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SECURING OUR BORDERS: WHAT HAVE WE LEARNED FROM GOVERNMENT INITIATIVES AND CITIZEN PATROLS?

HEARING

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

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SECURING OUR BORDERS: WHAT HAVE WE LEARNED FROM GOVERNMENT INITIATIVES AND CITIZEN PATROLS?

THURSDAY, MAY 12, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 2:15 p.m., in room 2154, Rayburn House Office Building, Hon. Tom Davis (chairman of the committee) presiding.

Present: Representatives Tom Davis, Gutknecht, Souder, Duncan, Brown-Waite, Marchant, Westmoreland, McHenry, Dent, Cummings, Kucinich, Van Hollen, Sanchez, Ruppersberger, and Norton.

Staff present: Keith Ausbrook, chief counsel; Jennifer Safavian, chief counsel for oversight and investigations; Anne Marie Turner and Jim Moore, counsels; Rob White, press secretary; Drew Crockett, deputy director of communications; Brian Stout, professional staff member; Teresa Austin, chief clerk; Sarah D'Orsie, deputy clerk; Corinne Zaccagnini, chief information officer; Andrew James, staff assistant; Tony Haywood, minority counsel; Earley Green, minority chief clerk; and Jean Gosa, minority assistant clerk.

Chairman TOM DAVIS. Good afternoon. We are here today to discuss border security.

This hearing has been a long time in the making, as it builds on the committee's 2 years of extensive oversight of Customs and Border Protection [CBP], including numerous committee trips to the southern border and a subcommittee hearing in Arizona.

Ensuring the integrity of our Nation's borders has always been important, but since September 11, 2001, it has become essential. The primary obligation of any government is the safety and security of its citizens, and to fulfill that obligation, we must first be able to prevent those individuals who seek to do us harm from entering the United States. Our concern is not naive or misplaced. In addition to the ongoing threat of criminals engaged in human or drug trafficking, recent congressional testimony from the Department of Homeland Security [DHS], has highlighted intelligence reports suggesting that al Qaeda is considering using the southwest border to infiltrate the United States.

Concern for the integrity and control of our borders is far from new, especially along the southern border. This area has long been targeted by the Federal Government for enhanced security due to the overwhelming volume of illegal crossings. In 1993, a study com-

missioned by the Office of National Drug Control Policy concluded that the southwest border was being overrun, estimating that 6,000 individuals attempted to enter the United States illegally every night along a 7½ mile stretch of the San Diego border.

As a result, the Southwest Border Strategy was created, calling for additional personnel, equipment, and infrastructure improvements. The strategy also involved multi-year operations, such as Operation Gatekeeper in San Diego, Operation Hold the Line in El Paso, Operation Rio Grande in McAllen, and Operation Safeguard in Tucson to target the most vulnerable and most heavily trafficked border areas at that time.

More recently, on March 16, 2004, in response to the continuing high levels of apprehensions in the Tucson sector, CBP launched the Arizona Border Control [ABC], Initiative, which just recently moved into phase 2. ABC seeks to coordinate Federal, State and local authorities to control the Arizona border by detecting, arresting and deterring anyone seeking to enter the country illegally. The initiative seeks to increase the use of technology and the number of "boots on the ground" to establish a benchmark for resource allocations and commitments in order to gain operational control of the Arizona border.

Despite all of the work of Legacy INS and CBP through these various initiatives, the fact remains that we do not yet have operational control of our borders. These operations have been successful in increasing the number of apprehensions at those targeted areas of our border. It does not appear, however, that we have been able to translate the lessons learned into a comprehensive plan that shuts down our borders to illegal traffic. In fact, we currently do not even have complete visibility and awareness, there are many points along our borders where the Federal Government is effectively blind.

Recently, citizens frustrated by the number of individuals entering our country illegally on the southern border have begun to band together and start their own citizen patrols. During the month of April, the Minuteman Project announced the placement of 857 volunteers along the Arizona border. The project claims their efforts resulted in the apprehension by the Border Patrol of 335 individuals illegally crossing the border, and we will hear more about their efforts today.

Officials within DHS have repeatedly stated that we are moving in the right direction, and I have no doubt that we are. The concern of this committee, and many others in Congress, and the American public, is the pace and the efficiency of the effort to make progress. We need to move beyond broad policy statements and get down to the facts. How will we know when we have achieved operational control of our borders? How many boots on the ground and cameras in the sky will it take to get there? What are the funding requirements going to be?

Congress needs to hear the hard truths about the state of the border so that we know what we must do to achieve our mission. We need to move beyond discrete initiatives and take what we have learned to create an effective, agile, layered and comprehensive border security strategy.

There is not only great urgency in addressing these needs, but a vital requirement that we do this right. Therefore, we must not only work harder and faster, but smarter. Technology applications such as sensors, cameras, blimps and unmanned aerial vehicles have the ability to serve as force multipliers, and there is no question we need more of it.

Let me also say this is not the time or the forum to point fingers. Debates about immigration policy have no place in this discussion. Whether you favor a more permissive or restrictive stance on immigration, a functioning and structurally sound border is the basic building block of any workable policy.

We hope to learn today about technological advances and infrastructure improvements that CBP is currently implementing at the border. We also hope to learn some answers to the question of whether CBP is adequately staffing and training agents at the border.

Finally, we hope to address the public's growing concerns about the capability and the will of the Federal Government to establish operational control of the southern border.

[The prepared statement of Chairman Tom Davis follows:]

"Domestic Source Restrictions Threaten Free Trade: What is the Federal Government Doing to Ensure a Level Playing Field in the Global Economy"
Opening Statement of Chairman Davis
Friday, May 13, 2005, 10:00 a.m.
Room 2154 Rayburn House Office Building

Good morning. A quorum being present, the Committee on Government Reform will come to order. I would like to welcome everyone to today's hearing on foreign government efforts to institute unfair procurement rules to gain an economic advantage over U.S. companies.

I am particularly concerned with recent actions by the Chinese government. China recently circulated draft rules on government software procurement. These rules would make it virtually impossible for American software companies and other non-Chinese firms to provide products and services to the Chinese government, China's largest purchaser of information technology products.

The rules would require American companies striving to do business with the Chinese government, to manufacture all of their products in China and to register their copyrights in China before they register them anywhere else. In addition, at least 50 percent of the product development must be done in China. These rules make participation in the Chinese government market nearly impossible for U.S. firms.

The U.S. software industry already has lost billions of dollars in export revenue due to rampant piracy and counterfeiting in China. The Committee has previously held hearings on intellectual property and was astounded to learn that 92 percent of China's software products are pirated. A ban against Chinese government procurement of U.S. software would eliminate our industry's best opportunity to expand its legitimate exports to China.

I am, of course, concerned about the direct impact of the proposed regulations on the U.S. software industry. But even more important is the impact on world trade and the discriminatory precedent that would be set if China were to adopt such onerous rules. The fact that the U.S. trade deficit with China has reached record levels adds to my concern.

Additionally, China should beware of the law of unintended consequences. The proposed regulations would deny China's government the ability to use the world's best software and undermine China's efforts to encourage the active participation of U.S. software companies in developing a vibrant software economy in China.

For the global economy to operate to the benefit of all nations, each country must have procurement systems that are non-discriminatory, transparent, merit-based, and technology-neutral.

The primary purpose of today's hearing is to get a better understanding of our government's efforts to ensure a level playing field for U.S. companies abroad.

We have two distinguished panels of witnesses before us today. On the first panel we will hear from Benjamin Wu from the Department of Commerce Technology Administration, and Charles Freeman from the Office of the United States Trade Representative, who will discuss their efforts to dissuade China from implementing this and other discriminatory policies. Our second panel features private sector representatives from the Software Information Industry Association, Business Software Alliance, and U.S. China Business Council. These representatives will explain the implications of the Chinese law on American competitiveness.

I welcome all of the witnesses to today's hearing and look forward to their testimony.

Chairman TOM DAVIS. I now recognize Mr. Ruppersberger for an opening statement.

Mr. RUPPERSBERGER. Mr. Chairman, thank you for having this important hearing.

First, protecting our borders must be our No. 1 priority with respect to our national security. We must do everything we can to stop illegal immigration.

We are here today to talk about our borders and if we are doing enough to keep our country secure. We are also going to discuss the actions of private citizens and their efforts to protect our borders.

We all know, the drug dealers know, the terrorists know that our borders are a sieve. This is a serious concern, and I know that the Members in the border States have been working on this issue for awhile. We must look for more agents on the border. We need better technology, and we need a more comprehensive solution.

The question is how we stop illegal immigration. In my opinion, the only way to stop illegal immigration is to have the manpower or the boots on the ground to patrol and stop the crossings.

I have introduced legislation to add an additional 2,000 agents per year for the next 5 years to our borders. That is 10,000 agents in total. Manpower and boots on the ground is an important tool to fill the gaps in our border. I would also suggest a comprehensive border solution where we bring DEA, border agents, customs, CIA, FBI, and NSA into an interagency task force like we have with the JTTF, which is a Joint Terrorism Task Force to fight terrorism, or the Joint Interagency Task Force in Key West that fights drug shipments.

While that is what we are focusing on in Congress, and hopefully in our law enforcement, we need to look at what the citizens are doing. There has been an issue with the Minutemen, and some people are concerned that they might be considered vigilantes. There are other people who think they are doing the job.

My former job when I was a Baltimore County executive, we had citizens on patrol, and these were volunteers that worked with police and the only equipment they had were microphones. They were eyes and ears. They were not involved in any arrests. They worked tremendously. Whenever we had a citizens on patrol in a neighborhood that had a serious crime problem, crime dropped. One of the most important issues with the citizens on patrol, as we need to do with the Minutemen, is that they need to be managed properly. They need to be managed properly by law enforcement who have the jurisdiction on the border. Law enforcement needs to know what they are doing at all times and that they have an agenda because everyone needs a boss, and we have to have that accountability.

My concern is we have well-meaning people with the Minutemen, but one person who steps out of line and creates a vigilante-type situation could hurt the entire program. It is management at the top and making sure that they know what they are supposed to do and that the people in charge are always there and working with them. They can be a tremendous asset and tool. They can be eyes and ears because we do not have enough people working on our border patrol to deal with this entire problem.

We must as a country focus on this issue. We need to remove the fear and politicization of the issue out of Congress. For too many years, Congress has used immigration as a tool for votes without much action and without real solutions. Because of that, people have sought to fix a problem where there should be a solution to this issue of illegal immigration. We need to stop abrogating our role in Congress, and we need to fund more Border Patrol agents and get more technology on the border. Thank you.

[The prepared statement of Hon. C.A. Dutch Ruppersberger follows:]

Statement of Congressman C.A. Dutch Ruppersberger
Committee on Government Reform
May 12, 2005

Protecting our borders must be our number one priority, we must do everything we can to stop illegal immigration. Mr. Chairman we are here today to talk about our borders and if we are doing enough to keep our country secure. We are also going to discuss the actions of private citizens and their efforts to protect our borders.

We all know, the drug dealers know, the terrorist know that our borders are a sieve. This is a serious concern and I know the Members in the border states have been working on this issue for awhile. We must look to more agents on the border, we need better technology and we need a more comprehensive solution.

The question is how we stop illegal immigration. In my opinion the only real way to stop illegal immigration is to have the manpower or the boots on the ground to patrol and stop the crossings. I have introduced legislation to add an additional 2,000 agents per year for the next five years to our borders. That is 10,000 agents

in total. Man power and boots on the ground is an important tool to fill the gaps in our border.

I would also suggest a comprehensive Border solutuion where we bring in DEA, Border, Customs, CIA, FBI, NSA into an inter agency task-force like we have with the JTTF (Joint Terrorism Task Force) or the Joint Interagency Task Force in Key West that fights drug shipments.

While that is what we are focusing on in Congress, we need to look at what the citizens are doing?

When I was Baltimore County Executive we had a program called "Citizens on Patrol." Here we took volunteer citizens, and they were directed by the County police, and they assisted us when we had events and man-power shortages. They could manage traffic and do crowd control. It was an effective program because it harnessed the use of volunteers but it was also a directed and managed by the Police. That is the important point we can use these volunteers but they had to be managed and directed by professionals.

With the Minute Men I would hope that the Border Patrol manages them and directs them to help plug holes where agents are not available. I commend people who are that committed to our country that they volunteer to help. But, we need them managed because one bad incident can and will stop this activity. This is my fear that persons will see this as an opportunity to harm others and use power to hurt and intimidate others. That is wrong.

We must as a country focus on this issue. We need to remove the fear and politicization of this issue out of Congress. For too many years Congress has used this as a tool for votes without much action, without real solutions, because of that people in our country have sought to fix a problem which should be our job. We need to stop abdicating our role in Congress and we need to fund more border patrol agents and get more technology on the border.

Chairman TOM DAVIS. Thank you. We have the chairman of the Subcommittee on Drug Policy, Mr. Souder.

Mr. SOUDER. Mr. Chairman, I am grateful to you and the ranking member, Mr. Waxman, for holding this hearing discussing the critical issue of securing our borders.

As chairman of the subcommittee charged with oversight of all drug control programs, as well as an original member of the Committee on Homeland Security, I am very familiar with the challenges of securing our borders.

My subcommittee has focused extensively on narcotics smuggling activities across the borders. And in July 2002, we issued a comprehensive congressional report which discussed the challenges about which you will be hearing today.

The southwest border remains a primary conduit of illegal drugs into our country. With up to three-quarters of the narcotics coming across it, the problem is not going away. Drug seizures here have risen significantly during this decade, even as they fell in other parts of the country. It seems almost every week, law enforcement agents discover huge shipments of drugs in this area.

Drug smuggling and related crime have taken a toll on the environment and the quality of life for local residents, besides presenting a threat to the entire Nation. According to the Centers for Disease Control, preliminary estimates for 2003, over 25,000 Americans died of drug-related causes. To put this in perspective, we have never lost this many Americans annually to a post World War II military or terrorist campaign. This staggering statistic is significant when we consider that we have lost over 1,500 brave Americans in Iraq since Operation Iraqi Freedom began, accounting for less than 3 percent of those lost to drugs over the same period of time. We have lost more Americans to drugs than were killed in all terrorist acts to date.

Therefore, it is vitally important that we maintain vigorous efforts to control the sources and supplies for narcotics as we attempt to secure our borders. The Department of Homeland Security is an absolutely crucial player in our efforts to secure the borders. When Congress created the department in 2002, it combined some of the most important border security agencies in the Federal Government: The Border Patrol agents, the former INS and Customs inspectors, the Customs special agents, the former Customs pilots, represent America's front line against smugglers and drug traffickers.

Although there are certainly other Federal agencies with vital roles in our fight to achieve some type of border control, the Department of Homeland Security and specifically CBP, is largely responsible for manning the front lines in this mission. Without them, we would have little or no defense against the smugglers, people or drugs at our borders. Thus, it is vitally important that these agencies remain focused and adaptive to various threats as they attempt to secure the borders and that they be provided the tools and authority to do their jobs. Several issues have arisen, however, that need to be addressed to ensure that DHS remains on track in the struggle to secure our borders and protect against drug trafficking.

In particular, Congress and the administration need to work together to ensure that the structures and procedures at the Department reflect the importance of border security and counternarcotics. No one doubts the individuals currently serving at the department have a strong personal commitment. In particular, Mr. Bonner here today, to controlling the borders and stopping drug trafficking, but we need to make sure that over the long term, the Department is institutionally committed to these challenges.

The first and foremost obvious issue is what is the plan? Does CBP have a strategic plan to address border security, a comprehensive, layered interagency plan to address border security? If we do not have a comprehensive idea of what we want to achieve, which threats we need to address and which agencies will lead, then we cannot believe our border security efforts will be successful. For example, at present there are two entities within CBP that have substantial air and/or marine operations, the Office of Air and Marine Operations [AMO], and the Border Patrol. These entities do not communicate with each other on a systematic basis about their fights or marine operations, even when they overlap with respect to mission and their geographic area. This has created a significant problem with duplication of effort and a safety issue for the pilots and boat operators involved. Additional issues of intelligence sharing, coordinated investigations and operational deconfliction must be addressed if CBP is to maximize its effectiveness along the borders and against drug traffickers.

As the gentleman with us today fully knows, I think that is an artificial distinction and ICE and CBP need to be combined, and we will continue on that mission as long as I am in this position and until it is recognized. And Department of Homeland Security and everybody in the field knows it, and most of the leaders know it. We just need to get this done. I am concerned that although surge operations, as we have just seen, may be temporarily successful in controlling a portion of the land border, we may be at the same time permitting gaping holes somewhere else in the arrival zone.

At a recent hearing in my subcommittee, we heard about critical shortages of marine patrol aircraft to support known drug smuggling activities in the maritime transit zones. Are we giving up our transit zones to secure the Arizona border? Are we catching the little fish and missing the big ones? We need to closely examine how well the multiple agencies charged with border security responsibilities are coordinating their efforts with each other and with their State and local law enforcement partners. We know we still lack adequate technologies and integrated information systems to maximize our efforts. We are working toward that goal. It is my hope at this hearing we will learn what steps Department of Homeland Security and CBP are taking to improve agency cooperation and security in securing our borders.

I also hope to hear about what new initiatives CBP agencies have put in place to stay ahead of the smugglers and traffickers. These issues are all very important and extremely urgent. We look forward to hearing from our witnesses today about ways to address them. I thank everybody for taking time for this hearing.

[The prepared statement of Hon. Mark E. Souder follows:]

"Securing Our Borders: What Have We Learned From Government Initiatives and Citizen Patrols?"

Statement of Congressman Mark Souder (R-IN)
Chairman, Subcommittee on Criminal Justice,
Drug Policy and Human Resources
House Government Reform Committee

May 12, 2005

I am grateful to the Chairman, Tom Davis, and ranking member Henry Waxman, for holding this hearing discussing the critical issue of securing our borders. As Chairman of the Subcommittee charged with oversight for all drug control programs, I am very familiar with some of the challenges associated with securing our borders. My Subcommittee has focused extensively on narcotics smuggling activities across our borders, and in July 2002 we published a congressional report which discussed the challenges which we will be hearing about today.*

The Southwest border remains the primary conduit of illegal drugs into our country, with up to three-quarters of narcotics coming across it, and the problem is not going away. Drug seizures here have risen significantly during this decade, even as they fell in other parts of the country. It seems that almost every week, law enforcement agents discover huge shipments of drugs in this area. Drug smuggling and related crime have taken a toll on the environment and the quality of life for local residents, besides presenting a threat to the entire nation.

According to the Center for Disease Control's preliminary estimates for 2003, over 25,000 Americans died of drug-related causes. To put this in perspective, we have never lost this many Americans annually to a post - World War II military or terrorist campaign. This staggering statistic is significant when we consider that we have lost over 1,500 brave Americans in Iraq since Operation Iraqi Freedom began, accounting for less than 3 percent of those lost to drugs over the same period of time. We have lost more Americans to drugs than were killed in all terrorist acts to date. Therefore, it is vitally important that we maintain vigorous efforts to control

the sources of supply for narcotics as we attempt to secure our borders.

The Department of Homeland Security is an absolutely crucial player in our efforts to secure the borders. When Congress created the Department in 2002, it combined some of the most important border security agencies in the Federal government – the Border Patrol agents, the former INS and Customs inspectors, the Customs special agents, and the former Customs pilots represented America's front line against smugglers and drug traffickers.

Although there are certainly other federal agencies with vital roles in our fight to achieve some type of border control, DHS, and specifically CBP, is largely responsible for manning the "front lines" in this mission. Without them, we will have little or no defense against the smugglers, people or drug, at our borders. Thus, it is vitally important that these agencies remain focused and adaptive to various threats as they attempt to secure the borders, and that they be provided the tools and authorities to do their jobs.

Several issues have arisen, however, that need to be addressed to ensure that DHS remains on track in the struggle to secure our borders and protect against drug trafficking. In particular, Congress and the Administration need to work together to ensure that the structures and procedures at the Department reflect the importance of border security and counternarcotics. No one doubts that the individuals currently serving at the Department have a strong personal commitment to controlling the borders and stopping drug trafficking. But we need to make sure that, over the long term, the Department is institutionally committed to these challenges.

The first and most obvious issue is; "What is the plan?" Does CBP have a strategic plan to address border security; a comprehensive, layered, interagency plan to address border security? If we do not have a comprehensive idea of what we want to achieve, which threats we need to address, and which agencies will lead, then we cannot believe that our border security efforts will be successful.

For example, at present there are two entities within CBP that have substantial air and/or marine operations – the Office of Air and Marine

Operations (AMO) and the Border Patrol. These entities, however, do not communicate with each other on a systematic basis about their flights or marine operations, even when they overlap with respect to mission and to geographic area. This has created a significant problem of duplication of effort, and a safety issue for the pilots and boat operators involved. Additional issues of intelligence sharing, coordinated investigations, and operational deconfliction must also be addressed if CBP is to maximize its effectiveness along the borders and against drug traffickers.

I am also very concerned that although "surge" operations may be successful in temporarily controlling a portion of the land border, we may be, at the same time, permitting gaping holes somewhere else in the arrival zone. At a recent hearing my Subcommittee heard about the critical shortages of Maritime Patrol Aircraft to support known drug smuggling activities in the maritime transit zones. Are we giving up our transit zones to secure the Arizona Border?

We also need to closely examine how well the multiple agencies charged with border security responsibilities are coordinating their efforts with each other, and with their state and local law enforcement partners. We know we still lack adequate technologies and integrated information systems to maximize our efforts on the borders. It is my hope that at this hearing we will learn what steps DHS, and particularly CBP, are taking to improve multi-agency coordination and cooperation in securing our borders. I also hope to hear about what new initiatives CBP's agencies have put in place to stay ahead of the smugglers and traffickers.

These issues are all very important and extremely urgent, and we look forward to hearing from our witnesses today about ways to address them.

We thank everyone for taking the time this afternoon to join us for this important hearing.

Chairman TOM DAVIS. All members will have 5 days to include statements for the record.

Our first witness has a time limit. I know Mr. Kucinich wanted to say something.

Mr. KUCINICH. I will be brief out of deference to the Chair's concern about the witness' time.

I will ask that my opening statement be included in the record.

Chairman TOM DAVIS. Without objection.

[The prepared statement of Hon. Dennis J. Kucinich follows:]

Rep. Dennis Kucinich
Statement for the Record
Committee on Government Reform
"Securing Our Borders: What We Have Learned from Government Initiatives and Citizen Patrols"
May 12, 2005

Good afternoon. Thank you, Chairman Davis, for holding this important hearing and thank you to the witnesses. We can all agree on the tremendous importance of securing our border. But frankly, I am not confident in how our government has been handling border security one bit. I have two concrete examples of deficiencies on the part of U.S. Customs and Border Protection that my office has been investigating that I'd like to highlight – that I think are representative of a much greater problem.

The first case involves how U.S. Customs has handled an investigation into slave labor allegations regarding a product that we import into the U.S. – as you know, importing products made with slave labor has been illegal since 1930. Allegations of slave labor used in the production of pig iron, in the Para state of Brazil, came out in the summer of 2004. As the United States reportedly imports 92% of the pig iron produced in Brazil, most of which is produced in Para, it is highly probable that this importation violates section 1307 of the U.S. Tariff Act of 1930, which states,

"All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited."

I sent a letter to U.S. Customs to ascertain what actions had been taken in response to this violation of law. After six months, I finally got a response, which said that Customs had opened a file on the case in July 2004, and had referred it to the FBI Attaché Brasilia for further investigation. The rest of the letter explained how logistical difficulties had prevented even a single investigator from visiting Para for a site visit. One excuse: "The Amazon Basin in Brazil is in a remote area where the majority of the roads to this area are only accessible via 4-wheel drive vehicles." The Trans-Amazon highway, an important route for the economic development in that area, runs right through Para. It can carry the pig iron out of Para, but can't take our investigators into Para. And frankly I would be surprised if none of our FBI investigators in Brazil had access to a 4-wheel drive vehicle.

The inaction of the investigators in this case is highly unsatisfactory, and I am deeply disturbed by the broader implications of such inadequacies.

U.S. Customs and Border Patrol, along with FBI Attaché offices, are responsible not only for investigating violations of tariff law, but they are also responsible for keeping terrorists out of our country. I believe the inefficiencies highlighted in this case reflect the greater threat to the national security interests of the United States. Furthermore, I am disturbed to think of the possibility that trade motivations are hidden behind the inadequate investigation in this case. I can assure you that all the American miners forced to compete with slave labor would also be disturbed by that possibility.

The second case involves the presence of an international terrorist, Luis Posada Carriles, in the United States, and his recent application for asylum. Posada, a CIA-trained Cuban exile, was responsible for organizing the bombing of a Cuban civilian airliner flying from Bermuda to Venezuela. The bombing killed all 73 people on the plane on October 6, 1976. In addition to the civilian airline bombing, Posada was implicated in the 1976 Washington, DC assassination of former Chilean government minister Orlando Letelier. Letelier, a prominent opponent of the Pinochet dictatorship, was killed along with the American Ronni Moffit in a car bombing, which was at the time, one of the worst acts of foreign terrorism on American soil. Carter Cornick, a retired counterterrorism specialist for

the FBI who worked on the Letelier case, said in an interview that both bombings were planned at a June 1976 meeting in Santo Domingo attended by Posada in addition to others. Mr. Cornick said that Posada was involved "up to his eyeballs" in planning the attack. A newly declassified 1976 F.B.I. document has confirmed this. Furthermore, at the time of the bombings, Venezuelan police found maps and other evidence in Posada's Venezuelan home that tied him to the terrorist killings.

Posada was imprisoned in Venezuela, but escaped while waiting for an appeal in 1985. In 1998, he admitted to the New York Times that he was responsible for organizing a number of bombings in tourist locations in Cuba, including hotels, department stores and other civilian targets during the summer of 1997. The bombings killed an Italian tourist and injured 11 other people. In November 2000, Posada was arrested in Panama for preparing a bomb explosion in the University of Panama's Conference Hall where Fidel Castro was going to speak. Hundreds of people were expected to attend the event there, and had intelligence not uncovered the plot beforehand there would have been massive civilian casualties.

Our nation's policy against terrorism is unequivocally clear. President Bush defined this policy when he said on September 19, 2001, "anybody who harbors a terrorist, encourages terrorism, will be held accountable. I

would strongly urge any nation in the world to reject terrorism, expel terrorists." The National Security Strategy, released in 2002, further defined this policy with, "no cause justifies terror. The United States will make no concessions to terrorist demands and strike no deals with them. We make no distinction between terrorists and those who knowingly harbor or provide aid to them." Back in 1989, when the Justice Department was considering the deportation of Orlando Bosch, one of Posada's associates, Joe D. Whitley, then-Associate U.S. Attorney General said, "The United States cannot tolerate the inherent inhumanity of terrorism as a way of settling disputes. Appeasement of those who would use force will only breed more terrorists. We must look on terrorism as a universal evil, even if it is directed toward those with whom we have no political sympathy." Mr. Whitley, now General Counsel for the Department of Homeland Security has declined to comment on the Posada case.

Posada supposedly crossed the U.S. border six weeks ago, and is presently here. His Miami lawyer, Eduardo Soto, confirmed at a news conference last month that he had arrived clandestinely into the United States. Orlando Bosch said in a recent interview broadcast in Miami that he had spoken by telephone with Posada, who, "as everybody knows, is here."

Yet the U.S. government has not even acknowledged it. Roger F. Noriega, Assistant Secretary for Western Hemisphere Affairs in the State Department said he did not even know whether Posada was in the country. State Department spokesman Tom Casey said in a recent press conference, "In terms of where he presently is, I think it's fair to say we don't know."

The U.S. government has not sent teams of investigators into South Florida to find Posada – or if they have, the investigators haven't done a very good job of finding him. No bounties have been offered to recover Posada. U.S. Customs and Border Patrol is responsible for securing our border, and preventing terrorists from crossing it, yet a known international terrorist – who committed an act of terrorism on U.S. soil that killed an American citizen - crossed it, and the U.S. government hasn't done a thing. It just isn't a political priority.

I hope this hearing and the series of hearings on border security that this Committee intends to hold will shed some light not only on the two cases I described, but on the larger problem that those cases represent: major deficiencies on the part of the U.S. government to investigate Customs and Border violations, when it frankly isn't in the political interest of the United States. That is unacceptable. We cannot pick and choose when to apply our

laws and our policies; they must be applied in universal situations. And when they aren't, it compromises our national security. Thank you.

Mr. KUCINICH. The questions we are talking about dealing with border security also involve cases which reflect major deficiencies on the part of our government's investigation of custom and border violations. I want to cite two quickly.

First of all, how U.S. Customs handles an investigation of slave labor allegations regarding a product that we import into the United States. And as you know, importing products made with slave labor has been illegal since 1930. Allegations of slave labor used in the production of pig iron in the state of Brazil came out in the summer of 2002 as the United States reportedly imports 92 percent of the pig iron produced in Brazil, most of which is produced in Podda. It is probable that this importation violates section 1307 of the U.S. Tariff Act of 1930. I sent a letter to U.S. Customs asking which actions have been taken in response to this violation of law. I got a response back that says that the Amazon basin in Brazil is in a remote area where the majority of the roads are only accessible by way of four-wheel drive vehicles. They cannot investigate it, but for some reason, pig iron can get carried out but our investigators cannot get in.

Finally, there is another case that involves the presence of an international terrorist, Luis Posada Correas, who has been in the United States, it is my understanding, for 6 weeks. He crossed the border illegally. He has arrived clandestinely in our country, and apparently in violation of many national laws. I would just like to point that out as you get into the hearing to talk about the work of U.S. Customs and the Border Patrol.

Chairman TOM DAVIS. Thank you.

[The information referred to follows:]

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Congress of the United States
House of Representatives

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September 27, 2004

The Honorable Robert C. Bonner
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave, N.W.
Washington, D.C. 20229

Dear Mr. Bonner:

It has been brought to my attention that slave labor is occurring in the Para state in Brazil, in the production of pig iron. As the United States reportedly imports 92% of the pig iron produced in Brazil, most of which is produced in Para, it seems to me highly improbable that this importation does not violate section 1307 of the U.S. Tariff Act of 1930, which states,

> "All goods, wares, articles, and merchandise mines, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited."

I am writing in order to ascertain what actions Customs has taken in response to this violation of law. I know that by mid-August Customs had begun an investigation into the use of forced labor for the production of pig iron. That was over a month ago. As it is critical that this investigation is thorough and is completed in a timely matter, I respectfully request answers to the following questions:

1. When did you first become aware that forced labor was occurring in Para in the production of pig iron?
2. What, exactly, inspired the investigation?
3. When, exactly, did the investigation begin?
4. What are the methods of the investigation? Have Customs investigators visited pig iron mills? How many mills? How many times? Were the visits unannounced? Did investigators interview workers at the pig iron mills? How many workers?
5. Is the investigation complete? If so, what are the findings? If not, when will it be complete?

The importation of pig iron made with slave labor is a great insult to American miners and causes grossly unfair competition. It is globalization at its worst. I look forward to your prompt response to these questions.

