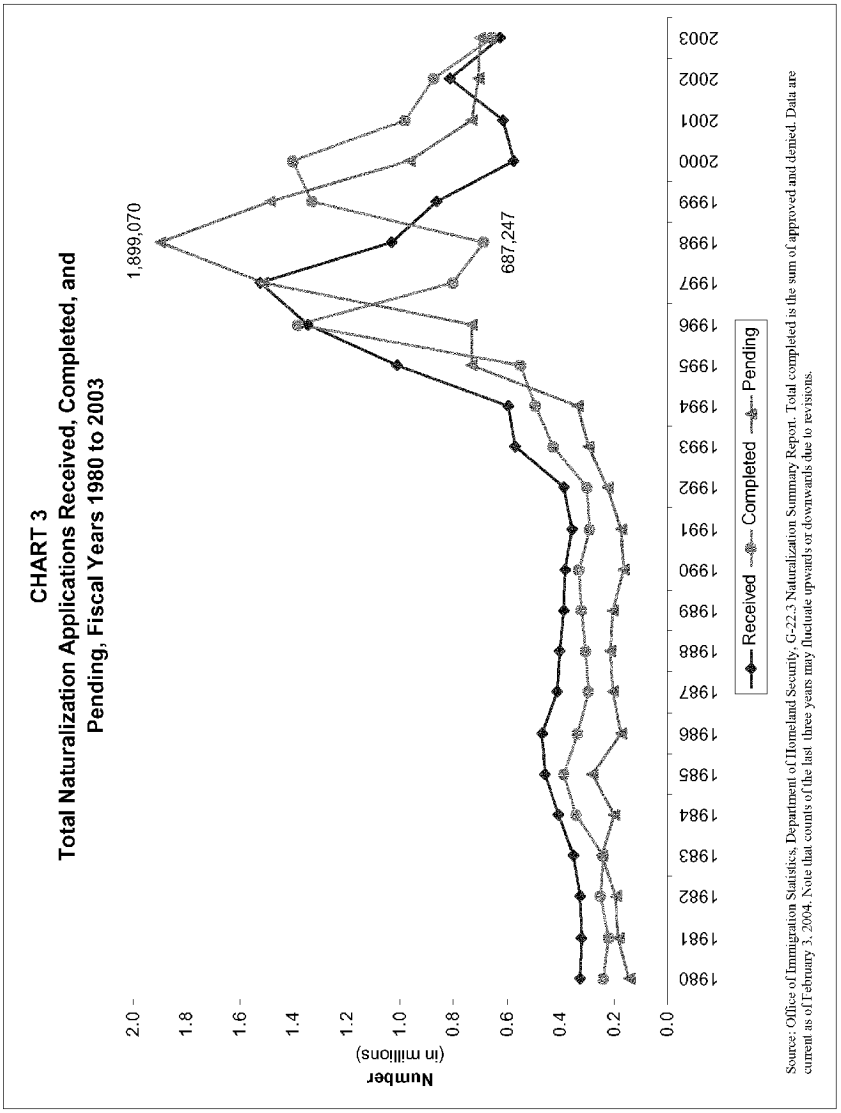


Taking naturalization petitions out of the statistical picture does not alter the overall portrait dramatically. This suggests that the inability of the INS and its successor organizations to deliver services with any predictability cannot be laid to the feet of surging naturalization petitions alone. Most migration specialists would agree that this statistical picture reflects a clear systemic performance deficit. They would also agree that it reflects the failure of the services' side of our immigration system to make an effective case to its political superiors—whether at the Justice Department or DHS, but especially at OMB, the White House proper, and the U.S. Congress—that immigration services are critical to the organization's mission and overall objectives.

Chart 2 makes that point clear. It shows a broadly a similar pattern to that of the previous chart with similar troughs and surges and a virtually identical performance portrait. The similarity on patterns holds both for the gap between appli-

cations received and those completed but especially for the steeply growing backlogs beginning in 1993 but becoming sharply obvious after 1996.

The next two charts focus on two components of the adjudication function that should be of particular importance to this Subcommittee as it considers both the President's budget request and his immigration reform proposals put forth on January 7 of this year.



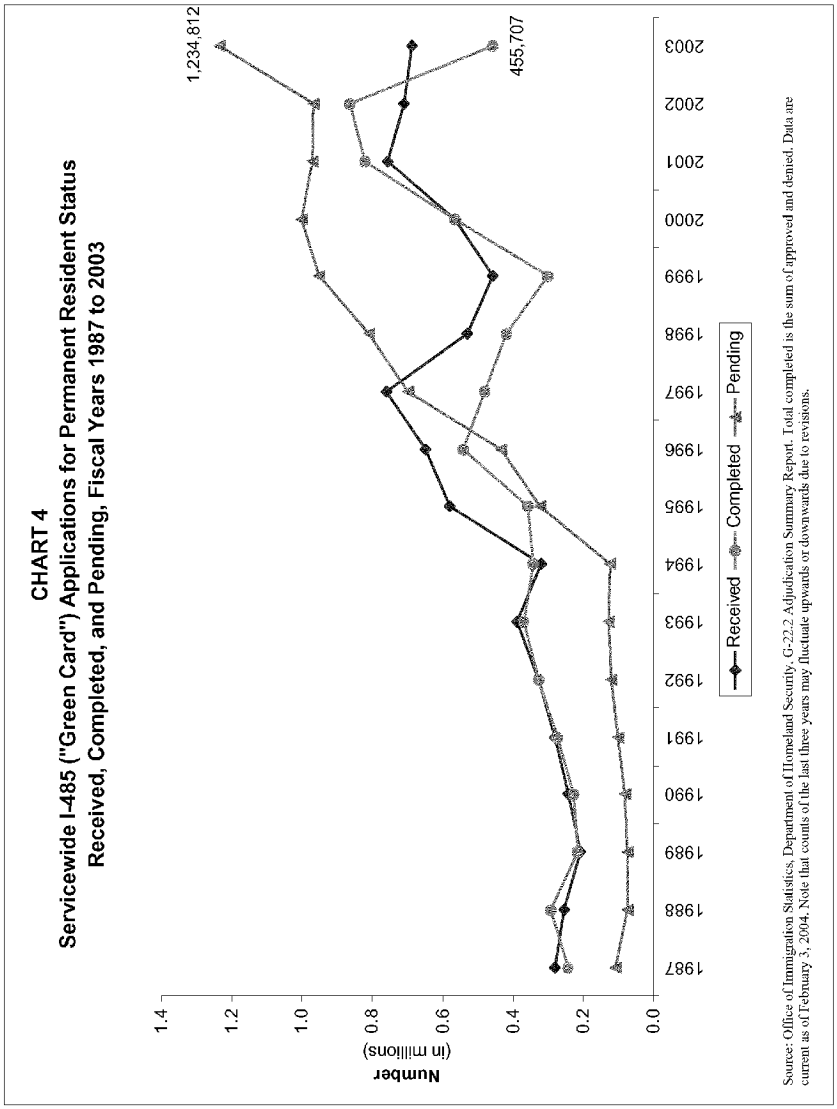
The next chart offers another look at the performance pattern of the services' side of the immigration agency, this time by focusing exclusively on naturalization petitions. The chart starts again with 1980 data.

Chart 3 makes abundantly clear that when it came to naturalizations, the agency kept received, completed and pending applications within a rather narrow band essentially until 1994—when two factors began to wreak havoc with the system. By 1994, the first cohorts of those who received permanent legal status under IRCA

were becoming eligible for naturalization and were in fact availing themselves of that privilege. Simultaneously, that period's intense debates about immigrants encouraged some immigrants to naturalize and persuaded others who, although eligible, had been sitting on the fence about whether to naturalize or not, to do so also. Hence the surge in applications. The severe slowdown in the adjudication of naturalizations during the re-engineering years in the late 1990s is clearly evident in the enormous spike in *pending* applications in 1997 and 1998, when the number stood at nearly 1.9 million.

Three more data quirks on this chart require a brief explanation.

- First, and not surprisingly, these same two years (1997 and 1998) also witnessed the formation of the largest gap between pending and completed applications for any period—about 1.2 million.
- Second, completions of naturalization petitions surged from 1998 to 2000 when, without any contextual explanation other than the chaos and dysfunctionality of an agency set adrift in the post 9/11 environment, they begin to slump sharply again, reaching their nadir today.
- Third, the number of petitions themselves dove dramatically starting in 1997, in some significant part because new applicants became discouraged by the widely-reported adjudication delays. This trend, however, reversed itself for a time after 9/11, demonstrating once more (as it did in the 1994–1996 period) the "defensive adaptation" character of naturalization surges. That is, that a proportion of those who seek to naturalize do so as a means of protecting themselves from the legal and other uncertainties of not being a citizen.



The final chart is the most graphic depiction yet of the chaotic relationship between demand for and the government's capacity to adjudicate (or is it the priority it attaches to adjudicating?) lawful permanent residence (LPR) or "green card" applications. Chart 4 shows the dramatic and consistent increase in pending LPR petitions beginning with FY 1994. Remarkably, for much of that period of extended and continuous increases in demand, application completions have hardly ever kept up with new application intakes, a factor which explains the accumulation of the backlog evident in the graph. (The exceptions are 1995–1996 and 1999–2000).

Most striking perhaps is the 2002–2003 segment of the graph that shows demand spiking at the same time that the government's capacity to and priority in adjudicating petitions simultaneously plummets. While the need to be as certain as possible that no one who may wish us harm receives a green card—a perfectly natural impulse and a critical governance objective—the preponderance of the evidence still

points to another, inescapable, conclusion: *immigration services, whether under the old INS or the new CIS, have been no more than the stepchild in what many consider the immigration system's foremost* **(and all too often nearly exclusive)** *responsibility: enforcement, not services.*

b. The Relationship of Backlogs to Illegal Immigration

Estimating the relationship between multiyear adjudication backlogs and illegal immigration with some certainty is more of an art than a science and would require an agency with the data access and resources of a GAO to undertake the task. However, even without the benefit of full access to government data files and the ability to draw and examine a sample of immigration petitioners and intended beneficiaries, common sense allows one to speculate that some of a petition's beneficiaries whose cases have been pending before the INS (and now CIS) for a long time are already in the United States illegally.

