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CRIMINAL ACTIVITY AND VIOLENCE ALONG THE SOUTHERN BORDER

HEARING

BEFORE THE

SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

AUGUST 16, 2006

Serial No. 109–96

Printed for the use of the Committee on Homeland Security

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html

U.S. GOVERNMENT PRINTING OFFICE

35–565 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
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CRIMINAL ACTIVITY AND VIOLENCE ALONG THE SOUTHERN BORDER

Wednesday, August 16, 2006

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON INVESTIGATIONS,
Washington, DC.

The subcommittee met, pursuant to call, at 9:38 a.m., at Civil Courthouse, 201 Caroline Street, Houston, Texas, Hon. Michael McCaul [chairman of the subcommittee] presiding.

Present: Representative McCaul.

Also Present: Representatives Jackson-Lee, Poe, and Gene Green.

Mr. MCCAUL. Good morning. The Committee on Homeland Security, Subcommittee on Investigations will come to order. The subcommittee is meeting today to hear testimony on criminal activity and violence on our southern border.

First, I would like to ask unanimous consent that Ms. Jackson-Lee, Mr. Green, and Mr. Poe be permitted to sit and to question during the hearing today. Hearing no objection so ordered.

I also ask unanimous consent that statements by Shelley Sekula-Gibbs and George Benton be included for the record. Hearing no objection, so ordered.

I have also been requested to state that photography and cameras are limited to accredited press only.

First, I want to thank everybody for being here today. I want to thank the witnesses have attended this hearing. As a former Federal prosecutor, I sort of feel like I am back in Federal court again, although I have never sat at this level as a judge, although Judge Ted Poe has in his prior career.

It has taken a lot of work to put this together, and I appreciate the interests.

Because this is an official congressional hearing, as opposed to a town hall meeting, we have to abide by certain rules of the committee and of the House of Representatives. So we kindly ask that there be no applause of any kind or any kind of demonstration with regards to the testimony. It is important that we respect the decorum and the rules of this committee.

Now today we will examine the expanding crisis of violence and criminal activity on America's border with Mexico. We will hear what I expect to be sobering testimony from Federal, State and local government officials and law enforcement, as well as the victims of violence committed by those in our Nation illegally. It is my hope that this hearing and the testimony will open the eyes of

America to the violence, crime, drugs and overall far-reaching impact of our unsecured borders. Today we will hear the facts and understand the true effects of illegal immigration on our society.

I would like to thank the witnesses for appearing here today, many of whom I have worked with when I was a Federal prosecutor. I am grateful for your presence here today, and I look forward to hearing your testimony.

The violence our border patrol and local law enforcement encounter continues to increase at an alarming rate, and the organized criminal element on Mexico's side of our southern border is heavily armed and very dangerous. From 2004 to 2005, violent incidents against border patrol agents on the southern border increased more than 100 percent. Since October of last year there have been 630 violent incidents against our border patrol agents.

In January 2006, the Department of Homeland Security sent a confidential memo to border patrol agents warning that they could be the targets of assassins hired by alien smugglers. The point is, America's border with Mexico is a violent and dangerous place today, and this is largely due to the drug trafficking along our southern unsecured border.

Increasing violence on the border is directly related to the increased narcotics seizures. Last year, the border patrol seized more than 1 million pounds of marijuana, nearly 20 percent more than last year. Today, there is also a 10 percent increase in cocaine seizures compared to last year.

On top of this, the number of illegal aliens entering our Nation each year is staggering. Last year, well over a million illegal aliens were apprehended along our borders. But this number represents only those caught by the border patrol. It is estimated the number of those caught represents only a fraction of the illegal aliens who really enter the United States.

This perpetual flood of illegal aliens into our country is also adding to the health care crisis and to increasing problems we are having in America's jails and prisons. Overall, the influx of illegal immigrants into our Nation is causing an increasing strain on nearly every social program in the United States, and at the end of the day, it is the American taxpayer who is economically dealing with that increasing stress.

This threat posed by an uncontrolled border, narcotics smuggling and rising violence is the reality facing American communities. For instance, immigration investigators broke up a 16-member smuggling ring in El Paso that brought thousands of illegal aliens into the United States. They were squeezed into two truck trailers with virtually no food and only one bottle of water.

Powerful criminal organizations support their operations by torturing, kidnapping and murdering citizens on both sides of the border.

Last year, 42 American citizens were kidnapped in Nuevo Laredo alone. Los Angeles county sheriff's deputy, David March, was brutally murdered by a three-time deported illegal alien during a routine traffic stop. David March's murderer escaped back to Mexico.

Some 4 years later, Teri March is still awaiting the extradition of her husband's killer.

According to the U.S. DEA, 65 percent of all meth consumed in the United States now comes from Mexican drug cartels and is distributed by gangs such as the MS–13. The gang, which is prevalent in Texas, MS–13, is engaged in violent crime on both sides of the border.

And in the post-9/11 world, border security is not simply about immigration, but rather, it is an issue of national security. Before running for Congress, I was chief of counterterrorism in the U.S. attorney's office. I had the Mexican border in my jurisdiction. My job was to determine whether terrorist cells were in this country and if so where. But that question cannot be fully answered, and many, including myself, are concerned that they are already here. Our Nation's borders are our last line of defense in the war on terror.

Just yesterday, an Afghanistan national was caught crossing into Hidalgo County. He is now being detained and questioned.

Hezbollah has already brought sleeper agents into the U.S. across our southern border. On March 1, 2005, Mahmoud Youssef Kourani pled guilty to Federal charges of raising money for Hezbollah terrorist activities in Lebanon. Kourani was an illegal alien who had been smuggled across the border after he bribed a Mexican consular official in Beirut to get him a visa to travel to Mexico. Kourani and a Middle Eastern traveling partner then paid coyotes in Mexico to get into the United States.

In another case, a cafe owner in Tijuana, Mexico was arrested for smuggling more than 200 Lebanese citizens illegally into the U.S., including several who are believed to have terrorist ties to Hezbollah.

The Val Verde county sheriff's office warned that drug traffickers are helping terrorists with possible al-Qa'ida ties to cross the Texas Mexico border into the United States.

An estimated 400,000 people who have been ordered out of the U.S., including many convicted criminals or those from terrorist States, are still living in the U.S. because Federal officials have failed to ensure their removal.

Terrorist organizations, including al-Qa'ida, are seeking to exploit our porous border. Last year alone, 135,000 people who are not of Mexican descent were apprehended entering Texas illegally.

The McAllen border patrol sector alone reports that it released more than 42,000 other than Mexicans, or OTMs, in 2005 and more than 90 percent of those failed to show up at their court hearing.

Mexican officials recently apprehended four Iraqis headed across the Texas-Mexico border.

Our government recently seized an enormous cache of weapons in Laredo, Texas. U.S. authorities confiscated two completed improvised explosive devices, or IEDs, materials for making 33 more, military style grenades, 26 grenade triggers, large quantities of AK–47s and AR–15 assault rifles, 1,280 rounds of ammunition, silencers, machine gun assembly kits, 300 primers, bulletproof vests, police scanners, sniper scopes, narcotics and cash.

But Texas is doing something about the violence along its border with Mexico. This year, Texas Governor Rick Perry launched operations Rio Grande, Del Rio and Laredo in response to the increasing criminal activity and violence along the Texas-Mexico border.

I look forward to hearing about these border security initiatives from the Texas homeland security director, Steve McCraw.

Despite the lack of a real Federal response to the violence on the border, we in the House have worked hard to pass legislation aimed at securing America's border. Last year, the House passed a border and immigration bill which makes border security a paramount priority for America, as it should be. H.R. 4437 authorizes additional border agents, mandates detention thereby ending the catch and release program, supports our local law enforcement, including our border sheriffs to assist in securing the border. The bill also adds new penalties for alien smuggling and passport fraud, provides for the use of state-of-the-art technology and military assets on the border, and authorizes fencing along the southern border.

The House immigration reform bill secures the border without amnesty. Today's illegal immigration crisis in the United States is a product of the failed amnesty policies of the past and the lack of enforcement of our laws on the books.

However, in any attempt to secure America's border with Mexico, the Mexican government must cooperate. We share a common border with Mexico and a responsibility for developing effective policies to deter highly organized and armed criminal elements which threaten both of our Nations. We must hold our friend and our neighbor to the south to a high standard of cooperation and responsibility. This organized criminal element threatens the security and well-being of the citizens of both of our great Nations.

The first duty, paramount duty, of the United States government is to protect and defend its citizens. Our borders cannot become the gateway for criminal enterprise, drug trafficking and terrorist activity.

In closing, it is my sincere hope today, that we will work towards providing real results to these real and deadly problems and more safe and secure borders for America. There are those who will try to politicize the testimony and facts presented by the witnesses. For anyone to politicize this issue would mean playing politics with our national security, and in my view, that is unacceptable.

[The statement of Mr. McCaul follows:]

PREPARED OPENING STATEMENT OF HON. MICHAEL T. MCCAUL

Today, we will examine the expanding crisis of violence and criminal activity on America's border with Mexico. We will hear what I expect to be sobering testimony from federal, state and local government officials and law enforcement, as well as victims of violence committed by those in our nation illegally. It is my hope that this hearing and the testimony will open the eyes of America to the violence, crime, drugs and overall far reaching impact of our unsecured border. Today we will hear the facts and understand the true effects of illegal immigration on our society.

I would like to thank the witnesses for appearing here today, many of whom I have worked with when I was a federal prosecutor. I am grateful for your presence today, and I look forward to hearing your testimony.

The violence our Border Patrol and local law enforcement encounter continues to increase at an alarming rate, and the organized criminal element on Mexico's side of our Southern border is heavily armed and very dangerous. From 2004 to 2005, violent incidents against Border Patrol agents on the Southern border increased more than 100%. Since October of last year, there have been 630 violent incidents against our Border Patrol agents.

In January 2006, the Department of Homeland Security sent a confidential memo to Border Patrol agents warning that they could be the targets of assassins hired by alien smugglers. The point is, America's border with Mexico is a violent and dan-

gerous place today, and this is largely due to the drug trafficking along our Southern unsecured border.

Increasing violence on the border is directly related to increased narcotics seizures. Last year, the Border patrol seized more than one million pounds of marijuana, nearly 20% more than last year. Today, there is also a 10% increase in cocaine seizures compared to last year.

On top of this, the number of illegal aliens entering our nation each year is staggering. Last year, well over a million illegal aliens were apprehended along our borders. But this number represents only those caught by the Border Patrol. It is estimated the number of those caught represents only a fraction of the illegal aliens who really entered the United States. This perpetual flood of illegal aliens into our country is also adding to the health care crisis and to increasing problems we are having in America's jails and prisons. Overall, the influx of illegal immigrants into our nation is causing an increasing strain on nearly every social program in the United States. And, at the end of the day it is the American Tax Payer who is economically dealing with that increasing stress.

This threat posed by an uncontrolled border, narcotics smuggling and rising violence is the reality facing American communities. For instance:

- Immigration investigators broke up a 16-member smuggling ring in El Paso that brought thousands of illegal aliens into the U.S. for as much $6,000 each, depending on the point of origin. They were squeezed into two truck trailers with no food and one water bottle.
- Powerful criminal organizations support their operations by torturing, kidnapping and murdering citizens on both sides of the border,
- Last year, 42 American citizens were kidnapped in Nuevo Laredo alone,
- Los Angeles County Sheriff's Deputy David March was brutally murdered by a three time deported illegal alien during a routine traffic stop. David March's murdered escaped back to Mexico. Some four years later, Teri March is still awaiting the extradition of her husband's killer.
- According to the U.S. Drug Enforcement Administration, 65 percent of all meth consumed in the United States now comes from Mexican drug cartels and is distributed by gangs such as the MS–13,
- The MS–13 gang is in Texas, and is engaged in violent crime on both sides of the border.

In the post 9/11 world, border security is not simply about immigration, but rather it is an issue of national security. Before running for Congress, I was chief of counter terrorism in the US Attorney's office in Texas. I had the Mexican border in my jurisdiction. My job was to determine whether terrorists cells were in this country, and if so where. But the question cannot be fully answered, and many are concerned that they are already here. Our nation's borders are our last line of defense in the War on Terror:

- Just yesterday an Afghanistan national was caught crossing into Hidalgo County, is detained and is now being questioned,
- Hezbollah has already brought sleeper agents into the U.S. across our southern border. On March 1, 2005, Mahmoud Youssef Kourani pleaded guilty to federal charges of using meetings at his home in Dearborn, Michigan to raise money for Hezbollah terrorist activities in Lebanon. Kourani was an illegal alien who had been smuggled across the border after he bribed a Mexican consular official in Beirut to get him a visa to travel to Mexico. Kourani and a Middle Eastern traveling partner then paid *coyotes* in Mexico to then get into the United States,
- In another case, a café owner in Tijuana, Mexico was arrested for smuggling more than two hundred Lebanese citizens illegally into the U.S., including several who are believed to have terrorist ties to Hezbollah,
- The Val Verde County Sheriffs Office warned that drug traffickers are helping terrorists with possible al-Qa'ida ties to cross the Texas-Mexico border in to the United States,
- An estimated 400,000 people who have been ordered out of the United States, including many convicted criminals or those from terrorist states, are still living in the U.S. because federal officials have failed to ensure their removal,
- Terrorist organizations including al-Qa'ida are seeking to exploit our porous border. Last year alone, 135,000 people who are not of Mexican descent were apprehended entering Texas illegally,
- The McAllen border patrol sector alone reports that it released more than 42,000 OTMs in 2005, and more than 90% failed to report to court,
- Mexican officials recently apprehended four Iraqis headed across the Texas-Mexico border,

• Our government recently seized an enormous cache of weapons in Laredo, Texas. U.S. authorities confiscated two completed Improvised Explosive Devices (IEDs), materials for making 33 more, military style grenades, 26 grenade triggers, large quantities of AK–47 and AR–15 assault rifles, 1,280 rounds of ammunition, silencers, machine gun assembly kits, 300 primers, bullet-proof vests, police scanners, sniper scopes, narcotics, and cash.

But Texas is doing something about the violence along its border with Mexico. This year, Texas Governor Rick Perry launched Operations Rio Grande, Del Rio and Laredo in response to the increasing criminal activity and violence along the Texas-Mexico border. I look forward to hearing about these border security efforts from Texas Homeland Security Director Steve McCraw.

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The first duty of U.S. government is to protect and defend its citizens. Our borders cannot become the gateway for criminal enterprise and drug trafficking and terrorist activity.

In closing, it is my sincere hope today that we will work towards providing real results to these real and deadly problems, and more safe and secure borders for America. There are those who will try and politicize the testimony and facts presented by the witnesses. For anyone to politicize this issue would mean playing politics with our national security and that is unacceptable.

Mr. MCCAUL. The Chair now recognizes the gentlelady from Texas, Ms. Sheila Jackson-Lee, for any statement she may have.

Ms. JACKSON-LEE. I thank the chairman very much.

Good, morning. I would like to ask for a moment of silence for National Guard Specialist Kirsten Fike. She was 2 hours into the first day of a border surveillance mission near Yuma when she collapsed and died in the 100-plus degree weather in Yuma, Arizona. She is from Pennsylvania and she is survived by her 13-year old son Cody.

[Moment of silence.]

Thank you very much, Mr. Chairman, for your service to this Congress and to this Nation. I have great respect for this committee and this Congress as a member of the Homeland Security Committee, and the ranking member on the House Judiciary Committee, two committees charged with the responsibility of listening to the American people on the question of comprehensive immigration reform. Thank you for accepting our invitation and my invitation to come to Houston, Texas.

Houston, Texas, of course, the fourth largest city in the Nation, is blessed by its diversity and the ability for all of us to live harmoniously together. If it is not through our city council and mayor, to our Harris County commissioners and leaders of our Harris County

government, it is to our city clubs and neighborhoods. We do live together harmoniously.

We are very grateful for a very effective law enforcement system, both the county and the city, that works effectively together. We are some hundreds of miles away from the border. So the question of border violence is certainly a national question, but we in Houston are attuned to the fact that our responsibilities of our law enforcement officers are to ensure the protection of our local citizens.

You are right, Mr. Chairman, this is not a political question. But I simply disagree with the perspective that has been put forward by the Republican majority.

There is a House bill and there is a Senate bill. Out of regular order, the appropriate procedures would be that we would be in a conference, adjusting both of the legislative initiatives so that we could reconcile the issues and needs of the American people.

As I expect to hear the testimony of many sheriffs from the border, they know that we have had vigorous discussions in Washington, and I have joined in their effort to be reimbursed on the work that they have had to do because of the failing funding of those who are on the front lines, the Federal authorities that are on the front line, and we thank those sheriffs who themselves have been engaged because of the Federal failures that we have had.

Today, we will hear from 17 witnesses about criminal activities and violence along the borders. I would only say that that is an important question but we have a disagreement.

We want to ensure that our borders, whether they are airports, ports, the northern border or the southern border are secure. I would simply say that immigration is a very important issue to the great State of Texas, as well as the Nation, but the concept is comprehensive immigration reform.

As I indicated, as the ranking member of the House Subcommittee on Immigration and as an attorney, I know firsthand the complexities of the issue. That is why I am saddened by the simplistic and sometimes caustic rhetoric regarding immigrants and comprehensive immigration reform.

I would hope that we would not engage as the chairman has asked us in traveling road shows and mock hearing and really digest and discuss how can we solve this problem, how can we secure our borders, how we can engage in a discussion of comprehensive immigration reform.

This committee knows that 99 percent of all immigrants coming to this country do so because they want to work, improve their opportunities for success and reunite with their families.

I was reminded of the Irish who fled Ireland in the 1800s because of the potato famine and that there is some fifty thousand undocumented Irish in this country, all, I hope, seeking an opportunity for status, not attempting to be a felon.

President Bush recognized that fact in his May 15 address to the Nation calling for the passage of the Senate immigration bill.

It is not lost on me that this hearing has been convened in a courtroom, more so than at a university or city hall. Let me thank Harris County for its hospitality, but, of course, many people think of a courtroom as an adversarial setting rather than one designed

for the free-flowing exchange of ideas with the community members directly impacted by immigration.

Mr. Chairman, I accept your challenge. I want to work with you to make sure that our borders are secure enough to keep out OTMs, al-Qa'ida and others, who might be interested in doing us harm, who might be left to run amock amongst the population. Let's stand united together for border security. But as we go through this hearing, it is my wish that we not smear the overwhelming number of decent persons who are hard working, tax paying, law abiding immigrants.

We must also acknowledge that our border patrol agents and law enforcement officials do their best along the border but face challenges that include lack of support from this administration and the Congress.

I want to congratulate the border patrol agents, because, in fact, they have stopped over 1.7 million-plus individuals who are attempting to come into this country illegally. Having walked along the borders of California and Mexico and New Mexico, I know their hard work and the confidence of the citizens along that border have been there in terms of their intent their decency and their commitment and their patriotism. I salute them and I thank them.

I thank the National Guard that has been called into duty, even though their resources have been depleted and most of their resources as we learned in Washington State, some 60 percent of that State's resources of the National Guard are behind the front line in Iraq.

This is a difficult challenge for America. There are some who paint as criminals all who cross the border. Yet while the Republican leadership in Congress focus on the southern border with 10,000 border patrol agents stationed along the 2000-mile border with Mexico, only one-tenth of that amount is on the Canadian border, one that is 2.5 times as long as the Mexico border. Recent news stories document how people fly, drive, walk, sail, ski and sled across the northern border all the time. That, is why we must have a unified comprehensive approach to immigration reform.

Now I know there is violence along the southern border. Criminal enterprises are trying to control their turf with trafficking and smuggling of human beings and drugs. We have seen the violence and tragedy in losing 19 individuals in a stuffed, if you will, conditions coming across the border, but we also know there is violence and there is trepidation on the northern border. We congratulate the Customs and Border Protection officer that stopped the individual coming across, the bomber. If had not been for their intuition, their insight and the ability to turn that person over to secondary, we might have had enormous tragedy on New Year's Eve of 2000.

But that was because they had the resources to secondary. Mr. Chairman, the Customs and Border Protection are suffering because they do not have a enough resources for what we call secondary investigation. That is why the Congress needs to go back to work. That is why Congress and the President must do more than give lip service to securing the border. Since 9/11, House Republicans have rejected seven Democratic amendments that will in-

crease, strengthen our borders by increasing staff and funding for necessary security measures.

If Republicans had not defeated these Democratic efforts to enhance border security over the last 4 years, there would be 6,600 more border patrol agents, 14,000 more detention beds, and 2,700 more immigration agents on the border.

On December 16, 2005, all 219 House Republicans voting that day opposed a Democratic proposal to improve border security and immigration enforcement by fulfilling the 9/11 border security recommendations.

The proposal would have hired more border patrol agents, ended the catch and release practice by authorizing 100,000 additional detention beds and incorporating state-of-the-art surveillance technology, including cameras, sensors, radar, satellites and unmanned aerial vehicles in order to ensure 100 percent border coverage. That happened to be H.R. 4437 and it was captured from my legislation, H.R. 4400, that I offered as a member of the House Judiciary Committee and Homeland Security Committee.

I introduced H.R. 4044, the Rapid Response Border Protection Act, which calls the White House and call the Congress and indicate that there is a crisis in their State. It allows for the United States Government then to dispatch a thousand border patrol agents to that particular area. That bill was to meet our border security needs by providing the border patrol with the personnel, equipment and resources they needed to secure the border. Yet our Republican leadership in Congress has not allowed this bill to move forward.

When the administration and Congress obstructs efforts to secure the border, State and local governments are left holding the bag. In fact, the reimbursement dollars that we have supported over the years, called SCAAP money, have been zeroed out by this administration. That would allow our district attorneys to be reimbursed for any of those individuals that might not be in status or incarcerated in our jails. Cities and States have to choose between funding schools versus doing the Federal Government's job of securing the borders.

The President has acknowledged that our border security needs more than just fences and deportation, but we need leadership, not rhetoric, on this issue.

The public needs to know these facts so that it is not duped into believing that Congress and the administration is now doing, or in the 5 years since 9/11, has not been doing all it can to protect our borders.

In a forum yesterday, I was asked the question why do not these people just go into the United States military. Having just recently come back from Iraq, I can answer the question they do. On the front lines of Iraq and Afghanistan, we have soldiers who are not yet citizens, but they have been willing to carry the flag of the United States of America.

I look forward to hearings that will confront their service in a reasonable, rational way: full funding for border security, comprehensive immigration reform, pathway to citizenship that allows those from Ireland, India, Pakistan, and places south to be able to

get in line and assume their rightful place and commitment to the United States of America.

I look forward to hearing from the witnesses about real tools that they need to secure our borders, and I look forward, as I said, to upholding the flag of the United States for all of those who choose to carry the flag, respect it and love it.

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

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

PREPARED OPENING STATEMENT OF HON. SHEILA JACKSON-LEE

Thank you Mr. chairman, and welcome to my district.

I want to begin by asking for a moment of silence to honor fallen National Guard Spc. Kirsten Fike. She was two hours into the first day of a border surveillance mission near Yuma when she collapsed and died in the 100+ degree weather in Yuma, Arizona. She is from Pennsylvania and is survived by her 13 year old son, Cody.

Today, we will hear from seventeen witnesses about criminal activities and violence along the border.

Well, Mr. Chairman, Houston is quite a ways from the border. Nevertheless, immigration is a very important issue to the metropolitan city of Houston, to the great State of Texas as well as to the Nation. Moreover, I think it is imperative that we in Congress deal jointly with the inseparable issues of border security and comprehensive immigration reform rather than stall the process of much needed legislative reform.

As the Ranking Member for the Judiciary Committee Subcommittee on Immigration, Border Security, and Claims and as a Member of the Committee on Homeland Security, I know firsthand the complexities of the issues surrounding border security and immigration reform. That is why I am saddened by the simplistic and sometimes caustic rhetoric regarding immigrants and immigration reform which is too often articulated in an attempt to fuel anti-immigrant sentiment.

Mr. Chairman, 99% of all immigrants coming to this great country do so because they want to work, improve their and their families' opportunities for success, and reunite with their families. President Bush recognized that fact in his May 15th address to the Nation calling for the passage of the Senate immigration bill.

It is not lost on me, Mr. Chairman, that this hearing has been convened in a courtroom rather than at a university or at City Hall. In other words, Mr. Chairman, we are in an adversarial setting rather than one designed for the free flowing exchange of ideas with the community members directly impacted by immigration.

As we go through this hearing today, it is my wish that we not smear the overwhelming number of decent persons who are hard-working, tax-paying, law abiding immigrants.

We must also acknowledge that our Border Patrol agents and law enforcement officials do an incredible job along the border, despite facing tremendous challenges which include lack of personnel, equipment, resources, and other types of support from this Republican Administration and Congress.

There are some who paint as criminals all who cross the southern border. Yet, While the Republican leadership in Congress focuses on the Southern border with 10,000 Border Patrol agents stationed along the 2,000-mile border with Mexico, only 1/10th that amount is on the Canadian border, a border that is 2.5 times as long as the Mexican border. Recent news stories document how people fly, drive, walk, sail, ski, and sled across the Northern border all the time. Furthermore, Operation Frozen Timber, a multi-agency probe targeting cross-border aerial drug smuggling along the U.S.-Canada border, uncovered one of the most brazen criminal schemes ever in which a network of criminal smuggling organizations used helicopters to ferry tons of drugs to remote wooded locations in Washington and British Columbia.

Now I know there is violence along the Southern border. Criminal enterprises are trying to control their turf for the trafficking and smuggling of humans and drugs. That is why Congress and the President must do more than simply and opportunistically give lip service to securing the border. Since 9-11, House Republicans have rejected 7 Democratic amendments that would have strengthened our borders by increasing personnel and funding for necessary security measures.

If Republicans had not defeated these Democratic efforts to enhance border security over the last four years, there would be 6,600 more Border Patrol agents, 14,000 more detention beds and 2,700 more immigration agents on the border.

On December 16, 2005, all 219 House Republicans voting that day opposed a Democratic proposal to improve border security and immigration enforcement by fulfilling the 9/11 Commission's border security recommendations.

The proposal would have hired more border agents, ended the "catch and release" practice by authorizing 100,000 additional detention beds, and incorporated state-of-the art surveillance technology, including cameras, sensors, radar, satellites, and Unmanned Aerial Vehicles in order to ensure 100% border coverage, [HR 4437, Vote #660, 12/16/2005, 198—221].

In addition, I introduced H.R. 4044, the "Rapid Response Border Protection Act", to meet our border security needs by providing the Border Patrol with the personnel, equipment, and resources they need to secure our border. Yet, the Republican leadership in Congress has not allowed this bill to move forward.

When the Administration and Congress obstructs efforts to secure the border, states and local governments are left holding the bag. Cities and states have to choose between funding schools versus doing the Federal governments job of securing the borders.

The President has acknowledged that our border security needs more than just fences and deportations. But we need leadership, not just hollow rhetoric, on this issue.

The public needs to know these facts so that it is not duped into believing that Congress and the Administration is now doing—or in the five years since 9/11 has been doing—all it can to protect our borders.

I look forward to hearing from the witnesses honest, complete, and balanced testimony about the real tools they need to secure our border.

Thank you Mr. Chairman. I yield the balance of my time.

Mr. MCCAUL. The Chair now recognizes the gentleman from Texas who is probably more accustomed to sitting where I am rather than in the witness chair, Judge Ted Poe.

Mr. POE. Thank you, Mr. Chairman. Thanks for having this hearing.

It is great to be back in a Harris County courtroom, somewhat going through withdrawals. As soon as I walked in the door, I said get a jury to the bailiff, and then we get a jury made up of members of the press. I have never had a jury like that before.

But it is great to be back here. Thank you for holding this hearing.

As a member of the International Relations Committee and the subcommittee on terrorism, this is a vital, important hearing that the country knows exactly what is taking place on both our northern and southern borders, and I think if the American public was a jury, and they were deciding whether or not our government is guilty or not guilty of securing the border, our American jury would find the government guilty of failure to secure the national sovereignty of the United States on both borders, and that is why this hearing is extremely important.

The issue is not legal immigration. The issue is those that come to this Nation illegally and what, if anything, should be done about that situation. You know, it is still illegal to come to the United States without permission and that permission is from the American people, the American Government, and the Federal Government has failed to secure the sovereignty of the United States.

All of our troopers that are here in this room to testify later today do as good a job as the Federal Government will let them do, and because of people who come here illegally, some of them come here and commit crime. That should not be a surprise to anyone.

We know that three drug cartels that work in Central America and Mexico have found a haven for their product in the United States, and they cross our southern border to sell that cancer among our people. We know those coyotes—what an appropriate

name for those people, for money, smuggle other people, that human cargo, into the United States, but we know those coyotes, for a fee, will smuggle anybody in this country, including those people who wish to cause us harm, we call those people terrorists, and, of course, the gangs and the cartels work alongside these individuals.

It is great to have one of my favorite sheriffs here, Sheriff Flores, because the Texas sheriffs do a tremendous job on border security, and thank you, Sheriff Flores, for being here today to testify.

But we know that lawlessness on the border breeds more lawlessness in the hinterlands of America, including Houston, Texas. There are shootings on the border. There are burglaries. Our ranchers down on the Texas border lose property, livestock. Their homes are burned. That is all crime in America because of those people illegally coming in here.

The GAO now has released a report that has stated that 25 homicides a day are committed by people in the United States illegally in the United States. Twelve of those homicides are vehicular homicides for the drivers under the influence of some type of intoxicants. The other 13 are just old fashioned murders that occur in the United States. That is a staggering number of people murdered, both citizens, legal immigrants and, yes, even illegal immigrants by people illegally in the United States. It is because of the failure of our government to secure the dignity and sovereignty of our border.

There have been 231 incursions by military police in the last 10 years into our southern border. Some people deny that this is the Mexican military by saying it's people playing dress up and wearing Mexican uniforms that come into the United States. Tremendous problem.

This weekend, I spent the weekend with Sheriff Luca Trevino of Hidalgo County, another right-thinking American that is very concerned about the crime that occurs in Hidalgo County. He informed me of a little known fact that just a little over a month ago down at Hidalgo County two of his deputy sheriffs came under fire from automatic weaponry on the Mexican side of the river. These deputies received 300 to 400 rounds of automatic fire, fired from the Mexican side of the river, and of course, it is a little-known fact because for some reason, we do not print the truth that occurs, the lawlessness, on our borders.

50,000 OTMs were arrested in this one county in 2005. 42,000 of them were released back into our community, and as you have said, Mr. Chairman, most of those people with the promise to come back to court to have their deportation hearing, they did not show up. Why are we surprised? And they were from Iraq, Iran, Indonesia and from China, all over the world.

The United States protects the borders of other Nations. Why do we not protect our own border? The Federal Government has a responsibility to protect the border and prevent incursions of those people who come here without permission.

Our community has become a haven for people who are illegally here, and some of those people are committing felonies.

The United States Government has prosecuted and ordered deported 135,000 convicted felons that are from eight Nations that

refuse to take people back. One of those Nations is China. Another Nation is India. What I am saying, Mr. Chairman, is that these people have gone to our penitentiaries in the United States, 135,000. They have been deported or ordered deported and eight Nations refuse to take them back. So what happens to those individuals? These convicted felons, illegally in the country to begin with, are released back into the community because of our government's failure to encourage other Nations to take lawfully deported individuals back.

We must do a lot. It is not rhetoric. It is not politics. We have the problem. We can solve the problem if the Federal Government has the will to support the effort to protect our borders.

And I do want to thank all of the witnesses here from the military, to our local folks, to the sheriffs and to the individuals that work for the Federal Government, and I yield back the remainder of my time. Thank you, Mr. Chairman.

Mr. MCCAUL. The Chair now recognizes the gentleman from Texas, Mr. Gene Green, for any statement he may have.

Mr. GREEN. Thank you, Mr. Chairman, and I would like to thank both you and our colleague Congresswoman Jackson-Lee, who serves on the Homeland Security Committee. Both Congressman Poe and I serve on other committees, and I want to thank the chairman for allowing me to have an opening statement, because of this effort on these hearings around the country I was told about a month ago that unless I showed up at my Energy and Commerce hearing, which I was a given a week's notice for the hearings in Georgia and Indiana, I could not participate in these hearings. So, Mike, let me thank you for working our differences out in a Texas way.

Like Judge Poe, I came to the courthouse for many years on behalf of the company I helped manage, but I was never on this side of the bench. So it is nice to sit here. I was always in front of the bench. It is much better, I can see, sitting here than out in front.

Immigration has been one of the major political topics, not only nationally but in the Houston area, for decades. I have been honored to represent districts, with most significant Hispanic and Anglo populations, for many years, varying districts in the State and in Congress.

I wanted to be present particularly today to express my support for my constituents from the 29th district, Mr. and Mrs. Ruiz, who will testify in the third panel, who lost a daughter in a terrible murder that occurred by someone who was here, as far as we know, illegally.

I am glad to see the committee in Texas listening to our local concerns, but I am also worried that these hearings will be used to prop up some inaccurate stereotypes and promote some counterproductive policies.

Of the estimated 12 million undocumented people in the United States, some of these people have certainly committed crimes, including terrible ones like the murder of the Ruiz's daughter, and we are working with local Federal law enforcement officials and the government of Venezuela to apprehend and bring this accused back to trial.

Undocumented workers and legal residents should know by now that if they commit a serious crime or violent crime in our country, it is the fastest way to be deported after you pay your penalty and serve your time.

I certainly hope that the majority's purpose with this hearing is not to try to blame Texas' crime on our Hispanic undocumented immigrants. Almost all of the crime in Nuevo Laredo and along the border involve drug traffickers, not immigrants.

I also hope this hearing is not an attempt to support a ballot initiative that may or may not be on the ballot in the city of Houston to require the Houston police department to do the work of the Bureau of Immigration and Customs enforcement. The initiative is an unfunded mandate, and I think we will learn more about that when our second panel with council member Adrian Garcia, Houston Police Department Chief Hurtt testifys.

Requiring the HPD to enforce Federal civil immigration law would mean they would have less time and resources to enforce our own State and local criminal law. If the ballot initiative passes, witnesses who are undocumented would not want to talk to the police or testify. We know that from the history. Legal residents and U.S. citizens in these communities will also be afraid of HPD because they may have undocumented members of their family.

We do not want a 16-year old citizen who has witnessed gang violence, to refuse to talk to the police for fear that his mother may be deported.

I have great sympathy for our witnesses from the border areas who are seeing a huge increase in border violence due to drug and kidnapping gangs and support their efforts.

Congress promised an initial 8,000 beds in the 9/11 Intelligence Reform Act, but Congress failed to put our money where our mouth is. Conflicts overseas and recent tax cuts have left little money on the table to fund border security properly. America must secure our borders and we have to sacrifice to do that, and that we should consider. If we are going to protect our country, we have to do that.

The Democrat minority in Congress has offered several amendments to add 600 additional border patrol agents and 14,000 detention beds along the border. When Judge Poe talked about the countries that will not take their folks back, then there is no reason they should be released into the population. They are felons. They ought to be detained here until that country, whatever country, will decide to take them back. We need to have that bed space.

Our Texas colleague, Charlie Gonzalez, also offered a recent amendment to the House immigration bill to increase fines on employers that hire undocumented workers but the majority rejected this amendment.

In 1999, the Clinton administration initiated fines against 417 companies for hiring undocumented workers. In 2004, the Bush administration issued fines to a grand total of three companies. I do not think it is gotten any better since 1999. So I think we may be blaming the wrong folks for the increase in crime.

The solution to our undocumented worker program is an increase in border security and enforcement on employers. I hope some of the hearings around the country will hear also not just about the

criminal problem, but I want to talk about an incident, a case in my own district that I hope will get into the testimony.

I had a young United States Marine from our district that was killed in Iraq, the first time the Marines went in Fallujah. He was a U.S. citizen as one of his sisters. In working with his family, we found out that one sister was not a citizen and is not a legal resident. His two parents who have been coming back and forth across the border for probably 25 or so years were not legal and actually had been picked up twice, and under our civil law now, if you are picked up once you are deported and you have a 5-year bar. You can never come to the United States in 5 years, no matter what the reason. If you are picked up a twice, you have a permanent bar. So they have a permanent bar under current law ever coming to the United States.

I would ask you, those parents are here but do we want to have the parents of their son who died in Iraq, who volunteered as a United States Marine, be deported to Mexico? I do not think that is an issue. I think we ought to have a law that would address this, and we cannot do it unless we pass comprehensive immigration reform.

We need to stop the leaks on the border. We need to deal with the undocumented population that is here. We need to deport the criminals and find the ones who have been here and not broken any criminal laws but may have broken our civil laws.

Thank you, Mr. Chairman, again, for being fair. That may not be the case, in lots of jurisdictions under our committees.

[The statement of Mr. Green follows:]

PREPARED OPENING STATEMENT OF HON. GENE GREEN

Thank you Chairman McCaul and Congresswoman Jackson-Lee for allowing me to participate today.

Immigration has been one of the major topics of political debate in the Houston area for decades.

I have represented districts with significant Hispanic and Anglo populations for many years, so I am very interested in this hearing.

I also wanted to be present to express my support for our constituents in the 29th District, Mr. and Mrs. Ruiz, who lost a daughter in a terrible incident and will be testifying today on the third panel.

I am glad to see this Committee in Texas listening to our local concerns, but I am worried these hearings are being used to prop up some inaccurate stereotypes and promote some counter-productive policies.

Of the 12 million undocumented people in the United States, some of these people have certainly committed crimes, including terrible crimes like the murder of the Ruiz's daughert

Undocumented immigrants or legal residents should know by now that committing a serious or violent crime is the fastest way to be deported after you pay your penalty or serve your time.

I certainly hope that the majority's purpose with this hearing is not to try to blame Texas' crime on Hispanic undocumented immigrants.

Almost all the crime in Nuevo Laredo and along the border involves drug traffickers, not immigrants.

I also hope this hearing is not an attempt to support a ballot initiative this November to force the Houston Police Department to do the work of the Bureau of Immigration and Customs Enforcement.

The initiative is an unfunded mandate that will make us less safe. I hope we can learn more about that issue from our panelists like Councilmember Adrian Garcia and HPD Chief Harold Hurtt.

Requiring HPD to enforce federal civil immigration law will mean they have less time and resources to enforce state and local criminal law.

If the ballot initiative passes, witnesses who are undocumented will not want to talk to the police or testify. Legal residents and U.S. citizens in those communities will also be afraid of HPD because they may have undocumented family members.

We do not want a 16-year old citizen who witnessed gang violence to refuse to talk to the police for fear that his mother will be deported.

I have great sympathy for our witnesses from the border areas who are seeing a huge increase in border violence due to drug and kidnapping gangs.

Congress promised an additional 8,000 detention beds and 2,000 more Border Patrol agents in the 9/11 Intelligence Reform Act, but Congress has failed to put our money where our mouth is.

Conflicts overseas and recent tax cuts have not left enough money on the table to fund border security properly. America must secure our borders, and if we have to sacrifice to do that, then we should consider it.

The Democratic minority in Congress has offered several amendments to add an additional 6,600 Border Patrol agents and 14,000 detention beds on the border, but these votes have failed due to the Republican majority's opposition based on budgetary reasons.

Our Texas colleague Charlie Gonzalez also offered an amendment to the recent House immigration bill to increase fines on employers that hire undocumented workers but the majority also rejected his amendment.

In 1999, the Clinton Administration initiated fines against 417 companies for hiring undocumented workers. In 2004, the Bush Administration issued fines to a grand total of three companies.

The solution to our undocumented worker program is to increase border security and enforcement on employers.

We need to stop the leaks along the border and then we can deal with the undocumented population that is here—deport the criminals and fine the law-abiding ones.

Mr. MCCAUL. Thank you, Gene. And it is my intention at this hearing, really, to get to the facts. No spin zone, no politics, let's just hear the facts.

With that being said, I think it is fitting to set the stage at the very beginning of this hearing before the testimony to watch a video of real life down on the border in Nuevo Laredo, which illustrates the state of violence better than anything I could say up here. I would like to show this video, and Sheriff Flores, since you are the one who tendered the video, if you would narrate the video for us.

Ms. JACKSON-LEE. Mr. Chairman, might I inquire, is this to be played on the record.

Mr. MCCAUL. Yes, it is.

Ms. JACKSON-LEE. Can the video testimony be submitted into the record.

Mr. MCCAUL. Yes it can. Please proceed.

[Video was played.]

Mr. FLORES. Mr. McCaul, distinguished members of the panel, I do not think the video is doing justice because of the volume. I think if you would have seen the beginning, the actual volume of this video, you will get to hear the gunfire of this incident that happened in Nuevo Laredo, and this is one of many incidents that have occurred in Nuevo Laredo.

This one specifically is with the AFI, the Mexican equivalent to the U.S. FBI, against one of the narco-trafficking cartels that is taking place on the Mexican border. Right now there is a turf battle between two cartels that, at least, I understand is in Texas, all the way up to California, between two cartels, which is the gulf cartel and the seno lauro cartel and that is gun battle. The AFI, which was the Federal police against the gulf cartel, and as you can barely hear, this gun battle took some time, and just listen to all the rounds that were spent during this battle.

There was cars that was blown up, people that were killed, murdered in the streets, and you will actually get to hear one of the individuals stating that he is working for his cousin and calls him Lobo, Si Quinta Sia, which is known to be one of the cartel leaders of the gulf cartel.

Mr. MCCAUL. Sir, can you describe the type of weapons involved.

Mr. FLORES. As far as we are concerned they are high powered weapons, AK–47s, even up to maybe 50 calibers, RPGs. As you can see the cars being blown up.

Mr. MCCAUL. By rocket propelled grenade.

Mr. FLORES. Yes. The cartel is heavily armed. They have got the resources. They have more resources than we do. It is unfortunate, but I would like to add that these people who are causing this terrorism on the border are not from Nuevo Laredo. These are people that are coming from the Interior of Mexico who want to take control over the border and pretty much have taken control over the border but these are not people from Nuevo Laredo and actually the people from Nuevo Laredo are moving out of their communities and coming across into Laredo do to live, due to the fact of safety issues and concerns.

We are talking businesses are opening up in Laredo do, closing Nuevo Laredo because of the safety and security. Mr. McCaul, you can see some of the bodies there but because we are not being able to listen, at any time if you wanted to, you can go ahead and stop the video.

Mr. MCCAUL. I believe the sheriff is correct. I think everyone who sees this video and the destruction of bodies get the point of the level of violence that we are dealing with. This is the reality. This is what is bleeding over into our communities. This is the violence coming into the United States, and with that having been said, I will ask that we stop the video.

Ms. JACKSON-LEE. Mr. Chairman, let me simply acknowledge the video can be submitted, but I do want to acknowledge on the record that the videotape is of Nuevo Laredo in Mexico, another sovereign nation. The video is not of Laredo, Texas, and I think it is important that distinctions are made, having had a hearing in Laredo, and Sheriff Flores was there. The officials in Laredo indicated that they feel that they have their city under control, and this does not reflect the violence in Laredo, Texas.

Mr. MCCAUL. Your comments are duly noted, Ms. Jackson-Lee. We will hear more about that from sheriff Flores on that issue.

Ms. JACKSON-LEE. Thank you.

Mr. MCCAUL. I would like to say, a picture speaks a thousand words, and I think the pictures behind me are speaking 1,000 words about the state of violence across the border that impacts our border, that impacts our communities all across this Nation.

With that having been said, I am pleased to have a distinguished panel of witnesses before us today on this important topic, and I want to remind the witnesses that their entire written statement will appear in the record. We ask, due to the number of witnesses on our panel, that you try to limit your testimony to five minutes.

The chair now recognizes the Texas homeland security director Steve McCraw for his testimony.

STATEMENT OF STEVE McCRAW, DIRECTOR, TEXAS HOMELAND SECURITY

Mr. MCCRAW. Thank you, Mr. Chairman, and members of the committee.

On behalf of Governor Perry, I want to thank you for conducting this hearing here in Houston today. We think it is very important you do so, to get out in the field, and it is a reminder, and I see Chief Hurtt over here, is that what happens on the border certainly impacts the border, but also impacts Houston, Texas, and Houston police officers and the Travis County Sheriff Department are also faced with the residue that comes from the violence at the border.

Quickly, you did a great job, all members, in terms of assessing the threat. I think you have got it nailed. You asked what's different than if you worked it 10 years ago, or 20 years ago or from your career, Chairman, is that the, I will call it, ruthlessness and violence is it is a different breed in terms of impact.

In fact, it is better categorized, there is less Mexican drug trafficking organizations and more organized crime families, not unlike what we saw previously at the height of the cosa nostra, the Sicilian mafia, and Russian organized crime because they are no longer focused on drugs, and they no longer just leave their drugs along the side of the road and run for cover. In fact, they get a piece of all the action that goes on between those corridors.

That is why, as Sheriff Flores pointed out most appropriately, and he has to deal with it, they are competing in the Nuevo Laredo to gain that corridor. Why? Because it is organized crime. It makes money and it is not just in terms of drug trafficking that it matters. Human smuggling. They are getting a piece of it, and it is a very lucrative market. People do not realize that you can make anywhere from $2,000 for a foreign national from Mexico up to 45,000 and beyond depending upon country of origin.

So that is what you are up against right now. That is your enemy, Mexican organized crime families that are competing, and unfortunately they are the same names I recall 10 years ago when there was Vicente Furio Fuentes or Cardenas. We know who the enemy is. The difference is they are more ruthless and more powerful and well financed, and they are deeply engaged in intelligence collection on both sides of the border and can we say, yes, they are involved in corruption, and that is the situation that we face right now.

The most significant threat to Texas is two things: catastrophic hurricane, number one, and this is the same, one in one, and an unsecured unprotected 1246-mile border. Customs and Border Patrol protection deserve great credit. The men and women everyday are risking their lives. They have been outstanding. We are very proud to work side by side with them.

There are other parts of this threat, and you mentioned it very well: Number two, criminals. I think Congressman Poe brought that out. It is not just the ones that are attached to organized crime. America is the opportunity certainly for the economic emigre but it also the opportunity for criminals around the world. People from 134 different Nations were arrested along the southern border of the U.S. from different countries and some of those embedded in there unfortunately are criminals.

The third, OTM, other-than-Mexican nationals, Texas, 135,045 were arrested in 2005 by border patrol, apprehended. That constitutes roughly 85 percent of the OTMs that are captured Nationwide, including the northern border, and although the northern border, we could agree, is important, we need to recognize in terms of the impact on the southern border. The most significant threat in the prioritization has got to be southern border. In fact, 98.5 percent of all illegal apprehensions at the border including coastal, occur along the southern border. That is where Mexican organized crime do better.

The other thing is transnational gangs. I never would have believed it. In 1995, we saw the first of it when Arellano Felix started working with San Diego-based gangs, but who would think that we would have MS–13, 80,000 members strong, and 10,000 members in the U.S. and moving across the country. In fact, you know, the Canadians have a problem with MS–13, and they are not getting there with help from Alaska. They are coming through the southern border into Canada and other parts of the east coast. That is a concern.

That said, what do we do? What is the governor to do? Because two things that line up here. It is a national security threat because we know that al-Qa'ida and now Hezbollah intends to exploit the southern border of our country and Texas to get in. So what do we do? And not just do something in terms of declare an emergency. Actually do something.

One thing we found obviously, and I think the sheriffs, two of them here today deserve great credit in terms of leadership, hey, why don't we, one, work together and, two, what about increased patrol presence. It works in urban areas. What about along the border? And sure enough, they have demonstrated that guess what it does work along the border. Increased patrol presence decreases crime, all crime. That is very important.

These traffickers, organized crime families, they do want to lose their human loads or drug loads. It forces them to shut down when this patrol presence is in there, and it is not just about the crime on American citizens. It is also crime on illegal aliens.

People sometimes forget those that are most often raped, robbed and murdered are the illegal immigrants coming here for economic reasons, on both sides of the border that cross the border. In fact, their biggest friends is law enforcement in terms of rescuing them from these types of atrocities that occur. That is who comes to their rescue, border patrol, the sheriffs out in the middle of you know nowhere and desolate areas.

It is important to remind that when it comes to the threat we are not talking about Laredo proper. We are talking about between the ports of entry and the sustainment in terms of movement across. Those are the key things we just wanted to talk about.