Sincerely,

Dennis J. Kucinich

Dennis J. Kucinich
Member of Congress

Office of Congressional Relations
U.S. Department of Homeland Security
425 I Street, NW
Washington, DC 20536

MAR 2 1 2005

U.S. Immigration and Customs Enforcement

MAR 8 2005

The Honorable Dennis J. Kucinich
U.S. House of Representatives
Washington D.C. 20515

Dear Congressman Kucinich:

Thank you for the letter dated September 27, 2004, regarding the allegations of slave labor occurring in the Para State of Brazil, in the production of pig iron.

First let me apologize for the delay of this response. The Immigration and Customs Enforcement (ICE) Forced Child Labor/Prison Labor program has the primary mission of investigating section 1307 of the Tariff Act of 1930. Each and every allegation received by the program is researched, analyzed, and referred to the appropriate domestic or foreign office for further investigation.

In your correspondence you asked, "What actions Customs has taken in response to this violation of law?" The allegation of slave labor is currently under investigation by the ICE Attaché Brasilia. The Attaché Brasilia initiated the investigation in July 2004 with assistance from Brazilian law enforcement, which is in accordance with the Brazilian government's rules for foreign law enforcement. These rules require the Attaché Brasilia to work jointly with Brazilian law enforcement on these types of cases.

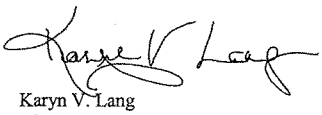
Although the working relationship with the Brazilian Ministry of Labor and Brazilian Jump Teams (law enforcement officials) is good, requests for assistance and status updates on slave labor cases have not been successful and are often met with responses that their resources are limited.

The investigation on the allegation of pig iron produced by slave labor is ongoing by the Attaché Brasilia. The Attaché Brasilia must rely on the Brazilian ministry of Labor and the Brazilian Federal Police to assist in these types of investigations as required by Brazilian law. The Amazon Basin in Brazil where these violations allegedly take place is in a remote area where the majority of the roads to this area are only accessible via 4-wheel drive vehicles.

The Attaché Brasilia is not permitted in these areas without the presence of Brazilian law enforcement officials. To date, the Attaché Brasilia has not been successful in scheduling a site visit with Brazilian authorities.

I appreciate your interest in U.S. Immigration and Customs Enforcement. If we can be of further assistance, please contact me at (202) 514-5232.

Sincerely,



Karyn V. Lang
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May 4, 2005

The Honorable Robert C. Bonner
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW
Washington, D.C. 20229

Dear Commissioner Bonner:

Thank you for the response to my letter dated September 27, 2004 regarding allegations of slave labor in the Para State of Brazil in the production of pig iron.

While I am pleased to hear that the Immigration and Customs Enforcement Attaché Brasilia opened an investigation in July 2004, I am greatly dismayed by the lack of progress on this case. The Attaché Brasilia has failed to send a single investigator into Para in nine months. It appears that the Attaché Brasilia has done nothing more than open a file on this case, a mere formality. This is unacceptable.

As you will recall from my earlier letter, the United States reportedly imports 92% of the pig iron produced in Brazil, most of which is produced in Para. If the allegations of slave labor prove true, then it is highly probable that importation of this product directly violates section 1307 of the U.S. Tariff Act of 1930, which states,

> "All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited."

Since the Attaché Brasilia has not been successful in scheduling a site visit, I would like to know exactly what the Attaché Brasilia has done in the past nine months for this investigation. I hereby request all relevant information pertaining to attempts made by the Attaché Brasilia to investigate the allegations of slave labor, including any correspondence between the Attaché Brasilia and Brazilian ministry of Labor and the Brazilian Federal Police. Furthermore I would like to know what steps the Attaché Brasilia intends to take to ensure success in this investigation. While the United States does not have the ability to stop all slave labor from occurring in foreign countries, we do have the responsibility to enforce our own laws prohibiting the import into the U.S. of products made with slave labor.

I find the inaction of the investigators to be highly unsatisfactory. Furthermore, I am deeply disturbed by the broader implications of the inadequacies of the Attaché office in this particular case. If the Attaché system, a recently expanded international extension of the Federal Bureau of Investigation, is unable to effectively conduct investigations, I believe this is a threat to the national security interests of the United States. Rest assured that I will continue to press on this issue until it is resolved, in my oversight capacity as a Member of Congress and Ranking Member on the Subcommittee on National Security, Emerging Threats, and International Relations.

Lastly, while I do appreciate a response, frankly, a six-month delay for such a response is an insult to the American miners who are forced to unfairly compete with slave labor.

I look forward to a prompt response to my second request.

Sincerely,

Dennis J. Kucinich

Dennis J. Kucinich
Member of Congress

cc: The Honorable Michael Chertoff, Secretary of the Department of Homeland Security;
Mr. Thomas V. Fuentes, Special Agent in Charge, International Operations, FBI

Chairman TOM DAVIS. All opening statements by Members will be included for the record.

Our first witness today is the Honorable Robert C. Bonner, Commissioner, U.S. Customs and Border Protection, U.S. Department of Homeland Security.

It is our policy that all witnesses be sworn.

[Witness sworn.]

Chairman TOM DAVIS. Your entire testimony is part of the record.

STATEMENT OF ROBERT C. BONNER, COMMISSIONER, U.S. CUSTOMS AND BORDER PROTECTION, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. ROBERT BONNER. Thank you, Mr. Chairman and distinguished members of the committee. I would like to make a brief opening statement and frame some of the issues that I see with respect to our border patrol security situation.

Let me begin by saying, as I think all of you know, this is National Police Memorial Week, and I came this morning from CBP headquarters where we honored the sacrifice of CBP Border Patrol agents, three of whom were killed in the line of duty this past year. It is always a poignant time of the year when we pause to acknowledge the contributions and sacrifices of our law enforcement officers and their families, the sacrifices they make to protection our Nation and protect our borders.

Mr. Chairman, I am pleased to appear before the committee today to discuss U.S. Customs and border protection, and in particular, what it is doing to better secure our borders. I mean, all of our ports of entry, and between those official ports of entry or official crossing points along the Mexican and the Canadian border.

In the post September 11 era and the era of global terrorism, securing our borders is not only a matter of national sovereignty, it is a matter of national security.

As the chairman suggested, in the age of global terrorism, control of our borders is essential.

A little over 2 years, the personnel and all of the front line border agencies of the U.S. Government were unified into one agency and that is U.S. Customs and border protection, one of the principal operational agencies of the Department of Homeland Security. With 42,000 employees, it represents nearly one-fourth of all personnel of the Department of Homeland Security. CBP's priority mission is homeland security, of course, and specifically that means keeping terrorist and terrorist weapons from getting into the United States, but we also continue to perform some traditional missions, and that includes everything from interdicting and seizing illegal drugs to arresting and apprehending smugglers of drugs and people, to apprehending people that are illegally entering the United States.

As the Nation's single front line border agency, for the first time in our Nation's history, we are able to develop and implement a comprehensive national strategy for securing our borders between our ports of entry. As part of that overall strategy, you have asked me to talk about a part of it, which is the new national border con-

trol strategy for controlling our borders. That strategy deals with between our ports of entry.

Let me say this, the strategic goal of the National Border Patrol strategy, and it has never had one before it came over to CBP, the strategic goal is nothing less than operational control of our borders.

The new Border Patrol strategy does build upon prior Border Patrol initiatives, everything from Operation Gatekeeper and Hold the Line, but it goes beyond those concepts. It focuses on five key objectives. One is centralized command over all of the 20 sectors of the Border Patrol, something that did not exist when the Border Patrol was part of the INS.

Second, it focuses on the need for technology to better detect all illegal intrusions across our borders.

Third, it talks about the capability of the Border Patrol to rapidly respond to those intrusions.

Fourth, it contemplates a defensive strategy that is lateral to interior check points as well as transit areas coming away from our border.

And five, and this is probably the most important, adequate numbers of well-trained Border Patrol agents.

Recognizing the old adage that the chain is as strong as its weakest link, we have strengthened security at our ports of entry, our official crossings, and we are increasing our efforts between those ports of entry, including at the very weakest parts of our land border, and that is the Arizona border with Mexico. It is the weakest because last year, 52 percent of all of the 1.1 million illegal aliens apprehended by the Border Patrol crossing into our country were apprehended in Arizona, crossing the Arizona border. That is close to 600,000 illegal aliens apprehended in Arizona alone.

Arizona has three primary corridors that illegal aliens and smugglers of drugs use to get either drugs or people into the United States. One is the west desert corridor, the other is the Nogales-Douglas corridor, and the other is the Yuma corridor. The first phase of the Arizona Border Control Initiative was focused primarily on the west desert corridor.

We did achieve some of our objectives last year with the Arizona Border Control Initiative in terms of increased numbers of arrests, reduced numbers of people illegally entering through that corridor, reduced numbers of deaths in the desert, decreased crime, and decreased damage to the environment, but we did not achieve operational control.

Two months ago on March 25, we launched the second phase of the Arizona Border Control Initiative, which is a full court press to reduce the number of illegal aliens crossing our border into Arizona and to reduce the illegal activity at our borders, concentrating first in the west desert corridor. Our aim is to gain operational control of the Arizona border, and to do that by putting more boots on the ground and that is directing the deployment of 534 more Border Patrol agents to the Arizona sectors. We immediately deployed in March 200 additional Border Patrol agents on a TDY basis, so we have more boots on the ground.

We have doubled the number of aircraft operating in Arizona for air surveillance purposes and rapid air response. We have interior check points along the highway and are interdicting laterally from those check points. Border Patrol disrupt units are working with ICE investigators to disrupt the organizations that illegally smuggle aliens into the United States, and we are using the Border Patrol's new centralized command structure to rapidly deploy additional resources when and where they are needed to address the hottest and weakest spots on that border.

Just 2 months into the second phase, we are seeing results. Just last month in Arizona, the Border Patrol arrested 79,000 illegal aliens crossing the border in Arizona. Including about 2,000 of whom were nationalities other than Mexican. Yesterday alone in Arizona, the Border Patrol apprehended 1,670 illegal aliens. Just a brief comment on the Minutemen Project and the topic that will be addressed certainly by your next panel.

Last month, citizen volunteers stationed themselves along a 23-mile stretch of the Arizona border to help stop illegal aliens crossing our border from Mexico. The Minutemen brought significant media attention to an extremely important national issue. The actions of the Minutemen were well motivated, and we all know, saying that, that law enforcement is a very dangerous profession and that border environment is a dangerous environment. We are grateful there were incidents. There were no acts of vigilantism, and that is a tribute to the organizers of the Minutemen Project.

Mr. Chairman, we are not going to control our borders overnight, and it is not easy. I believe we have a sound strategy, a good operational plan, and with sustained enforcement efforts and sufficient resources, we can and will gain control of our Nation's borders. This is not an impossible task. It is doable and we need to do it.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Robert C. Bonner follows:]

STATEMENT OF

ROBERT C. BONNER
COMMISSIONER
U.S. CUSTOMS AND BORDER PROTECTION
DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

U.S HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM

REGARDING

ZONA BORDER CONTROL INITIATIVE-II, AND THE NA
BORDER PATROL STRATEGY

THURSDAY, MAY 12, 2005,
2:00 PM
ROOM 2154, RAYBURN OFFICE BUILDING

CHAIRMAN DAVIS, RANKING MEMBER WAXMAN, AND DISTINGUISHED COMMITTEE MEMBERS, I am honored to appear before you today to discuss the successes and challenges of the Arizona Border Control Initiative and the Border Patrol National Strategy, as demonstrated by the operations and law enforcement initiatives of the Office of Border Patrol, a component of U.S. Customs and Border Protection (CBP).

In my capacity as Commissioner of CBP, before I give you a brief overview of our agency and mission, I would like to take a moment to acknowledge police week and our fallen CBP Border Patrol Agents Travis Attaway, George DeBates, James Epling, and Jeremy Wilson. Earlier today, I attended a ceremony acknowledging the officers and their families, who have made the ultimate sacrifice protecting our Nation. These officers on America's frontline who gave their lives in the line of duty deserve our appreciation.

Two years ago, the separate and distinct entities of Immigration Inspectors, Agricultural Inspectors, Customs Inspectors, and the U.S. Border Patrol merged to form U.S. Customs and Border Protection (CBP) within the Border and Transportation Security (BTS) Directorate of the Department of Homeland Security (DHS). By unifying all frontline personnel and functions with law enforcement interdiction responsibilities at our Nation's borders, we have combined our skills and resources to be far more effective and efficient than we could be as separate agencies.

CBP, as the guardian of the Nation's borders, safeguards the homeland—foremost, by protecting the American public against terrorists and the instruments of terror; while at the same time enforcing the laws of the United States and fostering the Nation's economic security

through lawful travel and trade. Contributing to all this is the Border Patrol's time-honored duty of interdicting illegal aliens and drugs and those who attempt to smuggle them across our borders. We cannot protect against the entry of terrorists and the instruments of terror without also reducing illegal migration across our borders.

CBP Border Patrol's National Strategy has made a centralized chain of command a priority and has increased the effectiveness of our agents by using intelligence driven operations to deploy our resources. The Strategy recognizes that border awareness and cooperation with our law enforcement partners is critical. Partnerships with the Department of the Interior, ICE, DEA, FBI, state and local law enforcement agencies and state Homeland Security offices play a vital role in having and disseminating information and tactical intelligence that assists in a quick and nimble response, which is essential to mission success.

Historically, major CBP Border Patrol initiatives, such as *Operation Hold the Line*, *Operation Gatekeeper*, and *Operation Rio Grande* in our El Paso, San Diego, and McAllen Sectors, respectively, have had great border enforcement impact on illegal migration patterns along the southwest border, proving that with the proper resources, a measure of operational control is possible. Together, they have laid the foundation for newer strategies and enforcement objectives and an ambitious plan to gain operational control of our Nation's borders, particularly our borders with Mexico.

These new initiatives will significantly affect illegal migration as we seek to bring the proper balance of personnel, equipment, technology, and infrastructure into areas experiencing

the greatest level of cross-border illegal activity along our Nation's frontiers. An example of one of these initiatives is the Arizona Border Control Initiative (ABCI), currently in Phase Two. In this effort, CBP is leading the operational multi-agency effort including DHS agencies and other federal, state, tribal and local law enforcement organizations and the Government of Mexico, bringing together resources and fused intelligence into a geographical area that has been heavily impacted by illicit smuggling activity. Our efforts include building on partnerships with the Government of Mexico to create a safer and more secure border through the Border Safety Initiative. In 2005, bi-national search and rescue training is continuing, more public service announcements are scheduled, and CBP is working with the State Department to improve equipment and communication to make our shared border safer and more secure. In doing so, we continue to make a significant positive gains in fighting terrorism, curbing illegal migration, and reducing crime in the Arizona border area.

Recognizing that we cannot control our borders by merely enforcing at the "line," our strategy incorporates a "defense in depth" component, to include transportation checks away from the physical border. We will not be able to achieve control of the border unless our apprehensions demonstrate the futility of attempting to enter the United States illegally. Checkpoints are critical to our patrol efforts, for they deny major routes of egress from the borders to smugglers intent on delivering people, drugs, and other contraband into the interior of the United States. The additional agents used to man these checkpoints, blended with infrastructure, and technology increase the probability of arrest of those who attempt to circumvent primary inspection at the checkpoint. Permanent checkpoints allow CBP Border Patrol to establish an important second layer of defense.

Because of the complexity and the enormity of our law enforcement challenge, efforts to build a better relationship with law enforcement agencies across the United States have been initiated and are constantly being improved. Building on our relationship with these agencies, CBP Border Patrol worked with the DHS Office of Domestic Preparedness to administer Operation Stonegarden from October 25, 2004, through January 21, 2005. Operation Stonegarden effectively used the resources of 214 state, local, and tribal law enforcement agencies to enhance border security through the disbursement of overtime funding. The end result of Operation Stonegarden was more security along our Nation's borders coupled with an improvement of working relationships between CBP and local law enforcement agencies.

At the southwest border with Mexico, the establishment of Border Patrol Mexican Liaison Units (MLUs) works to achieve the same goals of greater border security and improved working relationships. The program has already had much success in areas requiring the sharing of unclassified information, as well as cooperative enforcement efforts and border safety initiatives, to name a few. Even though we have improved upon these relationships, we continually seek opportunities to expand and refine our collaboration with the Government of Mexico to increase interdiction and deterrence of special interest aliens along the southwest border. The Government of Mexico has shared information regarding arrests of transnational threats, to include suspected members of Mara Salvatrucha, also known as MS-13, and special interest aliens traveling through Mexico with the intention of entering the United States illegally. Just recently, the capture and arrest in Arizona of 59 Mexican nationals in a local hotel led to the

identification of two of six escaped convicts from a Nogales, Sonora, Mexico, jail after Mexican authorities placed a lookout on the subjects, who were considered armed and dangerous.

In the spirit of this partnership, the United States Government has negotiated several agreements with Mexico with which CBP has been closely involved. These include the US-Mexico Border Partnership 22-point Plan, signed March 2002 by former Secretary of State Powell and Mexican Secretary of Government Creel. Other examples include the 2004 Border Action Plan and the US-Mexico Repatriation MOU signed in February 2004. The Border Patrol has significant involvement in the interior repatriation commitments in these agreements. The North American Security and Prosperity Partnership announced by President Bush, President Fox, and Prime Minister Martin on March 23rd, will further advance and complement these security initiatives as we implement the second phase of the Arizona Border Control Initiative.

ABCI, phase II, began on March 25, 2005. The strategic objectives are to reduce the unacceptable levels of illegal cross border traffic in the state of Arizona, reduce border crossing exposure deaths, and reduce the impacts on social services. The Tucson and Yuma Sectors currently account for 52% of all Southwest border apprehensions. In response to this activity, CBP has selected 155 seasoned Border Patrol agents to be reassigned to the Arizona border and 379 CBP Border Patrol trainees will be assigned to Arizona over the course of the year. 200 agents are temporarily assigned to this area to provide an additional enforcement presence while the transfers are processed. These include search and rescue, aircraft, and support personnel and will enhance the efforts of the 2175 agents currently assigned to the Tucson Sector and the 396 agents in the Yuma Sector.

ABCI Phase 2 is the Department's follow on to a successful Phase 1. In brief some of the positive impacts from ABCI Phase 1 were as follows:

- A joint use facility on the Tohono O'odham Nation was opened for use on October 26, 2004. The Tohono O'odham Police Department (TOPD), the Border Patrol, and other BTS agencies are co-located at this facility to improve the efficiency of border enforcement operations on the Tohono O'odham Nation. This facility replaced the temporary Border Safety Initiative (BSI) facility. The new facility provided a convenient location where persons who were found in distress in the West Desert could be treated, increasing the potential of saving lives and reducing medical costs in the West Desert area.

- Illegal alien encounters by TOPD officers during the ABCI time period decreased 54% as compared with the same time period the previous year (2,374 versus 1,074). TOPD reported that there was a "substantial reduction" in the number of citizen calls relating to illegal aliens in 2004.As compared with the same time period in 2003, TOPD estimates that officer time spent on illegal alien related calls dropped by about 60%.

- The transportation hub efforts at Phoenix Sky Harbor and Tucson International Airports firmly established a security presence and deterred multiple smuggling incidents. Agents made 779 total arrests at Phoenix Sky Harbor. Intelligence received indicated that suspected smugglers would often drive away without off-loading illegal aliens after seeing the marked Border Patrol vehicle in front of the airport.

- Operation ICE Storm, which was initiated prior to ABCI, but continued as an integral component of ABCI, contributed significantly to the disruption smuggling organizations operating in the metropolitan Phoenix area. Initiated by the Phoenix Office of U.S. Immigration and Customs Enforcement (ICE) Operation, ICE Storm, in cooperation with the Phoenix Police Department, and CBP Border Patrol, forced smuggling organizations

to relocate drop/stash houses from within the city limits of Phoenix. Trends during ABCI-1 indicated that smugglers moved their drop/stash houses from the Phoenix city limits to more remote suburbs, specifically Peoria and Glendale, Arizona. In two separate incidents in early May 2004, the Phoenix ICE office responded to Glendale Police Department calls regarding hostage situations involving weapons. The Phoenix ICE office gained intelligence indicating smuggling organizations moved loads to the Los Angeles area and utilized the drop house infrastructure there until smuggling fees are paid.

- Some statistics from ABCI, including Operation ICE Storm, from September 2003 through September 2004:

  - 290 defendants were charged and indicted through Federal, state, and foreign courts for alien smuggling and violence related crimes.
  - Approximately 30% of the prosecutions were hostage taking, kidnapping, and weapons violations through Federal and state courts.
  - Approximately 55% of the prosecutions relate to harboring, most involving sentencing enhancements for the use of weapons and intimidation and threats.
  - Approximately 5.5 million in United States funds were frozen or seized.
  - A total of 5,058 smuggled aliens were arrested.
  - Border Patrol vehicle seizures increased 461%.
  - Marijuana seizures increased by 51%.
  - Alien related kidnapping decreased 83% in the Phoenix area.
  - Weapons Seizures decreased 60% in the Phoenix area.
  - 45% decrease in Phoenix for homicides in 2nd quarter of FY 2004, compared to FY03.

- Through the Arizona High Density Drug Trafficking Area (HIDTA), other law enforcement agencies supported the ABCI. This was done by sustained and focused presence in support of ABCI areas of focus. Local law enforcement agencies, utilizing their own authorities and regulations, arrested suspected load car drivers prior to picking up smuggling loads along border area smuggling routes. The arrests

> of drivers by enhanced local law enforcement activities in support of the ABCI impacted smuggling organizations by creating a significant disconnect or disruption between the smuggler and the smuggled aliens. In FY04, 1,074 HIDTA Cobija operations were completed within Arizona. Many of these operations were within the ABCI area of responsibility, and they directly enhanced the effectiveness of the ABCI. The combined results of these operations culminated in 286 narcotics seizures totaling 67,499.33 pounds of marijuana; 1,647.48 pounds of cocaine; 197.39 pounds of met amphetamine, and 22.51 pounds of heroin.

Today, violent criminal enterprises and terrorist organizations continue to pose a transnational threat to the national security of both the United States and Mexico. These transnational threats exploit the lack of sustained binational law enforcement collaboration on both the U.S. border with Mexico as well as Mexico's border with Guatemala. These threats, if left unchecked, will likely overwhelm limited law enforcement resources available to address border security issues. This can be seen in today's headlines with regard to gang activity in our interior related to MS-13, as well as other cross-border-related crimes. Progress is continually being made on these issues through meetings between Chief David Aguilar, myself, and our Mexican counterparts to discuss methods essential in the mitigation of border security threats and expansion of border safety.

Recently, the Government of Honduras shared information regarding one of its most wanted and sought-after criminals, a leader of MS-13, who had escaped Honduran authorities after being arrested in connection with a brutal bus massacre. As a result, the suspect was apprehended and the U.S. Attorney's Office accepted the case for illegally reentering the United States, while law enforcement and the intelligence community confirmed his identity in

Honduras. This example demonstrates that information sharing at this level is necessary and vital to ensure that transnational threats are identified and targeted.

The America's Shield Initiative is another component of our National Strategy to build smarter borders. ASI is an effort to develop a comprehensive and unified system of electronic surveillance of our entire land border. This is critical to the Border Patrol's ability to increase apprehension capabilities, effectively deploy scarce manpower, and thereby establish greater control of our borders. Nationwide integrated ASI capabilities will provide the Border Patrol with a tactical, command and control, situational awareness and intelligence collection and management system. In FY 2006, we intend to broaden our ASI coverage of the northern and southern borders by deploying the system where no coverage currently exists. In addition, with the advent of ASI, system capabilities will be improved to upgrade the sensor and video surveillance capabilities of currently installed components, integrate new, state of the market surveillance technologies and increase interoperability with other law enforcement agencies.

ASI acts as an important force-multiplier that allows Border Patrol agents to remotely monitor the border and respond to specific illegal border crossings. Expanding the portion of the border covered by electronic surveillance, integration of new components and technologies, and improved Agent support equipment via the ASI program will provide the Border Patrol with an enhanced ability to meet our priority mission threats.

In order to make sure that information from DHS' Automated Biometric Identification System (IDENT) and the FBI's Integrated Automated Fingerprint Identification System (IAFIS)

is available to Border Patrol agents in the field, DHS deployed fully integrated IDENT/IAFIS terminals to all Border Patrol stations. The integrated workstations capture biometric and biographical information through the use of a "10-print" finger scan machine. The officer needs to capture an individual's "10-prints" only once to reap the benefits of running checks in both IDENT and IAFIS. From the single capture of fingerprints, "2-prints" are used to check IDENT for immigration violators and other criminals; the full "10-prints" are sent to IAFIS to check approximately 48 million criminal history records. The goals of the system are to identify repeat offenders and identify criminal aliens so that they may be detained. For FY 2005 through 4/28/05, IDENT/IAFIS technology assisted Border Patrol agents in the arrest of 297 homicide suspects, 110 kidnapping suspects, 448 sexual assault suspects, 674 robbery suspects, 4128 suspects for assault, and 8224 suspects involved with illegal drugs. There have been a total of 80,203 IAFIS hits this year to date.

As a part of the Arizona Border Control Initiative, the Department of Defense provided Unmanned Aerial Vehicle (UAV) support for CBP Border Patrol operations in June 2004. We have evaluated the lessons learned from the Hermes and Hunter UAV operational evaluations and are focusing on acquiring a UAV that meets specific CBP operational mission requirements. While CBP's procurement process is being completed, CBP has deployed a Cessna 206 and two Piper PA-42 Cheyenne airplanes to cover areas on the Arizona border where UAVs were conducting operational evaluations. These assets do not have the same endurance as a UAV but they are equipped with electro-optical and infrared sensors similar to those that the UAVs were using during the feasibility study. These air assets provide a like capability when deployed

collectively and provide a force multiplier to our agents in Arizona that improves their effectiveness.

Nationally, CBP is tasked with a very complex, sensitive, and difficult job, which historically has presented immense challenges. Challenges we face every day with vigilance, dedication to service, and integrity as we work to strengthen national security and protect America and its citizens. I would like to thank Chairman Davis and the committee, for the opportunity to present this testimony today and for your support of CBP and DHS. I would be pleased to respond to any questions that you might have at this time.

Chairman TOM DAVIS. Commissioner Bonner, you said the Border Patrol will need more agents, but you have not said how many more, in addition to what I think is currently about 11,000. In testimony before the 9/11 Commission, former INS Commissioner Ziglar testified that 31,700 Border Patrol agents were needed to carry out enforcement. Do you have an opinion on his estimate?

Mr. ROBERT BONNER. I have not had a chance to talk to Jim Ziglar to hear how he arrived at that figure.

But let me say, we need more Border Patrol agents. There is no question about that.

Chairman TOM DAVIS. Would you say a lot more?

Mr. ROBERT BONNER. Certainly we are talking about two things. It is not all about agents. It is also about getting the optimal technology to detect interdictions and getting those agents and having the capability of rapid response to intrusions across our borders. If we had optimal technology, we are certainly talking about an increase in the numbers of agents. It is, I would say, in the thousands. I cannot go further. We worked up a number. I am addressing that through the appropriate channels through the Department of Homeland Security. We do have an idea based upon the optimal level of detection technology the number that is needed, but I don't feel comfortable at this point given the need to further brief and discuss this with Secretary Chertoff, who is very much aware and on top of this issue in the very short time he has been at the Department of Homeland Security as Secretary.

Chairman TOM DAVIS. Mr. Ruppersberger talked about the neighbors on patrol in his opening statement that they used in Baltimore County. In my county, we have neighborhood watch where citizens can volunteer. They work with the police. They are not working contrary to them. It is an adjunct to the police, adding more eyes and ears. They do not have arresting power. They are not posse comitatus. Do you have any role for that, where you have people coming forward and volunteering? Have we thought about utilizing that in any way, shape or form?

Mr. ROBERT BONNER. Yes. The Border Patrol, and we continue to value the support of citizens. These are the eyes and ears of the Border Patrol along the border. This is particularly important in what I would call the thinly or more rural parts of the border which are the ones that are the most difficult to control. The Border Patrol has made significant progress in gaining greater control, not perfect control. These tend to be areas along some of the larger urban areas.

In a nutshell, the Border Patrol, Customs and Border Protection, we value citizen help. We value having citizens that are eyes and ears to tell us when there is suspicious activity. The question would be is there a way to let us say better and more effectively harness the citizen volunteers?

That is something that we are looking at. I don't have the answer, but we want any kind of force multiplier we can get. But the border is a dangerous area. We want to be able to provide at least some insights, possibly even training to any citizens that are volunteering to go down.

Chairman TOM DAVIS. We use volunteers for fire service and a lot of other public service safety areas as well. We are going to hear

from people who have been there. It is important that you channel them appropriately. It sounds like you are thinking this through.

Mr. ROBERT BONNER. We think it is worthy to consider how this might be done.

Chairman TOM DAVIS. I am concerned that we are not using the best capability in our UAV technology to protect the southwest border. We should not be using drones that lack the satellite capability to fly beyond the line of sight missions required to reach the most remote areas, such as the west desert areas of Arizona. Can you give us, make available to the committee the results from the UAV tests from the southwest border?

Mr. ROBERT BONNER. I am sure that we can work with the committee on that subject. We deployed a UAV last year on a pilot basis in Arizona. By the way, the jury is out on this a bit. We think that the UAV or something equivalent to the UAV could play an important role in terms of continuous aerial border surveillance, which would allow us to take Border Patrol agents doing surveillance duty on a static deployment basis and allow them to be part of a rapid response capability to detect and move—not detect, but to move against detected apprehension. We are moving forward on essentially——

Chairman TOM DAVIS. Do you have a time line for that?

Mr. ROBERT BONNER. In terms of talking to our procurement people or getting something else in place, and by the way, I am as anxious to move forward on this as anybody here, but I would say right now we are hopeful, just given the procurement process, to have something selected, if you will, by around August. There could be some slippage in that. But that is how long my procurement people say it is going to take. We would hope to have something deployed by September, something up in the air. That is our goal.

Chairman TOM DAVIS. Thank you. Mr. Kucinich.

Mr. KUCINICH. Thank you, Mr. Chairman.

Mr. Bonner, are you familiar with correspondence that you received relative to slave labor occurring in the power state in Brazil from my office?

Mr. ROBERT BONNER. I am not as I sit here, Mr. Kucinich. I heard you talk about the situation in Brazil. I am not specifically familiar with the details of the potential use of slave labor for the manufacture of pig iron in Brazil.

Mr. KUCINICH. I sent two letters, and I am going to ask staff to provide copies to Mr. Bonner, one is dated September 24, 2004, and one dated May 4, 2005. In response to the letter in September, I got a reply from the U.S. Immigration and Customs Enforcement, which among other things, said that the Amazon basins in Brazil, where the majority of these violations take place, the roads are only accessible by four-wheel-drive vehicles.

I am calling this to your attention, Mr. Bonner, because there have been widespread reports about people working as slave laborers in Brazil, particularly with respect to the power region. Reports have surfaced that indicate that the United States is directly benefiting from the proceeds of slavery, that 92 percent of the pig iron produced in the forest is exported to U.S. mills, and much of the smelting is done by forced labor which contravenes section 1307 of the U.S. tariff act of 1930. You are familiar with 1307.