More specifically, unreasonable delays in naturalization adjudications are likely to mean that many immediate families simply "re-unify" on-their-own—an act that in many ways is within the spirit if outside the letter of the law. Similarly, there is little reason to doubt that some, perhaps even many, among those waiting for green card adjudications might have done likewise—in the process involving the petitioning U.S. entities, many of whom are U.S. employers, *in an avoidable pattern of deception and illegality.*

CONCLUSION

Illegal immigration has been properly targeted as one of our country's largest governance challenges. In fact, the President has stated his determination to do something about it. It seems to me that substantial investment of new government moneys to immigration services would provide two significant benefits. First, it would be the fastest, smartest, and least divisive way to reduce the size of the proverbial haystack of unknown individuals that DHS Secretary Ridge worries about. Second, it would simultaneously reestablish respect for the law and allow the immigration services' function to regain some of the integrity it has lost (and we all want it to have) and those who deliver the function to earn once more the confidence and reputation they seek *and deserve.*

From both migration management and good governance perspectives we should not tolerate such enormous adjudication delays. The fact that virtually all costs associated with the delivery of immigration services are "recovered" in the form of fees, makes explanations *other than the low priority the service function receives from senior decision makers in the U.S. Government* seem weak, even feeble. The function's bureaucratic location per se—within the Justice Department for more than 60 years or, now, within the DHS—does not seem to matter much. The President's budget request for FY2005 continues to give immigration services the same low priority.

Budgets, we learn in school, reflect what an organization considers more or less important. The facts speak for themselves. If this Subcommittee disagrees with the President's assigned importance to immigration services, and given the obvious correlation between absurd delays in adjudications *and illegal immigration*, it has the ability to and, I would argue, the responsibility to stand up and say so.

You and your Congressional colleagues might go about making yourselves clearer on these issues as follows:

- First, make certain through your oversight powers that the CIS is held equally accountable for its mandated responsibilities as the immigration enforcement bureaus;
- Second, convey to the managers of CIS, and indirectly to the President, that they will be held to their commitments about better and more timely services and that excuses for failing to meet self-imposed targets and deadlines will be rejected?
- Third, accept at least co-responsibility with the Administration for reducing and eliminating adjudication backlogs because (a) they keep immediate families apart, (b) induce employers to break the law, and, more generally, (c) undermine respect for and the integrity of the immigration system itself.
- Fourth, put your shoulders behind better services in the immigration area by working with your colleagues in the relevant appropriations' committee to obligate the proper level of public resources to immigration services. Simultaneously, you should make it absolutely clear that you will not tolerate standards of excellence for that function that are less than equal to those you regularly demand from the DHS' enforcement bureaus.

- Finally, this Subcommittee and this Congress must begin to consider that maybe, just maybe, the CIS is misplaced within a bureaucracy whose mandate and measurements of success are about hard-headed homeland *security* functions. Put differently, and looking once more at the four charts and the inexorable falling behind of immigration services for the last decade or so, should we not be thinking more about whether the CIS contributes anything unique to homeland security *and the cost at which it does so?*
    - Specifically, if immigration services can be delivered in as robust a way as possible (both in homeland security and program integrity terms) why not start thinking about removing the overall function from DHS? It is in fact entirely possible that creating a new regulatory agency (perhaps something akin to the Social Security Administration) that never loses sight either of its governance obligations or its responsibility toward its fee-paying clients—yet can be held directly accountable for its performance—might prove a better administrative vehicle that having CIS within DHS.

After all, immigration services are virtually completely self-funded and, I suspect that spinning them out of DHS will in fact generate "savings" of at least one sort—personnel will be able to focus exclusively on the new agency's mandate and its performance can be evaluated accordingly. The alternative is well known to us all: it often involves being detailed, temporarily re-assigned, or otherwise tapped for purposes other that what the function's mandate requires and what those who seek benefits have paid for: the timely adjudication of petitions for a benefit to which they have a presumptive right.

Mr. HOSTETTLER. Thank you, Dr. Papademetriou.

The Chair now recognizes the Ranking Member, the gentlelady from Texas, Ms. Jackson Lee, for her opening statement.

Ms. JACKSON LEE. Thank you very much, Mr. Chair.

To the witnesses, thank you for your patience. I was delayed by another meeting on the other side of this campus. But I will ask unanimous consent to put my entire statement in the record.

Mr. HOSTETTLER. Without objection.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

At our previous hearing on the Funding for Immigration in the President's 2005 Budget, I expressed concern over the fact that the FY 2005 budget request for the Department of Homeland Security strongly favors the Department's two enforcement bureaus over its benefits bureau. The Administration is requesting six times more for the enforcement bureaus than for the benefits bureau. It is requesting $10,214 million for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement but only $1,711 million for the Bureau of U.S. Citizenship and Immigrant Services.

It also is significant that the Administration is requesting an increase of $538 million for the enforcement bureaus but only is requesting a $58 million increase for the benefits bureau. For every additional dollar the Administration is requesting for the benefits bureau, it is requesting nine dollars for the enforcement bureaus.

I am not opposed to providing sufficient funding for the enforcement bureaus. My concern is that the Administration is not requesting adequate resources for the benefits operations. The Bureau of U.S. Citizenship and Immigrant Services (USCIS) has not been able to keep up with its work load, which, according to Director Eduardo Aguirre Jr., includes more than six million benefits applications each year.

USCIS does an incredible amount of work. Director Aguirre testified that during the course of a typical day, his workforce of 15,500 employees will do the following:

- Process 140,000 national security background checks;
- receive 100,000 web hits;
- take 50,000 calls at the Customer Service Centers;
- adjudicate 30,000 applications for immigration benefits;
- see 225,000 visitors at 92 field offices;
- issue 20,000 green cards, and

- capture 8,000 sets of fingerprints and digital photos at 130 Application Support Centers.

In addition to this, USCIS has to devote substantial resources to eliminating its backlog of more than six million benefits applications.

Director Aguirre assured us that the proposed FY 2005 budget amount for USCIS would provide him with the resources he needs. I have great respect for Director Aguirre, but I do not share his optimism on this matter. The proposed budget only allocates $140 million for backlog reduction. Even with the addition of the $20 million USCIS expects to receive from increased processing fees, this is not sufficient to eliminate the backlog. This is apparent when you look at recent operating expenses. During the three-year period from FY 2001 through FY 2003, USCIS's reported operating costs exceeded available fees by almost $460 million. Since the beginning of FY 2001, the number of pending applications increased by more than 2.3 million (about 59%) to 6.2 million at the end of FY 2003. This increase occurred despite additional appropriations beginning in FY 2002 of $80 million annually to address the backlog.

I also am concerned about the fact that USCIS is raising its application fees. This may be necessary to cover the additional expenses of post 9/11 security checks, but it is a move in the wrong direction if the objective is to generate needed operating funds through fees rather than through the President's budget request. The Department of State relies heavily on fees to support its visa application operations, and its recent experiences show that this can be an unreliable way to provide necessary funding.

Since 9/11, the State Department has experienced a decrease in non-immigrant visa demand. This has resulted in significant revenue shortfalls in the FY 2003 and the FY 2004 Border Security Program budget. To compensate for these shortfalls, the Department has applied funding provided by supplemental appropriations: $46 million in FY 2003 and $109.5 million in FY 2004. The Department considered increasing the fees but refrained from doing this on account of concern that the increases could have an adverse affect on the public's willingness to travel to the United States, which would reduce the demand for visas even further.

Meanwhile, $340 million is allocated for the US-VISIT program, which may turn out to be a waste of resources that could have been used elsewhere, such as for reducing the benefits applications backlog. I believe that we need to pay more attention to benefits operations and that we much use our resources more wisely. Thank you.

Ms. JACKSON LEE. And I will make some comments pertaining to my concern.

We had a previous hearing, Mr. Chairman, and I expressed concern over the fact that the FY 2005 budget request for the Department of Homeland Security strongly favors the Department's two enforcement bureaus over its benefits bureau. The Administration is requesting 6 times more for the enforcement bureau than for the benefits bureau. It is requesting some $10 billion for the Bureau of Customs and Border Protection, I believe, and the Bureau of Immigration and Customs Enforcement, but only $1 billion for the Bureau of U.S. Citizenship and Immigrant Services, as I understand it.

It also is significant that the Administration is requesting an increase of $538 million for the enforcement bureaus but only is requesting a $58 million increase for the benefits bureau. For every additional dollar the Administration is requesting for the benefits bureau, it is requesting $9 for the enforcement bureaus.

It is interesting, if I take my memory clock or I report back—and this is by no means, Mr. Bonner, a suggestion that we cannot do more with the Border Patrol funding and a number of other issues that I have worked on over the years, including professional development. But what I am suggesting is that we're in a partnership. And, frankly, Mr. Chairman, I recall the organizing of the Homeland Security Department, and if we were to delve into the congressional records, testimony and comments both in front of the

Homeland Security Committee as well as in the Judiciary Committee, I made it very clear that my concern was in merging all of these various agencies and changing the INS for the better, would we not disenfranchise the benefits issue?

Just this past weekend, President Bush met with President Vicente Fox, and President Fox of Mexico came out and said, We have a deal, we're going to be working together to downplay the utilization of the US-VISIT Program at the border for some frequent visitors. Certainly I would say there is some merit to discussing that. I'm glad that the President, President Bush, restrained himself in the details because, frankly, I believe Congress and the Homeland Security Department should be intimately involved.

But the interesting point is that I know in their meeting—I would imagine that they must have had a follow-up of the big promise that the President made as it relates to the undocumented alien situation in this country. In order to begin to even look at a structure to deal with that, Mr. Chairman, even to look at it, you're going to have to have more resources, because right now as we sit in this hearing we have a 6-million-person backlog or question backlog or request backlog on benefits. And let me share some of this with you.

U.S. CIS has done an incredible amount of work. Director Aguirre testified that during the course of a typical day, his workforce of 15,500 employees would do the following: process 140,000 national security background checks; receive 100,000 Web hits; take 50,000 calls at the customer service centers; adjudicate 30,000 applications for immigration benefits; see 225,000 visitors at 92 field offices; issue 20,000 green cards; capture 8,000 sets of fingerprints and digital photos at 130 application support centers.