The other part in terms of increased patrol presence if we look at the governor's strategy and you mentioned Rio Grande, trying to watch my time here, Mr. Chairman, the other parts of it is very simple. Increase patrol presence, okay, we have got that. What about centralized intelligence, intelligence-driven operations? Absolutely. There is no reason not to do that. Bad guys do it. We need

to be doing it as well. We need to get inside the decision-making cycle.

The third one simply is command and control. We don't need to be competing as law enforcement agencies. If the border patrol does something and sheriffs do something and highway patrol does something, it needs to be coordinated.

Last, technology, leverage it, information share it across the board. Why not? We are confident and I will get back to the one recommendation you will get from Texas is simply leverage locals, leverage these professionals that know the threat better and are charged with protecting their citizens from all threats, foreign and domestic.

[The information follows:]

PREPARED STATEMENT OF STEVE MCCRAW

Good morning, Mr. Chairman and members of the Committee.

Thank you for the opportunity to testify before you today on an issue of such vital importance to the nation. My name is Steve McCraw and I am Governor Rick Perry's Director of Homeland Security for the State of Texas.

Criminal activity and violence along the porous Texas/Mexico border is not new to Texans; however, what is new is the escalating national security, public safety, and public health implications to our nation. In December of 2000, I had an opportunity to testify before the House Judiciary Subcommittee on Crime where I discussed the significant threat posed by the convergence of organized crime, drug trafficking, and terrorism. As I testified then, the convergence was a result of worldwide economic, political, social, and technological changes that resulted in a more dispersed, complex, and asymmetric threat to our nation. I specifically cited the Carrillo-Fuentes Drug Trafficking Organization based in Juarez, Mexico, to illustrate how violence had become an integral part of drug trafficking activities along our southern border. At the time, there were 300 drug related disappearances in Juarez, Mexico, including 27 U.S. citizens. In El Paso, there were 120 drug related homicides and 73 drug related disappearances. I also discussed the emerging alliance between Mexican drug traffickers and U.S. based gangs.

Much has changed since 2000; most significantly, the events of 9–11. Border related crime has also changed as Mexican Drug Trafficking Organizations have transitioned into powerful and ruthless Organized Crime Families that now dominate the lucrative U.S. drug and human smuggling market.

Over a year ago, Governor Rick Perry tasked me to conduct a comprehensive border threat assessment as a result of the increased incidents of violence on both sides of the Texas/Mexico border to include the kidnapping and disappearances of U.S. citizens who lived in our border cities. That assessment will be the basis of the threat portion of my testimony today.

The border threat is multi-dimensional and can be viewed as five interrelated parts; Mexican Organized Crime; transnational gangs; foreign criminals; foreign nationals from countries with a known al-Qa'ida, Hezbollah and Hamas presence; and evolving public health concerns.

For over a decade, U.S. law enforcement has successfully identified the leadership and hierarchy of Mexican Drug Trafficking Organizations which at one time isolated their criminal activities to drug trafficking in specific smuggling corridors along the southern border. These organizations were referred to either by the name of the organization, such as the Amado-Carrillo Fuentes organization, or geographic location, such as the Juarez or Gulf Cartels. These cartels engaged in other criminal activity such as violence in support of their drug trafficking operations and therefore were not considered Poly Crime Organizations similar to the La Cosa Nostra or Sicilian Mafia.

Now many of these same drug trafficking organizations dominate all aspects of the drug trade; production, transportation, and distribution and have expanded their operations to other crimes, such as the lucrative human smuggling market where foreign nationals are charged anywhere from $2,000 to $45,000 per person based upon their country of origin.

The fact is that Mexican Drug Trafficking Organizations of old have evolved to the point that they are best characterized as Mexican Organized Crime Families rather than drug cartels.

To protect and expand their criminal operations, Mexican Organized Crime Families maintain a highly developed intelligence network on both sides of the border and have hired former military commandos. The best known group is comprised of former Mexican military commandos known as Los Zetas whose trade mark is overwhelming violence and they are universally feared by their adversaries and all levels of the Mexican government. Once they were strictly hired killers and now they profit from their own smuggling operations.

The employment of former military commandos has had a reverberating impact along the Texas/Mexico border in particular, Nuevo Laredo, where Organized Crime families are battling for the highly treasured I–35 corridor into the U.S. At one time, members or associates of Mexican Drug Trafficking Organizations would drop the drugs or abandon their vehicles when confronted by U.S. law enforcement. Similarly, human smugglers would simply give up when approached or stopped on the highway. The Mexican Organized Crime Families no longer tolerate such compliant behavior and loads of both, drugs and humans, are protected by direct confrontations, high speed chases and stand offs at the Rio Grande River. Border Patrol Agents are shot at from across the river and Troopers and Sheriffs' Deputies are challenged to duals with automatic weapons by members and associates of Mexican Organized Crime while others retrieve their drug contraband. Mexican Organized Crime now employ new highway tactics in Texas and when Police Officers attempt to stop a suspect vehicle they are rammed in a coordinated attack by other vehicles providing counter surveillance.

Mexican Organized Crime Families have also corrupted certain Mexican military units to transport drugs into the U.S. A Texas Ranger investigation confirmed that this has occurred on at least one occasion and that there have been other border incursions that the evidence strongly indicates were done so by Mexican military units.

The Mexican Organized Crime families that directly impact Texas are well known to U.S. and Mexico law enforcement. Osiel Cardenas Guillen, Ignacio Coronel-Villarreal, Joaquin Guzman-Loera, Juan Esparragosa-Moreno, Arturo Beltran-Leyva, Ismael Zamada-Garcia, Vicente Carrillo Fuentes, and Benjamin Felix-Arellano.

The five Organized Crime Families of Coronel-Villarreal, Guzman-Loera, Esparragosa-Moreno, Beltran-Leyva and Zamada-Garcia have joined together to fight for control of the I–35 corridor in Nuevo Laredo. This consortium has been referred to as the "Alliance." The Cardenas Guillen and Felix-Arellano families have joined forces to combat the Alliance. The result is unrelenting violence in the streets of Nuevo Laredo.

The second area of concern is transnational gangs who now work for and with Mexican Organized Crime to conduct enforcement operations on both sides of the border. They also conduct their own criminal operations including retail drug distribution and human smuggling.

These gangs include the Mara Salvatrucha, aka MS–13, Mexican Mafia, and the Texas Syndicate. MS–13 is the most problematic with approximately 80,000 members internationally and approximately 10,000 members and growing in the U.S. They have long been associated with the Mexican Mafia and are well known for their use of torture, dismemberment, rape, and execution. Approximately 90% of U.S. MS–13 members are illegal aliens and depend upon the Texas/Mexico border smuggling corridor to support their criminal operations around the nation. The Texas Syndicate is a Texas prison gang whose members also serve as mercenaries for Mexican organized crime on both sides of the border and street level drug distributors in Texas cities.

The third aspect of the border threat is foreign criminals who come to the U.S. seeking crime opportunities. As these violent criminals cross the border, they rob, rape, extort, invade homes, and vandalize, forcing Texas land owners off their property. At one time, illegal aliens were non-threatening and appreciative when Texas land owners left them water and food provisions. This is no longer the case as Texans are now threatened by armed criminals on their own land. Recently in Tyler, Texas, two illegal aliens shot a DPS Trooper five times at point blank range after a traffic stop. When they were finally captured, it was discovered that they were fully armed wearing bullet proof vests and each had been arrested and deported to Mexico on two separate occasions. Foreign criminals also prey on other illegal aliens who rob, rape, kill, or abandon. On July 17, 2006, Victor Rodriguez was sentenced to 20 years in prison for his involvement in the death of 19 illegal immigrants he was smuggling into the U.S. And on the same day, three criminals from Mexico were sentenced for smuggling young women and girls from Mexico to the U.S. and then using threats, deception, physical force, and coercion to compel their services as prostitutes in Houston area bars.

Since the events of 9-11, Americans have been appropriately concerned about the ability of foreign nationals from countries with a known al-Qa'ida presence to leverage Mexican Organized Crime capabilities to enter the U.S. undetected. Mexican Organized Crime is motivated by money and they do not vet paying customers. In fact, there is no such thing as a "no walk list." We even have a new term, Other Than Mexican Nationals (OTMs) to better delineate this problem. When assessing border crime it is important to recognize that International Terrorism Organizations are well financed and the high paying customers of Mexican Organized Crime are the least likely to be apprehended when smuggled into the U.S. The Customs and Border Patrol Fiscal Year 2005 apprehension statistics illustrates well why all Americans should be concerned about the criminal activity along the southern border.

In Fiscal Year 2005, 98.5% of all illegal alien apprehensions occurred along the southern border and 85.84% of all the OTMs arrested occurred on the southern border. Texas alone accounted for 87.12% of the OTM apprehensions.

Crime along our southern border brings with it another threat that we should closely monitor, disease. In Fiscal Year 2005, the Customs and Border Patrol apprehended illegal aliens from 134 different countries including several with known disease problems. As the specter of pandemic flu looms, it will be increasingly important to secure our borders from this public health threat as well.

Based upon the above assessment, Governor Perry ordered the development and execution of an evidence-based strategy to assist the Federal Government in securing our border and that it be done so with the sense of urgency it warrants.

State efforts began in November of last year by first leveraging the local law enforcement expertise of the 16 Border Sheriffs to conduct increased patrols between the ports of entry in their Counties funded by the State. In addition, Texas Department of Public Safety Highway Patrol Troopers increased their patrols in the border area. Governor Perry expanded the scope of Texas border security operations in February, 2006, when he launched Operation Rio Grande which is comprised of four essential components; increased patrol presence, centralized command and control, centralized intelligence, and leveraging technology. Governor Perry's objective is to decrease all crime within the area of operation which includes all jurisdictions within 100 miles of the 1,240 mile Texas/Mexico Border. This, in turn, will decrease crime in other areas of Texas and the nation. It has long been demonstrated, whether in a rural or urban setting, increased visible patrols decreases all crime and is applicable to the Texas border region. In addition to more "boots on the ground" the State is conducting fully integrated, threat based, intelligence driven operations to attack criminal activity and deny foreign criminals and terrorists easy access to Texas and the rest of the United States. The focus is on targeted, short duration, high-intensity operations in predetermined hi-value areas. For example, in Operation Del Rio, Mexican organized criminal activity ceased in a three county area along the border and the crime rate in Val Verde County was reduced by 76% and by 27% in Maverick County. Similar results were achieved in Operation Laredo. The five county Laredo area operation realized an overall crime rate reduction of at least 65%. The fact is these intense operations work.

In Operation Del Rio, four Federal agencies, the Texas Army National Guard, DPS and Border Patrol SWAT Teams, four separate aviation components, four separate water patrol units, including the Texas Parks and Wildlife, and seven different local law enforcement agencies participated in this unified effort. The same level of participation was evident in Operation Laredo and continued in Operation El Paso. Before I continue, I would like to publicly commend, on behalf of Governor Perry, the brave men and women of the Border Patrol who serve as the cornerstone of all successful border operations.

I am aware that there are many well-intentioned people who view increased patrol presence along the border as a threat to law-abiding citizens here legally. Some have even downplayed the presence of those here illegally based on the fact that many are simply trying to feed their families and survive economically. While we can all sympathize with the desire, the fact is that you cannot look at someone who is crossing the border illegally and determine whether that individual is here merely seeking employment and opportunity, or to engage in criminal, or even terrorist activity, to harm our citizenry. In a post 9-11 threat environment, it is imperative that those who cross our border illegally are properly vetted.

The Texas Border Security Operations Center was established to centralize the coordination of border enforcement activities and operations in order to maximize the impact on the criminal organizations and terrorists while at the same time leveraging all available resources in a coordinated manner. The Texas Border Security Operations Center also provides a centralized intelligence capability providing a uniform view of the threat picture and operating environment on a 24/7/365 basis. We have learned that our adversaries have an extensive intelligence network and

it is vitally important that we do as well. In fact, I can assure you they are monitoring this hearing today in Houston.

Our Nation's adversaries also leverage technology and so must we. The technology plan for the Governor's strategy focuses on four essential areas: establishment of a virtual neighborhood watch; establishment of an integrated web-based information sharing tool for all law enforcement personnel in Texas; radio interoperability capable of supporting border enforcement operations; and the placement of live scan fingerprint booking stations in every county in Texas. The border is receiving many of these technologies on an expedited basis because of the threat to public safety that exists there.

There has been an underinvestment in border security for decades which is no longer acceptable in a post 9–11 threat environment. Moreover, the scope and magnitude of the terrorism and crime threat to our state and the nation requires immediate action leveraging local and state expertise and resources. Governor Perry has announced that he will work with the Texas legislature to obtain $100 million dollars in state funding to support border security activities. The funding is needed to support increased numbers of local commissioned officers throughout the border region to include salary and benefits and the necessary equipment for these officers to include vehicles and weapons and air support.

Let me close by saying this: while it is the responsibility of the federal government to enforce our immigration laws, it is wholly within the purview of state and local law enforcement to address illegal and criminal activity that occurs on Texas soil. And there are numerous instances in which a state or local officer, in stopping someone for a violation of our state law, determines that a person is in violation of federal law by being here illegally.

This is unavoidable; not only along the border, but in cities and towns all across Texas as law enforcement faithfully executes its responsibilities. We make no apologies for implementing an aggressive criminal apprehension and prevention effort that in effect helps federal officials enforce our immigration laws even though that is not the specific purpose of our operation.

Thank you. I would be happy to take your questions.

Mr. MCCAUL. Thank you, Mr. McCraw, and I want to commend you for your efforts at the State level and the governor for your enforcement operations which should be a Federal responsibility. I think you all have really stepped up to the plate and you should be commended for that.

Our next witness is Colonel Malesky and the Chair now recognizes you.

STATEMENT OF COLONEL RUSSELL MALESKY, COUNTERDRUG COMMANDER, TEXAS NATIONAL GUARD

Colonel MALESKY. On behalf of Major General Chuck Rodriguez, I want to thank you for inviting us to provide testimony for this panel.

As the commander of the counterdrug task force, I have been involved with supporting law enforcement agencies at the local, State and Federal agencies for about 16–1/2 years now. I want to grab a Yogism here from Yogi Berra, who is the one who said you can observe a lot by watching. I have been in a very unique position as a member of the Armed Services serving for the governor and the adjutant general as a member of the Texas National Guard to watch law enforcement, observe how they do their business, how committed they are to the job, and how daunting the threat is to a small amount of protection to our security.

By providing additional services through the Texas military forces, the Texas Army Air National Guard, through the county drug program, we provide force enhancement with regard to providing aircraft, one vehicular airplane, some helicopters, some folks doing investigative case and analytical support to the various

Interagencies, and in fact, one of those soldiers is sitting beside Mr. Pena from immigration and Customs of course. He is one of 223 on the counterdrug task force.

In addition to the counterdrug task force, I have some limited oversight of the border support mission. One of the other uniform service members, they are in the back of the auditorium, who is the commander of the jump start mission, which represents approximately 25 percent of 6,000 soldiers and airmen from the National Guard who are working in support of border protection. So both of those missions we put together and call our law enforcement support cadre for the country.

Texas represents 10 percent of the National Guard's counterdrug program. Congress capped that program back in 1990 at 4,000 soldiers and airmen. Today there are approximately 1,900 soldiers and airmen serving across the 54 States and territories on that counterdrug program.

I would like to give you some facts, and it is the neat thing about being in uniform is that we can stay away from the politics and just stick to the facts.

That one RC–26 that flies out of 147th fire wing in the last 10 months provided these numbers to me: 298.7 hours on the southwest border, which is 60 percent of their assigned mission hours. In that time, the results are the supported apprehension of 5,430 pounds of marijuana, 30 pounds of meth, 1,122 pounds of coke, 10 drug related arrests, and the byproduct, which we cannot claim because we are a counterdrug program, are the undocumented alien apprehensions of 173 bodies and 97 that were not apprehended because we couldn't get people to respond to the crossing and so on. Cash of $40,000, vehicles of eleven, and this one stands out in my mind, 16 fully automatic empty firearms cases in one recent takedown or weapons and 2,200 rounds of ammunition in that particular one.

That is just one element of the counterdrug task force in the State. That one airplane flies 1,200-plus miles of the border of Texas, and in this case, was able to fly the 200-mile segment of the border over 4 hours when the crossings took place, like a soda straw, as to focus in that one area. I myself fly the airplane and have been on that mission when we have been following crossings. While other sensors are going off and the border patrol agents in that area are focused on what we are looking at, there is further response with the additional guardsmen supporting a jump start hoping we could kind of help support law enforcement in getting a handle on those numbers.

But the bottom line is the counterdrug task force is very small, a very small footprint. The operation jump start mission, slightly larger footprint on the southwest border. Geared to shut down in 2 years as border patrol hires the agents to replace those guardsmen who are in support roles to them. So it is force enhancement, force multiplier.

The counterdrug program 17 years ago was stood up to being a force enhancement, a force multiplier for just a couple of years. Here we are 16 years later, still focused because over those 16 years we have developed military unique skills that work hand in hand with the Interagency partners of law enforcement.

I am sure Mr. Pena would stand up since he has got a guardsman in the room and support what the National Guard has provided. Just 2 days ago, at one of the points there in Falfurrias 4,000 pounds of marijuana was apprehended in a tractor trailer. The guardsmen on the Operation Jump Start mission helped support that. That marijuana in that case was turned over to the DEA in Corpus Christi, where counterdrug investigative and analytical support personnel like the sergeant here are assigned to now further work that case for the DEA.

So as the National Guard, we get the very unique opportunity to cross the Interagency barrier with uniforms that don't say DEA, Customs and border protection, FBI, narcotic, DPS, or whatever. We are the Texas Air National Guard, and we help in many ways bring the Interagency together through our relationship.

As I close my testimony, I will end with a Yogism, the future ain't what it used to be. That is another way of saying in our realm tomorrow is a lot more scarier than it was yesterday because I have had a chance to see it firsthand.

Thank you, sir.

[The information follows:]

PREPARED STATEMENT OF RUSSELL MALESKY

Purpose and scope: **Provide an overview of the Texas Military Forces Joint Counterdrug Task Force (JCDTF) and demonstrate adaptability of Counter Drug resources to Homeland Security (HLS).**

1. The mission of the JCDTF is to provide highly trained and experienced military personnel and equipment to support the Law Enforcement Interagency effort as well as community organizations to reduce supply and demand of and for illegal drugs. The JCDTF currently consists of 148 Army National Guard soldiers and 75 Air National Guard airmen on full time National Guard Duty active duty status and seven Air National Guard *Active Guard Reserve* (AGR) officers, all serving pursuant to 32 USC, under the Command and Control of the Governor and Adjutant General of Texas, Major General Charles G. Rodriguez. These personnel additionally serve in drilling/reserve status in their military occupations while also in support to Law Enforcement Agencies (LEAs) and Community Based Organizations (CBOs).

a. The Texas National Guard provides CD support to the Texas Department of Public Safety, U.S. Drug Enforcement Administration, U.S. Postal Service, DHS–CBP/ICE, the Federal Bureau of Investigation, the Internal Revenue Service, other Federal and State drug law enforcement forces, interagency Task Forces, County Sheriff's Offices, and local police departments throughout Texas. We are a broad interagency support Task Force detailed in an annual State Plan approved by the Adjutant General, State Attorney General and Governor. Activities can be categorized into three major functional areas: Supply Reduction, Demand Reduction, and oversight of the National Guard Substance Abuse testing program. The commander of Counterdrug also maintains over sight of the *Texas STARBASE* and *ChalleNGe* programs and is appointed by the Governor as Texas' Law Enforcement Support Office (LESO) Coordinator to transfer surplus federal equipment to State and local agencies. Specific program mission categories include support to CBOs and educational institutions, youth leadership development, coalition development and support, information dissemination, investigative case support, intelligence analysis, linguist support, photo development and interpretation, aviation and ground reconnaissance, and marijuana eradication. All of these programs are funded by a Fiscal Year 2006 (FY06) budget of approximately 17.0 million dollars with the exception of the separately Federal and State funded *ChalleNGe* and *STARBASE* programs in Galveston and Houston, TX.

b. The mission of the Drug Demand Reduction (DDR) program is to organize and/or expand community efforts to form coordinated and complementary systems that reduce substance abuse in Texas. In FY05, TX–CD

reached more than 50,000 people in Texas with a drug prevention message. Over 95% of these individuals are teenagers.

c. Supply reduction activities consists of a variety of CD missions in direct support of local, State, and Federal law enforcement throughout Texas. Providing unique military-oriented skills, the program is clearly a force-multiplier for LEAs. The types of support provided are diverse, focusing primarily on investigative and interdiction efforts. For FY05, the JCDTF was involved in locating and seizing 1,277 marijuana plants, 1,610,731 pounds of processed marijuana, 138,672 pounds of cocaine and 313 pounds of methamphetamine, 32,627 doses of ecstasy and other drugs for a total street value of $934,222,550.00. To date in FY06, the JCDTF has been involved in locating and seizing 20 marijuana plants, 198,245 pounds of processed marijuana, 84,171 pounds of cocaine, 269 pounds of methamphetamine, 5,862 doses of ecstasy and other drugs for a total street value of $716,149,451.00.

(1) Investigative support is provided in several different categories and helps tie Federal, State, and local agencies together by a network of Guardsmen spanning the interagency effort. Case support primarily focuses on file documentation and management, while LEA tasked and supervised Guard intelligence analysts employ advanced analytical skills to provide the interagency effort with tactical interdiction and investigative options.

d. As part of its supply reduction efforts, surface and air reconnaissance/observation draws on unique military skills and equipment that various LEAs do not possess. Highly trained personnel and aviators monitor activities in remote drug corridors to include the Border. Rotorcraft and fixed wing aircraft with thermal imaging equipment, night vision devices, and high-tech communications equipment operate to provide invaluable information and support to LEAs.

(1) The JCDTF operates four TXARNG OH–58 helicopters as part of its Counter Drug Aviation Element (CDAE). These aerial reconnaissance helicopters are equipped with an infrared thermal imaging system, a daylight TV camera, a law enforcement compatible Wulfsburg radio, and a Global Positioning System. After dark, they can be flown using Night Vision Goggles as well as a 30 million candlepower Nitesun. Additionally, they possess a video downlink capability.

(2) The JCDTF tasks one ANG Fairchild RC–26 reconnaissance aircraft assigned to the 147FW, Houston, TX. Capabilities of this aircraft include a color TV imager with up to 900mm zoom and a state of the art thermal imaging system with remarkable clarity. Reconnaissance accuracy is significantly enhanced by the RC–26's moving map display and high-resolution digital and color photo capability. The aircraft can stay airborne for several hours at a time and is ideally suited for aerial detection and monitoring. The radio communications suite includes secure voice Global Wulfsburg and 800Mhz capabilities. In times of National emergency, Counterdrug Aviation Element (CDAE) (OH–58) and RC–26 aircraft provide critical command, control and coordination to law enforcement and rescue/recovery operations, such as during the February 2003 Shuttle Columbia accident and the September, 2005 Hurricane Katrina search and rescue operation.

(3) The Special Observation Detachment (SOD) conducts low visibility observation and reconnaissance of Named Areas of Interest (NAIs) in support of Federal, State and local CD operations. (SOD) provides initial mission planning and coordination, command and control, field operators, and support personnel. (SOD) can deploy a single operator, a small element, or the entire detachment in support of the approved request. These personnel can be available within 2 hours of the request for deployment anywhere in the state of Texas to provide discreet photo, video, microwave and thermal imagery while establishing its own short range, secure voice VHF communications net that quickly adapts to interface with law enforcement VHF nets. (SOD) also trains LEAs in military skills critical to CD operations extremely applicable to Homeland Security.

e. The Program also provides oversight for National Guard substance abuse testing as part of the Internal Substance Abuse Prevention Program in Texas which consists of over 20,000 soldiers and airmen. The Counterdrug Commander manages the substance abuse program for the Texas Army and

Air National Guard. The substance abuse staff assigned to the program provides administrative and logistical support to units while overseeing the execution of individual drug testing programs. Counterdrug personnel also provide qualification training and expertise to drug testing personnel at the unit level.

f. The Texas Counterdrug President's Budget (PB) for FY06 is $16.4 million. This budget is disbursed from federal funding supporting all of the program's supply and demand reduction activities to include 100% of the 223 service members' salaries. Every year the National Guard Bureau disburses a Congressional supplemental at their discretion. In the past, Texas has received a 10% budget increase; this year Texas only received a 5% increase to the budget.

2. Considerations for Future JCDTF Application: This year the JCDTF was heavily depended upon to leverage the initiation of the Operation Jump Start (OJS) mission although funding was required to be kept separate. National Guard Bureau Legal Counsel determined Operation Jump Start was not sufficiently related to narcotics, thus, for fiscal law reasons, the two missions must be kept separate. In years past the JCDTF has supported the Border Patrol under a clear drug nexus along the Southwest Border. The "by-product" of CD support involved deterring illegal immigration and facilitating counter-terrorism. Historical mission requests show that prior to OJS, legal concerns were not emphasized that detoured Counterdrug resources from supporting non-CD illegal activities as long as original intent was CD focus. The OJS mission, though separately funded, is already being partially measured according to volume of additional illicit drug traffic seized. The National Guard's current support of OJS is significantly multiplying the effectiveness of USCBP and other law enforcement agencies along the southern border with Mexico.

a. In closing, based on seventeen years of JCDTF experience several key factors are evident: 1) the capabilities brought through operational daily National Guard activity support roles to LEAs; 2) unique military skill sets and technology provided to LEAs that otherwise would not be available; 3) and the continually developing and evolving unique Counterdrug domestic military adaptability built through a daily, operational active duty synergistic support with the Interagency effort has matured the Joint Army and Air National Guard Counterdrug mission into *a premiere interagency planning, coordination and executing support capability.* Strictly defining JCDTF's mission capability according to funding restrictions limits Homeland Security, stalls the flexibility of funding necessary to keep the mission continually adaptable, and creates unnecessary legal impediments to commit proven capabilities to requirements (broader yet related somewhat to CD) that are critical during time-sensitive scenarios. The Counterdrug mission can remain the Counterdrug mission while adapting through increased authority and further incremental funding for it's law enforcement support role, to provide Homeland Security through 1) Counterdrug, 2) Counter-Terrorism and 3) Other assigned civil-military security measures under local, State and Federal tasking modeled after the highly successful CD mission. So that one agency is not prioritized over another, percentages might be assigned to support the various Interagency partners who have come to depend on Counterdrug capabilities according to what they are capable of doing. Today, *Counterdrug* is a funding statement and not a capability. It is now time to broaden explicitly the allowable use of Counterdrug personnel and resources for employment broadly against fast evolving threats to our homeland brought on by adverse natural conditions and sinister enemies, none who are bound by self imposed funding application. The JCDTF capability should be re-titled as National Guard Support to Homeland Defense and Security.

Purpose and scope: **Provide an overview of the Texas Military Forces Joint Task Force Texas Border Support (JTFTX–BS) support to the United States Border Patrol.**

1. The mission of the JTFTX–BS is to provide highly trained and experienced military personnel and equipment to support the United States Border Patrol in five sectors along the Southwestern Border of Texas. The five sectors are Rio Grande Valley, Del Rio, Laredo, Marfa, and El Paso. Within the five sectors are forty-three locations were the Texas Military Forces are providing support to Border Patrol, but are not engaged in direct law enforcement duties. The JTFX–BS currently consists of approximately 1,500 Army National Guard soldiers and

Air National Guard airmen on full-time National Guard duty status all serving pursuant to 32 USC, under the Command and Control of the Governor and Adjutant General of Texas, Major General G. Charles Rodriguez.

2. JTFTX–BS provides assistance to the Border Patrol in the following missions: Clerical / Administrative, Law Enforcement Communications Assistant (Dispatcher), Welder, Fleet Porter, Control Room Operator, Mechanics, Supply NCO, Light Set Servicing, Electronic/Technical Support, Camera Operator, Sensor Support, Scope Truck, Sky Box / Sky Watch Tower Operators, Security, Range Safety Officer / Armorer, Engineering, Checkpoint Support, Criminal Analysis, Information Analyst, and Entry Identification Team.

3. JTFTX–BS support to law enforcement has resulted in 165 United States Border Patrol agents being returned to duty outside station headquarters.

4. With regards to the deployment of soldiers in assistance to U.S. Border Patrol, apprehensions of Undocumented Aliens are down in each of the five Border Patrol Sectors compared to the same time in 2005 and 2004. There has been a considerable increase in the seizures of narcotics in both the Rio Grande Valley and El Paso sectors, as measured and reported by USCBP.

5. Each BP Sector is reporting a noticeable increase in the effectiveness of their wheeled vehicle garages. Sectors are reporting they are receiving vehicles repaired and back in the field anywhere from 35% to 50% more quickly since the arrival of the Texas National Guard in their sectors.

6. JTFTX–BS also is supporting the U.S. Border Patrol with aviation and engineer support based on requests from the Border Patrol Chief within each of the five sectors in Texas.

In closing the Texas Military Forces are having a positive effect on the security of the Southwest Border of Texas. The relationship between Texas National Guardsmen with the United States Border Patrol has been excellent.

Mr. MCCAUL. Thank you, Colonel, and I want to thank you for your efforts and the Texas National Guard. I had the good fortune of working with your unit before I was elected to Congress, and I want to applaud your efforts and I am fully supportive.

Next, we will hear from our good friend from Laredo, Sheriff Flores.

STATEMENT OF SHERIFF RICK FLORES, SHERIFF, WEBB COUNTY, STATE OF TEXAS

Mr. FLORES. I wrote a speech and told I had 5 minutes. I am not going to go with my speech. I am going to speak from the heart.

We have been having the battle with this type of terrorism along our border, and I am saying we, our colleagues, the Sheriffs Coalition, the Texas Border Sheriffs Coalition or the Southwest Sheriffs Coalition, have been battling with narco-traffickers and drug cartels for a very long time. We have been dealing with these people for a very long time.

And I am going to qualify what Ms. Jackson-Lee said. I am not concerned about the violence that is occurring in Nuevo Laredo. What I am concerned about is that these people have more resources than we do on this side. These people have rocket propelled grenades. They have got automatic assault weapons. They wear level four body armor and Kevlar helmets, actually, what our people in Iraq are wearing, and we don't have that type of equipment along the border.

We are first responders. Anytime somebody calls 9/11, it is we, local law enforcement, who respond to the calls. It is not border patrol. It is not ATF. It is not FBI, DEA. It is local law enforcement

who respond. We do not have the resources along the border to protect our border or to continue to protect our borders.

And she is absolutely correct, the violence is not in Laredo. Thank God that we have it contained, but you know what, these people are willing to make a quick buck with people who are interested in coming to Mexico and use Mexico as a jumping board to come into the United States of America. The country that I love, that we all love Ms. Jackson-Lee, and I am concerned about the fact that the people are making their way through Mexico are people that are not interested in coming to work.

Mexicans, and I will say this and make this clear, Mexicans are not terrorists. Many, most come to work. It is the other than Mexicans that we are concerned with, that I am concerned with, and that these people are willing to pay narco-traffickers to come into this country.

I have got a wife and two kids, and I work along the border. Do you think that those people want my head on a plate? Well, let me just tell you, in the 18 months that I have been in office, we have confiscated $17 million worth of narcotics, just the sheriff's department alone, $1.5 million in cash. And if they really wanted, they could get to me, they could get to Sheriff Jernigan and the rest of the sheriffs who are trying to protect our borders and who are interrupting their business.

Thank you.

The Mr. Flores's prepared statement is maintained in the committee file.

Mr. MCCAUL. Sheriff, thank you for your heartfelt, sincere testimony. I want to personally thank you for what you do everyday on the front lines in this great struggle and in what I believe is a war, and as you know, in the bill we passed out of the House, we do provide funding and resources for the sheriffs.

Notes

Mr. FLORES. Thank you.

Mr. MCCAUL. Next, the Chair now recognizes Mr. Alonzo Pena, the Special Agent In Charge of U.S. Immigration and Customs Enforcement.

STATEMENT OF ALONZO PENÃ, SPECIAL-AGENT-IN-CHARGE, IMMIGRATION AND CUSTOMS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY

Mr. PENA. Chairman McCaul, Representative Sheila Jackson-Lee and the other Members, thank you for providing me the opportunity to speak with you today about U.S. Immigration and Customs Enforcement, better known as ICE, our efforts to combat border violence in south Texas.

ICE is the largest investigative agency within the Department of Homeland Security, and our mission is to protect the American people by combating terrorism and other criminal activities that cross our borders and threaten us here at home. The men and women of ICE accomplish this by enforcing our Nation's Immigration and Customs laws.

Our southern border is particularly vulnerable to cross-border criminal activity committed by criminal enterprises whose primary motive is to make money. The crimes we see, murder, hostage tak-

ing, alien smuggling, contraband smuggling and money laundering, are all methods that the criminals use to gain and expand their market share to maximize profits of their criminal enterprises.

At this time, I also would like to show a short video clip of the 2003 arrest of Oziel Cardenas-Guillen in Matamoros, Mexico, the border city located directly across the international bridge from Brownsville, Texas. The video provides a graphic image of the level of violence utilized by the cartels across the border.

Mr. MCCAUL. Without objection, so ordered.

[Video shown.]

Mr. PENA. Thank you. ICE is acutely aware of the violence along both sides of the border. In January of 2006, in direct response to an increase in the violence, Secretary Chertoff announced the creation of an ICE-led border enforcement security task force, better known as BEST. The first task force was established in Laredo, Texas, to address the growing incidence of violence associated with cross-border smuggling.

The BESTs routinely develop intelligence-driven investigations which focus on primary targets engaged in cross border crime. The BEST in Laredo incorporates personnel from ICE; Customs and Border Protection; Alcohol, Tobacco, and Firearms; the Drug Enforcement Administration; Federal Bureau of Investigation; the U.S. Marshal Service; police in Mexico, Laredo police department and other key State and local law enforcement agencies such as the Webb County Sheriff's Department, who is represented here today.

This coordinated approach among Federal, State and local law enforcement officers has led to significant enforcement successes. For example, in January of this year, ICE agents from our Laredo office, along with ATF agents, Laredo Police Department Officers assigned to BEST, arrested several suspects for Federal firearms violations and executed Federal search warrants at two local residences and a commercial storage locker, resulting in the seizure of 10 live hand grenades, nine pipe bombs, a cache of fully automatic weapons to include AK–47s, parts to manufacture automatic weapons, a silencer, 86 grenade casings and numerous other grenade components. In addition to the weapons, methamphetamine and cocaine was also seized at the residence.

Since the announcement of the BEST in Laredo, and in light of its great success, ICE and Customs and border protection has launched a second BEST in Arizona. We anticipate the additional task forces will be established along the southwest border in locations between 2006 and 2007.

ICE agents face numerous challenges in the battle to combat crime and violence along the border. However, the violence often extends beyond the border and into the interior of our country. Transnational street gangs, often comprising foreign born members, pose one of the biggest threats to the safety and security of our towns and cities. Many of these violent gangs actively engage in human contraband and human smuggling, bribery, extortion, rape and murder.

In response to this threat, in February of 2005, ICE initiated "Operation Community Shield." As part of this effort, ICE frequently partners with State and local law enforcement and other

Federal agencies, including ATF, Customs and Border Protection and the FBI, to combat violent street gangs.

To date, ICE's efforts in Community Shield have resulted in the arrest of 369 transnational gang members in Texas and 3,354 nationwide, and the majority of these individuals are foreign nationals, illegally present in the United States, and approximately half of these apprehended have violent criminal histories.

As I stated earlier, criminal enterprises are businesses that engage in criminal activity to make as much money as possible. ICE is uniquely equipped with the skills and expertise to target these and focus our investigations on the financial lifeblood of these violent criminal border organizations. We aim to hit them where it hurts, and that is their wallets, to undermine their ability to fund their criminal activity and to employ their accomplices. The value of assets seized in immigration related cases has increased dramatically from little to none before ICE was created in March of 2003 to $34.3 million in fiscal year 2006.

I hope my remarks have been helpful and informative, and I thank you for inviting me, and I am glad to answer any questions you may have.

Mr. McCaul. Thank you, Mr. Pena. I appreciate your efforts as well.

[The statement of Mr. Pena follows:]

Prepared Statement of Alonzo Peñã

Chairman McCaul, Ranking Member Etheridge and Members of the Subcommittee, thank you for providing me the opportunity to speak with you today about the Department of Homeland Security's U.S. Immigration and Customs Enforcement's (ICE) efforts to combat border violence in Texas and throughout the United States.

ICE is the largest investigative agency within the Department of Homeland Security (DHS). Our mission is to protect the American people by combating terrorism and other criminal activities that cross our borders and threaten us here at home. The men and women of ICE accomplish this by enforcing our nation's immigration and customs laws. Working overseas, along our borders, and throughout the nations's interior, ICE agents and officers are demonstrating that our merged immigration and customs authorities constitute an effective tool against those who attempt to, or succeed in, penetrating our borders. Using these combined authorities, ICE has built a robust enforcement program along the borders and within the nation's interior and is working with our partners at U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS) to identify criminal activities and eliminate vulnerabilities that pose a threat to our nation's borders, as well as economic, transportation and infrastructure security. However, to fully address these threats, we need comprehensive immigration reform that increases border security, establishes a robust interior enforcement program, creates a temporary worker program, and addresses the problem of the estimated 11 to 12 million illegal immigrants already in the country.

Our southern border is particularly vulnerable to cross-border criminal activity committed by criminal enterprises whose primary motive is to make money. The crimes we see—murder, hostage taking, robberies, drug smuggling and money laundering—are all methods that criminals use to intimidate and/or dominate rival criminal groups and law enforcement to maximize the profits from their criminal activities.

ICE is acutely aware of the violence along both sides of the border. In January 2006, in direct response to this increased violence, Secretary Chertoff announced the creation of ICE-led Border Enforcement Security Task Forces (BESTs). The first task force was established in Laredo, Texas to address the growing incidence of violence associated with cross-border narcotics smuggling. With ICE and Customs and Border Protection (CBP) as core partners, the BESTs routinely develop intelligence-driven investigations that focus on priority targets engaged in cross-border crime. The BEST in Laredo incorporates personnel from ICE, CBP, the Bureau of Alcohol,

Tobacco, Firearms and Explosives (ATF), the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), U.S. Marshals Service, U.S. Attorney's Office, and key state and local law enforcement agencies.

This coordinated approach among federal, state, and local law enforcement officers has led to significant enforcement successes. For example, in late January of this year, ICE agents from our Laredo office, along with ATF agents and Laredo Police Department officers assigned to BEST, arrested one suspect for federal firearms violations after he sold a fully automatic AK–47-type assault rifle and approximately 26 grams of cocaine to an undercover ICE agent. along with this arrest, BEST agents executed a federal search warrant at a residence and seized a cache of automatic weapons, parts to manufacture automatic weapons, a silencer, and other firearms related items. The agents also seized 1.5 pounds of methamphetamine, approximately one pound of cocaine, and other paraphernalia related to drugs and guns.

The next day, BEST task force agents—acting on information from the FBI—executed a federal search warrant for a commercial storage locker used by the defendant's associates. Agents seized five grenade shells, nine pipe bombs, 26 grenade triggers, 31 grenade spoons, 40 grenade pins, and other parts that are used to assemble explosive devices.

A week later, ICE agents from Laredo, working with ATF agents and Laredo police officers, executed a federal search warrant at a related residence and seized 81 grenade casings, ten live grenades, two AK–47 assault rifles, on Uzi submachine gun, and miscellaneous items. Following these seizures, BEST task force agents arrested a second subject for federal firearms violations four days later.

Since the announcement of the BEST in Laredo and in light of its great success, ICE and CBP have launched an additional BEST in Arizona. We anticipate that additional task forces will be established in other Southwest border locations throughout 2006 and 2007.

ICE actively investigates all manners of smuggling. In a recent incident in Hudspeth County, Texas, several individuals wearing military-style camouflage clothing and carrying long guns provided protection for a cross-border narcotics smuggling attempt. At least one vehicle employed by the smugglers was a military-style vehicle more popularly known as a "Humvee" or "Hummer." Regardless of the affiliation of the individuals involved, the Hudspeth incident was dangerous in light of the repeated and regular incidents of violence by armed smugglers and the tensions this creates for U.S. law enforcement agencies and citizens who live near the border.

ICE agents face numerous challenges in the battle to combat crime and violence along the border. However, violence often extends beyond the border and into the interior of our country. Transnational street gangs, often comprising foreign-born members, pose one of the biggest threats to the safety and security of our towns and cities. Many of these violent gangs actively engage in human and contraband smuggling, robbery, extortion, rape, and murder.

In response to this threat, in February 2005, ICE initiated Operation Community Shield. Initially, Community Shield targeted the MS–13 street gang, one of the largest and most violent gangs of its kind. However, because of ICE's great success in combating MS–13, the program as soon expanded to encompass investigation of all transnational criminal street gangs. As part of this effort, ICE frequently partners with state and local law enforcement and other federal agencies—including ATF, CBP, and the FBI—to combat violent street gangs.

To date, ICE's efforts in Community Shield have resulted in the arrest of 369 transnational gang members in Texas and 3,354 nationwide. The majority of these individuals are foreign nationals illegally present in the United States, and approximately half of those apprehended have violent criminal histories. Under Community Shield, ICE has initiated the removal of those gang members who are illegally present in this country or who have otherwise violated their immigration status.

The violence associated with illegal immigration and our borders is not limited to transnational gang members, however. It also affects innocent victims who are smuggled into and throughout the United States, and of course, those who die during their journey. In case after case, smugglers and traffickers show an utter disregard for the lives of those they exploit. Many try to flee poverty or abuse, only to be forced to travel in squalid conditions without adequate food, water, or even air. Moreover, their smugglers frequently subject them to brutal abuse, forced labor, and sexual exploitation after arriving at their destination.

In one human smuggling case in Houston, Texas, a smuggler attempting to extort a smuggling fee dragged a relative of one of the migrants to his death behind a speeding car. The smuggler then threatened the migrants themselves with a handgun and, after a struggle, his weapon discharged. Fortunately, ICE's investigation,

conducted in collaboration with the Houston Police Department, led to the rescue of the smuggled migrants and the arrest of the smuggler. Of note, the investigation disclosed that the gun used in this incident had been used in another murder of an undocumented migrant in Texas.

In one particularly disturbing trafficking case in McAllen, Texas, two smuggled women from Central America were found on the side of a road beaten and without clothing. Their captors intimidated the victims by firing bullets into the walls and ceiling as they raped them. ICE's enforcement efforts led to the rescue of two additional victims and the arrest of seven traffickers. The lead defendant was sentenced to 23 years imprisonment, one of the longest sentences ever obtained under the Trafficking Victims Protection Act.

As I stated earlier, criminal enterprises are businesses that engage in criminal activity to make as much money as possible. ICE is uniquely equipped with the skill and expertise to target and focus investigations on the financial lifeblood that sustains the violent criminal border activities. We aim to hit them where it hurts—their wallets—to undermine their ability to fund criminal activity and employ their accomplices. The value of assets seized in immigration-related cases has increased dramatically, from little to none before ICE was created in March 2003, to $34.3 million so far in Fiscal Year (FY) 2006.

From the start of FY 2005 to May 31, 2006, ICE human smuggling and trafficking investigations yielded approximately 4,900 criminal arrests, 2,400 indictments, and 2,500 convictions. Last fiscal year alone, our drug investigations resulted in the seizure of more than 275,000 pounds of cocaine, 1 million pounds of marijuana, nearly 3,300 pounds of heroin, 3,400 pounds of methamphetamine, and thousands of pounds of other smuggled drugs. These successes have disrupted violent smuggling organizations by taking away their product and their profits.

While ICE is a relatively new agency, with newly integrated authorities, many of our agents and officers have a long history in the field, with extensive experience gained from previous federal law enforcement service. We are leveraging the best of the former agencies' expertise, cultures, and techniques to build ICE into a federal law enforcement agency that is greater and more effective than the sum of its parts. In case after case, our agents and officers put into practice the powerful advantages that flow from our merged authorities and use them on behalf of the American people. The net result is a greater contribution to the Nation's national security and public safety.

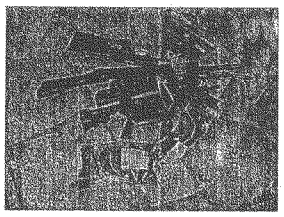
I hope my remarks today have been helpful and informative. Thank you for inviting me, and I would be glad to answer any questions you may have at this time.

Enforcement Statistics since inception

Totals

Arrests:	54
Indictments	22
Vehicles:	5
Marijuana:	708 lbs.
Cocaine:	336 lbs.
Meth	1.5 lbs.
Rifles:	42
Handguns:	15

U.S. Currency: $4,767,810.
Components to assemble IED's



U.S. Immigration and Customs Enforcement

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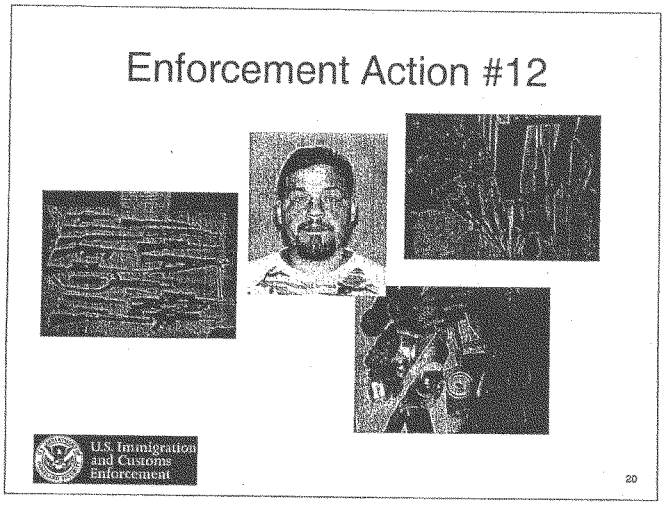


•Enforcement Action # 12 - On January 26, 2006, arrested Roberto Lopez without incident pursuant to a Federal Arrest Warrant. The arrest took place at 527 Century Drive West, Laredo, Texas. Subsequent search of 527 Century Drive West revealed 1.5 pounds methamphetamine, 1 pound cocaine, five (5) AK-47 rifles, six (6) AK 47 fully automatic parts kits, five (5) AK 47 homemade lower receivers, one (1) fully auto AR 15, one (1) semi auto rifle, one (1) .45 caliber rifle one (1) 12 gauge shotgun, four (4) hunting rifles, one (1) .22 caliber rifle, one (1) .9 mm pistol, three (3) silencers, 2,600 bullets and $3,153.00. The above listed items were seized and additional charges will be lodged against Lopez.

Mr. MCCAUL. Next, I would like to introduce another sheriff, a great American, Sheriff Jernigan from Del Rio, Texas.

STATEMENT OF A. D'WAYNE JERNIGAN, SHERIFF, VAL VERDE COUNTY, TEXAS

Mr. JERNIGAN. Good morning, Chairman, committee members. I want to thank each of you for your service to our country and what you all are doing.

My written testimony and its attachments provide you just a thumbnail view of the organizations and their weaponry that is currently engaged in the violent trade of illegal drugs and human smuggling on the Texas/Mexico border.

Just recently in Val Verde County, illegal aliens were apprehended during a burglary near the port of Langtry. One of the aliens fled on foot and was apprehended by deputies and agents of the Border Patrol. The alien who was apprehended inside the residence was later identified as a career criminal with a 24-page rap sheet. His criminal career included offenses in Florida and Texas. His clothing was still wet from his illegal entry, crossing the Rio Grande River.

June 7, 2006, just recently, saw an increase in the violence in the city just across the river from Del Rio, Cuidad Acuna. Armed subjects attempted to take a male subject who was in the custody of Mexican police officers in their marked police vehicle. A uniformed officer was killed and several officers were wounded and one of the armed subjects, who was identified by Mexican authorities as a narcotrafficker, was also killed in the confrontation.

Prior to this incident, I had been visited by several professional people from Acuna and elected officials from Acuna, warning of the violence that they anticipated would be occurring shortly in Acuna and warning us on the U.S. side; and also they were pleading for help from the U.S., stating that they could not trust their own officials. This violence continues to grow as the cartels, as was testified earlier by others, struggle for control of this area up and down the river.

The Texas Border Sheriff's Coalition is very concerned about the unique problems along our border that I have addressed in my written testimony. The United States Border Patrol is doing the best that they can with the resources that they have been provided, but immediate help is needed for them and for the protection of our country.