Mr. ROBERT BONNER. I am familiar with the law on that subject, yes, sir.

Mr. KUCINICH. Information which has been brought forward suggests there is a violation that has occurred. Is Customs looking the other way at slave labor in Brazil because it is benefiting U.S. interests?

Mr. ROBERT BONNER. It is not, but you use the word "Customs." There is no U.S. Customs any more. The DHS reorganization, they took essentially the investigators that had been in Customs and put them in an entity called ICE. That is why it was not me that responded to you.

Mr. KUCINICH. ICE has enforcement?

Mr. ROBERT BONNER. They have the investigators, and the overseas attaches.

Mr. KUCINICH. Is enforcement on ICE?

Mr. ROBERT BONNER. It is a shared responsibility. I have part of the responsibility here, but if you are talking about investigating overseas, it is totally ICE. I have no attaches in Brazil. ICE does. I have no attaches any place in the world. The investigative responsibility——

Mr. KUCINICH. So you are saying you have no responsibility for these matters whatsoever?

Mr. ROBERT BONNER. We do have responsibility. When ICE tells us there is a shipment of pig iron that is as a result of slave labor, we seize it. We depend upon getting information from ICE to enforce the laws that are made against products made with child labor. We do that and we are serious about doing it, but we are dependent on getting that information from some investigative agency, and that is ICE principally.

Mr. KUCINICH. Are you familiar with whether any materials, pig iron from the power region of Brazil, have ever been interdicted, any shipments ever blocked by Customs?

Mr. ROBERT BONNER. Customs and Border Protection now at the ports of entry. As I sit here, no.

Mr. KUCINICH. Do you have any interest in this at all?

Mr. ROBERT BONNER. Yes, I have an interest. I will followup with ICE and Mr. Garcia, who is the head of Immigration and Customs Enforcement, who has the investigators. I will personally followup with him for you.

Mr. KUCINICH. I would like to do that, because according to the information I have, in this one particular area, 534 rural workers were reported as killed in the last 30 years until 2001. That is 26 times the national homicide average.

U.S. Customs, when they are asked to comment on a story about a guardian, say, there was no one familiar with the problem available to comment. I trust as a result of this hearing, you will become familiar with the problem enough to give us a report?

Mr. ROBERT BONNER. I will be happy to. But I want to say on March 1, 2003, U.S. Customs was split. The investigators were split out of Customs into ICE.

Mr. KUCINICH. To the extent that you can be responsible for any of this, will you?

Mr. ROBERT BONNER. Absolutely. I will followup with you on this.

Mr. KUCINICH. Thank you. The next question is with respect to Luis Posada Correas. Are you familiar with him being in this country?

Mr. ROBERT BONNER. I have heard that he is in this country.

Mr. KUCINICH. Is he in this country illegally?

Mr. ROBERT BONNER. I am not sure we know for sure how he entered the United States.

Mr. KUCINICH. Are you interested in how he entered?

Mr. ROBERT BONNER. Of course.

Mr. KUCINICH. Will you find out whether he is in this country illegally?

Mr. ROBERT BONNER. I said I will undertake to see if I can get that information.

Mr. KUCINICH. Thank you.

Chairman TOM DAVIS. Mr. Souder.

Mr. SOUDER. First, let me thank the gentleman from Ohio for pointing out the almost silliness of separating ICE from the border, because it is ridiculous to have one group watching the border but not be able to followup. I hope as they reorganize that Mr. Bonner, who knows full well these challenges, will be given more authority to figure out how this interrelates. We even have the air and marine divisions in Colombia and inside, and this clearly, and I know the Department is looking at it right now, and they need to look at it aggressively.

I have a couple of things in the line of questioning. Two basic parts. One directly relates to the Arizona surge. I would like some idea of how many additional people came through Texas and California while we were moving assets from all over the country for an Arizona surge. I was in Texas at the time, and saw assets moved. I was in California at the time and saw assets moved. To some degree you even had to move assets to watch the Minutemen.

To some degree, while it has the great advantage of focusing attention on the problem, it was relatively counterproductive if what we do, and particularly, when these things are announced, they just moved to another area. It is not like we were fixing either with the surge or with the Minutemen Project. I held hearings at Sells. I saw hundreds myself moving through. Unless we in Congress deal with a reasonable immigration policy and start to address this, your agents are overwhelmed. It is impossible to picket fence this whole border. We have to get the coyotes and the networks, and not overreact to every media story.

We held hearings in Douglas and Nogales. I held hearings in California, multiple places on the Texas border. This problem is not just Arizona, it is across the board and we have to have a comprehensive backup network. We have to follow as they move in and see where they are hitting the road and networking like it is a trucking company. We need to make sure that the drugs and terrorist networks are inside that.

In my original statement, and you responded by saying you had a Border Patrol strategy. My question was broader. Is Homeland Security going to coordinate, FBI, DEA? Are you going to get the Coast Guard involved? Are you going to have a comprehensive border strategy?

Second, you did not mention information sharing. We are proliferating the intelligence. Each agency wants its sub area of intelligence. How is this going to be coordinated so we do not have everybody in 10 meetings figuring out how to talk to each other? How can we coordinate this?

Third, NORTHCOM is looking at getting this in a big way. One of the fundamental questions here is: Is Department of Homeland Security going to get organized enough to merge the border and the ICE people and get this coordinated, or do we have to move it over to the Department of Defense and NORTHCOM, and have them be the coordinator of intelligence and use the Guard and so on. I appreciate all of the time you have given me to talk with you about this. But I want to get on the record some of your thoughts as well.

Mr. ROBERT BONNER. You have raised some extremely broad issues, Mr. Souder. First of all, there is a broad strategy for the front line border that is not just the Border Patrol strategy. It also includes all of our official crossing points, so we do have a comprehensive strategy to keep things that we do not want in our country out. Whether that is illegal drugs or potential terrorist operatives. Everything we do and have done to improve our posture on the border to be able to better perform our homeland security mission, keeping terrorists and terrorist weapons out, improves our ability to keep illegal drugs and drug smugglers out as well.

That said, you touched upon an issue of great importance and that is, how do we get the best information to our front line border agency to allow them to respond in the best and most effective way. You have been to the border.

We seized 2.1 million pounds of illegal drugs on our border. We are paying attention to this issue. On the other hand, 99 percent of those seizures were cold hits. Those were as a result of hard work by front line CBP officers at the ports of entry, across the southwest border mainly, JFK and Miami, but mainly the southwest border, and Border Patrol agents between the ports of entry.

We could do better if we could organize our intelligence better to get intelligence and information to our front line Border Patrol personnel, CBP, so we are interdicting more of those drugs based upon intelligence like we are doing right now in the east pack, like we are doing right now with air and marine assets of CBP in the source and transit zone because most of those seizures are intelligence QTs. So we have to do this at the border. It means getting DEA and ICE. It means the right people at the table that is providing this feedback information to our front line border agency.

Chairman TOM DAVIS. Mr. Cummings.

Mr. CUMMINGS. I thank you, Mr. Chairman, for calling this important hearing on border security.

The tragic events of September 11 forced our country to acknowledge that border security must address more than just the significant challenges of drug trafficking and illegal immigration, but also the savagery of terrorism.

This hard-learned lesson demands that we effectively secure our borders. At the same time, we must hold fast to the values of hope, diversity and openness that make America great by welcoming legal immigrants and visitors who enrich our culture while upholding the integrity of our laws.

In the post September 11 world, maintaining a robust, multifaceted and responsive border security strategy is essential to our national security. If there be any doubt of its necessity, bear in mind that the Department of Homeland Security's recent testimony that al Qaeda is considering exploiting our southwest border vulnerabilities as means of entry into the United States.

Unfortunately, I have serious questions about the government's ability to secure our borders. I am deeply troubled by a report issued during the 108th Congress of the minority staff of the select committee on homeland security that included the following: The southern border is porous and more staffing is needed at the southern border. Modern technology must be deployed on the entire southern border. Border officials are not getting the intelligence they need to perform their counterterrorism mission. It went on to say the Department of Homeland Security detention and removal operation is failing. The administration has failed, it said, to develop a comprehensive, long-term border strategy.

The substantive weakness in our border system also impacts our ability to interdict drugs from foreign nations. With that said, nearly all of the cocaine consumed in the United States and most of the heroin consumed on the East Coast originates in Colombia. As ranking minority member of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, and as a Congressman who represents Baltimore and Maryland, I have seen firsthand communities from urban centers to the heartland in the grips of death and devastation due to drugs. Terrorism fueled by drugs can be just as destructive as the terrorism driven by religious extremism. President Bush stated during his 2005 State of the Union address, "It is time for an immigration policy that tells us who is entering and leaving our country and that closes the border to drug dealers and terrorists."

While these words are comforting, we must recognize that words alone are not enough to stop drug dealers and terrorists from harming the communities we have sworn to protect. I am deeply troubled that the President's rhetoric on border security does not correspond with the priorities in his fiscal year 2006 budget. To begin, the President proposed to cut funding for important homeland security grants to States at a time of unprecedented threats to the homeland. Moreover, the President proposed funding for only 210 additional Border Patrol agents even though 2,000 additional agents were authorized.

I am no less troubled that the President's budget proposes to withdraw significant levels of Federal support for State and local drug enforcement. The President proposes to decimate the high intensity drug trafficking areas programs by eliminating more than half its budget and moving it to the Department of Justice. At the same time, he proposes to eviscerate funding for the COPS program and to entirely eliminate funding for the burn grants. These programs provide a critical line of defense in stopping drugs from flooding our streets once they have entered our Nation.

In the end, the American people expect more than inspirational speeches. They expect us to effectively secure our border. Sadly, the administration's commitment in their budget leaves much to be desired if we are to achieve this worthwhile end. I look forward to this testimony today.

[The prepared statement of Hon. Elijah E. Cummings follows:]

Opening Statement of

Representative Elijah E. Cummings, D-Maryland

Hearing on "Securing Our Borders: What Have We Earned From Government Initiatives and Citizen Patrols."

Committee on Government Reform

U.S. House of Representatives
109th Congress

May 12, 2005

Thank you, Mr. Chairman for calling this critically important hearing on border security.

The tragic events of September 11th forced our country to acknowledge that border security must address more than just the significant challenges of drug trafficking and illegal immigration, but also the savagery of terrorism. This hard learned lesson demands that we effectively secure our borders.

At the same time, we must hold fast to the values of hope, diversity, and openness that make America great by welcoming legal immigrants and visitors who enrich our culture while upholding the integrity of our laws.

In the post 9/11 world, maintaining a robust, multifaceted, and responsive border security strategy is essential to our national security. If there be any doubt of its necessity, bear in mind the Department of Homeland Security's (DHS) recent testimony that Al-Qaeda is considering exploiting our Southwest border vulnerabilities as a means of entry into the United States.

Unfortunately, I have serious questions about the government's ability to secure our borders. I am deeply troubled by a report issued during the 108th Congress by the minority staff of the Select Committee on Homeland Security that concluded:

• The Southern Border is porous.

• More staffing is needed at the Southern border.

• Modern technology must be deployed on the entire Southern border.

• Border officials are not getting the intelligence they need to perform their counter terrorism mission.

• The Department of Homeland Security's Detention and Removal Operation is failing.

• The Administration has failed to develop a comprehensive long-term border strategy.

The substantive weaknesses in our border system also impact our ability to interdict drugs from foreign nations. With that said, nearly all of the cocaine consumed in the United States and most of the heroin consumed on the East Coast originates in Colombia.

As Ranking Minority Member of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, and as a Congressman who represents Baltimore, Maryland, I have seen first-hand communities from urban centers to the heartland in the grips of death and devastation due to drugs. Disturbingly, the terrorism fueled by drugs can be just as destructive as the terrorism driven by religious extremism.

President Bush stated during his 2005 State of the Union Address, "It is time for an immigration policy that… tells us who is entering and leaving our country, and that closes the border to drug dealers and terrorists." While these words are comforting, we must

recognize that words alone are not enough to stop drug dealers and terrorists from harming the communities we have sworn to protect.

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I am no less troubled that the President's budget proposes to withdraw significant levels of federal support for state and local drug enforcement. Specifically, the President proposes to decimate the High Intensity Drug Trafficking Areas (HIDTA) program by eliminating more than half its budget and moving it to the Department of Justice.

At the same time, he proposes to eviscerate funding for the COPS program and to entirely eliminate funding for Byrne grants. These programs provide a critical line of defense in stopping drugs from flooding our streets once they have entered our nation.

In the end, the American people expect more than inspirational speeches. They expect us to effectively secure our border. Sadly, the Administration's commitment and their budget leave much to be desired if we are to achieve this worthwhile end.

I look forward to the testimony of today's witness and yield back the balance of my time.

Chairman TOM DAVIS. Mr. Gutknecht.

Mr. GUTKNECHT. Mr. Chairman, I didn't really have a question, but I want to attach myself to the comments just made.

I think there is a growing feeling that we do not take this issue very seriously. I am hopeful in the coming months that we can all be proved wrong on that, but there is growing suspicion. Let me give one example.

We have a serious problem with methamphetamines throughout much of rural America, although I must say that one of my sheriffs told me she was convinced that at least a majority and perhaps as much as 70 to 80 percent of the meth was coming in via illegal aliens through Mexico. And to confirm her point, I think a few weeks later there were five illegal aliens driving on Interstate 35 north of Albert Lea, Minnesota, and they had a trunk load of meth. So this nagging suspicion sort of gets reconfirmed that we do not take this whole issue as seriously as we should. I think that is a bipartisan concern. I think it is a concern of those who live in the big cities, and it is a concern of those of us who represent what some might describe as more rural districts. I don't know if you want to respond to that.

Mr. ROBERT BONNER. I would like to respond.

I can tell Members that we, Customs and Border Protection, part of the Department of Homeland Security, do take the issue seriously in terms of the ability of people or drugs to get into the United States. It is a difficult issue.

I served in the first Bush administration as head of the DEA. I have seen the ravages of meth and meth labs and the ability to move meth around. The Mexican trafficking organizations get involved in essentially meth production and the like. I work very closely with Karen Tandy, who is now the administrator of DEA on these issues. We do take it seriously, and we take seriously the control and security of our border.

As we were saying earlier, I think as a country, we always had a duty and obligation as the Federal Government to control and secure our borders. But in the post September 11 era, it is absolutely essential that we do so because there is the potential for terrorist penetration. We have to do this. We are doing everything we can with our resources to be as effective as possible in interdicting the flow of illegal drugs and people moving into the United States.

Mr. GUTKNECHT. Thank you.

Chairman TOM DAVIS. Ms. Sanchez.

Ms. SANCHEZ. Commissioner Bonner, both President Bush and representatives from the U.S. Border Patrol have been critical of the Minutemen as interfering with law enforcement efforts, posing a danger to citizens, to legal immigrants and themselves. In fact, President Bush has described the Minutemen as vigilantes. Would you describe for the committee some of the specific instances of Minutemen or similar type citizen patrols interfering with Federal Border Patrol efforts?

Mr. ROBERT BONNER. Let me say the President's comment I think you are referring to was made before the Minutemen even arrived in Arizona.

Ms. SANCHEZ. So your opinion is they are not vigilantes? Are they armed?

Mr. ROBERT BONNER. It was in March. I will say this, I was concerned about the potential for vigilantism that might take place with people coming to Arizona. The reality, and I think it is a tribute to the people who organized the Minutemen Project, there were no acts of vigilantism.

Ms. SANCHEZ. Was there any interference with Federal Border Patrol efforts?

Mr. ROBERT BONNER. I don't know I would call it interference. During the project there were—first of all, there were times, I am told that sensors were tripped.

Ms. SANCHEZ. What does that do to our limited Federal resources when we have citizen patrol groups that are tripping sensors?

Mr. ROBERT BONNER. Anything that walks or moves can trip a sensor.

Ms. SANCHEZ. But when they are falsely positively tripping sensors, what does that do? Do you not respond when the sensors go off?

Mr. ROBERT BONNER. I don't think it is a big issue.

Ms. SANCHEZ. It is not a big issue that Federal resources can be wasted on nonthreats to our national security?

Mr. ROBERT BONNER. If a sensor is tripped, we respond to it. It may turn out to be something other than a group of illegal aliens. That happens. You probably want to take a look at the totality of the circumstances here.

There was some I would say diversion of Border Patrol resources to responding to sensors that were tripped. But on the other hand, if you look at the totality, first of all, I am grateful there were no acts of improper and inappropriate incidents during the month that the Minutemen Project held forth in that 23 mile area of the border.

Ms. SANCHEZ. So you would not discourage these patrols from continuing to patrol?

Mr. ROBERT BONNER. There is an interesting question about how do you do this. I am very concerned about people unnecessarily getting hurt or killed.

And I do know and I visited down in many areas of our border, but certainly it's particularly true in various parts of the Arizona border, it is very treacherous and it is a very dangerous place. Border Patrol agents have and are from time to time shot at. Their lives are in danger. So I think this is fundamentally the control of the border, patrolling the border. Making apprehensions is a law enforcement responsibility, and Border Patrol agents should do this job.

Ms. SANCHEZ. How would you propose to deter citizens from acting as Border Patrol agents and acting perhaps in an appropriate manner?

Mr. ROBERT BONNER. For one thing as I have indicated before, I do depend upon the eyes and ears of citizens. We will continue to do that and certainly will encourage that and have hotline and tip lines to do that. I'm not quite sure, Ms. Sanchez, I'm totally capturing the thrust of your question.

Ms. SANCHEZ. I have two last questions and will try to get them on the record and have you respond if you will. Are any of these folks armed that are out doing these citizen patrols? And my last

question is are they patrolling the northern border where there has been actually specific terrorists that have been apprehended at the border?

Those would be my last two questions. If you could respond to them, I would appreciate it.

Mr. ROBERT BONNER. I believe, of course, it is legal in Arizona to carry a weapon in the open.

Ms. SANCHEZ. California, it is not.

Mr. ROBERT BONNER. And I believe——

Chairman TOM DAVIS. Go ahead and answer the question.

Mr. ROBERT BONNER. I believe that some of them had arms. And as far as the northern border, look, we have had specific intelligence, it's not new, but that al Qaeda has considered, has actually contemplated using the southern border and the ability to illegally cross our southern border to get terrorist operatives into the United States. Both borders are a potential threat when it comes to the terrorist issue.

Chairman TOM DAVIS. Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman. Commissioner, I have a couple of questions and maybe a comment to start. Being from Texas and having the longest stretch of border between Mexico and Texas, maybe 1,000 miles, is it that long?

Mr. ROBERT BONNER. Longer.

Mr. MARCHANT. I would say at least 20 percent of my constituent mail that I get in Washington is about this subject and it is from the time I served in the State legislature till now, it just is a straight line. And when we go home and do our town hall meetings, really the people don't want to talk about Social Security much. They don't want to talk about tax reform much. They want to talk about illegal aliens and what is happening in our hospitals and our schools, and so it is beginning to really hit us as Congressmen back home in a way that I know you appreciate, but there is beginning to be a pressure on us so that when we hear buzzwords like operational control of our borders, we understand that. We respect that here in Washington. I can't go back and use a buzzword like "control," you know, operational control of our borders, because the definition of my constituency of operational control of our borders is they are not building the new shelter in town for the illegal aliens to show up in the morning and not get wet because they are building shelters for them. And that is the—so what does operational control—what would it mean to me living in the suburbs of Dallas if you achieve—if the Border Patrol—not you, but if the Border Patrol achieves its goal of having operational control? What will it look like?

Mr. ROBERT BONNER. Doesn't mean it would be absolutely impossible for anybody to cross our border because if we set that as a goal it's a goal for a certain failure, but what it does mean is a substantially high level of probability that you are going to be apprehended if you are illegally entering our country.

Do you know it when you see it? There are areas of the border in the El Paso area, in the San Diego County area, not all of it by the way, but there are areas of the border where I can say and you can say if you go down and look at them that we have achieved something, that there is a high level of apprehension and it has

staunched the flow of illegal aliens and potentially anybody else who might be trying to illegally enter our country. I am not saying we've got the border under control. We don't. We have a long way to go here.

But I will tell you, I'm from Los Angeles, Ms. Sanchez. And I went down to the border many times when I was U.S. attorney in L.A. and I saw at sundown the illegal aliens gathered on the hillsides waiting for the sun to do down and they just rushed across the border. I mean it was totally, flat out of control. As a result of efforts of the Border Patrol, some tactical infrastructure, increased numbers of Border Patrol agents, better technology, lighting and other things, most of that border area is under a reasonable degree of control. Not all of it. Frankly, we haven't been able to complete a middle section of the fence from—about 3½ miles to the ocean. You will know it when you see it.

And how else will you know it? Crime goes down. The environmental damage goes down in terms of people illegally crossing and leaving their junk and debris behind. You know it when you see it. And we will know as we get greater control of our border.

Again, we're doing everything we can within our current resources to achieve greater control of our border and we are addressing and we are doing it with greater mobility. Part of the strategy, national border patrol strategy, greater mobility than we had before to move more quickly to where and when the Border Patrol needs to be to show up in the weakest areas. So we've got to—and we are doing our best with people and technology and that's what it means.

Mr. MARCHANT. The House is trying to assist in that in some of the legislation we have been passing lately, and we have been trying to get that word back. Can I ask just one more operational question?

Chairman TOM DAVIS. The gentleman's time has expired. The gentleman from Maryland, Mr. Ruppersberger.

Mr. RUPPERSBERGER. Commissioner Bonner, two areas I would like to get into, I think Congressman Souder got into this, he asked about was there a program for the different agencies to work together and you mentioned it and didn't get into detail.

Also the issue of information sharing. From a perspective—we have serious problems on our border. You used Mexico as an example. We have the majority of drugs that come to the United States that come through Mexico. I'm sure that the same bad guys that are helping to get illegal immigrants through the border are the same bad guys that are connected to drugs and the same bad guys that are probably going to be working with al Qaeda to get people into our country to deal with the things that we don't want to deal with, and that's terrorism. In order for us to take this issue seriously—and I'm talking more from a security point of view and not the issue of immigration, there are a lot of issues there, we need to have a joint group of agencies working together the same way we do in Iraq and Afghanistan. We need to have not only your organization but FBI, DEA, NSA, CIA all working and focusing on that border, because if you look at the problems we have with drugs, drugs is probably—not probably, it is a more serious prob-

lem than terrorism because drugs affects everyone in the world; 85 percent of all our violent crime is drug related.

My question to you, I want you to get into the specifics—do you have a comprehensive program working with the different Federal agencies to help you to get you intelligence to make sure we are focusing on the bad guys that have been so effective in getting people through our borders?

Mr. ROBERT BONNER. We have actually a very good method, and it has certainly vastly improved, of getting intelligence with respect to the potential terrorist threat, and that is through the Department of Homeland Security working with the Intelligence Community and all aspects of the Intelligence Community and the FBI. So we have that, and that would apply not just to our border with Mexico or our border with Canada, all of our ports of entry, people coming into the United States from abroad and through our airports and so forth. I think that's working reasonably well and we have made tremendous progress.

Mr. RUPPERSBERGER. I would like to get into detail. You can say you are working together, but are you sharing office space? Are you getting information? Are the people collocated in the same area, because it's about results and accountability of the performance. And I'm not sure whether or not that performance is there and I'm not throwing fault, I'm talking more about giving the resources to you.

Mr. ROBERT BONNER. I understand what you're saying. This is a very important point and that is when you are talking about the operational effort at the border. You have front-line people, and that's the Border Patrol, and at the ports of entry. That is CBP officers. FBI agents don't do interdiction at the border. DEA agents don't do interdiction at the border. What you have is a relationship between the investigative agencies, which are DEA and FBI and ICE now, and the front line border personnel, so that you have a feedback loop of information. So that if there is a drug trafficker—and by the way, this happens everyday, and it is happening right now as we speak. We interdict and intercept illegal drugs at El Paso. We call in one of these investigative agencies. Usually would be ICE. And it needs to—if there is an investigative potential, it runs with it or it's DEA, it runs with that. And when it brings down that organization, how do the drugs get across? What is the modus operandi for getting across? It's that feedback loop of information that I was referring to in Mr. Souder's question. It isn't putting FBI agents or DEA agents or even ICE agents at the border. We have interdicters at the border and you need the sharing and flow of information.

Mr. RUPPERSBERGER. My light came on and I want to ask you this question. Asa Hutchinson, when he was the Deputy Secretary of Homeland Security, made a comment that we did not have the resources on the border and he never thought we would solve the problem unless Congress and the public of the United States is willing to give the money and the resources. He made that comment. Do you agree with that comment? And if you do, what are the resources that you think you need to do the job?

I told you before I put a bill in to try to get 2,000 more agents on the ground for the next 5 years, which is 10,000. That bill hasn't gone anywhere yet, but as a result of his comments, do you agree

with them, No. 1? And if you do or don't, what resources do you need?

Mr. ROBERT BONNER. We need more Border Patrol agents.

Mr. RUPPERSBERGER. How many more?

Mr. ROBERT BONNER. I would say that we have—you know the President has added about 1,500 Border Patrol agents in the last several years. Just very quickly, it's not all agents, it is technology. If you are just talking about agents at the border, well, I probably agree with Mr. Ziglar's number and that may be south of what we need. This is the American Shield Initiative as part of the new border patrol strategy with the right number of agents. But even so, we are going to need more Border Patrol agents.

Chairman TOM DAVIS. Gentleman's time has expired. You have 5 more minutes and you have to meet the Secretary.

Mr. McHenry, you are next.

Mr. MCHENRY. Thank you, Mr. Chairman, and I appreciate the Commissioner being here and I only have 5 minutes. This will work out nicely for you. I had a question. There's Phase 2 of the Arizona Border Patrol Initiative that calls for 200 boots on the ground and increased 42 aircraft. Where are these resources coming from? Are they being taken from other areas?

Mr. ROBERT BONNER. In essence, the 200 new Border Patrol agents are not new Border Patrol agents. The 200 Border Patrol agents that I directed be put into Arizona on top of a base of about 2,200 came principally from the sectors in California and Texas. Now I didn't move all of the 11,000 Border Patrol agents in Arizona, because I don't want to detract or degrade the ability to maintain the degree of control we are maintaining in California and Texas, and I'm not saying that degree of control is perfect, but we have to address the weakest spot in our border, while maintaining other sections.

Mr. MCHENRY. California and Texas, where are the aircrafts coming from?

Mr. ROBERT BONNER. Essentially the same locations. I'm generalizing. But the aircrafts are highly mobile assets, as you know, and so we double from about 19 to 42 aircrafts that are doing aerial surveillance in response in the area. By and large, they came mainly from California and they are temporarily there. When we get control, which I hope we do, they'll return. We haven't permanentized those assets.

Mr. MCHENRY. If you could provide me with that information, that would be a great help where the 200 agents came from, and where the aircraft came from, because it seems like we are neglecting areas in order to focus on narrow areas. But one of the more interesting things that I would like to hear from you is about Border Safety Initiative. If you could explain to the panel in essence what you all are thinking by doing this?

[The prepared statement of Hon. Patrick T. McHenry follows:]

Opening Statement for Government Reform Committee Hearing
Congressman Patrick McHenry
"Securing Our Borders: What Have We Learned From Government Initiatives and Citizen Patrols?"

I would like to thank the chairman for his leadership on the struggle against illegal immigration, and for calling this timely hearing to learn more about border security.

Securing our Nation's borders is one of the most important issues facing our country today, because it is an issue that directly affects us all. Through an increasing influx of illegal aliens, and narcotics from superlabs in Mexico, this problem is even felt thousands of miles away from the Southwestern border in the 10th District of North Carolina that I represent.

The responsibility of guarding and protecting our borders falls on the United States Border Patrol, who has been working hard, since its inception in 1924, to detect and prevent the unlawful entry of unauthorized aliens, drugs, and terrorists. As the number of people illegally entering this country increases, along with the

threat of terrorist attacks, the responsibility of the Border Patrol as an arm of Homeland Security also increases.

Our Customs and Border Protection Officers must have the proper tools, training, and support to complete their mission. Through advanced technology for surveillance systems and additional manpower for an increased presence on the border we must continue our struggle to stop illegal immigration. However, we must not make the mistake of just irresponsibly throwing money at the problem.

Our resources must be used efficiently and effectively to achieve maximum results while eliminating duplication and waste. It is not enough to just give a billion dollars and hope that the problem goes away. We need to know how that money is going to be used and that there is a comprehensive plan in place working towards the goal of decreasing the number of illegal aliens by ten percent each year.

Be it through initiatives like the Arizona Border Control, or through citizen groups like the Minutemen, we must determine the

most effective and efficient way to gain control of our borders and ensure our country's safety.

I would like to thank all of our witnesses for being here today to share with us your firsthand knowledge and wisdom on border security issues, and I look forward to a productive hearing.

Mr. ROBERT BONNER. First of all, we're not neglecting areas. What you are doing is you are operating smartly. We're considering the entirety of our southern border in this case and saying what do we need to do? Are we going to apply resources to gain, essentially, control of our areas and to do that as wisely and quickly and as rapidly as possible.

So assets—it is a national border and it is a Federal issue. On the Border Safety Initiative, I am not quite sure where your question is on that.

Mr. MCHENRY. Explain it to us. As I understand it, instead of actually using moneys appropriated to defend our border, we are actually providing water, for instance, in certain areas of the desert for these folks that are coming across the border, which I think is really just quite frankly bizarre that we are actually encouraging people to come in and intrude on our borders by giving them the resources to do it.

Mr. ROBERT BONNER. We don't provide that.

Mr. MCHENRY. You don't provide water?

Mr. ROBERT BONNER. No, we don't. We put stations in so illegal aliens who are in great distress can call us and we apprehend them. When we find them and they're dehydrated and almost dead in the desert, we give them water, but we don't put water out there. Those are citizen groups who are doing that who no doubt are altruistically motivated to the issue.

But on the other hand, you know, we have—we do have a Border Safety Initiative and have been working with the Mexican Government. The way to prevent deaths in the desert is to control our border, and that's what we are trying to do. The more we control our border, the fewer people are going to die in the desert. It has a safety net. And it will—to the extent we can be more successful, it will prevent people from crossing the border and fewer people are going to die crossing.

Mr. MCHENRY. If I may followup.

Mr. ROBERT BONNER. That is my safety initiative.

Mr. MCHENRY. I know it's in cooperation with the Mexican Government, and I think it's been highlighted in recent news accounts, the fact that the Mexican Government is providing a booklet on the safest way to cross the border. Is that part of the Border Safety Initiative?

Mr. ROBERT BONNER. No, it's not, and the Mexican Government is—there was a guide or a booklet that was put out, it seems to me it was 4, 5 months ago, and I believe it was inappropriate. I mean it had a lot of information in it but it tended to encourage people to illegally enter the United States. And I believe that booklet has been withdrawn by the Mexican Government. That's my information.

Chairman TOM DAVIS. We will try to get—I know you have to go in just a minute. Ms. Brown-Waite.

Ms. BROWN-WAITE. Thank you very much. I would like to ask the Commissioner if he has yet solved the issue that I brought to your attention last year and that is that the Customs people still have conflicting badges with their IDs. I forget whether it is the badge or the ID still says Treasury Department, which is what Customs used to be under. This may be a small issue, and I got back a letter

that it's a good thing we didn't have this hearing last year or I would still be angry because of the letter I got back. It was a "don't worry, be happy" letter. Some smart attorney is going to get somebody off because of this conflict. And I understand it still has not yet been resolved. That's question No. 1.