But what we have not addressed is that as they are doing the current work, 6 million benefits applications remain in backlog, and someone needs to take a visit to the Texas center, one of the busiest in the Nation, and you will find still the scurrying to find lost fingerprints. Even as we utilize the new technology, we have never caught up, Mr. Chairman, with fixing this issue. And with the dialogue with President Vicente Fox and this whole issue of undocumented aliens and with our discussion about earned access to legalization, even the President's plan, which includes a flat earth program of guest worker and falling off at the end, but he does ask that everybody who's willing to come would be documented. Can you imagine overlaying that responsibility, which, as I understand it, should be within the next fiscal year, and not have additional resources for benefits?

I am delighted of the witnesses who have come for their testimony, but let me just say this: Even with the addition of the $20 million U.S. CIS expects to receive from increased processing fees, this is not sufficient, Mr. Chairman, to eliminate the backlog. This is apparent when you look at recent operating expenses. And during the 3-year period from 2001 to 2003, U.S. CIS reported operating costs exceeded available fees by almost $460 million—$460 million. Since the beginning of FY 2001, the number of pending applications increased by more than 2.3 million, about 59 percent, to 6.2 million at the end of FY 2003.

There are a number of numbers that I'll use throughout my questioning, Mr. Chairman. Let me just conclude by saying this: I put these numbers on the record because I believe that you are sincere with these hearings on the budget, and this cannot be the hide-the-ball FY 2005 budget year when it comes to immigration issues. This cannot be the smoke and mirrors budget of 2005. If we're going to seriously reform the immigration system to answer the questions of those who are anti-immigration, anti-immigrants, and are pro-homeland security, then we're going to have to put our money where our mouth is. And even to begin talking about documenting anyone, this Department is going to need more monies.

And, finally, I would say that I always begin my comments, Mr. Chairman, that immigration does not equate to terrorism. We need all of the elements that are here before us this morning to work with us to ensure a safe and secure homeland, but to meet the values of this Nation, and that is that we are a Nation of immigrants and of laws. We are not doing ourselves a service, Mr. Chairman, unless this Subcommittee aggressively works to increase—or to make the record that we cannot function, we cannot be law-abiding, we cannot document, we cannot be secure without increased funding on the benefit side. And I would ask the Chairman to work with me, and I look forward to working with him.

Mr. HOSTETTLER. I thank the gentlelady.

The Chair now recognizes the gentleman from Arizona, Mr. Flake. He will leave early, so we will——

Mr. FLAKE. Thank you. I thank the Chairman. And I only have 5 minutes, so I would appreciate if you could answer as briefly as possible. I will try to ask quick questions.

Mr. Bonner, you stated in your testimony that we only have—oh, I'm sorry. This was Mr. Danahey mentioned that we only have token control of the border. We spend about 6 times as much now as we did just 15 years ago on the border, and that's yielded us just token control?

Mr. DANAHEY. It's an improvement, sir, but I think we need to do more.

Mr. FLAKE. How many troops or how many—some say "troops." Some say "others." How many more people will we need on the border to seal it?

Mr. HOSTETTLER. Would the gentleman please turn on your microphone? Is it on?

Mr. DANAHEY. It is. Sir, I don't have a number right off the top of my head. I'd be happy to research that through our INS people to try to get you a better number. But from last year's testimony where I think we cited that local police were being used to supplement the Federal agents and Border Patrol agents up on the New York border, for instance, it, of course, takes away from other assets that the States need to perform their functions.

Mr. FLAKE. Mr. Bonner, does your organization have a position on the President's plan, immigration reform plan?

Mr. BONNER. The guest-worker program?

Mr. FLAKE. Yes.

Mr. BONNER. As we call it, the amnesty. We are intensely opposed to granting amnesty to people. That only serves to encourage more people to break the law. We discovered that in the 1986 am-

nesty, all it did was monumentally increase the numbers. Back then, they estimated 3 to 4 million people in the country illegally. Currently, that has——

Mr. FLAKE. Mr. Bonner, could you give me your definition of amnesty?

Mr. BONNER. Amnesty, according to the dictionary, is when you—when an authority, such as a Government, pardons people for breaking a law.

Mr. FLAKE. Precisely. The President's plan, as I understand it, includes a penalty, a fine, and then movement to the back of the line or no pathway to citizenship automatically. Is that still an amnesty?

Mr. BONNER. It still is. Citizenship——

Mr. FLAKE. What would you call——

Mr. BONNER.—has nothing to do——

Mr. FLAKE. What would you call the current situation? The current situation, it would seem, is a de facto amnesty. Would you argue with that?

Mr. BONNER. I would not argue that point. We have turned a blind eye to millions of people breaking our immigration laws.

Mr. FLAKE. In an effort actually to document those who are here, force them to pay a fine, and then put them back at least 3 or 6 years behind those in terms of seeking legal permanent residency or status, that's less of an amnesty than what we have now. Is that correct?

Mr. BONNER. I believe that most people are entering this country for the jobs. They're not entering to become citizens.

Mr. FLAKE. That's correct. That's my feeling.

Mr. BONNER. And so that carrot out there of, well, you can become a citizen way down the line, they don't care about becoming a citizen ever. They just want our money.

Mr. FLAKE. Mr. Danahey, what—do you believe the President's plan is described well by Mr. Bonner?

Mr. DANAHEY. I believe pretty close, sir, yes.

Mr. FLAKE. Would you agree that today we have a de facto amnesty?

Mr. DANAHEY. At this point we do not.

Mr. FLAKE. We do not?

Mr. DANAHEY. I don't believe we have an amnesty program. We have a turnaround program.

Mr. FLAKE. But you said we're only making a token effort at the border.

Mr. DANAHEY. That's right.

Mr. FLAKE. But would that not be improved by actually registering those who are here and giving them an opportunity to go back home by legally crossing the border with the legal process?

Mr. DANAHEY. It would be a step in the right direction, sir.

Mr. FLAKE. That would be a step—the President's plan would be a step in the right direction?

Mr. DANAHEY. Yes.

Mr. FLAKE. Thank you.

Mr. Cutler, are you familiar with the Bracero program of the 1950's?

Mr. CUTLER. Yes, to an extent.

Mr. FLAKE. When it ended, did we have a better situation or a worse situation in terms of illegals coming across?

Mr. CUTLER. To be honest, I really couldn't tell you that. But what I can say to you, though, is that we are not deterring illegal immigration, and it is not just because of the border. The problem is—and I always talk about an enforcement tripod. It stands on three legs: the inspectors enforce the law at ports of entry, the Border Patrol between ports of entry, but we need that third leg, the special agents from within the interior so that when people get past the Border Patrol, they have concern that they're going to be apprehended and ultimately removed from the United States. Right now there is no such——

Mr. FLAKE. That's right. I couldn't agree more.

In 1964, when the Bracero program ended, INS apprehensions increased from 86,597 to 875,000, over a thousand-percent increase in illegal immigration. When you don't have a legal program, a legal avenue for workers to come, they're going to come illegally, and that's the situation we have now. It's a de facto amnesty. Any situation to register those, I would submit, and give them an opportunity to go home—the average stay in Arizona for a migrant worker coming used to be about 2.2 years. It's increased to over 9 years today because there's no legal avenue for them to return home. We have the worst of all situations in Arizona. They come, they bring their families, and they stay. What used to be a circular pattern of migration is now a settled pattern, and we're doing nothing to stop it at the border. Even if we could seal the border, as some are advocating, even if we could, 40 percent of those who entered—or who are here illegally now entered the country legally. We've solved nothing. And so we have got to have a program to allow them to return home, I would submit. And Mr. Bonner's point that they're coming here for jobs is precisely right. We ought to recognize that, give them a program, and then allow those to return home. And then we can focus more resources on those who would actually come to do us harm.

I thank the Chairman for indulging and putting me first, and I apologize for having to leave. Thank you.

Mr. HOSTETTLER. I thank the gentleman. The Chair now recognizes himself for 5 minutes for questions.

Mr. Bonner and Mr. Danahey, the applications chart that was given us by Dr. Papademetriou indicates that between 1990 and 2002, an increase in applications completed by the INS, now CIS, to be in excess of 3 times greater. Can you tell me if we have been able to remove 3 times the number of illegal aliens from the United States during that time, Mr. Bonner, on an annual basis?

Mr. BONNER. I don't know the exact figures, but I would be very surprised if we were removing even a fraction of the numbers that you're talking about.

Mr. HOSTETTLER. Mr. Danahey?

Mr. DANAHEY. I agree with Mr. Bonner, sir.

Mr. HOSTETTLER. So, in proportion, we are, with regard to the service that's being rendered to the United States of America, whether it's—whether it's adjudicating applications or enforcing the immigration laws, in proportion, with regard to the statistics that Dr. Papademetriou has supplied and your experience, we are

spending quite a bit more proportionally on the immigration side than we are on the enforcement side, would you not say, with regard to the results? Mr. Bonner?

Mr. BONNER. Well, I think that you need to look at the overall picture in terms of what is best for this country, and I think that we can't ignore what happened on September the 11. There were only 19 people, and, you know, if you talk about, well, we're doing a "pretty good" job of enforcement, "only" 19 people caused thousands of American citizens to die and cost us billions of dollars, and I think that——

Mr. HOSTETTLER. But, relatively speaking, Mr. Bonner, with regard—the American people have a citizenship process, service process now, and they have a law enforcement side. If we are nowhere near completing the same, proportionally speaking, with regard to law enforcement and services, proportionally would you not say that we are spending—with regard to the service that's being rendered, we're spending a lot more on immigration services, not with regard to total dollars but with regard to the statistics, the actual results of the activity, we are spending a lot more on services than we are on law enforcement.

Mr. BONNER. I agree with you, and I think that we're overly generous as a Nation in providing benefits to people, and I think we need to—the point I was trying to make is that it's very important to protect our country. We can't—we cannot go on with open borders and then allowing millions of people to put in for benefits. We need to stop and take a look and figure out what's best for this country at this point in time.