We have implemented Operation Linebacker, a second line of defense in the protection of our country. We have conducted several operations in concert with our Federal and State partners.

Our governor, the Honorable Rick Perry, did not wait for a peace officer to be killed along the border to take action. He, just as the border sheriffs, is very much concerned about the violence up and down the border. To date, he has provided approximately $9 million to the border sheriffs to conduct increased enforcement activities. This much-needed assistance provided by Governor Perry has already produced measurable results in those counties that have performed the operations, but this assistance is only a stopgap measure.

Mr. Chairman, help is necessary if we are to see an acceptable level of security exist on the border. The problems along the border will continue to grow exponentially unless our Federal Government does something about it soon. I question, how many officers and how many citizens must die before our Nation will act?

I have addressed many of the enforcement issues facing the border today in my written testimony, but another crisis faces us. The judicial system on the border is strained to failure. In Val Verde County, for instance, the annual budget for jury trials was just recently exhausted before the end of the fiscal year, and an examination of the caseload of the United States District Court for the Western District of Texas demonstrates this crisis irrefutably.

I have attached a report that demonstrates the 10-year record of civil filings within the Western District of Texas. I have marked it as Attachment 6.

The number of filings of civil cases across the district has remained fairly level with only some minor increases consistent with population growth in other places.

If you examine the criminal filings, however, in Attachment 7 for the same period, an alarming trend is quite evident. The two U.S. district courts on the border have seen dramatic caseload increases with little or no population increase.

Attachment 8 shows the caseload of the two United States magistrates in Del Rio. As you can see, each of their caseloads equals the caseload of the other magistrates in the Western District combined.

The other district courts in the Western District have seen some small increases in their caseloads. What is not in these statistics is the number of criminal subjects who are apprehended with commercial quantities of drugs, but who fall under the quantity threshold arbitrarily established by the United States attorney's office.

These subjects who have been apprehended by authorities are released without prosecution. Remember that only a percentage of all drug and alien traffickers are apprehended, and then a portion of those apprehended are released without prosecution due to budgetary constraints up and down the border. The criminals grow more educated by the system each time they are handled.

We must restore justice to the border by immediately providing additional district judges, magistrates and prosecuting attorneys, as well as economic subsidies to the affected State district courts and the prosecuting attorneys that have become incapacitated by the increasing crime on the border.

Mr. Chairman, I am convinced that by funding additional deputy sheriffs on the border our Nation will accomplish a cost-effective and immediate solution to the burgeoning scourge of violence that is creeping north into our Nation. Along most of the border, just as Sheriff Flores mentioned, it is a deputy sheriff, our local police officer, who receives that first call of suspicious activity and encounters subjects who may be crossing the border only for a new and a better life in the north or who may have far more sinister intentions. No matter how much more efficient that we are made by the utilization of emerging technology, it is still necessary that a trained and experienced officer is available to respond to the identified threat.

I thank you for the opportunity to testify here today and appreciate what you all are doing for our country.

[The statement of Mr. Jernigan follows:]

PREPARED STATEMENT OF D'WAYNE JERNIGAN

Mr. Chairman and Members of the Subcommittee, it is an honor and a privilege to be invited to appear before you to discuss strategies to combat Criminal Activity and Border Violence along the United States border and the Republic of Mexico.

On April 18th, 2005, Sheriff Sigi Gonzales sent out letters to the 16 Texas Sheriff's whose counties border the Republic of Mexico. The letter invited us to a meeting to discuss unique problems that we face along the border. This was done out of frustration in what we felt was the inadequacy of our federal government to protect our border in preventing a potential terrorist from entering our country. We felt that as citizens of this great country, our almost 2,000 miles of border was very porous, that many people whose intentions were unknown were coming into our country. If their intentions were to commit acts similar to or worse than what happened on September 11, 2001, then very little was being done to stop them. All of us expressed the same frustration since we had mentioned this many times to federal and state legislators. We felt that perhaps speaking as one voice we would be heard. We realize that we are a bi-partisan multi ethnic coalition of Law Enforcement professionals. The crisis that we face on our border is not a racial issue, or even one of politics. This crisis is a red white and blue national security crisis.

On May 4th, 2005, we met in Laredo, Texas. As a result we formed the Texas Border Sheriff's Coalition. The first and foremost priority of our coalition is protecting all residents of this country against a terrorist act without regard to race, sex, or ethnic origin. We continue to believe that many persons have entered our country with intentions of harming us. We are sincere when we tell you that we are not blaming the agents of the United States Border Patrol but, rather, we criticize the policies that they have been shackled with.

I want to make you aware that the Law Enforcement experience of the member sheriffs of this coalition total almost 460 years including 101 years of experience as sheriffs. The oldest serving sheriff of this coalition is El Paso County Sheriff Samaniego with 22 years. I have attached the list of member sheriffs of the coalition with their years of experience and have marked it as Attachment #1. I have served more than 29 of the 42 years of my Law Enforcement career on the Texas/Mexico border. We have seen the border become more violent and criminally active than at any point in our careers. Our officers rarely encounter the socio-economic illegal alien of the past, but routinely encounter criminal illegal aliens.

I have been asked to briefly relate to you some of the problems that we have encountered along the border, specifically the violence along the border and incursions, among other matters.

All of us are concerned that the border with Mexico is being used as the open door to this country. Most of the illegal immigrants from countries of special interest that are apprehended are apprehended along the southwest border. I have attached these lists and have marked them as Attachment #3 [see page 43—46].

Through intelligence information we have also learned that several murders in Laredo, Webb County, Texas, have been orchestrated by members of drug cartels operating in both countries. These drug cartel enforcers cross the Rio Grande River, commit their murders in the United States, then head back to Mexico, again, via the Rio Grande River. We have all seen in the media the reports of the murders in Nuevo Laredo, 24 in the first 36 days of 2006. These murders are connected to organizations in both Mexico and the United States. In February, a Task Force in Laredo Texas confiscated Improvised Explosive Devices as well as items used to make explosive devices. Two such explosive devises of similar construction have been found in Val Verde County. Border Patrol agents and deputy sheriffs have been shot at from Mexico on a routine basis. Earlier this year a sniper in Mexico shot at agents that were working along the banks of the river in the area of the cities of Rio Bravo/El Cenizo. This continued, sporadically, for three days. Agents reported seeing several individuals wearing military style uniforms on a hill on the Mexican side, one of them was using what was believed to be a high powered rifle with scope.

The Rio Grande Valley, Cameron, Hidalgo, and Starr Counties, have continuous problems with pseudo-cops coming from Mexico to extort and kidnap citizens in these counties. This area is the fastest growing area in the nation. They have seen their share of terrorist activity as it relates to the migration of many members of ruthless gangs that come into this country for reasons other than legitimate employ-

ment. Sometime last year, a woman was taken off an airplane at the McAllen, Texas, airport. She had come in from Mexico, through the river, as her clothes were still wet, and had a passport from Africa. She was from a special interest country and had come in to Mexico using a passport from a friendly country to avoid detection. Who knows what her intentions were. Thanks to an officer at the airport she was taken off the plane.

During this same time period, a high-ranking member of the *Mara Salvatrucha,* or MS–13, was apprehended in the Brooks County area, also in south Texas. He had entered the country illegally. This MS–13 member is believed to have been responsible for the killing of close to 30 persons, or more, in a bus explosion in his native country. It is my understanding that he had a lengthy criminal record in the United States. This person, as many others, find it very easy to come into our country through a very porous, wide-open, and unprotected border. Twenty seven members of the MS-13 were apprehended entering the United States in the Del Rio area of operations during the month of January, 2006.

We have received information that the drug trafficking organizations immediately across our border are planning on killing as many police officers as possible on the United States side. This is being planned for the purpose of attempting to "scare us" away from the border. The recent activities of the drug trafficking organization operating in the Hudspeth, El Paso County areas have included threats against the families of Deputy Sheriff's. In one incident subjects made threats to the wife of a Hudspeth County Sheriff's Sergeant at their home. The drug trafficking organizations have the money, equipment, and stamina to carry out their threats. They are determined to protect their illicit trade. It is my opinion that these drug trafficking organizations may form an alliance with Islamo Fascist terrorist organizations. The Department of Homeland Security recently issued Officer Alerts warning their agents of such potential threats.

The cartels operating in Mexico and the United States have demonstrated that the weapons they posses can and will be used in protecting their caches. I have attached photographs showing some of the weapons that these cartels possess. The photos have been marked as Attachment #4.

Local, state, and federal officers have found many items along the banks of the Rio Grande River that indicate *possible* ties to terrorist organizations or members of military units of Mexico. Currency, and clothing, are common finds. Recently, a jacket with patches was found in Jim Hogg County, Texas, by agents of U. S. Border Patrol. The patches on the jacket show an Arabic military badge with one depicting an airplane flying over a building and heading towards a tower, and another showing an image of a lion's head with wings and a parachute emanating from the animal (lion). It is believed from an undisclosed document that Department of Homeland Security translators concluded that the patches read "defense center", "minister of defense", or "defense headquarters". The bottom of one patch read "martyr", "way to eternal life" or "way to immortality".

On January 28th, 2006, USBP Chief David Aguilar was asked by a reporter from KGNS television station in Laredo, Texas, what the outcome of the investigation of the jacket was. Chief Aguilar responded that the patches were not from al' Qa'ida but from countries in which al-Qa'ida was known to operate. He also stated that the investigation was turned over to the proper authorities who had already concluded their investigation. He knew nothing further.

On February 2nd of this year, deputies in Zavala County discovered an 18" duffle bag approximately 8 miles North of Zapata by the highway right of way. This duffel bag had "Armada de Mexico" embroidered on the bag. Inside the bag were several items that are commonly used to maintain higher levels of physical exertion. Inside the bag, a bus ticket with an origin of Veracruz, Mexico was found. I have attached photographs of the duffle bag and marked it as Attachment #5.

Employees of our offices have also seen incursions into this country of persons dressed in battle dress uniforms (BDUs), carrying what officers believe to be automatic weapons, very clean cut, and in very good physical condition. On March 3rd, 2005, several officers assigned to do surveillance by the Rio Grande River by the Zapata/Webb County line observed approximately 20–25 subjects dressed as indicated above. The subjects were walking on a gravel road, coming from riverbank, and marching in a cadence. The deputy observed these individuals through his borrowed night vision goggles. These individuals were carrying large duffle bags and walking two abreast. They were each armed with assault rifles.

In the town site of Zapata, residents report subjects getting off boats wearing BDUs, backpacks, and carrying weapons. The residents describe them as soldiers.

In Val Verde County, two illegal aliens were apprehended during a burglary near the Port of Entry. One of the aliens fled on foot and was apprehended by Deputies and Agents of the Border Patrol. The alien who was apprehended inside the resi-

dence was later identified as a career criminal with a twenty four page rap sheet. His criminal career included offenses in Florida and Texas. His clothing was still wet from his illegal entry that night. For over a year, groups of male subjects illegally crossed the river into the United States and burglarized remote ranch homes. These subjects took items from the homes that they burglarized, and would abandon the property at the next home that they burglarized. The only items that they routinely kept were firearms. During one burglary the subjects brought electric hair clippers with them and cut their hair in a distinctive pattern. When theses subjects would encounter law enforcement they conducted sophisticated escape and evasion tactics to break contact. In one incident the subjects traveled twenty miles a day on foot across harsh landscape. The last subject apprehended in that group had traveled over eighty miles on foot before his arrest. The subjects were always physically fit. It is my opinion that these subjects were trained for escape and evasion.

June 7, 2006 saw an increase in the violence in Ciudad Acuna. Armed subjects attempted to take a male subject who was in the custody of Mexican Police officers in their marked Police vehicle. One uniformed officer was killed and several were wounded. One of the armed subjects, who was identified by Mexican authorities as a narco-trafficker, was killed in the confrontation. This gunfight took place in the downtown area of Acuna, several miles from the international port of entry. Prior to this incident I had received information from several professional people in Acuna telling me of armed confrontations occurring in public places. This violence continues to grow as the cartels struggle for control of the area. See attachment #2 which is the newspaper story reporting the shootout. [See committe file.]

The Texas Border Sheriff's Coalition is very concerned about the unique problems along our border. The United States Border Patrol is doing the best that they can with the resources they have been provided. Immediate help is needed for them and for the protection of our country. We have implemented Operation Linebacker, a second line of defense in the protection of our country. The problems along the border are federal problems. Our governor, the Honorable Rick Perry, did not wait for a peace officer to get killed along the border to take action. He, just as we, is very much concerned. He has appropriated approximately $9 million for Texas Border Sheriff's Coalition to conduct increased enforcement activities. This much needed assistance provided by Governor Perry has already produced measurable results, but this assistance is only a stopgap measure. More help is necessary if we are to see an acceptable level of security exist on the border. The problems along the border will continue unless our federal government does something about it soon. How many more officers must die like the unfortunate Starr County correctional officer, who was assassinated last month, before our nation will act?

I have addressed many of the enforcement issues facing the border today in my written testimony, but another crisis faces us. The Judicial system on the border is strained to failure. In Val Verde County, the annual budget for jury trials will be exhausted in March, only half way through the fiscal year. An examination of the caseload of the United States District Court, Western District, demonstrates this crisis irrefutably. I have attached a report that demonstrates the ten year record of civil filings within the Western District of Texas. It is marked as Attachment #7. The number of filings of civil cases across the District has remained fairly level with only minor increases consistent with population growth. If you examine the criminal filings, Attachment 7, for the same period an alarming trend is evident. The two District Courts on the border have seen dramatic caseload increases with little or no population increase. Attachment 8 shows the caseload of the two United States Magistrates in Del Rio. As you can see each of their caseloads equals the caseload of the other Magistrates in the Western District combined. The other District Courts in the Western District have seen small increases in their caseloads. What is not reflected in these statistics is the number of criminal subjects who are apprehended with commercial quantities of drugs, but who fall under the quantity threshold arbitrarily established by the United States Attorney's office. These subjects who have been apprehended by authorities are released without prosecution. Remember that only a percentage of all drug and alien traffickers are apprehended, and then, a portion of those apprehended are released without prosecution due to budgetary constraints. The criminals grow more educated by the system each time we handle them. We must restore Justice to the Border by immediately providing additional District Judges, Magistrates and Prosecuting Attorneys, as well as economic subsidies to effected State District Courts and Prosecuting Attorneys who have become incapacitated by the increasing crime on the border.

I am convinced that by funding additional Deputy Sheriff's on the border, our nation will accomplish a cost effective, and immediate solution to the burgeoning scourge of violence creeping North into our nation. Along most of the border, it is a Deputy Sheriff who receives the first call of suspicious activity and encounters

subjects who may be crossing the border only for a new and better life in the North, or who may have far more sinister intentions. No matter how much more efficient we are made by the utilization of emerging technology, it is still necessary that a trained and experienced officer be available to respond to the identified threat.

I want to express my most sincere appreciation for allowing us the opportunity to appear before you and thank you for the work you do for our country, the United States of America.

Border Sheriff's Experience

COUNTY	SHERIFF	YRS.-SHERIFF	YRS.-OTHER	YRS.-TOTAL
El Paso	Leo Samaniego	22	28	50
Hudspeth	Arvin West	6	17	23
Culberson	Oscar E. Carrillo	6	10	16
Jeff Davis	Thomas "Tom" F. Roberts, Sr.	1	21	22
Presidio	Danny C. Dominguez	9	5	14
Brewster	Ronny D. Dodson	6	19	25
Terrell	William "Clint" McDonald, Jr.	2	18	20
Val Verde	A D'Wayne Jernigan	9	33	42
Kinney	Leland K. Burgess	10	30	40
Maverick	Tom Herrera	1	27	28
Dimmit	Michael "Doug" Sample	2.5	28	30.5
Webb	Rick Flores	1	16	17
Zapata	Sigifredo Gonzalez, Jr.	11.5	18	29.5
Starr	Reymundo "Ray" Guerra	8	20	28
Hidalgo	Guadalupe "Lupe" Trevino	1	29.8	30.8
Cameron	Omar Lucio	5	38	43
	TOTALS	101	357.8	458.8

ATTACHMENT #1

OTMS BY COUNTRY 10/01/03 - 6/30/04
NORTHERN & SOUTHERN BORDER

DATA SOURCE: PAS

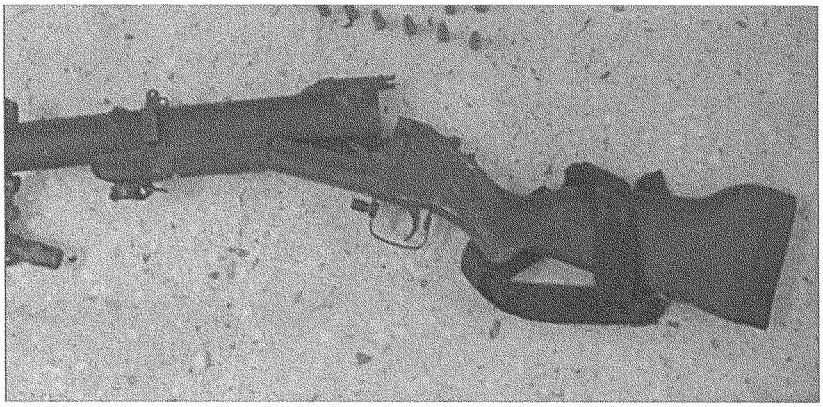
Sum of TOTAL OTMS	BORDER		
COUNTRY CODE	Northern Border	Southern Border	Grand Total
AFGHANISTAN		8	8
ALBANIA	22	64	86
ALGERIA	3	3	6
ANGOLA	1	1	2
ANGUILLA		1	1
ARGENTINA	22	63	85
ARMENIA	5	8	13
AUSTRALIA	5	3	8
AUSTRIA	2	3	5
BANGLADESH	6	15	21
BARBADOS	1		1
BELARUS	6		6
BELGIUM	1	1	2
BELIZE	3	26	29
BENIN	1		1
BOLIVIA	4	70	74
BRAZIL	122	4911	5033
BULGARIA	16	19	35
BURKINA FASO	2		2
BURMA	3	3	6
BURUNDI	1		1
CAMEROON	1		1
CANADA	712	12	724
CHAD	1		1
CHILE	7	41	48
CHINA PEOPLES REPUBLIC OF	144	460	604
COLOMBIA	55	105	160
CONGO	1	1	2
COSTA RICA	122	205	327
CROATIA		2	2
CUBA	16	91	107
CZECH REPUBLIC	13	12	25
CZECHOSLOVAKIA	1	4	5
DENMARK	3		3
DOMINICA	2		2
DOMINICAN REPUBLIC	42	253	295
ECUADOR	68	380	448
EGYPT	4	9	13
EL SALVADOR	75	11105	11180
ERITREA		15	15
ESTONIA	2		2
ETHIOPIA	2	28	30
FIJI		1	1
FRANCE	18	5	23
GAMBIA	1	2	3

GEORGIA	1		1
GERMANY	8	8	16
GHANA	10	8	18
GREECE	3	1	4
GRENADA	6	1	7
GUATEMALA	227	6901	7128
GUINEA	6		6
GUYANA	10	1	11
HAITI	8	50	58
HONDURAS	138	14906	15044
HONG KONG	1		1
HUNGARY	6	5	11
INDIA	201	36	237
INDONESIA	7	13	20
IRAN	3	7	10
IRAQ	2	5	7
IRELAND	8	3	11
ISRAEL	32	23	55
ITALY	7	9	16
IVORY COAST	5	2	7
JAMAICA	33	34	67
JAPAN	5	5	10
JORDAN	5	9	14
KAMPUCHEA		6	6
KAZAKHSTAN	2		2
KENYA	8	19	27
KOREA	5	20	25
KUWAIT		3	3
KYRGYZSTAN		1	1
LAOS	11	3	14
LATVIA	5	1	6
LEBANON	5	8	13
LIBERIA		7	7
LITHUANIA	3	4	7
MACEDONIA	5	16	21
MALAWI	1	2	3
MALAYSIA	4	1	5
MALI	5	2	7
MALTA		10	10
MARSHALL ISLANDS	1		1
MAURITANIA	1	1	2
MOLDOVA	3		3
MONGOLIA	1	7	8
MOROCCO	3	2	5
NEPAL	9	11	20
NETHERLANDS	7	4	11
NETHERLANDS ANTILLES		1	1
NEW ZEALAND	10	2	12
NICARAGUA	9	898	907
NIGER		1	1
NIGERIA	12	20	32
NORTH KOREA	8		8

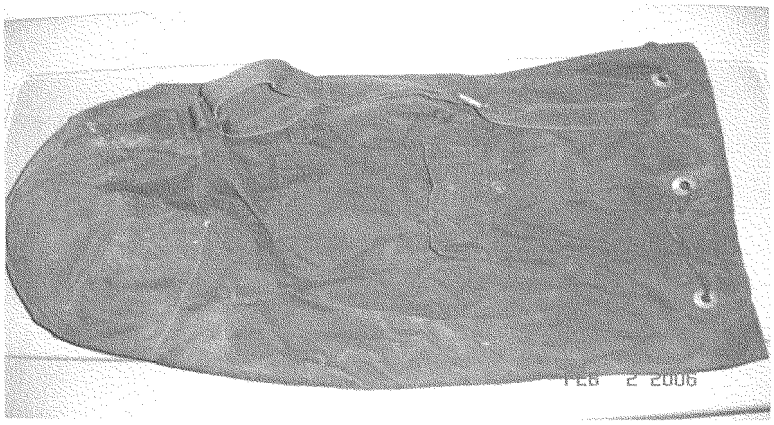
NORWAY		1	1
OMAN	1		1
PAKISTAN	103	19	122
PANAMA	1	20	21
PAPUA NEW GUINEA		1	1
PARAGUAY	7	14	21
PERU	42	172	214
PHILIPPINES	16	37	53
POLAND	36	126	162
PORTUGAL	11	2	13
QATAR	1		1
ROMANIA	16	27	43
RUSSIA	21	10	31
SAUDI ARABIA		6	6
SENEGAL	5		5
SIERRA LEONE	1	2	3
SINGAPORE	2	1	3
SLOVAKIA	15	2	17
SOMALIA	3	3	6
SOUTH AFRICA	2	4	6
SOUTH KOREA	60	63	123
SPAIN	3	4	7
SRI LANKA	6	2	8
ST. LUCIA	4		4
ST. VINCENT-GRENADINES	2		2
STATELESS	1		1
SUDAN	2	3	5
SURINAME		1	1
SWAZILAND	1	1	2
SWEDEN		1	1
SWITZERLAND	1	2	3
SYRIA	1	5	6
TAIWAN	5	1	6
TAJIKISTAN	2		2
TANZANIA	1	2	3
THAILAND	8	7	15
TONGA		6	6
TRINIDAD AND TOBAGO	16	4	20
TUNISIA		4	4
TURKEY	11	11	22
UGANDA	3	2	5
UKRAINE	15	8	23
UNITED KINGDOM	27	20	47
UNKNOWN	6	2	8
URUGUAY	13	21	34
USSR	1		1
UZBEKISTAN	8	2	10
VENEZUELA	9	55	64
VIETNAM	5	6	11
WEST GERMANY	1		1
WESTERN SAHARA		2	2
YEMEN	2		2

YUGOSLAVIA	4	49	53
ZAMBIA	2	2	4
ZIMBABWE	1	2	3
(blank)	2		2
Grand Total	**2,872**	**41,742**	**44,614**

ATTACHMENT #3



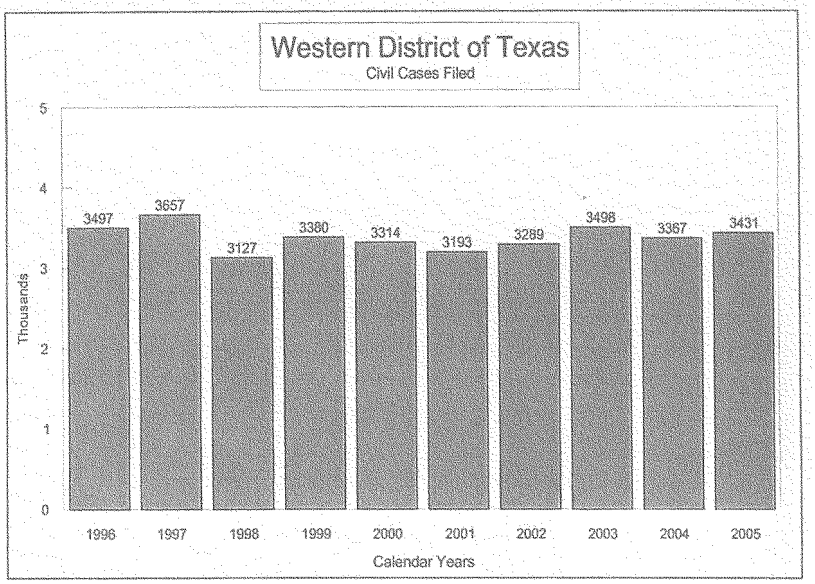
ATTACHMENT #4



ATTACHMENT #5

CIVIL CASES FILED -- TEXAS WESTERN TEN-YEAR REPORT

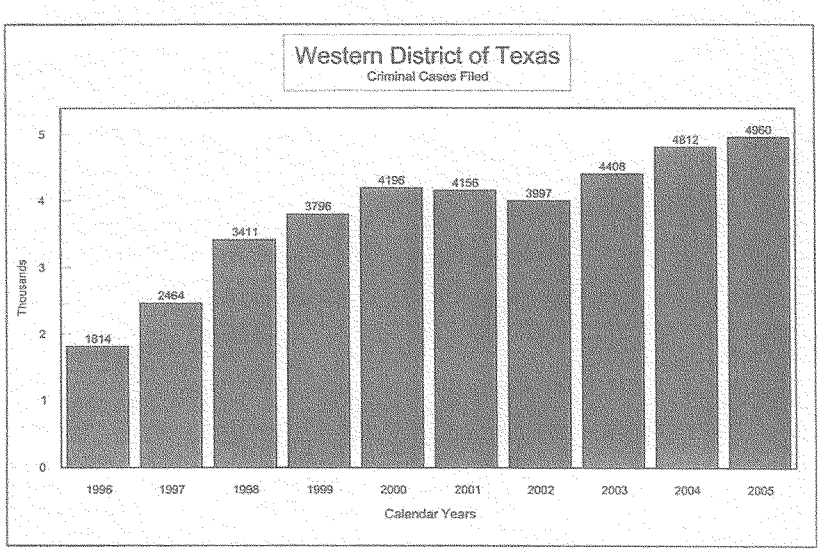
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Austin	845	862	787	805	802	872	817	933	1073	1044
Del Rio	101	82	53	73	69	82	64	86	78	95
El Paso	518	508	491	414	381	452	573	507	442	478
Midland	197	212	168	159	143	159	176	179	158	170
Pecos	76	106	71	65	52	71	107	127	98	91
San Antonio	1309	1526	1197	1494	1539	1187	1192	1247	1114	1129
Waco	451	361	360	370	328	370	360	419	404	424
Total:	3497	3657	3127	3380	3314	3193	3289	3498	3367	3431
+/-		160	-530	253	-66	-121	96	209	-131	64
% Change		5%	-14%	8%	-2%	-4%	3%	6%	-4%	2%



ATTACHMENT #6

CRIMINAL CASES FILED-- TEXAS WESTERN TEN-YEAR REPORT

	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
Austin	162	163	254	238	257	211	273	261	227	205
Del Rio	285	499	606	757	740	669	696	839	917	1072
El Paso	827	1109	1659	1802	2045	2146	1930	2186	2552	2559
Midland	78	73	134	119	156	144	111	151	220	205
Pecos	106	222	283	386	447	427	386	346	300	243
San Antonio	260	274	361	416	437	420	450	431	416	477
Waco	96	124	114	78	114	139	151	194	180	199
Total:	1814	2464	3411	3796	4196	4156	3997	4408	4812	4960
+/-		650	947	385	400	-40	-159	411	404	148
% Change		36%	38%	11%	11%	-1%	-4%	10%	9%	3%



ATTACHMENT #7

MAGISTRATE JUDGE STATISTICS
WESTERN DISTRICT OF TEXAS
JANUARY 1, 2006 TO JANUARY 31, 2006

Division	No. Mag. Judges	Total	Avg per MJ	Avg per MJ/Mo
Alpine/Pecos	(1)	258	258	258
Austin	(2)	158	79	79
Del Rio	(2)	3,493	1,747	1,747
El Paso	(3)	1,932	644	644
Midland	(1)	231	231	231
Waco	(1)	246	246	246
San Antonio	(3)	211	70	70

TOTAL:	6,529
Average per Mag. Judge per month	502
Total Border Divisions (Del Rio & El Paso)	5,425
Average per Border Mag. Judge per month	*1,085*
Total Non-Border Divisions	1,104
Average per Non-Border Mag. Judge per month	*138*

ATTACHMENT #8

Mr. McCAUL. Sheriff, thank you so much. Thank you for your service, and as with Sheriff Flores, you are on the front lines everyday and put yourself in harm's way. We all appreciate what you do for this country.

I would also ask that anybody that has a BlackBerry or electronic device, turn that off as it is causing some disruption with respect to the testimony.

Having said that, the Chair now recognizes Mr. Quan for his testimony.

STATEMENT OF GORDON J. QUAN, ESQ., FORMER MAYOR PRO TEMPORE, AT-LARGE COUNCIL MEMBER, CITY OF HOUSTON, TX, AND DIRECTOR, ASIAN CHAMBER OF COMMERCE

Mr. QUAN. Thank you, Mr. Chairman. I appreciate the opportunity to testify before you, to yourself, to Congresswoman Sheila Jackson-Lee, Congressman Gene Green and Congressman Ted Poe.

My name is Gordon Quan. I was former mayor pro tem of the city of Houston, an at-large council member and a Director of the Asian American Chamber of Commerce. As Congress considers new ways to look at national security, I would ask that it not divert essential Federal responsibilities to our local government.

Like many major cities across America, Houston has seen a dramatic demographic change in the past 20 years. Roughly one-third of our population is Hispanic, one-third Anglo, and other third black and Asian. With 80 consulates in Houston, we have the third largest consular corps in the United States. Our Port of Houston ranks number one in foreign tonnage in the U.S. We are truly an international city.

Since September 11, local law enforcement across the Nation has improved security of our cities. In our city of Houston, we spent over $15 million to secure the city since that tragic day. We are providing security at the city's water plants, airports, extra helicopter flights among other things. We are also securing city hall and other soft targets such as local temples and synagogues.

Let me say emphatically that the role of the local government is clear. Local police have a responsibility to cooperate with the Federal Government to apprehend specific persons identified as having committed crimes and violated U.S. immigration laws and who have been located by the Federal Government. However, local personnel cannot be conscripted into Federal service because the Federal Government has decided not to fund and staff its immigration enforcement agencies to meet the demands. This type of action can divert our shorthanded local personnel from their primary responsibilities and constitute a cost shift on to our local government.

I would also like to categorically state, and it was pointed out in a recent editorial in the Houston Chronicle, that we do not consider ourselves as a sanctuary city. The city of Houston's police policy adopted in 1992, which I am sure Chief Hurtt will address in more detail, states that undocumented immigrant status is not in itself a matter for our local police department. Unlawful entry is not treated as an ongoing offense occurring in the presence of local police officers.

Simply put, police officers may not stop or apprehend individuals solely on the belief that they are in the country illegally. This order serves our people well and is a model for other cities as well. To say otherwise, I think, would cheapen and demean the officers who have put their lives on the line every day.

It is often said that Texans talk slow. Oftentimes we pepper our speech with a little drawl, but by no means are we stupid. We understand all too well that to force State and local government to carry out what is essentially a Federal function is unfair. Securing our borders is, first and foremost, the responsibility of the Federal Government. Therefore, I am asking the Members of Congress

today to dispense with rhetoric and provide the necessary resources to secure our borders.

I believe everything that these gentlemen have said here. On June 2, Rick Perry signed a memorandum of understanding to deploy 2,300 National Guard troops to assist with the building of a fence along our southern border, but just 2 days prior to that the Department of Homeland Security announced it is going to cut homeland security funding for Texas, the State with the longest international border, by 31 percent over last year's allocation. Governor Perry has said the funding disparity, combined with continued Federal inaction, jeopardizes our security and reinforces the belief that Texas must never wait for Washington to act.

The governor has proposed plans to ask the State legislature for additional funding for local enforcement along the border and to provide border security operations, including a virtual border watch program. This, again, is taking moneys away from our schools and our roads, our highways, that we have difficulties with funding already.

Second, I want to just say that also looking at how we secure the border, criminalization of aliens has not proven to be a deterrent. In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act, which sought to increase the number of criminal offenses which would bar an individual from immigrating. Furthermore, it expanded the definition of aggravated felony to include several offenses for which a sentence of 1 year was imposed. Whether it is served or not, whether it was probated or not. If you had a 1-year imposition, that was an aggravated felon.

Despite these measures, there has been an increase in the number of persons seeking to enter the country illegally. We don't need laws that make aliens criminals. It would simply, as Sheriff Jernigan said, clog our judicial system further and our overcrowded jails. As you may know, Harris County is under a mandate because of overcrowding, as it is already. Most of these people, it has been said repeatedly, are only seeking a better life in the United States.

Third, I would caution against efforts to preempt local and State laws that bar law enforcement officers from assuming the Federal responsibility of enforcing Federal immigration laws. Efforts in Congress to withhold funds from States and cities like Houston, that have routinely assisted the Federal Government to apprehend, house and feed undocumented criminal suspects in our city jails until the bureau of immigration dispatches its officers to retrieve these suspects, is unjustified.

More often than not, the staff reimbursement is less than the financial burden by the local police departments, and as has been said previously, staff funding is being zeroed out. So here you are penalizing us for working with you, and you are not reimbursing us.

In short, it is unfair to demand that the local governments take on the responsibilities of the Federal Government. It is unreasonable to mandate such responsibilities on State and local governments without full fiscal support.

As a former local official and a lawyer practicing immigration law for the past 29 years, I know all too well that communication, visibility and trust are the foundations for effective community po-

licing. Victims of crime must know that they can turn to the local police without threat that they will be detained or deported simply because of their immigration status.

In closing, I respectfully ask the panel to understand the American public wants government to find effective tools to combat illegal immigration. I submit that the most effective tools are not preemption, unfunded mandates, deteriorated community policing, and racial profiling. Rather, the most effective tools are improved coordination, planning, training, and technology.

Thank you for this opportunity to testify before you.

[The statement of Mr. Quan follows:]

PREPARED STATEMENT OF GORDON QUAN

Thank you, Chairman McCaul (R–TX), Congresswoman Sheila Jackson Lee (D–TX), and members of the Texas delegation for the opportunity to speak with you today.

I am Gordon Quan, former Mayor Pro Tem and At-Large Council Member from Houston, Texas and a Director of the Asian Chamber of Commerce of Houston. As Congress considers new ways to improve the nation's security, I ask that it does so without diverting essential federal responsibilities onto local governments.

Like many major cities across America, Houston has seen a dramatic demographic transformation in the past twenty years. Houston is roughly one-third Anglo, one-third Hispanic and the remaining third Black and Asian. With 80 consulates in Houston, we have the third largest consular corps in the U.S. The Port of Houston ranks number one in foreign tonnage in the U.S. We are truly an international city.

Since September 11, local law enforcement across the nation has improved the security of their cities. In my city of Houston, Texas we have spent more than $15 million more on securing the city since that tragic day. We are providing security at the city's water plants, airports, extra helicopter flights, among others. We are also securing City Hall and "soft targets" such as local temples and synagogues.

Let me say emphatically that the role of local government is clear. Local police have a responsibility to cooperate with the federal government to apprehend specific persons identified as having committed a crime and violated US immigration laws and who have been located by the federal government. However, local personnel cannot be conscripted into federal service because the federal government has decided not to fund and staff its immigration enforcement agencies to meet demand. This type of action can divert local personnel from their primary duties and constitute a cost shift onto local governments.

Also, I categorically reject attempts to paint the local policy of Houston as a "sanctuary" city. The City of Houston's policy, adopted in June 1992, states that that undocumented immigration status is not, in itself, a matter for local police action and unlawful entry is not to be treated as an on-going offense occurring in the presence of a local police officer. Simply put, police officers may not stop or apprehend individuals solely on the belief that they are in the country illegally. This Order has served the people and the law enforcement community of Houston, TX well since its adoption. State and local police officers continue to adhere to their sworn duty to protect and serve the people of Houston. To characterize the policy and City of Houston as a sanctuary city is an unfair characterization that cheapens and demeans the officers who put their lives on the line everyday.

It is often said that Texans talk slow. Although we pepper our speech with a drawl, we are by no means stupid. We understand all to well attempts to force state and local governments to carry out what is essentially a Federal responsibility. Securing our borders is first and foremost the responsibility of the Federal government. Therefore, I am asking the Members of Congress here today to dispense with the rhetoric and provide the necessary resources to secure our borders.

On June 2nd, Gov. Rick Perry signed a Memorandum of Understanding (MOU) authorizing the deployment of 2,300 National Guard Troops to assist with the building of the fence along the southern border. Just two days prior, the Department of Homeland Security announced it cut homeland security funding for Texas—the state with the longest international border—by 31 percent from last year. Governor Perry said this funding disparity, combined with continued federal inaction "jeopardizes our security and reinforces my belief that Texas must never wait for Washington to act." The governor the proposed plans to ask the Texas legislature for additional funding for local law enforcement along the border and border security operations,

including a virtual border watch program. As a former local elected official who had to decide on matters such as transportation, school, and public health funding, I cannot help but think that state and local governments are picking up tab for the Federal government's failure to fund border security programs.

Second, I am also asking that we secure our border in responsible ways. Criminalization of aliens has not served as a deterrent. In 1996 Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act which sought to increase the number of criminal offenses which would bar an individual from immigrating. Furthermore, it expanded the definition of aggravated felony to include several offenses for which a sentence of one year or more was imposed, whether actually served or probated. Despite these measures, there has continued to be an increase in the number of persons seeking to enter the country illegally. We don't need more laws that make aliens criminals. It clogs our judicial system and jails with persons who are really not criminals.

Third, I would caution against efforts to preempt state and local laws that bar their law enforcement officers from assuming the federal responsibility of enforcing federal immigration laws. Efforts in Congress to withhold funds from states and cities like Houston that have routinely assisted the federal government by apprehending, housing and feeding non-documented criminal suspects in our city jails until the Bureau of Immigration dispatches its officers to retrieve the suspects. More often than not, the SCAAP reimbursement is less than the financial burden assumed by the local police departments. In short, it is unfair to demand that local governments undertake the federal government's responsibilities. It is also unreasonable to mandate such responsibilities upon state and local governments without full fiscal support.

Fourth, as a former local elected official and immigration lawyer with over 29 years of experience, I know too well that communication, visibility, and trust are the foundation of effective community policing. Victims of crime must know that they can call us without the threat that they will be detained or deported simply because of their immigration status.

In closing, I respectfully ask that this panel understand that the American public wants the government to fund effective tools to combat illegal immigration. I submit that the most effective tools are not preemption, unfunded mandates, deteriorated community policing, and racial profiling. Rather the most effective tools are improved coordination, planning, training, and technology.

Thank you for the opportunity to testify before this body.

Mr. MCCAUL. Thank you, Mr. Quan, and thank you for your insight. And I happen to agree with you, this is a Federal responsibility. The Federal Government for the past couple of decades has failed in that responsibility; and I believe, as you do, the time to act is now.

I would like to make the request again that anybody who has a BlackBerry, please turn that off as it is disruptive to the testimony.

And now I would like to recognize Mr. T.J. Bonner, who is President of the National Border Patrol Council.

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

Mr. BONNER. Thank you Chairman McCaul, Ranking Member Jackson-Lee, other Members of Congress.

On behalf of the 10,500 frontline Border Patrol agents who risk their lives day and night protecting our Nation's borders, we thank you for the opportunity to present our views about this very serious problem of crime and violence along the Southwest border.

This is not an issue that affects just the border communities. The crime and violence obviously spill over into many communities throughout the United States. As people in Houston know, and people in Los Angeles, all major and even smaller cities are painfully

aware of, people who come across the border, intent on committing crimes, find easy pickings in many of our communities.

When I came into the Border Patrol 28 years ago there were about 2,000 agents, with a budget of a couple hundred million dollars, and we apprehended about a million people crossing our borders illegally. Our frontline agents estimated that for every person we caught, two or three got by us. Twenty-eight years later, there are about 12,000 Border Patrol agents, a budget of close to $2 billion, and we still catch about a million people, and we still estimate that 2 or 3 million people get by us every year. We haven't made much progress despite all of the expenditures.

It was a dangerous job back then. It is even more dangerous now. The level of violent crime has risen dramatically.

Now, there has been offset in the property crimes, and I think that fencing and more personnel along the border have been responsible for driving down property crimes in some of the border areas, but I don't think that we need to make a choice between property crime and violent crime. I think that with the proper strategies, we can put an end to both of those.

We know why most people come across the border. They are looking for work. Probably 98 percent of those 3 or 4 million people who cross the border every year are seeking employment. If we do deny them that employment through proper enforcement, proper laws, such as H.R. 98, which would create a counterfeit-proof Social Security card, we could put the smugglers out of business overnight, the people, smugglers, which would leave us with the 2 percent, the criminals, the terrorists, that most Americans are interested in stopping from coming into our country.

In other words, 98 percent of the traffic is clogging up probably 99.9 percent of our resources, not allowing us to focus on the criminals and terrorists coming across. What we are doing is essentially searching for the needle in the haystack. What we need to do is to eliminate the haystack so that we can focus on the needles, which would require a change in the law enforcement strategies.

The drug smugglers should not be confronted with the choice of taking out one or two law enforcement officers in order to get away and escape justice. Their choice should be, do I go to prison or do I try and shoot it out with 2-dozen heavily armed law enforcement officers?

We need help along the border. It is becoming increasingly violent, and part of the reason for that is the fact that the cartels are now taking over much of the human trafficking. The cost of smuggling has risen tenfold over the last several years, which means that this is an extremely lucrative enterprise for the cartels, and they are very interested in making money. If we don't stop doing things the way we are doing them now, there is no reason we should expect a different result.

I appreciate the ranking member's introduction of H.R. 4044, which provides many of the tools that the Border Patrol needs; I appreciate the provisions within H.R. 4437, which contain many of the elements that are needed. But the missing piece in both of these is the ability to crack down on the employers. If we don't crack down on the employers, we are going to continue to have a revolving door immigration policy.

Personally, I have caught the same group of people four times in an 18-hour shift, and this is where our resources are going. We are catching people in the cartels who exploit this weakness. They will sacrifice a group of 25, 50 people, knowing that it is going to consume the resources of the Border Patrol for several hours as we try and round these people up, guard them, process them, send them back to their country of origin; and in the meantime, they are free to move loads of drugs and who knows what else.

We need to change the way we are doing business if we expect different results. And we need different results. Our Nation is vulnerable in this post-9/11 environment. We simply cannot afford to have open, porous borders any longer.

Thank you.

Mr. MCCAUL. Thank you, Mr. Bonner.

[The statement of Mr. Bonner follows:]

PREPARED STATEMENT OF T.J. BONNER

The National Border Patrol Council appreciates the opportunity to present the views and concerns of the 10,500 front-line Border Patrol employees that it represents regarding the persistent problems of criminal activity and violence along the border between the United States and Mexico. Despite substantial increases in funding during the past two decades for personnel, technology, and equipment for Federal law enforcement agencies along the southern border, the levels of crime and violence in that region remain unacceptably high. Although property crimes along the border have fallen dramatically, there has been an increase in violent crimes, including attacks against law enforcement officers. Last year, the number of assaults against Border Patrol agents more than doubled, with 778 reported incidents, compared to 374 the previous year. There have also been a number of armed confrontations initiated against U.S. law enforcement officers by rogue Mexican military and police units. Power struggles among some of the drug cartels have transformed the city of Nuevo Laredo, Mexico into a war zone where hundreds of people have been killed in the streets during the past several years. While other border cities are not experiencing this same level of violence, they are by no means immune from this scourge.

Although there are several reasons for these emerging trends, the Border Patrol's "strategy of deterrence" is undoubtedly one of the primary factors responsible for these changes. Under this initiative, the Border Patrol has concentrated its resources near large cities along the southern border. Reinforced fences have been built in many of those areas, and agents are stationed in fixed positions in close proximity to the border. The theory behind this strategy is that people will be discouraged from crossing the border illegally because of the increased law enforcement presence. In reality, the number of people apprehended crossing our borders illegally has remained fairly constant. The strategy has merely caused the illicit traffic to shift to other parts of the border where there are fewer law enforcement resources. It has also induced more people to rely upon smugglers to help them cross the border, which has resulted in a dramatic tenfold increase in smuggling fees. In turn, this has caused more criminal organizations to become involved in smuggling people. The propensity of these organizations to utilize force as a means of achieving their ends has caused an escalation in violent crimes along the border.

While there is an undeniable relationship between the rise in violent crime and the decline in property crime, there is no need to choose between the two, as a sensible border security strategy would substantially reduce both of these types of crime. Unfortunately, the current strategy focuses almost exclusively on the border, largely ignoring the root cause of illegal immigration. As long as illegal aliens can readily find employment in the United States, millions of people will continue to violate our immigration laws every year. This will ensure that the smuggling trade flourishes, greatly contributing to crime and violence along our borders.

The enactment of H.R. 98, the "Illegal Immigration Enforcement and Social Security Protection Act of 2005," would eliminate the employment magnet that lures so many people to our country, and would also put human smugglers out of business almost overnight. No rational person would pay a smuggler to help him or her cross our borders if the odds of obtaining employment were remote. This would enable the

Border Patrol and other law enforcement agencies to concentrate their limited resources on stopping criminals and terrorists from crossing our borders.

It is important to note that this legislation differs markedly from proposals that are premised upon the Basic Pilot Program. as the Government Accountability Office reported last August, that system is highly susceptible to identity fraud because it allows impostors to use a separate, easily counterfeited document to assume the identity of the legitimate owner of a Social Security number. No employment verification system can be effective unless it utilizes a single counterfeit-proof document that establishes the bearer's identity as well as employment eligibility.

None of the other border security initiatives currently being considered would be nearly as effective as the foregoing measure. For example, fencing has not stopped people from illegally crossing our borders. Despite the placement of several hundred miles of reinforced border fences, illegal crossings have not subsided at all. Apprehensions of illegal aliens have varied little since construction of these barriers began fifteen years ago, and front-line Border Patrol agents still estimate that for every person who is caught, two or three manage to slip past them. While this type of fencing has helped reduce property crimes in urban areas, most border cities that are not adjacent to the Rio Grande already have such barriers, so further reductions in property crimes are likely to be minimal. Moreover, such fencing, combined with the static deployment of Border Patrol agents, is partly responsible for the increase in assaults against these and other law enforcement officers. It is also noteworthy that statistics concerning the number of violent crimes committed against illegal aliens traveling near the border are highly inaccurate, as they are generally not reported unless the injuries are severe or the victims are apprehended by the Border Patrol.

Similarly, technology alone is incapable of deterring people from crossing our borders illegally. While the proper devices can serve a useful purpose as extra eyes and ears, they are incapable of apprehending a single person. Without adequate numbers of Border Patrol agents available to respond to the intrusions detected by sensors and cameras, thousands of people will continue to successfully slip across out borders illegally every night.

Augmenting the size of the Border Patrol with temporary help until additional agents can be hired and trained is not an effective solution either. The experience to date with the National Guard deployment indicates that Border Patrol has spent more hours training, supervising, and guarding[1] these troops than the number of hours that are being spent patrolling the borders by the few agents who have been reassigned from administrative to field duties. The proposal to deploy armed guards with limited training as a stopgap measure would create an entirely different set of problems, greatly increasing the probability of unwarranted detentions and false arrests. Our immigration laws are extremely complex, and those who are charged with enforcing them need to receive the appropriate training in order to properly discharge these duties. Simply stated, there are no shortcuts. The only effective way to increase the size of the Border Patrol is to hire and train additional agents, provide them with the tools that they need to do their jobs, and ensure that they are paid and treated fairly in order to be able to attract and retain the best and brightest employees. H.R. 4044, the "Rapid Response Border Protection Act of 2005," would achieve many of these goals, and should be enacted without delay.