Question No. 2, or statement No. 2, I represent Florida and I can just tell you that at any given time, and I'm sure my colleagues here will agree, our people back in the district office handling immigration have upwards of 150 cases of people in our district trying to have family members come in legally or that they are trying to extend their visit here legally. They're trying to do it legally. And the big joke is, no, I'm sorry, you cannot become a citizen. And I have had so many of them say to me, I'll go down to the Mexican border. The frustration is the amount of time it takes to go through immigration, the legal process. People are trying very hard to do what's right and abide by the law so they're not illegal. And one of the last things is that I understand that overtime in the agency is being sucked up, and let me use that word in quotes, sucked up by administrators and that the people actually on the ground at the border, at the airports, at the seaports who do the job are not getting the overtime. It's being sucked up, and I'm putting that in quotes, by the administrators.

And the last question, without any restrictions by the administration, how many more border patrol would you really have requested? I didn't hear a hard and fast number there. I know it takes training time and I know it's not going to be an overnight fix, but I can just tell you that people in my district, and I think I hear this echoed on both sides of the aisle, that the taxpayers in the United States of America do not believe that we are doing enough.

So tell me what is enough, not just for Border Patrol, but certainly for technology and making their jobs easier, because in California I know that the Border Patrol people are very frustrated. I have some relatives out there who live very close to some people who work for Border Patrol out there. They're very frustrated at not just this administration's policy, but previous administrations' policy of kind of the wink and nod approach to illegal immigration. And Americans are fed up with it. They are tired of people constantly coming into this country illegally. And you know, a couple of years ago, we might have all bought that, well, they are doing jobs that average Americans won't do, but I'm not sure that still is the case. I think we filled our quota of jobs that Americans won't do. So we have to come up with another excuse why we are so lax, and I would appreciate your responses.

Mr. ROBERT BONNER. Trying to take those quickly in sequence, the badges, we were the first law enforcement agency at the Department of Homeland Security to issue new badges. We have 30,000 uniformed law enforcement personnel, 11,000 Border Patrol agents, about 19,000 at the ports of entry, and all of the port of entry officers have the new CBP Department of Homeland Security badge. I think we're well along with all of the Border Patrol agents to get everybody with a badge. There has been a holdup in the credentials and that was getting—just a decision essentially that took more time than I would have liked, but I have authorized the cre-

dentials now and those haven't been issued, so that there will be new credentials for U.S. Customs and Border Protection.

Ms. BROWN-WAITE. When will those credentials be issued?

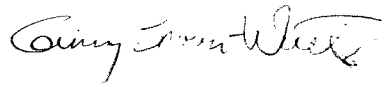
Mr. ROBERT BONNER. I honestly don't know. I will be happy to get that to you. It's printed and then you have 42,000 employees.

Ms. BROWN-WAITE. Do those 42,000 employees get paid regularly? I mean is it not something that could be put with their paychecks? Come on. It has been so long and this ID issue is a serious legal issue.

Mr. ROBERT BONNER. I'm not saying it isn't. I feel we have done well on badges, but for reasons that I don't even know that I can fully explain to get the approval and the credentials from the Department of Homeland Security, we just got the approval recently. We certainly had been moving forward on that. In any event, it is done or is in the process of being done. As far as people not being able to get into the country or get a visa or they are in the country change of status, the Citizenship and Immigration Services, I mean that is an entity, a service and benefit immigration entity. It happens to be in the Department of Homeland Security, but it's not me. I can't really help with that particular issue.

The overtime thing, I never heard that before. We use a lot of overtime obviously to be able to—I will get back to you. And I think I've taken my best stab how many Border Patrol agents we need short of divulging things.

[The prepared statement of Hon. Ginny Brown-Waite follows:]



Statement for the Record
Committee on Government Reform:
Oversight Hearing: Securing our Borders
05/12/2005
(KM)

Mr. Chairman:

Thank you for holding this very important oversight hearing on America's border security. I look forward to hearing from a diverse panel of experts.

As we all saw after 9/11, Congress must vigorously protect our nation's borders against the threat of terrorism. Yet this need for increased security is an issue that our nation continues to struggle with.

My own Congressional district saw the unfortunate confluence of illegal immigration, Social Security fraud, and a potential terrorist threat converge just this past February.

In my hometown of Crystal River, FL, our nuclear power plant was found to have employed illegal immigrant day laborers who had used fake or stolen Social Security numbers to obtain government issued drivers licenses.

Thankfully these men have been arrested by the FBI and been fully interviewed by Immigration and Customs Enforcement agents.

These seemingly harmless workers could very easily have been agents of a terrorist group. After all, a nuclear power plant is high on their list of potential targets.

As we saw with flight schools that trained terrorists to fly planes before 9/11, it is often the little things that are overlooked in our ongoing fight against terrorism that lead to the biggest problems.

As any good intelligence officer will tell you, advance planning is the key to preventing a potential terrorist strike.

As President Bush has said time and time again, we have to be right hundreds of times each and every day in our fight against terrorism, and the terrorists only have to be right once.

Today I hope to learn from our panelists what Homeland Security is doing right, but more importantly, how we can improve our border security.

Thank you. I yield back the balance of my time.

Chairman TOM DAVIS. We have one more Member who has not asked questions.

Mr. DUNCAN. Thank you, Mr. Chairman, and I will take a few minutes. First of all, I agree with what Ms. Brown-Waite has said and can tell you based on things that I've read and heard from others across the country, I think there is probably three or four times as many illegal immigrants in this country as the government estimates.

I read in Newsweek and read another report, that half the people of the world have to get by on $2 or less a day. The other article said half the people of the world don't have a second pair of shoes. And it made me recall many years ago, and this is my 17th year in the Congress, one of our agencies did an estimate that said half of the people in the world want to come here.

Now we can't take half of the people in the world. That would be over 3 billion people. So we have to have some sort of orderly legal system of immigration. And right now we are overrun with illegal immigrants. And I read in this one report that we have in front of us that interior enforcement has gone down by 80 percent since 1998. And always, all the committees, whenever we hear about a government agency messing up, they blame it on one of two things or both. First thing they say is that they are underfunded. And second thing, they blame it on the computer system. They say the computers can't talk to each other or something.

We found out that 15 of the 19 illegal people involved in the—hijackers involved in September 11 were here illegally. The INS said they were underfunded. And our Congressman Gallegly appeared on 60 Minutes said we have given 250 percent increase in funding to the INS over the previous 8 years. Since that time we have voted several times in the House to give additional funding and increases to the Border Patrol for increased numbers of agents, and yet we keep seeing all these people flood in here.

We have this Minuteman Project who some people have criticized, which I think is in the best American tradition of volunteerism in trying to help out, and we have this quote in this one report from Mr. Simcox that says the government can't afford to let this thing succeed. I know that government agencies don't like to have volunteers because they want to get more employees and more money instead of having volunteers to help them with their jobs. But I can tell you this, it's getting frustrating for many of us, and we are all being flooded with complaints and criticisms and hearing about people who have wrecks and don't have insurance.

Why are these enforcements going down and why were the Minutemen able to claim that they achieved such great success? And I had some complaints and so I kept trying to get the INS to come up a few years ago, and I had to deal with an office in New Orleans instead of Memphis or Washington. And I finally got them to come up and they came up for 2 days and they did two raids, 1 day apart from each other, and found 1,200 illegal immigrants. And they could come back the next day and find just as many.

I mean, why do you have so many people who aren't wanting to do their jobs in this agency, Mr. Bonner?

Mr. ROBERT BONNER. I don't think you do. Let me start off by saying, I guess there is the third excuse now because interior en-

forcement—you are talking to the border agency here, and I take responsibility for the border, but interior immigration enforcement is actually in ICE, in a different agency.

But I will say this. Look, I said we need more Border Patrol agents. I appreciate the fact, one, that the intelligence bill had 2,000 more new Border Patrol agents in it. That wasn't a funding or an appropriation, that was 2,000 more on paper. By the way, I'm very grateful and will state this right now that Congress has passed the supplemental and added 500 new Border Patrol agents in the supplemental that just passed and signed by the President either today or yesterday and that's a good start in the right direction.

The Minuteman, by the way, I think I have said positive things about them, but that was 23 miles of border that we are talking about there. Based upon phone calls we've got from the Minuteman, Border Patrol apprehended about 200 people as a result of calls where they identified themselves as Minuteman. In the same period of time in the Arizona border, not the 23 miles but the 300-mile Arizona border, the Border Patrol apprehended 79,000. You bet, look, we are talking about numbers that are overwhelming. And if we are serious about the border, we are going to have to add some real technology and we are going to have to add some more Border Patrol agents and get a handle on it.

By the way, I welcome eyes and ears, volunteer citizens if we can make it work with some smart strategy rather than with something that exposes people to danger, including people that might be involved in a citizen type Minuteman Project. If there are ways to do it, it's certainly something I want to think about and see if there isn't some way we can do that and harness what is a lot of concern by American citizens about the number of illegal people that are getting into the country.

Mr. DUNCAN. There is a lot of concern about this around the country.

Chairman TOM DAVIS. Commissioner, thank you very much. And you have a difficult job and I think you have done well here as a witness. We appreciate your being here. If you could have your staff contact our committee staff regarding the UAV testing, the deployment and the responses to Mr. McHenry's and Ms. Brown-Waite's questions.

We will take about a 3-minute recess as we change panels.

[Recess.]

Chairman TOM DAVIS. You are welcome to sit down. I know that you were just in the next committee.

We have a great panel. We have Mr. T.J. Bonner, president of the National Border Patrol Council; Mr. Daryl Schermerhorn, the regional vice president of the National Border Patrol Council. Thank you both for being with us.

We have Mr. Chris Simcox, the co-founder of the Minuteman Project, which was talked about previously, and we have Ms. Janice Kephart, former counsel of the National Commission on Terrorist Attacks Upon the United States. And also I am happy that today is her birthday. We appreciate you giving us so generously of your time.

It is the policy of this committee we swear in all witnesses. So if you would rise with me and raise your right hands.

[Witnesses sworn.]

Chairman TOM DAVIS. Mr. Bonner, I understand you are going to give the testimony and Mr. Schermerhorn will be here for questions?

Mr. T.J. BONNER. I will give the testimony and he will take the tough questions.

Chairman TOM DAVIS. Mr. Simcox, we will go to you and Ms. Kephart. Thank you for your patience and thanks for being with us.

STATEMENTS OF T.J. BONNER, PRESIDENT, NATIONAL BORDER PATROL COUNCIL, ACCOMPANIED BY DARYL SCHERMERHORN, REGIONAL VICE PRESIDENT, NATIONAL BORDER PATROL COUNCIL; CHRIS SIMCOX, CO-FOUNDER, THE MINUTEMAN PROJECT; AND JANICE KEPHART, FORMER COUNSEL, THE NATIONAL COMMISSION OF TERRORIST ATTACKS UPON THE UNITED STATES

STATEMENT OF T.J. BONNER

Mr. T.J. BONNER. Thank you, Mr. Chairman, other members of the committee. The issue of border security is one that is in the forefront of every person's mind, especially after the events of September 11, and there can be no question that our borders, the U.S. borders, are out of control. Last year, the U.S. Border Patrol apprehended approximately 1.2 million people, but the front line agents estimate that for every person that we caught 2 or 3 people slipped by us.

This is a matter of very great concern, because we don't know who those people are who are slipping by us. When we married the fingerprint system of the Border Patrol and the FBI together last September, in the first 3 months we discovered that 8 percent of all the people we were catching were criminals. And it's fair to assume that of the people who are slipping by us, at least the same percentage are criminals and probably for good measure there are a few terrorists in that mix. Even if a terrorist is a one in a million occurrence with several million people coming into the country every year, they reach that critical mass necessary to carry out another attack of the magnitude of September 11.

This is totally unacceptable from the standpoint of homeland security and national security. We have to gain control of our borders. A number of measures have been proposed to gain control of our borders, but the National Border Patrol Council, representing the rank and file, the front line employees, believe that the only solution that is going to get us where we need to be is the implementation of legislation such as H.R. 98, which would give us a counterfeit proof employment authorization document allowing employers to know who has a right to work in this country and allowing enforcing agents to enforce that law with stiff fines.

That is the only solution that will turn off the employment magnet. Unless we turn off the employment magnet, we will continue to have millions of people coming across our borders and mixed in that, at least 8 percent of them criminals and some terrorists.

A lot of opinion polls have been taken of late as to how people feel about the security of our borders and how concerned they are about illegal immigration; 75 to 80 percent of all of the respondents expressed grave concern about the insecurity of our borders. The Minuteman Project is a manifestation of that frustration. The Federal Government clearly is not carrying its weight. We are not controlling the borders. Our borders are insecure. Ask any front line agent out there and they'll tell you that we are simply overwhelmed. It's not that we're sitting around doing nothing, but when millions of people are streaming in every year, there is only so much we can do. You can only be at one place at one given time. We have to gain control of the illegal immigration crisis if we are going to bring any semblance of security to our borders.

So I go back to the point of the hearing that I just came from, where I was urging your colleagues to adopt a counterfeit proof form of employment verification to turn off the jobs magnet. People will stop coming to this country if they realize that unless they have that card they can't get a job. They will realize that it does them no good to trek across the desert for 3 days if at the end of the rainbow they show up at an employer's doorstep and he says I am not going to hire you because I don't want to pay a $50,000 fine.

This is a matter of national security and homeland security. The current tactics we're employing are not working. Putting more manpower out there is shoveling sand against the tide unless we deal with the employment magnet.

Of course, we need more manpower once a new law is in place to turn off the employment magnet, which would enable us to go after the terrorists and the criminals who are out there, because that is our No. 1 priority in the Department of Homeland Security.

And I thank you for your time and I urge you to seriously consider these measures. And I'm not here obviously to argue for H.R. 98, because that is a separate hearing, but what we are saying is that is the real solution to the insecure borders that we have.

While we appreciate the efforts of people like Mr. Simcox, the support that they give, we do have concerns about citizens taking the law into their own hands, and I'm not saying Mr. Simcox's group did that, but I'm saying other groups may feel that is something that should be done. We would discourage people from doing that and we do not encourage people to go down to the border where it's very dangerous to make their political statement. We think it's important that they do so in a manner that protects their safety. But if the Federal Government continues to turn a blind eye to this problem, I fear that you'll see more and more people turning to desperate measures.

[The prepared statement of Mr. T.J. Bonner follows:]

STATEMENT OF THE

NATIONAL BORDER PATROL COUNCIL

OF THE

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

AFL-CIO

BEFORE THE

COMMITTEE ON GOVERNMENT REFORM

UNITED STATES HOUSE OF REPRESENTATIVES

SECURING OUR BORDERS

WHAT WE HAVE LEARNED FROM

GOVERNMENT INITIATIVES AND CITIZEN PATROLS

PRESENTED BY

T.J. BONNER

NATIONAL PRESIDENT

MAY 12, 2005

The National Border Patrol Council thanks the Committee for the opportunity to present the views of the 10,000 front-line Border Patrol employees that it represents regarding the current state of security along our Nation's borders and our recommendations for improvement.

It is beyond dispute that our Nation's borders are out of control. Last fiscal year, the Border Patrol apprehended 1,158,800 illegal aliens, an increase of nearly 25% over the previous fiscal year. Front-line Border Patrol agents estimate that for every illegal alien who is caught, at least two more slip by them. They are simply overwhelmed. About 10,700 agents are responsible for patrolling about 8,000 miles of border: 2,000 miles between the Unites States and Mexico, 4,000 miles between the continental United States and Canada, and the rest along the coastal boundaries in the southeastern United States and the Commonwealth of Puerto Rico.

Although the vast majority of those who cross our borders are seeking employment, an alarming number of criminals are also exploiting our porous borders. In the first three months after the automated fingerprint systems of the Border Patrol and the FBI were integrated last September, more than 23,500 criminals — about 8% of the total number of all persons apprehended — were arrested, including 84 homicide suspects, 37 kidnaping suspects, 151 sexual assault suspects, 212 robbery suspects, 1,238 suspects for assaults of other types, and 2,630 suspects implicated in dangerous narcotic related charges.[1] It is not unreasonable to assume that the same percentage of criminals would be found among the millions of people who avoid apprehension, nor is it unrealistic to presume that at least some terrorists manage to slip into the United States across our borders.

Although illegal immigration has recently emerged as a matter of great public concern, it is by no means a new problem. The increased level of concern is no doubt due to a growing awareness of the homeland security implications of porous borders. Most Americans expect their Government to take action to secure the borders. There is no consensus, however, on how best to achieve this goal.

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[1] Customs and Border Protection press release, December 20, 2004.

There is some level of public support for a number of potential solutions, including:

- Dramatically increasing the size of the Border Patrol.
- Utilizing advanced technology to assist the Border Patrol in detecting illegal crossings.
- Increasing enforcement of immigration laws at worksites.
- Increasing enforcement of immigration laws in interior cities.
- Authorizing State and local law enforcement officers to enforce immigration laws.
- Creating State "Border Police" forces.
- Utilizing the military and/or National Guard to assist the Border Patrol in an auxiliary role.
- Utilizing civilian volunteers to assist the Border Patrol in an auxiliary role.
- Deploying the National Guard along the border to enforce immigration laws.
- Deploying the military along the border to enforce immigration laws.

Out of all possible solutions, the National Border Patrol Council is firmly convinced that only one will result in secure borders: the enactment of legislation that addresses the root of the problem by eliminating the employment magnet. Ninety-eight percent of those who cross our borders illegally do so in search of employment opportunities in the United States. As long as illegal aliens are able to find jobs, they will continue to cross our borders. As long as the Border Patrol is overwhelmed by millions of illegal aliens crossing our borders annually in search of work, it will be unable to focus its enforcement efforts on stopping terrorists and criminals from entering our country. H.R. 98, the "Illegal Immigration Enforcement and Social Security Protection Act of 2005," will eliminate the employment magnet and is therefore unequivocally supported by the National Border Patrol Council. The legislation would enable employers to easily determine if an individual is authorized to work in this country and would also facilitate the imposition of stiff penalties against those employers who violate the law.

Any strategy that focuses almost exclusively upon border enforcement is doomed to fail. It is unrealistic to expect that impoverished people who can earn ten to fifty times more in the United States

than they can in their native country will somehow be deterred from crossing the border by the presence of a few thousand law enforcement officers or even soldiers. This is the reason that the current enforcement strategy is not working, and why many of the potential solutions that are being considered will also ultimately prove useless in curbing illegal immigration.

The Arizona Border Control initiative currently being pursued by the Administration not only embraces this one-dimensional philosophy, it carries it to the extreme. As its name suggests, the sole focus of the initiative is on the State of Arizona, and in fact most of the resources being added there are being shifted away from other parts of the southwest border. Experience has already demonstrated that smugglers will rapidly adjust their routes to those areas where they are most likely to successfully elude apprehension. Placing all of the additional resources in one area merely pushes the problem somewhere else. Since the Border Patrol initiated its strategy of gaining control of the border "inch by inch" about 10 years ago, it claims to have gained control of about 150 miles of border. At this rate, it will take about another 400 years to gain control of the entire southwest and northern borders. Of course, this assumes that the Border Patrol would actually be able to maintain control of areas after it has shifted resources away from them.

In addition to unwisely distributing its resources, the Administration is inappropriately attempting to replace personnel with technology. While technology can be a useful tool in detecting intrusions, it cannot replace the agents who apprehend violators. Cost-effective technology can only provide a snapshot of what is crossing the border at a given moment in time, and is incapable of tracking movement beyond that point. Unfortunately, employees are often provided with useless technology, and denied access to the technology and support that they really need. Last year, the National Border Patrol Council co-sponsored a survey of front-line Border Patrol agents and Customs and Border Protection officers to solicit their opinions about critical aspects of their jobs. It revealed that nearly two-thirds of all employees do not believe that they have been given the proper tools, training and support to be effective in stopping potential

terrorists from entering the country. Almost the same number felt that the Department of Homeland Security could be doing more to stop potential terrorists and protect the country. An equal number complained of low morale among their co-workers. Finally, despite the fact that over three-quarters of all Border Patrol agents felt that the strategy of deterrence was ineffective, it remains in place today.

The lack of a coordinated and comprehensive strategy has also hampered enforcement efforts. For example, detention and removal funding shortfalls at the Bureau of Immigration and Customs Enforcement result in almost all illegal aliens from countries other than Mexico being released on their own recognizance. This has sparked a massive influx of illegal aliens from Central and South America. About three-fourths of all Border Patrol agents in South Texas now spend their time processing these aliens, leaving only a handful of agents to protect our borders. This situation is untenable.

Although the Bureau of Immigration and Customs Enforcement has recently made token efforts to enforce the existing employer sanctions laws in response to public criticism, this approach will not deter people from coming here illegally because those laws are fundamentally flawed. It is far too easy to obtain counterfeit documentation, and it is unreasonable to expect employers to differentiate between genuine and phony documents.

Many of those who advocate the placement of troops along the border fail to realize that the role of the military would be the same as that of the Border Patrol — apprehending illegal aliens and returning them home. Impoverished foreigners who are willing to risk their lives crossing the border in search of work will not be deterred any more by soldiers than they are by Border Patrol agents. In order to deploy the military for this purpose, the Posse Comitatus Act, which precludes the military from engaging in civilian law enforcement activities, would have to be modified. Furthermore, in order for troops to effectively accomplish the expected task within the bounds of the law, they would need to receive the same level of training in immigration and other laws, Spanish, and other law enforcement topics that Border Patrol agents receive during their 19 weeks of intensive training. The consequences of failing to do so

could be disastrous, as illustrated by an incident in which Esequiel Hernandez, Jr., an 18-year-old goat herder, was shot to death by a squad of four U.S. Marines conducting counter-drug border surveillance for the Border Patrol in Redford, Texas in 1997. An oversight investigation conducted by the House Subcommittee on Immigration and Claims made the following findings concerning training issues:

> Since World War II, United States military personnel have patrolled international borders throughout the world, from the Warsaw Pact to Korea to the Balkans. Experience has shown that border missions are often dangerous, difficult, and delicate, but they can be performed successfully by properly trained personnel. Proper training must include detailed instruction in the military, civilian, and diplomatic aspects of the mission, as well as frequent drilling in emergency procedures.
>
> The Coyne Report, based on a thorough investigation of the training and preparation conducted for Mission 414-97A, concluded that both were inadequate for the mission at hand. Poor planning and execution of mission-related training were found at the Marine Corps divisional, regimental, battalion and battery levels. The central problem was that the chain of command regarded the mission primarily as a training opportunity for Marines, rather than as a complex real-world mission involving significant risk.[2]

Since this costly training investment needs to be made, it should be provided to career employees who will remain in Government service instead of short-term military enlistees. The Border Patrol has never experienced any difficulties in recruiting new employees. It has, however, experienced difficulties in retaining employees. This is due to several factors, including relatively low pay compared to similar law enforcement occupations at the Federal, State and local levels; lack of job satisfaction stemming from the "strategy of deterrence" that requires agents to sit in one spot for hours on end; and the new personnel rules that allow managers to treat and pay employees unfairly.

The recent Minuteman Project at the border in Arizona is by no means the first group of citizens to assemble to demand enforcement of our immigration laws. In the latter part of 1989, Muriel Watson, the widow of Border Patrol agent George Watson, founded the "Light Up the Border" movement in San Diego, California. Groups of citizens would drive to the border at night and point their headlights at the

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[2] Oversight Investigation of the Death of Esequiel Hernandez, Jr., page 8. (November 1998)

no-man's land where robberies, rapes, and even murders occurred all too frequently. These crimes and one of the special police units deployed to combat them were documented in Joseph Wambaugh's best-selling book *Lines and Shadows*. As a result of this attention, the Government installed permanent lighting fixtures and triple fencing along much of the 14-mile stretch of border south of San Diego. That, along with a dramatic increase in the number of Border Patrol agents, caused the pattern of illegal immigration to shift away from that part of the border.

Front-line Border Patrol employees are very appreciative of the support shown by citizens who speak out for secure borders and additional resources to achieve that goal. They also deeply empathize with citizens who are frustrated by the Government's lack of resolve to secure the borders, for they experience it both from the perspective of border residents and workers who are forced to carry out policies that often make little or no sense. They do not, however, condone anyone taking the law into their own hands, nor do they encourage people to place themselves in harm's way at the border in order to make political statements.

In summary, the legislative and bureaucratic response to the border security crisis thus far has been a curious mixture of strategies, none of which have been particularly effective. The main reason for this is that all of these strategies fail to address the source of the problem: the great disparity in wages between the United States and every developing nation in the world, including our neighbors to the south. Until Congress enacts legislation that eliminates the employment magnet, there will be no solution to the problem of illegal immigration and our borders will remain porous, leaving our Nation extremely vulnerable to further terrorist attacks.

Chairman TOM DAVIS. Thank you very much. Mr. Simcox, welcome.

STATEMENT OF CHRIS SIMCOX

Mr. SIMCOX. Thank you, Mr. Chairman, for the opportunity and thank you to the committee. I'm here to bring a very simple and direct message from we the people that too many citizens of Cochise County and other communities along the border have testified before these committees previously. We have sent letters, e-mails, faxes and have shown up at town hall meetings to no avail. This is about public safety and our national security, and we are done waiting bluntly for the Federal Government to do its job.

Despite the efforts by many groups to portray our political statement as a racially motivated or anti-immigrant effort, we brought it back to what this is really about, which is national security and public safety. This great republic was founded and formed on immigration. When you come legally, you're welcome. What we have now is out of control, and the citizens basically have had enough.

We hope this will encourage everyone to do something, because while you're waiting and while you are making up your minds what to do we are going to continue with Minuteman type projects. We are going to basically reinvent the civil defense movement that aided our country during World War II. We are basically under attack and there's an invasion. We have enough home grown criminals in this country, let alone the criminals that are coming in.

I find it curious that there is so much worry about and speculation about vigilantism which, by the way, there have been zero incidents as of yet, but I hear little worry about the real terrorism that we deal with, such as the families of detectives Donald Young and Jack Bishop, who were murdered in Denver this week, law enforcement agents who are dying at the hands of criminals that come into this country.

The citizens of Cochise County have made a statement, a clear statement, and I want to show you a half page ad that they took out in the local newspaper on Mother's Day thanking the Minuteman. From grateful residents of the Sierra Vista-Hereford area, thanks for doing what our government won't do, which is close the border to illegal aliens and criminals. It was the quietest month we have had in many years. It was nice to once again have the freedom to hike our mountains without being armed. You made us feel very safe because the border was closed. We didn't have to worry about manmade fires, which we have another fire raging out of control now in our area, created by illegals trying to get away from Border Patrol and they felt secure.

I think if there has ever been a mandate, this is a mandate from the citizens. We are going to continue to abide by the law and work within the law, but honestly, we don't need, as I heard comments about that we need to be regulated, I think we have proven that citizens that participate in the Minuteman Project were of the utmost highest character and standards of American citizens. We're there to defend our property, our private property, our Nation, to defend the sovereignty of our borders, and a country is not a country without borders.

So again, and I ask why are our borders dangerous? I keep hearing this from, with all due respect, the Border Patrol. If the Department of Homeland Security almost 4 years after the attacks of September 11 were doing their jobs, our borders would be safe. Why should American citizens sitting in lawn chairs with cell phones and binoculars have to fear for their safety on U.S. soil? That is intolerable and unacceptable from our point.

I'm very impressed with the security at the airports and here in Washington. I have never seen so much security. I think the citizens who live along the southern border would like to see the same kind of security right on the line. And when we talk about Border Patrol what we see and what we have proven during April is that you need border guards, not a Border Patrol. We need static observation posts set up along that 2,000-mile sector. We give you our permission, the citizens of this Nation give you permission to spend whatever it takes to man Border Patrol and what we would like to see is that immediately done, and that means using military reserves and our National Guard.

I don't think the families of Donald Young and other Americans who have fallen victim to the crime that have come across that border would care about the rules of posse comitatus, and we don't accept that argument. We are not asking for our military to be used against American citizens. We are asking that it be used to protect our country, our neighbors and private property.

So that's the message we bring. We have another Minuteman Project working this weekend, and I would invite all of the committee members, any time you want to come down and see what the border is really like, you should do it unannounced. We will be more than happy to show you the lack of homeland security on any given day. The rank and file Border Patrol agents, I have worked with them for 3 years, they are great people and work hard. Whoever is managing them is not doing the best job, and we the citizens have proven there is a better way.

Thank you.

[The prepared statement of Mr. Simcox follows:]

To: Congress of the United States
House of Representatives
Committee on Government Reform
2157 Rayburn House Office Building Washington, DC

From: Chris Simcox
President of Minuteman Civil Defense Corps, Inc.
P.O. Box 1489
Tombstone, Arizona 85638

Almost four years after the terrible terrorist attacks upon our country on September 11, 2001, citizens of the United States remain concerned about our national security, specifically our outrageously porous international border with Mexico. Those who live along the border-state region with Mexico have great concern for their personal safety as well as concern over the lack of border security.

Despite repeated warnings from citizens, local law enforcement and various public officials, our border remains intolerably porous and presents not only a threat to public safety but also a clear and present danger to the security of our nation. Millions of dollars have been thrown at the problem and new technology has been promised – some delivered, some conspicuously absent. Citizens who live with daily incursions of illegal aliens through our property and into the sparsely populated back country along the border realize one thing: the Department of Homeland security cannot effectively stop migrant workers, mothers carrying small children, vicious drug smugglers, known criminals and human smugglers from breaching our border security – we do not feel confident that our government is able to stop terrorist elements from entering our country with the intent of inflicting harm upon our citizens.

After years of writing letters, sending faxes, sending e-mails and making countless phone calls to elected officials pleading, begging and demanding redress of our grievances, frustration led us to but one conclusion – we must act and address the problem with a citizen movement.

In November of 2002, I, Chris Simcox, began assembling a group of citizens to undertake the responsibility in assisting what we realized was a Border Patrol woefully undermanned and, as it stood, unable to provide for the safety of the citizens of our local community, Cochise County, Arizona.

We began with a small group of about 40 concerned citizens who knew the only way to bring attention to the problem was with bold statement combined with effective active participation, and so a neighborhood border watch movement was born. Working with retired and active law enforcement and military personnel, we formed Civil Homeland Defense – a group of citizens who worked within the law to assist law enforcement with battling an overwhelming flood of incursions by foreign nationals from around the world who daily breached our border security.

Since the formation of the CHD, over 400 citizens from Arizona and other states have participated in spotting, locating and reporting people who entered our country illegally. Our citizen effort has led to the capture, by the proper authorities, of 4,609 individuals from 26 different countries including China, Brazil, Colombia, Haiti, Poland and, yes, even people from Russia. During the same period, volunteers of our modest citizen patrol group have provided life saving water and medical attention to save the lives of 158 men, women and children.

From the beginning, our volunteers have worked seamlessly with field agents of the U.S. Border Patrol; agents in the field have always acted with courtesy and have shown appreciation for our assistance with a problem they are not able to control, given the support they receive from the Congress.