Mr. HOSTETTLER. Yes, sir.

Mr. Bonner, the budget request, as it was related to us at the Subcommittee in the last hearing from CBP, included increases in technology and sensoring cameras as well as UAVs. Do you believe—but not more agents. Do you believe that the Border Patrol needs more agents even as we increase spending in technology?

Mr. BONNER. Well, absolutely. The technology is the eyes and the ears. There is no camera designed that will jump down off that pole and apprehend illegal aliens. That is up to Border Patrol agents. So it does no good. One of the things that they discovered back in the mid-1990's when they launched Operation Gatekeeper in San Diego, CA, the sensors were going crazy, and they turned them off because they said it was demoralizing the agents because they couldn't catch all the people that were going around them.

Well, that's kind of silly, in my view, to have technology and not use it. I think it would be beneficial to know exactly how many people are getting by us because that would provide a true measure of the effectiveness of the Border Patrol and give us an indication of how many more agents it would take to bring that border under control.

Mr. HOSTETTLER. Very good. One more question, Mr. Bonner. In January 2004, the President proposed a temporary worker program that you discussed earlier with Mr. Flake. Newspapers were reporting in January that the Border Patrol was conducting a survey of apprehended aliens to see whether they had heard about the President's proposal. Is that true? And if that is true, is the survey still being taken?

Mr. BONNER. It is true that in a number of areas they were taking the survey. It ended rather quickly. I'm not sure of the reasons. It became a political hot potato. Perhaps they didn't like the answers they were receiving.

Anecdotally, the agents in the field were relaying to me and others that many of the people that were coming across were making inquiries about the guest-worker program, about the amnesty.

Mr. HOSTETTLER. Thank you.

The Chair now recognizes the gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very, very much.

Mr. Bonner, I've worked with the Border Patrol agents some years back on professional development and increasing the civil service ranking to hopefully assist you all in retention. I've literally walked the Southern border, and let me thank you for the graciousness of many of the Border Patrol agents that have shown me some of the areas and challenges that they face.

Tell me what you need to be really effective in terms of increased inspectors and Border Patrol agents in the United States as it might impact on the budget, what you really need to be at full capacity where you'd feel comfortable in terms of increased inspectors and Border Patrol agents. And, of course, we talk about the Northern border and the Southern border included.

Mr. BONNER. I think that really depends on the strategy that you pursue. If we continue to pretend that we can stop everything at the border, bearing in mind that 40 percent of the illegal—somewhere between 30 and 40 percent of the illegal immigrant population comes in legally, but let's continue to pretend that we can stop everything at the border, it would take millions of Border Patrol agents. Really, we need to get a handle on the root cause of why people are coming to this country. We need to enact tough employer sanctions laws that take the burden off of the employer's back, put it on the Government's back where it belongs, for the Government to develop some form of counterfeit-proof identification that will allow an employer to recognize someone who has a right to work in this country and that will allow the Government to penalize employers who try and circumvent that——

Ms. JACKSON LEE. But if we were to look at a different strategy, let's just take your vision, not necessarily—I don't necessarily agree with it, maybe, but then what kind of increase would you think that we would need in either Border Patrol agents or inspectors?

Mr. BONNER. Under my vision, where you have employer sanctions laws that are enforceable, you could probably control the remaining elements because you would remove 99 percent of the people who are coming across our borders of those millions of people. And you would be left with terrorists and other criminal——

Ms. JACKSON LEE. So you're not here today to ask for any increased compensation for Border Patrol agents, no increased numbers of inspectors? I just want to know——

Mr. BONNER. That's not what I said. I said——

Ms. JACKSON LEE. Well, then tell me——

Mr. BONNER. In an ideal world——

Ms. JACKSON LEE. But I'm trying to get to the bottom line. What is the number——

Mr. BONNER. Well, if we're continuing to pursue the current policy, I think that at a minimum you need to be adding at the rate that they were adding a few years ago, a thousand agents per year.

Ms. JACKSON LEE. That's what I'm trying to get at, and we'll work with that. Obviously, you have a difference as to the strategy, but we're looking at numbers now, and we're trying to be as responsive as we can. And so those are the numbers that, under the present structure, you are needing more assistance. Is that my understanding?

Mr. BONNER. Absolutely.

Ms. JACKSON LEE. Let me also just ask you a quick question, and I heard your comments to the Chairman and to Mr. Flake. I calculate—and when I say "I calculate," based on numbers that have come to my attention—that there may be between 8 and 14 million undocumented individuals in this country. Are you saying that we have the capacity to deport 14 million people?

Mr. BONNER. I believe that if you have laws that are enforceable for employer sanctions that people will go home. The reason they are here is for the jobs, and if the job spigot is turned off, they will go home, because their only other alternative is to sit and beg in the streets, in which case our police, our local police would arrest them for vagrancy, and then they would be deported. But I think that most of them would just simply go home.

Ms. JACKSON LEE. Well, I think you have a very large vision about that, and I would venture to say to you that 14 million who have put down roots, built houses, paying taxes, whether it's sales taxes, children in school, are absolutely not going to do that. So I think we vigorously disagree, but I appreciate very much your comments on the Border Patrol.

Mr. Papademetriou, thank you so very much. Give me a response to this idea that we are spending more for enforcement than we are for benefits, and what do we need to do in this budget year? You heard my consternation, and if you have better numbers than 6 million—I don't think the debate is on that question, but help us understand whether we are really in an equity as it relates to benefits and enforcement. And thank you for your testimony.

Mr. PAPADEMETRIOU. Thank you. Thank you very much, Congresswoman, and I couldn't agree more with your statement and the thrust of your questions.

There is some fundamental difference that makes any comparison, with all due respect, Mr. Chairman, between the resources that we invest on the one part of the function and the other one essentially invalid. First of all, the services function is largely self-funded. The governmental resources that go into the function are but a fraction of the numbers that you see. So there is a big difference over there as to who is paying. You're going to have to compare not the $1.7 million to the—billion to the $10 billion, but whatever it is that comes out of our pocket, the public's pocket, with what comes out of the public's pocket for the $10 billion. That's a real $10 billion. This is just a fraction of $1.7.

The other part that makes that comparison suspect, in my view, is that in a sense we are comparing not apples and oranges but I think apples and widgets. We have not established that if we do more in the one area we necessarily will do better in the other

area. The two are completely disengaged. We may not be doing well in terms of enforcement—and at some fundamental level I do not disagree with my colleagues on this side of the table. But, in reality, what we're talking about is let's continue to put resources there. Be smart about the methodology. You called it strategy. We all need to realize that we don't have, you know, all of the money in the world. But, also, begin to address the issue of services if for no other reason because it breeds illegality. It contributes to that aid to 12, 14 million people. We don't know exactly how many, but it contributes to that number. And we can bring that number down relatively with no cost to the Treasury. This is very, very significant.

Let me give you an off-the-top-of-my-head, back-of-the-envelope, whatever you will, Madam Ranking Member, estimate of what it might take to remove people, because I am absolutely convinced—I have been in this business long enough to be fully convinced—that what you are saying, that these people are not going to leave is absolutely right.

How long does it take, in terms of investigation, to actually—investigative resources, to actually trace down a number of people? How long—how many people does it take to actually go and pick them up? How much jail time does it take in order to prepare them for their hearings——

Mr. HOSTETTLER. The Chair is going to have to cut you off, Dr. Papademetriou.

Mr. PAPADEMETRIOU. Sorry.

Ms. JACKSON LEE. If he could just summarize, Chairman?

Mr. HOSTETTLER. There's a question, I think, that was—the question was: Do you agree with the Chairman that we're spending too much on immigration services with regard—and I think you answered that question. I appreciate that.

Mr. PAPADEMETRIOU. My apology.

Mr. HOSTETTLER. And we're going to have another round of questions, and we will definitely—if the lady, gentlelady wants to address that issue, we will definitely get into that issue. But we're going to move on now to Mr. Smith of Texas.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Chairman, thank you for again having a hearing on such an important subject, and thank you, too, for your selection of the witnesses who are here today, who are all experts in their fields.

Mr. Papademetriou, I don't mean to ignore you, but most of my questions are going to be addressed to the other witnesses.

Mr. PAPADEMETRIOU. I expected that, sir.

Mr. SMITH. Let me say, Mr. Chairman, we've heard some figures today about the number of people who are in the country illegally. The census, I believe, increased their figure after the 2000 census from 8 million to 11 million, but I just want to make the point again that the census only counted people who are in the country permanently, which is to say 365 days a year. If you were to today take a count of all the people who are in the country illegally, it could well be twice as many because of the people who are here for a short term. So the problem, I think, is probably greater than many of us realize.

I assume, Mr. Bonner, Mr. Danahey, and Mr. Cutler, that we are all in agreement that we think we ought to reduce illegal immigration. Is that correct? Okay.

Let me ask you if you feel that the following programs or proposals would, in fact, reduce illegal immigration. Do you think the States issuing driver's licenses to illegal immigrants is going to reduce illegal immigration? Is there anybody that thinks that it will.

Mr. BONNER. No.

Mr. DANAHEY. No.

Mr. CUTLER. No.

Mr. SMITH. Is there anyone who thinks that the issuance of matricula cards is going to reduce illegal immigration?

Mr. BONNER. No.

Mr. DANAHEY. No.

Mr. CUTLER. No.

Mr. SMITH. Okay. And, Mr. Danahey, you may disagree here, but, Mr. Bonner and Mr. Cutler, do you think that a new guest-worker program is going to reduce illegal immigration?

Mr. BONNER. No.

Mr. DANAHEY. No.

Mr. CUTLER. No.

Mr. SMITH. Okay. Mr. Danahey, a while ago I may have misunderstood, but the proposed guest-worker program by the Administration would allow people in the country illegally to stay for 6 years, perhaps more, to work, to bring in their families. Do you honestly believe that these individuals are going to be inclined to return to their home country after those years, after their families are here and after they're working?

Mr. DANAHEY. Sir, I would say that they're going to be inclined to try to stay here any way they can once they become comfortable and integrated into our society.