In summary, solutions to the vexing problems of border crime and violence will remain elusive as long as the current enforcement strategies are pursued. Addressing these problems in a meaningful way will require two dramatic changes. First, the employment magnet needs to be eliminated, which will reduce the flow of illegal traffic across our borders from a flood to a trickle. Second, reliable and cost-effective technologies need to be utilized to detect border intrusions, and sufficient numbers of law enforcement officers must be deployed in a manner that enables large numbers of them to rapidly respond to each incursion, minimizing the incentive for criminals to attempt to avoid capture through violent means. Since both of these measures could easily be implemented, there is no excuse for continuing to tolerate high levels of crime and violence along our borders.

Mr. McCaul. We will now have questions from the members. I will limit it to one round of questions, try to keep it as close to 5 minutes as possible, and the Chair recognizes himself for 5 min-

[1] Since most of the troops assigned to perform tasks along the border (such as building, maintaining and repairing roads and fences) are unarmed, the Border Patrol is assigning agents to protect them against assaults.

utes. I want to talk about several issues and then put a question to the panel.

I remember when I worked in the Justice Department I had the Mexican border in my jurisdiction, and the Border Patrol told me about a policy that was relatively little known at the time and it was called the catch-and-release policy. When they explained it to me, they said, Well, what happens is, when we have people coming from countries other than Mexico, South America being a gateway to countries like the Middle East, China, Africa, and we don't have enough detention space.

I said, Okay, so what do you do? We give them a notice to appear at a hearing and we let them go.

I said, Well, how many of those people show up? About 10 percent if we are lucky.

In my view, that was probably one of the most dangerous loopholes in our national security policy, and it was unacceptable before 9/11. It is certainly unacceptable after the events of September 11.

When I got elected to the Congress, one of the first things I did was to author the Mandatory Detention Act, which calls for the detention of all of the other-than-Mexicans crossing. Now, the Mexicans who voluntarily returned, the OTMs gave notice to appear. This bill would end the catch-and-release policy; this bill is part of H.R. 4437.

The House bill provides help. It provides funding for the sheriffs; it provides employer verification; it provides for more Border Patrol agents; it provides for all the security needs that we need in this Nation. And I call upon my colleagues in the Senate to pass it.

Also, I have been working with Steve McCraw. I have introduced a bill, the border area security initiative, which calls for the Secretary of Homeland Security to designate various areas along the border that are high-risk areas, and in an integrated, multiagency, multitask force approach, work to secure the border. It provides funding and it provides funding to hire deputy sheriffs as well.

These are all important measures, and there are many more.

I want to thank everyone for being here, but I do want to thank particularly the sheriffs and Mr. McCraw, whom I had the great fortune to work with when he was at the FBI, working counterterrorism, and I was at Justice; we worked together on threat assessments then.

And I would like to know today from you, Steve, about your view of the current threat assessment which, in my view, is greater than it was when we were working together. I would like to hear from both you and the sheriffs about your perception—as you are on the front lines in this struggle, I would like to hear your perception about the threat assessment; and then, if you could elaborate, as you worked together on these enforcement operations, how those exactly worked and what the Congress can do to help you in that effort.

Mr. MCCRAW. Just quickly, Chairman, I couldn't agree with you more in terms of the significance of the threat. Over a year and half ago, the governor simply asked me what is the most significant threat to Texas, and clearly, unfortunately, I had to come back and report, a porous U.S. border with Mexico. That was the most sig-

nificant national security, but also public safety threat as well. And, you know, that is without question.

So the second part is what do you do, and fortunately for us, we had some sheriffs who were thinking about that already and already recognized through Operation Stonegarden, which was supported by DHS homeland security grant funds that, hey, when they get increased patrols in a threat period, between the election in November and the inauguration in January of our last election, something remarkable happened. More patrol decreased crime, and leveraging, based upon the success of that, simply is just more State resources.

And thank goodness for David Aguilar, the Chief of Border Patrol, willing to work with all the border sector chiefs to come together and work. Unlike the days of old where we built investigative strategies, this is different. It is patrol-based strategies, because as important it is to do the investigations, there is no substitute when we are trying to decrease crime to have patrol presence, to the extent we leverage intelligence—and I can't state that enough—usually intelligence, and command and control and coordination and technology to support it.

But one key thing, if there is one thing we can get—and the reason the governor has gone to the legislature and asked them for $100 million; it is most appropriate, by Mr. Quan, to bring that up—it takes away from something else that is a matter of prioritization. We have wished, and he wished, he didn't have to do that, but it is so important we help Border Patrol and Customs—or excuse me, Customs and Border Patrol, help secure the border that we need to do something now.

That is how we are doing it, and I will defer to the sheriffs, Flores and Jernigan.

Mr. MCCAUL. If you could comment also on the statistics, I think the three enforcement operations you ran, which is a law enforcement operation, as I understand, was greatly successful.

Mr. MCCRAW. Again, it is like—it is not rocket science. That is why I understand it, okay; and it is physics for police, if you will.

We started off in Operation Del Rio, and I will let the sheriff talk about it, but those numbers are pretty high in terms of crime reduction.

Mr. JERNIGAN. Yes, Mr. Chairman and Members, during the month of June, part of June, we conducted a special operation in connection with Border Patrol and Customs and game wardens, DPS, many other agencies; and as he mentioned earlier, using a large number of uniformed officers, 24/7, throughout our county.

Our crime rate during that time period the operation was conducted was reduced by 67 percent just in our county alone, which was a significant drop. We can't sustain that under current budget restraints, but we were able to prove that a uniformed presence in the area does prevent crime, does reduce crime significantly.

Mr. MCCRAW. That is one of the reasons why we are looking for more money, the governor is, because how do we sustain these operations.

Sheriff Flores, obviously Operation Del Rio was built around—'and Sheriff Jernigan, Operation Laredo, Webb County; Sheriff Flo-

res in terms of the five-county—we kind of expanded to five counties in your area right, Rick?

Mr. FLORES. Expanded to five counties and our initiative was a little different than the President's. Our initiative was to have a greater impact on arresting people and putting people behind bars.

We learned a lot, and one of the most important things that we have learned is that all of us—communicating together and sharing intelligence, we can make a greater impact in helping reduce the criminal elements or the criminal enterprises along the border.

Interoperability is also very important. We lack interoperability, but basically the gathering of intelligence, communicating with each other was very, very important and very successful.

We thank the governor's office for taking the lead on that in getting these operations together so we could learn more about us as an agency and working together collaboratively with other law enforcement agencies.

Mr. MCCAUL. Well—and Sheriff.

Mr. JERNIGAN. I would like to add, Mr. Chairman, as a result of this operation, Chief Randy Hill, Chief of the Border Patrol for the Del Rio sector, and DPS and the Val Verde sheriff's office agreed and have actually formed a joint intelligence unit based at the Border Patrol to address some of these issues. It has just been established, so we are all going to be watching to see if it really works.

A couple of other issues that we are looking at besides the joint intelligence efforts are the sheriff's office and the Border Patrol are exploring the possibility of joining our communications centers in one center, probably to be located at the Border Patrol. We have technicians and others coming in the next couple of weeks to evaluate that possibility, to see if it will work. Off the cuff, I think it will improve our communications between the multitude of Federal agencies in our jurisdiction and within the county.

One other issue that we have initiated that has to do with the heavy caseloads at the U.S. attorney's office: Many cases not being prosecuted because of the threshold levels that have been established. Through the governor's office we were able to secure funding to establish a full-time prosecutor working at the U.S. attorney's office to assist us in the additional cases that are flowing in their direction.

Mr. MCCAUL. Well, thank you. I commend you for your efforts and your success. As usual, Congress and those of us at the Federal level have a lot to learn from States and locals.

And Steve.

Mr. MCCRAW. Chairman, we have concluded this week—we just happened to coincidentally conclude Operation El Paso this week. We will be doing an after-action report. We are going to do it next Tuesday, and the preliminary statistics we are getting back right now are 70 percent reduction in all crime.

And that is an important part. Remember, all crime, that is, the home invasions—those are the things that the sheriffs are held accountable for: home invasions, robberies, rapes, murders. It is a very important statistic.

The only reason that number drops is because the bad guys, Mexican organized crime, shut down their activities. There is a direct correlation between when you reduce the smuggling acts of

these that come across the border and the amount of crime they have to deal with in their particular counties.

Would you guys agree with that?

Mr. FLORES. I agree.

Mr. MCCAUL. It is a great model for us to learn from.

I believe that the House bill, passed by the Senate, will provide the support that you need.

And I would like to close with the issue I brought up initially, and that is the catch-and-release policy. If anything, we need to get this passed. It is absurd. You don't have to look back too far in history to know that in 1992 a guy name Ramzi Yousef came into this country and was given a notice to appear at a hearing, failed to show up, conspired to blow up the World Trade Center, fled the country, met with Khalid Sheikh Mohammed, who turned out to be the mastermind of 9/11. They discussed in the mid-1990s the flying of airplanes into buildings.

As we recently saw in England, those plots are still ongoing with airplanes. That is why this policy is so important, and that is why it is so important that we pass this.

I now yield to recognize the gentlewoman from Texas, Ms. Jackson-Lee.

Ms. JACKSON-LEE. Let me thank you again, Mr. Chairman, and thank you for allowing me to serve this morning on a subcommittee that I am not on Homeland Security as the ranking member and, therefore, allowing me, as well, to also be a fact finder but to bring a sense of balance.

Mr. Pena, Mr. McCraw, Colonel Malesky, Sheriff Flores, Sheriff Jernigan, Mr. Quan, Mr. Bonner, let me thank you for the patriotic Americans that you are and for the service that you have given. Both sheriffs know that we have spent a lot of time together in Washington, D.C. I have even called the sheriff before my Subcommittee on Immigration, Border Security, and Claims of the House Judiciary Committee.

We have heard your voices, and frankly my frustration, as I listened to Mr. Flores, is the fact your life is still in jeopardy, that we don't have the resources right now for you to take advantage of.

So my frustration is not to suggest that it is not a dangerous border—I know that; I have spent time there at night—but obviously the hours that you spend, you are a living witness, all of you are. So I think the challenge for us today is to really call upon the Congress, to roll up our sleeves, and if I had the—my, if you will, desires or the opportunity, I would call the House back in and the Senate back in, because I think it is important to note that there is a House bill and there is a Senate bill.

Both of these bills have enforcement aspects because it is a given, it is an obvious. I don't know if Yogi Berra had some quote that it is all about obviousness. We understand that we are confronting a new enemy.

My concern here today is that testimony that you have given is welcoming for Houston to hear it, but it is already in our congressional records. When you left us in June and July and in the spring when you came up, your challenge to this Congress was that it was necessary for us to go to work.

Well, we have gone to work, and might I say to the chairman, I would like to join with him on his initial legislation, because H.R. 4044, as he well knows, OTMs, other-than-Mexicans, the problem with the catch-and-release was the lack of detention beds. So the rapid response bill that I authored that—Mr. Bonner, that you have supported or the National Association of Border Patrol, gives you a 100,000 detention beds. It is not a pretty sight, but it does speak to this whole question of security.

So I want to take you, if I might, in a series of rounds of questioning that might be helpful for me to understand.

Sheriff Jernigan made a point that is valuable. We are safer today in light of the terrorist plot that was discovered in the last 2 weeks because of intelligence. That is the first line of defense for you gentlemen that are here today, to get the intelligence so that you can be in front of the violence, if you will. And then, of course, it is the necessity of providing the funding.

I have joined in, as we have, to help support sheriffs who need a reimbursement in funding, because you are on the front line as first responders, but I think the crisis is that—what I am hearing is, is all local effort.

Immigration and the protection of the border and the protection of the United States is a Federal responsibility. It has to be. So let me simply—and I think I heard Mr. McCraw say that there is going to be a $100 million request by the governor of the State of Texas?

Mr. MCCRAW. Yes, ma'am, that is correct.

Ms. JACKSON-LEE. Let me ask you whether or not a format such of this would be helpful as well: a provision in law that would allow the governor of a State to declare an international emergency at their border—and we have New Mexico and California, among others—to go directly to the Secretary of Homeland Security, who consults with the President of the United States; and at that point the DHS dispatches 1,000 Border Patrol agents to that State that has declared an emergency.

Would that be a vehicle that would be useful to the State of Texas which you represent?

Mr. MCCRAW. The short answer is yes. One thousand more Border Patrol agents, where do we sign up.

Ms. JACKSON-LEE. So a format that would allow that declaration would be a helpful format.

Mr. MCCRAW. Yes, ma'am.

One thing I want to caution, though: A declaration without resources means nothing.

Ms. JACKSON-LEE. Absolutely. So that the connection is that once you make the declaration, those 1,000 Border Patrol agents would be dispatched, short of adding money in the other areas.

Mr. MCCRAW. Yes, ma'am, we would love to have that.

Ms. JACKSON-LEE. That is a provision in H.R. 4044, which I authored. And, frankly, I hope that at a conference—that is what we are supposed to be doing—that we will be able to reach that point of reconciliation and get a provision in the conference that generates a bill that answers this immigration issue comprehensively, border security and, as well, working with the States for their security and immigration reform.

Let me also ask Mr. McCraw why I think it is important for you to have these Federal resources. The governor is going to be asking for 100 million. I know that you are tightening your belt. I know what is happening to the State schools and our health care system. I know that we are literally in a crunch, and I am saddened to say that when it came to making a decision about Federal funding for urban initiative grants under the Department of Homeland Security, as Mr. Quan has said, we were cut 31 percent under this administration.

But I do want to ask, with the effort that you have had at the border, tell me why you need more resources. We know that GAO investigators just went to the border, and they were able to transport radioactive materials, enough to build two dirty bombs, across borders in two locations, including Texas. If we had a State effort by the governor—the question is, why didn't we catch these individuals?

What is it that you would need if you were at the border? The governor did expend funds, but yet these two individuals or this group of individuals were able to come across with the dirty bombs, and Texas did not catch it with the resources.

Mr. MCCRAW. I think if you will check, you will find they went through the ports of entry. That is how they did it.

I will refer to Mr. Pena in terms of that—or you wouldn't know, you are ICE. Forgive me. There is nobody here that is at the port of entry. That is how they entered.

It doesn't matter. They could have gotten in a number of different ways, certainly through the ports of entry, but in between the ports of entry.

The fact is, the answer is, secure the border. If the border is secure, that is the important point, because just because people don't, you know—that is the most important thing and that is where we will continue to focus and talk about.

Ms. JACKSON-LEE. You are absolutely right, and reclaiming my time, your time was well spent in your answer. That was basis of my question, that whether the governor spends $100 million of State funds, if we as a Federal entity don't fund this at the highest amount, which is included in a comprehensive view of this immigration question, then we are begging the question, we are forcing States to spend their money, and we still have people crossing the border with the ability to create havoc.

Mr. Pena, what happened there? What do you need more to help you in avoiding that kind of entry? And I know that you are ICE, internal, but if you could suggest what might be helpful if investigators were able to cross the border with two dirty bombs.

Mr. PENA. Unfortunately, Congresswoman, I am not as well versed on that incident that you referred to. I am familiar with the previous—I think it was a Dateline that happened up on the northern border.

Ms. JACKSON-LEE. This is a GAO study. You can give your best guess as to what kind of funding you would need to help thwart that type of activity.

Would it be an intelligence funding increase? Would it be more resources, more personnel?

Mr. PENA. You touched on it. It is comprehensive.

I think we need intelligence; I think some of the things that are going on right now, as far as a coordinated effort, which I think is demonstrated here, of how we are working together in these task forces where there is not a compartmentalizing of information anymore.

I think that 9/11 has opened the windows that every agency realizes no one wants to withhold that piece of information that could have helped the other agency detect the dirty bomb.

We are working closely together. We are sharing our information. We are intelligence driven, working with our foreign partners.

That is the other key, which I hope was noted in my testimony about working with the Mexican Government. We do need their cooperation to help us, and we have begun an initiative where we are working closely with Mexico intelligence. We have got to work with foreign governments, also.

Ms. JACKSON-LEE. I think that is excellent and is part of the comprehensive approach we are trying to take by meshing the Senate bill and the House bill together. You cannot have enforcement only because you must separate out the criminals from those who are seeking to come into the country with legal status or even those who are already here in the United States. I think if we mesh that we become confused.

Let me just pose these questions quickly to Sheriff Flores and Sheriff Jernigan. If you were to get, along with resources at the border, more helicopters and power boats, both working at the Border Patrol and you would have the opportunity to utilize some of that equipment, helicopters, power boats, motor vehicles, portable computers, radio communication, handheld global positioning system devices, night vision equipment, body armor, would that be helpful, in conjunction with the support of the Border Patrol, getting that equipment as well?

Mr. FLORES. Yes, ma'am.

Ms. JACKSON-LEE. And so that would be helpful as you are on the border and assisting us in border security.

Mr. FLORES. If I may add, one of the things that distinguished Webb County from the other counties is that Laredo is, if not the largest inland port in the Nation, possibly in the world, we have got 60—to 70,000 commercial trucks going northbound across our borders; and commercial vehicle enforcement would be very, very important for us to be able to have—to be able to inspect some of the truck traffic that is crossing our bridges undetected. So technology is of vital importance in addition to all the others.

Ms. JACKSON-LEE. Let me just say, that too is in H.R. 4044, which I authored.

And let me just have my last question to Mr. Bonner if I could. I just want to show you the comparison of what we have had over the last couple of years, border security by the numbers.

The average number of new Border Patrol agents added per year in 1993 to 2000 was 642. Under this present Congress and over the last years since 2001, it has been 411. INS fines for immigration enforcement, 417 in 1999; present administration, only three in 2004.

Seventy-eight percent fewer completed immigration court cases. In 1995, we had 6,455 before the 1996 immigration bill; and now

in 2003, the very span of time that this committee and this chairman are talking about, 2003 from 1999, we have gone down.

My other poster shows the number of apprehensions at the border has declined by 31 percent under this administration and this Congress. In 1996 to 2000, you had 1.52 million; in 2002, 2004 you have had 1.5 million.

I would commend that the question is resources. Would you want to analyze that, Mr. Bonner, why we have seen such a drastic decrease and has the funding been equal to the needs?

Mr. BONNER. Obviously, the funding has not been equal to the needs because our borders are still porous, and I think there is enough blame to be spread around all over the place.

The question now is, when are we going to get down to business and solve the problem and secure the border; and I think that that is going to take both sides of the aisle to get together in good faith and come up with solutions that really work. I don't want to sit here and preach to the Members of Congress, but the American public wants our borders secure. I hear that every day from ordinary citizens who ask me, Why aren't our borders secure; and I have to refer them over to their lawmakers.

Ms. JACKSON-LEE. So you want us to get to work and to reconcile those two bills.

Mr. BONNER. I want the problem solved.

Ms. JACKSON-LEE. We will get to work to reconcile those two bills. Thank you very much.

Mr. MCCAUL. Thank you.

Mr. Bonner, we hear that message every day as well, secure the border, and that is what we are trying to do.

The Chair now recognizes Judge Ted Poe.

Mr. POE. Thank you, Mr. Chairman. Mr. Bonner, preach on, preach on. It is what you ought to be doing. Sometimes people say Washington, D.C., is the only city in America surrounded by reality. So you need to keep preaching. I would encourage you to do that.

Several comments—most of my questions will be directed to you, Mr. Bonner—I just tell you that so you can listen to what I have to say—and also Sheriff Flores.

I understand there are 8,000 documents the Border Patrol has to be versed in in determining whether a person from Mexico or Canada or the Caribbean islands is lawfully from that country when they come into our legal ports of entry.

Is that a fair statement?

Mr. BONNER. Those would be the Customs and Border Protection officers, Border Patrol agents, most of the people that we apprehend do not have any documents, but we run into those situations where someone has some type of document; and then we have to get on the radio and say, What the heck is this thing, and generally we get sent off to those folks at the ports of entry who have to be expert in this. And I don't want to take up too much of your time, Congressman, but—

Mr. POE. Let me cut you off then, Mr. Bonner. I want to keep my 5 minutes.

At the lawful ports of entry, as you know, we have a Western Hemisphere exception. If you are from Mexico, Canada, the Carib-

bean islands, you can come into America without the use of a passport. You can use everything from a baptismal certificate on.

The 9/11 Commission recommended that the United States do away with that absurd policy and for security reasons require all people entering the United States to have a passport. It would speed up the entry to the United States, but also it could record who comes in and who leaves this country, which we do not do in this Nation any longer.

The 9/11 Commission report recommendation has been postponed, continues to be postponed, so that we do not have the passport policy in this country. We have a passport, a universal document legislation, that I have introduced. The person has a visa with a photograph and a thumbprint on it. Then when an individual goes to a business and wants to work, that business uses this lawful visa as opposed to some Social Security number that businesses are supposed to use, and then we could prosecute the businesses that fail to or that continue to hire illegals.

Do you think maybe using this 9/11 Commission report is something that Congress ought to adopt, requiring everybody entering the United States to have a passport so we know who these people are? Just your opinion.

Mr. BONNER. Absolutely. As it stands now, if you speak English, you can get into this country; because they ask you where were you born, and if you can speak English well enough, you can convince that inspector that you have a right to be here. They don't want to know who you are, so you could be—you could have committed a heinous crime the day before or the week before and have an APB, but they are not asking you who you are.

Mr. POE. And I agree totally with you that the Federal Government ought to prosecute the businesses that make a profit in dealing in the cash economy, paying people illegally in the country in cash; those people receive illegal money, and the businesses profit. The Federal Government needs to prosecute those.

That is well said. Good advice.

Detentions, as the chairman has mentioned, regarding OTMs, those people from other nations that are coming here, captured, released. I don't know why we can't use the abandoned military bases. Homeland security has 10,000 FEMA trailers sitting up in Hope, Arkansas, that were supposed to be used down here in the gulf coast for the hurricanes, but FEMA has apparently some regulation you can't take trailers to flood-prone areas. So we never got the trailers for the refugees from Katrina and Rita, another absurd policy.

But they are sitting up in Hope, Arkansas. Maybe those could be pulled down to the border and used on a temporary basis to house people that are OTMs from other nations. It is a national security problem, as well as an economic security problem, to allow unlawful entry into the United States.

I have a specific question regarding an incident that has occurred with the Border Patrol, a couple of border agents being arrested for, what I think, doing their job in West Texas and being prosecuted for doing their job. Now they are getting ready to be sentenced Friday for apparently shooting at some drug dealer, and the

Federal Government gave the drug dealer immunity to prosecute the two border agents.

What is the policy of the Border Patrol on use of force and apprehensions of people coming across the border illegally, like drug dealers? Can you tell me what the policy is?

Mr. BONNER. The policy is that Border Patrol agents are entitled to use deadly force to defend themselves or an innocent third party. In that case, that is exactly what happened. The drug smuggler wheeled around upon command to stop, pointed a shiny object at them, and they opened fire. They don't have to wait until someone shoots at them. They did not violate policy.

Mr. POE. I agree with you. It seems very ironic our Federal Government seems to be on the wrong side in doing the prosecuting in that particular case.

Sheriff Flores, I would like to ask a couple of questions to you. Been down to the border and seen you a couple of times and all the deputy sheriffs and the sheriffs in Texas. Once again, we appreciate what you do.

And when y'all came to Washington, D.C., the 16 border sheriffs walking down Pennsylvania Avenue, sheriffs from Texas, you are stopping traffic, people are looking. Who are these guys? The sheriffs are in town, 16 new ones.

But we thank you for what you do.

You have a person that used to work as a Texas Ranger working for you by the name of Doyle Holdridge and he has made a comment about what the border is like after sunset between Nuevo Laredo and Laredo.

Would you like to comment on what Doyle Holdridge, his comment?

Mr. FLORES. His comment is and still is that "It gets Western," and his definition of "Western" is that, you know, our deputies have to be on extremely high alert when they travel into some of the communities in the south that are situated along the Rio Grande because of the narcotrafficking and the illegal smuggling.

Mr. POE. Do you think that we have, as a nation, control of our southern border.

Mr. FLORES. We do not have control. We are doing the best that we can with what we have, but we surely could use more.

Mr. POE. Okay.

Mr. FLORES. But we do have a pulse on the violence and some control. We don't have a large spillover on this side, and I think that definitely when we had our operations or have been having our operations, the more vigilance and the more manpower that we have along the border, these people tend to hunker down.

Mr. POE. Well, obviously, I think all of the departments are doing—Federal and State, local, National Guard are doing the best job our Federal Government will let them do.

Last question, Sheriff. In a perfect world, how would you solve the border problem? How would you do it? If you could preach to us, as Mr. Bonner wants to do, what would you preach to the Federal Government on what we could do to secure the southern and even the northern border?

Mr. FLORES. I think Ms. Jackson-Lee pretty much had the laundry list. We need additional manpower. We need more technology.

We need more resources allocated not only to Federal agencies, but to local agencies.

We are first responders. County governments are a small tax base. They don't have enough money to fund sheriff's departments as they should, or I think they probably would want, but that would be perfect in an ideal world.

More boots on the ground—

Mr. POE. Probably more immigration judges, as well.

Mr. FLORES.—and, of course interoperability to communicate with each other. Post-9/11, we are still not interoperable in a lot of places in the United States.

Mr. POE. Thank you, Sheriff Flores.

I yield back Mr. Chairman. Thank you.

Mr. MCCAUL. Thank you. I just want to add, it is amazing to me that two Border Patrol agents who are doing their job, getting fired at all the time on the front lines, with their hands tied behind their backs, when they try to defend themselves, end up getting prosecuted.

With that, the Chair will now recognize Mr. Green.

Mr. Gene GREEN. Thank you, Mr. Chairman. And like my colleagues, I want to thank both local law enforcement for going what is really a Federal responsibility; and I just regret we have to be here.

But in all honesty, both the House bill and the Senate bill have the tools to deal with what you are having to address with right now—the OTMs, the additional resources. The difference is that the Senate bill deals with the 10 to 12 million we have that are undocumented.

But I don't think any side—the Senate, the House—wants to skimp on protecting our country, but the Senate bill does have the same thing. That is what the conference committees are for. If one side is better than the other, then the conference committee ought to meet, but this one hasn't met and that is our problem right now.

I wish I could say we will do it this year. In all honesty, I don't see it happening this year, because with the shortness of the time the Congress is in session in September and October and the lame duck session. We want to do it; there is an obligation to do it.

It is interesting though, Mr. McCraw; I don't know you, but I served in the Texas legislature. The only time I heard your name before was when I watched some things on trying to look for the legislators in Oklahoma and New Mexico, and I hope we have a lot better chance at this than we did that.

Mr. MCCRAW. Wrong person. I was working for the FBI at that time.

Mr. Gene GREEN. Okay. Good. Different McCaul. Thank you.

Mr. MCCRAW. It is McCraw. That is close enough.

Mr. Gene GREEN. One of the things I would like to know is, what are the rules of engagement on the Federal level and the local level.

Sheriff Flores, if your deputies are fired on and cross the international boundary, what is your standard operating procedure? I would like to know the Federal agencies, the Border Patrol, if someone fires at you from across the border, what is your option?

Mr. FLORES. You take cover.

Mr. Gene GREEN. You don't have the right to return fire.

Mr. FLORES. Not right now; we are just—we pretty much wait. And we have actually seen Border Patrol fire back and—because they have been in many situations like we have been in, but we have not fired back.

Mr. Gene GREEN. So local law enforcement, if you happen to be in a neighborhood in South Laredo and you are along the border, I mean, it could be Laredo, it could be El Paso, it could be anywhere, you don't have the right under national law, or is it State law, to be able to return fire.

Mr. FLORES. Okay. If we are in the United States, you know, we are going to go ahead and protect ourselves if we are in a very difficult situation.

Now, if they are shooting from an international country

Mr. Gene GREEN. Across the border.

Mr. FLORES. Across the border.

—we are just different. We are very careful. We don't want to cause any problems. We do notify law enforcement. We call our dispatch. Dispatch calls Mexican law enforcement. We try to get Mexican law enforcement to respond, but we do not take the initiative to start firing back.

Mr. Gene GREEN. Well, I guess that bothers me, Mr. Chairman, because frankly our law enforcement should be able to protect themselves. And I know we don't want to cause an international incident, but in all honesty, if somebody is shooting, at your deputies or a Brownsville police officer or anyone else, I think that—I mean, they ought to be able to defend themselves.

I don't know what we need to do. I don't think that has been addressed in any of the bills we have talked about, but I am glad these Border Patrol agents have a right to return fire.

I also know that if you can't, if the country of Mexico can't stop that from happening—and we have the same right to protect our citizens; and law enforcement, particularly, ought to be able to protect themselves. I am going to see how we can work on changing that.

Sheriff Jernigan, in Val Verde County you talked about the need for communication equipment so you can communicate with other. Is it State and local law enforcement, or is it also to work with Federal law enforcement?

Mr. JERNIGAN. Also, Federal, sir.

I did a recent study here a while back, trying to come up with some figures on what it would cost if we did a communications project for all the agencies, particularly on the Texas border, and came up with a figure a little in excess of $40 million. But we can't communicate right now between various agencies.

Mr. Gene GREEN. In all honesty, we had that same problem in Houston, in Harris County and the Houston Police Department; and we are working at it. Even the Port of Houston that is in our district, we are trying to develop the relationship between all my local jurisdictions and the FBI and the Federal law enforcement to do the same thing, because that is one of our problems from 9/11.

Even in New York, the firefighters cannot communicate with the police officers.

Mr. FLORES. Well, I would like to say, if Washington was interoperable, it would be great for all of us.

Mr. Gene GREEN. Wouldn't that be nice.

Mr. FLORES. It is not a partisan issue. It is a red, white and blue issue, and I think y'all need to spread that to your colleagues and let them know that.

Mr. Gene GREEN. And I agree. I think interoperable would be nice. We should be interoperable on lots of other issues other than just communication equipment. I think that is something we need to realize, that along the border between the Federal agencies and the local agencies, they ought to be able to call each other, instead of having to go through dispatch and get on another system, because delay can mean injury or death.

One of the things I am amazed at, and a good friend of mine and ours actually is Congressman Silvestre Reyes from El Paso. He was the District Director of the Border Patrol for many years, and I remember the controversy he had when he had to hold the line in El Paso. I saw the number of petty crimes, number of burglaries went down because of that effort. We know that worked.

I know the Border Patrol for years has tried to implement that along the border, but you have to have the people. It doesn't do you any good to have a fence. Somebody has to watch that fence; that is what is frustrating.

Are we still dealing with something that shows that it was successful in El Paso in the early 1990s or the mid-1990s in holding the line, you can do it, whether it is Laredo, or urban areas particularly, but Laredo or El Paso.

Mr. FLORES. In Laredo, I know. And I can't speak for Border Patrol, but I know that their virtual technology has been working. I know the governor is expanding on that, and I think that is going to serve well to have additional cameras and sensors along the border. We need to have more of that. And again, I just can't overemphasize the importance of technology.

Mr. Gene GREEN. Again, it should be Federal funding instead of having the local taxpayers or even the State taxpayers do that.

Mr. FLORES. Well, like I said, we don't have the money.

Mr. Gene GREEN. Mr. Quan, you mentioned in your testimony the concern about punishing cities who may not particularly make it an effort to be INS agents. I guess that bothers me because in the city of Houston, we have a shortage of police officers although—and we are doing overtime and everything else. I don't know the numbers on the Federal funding, but do you know from your years on the council—and maybe the chief would know when he gets here—what impact that would have on the city of Houston if all of the sudden we lost funding from the Federal Government?

Mr. QUAN. I don't have the exact numbers on that, Congress Member, but in a recent discussion we talked about just the fact that FEMA, we are asking reimbursement for the number of police officers because of the additional people from Katrina and Rita; and there are several millions of dollars.

If we are forced to try to look at criminal aliens in the city of Houston, it is estimated we may need an extra 1,000 officers in the city. So where are we going to get that type of funding? That is one-fifth of our force as it is right now.

So I don't have the figures on how much we get now, but again, I don't think it comes close to reimbursing what the costs are.

Mr. Gene GREEN. In all honesty, living in the city of Houston, if my house were broken into, I would much rather the cost and service time be much lower, and if I have somebody I think is not here legally, I would be more than happy to call the INS instead of the HPD.

Mr. QUAN. That is what the mayor believes and most citizens of Houston believe.

Mr. Gene GREEN. Thank you.

Thank you, Mr. Chairman.

Mr. MCCAUL. Gene, let me associate myself with your frustration and concerns about law enforcement's inability to respond once these cartels have gone back into Mexico.

I recently chaired a hearing on Neeley's Crossing in hopes that the county would arrest cartel members and individuals dressed in military uniform who crossed into the United States and then fled back across the river. We saw on the videotape law enforcement's inability to do anything, even though they were being fired upon, and I think it is something we should look into in this committee, and also I think it calls for a greater need for cooperation with Mexico. I think that is probably the answer to that.

The committee will now take a short recess of 5 minutes.

Ms. JACKSON-LEE. Mr. Chairman, this panel is leaving.

Mr. MCCAUL. Yes.

Ms. JACKSON-LEE. May I just ask you to yield to me?

Mr. MCCAUL. I yield to the gentlewoman from Texas, Ms. Jackson-Lee.

Ms. JACKSON-LEE. Mr. Chairman, we have worked on a number of committees together, but specifically the Homeland Security Committee, and what I have gleaned from these witnesses is that we have a drug cartel, violent problem at the border, mostly dealing with drug smugglers, money launderers. And I hope maybe that you will accept my invitation for a hearing at the border on the depressed Colombian drug trafficking which has now come to Mexico, which is the crux of the increased violence that you all are facing. That is a more or less parallel but separate issue which would include public enforcement officers and FBI and others. And in order to be able to look at this in its wholeness, I would hope we would be able to have that kind of hearing and provide the necessary funding for that response as well.

Mr. MCCAUL. I think that is an excellent idea, and the Chair will take that into consideration. The committee will now be taking a short recess of 5 minutes for the next panel.

[Recess.]

Mr. MCCAUL. The committee will come back to order.

First, I would like to thank Judge Martha Jamison for opening up her courtroom to us today to hold this hearing. I really appreciate all the hospitality, not only from the judge but from the Harris County officials, sheriff's office, and all of the Harris County officials who have made this possible here today. I know it has not been easy. I know there have been security concerns, and I certainly appreciate everything you have done. Thanks so much.

With that said, we are going to go ahead and start into the testimony. I will try to keep us on a fairly tight clock so we can all move on. I understand there is an Astros game at one o'clock, and some of you may be attending that.

With that being said, the Chair now recognizes Mr. Robert Eckels, Judge Eckels, Harris County.

STATEMENT OF ROBERT A. ECKELS, COUNTY JUDGE, HARRIS COUNTY

Judge ECKELS. Thank you, Mr. Chairman, members. Again, I will try to be brief. I have submitted previously written testimony. We do welcome you to Harris County Civil Courthouse. You are the first congressional hearing in our courthouse. We are very happy to have you here. I wonder about Judge Poe not being at the bench here. I will have to get used to this.

We welcomed Congressman Lee and Congressman Green earlier.

Like many other large communities in the United States, we are relying on the Census Bureau to talk a little bit about ourselves. And one of the high points, in 2005 we were estimated to have a population approaching 3.7 million. That was pre-Katrina. So I would estimate that Harris County now pushes that 4 million number.

As you look at our population here, it is about 20 percent growth rate over the decade. A large percentage of our population, as has been earlier estimated, is immigrant population and foreign-born population. We do have a very international community and a large border presence through the Port of Houston, in spite of the fact that we are not on the southern border.

Houston, through our port, is a gateway to Mexico. We are a larger Mexican port than any other Mexican port, at least in terms of transporting goods through our port. It also makes us more vulnerable to criminal activities. So we are particularly interested in the issues regarding our community, and I appreciate your being here today.

We did receive port security grant funding which has enabled us to begin electronic surveillance and waterside patrols which are currently in the planning side. We appreciate that. We are partnering with the port in their grants, and the Coast Guard as well, in working together, and I do want to compliment the Coast Guard and the Homeland Security Department for their efforts to work with us on our interjurisdictional partners for security in both regions.

You asked me to focus on three efforts: the impact of illegal immigration on the public school systems, health care and our law enforcement and criminal justice systems.

I have become increasingly aware, as I have tried to prepare this testimony, that it is very difficult to gather information on the impact of illegal aliens and illegal immigration with criminal activity because citizenship statistics are not routinely gathered by most entities of the State or local government.

It is standard practice, for example, in public health when they are conducting case investigations—when we did a reportable condition of communicable disease—to identify the potential risk to the community and inform us of those risks and track down the

disease, ensuring that no one else is placed at risk. In doing so, they do not get into the issue of citizenship because that often impedes their ability to track down people who might be carrying diseases in the community.

Paul Bettencourt, our tax assessor, had testified previously to Congress and the Committee on House administration about the noncitizen voting and the Federal Election Integrity Act, and mentioned the possibility of having a reliable national database, a citizenship database, and to check for protocol on citizenship. Such a database would be helpful to us as we deal with the other issues as well, not in a deliberative service, but in the maintaining of the records in the county on the people we deal with every day.

On public education and public schools, the Texas system of independent school districts, again created by the legislature, have been given primary responsibility in educating children in our State. There are 26 ISDs wholly or partially within Harris County.

We do operate our own educational program, an alternative education in criminal justice, a charter school within our detention centers for juveniles in Texas. The TEA and the local independent districts provide the bulk of our education.

There are over a million children or people under 18 years of age in Harris County. We are a relatively young county. They break down in the State of Texas and in the Houston area, for African American, about 21 percent; 41 percent, Hispanic; 31 percent, Anglo; 2 percent, Native American; and a little over 5 percent, Asian Americans.

So it is again difficult, or almost impossible, to gather information about citizenship, and that goes back to the Plyler v. Doe case. That is referenced in my written testimony. But again that overturned a State law in Texas that prohibited reimbursement of State and Federal to local districts for children who were not "legally admitted" to the Texas schools.

It established a principle of don't ask, don't tell in the public schools. They cannot be denied a public education because of citizenship status. There is no doubt that problems have existed or have existed for generations in the classrooms on providing services both for our local community as well as for the alien community, both legal and illegal, but there is also no way to deny that as a result of our work we have educated many students who have come to this country and have enriched our State and our Nation.

The starting point for gathering data for the education levels, though, in our education citizenship status will be the bilingual education programs. According to the TEA, about 14 percent, or 631,000 of students in Texas public schools, were enrolled in bilingual or ESL programs. Some 25,000, or 8.4 percent of all teachers of these programs, and $965 million, or 4.2 percent, were spent on public education for these programs.

In our region, the region IV area, 17 percent of our students were enrolled in bilingual or ESL programs. That is slightly larger than that State average; 9.5 percent of the teachers teaching those programs and over $332 million, or close to 7 percent, was spent on those programs.

This has been trending upward in the past decade and continues to do so. Again, they don't reflect the actual number of undocu-

mented students in the region IV schools, but they can help the committee establish the growth.

We did learn after Hurricane Katrina that rapid growth can be a problem for us in our schools. We continue to deal with the planning issues that go with the growth of the population and the immigrant population that hits our system, but it complicates the process to have the folks coming in as the schools try to plan, because you don't build a school overnight. And again it is referenced in the written material, but we would be happy to work with the committee and appreciate your interest on that impact.

We find as we go through and look at education and social services and health care and the criminal activities, they are all interrelated, and as was mentioned in the earlier panel, and draw resources that would otherwise be spent on services in the community.

I am able to provide better data on the impact of illegal or undocumented aliens on our public health care delivery system. Harris County has prepared a report at the request of the Harris County Commissioners Court which is referenced in the material and has been supplied to the committee.

Essentially it talks about three cost centers: outpatient care, inpatient care and undocumented workers patients, as well as pharmacy-only care. We saw from 2002 to 2005 a 17.7 percent increase of undocumented inpatients served and over a 50 percent increase in costs for the services rendered. The total cost for inpatients for 2005 was over $82 million, and the 4-year total was over $272 million.

During that same period, the District received payments and reimbursements totaling $106 million, leaving $166 million that had to be picked up by the local property taxpayers. Of this undocumented population in our district, 83 percent were people from Mexico, 6 percent from El Salvador and Guatemala; the remaining 11 percent were from Great Britain, Canada, Haiti, India, Iraq, Iran, Nigeria, Vietnam, Nicaragua, other countries around the world.

When you look at outpatients, the outpatient clinical activity grew from 177,000 in 2002 to 272,000, a 52 percent increase during that same period. In 2005, they generated approximately 18 percent of our outpatient visits. Again, costs up to $38 million in 2005.

I would caution as you look at the outpatient numbers that sometimes Federal policy tends to drive people out of those services into inpatient services which are much more expensive. So as you are addressing these issues, as we address these issues, we need to be careful of the law of unintended consequences and the impact sometimes we have as we try to cut costs. Again, many times the outpatient visits are a public health issue that, without that visit, it would spread other diseases in the community.

Pharmacy-only patient visits also increased, and annual pharmacy-only visits grew from 75,000 plus in 2002 to over 156,000 in 2005. Again, an increase of more than a hundred percent. Costs grew at 125 percent, for a 4-year total of over $19 million.

Payment reimbursement for that period was $2 million, resulting in a net cost of $17.5 million for the district. That undocumented population that sought district pharmacy-only visits in 2005, of

that group, 86 percent were from Mexico, 4.5 percent were from El Salvador and Guatemala; another 9.5 from those countries I mentioned earlier.

The total cost for all of this for 2005 was $128,400,000. We received payments and reimbursements of $31 million, a net cost of over $97 million. Four-year reportable cost of $403 million, with reimbursements of $116 million. This is covered in the written testimony.

In addition to the cost, though, of Harris County taxpayers that you may not look at, 99 million-plus, or 85 percent, of the reimbursed costs came in reimbursements from the TP30, a Federal Medicaid program for emergencies. Those funds are, of course, paid by the Federal taxpayers, so we are not reimbursed. Our total amount, Harris County contributes a second time to that Federal tax base as well.

Another finding that may be pertinent to your investigation is how the $27 million in emergency Medicaid reimbursements were used in 2005. Of the 11,000 births performed by the district, 7,900 were to undocumented mothers. That is 71 percent of all the births and 80 percent of the emergency medical reimbursements to the district.

Again, in perspective, our budget for 2002 to 2005 was about $2.6 billion for the district, and so within this, this is about 20 percent of our total budget.

Our criminal justice, I have to defer largely to the law enforcement folks here. You have heard a lot of testimony about that before. I do have in the written testimony reference to the MS–13 gang. Mr. McCraw earlier talked about the MS–13 gang. We worked with Joe Newhouse of the James Baker Institute.

And we are concerned that the MS–13 gang is much more than a street gang. It is particularly vicious and well organized. It is large. It has had earlier reports in Honduras from the former Minister of Security, Consul General here, Oscar Avarez. This gang is a very young gang. It started in Honduras; 77 percent of their initiates are 15 years and younger when they are initiated into the gang; 62 percent are between 12 and 17 years old. We are seeing a lot of youth gang activity in this community as well, but we are concerned as well that the human trafficking of the gangs has become more profitable than the drugs and look at that as a major security issue for our community.

Our pretrial services department provides services that do allow us to collect citizenship status as we look for bail hearings. Over the past 4-year period, 19 percent of the misdemeanor defendant interviews were of non-U.S. citizens. About half of those, 51.2 percent, were undocumented or illegal. Again, 10.2 percent of the total misdemeanors were illegal aliens.

The numbers are similar for felonies, about 11.5 percent for non-U.S. citizens; 52 percent were undocumented. Again, similarly on combined misdemeanor felony trials. Sixty-plus percent were from Mexico; 67 percent of those from Mexico were in Harris County illegally.

Again, there is no real correlation between the illegal aliens and the general population in reference to our justice system, but you can look at the impact. Our region is estimated to have between

400,000 and maybe 430,000, up 30,000 from the year 2000 in the Houston region in 2005. And, absent any other information, that is the best data we can get.

If there were a national citizenship database, I would urge the Federal Government to allow local governments to have access for us to decide how we could best use that database, not perhaps in the denying of services but in the ability to better deliver and target our services in the population we are dealing with.

We again do have the concerns that were expressed earlier about the porous borders, the jihadist Web sites that are talking about the open border. Recently, there was a bomb in Karachi in a stadium, but the pattern of that attack followed a Web site that pictured the Dallas, Texas stadium in Irving where the Cowboys play. It had suggestions about infiltrating our borders and who to use for suicide bombers within the stadium. It is a threat to the community.

So we do want to follow up with, again, we are very concerned about those issues in our community. We have shared the concerns with the other sheriffs in the community and continue to work with them. Again, we will continue to work through our intelligence with Major O'Brien and touch on this with the sheriff's office with comments made by the U.S. attorney's office about Hezbollah and Mexico and the arrests this spring of Hezbollah operatives within that country.

I remain available for questions and defer again on most of the law enforcement issues to the rest of the panel.

[The statement of Judge Eckels follows:]

PREPARED STATEMENT OF ROBERT A. ECKELS

Mr. Chairman and Members of the Committee, I am Robert Eckels. I serve as the County Judge of Harris County, Texas and I would like to welcome you and your staff to Harris County and to our new Harris County Civil Justice Center. Since the ribbon-cutting ceremony this past March, you are the first congressional committee to grace us with your presence in this room.

For those who are not familiar with our system of government here in Texas, a County Judge is the presiding officer of the five member Commissioners Court, the governing body of the county. I represent all the citizens of the third most populous county in the United States in much the same way county executives do in other parts of our country.

Harris County is 1,756 square miles in area and, with our 2005 population estimate of just under 3.7 million, is more populous than 23 states. There are 34 municipalities within the county, including the City of Houston, our county seat, the fourth largest city in the country. More than 1.3 million people live in unincorporated Harris County and rely on the county to be the primary provider of basic government services.

Like other communities around the United States, we rely on the U.S. Census Bureau to tell us about ourselves. On August 4, 2006 the U.S. Census Bureau released its mid-decade statistics on growth entitled "State and County Characteristics Population Estimates—for July 1, 2005." The official estimate for the population of Harris County—3,693,050—is up 292,472 from the 2000 census.

From other Census Bureau reports about Harris County we learned that our growth rate in the decade from 1990 to 2000 was 20.7%. In 2004 it was estimated that 29% of our population was under the age of 18. In 36.7% of our households a language other than English is primarily spoken and 22.2% of our population was foreign born. The Census Bureau does not ask about legal or migrant status of respondents in any of its survey and census programs as there is no legislative mandate to collect this information.

Just two months after the July 2005 estimate, Harris County experienced a sudden influx of evacuees from Hurricane Katrina estimated to be more than 300,000 new permanent residents. While this was certainly not illegal immigration, that

10% increase in population almost overnight coupled with the existing influx of illegal immigrants pushes the resources of our community to the limits.

I applaud you for holding this hearing on Criminal Activity and Violence Along the Southern Border here in Harris County because we are heavily impacted, like major metropolitan areas all over our country, by this kind of activity as well as by illegal immigration.

Although we are not located on the southern border of the Untied States, the Port of Houston is our gateway to the Gulf of Mexico enabling us to tremendously expand the commerce of our region and state, but also making us vulnerable to criminal activity and violence. We have been working with this committee, the Congress and the U.S. Department of Homeland Security to provide a higher level of security for the Port.

Harris County received funding under the FY2005 Port Security Grant Program which will enable electronic surveillance and the initiation of water-side patrols that are part of the region's plans for the first stage of detection and mitigation against improvised explosive device attacks along the Houston Ship Channel.

This will provide a first step towards inter-jurisdictional partnering within the region and assist with the implementation of regional security plans associated with the Port of Houston Authority, Port Strategic Security Council, regional industry partners, Houston Urban Area Security Initiatives and other homeland security-related plans. This important first step will lead to additional steps to raise the level of security along the Port. I certainly appreciate and encourage this Committee's continued work in helping local governments secure ports and other vulnerable infrastructure.

I will focus on three areas where you have requested information, the impact of illegal immigration on public school education, health care delivery and our law enforcement/criminal justice systems.

However, in preparing this testimony I have become increasingly aware that gathering information on the impact of illegal immigration and associated criminal activity and violence is made more difficult because citizenship status statistics are not gathered by most entities of local and state government.

For example, as standard practice, the Harris County Public Health and Environmental Services Department (HCPHES) conducts case investigations following notification of an occurrence of a reportable condition, including certain communicable diseases. These case investigations are intended to identify potential risks to the community and inform the development of disease control measures that may be needed to protect the community—that is, to ensure that others are not placed at risk.