Supervisors and sector chiefs of the U.S. Border Patrol have been a different story. Despite a public service campaign asking for the help of citizens, they contradict themselves when it comes to the point of actually going beyond picking up a phone to report groups of people who have obviously entered our country illegally.

Video provided by Civil Homeland Defense and the Minuteman Project illustrates just how porous our border is. Each of the nearly 5,000 identified illegal entrants is presented in videotape evidence supplied to this committee. Not only have local citizens documented persons from other countries entering Cochise County, but we also present evidence of incursions by Mexican military personnel–sometimes found up to a mile inside the borders of the United States.

During the month of April 2005, 876 citizens volunteered at least one 8-hour shift manning static observation posts along a 26-mile sector of Cochise County. The areas were chosen because of their repeated use by human smugglers to bring thousands of foreign nationals into our country illegally. We identified the most heavily traveled routes used by smugglers and we formed static observation posts spaced approximately one-quarter of mile apart, to create an obvious presence that resulted in deterring anyone from entering the country in those areas.

Sixty-three volunteers spent the entire 30-day period working multiple shifts to maintain a presence. On our "Naco line", an area east of Bisbee, Arizona, stretching towards Douglas, Arizona, an area notorious for up to 500 illegal crossings a day, we saw a drop to nearly zero during the 30-day mission.

On our "Huachuca line" an area 5-miles from the Mexican border at the base of the Huachuca Mountains, we witnessed a dramatic decrease in groups of illegal aliens descending through canyons leading through neighborhoods south of Sierra Vista and the unincorporated area known as Hereford, Arizona.

During the month-long mission, volunteers of the Minuteman Project assisted Border Patrol with locating and apprehending 349 people entering the United States illegally. Also during the month of April, calls to Border Patrol from local residents led to more than 1,500 apprehensions that would not have been made had citizens not taken the initiative to report suspicious illegal activity in their neighborhoods. Border Patrol officials reported that apprehensions of illegal aliens in the Naco sector dropped 65% from the previous year during the same time period.

During the month-long project, volunteer encounters with Border patrol field agents were nothing less than amicable and friendly. Agents were overtly appreciative and supportive of the assistance provided by citizens. Agents thanked the volunteers for bringing national attention to their plight and their frustration with being ignored by supervisors as well as the lack of support both in equipment and personnel by Congress, and expressed anger at comments made by the President of the United States, George W. Bush.

When volunteers of the Minuteman Project made calls for assistance to the Border Patrol they responded quickly and shared words of appreciation for the efforts of the volunteers. At no time did any field agent state concerns about citizens impeding their duties or getting in the way. At no time did field agents express frustration regarding the setting off of sensors.

The Minuteman Project was a phenomenal success due to the law abiding and conscientious efforts of many retired law enforcement and military veterans who gave their time and offered expertise in organizing, supervising and ensuring volunteers remained explicitly aware of the tactics outlined in our carefully written Standard Operating Procedures (S.O.Ps.). That S.O.P. format is included in the packet of information offered as testimony to this committee. The S.O.Ps. provided a framework that assured citizens' exemplary behavior and code of conduct during the month-long protest.

Our message is clear: Congress must move immediately to assign military reserves to the border to assist with controlling our border, or we the people will continue to organize, train and act to assist doing the job -- right alongside our courageous Border Patrol agents.

Our effort now continues in Cochise County, and will expand towards a much larger citizen volunteer group preparing for a month-long effort in all four southern border states in October 2005.

Each of our volunteers must submit to a criminal background check; they must be interviewed by recruitment personnel and must understand their participation hinges on their strict adherence to a policy of law-abiding engagement with those who willfully break the laws of our nation by entering our country illegally. We intend to share all intelligence information with the proper authorities and will work in ways that do not impede their operations.

We know our border is rife with hardened criminals who have no respect for human life. Volunteers are prepared for the consequences of violent encounters with criminals; we are prepared to defend our lives and our country with reasonable counter-force if necessary. Volunteers will abide strictly by the laws of the states in which they operate such patrols. Volunteers fully understand the weight of responsibility heaped upon their shoulders by the lack of attention to this problem by Congress and the President of the United States. It is your duty to immediately respond to our grievances and quickly act to supply professional personnel who would bring an end to the necessity for ordinary citizens to band together to provide the services that are clearly delegated by the Constitution to the Federal Government.

Our plan is continue recruiting retired law enforcement personnel and we are actively recruiting military veterans, from WWII vets to veterans returning from the most recent war in Iraq – they are ready and willing to serve their country again by assisting with border security.

The success has led to an outpouring of support and volunteerism, skyrocketing to the point where organizers have been contacted by over 15,000 people wishing to volunteer for future operations.

We considerer this a mandate from the citizens of the United States who are no longer demanding better border security - they are now willing to participate in securing the borders themselves. Our intentions are to follow the will of the people. The Minuteman Civil Defense Corps. is now undertaking the task of recruiting, training and deploying thousands of U.S. citizens to the four southern border states with Mexico. This effort will also continue to expand to northern border states with Canada.

We now consider the movement to be a revival of the Civil Defense movement of the World War II era. While our troops are fighting on foreign soil, while our Department of Homeland Security applies its resources and efforts to provide for our national security in other areas, we

the people will take up the slack by developing civil defense volunteers to support the U.S. Border Patrol.

We consider this a no-compromise situation. Until the time that Congress appropriates sufficient funding and develops personnel levels to the numbers needed to effectively secure our borders, we the people will roll up our sleeves in the time-honored tradition and creed of a "can-do"society, and we will assist until honorably relieved from duty by the government of the United States.

Only one scenario is possible in convincing citizens to return to our normal everyday lives: deployment of U.S. military reserves and or assigning National Guard personnel, to augment a woefully understaffed Border patrol; only this will convince ordinary citizens to retire from this endeavor.

The tactics and logistics now seem obvious. Static observation posts are the only effective method of deterrence short of building a wall along the almost 2,000 mile border with Mexico. Elevated observation outposts spaced approximately one-half-mile apart and staffed with teams of two to four Border Patrol or military personnel are needed to deter drug and Human smugglers from entering the country. It is all about creating an obvious presence that deters individuals from entering our country illegally.

We know that *posse comitatus* cannot be used as an excuse for preventing the deployment of military reserves to assist with border security. President Theodore Roosevelt set aside the 60 foot right of way known as the international border road in 1907 explicitly for the purpose of using the military to protect the United States. We of course are not concerned about the military being used against citizens of the United States; we are asking for the military to augment Border Patrol to improve national security and to prevent people and illicit goods from entering the U.S. illegally.

U.S. military reserves and National Guard personnel could use the border for training exercises, creating a presence to deter illegal activity. Border Patrol could work as a secondary layer of protection and would pursue and apprehend people who breach the first line of defense.

For the citizens who have worked the border, we know first hand this tactic works. While we watched the border during April, every illegal alien who chanced crossing the border in our area of operations was quickly apprehended by the proper authorities. Using advanced technology, ground sensors, cameras and UAVs are important in providing security; however, nothing is as effective as a physical presence of personnel on the border.

I thank you for the opportunity to share this information with the members of this Congressional committee. I hope it helps to provide a realistic and immediate solution to effectively secure our borders to protect the citizens of this great republic.

Chris Simcox

Standard Operating Procedure for Minuteman Project

By Chris Simcox

Preface

You are reading this because you believe that you can actively participate in one of the most important, socially responsible, and peaceful movements for justice since the civil rights movement of the 1960s. You are considering joining in this activist protest because you are done talking. You have debated, you have begged, you have pleaded with your government officials -- public servants whom you trusted to stand by the oath they took when sworn into office to protect the United States from invasion by enemies foreign and domestic. The human flood breaching our Homeland Defense is not necessarily the enemy per se; drug dealers, criminals and potential terrorists are, and they should be the source of any ire you may be experiencing.

You are considering joining the Minuteman Project not because of bias towards people from another country, but rather because you feel your government owes the citizens of the United States protection from people who wish to take advantage of a free society. We demand that President Bush, members of Congress and the Senate maintain an orderly queue of entry into our country. We are three years post September 11, 2001, and still our government is more concerned with securing the borders of foreign lands than securing the borders of the United States. Enough is enough. I apologize for applying such a bromide, but when the going gets tough, the tough get going. I come from a generation that has lost the ideal that we are a "can-do nation." I cannot accept the weak excuse from our government that the problem is unsolvable. That mindset is un-American. We can and we will make a difference. We, as citizens, are the government, are acting within the social contract of our right to freedom, and we will apply our efforts within the limits of the laws we have created. Regardless of whether we agree with the constraints on our limited ability to stem the flow of crime across our borders, we will display the highest level of restraint, thus proving we are responsible citizens and that our character is consistent with our ability to stay within the boundaries of the law.

Are you willing to sacrifice a few days, a week, a month to help do the job that the government should be doing? If you choose to make the sacrifice and become the active majority rather than the silent majority, you will have accomplished more in one month than the sum total of all your years of complaining and demanding action from your public servants who seem more interested in working for people from other countries than they are in working for us.

Our effort will be tangibly effective in supporting the defenders of our border, the patriotic men and women of the U.S. Border Patrol. You will offer

your assistance and become force-multipliers to assist their monumental task of turning back the tidal wave of people entering our country illegally.

You must be willing to accept the following plan, or you, as a segment of a larger group, are doomed to be remembered in history as representative not of the strongest character, but rather as the weakest link in our maligned and misunderstood group of truly patriotic nationalists. You must understand in the deepest ways the importance of our challenge.

You are here because you are willing to challenge our government to fulfill their constitutionally mandated responsibility, not because you want to fight them, but because you want to challenge them by fulfilling their obligation in their absence. You are willing to become force-multipliers in the absence of Congressional and Presidential will.

Composing letters, e-mails and faxes did not make an impression on our public servants. Now we will assert ourselves as citizen representatives of the government. We are citizens who set the example, of the people for the people and by the people.

We will succeed. *If we are to send the message loud and clear to President Bush and Congress, it is imperative that we stay within the law. If one single individual steps over the line for their personal gratification, we are all stained with that irresponsible behavior*, and labeled forever as a fringe element that embarrasses all who are counting on us to make this historic statement.

We must prevail, we will prevail. We shall overcome the effort by many to identify this movement as irresponsible; we will be victorious in proving the skeptics wrong. Our efforts will change the course of history and ignite others to stand with courage to make a change. Many are waiting for the outcome and will themselves be motivated with a new sense of activism; we will be leaders who will make a difference, role models who will influence future generations. Are you with us, Americans? If yes, then "let's roll"!

The Law

You must hold these truths to be self evident. There are restrictions and guidelines that must be followed to an absolute.

You will abide by the laws of Arizona. If you choose to arm yourself, you will do so for the purpose of self defense only; you will never have to take action to defend yourself, for you will abide by the rules of no contact and no engagement. (By the way, no weapons are allowed in the Coronado National Park, but we will not be working there, so no need to go any further).

No weapons in the San Pedro Riparian area near the San Pedro River. There are plenty of hilltops on which to perch, spot and report. Most of the time the illegal aliens will not even know you are there, and you always have the advantage of the high ground.

If challenged, you will physically remove yourself from the situation. At this point 'tis better to retreat and preserve the ability to return and fight another

day. The idea is for your sidearm to remain holstered for the duration of your visit. There will be absolutely no need to ever remove your firearm from its holster - not for cleaning, not for show-and-tell, not for any reason. By never removing the firearm from the holster, never keeping it chambered and always keeping the safety on and keeping your hands away from it, there can be no accidents. End of discussion. Remove the firearm from the holster for any reason, and your group members will likely send you on your way back home.

Stun guns, mace, pepper spray are alternatives for personal safety, but remember you have agreed to abide by a no contact, no engagement policy, so your safety will never be an issue. Right?

Absolutely you will not bring handcuffs our other devices used for the physical restraint of human beings. You will not be coming to Arizona to engage in philosophical discussions. You will not be coming to Arizona to challenge anyone, any idea, any person -- your challenge is with yourself. Your challenge will be, simplistically put, to behave yourself.

The mission is clear - Restraint, Responsibility and Character are the qualities that will guarantee success.

A word of advice: you will be held responsible, not just by law enforcement, but by the rules of our society, of mankind. You can be guaranteed that the first response towards any irrational or illegal behavior will come from within your group of compatriots. We will hold each other accountable. Any volunteer who even hints at illegal activity will be quickly ostracized from the mission and will be reported to law enforcement. You will be removed from the mission and will have forever shamed yourself -- you will not be allowed to shame the mission. Personal responsibility, accountability and temperament are the keys to success.

There has been much hand wringing, not just by the media but also from within the rank and file of potential volunteers.

Think about it this way. With the ideals explained in the previous paragraphs, anyone with the intention of stepping over the line will now realize they will not get away with it. Any possible racist, unstable or misguided element will now realize they will not succeed.

Why would anyone who does not agree with the tenets set forth even want to join the effort, knowing they will quickly be expelled from the activity? Those who disagree with the philosophy of this mission have now been dissuaded with caveats replete with everything they most likely despise. Those who don't agree are now making plans to stay home and cast doubt upon our efforts. Let them; for we are all better off without their participation, giving us yet another sense of gratification and desire for success.

The volunteers who have led the way are the good citizens who have joined the efforts of Civil Homeland Defense and who have succeeded in assisting the Border Patrol with locating over 5,000 people entering our country illegally. The volunteers have never made a mistake leading to harm or arrest by law enforcement. We know how to get the job done, so please defer to our experience

as your ultimate guide. Our reputation speaks for itself. Facing tremendous opposition and skepticism, we have prevailed. Yet we now risk everything we have worked to achieve during the past two years. If one individual puts their selfish desires before the mandate of the mission, we all lose. We cannot allow such petty individual desires to ruin years and thousands of hours of effort to be wasted at the hands of one self-serving fool.

Volunteers will maintain a strict code of ethics and behavior: you will adhere to a no contact policy. Spot, report and avoid any contact with people entering our country illegally. No exceptions.

Why risk going to jail and ruining the mission by engaging a group of illegals? The time for that is not yet upon us. Remember, this is activism, yet it is symbolic at best. We know millions of illegals are here, thousands continue to come and nothing short of military intervention will cease the flow.

It's no big deal to let a group get away, for every group you locate; there are ten more who are getting through. Face it: there is not much else we can do. The idea is to become force-multipliers for Border Patrol. Our effort will be a shock and awe to the President and to Congressional leaders. If you are coming here because you harbor ill feelings toward the illegals, if you feel uncontrolled anger towards the government of Mexico or people who are fleeing economic disenfranchisement, you are advised to stay home.

Our efforts are not meant to stop illegals, our efforts are designed to send our elected officials a stiff reminder - they work for us first. Ignore us and we will continue to grow in numbers. We succeed this time and we will have thousands more who will follow our lead in future more interactive missions.

Experienced volunteers of Civil Homeland Defense (CHD) will be mentoring groups of novice border watchers who are here for the first time. CHD volunteers will consult, guide and share experience with new volunteers. CHD volunteers will continue to work in every way possible that will support the mission. Future efforts will likely involve the tracking and containment of groups of people who have entered our country illegally. For *this* mission, you will resist in every way confronting or attempting to make contact with illegals.

Every group of volunteers should have at least one video camera available and a person whose duty it is to operate it. The video camera is your insurance policy. Record any up-close encounter with the video camera. It is as much a tool for self defense as is your sidearm. If for any reason a group of people entering our country enters your area, you will politely wave, stand aside and watch them proceed on their journey. You may feel an overwhelming sense of frustration, but you will not act irrationally because of the feeling. Self restraint, discipline and personal responsibility must be uppermost in your mind. Be assured that every group you spot will be apprehended by the proper authorities. 99% of every group spotted by volunteers of CHD have been apprehended somewhere down the road. Your satisfaction comes from knowing you have located, reported and alerted the Border Patrol of illegal activity. The group will be caught (by Border Patrol...the proper? Authorities) and sent back across the border.

If a group or individual approaches you in need of assistance, provide it. Every group should have a first aid kit and extra water to offer a human being life-saving aid. Sometimes you may have a person come to you for protection or aid, offer them what they need, videotape everything. Assure them you mean them no harm and tell them you have contacted "La Migra" and that help is on the way. They are usually quite grateful for the assistance.

Patrols conducted during daylight are simple. Take shifts spotting with binoculars, spotting scopes etc. If you see a group, call Border Patrol. For Naco Border Patrol, the district number is 520-432-5121. Douglas Border Patrol dispatch number is 520-805-6900.

Identify yourself as a MMP volunteer. Give them your location. Report the group you have spotted in specifics. Example.

"Hello, good morning, this is Chris Simcox with the Minuteman Project. I am at mile marker 5.5 overlooking the border road. I have spotted a hard count of 15 people who just entered the country illegally. They have crossed the fence and are headed up a trail towards the interior. They look as if they are taking the trail toward the mountains. There are 13 men and 2 women. We will continue to watch them so we can give more specifics to the agent who arrives to track them. How long do you think it will take an agent to arrive? If you need to call me back my cell phone number is... Thanks for your help."

When the agent on the ground arrives, give them the information and direct them towards the group. Other than that, stay out of their way and let them do their job.

If the agent apprehends the group and walks them back out past your location, stay out of the way. Video the group from a distance. You can protect the agent by not video taping his or her face. Do not approach the group even after they are in custody. If the agent asks for your help, provide it with caution. When interfacing with Border Patrol, remember, they are the good guys. Tell them you appreciate their duty to country. If they come back empty handed, tell them you hope they can catch the group farther up the trail. Never have a bad word for these guys and gals; remember they are attempting to do a job with one hand tied behind their backs. You will have to be satisfied that you can provide assistance with both hands tied behind your back. Spot and report; you are being affective just doing that.

Every team will consist of 4 to 8 volunteers. You will use FRS radios and cell phones. Hopefully each group will be provided a radio that will reach the command center. If not, use your cell phone to call Command and report how many people you counted, the time, the location and if Border Patrol responded. A log will be kept to prove our effectiveness and the effectiveness of Border Patrol. A compiled report will be shared with the media at the completion of the project.

Keep your radio transmissions to a minimum, no joking around or extraneous off-task comments. Stay calm, focused, stoic and on-task.

Spread out and maximize your personnel; take shifts spotting to relieve stress. Use the minimum number of radios possible to conserve batteries. Never stray out of radio contact with your group. Rotate the use of cell phones to conserve batteries.

Your vehicles will be your command center. Bring DC connectors to recharge batteries. Carry back-up batteries for radios.

Plan on no less than 8-hour shifts. We will organize relief shifts once we have a hard count of volunteers who have shown they will walk the walk, not just talk the talk.

Carry personal contact information in case of emergency. Ensure every person in your group is aware of any physical or health issues of individuals in your team. Plan for your comfort. Bring a camping chair or folding lawn chair - you will be sitting for hours on end.

Dress warmly, and layer for extremes from cold to hot. Bring plenty of water -2 gallons per person per day. Bring snacks and meals that can be prepared without fire. Hopefully everyone can stand to rough it for at least 8 hours a day: hats, sunscreen, medications for personal issues, tissues, toilet paper, a shovel for burying your waste. Respect the environment, clean up after the group. Make every effort to leave the land just as you found it or in better shape than you found it.

Never drive off-road. Stick to the roads and two-track paths. Park as close to the side of the road as possible, always leaving room for Border Patrol or emergency vehicle access.

Night Missions

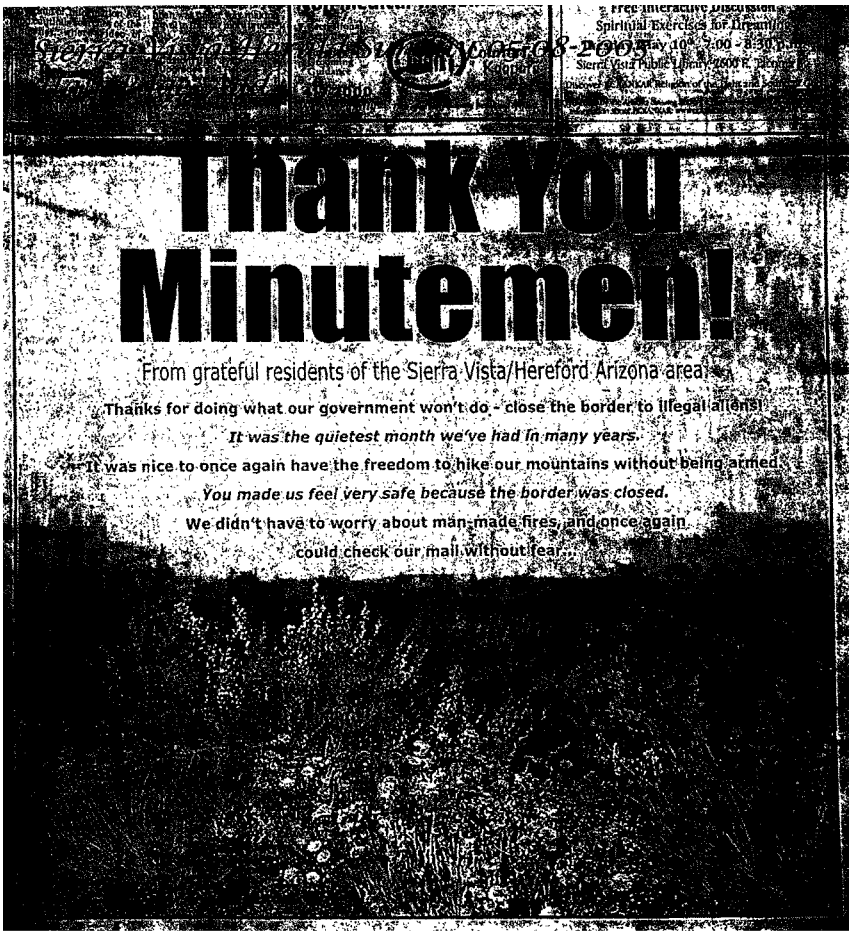
Not everyone will be cut out for night missions. We will be looking for those few hardy volunteers who can stand the 12 hours of dusk to twilight. Auditory awareness is your tool for locating groups. Listening carefully while sitting quietly is the toughest aspect of night work. You will hear the group coming long before you can see them. Once you hear them, call them in to Border Patrol -- get the Patrol rolling to your location as soon as possible. The groups move quickly through the night.

Night vision devices can be useful but not necessary. Some groups will be assisted with thermal night scopes provided by CHD. We will try to rotate them from location to location so everyone gets in on the fun. At times, groups will walk within just feet of where you are sitting. You have two choices. Let them proceed past you while remaining silent, or, turn on a flashlight, inquire as to who is there and watch them scatter. The latter tactic often helps to delay the group while you are waiting for Border Patrol to arrive. *Under no circumstances are you to chase or attempt to give the group of illegal aliens any orders to sit down.* The surprise of you being there with your lights if sufficient to send them a message that they should have taken another trail. Many times the group will scatter and run back to the border -- mission accomplished!

Use ear phones for radios at night. Try to remain as quiet and stealthy as possible; sound travels great distances at night. A cough can travel a half-mile away. Remember, your mind can play tricks on you at night. The slightest sound will be cause for your imagination to run wild. Be assured, you will know a group is approaching by their distinct sound. Once you hear a group walking through the brush the sound is indelibly printed in your senses.

There will be more tactics and suggestions to come during the next few weeks. There have been many tidbits of suggestions for equipment and survival offered already. They will be available on the website.

The information provided here is not open for discussion -- this is the way CHD has managed to work through 800-plus missions. This is the only way for these patrols to work this time around. If you feel this S.O.P. is too restrictive, then you know your limits and have taken the first step to insure the MMP is successful, by knowing you should not attend.


Free Interactive Discussion
Spiritual Exercises for Dreamers
Sierra Vista Public Library, 2600 E. Seventh
Thank You Minutemen!
From grateful residents of the Sierra Vista/Hereford Arizona area:
Thanks for doing what our government won't do - close the border to illegal aliens!
It was the quietest month we've had in many years.
It was nice to once again have the freedom to hike our mountains without being armed.
You made us feel very safe because the border was closed.
We didn't have to worry about man-made fires, and once again
could check our mail without fear...

Chairman TOM DAVIS. Thank you very much. Ms. Kephart, thank you for being with us.

STATEMENT OF JANICE KEPHART

Ms. KEPHART. Thank you Chairman Davis. Thank you for holding this hearing and giving me the opportunity to discuss with you both terrorist travel and the national security mission of our border agencies.

From my vantage point of spending 15 months devoted to figuring out how the September 11 terrorists conducted their travel operation into the United States so easily, it is clear to me that if national security is to become a reality for our border agencies, we must put old thinking aside, incorporating all we know about terrorist travel. We must put together a long-term plan that seamlessly integrates policies across our border apparatus, maximizing security and efficiency. Yet a comprehensive and cohesive long-term border plan will not be an easy goal to reach as long as the seven elements of our border system remain fragmented into three departments and six agencies, and this is just one of the many reasons why I have proposed consideration of the creation of a Department of Immigration and Border Protection.

But let's step back and understand what terrorist travel is. Start with the fact that foreign terrorists carefully plan their attempts to enter and stay in the United States based on a relatively sophisticated understanding of our border system. Terrorists will use any infiltration tactic if it works, from hiding in a ship's hole or a car trunk to fraudulently seeking legitimate U.S. visas and passports as the hijackers. These terrorists do not just represent al Qaeda. Hamas and Hezbollah and lesser known terrorist organizations operatives also engage in all varieties of immigration fraud.

Once in the United States, terrorists seek legal status. They resist removal through shared marriages, claims of political asylum and applications for naturalization. A terrorist managed to stay in the United States when his spouse won the visa lottery. They seek United States and State issued identifications to establish themselves in communities and travel more easily. And wherever a vulnerability exists from visa issuance to admission standards at our ports of entry to our immigration benefits adjudication system, terrorists take advantage of it.

While we work on long-term solutions, we cannot wait to fix severe deficiencies that have existed for a decade prior to September 11. Solutions are required now. We are once more in crisis on our hard borders, both north and south. The Minuteman Project has made that clear. The project has also made clear that the American people get what we said on the 9/11 Commission, that border security is national security. We must now seek out ways to relieve these good people of these duties and help the government do the job it is supposed to be doing.

For now, it is here that we must focus our efforts to prevent potential clandestine entry by terrorists. Clandestine entry permits terrorists the anonymity we are lucky the September 11 hijackers did not have.

In addition, information I acquired on the commission along with comments in recent weeks by Admiral Loy and FBI Director

Mueller all indicate that terror organizations do seek illicit entry into the United States. Remember, for example, the Lebanese Mexican human smuggler Bougadaro, who brought in over 300 Hezbollah sympathizers by way of false visas in Tijuana in the last few years. He served a short 11 months in U.S. jails and is now serving time in Mexico.

Also Hezbollah operative Mahmoud Kourani, who pled guilty to terrorism charges last month in Detroit, crossed over the southwest U.S. border in a car trunk in February 2001.

There was also Nabil al-Marabh, a likely member of al Qaeda, who was caught trying to cross over the northern borders at Niagara Falls in the back of a tractor-trailer in June 2001. Not only was al-Marabh a frequent border crosser and had a fake Canadian passport, but he also held five U.S. driver's licenses acquired in 13 months along with the commercial driver's license and a permit to haul hazardous materials.

In light of the national security interests in securing our hard borders, the Border Patrol has needs that need to be met now and they include centralized operational intelligence, centralized command and control, streamlined business processes to enable agents to spend less time in offices and more time in patrolling, tracking communication devices to ensure greater safety and efficiency in operations, forensic support for false documents, access to US-VISIT and aggressive use of expedited removal.

In conclusion, terrorists are creative and they are adaptable. Yet we have the ability to counter them by being adaptable in our thinking and providing front line officers with the tools they need to do the job they are all eager to do.

My written testimony lays out many, many recommendations that I believe will infuse the rule of law and integrity into the system that can deter terrorists and illegal entry. Thank you.

[The prepared statement of Ms. Kephart follows:]

House Committee on Government Reform

"Securing Our Borders: What We Have Learned from Government Initiatives and Citizen Patrols"

May 12, 2005

Testimony of Janice L. Kephart

Former counsel, The National Commission on Terrorist Attacks Upon the United States and an author of *September 11 and Terrorist Travel, A Staff Report of the National Commission on Terrorist Attacks Upon the United States*

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May 12, 2005

Testimony of Janice L. Kephart

Introduction

Good afternoon and thank you for the opportunity to discuss *terrorist travel* and *government border security initiatives* with you today. My testimony is based on my work as a counsel on the 9/11 Commission "border security team," as an author of the 9/11 staff report, 9/11 and Terrorist Travel, and a 380 page report on the current state of terrorist activity in the United States I conducted as a consultant. At the Commission, I was responsible for the investigation and analysis of the INS and current DHS border functions as pertaining to counterterrorism, including the 9/11 hijackers' entry and acquisition of identifications in the United States. My current work includes a study of terrorist travel tactics in the United States, specifically focusing on the abuse of our immigration system by 118 indicted and convicted terrorists.

Please note that the views I present here today are my own, and do not necessarily reflect those of the 9/11 Commission. I want to thank both Chairman Davis and Ranking Member Waxman for holding this important hearing. I also wish to applaud Congress for passing the National Intelligence Reform Act of 2004. That Act contained many valuable terrorist travel provisions born of the 9/11 Commission's recommendations. I look forward to seeing the national terrorist travel strategy and the implementation of the new passport rules for all visitors come to fruition as required by the Act. I also want to thank Chairman Davis for his current work to make driver licenses meet minimum standards of verification and authenticity, bringing identifications issued within the United States in step with our latest requirements for secure and verifiable travel documents for entry into the United States.

It is the hope of many of us who are working on this important topic that this Committee and Congress as a whole will continue to exercise their oversight authority on the important issue of terrorist travel and overall border security, ensuring that our Government continues to implement the lessons learned as a result of the tragic events of September 11, 2001.

From the outset, let me make it clear that I, like many, consider the benefits and wealth of human potential that immigration brings to this country to be one of our greatest strengths as a nation. However, I also believe that we owe it to all Americans to maintain the integrity of our borders. To do so, we must scrutinize effectively those who seek to come here. September 11 has taught us that secure borders are a matter of national security.

We will not have secure borders until we enforce the laws already in place; until we properly train, equip and support our first line of defense; and until we are prepared to share more information with frontline personnel.

Nor will we have full immigration reform until we understand the extent of our vulnerabilities and devise a long term plan to fix the border system, so that policy priorities can be set and executed with political credibility; clarify and streamline our complex immigration laws where necessary; allocate and account for funds and other resources appropriately; and restructure our border system to reflect the importance and mission of our immigration apparatus.

Further, we will not have cohesive, coherent policies divested of special interests until we can acquire grassroots support for the good work our federal government should be doing to *encourage legal immigration and discourage illegal immigration in light of the lessons learned from 9/11 and other terrorist abuses of our immigration system.* This should not be a difficult rallying call to the American people. The fact is that nearly all Americans agree that legal immigration enriches the United States. New polls also indicate that a high percentage of Americans do not approve of illegal immigration. Therefore, as we move forward with our policies on border security and immigration, we should consider employing a simple formula: does this policy encourage legal immigration or discourage illegal immigration while providing for a more secure border system? Where the answer is "yes" to this question, the solution is worth pursuing. This formula could generate the set of policies that could drive forward real solutions that enables our border system to acquire respect. When our borders our respected, the American people will begin to see that the border system is providing the security they deserve and rightly demand.