Mr. SMITH. And do you think that none of these illegal immigrants are going to be taking jobs that are—that could be worked by Americans? And when I say "Americans," I'm talking about citizens and legal immigrants as well.

Mr. DANAHEY. Yes, sir, they would be taking jobs that could be filled by U.S. citizens.

Mr. SMITH. And yet you said a while ago, I thought, that you thought that the proposed guest-worker program was a step in the right direction. How could it be a step in the right direction if it is taking jobs away from Americans and if it's going to encourage people to stay in the country rather than go home?

Mr. DANAHEY. It's a step in the right direction in at least we know who is here and where they are. As far as taking jobs away, et cetera, I hadn't looked at that broad of a——

Mr. SMITH. Okay. Don't you think if we make it attractive for individuals to stay in the country illegally that it's like to encourage more people to come into the country illegally?

Mr. DANAHEY. It would.

Mr. SMITH. Okay. Thank you.

Lastly, what single thing do you three feel that we should do to—what's the most important single thing we could do to reduce illegal immigration? Mr. Bonner, let's start with you.

Mr. BONNER. As I've stated previously, I think the single most important thing we could do would be to reform our employer sanctions laws. Turn off the job magnet.

Mr. SMITH. Okay. I agree with that.

Mr. Danahey?

Mr. DANAHEY. I agree with Mr. Bonner, and also tighten border security as best we can.

Mr. SMITH. Okay. And, Mr. Cutler?

Mr. CUTLER. Well, I have to agree with Mr. Bonner, but come back again to the lack of interior enforcement, because this is all about interior enforcement. And there's one fast thing if I just might get this in.

Mr. SMITH. Sure.

Mr. CUTLER. We're talking about identifying people by putting them through a process of giving them the ability to work in the United States. We won't be really identifying the criminals or most of them, because if you look at the pressure that we're under right now to handle all these applications—and I spoke about some of the pitfalls we have as of today. Imagine when someone walks into a crowded office and they say, "What's your name?" and he gives them a name, provides no documents to support who he claims to be, what will the immigration authorities do? And most likely, under the pressure of the weight of the paper and the flow of the people, we will wind up creating almost a witness protection program, if you will, for people who shouldn't even be here.

Mr. SMITH. You reminded me of a final question to ask you all, and that is, don't you think if we had a guest-worker program that made it easier for people to get into the country, stay in the country, perhaps get a job in the country, that that might not be an attractive vehicle to would-be terrorists? Mr. Cutler, do you believe that's the case?

Mr. CUTLER. Absolutely. These folks are very sophisticated, and they look for the holes in the system. And if you look at the 19 terrorists, each one of them found where there were those openings and went right through it.

Mr. SMITH. Mr. Danahey, don't you think a prospective terrorist would want to take advantage of a program like that?

Mr. DANAHEY. Absolutely, sir.

Mr. SMITH. And, Mr. Bonner?

Mr. BONNER. They would either take advantage of that program or—to me it's—the notion that people—that criminals are going to come forward and register just doesn't ring true with me.

Mr. SMITH. Okay. Thank you all for your testimony.

Thank you, Mr. Chairman.

Mr. HOSTETTLER. I thank the gentleman.

The Chair now recognizes the gentlelady from California, Ms. Sánchez, for 5 minutes.

Ms. SÁNCHEZ. Thank you, Mr. Chairman. And I apologize for missing your oral testimony, but I did review the written testimony.

A question for Mr. Papademetriou—is that the correct pronunciation?

Mr. PAPADEMETRIOU. Yes, ma'am.

Ms. SÁNCHEZ. Wow, for a Latina girl, that's not bad, right?

I'm interested in knowing with respect to the visa backlog that we're currently experiencing, interested in knowing what your thoughts are on if we would dedicate a substantial portion of the monies allocated on immigration issues to reducing the visa backlog, how might that improve our ability to know who's in this country and our ability to have improved homeland security?

Mr. PAPADEMETRIOU. Thank you, Ms. Sánchez. The two are perfectly consistent with each other. Whatever the analogy that you prefer will work here. By increasing the efficiency in delivering services, we reduce the possible number of undocumented migration; therefore, we make the job that people who enforce our laws have to do a bit easier.

We also return some—and I suspect a very substantial proportion—of pride, if you will, and esprit de corps and all that to an agency and people who are good, but they're completely disheartened. I don't know the last time that you folks have had an opportunity to speak with the rank-and-file, you know, that deliver services over there, but this is not exactly a sense on their part that this is a priority of any Administration. And with all due respect, Mr. Chairman, this is not about Republican or Democrat. It's not about people who head this agency. The fact is that we need to do something dramatically different.

I propose here something that is radical enough, which is take CIS out of DHS. We'll lose nothing. In other words, whatever it is that we need to do in terms of program integrity can be done from outside of the agency, particularly now that we're creating interoperable databases, where we're creating all sorts of common standards—for all of those things, all of these services can actually be performed from outside of the agency. And let's have an agency, perhaps akin to the Social Security Administration, that knows what its job is day in and day out: to deliver services for those people who qualify, to actually give value for the people who pay the money.

You may find out that you will not have to actually subsidize that agency, the same way that you have been doing for the past 20 or 30 years, in large part because nobody is going to say, okay, you 1,500, you're now going to have to stop delivering services, and you're going to have to do special registration, which is what happened a year ago.

So fundamentally, the relatively smart things—small things that are smart can make a big difference in the delivery of services.

Ms. SÁNCHEZ. Amazing that an agency that actually gets resources allocated to what the majority of its functions should be.

A follow-up question very briefly. In your opinion, what would be the financial impact or what would be the necessary funding in order to do as they are suggesting with some other guest-workers programs, et cetera, of deporting the estimated 8 million undocumented workers in this country and also, with a new guest-worker program, setting up some kind of worksite—you know, not surveillance but monitoring of a new guest-worker program? What might that do to the agency?

Mr. PAPADEMETRIOU. It would probably sort of turn the agency and spin it apart. The money will be extraordinary. Just a back-of-the-envelope estimate, if we actually remove—apprehend and re-

move 500 people a day—I'll make it easy—and if there are 400 days in a year, even though I know that's not the number, and if there are 10 million people—Mr. Smith suggested that there were 11 then, a figure I never heard before.

Ms. SÁNCHEZ. It seems to go up according to people's convenience.

Mr. PAPADEMETRIOU. But the point is that even if we have 10 million people it will take 50 years—50 years—and tens of billions of dollars to remove just these people. And that assumes that in the next 50 years we are not going to get a single new unauthorized person in the country, just a mere multiplication.

So I think that we have to think smartly. Maybe we can disagree as to whether the President's proposal is the right one. The President actually, you know, shot a starting gun and said let's start thinking together about it. Maybe his idea is not enough. I suspect it's not. But it is a starting of a conversation which we have refused to have in this country.

Ms. SÁNCHEZ. Thank you very much for your testimony. My time has expired. I will yield back.

[The prepared statement of Ms. Sánchez follows:]

PREPARED STATEMENT OF THE HONORABLE LINDA T. SÁNCHEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

INTRODUCTION

I'd like to thank the Chairman and Ranking Member Jackson Lee for bringing the Members of this Subcommittee together to discuss funding for immigration in President Bush's budget. This is the second time we've had a hearing on immigration and the President's budget in the last two weeks. I, for one, am glad that we are making immigration an issue that is important enough to warrant two hearings.

Every Member of this Subcommittee and all of our witnesses know that our immigration system is broken, and badly in need of comprehensive reform. I felt at the Subcommittee's last hearing on President Bush's budget and I still feel today that neither the President's immigration principles nor his budget are going to fix all of the problems that plague our nation's immigration system.

PRESIDENT'S IMMIGRATION PRINCIPLES

Let's start with the President's temporary worker program. It will not stop the steady flow of illegal immigrants into this country because it doesn't solve one of the biggest causes of illegal immigration—separated immigrant families. The President's immigration plan has absolutely no provisions to reunify immigrant families. So, thousands of immigrants each year will continue to cross our borders illegally to be with their loved ones.

Another problem with the President's plan is that it has no earned legalization provisions. The President expects the 8 million hard-working undocumented immigrants in our country to sign up for his temporary worker program, subject themselves to second-class status during their brief stay in our country, and then stand in line to be deported. That is not going to happen. And even if by some chance it did happen, a deferred deportation program with no hope for the future is not the solution to our immigration problems.

My fellow Democrats and I have on many occasions let the President know that if he is serious about immigration reform that he should support the DREAM Act and the AgJOBS bill. The President hasn't supported these bills and by doing so has proven that his immigration principles are in fact an attempt to woo the Latino vote, not an effort to help immigrants improve their lives in this country.

We've also introduced immigration principles of our own that address the fundamental problems with our immigration system that the President's plan fails to address. The Democratic principles reunify families by reducing the visa backlog and allowing families to remain together while they work to earn legalization. Our principles also give hard-working, law-abiding immigrants in this country a chance to earn legal status and continue to contribute to our economy and our communities.

The President's immigration principles leave immigrants trying to better provide for their families out in the cold, and his budget doesn't do much better.

THE PRESIDENT'S BUDGET

The President's budget also proves that he is not committed to helping immigrants. The President's FY '05 budget increases by hundreds of millions of dollars so-called immigration enforcement programs while neglecting immigration service and citizenship programs.

We all agree that we need to enforce our immigration laws and make sure that our border patrol agents have the resources they need to make our borders safe, orderly, and secure. These resources are vital for securing our homeland. However, if we want our country to be fully secure, we can't neglect other equally vital immigration concerns like reducing the visa backlog, providing better, more efficient immigrant services, and promoting citizenship. But the President's budget neglects these other important immigration reform issues.

For example, the President seeks $281 million more for DHS's Bureau of Immigration and Customs Enforcement in FY '05 than he did in FY '04. This is the largest funding increase for any Bureau of DHS that the President seeks in his budget. On the other hand, President Bush has proposed only an additional $60 million for visa backlog reduction. The President proposed a $500 million initiative to reduce the visa backlog by 2006. However, the President's visa backlog reduction initiative so far has been a complete failure. This is obvious considering we have over 6 million visas yet to be processed and the numbers of backlogged visas are showing no signs of reducing. Furthermore, many U.S. citizens are waiting 10+ years to be reunited with their families. This includes thousands of Americans who have to wait 22 long years to reunite with their family members in the Philippines.