Because a person's full participation and disclosure are critical during the investigation process, HCPHES must establish and maintain a high level of credibility and trust with participants. If a participant felt threatened in any way, he or she might choose to discontinue participation, thus impeding the investigation and, as a result, potentially putting others in the community at risk for exposure to the communicable disease.

Therefore, HCPHES collects only the information that is necessary to determine potential risks to the community and develop appropriate recommendations for disease control. Because knowledge of residency status does not contribute to these goals, HCPHES does not collect information related to residency status during case investigations for reportable conditions.

Recently, Paul Bettencourt, the elected Tax Assessor-Collector and Voter Registrar for Harris County, testified before the House Committee on House Administration about non-citizen voting and the Federal Election Integrity Act of 2006. In his testimony, he reminded the committee that the State of Texas amended its constitution in 1921 to require that voters be U.S. citizens.

He went on to say that there is no reliable database that he can check for proof of citizenship, but there could be at the federal level. A national citizenship database could be used by entities of local government, with sufficient safeguards in place to keep the data-base secure, that would assist their efforts in identifying correctly the citizenship status of individuals and better determine the impact of illegal immigration on community resources.

PUBLIC SCHOOL EDUCATION

Texas has a system of independent school districts or ISDs and charter schools created by the Texas Legislature that have the primary responsibility for implementing the state's system of public education and ensuring student performance. Each are political subdivisions of the state, having an elected governing body and the authority to levy and collect taxes and issue bonds to build infrastructure and

to pay operational expenses. Harris County has 26 ISDs wholly or partially within the county.

The Texas Education Agency (TEA), our state's department of education, is divided into 20 geographic regions, each served by an Education Service Center (ESC). Harris County is in the seven-county Region IV and Houston is its ESC. TEA keeps records on students, school districts and expenditures among other information and I can provide information for Region IV, but not easily for Harris County alone.

With so many of Harris County's population being younger than 18 years of age, 1,070,985 per the U.S. Census Bureau, one of the greatest challenges we face is to maintain an adequate number of classrooms and provide the classroom resources necessary to meet the needs of each student. We have to be able to predict where the families of school age children will be living in order to predict where classrooms will be needed and if schools must be built. We must be able to hire professional educators in sufficient numbers to maintain teacher-student ratios to both meet our state's requirements and provide the quality education our communities deserve.

In the State of Texas in the school year 2004-2005, there were 4,383,871 students in public schools from early childhood education at age 3 to grade 12. In Region IV there are 962,286 students. The ethnic break down of the students in Region IV is as follows:

African American	205,110	21.3%
Hispanic	400,271	41.6%
White	302,170	31.4%
Native American	1,622	0.2%
Asian/Pacific Islander	53,113	5.5%
	962,286	

Gathering statistical data on the impact of illegal immigration on education s almost impossible because ISDs are prevented by law from gathering and disseminating that information. The United States Supreme Court decided in Plyler v. Doe, 457 U.S. 202 (1982) that a Texas statute which allowed the state to withhold state funds from local school districts for the education of children who were not "legally admitted" into the United States, and which authorized local school districts to deny enrollment to such children, violated the Equal Protection Clause of the Fourteenth Amendment.

This ruling established the principle of "Don't Ask-Don't Tell" in public schools. Children cannot be denied an education because of citizenship status and therefore there exists no reason to ask the question and collect the data. There was a belief that children should not be punished because of the actions of their parents and therefore deserved the opportunity to receive an education and an opportunity to become productive members of society.

While we cannot accurately quantify the impact that illegal immigration has on public education in Harris County, there is no way to deny that there is a substantial impact.

Based mostly on anecdotal evidence from administrators, teachers and students who tell of their experiences with over-crowding, security and discipline problems as well as substantial language barriers and cultural differences that distract from the quality of education received in the classroom, there is no way to deny that problems exist and have existed for generations. There is also no way to deny that our continued effort to educate any and all students who want an education will enrich our county, our state and our country.

The starting point for providing an education is to overcome language barriers that exist when students are English language learners (ELL) in order to comprehend classroom instruction. The goal of the state's Bilingual Education and English as a Second Language (ESL) Programs are to enable ELLs to become competent in comprehending, speaking, reading, and writing the English language and to succeed academically in Texas public schools.

There is no direct correlation between citizenship status and Bilingual Education/ESL Programs because children born in the United States are citizens by birthright granted in the 14th Amendment to our constitution, but they may be raised in a household where only Spanish or another language is exclusively spoken. However, these programs may provide an insight that will help approximate the impact that illegal immigration has on public education.

According to TEA in the school year 2003—2004 (the most recent data available), 631,534 or 14.4% of all students in Texas public schools were enrolled in Bilingual/ESL educational programs. Some 25,000 or 8.4% of all teachers were part of these programs and $965,336,115 or 4.2% of all funds spent on public school education was spent on these programs.

In our TEA region, the numbers were slightly higher. Seventeen percent of our students in Region IV were enrolled in Bilingual Education/ESL Programs and 9.5% of teachers taught in these programs. Of all funds spent by ISDs in Region IV, $332,600,000 or 6.8% was spent on these programs.

These numbers have been trending upward in the past decade. In the school year 1999—2000, 14.4% of Region IV students and 8.9% of teachers were part of the Bilingual Education/ESL Programs while $176,676,005 or 6.3% of all funds spent on public school education was spent on these programs. In the school year 1994—1995, 12.3% of Region IV students and 7.8% of teachers were part of the in Bilingual Education/ESL Programs $126,365,532 or, again, 6.3% of all funds spent on public school education was spent on these programs.

Again, these programs do not reflect the actual number of undocumented students in Texas or Region IV schools, but these statistics may assist the committee's efforts to begin to quantify the impact that illegal immigration has on public education in the United States. As we learned from the aftermath of Hurricane Katrina, any kind of rapid growth in our communities has a serious impact, whether that growth is from disaster relocation or a rapid influx of immigrants. In our schools planning for providing adequate resources for infrastructure, teachers and teaching materials, we must also provide additional security, transportation for students, breakfast and lunch programs and extracurricular activities. We must also provide the resources to deal with the special needs of students who have language and cultural differences that prevent them from learning. While this is not a job too big for us, it is certainly a continuous challenge that is certainly exacerbated by illegal immigration.

HEALTH CARE

Fortunately, I am able to provide better statistical data to you on the impact of illegal or undocumented aliens on our public health care delivery system in Harris County. On April 4, 2006 the Harris County Commissioners Court asked David Lopez, the President and CEO of the Harris County Hospital District to provide a report on the use of the Hospital District's facilities by undocumented residents of Harris County for the most recent four-year period. We also asked for information on the fiscal impact to the county for any uncompensated costs that the taxpayers of Harris County would be asked to pay to support the system. On June 9, 2006, Mr. Lopez provided the Commissioners Court with a report of an analysis for the years 2002 through 2005. I have included that report as an attachment to my testimony.

Briefly, I'll summarize the most important findings of the data analysis that went into that report. The Harris County Hospital District (District) is a political subdivision of the State and as such it has the authority to tax property within Harris County to generate necessary operational revenue. It is run by an appointed Board of Managers. The Harris County Commissioners Court approves the District's annual budget and sets the appropriate property tax rate to meet expenses.

This report looks at three cost centers to determine the total cost of services provided: undocumented inpatient care, undocumented outpatient care and undocumented pharmacy-only care. The term "undocumented" refers to all non-U.S. citizens who have failed to present appropriate documentation to establish U.S. citizenship when either presenting for emergency care or applying for Harris County Hospital District eligibility.

From 2002 to 2005 the District saw a 17.7% increase of **undocumented inpatients** served and a 50% increase in cost for services rendered. The total cost for undocumented inpatients for 2005 was $82,240,000 with a four-year total (2002—2005) of $272,600,000.

During that same time period the District received payments and reimbursements totaling $106,600,000 leaving an unpaid balance of $166,000,000 that had to be paid by Harris County taxpayers. Of the undocumented population discharged in 2005, 83% were persons from Mexico; 6% were from El Salvador and Guatemala; and the remaining 11% of the discharged were from either Britain, Canada, Haiti, India, Iraq, Iran, Nigeria, Nicaragua, Vietnam or "other."

Looking at **undocumented outpatients** served by the District, outpatient clinical activity grew from 177,981 visits in 2002 to 272,067 in 2005, representing a 52.8% increase during that time period. In 2005, undocumented outpatients generated approximately 18% of District total outpatient visits. The costs for outpatient clinical services grew from $19,600,000 in 2002 to $38,400,000 in 2005, representing a 96% growth rate.

Payments and reimbursements fell by $600,000 during that period, leaving a growth in net cost of 111% for a total of $103,100,000 in net costs for undocumented outpatient services rendered. Of the undocumented population that sought District

outpatient services in 2005, 86% were from Mexico; 4.5% from El Salvador and Guatemala; and 9.5% were from Britain, Canada, Cuba, Haiti, India, Iraq, Iran, Nigeria, Russia, or "other."

Outpatient pharmacy-only visits are visits during which a patient does not have an encounter with a provider and receives services only at the pharmacy, e.q., prescription refills. Annual pharmacy-only visits for the undocumented grew from 75,611 in 2002 to 156,637 in 2005 representing an increase of more than 100%. Costs grew at a rate of 145% from $3,100,000 to $7,600,000 for a four-year total of $19,600,000.

Payment and reimbursement for that period was $2,100,000, resulting in a net cost of $17,500,000 for the 4-year period. Of the undocumented population that sought District "pharmacy only" visits in 2005, 86% were from Mexico; 4.5% were from El Salvador and Guatemala; and 9.5% were from Britain, Canada, Cuba, India, Iran, Iraq, Nigeria, Russia, Vietnam or "other."

The total cost to the District for undocumented inpatient, outpatient and pharmacy-only care for the year 2005 was $128,400,000. The District received payments and reimbursements that amounted to $31,000,000 for a total net cost of $97,300,000.

For the four-year period covered in the report, costs were $403,500,000 while payments and reimbursements totaled $116,900,000 resulting in net costs of $286,600,000 that Harris County taxpayers paid in the years 2002—2005 to provide health care services to undocumented residents through the District.

In addition to the net costs that were borne by Harris County taxpayers, $99,140,000 or 84.9% of the $116,900,000 in payments and reimbursements the District received from 2002—2005 came from Type Program 30 (TP30) a Federal Medicaid program for emergencies. Those funds are, of course paid by federal taxpayers so part of that comes from Harris County taxpayers as well.

Another finding that may be pertinent to your investigation is how the $27,000,000 in Emergency Medicaid reimbursements was used in the year 2005. Of the 11,000 births performed by the District, 7,900 were to undocumented mothers. That represents 71.8% of all births and more than 80% of the Emergency Medicaid reimbursements to the District.

To put these costs into perspective, the entire budget for the District in the years 2002 through 2005 was $2,636,000,000 total uncompensated care was $1,364,797,000 or about 51.7%. Total net costs for undocumented patients of the District for that period was $286,600,000 or 20.9% of the total uncompensated care for the four-year period. That figure for uncompensated care for undocumented patients of the District as a percentage of the total uncompensated care it provides has remained relatively constant over the past 4 years, that is right around 20%.

LAW ENFORCEMENT/CRIMINAL JUSTICE

I will defer to the others on this panel to provide you with most of the information on Law Enforcement and Criminal Justice since this is their area of expertise. But I do want to give you my perspective on criminal activity and violence attributable to illegal immigration. The most dramatic increase in violence occurs with the formation and proliferation of gangs in Harris County. Large metropolitan areas make assimilation easier and greater numbers of victims to prey upon. We continue to be concerned about what gangs are doing to the quality of life in our county and vigilant in our effort to prevent this kind of activity.

The James A. Baker III Institute for Public Policy at Rice University here in Houston is studying the most violent of these gangs and provides the following information:

> Harris County is a hub of activity for "Mara Salvatrucha—13" (MS–13) and reportedly a favorite area of operation for its leader Eber Anibal Rivera Paz, aka "El Culiche," aka Franklin Jairo Rivera-Hernandez, aka Lester Rivera Paz. Rivera Paz was arrested and tried in Houston. He received less than two years for his illegal entry into the United States. Unfortunately, when released from federal prison for deportation, Honduran authorities were not notified, and he is again at large.
>
> MS–13 is more than a street gang. Honduras considers MS–13 as its top national security threat, and President Ricardo Maduro of Honduras has framed the struggle against MS–13 and other gangs as a fight for the life of his nation. Authorities say the gang plotted to assassinate Maduro and kill the president of Honduras' Congress with a grenade, and the gang did kidnap and murder Maduro's son.
>
> MS–13 is marked by its viciousness, brutality—initiation rights, assassinations, and dismemberment—as well as its paramilitary tactics. The gang participates in trafficking drugs, arms and humans, with two primary criminal enterprises

being auto theft and weapons. Although originating in Central American barrios of Los Angeles, MS–13 flourished in Central America, and many gang members from Central America enter the U.S. illegally.

The gang shows no fear of law enforcement and is known to booby trap stash houses with anti-personnel grenades. Local law enforcement have been involved in intense shootouts with MS–13 and recovered advanced weapons, such as AK–47s. During Operation Community Shield in 2005, 14 MS–13 members were arrested in Houston. The Zetas also are believed to have a presence in Houston. Hopefully Houston will not become a future battle ground between MS–13 and Los Zetas, as Nuevo Laredo has been.

MS–13 is a far more dangerous gang than previous or current rivals because of its large numbers and complex member network. Members are typically more brazen than those from other gangs because if they become wanted in the U.S. their gang can arrange for their transportation across the border and relocation in a 'friendlier' country, while additional members are smuggled across the border.

MS–13 has now begun to target and fire upon U.S. border patrol from the Mexican side. In El Salvador, Honduras, Guatemala and Mexico members are known to threaten officials who interfere with their business, typically with a verbal threat to kill that official or their family.

The governments of these countries have been unable to effectively defend themselves against this gang, and in return this gang has been able to gain considerable political power. This strategy of hi-jacking governments is now being used against federal, state, and local governments in the United States. In 2005 Los Angeles was investigating the gang, who, in retaliation left a bullet on the lead detective's door.

The Harris County Pretrial Services Department provides services that support informed, accountable pretrial release and detention processes while neither unduly restricting a defendant's liberty nor compromising the safety of the community. In performing this mission the department interviews nearly 9 out of 10 defendants in the county court system.

Pretrial Service workers are instructed to collect information about citizenship status, because Harris County's bail schedule has provisions for higher bail if a defendant is an illegal alien. It is very likely that if illegal aliens are released without sufficient bail, they would simply leave the area in order to avoid trial. The defendant report may be the only source a magistrate or judge has to make bail determination and to take proper preventative steps to assure the defendant appears for trial.

In the past four-year period an average of 19% of Misdemeanor Defendant Interviews were with non-U.S. Citizens. While 48.8% were legal residents or legally permitted to be in the U.S., 51.2% were undocumented and therefore illegally in this country. Of the total Misdemeanor Defendant Interviews, 10.2% were with illegal aliens. The number of illegal aliens who are defendants in misdemeanor cases in our courts have been trending upward by about 2.16% per year.

Looking at Felony Defendant Interviews in that same time period, 11.5% of all interviews were with non-U.S. citizens of whom 52.82% were undocumented, so that interviews with illegal aliens represented 6.7% of all such interviews. Felony Defendant Interviews with illegal aliens have also been trending upward by the same 2.16% per year.

Of all defendants of both misdemeanor and felony trials who were non-U.S. citizens, 60.4% were born in Mexico, with 67% of those from Mexico being in Harris County illegally. Most likely, those who were in Harris County illegally entered from our southern border.

While there is no real correlation between the number of legal and illegal aliens in the general population and those who are defendants in the civil justice system, we could take a rather simplistic look at our population of 3.69 million and calculate that about 310,000 might be here illegally. Some estimates put the population of illegal aliens in our region in 2005 at between 400,000 and 430,000 and those estimates are up 30,000 from the year 2000. Absent any formal or official way of knowing who is in the U.S. illegally, we must rely on best-guess efforts to determine that number.

If there were a national citizenship data base I would urge the federal government to authorize local governments to have the power to decide when and where that data base should be used. In determining citizenship status of a defendant in a trial or for a voter in elections it would be an extremely valuable tool. However, as I described in our public health area, using such a database might inhibit or prevent the proper investigation of the courses of communicable diseases in our com-

munity. I believe that we at the local level can best determine when to apply citizenship status and when it would not be in our best interest.

Mr. Chairman and members of the committee, I want to thank you again for allowing me to discuss our experiences and concerns regarding criminal activity and violence along our southern border as well as the impact of illegal immigration on our community. I will be delighted to respond to any questions and I will continue to work with you and this committee to mutually serve our constituents in any way possible.

Mr. MCCAUL. Thank you, Judge. I appreciate you being here. I know your time is valuable. Those numbers are actually very helpful to this committee.

Judge ECKELS. They are exact in the written testimony, as well as the backup from the hospital support staff.

Mr. MCCAUL. Thank you. I would like to note also that Harris County District Attorney Chuck Rosenthal was here, had to leave. His statement, however, will be made a part of the record from this hearing and part of the Congressional Record.

[The statement of Mr. Rosenthal follows:]

A Report to the Congressional Sub-Committee on Investigations

AUGUST 16, 2006 Investigation of *Criminal Activity and Violence along the Southern Border*

The Harris County District Attorney's Office estimates that approximately 5,000 of the 102,775 thousand cases this office handled in 2005 involved non-citizens. From January 1, 2006 to July 1, 2006 approximately, 7,000 more were added. These figures are dependent, and based upon, what arresting officers report to us in a computer field requesting citizenship status.

Perhaps a more telling figure can be derived from Harris County Pre-Trial Services. They interview approximately 87% of the people admitted to the Harris County jail (the other 13% make a bail bond before they enter the jail population). I have attached tables compiled by that agency. They show a steady rise in the percentage of un-documented aliens from 2002 to 2005. Also included is the criterion that the agency uses in making these determinations. Percentages applied to cases filed show that of the approximately 13,000 non-citizens handled in the Harris County Criminal Justice system in 2005, approximately 7,200 were undocumented aliens.

There are additional difficulties in dealing with foreign persons in our criminal justice system. There is no reliable information to check regarding the criminal histories of aliens. Obviously, our plea bargain recommendations and jury verdicts are influenced by a defendant's criminal history. Not only are the records in foreign countries often poorly kept, in many cases, we rely on the self-report of a defendant for his country of origin and cannot be certain of which country's data base to inquire.

For years before, the Automated Fingerprint Identification System (AFIS), individuals could be, and were, arrested under several different aliases. In point of fact, every two years foreign nationals incarcerated in Texas prisons can apply to the governor to serve the remainder of their sentence in their home country. The governor sends those applicants convicted in Harris County to me for my recommendation on their application. Nearly all have aliases; even allowing for the Hispanic propensity for interchangeably using their mother or father's surname.

Police agencies can tell you that the immigrant population under- reports crimes. Often, this includes crimes committed by other immigrants. It has been my personal experience that if undocumented aliens become witnesses to crime, they often give false names and/or addresses to the police and are not available as witnesses at trial. Without witnesses, defendants are more difficult to convict.

I can also testify, that many people who commit crimes flee the United States. Many of our neighboring countries to the South do not have extradition treaties with the United States or refuse extradite their own nationals. Countries that do have extradition treaties with the United States, like Mexico, often attempt to make extradition conditional on the maximum term of years we will seek upon conviction.

Completely unrelated, but something very close to my heart, is that last year my 14-year-old daughter tested positive as being exposed to Tuberculosis, a disease that was nearly wiped out of this country years ago. She was required to take daily antibiotics for nine months. Her diagnostic radiologist Dr. George Butrous, M.D. (a naturalized citizen from Egypt), told me that medical journals document the fact that

the lack of health screening for illegal immigrants has re-introduced a number of previously eradicated diseases into this country.

According to the Harris County Budget Director, the cost for treating illegal immigrants in Harris County's tax supported hospitals was 97.3 million dollars in 2005.

If the commission requests me to expound upon any of the information given in this report, I will be happy to do so.

2003 Pretrial Report Summary: Non-US Born Defendant Reported Citizenship Status

Place of Birth	US Citizen	Non US Citizen				Status Unknown	Total
		Legal Resident	Visa	Work Permit	Undocumented		
Afghanistan		2			1		3
Africa		28	2	1			31
Albania		1	1				2
Algeria		3			1		4
Antigua		3					3
Argentina		10	5		10	1	26
Austria		4					4
Bahamas		1					1
Barbados		1					1
Belgium		1					1
Belize					1		1
Bolivia		5	5		3		13
Bosnia		5	1				6
Brazil		4	1	1	1		7
Bulgaria		1					1
Cambodia		7			1		8
Cameroon		2	2				4
Canada	2	13	3		1		17
Chile		2	1		2		5
China		18	11	3			32
Columbia	1	64	10	18	43	6	141
Congo		1			1		2
Costa Rica		8		1	3		12
Cuba	1	41	3	8	4		56
Curacao		1					1
Czechoslovakia		3					3
Denmark		2					2
Dominican Republic	1	20	1		4	1	26
Ecuador	1	8	1		5	1	15
Egypt		2	1				3
El Salvador	9	504	6	548	226	40	1,324
England		26	4	4		1	35
Estonia		2	1	2			5
Ethiopia		4		1	2		7
France		5	5				10
Germany	1	7	2	1			10
Ghana		1	1				2
Greece		2	2		1		5
Grenada		1					1
Guam	1	1			1		2
Guatemala	3	77	7	51	250	12	397
Guyana		2					2
Haiti		1	1				2
Holland	1	2				1	3
Honduras	2	143	8	204	410	25	790
Hong Kong		1	4				5
Hungary		2	1	1			4
India	2	31	7	3	1		42

Indonesia		1					1
Iran	1	16	1	1	1	1	20
Iraq		4	1			1	6
Ireland		3					3
Israel		2	2			1	5
Italy		8					8
Ivory Coast					1		1
Jamaica		24	4	1	2	1	32
Japan		3	3	1			7
Jordan		15			1		16
Kenya		12	1				13
Korea	1	21	5	1		1	28
Kuwait			1		1		2
Laos		8			2		10
Lebanon		7	2	2			11
Liberia		2		1			3
Libya		1					1
Malaysia		2		1			3
Mexico	31	2,306	242	346	4,771	182	7,847
Mongolia			1				1
Morocco		6	5		1		12
N Ireland		7			2		9
Nicaragua	2	31		16	16	2	65
Niger		1			1		2
Nigeria	2	60	16			3	79
Norway				1			1
Pakistan	1	38	12	6	3	2	61
Panama		2	1	2	4		9
Papua New Guinea		1					1
Peru	1	19	6	2	5		32
Philippines		19		1			20
Poland		1	1	1			3
Rumania	1	1	1				2
Russia	2	8	2				10
Saudia Arabia		3	2				5
Scotland			4	1		1	6
Senegal		1	1	1			3
Sierra Leone		1					1
Singapore			2	1			3
South Africa		3	1	1			5
Spain	1	2	1		5		8
Sri Lanka			1				1
Sudan		6				1	7
Surinam		1					1
Svalbard		1					1
Switzerland			1				1
Syria		1					1
Tanzania		4	2	1			7
Thailand		15	3				18
Trinidad	1	16	2		3	1	22
Tunisia		1	1				2
Turkey			1				1
UAR		2					2
Uganda		1					1
Unk	3	17	5	1	2	2	27
Uruguay		2	2		3		7
Venezuela	1	13	15	2	3		33
Vietnam	6	118			9	1	128
Wales			4				4
West Indies		1					1
Yemen		1					1
Yugoslavia		3					3
Total	79	3,915	452	1,238	5,808	288	11,701

Note: Pretrial Services Conducted over 70,000 interviews in 2003. This report contains a subset of defendants who stated that they were not citizens or did not know if they were citizens and who reported their place of birth outside the US.

Harris County Pretrial Services
Agency Policy and Procedure Manual
Conducting an Interview with a Defendant
CITIZENSHIP AND LEGAL STATUS

Harris County's bail schedule has provisions for higher bail if a defendant is an illegal alien. The defendant report you prepare may be the only source a magistrate or judge has to make this determination. While you should check the "hold" screen and the Immigration and Naturalization Service's (INS) "detainer" list to verify if INS has placed a hold or is investigating the defendant's status, you need to ask the defendant questions about his or her citizenship and legal status. Incorrect information here could lead to a defendant's unnecessary detention or failure to appear in court if the defendant makes bond and then INS returns him to his country.

1. Ask every defendant whether he or she is a United States citizen regardless of his or her answer to the question about place of birth. Document the answer as Y (yes), N (no), or U (unknown).
2. If the defendant says that he is a United States citizen, you do not need to ask the question about legal status.
3. If the defendant says he is not a United States citizen, you must ask the defendant about his legal status. Do not lead the defendant by giving him options to choose from. You must use open-ended questions such as:
   - What is your legal status?
   - Do you have legal status in the U.S.?
   - Do you have permission to be in the U.S. legally?
   - In what country are you a citizen?
4. If the defendant indicates a legal status, inquire about the type of document he has and the document's expiration date. Let him provide the name of the document.
5. This Country's immigration laws are very complex. The following list is not exhaustive but includes the documents that INS encounters most frequently with people who are in this Country legally. You should expect similar responses if a defendant has legal status here.

   Border Crossing Card—72-hour limit/ 50-mile limit.
   Permit (i.e. Work Permit Card)—Granted while someone is applying for legal status and is valid only until the decision is made whether the person will be granted legal status or not.
   Temporary Resident Card—This card indicates someone has applied for Residence Status. A person will only receive this card if INS is certain that Residence Status will be granted.
   Resident Alien Card—(Previously known as the "Green Card") This card confers a permanent legal status.
6. A ***Passport*** does not give a defendant legal status here. The Passport's primary function is to establish a person's identity. But you've probably heard the term, "getting a Passport stamped". This stamp is actually a Visa. A person needs both a Passport and a Visa to prove that he or she is here legally.
7. A ***Visa*** is a stamp or a document, usually affixed to the Passport, indicating a person has permission to enter the country. In years past, the official stamp found in the Passport usually represented the Visa. Today, a Visa will more likely be a small document affixed to a page in the Passport or it may be a separate document altogether that would accompany a Passport. There are two types of Visa:
   - *Non-Immigrant Visa*—Conveys a specific date and time of entry and exit and can be used for business or for pleasure.
   - *Immigrant Visa*—A large packet of official papers generated by the naturalization process.
8. Record the defendant's answer on the PTS8 screen.
9. Application for something does not confer legal status. If a defendant is here legally, he or she will generally have the documentation to prove it.
10. The experience of INS has been that if a person IS here legally, he generally knows it! A young defendant however may not know his status, but his mother or father should.

Non U.S. Citizen by Citizenship Status *

Misdemeanor								
	2002	%	2003	%	2004	%	2005	%
Legal Resident	2,352	31.9%	2,798	33.7%	2,890	32.4%	2,813	30.3%
Visa	452	6.1%	254	3.1%	253	2.8%	291	3.1%
WorkPermit	783	10.6%	949	11.4%	818	9.2%	836	9.0%
Undocumented	3,560	48.3%	4,071	49.0%	4,705	52.7%	5,092	54.8%
Unknown	222	3.0%	238	2.9%	263	2.9%	264	2.8%
Total	7,369	100%	8,310	100%	8,929	100%	9,296	100%
Felony								
	2002	%	2003	%	2004	%	2005	%
Legal Resident	960	32.4%	1,147	34.0%	1,141	33.0%	1,129	30.6%
Visa	180	6.1%	83	2.5%	83	2.4%	89	2.4%
WorkPermit	263	8.9%	303	9.0%	272	7.9%	282	7.6%
Undocumented	1,491	50.3%	1,714	50.8%	1,848	53.4%	2,096	56.8%
Unknown	73	2.5%	127	3.8%	118	3.4%	97	2.6%
Total	2,967	100%	3,374	100%	3,462	100%	3,693	100%

Non U.S. Citizen As a Percentage of Complete Interviews Conducted *

Misdemeanor								
	2002	%	2003	%	2004	%	2005	%
All Misdemeanor Defendant Interviews	39,656		42,017		46,485		49,613	
Non U.S. Citizen	7,369	18.6%	8,310	19.8%	8,929	19.2%	9,296	18.7%
Non U.S.Citizen; Undocumented	3,560	9.0%	4,071	9.7%	4,705	10.1%	5,092	10.3%
Non U.S. Citizen; Place of Birth Mexico	4,830	12.2%	5,462	13.0%	5,852	12.6%	5,935	12.0%
Non U.S. Citizen; Place of Birth Mexico; Undocumented	2,949	7.4%	3,382	8.0	3,846	8.3%	3,987	8.0%
Felony								
	2002	%	2003	%	2004	%	2005	%

Non U.S. Citizen As a Percentage of Complete Interviews Conducted *—Continued

All Felony Defendant Inteviews	27,460		28,525		29,979		31,151	
Non U.S. Citizen	2,967	10.8%	3,374	11.8%	3,462	11.5%	3,693	11.9%
Non U.S. Citizen; Undocumented	1,491	5.4%	1,714	6.0%	1,848	6.2%	2,096	6.7%
Non U.S. Citizen; Place of Birth Mexico	1,924	7.0%	2,279	8.0%	2,277	7.6%	2,422	7.8%
Non U.S. Citizen; Place of Birth Mexico; Undocumented	1,189	4.3%	1,375	4.8%	1,450	4.8%	1,600	5.1%

*Non U.S. citizen includes defendants who who stated that they were not citizens or did not know if they were citizens and who reported their place of birth outside the US. Information is self-reported by the defendant during the pretrial interview.
Pretrial Services, March 2006

Mr. MCCAUL. Next, the Chair recognizes Major Michael O'Brien with the Harris County Sheriff's Office.

STATEMENT OF MICHAEL O'BRIEN, HARRIS COUNTY SHERIFF'S OFFICE

Mr. O'BRIEN. On behalf of Sheriff Tommy Thomas, I would like to thank the committee for support of law enforcement and their work on improving our Nation's security and tightening up our borders.

The United States is considered a primary destination for illegal immigrants from all over the world because of our freedoms, our economy, and the ease of obtaining work here. As a result, we have become a haven for organized crime involving the smuggling and human trafficking of illegal aliens across our border.

The impact of illegal immigration to Harris County has been enormous and has placed a substantial strain on law enforcement police resources. There is no argument that only a small percentage of illegal aliens are in fact the criminal element. Those that have become involved are considered to be part of basically a cash-based underground economy that is operating throughout the United States. These criminal organizations are predominantly involved in smuggling, human trafficking, kidnapping, drugs and money laundering, and for the most part, these members are illegal immigrants themselves.

One of the most prevalent crimes involving illegal immigrants in Harris County involves the human trafficking factor. The difference between human trafficking and smuggling involves the heinous treatment of these victims, which basically equates to modern-day slavery. There have been numerous instances where non-U.S. citizens, predominantly from Mexico, have paid large amounts of money to be brought across the border, only to be held for ransom and made to work for extra fees prior to their release. If they can't pay, many times their families are blackmailed for additional ransom payments prior to their release. Some of these cases have even included severe torture of these victims while the smuggler sits on

the phone talking to relatives, listening to their screams of pain, trying to convince them to pay them additional funds. If they can't pay, they are often locked in back rooms and forced to work as prostitutes or in some other type of confined labor. The outcome is that some of these illegal immigrants become modern-day indentured slaves who have no choice but to comply with the smugglers' demands.

One recent example of human smuggling involved the Walter Corea human trafficking organization, in which their victims were held in various locations throughout Harris County. In this case, 98 women were smuggled across the border and made to work as prostitutes to pay off fees. The investigation determined that Corea and his gang were operating through a network of bars and restaurants in the Houston Harris County area which had been designated for smuggling women from Mexico and South America. These women, some of them which were later determined to be underage, were required to work as prostitutes until they could pay off the smuggling fees to the bar owners who had paid their way across to begin with.

This year-long undercover operation resulted in all 98 victims being taken into custody, along with the arrest of Corea and 7 of his organizational members. This investigation involved the largest number of victims for any single case of human trafficking the United States to date, and this happened in Texas and in Harris County.

In addition to our field investigative efforts, Immigration and Customs enforcement agents are assigned to the sheriff's office prisoner intake facility to assist deputies in identifying illegal immigrants brought to the jail. Upon booking at the sheriff's office processing center, all prisoners, regardless of race, are asked if they are United States citizens and their country of origin or their country of birth. The subsequent data obtained is turned over to the Federal Government's State criminal immigration assistance program for partial reimbursement of the cost to Harris County for handling the immigrants.

On average, the Harris County sheriff's office receives and processes over 130,000 prisoners per year. Approximately 20 to 23 percent of these prisoners brought in are foreign born and are non-U.S. citizens. These numbers, of course, are self-reported, and it is safe to assume that the numbers would be quite higher; but again, most of them are not going to tell us for fear of being returned to their country.

The State criminal immigrant program database for the last fiscal year estimated that 15 percent of the entire budget of the Harris County sheriff's office was expended investigating, arresting, processing, housing and providing medical attention to illegal immigrants. This equates to a cost of over $41 million of our budget. SCAAP reimbursement back to Harris County was just slightly over $2 million, or a mere 6 percent of the total cost. The rest of that money was borne by Harris County taxpayers to handle illegal immigrants.

Of those prisoners who report foreign birth, approximately 60 percent are Mexican born, and another 20 percent are from South or Central America. Many, as I discussed earlier, do not truthfully

report their illegal status for fear of being deported. It is virtually impossible with the financial and manpower constraints of our office for us to investigate this situation any further.

As you can see, the numbers are considerable, and they constitute a significant drain on our financial resources. One of the major problems faced by ICE, as well as local law enforcement, is the lack of bed space. This was brought up earlier by Mr. McCaul and, I believe, by Ms. Lee. Less than 20,000 beds throughout the whole United States is dedicated to illegal immigrants. With that situation, what happens, as Mr. McCaul brought up earlier, is that many illegal immigrants are given virtually a summons to appear in court later. Most often, they don't report and they disappear into our communities using different identification.

The Harris County Sheriff's Office has been working diligently with the Hispanic community to build trust and provide excellent services. There have been numerous cases where we have received invaluable information from the Hispanic community which has resulted in arrests and convictions of dangerous felons.

Sheriff Thomas supports stronger and more effective security in our Nation's borders, and he does not condone illegal immigration. The Harris County's Sheriff's Office does not have a hand's-off policy regarding illegal immigration, and we will promptly assist any Federal agencies requesting our help. However, having deputies seek out and pursue illegal immigrants based solely on the immigration status would severely strain our already limited resources, as well as hinder our efforts when we need community involvement and the willingness for witnesses to come forward in solving crime.

The primary mission of the Harris County Sheriff's Office is to provide a safe and secure environment for the residents as well as the visitors to Harris County. We are working hard to achieve these goals. We are sworn to protect all the people that come here, and when we respond to an incident that is determined to involve criminal activity, our policy is to take action based on the enforcement of Texas law and not immigration status. When appropriate, a law violator is arrested, charged, and processed through our criminal justice system.

Thank you for your time, for your efforts, and again, on behalf of Tommy Thomas, we appreciate the work you are doing.

[The information follows:]

PREPARED STATEMENT OF MICHAEL J. O'BRIEN

Representing:
Sheriff Tommy Thomas
Harris County, Texas

On behalf of Sheriff Tommy Thomas, I would like to thank the committee for their support of law enforcement and their work to help improve our nation's security. The United States of America is considered a primary destination for illegal immigrants from all over the world because of our economy, freedoms, and ease of obtaining work. As a result, we have become a haven for organized crime involving the smuggling and human trafficking of illegal aliens across our borders.

The impact of illegal immigration to Harris County and the surrounding area has been enormous and has put a substantial strain on law enforcement resources. While there is no argument that only a small percentage of illegal immigrants are involved in criminal activity, the many that are have become involved in what is considered a cash-based organized crime underground economy. These criminal organizations are predominantly involved in smuggling, human trafficking, kidnapping, drugs and money laundering, and are mostly illegal aliens themselves.

In 2004, the Harris County Sheriff's Office was awarded a grant from the Department of Justice to participate in the Human Trafficking Rescue Alliance (HTRA), and over the last several years we have been working closely with Immigration and Customs Enforcement (ICE), as well as the Federal Bureau of Investigation (FBI), to identify illegal aliens involved in criminal activity within our community. Multi-jurisdictional task forces such as this alliance typically provide greater access to resources and information, and establish a team-based approach to investigations. Working side by side with Federal and other local agencies, we have been successful in arresting and charging suspects in some of the most serious crimes involving the terrorization and virtual enslaving of many illegal immigrants.

One of the most prevalent crimes involving illegal immigrants in Harris County involves Human Trafficking. The difference between human trafficking and smuggling is the heinous treatment of the victims which can equate to modern day slavery. There have been numerous instances where non-U.S. citizens (predominantly from Mexico) have paid large amounts of money to be smuggled over the border, only to be held for ransom until they pay or work off additional fees. If they can't pay, many times their families are blackmailed and ransom payments are required for their release. Some of these cases have included severe torture of the victim while the smuggler is on the telephone with relatives so they can hear the screams of pain. If they still can't pay, they are often locked in back rooms and forced to work as prostitutes or in some other type of confined forced labor. The outcome is that some illegal immigrants become modern day indentured slaves who have no choice but to comply with the smugglers' demands.

One recent example of human trafficking involved the Walter Corea Human Trafficking Organization which held their victims at various locations in Harris County. In this case, ninety-eight (98) females were smuggled across the border and made to work as prostitutes to pay off their fees. The investigation determined that COREA and his co-conspirators were operating a network of bars and restaurants in the Houston-Harris County area dedicated to the smuggling of young Central American females to serve as prostitutes and "pony dancers." These women, some of whom were determined to be under age, were required to work until they could pay off their smuggling fees to the bar owners. The women, and their families in their native countries, were frequently threatened with bodily harm by COREA and members of his organization unless they agreed to comply with instructions to work in the businesses until the "organization" determined that all fees owed were paid in full.

This year-long undercover operation resulted in all 98 trafficking victims' being taken into custody, along with the arrest of COREA and seven of his organization members. The investigation involved the largest number of victims for any single case of human trafficking in the United States to date.

In additional to field investigation efforts, Immigration and Customs Enforcement (ICE) has agents assigned to the Harris County Sheriffs Office prisoner intake and processing facility to assist deputies and specifically identify illegal aliens. In the past eighteen months, the Harris County Sheriff's Office and ICE agents have positively identified over nineteen hundred and forty (1940) illegal aliens who have been processed through our jail. On average, about 20 detainers are placed each week on illegal aliens.

Upon booking at the Sheriff's Office processing center, all prisoners, regardless of race or ethnicity, are asked if they are United States citizens and their country of birth. The subsequent data obtained identifying illegal aliens processed through the Harris County jail is turned over to the federal government's "State Criminal Alien Assistance Program" for partial reimbursement of costs associated with processing and handling illegal aliens.

- On average, the Harris County Sheriff's Office receives and processes approximately 130,000 prisoners per year.
- Approximately 20-23% of the inmates received into our custody report that they are foreign born and non-US citizens. These numbers are self-reported (the "honor system"), thus it is safe to assume that the actual numbers are far greater.
- The State Criminal Alien Assistance Program (SCAAP) data for the last fiscal year estimated that 15.22% of the entire budget for the Harris County Sheriff's Office was expended investigating, arresting, processing, housing and providing medical treatment for illegal aliens. This equates to a cost of $41,390,425. SCAAP reimbursement was in the amount of $2,693,977, or a mere 6.5% of the total cost, the remainder of which was borne by Harris County taxpayers.
- Of those inmates who report foreign birth, approximately 60% are Mexican-born, and another 20% are from South and Central America. Many do not truthfully report their illegal status in fear of being deported, and it is virtually impossible

with current financial and manpower constraints for us to investigate further or improve the system.

As you can see, the numbers are considerable and constitute a significant drain on our financial resources. One of the major problems faced by ICE, as well as local law enforcement, is the lack of bed space to hold illegal aliens. Throughout the nation there are less than 20,000 beds dedicated to immigration violation offenders. Consequently, illegal aliens involved in minor crimes are given the equivalent of a summons and told to report to court. In most cases, these persons never report and subsequently disappear into the community using different forms of identification.

The Harris County Sheriff's Office is working diligently within the Hispanic community to build trust and provide excellent services. There have been numerous cases where we have received invaluable information from within the Hispanic community that has resulted in the arrest and conviction of dangerous felons. Sheriff Thomas supports stronger and more effective security at our nation's borders, and does not condone illegal immigration. The Harris County Sheriff's Office does not have a "hands off" policy regarding illegal aliens and we will promptly assist a Federal agency requesting our help. However, having deputies seek out and pursue illegal immigrants based solely on their immigration status would severely strain our already limited resources, as well as hinder our efforts and those of any local law enforcement agency, when we need community involvement and willing witnesses to help solve crime.

The primary mission of the Harris County Sheriff's Office is to provide a safe and secure environment for the residents and visitors of Harris County, and we are working hard to achieve our goals through the use of increased community patrols, directed enforcement efforts, and state of the art investigative tools. The foundation of any organization is defined by its employees' honesty, moral standards, compassion, sincerity, and caring attitude. We are sworn to protect all the people we serve and our agency code of values includes such pillars of character as Respect, Fairness, and Justice through Excellence and Integrity. When we respond to an incident that is determined to involve criminal activity, our policy is to take action based on the enforcement of Texas law, and not immigration status. When appropriate, the violator is arrested, charged, and processed through the criminal justice system.

Mr. McCAUL. Thank you, Major, and please give Sheriff Thomas our best, and he is doing a great job. I think your testimony demonstrates how the illegal aliens, at the hands of traffickers, become the real victims here.

Next, I would like to recognize John Moriarty, the Inspector General with the Texas Department of Criminal Justice.

STATEMENT OF JOHN M. MORIARTY, INSPECTOR GENERAL, TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Mr. MORIARTY. Mr. Chairman and members of the committee, thank you very much for the privilege of allowing me to testify here today on the effects of illegal immigration on the Texas prison system.

As of May 31, 2006, the Texas Department of Criminal Justice had a population of approximately 152,000 inmates. Now, this is also self-reported, with limited investigation, but out of that number 11,606 claimed foreign birth; 10,376 claimed foreign citizenship; 6,612 had Immigration and Customs enforcement detainers; and 3,018 were known to have final orders of deportation completed by ICE. The exact numbers of offenders who are illegal aliens on any given day is unknown; however, Immigration and Customs Enforcement is working to provide that information to TDCJ.

The Department of Criminal Justice has an excellent and, to our knowledge, somewhat unique working relationship with ICE, from which the institutional hearing and removal program has developed. The Department of Criminal Justice has constructed office space for ICE staff at the Goree unit in Huntsville and provides

working space at other TDCJ facilities for their staff. As inmates are admitted to TDCJ, possible illegal aliens are identified and referred to ICE personnel. If ICE wants to interview the inmate, the offender is brought to the Huntsville, or other locations if appropriate, in order to facilitate that interview.

Office space constructed for ICE includes administrative courtrooms which connects via a video link to an immigration administrative law judge here in Houston. The entire administrative process of processing final orders of deportation can be completed while the inmate is incarcerated in TDCJ, thereby expediting the deportation of the offender upon release. ICE staff is also provided with a list of all TDCJ releases so that any offender not identified upon admission may be reviewed prior to release.

During fiscal year 2006, the Texas Department of Criminal Justice received $18.6 million from the Federal State criminal alien assistance program as partial reimbursement for the cost of housing illegal aliens. Any estimate of the cost of housing illegal aliens in the Texas prison system must take into account the lack of definitive data regarding the number of illegal aliens, but TDCJ estimates the cost of housing illegal aliens during fiscal year 2005 at $132 million. The cost of housing an illegal alien was assumed to be the same as the average cost of housing an inmate in TDCJ, which is $40.06 per day.

My office is responsible for the criminal investigations inside the Texas prison system. We work very closely with the TDCJ security threat group staff that is responsible for the monitoring of criminal organizations within the prison system that could be a threat to the security of the Texas prison system. Groups such as the Texas Syndicate, the Mexican Mafia, MS–13, Barrio Azteca, and the PRM are active and operational within the prison facilities. The prison gang that is primarily composed of Mexican foreign nationals is the PRM. We currently have 723 suspected or confirmed members in our facilities. The PRM and the other security threat groups are actively engaged in homicide, drug trafficking, extortion and aggravated assaults. Removing these persons from our communities is an important and necessary step.

We must also be aware that the ability of an inmate to commit crimes, though limited, can and still does occur. My office, on average, conducts 3,000 felony crime investigations inside the fences of the TDCJ prison system. The prosecution of these crimes puts pressure on the local, usually rural, court systems in the communities where the prisons are located. This is a good example of how the confinement of illegal foreign nationals affects every community in Texas where a prison is located. A cooperative effort between Federal, State and local law enforcement is necessary to be successful in combating this problem.

Mr. Chairman, I thank you again for this opportunity to testify on this very important matter.

Mr. McCaul. Thank you for that testimony.

[The statement of Mr. Moriarty follows:]

PREPARED STATEMENT OF JOHN M. MORIARTY

Mr. Chairman and members of the committee, thank you very much for the privilege of allowing me to testify here today on the effect of illegal immigration on the

Texas prison system. As of May 31, 2006, the Texas Department of Criminal (TDCJ) prison system had a population of approximately 152,000 inmates. Of that number:

- 11,606 claimed foreign birth;
- 10,376 claimed foreign citizenship;
- 6,612 had Immigrations and Customs Enforcement (ICE) detainers; and
- 3,018 were known to have final orders of deportation completed by ICE.

The exact number of offenders who are illegal aliens on any given day is unknown; however, Immigrations and Customs Enforcement is working to provide that information to TDCJ.

The Department of Criminal Justice has an excellent, and to our knowledge somewhat unique, working relationship with ICE from which the Institutional Hearing and Removal program has developed. The Department of Criminal Justice has constructed office space for ICE staff at the Goree unit in Huntsville, and provides work space at other TDCJ facilities. As inmates are admitted to TDCJ, possible illegal aliens are identified and referred to ICE personnel. If ICE wants to interview the inmate, the offender is brought to Huntsville (or other locations as appropriate). The office space constructed for ICE includes an administrative courtroom which connects via a video link to an immigration administrative law judge in Houston. The entire administrative process of processing final orders of deportation can be completed while the inmate is incarcerated in TDCJ, thereby expediting the deportation of the offender upon release. ICE staff is also provided with a list of all TDCJ releases so that any offender not identified upon admission may be reviewed prior to release.

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My office is responsible for all criminal investigations inside the Texas prison system. We work very closely with the TDCJ Security Threat Group staff that is responsible for the monitoring of criminal organizations within the prison system that could be a threat to the security of the Texas prison system. Groups such as the Texas Syndicate, Mexican Mafia, MS–13, Barrio Azteca and Partido Revolucionario Mexicanos (PRM) and are active and operational within our prison facilities. The prison gang that is primarily comprised of Mexican foreign nationals is the PRM. We currently have 723 suspected or confirmed members in our facilities. The PRM and the other security threat groups are actively engaged in homicide, drug trafficking, extortion, and aggravated assaults. Removing these persons from our communities is an important and necessary step. We must also be aware that the ability of an inmate to commit crimes, although limited, can and does still occur. My office, on average conducts 3000 felony crime investigations inside the fences of the Texas prison system. The prosecution of these crimes put pressure on the local, usually rural, courts system in the communities where the prisons are located. This is a good example of how the confinement of illegal foreign nationals affects every community in Texas where a prison is located. A cooperative effort between federal, state and local law enforcement is necessary to be successful in combating this problem.

Mr. Chairman, I thank you again for this opportunity to testify on this very important matter. I would be happy to take any questions you might have.

Mr. McCAUL. The Chair now recognizes the Honorable Mr. Adrian Garcia, council member of Houston, Texas.

STATEMENT OF ADRIAN GARCIA, MEMBER, CITY COUNCIL OF HOUSTON

Mr. GARCIA. Good morning, Mr. Chairman and distinguished members of Congress. I want to thank you for this important discussion and welcome you to our great city.