For example, one policy that fits this formula is: *our borders and immigration system are governed by the rule of law. Enforcing those laws sends a message of justice that is itself a deterrent to terrorists.*

Terrorists by definition come to the United States illegally. Therefore, the testimony that follows is provided in support of the policy of discouraging illegal immigration.

Today I plan to discuss with you: (1) the threat posed by foreign terrorist travel operations; (2) examples of foreign terrorist travel operations; (3) current vulnerabilities that remain in the U.S. border system; and (4) potential short and long term recommendations to cure vulnerabilities in our border system for your consideration, including a recommendation to consider the creation of a Department of Immigration and Border Protection.

Foreign terrorist travel operations

Despite good initiatives by the administration, such as the deployment of U.S. VISIT and a new more aggressive timetable for it implementation, weaknesses in the U.S. border system still exists. Terrorists will continue to successfully enter the United States, because we still lack adequate technologies; integrated information systems that house

biometric travel histories of visitors and immigrants; and specialized training in terrorist travel tactics. As noted in *9/11 and Terrorist Travel*, front line immigration officers are not adequately trained to detect fraudulent travel stamps in passports, terrorist indicators in passports, or behavioral cues. Indeed, as a staff member for the 9/11 Commission I had access to more information about the techniques that terrorists use to gain unlawful entry in the United States than frontline officers.

Without repeating the content and findings of *9/11 and Terrorist Travel*, terrorists will use any infiltration tactic if it works, from hiding in a ship's hull or car trunk, to seeking legitimate visas, to entering into a sham marriage that will gain them access to either a visa waiver, or, better yet, a U.S. passport.

The travel operation and jihad. The vulnerability of our border system is well known to foreign terrorists. Take, for example, this translation of an August 2000 wiretap recently acquired from Italian authorities, discussing entering fraudulently the United States, the importance of *jihad*, and what seems to be a pending operation where "the goal is the sky." The conversation takes place between Es Sayed (the document forger active in Italy) and Abdulsalam Ali Ali Abdulrahman (a Yemeni who, according to the wiretap report, travels on a "diplomatic passport"):

> A: This is worse than Iran, it's a terrifying thing, it moves from north to south from east to west: they see this thing only through a picture but it's crazy, who planned this is crazy but is also a genius, it will leave them mesmerized, you know the verse that says he who touches Islam or believes himself to be strong against Islam must be hit?
>
> S: God is great and Mohammed is his prophet. They are dogs' sons.
>
> A: They are. Let me go to Germany and we'll see: there are beautiful and brave women there, we have Jamal Fekri Jamal Sami. **We marry the Americans, so that they study the faith and the Quran.**
>
> S: **I know many brothers who want to get married, the American woman must learn the Quran.**
>
> A: They think they are lions but they are traitors, they perceive themselves as the world power but we'll deal with them. **I know brothers who entered the US with the scam of the wedding publications, claiming they were Egyptians and not revealing their true identity and they were already married.**
>
> S: **You must be an actor, if they catch you it's serious.**
>
> A: Because they like Egyptians there because Mubarak has many interests with them, but sooner or later he'll end up like Sadat.
>
> S: It was a good attack that at the military parade.

> A: A mujahid for the cause of jihad never gets tired for jihad gives you the strength to go on. We are in a country of enemies of God but we are still mujahideen fighting for a cause and we should take the youth here as Sheikh Abdelmajid does. The mujahid that fights in the enemy's lines has a greater value. Sheikh Abdelmajid is considered the emir of propaganda for the entire *ummah*. We can fight any force by using candles and planes and they won't be able to stop us with their heavy weapons. We have to hit them day and night. Remember: the danger in the airports, in that country the fire is burning and is only waiting for some wind. Our goal is the sky . . . ..[1]

Preparing to travel west. Once Al Qaeda recruits are trained and given instructions, they are schooled in travel techniques. A travel manual discovered on the hard drive of a computer that had belonged to al Qaeda's top leadership (Ayman Al-Zawahiri and Mohammed Atef) before an American journalist acquired it in the autumn of 2001 discusses the special care recruits should use to pass unnoticed into the West. Its advice to operatives on how to avoid raising any red flags that could bring great scrutiny includes:

- Don't wear short pants that show socks when you're standing up. The pants should cover the socks, because intelligence authorities know that fundamentalists don't wear long pants . . ..
- If a person, for example, wears a T-shirt or a shirt that has the drawing of a spirit—that is, a bird, an animal, etc.—don't cut off the head [the Islamic tradition frowns on the depiction of living beings]. Either wear it with the drawing, or don't wear it at all. ...
- Don't wear clothes made in suspect countries such as Iran, Pakistan, Iraq, Libya, Sudan, North Korea, Cuba, etc.
- Underwear should be the normal type people wear, not anything that shows you're a fundamentalist.
- A long time before traveling—especially from Khartoum—the person should always wear socks and shoes, to get rid of cracks in the feet from barefoot walking, which take about a week to cure.
- If the mission requires wearing a chain, you should show it by opening the top buttons of the shirt . . .
- Never use perfumes used by the brothers [advice goes into much detail here].[2]

The Vulnerabilities of the U.S. Border System

Once the terrorist decides or is instructed to come to the United States, he must determine how to enter. For the 9/11 hijackers, the instruction was to get a legal visa. Since Saudis were treated as a "de facto" visa waiver country, al Qaeda leadership soon figured out

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[1] Report of Italian Intelligence (DIGOS) to the District Attorney, Milan, May 15th, 2002, "Terror threat of Islamic origin".

[2] Quoted in Alan Cullison, "Inside Al Qaeda's Hard Drive," *Atlantic Monthly*, Sept. 1, 2004.

that Saudis could easily gain access to the United States. On 9/11, all but one of the unskilled "muscle" hijackers was Saudi.

Getting the visa. Terrorists prefer to enter the United States under the guise of legitimacy, most often by obtaining US visas. Every potential 9/11 hijacker sought a visa to come to the United States. Of the 20 granted (included is Mohamed Al-Kahtani), nineteen were for B1/B2 (business/tourist) visas and one was for a student visa (when the tourist visa application failed). Two other visa applications were denied to Yemenis because the consular officers feared they were intending immigrants; that once here they would not leave for economic reasons.

In thirteen instances, hijackers presented passports less than three weeks old, but this did not result in any extra scrutiny by the consular officers adjudicating their visas. Our analysis led us to conclude that the 9/11 hijackers acquired new passports in order to hide travel stamps that would have revealed travel to Afghanistan, which could have raised red flags for border inspectors. In fact, we know that two of the hijackers did attempt to camouflage their travels to Afghan training camps by having an Al Qaeda document forger insert false entry/exit stamps (or cachets) into their passports.

In a study I have conducted since leaving the 9/11 Commission, I have studied a total of 118 indicted and convicted individuals related to terrorism. In that study, I have found that thirty-seven held a valid visa upon entry. This number includes the six 9/11 hijackers known to have committed immigration violations while in the United States. Student visas to attend various universities were used by 16 individuals and four had applications approved to change status from tourist to student. Another 17 used a visitor visa—either tourist (B2) or business (B1)—to enter. In at least 13 instances, the persons in our study overstayed their visas. In all 118 cases, the terrorist sought to stay in the United States once he or she had successfully entered.

Seeking admission. One of the larger questions I tried to answer for the Commission was how the 9/11 hijackers only failed once in 34 attempted entries at airports of entry over 21 months. My summarized answer to that question was as follows:

> Border inspectors at U.S. airports were unaware of the potential significance of indicators of possible terrorist affiliation in conspirators' passports and had no information about fraudulent travel stamps possibly associated with al Qaeda. No inspectors or agents were trained in terrorist travel facilitation and document practices. The culture at the airports was one of travel facilitation and lax enforcement, with the exception of programs to interdict drug couriers and known criminals.[3]

These conclusions were the result of my interviewing 26 of 38 inspectors involved in 28 of the attempted entries. In the four instances where there was a

[3] 9/11 and Terrorist Travel: A Staff Report of the National Commission on Terrorist Attacks Upon the United States (Franklin, Tenn.: Hillsboro Press, 2004), at p. 5.

secondary immigration inspection, I was able to interview both the primary and secondary inspectors involved with those adjudications.

The interviews served multiple purposes: (1) memory about contact with the hijackers; (2) training specific to counterterrorism, inspection procedure and immigration law; and (3) the current state of border security at ports of entry (many of the recommendations in this testimony evolved from these interviews). I summarize those interviews in *9/11 and Terrorist Travel*, pp. 131-138, and need not do so here. However, it is worth noting a few of these interviews' findings that continue to hold resonance today.

- **Terrorist indicators.** Immigration inspectors are still not provided declassified information about some fairly obvious terrorist indicators in documents that should have resulted in secondary inspection for at least three 9/11 hijackers. One of those hijackers was Khalid Al Mihdhar, who had a terrorist indicator in his passport when he entered at John F. Kennedy International Airport on July 4, 2001. When I showed a digital image of that passport to the immigration inspector who admitted him nearly three years later (in June 2003), and asked her if she noticed anything unusual about the document (she was trained in document fraud), she did not note the terrorist indicator. The irony was, I could not tell her. The information was classified and remains so today.

- **Lack of clear guidance on admission rules and tourist length of stay.** Immigration inspectors do not have any discretion in determining a tourist's length of stay. Tourists on visas receive an automatic six-month length of stay and are not required to produce a return ticket. Therefore, when the immigration inspector asks the tourist how long he intends to stay, and the answer is, (as was the case with a few of the 9/11 hijackers), "a few weeks," the inspector is required by law to give that visitor a six month length of stay. Ironically, visitors from visa waiver countries, which are considered lower risk than visa country visitors, are only permitted a three-month stay by law. In contrast, immigration inspectors have full discretion when granting a business length of stay, and views about the "standard" length of stay for business visitors differs amongst inspectors; there are no standard rules for these types of visitors.

- **Inadequate primary inspection training and no secondary inspection training.** Prior to 9/11, immigration inspectors only received about a half-day training in primary inspections (a 45 second to 1 minute interview) and none in secondary inspections. The hijackers were referred for a total of six secondary inspections, four immigration secondaries and two customs secondaries. One result of the lack of standardized training for these inspectors was that a "red flag" to one primary inspector meant nothing to others- for example, sufficiency of funds. Therefore, the very reason one of the hijackers (Saeed Al-Ghamdi) was referred to secondary inspection was considered of little interest to other primary inspectors with

similar information presented to them by hijackers. That also meant that when Al-Ghamdi was interviewed in secondary inspection, the inspector who conducted his interview did not consider sufficiency of funds valid criteria for questioning, and admitted him.

- **Lack of adequate information.** At the time the 9/11 hijackers were entering the United States, immigration inspectors did not have available to them basic information to verify identities, information provided by the hijackers, or the validity of travel documents. There were no images of visa application photos available; no lost and stolen passport database; no efficient way to research fraudulent stamps or other characteristics in travel documents; watchlisting was entered manually and not real time; the student-school system was wholly dysfunctional. And certainly there was no one-stop-shopping for traveler histories that tied together biometrics and entry/exit/benefit data.

  Immediately after 9/11, INS Commissioner Jim Ziglar and Assistant Secretary for Consular Affairs Mary Ryan worked together to make sure immigration inspectors would have adequate access to consular photos. However, today, for example, while Interpol has produced a lost and stolen passport database that holds more than 6 million records from sixty-seven countries, including the United States, China, and Russia, it is only available at secondary inspection terminals at ports of entry.[4] And libraries worth of fraudulent document examples are not electronically accessible, but rather exist as overwhelming sets of incomplete binders full of "alerts" at ports of entry.

- **Lack of adequate human resources.** In testimony before the 9/11 Commission in January 2003, former INS Commissioner Jim Ziglar told us in lengthy testimony about the severe challenges he faced when he was asked by newly elected President Bush to restructure the INS and reduce immigration benefits backlogs. In early August 2001, Commissioner Ziglar took office. On September 10, 2001, he had a business plan for restructuring the INS ready for review, in part based on the work of the prior INS Commissioner, Doris Meissner. In early 2002, as Commissioner Ziglar still attempted to move forward with restructuring, *especially* in light of the events of 9/11 (as he told me during interviews), he undertook to determine what it would take for the INS to actually fulfill its mandate. He provided the following testimony:

  We concluded that the INS annual budget would have to grow from $6.2 billion in FY 2002 to approximately $46 billion by FY 2010 ...assuming Congress and the administration actually desired that the mandates be fulfilled. It was also assumed immigration laws would remain static. ... It was concluded that in order

[4] Conversation with the Interpol Secretary General Ronald K. Noble, May 3, 2005.

to carry out the enforcement mandates of the Congress and administration, past and present, the INS would need approximately the following:

- 27,960 Investigators/Special Agents (compared to the 2,000 employed at the time of the study), a 14-fold increase
- 31,700 Border Patrol Agents (compared to 10,000)
- 21,500 Immigration Inspectors (compared to 5,000)
- 15,600 Deportation Officers (compared 650)
- 1,440 Attorneys (compared to 770)
- 110,000 detention beds (compared to 21,107)
- and a vast increase in office space, support staff, vehicles, computer equipment, etc.

These numbers speak for themselves.

Illegal entry. James Loy, deputy secretary of the Department of Homeland Security told Congress in early March "several al-Qaeda leaders believe operatives can pay their way into the country through Mexico and also believe illegal entry is more advantageous than legal entry for operational security reasons."[5] FBI Director Mueller has also spoken of the travel of terrorists through Brazil to acquire new identities and then seeking to enter the United States from the southwest. This information dovetails with an unclassified post-9/11 Border Patrol warning that I came across on the Commission warning of meetings in Madrid, Spain between members of Al Qaeda and the FARC. A topic of discussion at this meeting was the use of Mexican Islamist converts to infiltrate the United States across the southwest border, (presumably illegally, since the alert went to the Border Patrol).

Recent reports warn that a "growing number [of illegal aliens picked up by the Border Patrol on the southwest border] hail from Central and South America, Asia, even Mideast countries such as Syria and Iran. In 2003, the Border Patrol arrested 39,215 so-called 'OTMs,' or other-than-Mexicans, along the Southwest border. In 2004, the number jumped to 65,814."[6]

On the northern border, a declassified Canadian National Security Assessment Centre study stating that there has been a recent influx of Islamic extremists

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[5] Testimony of DHS Deputy Secretary James Loy, U.S. Senate Committee on Intelligence. February 16, 2004. The "operational security reasons" Loy likely refers to would be that illegal entry affords anonymity that legal entry does not making more likely, for example, for operatives to commit terrorist acts here without U.S. authorities ever being able to verify identities and unravel the operation.

[6] Mimi Hall, "Despite new technology, Border Patrol overwhelmed," USA TODAY . February 22, 2005.

returning to Canada from abroad. They possess Canadian travel documents and extensive terrorist training. Some have personal relationships with Bin Ladin.[7] Concern for Americans includes use of those Canadian travel documents or illicit entry into the United States from the Canadian border.

Not only does the Border Patrol lack adequate human resources, but also the Patrol still today operates without centralized operational intelligence the way the ports of entry do with support from the National Targeting Center. Nor do they operate— at 11,000 strong-- with centralized command and control; each sector operates on its own. (The military would never operate without centralized command and control.) On any given day in any sector of the United States, Patrol agents spend inordinate amounts of time transporting and processing aliens. Identity of these aliens is often unverifiable, as travel documents are likely fraudulent. In addition, tracking and communications technologies tend to be inadequate, compromising the efficiency and safety for those who do the hard work of patrolling the border.

- **A Hizballah operative in a car trunk enters the United States over the southwest border.** Mahmoud Youssef Kourani left Lebanon to travel to Mexico after bribing a Mexican consulate official in Beirut with $3,000 to obtain a Mexican visa. Once in Mexico, he sought entry into the United States. Around February 2001, Kourani succeeded: he illegally entered the United States across the southwest border by hiding in a car trunk.[8]

  In November 2003, a federal grand jury indicted Kourani on charges of conspiring to provide material support to Hizballah, a designated foreign terrorist organization. The indictment alleges that Kourani was a "member, fighter, recruiter, and fundraiser for Hizballah who received specialized training in radical Shiite fundamentalism, weaponry, spy craft, and counterintelligence in Lebanon and Iraq." It also claims that Kourani recruited and raised money for Hizballah while in Lebanon.[9] Kourani goes to trial in April 2005.

- **An Al Qaeda operative attempts entry over the northern border.** Nabil Al-Marabh stayed at a terrorist guesthouse in Pakistan known as the House of Martyrs, engaged in weapons training in Afghanistan, and worked for the Muslim World League—then an important source of al Qaeda's funds[10]—in the early 1990s.[11] He then worked at the same Boston cab company as individuals convicted in Jordan for the Millenium plot to blow up religious and western

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[7] Stewart Bell, "Influx of Terrorists: 'Jihadist returnees' may plan attacks, report says," National Post. May 9, 2005.
[8] USA v. Kourani. EDMI 03-CR-81030. "Government's Written Proffer in Support of its Request for Detention Pending Trial." Jan. 20, 2004.
[9] USA v. Kourani. EDMI 03-CR-81030. "Indictment." Nov. 19, 2003.
[10] USA v. Arnaout. "Government's Evidentiary Proffer Supporting the Admissibility of Co-Conspirator Statements." NDIL 02-CR- 892. Jan. 31, 2003 at p. 25.
[11] Steve Fainaru. "Sept. 11 Detainee is Ordered Deported." The Washington Post. Sept. 4, 2002.

tourist locations in Jordan.[12] These individuals identified Al-Marabh as an al Qaeda operative.[13] Al-Marabh maintained a Boston address from 1989 to 2000.[14] He also lived in Toronto, Detroit, Tampa, and Chicago.[15]

On June 27, 2001, Al-Marabh tried to illegally enter the United States near Niagara Falls by hiding in the back of a tractor-trailer. He had a forged Canadian passport and fake social insurance card.[16] Previously, he had regularly traveled illegally between Canada and the United States.[17] Moreover, Michigan state records showed Al-Marabh receiving five driver's licenses there in thirteen months; he had licenses for Massachusetts, Illinois, Ontario, and Florida,[18] and a commercial driver's license and a permit to haul hazardous materials,[19] including explosives and caustic chemicals.[20]

In September 2001, authorities raided a Detroit residence that had Al-Marabh's name on the mailbox. They found three men with fake immigration documents, airport identification badges, and a notebook containing handwritten notes about security at a U.S. military base in Turkey and an airport in Jordan.[21] These men, who may also have been involved in a plot to kill former defense secretary William Cohen during a visit to Turkey,[22] were later charged with being part of an al Qaeda sleeper cell.[23] They were convicted, but the verdict was thrown out in September 2004.[24]

Al-Marabh was arrested in Chicago in September 2001 on a parole violation related to his stabbing of a man who had lived in his apartment.[25] In 2002, he pled

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[12] Farmer, Tom. "Bin Ladin Operative May Have Lived In Dorchester For More Than 10 Years." The Boston Herald. Sept. 19, 2001 and USA. v. Elzahabi. DMN 04-MJ 26. "Criminal Complaint and Affidavit of Kiann Vandenover, FBI Special Agent." June 25, 2004.
[13] Golden, Tim with Judith Miller. "Bin Ladin Operative Is Linked To Suspects." The New York Times. Sept. 18, 2001.
[14] Farmer, Tom. "Bin Ladin Operative May Have Lived In Dorchester For More Than 10 Years." The Boston Herald. Sept. 19, 2001
[15] Schiller, Bill. "Terrorism Suspect had Florida Link." Toronto Star. Oct. 26, 2001.
[16] Dimmock, Gary and Aaron Sands. "Toronto Shop Clerk Tied to World Terror." The Ottawa Citizen. Oct. 29, 2001.
[17] Ibid.
[18] Schiller, Bill. "Terrorism Suspect had Florida Link." Toronto Star. Oct. 26, 2001.
[19] Philip Shenon and Don Van Natta Jr., "U.S. Says 3 Detainees May Be Tied to Hijackings," *The New York Times*, November 1, 2001.
[20] Wilgoren, Jody and Judith Miller. "Trail of Man Sought in 2 Plots Leads to Chicago and Arrest." New York Times. Sept. 21, 2001.
[21] USA v. Hannan, et al. EDMI 01-C-R80778. "Criminal Complaint of Robert Pertuso, FBI Special Agent." Sept. 18, 2001.
[22] "Terror Supporters among Us." Associated Press, Nov. 17, 2001. http://www.cbsnews.com/stories/2001/11/17/archive/main318417.shtml (accessed Oct. 28, 2004).
[23] USA v. Koubriti, et al. EDMI 01-C-R80778. Indictment. Sept. 27, 2001.
[24] Karush, Sarah. "Judge Drops Charges in Mich. Terror Case." The Associated Press. Sept.3, 2004.
[25] "Boston Fugitive Arrested." Federal Bureau of Investigation Press Release. Sept. 20, 2001. and Wilgoren, Jody and Judith Miller. "Trail of Man Sought in 2 Plots Leads to Chicago and Arrest." The New York Times. Sept. 21, 2001.

guilty to conspiracy to smuggle an alien into the United States[26] and was ordered deported.[27] Prosecutors said the government had no evidence linking him to terrorism.[28] The judge questioned the government's previous documentation of Al-Marabh's ties to terror and also noted he was found with $22,000 in cash and $25,000 worth of amber jewels in his possession when he was arrested.[29] He was deported to Syria in January 2004. Months later, a press release from Immigration and Customs Enforcement called Al-Marabh a "suspected terrorist."[30]

Embedding in the United States. There is nothing more important to a terrorist than getting where he needs to go and being able to stay there long enough to carry out his or her instructions. We call this "embedding." As I wrote in *9/11 and Terrorist Travel*, "while the rhetoric continues to focus on the critical mission of terrorist entry, virtually no attention is being given to the most recent information about terrorist travel and to the mission... of preventing terrorists who get in from staying in."[31]

Immigration benefits. The inadequacies of our Citizenship and Immigration Services agency continue to make embedding relatively easy. Political asylum and naturalization are two of the benefits most rampantly abused by terrorists. And even when naturalization is acquired, we do not require the new U.S. citizen to renounce his or her country of origin, or hand in old passports. One well-known terrorist and naturalized U.S. citizen, Abdulrahman Alamoudi, now spending 23 years in prison for illegal financial dealings with the Libyan government (which included a plot to assassinate a Saudi prince), was able to hide much of his travel abroad from U.S. immigration inspectors for years by using his old passports for travel while he was visiting countries outside the United States.

- **Political asylum**. Terrorists have, and will continue to, claim political asylum. Case law in the Ninth Circuit today holds that if the basis for an asylum applicant's claim is that his home government has accused (but not prosecuted) that applicant of being a terrorist or member of a terrorist organization, such an accusation stands alone as a valid basis for a claim of political persecution. The Ninth Circuit will overturn an immigration judge's finding of credibility while essentially refusing to hear any evidence that contradicts the applicant's credibility. In addition, Ninth Circuit case law places the burden on the government in terrorism cases, essentially requiring the government to prove that the asylum applicant is a terrorist rather than placing the burden of proof on the applicant that he or she is not a terrorist. The Ninth Circuit thus contradicts both immigration reforms passed into law via this committee in 1996 and Supreme

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[26] USA v. Al-Marabh. WDNY 01-CR-244-A. Plea Agreement. July 8, 2002.
[27] Fainaru, Steve. "Sept. 11 Detainee is Ordered Deported." The Washington Post. Sept.4, 2002.
[28] Ibid.
[29] Owens, Anne Marie. "Judge Gets No Answers on Syrian: Former Toronto Suspect Jailed in U.S. for Border Breach." The National Post. Sept. 4, 2002.
[30] "Selected Terrorism Investigations That Involved ICE and ICE Authorities," Immigration & Customs Enforcement Press Release. July 27, 2004.
http://www.ice.gov/graphics/news/factsheets/072704terrorist_fs.htm (accessed Oct. 5, 2004).
[31] 9/11 and Terrorist Travel, at p. 164.

Court holdings that the asylum applicant bears the burden of proof that he or she is entitled to relief.

A 2002 Supreme Court petition by the Solicitor General describes the problem in the Ninth Circuit as follows: "the Ninth Circuit has developed a body of circuit law that relieves the applicant of his burden of proof in asylum cases and allows the court to substitute its own views about contested record evidence for reasonable determinations of the [immigration court]."[32] The problem is compounded by the fact that the Ninth Circuit decides about one-third of the 45,000 to 75,000 asylum claims filed annually, with appeals "disproportionately" sought here because of its case law. In 2001, 333 of 541 asylum cases were 9th Circuit decisions. The petition concludes, the "9th Circuit's departure from the judicial-review requirements of the Immigration and Naturalization Act therefore compromises enforcement of the immigration laws."[33] Across the nation, affirmative political asylum cases in FY 2003 had an approximate 60% success rate; defensive claims had a 26% success rate.[34] The 60% success rate holds steady as well for the period 1973-2003.[35]

In my recent study of 118 terrorists, 23 who lacked proper travel documents or sought to avoid deportation claimed political asylum. Below are examples of terrorists who have claimed political asylum- some of whom have only done so once deportation proceedings are initiated against them, basically as a last effort to delay or avoid being deported.

- Shahawar Matin Siraj planned to pack bombs in backpacks and detonate them about a block from the Republican National Convention in August 2004. He was picked up after wiretaps recorded him asking an informant for help building a bomb. Siraj's family had requested political asylum in 1998.[36]
- Nuradin Adbi, indicted in June 2004 for participating in an al Qaeda plot to blow up a Columbus, Ohio, shopping mall. Adbi applied for and received asylum in 1999.[37]
- Aksoy, aka Hasan Yilmaz, is currently serving a ten-year sentence for making false statements in immigration proceedings, possessing a false alien registration card, and being an illegal alien in possession of a firearm. Aksoy had unsuccessfully filed for political asylum under a false identity prior to his indictment in 2000. Agents discovered a loaded 9 mm semiautomatic pistol under Aksoy's mattress. They also found numerous false identity documents, as well as an instruction manual on procuring

[32] Brief for Petitioner at ___, INS v. Yi Quan Chen, 537 U.S. 1016 (2002) (No. 02-25).
[33] Ibid.
[34] Executive Office of Immigration Review, FY 2003 Statistical Year Book, Office of Planning and Analysis. April 2004.
[35] Ibid, see Table 16.
[36] Patrick Gallahue. "All of Gotham in Cross Hairs." New York Post. August 29, 2004.
[37] USA v. Abdi. SDOH 2:04-CR-88 "Government's motion to detain defendant and memorandum in support" June 14, 2004.

and manufacturing such documents. Another manual provided information on bomb making. Aksoy's detailed handwritten notes on how to construct a bomb were examined by an FBI bomb expert who declared them quite practicable.[38]

- Hesham Hedayet, who killed airline personnel at LAX on July 4, 2002, filed for political asylum in 1992 but ended up acquiring legal status through a diversity immigration lottery.[39]
- Rabih Haddad, a Lebanese citizen and the founder and chairman of GRF (Global Relief Foundation, a Specially Designated Global Terrorist), was arrested on December 14, 2001, the same day that its offices were raided. Haddad was originally admitted to the United States in 1998 as a non-immigrant visitor. His visa expired on August 31, 1999. Haddad filed for asylum to prevent deportation, but was ordered deported with an immigration judge finding Haddad "a substantial risk to the national security of the United States." Haddad appealed again and was denied again, and on July 14, 2003, Haddad was deported to Lebanon.[40]
- At least three people closely associated with the September 11 hijackers claimed political asylum: Eyad Mohammed Mohammed Mustafa,[41] who aided hijackers in fraudulently obtaining Virginia identification cards); Anwar Nasser Aulaqi, the spiritual advisor to two hijackers;[42] and Mohdar Mohamed Abdullah, who helped two hijackers in California and claimed to know about 9/11 weeks prior to the attacks.[43]
- Sometime prior to 2000, Abdel Hakim Tizegha, an associate of the LAX Millennium plotters, claimed political asylum based on persecution by Muslim fundamentalists. He said he entered at Boston as a stowaway on an Algerian gas tanker. Hearings were rescheduled five times. The claim was denied two years later, and then appealed. Nine months later his location was unknown.[44]
- Abu Mezer, responsible for the New York City subway plot in August 1997, was arrested in Washington State in January 1997 after his third attempt to illegally enter the United States. The next month, he applied for political asylum, denying an affiliation with Hamas. In July, he did not show up for his hearing. Instead, he called his attorney and stated he had married a U.S. citizen and was living in Canada. On Aug. 1, 1997, he was arrested in New York City based on an informant's tip.[45]

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[38] CRIMINAL DOCKET FOR CASE #: 00-CR-788-ALL, USA v. Aksoy, US District Court, Southern District of Florida.
[39] 9/11 and Terrorist Travel, at pp. 204-206.
[40] "Former President of Global Relief Foundation Loses Immigration Appeal and is Removed From the United States." Immigration and Customs Enforcement Press Release. July 11, 2003. *See also* "Statement of Barbara Comstock, Director of Public Affairs, on the Haddad Asylum Decision." USDOJ Press Release. Nov. 22, 2002, http://www.usdoj.gov/opa/pr/2002/Nov./02_civ_691.html. Accessed Oct. 14, 2004.
[41] 9/11 and Terrorist Travel, at pp. 201-203.
[42] 9/11 and Terrorist Travel, at pp. 203-204.
[43] 9/11 and Terrorist Travel, at p. 204.
[44] 9/11 and Terrorist Travel, at p. 58.
[45] 9/11 and Terrorist Travel, at pp.56, 199-200.