I am glad that the President is willing to spend funds to reduce the visa backlog. Unfortunately, the $60 million increase in his FY '05 budget is inadequate to make the necessary changes to a visa processing system that needs massive reform.

If we fail to reform our visa processing system and significantly reduce the backlog, immigrants will continue to break our laws to get into this country. The more our laws are broken, the less secure we are as a nation. So, if we want to fix our immigration system and truly be secure we must make backlog reduction and comprehensive reform as high a priority as enforcement, border security, and detentions and deportations.

CONCLUSION

I thank all of the witnesses on our panel for being here today. I am looking forward to hearing testimony from some of the people on the front lines of homeland security and involved with coordinating immigration across our borders. Thank you all for taking the time out of your schedules to give us your thoughts and expertise.

I thank the Chair and Ranking Member for the opportunity to express my views. I yield back.

Mr. HOSTETTLER. We'll have a second round of questions.

The Chair now recognizes the gentleman from Iowa, Mr. King.

Mr. KING. Thank you, Mr. Chairman.

I appreciate all your testimony and response to these questions, and as the pieces get filled in here on our immigration policy, a number of things accumulate in my mind as I sit here and listen, and one of them is—I'll reference a statement that was made here by the gentleman from Arizona in reference to roughly 10 years ago the statement was made that about the average stay for an illegal in the country was 2.2 years and now it's about 9 years. And if I'm going to quote him, I will say that the quote is this: "There's no legal avenue for them to return home."

And I direct my question to Mr. Bonner. Is there any restriction to anyone returning home under any circumstances or under what circumstances might that statement have validity?

Mr. BONNER. Nothing stops anyone from leaving this country. We're not handcuffing these people and forcing them to remain here. They're remaining here of their own free will.

Mr. KING. In fact, then, there's every legal avenue for every illegal to return back home, maybe with the possible exception of if they've committed a felony of some type and we've got them incarcerated for that. But those who have broken no other laws than our immigration laws, they all have a legal avenue to return home.

Mr. BONNER. Absolutely.

Mr. KING. Thank you. I appreciate that clarification and that being in the record. And I'd also state that they do come here for jobs. We recognize that. That is the magnet. And they stay here for a variety of reasons, but one of them is the difficulty to return home. One of them is the cost to come back here. But another one is—and it's not something that gets stated here very often, and that is that they like prosperity, the jobs, and the longer they're here, the more comfort they have and the more likely they are to stay.

I would challenge also even doing the math and the calculation on how long it would take to deport illegals, that number being pick your own, but 11 million plus. They came here on their own, and they can—many of them go back on their own if we have good domestic enforcement. And, let's see, I would—okay. If we have—and I'd direct this question to Mr. Cutler. If we have roughly 12 to 14 million illegals, why would we prioritize a tight budget to send our resources, our precious border control and internal enforcement resources instead into immigration services? And I hear that discussion here in this panel that there's not enough money spent to move people through the process. Why would that be our priority if we have 12 or 14 million illegals here, why wouldn't we use that money instead to enforce our borders and enforce our domestic enforcement of our immigration laws?

Mr. CUTLER. I agree that the enforcement has to get the money, but the one thing that I would suggest, you know, I spoke about these people that work at the processing centers to weed out the fraud. We need more people there because I think it would help with the fraud aspect as well as with the service aspect, giving some kind of integrity to this program.

One of the other problems that I'm hearing about is that right now where placement travel documents—alien cards, re-entry permits—are being done, the paperwork is being done, without looking at the files. So we, in effect, may be giving our documents improperly to impostors, enabling the aliens that want to travel freely across our borders to do precisely that.

So I think we need to do more with intelligence; we need to do, I think, better coordination between service and enforcement from the perspective of having some kind of integrity. I know that the gentleman to my left, Mr. Papademetriou, was talking about spinning it off as a separate entity, the service side. But we've got to coordinate both activities, in my belief, so that there's integrity. The idea that we would give out alien cards without looking at the files to make certain that the person getting the card is the person who should be getting the card and we're issuing the documents makes no sense, just as it makes no sense that US-VISIT doesn't fingerprint and photograph people from the visa waiver countries. So the folks we know nothing about we continue to know nothing about.

So there has to be a strategy where we coordinate service with enforcement, but I think enforcement is really critical, especially now that we're fighting a war on terror.

Mr. KING. Thank you, Mr. Cutler, and that was a point that needed to be emphasized.

A direct question to Mr. Bonner, and that is, I believe the President gave his guest-worker speech on January 6th. What was the impact on illegal border crossings? Was there any impact there at the number of illegal border crossings on our Southern border after the President's January 6th speech, or just prior to it, as we anticipated that speech?

Mr. BONNER. The last numbers I have seen took us up through the middle of last month, and in certain parts of the country, notably our Border Patrol's San Diego sector, apprehensions were up 35 percent; in Tucson, they were up 31 percent. So, yes, there was a dramatic increase.

Mr. KING. And when you convert that percentage into numbers, what—how many numbers is that?

Mr. BONNER. Off the top of my head, I don't remember. Bear in mind, the most significant number is the number of people who get by us, and we have never tracked that, unfortunately. But those are those 8 to 16 million—whatever the number is—million people living in your State and other States throughout this country. We're simply not effective at stopping illegal immigration.

Mr. KING. Thank you, Mr. Bonner.

Thank you, Mr. Chair.

Mr. HOSTETTLER. I thank the gentleman.

The Chair will now extend for a second round of questioning. Mr. Danahey, this question is for you. In this testimony, written testimony, Mr. Cutler suggests that there are too few special agents to effectively enforce the immigration laws of the United States. Do you agree with his contention? And has FLEOA examined how many agents the ICE would need to effectively enforce the immigration laws in the interior? And if so, how many?

Mr. DANAHEY. Sir, we are looking at between 1,500 and 2,000 additional INS agents in order to be a starting point to see if that would impact the enforcement of the laws.

Mr. HOSTETTLER. To see if it would impact the starting point. All right. Very good.

My question is to you, Mr. Bonner. Now, you made an interesting statement earlier. It could be an unfortunate statement in the results that happen as a result of the policy that we've had in place for many years that would result in this potentially happening. But the discussion has been made about the billions of dollars that would be necessary to remove illegal aliens who are currently in the country, but in its 1997 executive summary, the U.S. Commission on Immigration Reform underscored the importance of worksite enforcement, finding that "Reducing the employment magnet is the linchpin of a comprehensive strategy to deter unlawful migration."

You made a statement earlier that a vigorous employer sanctions program would result in a lot of people on the streets and local police would pick them up for vagrancy. So it would not necessarily be 50,000 ICE agents in the interior to find out where all these

people are living, in their homes, in their apartments, and that sort of thing. But if we got rid of—according to the Commission, if we got rid of that linchpin, or if we created that linchpin, I guess, then a lot of this would—the linchpin, by its very definition, would cause a crumbling of this problem of illegal immigration, would it not?

Mr. BONNER. Absolutely. And what I stated earlier is that most people would freely leave. They would go back to their country of origin. They would not simply sit around on the streets. I believe that this is the converse of the "if you build it, they will come" theory. If you tear down that stadium, they will leave. If you take away the job magnet, they'll go home.

Mr. HOSTETTLER. Mr. Danahey, that being the case, if you agree with Mr. Bonner, these extra 2,000 agents, would you suggest that we focus on employer sanctions, that we focus in that area to best leverage the capability that we would have if we had another 1,000 or 2,000 agents in ICE?

Mr. DANAHEY. I think that would be part of it, sir. We also have the students coming into the country. We also just have people coming into the country. And I think those are also issues that we have to address.

Mr. HOSTETTLER. And when you say students with regard to illegal immigration, you mean students that come here legally and have been processed legally but overstay their visa, violate the terms of their visa, their stay here?

Mr. DANAHEY. Yes, or they'll come in and they just don't go to school.

Mr. HOSTETTLER. Okay. Very good.

Mr. Cutler, in your testimony you discuss the immigration application process. How common, in your opinion, is fraud in the immigration process, in the application process, I should say?

Mr. CUTLER. Fraud is rampant. I did marriage fraud investigations. I was also an examiner in the unit that interviewed people when they got married to determine if they were living together.

I think that if we simply look at the idea of employer sanctions, by itself it won't solve the problem. And fraud is the reason that it won't. The people that want to work illegally in the United States—or work in the United States legally will become involved in fraud schemes in order to get the requisite documentation that will enable them to work. So that the guy that knows that he can't get a job because he's an illegal alien may well not leave, but he may well go to a marriage arranger and get residency based on a fraudulent marriage.

So we really—again, this goes back to what I'm saying. You need to have a coordinated effort, a multi-pronged approach, where you go after each vulnerability in turn. And I think 2,000 more agents would be fine, but I don't think it goes far enough. And I think we need better coordination now that we've merged—we're in the process of merging Customs and Immigration.

For example, I understand they're no longer teaching Spanish language to the new agents at the academy. Now, a large percentage of the illegal alien population is solely Spanish-speaking. So we need to do more with language training. We need to—and not just Spanish, I think especially in this day and age we need strategic languages. But we need to approach this looking at the overall

problem. You know, this whole thing is like a sealed balloon. If you push one end, it's going to bulge at the other. If you say we're not going to hire illegal aliens, yes, a lot of folks may well pack up and go home. But the more resourceful people and the criminals are going to say, okay, what do I have to do now that they've thrown this other hurdle in my path, whether it's marriage fraud, whether it's fraud of getting labor certification that they're not entitled to. Where the rubber meets the road is where the agent goes out and knocks on a door and makes the inquiries and makes the arrests. So we need to look at fraud. We need to look at how many agents we're assigning to the various task forces, whether it's the Organized Crime Drug Enforcement Task Force, where I spent many of my years, whether it's the Joint Terrorism Task Force. The point is the work is there that needs to be done, but it's labor-intensive and we really need those agents in the field from within the interior.

Mr. HOSTETTLER. Thank you. Excellent point, Mr. Cutler.

The Chair now recognizes the gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much.