I served as a member of the city council here in Houston Texas, and I have also been appointed by Mayor Bill White as the chair of the Public Safety and Homeland Security Committee. And prior to my election to city council, I served as a Houston police officer

for nearly 24 years prior to my election to city council. I started that public safety career in 1980, and during my time with the Houston Police Department, I worked on various assignments that included serving as the director of the BEST anti-gang office that was charged with helping develop public policy to fight against criminal street gangs in Houston.

Today's session appears to focus on the impact of illegal immigration on crime and what the role of local police should be in the enforcement of immigration laws. I hope to offer a perspective as a recent law enforcement practitioner. In my time, I have met many people of different backgrounds. Many spoke English, some did not. But when I needed to, I used my home-grown bilingual skills to get the job done and enforce the law. As a result, I was able to clear cases and make some definite arrests and made many new friends.

During my time as a Houston police officer, I also became involved with the National Latino Police Officers Association and eventually became the president in 1998–2000 where this same issue was a part of my agenda.

To the topic of today's discussion, no one disputes that persons have entered the United States without permission and have been arrested for violations of State criminal statutes. However, given that a significant portion of my patrol career took place in the area that I now represent as an elected official, which has a Hispanic majority, and given that I like putting bad guys into jail, I recall investigating more crimes against Americans that were committed by Americans than I did where illegal immigrants were involved.

While I did investigate crimes involving persons with questionable immigration status, more have been witnesses against the crooks I was trying to put in jail. I have also had to investigate crimes of assault, theft, involving persons who were hired to do the job of day laborers and then beaten when they wanted to get paid.

I have also worked in an undercover capacity investigating drug trafficking and other crimes. Some did involve undocumented persons, but they were more often informants than the targets of my investigation, and we welcomed their assistance in those cases. I remember when I had to go to Laredo, Texas to work with the DEA on a drug trafficking investigation that originated here in Houston, and through information from sources that were undocumented. When I arrived in Laredo, it was shortly after DEA agent Ricky Camarena had been kidnapped and was missing and presumed to be dead—which regretfully turned out to be true—the targets of my investigation were all U.S. citizens.

When I had responsibility of being the director of the BEST anti-gang office, I dealt with the issue of Hispanic criminal street gangs, including MS–13. They were subjects of criminal activity in Houston, just as much as Caucasians, African Americans, and many other Hispanics involved who were also U.S. citizens. In fact, one of the first issues confronting me as director was the fact that between 1994 and 1998 a significant number of the gang-related homicide victims were Hispanic males between the ages 15 and 19. Although we never researched to find out the immigration status of these crime victims, I don't recall the issue of whether them being undocumented or not of being of concern.

However, my time was just as occupied with investigating Bloods and Crips and white supremacists. Hispanics do not have a lock on the criminal street gang trade.

In any case, it has been the trust and the dialogue that cops have been able to establish with all persons as they do their job. Without free-flowing information from all of Houston's communities, our concern is with what could happen to the clearance and successful prosecution rate that our area currently enjoys.

However, when it comes to what the local few would like street cops to do, we have vivid examples of failed attempts by local police enforcing immigration laws in places like Chandler, Arizona, where U.S. citizens were detained and nearly deported mainly because they had communication difficulties.

As a result, this experience set the police department back many years. It erased years of good work in developing community relationships that are also necessary and essential in investigating and solving and prosecuting crimes.

I have personally been involved in Houston's effort to have a local police force for all of the people of Houston, and I am concerned about seeing this progress erased. Street cops depend on information to solve crimes. Without it, victimization would go unreported and unsolved, leaving criminals on the street.

This statement does not mean that I don't believe that immigration laws should be enforced. Quite to the contrary. I do support the enforcement of all laws, but in this case, it must be done by the appropriate agencies, and Texas State penal code laws should be enforced by Texas police officers and immigration laws should be enforced by immigration enforcement authorities.

To the question as to what HPD is doing, I think Chief Hurtt will elaborate in more detail, but I would just like to state the following.

Are illegal immigrants committing crimes in Houston? Yes. Are Houston police arresting illegal aliens? Yes, for criminal violations of State and Federal laws. Does the Houston Police Department share that information with immigration authorities? Yes. Does the Houston Police Department do anything to hinder the work of immigration authorities? No.

Further, the following are specific reasons why it is not in the best interests of Houston to order local police to become immigration law enforcers.

One, current Federal law requires that in order for local law enforcement to receive Federal funding that the agency demonstrate it has policies and procedures in place against discrimination practices, effectively meaning that law enforcement is equally applied to all persons without regard for a person's color of skin, nationality, religion or gender.

Two, so as you contemplate mandating new requirements on local law enforcement such as enforcing the immigration laws, this would obviously require that we also follow the nondiscrimination laws as we enforce any new law; meaning that in order to demonstrate that local police are not enforcing immigration law against persons solely because of their color of skin or possible nationality, then we would have to order the enforcement of such a law on all persons that local law enforcement officers come in contact with

and require documentation, much like the racial profiling forms that officers are required to fill out, that the officer is enforcing the new law on everyone he or she comes into contact with.

Three, the Houston Police Department is currently undermanned by approximately 1,000 to 1,500 police officers just in conditions that we are faced with today. Hiring those officers will take many years and millions upon millions to get the workforce strength to where we could comfortably handle all of the priorities of the citizens of Houston. Asking local cops to determine immigration status of all persons that they come in contact with would adversely affect response times to emergency calls of Houstonians more than our current manpower shortage is affecting Houstonians.

Four, access to data is not currently effective. Today, barely a fraction of known U.S. absconders are tracked in the National Crime Information Center, NCIC, which is available to local police. However, if an officer wants to verify a passport, it would need to be during business hours, since there is no direct link to State Department databases—if I need to be corrected on that, I will stand corrected—making this ineffective during nighttime and evening hours for street cops.

Five, the lack of funding. Currently, the city of Houston is trying to get out of the jail business, and the cost of housing, feeding, and medically caring for immigration detainees would adversely affect local taxpayers, especially since the Federal Government does not have the best reputation of reimbursing local communities for costs incurred in their support of the Federal Government.

I do not believe that the Federal Government currently reimburses the city of Houston for arresting and detaining undocumented individuals that we have arrested. Currently, the city of Houston is working to collaborate with our county officials who are already strapped for space for the prisoners that they have, adult and juveniles.

In closing, I respect the work needed to get this country to a place that we feel good about security of our homeland. There is much work to be done. However, I suggest that this work will be extremely short-lived if we do not address the issue of making sure that foreign countries that are contributing to this issue of illegal immigration be encouraged to develop effective domestic economic development policies in their own countries.

In addition, I would like to offer a second dimension as a first-generation American, the only one in my family born in America. I am a person that today sits before you only because my dad, who died shortly after seeing my election, was a migracio. My dad helped to build the California rail lines, and this earned him the right to emigrate to the U.S. with my mom and brothers and sisters. Today the U.S. can look upon the family of native-born and naturalized citizens and see a retired cop, a police lieutenant, an attorney, a CPA, commercial fleet sales manager and a victim of HIV/AIDS. In the second generation, there will soon be military veterans, doctors, artists, accountants. And just this Sunday, the newest member of our family entered this world ready to contribute and do her part to make this the greatest country in the world.

Thank you.

Mr. MCCAUL. Thank you, Mr. Garcia. Congratulations on the new birth, and I appreciate your insight.

[The statement of Mr. Garcia follows:]

PREPARED STAEMENT OF ADRIAN GARCIA

Good morning distinguished members of Congress:

My name is Adrian Garcia and I am a member of the City Council of Houston and as a member of Houston's City Council, I have also been appointed to serve as the Chair of the Public Safety and Homeland Security Committee. I am honored to be before you on this important discussion and on that note I also wish to welcome you to our great city and hope that you find your time here comfortable.

Prior to serving on Houston's City Council I served as a Houston Police Officer for nearly 24 years and retired upon my successful election to City Council. I started my public safety career in 1980 and during my time in the Houston Police Department I worked various assignments that included serving as the Director of the Mayor's Anti-Gang Office, where I was charged with helping to develop public policy in the fight against criminal street gangs in Houston.

Today's session appears to want to focus on the impact of illegal immigration on crime what the role of local Police should be in the enforcement of immigration laws. I hope to offer a perspective as a recent local law enforcement practitioner given that I have worked as a street cop. In my time, I have met many people of different backgrounds, many spoke English some did not, and when I needed to I used my family taught bilingual skills to carry out my job and enforce the law—as a result I was able to clear cases and make significant arrests and made many friends.

During my time as a Houston Police Officer, I became involved in the National Latino Peace Officers Association and eventually became the National President and served as National President from 1998–2000.

To the topic of today's discussion, no disputes that some persons who have entered the United States have been arrested for violations of state criminal statutes. However, given that a significant portion of my patrol career also took place in the area that I now represent as an elected official, which has a Hispanic majority; and given that I liked putting crooks in jail, I recall arresting and investigating more crimes against Americans that were committed by Americans than I did where illegal immigrants were involved.

Where I did investigate crimes involving persons with questionable immigration status, more have been witnesses against crooks I was trying to put in jail.

I have also had to investigate crimes of assault and theft involving persons who were hired to do a job and then beaten when they wanted to get paid.

I have also worked in an undercover capacity investigating drug trafficking and other crimes—some did involve undocumented persons but they were more often the informants than targets of my investigations, and we welcomed their assistance in those cases. I remember when I had to go to Laredo, Texas to work with DEA on a drug trafficking investigation that originated here in Houston through information from sources that were undocumented. When I arrived in Laredo it was shortly after DEA Agent Enrique Camarena was missing and presumed to be dead, which regretfully turned out to be true. The targets of my investigation were all US citizens.

When I had the responsibility of being Director of the Mayor's Anti-Gang Office I dealt with the issue of Hispanic criminal street gangs including MS–13. They were subjects of criminal activity in Houston just as much as Caucasians, African Americans and many of the Hispanics involved were also US citizens. In fact, one of the first issues confronting me when I became Director was the fact that from 1994—1998, a significant number of the gang-related victims were Hispanic males between the ages of 15—19 years. Although, we never researched to find out the immigration status of these crime victims I do not recall the issue of them being undocumented ever being an issue.

However, my time was just as occupied with investigating the Bloods, Crips and the White Supremacists—Hispanics do not have a lock on criminal street gang trade.

In either case, it has always been the trust and dialogue that cops have been able to establish with all persons as they do their job. Without free-flowing information from Houston's community, I am concerned what could happen to the clearance and successful prosecution rate that our area currently enjoys.

However, when it comes to what a vocal few would like street cops to do we have vivid examples of failed attempts by local police enforcing immigration laws in

places like Chandler, Arizona where US citizens were detained and nearly deported mainly because they spoke with accents; couldn't speak English or could not prove their immigration status. As a result, this experience set the police department back many years and erased years of good work in developing community relationships that are always necessary and essential in investigating, solving and prosecuting crimes.

I have been personally involved in Houston's effort to have a local police force for all the people of Houston and I am concerned about seeing this progress erased, street cops depend on information to solve crimes and without it victimization would go unreported and unsolved and leave criminals on the streets.

This statement does not mean that I do not believe that immigration laws should not be enforced, quite to the contrary, I do support the enforcement of all laws but in this case it must be done by the appropriate agencies and Texas State Penal Code Laws should be enforced by Texas Peace Officers and Immigration Laws should be enforced by Immigration Enforcement Authorities.

Are illegal aliens committing crimes in Houston? Yes. Are Houston Police arresting illegal aliens? Yes, for the criminal violations of state and federal criminal laws. Does the Houston Police Department share that information with Immigration authorities? Yes. Does, the Houston Police Department do anything to hinder the work of Immigration authorities? No.

Further, the following are specific reasons why it is not in the best interests of Houston to order local police to become immigration law enforcers:

1. Current federal law requires that in order for local law enforcement to receive federal funding that the agency demonstrate that it has policies and procedures in place against discrimination practices—effectively meaning that law enforcement is equally applied to all persons without regard to a person's color of skin, nationality, religion or gender.

2. In order to comply with the first rule, any new rule to would require that we follow the first rule as we enforce the new rule—meaning that in order to demonstrate that local police are not enforcing the immigration law against persons solely because of the color of their skin or possible nationality then we would have to order the enforcement of the new rule on all persons that local law enforcement officers come in contact with and require documentation (much like the racial profiling forms that officers are required to fill out) that the officer is enforcing the new rule on everyone he/she comes in contact with.

3. The Houston Police Department is currently under manned by approximately 1,000 to 1,500 officers, hiring those officers will take many years and millions upon millions to get to the workforce strength back to where we could comfortably handle all the priorities of the citizens of Houston. Asking local cops to determine the immigration status of all persons they come in contact with, today would adversely affect response times to emergency calls of Houstonians more so than how our current manpower shortage is already affecting Houstonians.

4. Access to data is not currently effective—today barely a fraction of known US absconders are tracked through the National Crime Information Center (NCIC), which is available to local police. However, if an officer wants to verify a passport, it would likely need to be done during business hours since there are no direct links to State Department databases, making this ineffective during evening and nighttime hours for street cops.

5. Lack of funding—currently the City of Houston is trying to get out of the jail business and the cost of housing, feeding and medically caring for immigration detainees would adversely affect local tax payers. Especially since the federal government doesn't have the best reputation of reimbursing local communities for cost incurred in their support of the federal government. I do not believe that the federal government currently reimburses the City of Houston for arresting and detaining the illegal aliens that we have arrested?! Currently, the City of Houston is working to get out of the jail business and collaborate with our County Officials, who are already strapped for space for the prisoners they have—adult and juveniles.

In closing, I respect the work needed to get this country to place that we feel good about the security of our Homeland and there is much work to be done. However, I suggest that this work will be extremely short lived if we do not also address of the issue of making sure that the foreign countries that are contributing to this issue are not encouraged to better at developing effective domestic economic development in their own countries.

In addition, I would like to offer a second dimension as a First Generation American, the only American born of my family. I am a person that today sits before you only because my father, who died shortly after being able to see my election, was a "bracero". My dad helped to build the California rail lines and this earned him

the right to immigrate to the US with my mom and brothers and sister, today the US can look upon this family of native born and naturalized citizens and see a retired cop, a Metro Police Lieutenant, an attorney, a CPA, commercial vehicle fleet sales manager, and a victim of HIV–AIDS—in second generation there are soon to be military veterans, doctors, artists, accountants, and just this Sunday the newest member of our family entered this world ready to contribute and do her part to continue to make this the greatest country in the world.

Mr. MCCAUL. Next we have the Police Chief from Houston, Mr. Hurtt.

STATEMENT OF HAROLD L. HURTT, CHIEF OF POLICE, CITY OF HOUSTON, TEXAS

Mr. HURTT. Thank you. Mr. Chairman and subcommittee members, I sit here as a police chief for three border cities in the past: Arizona, California, and now Texas. Let me say as chief of Houston Police Department and also president of the Major Cities Chiefs associations, that I appreciate and wish to thank you for the honor and privilege of putting into the Congressional Record law enforcement comments and concerns on immigration prior to full enactment of any legislation this important.

Let me begin by giving my reaction to a recent Federal legislative amendment aimed at eliminating Federal law enforcement funding for local police. In short, both myself and chiefs of major cities across the country are dismayed by any legislative action aimed at excluding the city of Houston and other local jurisdictions from receiving needed Federal law enforcement funds. These funds are needed to put more officers on the streets of Houston, protect their neighborhoods, investigate and prevent murders, rapes, assaults, robberies, burglaries, and provide for homeland security.

The end result of any law enforcement funding exclusion amendment, if it is applied to the Houston Police Department and other communities like Houston, would be to make our local communities less safe. In other words, these amendments would have the opposite effect of their purported purpose.

Illegal immigration is an issue that affects our Nation as a whole, and any solution should begin, first, at the Federal level, with securing the borders and increasing enforcement by Federal agencies. Local law enforcement of immigration law raises complex legal, logistical, and resource issues for local communities and their police agencies.

In an effort to clarify the city's reasoned and model approach to this issue, I will provide the following statements regarding the city's policy, why we oppose the position represented by the Federal Fund Exclusion Amendment and protect our citizens referendum.

The city of Houston does not have a sanctuary policy. Currently, the police department is operating under general order 500–5. You may see attachment A in the packet I have provided for you. General order 500–5 was implemented in 1992 by then Police Chief Nuchia, who is currently serving as a justice in the Texas judiciary's first court of appeals.

The general order includes the following provisions:

Number one, Houston police officers may not stop or apprehend individuals solely on the belief that they are in this country illegally. Officers shall not make inquiries as to the citizenship status of any person, nor will officers detain or arrest persons solely on

the belief that they are in this country illegally. Officers will contact the Federal immigration authorities regarding the person only if that person is arrested on a separate criminal charge other than a class C misdemeanor, which would be like a traffic citation, and the officer knows the prisoner is an illegal alien.

The department procedures are to accept and act upon criminal immigration detainers issued by ICE. The police department further clarifies to our officers that they are allowed to take into custody any person who the Federal authorities state is a criminal suspect and for whom they will authorize detention directly into a Federal detention facility.

In addition, whenever the department has a person in custody on other criminal charges, the department will not release the person from custody for up to 24 hours after they have received formal notice from Federal authorities that they are wanted for criminal violations. The city is committed to assisting ICE and any other Federal agencies, whenever possible and reasonable, to enforce criminal violations in criminal matters.

We will continue to enforce laws relative to criminal violations against any and all persons regardless of their immigration status. The department, and thus the city, does not have a sanctuary policy as opponents of our policy have alleged.

There are several issues that impact the State and local. There are some restrictions why State and local law enforcement cannot be involved in immigration enforcement.

In Texas, peace officers can only arrest a person without a warrant in specific situations. Sections 14.01, 14.03 and 14.04 of the Texas Code of Criminal Procedures clearly define this authority, and it is provided in Exhibit 4. These sections do not authorize a Texas police officer to arrest a person without a warrant for illegally entering the United States.

In opinion number H–1029, the Texas Attorney General evaluated the authority of Texas peace officers under section 14.01, 14.03 and 14.04 and concluded that Texas peace officers, under State law, do not have authority to arrest an individual solely upon the suspicion that he has previously entered the country illegally. That is under item number five.

Likewise, police officers are restrained by the constitutional protections of the fourth amendment from seizing or detaining a person without sufficient probable cause in immigration situations. The Supreme Court further concluded that the fourth amendment forbids officers from stopping or detaining a person for questioning about their citizenship unless on a reasonable suspicion that they may be aliens.

The Texas Code of Criminal Procedure also, under article 2.131 and 2.132, prohibits peace officers from engaging in racial profiling. That is Exhibit 7 in your pack. An officer cannot subject a person to police action merely on the basis of their race, ethnicity or national origin.

The Supreme Court in the Brignoni-Ponce case also specifically stated that a person's Mexican ancestry alone is not reasonable grounds to stop the person and subject them to questioning about citizenship. That is in Exhibit Number 6.

Mr. MCCAUL. If I can, we are on tight time. Please proceed, but if you could try to summarize. Thank you.

Mr. HURTT. Let me get, then, to the final points that I would like to make on this whole issue. There are five points I would like to make.

The Federal legislation amendments to exclude local communities from receiving Federal law enforcement funding are misguided and wrong; just as Houston's Protect Our Citizens efforts to pass a charter amendment requiring Houston police officers to conduct immigration investigations and enforce immigration laws.

Both ignore the lack of clear legal authority for our officers in the area of immigration enforcement.

They turn a blind eye to the legal restrictions against warrantless arrests/detentions, racial profiling and fourth amendment violations to which our officers must adhere and for which the city would face legal liability if we allowed our officers to violate them.

They are unconcerned and insensitive to the distrust and fear of the police such enforcement would create in our community.

Finally, they unreasonably call for required enforcement, yet fail to identify how the city and local communities will provide or generate the necessary resources to accomplish such enforcement. What programs, projects and services would need to be cut in order for us to do immigration enforcement?

What the city of Houston and all major cities need, along with the Federal law enforcement authorities for that matter—and it has been said here before—are more boots on the ground; that is, more police officers and more Federal agents.

Thank you.

Mr. MCCAUL. Thank you, Chief.

[The statement of Chief Harold L. Hurtt follows:]

PREPARED STATEMENT OF HAROLD L. HURTT

Dear Sub-Committee Members:

I am writing to respond to your invitation to testify before your sub-committee hearing on Wednesday, August 16th, 2006, at 9:30am, at the Civil Courthouse 201 Caroline St., Houston Texas. First let me say as Chief of the Houston Police Department (HPD) and also as President of the Major Cities Chiefs Association (MCC) that I appreciate and wish to thank you for the honor and privilege of putting into the official congressional record Law Enforcement's comments and concerns on Immigration prior to the full enactment of any legislation on this important subject. I will be submitting as an attachment to my testimony today the MCC's Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies (chaired by my Deputy Director Craig E. Ferrell, Jr.), which were adopted on June 7th by the MCC for inclusion in the official congressional record. I also have additional attachments for the sub-committee members, but due to their length I have been told they can not be part of the written record.

Let me begin by giving my reaction to a recent federal legislative amendment aimed at eliminating federal law enforcement funding to local police. In short, both myself and chiefs of major cities across the country are dismayed by any legislative action aimed at excluding the City of Houston and/or other local jurisdictions from receiving needed federal law enforcement funds. These funds are needed to put more officers on the streets of Houston, protect our neighborhoods, investigate and prevent murders, rapes, assaults, robberies, burglaries, and provide for homeland security efforts. It seems clear that some in Congress and the public fervently believe local police should become involved in enforcing federal civil immigration laws. Given these strong beliefs, we are left to wonder why the recent legislative amendments were not written to provide increased federal funding to local police to support such enforcement. Instead the amendments have sought to eliminate funding

and penalize not only the City of Houston, but also Harris County, and other local and national jurisdictions, which will be negatively effected by this amendment. The end result of any law enforcement funding exclusion amendment, if it is applied to Houston and other communities like Houston would be to make our local communities less safe. In other words these amendments would have the opposite effect of their purported purpose.

Illegal immigration is being hotly debated in Congress and in our local communities. Opinions on how to address this complex issue differ greatly and emotions run high. Extremes exist on either side of the debate as represented by the recent mass demonstrations by immigrant groups and their supporters and the funding exclusion amendment and the referendum effort of the group Protect Our Citizens in Houston. Both myself and chiefs of police in MCC representing first responders to over fifty (50) million residents respectfully disagree with any effort to eliminate federal law enforcement funding and in effort to create an unfunded mandate. **Illegal immigration is an issue that effects our nation as a whole and any solution should begin first at the federal level with securing the borders and increasing enforcement by federal agencies.**

Local enforcement of immigration laws raises complex legal, logistical and resource issues for local communities and their police agencies. The City of Houston's polices and those of most major cities across America reflect the challenges and realities faced by a City and police agency that is responsible for protecting and serving a diverse community comprised of citizens, non-citizens, legal residents, visitors and undocumented immigrants. The City's policies seek to best protect and serve this diverse community as a whole, while taking into account: the reality that the City does not have unlimited resources; its officers are prohibited by state law from racial profiling and arresting persons without warrants and without well established probable cause; is subject to civil liability for violating such laws; and has the clear need to foster assistance and cooperation from the public including those persons who may be undocumented immigrants. **In an effort to clarify the City's reasoned and model approach to this issue I have provided the following statements regarding the City's policy and why we oppose the positions represented by the federal fund exclusion amendment and Protect Our Citizens' referendum.**

CITY DOES NOT HAVE A SANCTUARY POLICY

Currently, the police department is operating under General Order 500–5[See attached Exhibit 1]. General Order 500–5 was implemented in 1992 by then Chief Nuchia, who is currently serving as a Justice in the Texas Judiciary's First Court of Appeals. The General Order includes the following provisions:

- Houston police officers may not stop or apprehend individuals *solely* on the belief that they are in this country illegally.
- Officers shall *not* make inquiries as to the citizenship status of any person, nor will officers detain or arrest persons *solely* on the belief that they are in the country illegally.
- Officers will contact the [Federal Immigration Authorities] regarding a person *only if that person is arrested on a separate criminal charge* (other than Class C misdemeanor) and the officer knows the prisoner is an illegal alien."

The department has issued clarifications of our "immigration" policies and implemented changes to the department's enforcement policies to increase cooperation between the department and federal agencies on immigration matters that are criminal in nature. [Exhibit 2] In the summer of 2005, I directed Executive Assistant Chief Thaler, Assistant Chief Perales and Deputy Director/General Counsel Craig Ferrell to meet jointly with representatives of the U.S. Attorney's office and I.C.E. to discuss the department's response to immigration detainers. Based on those discussions, **the department developed procedures to accept and act upon criminal immigration detainers issued by I.C.E. The police department further clarified that our officers are allowed to take into custody any person who the federal authorities state is a criminal suspect and for whom they will authorize detention directly into a federal detention facility. In addition, whenever the department has a person in custody on other criminal charges, the department will not release the person from custody for up to 24 hours after we have received formal notice from federal authorities that they are wanted for criminal violations.**

The City is committed to assisting I.C.E and any other federal agency wherever possible and reasonable to enforce against criminal violations and address criminal matters. **The Houston Police Department has always acted to enforce laws relative to criminal violations and criminal matters,** accepted criminal warrants and criminal detainers and assisted in criminal investigations, regardless of

whether they emanated from other jurisdictions or arose out of federal or state laws. Our officers are currently involved in various federal task forces addressing criminal matters including violent criminal gangs. **Because we have and will continue to enforce laws relative to criminal violations against any and all persons, regardless of their immigration status, the department and thus the City does not have a "sanctuary policy" as opponents of our policies have alleged.** This is not only the City's or the police department's opinion but also that of Robert Rutt the Deputy Special Agent in Charge for Immigration and Customs Enforcement [I.C.E]. In a recent Houston Chronicle article he stated that "Houston is not a sanctuary City. . ." In the same article he further acknowledged the police department's significant cooperation with I.C.E. [Exhibit 3]

CONCERNS WITH LOCAL ENFORCMENT OF FEDERAL IMMIGRATION LAW

Local enforcement of federal immigration laws raises many daunting and complex legal, logistical and resource issues for the City of Houston and the diverse community it serves. Like other jurisdictions our policy in this area must recognize the obstacles, pitfalls, dangers and negative consequences to local policing that would be caused by immigration enforcement at the local level.

LACK OF CLEAR LEGAL AUTHORITY

The federal government has clear authority over immigration and immigration enforcement, but that is not true for local police officers including the Houston Police Department. Federal law does not require the states or local police agencies to enforce immigration laws nor does it give the states or local agencies the clear authority to act in the area of immigration enforcement.

Criminal vs. Civil Matters

Federal immigration laws involve both civil and criminal aspects. The federal government and its designated agencies such as I.C.E. and the Department of Justice have clear authority and responsibility to regulate and enforce immigration laws regardless of whether or not the process used for enforcement is criminal or civil in nature. The federal agencies have the authority to determine if a person will be criminally prosecuted for their violations of immigration laws or be dealt with through a civil deportation process. Based on their authority, training, experience and resources available to them, these federal agencies and the federal courts are in the best position to determine whether or not a person has entered or remained in the country in violation of federal regulations and the applicability of criminal or civil sanctions.

The authority of local police officers to act to enforce against criminal acts is clear and well established. Our officers have no authority to determine if a particular immigration violation would or should result in criminal charges or be handled through purely civil proceedings and regulation. This fact creates a gap in authority for our officers who are generally limited to acting only in criminal matters. Houston police officers do not become involved in purely civil matters between disputing parties.

As stated above the Houston Police Department and its officers keep their focus on criminal matters and violations. ***We assist the federal agencies with all criminal matters including those that involve immigration status,*** but the federal agencies must clearly state that the matter relates to criminal violations by issuing criminal warrants, criminal detainers or criminal holds.

State and Federal Restrictions on Authority to Arrest and Detain

State laws also restrict a local police officer's authority to act even in criminal matters in such a way that it would prevent or hinder the officer's ability to investigate, arrest or detain a person for immigration violations alone. Federal agents are specifically authorized to stop persons and conduct investigations as to immigration status without a warrant. Local police officers are constrained by local laws that deal with their general police powers such as the ability to arrest without a warrant, and prohibitions against racial profiling.

In Texas, peace officers can only arrest a person without a warrant in specific situations. Section 14.01, 14.03 and 14.04 of the Texas Code of Criminal Procedures clearly defines this authority. [Exhibit 4] Section 14.01 states and officer can arrest a person without a warrant who has committed an offense in the officer's presence or view. Section 14.03 defines specific situations in which an officer can arrest a person without a warrant such as those involving an assault with possible future injury, family violence, violations of protective orders or interference with emergency calls. Finally, section 14.04 allows arrest without warrant if a felony has been committed and an escape is likely and the officer does not have time to get

a warrant. **These sections do not authorize a Texas peace officer to arrest a person without a warrant for illegally entering the United States. In Opinion No. H–1029, the Texas Attorney General evaluated the authority of Texas peace officers under Section 14.01, 14.03 and 14.04 and concluded that Texas peace officers under state law "do not. . .have authority to arrest an individual solely upon the suspicion that he has previously entered the country illegally. . ."[See AG Opinion H–1029 attached as Exhibit 5]**

Likewise police officers are restrained by the constitutional protections of the Fourth Amendment from seizing or detaining a person without sufficient probable cause in immigration situations. The United State Supreme Court in the case of *U.S. v. Brignoni-Ponce* addressed the ability of federal immigration agents to seize and detain a person and subject them to an immigration status investigation. *U.S. v. Brignoni-Ponce,* 422 U.S. 873, (1975). [Exhibit 6] The Court recognized the broader authority of such federal agents to conduct such investigations without warrant. However, the Court stated even with such broader authority the Fourth Amendment still protected persons from being randomly stopped by officers who have no reason to suspect the persons of having violated any law. *Id. At 883–884.* **The Supreme Court further concluded that the Fourth Amendment forbids officers from stopping or detaining a person for questioning about their citizenship on less than reasonable suspicion that they may be aliens. *Id.*** Houston police officers lack the broader authority to conduct immigration investigations that is given to federal immigration agents who can stop a person and ask questions about citizenship without a warrant. Lacking such authority, Houston police officers are still required to develop a clear reasonable justification or probable cause for detaining a person to investigate their immigration status.

Texas Code of Criminal Procedure Article 2.131 and 2.132 prohibit peace officers from engaging in racial profiling. [Exhibit 7] An officer can not subject a person to police action merely on the basis of their race, ethnicity or national origin. Immigration enforcement by H.P.D. officers would at a minimum result in increased complaints of racial profiling since a major factor a person would most likely be subjected to an immigration investigation by officers would be their differing nationality, race or ethnicity. **The Supreme Court in the *Brignoni-Ponce* case also specifically stated that a persons "Mexican ancestry" alone is not reasonable grounds to stop the person and subject them to questioning about citizen. *U.S. V. Brignoni-Ponce,* 422 U.S. 873, 885, 886(1975).**

RISK OF CIVIL LIBABILITY

In the past, local law enforcement agencies have faced civil litigation and liability for their involvement in immigration enforcement. For example, the Katy, Texas Police Department participated in an immigration raid with federal agents in 1994. A total of 80 individuals who were detained by the police were later determined to be either citizens or legal immigrants with permission to be in the country. The Katy police department faced suits from these individuals and eventually settled their claims out of court.

Because local police officers currently lack clear authority to enforce immigration laws, are limited in their ability to arrest without a warrant, are prohibited from racial profiling and lack the training and experience to enforce complex federal immigration laws, it is more likely the City/police department will face the risk of civil liability and litigation if we actively enforced federal immigration laws.

UNDERMINES TRUST AND COOPERATION OF IMMIGRANT COMMUNITIES

Major urban areas throughout the nation are comprised of significant immigrant communities. In some areas the immigrant community reaches 50—60 percent of the local population. Local agencies are charged with providing law enforcement services to these diverse populations with communities of both legal and illegal immigrants. The reality is that undocumented immigrants are a significant part of the local populations major police agencies must protect, serve and police. The City of Houston faces the same challenges.

Local officers have worked very hard to build trust and a spirit of cooperation with immigrant groups through community based policing and outreach programs and specialized officers who work with immigrant groups. We have a clear need to foster trust and cooperation with everyone in these immigrant communities. Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of or witness to a crime. These persons must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes and maintain

public order, safety, and security in the whole community. Local police contacts in immigrant communities are important as well in the area of intelligence gathering to prevent future terroristic attacks and strengthen homeland security.

Immigration enforcement by local police would likely negatively effect and undermine the level of trust and cooperation between local police and immigrant communities. If the undocumented immigrant's primary concern is that they will be deported or subjected to an immigration status investigation, then they will not come forward and provide needed assistance and cooperation. Distrust and fear of contacting or assisting the police would develop among legal immigrants as well. Undoubtedly legal immigrants would avoid contact with the police for fear that they themselves or undocumented family members or friends may become subject to immigration enforcement. Without assurances that contact with the police would not result in purely civil immigration enforcement action, the hard won trust, communication and cooperation from the immigrant community would disappear. Such a divide between the local police and immigrant groups would result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts.

LACK OF RESOURCES

The budgets and resources of local police agencies are not unlimited. Local police agencies struggle every year to find the resources to police and serve their respective communities. Since the events of September 11, local agencies have taken on the added duty of serving as the first line of defense and response to terrorist attacks for our country. These efforts on the local level to deter and prevent another terrorist attack and to be prepared to respond to the aftermath of an attack have stretched local resources even further. Since the creation of the Homeland Security Department, federal funding for major city police departments has been reduced given the added duties of securing the homeland. Local agencies have also had to take on more responsibilities in areas that have traditionally been handled by the F.B.I. whose investigative resources are now more focused on counter-terrorism efforts. Local agencies are forced to fill the gap left by the shift of federal resources away from investigating white-collar crimes and bank robberies; areas traditionally handled by federal agencies.

Enforcement of federal immigration laws would be a burden that most major police agencies would not be able to bear under current resource levels. The cost in terms of manpower, facilities and equipment necessary for local agencies to address the 8—12 million illegal immigrants currently living in the United States would be overwhelming. It is estimated that nearly half a million immigrants are in the Houston area. The federal government, which has primary authority to enforce immigration laws, has itself failed to provide the tremendous amount of resources necessary to accomplish such enforcement to its own agencies specifically charged with that responsibility. Local communities and agencies have even fewer resources to devote to such an effort than the federal government, given all the numerous other demands on local police departments.

Immigration violations are extremely different from the typical criminal offenses that patrol officers face every day on their local beats. The law enforcement activities of local police officers revolve around crimes such as murder, assaults, narcotics, robberies, burglaries, domestic violence, traffic violations and the myriad of other criminal matters they handle on a regular basis. The specific immigration status of any particular person can vary greatly. **A person may not be a citizen but still be a legal resident, a recognized refugee seeking asylum, a holder of a visa that may or may not have expired or the person has illegally entered the country. The complexity of the immigration laws is illustrated by the fact that the U.S. has 25 types of nonimmigrant visas, including A1 visas for ambassadors, B2 visas for tourists, P1 visas for foreign sports stars who play on U.S. teams and TN visas for Canadians and Mexicans entering the U.S. to work under NAFTA, and U visas for persons assisting in criminal prosecutions.** Given the complexity of immigration status, whether a person is in fact in violation of the complex federal immigration regulations would be very difficult if not almost impossible for the average patrol officer to determine during an investigation on the streets of Houston.

The Houston Police Department is currently working to put more officers on the street to address crimes such as murder, rape, robberies, assaults, narcotics, prostitution, burglaries, traffic enforcement, etc. The City struggles continuously to find the resources to address these policing needs. Spending Houston's limited police re-

sources on addressing the estimated tens of thousands of illegal immigrants in our jurisdiction would decrease our ability to accomplish normal policing and public safety goals. If officers were required to enforce or even allowed to enforce immigration laws, a routine traffic stop, which would have only resulted in a ticket, would become an extended immigration investigation. If the officer develops the probable cause to detain the person for immigration status investigation and asks the person about their citizenship status the person may lie or admit that they are a non-citizen. If the person lies the officer must develop facts that would support a reasonable suspicion that the person is a non-citizen in the country illegally.

If a person admits to being a non-citizen the fact remains that being a non-citizen in this country is not in and of itself a violation of any state or federal law. The officer would then have to develop probable cause to believe the person who is a non-citizen either entered the country illegally or has violated a visa or some other condition for remaining in the country. Basing his immigration status investigation solely on the person's non-citizenship/national origin could violate the state law against racial profiling. The non-citizen may claim to have misplaced or left his visa or residency card or some other valid immigration documents at home or at their hotel room. A traffic stop, which should have been brief, has now become an extended immigration investigation reducing the available police resources to address other policing needs. This very real scenario does not account for the various other situations in which officers come in contact with individuals who are witnesses, victims, or report crimes.

It should be noted that new immigration enforcement would not only take from current police resources but would also require increases in resources for enforcement. New resources would be needed to provide equipment, infrastructure and additional officers and personnel for enforcement as well as training for officers. New resources would also be needed to house, feed and transport persons who are subject to enforcement.

HOUSTON'S POLICY IS MODEL FOR OTHER JURISDICTIONS

The Houston Police Department has not sat on the sidelines but rather has actively worked through its involvement in police associations such as the International Association of Chiefs of Police [I.A.C.P.] and Major Cities Chiefs [M.C.C.] to build consensus on the issue of local enforcement of federal immigration law. **The I.A.C.P. has published articles and adopted a position statement on this issue, which support Houston's policy.** [See Exhibits 8, 9, 10] I am the current M.C.C. president and my Deputy Director, Craig Ferrell, is serving as M.C.C. general counsel. M.C.C. is an association of 57 Chief Executive Officers of police departments located in jurisdictions with over 1.5 million population or have a population over and employ more than 1,000 officers. **During M.C.C.'s recent summer meeting, its members voted to adopt a position statement on this issue which, like I.A.C.P., voiced concerns and opposition to any requirement that local police agencies enforce immigration laws. [Exhibit 11 and tendered with my testimony to become part of this committee's official record]**

In addition, on MCC's behalf Craig Ferrell recently attended a Law Enforcement Roundtable Discussion regarding border security and immigration hosted by Attorney General Alberto Gonzales. [Exhibit 12] During this meeting the issue of local law enforcement of immigration was discussed. **Attorney General Gonzales stated at this meeting that the federal government is neither requesting nor requiring local agencies to enforce immigration laws on their own and he acknowledged that such enforcement is first and foremost a federal responsibility.** Attorney General Gonzales requested that local police department's to partner with federal agencies to combat criminal immigration matters. He specifically stated he was not asking local police agencies to wade into the complicated area of "civil enforcement."

The issue of local law enforcement agencies enforcing federal immigration laws became a prominent issue in the media and one debated in the law enforcement community since the horrendous events of 9/11. This issue has been further highlighted due to the current debate on immigration reform taking place in congress. **Local enforcement of federal immigration laws raises many complex legal and logistical issues as stated above for the City of Houston. The concerns raised above are shared by other major law enforcement agencies throughout the nation.** Based on our work and discussions with other police agencies, I can confidently state that *the City of Houston's approach to this issue is in line with the other major jurisdictions in the country and is viewed as a model policy.* [Also see 2 IACP Articles marked as exhibits 12 & 13 authored by Mr. Ferrell on this subject]

CONCLUSION

- **The federal legislative amendments to exclude local communities from receiving federal law enforcement funding are misguided and wrong; just as Houston's Protect Our Citizens efforts to pass a charter amendment requiring Houston Police Officer's to conduct immigration investigations and enforce immigration laws.**
- Both ignore the lack of clear legal authority for our officers in the area of immigration enforcement.
- They turn a blind eye to the legal restrictions against warrantless arrests/detentions, racial profiling, and Fourth Amendment violations to which our officers must adhere and for which the City would face legal liability if we allowed our officers to violate them.
- They are unconcerned and insensitive to the distrust and fear of the police such enforcement would create in our community.
- Finally, they unreasonably call for required enforcement, yet fail to identify how the City and local communities will provide or generate the necessary resources to accomplish such enforcement. What programs, projects and services would Protect Our Citizens suggest the City cut from the current budget to fund new immigration enforcement?

Why would our federal legislators not seek to increase federal funding to support the call for local immigration enforcement rather than passing amendments aimed at eliminating all federal funding for local law enforcement needs. Their energies, time and monies would be better spent trying to assist the City of Houston and local communities meet our current law enforcement needs rather than creating new unfunded mandates. **What the City of Houston and all major cities need, along with the federal law enforcement authorities for that matter, are more police officers and more federal agents!**

Mr. MCCAUL. I am going to hold them strictly to 5 minutes as we are running short on time.

Chief, just very quickly, when you make an arrest in the city of Houston and you determine that the person is here illegally, do you refer that to the Immigration and Customs Enforcement?

Mr. HURTT. Yes. That is on the booking slip as a person that is put into the county jail, that Immigration is notified.

Mr. MCCAUL. What if it is a routine traffic stop.

Mr. HURTT. No.

Mr. MCCAUL. Of course, we know one of the hijackers was stopped on a routine traffic stop. Do you have any—what kind of database do you have to check once you have—we have had various illustrations of people being pulled over, like Tim McVeigh, for instance. I think State troopers, police on the ground making traffic stops, is a very good technique to prevent crime and terrorism. Do you have any sort of database that is checked in a traffic stop to determine if this person is on a watchlist, for instance.

Mr. HURTT. If an officer feels it necessary to check a person for warrants, they can run them through NCIC, yes.

Mr. MCCAUL. I would like to just, with my limited time, focus on the facts and the cost of illegal immigration in this State and particularly in this county, and just if I could get some numbers to summarize the testimony, particularly from Judge Eckels and Major O'Brien and Mr. Moriarty, on the cost of incarceration.

Let me start first with the numbers of illegals incarcerated in the State of Texas, and then we will go to Harris County.

Mr. MORIARTY. We have 11,606 that claim foreign birth. Again, the technology issue is an important issue for us also as far as the State prison system goes, because we do not have access to anything to verify that person's citizenship. Now, by the time they come to us, they are obviously convicted felons. So we are dealing

with a different issue than the Chief or some of the other persons that testified here today.

Mr. MCCAUL. So it is difficult to verify obviously, these are the people who actually admit, and what is the cost to the State for incarceration of illegals.

Mr. MORIARTY. The ones that we know about, the 10,376 that claim foreign citizenship, our estimated cost is the same as housing inmates at $40 a day. So that would be $132 million in costs to the State of Texas a year for the known. Now, again, it is self-reporting like we talked about.

Mr. MCCAUL. It is self-reporting, so the number is probably higher than that.

Mr. MORIARTY. That is correct.

Mr. MCCAUL. Has that increased since last year—or the year before, I'm sorry?

Mr. MORIARTY. This program, again, we have worked in close contact with ICE, but the numbers may increase steady because I don't think the investigative efforts have changed to determine that citizenship status.

Mr. MCCAUL. If I can pose the same questions to Harris County officials on the incarceration, the numbers.

Judge ECKELS. The percentages, I have the national average, of the total misdemeanor defendant interviews, 10.2 percent were for illegal aliens, of which 6.7 were for felonies.

Mr. MCCAUL. What was the percentage? I didn't hear you.

Judge ECKELS. The pretrial services department—in their interviews—misdemeanor defendants, 19 percent were non-U.S. citizens, 51.2 percent of that were undocumented and 10.2 percent were—

Mr. MCCAUL. What about the felony.

Judge ECKELS. Felony, there was 11.5 percent were undocumented, 6.7 percent of all felony interviewed were undocumented. Both of those are trending upward, a little over 2 percent in a year in our community.

Mr. MCCAUL. Do you have any additions to that.

Mr. O'BRIEN. Out of the over 130,000 prisoners we process a year, 20 to 23 percent are undocumented aliens, which equates to approximately 26,000 prisoners. Out of our budget of about $260 million, with the greatest percentage going to jail functions, $41 million of that is going to handling undocumented or illegal immigrants.

Mr. MCCAUL. So $41 million in Harris County are going towards incarceration of illegal.

Judge ECKELS. That does not include, I would caution the committee, Mr. Chairman, the cost to the courts, the prosecutors, the probation officers. The system is much more expensive.

Mr. MCCAUL. The whole criminal justice system burden is far greater than that.

Mr. O'BRIEN. That is just the enforcement side.

Mr. MCCAUL. And we can't really quantify that right now.

Lastly, health care, if you could just again, and also tell me whether these rates have increased over the last several years or not. In terms of incarceration, have we seen an increase?

Mr. O'BRIEN. Oh, steadily.

Judge ECKELS. We are currently—we have complied with the Justice Commission jail standards with our current, and we recently opened our new facility, but we are in the design phase now for handling that process. It is a partnership with the city to help us improve the efficiency. With that we will be over 1,000 new beds.

Mr. MCCAUL. Do you know what the increase would be.

Judge ECKELS. Our current capacity is just under 10,000; 9,200 or 9,600.

Mr. O'BRIEN. I believe you are at 96,500..

Mr. MCCAUL. Judge, lastly, health care. What would be the cost to health care that the illegal immigrants receive.

Judge ECKELS. Total health care costs and total cost of undocumented inpatient, outpatient, in pharmacy care for the year 2005 was $128,400,000. This is detailed in that report I gave you earlier.

Mr. MCCAUL. It is over $128 million, and of that, the—

Judge ECKELS. The district received payments and reimbursements that amounted to $31 million, net costs of $97,300,000 for 2005. Over the 4-year period, net cost $286,600,000 medical reimbursements.

Mr. MCCAUL. And out of that, how much are the Feds reimbursing and how much does Harris County bear.

Judge ECKELS. That is after reimbursement.

Mr. MCCAUL. After reimbursement.

Judge ECKELS. Reimbursements, the total cost for the 4-year period, $403,500,000. Reimbursement totaled $116,900,000. Net cost to Harris County, $286,600,000. Of that $116 million reimbursement, $99,140,000, or 84.9 or almost 85 percent, was TP30, a Federal Medicaid program that is federally funded.

Mr. MCCAUL. I think those numbers speak for themselves in terms of the burden on the taxpayer.

The Chair now recognizes Ms. Jackson-Lee.

Ms. JACKSON-LEE. Mr. Chairman, you place those of us who are part of this fact-finding effort in somewhat of a difficult posture in the shortening of time of our witnesses and, I believe, me remaining as the only member of the minority. However, I hope that we will be able to find the facts.

Let me first start out by thanking all of you for your service in the way that the city and the county has worked together. I want to commend you Judge Eckels, Major O'Brien, Mr. Moriarty, certainly council member Garcia, Chief Hurtt, and the mayor who have worked together. I am reminded of how we unified around the evacuation, albeit faulty, as it related to Hurricane Rita, and how we bonded and worked together on the receiving of Hurricane Katrina survivors. This county and this city are to be commended, and we thank you very much for it.

This is a fact-finding process, and it is not humorous and it is not open to quick remarks because there are many points that need to be put on this record that can be answered by the present leadership of the United States Congress.

I notice that the State criminal alien assistance program, Major O'Brien, has approximate funding of $5.8 billion for calendar year 2001 and 2004. The top four States, including Texas, is $1.6 billion to incarcerate criminal alien and reimbursed staff through fiscal

years 2002 and 2003. The State of Texas received some reimbursement. Do you recall that?

Mr. O'BRIEN. No, ma'am. The only figures I have are the last fiscal year's figures with me, which we spent over $41 million, and we were reimbursed about $2.5 million, or roughly 6 percent.

Ms. JACKSON-LEE. You need more resources and this State is a very large State. You were reimbursed only $2.5 million.

Mr. O'BRIEN. I don't feel it is the county's responsibility or the citizens of Harris County to fund illegal immigrants.

Ms. JACKSON-LEE. I agree. So you were reimbursed not a lot of money.

Mr. O'BRIEN. Six percent.

Ms. JACKSON-LEE. I agree with you. You are speaking to the choir, and what I am trying to say to you is that we had State criminal alien assistance program dollars upwards of $5.8 billion. The State of Texas spent about $1.6 billion. But let me inform you that this provision is now zeroed out in the President's budget. So where you got 6 percent in the last fiscal year or two, you get zero this year. These are the problems that we are confronting that can't be answered by these hearings.

Let me share this point on our health care, and I think this is an important point and I would like to ask unanimous consent, Mr. Chairman, to add this to the record: The Texas Criminal Justice Coalition Geared Towards Leadership Initiative.

Mr. MCCAUL. Without objection, so ordered.

[The information is maintained in the committee file.]