- Abdelhaleem Al-Ashqar was indicted in Chicago for RICO with Mousa Abu Marzook (who just ran for president of the Palestinian Authority) for running Hamas. Ashqar overstayed his visa, went to jail in New York for refusing to testify before a grand jury, and then claimed asylum on the grounds that if he were deported (to Israel) he would be persecuted because the Israelis believed he was Hamas. His asylum claim was denied, but he fought through the appeals for at least six years. He is still being detained today.[46]
- Muin Mohammad (aka Muin Shabib, Kamel Mohammad Shabib, and Abu Muhammad) was identified by the government of Israel as a senior Hamas operative formerly in charge of Hamas' Central Section (Ramallah-Jerusalem) in the West Bank.[47] On March 16, 1994, Shabib admitted during an FBI interview that he supported Hamas financially and politically. Shabib was interviewed under the pretext of gaining information relating to his immigration status (he had applied for political asylum in December 1993).[48]
- Three terrorists involved in the Feb. 26, 1993, World Trade Center bombing, Ramzi Yousef, Biblal Alkaisi, and Sheik Omar Abdel Rahman all sought political asylum. Yousef, mastermind of the bombing, was initially arrested with fraudulent travel documents upon entry at JFK International Airport in August 1992. Yousef claimed political asylum and was released pending a hearing.[49] Alkaisi, also a key witness in the Meir Kahane murder, filed for "temporary protected status" using a fake birth certificate and fake immigration entry record in August 1991, and for political asylum in May 1992 falsely claiming a prior illegal entry.[50] Sheik Rahman, who issued the fatwa for Anwar Sadat's assassination and was also convicted for his role as the spiritual leader of the 1995 conspiracy to bomb New York City landmarks, had a long history of immigration violations and fraud, including a March 1992 political asylum claim to prevent his pending deportation.[51]
- Mir Aimal Kasi, who killed two people outside CIA headquarters on Jan. 25, 1993, became an illegal overstay in February 1991. In February 1992, he simultaneously sought both political asylum and amnesty under a 1986 law. While the applications were pending, he was able to obtain a Virginia driver license and work as a courier.[52]

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[46] USA v. Ashqar et al NDIL 03-CR-978. "Second Superceding Indictment." Aug. 20, 2004.
[47] Action Memorandum, Holy Land Foundation for Relief and Development International Emergency Economic Powers Act. From Dale Watson, Assistant Director FBI Counterterrorism Division to Richard Newcomb, Director of the Office of Foreign Assets Control, Department of Treasury. Nov. 5, 2001 at p. 11. (DOC 27)
[48] Holy Land Foundation for Relief and Development, Plaintiff, v. John Ashcroft, in his official capacity as Attorney General of the United States, et al., Defendants, United States District Court for the District of Columbia, Aug., 2002. Volume 1, Exhibit #22. (DOC 31)
[49] 9/11 and Terrorist Travel, at pp. 49-52.
[50] 9/11 and Terrorist Travel, at pp. 53, 190-192.
[51] 9/11 and Terrorist Travel, at pp. 52-56.
[52] 9/11 and Terrorist Travel, at pp. 187-189.

- **Naturalization.** My recent study shows that in the case of 25 sham marriages, at least 18 resulted in legal permanent residency or naturalization. Once naturalized, nearly all the terrorists I studied retained their naturalization even if convicted of a terrorism charge. Naturalization citizens should be loyal Americans, and terrorists should not be tolerated amongst their ranks. Permitting terrorists to retain their immigration benefits only encourages disrespect of our border system.

    - **Sham marriage.** Seven of the ten conspirators in the 1993 Landmarks plot married U.S. citizens. Six of them successfully converted the marriage into legal permanent residency or naturalization. Three key defendants in the 1998 East Africa bombings also did so: Ali Mohamad (who trained at Fort Dix and then trained Osama Bin Ladin's bodyguards in Africa and Afghanistan);[53] Wadi El-Hage (Bin Ladin's personal secretary and leader of the Nairobi cell until his capture in September 1997);[54] and Khalid Abu Al-Dahab (who married three American women before he finally was able to secure legal permanent residency, and eventually naturalization). During his twelve years in the United States, he provided money and fraudulent travel documents to terrorists around the globe, including those involved in the East Africa bombings.[55]

      From January 1999 through January 2000, Said Mohamad Harb, one of the key figures in Hizballah's North Carolina cigarette smuggling operation run by Mohamad Hammoud, which raised millions of dollars for Hizballah, helped secure three fraudulent visas and three sham marriages. He was able to "legally" bring his brother, brother-in-law, and sister into the United States so that they might become legal permanent residents. The two men each obtained a nonimmigrant visa from the U.S. embassy in Cyprus; though given one- and two-week lengths of stays for conducting business in the United States, each married a U.S. citizen immediately after his arrival and therefore was allowed to stay indefinitely. In the case of Harb's sister, a male U.S. citizen was paid to meet her in Lebanon and then travel with her to Cyprus, where their marriage enabled her to acquire an immigration visa. In June 2000, Harb also attempted to give an immigration special agent a $10,000 bribe so that another brother could enter the United States.[56] All the conspirators were convicted of all counts against them, including the immigration violations.

    - **Terrorist Affiliation.** The case of Fawaz Damrah is a success story of U.S. law enforcement. Damrah is an imam in Cleveland with heavy ties to

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[53] USA v. Usama Bin Laden, et al. SDNY S(7) 98 Cr. 1023. May, 1, 2001 (transcript pp. 5261, 5270-5271).
[54] USA v. Usama Bin Laden, et al. SDNY S(7) 98 Cr. 1023. May, 1, 2001 (transcript pp. 5261, 5270-5271). *See also* Kevin Peraino and Evan Thomas, "Odyssey Into Jihad: April Ray's husband became bin Laden's secretary. Now he's behind bars. Her brush with the shadowy world of Al Qaeda." Newsweek. January 14, 2002.
[55] 9/11 and Terrorist Travel, at p. 57.
[56] USA v Hammoud, et al. WDNC 00-CR-147. "Superseding Indictment." Mar. 28, 2001.

the Palestinian Islamic Jihad. He was convicted in September 2004 of "illegally procuring" his naturalization by failing to make clear his terrorist affiliations on his naturalization application.[57] The result was that he was stripped of his citizenship based upon a somewhat novel approach to these cases taken by the Justice Department's Counterterrorism Section, and the prosecutor in that case, Cherie Krigsman. The 2004 National Intelligence Reform Act provides for a "Special Office of Investigation" for the purpose of dealing with these types of issues.

Identification documents. Once in the United States, it is essential to the terrorist that he carries out his instructions. In our experience, that means finding a "legitimate" way to stay here. State and federal-issued identifications are critical for proper assimilation.

The hijackers acquired a total of thirty-four identifications: thirteen driver's licenses, two of which were duplicates, and 16 state issued identification cards, usually used for showing residence in the United States or a state.[58] Seven hijackers used fraudulent means to acquire legitimate identifications in Virginia, through fake residency certificates provided by bribed Virginia residents.[59] If a birth certificate or social security card had been required (whose verification was also required) the hijackers would have been hard pressed to obtain validly issued state/U.S. identifications. We do not know how the other identifications were obtained; except for recent information that one hijacker's California license was apparently acquired through a loophole in identification requirements under California law.[60]

The hijackers' acquisition of driver's licenses and identification cards was clearly part of the hijackers' overall travel strategy that included fraud in every aspect of their travel: using fraudulently altered passports to obtain visas, entry, and immigration benefits through fraud. I, along with my 9/11 border team, think they obtained the U.S. issued identifications to help them stage their operation inside the United States, as these identifications allowed them to move freely around the country to meet, plan, and case targets, open bank accounts, rent cars, take flying lessons, and ultimately, board the airplanes on 9/11.

FAA regulations required that airline screeners view a government-issued identification as part of airline screening procedures. On at least six occasions, hijackers boarding aircraft on the morning of 9/11 gave U.S. issued identifications to airline personnel as their form of ID when checking in. Three of these were

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[57] United States v. Damrah, 334 F. Supp. 2d 967 (N.D. Ohio 2004). *See also* USA v. Damrah, NDOH 03-CR-484. "Indictment." Dec. 16, 2003.
[58] 9/11 and Terrorist Travel at p. 44.
[59] Id. at p. 39.

[60] Don Thompson, "9/11 hijacker used bypass code to obtain California license." Associated Press. February 5, 2005. http://www.sanluisobispo.com/mld/sanluisobispo/news/politics/10827418.htm. Accessed March 3, 2004.

fraudulently obtained in Virginia and used at Dulles (in northern Virginia) to board flight 77 (into the Pentagon).[61] The logical reason for this was so they could show the Dulles screeners Virginia identification documents, as opposed to Saudi passports, as their required ID, and thereby avoid raising suspicion. Airline personnel told us that the Virginia identifications did just that.

The only hijacker that we know did not use a U.S.-issued identification was Satam Al-Suqami, who was the only person who knew he was in the United States illegally. He used his passport instead. The fact that Suqami was the only hijacker who did not try to obtain a U.S. issued identification is an indication that terrorists consider obtaining a U.S. issued identification risky to their status inside the United States, if they think applying for that identification will expose their true identity or purpose. In Suqami's case, he may well have avoided seeking one because he knew he had been out of status since May 2001. Therefore, when his co-conspirators were obtaining their multiple identifications in August 2001, he feared he or the operation might be exposed if he tried to secure identification for himself. (Suqami had already tried to get an expanded length of stay in April, but had been refused by Bahamian immigration and returned to the United States.)

As to the hijackers who did obtain driver's licenses and U.S. issued identifications, if our issuing regime had been tighter in other ways, such as demanding more secure and verifiable documentation before the identification could be issued, or limiting the issuance of a driver's license to more permanent U.S. residents, more of the 9/11 terrorists would have had difficulty obtaining a driver's license or other state identification. This, in turn, would have made it more difficult for them to travel, plan, meet, case, finance and carry out the attacks. If the hijackers had not been able to obtain state identifications, they all would have been required to show screeners their Saudi, Lebanese, and UAE passports to gain access to the planes. In some instances, showing these passports on a domestic flight could have triggered greater scrutiny, including at checkpoints where their knives and pepper spray could have been detected.

When "legitimate" identifications are not accessible, terrorists will resort to fake identifications. Take, for example, El Sayyid Nosair, who married a U.S. citizen in 1981 and was naturalized in 1989.[62] When he was naturalized, the Immigration and Naturalization Service (INS) was unaware that the FBI had knowledge of Nosair's weapons training of Islamic militants.[63]

In November 1990, a year after Nosair was naturalized, the radical rabbi Meir Kahane was murdered in New York City. Nosair, seen holding the gun at the scene, attempted to flee but was caught. He was eventually acquitted of murder but convicted of weapons charges. He was later indicted for his role in the 1993

[61] 9/11 and Terrorist Travel at p. 43.

[62] 9/11 and Terrorist Travel at pp. 52, 197-198.
[63] Ibid.

World Trade Center bombing, in part because he had in his apartment numerous sensitive U.S. military documents from Fort Bragg, thought to have been acquired from Ali Mohamed. In March 1993, while searching the apartment of Ibrahim El-Gabrowny, who was the messenger in the World Trade Center plot, authorities discovered a series of fraudulent Nicaraguan passports for his cousin Nosair and Nosair's family. They also found five birth certificates— for Nosair, his wife, and their three children—and driver's licenses, all in the names of aliases.

My study shows that in addition to Nosair, at least 14 individuals connected to terrorism were indicted for identification scams. As long as we can force terrorists to revert to fake id scams, we are more likely to catch them before they launch an attack.

Recommendations for Consideration

This hearing today is another indication that the putting measures in place to deal with *terrorist travel* increasingly are becoming a priority for the U.S. Government. However, our current border security measures remain woefully inadequate. We must put in place adequate resources to make them effective and enforceable. Right now, our border officers do not have the tools they need to keep us safe. Below are a few specific recommendations, born of conversations with U.S. immigration officers and supervisors in the field, and the forensic document examiners who work with our front line immigration officers daily.

Adequate human resources must be deployed to consular offices, ports of entry, interior enforcement, and Border Patrol stations according to measured need and risk. Former INS Commissioner Jim Ziglar's numbers should be a starting point for planning, including those for detention space.

U.S. border functions overseas and at home

- We should require passenger manifest lists an hour prior to the departure of international flights.
- An easily searchable e-library of fraudulent documents and entry/exit stamps, should be accessible from all consular offices, ports of entry, Border Patrol stations, at the Law Enforcement Service Center, and to state and local law enforcement.
- Border security personnel must have access to the travel intelligence they need to detect terrorists, through a combination of increasing the security levels of border facilities or through declassification of the necessary information.
- DHS, CIA, and the State Department should consider cross training specialists who can be deployed to locations where intelligence indicates high levels of terrorist travel.

- Consular offices should have a version of a "visa secondary" similar to an immigration secondary, with training and guidelines that consider the potential national security risk of each applicant. For example, seeking a visa (when one is already valid) with a new passport may be considered a reason for a visa secondary. (Such was the case with 13 of the 9/11 hijackers.)

- We should continue to monitor implementation of expedited removal at our land borders, but require biometrics to be taken prior to release. In addition, we should pass legislation that bars those who voluntarily depart or are removed on an expedited basis from receiving any U.S. immigration benefit for a specified time period.

- Whenever travel documents are verified to be fraudulent, they should be confiscated. This was done in San Diego in the early 1990s and statistics showed a marked decrease in recidivism.

- Training must include adequate role-playing in primary and secondary inspections, including key behavioral cues that indicate a possible national security risk.

- Information systems must contain full traveler histories with biometrics, and must be available throughout the U.S. border system.

- The former TIPOFF watchlist, now housed with the FBI, must be available in a real time, business-to-business manner to consular and immigration officers.

- Interpol's lost and stolen passport database should be made available in a real time, business-to-business manner to consular and immigration officers and agents.

Ports of entry

- At ports of entry, personnel should have standardized operating procedures, including guidelines for screening each class of entrant (e.g. tourists, students, immigrants, U.S. citizens).

- At ports of entry, personnel should have adequate time to screen incoming visitors, and their efforts to enforce the law in a customer-oriented manner should be applauded.

- Length of stay for visa holders should match, at maximum, the three-month length of stay afforded visa waiver visitors.

    - Consular officers should be able to make recommendations on length of stay for tourists from visa countries, with immigration inspectors being given discretion to consider the recommendation and length of stay.

- Eliminate extension of stay benefits for first time visitors, similar to the elimination of change of status for those seeking to attend a U.S. school.
- Adopt national standard operating guidelines for length of stay determinations for tourist and business visitors.
- Require a return ticket for tourist and business visitors.

- Supervisors at ports of entry must be required to have adequate training in immigration law and procedures prior to attaining that position. Across the country today, former Customs officers unfamiliar with immigration law are ultimately responsible for making decisions on removals of visitors seeking admission.

- Continue aggressive development and deployment of U.S. VISIT, and maintain a priority in developing exit kiosk technologies. Require that U.S. VISIT be the hub for integration of immigration-related databases, and the production of measures to study the travel patterns of foreign visitors.

Border Patrol

- Provide centralized operational intelligence the way the ports of entry do with support from the National Targeting Center.

- Provide centralized command and control; each sector operates on its own.

- Streamline business processes to enable agents to spend less time in offices and more time patrolling.

- Provide technologies that help agents minimize the transporting of aliens.

- Provide adequate tracking and communications devices to assure greater safety and efficiency in operations.

- Assure that biometrics taken at Border Patrol stations is retrievable by CIS (immigration benefits) officers; establish a policy that those who seek to enter the United States illegally are not eligible for an immigration benefit, and verify that system based on biometrics.

Enforcing immigration laws

- For persons with legal U.S. immigration status who have been convicted of a terrorism-related offense, it should be considered whether legal status-legal permanent residency or naturalization-should be automatically revoked upon conviction. An appellate process could be streamlined.

- Political asylum should be reserved for those with legitimate claims, and courts should be required to consider all relevant evidence pertaining to the credibility and political persecution claims of an asylum applicant.

- Those seeking state-issued identifications must have their legal status and identity verifiable; the duration of the ID should match length of stay, and states should follow standards that assure greater security to their identification documents.

- Memorandums of Understanding (such as in Alabama and Florida) that establish training and cooperative interaction between state police and federal immigration agents should be encouraged. Sanctuary laws should be discouraged.

Recognizing that our fragmented border system does not serve our national interests well.

In the post 9/11 world, all immigration functions have at their foundation national security. The top priority of the immigration system therefore must be enforcement of the law and assuring adequate but efficient security vetting of applicants throughout all facets of our immigration system. Until we accept that all elements of our immigration system have a significant role to play in the war on terror, our immigration system will not optimize the value- that of security- it must provide to Americans.

Mission Elements of the U.S. Immigration System

	Prior to DHS	Since DHS
Visa issuance	Consular Affairs at DOS	Consular Affairs at DOS with policy at BTS at DHS
Inspections at 400 plus air, sea and land ports of entry	INS at DOJ, with support from Customs at Treasury	CBP under BTS at DHS
Patrol of U.S physical land borders	INS at DOJ	CBP under BTS at DHS
Patrol of U.S. maritime borders	Coast Guard at DOD	Coast Guard at DHS
Interior enforcement of immigration laws	INS at DOJ	ICE under BTS at DHS
Immigration benefits	INS at DOJ	USCIS at DHS
Immigration courts	INS at DOJ	EOIR at DOJ

Today, we have severe fragmentation, with those seven elements split between three departments (DOJ, State, and DHS) and within DHS, in four different agencies: CBP, ICE, USCIS, and the Coast Guard. There is no policy shop under the Secretary to pull disjointed elements together. If Secretary Chertoff creates such a policy shop, that alone

will significantly upgrade policy cohesion throughout DHS border functions. However, we can do more.

Treating Immigration Holistically: A Department of Immigration.

One potential way to provide the immigration system with the political backbone it deserves is to consider a long-term plan of providing the immigration system with its own structure. By creating a Department of Immigration and Border Protection, fragmentation is minimized and enforcement and benefits operations act to support each other. If we consider that we, as a country, can adopt policies and laws that encourage legal immigration and discourage illegal immigration all upon a foundation of biometrically based travel histories and secure background checks, then we divest ourselves of the notion that we have to fragment our operations into boxes that only incite unnecessary turf and resource allocation wars. CBP and ICE are remnants of old thinking.

The bureaucracy that houses the U.S. border system should be the Department of Immigration and Border Protection. Right now, immigration services, (CIS) immigration enforcement (CBP and ICE), and border policy (BTS) are all co-located at DHS. Visa issuance remains at the State Department. It is not the fragmentation of these agencies that is the entire problem, however. Instead, the main problem is one of accountability and access to information. There is no one who answers directly to the President solely on border issues, nor has direct access to the top tiers of intelligence. Instead, the creation of DHS has replicated one of the problems of legacy INS: too many layers of bureaucracy between the president and those on the front lines of immigration policy-making and information gathering. This problem is documented in *9/11 and Terrorist Travel.*

Today's DHS Secretary not only has to deal with an overly complex set of border, immigration and customs enforcement, and immigration benefit issues, but wholly new arenas for the government such as information assurance and infrastructure protection. This inevitably means that the DHS Secretary (like all previous parent organizations of immigration agencies) has a multitude of responsibilities, only a handful of which are critical to border security. No one thoroughly knowledgeable or directly responsible for the border system is available to answer questions at a cabinet meeting or listen to critical intelligence briefings. Consider the following factors:

- Accountability and access to the President are keys to having the right information from the right people to make border security effective. Border security never has been effective in this country.

- U.S. immigration policies inform our foreign policy and affect the world's view of the United States. Immigration has always been central to shaping our identity as a nation. A Department of Immigration and Border Protection would reflect that importance.

- Immigration issues and laws are immensely complex, politically and legally, and require a tremendous amount of expertise to deal with them effectively.
- Well-honed border policies have become a top priority for national security.
- About 40 percent of DHS employees, or about 40,000 personnel, are in a border-related agency or directorate. That is more than the year 2000 Congressional Budget Office numbers for the Department of State (27,000); the Department of Labor (16,000); Department of Education (5,000); Department of Energy (16,000); and the Department of Housing and Urban Development (10,000).[64]

As described in *9/11 and Terrorist Travel*, ever since their inception, immigration services have been treated poorly in the hierarchy of government bureaucracies:

> Although the nation's growth depended on successive waves of immigrants, the Bureau of Immigration never seemed quite important enough to become its own department, with its own secretary reporting directly to the president of the United States. In fact the bureau was something of an administrative orphan. Over the century its name and bureaucratic home changed repeatedly, and increasing numbers of confusing statutes created conflicting jurisdictions in both immigration services and enforcement.[65]

The endnote to that paragraph reads:

> In 1895, the Bureau of Immigration was created and placed under the Secretary of the Treasury. In 1903, the bureau moved to the newly created Department of Commerce and Labor, taking the name the Bureau of Immigration and Naturalization in 1906. When the Department of Labor was created in 1913, the bureau moved with it. In 1933, these functions were consolidated to form the Immigration and Naturalization Service under a commissioner. In 1940, the Service was transferred to the Department of Justice where it remained until March 2003. *See* "History of Immigration and Naturalization Agencies," 8 U.S.C. § 1551. In addition, there are at least 150 statutes providing the legislative history of immigration.[66]

With rumors that CBP seeks to absorb ICE, interest in shifting the BTS policy shop into the office of the DHS Secretary, and infighting between CIS and ICE, and ICE and CBP, many bureaucratic issues remain to be resolved. Perhaps placing these border functions in a standalone department would allow desperately needed reforms to be put in place, including strategic planning for budgets and resources that could finally make the U.S. border system enforceable and effective.

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[64] Congressional Budget Office. "A CBO Paper: Changes in Federal Civilian Employment: An Update." May 2001.
[65] 9/11 and Terrorist Travel, p. 90.
[66] 9/11 and Terrorist Travel, Chapter 4, endnote 126, at pp. 238-239.

Conclusion

Terrorists are creative and adaptable enemies. The 9/11 hijackers probed our defenses, found our weakest points, and ruthlessly exploited them. To counter the threat, we must be aware of new trends in terrorist travel. We must be more flexible in our efforts to counter them.

We must upgrade our border system now. Our current system sets the bar far too low for terrorists trying to enter the United States. Fortunately, our frontline officers are extremely dedicated, talented, and eager to do everything they can to protect this country. Now they need the tools and the authority to do their job. Better training, government-wide integrated databases, standardized procedures, biometrics, the latest technology, and the authority to trust their hard-earned instincts, will empower these dedicated officers to keep our country safe.

The thousands of dedicated officers responsible for visa issuance, entry, and immigration adjudications have an overwhelming task: to identify, out of the millions who seek entry into this country each year, the few who represent a danger to the United States. Keeping our borders open to well-meaning legal immigrants, who contribute to our economy and society, while keeping out terrorists and others seeking to harm us, should be a top priority. The recommendations in this testimony can make our borders more secure, and more efficient, than ever before.

Chairman TOM DAVIS. I want to thank all of you. Mr. Bonner, let me start with you. Even—and I pick the idea of the card that Mr. Dreier has talked about today is a good day. But even without a card, someone coming here illegally, if they have their kid in the United States, their child is a citizen, isn't that right?

Mr. T.J. BONNER. Someone born in the United States is a U.S. citizen.

Chairman TOM DAVIS. If you want to get your kids in here—if you want your kids born here for a better life. Second, if you present yourself in an emergency room, they're not going to ask you for proof of citizenship, right?

Mr. T.J. BONNER. That's correct.

Chairman TOM DAVIS. And if you're here and you can get into the population, you can get your kids into the public school and they're not going to ask them. They are going to have to educate them, right?

Mr. T.J. BONNER. Depending on where you are. If you're close to the border, they are going to require proof that you actually live in the United States.

Chairman TOM DAVIS. But not here illegally?

Mr. T.J. BONNER. Right.

Chairman TOM DAVIS. The card doesn't solve all those problems, but goes a long way and from your perspective having that card, once people are inside the border that is a nice check, is that what you're saying?

Mr. T.J. BONNER. The real magnets here are the jobs. People aren't coming here to take advantage of our education or health system. They are coming because in most of these countries, Mexico is a good example, the average unskilled worker makes $4 a day and they can go a few yards north of the border and increase that 20, 30 times easily. So they're coming to improve their economic lot in life. And I'm not saying I blame them, but it creates a huge problem, because it's very labor intensive to deal with millions of people crossing the border. It's not just a game where you say tag, you're it. What you have to do is process these people, detain them, run criminal checks and then send them back and that takes up our resources and in the meantime other people are coming in. They don't give us a time out.

Chairman TOM DAVIS. What do you think of the Minuteman Project?

Mr. T.J. BONNER. I think the Minuteman Project is, as I said earlier, a manifestation of the frustration that average Americans are feeling and it's not something new. There was a project called Light Up the Border in San Diego back in the late 1980's, early 1990's, where citizens drove down to the border and shined their headlights on the border to highlight the problem of the lawlessness on the border. The Border Patrol installed first temporary and then permanent lighting in fences and it brought an end to that lawlessness in that part of the world.

Now I think that the Minuteman experienced some success down there in Arizona, in that during the time period that they sat out in their lawn chairs in that 23-mile stretch of border very few people came through. I think a large part of that success was due to the fact that the Mexican military was down south of that telling

people don't cross through here. Now we can't depend on the Mexican military to blockade the entire southern border.

Chairman TOM DAVIS. Do you think the Mexican military is complicit with some of the people crossing the border?

Mr. T.J. BONNER. Absolutely. Our agents have been shot at by the Mexican military as a diversion to keep us away from some of the drugs being smuggled across. We caught—down in Santa Teresa, NM, we caught two Humvees with armed Mexican soldiers who were shooting at us on U.S. soil, chasing our agents and shooting at us.

Chairman TOM DAVIS. They do that at North and South Korea. But I guess it occurs all the time down there?

Mr. T.J. BONNER. I wouldn't say all the time but it occurs often enough and it is a matter of great concern to our agents.

Chairman TOM DAVIS. What is the level of drug smuggling across the border, do you think, of the people coming over?

Mr. T.J. BONNER. It is tremendous and let me turn over the microphone over to Daryl Schermerhorn, who just apprehended the largest narcotics seizure on the Canadian border last week.

Chairman TOM DAVIS. Congratulations and thank you.

Mr. SCHERMERHORN. Along the northern border the BC buds are going for such a high price that the Canadians are growing it and bringing it across daily. We are apprehending some of the loads. Many are getting by. Three nights ago, Border Patrol apprehended 45 pounds of Ecstasy valued at over $1 million. It's a daily occurrence that drug loads are coming through.

Chairman TOM DAVIS. Mr. Simcox, on the one hand we have a lot of frustrated citizens and all of us go out into our districts and hear there needs to be a greater presence on the border. On the other hand, we have critics who think that the southern border is no place for private citizens or vigilante enforcement and Members' opinions are varied as well.

From your judgment, what is the reality of the situation on the southern border, particularly in Arizona where you were?

Mr. SIMCOX. The reality is we do not have enough Border Patrol agents.

Chairman TOM DAVIS. Or listening devices?

Mr. SIMCOX. A lot of the equipment and a lot of the supposed sensors that we were setting off were found to be inoperable and we worked with the Border Patrol previous to our mission to ensure that we were not in those areas. But it's manpower. The equipment works. In fact we have been pleased with cameras, camera poles that have been erected right in areas we have led them to.

Remember, the Minuteman patrols have been going on for almost 3 years and we started in Cochise County and we assisted Border Patrol with over 4,600 apprehensions, and that represents people from 26 different countries. And we have made 150 lifesaving rescues. It is every night day after day. And if Border Patrol had the resources, they should be on the border. We should not have to be citizens calling in groups of 20, 30, 40 people, 10, 15, 20 miles north of the border. And that was our goal during the Minuteman Project. Bodies on the line are a deterrent to prevent people coming into the country in the first place.

Chairman TOM DAVIS. My time is up. Mr. Cummings.

Mr. CUMMINGS. I want to yield to Mr. Van Hollen.

Chairman TOM DAVIS. I recognize Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman. I thank my colleague Mr. Cummings and I have another meeting, so I would like to submit a statement. One additional point, and this goes to some of the comments our witnesses are making. In this body, just a very short time ago, we had the emergency supplemental appropriations before us and there was a motion made by Mr. Obey, Congressman from Wisconsin, to increase the funds for border security and border patrol so we could put more people on that border. I supported that motion, and a lot of our colleagues supported that motion. Unfortunately, it did not carry. But I hope all of our colleagues will agree with you that we should put more resources into that effort and increase our border security.

Thank you, Mr. Chairman, and thank you, Mr. Cummings.

[The prepared statement of Hon. Chris Van Hollen follows:]

Statement of Hon. Chris Van Hollen

of Maryland

House Government Reform Committee

Rayburn House Office Building

May 12, 2005

I commend the Chairman for holding today's hearing. Illegal immigration is a subject of great importance to all Americans. It is difficult to know with certainty how many undocumented aliens enter the United States illegally each year, but conservative estimates put the number around 500 thousand. According to the March 2002 Current Population Survey and other sources including the non-partisan Urban Institute, there may be as many as 9.3 million undocumented immigrants in the country.

I welcome today's hearing because, despite widely accepted knowledge of the growing numbers of undocumented aliens entering the United States and a growing body of statistics describing the impact of illegal immigration on the economy and the potential harm to our national security, the Administration is doing little to physically secure our borders.

The 9/11 Commission Report sited the lack of secure borders as a major homeland security risk and recommended that an additional 2000 border patrol agents be assigned specifically to the task of protecting the border. Despite this strong recommendation, the Bush Administration continues to under-fund border security.

That is why I was happy to support House Appropriations Committee Ranking Member David Obey in his efforts to increase funding for border guards as part of the Emergency Supplemental Appropriations Bill for Iraq. I also supported his effort to instruct the conferees to provide $1 billion in additional funds for that purpose.

I look forward to the testimony of today's witnesses and to their insights about ways we can work together to solve a very serious problem.

Mr. CUMMINGS. I yield now to Ms. Sanchez.

Ms. SANCHEZ. Thank you for yielding, Mr. Cummings. I have another engagement but this is a question I feel is important enough to ask and I would ask it of Mr. Simcox. You just stated in a response to one of the questions that supposedly whatever sensors you are tripping at the border or that your members or the Minuteman are tripping are found to be inoperable. But to the extent that you guys are tripping sensors that are operable and you are diverting scarce Federal resources at the border, which everybody agrees there aren't enough agents or resources, to the extent that you are diverting those because you are tripping these sensors, aren't you in fact making the border less secure because you are causing them to respond to you who are not a real threat? I don't see the wisdom in getting together people to try to do a job that you are specifically not trained to do and getting in the way of the scarce number of Federal agents and resources that are available at the border, and I would love for you to answer that question.

Mr. SIMCOX. Our operation was highly publicized and we worked with Border Patrol months in advance to alert them to the locations we would be working in. That was Border Patrol's choice to continue to monitor our activities in that area. We worked with Border Patrol. We identified each of the observation posts. There was no one coming through that area. Border Patrol knew that. One of the most heavily traveled routes was completely shut down. Why was border patrol there?

Ms. SANCHEZ. So your response is if you guys are there, Border Patrol need not be there, even though you are not trained? You guys go through no training in terms of border security. So if citizens, nontrained citizens, are there, you maintain Border Patrol need not be there?

Mr. SIMCOX. They would be there to respond to our calls if we witnessed someone coming. The border road is a public right of way. All citizens have access to the road. They drive on that road every day.

Ms. SANCHEZ. With respect to tripping sensors and diverting attention away from the regular Border Patrol duties because citizens are there and are causing that to happen, you don't think that is a problem?

Mr. SIMCOX. Our presence shut down those sectors. There was no need for Border Patrol to be there because the Mexican military, working with the advertisement of the Minutemen Project, worked to deter people from coming through that area. How about if we were to advertise that across the entire 2,000-mile border and worked with the Mexican Government? People will not be coming in in the first place.

Ms. SANCHEZ. So your testimony is wherever the Minutemen are, there is no need to send Border Patrol to those areas?

Mr. SIMCOX. We would be force multipliers that would create a deterrence to allow Border Patrol to be used in other areas.

Ms. SANCHEZ. I don't happen to agree with you.

I yield back to the distinguished ranking member.

[The prepared statement of Hon. Linda T. Sanchez follows:]

Government Reform Committee
Oversight Hearing
Opening Remarks:

"Securing Our Borders: What Have We Learned from Government Initiatives and Citizen Patrols"

2154 RHOB

Rep. Linda T. Sánchez
May 12, 2005

- I want to thank Chairman Davis and Ranking Member Waxman for convening this important oversight hearing today – to examine one of our most important national security issues – protecting our borders.