Let me continue, Mr. Papademetriou. You did not finish. I wanted you to continue giving us some very important instructions, and the reason is this is a budget hearing. We've got to quantify where there are weaknesses in the budget as it is making its way through the legislative process in the House and the Senate.

I've already heard from Mr. Bonner, who has gone on record to suggest that he could use 1,000 more Border Patrol agents. The question, of course, is how we would use them, and that's the philosophical question. But I think the real issue, if we begin to part the waters on this budget, it's whether or not we've got enough in each budget line item, how we translate this to the appropriations process.

So you were beginning to relay to me a very realistic scenario, and that is the amount of money to remove people. And I categorize it somewhere between 8 to 14 million, and I think those numbers are questions. But you began with investigation, jail time, and why don't we just pick up where you left off.

Mr. PAPADEMETRIOU. Thank you.

Ms. JACKSON LEE. And if you've got a figure in hand, you need to share that with us as well. You've already qualified what you think—how you think you came to it.

Mr. PAPADEMETRIOU. Right. The figure that is an easy figure to get to is how long it would take, simply on the basis that 400 days in a year times 500 people removed per day is 200,000, 50 years to do 10 million illegals.

Now, I don't know anything about what's going to happen, in other words, at which point momentum shifts and some of the things that my colleagues here may or may begin to happen.

In terms of numbers, if you need a number that will basically tell you whether the CIS needs an extra $200 million from Government funds, or 300 or 150, I think you should—with all due respect, you should ask Mr. Aguirre to come here and propose a 3-year plan to you and what it would cost to bring down the backlog in adjudications to something that will be much more acceptable, perhaps a

million rather than 6 million, and then hold him and the Administration accountable for that.

Ms. JACKSON LEE. Let me—as you well know, we are looking at the US-VISIT program, and let me quality my statement on the record by saying that I've had the privilege of visiting the Houston Intercontinental Airport, and the people who are utilizing the US-VISIT program are doing a very good job. I've had the pleasure of visiting the Miami Airport as a Member of the Homeland Security Committee, both visiting to look at the US-VISIT—the implementators of this program are finding it easy to adapt to and are working very hard on it.

My understanding is that $340 million has now been allocated for the US-VISIT program, which the judgment is still out. And let me just throw this back to you. What could we do in benefits and really impacting on immigration reform utilizing those dollars maybe in a more effective way than what we now have?

Let me give my complaint on the US-VISIT, and then if you would answer, and that is, we're collecting data. We're taking pictures, we're taking fingerprints, we're matching, but we're collecting data. And I think the question is the utilization of that data and whether we can effectively be preventive that way or maybe some other ways which I'm very, very enthusiastic about, and that is the point of leaving the particular nation, the particular country that you're leaving, effectiveness on that end, which I think Mr. Bonner would hold to on the 19 that we had come in here on the tragedy of 9/11. Effectiveness in holding them back before they even got here might have worked better than what we even try to do on that border.

So would you comment on utilizing the $340 million allocated to US-VISIT for some other purposes?

Mr. PAPADEMETRIOU. Thank you. Let me start with your very last comment. There's a basic principle in enforcement that basically says we can defend ourselves better the further away the person who wishes to come here illegally or wishes us harm is from physical borders. So your point about trying to do more and more things away from the border including before people get on airplanes or other conveyance vehicles is an extremely important one.

Three hundred and fifth million is a lot of money. If you multiply that by 3 years, you will do substantial damage. You will make significant inroads into any backlogs that we have, particularly if they're accompanied by systemic changes in the way that we do this.

Everybody seems to be focusing on employer sanctions, and in a sense your question allows me to go there for a second. Let me just put a very simple proposition here. Employer sanctions were invented in Europe. Europe has enforcement resources, whether it is at their labor department, at the border, or elsewhere, that are multi-pulse on a per capita basis, multi-pulse, 5, 10, 20 times as much as what we invest in them. Their illegal immigration, net illegal immigration, goes up at roughly the same amount as the U.S.—half a million people. Germany's underground economy grows at an estimated—that's government estimates—5 to 7 percent per year, fueled primarily by unauthorized immigrants.

So if we think even for a moment that enforcement is the answer, I would respectfully submit that enforcement may well be part of an answer and may be a valid part of an answer, if it is part of a comprehensive answer that includes doing smart things, such, again, as defending our borders before people get to them, such as spending money to give benefits to people that have paid for them and have earned them, et cetera, et cetera, et cetera.

Sanctions is not a panacea. We have seen this since the time that we actually put that law on the books in 1986.

Ms. JACKSON LEE. Thank you very much.

Thank you, Mr. Chairman. Let me just say, in conclusion, Mr. Chairman, I hope that—I'm not sure out of this hearing whether we'll have an opportunity for collaboration. You have your viewpoints about enforcement and other issues, but this is a hearing on the budget. The Budget Committee is meeting, and I know that I'm going to be attempting to impact them. I would only say to you on the record that where we can write a joint letter, where there is agreement on some of the issues, I would encourage us to do so, and I'd like our staff to get together and to do that. I know that you would have an opportunity to write a single letter, because there will be issues of disagreement. But I can't imagine that we are not interested maybe in some common ground on providing resources. There were some inspector issues that I think were being made, a training issue with Mr. Cutler, language issues, resources there. And we might, if you will, scrutinize the budget and be able to find ways of joining in a joint letter on some of these and then we'll be free to express ourselves differently on an individual basis.

Mr. HOSTETTLER. I thank the——

Ms. JACKSON LEE. Or either as the Chairman and the Ranking Member, you certainly have that privilege.

Mr. HOSTETTLER. I thank the gentlelady, and I agree wholeheartedly with what you are saying that the budget allocates a large sum of money in overall discretionary spending. In the appropriations process, we can look and ask of the appropriators and our colleagues to look at these issues that we have found today, especially as a result of your questioning with regard to increasing the number of Border Patrol agents and ICE agents that would be necessary. And so I look forward to working with you on this very—these very important issues, especially as we get closer to the appropriations process.

Ms. JACKSON LEE. Very good. I'm going to be contacting the budgeteers, but I welcome you to do that, but I look forward to working with you on the appropriations process.

Thank you, Mr. Chairman.

Mr. HOSTETTLER. Thank you.

Ms. JACKSON LEE. I thank the witnesses very much.

Mr. HOSTETTLER. The Chair now recognizes the gentleman from Iowa for 5 minutes.

Mr. KING. Thank you, Mr. Chairman.

Mr. Bonner, you made a reference to, I believe, the safety of the lives of American citizens in your testimony, and I didn't—I didn't catch the early part of that and the details, so I'd just ask you this question: Is there any data out there that you're aware of, or any-

one on the panel, for that matter, that can let us know how many American citizens die each year at the hands of illegal aliens?

Mr. BONNER. I don't know that there is such data. We know that our prisons are full of criminal aliens who have committed all manner of crimes against our people, but I don't know that anyone, be it Department of Justice or even the States, break it down and say that this murder was committed by an illegal alien. But I'm sure that it's a very substantial number.

Mr. KING. Thank you.

Anyone else on the panel want to take a shot at that? Mr. Cutler?

Mr. CUTLER. Back in the last 1980's, early 1990's, I was the INS rep at the Unified Intelligence Division at DEA. We found that 60 percent of the people arrested by DEA in New York were foreign-born, 30 percent nationwide.

Now, I don't know exactly how many people die every year because of drug trafficking and related crimes, but that number is significant. I would imagine it goes into the tens of thousands nationwide. So it certainly—I think it's a proper statement to make, that we lose more people each and every year because of criminal activities committed by aliens operating within our borders than we lost of 9/11. It would be a multiple of the many—of the number of people that were lost.

Mr. KING. And it would be also your opinion that we could extrapolate a number, provided it was qualified by those—some of those statistics that you've given us?

Mr. CUTLER. Yeah, you know, it's the whole problem of properly analyzing data, and—but I think you could certainly come up with an approximation.

Mr. KING. Thank you, Mr. Cutler.

Mr. PAPADEMETRIOU. I only deal with the numbers that I know, sir. I do not know this number.

Mr. KING. Thank you.

Also, Mr. Smith, asked the question: What is the most important thing we can do? And Mr. Bonner's response was turn off the jobs magnet, and I think there was at least significant concurrence across the balance of the panel on that. And some of those things we might—we talked about were employer sanctions, internal enforcement, adding to the resources of those kind of things. And I'm going to ask you a question here.

We have a program that's been enacted by Congress called the SAVE program, System for Advanced Verification of Employment, and it started out a five-State voluntary pilot program, and now Congress has, through bipartisan action, enacted the SAVE program to now cover all 50 States. In fact, the enactment is in this following December.

At that point, an employer will be able to enter in a Social Security number, I assume a green card number or other type of work permit identifier, and verify they have an individual employee as here to work legally.

Now, when that happens, when it's 50 States and it's all enacted—and we may have a kink or two to get out of that, but at that point, I'm going to ask you about what you think the impact of turning off the jobs magnet if we would then enact legislation

that would remove the Federal deductibility for tax purposes of wages and benefits paid to illegals and then gave the assistance of the Internal Revenue Service at your service to help enforce our internal domestic laws, what would be the impact then on turning off the jobs magnet and voluntary deportation, so to speak, if we dried up that job market by letting the IRS help enforce this as well as our Border Patrol and our internal security? Mr. Bonner first.

Mr. BONNER. I think it's a start, but as I understand the SAVE program, it's voluntary, so that would have to change. I mean——

Mr. KING. Excuse me, Mr. Bonner. It's with that assumption that it would still be voluntary but an employer could verify that employee to be—with a positive verification that they are legal, and then they would simply lose the tax deductibility of the wages and benefits paid. So it might be voluntary, but they could be audited by the IRS and have to pay then the interest, penalty, and principal on tax avoidance.

Mr. BONNER. I think that that measure, while it might be a start, would not really go far enough to discourage people from hiring illegal immigrants. I think that more needs to be done in that respect. I think you need INS enforcement agents, special agents, criminal investigators, call them what you will, going around ensuring compliance much the way the IRS enforces the tax code, selective enforcement but it makes everybody else sit up and take notice that, you know, it's not a good thing to be out there violating these laws because Joe down the street lost his business because he was hiring illegal aliens.