Ms. JACKSON-LEE. That makes the following points. Though immigrants pay $1.5 million annually to Medicare payroll taxes and most health care insurance programs, they receive only half as much care as other families. Immigrants are not swamping the U.S. health care system and use it far less than native-born Americans: The American Journal of Public Health. Thirty percent of immigrants use no health care at all during the course of the year, and immigrants count for 10.4 percent of the U.S. population with only 7.9 percent of the health spending.

The Harris County hospital system has done an excellent job, and we applaud them for being a front line of health first responders. But let me set the framework.

Judge Eckels, if you would respond to this dilemma that we face. Most uninsured in the U.S.A. are mostly white, 19 to 39. They earn between 20—to $60,000. They work in small businesses, and in the city of Houston, 100,000 small businesses do not pay health insurance, and therefore, obviously, open up their employees to the health crisis that we face. Does the hospital system also have an increase, or have you seen an increased utilization by individuals who are underinsured or uninsured and are working?

Judge ECKELS. Yes.

Ms. JACKSON-LEE. And in the course of that, do you have a percentage of how that has increased over the years.

Judge ECKELS. I do not have that number. The total increase put before me today may be in the more detailed report I provided for you. I will get that number.

We have seen a continuing increase in our total budget, again the percentages remain about the same, and I have an increase on

the illegal population, but it is by no means a problem unique from that illegal population. It is a problem of the community of the uninsured population of Harris County. Our numbers are probably not the same as the Nation's on the percentage of Anglo versus Hispanic or African American or Asian, because we have a higher percentage of minority population in the Harris County region.

But it is a problem that is subject to a whole different debate in committee hearings on the problems of health care. The pure costs of illegal population detracts from our ability to deal with some of those other issues with the local population, with the communities that you and I both serve.

I should also compliment you on your efforts on this and will continue to work on the health care issues on the broader issue of starting a penetration of the market of health care, our health insurance. I hear lots of statistics about no insurance, but that does not mean no health care, because they get health care. It is just you and I paying for it through our property taxes and Federal taxes.

Ms. JACKSON-LEE. But the question, or at least the basis of your response, is that we are suffering from lack of funding across the board.

Judge ECKELS. It is a crisis in health care today, not only for the Harris County hospital district, for the for-profit and nonprofit hospitals, and often it is Federal policy that drives people into the ER, the most expensive place to provide services. I cannot lay the entire blame on the feet of the illegal population, no, ma'am. That is a problem that is aggravated by the illegal population, but certainly the total problem is not the population. A more comprehensive solution is required for that.

Mr. MCCAUL. The gentlewoman's time has expired.

Ms. JACKSON-LEE. Thank you very much. I would like to pose these questions to both Council Member Garcia and Chief Hurtt.

Might I add into the record, Mr. Chairman, the Major Cities Chiefs Association—and I am going to ask Chief Hurtt to list the cities because I don't have them here—their statement that indicates that the nine-point position statement that is expressing their opposition to utilizing local resources, and these are the major cities of the Nation for Federal immigration enforcement. So the idea of zeroing out the SCAAP funding partly would be a problem for you in terms of detention, and the idea of not having law enforcement reimbursed for any work that they did that would involve Federal responsibility would be a problem. But I understand that you are suggesting not only would it be a problem in terms of your resources but it would literally undermine your ability to do your job on the ground for the citizens of Houston.

Would you both respond to any pressure, might I say, Mr. Chairman, that they are operating under an amendment that has said that Houston would lose funding if they didn't aggressively engage in going out and seeking individuals who might be nonstatus.

Councilman Garcia. I am sorry, I ask unanimous consent to submit this into the record.

Mr. MCCAUL. Without objection.

[The information follows:]

SUBMITTED BY HAROLD HURTT

M.C.C. IMMIGRATION COMMITTEE

RECOMMENDATIONS

FOR ENFORCEMENT OF IMMIGRATION LAWS BY LOCAL POLICE AGENCIES

ADOPTED BY: MAJOR CITIES CHIEFS

JUNE 2006

Prepared By:

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M.C.C. NINE (9) POINT POSITION

STATEMENT

ENFORCEMENT OF IMMIGRATION

LAWS BY LOCAL POLICE AGENCIES

A. *STATEMENT OF ISSUE*

Illegal immigration is a problem that faces our nation and society as a whole and one, which must be dealt with at the national level. It is absolutely critical that our country develop a consistent unified national plan to deal with immigration and this plan must include the critical component of securing our borders to prevent illegal entry into the United States.

Since the horrendous attacks of September 11, 2001, local law enforcement has been called upon to do its part in protecting the nation from future terrorist attacks. The response of local law enforcement to the call to protect the homeland has been tremendous. Today, local police agencies stand as the first line of defense here at home to prevent future attacks. Local law enforcement?s unending efforts include providing additional training and equipment to officers, increasing communication and coordination with federal agencies, gathering, assessing and sharing intelligence, modifying patrol methods and increasing security for potential targets such as power plants, airports, monuments, ports and other critical facilities and infrastructure. Much of these efforts have been at a high cost to local budgets and resources.

The federal government and others have also called upon local police agencies to become involved in the enforcement of federal immigration laws as part of the effort to protect the nation. This issue has been a topic of great debate in the law enforcement community since September 11. The call for local enforcement of federal immigration laws has become more prominent during the debate over proposed immigration reform at the national level.

Major city police departments have a long undeniable history of working with federal law enforcement agencies to address crime in the United States whether committed by citizens, visitors, and/or illegal immigrants. Local police agencies have not turned a blind eye to crimes related to illegal immigration. They have and continue to work daily with federal agencies whenever possible and to the extent allowable

under state criminal law enforcement authority to address crimes such as human trafficking and gang violence which have a nexus with illegal immigration.

How local agencies respond to the call to enforce immigration laws could fundamentally change the way they police and serve their communities. Local enforcement of federal immigration laws raises many daunting and complex legal, logistical and resource issues for local agencies and the diverse communities they serve. Some in local law enforcement would embrace immigration enforcement as a means of addressing the violation of law represented by illegal immigration across our borders. Many others recognize the obstacles, pitfalls, dangers and negative consequences to local policing that would be caused by immigration enforcement at the local level.

It is important for Major Cities Chiefs [M.C.C.] as a leader and representative of the local law enforcement community develop consensus on this important subject. The purpose of this position statement is to evaluate and address the impact and potential consequences of local enforcement of federal immigration laws and highlight steps, which if taken might allow local agencies to become involved in immigration enforcement. It is hoped that this statement will help to draw attention to the concerns of local law enforcement and provide a basis upon which to discuss and shape any future national policy on this issue. In this regard it is absolutely critical that M.C.C. be involved in all phases of this debate from developing this official position statement to demanding input and involvement in the development of any national initiatives.

B. *OVERVIEW OF IMMIGRATION AND IMMIGRANT STATUS*

The federal government has the clear authority and responsibility over immigration and the enforcement of immigration laws. With this authority, the federal government has enacted laws, such as the Immigration and Naturalization Act (INA), that regulate a person's entry into the United States, his or her ability to remain in the country, and numerous other aspects of immigration. The federal government has given federal agencies such as Immigration and Customs Enforcement [I.C.E.] the specific authority to investigate a person?s immigration status and deport individuals who have no legal status or authority to be in the United States.

Under the current immigration laws there exists various immigration status classifications. The immigration status of any particular person can vary greatly. The most common status classifications include the following:

1) ***Legal Immigrants*** are citizens of other countries who have been granted a visa that allows them to live and work permanently in the United States and to become naturalized U.S. citizens. Once here, they receive a card, commonly referred to as a "green card" from the federal government indicating they are permanent residents. Some legal immigrants are refugees who fear persecution based on race, religion, nationality, membership in a particular social group, or political opinion in their home countries. Refugees are resettled every year in the United States after their requests for asylum have been reviewed and granted.

2) ***Nonimmigrant Visa Holders*** are persons who are granted temporary entry into the United States for a specific purpose, such as visiting, working, or studying. The U.S. has 25 types of nonimmigrant visas, including A1 visas for ambassadors, B2 visas for tourists, P1 visas for foreign sports stars who play on U.S. teams and TN visas for Canadians and Mexicans entering the U.S. to work under NAFTA. Visa Holders are allowed to stay in the U.S. as long as they meet the terms of their status.

3) ***Illegal Immigrants*** are citizens of other countries who have entered or remained in the U.S. without permission and without any legal status. Most illegal immigrants cross a land or sea border without being inspected by an immigration officer. Some person falls into illegal status simply by violating the terms of a legal entry document or visa.

4) ***Absconders*** are persons who entered the United States legally but have since violated the conditions of their visa and who have had a removal, deportation, or exclusion hearing before an immigration judge and are under a final order of deportation and have not left the United States.

Currently there are between 8-12 million illegal immigrants living in the U.S., with another estimated 800,000 illegal immigrants entering the country every year. These immigrants by their sheer numbers have become a significant part of local communities and major cities in our nation. Some major urban areas estimate that their immigrant communities, regardless of immigration status, comprise 50%–60% of the local population and other areas report similar trends. The reality for major local police agencies throughout the nation is that the communities they serve and protect are diverse and include significant immigrant communities including documented and undocumented immigrants.

C. *CONCERNS WITH LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS*

Local police agencies must balance any decision to enforce federal immigration laws with their daily mission of protecting and serving diverse communities, while taking into account: limited resources; the complexity of immigration laws; limitations on authority to enforce; risk of civil liability for immigration enforcement activities and the clear need to foster the trust and cooperation from the public including members of immigrant communities.

1) Undermine Trust and Cooperation of Immigrant Communities

Major urban areas throughout the nation are comprised of significant immigrant communities. In some areas the immigrant community reaches 50-60 percent of the local population. Local agencies are charged with protecting these diverse populations with communities of both legal and illegal immigrants. The reality is that undocumented immigrants are a significant part of the local populations major police agencies must protect, serve and police.

Local agencies have worked very hard to build trust and a spirit of cooperation with immigrant groups through community based policing and outreach programs and specialized officers who work with immigrant groups. Local agencies have a clear need to foster trust and cooperation with everyone in these immigrant communities. Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of or witness to a crime. These persons must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes and maintain public order, safety, and security in the whole community. Local police contacts in immigrant communities are important as well in the area of intelligence gathering to prevent future terroristic attacks and strengthen homeland security.

Immigration enforcement by local police would likely negatively effect and undermine the level of trust and cooperation between local police and immigrant communities. If the undocumented immigrant?s primary concern is that they will be deported or subjected to an immigration status investigation, then they will not come forward and provide needed assistance and cooperation. Distrust and fear of contacting or assisting the police would develop among legal immigrants as well. Undoubtedly legal immigrants would avoid contact with the police for fear that they themselves or undocumented family members or friends may become subject to immigration enforcement. Without assurances that contact with the police would not result in purely civil immigration enforcement action, the hard won trust, communication and cooperation from the immigrant community would disappear. Such a divide between the local police and immigrant groups would result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts.

2) Lack of Resources

The budgets and resources of local police agencies are not unlimited. Local police agencies struggle every year to find the resources to police and serve their respective communities. Since the events of September 11, local agencies have taken on the added duty of serving as the first line of defense and response to terrorist attacks for our country. These efforts on the local level to deter and prevent another terrorist attack and to be prepared to respond to the aftermath of an attack have stretched local resources even further. Since the creation of the Homeland Security Department, federal funding for major city police departments has been greatly reduced. Local agencies have also had to take on more responsibilities in areas that have traditionally been handled by the F.B.I. whose investigative resources are now more focused on counter-terrorism efforts. Local agencies are forced to fill the gap left by the shift of federal resources away from investigating white-collar crimes and bank robberies; areas traditionally handled by federal agencies.

Enforcement of federal immigration laws would be a burden that most major police agencies would not be able to bear under current resource levels. The cost in terms of personnel, facilities and equipment necessary for local agencies to address the 8-12 million illegal immigrants currently living in the United States would be overwhelming. The federal government which has primary authority to enforce immigration laws has itself failed to provide the tremendous amount of resources necessary to accomplish such enforcement to its own agencies specifically charged with that responsibility. Local communities and agencies have even fewer resources to devote to such an effort than the federal government given all the numerous other demands on local police departments.

0Local police agencies must meet their existing policing and homeland security duties and can not even begin to consider taking on the added burden of immigra-

tion enforcement until federal assistance and funding are in place to support such enforcement. Current calls for local police agencies to enforce immigration come with no clear statement or guarantee to provide adequate federal funding. Local agencies also fear that the call for local enforcement of immigration laws signals the beginning of a trend towards local police agencies being asked to enter other areas of federal regulation or enforcement.

3) Complexity of Federal Immigration Law

Federal immigration laws are extremely complicated in that they involve both civil and criminal aspects. The federal government and its designated agencies such as I.C.E. and the Department of Justice have clear authority and responsibility to regulate and enforce immigration laws. It is these federal agencies who have the authority to determine if a person will be criminally prosecuted for their violations of immigration laws or be dealt with through a civil deportation process. Based on their authority, training, experience and resources available to them, these federal agencies and the federal courts are in the best position to determine whether or not a person has entered or remained in the country in violation of federal regulations and the applicability of criminal sanctions.

Immigration violations are different from the typical criminal offenses that patrol officers face every day on their local beats. The law enforcement activities of local police officers revolve around crimes such as murder, assaults, narcotics, robberies, burglaries, domestic violence, traffic violations and the myriad of other criminal matters they handle on a regular basis. The specific immigration status of any particular person can vary greatly and whether they are in fact in violation of the complex federal immigration regulations would be very difficult if not almost impossible for the average patrol officer to determine. At this time local police agencies are ill equipped in terms of training, experience and resources to delve into the complicated area of immigration enforcement.

4) Lack of Local Authority and State Law Limitations of Authority

The federal government has clear authority over immigration and immigration enforcement. Federal law does not require the states or local police agencies to enforce immigration laws nor does it give the states or local agencies the clear authority to act in the area of immigration.

Laws in their respective states define the authority of local police officers. The authority of local police officers to act to enforce against criminal acts is clear and well established. However, federal immigration laws include both civil and criminal process to address immigration violations. It is within the authority of federal agencies such as I.C.E. and the Department of Justice to determine if an immigration violation will be dealt with as a criminal matter or through a civil process. Given the complexity of the immigration laws, it would be difficult for local police agencies to determine if a particular violation would result in criminal charges or purely civil proceedings and regulation. This duality in immigration law creates a gap in authority for local police officers who generally are limited to acting only in criminal matters.

In addition state laws may restrict a local police officer?s authority to act even in criminal matters in such a way that it would prevent or hinder the officer's ability to investigate, arrest or detain a person for immigration violations alone. Federal agents are specifically authorized to stop persons and conduct investigations as to immigration status without a warrant. Local police officers may be constrained by local laws that deal with their general police powers such as the ability to arrest without a warrant, lengths of detention and prohibitions against racial profiling.

An example of this conflict between the civil nature of immigration enforcement and the established criminal authority of local police exists in the federal initiative of placing civil immigration detainer notices on the N.C.I.C. system. The N.C.I.C. system had previously only been used to notify law enforcement of strictly criminal warrants and/or criminal matters. The civil detainers being placed on this system by federal agencies notify local officers that the detainers are civil in nature by including a warning that local officers should not act upon the detainers unless permitted by the laws of their state. This initiative has created confusion due to the fact that these civil detainers do not fall within the clear criminal enforcement authority of local police agencies and in fact lays a trap for unwary officers who believe them to be valid criminal warrants or detainers.

5) Risk of Civil Liability

In the past, local law enforcement agencies have faced civil litigation and liability for their involvement in immigration enforcement. For example, the Katy, Texas Police Department participated in an immigration raid with federal agents in 1994. A total of 80 individuals who were detained by the police were later determined to be either citizens or legal immigrants with permission to be in the country. The

Katy police department faced suits from these individuals and eventually settled their claims out of court.

Because local agencies currently lack clear authority to enforce immigration laws, are limited in their ability to arrest without a warrant, are prohibited from racial profiling and lack the training and experience to enforce complex federal immigration laws, it is more likely that local police agencies will face the risk of civil liability and litigation if they chose to enforce federal immigration laws.

D. M.C.C. NINE (9) POINT POSITION STATEMENT

Based upon a review, evaluation and deliberation regarding the important and complex issue of local enforcement of federal immigration laws, the members of M.C.C., who are the 57 Chief Executive Officers of police departments located within a metropolitan area of more than 1.5 million population and which employs more than 1,000 law enforcement officers, hereby set forth our consensus position statement, which is comprised of nine crucial components.

1) SECURE THE BORDERS

Illegal immigration is a national issue and the federal government should first act to secure the national borders to prevent illegal entry into the United States. We support further and adequate funding of the federal agencies responsible for border security and immigration enforcement so they can accomplish this goal. We also support consideration of all possible solutions including construction of border fences where appropriate, use of surveillance technologies and increases in the number of border patrol agents. Only when the federal government takes the necessary steps to close the revolving door that exists at our national borders will it be possible for local police agencies to even begin to consider dedicating limited local resources to immigration enforcement.

2) ENFORCE LAWS PROHIBITING THE HIRING OF ILLEGAL IMMIGRANTS

The federal government and its agencies should vigorously enforce existing immigration laws prohibiting employers from hiring illegal immigrants. Enforcement and prosecution of employers who illegally seek out and hire undocumented immigrants or turn a blind eye to the undocumented status of their employees will help to eliminate one of the major incentives for illegal immigration.

3) CONSULT AND INVOLVE LOCAL POLICE AGENCIES IN DECISION MAKING

Major Cities Chiefs and other representatives of the local law enforcement community such as the International Association of Chiefs of Police and local district attorneys and prosecutors should be consulted and brought in at the beginning of any process to develop a national initiative to involve local police agencies in the enforcement of federal immigration laws. The inclusion of local law enforcement at every level of development would utilize their perspective and experience in local policing, address their concerns and likely result in a better program that would be more effectively implemented.

4) COMPLETELY VOLUNTARY

Any initiative to involve local police agencies in the enforcement of immigration laws should be completely voluntary. The decisions related to how local law enforcement agencies allocate their resources, direct their workforce and define the duties of their employees to best serve and protect their communities should be left in the control of state and local governments. The decision to enter this area of enforcement should be left to the local government and not mandated or forced upon them by the federal government through the threat of sanctions or the withholding of existing police assistance funding.

5) INCENTIVE BASED APPROACH WITH FULL FEDERAL FUNDING

Any initiative to involve local police agencies in the enforcement of immigration laws should be an incentive based approach with full federal funding to provide the necessary resources to the local agencies that choose to enforce immigration laws. Federal funds should be available to participating local agencies to cover the costs associated with enforcement such as expenditures on equipment and technology, training and educational programs and costs of housing, caring for and transporting immigrants prior to their release to federal authorities.

6) NO REDUCTION OR SHIFTING OF CURRENT ASSISTANCE FUNDING

The funding of any initiative to involve local police agencies in the enforcement of immigration laws *should not* be at the detriment or reduction directly or indirectly of any current federal funding or programs focused on assisting local police agencies with local policing or homeland security activities. Local police agencies are currently working on strained budgets and limited resources to meet local policing needs and strengthening homeland security and in fact need increased funding and grant assistance in these areas. Merely shifting or diverting federal funding currently available for local policing and homeland security activities to any new immigration enforcement initiative would only result in a detrimental net loss of total resources available to local police agencies to police their neighborhoods and strengthen homeland security.

7) CLARIFICATION OF AUTHORITY AND LIMITATION OF LIABILITY

The authority of local police agencies and their officers to become involved in the enforcement of immigration laws should be clearly stated and defined. The statement of authority should also establish liability protection and an immunity shield for police officers and police agencies that take part in immigration enforcement as authorized by clear federal legislation.

8) REMOVAL OF CIVIL IMMIGRATION DETAINERS FROM THE N.C.I.C. SYSTEM

Until the borders are secured and vigorous enforcement against employers who hire illegal immigrants has taken place and the concerns regarding lack of authority and confusion over the authority of local agencies to enforce immigration laws and the risk of civil liabilities are adequately addressed, M.C.C. strongly requests that the federal agencies cease placing civil immigration detainers on N.C.I.C. and remove any existing civil detainers currently on the system. The integrity of the system as a notice system for criminal warrants and/or criminal matters must be maintained. The inclusion of civil detainers on the system has created confusion for local police agencies and subjected them to possible liability for exceeding their authority by arresting a person upon the basis of a mere civil detainer.

M.C.C. would encourage the federal agencies to seek federal criminal warrants for any person they have charged criminally with violations of immigration laws and submit those criminal warrants on the N.C.I.C. system so the warrants can be acted upon by local police officers within their established criminal enforcement authority and training.

9) COMMITMENT OF CONTINUED ENFORCEMNT AGAINST CRIMINAL VIOLATORS REGARDLESS OF IMMIGRATION STATUS

M.C.C. member agencies are united in their commitment to continue arresting anyone who violates the criminal laws of their jurisdictions regardless of the immigration status of the perpetrator. ***Those immigrants, documented and/or undocumented, who commit criminal acts will find no safe harbor or sanctuary from their criminal violations of the law within any major city but will instead face the full force of criminal prosecution.***

Major Cities Chiefs Association
Sun Valley, Idaho
June 7, 2006

The President of the Major Cities Chiefs Association and Houston, Texas Police Chief Harold Hurtt announced today the adoption of nine recommendations for the United States Congress and the President to assist in resolving the immigration crisis facing America today. The Major Cities Chiefs Association, comprised of the largest police agencies in America, are the first responders to over fifty million residents. We are very concerned that the public policy under consideration does not take into full account the realities of local law enforcement in dealing with this issue on the ground. The foundation of the nine point position statement is five key concerns with local police enforcing federal immigration law. These concerns are:

1. It undermines the trust and cooperation with immigrant communities which are essential elements of community oriented policing.
2. Local agencies do not possess adequate resources to enforce these laws in addition to the added responsibility of homeland security.
3. Immigration laws are very complex and the training required to understand them would significantly detract from the core mission of the local police to create safe communities.
4. Local police do not posses clear authority to enforce the civil aspects of these laws. If given the authority the federal government does not have the capacity to handle the volume of immigration violations that currently exist.
5. The lack of clear authority increases the risk of civil liability for local police and government.

Given these concerns the Major Cities Chiefs are recommending that Congress and the President adopt the following nine points:

1. Securing the borders must be a top priority.
2. Enforcement of the laws prohibiting the hiring of illegal immigrants.
3. Consulting and involving local police agencies when developing any immigration initiative is imperative if the initiative is to involve local agencies.
4. Federal law must not mandate local enforcement of federal law—all law enforcement initiatives must be completely voluntary
5. There should be no reduction or shifting of current federal funding for state and local programs to pay for new immigration enforcement activities
6. Any initiative involving local police agencies should be incentive based
7. The authority and limitation of liability for local law enforcement officers and police agencies must be clear.
8. Civil immigration detainers must be removed from the NCIC system
9. MCC members are united in their commitment to continue arresting anyone who violates the criminal laws of their jurisdictions regardless of the immigration status of the perpetrator.

Most local police agencies have adopted policies of not inquiring about immigration status of individuals that are reporting crimes or in other encounters unless the person is suspected of committing a crime. Those policies have developed over the past 25 years because of law enforcement's commitment to provide protection to everyone within their jurisdiction and more recently because of state and federal laws prohibiting racial profiling. In addition, the federal government does not have the capacity to deal with the estimated 12 million illegal immigrants in the US today. As Congress and the President wrestle with these difficult issues it is important that national policy reflect a clear understanding of the enormous challenges that local police face in dealing with illegal immigration.

Ms. JACKSON-LEE. I thank the chairman.

Mr. GARCIA. Thank you, Congresswoman Lee. And as I made the point in my comments, that Federal funding that law enforcement receives right now requires nondiscrimination policies and practices. If we were to be placed under a mandate, a Federal mandate to enforce immigration law, then I could foresee the chief of police having to institute a broad process like we do with racial profiling so that officers, number one, have to enforce the immigration law on every person that they come in contact with. So now, you know, a simple ticket that, you know, maybe takes 10, 15, 20 minutes to write is now an hour. And then where do they go to ask the question?

Then that officer has got to not only go through that process but now he has got to document the fact that he is enforcing the second law so that he is in compliance with the first law.

I see that as being entirely impractical for the street cops to do in the city of Houston because it would be a disservice to those folks that are needing emergency response or general police presence in the community.

Ms. JACKSON-LEE. Chief Hurtt.

Chief HURTT. Congresswoman, what is being incurred by the Houston Police Department and other police departments across the country is a lack of resources to do the job. Right now, as the council member stated, we are 1,000 members short in the Houston Police Department. If we took on this issue of doing enforcement of immigration or just providing normal police service—because right now in the city of Houston there is anywhere between 10—to 50,000 to 100,000 undocumented people believed living here—there are no resources, local or Federal, for us to provide policing services to that population. We do that with the resources that we have here.

Now, if we are going to do enforcement, I would need just 1,000 officers to do that. If we are going to do immigration enforcement, I would need maybe 2,000, 2,500 more officers to do that enforcement.

So those are the strains that it would put on the system as well as ICE. In my dealing with ICE and Federal agencies, like the Chair stated, when you stop people—and if we did stop everyone and ask them if they are an undocumented individual, I doubt very seriously the Federal Government would have the resources to respond and take those people off our hands. I know they don't have the beds because they have 1,800 beds in this State and 10,000 in the country. It cannot be done.

Mr. MCCAUL. The gentlewoman's time has expired. Judge Ted Poe.

Mr. POE. Thank you, Mr. Chairman.

I want to get back on the subject. The subject is not immigration. The subject is not lawful immigration or immigrants. The subject is crime committed by illegals in the United States and especially in this area. So, gentlemen, I want to address that specific issue.

I do want to thank all of you for being here. Councilman Garcia, you know I am not in your city, but I still call you my councilman because I appreciate the things you have done. It is great, with my background and yours, to see people in law enforcement take the step to go into politics. God bless you, but I appreciate you doing that and great success I hope in your future career.

Judge Eckels, how many illegals are there in Harris County?

Judge ECKELS. Between 400 and 430 are the best estimates that we have for this region. Some estimates are on the high side, but that is the estimate, is that population is at least 430,000.

Mr. POE. Major O'Brien, I want to specifically ask you, if you know, of the illegals in the county jail, how many of them, percentage-wise, are OTM, other than from Mexico.

Mr. O'BRIEN. Sir, I don't have that, but I do have the figures that typically 60 percent are Mexican and 20 percent are South or Cen-

tral America. So that would leave 20 percent being from other areas.

Mr. POE. All right. How about in the State prison system.

Mr. MORIARTY. The majority are Mexican descent, of the Mexican nationality, but I don't have the numbers here.

Judge ECKELS. Congressman, just on a percentage basis, if it reflects the hospital district, where we have a much better record, it runs just under 10 percent or other than Mexico of illegal population.

Mr. POE. Of the people that go through the hospital district.

Judge ECKELS. Hospital system is slightly under 9.5 Mexico that are other-than-Mexico illegals in the population.

Mr. POE. It is obvious that local government is now saddled with the costs of illegal entry into the United States, but, on the issue of crime, I will ask the chief, if you could help us solve the problem on the Federal basis, how could the Federal Government, whose responsibility is border security, the failure to protect the border allows people to illegally come into the United States, to stop in Houston, Texas. Why not? And they commit crimes. How could the Federal Government help you and the city of Houston to have a safer community.

Mr. HURTT. Number one, as we talked about probably all morning, the fact that additional resources, additional officers—as you know, in the middle 1990s, it was believed that between 80 to a hundred thousand officers were put on the streets of America through the COPS program and Federal funding, and crime went down. That program that put those 80 to a hundred thousand officers on the streets of America has now been reduced by 85 percent. A lot of the grant has been eliminated. And we understand that a lot of that money has to go to Federal agencies for homeland security and support the war. We are very supportive of that. But, at the same time, we have forgotten about the needs of the State and local law enforcement. Because we are battling the gangs, we are battling the drugs, we are battling the alcoholism and the same problems that we had in the 1990s, and if you ask me what do we need, we need financial assistance from the Federal Government.

Mr. POE. Last question to Councilman Garcia. With your extensive background being with gangs over the years, explain to me, if you would, how failure to secure the borders has promoted gang activity here in the Houston area, if it has.

Mr. GARCIA. There has been an impact in MS–13 and other criminal street gangs that have come from various parts of Latin America as well as from Europe and Asia and other countries.

Mr. POE. For the record, MS–13 originated in what country.

Mr. GARCIA. In El Salvador.

Mr. POE. Go ahead.

Mr. GARCIA. The challenge is, one, that we do a great job arresting these guys when they are gang banging on our streets.

The problem that I have seen firsthand in my travels through Guatemala, as an example, is that when we deport them we are deporting them to a third-rate law enforcement, you know, entity in those respective countries. They don't have a handle with them. So the fact that you have poor border security and you have an active deportation process, all you are doing is creating a place where

they can rest up, get going again and come right back. It just has empowered the overall subculture of the criminal street gang network.

So it is important that good border security be present, obviously, but it is also important through our programs like easy tap that we make sure that agencies in other countries that we are funding are being given the expertise, the resources, the equipment to make sure that they are handling and can handle these violent individuals when they are deported back home.

What I have just seen is they get back—it took me 30 days to convince the National Police of Guatemala to take me into some of their ghettos. Because they don't patrol them. They are afraid; and after about an hour there, I understood why. I wanted to get out of there myself.

So there are challenges, and it does perpetuate one to the other.

Mr. POE. Thank y'all once again.

Judge ECKELS. Congressman, one number that you asked for I did find here. Of all defendants of both misdemeanor and felony trials who were non-U.S. citizens, 60.4 percent were born in Mexico. 67 percent, about two-thirds of those from Mexico, were in Harris County illegally, which will make that about half of the total number of non—U.S. citizens legally and illegally.

Mr. POE. Thank you. Thank you, Mr. Chairman.

Mr. MCCAUL. Thank you, and Ms. Jackson-Lee has appealed to the Chair for 30 seconds. I will grant that, but hold your feet to the fire.

Ms. JACKSON-LEE. Thank you. Your generosity is overwhelming. That is how Texans work together. There are two gentlemen over there and one is holding on.

Mr. MCCAUL. Your 30 seconds is expiring.

Ms. JACKSON-LEE. Let me just ask a direct question to Chief Hurtt. We understand that the Governor has asked for a hundred million dollars, again, out of very paltry State funds, to go to the border and is needed, but what effect does that have on you? Do you understand any of those funds will come to you for immigration work and law enforcement or is that, as we say, borrowing from Peter to pay Paul?

Chief HURTT. To my knowledge, none of that fund is directed to the city of Houston for law enforcement purposes.

Ms. JACKSON-LEE. Mr. Chairman, I would like to ask unanimous consent to impose into the record the Secure America 9/11 Commission security recommendations report that has been authored by the minority of Homeland Security.

I would ask unanimous consent—

Mr. MCCAUL. Without objection.

[The information is maintained in the committee file.]

Ms. JACKSON-LEE. I ask unanimous consent that an Effective Criminal Justice Coalition University Leadership Initiative be added to the record.

Mr. MCCAUL. Without objection, so ordered.

[The information is maintained in the committee file.]

Ms. JACKSON-LEE. I ask, finally, the 9/11 report by the 9/11 Commission that has given F's to risk-based homeland security funding,

meaning that cities like Houston have been deprived of homeland security based on risk, I ask unanimous consent that be added.

Mr. MCCAUL. Without objection.

[The information is maintained in the committee file.]

Mr. MCCAUL. The gentlewoman's time has expired, I believe.

I just wanted to end on the note that when—I worked in the Attorney General's office, and the presence of gangs, MS–13, Mexican Mafia, many of whom are illegal not only on the streets but, as you know, in TDCJ and the prison system and they work very actively there and they are a threat.

I want to thank the witnesses for appearing here today. Your testimony has been very insightful and very helpful to this committee.

With that having been said, I will excuse the witnesses and call our third panel.

[Recess.]

Mr. MCCAUL. The committee will now come to order.

We have our third and last panel. I want to thank the witnesses for being here. We are going to try to keep our comments limited, but we understand we have a couple of personal stories that I want you to take your time with that and not feel restrained time-wise.

Mr. MCCAUL. The Chair now recognizes Mr. Steven Stone, Texas State trooper, to testify.

STATEMENT OF STEVEN MICHAEL STONE, TEXAS STATE TROOPER

Mr. STONE. Thank you, Mr. Chairman and committee members, for allowing me to share my story with you; and I will try to paraphrase as much as possible.

On March 22, 2006, I conducted what started out to be a routine traffic stop in Smith County. I stopped a pickup truck for speeding. Initially, the pickup truck did not want to stop, continued for some distance before doing so.

When the vehicle finally pulled over to the shoulder of the roadway, I walked up and observed two Hispanic males inside the pickup truck. These Hispanic males were identified as Ramon Ramos and Francisco Saucedo at a later time.

I asked Ramos to exit the vehicle. In doing so, I found an open container of alcohol in the vehicle. Further investigation was conducted, and Ramos was found have a small bundle of marijuana contained in his coat.

As Ramos was being placed under arrest, Saucedo began to exit the vehicle. Saucedo was instructed twice to get back in the vehicle. However, he continued to exit and was not compliant.

Saucedo was again instructed for a third time to get back into the vehicle. At this time, I felt threatened and drew my weapon and pointed it at him. It was at this time that I heard gunshots and felt an intense pain in my left shoulder. My vision had gone black, but I could still hear myself yelling and sounds of more gunshot.

When I regained my vision, I was lying in a ditch looking up at Mr. Ramos, and Mr. Saucedo shooting down at me. I attempted to fire back at Ramos and Saucedo, but I was unable to do so. Ramos and Saucedo fired numerous rounds down into the ditch where I

was lying before jumping in their vehicle and driving off, leaving me for dead.

I had been hit two or three times in the neck, two times in the chest, one time in the left side of my back. One of the bullets that hit me in the chest rode just under the skin and exited near my neck. The bullet that went into my back fractured my shoulder blade and shattered my collarbone before exiting the top of my left shoulder. Despite these injuries, I was able to make my way back to my patrol vehicle and radio for help. I was able to give a brief description of the suspect vehicle and its direction of travel.

When backup arrived, I was transported to the hospital by a Smith County sheriff's deputy in a patrol car.

While I was being transported to the hospital, Tyler Police Department, with the help of a Tyler citizen, were able to begin pursuing the suspect vehicle. Ramos and Saucedo led Tyler police units on a high-speed chase through the city of Tyler. Ramos and Saucedo shot at pursuing police units with automatic gunfire with total disregard for the officers or the civilians who sat innocently in their cars as the pursuit passed by.

The pursuit ended when the suspects lost control of their vehicle and collided with another vehicle on the shoulder of the roadway. Ramos and Saucedo were both charged with 14 counts of aggravated assault on a public servant.

Ramon Ramos just recently pled guilty to all 14 counts and was charged with two life sentences to be served consecutively. Investigation showed that Ramos had been criminally deported from the United States on two different occasions prior to this on Federal weapon and drug charges. Ramos had been living illegally in the United States for approximately 3 to 4 years prior to the 22nd of March 2006.

On the night of the shooting, Ramos and his partner were in possession of body armor, a rifle modified for automatic fire, a handgun modified for automatic fire, two or more handguns, numerous knives, drugs and alcohol; and, at the time of this report, Mr. Saucedo still has not gone to trial.

Mr. McCAUL. Sir, I want to thank you for your testimony, your service to this State, your courage in what you did and your courage to come before us here today and testify; and we are very glad you are here to testify.

Mr. STONE. Thank you, sir.

[The statement of Mr. Stone follows:]

PREPARED STATEMENT STEVEN STONE

On March 22, 2006 I conducted what started out to be a routine traffic stop. I had stopped a blue pickup truck on TX 31 in Smith County for speeding. The pickup was occupied by two Hispanic males who were later identified as Ramon Ramos and Francisco Saucedo. After asking Ramos to exit the vehicle an open container of alcohol was found in the front seat of the pickup. Further investigation was conducted and Ramos was found to have a small bundle of Marijuana inside one of his coat pockets. As Ramos was being placed under arrest, Saucedo began exiting the vehicle. Saucedo was instructed twice to get back into the vehicle; however, he continued exiting the vehicle.

Saucedo was again instructed to get back into the vehicle; however, this time, I drew my duty weapon and pointed it at him. It was at this time that I heard gun shots and felt an intense pain in my left shoulder. My vision had gone black, but I could still hear myself yelling and the sounds of more gun shots. When I regained my vision I was lying at the bottom of a drainage ditch and was looking up at

Ramos and Saucedo, but was unable to do so. Ramos and Saucedo fired numerous rounds down into the ditch where I was lying before jumping into their vehicle and driving off; leaving me for dead.

I had been hit two or three times in the neck, two times in the chest, and one time in the left side of my back. One of the bullets that hit me in the chest rode just under the skin and exited near my neck. The bullet that went into my back fractured my shoulder blade and shattered my collar bone before exiting the top of my left shoulder. Despite these injuries I was able to make my way back to my patrol vehicle and radio for help. I was able to give a brief description of the suspect vehicle and its direction of travel. When backup arrived, I was transported to the hospital in the back of a Smith County Sheriff's patrol car.

While I was being transported to the hospital, Tyler Police Department, with the help of a Tyler citizen, had begun pursuing the suspect vehicle. Ramos and Saucedo lead Tyler Police units on a high speed chase throughout the city of Tyler. Ramos and Saucedo shot at pursuing police units with automatic gun fire with total disregard for the officers or the innocent civilians that sat innocently in their vehicles as the pursuit passed by. The pursuit ended when the suspects lost control of their vehicle and collided with another vehicle on the shoulder of the roadway. Ramos and Saucedo were both charged with 14 counts of aggravated assault on a public servant.

Ramon Ramos just recently pled guilty to all 14 counts and was charged with two life sentences to be served consecutively. Investigation showed that Ramos had been criminally deported from the United States on two different occasions because of federal weapon and drug offenses. Ramos had been living illegally in the United States for approximately 3 to 4 years prior to March 22, 2006. On the night of the shooting, Ramos and his partner were in possession of body armor, a rifle modified for automatic fire, a handgun modified for automatic fire, two or more handguns, numerous knives, drugs and alcohol.

At the time of this report, Saucedo has not been to trial.

Mr. MCCAUL. Next, the Chair now recognizes Mrs. Carrie Ruiz for her testimony.

STATEMENT OF CARRIE RUIZ

Mrs. RUIZ. Thank you for having us here today.

This is my husband Lucio, and we are the parents of 17-year-old Felicia Ruiz. She was murdered October 30, 1999, by an illegal alien from Venezuela who had been here since he was 4 years old. His mother, Stella Rosa Salazar, is still here in the U.S., right here in Houston illegally; and she helped him. She sent his passport to Miami, Florida, after he murdered our daughter where he went, and some friends had it there, and they gave his passport to him. His father flew down from Venezuela, picked him up and took him back. He left Houston on November 17.

Felicia was murdered October 30, and we buried her November 3rd. She was ambushed by Salazar and Felisa Muerta and J. Lewis Ferrill. She was beaten, her throat was cut, and she was stabbed over 39 times. She was our only daughter and our pride and joy, and she was a good-hearted girl. She never bothered anybody. She loved to talk on the phone. She had a lot of friends.

But Salazar and Muerta wanted her to join a gang, and she refused to do that. She also helped the gang task force officers by ID'ing a gang member, and in the process some way it got back. It got back to Salazar and them, and they murdered her for that reason, for retaliation.

So, you know, it is been real tough on my husband and I. And what we don't understand is that Salazar had been here since he was 4 years old, and he spoke very good English, but nobody knew that he was from Venezuela. When he was taken down to homicide and questioned after he killed Felicia, he had cuts and bruises and

things on his hands, and they took a picture of it, and they took a picture of him, and they took his statement, and then they let him go. They didn't ask him if he was a citizen, American citizen or where he was from. They had no way of knowing that.

When he walked out that door, he was gone. About a week or so later, the murder warrant came out on him; and he was already gone. He had already left for Venezuela.

It is just—it has been—it is just something that my husband and I, we don't understand. I mean, we all know about Venezuela. We all know that Chavez and the United States don't mix. We all know that. We know everything about that. But the bottom line is, if these illegals are going to come into the country, come into America from Venezuela or El Salvador or wherever they come from and there is a no extradition to these countries, then if they commit felony murder here like Salazar did and then they go back to their countries to hide, to avoid prosecution, then the government needs to step in.

There should be some kind of clause with these countries with these no extradition laws so that the American authorities can go in there and get these criminals and bring them back to stand trial for murder here in the U.S.

Because they are protected here. Their rights are protected here. Then they commit murder, they go back to their country, and then they are protected there. So where is the justice for the victim? Where is the justice for my daughter, for our daughter and for all the other families who have had children or loved ones murdered by illegal aliens? Where is the justice? Because there is not any.

It has been 7 years—going on 7 years, and Salazar has been in Venezuela. The FBI knows he is over there. They have been keeping up with him. But we finally had to turn to Congressman Green to help us because we were getting nowhere. The FBI couldn't find ways to get him. There was no extradition, you know, and so we finally asked him to help us. So he got with the Ambassador of Venezuela, and the Ambassador of Venezuela told him that there is a 1922 treaty with the United States and Venezuela that is still in effect, the document that they needed to try to bring Salazar out of there.

But we have had everybody, the homicide detectives, FBI, everybody involved in this. Except one person has refused to help us, and that is our own district attorney, Chuck Rosenthal, and why I can't figure it out. His reasoning does not make any sense to our family.

Even the district attorney on our daughter's case that handled the trial agreed to give the Ambassador of Venezuela all the documents he needed, agreed to go along with it. But Chuck Rosenthal overruled him and refused to let that happen because he said that it would show favoritism, you know, for us to be able to get him back and him only do 30 years because Venezuelan law requires that he would be able to only do 30 years.

We weren't happy with that. We didn't like the fact that Salazar could only get 30 years, but we were willing to accept it because we would rather see him in a Texas prison answering for what he did to Felicia instead of being over there living his life and never

answering for it, and if we don't do something now we may never get him back.

So, you know, it is tough. We love her. We miss her. We think about her every day. I think about the pain and the fear she went through.

I think about the three people being on top of her that night. I think about Salazar hit her so hard that they said her feet flew up in the air, and she landed in a fetal position. And when she came to, she tried—she fought like hell to stay alive, but she couldn't because there were three of them on top of her. Muerta was cutting her throat and Salazar grabbed a knife and he stabbed her and stabbed her until I guess he got tired of stabbing her.

They went to walk away, and when they looked back, her body must have moved or jumped, and they went back and flipped her over, and they kept standing on her until she stopped moving. And then they walked away like it was nothing, and they left her in that cold, empty field.

Yes, the borders need to be secure; and, yes, you need to do something about this. All these illegals over here, all you hear about, oh, they are so good for the economy, so good for this. But what about the ones that come over here and they don't get jobs and they do commit violent crimes and the first thing they do is dash back over to where they come from? They want to reap all the benefits from the U.S., but at the time, when they commit felony murder or something, then they want to run back and be protected in their countries, and that is wrong.

Not all of them are over here to get a good job and to work and support their families. There is lot of them over here that do come and commit violent crimes, and it is wrong, and we do need to do something about it.

We need Congressman Green's help and everybody's to be able to get Salazar back.

What about his mom? I mean, I would like to know why she is still walking these streets when she helped him leave here, when she aided and abetted him in this homicide by helping him get out of the country. INS don't pick them up. They don't do anything. They haven't gotten her. She always stays a step ahead of the detective, every time, when they try to find her. When they do finally catch up with her, she moves on somewhere else.

It is tough, and I am sorry I was crying, but it just makes it makes me and my husband so upset because we want justice for our daughter. We are not satisfied with just the two that are in prison. We want Salazar brought back here and for him to answer for what he did to Felicia.

This was a retaliation killing. She was a beautiful young girl with a lot of hopes and dreams. My husband will never get to walk her down the aisle, will never get to see her have grandkids, all the things that we looked forward to when we get old. He took all of that away from us, and he took everything away from her and that is wrong.

He should not be allowed to be protected by Venezuelan law. You know, like I said, he was here since he was 4 years old, and nobody ever knew. He went to school here. Hell, he spoke better English than I do, you know.

And what they say, the police officers can't stop and ask them and all the kind of stuff and it takes so much time to do that. Well, you know what? Hey, okay, but what if one of these people they are stopping is wanted for a violent murder here in the U.S.? What? You just going to let them go because you are not going to bother to ask who they are or where they are from?

So I don't know. It is hard.

Mr. MCCAUL. Let me express my heartfelt sympathy on behalf of myself and the committee for what you had to go through. As a father of four daughters, I can't imagine the pain that you must be experiencing every day, and you are a victim every day when you have to remember this. That is why I thank you for coming forward to testify to tell your story. It takes a lot of courage.

Mrs. RUIZ. We appreciate it very much. I am sorry about crying and everything, but I just—you know, she was a beautiful girl, and I just want everybody to see what they took away from us.

Mr. MCCAUL. Let me also pledge my support to assist you in bringing Mr. Salazar to justice.

Mrs. RUIZ. Thank you.

Mr. MCCAUL. I know I speak for the other members standing here as well. Thank you for coming forward.

Mr. MCCAUL. Next, the Chair now recognizes Mr. Dennis Nixon, the chairman of the International Bank of Commerce.

STATEMENT OF DENNIS E. NIXON, CHAIRMAN, INTERNATIONAL BANK OF COMMERCE

Mr. NIXON. Thank you, Mr. Chairman, members of the committee.

My name is Dennis Nixon. I am CEO and chairman of the International Bank of Commerce, also known as IBC Bank. I am also a resident of Laredo, Texas, a city on our southern border where I have lived and worked for 36 years.

Today, I am also speaking as chairman of the Alliance for Security and Trade, a Texas-based coalition that is focusing on improving the security of our country while helping ensure the free flow of business and commerce, protecting American jobs, and thus ensuring our prosperity.

There has been a lot of discussion here today on the crime and violence that is associated with illegal immigration. There is no doubt that we have problems along the borders, as well as the interior of this State and the country.

I believe that in order to make any headway in reducing crime caused by illegal immigrants, we need to reduce the number of immigrants who enter this country illegally. That may sound simplistic and obvious, but the problem lies in our search for solutions. Illegal immigration is not a border issue. It is a national issue.

Those who are focused on enforcement only, a feel-good security solution, are doing this country more harm by pushing an agenda that sounds warm and fuzzy but, in reality, undercuts our economy and makes us more vulnerability. The build-a-wall-and-throw-them-out mentality is, in essence, a denial of admission agenda that is anti-immigrant, antitourist and anticommerce.

We cannot continue to abuse our neighboring countries through excessive border security, sending a "don't come" message when all

these visitors want to do is spend money and add value to our economy. We live in a global economy, and we must recognize that we cannot continue our prosperity by isolating ourselves from the world and abusing the relationships that have been built over the last several decades. NAFTA has been a huge success. We don't want to turn back on the enormous value that this agreement has added to our economy and our quality of life.

If security and terrorism is the real concern, then why should we treat the northern and southern border differently? It makes no sense to focus all our attention on the southern border and leave the Canadian border insecure. After all, the Canadian border is twice as long as the southern border and has represented more terrorist threats in the past than the southern border.

Considering how far apart the House and Senate are on this issue, will we ever find the sweet spot that solves the problem and is acceptable to all parties involved? I believe the answer can be found in connecting the dots.

We know that approximately 5—to 600,000 people enter this country illegally each year. Setting arbitrary caps on the number of workers will not reduce the flow of illegal immigrants. Employer sanctions won't solve the problem. They will keep coming, because our economy creates a need for their work. Failure to recognize this need makes the consequences clear: continued illegal immigration, stagnation resulting from tight labor markets, more outsourcing because businesses will go where the labor is, and ensuring an underclass of illegal workers.

What is our goal here? Is it to apprehend the criminals or prevent the crimes from ever occurring? As long as our focus is on enforcement, not prevention, the cycle will never end unless we start treating the problem and not just the symptom.

A Border Patrol officer's worst nightmare is that a 9/11-type terrorist will slip into this country under his or her watch. The scenario is possible if we spend all of our time chasing down people who come here to wash dishes and mow lawns so they can feed their families.

Let us route those who want to come here through legal channels and by doing so we can weed out the criminals. That way the only ones crossing the border illegally are more likely to be the ones that mean us harm. This will allow our Border Patrol to make better use of their resources and catch the bad guys.