- I am pleased that Commissioner Bonner, from U.S. Customs and Border Protection, has agreed to testify before this Committee about the initiatives his agency is undertaking to secure our borders.

- Commissioner Bonner, last year Members of Congress requested meetings with you and we have not received a response.

- By ignoring our meeting request, a golden opportunity to foster collaboration between DHS and this Congress on border security was lost.

- Protecting our borders will require the collaboration of the Administration and Congress. When Members of this House have any concerns about how DHS resources are being allocated, whether it is through sweeps in local cities or at the border, ignoring our requests for meetings will only make our country less secure.

- Similarly, having untrained, armed, citizen volunteers assuming responsibility for border security is not going to make our country more secure.

- Citizen border patrols are not the remedy to the problems created by our broken immigration system.

- Their effort to address lack of federal resources at the border actually disrupts

border security agents' efforts to do their job.

- Let me be precise -- enforcing our immigration laws should be in the jurisdiction of one group only – trained, federal agents.

- I also sit on the Judiciary Committee's Subcommittee on Immigration, Border Security, and Claims.

- Last Congress, we held hearings on an ill-advised bill called the CLEAR Act which attempted to give immigration enforcement powers to local law enforcement agents.

- Police departments across the country resoundingly opposed the bill and any other effort to make them immigration agents.

- Why? Because they know our immigration laws are very complex, and immigration enforcement requires specific training.

- If our police officers are not trained to be border patrol agents, certainly armed, untrained citizens should not be guarding our borders either.

- Every Member of this Committee, DHS, and our witness testifying today, agree that we have to make our borders much more secure and do something to stop the flow of illegal immigration.

- We have to work together to find solutions that make sense and that work.

- I say again today what I've said in many other hearings on border security – that we must protect our borders, AND maintain our country as a beacon of hope for those who are oppressed, displaced, or are coming here to seek new opportunities for their families.

- I hope that the testimony of all of our witnesses will help us find was to do that.

- I thank both the Ranking Member and Chairman for convening this hearing, and I thank the witness for their testimony.

- I yield back.

Mr. CUMMINGS. Just one question. You are saying if Border Patrol is present, if your group is present, then Border Patrol is not needed. Is that what you are saying?

Mr. SIMCOX. In this instance, the areas which we were occupying, the illegal immigration flow dropped to almost zero. What we wanted to do was prove that an obvious presence—we would like to be relieved from duty. We would like to see the U.S. military or Border Patrol set up the same strategy which would create the same deterrence to anyone to cross the border.

Mr. CUMMINGS. Have you gotten any complaint from DHS or Border Patrol?

Mr. SIMCOX. Only from Sector Chief Michael Nicely. The rank and file were absolutely supportive.

Mr. CUMMINGS. What was that complaint?

Mr. SIMCOX. We were setting off sensors and diverting resources to our area unnecessarily.

Chairman TOM DAVIS. Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. I have great admiration and respect for the work the Minutemen have done. I think it is in one of the best traditions of our country. I think it was a very patriotic thing that Mr. Simcox and his associates did. The way I feel about this was summed up best—read the first two or three sentences of that ad again, what you read.

Mr. SIMCOX. The ad, along with hundreds of e-mails and letters of support that came to the organization, citizens were grateful. "Thanks for doing what our government won't do, which is close the border to illegal aliens. It was the quietest month we have had in many years."

Mr. DUNCAN. I spent 7½ years as a criminal court judge trying felony criminal cases before I came to Congress, and whenever a defendant took off or skipped bond, the bonding companies went after them. That is done all over the country. I don't think people realize how much law enforcement is done in this country through private agencies or citizens or businesses.

In addition to that, it is clear to anybody who studied this that we get our biggest bang for our buck in law enforcement from our lowest-paid law enforcement officials, the local law enforcement officials. I think if we took half of the money we are spending now on border enforcement and turned it over to local enforcement along the border, we would probably apprehend more illegal aliens.

I am not advocating that because it is a Federal responsibility, but over the last 10 years or so, we have given INS, the Border Patrol, Customs, all of the agencies involved, whopping increases in spending, probably at least at a minimum 10 times the rate of inflation over those years, yet they continually cry about being underfunded. I think they hire too many chiefs and not enough Indians. I am proud of what you have done, and I wanted to stay here and tell you that. Thank you very much.

Mr. SIMCOX. Thank you.

Chairman TOM DAVIS. Mr. Ruppersberger.

Mr. RUPPERSBERGER. I think your concept is great. I think when we as government—and government cannot do all things. When citizens step up, I think it is very positive.

My concern is the management of you working with Border Patrol, because if, in fact, we do not have the proper management and focus on what our end goal is to stop the immigration problem, there could be an incident that someone is hurt, and that could hurt your whole process.

My question really, and I am not sure who to ask this to, but do you have an agreement of understanding if you are going to go to a certain area, are the Border Patrol—are they working with you? If you see a situation, do you have communication, resources to get the Border Patrol there to do what they have to do?

Mr. SIMCOX. Yes. On all of our patrols, we have always alerted Border Patrol to our presence in that area so there is no confusion. Communications work fine through cell phones.

Ms. Sanchez talked about training. There is not a lot of training involved other than being alert and vigilant. And when you recognize suspicious activity, you call Border Patrol, and they respond quickly.

Mr. RUPPERSBERGER. I talked about citizens on patrol in our community in my opening statement. We publicize it and make sure there are communications to the police. That is basically your format also?

Mr. SIMCOX. Neighborhood watch group.

Mr. RUPPERSBERGER. And you are not doing the apprehension?

Mr. SIMCOX. No.

Mr. RUPPERSBERGER. I think it is important that people understand that. You are not doing the apprehension. If that is the case, I think it is a very positive program.

Where are you getting your resources for communication to contact the Border Patrol when they are someplace else?

Mr. SIMCOX. Cell phones. At this point, that is the only communication. We have worked in previous years with Border Patrol by giving them our basic FRS radios that you can buy at any store, and they have worked very well with us. We monitor an area, report to them, and they do the job. They do the apprehension.

Mr. RUPPERSBERGER. Mr. Bonner, you made a comment about the real problem. We all think we need more resources and boots on the ground, and also technology. But the bottom line has to do with the employers. There are certain programs. There is a guest program right now that is out there where the employers have the obligation to make sure everyone who comes has identification, I assume it is a work permit or whatever needs to be done. We are never going to solve this problem just by dealing with the borders because people are willing to risk their lives because of jobs. It is about jobs. Yet the President's position is there are a lot of jobs that are unfilled. In Maryland we have a crabbing industry. There are people who came over for the temporary jobs, and the industry was going to have real problems. They could not get anybody to fill the temporary jobs. From what I understand, these people are coming over, and they are temporary. They are identified, and they go back.

Do you have an opinion on that type of program, what needs to be done?

Mr. T.J. BONNER. The guest worker program will only work if you have a theoretical fence, because a guest worker program is a

gate, if you will, and without a fence around the property, people will just go around. That is why the Bracero program failed back in the 1960's because it was easier for someone to just walk across the border and get that job.

I think a guest worker program could easily work in concert with tougher employer sanctions where you could actually identify who has a right to be here. Then you could bring people in if there are jobs.

Mr. RUPPERSBERGER. And hold the employers more accountable. People come and then they leave, and you don't know who or where they are.

Ms. Kephart, the thing that concerns me greatly is the issue of narcoterrorism. What resources do you think we need as far as the border as it relates to the terrorism issue?

Ms. KEPHART. Let me back up and give a little background on what I testified to. What I referred to was what I came across when I was on the Commission, an unclassified Border Patrol alert that is now a year and a half old that said the Colombia FARC was meeting with al Qaeda in Madrid, Spain, to seek Mexican Islamic converts to come through the southwest border clandestine.

That was of very great interest to me and my colleagues on my time on the 9/11 Commission, and we began to look at the human smuggling aspect, the international terrorist travel aspect, what we needed to do to work with other governments to make sure we have law enforcement to prevent the human smugglers from coming into the United States, stronger laws against human smuggling.

For example, one of the things you will hear is former drug couriers who have been arrested would turn to human smuggling because the sentencing is so low. You heard me mention Bougadaro who only got 11 months in the United States. We need tougher sentencing. We do have a human smuggling center right now. We need to give them the resources, and we need to make sure that it becomes a priority for our DHS law enforcement.

Right now at DHS, the FBI still has the counterterrorism mandate. The DHS and ICE folks do not have that mandate. They have a great role to play in counterterrorism, and that was not really fought for them, and they can have that role. So it is a combination of things.

Mr. RUPPERSBERGER. Thank you.

Chairman TOM DAVIS. Thank you.

Mr. Marchant.

Mr. MARCHANT. Ms. Kephart, in your interviews that you conducted with the Border Patrol, what was the most common problem that they identify as shortfalls in their tools? What was the largest impediment to them doing their job?

Ms. KEPHART. Remember that the September 11 hijackers came in through airports of entry. The majority of my focus was there. However, part of my role was to figure out why the INS had failed in counterterrorism and why they had no policy there. So I did look at the Border Patrol and interviewed the Border Patrol Chief, but did not go out to the field just to clarify. However, what we were talking about were the same things they were talking about a decade ago, a lack of human resources, a lack of up-to-grade techno-

logical resources; for example, told me in the early 1990's they were still working from manual typewriters to type up their reporting. Right now sometimes they are dealing with five different forms to fill out once they bring, for example, other than Mexican into their station. It takes them 3 to 5 hours to process those folks. They need that streamlined so they can be out in the field.

So they do not have the technology in the field for the rapid response, as Commissioner Bonner was saying. They do not have the business processes. They do not have operational intelligence that is centralized. They have none of it. They are operating, sector by sector, pretty much as people come across. They do not have centralized command and control.

We talk about, and Mr. Simcox talks about, the military being on the border. The military would never put up with not having centralized command and control, but the Border Patrol does not have that. So part of my answer was my own analysis, and part of it is what the Border Patrol has told me before.

Mr. MARCHANT. This question is for Mr. Bonner.

Mr. Bonner, when someone walks across the border from Mexico or from Canada, what is their legal status?

Mr. T.J. BONNER. Their legal status? They are in our country illegally when they cross that border. The first offense is a misdemeanor.

Mr. MARCHANT. What is the degree of the criminal act?

Mr. T.J. BONNER. The first offense it is a misdemeanor; and subsequently it is a felony.

Mr. MARCHANT. What court is it adjudicated in?

Mr. T.J. BONNER. It is not. Typically we offer people to voluntarily return to their country of origin unless we have identified through our fingerprinting system that they have entered, and depending which sector you are in, up to 25 times before you will initiate any action, and that is just a formal deportation hearing.

Mr. MARCHANT. So the recidivism rate is 20, 25 before they are successful.

Mr. T.J. BONNER. People keep trying until they make it. The ones that get by us, we have no record of them. I think it is a safe assumption if you catch somebody eight times and you do not see them again, they got by you. They did not just give up and say, I will go back to my $4-a-day job at home.

Mr. MARCHANT. Obviously there have been Border Patrol officers killed.

Mr. T.J. BONNER. Nearly 100.

Mr. MARCHANT. So there is some aggressiveness on the part of the criminal, in my view.

Mr. T.J. BONNER. Sure. This has escalated in recent years. Because of our court system being so lenient on people who assault Federal officers, we find people are more willing to shoot it out with Federal officers. When I came in 27 years ago, the drug smugglers would be armed to protect themselves against each other, but when they were apprehended by Federal officers, they would ditch their weapons. Now they are more inclined to shoot it out with Federal officers.

Mr. MARCHANT. What is permissible use of force for a Border Patrol agent?

Mr. T.J. BONNER. Whatever is appropriate to the situation. If someone is firing at you, you are authorized to fire back.

Mr. MARCHANT. That is defense. What is proper procedure for one to apprehend?

Mr. T.J. BONNER. Only that level of force necessary to effect apprehension. We start out with verbal commands, ask them to stop. If they run, we are allowed to grab them and bring them under control. If they resist arrest, we are allowed to use the level of force appropriate.

Mr. MARCHANT. Stun guns, rubber bullets.

Mr. T.J. BONNER. No stun guns or rubber bullets. We have pepper spray and collapsible steel batons as intermediate weapons.

Mr. MARCHANT. So if a guy gets 25 or 30 feet away, you are either faster——

Mr. T.J. BONNER. You are going to have to outsmart that person or be faster. You are not authorized to use force just to stop someone from running.

Mr. MARCHANT. So a normal police method in a city or a county for a sheriff cannot be employed by a Border Patrol agent?

Mr. T.J. BONNER. Well, it depends on what you are talking about as a normal city or county. If a shoplifter is running away, most jurisdictions do not authorize any type of force to stop that.

Mr. MARCHANT. So an offense is considered an offense similar to shoplifting?

Mr. T.J. BONNER. I think that is one way to characterize it.

Chairman TOM DAVIS. Thank you.

We will do just a couple more questions.

Let me ask Ms. Kephart, this committee has worked tirelessly on the issue of terrorist travel, something you are acquainted with. We have sought to strengthen domestic identity requirements for individuals to strengthen our intelligence function, to better identify and track individuals of interest. As we strengthen security in these areas, it appears likely that terrorists and other criminals will not seek to enter through official channels, but through holes in our border. What does our intelligence tell us about the intent of al Qaeda and other groups that seek to enter our country illegally and do us harm, and what are the weaknesses that they have identified that we have not rectified yet?

Ms. KEPHART. In terms of current intelligence, I cannot speak to it because I am not privy to it anymore. We had documents upon documents.

Chairman TOM DAVIS. Just go back a year.

Ms. KEPHART. The thing that we need to understand about al Qaeda is they had a very sophisticated travel operation. When I started on the Commission, our congressional mandate was to look at border security. But as we started looking at detainee reports, it became clear it was actually a travel operation. As I put together the chronology in our staff report, September 11 and terrorist travel, it became clear that the travel operation started back in Afghanistan and moved—it started with the recruit, and that recruit would go to Afghanistan through a specific travel operation, false passports through Iran or Pakistan, and they would come out and be instructed where to go and what to do. They had travel facilitators all over the world helping them. We discussed the intel-

ligence that we have about that, Riyadh, the facilitator, etc., specific biographies of those folks.

So we know they were sophisticated in their travel operation. The thing that I learned, sort of my own analysis from looking at this, that Mohammed Atta—the pilots came in first. The muscle came in the 2001, but the pilots were here for about a year before that with a couple of exceptions. Mohammed Atta was sort of testing the system as he was moving through it. He came in three times before any of the muscle came in. He figured out length of stay was 6 months if you are a tourist, so ask for a tourist. If that meant bringing the hijackers, the muscle, in the spring and summer of 2001 meant they had a legitimate length of stay while they were here, it was clear he did not want his folks to go illegal in the immigration system. It was also clear that identifications were extremely important to them to embedding. He also sought immigration benefits for himself, changing of tourist status to student status. They even went so far as to go into an immigration benefit service center, he and one of the other pilots, I believe, in May 2001, asking for a longer length of stay for one of the pilots until September 8, 2001.

So what we have then for our intelligence is an understanding that terrorists travel operationally very carefully. If the fraudulent passport does not work or getting the visa does not work, they will be prevented from going where they go, or else they will seek another point of entry. From that point of view, we did establish that terrorist travel exists.

Weaknesses in the system, I think I would be here all afternoon. But I do lay out a series of about five pages of recommendations, some of which are very discrete, about our ports of entry, about our immigration benefits, and immigration enforcement and our Border Patrol, things that we need. But mostly I think the biggest weakness is tremendous fragmentation in the system.

Before September 11 we had three departments and three agencies running immigration and border security. Now we have three different departments and six agencies running it, and we do not have holistic policymaking. Nobody has an idea of the structure at the top and what we are looking for.

Chairman TOM DAVIS. Is it still very stovepiped?

Ms. KEPHART. We are more stovepiped than we were. When I hear discussions of mergers of ICE and CBP, yes, that would be helpful to some degree, but it is only part of the problem. We still have immigration benefits, consular officers at the State Department; we have the Coast Guard, which is in a different part of DHS; and we have a President who recognizes that border security is national security, but there are so many layers of bureaucracy, a wholehearted approach on how to achieve border security truly with overarching policies is just nonexistent. That, to me, is the biggest weakness right now.

Mr. TOM DAVIS. Thank you.

Mr. Cummings.

Mr. CUMMINGS. Ms. Kephart, I just listened to what you said. It sounds like we are worse off from a security standpoint than maybe we were prior to September 11. Is that accurate or inaccurate?

Ms. KEPHART. We have made some strides ahead. I think we have pulled back in other ways. I don't think we have a holistic approach to border security right now, and I think it is hurting us. We are approaching things to some degree myopically, looking at just the Border Patrol or just immigration benefits without looking at the whole thing and how to make it right.

But we do have a recognition now of the importance of border security and national security, which is extremely important. And it has made people, for example, very encouraging, biometrics insisted upon, new rules for our passports, new rules for our identification set that is now being passed, US-VISIT which is at our ports of entry and needs to get out for exit data as well. So we have some real positives, but we need to bring it all together. That is my frustration.

Mr. CUMMINGS. When I listen to the testimony here, it reminds me of a situation where it is like a circle. We seem to be covering maybe about three-fourths, maybe even 90 percent of the circle, but there is an opening called border, and as we think that we are guarding everything, people are slipping in through that opening.

That leads me to you, Mr. Bonner. When you listen to Mr. Simcox, and then I think about the testimony you just gave a few minutes ago about the fact that folks are toting guns, that is some of these folks trying to cross the border, and then I combine it with what my colleague said comparing the Minutemen to Citizens on Patrol, is that your perception?

If I have people with guns, and I have everyday citizens—and, Mr. Simcox, one of the documents says keep your guns in your holsters?

Mr. SIMCOX. Yes.

Mr. CUMMINGS. Do you feel comfortable with that as a professional representing these people?

Mr. T.J. BONNER. Border Patrol agents undergo 19 weeks of intensive training. It makes us nervous when citizens are out there armed because things go bump in the night when you are out there. Untrained people might do things that a trained person would not do. The fact that people are out there armed, and I realize in Arizona that is permissible under their State law, and other parts of the country it is not, but it certainly is something that concerns me.

And I have talked with some Minutemen, some nice grandmothers, and I am concerned that they go down there, and they are really down there to make a political statement, but they get caught in the crossfires of one of these drug smugglers who thinks that they are shooting at Border Patrol, and they kill some nice grandmother who leaves behind a family, and all she was trying to do was make a statement that she wanted the U.S. Government to step up to the plate and secure our borders.

There are a number of concerns that I have about this, as the movement grows, as people think they are going to make a difference, if you blockade the border, and if you have people out every few yards, that will deter people from coming in. That is not our experience. What we found in San Diego, it pushed the traffic over to Arizona. It did not make it go away, it just pushed it to a different part. We also found in San Diego when the smugglers

became frustrated enough, they would modify their tactics. They would gather groups of several hundred people and run right over the top of us.

Mr. CUMMINGS. What I am concerned about is a lot of what was just said. If I have somebody who sees that their opportunity for success, for their children's success, and they are already hopeless, and they see anybody standing in their way—I see it in my district with people trying to get drugs. Sometimes they will kill their family members to get money for drugs. We have people trying to get to the United States because they think that it is going to be the great place of opportunity. I am concerned with some of the same concerns.

Mr. SIMCOX. We are very concerned, and it certainly shows the frustration and compassion of American citizens; for instance, 80-year-old World War II veterans and what we call vigil grannies who were sitting in lawn chairs. They take it very seriously. Citizens are putting themselves in harm's way if there is a real threat at the border, but that is the passion and the frustration level, and it should send a clear message to Congress and to the Border Patrol and to the Federal Government and to the President that we want this problem solved.

They are willing to take that risk. A majority of our volunteers are retired law enforcement officers and military veterans, well trained, who are willing to give service to their country again. I think if we had an opportunity to train ex-military, military police, law enforcement officers; I would hate to see an 80-year-old grandmother—I would hate to see her blood spilled on that border because we cannot control it.

Chairman TOM DAVIS. Do you have any Minutemen grandmothers?

Mr. SIMCOX. Almost 40 percent were women. The majority of the volunteers were 50 or older, many in their 70's or 80's.

Chairman TOM DAVIS. I don't think that is old.

Mr. CUMMINGS. If you had to guess percentagewise, how many were carrying a gun?

Mr. SIMCOX. Forty percent of our volunteers were carrying sidearms only for self-defense purposes. Ninety-nine percent are concealed weapons card-carrying, well-trained individuals who understand the law when it comes to self-defense.

Mr. RUPPERSBERGER. Have you had anybody in Minutemen hurt?

Mr. SIMCOX. Not at all. Not one incident ever.

Mr. RUPPERSBERGER. Any gunfire?

Mr. SIMCOX. None in the 3½ years that we have been coordinating.

Mr. RUPPERSBERGER. So your coordination with Border Patrol is working?

Mr. SIMCOX. Yes.

Mr. RUPPERSBERGER. And you are there as a deterrent to communicate where there is a problem, and the vigilante argument that is out there, there are no facts to support that?

Mr. SIMCOX. No facts to support that. We work within the law to support the law. We do not take the law into our own hands. That would defeat the purpose.

Mr. RUPPERSBERGER. This whole immigration problem is very serious, and we as a government have not made it a priority. What compounds the problem is now the issue of terrorism, where people, the same drug dealers that are getting the drugs in, are going to be able to get al Qaeda into our country.

Mr. Bonner, I think you have so many illegal immigrants in the United States right now. You have people who come here on a temporary visa and then stay, and that is from all over the world. If you were a Member of Congress, what would your priority be?

We need a system to somehow identify the illegal immigrants within the United States. We have a problem, and the President has taken this position, it is my understanding, that we would really shut down a lot of business if we did not have the guest worker visas. That is an issue.

How do we put together a program that works with immigration, because we have not put the resources at the border, we do not have a data base on illegal immigrants, and if they stay and have children, they become citizens of the United States? It is a very complex problem.

The bigger picture that I threw out to you, what do you recommend from your expertise in this field?

Mr. T.J. BONNER. It has been my experience that illegal aliens are not independently wealthy. They come here because of the work. If you cutoff the access to jobs and limit it to U.S. citizens, aliens who are lawfully admitted into this country on a permanent basis or as guest workers, you solve 98 percent of the problem. I think a guest worker program can work hand in glove.

Mr. RUPPERSBERGER. Because we would have a serious problem as far as certain industries without the guest work program. But how do you enforce it?

Mr. T.J. BONNER. By legitimizing it and saying you cannot get a job unless you have permission.

Mr. RUPPERSBERGER. They can have identification cards, but even though you have a card, you do not go back. There has to be some kind of mechanism. I guess the employer has to take responsibility.

Mr. T.J. BONNER. I think it is a self-enforcing one. If you are here on a temporary guest worker permit, anyone who employs you beyond the expiration of that is in violation of the law, so no one will give you a job. Your choice is to sit in the street and beg or go home. Most will go home.

Mr. SIMCOX. I take a very pragmatic approach. We need to seal the border so people cannot come in illegally. We need to deport the criminals in our prisons, and we need to enforce the laws on the books. That is the problem. I can show you boxes full of Social Security cards, fake IDs that we find in the desert at lay-up areas.

Mr. RUPPERSBERGER. If we put the same priority in all of our agencies, and we would put that resource—and it is not always when they get over to the border, it is getting to them before.

Ms. Kephart, it seems to me the best defense against terrorism is intelligence. If you go get this information ahead of time, and you deal with the people, and you get the Mexican Government to stand up and help us, we would be better off. We have not made that a priority.

Mr. SIMCOX. I would like to see a Social Security verification system for employers so employers are held accountable for hiring illegal aliens in this country, and how about an employer-sponsored guest worker program, not sponsored by the taxpayers.

Ms. KEPHART. May I make one comment about the guest worker program?

First of all, I want to make clear, I don't think citizenship and immigration services is built to be able to handle a guest worker program. Until you get the bureaucracy in line to be able to handle a huge surge in immigration benefits, you are going to have a problem.

Mr. RUPPERSBERGER. Guest workers are temporary.

Ms. KEPHART. But they still have to be adjudicated through the system.

Second of all, you have to ensure there is security vetting for criminals and terrorists and those who have otherwise disobeyed our laws previously. Otherwise you are going to be giving legitimacy to folks we do not want to give legitimacy to.

Third, you have to have a system that authenticates identities and ensure that people are who they say they are. That is my 2 cents on that.

Mr. TOM DAVIS. Mr. Simcox, you talked about where do you go next. Do you look at the Canadian border, too?

Mr. SIMCOX. Yes. We have 15,000 volunteers in the queue. We are moving to the northern border. We will be packaging our success and assisting other States to develop their own neighborhood border watch groups.

Mr. TOM DAVIS. Mr. Bonner and Mr. Schermerhorn, thank you for the job you are doing. Your members are out there every day putting their lives on the line for us, and we appreciate it.

Mr. Simcox and Ms. Kephart, we appreciate all of the ideas.

The hearing is adjourned.

[Whereupon, at 4:55 p.m., the committee was adjourned.]

[The prepared statements of Hon. Chris Cannon, Hon. Darrell E. Issa, Hon. Jon C. Porter, and Hon. Lynn A. Westmoreland, and additional information submitted for the hearing record follow:]

OPENING STATEMENT
CONGRESSMAN CHRIS CANNON (R-UT)
May 12, 2005

I want to thank Chairman Davis for holding today's hearing and for all that he has done for this committee. I know he was on WMAL-AM this morning talking about today's hearing, and he has been working hard to increase the visibility of this committee. It is appreciated.

Our nation's immigration policy has been of top concern recently, and for good reason. I have always been a strong supporter of securing our borders. For eight years, long before Lou Dobbs made this issue the only subject of his show, I have been saying our immigration policy is broken and it must be fixed. While critics have distorted my record, I have been working to raise the profile of this issue.

The men speaking today deserve our thanks for taking this issue off of the back burners and onto the front pages. As I have long said, any true national security policy discussion must address the greater issue of how to create an effective, agile, layered and comprehensive border security strategy. I look forward to today's discussions.

We need to create a legal immigration system that has a realistic chance of being enforced. We need to encourage legal behavior, not reward illegal behavior by turning a blind eye and looking the other way.

All of these issues require difficult choices. And hard negotiation -- but continuing to do nothing is not an option. This will not be solved with sound bites or name calling. Only a measured debate,

with all sides and opinions being heard, will eventually get us where we need to be.

Thank you.

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HOUSE POLICY COMMITTEE

May 12, 2005

Opening statement of Congressman Darrell Issa to the House Committee on Government Reform

Thank you Mr. Chairman and Ranking Member Waxman for holding this important hearing. I also want to thank the witnesses for taking time out of their busy schedules to testify before the Committee. Border security is one of the most important issues facing our country.

Congress recently passed the REAL ID Act which contains several reforms to enhance our homeland security. REAL ID includes provisions that strengthen security standards for the issuance of drivers' licenses, curb terrorist abuse of the asylum system, close "Smuggler's Gulch," the 3-mile gap in the U.S.-Mexico border fence near San Diego, and funds 500 new Border Patrol agents.

Increasing the number of Border Patrol agents may be enough to deter *some* illegal immigrants from gaining entry into the United States, or to apprehend *some* who have already arrived. However, simply adding manpower without implementing more effective strategies will not solve the problem. The current strategies in place are not working. When proactive strategies are employed, such as the activation of special Mobile Patrol Groups, a noticeable increase in apprehensions can be seen.

In June 2004 the Temecula Border Patrol station conducted a series of illegal immigrant sweeps in inland areas of my district in southern California. The Mobile Patrol Group, made up of 12 Border Patrol agents, made over 450 arrests in 18 days, nearly double the monthly average from 2003 when no sweeps were made. Despite their success, the patrols were suspended by the Department of Homeland Security, and have yet to be reinstated. It appears from news reports that the suspension of the Mobile Patrol Groups was motivated by interagency bickering, between the Border Patrol and Immigration and Customs Enforcement (ICE), which the creation of the Department of Homeland Security was supposed to prevent, and wrongheaded intervention by the Administration.

I would also like to recognize the success of the Minuteman Project. The Minuteman Project was a cry of alarm from citizens who believe, correctly, that Congress is not taking the threat of illegal immigration seriously, or acting quickly enough to address a

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very real and serious threat to our homeland security. I hope that this hearing helps to identify effective strategies and innovative ways in which the Border Patrol can better secure our borders.

STATEMENT FOR THE RECORD
CONGRESSMAN JON C. PORTER (R-NV-3)
"Securing Our Borders: What Have We Learned from Government Initiatives and Citizen Patrols?"
MAY 12, 2005

Mr. Chairman, thank you for holding this hearing today. I would also like to thank the witnesses for taking the time to be here today.

Issues surrounding the security of our nation's borders have been scrutinized by the American public since September 11th, 2001. Prior to that date, border security primarily revolved around drug smuggling and illegal immigration. Now we are well aware that terrorist groups like Al-Qaeda could be using our borders as a way to smuggle terrorists into America due to apparent weaknesses in border security.

Mr. Chairman, like you, I believe that any true national security policy discussion should include border security. I also believe that we, as Members of Congress, should work to ensure that those in charge of securing our borders are given the proper training, tools, and Federal support needed to secure our borders from illegal aliens, drug smuggling, and terrorists. We should know who is coming into and leaving our country so that we can reduce the threat of terrorists infiltrating into our country both now and into the future.

During this hearing, I am interested to hear from the Border Patrol. I would like to gain a better understanding of what current border protection is like, and what Congress can do in order to improve border security. I am also interested to hear from the panelists who are working "on the ground" with respect to border patrol, whether they are citizen- or government-run.

Again, Mr. Chairman, thank you for holding this hearing today. I hope that this Committee can gain some information from this hearing today that we can bring to the House of Representatives in order to help strengthen border patrol. I look forward to working with the Government Reform Committee on this issue.

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Opening Statement of Rep. Lynn Westmoreland
(GA-08)

before the

Committee on Government Reform

Security Our Borders: What Have We Learned from Government Initiatives and Citizen Patrols?

May 12, 2005

Mr. Chairman, I am glad that we are continuing to focus attention on one of the pressing issues we face today—how to deal with effectively securing our borders.

This is definitely one of the most distinctly federal issues we address in our work here, and I am grateful for the opportunity to discuss this issue with Commissioner Bonner, Mr. Simcox, and the others who have worked so closely on this issue.

We are a land of opportunity, and the greatest country on earth, and people from all over the world want to come here. But when individuals come, they must come in compliance with our laws, not in violation of them.

The issue of border protection extends beyond illegal immigration and the issues surrounding it. The possibility of terrorists exploiting our borders to smuggle both people and weapons into our country is real, and Customs and Border Protection agents have been focused on addressing that issue.

But we can do more, and must do more. As the Minutemen on the Arizona border demonstrated, a few dedicated volunteers can make a dramatic difference in the flow of illegal immigrants across a very remote area.

The CBP's Arizona Border Control Initiative has also made great progress forward in addressing the openness of the Arizona border.

I look forward to learning more about the issue firsthand, and hearing what Congress can do to provide additional resources to address this problem that affects so much of our security.

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