Mr. KING. Thank you, Mr. Bonner. Before I move this to Mr. Danahey, I would add that we're looking at at least a $40 billion revenue incentive there by some numbers that we have.

So, Mr. Danahey, your opinion?

Mr. DANAHEY. Sir, that might increase the numbers that just look for employers that aren't going to bother taking those benefits out. Also, that's going to put an additional burden on the agents of the Internal Revenue Service, because they'll be working with the same numbers that they are to perform their current mission.

Mr. KING. Thank you.

Mr. Cutler?

Mr. CUTLER. I think it's a step in the right direction, but I think that we also need to coordinate with the Labor Department, and I think also, as I had suggested when I made my remarks, I believe that we should be hiring compliance officers. You might want to think about hiring retired law enforcement folks because they can hit the ground running a little bit more quickly than somebody coming into this cold, whether it's retired annuitants or retired police officers. But I think that the idea of having compliance folks who don't carry guns, don't get the same 6(c) retirement program, which is costly, the hazardous duty retirement program, could become a force multiplier. But the only cautionary note that I still have to sound is that if we make it much more difficult for illegal aliens to seek employment and be successful at it, they will go into areas of fraud. So we have to understand that that balloon is going to get squeezed on one end, it's certainly going to be bulging at the other end. You know, the thing comes back again to interior en-

forcement and coordinating so that we're coming at it from more than one direction.

Mr. KING. Thank you, Mr. Cutler, and since Mr. Papademetriou deals only with facts and I'm out of time, I'm going to yield back to the Chairman. Thank you. [Laughter.]

Mr. HOSTETTLER. I thank the gentleman.

This hearing room has got to be turned over to another hearing at 12 noon, and so we are going to have to stop at this. But I very much appreciate the gentlemen for your attendance today and for your contribution to this discussion.

Before I close, I would just like to tell specifically Mr. Bonner and Mr. Danahey, every Member of this Subcommittee, as well as the Congress as a whole, very much appreciates the work that you do and that the members of your various agencies to enforce the laws as Congress has passed. And we appreciate that. We understand the limitation of resources that you have. We understand from time to time your frustration, but we very much thank you for your service and we hope that help is on the way to help you do more good things.

So with that, I——

Ms. JACKSON LEE. Mr. Chairman, if you would yield, I just want to add my appreciation as well to the two gentlemen, but also to the many, many agents that are out there on the front lines. We appreciate the work that they do, and since I have seen Mr. Cutler on a number of occasions, your 30 years is much appreciated, and you were the INS agent, but let me say that your fellow colleagues are still doing the very best that they can do, and we appreciate it.

Mr. CUTLER. I am proud of all of them, and I appreciate the kind remarks.

Mr. HOSTETTLER. The business before the Subcommittee being complete, we are adjourned.

[Whereupon, at 11:50 p.m., the Subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

RESPONSE TO QUESTIONS SUBMITTED BY REP. SHEILA JACKSON LEE TO MICHAEL T. DOUGHERTY, DIRECTOR OF OPERATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Questions For the Record

Michael Dougherty, Director of Operations
U.S. Immigration and Customs Enforcement (ICE)
Department of Homeland Security

Oversight hearing
on
"Funding for Immigration in the President's 2005 Budget"
February 25, 2004

1. **Question**: You mention in your statement that you intend to use $11 million of the requested budget amount to double the capacity of your Intensive Supervision Appearance Program (ISAP). I am very much in favor of alternatives to traditional detention practices. Apparently, you will supervise 1600 individuals in this program in FY 2004 and double that amount in FY 2005. Are there more people who could be released from detention under this program if you expanded it further? How much would the additional expansion cost?

   Answer: As you are aware, ICE does not have the resources to detain all aliens that are apprehended and placed in removal proceedings. A significant number of aliens that are released often do not appear for their immigration hearings or for removal, eventually becoming part of the fugitive alien population. In the President's 2005 Budget, funding was requested to expand the existing 8 ISAP sites from 200 to 400 participants and add one additional site. These resources would increase the number of participants from 1,600 to 3,600. Further expansion of the ISAP would increase appearance rates for those in immigration proceedings while reducing detention costs. In addition to the FY05 budget request, ICE is actively reviewing further enhancements for FY06. These estimates are still being developed for consideration in the budget process.

2. **Question:** The budget request includes $6 million dollars to increase program staffing to address the increasing number of complicated cases that are being processed in removal proceedings. You indicate in your statement that this would enable you to identify people who should be removed while at the same time ensure that bona fide claims are granted. Would an increase in the availability of representatives for the aliens assist you in those endeavors? I am thinking specifically about the accredited representatives from recognized organizations that provide services for a nominal fee.

Answer: By having adequate time to investigate and prepare cases there is a direct corollary to the end quality decision made by the Immigration Judge. It is clearly a role of the trial attorney to ensure that an appropriate record is made before the court, that evidence be presented and testimony elicited regardless of whether the evidence or testimony supports or rebuts the alien's claim as the end result desired is that justice be served. A just result is one that is proper under the law and includes a grant of relief where such relief is merited.

As is true that adequate staffing and time for agency legal representation fosters a more correct and just result, competent and capable representation of alien respondents also assists the tribunal in developing the case and is thus beneficial to the decisional process. With the complexity of immigration law, skilled legal representation is of benefit to aliens in proceedings. While services can be valuable as a low cost alternative in some situations, accredited representatives often lack the training or expertise to provide adequate representation in complex or complicated matters.

3. **Question:** We will be having a hearing next week on Operation Predator. Does the requested budget include additional money for that program? If so, what are your plans for expanding the operation?

   Answer: In FY05, there is no specific line item budget request for Operation Predator as the initiative is funded primarily from the ICE Investigations Division. ICE will continue to support and enhance the program through ICE operational components such as the Investigations Division and are developing future funding requirements.

RESPONSE TO QUESTIONS SUBMITTED BY REP. SHEILA JACKSON LEE TO DANIEL B. SMITH, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF STATE FOR CONSULAR AFFAIRS, U.S. DEPARTMENT OF STATE

United States Department of State

Washington, D.C. 20520
www.state.gov

March 9, 2004

Dear Mr. Chairman:

Following the February 25, 2004 hearing at which Principal Deputy Assistant Secretary Daniel B. Smith testified, additional questions were submitted for the record. Please find enclosed the responses to those questions.

If we can be of further assistance to you, please do not hesitate to contact us.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
As stated.

The Honorable
John N. Hostettler, Chairman,
Subcommittee on Immigration, Border Security, and Claims,
Committee on the Judiciary,
House of Representatives.

Questions for the Record Submitted to
Principal Deputy Assistant Secretary of State Daniel B. Smith
By Rep. Sheila Jackson Lee
Select Committee on Homeland Security
Oversight Hearing on "Funding Immigration in the President's 2005 Budget"
February 25, 2004

Question 1:

A large portion of your funding comes from fees. Has the world-wide downturn in the number of nonimmigrant visas reduced this source of funding to the point where it is having a negative impact on your revenue stream?

Answer:

Since September 11, 2001 the Department has experienced a decrease in non-immigrant visa demand. This resulted in significant Machine Readable Visa (MRV) revenue shortfalls in the FY 2003 and FY 2004 Border Security Program budget. To compensate for these shortfalls, the Department applied funding provided by supplemental appropriations: $46 million in FY 2003 and $109.5 million in FY 2004. To fully fund the FY 2005 Border Security Program, the Department's budget requests $661.48 million from MRV fees, $75 million from the Diplomatic and Consular Programs appropriation and $100 million from a pending legislative proposal to collect new fees related to enhanced border security requirements.

We have no plans to raise the MRV fee to cover program costs. In FY 2002, we raised the MRV fee twice: from $45 to $60 in June 2002 and again from $65 to $100 in November 2002. We believe that further increases in the MRV fee could have an adverse affect on the public's willingness to travel to the U.S., thereby placing downward pressure on NIV demand.

Question 2:

I would like to hear more about what you do with the funds you raise from fees. First, what types of fees do you collect? Second how successful have you been in funding various processing programs with the fees that the programs generate?

Answer:

The Department collects close to $1 billion in consular revenues each year. These fees are paid for consular services provided to protect and serve American citizens overseas, and for immigrant and nonimmigrant visa applications as well as U.S. citizens applying for passports. The Department has legislative authority to retain some of these fees to cover the cost of consular operations. Revenues not retained by the Department are

deposited with the U.S. Treasury. Revenues from retained consular fees have funded various consular programs.

The primary source of revenue is from the Machine Readable Visa fee, which is collected from nonimmigrant visa applicants. In FY 2003, the Department collected $524.8 million to fund much of the Border Security Program.

Other consular fees include:

Diversity Lottery fee: This fee is collected from all applicants who apply for a visa under the Diversity Lottery Program. FY 2003 collections totaled $5.4 million and were used to support the direct costs of this program.

Affidavit of Support fees: The Department collected $14.8 million in FY 2003 to pay for program costs related to reviewing and processing documentation submitted in conjunction with an immigrant visa application.

Fingerprint fee: The fingerprint fee is charged to all immigrant visa applicants required to undergo an FBI fingerprint check as part of their immigrant visa application process. In FY 2003, the Department collected $2.7 million in revenues to cover the cost of the program.

The Department also collects and retains a Passport Expedite fee. In FY 2003, the Department collected $99.8 million from U.S. citizens seeking expedited issuance of a passport by a passport agency. Revenues are dedicated to the Department's information technology programs.

Question 3:

What additional expenses are you experiencing as a result of the increased use of biometric data.

Answer:

The FY 2005 budget request includes $175 million for visa and passport biometric collection. These expenses include the costs of systems support and development as well as operational expenses. Operational expenses include staff, equipment, supplies and materials needed to collect a biometric from visa applicants and to produce an electronic U.S. passport that will incorporate a contactless chip to record biometrics.

Note: Rep. Lamar Smith presented post-hearing questions to the Honorable Eduardo Aguirre, Jr. A reply to those questions had not been received by the Subcommittee on Immigration, Border Security, and Claims at the time this hearing was printed.

○