There has been a lot of talk about Laredo and other border communities during these hearings across the country, much of which has been mischaracterized and misunderstood. We have crime like any other city, and no one disputes the violence across the border. But contrary to what you heard about Laredo, Texas, it is not a war zone. It is not high noon, and we are not at the OK corral. I feel just as safe walking downtown near our bank headquarters five blocks north of the border as I do at my ranch, which is eight miles north of the Rio Grande.

We cannot allow a few opportunistic law enforcement officials to mischaracterize the problems any more than we can say no border at all. All things in life work best with proper balance.

Workers are coming to this country because our economy would collapse without people to fill the vacant jobs. Across this country,

we are experiencing labor shortages that are about to get worse if we don't got the problem fixed.

Our national unemployment rate is 4.8 percent, one of the lowest levels in our Nation's history. For all practical purposes, we are at full employment in this country; and that includes all of the employed unauthorized workers.

This tight labor market makes it difficult for many businesses to find good workers. Across this country we have jobs that are going unfilled, and I can say without hesitation the problem exists at IBC Bank. We have a large number of authorized positions we have not been able to fill.

Recently, Florida citrus growers announced that many of their groves may go unharvested because of the scarcity of workers there.

Several weeks ago, an Oklahoma saddle maker lost 50 of his 75 employees in a raid by Immigration and Customs Enforcement. This is one of Sulphur, Oklahoma's, largest employers.

If the workers were hired with forged documents, then we clearly need a system that people with expertise in saddle making don't need to have expertise in verifying documents. This system must be accurate, fast and efficient. If the saddle maker knowingly hired illegal workers, then that is wrong, and he broke the law. Either way, it proves that workers are hard to come by in this tight labor market, and we need an immigration system with a guest worker program that works. Destroying this business has done no one any good.

Business will go where the labor is, and if we don't want jobs to go south of the border or overseas through outsourcing then we must be willing to import enough workers to keep the jobs here. We can't have it both ways, and as a country we need to make up our mind which direction we are going.

The country needs a stable workforce so that business can grow, prosper and create more jobs. However, hurdles lie ahead that could prevent a stable workforce.

The baby boomers are on the leading edge of retirement, and it is estimated that over the next 10 to 20 years 82 million baby boomers will retire and be replaced by 67 million new workers, resulting in a shortage of 15 million workers.

At the same time, the U.S. fertility rate is projected to fall below replacement level; and in a report released last November to Congress, the Congressional Budget Office made it patently clear that unless native fertility rates increase most of the growth in the U.S. labor force will come from immigration by the middle of the century.

The failure to provide enough workers to satisfy our demand for labor means many businesses will be forced to fight for the small pool of available native workers by bidding up wages. That will have significant and long-lasting consequences for our economy, including stagnation at some point. Because our population continues to age, and when the baby boomers retire and our native fertility rates decline, we will increasingly run short of willing and able workers. This action will likely force many companies to outsource their jobs in order to grow their business, but many who have no choice will suffer extreme hardship in terms of accomplishing their

business goals. The hotel, food service, construction, and agricultural industries are just a few that will suffer as a result of their inability to find workers in such a tight labor market.

Across Texas, police departments in cities like San Antonio and Dallas and Houston are facing manpower shortages as positions go unfilled. I foresee a similar situation with our Armed Forces. A tight labor market will cause a ripple effect in the economy, including competitive pressure that could mean young Americans might be more likely to choose a job in the private sector instead of one in the military, resulting in reinstitution of the draft.

One way to stop illegal immigration is to relieve the pressure on the border by creating a guest worker program that will supply us the workers we need, bring them through legal channels, and help us keep better track of who is in this country and why.

When we installed fences in southern California, we treated the symptoms. While illegal crossings decreased in the urban areas, overall illegal immigration continued to increase. In the end, we diverted immigrants from safe crossing points only to watch them die in the desert. In the process, we destroyed circularity. People no longer come and go. They stay in the United States, and they bring their families.

Let's not make the same mistake in our approach to fixing the immigration system. An enforcement-only approach will only continue to encourage illegal immigrants to go around the system or stay in the shadows.

I believe Mayor Bloomberg said it best. "It is as if we expect border control agents to do what a century of communism could not: defeat the natural market forces of supply and demand and defeat the natural human desire for freedom and opportunity."

That is why we must focus on the problem, which is making sure we provide enough workers to supply the labor demand that will keep our country strong. That will result in a reduction in crime and give our law enforcement agencies the time to hunt down the bad guys, instead of spending a disproportionate amount of their time looking for the next generation of construction workers.

Mr. McCAUL. Thank you, Mr. Nixon.

[The statement of Mr. Nixon follows:]

PREPARED STATEMENT OF DENNIS E. NIXON

Mr. Chairman, members of the committee, my name is Dennis and I am the CEO and Chairman of International Bank of Commerce, also known as IBC Bank. I'm also a resident of Laredo, Texas, a city on our Southern Border where I have lived and worked for 36 years.

Today, I am also as chairman of the Alliance for Security and Trade—a Texas-based coalition that is focused improving security efforts of our country, while helping ensure the free flow of business and commerce, protecting American jobs, and thus assuring our prosperity.

There has been a lot of discussion here today on the crime and violence that are associated with illegal immigration. There is no doubt that we have problems along our borders as well as in the interior of this state and country.

I believe that in order to make headway in reducing crime caused by illegal immigrants, we need to reduce the number of immigrants who enter this country illegally. That may sound simplistic and obvious, but the problem lies in search for solutions. Illegal immigration is not a border issue, it's a national issue that emanates deep from within the heartland.

Those who are focused on an enforcement-only, a feel-good security solution, are doing this more harm by pushing an agenda that sounds warm and fuzzy, but in reality, undercuts our economy making us more vulnerable.

The "build-a-wall and throw-them out" mentality is in essence a"denial-of-admission agenda" that is anti-immigrant, anti-tourist, and anti-commerce.

We can not continue to abuse our neighboring countries through excessive border security sending a "don't come" message when all these visitors want to do is spend money and add value to our economy. We live in a global economy and we must realize that we can not continue our prosperity by isolating ourselves from the world and abusing the relationships that have been built over the last several decades. NAFTA has been a huge success, we don't want to turn our back on the enormous value that this agreement has added to our economy and our quality of life.

If security and terrorism is the real concern, then we should treat the Northern and Southern Border the same. It makes no sense to focus all our attention on the Southern Border and leave the Canadian Border insecure. After all, the Canadian Border is twice as long as the Southern Border and has represented more of a terrorists' threat in past than the Southern Border.

Considering how far apart the House and Senate are on this on this issue, will we ever find the sweet spot that solves the problem and is acceptable to all parties involved?

I believe the answer can be found in connecting the dots.

We know that approximately five to six hundred thousand people enter this country illegally each year. Setting arbitrary caps on the number of workers won't reduce the flow of illegal immigrants. Employer sanctions won't solve the problem. They will keep coming because *our* economy creates a need for *their* labor. Failure to recognize this need and create a program that works makes the consequences clear:

- Continued illegal immigration;
- Stagnation from a tight labor market; and
- More outsourcing because business will go to where the labor is.
- Insuring an underclass of illegal workers

What is our goal here? Is it to apprehend the criminals? Or prevent the crimes from ever occurring? As long as our focus is on enforcement and not prevention, the cycle will never end unless we start treating the problem—and not just the symptom.

A border patrol officer's worst nightmare is that a 9/11-type terrorist will slip into this country under his or her watch. That scenario is possible if they spend all of their time chasing down people who are coming here to wash dishes and mow lawns so they can feed their families.

Let us route those who want to come here—through legal channels and by doing so, we can weed out the criminals. That way, the ones crossing the border illegally are more likely to be the ones that mean us harm. This allow our border patrol to make better use of their resources to catch the bad quys.

There has been a lot of talk about Laredo and other border communities during these hearings across country—much of which has been mischaracterized or misunderstood. We have crime like any other city, and no one disputes the violence across the border, but contrary to what you may have heard—Laredo Texas is not a war zone. It is not high noon and we are not at the O-K Corral. I feel just just as safe walking downtown near our bank headquarters five blocks north of the border, as I do at my ranch eight miles north of the Rio Grande.

We cannot allow a few opportunistic law enforcement officials to mischaracterize the problems anymore than we can say we need no border security at all. All things in life work best with proper balance.

Workers are coming to this country because our economy would collapse without people to fill vacant jobs. Across this country, we are experiencing labor shortages that are about to get worse if we don't fix the problem.

Our national unemployment rate is 4.8 percent, one of the lowest levels in our nation's history. For all practical purposes, we are at full employment in this country and that includes all of the employed unauthorized workers.

This tight labor market it difficult for many businesses to find good workers. Across this country we have jobs that are going unfilled and I can say without hesitation, that problem exists at IBC Bank—we have a large number of authorized positions we have not been able to fill.

Recently, Florida citrus growers announced that many of their groves may go unharvested because of the scarcity of workers there.

Several weeks ago, an Oklahoma saddle maker lost 50 of his 75 employees in a raid by Immigration and Customs Enforcement. This was one of Sulphur, Oklahoma's largest employers. If the workers were hired with forged documents, then we clearly need a system so that people with expertise in making saddles do not need expertise in verifying documents. That system must be accurate, fast and efficient.

If the saddle maker knowingly hired illegal workers, then that was wrong and he broke the law. Either way, it proves that workers are hard to come by in this tight labor market, and we need an immigration system with a guest worker program that works. Destroying this business does no one any good.

As I mentioned, business will go to where the labor is and if we don't want jobs to go south of the border or overseas through outsourcing, then we must be willing to import enough workers to keep the jobs here. We can't have it both ways, and as a country, we need to make up our mind.

The country needs a stable work force so that businesses can grow, prosper and create more jobs. However, *hurdles lie ahead that could prevent that stable work force.*

The baby boomers are on the leading edge of retirement and it is estimated that over the next 10 to 20 years, 82 million baby boomers will retire and be replaced by 67 million new workers, resulting in a shortage of 15 million workers.

At the same time, the U.S. fertility rate is projected to fall below "replacement" level. And in a report released last November to Congress, The Congressional Budget Office made it patently clear that **"Unless native fertility rates increase. . . .most of the growth in the U.S. labor force will come from immigration by the middle of the century,"**

European fertility rates have been steadily falling for the past two decades. In countries like Spain and Italy, one-child families are getting closer to being the norm. That means the growth of our labor force is going to come from immigrants, and the children of immigrants from *this* hemisphere.

The failure to provide enough workers to satisfy our demand for labor means many businesses will be forced to fight for the small pool of available native workers by bidding up wages. That will have significant long lasting consequences for our economy, including stagnation at some point because as our population continues to age, the baby boomers retire and our native fertility rates decline, we will increasingly run short of willing and able workers.

This action will likely force many companies to outsource their jobs in order to grow there business, but many who have no choice will suffer extreme hardship in terms of accomplishing their business goals. The hotel, food service, construction and agricultural industries are just a few that suffer as a result of their inability to find workers in such a tight labor market.

Across Texas, police departments in cities like San Antonio, Dallas and Houston are facing manpower shortages as positions go unfilled. Police officials in those cities cite the perfect storm of baby-boom retirements combined with a younger generation that is shying away from police work.

I foresee a similar situation with our armed services. A tight labor market will cause a ripple effect in the economy including competitive pressure that could mean young Americans might be more likely to choose a job in the private sector over one in the military.

And if the military can't sign up enough volunteers with carrots, it might resort to sticks and bring back the draft as a way to ensure our armed services are adequately staffed.

An enforcement-only approach that limits migration in the name of homeland security could very well be what poses the greatest threat to our volunteer military.

The United States has always been a super power because of our economic stability and strength. After all, the best homeland security is economic security.

That's why it's so important we get this right.

One way to stop illegal immigration is to relieve pressure on the border by creating a guest worker program will supply us the workers we need, bring them through legal channels, and help us keep better track of who is in this country and why.

When we installed fences in Southern California, we treated a symptom. While illegal crossings decreased in the urban areas, overall illegal immigration continued to increase. In the end, we diverted immigrants from safe crossing points only to watch them die in the desert. In the process, we destroyed circularity. People no longer come and go—they stay in the U.S. and they bring their families.

Let's not make that same mistake in our approach to fixing the immigration system. An enforcement-only approach will only continue to encourage illegal immigrants to go around the system or stay in the shadows.

I believe Mayor Bloomberg said it best. "It's as if we expect border control agents to do what a century of communism could not: defeat natural market forces of supply and demand and defeat the natural human desire for freedom and opportunity."

That's why we must focus on the problem, is making sure we provide enough workers to supply the labor demand that will keep our country strong. That will

result in a reduction in crime and give our law enforcement agencies the time to hunt down the bad guys instead of spending a disproportionate amount of their time looking for the next generation of construction workers.

Thank you.

Mr. MCCAUL. The Chair now recognizes a good friend, Jaime Esparza, the District Attorney from El Paso.

STATEMENT OF JAIME ESPARZA, DISTRICT ATTORNEY, EL PASO, TEXAS

Mr. ESPARZA. Mr. Chairman, members of the subcommittee, I appreciate the opportunity to speak to you.

Let me first applaud you for allowing the victims of crime to speak just before me. As a prosecutor and, I know, judge, you have seen this as well, that voice is not heard loud enough in our Texas courtrooms. So I am very glad that you allowed that to happen, and I am proud to sit with them here at the table.

With all due respect to Trooper Stone and Mr. And Mrs. Ruiz, I am going to take a different perspective, though, because I would like to talk to you a little bit about El Paso and my view of the world.

I appreciate this opportunity to address you today regarding criminal activity and violence along the southern border. My perspective comes from being the chief State prosecutor for 14 years of a large county jurisdiction, three-county jurisdiction, along the U.S.-Mexico border. It is estimated that between 2.1 to 2.4 million people inhabit the El Paso-Juarez borderplex. Approximately 1.65 million of those reside in the Ciudad de Juarez, Chihuahua.

There are over a hundred thousand legal crossings into the U.S. through El Paso area bridges each day, resulting in approximately 35 million crossings per year. El Paso's population almost doubles on a daily basis with those people from Juarez crossing to shop, study, worship, visit and work.

This nuance makes the city unlike any other cities in Texas in that it is a primary corridor for the flow of goods and services. The ebb and flow of these populations presents a unique and direct set of challenges for law enforcement and prosecutors in the region.

The millions of annual crossings might suggest a like criminal activity, but based on national comparisons of criminal activity on the U.S. side of the El Paso-Juarez borderplex, El Paso is consistently ranked as one of the three top safest cities for a city of its size in the Nation. Currently, we are the second safest city in the country for a city our size.

It is a mistake to equate this distinction with the conclusion that the border is not violent. While the city of El Paso side of the border had three narcotics-related homicides from 2003 to 2005, the Ciudad Juarez side of the same border had 260 narcoexecutions during the same period. For the rest of the border, my jurisdiction, which is primarily desolate and sparsely populated, the Border Patrol is probably the best source for firsthand information, confirming the violent conditions that exist there. The most extreme and frequent violence, though, I believe is attributable to the drug trade.

As many recognize, the Texas-Mexico border, and particularly my jurisdiction in El Paso, Texas, remains a main corridor for the

entry of illegal drugs into the United States; and despite much success in the interdiction and prosecution efforts, these harmful drugs continue to be a big problem in our country.

The consensus is that 170 tons of marijuana and two tons of cocaine that were seized in 2005 in the West Texas corridor are but a fraction of the contraband that make it through undetected. The destination cities for the drugs that were seized appear to include Atlanta, Chicago, Denver, Detroit, Houston, Los Angeles, New York City, Philadelphia, San Francisco, St. Louis, Toledo and Washington, D.C.

The primary criminal threat to the entire country stemming from the portion of the U.S.-Mexico border, that southern border that is my jurisdiction, I believe is drugs.

Today, there is much discussion about State and local agencies acting as a second line of defense in the enforcement of Federal immigration laws. While the Federal, State and local governments all have a valid interest in the enforcement of Federal immigration laws, Texas State and local law enforcement agencies can only provide assistance for such enforcement on a very limited basis due to the constraints of Texas statutory criminal law, budgetary issues and sound public policies.

In my community, we work in partnership with the Federal Government through various initiatives such as the Southwest Border Prosecution Initiative and SCAAP, the State Criminal Alien Assistance Program. These initiatives differ from the current discussion where State and local agencies are asked to share the primary enforcement responsibility of Federal immigration laws with the Federal Government.

As of 2001, the Federal Government created the Southwest Border Prosecution Initiative as a reimbursement program to counties that assisted with the prosecution of lower-level Federally initiated drug cases. This reimbursement program was designed to facilitate an efficient use of limited resources available to prosecute drug traffickers entering the country. However, during the last 2 years, the program has not received the funding needed to sustain this initiative. El Paso County has received only 50 cents in reimbursement for every dollar bill under this program this past year.

The SCAAP program, the State Criminal Alien Assistance Program, moneys that are received by my jurisdiction are also tenuous. We received $357,000 in the 12-month period ending June of 05. In the preceding 12-month period, we received even less, $150,000. We believe these amounts fall far short of the actual costs which are borne by the taxpayer in my jurisdiction.

Based on this experience with the funding shortfalls in comparative efforts between the Federal and local governments I am doubtful that full funding would be secure for cooperative effort for the enforcement of Federal immigration laws.

Many communities in this Nation, certainly including border communities, have a significant immigrant population. Police and prosecutors have worked hard to build trust and cooperation with immigrants and immigrant communities to assist them as victims of crime and to obtain information from them in prosecuting crimes they have witnessed. Focusing on illegal immigrants and enforcement of immigration law against them would deter, undermine and

negatively affect the trust and cooperation between police and prosecutors and immigrant communities. In fact, if we sustain the same level of cooperation that is previously experienced, I don't believe that would occur. In my opinion, it would lead to crimes against immigrants not being reported, and these immigrants would likely not come forward regarding crimes they have witnessed.

Furthermore, my grave concern is that it leaves the door open for these communities to be preyed upon at will and also puts thought to the rise of organized gangs purporting to protect illegal aliens due to the void left by the failure of trust in police and prosecution agencies who are mandated to protect all persons, legal or illegal, residing in this country.

Presently, in my community, much attention has been focused on the local sheriff. His policy to provide reinforcement to Federal immigration law and law enforcement efforts I know has brought attention in our community. I know of instances where the sheriff's policies have led to crimes against illegal aliens not being reported. This is alarming because it could lead to lawlessness in the community and hinder the prosecution of those who endanger the public.

This is simply not good for society as a whole. This gives rise to the potential for significant disruption of the entire criminal justice process. The disruption could likewise provide organized criminal gangs the ability to exploit immigrant communities. Immigrant communities could easily turn to rogue criminal gang units to provide them with the protection they seek instead of traditional law enforcement agencies.

There are many instances where it is vital that Federal, State and local law enforcement agencies should collaborate and form partnerships. In that regard, there are cases where the primary arresting agencies are Federal law enforcement officers and State prosecutors who accept those cases for prosecution and the Federal Government reimburses local governments for the criminal justice costs, as in the case of the Southwest Border Prosecution Initiative. The Federal Government also reimburses local government for the cost of housing jailed inmates who are charged with State criminal offenses and are illegal aliens.

However, it is not a good idea for State and local agencies to share the primary responsibility for the enforcement of Federal immigration law. Clearly, the enforcement of immigration law should remain the function of the Federal Government due to the legal constraints in the State of Texas, budgetary concerns and, most importantly, because of sound public policy.

In closing, I don't know if the judge will ask me this question, but I will put what I hope the answer is. I don't really know what the answer is, but part of my career I was chairman of the southwest border HIDTA, and I know you are aware of the HIDTA. There are many throughout the country, but when it started there were only five. Houston was one of the first ones, and the southwest border was one of the first ones on both sides. Now it has proliferated, and I think it is political.

But you shouldn't look at the investment the Federal Government has made in those HIDTAs. You have created through those HIDTAs collaboration. You have made Federal agencies work to-

gether with State and local agencies. You make those agencies vet their programs. You make sure that the outputs and the outcomes, the successes or nonsuccesses, are reviewed all the time. Because I think if you are going to attack this problem—it is not just resources. Because that is always—I am sure everybody asks you that and tells you just send me more money. It is not just resources. It is going to require cooperation. It is going to require collaboration, and there is only one way to do that.

I think that is the infrastructure you have created through HIDTA. Maybe HIDTA is not the vehicle you use here, but you have invested in intelligence centers. You have invested lots of money to put agencies together, boots on the ground.

I agree with Chief Hurtt. You put boots on the ground, but you do it in a coordinated way, a way that somebody vets the process to make sure that those programs will work or at least if they don't work we know what we expected, and then, if it doesn't happen, we move on and we change our strategy.

Thank you for your time.

Mr. MCCAUL. Thank you, Jaime.

[The statement of Mr. Esparza follows:]

PREPARED STATEMENT OF JAIME ESPARZA

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to address you today regarding criminal activity and violence along the southern border. My perspective comes from being the chief state prosecutor for 14 years of a large three-county jurisdiction along the U.S./Mexico border.

It is estimated that between 2.1 to 2.4 million people inhabit the El **Paso/Juarez** borderplex. Approximately 1.65 million of those reside in Ciudad Juarez, Chihuahua. There are over 100,000 legal crossings into the U.S. through the El **Paso** area bridges each day resulting in approximately 35 million crossings per year. El **Paso's** population almost doubles on a daily basis with **Juarenses** crossing to shop, study, worship, visit, and work. This nuance makes this city unlike any other in Texas in that it is a primary corridor for the flow of goods and services. The ebb and flow of these populations present a unique and direct set of challenges for law enforcement and prosecutors in the region.

The millions of annual crossings might suggest concomitant criminal activity. But based on national comparisons of criminal activity on the U.S. side of the **El Paso/Juarez** borderplex, El **Paso** is consistently ranked as one of the top three safest cities of its size in the nation—currently, we are the second safest city. It is a mistake to equate this distinction with a conclusion that the border is not violent. **While** the City of El **Paso** side of the border had **3** narcotics-related homicides 2003 through 2005, the Ciudad Juarez side of the same border had 260 narco-executions during the same period. For the rest of the border in my jurisdiction, which is primarily desolate and sparsely populated, the Border Patrol is the best source for first-hand information confirming the violent conditions that exist there. The most extreme and frequent violence is attributable to the drug trade.

Primary Criminal Threat along the U.S./Mexico Border:

As many recognize, the Texas/Mexico border, and particularly my jurisdiction in El **Paso,** Texas, remains a main corridor for the entry of illegal drugs into the United States, and despite much success in interdiction and prosecution efforts, these harmful drugs continue to **be a** big problem in our country.

The consensus is that the 170 tons of marijuana and 2 tons of cocaine that were seized in 2005 in the West Texas Corridor are but a fraction of the contraband that made it through undetected. The destination cities for the drugs that were seized appear to include Atlanta, Chicago, Denver, Detroit, Houston, Los Angeles, New York City, Philadelphia, San Francisco, Saint Louis, Toledo, and Washington D.C. The primary criminal threat to the entire country, stemming from the portion of the border that is in my jurisdiction, is drugs.

Today, there is much discussion about state and local agencies acting as a second line of defense in the enforcement of the federal immigration laws. While the federal, state, and local governments all have a valid interest in the enforcement of

federal immigration laws, Texas state and local law enforcement agencies can only provide assistance for such enforcement on a very limited basis due to the constraints of Texas statutory criminal law, budgetary issues, and sound public policy.

Enforcement of federal immigration laws by Texas state and local peace officers would be made primarily through an encounter with a peace officer that escalates into a warrantless arrest. In Texas, warrantless arrests are authorized only in limited circumstances and are governed primarily by Chapter Fourteen of the Code of Criminal Procedure. ***Amores*** v. State, 816 S.W.2d 407,413 (**Tex.Crim.App** 1991). In fact, the issue of the authority for local peace officers to arrest illegal aliens without a warrant has come before the Attorney General of Texas who has issued an opinion that such arrests can only be made if a particular state warrantless arrest statute is satisfied. OP. TEX. ATT'Y GEN. NO. H–1029 (1977). A Texas peace officer may not arrest without a warrant an alien solely upon the suspicion that he has entered the country illegally. OP. TEX. ATT'Y GEN. NO. H–1029 (1977). It is also doubtful that a Texas peace officer could simply detain an illegal alien for federal authorities if no arrest was being made and turn that person over to federal authorities. This is because once the original purpose for the stop is concluded, the detention must end. Davis *v.* State, 947 **S.W.2d** 240, 245 (**Tex.Crim.**App. 1997). **A** detention may not be unnecessarily prolonged solely in hopes of finding evidence of some other crime. The stop may not be used as a "fishing expedition for unrelated criminal activity." ***Davis*** *v.* State, 947 **S.W.2d** at 243. And, of course, Texas state and local law enforcement officers may not engage in racial, ethnic, or nationality profiling. TEX. CODE CRIM. PROC. ANN. arts. 2.131 and 2.132 (Vernon 2005). Thus, it is quite clear that Texas state and local law enforcement officers may not stop or apprehend persons solely because of any belief that the person is in this country illegally, Federal immigration authorities should only be contacted if the local law enforcement officer has arrested a person on a criminal charge and the officer knows the person is an illegal alien.

Status of Funding from the Federal Government for State and Local Assistance along the U.S./Mexico Border:

In my community we work in partnership with the federal government through various initiatives such as the SWBPI (Southwest Border Prosecution Initiative) and SCAAP (State Criminal Alien Assistance Program). These initiatives differ from the current discussion where state and local agencies are asked to share the primary enforcement responsibility of federal immigration laws with the federal government.

As early as 1998, myself and district attorneys along the southwest border from Brownsville, Texas, to San **Diego,** California, formed a coalition to alert the federal government that some of the poorest border counties were shouldering the financial burden for assisting the federal government with the prosecution of federally referred drug cases that were apprehended at the **U.S./Mexico** ports of entry and border checkpoints. For years it was the practice of state and local law enforcement and prosecutors to adjudicate the cases at a huge expense to the counties and municipalities, in effect double-taxing border residents. United States Attorneys and District Attorneys are in agreement that the partnership between federal, state, and local law enforcement offers efficiency and flexibility in the successful prosecution of these federally initiated drug cases. As of 2001, the federal government created the SWBPI (Southwest Border Prosecution Initiative) as a reimbursement program to counties that assisted with the prosecution of lower-level federally initiated drug cases. This reimbursement program was designed to facilitate an efficient use of the limited resources available to prosecute drug traffickers entering the country; however, during the last two years, the **program** has not received the funding needed to sustain this initiative. El **Paso** County received only **fifty** cents in reimbursement for every dollar billed under the program.

The SCAAP (State Criminal Alien Assistance Program) monies that are received by my jurisdiction are also tenuous. We received $357,000 in a twelve-month period ending in June of 2005. The preceding twelve-month period we received even less: $150,000. We believe these amounts fall far short of the actual cost, which are borne by the taxpayers in my jurisdiction.

Based on this experience with funding shortfalls in cooperative efforts between federal **and** local governments, I am doubtful that full funding would be secured for a cooperative effort for the enforcement of federal immigration law.

Public Safety Concerns

Many communities in this nation, certainly including border communities, have a significant immigrant population. Police and prosecutors have worked hard to build trust and cooperation with immigrants and immigrant communities to assist them as victims of crimes and to obtain information them in prosecuting crimes they have witnessed. Focusing on illegal immigrants and enforcement of immigration law

against them would undermine and negatively affect the trust and cooperation between police and prosecutors and immigrant communities. In fact, it is doubtful that enforcement of immigration laws against immigrant communities would sustain the same level of cooperation as previously experienced. In my opinion it would lead to crimes against immigrants not being reported, and these immigrants would likely not come forward regarding crimes they have witnessed. Furthermore, my grave concern is that it leaves an open door for these communities to be preyed upon at will and also could foster the rise of organized gangs purporting to protect illegal aliens due to the void left by the failure of trust in police and prosecution agencies who are mandated to protect all persons, legal or illegal, residing in this country.

Presently, in my community, much attention has been focused on the local Sheriff and his border coalition and their policy to provide reinforcement to federal immigration law enforcement efforts. I know of instances where the Sheriffs policies have led to crimes against illegal aliens not being reported. This is **alarming** because it could lead to lawlessness in the community and hinder the prosecution of those who are a danger to the public. Too many resources and efforts have been committed to establish and practice community policing across this nation, and these positive effects are being reversed today due to the latest policies of the coalition of sheriffs in Texas. This has led to the underreporting of crimes committed in communities with large immigrant populations. Simply the perception by immigrant communities that law enforcement is "out to get them" creates **a** chilling effect on cooperation with local law enforcement. This is simply not good for society **as** a whole.

This gives rise to the potential for significant disruption of the entire criminal justice process. This disruption could likewise provide organized criminal **gangs** the ability to exploit immigrant communities. Immigrant communities could easily turn to rogue criminal gang units to provide them with the protection they seek instead of traditional law enforcement agencies.

There are many instances where it is vital that federal, state, and local law enforcement agencies collaborate and form partnerships. In that regard, there are cases where the primary arresting agency are federal law enforcement officers, and state prosecutors accept these cases for prosecution and the federal government reimburses local government for the criminal justice costs, as in the case of SWBPI. The federal government also reimburses local government for the cost of housing jail inmates who are charged with state criminal offenses and are illegal aliens. However, it is not a good idea for state and local agencies to share the primary responsibility for the enforcement of federal immigration law. Clearly, enforcement of immigration laws should remain the function of the federal government due to legal constraints in the State of Texas, budgetary concerns, and most importantly because it is sound public policy.

Mr. MCCAUL. We will have one round of questioning, try to limit it as brief as possible.

I do want to thank the victims who appeared here today to testify. Officer Stone and the Ruizes, I know how difficult it must be to retell the story and relive the agony and the pain that you experienced firsthand and that you experienced firsthand through your daughter's untimely death. As I mentioned earlier, I will pledge all my support to work with you to help bring this murderer, Mr. Salazar, to justice.

Mrs. RUIZ. Thank you so much.

Mr. MCCAUL. I personally sat down, as a prosecutor, with victims, but also, as a Congressman, I sat down with families of 42 U.S. citizens who had been kidnapped in Nuevo Laredo. I had to talk to the parents like yourself who lost their daughters. They said, help me, Congressman. What can you do to help me? As a Member of Congress, I have never felt so powerless, but I pledged to help them in any way I can.

We are dealing with foreign nations, and it is very difficult. Extradition is a difficult thing to achieve. Again, 42 U.S. citizens, 42 parents who have lost their children to this violence which has come into our country, I believe that is unacceptable, and we need to do something about that in this country and in this Congress.

I just had a quick question about your particular story. Mr. Salazar was taken into custody for questioning?

Mrs. RUIZ. Yes.

Mr. MCCAUL. Okay. How long was he

Mrs. RUIZ. They came—actually, he showed up at our house after our daughter was murdered, and he was trying to tell us that he didn't kill her, and we knew that he did. So we called the police. An HPD officer came out, and we told him we believed him to be involved in our daughter's murder, a suspect, and so they took him the officer called Homicide, and they told him to bring him in and they took him to Homicide. I guess he was probably down there maybe a couple of hours, if that long.

Mr. MCCAUL. Do you know if any check was made as to his legal status in this country.

Mrs. RUIZ. No, no. And I have spoken with Lieutenant Walker with Homicide who is handling our daughter's case.

Mr. MCCAUL. Had that check been made and his status verified that he was here illegally? He could have been detained and possibly could have prevented him from leaving this country.

Mrs. RUIZ. Yes, but nobody checked. Nobody bothered to check. And, you know, by the time the warrants did come out and they did go out to look for him, he was long gone. As a matter of fact, the apartment complex where he lived told Homicide that the mother and him moved out in the middle of the night and so—

Mr. MCCAUL. I am so sorry. This is another example of our failed immigration policies resulting—

Mrs. RUIZ. You know what is so bad about it, Mr. McCaul, is that Salazar ended up going to Miami, like I said, and his mother did send his passport to people there and she got it to him. But the fact that his father was able to fly from Venezuela, because he worked for a Venezuelan oil company, so he flew down from there to Miami in a company plane and picked him up. Now he was going to take Muerta with him, but because she was born here she couldn't go. They wouldn't let her. So she got on a bus and she went back to San Antonio, and she turn herself in 2 months later. But Salazar got on that plane, and his father knew and took him back to Venezuela, and he has been there ever since.

Mr. MCCAUL. You have two former prosecutors up here who will be looking into this. I appreciate you coming forward today and telling your story, and Mr. Stone as well.

Jaime, I just had a couple—hold the line in El Paso is, in my view, a tremendous success. Would you agree with that?

Mr. ESPARZA. I agree. Congressman Reyes, back then Chief Reyes, it was a great idea. If you look statistically—I didn't talk about that because of time, but if you look statistically, our crime rate is one of the others

Mr. MCCAUL. Which is one of the reasons why I guess there is such a low crime rate, right.

Mr. ESPARZA. Right. We dropped radically. If you went by El Paso just this afternoon and you went along the border, which I happen to drive to work every day, you would see the Border Patrol, their vehicles, I don't know, mile, quarter of a mile, whatever it is and they watch it vigilantly.

Mr. MCCAUL. There is a law enforcement presence on the border where it actually does work. You got results, right

Mr. ESPARZA. I think it has made a big difference, yes.

Mr. MCCAUL.—in El Paso. Of course, you put the finger in the dike, and it comes out elsewhere. You wouldn't deny there is violence all along our southern border.

Mr. ESPARZA. No, I wouldn't.

Mr. MCCAUL. You would agree to that.

Mr. ESPARZA. I would agree there is.

Mr. MCCAUL. I am interested. Because I, like you, value these collaborative task forces. Whether HIDTA, which I worked with you, joint terrorism task forces seem to work well. In the post-9/11 world, there is no reason why we should not be able to work together to prevent terrorism. That is just my view, as some of you worked in that field, but it has to be done in an integrated way that works. I think we have had models that seem to work, whether it be HIDTA or the JTTF.

I introduced legislation, the Border Area Security Initiative, that tries to create a similar framework that would designate high-risk areas where you would have a collaborative arrangement between Federal, State and local, including the sheriffs, but you would have supervision and you would have accountability. I would ask that you take a look at that bill and give me your comments on that legislation. Obviously, it would be after the hearing.

Mr. ESPARZA. I am a big believer in what HIDTA does. I am not sure if all of the committee has had an opportunity to tour what the HIDTAs are doing, but they invest a lot in intelligence. They spend a lot of time on different task forces. But I think the most important thing they do is, instead of just sending a pile of money to one agency, you send it to a group and force us to get along. The fact of the matter is we don't always get along.

As a group, when I sit—when I used to sit either as the chairman of the Southwest Border HIDTA or as chairman of the West Texas HIDTA, we had to discuss what the strategy would be, we had to decide whether or not we were going to spend our limited resources in that area or not, and we took a vote. Not everybody was happy, not everyone left the table smiling, but we worked together, and we were forced to, and in that environment you understand it.

Plus, you leverage. I believe you leverage the use of local and State officials in a really smart way. It is a smart use of your money to do that.

It is exactly the same model that the Southwest Border Prosecutor Initiative does as well. It is allowing State prosecutors to prosecute these low-level drug dealers.

It is a smart use of your money. It is less expensive. We take care of them. You do reimburse us, but a lot of the Federal Government—what I think a Federal prosecutor ought to be going after is the big guy. I don't mind going after the little guy. We have got to work together. I think that is the next idea.

Mr. MCCAUL. I look forward to visiting with you some more about that.

My time has expired.

The Chair recognizes the gentlewoman from Texas, Ms. Sheila Jackson-Lee.

Ms. JACKSON-LEE. Let me offer to Mr. Stone and the Ruiz family a collective offer of sympathy and thank your Congressperson, Congressman Green, whose district you are in, for his leadership and offer, as a member of the House Judiciary Committee, we deal with a number of the criminal extradition cases, to be able to join in.

I think it is important to note, and it gives you little comfort, that all of us have been frustrated by the extradition laws, and I would encourage your district attorney to accept the offer of providing the documentation so that Members of Congress can give the added support to the diplomatic role that we play, working with ambassadors, to encourage the Ambassador from Venezuela to act on his request.

As I offer this evidence, it certainly will not be of comfort to the loss of a beautiful daughter, but this is the frustration we face, and I ask the chairman unanimous consent to put in the record an article about France postponing extradition. This is an epidemic.

Mr. MCCAUL. Without objection.

Ms. JACKSON-LEE. This has to do with Ira Amhoff who murdered a young lady many, many years ago, and he still lives free in France that long ago. So this is an extradition question.

I would also raise the dilemma, because as I was looking over the various provisions, when someone is in custody—and I am going to pose this question to Mr. Esparza. When police have someone in custody and have arrested someone and brought them from wherever they are, the perpetrators of this violent murder crime of this beautiful young lady, there is no prohibition now to prohibit any law enforcement from asking about status, is that not correct?

Mr. ESPARZA. Once they have a State charge, they are free to ask them their citizenship, their status, if they like, but my reading of the law is they are not allowed to approach someone and simply ask them their status without something more than some unreasonable suspicion.

Ms. JACKSON-LEE. No, that is what I am saying. If you are now in custody.

Mr. ESPARZA. The answer is yes.

Ms. JACKSON-LEE. No prohibition.

Mr. ESPARZA. No prohibition.

Ms. JACKSON-LEE. So my understanding is that this individual had been brought into custody.

Mrs. RUIZ. No, he had been brought in for questioning.

Ms. JACKSON-LEE. He was in custody; and, therefore, in questioning they could have asked.

Mrs. RUIZ. They could have asked.

Ms. JACKSON-LEE. In questioning, Mr. Esparza, I don't believe there is any prohibition. You are in for questioning, that question could be asked because it related to an alleged criminal offense.

Mr. ESPARZA. I believe they should have done that. I am sure Judge Poe ruled on that matter many times, but I believe they could have done that.

Ms. JACKSON-LEE. Mr. Stone, let me also thank you for your service.

One of the, if you will, programs that I am a big supporter of is the Cops on the Beat program and, of course, the—what we call the Edward Byrne Memorial Justice Assistance Grants, and I believe will come to law enforcement agencies like yourself. Are you familiar with those programs?

Mr. STONE. To be honest with you, ma'am, I am not.

Ms. JACKSON-LEE. It adds extra police, extra DPS. Would that help, by adding more local police, more DPS, funding from the Federal Government to be utilized for more local police and more local DPS officers? Would that be helpful.

Mr. STONE. Ma'am, I think in all scenarios more manpower is always helpful.

Ms. JACKSON-LEE. You agree with boots on the ground.

Mr. STONE. Yes, ma'am.

Ms. JACKSON-LEE. One of the terrible aspects of your tragedy is that individual had come back over and over again.

Mr. STONE. Yes, ma'am. He had been criminally deported twice prior.

Ms. JACKSON-LEE. So the real question is that, when someone is found to be criminally deported, what happens on the other side? Why wasn't that person incarcerated? Why wasn't that person tried for some violation? This is the frustration we have in dealing with the barriers, countries that are around our area. I think that when we talk about immigration we need to separate out the bad guys and the lack of response to bad guys from issues that I think Mr. Nixon is speaking of.

Mr. Nixon, might I just pose this question on what we do with this whole issue of 12 million undocumented? Remember, we are talking about comprehensive immigration reform, and I think one of your quotes was that you feel it is safe in Laredo, which I tried to distinguish from Nuevo Laredo versus Laredo, as you have ever experienced. You walk to your bank or around your bank, and you also feel safe on your ranch. Then how do we distinguish having a comprehensive reform plan, if you will, to address the question of the present status of immigration in our country and secure the border?

Mr. NIXON. Well, I think you have to start by putting in place a comprehensive program that allows people that want to come here to work that we need to have here working.

I don't think anybody makes a need for these workers. In fact, if we provide them attractive citizenship, which people don't like the word amnesty—I don't particularly like the word amnesty. I do like the word "awarded" citizenship. Someone comes in and registers, does not have a criminal record, abides by our laws and wants to work in a citizenship capacity, then we should permit them to be here because they are coming because of the demand for their work. I think we mix all the good with bad is when we have a problem trying to manage that process.

So in our efforts to what should be—what you heard here today, I think if we allow this many of these people to enter our system and separated them from these people who come to commit crime, we have a much more manageable process. We can employ our resources more effectively to deal with a much smaller group of people.

I think in any society there is a certain percentage of bad people. It doesn't matter what type of background you are. There is a percentage of the bad. So I think we have to separate the willing worker, person who wants to be a good citizen and come here and register and get them out of that pot that we are trying to manage that is too big and cumbersome. Our borders are too long and our resources are too small to be able to deal with. We just have to face up to reality.

Ms. JACKSON-LEE. Thank you very much, Mr. Nixon.

Mr. Esparza, what would happen if we had an amendment in place that would, in essence, take Federal funding away from any jurisdiction that the Federal Government could claim was not asking the questions or going out aggressively throughout the city and bringing in individuals?

Mr. ESPARZA. Well, we rely heavily on Federal funding not just in the criminal system. In El Paso, I am sure I could make a whole line of people who benefit, agencies who benefit, lots of our community that benefit from Federal funding that is provided by the government; and if they were to take that from us certainly it would impact my community seriously.

Ms. JACKSON-LEE. You have already testified that there is certainly no prohibition that someone is in custody to ask those questions. I would also imagine if you are familiar with the language that says if there was any sort of documenting process that the criminal background of the individual would be checked. Possibly the perpetrators that did this dastardly act either on Mr. Stone or the beautiful daughter of the Ruizes would have been discovered. Documenting or attempting to document weeds out the offenders, the criminals, the individuals who are here to do harm. Would that not have been a possibility?

Mr. ESPARZA. It could have been a possibility, but I would just—on behalf of my community, I think it is bad policy to have State and local police officers enforcing immigration law. They could have asked—in the scenario you asked me, they could have asked that question, because I do believe they were in custody and maybe even to the level of an arrest. So they could have asked that question. But there is just too much trust between the community and the police and the most important issue of protecting each other, and if we start to enforce immigration law versus the Border Patrol, the Federal agencies, I think that it is extremely detrimental to our community.

Mr. MCCAUL. The gentlewoman's time has expired.

Ms. JACKSON-LEE. Let me follow up.

I agree with you. The question I posed was not what you just answered, which we have an agreement, but I wanted to be able to give an answer to those victims who can't understand why we didn't catch or hold those individuals. If there was a documentation process, the proposed legislation indicates no criminal background and, therefore, if that was a process and people got into the process, individuals with criminal backgrounds would obviously be detected. That is on the Federal side. So my question to you is that would be a more helpful process if you knew who was here and who was undocumented by way of detecting or having for them to

represent what their backgrounds were. That is the Federal system.

Mr. ESPARZA. Yes, ma'am, that would help.

Ms. JACKSON-LEE. That would be a helpful process.

Mr. ESPARZA. Yes, ma'am.

Mr. MCCAUL. The Chair now recognizes the judge.

Mr. POE. Thank you, Mr. Chairman.

Mr. Esparza, good to see you. Compliment you on your work, working here, of course, in Harris County and then moving out West and doing a great service for the people in El Paso, but it is good to see you.

I want to thank all of you for being here. I am going to start on this end and, in as much time as I have got, I am going to go through all the witnesses.

Trooper Stone and the Ruiz family, sympathies from everybody.

Just a couple of issues, Trooper Stone. When I got to Congress, as Mr. Esparza has pointed out, victims don't have a lobbyist in Washington, D.C. It is not one of those items people get interested in. So I started the Victims Rights Caucus made up of Members of the Republican party and the Democratic party. Because criminals don't ask whether persons, a victim, is a Democrat or Republican. They just do what they do, as you know.

So victims is a tremendous important issue to me based on my background as a judge for 22 years and then prosecuting outlaws right here in Harris County. I want to commend you on the work that you do and all the troopers in Texas do.

But it seems to me if governments—foreign governments continue to promote illegal entry into this Nation, then people like yourself and the Ruiz family who become victims of crime should be able to sue in our Federal courts those foreign governments and have a cause of action against those governments for reparations, that those governments ought to pay at least financially for failure to secure their own citizens in their nation.

So we are going to work on that project. The Victims Rights Caucus is promoting that idea where you have a cause of action against the nations of the individuals who committed these crimes against you.

And to the Ruiz family, I, like the chairman here, have four kids, three of them girls, one of them a son, have four grandkids; and we have got one in the hopper, so to speak. No parent ever wants to see the death of their child, ever. That is the absolute worst thing that could happen to any parent anywhere in the world. So our sympathies are with you.

And I suggest, just immediately, Andy Quan is here from the Mayor's Victims Service. You ought to talk to him, see if you can get this thing moving here in the county.

We will see what we can do on the Federal law. We will bring the outlaw back, and he will be tried, and he will meet a Texas jury for the crimes he has committed. But thank you for being here and sharing that true story about the impact of crime by illegals that are in the United States.

And that is the issue. It is not immigration. It is not lawful entry. It is not the legal immigrants. It is the people that are here illegally. And you have described in a very simplistic, powerful way

how they come here and they flee back to their haven and nothing seems to happen. The Federal Government has a responsibility to work on that specific issue as well.

Mr. Nixon, I was kind of stunned by your comments. I have been down to Laredo. I have been with Sheriff Flores and his deputies. You disagree with what he has to say about your Webb County community, I assume. I doubt if you are tracked and followed by GPS when you go to work, that your kids have to be taken to school by bodyguards, as many of the deputies do in south Texas because they are fearful of the drug cartels doing crimes against them.

But I recall, of course, that you are in the banking business; and your bank, like many other banks, stands to make a lot of money off of people illegally in the United States that ship money back to their country. So this isn't a Chamber of Commerce meeting. This is an issue that has to deal with criminal conduct by illegals in the United States.

So I was quite surprised by your analysis of the no crime in Laredo, the standard Chamber of Commerce statement that we heard while we were down there. But the sheriffs, nonpartisan, concerned about the safety of their citizens, seemed to take a completely different position.

I have been all up and down the Texas border. I, like Ms. Jackson-Lee, have been to California and other States and you know the sheriffs all say the same thing. There is crime on the border, both sides, worse on the other side, but it is happening in America, too.

So I will investigate more of your statements that you have made in writing to try to see where I can find out how can you differ so much from the border sheriffs, the Border Patrol, all Federal agencies. Every law enforcement group in the United States takes a different position than you, the banker, takes from Laredo, Texas.

But we certainly have to work with other nations to get the criminals that flow back and forth from our open borders captured and put them in jail wherever they belong.

But, once again, Mr. Chairman, I want to thank all of these witnesses for being here, especially this family, and Trooper Stone for the great work you do. We all appreciate what you do.

One thing that I have learned today, though, it seems to be universal, across the board, with this panel and the other two panels, nobody trusts the Federal Government to do what they are supposed to be doing; and hopefully we can resolve that problem. So thank you very much.

Ms. JACKSON-LEE. Mr. Chairman, a question was posed to the witness, and I assume Congressman Poe would like an answer. He hasn't yielded to give Mr. Nixon an opportunity to respond. It is a fact-finding hearing.

Mr. MCCAUL. Would the gentlelady yield to the Chair.

Mr. POE. So do you disagree with Sheriff Flores about the safety of Laredo, Texas? That was the question.

Mr. MCCAUL. The witness may answer.

Mr. NIXON. Yes.

Mr. MCCAUL. Is that your answer.

Mr. NIXON. I live in Laredo, Texas, and lived there for 36 years; and I frequently move about my community. I am a high-profile person, and I would be a target of crime. I don't believe I am unsafe.

I do believe that crime exists in every city in America. We are no different than any other city. We need to enforce the laws. We need to protect our citizens as well. But we are mixing two issues up in one pot, and I think they need to be separated. The people who are here and want to work and earn a living I think should have a right and try to—

Mr. POE. I agree we ought to separate the issue of legal immigration from criminals that come here who are illegally in the country. I agree with that.

I yield back the remainder of my time to the Chair.

Mr. MCCAUL. The Chair thanks the members and the subcommittee and the witnesses.

Ms. JACKSON-LEE. Mr. Chairman, before we finish, I have some articles I need to put in the record.

Mr. MCCAUL. Without objection, so ordered.

Mr. MCCAUL. I want to thank the witnesses for being here to testify and particularly the victims who are here today.

The record will be held open for 10 days, if you get additional questions from the members to respond to.

Mr. MCCAUL. Without objection, the subcommittee stands adjourned.

[Whereupon, at 2:38 p.m., the subcommittee was adjourned.]